

SELAH CITY COUNCIL

6:30pm February 24, 2015

5:00 pm Study Session: Entrance Sign for Selah

5:00 – Wayne Petterson, Rusted Fish Studio Inc.

5:10 – Jack McEntire, Cascade Carvings

5:20 – Norm Hillstrom, Eagle Signs

5:30 – Selah Downtown Association



Selah City Council
Regular Meeting
Tuesday, February 24, 2015
6:30pm
City Council Chambers

Mayor:
Mayor Pro Tem:
Council Members:

John Gawlik
Brooke Finch
Paul Overby
John Tierney
Dave Smeback
Allen Schmid
Roy Sample
Jane Williams

CITY OF SELAH
115 West Naches Avenue
Selah, Washington 98942

Interim City Administrator: Joe Henne
City Attorney: Bob Noe
Clerk/Treasurer: Dale Novobielski

AGENDA

- A. Call to Order –Mayor Gawlik
- B. Roll Call
- C. Pledge of Allegiance
- D. Agenda Changes **None**
- E. Public Appearances/Introductions/Presentations **None**
- F. Getting To Know Our Businesses **None**
- G. Communications
 - 1. Oral

This is a public meeting. If you wish to address the Council concerning any matter that is not on the agenda, you may do so now. Please come forward to the podium, stating your name for the record. The Mayor reserves the right to place a time limit on each person asking to be heard.

2. Written

Andrew Potter a. Update on Financial Status of Volunteer Park

- H. Proclamations/Announcements **None**
- I. Consent Agenda

All items listed with an asterisk (*) are considered routine by the City Council and will be enacted by one motion, without discussion. Should any Council Member request that any item of the Consent Agenda be considered separately, that item will be removed from the Consent Agenda and become a part of the regular Agenda.

- Monica Lake * 1. Approval of Minutes: February 10, 2015 Study Session & Council Meeting
- Dale N. * 2. Approval of Claims & Payroll

- J. Public Hearings **None**
- K. New Business **None**
- L. Old Business **None**

M. Resolutions

- Joe Henne * 1. Resolution to Approve the Wernex Loop – Local Agency Agreement Supplement Number 1 – Transportation Alternatives Program (TAP) Sidewalk Improvements

- Joe Henne * 2. Resolution Authorizing the Mayor to approve Task Order 2015-1 between the City of Selah and Huibregtse, Louman & Associates, Inc. for Land Surveying Services for the survey of the Selah Civic Center Parking Lot project
- Joe Henne 3. Resolution Authorizing the Mayor to approve Task Order 2015-2 between the City of Selah and Huibregtse, Louman & Associates, Inc. for a boundary and topographic survey for Wixson Park
- Tom Durant 4. Resolution Approving the Preliminary Plat of "Somerset II" (912.42.14-05) and Adopting Findings and Conditions of Preliminary Plat Approval
- Bob Noe * 5. Resolution of the City Council of the City of Selah, Washington, Adopting Public Defense Standards and Requesting the Mayor to Provide Updates to the City Council Regarding any Future Changes in the Adopted Standards in Conjunction with the Annual Budget Report

N. Ordinances

- Dale N. * 1. Ordinance Amending the 2015 Budget for the 3rd Street Water Main Replacement Project
- Joe Henne * 2. Ordinance adopting a new City Of Selah 2014 Water System Plan and Repealing the 2008 Comprehensive Water Plan
- Tom Durant 3. Ordinance Amending Ordinance No. 1634 Zoning Map Amendment No. 914.42.14-05 Rezone to Planned Development (PD)

O. Reports/Announcements

- 1. Mayor
- 2. Council Members
- 3. Departmental
- 4. Boards

P. Executive Session

Q. Adjournment

Next Study Session March 10, 2015
 Next Regular Meeting March 10, 2015

Each item on the Council Agenda is covered by an
Agenda Item Sheet (AIS)

A yellow AIS indicates an action item.

A blue AIS indicates an information/non-action item.



**CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY**



COUNCIL MEETING INFORMATIONAL ITEM

2/24/2015 G 2- A

Title: Update on Financial Status of Volunteer Park

Thru: Joe Henne, Interim City Administrator

From: Andrew Potter, Assistant to the City Administrator

Action Requested: Informational - No action

Board/Commission Recommendation: Not applicable

Fiscal Impact: N/A

Funding Source: N/A

Staff Recommendation:

N/A

Background / Findings & Facts:

As of the 11th of February, the Selah Parks Foundation had collected \$12,800. \$2,800 of that was from brick sales. At this time we are still expecting several checks to start coming in from meetings we have had with Selah businesses. A public meeting was held on the 17th and several people expressed that they would help and some suggested that they could go door to door. We remain positive that we will secure matching funds by May 1st.

Recommended Motion:

N/A



**CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY**



COUNCIL MEETING ACTION ITEM

2/24/2015 I - 1

Title: Approval of Minutes: February 10, 2015 Study Session & Council Meeting

Thru: Joe Henne, Interim City Administrator

From: Monica Lake, Executive Assistant

Action Requested: Approval

Board/Commission Recommendation: Not applicable

Fiscal Impact: N/A

Funding Source: N/A

Staff Recommendation:

Approval of Minutes

Background / Findings & Facts:

See Minutes for details.

Recommended Motion:

Motion to approve the Consent Agenda as read. (This item is part of the Consent Agenda)

**Study Session Minutes
Selah City Council
February 10, 2015
3:00pm – Yakima Valley Libraries
3:30pm – Selah School District**

Mayor Gawlik opened the Study Session. He welcomed Kim Hixson, the director of the Yakima Valley Libraries (YVL), and invited her to speak.

Ms. Hixson stated that she was here on behalf of her board of trustees to discuss the next steps regarding the rental contract for the Selah Library, which is up in May of 2015. She said that the board is interested in a joint purchase of the property between the City and YVL, per the option to purchase stated in the contract.

Mayor Gawlik gave a quick recap regarding the agreement, noting that there is approximately \$30,000 in equity for the purchase, and that the matter was not budgeted for in the 2015 budget. He noted that Council would need to review the matter and decide whether to go forward with a joint purchase or look into an extension of the lease agreement.

Discussion followed on the matter, including the library's circulation size, the impact of digital growth, the need for a maintenance agreement if they decide to purchase the property, what other communities the same size have opted to do, computer accessibility, the size of the building, and whether the trustees would be amenable to buying out the City's interest in a year.

Ms. Hixson agreed to discuss the matter further with the board of trustees, adding that she would follow-up with a letter to Council.

Mayor Gawlik thanked her for her time. He welcomed Shane Backlund, Superintendent for the Selah School District (SSD), and invited him to speak.

Mr. Backlund gave an update on the SSD building projects and invited Council to attend an open house for the new middle school in two weeks' time. He then introduced Suzie Bennett, a leadership teacher at Selah Middle School and asked her to speak.

Ms. Bennett talked about her role as a leadership teacher and their efforts to unite everyone from kindergarten through twelfth grade as Selah Vikings. She commented that the students are looking at the Viking way, and how they can use that to become not only high-achieving students but also be the best version of themselves. She invited the Council Members to take part in a discussion, asking them to pair off for a few moments to discuss ideas for collaboration with the SSD.

Discussion followed on items such as the colors of the City flag being the blue and gold of the Vikings behind the City's apple logo, the SRO's patrol car striped in SSD colors and displaying a Viking in the rear window, the desire to include 'Home of the Vikings' on an entry sign for the community, and the development of a new community pool.

The Study Session ended at 3:55pm.

City of Selah
Council Minutes
February 10, 2015

Regular Meeting
Selah Council Chambers
115 West Naches Avenue
Selah, WA 98942

A. Call to Order Mayor Gawlik called the meeting to order at 4:00pm.

B. Roll Call

Members Present: John Tierney; Dave Smeback; Allen Schmid; Brooke Finch; Roy Sample;
Jane Williams

Members Excused: Paul Overby

Staff Present: Joe Henne, Interim City Administrator; Gary Hanna, Fire Chief; Rick
Hayes, Police Chief; Dale Novobielski, Clerk/Treasurer; Charlie Brown,
Recreation Manager; Andrew Potter, Assistant to the City Administrator;
Monica Lake, Executive Assistant

C. Pledge of Allegiance

Council Member Smeback led the Pledge of Allegiance.

D. Agenda Changes

Removed from Agenda:

E - 2 Police Awards – Officer of the Year; Reserve Officer of the Year; and Medals of Valor

E. Public Appearances/Introductions/ Presentations

1. Scott Miller, Director, Yakima County Office of Emergency Management

Scott Miller, Director for the Yakima County Office of Emergency Management, approached the podium and addressed the Council. He said that he took over on January 20th, and that, prior to accepting the position in Yakima, he'd been doing the same task in Okanagan County for eleven years. He commented that he is currently on the meet and greet tour, and that Council should expect to see him on a semi-regular basis. He talked about what Selah receives for their participation, such as making sure they are compliant with State regulations, and a new online emergency notification system that they've received a start-up grant for and hope to have online within three to six months.

2. ~~Police Awards—Officer of the Year; Reserve Officer of the Year; and Medals of Valor~~

REMOVED

3. John Cooper, Yakima Valley Tourism – Annual Presentation

NO SHOW

F. Getting To Know Our Businesses **None**

G. Communications

1. Oral

Mayor Gawlik opened the meeting.

Evelyn Paquin approached the podium and addressed the Council. She said that she's made several phone calls about the light by the Civic Center, as something is wrong with it.

Interim City Administrator Henne responded that the actuators are broken, so they went to a time base. He added that it will be fixed in the spring, when asphalt is available again.

Ms. Paquin thanked the Fire Department for their assistance at the last meeting, saying that she is proud of all of them.

Council Member Williams remarked that the crosswalk situation is important, and thanked Ms. Paquin for bringing it to their attention.

Interim City Administrator Henne noted that he is looking for prices to change the crosswalk signal from a hand to a timer type.

Seeing no one else rise to speak, Mayor Gawlik closed the meeting.

2. Written

- a. Recycling Data Report for the 4th Quarter of 2014
- b. January 2015 Monthly Report for Building Permits, Animal Control and Code Enforcement

Council Member Tierney asked if it would be possible to have the dates of activity for animal control and code enforcement added to the report.

Interim City Administrator Henne responded in the affirmative.

H. Proclamations/Announcements **None**

I. Consent Agenda

Executive Assistant Lake read the Consent Agenda.

All items listed with an asterisk (*) were considered as part of the Consent Agenda.

* 1. Approval of Minutes: January 27, 2015 Study Session and Council Meeting

* 2. Approval of Claims & Payroll:

Payroll Checks Nos. 78293 – 78318 for a total of \$209,116.43
Claim Checks Nos. 65241 – 65316 for a total of \$142,130.95

Council Member Tierney moved, and Council Member Smeback seconded, to approve the Consent Agenda as read. By voice vote, approval of the Consent Agenda was unanimous.

J. Public Hearings **None**

K. New Business **None**

L. Old Business **None**

M. Resolutions

1. Resolution Authorizing the Mayor to Sign an Agreement with the Selah Downtown Association Concerning Financial Support

Clerk/Treasurer Novobielski addressed M – 1. He said that this agreement puts in writing the understanding between the Selah Downtown Association (SDA) and the City regarding the financial support that the City has been providing them, and will likely continue to provide. He noted that the State Auditor has shown some interest in the fifteen thousand dollar payments the City has given them, and that he believes this agreement will satisfy some of their questions.

Council Member Tierney remarked that he found nothing that gives the City the authority to come in and examine their books at any time. He suggested adding a provision showing that the Clerk/Treasurer, the Mayor or the City Administrator could look at their books whenever they desire to do so.

Clerk/Treasurer Novobielski responded that, in talking with Tammy Allen, he feels that she wouldn't hesitate to let him look at the books.

Mayor Gawlik requested that the time frame for the financial report submittal be moved to January.

Clerk/Treasurer Novobielski responded that he sees no problem with a reporting date of Jan 15th.

Council Member Schmid expressed some concern with changing the date, as the October date is prior to the new budget season, and any major budget changes that could be included, whereas if they move the date to January it will be out of cycle.

Clerk/Treasurer Novobielski didn't foresee them requesting additional funds with their ability to have local businesses contribute with their tax credits. He noted that the other option would be to delay until after October to provide that years' funding to the SDA.

Council Member Tierney commented that this is another reason to have periodic access to their books.

Council Member Smeback observed that their income is derived from two categories, one from the City and one from local businesses, and wondered if what they had spent to date was City funds or revenues generated from the tax credit.

Interim City Administrator Henne responded that it was City funds.

Mayor Gawlik commented that their only funds at present are those provided by the City.

Interim City Administrator Henne stated that they have some tax money that starts next year.

Council Member Schmid felt that they should come before Council for approval prior to spending any City funds. He read an excerpt from the agreement that stated they would obtain Council approval for any expenditures involving City funds.

Council Member Tierney reiterated that they need to have access to their books to ensure they comply with that portion of the contract.

Council Member Schmid added that the SDA board has missed that they have to get approval to spend the City's money.

Clerk/Treasurer Novobielski replied that the contract was drafted by City Attorney Noe, who didn't realize that provision has not been followed.

Council Member Sample said that he attended the SDA meeting yesterday, and that he feels the Council doesn't need to approve small expenditures. He suggested placing a limit on the amount that Council would have to approve.

Mayor Gawlik reiterated that the only money the SDA has at present was given to them by the City.

Clerk/Treasurer Novobielski commented that they have also done some fundraising selling t-shirts.

Council Member Smeback wondered what the State auditor will ask for regarding accountability.

Clerk/Treasurer Novobielski responded that they might ask for quarterly financials.

Council Member Schmid liked the idea of a quarterly report that could be placed in the council packet.

Council Member Tierney stated that he simply wants to know where the money is going.

Interim City Administrator Henne asked Council if they wanted to set a threshold.

Council Member Tierney felt that some kind of threshold would be better than none at all.

Council Member Finch recommended setting it at one thousand dollars, so as not to nickel and dime them to death. She expressed her concern that there is no recourse for the Council if they disagree with how the money is spent and felt that Council needed to discuss the matter further.

Interim City Administrator Henne suggested that City Attorney Noe draft a new agreement that addressed their concerns, which would be brought back at a later date.

Council Member Finch moved, and Council Member Tierney seconded, to postpone the matter until the March 10, 2015 Council Meeting. Roll was called: Council Member Tierney – yes; Council Member Smeback – yes; Council Member Schmid – no; Council Member Finch – yes; Council Member Sample – no; Council Member Williams – yes. Motion passed with four yes votes and two no votes.

N. Ordinances None

O. Communications

1. Oral

Mayor Gawlik opened the meeting. Seeing no one rise to speak, he closed the meeting.

P. Reports/Announcements

1. Mayor

Mayor Gawlik said that the interviews for the City Administrator position will start tomorrow, and referred Council to a memo from him that was included with the schedule they received. He stated that there will be a Study Session prior to the next Council Meeting for presentations and discussion of a Welcome to Selah sign, and requested that any individuals who wished to make a presentation contact Executive Assistant Lake prior to that day. He noted that there will be no questions during the ten minute presentations, and that he will give the bulk of the time to Council for discussion and questions.

2. Council Members

Council Member Finch had no report.

Council Member Sample remarked that he had attended both a Selah Chamber of Commerce meeting and an SDA meeting as the Council representative. He said that the SDA is looking into doing a brochure that can be handed out in the community to get a larger participation in the group, and also

explain the Main Street program and how businesses can donate a portion of their B&O tax and receive a credit on it for the next year.

Council Member Tierney had no report.

Council Member Smeback had no report.

Council Member Williams said that the Yakima Valley Conference of Governments met at the Civic Center last month, and that they had a great local caterer for the meal. She added that Shawn Conrad will be hosting the Thunders Forum on Friday, March 13th, and suggested that anyone interested attend the event.

Council Member Schmid had no report.

3. Departmental

Clerk/Treasurer Novobielski said that he met with the Finance Committee, Mayor Gawlik, and Interim City Administrator Henne last Friday to review the 2014 financials. He noted that the bond portion of the utility tax generated one hundred eighty-one thousand dollars more than the actual debt service on the bonds, which allowed for an additional eighty thousand to be applied to the principal and the remainder going to replace some of the expended funds previously used for debt payments.

Mayor Gawlik remarked that the refinancing of the debt has led to this savings.

Council Member Williams observed that the twenty-seven thousand saved by refinancing wasn't included in the 2014 financials.

Clerk/Treasurer Novobielski responded that it is for a future period.

Council Member Williams asked if the one hundred and one thousand dollars went into a reserve account.

Clerk/Treasurer Novobielski replied in the affirmative, noting that three different funds were expended for debt service, and that this money will go to those funds to replace the one point two million spent on repayment for those bonds. He added that ninety-seven thousand dollars was replaced in those funds the previous year.

Mayor Gawlik stated that one of promises made by the Council was to replenish those dedicated funds that had been drawn down.

Council Member Williams asked for confirmation that eighty thousand dollars was going towards early payoff of the bonds.

Clerk/Treasurer Novobielski responded in the affirmative.

Recreation Manager Brown said that he completed interviews for the Administrative and Marketing Specialist position last week, made a job offer to the selected applicant, and that he is waiting for her to call him back with an answer. He stated that they are working on making the July 3rd event bigger this year, and that last year's entertainer Cody Beebe thinks he can get national talent for the same price as last year's entertainment fee. He remarked that they are working with the SDA on arts and crafts for the Easter Egg hunt event, and that there will be a public meeting at the Civic Center on February 17th to discuss the details of Volunteer Park and inform citizens how they can get involved in the project.

Council Member Smeback asked about the sale of the gift bricks.

Recreation Manager Brown responded that he will provide that information at the next Council Meeting.

Assistant to the City Administrator Potter reiterated that there will be a public meeting at the Civic Center next Tuesday at 6pm, adding that he and Recreation Manager Brown have been splitting the responsibility on the project; he's networked with local churches on the matter. He noted that he and Interim City Administrator Henne will be meeting with Senator Honeyford in Olympia next week to discuss the possibility of receiving money from the capital budget for the Civic Center project.

Mayor Gawlik remarked that Representative Taylor has also indicated that he would be more than happy to listen to their request and see about making an appropriations request on Selah's behalf.

Assistant to the City Administrator Potter responded that he has reached out to the Association of Washington Cities (AWC), and that they are making connections for the cities who are attending.

Mayor Gawlik complimented both Recreation Manager Brown and Assistant to the City Administrator Potter on their efforts to reach out to members of community as well as members of legislature, saying that it shows some progress on these projects.

Fire Chief Hanna had no report.

Police Chief Hayes commented that his department had the LEO training simulator last week. He said that the Yakima Police Department's canine unit and gang unit did a presentation at the Citizens' Academy the night before, and that the next meeting would be a tour of the Yakima County jail. He added that they are currently working on a Citizens' Academy for persons under the age of eighteen. He informed the Council that they have narrowed the seventeen applicants for the Community Service Specialist / Evidence Room Caretaker position down to six, and will be starting interviews next week.

Interim City Administrator Henne said that himself, Mayor Gawlik, Recreation Manager Brown and Assistant to the City Administrator Potter met with some of the Civic Center user groups regarding their needs for a new building or remodel of the existing facility. He commented that the new parking lot space has been graveled; they will put up signs, and if it dries out enough they'll also paint parking stalls. He noted that both the new sweeper truck and the vactor truck have been in use. He added that information on the part-time planner has been placed in the City's website. He remarked that the folks associated with the ball tournaments want to start playing in mid-March, so the crew is trying to get the fields going; they will also be doing a cleanup around the Civic Center and washing the building down.

Mayor Gawlik expressed his desire to have a fresh coat of paint applied to the building if possible, to freshen it up.

Council Member Smeback asked how many hours Mr. Durant is working per week.

Interim City Administrator Henne replied that he works approximately ten hours per week.

Council Member Smeback wondered if he was starting with the oldest projects.

Interim City Administrator Henne responded in the negative, saying that they have spoken with the individuals who have multiple projects to establish which ones are a higher priority to the proponents.

Council Member Smeback inquired if someone coming in with a new house project would be bumped to the head of the line.

Interim City Administrator Henne replied in the negative, adding that the backlog was prioritized, and any new project goes to the bottom of the pile.

Council Member Smeback asked how far out a new project would be.

Interim City Administrator Henne responded that he has asked Mr. Durant for time frame on completion of the pending projects.

Council Member Williams wondered if there have been new projects submitted since he took over.

Interim City Administrator Henne replied that there may be one for a small radio tower on the hill; he just met with those folks on Friday. He said that one matter should be brought before Council at the next meeting, and that the Hearing Examiner has an applicant with three projects coming before him.

Mayor Gawlik noted that they are keeping a record of the number of walk-ins needing information from the Planner's office so that they can give Council a comprehensive idea of what the activity is when they revisit the matter in the near future.

4. Boards **None**

Council took a five minute recess.

Q. Executive Session

1. 15 Minute Session – Real Estate RCW 42.30.110(1)(b)

Council went into Executive Session at 5:05pm. At 5:20pm, Council went back on the record. Mayor Gawlik stated that they would be extending the Executive Session for an additional 15 minutes.

Council went back into Executive Session at 5:00pm. At 5:20pm, Council went back on the record. Mayor Gawlik stated that no action was taken during the Executive Session.

Council Member Tierney moved, and Council Member Sample seconded, to Authorize the Mayor to sign a Purchase and Sales Agreement with Graf Investments, on behalf of the City, for Parcel No. 181302-21004, for the purchase price of \$110,000 and earnest money of \$5,000. Roll was called: Council Member Tierney – yes; Council Member Smeback – yes; Council Member Schmid – yes; Council Member Finch – yes; Council Member Sample – yes; Council Member Williams – yes. By voice vote, approval was unanimous.

R. Adjournment

Council Member Finch moved, and Council Member Smeback seconded, that the meeting be adjourned. By voice vote, approval was unanimous.

The meeting adjourned at 5:37pm.

John Gawlik, Mayor

EXCUSED

Paul Overby, Council Member

John Tierney, Council Member

Dave Smeback, Council Member

Allen Schmid, Council Member

Brooke Finch, Mayor Pro Tem

Roy Sample, Council Member

Jane Williams, Council Member

ATTEST:

Dale E. Novobielski, Clerk/Treasurer



**CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY**



COUNCIL MEETING ACTION ITEM
2/24/2015 I – 2

Title: Claims & Payroll

Thru: Joe Henne, Interim City Administrator

From: Dale Novobielski, Clerk/Treasurer

Action Requested: Approval

Board/Commission Recommendation: Not applicable

Fiscal Impact: See Check Registers.

Funding Source: Various. See Check Registers.

Staff Recommendation:

Approval of Claims & Payroll as listed on Check Registers.

Background / Findings & Facts:

See check Registers.

Recommended Motion:

Motion to Approve the Consent Agenda as read. (This item is part of the Consent Agenda)



**CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY**



COUNCIL MEETING ACTION ITEM

2/24/2015 M – 1

Title: Resolution to Approve the Wernex Loop – Local Agency Agreement Supplement Number 1 – Transportation Alternatives Program (TAP) Sidewalk Improvements.

Thru: Joe Henne, Interim City Administrator

From: Joe Henne, Public Works Director

Action Requested: Approval

Board/Commission Recommendation: Not applicable

Fiscal Impact: \$500.00

Funding Source: Street Fund 111

Staff Recommendation:

Approve a resolution endorsing the WSDOT Local Agency Agreement Supplement No. 1. This supplement allows the project to move to the construction phase and release construction funding.

Background / Findings & Facts:

The City applied for and was selected for funding to construct a curb, gutter and sidewalk along the north side of Wernex Loop. The City is only responsible for up to \$500.00 for WSDOT and City Administration cost. Total project cost is estimated at \$213,000.00

Recommended Motion:

To approve a resolution endorsing the WSDOT Local Agency Agreement.

RESOLUTION NO. _____

**RESOLUTION AUTHORIZING THE MAYOR TO SIGN THE WSDOT LOCAL
AGENCY AGREEMENT SUPPLEMENT NUMBER 1 FOR THE
TRANSPORTATION ALTERNATIVES PROGRAM (TAP) FUNDING FOR
SIDEWALK ALONG WERNEX LOOP.**

WHEREAS, the City of Selah wishes WSDOT to release funding for sidewalk construction along Wernex Loop using the Transportation Alternatives Program, and

WHEREAS, approving the WSDOT Local Agency Agreement Supplement Number 1 outlines how the City shall spend the project funding, and

WHEREAS, the project will construct a six (6) foot sidewalk, curb and gutter from the entrance into the Selah Middle School, North along Wernex Loop to North First Street;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON that the Mayor is authorized to sign the Local Agency Agreement Supplement 1 for a sidewalk on Wernex Loop.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON this 24th day of February, 2014.

John Gawlik, Mayor

ATTEST:

Dale E. Novobielski, Clerk/Treasurer

APPROVED AS TO FORM:

Robert F. Noe, City Attorney

RESOLUTION NO. _____



Agency City of Selah		Supplement Number 1
Federal Aid Project Number TAP-4703(004)	Agreement Number LA 8418	CFDA No. 20.205 (Catalog of Federal Domestic Assistance)

The Local Agency requests to supplement the agreement entered into and executed on June 13, 2014

All provisions in the basic agreement remain in effect except as modified by this supplement.

The changes to the agreement are as follows:

Project Description

Name Wernex Loop Length 0.19 miles

Termini From the entrance of the Selah Middle School north to North First Street

Description of Work No Change

Reason for Supplement

Add construction phase.

Does this change require additional Right of Way or Easements? Yes No Advertisement Date: March 10, 2015

Type of Work	Estimate of Funding				
	(1) Previous Agreement/Suppl.	(2) Supplement	(3) Estimated Total Project Funds	(4) Estimated Agency Funds	(5) Estimated Federal Funds
PE					
<u>100</u> % a. Agency					
b. Other Design Engineering	19,900.00		19,900.00		19,900.00
c. Other Environmental	6,000.00		6,000.00		6,000.00
Federal Aid Participation Ratio for PE d. State	500.00		500.00		500.00
e. Total PE Cost Estimate (a+b+c+d)	26,400.00		26,400.00		26,400.00
Right of Way					
<u> </u> % f. Agency					
g. Other					
Federal Aid Participation Ratio for RW h. Other					
i. State					
j. Total RW Cost Estimate (f+g+h+i)					
Construction					
k. Contract		164,100.00	164,100.00		164,100.00
l. Other Consultant		21,500.00	21,500.00		21,500.00
<u>100</u> % m. Other					
n. Other					
Federal Aid Participation Ratio for CN o. Agency					
p. State		1,000.00	1,000.00		1,000.00
q. Total CN Cost Estimate (k+l+m+n+o+p)		186,600.00	186,600.00		186,600.00
r. Total Project Cost Estimate (e+j+q)	26,400.00	186,600.00	213,000.00		213,000.00

The Local Agency further stipulates that pursuant to said Title 23, regulations and policies and procedures, and as a condition to payment of the Federal funds obligated, it accepts and will comply with the applicable provisions.

Agency Official

Washington State Department of Transportation

By _____

By _____

Title _____

Director of Local Programs

Date Executed _____



**CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY**



COUNCIL MEETING ACTION ITEM

2/24/2015 M – 2

Title: Resolution Authorizing the Mayor to approve Task Order 2015-1 between the City of Selah and Huibregtse, Louman & Associates, Inc. for Land Surveying Services for the survey of the Selah Civic Center Parking Lot project.

Thru: Joe Henne, Interim City Administrator

From: Joe Henne, Public Works Director

Action Requested: Approval

Board/Commission Recommendation: Not applicable

Fiscal Impact: \$5,900.00

Funding Source: Civic Center Fund: 118.000.075.575.50.41.00

Staff Recommendation:

Approval

Background / Findings & Facts:

At the direction of the City of Selah, Huibregtse, Louman & Associates, Inc. (HLA) shall provide land survey services for the survey of City properties that are proposed for the Park-n-Ride and Civic Center Parking Lot project. HLA will complete a field survey and locate site improvements such as buildings, existing parking areas, utilities, trees, fences, and site topography.



**CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY**



Recommended Motion:

Accept and approve resolution for land surveying services.

Record of all prior actions taken by the City Council and/or a City Board, City Committee, Planning Commission, or the Hearing Examiner (where applicable)

Date:

Action Taken:

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[Click here to enter a date.](#) [Click here to enter text.](#)

[Click here to enter a date.](#) **TITLE OF ITEM**

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RESOLUTION NO. _____

**RESOLUTION AUTHORIZING THE MAYOR TO APPROVE TASK
ORDER 2015-1 BETWEEN THE CITY OF SELAH AND HUIBREGTSE,
LOUMAN & ASSOCIATES INC. FOR LAND SURVEYING SERVICES
FOR THE SURVEY OF THE SELAH CIVIC CENTER PARK-N-RIDE
AND OTHER BUILDING AND PARKING LOT IMPROVEMENTS**

WHEREAS, the City of Selah wishes to construct improvements at the Civic Center, and

WHEREAS, the City of Selah desires to enter into an agreement for professional land surveying services with Huibregtse, Louman Associates, Inc. for the work;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, the Mayor be authorized to sign a General Agreement, Task Order No 2015-1 for land surveying services for the Selah Civic Center.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, this 24th day of February, 2015.

John Gawlik, Mayor

ATTEST:

Dale E. Novobielski, Clerk/Treasurer

APPROVED AS TO FORM:

Robert F. Noe, City Attorney

RESOLUTION NO. _____

TASK ORDER NO. 2015-1

REGARDING GENERAL AGREEMENT BETWEEN CITY OF SELAH
AND
HUIBREGTSE, LOUMAN ASSOCIATES, INC.

PROJECT DESCRIPTION:

Civic Center Boundary and Topographic Survey
HLA Project No. 15006G

The City of Selah (CITY) desires to construct a new parking lot at the Civic Center site.

SCOPE OF SERVICES:

At the direction of the City of Selah (CITY), Huibregtse, Louman Associates, inc. (HLA), shall provide land surveying services for the survey of the Civic Center site (PROJECT). HLA services shall include:

Boundary and Topographic Survey for Yakima County Tax Parcel Nos. 181435-44407, -44408, -44409, -44410, 44411, -44429, and -44431

- A. HLA will field survey the above referenced parcels and locate site improvements such as buildings, existing parking areas, utilities, trees, fences, and site topography.
- B. HLA will prepare a boundary and topographic survey of the parcels showing field located site improvements, 1-foot contours, property lines, and underground and above ground utilities. Underground utilities shown will be based on tone marks provided by the local "Call Before You Dig" service and record drawings. No excavation is planned for locating underground utilities.
- C. HLA will provide the City with an AutoCAD file of the survey and six paper copies.

ITEMS TO BE FURNISHED AND RESPONSIBILITY OF CITY

The CITY will provide or perform the following:

- A. Provide record utility drawings if available.

TIME OF PERFORMANCE:

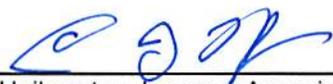
HLA will complete the services referenced hereon within 3 weeks of authorization to proceed.

FEE FOR SERVICE:

For the services furnished by HLA as described under this Agreement, the CITY agrees to pay HLA the fees as set forth herein. The amounts listed below may be revised only by written agreement of both parties.

Boundary and Topographic Survey

All work shall be performed on a time-spent basis at normal hourly billing rates included in our General Agreement, plus reimbursement for non-salary expenses with an estimated amount of \$5,900.00.

Proposed:  Feb 12, 2015
Huibregtse, Louman Associates, Inc. Date
Eric T. Herzog, PLS, Vice President

Approved: _____
City of Selah Date
John Gawlik, Mayor



**CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY**



COUNCIL MEETING ACTION ITEM

2/24/2015 M – 3

Title: Resolution Authorizing the Mayor to approve Task Order 2015-2 between the City of Selah and Huibregtse, Louman & Associates, Inc. for a boundary and topographic survey for Wixson Park.

Thru: Joe Henne, Interim City Administrator

From: Joe Henne, Public Works Director

Action Requested: Approval

Board/Commission Recommendation: Not applicable

Fiscal Impact: \$8,400.00

Funding Source: Park Fund: 001.000.076.576.81.41.01

Staff Recommendation:

Approval.

Background / Findings & Facts:

At the direction of the City of Selah, Huibregtse, Louman & Associates, Inc. (HLA) shall provide land survey services for the survey of Wixson Park for planning purposes and possible future construction. HLA will complete a field survey and locate site improvements such as buildings, existing parking areas, utilities, trees, fences, and site topography.



**CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY**



Recommended Motion:

Accept and approve resolution for land surveying services.

Record of all prior actions taken by the City Council and/or a City Board, City Committee, Planning Commission, or the Hearing Examiner (where applicable)

Date:

Action Taken:

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[Click here to enter a date.](#) **TITLE OF ITEM**

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RESOLUTION NO. _____

**RESOLUTION AUTHORIZING THE MAYOR TO APPROVE TASK
ORDER 2015-2 BETWEEN THE CITY OF SELAH AND HUIBREGTSE,
LOUMAN & ASSOCIATES INC. FOR A BOUNDARY AND
TOPOGRAPHIC SURVEY FOR WIXSON PARK**

WHEREAS, the City of Selah wishes to have a boundary and topographic survey performed at Wixson Park for planning and possible future construction, and

WHEREAS, the City of Selah desires to enter into an agreement for professional land surveying services with Huijbregtse, Louman Associates, Inc. for the work;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, the Mayor be authorized to sign a General Agreement, Task Order No 2015-2 for land surveying services for planning and possible future construction of Wixson Park .

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, this 24th day of February, 2015.

John Gawlik, Mayor

ATTEST:

Dale E. Novobielski, Clerk/Treasurer

APPROVED AS TO FORM:

Robert F. Noe, City Attorney

RESOLUTION NO. _____

TASK ORDER NO. 2015-2

REGARDING GENERAL AGREEMENT BETWEEN CITY OF SELAH

AND

HUIBREGTSE, LOUMAN ASSOCIATES, INC.

PROJECT DESCRIPTION:

Wixson Park Boundary and Topographic Survey
HLA Project No. 15006G

The City of Selah (CITY) desires to have a boundary and topographic survey performed at Wixson Park for planning purposes and possible future construction.

SCOPE OF SERVICES:

At the direction of the City of Selah (CITY), Huibregtse, Louman Associates, Inc. (HLA), shall provide land surveying services for the survey of Wixson Park (PROJECT). HLA services shall include:

Boundary and Topographic Survey for Yakima County Tax Parcel Nos. 181435-44432 and -44437

- A. HLA will field survey the above referenced parcels and locate site improvements such as buildings, existing parking areas, utilities, trees, fences, and site topography.
- B. HLA will prepare a boundary and topographic survey of the parcels showing field located site improvements, 1-foot contours, property lines, and underground and above ground utilities. Underground utilities shown will be based on tone marks provided by the local "Call Before You Dig" service and record drawings. No excavation is planned for locating underground utilities.
- C. HLA will provide the City with an AutoCAD file of the survey and six paper copies.

ITEMS TO BE FURNISHED AND RESPONSIBILITY OF CITY

The CITY will provide or perform the following:

- A. Provide record utility drawings if available.

TIME OF PERFORMANCE:

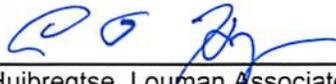
HLA will complete the services referenced hereon within 3 weeks of authorization to proceed.

FEE FOR SERVICE:

For the services furnished by HLA as described under this Agreement, the CITY agrees to pay HLA the fees as set forth herein. The amounts listed below may be revised only by written agreement of both parties.

Boundary and Topographic Survey

All work shall be performed on a time-spent basis at normal hourly billing rates included in our General Agreement, plus reimbursement for non-salary expenses with an estimated amount of \$8,400.00.

Proposed:  _____ 2-19-15
Huibregtse, Louman Associates, Inc. Date
Eric T. Herzog, PLS, Vice President

Approved: _____
City of Selah Date
John Gawlik, Mayor



**CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY**



COUNCIL MEETING ACTION ITEM

2/24/2014 M – 4

Title: Resolution Approving the Preliminary Plat of “Somerset II” (912.42.14-05) and Adopting Findings and Conditions of Preliminary Plat Approval

Thru: Joe Henne, Interim City Administrator

From: Thomas R Durant, Community Planner

Action Requested: Approval

Board/Commission Recommendation: Denial

Fiscal Impact: N/A

Funding Source: N/A

Staff Recommendation:

Approval

Background / Findings & Facts:

The Hearing Examiner conducted open record public hearing December 4, 2014. Prepared Findings of Fact and Conclusions recommending Denial of the Somerset II Preliminary Plat based on the recommendation for denial of the Planned Development without prejudice, *with allowance for reopening the open public record hearing in accordance with SMC 10.24.060.*

The Hearing Examiner also made a finding that if the Council is persuaded that the Planned Development meets the requirements of Chapter 10.24, SMC notwithstanding a recommendation for denial that an approval be subject to the conditions set forth on pp 16 – 19 under Finding #7 of the Hearing Examiner’s decision.



**CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY**



Recommended Motion:

I move the Council approve Preliminary Plat No. 912.42.14-05 designated as Somerset II with 23 specific conditions as recommended by the Hearing Examiner and adopt Findings 1 through 8 and 9-d and Conclusions 1, 2 and 7 of the Hearing Examiner’s Recommendation

Record of all prior actions taken by the City Council and/or a City Board, City Committee, Planning Commission, or the Hearing Examiner (where applicable)

Date:	Action Taken:
12/4/2014	Hearing Examiner – Open Record Public Hearing
10/14/2014	City Council Closed Record Public Hearing – remanded
9/30/2014	Planning Commission – Open Record Public Hearing

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RESOLUTION NO. _____

RESOLUTION APPROVING THE PRELIMINARY PLAT OF "SOMERSET II" (912.42.14-05) AND ADOPTING FINDINGS AND CONDITIONS OF PRELIMINARY PLAT APPROVAL

WHEREAS, on February 24 2015 the City of Selah City Council considered Preliminary Plat No. 912.42.14-05 known as "SOMERSET II" on Herlou Drive and Lyle Loop Road Yakima County Taxation Parcel Numbers: (181426-44005 and 181426-44021); and,

WHEREAS, the Preliminary Plat was combined with an application for rezone of the subject property from One Family Residential (R-1) to Planned Development (PD) and is dependent on approval of that application; and,

WHEREAS, The Hearing Examiner recommended denial of the combined application of Preliminary Plat and rezone without prejudice, with allowance for re-opening the open record proceeding commenced in accordance with SMC 10.24.060 to allow consideration of and public comment on additional information and amended development plan and program material submitted by the applicant in its discretion; and,

WHEREAS, the Hearing Examiner also made a finding that if the Council is persuaded that the Planned Development meets the requirements of Chapter 10.24 SMC notwithstanding a recommendation for denial, the application should be approved with the conditions set forth in Finding #7 of said Hearing Examiner recommendation; and,

WHEREAS, the City of Selah partially adopted the Hearing Examiner's recommendation for the Planned Development rezone, approving it with the conditions set forth in said Finding #7; and,

WHEREAS, the City of Selah Council has considered the Hearing Examiner's findings of fact and conclusions and the City staff report dated December 1, 2014 and the Council is satisfied that the matter has been sufficiently considered; and,

WHEREAS, the City Council adopts some, but not all of the Findings and Conclusions of the Hearing Examiner's Recommendation dated December 19, 2014.

WHEREAS, the City Council considered the elements of public use and interest to be served by such platting, and

WHEREAS, the City Council considered the elements of public health, safety, and general welfare pertaining to the preliminary plat;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON that Preliminary Plat No. 912.42.14-05 designated as "Somerset II" be approved , that the Hearing Examiner's Findings 1 -8 and 9"d", Conclusions 1, 2,and 7 be adopted with the twenty three (23) specific conditions contained in the said Conclusion '7'and a copy of which is attached hereto.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON this 24th day of February, 2015.

John Gawlik, Mayor

ATTEST:

Dale E. Novobielski, Clerk/Treasurer

APPROVED AS TO FORM:

Robert Noe, City Attorney

Resolution No. _____

CONDITIONS OF PRELIMINARY PLAT APPROVAL

1. All design and/or improvement notations indicated on the preliminary plat are included herein as conditions of preliminary plat approval. (Including, but not limited to, dedicated right-of-way width, easement widths and locations, lot size and configuration)
2. A preliminary engineering report and/or plan, prepared by a Licensed Professional Engineer, demonstrating the feasibility of construction of all public improvements required by Selah Municipal Code, Chapter 10.50, must be submitted to the Public Works Director for approval, including approval of compliance with public street alignment requirements.
3. All final plans and specifications for improvements must be prepared by a Licensed Professional Engineer and reviewed and approved by the Public Works Director prior to construction. Specifications for improvements shown on the preliminary plat are minimum specifications that may be superseded by conditions contained herein or by specific conditions as approved by the Public Works Director. Upon completion of construction and prior to final plan approval, final 'as-built' construction plans and a written certification by a Licensed Professional Engineer that said private improvements were completed in accordance with the approved construction plans must be submitted to the Public Works Director for approval.
4. Reports, plans and specifications previously submitted shall count toward meeting the requirements of Conditions #2 and #3 if accepted by the Public Works Director to the extent of the improvements for which they are determined to be sufficient.
5. Lyle Loop Road: Street improvements must be constructed to City standards as approved by the Public Works Director including 50 foot wide right-of-way, 32 foot wide asphalt pavement, concrete rolled (or better) curb and gutter, five (5) foot wide sidewalk on one street side and illumination. The sidewalk shall be installed on the same side of the street as it is on the existing completed portion of Lyle Loop Road. Utility improvements shall be extended beyond street pavement edge to facilitate future extension where appropriate. Street grade shall not exceed 10%.
6. Lyle Loop Road shall be constructed in its entirety prior to the recording of Phase 1 or a temporary turnaround constructed to City standards shall be provided at the point at which it ends.
7. The private interior street shall be constructed as a hard-surfaced street to the specifications approved by the Public Works Director prior to recording a final plat for Phase 3. The street shall have a minimum surface width of 20 feet. This improvement is not required as a condition of final plat recording beyond (east of) the point at which it enters Lot 6.
8. Covenants or a road maintenance agreement, providing for the perpetual maintenance of the private roadway and that establish a road maintenance fund shall be recorded with the Yakima County Auditor and a recorded copy submitted to the Selah Community Planner prior to recording the final plat.
9. Documentation of the proposed use and ownership of the common open space shall be provided

prior to recording a final plat for any phase. Documentation shall include covenants, establishment of a homeowner's association or deed restrictions and they shall be recorded prior to recording any final plat. It may be combined with the covenants or agreement required for maintenance of the private roadway. Documentation shall also establish or demonstrate legal access by all residents of the plat to the common open space.

10. Street illumination shall be installed by the developer at locations and to the specifications of the Public Works Director (typically at 300 foot intervals or as otherwise determined by the Director of Public Works in order to maximize illumination). Street lights shall be installed on metal poles.

11. All lots must be served with a full range of public and private services and utilities including public water and sewer, power, natural gas and telephone. All utilities except for the standard telephone box, transmission box and similar structures shall be underground and installed prior to the surfacing of streets. All utilities placed beneath streets, curbs or sidewalks shall be extended beyond these features to avoid them being disrupted by future extensions.

12. There shall be a moratorium on public street cuts for a period of five (5) years from the date of plat recording.

13. Fire hydrants shall be provided and installed by the developer at locations approved by the City of Selah Fire Chief and to the specifications of Selah Municipal Code, Chapter 11.30.

14. Final lot dimensions and lot area must substantially conform to the preliminary plat unless otherwise amended during the hearing process.

15. Storm Water drainage facilities to accommodate runoff generated in the plat must comply with a drainage facilities plan prepared by a Licensed Professional Engineer and approved by the Public Works Director. Plans submitted previously will count toward meeting this requirement if approved by the Public Works Director. Additional documentation may be required for portions of the site not covered by any such previously submitted plans.

16. Prior to final plat recording, all required plat improvements (utilities, streets, drainage facilities, etc.) must be installed and accepted by the City or a surety bond pledged to the City to ensure installation of the plat improvements within two years of final plat recording.

17. Planned Development approval shall be in substantial conformance to the project design as described in the project narrative, application materials and on the face of the preliminary plat. Setbacks, building height and lot coverage shall be to the standards required in the R-1 zoning district by the zoning ordinance. Lot size and lot width shall either conform to the approved preliminary plat or meet minimum R-1 standards. This condition is not intended to preclude modifications otherwise allowed under SMC 10.24.110.

18. All required street signs, posts and appurtenances must be supplied by the developer and will be

installed by the City.

19. The following note shall be placed on any final plat map:

“The owners shown hereon, their grantees and assignees in interest, hereby covenant and agree to retain all surface water generated within the plat on-site.”

20. Lots in Phase 3 shall be served by an 8 inch sewer line extended in the utility easement across Lots 9 and 10 and then continued to all of the individual Phase 3 lots in the access and utility easement as shown on the Preliminary Plat.

21. Prior to final plat recording, a surety bond, or such other financial method acceptable to the City, in the amount of 15% of the cost of public improvements as determined by the Public Works Director (streets, sidewalks, street lights, drainage facilities, sewage collection and water distribution facilities, etc.) must be remitted to the City and will be held for a period of two years from the date of final plat recording to guarantee against defects in materials and workmanship.

22. Improvements required for the subdivision must be completed and the final plat must be submitted within the maximum time period required by RCW 58.17.140. If this decision is issued on or before December 31, 2014, that time period is 7 years. Otherwise, it is 5 years. A one-time, one-year extension may be authorized in accordance with SMC 10.50.033(c) but the request must be made before the 5-year time period ends.

23. Any changes to the plan or program shall be subject to review in accordance with Chapter 10.24, SMC.

City of Selah
Hearing Examiner Minutes
SOMERSET II
December 4, 2014

Selah Council Chambers
115 W. Naches Ave.
Selah, Washington 98942

CALL TO ORDER:

The December 4, 2014 meeting was convened by the Hearing Examiner, Patrick Spurgin, at 7:00 p.m. Dennis Davison and Tom Durant represented the Department of Planning.

Public Hearing: **OFFICIAL ZONING MAP AMENDMENT 914.42.14-04: R-1 to PD (PLANNED DEVELOPMENT). PRELIMINARY PLAT 912.42.14-05 "Somerset II"**

Planner Tom Durant presented the Staff Report:

CITY OF SELAH HEARING EXAMINER
STAFF REPORT
December 1, 2014

FILE NO.: OFFICIAL ZONING MAP AMENDMENT 914.42.14-04: R-1 to PD (PLANNED DEVELOPMENT)
PRELIMINARY PLAT 912.42.14-05 "Somerset II"
ENVIRONMENTAL REVIEW 971.42.14-07

PROPOSAL: Amend the official zoning map of the City of Selah reclassifying the two parcels Planned Development rather than One Family Residential (R-1).

Preliminary Plat of "Somerset II" subdividing the 4.7 acre subject property into 24 Single family residential lots served by a full range of public utilities and a 1,233 square foot open space tract. Proposed density is 5 dwelling units per gross acre. All of the developable lots are proposed for detached single family dwellings.

The original application for Somerset II dated March 4, 2014, was amended on November 10, 2014. As amended, the application no longer needs a comprehensive plan amendment because the new proposal conforms to the density of the Low Density Residential plan designation. Since the original

Hearing Examiner
December 4, 2014
Caprise Groo, Secretary

application was modified but not withdrawn, the application materials and SEPA environmental checklist are considered to still apply to the extent that were not modified by the amendment.

PROPONENT & PROPERTY OWNER: Zuker-Sample Development, LLC

LOCATION: Site fronts on Herlou Drive to the west and Lyle Loop Road to the east. It is about 75 feet north of the intersection of Lyle Loop and Herlou Drive and about 100 feet south of the intersection of Herlou Drive and Weems Way (Tax Parcel Numbers: 181426-44005 and 44021).

The site is bordered on the south by Somerset I, a 24 lot subdivision recorded in 2002 and built out with detached single family homes on lots that are mostly 8,000 to 10,000 square feet in size but also includes a few somewhat larger lots up to 28,624 square feet (0.66 acre).

PUBLIC FACILITIES AND UTILITY SERVICES: A full range of public facilities and utility services including water, sewage, storm drainage and fire protection serves the property.

ACCESS: Herlou Drive, Yakima County local access street borders the site on the west; Lyle Loop Road, a local access street borders the site on the east and would be extended across the property to Herlou Drive on the west providing internal access to the proposed subdivision.

ENVIRONMENTAL REVIEW: A Determination of Nonsignificance (DNS) (971.42.14-07) was issued on September 14, 2014. There was no comment period for the DNS, however it could be appealed through October 3, 2014. The Environmental Checklist dated February 20 was re-reviewed with respect to the November 10 amended application, no significant adverse environmental impacts were determined to result from changes in the proposal.

APPLICATION AUTHORITY AND JURISDICTION: Selah Municipal Code, Chapter 10.24 (Planned Development Zoning District), Chapter 10.40 (amendments) and Chapter 10.50 (subdivision); also Selah Urban Growth Area Comprehensive Plan.

LAND USE AND ZONING:

Table 1: Existing Land Use, Plan Designation and Zoning

Area	Land Use	Plan Designation	Zoning
Site	Vacant; part is subject to County approved preliminary plat with utilities in place	Low Density Residential	One Family Residential (R-1)
North	Detached single-family homes on 0.4 acre lots	Low Density Residential	One Family Residential (Yakima County – R-1)
South	Detached single-family homes on 8,375 to 10,176 square foot (0.2 to 0.25 acre) lots	Low Density Residential	One Family Residential (R-1)

East	Detached single-family homes on 15,795 to 28,624 square foot (0.36 to 0.66 acre) lots. One large lot (2.81 acre) with a single-family home and raising horses	Low Density Residential	One-Family Residential (R-1)
West	Detached single-family homes on 1/3 to 1/2 acre lots	Low Density Residential	One-Family Residential (Yakima County – R-1)

The modified application calls attention to the Crest subdivision located 500 feet west of the site and not among the areas described in Table 1. It consists of detached single-family homes on 53 lots averaging 7,457 square feet (0.17 acre) in size and generally in the 7,000 to 8,000 square foot range. The Crest is in the City limits, zoned R-1 with a Low Density Residential plan designation.

COMPREHENSIVE PLAN:

City of Selah Urban Growth Area Comprehensive Plan Designated Low Density Residential by the Future Land Use Map, adopted 2006. This designation provides for a maximum density of five (5) dwelling units per acre.

Applicable Goals and Policies:

Objective LUGM 3: Encourage economic growth while maintaining quality development and controlling the cost of public improvements in Selah’s UGA.

Policy LUGM 3.2: Direct development to areas where infrastructure (water, sewer and streets) is either present, can be easily extended, or is planned to be extended.

Policy LUGM 3.3: Conserve land, energy and financial resources by minimizing urban sprawl.

Objective HSG 1: Maintain and upgrade the character of existing residential neighborhoods.

Policy HSG 1.2: Encourage new single-family development throughout existing single-family neighborhoods as redevelopment and infill construction at appropriate densities.

Objective HSG 2: Encourage new residential development to approximate existing residential densities and housing mix levels.

Policy HSG 2.1: Encourage the combined net density of all residential development to remain at present levels. Exceptions to this policy should be permitted where the developer can demonstrate that the quality of the project design, construction and amenities warrants a different housing density.

Policy HSG 2.2: Ensure codes and ordinances promote and allow for a compatible mix of housing types in residential areas.

Objective HSG 4: Encourage new residential construction to be compatible with existing residential development.

Policy HSG 4.1: Encourage developers to use private covenants and deed restrictions which specify architectural, maintenance and landscaping standards within their development.

MINOR REZONE APPLICATION: A rezone that is not dependent on a comprehensive plan amendment is considered to be a “minor rezone.” Since a planned development zone may be permitted in any location provided that it remains consistent with the comprehensive plan (SMC 10.24.010) this application as amended, does not require a plan amendment. The review criteria for a minor rezone are as follows:

1. The extent to which the proposed amendment/major rezone is consistent with and/or deviates from the goals, objectives, mapping criteria and policies adopted in the comprehensive plan and the intent of Title 10;
2. The adequacy of public facilities, such as roads, sewer, water and other public services required to meet urban or rural needs;
3. The public need for the proposed change. Public need shall mean that a valid public purpose, for which the comprehensive plan and this title have been adopted, is served by the proposed application. Findings that address public need shall, at a minimum document:
 - a. Whether additional land for a particular purpose is required in consideration of the amount already provided by the plan map designation or current zoning district within the area as appropriate;
 - b. Whether the timing is appropriate to provide additional land for a particular use.
4. Whether substantial changes in circumstances exist to warrant an amendment to the current designation or zone;
5. The testimony at the public hearing;
6. The compatibility of the proposed zone change and associated uses with neighboring land uses;
7. The suitability of the property in question for uses permitted under the proposed zoning;
8. The recommendation from interested agencies and departments.

PLANNED DEVELOPMENT APPLICATION: An approved planned development modifies and supersedes all regulations of the “underlying” zoning district but is considered to be a separate zoning district (SMC 10.24.010). Its purpose is to allow new development that is consistent with the comprehensive plan but that would not be readily permitted in other zoning districts. A change of zoning to Planned Development is based on the following criteria:

1. Substantial conformance to the Comprehensive Plan;
2. The proposal’s harmony with the surrounding area, or its potential future use;
3. The system of ownership and means of development, preserving and maintaining open space;
4. The adequacy of the size of the proposed district to accommodate the contemplated development;
5. Compliance with the subdivision code.

Development as proposed would not be readily permitted in other zoning districts due to the 7,000 square foot lot size. Private streets are generally not permitted per SMC 10.50.041(d)(4) of the subdivision code. However, a private access street may be authorized for a subdivision where there are no adverse effect on future traffic circulation of neighboring parcels.

Modification of the following normally required subdivision standards as proposed by this application is allowed for good cause shown when a subdivision is combined with a planned development and where appropriate to provide for the type of development and land use contemplated as a planned development:

- a. Each lot must front upon a public street with a width not less than [that] set forth in the street standards.
- b. Lots having frontage on two streets should be avoided whenever possible.
- c. Minimum lot width of 60 feet at the rear line of the required front yard. Minimum lot width of 70 feet for corner lots.
- d. Minimum lot size as required by the zoning district.

The lots that are served by the proposed private street system also have frontage on it and not on a public street. Several of the lots on Lyle Loop Road also border (on their rear lot lines) on the private street system and may be considered double-frontage lots for that reason.

As shown on the preliminary plat, Lots 1 and 7 have less than the minimum required 60 foot lot width and assuming the lots that front on both the private access easement and Lyle Loop Road are

considered to be corner lots, the 70 foot minimum width is not met on them either. Lot 13 meets the 70 foot standard because it is measured at the rear line of the required front yard (i.e., the front setback).

A development plan and program containing specific elements listed at SMC 10.24.030 and .050 is required for planned developments. The amended application describes its conformance with the requirements of SMC 10.24.030. Photographs of proposed (in this case typical) buildings were provided. Submittals generally conform to these requirements, although not all of the specific items were submitted. The application addresses the items that are most relevant to this proposal and some of the required submittal items are not applicable to this project.

Requirements for common open space are given by SMC 10.24.080, .090 and .100. Where it is provided it must be suitable for the planned development, the authorized open space uses must be appropriate to the scale and character of the planned development considering its size, density number and type of dwelling units, etc. and must be used for amenity or recreational purposes. It must be suitably improved for its intended use, but common open space containing natural features may be left unimproved. Its development must be coordinated with the dwellings of the planned development. Its permanent retention and maintenance must be assured by restrictive covenants, dedication to the public, by an owner's association or by another method approved by the hearing examiner and city attorney. The City is to be vested with the right to enforce permanent retention and maintenance and may perform necessary maintenance and assess the costs to the property owners.

The open space proposed by this application is a 1,233 square foot tract fronting on the east side of Herlou Drive in an area that based on the contours shown on the preliminary plat appears to be on a bench providing a relatively flat area on which some limited recreational improvements may be possible. It would likely be accessed from the proposed interior private street. The application does not specify how it is to be developed or if it is to remain unimproved.

PRELIMINARY PLAT APPLICATION:

Acreage:	4.7 acres
Number of lots:	24 lots receiving full urban services, six of the lots to be served by a private street.
Average lot size:	7,041 square feet (0.16 acre).
Gross density:	5.1 units per acre (Conformance to required density is based on multiplying 4.7 acres x 5 du/acre = 23.5 dwelling units, rounded up to 24).

Phasing: Three proposed phases. The dwelling units in Phases 1 and 2 are proposed to be served by City maintained Lyle Loop Road while Phase 3 will be served by a private interior street in 20 to 26 foot wide access easements.

Phase 1 consists of 8 lots; Phase 2 has 10 lots and Phase 3 has 6 lots.

The subject property was approved for a 17 lot preliminary plat by Yakima County, but not recorded. According to the application narrative, it was rendered "null and void" by the applicant. Previous to the plat approval, it was a tract in Somerset I (described above) a subdivision that has otherwise been built out. Part of the property was acquired through a street vacation for Herlou Drive.

UTILITIES: Public sewer lines, water lines and drainage improvements have been installed in Phase 1 in accordance with the County decision approving the previous preliminary plat; engineering plans for these improvements have been approved by the Selah Public Works Department. These utilities will need to be extended into Phases 2 and 3.

WATER : An 8 inch domestic water line will extend through Phases 1 and 2 in the proposed alignment of Lyle Loop Road from where it currently ends on the east side of the site to Herlou Drive on the west. A water line will need to be extended into Phase 3, using the access/utility easement that is to provide access to the lots in that phase.

SEWER : An 8 inch sanitary sewer line will extend west through Phases 1 and 2 in the proposed alignment of Lyle Loop Road beginning where the street ends currently, terminating just before reaching Herlou Drive on the west. The preliminary plat shows a 16 foot wide sewer easement through Lots 8 and 9 that would connect Phase 3 with the line on Lyle Loop Road. The combined access/utility easement through Phase 3 would allow sewer extension to all of the lots in the phase.

FIRE HYDRANTS: Existing hydrants are located at the intersection of Lyle Loop Road and Herlou Drive in the existing Somerset I subdivision and about 520 feet to the east on the north side of Lyle Loop Road. Although hydrant locations for the proposal are not indicated on the preliminary plat, a hydrant has been installed on the site in the alignment of Lyle Loop Road where it would front on proposed Lots 7 and 22 about 450 feet (travel distance on the street) from the interior hydrant in Somerset I and about 460 feet from Herlou Drive. An additional hydrant will be required on the proposed private access easement at the north end of Lot 9.

TRANSPORTATION: (Existing conditions)

Herlou Drive – (Yakima County, designated Local Access) -- Asphalt pavement with concrete barrier curb and gutter, 5 foot wide sidewalk on the east side and illumination in a 60 foot wide right-of-way.

Lyle Loop Road (Local Access) – 32 foot wide asphalt pavement with concrete rolled curb and gutter, 5 foot wide sidewalk on the north and west sides of the street and illumination in 50-foot wide right-of-way.

TRANSPORTATION: (Planned improvements):

Lyle Loop Road will be extended through Phases 1 and 2 to the same development standards as the existing road (described above).

A private access street will be extended into Phase 3 from Lyle Loop Road in a 20 foot wide access and utility easement from Lyle Loop Road north to Lots 3 and 4, and then east and west for a total length of 90 feet and a width of 26 feet forming a hammerhead type turnaround to accommodate emergency vehicles. The easement then continues with a 20 foot width for 158 feet to the west to serve Lots 1 through 3 and for 150 feet to the east serving Lots 4 through 6. The easement encumbers 10 feet of 12 lots and 16 feet of portions of Lots 3 and 4. The original application states that it will be paved.

OTHER FINDINGS:

1. The zoning ordinance generally does not specify bulk and setback requirements for a Planned Development, leaving it up to the required development plan (SMC 10.24.030). None are given in the amended application and preliminary plat,
2. The original application states that smaller dwelling units meet an identified need in that they are less expensive and in demand by both first time homebuyers and older buyers. While the detached single-family lots may not have the appeal to the older buyers as the originally proposed units, the applicant has confirmed that they would be more affordable increasing their appeal to first-time buyers. The applicant also argues that 7,000 square foot lots allow better utilization of this site because requiring a larger lot size would reduce the density to below five dwelling units per acre as allowed by the comprehensive plan.
3. The title report discloses several easements for utilities and access as shown on Schedule 'A' of the Chicago Title Insurance Company report dated February 10, 2014. Any easements and reservations not disclosed on the preliminary plat map must be disclosed on any final plat map.
4. SMC 10.50.033(c) provides the developer five (5) years from the date of preliminary plat approval to complete all required improvements and record the final plat. However, following the economic downturn of 2007-2009, the State Legislature amended RCW 58.17 (Subdivision Act) to allow seven (7) years from preliminary plat approval if the approval is made prior to December 31, 2014, after which the time period reverts back to five years (RCW 58.17.140(3)). SMC 10.50.033(c) allows the developer to, prior to this completion date, request a one-time, one-year extension to complete the improvements and record the plat.

STAFF ANALYSIS:

1. **Minor Rezone:**

- a. The proposal is generally consistent with the goals, objectives, mapping criteria and policies of the comprehensive plan and the intent of the zoning ordinance. This is summarized as follows:
- i. The proposal allows for a compatible mix of housing types in a residential area (Objective HSG 2; Policy HSG 2.2). As demonstrated by submittals in the amended application, it is consistent with existing residential densities and housing mix levels (Objective HSG 2), it is compatible with existing residential development and maintains and/or upgrades the character of existing residential neighborhoods (Objective HSG 1). It directs development to areas where infrastructure is present (Objective LUGM 3; Policy LUGM 3.2) and conserves land, energy and financial resources by minimizing urban sprawl (Objective LUGM 3; Policy LUGM 3.3).
 - ii. The proposal is consistent with the Selah Urban Area Comprehensive Plan description of the Low Density Residential plan designation category, which states in part: "The predominate use will be low density residential; however it is the intent and desire of Selah that its low density neighborhoods develop with a mix of housing types including single-family, duplexes, townhouses and multi-family dwellings. The mix of housing types will be limited by the maximum permissible density and zoning standards will regulate development to assure compatibility."
 - iii. The applicant did not provide or identify private covenants or deed restrictions for architectural, maintenance and landscaping standards (Objective HSG 4; Policy 4.1) although as written, this policy is not mandatory (i.e.; "...Encourage developers...").
 - iv. The proposal is consistent with the intent of Title 10, Selah Municipal Code as described at SMC 10.02.030. It is consistent with all of the intent requirements of the existing R-1 zone (SMC 10.12.010) except that certain minimum development standards are not being met (SMC 10.12.010(4)). The Planned Development zone allows these regulations to be superseded provided that proposed uses and developments conform to comprehensive plan policies (SMC 10.24.010). The purpose of the Planned Development zone is to allow development that is consistent with the Comprehensive Plan but that would not be readily permitted in other zoning districts due to limitations in dimensional standards, permitted uses or accessory uses (Ibid.).

- v. Private streets may be authorized where there are no adverse effect on future traffic circulation of neighboring parcels (SMC 10.50.041(c)(4)). Smaller lots are allowed in Planned Developments (SMC 10.24.010). Therefore, the proposal is not inherently inconsistent with City Code in these respects and there are no comprehensive plan policies that expressly prohibit them.
 - vi. In addition, planned developments may encourage flexibility in design and development that are architecturally and environmentally innovative, that will encourage a more creative approach in the development of the land and which will result in a more efficient, aesthetic and desirable utilization of the land than is possible through strict application of standard zoning and subdivision controls (SMC 10.24.010(1)). The use of private streets and smaller lot size as proposed results in a more efficient and arguably desirable utilization of the land.
 - vii. The preliminary plat of Somerset II that was approved on this site by Yakima County in 2008 does not conform to current development standards of SMC 10.50, in that the area of the site proposed by the current proposal to be served by private streets on the north side of Lyle Loop Road exceeded the maximum 2.5 to 1 depth to width ratio standard of SMC 10.50.041(e)(6)(A).
- b. Public facilities, including roads, sewer, and water are adequate to meet the urban needs of the development. This is because they are being installed to City standards, and have mostly been approved. Installation of sewer and water lines in the private road system comply with adopted subdivision standards or conform to the Fire Code.
 - c. The public purposes indicated by the application include providing an alternative type of single-family lots not otherwise allowed by the zoning ordinance but consistent with the allowed density and that is in demand because of affordability. It also allows more efficient utilization of the site through the limited use of private streets and a lot size that allows the development of the property to the maximum density provided for by the comprehensive plan. These purposes are consistent with the low density residential comprehensive plan designation where it encourages a mix of housing types limited by the maximum permissible density and zoning standards. They allow a compatible mix of housing types in residential areas (Objective HSG 2; Policy HSG 2.2). They better utilize the site, direct development to areas where water, sewer and streets are present (Objective LUGM 3; Policy LUGM 3.2) and facilitate the conservation of land, energy and financial resources (Objective LUGM 3; Policy LUGM 3.3).
 - d. Since the type of housing and density now being proposed is otherwise consistent with that permitted in the R-1 zone, the questions of whether additional land is required and

whether timing is appropriate is limited to the reduced lot size and use of private streets for access. The following findings address this issue:

- i. Seven-thousand square foot lots are not permitted in any zoning district. To the extent that a need has been established for them, there is no land already zoned or plan-designated for them.
 - ii. As a floating zone, Planned Developments are not plan designated, so there is no land available for them.
 - iii. The need for a private street to accommodate additional lots is based on the topography, surrounding existing development and resulting difficulty in developing part of the site. Using a smaller lot size to allow for the allowed density is based on the size and shape of the site and its orientation to the street network. Only allowing public streets and requiring conformance to a larger minimum lot size would reduce the number of dwelling units that could be developed and the density. These are site-specific characteristics that cannot be addressed in another location or by timing the project differently.
- e. Since a Planned Development is a floating zone and no locations are specified for it in advance by the comprehensive plan, the change of circumstances that warrant the rezone would be the determination that there is a public need and conformance with the other criteria for its approval.
 - f. While testimony at upcoming public hearings cannot be determined in advance, previous testimony included opposition to development at a density that is higher than that allowed by the Low Density Residential plan designation and to housing types other than detached single-family residential. Testimony was also given to the need for single-family housing that is more affordable and convenient, particularly to seniors and single owners. Relying on the testimony given before the application was amended, higher-density development may not be appropriate in this location even though evidence was provided that supported the need and demand for more affordable and convenient housing units. As amended, the current proposal may still accommodate that need, although not as well as previously proposed.
 - g. Compatibility of the planned development and proposed uses with neighboring land uses is demonstrated in part by documentation provided by the applicant that the proposed lot size is the same as in some of the surrounding area with no indication that it has resulted in the devaluation of property values. Limiting the density of the proposal to that permitted by the comprehensive plan designation, and housing types to that of surrounding areas as is now proposed contributes to neighborhood compatibility.

features added to the land, architectural design and quality of construction as opposed to lot size.

- c. The system of ownership in the planned development is that each lot will be separately owned; it is not being proposed as a condominium development and there are virtually no common areas. The application indicates the intent that residential units will be sold rather than rented.

The common open space shown on the amended application appears to be suitable for the planned development given its size, density, number of dwelling units and topography. Since the proposed lots are large enough single-family lots to have their own yards, there does not appear to be a substantial need for separate open space. The proposed open space, while small, is in a location that can be improved for recreational use, although leaving common open space unimproved is allowed when it contains natural features (in this case, steep slopes). The application does not indicate how its retention and maintenance is to be assured, how it will be owned or the timing relative to development of the project, although it is shown to be located within the boundary of Phase 3.

- d. The 4.7 acre subject property is large enough to accommodate the residential lots at the proposed size and density along with public and private streets, utilities and the proposed common open space. Characteristics of the site that provide some physical separation from neighboring properties are differences in elevation as described in the original application.
- e. The proposal generally complies with the subdivision code, except with respect to the variation already described for which the planned development application is being made: Minimum lot size and using private streets for access. Also certain subdivision standards that may be modified by a planned development under SMC 10.50.041(e) for good cause and where appropriate to provide for the contemplated type of development and land use. They are: All lot frontage on public streets; Avoiding double-frontage lots; Minimum lot width of 60 feet and 70 feet for corner lots; Minimum lot size. Each of these modifications are addressed as follows:
 - i. **Use of private streets for access** The need for private streets is primarily the topography and limited size of the area north of Lyle Loop Road. The County approved preliminary plat of Somerset II simply extended lots into this area in a manner that as already stated, does not conform to current City standards. The application describes the private road system as providing sufficient turn-around for fire apparatus with the farthest home no farther than 150 feet from a fire hydrant as required by the Fire Code.

The subdivision code states that private access streets may be authorized where there will be no adverse effect on future traffic circulation of neighboring parcels (SMC 10.50.041(d)(4)). This is the case based on topography of the site, development of surrounding areas that preclude future street extension into them and the availability of street frontage to the relatively undeveloped area to the east that would allow further connectivity in the only direction in which it is possible.

- ii. **Lot frontage on public streets / double frontage lots** The requirement that all lots have frontage on a public street (SMC 10.50.041(e)(3)) is directly related to the standard that does not generally allow private streets. If a modification allowing private streets is made, it follows that lots will front on them.

Double frontage lots (lots having frontage on two streets) "...should be avoided whenever possible" (SMC 10.50.041(e)(4)). This is also based on the necessity for private streets to better utilize the site. In order to avoid double-frontage lots, more lots fronting on the private street would be necessary so that the street would not front lots on both sides. This is neither possible nor desirable on this site.

Modification of both of these standards is justified in part by the limited number of dwelling units proposed on the private streets and low traffic levels generated by them.

- iii. **Minimum lot width** The reduced widths of Lots 7, 9 and 10 are minimal (less than one foot) and are likely a result of fitting the lots to the site and to accommodate the private street system. Lot 1 does not meet the standard, but only because it is measured at the rear of the front yard. Farther back, lot width exceeds 60 feet.
- iv. There is no intent given by the zoning or subdivision codes for lot width requirements, but they are typically required to avoid irregularly shaped lots and ensure that setbacks can be met. Corner lots may need more width because they have larger side setback standards, and also to provide enough area to accommodate vehicles where there is direct access to a street. Due to the minor amount of reduction and the other characteristics of these lots, they should be able to accommodate homes of the type being contemplated. **Minimum lot size** This standard is required by the subdivision code under SMC 10.50.041(e)(6)(D) and may be modified for good cause. Justification given by the application for

the minimum lot size is its consistency with lot size and density of surrounding existing subdivisions. Also, to allow better utilization of the site to meet the maximum allowable density. On this particular site, a minimum lot size of 8,000 square feet would limit density to four dwelling units per acre. The smaller lot size allows the density established by the comprehensive plan to be met.

RECOMMENDATION: Balancing the strengths and weaknesses of the application, staff recommends **APPROVAL** of the planned development rezone and preliminary plat. The strengths are overall consistency with the comprehensive plan, especially now that the density and housing types have been modified to be consistent with surrounding areas and as supported by the documentation provided in the amended application. The primary weakness is that not all of the submittal requirements for planned developments have been met, including documentation of the ownership and maintenance of the open space. Other than that, it appears that the items that were not included in the application are not relevant to this proposal given its characteristics. The approval recommendation is made subject to the following conditions that include requirements concerning ownership and maintenance of commonly owned features:

1. All design and/or improvement notations indicated on the preliminary plat are included herein as conditions of preliminary plat approval. (Including, but not limited to, dedicated right-of-way width, easement widths and locations, lot size and configuration).
2. A preliminary engineering report and/or plan, prepared by a Licensed Professional Engineer, demonstrating the feasibility of construction of all public improvements required by Selah Municipal Code, Chapter 10.50 must be submitted to the Public Works Director for approval.
3. All final plans and specifications for improvements must be prepared by a Licensed Professional Engineer and reviewed and approved by the Public Works Director prior to construction. Specifications for improvements shown on the preliminary plat are minimum specifications that may be superseded by conditions contained herein or by specific conditions as approved by the Public Works Director. Upon completion of construction and prior to final plan approval, final 'as-built' construction plans and a written certification by a Licensed Professional Engineer that said improvements were completed in accordance with the approved construction plans must be submitted to the Public Works Director for approval.
4. Reports, plans and specifications previously submitted shall count toward meeting the requirements of Conditions #2 and #3 if accepted by the Public Works Director to the extent of the improvements for which they are determined to be sufficient.
5. Lyle Loop Road: Street improvements must be constructed to City standards as approved by the Public Works Director including 50 foot wide right-of-way, 32 foot wide asphalt pavement,

concrete rolled (or better) curb and gutter, five (5) foot wide sidewalk on one street side and street illumination. The sidewalk shall be installed on the same side of the street as it is on the existing completed portion of Lyle Loop Road. Utility improvements shall be extended beyond street pavement edge to facilitate future extension where appropriate. Street grade shall not exceed 10%.

6. Lyle Loop Road shall be constructed in its entirety prior to the recording of Phase 1 or a temporary turnaround constructed to City standards shall be provided at the point at which it ends.
7. The private interior street shall be constructed as a hard-surfaced street to specifications approved by the Public Works Director prior to recording a final plat for Phase 3. The street shall have a minimum surface width of 20 feet. This improvement is not required as a condition of final plat recording beyond (east of) the point at which it enters Lot 6.
8. Covenants or a road maintenance agreement, providing for the perpetual maintenance of the private roadway and that establish a road maintenance fund shall be recorded with the Yakima County Auditor and a recorded copy submitted to the Selah Community Planner prior to recording the final plat.
9. Documentation of the proposed use and ownership of the common open space shall be provided prior to recording a final plat for any phase. Documentation shall include covenants, establishment of a homeowner's association or deed restrictions and they shall be recorded prior to recording any final plat. It may be combined with the covenants or agreement required for maintenance of the private roadway. Documentation shall also establish or demonstrate legal access by all residents of the plat to the common open space.
10. Street illumination shall be installed by the developer at locations and to the specifications of the Public Works Director (typically at 300 foot intervals or as otherwise determined by the Director of Public Works in order to maximize illumination). Street lights shall be installed on metal poles.
11. All lots must be served with a full range of public and private services and utilities including public water and sewer, power, natural gas and telephone. All utilities except for the standard telephone box, transmission box and similar structures shall be underground and installed prior to the surfacing of streets. All utilities placed beneath streets, curbs or sidewalks shall be extended beyond these features to avoid them being disrupted by future extensions.
12. There shall be a moratorium on public street cuts for a period of five (5) years from the date of plat recording.

13. Fire hydrants shall be provided and installed by the developer at locations approved by the City of Selah Fire Chief and to the specifications of Selah Municipal Code, Chapter 11.30.
14. Final lot dimensions and lot area must substantially conform to the preliminary plat unless otherwise amended during the public hearing process.
15. Storm Water drainage facilities to accommodate runoff generated in the plat must comply with a drainage facilities plan prepared by a Licensed Professional Engineer and approved by the Public Works Director. Plans submitted previously will count toward meeting this requirement if approved by the Public Works Director. Additional documentation may be required for portions of the site not covered by any such previously submitted plans.
16. Prior to final plat recording, all required plat improvements (utilities, streets, drainage facilities, etc.) must be installed and accepted by the City or a surety bond pledged to the City to ensure installation of the plat improvements within two years of final plat recording.
17. Planned Development approval shall be in substantial conformance to the project design as described in the project narrative, application materials and on the face of the preliminary plat. Setbacks, building height and lot coverage shall be to the standards required in the R-1 district by the zoning ordinance. Lot size and lot width shall either conform to the approved preliminary plat or meet minimum R-1 standards. This condition is not intended to preclude modifications otherwise allowed under SMC 10.24.110.
18. All required street signs, posts and appurtenances must be supplied by the developer and will be installed by the City.
19. The following note shall be placed on any final plat map:

“The owners shown hereon, their grantees and assignees in interest, hereby covenant and agree to retain all surface water generated within the plat on-site.”
20. Lots in Phase 3 shall be served by an 8 inch sewer line extended in the utility easement across Lots 9 and 10 and then continued to all of the individual Phase 3 lots in the access and utility easement as shown on the Preliminary Plat.
21. Prior to final plat recording, a surety bond, or such other secure financial method acceptable to the City, in the amount of 15% of the cost of the public improvements as determined by the Public Works Director (streets, sidewalks, street lights, drainage facilities, sewage collection and water distribution facilities, etc.) must be remitted to the City and will be held for a period of

two years from the date of final plat recording to guarantee against defects in materials and workmanship.

22. Improvements required for the subdivision must be completed and the final plat must be submitted within the maximum time period required by RCW 58.17.140. If this decision is issued on or before December 31, 2014, that time period is 7 years. Otherwise, it is 5 years. A one-time, one-year extension may be authorized in accordance with SMC 10.50.033(c) but the request must be made before the 7-year time period ends.

Mr. Spurgin asked why the private street easement didn't have lighting and pedestrian access.

MR. Durant stated there were no City standards for private roads.

Mr. Spurgin stated that the Determination of Nonsignificance from the earlier proposal needed to be a part of the current record. (Exhibit 13 attached)

Mr. Spurgin invited the proponent to speak.

Mr. Sample spoke on the behalf of Zucker-Sample LLC. He stated that the proposed Planned Development was to make use of and maximize the R-1 zoning. He addressed the issues of diminished property value and fire access for the back lots. He was concerned about the light poles having to be metal poles.

Mr. Durant stated that the City would allow wooden poles.

Mr. David Hoffert, 606 Southern Ave, stated he was concerned with on street parking.

Mr. Davison stated there would be on the street parking unless the council prohibits it.

Mr. Hoffert explained that there were issues with parking on Southern and 5th. He did not want this development to have the same issue.

Mr. Wayne Worby, 200 Weems Way, presented and summarized exhibit 1 (purpose of the Comprehensive Plan)(attached). Mr. Worby presented and summarized several more exhibits.

Mr. Spurgin clarified the number of exhibits with Mr. Davison. Exhibit 1: purpose of the Comprehensive plan. Exhibit 2: Future Land Use Map. Exhibit 3: Preliminary Planned Development of Somerset II map. Exhibit 4: Chapter 10.50 Platting and Subdivision Regulations. Exhibit 5: Opponent's Brief. Exhibit 6: Chapter 10.24 Planned Development (PD) zoning Districts. (Attached)

Mr. Worby presented and summarized Exhibit 7: copy of application for Somerset II. All concerns listed in Exhibit 1.

Mr. Davison addressed the issue of a finished road or a temporary turn around.

Mr. Worby Presented Exhibit 8: City Of Selah Notice of Cancelled Planning Commission Hearing and Notice of Public Hearing before the City of Selah Hearing Examiner. Exhibit 9: Proposed Plat of Somerset Estates map. Exhibit 10: Board of Yakima County Commissioners Resolution 280-197. Exhibit 11: Preliminary Plat of Somerset II Yakima County. Exhibit 12: City Of Selah Annexation ordinance # 1935. Mr. Worby completed the summarization of Exhibit 1.

Mr. Brian Richards, 61 Lyle Ave, stated his concern about land values.

Mr. Spurgin entered his white binder into the Public Hearing records.

Mr. Richards stated that Weems way would be the main access for this development and that the low level traffic did not apply to this development.

Mark Weller, 110 Lyle Loop, stated that R-1 should stay R-1, should be 8000 sq. ft. There should be no exceptions. If it is a continuation, it should match Somerset I. That means esthetics should match Somerset I: roads, lighting, and lot size. If it is not allowed, it is not allowed.

Katie Fountaine, 510 Southern Ave, stated she had concerns about the Planned Development changing the character of the neighborhood. Planned Development rezoning was occurring too often and it did not always fit into the neighborhood where they were built. She quoted from the City of Selah Urban Growth Area Comprehensive Plan, Chapter 2 Page 12. "Objective HSG 1: Maintain and upgrade the character of the existing neighborhoods. Policy HSG 1.2: Encourage new single-family development throughout existing single family neighborhoods." (Chapter 2 page 13) "Policy HSG 3: Minimize the negative impacts of medium and high-density residential projects on adjacent low-density residential areas." She was concerned that the contours were not on the map. She stated that planned developments were meant for larger acreage. She explained that the language was vague. She asked the Hearing Examiner to give the neighborhood careful consideration in this issue.

Mr. Brad Worby, 441 Mullins Rd, stated that lot 1 was extremely steep.

Mr. Worby and Mr. Durant debate the lots facing Lyle loop being built facing the easement and not the road. Mr. Worby asked if this was really low cost housing.

Ken Ness, 20 Lyle loop, stated that in 2001 he had bought his home (lot 2) because of the map of the original Somerset I. (Exhibit 9) He was lead to believe that Somerset II would have lots of 8000-8500 Sq. ft.. He was concerned that this property could be sold to another and that it would end up with 3 story town houses.

Mr. Spurgin closed public comment at 8:38 pm.

Mr. Sample addressed concerns of the public. He addressed the contours of the property, Preliminary Plan issues, and water, sewer and power. He stated that a Preliminary Plan can be changed at any time. He Stated that he had purchased the additional property.

Mr. Durant explained the code is contradictory and that private roads were allowed. He stated that the Comp. Plan did not specify 8000 sq. ft. lots, the Zoning Ordinance specified it. The Comprehensive Plan specified a maximum density of 5 houses per acre.

Mr. Davison advised that the City of Selah determined the zoning lot size. The Hearing Examiners binder showed the type of homes that would be built. If it changed it would have to go back to the Hearing Examiner. Somerset I was built to county standards with metal poles. Private roads are not defined in the Ordinance. The City would not be responsible for that private road and that a covenant would have to written for the private road. The Preliminary Plan was consistent with the Comprehensive Plan standard of 5 homes per acre.

Mr. Spurgin stated that he would make a recommendation to the City Council within 10 working days.

ADJOURMENT:

Hearing no further testimony, the Hearing Examiner declared the hearing closed at 8:52 p.m.

Dennis Davison, Department of Planning
Tom Durant, Durant Development Services-Consultant

CITY OF SELAH HEARING EXAMINER
STAFF REPORT
December 1, 2014

FILE NO.: OFFICIAL ZONING MAP AMENDMENT 914.42.14-04: R-1 to PD (PLANNED DEVELOPMENT)
PRELIMINARY PLAT 912.42.14-05 "Somerset II"
ENVIRONMENTAL REVIEW 971.42.14-07

PROPOSAL: Amend the official zoning map of the City of Selah reclassifying the two parcels Planned Development rather than One Family Residential (R-1).

Preliminary Plat of "Somerset II" subdividing the 4.7 acre subject property into 24 Single family residential lots served by a full range of public utilities and a 1,233 square foot open space tract. Proposed density is 5 dwelling units per gross acre. All of the developable lots are proposed for detached single family dwellings.

The original application for Somerset II dated March 4, 2014, was amended on November 10, 2014. As amended, the application no longer needs a comprehensive plan amendment because the new proposal conforms to the density of the Low Density Residential plan designation. Since the original application was modified but not withdrawn, the application materials and SEPA environmental checklist are considered to still apply to the extent that were not modified by the amendment.

PROPONENT & PROPERTY OWNER: Zuker-Sample Development, LLC

LOCATION: Site fronts on Herlou Drive to the west and Lyle Loop Road to the east. It is about 75 feet north of the intersection of Lyle Loop and Herlou Drive and about 100 feet south of the intersection of Herlou Drive and Weems Way (Tax Parcel Numbers: 181426-44005 and 44021).

The site is bordered on the south by Somerset I, a 24 lot subdivision recorded in 2002 and built out with detached single family homes on lots that are mostly 8,000 to 10,000 square feet in size but also includes a few somewhat larger lots up to 28,624 square feet (0.66 acre).

PUBLIC FACILITIES AND UTILITY SERVICES: A full range of public facilities and utility services including water, sewage, storm drainage and fire protection serves the property.

ACCESS: Herlou Drive, Yakima County local access street borders the site on the west; Lyle Loop Road, a local access street borders the site on the east and would be extended across the property to Herlou Drive on the west providing internal access to the proposed subdivision.

ENVIRONMENTAL REVIEW: A Determination of Nonsignificance (DNS) (971.42.14-07) was issued on September 14, 2014. There was no comment period for the DNS, however it could be appealed through October 3, 2014. The Environmental Checklist dated February 20 was re-reviewed with respect to the November 10 amended application, no significant adverse environmental impacts were determined to result from changes in the proposal.

APPLICATION AUTHORITY AND JURISDICTION: Selah Municipal Code, Chapter 10.24 (Planned Development Zoning District), Chapter 10.40 (amendments) and Chapter 10.50 (subdivision); also Selah Urban Growth Area Comprehensive Plan.

LAND USE AND ZONING:

Table 1: Existing Land Use, Plan Designation and Zoning

Area	Land Use	Plan Designation	Zoning
Site	Vacant; part is subject to County approved preliminary plat with utilities in place	Low Density Residential	One Family Residential (R-1)
North	Detached single-family homes on 0.4 acre lots	Low Density Residential	One Family Residential (Yakima County – R-1)
South	Detached single-family homes on 8,375 to 10,176 square foot (0.2 to 0.25 acre) lots	Low Density Residential	One Family Residential (R-1)
East	Detached single-family homes on 15,795 to 28,624 square foot (0.36 to 0.66 acre) lots. One large lot (2.81 acre) with a single-family home and raising horses	Low Density Residential	One-Family Residential (R-1)
West	Detached single-family homes on 1/3 to ½ acre lots	Low Density Residential	One-Family Residential (Yakima County – R-1)

The modified application calls attention to the Crest subdivision located 500 feet west of the site and not among the areas described in Table 1. It consists of detached single-family homes on 53 lots averaging 7,457 square feet (0.17 acre) in size and generally in the 7,000 to 8,000 square foot range. The Crest is in the City limits, zoned R-1 with a Low Density Residential plan designation.

COMPREHENSIVE PLAN:

City of Selah Urban Growth Area Comprehensive Plan Designated Low Density Residential by the Future Land Use Map, adopted 2006. This designation provides for a maximum density of five (5) dwelling units per acre.

Applicable Goals and Policies:

Objective LUGM 3: Encourage economic growth while maintaining quality development and controlling the cost of public improvements in Selah’s UGA.

Policy LUGM 3.2: Direct development to areas where infrastructure (water, sewer and streets) is either present, can be easily extended, or is planned to be extended.

Policy LUGM 3.3: Conserve land, energy and financial resources by minimizing urban sprawl.

Objective HSG 1: Maintain and upgrade the character of existing residential neighborhoods.

Policy HSG 1.2: Encourage new single-family development throughout existing single-family neighborhoods as redevelopment and infill construction at appropriate densities.

Objective HSG 2: Encourage new residential development to approximate existing residential densities and housing mix levels.

Policy HSG 2.1: Encourage the combined net density of all residential development to remain at present levels. Exceptions to this policy should be permitted where the developer can demonstrate that the quality of the project design, construction and amenities warrants a different housing density.

Policy HSG 2.2: Ensure codes and ordinances promote and allow for a compatible mix of housing types in residential areas.

Objective HSG 4: Encourage new residential construction to be compatible with existing residential development.

Policy HSG 4.1: Encourage developers to use private covenants and deed restrictions which specify architectural, maintenance and landscaping standards within their development.

MINOR REZONE APPLICATION: A rezone that is not dependent on a comprehensive plan amendment is considered to be a “minor rezone.” Since a planned development zone may be permitted in any location provided that it remains consistent with the comprehensive plan (SMC 10.24.010) this application as amended, does not require a plan amendment. The review criteria for a minor rezone are as follows:

1. The extent to which the proposed amendment/major rezone is consistent with and/or deviates from the goals, objectives, mapping criteria and policies adopted in the comprehensive plan and the intent of Title 10;
2. The adequacy of public facilities, such as roads, sewer, water and other public services required to meet urban or rural needs;
3. The public need for the proposed change. Public need shall mean that a valid public purpose, for which the comprehensive plan and this title have been adopted, is served by the proposed application. Findings that address public need shall, at a minimum document:
 - a. Whether additional land for a particular purpose is required in consideration of the amount already provided by the plan map designation or current zoning district within the area as appropriate;

- b. Whether the timing is appropriate to provide additional land for a particular use.
4. Whether substantial changes in circumstances exist to warrant an amendment to the current designation or zone;
5. The testimony at the public hearing;
6. The compatibility of the proposed zone change and associated uses with neighboring land uses;
7. The suitability of the property in question for uses permitted under the proposed zoning;
8. The recommendation from interested agencies and departments.

PLANNED DEVELOPMENT APPLICATION: An approved planned development modifies and supersedes all regulations of the “underlying” zoning district but is considered to be a separate zoning district (SMC 10.24.010). Its purpose is to allow new development that is consistent with the comprehensive plan but that would not be readily permitted in other zoning districts. A change of zoning to Planned Development is based on the following criteria:

1. Substantial conformance to the Comprehensive Plan;
2. The proposal’s harmony with the surrounding area, or its potential future use;
3. The system of ownership and means of development, preserving and maintaining open space;
4. The adequacy of the size of the proposed district to accommodate the contemplated development;
5. Compliance with the subdivision code.

Development as proposed would not be readily permitted in other zoning districts due to the 7,000 square foot lot size. Private streets are generally not permitted per SMC 10.50.041(d)(4) of the subdivision code. However, a private access street may be authorized for a subdivision where there are no adverse effect on future traffic circulation of neighboring parcels.

Modification of the following normally required subdivision standards as proposed by this application is allowed for good cause shown when a subdivision is combined with a planned development and where appropriate to provide for the type of development and land use contemplated as a planned development:

- a. Each lot must front upon a public street with a width not less than [that] set forth in the street standards.

- b. Lots having frontage on two streets should be avoided whenever possible.
- c. Minimum lot width of 60 feet at the rear line of the required front yard. Minimum lot width of 70 feet for corner lots.
- d. Minimum lot size as required by the zoning district.

The lots that are served by the proposed private street system also have frontage on it and not on a public street. Several of the lots on Lyle Loop Road also border (on their rear lot lines) on the private street system and may be considered double-frontage lots for that reason.

As shown on the preliminary plat, Lots 1 and 7 have less than the minimum required 60 foot lot width and assuming the lots that front on both the private access easement and Lyle Loop Road are considered to be corner lots, the 70 foot minimum width is not met on them either. Lot 13 meets the 70 foot standard because it is measured at the rear line of the required front yard (i.e., the front setback).

A development plan and program containing specific elements listed at SMC 10.24.030 and .050 is required for planned developments. The amended application describes its conformance with the requirements of SMC 10.24.030. Photographs of proposed (in this case typical) buildings were provided. Submittals generally conform to these requirements, although not all of the specific items were submitted. The application addresses the items that are most relevant to this proposal and some of the required submittal items are not applicable to this project.

Requirements for common open space are given by SMC 10.24.080, .090 and .100. Where it is provided it must be suitable for the planned development, the authorized open space uses must be appropriate to the scale and character of the planned development considering its size, density number and type of dwelling units, etc. and must be used for amenity or recreational purposes. It must be suitably improved for its intended use, but common open space containing natural features may be left unimproved. Its development must be coordinated with the dwellings of the planned development. Its permanent retention and maintenance must be assured by restrictive covenants, dedication to the public, by an owner's association or by another method approved by the hearing examiner and city attorney. The City is to be vested with the right to enforce permanent retention and maintenance and may perform necessary maintenance and assess the costs to the property owners.

The open space proposed by this application is a 1,233 square foot tract fronting on the east side of Herlou Drive in an area that based on the contours shown on the preliminary plat appears to be on a bench providing a relatively flat area on which some limited recreational improvements may be possible. It would likely be accessed from the proposed interior private street. The application does not specify how it is to be developed or if it is to remain unimproved.

PRELIMINARY PLAT APPLICATION:

- Acreage:** 4.7 acres
- Number of lots:** 24 lots receiving full urban services, six of the lots to be served by a private street.
- Average lot size:** 7,041 square feet (0.16 acre).
- Gross density:** 5.1 units per acre (Conformance to required density is based on multiplying 4.7 acres x 5 du/acre = 23.5 dwelling units, rounded up to 24).
- Phasing:** Three proposed phases. The dwelling units in Phases 1 and 2 are proposed to be served by City maintained Lyle Loop Road while Phase 3 will be served by a private interior street in 20 to 26 foot wide access easements.

Phase 1 consists of 8 lots; Phase 2 has 10 lots and Phase 3 has 6 lots.

The subject property was approved for a 17 lot preliminary plat by Yakima County, but not recorded. According to the application narrative, it was rendered "null and void" by the applicant. Previous to the plat approval, it was a tract in Somerset I (described above) a subdivision that has otherwise been built out. Part of the property was acquired through a street vacation for Herlou Drive.

UTILITIES: Public sewer lines, water lines and drainage improvements have been installed in Phase 1 in accordance with the County decision approving the previous preliminary plat; engineering plans for these improvements have been approved by the Selah Public Works Department. These utilities will need to be extended into Phases 2 and 3.

WATER : An 8 inch domestic water line will extend through Phases 1 and 2 in the proposed alignment of Lyle Loop Road from where it currently ends on the east side of the site to Herlou Drive on the west. A water line will need to be extended into Phase 3, using the access/utility easement that is to provide access to the lots in that phase.

SEWER : An 8 inch sanitary sewer line will extend west through Phases 1 and 2 in the proposed alignment of Lyle Loop Road beginning where the street ends currently, terminating just before reaching Herlou Drive on the west. The preliminary plat shows a 16 foot wide sewer easement through Lots 8 and 9 that would connect Phase 3 with the line on Lyle Loop Road. The combined access/utility easement through Phase 3 would allow sewer extension to all of the lots in the phase.

FIRE HYDRANTS: Existing hydrants are located at the intersection of Lyle Loop Road and Herlou Drive in the existing Somerset I subdivision and about 520 feet to the east on the north side of Lyle Loop Road. Although hydrant locations for the proposal are not indicated on the preliminary plat, a hydrant has been installed on the site in the alignment of Lyle Loop Road where it would front on proposed Lots 7 and 22 about 450 feet (travel distance on the street) from the interior hydrant in Somerset I and about

460 feet from Herlou Drive. An additional hydrant will be required on the proposed private access easement at the north end of Lot 9.

TRANSPORTATION: (Existing conditions)

Herlou Drive – (Yakima County, designated Local Access) -- Asphalt pavement with concrete barrier curb and gutter, 5 foot wide sidewalk on the east side and illumination in a 60 foot wide right-of-way.

Lyle Loop Road (Local Access) – 32 foot wide asphalt pavement with concrete rolled curb and gutter, 5 foot wide sidewalk on the north and west sides of the street and illumination in 50-foot wide right-of-way.

TRANSPORTATION: (Planned improvements):

Lyle Loop Road will be extended through Phases 1 and 2 to the same development standards as the existing road (described above).

A private access street will be extended into Phase 3 from Lyle Loop Road in a 20 foot wide access and utility easement from Lyle Loop Road north to Lots 3 and 4, and then east and west for a total length of 90 feet and a width of 26 feet forming a hammerhead type turnaround to accommodate emergency vehicles. The easement then continues with a 20 foot width for 158 feet to the west to serve Lots 1 through 3 and for 150 feet to the east serving Lots 4 through 6. The easement encumbers 10 feet of 12 lots and 16 feet of portions of Lots 3 and 4. The original application states that it will be paved.

OTHER FINDINGS:

1. The zoning ordinance generally does not specify bulk and setback requirements for a Planned Development, leaving it up to the required development plan (SMC 10.24.030). None are given in the amended application and preliminary plat,
2. The original application states that smaller dwelling units meet an identified need in that they are less expensive and in demand by both first time homebuyers and older buyers. While the detached single-family lots may not have the appeal to the older buyers as the originally proposed units, the applicant has confirmed that they would be more affordable increasing their appeal to first-time buyers. The applicant also argues that 7,000 square foot lots allow better utilization of this site because requiring a larger lot size would reduce the density to below five dwelling units per acre as allowed by the comprehensive plan.
3. The title report discloses several easements for utilities and access as shown on Schedule 'A' of the Chicago Title Insurance Company report dated February 10, 2014. Any easements and reservations not disclosed on the preliminary plat map must be disclosed on any final plat map.

4. SMC 10.50.033(c) provides the developer five (5) years from the date of preliminary plat approval to complete all required improvements and record the final plat. However, following the economic downturn of 2007-2009, the State Legislature amended RCW 58.17 (Subdivision Act) to allow seven (7) years from preliminary plat approval if the approval is made prior to December 31, 2014, after which the time period reverts back to five years (RCW 58.17.140(3)). SMC 10.50.033(c) allows the developer to, prior to this completion date, request a one-time, one-year extension to complete the improvements and record the plat.

STAFF ANALYSIS:

1. Minor Rezone:

- a. The proposal is generally consistent with the goals, objectives, mapping criteria and policies of the comprehensive plan and the intent of the zoning ordinance. This is summarized as follows:
 - i. The proposal allows for a compatible mix of housing types in a residential area (Objective HSG 2; Policy HSG 2.2). As demonstrated by submittals in the amended application, it is consistent with existing residential densities and housing mix levels (Objective HSG 2), it is compatible with existing residential development and maintains and/or upgrades the character of existing residential neighborhoods (Objective HSG 1). It directs development to areas where infrastructure is present (Objective LUGM 3; Policy LUGM 3.2) and conserves land, energy and financial resources by minimizing urban sprawl (Objective LUGM 3; Policy LUGM 3.3).
 - ii. The proposal is consistent with the Selah Urban Area Comprehensive Plan description of the Low Density Residential plan designation category, which states in part: "The predominate use will be low density residential; however it is the intent and desire of Selah that its low density neighborhoods develop with a mix of housing types including single-family, duplexes, townhouses and multi-family dwellings. The mix of housing types will be limited by the maximum permissible density and zoning standards will regulate development to assure compatibility."
 - iii. The applicant did not provide or identify private covenants or deed restrictions for architectural, maintenance and landscaping standards (Objective HSG 4; Policy 4.1) although as written, this policy is not mandatory (i.e.; "...Encourage developers...").
 - iv. The proposal is consistent with the intent of Title 10, Selah Municipal Code as described at SMC 10.02.030. It is consistent with all of the intent requirements

of the existing R-1 zone (SMC 10.12.010) except that certain minimum development standards are not being met (SMC 10.12.010(4)). The Planned Development zone allows these regulations to be superseded provided that proposed uses and developments conform to comprehensive plan policies (SMC 10.24.010). The purpose of the Planned Development zone is to allow development that is consistent with the Comprehensive Plan but that would not be readily permitted in other zoning districts due to limitations in dimensional standards, permitted uses or accessory uses (Ibid.).

- v. Private streets may be authorized where there are no adverse effect on future traffic circulation of neighboring parcels (SMC 10.50.041(c)(4)). Smaller lots are allowed in Planned Developments (SMC 10.24.010). Therefore, the proposal is not inherently inconsistent with City Code in these respects and there are no comprehensive plan policies that expressly prohibit them.
 - vi. In addition, planned developments may encourage flexibility in design and development that are architecturally and environmentally innovative, that will encourage a more creative approach in the development of the land and which will result in a more efficient, aesthetic and desirable utilization of the land than is possible through strict application of standard zoning and subdivision controls (SMC 10.24.010(1)). The use of private streets and smaller lot size as proposed results in a more efficient and arguably desirable utilization of the land.
 - vii. The preliminary plat of Somerset II that was approved on this site by Yakima County in 2008 does not conform to current development standards of SMC 10.50, in that the area of the site proposed by the current proposal to be served by private streets on the north side of Lyle Loop Road exceeded the maximum 2.5 to 1 depth to width ratio standard of SMC 10.50.041(e)(6)(A).
- b. Public facilities, including roads, sewer, and water are adequate to meet the urban needs of the development. This is because they are being installed to City standards, and have mostly been approved. Installation of sewer and water lines in the private road system comply with adopted subdivision standards or conform to the Fire Code.
 - c. The public purposes indicated by the application include providing an alternative type of single-family lots not otherwise allowed by the zoning ordinance but consistent with the allowed density and that is in demand because of affordability. It also allows more efficient utilization of the site through the limited use of private streets and a lot size that allows the development of the property to the maximum density provided for by the comprehensive plan. These purposes are consistent with the low density residential comprehensive plan designation where it encourages a mix of housing types limited by the maximum permissible density and zoning standards. They allow a compatible mix of

housing types in residential areas (Objective HSG 2; Policy HSG 2.2). They better utilize the site, direct development to areas where water, sewer and streets are present (Objective LUGM 3; Policy LUGM 3.2) and facilitate the conservation of land, energy and financial resources (Objective LUGM 3; Policy LUGM 3.3).

- d. Since the type of housing and density now being proposed is otherwise consistent with that permitted in the R-1 zone, the questions of whether additional land is required and whether timing is appropriate is limited to the reduced lot size and use of private streets for access. The following findings address this issue:
 - i. Seven-thousand square foot lots are not permitted in any zoning district. To the extent that a need has been established for them, there is no land already zoned or plan-designated for them.
 - ii. As a floating zone, Planned Developments are not plan designated, so there is no land available for them.
 - iii. The need for a private street to accommodate additional lots is based on the topography, surrounding existing development and resulting difficulty in developing part of the site. Using a smaller lot size to allow for the allowed density is based on the size and shape of the site and its orientation to the street network. Only allowing public streets and requiring conformance to a larger minimum lot size would reduce the number of dwelling units that could be developed and the density. These are site-specific characteristics that cannot be addressed in another location or by timing the project differently.
- e. Since a Planned Development is a floating zone and no locations are specified for it in advance by the comprehensive plan, the change of circumstances that warrant the rezone would be the determination that there is a public need and conformance with the other criteria for its approval.
- f. While testimony at upcoming public hearings cannot be determined in advance, previous testimony included opposition to development at a density that is higher than that allowed by the Low Density Residential plan designation and to housing types other than detached single-family residential. Testimony was also given to the need for single-family housing that is more affordable and convenient, particularly to seniors and single owners. Relying on the testimony given before the application was amended, higher-density development may not be appropriate in this location even though evidence was provided that supported the need and demand for more affordable and convenient housing units. As amended, the current proposal may still accommodate that need, although not as well as previously proposed.

- g. Compatibility of the planned development and proposed uses with neighboring land uses is demonstrated in part by documentation provided by the applicant that the proposed lot size is the same as in some of the surrounding area with no indication that it has resulted in the devaluation of property values. Limiting the density of the proposal to that permitted by the comprehensive plan designation, and housing types to that of surrounding areas as is now proposed contributes to neighborhood compatibility.
- h. The property is suitable for the proposed land use and it provides infill of an existing residential area. Public facilities: roads, sewer, water, etc. are adequate to meet project needs.
- i. There were no recommendations or comments from other agencies.

2. Planned Development: As proposed, the application conforms to the comprehensive plan and is compatible with the surrounding area as a result of project design and adequacy of the size of the proposed district to accommodate the development. It complies with the subdivision code with considerations for the modifications of certain subdivision code standards.

- a. The proposed planned development substantially conforms to the Comprehensive Plan. Density and housing type are consistent with the Low Density Residential land use designation, the project reduces sprawl and provides for infill development and efficient use of the land. There are no comprehensive plan policies that specifically prohibit the proposed modification of subdivision standards that are allowed in Planned Developments by the zoning and subdivision codes. An inconsistency with the comprehensive plan is that there are no identified covenants or deed restrictions which specify architectural, maintenance and landscaping standards. This policy (HSG 4.1) is not mandatory as written and these documents could be required if they are deemed to be necessary.
- b. Based on the following findings, the proposal is in harmony with the surrounding area and potential future land uses:
 - i. Proposed private access streets do not adversely affect future traffic circulation. Further connectivity to the north is infeasible due to topography, to the east is available from proposed and existing streets including part of Lyle Loop Road within the development, and to the west, connectivity has either been provided already or is precluded by existing development.
 - ii. The application documents that the reduced lot size is consistent with neighboring development and that it would not adversely affect land values of surrounding residential properties. Specifically, conclusions drawn from the

applicant's analysis in the amended application are that assessed values and actual sales are generally consistent regardless of lot size. Also, property values on a square foot basis are higher for smaller (7,000 square foot range) rather than larger lots. The conclusion made by the applicant is that the determinants of property value are providing utilities including municipal water and sewer, features added to the land, architectural design and quality of construction as opposed to lot size.

- c. The system of ownership in the planned development is that each lot will be separately owned; it is not being proposed as a condominium development and there are virtually no common areas. The application indicates the intent that residential units will be sold rather than rented.

The common open space shown on the amended application appears to be suitable for the planned development given its size, density, number of dwelling units and topography. Since the proposed lots are large enough single-family lots to have their own yards, there does not appear to be a substantial need for separate open space. The proposed open space, while small, is in a location that can be improved for recreational use, although leaving common open space unimproved is allowed when it contains natural features (in this case, steep slopes). The application does not indicate how its retention and maintenance is to be assured, how it will be owned or the timing relative to development of the project, although it is shown to be located within the boundary of Phase 3.

- d. The 4.7 acre subject property is large enough to accommodate the residential lots at the proposed size and density along with public and private streets, utilities and the proposed common open space. Characteristics of the site that provide some physical separation from neighboring properties are differences in elevation as described in the original application.
- e. The proposal generally complies with the subdivision code, except with respect to the variation already described for which the planned development application is being made: Minimum lot size and using private streets for access. Also certain subdivision standards that may be modified by a planned development under SMC 10.50.041(e) for good cause and where appropriate to provide for the contemplated type of development and land use. They are: All lot frontage on public streets; Avoiding double-frontage lots; Minimum lot width of 60 feet and 70 feet for corner lots; Minimum lot size. Each of these modifications are addressed as follows:
 - i. **Use of private streets for access** The need for private streets is primarily the topography and limited size of the area north of Lyle Loop Road. The County approved preliminary plat of Somerset II simply extended lots into this area in a

manner that as already stated, does not conform to current City standards. The application describes the private road system as providing sufficient turn-around for fire apparatus with the farthest home no farther than 150 feet from a fire hydrant as required by the Fire Code.

The subdivision code states that private access streets may be authorized where there will be no adverse effect on future traffic circulation of neighboring parcels (SMC 10.50.041(d)(4)). This is the case based on topography of the site, development of surrounding areas that preclude future street extension into them and the availability of street frontage to the relatively undeveloped area to the east that would allow further connectivity in the only direction in which it is possible.

- ii. **Lot frontage on public streets / double frontage lots** The requirement that all lots have frontage on a public street (SMC 10.50.041(e)(3)) is directly related to the standard that does not generally allow private streets. If a modification allowing private streets is made, it follows that lots will front on them.

Double frontage lots (lots having frontage on two streets) "...should be avoided whenever possible" (SMC 10.50.041(e)(4)). This is also based on the necessity for private streets to better utilize the site. In order to avoid double-frontage lots, more lots fronting on the private street would be necessary so that the street would not front lots on both sides. This is neither possible nor desirable on this site.

Modification of both of these standards is justified in part by the limited number of dwelling units proposed on the private streets and low traffic levels generated by them.

- iii. **Minimum lot width** The reduced widths of Lots 7, 9 and 10 are minimal (less than one foot) and are likely a result of fitting the lots to the site and to accommodate the private street system. Lot 1 does not meet the standard, but only because it is measured at the rear of the front yard. Farther back, lot width exceeds 60 feet.

There is no intent given by the zoning or subdivision codes for lot width requirements, but they are typically required to avoid irregularly shaped lots and ensure that setbacks can be met. Corner lots may need more width because they have larger side setback standards, and also to provide enough area to accommodate vehicles where there is direct access to a street. Due to the minor amount of reduction and the other characteristics of these lots, they should be able to accommodate homes of the type being contemplated.

- iv. **Minimum lot size** This standard is required by the subdivision code under SMC 10.50.041(e)(6)(D) and may be modified for good cause. Justification given by the application for the minimum lot size is its consistency with lot size and density of surrounding existing subdivisions. Also, to allow better utilization of the site to meet the maximum allowable density. On this particular site, a minimum lot size of 8,000 square feet would limit density to four dwelling units per acre. The smaller lot size allows the density established by the comprehensive plan to be met.

RECOMMENDATION: Balancing the strengths and weaknesses of the application, staff recommends **APPROVAL** of the planned development rezone and preliminary plat. The strengths are overall consistency with the comprehensive plan, especially now that the density and housing types have been modified to be consistent with surrounding areas and as supported by the documentation provided in the amended application. The primary weakness is that not all of the submittal requirements for planned developments have been met, including documentation of the ownership and maintenance of the open space. Other than that, it appears that the items that were not included in the application are not relevant to this proposal given its characteristics. The approval recommendation is made subject to the following conditions that include requirements concerning ownership and maintenance of commonly owned features:

1. All design and/or improvement notations indicated on the preliminary plat are included herein as conditions of preliminary plat approval. (Including, but not limited to, dedicated right-of-way width, easement widths and locations, lot size and configuration).
2. A preliminary engineering report and/or plan, prepared by a Licensed Professional Engineer, demonstrating the feasibility of construction of all public improvements required by Selah Municipal Code, Chapter 10.50 must be submitted to the Public Works Director for approval.
3. All final plans and specifications for improvements must be prepared by a Licensed Professional Engineer and reviewed and approved by the Public Works Director prior to construction. Specifications for improvements shown on the preliminary plat are minimum specifications that may be superseded by conditions contained herein or by specific conditions as approved by the Public Works Director. Upon completion of construction and prior to final plan approval, final 'as-built' construction plans and a written certification by a Licensed Professional Engineer that said improvements were completed in accordance with the approved construction plans must be submitted to the Public Works Director for approval.
4. Reports, plans and specifications previously submitted shall count toward meeting the requirements of Conditions #2 and #3 if accepted by the Public Works Director to the extent of the improvements for which they are determined to be sufficient.

5. **Lyle Loop Road:** Street improvements must be constructed to City standards as approved by the Public Works Director including 50 foot wide right-of-way, 32 foot wide asphalt pavement, concrete rolled (or better) curb and gutter, five (5) foot wide sidewalk on one street side and street illumination. The sidewalk shall be installed on the same side of the street as it is on the existing completed portion of Lyle Loop Road. Utility improvements shall be extended beyond street pavement edge to facilitate future extension where appropriate. Street grade shall not exceed 10%.
6. Lyle Loop Road shall be constructed in its entirety prior to the recording of Phase 1 or a temporary turnaround constructed to City standards shall be provided at the point at which it ends.
7. The private interior street shall be constructed as a hard-surfaced street to specifications approved by the Public Works Director prior to recording a final plat for Phase 3. The street shall have a minimum surface width of 20 feet. This improvement is not required as a condition of final plat recording beyond (east of) the point at which it enters Lot 6.
8. Covenants or a road maintenance agreement, providing for the perpetual maintenance of the private roadway and that establish a road maintenance fund shall be recorded with the Yakima County Auditor and a recorded copy submitted to the Selah Community Planner prior to recording the final plat.
9. Documentation of the proposed use and ownership of the common open space shall be provided prior to recording a final plat for any phase. Documentation shall include covenants, establishment of a homeowner's association or deed restrictions and they shall be recorded prior to recording any final plat. It may be combined with the covenants or agreement required for maintenance of the private roadway. Documentation shall also establish or demonstrate legal access by all residents of the plat to the common open space.
10. Street illumination shall be installed by the developer at locations and to the specifications of the Public Works Director (typically at 300 foot intervals or as otherwise determined by the Director of Public Works in order to maximize illumination). Street lights shall be installed on metal poles.
11. All lots must be served with a full range of public and private services and utilities including public water and sewer, power, natural gas and telephone. All utilities except for the standard telephone box, transmission box and similar structures shall be underground and **installed prior to the surfacing of streets.** All utilities placed beneath streets, curbs or sidewalks shall be extended beyond these features to avoid them being disrupted by future extensions.

12. There shall be a moratorium on public street cuts for a period of five (5) years from the date of plat recording.
13. Fire hydrants shall be provided and installed by the developer at locations approved by the City of Selah Fire Chief and to the specifications of Selah Municipal Code, Chapter 11.30.
14. Final lot dimensions and lot area must substantially conform to the preliminary plat unless otherwise amended during the public hearing process.
15. Storm Water drainage facilities to accommodate runoff generated in the plat must comply with a drainage facilities plan prepared by a Licensed Professional Engineer and approved by the Public Works Director. Plans submitted previously will count toward meeting this requirement if approved by the Public Works Director. Additional documentation may be required for portions of the site not covered by any such previously submitted plans.
16. Prior to final plat recording, all required plat improvements (utilities, streets, drainage facilities, etc.) must be installed and accepted by the City or a surety bond pledged to the City to ensure installation of the plat improvements within two years of final plat recording.
17. Planned Development approval shall be in substantial conformance to the project design as described in the project narrative, application materials and on the face of the preliminary plat. Setbacks, building height and lot coverage shall be to the standards required in the R-1 district by the zoning ordinance. Lot size and lot width shall either conform to the approved preliminary plat or meet minimum R-1 standards. This condition is not intended to preclude modifications otherwise allowed under SMC 10.24.110.
18. All required street signs, posts and appurtenances must be supplied by the developer and will be installed by the City.
19. The following note shall be placed on any final plat map:

“The owners shown hereon, their grantees and assignees in interest, hereby covenant and agree to retain all surface water generated within the plat on-site.”
20. Lots in Phase 3 shall be served by an 8 inch sewer line extended in the utility easement across Lots 9 and 10 and then continued to all of the individual Phase 3 lots in the access and utility easement as shown on the Preliminary Plat.
21. Prior to final plat recording, a surety bond, or such other secure financial method acceptable to the City, in the amount of 15% of the cost of the public improvements as determined by the Public Works Director (streets, sidewalks, street lights, drainage facilities, sewage collection and water distribution facilities, etc.) must be remitted to the City and will be held for a period of

two years from the date of final plat recording to guarantee against defects in materials and workmanship.

22. Improvements required for the subdivision must be completed and the final plat must be submitted within the maximum time period required by RCW 58.17.140. If this decision is issued on or before December 31, 2014, that time period is 7 years. Otherwise, it is 5 years. A one-time, one-year extension may be authorized in accordance with SMC 10.50.033(c) but the request must be made before the 7-year time period ends.

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December 19, 2014

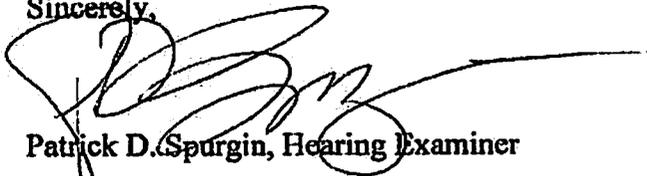
Mr. Joe Henne, City Administrator (Interim)
City of Selah
115 West Naches Avenue
Selah, WA 98942

RE: Hearing Examiner Recommendation on Somerset II PD Rezone and Preliminary
Subdivision (File No. 912.42.14-05; 914.42.14-04)

Dear Mr. Henne:

Enclosed is the referenced recommendation to the City Council. Do not hesitate to call me in regard to this recommendation.

Sincerely,

A handwritten signature in black ink, appearing to read 'P. Spurgin', with a long horizontal line extending to the right.

Patrick D. Spurgin, Hearing Examiner

cc. Dennis Davison

**City of Selah, Washington
Office of the Hearing Examiner**

Application for a Rezone and Preliminary Plat)	Selah File Nos. 912.42.14-05; 914.42.14-04
)	
By Zuker-Sample Development, LLC.)	HEARING EXAMINER RECOMMENDATION
)	
To Rezone Property near the intersection of Herlou Drive and Lyle Loop from One-Family Residential to Planned Development and Approve the 24-Lot Preliminary Plat of Somerset II.)	
)	
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I. INTRODUCTION.

Zuker-Sample Development, LLC (hereafter "Applicant") has applied to rezone and subdivide 2 parcels of property in accordance with Planned Development provisions of the Selah zoning ordinance. The name of the project proposal and subdivision is "Somerset II." The proposal would result in the subdivision of each the existing 2 lots into 24 new single family lots and a common open space parcel. The Applicant initially sought a *Comprehensive Plan* amendment in order to allow moderate density residential development of the property. Associated with the plan amendment, the Applicant applied for a 33-lot residential subdivision and a Planned Development to allow smaller lot sizes and different infrastructure development than would otherwise be allowed under the zoning ordinance. Following Selah Planning Commission review of the proposal, including environmental review under the State Environmental Policy Act, the Applicant modified the proposal so as to allow consideration under the Planned Development ordinance without a comprehensive plan amendment. No additional SEPA review has been conducted on the amended application. The application process was somewhat complicated by the fact that the application was submitted after the effective date of the annexation of the property into city but prior to the recording of the annexation ordinance. The ordinance annexing the property was recorded on December 1, 2014. An open record hearing on the planned development and subdivision proposal was conducted December 4, 2014. The Hearing Examiner viewed the site on the same date. Community Planner Dennis Davison and city consultant Tom Durant provided a staff report prior to the hearing, which is included in the hearing record. Roy Sample appeared on behalf of the Applicant and presented information concerning the Applicant's objectives for the development proposal and the general correlation of subdivision improvements and lot size to property values in the general vicinity. Several members of the public commented on the application at the hearing. The comments concerned

- whether any effective application for the subject project has been made, based on the status of annexation prior to recording the annexation ordinance applicable to the project;
- whether the modification of lot size through the Planned Development process based on the property attributes, including interpretation of ordinance provisions regarding

- efficiency of land use;
- the role of the economic advantage of the developer in Planned Development rezone approval,
- comprehensive plan requirements pertaining to lot size in low density residential areas,
- potential revision of the proposed detached single family residential use to other uses,
- use of a private road rather than a conforming public street to serve the northern-most tier of proposed lots,
- compliance of public street design with subdivision design standards (reverse curves),
- community impacts from on-street parking,
- impacts to neighborhood character from the subdivision design,
- the role of “changes of circumstances” in rezoning property,
- the adequacy of the application materials under the Planned Development ordinance, including topographical mapping,
- the effects of dual or multiple frontage lots as proposed in the application,
- feasibility access to Lot 1 off of Herlou Drive, based on steep slope considerations,
- adequacy of open space,
- procedural limitations on city actions pending completion of annexation under state law, and
- procedural limitations on subdivision applications where a prior preliminary plat approval was in place.

Because the application was cast as an amended application, the Hearing Examiner requested that records developed during review of the original application be made part of the record. The Examiner received such materials on December 17, 2014.

II. SUMMARY OF RECOMMENDATION.

Based on application materials, substantial public comment and information contained in public records and documents, the Hearing Examiner’s findings indicate that insufficient demonstration has been made that the proposed Planned Development rezone application by Zuker-Sample Development LLC to rezone property described in the Preliminary Planned Development of Somerset II complies with the 2005 Selah Comprehensive Plan and Chapter 10.24 of the Selah Municipal Code. In particular, the findings indicate that compliance has not been shown with respect to Objectives HSG 1, HSG 2 and HSG 4, and related provisions SMC 10.24.060. Therefore, the recommendation is that the rezone should be denied, but without prejudice and with allowance for reopening the open record proceeding commenced in accordance SMC 10.24.060 to allow consideration of and public comment on additional information and amended development plan or program material submitted by the Applicant in its discretion.

Based on the staff report and exhibits, the viewing of the site, statements and comments received at the open record hearing and in writing, public records of City Council and Planning Commission actions related to the subject property, and a review of pertinent development regulations and *2005 Selah Urban Growth Area Comprehensive Plan* (hereafter referred to as the “*Comprehensive Plan*”), the Hearing Examiner makes the following

III. FINDINGS.

1. APPLICANT AND PROPERTY OWNER.

The applications for rezone and subdivision were filed by Zuker-Sample Development LLC, which is the property owner of record.

2. LOCATION.

The properties front on Herlou Drive to the west and Lyle Loop Road to the east. The Yakima County Assessor's tax parcel numbers for the properties are 181426-44005 and 181426-44021.

3. APPLICATIONS.

The applications propose to rezone approximately 4.7 acres from One-Family Residential (R-1) to Planned Development (PD) and concurrently subdivide the site into 24 single family residential lots consistent with documents submitted by the Applicant to meet the requirements of SMC 10.24.030 and SMC 10.24.050.

The average lot size is 7,041 square feet (0.16 acre). This results in a gross density of 5.1 per acre. The Applicant proposes development in three phases. The dwelling units in Phases 1 and 2 are proposed to be served by City maintained Lyle Loop Road, while Phase 3 would be served by a private interior street in 20 to 26 foot wide access easements. Phase 1 consists of 8 lots, Phase 2 has 10 lots and Phase 3 has 6 lots. Proposed Lot 1 in Phase 3 abuts Herlou Drive, and might be accessed from Herlou Drive, although the current topography makes such access problematic (25% slope).

Public sewer lines, water lines and drainage improvements have been installed in Phase 1 in accordance with the earlier County decision approving the previous preliminary plat; engineering plans for these improvements have been approved by the Selah Public Works Department. These utilities would be extended into Phases 2 and 3.

- A new 8-inch domestic water line will be extended from where Lyle Loop Road currently ends on the east side of the site to Herlou Drive within the proposed alignment of Lyle Loop Road through proposed Phases 1 and 2. A water line would be extended into Phase 3, using the access/utility easement that is proposed to provide access to the lots in that phase.
- An 8 inch sanitary sewer line will extend west through Phases 1 and 2 in the proposed alignment of Lyle Loop Road beginning where the street ends currently, and terminating just before reaching Herlou Drive on the west. The preliminary plat shows a 16 foot wide sewer easement through Lots 8 and 9 that would connect Phase 3 with the line on Lyle Loop Road. The combined access/utility easement through Phase 3 would allow sewer extension to all of the lots in the phase.

- Although hydrant locations for the proposal are not indicated on the preliminary plat, a hydrant has been installed on the site in the alignment of Lyle Loop Road where it would abut proposed Lots 7 and 22 about 450 feet (travel distance on the street) from an interior hydrant on the existing segment of Lyle Loop Road and about 460 feet from Herlou Drive.

4. CURRENT SITE CONDITION AND ZONING

The subject property is zoned One-Family Residential (R-1). It is vacant, but some utilities have been extended into the property in association with the 1997 preliminary plat approval by Yakima County. The Applicant represents in its application materials that the earlier plat is “null and void.” This is consistent with legal requirements for the completion of final plat development within five years as shown on Hearing Exhibit 10 (Yakima County resolution approving preliminary plat of Somerset II). The property at its northwest corner immediately adjacent to Herlou Drive has a roughly 25% slope. The balance of the property has a slope of 5% to 8%, more or less, based on the topography map in the application materials. Existing fire hydrants are located at the intersection of Lyle Loop Road and Herlou Drive in the existing Somerset I subdivision and about 520 feet to the east on the north side of Lyle Loop Road.

5. NEIGHBORING ZONING AND LAND USE.

Adjacent lands to the east and south are within the city limits and are zoned One-Family Residential. Abutting lands to the north and across Herlou Drive to the west are within Yakima County jurisdiction. Those lands are zoned One-Family Residential under Title 15 of the Yakima County Code. All neighboring properties have been developed into detached single family residences. Lot sizes in the immediate vicinity ranges from 0.2 to 0.66 acres, with one large lot (2.81 acres) to the immediate northeast of the subject property.

6. ENVIRONMENTAL REVIEW.

A Determination of Nonsignificance (DNS) was issued October 3, 2014 for the Applicant’s original proposal for a *Comprehensive Plan* modification, rezone to Planned Development, and 33-lot preliminary plat for the subject property. There has been no appeal of the DNS. City staff does not believe the amendment requires any environmental review beyond the original DNS. No public or agency comment of record indicates any dispute on adequacy of the DNS to address the amended application.

7. 2005 SELAH URBAN AREA COMPREHENSIVE PLAN DESIGNATION.

The subject property and surrounding areas are designated as Low Density Residential on the Future Land Use Map adopted with the *Comprehensive Plan* in 2005. The designation includes adjacent County land within Selah’s Urban Growth Area.

8. HEARING EXAMINER JURISDICTION

The Hearing Examiner has jurisdiction to conduct open record hearings on Planned Development applications based on SMC 10.24.060. Hearing Examiner minor rezone review authority is included in SMC 10.40.070, and preliminary plat review authority is included in SMC 10.50.025. Some public comment regarded whether the review process could proceed in absence of the recordation of the ordinance by which the subject property was annexed. The comment was based on a brief [Hearing Exhibit 5] apparently submitted during the course of the city council's review of the Planning Commission recommendation on the original application for the *Comprehensive Plan* amendment and major rezone. However, the brief does not address the fact that an annexation ordinance sets forth the effective date of the annexation. RCW 35A.14.100, RCW 35A.14.150. Annexed property becomes part of the city upon the effective date. *Id.* The effective date of the West Goodlander annexation was February 1, 2014 (See Selah City Council Ordinance No. 1935). The Hearing Examiner is charged with recommending approval or denial of the Planned Development rezone.

9. PROJECT ANALYSIS

a. *Review Criteria.*

The review criteria specifically applicable to a Planned Development zone application are set out in SMC 10.24.060. Public comments raised concerns regarding the compliance of the amended application with the provisions of SMC 10.40.070, which concerns review criteria applied in hearing examiner review of "minor rezones." In particular, public comment concerned whether there is any public purpose to be served by the zoning change as required in SMC 10.40.050(c)(3) or any change in circumstance to substantiate a rezone based on SMC 10.40.050(c)(4). These provisions are made applicable to a minor rezone based on SMC 10.40.070(a). The original application for the Somerset II development included a major rezone request. The City Council remanded the original Planning Commission recommendation on the major rezone back to the Planning Commission based on its determination that application materials were incomplete on October 14, 2014. As noted earlier, the original application was amended to avoid the necessity for a *Comprehensive Plan* amendment, and thus allow review by the Hearing Examiner as a minor rezone.

The staff report analyzes the amended application based on the implicit assumption that minor rezone review criteria are applicable to the Planned Development rezone. On this basis, the application would be reviewed based on both the standard rezone criteria and the criteria in SMC 10.24.060. In applying the ordinances, they must be given the effect of their plain meaning. *Dept. of Ecology v. Campbell & Gwinn, L.L.C.*, 146 Wn.2d 1, 9-10, 43 P.3d 4 (Wash. 2002).

However, it is not clear that a "verified rezone application" for a Planned Development based on provisions of SMC 10.24.050 is subject to the provisions of SMC 10.40.070, given the specificity of the review criteria in SMC 10.24.060. The Planned Development ordinance makes no mention of either major or minor rezone review requirements, and some of the Planned Development review requirements overlap the SMC 10.40.050(c) review requirements,

particularly with regard to consistency with the *Comprehensive Plan* and harmony or compatibility of the proposed action with neighboring uses.

In addition, the purpose of the Planned Development zoning provision as expressed in SMC 10.24.010 is to provide project-specific relief from otherwise applicable zoning standards in order to allow creative use of property consistent with the *Comprehensive Plan*, in contrast to SMC 10.40.050(c), which concerns adjustments to zoning to allow a different array uses than would be allowable under existing zoning. The broader rezoning ordinance is reviewed based on the relationship of the changed zoning designations (and permissible uses in the zone) with changes in circumstances, suitability of property for uses allowed in a proposed zone, and public purposes to be served by change of designation.

The application of the different review criteria to the same proposal presents the awkward possibility of the proposal being appropriate under one set of criteria, and inappropriate under the other. In the interest of providing a complete record, the application materials are reviewed below under the criteria of both the general rezone criteria in SMC 10.40.050(c) and the specific Planned Development review criteria in SMC 10.24.060.

b. Application of the Planned Development Review Criteria

(1) Substantial conformance to the city of Selah Urban Growth Area Comprehensive Plan:

The *City of Selah Urban Growth Area Comprehensive Plan* designates the property as Low Density Residential on the adopted 2005 Future Land Use Map. This designation provides for a maximum density of 5 dwelling units per acre. The intended future use of Low Density Residential lands is a mix of single family, two-family, townhouse and multifamily residences. The mix of residential uses is controlled by the maximum density limitation on future (new) development. The density of development under the proposed project is 5.1 dwellings per acre, which is 2% greater than the *Comprehensive Plan* density limitation. Based on the development plan, the housing units in the project would be detached single family dwellings. Consequently, the proposed density does not appear to bear on the mix of uses in this case. Other potentially relevant *Comprehensive Plan* objectives and policies suggested by the staff report are discussed as follows:

(i) Objective LUGM 3: Encourage economic growth while maintaining quality development and controlling the cost of public improvements in Selah's UGA. Related policies include Policy LUGM 3.2 ("Direct development to areas where infrastructure (water, sewer and streets) is either present, can be easily extended, or is planned to be extended") and Policy LUGM 3.3 ("Conserve land, energy and financial resources by minimizing urban sprawl").

The proposed project does not conflict with these considerations, but neither does it help realize them, since rezoning in this case does not direct development nor reduce sprawl in any obvious way. The property was previously subject to a preliminary plat approval by the County, although at a lower density of development. Nothing in the policies correlates economic growth with maximizing residential density. None of the immediately surrounding neighborhood

appears to have been developed up to maximum density of 5 dwelling units per acre. As the Community Planner Dennis Davison noted at the hearing, the only place where densities comparable to the proposed project have been developed is at "The Crest" subdivision, which is separated from the subject property by at least one tier of lots that are 0.3 acres and up. "The Crest" was subdivided prior to the establishment of current R-1 minimum lot size requirement according to Mr. Davison.

(ii) Objective HSG 1: Maintain and upgrade the character of existing residential neighborhoods. Related Policy HSG 1.2 encourages "new single-family development throughout existing single-family neighborhoods as redevelopment and infill construction at appropriate densities.

The project would develop vacant property in the midst of a single family neighborhood, some of which is within city limits, and some outside city limits. Public comments raised concerns about the effect on neighborhood character from the proposed small lot sizes, the use of a private road easement to serve the Phase 3 lots, and the potential creation of what would effectively be double and triple frontage lots as a result of the private road development. In light of the general disfavor for double frontage lots in SMC 10.50.041(e), and disparity in lot sizes between those proposed and those in the immediate neighborhood, it is not clear that the proposed alignment "maintains and upgrades the character of existing residential neighborhoods." Neighboring properties on Lyle Loop Road have been developed in compliance with R-1 standards. The concept of "appropriate densities" is discussed further in the analysis of Policy HSG 2.1, below.

(iii) Objective HSG 2: Encourage new residential development to approximate existing residential densities and housing mix levels. Policy HSG 2.1 encourages that the combined net density of all residential development remain at present levels. Exceptions to this policy should be permitted where the developer can demonstrate that the quality of the project design, construction and amenities warrants a different housing density.

The *Comprehensive Plan* maximum density provides for an average lot size of 8,712 square feet or 0.2 acre. This is roughly the density of current development on Lyle Loop Road. Nearby development on Herlou Drive and Weems Way translates into a density of roughly 2.5 dwelling units per acre (roughly 0.4 acre lots based on-line information available from the County Assessor's web site.¹ See Figure 1).

The average proposed lot size for the proposed development is 7,041 square feet. This amounts to a 19% reduction below the "average" R-1 lot size and a 60% reduction below the Herlou Drive/Weems Way lot sizes. It is not clear that the proposal "approximates" the surrounding density. The key question thus becomes whether "the developer can demonstrate that the quality of the project design, construction and amenities warrants a different housing density." In this regard, nothing in the application materials purports to show that a higher housing density is

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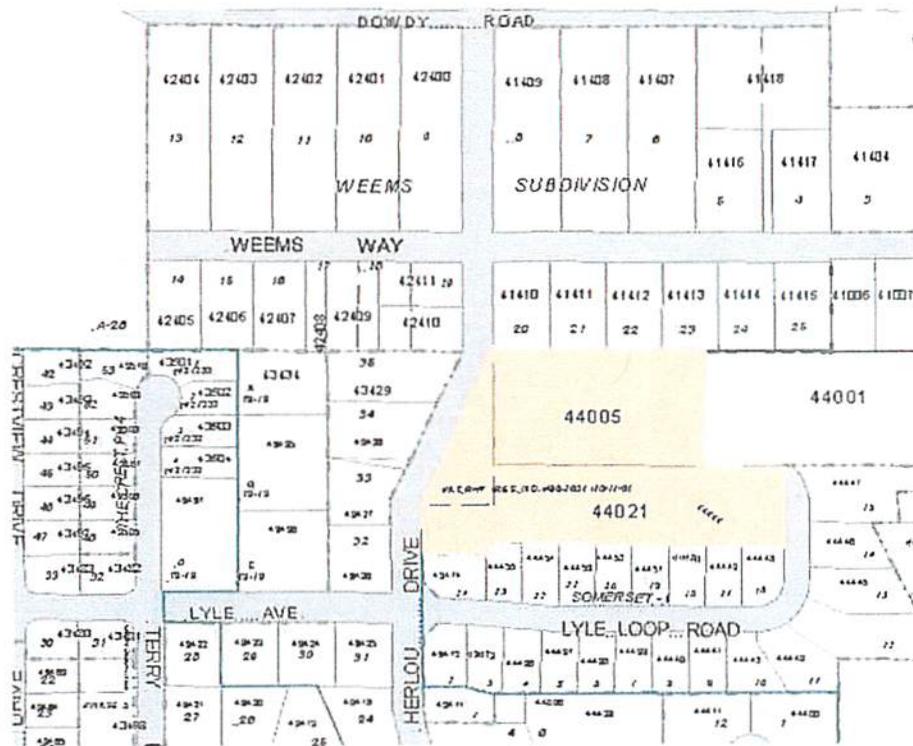


Figure 1. Somerset II Neighborhood (subject property highlighted)

warranted based on quality of project design, construction or amenities. Rather, the stated goal of the Applicant is to achieve the highest density allowable under the *Comprehensive Plan* density limitations.

(iv) Objective HSG 4: Encourage new residential construction to be compatible with existing residential development. Policy HSG 4.1 calls for encouraging developers to use private covenants and deed restrictions which specify architectural, maintenance and landscaping standards within their development.

The thrust of much of the public comment received on the project was that the lot sizes and subdivision design are not compatible with neighboring residential development, and that neighboring property values would be impaired. The Applicant included with the development plan an analysis that provides evidence that the lot sizes proposed do not necessarily adversely affect property values. The analysis relies on tax valuations by the County Assessor, and principally refers to properties within The Crest subdivision to show that lot size is not controlling with respect to value.

Property value is not the sole basis for evaluating compatibility based on the pertinent objective and policy. Architectural, maintenance and landscaping standards are implicitly associated with the compatibility analysis, and the application materials include no evidence of consideration of such standards, other than photographs of existing homes in The Crest subdivision, reliance on future lot developers to provide landscaping, and the designation of a 1233 square foot open space parcel without clear indication of its objectives or potential use. It is noteworthy in this

regard that provisions of SMC 10.24.030 call for the preliminary development plans to contain such information as “horizontal and vertical dimensions of all buildings and structures proposed to be located on the site which shall include drawings, architectural renderings or photographs of proposed buildings” and proposed landscaping. These provisions and similar provisions in SMC 10.24.050 appear to track the compatibility objective and policy in the *Comprehensive Plan*.

The Applicant has also indicated that the smaller lots will support lower cost housing development, consistent with the *Comprehensive Plan*'s affordable housing goals. However, the housing strategies adopted in the *Comprehensive Plan* at p. 41 only address parcel size in the context of cluster development. Cluster development could be achieved through a planned development process, but is not part of the current proposal. In any case, this market-based concept does not override other housing objectives and policies in the *Comprehensive Plan* in any clear way.

(2) The proposal's harmony with the surrounding area, or its potential future use.

This criterion appears to track closely with the previously discussed *Comprehensive Plan* provisions related to compatibility with neighboring residential uses and approximation of neighboring densities. The same analysis applied to *Comprehensive Plan* compliance also applies here.

(3) The system of ownership and means of development, preserving and maintaining open space.

The preliminary plat shows an open space parcel of 1,233 square feet, to be located on the boundary of Lots 1 and 13 and adjacent to Herlou Drive. No information has been provided in the application materials regarding its development, preservation and maintenance, except to note that open space can be used to preserve natural features. In addition, no information has been provided to show the suitability of the open space for the proposed development as provided in SMC 10.24.080.

(4) The adequacy of the size of the proposed district to accommodate the contemplated development.

The Planned Development ordinance does not provide specific guidance as to what would constitute the “adequate” size of property to support a PD approval. The property is not large enough to allow conforming public streets to serve the proposed Phase 3 lots without further reducing lot size. Private streets are allowable under the subdivision standards when there is no impairment to traffic circulation on public streets. SMC 10.50.041(d)(4). There is no record of any fire safety or similar concerns held by city fire or public works officials regarding the configuration of the development or means of access. If it assumed that the basic objective of the proposal is to reduce lot size, the evidence in the record does not provide a basis for saying that the space is not adequate for the proposed project.

(5) Compliance with Chapter 10.24 SMC.

Certain procedural requirements are called out in the Planned Development ordinance. These include:

- Filing of a notice of intent, along with a preliminary development plan and program containing certain specified information per SMC 10.24.020 and SMC 10.24.030;
- Filing a final development plan and program containing certain specified information along with and “verified rezone application” per SMC 10.24.050;

Specified information requirements to be included in the final development plan and program include

- a) Existing maps drawn to scale of not less than one inch to one hundred feet and proposed final contour map;
- b) Location, with the names of all existing and proposed streets, public ways, railroad and utility rights-of-way, parks or other open spaces and all land uses within two hundred feet of the boundary of the development;
- c) Existing sewers, water mains and other underground facilities within and adjacent to the development and their certified capacities;
- d) Proposed sewer or other waste disposal facilities, water mains and other underground utilities;
- e) Subdivision map, in the event a proposed planned development application is combined with a proposal to divide land into lots, identifying proposed lot configuration and size in square feet);
- f) Proposed land use map identifying the location and purpose of each structure;
- g) Location and size in square feet of community facilities;
- h) Location and size in square feet of open space;
- i) Traffic flow plan;
- j) Location and dimension of walks, trails or easements;
- k) Location of off-street parking areas, arrangement, number and dimensions of auto garages and parking spaces, width of aisles, bays and angles of parking;
- l) Location, arrangement, number and dimensions of truck loading and unloading spaces and docks;
- m) Preliminary plans, elevations of typical buildings and structures, including general height, bulk, number of dwelling units and the exterior appearance of the buildings or structures;
- n) Approximate location, height and materials of all walls, fences and screens;
- o) Indication of stages of development.
- p) Statement of goals and objectives, i.e., why it would be in the public interest and be consistent with the *Comprehensive Plan*;
- q) Tables showing total number of acres, distribution of area by use, percent designated for dwellings, commercial or industrial uses and open space, number of off-street parking spaces, streets, parks, playgrounds, schools and open spaces;
- r) Tables indicating overall densities and density by dwelling types and any proposal for the limitation of density;
- s) Restrictive covenants, other than those relating to retention and maintenance of common open space;
- t) Development timetable.

While all these elements are indicated as required in the final development plan and program, the ordinance does not specify that every Planned Development project must have all of the elements. The ordinance is not clear as to which of the listed elements might be necessary and which are not. For example, open space is not prescribed as a requirement. In the earlier version of the ordinance, required open space was contemplated as a means of realizing the “full potential” of a property. See Selah City Council Ordinance 1779, §78 (2004). As amended in 2009, the ordinance retains provisions for open space evaluation and protection evaluation but no longer references the use of required open space to realize full property potential. City planning officials have viewed this change as having the effect of not requiring open space, but if open space is provided in a proposal, then the adequacy review and protection provisions still apply. However, it seems that, if open space was not important to the scheme of the ordinance, the very specific requirements for open space evaluation and protection could have been removed at the time it was amended.

Interpretation of local ordinances is governed by the same rules of construction as state statutes. Ordinances must be reasonably construed with reference to their purpose. *HJS Development, Inc. v. Pierce County* 148 Wn.2d 451, 471-472, 61 P.3d 1141 (Wash. 2003). The purpose of the Planned Development ordinance is to allow new development that is consistent with the *Comprehensive Plan* but that would not be readily permitted in other zoning districts due to limitations in dimensional standards, permitted uses, or accessory uses. Ordinances must be interpreted and construed so that all the language used is given effect, with no portion rendered meaningless or superfluous. *Whatcom County v. City of Bellingham*, 128 Wn.2d 537, 546, 909 P.2d 1303 (Wash. 1996). The specified elements of the required development plan and program cannot be read to be superfluous. At the least, the requirements must be read as considerations in whether the proposed Planned Development is consistent with the *Comprehensive Plan*. Planned Development review is not merely a matter of assuring the proposal meets the limitation on maximum density. Other elements of the ordinance also would seem at least to illustrate the City Council’s purpose.

Given the scope of the project (detached single family residential) and the information provided in the staff report, the purpose of the ordinance has generally been served by the submitted materials with regard to plan and programs elements a) through g), i) through l), o) q) and t), set out above. However, the submitted materials are lacking information regarding

- open space adequacy and protection,
- preliminary plans, elevations of typical buildings and structures, including general height, bulk, number of dwelling units and the exterior appearance of the buildings or structures,
- approximate location, height and materials of all walls, fences and screens,
- a statement of goals and objectives, i.e., why it would be in the public interest and be consistent with the *Comprehensive Plan*,
- restrictive covenants, other than those relating to retention and maintenance of common open space.

These elements are all related to issues of substantial conformance with the *Comprehensive Plan* discussed above at pp. 6-9, above.

In addition, relief from subdivision standards provided in SMC 10.50.041(d) and (e) for planned developments depend on a showing of good cause. In this instance, good cause is directly dependent upon the proposed Planned Development being consistent with the *Comprehensive Plan*. The Applicant and the staff report equate “efficiency” and “desirability” as the terms are used in SMC 10.24 010(a) with the development of the property to maximum density. Such efficiency or desirability could be the basis for a showing of good cause for relief from subdivision design standards. However, since the terms are not specifically defined in the ordinance, they must be construed in the larger context of the ordinance and the *Comprehensive Plan* it implements. The 5 dwelling unit per acre reference in the *Comprehensive Plan* is a density limitation, rather than a desired density target, and as discussed earlier, other provisions of the *Comprehensive Plan* are relevant to the proposal.

Based on the lack of information related to compliance with the *Comprehensive Plan*, it is difficult to justify any recommendation for approval. It is no less difficult to justify a recommendation for approval that is conditional on the submission of the additional information. Such additional information would not be subject to public review and comment for the record, so the purpose of the open record hearing on the application would be undercut.

c. Application of the Minor Rezone Review Criteria

(1) The extent to which the proposed rezone is consistent with and/or deviates from the goals, objectives, mapping criteria and policies adopted in the *Comprehensive Plan* and the intent of Title 10 SMC.

The conformance of the proposed project and rezone with the *Comprehensive Plan* is discussed above at pp. 5-8. The purpose of Title 10 SMC is set out in SMC 10.02.030. Of particular note, the purpose includes

- Implement the city of Selah Urban Growth Area Comprehensive Plan enacted pursuant to the Washington State Growth Management Act;
- Assure the orderly development of the city consistent with the Selah Urban Growth Area Comprehensive Plan goals and policies; [and]
- Encourage orderly growth while integrating new development and redevelopment into the fabric of the community while maintaining a high quality environment[.]

These purposes, including integration of new development in the fabric of the community, are also addressed at pp.6-9.

(2) The adequacy of public facilities, such as roads, sewer, water and other public services required to meet urban or rural needs.

There is no evidence that public facilities associated with the subject property are inadequate to meet urban needs. City public works and fire officials do not object to the proposed public facility elements of the project.

(3) The public need for the proposed change. Public need shall mean that a valid public purpose, for which the *Comprehensive Plan* and this title have been adopted, is served by the proposed application. Findings that address public need shall, at a minimum document:

- a. Whether additional land for a particular purpose is required in consideration of the amount already provided by the plan map designation or current zoning district within the area as appropriate;
- b. Whether the timing is appropriate to provide additional land for a particular use.

As described in the staff report and by the Applicant, there may be demand for lower cost residential development that might be afforded by smaller lot sizes, though these representations by themselves do not constitute substantial evidence of such a demand. More importantly, it is not clear that the satisfaction of such demand is a cognizable public purpose for which the *Comprehensive Plan* has been adopted. See *Spokane County v. Eastern Washington Growth Management Hearings Bd.*, 176 Wn.App. 555, 309 P.3d 673, (Wash.App. Div. 3 2013) (County did not identify any evidence demonstrating public need, and “desires are different than needs”). This is in contrast to the matter of affordable housing, and the *Comprehensive Plan* includes specific strategies for affordable housing beginning at p.41. No provisions in the *Comprehensive Plan* or zoning ordinance have been identified as recognizing as a distinct housing type or public purpose a “small lot detached single family residence” except as may be implied from the cluster development provisions of the Affordable Housing section of the plan. Otherwise, mixes of housing types are contemplated in existing zoning districts and addressed in the permitted use table in Chapter 10.28 SMC.

(4) Whether substantial changes in circumstances exist to warrant an amendment to the current designation or zone.

The property was zoned R-1 in the annexation ordinance that became effective February 1, 2014. Neither the Applicant nor the staff report address any substantial changes in circumstances that might warrant a site specific rezone. Such a rezone would not be required to implement the existing provisions of the *Comprehensive Plan*.

(5) The testimony at the public hearing.

Issues raised in public comments have been addressed above in the specific context of the pertinent review criterion.

(6) The compatibility of the proposed zone change and associated uses with neighboring land uses;

Compatibility of the proposed Planned Development zone with neighboring uses is discussed above at p.8. The uses in the zone are limited to those described in the development plan and program required by SMC 10.24.050.

(7) The suitability of the property in question for uses permitted under the proposed zoning;

The uses under the proposed Planned Development (detached single family residential) are the same as those under the existing R-1, zoning. There is no evidence that property is physically unsuitable for residential development.

(8) The recommendation from interested agencies and departments.

No agency recommendations regarding the application materials in the record have been received.

d. Subdivision review.

Subdivision design standards are set out in SMC 10.50.041. In addition, conventional conditions on preliminary plat approval will assure compliance with the standards, subject to prior or contemporaneous Planned Development approval. Based on staff review, it appears that the proposal generally complies with the standards or can be made to comply with the addition of certain typical fire hydrant requirements, and the extension of typical utility services to Phases 2 and 3. Exceptions relate to block design, minimum lot size and dimensions (which is the basis for the application for Planned Development zoning) and the use of private streets for access. Certain subdivision standards that may be modified by a planned development under SMC 10.50.041(e) for good cause and where appropriate to provide for the contemplated type of development and land use. As has been noted, good cause is tied to consistency of the Planned Development with *Comprehensive Plan*. Assuming consistency for the sake of analysis, the pertinent standards are assessed below:

(1) Use of Private Streets for Access .

The need for a private access street is primarily based on the topography and size of the area north of Lyle Loop Road. The application describes the private road system as providing sufficient turn-around for fire apparatus with the farthest home no farther than 150 feet from a fire hydrant as required by the Fire Code. The subdivision code states that private access streets may be authorized where there will be no adverse effect on future traffic circulation of neighboring parcels (SMC 10.50.041(d)(4)). This is the case based on topography of the site, which together with the development of surrounding areas, precludes future street extension into those areas. The same conditions limit the availability of street frontage to the relatively undeveloped area to the east. Parking within the access street will be subject to "no parking" restrictions as necessary to comply with fire apparatus access requirements and pedestrian safety. It is noteworthy that the use of paved private access easement effectively reduces the useable area of the servient lots in amounts ranging from ±650 square feet to ±1,500 square feet (for Lots 9 and 10).

(2) Double Frontage Lots

Double frontage lots (lots having frontage on two streets) "...should be avoided whenever possible" SMC 10.50.041(e)(4). Potential double frontage in the current case arises from the

necessity for private streets to utilize the site consistently with the Planned Development. The intent behind avoidance of double frontage is not expressed in so many words in the zoning or subdivision standards, and no policy perspective is included in the staff report or written materials, but the plain language calls for avoidance and is presumably considered to be appropriate to meet the purposes of the City's zoning controls in SMC 10.02.020. It appears that no other subdivisions in the area include lots with double lot frontage (other than corner lots). However, the configuration is not readily avoidable if the block design and lot size proposed in the Planned Development is to be implemented.

(3) Minimum Lot Width.

The reduced widths of Lots 7, 9 and 10 are minimal (less than one foot) and are likely a result of fitting the lots to the site and to accommodate the private street system. Lot 1 does not meet the standard, but only because it is measured at the rear of the front yard. Farther back, lot width exceeds 60 feet. There is no intent given by the zoning or subdivision codes for lot width requirements, but the staff report indicates that the widths are typically required to avoid irregularly shaped lots and ensure that setbacks can be met. Corner lots may need more width because they have larger side setback standards, and also to provide enough area to accommodate vehicles where there is direct access to a street. Due to the minor amount of reduction and the other characteristics of these lots, they would remain practicably developable.

(4) Public Comment on Street Design.

Comments raised concerns about an apparent street jog indicated on the preliminary plat in the vicinity of Lots 7, 8, 21 and 22. Public street design on the plat is appropriately to be conditional subject to City approval for consistency with subdivision design standards prior to street construction, and can be addressed by conditions on preliminary plat approval.

From the foregoing findings, the Hearing Examiner makes the following

IV. CONCLUSIONS.

1. Any of the foregoing Findings that are more suitably characterized as conclusions are deemed to be such.
2. Notwithstanding the delay in recordation of the West Goodlander Annexation ordinance, the Hearing Examiner has jurisdiction to conduct an open record hearing on the applications for a PD rezone and associated subdivision, and to make a recommendation to the Selah City Council regarding approval or denial of applications. The approval recommendation can be conditional, and nothing requires that a recommendation for denial be a denial with prejudice.
3. The application materials do not provide sufficient information to confirm compliance with Chapter 10.24 as indicated by SMC 10.24.060, and as discussed in the Findings at pp 10-12. Such information would typically be subject to review and comment in the required public

hearing, but would be insulated from such comment if a recommendation for approval was made conditional upon the future submission of such information.

4. Based on current information in the record, the Planned Development zone would not be responsive to complaints that the project is inconsistent with protection of and harmony with neighboring uses described in *Comprehensive Plan* objectives and policies as discussed at pp. 6-9 in the findings. In absence of effective responses to those matters, particularly any showing that “*quality of the project design, construction and amenities warrants a different housing density*” than a density approximating the neighboring densities, the Planned Development is not harmonized with the *Comprehensive Plan*. Because the concerns raised at the hearing are tied to considerations in the *Comprehensive Plan*, they are not mere expressions of displeasure. *Sunderland Family Treatment Services v. City of Pasco*, 127 Wn.2d 782, 903 P.2d 986 (Wash. 1995)

5. If the Planned Development rezone is subject to the Minor Rezone review criteria in Chapter 10.40 SMC, the application materials and hearing evidence fails to show that such a rezone is supported by public need or that a material change in circumstances related to the property has occurred that renders the rezone appropriate. However, if a Planned Development project otherwise meets the requirements of Chapter 10.24 SMC, that ordinance does not require by its terms that the “verified rezone application” be reviewed under Chapter 10.40 SMC.

6. Based on the incompleteness of the application materials and hearing information for purposes of showing that the proposed Planned Development complies with *Comprehensive Plan* provisions, objectives and policies, a recommendation of approval, even with conditions, is not appropriate. However, there is no basis for concluding that the information cannot be developed to show *Comprehensive Plan* compliance or that the development plan and program cannot be amended to address the issues raised at the open record hearing. Consequently, a recommendation for denial can be for denial without prejudice, so that the appropriate information or amendment might be developed.

7. If the City Council is persuaded that the Planned Development meets the requirements of Chapter 10.24 SMC notwithstanding a recommendation for denial, the approval should be appropriately conditioned on the following requirements as set out in the staff report:

1. All design and/or improvement notations indicated on the preliminary plat are included herein as conditions of preliminary plat approval. (Including, but not limited to, dedicated right-of-way width, easement widths and locations, lot size and configuration).
2. A preliminary engineering report and/or plan, prepared by a Licensed Professional Engineer, demonstrating the feasibility of construction of all public improvements required by Selah Municipal Code, Chapter 10.50, must be submitted to the Public Works Director for approval, including approval of compliance with public street alignment requirements.

3. All final plans and specifications for improvements must be prepared by a Licensed Professional Engineer and reviewed and approved by the Public Works Director prior to construction. Specifications for improvements shown on the preliminary plat are minimum specifications that may be superseded by conditions contained herein or by specific conditions as approved by the Public Works Director. Upon completion of construction and prior to final plan approval, final 'as-built' construction plans and a written certification by a Licensed Professional Engineer that said improvements were completed in accordance with the approved construction plans must be submitted to the Public Works Director for approval.
4. Reports, plans and specifications previously submitted shall count toward meeting the requirements of Conditions #2 and #3 if accepted by the Public Works Director to the extent of the improvements for which they are determined to be sufficient.
5. Lyle Loop Road: Street improvements must be constructed to City standards as approved by the Public Works Director including 50 foot wide right-of-way, 32 foot wide asphalt pavement, concrete rolled (or better) curb and gutter, five (5) foot wide sidewalk on one street side and street illumination. The sidewalk shall be installed on the same side of the street as it is on the existing completed portion of Lyle Loop Road. Utility improvements shall be extended beyond street pavement edge to facilitate future extension where appropriate. Street grade shall not exceed 10%.
6. Lyle Loop Road shall be constructed in its entirety prior to the recording of Phase 1 or a temporary turnaround constructed to City standards shall be provided at the point at which it ends.
7. The private interior street shall be constructed as a hard-surfaced street to specifications approved by the Public Works Director prior to recording a final plat for Phase 3. The street shall have a minimum surface width of 20 feet. This improvement is not required as a condition of final plat recording beyond (east of) the point at which it enters Lot 6.
8. Covenants or a road maintenance agreement, providing for the perpetual maintenance of the private roadway and that establish a road maintenance fund shall be recorded with the Yakima County Auditor and a recorded copy submitted to the Selah Community Planner prior to recording the final plat.
9. Documentation of the proposed use and ownership of the common open space shall be provided prior to recording a final plat for any phase. Documentation shall include covenants, establishment of a homeowner's association or deed restrictions and they shall be recorded prior to recording any final plat. It may be combined with the covenants or agreement required for maintenance of the private roadway. Documentation shall also

establish or demonstrate legal access by all residents of the plat to the common open space.

10. Street illumination shall be installed by the developer at locations and to the specifications of the Public Works Director (typically at 300 foot intervals or as otherwise determined by the Director of Public Works in order to maximize illumination). Street lights shall be installed on metal poles.
11. All lots must be served with a full range of public and private services and utilities including public water and sewer, power, natural gas and telephone. All utilities except for the standard telephone box, transmission box and similar structures shall be underground and installed prior to the surfacing of streets. All utilities placed beneath streets, curbs or sidewalks shall be extended beyond these features to avoid them being disrupted by future extensions.
12. There shall be a moratorium on public street cuts for a period of five (5) years from the date of plat recording.
13. Fire hydrants shall be provided and installed by the developer at locations approved by the City of Selah Fire Chief and to the specifications of Selah Municipal Code, Chapter 11.30.
14. Final lot dimensions and lot area must substantially conform to the preliminary plat unless otherwise amended during the public hearing process.
15. Storm Water drainage facilities to accommodate runoff generated in the plat must comply with a drainage facilities plan prepared by a Licensed Professional Engineer and approved by the Public Works Director. Plans submitted previously will count toward meeting this requirement if approved by the Public Works Director. Additional documentation may be required for portions of the site not covered by any such previously submitted plans.
16. Prior to final plat recording, all required plat improvements (utilities, streets, drainage facilities, etc.) must be installed and accepted by the City or a surety bond pledged to the City to ensure installation of the plat improvements within two years of final plat recording.
17. Planned Development approval shall be in substantial conformance to the project design as described in the project narrative, application materials and on the face of the preliminary plat. Setbacks, building height and lot coverage shall be to the standards required in the R-1 district by the zoning ordinance. Lot size and lot width shall either

conform to the approved preliminary plat or meet minimum R-1 standards. This condition is not intended to preclude modifications otherwise allowed under SMC 10.24.110.

18. All required street signs, posts and appurtenances must be supplied by the developer and will be installed by the City.
19. The following note shall be placed on any final plat map:

“The owners shown hereon, their grantees and assignees in interest, hereby covenant and agree to retain all surface water generated within the plat on-site.”
20. Lots in Phase 3 shall be served by an 8 inch sewer line extended in the utility easement across Lots 9 and 10 and then continued to all of the individual Phase 3 lots in the access and utility easement as shown on the Preliminary Plat.
21. Prior to final plat recording, a surety bond, or such other secure financial method acceptable to the City, in the amount of 15% of the cost of the public improvements as determined by the Public Works Director (streets, sidewalks, street lights, drainage facilities, sewage collection and water distribution facilities, etc.) must be remitted to the City and will be held for a period of two years from the date of final plat recording to guarantee against defects in materials and workmanship.
22. Improvements required for the subdivision must be completed and the final plat must be submitted within the maximum time period required by RCW 58.17.140. If this decision is issued on or before December 31, 2014, that time period is 7 years. Otherwise, it is 5 years. A one-time, one-year extension may be authorized in accordance with SMC 10.50.033(c) but the request must be made before the 7-year time period ends.
23. Any changes to the plan or program shall be subject to review in accordance with Chapter 10.24 SMC.

From the foregoing Findings and Conclusions, the Hearing Examiner makes the following

V. RECOMMENDATION.

The application by Zuker-Sample Development LLC. to rezone property describe in the Preliminary Planned Development of Somerset II, dated January 13, 2014 from One-family Residential to Planned Development and to subdivide the same property into 24 single family residential lots, as specified in the application materials (File No. 912.42.14-05 and 914.42.14-04), should be DENIED without prejudice, with allowance for reopening the open record proceeding commenced in accordance SMC 10.24.060 to allow consideration of and public

comment on additional information and amended development plan or program material submitted by the Applicant in its discretion.

DATED THIS 19th DAY OF DECEMBER, 2014.



**PATRICK D. SPURGIN
HEARING EXAMINER**

Somerset II

914.42.14-04 R-1To PD (Planned Development) Official Zoning Map Amendment

912.42.14-05 Somerset II Preliminary Plat

917.42.14-07 Environmental Review

EXHIBIT LIST

LIST OF DOCUMENTS PERTAINING TO SOMERSET II

<u>EXHIBIT NO</u>	<u>DESCRIPTION OF ITEM</u>
1	Purpose of the Comprehensive Plan
2	SUGCP- Future Land Use Map
3	Proposed Somerset II Plat Map
4	Chapter 10.50 Regulation
5	Legal Brief
6	Chapter 10.24 Selah Municipal Code
7	Chapter 10.24.030 Selah Municipal Code
8	City Of Selah Notice of Public Hearing
9	Proposed Plat of Somerset Estates Submitted to Yakima County
10	BCDC Submitted to Yakima County Resolution 280-1997 Preliminary Plat Approval
11	Preliminary Plat Application of Somerset II Submitted to Yakima County
12	Copy of Auditors Office Filing Selah Ordinances # 1935
13	Final Determination Of Nonsignificance
14	Somerset II Email

PURPOSE OF THE COMPREHENSIVE PLAN

The Selah Urban Growth Area (UGA) is composed of the area within the current incorporated city and potential future growth area for the City of Selah.....

The Plan, then, is a guidebook to aid the City of Selah and Yakima County in reviewing or initiating change. It attempts to give an overall perspective of the Selah UGA. **It establishes the necessary principals, criteria, and policies with which to make logical land use decisions.**

To this purpose, the Plan establishes a process through which the Selah UGA can grow in a coordinated manner. The Plan allows for an understanding of existing conditions and accepted planning principals. It then provides for an evaluation of these conditions and principals with respect to the attitudes of the community (in terms of local goals, objectives and policies). Support facilities and limits to providing these facilities are then explored. Local attitudes, existing conditions and the configuration of future services are incorporated into the elements of the Plan.

When changes to the existing environment are proposed, it should be carried through this review process:

- **What is the relationship of this change to existing conditions?**
- **Would the change conform to established principals or current community policies?**
- **Is the change in general agreement with the growth objectives as graphically represented on the Future Land Use Map?**
- **What will be the implications of the change on the transportation system, support facilities, and the natural environment?**

Chapter 10.24.010 - PLANNED DEVELOPMENT (PD) ZONING DISTRICT (Selah Municipal Code)

A planned development zone approved in accordance with this chapter shall be a separate zoning district. Regardless of underlying zoning requirements, **a planned development zone may permit all proposed uses and developments that can shown to be in conformance with the policies of the comprehensive plan.** A planned development zone may be permitted at any location subject to the provisions of this chapter. Approval of a planned development zone shall modify and supersede all regulations of the underlying zoning district. An applicant may also file a subdivision or binding site plan application which, if filed, may be processed concurrently with the planned development zone application.

The purpose of this chapter, providing for the establishment of a planned development zone, is to allow new development that is consistent with the comprehensive plan but that would not be readily permitted in other zoning districts due to limitations in dimensional standards, permitted uses, or accessory uses. In addition, planned development zones may:

- (1) **Encourage flexibility in design and development that are architecturally and environmentally innovative, that will encourage a more creative approach in the development of land, and which will result in a more efficient, aesthetic and desirable utilization of the land than is possible through strict application of standard zoning and subdivision controls; provided, that subdivision controls are applicable to planned development zoning only when a planned development zone application is combined with a proposal to divide land into lots.**

Housing.... (Selah Urban Growth Area....Purpose of the Plan)

GOAL: Encourage the availability of affordable housing to all economic segments of the population, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock.

Objective HSG 1: Maintain and upgrade the character of existing residential neighborhoods.

Policy HSG 1.2: Encourage new single-family development throughout existing single-family neighborhoods as redevelopment and infill construction at appropriate densities.

Objective HSG 2: Encourage new residential development to approximate existing residential densities and housing mix levels.

Policy HSG 2.1: Encourage the combined net density of all residential development to remain at present levels. Exceptions to this policy should be permitted where the developer can demonstrate that the quality of the project design, construction and amenities warrants a different housing density.

R-1 STANDARD IN SELAH URBAN GROWTH AREA IS 5 RESIDENCES PER ACRE OR 8,000 SQ FT PER LOT.

WHAT IS THE CHANGE OF CONDITIONS JUSTIFYING THE CHANGE OF ZONING TO REDUCE LOT SIZE?

APPLICATION INFORMATION REQUIRED: PLANNED DEVELOPMENT (PD) ZONING DISTRICT

10.24.030 - Development plan and program.

The notice required by Section 10.24.020 shall be accompanied by a plan and program for the area within the boundary of the project, which plan and program shall consist of the following:

(1)An accurate map drawn to scale of not less than one inch to one hundred feet depicting the following:

(A)The boundaries of the site,

(B)Names and dimensions of all streets bounding or touching the boundaries of the site,

Private road is not named

(C)Horizontal and vertical dimensions of all buildings and structures proposed to be located on the site which shall include drawings, architectural renderings or photographs of proposed buildings which will become part of the public record,

Pictures do not reflect the setbacks, driveway and sidewalk coverage, house footprint, height of buildings.

(D)Proposed location and dimension of "common or community open space,"

(E)Proposed public dedications,

(F)Location of off-street parking facilities, showing points of ingress to and egress from the site,

Absent the structure footprint there is no way of determining appropriate parking location off street. Also, where are the covenants for parking on the "private road" if allowed?

(G)Location and direction bearing of all major physiographic features such as railroads, drainage canals and shorelines,

(H)Existing topographic contours at intervals of not more than five feet,

(I)Proposed contours at intervals of not more than one foot,

The drawing has no contour lines, which are needed to relate to access of the public area and additional square footage needed in lots 1 and 13.

(J)Proposed drainage facilities,

They may be on file but this a different configuration than the previous application and drainage facilities are required on the current application drawing.

(K)Proposed landscaping,

(L)Building types and intensities,

(M)Pedestrian and vehicular circulation pattern,

(N)Proposed subdivision map, in the event the proposed planned development application is combined with a proposal to divide land into lots, identifying proposed lot configuration and size in square feet);

(2)A written program for development setting out detailed information concerning the following subjects as they may be involved in or provided for by the planned development project:

(A)Proposed ownership pattern,

(B)Operation and maintenance proposal, i.e., homeowner association, condominium, co-op or other,

If allowed, the "private road" will require, maintenance, snow removal, liability insurance, street light power fee and use control language. Additionally, the public area will require a homeowners association regarding the supervision and maintenance. The public area is not only inadequate but virtually inaccessible because of the steep slope it located upon.

(C)Waste disposal facilities,

(D)Lighting,

The lighting isn't sited on the drawing, considerations will need to be identified because of the slope of the development and the lights will be too low for the uphill lots. Sommerset I (phase one) of the original development has metal poles and homeowners were told at purchase time that the rest of Sommerset II would match the quality of Sommerset I.

(E)Water supply,

(F)Public transportation,

(G)Community facilities,

No legitimate access to this area from Herlou Drive or the adjacent lots.

(H)General timetable of development.

It is unacceptable to construct a few homes and leave the earth disturbed creating runoff issues and windblown dust. The local home owners have a right to expect a development to have a completion date or it will affect their property values. Unless the road, sidewalk and curbs are finished before starting there will also be traffic and water runoff issues.

APPLICATION SUPPLIMENT

- (2) Since this property was included in the urban growth area (GMA) of Selah, although it was in Yakima County, the Growth Management Act (GMA) of the 1990s gave the City of Selah comprehensive land use and zoning approval. This act required diverse housing, efficient use of property and aesthetic design. This proposed project, meets those criteria.

The state in its implementation of the GMA recognized the R-1 designation and low density of 5 residences per acre. At no time did the state recommend reducing this 8,000 sq. ft. lot size to meet diverse housing or demand efficiency in R-1 by reducing the 8,000 sq. ft. Sommerset II is in an R-1 zone, has no physical limitations that can be construed to require a reduced lot size. Additionally, Sommerset I, advertised this phase (Sommerset II) would match the Sommerset I development.

There should be a profile drawing of the development roads and lots to present the slope challenges of the Sommerset II development areas.

10.40.040 - Major rezones.

Amendments to the zoning map that are contingent upon legislative approval of a comprehensive plan amendment shall be considered a major rezone.

(c) Decision criteria the planning commission shall issue a written recommendation to approve, approve subject to a development or concomitant agreement, modify or deny the proposed comprehensive plan amendment/major rezone. The recommendation shall include the following considerations:

- (3) The public need for the proposed change. Public need shall mean that a valid public purpose, for which the comprehensive plan and this title have been adopted
- (4) Whether substantial changes in circumstances exist to warrant an amendment to the current designation or zone;
- (5) The testimony at the public hearing;
- (6) The compatibility of the proposed zone change and associated uses with neighboring land uses;
- (7) The suitability of the property in question for uses permitted under the proposed zoning;

10.40.070 - Minor rezones.

(a) Rezone applications that are not dependent upon a comprehensive plan amendment shall be considered minor rezones. These quasi-judicial actions may be processed at any time. **The review criteria for minor rezones shall be the same as those listed in Chapter 10.40.050(c).**

10.50.000 - Title, purpose, scope and administrating authority.

(a) Title. This chapter shall be known as the "Selah Subdivision Code."

(b)Purpose. The purpose of this chapter is to regulate the subdivision of land and to promote the public health, safety and general welfare in accordance with standards established by the city and state of Washington, to prevent the overcrowding of land, to lessen congestion in the streets and highways, to provide for adequate light and air, to facilitate adequate provisions for water, sewerage, parks and recreation areas, sites for schools and school grounds and other public requirements, to provide for proper ingress and egress, and to provide uniform monumenting of land subdivisions and conveyance by accurate legal description

ADDITIONAL DEVELOPMENT CONCERNS

Surface coverage % is unidentified in the development.

Lot 1 and 13 square footage needs to be adjusted (increased) because of surface slope.

10.12.030 - Lot size.

(a)The minimum lot size requirements for any newly created lot (including lot line adjustments) in this district are progressive based on slope and utility provisions:

<10% Municipal water and sewage system 8,000 sq. ft.

>10%

<15% Municipal water and sewage system 10,000 sq. ft.

>15%

<20% Municipal water and sewage system ½ acre

>20%

<25% Municipal water and sewage system 1 acre

>25% 5 acres

The "Private road" appears to reduce lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 well below 7,000 sq. ft."

R-1 minimum is 8,000 sq. ft. per lot

Five lots don't meet a minimum width of 60.0'...lots 1, 7, 9, 10, 15

Lots 3 and 4 have an easement that is required by the position of a fire hydrant, can they use the easement for a driveway or parking within that zone. Does the Selah Police Department have the authority to issue tickets for parking too close to that hydrant on the "private road"?

Open public space is an insult, half of the identified 1,233 sq. ft. is entered on a hillside so steep that it can't be walked down.

10.50.041 DESIGN STANDARDS AND SPECIFICATIONS

C (10)....A Tangent of ..."One hundred feet for residential access streets" shall be provided between reverse curves (C3 into C4)

E (3) Each lot must front on a public street.

E (4) Lots having frontage on two streets should be avoided whenever possible.

Lots 7, 8, 11, 12 have roads on two sides.

Lots 9 and 10 have roads on three sides.

10.50.00 Platting and Subdivision requirements

10.50.010 Definitions....there is no recognition or definition of an entity called a "private road".

Is it a "Private road" if it is required for ingress and egress for six lots?

No Cul-de-Sac

No curbs/gutters for water runoff No sidewalk

Limited on street parking safely (20' road surface)

Access for Selah school district handicap bus...Americans with Disability Act

No Cul-de-Sac for handicap bus turn around

10.50.044 SIDEWALK STANDARDS

The sidewalk shall be installed on the public right of way contiguous to the curbs.

Where are the sidewalks serving lots 1, 2, 3, 4, 5, 6?

SEPA statement is inaccurate and incomplete

Sommerset I (Roy Sample) made a commitment to maintain lot size and residential quality through the Sommerset II development phase.

Consistency with culture of other lots and residences in the neighborhood.

"Private roads" are not allowed, acknowledged or promoted in the Selah Municipal Code

Sommerset I HAS 8,000 + SQ FT lots (Sommerset II proposed is 7,000 sq. ft.)

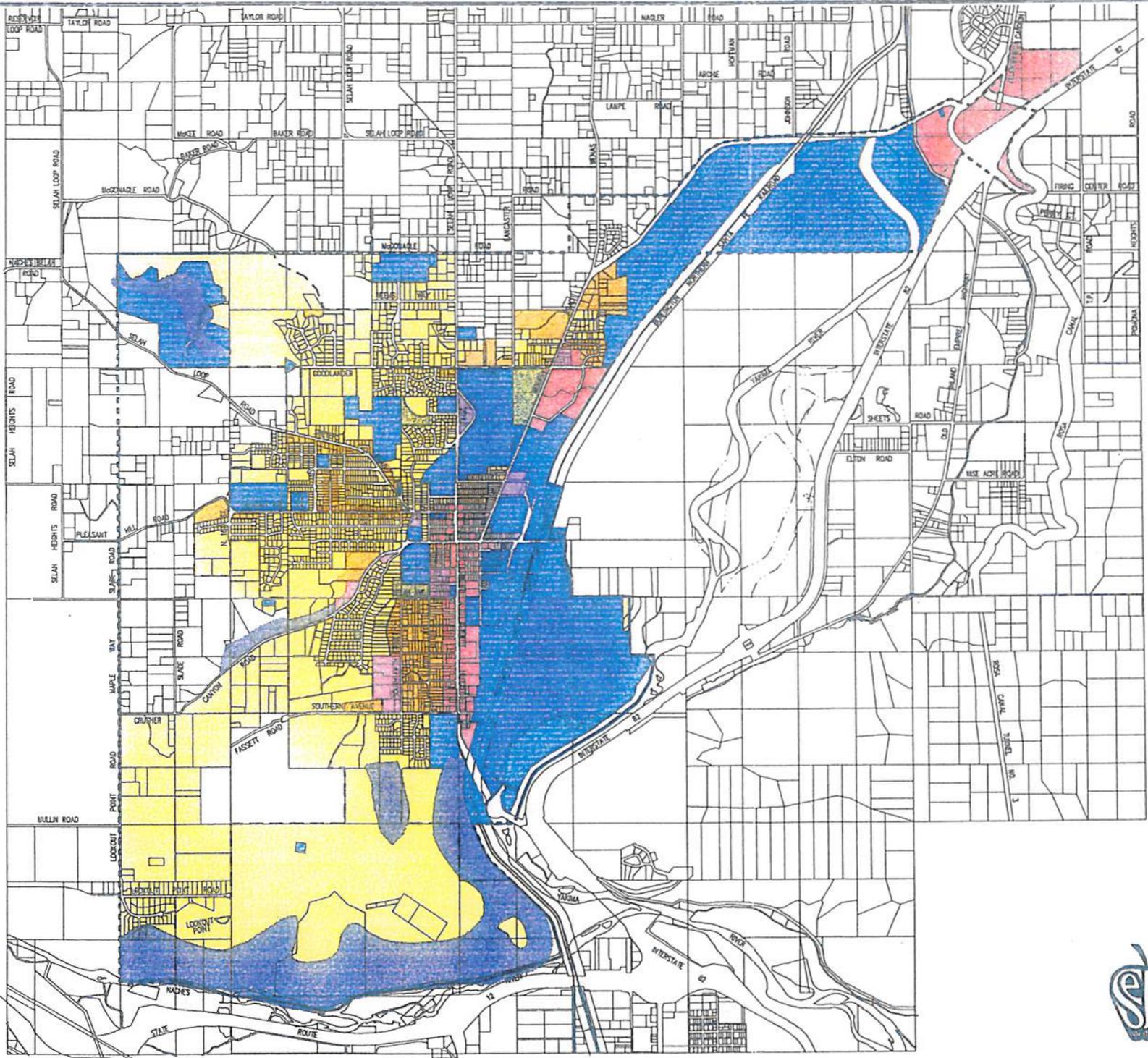
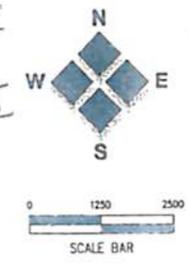
Weems Way has 20, 000 SQ FT lots

Increased and future traffic should be considered. Berger family has about 20 acres that is developable West of Herlou Drive.

Design for privacy from upper floors looking into adjacent yards

Substandard homes on substandard lots will become rental homes.

EXHIBIT 3.7
 12-4-14
 SOMERSET II



FUTURE LAND USE MAP

COLOR LEGEND

- LOW DENSITY RESIDENTIAL
- 0 TO 5 DWELLING UNITS PER ACRE
- MODERATE DENSITY RESIDENTIAL
- 0 TO 12 DWELLINGS UNITS PER ACRE
- HIGH DENSITY RESIDENTIAL
- 0 TO 24 DWELLING UNITS PER ACRE
- COMMERCIAL
- INDUSTRIAL
- INDUSTRIAL SPRAYFIELD
- PARKS
- QUASI-PUBLIC OPEN SPACES
- FLOODWAY
- STEEP SLOPES
- URBAN RESERVE

CITY OF SELAH

- MUNICIPAL BOUNDARY
- URBAN GROWTH AREA BOUNDARY
- MUNICIPAL BOUNDARY & URBAN GROWTH AREA BOUNDARY



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EXHIBIT 3.7

PRELIMINARY PLANNED DEVELOPMENT

OF

SOMERSET II

IN THE S 1/2 OF THE SE 1/4 OF SECTION 26, TOWNSHIP 14 NORTH, RANGE 18 EAST, W.M.
CITY OF SELAH, YAKIMA COUNTY, WASHINGTON

E 1/4 CORNER SEC. 26,
T-14 N, R-18 E, W.M.

12-9-14 Somerset II

LEGAL DESCRIPTIONS

PARCEL A

THE SOUTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER AND THE SOUTH 110 FEET OF THAT PART OF THE NORTH HALF OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER LYING WEST OF THE MAIN LATERAL OF THE WADSWORTH-SELAH CANAL, IN SECTION 26, TOWNSHIP 14 NORTH, RANGE 18 EAST, W.M.;

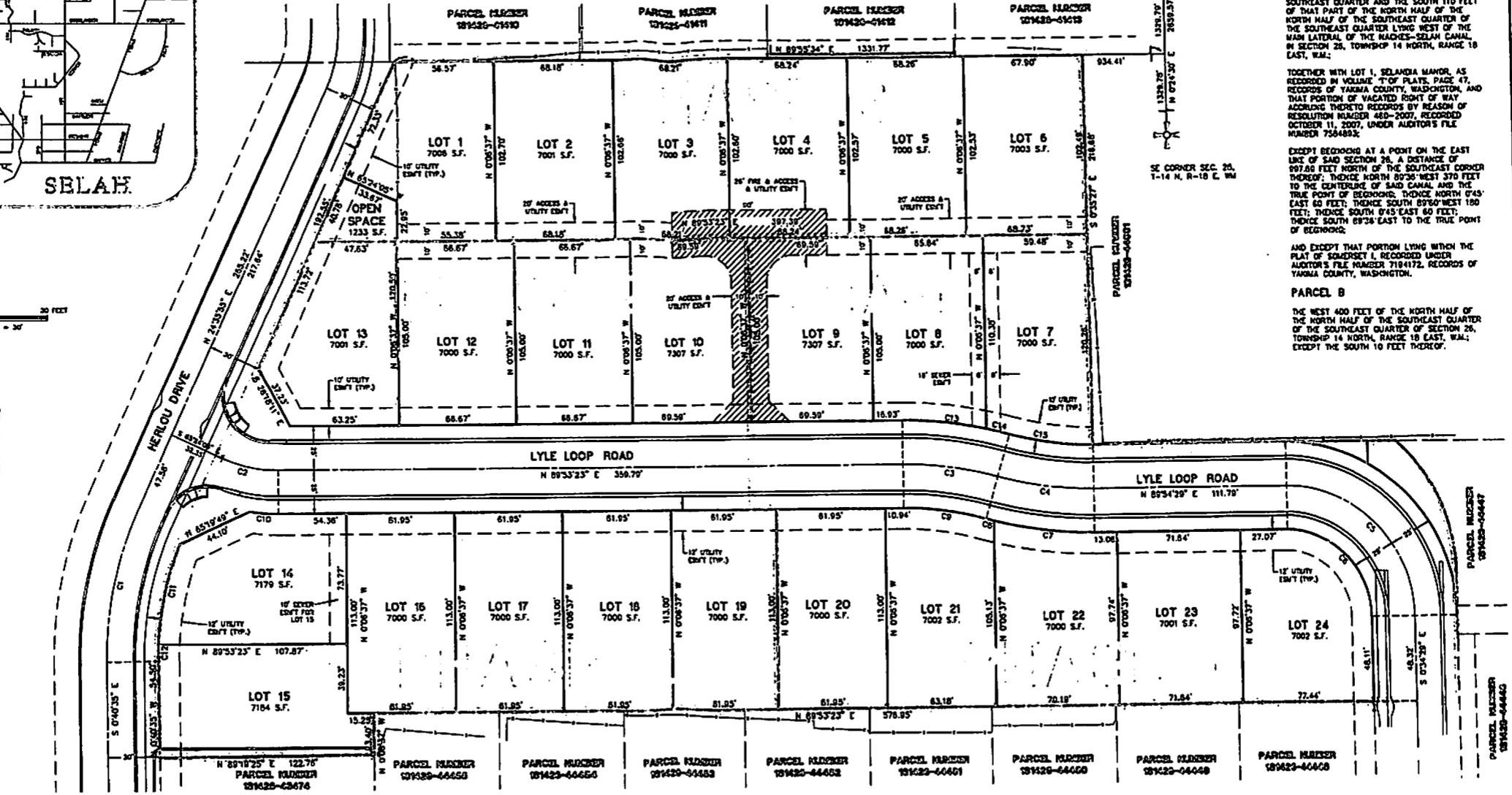
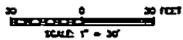
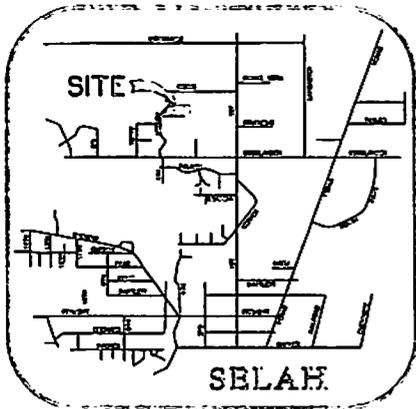
TOGETHER WITH LOT 1, SELANDIA MAJOR, AS RECORDED IN VOLUME 7 OF PLATS, PAGE 47, RECORDS OF YAKIMA COUNTY, WASHINGTON, AND THAT PORTION OF VACATED FRONT OF WAY ACCORDING THERETO RECORDED BY RESOLUTION NUMBER 460-2007, RECORDED OCTOBER 11, 2007, UNDER AUDITOR'S FILE NUMBER 7584892;

EXCEPT BEGINNING AT A POINT ON THE EAST LINE OF SAID SECTION 26, A DISTANCE OF 997.68 FEET NORTH OF THE SOUTHWEST CORNER THEREOF, THENCE NORTH 89°54'29" WEST 370 FEET TO THE CENTERLINE OF SAID CANAL AND THE TRUE POINT OF BEGINNING, THENCE NORTH 0°45' EAST 60 FEET, THENCE SOUTH 89°54' WEST 180 FEET, THENCE SOUTH 89°54' EAST 60 FEET, THENCE SOUTH 89°54' EAST TO THE TRUE POINT OF BEGINNING;

AND EXCEPT THAT PORTION LYING WITHIN THE PLAT OF SOMERSET I, RECORDED UNDER AUDITOR'S FILE NUMBER 7194172, RECORDS OF YAKIMA COUNTY, WASHINGTON.

PARCEL B

THE WEST 400 FEET OF THE NORTH HALF OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 26, TOWNSHIP 14 NORTH, RANGE 18 EAST, W.M., EXCEPT THE SOUTH 10 FEET THEREOF.



CURVE #	RADIUS	DELTA	LENGTH	TANGENT	CHORD BEARING	CHORD LENGTH	CURVE #	RADIUS	DELTA	LENGTH	TANGENT	CHORD BEARING	CHORD LENGTH
C1	200.00	25°16'30"	85.23	44.84	S 115°7'40" W	87.51	C8	175.00	18°57'33"	48.46	24.40	N 82°10'20" W	48.34
C2	75.00	24°43'32"	32.34	16.43	S 77°43'21" E	32.08	C9	100.00	17°17'35"	16.32	8.13	S 85°27'50" E	16.20
C3	200.00	15°34'23"	85.43	27.86	N 82°10'20" W	83.24	C10	170.00	16°40'04"	48.40	24.48	S 12°18'00" W	58.11
C4	200.00	15°31'27"	85.33	27.83	S 82°08'47" E	85.18	C11	170.00	17°00'04"	48.35	24.48	S 05°33'59" W	8.33
C5	75.00	25°31'01"	32.18	16.37	N 43°20'00" W	105.62	C12	225.00	12°33'16"	48.30	24.75	N 83°48'04" W	48.30
C6	30.00	89°31'01"	32.18	16.37	N 43°20'00" W	70.41	C13	225.00	12°33'16"	48.30	24.75	N 83°48'04" W	13.04
C7	225.00	14°41'10"	85.93	28.10	S 82°09'24" E	85.78	C14	175.00	15°01'27"	48.43	24.37	S 82°08'47" E	48.78
C8	225.00	10°19'10"	4.53	2.27	S 78°48'41" E	4.53							

OWNER/DEVELOPER
ROY SAMPLE FOR:
ZUKER-SAMPLE, L.L.C.
P.O. BOX 250
SELAH, WASHINGTON 98942

SURVEYOR/ENGINEER
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PRELIMINARY PLANNED DEVELOPMENT
OF PARCEL NO'S. 181426 - 44005 & 44021
— PREPARED FOR —
ZUKER-SAMPLE, L.L.C.

DATE: 1/13/2014
JOB NO. 09155
SHEET NO. 1 of 1

EXHIBIT 4
12-4-14
SOMERSET II

Selah, Washington, Code of Ordinances >> Title 10 - ZONING >> Chapter 10.50 PLATTING AND SUBDIVISION REGULATIONS >>

Chapter 10.50 PLATTING AND SUBDIVISION REGULATIONS**Sections:**

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10.50.000 Title, purpose, scope and administrating authority.

- (a) Title. This chapter shall be known as the "Selah Subdivision Code."
- (b) Purpose. The purpose of this chapter is to regulate the subdivision of land and to promote the public health, safety and general welfare in accordance with standards established by the city and state of Washington, to prevent the overcrowding of land, to lessen congestion in the streets and highways, to provide for adequate light and air, to facilitate adequate provisions for water, sewerage, parks and recreation areas, sites for schools and school grounds and other public requirements, to provide for proper ingress and egress, and to provide uniform monumenting of land subdivisions and conveyance by accurate legal description.
- (c) Scope. This chapter shall apply to all land within the municipal boundary of the city of Selah including any lot or block forming part of any subdivision created and recorded prior to the effective date of this chapter. Where this chapter or other standards adopted by reference imposes greater restrictions or higher standards than other laws, ordinances or restrictive covenants, the provisions of this chapter shall prevail.
- (d) Administering Authority. The authority for the administration of this chapter shall be the city council. Administrative functions, powers and duties arising from this chapter are delegated by this chapter to the city administrator, planning commission, and planning department. The planning department may prepare and require the use of such forms and documents as are essential to the proper administration of this chapter.

(Ord. 1635 § 1, 2004. Ord. 524 (part), 1974.)

(Ord. No. 1879, § 1, 5-8-12)

10.50.010 Definitions.

For the purpose of this chapter certain terms, abbreviations, phrases, words and their derivatives shall be construed as specified in Selah Code [Title 10](#) except as specific definitions are set forth by this chapter. When not inconsistent with the context, words used in the present tense include the future; the singular includes the plural and the plural the singular; "shall" and "will" are always mandatory and the word "may" is permissive and indicates the use of discretion.

- (a) "Alley" as defined in Selah Municipal Code, Title 10, Appendix A, Section A.
- (b) "Block" as defined in Selah Municipal Code, Title 10, Appendix A, Section B.
- (c) "Comprehensive plan" means those coordinated plans including zoning ordinance in preparation or adopted by the city of Selah for the guidance of growth and the improvement of the city and which indicates the general locations recommended for the various functional classes of public works, places and structures (streets, parks, transportation facilities, public buildings, etc.).
- (d) "Cul-de-sac" means a residential access street closed at one end by a circular drive of sufficient radius for turning automobiles around.
- (e) "Dedication" means the voluntary donation of land by its owner for public use, reserving to himself no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted.
- (f) "Easement" means a grant by a property owner to a public agency or private party to use land for a specific purpose or purposes.
- (g) "Official plans" means those official maps or map or any portion adopted by ordinance as provided in R.C.W. 35 A.63 as amended.
- (h) "Plat" means a map or representative of subdivision showing the division of a tract or parcel of land into lots, blocks, streets, alleys or other divisions and dedications.
 - (1) "Preliminary plat" means a drawing of a proposed subdivision showing the layout of streets, alleys, lots, blocks and restrictive covenants to be applied to the subdivision along with the other elements of a plat or subdivision which shall furnish a basis for the approval or disapproval of a subdivision.
 - (2) "Final plat" means the final drawing of the subdivision and dedication prepared by a registered land surveyor or engineer for filing for record with the county auditor and containing all elements and requirements set forth in this chapter. After the county auditor has recorded the final plat, it shall thereafter be known as an authorized plat, subdivision or dedication.
- (i) "Public right-of-way" means any defined area dedicated to public use for vehicular and/or pedestrian use.
- (j) "Roadway" means the portion or portions of a street or way that is available for vehicular traffic or the portion or portions lying between curbs where curbs are laid.
- (k) "Street" means a public right-of-way which is intended to provide or which provides a roadway for vehicular circulation and gives access to abutting properties and which may also include provisions for public utilities, pedestrian walkways and drainage.
 - (1) "Arterial streets" means a roadway designed to collect and distribute traffic from different areas or neighborhoods within a community.
 - (2) "Residential streets" means a roadway whose primary function is to provide access to residential property within a neighborhood.
 - (3) "Street width" means the shortest distance between the lines which delineate the right-of-way of a street.
- (l) "Utilities" means water and sewer pipelines, drainage facilities, natural gas lines, overhead and underground electric lines, telephone lines, cable television lines and all necessary appurtenances commonly associated with these facilities.
- (m) "Subdivision" means the division of a lot, tract or parcel of land into five or more lots or other divisions of land for the purpose, whether immediate or future, of transfer of ownership, lease or building development, including all changes in street or lot lines and shall include all resubdivisions of land
 - (1) "Short subdivision" means the division of a lot, tract or parcel of land into four or less lots or other divisions of land for the purpose, whether immediate or future, of transfer of ownership, lease or building development, including all changes in street or lot lines and shall include all resubdivisions of land.
- (n) "Subdivision-undeveloped" means a subdivision or short subdivision where no building permit has been applied for or any lot, tract or parcel therein before the effective date of the ordinance codified in this chapter.
- (o) "Subdivider" means any person, firm or corporation who proposes to make or has made a subdivision.

(Ord. 1635 § 2, 2004; Ord. 524 (part), 1974.)

10.50.012 Subdivision fees.

The fee schedule for applications, permits, certificates, appeals and procedures contained in Selah Municipal Code, Title 10, Chapters 10.50.000 through 10.50.130 is contained in Selah Municipal Code, Title 20, Chapter 20.06.

(Ord. 1418 § 27, 1998.)

10.50.012-A Engineering and inspection fees.

An applicant requesting a preliminary or final long plat approval or short plat approval which has been reviewed by the city's consulting engineer, when requested by the city's public works director, shall be responsible for the engineering review and inspection fees incurred by the city.

- (1) Preliminary long plat and short plat engineering review fees shall be paid to the city prior to preliminary plat approval by the city.
- (2) Final long plat and short plat review and inspection fees shall be paid to the city prior to recording the final long plat or short plat.
- (3) Yakima County auditor recording fees and required official prints of the recorded document shall be paid by the individual requesting the recording of the final long plat or short plat.

(Ord. 1446 § 1, 1999.)

10.50.013 Qualified exemptions.

The city administrator may exempt the following actions from the requirements of this chapter as not constituting a division of a lot, tract or parcel of land for the purpose, whether immediate or future, of transfer of ownership, lease or building development, including all changes in street or lot lines and including all resubdivisions of land. This exemption is only available for those actions which do not contravene the spirit of this chapter, or of state law. Applications for exemptions shall be submitted to the city administrator accompanied by an application fee as established in Selah Municipal Code, Title 20, Chapter 20.06. In determining whether specific actions may be exempt, the city administrator may require submittal of pertinent instruments, court orders, affidavits and the like.

- (a)

A division of land by simultaneous merger of a fraction part of land into land contiguous on more than a single point, so long as no lot, tract or parcel is rendered nonconforming or more nonconforming with applicable zoning ordinance provisions.

- (1) "By simultaneous merger," for purposes of this section, means a specific declaration of merger with the new description of the lands contained within the correction deed or instrument of sale, lease or transfer. The deed or instrument shall be filed for record by the applicant in the Yakima County auditor's office with a copy to the administrator. No such merged fractional part may thereafter be sold, leased, transferred or developed through building permit or other development permit as a division separate or distinct from the land in which it is merged.
 - (2) The exception shall become null and void if the filing of the deed or instrument and transmittal of the copy to the administrator is not accomplished within ninety days from the grant of the exemption;
- (b) A division provided for by law not for the purpose of sale or lease including, in the absence of the administrator finding circumstances to the contrary, the following:
- (1) Financial segregations which do not involve a division of land through transfer of simple title. This exemption is limited to mortgages or deeds of trust executed solely for the purpose of securing financial obligations that are conducted in all respects in compliance with the laws governing same;
 - (2) A division by court order limited to the following and not including voluntary transfers of land in lieu of compliance with the applicable judicial procedures governing them: mortgage or deed of trust foreclosures, and property distributions between spouses pursuant to separation of dissolution proceedings.

(Ord. 1418 § 28, 1998; Ord. 770 § 1, 1981.)

(Ord. No. 1879, § 1, 5-8-12)

10.50.015 Filing of short subdivisions.

Any action which will result in a short subdivision of any lot, tract, parcel or plot of land for any reason whatsoever shall be subject to approval of the city administrator. Approval shall be based on standards and conditions herein set forth in this section.

(Ord. 537 § 1 (part), 1974.)

(Ord. No. 1879, § 1, 5-8-12)

10.50.016 Procedure.

- (a) All short subdivisions shall be submitted to the planning department for staff review. If the planning staff determines that the subdivision appears to have met all requirements for short subdivisions and the short subdivision contains sufficient elements and data to furnish a basis of commission action, the staff shall submit the short subdivision to the planning commission at the next regularly scheduled commission meeting.

The planning commission shall review the short subdivision in accordance with the provisions of this chapter, and shall recommend approval, approval with alterations, or denial of the proposed subdivision. Planning commission recommendations shall be forwarded to the city administrator for a decision.

The city administrator shall approve, approve with alterations, or deny the short plat within ten days of receipt by the planning department, unless the applicant consents to a time extension.

If the decision of the city administrator differs from the final recommendation of the planning commission, a review of such short plat and final determination shall be made by the city council.

- (b) An application for approval of a short subdivision shall be accompanied by an accurately scaled and dimensioned drawing of the proposed subdivision prepared by a civil engineer or registered land surveyor at a scale of one inch equals twenty feet or one inch equals fifty feet.
- (c) The application shall contain an accurate legal description of the area involved in the subdivision. In the event the boundaries are described by metes and bounds, the accuracy of the description shall be attested to and signed by a civil engineer or registered land surveyor. Basis of bearings shall be stated.
- (d) The total property owned by the applicant which is contiguous to the parcel being subdivided shall be accurately indicated on the drawing.
- (e) In the event the proposed subdivision will result in lots smaller than required by the zoning ordinance, the city administrator shall have the authority to approve the short subdivision if the resulting new lots are larger than those previously existing.
- (f) Land which the planning commission has found to be unsuitable due to flooding, bad drainage, swamp, steep grades or any other conditions likely to be harmful to the safety, welfare and general health of future residents, and the planning commission considers inappropriate for development, shall not be subdivided unless adequate means of control have been formulated and certified to by a civil engineer.
- (g) In the event the land to be subdivided has a slope or slopes of more than twenty percent and/or has rock or unstable soil conditions, the subdivider shall furnish soils data to the city administrator. If conditions warrant control measures to control slide, erosion or other similar problems, the subdivider shall be responsible for the design, installation and expense of any device or corrective measure, subject to approval of the city administrator.
- (h) All short subdivisions shall be prepared by a civil engineer or registered land surveyor, and shall be filed with the Yakima County auditor after final approval has been given by the city administrator, all public improvements have been installed and prior to the start of any construction.

(Ord. 1635 §§ 3, 4, 2004; Ord. 1418 § 29, 1998; Ord. 859, 1986; Ord. 537 § 1 (part), 1974.)

(Ord. No. 1879, § 1, 5-8-12)

10.50.017 Design standards and improvements required.

- (a) All easements, rights-of-way and improvements shall be in accordance with the standards established for regular plats.
- (b) Prior to granting approval for any short subdivision, the city administrator shall ascertain that the following improvements have been made or installed for each parcel created by the division of land:
 - (1) Water mains, fire hydrants and other necessary appurtenances;
 - (2) Sanitary sewer lines, manholes, and other necessary appurtenances;

- (3) Culverts and other drainage structures if required;
 - (4) Sidewalks, curbs, gutters and street paving;
 - (5) Appropriate dedications or easements, made if required;
 - (6) All improvements shall be installed at the cost of the subdivider;
 - (7) All improvements shall conform to grades and specifications established and approved by the city.
- (c) Performance bonds may be accepted in lieu of installation of the above improvements subject to approval of the city administrator and the city attorney.
- (Ord. 537 § 1 (part), 1974.)*
(Ord. No. 1879, § 1, 5-8-12)

10.50.018 Building permits restricted.

- (a) No building permit of any kind shall be issued for construction of any kind unless:
- (1) Such lot was of record prior to;
 - (2) Such lot is a division of a recorded subdivision; or
 - (3) Such lot was created in compliance with the provisions of Sections 10.50.015 through 10.50.019 of this chapter;
 - (4) A plot plan is submitted showing the placement of the structure upon the lot;
 - (5) Improvements and other requirements set forth in Section 10.50.017 have been made.
- (b) It shall be the responsibility of the property owner or contractor to establish the status of the lot as it pertains to the above.
- (Ord. 537 § 1 (part), 1974.)*

10.50.019 Resubdivision restricted.

Any short subdivision, or land involved in a short subdivision shall not be resubdivided for a period of five years from the date of approval of the short subdivision without the submission and approval of a final plat done in accordance with the provisions of Sections 10.50.015 through 10.50.019 of this chapter.

(Ord. 537 § 1 (part), 1974.)

10.50.020 Filing of preliminary plat.

A subdivider shall file six copies of the proposed application and preliminary plat, a preliminary title report, and any proposed covenants with the planning department.

(Ord. 1635 § 5, 2004; Ord. 524 (part), 1974.)

10.50.022 Review of submitted material.

If the planning department determines that the application is complete and contains all requirements for the preliminary plat and that the preliminary plat contains sufficient elements and data to furnish a basis for consideration by the hearing examiner the planning department shall affix a file number and date of receipt to the application and to promptly forward copies of the plans and data filed to the city engineer, Yakima County health district and the utilities for their review and reports. Reports will be requested within fourteen days.

(Ord. 1635 § 6, 2004; Ord. 524 (part), 1974.)

10.50.023 Hearing date.

Upon receipt of an application, the planning department, in consultation with the hearing examiner shall, within thirty days, fix the date at which the proposed preliminary plat shall be considered and reviewed by the hearing examiner at a public hearing.

(Ord. 1635 § 7, 2004; Ord. 524 (part), 1974.)

10.50.024 Notice of hearing before hearing examiner.

- (a) Notice of hearing shall be published once not less than ten days prior to the hearing in the official newspaper of the city.
- (b) Additional notice of such hearing may be given by mail, posting on the property or in any manner the planning department or hearing examiner deems necessary to notify adjacent owners and the public.

(Ord. 1635 § 8, 2004; Ord. 524 (part), 1974.)

10.50.025 Hearing examiner meeting—Duties of hearing examiner.

At the meeting of the hearing examiner the examiner shall consider all relevant evidence to determine whether to recommend that the preliminary plat be approved, conditionally approved or disapproved by the city council. The hearing examiner shall determine whether the proposed plat complies with the standards set forth in this chapter and those adopted by reference, including but not limited to, appropriate provisions for drainage, roads, alleys and other public ways, water supply, sanitary sewerage disposal, parks, playgrounds, fire protection facilities, minimum lot size and other public and private facilities and improvements and provisions contained in any of the city's adopted comprehensive plans (i.e., land use, sewage, storm drainage, transportation, water, etc.) and the zoning ordinance.

(Ord. 1635 § 9, 2004; Ord. 524 (part), 1974.)

10.50.026 Hearing examiner recommendations to council.

Not later than fourteen days following the hearing examiner meeting or any continued meeting, the hearing examiner shall submit a written report and recommendations to the city council. The hearing examiner may recommend that the proposed plat be approved, conditionally approved or disapproved. Conditions of approval shall be precisely recited in the hearing examiner's report and shall include recommended protective improvements, if any. The hearing examiner may, at the examiner's discretion, recommend higher standards than those set forth in this chapter if the examiner determines it is necessary to protect the health, safety, welfare and public interest of the city.

(Ord. 1635 § 10, 2004; Ord. 524 (part), 1974.)

10.50.030 City council—Public meeting—Consideration—Public hearing.

Upon receipt of the recommendation on any preliminary plat, the council shall, within forty-five days, consider the recommendation at a public meeting where it may adopt or reject the recommendations of the hearing examiner. If, after considering the matter at a public meeting, the council deems a change in the hearing examiner's recommendation approving, conditionally approving or disapproving any preliminary plat is necessary, the change of the recommendation shall not be made until the council conducts a public hearing and thereupon adopts its own recommendations and approves or disapproves the preliminary plat. Such public hearing may be held before a committee constituting a majority of the council.

(Ord. 1635 § 11, 2004; Ord. 524 (part), 1974.)

10.50.031 Public hearing if recommendation not accepted.

Notice of a public hearing as set forth above shall be provided in a manner consistent with Section 10.50.024. All notice shall be mailed a minimum of twelve days preceding the date of hearing.

(Ord. 1635 § 12, 2004; Ord. 524 (part), 1974.)

10.50.032 Council consideration.

At either the public meeting or public hearing the council shall determine whether the public interest would be served by approving the preliminary plat. It shall determine if appropriate provisions are made in the subdivision for, but not limited to, drainage ways, streets, alleys, other public ways, water supplies, sanitary wastes, parks, playgrounds, sites for schools and school grounds, and shall consider all other relevant facts and determine whether the public interest will be served by the subdivision and dedication. If it finds that the plat makes appropriate provisions for the above, then the preliminary plat shall be approved.

(Ord. 524 (part), 1974.)

10.50.033 Effect of approval of preliminary plat.

- (a) Approval of the preliminary plat by city council shall constitute authorization for the subdivider to proceed with developing the subdivision facilities in accordance with the standards and procedures established in this chapter, adopted by reference and including any conditions imposed by city council.
- (b) The subdivider shall have five years from the date of preliminary plat approval by city council to complete all improvements within the area of the preliminary plat and to comply with all conditions that may have been imposed by the council.
- (c) If the subdivider is unable to complete the improvements within the prescribed five year period of time, the subdivider may, prior to the expiration of the five year completion period, apply to the city council for a one-time extension, limited in length to a maximum period of twelve months, to record the final plat. Council may grant such extension only upon evidence that the applicant has made a good faith effort to complete the required facilities within the five year period and that failure to complete the required facilities was due to circumstances beyond his/her control. If a preliminary plat approval is subjected to judicial review the five year period will commence at the conclusion of such judicial review.

(Ord. 1635 § 13, 2004; Ord. 1374 § 1, 1998; Ord. 524 (part), 1974.)

10.50.040 Preliminary plat map preparation.

- (a) A vicinity map at a scale between one inch representing four hundred feet and one inch representing one thousand feet. The vicinity map shall show all adjacent subdivisions, true north arrow, type of land use, zoning, streets and with the names of owners of record of such parcels and amount they own;
- (b) Name and location of proposed subdivision, name and address of the owner or owners, name of the licensed land surveyor or engineer who prepared the preliminary plat;
- (c) Date of preparation, true north point and graphic scale;
- (d) On both land to be subdivided and adjacent land, locate the following: Existing and platted property lines, streets (should show streets in the proposed subdivision and their relationship with existing or proposed streets in adjacent subdivisions or undivided properties), buildings, watercourses, railroads, sewers, bridges, culverts, storm drains, water mains, all public or private utility or roadway easements, and any existing development or improvements;
- (e) The zoning applicable to the land to be platted, subdivided or dedicated, and of the land adjacent and contiguous to it;
- (f) Plans of proposed underground utility layouts (sanitary and storm sewers, cable T.V., water, gas, telephone and electrical power), showing connections to the existing or any proposed utility systems;
- (g) Contours shall be shown at vertical intervals of not more than five feet. The contour maps shall be referenced to the U.S. Coast and Geodetic Survey Datum;
- (h) The names, locations, widths and other dimensions of proposed streets, alleys, easements, parks and other open spaces, reservations, lot lines, yard requirements and utilities;
- (i) Number of lots, total square feet in each lot, percent of land in streets, and total area of proposed subdivision in acres;
- (j) The profiles and grades of each street, together with typical cross sections indicating width of pavement, location and width of sidewalks, and location and size of utility mains;
- (k) The proposed plat shall have attached to it copies of any proposed or existing restrictive covenants.

(Ord. 524 (part), 1974)

10.50.041 Design standards and specifications.

- (a) The most current design documents, including any amendment thereof, are herein adopted by reference and shall be considered the standards and specifications for the city. These standards and specifications, together with the laws of the state of Washington, ordinances and resolutions of the city, shall apply except as amended or superceded by city ordinance or resolution.
1. Standard Plans
 - for Road, Bridge and Municipal Construction
 - Washington State Department of Transportation
 - American Public Works Association, Washington State Chapter
 2. Standard Specifications
 - for Road, Bridge and Municipal Construction
 - Washington State Department of Transportation
 - American Public Works Association
 3. Construction Manual
 - Washington State Department of Transportation
 4. Manual on Uniform Traffic Control Devices
 - U.S. Department of Transportation
 - Federal Highway Administration
- (b) When land is subdivided such parcels shall be so arranged so as to allow for the opening of future streets and logical further subdivision, unless doing so is impractical for reasons of property size or topography.
- (c) In addition to the design documents adopted by reference, the following provisions shall apply:
- (1) The location of all public streets and roads shall conform to the official street plan adopted or in preparation by the city.
 - (2) The proposed public street system shall extend existing public streets at the same or greater width, but in no case less than the required minimum set forth in the street standards.
 - (3) Streets intersecting with existing or proposed public highways and major arterials shall be held to a minimum.
 - (4) Grades on arterial streets shall not exceed ten percent.
 - (5) Where a deflection angle of more than ten degrees in the alignment of a street occurs, a curve of reasonably long radius shall be introduced, subject to review and approval of the city engineer. On streets sixty feet or more in width, the centerline radius of curvature shall not be less than three hundred feet; on other streets not less than one hundred feet.
 - (6) All public streets shall be platted at full width, and no public boundary streets at less than full width shall be allowed unless required to provide right-of-way for streets and arterials designated by the official plans of the city.
 - (7) The city may require that street width in commercial or industrial areas be increased to provide for traffic movement and to reduce or eliminate traffic congestion. The city may require a traffic study to be prepared/paid for by the developer.
 - (8) Cul-de-sacs are permitted provided they do not exceed six hundred feet measured from the center of the turn-around to the nearest connecting street intersection. They shall neither have a street right-of-way width less than fifty feet nor a cul-de-sac right-of-way radius less than fifty-two and one-half feet. Industrial and commercial cul-de-sacs shall have the width and radius determined by the public works director.
 - (9) All changes in grade shall be connected by vertical curves of a minimum length of one hundred feet unless specified otherwise by the public works director.
 - (10) A tangent of at least two hundred feet in length shall be provided between reverse curves for major arterials; one hundred fifty feet for neighborhood collector streets; and one hundred feet for residential access streets.
 - (11) Street jogs with centerline offsets of less than two hundred feet shall not be allowed.
 - (12) Each subdivision shall have at least two points of connection with the public street system, except for those subdivisions in which the only dedicated street is a cul-de-sac.
 - (13) Streets shall intersect at right angles as near as possible. Deviation up to a maximum of fifteen percent may be permitted with justification.
 - (14) City of Selah standard details for streets, water, sewer and storm water.
- (d) Block design in a subdivision shall conform to the following standards, except in the event a subdivision is combined with a planned development zone proposal, in which case the following standards may be modified for good cause shown and where appropriate to provide for the type of development and land use contemplated as a planned development:
- (1) Blocks shall be wide enough to allow for two tiers of lots, each of which shall have a minimum depth of eighty-five feet, except where fronting on major streets or prevented by topographical conditions or size of property in which case the administering authority may approve a single tier.
 - (2) The length of blocks shall not be less than three hundred feet nor more than one thousand three hundred and twenty feet. In blocks over six hundred and sixty feet in length, the administering authority may require one or more public crosswalks of not less than ten feet in width dedicated to the public to extend entirely across the block and at locations deemed necessary. Such crosswalks shall be paved for the entire width and length with a permanent surface and shall be adequately lighted. Fences shall be provided along both sides of crosswalks and shall be located on private property.
 - (3) Alleys shall be required in any block where at least one tier of lots is used for commercial or industrial purposes.
 - (A) Alleys shall have a minimum right-of-way of twenty feet in width.

- (B) Utility easements sixteen feet in width may be permitted in lieu of alleys in residential districts, provided water lines are not in or proposed to be in the utility easement.
- (4) There shall be no private streets in any subdivision, and every lot and block shall be served from a publicly dedicated street; provided, that private access streets may be authorized where there will be no adverse effect on future traffic circulation of neighboring parcels. There shall be no privately held or owned reserve strips paralleling or terminating street ends or otherwise controlling access to streets.
- (e) Lot design in a subdivision shall conform to the following standards, except in the event a subdivision is combined with a planned development zone proposal, in which case the following standards may be modified for good cause shown and where appropriate to provide for the type of development and land use contemplated as a planned development:
 - (1) Lots are required in a residential subdivision only when a block is intended to be sold into more than one ownership.
 - (2) Insofar as practical, side lot lines should be at right angles to street lines or radial to curved street lines. Side and rear lot lines shall be straight or composed of straight-line elements.
 - (3) Each lot must front upon a public street with a width not less than those set forth in the street standards.
 - (4) Lots having frontage on two streets should be avoided whenever possible.
 - (5) Lots shall not front on an arterial if it is possible to avoid it. Lots fronting on a major arterial shall have a minimum depth of one hundred feet.
 - (6) The size and shape of lots shall meet the minimum area and width requirements of the applicable zoning classification.
 - (A) The distance from the front lot line to the rear lot line shall not exceed two and one-half times the distance between the side lot lines.
 - (B) There shall be a minimum lot depth of eighty-five feet.
 - (C) There shall be a minimum lot width of sixty feet at the rear line of the required front yard. Corner lots shall have a width of seventy feet from the rear line of the required front yard and a ten percent greater area than the minimum required.
 - (D) All lots shall have a minimum lot area as established by zoning district in [Title 10, Zoning](#).

(Ord. 1635 § 14, 2004; Ord. 524 (part), 1974.)

(Ord. No. 1795, §§ 1—8, 3-23-10)

10.50.042 Subdivision monuments.

Monuments in a subdivision shall conform to the following standards:

- (1) Cased monuments, with metal stamped caps, shall be set at all corners of the subdivision, at all points where the street lines intersect the exterior boundaries of the subdivision, at angle points and points of curve in each street and at all street intersections. All surveys shall be second degree accuracy. The use of state plan coordinates is encouraged.
- (2) All other lot corners shall be marked with a permanent suitable metal marker not less than three-eighths inch in diameter and twenty-four inches long and driven flush with the finished grade.
- (3) Any other monuments considered necessary and appropriate by the city engineer.

(Ord. 1635 § 15, 2004; Ord. 524 (part), 1974.)

10.50.043 Curbs and gutters.

Curbs and gutters of cement concrete shall be provided in accordance with the standards set forth in [Chapter 10.50](#).

(Ord. 1635 § 16, 2004; Ord. 615 § 1 (part), 1976; Ord. 542 (part), 1974; Ord. 524 (part), 1974.)

10.50.044 Sidewalk standards.

Sidewalks of cement concrete shall be installed on both sides of an arterial street. On a residential street, cement concrete sidewalks shall be installed on at least one side of the street. The sidewalk shall be located on the public right-of-way contiguous to the curbs. Sidewalks shall be a minimum of five feet wide on arterial streets and five wide on all other streets and shall be constructed in accordance with the standards set forth in [Section 10.50.041\(a\)](#) of this chapter.

(Ord. 1635 § 17, 2004; Ord. 615 § 1 (part), 1976; Ord. 542 (part), 1974; Ord. 524 (part), 1974.)

10.50.045 Utilities—Underground installation.

The public interest, safety and welfare require that utilities within undeveloped subdivisions shall be placed underground. The requirements shall be:

- (a) Underground installation of utility facilities shall not include overhead facilities installed in order to provide emergency service, temporary poles and overhead lines used or to be used in connection with construction projects, service meters located at structures, surface-mounted connection boxes, surface-mounted transformers, pedestal-mounted terminal boxes, transmission lines and supporting structures, "through-feeders" of distribution lines and supporting structures that pass through a subdivision but provide no service to property located therein, wires for fire alarm and traffic signal installations, and structures used for street lighting facilities.
- (b) The subdivider shall make all arrangements for the installation of underground utility facilities with the appropriate agency or utility. The cost of constructing new facilities underground or relocating existing aerial facilities underground shall be borne by the serving utilities, the owners of the real property to be served, and/or others requesting such underground services in accordance with the applicable filed tariffs, the accompanying rules and regulations of such utilities as approved by the Washington Utilities and Transportation Commission, and the published policies of the respective municipal and/or other utilities; provided, however, that such published policies, as distinguished from approved tariffs are not in conflict with presently enacted or hereafter enacted or amended applicable city ordinances.
- (c) Easements for the underground installation of utility facilities and, where necessary, for existing overhead transmission and existing through-feeder distribution facilities, shall be provided by the subdivider and shall be set forth in the preliminary plat and final plat to serve the

subdivision and each lot therein. The lot easements shall be a minimum of sixteen feet in width and, when possible, centered on side or rear lot lines, or eight feet on the property side of front lot lines.

- (d) Where underground utilities are installed within a subdivision, all lot owners shall be served only by those underground facilities.
- (e) Street lights shall be at locations and on poles authorized by the city providing illumination approved by the public works director. At a minimum street lights shall be installed at all street intersections and at no greater spacing than three hundred feet. In the event that the city or subdivider determines that the poles other than wood poles shall be used for street lighting, the cost of such poles shall be in accordance with the policies and applicable tariff provisions of the utility involved.
- (f) In addition to the foregoing, the utilities in a subdivision shall conform to the following specifications and standards:
 - (1) All water and sewer lines shall be designed in accordance with the comprehensive water and sewer plans of the city of Selah.
 - (2) Installation of all water and sewer lines and storm drains shall be in accordance with the standards set forth in paragraph S.M.C. 10.50.041(a) of this chapter and under the supervision of the public works director.
 - (3) After grading is completed and approved, but before any base is applied, all of the underground utilities and all service connections shall be installed, completed and approved throughout the length of the road and across the flat section according to city's standards.
 - (4) The water distribution system shall also be designed and installed in a manner that is satisfactory to the fire department of the city at the subdivider's expense.
 - (5) A storm drain system for the subdivision shall be constructed in such a manner as to prevent erosion or the development of safety hazards. All storm water runoff from development shall be retained on-site. Storm water runoff calculations and drainage facilities sizing calculations must be prepared by the developer's registered professional engineer and transmitted to the city for review. The development's storm drainage facilities must comply with the city of Selah Stormwater Management Plan.

(Ord. 1635 § 18, 2004; Ord. 524 (part), 1974.)

10.50.046 Street signs.

Street sign locations, types and design must be approved by the public works director, provided by the developer and installed by the city at the appropriate time. Where the streets in a subdivision are extensions of current streets, the names of the streets in the subdivision shall be the same as those currently existing.

(Ord. 1635 § 19, 2004; Ord. 524 (part), 1974.)

10.50.047 Environmental review.

Every application for a preliminary plat shall be accompanied by an environmental checklist as provided for in Chapter 11.40 which shall be processed in accordance with Chapter 11.40 prior to consideration of the preliminary plat application by the hearing examiner.

(Ord. 1635 § 20, 2004; Ord. 524 (part), 1974.)

10.50.050 Final plat procedure.

A final plat, meeting all the requirements of Selah Municipal Code, Title 10, Chapter 10.50 and any other condition imposed during environmental review or preliminary plat approval, or a performance bond sufficient to insure the completion of all required improvements, shall be submitted to the city council for approval within five years of the date of preliminary approval, unless previously extended in accordance with Section 10.50.033.

(Ord. 1635 § 21, 2004; Ord. 1374 § 2, 1998; Ord. 524 (part), 1974.)

10.50.052 Public meeting—Council—Time limitation.

- (a) Upon receipt of the proposed final plat for final approval and the mayor's signature, the planning department, in consultation with the city administrator shall set a public meeting time before the city council to consider and approve the final plat for recording.
- (b) Final plats shall be approved, disapproved or returned to the subdivider for modifications within forty-five days from the date of submission unless the subdivider consents to an extension.

(Ord. 1635 § 22, 2004; Ord. 524 (part), 1974.)

(Ord. No. 1879, § 1, 5-8-12)

10.50.053 Final plat requirements.

- (a) In addition to other final plat requirements specified herein, the final plat shall contain or have accomplished the following:
 - (1) Certification that the applicant is the land-owner;
 - (2) Certification showing that streets, rights-of-way and all sites for public use have been dedicated;
 - (3) Certification by a licensed land surveyor or engineer that a survey has been made and that monuments and stakes have been set;
 - (4) Certification by the county health district officer that the methods of sewage disposal and water service are acceptable;
 - (5) Certification by the engineer that the subdivider has complied with either of the following alternatives:
 - (A) All required improvements have been installed in accordance with this chapter, applicable city standards and any conditions that may have been imposed by the city council, or
 - (B) In lieu of the completion of the actual construction of any required improvements, whether public or private streets prior to the approval of the final plat, the applicant shall deposit a surety bond or secure financial method, or cash deposit in amount fixed by the council, guaranteeing the construction and completion of the roads, the setting of monuments, the construction and completion of the sidewalks, street lights and street name signs, installation of drainage facilities and utilities, and all other work and improvements proposed by the developer within twelve months from the date of final approval of the plat, and guaranteeing the payment of certain additional charges as herein described:
 - (i)

Any and all services performed by city employees in field inspection of construction of plat improvements, clearings and grading processes shall be invoiced to the developer at one hundred percent of the direct salary cost, plus thirty-five percent of such cost for overhead and fringe benefits.

- (ii) Any outside consultants retained by the city to evaluate any phase of plat construction shall be invoiced at actual cost plus fifteen percent. Billings shall be tendered to developer and shall be payable within thirty days. The amount of the bond shall be established by the city council.

The plat bond will not be released until all billings for such additional charges are paid in full. The bond may be released by motion of the city council accepting the construction of the completed public facilities, and after a maintenance bond has been posted guaranteeing repair of deficiencies and public facilities as set forth hereafter:

- (6) The subdivider shall furnish the city a plat certificate from a title insurance company documenting the ownership and title of all interested parties in the plat, subdivision or dedication and listing all encumbrances. The certificate shall be dated within forty-five days prior to the granting of the final plat by the city council;
- (7) Certification by the appropriate county authorities that all taxes required to be paid have been paid in full;
- (8) Certification by the city clerk-treasurer that there are no delinquent special assessments and that all special assessments certified to the city clerk-treasurer for collection on any property herein contained for dedication as streets, alleys or other public use are paid in full;
- (9) The submission of the final plat shall include copies of such restrictive covenants as may be used in the subdivision in a form ready for filing with the county auditor;
- (10) Before a final plat is submitted to the city council for approval, it shall be signed by the planning commission chairman and the public works director. After final plat approval by resolution of the city council, the final plat shall be signed by the mayor and city clerk-treasurer. Following adoption of the final plat, the original plat shall be filed for record with the Yakima County auditor.

(Ord. 1635 § 23, 2004; Ord. 704 § 1, 1978; Ord. 524 (part), 1974.)

10.50.060 Final plat—Standards.

Every final plat shall consist of one or more maps together with other appropriate documents, including but not necessarily limited to, the following standards and information.

- (a) Preparation of Final Plat Map.
 - (1) The final plat map shall be prepared in a neat and legible manner, in drawing ink, on reproducible mylar or an equivalent and with a trimmed size of eighteen inches by twenty-four inches. The map may be in two or more sections on separate sheets if the scale of the drawing cannot be accommodated on one sheet without unduly congesting the drawing. If additional sheets are utilized they shall be consecutively numbered;
 - (2) Name of subdivision;
 - (3) Name and address of the subdivider;
 - (4) The date, true north point, scale, datum plane and date of survey;
 - (5) Scale shall be one hundred feet equals one inch;
 - (6) All dimensions to the nearest one-hundredth of a foot and angles and bearings in degrees, minutes and seconds;
 - (7) The accurate location, material and size of all monuments;
 - (8) The length of all arcs, radii, internal angles, points of curvature, length and bearing of the tangents;
 - (9) The boundary lines with accurate distances and bearings, the exact location of all existing or recorded streets and ways intersecting the boundary of the tract;
 - (10) True bearings and distances to the established street lines or official monuments, which shall be accurately described on the plat; municipal, township, county or section lines accurately tied to the lines of the subdivision by distance and bearing;
 - (11) The lines of all streets and roads, alley lines, lot lines, lots and blocks numbered in numerical order, reservations, easements and proposed land dedication;
 - (12) All easements for right-of-way provided for public services or utilities and any limitations of the easements;
 - (13) The accurate outline of all property which is offered for dedication for public use with purpose indicated thereon, and of all property that may be reserved by deed covenants for the common use of the property owners in the subdivision;
 - (14) Private restrictions;
 - (15) Dedication acknowledgement, endorsements and signatures, except as modified herein, shall be in accordance with state statutes.
- (b) Supplementary Documents.
 - (1) Mylar reproducible "as built" construction documents, certified and signed by a licensed engineer, identifying the design and location of all improvements that were made during the construction of the subdivision, within or outside of the subdivision, including but not limited to the following:
 - (A) A profile of each street with the grades shown thereon;
 - (B) Cross section of the streets showing widths of roadway, types of surfacing, curb location and width and location of sidewalks;
 - (C) Plans and profiles of the sanitary and storm water sewers with the grades, pipe sizes and the location of manholes indicated;
 - (D) Plans and profiles of the water distribution system showing grades, pipe sizes and the location of valves and fire hydrants;
 - (E) Complete field and computation notes shall be furnished showing original or reestablished corner with description of the same, showing true bearings and distances to established street lines and monuments, turning angles, points of curvature, lengths of tangents, and the actual traverse showing error of closure and method of balancing with sketches showing all distances, angles and calculations required to determine corners and distances of the plat, subdivision or dedication. The error of closure shall not exceed one foot in four thousand feet.

(Ord. 1635 § 24, 2004; Ord. 524 (part), 1974.)

10.50.070 Exceptions.

- (a) **Exception Requirements.** The hearing examiner may recommend to the city council an exception from the requirements of this chapter when, in the examiner's opinion, undue hardship may be created as a result of strict compliance with the provisions of this chapter or any standards adopted by reference. In recommending an exception the hearing examiner may prescribe conditions that the examiner deems necessary to or desirable for the public interest. No exception shall be recommended unless the hearing examiner finds:
 - (1) That there are special physical circumstances or conditions affecting the property such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use or development of the land;
 - (2) That the exception is necessary to insure such property the rights and privileges enjoyed by other properties in the vicinity;
 - (3) That the public interest is preserved.
- (b) **Applications Required.** Applications for an exception shall be submitted in writing by the subdivider prior to or during the installation of the required facilities to the hearing examiner. The application shall state fully all substantiating facts and evidence relating to the request. A request for an exception shall be considered separate and apart from the consideration of the plat.

(Ord. 1635 § 25, 2004; Ord. 524 (part), 1974.)

10.50.075 Maintenance bond.

The required public improvements shall not be considered completed until the final plat is accepted by the city council. The public works director shall furnish to the city council a written report and recommendation on public improvements within the subdivision. The city council shall not accept the completion of the improvements until the city has been furnished a surety bond, or other secure financial method, in the amount of fifteen percent of the cost of the improvements to guarantee against defects of workmanship and materials in the public improvement for a period of two years from the date of final plat recording. The bond shall secure against any costs incurred by the city in correcting the defects in workmanship and material, including but not limited to:

- (1) Any and all services performed by city employees in field inspection of construction of improvements, at one hundred percent of the direct salary cost, plus thirty-five percent of such costs for overhead and fringe benefits;
- (2) Any outside consultants retained by the city to evaluate any inspection or services necessary to correct defects in workmanship and material in the public improvements.

(Ord. 1635 § 26, 2004; Ord. 704 § 2, 1978.)

10.50.080 Penalties and enforcement.

- (a) The developer or any person, firm, corporation or agent thereof who has neglected or failed to comply with the provisions of this chapter shall, upon conviction, be guilty of a misdemeanor and shall be subject to a fine not to exceed five hundred dollars for each such violation, or imprisonment for a period not to exceed ninety days, or both such fine and imprisonment.
- (b) In addition, any person, firm, corporation or agent representing the developer thereof who transfers, options, offers to sell, sells or leases any land which is undergoing platting procedures before such plat or map has been approved by the city of Selah and before the same has been filed for record in the office of the Yakima County auditor, shall, upon conviction, be subject to a fine not to exceed five hundred dollars for each such violation or imprisonment for a period not to exceed ninety days, or both such fine and imprisonment for each violation or each transfer, option, offer to sell, sale or lease of each separate lot, tract or parcel of land in violation of any provision of these regulations shall be deemed a separate and distinct offense.
- (c) Whenever any parcel of land is divided into five or more lots, tracts or parcels of land and any person, firm or corporation or any agent of any of them sell or transfers or offers or advertises for sale or transfer, any such lot, tract or parcel without having a final plat of such subdivision filed for record, the city attorney shall commence an action to restrain and enjoin further subdivisions or sales, or transfers or offers of sale or transfer and compel compliance with all provisions of this chapter. The costs of such action shall be taxed against the person, firm, corporation or agent selling or transferring the property.

(Ord. 1635 § 27, 2004; Ord. 524 (part), 1974.)

10.50.090 Conflict.

All chapters, sections or parts of chapters contained in the Selah Municipal Code which are in conflict herewith are repealed.

(Ord. 1635 § 28, 2004; Ord. 524 (part), 1974.)

10.50.100 Validity.

If, in an instance, the hearing examiner fails to act or carry out the examiner's responsibilities according to the regulations contained herein, the city council of the city of Selah shall assume all the duties of the hearing examiner as herein specified relating to the application concerned.

(Ord. 1635 § 29, 2004; Ord. 524 (part), 1974.)

10.50.110 Effective date.

This chapter shall not be retroactive in application but shall be in full force and effect at 12:01 a.m. on the first day after its adoption and publication as provided by law. (Amended during Supp. No. 7, 4-05; Ord. 524 (part), 1974.)

10.50.120 Review of decision.

An aggrieved party shall make application for writ of review to the superior court of Yakima County within twenty-one days of the issue date of the decision to be reviewed. The cost of transcription of all records ordered certified by the court for such review shall be borne by the appellant, who shall pay such sum in advance as requested by the city.

(Ord. 1635 § 31, 2004; Ord. 723 § 5, 1979.)

CITY OF SELAH
CITY COUNCIL

In the Matter of Amendment to 2005)	
Selah Urban Area Comprehensive Plan)	Opponent's Brief Concerning
Future Land Use Map; Zoning Map)	UGA PLAN AMENDMENT
Amendment; and Preliminary Plat)	2014-01; ZONING MAP
)	AMENDMENT 914.42.14-04:
Proponent: Zuker/Sample Development,)	R-1 to PD; PRELIMINARY
LLC)	PLAT 912.42.14-05
)	
Property Owner: Zuker/Sample)	
Development, LLC)	
_____)	

I. Introduction

The undersigned represents Mark Weller who appeared and spoke in opposition to the applications referenced hereinabove at the September 30, 2014 public hearing conducted by the Selah Planning Commission, and Wayne Worby who did not. Both Mr. Weller and Mr. Worby received notice of the planning Commission meeting, their single-family residences lying within 600 feet of the proposed increased density "townhouse" development. Mr. Weller resides at 110 Lyle Loop Road, Selah, WA 98942 (parcel no. 181426-44443) and Mr. Worby resides at 200 Weems Way, Selah, WA 98942 (parcel no. 181426-41412).

The property proposed for development is currently comprised of two parcels (181426-44005 & 44021) totaling 4.7 acres, is currently zoned one-family residential, and is surrounded on all sides by like-zoned one-family residential properties including Mr. Weller's to the southeast and Mr. Worby's to the north.

Opponents to the "major rezone" application(s) do not believe the applicant made any showing of a "substantial change in circumstances" warranting an

amendment to the currently designated zone, that the applicant failed to even address let alone demonstrate public need for this rezone, and that it is wholly unsuitable and incompatible with the neighboring land uses which are all criteria required to have been established by the applicant in accordance with SMC 10.40.050. Equally concerning, however, are procedurally related defects already encountered in the review process. The first goes to the City of Selah's jurisdiction over the property in question; the second involves application of the "appearance of fairness" doctrine for the hearing before the Planning Commission. The procedural defects will be addressed, then the major rezone criteria.

II. Legal Analysis

A. Annexation of the Property Subject to Development Is Not Complete.

Opponents to the current application received word from Yakima County officials that the so-called "West Goodlander Annexation" of which the subject property would be part, is still incomplete. Opponents are aware that the City of Selah adopted Ordinance No. 1935 purporting to annex 51 parcels of property, including the applicants, on January 14, 2014 pursuant to RCW 35A.14.120. The Ordinance included this Council's determination that "One-Family Residential (R-1) zoning is the appropriate zoning designation for the property to be annexed based on the adopted 2005 City of Selah Urban Growth Area Comprehensive Plan." The trouble is, RCW Chapter 35A et. seq. contains a post-adoption requirement that appears to have been missed. RCW 35A.14.140 provides:

Following the hearing, if the legislative body determines to effect the annexation, they shall do so by ordinance. . . . Upon passage of the annexation ordinance a certified copy shall be filed with the board of county commissioners of the county in which the annexed property is located.

This is to allow for County notice to all relevant governmental agencies for voting, mapping, school districting, fire and police districting and property taxation matters, among others as well as recordation of the annexation ordinance with the Auditor's office to depart constructive and actual notice of annexation to the affected property owners and

the public at large. Minutes of the City Council meeting of January 28, 2014 show this was indeed the intent of Selah's City Planner, however, it was apparently still not accomplished. The undersigned has confirmed with a title company that the Ordinance has not been recorded, and the Yakima County Boundary Review Board has yet to be provided with a certified copy of the Ordinance with a map suitable for recording, or paid the requisite fee for recording the Ordinance with the Auditor. At this point neither voting district officials, County GIS mapping personnel, health, fire, treasurer's office or assessor's office have any notice there's been a completed annexation, and until that's accomplished it was premature to entertain any land use applications for the subject property. The undersigned further learned that the Clerk of the Yakima County Boundary Review Board specifically brought this matter to the attention of Selah's City Planner via communication on September 30, 2014, and that response was made by Selah's Planner that the requisite Ordinance and recordation fees would be remitted this week enabling the Ordinance to be recorded and the agency notices to go out. As of this writing that has still not been accomplished.

The problem here is that until the annexation process is truly finalized, there would be no jurisdiction for Selah Planning officials to exercise over any land use application filed with respect to these properties. Simply put, a City should not review a land use application, make SEPA determinations, and hold Planning Commission public hearings until all the prerequisites to the exercise of exclusive jurisdiction over the property under consideration have been met. According to RCW 36.70C.130(1)(e) any land use decision outside the jurisdiction of the body or officer making it is invalid.

The applications under review should be rejected, with notice to the applicant that they may be re-filed following 'perfection' of the City's annexation Ordinance through recordation. The Planning Commission hearing should then be rescheduled.

B. The "Appearance of Fairness" Doctrine.

Washington doctrinal law referred to as the "Appearance of Fairness" Doctrine applies to the conduct of this quasi-judicial decision-making process.

Application of the appearance of fairness doctrine to local land use decisions shall be limited to the quasi-judicial actions of local decision-making bodies as defined in this section. Quasi-judicial

actions of local decision-making bodies are those actions of the legislative body, Planning Commission, hearing examiner, zoning adjuster, board of adjustment, or boards which determine the legal rights, duties, or privileges of specific parties in a hearing or other contested case proceeding.

RCW 41.36.010.

The core of the appearance of fairness doctrine, oft repeated is that:

Hearings to which the doctrine applies must not only be fair in fact, but must appear to be fair and to be free of an aura of partiality, impropriety, conflict of interest or prejudice ... the nature of the zoning process warrants considerable effort to protect it from an appearance of impropriety.

Hayden v. City of Port Townsend, 28 Wash. App. 192, 196, 622 P.2d 1291 (1981).

The Opponents have learned that Planning Commissioner Willie Quinnell, one of the three Commissioners who met on September 30, 2014 recommending approval of the subject land use petitions, is a business partner of Roy Sample's¹ who happens also to be the applicant's managing member. The office in which they're business partners is Sample Quinnell, Realtors. Regardless whether this created actual partiality in favor of the applicant, it at least creates an aura of conflict of interest or prejudice that should have been disclosed on the record, first, and led to Mr. Quinnell's recusal, second. Of course, had that happened the Planning Commission would have lacked a quorum of its 5 members and the public hearing should have been continued. Because of the violation of the appearance of fairness doctrine, even if the Council bypasses the jurisdictional issue, the matter should be remanded to the Planning Commission to redo the public hearing with proper disclosures and recusals. The *Hayden* case dictates that "the nature of the zoning process warrants considerable effort to protect it from an appearance of impropriety." *Hayden* at 196. That effort needs to be applied here to ensure the integrity of these proceedings, and merits remand of the matter to the Planning Commission.

C. Application of the Rezone Criteria

The application(s) at issue are subject to the City of Selah's "major rezone" criteria set forth at SMC 10.40.050, which provides:

¹ That is, unless there are two different Selah, William Quinnells.

- (c) Decision criteria the Planning Commission shall issue a written recommendation to approve, approve subject to a development or concomitant agreement, modify or deny the proposed comprehensive plan amendment/major rezone. The recommendation shall include the following considerations:
 - (1) The extent to which the proposed amendment/major rezone is consistent with and/or deviates from the goals, objectives, mapping criteria and policies adopted in the comprehensive plan and the intent of this title;
 - (2) The adequacy of public facilities, such as roads, sewer, water and other public services required to meet urban or rural needs;
 - (3) The public need for the proposed change. Public need shall mean that a valid public purpose, for which the comprehensive plan and this title have been adopted, is served by the proposed application. Findings that address public need shall, at a minimum, document:
 - (A) Whether additional land for a particular purpose is required in consideration of the amount already provided by the plan map designation or current zoning district within the area as appropriate; and
 - (B) Whether the timing is appropriate to provide additional land for a particular use.
 - (4) Whether substantial changes in circumstances exist to warrant an amendment to the current designation or zone;
 - (5) The testimony at the public hearing;
 - (6) The compatibility of the proposed zone change and associated uses with neighboring land uses;
 - (7) The suitability of the property in question for uses permitted under the proposed zoning;
 - (8) The recommendation from interested agencies and departments.

First of all, the rezone criteria must be supported by substantial evidence. *Henderson v. Kittitas County*, 124 Wn. App. 747, 845, 100 P.3d 842 (2004). Further,

- (1) There is no presumption of validity favoring the action of rezoning;
- (2) The proponents of the rezone have the burden of proof in demonstrating that conditions have substantially changed since the original zoning; [and]

(3) The rezone must bear a substantial relationship to the public health, safety, morals or welfare.

Ahmanne-Yamane, LLC v. Tabler, 105 Wn. App. 103, 111, 19 P.3d 436 (2001); *Bjarnson v. Kitsap County*, 78 Wn. App. 840, 845, 899 P.2d 1290 (1995); and *Parkridge v. City of Seattle*, 89 Wn.2d 454, 462, 573 P.2d 359 (1978).

The Staff Report acknowledges that the applicant did not even address the public need requirement for a major rezone (SMC 10.40.050(c)(3)) and there is also no record of discussion, let alone proof, of changed circumstances meriting rezone. Indeed, how could there be when the zone sought to be changed which was started with the applicant's February 20, 2014 Environmental Checklist, had just been determined a month earlier by the City Council to most appropriately be the zoning designation, One-Family Residential (R-1).

Counsel for the City of Selah has previously argued in the Superior Court for Yakima County that lack of proving changed circumstances in the neighborhood is fatal to a major rezone proposal.

"It [is] the [applicant's] burden to demonstrate a change in circumstance that would justify a need for redesignation of the area and a zone change. . . . The "change in circumstances" provision contemplates some change in the nature of how the area properties are being put to use. Of all the criteria set forth in SMC 10.40.050, this criteria is the one criteria that our courts have acknowledged as pivotal in considering whether a change should be made."

City of Selah's Brief in *Matson Fruit Company v. City of Selah*, Yakima County Superior Court Cause No. 07-2-04502-2, p. 18; also citing *Bjarnson v. Kitsap County*, 78 Wn. App. 840, 846, 899 P.2d 1290 (1995). But for this most "pivotal" factor there's no evidence whatsoever that the area surrounding the proposed development, all one-family residential properties, has had any change in the few months since the City of Selah determined the R-1 zone most appropriate. It begins to look like this rezone, creating a Planned Development Zoning island in the middle of one-family residential parcels for

which it is at odds, ill-suited and just designated but a few months ago for continued R-1 use, is primarily aimed now at benefitting the applicant's property monetization objectives. This would also make it an illegal "spot zone".

Washington courts have long condemned "spot zoning". *Smith v. Skagit County*, 75 Wn.2d 715, 743, 453 P.2d 832 (1969); *Save A Neighborhood Environment v. City of Seattle*, 101 Wn.2d 280, 286, 676 P.2d 1006 (1984); and *Chrobuck v. Snohomish County*, 78 Wn.2d 858, 872, 480 P.2d 489 (1971). In *Anderson v. City of Seattle*, 64 Wn.2d 198, 390 P.2d 994 (1964), a rezone from multiple residence low density to multiple residence high density was set aside as an illegal spot zone because it was primarily aimed at benefitting the private interest of the property owner applicant and not the community as a whole. As such the rezone was arbitrary, capricious, unreasonable and illegal. *Id.* at 200-202.

III. Conclusion

For the foregoing reasons,

EXH 6
12-4-14
SOMERSET I

Selah, Washington, Code of Ordinances >> Title 10 - ZONING >> Chapter 10.24 PLANNED DEVELOPMENT (PD) ZONING DISTRICT >>

Chapter 10.24 PLANNED DEVELOPMENT (PD) ZONING DISTRICT

Sections:

- 10.24.010 Purpose.
- 10.24.020 Notification of intent.
- 10.24.030 Development plan and program.
- 10.24.040 Informal review by the planning department.
- 10.24.050 Rezone application—Final development plan and program.
- 10.24.060 Rezone—Hearing and findings.
- 10.24.070 Project densities.
- 10.24.080 Common open space requirements.
- 10.24.090 Retention and maintenance of common open space.
- 10.24.100 Recommendation of the hearing examiner—Subsequent procedure.
- 10.24.110 Modifications to development.
- 10.24.120 Review of previous planned development rezone approval.
- 10.24.130 Review hearing for non-development.
- 10.24.140 Reconstruction of buildings or improvements.
- 10.24.150 Review of decision.

10.24.010 Purpose.

A planned development zone approved in accordance with this chapter shall be a separate zoning district. Regardless of underlying zoning requirements, a planned development zone may permit all proposed uses and developments that can shown to be in conformance with the policies of the comprehensive plan. A planned development zone may be permitted at any location subject to the provisions of this chapter. Approval of a planned development zone shall modify and supersede all regulations of the underlying zoning district. An applicant may also file a subdivision or binding site plan application which, if filed, may be processed concurrently with the planned development zone application.

The purpose of this chapter, providing for the establishment of a planned development zone, is to allow new development that is consistent with the comprehensive plan but that would not be readily permitted in other zoning districts due to limitations in dimensional standards, permitted uses, or accessory uses. In addition, planned development zones may:

- (1) Encourage flexibility in design and development that are architecturally and environmentally innovative, that will encourage a more creative approach in the development of land, and which will result in a more efficient, aesthetic and desirable utilization of the land than is possible through strict application of standard zoning and subdivision controls; provided, that subdivision controls are applicable to planned development zoning only when a planned development zone application is combined with a proposal to divide land into lots.

(Ord. 1634 § 78, 2004.)
(Ord. No. 1779, 10-13-09)

10.24.020 Notification of intent.

The applicant(s) for a proposed planned development shall file with the planning department a notice of the applicant's intention to apply for a planned development zone, giving such preliminary information concerning the proposed project as may be requested by the planning department on forms furnished by the department. The notice shall be signed by the owner(s) of all property to be involved in the planned development zone.

(Ord. 1634 § 79, 2004.)

10.24.030 Development plan and program.

The notice required by Section 10.24.020 shall be accompanied by a plan and program for the area within the boundary of the project, which plan and program shall consist of the following:

- (1) An accurate map drawn to scale of not less than one inch to one hundred feet depicting the following:
 - (A) The boundaries of the site,
 - (B) Names and dimensions of all streets bounding or touching the boundaries of the site,
 - (C) Horizontal and vertical dimensions of all buildings and structures proposed to be located on the site which shall include drawings, architectural renderings or photographs of proposed buildings which will become part of the public record,
 - (D) Proposed location and dimension of "common or community open space,"
 - (E) Proposed public dedications,
 - (F) Location of off-street parking facilities, showing points of ingress to and egress from the site,
 - (G) Location and direction bearing of all major physiographic features such as railroads, drainage canals and shorelines,
 - (H) Existing topographic contours at intervals of not more than five feet,
 - (I) Proposed contours at intervals of not more than one foot,
 - (J) Proposed drainage facilities,
 - (K) Proposed landscaping,
 - (L) Building types and intensities,
 - (M) Pedestrian and vehicular circulation pattern,
 - (N)

- Proposed subdivision map, in the event the proposed planned development application is combined with a proposal to divide land into lots, identifying proposed lot configuration and size in square feet);
- (2) A written program for development setting out detailed information concerning the following subjects as they may be involved in or provided for by the planned development project:
 - (A) Proposed ownership pattern,
 - (B) Operation and maintenance proposal, i.e., homeowner association, condominium, co-op or other,
 - (C) Waste disposal facilities,
 - (D) Lighting,
 - (E) Water supply,
 - (F) Public transportation,
 - (G) Community facilities,
 - (H) General timetable of development.

(Ord. 1634 § 80, 2004.)
 (Ord. No. 1779, 10-13-09)

10.24.040 Informal review by the planning department.

The planning department shall informally review the preliminary development plan and program and may recommend additions or modifications to, or other changes in, the proposed plan or program which in the opinion of the department more fully complies with the comprehensive plan and adopted municipal codes.

(Ord. 1634 § 81, 2004.)

10.24.050 Rezone application—Final development plan and program.

Upon completion of the informal review, the applicant may submit a verified rezone application requesting a change of zoning to a planned development zone pursuant to Chapter 10.26 of the Selah Code. The final development plan and program consisting of the plan elements and program elements enumerated below shall accompany the rezone application.

- (1) Plan Elements.
 - (A) Existing maps drawn to scale of not less than one inch to one hundred feet and proposed final contour map;
 - (B) Location, with the names of all existing and proposed streets, public ways, railroad and utility rights-of-way, parks or other open spaces and all land uses within two hundred feet of the boundary of the development;
 - (C) Existing sewers, water mains and other underground facilities within and adjacent to the development and their certified capacities;
 - (D) Proposed sewer or other waste disposal facilities, water mains and other underground utilities;
 - (E) Subdivision map, in the event a proposed planned development application is combined with a proposal to divide land into lots, identifying proposed lot configuration and size in square feet);
 - (F) Proposed land use map identifying the location and purpose of each structure;
 - (G) Location and size in square feet of community facilities;
 - (H) Location and size in square feet of open space;
 - (I) Traffic flow plan;
 - (J) Location and dimension of walks, trails or easements;
 - (K) Location of off-street parking areas, arrangement, number and dimensions of auto garages and parking spaces, width of aisles, bays and angles of parking;
 - (L) Location, arrangement, number and dimensions of truck loading and unloading spaces and docks;
 - (M) Preliminary plans, elevations of typical buildings and structures, including general height, bulk, number of dwelling units and the exterior appearance of the buildings or structures;
 - (N) Approximate location, height and materials of all walls, fences and screens;
 - (O) Indication of stages of development.
- (2) Program elements.
 - (A) Statement of goals and objectives, i.e., why it would be in the public interest and be consistent with the comprehensive plan;
 - (B) Tables showing total number of acres, distribution of area by use, percent designated for dwellings, commercial or industrial uses and open space, number of off-street parking spaces, streets, parks, playgrounds, schools and open spaces;
 - (C) Tables indicating overall densities and density by dwelling types and any proposal for the limitation of density;
 - (D) Restrictive covenants, other than those relating to retention and maintenance of common open space;
 - (E) Development timetable.

(Ord. 1634 § 82, 2004.)
 (Ord. No. 1779, 10-13-09)

10.24.060 Rezone—Hearing and findings.

The application for rezone to a planned development zone shall be heard before the city of Selah hearing examiner at an open record public hearing within the time and in the manner provided by Chapter 10.26 of this title. The recommendation of the hearing examiner to approve or deny the application shall be based on the following criteria:

- (1) Substantial conformance to the city of Selah Urban Growth Area Comprehensive Plan;
- (2)

- The proposal's harmony with the surrounding area, or its potential future use;
- (3) The system of ownership and means of development, preserving and maintaining open space;
- (4) The adequacy of the size of the proposed district to accommodate the contemplated development;
- (5) Compliance with the city's subdivision code, if a proposed planned development application is combined with a proposal to divide land into lots;
- (6) Compliance with this chapter.

(Ord. 1634 § 83, 2004.)
 (Ord. No. 1779, 10-13-09)

10.24.070 Project densities.

Project densities shall not exceed the underlying land use designations contained on the city of Selah Urban Growth Area Comprehensive Plan Future Land Use Map.

(Ord. 1634 § 84, 2004.)

10.24.080 Common open space requirements.

- (a) Common open space in a planned development zone shall meet the following requirements:
 - (1) The location, shape, size and character of the open space must be suitable for the planned development;
 - (2) Common open space must be used for amenity or recreational purposes. The uses authorized for the common open space must be appropriate to the scale and character of the planned development, considering its size, density, expected population, topography and number and type of dwelling units to be provided;
 - (3) Common open space must be suitably improved for its intended use, but common open space containing natural features may be left unimproved. The buildings, structures and improvements which are permitted in the common open space must be appropriate to the uses which are authorized for common open space and must conserve and enhance the amenities of the common open space in regard to its topography and unimproved condition.
- (b) The development schedule which is a part of the development plan must coordinate improvement of common open space, construction of buildings, structures and improvements in the common open space and the construction of residential dwellings in the planned development.

(Ord. 1634 § 85, 2004.)

10.24.090 Retention and maintenance of common open space.

- (a) The final development plan and program shall include a provision approved by the hearing examiner as being sufficient to assure permanent retention and maintenance of the common open space in a planned development district. Such assurances may be in the form of restrictive covenants, dedication of the open space to the public where such dedication will be accepted by the legislative body, an undertaking by an association of owners of property within the planned development district zone, or in any other form or by any other method approved by the hearing examiner and city attorney as being practical and legally sufficient to assure the permanent retention and maintenance of the common open space. All legal documents to carry out the plan and program in this regard shall be filed by the applicant with the final development plan and program accompanying the rezone application, and shall be subject to approval as to form by the city attorney. All such plans and programs shall contain provisions whereby the city will be vested with the right to enforce the permanent retention and maintenance of the common open space and further that in the event the common open space is permitted to deteriorate, or is not maintained in a condition consistent with the approved plan and program, then in such event the city may at its option cause necessary maintenance to be performed and assess the costs thereof to the owners of the property within the planned development zone.
- (b) No common open space may be put to any other use than as specified in the approved final development plan unless the development plan has been modified to permit such other use pursuant to Section 10.24.110 of this chapter. No such modification of use shall be deemed as a waiver of any of the provisions of the approved final development plan assuring the permanent retention and maintenance of the common open space.

(Ord. 1634 § 86, 2004.)

10.24.100 Recommendation of the hearing examiner—Subsequent procedure.

At the conclusion of the hearing by the hearing examiner as provided for in Section 10.24.060 of this chapter, the hearing examiner shall recommend to the legislative body that the application for rezone to planned development zone be either approved, denied, or approved with modifications specified by the hearing examiner in written findings. Within ten calendar days of receipt of the hearing examiner's recommendation the planning department shall mail to the applicant, at the address shown on the rezone application, notification of the hearing examiner's recommendation.

- (b) The procedures provided for by Chapter 10.40.020 of the Selah Municipal Code (zoning ordinance) shall be followed to afford a review by the legislative body of the recommendation submitted by the hearing examiner and to provide for the adoption or rejection of the hearing examiner's recommendation.

(Ord. 1634 § 87, 2004.)

10.24.110 Modifications to development.

- (a) Major Modifications. Applications for major modifications in the final development plan and program must be submitted to the planning department for review and hearings held and recommendations made by the hearing examiner and the legislative body shall adopt or reject the hearing examiner's recommendation as if such application were an original application for a planned development zone.
- (b) Minor Modifications. Minor modifications in the final development plan and program may be approved by the city administrator. Such changes may include minor shifting of the location of buildings, proposed streets, public or private ways between the easements, parks or other public

open spaces, or other features of the plan, but shall not include those changes involving increases of density, changes of boundaries, changes in land use or other changes of location which are not devoted to specific land uses.

(Ord. 1634 § 88, 2004.)

(Ord. No. 1879, § 1, 5-8-12)

10.24.120 Review of previous planned development rezone approval.

If within eighteen months after the granting of an application for a planned development zone, substantial construction has not been performed on the approved project, the hearing examiner may review at the examiner's discretion the previous approval of the planned development rezone at a public hearing after giving written notice of such hearing to the record owner(s) of the affected property as reflected in the official records of the Yakima County assessor. The notice shall be given at least twenty days prior to such hearing, and after otherwise giving notice of such hearing as required by Title 21 of the Selah Municipal Code.

(Ord. 1634 § 89, 2004.)

10.24.130 Review hearing for non-development.

Hearings shall be held at times, and in the manner, prescribed in Title 21 of the Selah Municipal Code and may be continued as provided therein. At such hearings the hearing examiner shall determine whether the continued existence of such planned development zone is in the best interests of the public and such determination shall be based on the criteria specified in 10.24.060 of this chapter. At the conclusion of such hearing, the hearing examiner shall recommend to the legislative body that the existence of such planned development zone be continued or that the area within such planned development zone be rezoned to another zone. In the event such recommendation is that the area be rezoned, the procedure specified in Title 10.21 of the Selah Municipal Code shall be followed to effect such rezone. This section shall not be construed so as to divest the hearing examiner or the legislative body of the authority to otherwise rezone property within a planned development zone pursuant to and in accordance with the provisions of Chapter 10.40 of the Selah Municipal Code.

(Ord. 1634 § 90, 2004.)

10.24.140 Reconstruction of buildings or improvements.

Replacement or reconstruction of any buildings or improvements damaged or destroyed shall substantially conform to the originally approved planned development zone plan.

(Ord. 1634 § 91, 2004.)

10.24.150 Review of decision.

An aggrieved party shall make application for writ of review to the Superior Court of Yakima County within thirty days from the decision to be reviewed. The cost of transcription of all records ordered certified by the court for such review shall be borne by the appellant, who shall pay such sum in advance as requested by the city.

(Ord. 1634 § 92, 2004.)

SOMMERSET II

CHAPTER 10.24.030 CODE

PLANNED DEVELOPMENT (PD) ZONING DISTRICT

- 1) The required map has been submitted.
 - A) The map shows the boundaries of the site.
 - B) All names and dimensions of the streets bounding the site are shown
 - C) See attached photos.
 - D) Community open space is 1233 SF and is located on Herlou Drie.
 - E) Public dedications are road rights-of-way and public utility easements as shown on the proposed plan.
 - F) Public parking will be on the right of way for Lyle Loop Road.
Each unit has an attached two-car garage. Private parking will be in the garage or the apron leading into each unit, allowing each unit four parking spaces. Points of ingress and egress shall be directly in front of each garage.
 - G) No physiographic features are on the site.
 - H) Existing contours are shown on the proposed plan.
 - I) Each site will be leveled to accommodate level footings and foundations for each building. Some sites may require approved retaining walls at the perimeter of the site. Final grading and contours will be determined at the time of submittal of building permits and will be inspected by the City Building Inspector.
 - J) Final drainage, water, sewer and street improvements for Lyle Loop Road prepared by PLSA have been approved by the Public Works Director and are on file with the City of Selah.
Sewer and water mains have been installed in Phase I and approved by the Public Works Director.
A 16' utility easement between lots 9 and 10 in Phase I accommodates the sewer design for Phase III.
Final drainage, water, sewer and private road improvements for Phase III shall be designed and approved by the Public Works Director at the time of final platting of Phase III as per
Item #3 of the 21 conditions of final plat approval.
 - K) Landscaping will consist of grass lawns and trees and shrubs maintained by the property owners.

- L) Buildings will be single family homes at one house per lot.
- M) Vehicle and pedestrian circulation will be as shown on the attached map.
- N) Lot configuration and size are shown on the attached map.

2) Detailed Information:

- A) The units will be for sale.
- B) Not applicable.
- C) Waste disposal will be provided by the City of Selah. Sewer mains for Phase I are already installed.
- D) Street lighting will be by wooden pole street lights, as designed.
- E) Water service shall be supplied by the City of Selah. Water mains are already installed in Phase I
Electricity supplied by Pacific Power & Light
Natural Gas supplied by Cascade Natural Gas
- F) N.A.
- G) As shown on attached map.
- H) Phase I shall be completed as soon as possible after the City of Selah approval. Subsequent phases shall be completed as the market determines.

SUPPLEMENT

- 1) The Preliminary Plat submitted to Yakima County in their R-1 zone in 2012 was a “preliminary” plat and could be altered any time prior to final plat approval. Once the property was annexed into the City of Selah, the previous preliminary plat was rendered null and void by Zuker-Sample. There are 4.7 acres in the property and the R-1 zone allows up to 5 units/acre.
- 2) Since this property was included in the urban growth area (GMA) of Selah, although it was in Yakima County, the Growth Management Act (GMA) of the 1990s gave the City of Selah comprehensive land use and zoning approval. This Act required diverse housing, efficient use of property and aesthetic design. This proposed project meets those criteria.

**CITY OF SELAH NOTICE OF CANCELLED PLANNING
COMMISSION HEARING
AND
NOTICE OF PUBLIC HEARING BEFORE THE CITY OF
SELAH HEARING EXAMINER**

Zuker Sample, L.L.C. previously filed applications to Amend the Comprehensive Plan amending an area designated as low density residential to moderate density residential (Plan amendment 2014-01); an Application to thereafter Amend the Zoning Code applicable to the area from R-1 to Planned Development and Application to subdivide the subject property into thirty (33) individual single family lots. The Applications were considered by the Planning Commission on September 30, 2014. The Planning Commission recommended their approval to the City Council. The City Council heard the matter on October 14, 2014 and that time did not follow the recommendation for approval but instead remanded the matter back to the Planning Commission due to a conflict of interest of one of the Commissioners and with direction to the Planning Commission to more fully consider the criteria applicable to Comprehensive Plan Amendments and Planned Development zoning. A hearing was scheduled before the Planning Commission on remand for November 18, 2014.

Zuker Sample, L.L.C. has now withdrawn its Application to Amend the Comprehensive Plan and is only pursuing applications for a rezone to Planned Development and Preliminary Plat approval. Because the Application for Comprehensive Plan Amendment has been withdrawn, the Planning Commission will not consider the matter. **The Application for a Rezone to Planned Development and Preliminary Plat approval will be heard by the City of Selah Hearing Examiner.**

The City of Selah Hearing Examiner hereby provides notice that Zuker Sample, L.L.C. has submitted an amended application requesting the rezone and preliminary plat of 4.70 acres from One Family Residential (R-1) to Planned Development (PD) and preliminary plat approval to subdivide the site into twenty-four (24) individual single-family residential lots consistent with the Planned Development Plan. Each lot would be served with municipal water and sewage service and accessible either from Lyle Loop or a private roadway assessing six (6) lots. Average lot size within the subdivision would be approximately 7,000± sq. ft. in area.

Proposed Zoning Map Amendment	914.42.14-04
Proposed Preliminary Subdivision	912.42.14-05 "Somerset II"

Proposed Zoning Map Amendment 914.42.14-04	Amend the Official City of Selah Zoning Map from One-Family Residential (R-1) to Planned Development (PD) based on a specific site development plan. (Parcels: 181426-44005 and 181426-44021)
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**Proposed Preliminary
Plat 912.42.14-04**

Subdivide the 4.70± acres into twenty-four (24) parcels served by public and private streets, municipal water and sewerage systems, and include drainage and street illumination.

Location: East of Herlou Drive approximately 75 ft. north of Lyle Loop and 100 ft. south of Weems Way.

The Hearing Examiner's public hearing will be held on **Thursday, December 4th, 2014, commencing at 7:00 p.m., or as soon thereafter as practical, in the Council Chambers, City Hall Building, 115 West Naches Avenue, Selah, WA.**

Application information and maps detailing the proposals are available for public inspection during regular business hours at the City of Selah Planning Department, 222 South Rushmore Road, Selah, WA. Persons who wish to testify in support of, or against, the proposed rezone and/or subdivision are encouraged to attend. All written comments received before the day of the open record public hearing will be considered. If you submit written comments be sure to reference file numbers 914.42.14-04 (planned development rezone) and/or 912.42.10-04 (preliminary plat) in your correspondence.

The Examiner will forward a recommendation of rezone and subdivision approval, approval with conditions, or denial to the Selah City Council for their consideration and final disposition. **The Examiner's open record public hearing is the only opportunity to provide comment, testimony, and evidence concerning the proposals.**

If you have project or procedural questions please feel free to contact Dennis Davison, Community Planner in person at 222 South Rushmore Road, Selah, by phone at 1 (509) 698-7365 or by fax at 1 (509) 698-7372.

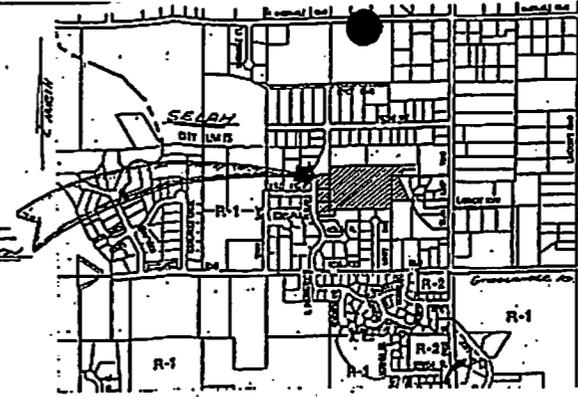
Dated this 14th day of November, 2014.

/s/

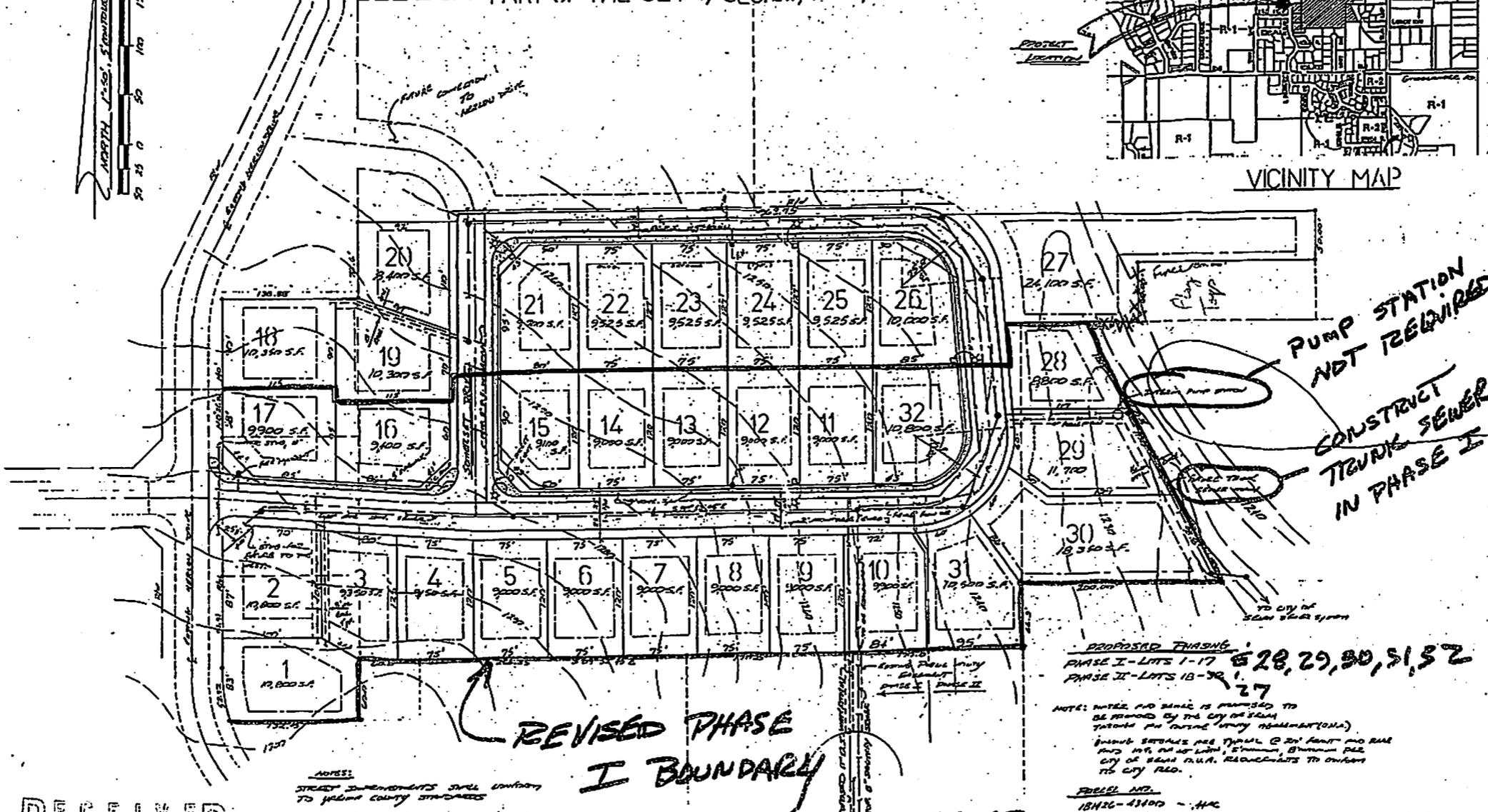
Dennis Davison, Community Planner

PROPOSED PLAT OF SOMERSET ESTATES

PART OF THE SE 1/4, SEC. 26, T14N, R18EWM



VICINITY MAP



REVISED PHASE
I BOUNDARY

PUMP STATION
NOT REQUIRED

CONSTRUCT
TRUNK SEWER
IN PHASE II

SEWER
IN LORRY
LANE NOT
REQUIRED

PROPOSED PHASING:
 PHASE I - LOTS 1-17 & 28, 29, 30, 31, 32
 PHASE II - LOTS 18-32

NOTE: WATER AND SEWER IS PROPOSED TO BE PROVIDED BY THE CITY OF SEAN. THROUGH THE "LOCAL UTILITY REGULATION (LUR) ACT". SEWERAGE AND TRUNK @ 24" DIA. AND RAIL AND GAS, 24" DIA. LINES, 5' MINIMUM, BURIED 10' CITY OF SEAN T.U.A. REGULATIONS TO OBTAIN THE CITY REG.

PARCEL NO.	ACRES
18126-43100	-.44C
18126-43401	-.44C
18126-43402	-.43AC
18126-44004	-.72AC
18126-44226	-.80AC
TOTAL	2.37 AC ±
: DENSITY = 32 / 2.37 = 13.4 LOTS/ACRE	

DEN
3/19/97

EXHIBIT 7
12-4-14
SOMERSET II

ADDRESSES:
STREET DIMENSIONS SHALL conform TO YAKIMA COUNTY STANDARDS
STORM DRAINAGE SHALL BE MAINTAINED ON SITE AS APPROVED BY THE COUNTY ENGINEER

OWNER / DEVELOPER
SOMERSET INVESTMENT PARTNERS
- WILLIAM C. MONTGOMERY
- R. LEE ZIGLER
110 S. 80th ST
YAKIMA, WA 98901

PREPARED FOR:
 SOMERSET INVESTMENT PARTNERS
 WILLIAM C. MONTGOMERY AND R. LEE ZIGLER
 110 S. 80th ST.
 YAKIMA, WA 98901

NOBEL ENGINEERING, INC.
 GENERAL CIVIL / MUNICIPAL ENGINEERING SERVICES
 415 NORTH 1st STREET
 YAKIMA, WA 98901
 (509) 574-0863 FAX (509) 574-0864

DRAWN BY: DEN
 REVISION:
 JOB # 26-106-01
 DATE DEC. 5, 1996
 SHEET 1 OF 1

RECEIVED

Yakima County Planning

EXHIBIT 10
12-2-14
SOMERSET II

BOARD OF YAKIMA COUNTY COMMISSIONERS

IN THE MATTER OF APPROVAL)
OF PRELIMINARY PLAT NO. 454) RESOLUTION NO. 280-1997
KNOWN AS "Somerset Investment")

WHEREAS, according to Yakima County Ordinance No. 10-1974, relating to platting, subdivision and the dedication of land and adopted pursuant to RCW 58.17, a public hearing was held on June 10, 1997, at 10:30 a.m., in Room 420, Yakima County Courthouse, Yakima, Washington for the purpose of considering Preliminary Plat No. 454, known as "Somerset Investment" described as follows:

Parent Parcel Numbers 181426-43400, 43401, 43402, and 44004

This property is located on the east side of Herlou Road between Weems and Goodlander Roads, adjacent to the city of Selah. Situated in Yakima County, State of Washington

and,

WHEREAS, testimony was taken from those persons who wished to be heard;
and,

WHEREAS, the Board of Yakima County Commissioners has reviewed the Findings of Fact from the Hearing Examiner in support of approval on the Preliminary Plat No. 454 and hereby adopts said findings as part of the decision contained herein;
and,

WHEREAS, due notice of the hearing was given as required by law, and the necessary inquiry has been made into the public use and interest to be served by such platting; and,

WHEREAS, the Board of Yakima County Commissioners has considered elements of public health, safety, and general welfare pertaining to the preliminary plat; now, therefore,

BE IT HEREBY RESOLVED by the Board of Yakima County Commissioners that Preliminary Plat designated as "Somerset Investment," be and the same hereby is, approved along with the following conditions:

ROADS

1. The public road improvements for the interior street must be designed and constructed to current Yakima County standards for urban access streets complete with a sidewalk on one side and street lighting to meet Yakima County lighting requirements. Street plans must be prepared by a licensed professional engineer and reviewed and approved by the County Engineer prior to construction.

Prior to approval of Phase 1 of the plat, the street extending easterly from Herlou Drive must terminate in a temporary cul-de-sac, with an end-of-road barricade, meeting the requirements of the County Engineer.

2. Prior to the approval of Phase 2 of the plat, the street along the north must be constructed and must extend to Herlou Drive in order to provide a second connecting street. The street must be built to a minimum 24 foot paved width, within 35 feet of dedicated right-of-way. This roadway must include curbs, gutters, sidewalks, and streetlights. The street, including connection to Herlou Drive, must be constructed within the plat unless right-of-way is granted from the property owners to the north. A temporary end-of-road barricade meeting the requirements of the Public Works Department must be installed until the second street is constructed. The intersection must meet intersection site distances as determined by Public Works.
3. Barrier curbing must be installed around the radii of the intersection of the new plat streets and Herlou Drive to the end of the radius before transitioning into mountable curbing. Approved mountable curbing may be installed on the remainder of the interior streets as approved by the County Engineer. The minimum radius for curbing at intersections is 25 feet.
4. Sidewalks adjacent to rolled curbs and gutters shall be six (6) inches thick instead of the standard four (4) inch thickness.
5. Sixty feet of public road right-of-way including 30 feet by 30 feet clear vision triangles or approved radii at all road intersections must be dedicated for the interior plat streets unless the developer's engineer can demonstrate to the satisfaction of the County Engineer that the improvements can be constructed within 50 feet of right-of-way.
6. The location of any proposed and/or existing road approach to Herlou Drive must be applied for, reviewed and approved by the County Engineer. Lots 2 and 17 must gain access by way of the interior plat street.

ROADS (CONTINUED)

7. The Yakima County Public Works Department will determine if any road signs are required for this development. If so, they will be installed by the Public Works Department prior to acceptance of the road and all costs associated with supplying and installing the signs must be reimbursed to Yakima County by the developer. All road names must be approved by Public Works.
8. The developer must arrange a pre-construction conference prior to any road or utility construction within the proposed or existing road right-of-ways and an inspector must inspect the actual road construction.

WATER, SEWER, AND UTILITIES

9. All lots must be served with public sewer and water.
10. All public and private utilities must be underground.
11. Fire hydrants must be provided and installed by the developer at locations and to the specifications of the Yakima County Fire Marshal.
12. Storm water drainage facilities to accommodate runoff generated within the plat, must comply with a drainage facilities plan prepared by the developer's licensed professional engineer (LPE) and approved by the County Engineer.

The plans must include any required alterations to the existing underground storm drain system (and the streetlight) for Herlou Drive at both approach locations.

13. Detailed plans for all proposed utilities within right-of-ways must be submitted for review and approval prior to construction of the utilities.
14. Minimum 10 foot wide utility easements must be provided adjacent to all public road right-of-ways and as specified by the utility providers.

NOTES ON THE PLAT

15. The following notes must be placed on the face of the plat:
 - a. Road approach permits are required for each lot. All road approaches must be reviewed and approved by the County Engineer prior to the issuance of a building permit. No direct access shall be permitted for Lots 2 and (7) except by way of the interior street.

Sc man

NOTES ON THE PLAT (CONTINUED)

- Now Lot
12, 13, 14, 15*
- b. The owners shown hereon, their grantees and assignees in the interest hereby covenant and agree to retain all surface water generated within the plat on-site. Any natural drainage ways must not be altered or impeded.
 - c. A portion of the lots contain a Type 5 Stream as defined in the Critical Area Ordinance. As such, a 25 foot building setback is required for lots 28, 29, and 30 (lot 27 shall be included in this, if physical inspection establishes location of the outfall on lot 27).
 - d. An outside utility agreement with the City of Selah requires that the more stringent building and fire code provisions of the City of Selah or Yakima County apply to all construction.

MISCELLANEOUS

- 16. Final lot dimensions and lot area must substantially conform with the preliminary plat.
- 17. A method of dust control during the construction phases must be submitted to, and approved by, the Yakima Clean Air Authority. A written copy of their approval must be submitted to the Planning Department prior to construction of any work phase. The developer must designate a responsible party for contacts during working hours regarding alleged air quality violations.
- 18. Monuments must be placed at street intersections and curvature points as specified in Yakima County Code Section 14.32.020. The monuments must be protected by cases and covers as approved by the County Engineer.
- 19. Prior to recording the final plat or issuance of building permits, all required plat improvements must be installed, or alternatively, an escrow account established or a bond provided in an amount and with conditions acceptable to the County Engineer, to assure installation of all required improvements. Building permits may be issued on a lot-by-lot basis, by the County Engineer, when determined that building construction will not interfere with utility and roadway construction.
- 20. If the developer elects to escrow or bond for the required plat improvements as provided below, and fails to complete them in the time specified in the escrow or bond agreement, the County Engineer shall have the authority to suspend issuance of building permits or occupancy permits until the required improvements are accepted as satisfactorily completed.

Resolution No. 280-1997

MISCELLANEOUS (CONTINUED)

21. The total project must be completed and the final plat submitted with in the maximum five year time period set forth in RCW 58.17.140.

Done this 10th day of June, 1997.



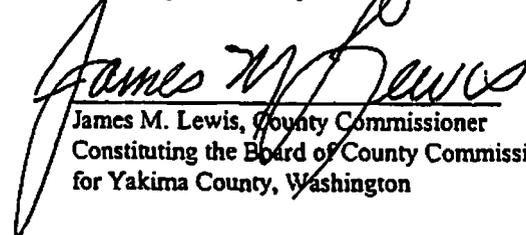
William A. Flower, Chairman

ATTEST:



Bettie Ingham, County Commissioner

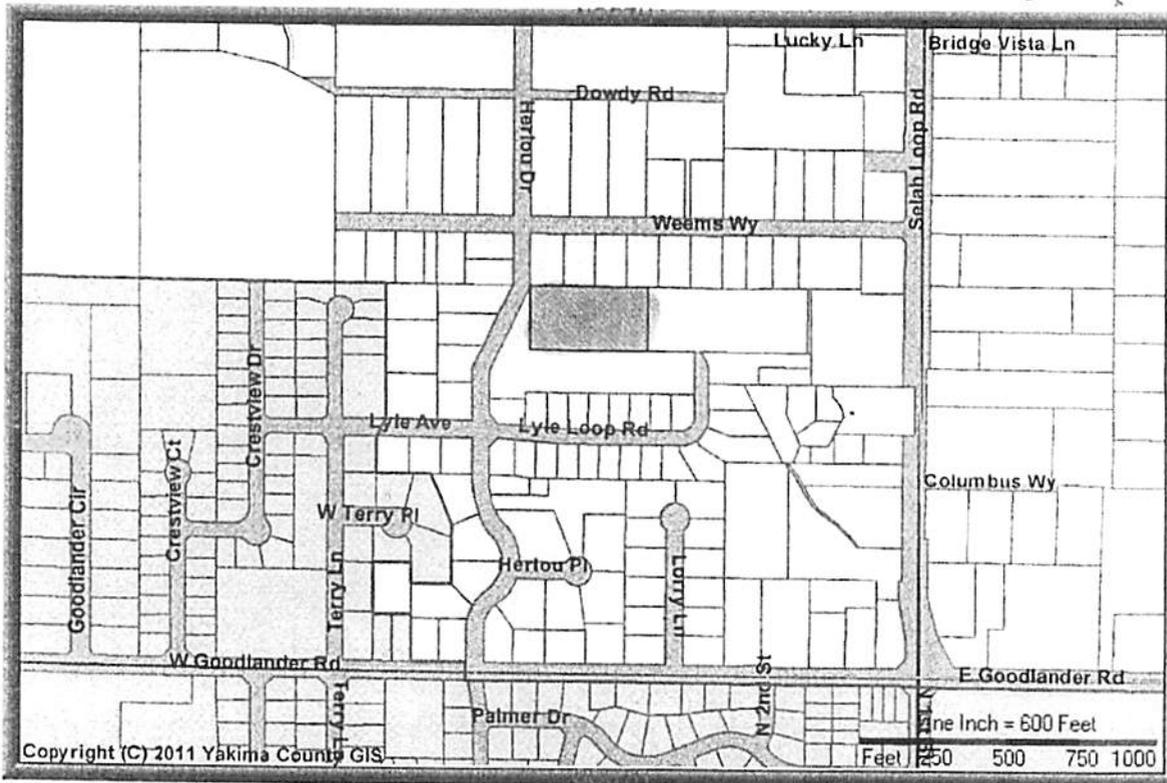
Sylvia E. Hinojosa, Clerk of the Board



James M. Lewis, County Commissioner
Constituting the Board of County Commissioners
for Yakima County, Washington

[Print Map] [Close Map]

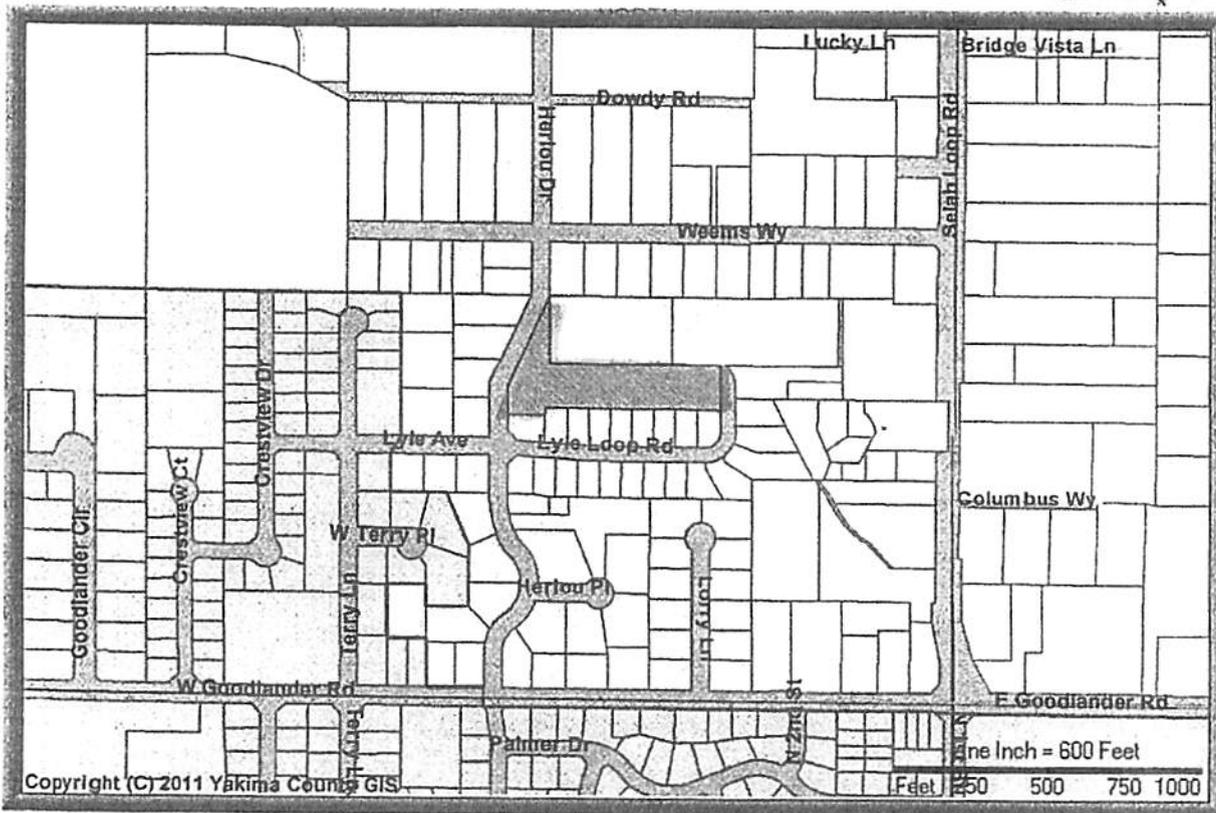
Yakimap.com



PROPERTY PHOTO	PROPERTY INFORMATION	
	Parcel Address: HERLOU DR/WEEMS WY, WA	
	Parcel Owner(s): ZUKER ZUKER SAMPLE DEVELOPMENT LLC	
	Parcel Number: 18142644005	Parcel Size: 2.03 Acre(s)
	Property Use: 91 Residential land Undeveloped	
	TAX AND ASSESSMENT INFORMATION	
	Tax Code Area (TCA): 403	Tax Year 2012
	Improvement Value: \$0	Land Value \$42350
	Current Use Value: \$0	Current Use Improvement \$0
	New Construction: \$0	Total Assessed Value \$42350
	OVERLAY INFORMATION	
Zoning: R-1	Jurisdiction: County	
Urban Growth Area: Selah	Future Landuse Designation: UGA (Yakima County Plan 2015)	
FEMA Not in floodplain (X)	FIRM Panel Number: 53077C0716D	
LOCATION INFORMATION		
+ Latitude 46° 40' 06.623"	+ Longitude -120° 32' 05.852"	Range: 18 Township 14 Section 26
Narrative Description: Section 26 Township 14 Range 18 Quarter SE: W 400 FT OF N1/2 N1/2 SE1/4 SE1/4, EX S 110 FT		
DISCLAIMER		
MAP AND PARCEL DATA ARE BELIEVED TO BE ACCURATE, BUT ACCURACY IS NOT GUARANTEED; THIS IS NOT A LEGAL DOCUMENT AND SHOULD NOT BE SUBSTITUTED FOR A TITLE SEARCH, APPRAISAL, SURVEY, FLOODPLAIN OR ZONING VERIFICATION		

[Print Map] [Close Map]

Yakimap.com



PROPERTY PHOTO	PROPERTY INFORMATION	
	Parcel Address: LYLE LOOP RD/HERLOU RD, SELAH, WA 98942	
	Parcel Owner(s): ZUKER ZUKER SAMPLE DEVELOPMENT LLC	
	Parcel Number: 18142644021	Parcel Size: 2.67 Acre(s)
	Property Use: 91 Residential land Undeveloped	
	TAX AND ASSESSMENT INFORMATION	
	Tax Code Area (TCA): 403	Tax Year: 2012
Improvement Value: \$0	Land Value: \$44050	
CurrentUse Value: \$0	CurrentUse Improvement: \$0	
New Construction: \$0	Total Assessed Value: \$44050	
OVERLAY INFORMATION		
Zoning: R-1	Jurisdiction: County	
Urban Growth Area: Selah	Future Landuse Designation: UGA (Yakima County Plan 2015)	
FEMA: Not in floodplain (X)	FIRM Panel Number: 53077C0716D	
LOCATION INFORMATION		
+ Latitude: 46° 40' 04.914"	+ Longitude: -120° 32' 06.076"	Range: 18 Township: 14 Section: 26
Narrative Description: Section 26 Township 14 Range 18 Quarter SE: BEG NW COR LOT 24 OF "PLAT OF SOMERSET 1" (AF# 7194172), TH N 89° 19' 25" E 122.76 FT, TH N 00° 06' 37" E 23.4 FT, TH N 89° 53' 34" E 147.7 FT, TH S 89° 54' 29" E 560.97 FT, TH S 00° 34' 29" E 77.13 FT, TH S 89° 19' 25" W 139.1 FT, TH S 00° 40' 35" E 93.99 FT TO POB ALSO TH PTN VAC R/W DESC AS1 PLAT OF "SELANDIA MANOR" TH N 89° 34' 00" E 138.88 FT, TH N 00° 21' 00" W TO NE COR SD PLAT, TH TH S 25° 20' 24" W TO POB		
DISCLAIMER		
MAP AND PARCEL DATA ARE BELIEVED TO BE ACCURATE, BUT ACCURACY IS NOT GUARANTEED; THIS IS NOT A LEGAL DOCUMENT AND SHOULD NOT BE SUBSTITUTED FOR A TITLE SEARCH, APPRAISAL, SURVEY, FLOODPLAIN OR ZONING VERIFICATION		



PRELIMINARY LONG PLAT SITE PLAN SUBMITTAL CHECKLIST

Form # PLN S 002-SC1-A
Revised 4/1/10

Yakima County Public Services
128 North Second Street · Fourth Floor Courthouse · Yakima, Washington 98901
(509) 574-2300 · 1-800 572-7354 · FAX (509) 574-2301 · www.co.yakima.wa.us

This supplemental checklist is a required submittal for your long plat proposal. Check the box beside those items you have included on your site plan. Cross through the entire line of an item if you think it does not apply. The administrative official may require additional information.

A sample site plan is available for your assistance. For information or assistance, please contact Public Services.

Required Site Plan Information:

	Yes	No	
1	<input checked="" type="checkbox"/>	<input type="checkbox"/>	All required items on the Site Plan Minimum Requirements Submittal Checklist.
2	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Proposed name of the subdivision (the name cannot be a duplicate of a name used on any other recorded subdivision in Yakima County).
3	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Location of the subdivision by section, township, and range.
4	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Names and addresses of the owners, subdivider, designer of the subdivision and the surveyor.
5	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Full and correct legal description of the entire parcel to be subdivided.
6	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Existing property lines of the entire parcel to be subdivided, including dimensions and acreage enclosed, drawn at a scale of at least 1 inch = 200 feet.
7	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Contour lines with 5 foot intervals or less showing elevation, if ground slope exceeds three percent.
8	<input type="checkbox"/>	<input type="checkbox"/>	Contour lines extended 100 feet beyond boundaries of the subdivision if individual sewage disposal systems are contemplated, and if ground slope exceeds three percent.
9	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Existing uses of the property, including those uses which are not contained within structures.
10	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Proposed uses of the property.
11	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Location of any existing and proposed walks, curbs, gutters, culverts, buried conduits and subsurface drains.
12	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The location, name, right-of-way width, approximate radii of curves and approximate grades and gradients of all proposed streets, alleys or roads within or on the boundary of the proposed subdivision.
13	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Approximate linear dimensions of all lot boundaries and approximate sizes of lots with proposed lot and block numbers. Please check to make sure lot sizes and shapes comply with applicable zoning regulations for your zoning district.
14	<input checked="" type="checkbox"/>	<input type="checkbox"/>	A brief statement regarding the contemplated sewage disposal, water supply, and drainage improvements for the proposed subdivision.
15	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Minimum building setback lines according to applicable zoning laws. A typical lot may show setbacks for all regular shaped interior lots. All setback lines must be shown on irregular shaped and corner lots.
16	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Proposed cross section(s) of interior and bordering streets.
17	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Location of all existing and proposed fire hydrants.
18	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Vicinity map of at least 800 feet surrounding the subdivision (use separate sheet if necessary) to include: All other existing subdivisions and their names; roads or road reservations; other parcels; streams; public buildings and areas; and any other pertinent information that will assist in the consideration of the proposal.
	<input type="checkbox"/>	<input type="checkbox"/>	<i>All other existing subdivisions and their names</i>
	<input type="checkbox"/>	<input type="checkbox"/>	<i>Roads or road reservations</i>
	<input type="checkbox"/>	<input type="checkbox"/>	<i>Acreage and property lines with dimensions</i>
	<input type="checkbox"/>	<input type="checkbox"/>	<i>Streams</i>
	<input type="checkbox"/>	<input type="checkbox"/>	<i>Public buildings and areas</i>
	<input type="checkbox"/>	<input type="checkbox"/>	<i>Any other pertinent information that will assist in the consideration of the proposal</i>

By signing this form you are certifying that the above information is attached and accurate.

Signature: _____

Ray A. Linnell

Date: _____

10/31/11



PRELIMINARY LONG PLAT

Form # PLN S 002-SC2-A
Revised 4/1/10

Supplemental Checklist

Yakima County Public Services
128 North Second Street · Fourth Floor Courthouse · Yakima, Washington 98901
(509) 574-2300 · 1-800 572-7354 · FAX (509) 574-2301 · www.co.yakima.wa.us

This supplemental checklist is a required submittal for your long plat proposal. Check the box beside those items you have included on your site plan. Cross through the entire line of an item if you think it does not apply. A sample site plan is available for your assistance. For information or assistance, please contact Public Services.

	Yes	No	
1	<input checked="" type="checkbox"/>	<input type="checkbox"/>	All required items on the Site Plan Minimum Requirements Submittal Checklist.
2	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Proposed name of the subdivision (the name cannot be a duplicate of a name used on any other recorded subdivision in Yakima County).
3	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Location of the subdivision by section, township, and range.
4	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Names and addresses of the owners, subdivider, designer of the subdivision and the surveyor.
5	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Full and correct legal description of the entire parcel to be subdivided.
6	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Existing property lines of the entire parcel to be subdivided, including dimensions and acreage enclosed, drawn at a scale of at least 1 inch = 200 feet.
7	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Contour lines with 5 foot intervals or less showing elevation, if ground slope exceeds three percent.
8	<input type="checkbox"/>	<input type="checkbox"/>	Contour lines extended 100 feet beyond boundaries of the subdivision if individual sewage disposal systems are contemplated, and if ground slope exceeds three percent.
9	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Existing uses of the property, including those uses which are not contained within structures.
10	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Proposed uses of the property.
11	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Location of any existing and proposed walks, curbs, gutters, culverts, buried conduits and subsurface drains.
12	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The location, name, right-of-way width, approximate radii of curves and approximate grades and gradients of all proposed streets, alleys or roads within or on the boundary of the proposed subdivision.
13	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Approximate linear dimensions of all lot boundaries and approximate sizes of lots with proposed lot and block numbers. Please check to make sure lot sizes and shapes comply with applicable zoning regulations for your zoning district.
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18	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Vicinity map of at least 800 feet surrounding the subdivision (use separate sheet if necessary) to include: All existing other subdivisions and their names; roads or road reservations; other parcels; streams; public buildings and areas; and any other pertinent information that will assist in the consideration of the proposal.

By signing this form you are certifying that the above information is attached and accurate.

Signature: *Reya S. [Signature]*

Date: 10/31/11



FILE# 7857093
YAKIMA COUNTY, WA
12/01/2014 01:27:40PM
ORDINANCE
PAGES: 9
YAKIMA COUNTY PLANNING DEPARTMENT

Recording Fee: 80.00

CITY OF SELAH
115 West Naches Avenue
Selah, WA. 98942

TITLE OF INSTRUMENT(S): CITY OF SELAH ANNEXATION ORDINANCE # 1935
(Boundary Review Board File # 2013-003)

REFERENCE NUMBER OF DOCUMENTS ASSIGNED OR RELEASED:

NAMES OF GRANTORS AND GRANTEEES:
CITY OF SELAH, WA. TO THE GENERAL PUBLIC

ABBREVIATED LEGAL DESCRIPTION:
A portion of the Southeast quarter of Section 26, Township 14 North, Range 18
East, W.M.

ASSESSORS TAX PARCEL NUMBERS:

181426-43472, 43473, 43474, 44001, 44002, 44003, 44005, 44011, 44015, 44018, 44019,
44020, 44021, 44022, 44418, 44420, 44421, 44422, 44423, 44426, 44429, 44430, 44431, 44432,
44433, 44436, 44437, 44438, 44439, 44440, 44441, 44442, 44443, 44444, 44445, 44446, 44447,
44448, 44449, 44450, 44451, 44452, 44453, 44454, 44455, 44456, 44457, 44458, 44459, 44460
and 44461 together with any portion of the right of way of Goodlander Road lying between the
westerly right of way line of Selah Loop Road, also known as North First Street, and the
southerly extension of the westerly right of way line of Herlou Drive.

EXHIBIT 12
12-4-2014
SOMMERSET II

CX71011
12-4-2014
SOMERSET II

**FINAL DETERMINATION OF
NONSIGNIFICANCE**

1. **DESCRIPTION OF PROPOSAL:**
 - (a) Reclassify 4.70 acres from Low Density Residential (maximum five units per acre) to Moderate Density Residential (maximum twelve units per acre).
 - (b) Rezone the acreage from One-Family Residential (R-1) to Planned Development (PD) based on a specific site development plan.
 - (3) Consider the Preliminary Plat of "Somerset II" subdividing the site into thirty-three (33) individual lots for the construction of single-family residences. Each lot is to be served with municipal water and sewerage service, accessible via either a public or private street connecting to Herlou Drive. The development will include curbs and gutters, street drainage and street illumination.

2. **PROPONENT:** Zuker-Sample LLC
1304 Heritage Hills Place
Selah, WA. 98942

3. **LOCATION OF PROPOSAL:** East of Herlou Drive approximately 75 ft. north of Lyle Loop and 100 ft. south of Weems Way. (Taxation Parcels: 181326-44005 and 181426-44021).

4. **LEAD AGENCY:** City of Selah **File Number:** 971.42.14-07

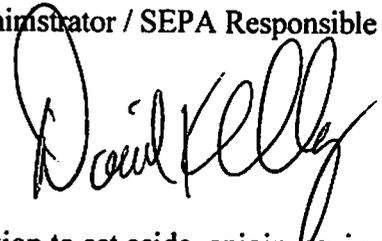
5. A Determination of Nonsignificance (DNS) was issued under RCW 43.21C and the lead agency did not act on this proposal for 14 days from the issue date.

6. DNS issue date: September 16, 2014

FINAL DNS ISSUE DATE: October 3, 2014.

David Kelly, City Administrator / SEPA Responsible Official

SIGNATURE:



APPEALS: Any action to set aside, enjoin, review, or otherwise challenge such action on the grounds of non-compliance with the provisions of Chapter 43.21c RCW (State Environmental Policy Act) shall be commenced within five (5) business days, of the Final DNS issue day, or before October 10, 2014.

DETERMINATION OF NONSIGNIFICANCE

1. **DESCRIPTION OF PROPOSAL:**
 - (a) Reclassify 4.07 acres from Low Density Residential (maximum five units per acre) to Moderate Density Residential (maximum twelve units per acre).
 - (b) Rezone the acreage from One-Family Residential (R-1) to Planned Development (PD) based on a specific site development plan.
 - (3) Consider the Preliminary Plat of "Somerset II" subdividing the site into thirty-three (33) individual lots for the construction of single-family residences. Each lot is to be served with municipal water and sewerage service, accessible via either a public or private street connecting to Herlou Drive. The development will include curbs and gutters, street drainage and street illumination.

2. **PROPONENT:** Zuker-Sample LLC
1304 Heritage Hills Place
Selah, WA. 98942

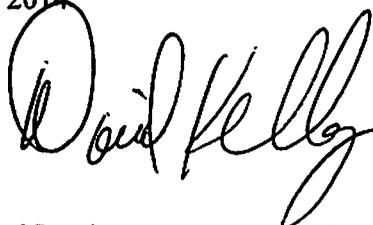
3. **LOCATION OF PROPOSAL:** East of Herlou Drive approximately 75 ft. north of Lyle Loop and 100 ft. south of Weems Way. (Taxation Parcels: 181326-44005 and 181426-44021).

4. **LEAD AGENCY:** City of Selah **File Number:** 971.42.14-07

5. The lead agency for this proposal has determined that it will not have a probable significant adverse impact on the environment and an Environmental Impact Statement (EIS) is not required under RCW 43.21C. This decision was made after review of a completed environmental checklist, the proposed comprehensive plan amendment, rezone and preliminary plat and other information on file with the lead agency. This information is available for public inspection during regular business hours at the City of Selah Public Works Department, 222 So. Rushmore Road, Selah, WA.

This DNS is issued under WAC 197-11-340; the lead agency will not act on this proposal for 14 days from the issue date. Comments must be submitted by 5:00 p.m. September 29th 2014.

6. **RESPONSIBLE OFFICIAL:** DAVID KELLY
7. **POSITION/TITLE:** CITY ADMINISTRATOR
8. **ADDRESS:** 113 W. Naches Ave. Selah, WA. 98942
9. **ISSUE DATE:** September 16, 2014
10. **SIGNATURE:**





CITY OF SELAH

Planning Department

222 South Rushmore Road
SELAH, WASHINGTON 98942

Phone 509-698-7365

Fax 509-698-7372

TO: SEPA Reviewing Agencies
FROM: City of Selah Planning Department
SUBJ: ER - 971.42.14-07

This is to notify all public and private agencies with jurisdiction and/or environmental expertise that the City of Selah has been established as the lead agency pursuant to the Washington State Environmental Policy Act (SEPA) for the following proposal:

- (a) Reclassify 4.07 acres from Low Density Residential (maximum five units per acre) to Moderate Density Residential (maximum twelve units per acre).
- (b) Rezone the acreage from One-Family Residential (R-1) to Planned Development (PD) based on a specific site development plan.
- (3) Consider the Preliminary Plat of "Somerset II" subdividing the site into thirty-five (35) individual lots for the construction of single-family residences. Each lot is to be served with municipal water and sewerage service, accessible via either a public or private street connecting to Herlou Drive. The development will include curbs and gutters, street drainage and street illumination.

The project site is located East of Herlou Drive approximately 75 ft. north of Lyle Loop and 100 ft. south of Weems Way. (Taxation Parcels: 181326-44005 and 181426-44021).

The City of Selah is lead agency for this proposal and has assigned file number 971.42.14-07

The lead agency for this proposal has determined that it will not have a probable significant adverse impact on the environment and an Environmental Impact Statement (EIS) is not required under RCW 43.21C. This determination was made after a review of the completed environmental checklist, the proposed preliminary plat, and other information on file with the lead agency. This information is available for public inspection during regular business hours at the Public Works Department, 222 So. Rushmore Road, Selah, WA.

Attached is the Determination of Nonsignificance (DNS), the environmental checklist, project and vicinity maps.

The Determination of Nonsignificance (DNS) was issued September 15, 2014 under WAC 197-11-350(3); the lead agency will not act on this proposal for 14 days from the issue date. Comments must be submitted by 5:00 p.m. on March 29, 2014.



SUBJ: ER - 971.42.14-07
"Somerset II" Comprehensive Plan Amendment, Planned Development Rezone and Preliminary Plat

Feel free to comment by separate letter or completing and submitting the comment page.

This project does not affect us

We have no comments

WE HAVE THE FOLLOWING COMMENTS:

DATE: _____ AGENCY:

SIGNATURE:

TITLE:

TELEPHONE NO.:





CITY OF SELAH

PLANNING DEPARTMENT
113 WEST NACHES AVENUE
SELAH, WA 98942
PHONE: (509) 698-7365 FAX (509) 698-7372
ENVIRONMENTAL CHECKLIST



FILE NUMBER: 971.42.14-07
DATE FEE PAID 5-5-2014
RECEIVED BY [Signature]
FEE: \$275

INTRODUCTION

The State Environmental Policy Act (SEPA), Chapter 43.21C RCW, requires all governmental agencies to consider the environmental impacts of a proposal before making decisions. An environmental impact statement (EIS) must be prepared for all proposals with probable significant adverse impacts on the quality of the environment. The purpose of this checklist is to provide information to help you and the agency identify impacts from your proposal (and to reduce or avoid impacts from the proposal if it can be done) and to help the agency decide whether an EIS is required.

This environmental checklist asks you to describe some basic information about your proposal. Government agencies use this checklist to determine whether the environmental impacts of your proposal are significant, requiring preparation of an EIS. Answer the questions briefly, with the most precise information known, or give the best description you can.

You must answer each question accurately and carefully, to the best of your knowledge. In most cases, you should be able to answer the questions from your own observations or project plans without the need to hire experts. If you really do not know the answer, or if a question does not apply to your proposal, write "do not know" or "does not apply". Complete answers to the questions now may avoid unnecessary delays later.

Some questions ask about governmental regulations, such as zoning, shoreline, and landmark designations. Answer these questions if you can. If you have problems, the governmental agencies can assist you.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist; may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impacts.

Complete this checklist for nonproject proposals, even though questions may be answered "does not apply". IN ADDITION, complete the SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS (part D).

For nonproject actions, the references in the checklist to the words "project applicant," and "property of site" should be read as "proposal," "proposer," and "affected geographic area," respectively.

BACKGROUND

1. Name of proposed project, if applicable: SOMMERSET II
2. Name of applicant: ZUKER-SAMPLE DEVELOPMENT LLC
3. Address and phone number of applicant and contact person: ROYA-SAMPLE
1304 HERITAGE HILLS PL.
SELAH, WA 98942
4. Date checklist submitted: 2/20/14
5. Agency requiring checklist: CITY OF SELAH
6. Proposed timing or schedule (including phasing, if applicable): PHASE 1 - 2014
PHASE 2 - 2015-16

7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain. **NO**
8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal. **NONE KNOWN**
9. Do you know whether applications are pending for governmental approvals or other proposals directly affecting the property covered by your proposal? If yes, explain. **NO**
10. List any government approvals or permits that will be needed for your proposal, if known. **COMPREHENSIVE PLANCHANGE, REZONE, PRELIM. AND FINAL PLAT**
11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. **SUBDIVIDE 4.7 ACRES INTO A COMBINATION OF SINGLE FAMILY AND TOWNHOUSE (0-LOT LINE) LOTS**
12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist. **EAST OF HERLOU DR. AND EXTENSION OF EXISTING LYLE LOOP.**
13. Taxation parcel numbers(s):

TO BE COMPLETED BY APPLICANT ONLY

EVALUATION FOR

AGENCY USE

B. Environmental Elements

1. Earth

- a. General description of the site (circle one): Flat, rolling, hilly, steep slopes, mountainous, other _____.
- b. What is the steepest slope on the site (approximate percent slope)? **25% (VERY SMALL PORTION)**
- c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any prime farmland. **WIND BLOWN LOESS**
- d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe. **NO**
- e. Describe the purpose, type, and approximate quantities of any filing or grading proposed. Indicate source of fill. **QUANTITIES UNKNOWN - ROAD GRADING, LOT LEVELING**
- f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe. **NOT SIGNIFICANT**
- g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)? **44%**
- h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any: **SILT FENCES, WATERING, GRADING COMPACTION, AND STORM DRAINS**

2. Air

- a. What types of emissions to the air would result from the proposal (i.e., dust, automobile, odors, industrial wood smoke) during construction and when the project is completed? If any, generally describe and give approximate quantities if known. **CONSTRUCTION EQUIPMENT, AUTOMOBILES, QUANTITY UNKNOWN**
- b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe. **NO**

c. Proposed measures to reduce or control emissions or other impacts to air, if any:

OPEN SITE, NONE KNOWN

3. Water

a. Surface:

- 1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into. NO
- 2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans. NO
- 3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material. NONE
- 4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known. NO
- 5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan. NO
- 6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge. NO

b. Ground:

- 1) Will groundwater be withdrawn, or will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known. NO
- 2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage, industrial, containing the following chemicals...; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve. NONE

c. Water Runoff (including storm water):

- 1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (including quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe. STORM DRAIN STRUCTURES - NONE TO OTHER WATERS
- 2) Could waste materials enter ground or surface waters? If so, generally describe. NO

d. Proposed measures to reduce or control surface, ground, and runoff water impacts, if any:

AS STATED ABOVE

4. Plants

a. Check or circle types of vegetation found on the site:

- deciduous trees: alder, maple, aspen, other
- evergreen tree: fir, cedar, pine, other

- shrubs
- grass
- pasture
- crop or grain
- wet soil plants: cattail, buttercup, bulrush, skunk cabbage, other
- water plants: water lily, eelgrass, milfoil, other
- other types of vegetation **CHEAT GRASS + WEEDS**

- b. What kind of and amount of vegetation will be removed or altered?
AS ABOVE - 50% TO
- c. List threatened or endangered species known to be on or near the site.
NONE
- d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:
LAWNS, NATURAL LANDSCAPING, TREES, BUSHES

5. Animals

- a. Circle any birds and animals, which have been observed on or near the site or are known to be on or near the site:
Bird: hawk heron, eagle, songbirds, other:
Mammals: deer, bear, elk, beaver, other:
Fish: bass, salmon, trout, herring, shellfish, other:
- b. List any threatened or endangered species known to be on or near the site.
NONE
- c. Is the site part of a migration route? If so, explain.
NO
- d. Proposed measures to preserve or enhance wildlife, if any:
NONE

6. Energy and Natural Resources

- a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.
ELECTRICITY - NATURAL GAS - HEATING AND COOLING
- b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.
NO
- c. What kind of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any.
UNKNOWN - TYPICAL RESIDENTIAL AREA - CITY OF SELAH CODES

7. Environmental Health

- a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of the proposal? If so, describe.
NO
- 1) Describe special emergency services that might be required.
NONE
- 2) Proposed measures to reduce or control environmental health hazards, if any:
DUST CONTROL, LANDSCAPING, EROSION CONTROL, SILT FENCES
- b. Noise
- 1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, construction, operation, other)?
NONE

- 2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site. **CONSTRUCTION AND MINOR TRAFFIC**
- 3) Proposed measures to reduce or control noise impacts, if any: **8 AM - 8 PM**
NONE

8. Land and Shoreline Use

- a. What is the current use of the site and adjacent properties?
OPEN AND SINGLE FAMILY RESIDENCE
- b. Has the site been used for agriculture? If so, describe.
UNKNOWN
- c. Describe any structures on the site.
NONE
- d. Will any structures be demolished? If so, what?
NO
- e. What is the current zoning classification of the site?
R-1
- f. What is the current comprehensive plan designation of the site?
LOW DENSITY RESIDENTIAL
- g. If applicable, what is the current shoreline master program designation of the site?
UNKNOWN
- h. Has any part of the site been classified as an "environmentally sensitive" area? If so specify.
NO
- i. Approximately how many people would reside or work in the completed project?
100
- j. Approximately how many people would the completed project displace?
NONE
- k. Proposed measures to avoid or reduce displacement impacts, if any:
NONE
- l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:
NONE

9. Housing

- a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.
33-MIDDLE INCOME
- b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.
NONE
- c. Proposed measures to reduce or control housing impacts, if any:
NONE

10. Aesthetics

- a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?
28' - BRICK, STUCCO, MASONITE OR WOOD SIDING
- b. What views in the immediate vicinity would be altered or obstructed?
NONE
- c. Proposed measures to reduce or control aesthetic impacts, if any:
NONE

11. Light and Glare

- a. What type of light or glare will the proposal produce? What time of day would it mainly occur?
STREET LIGHTS - AT NIGHT
- b. Could light or glare from the finished project be a safety hazard or interfere with views?
NO

c. What existing off-site sources of light or glare may affect your proposal?

NONE

d. Proposed measures to reduce or control light and glare impacts, if any:

NONE

12. Recreation

a. What designated and informal recreational opportunities are in the immediate vicinity?

SCHOOL GROUNDS, BALLFIELDS, SWIMMING POOL,

b. Would the proposed project displace any existing recreational uses? If so, describe.

TENNIS COURTS

NO

c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:

NONE

13. Historic and Cultural Preservation

a. Are there any places or objects listed on, or proposed for, national, state, or local preservation registers known to be on the site? If so, generally describe.

NO

b. Generally describe any landmarks or evidence of historic, archaeological, scientific, or cultural importance known to be on or next to the site.

NONE

c. Proposed measures to reduce or control impacts, if any:

NONE

14. Transportation

a. Identify public streets and highways serving the site, and describe proposed access to the existing street system. Show on site plans, if any.

ACCESS IS VIA HERLOU DRIVE AND THE EXISTING PORTION OF LYLE LOOP.

b. Is site currently served by public transit? If not, what is the approximate distance to the nearest transit stop?

CITY OF SELAH - 1 MILE

c. How many parking spaces would the completed project have? How many would the project eliminate?

2 PARKING SPACES (MIN.) PER UNIT / PLUS GARAGES - NONE ELIMINATED

d. Will the proposal require any new roads or streets, or improvements to existing roads or streets, not including driveways? If so, generally describe (indicate whether public or private).

CONSTRUCTION OF THE REMAINDER OF LYLE LOOP (PUBLIC). EASEMENT TON. UNITS (PRIVATE)

e. Will the project use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.

NO

f. How many vehicular trips per day would be generated by the completed project? If known, indicate when peak volumes would occur.

100 TRIPS / DAY. PEAK AT 7:00 AM AND 5:00 PM

g. Proposed measures to reduce or control transportation impacts, if any:

NONE

15. Public Services

a. Would the project result in an increased need for public services (for example: fire protection, police protection, health care, schools, other)? If so, generally describe.

INCREASE IN CITY SERVICES AS NOTED ABOVE. CITY OF SELAH HAS THE CAPACITY.

c. Proposed measures to reduce or control direct impacts on public services, if any.

NONE

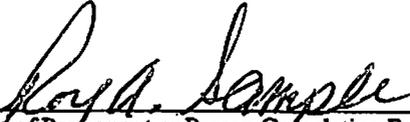
16. Utilities

a. Circle utilities currently available at the site: electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other.

- b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed. *INSTALLATION OF PUBLIC STREETS, CITY OF SELAH PUBLIC WATER AND SEWER, DRAINAGE, PACIFIC POWER ELECTRICAL, AND CASCADE NATURAL GAS.*

C. SIGNATURES

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.



Signature of Proponent or Person Completing Form

Date: 2/20/14

D. SUPPLEMENTAL SHEET FOR NON-PROJECT ACTIONS (do not use this sheet for project actions)

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise? *SLIGHTLY, BECAUSE OF ADDED RESIDENTIAL UNITS TO THE UNITS ALREADY EXISTING*
Proposed measures to avoid or reduce such increases are: *NONE*
2. How would the proposal be likely to affect plants, animals, fish, or marine life? *REMOVAL OF WEEDS, AND UNDESIRABLE VEGETATION TO BE REPLACED BY LANDSCAPING, I.E. - TREES, LAWN, BUSHES, FLOWERS*
Proposed measures to protect or conserve plants, animals, fish, or marine life are? *AS STATED ABOVE*
3. How would the proposal be likely to deplete energy or natural resources?
NONE KNOWN
Proposed measures to protect or conserve energy and natural resources are: *NONE KNOWN*
4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplain, or prime farmlands? *NONE*
Proposed measures to protect such resources or to avoid or reduce impacts are: *NONE*
5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans? *NONE*
Proposed measures to avoid or reduce shoreline and land use impacts are: *NONE*
6. How would the proposal be likely to increase demands on transportation or public services and utilities?
AVERAGE RESIDENTIAL USE
Proposed measures to reduce or respond to such demand(s) are: *NONE*
7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment. *IT WILL NOT CONFLICT*

Davison, Dennis

EXHIBIT 14
12-4-2014
SOMERSET II

From: Heidi Matson <Heidi.Matson@co.yakima.wa.us>
Sent: Wednesday, December 03, 2014 8:41 AM
To: Davison, Dennis
Subject: RE: West Goodlander Annexation

Hi Dennis,

The Auditors File Number is 7857093.

Thanks,

Heidi Matson

Office Specialist – County Roads
Yakima County Public Services
128 N 2nd Street, 4th Floor
Yakima, WA 98901
509-574-2302 – Desk
509-574-2301 – Fax
Heidi.Matson@co.yakima.wa.us

From: Davison, Dennis [<mailto:ddavison@ci.selah.wa.us>]
Sent: Wednesday, December 03, 2014 8:16 AM
To: Heidi Matson
Subject: RE: West Goodlander Annexation

Heidi—would you please send me the Auditor's recording number. Thanks for your help.

From: Heidi Matson [<mailto:Heidi.Matson@co.yakima.wa.us>]
Sent: Monday, December 01, 2014 2:11 PM
To: Davison, Dennis
Cc: Greta Smith
Subject: West Goodlander Annexation

Hi Dennis,

I am just letting you know that I have approved your final ordinance and it has been sent to the Auditor's Office for recording. Greta will be back in the office tomorrow if you have any further questions.

Thank you,

Heidi Matson

Office Specialist – County Roads
Yakima County Public Services
128 N 2nd Street, 4th Floor
Yakima, WA 98901
509-574-2302 – Desk
509-574-2301 – Fax



**CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY**



COUNCIL MEETING ACTION ITEM

2/24/2015 M – 5

Title: Resolution of the City Council of the City of Selah, Washington, Adopting Public Defense Standards and Requesting the Mayor to Provide Updates to the City Council Regarding any Future Changes in the Adopted Standards in Conjunction with the Annual Budget Report

Thru: Joe Henne, Interim City Administrator

From: Robert Noe, City Attorney

Action Requested: Approval

Board/Commission Recommendation: Not applicable

Fiscal Impact: N/A

Funding Source: N/A

Staff Recommendation:

Approval

Background / Findings & Facts:

Adoption of a Resolution regarding the standards as required by RCW 10.101.030 is a requirement for the Public Defense grant the City was awarded. This Resolution, drafted by the City's attorney, will fulfill the State requirement.

Recommended Motion:

Approval of the Resolution of the City Council of the City of Selah, Washington, Adopting Public Defense Standards and Requesting the Mayor to



**CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY**



Provide Updates to the City Council Regarding any Future Changes in the Adopted Standards in Conjunction with the Annual Budget Report

Record of all prior actions taken by the City Council and/or a City Board, City Committee, Planning Commission, or the Hearing Examiner (where applicable)

Date:	Action Taken:
11/12/2015	Public Defense Grant Agreement No. GRT15272 with the Washington State Office of Public Defense

[Click here to enter a date.](#) [Click here to enter text.](#)

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RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SELAH,
WASHINGTON, ADOPTING PUBLIC DEFENSE STANDARDS AND REQUESTING THE
MAYOR TO PROVIDE UPDATES TO THE CITY COUNCIL REGARDING ANY FUTURE
CHANGES IN THE ADOPTED STANDARDS IN CONJUNCTION WITH THE ANNUAL
BUDGET REPORT

WHEREAS, Revised Code of Washington (RCW) 10.101.030 requires cities to adopt standards for the delivery of public defense services; and

WHEREAS, the statute provides that the standards endorsed by the Washington State Bar Association for the provision of public defense services “should serve as guidelines” to the City Council in adopting standards; and

WHEREAS, the Honorable Robert S. Lasnik of the Federal District Court for Western Washington in his decision in *Wilbur v. Mt. Vernon, et al* provides guidance to cities regarding the provision of indigent defense services in the funding and evaluation of such services; and

WHEREAS, the Washington State Supreme Court has adopted Standards for Indigent Defense more specifically, Standard 3 regarding case load limits; now, therefore,

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, AS FOLLOWS:

Section 1. The City of Selah hereby adopts as its standards for the delivery of public defense services the following resources by reference, as the same exist or may hereafter be amended:

1.1 Public Defense Services shall be provided to all clients in a professional, skilled manner consistent with the Standards set forth by the Washington State Bar Association and Standards for Indigent Defense Services (June 3, 2011); and

1.2 The Washington State Rules of Professional Conduct; and

1.3 The decision of the Honorable Robert S. Lasnik, Western District of Washington, in *Wilbur, et al v. Mt. Vernon, et al*, Case No. 2:11-cv-01100.

Section 2. Nondiscrimination. The Public Defender shall comply with all federal, state and local non-discrimination laws or ordinances in the provision of services to indigent defendants as well as with respect to the hiring and employment practices of its employees.

Section 3. The City Council recognizes that by adopting these Standards by reference, it is important that changes be reviewed on a regular basis, at least annually. Accordingly, the City Council requests the Mayor and staff provide a report to the City Council in conjunction with the annual budget process so that it may evaluate the need to update these Standards.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SELAH,
WASHINGTON this 24th day of February, 2015.

John Gawlik, Mayor

ATTEST:

Dale E. Novobielski, Clerk Treasurer

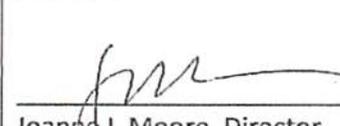
APPROVED AS TO FORM:

Robert Noe, City Attorney

RESOLUTION NO. _____

FACE SHEET

WASHINGTON STATE OFFICE OF PUBLIC DEFENSE

1. Grantee City of Selah 115 W Naches Ave Selah, WA 98942	2. Grantee Representative Andrew Paschen Court Administrator Selah Municipal Court 115 W Naches Ave Selah, WA 98942
3. Office of Public Defense (OPD) 711 Capitol Way South, Suite 106 PO Box 40957 Olympia, WA 98504-0957	4. OPD Representative Joanne I. Moore Director Office of Public Defense 711 Capitol Way South, Suite 106 PO Box 40957 Olympia, WA 98504-0957
5. Grant Amount \$4,750	6. Grant Period January 1, 2015 through December 31, 2015
7. Grant Purpose The Chapter 10.101 RCW city grants are competitive grants for the purpose of improving the quality of public defense services in Washington municipalities. (<u>See</u> Chapter 10.101 RCW.)	
The Office of Public Defense (OPD) and Grantee, as defined above, acknowledge and accept the terms of this Grant and attachments and have executed this Grant on the date below to start January 1, 2015 and end December 31, 2015. The rights and obligations of both parties to this Grant are governed by this Grant and the following other documents incorporated by reference: Special Terms and Conditions of the City Grant and General Terms and Conditions of City Grant.	
FOR THE GRANTEE  Name, Title November 12, 2014 Date	FOR OPD  Joanne I. Moore, Director 11/18/14 Date

SPECIAL TERMS AND CONDITIONS OF THE CITY GRANT

1. GRANT MANAGEMENT

The Representative for each of the parties shall be responsible for and shall be the contact person for all communications regarding the performance of this Grant.

- a. The Representative for OPD and their contact information are identified on the Face Sheet of this Grant.
- b. The Representative for the Grantee and their contact information are identified on the Face Sheet of this Grant.

2. GRANT AWARD AMOUNT

The Grantee is awarded Eighteen Thousand Two Hundred Twenty Five and 00/100 Dollars (\$18,225) to be used for the purpose(s) described in the USE OF GRANT FUNDS below.

3. PROHIBITED USE OF GRANT FUNDS (as adopted in OPD Policy County/City Use of State Public Defense Funding)

- a. Grant funds cannot be used to supplant local funds that were being spent on public defense prior to the initial disbursement of state grant funds.
- b. Grant funds cannot be spent on purely administrative functions or billing costs.
- c. Grants funds cannot be used for indigency screening costs.
- d. Grant funds cannot be used for city or court technology systems or administrative equipment.
- e. Grant funds cannot be used for city attorney time, including advice on public defense contracting.

4. USE OF GRANT FUNDS

- a. Grantee agrees to use the grant funds for the following purposes:
 - i. Adding attorneys to reduce public defense caseloads.
 - ii. Providing quality monitoring by an attorney who monitors contract attorneys providing public defense services.
 - iii. Providing public defense services at preliminary appearance calendars.
- b. Grantee agrees to obtain OPD's written permission before funds are used for any purpose other than those listed in Section 4a above.
- c. Grantee agrees to use the funds in calendar year 2015. If Grantee is unable to use the funds in 2015, the Grantee agrees to notify OPD to determine what action needs to be taken.
- d. Grantee agrees to deposit the grant check within fourteen days of receipt.

5. REPORT

Grantee agrees to submit a written mid-year report to OPD no later than July 31, 2015. The report shall include, but not necessarily be limited to, the following information: to date overview, how grant funds have been used, a copy of each public defense attorney's quarterly Certificate of Compliance submitted during 2015, and a description of efforts to implement the Supreme Court Standards for Indigent Defense.

6. ORDER OF PRECEDENCE

In the event of an inconsistency in this Grant, the inconsistency shall be resolved by giving precedence in the following order:

- Applicable federal and state of Washington statutes, regulations, and court rules
- Special Terms and Conditions Of the City Grant
- General Terms and Conditions of the City Grant

GENERAL TERMS AND CONDITIONS OF THE CITY GRANT

1. ALL WRITINGS CONTAINED HEREIN

This Grant contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Grant shall be deemed to exist or to bind any of the parties hereto.

2. AMENDMENTS

This Grant may be amended by mutual agreement of the parties. Such amendment shall not be binding unless it is in writing and signed by personnel authorized to bind each of the parties.

3. AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, also referred to as the "ADA" 29 CFR Part 35.

The Grantee must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

4. ASSIGNMENT

Neither this Grant, nor any claim arising under this Grant, shall be transferred or assigned by the Grantee without prior written consent of OPD.

5. ATTORNEY'S FEES

Unless expressly permitted under another provision of the Grant, in the event of litigation or other action brought to enforce Grant terms, each party agrees to bear its own attorneys fees and costs.

6. CONFORMANCE

If any provision of this Grant violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

7. ETHICS/CONFLICTS OF INTEREST

In performing under this Grant, the Grantee shall assure compliance with the Ethics in Public Service, Chapter 42.52 RCW and any other applicable court rule or state or federal law related to ethics or conflicts of interest.

8. GOVERNING LAW AND VENUE

This Grant shall be construed and interpreted in accordance with the laws of the state of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

9. INDEMNIFICATION

To the fullest extent permitted by law, the Grantee shall indemnify, defend, and hold harmless the state of Washington, OPD, all other agencies of the state and all officers, agents and employees of the state, from and against all claims or damages for injuries to persons or property or death arising out of or incident to the performance or failure to perform the Grant. ,

10. LAWS

The Grantee shall comply with all applicable laws, ordinances, codes, regulations, court rules, policies of local and state and federal governments, as now or hereafter amended.

11. NONCOMPLIANCE WITH NONDISCRIMINATION LAWS

During the performance of this Grant, the Grantee shall comply with all federal, state, and local nondiscrimination laws, regulations and policies. In the event of the Grantee's non-compliance or refusal to comply with any nondiscrimination law, regulation or policy, this Grant may be rescinded, canceled or terminated in whole or in part.

12. RECAPTURE

In the event that the Grantee fails to perform this Grant in accordance with state laws, federal laws, and/or the provisions of the Grant, OPD reserves the right to recapture funds in an amount to compensate OPD for the noncompliance in addition to any other remedies available at law or in equity.

13. RECORDS MAINTENANCE

The Grantee shall maintain all books, records, documents, data and other evidence relating to this Grant. Grantee shall retain such records for a period of six (6) years following the end of the grant period. If any litigation, claim or audit is started before the expiration of the six (6) year period, the

records shall be retained until all litigation, claims, or audit findings involving the records have been finally resolved.

14. RIGHT OF INSPECTION

At no additional cost all records relating to the Grantee's performance under this Grant shall be subject at all reasonable times to inspection, review, and audit by OPD, the Office of the State Auditor, and state officials so authorized by law, in order to monitor and evaluate performance, compliance, and quality assurance under this Grant. The Grantee shall provide access to its facilities for this purpose.

15. SEVERABILITY

If any provision of this Grant or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Grant that can be given effect without the invalid provision, if such remainder conforms to the requirements of law and the fundamental purpose of this Grant and to this end the provisions of this Grant are declared to be severable.

16. WAIVER

Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Grant unless stated to be such in writing.



**CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY**



COUNCIL MEETING ACTION ITEM

2/24/2015 N – 1

Title: Ordinance Amending the 2015 Budget for the 3rd Street Water Main Replacement Project

Thru: Joe Henne, Interim City Administrator

From: Dale Novobielski, Clerk-Treasurer

Action Requested: Approval

Board/Commission Recommendation: Not applicable

Fiscal Impact: \$ 673,192 DWSRF Loan

Funding Source: Fund 411 Water

Staff Recommendation:

Approve Ordinance.

Background / Findings & Facts:

The City desires to replace the water main on 3rd Street and has been awarded a DWSRF loan from the Washington State Public Works Board.

Recommended Motion:

I move to approve the Ordinance amending the 2015 budget for the replacement of the water main on 3rd Street.

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE 2015 BUDGET FOR THE 3rd STREET WATER MAIN REPLACEMENT PROJECT

WHEREAS, the City desires to approve an adjustment to the 2015 Budget;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, does ordain as follows: that the Clerk-Treasurer be authorized to amend the 2015 Budget as follows:

411 Water

411.000.034.391.80.02.00 DWSRF Loan DM13-952-130 \$ 676,100

411.000.094.594.34.65.39 Water Sys Improv DM13-952-130 \$ 676,100

PASSED AND ORDAINED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON this 24th day of February 2015.

John J. Gawlik, Mayor

ATTEST:

Dale E. Novobielski, Clerk-Treasurer

APPROVED AS TO FORM:

Robert Noe, City Attorney

ORDINANCE NO. _____



**CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY**



COUNCIL MEETING ACTION ITEM

2/24/2015 N – 2

Title: Ordinance adopting a new City Of Selah 2014 Water System Plan and Repealing the 2008 Comprehensive Water Plan.

Thru: Joe Henne, Interim City Administrator

From: Joe Henne, Public Works Director

Action Requested: Approval

Board/Commission Recommendation: Approval

Fiscal Impact: None

Funding Source: N/A

Staff Recommendation:

Approve the ordinance adopting the 2014 Water System Plan and repeal the 2008 Comprehensive Water Plan.

Background / Findings & Facts:

The Washington State Growth Management Act (GMA) requires cities to adopt comprehensive water plans every 6 years that are consistent with and implement their comprehensive land use plans.

The new water system plan is intended to direct and prepare for future growth and development within the City of Selah.

The last water system plan was adopted in 2008 and the City has prepared a new water system plan to replace the 2008 Comprehensive Water Plan.



**CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY**



Recommended Motion:

Approve the ordinance adopting the 2014 Water System Plan and repeal the 2008 Comprehensive Water Plan.

Record of all prior actions taken by the City Council and/or a City Board, City Committee, Planning Commission, or the Hearing Examiner (where applicable)

Date:	Action Taken:
10/25/2014	Resolution establishing November 25, 2014 as the Public Hearing date to consider the adoption of the 2014 Water System Plan.

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ORDINANCE NO. _____

**ORDINANCE ADOPTING A NEW CITY OF SELAH
2014 WATER SYSTEM PLAN AND REPEALING THE 2008
COMPREHENSIVE WATER PLAN**

WHEREAS, RCW Chapter 36.70A et seq., the Washington State Growth Management Act (GMA), requires cities to adopt comprehensive water plans that are consistent with and implement their comprehensive land use plans; and,

WHEREAS, the City of Selah is required to plan in conformance with the GMA; and,

WHEREAS, a water system plan is intended to direct and prepare for future growth and development within the City of Selah, and,

WHEREAS, the 2014 Water System Plan is a planning document to implement the City of Selah Urban Growth Area Comprehensive Plan; and,

WHEREAS, the City of Selah has taken deliberate steps to meet the water planning requirements of the Washington State Department of Health during the development of the City of Selah 2014 Water System Plan; and,

WHEREAS, the document entitled **The City of Selah 2014 Water System Plan** (hereinafter WSP) has been prepared as a new water system plan for the City of Selah; and,

WHEREAS, the PLAN contains an Executive Summary, ten Chapters, and an Appendix as follows:

Introduction and Executive Summary

Chapter I: Description of Water System (including Section 1.6 service area policies)

Chapter II: Basic Planning Data and Water Demand Forecasting

Chapter III: System Analysis

Chapter IV: Water Resource Analysis & Water Use Efficiency (WUE)

Chapter V: Source Water Protection

Chapter VI: Operation and Maintenance Program

Chapter VII: Distribution Facilities Design and Construction Standards

Chapter VIII: Improvement Program

Chapter IX: Financial Program

Chapter X: Miscellaneous Documents

and,

WHEREAS, WAC 246-290-100(8) b requires approval of the WSP by the purveyor's

governing body or elected governing board.

WHEREAS, Chapter 43.21C RCW, the State Environmental Policy Act (SEPA) requires the City of Selah to conduct environmental review of the WSP; and,

WHEREAS, on November 9, 2014 the City of Selah published in the legal advertising section of the Yakima Herald Republic, the legal newspaper for the City of Selah, notice of the City of Selah Council's public hearing scheduled for November 25, 2014 to consider the proposed WSP. A Determination of Nonsignificance (DNS) on the WSP was issued for review and comment on June 9, 2014; and,

WHEREAS, the WSP was made available for review on the City of Selah's website at <http://www.selahwa.gov/>; and,

WHEREAS, all persons desiring to either provide written testimony or speak for or against or in relation to the WSP at the City Council Meeting on November 25, 2014 public hearing were given a full and complete opportunity to be heard; and,

WHEREAS, the City Council of the City of Selah has concluded that the adoption and implementation of the City of Selah 2014 Water System Plan is essential to direct the future growth and development of the City of Selah.

NOW THEREFORE BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF SELAH:

SECTION 1. PLAN ADOPTION. The document entitled THE CITY OF SELAH 2014 WATER SYSTEM PLAN, dated October 2014, is hereby adopted as required by RCW 36.70A and approved as required by WAC 246-290-100(8)b, shall be the official water system plan for the City of Selah. By this reference the City of Selah 2014 Water System Plan is incorporated as if fully set forth herein. The City Clerk/Treasurer and the City's Public Works Department shall have copies of the Water System Plan available for public access, review and inspection at their respective offices.

SECTION 2. REPEAL OF THE 2008 CITY OF SELAH COMPREHENSIVE WATER PLAN. The City of Selah 2008 Comprehensive Water Plan, adopted by Ordinance 1739, December 9, 2008 is hereby repealed.

SECTION 3. EFFECTIVE DATE. This ordinance shall be effective at 12:01 a.m. the day following publication of a summary of the ordinance in the official newspaper of the City of Selah.

SECTION 4. SEVERABILITY. If any section, phrase or provision of the City of Selah 2014 Water System Plan or this ordinance is held illegal, invalid or unenforceable by a court of competent jurisdiction the remaining provisions of the City of Selah 2014 Water System Plan

and this ordinance shall remain in full force and effect.

Dated this 24th day of February, 2015.

John Gawlik, Mayor

ATTEST:

Dale E. Novobielski, Clerk Treasurer

APPROVED AS TO FORM:

Robert F. Noe, City Attorney

ORDINANCE NO. _____



**CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY**



COUNCIL MEETING ACTION ITEM

2/24/2014 N – 3

Title: Ordinance Amending Ordinance No. 1634 Zoning Map Amendment No. 914.42.14-05 Rezone to Planned Development (PD)

Thru: Joe Henne, Interim City Administrator

From: Thomas R Durant, Community Planner

Action Requested: Approval

Board/Commission Recommendation: Denial

Fiscal Impact: N/A

Funding Source: N/A

Staff Recommendation:

Approval

Background / Findings & Facts:

Hearing Examiner conducted open record public hearing December 4, 2014. Prepared Findings of Fact and Conclusions recommending Denial of the Somerset II Planned Development without prejudice, *with allowance for reopening the open public record hearing in accordance with SMC 10.24.060.*

The Hearing Examiner also made a finding that if the Council is persuaded that the Planned Development meets the requirements of Chapter 10.24, SMC notwithstanding a recommendation for denial that an approval be subject to the conditions set forth on pp 16 – 19 under Finding #7 of the Hearing Examiner's decision.



**CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY**



Recommended Motion:

I move the Council adopt Findings 1 through 8 and Conclusions 1, 2, 5 and 7 of the Hearing Examiner's Recommendation, additional Findings and Conclusions from the December 1, 2014 staff report and approve Somerset II Planned Development Rezone 914.42.14-04 subject to the conditions set forth on pages 16-19 of the Hearing Examiner's decision under Conclusion #7

Record of all prior actions taken by the City Council and/or a City Board, City Committee, Planning Commission, or the Hearing Examiner (where applicable)

Date:	Action Taken:
12/4/2014	Hearing Examiner Open Record Public Hearing
10/14/2014	City Council Closed Record Public Hearing – remanded
9/30/2014	Planning Commission Open Record Public Hearing

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ORDINANCE NO. _____

**ORDINANCE AMENDING ORDINANCE NO. 1634
ZONING MAP AMENDMENT NO. 914.42.14-05 REZONE TO PLANNED
DEVELOPMENT (PD)**

WHEREAS, Chapter 35A.63 of the Revised Code of Washington authorizes the City Council of the City of Selah to adopt and amend official controls including zoning ordinances and zoning maps; and,

WHEREAS, Zuker-Sample Development, LLC submitted an application to rezone 4.7 acres from One Family Residential (R-1) to Planned Development (PD) together with a proposed development plan and program pursuant to SMC 10.24; and,

WHEREAS, Zuker-Sample Development, LLC also submitted a preliminary plat, an application to amend the Urban Growth Area Comprehensive Plan and a State Environmental Policy Act (SEPA) environmental checklist for the same property and related to the proposed Planned Development. Following a public hearing before the Planning Commission, consideration by the Council at a public meeting at which the Planning Commission's recommendation was remanded, the applicant withdrew said comprehensive plan amendment, revised said preliminary plat and rezone application to Planned Development and resubmitted it for reconsideration; and,

WHEREAS, the Hearing Examiner considered the revised Planned Development together with the application for preliminary plat at an open record public hearing on December 4, 2014; and,

WHEREAS, the Hearing Examiner issued findings and conclusions and a recommendation for denial of the rezone without prejudice and with allowance to reopen the public hearing proceeding in accordance with SMC 10.24.060 to allow public comment on additional information and amended plan or program material submitted by the applicant in its discretion; and,

WHEREAS, the Hearing Examiner also made a finding that if the Council is persuaded that the Planned Development meets the requirements of Chapter 10.24, Selah Municipal Code, notwithstanding a recommendation for denial, that said approval should be subject to the conditions set forth in Finding #7 of the Hearing Examiner's written decision; and

WHEREAS, the City of Selah Council has considered the Hearing Examiner's findings of fact and conclusions and the City staff report dated December 1, 2014 and the Council is satisfied that the matter has been sufficiently considered; and,

WHEREAS, the City of Selah Council adopts some , but not all of the Findings and Conclusions of the Hearing Examiner's Recommendation dated December 19, 2014

WHEREAS, the City Council of the City of Selah finds that the zoning map amendment furthers the purpose, goals and objectives of the 2005 City of Selah Urban Growth Area Comprehensive

Plan, the City of Selah Zoning Ordinance and the public health, safety and general welfare.

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Findings. The recitals set forth above are incorporated herein as the City Council's Findings. Further, the following Hearing Examiner's Findings and Conclusions are adopted as the City Council's Findings and Conclusions by this reference: Findings 1 through 8, 9'a' and 9'd'. Conclusions 1, 2, 5 & 7.

The following additional Findings and Conclusions are adopted:

1. The proposal substantially conforms to the comprehensive plan as described in the December 1, 2014 staff report, page 9, a1 and a2.
2. The proposal substantially meets the Planned Development review criteria as described in the December 1, 2014 staff report, pp. 12 – 15.
3. The Planned Development is compatible with surrounding land uses for the following reasons:
 - a. As amended by the proponent, the density of the proposal now before the City is limited to that permitted by the Low Density Residential comprehensive plan designation and to housing types that are similar to that of the surrounding area.
 - b. Application documents that the proposed lot size is the same as that of the Crest Subdivision, located nearby in the Selah City Limits. The application also documents that lot size and housing type of the Crest has not adversely affected land values of surrounding residential properties.

Section 2. Amendment. The following described real property is hereby reclassified from One-Family Residential (R-1) to Planned Development (PD):

The South ½ of the NW ¼ of the SE ¼ of the SE ¼ and the South 110 feet of that part of the North ½ of the North ½ of the SE ¼ of the SE ¼ lying West of the Main Lateral of the Naches-Selah Canal, in Section 26, Township 14 N., Range 18 E.W.M.;

Together with Lot 1, Selandia Manor, as recorded in Volume "T" of Plats, Page 47, Records of Yakima County, Washington, and that portion of vacated right-of-way accruing thereto by reason of Resolution Number 460-2007, recorded October 11, 2007, under Auditor's File Number 7584893;

Except beginning at a point on the East line of said Section 26, a distance of 997.69 feet North of the Southeast corner thereof;

Thence North 89°36' West 370 feet to the centerline of said canal and the True Point of Beginning;

Thence North 0°45' East 60 feet;

Thence South 89°36' West 180 feet;

Thence South 0°45' East 60 feet

Thence South 89°36' East to the True Point of Beginning.

And Except that portion lying within the Plat of Somerset I, Recorded under Auditor's File Number 7194172, Records of Yakima County, Washington.

The West 400 feet of the North ½ of the North ½ of the Southeast ¼ of the Southeast ¼ of Section 26, Township 14 N., Range 18 E.W.M., Except the South 110 feet thereof. (Assessor's Parcel Nos. 181426-44005 and 44021).

Section 3. This ordinance, implementing zoning map amendment number 914.42.14-04 shall become effective five (5) days following legal publication of this ordinance or a summary of this ordinance.

Done this 24th day of February, 2015

John Gawlik, Mayor

ATTEST:

Dale E. Novobielski, Clerk-Treasurer

APPROVED AS TO FORM:

Robert Noe, City Attorney

ORDINANCE NO. _____