



## STAFF REPORT

### Fiorito Brothers Non-Project Rezone (CP-22-00001 & RZ-22-00001) – Docket Item 22.21

#### I. GENERAL INFORMATION

Requested Action:

Fiorito Brothers Inc. is proposing a comprehensive plan land use map amendment from Rural Working to Commercial Agriculture and a rezone of 27.20 acres from Agricultural 20 to Commercial Agriculture to match surrounding properties. A comprehensive plan amendment (CP-22-00001), rezone application (RZ-22-00001), and SEPA checklist were submitted as part of the application packet. This project is being processed through the 2022 Annual Comprehensive Plan Docket process.

Location: Tax parcel # 12311, located approximately 1400 feet north of the intersection of I-82 and Thrall Road off No. 6 Road in a portion of the SE ¼ of Section 30, Township 17, Range 19, W.M.; Kittitas County parcel map number 17-19-30040-0003.

#### II. SITE INFORMATION

Total Proposal Size:	27.20 acres
Number of Lots:	1
Domestic Water:	None requested/proposed at this time.
Sewage Disposal:	None requested/proposed at this time.
Fire Protection:	Fire District 2 (Kittitas Valley Fire and Rescue)
Irrigation District:	Bull Ditch/Ellensburg Water

Site Characteristics: The site is relatively flat land with mostly agricultural uses at this time.

Surrounding Property:

North: Lake/Sparse Residential/Farming

South: I-82 Thrall Rd Interchange

East: Mostly Farming Uses

West: I-82

Access: The proposal will have access from No. 6 Road.

History of Zoning: This parcel was rezoned in 1978 from Agricultural to General Commercial. The parcels remained General Commercial until 2013. In 2013, the property was rezoned to Agriculture 20 as part of the compliance effort with the mandated court order from the 2011 State Supreme Court case *Kittitas County v. E. Washington Growth Management Hearings Board*. This effort was to help in preserving rural character.

Zoning and Development Standards: The subject property is currently located within Agricultural 20 zoning district. Commercial Agricultural zoning is being requested for the properties.

The purpose and intent of the Agricultural 20 zone is an area wherein farming, ranching and rural life styles are dominant characteristics. The intent of this zoning classification is to preserve fertile farmland from encroachment by nonagricultural land uses; and protect the rights and traditions of those engaged in agriculture.

The purpose and intent of the Commercial Agriculture zone is to provide for an area wherein farming and

ranching are the priority. The intent of this zoning classification is to preserve fertile farmland from encroachment by nonagricultural land uses and protect the rights and traditions of those engaged in agriculture.

Agricultural 20 has a 20-acre minimum lot size and Commercial Agriculture also has a 20-acre minimum lot size. The lot is currently above the 20-acre minimum. Both zones have the same building setbacks for most structures (Front and Rear Yards: 25 feet, Side Yard: 5 feet).

### **III. ADMINISTRATIVE REVIEW**

Complete Annual Comprehensive Plan Docket Application: Application for a comprehensive plan map amendment from Rural Working to Commercial Agriculture, rezone from Agricultural 20 to Commercial Agriculture, and SEPA environmental checklist was received on June 23, 2022 with an updated application on June 29, 2022. This submittal packet was received prior to the June 30<sup>th</sup> docketing deadline. The application was deemed complete on July 21, 2022. A Notice of Application was issued on August 11, 2022. These notices were published in the official county paper of record and were mailed to jurisdictional government agencies, adjacent property owners within 500 feet and other interested parties.

Posting of Site: The signed Affidavit of Posting was returned to CDS on July 25, 2022 indicating that the site had been accurately posted with the “Land Use Action” signs as provided by CDS and required per KCC 15A.03.110.

### **IV. COMPREHENSIVE PLAN**

The current land use designation is Rural Working. Uses within this designation generally encourage farming, ranching and storage of agriculture products, and some commercial and industrial uses compatible with the rural environment and supporting agriculture and/or forest activities. Areas in this designation often have low population densities with larger parcel sizes compared to Rural Residential areas. Rural Working land use designations can include the following zoning districts: Agricultural 20 and Forest & Range.

The proposed land use designation is Commercial Agriculture. Commercial Agriculture lands are those that have been identified as lands with soils and location characteristics that suggest that they will be used for commercial agriculture use in perpetuity and are considered a resource to the economy. The purpose and intent of this designation is to comply with the requirements of the GMA to guide adoption of regulations which assure that use of lands adjacent to agricultural lands of long-term significance will not interfere with continued use of that land for agricultural purposes [RCW 36.70A.060]. In classifying and conserving the agriculture resource lands in Kittitas County, it has considered the minimum guidelines found in WAC 365-190 including:

- Lands not characterized by urban growth;
- Lands capable of being used for agricultural production based primarily on physical and geographic characteristics;
- Lands having long-term significance for agriculture which takes into account, among other things, the proximity to urban growth areas, public facilities and services, intensity of nearby uses and other things which might contribute to potential revision of use based upon marketing factors

It is the County’s intent to meet these agricultural resource requirements by establishing a “Commercial Agricultural” designation. Based on the review criteria established by Kittitas County, land located in the Commercial Agricultural Zone has been formally designated as “Agricultural Lands of Long-term Commercial Significance.”

Commercial Agricultural land use designations can only have the following zoning district: Commercial Agriculture.

Commercial agriculture lands of Long-term commercial significance have certain designation criteria as seen in Section 8.5.2 of the 2021 Comprehensive Plan.

The first and main criteria for designating land of Agricultural Lands of Long-Term Commercial Significance is Land Grade Consideration. It states that lands of Long-Term Commercial Significance shall be prime and unique farmland soils as mapped by the United States Department of Agriculture Natural Resources Conversation Service (NRCS) and considered capable of agriculture use according to land capability criteria in Agriculture Handbook No. 201 or successor guide adopted by the federal agency.

According to the U.S. Department of Agriculture (USDA) Natural Resources Conversation Service Web Soil Survey<sup>1</sup>, this property and nearby vicinity has the following soil types:

1. 5.6 acres of Vanderbilt ashy loam, moderately wet, 0 to 2 percent slopes (Map Unit Symbol 586)
2. 20.7 acres of Birckmill gravelly ashy loam, 0 to 2 percent slopes (Map Unit Symbol 601)
3. 3.7 acres of Deedale clay loam, 0 to percent slopes (Map Unit Symbol 789)

Based on Soil Data Access (SDA) for Prime and other Important Farmlands in Kittitas County from the USDA<sup>2</sup>, Map unit symbols 586 and 601 are prime farmland if irrigated. This land can be irrigated and served by the Ellensburg Water Irrigation District. Map Unit symbol 789 is Farmland of statewide importance.

As the property is currently used for agricultural uses and is surrounded by areas of farming and agriculture lands of long-term significance, this will help maintain the existing farm use and discourage incompatible uses meeting the intent of RCW 36.70A.020(8) in meeting the planning goals for Natural resource industries.

Staff finds that this meets the criteria for being designated Agricultural Lands of Long-Term Significance.

Under the 2021 Comprehensive Plan, Kittitas County has established the following goals and policies to guide future development through a 20-year planning window for Commercial Agricultural Lands. These Commercial Agriculture goals and policies were developed in an effort to ensure consistency and coordination with County Wide Planning Policies:

**RR-G7:** The County should consistently work to preserve and maintain the rural character of Kittitas County for the benefit of its residents.

*Staff Response:* With changing the land use and zoning to Commercial Agriculture, it reduces the amount of land uses that can be put on the property and will help in maintaining the rural character of Kittitas County

**RR-G13:** Preserve and protect non-resource forests and agriculture lands which are dominant in Kittitas County.

*Staff Response:* With this proposed change, it helps to protect the agricultural land that already exists on the property.

**RR-P116:** The County will oppose laws and regulations which restrict agriculture and support laws and regulations which enhance agriculture.

*Staff Response:* This proposal to change to commercial agriculture will likely help and enhance agricultural activities on the property now or in the future.

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<sup>1</sup> <https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>

<sup>2</sup> [https://www.nrcs.usda.gov/Internet/FSE\\_DOCUMENTS/nrcseprd1338623.html](https://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/nrcseprd1338623.html)

**RR-P118:** The County should promote the preservation of agricultural activities through programs that encourage long-term ownership and production on agricultural lands.

*Staff Response:* With the designation of Agriculture Land of Long-Term Significance, it should help the property to have long term ownership and production on agricultural lands.

**RR-P121:** The County should encourage development projects whose outcome will be the significant conservation of farmlands.

*Staff Response:* With the designation of Agriculture Land of Long-Term Significance, it should help the property to likely be a conservation of farmlands.

Staff finds that this proposal complies with Kittitas County’s comprehensive plan.

## **V. REZONE CRITERIA**

The following criteria must be met per KCC 17.98.020.6 (a-h).

- a) The proposed amendment is compatible with the comprehensive plan; and
- b) The proposed amendment bears a substantial relation to the public health, safety or welfare; and
- c) The proposed amendment has merit and value for Kittitas County or a sub-area of the county; and
- d) The proposed amendment is appropriate because of changed circumstances or because of a need for additional property in the proposed zone or because the proposed zone is appropriate for reasonable development of the subject property; and
- e) The subject property is suitable for development in general conformance with zoning standards for the proposed zone; and
- f) The proposed amendment will not be materially detrimental to the use of properties in the immediate vicinity of the subject property; and
- g) The proposed change in use of the subject property shall not adversely impact irrigation water deliveries to other properties; and
- h) The proposed amendment is in full compliance with KCC 17.13 Transfer of Development Rights.

The applicant’s and staff response to the above criteria can be found below:

- a) The proposed amendment is compatible with the comprehensive plan.

**Applicant Response:** *“The proposed amendment is consistent with the County’s Comprehensive Plan because FBI’s property is surrounded by Commercial Agriculturally zoned property and is not located in an area not of the size to “support Ag, Timber and Mineral Uses not in resource lands” as is the stated overall goal for “Rural Working” classified lands in Table 20-1 of the Comprehensive Plan.*

*Instead due to its location and size, FBI’s property is better suited to be zoned for “long-term commercial significance” as stated in Table 2-1. Lastly, rezoning FBI’s property to Commercial Agriculture is consistent with the policies stated in Section 2.5.1 of the Comprehensive Plan to “encourage farming, ranching, and storage of agricultural products and some commercial and industrial uses compatible with rural environment and supporting...agricultural activities.”*

*Rezoning FBI's property also will make its eventual development consistent with the intensity and character of surrounding uses. The Ag-20 zone is intended for ranching, farming and large lot (i.e. 20-acre) rural life-style development. KCC 17.29.010. Despite this, the surrounding properties are not developed for those types of uses. Instead, the property to the north is largely small lot residential development. And FBI's property is surrounded on its other sides by Interstate 82 and No. 6 Road and the other side of both are properties zoned Commercial Agriculture. Again, rezoning FBI's parcel will make its zoning consistent with the surrounding zoning."*

**Staff Response:** As seen in Section IV of this staff report, the property is consistent with the comprehensive plan and is prime farmland.

- b) The proposed amendment bears a substantial relation to the public health, safety or welfare.

**Applicant Response:** *"This requested comprehensive plan amendment bears a substantial relation to the public health, safety and welfare because it will make the zoning in this area consistent, will eliminate an impermissible spot zone, and will permit development of the subject property in a similar manner to the surrounding area."*

**Staff Response:** This amendment will not be detrimental to the health, safety, or welfare of the public. The proposed rezone will make the parcel consistent with surrounding zoning with similar uses.

- c) The proposed amendment has merit and value for Kittitas County or a sub-area of the county.

**Applicant Response:** *"The proposed amendment has merit and value for Kittitas County because it will make the zoning in this area consistent and eliminate an existing spot zone."*

**Staff Response:** The proposed amendment will fix a spot zone and make the zoning consistent with the surrounding area providing merit and value to the County.

- d) The proposed amendment is appropriate because of changed circumstances or because of a need for additional property in the proposed zone or because the proposed zone is appropriate for reasonable development of the subject property.

**Applicant Response:** *"The history of zoning of FBI's property and changed circumstances supports the proposed amendment. In 1978, FBI's property was rezoned from Agriculture to General Commercial. It was rezoned in 2013 from General Commercial to Agriculture 20 as part of the County's Growth Management compliance arising from a court case. By now rezoning it from Ag-20 to Commercial Agriculture would make it fit into the surrounding zoning and keep minimum acreage size at 20 acres. Also, FBI owns an adjacent parcel that is zoned Commercial Agriculture. The proposed rezone would make the zoning in this area consistent and consistent with FBI's adjacent property"*.

**Staff Response:** The proposed rezone is appropriate for reasonable development of the subject property. This rezone to Commercial Agriculture will make the property in line with adjacent properties on the north, south, and west and east which are already zoned Commercial Agriculture.

- e) The subject property is suitable for development in general conformance with zoning standards for the proposed zone.

**Applicant Response:** *"The subject property is suitable for development because it meets and exceeds the minimum development lot size of 20 acres."*

**Staff Response:** The existing zoning designation is Agriculture 20 and the proposed zoning designation is Commercial Agriculture; both zoning designations have 20 acre minimums. This proposed zone

change will meet all Commercial Agriculture zoning requirements as seen in KCC 17.31.

- f) The proposed amendment will not be materially detrimental to the use of properties in the immediate vicinity of the subject property.

**Applicant Response:** *“The proposed amendment will not be materially detrimental to uses of adjacent property because they are already zoned Commercial Agriculture and most are developed with rural-style residential development or rural working uses.”*

**Staff Response:** As most of the surrounding property is already used for farming and agriculture uses with sparse residential mostly supporting the farming use, changing the zone to Commercial Agriculture will not be materially detrimental to uses of adjacent property.

- g) The proposed changes in use of the subject property shall not adversely impact irrigation water deliveries to other properties.

**Applicant Response:** *“FBI’s property is not currently served by irrigation so the rezoned will not impact irrigation or water deliveries in the area.”*

**Staff Response:** The proposal is located within the Ellensburg Water irrigation district. While not presently served, it could be in the future, regardless, irrigation will not be impacted.

- h) The proposed amendment is in full compliance with KCC 17.13 Transfer of Development Rights.

**Applicant Response:** *“The proposed rezone is consistent with KCC 17.13 because proposed it would not alter the County’s TDR program since the permissible density - 1 unit per 20 acres – would be the same under the current zoning as compared to the proposed new zoning, Commercial Agriculture.”*

**Staff Response:** This rezone does not involve Transfer of Development Rights and as such is in full compliance with KCC 17.13 Transfer of Development Rights.

## V. ENVIRONMENTAL REVIEW

Based upon review of the submitted application materials including an environmental checklist, correspondence received during this comment period and other information on file with Community Development Services, Kittitas County issued a Determination of Non-Significance (DNS) on September 8, 2022 with a 14-day comment period that ended on September 22, 2022 at 5:00 p.m. No comments were submitted for the SEPA DNS and Kittitas County retained the DNS on October 13, 2022. Any appeals of SEPA had to be submitted by October 27, 2022 by 5 PM. No appeals were filed.

## VI. AGENCY AND PUBLIC COMMENTS

Applicable agencies, adjacent property owners, and interested parties have been given the opportunity to review this proposal. At the time of writing this staff report, three comments have been received. Comments from Kittitas County Public Works (KCPW), Kittitas Valley Fire & Rescue (KVFR) and the Snoqualmie tribe have been received. A summary of those comments can be seen below:

### Kittitas Valley Fire & Rescue (KVFR)

KVFR commented saying they have no comment on the rezone of the FBI parcel.

### Snoqualmie Tribe

Snoqualmie Tribe commented saying based on the size of the project and has a moderate probability of encountering cultural resources, they requested an archaeological survey. They realize that these do not cause

ground disturbance at this time but will likely at some point in the future.

*Staff Response: The proposal does not include any ground disturbance and certain projects will require additional environmental review before building.*

Kittitas County Public Works (KCPW)

Kittitas County Public Works commented that the parcel is in the FEMA 100-year floodplain and any future development within the floodplain would need to go through the floodplain development process.

No public comments were received during the Planning Commission Public Hearing on November 8, 2022.

**VII. PROJECT ANALYSIS**

In review of this proposal it is important to consider the goals and policies of the comprehensive plan, applicable county code, public and agency comments, any identified environmental concerns and state and federal requirements. Identified below is planning staff's analysis and consistency review for the subject application.

Comprehensive Plan Consistency:

The proposal is consistent with the goals and policies of the Kittitas County Comprehensive Plan. As referenced above in Section IV of this staff report, the following Comprehensive Plan Goals and Policies or Rural and Resource Lands apply to this proposal: RR-G7, RR-G13, RR-P116, RR-P118 and RR-P121 as well as the designation criteria for lands of long-term commercial significance. This proposal is consistent with the intent of the Rural Areas of Kittitas County.

Consistency with the provisions of KCC Title 12 Roads and Bridges:

This proposal is for a non-project rezone, therefore there will be no impact on existing infrastructure. The proposal is consistent with the provisions of KCC Title 12.

Consistency with the provisions of KCC 13 Water and Sewers Code:

This proposal is for a non-project rezone, therefore there will be no impact on existing infrastructure. The proposal is consistent with the provisions of KCC Title 13.

Consistency with the provisions of KCC Title 14 Buildings and Construction:

As this is a non-project rezone and comprehensive plan request, no building or construction is being requested by this action. This proposal is consistent with Kittitas County Code Title 14 for Building and Construction.

Consistency with the provisions of KCC 17.31, Commercial Agriculture zoning:

This proposal is consistent with the Kittitas County Zoning Code 17.31. It meets the purpose and intent for Commercial Agriculture with a zone in an area that farming, and ranching are the priority and protects fertile farmland. The proposal is compatible with KCC 17.31 referring to the uses table in KCC 17.15. The existing use of agriculture lands is permitted in Commercial Agriculture Zoning. The parcel is already over 20 acres meeting the minimum lot size for Commercial Agriculture as seen in KCC 17.31.040.

Consistency with the provisions of KCC 17A Critical Areas Code:

As this is a non-project specific rezone no critical areas will be affected. Future activities and/or development will be required to comply with all regulations at the time of the new proposal and the critical areas will be assessed at that time.

Consistency with the provisions of KCC 20 Fire and Life Safety Code:

As this is a non-project rezone this proposal is consistent with the Kittitas County Code for Fire Life Safety.

Agency Comments:

Comments have been received from Snoqualmie Tribe, Kittitas Valley Fire and Rescue (KVFR) and Kittitas County Public Works at time of writing.

Public Comments:

No comments have been received from the public during the comment period or during the Planning Commission Hearing. No comments have been received as of November 18, 2022.

**VIII. RECOMMENDATION**

Staff recommended **approval** of the Fiorito Brothers Non-project Rezone & Comprehensive Plan Amendment (CP-22-00001 & RZ-22-00001) subject to the following findings of fact and conditions:

**Findings of Fact**

1. Fiorito Brothers Inc. is proposing a comprehensive land use plan map amendment from Rural Working to Commercial Agriculture and a rezone of 27.20 acres from Agricultural 20 to Commercial Agriculture to match the surrounding properties. A comprehensive plan amendment (CP-22-00001), rezone application (RZ-22-00001), and SEPA checklist were submitted as part of the application packet. This project is being processed through the 2022 Annual Comprehensive Plan Docket process.
2. This proposal is located approximately 1400 feet north of the intersection of I-82 and Thrall Road off No. 6 Road in a portion of the SE ¼ of Section 30, Township 17, Range 19, W.M.; Kittitas County parcel map number 17-19-30040-0003. Kittitas County Parcel 12311
3. Total Proposal Size: 27.20 Acres  
Number of Lots: 1  
Domestic Water: None requested/proposed at this time.  
Sewage Disposal: None requested/proposed at this time.  
Fire Protection: Kittitas Valley Fire & Rescue  
Irrigation District: Bull Ditch/Ellensburg Water
4. Site Characteristics: The site is relatively flat land with mostly agricultural uses currently.
5. Surrounding Property:  
North: Lake/Sparse Residential/Farming  
South: I-82 Thrall Road Interchange  
East: Mostly Farming Uses  
West: I-82  
  
Access: The proposal will have access from No. 6 Road.
6. The Comprehensive Plan designation is currently Rural Working with a proposed designation of Commercial Agriculture.
7. The subject property is currently located within an Agriculture 20 zoning district. Commercial Agriculture zoning is being requested, which is an appropriate zoning designation within rural areas of the county. The purpose and intent of this zone is an area wherein farming and ranching are the priority. The intent of this zoning classification is to preserve fertile farmland from encroachment by nonagricultural land uses and protect the rights and traditions of those engaged in agriculture. The proposed zone is consistent with surrounding properties and preserving farmland.
8. An application for a comprehensive plan map amendment for Rural Working to Commercial Agriculture, a rezone from Agriculture 20 to Commercial Agriculture, and SEPA environmental checklist was



received on June 23, 2022 and a revised application on June 29, 2022. This submittal packet was received prior to the June 30th docketing deadline. The application was deemed complete on July 21, 2022. A Notice of Application was issued on August 11, 2018, then an e-mail was re-noticed on August 16, 2022 as the original notice did not get e-mailed out correctly due to a clerical error. These notices were published in the official county paper of record and were mailed to jurisdictional government agencies, adjacent property owners within 500 feet and other interested parties.

9. Based upon review of the submitted application materials including an environmental checklist, correspondence received during this comment period and other information on file with Community Development Services, Kittitas County issued a Determination of Non-Significance (DNS) on September 8, 2022 with a 14-day comment period that ended on September 22, 2022 at 5:00 p.m. No comments were submitted for the SEPA DNS and Kittitas County retained the DNS on October 13, 2022. Any appeals of SEPA had to be submitted by October 27, 2022 at 5 PM. No appeals were filed.
10. The proposal is consistent with the goals and policies of the Kittitas County Comprehensive Plan. As referenced above in Section IV of this staff report, the following Comprehensive Plan Goals and Policies or Rural and Resource Lands apply to this proposal: RR-G7, RR-G13, RR-P116, RR-P118 and RR-P121 as well as the designation criteria for lands of long-term commercial significance. This proposal is consistent with the intent of the Rural Areas of Kittitas County.
11. This proposal is consistent with the provisions of Kittitas County Roads and Bridges Title 12.
12. This proposal is consistent with the provisions of KCC 13 Water and Sewers Code.
13. This proposal is consistent with Kittitas County Code Title 14 for Building and Construction.
14. This proposal is consistent with the Kittitas County Zoning Code Title 17, more specifically KCC 17.31.
15. This proposal is consistent with Kittitas County Code Title 17A Critical Areas.
16. This proposal is consistent with Kittitas County Code Title 20 Fire Life Safety.
17. The following agencies provided comments: Snoqualmie Tribe, Kittitas Valley Fire & Rescue (KVFR), and Kittitas County Public Works (KCPW).
18. No public comments were received during the comment period or during the Planning Commission Hearing. No comments have been received as of November 18, 2022.

### **Suggested Conclusions:**

1. As conditioned, the proposal meets the goals, policies and implementation recommendations as set forth in the Kittitas County Comprehensive Plan.
2. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
3. Public use and interest will be served by approval of this proposal.
4. As conditioned, the proposal is consistent with Kittitas County Code Title 12 Roads and Bridges, Title 13 Water and Sewer, Title 14 Building and Construction, Title 15 Environmental Policy, Title 17 Zoning, Title 17A Critical Areas, and Title 20 Fire Life Safety.

### **Suggested Conditions of Approval:**

1. The applicant is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.

The Planning Commission recommended 5-0 to approve the Fiorito Brothers Rezone & Comprehensive Plan Amendment at their November 8, 2022 Public Hearing.