

# SELAH CITY COUNCIL

4:00pm July 14, 2015



Selah City Council  
 Regular Meeting  
 Tuesday, July 14, 2015  
 4:00pm  
 City Council Chambers

Mayor:  
 Mayor Pro Tem:  
 Council Members:

John Gawlik  
 Paul Overby  
 John Tierney  
 Dave Smeback  
 Allen Schmid  
 Roy Sample  
 Jane Williams  
 Laura Ritchie

CITY OF SELAH  
 115 West Naches Avenue  
 Selah, Washington 98942

City Administrator: Don Wayman  
 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

- Joe Henne a. June 2015 Monthly Report for Building Permits and Inspections, Animal Control and Code Enforcement

- 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: June 15, 2015 Study Session & Council Meeting
- Dale N. \* 2. Approval of Claims & Payroll

- J. Public Hearings **None**
- K. New Business
  - Eric Steen 1. Lexipol, Law Enforcement Standard Operating Procedures Manual
- L. Old Business **None**
- M. Resolutions
  - Tom Durant 1. Resolution Approving the Preliminary Plat of “Somerset II” (912.42.15-02) and Adopting Findings and Conditions of Preliminary Plat Approval

N. Ordinances

- Joe Henne \* 1. Ordinance Authorizing the Acquisition of Personal Property and Execution of a Financing Contract and Related Documentation Relating to the Acquisition of Said Property

O. Reports/Announcements

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

P. Executive Session

1. 15 Minute Session – Executive Session: 15 Minute Session - Public Employee Performance Review RCW 40.30.110(g)

Q. Adjournment

Next Study Session July 28, 2015  
Next Regular Meeting July 28, 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**

**7/14/2015      G – 2A**

**Title:** June 2015 Monthly Report for Building Permits and Inspections, Animal Control and Code Enforcement.

**Thru:** Donald Wayman, City Administrator

**From:** Joe Henne, Public Works Director

**Action Requested:** Informational - No action

**Board/Commission Recommendation:** Not applicable

**Fiscal Impact:** N/A

**Funding Source:** N/A

**Staff Recommendation:**

Informational Only

**Background / Findings & Facts:**

Attached are the Building Permits and Inspections, Animal Control and Code Enforcement reports for June.

**Recommended Motion:**

Informational only.

## June 2015 Building Permit and Inspection Reports

No.	Issue Date	Name/Project	Address	Type	Master Plan	Fees
6370	6/3/2015	Parminder Thind	510 N. 15th Street	Building		\$4,809.18
6371	6/3/2015	Parminder Thind	510 N. 15th Street	Plumbing		\$191.52
6372	6/3/2015	Parminder Thind	510 N. 15th Street	Mechanical		\$149.20
6373	6/3/2015	Parminder Thind	510 N. 15th Street	UG Sprinklers		\$40.18
6400	6/23/2015	James Garner	207 Pleasant	New SFR		\$3,841.24
6401	6/23/2015	James Garner	207 Pleasant	New Plumbing		\$96.17
6402	6/23/2015	James Garner	207 Pleasant	New Mechanical		\$53.27
6412	6/1/2015	BBS Selah LLC/Happy Feet Nails & Spa	502 S. First Street #B	Tenant Improvements/New Commercial		\$475.54
6413	6/1/2015	BBS Selah LLC/Happy Feet Nails & Spa	502 S. First Street #B	Plumbing Commercial		\$248.49
6414	6/1/2015	BBS Selah LLC/Happy Feet Nails & Spa	502 S. First Street #B	Mechanical Commercial		\$93.39
6415	6/3/2015	Rick Bazaldua	808 W. 5th Ave	Re-Roof		\$78.60
6417	6/8/2015	Richard Bergstrom	104 N. 3rd Street	U. G. Sprinklers		\$40.18
6418	6/22/2015	Yakima Valley School	609 Speyers Rd.	Demolish & Replace Roof/Skylights		\$1,245.96
6419	6/9/2015	Deb Rath	304 N. 7th Street	Re-Roof		\$78.60
6420	6/10/2015	Vikings Investors 1 LLC	907 Cherry	Footing/Foundation Only for (2) Triplex(s)		\$0.00
6421	6/11/2015	Loretta Skala	109 N. 14th Street	Re-Roof		\$78.60
6423	6/23/2015	Graf Investments	907 W. Cherry	New Plumbing		\$994.67
6424	6/23/2015	Graf Investments	907 W. Cherry	New Mechanical		\$588.68
6425	6/23/2015	Graf Investments	907 W. Cherry	U. G. Sprinklers		\$40.18
6426	6/22/2015	Selah Lince Early Learning Center	316 W. Naches Ave.	New Commercial		\$1,232.05
6427	6/22/2015	Selah Lince Early Learning Center	316 W. Naches Ave.	Plumbing Commercial		\$74.41
6428	6/16/2015	Ken Allan	312 S. First Street	Re-Roof		\$78.61
6429	6/16/2015	Darin Brown	1602 W. Naches Ave	U. G. Sprinklers		\$40.18
6431	6/23/2015	Graf Investments	907 W. Cherry	New Building (2) Triplex(s)		\$15,218.70
6432	6/23/2015	Torkelson Construction	203 Whisper Way	Footing/Foundation Only		\$0.00
6436	6/23/2015	Torkelson Construction	205 Whisper Way	Footing/Foundation Only		\$0.00
6440	6/23/2015	Torkelson Construction	207 Whisper Way	Footing/Foundation Only		\$0.00
6444	6/23/2015	Torkelson Construction	209 Whisper Way	Footing/Foundation Only		\$0.00
6448	6/23/2015	Torkelson Construction	211 Whisper Way	Footing/Foundation Only		\$0.00
6452	6/23/2015	John Johnston	703 Viewcrest Court	Re-Roof		\$78.60
6453	6/29/2015	Brian Lund	406 Apple Way	Deck		\$218.07
					<b>TOTAL:</b>	<b>\$30,084.27</b>

**Total Building Inspections for June 2015: 80**

## June 2015 Animal Control Report

DATE	LOCATION	PROBLEM/CONCERN	ACTION TAKEN	RESULT
6/1/2015	100 BLK W FREMONT	FOUND DOG	TAKEN TO HUMANE SHELTER	
6/4/2015	100 BLK PARK AVE.	SKUNKS ON PROPERTY	DO NOT CATCH SKUNKS	
6/5/2015	WIXSON PARK	PIT BULL	DOG WAS A BOXXER	
6/10/2015	3RD & RIVERVIEW	LOST DOG	UNABLE TO LOCATE	
6/10/2015	600 BLK W FREMONT	BARKING DOG	CONTACTED OWNER	TOOK DOG INSIDE
6/10/2015	300 BLK N 3RD STREET	FARRELL CATS	DO NOT CATCH STRAYS	LOANED TRAP TO OWNER
6/16/2015	900 BLK CRUSHER CNYN	DEAD CAT IN ROADWAY	REMOVED CAT	
6/17/2015	400 BLK JAMIE DR.	BARKING DOG	DOG NOT BARKING	
6/19/2015	1400 BLK PEAR	SNAKE IN YARD	CHASED SNAKE INTO FIELD	
6/19/2015	300 BLK SPEYERS	DEAD CAT IN ROADWAY	REMOVED CAT	
6/22/2015	700 BLK W BARTLETT AVE.	LOOSE DOG	TAKEN TO HUMANE SHELTER	
6/22/2015	1000 BLK W NACHES	SKUNKS ON PROPERTY	DO NOT CATCH SKUNKS	
6/25/2015	500 BLK SUNRISE	BARKING DOG	SPOKE TO OWNER	WILL KEEP DOG INSIDE
6/25/2015	TAYLOR LOOP	LOOSE DOG	NOT IN CITY	CALLED COUNTY ACO
6/29/2015	200 BLK HILLCREST	PIT BULL	UNABLE TO LOCATE	
6/29/2015	300 BLK PLEASANT AVE	STRAY CATS	DO NOT CATCH STRAYS	
6/29/2015	1600 W YAKIMA AVE.	LOOSE DOG	TAKEN TO HUMANE SHELTER	
6/30/2015	800 BLK S 3RD STREET	FOUND DOG	CONTACTED OWNER	RETURNED TO OWNER

## June 2015 Code Enforcement Report

R. Brons, Report			
DATE:	ADDRESS:	SMC	VIOLATION DESCRIPTION
6/1/2015	600 Block N. 13th Street	R105.0 & 6.58.260	Non-Permitted addition & Storage or parking motor vehicle- Residential areas.
6/1/2015	900 Block W. Fremont Ave.	6.58.260	Vehicle Parked on Unimproved Surface
6/2/2015	300 Block N. 10th Street	6.58.050 & 6.58.180	Weeds & Landscape Maintenance
6/2/2015	1600 Block W. Naches Ave.	6.58.050 & 6.58.180	Weeds & Landscape Maintenance
6/2/2015	200 Block N. 10th Street	6.58.050 & 6.58.180	Weeds & Landscape Maintenance
6/3/2015	100 Block E. Fremont Ave.	6.58.050 & 6.58.180	Weeds & Landscape Maintenance
6/3/2015	100 Block E. Fremont Ave.	6.58.050 & 6.58.180	Weeds & Landscape Maintenance
6/4/2015	700 Block S. 4th Street	6.58.050 & 6.58.180	Weeds & Landscape Maintenance
6/4/2015	100 Block W. Bartlett	6.58.050, 6.58.180 & 6.58.090	Weeds & Landscape Maintenance & Dumping Area
6/5/2015	700 Block Home Ave.	6.58.260	Vehicle Parked on Unimproved Surface
6/5/2015	600 Block W. Home Ave.	6.58.050 & 6.58.180	Weeds & Landscape Maintenance
6/5/2015	500 Block N. 13th Street	6.58.050 & 6.58.180	Weeds & Landscape Maintenance
6/5/2015	500 Block N. 13th Street	6.58.050 & 6.58.180	Weeds & Landscape Maintenance
6/5/2015	400 Block N. 13th Street	6.58.050 & 6.58.180	Weeds & Landscape Maintenance
6/5/2015	N. 8th Street	6.58.050 & 6.58.180	Weeds & Landscape Maintenance
6/9/2015	300 Block Southern Ave.	6.58.050 & 6.58.180	Weeds & Landscape Maintenance
6/9/2015	900 Block N. Wenas Rd.	6.58.050 & 6.58.180	Weeds & Landscape Maintenance
6/9/2015	200 Block W. Selah Ave.	6.58.050 & 6.58.180	Weeds & Landscape Maintenance
6/9/2015	200 Block E. Fremont Ave.	6.58.050 & 6.58.180	Weeds & Landscape Maintenance
6/11/2015	100 Block N. Wenas Rd.	6.58.050 & 6.58.180	Weeds & Landscape Maintenance
6/11/2015	100 Block E. Orchard Ave.	6.58.250	Growth or debris which obstructs public right of way
6/12/2015	1000 Block W. Fremont Ave	6.58.250	Growth or debris which obstructs public right of way
6/17/2015	400 Block Pleasant Ave.	6.58.050, 6.58.180 & 6.58.200	Certain Growth/Landscape maintenance/Fire Hazard
6/17/2015	300 Block Pleasant Ave.	6.58.050 & 6.58.180	Weeds & Landscape Maintenance
6/23/2015	Driscoll Road	6.58.250	Growth or debris which obstructs public right of way
6/23/2015	500 Block Hegel Court	6.58.050 & 6.58.180	Weeds & Landscape Maintenance
6/24/2015	800 Block S. 7th Street	6.58.050 & 6.58.180	Weeds & Landscape Maintenance
6/25/2015	Hovde Park Drive	6.58.050 & 6.58.180	Weeds & Landscape Maintenance

## June 2015 Code Enforcement

C. Knox, Report			
DATE:	ADDRESS:	SMC	VIOLATION DESCRIPTION
6/4/2015	Selah Plaza	6.58.180 & 6.58.070	Landscape Maintenance/Potential pest harboring or fire danger
6/5/2015	500 Blk S. First Street	6.58.030, 6.58.260 & 6.58.70	Littered premises/Storage or parking motor vehicle-Residential areas/Potential pest harboring or fire danger
6/5/2015	700 Blk N. First Street	6.58.180 & 6.58.260	Landscape maintenance & Storage or parking motor vehicles-residential areas
6/5/2015	200 Blk S. 3rd Street	6.58.060, 6.58.70 & 10.32.050	Uncovered trash and abandoned material/Potential pest harboring or fire danger/Temporary use permit
6/8/2015	100 Blk E. Fremont	6.58.050 & 6.58.180	Certain Growth/Landscape maintenance
6/8/2015	900 Blk W. Fremont Ave.	6.58.030, 6.58.050, 6.58.070, 6.58.060 & 6.58.180	Littered premises, Certain growth/Potential pest harboring of fire danger/Uncovered trash and abandoned material
6/10/2015	800 Blk Speyers Rd.	6.58.050	Certain Growth
6/10/2015	600 Blk S 3rd Street	6.58.050, 6.58.180 & 6.58.200	Landscape Maintenance, Certain growth and Fire hazard
6/11/2015	1600 Blk W Yakma Ave.	6.58.250	Growth or debris which obstructs public way
6/17/2015	100 Blk E fremont Ave.	6.58.200	Fire hazard
6/19/2015	500 Blk S First Street	10 violations	
6/19/2015	100 Blk N 5th Street	6.58.060 & 6.58.070	Uncovered trash and abandoned material & Potential pest harboring or fire danger
6/22/2015	300 Blk S 3rd Street	6.58.050	Certain growth
6/24/2015	200 Blk Goodlander	6.58.050	Certain growth
6/25/2015	800 Blk Speyers Rd.	6.58.050	Certain growth
Verbals	Pastime Tavern		Menu board on sidewalk
	300 Blk E Home Ave.		Motorhome parked on street-living in
	1000 Blk W Naches Ave.		Tree overhanging onto neighbors property
	W Naches & Highland Ct.		Shrubs blocking view



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



**COUNCIL MEETING      ACTION ITEM**

**7/14/2015**

**I – 1**

**Title:** Approval of Minutes: June 15, 2015 Study Session & Council Meeting

**Thru:** Donald Wayman, 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  
June 15, 2015  
2:40pm

Mayor Gawlik opened the Study Session.

Community Planner Durant stated that he has verified that the addresses given by both applicants are within the City limits, and that both are residential.

Mayor Gawlik welcomed Laura Ritchie and Christina Morehead, and explained the interview procedure.

Council Members asked a series of prepared questions of each candidate relating to responsibilities of a Council Member to the citizens, the community, finance, and development.

Mayor Gawlik thanked both candidates. He announced there would be a short recess prior to the Council Meeting to tabulate the votes.

The Study Session ended at 3:36pm.

City of Selah  
Council Minutes  
June 15, 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: Paul Overby; Dave Smeback; Roy Sample; Jane Williams

Members Excused: John Tierney; Allen Schmid

Staff Present: Don Wayman, City Administrator; Bob Noe, City Attorney; Gary Hanna, Fire Chief; Jim Lange, Deputy Fire Chief; Rick Hayes, Police Chief; Joe Henne, Public Works Director; Dale Novobielski, Clerk/Treasurer; Charles Brown, Recreation Manager; Tom Durant, Community Planner; Andrew Potter, Assistant to the City Administrator

C. Pledge of Allegiance

Council Member Williams led the Pledge of Allegiance.

D. Agenda Changes

Relocated to beginning of Agenda:

1. Executive Session: 15 Minute Session - Public Employee Performance Review RCW 40.30.110(g)

Added to Agenda:

2. Swearing in of new Council Member

Mayor Gawlik requested that those in attendance step out for fifteen minutes while Council went into an Executive Session to discuss the two candidate interviewed for the vacant Council position.

**Council went into Executive Session at 4:02pm. At 4:17pm, Council went back on the record.**

Mayor Gawlik said that Council was split between the two candidates, which left him to cast the deciding vote. He stated that both candidates were qualified to sit at the table.

**Council Member Overby moved, and Council Member Williams seconded, to appoint Laura Ritchie to vacant Council Position #1 for the remainder of calendar year 2015. By voice vote approval was unanimous.**

Clerk/Treasurer Novobielski administered the Oath of Office to Laura Ritchie.

Council Member Ritchie took her seat at the Council table.

E. Public Appearances/Introductions/ Presentations **None**

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

G. Communications

1. Oral

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

2. Written

a. May 2015 Monthly Report for Building Permits and Inspections, Animal Control and Code Enforcement

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: May 26, 2015 Study Session & Council Meeting

\* 2. Approval of Claims & Payroll:

Payroll Checks Nos. 78568 – 78604 for a total of \$174,433.78

Claim Checks Nos. 65811 – 65890 for a total of \$185,221.21

**Council Member Williams 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

1. Public Hearing to consider the Resolution adopting the Six Year Transportation Improvement Program (TIP) for the years 2016 to 2021

Public Works Director Henne addressed J – 1. He requested that the Mayor hold a hearing to hear testimony for and against the six year TIP program, noting that it's brought before Council each year for hearing and adoption, then sent to the Yakima Valley Conference of Governments (YVCOG) to incorporate it into the metropolitan transportation element and the Washington State Department of Transportation (DOT) for adoption to the statewide STIP.

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

K. New Business **None**

L. Old Business **None**

M. Resolutions

1. Resolution adopting the Six Year Transportation Improvement Program for Secondary and Collector Arterial Streets within the City of Selah for the years 2016 to 2021

Public Works Director Henne addressed M – 1. He stated that the Department of Energy (DOE) asked that they ensure stormwater is managed during the permit process and construction, then read the list of projects from the information included in the council Packet.

Mayor Gawlik inquired if the order is a priority listing of projects.

Public Works Director Henne replied that they are listed by priority, although that priority isn't set in stone. He remarked that, if enough funding is available for a lower numbered project it could be submitted ahead of one higher on the list.

Mayor Gawlik observed that every project is extremely important for the safety and health of the citizens. He expressed some concern about laying down asphalt on East Goodlander Road at present, wondering if it is a waste of money if funds are found to widen the road and add curbs, cutters, and sidewalks.

Public Works Director Henne responded that they are shifting the center of the road to the south, and outlined what will be done during the overly versus the item listed on the TIB.

Mayor Gawlik asked if the item dealing with a traffic signal at the intersection of Lancaster and East Goodlander Road could be combined with it.

Public Works Director Henne replied that it's possible, adding that he's looking at putting in conduit for the electrical as part of the road widening project, then coming back later to set poles and possibly acquire additional rights of way. He explained that the separation for the project was due to different funding sources.

Council Member Sample inquired about the location of the West Goodlander project.

Public Works Director Henne responded that it runs from First Street to the start of the Valhalla subdivision.

Council Member Smeback asked if it was possible to add something onto the list later this year.

Public Works Director Henne replied in the affirmative, saying that they can do amendments as needed. He noted that funding for the first two items had been awarded then pulled, but the City is obligated to continue showing progress on both.

Mayor Gawlik observed that having something on the list doesn't mean that funds will be awarded.

Public Works Director Henne briefly explained the funding program and allocations.

Council Member Williams wondered about the conflicting start dates for projects.

Public Works Director Henne responded that they have different funding sources; the TIB usually has a call for projects every year, but the State is under a mandate to fund schools and is looking at the TIB and DWSRF as sources for funds.

Council Member Williams inquired why Wixson Park is designated as a park and ride, as she thought that was what the Civic Center was designated as.

Public Works Director Henne commented that he believes that came out of the Park and Recreation Comprehensive Plan; South Third Street was designated as a bike route and Wixson Park was to be a park and ride for that. He noted that, until recently, parking was at a premium at the Civic Center.

Council Member Williams expressed her concern that the Southern Avenue project keeps getting shoved back.

Public Works Director Henne replied that it's number two on the priority list.

Council Member Williams remarked that it shows a start date of 2020.

Public Works Director Henne commented that, based on the trickle-down effect, funding is now slated for 2023.

Council Member Overby observed that they do this exercise every year, and that it reflects the current funding realities they have to face.

Public Works Director Henne noted that every once in a while they do an amendment to change funding sources when money becomes available. He stated that he will be attending a TIB funding class next month, and that the North First Street grind and overlay is a preservation project that may have funds available to try for.

**Council Member Overby moved, and Council Member Sample seconded, to approve the Resolution adopting the Six Year Transportation Improvement Program for Secondary and**

**Collector Arterial Streets within the City of Selah for the years 2016 to 2021. Roll was called: Council Member Overby – yes; Council Member Smeback –yes; Council Member Sample – yes; Council Member Williams – yes; Council Member Ritchie – abstain. Motion passed with four yes votes and one abstention.**

2. Resolution Approving the Preliminary Plat of “The Draw at Speyers” (912.62.15-01) and Adopting Findings and Conditions of Preliminary Plat Approval

Community Planner Durant addressed M – 2. He stated that this is a closed record hearing review of the Hearing Examiner’s recommendation.

Mayor Gawlik requested that he explain what is allowed.

Community Planner Durant responded that they cannot take any testimony, but Council can ask questions regarding the application presented.

City Attorney Noe added that review is limited to the prepared record, but they can ask questions for clarification. He noted that arguments can be entertained.

Community Planner Durant said that he is presenting both the Resolution and Ordinance, briefly reviewing the project for Council. He commented that the Hearing Examiner recommended approval with the conditions listed in his recommendation.

Mayor Gawlik opened the hearing.

Diane Underwood approached the podium and addressed the Council. She stated that she’d sent in a letter regarding her concern about a stop sign on Speyers, feeling that a stoplight would better facilitate the increased traffic flow.

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

Council Member Smeback inquired if the proponent was present.

Community Planner Durant replied in the affirmative.

Council Member Smeback asked if he was well aware of the twenty-eight conditions.

Shane Snodgrass approached the podium and addressed the Council. He stated that he is aware and has no problem with them.

Council Member Overby observed that there was a substantial amount of material to review.

Council Member Williams wondered if the Planned Development was included because it was complete prior to removal of Chapter 10.24 from the City’s code.

Community Planner Durant responded that it was completed and brought before the Hearing Examiner prior to the repeal.

Council Member Williams asked if he felt it was complete.

Community Planner Durant replied in the affirmative.

Council Member Williams wondered if there was adequate staff to follow up on items four through seven regarding geological hazards, grading, and drainage.

Community Planner Durant responded that a report would have to be prepared by a qualified person, and that the City use Huibregtse, Louman Associates, Inc. (HLA) for professional services. He deferred to Public Works Director Henne regarding availability of City staff.

Council Member Williams felt that they needed to consider the elements of public use and how to best serve whole community, noting that some of the prior developments have resulted in significant drainage problems. She referred to the Hearing Examiner's recommendation, noting that the City has a responsibility regarding permits granted.

Mayor Gawlik remarked that the appropriate expertise is available when needed.

Council Member Williams asked if the developer covers the cost of outside expertise.

Public Works Director Henne stated that the City's Municipal Code allows for them to back bill a developer for any outside engineering reviews, and also requires that the developer has a set of as-builts and a report by an engineer stating that the development in compliance with the plans and specs approved. He added that all subdivisions received are reviewed in-house and by our consultant, and that any projects larger than d acre are required to obtain a stormwater permit from the DOE.

Council Member Williams felt that the average lot size was very misleading, adding that no topographical map was included in the materials. She commented that a development of this size should have a topography of the area, and that staff could have asked for that ahead of time.

Community Planner Durant responded that there were contours on the plat submitted, although they didn't show the final contours based on grading of streets and lots.

Council Member Sample wondered where the topography map was, as he understood they were a requirement for a Planned Development.

Community Planner Durant remarked that the contours were included on the map.

Mr. Snodgrass seconded that, adding that they are on the map in front of Council.

Council Member Williams commented that there have been issues in past with Council not receiving a complete packet.

Mr. Snodgrass replied that everything given to the Planning department and the Hearing Examiner had contours on it.

Council Member Williams observed that the water and sewer easements are only four feet, which would barely accommodate a truck or backhoe needing to do work. She expressed concern that there were no comments from the Fire Department, Police Department or the School District, and none from the community at large that spoke.

Community Planner Durant responded that all of those entities were notified for SEPA, but opted not to comment in writing.

Council Member Williams asked for confirmation that a request was sent but no response received.

Public Works Director Henne reiterated that there was no written response.

Council Member Williams wished that staff had sat down with Mr. Snodgrass to help him present a better project, expressing concern about the narrow setbacks and that they appeared to ignore the engineer's recommendation that the roadway be lined up with Fourteenth Street.

Community Planner Durant replied that the recommendation to the Hearing Examiner requested that the easement be provided from the proposed access road to alignment with Fourteenth Street, but the Hearing Examiner didn't agree with that and chose not to make it a condition.

Council Member Williams remarked that the DOE had indicated a concern regarding the area of vegetation coming down the swale.

Mr. Snodgrass stated that the DOE's concern was about irrigation water, which he holds the only rights to for the draw. He explained where the irrigation water comes from.

Council Member Williams expressed her concern that staff tighten up everything submitted, making sure they are done according to how things should be done. She added that she dislikes granting a Planned Development with a private road, saying that she'd prefer not to have those in developments

Mr. Snodgrass responded that every concern she had mentioned was addressed by the Community Planner and the Hearing Examiner, adding that he feels Planned Developments are suited for areas like his property, which is undevelopable by normal standards

Council Member Williams opined that the lot sizes were too small.

Council Member Ritchie observed that the civil engineer mentioned the offset intersection and requested that the Community Planner speak on the matter.

Community Planner Durant replied that his recommendation to the Hearing Examiner was to have an access easement that would tie into the existing intersection, which he acknowledged but left open for Mr. Snodgrass to work out with the owner of that property.

Council Member Ritchie asked for confirmation that it may or may not be adopted.

Community Planner Durant responded that it's up to the applicant.

Public Works Director Henne noted that the parcel in blue is a separate parcel.

Council Member Ritchie referenced a City Ordinance that states offset intersections aren't allowed, asking if adopting this development would violate that Ordinance.

Community Planner Durant stated that the Hearing Examiner had a different interpretation of the Ordinance, adding that a Planned Development allows for relaxing of standards and code.

Council Member Ritchie asked if the Ordinance was in the packet.

Community Planner Durant replied in the negative.

Council Member Williams inquired if HLA knew it was a Planned Development when they reviewed the intersection.

Public Works Director Henne said that he doesn't remember specifically mentioning that to them, and that addressing these issues is why they repealed Chapter 10.24.

Community Planner Durant commented that the letter from HLA references Planned Developments and comments about them specifically, which leads him to believe they know what type of development it is.

Council Member Williams wondered if the Council could add, modify or remand back.

City Attorney Noe answered that she is correct.

Council Member Williams asked about the overflow parking and turnaround at end of the private road, saying that it concerns her that there is nothing in writing from the Fire Department showing they reviewed it and consider it a safe development.

Public Works Director Henne responded that Fire Chief Hanna reviewed and accepted it.

Community Planner Durant remarked that the 'T' serves as a turnaround as listed in Fire Code.

Mr. Snodgrass noted that the Fire Department recommended placement of a fire hydrant on the 'T'.

Council Member Sample presented a topography map he obtained from Yakima County, saying that in the SEPA application it noted that the steepest slope is at fifty degrees.

City Attorney Noe stated that he couldn't submit the map because it's a closed record review.

Council Member Sample asked for confirmation that he can't say anything if there's an error.

City Attorney Noe replied that they can send it back to the Hearing Examiner for remand, but that's it.

Council Member Sample then inquired about lot sizes and street grades.

City Attorney Noe reiterated that he can't introduce new evidence or documents.

Council Member Sample noted that the length of the road requires another fire hydrant for fire protection.

Public Works Director Henne commented that there's one at the intersection.

Council Member Sample responded that it is past the one hundred fifty foot radius required for fire trucks, and wondered what the normal length was for distance between fire hydrants.

Public Works Director Henne said that there is another at the other intersection, and that Fire Chief Hanna is okay with that being the only fire hydrant.

Council Member Sample asked for him that it will be placed at the apex.

Public Works Director Henne replied in the affirmative.

Council Member Sample expressed concern that it is more like two hundred feet to the end.

Community Planner Durant reiterated that it was reviewed by Fire Chief Hanna.

Council Member Sample didn't agree with the lot designs for the subdivision, feeling that retaining walls five feet from the back of some of the houses, combined with a lack of room for off-street parking, was the worst distortion he'd ever seen of five units per acre.

Mr. Snodgrass responded that lots one through seven are virtually flat, with only three out of the twelve lots having a fifteen percent grade, and that all issues went through the City's process. He felt that development of high quality homes fit the needs of the community, and that there would be conditions, covenants, and restrictions (CCRs) recorded to address parking issues.

Council Member Sample wondered where there was room for a twenty foot yard.

Mr. Snodgrass replied that the parking apron is approximately twenty feet, with a twenty-four by twenty-four foot garage, and the front yard will be ten feet by twenty feet.

Council Member Sample asked if he meant ten feet from the asphalt.

Mr. Snodgrass responded in the affirmative.

Council Member Sample commented that the area is an R-1 zone, five units per acre, not an R-2. He requested confirmation that there will be no parking on the road.

Community Planner Durant answered, saying that it will be a requirement of the CCRs.

Mr. Snodgrass confirmed that there will be no parking on the road.

Council Member Sample didn't see how that could be enforced; people will drive up and park in front of the residences.

Community Planner Durant remarked that the Comprehensive Plan provides for cluster housing, provided it equals out for the whole property.

Mr. Snodgrass remarked that the purpose of a Planned Development is to allow a developer to build out developments in an area that would be virtually undevelopable without clustering lots, and that it's addressed in the Municipal Code and the Comprehensive Plan. He noted that it was approved by those who reviewed it.

Council Member Ritchie inquired as to the number of parking stalls in the overflow parking area.

Mr. Snodgrass replied that it isn't designed for parking stalls.

Community Planner Durant noted that City standard is ten feet by twenty feet, which would be roughly four stalls with striping, or more without..

Council Member Ritchie observed that it would take approximately five cars to fill the lot, and that if a car took a wrong turn that person would have to back up to turn around.

Community Planner Durant responded in the affirmative.

Mr. Snodgrass added that they could also use someone's driveway.

Council Member Ritchie said that most people have two or more cars, and it's likely that at least one family would constantly use an overflow parking space. She wondered where other people would park.

Council Member Smeback inquired if the streets designed there fit the City's parking code.

Community Planner Durant responded in the affirmative, saying that they are required to have two spaces in front of each unit.

Mayor Gawlik recommended that Council carry forward and vote on the matter.

Council Member Smeback felt that having the matter presented to the Hearing Examiner gave plenty of time for input.

**Council Member Smeback moved, and Council Member Overby seconded, to approve the Resolution Approving the Preliminary Plat of "The Draw at Speyers" (912.62.15-01) and Adopting Findings and Conditions of Preliminary Plat Approval. Roll was called: Council Member Overby – yes; Council Member Smeback –yes; Council Member Sample – no; Council Member Williams**

**– no; Council Member Ritchie – abstain; Mayor Gawlik – yes. Motion passed with three yes votes, two no votes, and one abstention.**

N. Ordinances

1. Ordinance Amending Ordinance No. 1634 Zoning Map Amendment No. 914.62.15-01 Rezone to Planned Development (PD)

Community Planner Durant addressed N – 1. He said that this is the rezone portion of the application and recommended approval.

City Attorney Noe noted that Council would need to take a vote because it requires a zoning change.

**Council Member Smeback moved, and Council Member Overby seconded, to approve the Ordinance Amending Ordinance No. 1634 Zoning Map Amendment No. 914.62.15-01 Rezone to Planned Development (PD). Roll was called: Council Member Overby – yes; Council Member Smeback –yes; Council Member Sample – no; Council Member Williams – no; Council Member Ritchie – yes. Motion passed with three yes votes and two no votes.**

O. Reports/Announcements

1. Mayor

Mayor Gawlik reminded those in attendance about the Sunrise Selah meet & Greet Wednesday mornings from 7-9am at Nana Kate's. He expressed his appreciation for City staff in their handling of the building permits and developments, noting that the City is in the process of changing the building codes to more accurately reflect the needs of the community.

2. Council Members

Council Member Ritchie thanked her fellow Council Members for giving her the opportunity to serve.

Council Member Overby welcomed his fellow Council Member.

Council Member Sample welcomed Council Member Ritchie. He commented that he has difficulty with false information and disinformation on the application presented that evening.

Council Member Smeback had no report.

Council Member Williams welcomed the newest member, thanking both applicants for applying. She noted that the Selah Park & Recreation Service Area Board (SPRSA) meeting had been rescheduled to the following Monday at five pm, and will be on proposed pool changes.

3. Departmental



1. 15 Minute Session - Public Employee Performance Review RCW 40.30.110(g)

**RELOCATED TO THE BEGINNING OF THE MEETING**

2. 10 Minute Session – Real Estate RCW 42.30.110(1)(c)

Council went into Executive Session at 6:25pm. At 6:40pm, Council went back on the record. Mayor Gawlik stated that they would be extending the Executive Session for an additional 15 minutes.

Council went into Executive Session at 6:41pm. At 6:56pm, Council went back on the record. Mayor Gawlik stated that no action was taken during the Executive Session.

**Council Member Smeback moved, and Council Member Williams seconded, to move forward with the purchase of 107 West Selah Avenue, authorizing the Mayor to sign on behalf of the City. Roll was called: Council Member Overby – yes; Council Member Smeback –yes; Council Member Sample – yes; Council Member Williams – yes; Council Member Ritchie – yes. By voice vote approval was unanimous.**

Q. Adjournment

**Council Member Overby moved, and Council Member Smeback seconded, that the meeting be adjourned. Motion passed with four yes votes and one no votes.**

The meeting adjourned at 8:52pm.

\_\_\_\_\_  
John Gawlik, Mayor

EXCUSED  
\_\_\_\_\_  
Paul Overby, Council Member

\_\_\_\_\_  
John Tierney, Council Member

\_\_\_\_\_  
Dave Smeback, Council Member

\_\_\_\_\_  
Allen Schmid, Council Member

\_\_\_\_\_  
Roy Sample, Council Member

\_\_\_\_\_  
Jane Williams, Council Member

\_\_\_\_\_  
Laura Ritchie, Council Member

ATTEST:

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Dale E. Novobielski, Clerk/Treasurer



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



**COUNCIL MEETING      ACTION ITEM**  
**7/14/2015            I – 2**

**Title:** Claims & Payroll

**Thru:** Donald Wayman, City Administrator

**From:** Monica Lake, Executive Assistant

**Action Requested:** Informational - No action

**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**

**7/1/2015      K – 1**

**Title:** Lexipol, Law Enforcement Standard Operating Procedures Manual

**Thru:** Donald Wayman, City Administrator

**From:** Eric Steen, Deputy Police Chief

**Action Requested:** Approval

**Board/Commission Recommendation:** Not applicable

**Fiscal Impact:** Starting up cost: \$4,950.00 / Every year after: \$4, 450.00 / See narrative for further details.

**Funding Source:** Crime Prevention Fund / 181-000-097-597-00-01-00

**Staff Recommendation:**

Recommendation to transfer \$5,000.00 from the Crime Prevention fund to the Professional Services line (001-00-021-521-26-41-00) for the purpose of cloud based standardized operating procedures manual.

**Background / Findings & Facts:**

The standard operating procedure (SOP) manual in every law enforcement organization is a vital resource. It's the mechanism that guides everything from large scale operations down to daily tasks. Failing to keep the SOP current with municipal, state, and federal law opens the officer and city up for potential law suits.

Lexipol offers us a unique way to make sure the SOP is continuously up to date with current law and Washington State Police Chief and Sheriff standards. They are a known and reputable industry standard throughout Washington and surrounding states. However, the primary benefit is the reduced liability for the city, agency, and the individual officer.



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



This is a cloud based service that routinely trains officers on their knowledge of the department's policies, and law. It keeps record of the same training and test results.

The first year startup cost will be \$4,950.00, plus tax.

After the first year, the annual fee for this service will be \$4,450.00.

We are asking permission to transfer enough money from the Crime Prevention fund, to our Professional Services budget line item in order to purchase the first year of this service. From that point on we would need to budget for this service in the annual budget as the Crime Prevention fund, though continuously fed by restitution payments from court proceedings, will not likely be able to sustain the annual renewal fee.

**Recommended Motion:**

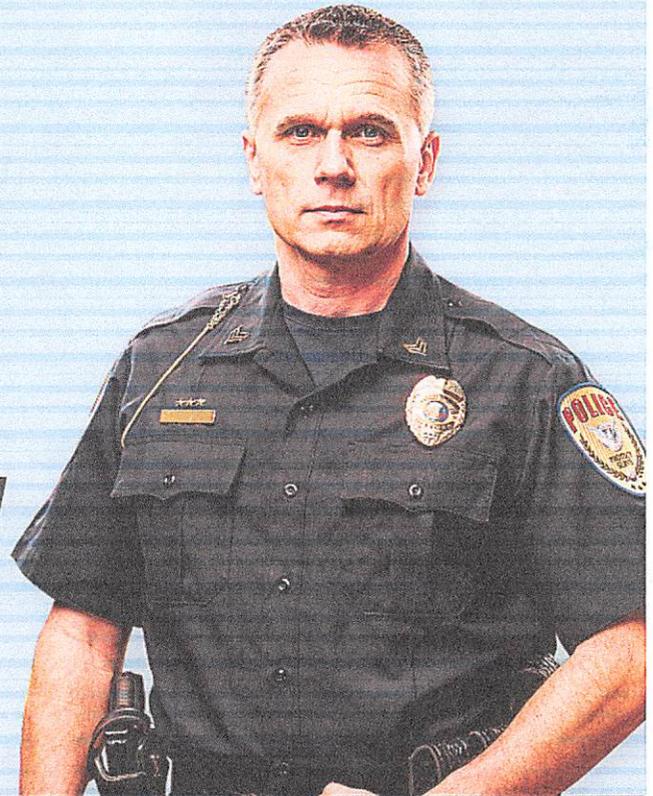
Approval to transfer money from the Crime Prevention fund to the police department's Professional Services line item, which is then to be used for the purchasing of the first year costs of Lexipol's SOP services.

# Lexipol

PREDICTABLE IS PREVENTABLE®

## THE LEXIPOL ADVANTAGE

**Lexipol is America's leading provider of state-specific Law Enforcement Policy Content with integrated daily training**



### WHY PARTNER WITH LEXIPOL?

Law Enforcement is the government's most visible public agency. The best way to enhance your agency's reputation and increase respect is with sound, defensible, up-to-date policies coupled with daily policy training.

Lexipol is the only company that offers digital Law Enforcement policy manual management, regular policy updates, and certifiable daily training against policy.

#### **Proven to Reduce the Number of Claims Paid**

Lexipol's policy and training system has also been proven to reduce the number of claims paid. In a recent study, Lexipol users saw fewer litigated claims, when compared to pre-Lexipol implementation.



#### **Custom Policy Content**

Lexipol provides customizable, state-specific, web-based Law Enforcement Policy Manuals with an integrated training component to help police, sheriff, probation, state and federal agencies operate more efficiently and effectively. We provide comprehensive, defensible policies written by legal and public safety professionals.



#### **Daily Training Bulletins**

Lexipol's Daily Training Bulletins bring the manual into practice through real-life, scenario-based training exercises emphasizing high-risk, low frequency events. Completed and verified in less than ten minutes per day, Daily Training Bulletins may qualify for continuous training certification.



#### **Implementation and Management Service**

Lexipol's experienced team can assist with implementation of your Lexipol manual, freeing your personnel to focus on serving and protecting the community. Lexipol's team can also manage the administration of critical updates for your policy manual and manage your agency's Daily Training Bulletins. Lexipol's Implementation and Management services allow your agency to control and distribute policy and training while we do all the work.

To learn more, visit [www.lexipol.com](http://www.lexipol.com) or call 949.484.4444

### Lexipol Value

- Lexipol provides more than 150 policies based on federal and state statutes, case law, regulations and law enforcement best practices.
- Lexipol experts constantly monitor major court decisions, legislation and emerging trends affecting law enforcement operations and provide policy updates in response.
- The Lexipol system will allow cross-referencing to any accreditation standard.
- Supervisors can track officer training using flexible reporting tools.
- Lexipol archives your department's policy manual and DTB records to provide an invaluable resource in defense litigation or personnel matters.
- Lexipol's policy and training components are 100% web-based. There is no software to purchase or maintain.
- Lexipol's DTB service provides comprehensive training to help law enforcement officers learn the content of the department policy manual and practical applications of the policies.
- Lexipol provides 360 scenario-based training bulletins annually that link directly to your policy manual.
- Your department can customize Lexipol's DTBs to address department-specific topics.
- DTBs are designed to be completed in about six minutes.
- Automated tools help ensure consistency between policy and training materials.
- More than 1,800 public safety organizations representing 100,000 law enforcement and fire personnel in 20 states use the Lexipol system.

### 69% FEWER LITIGATED CLAIMS

Two years post-Lexipol implementation, perhaps the most positive trend is that Lexipol users have 69% fewer litigated claims compared to pre-Lexipol implementation. And, the claims that are litigated have, on average, \$7k paid out instead of \$20k pre-Lexipol.

A Sheriff's Office in California had a pursuit that ended tragically, with the death of a deputy in an unmarked unit and a hostage trapped inside the suspect vehicle. The California Vehicle Code provides immunity for any death, injury or property damage caused by a suspect vehicle if the agency has a policy that conforms to the code requirements. This agency had its Lexipol policy manual in place as of April 10, 2002. The fatal pursuit occurred on April 22, 2002. This agency had immunity in what could have been a very expensive lawsuit.

# Sample or Lexipol Daily Training Bulletin

## Law Enforcement Daily Training Bulletin

### Medical Attention for Injuries Sustained Using Force

**SCENARIO:** Augustus Snerd and Samuel Mortimer get into a fight over a pool game in the Dive Bar. By the time you and your backup arrive, a full-on, bench clearing brawl is in progress. Eventually you utilize some very appropriate baton strikes. The crowd settles down and Mr. Snerd and Mr. Mortimer are arrested. Paramedics are on scene. Mr. Mortimer complains of pain to his leg from the baton strikes and you can see some redness and an abrasion. The injuries appear to be minor.

**ISSUE:** WHAT ARE YOUR OBLIGATIONS AFTER INFLICTING INJURY BY USING FORCE UPON MR. MORTIMER?

**RULE:** Prior to booking or release, medical assistance shall be obtained for any person who exhibits signs of physical distress, who has sustained visible injury, expresses a complaint of injury or continuing pain, or who was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed.

Based upon the officer's initial assessment of the nature and extent of the subject's injuries, medical assistance may consist of examination by fire personnel, paramedics, hospital staff or medical staff at the jail.

**ANALYSIS:** When you apply force and the subject of the force sustains injury, complains of pain or becomes unconscious, you are obligated to obtain medical assistance. Since Mr. Mortimer's injury appears to be minor, have the paramedics examine him and either treat him as appropriate or clear him. Don't forget to document the use of force, injury and subsequent medical examination in your report. Remember too, that according to policy photographs of the visible or complained of area of the injury should also be taken and referred to in your report.

**CONCLUSION:** Responsible use of force comes with obligations. If a subject is in pain, has a visible injury or loses consciousness, seek medical attention for the subject prior to booking or release.

**POLICY:** 300.6-Medical Considerations

**QUESTION:** Minor injuries caused by use of force do not require medical examination.

**ANSWERS:**

- a) True
- b) False



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



**COUNCIL MEETING      ACTION ITEM**

**7/14/2015      M – 1**

**Title:** Resolution Approving the Preliminary Plat of “Somerset II” (912.42.15-02) and Adopting Findings and Conditions of Preliminary Plat Approval

**Thru:** Donald Wayman, City Administrator

**From:** Thomas R Durant, Community Planner

**Action Requested:** Approval

**Board/Commission Recommendation:** Approval

**Fiscal Impact:** N/A

**Funding Source:** N/A

**Staff Recommendation:**

Approval of recommendation to approve preliminary plat with conditions.  
Denial of recommendation to require private access street to comply with City Design and Construction Standards.

**Background / Findings & Facts:**

Hearing Examiner conducted an open record public hearing June 10, 2015 and prepared findings of fact and conclusions with two recommendations on June 26, 2015: The first recommendation for Approval of the Preliminary Plat with 25 conditions. The second recommendation that the private access street comply with roadway section design standards as determined by the Public Works Director in accordance with the City of Selah Design and Construction Standards dated March 2012.



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



**Recommended Motion:**

I move the Council approve Preliminary Plat No. 912.42.15-02 designated as Somerset II, adopt the Hearing Examiner's first recommendation with 25 specific conditions of plat approval, but not adopt the Hearing Examiner's second recommendation.



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



**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:

6/10/2015

Hearing Examiner Open Record Public Hearing

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# **RESOLUTION NO. \_\_\_\_\_**

## **RESOLUTION APPROVING THE PRELIMINARY PLAT OF "SOMERSET II" (912.42.15-02) AND ADOPTING FINDINGS AND CONDITIONS OF PRELIMINARY PLAT APPROVAL**

WHEREAS, on July 14, 2015 the City of Selah City Council considered Preliminary Plat No. 912.42.15-02 known as "SOMERSET II" located on Herlou Drive and Lyle Loop Road. Yakima County Taxation Parcel Numbers: (181426-44005 & 44021); and,

WHEREAS, the Preliminary Plat application included the request to designate two of the proposed lots as two family residential lots in accordance with SMC 10.12.040; and,

WHEREAS, the Preliminary Plat application included an application for variance (Exception under SMC 10.50.070) to allow access to four lots (six dwelling units) by private road; and,

WHEREAS, The Hearing Examiner recommended approval of the application for Preliminary Plat and two two-family lots, consisting of two separate recommendations: The first recommendation to approve the preliminary plat subject to 25 conditions and the second recommendation being that the private access street comply with roadway section design standards as determined by the Public Works Director in accordance with the City of Selah Design and Construction Standards dated March 2012. The second recommendation would supplement Conditions 10 and 11 of the first recommendation; and,

WHEREAS, the City of Selah Council has considered the Hearing Examiner's findings of fact and conclusions and the City staff report dated June 3, 2015 and the Council is satisfied that the matter has been sufficiently considered; and,

WHEREAS, the City Council adopts the Findings and Conclusions of the Hearing Examiner's Recommendation dated June 26, 2015.

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. 912.42.15-021 designated as "Somerset II" be approved, that the Hearing Examiner's Findings and Conclusions and the Hearing Examiner's Recommendation be adopted with the twenty five (25) specific conditions contained in said Findings and Conclusions and a copy of which is attached hereto, but that the Hearing Examiner's Second Recommendation not be adopted.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON  
this 14<sup>th</sup> day of July, 2015.

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John Gawlik, Mayor

ATTEST:

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Dale E. Novobielski, Clerk/Treasurer

APPROVED AS TO FORM:

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Robert Noe, City Attorney

**CONDITIONS OF PRELIMINARY PLAT APPROVAL**

1. All design and/or improvement notations indicated on the preliminary plat are included as conditions of preliminary plat approval. This condition is not intended to limit the Public Works Department in the exercise of its authorities under other provisions of the Selah Municipal Code.
2. All the design and improvement notations indicated on Exhibit 7 in the record ("Variance Proposal, Somerset II, March 17, 2015), except as modified by the other conditions imposed by the City Council in this preliminary plat review proceeding, are included as conditions of preliminary plat approval.
3. Lots 19 and 20 are authorized to be designated as two-family residential lots on the final plat and may be developed into two-family residential structures up to 28 feet in height following final plat approval, subject to the following additional special requirements:
  - a. The two-family residential designation of these lots applies only to these lots and may not be transferred to other lots in the subdivision.
  - b. Off-street parking shall be provided on the lots to provide 4 spaces per each duplex. No credit against this requirement shall be allowed for garages and tandem parking.
  - c. Building materials shall be consistent in appearance with that of surrounding single-family homes. To further ensure harmonious development of the designated lots with the development of single family lots in the subdivision, restrictive covenants that describe the required building specifications for the two-family dwellings shall be recorded prior to recording the final plat for the phase in which they are in.
  - d. Building specifications from the restrictive covenants for the proposed two-family dwellings shall be submitted to the Planning Department to review for consistency with these conditions prior to recording the final plat for the phase in which they are in.

- e. This decision does not preclude the development of detached single-family residences on any of these lots.
4. Final lot dimensions and lot area must substantially conform to the preliminary plat.
5. A preliminary engineering report and/or plan, prepared by a Licensed Professional Engineer, *demonstrating the feasibility of constructing all public improvements required by Selah Municipal Code, Chapter 10.50*, must be submitted to and approved by the Public Works Department for each separately designated phase of development prior to commencement of construction.
6. Construction plans and specifications must be reviewed and approved by the Public Works Department prior to commencement of construction of each separately designated phase of development. Specifications for improvements shown on the preliminary plat are minimum specifications which may be superseded by the conditions contained herein or by specific conditions as approved by the Public Works Department. Upon completion of construction and prior to final plat approval (of each development phase for which final plat approval is sought), reproducible final 'as-built' construction plans and a written certification by a Licensed Professional Engineer that said improvements were completed in accordance with the City of Selah Design and Construction Standards dated March, 2012, must be submitted to the Public Works Department for approval. All *required compaction and inspection reports shall also be submitted to the Public Works Department.*
7. Reports, plans and specifications previously submitted shall count toward meeting the requirements of Conditions #5 and #6 if accepted by the Public Works Director to the extent of the improvements for which they are determined to be sufficient.
8. All lots must be served with a full range of public services/private utilities. All public services/private utilities must be underground and installed prior to the surfacing of streets. Lots 17 through 20 shall be served by an 8 inch sewer line extended in a utility easement across Lots 11 and 12 and then continued to the other lots in the access and utility easement as shown on the Preliminary Plat. There shall be a moratorium on street cuts for a period of five (5) years from the date of each phase recording.
9. 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%.
10. The private street roadway shall be constructed as a hard-surfaced street to specifications approved by the Public Works Director prior to recording the final plat. The street shall have a minimum surface width of 20 feet, subject to increased requirements imposed by the City Council in this proceeding.

11. The private street shall be designated “no-parking” as shown by the site plan submitted with the preliminary plat application and shall be posted with signs prior to final plat approval.
12. Covenants or a road maintenance agreement among the owners of Lots 17, 18, 19 and 20, 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 Planning Department prior to recording the final plat. If driveway access to Lots 13 and 14 is made available from the private street, such covenants or agreement shall include owners of Lots 13 and 14.
13. Driveway access to Lots 13 and 14 shall be limited to Lyle Loop Road and the part of the private access easement passing in a north-south direction between them.
14. 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.
15. 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.
16. 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.
17. Areas reserved for sight distance vision triangles shall be shown and noted on the final plat. (Selah Code, Chapter 10.50).
18. Dust control measures shall be implemented as required by the Yakima Regional Clean Air Authority rules and regulations. The Developer shall advise the Public Works Department of the name and phone number of the contact person to report alleged dust control violations.
19. All required street signs, posts and appurtenances must be supplied by the developer and will be installed by the City.
20. An NPDES Construction Stormwater General Permit shall be obtained unless determined by the Department of Ecology that it is not required.
21. The following notes shall be placed on the final plat map(s):  
  
“The owner(s) shown hereon, their grantees and assignees in interest hereby covenant and agree to retain all surface water generated within the plat on-site.”

22. The applicant shall recommend a street name to assign to the private access street and shall submit the name to the Planning Department for approval prior to recording the final plat. The approved street name shall be shown on the face of the final plat.
23. A surety bond, or such other secure financial method, in the amount of 15% of the cost of the public improvements (as each final phase is submitted) (i.e., roads, sidewalks, street lights, drainage facilities, sewage collection and water distribution facilities, etc.) shall be remitted to the City and held for a period of two years to guarantee against defects of workmanship and materials.
24. 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.
25. Improvements required for the subdivision must be completed and the final plat must be submitted within the maximum 5-year time period required by RCW 58.17.140. 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.

**CITY OF SELAH HEARING EXAMINER**

**STAFF REPORT**

June 3, 2015

**FILE NO.:** PRELIMINARY PLAT 912.42.15-02 "Somerset II"  
SUBDIVISION VARIANCE 915.42.15-01  
SEPA ENVIRONMENTAL REVIEW 971.42.15-04

**PROPOSAL:** Preliminary Plat of "Somerset II" subdividing the 4.7 acre subject property into 20 lots served by a full range of public utilities consisting of 18 single family residential lots and 2 lots designated for two-family dwellings. Four of the lots, including the designated two-family residential lots are to obtain access from a private road requiring a subdivision variance.

Proposed lots sizes range from 8,000 to 12,298 square feet. Average proposed lot size is 8,578 square feet. The two lots proposed for two-family dwellings are 9,614 and 9,653 square feet. Proposed density is 4.7 dwellings per gross acre.

A portion of the subject property was approved for a 17 lot preliminary plat by Yakima County, but not recorded. Previous to the plat approval, part of the property was a tract in Somerset I, a subdivision that other than this tract has been built out. Part of the property was acquired through a street vacation for Herlou Drive.

**PROPONENT & PROPERTY OWNER:** Zuker-Sample, LLC

**LOCATION:** Site fronts on Herlou Drive to the west and Lyle Loop Road to the east. It is about 100 feet north of the intersection of Lyle Loop and Herlou Drive and about 200 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).

**APPLICATION AUTHORITY AND JURISDICTION:** Selah Municipal Code, Chapter 10.50 (subdivision) and Chapter 10.12 (R-1 Zoning District).

SMC 10.12.040 allows ten percent of the lots in a proposed land division of ten or more lots to be designated for future two-family dwellings (or duplexes). The hearing examiner must consider the lot locations and carefully consider adjacent properties to ensure harmonious compatibility. Other required standards for two-family lots include a minimum lot size of 9,000 square feet or the minimum lot size based on slope as specified in SMC 10.12.030. Also, SMC 10.50.041(e)(6)(C) from the subdivision code requires the minimum lot size to be increased by an additional ten percent on corner lots.

Once the lots are designated, the future duplexes may be authorized as Class 1 Uses, subject to the same requirement for harmonious compatibility.

The subdivision variance or exception is being considered under SMC 10.50.070 which authorizes the hearing examiner to recommend to the City Council an exception from the requirements of Chapter 10.50 when in the examiner's opinion, undue hardship may be created as a result of strict compliance with its provisions or any standards adopted by reference. The following findings are necessary to recommend an exception:

1. There are special physical circumstances or conditions affecting the property such that the strict application of the provisions of the (subdivision) 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.

The Design standards and specifications for subdivisions include a standard that no private streets are allowed in any subdivision, and every lot and block shall be served from a publicly dedicated street. The standard makes an exception that authorizes private streets where there will be no adverse effect on future traffic circulation of neighboring parcels (SMC 10.50.041(d)(4)).

In addition to this requirement, SMC 10.50.041(e)(3) states that each lot must front upon a public street with a width not less than those set forth in the street standards. SMC 10.50.041(e)(3) provides that lots having frontage on two streets should be avoided whenever possible.

**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 providing internal access to the proposed subdivision.

**ENVIRONMENTAL REVIEW:** A Determination of Nonsignificance (DNS) (971.42.15-04) was issued on May 7, 2015 using the Optional Method of WAC 197-11-355 following the 14 day comment period for the Notice of Application issued on April 15. As a result of concerns raised about the notice, the Notice of Application was reissued on May 20, 2015 and an additional comment period provided for comments on the environmental review to June 5, 2015. This staff report will be supplemented as necessary to incorporate any comments received and any changes made to the SEPA decision as a result.

Three comment letters were received as of the date of this report including a letter from the Department of Ecology and two citizen letters. One of the letters seemed to be in regard to another project or to development now occurring in general, but since it made specific comments to "the property on Herlou between Weems Way and Goodlander" it was included and considered in this review.

The Department of Ecology letter recommended sampling the soil for lead, arsenic and organochlorine pesticides and notifying potential buyers if they are found to exceed specific levels. It also states that a NPDES Construction Stormwater General Permit is required if there is a potential for stormwater discharge. A Stormwater Pollution Prevention Plan would then be required to include measures to prevent soil from being carried to surface water, including storm drains.

Issues raised by the citizen letters include:

Concerns about providing rental housing in development.

Planned development that does not fit with neighboring homes.

Traffic on Weems Way.

**LAND USE AND ZONING:**

**Table 1: Existing Land Use, Plan Designation and Zoning**

<b>Area</b>	<b>Land Use</b>	<b>Plan Designation</b>	<b>Zoning</b>
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)

**UTILITIES:** Public sewer lines, water lines and drainage improvements have been installed in Lyle Loop Road 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 to the lots fronting on the proposed private street.

**WATER** : An 8 inch domestic water line has been extended 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 to the lots on the private street, presumably using the access/utility easement that is to provide access to the lots in that phase.

**SEWER** : An 8 inch line has been installed through Phases 1 and 2 in the proposed alignment of Lyle Loop Road from the existing end of that street to the east and terminating just before reaching Herlou Drive on the west. The preliminary plat shows a 16 foot wide sewer easement through Lots 11 and 12 that would extend the line on Lyle Loop Road to the access/utility easement for the private street allowing sewer extension to Lots 17 through 20.

**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 3 and 11 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 13.

**TRANSPORTATION:**

**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.

**Planned improvements** – Lyle Loop Road will be constructed to the same development standards as the existing part of the street (described above).

A private access street will be extended north from Lyle Loop Road in a 20 foot wide fire and private access and utility easement north to Lots 18 and 19, 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 about 48 feet to the west to serve Lot 17 and for 180 feet to the east to serve Lot 20.

According to the application materials, the access easement for the private street will be for the exclusive use of six lots: Lots 13 and 14 and 17 through 20. It would not be available to three of the lots in the subdivision over which it crosses or abuts or the adjacent property to the east. Lots 13 and 14 would have access to both the private street and Lyle Loop Road.

## **TWO-FAMILY RESIDENTIAL LOTS:**

**Location** – The lots proposed for two family residential designation are Lots 19 and 20 located on the proposed private road in the northeast part of the subdivision. They border existing residential lots to the north, but a difference in elevation and their adjoining on the rear property lines with separate access provides for some physical separation between the existing and proposed lots. They are also located behind the proposed new lots on Lyle Loop Road rather than facing them. The applicant argues that the proposed location is better for duplexes than a location that fronts on the exterior street (i.e., Herlou Drive) since they would not face existing homes across the street from the site.

**Adjacent Land Uses** – The proposed duplex lots adjoin three residential lots to the north. One of the lots also borders a 2.8 acre parcel to the east which is partially undeveloped with a single family home located about 170 feet away that gains its access from Selah Loop Road to the east. The developed lots to the north are all 0.44 acre (19,000+ square feet) developed with one to two story (i.e., finished or partially finished daylight basements) single family homes of wood frame construction with brick or painted trim. They have 1,100 to 1,500 square foot footprints. All three of these homes are set back 90 to 100 feet from the rear lot line shared with the proposed duplex lots. There are fences, a retaining wall and a detached garage in the rear yards that appear to provide some site screening of the proposed designated lots.

The large parcel to the east has an older two story home with about 1,300 square feet on two stories, and a partially finished basement.

Based on the lot size, the net residential density of the three lots to the north is 2.3 dwelling units per acre. Including the large parcel to the east would lower the density further, but it is assumed that it could be developed to the allowable five dwelling units per acre (about six units per net acre), or slightly less due to the minimum lot size.

**Zoning Ordinance Consistency & Compatibility Analysis** – The two proposed lots are over 9,000 square feet in size, not corner lots, and not located on slopes that would trigger the larger minimum lot sizes from the zoning ordinance. The 20 lot subdivision allows for the designation of two two-family residential lots under the requirements of SMC 10.12.040.

The lots are 100 feet in width, consistent with the widths of the residential lots to the north, and enough width to allow for single story units. Lot depths are a slightly shallower 96.5 feet. The building envelopes as shown on a site plan included with the application is 4,360 square feet. This is based on a 15 foot rear setback, which does not meet the minimum standard for the R-1 zone (20 feet). The 30 foot front setback shown on the site exceeds the standard but may be necessary for off-street parking. The 35% lot coverage standard reduces the potential building footprint to 3,365 to 3,379 square feet (1,682 to 1,690 square feet per one-story unit – including garages). The lots should be large enough to accommodate the proposed use and meet required setback and lot coverage standards. Net density is about 6 dwelling units per acre or 6.6 dwelling units per acre if the lot area is reduced by the access easement used for the private road in making the calculation.

### **SUBDIVISION VARIANCE:**

Under the block design standards of SMC 10.50.041(d), a private access street may only be authorized where there are no adverse effect on future traffic circulation of neighboring parcels. This wording appears to indicate that a variance or exception is not required if the required finding can be made. In addition there is a standard in SMC 10.50.041(e), the lot design standards, which provides that each lot must front upon a public street with a width not less than [that] set forth in the street standards. The only stated exception to this standard is that it can be waived or reduced when the subdivision is combined with a Planned Development. While on its face, this requirement seems to prohibit lots that front on public streets, when it is considered in the context of the other standards and the organization of the code, it appears that its intent may have been to regulate lot width along street frontages. This is supported by:

1. It contradicts SMC 10.50.041(d)(4) which allows private access streets if no adverse effect on traffic circulation can be found; and
2. It falls under the lot design standards, rather than the block design standards of SMC 10.50.041(d) suggesting that it was intended to be evaluated for specific lots rather than the street itself.

There is also a subdivision standard (for lot design – SMC 10.50.041(e)) that lots having frontage on two streets should be avoided whenever possible (emphasis added). This language is not mandatory, so it does not appear to require a subdivision exception. It appears that an exception or variance may not be required for any of these standards. However, since SMC 10.50.041(e)(3) can be interpreted to not otherwise allow lots that don't front public streets, the exception is directed primarily to it.

The application indicates that a lot design that eliminates the private road would either require the lots to have depth (distance from the front lot line to the rear lot line) in excess of 2.5 times their width or lots that are 15,000 to 20,000 square feet, more or less. The depth to width ratio of more than 2.5 times violates another standard of the Selah code: SMC 10.50.041(e)(6), but would be the same or similar to the lots approved previously for this property by Yakima County (which does not have this standard in its code). According to the application, the rear of long narrow lots would remain largely undeveloped and full of weeds.

Other design alternatives may be available, including the larger lot sizes cited in the applications, but does not allow for lots that are consistent with the other lots in the proposed plat and on the south side of Lyle Loop Road. If the 2.5 to 1 lot to width ratio were allowed, or if it were be modified instead of the standards being proposed by this application, it would, as argued by the applicant result in lots that are less usable and desirable because of their lengths. It may also be possible to extend a cul-de-sac into this part of the site, but due to its shape and size, it would be difficult to comply with what may be the actual intent of SMC 10.50.041(e)(3) because it would tend to result in the use of “flagpole lots” in designing this space.

While it could be argued that because of the characteristics of this site, larger lots are going to be necessary north of Lyle Loop, this does not seem to be consistent with the zoning, comprehensive plan designation and adopted standards when considered that the code provides for an exception to the most applicable standard (i.e., SMC 10.50.041(d)(4)). Under the terms of the Exception Requirements (SMC 10.50.070 (a)) it also could be considered an undue hardship.

The following findings and conclusions address the other criteria of the Exception Requirements:

- a. The special physical circumstances and conditions affecting the property are the slopes to the north and west and the fully developed lots that border the site in those directions. They prevent the extension of public streets to the north that could then be continued for other development. Along with the dimensions of the property, they also result in there not being enough room to establish another two tiers of lots with an intervening street as would be necessary to develop this area in the manner required by all Code requirements if additional public streets were to be provided.
- b. The exceptions ensure that the subject property enjoys the same rights and privileges that other undeveloped properties in the vicinity have to develop to minimum lot size and allowable density. That SMC 10.50.041(d)(4) and SMC 10.50.041(e)(4) include exceptions or language that indicate that they are not mandatory requirements should be considered important findings in making this conclusion.
- c. The public interest is preserved. Lot design, density and use is otherwise consistent with zoning standards and the comprehensive plan and with if appropriately conditioned, compatible with surrounding development.

Compliance with the three applicable subdivision standards are as follows:

- a. The private access street does not adversely affect future traffic circulation of neighboring parcels. Properties to the north and west are fully developed and already have access to public streets. Direct access to Lyle Loop Road is available to the partially undeveloped property to the east.
- b. It is not possible with this design to avoid having lots with frontage on two streets (i.e., Lyle Loop Road and the private street).
- c. If the intent of SMC 10.50.041(e)(3) is to require lots that front on public streets to have frontages that meet applicable standards, the standard is met. All of the proposed lot frontages on public streets meet minimum lot width standards from the zoning code. Lot 17 will have 40 feet of frontage on the proposed private access easement, which is enough to provide for ingress and egress to that lot. It is also not a public street. The other three interior lots have frontage on the easement that is more than or equal to minimum lot width requirements.

**RECOMMENDATION: APPROVAL** of the preliminary plat and subdivision variance (exception) based on the findings and conclusions in this report subject to the following conditions:

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 plat 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. The private interior street shall be constructed as a hard-surfaced street to specifications approved by the Public Works Director prior to recording the final plat. The street shall have a minimum surface width of 20 feet.
7. 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 Planning Department prior to recording the final plat.

8. The private street shall be designated "no-parking" as shown by the site plan submitted with the preliminary plat application and shall be posted with signs prior to final plat approval.
9. Driveway access to Lots 13 and 14 shall be limited to Lyle Loop Road and the part of the private access easement passing in a north-south direction between them.
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. A NPDES Construction Stormwater General Permit shall be obtained unless determined by the Department of Ecology that it is not required.
17. 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.
18. Lots 19 and 20 are authorized to be designated as two-family residential lots on the final plat and may be developed into two-family residential structures following final plat approval, subject to the following additional special requirements:

- a. The two-family residential designation of these lots applies only to these lots and may not be transferred to other lots in the subdivision.
- b. Off-street parking shall be provided on the lots to provide 4 spaces per each duplex. No credit against this requirement shall be allowed for garages and tandem parking.
- c. Building materials shall be consistent in appearance with that of surrounding single-family homes. To further ensure harmonious development of the designated lots with the development of single family lots in the subdivision, restrictive covenants that describe the required building specifications for the two-family dwellings shall be recorded prior to recording the final plat for the phase in which they are in.
- d. Building specifications from the restrictive covenants for the proposed two-family dwellings shall be submitted to the Planning Department to review for consistency with these conditions prior to recording the final plat for the phase in which they are in.
- e. This decision does not preclude the development of detached single-family residences on any of these lots.

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."**

**"No driveway approach from any lot that fronts on Lyle Loop Road to [name given to the private access easement] shall be allowed, except that Lots 13 and 14 may have approaches to the part of the street that passes in a north-south direction between said lots"**

20. Lots 17 through 20 shall be served by an 8 inch sewer line extended in the utility easement across Lots 11 and 12 and then continued to the other 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. The applicant shall recommend a street name to assign to the private access street and shall submit the name to the Planning Department for approval prior to recording the final plat. The

approved street name shall be shown on the face of the final plat and in the plat note required by Condition 20.

23. Improvements required for the subdivision must be completed and the final plat must be submitted within the maximum 5-year time period required by RCW 58.17.140. 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.

**CITY OF SELAH HEARING EXAMINER**

STAFF REPORT

May 13, 2015

**FILE NO.:** PRELIMINARY PLAT 912.42.15-02 "Somerset II"  
SUBDIVISION VARIANCE 915.42.15-01  
SEPA ENVIRONMENTAL REVIEW 971.42.15-04

**PROPOSAL:** Preliminary Plat of "Somerset II" subdividing the 4.7 acre subject property into 20 lots served by a full range of public utilities consisting of 18 single family residential lots and 2 lots designated for two-family dwellings. Four of the lots, including the designated two-family residential lots are to obtain access from a private road requiring a subdivision variance.

Proposed lots sizes range from 8,000 to 12,298 square feet. Average proposed lot size is 8,578 square feet. The two lots proposed for two-family dwellings are 9,614 and 9,653 square feet. Proposed density is 4.7 dwellings per gross acre.

A portion of the subject property was approved for a 17 lot preliminary plat by Yakima County, but not recorded. Previous to the plat approval, part of the property was a tract in Somerset I, a subdivision that other than this tract has been built out. Part of the property was acquired through a street vacation for Herlou Drive.

**PROPONENT & PROPERTY OWNER:** Zuker-Sample, LLC

**LOCATION:** Site fronts on Herlou Drive to the west and Lyle Loop Road to the east. It is about 100 feet north of the intersection of Lyle Loop and Herlou Drive and about 200 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).

**APPLICATION AUTHORITY AND JURISDICTION:** Selah Municipal Code, Chapter 10.50 (subdivision) and Chapter 10.12 (R-1 Zoning District).

SMC 10.12.040 allows ten percent of the lots in a proposed land division of ten or more lots to be designated for future two-family dwellings (or duplexes). The hearing examiner must consider the lot locations and carefully consider adjacent properties to ensure harmonious compatibility. Other required standards for two-family lots include a minimum lot size of 9,000 square feet or the minimum lot size based on slope as specified in SMC 10.12.030. Also, SMC 10.50.041(e)(6)(C) from the subdivision code requires the minimum lot size to be increased by an additional ten percent on corner lots.

Once the lots are designated, the future duplexes may be authorized as Class 1 Uses, subject to the same requirement for harmonious compatibility.

The subdivision variance or exception is being considered under SMC 10.50.070 which authorizes the hearing examiner to recommend to the City Council an exception from the requirements of Chapter 10.50 when in the examiner's opinion, undue hardship may be created as a result of strict compliance with its provisions or any standards adopted by reference. The following findings are necessary to recommend an exception:

1. There are special physical circumstances or conditions affecting the property such that the strict application of the provisions of the (subdivision) 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.
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The Design standards and specifications for subdivisions include a standard that no private streets are allowed in any subdivision, and every lot and block shall be served from a publicly dedicated street. The standard makes an exception that authorizes private streets where there will be no adverse effect on future traffic circulation of neighboring parcels (SMC 10.50.041(d)(4)).

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**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 providing internal access to the proposed subdivision.

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**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 3 and 11 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 13.

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**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.

**Planned improvements** – Lyle Loop Road will be constructed to the same development standards as the existing part of the street (described above).

A private access street will be extended north from Lyle Loop Road in a 20 foot wide fire and private access and utility easement north to Lots 18 and 19, 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 about 48 feet to the west to serve Lot 17 and for 180 feet to the east to serve Lot 20.

According to the application materials, the access easement for the private street will be for the exclusive use of six lots: Lots 13 and 14 and 17 through 20. It would not be available to three of the lots in the subdivision over which it crosses or abuts or the adjacent property to the east. Lots 13 and 14 would have access to both the private street and Lyle Loop Road.

**TWO-FAMILY RESIDENTIAL LOTS:**

**Location** – The lots proposed for two family residential designation are Lots 19 and 20 located on the proposed private road in the northeast part of the subdivision. They border existing residential lots to

the north, but a difference in elevation and their adjoining on the rear property lines with separate access provides for some physical separation between the existing and proposed lots. They are also located behind the proposed new lots on Lyle Loop Road rather than facing them. The applicant argues that the proposed location is better for duplexes than a location that fronts on the exterior street (i.e., Herlou Drive) since they would not face existing homes across the street from the site.

**Adjacent Land Uses** – The proposed duplex lots adjoin three residential lots to the north. One of the lots also borders a 2.8 acre parcel to the east which is partially undeveloped with a single family home located about 170 feet away that gains its access from Selah Loop Road to the east. The developed lots to the north are all 0.44 acre (19,000+ square feet) developed with one to two story (i.e., finished or partially finished daylight basements) single family homes of wood frame construction with brick or painted trim. They have 1,100 to 1,500 square foot footprints. All three of these homes are set back 90 to 100 feet from the rear lot line shared with the proposed duplex lots. There are fences, a retaining wall and a detached garage in the rear yards that appear to provide some site screening of the proposed designated lots.

The large parcel to the east has an older two story home with about 1,300 square feet on two stories, and a partially finished basement.

Based on the lot size, the net residential density of the three lots to the north is 2.3 dwelling units per acre. Including the large parcel to the east would lower the density further, but it is assumed that it could be developed to the allowable five dwelling units per acre (about six units per net acre), or slightly less due to the minimum lot size.

**Zoning Ordinance Consistency & Compatibility Analysis** – The two proposed lots are over 9,000 square feet in size, not corner lots, and not located on slopes that would trigger the larger minimum lot sizes from the zoning ordinance. The 20 lot subdivision allows for the designation of two two-family residential lots under the requirements of SMC 10.12.040.

The lots are 100 feet in width, consistent with the widths of the residential lots to the north, and enough width to allow for single story units. Lot depths are a slightly shallower 96.5 feet. The building envelopes as shown on a site plan included with the application is 4,360 square feet. This is based on a 15 foot rear setback, which does not meet the minimum standard for the R-1 zone (20 feet). The 30 foot front setback shown on the site exceeds the standard but may be necessary for off-street parking. The 35% lot coverage standard reduces the potential building footprint to 3,365 to 3,379 square feet (1,682 to 1,690 square feet per one-story unit – including garages). The lots should be large enough to accommodate the proposed use and meet required setback and lot coverage standards. Net density is about 6 dwelling units per acre or 6.6 dwelling units per acre if the lot area is reduced by the access easement used for the private road in making the calculation.

**SUBDIVISION VARIANCE:**

Under the block design standards of SMC 10.50.041(d), a private access street may only be authorized where there are no adverse effect on future traffic circulation of neighboring parcels. This wording

appears to indicate that a variance or exception is not required if the required finding can be made. In addition there is a standard in SMC 10.50.041(e), the lot design standards, which provides that each lot must front upon a public street with a width not less than [that] set forth in the street standards. The only stated exception to this standard is that it can be waived or reduced when the subdivision is combined with a Planned Development. While on its face, this requirement seems to prohibit lots that front on public streets, when it is considered in the context of the other standards and the organization of the code, it appears that its intent may have been to regulate lot width along street frontages. This is supported by:

1. It contradicts SMC 10.50.041(d)(4) which allows private access streets if no adverse effect on traffic circulation can be found; and
2. It falls under the lot design standards, rather than the block design standards of SMC 10.50.041(d) suggesting that it was intended to be evaluated for specific lots rather than the street itself.

There is also a subdivision standard (for lot design – SMC 10.50.041(e)) that lots having frontage on two streets should be avoided whenever possible (emphasis added). This language is not mandatory, so it does not appear to require a subdivision exception. It appears that an exception or variance may not be required for any of these standards. However, since SMC 10.50.041(e)(3) can be interpreted to not otherwise allow lots that don't front public streets, the exception is directed primarily to it.

The application indicates that a lot design that eliminates the private road would either require the lots to have depth (distance from the front lot line to the rear lot line) in excess of 2.5 times their width or lots that are 15,000 to 20,000 square feet, more or less. The depth to width ratio of more than 2.5 times violates another standard of the Selah code: SMC 10.50.041(e)(6), but would be the same or similar to the lots approved previously for this property by Yakima County (which does not have this standard in its code). According to the application, the rear of long narrow lots would remain largely undeveloped and full of weeds.

Other design alternatives may be available, including the larger lot sizes cited in the applications, but does not allow for lots that are consistent with the other lots in the proposed plat and on the south side of Lyle Loop Road. If the 2.5 to 1 lot to width ratio were allowed, or if it were be modified instead of the standards being proposed by this application, it would, as argued by the applicant result in lots that are less usable and desirable because of their lengths. It may also be possible to extend a cul-de-sac into this part of the site, but due to its shape and size, it would be difficult to comply with what may be the actual intent of SMC 10.50.041(e)(3) because it would tend to result in the use of "flagpole lots" in designing this space.

While it could be argued that because of the characteristics of this site, larger lots are going to be necessary north of Lyle Loop, this does not seem to consistent with the zoning, comprehensive plan designation and adopted standards when considered that the code provides for an exception to the

most applicable standard (i.e., SMC 10.50.041(d)(4)). Under the terms of the Exception Requirements (SMC 10.50.070 (a)) it also could be considered an undue hardship.

The following findings and conclusions address the other criteria of the Exception Requirements:

- a. The special physical circumstances and conditions affecting the property are the slopes to the north and west and the fully developed lots that border the site in those directions. They prevent the extension of public streets to the north that could then be continued for other development. Along with the dimensions of the property, they also result in there not being enough room to establish another two tiers of lots with an intervening street as would be necessary to develop this area in the manner required by all Code requirements if additional public streets were to be provided.
- b. The exceptions ensure that the subject property enjoys the same rights and privileges that other undeveloped properties in the vicinity have to develop to minimum lot size and allowable density. That SMC 10.50.041(d)(4) and SMC 10.50.041(e)(4) include exceptions or language that indicate that they are not mandatory requirements should be considered important findings in making this conclusion.
- c. The public interest is preserved. Lot design, density and use is otherwise consistent with zoning standards and the comprehensive plan and with if appropriately conditioned, compatible with surrounding development.

Compliance with the three applicable subdivision standards are as follows:

- a. The private access street does not adversely affect future traffic circulation of neighboring parcels. Properties to the north and west are fully developed and already have access to public streets. Direct access to Lyle Loop Road is available to the partially undeveloped property to the east.
- b. It is not possible with this design to avoid having lots with frontage on two streets (i.e., Lyle Loop Road and the private street).
- c. If the intent of SMC 10.50.041(e)(3) is to require lots that front on public streets to have frontages that meet applicable standards, the standard is met. All of the proposed lot frontages on public streets meet minimum lot width standards from the zoning code. Lot 17 will have 40 feet of frontage on the proposed private access easement, which is enough to provide for ingress and egress to that lot. It is also not a public street. The other three interior lots have frontage on the easement that is more than or equal to minimum lot width requirements.

**RECOMMENDATION: APPROVAL** of the preliminary plat and subdivision variance (exception) based on the findings and conclusions in this report subject to the following conditions:

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 plat 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. The private interior street shall be constructed as a hard-surfaced street to specifications approved by the Public Works Director prior to recording the final plat. The street shall have a minimum surface width of 20 feet.
7. 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 Planning Department prior to recording the final plat.
8. The private street shall be designated "no-parking" as shown by the site plan submitted with the preliminary plat application and shall be posted with signs prior to final plat approval.

9. Driveway access to Lots 13 and 14 shall be limited to Lyle Loop Road and the part of the private access easement passing in a north-south direction between them.
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. A NPDES Construction Stormwater General Permit shall be obtained unless determined by the Department of Ecology that it is not required.
17. 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.
18. Lots 19 and 20 are authorized to be designated as two-family residential lots on the final plat and may be developed into two-family residential structures following final plat approval, subject to the following additional special requirements:
  - a. The two-family residential designation of these lots applies only to these lots and may not be transferred to other lots in the subdivision.

- b. Off-street parking shall be provided on the lots to provide 4 spaces per each duplex. No credit against this requirement shall be allowed for garages and tandem parking.
  - c. Building materials shall be consistent in appearance with that of surrounding single-family homes. To further ensure harmonious development of the designated lots with the development of single family lots in the subdivision, the two-family lots shall be developed within one year of the recording of the final plat. The completion date may be extended in the manner allowed for Class 2 and 3 applications by SMC 10.06.060(c).
  - d. A site plan and drawings, photos or elevations of each of the buildings proposed for development of the designated two-family residential lots shall be submitted to the Planning Department to review for consistency with these conditions prior to recording the final plat for the phase in which they are in.
  - e. This decision does not preclude the development of detached single-family residences on any of these lots.
19. All required street signs, posts and appurtenances must be supplied by the developer and will be installed by the City.
20. 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.”**
- “No driveway approach from any lot that fronts on Lyle Loop Road to [name given to the private access easement] shall be allowed, except that Lots 13 and 14 may have approaches to the part of the street that passes in a north-south direction between said lots”**
21. Lots 17 through 20 shall be served by an 8 inch sewer line extended in the utility easement across Lots 11 and 12 and then continued to the other lots in the access and utility easement as shown on the Preliminary Plat.
22. 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.
23. The applicant shall recommend a street name to assign to the private access street and shall submit the name to the Planning Department for approval prior to recording the final plat. The approved street name shall be shown on the face of the final plat and in the plat note required by Condition 20.

24. Improvements required for the subdivision must be completed and the final plat must be submitted within the maximum 5-year time period required by RCW 58.17.140. 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.

**Somerset II**  
**912.42.15-02 Somerset II Preliminary Plat**  
**915.42.15-01 Subdivision Variance**  
**971.42.15-04 Environmental Review**

**EXHIBIT LIST**

**LIST OF DOCUMENTS PERTAINING TO SOMERSET II**

<u>EXHIBIT NO</u>	<u>DESCRIPTION OF ITEM</u>
1	Staff Report
2	Cover Letter-Applicant March 17, 2015
3	Preliminary Plat Application March 17, 2015
4	Variance Application March 17, 2015
5	Narrative –Variance March 17, 2015
6	Preliminary Plat.
7	Site Plan for Variance March 17, 2015
8	Environmental Check List March 17, 2015
9	Determination of Nonsignificance May 7 2015
10	Comment Letter Department of Ecology April 24, 2015
11	Comment Letter Michelle Bannister April 20, 2015
12	Comment Letter Mr. & Mrs. Willie Morris April 16, 2015
13	Notice of Application
14	Installation Certificate May 5, 2015
15	Subject Property Map

16. Affidavit of Publication and Legal Advertisement  
5/22/15
17. Affidavit of mailing and mailing list 5/22/515
18. Comment Letter Diane Underwood 6/4/15
19. Comment Letter Abdul Maroof 6/4/15
20. Comment Letter Mr. & Mrs. Caldwell 6/8/15
21. Comment Letter Mrs. (Hovde) Furstenau
22. Comment Letter from Norm Hillstrom 6/8/15
23. Comment Letter from Delmas & Willie Morris 6/8/15
24. Comment Letter from Ted M. Hendricksun rec'd: 6/9/15
25. Comment Letter from Julie A. Field 6/9/15
26. Comment Letter from Sandra G. Field 6/9/15
27. Comment Letter from Mark R. Weller 6/9/15
28. Comment Letter rec'd 6/10/15
29. Comment Letter rec'd 6/10/15
30. Comment Letter, Lancaster rec'd 6/10/15
31. Comment Letter from Brandi Wedeman rec'd 6/10/15
32. Comment Letter from Sarah Lancaster rec'd 6/10/15
33. Comment Letter from Colton Beck rec'd 6/10/15
34. Comment Letter rec'd 6/10/15
35. Comment Letter rec'd 6/10/15 Emma Friedrich
36. Comment Letter from Roy Friedrich rec'd 6/10/15
37. Comment Letter from Ethan Berg rec'd 6/10/15
38. Comment Letter dated 6/4/2015, rec'd 6/10/15
39. Comment Letter dated 6/3/2015 rec'd 6/10/15
40. Comment Letter Jason Gilhe rec'd 6/10/15

ZUKER-SAMPLE LLC  
1304 Heritage Hills Pl, Selah WA 98942  
509-910-1303

March 17, 2014

Mr. Tom Durant  
Public Works Department  
City of Selah  
113 W. Naches Ave.  
Selah, WA 98942

Dear Mr. Durant:

Attached is the Preliminary Plat and Environmental Checklist for the Subdivision of Somerset II (Tax Parcel 181426-4405&44021) located on Herlou Drive and the extension of Lyle Loop Road in the City of Selah.

The parcel contains 4.71 Ac and are subdivided into 18 single family lots, and 2 – two family residential lots. The Ordinance amending the Selah Municipal Code, Chapter 10.28 040(1) allowing the property to be subdivided in this manner became effective on January 20, 2015.

The average lot size is 8570 SF and has a density of 4.67 units/Ac or 4.25 Lots/Ac.

All lots are at least 8000 SF with Lots 9 and 16 containing an extra 10% area at the intersection of Herlou Drive and Lyle Loop Road. Lot 17 is 12,298 SF to accommodate a suitable building site on that lot.

Lots 17, 18, 19, 20 and partially lots 13 and 14 are served by a private access road easement. This easement will serve fire access requirements and utilities. The fire access turn around will be 26' wide and the balance of the easement will be 20' wide. The access easement, as shown, will be paved and will be for the exclusive use of the aforementioned lots and shall be maintained by the owners of these lots. There will be "No Parking" on the fire access easement (cross-hatched on the Preliminary Plat).

The subdivision will be completed in three phases. Lots 1, 2, 3, 4, 5, 11, 12, and 13 will be in Phase 1. Lots 6, 7, 8, 9, 10, 14, 15 and 16 will be in Phase 2. Lots 17, 18, 19, and 20 will be in Phase 3.

.../2

Exhibit 2

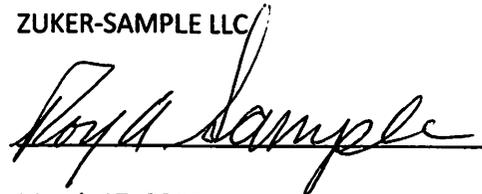
The locations of the two family residential lots were chosen for the following reasons:

- 1) These lots (19 and 20) are at the lowest point topographically on the property, thus marking them the least visible.
- 2) This location places these lots furthest from Somerset I, the closest single family lot subdivision in the City of Selah.
- 3) When lots 11, 12 and 13 Phase I are developed and built upon, the structures on lots 19 and 20 will be virtually invisible from Lyle Loop Road.
- 4) Placing these 2 – two family residential lots along Herlou Drive will have them facing the single-family homes across Herlou Drive. Entering on Herlou Drive, these two family units would immediately become visible.
- 5) This location will have the back of the two family residential lots facing the backs of the lots on Weems Way. The houses on Weems Way are approximately 30' to 35' higher in elevation than these 2 – two family residential lots.

Water and sewer design along Lyle Loop Road were approved by Mr. Joe Henne, Public Works Director, on 3/29/10. A portion of these utilities have been installed and approved by the Public Works Department.

Street and drainage design for Lyle Loop Road were approved by Mr. Joe Henne, Public Works Director, on 5/25/12. Portions of the road grading and drainage have been completed.

ZUKER-SAMPLE LLC



March 17, 2015

Att: Preliminary Plat  
Environmental Checklist



**CITY OF SELAH  
PRELIMINARY PLAT  
APPLICATION FORM**



FILE NO: \_\_\_\_\_  
DATE FEE PAID: 7/17/15

SEPA: \_\_\_\_\_  
RECV'D BY: TAD

**INSTRUCTIONS --- PLEASE READ PRIOR TO COMPLETING APPLICATION**

- **Application and preliminary plat must be accompanied by:**
- Filing fee of \$400 plus \$40 per lot.
- Completed environmental checklist plus \$275 fee.
- Title report (must be current and reflect the undersigned signatures)
- One 11 x 17 reduced copy of the preliminary plat
- Complete and full legal description of the property
- Answer all questions completely. If you have questions about this form or the application process, call the Selah Planning Department at (509) 698-736
- Remember to bring all necessary attachments and the required filing fee when the application is submitted.
- The City will not accept an application for processing unless it is complete and the filing fees paid. Filing fees are non-refundable

NAME OF SUBDIVISION: SOMMERSET II

NUMBER OF LOTS: 20      AVERAGE LOT SIZE IN S.F.: 8578 SF

TYPE OF BUILDINGS TO BE CONSTRUCTED: 18 SINGLE FAMILY AND 2-2 FAMILY RESIDENCE

PROPERTY OWNERS AUTHORIZATION:  
I hereby authorize the submittal of the preliminary plat SOMERSET II to the City of Selah for approval.

I understand that conditions of approval, such as dedication of right-of-way and easements, restrictions on the type of buildings that may be constructed, and access restrictions from public streets, may be imposed as a part of preliminary plat approval and that failure to meet these conditions may result in denial of the final plat.

Signature of Property Owner(s): Royal Sample      DATE: MARCH 13, 2015

ADDRESS: P.O. BOX 747 (1304 HERITAGE HILL PL) SELAH, WA 98942

TELEPHONE:      WORK: 509-910-1303      HOME: 509-698-2232

Signature of Contract Purchaser(s)/Developer(s): \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELEPHONE:      WORK: \_\_\_\_\_      HOME: \_\_\_\_\_

ZONING CLASSIFICATION: R-1

COMPREHENSIVE PLAN DESIGNATION: LOW DENSITY RESIDENTIAL

YAKIMA COUNTY ASSESSOR'S TAX PARCEL NO.: SEE PRELIMINARY PLAT

(SEE ATTACHED)      181426-44005, 44021



# CITY OF SELAH

Planning Department  
113 South Second Street  
Selah, Washington 98942

Phone 509-698-7365  
Fax 509-698-7372

## VARIANCE PROCEDURES

A variance is a means by which citizens are granted modification from the strict application of specific provisions of the Zoning Code due to a hardship beyond the control of the applicant. Variances do not permit property to be used in a manner other than provided in the Zoning Code. This process is intended to review situations where uniform zoning application would unduly burden one property more than the other properties in the area.

### EXAMPLE OF VARIANCE

When a portion of a lot is too steep to construct anything on, and the only way to build would be to use a portion of a required yard or setback.

### VARIANCE CRITERIA

The City Council shall have authority to grant a variance where practical difficulties, unnecessary hardship, or results inconsistent with the general purpose of the Zoning Code might result from the strict application of certain provisions.

Every variance is evaluated by criteria listed in the Zoning Code. Variances may be authorized when literal and strict interpretation would cause undue or necessary hardship.

A hardship is not a problem that you created yourself. For instance, if you build your house in such a manner that you cannot expand the living room without encroaching on a required side yard, you have created that situation.

Hardship speaks to whether you would be deprived of property rights common to other properties in the general vicinity and zoning district

### PROCEDURES IN THE VARIANCE PROCESS

Step 1: Contact the City Planner or City Supervisor to discuss your variance request. Although the staff cannot speculate on the success of your application, they may be helpful in providing you with past history.

Step 2: Prepare an application for variance.

- 1) The City Planner has the forms and will assist with any additional information needed.
- 2) Deliver to the City Planner where you will be asked to pay a filing fee to defray processing and hearing costs.

Step 3: Your application will be processed by the City as follows:

- a. A public hearing will be held
- b. You will be notified of the exact time and place of the hearing.
- c. Newspaper notice published prior to the hearing along with notice to adjacent property owners within 600 feet.

The Planning Commission will hold the hearing, review exhibits, receive testimony and recommend to the Council approval, approval with conditions or denial.

The Commission recommendation will be considered by the Council at a public meeting. The Council may adopt, remand or reject the Commission recommendation.



CITY OF SELAH

VARIANCE APPLICATION

APPLICATION REQUIREMENTS

Date Submitted/Received By

Non-Refundable Application Fee
Site Plan drawn to scale

3/17/15
TKD-J

\* ALL APPLICATION REQUIREMENTS MUST BE COMPLETED BEFORE THE APPLICATION IS ACCEPTED BY THE CITY:

1. NAME OF APPLICANT: ZUCKER-SAMPLE LLC

ADDRESS OF APPLICANT: P.O. BOX 247
SELAH, WA, 98942

Signature: Roy A. Sample

TELEPHONE: WORK 509-910-1303 HOME 509-698-2232

2. NAME OF LEGAL PROPERTY OWNER: SAME
(If different from applicant)
ADDRESS:

Signature

TELEPHONE: WORK HOME

3. GENERAL LOCATION OF PROPERTY INCLUDING STREET ADDRESS: HERLOU DRIVE
AND LYLE LOOP ROAD EXTENSION.
CONTAINS 4.71 ACRES

4. LEGAL DESCRIPTION OF PROPERTY: SEE PRELIMINARY PLAT

5. ZONE CLASSIFICATION: R-1 TAX PARCEL NO. SEE PRELIMINARY PLAT

6. SUMMARY OF PROPOSED VARIANCE: SEE ATTACHED

7. SPECIFIC REASONS JUSTIFYING THE VARIANCE SEE ATTACHED

ADD ADDITIONAL SHEETS IF NECESSARY

FOR OFFICE USE ONLY

VARIANCE \_\_\_\_\_

Scheduled Before: Planning Commission \_\_\_\_\_

City Council \_\_\_\_\_

Public Hearing: Planning Commission \_\_\_\_\_

City Council \_\_\_\_\_

Publication Date:

SITE PLAN REQUIREMENTS  
FOR VARIANCE APPLICATIONS

1. All existing or proposed structures on the property and their setbacks from all property lines.
2. The location and width of all adjacent right-of-ways or alleys.
3. The location of all required off-street parking spaces and/or off-street loading berths.
4. All easements and their widths on the property.
5. Be Drawn to a scale
6. The map size shall be 8½" x 11" or 8½" x 14"
7. North Arrow with graphic scale.

VARIANCE PROPOSAL – SOMERSET II

This proposal is to access Lots 17, 18, 19, 20 and partially lots 13 and 14 with a private access road, to include fire access and utility installation.

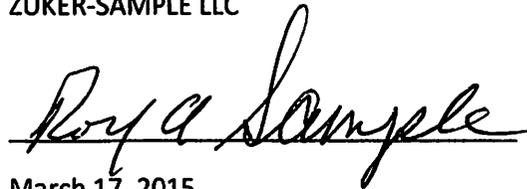
The City of Selah has a minimum lot size of 8000 SF in the R-1 Zone as long as there is less than a 10% slope to the property. This requirement has been met. Easement areas are not deducted from the size or area of the lots.

Per Selah's subdivision design standards (d) (4) "provided, that private access streets may be authorized where there will be no adverse effect on future traffic circulation of neighboring parcels". The proposed private road meets that criteria.

Because of the land configuration the area north of Lyle Loop Road cannot be extended to the north property line and meet the 2.5 times ratio of lot width to lot length without creating ± 15,000 to 20,000 SF lots. The rear of these long, narrow lots would remain largely undeveloped and full of weeds.

The proposed access would serve no more than 7 residential units and would not extend outside the boundaries of the proposed Subdivision Plat.

ZUKER-SAMPLE LLC

A handwritten signature in black ink that reads "Roy A. Sample". The signature is written in a cursive style and is positioned above a horizontal line.

March 17, 2015

Exhibit 5

PRELIMINARY PLAT  
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, WM

LEGAL DESCRIPTIONS

PARCEL A

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

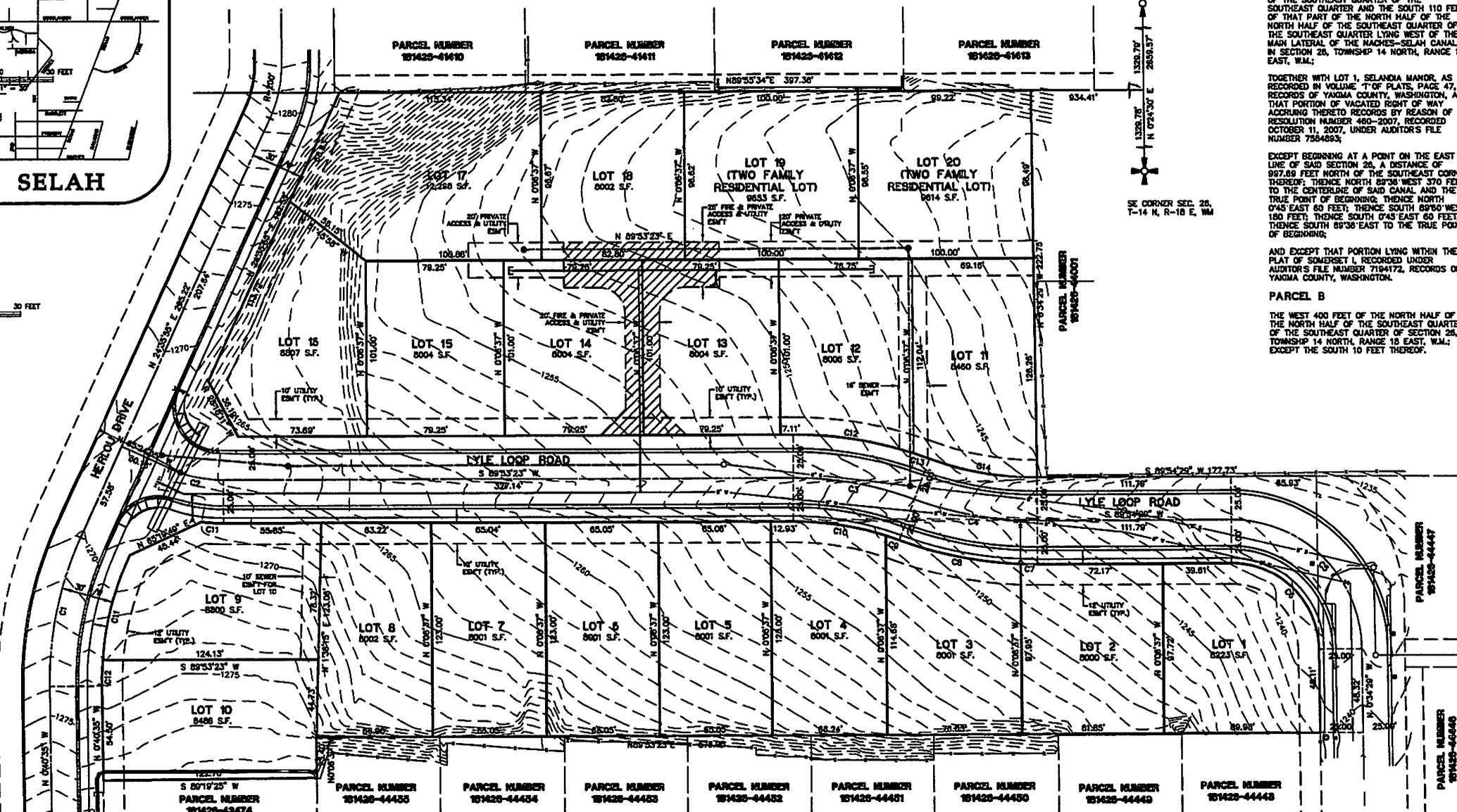
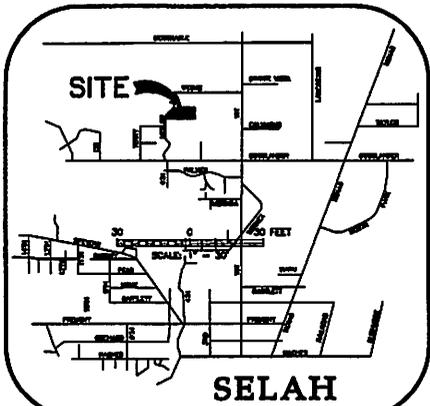
TOGETHER WITH LOT 1, SELANDIA MANOR, AS RECORDED IN VOLUME "T" OF PLATS, PAGE 47, RECORDS OF YAKIMA COUNTY, WASHINGTON, AND THAT PORTION OF VACATED RIGHT OF WAY ACCORDING THERETO RECORDS BY REASON OF RESOLUTION NUMBER 480-2007, RECORDED OCTOBER 11, 2007, UNDER AUDITOR'S FILE NUMBER 7584893;

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°38' 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°50' WEST 180 FEET; THENCE SOUTH 0°45' EAST 60 FEET; THENCE SOUTH 89°38' EAST TO THE TRUE POINT OF BEGINNING;

AND EXCEPT THAT PORTION LYING WITHIN THE PLAT OF SOMERSET I, RECORDED UNDER AUDITOR'S FILE NUMBER 7184172, RECORDS OF YAKIMA COUNTY, WASHINGTON.

PARCEL B

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



CURVE TABLE													
CURVE #	RADIUS	DELTA	LENGTH	TANGENT	CHORD BEARING	CHORD LENGTH	CURVE #	RADIUS	DELTA	LENGTH	TANGENT	CHORD BEARING	CHORD LENGTH
C1	200.00	29°42'30"	88.23	44.84	S 11°37'40" W	87.31	C8	223.00	17°50'10"	70.84	35.41	N 79°38'05" W	70.35
C2	75.00	24°42'30"	33.34	16.43	S 77°45'21" E	32.09	C9	175.00	2°43'37"	8.35	4.17	N 71°00'24" W	8.34
C3	200.00	20°28'12"	71.45	36.11	N 78°51'31" W	71.07	C10	175.00	17°44'15"	64.18	37.33	N 81°14'28" W	63.96
C4	200.00	20°27'02"	71.39	36.08	N 78°51'38" W	71.01	C11	100.00	7°32'45"	13.17	6.59	N 88°23'14" W	13.18
C5	75.00	88°37'01"	117.18	74.37	N 43°22'02" W	103.62	C12	223.00	18°01'30"	80.81	35.70	N 81°05'42" W	70.51
C6	50.00	88°31'01"	78.12	48.58	N 43°20'00" W	70.41	C13	223.00	3°28'22"	8.58	4.78	N 70°51'38" W	8.58
C7	223.00	2°27'46"	8.87	4.84	N 88°51'37" W	8.87	C15	175.00	20°27'05"	62.47	31.57	N 78°51'28" W	62.13

PRIVATE EASEMENT NOTE

THE PRIVATE ACCESS AND UTILITY EASEMENTS ARE JUST FOR THE BENEFIT AND USE BY LOTS 13, 14, 17, 18, 19 & 20

OWNER/DEVELOPER

ROY SAMPLE FOR:  
ZUKER-SAMPLE, L.L.C.  
P.O. BOX 247  
SELAH, WASHINGTON 98942

SURVEYOR/ENGINEER

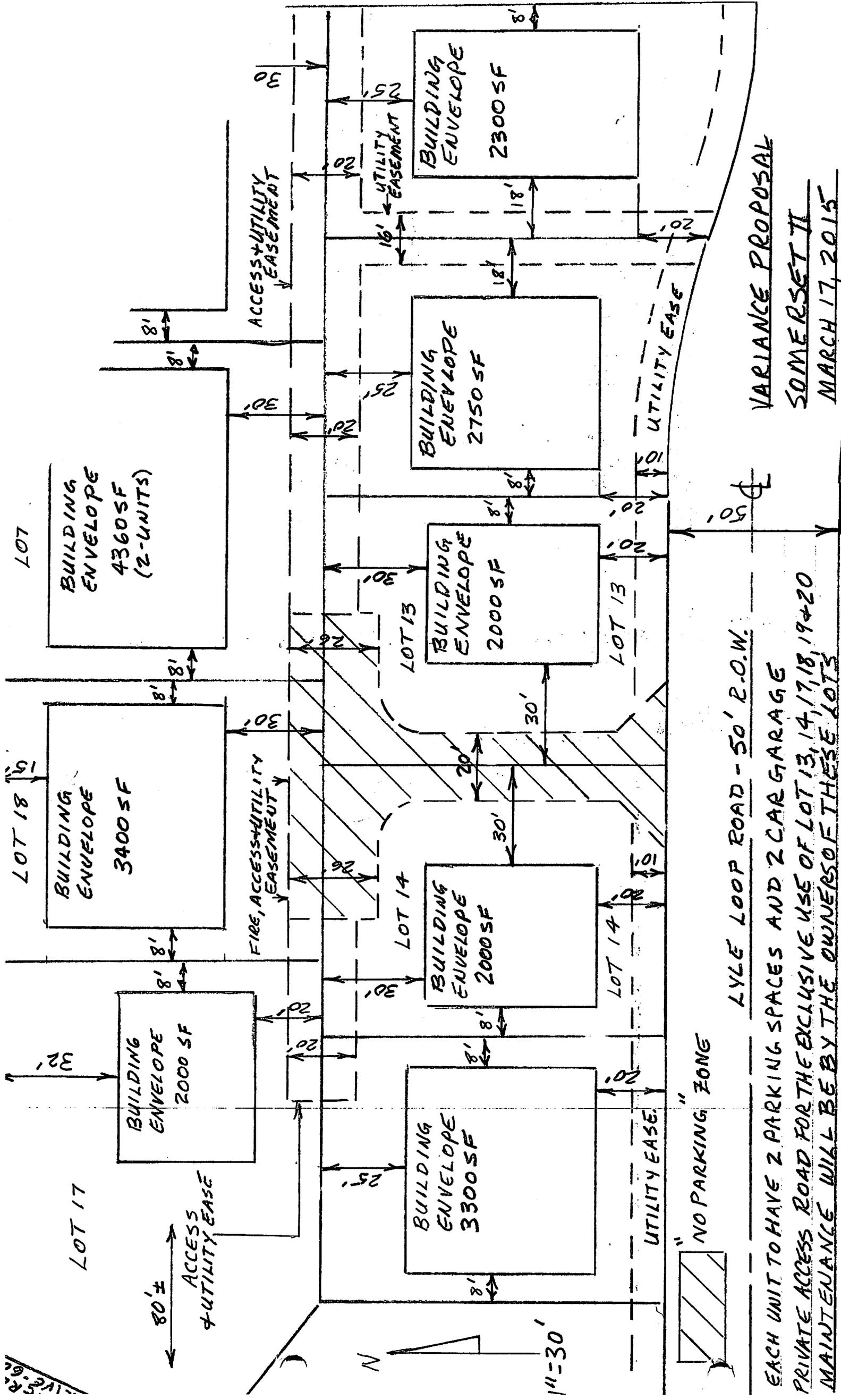
RICHARD L. WEHR, PLS  
PLSA ENGINEERING & SURVEYING  
1120 WEST LINCOLN AVENUE  
YAKIMA, WASHINGTON 98902

**PLSA** ENGINEERING-SURVEYING-PLANNING  
1120 WEST LINCOLN AVENUE  
YAKIMA, WASHINGTON 98902  
(509) 575-6990

PRELIMINARY PLAT  
OF PARCEL NO'S. 181428 - 44005 & 44021  
- PREPARED FOR -  
**ZUKER-SAMPLE, L.L.C.**

DATE: 3/3/2015  
JOB NO. 09155  
SHEET NO. 1 of 1

Exhibit b



VARIANCE PROPOSAL  
SOMERSET II  
MARCH 17, 2015

EACH UNIT TO HAVE 2 PARKING SPACES AND 2 CAR GARAGE  
 PRIVATE ACCESS ROAD FOR THE EXCLUSIVE USE OF LOT 13, 14, 17, 18, 19+20  
 MAINTENANCE WILL BE BY THE OWNERS OF THESE LOTS



# CITY OF SELAH

PLANNING DEPARTMENT  
113 WEST NACHES AVENUE  
SELAH, WA 98942  
PHONE: (509) 698-7365 FAX (509) 698-7372  
ENVIRONMENTAL CHECKLIST



FILE NUMBER: 971-93-15-04  
DATE FEE PAID 3/17/15  
RECEIVED BY frd  
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: SOMERSET II
2. Name of applicant: ZUCKER-SAMPLE LLC
3. Address and phone number of applicant and contact person: ROYA SAMPLE 509-910-1303  
1304 HERITAGE HILLS PI.  
SELAH, WA 98942
4. Date checklist submitted: 3/20/15
5. Agency requiring checklist: CITY OF SELAH
6. Proposed timing or schedule (including phasing, if applicable): PHASE 1-2015  
PHASE 2-2016, PHASE 3-2017

c. Proposed measures to reduce or control emissions or other impacts to air, if any:

OPEN SITE , NONE KNOWN

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 DRAINS - 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

- 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 8 AM - 8 PM**
- 3) Proposed measures to reduce or control noise impacts, if any: **NONE**

8. Land and Shoreline Use

- a. What is the current use of the site and adjacent properties? **OPEN AND SINGLE FAMILY RESIDENCES**
- 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.
- i. Approximately how many people would reside or work in the completed project? **NO**
- j. Approximately how many people would the completed project displace? **65**
- 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. **22 - 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, STURCO, MASONITE, WOOD**
- b. What views in the immediate vicinity would be altered or obstructed? **NO**
- 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**

- 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 AND PRIVATE ROADS, CITY OF SELAH - PUBLIC WATER, SEWER, AND TRASH REMOVAL - 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.

*Roy Sample*  
Signature of Proponent or Person Completing Form

Date: ~~3/18/15~~  
3/17/15

## Determination of Nonsignificance

1. **Description of Proposal:** "Somerset IP" Subdivide 4.71 acres into 20 lots, 18 lots for detached single family residences and two lots designated for two-family dwellings. Four lots, including two designated two-family residential lots are to be accessed from a private road, requiring a subdivision variance. Average proposed lot size is 8,578 square feet. The project is to be served by municipal sewer and water.
2. **Proponent:** Zucker-Sample, LLC  
PO Box 247  
Selah, WA 98942
3. **Location of Proposal including street address, if any:** Between Herlou Drive and Lyle Loop Road 200 feet south of the intersection of Herlou Drive and Weems Way and 100 feet north of the intersection of Herlou Drive and Lyle Loop Road in the City of Selah. (Yakima County Parcel Number: 181426-44005 & 44021).
4. **Lead Agency:** City of Selah
5. The lead agency for this proposal has determined that it will not have a probable significant adverse impact on the environment. An Environmental Impact Statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.  
  
This DNS is issued using the optional DNS process in WAC 197-11-355; there is no further comment period on the DNS.
6. **Appeals:** You may appeal this determination to the Selah City Council by filing a written appeal with the required \$300.00 filing fee at the Selah Public Works Department, 222 S. Rushmore Road no later than 5:00 p.m. on May 14, 2015. You should be prepared to make specific factual objections. Contact the Planning Department at 698-7365 to read or ask about the procedures for SEPA appeals.
7. **Responsible Official:** Donald Wayman
8. **Position / Title:** City Administrator
9. **Address:** 222 S. Rushmore Road, Selah, Washington 98942
10. **Date:** May 7, 2015
11. **Signature** 



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

15 W Yakima Ave, Ste 200 • Yakima, WA 98902-3452 • (509) 575-2490



April 24, 2015

Thomas Durant  
Selah Planning Department  
222 South Rushmore Road  
Selah, WA 98942

Re: Somerset II

Mr. Durant:

Thank you for the opportunity to comment during the optional determination of nonsignificance process for the subdivision of 4.71 acres into 20 lots, proposed by Zucker-Sample, LLC. We have reviewed the documents and have the following comments.

### TOXICS CLEAN-UP

Based upon the historical agricultural use of this land, there is a possibility the soil contains residual concentrations of pesticides. Ecology recommends that the soils be sampled and analyzed for lead and arsenic, and for organochlorine pesticides. If these contaminants are found at concentrations above the Model Toxics Control Act cleanup levels Ecology recommends that potential buyers be notified of their occurrence.

If you have any questions or would like to respond to these Toxics Clean-up comments, please contact **Valerie Bound** at (509) 454-7886 or email at [valerie.bound@ecy.wa.gov](mailto:valerie.bound@ecy.wa.gov).

### WATER QUALITY

#### Project with Potential to Discharge Off-Site

The NPDES Construction Stormwater General Permit from the Washington State Department of Ecology is required if there is a potential for stormwater discharge from a construction site with disturbed ground. This permit requires that the SEPA checklist fully disclose anticipated activities including building, road construction and utility placements. Obtaining a permit is a minimum of a 38 day process and may take up to 60 days if the original SEPA does not disclose all proposed activities.



Exhibit 10

April 20, 2015

Selah Planning Department  
222 S Rushmore Rd  
Selah WA 98942

Re: File No 912.42.15-02, 915.42.15-01, 971.45.15-04—"Somerset II" Zucker Sample, LLC

Dear Selah Planning Department,

This is my first attempt at submitting a response to your notice regarding the above request.

I would like to first explain who I am. My name is Michelle Bannister and I currently reside at 31 Lyle Loop, Selah WA. I have been a home owner at this address since 2002.

Although this is not the first attempt to change the original plan for the above mentioned property this is by far the better option proposed by Mr. Roy Sample and Mr. Zucker.

My opposition to this proposal would be the need to put "Rentals" within the development. I do not understand the thought process behind the proposal and it just makes no sense. As a homeowner I have a few concerns as to whom would be the landlord(s) and who would ensure that my neighborhood would not be negatively affected by this type of housing.

It is my understanding that our "Rental" homes/apartments/duplexes" is over half the entire population within the "City Limits" of Selah and that frankly is mind blowing! Please explain who benefits from all the "Rental" properties that continue to be built within our city?

I feel that it is the responsibility of the "Developer" and the City of Selah Planning Commission to build a "Quality" development that will contribute in a complementary way. I am not against growth in this city but I truly believe that the process and those who are "in charge" of the process have lost their ability to do the right thing.

Sincerely,



Michelle Bannister

April 16<sup>th</sup> 2015

To: Tom Durand - Selah City Planner  
Cc: Pat Spurgeon - Selah Hearing Examiner

My husband & I have lived in Selah for over 40 years, our children went thru the school system & we are NOT happy with the way Selah is being rezoned & developed.

The development across the road from the High School is insane. In addition to being cheap looking, do they even meet fire code for 2 way in & out? The extra traffic on Goodlander would be horrible during school terms. The architecture of these "townhouses" is in no way consistent with the surrounding residences.

The property being developed on Herbow (between Weems Way & Goodlander) is yet another planned development that does not fit with the neighboring homes.

The traffic on Weems Way has already increased so much that its dangerous, particularly for the families with children. We moved to Selah for a reason -

Exhibit 12

quality of life. High density development erodes that quality.

Do what you were elected to do - fight to protect our city. Say no thanks to developers only interested in making a buck at your constituents expense. Have some guts and do the right thing.

Mr & Mrs. Willie Morris  
100 Weems Way  
Selah - Wa - 98942



# CITY OF SELAH

## Public Works Department

222 South Rushmore Road  
SELAH, WASHINGTON 98942

Phone 509-698-7365

Fax 509-698-7372

### NOTICE OF DEVELOPMENT APPLICATION & ENVIRONMENTAL REVIEW OPPORTUNITY TO PROVIDE COMMENTS NOTICE OF HEARING EXAMINER OPEN RECORD PUBLIC HEARING

File No. 912.42.15-02, 915.42.15-01, 971.42.15-04 – “Somerset II” Zucker-Sample, LLC Notice of Application, and Environmental Review,

**Application:** On March 17, 2015 the City of Selah Planning Department received applications for a preliminary plat and subdivision variance and an environmental checklist from Zucker-Sample, LLC, PO Box 247 Selah, WA 98942 to subdivide 4.71 acres into 20 lots with six dwelling units that have access from a private road. The application was determined complete for processing on April 7, 2015. The decision on this application will be made within one-hundred twenty days of the determination of complete application.

**Project Description** Subdivide 4.71 acres into 20 lots, 18 lots for detached single family residences and two lots designated for two-family dwellings. Four lots, including two designated two-family residential lots are to be accessed from a private road, requiring a subdivision variance. Average proposed lot size is 8,578 square feet. The project is to be served by municipal sewer and water.

**Location:** Between Herlou Drive and Lyle Loop Road 200 feet south of the intersection of Herlou Drive and Weems Way and 100 feet north of the intersection of Herlou Drive and Lyle Loop Road in the City of Selah. (Yakima County Assessor Parcel Number: 181426-44005 & 44021).

**Approvals, Actions and Required Studies:** Preliminary Plat, Subdivision Variance (Exception – SMC 10.50.070).

**Environmental Review:** The City of Selah is the lead agency for this proposal under the State Environmental Policy Act (SEPA). The City has reviewed the proposal for probable adverse environmental impacts and expects to issue a Determination of Nonsignificance (DNS) for the proposal. The optional DNS process in WAC 197-11-355 is being used. This may be your only opportunity to comment on the environmental impacts of the proposed project. After all comments have been received and considered, a threshold determination will be made without an additional comment period.

**Request for Written Comments on the Proposal** Written comments concerning the proposed preliminary plat, subdivision variance and environmental checklist will be accepted during the public comment period that expires at 5:00.p.m, on April 29, 2015. Please mail your comments to Selah Planning Department, 222 So. Rushmore Road, Selah, WA 98942. Reference a file number stated in this notice or “Somerset II” in your correspondence.



**Open Record Public Hearing** An open record public hearing on the proposed preliminary plat and subdivision variance will be held before the City of Selah Hearing Examiner. The Examiner will conduct the hearing on **WEDNESDAY, MAY 20, 2015 COMMENCING AT 10:00 A.M.** in the Council Chambers, City of Selah City Hall, 115 W. Naches Ave. Selah, WA

At the conclusion of the public hearing the Examiner will prepare a recommendation for preliminary plat and variance approval, approval with conditions, or denial of the preliminary plat and variance which will be transmitted to the Selah City Council for its consideration and final disposition.

Application information including the SEPA environmental checklist and maps detailing the proposal are available during regular business hours at the Planning Department at 222 South Rushmore Road, Selah, Washington 98942. Contact the Planning Department with project, procedural or environmental questions by mail at this address, by phone at 1 (509) 698-7365, by fax at 1 (509) 698-7372 or by e-mail at [tdurant@ci.selah.wa.us](mailto:tdurant@ci.selah.wa.us)

Dated this 15<sup>th</sup> day of April 2015.

/s/

Thomas R. Durant, Community Planner



File Number: 912.42.15-02 Somerset II

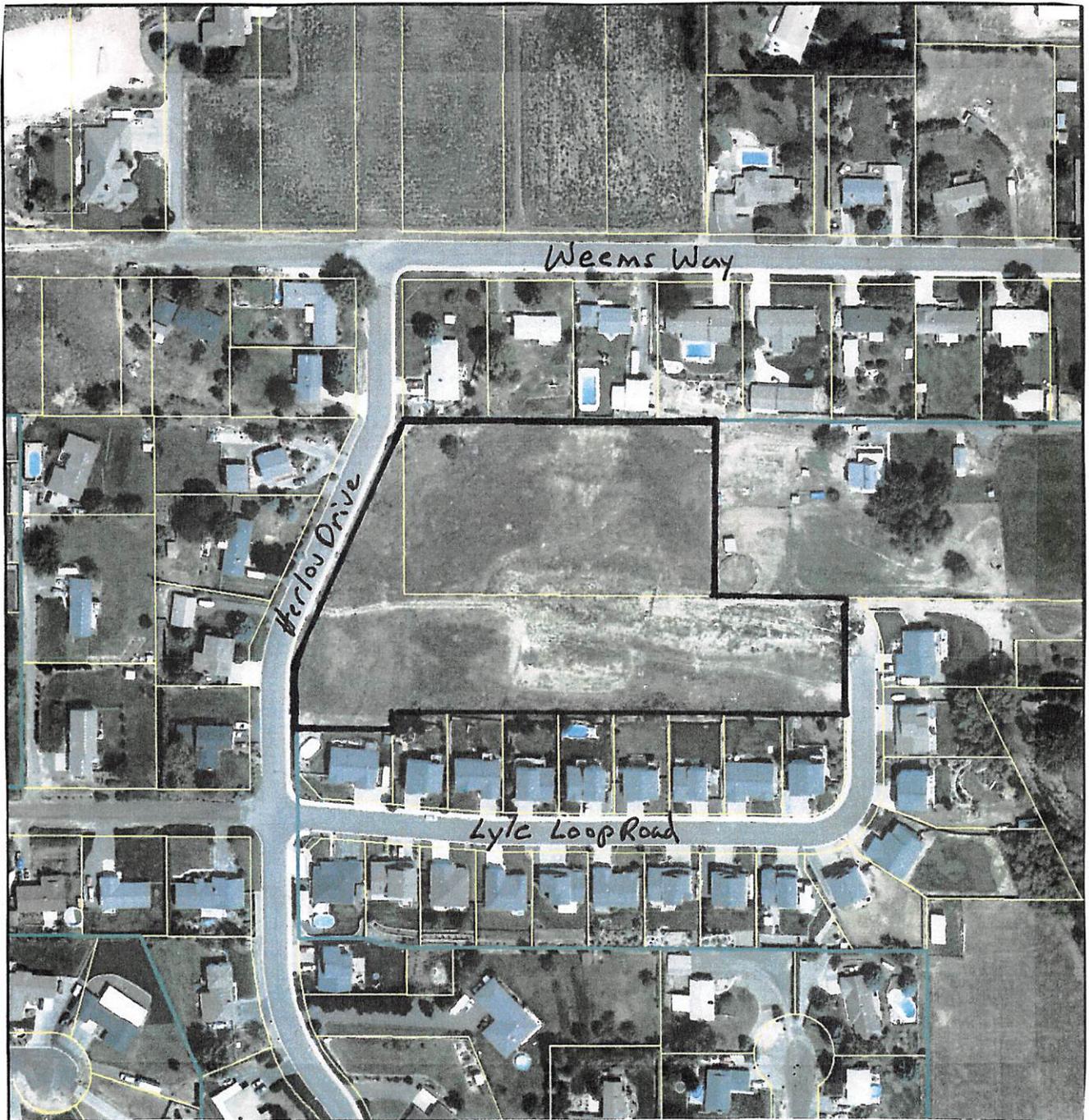
## INSTALLATION CERTIFICATION

I understand that Selah Municipal Code (SMC) 21.07.035 requires me to post the property at least 20 days before the public hearing or meeting for which the notice is required.

I certify that on April 29, 2015 the Notice of Public Hearing on sign(s) provided by the Selah Planning Department were posted on the property located at Herlou Road/Lyle Loop Road, Selah, Washington at the midpoint on the street frontage from which the site is addressed or as otherwise directed by City staff.

  
Signature

5/5/15  
Date



SUBJECT PROPERTY

SCALE: 1" = 200'

APPLICATION: SOMERSET II

APPLICANT: ZUCKER – SAMPLE, LLC

# YAKIMA HERALD REPUBLIC

## Affidavit of Publication

STATE OF WASHINGTON, )  
 )  
COUNTY OF YAKIMA )

Debbie Martin, being first duly sworn on oath deposes and says that she/he is the Accounting clerk of Yakima Herald-Republic, Inc., a daily newspaper. Said newspaper is a legal newspaper approved by the Superior Court of the State of Washington for Yakima County under an order made and entered on the 13th day of February, 1968, and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continually as a daily newspaper in Yakima, Yakima County, Washington. Said newspaper is now and has been during all of said time printed in an office maintained at the aforesaid place of publication of said newspaper.

That the annexed is a true copy of a:  
\*REISSUED\* NOTICE OF DEVELOPMENT APP

it was published in regular issues (and not in supplement form) of said newspaper once each day and for a period of 1 times, the first insertion being on 05/22/2015 and the last insertion being on 05/22/2015

Yakima Herald-Republic 05/22/15

and the such newspaper was regularly distributed to its subscribers during all of the said period. That the full amount of the fee charged for the foregoing publication is the sum of \$269.10 .

Debbie Martin

Accounting Clerk



Sworn to before me this 22nd day of May 2015

Lisa M. Dripps

Notary Public in and for the  
State of Washington,  
residing at Yakima

16 Exhibit

\*REISSUED\*  
NOTICE OF DEVELOPMENT APPLICATION &  
ENVIRONMENTAL REVIEW  
OPPORTUNITY TO PROVIDE COMMENTS  
NOTICE OF HEARING EXAMINER OPEN RECORD PUBLIC  
HEARING

File No. 912.42.15-02, 915.42.15-01, 971.42.15-04 - "Somerset II"  
Zucker-Sample, LLC Notice of Application, and Environmental  
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**Approvals, Actions and Required Studies:** Preliminary Plat, Subdivision Variance (Exception - SMC 10.50.070).

**Environmental Review:** The City of Selah is the lead agency for this proposal under the State Environmental Policy Act (SEPA). The City has reviewed the proposal for probable adverse environmental impacts and issued a Determination of Nonsignificance (DNS) for the proposal on May 7, 2015. The SEPA Responsible Official will accept written comments for an additional 14 days that ends on June 5, 2015 and will reconsider the determination after the comment period ends.

**Request for Written Comments on the Proposal** Written comments concerning the proposed preliminary plat and subdivision variance will be accepted up to the day of the hearing and on the environmental checklist during the public comment period that expires at 5:00.p.m, on June 5, 2015. Please mail your comments to Selah Planning Department, 222 So. Rushmore Road, Selah, WA 98942. Reference a file number stated in this notice or "Somerset II" in your correspondence.

**Open Record Public Hearing** An open record public hearing on the proposed preliminary plat and subdivision variance will be held before the City of Selah Hearing Examiner. The Examiner will conduct the hearing on **WEDNESDAY, JUNE 10, 2015 COMMENCING AT 10:00 A.M.** in the Council Chambers, City of Selah City Hall, 115 W. Naches Ave. Selah, WA

At the conclusion of the public hearing the Examiner will prepare a recommendation for preliminary plat and variance approval, approval with conditions, or denial of the preliminary plat and variance which will be transmitted to the Selah City Council for its consideration and final disposition.

Application information including the SEPA environmental checklist and maps detailing the proposal are available during regular business hours at the Planning Department at 222 South Rushmore Road, Selah, Washington 98942. Contact the Planning Department with project, procedural or environmental questions by mail at this address, by phone at 1 (509) 698-7365, by fax at 1 (509) 698-7372 or by e-mail at [tdurant@ci.selah.wa.us](mailto:tdurant@ci.selah.wa.us)

Dated this 20th day of May, 2015.

/s/ Thomas R. Durant, Community Planner

(546933) May 22, 2015

Courtesy of Yakima Herald-Republic

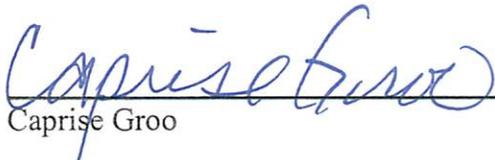
**CITY OF SELAH  
AFFIDAVIT OF MAILING**

**STATE OF WASHINGTON  
COUNTY OF YAKIMA**

I, Caprise Groo, being first duly sworn on oath dispose and says:

I am an employee of the City of Selah, 222 South Rushmore Road, Selah, Washington; that I did on the 22 day of May, 2015 caused to be mailed, 141 envelopes, containing a true and correct copy of a Notice of Application & Environmental Review (File No 912.42.15-02, 915.42.15-01, 971.42.15-04). Said envelopes mailed from Selah, WA. with the correct first class postage and addressed to the owners of property listed by the Yakima County Treasurer as being the legal owners of real property located within 600 feet of the proposal.

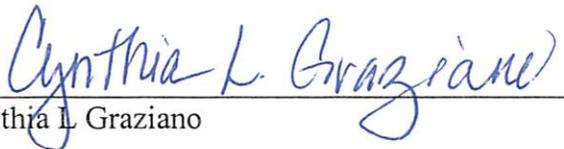
A listing of the legal owners of real property to whom notice has been mailed is contained in file 912.42.15-02, 915.42.15-01, 971.42.15-04

  
\_\_\_\_\_  
Caprise Groo

**STATE OF WASHINGTON  
COUNTY OF YAKIMA**

On this day personally appeared before me Caprise Groo to me known to be the individual referenced herein and who caused to be mailed the Notice of Application & Environmental Review (File No 912.42.15-02, 915.42.15-01, 971.42.15-04

Given under my hand and official seal this 21<sup>st</sup> day of May, 2015.

  
\_\_\_\_\_  
Cynthia L. Graziano

Notary Public in and for the State of Washington, residing at Yakima, WA. My term expires 07/14/18.



17 Exhibit

To be Mailed  
May 20, 2015

181426-43426  
Kurt M. Sweeza  
Herlou Drive  
Selah, WA. 98942

181426-43427  
Norman J. and Susan Hillstrom  
200 Herlou Drive  
Selah, WA 98942

181426-43428  
Bryant and Whitney Kyger  
220 Herlou Drive  
Selah, WA. 98942

181426-43429  
Paul V. and Debbie Napolitano  
240 Herlou Drive  
Selah, WA. 98942

181426-43434  
Hughes Family Trust  
71 Hexon Road  
Selah, WA. 98942

181426-43435  
Cart T. and Christie Herbst  
208 Palmer Drive  
Selah, WA. 98942

181426-43436  
Brian W.C. & Susan P. Pierce Richards  
61 Lyle Avenue  
Selah, WA. 98942

181426-43408  
Elva M. Gomez  
10 Herlou Drive  
Selah, WA. 98942

181426-43409  
403 West Goodlander Road  
Selah, WA. 98942

181426-43415  
Angela Finley  
30 Herlou Drive  
Selah, WA. 98942

181426-43416  
Jon C. and Kelsey E. Hagen  
70 Herlou Drive  
Selah, WA. 98942

181426-43417  
Johnny Minyard  
110 Herlou Drive  
Selah, WA. 98942

181426-43418  
Robert D. and Denise L. Anderson  
120 Herlou Drive  
Selah, WA. 98942

181426-43420  
Crystal Lewis  
60 Lyle Avenue  
Selah, WA. 98942

181426-43424  
Mary Sue Partlow  
40 Lyle Avenue  
Selah, WA. 98942

181426-43425  
Skip S. and Karen Schoff  
10 Lyle Avenue  
Selah, WA. 98942

181426-43438  
John Ard  
41 Terry Lane  
Selah, WA. 98942

181426-43405  
Hendrickson Family Living Trust  
61 Herlou Drive  
Selah, WA. 98942

181426-43406  
David P. and Kelly Rambo  
217 West Goodlander  
Selah, WA. 98942

181426-43407  
David & Deanna Dillon  
11 Herlou Drive  
Selah, WA. 98942

181426-43430  
Steven J. and Kacey J. Royce  
91 Herlou Drive  
Selah, WA. 98942

181426-43471  
David and Paiege Flink  
P O BOX 911  
Selah, WA. 98942

181426-44003/6; 44418/20/1/2/3; 44426;  
44432 ; 44433; 44456  
Glenn S. and Dena Faulkner  
284 Lancaster Road  
Selah, WA. 98942

181426-44007  
Paul and Danette Franklin  
215 West Goodlander Road  
Selah, WA. 98942

181426-44400  
Richard J. and Linda A Rossignol, Willsey  
91 Lorry Lane  
Selah, WA. 98942

181426-44401  
Kenneth W. Jr. and Charlotte M. Pope  
81 Lorry Lane  
Selah, WA. 98942

181426-44402  
Kenneth J. and Bessie E. Blehm  
61 Lorry Lane  
Selah, WA. 98942

181426-44403  
Thomas R. and Nancy K. Moore  
41 Lorry Lane  
Selah, WA. 98942

181426-44404  
Walter R. and Margaret Turner  
31 Lorry Lane  
Selah, WA. 98942

181426-44405  
Reeves Family Trust  
11 Lorry Lane  
Selah, WA. 98942

181426-44406  
Kappenman Living Trust  
207 West Goodlander Road  
Selah, WA. 98942

181426-44409  
Kathy J. Kester  
60 Lorry Lane  
Selah, WA. 98942

181426-44413  
Michael D. and Linda Ritch  
51 Herlou Place  
Selah, WA. 98942

181426-44416  
Gary and Sherril Jones  
POB 784  
Selah, WA. 98942

181426-43473  
Kar King Ho and Pak Lee  
30 Lyle Loop Road  
Selah, WA. 98942

181426-44002  
Kenneth R. Peckman  
1160 Selah Loop Road  
Selah, WA. 98942

181426-44437  
Douglas and Kristen R. Armstrong  
50 Lyle Loop  
Selah, WA. 98942

181426-44440  
Howard and Corinne Stively  
80 Lyle Loop  
Selah, WA. 98942

181426-44443  
Mark R. Weller  
110 Lyle Loop  
Selah, WA. 98942

181426-44446  
Joshua and Stacey Busey  
115 Lyle Loop  
Selah, WA. 98942

181426-44407  
Wade H. and Stephanie K. Erickson  
30 Lorry Lane  
Selah, WA. 98942

181426-44410  
80 Lorry Lane  
Selah, WA. 98942

181426-44414  
Richard E. and Jodeanna Rae Weller  
50 Herlou Place  
Selah, WA. 98942

181426-44428  
Michell Green  
111 Herlou Drive  
Selah, WA. 98942

181426-43474  
Christy Hornbuckle  
21 Lyle Loop Road  
Selah, WA. 98942

181426-44005  
Zuker-Sample Development LLC  
P O Box 247  
Selah, WA. 98942

181426-44438  
Antje C. Ehlert  
60 Lyle Loop  
Selah, WA. 98942

181426-44441  
Rockie and Shari Muoth  
90 Lyle Loop  
Selah, WA. 98942

181426-44444  
Michael L. and Jill Christianson  
P O BOX 473  
Selah, WA. 98942

181426-44447  
Christopher M. and Jennifer Dykstra  
117 Lyle Loop  
Selah, WA. 98942

181426-44408  
Timothy A. and Leslie J. Knowles  
40 Lorry Lane  
Selah, WA. 98942

181426-44411  
Donald K. and Erin L. Thomas  
90 Lorry Lane  
Selah, WA. 98942

181426-44415  
Raymond G. and Carole Jundt  
211 West Goodlander Road  
Selah, WA. 98942

181426-43472  
Kendall Nass  
20 Lyle Loop Road  
Selah, WA. 98942

181426-44001  
Jeff A. & Cotton Ely  
1162 Selah Loop Road  
Selah, WA. 98942

181426-44436  
Justin M.W. and Anne C.M. Ross  
40 Lyle Loop  
Selah, WA. 98942

181426-44439  
Zeb A. and Jeanette Lilja  
70 Lyle Loop  
Selah, WA. 98942

181426-44442  
John and Marjorie Rudick  
100 Lyle Loop  
Selah, WA. 98942

181426-44445  
Paul Patnode  
113 Lyle Loop  
Selah, WA. 98942

181426-44448  
David and Junghee Spicer  
101 Lyle Loop  
Selah, WA. 98942

181426-44449  
Paula and Michael W. Collett  
91 Lyle Loop  
Selah, WA. 98942

181426-44450  
John K. Harris  
81 Lyle Loop  
Selah, WA. 98942

181426-44451  
71 Lyle Loop  
Selah, WA. 98942

181426-44452  
Richard W. and Tammy Lou Kosoff  
61 Lyle Loop  
Selah, WA. 98942

181426-44453  
Troy L. and Micala S. Tornow  
51 Lyle Loop  
Selah, WA. 98942

181426-44454  
Kyle and M. Margarita C. Sager  
41 Lyle Loop  
Selah, WA. 98942

181426-44455  
Kevin L. and Michelle S. Bannister  
P O BOX 1114  
Selah, WA. 98942

181426-44457  
Diep Thi Miller  
POB 2264  
Yakima, WA. 98901

181426-44011  
Kyle M. & Mary E. Lyons  
1040 Selah Loop Road  
Selah, WA. 98942

181426-44014  
Carl L. & Candi R. Torkelson  
POB 292, Selah  
WA. 98942

181426-44015  
Sean Broetje  
117 West Goodlander Road  
Selah, WA. 98942

181426-44018  
Joan Currier  
POB 1305  
Selah, WA. 98942

181426-44019  
Richard J. and Linda A. Rossignol Willsey  
91 Lorry Lane  
Selah, WA. 98942

181426-44020  
Wendy A Fizzell  
P O BOX 699  
Selah, WA. 98942

181426-44022  
Board of Yakima County Commissioners  
128 N. 2<sup>ND</sup> Street  
Yakima, WA. 98901

181426-44429  
Gary J. Carmack and James P. Carmack  
9306 Meadowbrook Road  
Yakima, WA. 9890-3,

181426-44430  
Tyson D. Masias  
105 West Goodlander Road  
Selah, WA. 98942

181426-44431  
Timothy A. McDonald  
109 West Goodlander Road  
Selah, WA. 98942

181426-43412  
Elvira Flores  
81 Terry Ln  
Selah, WA 98942

181426-43413  
Lane & Sharon Nicklin  
20 Terry Pl.  
Selah, WA 98942

181426-43414  
40 Terry Pl  
Selah, WA 98942

181426-43419  
Randy & Heather Sides  
41 Terry Pl.  
Selah, WA 98942

181426-43421  
William & Tawnya Eller  
11 Terry Pl  
Selah, WA 98942

181426-43422  
Rosendo & Fidelia Carrillo  
80 Lyle Ave.  
Selah, WA 98942

181426-43423  
Crystal Lewis  
60 Lyle Ave  
Selah, WA 98942

181426-43481  
Charles & Marlene Allan  
1000 Terry Ln  
Selah, WA 98942

181426-43482  
1006 Terry Ln.  
Selah, WA 98942

181426-43483  
Mrs. Steven  
111 Lyle Loop  
Selah, WA 98942

181426-43484  
Andrew Potter  
205 B Valleyview  
Selah, WA 98942

181426-43485  
Aaron Thompson  
111 Herlou Dr.  
Selah, WA 98942

181426-43498  
Cody & Stacey Conley  
918 Terry Ln.  
Selah, WA 98942

181426-43502  
Roberto & Elvia Munoz  
1109 Terry Ln  
Selah, WA 98942

181426-43505  
Kristin Davie  
1100 Terry Ln  
Selah, WA 98942

181426-43508  
Christy & Ellery Banks  
1106 Terry Ln  
Selah, WA 98942

181426-42400/1  
Arthur Berger  
311 Weems Way  
Selah, WA 98942

181426-42406/7  
Artisha Busey  
1312 City Reservoir Road  
Yakima, WA 98908

181426-42411  
William & Desiree Lohman  
300 Herlou Dr.  
Selah, WA 98942

181426-41008/9  
Stanley & Sharma Taylor  
50 Weems Way  
Selah, WA 98942

181426-41404  
David Stover  
121 Weems Way  
Selah, WA 98942

181426-41411  
Robert & Mary Horn  
220 Weems Way  
Selah, WA 98942

181426-43437  
Phillip & Marilyn Wharton  
171 Terry Ln.  
Selah, WA 98942

181426-43503  
Herbert & Janet Lyon  
1107 Terry Ln  
Selah, WA 98942

181426-43506  
Jose & Kaleolani Busseau  
1102 Terry Ln.  
Selah, WA 98942

181426-43509  
Jeannie Carroll  
1108 Terry Ln.  
Selah, WA 98942

181426-42402/3  
Darin Berger  
313 Weems Way  
Selah, WA 98942

181426-42408/9  
Don & Paulette Mallula  
310 Weems Way  
Selah, WA 98942

181426-41006  
Ronald Caldwell  
130 Weems Way  
Selah, WA 98942

181426-41402  
Earl & Cathy Stai  
61 Weems Rd.  
Selah, WA 98942

181426-41407/8/9  
Bradley Busey  
310 Weems Way  
Selah, WA 98942

181426-41412  
Wayne Worby  
200 Weems Way  
Selah, WA 98942

181426-43501  
Cassandra Heide  
1111 Terry Ln.  
Selah, WA 98942

181426-43504  
Sheila Ogburn  
1105 Terry Ln  
Selah, WA 98942

181426-43507  
Jessica & Russell Warner  
1104 Terry Ln.  
Selah, WA 98942

181426-43510  
Barbara Binder  
1110 Terry Ln.  
Selah, WA 98942

181426-42404/5/  
Bradley Busey  
310 Weems Way  
Selah, WA 98942

181426-42410  
Terri Herndon  
270 Herlou Dr.  
Selah, WA 98942

181426-41007  
Willie Morris  
100 Weems Way  
Selah, WA 98942

181426-41403  
Russell & Elena Loges  
71 Weems Way  
Selah, WA 98942

181426-41410  
Ronald Sweezea  
271 Herlou Dr  
Selah, WA 98942

181426-41413  
John & Kathy Duncan  
180 Weems Way  
Selah, WA 98942

181426-41414  
Steven & Ellen Zeutenhorst  
170 Weems Way  
Selah, WA 98942

181426-41415  
Eric & Dorothy Johnson  
140 Weems Way  
Selah, WA 98942

181426-41416  
Richard & Jaye Vollmer  
171 Weems Way  
Selah, WA 98942

181426-41417  
Rick & Sarah Fowler  
141 Weems Way  
Selah, WA 98942

181426-41418  
Roger & Laraine Rising Jr  
151 Weems Way  
Selah, WA 98942

John Soder  
511 Viewcrest Place  
Selah, WA 98942

Ron Caldwell  
130 Weems Way  
Selah, WA 98942

Stan Tyler  
50 Weems Way  
Selah, WA 98942

John & Alana Oaks  
51 Weems Way  
Selah, WA 98942

Brian Richards  
61 Lyle Avenue  
Selah, WA 98942

Brad Worby  
441 Mullins Road  
Selah, WA 98942

Lisa Freeze  
1116 Collins Road  
Selah, WA 98942

Bryant Kyger  
220 Herlou Drive  
Selah, WA 98942

David Spicer  
101 Lyle Loop  
Selah, WA 98942

Archie Gardner  
60 Lyle Ave  
Selah, WA 98942

Hannah Halverson  
121 Herlou Dr  
Selah, WA 98942

Brad Smith  
1309 W Goodlander Rd  
Selah, WA 98942

John Soden  
511 Viewcrest Ave  
Selah, WA 98942

Kathleen Fontaine 510 Southern Ave Selah, WA 98942			
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June 4, 2015

Selah Planning Department  
12 So. Rushmore Road  
Selah, WA 98942

Dear Thomas Durant, Community Planner

RE: Somerset II Development

Here are a some points that are in conflict with Selah Municipal Code or are being requested to be granted a variance from the code and I feel these developments are being rushed through without thought or consequences to the community of Selah.

Incomplete issues on the plat map. Lack of location of fire hydrants and Street light location along with consideration of light direction, public and private roads. There is a lack of retaining wall identification and design. Not to mention, a lack of storm water runoff retention system and locations.

On top of that the average and individual lots size are misleading when considering the possibility of the private road removing usable land from the owner usage. Lots 11, 12, 13, 14, 15 and 18 all fall below the 8,000 sq. ft. area when the paved road takes their land away and Lots 11, 12 and 15 have roads on two sides and that is to be avoided. Then Lots 13 and 14 go even further and have roads on three sides and that is to be avoided. The private road surface reduces the requirement of 9,000 square feet requirement below minimum level for a duplex.

**Mr. Sample speaks to the siting of the duplexes and recognizes they have an adverse effect on neighborhood single family homes. He is locating them to hide their presence as a devaluation of adjacent properties.** Additionally this adds a higher level of traffic on a limited surface without public safety issues of a wider driving surface and sidewalks for pedestrians.

Is it legal to claim property to create a private road from lots 11, 12, 13, 14, 15 and deny them access to land they are paying property taxes on and as legal owner of the land may be subject to liability issues from road users.

Setbacks on the duplexes should not be considered for a variance as there is plenty of room on the lot. If locating the required off-street parking is a problem then the duplexes are sited wrong. The zoning for the development is R-1. The lot coverage for R-1 is 35%, therefore the lots 19 and 20 will fall under the R-1 municipal code of 35% including building footprint, driveway, sidewalks and off-street parking.., the proposed structures are out of compliance.

The "undue hardship" that requires a variance for a private road is driven by maximizing the number of lots, Why doesn't Mr. Sample explore other configurations before declaring "undue hardship" like Cul-de-sac, a variance on the width to length ratio of lots. Dan Bower was given a ratio of 1 to 3.64 on Goodlander when he divided his land in May of 2014. The "undue hardship" was vacated when Mr. Sample quit working on an approved development that didn't require a variance for a private road.

Many of us cannot make these meetings because we work for a living. Why are not meetings held at a time when the majority of the community can come to them to have their say in what is happening to our city.

Sincerely, Diane L. Underwood, 402 North 9<sup>th</sup> Street, Selah, WA 98942, 509.480.0899 cell



18 Exhibit

sent to  
Mg Spengler

June 4, 2015

Selah Planning Department  
222 So. Rushmore Road  
Selah, WA 98942

Dear Thomas Durant, Community Planner

RE: Somerset II Development

Below you will find issues that I feel are that are in conflict with Selah Municipal Code or are being requested to be granted a variance from the code and I feel these developments are being rushed through without thought or consequences to the community of Selah but to the best interest of the developer.

Incomplete issues on the plat map. Lack of location of fire hydrants and Street light location and the consideration of light direction, public and private roads. There's a lack of retaining wall identification and design. Plus a lack of storm water runoff retention system and locations.

On top of that the average and individual lots size are misleading when considering the possibility of the private road removing usable land from the owner usage. Lots 11, 12, 13, 14, 15 and 18 all fall below the 8,000 sq. ft. area when the paved road takes their land away and Lots 11, 12 and 15 have roads on two sides and that is to be avoided. Then Lots 13 and 14 go even further and have roads on three sides and that is to be avoided. The private road surface reduces the requirement of 9,000 square feet requirement below minimum level for a duplex.

Mr. Sample speaks to the siting of the duplexes and recognizes they have an adverse effect on neighborhood single family homes. He is locating them to hide their presence as a devaluation of adjacent properties. This adds a higher amount of traffic on a limited surface without public safety issues of a wider driving surface and sidewalks for pedestrians.

Can a person legally lay claim to property to create a private road from the lots 11, 12, 13, 14, 15 and deny them access to land that they are paying property taxes on and as legal owner of the land may be subject to liability issues from road users? This does not seem right or legal in my opinion.

The zoning for the development is R-1. The lot coverage for R-1 is 35%, therefore the lots

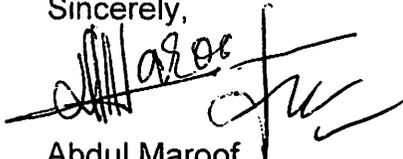
19 Exhibit

19 and 20 will fall under the R-1 municipal code of 35% including building footprint, driveway, sidewalks and off-street parking..., the proposed structures are out of compliance.

The "undue hardship" that requires a variance for a private road is driven by maximizing the number of lots, Why doesn't Mr. Sample explore other configurations before declaring "undue hardship" such as a Cul-de-sac or a variance on the width to length ratio of lots. Dan Bower was given a ratio of 1 to 3.64 on Goodlander when he divided his land in May of 2014. The "undue hardship" was vacated when Mr. Sample quit working on an approved development that didn't require a variance for a private road.

Many of us cannot make these meetings because we work for a living. Why are not meetings held at a time when the majority of the community can come to them to have their say in what is happening to our city.

Sincerely,

A handwritten signature in black ink, appearing to read 'Abdul Maroof', with a stylized flourish extending to the right.

Abdul Maroof

402 No. 9<sup>th</sup> Street

Selah, WA 98942

June 8, 2015

To the Planning Dept.

Why is the Zuker-Sample LLC development Somerset II being developed with the need for a variance? Why can't it be done like the neighborhood around it?

When it was annexed the neighbors were told it would be like the surrounding area. Is there really a need for duplexes in this area being developed? Selah already has too many rental units as compared to single family residences.

We live on Weems Way adjacent to the Selah city line. It's not very encouraging for us to see what may happen to the available land next to us if annexed. It seems that the developments being done lately are more for the benefit of the contractors than for the citizens of Selah.



Thank You,  
Ron Caldwell  
Klianne Caldwell  
130 Weems Way  
Selah, WA 98942  
EXhibit 27

June 6, 2015

Selah Planning Dept,  
222 S Rushmore Road,  
Selah, WA 98942

Attn: Mr. Thomas Durand and Selah Planning Dept.

I am writing this letter to share my strong opposition to another of the proposed re-zoning and construction of the Somerset II addition. As a lifelong Selah resident, attending Selah Schools K-12 and teaching in the Selah School District for thirty years, and Selah taxpayer and homeowner, I feel I have a vested interest in the responsible growth of my community.

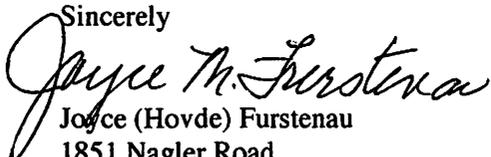
It is my opinion that following issues need to be publicly addressed at your next review meeting on June 10 @ 10:00 AM before sending your recommendation on to the City Counsel.

- Is it legal to claim property to create a private road from lots 11, 12, 13, 14, 15 and deny them access to land they are paying property taxes on and as legal owner of the land may be subject to liability issues from road users?
- The zoning for the development is R-1. The lot coverage for R-1 is 35%, therefore the lots 19 and 20 will fall under the R-1 municipal code of 35% including building footprint, driveway, sidewalks and off-street parking. Aren't the proposed structures proposed out of compliance?
- Are there some incomplete issues on the plat map?
- Where are fire hydrants located?
- What is the street light location and has there been any consideration of light direction?
- Where will retaining walls be located and what will be the design.
- Will there be a storm water runoff retention system? Where?

There are several other issues concerning this development that need to be addressed and answered in the public meeting next Wednesday.

Summarizing, I am opposed to any construction that does not meet the codes already in place for new construction. It would seem to this citizen that the "developers" need to be held accountable for various code violations. Developers should NOT be expecting variances for each and every issue that comes along as a bump in the road. The best interests and character of the Selah community must be paramount over personal gain.

Sincerely

  
Joyce (Hovde) Furstenau  
1851 Nagler Road  
Selah, WA 98942

21 Exhibit

6/8/15

Patrick Spurgin  
Selah Planning Department  
222 S. Rushmore Road  
Selah Wa. 98942

Re. conflict with Sommerset 11 development

As a concerned citizen of Selah, as well as a homeowner directly affected by the the development in question, I am appalled that the council is even considering the rezoning requested by the Zuker-Sample LLC devopment.

#1

This is in the middle of an R-1 neighborhood, and all of the adjacent property values will plummet immediately if this is allowed to be rezoned .  
At least (6) of the lots will be smaller than the 8,000 mimimum when the private roads are put in. 2 of the lots would actually have streets on 3 sides of their lots! ( Not the kind of neighborhood that homeowners will want to purchase, but suitable for rentals, which is the end result if this were to be allowed.

#2

Mr. Sample has admitted that the "adjoined residences" ( duplexes) will have an adverse effect on the value of adjacent R-1 lots, so he wants to hide them in the corner???  
Why not just build single family homes like Sommerset 1, like you told those buying there that 11 would be????

#3

I don't understand the plea of "undue hardship" posed by Mr. Sample so he can put in a private road. County zoning allowed him to have the correct number and size of R-1 lots, but it appears that greed comes into play and since he is on the City Council, THAT IS A CONFLICT OF INTEREST!  
He needs to step down from council if that is the case.

#4

The City council has shown that they are more interested in appeasing their own members more than their concern on growing Selah responsibly with real estate designed to attract homeowners who are invested in the community. The City of selah has about 50% of its residents as renters, who have no stake in the longterm growth of the community.

#5

I'm not sure why the Mayor feels the need to acquiesce to the wishes of these devolpers, but he has certainly shown that he doesn't want that office any longer.

Sincerely,  
*Norm Hillman*  
200 HERON DR.

JD Exhibit

June 8 - 2015

To:

Tom Durand - City Planner

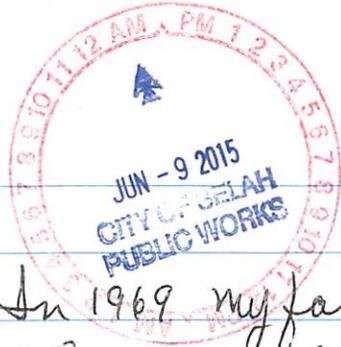
Pat Spurgeon - Selah Hearing Examiner

Our family has lived in Selah over 40 years & we are saddened to see the direction the city is headed.

The zoning & development plans are for the real estate developers - only interested in making themselves money and are definitely NOT in the interest of the residents of the community.

The development on Nerlou (AKA Somerset II) is ONE such example. There are so many issues with this plan that it's hard to believe Mr. Sample is still trying to go ahead with the project. He ADMITS the appearance of the duplexes will have a adverse effect on the neighboring single family homes. Additionally the traffic would increase even more - Right now it's dangerous, particularly for families with young children. The size of the lots, road measurements, street lighting.

23 Exhibits



June 8, 2015

In 1969 my family and other families started new single family homes located in what had been orchard land. We and the others felt at that time we were locating on lots that were always going to be single family housing located over seeing the entire Selah Valley. Since then other families have built homes in this area.

Now some one wants to build duplexes in the area. Thus turning this housing into a rental location devaluing the single family home area. Which I strongly object to.

My concern is, why the duplexes in a single family housing area?!

Ted M. Hendrickson  
61 Henlon Drive  
Selah, Wash 98942

Exhibit 24

June 9, 2015

To: Selah Planning Department  
222 South Rushmore Road  
Selah, WA 98942



Re: Zuker-Sample LLC Development, Somerset II

Dear Mr. Spurgeon:

I wish to express my view regarding the referenced planned development;

I personally experienced the FLASH FLOOD on Goodlander and First two weeks ago. The flooding was torrential, clogging drains, washing small hillsides without retention walls. The current was swift enough to carry loose fencing down the road onto the entrance of our driveway. Water quickly accumulated around the drains on the corner of Goodlander and First.

1. Densely populating this area is questionable and appears ill planned. Are there NO neighborhood covenants or municipal codes to protect homeowners from unreasonable developments?
2. Will any of these proposed units be compliant with ADA?
3. Will sidewalks, curbing, street lighting be implemented and congruent to current city codes?
4. Living directly on the corner of Goodlander and First, I am very aware of the number emergency vehicles traveling quickly in this area. Compounding population density within this vicinity seems to be lacking a vision for growth.

I moved from Western WA three years ago with the desire to live in a small community. The ambiance and serenity are entirely depleted due to not only the traffic, but structures that do not adhere to esthetics of a small community. Three story boxes with no front or backyard landscaping are for city dwelling. It must be extremely disappointing to any neighborhood to lose a residential home to one or more of these structures. There is no redeeming quality to free standing duplexes which appear to be neglected after being rented.

I hope this input has been of value to further discussions regarding the Development referenced.

Sincerely,

Julie A. Field

*Julie A. Field*  
106 W Goodlander

Selah, WA 98942

509-379-9990

Exhibit 25

June 9, 2015

To: Selah Planning Department  
222 South Rushmore Road  
Selah, WA 98942



Re: Zuker-Sample LLC Deyelopment, Somerset II

Dear Mr. Spurgeon:

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I personally experienced the FLASH FLOOD on Goodlander and First two weeks ago. The flooding was torrential, clogging drains, washing small hillsides without retention walls. The current was swift enough to carry loose fencing down the road onto the entrance of our driveway. Water quickly accumulated around the drains on the corner of Goodlander and First.

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I hope this input has been of value to further discussions regarding the Development referenced.

Sincerely,

Sandra G. Field  
*Sandra G. Field*  
106 W Goodlander

Selah, WA 98942

509-379-9990

Exh:6.7 26

Dear Mr. Durand,

I am writing to express my concerns with the application submitted by Sucker-Sample LLC in regards to the Sommerset II development. As his other applications have lacked specific, relevant and necessary elements in order to receive serious consideration this one in my eyes is no different.

Specifically as I understand what I have learned about the Selah Municipal code, this application stands in conflict with a few salient points or are asked to be considered as a variance to the present code. 1. Lack of covenants for a private road. 2. Insufficient number of fire hydrants. 3. Street light location and consideration of light direction on public and private roads respectively. 4. Lack of the identification of a retaining wall and its intended design. 5. Lack of a storm water runoff retention system and where these will actually be located.

I find a few other things very troubling about this proposed application as well. As a homeowner, I wonder about the legality of claiming property to create a private road from lots 11, 12, 13, 14 and 15 and denying them access to land they legally own, pay taxes on and are subject to liability issues from individuals who choose to utilize this road. Moreover, the average and individual lots sizes in my mind are a bit misleading when you consider the possibility of this private road when it removes usable land from the owner's rightful use. Lots 11, 12, 13, 14, 15 and 18 all will fall below the 8,000 square foot area when this paved road is constructed and takes away the property they paid for. As to the "setbacks," on the duplexes they should not be considered in my mind for a variance as there appears to be plenty of room on the lot itself. If locating the required off-street parking becomes a legitimate concern then I believe these duplexes are sited incorrectly.

Finally, the zoning as I understand it is for the development is R-1. The lot coverage for R-1 I've been told is 35%, therefore the lots 19 and 20 would fall under the R-1 municipal code of 35% including the building footprint, driveway, sidewalks and off-street parking which stands to reason they may very well be out of compliance already.

Thanks for your time and consideration of my concerns.

Sincerely,



Mark R. Weller

6/9/15

110 Lyle Loop

Selah, WA 98942



To: Patrick Spurgin,

Re: Somerset II development

The Sample development should be constructed to look like the other houses in the area. The rental duplexes will not match family homes and they will become a maintenance problem.

Also why should houses be built on private roads in the city, in the county if you have three homes it must be a county paved road.

Thank you



June 1, 2015

Tom Durand,

The development, Somerset II by Roy Sample, shouldn't be allowed to have the duplexes in a single family neighborhood. I'm not against development just the mixing of the duplex and the home owner occupied homes.

Thank you,

*Ashley Kellie*



June 8, 2015

Patrick Spurgin

Regarding the Somerset II development, Private roads should not be allowed. Also this is a single family residential area and duplexes should be located in duplex zoned areas.

The meeting for open comments should be at a time when working people can attend and comment.



June 5, 2015

Hearing Examiner, Patrick Spurgin

I have several issues with the Somerset II development. The development should not be approved as presented.

My issues are:

No private roads.

No duplexes in the development.

All roads should have sidewalks

Thank you

*Brandi Wedeman*

*424-9122*



June 6, 2015

Tom Durand,

The Somerset development on Herlou Drive should not be passed as submitted.

The neighborhood is single family and there are duplex rentals planned. Also there should be restrictions so that buildings like the new 3 story ones being built by the High School are not allowed in the development.

Sincerely

*Sarah Lancaster*

*961-5252*



Patrick Spurgin,  
Hearing Examiner:

I am writing of my concerns on the Summerset II development off Herlou Dr. This area West of North First and North of Goodlander is already struggling with traffic issues. This intersection is a nightmare at peak traffic times and with an additional development it will get much worse.

This area is zoned R-1 and consists of single family dwellings, there is no reason to put in an R-2 density into this neighborhood. It does not fit with the dynamics of the area. This development should be built under R-1 codes.

There are no private roads in this area, all the roads in this area are public roads with sidewalks to keep the children safe. This development should not have a private drive, but a road with sidewalks and gutters.

Who will take care of the properties, Renters will not take the responsibility to maintain the up keep like a homeowner would. There should be a maintenance agreement in place to make sure all roads will be kept up and snow removed.

Selah has become a town with more renters than homeowners, who will pay the taxes for Police, Fire Departments, schools, road repair it wont be the approximately 200 units of Renters these contractors want to build. How will the City Manage all this new construction.

Thank You

 Colton Beck



Patrick Spurgin,  
Hearing Examiner:

I am writing of my concerns on the Summerset II development off Herlou Dr. This area West of North First and North of Goodlander is already struggling with traffic issues. This intersection is a nightmare at peak traffic times and with an additional development it will get much worse.

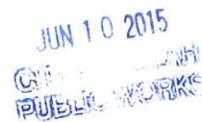
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Selah has become a town with more renters than homeowners, who will pay the taxes for Police, Fire Departments, schools, road repair it wont be the approximately 200 units of Renters these contractors want to build. How will the City Manage all this new construction.

Thank You



To whom it may concern:

I am writing against the proposal for Summerset II:

This proposal does not meet the dynamics of this community. The existing properties are all single family home owned properties.

Who is to take care of the maintenance, renters do not take care of their property like home owners do.

This area is zoned R-1, there are no RENTAL DUPLEXES in this area.

There are no private roads in this area.

There needs to be sidewalks to keep children safe.

The traffic in this community are already congested, what measures will be taken to offset the number of units that Sample wants to build.

It would be nice for these meetings to be in the evening, so more of the public that want to attend can come.

*Emma Fredrick*



I am asking you to deny the proposal for Summerset II.

There is no Rental Properties near this proposed development, therefore it does not fit the criteria, of the Single family dwellings that exist in this area.

There is no maintenance agreement as to who will take care of the properties.

This is an R-1 zone – there is no business putting in R-2 density

Selah does not need private roads – they all should have sidewalks for the children to be kept safe

The already congested traffic will increase leading to more problems and accidents

Please deny this proposal

*Ray Friedman*



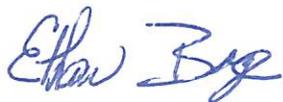
June 8, 2015

Mr Durand,

I'm concerned about the increased traffic from the Somerset II development. The traffic light on Goodlander is badly needed especially during school hours.

Also the Duplexes and the private road shouldn't be allowed in an R-1 zone.

Sincerely



JUN 10 2015  
CITY OF SEASIDE  
PUBLIC WORKS

June 4, 2015

Hearing Examiner,

The Development planned for Herlou Drive, Somerset II, is allowing a private road that is going to be unsafe because it has no sidewalks for the school children. Additionally the neighborhood is all single family with no duplexes. Duplexes should be designated for an R-2 zoned area.

Where is the open space lot located?

Thank you



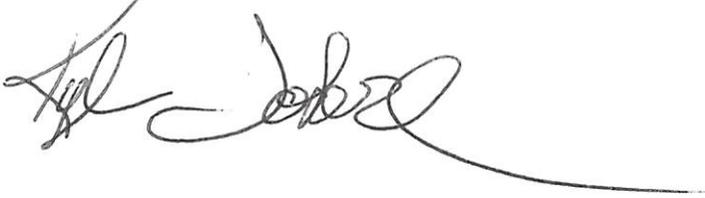
JUN 10 2015  
JUN 10 2015  
PUBLIC WORKS

June 3, 2015

Mr Patrick Spurgin

I'm against the Duplexes planned for the Somerset II development off Herlou Drive. The rentals will not be taken care of like a home owner would. Please don't allow them to be built.

Thank you

A handwritten signature in black ink, appearing to be "Ted Johnson", written in a cursive style. The signature is followed by a long horizontal line extending to the right.A blue ink stamp located in the bottom right corner of the page. It features a small tree icon at the top, followed by the date "JUN 10 2015" and the text "PUBLIC WORKS" below it.

To whom it may concern:

I am writing to ask the city council to deny the proposal for Summerset II:

This area is zoned R-1, there are no RENTAL DUPLEXES in this area.

Who is to take care of the maintenance, renters do not take care of their property like home owners do.

There are no private roads in this area.

There needs to be sidewalks to keep children safe.

This proposal does not meet the dynamics of this community. The existing properties are all single family home owned properties.

The traffic in this community are already congested, what measures will be taken to offset the number of units that Sample wants to build.

Please Listen to the Concerns



307-1113

  
JUN 10 2015  
CITY OF GAITHERSBURG  
PUBLIC WORKS

Exhibit 40

**Somerset II**  
**912.42.15-02 Preliminary Plat**  
**915.42.15-01 Subdivision Variance**  
**971.42.15-04 Environmental Review**

**EXHIBITS SUBMITTED AT THE JUNE 10, 2015 PUBLIC HEARING**

**Exhibit**

- |      |   |
|------|---|
| HE-1 | Points of Concern, submitted by Wayne Worby   |
| HE-2 | Two older Somerset II Plat Maps submitted by Wayne Worby  |
| HE-3 | Notice & CD recording from 3/17/2015 Planning Commission hearing  |
| HE-4 | Whispering View Plat map  |
| HE-5 | Yakima County Assessed valuations of lots in Goodlander Square<br>Townhouses and Somerset I submitted by Roy Sample |

## POINTS OF CONCERN SOMERSET II

### 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.

### INCOMPLETE ISSUES ON THE PLOT PLAN AND APPLICATION

- Where is the open space area that was deemed important in the last application?
- Where are the covenants for all properties affected by the private road?
- Where are locations of fire hydrants?
- Where are the street light location and considerations for light direction, on both public and private roads?
- There is a lack of retaining wall identification and engineering.
- There is no design of storm water runoff retention system and locations.
- Where are the required profile drawings for all streets?

### 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.

\*APPLICATION MAP IS MISSING COMPONENTS

## **LOT ISSUES**

Average and individual lots sizes are misleading when considering the reality of the private road removing usable land from the owner usage and control. Lots 11, 12, 13, 14, 15 and 18 all fall below the 8,000 sq. ft. area when the private paved road removes their land from personal use and control. Square footage of lot losses are, minimally, as follows: Lot 11-690, lot 12-760, lot 13-2,280, lot 14-2,280, lot 15-200, lot-17-400, lot 18-820, duplex lot 19-1,000, duplex lot 20-1,000.

Lots 11, 12 and 15 have roads on two sides and that is to be avoided.

Lots 13 and 14 go even further and have roads on three sides and that is to be avoided.

The private road surface reduces the requirement of 9,000 square feet requirement below minimum level for a duplex lot in an R-1 zone.

Mr. Durand stated in the Selah staff report that longer lots will end up as weed patches...What documentation or data is Mr. Durand presenting to make that statement as a fact?

In the event of construction of multiple level residential homes, will a restriction of windows that look into existing yards and private areas be required of the development?

Is it legal to claim property to create a private road from lots 11, 12, 13, 14, 15 and deny them access to their land on which they are paying property taxes and as legal owner of the land they may be subject to liability issues from those using the private street?

## **DUPLEX ISSUES**

The private road surface reduces the requirement of 9,000 square feet requirement below minimum level for a duplex lot in an R-1 zone.

In the Selah City Staff report prepared by Tom Durand, it is not recognized that Mr. Sample spoke and voted, as a city council member, against the siting of duplexes in an R-1 zone. In his Somerset II application, in his application Mr. Sample speaks to the siting of the duplexes and recognizes they have an adverse effect on neighborhood single family homes. He is locating them for two reasons, to hide their presence as a potential devaluation of adjacent properties for reasons of property values and or lifestyles and in retaliation for losing the Planned Development application he sited them behind my house.

The Hearing examiner has the ability to deny not only locations of duplexes due to appropriateness but also their siting in a development.

As a result of the duplex locations, the siting adds a higher level of traffic on a limited surface without public safety requirements of a standard width driving surface and sidewalks for pedestrians. Correct traffic placement of higher density residences is closer to the outlet or arterial roads not in the farthest reaches of a residential area.

Setbacks on the duplexes should not be considered for a variance as the lot meets the 9,000 sq. ft. of surface area requirement on the lot. If more space is needed for meeting requirements, Mr. Sample should increase the size of the lot. If locating the required off-street parking is a problem then the duplexes are sited improperly in an R-1 zone on the private street. Where is the request for a variance to the rear setback? Where is the required data supporting the need for the variance?

The zoning for the development is R-1. The lot coverage for R-1 is 35%, therefore the lots 19 and 20 will fall under the R-1 municipal code of 35% including building footprint, driveway, sidewalks and off-street parking, etc. A proposed structure may be out of compliance. No plans are presented to determine that the lots 19 and 20 are appropriate. These locations should be denied.

## **DESIGN ISSUES**

In the event of construction of multiple level residential homes, will a restriction on windows that look into existing yards and private areas be required on the development of both single family homes and duplexes.

By the calculations derived at by the Selah Planning Department in their staff report, the "net density is about 6 dwelling units per acre or 6.6 dwelling units per acre if the lot area is reduced by the access easement used for the private road in making the calculation." This, again, is in violation of the 5 dwelling units per acre in the R-1 zoning. Quoted from the staff report prepared by Tom Durand.

Does the 16' wide sewer easement on lots 11 and 12 reduce the available lot usability further below the 8'000 sq. ft.? Can the owner build over this easement?

As per the development application will the 24' height design on the duplexes be enforced as a covenant restriction?

Reverse curves on a street re not allowed back to back. Where is the separation on Lyle Loop?

Will there be any consideration for street light, visual barriers and noise barriers from the development into the existing residences. The barriers could be vegetative, masonry or other durable and appropriate material.

**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.

**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.

**PRIVATE ROAD ISSUES**

**10.50.010 - Definitions.**

(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.

\*BECAUSE PRIVATE ROADS ARE NOT ALLOWED IN A SUB DIVISION, THERE IS NO DEFINATION

**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

**\*WHERE ARE THE ESTABLISHED STANDARDS FOR A PRIVATE STREETS LOCATED?**

(c) In addition to the design documents adopted by reference, the following provisions shall apply:

(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.

(11) Street jogs with centerline offsets of less than two hundred feet shall not be allowed.

(d) Block design in a subdivision shall conform to the following standards

(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:

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

**\*"WHENEVER POSSIBLE" IS CLEAR UNAMBIGIOUS LANGUAGE....AND IT ADDS "SHOULD" NOT "MAY", ADDITIONALLY TWO LOTS, 19 AND 20, WILL HAVE STREETS ON THREE SIDES.**

The Staff report suggests that "appears" is good enough to control the granting of a variance of the private road. This in reference to whether or not the future can be foretold as to whether future traffic patterns will be affected. Absent physical limitations or features it may well be impossible to foretell the future traffic patterns. In the approval of Shane Snodgrass' development on Speyers Road, the city was making a case for requiring the developer to move the access road based on the potential of linking it to a future road from Valhalla Heights. The Hearing Examiner rejected the staff recommendation due to a lack ability to accurately predict future opportunities.

*Full Definition of UNDUE*

1: *not due : not yet payable*

2: *exceeding or violating propriety or fitness : excessive <undue force>*

*Full Definition of HARDSHIP*

1: *privation, suffering*

2: *something that causes or entails suffering or privation*

*Full Definition of PRIVATION*

1: *an act or instance of depriving : deprivation*

2: *the state of being deprived; especially : lack of what is needed for existence*

From the Selah Staff report....."undue hardship may be created as a result of strict compliance with its provisions or standards adopted by reference. The following findings are necessary to recommend an exception: "

**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. There are special physical circumstances or conditions affecting the property such that the strict application of the provisions of the (subdivision) 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.

**\*THERE IS NO APPLICATION FOR THE PRIVATE STREET WITH SUBSTANTIATING FACTS AND EVIDENCE RELATING TO THE REQUEST**

Mr. Sample has presented no evidence of physical circumstances or conditions affecting the property, simply his desire to maximize the monetary profit. The property is not being denied "reasonable use or development" into an R-1 neighborhood by refusing to allow the private road. As for the public interest, Mr. Sample has failed to present any credible data supporting a measurable benefit to the "public interest" which is required for a variance to achieve the private road, the only benefit is to, again, maximize profits for the developer...Which has nothing to do with "the public interest is preserved".

The "undue hardship" clause was vacated when Mr. Sample abandoned work on an approved development that didn't require a variance for a private road on this exact same land. The "property rights and privileges" are still available without the private street. He is a not a victim of "undue hardship" of land use and not subject to

consideration of the “undue hardship” clause. Furthermore, he bought the property as it is and was fully aware of its physical size and was granted a preliminary plat earlier.

The “undue hardship” that requires a variance for the private road is driven by maximizing the monetization through the number of lots, Mr. Sample has demonstrated no effort to develop other configurations than the private street, before declaring “undue hardship”. Absent presentation of other options like Cul-de-sac, a variance on the width to length ratio of lots and making a definitive case why other solutions aren’t “reasonable” he has no basis to declare an “undue hardship”. Dan Bower was allowed a ratio of 1 to 3.629 (75.32’ X 273.31’) on lot width to length at 207 East Goodlander when he divided his land in May 28, 2014.

The private street is a public safety issue, there will be no curbs, gutters or sidewalks and fences may be placed directly adjacent to the 20’ road surface, where is the safe walk area for pedestrians or school children?

The private street will create “flag lots” of all parcels using the street. Effectively the buildable lot area is served by long privately owned access strips or driveways that are being labeled as a “Private Street”.

Will the road surface be required to control water runoff without gutters and how can water from driveways be allowed to run into the private street without gutter controls?

The required road surface standard on Lyle Loop is 32’ wide, why is it acceptable to reduce the trafficked surface on the unguarded private road by 37.5% and call it a safe road... The city of Selah uses established standards for safety within the city limits. SMC 10.50.041 (a) (2) Standard Specifications. Does the city have the authority to waive their responsibility and liability for public safety within the city limits?

Since there will be no parking allowed on the private road, is the City of Selah prepared to enforce the regulation? If not how is this to be enforced?

Is it legal to claim property from a second party land owner to create a private road from their lots 11, 12, 13, 14, 15 and deny the same land owners access to land they are paying property taxes on and as legal owner of the land they may be subject to liability issues from road users?

**When the proposed private street is removed from the development almost all issues are resolved. That being the case, how... can the variance be granted?**

## **COMPREHENSIVE GROWTH MANAGEMENT ACT**

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

Policy HSG 1.1: Discourage rezoning which would allow incremental conversion of existing single-family dwellings to duplexes or multi-family dwellings.

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

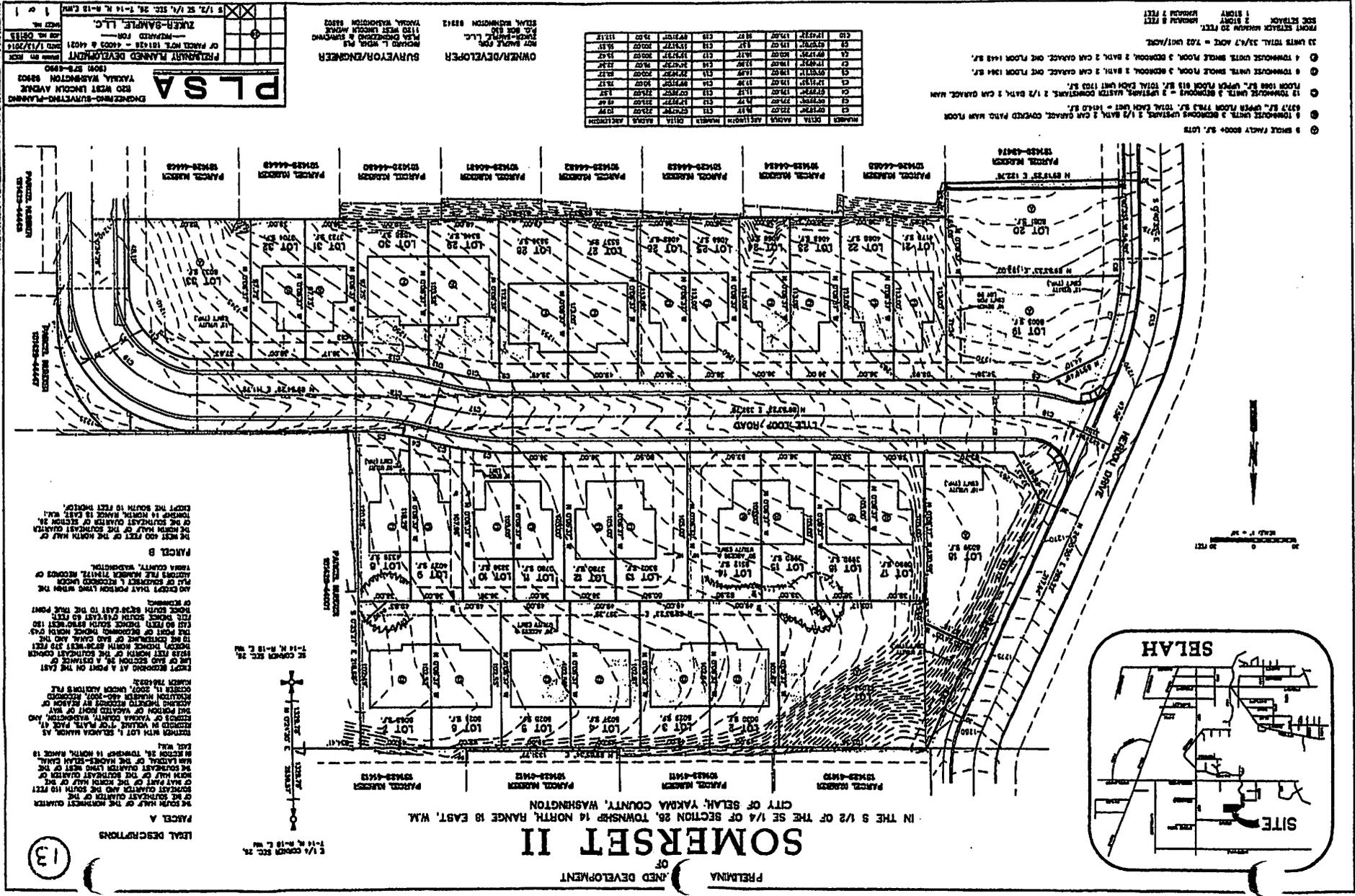
Objective HSG 2: Encourage new residential development to approximate existing residential densities and housing mix levels.

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

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*, Wn.2d 280, 286, 676 P.2d (1984); and *Chrobuck v. Snohomish County*, 78 Wn.2d 858, 872, 480 P.2d 489 (1971). In *Anderson v. Seattle*, 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 primarily aimed at benefiting 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.

While Mr. Sample is not asking for a rezone he is demonstrating the belief that a property right is to develop property to the absolute maximum even when variances have to be granted to bend the rules or codes. When a developer tries to max out the density of residences then claim it is a property right to develop it to the max, they are in error. Courts and the Comprehensive Growth Management Act both recognize the density designation is a maximum not a target.

Exhibit #E-2  
 2 of 2



**PLSA**  
 ENGINEERING-SURVEYING-PLANNING  
 820 WEST LINCOLN AVENUE  
 YAKIMA, WASHINGTON 98903  
 (509) 427-4940

PREPARED FOR:  
 ZUKEN-SAMUELS, L.L.C.  
 OF PANDA MOUNTAIN, 18141 - 44000 & 44021  
 1120 WEST LINCOLN AVENUE  
 YAKIMA, WASHINGTON 98903

DATE: 11/15/2014  
 TIME: 10:00 AM

OWNER/DEVELOPER  
 SURVEYOR/ENGINEER  
 RYAN BAKER, DOR  
 THOMAS-SAMUELS, L.L.C.  
 1120 WEST LINCOLN AVENUE  
 YAKIMA, WASHINGTON 98903

NUMBER	AREA	ASSIGNMENT	NUMBER	AREA	ASSIGNMENT
1	11.12	11.12	11	11.12	11.12
2	11.12	11.12	12	11.12	11.12
3	11.12	11.12	13	11.12	11.12
4	11.12	11.12	14	11.12	11.12
5	11.12	11.12	15	11.12	11.12
6	11.12	11.12	16	11.12	11.12
7	11.12	11.12	17	11.12	11.12
8	11.12	11.12	18	11.12	11.12
9	11.12	11.12	19	11.12	11.12
10	11.12	11.12	20	11.12	11.12
11	11.12	11.12	21	11.12	11.12
12	11.12	11.12	22	11.12	11.12
13	11.12	11.12	23	11.12	11.12
14	11.12	11.12	24	11.12	11.12
15	11.12	11.12	25	11.12	11.12
16	11.12	11.12	26	11.12	11.12
17	11.12	11.12	27	11.12	11.12
18	11.12	11.12	28	11.12	11.12
19	11.12	11.12	29	11.12	11.12
20	11.12	11.12	30	11.12	11.12

- 1 3 UNIT FAMILY 3000+ S.F. LOT
- 2 1 TOWNHOUSE UNIT, 2 BEDROOMS, 1 1/2 BATH, 2 CAR GARAGE, COVERED PIND. MAIN FLOOR, 6317 S.F., 2ND FLOOR 1783 S.F., TOTAL 8100 S.F., TOTAL 9880 S.F.
- 3 12 TOWNHOUSE UNITS, 2 BEDROOMS = 2 UNITS, 2 BATH, 2 CAR GARAGE, MAIN FLOOR 1088 S.F., 2ND FLOOR 818 S.F., TOTAL EACH UNIT 1906 S.F.
- 4 1 TOWNHOUSE UNIT, 2 BEDROOMS, 2 BATH, 2 CAR GARAGE, ONE FLOOR 1344 S.F.
- 5 4 TOWNHOUSE UNITS, 2 BEDROOMS, 2 BATH, 2 CAR GARAGE, ONE FLOOR 1448 S.F.
- 6 20 UNITS TOTAL, 20/4/7 UNIT = 7/22 UNIT/UNIT.
- 7 FRONT STRIP, 20 FEET, 2 BAY, 2 BATH, 2 CAR GARAGE, ONE FLOOR 1448 S.F.
- 8 1/2 BAY, 2 BATH, 2 CAR GARAGE, ONE FLOOR 1448 S.F.

**LEGAL DESCRIPTIONS**

**PANEL A**  
 THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 14 NORTH, RANGE 18 EAST, W.M. IN THE S 1/2 OF THE SE 1/4 OF SECTION 28, TOWNSHIP 14 NORTH, RANGE 18 EAST, W.M. CITY OF SELAH, YAKIMA COUNTY, WASHINGTON.

**PANEL B**  
 THE WEST 400 FEET OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 14 NORTH, RANGE 18 EAST, W.M. CITY OF SELAH, YAKIMA COUNTY, WASHINGTON.

**PANEL C**  
 THE EAST 400 FEET OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 14 NORTH, RANGE 18 EAST, W.M. CITY OF SELAH, YAKIMA COUNTY, WASHINGTON.

**PANEL D**  
 THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 14 NORTH, RANGE 18 EAST, W.M. CITY OF SELAH, YAKIMA COUNTY, WASHINGTON.

**PANEL E**  
 THE NORTH HALF OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 14 NORTH, RANGE 18 EAST, W.M. CITY OF SELAH, YAKIMA COUNTY, WASHINGTON.

**PANEL F**  
 THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 14 NORTH, RANGE 18 EAST, W.M. CITY OF SELAH, YAKIMA COUNTY, WASHINGTON.

**PANEL G**  
 THE NORTH HALF OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 14 NORTH, RANGE 18 EAST, W.M. CITY OF SELAH, YAKIMA COUNTY, WASHINGTON.

**PANEL H**  
 THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 14 NORTH, RANGE 18 EAST, W.M. CITY OF SELAH, YAKIMA COUNTY, WASHINGTON.

**PANEL I**  
 THE NORTH HALF OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 14 NORTH, RANGE 18 EAST, W.M. CITY OF SELAH, YAKIMA COUNTY, WASHINGTON.

**PANEL J**  
 THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 14 NORTH, RANGE 18 EAST, W.M. CITY OF SELAH, YAKIMA COUNTY, WASHINGTON.

**PANEL K**  
 THE NORTH HALF OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 14 NORTH, RANGE 18 EAST, W.M. CITY OF SELAH, YAKIMA COUNTY, WASHINGTON.

**PANEL L**  
 THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 14 NORTH, RANGE 18 EAST, W.M. CITY OF SELAH, YAKIMA COUNTY, WASHINGTON.

**PANEL M**  
 THE NORTH HALF OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 14 NORTH, RANGE 18 EAST, W.M. CITY OF SELAH, YAKIMA COUNTY, WASHINGTON.

**PANEL N**  
 THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 14 NORTH, RANGE 18 EAST, W.M. CITY OF SELAH, YAKIMA COUNTY, WASHINGTON.

**PANEL O**  
 THE NORTH HALF OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 14 NORTH, RANGE 18 EAST, W.M. CITY OF SELAH, YAKIMA COUNTY, WASHINGTON.

**PANEL P**  
 THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 14 NORTH, RANGE 18 EAST, W.M. CITY OF SELAH, YAKIMA COUNTY, WASHINGTON.

**PANEL Q**  
 THE NORTH HALF OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 14 NORTH, RANGE 18 EAST, W.M. CITY OF SELAH, YAKIMA COUNTY, WASHINGTON.

**PANEL R**  
 THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 14 NORTH, RANGE 18 EAST, W.M. CITY OF SELAH, YAKIMA COUNTY, WASHINGTON.

**PANEL S**  
 THE NORTH HALF OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 14 NORTH, RANGE 18 EAST, W.M. CITY OF SELAH, YAKIMA COUNTY, WASHINGTON.

**PANEL T**  
 THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 14 NORTH, RANGE 18 EAST, W.M. CITY OF SELAH, YAKIMA COUNTY, WASHINGTON.

**PANEL U**  
 THE NORTH HALF OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 14 NORTH, RANGE 18 EAST, W.M. CITY OF SELAH, YAKIMA COUNTY, WASHINGTON.

**PANEL V**  
 THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 14 NORTH, RANGE 18 EAST, W.M. CITY OF SELAH, YAKIMA COUNTY, WASHINGTON.

**PANEL W**  
 THE NORTH HALF OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 14 NORTH, RANGE 18 EAST, W.M. CITY OF SELAH, YAKIMA COUNTY, WASHINGTON.

**PANEL X**  
 THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 14 NORTH, RANGE 18 EAST, W.M. CITY OF SELAH, YAKIMA COUNTY, WASHINGTON.

**PANEL Y**  
 THE NORTH HALF OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 14 NORTH, RANGE 18 EAST, W.M. CITY OF SELAH, YAKIMA COUNTY, WASHINGTON.

**PANEL Z**  
 THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 14 NORTH, RANGE 18 EAST, W.M. CITY OF SELAH, YAKIMA COUNTY, WASHINGTON.

PRELIMINARY DEVELOPMENT  
**SOMERSET II**  
 OF  
 IN THE S 1/2 OF THE SE 1/4 OF SECTION 28, TOWNSHIP 14 NORTH, RANGE 18 EAST, W.M. CITY OF SELAH, YAKIMA COUNTY, WASHINGTON

13





# CITY OF SELAH

Public Works Department

222 South Rushmore Road

SELAH, WASHINGTON 98942

Phone 509-698-7365

Fax 509-698-7372

## CITY OF SELAH PLANNING COMMISSION

### NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on Tuesday, March 17, 2015, commencing at 5:30 p.m., or as soon thereafter as practical, in Council Chambers, Selah City Hall, 115 W. Naches, Selah, WA., the Planning Commission will conduct a public hearing to receive testimony and to consider adoption of text amendments to Selah Municipal Code as requested by Wayne Worby. The proposed text amendments are as follows:

Proposed Amendment to Title 10, Chapter 10.12:

Repeal SMC 10.12.040 Designated two-family residential lots.

Proposed Amendment to Title 10, Chapter 10.28. Table A-5:

Amend the Table to remove two-family dwellings as a Class 1 use in the R-1 zone.

Repeal SMC 10.28.040(1)

A copy of the request to amend the Selah Municipal Code is available for public inspection during regular business hours (8:00 a.m. to 5:00 p.m.) at the Selah Planning Department, 222 South Rushmore Road, Selah, WA.

Dated this 4th day of March, 2015.

/s/

Thomas R Durant, Community Planner

Exhibit HE-3  
includes DVD

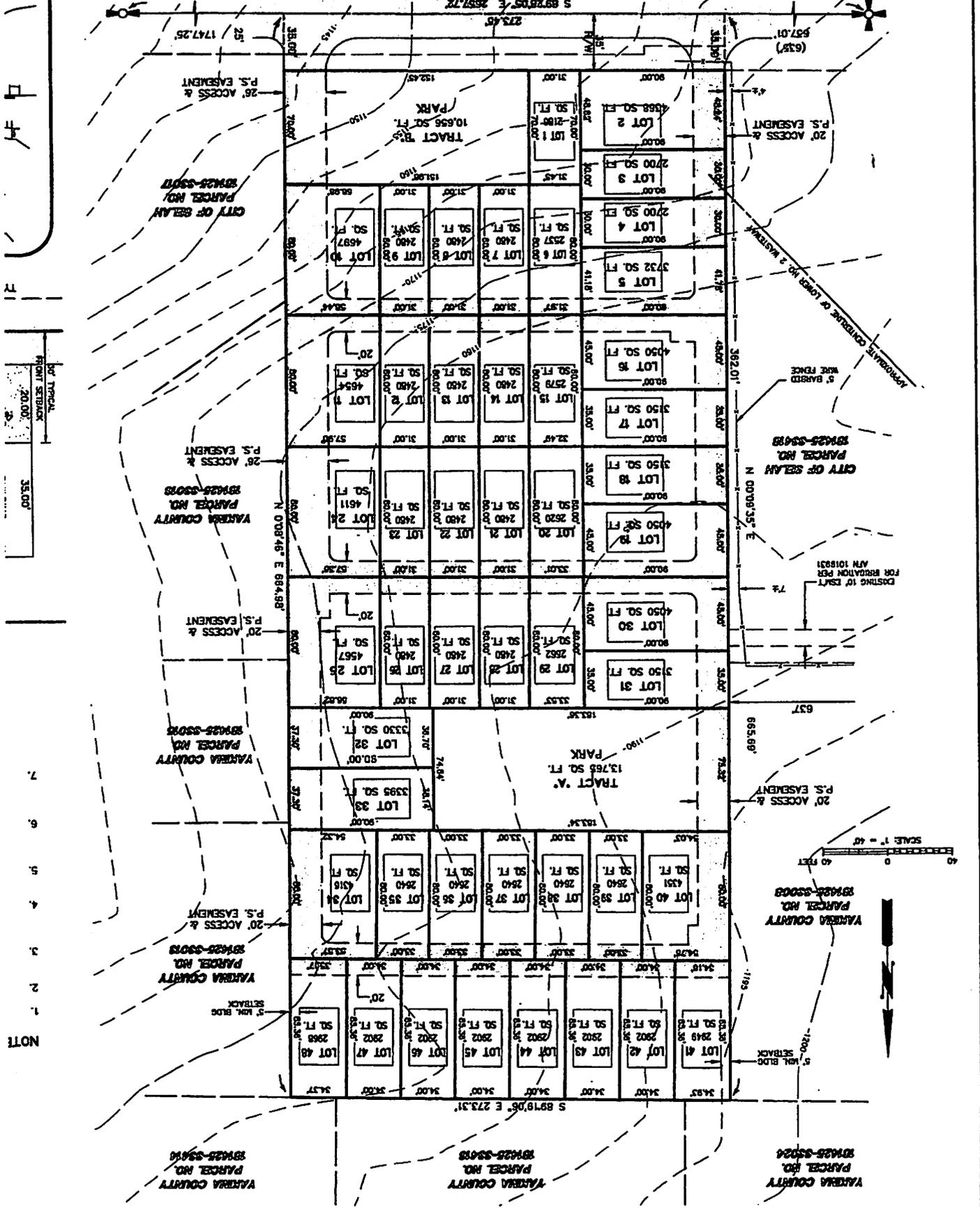


EXL: 6.1 + HE - 4

S 1/4 COR. SEC. 25.  
T-14 N. R-18 E.W.M.  
3' ALUM. CAP IN  
MON. CASE FOUND  
SEE LCR 1M-700

SW COR. SEC. 25.  
T-14 N. R-18 E.W.M.  
2-1/2" ALUM. CAP IN  
MON. CASE FOUND  
SEE LCR 7833176

GOODLANDER ROAD

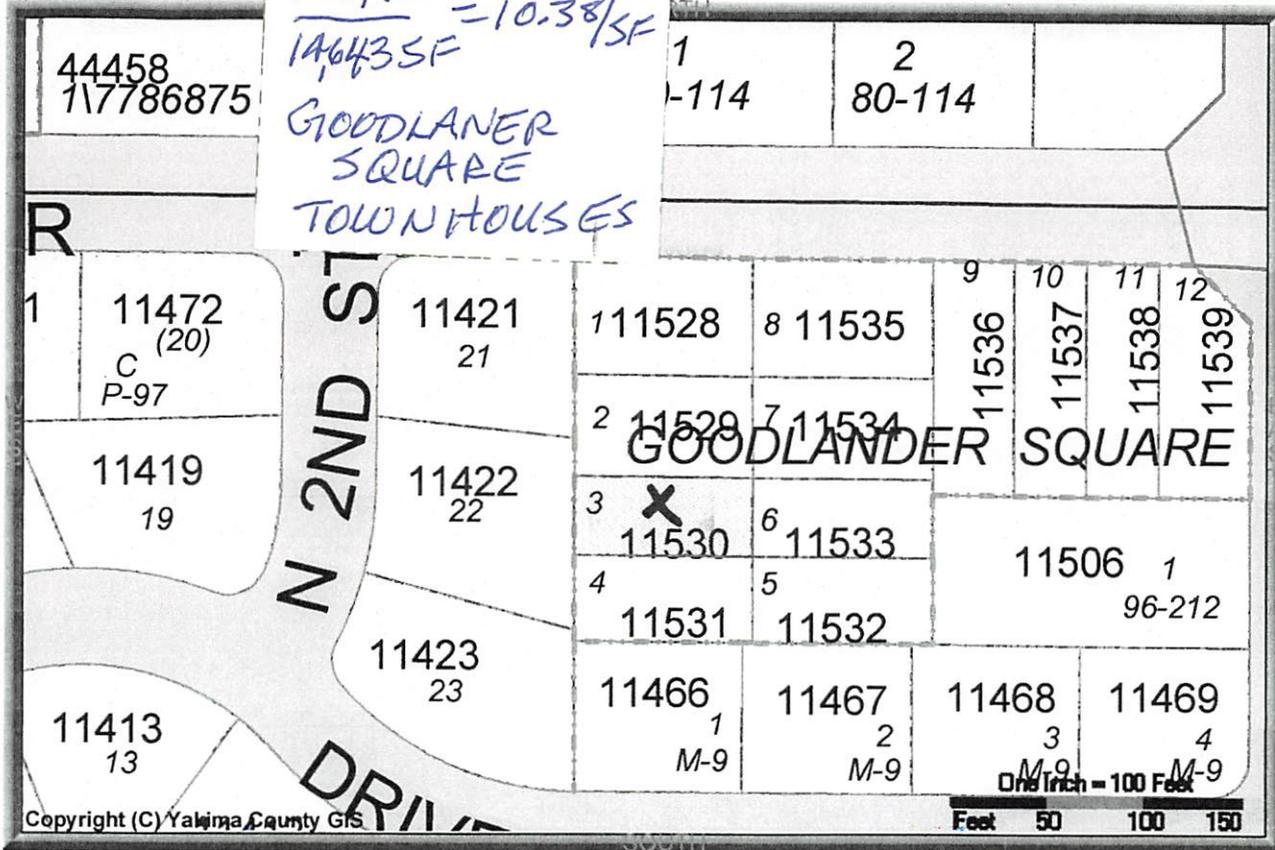


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Yakimap.com

[Print Map] [Close Map]

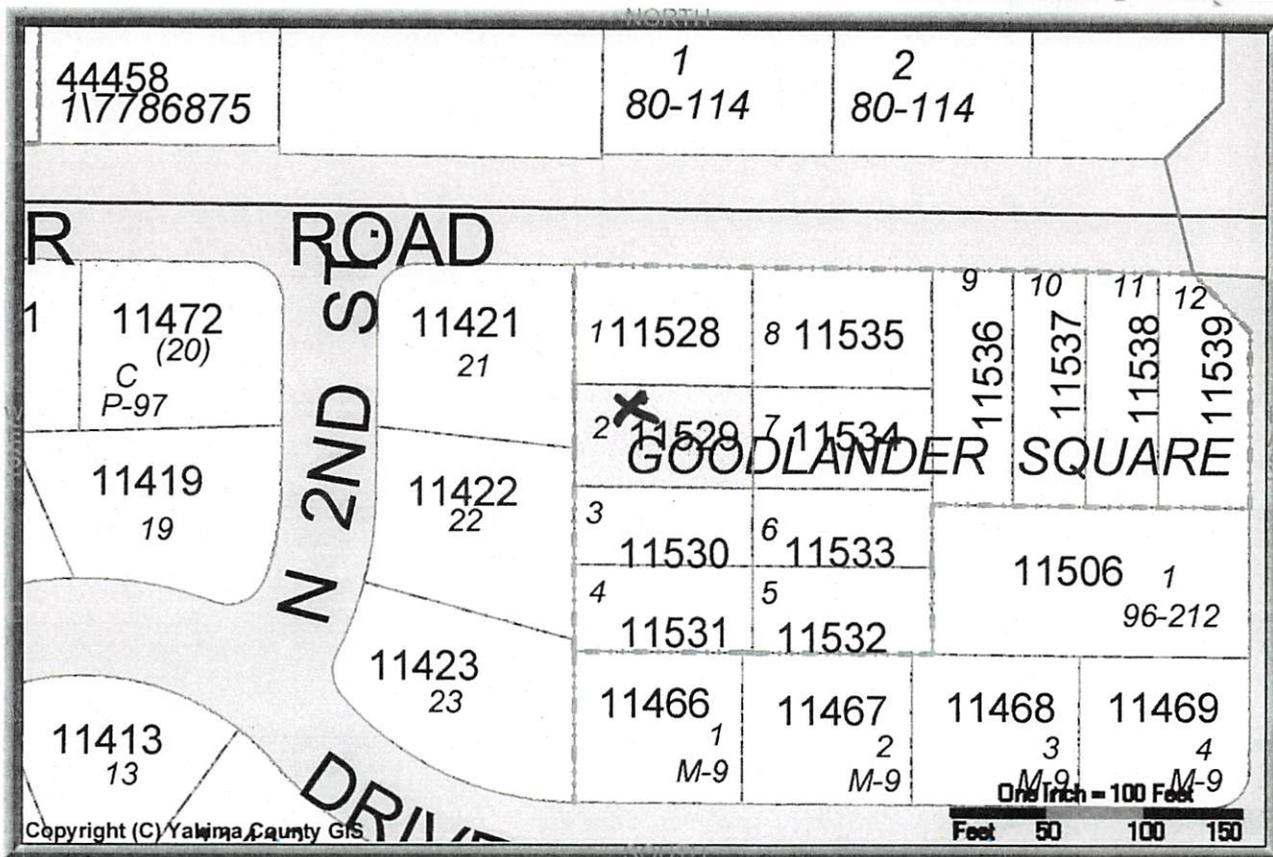


PROPERTY PHOTO	PROPERTY INFORMATION	
	Parcel Address: 124 GOODLANDER RD, SELAH, WA 98942	
	Parcel Owner(s): LUCIA DETLOFF	
	Parcel Number: 18143511530	Parcel Size: 3841 Square Feet
	Property Use: 11 Single Unit	
TAX AND ASSESSMENT INFORMATION		
Tax Code Area (TCA): 410		Tax Year: 2015
Improvement Value: \$90000		Land Value: \$49300
Current Use Value: \$0		Current Use Improvement: \$0
New Construction: \$0		Total Assessed Value: \$139300
OVERLAY INFORMATION		
Zoning:	Jurisdiction: Selah	
Urban Growth Area: Selah	Future Landuse Designation: City Limits (Yakima County Plan 2015)	
FEMA: Not in floodplain (X)	FIRM Panel Number: 53077C0716D	
LOCATION INFORMATION		
+ Latitude: 46° 39' 52.893"	+ Longitude: -120° 31' 54.475"	Range: 18 Township: 14 Section: 35
Narrative Description: Section 35 Township 14 Range 18 Quarter NE GOODLANDER SQUARE LOT 3 PLAT 7242072		
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		

Exhibit HE-5  
p 1 of 6

[Print Map] [Close Map]

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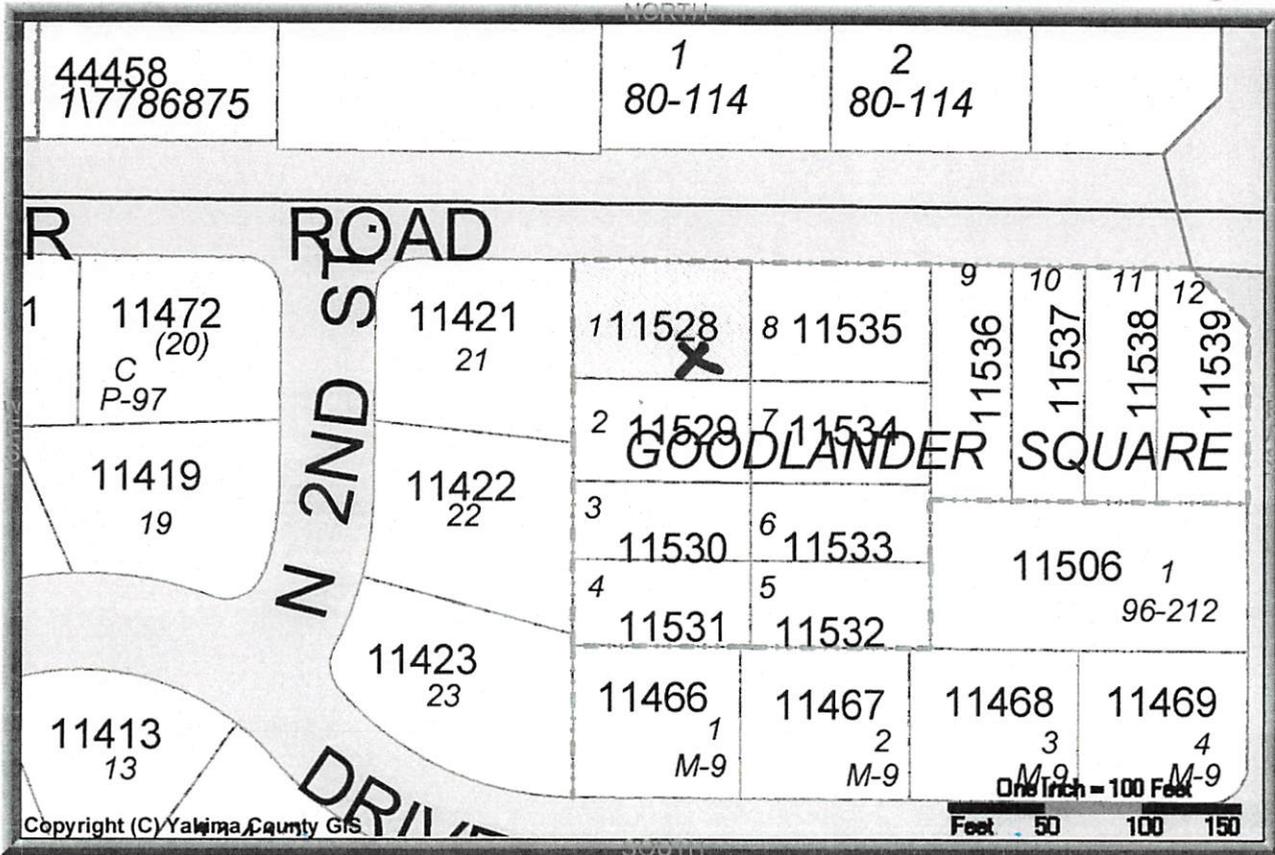


PROPERTY PHOTO	PROPERTY INFORMATION	
 <p>1/08-181435-11529 90</p>	Parcel Address: 122 GOODLANDER RD, SELAH, WA 98942	
	Parcel Owner(s): MATTHEW & MANDI M MOULTRAY	
	Parcel Number: 18143511529	Parcel Size: 4980 Square Feet
	Property Use: 11 Single Unit	
TAX AND ASSESSMENT INFORMATION		
Tax Code Area (TCA): 410		Tax Year: 2015
Improvement Value: \$98300		Land Value: \$50650
Current Use Value: \$0		Current Use Improvement: \$0
New Construction: \$0		Total Assessed Value: \$148950
OVERLAY INFORMATION		
Zoning:	Jurisdiction: Selah	
Urban Growth Area: Selah	Future Landuse Designation: City Limits (Yakima County Plan 2015)	
FEMA: Not in floodplain (X)	FIRM Panel Number: 53077C0716D	
LOCATION INFORMATION		
+ Latitude: 46° 39' 53.357"	+ Longitude: -120° 31' 54.477"	Range: 18 Township: 14 Section: 35
Narrative Description: Section 35 Township 14 Range 18 Quarter NE GOODLANDER SQUARE LOT 2 PLAT 7242072		
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		

p 2 of 6

[Print Map] [Close Map]

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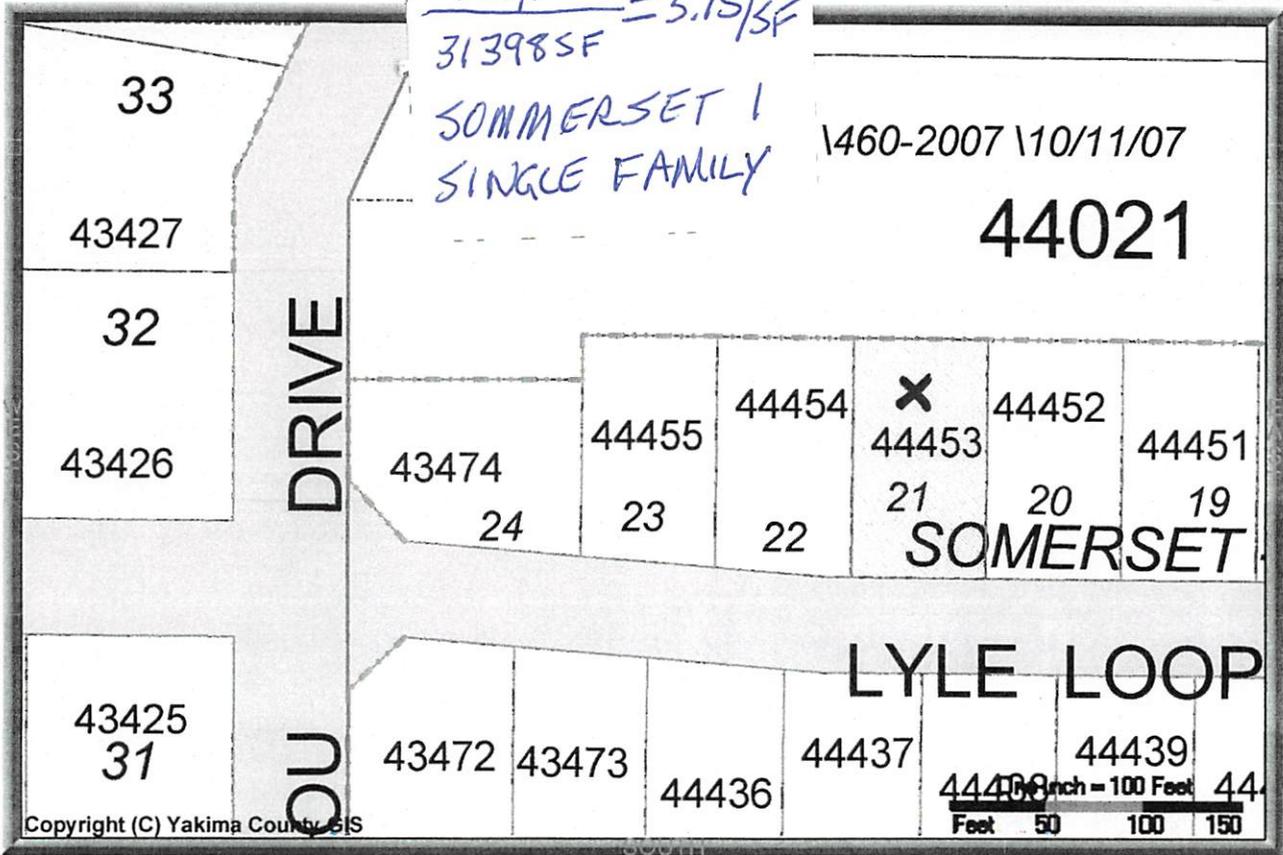


PROPERTY PHOTO	PROPERTY INFORMATION	
	Parcel Address: 120 GOODLANDER RD, SELAH, WA 98942	
	Parcel Owner(s): MATTHEW & MANDI M MOULTRAY	
	Parcel Number: 18143511528	Parcel Size: 5822 Square Feet
	Property Use: 11 Single Unit	
TAX AND ASSESSMENT INFORMATION		
Tax Code Area (TCA): 410		Tax Year: 2015
Improvement Value: \$98300		Land Value: \$52000
Current Use Value: \$0		Current Use Improvement: \$0
New Construction: \$0		Total Assessed Value: \$150300
OVERLAY INFORMATION		
Zoning:	Jurisdiction: Selah	
Urban Growth Area: Selah	Future Landuse Designation: City Limits (Yakima County Plan 2015)	
FEMA: Not in floodplain (X)	FIRM Panel Number: 53077C0716D	
LOCATION INFORMATION		
+ Latitude: 46° 39' 53.926"	+ Longitude: -120° 31' 54.479"	Range: 18 Township: 14 Section: 35
Narrative Description: Section 35 Township 14 Range 18 Quarter NE GOODLANDER SQUARE LOT 1 PLAT 7242072		
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		

p 3 of 6

[Print Map] [Close Map]

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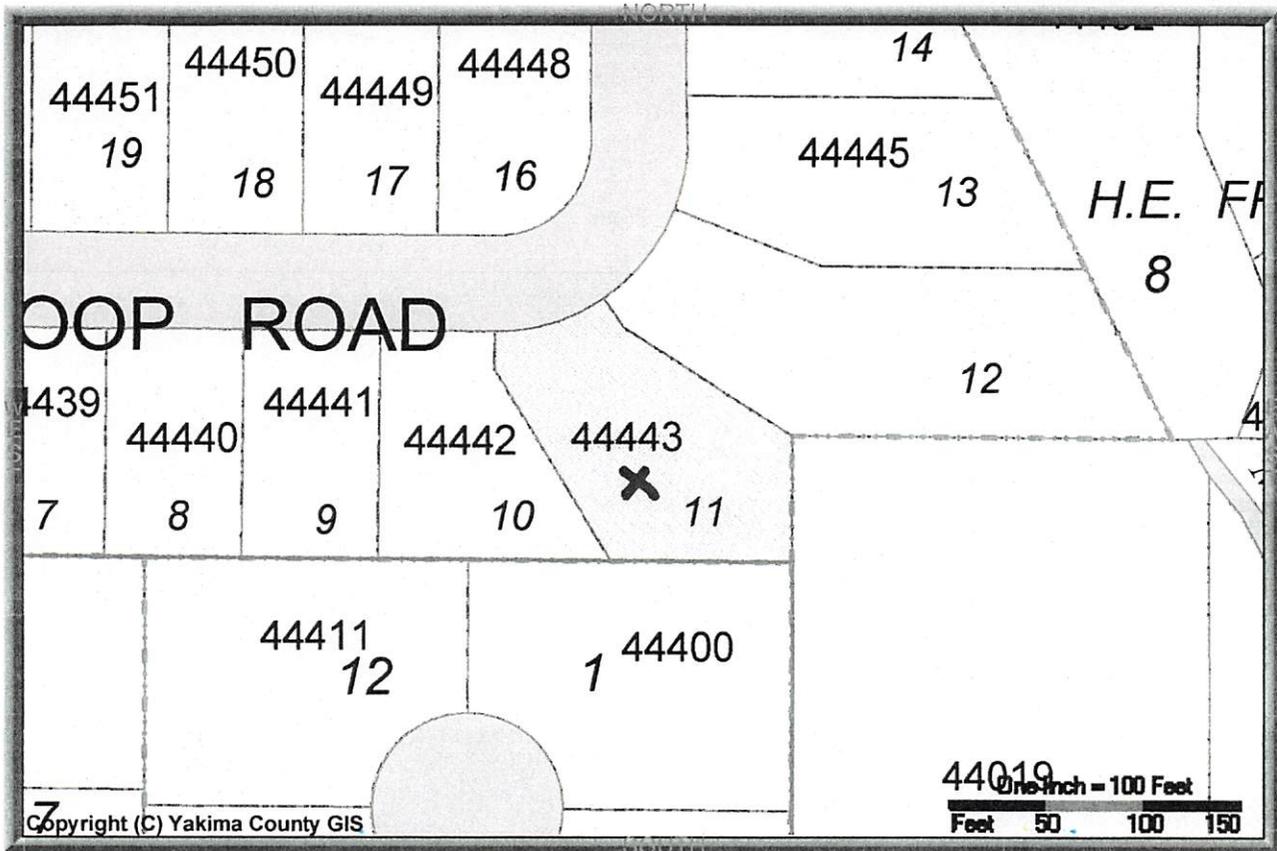


PROPERTY PHOTO	PROPERTY INFORMATION	
	Parcel Address: 51 LYLE LOOP, SELAH, WA 98942	
	Parcel Owner(s): TROY L & MICALA S TORNOW	
	Parcel Number: 18142644453	Parcel Size: 8875 Square Feet
	Property Use: 11 Single Unit	
TAX AND ASSESSMENT INFORMATION		
Tax Code Area (TCA): 403		Tax Year: 2015
Improvement Value: \$203900		Land Value: \$59150
Current Use Value: \$0		Current Use Improvement: \$0
New Construction: \$0		Total Assessed Value: \$263050
OVERLAY INFORMATION		
Zoning:	Jurisdiction: Selah	
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' 03.454"	+ Longitude: -120° 32' 06.401"	Range: 18 Township: 14 Section: 26
Narrative Description: SOMERSET 1: LOT 21		
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		

Exhibit HE-5  
p 4 of 6

[Print Map] [Close Map]

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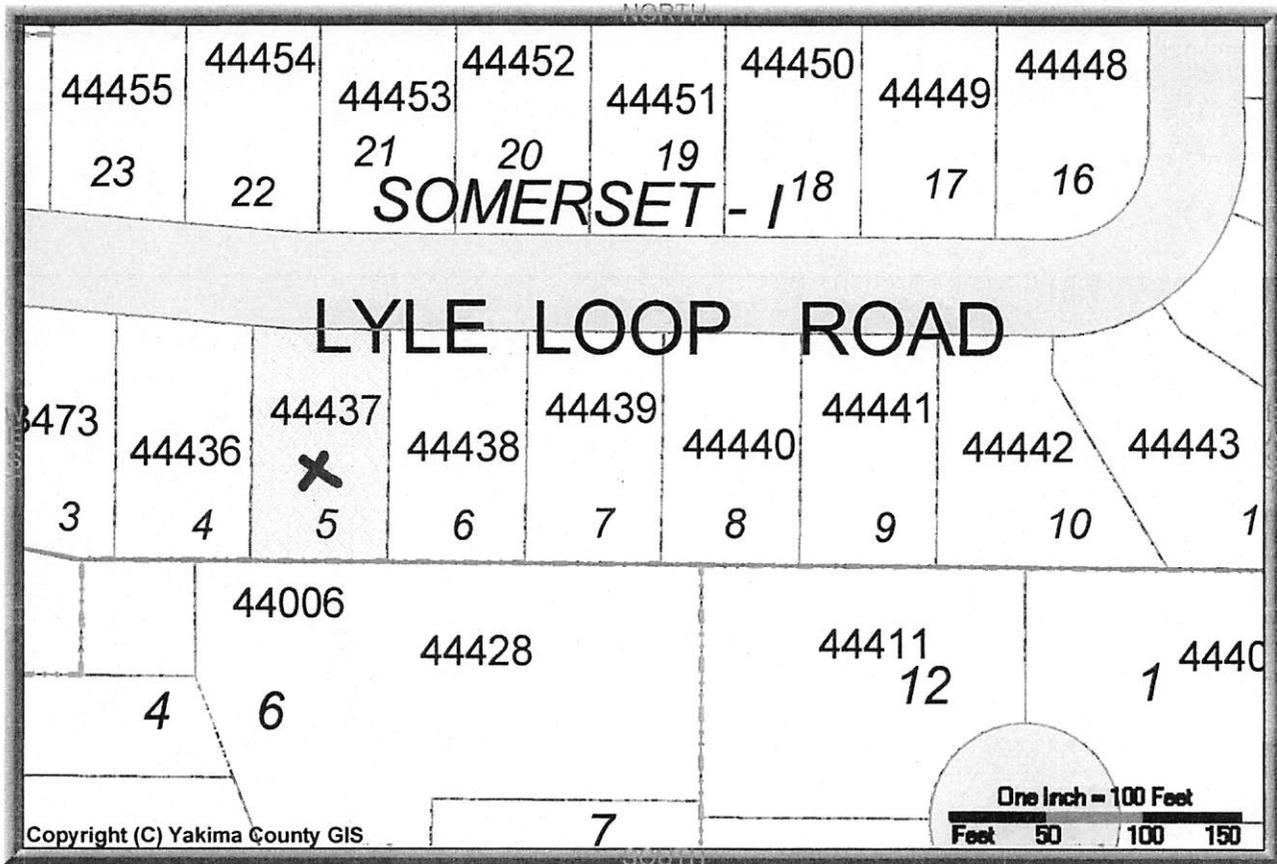


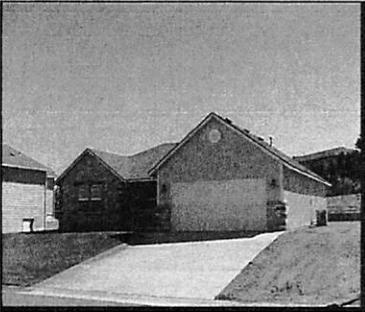
PROPERTY PHOTO	PROPERTY INFORMATION	
	Parcel Address: 110 LYLE LOOP, SELAH, WA 98942	
	Parcel Owner(s): MARK R WELLER	
	Parcel Number: 18142644443	Parcel Size: 13867 Square Feet
	Property Use: 11 Single Unit	
TAX AND ASSESSMENT INFORMATION		
Tax Code Area (TCA): 403		Tax Year: 2015
Improvement Value: \$192400		Land Value: \$62350
Current Use Value: \$0		Current Use Improvement: \$0
New Construction: \$0		Total Assessed Value: \$254750
OVERLAY INFORMATION		
Zoning:	Jurisdiction: Selah	
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' 01.728"	+ Longitude: -120° 32' 00.223"	Range: 18 Township: 14 Section: 26
Narrative Description: SOMERSET 1: LOT 11		
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		

p 5 of 6

[Print Map] [Close Map]

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PROPERTY PHOTO	PROPERTY INFORMATION	
	Parcel Address: 50 LYLE LOOP, SELAH ,WA 98942	
	Parcel Owner(s): DOUGLAS & KRISTEN R ARMSTRONG	
	Parcel Number: 18142644437	Parcel Size: 8656 Square Feet
	Property Use: 11 Single Unit	
TAX AND ASSESSMENT INFORMATION		
Tax Code Area (TCA): 403		Tax Year: 2015
Improvement Value: \$134100		Land Value: \$59150
CurrentUse Value: \$0		CurrentUse Improvement: \$0
New Construction: \$0		Total Assessed Value: \$193250
OVERLAY INFORMATION		
Zoning:	Jurisdiction: Selah	
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' 01.755"	+ Longitude: -120° 32' 06.910"	Range: 18 Township: 14 Section: 26
Narrative Description: SOMERSET 1: LOT 5		
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		

p 6 of 6

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

<b>In the matter of the Review for the 20-Lot "Preliminary Plat of Somerset II" in the vicinity of Herlou Drive and Lyle Loop Road and an Application for Subdivision Standard Variance</b>	)	<b>Selah File Nos. 912.42.15-02; 915.42.15-01</b>
	)	
	)	<b>HEARING EXAMINER</b>
	)	<b>RECOMMENDATIONS</b>
	)	
<b>Submitted by Zuker-Sample Development, LLC</b>	)	
	)	
	)	

---

**I. INTRODUCTION.**

Zuker-Sample Development, LLC (hereafter "Applicant") has applied to subdivide 2 parcels of property and to serve 4 of the newly created lots by means of a private street using access easements across other lots created in the subdivision process. Two of the lots served by the private street are proposed to be designated as two-family residential lots based on provisions allowing such designations in Chapter 10.12 of the Selah Municipal Code. The name of the proposed subdivision is "Somerset II." The proposal would result in the subdivision of the 2 existing lots into 18 new single family lots and the two designated two-family residential lots. A portion of the subject property was approved for a 17 lot preliminary plat by Yakima County, but not recorded. Previous to the earlier plat approval, part of the property was a tract in Somerset I, a subdivision that, other than the subject 2 parcels, has been built out. The City Public Works Director reportedly has concurred with the proposed public street design.

An open record hearing on the subdivision and variance proposal was conducted June 10, 2015. Community Planner Tom Durant provided a staff report prior to the hearing, which is included in the hearing record. Roy Sample appeared at the hearing on behalf of the Applicant. Several members of the public commented extensively on the application at the hearing. The record for the current application includes, but is not limited to, the application materials, the staff report and recommendation, comment notes and letters from members of the public, materials presented at the hearing by Mr. Sample, and materials presented at the hearing by persons providing comments. The Hearing Examiner takes notice of the public records concerning the adoption of the applicable ordinances.

The concerns raised in the public comments related to

- the adequacy of completion of the application materials, including the plat map;
- the inconsistency of duplexes with R-1 zoning;
- the potential adverse effects of duplex development on the neighborhood, including aesthetic impacts from duplex design;
- increase in traffic in the area, with associated pedestrian safety issues;
- adverse effects to the neighborhood from rental properties;
- necessity for fire protection facilities, curbing, sidewalks, and street lighting consistent

- with city standards;
- stormwater runoff management;
- the relationship of minimum lot-size requirements and the encumbrance of created lots with access easements;
- the basis for complying with maximum lot coverage requirements in the zoning ordinance;
- the applicability of variance or exception review criteria for the private street;
- the amount and nature of evidence to support the elements of a variance request;
- the role of the developer's past actions in producing and current hardship considered in review of a variance request;
- the appropriate location of designated two-family residential lots within the subdivision, based on traffic levels on the proposed private street;
- impacts from multi-level home construction on neighboring views [harmonious compatibility issues];
- compliance of the proposed configuration of Lyle Loop Road improvements with public street design standards;
- standards applicable to private street design;
- potential multiple street frontage for certain lots due to the proposed design of the private street;
- enforceability of parking restrictions on the proposed private street; and
- compliance with the *Selah Urban Area Comprehensive Plan*.

## **II. SUMMARY OF RECOMMENDATION.**

This preliminary plat reflecting the designation of Lots 19 and 20 as two family residential lots should be approved, subject to conditions to assure compliance with subdivision design and zoning standards, including requirements to promote the compatibility of the development of the two family residential lots with adjacent properties. In addition, it is recommended that the private roadway proposed as part of the development be required to comply with typical residential access street roadway section design standards as a matter of the public interest, and for the protection of the public health, safety and welfare.

Based on (1) the staff report and exhibits, (2) the review of the original preliminary plat application, (3) the viewing of the site, (4) comments received at the open record hearing and in writing, and a review of pertinent development regulations, the 2005 *Selah Urban Area Comprehensive Plan* ("2005 *Comprehensive Plan*") provisions and the legislative history of the pertinent ordinances, the Hearing Examiner makes the following

## **III. FINDINGS.**

### **1. APPLICANT AND PROPERTY OWNER.**

The preliminary plat and variance application were filed by Zuker-Sample Development, LLC, P.O. Box 247, Selah, WA, 98942, through Roy Sample, its manager. The property owners of record Zuker-Sample Development, LLC.

**2. LOCATION.**

The properties front on Herlou Drive to the west and Lyle Loop Road to the east.

**3. PARCEL NUMBER(S).**

The Yakima County Assessor's tax parcel numbers for the properties are 181426-44005 and 181426-44021.

**4. APPLICATION.**

The application is for preliminary plat approval of "Somerset II" a 4.71-acre, 20-lot subdivision. Eighteen (18) lots are designated for single family residences and the preliminary plat requests that two lots (Lots 19 and 20) be designated as "two family residential lots." The SEPA checklist indicates that the building height for any duplexes on these lots would be 28 feet. The subdivision would access the existing City transportation grid by the completion of Lyle Loop Road from its current terminus to a new intersection with Herlou Drive, completing Lyle Loop Road. The proposed course of the new segment of Lyle Loop Road follows the same course as was previously approved by Yakima County before the subject property was annexed to the City of Selah. At the hearing, the Applicant asserted again that the City had previously approved this alignment. Utility lines have been installed to follow the street alignment in the earlier county preliminary plat approval. A full range of utilities is available to the property.

The proposed lots are organized essentially into three blocks: a southern block fronting on Lyle Loop Road to the north (Lots 1 through 9), a central block fronting on Lyle Loop Road to the south (Lots 11 through 16) and a northern block (Lots 17 through 20). Lot 10 would front on Herlou Drive. As depicted on the preliminary plat, the lots range in size from 8,000 square feet to 12,298 square feet. Average lots size is 8,570 square feet. The proposed two-family designated lots (Lots 19, and 20) are 9,653 square feet and 9,614 square feet respectively. The lots at the new intersection of Lyle Loop Road and Herlou Drive (Lots 9 and 16) are 8,800 and 8,807 square feet, reflecting a 10% increase in minimum lots size for corner lots as required in the City's lot design standards. The preliminary plat shows a 16-foot wide sewer easement through Lots 11 and 12 that would extend the line on Lyle Loop Road to the access/utility easement for the private street allowing sewer extension to Lots 17 through 20.

The northern block of lots would be served by a private street in a paved 20-foot wide access easement burdening Lots 13 and 14 and centered on their mutual boundary, as well as burdening portions of the north 10 feet of Lots 11 through 15, and the south 10 feet of Lots 17 through 20. Where it intersects with Lyle Loop Road, the private street would be configured to provide a "hammerhead" turnaround for emergency vehicles. The turnaround area would be paved to a width of 26 feet within an access easement of the same width burdening Lots 13 and 14. The

application materials indicate that no parking will be allowed in the fire access portion of the access easement. Street lighting and fire hydrants would be included in the private street design, though locations are not specified on the preliminary plat. No provisions for sidewalks on the private street are included in the application materials. According to the application materials, the access easement for the private street will be for the exclusive use of six lots: Lots 13 and 14 and 17 through 20. It would not be available to three of the lots in the subdivision over which it crosses or abuts or the adjacent property to the east. Lots 13 and 14 would have access to both the private street and Lyle Loop Road.

The proposed maximum residential density is 4.67 dwelling units/acre. Storm water would be retained on site. The preliminary plat application materials indicate that development would be completed in three phases as follows: Phase 1 includes Lots 1 through 5 and 11 through 13; Phase 2 includes Lots 6 through 10 and 14 through 16; Phase 3 includes Lots 17 through 20.

## **5. CURRENT SITE CONDITION AND ZONING**

*Zoning:* The site is zoned R-1 and is vacant. The property is sloped downward generally west to east. The subject property is topographically lower than surrounding properties to the north, west and south. The northwest corner of Lot 17 is steeply sloped.

*Transportation:* Herlou Drive ( within Yakima County, designated Local Access) is in asphalt pavement with concrete barrier curb and gutter, with 5-foot wide sidewalk on the east side and illumination in a 60 foot wide right-of-way. Lyle Loop Road (Local Access within the City) is in 32-foot wide asphalt pavement with concrete rolled curb and gutter, a 5 foot wide sidewalk on the north and west sides of the street and illumination in a 50-foot wide right-of-way.

*Utilities:* Public sewer lines, water lines and drainage improvements have been installed in Lyle Loop Road 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 per the staff report.

*Water:* An 8 inch domestic water line has been extended 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.

*Sewer:* An 8 inch line has been installed through Phases 1 and 2 in the proposed alignment of Lyle Loop Road from the existing end of that street to the east and terminating just before reaching Herlou Drive on the west.

*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 3 and 11 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 13.

**6. NEIGHBORING ZONING AND LAND USE.**

The following table describes the neighboring zoning and land use:

<b>Area</b>	<b>Land Use</b>	<b>Plan Designation</b>	<b>Zoning</b>
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 lots proposed to be designated as two-family residential lots adjoin three residential lots to the north. One of the lots also borders a 2.8 acre parcel to the east which is partially undeveloped with a older two story single family home with about 1,300 square feet on two stories, located about 170 feet away that is accessed from Selah Loop Road to the east. The developed lots to the north are all 0.44 acre, more or less, developed with one and two story (i.e., finished or partially finished daylight basements) single family homes of wood frame construction with brick or painted trim. The houses have 1,100 to 1,500 square foot footprints. All three of these homes are set back 90 to 100 feet from the rear lot line shared with the proposed two-family residential lots. There are fences, a retaining wall and a detached garage in the rear yards.

**7. PUBLIC NOTICE**

Based on the affidavit of mailing in the project files for this application, the notice of the hearing was mailed to property owners within 600 feet of the subject property on May 22, 2015. Notice

was also published in the Yakima Herald-Republic on May 22, 2015. Notice was also posted on the property prior to hearing.

**8. ENVIRONMENTAL REVIEW.**

A Determination of Nonsignificance (DNS) (971.42.15-04) was issued on May 7, 2015 using the Optional Method of WAC 197-11-355. As a result of concerns raised about the notice, the Notice of Application was reissued on May 20, 2015 and an additional comment period provided for comments on the environmental review to June 5, 2015. No appeal of the DNS was timely filed.

**9. 2005 SELAH URBAN AREA COMPREHENSIVE PLAN DESIGNATION.**

The subject property and surrounding areas are designated as Low Density Residential authorizing a maximum density of five (5) dwelling units per acre.

**10. PROJECT ANALYSIS**

**a. *Review Criteria.***

1. *Preliminary Plat Review:* A hearing examiner recommendation on preliminary plat is to be based on a determination of whether the proposed plat complies with the standards set forth in Chapter 10.50 SMC and those adopted by reference, including but not limited to, appropriate provisions for drainage, roads, alleys and other public ways, water supply, sanitary sewage 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. SMC 10.50.025. Subdivision design standards are set out in SMC 10.50.041 through SMC 10.50.046. The hearing examiner may, at the examiner's discretion, recommend higher standards than those set forth in the subdivision and zoning provisions of the Title 10 SMC if the examiner determines it is necessary to protect the health, safety, welfare and public interest of the city. SMC 10.50.026. It is noted for the record that a standard set of conditions designed to assuring compliance with design standards and other applicable standards has been developed by city planning staff and is customarily included in recommendations on preliminary plat reviews. These include conditions requiring submission and city approval of engineered utility and drainage system plans and other public works elements of the projects. Adjustment is made to these standard conditions as necessary for particular projects in recommendations provided to the City Council.

2. *Two Family Residential Lot Designation:* SMC 10.12.040 allows ten percent of the lots in a proposed land division of ten or more lots to be designated for future two-family dwellings (or duplexes). The ordinance requires the Hearing Examiner to consider the lot locations and to carefully consider adjacent properties to ensure harmonious compatibility. Other required standards include a minimum lot size of 9,000 square feet or the minimum lot size based on slope specified in SMC 10.12.030.

3. *Application for "Variance."* The Applicant applied separately for a variance from subdivision standards. The variance application was made on the basis of guidance provided by the City, including guidance on site plan requirements. See Exhibit 4 in the record. The Applicant also provided a narrative "Variance Proposal" (Exhibit 5) and a variance site plan (Exhibit 7).

A threshold question is whether the Applicant is seeking an "exception" from subdivision standards or a determination of allowability with respect to the use of a private street access to the northern block of lots.<sup>1</sup> The code addresses "exceptions" to subdivision design standards (generally in SMC 10.50.041 through SMC 10.50.046), and establishes a specific set of criteria for the approval of exceptions from such standards in SMC 10.50.070. However, the subdivision block design standards also allow for the use of a private street in a subdivision without reference to an exception, if the private street meets block design criteria in SMC 10.50.041(d)(4).

The narrative in the application materials specifically cites the private street provisions in SMC 10.50.041(d)(4). It does not cite any other subdivision standards from which it might seek an exception. On the other hand, the staff report analysis considers that the application materials also provide both for lots not fronting on public streets and for lot configurations that can be argued to amount to lots fronting on multiple streets, which might be contrary to the provisions of SMC 10.50.041(e)(3)<sup>2</sup> and (4)<sup>3</sup>, respectively. In that case, an exception review in accordance with SMC 10.50.070 would be the proper review procedure. Under that procedure, the hearing examiner may recommend an exception from the standards when undue hardship may be created as a result of strict compliance with the requirements. Applications for exceptions must include appropriate substantiating facts to show the hardship. SMC 10.50.070.

(a). *Permissibility of Private Streets.*

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). Ordinances are to be interpreted to give effect to legislative intent, *City of Spokane v. Fischer*, 110 Wn.2d 541, 542, 754 P.2d 1241 (1988), and to not produce an absurd result. *Post v. City of Tacoma*, 167 Wn.2d 300, 310, 217 P.3d 1179 (2009). 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 subdivision design ordinance cannot properly be read to allow lots and blocks to be served by private streets on the one hand ( based on the SMC 10.50.041(d)(4) language) and to require

<sup>1</sup> In Chapter 10.30 SMC, the Selah Municipal Code addresses variances in the broad context of Title 10 SMC, and establishes decision criteria to be applied in approving a variance. In absence of a delegation of authority to hear a variance pursuant to SMC 1.60.080, the Hearing Examiner does not have authority to act on a variance. Block and lot standards can also be modified as part of a Planned Development rezone application, but no such application is being considered in this proceeding.

<sup>2</sup> This subsection provides: "Each lot must front upon a public street with a width not less than those set forth in the street standards."

<sup>3</sup> "Lots having frontage on two streets should be avoided whenever possible."

across the board that lots be served by public streets on the other hand (based on the SMC 10.50.041(e)(3) language). The staff report suggests that the latter ordinance provision relates primarily to lot width rather than allowability of the use of private access streets, based on its location in the lot design ordinance. Even if that is the case, it does not clearly resolve the problem of the specificity of the language requiring frontage on a public street. In addition, the standard could be read as requiring an appropriate street width to serve a lot rather than relating to lot width. This ambiguity requires some other means of construing the language.

The history of the ordinance provides some limited clarification. Private streets in new subdivisions were prohibited in 2004.<sup>4</sup> In 2010, SMC 10.50.041(d)(4) was amended to include a proviso "that private access streets may be authorized where there will be no adverse effect on future traffic circulation of neighboring parcels." The city council discussion in the March 23, 2010 City Council Minutes indicates that the allowance for private streets originated in the context of implementation of the Planned Development ordinance and the potential appropriateness of private streets in gated communities. The discussion emphasized that such developments and associated subdivisions were subject to further city council review. Despite this discussion, the 2010 block design ordinance provided separately for both the modification of the design standards through a planned development, and for the approval of private streets following analysis of impacts to traffic circulation for neighboring properties. This change was accompanied by changes to the ordinance relating to

- parcels being 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 (SMC 10.50.041(b))
- conformance of public street location with the official street plan adopted or in preparation by the city (SMC 10.50.041(c)(1)).

If the city council intended that private streets only be considered as part of Planned Developments, it could have so provided; instead, it provided for allowability of private streets (subject to consideration of traffic circulation impacts to neighboring properties) separately from provisions for modification of the standards for Planned Developments. It did so in the context of other changes in the ordinance to promote public street planning and efficient city street access to new subdivisions. No change was made to SMC 10.50.041(e)(3) at the same time, which supports the staff report suggestion that the thrust of that subsection is not to require all lots to be served by a public street.

Considering these matters all together, it does not appear that the City Council intended that an SMC 10.50.070 exception would be required for a private street. Rather, a private street may be approved if supported by findings that (1) there is "no adverse effect on future traffic circulation of neighboring parcels," (2) the arrangement of lots for opening future streets is impractical and (3) no street plan dictates the extension of a public street rather than the proposed private street.

None of these considerations relate to the roadway requirements for a private street. Subdivisions still must make adequate provisions for access to lots, and none of the application

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<sup>4</sup> SMC 10.50.041(d)(4) as enacted by Ordinance 1635 provided that "every lot and block shall be served from a publicly dedicated street."

materials provided any rationale for a 20-foot roadway width versus a typical residential access street roadway width.

(ii) *Applicability of SMC 10.50.041(e)(4).*

Lots having frontage on two streets should be avoided whenever possible. SMC 10.50.041(e)(4). The Applicant did not apply for any exception to this requirement. The principle question arising in the application of the ordinance is the extent to which it is mandatory under the specific circumstances of the proposal. The staff report indicates that "whenever possible" means that the standard is not mandatory. This characterization does not appear to completely capture the intent expressed in SMC 10.50.041(e), which requires conformance with 6 enumerated standards. One view is that a proposal entailing frontage on two streets would have to demonstrate that another configuration is not possible. This is the thrust of much of the public comment regarding alternative configurations to the private access street serving the proposed northern tier of lots. But the ordinance does not expressly say "unless it is impossible to configure lots in a subdivision without lots fronting on two streets."

However, this problem depends on the second frontage actually being on a public street. "Street" is a defined term in SMC 10.50.010(k). Streets are publicly owned. "Access easement" means any private easement for the purpose of ingress and egress that is not dedicated to the public and that is owned by the underlying owners of the land over which it crosses. Title 10 SMC Appendix A. A "private street" is in the nature of an access easement. The regulatory implications of frontage on two public streets are not clearly the same as those where access easements are used to provide access to some lots while burdening other lots. It is equally unclear that the City Council intended that private access approaches would trigger the same considerations as public streets in its regulatory scheme. Private streets were not even permitted when SMC 10.50.041(e)(4) was enacted. It is not appropriate to extend the scope of the ordinance by implication under these circumstances. *Development Services of America, Inc. v. City of Seattle*. 138 Wn.2d 107, 117, 979 P.2d 387 (1999)

b. *Application of the Review Criteria*

(1) *Conformance to the 2005 Selah Urban Growth Area Comprehensive Plan:*

The Low Density Residential designation for the subject property on the adopted 2005 Future Land Use Map provides for a density of 5 dwellings per acre. Considered in its entirety, and assuming that two of the lots would be developed as duplexes, the 20 lot plat has a density of 4.67 units per acre, which would comply with the density limitation in the land use Comprehensive Plan. In other respects, unless a matter is not addressed by the design standards, goals, objectives and policies related to the proposal are governed by the design standards.<sup>5</sup> The standards are intended to assure satisfaction of state subdivision review standards at RCW 58.17.110. See also SMC 10.50.000(b).

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<sup>5</sup> As indicated on p. 1 of the 2005 *Comprehensive Plan*, "The Plan is not a dictation of what must be or an answer book for complicated questions."

(2) Adequacy of compliance with design standards:

As noted in the staff report, there are no issues related to the availability of utilities. The application does not seek relief from the design standards in SMC 10.50.041 through SMC 10.50.046 except as noted below. The plat generally shows compliance with applicable standards or the capacity to meet applicable standards. The development includes extensions of existing water and sewer lines.

The principle issues raised on review with regard to the design standards relate to whether

- the use of a private street affects traffic circulation on neighboring properties;
- the private street and related lot configurations are allowable in light of SMC 10.50.041(e)(4);
- the layout of Lyle Loop Road is consistent with SMC 10.50.041(c)(11); and
- the private street design provides adequately for access and pedestrian safety.

*Private Street.* Regarding the private street, properties adjacent to the subject property are generally already subdivided and served with city or county public streets. The large property directly to the east has not been divided and served potentially could be divided, but there is nothing in the record to suggest that such division is planned or accounted for in any other public street planning process. Thus there is no substantial evidence that the proposed private street would have any particular adverse effect on circulation or public street planning related to neighboring parcels.

*Dual Frontage.* Regarding the dual street frontage limitation, the private street does not clearly provide for public street frontage on the northern lot lines of the lots that would abut Lyle Loop Road. There is no indication that the ordinance contemplates that private streets would trigger the applicability of SMC 10.50.041(e)(4). In this regard, it is noteworthy that the purposes generally served by the frontage limitation related to regulation of setbacks, fences and yard size are served by plan included in the record as Exhibit 7. To assure that the public interest is served by such a configuration of lots, it is appropriate that any subdivision approval would be conditional upon conforming at a minimum to the representations in Exhibit 7, as adjusted to reflect 20-foot minimum rear yard setback requirements.

*Lyle Loop Road Design.* Public comments claim that the proposed layout of Lyle Loop Road violates the design standard requiring that street jogs have centerline offsets of 200 feet. Street jogs are not defined in the ordinance. This arises from a deflection in the centerline of the street as it was originally planned in order to avoid the large parcel immediately to the east of the subject property. City staff review did not raise issues about this design. In absence of any indication of public health safety or welfare issues associated with the proposed design, there is no compelling basis to find a violation of the standard.

(3) Adequacy of compliance with the zoning ordinance:

Two principal zoning ordinance issues are raised by comments on the proposed preliminary plat.<sup>6</sup> They relate to

- the effect of the use of a private street access system on the determination of lot size and lot coverage; and
- the appropriateness of the designation of Lots 19 and 20 as two family residential lots.

*Lot size and coverage.* The zoning ordinance does not define lot size. It does, however define "lot area" as "the total horizontal area within the boundary lines of a lot." Public comment noted that the paved private street easement proposed in this case effectively reduces the area of the lot available to the landowner, particularly for the central tier of lots. However, the lot size standard does not provide for adjustments based on the use of private access easements. The presence of the paved easements does affect the nature of use that a landowner could make of the burdened property. This may have some kind of impact on the neighborhood character. This, however, is the consequence of allowing private streets, which the City has done in SMC 10.50.041(d)(4), without regard to such kinds of effects. There is no basis for reading an idea of "full use lot size" into the zoning ordinance and thereby into subdivision review. As depicted in the preliminary plat, the proposed lots meet lot size requirements.

Lot coverage standards specify which aspects of a development are accounted for in the coverage calculation. In the R-1 zoning district, coverage is based on structures and accessory structures. See Table 8-1 in Chapter 10.08 SMC. In applying Chapter 10.02 through 10.48 SMC, "Accessory structure" means a building, part of a building or structure, which is ancillary to the operation or enjoyment of a lawful use, and the use of which is incidental to, that of the primary building, or structure on the same lot. "Structure" means anything constructed or erected which requires location on the ground or attached to something having a location on the ground, but not including fences or walls used as fences six feet or less in height. Lot coverage comes into play when a decision is made as to the design of structures. The approval of a subdivision does not entail the approval of the footprint of a specific structure or accessory structure with respect to zoning compliance. Any development will be obliged to comply with applicable lot coverage requirements.

*Two Family Residential Lot Designations.* The preliminary plat designates Lots 19 and 20 as "two family residential" lots. Public comments objected to the establishment of the two family lots, both as to use and location. Much of the concern is with potential duplex development and rental use of such properties.

Uses allowed within a zoning district are specifically those listed as Class 1 permitted, Class 2 administrative or Class 3 conditional uses within Chapter 10.28, Table A5 pursuant to SMC 10.08.010(6). Table 10.28A-5 shows duplexes to be permissible in the R-1 district. Permissibility of duplexes in the R-1 is dependent on compliance with SMC 10.12.040. That provision allows 10% of the lots in a subdivision of 10 lots or more to be designated for a "future two family dwelling," so long as the lots meet specified minimum lot size requirements and two

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<sup>6</sup> The application materials (Exhibit 7) indicated that rear lot line structural setbacks would be 15 feet. At hearing, the Applicant clarified that the setback was intended to be 20 feet. This recommendation assumes that the setback will in fact be 20 feet in accordance with SMC 10.08.090 and that Exhibit 7 is corrected accordingly.

family dwellings would be “harmoniously compatible” with adjacent properties. The 20 lot subdivision allows for the designation of two two-family residential lots under the requirements of SMC 10.12.040. Such lots can still be developed with single family structures.

a. *Lot Size:* Lot size in the R-1 is based on the slope and utility infrastructure present on the property. SMC 10.12.030. The slope of the two lots is less than 10%, so the minimum lot size for a two family dwelling is 9,000 square feet. Both of the designated lots meet the minimum lot size requirement. As discussed above, this is not affected by the use of private access easements.

b. *Harmonious Compatibility with Adjacent Property:* Compatibility is a question of fact. As reviewed under SEPA, proposed structure on the two lots would be 28 feet in height. Although some public comment suggested to the contrary, the development of 10% of the lots within an R-1 district subdivision into duplexes is not inherently incompatible with adjacent properties, given the allowance for the lot designations in SMC 10.12.040 and Table 28A-5.

Some context for the understanding of what constitutes “harmonious” compatibility is provided by the *Comprehensive Plan*. Objective HSG 1 seeks to maintain and upgrade the character of existing residential neighborhoods. Objective HSG 4 encourages new residential construction to be compatible with existing residential development. Policy HSG 4 relates this compatibility to architectural, maintenance and landscaping standards within developments.

The staff report notes that the two lots border existing residential lots to the north. The developed lots to the north are all 0.44 acre more or less. The houses are one and two story (i.e., finished or partially finished daylight basements) single family homes of wood frame construction with brick or painted trim. They have 1,100 to 1,500 square foot footprints. All three of these homes are set back 90 to 100 feet from the rear lot line shared with the proposed duplex lots. There are fences, a retaining wall and a detached garage in the rear yards that appear to provide some site screening of the proposed designated lots. The subject lots are at a lower elevation than the neighbors, and their adjoining on the rear property lines provides for some physical separation between the existing uses and the proposed lots.

The subject lots are also located at the rear lot lines the proposed new lots on Lyle Loop Road rather than sharing common access. One of the lots also borders a 2.8 acre parcel to the east which is partially undeveloped with a single family home located about 170 feet away that gains its access from Selah Loop Road to the east. The home is two stories about 1,300 square feet , plus a partially finished basement.

The subject lots are 100 feet in width, consistent with the widths of the developed residential lots to the north, and enough width to allow for single story units. Lot depths are a slightly shallower 96.5 feet. The building envelopes as shown on a site plan included with the application is 4,360 square feet. This is based on a 15 foot rear setback, which does not meet the minimum standard for the R-1 zone (20 feet). The 30 foot front setback shown on the site exceeds the standard but may be necessary for off-street parking. The 35% lot coverage standard reduces the potential building footprint to 3,365 to 3,379 square feet (1,682 to 1,690 square feet

per one-story unit – including garages). Conversely, there is no substantial evidence that the subject lots cannot be developed in a manner compatible with adjacent land uses.

If a land use application, such as a preliminary plat review application is to be denied in whole or in part, the denial must be supported by findings of fact and the basis for denial set out to avoid arbitrary action. Popular prejudices or potentially inaccurate stereotypes do not provide adequate evidence for denial of an application. *Sunderland Family Treatment Services v. City of Pasco*, 127 Wn.2d 782, 797, 903 P.2d 986 (Wash. 1995). Generalized concerns about property values fall into this category of evidence.

Some public comment suggests that it is not appropriate to “hide away” the prospective duplexes on Lots 19 and 20. Rather, it is argued that the duplex lots should be located in close proximity to Herlou Drive where additional trip generation effects can be better absorbed. However, these points do not substantively address the incompatibility with adjacent properties, if any, of duplexes such as those described in the SEPA documents. To the contrary, the factual recitation in the staff report gives no indication that the proposed uses would substantially affect adjacent properties. Again, generalized concerns about the potential rental use of duplexes do not sustain a denial of a proposed use.

(4) Provisions for schools:

No school district comments or comments from any other party indicate that the school system will not be able to adequately absorb prospective increases in numbers of students in local schools as a result of the project.

(5) Other considerations of public health, safety and welfare and the public interest:

The hearing examiner may, at the examiner's discretion, recommend higher standards than those set forth in the subdivision and zoning provisions of the Title 10 SMC if the examiner determines it is necessary to protect the health, safety, welfare and public interest of the city. SMC 10.50.026. Neither the application materials nor the staff report contain information that resolve the questions of adequate pedestrian safety or the standards that may be applicable to private roadway design. The fact that the street is private does not mean that public interest considerations do not apply. As noted above, the City's design standards serve to assure that adequate provision is made for streets and pedestrian traffic as required under RCW 58.17.110 and SMC 10.50.025. A common means of serving residential lots not otherwise integrated into the street system is with a cul-de-sac. While a cul-de-sac is not a required means of street termination in residential areas it is noteworthy that a street section connecting a cul-de-sac turnaround area to a through street is subject to roadway design requirements. These include sidewalks.

No specific private street design standards are included in the subdivision ordinance. As a matter of public record, in some Planned Development residential subdivisions, 20-foot road widths have been approved in the City. However, the current proposal is not part of a planned

development. The proposed road width is on par with that of an alley.<sup>7</sup> In addition, as a private street, the proposed street would not be subject to typical city parking regulation and other measures to manage congestion, parking and traffic safety. Since no information has been provided by the Applicant to suggest that traffic and pedestrian safety is effectively served by a road and sidewalk design that is different from typical local access roadway design in residential areas, it is appropriate that the private street should also comply with such design requirements.

#### **11. ADDITIONAL PUBLIC COMMENT ISSUES**

Most of the public comments received on this proposal have been addressed in the context of the specific standards applied in the preliminary plat review. One commenter raised issues bearing on the adequacy of completion of the application materials, including the plat map. Administrative procedures are addressed in Title 21 SMC. The administrative official determines when a land use application is complete. The determination of completeness is to be made when the application is sufficient for continued processing even though additional information may be required or project modifications may be subsequently undertaken. If the information necessary for a final administrative action (such as a Hearing Examiner recommendation) is not provided, such information can be addressed in the course of the proceeding. A determination of completeness may be incorrect, but generally, this does not invalidate an administrative decision unless a person can claim that they were prejudiced as a result of the procedural failure. Though one public commenter clearly claimed that more information was required for the application materials, no claim of prejudice was made.

Several commenters raised concerns regarding the adequacy of evidence to support any SMC 10.50.070 exception determination. In short, while the private street proposal was raised on forms indicating that the Applicant was seeking a modification of subdivision design standards, such a proposal does not require an exception request.

From the foregoing findings, the Hearing Examiner makes the following

#### **IV. CONCLUSIONS.**

1. The Hearing Examiner has jurisdiction to conduct an open record hearing on the application for a preliminary plat review, and make a recommendation to the Selah City Council regarding the sufficiency of the plat. The Hearing Examiner also had jurisdiction to make discretionary recommendations concerning additions to the minimum subdivision standards in the public interest.
2. The proposed preliminary plat is consistent with the *2005 Comprehensive Plan* future land use designation.

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<sup>7</sup> Per Appendix A to Title 10, "Alley" means a public thoroughfare or way having a width of not more than twenty feet which affords only a secondary means of access to abutting property."

3. The designation of Lots 19 and 20 as future two family residential lots is consistent with SMC 10.12.040.

4. No exception to the subdivision design standards is required for the proposed private street to serve Lots 17, 18, 19 and 20.

5. The proposed preliminary plat, if properly conditioned, complies with applicable subdivision and zoning standards.

6. The proposed private street meets the requirements of SMC 10.50.041(d)(4) and related ordinances. However, since no information has provided by the Applicant to suggest that traffic and pedestrian safety is effectively served by a road and sidewalk design that is different from typical local access roadway design in residential areas, it is appropriate that the private street roadway width should also be recommended to comply with such typical design requirements, and the access easement should be sized to such a width accordingly. In the event that the Applicant can demonstrate satisfaction of exception requirements for a reduction in suitable private roadway width, it can do so in a specific proceeding complying with SMC 10.50.070.

7. Any of the findings set forth in III. FINDINGS, above that are properly characterized as conclusions are deemed to be such.

#### **V. RECOMMENDATIONS.**

The Hearing Examiner makes two recommendations:

First, the application for preliminary plat review by Zuker-Sample Development, LLC for "Preliminary Plat of Somerset II" as specified in the application materials (File No. 912.82.13-01) should be APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. All design and/or improvement notations indicated on the preliminary plat are included as conditions of preliminary plat approval. This condition is not intended to limit the Public Works Department in the exercise of its authorities under other provisions of the Selah Municipal Code.

2. All the design and improvement notations indicated on Exhibit 7 in the record ("Variance Proposal, Somerset II, March 17, 2015), except as modified by the other conditions imposed by the City Council in this preliminary plat review proceeding, are included as conditions of preliminary plat approval

3. Lots 19 and 20 are authorized to be designated as two-family residential lots on the final plat and maybe developed into two-family residential structures up to 28 feet in height following final plat approval, subject to the following additional special requirements:

- a. The two-family residential designation of these lots applies only to these lots and may not be transferred to other lots in the subdivision.
  - b. Off-street parking shall be provided on the lots to provide 4 spaces per each duplex. No credit against this requirement shall be allowed for garages and tandem parking.
  - c. Building materials shall be consistent in appearance with that of surrounding single-family homes. To further ensure harmonious development of the designated lots with the development of single family lots in the subdivision, restrictive covenants that describe the required building specifications for the two-family dwellings shall be recorded prior to recording the final plat for the phase in which they are in.
  - d. Building specifications from the restrictive covenants for the proposed two-family dwellings shall be submitted to the Planning Department to review for consistency with these conditions prior to recording the final plat for the phase in which they are in.
  - e. This decision does not preclude the development of detached single-family residences on any of these lots.
4. Final lot dimensions and lot area must substantially conform to the preliminary plat.
5. A preliminary engineering report and/or plan, prepared by a Licensed Professional Engineer, demonstrating the feasibility of constructing all public improvements required by Selah Municipal Code, Chapter 10.50, must be submitted to and approved by the Public Works Department for each separately designated phase of development prior to commencement of construction.
6. Construction plans and specifications must be reviewed and approved by the Public Works Department prior to commencement of construction of each separately designated phase of development. Specifications for improvements shown on the preliminary plat are minimum specification which may be superseded by the conditions contained herein or by specific conditions as approved by the Public Works Department. Upon completion of construction and prior to final plat approval (of each development phase for which final plat approval is sought), reproducible final "as-built" construction plans and a written certification by a Licensed Professional Engineer that said improvements were completed in accordance with the City of Selah Design and Construction Standards dated March, 2012, must be submitted to the Public Works Department for approval. All required compaction and inspection reports shall also be submitted to the Public Works Department.
7. Reports, plans and specifications previously submitted shall count toward meeting the requirements of Conditions #5 and #6 if accepted by the Public Works Director to the extent of the improvements for which they are determined to be sufficient.
8. All lots must be served with a full range of public services/private utilities. All public services/private utilities must be underground and installed prior to the surfacing of

streets. Lots 17 through 20 shall be served by an 8 inch sewer line extended in the utility easement across Lots 11 and 12 and then continued to the other lots in the access and utility easement as shown on the Preliminary Plat. There shall be a moratorium on street cuts for a period of five (5) years from the date of each phase recording.

9. 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%.

9. The private street roadway shall be constructed as a hard-surfaced street to specifications approved by the Public Works Director prior to recording the final plat. The street shall have a minimum surface width of 20 feet, subject to increased requirements imposed by the City Council in this proceeding.

10. The private street shall be designated "no-parking" as shown by the site plan submitted with the preliminary plat application and shall be posted with signs prior to final plat approval.

11. Covenants or a road maintenance agreement among the owners of Lots 17, 18, 19 and 20, 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 Planning Department prior to recording the final plat. If driveway access to Lots 13 and 14 is made available from the private street, such covenants or agreement shall include owners of Lots 13 and 14.

12. Driveway access to Lots 13 and 14 shall be limited to Lyle Loop Road and the part of the private access easement passing in a north-south direction between them.

13. 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.

14. 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.

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. Areas reserved for sight distance vision triangles shall be shown and noted on the final plat. (Selah Code, Chapter 10.50).

17. Dust control measures shall be implemented as required by the Yakima Regional Clean Air Authority rules and regulations. The Developer shall advise the Public Works Department of the name and phone number of the contact person to report alleged dust control violations.

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

19. An NPDES Construction Stormwater General Permit shall be obtained unless determined by the Department of Ecology that it is not required.

20. The following notes shall be placed on the final plat map(s):

"The owner(s) shown hereon, their grantees and assignees in interest hereby covenant and agree to retain all surface water generated within the plat on-site."

21. The applicant shall recommend a street name to assign to the private access street and shall submit the name to the Planning Department for approval prior to recording the final plat. The approved street name shall be shown on the face of the final plat.

22. A surety bond, or such other secure financial method, in the amount of 15% of the cost of the public improvements (as each final plat phase is submitted) (i.e., roads, sidewalks, street lights, drainage facilities, sewer collection and water distribution facilities, etc.) shall be remitted to the City and held for a period of two years to guarantee against defects of workmanship and materials.

23. 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.

24. Improvements required for the subdivision must be completed and the final plat must be submitted within the maximum 5-year time period required by RCW 58.17.140. 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.

Second, the Hearing Examiner recommends that the private access street comply with roadway section design standards applicable to local access residential streets as determined by the Public Works Director in accordance with City of Selah Design and Construction Standards dated

March, 2012. This recommendation supplements Condition 9 and 10 recommended for the preliminary plat in the first recommendation, above.

DATED THIS 26<sup>th</sup> DAY OF JUNE, 2015.



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PATRICK D. SPURGIN  
HEARING EXAMINER



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



**COUNCIL MEETING      ACTION ITEM**

**7/14/2015      N – 1**

**Title:** Ordinance Authorizing the Acquisition of Personal Property and Execution of a Financing Contract and Related Documentation Relating to the Acquisition of Said Property.

**Thru:** Donald Wayman, City Administrator

**From:** Joe Henne, Public Works Director

**Action Requested:** Approval

**Board/Commission Recommendation:** Not applicable

**Fiscal Impact:** \$993,788.00

**Funding Source:** Streets 110, Water 411, Sewer 415 & Fire 001

**Staff Recommendation:**

Staff is requesting the City Council approve the ordinance authorizing the acquisition of equipment (personal property) and execution of a financing contract and related documentation for the WWTP and Exterior Lighting Energy Efficiency Project with the Office of the State Treasurer.

**Background / Findings & Facts:**

The City has entered into an agreement with DES to provide personnel and services for work to be performed for the City-wide energy conservation project. The City will participate in reimbursement obligations with the Washington State Treasurer for the DES Energy Efficiency Projects.

**Recommended Motion:**

Approval of the ordinance.



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



**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:

3/24/2015

Resolution Authorizing participation in reimbursement obligations with the Washing State Treasurer for Energy Efficiency Projects.

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

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ORDINANCE NO. \_\_\_\_\_

**ORDINANCE AUTHORIZING THE ACQUISITION OF  
PERSONAL PROPERTY AND EXECUTION OF A  
FINANCING CONTRACT AND RELATED  
DOCUMENTATION RELATING TO THE ACQUISITION  
OF SAID PERSONAL PROPERTY**

WHEREAS, the City of Selah (the “Local Agency”) has executed a Notice of Intent to the Office of State Treasurer, in the form attached hereto as Attachment 1 (the “NOI”), in relation to the acquisition of and the financing of the acquisition of the Property, as defined below, under the provisions of RCW ch 39.94; and,

WHEREAS, it is deemed necessary and advisable by the Mayor of the Local Agency that the Local Agency acquire the equipment and/or personal property identified on Attachment 1 attached hereto (“Property”); and,

WHEREAS, it is deemed necessary and advisable by the Mayor of the Local Agency that the Local Agency enter into a Local Agency Financing Contract with the Office of the State Treasurer, in the form attached hereto as Attachment 2 (the “Local Agency Financing Contract”), in an amount not to exceed \$993,788.00, plus related financing costs, in order to acquire the Property and finance the acquisition of the Property; and,

WHEREAS, the Local Agency will undertake to acquire the Property on behalf of and as agent of the Washington Finance Officers Association (the “Corporation”) pursuant to the terms of the Local Agency Financing Contract, and in accordance with all applicable purchasing statutes and regulations applicable to the Local Agency; and,

WHEREAS, the Local Agency desires to appoint the individuals set forth in Attachment 3 as the representatives of the Local Agency in connection with the acquisition of the Property and execution of the Local Agency Financing Contract (each an “Authorized Agency Representative”); and,

**NOW THEREFORE BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE  
CITY OF SELAH:**

**SECTION 1.** The individual holding the office or position set forth in Attachment 3 is hereby appointed as the representative of the Local Agency in connection with the acquisition of the Property and execution of the Local Agency Financing Contract and all other related documents. A minimum of one Authorized Agency Representative shall be required to execute any one document in order for it to be considered duly executed on behalf of the Local Agency.

**SECTION 2.** The form of the Local Agency Financing Contract attached hereto as Attachment 2 is hereby approved and the Authorized Agency Representatives are hereby authorized and directed to execute and deliver the Local Agency Financing Contract, in an amount not to exceed \$993,788.00, plus related financing costs, and in substantially the form

attached hereto with such changes as may be approved by the Authorized Representatives for the acquisition of the Property and financing of the acquisition of the Property.

**SECTION 3.** The Local Agency hereby authorizes the acquisition of the property as agent of the Corporation in accordance with the terms and provisions of the Local Agency Financing Contract.

**SECTION 4.** The Authorized Representative is hereby authorized to execute and deliver to the Office of State Treasurer all other documents, agreements and certificates, and to take all other action, which they deem necessary or appropriate in connection with the financing of the Property, including, but not limited to, any amendment to the NOI and agreements relating to initial and ongoing disclosure in connection with the offering of securities related to the financing.

**SECTION 5.** Effective Date: This ordinance shall be published in the official newspaper of the City and shall take effect and be in full force five (5) days after the date of publication.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON this 14<sup>th</sup> day of July, 2015.

\_\_\_\_\_  
John Gawlik, Mayor

ATTEST:

\_\_\_\_\_  
Dale E. Novobielski, Clerk/Treasurer

APPROVED AS TO FORM:

\_\_\_\_\_  
Robert F. Noe, City Attorney

ORDINANCE NO. \_\_\_\_\_

## **Certificate of Authorizing Ordinance**

I, the undersigned, Clerk/Treasurer of the City of Selah (the “Local Agency”), DO  
HEREBY CERTIFY:

1. That the attached Ordinance No. \_\_\_\_\_ (herein called the “Ordinance”) is a true and correct copy of an Ordinance of the Local Agency adopted/passed at a regular meeting of the City Council of the City of Selah held on the 14th day of July, 2015, and duly recorded in my office;

2. That said meeting was duly convened and held in all respects in accordance with law; and to the extent required by law, due and proper notice of such meeting was given; that a quorum of the City Council was present throughout the meeting and a legally sufficient number of members of the City Council voted in the proper manner for the adoption/passage of the Ordinance;

3. That all other requirements and proceedings incident to the proper adoption/passage of the Resolution/Ordinance have been duly fulfilled, carried out and otherwise observed;

4. That the Ordinance remains in full force and effect and has not been amended, repealed or superseded; and

5. That I am authorized to execute this certificate.

IN WITNESS WHEREOF, I have hereunto set my hand as of this 14th day of July, 2015.

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Dale E. Novobielski, Clerk/Treasurer

## **Certificate Designating Authorized Agency Representative**

I, John Gawlik, Mayor of the City of Selah (the "Local Agency"), hereby certify that, as of the date hereof, pursuant to Ordinance No. \_\_\_\_\_, the following individual is the "Authorized Agency Representative," as indicated by the title appended to the signature, that the following individual is duly authorized to execute and deliver the Local Agency Financing Agreement to which this Certificate is attached as Exhibit C, and all documentation in connection therewith, including but not limited to the Personal Property Certificate(s) attached thereto as Exhibit B, that the signatures set forth below is the true and genuine signature of said Authorized Agency Representative and that pursuant to such ordinance, 1 of the 1 following signature is required on each of the aforementioned documents in order to consider such documents executed on behalf of the Local Agency:

Dated this 14th day of July, 2015.

\_\_\_\_\_  
John Gawlik, Mayor, City of Selah

SUBSCRIBED AND SWORN TO before me this 14th day of July, 2015.

By: \_\_\_\_\_  
NOTARY PUBLIC in and for the  
State of Washington, residing at:

\_\_\_\_\_  
Printed Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

Transaction No. \_\_\_\_\_

Annex 2 to Authorizing Resolution (Equipment)

## **LOCAL AGENCY FINANCING CONTRACT, SERIES 2015B**

### **(EQUIPMENT)**

This Local Agency Financing Contract, Series 2015B (the "Agency Financing Contract") is entered into by and between the state of Washington (the "State"), acting by and through the State Treasurer (the "State Treasurer"), and the City of Selah, a Municipality of the State (the "Local Agency").

### **RECITALS**

WHEREAS, certain State agencies (as defined in Appendix I hereto, "State Agencies") are authorized to acquire real and personal property used or needed by such State Agencies through Agency Financing Contracts entered into pursuant to Chapter 356, Laws of Washington, 1989, codified as Chapter 39.94 of the Revised Code of Washington (the "RCW"), as supplemented and amended (the "Act"); and

WHEREAS, Chapter 291, Laws of Washington, 1998 supplemented and amended the Act to authorize the State to enter into Agency Financing Contracts on behalf of certain local agencies (as described therein, "Local Agencies"), including the Local Agency, to finance the acquisition of real and personal property by such Local Agencies; and

WHEREAS, the State Treasurer has established a consolidated program providing for the execution and delivery of certificates of participation in such Agency Financing Contracts, or in Master Financing Contracts with respect thereto, in series from time to time in order to provide financing or refinancing for the costs of acquisition of real and personal property by State Agencies and Local Agencies; and

WHEREAS, simultaneously with the execution and delivery hereof, the State is entering into a Master Financing Contract, Series 2015B, dated as of the Dated Date (the "Master Financing Contract") with the Washington Finance Officers Association, a nonprofit corporation duly organized and existing under and by virtue of the laws of the state of Washington (the "Corporation"), to provide financing for the costs of acquisition of certain items of personal property by certain State Agencies and Local Agencies, including the Local Agency, under the terms set forth therein; and

WHEREAS, the State Treasurer and the Local Agency have determined that it is necessary and desirable to enter into this Agency Financing Contract to provide financing or refinancing for the costs of acquisition of certain items of personal property, described in Exhibit B hereto (the "Property"), by the Local Agency; and

WHEREAS, the State Finance Committee has authorized the execution and delivery of this Agency Financing Contract pursuant to Resolution No. 987 adopted on October 7, 2003; and

WHEREAS, all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and delivery of this Agency Financing Contract do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the Parties hereto are now duly authorized to execute, deliver and perform their respective obligations under this Agency Financing Contract;

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein and for other valuable consideration, the Parties hereto mutually agree as follows:

Section 1.1 Defined Terms. Capitalized terms used but not otherwise defined in this Agency Financing Contract shall have the respective meanings given such terms in Appendix I hereto.

Section 1.2 Notice of Intent; Personal Property Certificate; Certificate Designating Authorized Local Agency Representative. The Local Agency has delivered a Notice of Intent to the State Treasurer in the form of Exhibit A attached hereto and incorporated herein by this reference. In order to evidence its acceptance of the Property financed and acquired pursuant hereto, the Local Agency has executed and delivered herewith, or will execute and deliver within 60 days from the Dated Date to the State Treasurer, a Personal Property Certificate in the form of Exhibit B attached hereto and incorporated herein by this reference. The Local Agency has delivered a Certificate Designating Authorized Agency Representatives to the State Treasurer in the form of Exhibit C attached hereto and incorporated herein by this reference. Said Certificate is currently in force and has not been amended, withdrawn or superseded, and the signatures shown thereon are true and correct originals of the signatures of the persons who hold the titles shown opposite their names. The signature of any one of the individuals shown on said Certificate is sufficient to bind the Local Agency under this Agency Financing Contract with respect to any of the undertakings contemplated herein. The terms and provisions set forth in Appendix II hereto are incorporated herein and made a part hereof by this reference.

Section 1.3 Installment Sale and Purchase of Property. The State hereby agrees to sell, assign and convey, and does hereby sell, assign and convey to the Local Agency, and the Local Agency hereby agrees to purchase, acquire and assume, and does hereby purchase, acquire and assume, from the State, all of the State's right, title and interest in and to the Property and all proceeds and profits thereof and therefrom, subject to the security interest created pursuant to Section 2.5 of Appendix II hereof, and the Local Agency agrees to pay in consideration thereof the Purchase Price therefor and interest thereon and the Additional Costs in accordance with Section 1.4 hereof, and all other amounts required to be paid by the Local Agency hereunder, all in accordance with the provisions of this Agency Financing Contract.

Section 1.4 Agency Installment Payments. In consideration of the sale of the Property and the covenants and agreements of the State in this Agency Financing Contract, the Local Agency hereby promises to pay to the State the following amounts at the following times: (a) On each Agency Installment Payment Date, the Agency Installment Payment set forth in Exhibit D hereto, consisting of a Principal Component and/or an Interest Component as set forth in such Exhibit; and (b) All Additional Costs incurred by the State in connection with the sale of the Property to the Local Agency, the execution and delivery of the Certificates, and the observance and performance of the Series 2015B Agreements, within thirty (30) days following receipt of an invoice from the State with respect thereto which includes (i) a brief description of each such Additional Cost, (ii) the party to whom payment is due, (iii) the amount thereof, and (iv) such additional information as the Local Agency may reasonably request.

Section 1.5 Term. The term of this Local Agency Financing Contract shall commence on the Dated Date and shall terminate on the date on which all amounts due hereunder shall have been paid or the payment thereof duly provided for pursuant to Section 4.3 of Appendix II hereof.

STATE OF WASHINGTON  
OFFICE OF THE STATE TREASURER

CITY OF SELAH  
as Local Agency

By

By

\_\_\_\_\_  
Designated Treasurer Representative

\_\_\_\_\_  
Authorized Agency Representative

# Notice of Intent

State of Washington LOCAL (Local Option Capital Asset Lending)

## Local Government Information

County: Yakima

Legal Name: City of Selah

MCAG No.: 0844

Contact Person: Dale Novobielski

Title: Clerk-Treasurer

Address: 115 W Naches, Selah, WA

Zip: 98942

Phone: 509-698-7334

Fax: 509-698-7338

E-mail: DNovobielski@ci.selah.wa.us

Would you prefer to receive financing documents (check one):

by e-mail

Already have financing documents

Hard copy by U.S. mail

## Property (Real Estate or Equipment)

Property description (include quantity, if applicable): LED Street Lights and Building Lighting – interior and exterior.

WWTP equipment including; aeration mixer, 75 HP blower, 3 pumps and variable frequency drives.

Total cost: \$1,661,428.00

Maximum amount to finance: \$993,788.00

Finance term: 15 years

Useful life: 20 years

Desired financing date: August 2015

Purpose of property (Please be specific and include dept. of use): Facilities upgrades through energy efficiency project.

If real estate, the Real Estate Worksheet:  Is attached

Will be provided by (date) \_ \_

If equipment, will the property purchase price be paid with:  program proceeds or  general funds to be reimbursed from program proceeds? If general funds are to be used, include a copy of the local agency's reimbursement resolution with the financing documents.

## Security Pledge

Voted general obligation of local government.  Non-voted general obligation of local government

## Other Information

Approximate population: don't need (not required for cities and counties).

If any of the following apply, please provide a complete discussion on a separate page:

Yes  No Does the local government use registered warrants, interfund loans or other cash flow borrowing?

Yes  No Is the local government a party to significant litigation?

Yes  No Is this a reimbursement? If yes, date funds spent \_ \_

Has local government received a bond rating in the last two years?  Yes  No Bond rating(s): AA-  
(attach rating agency letter)

By executing this Notice of Intent, the local agency acknowledges, agrees to and accepts its designation and appointment as the agent of the nominal lessor in connection with the acquisition of the project. By executing this Notice of Intent, the local agency further acknowledges and agrees that certificate counsel and any other special counsel to the state in connection with the authorization, issuance and delivery of the certificates and the related financing documents shall not be acting, and shall not be deemed to act, as counsel to the local agency, nor shall any attorney-client relationship exist or be deemed to exist between such counsel and any participating local agency in connection with such matters.

Submitted by: Dale Novobielski Title: Clerk-Treasurer

Signature: [Signature] Date: 4-15-15