

# SELAH CITY COUNCIL

6:30pm July 28, 2015



Selah City Council  
 Regular Meeting  
 Tuesday, July 28, 2015  
 6:30pm  
 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
  - Andrew Potter a. Selah Downtown Association Quarterly Report
- 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: July 14, 2015 Council Meeting
- Dale N. \* 2. Approval of Claims & Payroll

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

Charlie Brown 2. Resolution Supporting the Selah Park and Recreation Service Area's (SPRSA'S) Bond Measure Proposition Authorizing the SPRSA to Issue General Obligation Bonds to Finance the Costs of Acquiring, Constructing, and Equipping Swimming Pool Facilities

N. Ordinances

Dale N. 1. Ordinance Amending the 2015 Budget for Professional Services to Update the Police Department's Operating Policy & Procedure Manual

O. Reports/Announcements

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

Caprise Groo a. Planning Commission Minutes – March 17, 2015

P. Executive Session

- 1. 30 Minute Session – Real Estate RCW 42.30.110(1)(b)

Q. Adjournment

Next Study Session August 11, 2015  
Next Regular Meeting August 11, 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**

**7/29/2015      G – 2A**

**Title:** Selah Downtown Association Quarterly Report

**Thru:** Donald Wayman, City Administrator

**From:** Andrew Potter, Assistant to the City Administrator

**Action Requested:** Informational - No action

**Board/Commission Recommendation:** Not applicable

**Fiscal Impact:** N/A

**Funding Source:** N/A

**Staff Recommendation:**

Informational Only

**Background / Findings & Facts:**

Attached is the Treasurer's Report given at the most recent SDA meeting held on 7/13/2015.

**Recommended Motion:**

N/A

Selah Downtown Association  
Treasurer Report  
7/13/15

INCOME

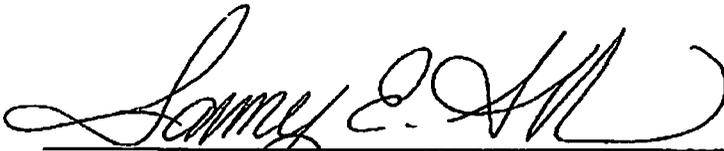
Beg. Balance	\$22,780.33
Event Sponsorships	\$450.00
B&O Tax incentive donation	\$500.00
Total Income	<u>\$23730.33</u>

EXPENSES

GL Insurance Cov.	\$8.00
Art Show Expenses	\$291.00
Brand Unveiling Expenses	\$94.74
Triathlon Expenses	\$70.00
Shawnee Olsen (binders for board members)	\$26.75

Total Expenses	<u>\$490.49</u>
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<u>CURRENT BALANCE ON HAND</u>	<u>\$23,239.84</u>
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Tammy E. Allan, Treasurer SDA

7/13/15

Date



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



**COUNCIL MEETING      ACTION ITEM**

**7/28/2015**

**I – 1**

**Title:** Approval of Minutes: July 14, 2015 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)

City of Selah  
Council Minutes  
July 14, 2015

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

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

**B. Roll Call**

Members Present: John Tierney; Dave Smeback; Allen Schmid; Roy Sample; Jane Williams;  
Laura Ritchie

Members Excused: Paul Overby

Staff Present: Don Wayman, City Administrator; Bob Noe, City Attorney; Gary Hanna,  
Fire Chief; Eric Steen, Deputy 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; Monica Lake, Executive Assistant

**C. Pledge of Allegiance**

Council Member Schmid led the Pledge of Allegiance.

**D. Agenda Changes**

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

**Council Member Williams moved, and Council Member Smeback seconded, to remove N – 1 from the Consent Agenda. By voice vote, approval was unanimous.**

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. 78605 – 78634 for a total of \$233,500.02  
Payroll Checks Nos. 78635 – 78659 for a total of \$184,952.91  
Payroll Checks Nos. 78660 – 78709 for a total of \$246,387.81  
Payroll Checks Nos. 78710 – 78814 for a total of \$219,952.88  
Claim Checks Nos. 65941 – 65943 for a total of \$ 44,549.04  
Claim Checks Nos. 65944 – 66028 for a total of \$311,584.44  
Claim Checks Nos. 66029 – 66030 for a total of \$ 99,595.26  
Claim Checks Nos. 66031 – 66034 for a total of \$ 4,000.00  
Claim Checks Nos. 66035 – 66142 for a total of \$665,746.44

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

J. Public Hearings None

K. New Business

1. Lexipol, Law Enforcement Standard Operating Procedures Manual

Deputy Police Chief Steen addressed K – 1. He said that they are requesting to transfer money from one line to another to allow them to purchase a Standard Operating Procedures (SOP) Manual for the department from a company called Lexipol. He noted that this would help to reduce liability for the department, the City and the officers themselves, adding that the start-up costs are four thousand nine hundred fifty dollars, with an annual maintenance fee of four thousand four hundred fifty dollars.

Mayor Gawlik requested that he provide Council with the pros and cons.

Deputy Police Chief Steen replied that it will reduce liability because it tests officers on policies and procedures daily; when an officer knows and abides by the SOP it reduces liability, and if an officer

steps outside those bounds it protects the City, because it will be documented that they've been tested on the SOP. He added that Lexipol automatically updates the manual to reflect case law changes.

Council Member Tierney stated that he has worked extensively with various agencies using Lexipol, which has both positives and negatives. He asked if they would send out a training scenario when changes to case law are statute are made, or if it would be buried in the regular exams taken.

Deputy Police Chief Steen replied that when things are changed they send a bulletin to all agencies affected, then after that they would see scenario based questions to makes sure officers understand them. He said that the program is done by a former California Highway Patrol officer who became an attorney, adding that he himself, as well as most of the officers under him, have been to his training classes. He remarked that Lexipol comes to the agency and works with them to create an SOP unique to that entity.

Council Member Ritchie wondered what they were currently using as a training manual.

Deputy Police Chief Steen responded that they do have an SOP manual, which was written many years ago under Chief Roberts and updated by himself when Chief Hayes took over. He noted that it has been updated but it doesn't get the attention it should.

Council Member Ritchie inquired if he had talked with other agencies, such as the Yakima County Prosecutor's office about updating their SOP manual.

Deputy Police Chief Steen responded that he has not talked to the Prosecutor's office, although he did look at a couple other agencies that perform this service, neither one of which was as good as Lexipol. He commented that a portion of the current manual came from the Yakima County Sheriff, which was converted to fit Selah.

Council Member Ritchie asked if switching to Lexipol would replace some of the training and save the department any money.

Deputy Police Chief Steen replied that the training will be specific to their SOP regarding policies, allowing them to test more frequently and count the documented testing towards the required minimums.

Council Member Ritchie wondered if this could come out of the line item for training.

Council Member Tierney commented that they are two different things.

Deputy Police Chief Steen responded that it's difficult to give a definitive answer, as the current procedure for updating the manuals takes a fair amount of time and doesn't provide the officers with the same amount of training. He noted that it came down to the liability aspect when he researched companies.

Council Member Ritchie inquired where the funds would come from for the next year.

Deputy Police Chief Steen replied that they would have to budget for it on an annual basis.

Council Member Ritchie asked if other local agencies have something similar.

Deputy Police Chief Steen remarked that he believes the Yakima Police Department uses Lexipol, as do other agencies around the State.

Mayor Gawlik inquired if SOPs vary from agency to agency.

Deputy Police Chief Steen responded in the affirmative.

Council Member Ritchie asked if they could cancel at any time.

Deputy Police Chief Steen replied in the affirmative, saying that if they don't like it they can get out. He noted that it's an annual commitment, and that the system monitors when an officer logs in, reads the material and is tested on it.

Council Member Williams inquired if the officers would be able to do that on their laptops while on duty.

Deputy Police Chief Steen responded in the affirmative, stating that it's a cloud-based service; officers can log in and test while monitoring traffic.

Council Member Tierney inquired how long it would take to update the SOP in-house, have it printed, and test employees on it.

Deputy Police Chief Steen told him it would take a very long time.

Mayor Gawlik felt that the city can't be too guarded in our education and policies within the Police Department in today's world.

**Council Member Tierney moved, and Council Member Smeback seconded, to authorize the Police Department to contract with Lexipol and approve a line transfer of funds for the first year. Roll was called: Council Member Tierney – yes; Council Member Smeback –yes; Council Member Schmid – yes; Council Member Sample – yes; Council Member Williams – yes; Council Member Ritchie – yes. By voice vote, approval was unanimous.**

L. Old Business **None**

M. Resolutions

1. Resolution Approving the Preliminary Plat of "Somerset II" (912.42.15-02) and Adopting Findings and Conditions of Preliminary Plat Approval

Mayor Gawlik informed those in the audience that Council has requested that he be more attentive to the time frame being used by people who come to podium to speak, and to that effect those who provided testimony at the Hearing Examiner's meeting will be given two minutes to speak, once the City and the

proponent have spoken. He reminded everyone that this is a closed record hearing, and no new testimony can be introduced. He read aloud the list of those who spoke at the open record hearing.

Council Member Tierney wondered if Council Member Sample would need to leave the room after recusing himself.

City Attorney Noe responded that he could remain, but would be unable to vote.

Council Member Sample stated that he recused himself, and that he had no further statements to make.

Community Planner Durant addressed M – 1. He reviewed the application for Somerset II, including a description of the subdivision, lots sizes, and the request for approval of a private road, then went through the Hearing Examiner's recommendation and twenty-five conditions. He requested that Council adopt the Hearing Examiner's decision to approve the preliminary plat, but approve the private road in the configuration proposed rather than the Hearing Examiner's suggested version.

Council Member Tierney asked how the private road related to items ten and eleven of the conditions.

Community Planner Durant responded that, if Council adopted condition ten, which is most relevant, they would be imposing a higher standard than the twenty foot minimum required. He noted that it does say that the private street shall be approved by the Public Works Director and that some standard will have to be presented as part of the final plat approval.

Council Member Ritchie pointed out a lack of sidewalks and curbs.

Community Planner Durant replied that those are required on public streets, but he didn't feel that a twenty foot road would be wide enough for a curb and still comply with Fire Codes.

Council Member Ritchie read aloud a definition of a street per City Code, saying that she thinks the code required sidewalks on one side of the street whether it is public or private.

Community Planner Durant remarked that the whole issue comes down to private streets being prohibited unless certain standards are met, but the City has no private street standards.

Council Member Williams stated that the information provided in their packets was incomplete.

Mayor Gawlik requested that she explain her comment.

Council Member Williams said that it pertains to the overall ability to make a determination in this case. She noted some missing pages in the packet, and added that they were given a CD to listen to that she was unable to hear because it required a special program to do so.

Mayor Gawlik asked who prepared the packet.

Community Planner Durant replied that it was Public Works staff.

Council Member Williams asked if information to help them understand what residential road standards would be could be included as well.

Community Planner Durant responded that those weren't provided as an exhibit during the hearing, simply referenced by the Hearing Examiner in his decision, which is why they weren't included.

**Council Member Williams expressed her frustration with trying to make a decision with incomplete information.**

Public Works Director Henne observed that the road standard referenced in condition nine is the fifty foot right of way per public road standards.

Council Member Williams asked if there was a separate standard for limited access roads.

Public Works Director Henne responded in the negative, adding that SRA 23 is designated as limited access, which is typically one per parcel unless they have frontage on a secondary street.

Mayor Gawlik polled the Council to determine how many had the opportunity and ability to listen to the disc. Council Member Tierney was the only individual who had listened to the disc provided.

**Council Member Tierney moved, and Council Member Smeback seconded, to set the matter aside until they have written minutes of the Planning Commission relative to this matter, along with a complete packet, so that they can act on it accordingly.**

Mayor Gawlik wondered if he meant a transcription of the disc.

Council Member Tierney replied in the affirmative.

City Attorney Noe stated that, if Council is going to conduct a closed record hearing, they need to have all information, and all exhibits need to be provided.

Council Member Schmid remarked that this has been a concern for many years, and that sometimes the Council is their own worst enemy in trying to get something through without all the information. He felt it was uncalled for to receive something that thick the Friday before a Council Meeting. He suggested that it be provided to them at least a month prior, to allow sufficient time to review it.

Community Planner Durant noted that they were waiting for the Hearing Examiner's recommendation, which takes approximately two weeks after the hearing to be provided to them.

Mayor Gawlik recommended that Council give back their packets to allow staff to review them and include any missing documentation.

**Council Member Tierney felt that a narrative disc was more difficult than having minutes from the Planning Commission meeting to review.**

Mayor Gawlik inquired if he was requesting a full transcript.

Council Member Tierney responded in the affirmative.

Executive Assistant Lake asked for clarification as to whether he meant a full transcription or the minutes of the meeting in question.

Mayor Gawlik asked Council if they wanted the expense of a true transcription.

Council Member Smeback commented that they took these matters from the Planning Commission and gave them to the Hearing Examiner due to his level of expertise, and that they are now second guessing his recommendation. He felt that a transcription wasn't necessary, just the minutes from the meeting.

Community Planner Durant stated that the Planning Commission didn't hear this case; the disc was submitted by a citizen into the record during the Hearing Examiner's hearing.

City Attorney Noe observed that there is no record of either the minutes or the Hearing Examiner's hearing.

Community Planner Durant indicated that he was correct.

City Attorney Noe remarked that the Council should be provided minutes, a transcript, or a CD of the Hearing Examiner's hearing.

Council Member Ritchie said that she would be satisfied with minutes instead of a transcript.

Council Member Williams wanted a way to listen to the disc, saying that she tried to do so at City Hall.

Executive Assistant Lake explained what had transpired the previous day, when Council Member Williams visited City Hall.

Mayor Gawlik noted that it was a four to one decision regarding the minutes.

Executive Assistant Lake clarified that Council chose minutes not a complete transcript.

Mayor Gawlik called for the vote.

**Roll was called: Council Member Tierney – yes; Council Member Smeback –yes; Council Member Schmid – yes; Council Member Sample – recused; Council Member Williams – yes; Council Member Ritchie – yes. Motion passed with five yes votes and one recusal.**

Wayne Worby approached the podium and addressed the Council. He said that he was unaware he would be limited to two minutes, and felt that it was unfair to have Community Planner Durant present his side without a limitation. He hoped that more time would be allocated next time.

Mayor Gawlik stated that he follows the directive of the Council.

Mr. Worby asked the Council to give a little more time to those who come to speak, saying that he should be accorded more than two minutes.

Mayor Gawlik responded that the opening remarks by Community Planner Durant were for Council's benefit.

**Council Member Sample rejoined the meeting.**

**N. Ordinances**

1. Ordinance Authorizing the Acquisition of Personal Property and Execution of a Financing Contract and Related Documentation Relating to the Acquisition of Said Property

Public Works Director Henne addressed N – 1. He said that these documents are part of the energy program project, which will allow the Washington State Treasurer to sell bonds for the purpose of loaning both the City and those other agencies participating in the program.

Council Member Williams thanked him for what he's doing and requested that he explain the repayment of these funds.

Public Works Director Henne briefly outlined the list of what will be done and the funding sources for the project, as stated at prior meetings.

**Council Member Schmid moved, and Council Member Tierney seconded, to approve the Ordinance Authorizing the Acquisition of Personal Property and Execution of a Financing Contract and Related Documentation Relating to the Acquisition of Said Property. Roll was called: Council Member Tierney – yes; Council Member Smeback –yes; Council Member Schmid – yes; Council Member Sample – yes; Council Member Williams – yes; Council Member Ritchie – yes. By voice vote, approval was unanimous.**

**O. Reports/Announcements**

1. Mayor

Mayor Gawlik had no report.

2. Council Members

Council Member Ritchie had no report.

Council Member Sample said that the Selah Park & Recreation Service Area Board (SPRSA) met yesterday for a teleconference talk with the bond attorney to discuss the bond issue, and that they will meet again next Monday to review the costs for the three proposals and how much the bond issue should be. He remarked that the Selah Downtown Association is working with the City and the Selah Chamber of Commerce on the branding and marketing program.

Council Member Tierney had no report.

Council Member Smeback gave a shout out to those who put together the July 3rd celebration, saying that it was a very well-attended event.

Council Member Williams echoed his comments regarding the July 3rd event. She stated that the next SPRSA meeting will be Monday at 5pm, at the Civic Center, and that they will schedule another meeting at that time.

Council Member Schmid observed that it's nice to be out and about.

### 3. Departmental

Deputy Police Chief Steen had no report.

Fire Chief Hanna said that they are ninety percent done with both the annual hose testing and hydrant maintenance within the City. He noted that both vehicle chassis have been delivered to the builder, with a projected completion date of September. He stated that they have been busy with calls, although the countywide burn ban has slowed things down a bit.

Recreation Manager Brown said that the pool is operating well; they'll be doing some crack repair tonight which shouldn't interfere with swim lessons in the morning. He noted that the bond issue for the new pool will be the topic of discussion at the next SPRSA meeting.

Council Member Williams inquired what they were waiting on to proceed with Volunteer Park.

Recreation Manager Brown responded that the agreement still needs to be signed; the State is running a bit behind schedule.

Clerk/Treasurer Novobielewski said that the June sales tax revenues for June came in at approximately eighty seven thousand, which puts the City at sixty percent of what was budgeted. He estimated that there could be roughly seventy-five thousand over budget by year's end.

Community Planner Durant said that the draft of the new Planned Development Ordinance will go before the Planning Commission next week.

Mayor Gawlik asked if it was posted on the City's website.

City Administrator Wayman responded in the affirmative, saying that what is posted is a draft for the public to review, which includes notes from the consultant. He commented that it's a good start for the Planning Commission to craft a new Ordinance.

Mayor Gawlik noted that this is the first step in a three step process, and that the second draft will be posted online in a couple weeks. He went on to say that the final draft will be presented to Council for approval, and that he's excited to have an Ordinance that is easier to read, with pictures and diagrams of what is acceptable and what is not.

Public Works Director Henne said that East Goodlander Road has been paved, and he did a walkthrough with the contractor last week. He remarked that the Wernex Loop sidewalk and curb is in, along with most of the paving, and a walkthrough of the project is scheduled for tomorrow afternoon.

Council Member Tierney thanked him and City Administrator Wayman for the no parking signs on Goodlander Road.

City Administrator Wayman commented that next month will be leading into the budget. He commended the City's two Code Enforcement officers for their efforts in enforcing City codes around town.

City attorney Noe had no report.

- 4. Boards None

Council took a ten minute recess.

P. Executive Session

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

Council went into Executive Session at 5:43pm. At 5:58pm, Council went back on the record. Mayor Gawlik stated that they would be extending the Executive Session for an additional 15 minutes.

Council went back into Executive Session at 5:59 pm. At 6:14pm, Council went back on the record. Mayor Gawlik stated that they would be extending the Executive Session for an additional 15 minutes.

Council went back into Executive Session at 6:15pm. At 6:30pm, Council went back on the record. Mayor Gawlik stated that no action was taken during the Executive Session.

**Council Member Tierney moved, and Council Member Smeback seconded, to authorize City Administrator Wayman to negotiate a contract for Public Defender with Hurst and Brumback, at a maximum rate of \$4850 per month, with similar financial impact to the Prosecutor, to run to the end of the current calendar year and the be re-negotiated. Roll was called: Council Member Tierney – yes; Council Member Smeback –yes; Council Member Schmid –yes; Council Member Sample – yes; Council Member Williams – yes; Council Member Ritchie – yes. By voice vote approval was unanimous.**

Q. Adjournment

**Council Member Tierney moved, and Council Member Sample seconded, that the meeting be adjourned. By voice vote, approval was unanimous.**

The meeting adjourned at 6:33pm.

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John Gawlik, Mayor

**EXCUSED**  

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Paul Overby, Council Member

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John Tierney, Council Member

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Dave Smeback, Council Member

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Allen Schmid, Council Member

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Roy Sample, Council Member

---

Jane Williams, Council Member

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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**  
**7/28/2015            1 – 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**

**7/28/2015      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
7/14/2015	Council voted to set the matter aside until the minutes from the PLannign Commission became available, and a complete packet was provided for them to study.

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

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

# **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 28<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)).

*standard  
of undue  
hardship  
is  
applied  
to  
development*

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.

*also under private Rd. H. Somerset I*

*easement needed?*

*See 11.3 SMC*

*How wide???*

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 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.

No! moved  
Duplex  
Lots.

W. Division  
assess 3  
entirely for  
Newport

no  
Creeks?

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. *or each dwelling unit??*
  - 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. *drive over these*

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.
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.

Three comment letters were received 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 1/2 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 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 5/22/15
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

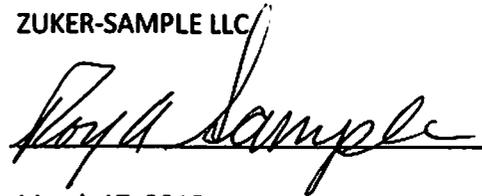
The locations of the two family residential lots were chosen for the following reasons:

- 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: 2/17/15

SEPA: \_\_\_\_\_  
RECVD BY: T.P.D.

**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  
TR-12-5

\* 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 747

SELAH, WA, 98942

Roy A. Sample  
Signature

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 8 1/2" x 11" or 8 1/2" 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.

*but not private roads!*

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  $\pm$  15,000 to 20,000 SF lots. The rear of these long, narrow lots would remain largely undeveloped and full of weeds.

*Nice size semi rural lots, matching properties to N.*

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

*Roy a Sample*

March 17, 2015

Exhibit 5

CURVE #	POINTS	DELTA	LENGTH	TANGENT	CHORD BEARING	CHORD LENGTH	CURVE #	POINTS	DELTA	LENGTH	TANGENT	CHORD BEARING	CHORD LENGTH
C1	200.00	235.30	86.32	119.46	S 79.46° E	70.84	C8	222.00	179.81	70.84	23.61	N 79.05° W	70.20
C2	75.00	24.43	18.43	5.74	S 74.57° E	32.09	C9	175.00	17.00	17.00	0.00	N 81.24° W	8.34
C3	200.00	202.21	71.45	26.11	N 79.31° W	71.07	C10	175.00	17.44	17.44	0.00	N 81.24° W	8.34
C4	300.00	202.21	71.45	26.08	N 79.31° W	71.01	C11	100.00	7.22	7.22	0.00	N 82.21° W	1.18
C5	75.00	88.71	11.18	74.37	N 42.00° W	105.83	C12	222.00	18.70	25.70	8.59	N 81.04° W	7.91
C6	30.00	88.71	78.12	48.58	N 42.00° W	70.41	C13	222.00	27.22	8.58	4.79	N 79.12° W	9.50
C7	222.00	27.22	8.87	4.84	N 85.13° W	8.87	C15	175.00	20.77	82.47	31.57	N 79.12° W	82.13

PRIVATE EASEMENT NOTE  
 THE PRIVATE ACCESS AND UTILITY EASEMENTS  
 ARE JUST FOR THE BENEFIT AND USE BY LOTS

OWNER/DEVELOPER  
 RORY SAMPLE FOR:  
 ZUKER-SAMPLE, L.L.C.  
 P.O. BOX 247  
 1120 WEST LINCOLN AVENUE  
 SEALY, WASHINGTON 98942

SURVEYOR/ENGINEER  
 RICHARD L. WEIR, PLS  
 PLSA ENGINEERING & SURVEYING  
 120 WEST LINCOLN AVENUE  
 YAKIMA, WASHINGTON 98902

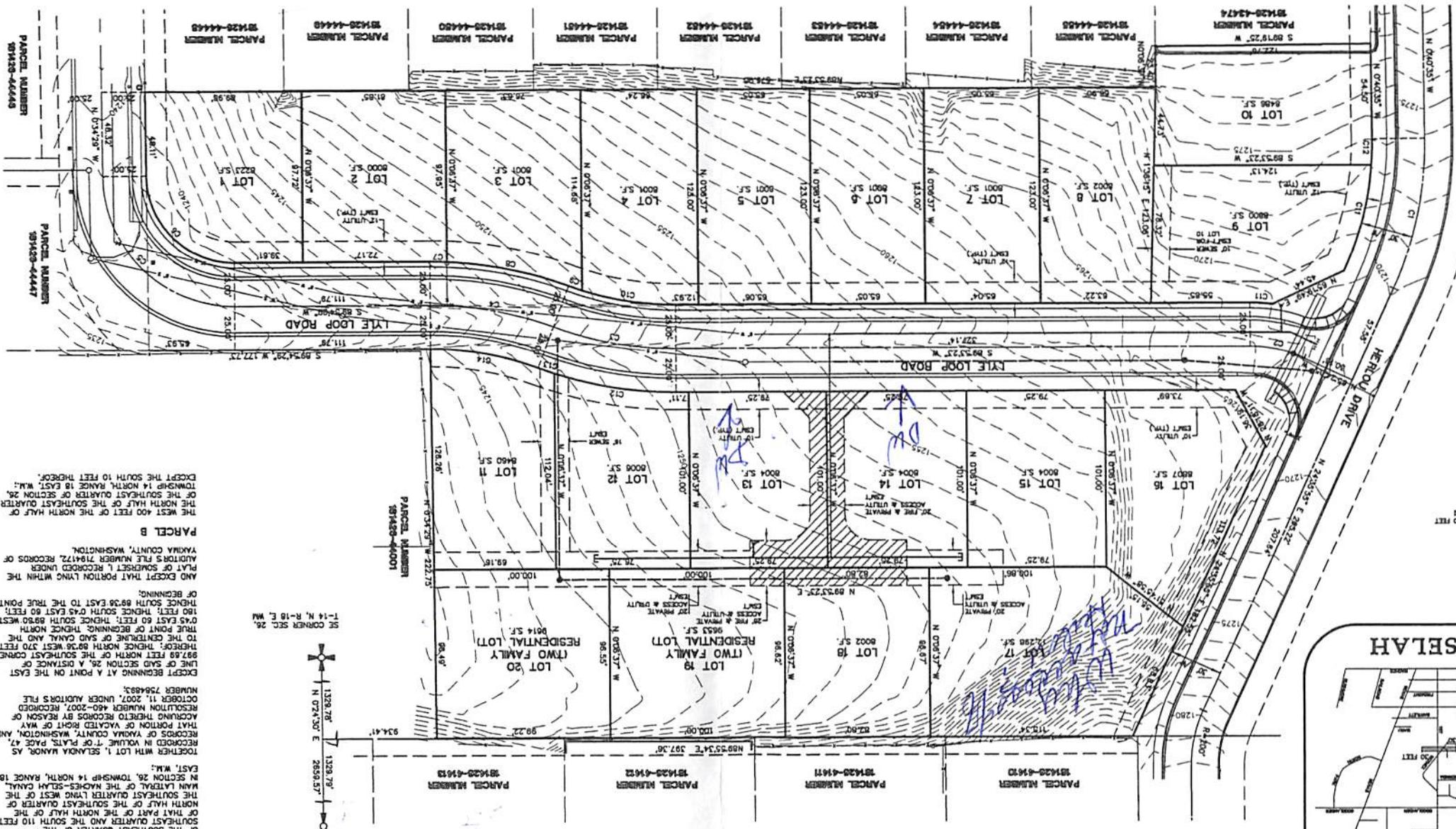
ENGINEERING-SURVEYING-PLANNING  
**PLSA**  
 120 WEST LINCOLN AVENUE  
 YAKIMA, WASHINGTON 98902  
 (509) 575-6990

PRELIMINARY PLAT  
 DATE: 3/3/2015  
 JOB NO. 09155

ZUKER-SAMPLE, L.L.C.  
 PREPARED FOR

OF PARCEL NOS. 181428 - 44001 & 44021  
 5 1/2, SE 1/4, SEC. 26, T-14 N, R-18 E, WM

1 of 1



**LEGAL DESCRIPTIONS**

**PARCEL A**  
 THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER AND THE SOUTHWEST QUARTER OF THE NORTH HALF OF THE NORTH HALF OF SECTION 26, TOWNSHIP 14 NORTH, RANGE 18 EAST, W.M. TOGETHER WITH LOT 1, SELAH, YAKIMA COUNTY, WASHINGTON, AS RECORDED IN VOLUME 1, PLATS, PAGE 47, RECORDS OF YAKIMA COUNTY, WASHINGTON, AND THAT PORTION OF VACATED RIGHT OF WAY ACCRUING THERE TO RECORDS BY REASON OF RESOLUTION NUMBER 480-2007, RECORDED OCTOBER 11, 2007, UNDER AUDITOR'S FILE NUMBER 7984893.

EXCEPT BEGINNING AT A POINT ON THE EAST LINE OF SAID SECTION 26, A DISTANCE OF 897.69 FEET NORTH OF THE SOUTHEAST CORNER THEREOF; THENCE NORTH 89.36 WEST 370 FEET TO THE CENTERLINE OF SAID CANAL; AND THE TRUE POINT OF BEGINNING; THENCE NORTH 0.45 EAST 60 FEET; THENCE SOUTH 0.45 EAST 60 FEET; THENCE SOUTH 89.36 EAST TO THE TRUE POINT OF BEGINNING.

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

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

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

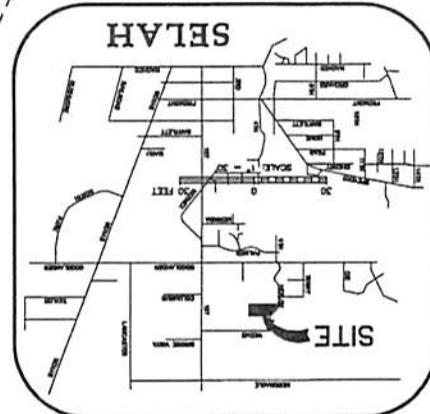
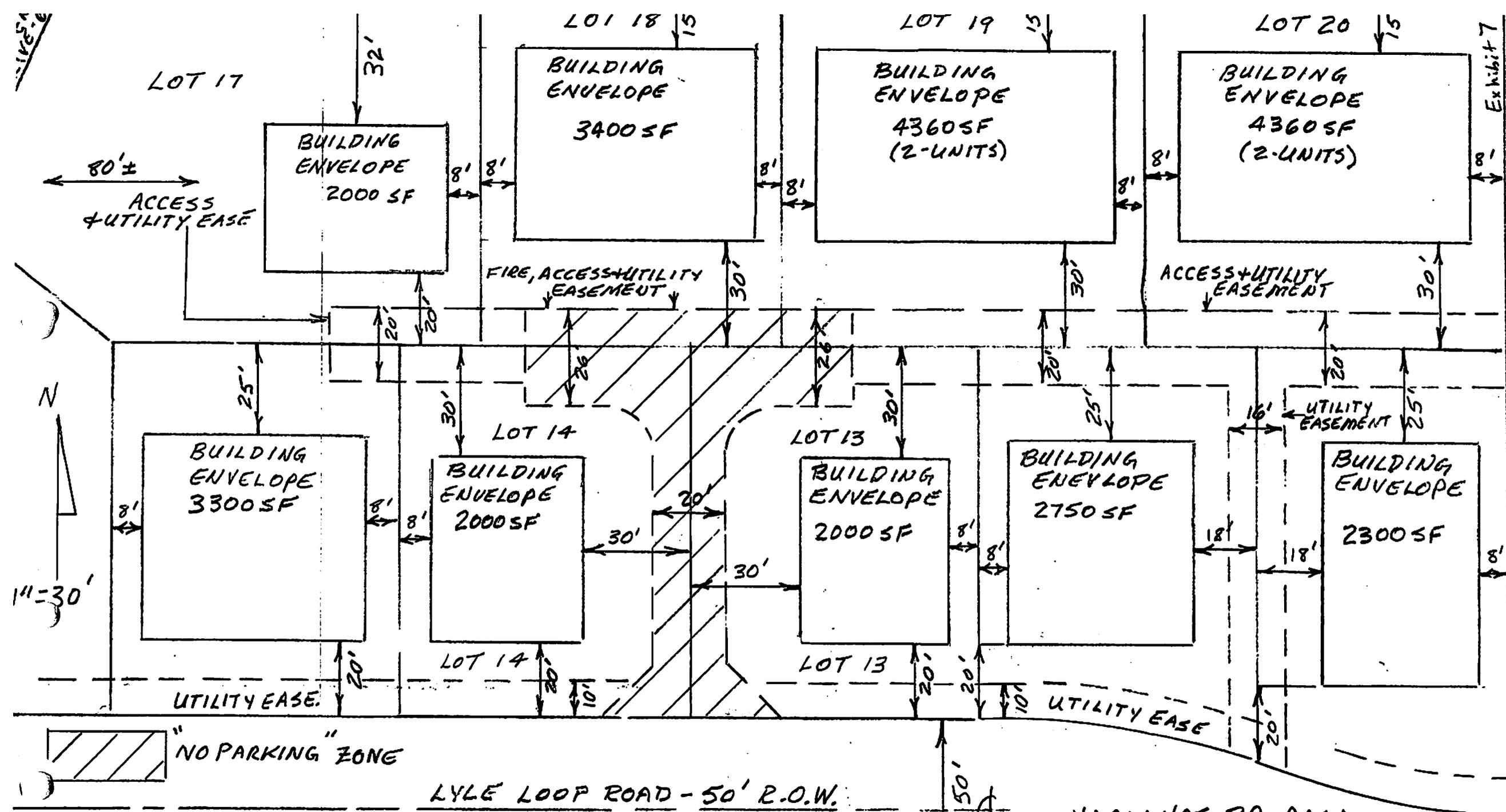


Exhibit b



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

VARIANCE PROPOSAL  
 SOMERSET II  
 MARCH 17, 2015



# CITY OF SELAH

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



FILE NUMBER: 971.92.15.04  
DATE FEE PAID 3/17/15  
RECEIVED BY JK  
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

7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain. **NO**
8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal. **NONE KNOWN**
9. Do you know whether applications are pending for governmental approvals or other proposals directly affecting the property covered by your proposal? If yes, explain. **NO**
10. List any government approvals or permits that will be needed for your proposal, if known. **LOW DENSITY (R-1) SUBDIVISION PRELIMINARY & FINAL PLAT**
11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. **SUBDIVIDE 4.71 ACRES INTO 18 SINGLE FAMILY (8000SFT) LOTS AND 2-2 FAMILY LOTS (9000SFT+)**
12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist. **EAST OF HERLOU DR AND EXTENSION OF EXISTING LYLE**
13. Taxation parcel numbers(s): **18126-44005 - 44021 LOOP ROAD, CITY OF SELAH**

TO BE COMPLETED BY APPLICANT ONLY

EVALUATION FOR

AGENCY USE

**B. Environmental Elements**

**1. Earth**

- a. General description of the site (circle one): Flat, rolling, hilly, steep slopes, mountainous, other \_\_\_\_\_.
- b. What is the steepest slope on the site (approximate percent slope)? **25% (SMALL PORTION)**
- c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any prime farmland. **WIND BLOWN LOESS**
- d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe. **NO**
- e. Describe the purpose, type, and approximate quantities of any filing or grading proposed. Indicate source of fill. **QUANTITIES UNKNOWN - ROAD GRADING, LOT LEVELING**
- f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe. **MINOR**
- g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)? **40.0%**
- h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any: **SILT FENCES, WATERING, GRADE COMPACTION, AND STORM DRAINS**

**2. Air**

- a. What types of emissions to the air would result from the proposal (i.e., dust, automobile, odors, industrial wood smoke) during construction and when the project is completed? If any, generally describe and give approximate quantities if known. **CONSTRUCTION EQUIPMENT, AUTOMOBILES (QUANTITY UNKNOWN)**
- b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe. **NO**

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

OPEN SITE, NONE KNOWN

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

- shrubs
- grass
- pasture
- crop or grain
- wet soil plants: cattail, buttercup, bulrush, skunk cabbage, other
- water plants: water lily, eelgrass, milfoil, other
- other types of vegetation **CHEAT GRASS, WEEDS**

b. What kind of and amount of vegetation will be removed or altered?

**70% - 80%**

c. List threatened or endangered species known to be on or near the site.

**NONE**

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

**LAWNS, LANDSCAPING, TREES, BUSHES**

5. Animals

a. Circle any birds and animals, which have been observed on or near the site or are known to be on or near the site:

Bird: hawk, heron, eagle, songbirds, other:

Mammals: deer, bear, elk, beaver, other:

Fish: bass, salmon, trout, herring, shellfish, other:

b. List any threatened or endangered species known to be on or near the site.

**NONE**

c. Is the site part of a migration route? If so, explain.

**NO**

d. Proposed measures to preserve or enhance wildlife, if any:

**NONE**

6. Energy and Natural Resources

a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc. **ELECTRICITY AND NATURAL GAS FOR LIGHTING, HEATING AND COOLING**

b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.

**NO**

c. What kind of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any. **NONE - TYPICAL RESIDENTIAL AREA - ~~IN~~ CITY OF SELAH**

7. Environmental Health

a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of the proposal? If so, describe.

**NO**

1) Describe special emergency services that might be required.

**NONE**

2) Proposed measures to reduce or control environmental health hazards, if any:

**DUST AND EROSION CONTROL, LANDSCAPING, SILT FENCES**

b. Noise

1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, construction, operation, other)?

**NONE**

- 2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site. **CONSTRUCTION AND MINOR TRAFFIC**
- 3) Proposed measures to reduce or control noise impacts, if any: **8 AM - 8 PM**  
**NONE**

#### 8. Land and Shoreline Use

- a. What is the current use of the site and adjacent properties?  
**OPEN AND SINGLE FAMILY 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.  
**NO**
- i. Approximately how many people would reside or work in the completed project?  
**65**
- j. Approximately how many people would the completed project displace?  
**NONE**
- k. Proposed measures to avoid or reduce displacement impacts, if any:  
**NONE**
- l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:  
**NONE**

#### 9. Housing

- a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.  
**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, STUCCO, 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**

c. What existing off-site sources of light or glare may affect your proposal?

NONE

d. Proposed measures to reduce or control light and glare impacts, if any:

NONE

12. Recreation

a. What designated and informal recreational opportunities are in the immediate vicinity?

SCHOOL GROUNDS, BALL FIELDS, SWIMMING POOL, TENNIS COURTS

b. Would the proposed project displace any existing recreational uses? If so, describe.

NO

c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:

NONE

13. Historic and Cultural Preservation

a. Are there any places or objects listed on, or proposed for, national, state, or local preservation registers known to be on the site? If so, generally describe.

NO

b. Generally describe any landmarks or evidence of historic, archaeological, scientific, or cultural importance known to be on or next to the site.

NO

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

NONE

14. Transportation

a. Identify public streets and highways serving the site, and describe proposed access to the existing street system. Show on site plans, if any.

ACCESS IS VIA HERLOU DRIVE AND THE EXTENSION OF LYLE LOOP ROAD

b. Is site currently served by public transit? If not, what is the approximate distance to the nearest transit stop?

CITY OF SELAH - 1 MILE

c. How many parking spaces would the completed project have? How many would the project eliminate?

2 PARKING SPACES (MIN.) PER UNIT / PLUS GARAGES - NONE ELIMINATED

d. Will the proposal require any new roads or streets, or improvements to existing roads or streets, not including driveways? If so, generally describe (indicate whether public or private).

CONSTRUCTION OF THE REMAINING PORTION OF LYLE LOOP AND PRIVATE ROAD TO THE NORTH

e. Will the project use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.

NO

f. How many vehicular trips per day would be generated by the completed project? If known, indicate when peak volumes would occur.

60 TRIPS / DAY PEAK AT 7:00 AM AND 5:30 PM

g. Proposed measures to reduce or control transportation impacts, if any:

NONE

15. Public Services

a. Would the project result in an increased need for public services (for example: fire protection, police protection, health care, schools, other)? If so, generally describe.

INCREASE FOR ALL THE ABOVE DUE TO POPULATION INCREASE

e. Proposed measures to reduce or control direct impacts on public services, if any.

NONE

16. Utilities

a. Circle utilities currently available at the site: electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other.

- b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed. *INSTALLATION OF PUBLIC 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.

*Royd Sample*  
Signature of Proponent or Person Completing Form

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

D. SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS (do not use this sheet for project actions)

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise? **SOMEWHAT BECAUSE OF ADDED RESIDENTIAL UNITS ON THE PROPERTY AND CONSTRUCTION OF NEW HOMES**

Proposed measures to avoid or reduce such increases are:

**NONE**

2. How would the proposal be likely to affect plants, animals, fish, or marine life?

**REMOVAL OF WEEDS AND UNDESIRABLE VEGETATION TO BE REPLACED BY LAWNS, TREES, BUSHES AND FLOWERS. (LANDSCAPING)**

Proposed measures to protect or conserve plants, animals, fish, or marine life are?

**AS STATED ABOVE**

3. How would the proposal be likely to deplete energy or natural resources?

**NONE KNOWN**

Proposed measures to protect or conserve energy and natural resources are:

**NONE**

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplain, or prime farmlands? **NONE**

Proposed measures to protect such resources or to avoid or reduce impacts are: **NONE**

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans? **NONE**

Proposed measures to avoid or reduce shoreline and land use impacts are:

**NONE**

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

**AVERAGE RESIDENTIAL USE**

Proposed measures to reduce or respond to such demand(s) are:

**NONE**

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment. **IT WILL NOT CONFLICT**

## 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.

*Where is last page w/ Sig. etc?*



Exh. b. + 10

Mr. Durant  
April 24, 2015  
Page 2

The permit requires that Stormwater Pollution Prevention Plan (Erosion Sediment Control Plan) is prepared and implemented for all permitted construction sites. These control measures must be able to prevent soil from being carried into surface water (this includes storm drains) by stormwater runoff. Permit coverage and erosion control measures must be in place prior to any clearing, grading or construction.

More information on the stormwater program may be found on Ecology's stormwater website at: <http://www.ecy.wa.gov/programs/wq/stormwater/construction/>. Please submit an application or contact **Ray Latham** at the Department of Ecology, (509) 575-2807, with questions about this permit.

Sincerely,



Gwen Clear  
Environmental Review Coordinator  
Central Regional Office  
(509) 575-2012  
[crosepacoordinator@ecy.wa.gov](mailto:crosepacoordinator@ecy.wa.gov)

4137

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 Herbon (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 it's dangerous, particularly for the families with children.

We moved to Selah for a reason -

(2)

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. *actually*

**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. *by 4/15??  
5/7 signed  
by Don.*

**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

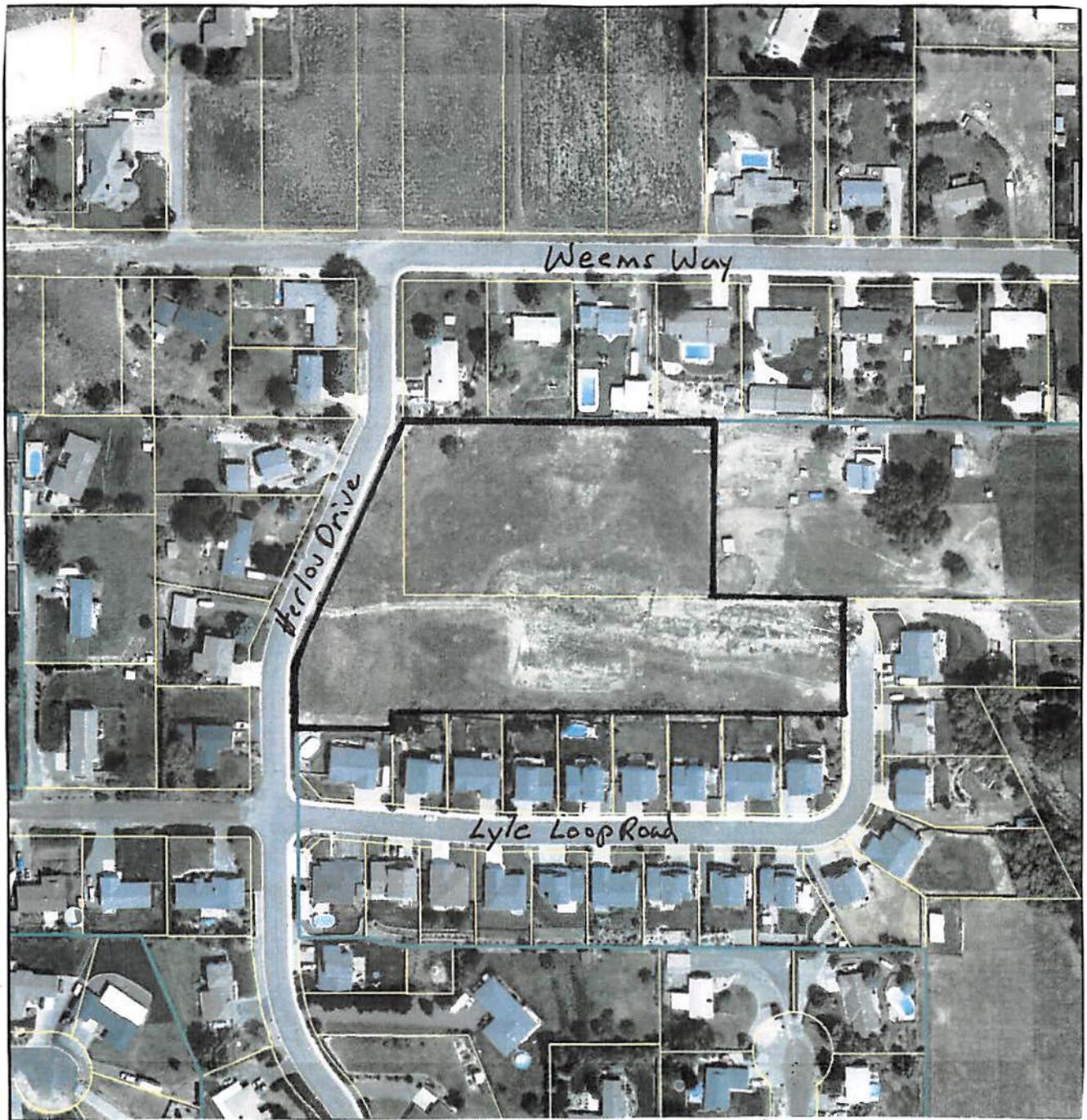
## INSTALLATION CERTIFICATION

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



**\*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  
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.

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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

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  
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  
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 & Fidelity 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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

181426-41412  
Wayne Worby  
200 Weems Way  
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  
22 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

son. 11  
Mg Spangin

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

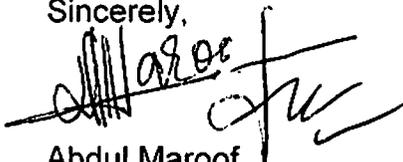
19 Exhibit

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 large, sweeping 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  
Arianne 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.

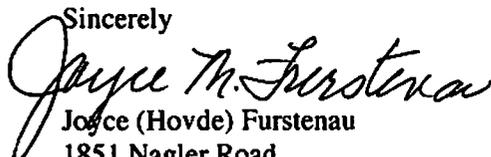
It is my opinion that following issues need to be publicly addressed at your next review meeting on June 10 @ 10:00 AM before sending your recommendation on to the City Counsel.

- 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,  
*Kevin Hillstrom*  
200 HERIOT 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 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 ambience 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,

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,

*Andy Lillie*



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.

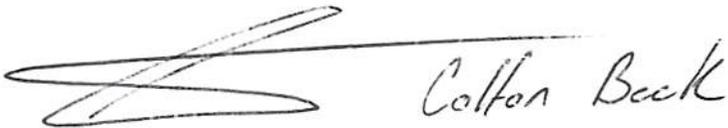
This area is zoned R-1 and consists of single family dwellings, there is no reason to put in an R-2 density into this neighborhood. It does not fit with the dynamics of the area. This development should be built under R-1 codes.

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.

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



JUN 10 2015  
CITY OF SELAH  
PUBLIC WORKS

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*

JUN 10 2015  
CITY OF  
PUBLIC WORKS

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*

JUN 10 2015  
City of  
Plymouth, Michigan

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

*Ellen Berg*

  
JUN 10 2015  
CITY OF  
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



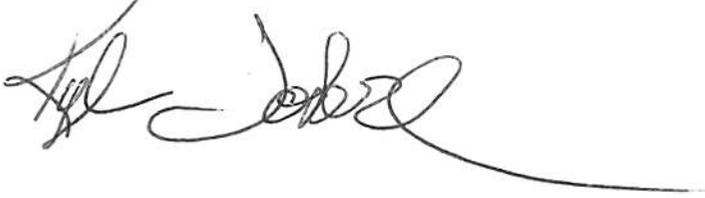
JUN 10 2015  
OFF. OF PUBLIC WORKS

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 "Pat Spurgin", with a long horizontal line extending to the right.A blue ink stamp with a small house icon at the top. The text below the icon reads "JUN 10 2015" and "PUBLIC WORKS".

To whom it may concern:

I am writing to ask the city concil 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 NEW YORK  
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**

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

## 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 superseded 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.







# 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  
include DVD



YARBA COUNTY  
PARCEL NO.  
187425-33024

YARBA COUNTY  
PARCEL NO.  
187425-33418

YARBA COUNTY  
PARCEL NO.  
187425-33416

S 89°18'06" E 273.31'



YARBA COUNTY  
PARCEL NO.  
187425-33008

YARBA COUNTY  
PARCEL NO.  
187425-33018

YARBA COUNTY  
PARCEL NO.  
187425-33018

YARBA COUNTY  
PARCEL NO.  
187425-33018

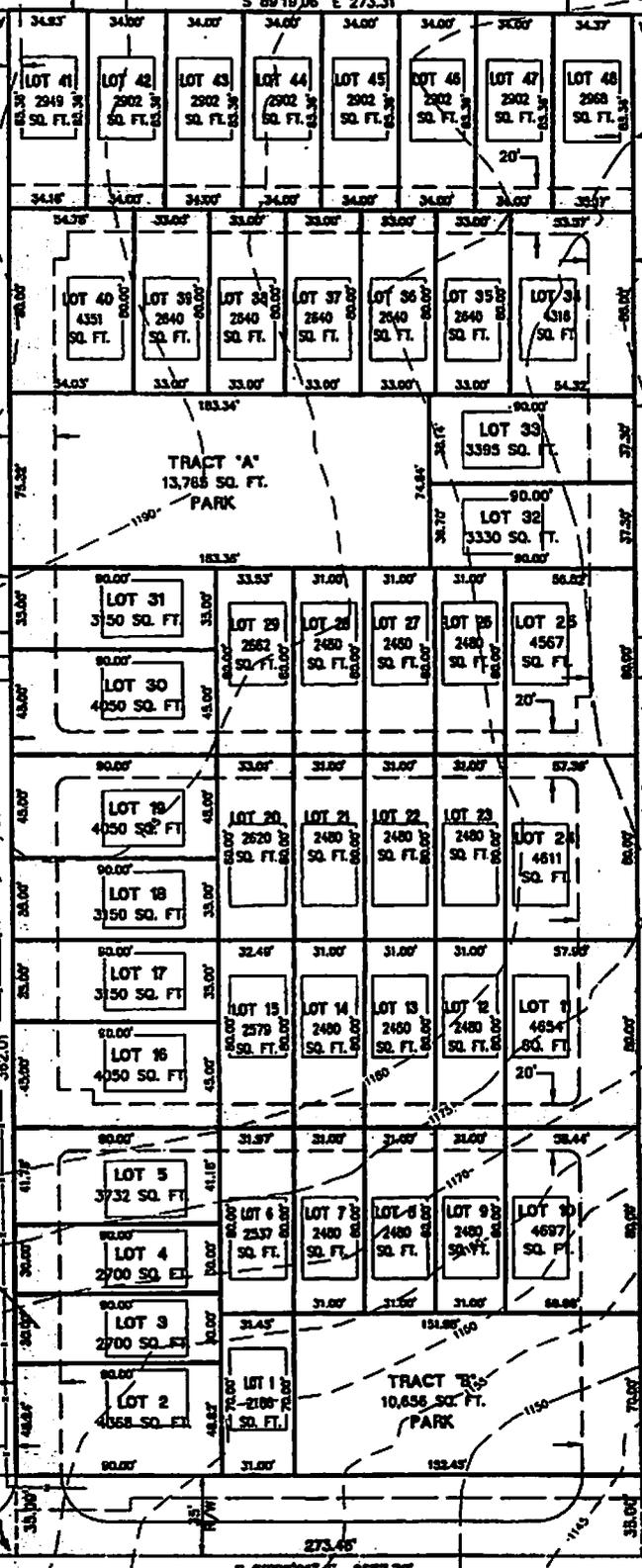
CITY OF SELAH  
PARCEL NO.  
187425-33418

CITY OF SELAH  
PARCEL NO.  
187425-33017

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

GOODLANDER ROAD

S 1/4 COR. SEC. 25,  
T-14 N, R-18 E.W.M.  
3" ALLUM. CAP IN  
MON. CASE FOUND  
SEE LCR 1M-700



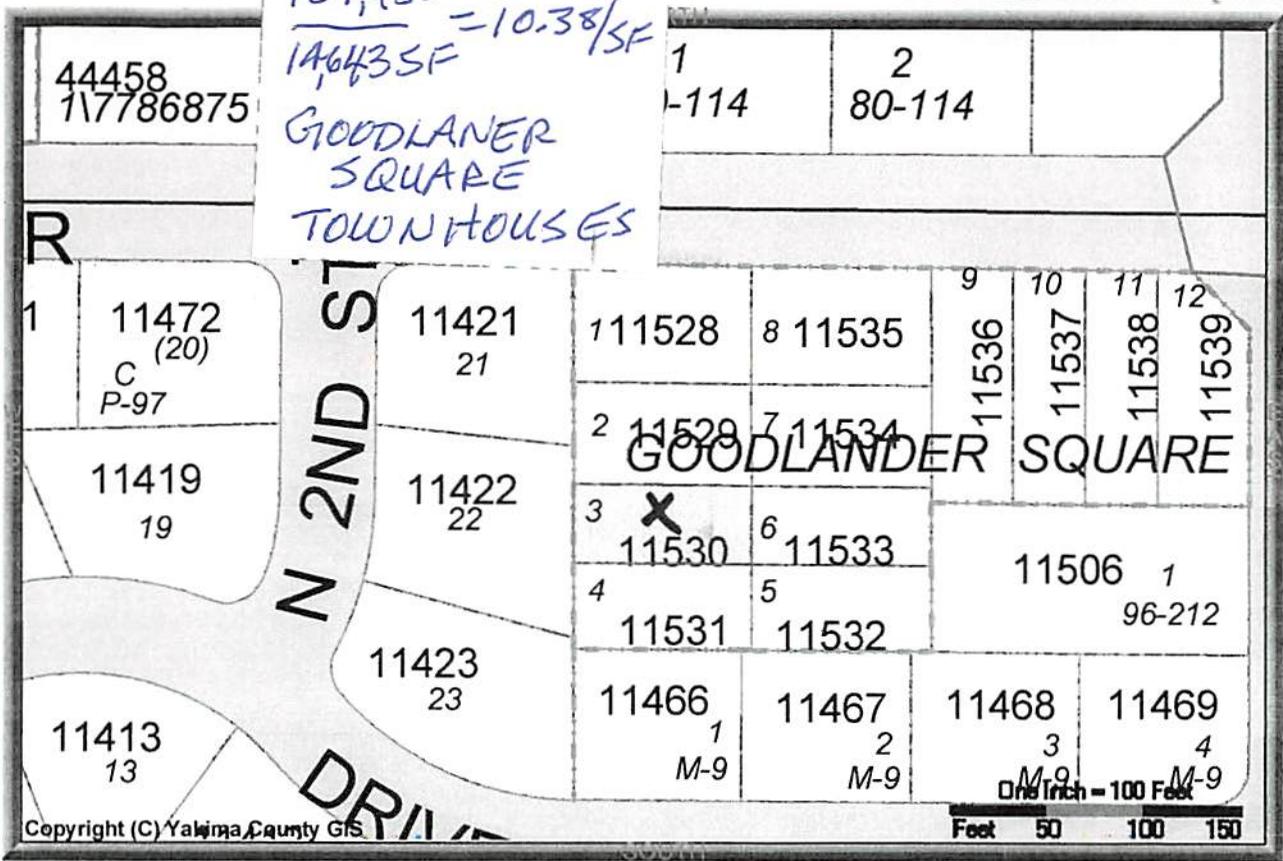
- NOTE
- 1.
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  - 3.
  - 4.
  - 5.
  - 6.
  - 7.



Exhibit HE-4

[Print Map] [Close Map]

Yakimap.com

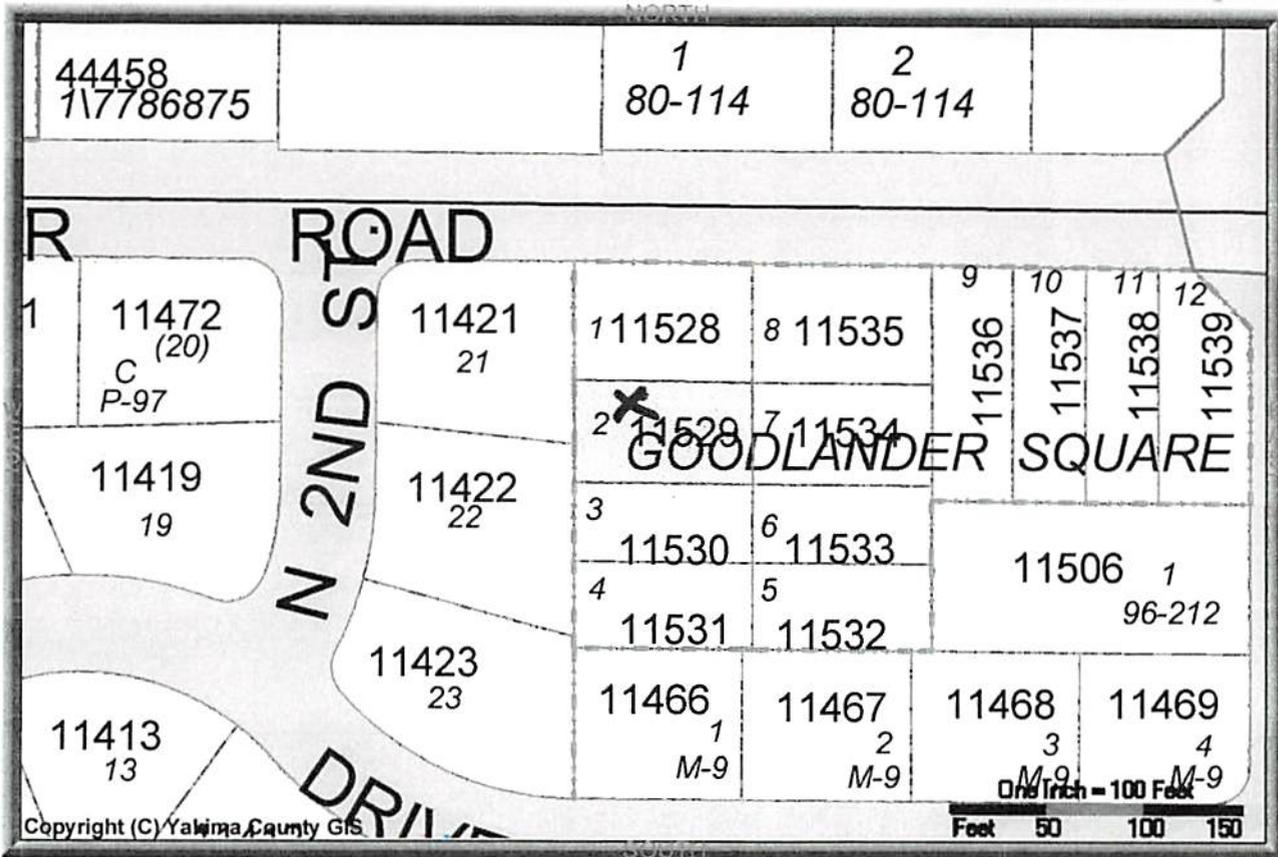


PROPERTY PHOTO	PROPERTY INFORMATION	
	Parcel Address: 124 GOODLANDER RD, SELAH, WA 98942	
	Parcel Owner(s): LUCIA DETLOFF	
	Parcel Number: 18143511530	Parcel Size: 3841 Square Feet
	Property Use: 11 Single Unit	
TAX AND ASSESSMENT INFORMATION		
Tax Code Area (TCA): 410		Tax Year: 2015
Improvement Value: \$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]

Yakimap.com

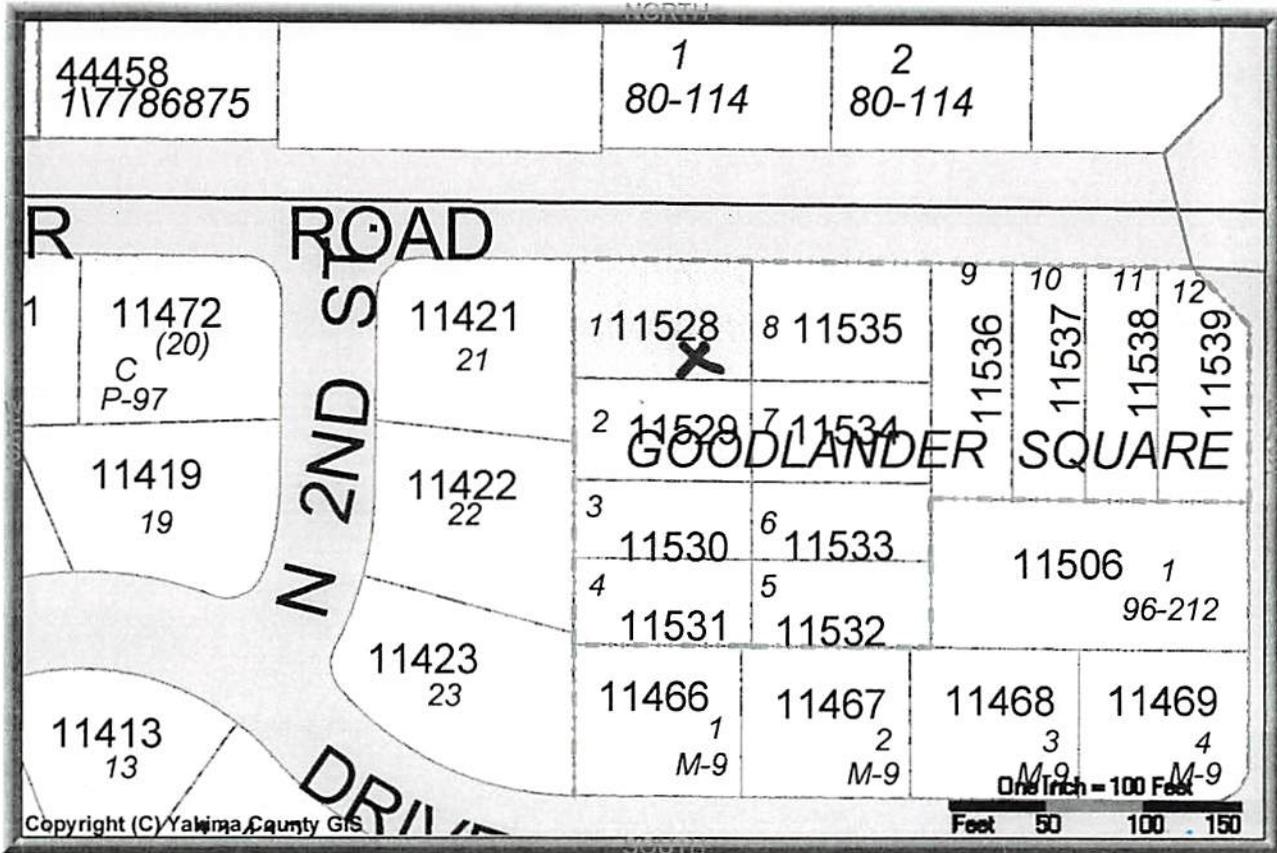


PROPERTY PHOTO	PROPERTY INFORMATION	
	Parcel Address: 122 GOODLANDER RD, SELAH, WA 98942	
	Parcel Owner(s): MATTHEW & MANDI M MOULTRAY	
	Parcel Number: 18143511529	Parcel Size: 4980 Square Feet
	Property Use: 11 Single Unit	
TAX AND ASSESSMENT INFORMATION		
Tax Code Area (TCA): 410		Tax Year: 2015
Improvement 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]

Yakimap.com

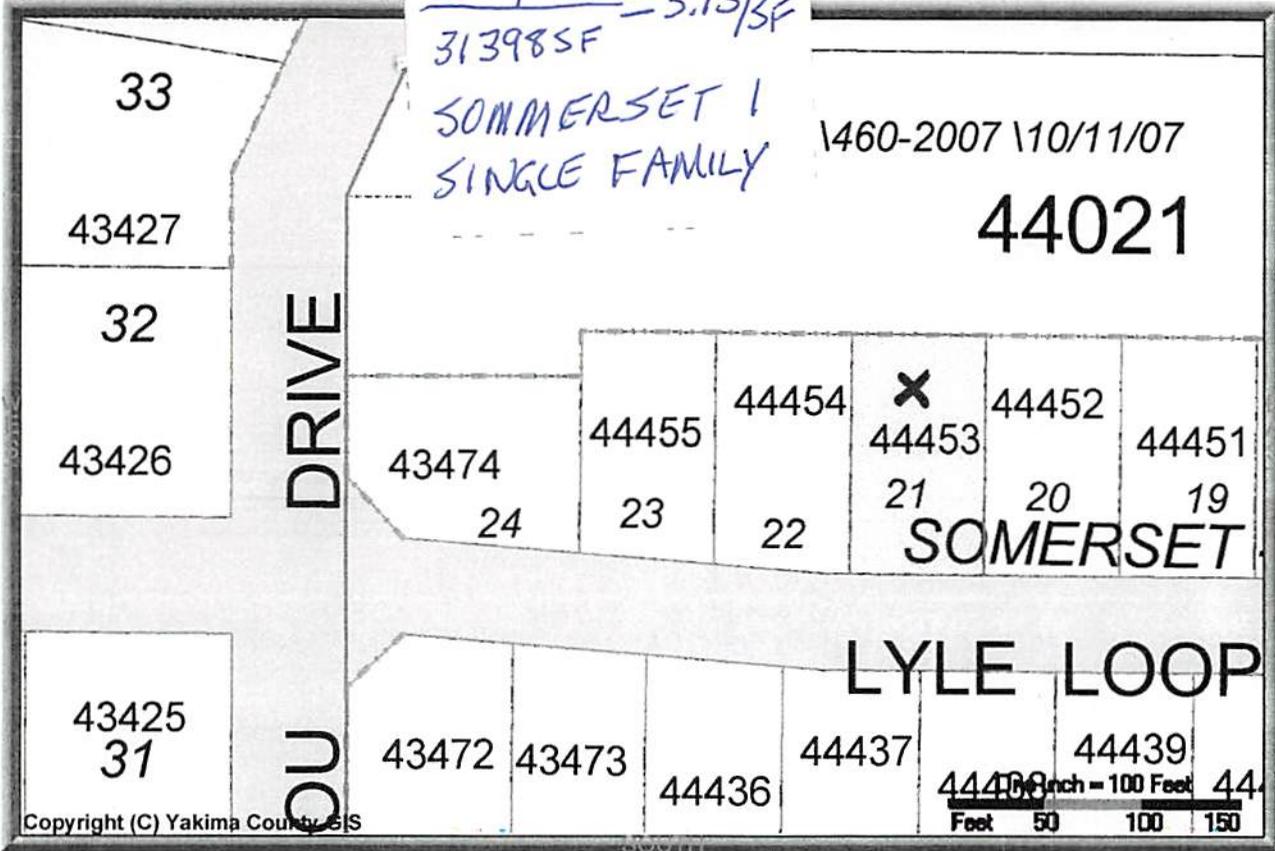


PROPERTY PHOTO	PROPERTY INFORMATION	
	Parcel Address: 120 GOODLANDER RD, SELAH, WA 98942	
	Parcel Owner(s): MATTHEW & MANDI M MOULTRAY	
	Parcel Number: 18143511528	Parcel Size: 5822 Square Feet
	Property Use: 11 Single Unit	
TAX AND ASSESSMENT INFORMATION		
Tax Code Area (TCA): 410		Tax Year: 2015
Improvement 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]

Yakimap.com

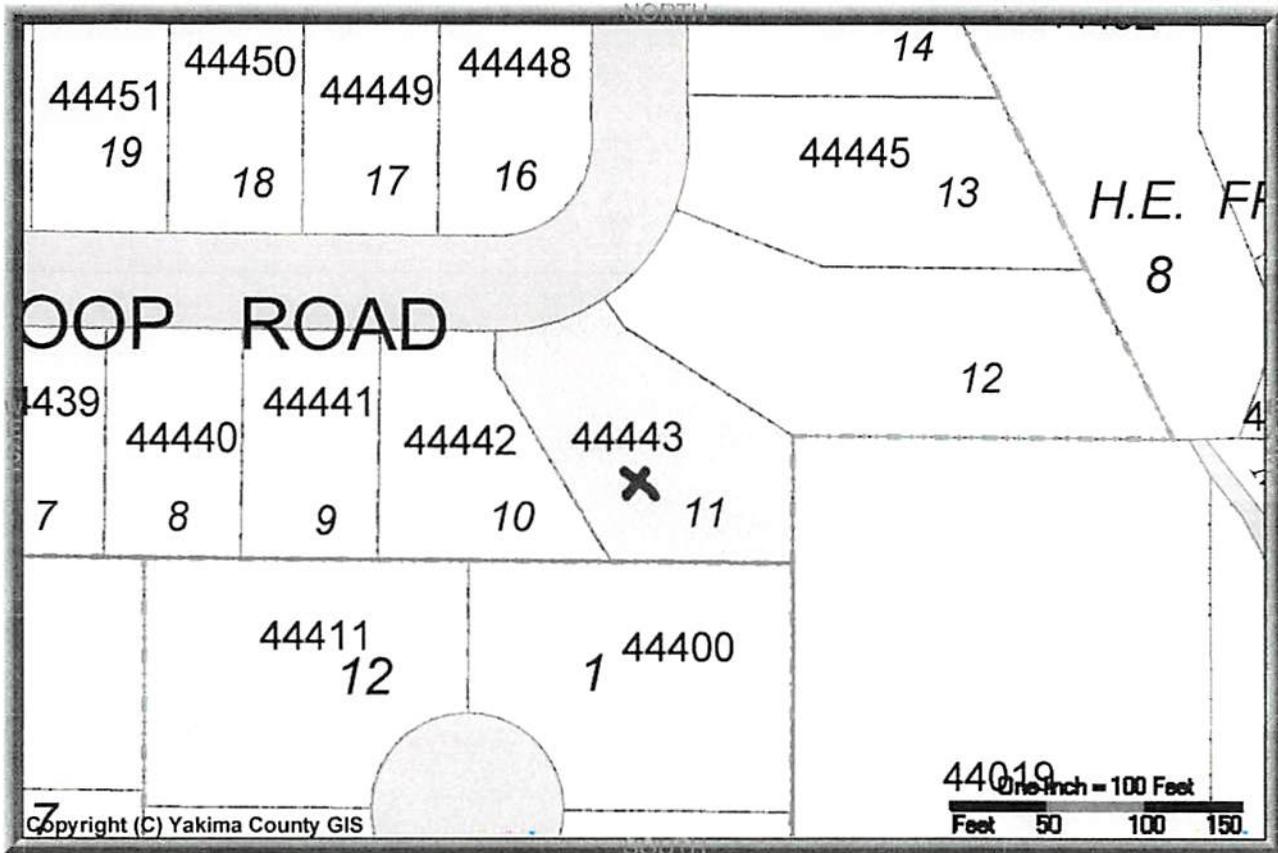


PROPERTY PHOTO	PROPERTY INFORMATION	
	Parcel Address: 51 LYLE LOOP, SELAH, WA 98942	
	Parcel Owner(s): TROY L & MICALA S TORNOW	
	Parcel Number: 18142644453	Parcel Size: 8875 Square Feet
	Property Use: 11 Single Unit	
TAX AND ASSESSMENT INFORMATION		
Tax Code Area (TCA): 403		Tax Year: 2015
Improvement 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]

Yakimap.com

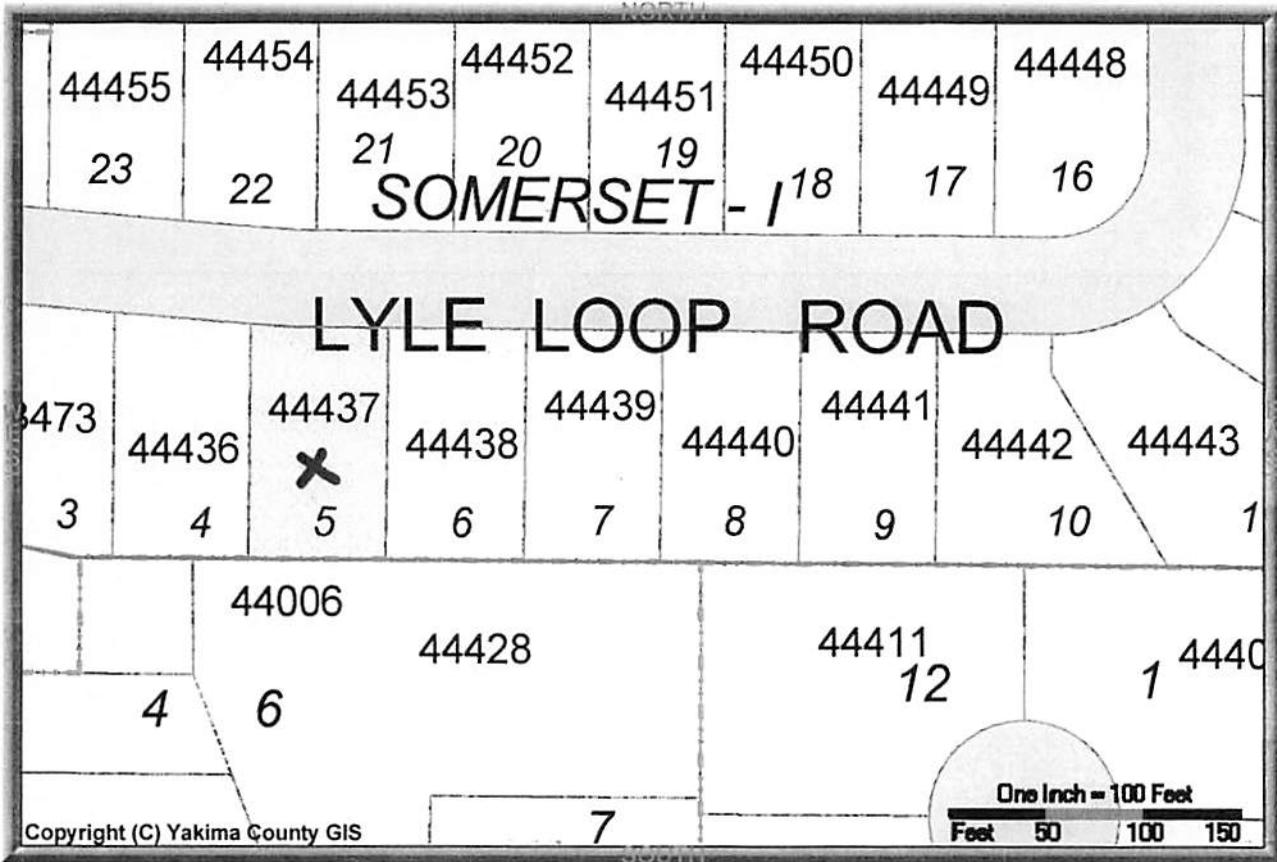


PROPERTY PHOTO	PROPERTY INFORMATION	
	Parcel Address: <b>110 LYLE LOOP, SELAH, WA 98942</b>	
	Parcel Owner(s): <b>MARK R WELLER</b>	
	Parcel Number: <b>18142644443</b>	Parcel Size: <b>13867 Square Feet</b>
	Property Use: <b>11 Single Unit</b>	
TAX AND ASSESSMENT INFORMATION		
Tax Code Area (TCA): <b>403</b>		Tax Year: <b>2015</b>
Improvement Value: <b>\$192400</b>		Land Value: <b>\$62350</b>
Current Use Value: <b>\$0</b>		Current Use Improvement: <b>\$0</b>
New Construction: <b>\$0</b>		Total Assessed Value: <b>\$254750</b>
OVERLAY INFORMATION		
Zoning:	Jurisdiction: <b>Selah</b>	
Urban Growth Area: <b>Selah</b>	Future Landuse Designation: <b>UGA (Yakima County Plan 2015)</b>	
FEMA: <b>Not in floodplain (X)</b>	FIRM Panel Number: <b>53077C0716D</b>	
LOCATION INFORMATION		
+ Latitude: <b>46° 40' 01.728"</b>	+ Longitude: <b>-120° 32' 00.223"</b>	Range: <b>18</b> Township: <b>14</b> Section: <b>26</b>
Narrative Description: <b>SOMERSET 1: LOT 11</b>		
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		

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[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
Current Use Value: \$0		Current Use 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		

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- 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

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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 ½ 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).

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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.

*Council needs to clarify or set policy here -*

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

<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).

<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.

*Where is document app'n?  
Council needs to ref. this*

(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.

*Council included if inadequate*

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.

<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:

*What?*

- 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.

*We need to see these*

4. Final lot dimensions and lot area must substantially conform to the preliminary plat.

*conflicts if greater road.*

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.

*Clarify?  
to current  
Res.  
Standards*

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.

*Council  
Eliminate  
S/N side  
Easement  
Access.*

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

*needs clarification  
copy of these  
be distributed to  
& remain open to  
public*

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**

**7/28/2015      M – 2**

**Title:** Resolution Supporting the Bond for the construction or renovation of the Selah Pool

**Thru:** Donald Wayman, City Administrator

**From:** Charles Brown, Recreation Manager

**Action Requested:** Approval

**Board/Commission Recommendation:** Approval

**Fiscal Impact:** \$4.2 – 6.2 Million

**Funding Source:** Fund 190

**Staff Recommendation:**

I recommend that the City Council support the SPRSA in their efforts to get the voters of Selah to approve a new pool facility.

**Background / Findings & Facts:**

There was a survey put out to the public last December and again at Community Days this year. This survey collected input from the Selah community members about what features they use at the pool, how often they use the pool, if they don't use the pool why. These results were then given to a committee with representatives from the Selah School District, Selah Parks Foundation, Selah Parks and Recreation Service Area and the City. Pool designs were created and given to an auditor who evaluated each proposal and gave cost estimates for each proposal. The bond has been written with a range included instead of a hard number. From the 22nd of July until the 3rd of



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



August, the public will have had the opportunity to take a quick survey and tell us which pool they would support if it went to vote today. On August 3rd, the information will be collected and the SPRSA will hold a special meeting to look at the public opinion and put that number on the bond that will be submitted on Aug 4th.

The current pool location is Wixson Park and both options leave the pool at Wixson, one of which does take up the entirety of the east side of the park.

**Recommended Motion:**

I move to approve the Resolution supporting the SPRSA putting forth a Bond to the public for the construction or renovation of the Selah Pool at Wixson Park.



**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:

7/20/2015

SPRSA Approved Bond to be put to public vote in November

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

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RESOLUTION NO. \_\_\_\_\_

**RESOLUTION SUPPORTING THE SELAH PARK AND SERVICE AREA'S (SPRSA'S) BOND MEASURE PROPOSITION AUTHORIZING THE SPRSA TO ISSUE GENERAL OBLIGATION BONDS TO FINANCE THE COSTS OF ACQUIRING, CONSTRUCTING, AND EQUIPPING SWIMMING POOL FACILITIES.**

**WHEREAS**, the Selah Park and Recreation Service Area (SPRSA) Board has passed a Resolution to place a bond measure on the ballot for a special election to be held on November 3, to ask the voters to support its issuance of general obligation bonds to finance the acquisition, construction, installation and equipping of a new outdoor swimming pool suitable for competitive swimming meets (e.g. 25-yards in length with 8 or more lanes) enclosed (or semi-enclosed) a new 4-lane swimming pool, a new "zero-entry" wading pool, and a new bathhouse facility (including locker rooms, office space, storage areas and equipment rooms), together with pool decks, parking areas, landscaping and other capital improvements pertaining thereto, such improvements to be located at Wixson Park on land owned by the City. Such improvements may incorporate all or any portion of the existing facilities located at Wixson Park, and may include the renovation and repair of such existing improvements;

**WHEREAS**, the City of Selah Pool at Wixson Park has served the community well but is old and in disrepair and should be replaced with modern facilities that are safer and easier to maintain while at the same time enhancing recreational opportunities for residents within the SPRSA's boundaries;

**WHEREAS**, the costs for replacing such facilities continues to rise each year with the cost of inflation and other factors;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON** that the Selah City Council does support the Selah Park and Recreation Service Area's bond measure and encourages our residents to vote "yes" on November 3, 2015 in favor of passing the bond measure.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SELAH,  
WASHINGTON this 28<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 F. Noe, City Attorney

RESOLUTION NO. \_\_\_\_\_

## SELAH PARK AND RECREATION SERVICE AREA

### RESOLUTION NO. \_\_1\_\_-2015

A RESOLUTION of the Selah Park and Recreation Service Area Board providing for the submission to the voters of the Service Area at a special election to be held on November 3, 2015, of a proposition authorizing the Service Area to issue general obligation bonds to finance the costs of acquiring, constructing, and equipping swimming pool facilities, and providing for other matters properly related thereto.

BE IT RESOLVED BY THE SELAH PARK AND RECREATION SERVICE AREA BOARD as follows:

**Section 1. Findings and Determinations.** The Selah Park and Recreation Service Area Board (the "Board") hereby makes the following findings and determinations:

(a) By Resolution No. 195-2001, the Board of County Commissioners of Yakima County (the "County") initiated the formation of the Selah Park and Recreation Service Area (the "Service Area") and, at an election held on November 6, 2001, the establishment of Service Area was approved by the voters. The Service Area is a quasi-municipal corporation, a body corporate, an independent taxing "authority" within the meaning of Section 1, Article 7 of the Washington Constitution and a "taxing district" within the meaning of Section 2, Article 7 of the Washington Constitution.

(b) The area within the boundaries of the Service Area includes certain unincorporated areas of Yakima County as well as the City of Selah (the "City"). Pursuant to RCW 39.68.400 and chapter 39.34 RCW, the County and the City entered into an interlocal agreement in December 2001 providing for the governance of the Service Area.

(c) The Service Area is authorized to: "purchase athletic equipment and supplies, and provide for the upkeep of park buildings, grounds and facilities, and provide custodial, recreational and park program personnel at any park or recreational facility owned or leased by the service area or a county, city, or town" (RCW 36.68.400); "acting independently or in conjunction with . . . any . . . city . . . to acquire . . . land . . . and to build, construct, care for, control, supervise, improve, operate and maintain . . . swimming pools . . . and other recreational facilities . . . upon any such land" (RCW 36.68.600 and 67.20.010); "issue general obligation bonds, together with any outstanding voter approved and nonvoter approved general indebtedness, [in an amount] equal to two and one-half percent of the value of the taxable property within the service area . . . when such bonds are approved by the voters of the service area at a special election called for the purpose in accordance with the provisions of Article VIII, section 6 of the Constitution" (RCW 36.68.520); and retire such bonds "by excess property tax levies when such levies are approved by the voters at a special election in accordance with the provisions of Article VII, section 2 of the Constitution and RCW 84.52.056" (RCW 36.68.520).

(d) The Service Area, in conjunction with the City, currently provides for the operation and maintenance of a swimming pool at Wixson Park on land owned by the City. To provide a higher level of park and recreation services within the County, it is desirable that the Service Area acquire, construct and equip one or more swimming pools at Wixson Park, on land owned by the City, all as more particularly defined and described in Section 2 hereof (the

“Project”). The total cost of the Project is expected to range from \$4,200,000 to \$6,200,000, depending on the final plans and specifications therefor. The Service Area lacks sufficient money with which to pay costs of the Project. To pay costs of the Project, it is necessary and advisable that the Service Area issue and sell unlimited tax general obligation bonds in the principal amount of up to \$ \_\_\_\_\_ (the “Bonds”).

(e) RCW 29A.04.330 provides that the Yakima County Auditor (the “Auditor”), as *ex officio* supervisor of elections within Yakima County, upon request in the form of a resolution of the Board, presented to the Auditor prior to the proposed election date, may call a special election within the Service Area on one of the authorized special election dates, as decided by the Board. Provided this resolution is presented to the Auditor no later than August 4, 2015, the Service Area could call a special election on November 3, 2015.

(f) The best interests of the Service Area’s residents require that (i) the Service Area to carry out and accomplish the Project as hereinafter provided, subject to the approval of the Service Area’s voters, and (ii) the Service Area submit a proposition to its voters as soon as possible to undertake the Project, issue Bonds therefor, and levy excess property taxes to repay such Bonds.

Section 2. Description of Project. The Project to be paid for with proceeds of the Bonds, including interest earnings thereon (“Bond Proceeds”), is more particularly defined and described as follows:

(a) The acquisition, construction, installation and equipping of a new outdoor swimming pool suitable for competitive swimming meets (*e.g.* 25-yards in length with 8 or more lanes), a new six-lane enclosed (or semi-enclosed) swimming pool, a new “zero-entry” wading pool, and a new bathhouse facility (including locker rooms, office space, storage areas and equipment rooms), together with pool decks, parking areas, landscaping and other capital improvements pertaining thereto, such improvements to be located at Wixson Park on land owned by the City. Such improvements may incorporate all or any portion of the existing facilities located at Wixson Park, and may include the renovation and repair of such existing improvements.

(b) The acquisition, construction and installation of furniture, equipment, apparatuses, fixtures and appurtenances for the improvements described in Section 2(a).

(c) The payment pursuant to RCW 39.46.070 of incidental costs incurred in connection with carrying out and accomplishing the Project described above. Such incidental costs shall be deemed part of the Project and shall include, but are not limited to: costs related to the sale, issuance and delivery of the Bonds; payments for fiscal and legal expenses; costs of obtaining ratings and bond insurance; costs of printing, advertising, establishing and funding accounts; payment of interest due on the Bonds for up to six months after completion of construction; necessary and related engineering, architectural, planning, consulting, inspection and testing costs; administrative and relocation expenses; site improvement; demolition; on and off-site utilities; and other similar activities or purposes, all as deemed necessary or advisable by the Board.

The Board shall determine the exact order, extent and specifications for the Project, including without limitation, the final configuration of the improvements comprising the Project

(such as the length of any pool, the number of lanes in any pool, and the furnishings, fixtures and equipment to be acquired and installed).

**Section 3. Use of Bond Proceeds and Other Available Amounts.**

(a) The Project, or any portion or portions thereof, shall be acquired or made insofar as is practicable with available Bond Proceeds, together with any other money of the Service Area legally available therefor, and in such order of time as shall be deemed necessary or advisable by the Board. The Board shall allocate Bond Proceeds, together with any other legally-available money of the Service Area, between the various parts of the Project so as to accomplish, as near as may be, the entire Project.

(b) If the Bond Proceeds are more than sufficient to pay costs of the Project, or should state or local circumstances require any alteration in the Project, the Service Area may acquire, construct, equip and make other capital improvements to the Service Area's park and recreation facilities, or retire and/or defease a portion of the Bonds, all as deemed necessary or advisable by the Board and as permitted by law.

(c) If the Board shall determine that it has become impractical to accomplish the Project or portions thereof by reason of state or local circumstances, including, but not limited to, changed conditions or needs, regulatory considerations, incompatible development or costs substantially in excess of those estimated, the Service Area shall not be required to accomplish the Project (or particular portion thereof) and may apply the Bond proceeds or any portion thereof to other portions of the Project, to other capital purposes of the Service Area, or to retire and/or defease a portion of the Bonds, all as deemed necessary or advisable by the Board and as permitted by law. In the event that the proceeds of sale of the Bonds, plus any other legally-available money of the Service Area, are insufficient to accomplish the Project, the Service Area may use the available money for paying the cost of that portion of the Project that is deemed by the Board most necessary and in the best interest of the Service Area.

**Section 4. Calling of Election.** The Auditor is requested to call and conduct a special election in the Service Area, in the manner provided by law, to be held therein on November 3, 2015, for the purpose of submitting to the Service Area's voters, for their approval or rejection, the proposition of whether the Service Area shall issue the Bonds to pay costs of the Project and levy annual excess property taxes to pay and retire the Bonds. If the proposition is approved by the requisite number of voters, the Service Area will be authorized to: sell, issue, and deliver the Bonds in the manner described in this resolution; spend the Bond Proceeds to pay costs of the Project; and levy annual excess property taxes to pay and retire the Bonds. The Bond Proceeds shall be used, either with or without additional money now available or hereafter available to the Service Area, for capital purposes only, as permitted by law, which shall not include the replacement of equipment.

**Section 5. Authorization to Issue the Bonds.**

(a) The Bonds authorized may be issued as a single issue, as a part of a combined issue with other authorized bonds, or in more than one series, all as deemed necessary and advisable by the Board and as permitted by law. Further, the Bonds may be issued, as deemed necessary and advisable by the Board, as taxable bonds, tax-exempt bonds and/or any other type of tax credit bonds that are now or in the future may be authorized under applicable state and federal law.

(b) Each series of the Bonds shall bear interest payable as permitted by law; shall mature within 20 years from the date of issuance of such series of the Bonds (but may mature at an earlier date or dates as fixed by the Board); shall be paid by annual property tax levies sufficient in amount to pay both principal and interest when due, which annual property tax levies shall be made in excess of regular property tax levies without limitation as to rate or amount but only in amounts sufficient to meet such payments of principal and interest as they come due; and shall be issued and sold in such manner, at such times and in such amounts as shall be required for the purpose for which each series of the Bonds are to be issued, all as deemed necessary and advisable by the Board and as permitted by law. The life of the Project to be financed with the Bond Proceeds shall exceed the term of the respective series of Bonds that finance such Project.

(c) The date, form, terms, option of prior redemption, price, interest rate or rates and maturities of the Bonds shall be hereafter fixed or provided for by one or more resolutions of the Board (each a "Bond Resolution"), which resolutions may delegate to a Service Area official the authority to fix any of the foregoing. The Board hereby authorizes and directs the Chair Person of the Board (the "Designated Official") to determine for each series of Bonds whether such series should be sold by negotiated or competitive sale, and with respect to such series of Bonds that are to be sold by competitive sale, to: (i) specify a date and time of sale of such Bonds; (ii) give notice of that sale; (iii) determine any bid requirements and criteria for determining the award of the bid; (iv) provide for the use of an electronic bidding mechanism if the Designated Official deems electronic bidding to be beneficial to the Service Area; and (v) specify other matters in his or her determination necessary, appropriate or desirable to carry out the sale of the Bonds. Notwithstanding the foregoing, the exact date, form, terms, option of prior redemption, price, interest rate or rates and maturities of the Bonds so offered (or the parameters pertaining thereto) shall be hereafter fixed by a Bond Resolution authorizing the issuance, sale and delivery of such series of Bonds.

(d) The Board declares that, to the extent the Service Area makes capital expenditures for the Project from available Service Area money, those capital expenditures are intended to be reimbursed out of the Bond Proceeds (or the proceeds of short-term obligations issued in anticipation of the issuance of the Bonds) and proceeds of other indebtedness. The maximum principal amount of obligations expected to be issued for the Project is set forth in Section 1(d) of this resolution.

(e) Pending the issuance of any series of the Bonds, the Service Area may issue short-term obligations pursuant to chapter 39.50 RCW to pay for any portion of the costs of the Project. Such obligations may be paid or refunded with the Bond Proceeds.

(f) If the Service Area receives voter approval to issue the Bonds in the manner described in this resolution, the Board authorizes and directs the Designated Official to: (i) review and "deem final" (within the meaning of Rule 15c2-12 of the Securities and Exchange Commission), if necessary and upon such official's satisfaction, any preliminary official statement prepared in connection with the sale of each series of the Bonds by the Service Area; (ii) authorize the "deemed final" preliminary official statement to be distributed prior to the date any underwriter or purchaser bids for, purchases, offers or sells each series of the Bonds; and (c) acknowledge in writing any action taken pursuant to clauses (a) and (b) of this paragraph.

Section 6. Form of Ballot Title. Pursuant to RCW 29A.36.071, the Yakima County Prosecuting Attorney is requested to prepare the concise description of the aforesaid proposition for the ballot title in substantially the following form:

PROPOSITION 1

SELAH PARK AND RECREATION SERVICE AREA

SWIMMING POOL IMPROVEMENTS

The Selah Park and Recreation Service Area Board adopted Resolution No. \_\_\_\_ - 2015 concerning a proposition to acquire, construct, install and equip swimming pool improvements. This proposition would authorize the Service Area to acquire, construct, install and equip up to two new swimming pools, a wading pool, a bathhouse and related improvements; issue no more than \$ \_\_\_\_\_ of general obligation bonds maturing within 20 years; and levy annual excess property taxes to repay the bonds, all as provided in Resolution No. \_\_\_\_ -2015. Should this proposition be:

Approved .....

Rejected .....

Section 8. Authorization to Deliver Resolution to Auditor and Perform Other Necessary Duties. The Designated Official or his designee is directed to (a) present a certified copy of this resolution to the Auditor no later than August 4, 2015, and (b) perform such other duties as are necessary or required by law to submit to the Service Area's voters at the aforesaid special election, for their approval or rejection, the proposition of whether the Service Area shall issue the Bonds to pay costs of the Project and levy annual excess property taxes to pay and retire the Bonds. All actions of the Service Area or its staff or officers taken prior to the effective date of this resolution and consistent with the objectives and terms of this resolution are ratified and confirmed.

Section 9. Notices Relating to Ballot Title. For purposes of receiving notice of the exact language of the ballot title required by RCW 29A.36.080, the Board hereby designates the (a) Designated Official (Kelliann Ergeson), 509.961.7995 (telephone), [kelliargeson@hotmail.com](mailto:kelliargeson@hotmail.com) (email), and (b) bond counsel, Foster Pepper PLLC (Jeff Nave), 509.777.1601 (telephone), [navej@foster.com](mailto:navej@foster.com) (email), as the individuals to whom the Auditor shall provide such notice. The Designated Official is authorized to approve changes to the ballot title, if any, deemed necessary by the Auditor or the Yakima County Prosecuting Attorney.

Section 10. Authorization of Local Voters' Pamphlet. To the extent a local voters' pamphlet and/or online voters' guide (the "Pamphlet") will be produced for the November 3, 2015 State General election, the preparation and distribution of information on the ballot title for inclusion in the Pamphlet is hereby authorized; provided that, the Service Area reserves the right not to participate in the preparation and distribution of the Pamphlet if such participation would create undue financial hardship for the Service Area or would otherwise not be in the best interests of the Service Area. The Designated Official is authorized to exercise the Service Area's right not to participate in the preparation and distribution of the Pamphlet. The Pamphlet shall include, if applicable, an explanatory statement and statements in favor of and in opposition to the ballot title. The preparation of the explanatory statement, the appointment of pro/con

committees and the preparation of statements in favor and in opposition to the ballot title shall be in accordance with chapter 29A.32 RCW and the rules and guidelines of the Auditor.

**Section 11. Severability.** If any provision of this resolution shall be declared by any court of competent jurisdiction to be invalid, then such provision shall be null and void and shall be separable from the remaining provisions of this resolution and shall in no way affect the validity of the other provisions of this resolution, of the Bonds or of the levy or collection of the taxes pledged to pay and retire the Bonds.

**Section 12. Effective Date.** This resolution shall become effective immediately upon its adoption.

ADOPTED by the Selah Park and Recreation Service Area Board at a regular meeting thereof held on July 20, 2015, the following Members being present and voting in favor of the resolution.

SELAH PARK AND RECREATION SERVICE  
AREA BOARD

\_\_\_\_\_  
Chairperson and Member

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

ATTEST:

\_\_\_\_\_  
Secretary

**CERTIFICATION**

I, the undersigned, the Secretary of the Selah Park and Recreation Service Area Board (the "Board"), hereby certify as follows:

1. The foregoing Resolution No. \_\_\_\_-2015 (the "Resolution") is a full, true and correct copy of the Resolution duly adopted at a regular meeting of the Board held at the regular meeting place thereof on July 20, 2015, as that Resolution appears on the minute book of the Service Area, and the Resolution is now in full force and effect; and

2. A quorum of the members of the Board was present throughout the meeting and a sufficient number of members of the Board present voted in the proper manner for the adoption of the Resolution.

IN WITNESS WHEREOF, I have hereunto set my hand on July 20, 2015.

SELAH PARK AND RECREATION SERVICE  
AREA BOARD

\_\_\_\_\_  
Secretary



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



**COUNCIL MEETING      ACTION ITEM**

**7/28/2015      N – 1**

**Title:** Ordinance Amending the 2015 Budget for Professional Services to Update the Police Department's Operating Policy & Procedure Manual

**Thru:** Donald Wayman, City Administrator

**From:** Dale Novobielski, Clerk/Treasurer

**Action Requested:** Approval

**Board/Commission Recommendation:** Not applicable

**Fiscal Impact:** \$ 5,000

**Funding Source:** F001 General – .3% Public Safety Tax

**Staff Recommendation:**

Approve a \$ 5,000 increase in the 2015 Budget for Police department Professional Services to update their standard operating policy and procedure manual.

**Background / Findings & Facts:**

At the July 14, 2015 Council Meeting the Police Department was given approval to contract with a consultant, dba Lexipol, to assist in updating the department's operating policy and procedure manual and add an integrated training system.



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



**Recommended Motion:**

I move to approve the Ordinance amending the 2015 Budget for the hiring of a consultant to assist in updating the Police department's operating policy and procedure manual.



**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:

7/14/2015

Council approved the hiring of a consultant to assist in updating the Police department's operating procedure manual.

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

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ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING THE 2015 BUDGET FOR PROFESSIONAL SERVICES TO  
UPDATE THE POLICE DEPARTMENT'S POLICY & PROCEDURE MANUAL

WHEREAS, the City desires to approve an adjustment to the 2015 Budget for the hiring of a  
consultant to assist in updating the Police department's policy & procedure manual;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, does  
ordain as follows: that the Clerk-Treasurer be authorized to amend the 2015 Budget as follows:

**001 General**

001.000.021.313.15.00.00	.3% Public Safety Tax	\$	5,000
001.000.021.521.20.41.00	Professional Services	\$	5,000

PASSED AND ORDAINED BY THE CITY COUNCIL OF THE CITY OF SELAH,  
WASHINGTON this 28<sup>th</sup> day of July 2015.

\_\_\_\_\_  
John J. Gawlik, Mayor

ATTEST:

\_\_\_\_\_  
Dale E. Novobielski, Clerk-Treasurer

APPROVED AS TO FORM:

\_\_\_\_\_  
Robert Noe, City Attorney

ORDINANCE NO. \_\_\_\_\_



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



**COUNCIL MEETING      INFORMATIONAL ITEM**

**7/28/2015      O – 4A**

**Title:** Planning Commission Minutes- March 17, 2015

**Thru:** Donald Wayman, City Administrator

**From:** Caprise Groo, Public Works Department Assistant

**Action Requested:** Informational - No action

**Board/Commission Recommendation:** Not applicable

**Fiscal Impact:** N/A

**Funding Source:** N/A

**Staff Recommendation:**

Information only

**Background / Findings & Facts:**

Information only

**Recommended Motion:**

Information only

City of Selah  
Planning Commission Minutes  
of  
March 17, 2015

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

A. Call to Order

The meeting was called to order by Chairman Quinnell at 5:34 p.m.

B. Roll Call:

Members Present: Commissioners: Miller, Torkelson, and Quinnell.  
Members Absent: Commissioner Smith and Pendleton.  
Staff Present: Tom Durant, Consultant, Caprise Groo, Secretary  
Guests: None

C. Agenda Changes: None.

D. Communications:

1. Oral: None
2. Written: None

E. Approval of minutes

1. December 16, 2014

Chairman Quinnell called for a motion to approve/disapprove the minutes.

Commissioner Miller motioned to approve the minutes with some small edits.

Commissioner Torkelson seconded the motion.

Chairman Quinnell called for a voice vote and the minutes were approved with a voice vote of 3-0.

F. Public Hearings

1. Old Business: None
2. New Business: None

G. General Business

1. Old Business: None
2. New Business:
  1. Proposed Amendment to Title 10, Chapter 10.12:  
Repeal **SMC 10.12.040 Designated two-family residential lots.**
  2. 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)

Chairman Quinnell turned the floor over to Mr. Durant.

Mr. Durant addressed the amendments to the staff report.

Mr. Worby asked if he could approach the podium. He stated his address as 200 Weems Way. He stated that he was the one who proposed the amendment. He questioned if Commissioner Torkelson needed to recuse himself due to his position before the Council. He declared that there were not enough Commissioners to recuse Mr. Torkelson. Mr. Worby requested that the meeting keep moving forward.

Commissioner Torkelson stated that he had talked to Mr. Noe and he did not need to recuse himself.

Mr. Durant went over the exhibits list (Attached.). He declared that he had amended the staff report and he listed each correction.

Corrected Staff Report:

**CITY OF SELAH PLANNING COMMISSION  
STAFF REPORT  
March 17, 2015**

**PROPOSAL:** Wayne Worby has made a request to the Selah City Council to amend portions of SMC 10.12 and 10.28 to repeal certain provisions allowing duplexes in the One Family Residential (R-1) zoning district.

Under the requirements of SMC 10.40.020, amendments to text, standards or other provisions of Title 10 are initiated by the action of the legislative body or the planning commission. The proponent presented his request to the City Council who indicated that it should be considered by the Planning Commission.

Action on Code amendments is by the City Council after a recommendation from the Planning Commission or Hearing Examiner (SMC 10.40.020(b)).

**CURRENT CODE PROVISIONS:** 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 reviewing authority, specifically the Hearing Examiner, to consider the lot locations and to carefully consider adjacent properties to ensure harmonious compatibility. These provisions indicate that designated two-family residential lots are not permitted outright, but that the reviewing body has the authority to deny them if requirements are not met. The specific standards required for two-family residential lots by SMC 10.12.040 are (emphasis is added):

1. They must be in a *proposed* land division of ten or more lots
2. Ten percent of the lots may be so designated.
3. The lots shall be clearly identified on the recorded subdivision providing public disclosure of such approval.
4. The minimum lot size is 9,000 square feet *or* the minimum lot size based on slope as specified in SMC 10.12.030 (the higher minimum lot sizes range from 10,000 square feet to five acres based on steepness of slope).
5. The requirement for the Hearing Examiner to consider adjacent properties to ensure harmonious compatibility.

SMC 10.28, Table 10.28A lists the land uses that are permitted by zoning district under the zoning ordinance and assigns a class of use based on the level of review required, Class 1 being permitted, Class 2 is administrative and Class 3 are conditional uses. Two family dwellings (duplex) is listed as a Class 1 use in the R-1 zone subject to footnote '1', which corresponds to SMC 10.28.040(l) and specifies that duplexes are only permitted on lots that have been designated per SMC 10.12.040 (i.e., approved lots in proposed land divisions). This provision repeats the requirement of careful consideration by the Hearing Examiner ensuring harmonious compatibility. However, this

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presumably should have already been done, since the lots would have already been designated and the Hearing Examiner does not have jurisdiction over Class 1 uses.

The two-family residential lots allowed by SMC 10.12.040 would also be subject to the requirements for land divisions of SMC 10.50. One notable standard is SMC 10.50.041(e)(6)(C), which requires a minimum lot size increased by ten percent on corner lots. This would presumably be in addition to the larger minimum lot size required for two-family residential lots and would increase it to 9,900 square feet or more where the larger lot sizes required for slopes apply.

**REQUEST SPECIFICS:** The specific requests for Code Amendment made by the proponent are the repeal of SMC 10.12.040, deletion of the provision of SMC 10.28.040 that permit duplexes in the R-1 zone and any other Code provision that would allow duplexes in the R-1 zone. The request makes a number of arguments based on the Growth Management Act, intent of the zoning ordinance and comprehensive plan policies. It also raises issues concerning the amount of rental housing in the community.

**BACKGROUND & HISTORY:** The provisions of SMC 10.12.040 and 10.28 that are proposed for amendment were adopted in 2004 under Ordinance 1634. They were amended to their current form on January 13, 2015 by Ordinance 1958, the purpose of which was to make a connection between the two-family lot provision of SMC 10.12.040 and Table 5-A and the regulatory notes of SMC 10.28.040.

**ENVIRONMENTAL REVIEW:** A Determination of Nonsignificance (DNS) (971.42.14-07) was issued on March 11, 2015. It was issued without a comment period under WAC 197-11-340(2)(a) because there are no agencies with jurisdiction.

**COMPREHENSIVE PLAN & ZONING ORDINANCE:** The purpose of the One-Family Residential (R-1) zone is to provide for single-family residential development where urban governmental services are currently available or will be extended to facilitate development. Specific intent statements include providing for an orderly, phased transition from vacant or partially developed to single-family residential development, facilitate coordinated and collaborative public infrastructure investment, require individual lot connection to municipal water and sewer systems, require development to meet the City's minimum urban development standards, and ensure that R-1 land uses and land division will facilitate urban development and the extension of utilities (SMC 10.12.010).

The R-1 zoning district corresponds to the Low Density Residential designation from the Comprehensive Plan which provides for densities of up to 5 dwelling units per gross acre. Clustering of dwelling units within the permitted density range is encouraged. The comprehensive plan also includes the following statement with regard to the LDR designation:

"The predominate use will be low density residential; however, it is the intent and desire of the City of Selah that its low density neighborhoods develop with a mix of housing types including single-family, duplexes, townhouses and multi-family dwellings. The mix of housing types will be limited by the maximum permissible density and zoning standards will regulate development to assure compatibility" (City of Selah Urban Growth Area Comprehensive Plan, p. 34).

Comprehensive Plan Policies relevant to this issue, and including the policies in the request made for this amendment are as follows:

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

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

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

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

**Policy HSG 1.1:** 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.

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

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

**Objective HSG 3:** Minimize the negative impacts of medium and high-density residential projects on adjacent low-density residential areas, but encourage mixed use/density projects.

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

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

**ISSUES:**

**Definitions:** The terms Multifamily Dwelling and Two-Family Dwelling (or Duplex) are defined by the Zoning Ordinance (Appendix A to Chapters 10.02 through 10.48). Although not specifically defined in the Comprehensive Plan, the terms are used in a way that clearly distinguishes them, both in the text and in the tables, primarily in the Land Use Element. It is clear that with respect to the plan policies and zoning ordinance requirements it is not intended that duplexes be included in the term multi-family dwellings.

**Density:** The Comprehensive Plan requires density to be limited to that allowed in the Low Density Residential plan designation. This is also referenced in the intent statement that encourages a mix of housing types. Table 1 evaluates the consistency of the existing code requirements to this density standard. Based on 10% of the lots being designated duplex lots with the minimum allowed lot size of 9,000 square feet and the remainder of the lots at the 8,000 square foot minimum lot size, Table 1 shows that the maximum level of development allowed under the existing code standards is consistently at a gross residential density of 4.7 dwelling units per acre. This is less than the maximum density of five units per acre.

**Table 1: Maximum Gross Density of Subdivision Under SMC 10.12.040**

<b>Acreage</b>	<b>Net Acreage</b>	<b>Number of Duplex Lots (9,000 sf)</b>	<b>Number of SFR Lots (8,000 sf)</b>	<b>Total Dwelling Units</b>	<b>Gross Density (dwelling units per acre)</b>
10	8	4	39	47	4.7
20	16	8	78	94	4.7
25	20	10	97	117	4.7
30	24	12	116	140	4.7
50	40	21	194	236	4.7

**Notes:**

1. Net acreage assumes 20% of land area dedicated to right-of-way, or 80% available for development
2. Duplex lots: 10% of total lots in the subdivision with no rounding.
3. Number of SFR Lots is the net acreage divided by 8,000 after taking out the 9,000 sf duplex lots
4. Gross Density: Total dwelling units divided by Acreage

**Compatibility:** An evaluation of compatibility begins with existing zoning ordinance standards. The 9,000 square foot minimum lot size is fairly high. On corner lots, that may have more visibility, the minimum lot size goes up to almost 10,000 square feet. Other jurisdictions in the area considered by staff, that allow duplexes in the R-1 or equivalent zone, had minimum lot sizes between 7,200 and 8,000 square feet. In R-2 zones, minimum lot sizes can go down to 7,000 square feet. Setback requirements from the Selah Code should be sufficient to provide room for off-street parking and the parking standard of 4 off-street spaces (2 per unit) is consistent with typical parking requirements. The lot coverage standard for the R-1 zone is substantially less than that in the R-2 zone, which along with the larger minimum lot size, should prevent over-building the lot.

It is harder to evaluate architectural features such as building materials through plat approval. However, developers could be encouraged to present covenants that demonstrate minimum standards and consistency with single-family construction.

**Analysis of Consistency with the Comprehensive Plan:** The standards of SMC 10.12.040 and 10.28 as they currently exist are consistent with the intent statement from the Comprehensive Plan for the Low Density Residential land use designation to develop low density neighborhoods with a mix of housing types that include duplexes. The higher standards for two-family residential lots and the authority of the reviewing official to approve or deny based on compatibility is consistent with the policy of zoning standards to regulate development.

**Objective LUGM 3 and Policy LUGM 3.2:** While not inconsistent with the policy of directing development to areas where water, sewer and streets are present or can be extended, these standards don't really promote them and are not necessary for those policies to be met.

**Objective HSG 1:** The standards seem to be consistent with the goal of encouraging the availability of affordable housing and they do promote a variety of residential densities and housing types. The requirement and authority given to reviewing official to determine that the two-family lots are compatible with the neighborhood along with the higher standards for duplexes in the R-1 zone is supported by Objective HSG 1 to maintain and preserve the character of existing neighborhoods.

**Policies HSG 1.1 and 1.2:** There is no rezoning involved nor do the standards allow the conversion of existing single-family dwellings or redevelopment of existing single-family development. They are specifically limited to new lots. While designating two-family residential lots is not new single-family development, it doesn't discourage it. Ninety percent of the lots in a new plat under these provisions must be for single-family dwellings.

**Objective HSG 2 and Policy HSG 2.1:** Comparing the net residential density of the 90% of single-family lots in a given subdivision with the net density of the entire subdivision including the maximum number of allowable two-family lots, using the same assumptions in Table 1 above for determining gross density, it is determined that the net density of the single family lots would be 5.4 units per acre. Including the two-family lots, it is 5.9 units per acre. It would seem that this approximates the density that would be allowed in a new subdivision without the two-family lots. With regard to existing neighborhoods outside of the new plat, it may or it may not approximate the existing densities and housing levels depending on the neighborhoods being considered.

**Policy HSG 2.2:** The code standards as they exist are consistent with this policy in that they allow for a mix of housing types in residential areas. Assuming that the higher standards and the authority of the reviewing official to evaluate compatibility are effective, they would be consistent with the requirement that the mix of housing types be compatible.

**Objective HSG 3:** The code standards are consistent with encouraging mixed use/density projects. Otherwise, this objective does not apply because as shown above, they do not permit medium or high-density residential projects, as those terms are defined by the Comprehensive Plan.

**Objective HSG 4 and Policy HSG 4.1:** Consistency with this objective and policy depends on the effectiveness of evaluating the compatibility of the two-family residential lots with existing residential development. The fact that they require that evaluation, and give the reviewing official the authority to deny the application based on compatibility should be considered to promote consistency with these policies. The higher standards being imposed on two-family residential lots as described above are also consistent. Encouraging developers to use private covenants and deed restriction with specific architectural, maintenance and landscaping standards and to include them in the evaluation would also be consistent.

**STAFF ANALYSIS:** Based on this evaluation, the existing code requirements are generally consistent with the comprehensive plan, especially based on the intent statement for the Low Density Residential plan designation that encourages a mix of housing types and also based on the determination that when combined with other existing zoning and subdivision standards, these standard don't result in the maximum allowable density being exceeded. If there is any uncertainty it is in how effective the standards are in ensuring the compatibility of two-family lots with existing residential neighborhoods.

It is also important to point out that although duplexes are shown to be a Class 1 (permitted) use in the R-1 zone, they are actually quite restricted. They are only allowed in proposed land divisions that must meet minimums in terms of size and number of units. The preliminary plat review process is the equivalent of a Class 3 review in terms of notice, review process and the discretion given to approve or deny. Other jurisdictions that allow duplexes in R-1 zones or their equivalent typically allow them on any lot, whether new or existing and often without specified limitation of the number of lots.

**RECOMMENDATION:** Leave the current code provisions as they are without change. The fact that they were just recently adopted with the new requirement for compatibility analysis is also a factor in this recommendation. If the Planning Commission or City Council feel that changes are appropriate, they should be to provide more specificity in how compatibility is to be reviewed and/or including the review criteria from the Zoning Ordinance for Class 2 or 3 land uses.

Chairman Quinnell asked if there were any questions.

Commissioner Miller stated that he did not understand why duplexes needed to be eliminated when there were checks and balances regulating them. He stated that there were places that duplexes seemed to fit nicely.

Chairman Quinnell asked if a person outside of the City of Selah could make changes to the City of Selah Code.

Mr. Durant declared that the ordinance stated that the Planning Commission or the City Council must initiate the amendment process and his understanding was that the City Council wanted it to go to the Planning Commission.

Commissioner Torkelson stated that Mr. Worby went to the City Council and asked if he could make the proposal.

Mr. Worby agreed.

Discussion ensued about the process that took place.

Commissioner Miller asked if there was a difference between a duplex and a mother-in-law apartment.

A discussion ensued and the final conclusion was that the connection code needed to be looked at to answer that question.

Chairman Quinnell opened the floor for the discussion of the text amendment.

Mr. Worby approached the podium and stated his address as 200 Weems Way. He handed out a typed statement which was marked Exhibit 6. (Attached) Mr. Worby proceeded to outline why R-2 units should not be in R-1 developments. He referenced the Growth Management act and asked if there was a directive demanding R-2 housing in R-1 Zoning.

Mr. Durant stated that to his knowledge there was no directive.

Discussion continued to a variety of issues from the growth management act to Cluster housing to Covenants and owner occupied dwellings, rentals and affordable housing.

Mr. Worby continued to refer to Exhibit 6 (Page one, red writing). Mr. Worby asked what a duplex was considered, one unit or two. He gave an example of two acres with ten lots and one of those lots being a duplex and creating 11 addresses. Mr. Worby wanted a conversation started to discuss the wording of the text amendment.

Commissioner Miller stated that it all comes back to units per acre.

Mr. Worby asked how many square feet.

Commissioner Miller and Mr. Durant stated that a duplex was two units.

Commissioner Torkelson stated that it was counted as one unit with the connection code.

Mr. Worby replied that a duplex is two living units. He stated that a home owner occupied units are better taken care of than renter occupied homes.

Mr. Miller asked if covenants could be used to resolve that issue.

Mr. Worby proceeded to tell a story about Alaska and covenanted owner occupied developments compared to non-owner occupied developments. Mr. Worby stated that he wanted to know if there was any other place that allowed duplexes in the R-1 zone

Mr. Durant replied that Yakima allows duplexes in r-1 zones.

Mr. Worby wanted to know what the process was for that to happen. What was the criterion for a duplex in and R-1 zone?

Mr. Durant stated that it would go thru the class 2 review processes to get approval.

Mr. Worby wanted to know if there was a city that would allow a single duplex to build in and R-1 with out rezoning the land.

Mr. Durant stated that City of Yakima allowed that.

Mr. Worby asked what it took for Yakima to refuse the applicant.

Mr. Torkelson stated that there are minimal standards that are embedded in the Yakima's system.

Mr. Worby proceeded to state that he had requested language be provided that could be discussed.

Mr. Durant stated that he called Mr. Worby to inform him the duplexes are not a given for a development. He continued to state that the provision of harmonious compatibility, gave the hearing examiner leeway to deny the request.

Mr. Worby and Mr. Durant discuss Harmoniums Compatibility. Mr. Worby proceeded to argue his point. He also stated that he had not seen an occasion where a duplex would be appropriate. He then asked Commissioner Torkelson where he had placed the duplexes in his Development.

Commissioner Torkelson (Eagle Ridge) answered that the majority of the Duplexes were on the main arterial because that is where they work best. It is what made sense with the surrounding property.

Mr. Worby proceeded to question Commissioner Torkelson about the Eagle Ridge Development.

Commissioner Torkelson stated that he had two things to address - He stated that Lisa Smith added that comment to the text. It gave the Hearing Examiner a little wiggle room, then the comment that Dennis made about a developer fouling his own nest. The point is that the Developer wouldn't. Each development has different circumstances and there are many circumstances where a duplex could help the community. Examples: Elderly parents, or handicapped child who needs a little help but also needs to feel independent. Commissioner Torkelson stated that not all situations are negative and there was a time and place for everything.

Mr. Worby responded with the statement that he felt that too many times the community interest and or benefit was shuffled back down the line because we have not defined what is appropriate. A developer cannot stay in business without making a profit.

Commissioner Miller stated sparsely placed duplexes could be good for the community. He stated that he had 4 persons between the ages of 83-90 that he would love to have living next to him but he is unable to arrange it at this time.

Mr. Miller suggested that a covenant for owner occupied would be reasonable.

Mr. Worby stated that a covenant would be measurable and make sense, but to just 10% doesn't

Commissioner Miller replied that no contractor would build a new development and build second class duplexes. The duplexes would be the same style, level and quality of the other homes with covenants in place

Mr. Worby replied that he would have thought so until six months ago when a planned development was proposed near his home.

Commissioner Torkelson asked what would have happened if the developer had presented his ideas with clear detail and given you a clear picture of how the development would look.

Mr. Worby started describing a development that was proposed behind his property.

Chairman Quinnell stated that he had seen a development that had duplexes on one side and single family homes on the other. It was located at 88<sup>th</sup> and Tieton. It was called Cotton Wood Grove. It was a perfect example of how common walls, zero lot lines, single family, and duplexes can work together. If the garages had not been connected no one would know they were duplexes. He stated that that neighborhood sold out fast and the property values had increased

Mr. Worby asked Chairman Quinnell what made that development happen.

Chairman Quinnell stated that he had not participated in that development.

Mr. Worby replied that a directive that controls the quality of the outcome is what he wanted, not a 10% designation for duplexes.

Chairman Quinnell responded that had the developer provided all the information the first time the outcome may have been different. He stated that Cotton Wood Grove was a good example of how they marriage up.

Mr. Worby presented Exhibit 7 and read through it for the Commissioners. (Attached)

Discussion ensued between Mr. Worby and Commissioner Torkelson about the correlation of rentals and poverty, impact funds for schools and homeownership.

Mr. Worby implied the community would rather have single family homes and not rental property. He stated that the community needed long term homeowners and not short term renters.

Commissioner Torkelson and Commissioner Miller stated that the community needed both Renter and homeowners.

Discussion ensued

Commissioner Miller declared that he saw no reason to eliminate this option unless different language was developed to address the issue.

Commissioner Torkelson asked where a municipality draws the line at telling people what they can and can't do with their land.

Mr. Worby stated that it is done all the time through building codes, municipal code and standards.

Discussion ensued

Mr. Miller commended Mr. Worby's spirit.

Mr. Durant assigned numbers to the exhibits.

Chairman Quinnell thanked Mr. Worby for coming. He asked if anyone else wanted to speak.

Mr. Durant wanted to clear up some mistakes. Minimal lot size placed constraints on the number of lots. The other point is that 10 lots or more is a substantial piece of land. Then 10% can be designated duplexes and a duplex is counted as two units. Refer to staff report table one for density. Mr. Durant also clarified that not all duplexes are rentals and vice versa. Mr. Durant reiterated the duplexes are restricted in that they only apply to new developments and they have to be designated from the beginning of the Planned Development. Whereas other counties allow duplexes to be place in old and new properties. He stated that compared to other districts it is not a free ride.

Chairman Quinnell asked if there were any more comments.

Commissioner Torkelson replied that they should vote tonight and move this forward.

Chairman Quinnell stated that he saw nothing wrong with duplexes when developed correctly.

Commissioner Miller stated that Mr. Worby was worried about the consistency of the language.

Chairman Quinnell asked if that language was already there.

Commissioner Torkelson stated that it was contradictory because in a nice neighborhood why billed a cheap duplex.

Commissioner Miller replied that there are a lot of what if's here and anything can happen.

Mr. Worby requested that the commissioners delay their vote and go to the code to find a reason to deny a development.

Discussion ensued on the legality, restrictions, language and standards.

Chairman Quinnell proposed that the commission vote on it tonight and send it to council

Commissioner Torkelson moved to accept the Staff Recommendation.

## **CITY OF SELAH PLANNING COMMISSION FINDINGS AND DECISION**

THIS MATTER, having come on for public hearing before the City of Selah Planning Commission on March 17, 2015. The Commission is considering zoning ordinance text amendments to Selah Municipal Code Title 10 (zoning ordinance) Chapter 10.12.040, Chapter 10.28 A-5 and Chapter 10.28.040 Regulatory Note (1).

The Members of the Commission present were Quinnell, Miller and Torkelson.

Legal notification pursuant to Selah Municipal Code was given on the 6<sup>th</sup> of March 2015. All persons present were given the opportunity to speak for or against the proposed text amendments.

### **Zoning Ordinance Text Amendments**

1. The proposed zoning ordinance text amendments will not further the goals and their underlying policies of the 2005 City of Selah Urban Growth Area Comprehensive Plan to avoid compatible land uses, preserve natural resources and protect against flooding and drainage problems. The goals and underlying policies to promote orderly growth, avoid incompatible land uses and maintain and improve air and water quality were determined to be not applicable.
2. The Planning commission does not find changes in circumstances which justify the proposed zoning ordinance text amendments.
3. The Planning Commission does not find that there is a demonstrated and/or recognized need to amend Chapter 10.12.040, Chapter 10.28, Table 5-A and Chapter 10.28.040 Regulatory Notes.
4. The public testimony that was offered was in favor of the proposed text amendments.
5. The Planning Commission finds that environmental review has been completed on the proposal and further finds that such environmental review was adequate.
6. The Planning Commission determines the findings of the staff report to be controlling in its deliberations on the proposed zoning ordinance text amendments.

### **DECISION**

The Planning Commission, based upon the aforementioned findings and controlling factors, finds that the proposed zoning ordinance text amendments are not in furtherance of the public health, safety and general welfare of the peoples; therefore the proposed zoning ordinance text amendments should be DENIED and additional amendatory language not added to Chapter 10.12.040.

Motion to DENY by: Torkelson      Seconded by: Miller

Vote: 3-0 in favor of the motion

#### Reports/Announcements

1.      Chairman- None

2. Commissioners- None
3. Staff- None

I. Adjournment

Commissioner Torkelson motioned to adjourn the meeting, Commissioner Miller seconded the motion. Chairman Quinnell adjourned the meeting at 7:33 pm with a voice vote of 3-0.



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Chairman