

**Whispering Views
Estate**

912.42.14-01

Preliminary Plat

914.42.14-01

Planned development

971.42.14-01

Environmental Review

CITY OF SELAH HEARING EXAMINER

STAFF REPORT

July 24, 2015

FILE NO.: OFFICIAL ZONING MAP AMENDMENT 914.45.14-01: R-2 to PD (PLANNED DEVELOPMENT)
PRELIMINARY PLAT 912.45.14-01 "Whispering View Estates"
ENVIRONMENTAL REVIEW 971.45.14-01

PROPOSAL:

1. Amend the official zoning map of the City of Selah to reclassify the subject property from Two Family Residential (R-2) to Planned Development (PD).
2. Preliminary Plat of "Whispering View Estates" subdividing eight approximately ½ acre lots (totaling 3.96 acres) into 47 single family residential lots and two tracts, 12,963 and 13,564 square feet respectively, designated for parks, although as shown by the current site plan, the tracts will also be occupied by overflow parking and private access roads. Proposed density is 11.9 dwelling units per gross acre. Developable lots are proposed for detached single family dwellings.

PROPONENT: Torkelson Construction, Inc.

PROPERTY OWNER: Carl and Candi Torkelson

LOCATION: North side of E. Goodlander Road between Lancaster Road and North First Street (Selah Loop Road). The site is currently served by Bowers Drive, a 20 foot wide surfaced private road in a 26 foot wide access and public services easement along the west property line (Tax Parcel Number: 181425-33419 through 33426).

PUBLIC FACILITIES AND UTILITY SERVICES: Public facilities and utility services that serve or are available to the property include City water and domestic sewer and fire protection.

ACCESS: Internal access consists of Bowers Drive and five proposed additional private access roads that are to form a network serving both sides of the development and also provide a second access to E. Goodlander Road. The private roads are proposed as 20 foot wide paved roadways. The access easements that run north to south on the east and west property lines are 26 feet in width with the remaining access streets 20 feet in width.

PARKING: Each home provides a concrete pad measuring 24 feet wide by 20 feet deep, large enough to accommodate two 10' by 20' off-street parking spaces per single-family dwellings as required by the zoning ordinance. In addition, 8 overflow parking spaces are shown on the site plan.

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

LAND USE, ZONING & PHYSICAL CHARACTERISTICS OF THE SITE: The site is located on a hill that slopes toward the east and the south; more steeply along the south property line toward E. Goodlander Road frontage and especially at the southeast corner. The grading and drainage plans show the lots with slopes up to about 15 percent with terracing used to maintain the slope down to the road.

Existing Land Use, Plan Designation and Zoning:

Site: Zoning is R-2, plan designated Moderate Density Residential. Original single family residence and open sided agricultural building are still on the property, but are both to be removed as a part of the project. Seven additional detached single family homes have been constructed over the past year, one of which is part of a six unit multiple-family residential structure approved by Class 2 review on June 19, 2015. The site was subdivided into 8 lots by two short plats in 2014.

North: Zoning is R-1, under Yakima County jurisdiction and the Selah Urban Area Plan designation is Low Density Residential. A combination of detached single-family residences and vacant lots ranging from 0.93 to 1.9 acres (40,511 to 86,684 square feet). Also a church to the northwest and vacant 1.28 acre church owned parcel. Selah Urban Area Plan designation for most of this area is Low Density Residential. The developed church owned parcel (2.65 acres) is designated Quasi-Public Open Space.

West: Two parcels of land fronting on E. Goodlander Road with a total area of 3.8 acres and three single family residences in the City Limits, zoned R-2 and plan designated Moderate Density Residential (MDR). To the north of them are single-family residences on 0.83 to 0.97 acre (36,155 to 42,253 square foot) parcels with access to Selah Loop Road either directly or via Columbus Way, a private road. They are outside of the City Limits, zoned R-1 and designated Low Density Residential.

East: Two parcels totaling 1.99 acres (1.62 and 0.37 acre respectively) with frontage on E. Goodlander and Lancaster Roads are in the City Limits, zoned R-2 and designated Moderate Density Residential. A 0.37 acre (16,117 square foot) parcel to the north on Lancaster Road is also designated MDR but outside of the City Limits and zoned R-1 by Yakima County. Each of these parcels have one detached single-family residence. The larger 1.62 acre parcel that actually borders the site was approved for a 19 multiple family dwelling unit project on July 6, 2015.

South: Selah High School, in the City Limits, zoned R-1 and plan designated Quasi-Public Open Space. Carlon Park is about 600 feet to the east on the south side of Goodlander Road, zoned R-1 and designated Parks by the Comprehensive Plan. A commercial area (zoned B-2 and plan designated Commercial) is located at the intersection of E. Goodlander and Wenas Road and continuing south.

ENVIRONMENTAL REVIEW: A Mitigated Determination of Nonsignificance (MDNS) (971.45.14-01) was issued on June 29, 2015. The Optional Method of WAC 197-11-355 was not used so the determination was issued after the comment period ended for the Notice of Application (issued on March 10, 2015) and after additional information was requested under WAC 197-11-335 and received; the request was based in part on the comments made during the comment period for the notice of application. The April

6, 2015 request for additional information was for the following:

1. Preparation of a traffic impact analysis to evaluate project related impacts on E. Goodlander Road intersections with 1st Street, Lancaster and Wenas Roads.
2. A traffic or engineering analysis of the adequacy of the proposed private roads, approved by a variance for the development of up to 16 two-family residential units, to accommodate traffic generated by 48 single or multiple-family residential units. Specific concerns include:
 - a. Overall suitability of a private road designed to fire apparatus road standards to accommodate traffic generated by 48 residential units.
 - b. Lack of or insufficient overflow and visitor parking
 - c. Lack of pedestrian facilities.
 - d. It appears that the street in the southeast part of the site would exceed ten percent due to steep slopes in that location.

The traffic impact analysis (TIA) submitted on June 18, 2015 concluded that with the project, Year 2020 Level of Service (LOS) at the identified intersections would be LOS B or better, indicating that there are no significant traffic impacts on them.

The TIA also made findings with regard to the adequacy of the proposed private roads to accommodate the traffic generated by the project. With regard to parking, it found that each unit can accommodate 4 vehicles including the two-car garage and that it is unusual for guests to visit all of the units all of the time. Additional staff findings with regard to parking include:

- a. The applicant revised the site plan after the request for additional information was made to include 8 overflow parking spaces.
- b. The covenants, conditions and restrictions (CC&R's) submitted for the application prohibit parking within common areas that include the private streets and the storage of vehicles such as recreational trailers, etc. outside of the garages.

The TIA found that based on the peak hour traffic volume of 47 trips, or less than one trip per minute, that there would be no safety concerns with vehicles and pedestrians sharing the roadway. The shared use of the private roads by vehicles and pedestrians was compared to the aisles in a shopping center parking lot. The TIA noted the illumination by the light of each residential unit and recommended warning signs and "Share the Road" plaques. According to the application, each home will have two front lights facing the street.

There is a sidewalk on the south side of E. Goodlander Road across the street from the site that provides continuous pedestrian access to the High School, Carlon Park and the commercial area along Wenas Road. The need for a sidewalk on the north side of the street was addressed by the MDNS as discussed further below.

The TIA did not specifically address the steep slopes on any of the streets but after the request for additional information was made, the applicant amended the site plan to reconfigure the easterly access road replacing the straight road section in the steepest part of the site with an S-curve section that better accommodates the topography. The applicant also submitted drainage and grading plans for the project providing detailed information prepared by a licensed engineer about how the slopes on the site will be accommodated, both by buildings and street improvements.

The steepest part of the new S-curve street section has an average slope of 13.5 percent for about 130 feet, exceeding the maximum set forth by the Fire Code. The Code, however gives the Fire Chief the authority to allow the maximum slope to be exceeded if determined to be acceptable for emergency vehicle access. As documented in the comment letter from the Fire Department, the basis for allowing the increase is because it is for a short distance, necessary to accommodate the topography, it is a secondary access road and not the primary approach to the development.

Numerous comment letters were submitted during the comment periods before and after the SEPA determination was issued, including the Fire Department letter. Most of the public comment letters were not specifically directed to SEPA although several of the issues raised were considered in making the request for additional information. A summary of issues raised by public comment letters:

Incompatibility with the neighborhood of the architecture and proposed density. Impacts from noise, lights and on views, privacy and solar access. No sitescreening or buffering.

Insufficient open space.

Lack of pedestrian facilities. Private fire lanes inadequate for the proposed use and for emergency access and maneuvering, insufficient parking.

Traffic on E. Goodlander including traffic generated by the High School and Carlon Park, especially during sporting events. Sight distance on E. Goodlander.

Erosion, grading, significant cuts and fills, no lateral support.

Project impact on schools.

Steep slopes in the southeast corner of the property.

May be in an aquifer recharge area.

The following impacts were identified and/or addressed by the MDNS:

1. Impact of proposed private road design, lack of or insufficient parking, lack of pedestrian facilities and steep slopes.
2. The lack of a sidewalk on the same side of E. Goodlander Road as the development, with the availability of a sidewalk on the south side of the street to access a school, park and commercial area. The City plans to construct a sidewalk on the north side of E. Goodlander in the next six

years from Wenas to Lancaster Roads. Construction of sidewalks on the frontage of this property and the property to the east for which 19 multiple family units have been approved would provide continuous pedestrian access to Wenas Road.

The following mitigation measures are incorporated into the recommended conditions of approval:

1. The private access roads shall be constructed at minimum, to the fire apparatus road standards of the International Fire Code and as shown on the preliminary plat, except where variations have been authorized by the Fire Chief (such as grades) in accordance with the IFC.
2. Recommendations made for the private roads by the Traffic Impact Analysis including illumination and warning signs shall be implemented.
3. The negative determination is based on the current revised site plan and grading and drainage plans submitted by the applicant. Any future revisions shall at minimum include the provision of 8 overflow parking spaces, more than one access point to the public street system and construction of the easterly private access road to not exceed the slope shown on the site plan.
4. The applicant shall pay an amount to the City sufficient to pay for the installation of a sidewalk on the entire E. Goodlander Road frontage of the subject property. The amount of payment required shall represent the applicant's proportionate share of the cost of its installation based on lineal footage and on the City's engineering estimate for the costs of installation. In the event that actual costs to install the sidewalk exceed the engineer's estimate, the applicant shall pay an amount in addition to the amount already paid so that the sum of both payments do not exceed a total of 115% of the engineer's estimate¹.

Additional discussion of environmental concerns raised during the SEPA process are incorporated into this report and included in the conditions of approval.

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

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

¹ According to the applicant, this payment was made previously for the recording of the two short plats for this property. This will be confirmed for the hearing.

5. Compliance with the zoning and subdivision code.

Lot Size: Development as proposed would not be readily permitted in other zoning districts due to the proposed lot sizes that range from 2,480 to 4,747 square feet. Lot sizes can be reduced in planned developments but the density must continue to conform to that of the applicable comprehensive plan designation.

Setbacks: Setbacks being reduced by this proposal include the side setbacks on Lots 1 through 4, 7 through 30 and 33 through 47, which are being reduced to 3 feet except on the sides that border on streets and exterior property lines. In most cases, the side of the lot from which these setbacks are measured is adjacent to another lot with a residence (in the proposed subdivision) three feet away.

Rear setbacks on Lots 1, 2, 10 through 30 and 31 through 39 are being reduced from the normally required 20 feet to 15 feet. Twelve of these 32 lots abut designated open space tracts on their rear lot lines.

The side setback from E. Goodlander Road on Lot 1 is not given, although calculations from the site plan indicate that it is 17 feet from the property line where the setback requirement is 20 feet. The setbacks from Lots 5 and 6 are not given on the plat, although they appear to be consistent with the other lots in the project.

With the exception of the setback on Lot 1 from E. Goodlander Road, all of the setbacks from exterior property lines that would be required by the R-2 zone are being met or exceeded.

Private Streets: Private streets are generally not permitted per SMC 10.50.041(d)(4) of the subdivision code and SMC 10.50.041(e)(3) requires lots to front on a public street. However, a private access street may be authorized for a subdivision where there are no adverse effect on future traffic circulation of neighboring parcels and both of these requirements may modified for good cause shown and where appropriate in planned developments (SMC 10.50.041(d)&(e)).

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

- a. Minimum lot width of 60 feet and 70 feet for corner lots. Lot width is measured at the rear line of the required front yard.
- b. Minimum lot depth of 85 feet. All but twelve of the 47 lots do not conform to this standard.
- c. Minimum lot size as required by the zoning district.

- d. Proposed Lots 5 through 9 are in a block with only one tier of lots and as a result front on two streets. However, the standard that requires more than one tier of lots (SMC 10.50.041(d)(1)) provides for exception (even without a planned development) where the lots front on major streets or where two tiers of lots would be prevented by topographical conditions or size of the property. The double-frontage standard (SMC 10.50.041(e)(4)) should be "avoided whenever possible." Also, based on the definition of "street" in the Subdivision Code (SMC 10.50.010(k)) which is limited to public streets, this standard may not apply.

All of the lots have frontage on the proposed private streets which are designed to International Fire Code standards for fire apparatus roads.

All of the lots have less than the minimum required lot width and 35 lots have less than minimum lot depth.

Development Plan and Program:

A development plan and program containing specific elements listed at SMC 10.24.030 and .050 is required for planned developments with SMC 10.24.050 more specifically applicable to the application before the Examiner. The plan and program submitted with the application provides these items as described in the following summary. The application includes both preliminary and final development plan and program. They both refer to the preliminary plat for a number of the required items.

The following outlines the final plan and program since it, rather than the preliminary plan and program is required by SMC 10.24.050 to accompany the rezone application.

Existing maps drawn to a scale of not less than one inch to one hundred feet and proposed final contour map:

The preliminary plat meets the required scale. Grading and drainage plans show final contours.

Location, with the names of all existing and proposed streets, public ways, railroad and utility rights-of-way, parks or other open spaces and all land uses within 200 feet of the boundary of the development.

The preliminary plat and vicinity map shows proposed and existing streets and lots within and adjacent to the project site. Not all of the existing land uses within 200 feet of the site are shown, but are readily identifiable.

Existing sewers, water mains and other underground facilities within and adjacent to the development and their certified capacities.

Underground utilities and their capacities are not shown.

Proposed sewer or other waste disposal facilities, water mains and other underground utilities.

Proposed sewer and water lines and other waste disposal facilities are not shown. There is a statement in the application that all garbage will be picked up on site from each owner's trash cans. This indicates that no dumpsters are being provided.

Subdivision map, in the event a proposed planned development application is combined with a proposal to divide land into lots, identifying proposed lot configuration and size in square feet.

Preliminary plat has been provided.

Proposed land use map identifying the location and purpose of each structure.

The preliminary plat shows the location of proposed residences along with drawings of typical building layouts, setbacks, etc.

Location and size in square feet of community facilities.

Location and size in square feet of open space.

The preliminary plat shows common areas, overflow parking and private roads. The size and dimensions of the two tracts are shown.

Traffic flow plan.

No traffic flow plan is provided.

Location and dimension of walks, trails or easements.

No walks or trails are shown. Access and utility easements are shown.

Location of off-street parking areas, arrangement, number and dimensions of auto garages and parking spaces, width of aisles, bays and angles of parking.

An overflow parking area is shown on the preliminary plat, along with dimensions, aisles, etc. Typical concrete driveways are also shown for each residential unit. Application materials show that two-car garages are to be provided.

Location, arrangement, number and dimensions of truck loading and unloading spaces and docks.

Not typical or applicable to this proposed land use.

Preliminary plans, elevations of typical buildings and structures, including general height, bulk, number of dwelling units and the exterior appearance of the buildings or structures.

Floor plans, elevations and photographs of proposed buildings are provided with dimensions and showing their exterior appearance and design features. The preliminary plat shows building footprints and layout on the lots. The application shows that three-story buildings are proposed with a building height of 32.5 feet.

Approximate location, height and materials of all walls, fences and screens.

According to the application, slatted chain-link fences are to be provided around every back yard. Retaining walls are shown on the grading plan. Neither the fences nor walls are shown on the site plan submitted with the application.

Indication of stages of development.

No phasing is proposed.

Statement of goals and objectives, i.e., why it would be in the public interest and be consistent with the comprehensive plan.

A statement of goals and objectives is included in the application and addresses several comprehensive plan goals and policies.

Tables showing total number of acres, distribution of area by use, percent designated for dwellings, commercial or industrial uses and open space, number of off-street parking spaces, streets, parks, playgrounds, schools and open spaces.

A table showing the described items that are applicable to this proposal is included with the application, but is based on the originally proposed 48 dwelling units. However, since the size and configuration of the project is not significantly different from that originally proposed, the table provide a reasonable representation.

Tables indicating overall densities and density by dwelling types and any proposal for the limitation of density.

No tables are provided, but density can be calculated from information provided in the application. The submittal of a revised site plan with 47 rather than 48 units was intended to limit the density to that required by the comprehensive plan.

Restrictive covenants, other than those relating to retention and maintenance of common open space.

Restrictive covenants are provided. Covenants indicate maintenance of private roads, utilities exterior surfaces of buildings and landscaping by the homeowners association and provides for an architectural control committee.

Development timetable.

The application states that development and construction is expected to take 6 to 9 months.

COMPREHENSIVE PLAN:

The basis for consistency of the proposal with the comprehensive plan as described by the application is primarily that the proposed townhouse units are larger than typical for multiple family

residential projects, provide for “desirable low maintenance lifestyle neighborhoods” and as individual units with their own lots will have a higher value and more compatibility with the surrounding R-1 zoned properties. Compatibility with adjacent R-2 zoned properties is argued to be due to the owners of those properties having the ability to develop their own moderate density residential projects. The applicant also cites the community open space, Conditions, Covenants and Restrictions (CC&R’s), projected purchase price and the opportunity being provided for first time homebuyers.

The following analysis of Comprehensive Plan considers the Future Land Use Map designation and the goals and policies of the comprehensive plan. It also incorporates the goals and policies cited by the application and its arguments for consistency with them.

City of Selah Urban Growth Area Comprehensive Plan Designated Moderate Density Residential (MDR) by the Future Land Use Map, adopted 2006. This designation provides for a maximum density of twelve (12) dwelling units per acre. This is gross density as stated in the Plan, meaning that all of the property, including community facilities and dedications are included in the density calculation. Clustering of dwelling units within the permitted density range in the MDR designation is highly encouraged by the comprehensive plan to preserve open space, steep slopes, drainageways, etc. Predominate land uses are two-family, townhouse and condominium dwellings with a mix of single-family and multi-family residences. The mix of housing types are to be limited by the maximum permissible density and zoning standards regulate development to assure compatibility. Development is to be served by municipal utility services or community water and sewage systems designed for future connection to the municipal systems.

Applicable Goals and Policies

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

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

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

Housing 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.

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.

Objective ENV 2: Adopt land use policies that reduce or eliminate negative impacts of development on stormwater drainage capacities and systems.

Policy ENV 2.2: Minimize adverse stormwater impacts generated by the removal of vegetation and alteration of landforms.

Policy ENV 2.3: Require the utilization of on-site detention and/or infiltration facilities as a part of new developments which demonstrate the capacity to accommodate such facilities and/or would significantly burden the City's stormwater infrastructure facilities if not utilized.

Policy ENV 2.4: Insure that new development will not increase peak stormwater runoff.

Policy ENV 2.5: Control stormwater in a manner that has positive or neutral impacts on the quality of surface and groundwater and does not sacrifice one for the other.

Objective TRAN 1: Provide a safe and efficient transportation network within the City of Selah UGA.

Policy TRAN 1.5: Local streets shall be designed and signed to discourage through-traffic.

Objective TRAN 2: Improve circulation within the City of Selah UGA.

Policy TRAN 2.4: Encourage the connection of streets when considering subdivisions or street improvement proposals unless topographic or environmental constraints would prevent it. Limit the use of cul-de-sacs, dead-end streets, loops, and other designs that form barriers in the community. Recognize that increasing connections can reduce traffic congestion and increase neighborhood unity.

Objective TRAN 3: Improve pedestrian safety (Sic.) and circulation within the City of Selah UGA.

Policy TRAN 3.1: Require sidewalks on one side of all local streets and both sides of all collectors and arterials.

Policy TRAN 4.3: Limit and provide access to the street network in a manner consistent with the function and purpose of each roadway.

Policy TRAN 4.4: Ensure that roads are designed to allow emergency vehicle passage 24-hours a day. Dead-end street lengths and turnarounds, travel lane widths, maximum road grades, parking location and other road design features should accommodate emergency and service vehicles.

Comprehensive Plan Policy Analysis:

Density: Several of the plan policies deal directly with density and its effect on project compatibility with surrounding land uses. While the future land use designation describes this in terms of gross density, plan policies, in particular Objective HSG 2 and Policy HSG 2.1 refer to net density, defined in Appendix A to SMC Chapters 10.02 to 10.48 as calculated using the land available for development (e.g., less roads). A simple way of determine this is to add up the total acreage of the buildable lots and divide into the number of dwelling units. This results in a net density of 14.5 dwelling units per acre, although if the area of each lot that is in access easements were excluded, net density would be approximately 18.5 units per acre².

Objective HSG 2 encourages new residential development to approximate existing residential densities and housing mix levels. Policy HSG 2.1 encourages the combined net density of all residential development to remain at present levels. The net density of the proposal is higher than that of surrounding areas, most of which are still rural in character and located outside of the City Limits, but also include a park and a school for which residential density does not apply.

Many of the surrounding properties are either vacant or are large enough that they could be further subdivided under R-1 or R-2 standards as applicable. In the R-1 zoned areas, the current unavailability of municipal sewer and water is the primary impediment. The relatively undeveloped state of most of the surrounding properties and since the Moderate Density Residential plan designation of the site is higher than the Low Density Residential designation of surrounding areas indicates that higher densities should be expected in both areas.

A better look at the density would be to assume that the R-1 zoned areas could be developed to a gross density of five dwelling units per acre³ as given for the Low Density Residential plan designation because once sewer and water service are made available, this would be allowable without requiring an application for which comprehensive plan policies pertaining to net density would be considered. Likewise, development of the surrounding R-2 areas at a gross density of 12 units per acre or if assumed to be limited to duplexes on 9,000 square foot lots, a net density of about 10 units per acre. Plan policy LUGM 3.3 to minimize urban sprawl indicates that higher densities should be expected in urbanized areas, particularly those with higher density plan designations.

Policy HSG 2.1 states that exceptions can be made to keeping net density at approximately present levels where the developer demonstrates that the quality of the project design, construction and amenities warrants a different density. The application makes this case by arguing that the

² This calculation was made from the Density Tables in the application, based on 48 units and an older version of the site plan. It is assumed to be similar to the density of the current site plan and is being presented as an approximation.

³ The equivalent net density would be approximately six dwelling units per acre.

proposed units are well built, that the planned development (and individual lots) reduce the incompatibility of the project and that parks, CC&R's and single-family ownership are positive attributes.

Compatibility: Objective HSG 1 from the comprehensive plan calls for the character of existing residential neighborhoods to be maintained and upgraded and Objective HSG 3 to minimize the negative impacts of medium and high-density residential projects on adjacent low-density residential areas, but to encourage mixed use/density projects. Objective HSG 4 encourages new residential construction to be compatible with existing residential development.

Specific compatibility concerns raised by comment letters include density, lot size, setbacks, building height, architectural style, view obstruction, privacy and that the units are intended to be rentals. One comment letter suggests reducing the density, increasing setbacks and reducing building height to mitigate compatibility impacts.

Other than policies that speak to compatibility in general, there are no plan policies and no ordinance standards that provide any direction as to the circumstances under which a view should or should not be protected. View obstruction and privacy concerns are common in hilly areas and are part of what height and setback standards are intended to address. In this instance these standards of the existing R-2 zoning are being met. The building height meets the R-2 standard as does lot coverage. The application notes that a neighboring property is also developed with a three story house with a garage underneath. While setbacks are being reduced internally, the setbacks from external property lines are being met, with the exception of one property line on E. Goodlander Road frontage across from the High School.

Likewise, there are no policies or standards that deal specifically with architectural style. While many comments reference the appearance of the buildings, the applicant refers to their size, amenities and targeting a more upscale market while maintaining their affordability to it. The application argues that the proposal is compatible with surrounding areas. Referring to Objective HSG 3, the applicant cites the parks, CC&R's single-family ownership and what is described as nicer units than found in most moderate density plats. Also, the proposal is consistent with the maximum density, consistent with Plan Policy HSG 2.2 because Selah's codes and ordinances allow the proposed buildings in Moderate Density Residential areas and the CC&R's are consistent with Policy HSG 4.1 to encourage developers to use private covenants and deed restrictions which specify architectural, maintenance and landscaping standards within their development. The application also states that the location next to schools, parks and shopping is perfect for moderate density residential development.

Contrary to statements made that the proposed lot size is the smallest ever proposed, 2,500 to 3,500 square feet is a typical lot size for townhouses and row houses.

While Objective HSG 1 calls for maintaining the character of existing residential neighborhoods, the areas surrounding the site can be characterized as a rural under transition to becoming more highly developed as sewer and water service becomes available. The character of the neighborhood will evolve as development progresses and because of the differences between the moderate density residential designation (R-2 zoning) of the site and the low density designation (R-1 zoning) of surrounding areas it

should be expected that there will be a change in both density and character of the areas on either side of the boundary.

There are no adopted policies or standards that either restrict or require rental vs. owner occupied residential units although the Housing Element encourages affordable housing, which would be expected to include rental housing. Also, several policies and plan designations encourage mixed housing types. The application states that the project is consistent with the Housing Goal to 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 because the proposed housing units are well built and affordable.

The application states that one of the attributes of the project that promotes compatibility is that subdivision provides for individual lots allowing the dwellings to be owner occupied, although there is no requirement for this, or timeframe given in which it would occur. There is also evidence of a public need for rental housing to serve a certain demographic attribute and price level. This is discussed further below. In the absence of any policy that discourages rentals and on balance the comprehensive plan may actually encourage them, there is no basis to find this project to be incompatible because the residential units may be rentals.

Transportation: Objective TRAN 1 is to provide a safe and efficient transportation network, and environmental review was focused on concerns that the proposed private roads were not enough for the traffic generated by 47 (or 48) dwelling units. Documentation provided by the Transportation Impact Analysis indicates that they are adequate, although a need for better pedestrian circulation on E. Goodlander Road was identified and mitigation is being provided. This is consistent with Objective TRAN 3 and Policy TRAN 3.1.

Under Policy TRAN 4.4, roads should be designed to accommodate emergency and service vehicles. This includes dead-end street lengths, turnarounds, travel lane widths, maximum road grades, parking location and other road design features. Design to fire apparatus standards as described in this report is intended to meet those requirements.

Policy TRAN 2.4 encourages the connection of streets in subdivisions unless prevented by topographic and environmental constraints. Policy TRAN 1.5 encourages local streets to be designed and signed to discourage through traffic. Bowers Drive is an existing private road, having been approved previously based in part on physical (although not necessarily topographical or environmental) constraints. The LDR designated properties to the north, west and east have direct access (sometimes via private roads) to Lancaster and Selah Loop Roads, while the direct access to the site is to E. Goodlander Road. Given the unique characteristics of this project and compatibility concerns raised by surrounding property owners, keeping the road network separate and confined to the higher density Moderate Density Residential designated area rather than allowing project generated traffic into these surrounding lower density areas may be consistent with Policy TRAN 4.3 to limit and provide access to the street network in a manner consistent with its function and purpose.

Stormwater and Erosion: The grading and drainage plans submitted with the application show the property being re-graded for lots and roads with each lot accommodating its own drainage on-site and the roadways conveying stormwater to two infiltration swales. The City's consulting engineer submitted written comments concerning the ability of the roadways to convey runoff and the role played by retaining walls, which while shown on the plans, were labeled as being installed by others. Comments received from the public also raised concerns about erosion and grading.

Comprehensive Plan policies include minimizing adverse stormwater impacts generated by the removal of vegetation and alteration of landforms (Policy ENV 2.2), requiring the utilization of on-site detention and/or infiltration facilities (Policy ENV 2.3), insuring that new development does not increase peak stormwater runoff (Policy ENV 2.4) and controlling stormwater in a manner that has positive or neutral impacts on the quality of surface and groundwater and does not sacrifice one for the other (Policy ENV 2.5). The drainage plans and facilities being proposed are consistent with these policies provided that they function properly.

The project will be required to retain stormwater on-site and take the measures necessary to do so. Grading permits are also required and code requirements met including a maximum 2:1 slope for banks or engineered retaining walls. A stormwater construction permit is usually required from the Department of Ecology during construction and a dust control plan is required by the Yakima County Clean Air Agency. Conditions are proposed to ensure consistency with applicable comprehensive plan policies including Objective ENV 2 and Policies ENV 2.2 through 2.5.

Open Space:

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

Two open space areas are shown by this application: 12,963 square foot Tract 'A' and 13,564 square foot Tract 'B'. Tract 'A' also includes the overflow parking area and both tracts include drainage swales and part of the private streets. Excluding those areas and the steep embankments of the drainage swales leaves about 5,100 square feet for Tract 'A' and 4,400 square feet for Tract 'B' for a total of 9,500 square feet, or a little more than 200 square feet per living unit in addition to the open area being provided on each lot excluding off-street parking. This is consistent with the standard for multiple-family development in the R-3 zone of 200 square feet of outdoor living area,

defined by Appendix 'A' to Chapters 10.02 through 10.48 to include lawn, garden, court, patio, pool or balcony and specifically excludes driveways, service areas and areas of unstable slope.

Both open space tracts are labeled "park" and shown to be in lawn on the grading/drainage plans suggesting that they are suitable for their intended use per SMC 10.24.080(3), although while Tract 'A' is generally flat, the Tract 'B' open area has a slope of more than 20 percent, which is steep, although there is no evidence that it is "unstable". Additionally, each lot has between 780 and 2,083 square feet of open area excluding streets and off-street parking⁴. The average open area per parcel (1,040 square feet) added to the 200 square feet per living unit totals 1,240 square feet per living unit and does not include the drainage swales, which although they may not be usable for recreational purposes they do provide for additional open area.

Compliance with the Subdivision Code:

The proposed preliminary plat does not conform to the following subdivision standards. They are discussed further here or in other parts of the report:

1. Curbs, gutters and sidewalks are required by SMC 10.50.043 and .044 Sidewalks are required on at least one side of a residential street with a required width of five feet. They are required to be in public right-of-way contiguous to the curbs and constructed as required by SMC 10.50.041(a) (which adopts various design documents by reference).
2. Curbs and gutters of cement concrete are required in accordance with the standards of SMC 10.50 (SMC 10.50.043) (the only other sections of this chapter that refers to curbs and gutters are the design documents referenced by SMC 10.50.041(a) and a requirement for curbs and gutters in short plats).

SMC 10.50.041(b) requires the arrangement of lots to allow for the opening of future streets and future subdivision unless doing so is impractical for reasons of property size or topography. SMC 10.50.041 (d)(4) allows private streets where there will be no adverse effect of future traffic circulation of neighboring parcels. SMC 10.50.041(e)(3) requires lots to front on a public street. The latter two standards may be modified for a planned development for good cause shown and where appropriate to provide for the type of development and land use contemplated.

This property is served by Bowers Drive, approved by a variance for the previously approved short plats primarily due to the shape of the property. As such it is an existing condition, with the other private roads being added to it. Also, to the extent that the proposal may not accommodate further subdivision of surrounding properties, it is because the roads are private and their design may not accommodate additional traffic. They are configured such that future access to them from other

⁴ From the Density Tables in the application, based on 48 units and an older version of the site plan. Although it may not be precise as to the current site plan, it is believed to be a reasonable representation.

properties, their extension and possibly even their upgrade to higher standards is not completely ruled out.

Minor Rezone Criteria

Criteria under SMC 10.40.070 for minor rezones, defined as rezone applications that are not dependent on a comprehensive plan amendment are set forth at SMC 10.40.050(1) through (8). Since a planned development is characterized at SMC 10.24.010 as a separate zoning district and a rezone application is required by SMC 10.24.050, it is assumed that the requirements of SMC 10.40.070, including a finding of public need and changes circumstances apply. However, the "verified rezone application" required for planned developments are subject to separate findings and criteria, listed at SMC 10.24.060 and suggests that these are required instead of, rather than in addition to the criteria of SMC 10.40.050.

This was noted by the Hearing Examiner in the DATE Somerset II decision (pp. 5-6) citing the "specificity of the review criteria in SMC 10.24.060", that the Planned Development ordinance makes no mention of either major or minor rezone review requirements and the overlap of the Planned Development review requirements with that of SMC 10.40.050(c). The decision also noted that the purpose of the Planned Development zoning provisions is somewhat different from that of other rezones (p. 6). It should also be noted that there are references in the Planned Development provisions to "underlying zoning" suggesting that at least in some respects, PD's are more like an overlay zone, although they are not structured that way by current zoning requirements. Some past approval decisions have deferred to development standards of the previous or underlying zoning district, where they were not specified by the preliminary plan and program.

Changed circumstances in particular seems irrelevant in the review of a zoning classification that is not established or mapped in any location by the comprehensive plan process and which can be permitted anywhere that the criteria for its establishment are met. The ability of an application to meet those criteria could be in and of itself a changed circumstance.

If determined necessary to show a public need for this application, there is an apparent need for the type of housing being proposed which are larger than typical rental units (other than single family homes of more traditional design) and designed for somewhat higher income tenants. According to the applicant, similar existing developments of this type are fully occupied, indicating demand and a need for this type of housing.

PRELIMINARY PLAT APPLICATION:

Acreage: 3.96 acres consisting of eight existing lots created by contiguous short plats in 2014.

Number of lots: 47 residential lots and 2 open space tracts, 12,963 and 13,564 square feet respectively designated for park, drainage and 8 overflow parking spaces. Part of the access streets also cross these tracts.

Average lot size: 3,105 square feet (0.07 acre). Lot size ranges from 2,480 to 4,747 square feet.

Gross density: 11.9 dwelling units per acre based on 47 residences (Calculating required density by multiplying 3.96 acres x 12 du/acre = 47.52, rounded up to 48. As proposed, 47 dwelling units clearly meets the density requirements of the comprehensive plan and SMC 10.24.070).

Phasing: None.

UTILITIES: Twelve inch City water and sanitary sewer lines are located on E. Goodlander Road where it fronts the site.

Water: A public 8 inch water line has been extended into the site to serve the existing dwelling units and is to be connected to the three required fire hydrants. SMC 11.30.070(c) requires a 10 inch water line for more than two hydrants on a dead end service line. Extending a separate water line north in the eastern part of the property for the third fire hydrant is one way to accomplish this.

Sewer: A private sewer line connected is to be extended into the site to serve all of the residential lots in the 26 foot wide access and public service easement and will extend across the site in the 20 foot wide easements.

Fire Hydrants: Three hydrants are proposed, spaced such that all homes are within 250 feet of a hydrant, measured along the streets.

TRANSPORTATION: (Existing conditions)

E. Goodlander Road – (designated Collector Arterial) -- Asphalt pavement with no curbs, gutters or illumination but with a sidewalk on the opposite (south) side of the street. Improvements planned by the City within the next six years include the extension of curb, gutter and sidewalk from Wenas Road to Lancaster Road east of the subject property. Requirements made through SEPA for the subject project and the adjacent property to the east proposed for a 19 unit multiple family development will continue the curb, gutter and sidewalk from Lancaster to the site and including its entire frontage.

Bowers Drive – (private) – a 20 foot wide asphalt paved street with no curbs, gutters or sidewalks in a 26 foot wide access easement, extends north from E. Goodlander Road and serves all of the existing short plat lots. It was approved by variance in 2014 for the two contiguous short plats.

Capacity – Based on concerns raised in public comment letters and after consultation with the Public Works Department, a traffic impact analysis was required for the proposal, to focus on the intersections of E. Goodlander Road with N. 1st Street (Selah Loop Road), Lancaster Road and Wenas Road. Part of the reason for the concern was traffic generated by Selah High School and Carlon Park, including traffic generated during sporting events.

The TIA determined that with the project and with the proposed 19 unit multiple family development included in background traffic results, that level of service (LOS) for the E. Goodlander Road intersections with 1st Street and Lancaster Road was LOS B and for the intersection with Wenas Road it was LOS A⁵. The primary access for Carlon Park is the north leg of the E. Goodlander/Lancaster Road intersection, which is also used for school bus traffic to the high school. The TIA confirmed that higher traffic volumes were using this leg of the intersection during school release at 2:00 PM. However, it also found that the peak hour for the intersections are at 4:00 PM. this coincides with the peak hour for the development as indicated by the ITE Trip Generation Manual.

TRANSPORTATION: (Planned improvements):

Private access roads, with 20 feet of pavement width and no curbs, gutters or sidewalks are to be extended easterly from Bowers Drive and connect with a second north-south access road along part of the eastern boundary of the site. Another private road, with an 'S' curve configuration to fit the topography will connect to E. Goodlander Road at the southeast corner of the site about 250 feet east of Bowers Drive. Easements for Bowers Drive and the other north-south roads are proposed to be 26 feet in width with the east-west roadways 20 feet in width, meeting fire apparatus standards of the Fire Code.

STORMWATER DRAINAGE:

The grading and drainage plans submitted with the application show the property being re-graded for lots and roads with each lot accommodating its own drainage on-site and the roadways conveying stormwater to two infiltration swales. SMC 10.50.045(5) requires the construction of a storm drain system in such a manner to prevent erosion or the development of safety hazards. All development stormwater must be retained on-site. Review of storm water runoff calculations and drainage facilities sizing calculations must be prepared by a registered professional engineer and reviewed by the City. As of the date of this report, the required plans and calculations have been submitted to the City, but have not yet been determined to meet the requirements of this code section.

STAFF ANALYSIS:

1. **Planned Development:** Application conformance to the criteria for a planned development is based on the following findings:
 - a. The proposal is consistent with the Moderate Density Residential designation as described in the comprehensive plan. It has a maximum density of less than 12 dwelling units per gross acre, provides open space and consists of single-family/townhouse dwellings. Most of the zoning standards that regulate development to assure

⁵ The minimum level of service required to maintain concurrency is LOS 'C'. This is contrary to references by the TIA to WSDOT standards. Required Level of Service is established by the comprehensive plan, not WSDOT. This has no effect on the adequacy of the traffic study, since level of service was found to be better than 'C'.

compatibility are being met. In particular, building height, lot coverage and setbacks where the project site borders land in present or potential future residential use.

- b. The proposal is generally consistent with comprehensive plan policies. Policies that concern the character of existing neighborhoods and that *encourage* the limitation of net density to that of surrounding areas should be considered in the context of the surrounding areas being in transition and not fully developed and that the different comprehensive plan designations would be expected to have different densities. Also, higher densities are permitted under Policy HSG 2.1 where the developer can demonstrate that the quality of project design, construction and amenities warrants a different density. While opponents point to potential view obstruction and the exterior appearance of the buildings, the developer cites quality of construction, amenities, open space, covenants, shared maintenance and targeting a certain type of buyer or tenant with an apparent need for this type of housing. Plan policies and ordinance standards do not currently address architectural standards that would allow the denial or modification of proposed exterior building design, and there is no evidence that the proposed buildings violate current construction codes.
 - c. The system of ownership is to be individual ownership of each unit, although their continuing to be maintained as rental units is not ruled out. This is not inconsistent with the comprehensive plan and is consistent with the affordable housing provisions of the Housing Goal. It would also support the identified need. As stated in the application, the valuation of the development will probably be higher with each unit owned separately than would having the entire complex on a single parcel of land. Proposed open space is being provided and along with open space being provided for each lot is consistent with current City standards for open space in multiple-family residential developments.
 - d. The size of the subject property is large enough to accommodate the residential lots at the proposed size and density along with the proposed private streets, utilities and open space. This is based in part on documentation provided by the Transportation Impact Analysis that proposed private streets are sufficient for the proposed number of dwelling units.
 - e. The proposal generally complies with the subdivision code, except for certain standards that may be modified by a planned development under SMC 10.50.041(e) for good cause and where appropriate to provide for the contemplated type of development and land use.
2. **Preliminary Plat** Provided that grading, drainage, retaining walls and water utilities are provided as required, the proposal complies with subdivision standards (as reduced by the planned development) and makes appropriate provisions for drainage, roads, alleys and other public

ways, water supply, sanitary sewerage disposal, parks, playgrounds, fire protection facilities, minimum lot size and other public and private facilities and improvements.

RECOMMENDATION: Staff recommends **APPROVAL** of the planned development rezone and preliminary plat as proposed for the reasons stated in this application subject to the following conditions that include project modifications and other actions necessary to address concerns that have been raised about the subdivision.

1. Final lot dimensions and lot area shall substantially conform to the preliminary plat.
2. Storm water drainage facilities for the project site must comply with a drainage facilities plan prepared by a licensed professional engineer and approved by the Public Works Director. The plan must demonstrate that the project as proposed can provide for the retention of runoff from developed parts of the project on-site.
3. Grading permits are required for site work. Prior to any site disturbance, a grading plan or plans, prepared by a licensed professional engineer shall be submitted and approved by the Public Works Director. This requirement also applies to the development of individual lots of the subdivision, although it is not intended to require homesite permitting or development as a condition of recording the final plat.
4. Finished slopes shall be at most 2:1 (horizontal to vertical) or have retaining walls designed by a licensed professional engineer, unless the engineering requirement is waived by the building official in accordance with the International Building Code. This condition shall be met prior to recording the final plat.
5. Planned development shall be in substantial conformance to the project design as described in the project narrative, application materials and on the face of the currently proposed preliminary plat. Setbacks, building height and lot coverage shall conform to the building configurations, plans and elevations included in the final plan and program and shown on the currently proposed preliminary plat. Standards not otherwise provided for in these documents shall be to the standards required in the R-2 district by the zoning ordinance. This condition is not intended to preclude modifications otherwise allowed under SMC 10.24.110.
6. 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 or easement widths and locations, lot size and configuration).
7. All final plans and specifications for public improvements must be prepared by a Licensed Professional Engineer and reviewed and approved by the Public Works Director prior to construction. Specifications for improvements shown on the preliminary plat are minimum specifications that may be superseded by conditions contained herein or by specific conditions

as approved by the Public Works Director. Upon completion of construction and prior to final plan approval, final 'as-built' construction plans and a written certification by a Licensed Professional Engineer that said improvements were completed in accordance with the approved construction plans must be submitted to the Public Works Director for approval.

8. The private interior streets shall be constructed, at minimum, to the fire apparatus road standards of the International Fire Code to the following specifications:
 - a. 20 foot wide (minimum) asphalt surfacing
 - b. Not to exceed 10 percent slope except as otherwise allowed by the Fire Chief.
 - c. 26 foot wide access easements for the north-south private roads along the east and west property lines as depicted by the preliminary plat.
 - d. More than one access point to the public street system.
9. The following signs shall be provided on the private roads:
 - a. No parking signs
 - b. Fire lane signs as specified in the IFC D103.6. They shall be posted on both sides of the road.
 - c. Warning signs and "Share the Road" plaques as recommended by the traffic study.
10. Eight overflow parking spaces meeting the dimension and surfacing standards of SMC 10.34 shall be provided as depicted on the preliminary plat. Landscaping standards, if applicable are considered to be met by the open space areas.
11. The applicant shall pay an amount to the City sufficient to pay for the installation of a sidewalk on the entire E. Goodlander Road frontage of the subject property. The amount of payment required shall represent the applicant's proportionate share of the cost of its installation based on lineal footage and on the City's engineering estimate for the costs of installation. In the event that the actual costs to install the sidewalk exceed the engineer's estimate, the applicant shall pay an amount in addition to the amount already paid so that the sum of both payments does not exceed a total of 115% of the engineer's estimate. This payment is required as a SEPA mitigation measure and shall be made prior to recording the final plat. If this payment was already made as a requirement for the short plats recorded on this property in 2014 this condition shall be considered satisfied except to the extent that the actual costs exceed the engineer's estimate as provided for in this condition.
12. A NPDES construction stormwater general permit shall be obtained unless determined by the Department of Ecology that it is not required.
13. A dust control plan shall be prepared and implemented during construction as required by the Yakima Regional Clean Air Agency.

14. Documentation of the ownership and providing for perpetual maintenance of the two common open space tracts shall be provided prior to recording the final plat. Documentation may include covenants, establishment of a homeowner's association or deed restrictions and they shall be recorded prior to recording the final plat.
15. Fire hydrant(s) 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 except that the diameters of water lines connected to hydrants shall be as approved by the Public Works Director.
16. 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. Private sewer lines shall be installed, require permits and inspection under the International Residential Code.
17. Subdivision design shall include the provision of public water lines designed by a licensed professional engineer. Individual service lines shall be limited to one line per dwelling unit. The water line or lines shall be installed in the access and utility easement with a minimum of 10 feet of separation from a sanitary sewer line, unless approved otherwise by the Public Works Director.
18. There shall be a moratorium on public street cuts for a period of five (5) years from the date of plat recording.
19. 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.
20. All required street signs, posts and appurtenances must be supplied by the developer and will be installed by the City.
21. 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."
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 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. Improvements required for the subdivision must be completed and the final plat must be submitted within the maximum time period required by RCW 58.17.140. 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 initial time period ends.

Whispering Views Estates
912.42.14-01 Preliminary Plat
914.42.14-01 Planned Development
971.42.14-01 Environmental Review

Whispering Views Application & Notice Exhibits

<u>Exhibit</u>		<u>Page</u>
1	Application, original submitted 2014	
2	Applicants Narrative: February 17, 2015	
3	Notice of Hearing/SEPA Determination: March 14, 2014	
4	Notice of Continuance: March 24, 2014	
5	Notice of Application: March 10, 2015	
6	Notice of Application (for publication): March 10, 2015	
7	Amended Notice of Application: March 10, 2015	
8	Notice to applicant, surrounding property owners, parties of record extended comment period: March 18, 2015	
9	Notice to applicant and neighboring property owners of rescheduled hearing: April 13, 2015	
10	Notice of Public Hearing & SEPA: June 29, 2015	
11	Affidavit of Mailing: June 29, 2015	
12	Affidavit of Publication: June 29, 2015	
13	Installation (Posting) Certification: July 8, 2015	
14	Subject Property Map	
15	Surrounding Property Map	
16	Mailing List: surrounding property owners	
17	Comment Letter: Jerry & Leslie Radebaugh: March 24, 2014	
18	Comment Letter: Diane Underwood: March 13, 2015	
19	Comment Letter: Joseph C May: March 15, 2015	
20	Comment Letter: Abdul Maroof: March 13, 2015	
21	Comment Letter: Joyce Furstenau: March 18, 2015	
22	Comment Letter: Pat & Dennis Rogge: March 26, 2015	
23	Comment Letter: Sandra Field: March 27, 2015	
24	Comment Letter: Julie A. Field: March 27, 2015	
25	Comment Letter: Roger & Carol Floyd: March 26, 2015	
26	Comment Letter: Lindsey Vaagen: March 29, 2015	
27	Comment Letter: Chris & Venessa Becker: March 29, 2015	
28	Comment Letter: Sara Bicsak: March 29, 2015	

29 Comment Letter: Dave & Linda Wright: March 28, 2015
30 Comment Letter: David & Lisa Gordon: March 19, 2015
31 Comment Letter: Chloe Gordon
32 Comment Letter: Cordae Gordon: March 26, 2015
33 Comment Letter: Calie Gordon, March 26, 2015
34 Comment Letter: Cambree Gordon, March 26, 2015
35 Comment Letter: Tiffany Babat, March 29, 2015
36 Comment Letter: Wayne Worby, March 29, 2015
37 Comment Letter: Stella Whitehead, March 30, 2015
38 Comment Letter: Dale Renner, March 30, 2015
39 Comment Letter: James B Hanna, March 30, 2015
40 Comment Letter: Bruce Rockwell
41 Comment Letter: Abdul Maroof, March 28, 2015
42 Comment Letter: Diane Underwood, March 28, 2015
43 Comment Letter: Clelan & Jan Terry
44 Comment Letter: Paul & Connie James
45 Comment Letter: Deb Buxton, March 29, 2015
46 Comment Letter: Jay Harris, March 26, 2015
47 Comment Letter: Cheryl Harris, March 26, 2015
48 Comment Letter: John & Helen Teske, March 29, 2015
49 Comment Letter: Louise Worby, March 27, 2015
50 Comment Letter: Kathleen Fountaine, March 29, 2015
51 Comment Letter: Jo Ann Larson, March 29, 2015
52 Comment Letter: Robert Newell, March 29, 2015
53 Comment Letter: Kathy Kester, March 29, 2015
54 Comment Letter: Gary Choate, March 30, 2015
55 Comment Letter: Tim MacDonald, March 30, 2015
56 Comment Letter: Victorya McDonald, March 30, 2015
57 Comment Letter: Dawn M McDonald, March 30, 2015
58 Comment Letter: Joan Choate, March 30, 2015
59 Comment Letter: Amy Currier, March 30, 2015
60 Comment Letter: Steve Lane, March 30, 2015
61 Comment Letter: Toni Lane, March 30, 2015
62 Comment Letter: Norm & Sue Hillstrom
63 Comment Letter: Mr & Mrs Willie Morris
64 April 23, 2015 email from Mark Fickes, Halverson Northwest
65 Comment Letter: Jeff Keller
66 Comment Letter: 63 Lyle Ave

- 67 Comment Letter: 50 Lancaster
- 68 Comment Letter: 113 W. Goodlander Rd
- 69 Comment Letter: Lori Lane
- 70 Comment Letter: Steve Lane
- 71 Comment Letter: 195 N 16th
- 72 Comment Letter: 63 Lyle Avenue
- 73 Comment Letter: 1007 W Fremont
- 74 Comment Letter: Dawn McDonald
- 75 Comment Letter: 109 W. Goodlander
- 76 Comment Letter: 1991 W Huntzinger
- 77 Comment Letter: 1991 Huntzinger
- 78 Comment Letter: 404 S. 1st Street, Apt 6
- 79 Comment Letter: 501 S. 5th Street
- 80 Comment Letter: Wyle
- 81 Comment Letter: Christyl Guthrie
- 82 Comment Letter: Stacy Snayze
- 83 Comment Letter: Carol Floyd
- 84 Comment Letter: Roger Floyd
- 85 Comment Letter: Jay Harris
- 86 Comment Letter: Freidrich, 60 Lancaster
- 87 Comment Letter: Emma Freidrich
- 88 Comment Letter: 110 E Fremont, Apt 2
- 89 Comment Letter: J. Guthrie
- 90 Comment Letter: Bruce Frazier
- 91 Comment Letter: Arthur Wentworth
- 92 Comment Letter: 80 Lancaster Road
- 93 Comment Letter: Sarah Lancaster
- 94 Comment Letter: Larry Lancaster
- 95 Comment Letter: Brandi Wedeman
- 96 Comment Letter: Kendra Freeburg
- 97 Comment Letter: Chris Brock
- 98 Huibregtse Louman, Associates Storm Drainage Review comments:
July 21, 2015
- 99 July 22, 2015 letter from Public Works to Torkelson Construction
- 100 July 23, 2015 Email Mr. Fickes

CITY OF SELAH

APPLICATION FOR ZONING CODE AMENDMENT
APPLICATION REQUIREMENTS

Date Submitted/Received by _____

____ Non-Refundable Application Fee _____

____ Site Plan (~~Six~~ ^{Two} ~~(6)~~ ² copies) 12 1/2" x 17" _____

____ Vicinity Site Map with North Arrow _____

____ List of Adjacent Property Owners (From County Assessor Office) _____

*All application requirements must be completed before the application is accepted by the City.

1. TYPE OF ZONING CODE AMENDMENT REQUIRED

Rezoned:

Other:

A. If requested rezone, what is the original zoning and requested zoning (i.e. R-1 to R-2)

R2 to PD

Comprehensive Plan Designation: Moderate Density Residential

B. If amendment to zoning code, what is the proposed amendment (please attach amendment to application).

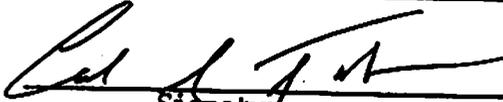
2. NAME OF APPLICANT:

Torkelson Construction, Inc.

ADDRESS OF APPLICANT:

P.O. Box 292

Selah, WA 98942



Signature

TELEPHONE: WORK 697-3305
Cell 945-0133

HOME 697-3301

3. NAME OF LEAGAL PROPERTY OWNER:
(If different from applicant)
ADDRESS:

Carl L. Torkelson

Candi R. Torkelson

Candi R. Seikelson
Signature

TELEPHONE: WORK 697-3305
Cell 945-0133

HOME 697-3301

4. Yakima County Assessor's Office Parcel No. for Property(s) 181425-33029 + 181425-33030.

Legal Description of property: on plat map

4. Summary of proposed rezone or zoning code amendment.

We would like to rezone from Moderate Density to Planned Development.

5 JB



P.O. Box 292
Selah, Washington 98942
Phone: (509) 697-3305
Fax: (509) 697-3504
torkelson@fairpoint.net

Carl Torkelson
Cell: (509) 945-0133
Candi Torkelson
Cell: (509) 961-7656

Why Pay \$1000's More? Buy Builder Direct!

February 17, 2015

City of Selah
Hearing Examiner
Selah, WA 98942

RE: Whispering View Estates

Whispering View Estates is the newest planned development being proposed by Torkelson Construction, Inc.. This development is a 4 acre 48 lot planned development with 2 parks that serve as a green belt open community space. It will have 24 pages of CC & R's to protect the owners of the development.

Whispering View Estates is scheduled to have 48 1650 square foot townhouses on their own individual lots. Producing individual lots and R1 ownership helps become a more compatible fit for blending with the 4 properties on the backside of this property. The two properties fronting Goodlander on the east and west are also zoned R2 moderate density, just like Whispering View Estates. These three properties already share common compatibility. Whether now or in the future these properties can be developed into R2 moderate density projects.

It is our goal to purchase large R2 properties that make it possible to build large apartment complex's or attached low end multi-family projects. We then increase their value and develop them into PDs with larger individual units on their own lots. They will have protective covenants with nicer building standards and parks for children to play in. This will be creating desirable low maintenance life style neighborhoods for citizens of Selah to live in. The projected purchase price of these homes are estimated to be in the two hundred thousand dollar and under range. This will be a great opportunity for a first time buyers to achieve a brand new home.

We understand that some neighbors will not agree with the goals and plan for our property. We also realize change is hard for some. The one thing we would ask is that those considering this project would have a clear vision of our proposed planned development, compared to an apartment complex or a low end attached multifamily plat. Which all three of these could be built with the same density which is allowed on our property. We feel the planned development is a more compatible fit for neighbors, the City of Selah and ourselves. The planned development offers potential individual ownership, CC&R's, green belt space for all, nicer overall appearance of units, and a better tax base for Selah. Not to mention a R1 compatibility to help blend with the neighboring properties. The apartment complex and

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Builder reserves the right to change floor plan or elevations



attached multifamily building plat will not produce any of these qualities for Selah and their citizens.

We also think by producing a planned development from this moderate density R2 property will meet Selah's goals and objectives of its comprehensive plan. We will list policy's met below:

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

A.) This plat will be built with housing that are well built and very affordable for new units. It also helps promote one of the variety of residential densities which Selah has predetermined to be moderate density R2 (12 units to the acre).

2.) Policy HSG 2.2 ensure codes and ordinances promote and allow for a compatible mix of housing types in residential areas.

A.) Selah's codes and ordinances allow for these 3 story individual townhouses to be built on this moderate density land. Please also notice neighboring parcel to the north has a 3 story house with a garage underneath.

3.) Objective HSG 3 minimize the negative impacts of medium and high density residential projects on adjacent low density residential, but encourage mixed use/density projects.

A.) We feel that making the project a planned development will soften and help minimize the impact of this plat. This planned development will have 2 parks, CC & R's, single family ownership, and nicer units than most moderate density plats. All these items will defiantly minimize impacts. We meet minimum site design criteria. The plat is located right next to schools, parks, and shopping. This is a perfect placement for a moderate density planned development.

4.) Objectives HSG 4 encourage new residential construction to be compatible with existing residential development.

5.) Policy HSG 4.1 encourage developers to use private covenants and deed restrictions which specify architectural maintenance and landscaping standards within their development.

A.) Selah has already decided on the density of this property to be moderate density. We feel that our proposed planned development would be the best compatible blend with the existing neighborhood. Our planned development will have CC & R's parks, nicer buildings and produce single family ownership in which helps with the blending of the 4 parcels to the back of the property. The front 2 parcels on the east and west are zoned moderate density just like ours.

In conclusion we at Torkelson Construction, Inc. feel that this planned development is the best compatible use of this property under its R2 moderate density zoning. We are hoping that by producing a larger tax base plus nicer buildings with parks and potential individual ownership, Selah will have a plat with a better fit other than larger attached rental plats or

apartment complex's. We bought the property zoned the way it is and are not asking to change the allowable density of this property. We are asking to let us make it a better quality housing environment that is more compatible for neighbors and Selah as well.

Thank you,

A handwritten signature in black ink, appearing to read "Carl Torkelson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Carl Torkelson



CITY OF SELAH

Planning Department

222 South Rushmore Road
SELAH, WASHINGTON 98942

Phone 509-698-7365

Fax 509-698-7372

DATE: March 14, 2014
TO: Property Owners within 600 feet of Development Proposal
FROM: Dennis Davison, Community Planner
SUBJECT: Notice of Public Hearing/Environmental Determination

CITY OF SELAH HEARING EXAMINER NOTICE OF PUBLIC HEARING/ ENVIRONMENTAL DETERMINATION

THE CITY OF SELAH HEARING EXAMINER HEREBY PROVIDES NOTICE THAT TORKELSON CONSTRUCTION, INC. HAS SUBMITTED APPLICATIONS REQUESTING THE REZONE OF 3.97 ACRES FROM TWO-FAMILY RESIDENTIAL (R-2) TO PLANNED DEVELOPMENT (PD); AND PRELIMINARY PLAT APPROVAL TO SUBDIVIDE THE SITE INTO FORTY-EIGHT (48) INDIVIDUAL LOTS FOR SALE AS SINGLE-FAMILY RESIDENTIAL LOTS CONSISTENT WITH THE PLANNED DEVELOPMENT PLAN. EACH LOT WOULD BE SERVED WITH MUNICIPAL WATER AND SEWAGE SERVICE AND ACCESSIBLE VIA A PRIVATE ROADWAY CONNECTED AT TWO (2) POINTS TO EAST GOODLANDER ROAD. AVERAGE LOT SIZE WITHIN THE SUBDIVISION WOULD BE APPROXIMATELY 3,018± SQ. FT. IN AREA.

THE SITE OF THE PROPOSED REZONE AND SUBDIVISION IS 207 EAST GOODLANDER ROAD APPROXIMATELY 600 FEET EAST OF NORTH FIRST STREET AND 400 FEET WEST OF LANCASTER ROAD (PARCEL NUMBERS: 181425-33029 AND 181425-33030).

THE PUBLIC HEARING WILL BE HELD ON THURSDAY, MARCH 27, 2014, COMMENCING AT 10:00 A.M., OR AS SOON THEREAFTER AS PRACTICAL, IN THE COUNCIL CHAMBERS, CITY HALL BUILDING, 115 WEST NACHES AVENUE, SELAH, WA.

APPLICATION INFORMATION AND MAPS DETAILING THE PROPOSAL ARE AVAILABLE FOR PUBLIC INSPECTION DURING REGULAR BUSINESS HOURS AT THE CITY OF SELAH PLANNING DEPARTMENT, 222 SOUTH RUSHMORE ROAD, SELAH, WA. PERSONS WHO WISH TO TESTIFY IN SUPPORT OF, OR AGAINST, THE PROPOSED REZONE AND/OR SUBDIVISION ARE ENCOURAGED TO ATTEND. ALL WRITTEN COMMENTS RECEIVED BEFORE THE DAY OF THE OPEN RECORD PUBLIC HEARING WILL BE CONSIDERED. IF YOU SUBMIT WRITTEN COMMENTS BE SURE TO REFERENCE FILE NUMBERS 912.45.14-01 (subdivision) OR 914.45.14-01 (rezone) OR 971.45.14.01 (environmental issues) IN YOUR CORRESPONDENCE.



THE CITY OF SELAH, AS LEAD AGENCY UNDER THE STATE ENVIRONMENTAL POLICY ACT, HAS REVIEWED THE SEPA CHECKLIST (971.45.14-01) AND SUPPORTING DOCUMENTS AND ISSUED A DETERMINATION OF NONSIGNIFICANCE (DNS) AS BEING APPROPRIATE FOR THE PROPOSED PROJECT.

THE SEPA OFFICIAL HAS CONCLUDED THAT THE PROPOSAL WOULD NOT HAVE PROBABLE SIGNIFICANT ADVERSE ENVIRONMENTAL IMPACTS.

THIS DECISION WAS MADE AFTER A REVIEW OF THE COMPLETED ENVIRONMENTAL CHECKLIST AND OTHER INFORMATION ON FILE WITH THE LEAD AGENCY. THIS INFORMATION IS AVAILABLE TO THE PUBLIC ON REQUEST.

THE EXAMINER WILL FORWARD A RECOMMENDATION OF REZONE AND SUBDIVISION APPROVAL, APPROVAL WITH CONDITIONS, OR DENIAL TO THE SELAH CITY COUNCIL FOR THEIR CONSIDERATION AND FINAL DISPOSITION. **THE EXAMINER'S OPEN RECORD PUBLIC HEARING SCHEDULED FOR THURSDAY, MARCH 27, 2014, MAY BE THE ONLY OPPORTUNITY TO COMMENT ON THE PROPOSAL.**

IF YOU HAVE PROJECT OR PROCEDURAL QUESTIONS PLEASE FEEL FREE TO CONTACT DENNIS DAVISON, COMMUNITY PLANNER IN PERSON AT 222 SOUTH RUSHMORE ROAD, SELAH, BY PHONE AT 1 (509) 698-7365 OR BY FAX AT 1 (509) 698-7372.

DATED THIS 14TH DAY OF MARCH, 2014.


DENNIS DAVISON, COMMUNITY PLANNER



THE DATE OF THE RESCHEDULED PUBLIC HEARING HAS NOT BEEN ESTABLISHED. ONCE A NEW HEARING DATE HAS BEEN ESTABLISHED THE OWNERS OF PROPERTY WITHIN 600 FEET OF THE PROJECT SITE WILL BE PROVIDED NOTICE TEN (10) DAYS PRIOR TO THE RESCHEDULED PUBLIC HEARING.

THE RESCHEDULED PUBLIC HEARING WILL BE HEARD IN THE COUNCIL CHAMBERS, CITY OF SELAH CITY HALL, 115 WEST NACHES AVENUE, SELAH WA.

IF YOU HAVE PROJECT OR PROCEDURAL QUESTIONS PLEASE FEEL FREE TO CONTACT DENNIS DAVISON, COMMUNITY PLANNER IN PERSON AT 222 SOUTH RUSHMORE ROAD, SELAH, BY PHONE AT 1 (509) 698-7365 OR BY FAX AT 1 (509) 698-7372.

DATED THIS 24TH DAY OF MARCH, 2014.

DENNIS DAVISON, COMMUNITY PLANNER





CITY OF SELAH

Planning Department

222 South Rushmore Road

SELAH, WASHINGTON 98942

Phone 509-698-7365

Fax 509-698-7372

CITY OF SELAH HEARING EXAMINER

SCHEDULED MARCH 27TH PUBLIC HEARING

**NOTICE IS HEREIN PROVIDED THAT THE HEARING EXAMINER'S
PUBLIC HEARING SCHEDULED FOR MARCH 27TH 2014 AT 10:00 A.M. TO**

CONSIDER THE

**TORKELSON CONSTRUCTION, INC. APPLICATIONS REQUESTING THE
REZONE OF 3.97 ACRES FROM TWO-FAMILY RESIDENTIAL (R-2) TO
PLANNED DEVELOPMENT (PD); AND PRELIMINARY PLAT APPROVAL
TO SUBDIVIDE THE SITE INTO FORTY-EIGHT (48) INDIVIDUAL LOTS
FOR SALE AS SINGLE-FAMILY RESIDENTIAL LOTS CONSISTENT WITH**

THE PLANNED DEVELOPMENT

HAS BEEN CONTINUED FOR TECHNICAL REASONS





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. 914.45.14-01, 912.45.14-01, 971.45.14-01 – “Whispering View Estates” Torkelson Construction, Inc. Notice of Application, and Environmental Review,

Application: On January 10, 2014 the City of Selah Planning Department received rezone and preliminary plat applications and an environmental checklist from Torkelson Construction, Inc., PO Box 292, Selah, WA 98942 to rezone 3.97 acres from Two-Family Residential (R-2) to Planned Development (PD) and subdivide the property into 48 lots and two recreational open space tracts. The applications were deemed complete for processing 28 days after submittal on February 7, 2014. The applicant submitted additional information on February 10, and February 24, 2015.

Project Description Rezone 8 existing lots totaling 3.97 acres from R-2 to PD, subdivide the property into 48 lots for detached single family homes, and two recreational open space tracts. Proposed residential lot sizes range from 2,263 to 4,747 square feet. Access is proposed by 20 foot wide paved private access roads in 20 to 26 foot wide easements. The project is to be served by municipal sewer and water.

Location: 207 East Goodlander Road, about 600 feet east of North First Street and 400 feet west of Lancaster Road in the City of Selah. (Yakima County Assessor Parcel Numbers: 181425-33419 to 33426 inclusive).

Approvals, Actions and Required Studies: Rezone from R-2 to Planned Development; Preliminary Plat; Development Plan and Program.

Environmental Review: The City of Selah is the lead agency for this proposal under the State Environmental Policy Act (SEPA). Written comments are being accepted and will be considered in making a threshold environmental determination, which will be issued after the comment period ends.

Request for Written Comments on the Proposal Your views on the proposed rezone, preliminary plat and environmental checklist are welcome. Written comments will be accepted during the public comment period that expires at 5:00.p.m, on March 13, 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 “Whispering View Estates” in your correspondence.

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Open Record Public Hearing An open record public hearing on the proposed rezone and preliminary plat will be held before the City of Selah Hearing Examiner. The Examiner will conduct the hearing on **Monday, April 20, 2015** commencing at 2:00 p.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 rezone and preliminary plat approval, approval with conditions, or denial of the rezone and preliminary plat which will be transmitted to the Selah City Council for its consideration and final disposition.

Application information including the 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 10th day of March 2015.

/s/

Thomas R. Durant, Community Planner





CITY OF SELAH

Public Works Department

222 South Rushmore Road
SELAH, WASHINGTON 98942

Phone 509-698-7365

Fax 509-698-7372

DATE: March 4, 2015
TO: Simon Sizer—Yakima-Herald Republic
FROM: Thomas R Durant, Community Planner
SUBJECT: Notice of Application
PUBLICATION DATE: TUESDAY, MARCH 10TH, 2015

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

File No. 914.45.14-01, 912.45.14-01, 971.45.14-01 – “Whispering View Estates” Torkelson Construction, Inc. Notice of Application, and Environmental Review,

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Approvals, Actions and Required Studies: Rezone from R-2 to Planned Development; Preliminary Plat; Development Plan and Program.

Environmental Review: The City of Selah is the lead agency for this proposal under the State Environmental Policy Act (SEPA). Written comments are being accepted and will be considered in making a threshold environmental determination, which will be issued after the comment period ends.



Request for Written Comments on the Proposal Your views on the proposed rezone, preliminary plat and environmental checklist are welcome. Written comments will be accepted during the public comment period that expires at 5:00.p.m, on March 30, 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 “Whispering View Estates” in your correspondence.

Open Record Public Hearing An open record public hearing on the proposed rezone and preliminary plat will be held before the City of Selah Hearing Examiner. The Examiner will conduct the hearing on **Monday, April 20, 2015** commencing at 2:00 p.m. in the Council Chambers, City of Selah City Hall, 115 W. Naches Ave. Selah, WA

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Dated this 10th day of March 2015.

/s/

Thomas R. Durant, Community Planner





CITY OF SELAH

Public Works Department

222 South Rushmore Road
SELAH, WASHINGTON 98942

Phone 509-698-7365

Fax 509-698-7372

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

File No. 914.45.14-01, 912.45.14-01, 971.45.14-01 – “Whispering View Estates” Torkelson Construction, Inc. Notice of Application, and Environmental Review,

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Environmental Review: The City of Selah is the lead agency for this proposal under the State Environmental Policy Act (SEPA). Written comments are being accepted and will be considered in making a threshold environmental determination, which will be issued after the comment period ends.

Request for Written Comments on the Proposal Your views on the proposed rezone, preliminary plat and environmental checklist are welcome. Written comments will be accepted during the public comment period that expires at 5:00.p.m, on March 24, 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 “Whispering View Estates” in your correspondence.

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Open Record Public Hearing An open record public hearing on the proposed rezone and preliminary plat will be held before the City of Selah Hearing Examiner. The Examiner will conduct the hearing on **Monday, April 20, 2015** commencing at 2:00 p.m. in the Council Chambers, City of Selah City Hall, 115 W. Naches Ave. Selah, WA

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Dated this 10th day of March 2015.

/s/

Thomas R. Durant, Community Planner



CITY OF SELAH

Public Works Department

222 South Rushmore Road
SELAH, WASHINGTON 98942

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

DATE: March 18, 2015

TO: Carl Torkelson, Surrounding Property Owners, Parties of Record

FROM: Thomas R. Durant, Community Planner

SUBJECT: Notice of Application and Environmental Review for Torkelson Construction, Inc.,
"Whispering View Estates" File No. 914.45.14-01, 912.45.14-01, 971.45.14-01

This is to notify all parties that the comment period for this application has been extended to March 30, 2015 at 5:00 p.m.

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CITY OF SELAH

Public Works Department

222 South Rushmore Road
SELAH, WASHINGTON 98942

Phone 509-698-7365

Fax 509-698-7372

April 13, 2015

To: Carl Torkelson, Neighboring Property Owners

RE: Rescheduling Public Hearing – Whispering Views Planned Development and Preliminary Plat

This is notice that the public hearing for the above referenced application, currently scheduled for Monday April 20, 2015 is being postponed and will be rescheduled. Additional information is being requested of the applicant as a part of SEPA environmental review and the hearing is being postponed to allow time to provide the information and have it considered. A notice will issued and mailed out the minimum period time prior to the hearing as required by law.

Sincerely,

Thomas R Durant
Community Planner

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CITY OF SELAH

Public Works Department

222 South Rushmore Road
SELAH, WASHINGTON 98942

Phone 509-698-7365

Fax 509-698-7372

CITY OF SELAH HEARING EXAMINER NOTICE OF OPEN RECORD PUBLIC HEARING & NOTICE OF ENVIRONMENTAL REVIEW

File No. 914.45.14-01, 912.45.14-01, 971.45.14-01 – “Whispering View Estates” Torkelson Construction, Inc. Notice of Application, and Environmental Review,

Notice is hereby given that on Friday, July 31, 2015 commencing at 10:00 AM, or as soon thereafter as practical, the City of Selah Hearing Examiner will conduct an open record hearing in the Council Chambers, City Hall, 115 W. Naches Ave., Selah, WA on applications to rezone 8 existing lots totaling 3.97 acres from R-2 to PD, subdivide the property into 47 lots for detached single family homes, and two recreational open space tracts. At the conclusion of the public hearing the Examiner will prepare a recommendation for rezone and preliminary plat approval, approval with conditions, or denial of the rezone and preliminary plat which will be transmitted to the Selah City Council for its consideration and final disposition. Location: 207 East Goodlander Road, about 600 feet east of North First Street and 400 feet west of Lancaster Road in the City of Selah. (Yakima County Assessor Parcel Numbers: 181425-33419 to 33426 inclusive).

The City of Selah is the lead agency for this proposal under the State Environmental Policy Act (SEPA) and has determined that it does not have probable significant adverse environmental impacts provided that mitigation measures are taken. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). A Mitigated Determination of Nonsignificance (MDNS) is being issued under WAC 197-11-340(2). Written comments on the MDNS will be accepted during the 14 day comment period that ends at 5:00 p.m. July 13, 2015. This decision was made after a review of a completed environmental checklist and other information of file with the lead agency and available for public inspection during normal business hours at the Selah Planning Department, 222 South Rushmore Road, Selah, WA.

The SEPA determination may be appealed by filing a written appeal with the required \$300.00 filing fee at the Selah Planning Department no later than 5:00 p.m. on July 20, 2015. Contact the Planning Department with project, procedural or environmental questions by mail, by phone at (509) 698-7365, by fax at 1 (509) 698-7372 or by e-mail at tdurant@ci.selah.wa.us

Dated this 29th day of June 2015.

/s/

Thomas R. Durant, Community Planner



**CITY OF SELAH
AFFIDAVIT OF MAILING**

**STATE OF WASHINGTON
COUNTY OF YAKIMA**

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

I am an employee of the City of Selah, 222 South Rushmore Road, Selah, Washington; that I did on the 29 day of June, 2015 caused to be mailed, 44 envelopes, containing a true and correct copy of a Notice of Application and Environmental Review (File # 914.45.14-01, 912.45.14-01, and 971.45.14.01) 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 files 914.45.14-01, 912.45.14-01, and 971.45.14.01

Caprise Groo
Caprise Groo

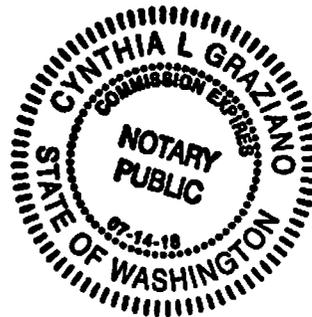
**STATE OF WASHINGTON
COUNTY OF YAKIMA**

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 and Environmental Review (Files 914.45.14-01, 912.45.14-01, and 971.45.14.01)

Given under my hand and official seal this 29th day of June, 2015.

Cynthia L. Graziano
Cynthia L Graziano

Notary Public in and for the State of Washington, residing at Yakima, WA. My term expires 7/14/18.



YAKIMA HERALD REPUBLIC

Affidavit of Publication

STATE OF WASHINGTON,)
)
COUNTY OF YAKIMA)

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

That the annexed is a true copy of a:
CITY OF SELAH HEARING EXAMINER NOTIC

it was published in regular issues (and not in supplement form) of said newspaper once each day and for a period of 1 times, the first insertion being on 06/29/2015 and the last insertion being on 06/29/2015

Yakima Herald-Republic 06/29/15

and the such newspaper was regularly distributed to its subscribers during all of the said period. That the full amount of the fee charged for the foregoing publication is the sum of \$165.60

Debbie Martin

Accounting Clerk



Sworn to before me this 29th day of, June 2015

Lisa M. Driggs

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

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**CITY OF SELAH HEARING EXAMINER
NOTICE OF OPEN RECORD PUBLIC HEARING &
NOTICE OF ENVIRONMENTAL REVIEW**

File No. 914.45.14-01, 912.45.14-01, 971.45.14-01 - "Whispering View Estates" Torkelson Construction, Inc. Notice of Application, and Environmental Review,

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The City of Selah is the lead agency for this proposal under the State Environmental Policy Act (SEPA) and has determined that it does not have probable significant adverse environmental impacts provided that mitigation measures are taken. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2) (c). A Mitigated Determination of Nonsignificance (MDNS) is being issued under WAC 197-11-340(2). Written comments on the MDNS will be accepted during the 14 day comment period that ends at 5:00 p.m. July 13, 2015. This decision was made after a review of a completed environmental checklist and other information of file with the lead agency and available for public inspection during normal business hours at the Selah Planning Department, 222 South Rushmore Road, Selah, WA.

The SEPA determination may be appealed by filing a written appeal with the required \$300.00 filing fee at the Selah Planning Department no later than 5:00 p.m. on July 20, 2015. Contact the Planning Department with project, procedural or environmental questions by mail, by phone at (509) 698-7365, by fax at 1 (509) 698-7372 or by e-mail at tdurant@ci.selah.wa.us

Dated this 29th day of June 2015.

/s/ Thomas R. Durant, Community Planner

(558019) June 29, 2015

File Number: 914.45.14-01 & 912.45.14-01 Whispering Views Estates

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 July 8, 2015 the Notice of Public Hearing on sign(s) provided by the Selah Planning Department were posted on the property located at 207 E. Goodlander Road, Selah, Washington at the midpoint on the street frontage from which the site is addressed or as otherwise directed by City staff.

Thomas R. Durr
Signature

7/8/2015
Date

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**APPLICATION: 912.42.14-01 WHISPERING VIEW ESTATES
SUBDIVISION**

**APPLICATION: 914.42.14-01 WHISPERING VIEW ESTATES
PLANNED DEVELOPMENT REZONE**

APPLICANT:

TORKELSON CONSTRUCTION

SUBJECT PROPERTY 

SCALE: 1" = 200'



NORTH

181425-33004
Connie & Diana Welch
31 Selah Loop Rd
Selah, WA 98942

181425-33007
Floyd & Carol Sharp
981 Selah Loop Rd
Selah, WA 98942

181425-33008
Davis & Lisa Gordon
90 Columbia Way
Selah, WA 98942

181425-33013
Keith Schlenker
120 Lancaster Rd
Selah, WA 98942

181425-33014
Jason & Kari Hartman
80 Lancaster Rd
Selah, WA 98942

181425-33021
Ryan & Tiffany Babat
70 Columbus Way
Selah, WA 98942

181425-33022
Clelan & Janice Terry
50 Columbus Way
Selah, WA 98942

181425-33024-33025
Selah United Methodist Church
1061 Selah Loop Rd
Selah, WA 98942

181425-33026
Bruce & Connie Rockwell
961 Selah Loop Rd.
Selah, WA 98942

181425-33032
Kendra Kupp
1145 Selah Loop Rd
Selah, WA 98942

181425-33401
O'dell & Colleen Bowers
PO Box 776
Selah, WA 98942

181425-33401-33402-33404
Pamela Bowers
13280 NE 183rd St
Woodinville, WA 98072

181425-33409
Roger & Carol Floyd
220 Lancaster Rd
Selah, WA 98942

181425-33410
Dennis & Patricia Rogge
222 Lancaster Rd
Selah, WA 98942

181425-33411-33412
Dean & Melissa Wilson
PO Box 67
Selah, WA 98942

181425-33417
Jason Ross
107 E Goodlander Rd
Selah, WA 98942

181425-33418
Paul & Connie James
111 E Goodlander Rd
Selah, WA 98942

181425-34002
Robert Arnt
131 Lancaster Rd
Selah, WA 98942

181425-34004
James Hanna
181 Lancaster
Selah, WA 98942

181425-34005
Jay & Cheryl Harris
191 Lancaster Rd
Selah, WA 98942

181425-34006
Reese Crenshaw
161 Lancaster Rd
Selah, WA 98942

181425-34007
Lonnie & Sandy Upson
151 Lancaster Rd
Selah, WA 98942

Howard & Elizabeth Bayne
151 Lancaster Rd
Selah, WA 98942

181425-34010
Larry Dean & Pia Pardi Hull
901 Summitview Ave Suite 250
Yakima, WA 98902

181425-34011
Martin & Andrea Montes
41 Lancaster
Selah, WA 98942

181425-34012
Paul J Wangler Jr
301 E Goodlander Rd
Selah, WA 98942

181425-34013
Laura & Jose Luis Palacios
305 E Goodlander Rd
Selah, WA 98942

181436-22001
Selah School District #119
104 W Naches Ave Suite H
Selah, WA, 98942

Joyce Furstenau
1851 Nagle Rd
Selah, WA 98942

Joseph C May
4813 Maple Ave
Yakima, WA 98901



Easy Peel® Labels
Use Avery® Template 5160®

Feed Paper

Bend along line to
expose Pop-up Edge™

 **AVERY® 5160®**

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Kennewick, WA 99338

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Selah, WA 98942

181436-22001
Selah School District #119
104 W Naches Ave Suite H
Selah, WA, 98942

Whispering View

Easy Peel® Labels
Use Avery® Template 5160®



Mudul Marroof
402 N 9th Street
Selah, WA 98942

Diane Lynn Underwood
402 N 9th Street
Selah, WA 98942

March 24, 2014



City Of Selah
115 W Naches Ave
Selah, WA 98942

RE: 912.45.14-01(subdivision) 914.45.14-01(rezone) 971.45.14.01(environmental issues)
Against Site Proposal: 207 E Goodlander Rd, Selah WA

We live very close to the proposed development site and are requesting the City of Selah to refuse this Planned Development application.

Herein are the comments and objections relating to this Planned Development application.

These are the words from the planned development guidelines with the City of Selah:

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

My comments: One property adjacent to this land has two homes and all of the other homes within the 600 feet or adjacent to the property has one home on their parcel, which varies from ¾ acre to 3 acres. How would 48 houses sandwiched in-between these rural view homes be creative, desirable, and aesthetic? The current homes are one or two level homes. The Planned Development would allow three story homes.

The reason Torkelson Construction is proposing a Planned Development zoning is; he does not have to follow the regular minimum guidelines of a subdivision. The strict application of standard zoning and subdivision controls are put there for a reason like a construction company trying to rezone land that was just annexed from county land to city land and putting in a 48 housing complex called Whispering View Estates on less than 4 acres.

Printed below are the criteria for the Rezone Hearing – 24.060

The highlighted sentences are the concern we as rural land owners have with a Planned Development with our statements listed.

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

My Comments: Quote from 2005 Urban Growth Area Comprehensive Plan: HSG2

Encourage new residential development to **APPROXIMATE** existing residential densities and housing mix levels. The current mix levels are one house per parcel not 12 houses per acre with no yard.

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

My Comments: There would be no harmony with the surrounding area. 48 new homes will create a traffic nightmare directly across the street from the Selah High School with no sidewalks or traffic signals. Goodlander Road has a posted speed limit of 35 mph and is not listed as a school zone road. The only access of this planned development will be Goodlander Road, with two entry points on Goodlander Road. This property is located on a side of a hill, with obstructed views of traffic. In addition to the exit traffic of the Selah High School across the street.

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

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

My Comments: The adequacy of the size of the planned development is less than minimum requirement for The City of Yakima which they require a minimum of 5 acres. Selah does not have minimum requirements for planned development sizes.

(5) Compliance with the city's subdivision code, if a proposed planned development application is combined with a proposal to divide land into lots;

My Comments: Torkelson's Construction has another Planned Development located on Southern Avenue that does not meet with the minimum City of Selah subdivision codes because he had them zoned as a Planned Development so he did not have to put in sidewalks or curbs.

One of the listed codes for a subdivision is:

Code 10.50.017 Design standards and improvements required. Subdivision

(4) Sidewalks, curbs, gutters and street paving.

Whispering View Estates does not have sidewalks, curbs, or gutter listed on their plans.

With 48 houses how are the children going to be safe and what about handicap access?

I would like to request that the Fire Department would test drive their truck to the Planned Development located on Southard Avenue and see if they can drive through the car blocked alley ways or roads that Torkelson Construction called streets on his plan designs. I counted the mailboxes and they have 29 homes there, what is going to happen with 48 homes if there is no emergency access.

(6) Compliance with this chapter.

I would also like to request from the Selah Urban Growth Area Comprehensive Plan for the 971.45.14.01(environmental issues) a review of:

Aquifer Recharge Areas – quote from City of Selah Comprehensive Plan

The GMA requires that cities and counties identify and regulate “areas with a critical recharging effect on aquifers used for potable water”. Based on preliminary evaluations, it appears that shallow aquifers are vulnerable to ground water contamination throughout Selah UGA boundary. Many of the surrounding homes have wells. Will their water be contaminated once this Planned Development is constructed?

The current topography shows these two parcels in question are rolling and sloping. I would like detailed information of the topography between the sloping parcel and the access to Goodlander Road. In winter with icy conditions traffic leaving the Whispering View Estates will slide into Goodlander Road without the ability to stop.

Thank you for your time and consideration,

Jerry & Leslie Radebaugh

Jerry and Leslie Radebaugh

80 Lancaster Road

Selah WA 98942



March 13, 2015

Selah Planning Department
222 South Rushmore Road
Selah, WA 98942

To Whom It May Concern:

This letter is in response to the public hearing being held at 2:00pm on April 20th at Selah City Hall in regards to the plot of land wanting to build 3 story homes across from the Selah High School.

Why is this being held when 90% of the population that votes is either at work and High School (for the small group that probably votes). Is this so that we cannot have our say?

My problem with this type of subdivision of three story homes is that you are allowing people to be housed like a can of sardines. Not only that, but the added traffic of cars (most households have two plus cars) in that area of Selah all day long and with high school students all coming and going at the time everyone is going to work. Lets get real here, what a terrible congestive traffic mess this is going to create. Let's think seriously about this.

Secondly, these matchbox houses stacked three high are an eyesore.

I have one of these duplex two story houses, kitty corner to my back yard and they can just look right into my home and that is an invasion of my privacy. These duplexes/triplexes popping up all over destroy the looks of our neighborhoods and this needs to stop.

Let's quit destroying Selah and start taking care of the city that the majority of us love. Check out the Facebook group, "Growing Up In Selah" which I created last year because of the love I have for my city. See the comments the 800 plus members of the group have to say about this issue. I dare you too. This group was started late last fall and every day people are asking to join. We have a voice and the voice of the group so far is very very against this.

Sincerely (I have lived my whole life here),

Diane Lynn Underwood

Diane Lynn Underwood
402 No. 9th Street
Selah, WA 98942

NO NO NO
to this
Subdivision!
- NO (18)

March 15, 2015

City of Selah
Selah Planning Department
115 West Naches Avenue
Selah, Washington 98942

To Mayor, City Council, Planning Director, Citizens of Selah,

This is a letter voicing a strong objection to the housing development across Goodlander Road to the north of the Selah High School, formerly the Bower property.

Two facts that I want well known: First, I do not live within the city limits of Selah. Second, I lived most of my life in Selah and still regard it as my "home" community. I grew up in Selah, went to Selah Schools through Selah High School, returned after serving in the U.S. Army and going to college, married my wife in Selah and we raised our family there. We moved from Selah only after my career retirement. We still live close-by in Terrace Heights near Yakima. I feel I definitely have some vested interests in the community of Selah.

Now with that said, let me voice my most strong objection to this development, and, pose some questions that have arisen during my research regarding this matter.

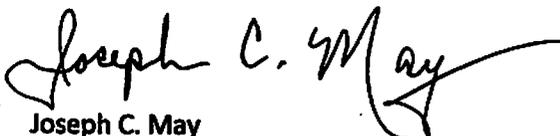
WAKE UP SELAH! You are inviting a type of housing that **WILL NOT** benefit your city or improve your community. I cannot imagine that you, the City Council, or the citizens can seriously want or need this type of high-density housing inside or anywhere near the City of Selah. This has to be an issue entirely founded upon greed by a developer and can have very little to do with benefits for the City of Selah.

Why was the proposal of the previous owner of these two parcels rejected when he sought approval for housing of less density on this same property? Is it possible that you have a city council person (past or present) that has used insider information to obtain this property for the sole purpose of personal gain? Why is construction being allowed before the Public Hearing process has been completed? How can building permits be issued, or, lots be sold within this development prior to public utilities (*lighting, water, sewer*) and streets (*curbs, gutter, sidewalks, drainage*) being completed? I may not have answers for all these questions, but rest assured, I have some pretty solid ideas regarding some of the questions based on some research of public records.

Finally, who is it that represents the people of Selah regarding these matters? Some research has created appearances that the City Council of Selah may have the needs and desires of the developer placed well ahead of the people that they are to be representing.

I believe that Selah may have been led astray by possibly and quite probably implementing some business, housing, and planning processes that **DO NOT** provide the needed protections for the best interests of the City of Selah. From some perspectives there could easily have been some underhanded and unscrupulous actions and/or activities regarding this very proposed development. **WAKE UP SELAH!** It may not be too late to get your act together.

Respectfully submitted,



Joseph C. May
4813 Maple Avenue, Yakima, Washington 98901
(509) 469-8727 joemelm@charter.net

19

March 13, 2015

Selah Planning Department
222 South Rushmore Road
Selah, WA 98942



To Whom It May Concern:

This letter is in response to the public hearing being held at 2:00pm on April 20th at Selah City Hall in regards to the plot of land wanting to build 3 story homes across from the Selah High School.

Why is this being held when 90% of the population that votes is either at work and High School (for the small group that probably votes). Is this so that we cannot have our say? I work full time and this should be in the evening.

I VOTE NO TO THIS NEW SUBDIVISION!

Let's quit destroying Selah and start taking care of the city that the majority of us love.

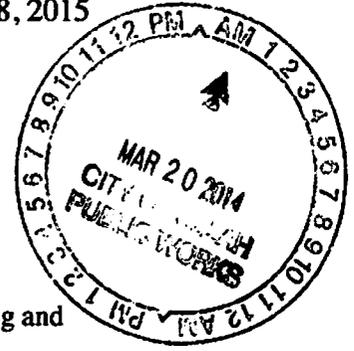
A handwritten signature in black ink, appearing to read "Abdul Maroof".

Abdul Maroof
402 No. 9th Street
Selah, WA 98942



March 18, 2015

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



Attn: Mr. Thomas Durant and Selah Planning Dept.

I am writing this letter to share my strong opposition to the proposed re-zoning and construction by Torkelson Construction at 207 Goodlander Road, Selah, named "Whispering View Estates"

I have been a resident of Selah all 68 years of my life. The first twenty of those years were on Goodlander Road as daughter of Ben and Mabel Hovde. I currently reside at 1851 Nagler Road, Selah.

For thirty years I worked as a classroom teacher in the Selah School District, retiring in 1999. In all these years I have NEVER felt so strongly about any proposed development as I do that of "Whispering View". In fact, I have *never* written a letter to the city of Selah nor voiced my disapproval of any issue concerning our community at any time *before today*.

As a current Selah resident, and former Selah educator, I especially fear the impact this rezone will have on the classrooms in the Selah Schools. At a time when the state legislature is being challenged to find a financial solution to smaller class sizes voted on by will of the people, how will we deal with the addition of multiple families to our already overburdened system?

Adding more students will generate the need for more classrooms, leading to portable classrooms and finally additional monies for buildings, which must come in the form of higher property taxes adding an already escalating burden on all of the homeowners living in Selah. Teachers also must deal with the impact that the fluctuation in population that goes hand in hand with this type of housing.

I believe the following questions need to be publicly addressed at your meeting on April 20, 2015.

1. What are the ramifications of rezoning *eight* residential lots to *forty-seven* high-density residential lots to our current system?
2. What about the specter of more children crowding schools with little additional capacity? How will this impact the services of our school district?
3. How will high density housing impact city services including water and sewer services?
4. How will it impact law enforcement? (*Ask a police officer their honest thoughts.*)
5. How will it impact our recreation facilities, parks, pool, and athletic fields?
6. How will the addition of multiple families impact traffic on our overcrowded streets during morning and evening commutes?
7. When the time comes to 'fix' the problems that arise from this type, *who will pay for it?*

In summary, I do not feel that allowing this rezone would be in the best interest of the taxpaying, property owners of the Selah community. I do not feel this rezone is a responsible way to deal with growth management in our community. I am adamantly opposed to this rezone and feel that voting to proceed would show a strong lack of interest in the well being of our schools, city or community.

Sincerely,

A handwritten signature in cursive script that reads "Joyce Furstenu".

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

A handwritten number "21" inside a hand-drawn circle.

cc. Mayor John Gawlick, Selah City Council

Mar. 26/15

Pat + Dennis Rogge
222 Lancaster Rd
Selah, Wa 98942
697-8716

Attention:

Tom Durand, City Planner + Pat Spurgeon,
Hearing Examiner,

My husband and I strongly object to the proposed "Whispering Pines" development on Goodlander for several reasons:

1. The density is not consistent with the neighborhood. It seems completely out of place in an area of single family homes with large lots or acreage. We feel this change in density is not warranted, as there is not a housing "emergency" in the Selah area.

2. This section of Goodlander is heavily used at peak hours, and during spring, summer + fall when the tournaments are in the park. People often spend all weekend in the parking lot in their R.V's, which adds to the congestion.

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3. It is our understanding that the original short plat was for 8 duplex lots. It suddenly

mushroomed to 48 units. Was the planning department blind-sided by this huge change?

4. According to the plot map, the roads in the development will be only 20ft wide. This will not be wide enough during peak hours, and after school. A fire truck needs more room than that. This creates a real fire hazard with 48 units jammed so close together. * We have witnessed a fire storm in California in a small old neighborhood with insufficient widths to allow firetrucks access. Many lives were lost at that tragedy. A few fire hydrants were not sufficient protection then, nor will they be enough now in this development, should a fire start.

We were suprised that the fire marshal approved this.

5. According to the map there is no overflow parking, so we assume the overflow will drift into the lower school lot or the park. The open space is insufficient, some is steeply sloped. We anticipate people from the development will walk their dogs in the park. This will end up making a mess where the kids play ball.

6. We can see no safe way for the students to get to school - other than running across Goodlander or walking in the roadway (no sidewalks on that side) to the corner, where the light is.

These reasons, plus the fact that originally it was unclear who the actual owner of the property is, we strongly urge you to deny this rezone application. We do not want our wonderful town to become another Seattle or Bellevue, just so a few men can line their pockets!

Thank you for your consideration,

Pat + Dennis Rogge
222 Lancaster Rd
Selah, Wa 98942

697-8716 - home
480-1764 - cell (work)

March 27, 2015



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

Re: Torkelson Development Rezone Application from R2 to PD (Planned Development)

Dear Mr. Spurgeon:

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

I emphatically disagree with this rezone application for the following reasons:

- **As a resident living on Goodlander Road, I know the traffic volume is excessive. I don't see how this area can be compounded further.**
- **Projected vehicle use generated by this development could be upwards of 425 trips per day, based on national standards. The peak hours of these trips are between 7am - 9am and 4:30 pm - 6:30 pm which are the same hours of three schools in close vicinity.**
- **We are also impacted by the high school traffic during evening activities.**
- **East Goodlander Road is already the highest unit per day on a connector street.**
- **As for pedestrian safety, the more congestion will increase probability of injury.**
- **Emergency vehicle use on 1st and Goodlander is imperative, and will be impeded by increased traffic.**

23

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 Torkelson Development.

Sincerely,



Sandra Field

106 W Goodlander

Selah, WA 98942

509-379-9990

March 27, 2015



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

Re: Torkelson Development Rezone Application from R2 to PD (Planned Development)

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

Sincerely,



Julie A. Field

106 W Goodlander

Selah, WA 98942

509-379-9999

March 26, 2015

Tom Durand, City Planner & Pat Spurgeon, Hearing Examiner,

My wife and I strongly object to the "Whispering Pines" development on Goodlander Road. We would like the rezoning application denied for the following reasons:

- The surrounding neighborhood is all single family homes, with 1 acre or more, which makes this development completely out of place.

- There is no housing emergency in the school area to warrant this drastic change.

- Vehicle use on Goodlander road is very high during commute hours and after school. It could not handle an additional 400+ trips per day.

- There is no sidewalk on the north side of Goodlander, so there is no safe way for school children to cross, without walking

in the roadway, or running across the street — a very dangerous situation!

— Original short plot was for 8 lots only, zoned for duplex, and not eligible for rezone for 5 yrs.

— the width of the road in the development is insufficient for 48 homes with average of 2.6 cars each. No fire vehicles can manage that small of a road, so fire coverage is a few hydrants. — insufficient for that many people.

— The development has a very steep grade down to Goodlander, with no provision for curbs, gutters or runoff water. A very steep driveway in winter weather.

— Open space is insufficient for that many homes. There is no provision for overflow parking, which may further stress the lower high school parking lot or the park.

— Ownership of the land was misrepresented to council

For these reasons, we strongly urge you, to deny the rezone.

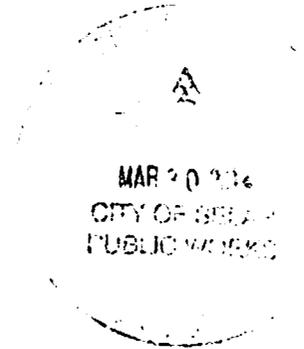
Thank you Roger Floyd

220 Lancaster Rd. Selah wa. 98942 Carol Floyd

509 388 1096

March 29, 2015

City of Selah Planning Department
Attention: Thomas R. Durant, Community Planner
222 Rushmore Road
Selah, WA 98942



RE: "Whispering View Estates" Development, Goodlander Road

Dear Mr Durant

I am opposed to the rezone proposal, "Whispering View Estates," on Goodlander Road. The density is inconsistent with the surrounding area, and I do not believe our community wants or needs a development of this kind.

I strongly urge you not to approve this rezone approval from R2 to PD (Planned Development).

Although I do not live within the city limits, I am urging all my friends who will be voting in the Selah elections this year to be prepared to speak with their votes, and vote against those who would fill our community with this type of thoughtless, incompatible developments. And it needs to stop now! This proposed 48 unit development on less than four acres adjacent to the high school must not be allowed!

Thank you for your consideration,

Sincerely

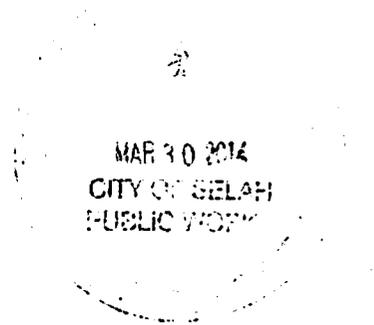
A handwritten signature in black ink, appearing to read "Lindsey Vaagen".

Lindsey Vaagen
573 McPherson Lane
Selah, WA
98942

A handwritten number "26" inside a hand-drawn circle.

March 29, 2015

City of Selah Planning Department
Attention: Thomas R. Durant, Community Planner
222 Rushmore Road
Selah, WA 98942



RE: "Whispering View Estates" Development, Goodlander Road

Dear Mr Durant

I am opposed to the rezone proposal, "Whispering View Estates," on Goodlander Road across from the high school. The density is inconsistent with the surrounding area, and I do not believe our community wants or needs a development of this kind.

Many citizens of our community, myself included, are becoming increasingly concerned about the direction developers seem to want to take us. Incompatible and unreasonable development such as this must stop in Selah! Development is a good thing, but not at the expense of our schools and neighborhoods.

I strongly urge you not to approve this rezone approval from R2 to PD (Planned Development). In fact, considering the circumstances and how this project was begun, I suggest revisiting the variances that have already been given. This entire project should be sent back to "Square One," now that the true intentions of the developer are clear.

I live within the City of Selah, and the topic of these unreasonable developments will be uppermost in my mind in the coming year, with mayoral and City Council elections at hand. I am urging all my neighbors and friends in Selah to be prepared to speak with our votes, and vote against those who would fill our community with this type of thoughtless, incompatible developments.

Sincerely

A handwritten signature in black ink, appearing to read "Chris and Vanessa Becker".

Chris and Vanessa Becker
512 Viewcrest Place
Selah, WA 98942

201 Poplar Lane
Selah, WA 98942
3/29/2015

Mr. Tom Durand, City Planner
Selah Planning Department
222 S. Rushmore Road
Selah, WA 98942

MAR 30 2014
CITY OF SELAH
PUBLIC WORKS

Dear Mr. Durand:

I am writing to strongly object to the proposed "Whispering Pines" development on Goodlander Road. The rezone application from R2 to PD should be denied because the density is inconsistent with the surrounding residences. The surrounding residences are single family dwellings on about an acre of land. No sidewalks are planned in this development for pedestrians which will result in unsafe conditions especially for children. There are no additional parking areas in the proposed development and the road is narrow. How will emergency vehicles have access? Where are visitors supposed to park? There aren't even any curbs and gutters to manage runoff!

What about the resulting renters children's impact on the Selah School District? Our schools are already full and the impact of 48 homes with many potential children whose parents do not even pay property taxes is unfair to the rest of us taxpayers!

I strongly urge you to deny this rezone application. This is NOT what I want my community to look like! I am urging my voting friends and family within the City limits to consider this an important issue, as we are coming up to mayoral and city council elections in the next year.

Sincerely,

Sara Bicsak

Sara Bicsak
697-3862

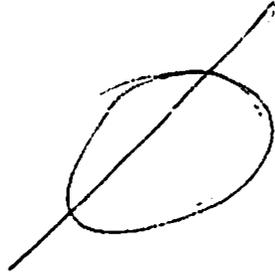
28

March 28, 2015

Mr. Pat Spurgeon
Hearing Examiner
Selah Planning Department
222 S Rushmore Road
Selah, WA 98942

Re: Whispering Estates Development Or Whispering Pines?

DAVE + Linda
Wright
508 Meade St.
Selah, WA 98942

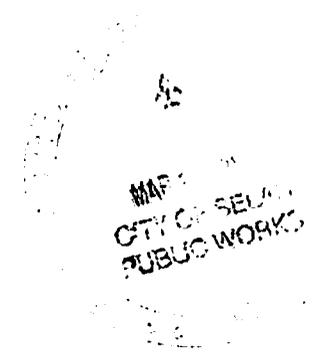


MAY
CITY OF SELAH
PUBLIC WORKS

29

March 19, 2015

Tom Durand, City Planner
Pat Spurgeon, Hearing Examiner
Selah Planning Department
222 So. Rushmore Road
Selah, WA 98942
File: "Whispering View Estates"



Dear Gentlemen:

Our family is writing in regards to the proposed rezone of parcel number 181425-33419 to 33426. We vehemently oppose this course of action of rezoning the area from R-2 to PD. We have many concerns regarding this proposal ranging from basic public safety to the appearance of fraudulent activity of the current property owners.

***Whispering View Estates does not fit the surrounding neighborhood of single R1 homes with an acre of land. Therefore it is inconsistent and incompatible with the surrounding neighborhood.**

***There is no evidence of a planned development being necessary to Selah's population growth.**

***There are no sidewalks for children to play or walk to school. If children walk to school they must walk in the middle of the road.**

***Emergency vehicles will not have adequate room to assist residents in a case of emergency.**

***Not adequate parking if a resident would like to host Thanksgiving, birthday party, or other event. Their guests will either park off the side of the road illegally or walk without sidewalks and take up parking space at the high school.**

***There has been a removal of bushes that were originally planted to help with erosion issues. No retaining wall or any barrier to has been installed to prevent the parcel 181425-33008 from eroding onto the road of Whispering View Estates.**

***There are no plans on controlling dust, noise, water run off and pollution from this development.**

***The developer claimed ownership on application to city on 1/8/14. The city short plat application form turned in on 4/14 Dan Bowers is listed as the owner. The developer gained ownership 12/14. There is a discrepancy in the information presented on forms. This evidence strongly indicates fraudulent activity of the developer.**

***This property was just recently approved to be a short plat. Short plats are not subject to division for FIVE YEARS!**



We love our community in Selah. We are distressed that this type of development can happen anywhere within city limits. No resident is "safe" from this type of development if allowed. Over time this may cause Selah to lose great residents to other areas that will protect their rights as property owners. Wake up Selah before it is too late!

In short we as property owners are deeply disappointed that the City of Selah continues to mishandle development. You are allowing variances also known as "bending of rules" that are not beneficial to the city or it's residents. This irresponsible development can stop with YOU the City saying "NO" to insidious requests and holding developers to a higher standard. Raise the bar City of Selah. Now is the time to rethink past variances and examine them. Were they beneficial? If not, do not hold to the false premise "if you allowed it over at one property, it must be allowed at the next." Faulty reasoning that you do not have to entertain. **It appears that developers are directing the City, not the City directing developers on how to appropriately develop our city.**

Respectfully,

David and Lisa Gordon
90 Columbus Way

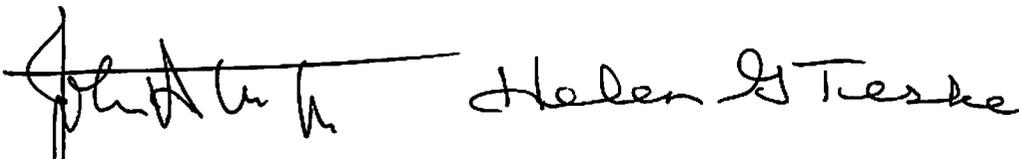
deny this rezone application. In fact, we ask that you revisit the variances that were granted, now that the true intentions of the developer have been clearly revealed.

In addition to denying the rezone application and revisiting the variances that were granted, we urge you to consider voiding altogether the original development application because in January, 2014, when this development was originally applied for, the application was improperly represented. Carl Torkelsen, a city official who as such should be held to a higher standard of responsibility and understanding of how to do these things, claimed to be the owner of the property when he did not, in fact, own it until December 23, 2014. Therefore, we believe this to be an illegal development. The original development application should be voided and the process started over again from the beginning.

A development of 48, three story units towering over our yard, looking in our kitchen window, blocking the passive solar heat we intentionally turned our home on its lot to access in the winter months, and blocking our lovely view of the hills and the Selah Gap is not what we want our home and our community to look like. Incompatible development in Selah must be stopped! We are urging our voting friends and family within the City limits to consider this an important issue, as we are coming up to mayoral and city council elections in the next year.

We invite you to come up our driveway at a time of your choosing to see what's already under construction, and to try to imagine what it would look like with 48 units. If you could see it, we are confident that you will know that denying this rezone application is the right thing to do. The right thing to do for the neighbors surrounding the Torkelson property, the right thing to do for the high school adjacent, the right thing to do for the entire urban growth area between Goodlander Road and McGonagle Road, and the right thing to do for the entire City and community of Selah.

Sincerely,

Handwritten signatures of John H. Teske Jr and Helen G. Teske. The signature of John H. Teske Jr is on the left, and the signature of Helen G. Teske is on the right.

John H. Teske Jr
Helen G. Teske
182 Lancaster Road
Selah, WA 98942

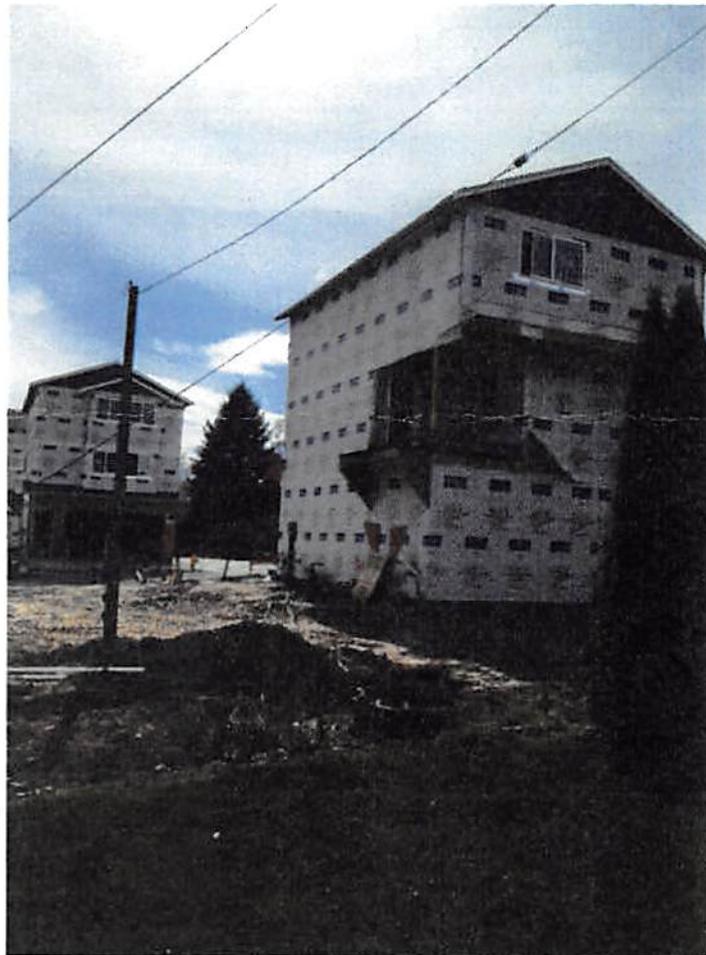
Facing East from front of Teske Residence



West yard of Teske Residence facing North West

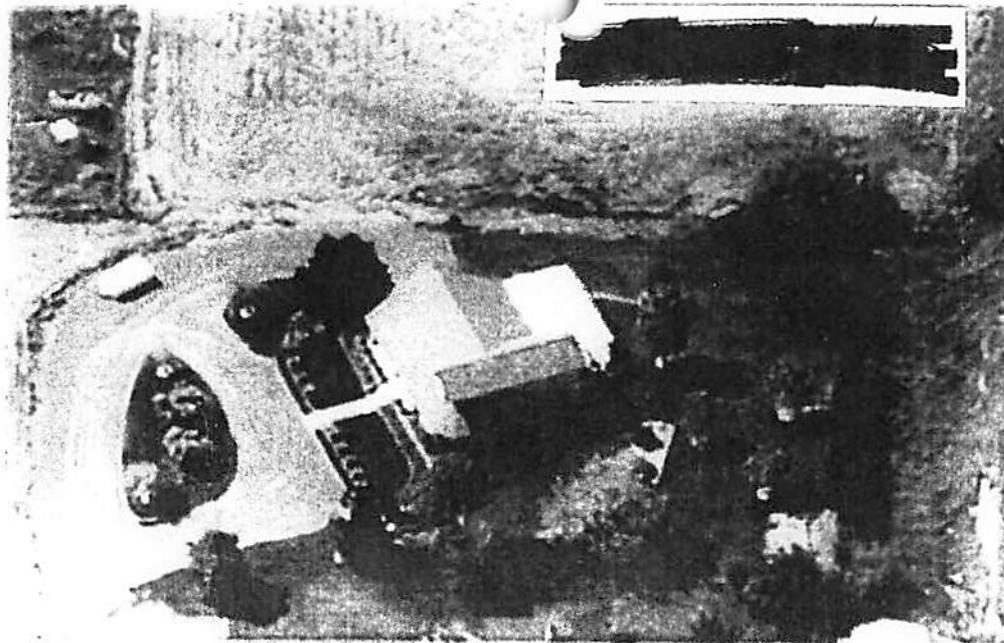


Standing in Teske's west yard, facing South at North West corner of development



Standing in upper terrace of west yard of Teske Residence facing development – north border. Imagine row of 8 of these units 6 feet apart going from right to left.





Teske Residence

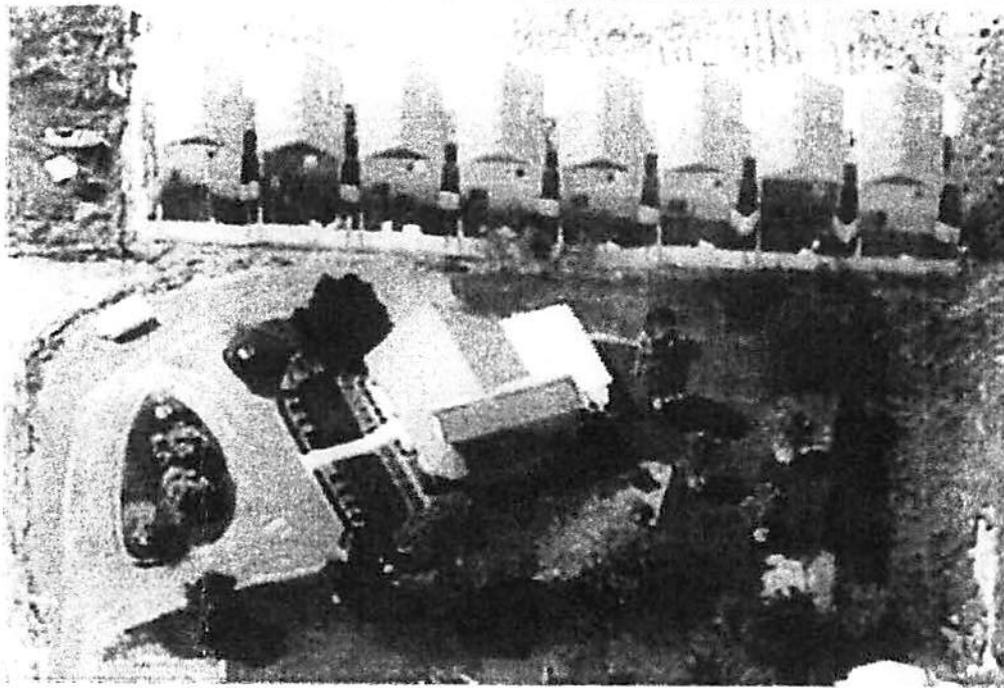


Illustration of what
eight houses on a
single lot would
look like. And ---
there are 8 lots!



March 27, 2015

Mr. Patrick Sprugin

Hearing Examiner

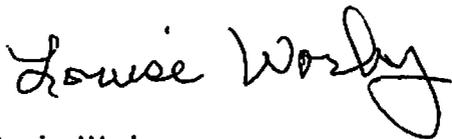
Selah Planning Department

I have lived in the community of Selah since 1968 and have become aware of issues in housing projects that are negatively affecting our town. The housing development being constructed by Carl Torkleson (Whispering View Estates) on East Goodlander Road, is located in an area that has been single family housing on large lots. The proposed the development is to build 48 rental town houses, on very small lots, that are three story with no living space on the ground level. The houses being built have absolutely nothing in common with any homes in the area and are uniformly the same in design. The development is quickly becoming an eyesore in an area that used to have a stable rural atmosphere.

Additionally, the location of the roads that appear to be inadequate for the housing to be served, will dump traffic on a busy road that daily serves Selah High School and the district football stadium, softball complex, community tennis courts and high school baseball fields. Traffic related to this area is already congested and dangerous at peak traffic times, i.e. beginning and end of the school days and the many athletic practices and contests throughout the year.

I am requesting that you reconsider the appropriateness of this development as planned. If it is within your jurisdiction to require the reconstruction the development roads to city standards, even if it impacts the currently constructed town houses. Additionally, deny any further construction and if possible reroute the road access to a safer entry point on existing roads.

Thank you for your consideration



Louise Worby

200 Weems Way

Selah, Washington 98942

(509) 697-4040



3/29/15

To : Selah Hearing Examiner Patrick Spurgeon and City Planner Tom Durand
Regarding project proposal referred to as "Whispering Pines", located off of Goodlander Rd

I strenuously oppose this aggressive development proposal and ask that this project be denied. I do not live in this direct area, but I am a resident/and home owner who has suffered the consequences of similar development in my neighborhood. I have serious concerns about the City's previous and current ability to recognize and stand firm against projects such as this that are designed strictly to accommodate the profit motivations of the developer and have nothing to do with enhancing a community. It is the burden of the developer to design a project that is profitable in terms of his investment. That is not a burden for the City to bear. Rather the City's obligation is to ensure that the development proposal meets all code criteria, all infrastructure is in place, all construction design is adequate and meets building code, etc.

Reasons why this project proposal to Planned Development should be denied include > {but not limited to and not in particular order of importance}

*Language in the current PD code is so liberally described as to allow a developer to abuse the very concept of proper and balanced development standards. It is dysfunctional and in serious need of correction!

- *Inconsistent & disharmonious design as compared to bordering residential structures
- * Inadequate private drive in which to serve 48 individual homes, with no sidewalks or curbs
- *Steep drive will create hazardous conditions in cold/winter weather as it intersects with Goodlander Rd
- *Original proposal approved was for 8 duplex units and should be honored
- *Heavy traffic already exists on Goodlander across from Selah High School
- *Open space design inadequate and likely nonfunctional for the occupants
- *Record of ownership was falsely stated, proponent deceived the City !!
- *Project lacks landscaping or buffering designs to reduce noise, glare and soften the contrast between single family and multi-family dwellings. Proponent should be required to include that in the project and the City must be prepared to enforce this.
- * Inadequate off street parking

Additionally I submit these questions >

- * All cuts in slope landscape that are deeper than 1 ft (City Ordinance)are to be designed by an engineer. Has this been done ?
- * Has the City reviewed and determined that there will be adequate water pressure to serve this many homes ?
- * How is a Firetruck to maneuver its way into such a tight enclosure as this? Looks like another fire trap to me.
- *Has there been a traffic study done to assess the impact of traffic flow?

Mini High Density Spot developments such as this will only have negative impacts on this community. This is not what I wish to see happen to Selah. We are not Bellevue or Issaquah! Please deny this project proposal and declare a stop work order until all issues can be adequately addressed , corrected and agreeable to the residents in this area as well as the many other concerned local citizens.

50



Thank you for your consideration

Kathleen Fontaine
510 Southern Ave
Selah

Kathleen Fontaine

March 29, 2015

To Tom Durand, City Planning, and Pat Spurgeon, Hearing Examiner,
Selah Planning Department, 222 S. Rushmore Road, Selah, Wa 98942

I strongly object to the proposed "Whispering Pines" development on
Goodlander Road. The rezone application from R2 to PD should be
denied because:

East Goodlander Road is already the highest units per day on a
connector street in Selah, before adding an additional 425 trips. No curbs
and gutters are present to control water runoff, resulting in unsafe
conditions in the development and in the surrounding properties. There are
no design or plan for retaining walls to handle the distinct slope of the land
within the property.

This is not what I want my community Selah to look like.

I strongly urge you to deny this rezone application. In fact, I ask that you
revisit the variance that was granted, now that the true intentions of the
developer have been clearly revealed.

Sincerely, *Jo Ann Larson*

Jo Ann Larson
9 Viking Drive
Selah, Wa 98942
(509)952-3710

MAR
CITY OF SELAH
PUBLIC WORKS

51

March 29, 2015

To Tom Durand, City Planner, and Pat Spurgeon, Hearing Examiner,
Selah Planning Department, 222 S. Rushmore Road, Selah, Wa 98942

I strongly object to the proposed "Whispering Pines" development on
Goodlander Road.

The rezone application from R2 to PD should be denied because:
Projected vehicle use generated by this development could be upwards
of 425 trips per day, based on national standards. The peak hours of
these 425 trips are between 7am - 9am, and 4:30pm - 6:30pm, the same
hours as school and school activities. East Goodlander Road is already
the highest units-per-day on a connector street in Selah, before adding an
additional 425 trips. In January, 2014, when this development was
originally applied for, the application was improperly represented. Carl
Torkelsen claimed to be the owner of the property when he did not, in fact,
own it until December 23, 2014. Therefore, this is an illegal development.
The original development application should be voided and the process
started over again from the beginning.

I strongly urge you to deny this rezone application. In fact, I ask that you
revisit the variance that was granted, now that the true intentions of the
development have been clearly revealed.

Sincerely,



Robert Newell
60 Lorry Lane
Selah, Wa 98942
509)307-3459

CITY OF SELAH
PUBLIC WORKS

52

March 29, 2015

To Tom Durand, City Planner, and Pat Spurgeon, Hearing Examiner,
Selah Planning Department, 222 S. Rushmore Road, Selah, Wa 98942

I strongly object to the proposed "Whispering Pines" development on Goodlander Road. The rezone application from R2 to PD should be denied because: The variances allowed for the road in the short plat are for eight plots with a duplex on each lot. The 20' easement will not support the traffic generated by 48 units. The grade from the development accessing Goodlander Road is excessive and unsafe, especially in inclement weather. Also, no sidewalks are planned in this development for pedestrians, resulting in unsafe conditions for school children.

I strongly urge you to deny this rezone application. In fact, I ask that you revisit the variance that was granted, now that the true intentions of the developer have been clearly revealed. This is not what my home in Selah should look like!

Sincerely,



Kathy Kester
60 Lorry Lane
Selah, Wa 98942
(509)307-3459

MAR 30 2015
CITY OF SELAH
PUBLIC WORKS

March 30, 2015

City Planner, Tom Durand

Hearing Examiner, Pat Spurgeon

Selah Planning Department

222 S. Rushmore Road

Selah WA 98942



Dear Tom Durand and Pat Spurgeon,

I highly object to the proposed Whispering View development on Goodlander Road. These are some of the reasons I feel this way.

1. The grade from the development to access Goodlander Road is excessive and very unsafe, especially in the winter when it is covered in snow or ice.
2. The density is not consistent with the architecture and the character of the surrounding residences.
3. The short plat granted to Dan Bowers was for eight plots only, with the understanding that a duplex could be built on each lot, not the monstrosity that is currently being erected.
4. The projected vehicle use generated by this development could be 425 more vehicle trips a day during the same hours as school and school activities on the already highest traveled road on a connector street in Selah.
5. No sidewalks are planned, no curbs or gutters either to control water run-off and resulting in unsafe conditions especially for the children.
6. There is a lack of precise covenants regarding use of open space, road maintenance, plowing and liability and no design features to minimize light and noise pollution.
7. The property is 3.97 acres. The maximum limit of dwellings per acre is 12, therefore there is not enough room for 48 units.
8. There will be no additional parking anywhere, which again makes for an unsafe environment.
9. We believe in January 2014, when this development was originally applied for, the application for this development was granted under false pretenses. Mr. Torkelsen claimed to have owned this property then, but in fact, didn't own the property until December 2014.
10. To improve the fortunes of the developer is not a reason to allow variances to the code.

11. The schools were just added onto. If we allow this development we will be looking for a new bond soon to accommodate the influx of new students.
12. I strongly urge you to deny this re-zone application. I ask you to revisit the variance that was granted. This is not what I want my community to look like. Incompatible development must be stopped. I am urging my voting friends and family within the city limits to consider this an important issue.

Sincerely,

Gary Choate

Gary Choate

*101 W Woodlender RD
Selah WA*

253-7320588

March 30, 2015

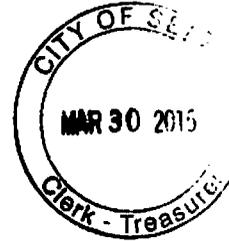
City Planner, Tom Durand

Hearing Examiner, Pat Spurgeon

Selah Planning Department

222 S. Rushmore Road

Selah WA 98942



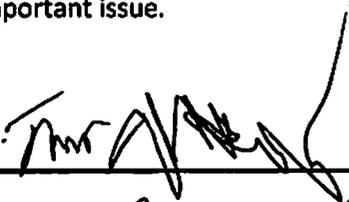
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12. I strongly urge you to deny this re-zone application. I ask you to revisit the variance that was granted. This is not what I want my community to look like. Incompatible development must be stopped. I am urging my voting friends and family within the city limits to consider this an important issue.

Sincerely,



Tim McDonald

109 W. Goodland Rd

Seton

509-480-0764

March 30, 2015

City Planner, Tom Durand

Hearing Examiner, Pat Spurgeon

Selah Planning Department

222 S. Rushmore Road

Selah WA 98942



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56

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Sincerely,

Victorya McDonald 480-0765

Victorya McDonald

March 30, 2015

City Planner, Tom Durand
Hearing Examiner, Pat Spurgeon
Selah Planning Department
222 S. Rushmore Road
Selah WA 98942



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67

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Sincerely,

Dawn M. McDonald

Dawn M McDonald

*109 W. Goodlark
Selah
(509) 480-0765*

March 30, 2015

City Planner, Tom Durand

Hearing Examiner, Pat Spurgeon

Selah Planning Department

222 S. Rushmore Road

Selah WA 98942



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Sincerely,

Joan Choate

Joan Choate

101 West Goodlander Rd

Bellevue WA 98004

509-406-6349

March 30, 2015

City Planner, Tom Durand

Hearing Examiner, Pat Spurgeon

Selah Planning Department

222 S. Rushmore Road

Selah WA 98942



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Sincerely,

Amy Currier 609-823-0612

Amy Currier

March 30, 2015

City Planner, Tom Durand

Hearing Examiner, Pat Spurgeon

Selah Planning Department

222 S. Rushmore Road

Selah WA 98942



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8. There will be no additional parking anywhere, which again makes for an unsafe environment.
9. We believe in January 2014, when this development was originally applied for, the application for this development was granted under false pretenses. Mr. Torkelsen claimed to have owned this property then, but in fact, didn't own the property until December 2014.
10. To improve the fortunes of the developer is not a reason to allow variances to the code.

60

11. The schools were just added onto. If we allow this development we will be looking for a new bond soon to accommodate the influx of new students.
12. I strongly urge you to deny this re-zone application. I ask you to revisit the variance that was granted. This is not what I want my community to look like. Incompatible development must be stopped. I am urging my voting friends and family within the city limits to consider this an important issue.

Sincerely,

Steve Lane 113 W. Goodlander Rd

Steve Lane

March 30, 2015

City Planner, Tom Durand

Hearing Examiner, Pat Spurgeon

Selah Planning Department

222 S. Rushmore Road

Selah WA 98942



Dear Tom Durand and Pat Spurgeon,

I highly object to the proposed Whispering View development on Goodlander Road. These are some of the reasons I feel this way.

1. The grade from the development to access Goodlander Road is excessive and very unsafe, especially in the winter when it is covered in snow or ice.
2. The density is not consistent with the architecture and the character of the surrounding residences.
3. The short plat granted to Dan Bowers was for eight plots only, with the understanding that a duplex could be built on each lot, not the monstrosity that is currently being erected.
4. The projected vehicle use generated by this development could be 425 more vehicle trips a day during the same hours as school and school activities on the already highest traveled road on a connector street in Selah.
5. No sidewalks are planned, no curbs or gutters either to control water run-off and resulting in unsafe conditions especially for the children.
6. There is a lack of precise covenants regarding use of open space, road maintenance, plowing and liability and no design features to minimize light and noise pollution.
7. The property is 3.97 acres. The maximum limit of dwellings per acre is 12, therefore there is not enough room for 48 units.
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10. To improve the fortunes of the developer is not a reason to allow variances to the code.

6/

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12. I strongly urge you to deny this re-zone application. I ask you to revisit the variance that was granted. This is not what I want my community to look like. Incompatible development must be stopped. I am urging my voting friends and family within the city limits to consider this an important issue.

Sincerely,

Toni L. Lane

Toni Lane

Mr. Patrick Spurgin
Hearing Examiner
C/O Selah planning Dept.
222 S.Rushmore Rd.
Selah, WA 98942

Mr. Spurgin,

I am a lifelong resident of selah and a home owner for the last 38 years. I am very disappointed in the lack of prudent growth that is taking place right now in the city of Selah.

Several developments of a multi family (rental) nature are being allowed through erroneous rezoning in existing R-1 neighborhoods. When this happens the property values of the those single family owned homes –is instantly lowered!

You don't grow a community when an excess of 48%of Selah residents are renters ,not home owners who are invested in the community,and I'm sure you would agree.I also find it interesting that none of these developers are building these where they live???

The Torkelson development to the north of the high school is a prime example of the City council rezoning to benefit an individual at the expense of the rest of the community! This has to stop.

Roy Sample is attempting the same sort of rezoning at his Sommerset 11 development ,right across the street from our home.....that we purchased 15 years ago because it was a quiet R-1 neighborhood. Urban area growth guidelines are in place to prevent this from happening and the only reason they want the City Council to rezone is for their personal financial gain.

Sincerely,
Norm and Sue Hillstrom
200 Herlou Dr.
Selah, WA 98942

3 2014

SELAH
WORKS

(62)

To: Tom Dureand - 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 Godlander would be horrible during school terms. The architecture of these "townhouses" is in no way consistent with the surrounding residences.

The property being developed on Herbow (between Weems Way & Godlander) 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 - 98442

90 Columbus Way
Selah, WA 98942
March 26, 2015

MAR 27 2015
CITY OF SELAH
PUBLIC WORKS

Tom Durand and Pat Spurgeon
Selah Planning Department
222 S. Rushmore Road
Selah, WA 98942

Dear Mr. Durand and Mr. Spurgeon:

The proposed "Whispering View Estates" development on Goodlander road is strongly objectionable to the people of the city of Selah. If this proposed development goes through, it will hurt many people—the lives of the pedestrians, children, residents, families, home and property owners, and the reputations of the city council, developers and the mayor of the city of Selah are at stake.

This proposed development will hurt the city of Selah in many ways, including the following:

- The proposed development does not match the quaint single-family homes surrounding it, thus degrading the neighborhood.
- The value of the surrounding homes and properties is greatly decreased by this development, thus making the selling of these homes or properties so unlikely as to be nearly impossible. Our view is completely wiped out.
- There are no design features to reduce and minimize light pollution and noise pollution for the surrounding property owners. Currently, we can hear workers swearing from our yard and hear them talking from inside the house too.
- There is no design or plan for retaining walls to handle the distinct slope of the land within the project. On the border of our property there is a steep bank very close to the edge of the road, this is a major concern because of weather conditions and accidents—a car ramming into the wall could cause an avalanche of dirt and debris directly onto the road, causing harmful accidents.

- **No curbs and gutters are present to control water runoff, resulting in unsafe conditions in the development and in the surrounding properties.**
- **The townhouses are facing different sides of the properties surrounding them; our house has one building directly facing our yard—it is very disconcerting to have a large front window in front of where you play and work, out of which residents within can watch everything we do.**
- **Statistics show that, on average, 2.6 people will be living in each building. There are a proposed 48 buildings; that calculates to an average total of 124.8 people living on 4 acres of property. These are statistics which only show calculations which are existent in an ideal world; unfortunately, we do not live in an ideal world, and many residents will probably have more than about 2 ½ people in their family; and with so many families moving in and out, there is an potential of a increase risk of crime.**
- **The car limit per each unit is 4, but what about when residents have family gatherings and visitors? Because visitors WILL congest the too narrow roads, emergency vehicles will have great difficulty in reaching their destination in time and in safety.**
- **With so many people living in this development, many of them are bound to be children. The kids living on this development will have no yard, no place to play, and with the beautiful yards of the surrounding property owners calling to them on every side... will not this pose a problem when stray children are found playing in some stranger's yard or go missing and are found even wandering around the high school unattended?**
- **This so called "development" will not only cause problems for the property owners, but also for the residents in that there is not enough room on the road for a fire truck or other emergency vehicle to reach its necessary destination without causing a potential accident with an oncoming car.**
- **The property on which these townhouses are even now being built is not large enough to bear staggering number of 48 town houses because the maximum limit of dwellings per acre is 12 and the property is only 3.97**

acres; this is not including allowances for a road and curbs and all the necessary components therein.

- The alarming condition of having no sidewalks planned in this development plainly results in unsafe conditions for pedestrians and school children that may need to walk to school.
- The road is not built to the proper measurements to ensure the safety of any who drive on it; and also, the steepness of the road increases the possibility of accidents in winter because of ice—a driver could slide from the road leading to the development into the Goodlander road causing an accident and potentially killing one or more people—possibly including the children and students who have no sidewalk to walk on.
- Because the development is right next to the high school; this could cause heavy traffic on Goodlander road, and with more traffic comes more opportunity for accidents—possibly including a student driver.
- Forty-eight units is a limit, not a goal or a property right. If this development goes through, as there clearly is not enough room on the property for this extreme number of three-story buildings, the buildings will be placed as close together as possible, imperiling the entire 48 in a case of fire and as the fire trucks will not be able to successfully navigate the narrow road, the entire lot may burn within a matter of minutes and spread to the neighboring properties, thus endangering many lives and properties.
- This development is clearly an incorrect fit for the city of Selah, yet there are those who persist in pressing the admission of such a monstrosity into the city. It hurts the reputation of many people including the developer, the city council, the mayor and others.
- Mr. Torkleson, a member of planning committee, and the developer in question, unfortunately now appears to have a tarnished reputation. In January 2014, when this development was originally applied for, the application was improperly represented. Mr. Carl Torkelson claimed to be the owner of the property when he did not, in fact own it until December 23, 2014. Therefore, we believe this to be an illegal development. The original development application should be voided and the process started over again from the beginning.

- Although Mr. Torkelson has repeatedly complained that because other developers have had their developments allowed his should be allowed also because it would be unfair to him to withhold permission to continue his development, however, it is common knowledge that two wrongs do not make a right. In order to make it right, the whole case should be reexamined and dealt with in a responsible manner.
- As the city council of Selah has repeatedly allowed variances to the code, they also have a scarred reputation. To maximize monetary gain to the developer is not a reason to allow variances to the code. If this city does not uphold its codes consistently, what do the codes stand for? The city will be forced to give them up in prospect of any developer that happens along. What kind of city do we want to live in? It is not hard to see that these developments are more of a hurt to the city than a help to it.
- Finally, although many other concerns remain, if this unsafe, irresponsible development continues, it may lead to the ruin of the city of Selah. Good families who currently live around the property in question may and have expressed desire to move away because of this development.
- The one advantage, which so corrupts many people involved in this mess, is money. I know that the more people who move into Selah will generate more tax dollars for the city, but the disadvantages are too great. It is not right to endanger lives, reputations, and money all for the sake of personal gain. This development will hurt many people, it is wrong to hurt someone else for one's own gain.
- This is not what I want my community to look like! Incompatible development must be stopped!

Respectfully,



Chloe Gordon
Age 15

March 26, 2015

Tom Durand, City Planner
Pat Spurgeon, Hearing Examiner
Selah Planning Department
222 S. Rushmore Road
Selah, WA 98942
File: "Whispering View Estates"

MA:
CITY OF SELAH
PUBLIC WORKS

Dear Mr. Durand and Mr. Spurgeon,

I cannot see the view from my window. It is not much fun playing outside because I see people, the road, and the houses. People can look out their windows and see me playing. I am concerned that people will come into my yard. It is dangerous. If one house caught on fire it could spread to our house. The road has no sidewalk; it is not safe for kids walking to school. A car could hit kids. At night the buildings look scary.

From,

Cordae Gordon

Cordae Gordon, Age 8
90 Columbus Way
Selah, WA 98942

32

March 26, 2015

Tom Durand, City Planner
Pat Spurgeon, Hearing Examiner
Selah Planning Department
222 S. Rushmore Road
Selah, WA 98942
File: "Whispering View Estates"

A
MAR 30 2015
CITY OF SELAH
PUBLIC WORKS

Dear Mr. Durand and Mr. Spurgeon,

I do not want Whispering View Estates to be built because I can hear everyone talking. If there were music playing, we would hear it. It is not safe for children because there are no sidewalks. There is not room for the kids to play safely. Fire trucks could not go in to help. There is no place to turn around. Cars could get into an accident just trying to pass each other. In winter there could be tons of accidents because the roads are narrow and steep. When I look out my bedroom window all I see are these giant buildings. They are not exactly pretty. Every summer our cousins come from South Carolina to visit. We have a campout with them in our yard. I would not like to campout in our yard anymore. It would be noisy and I would not feel safe. Anyone could come into our yard because there is no retaining wall or fence. We have an apricot tree, raspberry and blueberry bushes next to the development. Anyone could come and take our fruit.

Very Frustrated,

Calie Gordon

Calie Gordon, Age 11
90 Columbus Way
Selah, WA 98942

March 26, 2015

Tom Durand, City Planner
Pat Spurgeon, Hearing Examiner
Selah Planning Department
222 S. Rushmore Road
Selah, WA 98942
File: "Whispering View Estates"

Dear Mr. Durand and Mr. Spurgeon,

I do not like the houses next to my yard. They are squished together. I do not like all those people looking at me when I play. There is too much driving on the road next to where I play. Please don't let this happen.

Sadly yours,

Cambree Gordon
Cambree Gordon, Age 6
90 Columbus Way
Selah, WA 98942

March 29, 2015

City of Selah Planning Department
Attention: Thomas R. Durant, Community Planner
222 Rushmore Road
Selah, WA 98942

MAR 30 2015
CITY OF SELAH
PUBLIC WORKS

RE: Comments on Whispering View Estates Planned Development, Rezone and Environmental Review

Dear Mr. Durant

My family and I moved to Selah in November 2014. We specifically chose Selah for its small town feel, great community and schools. We also wanted mostly PRIVATE acreage in a family friendly and safe neighborhood. After MANY months of searching, we finally found our home on Columbus Way. We have 3 or 4 direct neighbors. We currently enjoy the feeling of quietness and safety while being very close to downtown. Unfortunately, this is all about to change.

If this current rezone is approved, we will soon have 48 new neighbors. The exact opposite reason we purchased our property. The safe feeling I have now is quickly disappearing. Torkelson is building 3 story monsters that resemble NOTHING in this neighborhood. This development is completely out of place. There is currently no way to block noise pollution, light pollution or future buyers from trespassing onto our properties. We no longer have a beautiful view to our East and our quietness is sorely lacking due to the hurried construction.

Another reason we chose to move to Selah from Yakima: schooling. Our daughter will soon be entering the education system. We wanted to be in the best school district. During our research of areas to live in, Selah school district topped all others in education ratings. Selah schools are not ready for the influx of students that will be enrolling if all 48 of these houses are built. While they do have good education ratings, they are inadequate to handle large classes.

Our family did not move from Yakima to basically end up in a Yakima type city again. Denying this rezone is the right thing to do. The right thing for our school district, home owners and the entire community of Selah. Positive and enriching growth is a great thing. Overzealous monstrous growth is a disaster waiting to happen.

Sincerely,

Tiffany Babat

80 Columbus Way

Selah WA, 98942

Tiffany Babat

March 29, 2015

Patrick Spurgin

Hearing Examiner

Selah Planning Department



Dear Mr. Spurgin,

I'm writing this letter to present issues that I believe are inconsistent with the Selah Municipal Code and the Comprehensive Growth Management Act. Because of these inconsistencies and conflicts, it is my belief that the Whispering View Estates development should be denied and directed to stop work immediately pending a new development application for the properties.

The Development has serious question of ownership at the time Carl Torkleson applied for the Development on January 8, 2014. His signature (and his wife's) are witnessed or identified as the legal owner of the properties. In April of 2014 a survey was commissioned by Dan Bowers of the properties, the legal ownership is registered to Dan Bowers at that time. The false information presented at the time of application is cause to suspend the permits for up to one year then they have to be applied for again. SMC 10.06.080

The Illegally proposed development is being constructed on a street design that is unable to control auto traffic safely within the development. The road design is primarily a 20' hard surface with no curbs, gutters or sidewalks. As a matter of public safety, the sited structures are only 3' off this road surface and absent sidewalks where is the foot traffic allowed to walk especially in banked up snow conditions. These units will generate approximately one child per unit and they must walk out of the development to board a bus, the private road designation won't allow buses on the private roads. The application also lacks a profile of proposed road construction, absent this I also have serious reservations about the safe grade of the private roads as they intersect with East Goodlander.

The development is being applied for as a Planned Development. This requires a public need documentation under a change of circumstance. No credible data for such a public need is presented in the application. Additionally the development is inconsistent with protection of and harmony with the neighboring uses as described in Comprehensive Plan objectives. This development does not approximate the surrounding neighborhood in any way or manor.

Without curbs and gutters there are no design plans for keeping runoff ground water on site. The intersections at Goodlander will be an open area for water on the private roads to leave the development area.

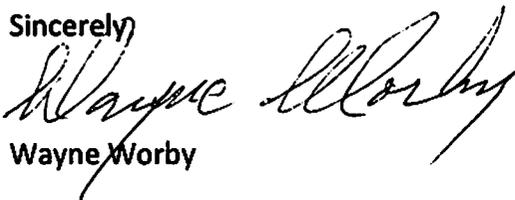
There are many areas within the development that have extreme cuts with no engineered retaining walls and there has already been considerable fill in low areas that have received no compaction and testing. The fill areas may exist under both roads and residences. These practices need to be corrected.

While the proposed development identifies open space it appears to be very limited as to the activities that can be sited in them. Please notice the open space on the South East corner of the development. The slope is extreme making the area unusable. Since no retaining walls are identified in design or plan this leaves one to assume the developer has chosen to believe the requirement of open space to not be important. It is a requirement still yet to be addressed adequately.

Selah School District is already close to or at capacity on several campuses. No mitigation of additional student load is provided by the development application. This density will add nearly two classrooms of students to the population. Impact fees should be considered to address this impact.

Please consider these observations when rendering your decision. Again, my position is to deny the 48 units development design, stop work on the existing structures pending a new development application that will adequately conform to the Comprehensive Growth Management Act and the Selah municipal Codes.

Sincerely,



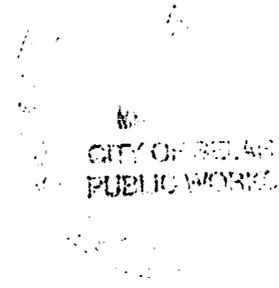
Wayne Worby

200 Weems Way

Selah, Washington 98942

3/30/2015

City of Selah Planning Dept.
Attn: Thomas Durant, Community Planner
222 Rushmore Rd.
Selah, WA 98942



Re: Whispering View Estates

Dear Mr. Durant,

My late parents, Harry & Joan Whitehead, bought and built on five acres outside the Selah city limits on 180 Lancaster in 1968. My sister and her family later built a home on that same piece of property where they raised their children. I still live in the home my parents built.

The neighborhood would be extremely adversely affected by the development that is going up, known as Whispering View Estates. Most homes in the area are on at least an acre of land and putting 48 units on less than four acres doesn't fit in with the current density of the surrounding neighborhood.

Not only do I not want to see that many dwellings in a small space, but they are an eyesore. Many of the surrounding homes will lose their view as these are three story buildings, which are not very pleasant to look at. The development has no plans for visitor parking and the "streets" are only 20' wide.

Please STOP this development before it ruins our neighborhood and our community. Thank you for your consideration.

Sincerely yours,

A handwritten signature in black ink that reads "Stella E. Whitehead". The signature is written in a cursive style with a large initial "S".

Stella E. Whitehead

March 30, 2015

City of Selah
222 South Rushmore Road
Selah, WA 98942



Dear fellow residents and elected & appointed city officials,

Thanks for allowing me to provide input on the Whispering Pines project and on the subject of the dense development trend being carried out by a handful of developers in our wonderful town.

The day after they laid blacktop inside the Goodlander Road project, my first instinct... my "I grew up in Selah" instinct, was to grab my skateboard and enjoy the smooth finish of a freshly paved road.

So I did.

Well, that didn't last long.

Carl Torkelson told me he was afraid I would sue him if I were to get hurt on his property, and that I was not to trespass again. I understood his concern, and I'm happy to honor his request, but I'm not really the lawsuit type. I've never sued anyone for anything. If I were to get hurt, it's my own fault. Heck, I'll even clean up the blood.

But this is a person that files lawsuits against the city that provides the fundamental environment for his career. The same city for whom he sits on the planning commission and was once appointed a seat on its city council. You'll remember that the city told him "no" before, so he sued and somehow won. The fact that he was able to get the decision overturned is an obvious sign that some dramatic changes are needed in the way our city is run.

Since that time, I feel the city is afraid he'll sue them again if they go against his wishes. He's used subtle and not-so-subtle intimidation tactics—along with unethical political influence—to that effect ever since. Understanding his motivation, it's just not that surprising any more, but it must be stopped.

The truth is, these developers have an incredible opportunity to help shape the future of our city into a shining example of picturesque small-town life in the geographic and demographic paradise that the city of Selah has a reputation for.

Well guess what... If this kind of development continues in its current form, that reputation.... along with the reputation of our schools, our parks, community days ~ our reputation for excellence in organizing~and participating in~some of the best family-friendly sporting events in the great State of Washington... will evaporate.

That paradise will all but disappear.

Our schools will overcrowd.

Our traffic problems will escalate.

Our police force will be outnumbered.

The effectiveness of our fire department will be compromised.

Property values WILL drop. In fact... that's exactly what these developers want. Low cost land suitable for rental housing, and they're getting their way.

In the long-term, the possibility of a productive tax-based revenue from this type of development will go fully unrealized. This is the same tax-revenue pipe-dream that these developers dangle in front of our city officials like a carrot they will never reach.

Instead, they use their influence to help redraw city limits to their advantage, with under-the-table deals already in the their back-pockets. After they purchase the property... or before they purchase the property in some cases.... they skirt laws and city codes that our elected officials SHOULD uphold. They obtain the most extreme variances possible to maximize density and cut corners on NORMAL and otherwise required city amenities such as proper roads, sidewalks, lighting, drainage and more.

Finally, they use their misdirected yet very genuine talents as designers, planners, craftsmen and builders to cram unwanted, unattractive, over-crowded and most importantly, "NON-CONFORMING" housing into the neighborhoods of working families who have lived in Selah all of their lives and young families who came to Selah to escape the very things that are happening here today.

That very word ~ "conforming" ~ is really all you need here. It is part of the code that was put in place to PREVENT the very activity we are dealing with — again.

There is simply no excuse for the City of Selah to grant past, current and future variances such as the ones Carl Torkelson is proposing so that he can section-off 2,500sf parcels and put twelve individual house-lots on a single acre of land. In my neighborhood, that's a total of 48 three-story, rentals on a four acre parcel sitting 6-feet from each other.

Mr. Torkelson began petitioning for annexation years before any one of us had the slightest idea what was going on. He now says, *"where were we then? Why didn't you make a fuss years ago?"* We were working. We were raising our families. And worst of all, we were trusting that our elected and appointed officials were watching out for us.

But they weren't.

All this in the name of privately-owned, rental-based housing disguised as single-family homes. I would guess that almost no one in Selah is anti-growth or anti-development. But the desire to grow must be balanced with the drive for excellence for everyone who calls Selah their home.

Many developers make special requests of the cities and counties in which they do business. Some ask for loans, grants or tax credits for assistance on code-based roads and sidewalks... even signage and landscaping to beautify the cities in which they live and earn their income. It benefits everyone. The only signs visible in the Goodlander Road project are "BOWER LANE - PRIVATE ROAD" and "NO TRESPASSING."

What these developers are continuing to ask for is permission to belittle and degrade our city. To build at the maximum density as fast and cheap as they can. Carl will tell you about his success in renting these homes and the need for quality rentals in our town. Honestly, you know the statistics. If you don't, Wayne Worby will be happy to provide them for you... again. But honestly, do we really need to attract more renters in Selah?

Carl and Candi Torkelson have already laid out and are now building a half-dozen of these window-less people-stacks with a design & infrastructure based on a master-plan of 48 homes. It isn't even approved yet, but the building goes on. I've read the minutes from his Southern Avenue project many years earlier. He spent hours and hours arguing whether or not the rooflines should be connected or not. Smoke and mirrors... distracting the city from the real decision... "should we even allow this type of development?"

At that time, the community banded together to fight it... and the minutes from those meetings sound just like the minutes from the meetings taking place today. How much citizen disapproval do you need?

Their strategy? Build them fast and cheap so by the time our elected officials have to make a decision on the ACTUAL final plan, the developers are well on their way to completion. The easiest answer for the city at that point is... *"Let them finish it... it's already underway."*

The best argument years ago was, *"this is what the city needs."* Now their best argument is, *"you let me do it before."*

Those days and those decisions.... and that kind of manipulation, must end now.

In a planning commission meeting last year, Carl Torkelson made reference to the Teske's home which sits on a one-acre lot directly adjacent to the Northern property-line of the Goodlander Road project, where a total of EIGHT of these monstrosities will now border the Teske's property, blocking sun and view and eliminating any sense of privacy that the Teske's and other neighbors once had.

He stated that the Teske's home had three levels and it was basically the same as the planned homes he wanted to begin constructing just yards away from the Teske's kitchen window. I think what he said was, "*they're the same thing.*"

I wanted to say something then, but I didn't. I will now.

My response is: how DARE he make a comparison to a nicely constructed, well-planned, well-placed home on a large, rural lot where the owner and builder worked together to make the best possible use of the existing and natural lay of the land. Their garage doors are built into the slope on the back of a nicely landscaped one-acre lot. I live right next door to the Teske's, and I am grateful for all the thought and care that went into the planning, construction and landscaping of their home. The fact is, their home adds value to our home right next door.

Now, our property values are being compromised. All the better for greedy developers with no thought or remorse about their neighbors. Low property values simply feed their addiction to snatching up the next property, wrangling the codes and cramming in as many rental units as possible. It's deplorable and an embarrassment.

If Mr. Torkelson had proposed creating four one-acre lots with homes similar or even identical to the Teske's home, NONE of us would be here today. In fact, he'd be a hero in the neighborhood. I think he owes the Teske's an apology for even thinking to compare his hideous urban stacks of rental properties to the Teske's beautiful home, let-alone say it out loud. In fact, four one-acre lots would have conformed perfectly with the existing homes all around this property. Much better than 48 one-twelfth-acre lots with homes so close you can borrow sugar without even going downstairs. Oh, wait... out of respect for the privacy of his tenants, there are no windows on either side of these houses because they're so close together. I guess you'll just have to go downstairs and meet in the street.

And my greatest fear... already being realized, is the loss of Selah's soul.

As a kid, I rode in the back of pickup trucks on hot summer days to get ice cream at Kings Row. I rode my bicycle past Lince's Market in the Community Days parade... then bought surgical tubing at Helms Hardware to make water-weenies... and a few years later, I went to the street dance in front of The Wagon Wheel restaurant. Still more years later I walked along the same parade route with my own children, standing and waving from inside apple bins being pulled by a truck, dancing down the street... or driving tractors with FFA.

I imagine many of those things will continue to occur, but our town will never be the same.

Because along with our soul goes the likelihood of attracting productive, hard-working, home-improving, job-creating middle and upper-income residents to our city.

I'll quote Carl Torkelson from the Yakima Herald Republic (October 7, 2013) during his campaign to get elected to City Council once his appointed position expired:

"I've always tried to do what I felt was good for the town," Torkelson said. "We're a small town and we're going to grow at a certain rate, but we need to be selective on how we grow."

I will assume Carl felt his loss of the election relieved him from having any responsibility to abide by his campaign statements. Although my guess is that telling the truth about his actual plans would have resulted in an even more dramatic loss than the one he suffered.

I wasn't born here, but I've lived in Selah most of my life. I've lived in wonderful beachside towns in California and on two of the Hawaiian islands for many years. Places where people dream about visiting and living.... And I made the choice to come back to Selah.

Had I understood the path that a small group of greedy developers would take to exploit and disparage our beautiful town in such an unethical manner, prostituting city codes for personal gain with no regard for... and to the detriment of... their fellow citizens and neighbors, I'd probably be on one of those beaches today.

I don't even live inside the city limits, but Carl Torkelson has sat in my driveway staring at—and scheming about—the next available parcel to be annexed into the city. When I asked him why he was there, he told me he thought it was Bowers property. Good grief.... he may think the hayseeds of Selah are idiots, but we can spot a liar pretty easily. It's as though he can't help but NOT tell the truth... about almost anything, even when there's nothing at stake.

No, I don't live in the city, but I can see it from my house.... and what's happening is demeaning, humiliating and embarrassing to everyone in and around Selah. It needs to be dismantled and planned properly in full-accordance with existing city codes and zoning limitations. A simple density plan conforming with the surrounding lots and homes all over Selah would require little or NO variance at all.

As developers, these talented people have an incredible gift that gives them the opportunity to make a very good living. They also have a responsibility to our community. They live here. They have been coaches and mentors and volunteers and civil servants... these are good people.

Further, they have the talent and the capability—more than most of us—to literally make their city a better place. It's time our city government, our skilled and capable resident craftsmen, and

our citizens at-large find common ground on this subject so we don't have to go through any of this again.

I'm sure the city council would rather not hold emergency meetings and listen to angry residents argue with developers whose best and most justifiable argument for unfit and non-conforming development is, "*I did it before.*"

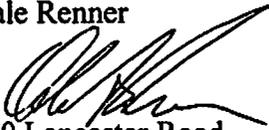
The way I look at it... if you make a mistake once, you probably shouldn't do it again.

This isn't a personal thing... not by a longshot. And I hope these talented builders understand that. These are friends and neighbors and our kids are classmates and teammates... But when you defy the wishes of an entire town in such dramatic and unrealistic fashion, you'd better be ready for some backlash. It's going to feel personal, but it isn't. We are losing our privacy, we are losing our identity, and the heart and soul of why we all moved to—or stayed in—Selah in the first place is vanishing.

In Carl Torkelson's own words "*...we need to be selective on how we grow.*"

Thank you for your time and consideration. I'll see you on April 20th... and I won't be alone.

Dale Renner



180 Lancaster Road
Selah, WA 98942
509-961-3102
dale@nwstandard.com

MR. JAMES B. HANNA

181 Lancaster Road
Selah, WA 98942
509 713-3213
hannajbx@gmail.com

3/30/2015

Mr. Thomas R. Durant,
Community Planner;

Mr. Pat Spurgon,
Hearing Examiner;

City of Selah
Planning Department
222 S. Rushmore Road
Selah, Washington 98942

Re: File No. 914.45.14-01, 971.4514-01 - "Whispering View Estates" Torkelson Construction, Inc. Notice of Application, and Environmental review

Gentlemen:

I received notice of the above referenced planned re-zone and subdivisions as I am a "surrounding proper owner" near the proposed development. My residence is shown in the accompanying aerial photograph, in the upper right (N.E.) corner, and extends beyond the photographed area. I purchased this residence in 1964, but my history here in Selah extends back to 1934, when I was born. At that time my parents and grandparents were also residents of Selah. When I hear people say that they have lived here for twenty years, I think "Welcome to the area, I think you will enjoy your *new* home."

When, in 1964, I purchased my home; I had no illusions that the surrounding area would remain forever as open land, as it was then, with only a few homes. I did, however expect that it would remain a generally rural area, as it is now, with single family homes, on fairly large parcels of land, occupied by resident owners. I could not, and cannot, conceive of the impact of the intrusion of an (as proposed) 48 unit project of three story dwellings, each sited upon only the land on which they cover.

In the colorized photograph, the proposed project is highlighted in red. (This was not done by myself, but was in the copy which I received.) It shows the present character of the land in question. On this property, which I understand is 3.97 acres, there is one house, a few out buildings and a structure designed as an equestrian arena. All of which fits, esthetically and compatibly, with the surrounding land use. It is my understanding that the area in question was, until recently, part of the county, as is the other property, north of Goodlander Road, which surrounds it. I further understand that until this property was annexed to the city of Selah, it was zoned as R1, although I think there are some areas nearby which may be R2. Nowhere in the adjacent, or surrounding area is there any land zoned PD. If one were to extend the photographed area north, as far as Magonagle Road, I doubt that the number of residences would exceed or equal the number of units proposed in the planned project. Compare the proposed plat of the project, superimposed upon the highlighted area of the photograph, to get an idea of how unharmonious this proposed project is with the surrounding area.

I am not any sort of expert on the definitions used in zoning. I leave to others, the task of arguing the intricacies of laws, regulations, and codes. However it seems that any reasonable person would conclude that in spite of whatever technicalities there are in the codes, that which is proposed is simply so different from the rest of the area to be considered, in any way compatible, or even similar. I am reminded of the pre-school TV series *Sesame Street*, where simple examples were used to teach such concepts as *same* and *different*. I think that even the kindergarten kids would tell you that the proposed project is clearly different from the existing neighborhood.

I am not accusing those who are financially or physically involved with this project with being evil, or operating in an illegal manner. Some might say that they have been somewhat more interested in their own profit than in being in strict compliance with codes and regulations. However, I believe it is only natural for those in business to desire to make as much money as possible, to view codes and regulations as obstacles rather than guidelines, and generally put their own interests above those of others, who they consider to be generally an obstruction or nuisance, to their plans. Laws, codes and regulations, however, are set in place to assure that, not only the interests and profit of the business are taken into consideration, but also, the interests of the public at large, and particularly the interests of those who will be affected by any change or proposal.

While it may be perfectly proper for a developer to wish to promote his or her own

interests, to the exclusions of all others; officials, such as yourselves, have a wider and more through duty. That is to enforce the codes for the benefit of all, to make sure that, the general good is taken into account, and that those who desire to make changes for their own benefit, are held to a strict interpretation of the rules.

Further, to ensure that limits are not considered being guidelines or targets, and that when a range of options is stated, that the upper limit of that range is not set as a target, and even that stretched or exceeded if possible.

In the present case, as the developer is, and has been, an official of the city, one would think he should be held to a higher standard, on that basis alone, to know and operate in a manner strictly in adherence with the codes and regulations; and also to have considered, and planned for, all possible contingencies that his project cause or encounter; and to already have in place ways and means to take care of them. For someone new to the business, or a member of the general public, who is not acquainted with all possible impacts and possibilities, to not be as well informed is understandable (and, one would hope, the exercise of your duties would prevent constructing any disasters waiting to happen,) I would submit that your scrutiny and duties should be applied even more carefully to one who knows, or should know, what problems may exist but, in the pursuit of profit, has ignored them.

While I am not an expert on the details of the codes and regulations, nor on the process of enforcement of them, it seems that there are many items of density, grading, fire protection, water supply, parking, sidewalks, water run-off, traffic, and safety, as well as the general incompatibility to the neighborhood, which have not been considered or have been ignored. It appears that construction has begun, and is proceeding, without your final approval; and that the only and last hope for such things to be considered, lies in your hands. I believe that you have the legal and ethical responsibility to ensure that the good of the many is not subrogated to the good of the few, or the one.

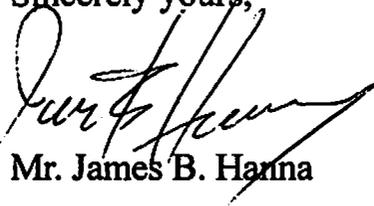
In closing, I recall a riddle posed by Mr. Mark Twain, wherein the stated the case of the four legged dog. "The dog," said Mr. Twain "has four legs." "But if we call his tail a leg, how many legs does he have?" The answer is, of course, four. Simply calling his tail a leg does not make it so. My point is that, while the developer has called his actions in arranging for the property in question to be admitted to the city, and at the same time changing the zoning from R1 to R2; and in ignoring the requirements for actual ownership of the property involved, as proper and honorable, that in itself does not make it so. Likewise, the view of the developer that all rules, codes, and regulations have, and are, being followed; and

that all contingencies have been planned for, or that his plan is somehow compatible with the surrounding community, is also only his opinion and does not make it so.

I urge you to consider carefully, all the questions, problems, and the impact of this change in the community will have; and to conclude as I have, that this project should be stopped, and the area be developed in a manner similar to, and compatible with the community and neighborhood which surrounds it.

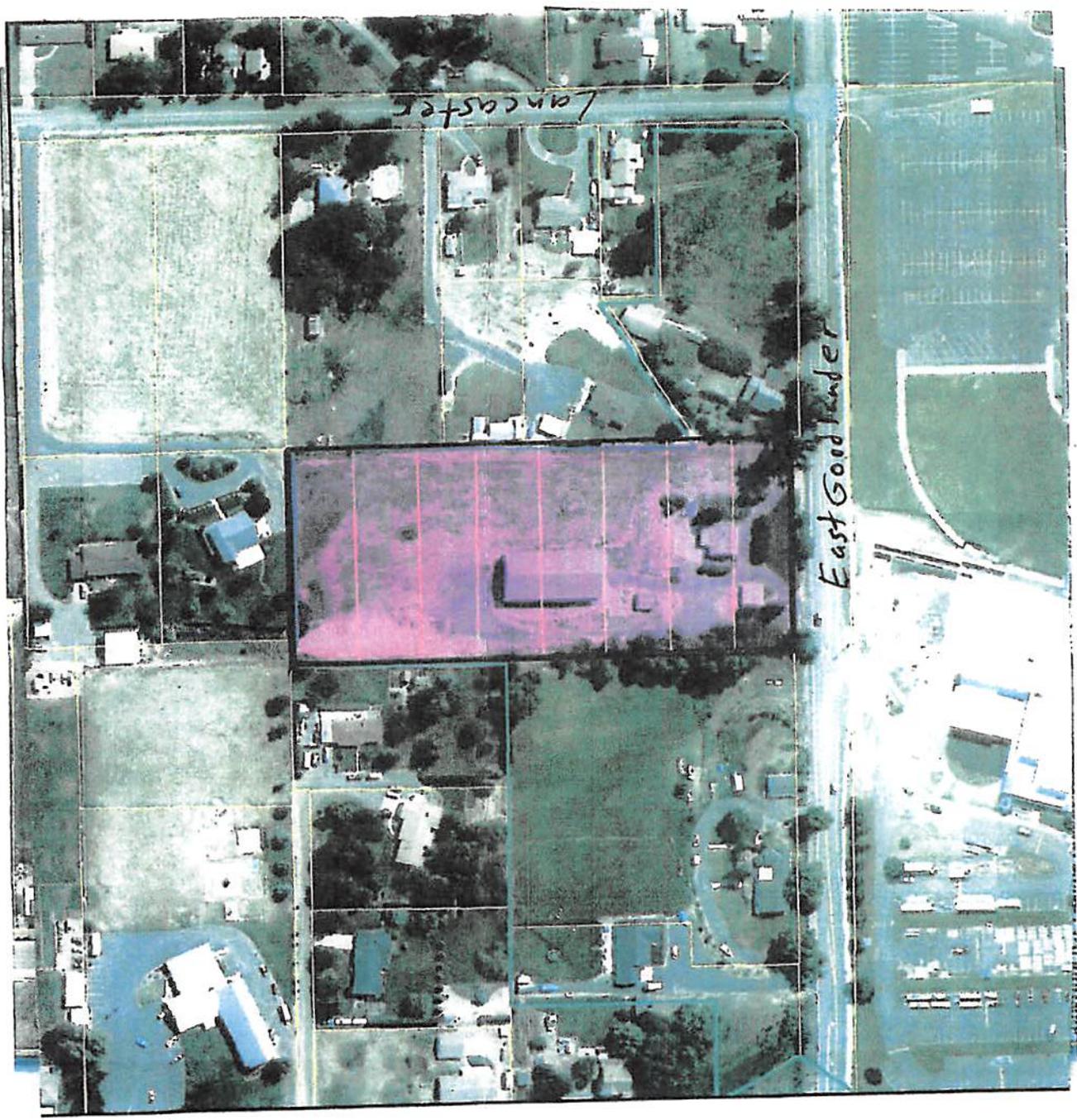
I should like to exercise my right to submit further written and oral testimony in any future proceeding on this matter.

Sincerely yours,

A handwritten signature in black ink, appearing to read "James B. Hanna", written in a cursive style.

Mr. James B. Hanna

(2 attachments)



APPLICATION: 912.42.14-01 WHISPERING VIEW ESTATES
SUBDIVISION

APPLICATION: 914.42.14-01 WHISPERING VIEW ESTATES
PLANNED DEVELOPMENT REZONE

APPLICANT: TORKELSON CONSTRUCTION

SUBJECT PROPERTY

SCALE: 1" = 200'



○ NORTH

Attention: Tom Durand and Pat Spurgeon

MAF

“ Whispering View Estates “

As a home owner in the neighborhood that the proposed subdivision is planned for, we strongly object to the Whispering View Estates project.

The developer states in his proposal that the density and building style fits the existing properties in the surrounding area. I don,t believe he has looked very closely at the single family homes that are sitting on one acre +/- properties that are the norm for the area involved. The closest development that would even come close would be his own that was done on Southern Avenue. Does close proximity mean miles away? I don't think so.

I understand that the standard rules of building setbacks go out the window when a planned development is requested. That doesn't mean that general safety standards can also be sidelined. When you can touch two buildings at the same time with outstretched arms, the buildings are to close together. That would put the eaves at less than 4' feet apart. This has to concern fire officials. Just last week a fire in a residence on Easy Street in Yakima, not only burned that house, but melted the windows and scorched the siding on the next residence that was 30' feet or more away. Fire personnel were able to keep things under control because they had easy access to the home and had multiple fire agencies to respond. Firefighters could not even get there trucks to the fire as designed because of the 20' streets as planned. I can't imagine dragging their hoses up that steep street to fight a fire. If there were a medical emergency and the streets were congested because a resident was having a family function and aid cars could not get to where they needed to go, it would be a terrible tragedy.

Traffic in and out of the complex onto East Goodlander would be a big concern as well. Goodlander is a high traffic road at peak hours and putting 48 potential family car units into the mix right across from the high school would be an accident waiting to happen. Children living there would be asked to walk from their home down these to narrow streets to a major road without a sidewalk on the North side and cross to the South side of Goodlander just to get to a proper sidewalk. They would not only be dodging Goodlander traffic but also the traffic turning unto Goodlander out of the complex. There are no sidewalks in the complex itself, which adds one more concern for residents living there.

There are no provisions for water runoff or collection ponds to hold the runoff. There are no provisions for additional parking as drawn. The only space left for these two oversights is to rob space from the open areas. Goodbye play areas! The 20' parking aprons will not hold a modern extended cab pickup without hanging out into the 20' street, adding to congestion.

I believe that the total coverage of the acreage by non-impervious surfaces exceeds the percentages that are allowed, unless those percentages can be encroached on also?

There seems to be so many areas of concern about this project to deny the application. The esthetics of the three story buildings should be enough for denial. I can't imagine 48 of those units slammed together in one spot. Is this what the city of Selah wants to be known for? I don't think so.

Carl Torkelson has built other rental properties that don't cram so many ugly buildings together in one spot. The reason why? The City of Yakima and Yakima County won't allow it! If this application is approved, what next? The next open property that becomes available will be designed the same way.

Our schools and infatrucre can't handle the impacts!

Thanks for your consideration, Bruce Rockwell
961 Selah Loop Road
509-945-6056

March 28, 2015

Mr. Pat Spurgeon
Hearing Examiner
Selah Planning Department
222 S Rushmore Road
Selah, WA 98942

MAR 29 2015
CITY OF SELAH
PUBLIC WORKS

Re: Whispering Estates Development Or Whispering Pines?

Dear Mr. Spurgeon,

In the past 5-10 years it seems that we have these tall narrow apartment complex's going up where they don't really match the area. There is no grass whatsoever and it is just apartments and asphalt. There are two of them on Speyers after West Home Ave. Then in the past couple of years, houses, tall and skinny popping up on 10th Avenue behind my street and then a duplex placed sideways on the lot kitty corner to my property.

We were told by Mr. Torkleson who built it that he would sell it. Yet it has remained a rental for the past three years. I am not sure if he has even finished the first house on the duplex as it was not finished about 2 years ago or less. But the one next to my lot was finished and rented out.

These homes don't fit into our neighborhood and stand out like an uprooted tree. Take a drive down 10th and see for yourself.

This Whispering Estates are even worse than what I have to put up with. Thank goodness I don't live next to where they are going in.

As a special inspector for construction, I would love to sit at this site and see what is really going on. I would have concerns about the stability of the slope and the placement of so many houses going in. Are they using a secure retaining wall between homes? This hillside and the dense housing is too much.

I would strongly encourage you to really deny this rezone application and perhaps you should revisit the variance that was granted now that we know what Torkelson's true intentions are.

This is not what I want for my community. If he wants tract housing move it out of the city limits. Personally I think they need to tear down this development before anymore are built. This whole thing reeks of underhandedness and deceit.

Sincerely,



Abdul Maroof
402 No. 9th Street
Selah, WA 98942
509.480.0897

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March 28, 2015

Mr. Pat Spurgeon
Hearing Examiner
Selah Planning Department
222 S Rushmore Road
Selah, WA 98942

MAR 30
CITY OF SELAH
PLANNING WORK

Re: Whispering Estates Development

Dear Mr. Spurgeon,

I have lived my whole life in Selah. My whole life. In the past 5-10 years it seems that we have these tall narrow apartment complex's going up where they don't really match the area. There is no grass whatsoever and it is just apartments and asphalt. There are two of them on Speyers after West Home Ave. Then in the past couple of years, houses, tall and skinny popping up on 10th Avenue behind my street and then a duplex placed sideways on the lot kitty corner to my property.

When I built my home, I had large windows placed in all of the rooms as the sunlight and daylight is very important to me. Now I have neighbors who can just have a straight view into my bedroom, bathroom, guest bedroom and kitchen/dining room. We were told when Mr. Torkleson built it that he would sell it. Yet it has remained a rental for the past three years. I am not sure if he has even finished the first house on the duplex as it was not finished about 2 years ago or less. But the one next to my lot was finished and rented out.

These homes don't fit into our neighborhood and stand out like an uprooted tree. Take a drive down 10th and see for yourself.

Now I notice that he is planning on a 48 housing unit near the High School. Pray tell me what that is going to do to our horrible bottleneck traffic jam every morning with another 48 to 96 cars joining into that melee, not to mention the students coming and going at the same time. I thought our area was bad, but here is this 3 story tract housing unit going in and that does not even match the surrounding area. I have concerns over more units going in with a ton of kids playing in a green area that is just next to Goodlander Road. It's an accident in the making, a child being struck while chasing their ball out into the road because of the slope of the green area.

I have looked at his drawing and it does not take a scientist to see there is hardly any road at all, and in the event of an emergency in the night on a weekend and cars parked all over visiting/partying with their friends how is a fire truck, emergency vehicle and ambulance going to negotiate these roads. No curbs? What about rainwater run off?

This plot was never designed to fit 48 homes, yet alone 24. I am not even sure if this was even legal putting them up so fast before anything could be done about it. Perhaps we need to change Selah's name to The City of Torkelson.

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This man lied to my neighbor and I about the duplex and believe me, once a liar always a liar.

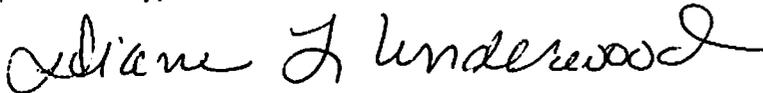
Hopefully you are not under his control and you will make a decision based on the safety of our children, the disruption/destruction of a neighborhood that already is there. Thank God I don't live over in that area.

I can't afford our school levies now as it is. The High School is outgrown the new addition already and will be getting pods now for the overflow. What is going to happen with 48 new families coming into Selah? As renters, they don't have to pay the school levies as the homeowners do.

Also, I have checked out the prices Torkelson has on his rentals, \$1,250 to \$2,000 a month. I needed a home while mine was being built. I found one much cheaper and just down the road for \$700.

I do believe it is time for a new City Council and maybe they won't be the only ones to be replaced come next election. I will be urging all of my friends and family members, neighbor to seriously think of whom we want for a mayoral and city council members at our next election year. Sometimes it takes something stupendous such as this to put into action those who really care about our city. It is time for a change for the better. Please sir, I beg of you to deny this rezone application, for me, for the home owners on Goodlander, and for the city of Selah's other people who are not aware of what is happening.

Sincerely,



Diane Lynn Underwood
402 No. 9th Street
Selah, WA 98942
509.480.0899

To Selah city planner Tom Durand and hearing examiner Pat Spurgeon!

☾ The Whispering Pines development!

We strongly object to the Whispering Pines development on Goodlander Rd. Goodlander Rd is already one of the highest traveled roads in Selah and adding 48 new homes right across from the high school would greatly impact cars and the bus schedule. The hours 7am to 9am and 4:30pm to 6:30pm would be more congested with it being peak hours for the school and sports coming and going!

There is also a safety issue with 48 homes and all the children that they bring and no sidewalks on that side of the road. Children will have to cross Goodlander to get to safe sidewalks on the school's side of the road. How safe is that?

We live on an acre close to the development, a single home on an acre! We were shocked to think of what it would look like with 12 more homes and the families that would be in them! Not what we would want and not why we moved to Selah 48 years ago, which was a small community to raise our kids.

How was the contractor able to buy the 3.97 acres, be in the city without it going out to the public and to spot buy land instead of a block of land? We didn't think short plats could be divided for 5 years! If Dan Bower still owned that land in January of 2014 and sold to Torklestons in December of 2014, that land shouldn't be subject to division for 5 years!

You don't have to live near this over crowded development, but we do and we strongly hope you will deny this rezone and this application as it's incompatible with the surrounding area.

Sincerely,

Clelan and Jan Terry

☾ 50 Columbus Way

Selah, WA.

509-697-7640

Clelan Terry
Jan Terry

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AMERICAN
CITY OF SELAH
PUBLIC WORKS

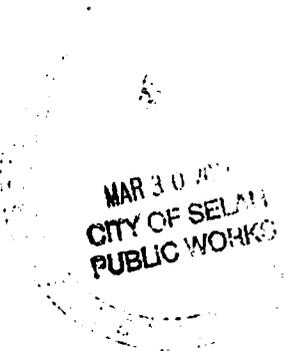
Selah Planning Department

222 S. Rushmore Road

Selah, WA 98942

Tom Durand

Selah City Planner



Pat Spurgeon

Hearing Examiner

We strongly object to the proposed planned development "Whispering View" located on East Goodlander Road. We are asking you to deny the rezone application that has been submitted by Carl Torkelson. A planned development of this size, at this location, is absurd for many reasons.

• **SAFETY and TRAFFIC ISSUES**

East Goodlander Road, at this time, has the greatest amount of traffic on a connector street in Selah. With a projected estimation of 425 additional trips per day, generated by the 48 units of the proposed planned development, "Whispering View", public safety and the gridlock created will be horrific. Imagine first responders being called for the victim of a heart attack, or that of a motor vehicle accident, or for a child falling from playground equipment. It will not be possible, during peak hours of road usage, for emergency vehicles to access East Goodlander addresses or "Whispering View" units in the time an emergent situation requires.

• **EXISTING NEIGHBORHOOD**

The density of a planned development is not compatible with the surrounding residences. A planned development is completely out of place at this or any Selah location.

• **PRIVATE "ROAD" ISSUES**

Proposed within "Whispering View" are private roads only 20 feet wide with no provision for additional guest parking or service vehicle parking. It is not feasible for these 20 foot wide roads to support traffic and parking generated by residents, guests and service people that will be needed for 48 units. Visitors and service vehicles will need to park on the 20 foot wide road creating more congestion and limiting access for emergency vehicles within the planned development.

There are no plans regarding runoff. No curbs or gutters are to be installed, resulting in unsafe, unstable ground during heavy rain or snow conditions. There are no sidewalks planned making unsafe conditions for people walking within or from the planned development. There are no covenants regarding "road" maintenance or snow plowing and no design features to reduce noise and light pollution for surrounding homeowners.

We strongly urge you to deny this rezone application. Please revisit the variance that was granted and see now what the developer really intends for "Whispering View".

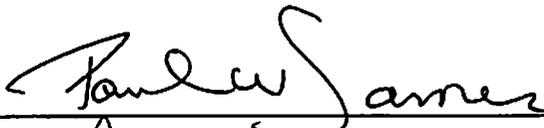
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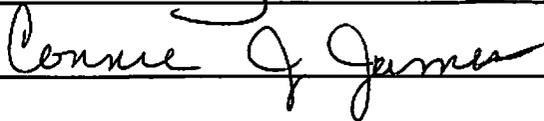
Please consider the potential for possible major problems at and around the site of the proposed planned development, "Whispering View". This type of development is not what we want for our community. Development this is incompatible with our existing neighborhoods in Selah must be STOPPED.

We are urging our voting friends and neighbors to consider this an important issue in Selah as mayoral and city council elections are approaching.

Thank you for listening to our concerns.

Sincerely

Paul W. James 

Connie J James 

Homeowners
111 East Goodlander Road
Selah, WA 98942

March 29, 2015

MAR 30 2015
CITY OF SELAH
PUBLIC WORKS

Mr. Tom Durant
City Planner
Selah Planning Department
222 S. Rushmore Rd
Selah, WA 98942

Re: Proposed Whispering Pines Development

Dear Mr. Durant:

I am writing to strongly object to the rezone application for the proposed "Whispering Pines" development located on Goodlander Road. This application to rezone the short plat from R2 to PD should be denied for a multitude of reasons.

I live in the Selah community and while I am not in the immediate vicinity of this proposed development, after seeing the initial units already under construction, I am compelled to write in opposition of what is yet another development contrary to the public interest of the citizens of this community.

I am new to this process and unfortunately, as with many other Selah residents did not become aware or involved until after several of these developments and structures have popped up throughout the community over the years. My concern is two-fold: the development's lack of conformity to the area; and the code and method by which variances are and continue to be granted under Selah's code.

The Planning Commission's decision making criteria used for the previous variance granted on June 17, 2014, relied on special circumstances of the subject property including size, shape, topography, location or surroundings; and that following strict application of the code would deprive the subject property of rights and privileges enjoyed by "other properties in the vicinity under identical zoning district classification". The Commission further stated that, "granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity". This could not be further from the truth.

The five structures seen from Goodlander are completely out of character for the area and reflect poorly on many of the single family homes around these units. These units have a significant negative impact on the current and future market values of the existing surrounding homes. How exactly did the Planning Commission determine this initial variance grant would not be a detriment or otherwise be injurious to surrounding property owners?

There are safety concerns that do not seem to have been adequately addressed. Is there an approved area for turning around a fire apparatus as was required in the initial subdivision variance granted to Mr. Bowers? The increased traffic congestion from 48 units will pose commuting problems and safety issues. This could impede emergency vehicles from navigating and responding to the area especially given that Goodlander is

a designated "connector" road. The small lane directly across from the high school parking lot entrance and left hand turn lane will surely create chaos during peak school hours.

This entire process does not pass the proverbial smell test when it comes to the make up of the Planning Commission which includes the developer himself.

In the June 17, 2014 Planning Commission Meeting Minutes closing paragraph, the Planning Commission did not impose conditions on the structures, configuration, or other conditions "based upon speculation of what may occur at the site". I would argue that since Commissioner Torkelson recused himself, there was more than "speculation" as to Mr. Bowers and ultimately Torkelson's intentions with the property.

It's my understanding that by changing the zoning from R2 to PD, it essentially gives the developer carte blanche in skirting what should be more stringent requirements. Though it may be legal, it is civically reprehensible that individuals have been working so closely behind the scenes inside our city government to advance their private and lucrative agendas.

I urge you to deny this rezone application and reconsider placing further restrictions on the current development as it now sits.

Sincerely,



Deb Buxton
PO Box 144
Selah, WA 98942

To Tom Durand City Planner and Pat Spurgeon, Hearing Examiner, Selah Planning Department 222 S. Rushmore Road Selah WA 98942

Regarding the Torkelson Development Rezone Application from R2 to PD

I'm Jay Harris and reside at 191 Lancaster Road in Selah. I'm writing this letter because my concerns of the housing development known as whispering estates.

What is the city of Selah doing to let these developments in every nook and corner of our city? How many times do us, the concerned citizens of our great city have to come in front of the city and complain about the development of our town every time the Torkelson's, or our town have grand plans to line their pockets on the back of our town. Who in their right mind changed the zoning ordinances and let these developers put these 3 story rentals in every undersize lot.

The over development of this land in question brings major concerns to me. What is all this back room deal going on why isn't Torkelson up front from the get go and propose the finish project instead of short plot it into 8 lots now he wants how many? (shady). The traffic is going to be horrific in the comings and goings to this development and what about parking, emergency vehicles and even maintance vehicles. Foot traffic wow the city let him get away with no sidewalks for all the proposed units he's going to put in. (accident waiting to happen). Not even to say what it's doing to my property value hay thank god I've lived here for about 30 years and the house is payed off just think of all my new neighbors coming in (renters that don't add to our community).

Thank You

Jay Harris

Jay Harris
3/26/15



1004
CITY OF SELAH
PUBLIC WORKS

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To Tom Durand City Planner and Pat Spurgeon, Hearing Examiner, Selah Planning Department 222 S. Rushmore Road Selah WA 98942

Regarding the Torkelson Development Rezone Application from R2 to PD

My name is Cheryl Harris. I live with my husband at 191 Lancaster Road. We are the home owners since 1978 I have lived in Selah for 58 Years. I have been proud to say I live in Selah. It's always been a quiet safe community. Lancaster is residential housing. The 30 foot tall high density housing that is being built on the Torkelson property sickens me as I like out my bay window and see a beautiful home with nice landscaping and well-kept lawns be surrounded by these ugly cookie cutters designed structures that absolutely does fit in our residential neighborhood

I see these cropping up in every little nook and cranny if Selah. I have named them Torkelson weeds he is spreading over out once beautiful city for his financial gain without caring about the future of our city and residential neighborhoods. Home owning strengthens and gives stability to our cities. This high density housing is going to plug our schools, our roads and increase crime. He has no regards for the citizens of Selah. This project has decreased the property values of anyone in eye shot of this development Mr. Torkelson has pushed this thru with many questionable business practices and the city of Selah has allowed it. I'm so disappointed in the city for allowing such a development.

We my husband Jay and I in the strongest terms object to the proposed "Whispering Pines" development on Goodlander Road

The rezone application from R2 to PD should be denied because:

The density does not match the surrounding residences. All other surrounding residences are single family dwellings an about an acre of land. This development is completely out of place. There has been no change of conditions to warrant this density of a development in this location or is this community.

The short plat granted to Dan Bowers was for eight plots only. With the understanding that a duplex could be built on each lot. The short plot granted to Mr. Bowers in 2014 is not eligible for modification for five years.

The variances allowed for the road in the short plot are for eight plots with a duplex on each lot. The 20 ft. easement will not support the traffic generated by 48 units. The grade from the development accessing Goodlander Rd. is excessive and unsafe, especially in inclement weather.

No sidewalks are planned in this development for pedestrians resulting in unsafe conditions for school children. No curbs and gutters are present to control water urn off resulting in unsafe conditions in the development and in the surrounding properties.

This project is 3.97 acres. The maximum limit of dwellings per acre is 12 therefore there is not enough surface to generate 48 units

MAR 31 2014
47

The proposed development has no additional parking areas on the road or anywhere. Because visitors will congest the too narrow roads, emergency vehicles will have difficulty accessing homes..

We believe in January 2014 when this development was originally applied for the application was improperly represented. Carl Torkelson claimed to be the owner of the property when he did not, In fact own it until December 23 2014. Therefore, we believe this to be an illegal development. The original development applicant should be voided and the process started over again from the beginning. Does Selah want to be known for allowing such crooked and shady deals?

Thank You

Chery Harris

Cheryl Harris 3-26-15

March 29, 2015

City of Selah Planning Department
Attention: Thomas R. Durant, Community Planner
222 Rushmore Road
Selah, WA 98942

MAR 30 2014
CITY OF SELAH
PUBLIC WORKS

RE: Comments on Whispering View Estates Planned Development, Rezone and Environmental Review

Dear Mr Durant

Helen's parents moved from Yakima to Selah in about 1961, when she was about 2 years old. She has lived in Selah since then, in three different houses on Lancaster Road. Her parents, Harry and Joan Whitehead, moved to Selah because of the small town, family friendly, safe neighborhood, country feeling of this community. This has continued to be the case, until recently. What is driving our reconsideration of the quality of life in Selah is the Whispering View development currently under construction and currently under application to rezone from R2 to PD (Planned Development). If this rezone is approved, 48 units will be built on less than four acres of land on Goodlander Road, directly across from the entrance to the high school.

We're sure you have heard from many Selah residents opposing this rezone to PD on the grounds that this rezone is totally and completely inconsistent with the surrounding neighborhood of mostly single family, single story residences on approximately an acre of land. You have probably also heard arguments stating there has been no "change in condition" to warrant a development of this density in this area. These two points are true, and key to the legal arguments against granting this rezone.

Other arguments against this development, and others that may be attempted by developers in the future include traffic concerns, school inadequacies, safety issues within the development, as well as safety issues to the adjoining neighbors.

Speaking for those of us whose property adjoins the Torkelson property on Goodlander Road, another major concern is that nowhere in his plans or proposal is there any mention of how he intends to mitigate the noise pollution, the light pollution, and just the sight of these three story boxes six feet apart on lots as small as 2300 square feet in place of our beautiful country view. If this development is allowed to go forward in any configuration, the developer should be required to, at his expense, mitigate the impact on surrounding lots to the satisfaction of the adjoining property owner.

That being said, as a property owner bordering this development (our property adjoins the Torkelson Development to the north) we would like to urge you in the strongest of terms to

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Durant, Thomas

From: Mark Fickes <mfickes@halversonNW.com>
Sent: Thursday, April 23, 2015 9:28 AM
To: Durant, Thomas
Cc: 'Helen Teske'; Theresa Irwin-Akland
Subject: Request for records and continuing request for document filed relating to Whispering View Estates Development

Tom:

As indicated in our last phone conversation, just prior to the City's decision to continue the public hearing, please place a note in the file that I will be acting as counsel of record for the adjoining property owners, John and Helen Teske and that copies of all notices and documents relating to the pending applications should be timely provided to me at the address set forth below. Despite these requests in the past, I still did not timely receive prior hearing notices, including your most recent continuance.

By sending you this e-mail, I am also making a specific request for all additional written information submitted to the City by the Applicant on these pending applications since the first of the year including, updated applications, site plans, maps, information showing compliance with rezone and Planned Development criteria, etc. I would be happy to pay a reasonable copying charge pursuant to City procedures if the information is voluminous, however, as a necessary party to a quasi - judicial proceeding, the Teske's are entitled to all application specific information without going through the formal public records request process.

As indicated, I will be filing a brief in opposition to the pending applications because of the applicant's failure to meet development criteria in the SMC, similar to the Examiner's and City's decision in Somerset II. Please confirm when your staff report and the certified record will be available (pursuant to City application procedures such information should be available no later than seven days before the rescheduled hearing), so I can pick up a copy to prepare for the hearing. Because of the applications' related nature, I believe the entire record of the applicant's earlier permits (short plats, variance request and building permits) should be certified and made part of the record of the pending rezone and plat, and such information should be made available to the Examiner. This request was made in our initial comment letter dated March 30, 2015 delivered to you.

Also, please provide copies of any information relating to the Applicant's SEPA compliance, including any information provided in response to the City's request for additional information (a traffic impact analysis) as soon as the information becomes available, and your Notice of a complete application (if and when such a determination is made). I will be providing additional comments during the required SEPA comment period after the City provides the required notices before its threshold decision is made.

Thank you.

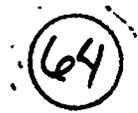
Mark E. Fickes

HALVERSON NORTHWEST

Mark E. Fickes, Attorney

p. 509.248.6030 f. 509.453.6880

mfickes@halversonNW.com



Pat Spurgeon
Hearing examiner
Selah Planning Department
222 S. Rushmore Road
Selah, WA 98942



Having lived in Selah for over 30 years, and being involved in the future planning of Selah and the school district, I have recently moved to Yakima to escape the Intent to defraud the Public by the City Council of Selah. I still have many friends and family within Selah and visit often. I strongly oppose this illegal, overly dense, ugly incompatible construction project, that does meet the legal standards for approval under the application provisions of the Selah zoning ordinance.

There is such Conflict of Interest within the system, the most recent would be Don Wayman approving the sixplex. Don Wayman living within the application construction zone taints the whole City Council. The fact that Mr. Wayman did not recuse himself proves there is a conspiracy within the system. Anything that Mr. Wayman has spoke about, voted on, or approved should be revoked immediately, and submitted to a non-biased person.

The Traffic Study also proves conspiracy. Why didn't the City hire this survey to be done, by a non-biased company? By allowing this to be handed back to the developer shows the City does not use proper procedures and abuses the sworn power to protect the city. The traffic strips were supposed to be on the road for count for two weeks – funny how they disappeared for several days in the middle of the two weeks, and when they returned they were put in different spots as not to correctly count the cars in the congested areas. This traffic study should be redone when the school starts up in the fall.

Carl Torkelson did not own the property in January of 2014 (as proven by the document signed by Dan Bower in April 2014 claiming ownership). This application was never processed, the City failed to conduct any environmental review process as per the SEPA and because of the opposition of the neighbors. This application still may not be complete as the provisions of the Selah zoning ordinance (SMC 10.24.030 and SMC 10.24.050).

Even though the City denied or downplayed at the public hearings that the developer's intentions was 48 units, The Council narrowly approved the short plat and variance with conditions. It is stated in the records the planning committee and the council are concerned about the applicants future development intentions. The record is clear that the variance was granted by the City, was NOT approved to serve 48 houses in this development, the maximum was 15. In order for Mr. Torkelson to have 48 units on this site their needs to be a regulated City Street alt least 50' with curbs and gutters.

The City has failed to follow procedure in the Selah's Building code, by allowing Mr. Torkelson to move over 500 cubic yards of soil to build this substandard road with no environmental review attached to the building permit applications. The buildings built were built in a fashion that does not appear to meet setbacks, and set close enough to the street as not to allow expansion. These Houses should be moved at the owners expense to allow proper procedures.

The Environmental checklist was not complete on the original application, it has not sufficiently identified the environmental effects of the project. As per the Selah Municipal Code requires, there has been no new SEPA checklist or application filed after Torkelson's became owner. An environmental Review should have been conducted upfront at the short plat and variance stage, especially when the development intentions were known by the City.

This short plat that was granted to Dan Bower in 2014 for a duplex, it is not eligible for modification for at least 5 years. Which makes this application null and void, and the six plex should have never been approved.

The density is not compatible with the comprehensive plan, it does not meet the surrounding areas. The Mr. Torkelson and the City has failed to prove the need for this kind of development.

This original application is missing the property owners signature (Dan Bower), and a new application has not submitted since the property changed hands.

This application is also missing:

- *restrictive covenants
- *adequate open space
- *goals and objectives as to why this meets the public interest and being consistent with the Comprehensive Plan
- *approximate location, height, materials of all walls, fences and screens

65

*adequate parking, 8 spots are not enough for this big of an area

*Preliminary plans, evaluations of buildings including height, bulk, number of dwellings units, and the exterior appearance of the buildings or structures.

Without all substantial information in conformance the Comprehensive Plan cannot be determined. Therefore you cannot approve this application with good cause.

Selah has become a town of renters. Renters tend to relocate every few years. If you want homeowners to move back into the City, and make this City strong again, you need to start listening to what homeowners want. The homeowners are tired of their property values decreasing, and their property taxes going up. Selah is becoming a poverty stricken town, and sadist thing, more people will leave as I have.



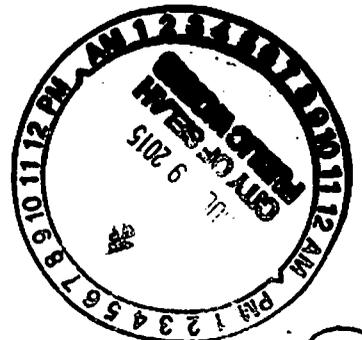
Jeff Keller
1006 W. Mead
Yakima, WA 98902

Pat Spurgeon
Hearing examiner
Selah Planning Department
222 S. Rushmore Road
Selah, WA 98942

Deny the PD rezone Because:

- *The 20' private road was not approved for 48 units only 16, and 16 is all that should be built on this 3.97 acre property, as per Dan Bowers original plans.
- *the private road was only approved 16 units and there is already 7 houses built that should be at that is allowed
- *All of these rentals being built will lower property taxes in this area.
- * These houses are not attractive.
- * There are no curbs, gutters, lighting, or sidewalks for pedestrian safety.
- * The open space is inadequate for the size of development.
- * There was no study recorded for the steep grade that connects to the already busy E. Goodlander.
- * There has been no change of circumstance to warrant the density change in this location.
- * The density proposed does not match the surrounding area as per the municipal codes require.
- * E. Goodlander is already congested and a huge traffic hazard. This would add much more traffic.
- * The Grade from the development accessing Goodlander is excessive and unsafe, especially in inclement weather.
- * There is a lack of precise covenants within the development regarding use of open space, road maintenance, plowing, and liability insurance requirements.
- * The open space is inadequate for the size of the development. In fact, some of the open space is on land so steep as to be usable.
- * There is no additional parking or No handicap parking. Where will visitors park.
- * Not enough space for fire trucks, Ambulances, or police to maneuver safely.
- * There are no designs to minimize lighting or noise pollution for the surrounding property owners.
- * There are no designs for retaining walls the slopes within the property to ensure safety for the residence or children who will play there.
- * The renters don't pay the taxes needed, emergency services is already short on monies to operate, how will these services be affective when they are already over whelmed?

Pat Spurgeon
03 Lyle Ave



Ldo

To: Tom Durand, and Pat Spurgeon
City Planner Hearing Examiner
Selah Planning Department
222 S. Rushmore Road
Selah, Wa 98942



I am writing this letter to ask that you deny the PD Rezone application for Carl Torkelson:

The Application was not finished- before the vote to change the wording of the PD. It is not grandfathered into this PD wording. Not to mention in Committee meetings it has been mentioned that He is not building 48 units on this property only 8 duplexes. 16 units is all that should be built on this property.

The Original Application was in error, for when he first turned this application which seems to be the only one on file, Carl and Candy Torkelson were not the legal owners of this property. This property was transferred in December of 2014 and no new applications have been resubmitted. Therefore I question if this Building development is even legal.

Zoning can not be changed or modified for 5 years. It was rezoned into plats in 2014

There is a huge conflict of interest when a person with the interests of construction sits on the planning committee. Not to mention a Council member pays rent to this same contractor.

The traffic Study was flawed – the counting strips were supposed to be out for two weeks, they were not. They disappeared in the middle of the two weeks for several days and reappeared in different locations as not to count the true number of cars using this road.

There is no Compaction on soil for over half of this property where these house are to be built.

The 20' road is not equipt to handle the traffic flow that it would be used for, it was orginally designed for the max of 16 units.

There are no curbs, gutters, lighting, or sidewalks for pedestrian safety.

The open space is inadequate for the size of development.

The grade slope onto East Goodlander is too Steep, this will cause problems in the winter. Potential traffic accidents on E. Goodlander.

There has been no change of circumstance to warrant the density change.

I Strongly urge you to deny this rezone application, now that this developer has shown what he had in mind all along. You can see more clearly how this Council has been lied to by this developer.

Diana Lutz
50 Lancaster

(67)

Pat Spurgeon
Hearing examiner
Selah Planning Department
222 S. Rushmore Road
Selah, WA 98942

I am asking you deny the Pd Application on the bases of Manipulation of the City Council, Mainly the Mayor.

How is it that Mr. Wayman is not only financial attached to Mr. Torkelson, but lives within the area of construction of which these applications he is approving. This is in direct Violation of Municipal code 1.60.060.

This short plat that was granted 2014, for a single duplex on each lot, is not eligible for modification for at least 5 years. There all Mr. Torkelson can build for 5 years is a single duplex on each lot or 15 units.

The fact that Mr. Wayman approved a sixplex is not legal in the Selah City codes.

The Traffic Study is in error being done by the Contractors and not the City as which proper. There are no street lights, curbs, sidewalks or gutters.

Torkelson was not the owner property in January of 2014 (as proven by the document signed by Dan Bower in April 2014 claiming ownership). This application was never processed, the City failed to conduct any environmental review process as per the SEPA, the opposition of the neighbors was never taken into consideration. This application still may not be complete as the provisions of the Selah zoning ordinance (SMC 10.24.030 and SMC 10.24.050).

The City denied or downplayed at the public hearings that the developer's intentions was 48 units, The Council narrowly approved the short plat and variance with conditions. It is stated in the records the planning committee and the council are concerned about the applicants future development intentions. The record is clear that the variance was granted by the City, was NOT approved to serve 48 houses in this development, the maximum was 15. In order for Mr. Torkelson to have 48 units on this site their needs to be a regulated City Street alt least 50' with curbs, lighting and gutters.

The City has not maintained the Mr. Torkelson has fokowed all the codes for moving of soil.

The Environmental checklist on the original application, was not complete, it has not sufficiently identified the environmental effects of the project. As per the Selah Municipal Code requires, there has been no new SEPA checklist and application filed after Torkelson's became owner. An environmental Review should have been conducted upfront at the short plat and variance stage, especially when the development intentions were known by the City

The density is not compatible with the comprehensive plan, it does not meet the surrounding areas. The Mr. Torkelson and the City has failed to prove the need for this kind of development.

This application is missing the property owners signature, and there is not a new application in place when the property changed hands.

This application original is missing:

- *restrictive covenants
- *adequate open space
- *goals and objectives as to why this meets the public interest and being consistent with the Comprehensive Plan
- *approximate location, height, materials of all walls, fences and screens
- *Preliminary plans, evaluations of buildings including height, bulk, number of dwellings units, and the exterior appearance of the buildings or structures.

Without all information substantial conformance with the Comprehensive Plan cannot be determined. Therefore you cannot approve this application with good reason.

This shows the conspiracy of the mayor to approve his favorite people, (Snodgrass and Torkelson), but deny Sample. The community has brought the same facts to the table for each development. How is one passed and one denied.

AWM Sak

113 W. Goodlander Rd



68

To: Tom Durand, and Pat Spurgeon
City Planner Hearing Examiner

Selah Planning Department
222 S. Rushmore Road
Selah, Wa 98942



I am asking you to deny the proposed Pd application.

Mr. Torkelson has lied to the committee and the council from the beginning. How many lies will it take before the council says enough.

This development does not fit the dynamics of the surrounding community.

This short plat that was granted for Dan Bowers in 2014 is not eligible for modification for 5 years.

Torkelson was granted permits for 8 duplexes. That is all he should be able to build on these lots.

How did he get permits for the 6-plex.

This 20' road was not designed for the maximum of 48 houses, it was designed to serve 2 duplexes or 16 units, if this PD is being entertained, than the variances should be re-evaluated. This road will not sustain the amount of traffic that will be created and still allow the safety for the public using this access with no sidewalks or gutters.

There is not enough parking

The site plans, environmental review, and SEPA reports should have been finished long before any ground was disturbed. This did not happen. Ground was broke, and when flagged by the EPA Carl took three months to finish this review. All the awhile building. This should not have been allowed.

Torkelson and Garner hired the Company to do the road Study for the SEPA report, not the City – and during this supposed two week study the count stripes disappeared for half of the time and then were moved to different locations. I question if these numbers are accurate

I am asking you to deny this proposal.

*Joni P. Lane
113 W. Goodlander Rd
Selah, wa 98942*

69

Tom Durand,
City Planner
Selah Planning Department
222 S. Rushmore Road
Selah, Wa 98942

Pat Spurgeon
Hearing Examiner
Selah Planning Department
222 S. Rushmore Road
Selah, WA 98942

I am asking that you deny the Application for PD rezoning Carl Torkelson has submitted.

Zoning can not be changed or modified for 5 years. It was rezoned into plats in 2014

**This acreage was originally subdivided into 8 plats with the intention of a duplex on each one,*

**The variance for this road was only approved for the max of 16 units, that is all this road was approved for, that is all that should be built.*

** I do NOT believe that Torkelson has a current completed application in his file. The Original Application I believe was turned in before he took possession of this property. – therefore it should not be allowed.*

** There are no curbs, gutters, lighting, or sidewalks for pedestrian safety.*

** The open space is inadequate for the size of development.*

** There was no study recorded for the steep grade that connects to the already busy E.*

Goodlander.

** There has been no change of circumstance to warrant the density change.*

** E. Goodlander is already congested and a huge traffic hazard.*

** There are no designs to minimize lighting or noise pollution for the surrounding property owners.*

** There are no designs for retaining walls the slopes within the property to ensure safety for the residence or children who will play there.*

** There is no additional parking*

** No handicap parking*

** Not enough space for fire trucks, Ambulances, or police to move around safely.*

** The emergency services is already short on monies to operate, how will these services be affective when already over whelmed.*

I Strongly urge you to deny this rezoning application. Reconsider the damage already done.



Steve Lane
113 W. Goodlander Rd.
70

Pat Spurgeon
Hearing examiner
Selah Planning Department
222 S. Rushmore Road
Selah, WA 98942

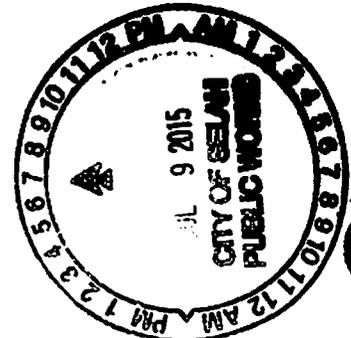
Deny this PD rezone application Because:

To maximize for monetary gain to the developer is not a reason to allow variances or ignore the codes:

- This property can not be rezoned for 5 years from 2014 when it was divided into 8 lots.
- Don Wayman is in direct violation with Code 1.60.060
- Don approving the sixplex, or having any City business with Mr. Torkelson is opening the City for a law suit.
- The Council put restrictions on the variance for this 20' private road for no more than 15 units total.
- These rentals will lower the surrounding property value.
- These houses are not attractive and do not fit the dynamics of the surrounding areas.
- There are no sidewalks, curbs lighting or gutters.
- Open space is inadequate for this size of development.
- No study for the steep grades connecting to Goodlander.
- No change of circumstances to merit such demand.
- Density does not match surrounding areas.
- Goodlander is already heavily congested
- The grade onto Goodlander is excessive and unsafe, especially in bad weather.
- Lack of covenant. Regarding use of open space, road maintenance, plowing, and liability insurance
- No additional or handicap parking
- Inadequate maneuverable space for emergency vehicles.
- No design for light or noise pollution for surrounding neighbors.
- No designs for retaining walls on the slopes within the development to ensure safety.
- This kind of development will overload the emergency services that is to protect it.
- Torkelson did not have proper paperwork finished prior to his application process (environmental review, SEPA)
- There is no Current application application or SEPA since Mr. Torkelson bought the property in December or 2014.
- Dan Bowers was approved for 7 duplexes and one house total of 15 units – that is all that can be built on this road, or on this property for 5 years.

By allowing this project to pass through the system shows how little the Council cares for the City.
By turning a blind eye the Council is encouraging this misuse of Municipal and Buildings Codes to continue.

Pat Spurgeon
195 N. 16th
Selah, WA 98942



Pat Spurgeon
Hearing examiner
Selah Planning Department
222 S. Rushmore Road
Selah, WA 98942

Deny this PD rezone application Because:

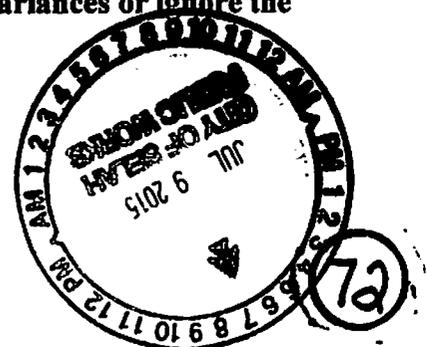
By allowing this project to pass through the system shows how little the Council cares for the Community.

By turning a blind eye the Council is encouraging this misuse of Municipal and Buildings Codes to continue.

- *This property can not be rezoned for 5 years from 2014 when it was divided into 8 lots.*
- *Don Wayman is in direct violation with Code 1.60.060*
- *Don approving the sixplex, or having any City business with Mr. Torkelson is opening the City for a law suit.*
- *The Council put restrictions on the variance for this 20' private road for no more than 15 units total.*
- *These rentals will lower the surrounding property value.*
- *These houses are not attractive and do not fit the dynamics of the surrounding areas.*
- *There are no sidewalks, curbs lighting or gutters.*
- *Open space is inadequate for this size of development.*
- *No study for the steep grades connecting to Goodlander.*
- *No change of circumstances to merit such demand.*
- *Density does not match surrounding areas.*
- *Goodlander is already heavily congested*
- *The grade onto Goodlander is excessive and unsafe, especially in bad weather.*
- *Lack of covenant. Regarding use of open space, road maintenance, plowing, and liability insurance*
- *No additional or handicap parking*
- *Inadequate maneuverable space for emergency vehicles.*
- *No design for light or noise pollution for surrounding neighbors.*
- *No designs for retaining walls on the slopes within the development to ensure safety.*
- *This kind of development will overload the emergency services that is to protect it.*
- *Torkelson did not have proper paperwork finished prior to his application process (environmental review, SEPA)*
- *There is no Current application application or SEPA since Mr. Torkelson bought the property in December or 2014.*
- *Dan Bowers was approved for 7 duplexes and one house total of 15 units – that is all that can be built on this road, or on this property for 5 years.*

To maximize for monetary gain to the developer is not a reason to allow variances or ignore the codes:

*Jidei Anderson
63 Cyle Ave
Selah, WA 98942*



Pat Spurgeon
Hearing Examiner
Selah Planning Department
222 S. Rushmore Road
Selah, WA 98942

Reasons for denying The E. Goodlander PD rezoning application:

In January 2014, when this this development was originally applied for, Dan Bower was the owner of the property not Torkelson, as per your short plat application form signed by Dan Bower on April 11, 2014. I do NOT believe that Torkelson has a current or completed application in his file. The Original Application I believe was turned in before he took possession of this property. – therefore it should not be allowed, it should be denied and everything should start from from the beginning and done correctly. Including the road variances.

The short plat granted to Dan Bowers in 2014 is not eligible for modification for five years.

It should be mandatory that the road that is only 20' be improved to 50' for any development over 16 units, that the road variances were approved for.

The Grade from the development accessing Goodlander is excessive and unsafe, especially in inclement weather. There is a lack of precise covenants within the development regarding use of open space, road maintenance, plowing, and liability insurance requirements.

The open space is inadequate for the size of the development. In fact, some of the open space is on land so steep as to be usable.

There are no curbs, gutters, lighting, or sidewalks for pedestrian safety.

The open space is inadequate for the size of development.

There was no study recorded for the steep grade that connects to the already busy E. Goodlander.

There has been no change of circumstance to warrant the density change in this location.

The density proposed does not match the surrounding area as per the municipal codes require.

E. Goodlander is already congested and a huge traffic hazard. This would add much more traffic.

There are no designs to minimize lighting or noise pollution for the surrounding property owners.

There are no designs for retaining walls the slopes within the property to ensure safety for the residence or children who will play there.

There is no additional parking or No handicap parking. Where will visitors park.

Not enough space for fire trucks, Ambulances, or police to maneuver safely.

The emergency services is already short on monies to operate, how will these services be affective when they are already over whelmed.

I Strongly urge you to deny this rezone application. Reconsider the damage already done. Mr. Wayman should not have any say so's as to where Mr. Torkelson is involved. Mr Wayman is a renter and there is a Financial motive.

Amysha D. Lemphill
1007 W Fremont Ave
Selah, WA 98942
(509) 406-7427



73

To Tom Durand,
City Planner
Pat Spurgeon,
Hearing Examiner
Selah Planning Department
222 S. Rushmore Road
Selah, Wa 98942

I am writing my Concerns as to why the Development on E. Goodlander should not be allowed to be zoned PD.

Mr. Torkelson has lied to the committee and the council from the beginning. He lied in 2013 on the survey stating he was the owner of the property. He lied in 2014 stating to represent Dan Bower, when the road variances were being discussed. When asked about the 48 units his reply "I'm not doing that" we only want to put 8 duplexes on that property. That is all that should be allowed to be built.

The 20' road that is to be used was only designed for the maximum of 8 duplexes, if this road is to be used for 48 houses than the variances should be re-evaluated. This road will not sustain the amount of traffic that will be created and still allow the safety for the public using this access with no sidewalks or gutters.

There is no change of conditions that merit this kind of density

This short plat that was granted for Dan Bowers in 2014 is not eligible for modification for 5 years.

The grade from the development accessing Goodlander Road is excessive and unsafe, especially in inclement weather

There is not enough parking

There are no retaining walls within the complex to maintain safety for the amount of dirt moved

The site plans, environmental review, and SEPA reports should have been finished long before any ground was disturbed. This did not happen. Ground was broke, and when flagged by the EPA Carl took three months to finish this review. All the awhile building. This should not have been allowed.

I am asking you to deny this proposal.

Dawn M. McDonald
109 W. Goodlander Rd
Selah, WA 98942
509-480-0765



Selah Planning Department
222 S. Rushmore Road
Selah, Wa 98942

To: Tom Durand, and Pat Spurgeon
City Planner Hearing Examiner

This PD application From Torkelson should be denied. He is not Grandfathered into the May PD decision, because his application was not complete. You might want to check files – I don't even think that there is a application – He has withdrawn so many times.

These 8 Plat was Created in 2014 for the sole purpose of 8 duplexes – sixteen units – this is all that can legally be built for 5 Years.

Mr. Torkelson has lied to the committee and the council from the beginning. He stated that he owned the property in 2013. Then he represented Dan Bower as the Owner in 2014. He got permits started building as the owner, before he actually bought the property.

This development does not match any of the surrounding area.

This 20' road was not designed for the maximum of 48 houses, it was designed to serve 2 duplexes or 16 units, if this PD is being entertained, than the variances should be re-evaluated. This road will not sustain the amount of traffic that will be created and still allow the safety for the public using this access with no sidewalks or gutters.

There is not enough parking – There are two tenets living is these rentals as of today and they are already parking on the street. How will emergency vehicles get into and around this property?

The site plans, environmental review, and SEPA reports should have been finished long before any ground was disturbed. This did not happen. Ground was broke, and when flagged by the EPA Carl took three months to finish this review. All the awhile building. This should not have been allowed.

The Study that was Ordered for the SEPA report, was not done by the City. The firm that was hired removed the count strips before the time period was over and when brought to the attention of the City they were replaced in different spots. Are these counts accurate.

Lying to the City to get permits for the sole purpose of monetary gain is not a reason to approve this request.

I am asking you to deny this proposal.


109 W GOODLANDER RD
SELAH, WA 98942
(509) 480-0764



75

Pat Spurgeon
Hearing Examiner
Selah Planning Department
222 S. Rushmore Road
Selah, WA 98942

I am requesting that the PD rezoning application be denied

Zoning is not supposed to be able to changed or modified for 5 years. It was rezoned into plats in 2014. Mr Torkelson had permits for a Duplex (one building on each plat) this is all he should be able to build.

It should be mandatory that the road that is only 20' be improved to 50' for any development over 16 units, that the road variances were approved for.

I do NOT believe that Torkelson has a current or completed application in his file. The Original Application I believe was turned in before he took possession of this property. – therefore it should not be allowed.

There are no curbs, gutters, lighting, or sidewalks for pedestrian safety.

The open space is inadequate for the size of development.

There was no study recorded for the steep grade that connects to the already busy E. Goodlander.

There has been no change of circumstance to warrant the density change.

E. Goodlander is already congested and a huge traffic hazard.

There are no designs to minimize lighting or noise pollution for the surrounding property owners.

There are no designs for retaining walls the slopes within the property to ensure safety for the residence or children who will play there.

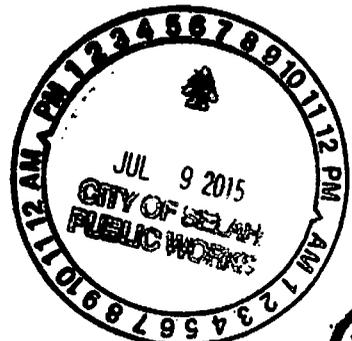
There is no additional parking or No handicap parking

Not enough space for fire trucks, Ambulances, or police to maneuver safely.

The emergency services is already short on monies to operate, how will these services be affective when they are already over whelmed.

I Strongly urge you to deny this rezone application. Reconsider the damage already done. Mr. Wayman should not have any say so's as to where Mr. Torkelson is involved. Mr Wayman is a renter and there is a Financial motive.

~~_____~~
1991 W Huntzinger Rd, Selah, 98942
503-475-0671



76

Pat Spurgeon
Hearing examiner
Selah Planning Department
222 S. Rushmore Road
Selah, WA 98942

What a Conspiracy within the City Council! How is Don Wayman making any kind of decisions on Torkelson applications when he is financially attached to Mr. Torkelson. And is swayed by living on site where the Construction application is being applied for?

There is such Conflict of Interest within the system, the most recent would be Don Wayman approving the sixplex. Don Wayman living within the application construction zone taints the whole City Council. The fact that Mr. Wayman did not recuse himself proves there is a conspiracy within the system. Anything that Mr. Wayman has spoke about, voted on, or approved should be revoked immediately. Most recent the Notice of Open Record and public hearing letter. Mr. Wayman is financially attached to MR. Torkelson, anything that pertains to Mr. Torkelson, Mr. Wayman, must recuse himself, as per the Municipal code 1.60.060.

Carl Torkelson did not own the property in January of 2014 (as proven by the document signed by Dan Bower in April 2014 claiming ownership). This application was never processed, the City failed to conduct any environmental review process as per the SEPA and because of the opposition of the neighbors. This application still may not be complete as the provisions of the Selah zoning ordinance (SMC 10.24.030 and SMC 10.24.050).

This short plat that was granted to Dan Bower in 2014, is **not eligible for modification for at least 5 years.** That makes this application null and void.

The Environmental checklist on the original application, was not complete, it has not sufficiently identified the environmental effects of the project. As per the Selah Municipal Code requires, there has been no new SEPA checklist and application filed after Torkelson's became owner. An environmental Review should have been conducted upfront at the short plat and variance stage, especially when the development intentions were known by the City.

The Traffic Study also proves conspiracy. Why didn't the City hire this survey to be done, by a non-biased company? By allowing this to be handed back to the developer shows the City does not use proper procedures and abuses the sworn power to protect the city. But, instead hands this back to the developers to handle as pleased. The traffic strips were supposed to be on the road for count for two weeks – funny how they disappeared for several days in the middle of the two weeks, and when they returned they were put in different spots as not to correctly count the cars in the congested areas. This traffic study should be redone when the school starts up in the fall.

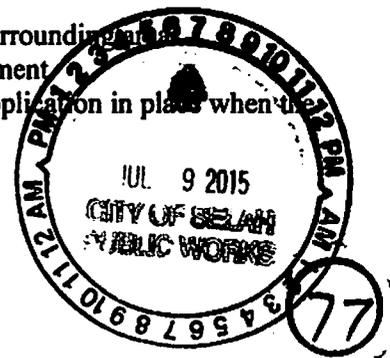
Even though the City denied or downplayed at the public hearings that the developer's intentions was 48 units, The Council narrowly approved the short plat and variance with conditions. It is stated in the records the planning committee and the council are concerned about the applicants future development intentions. The record is clear that the variance was granted by the City, was NOT approved to serve 48 houses in this development, the maximum was 15. In order for Mr. Torkelson to have 48 units on this site their needs to be a regulated City Street at least 50' with curbs and gutters.

The City has failed to follow procedure in the Selah's Building code, by allowing Mr. Torkelson to move over 500 cubic yards of soil to build this substandard road with no environmental review attached to the building permit applications. The buildings built were built in a fashion that does not appear to meet setbacks, and set close enough to the street as not to allow expansion. These Houses should be moved at the owners expense to allow proper procedures.

The density is not compatible with the comprehensive plan, it does not meet the surrounding area. The Mr. Torkelson and the City has failed to prove the need for this kind of development.

This application is missing the property owners signature, and there is not a new application in place when the property changed hands. This application is missing:

- *restrictive covenants
- *adequate open space



- *goals and objectives as to why this meets the public interest and being consistent with the Comprehensive Plan
- *approximate location, height, materials of all walls, fences and screens
- *Preliminary plans, evaluations of buildings including height, bulk, number of dwellings units, and the exterior appearance of the buildings or structures.

Without all information substantial conformance with the Comprehensive Plan cannot be determined. Therefore you cannot approve this application with good reason.

M. Jones
1991 Huntzinger Rd,
Subh. WA



Tom Durand
City Planner
Selah Planning Department
222 S. Rushmore Road
Selah, WA 98942

Reasons for denying The E. Goodlander PD rezoning application:

In January 2014, when this this development was originally applied for, Dan Bower was the owner of the property not Torkelson, as per your short plat application form signed by Dan Bower on April 11, 2014. I do NOT believe that Torkelson has a current or completed application in his file. The Original Application I believe was turned in before he took possession of this property. – therefore it should not be allowed, it should be denied and everything should start from from the beginning and done correctly. Including the road variances.

The short plat granted to Dan Bowers in 2014 is not eligible for modification for five years.

It should be mandatory that the road that is only 20' be improved to 50' for any development over 16 units, that the road variances were approved for.

The Grade from the development accessing Goodlander is excessive and unsafe, especially in inclement weather. There is a lack of precise covenants within the development regarding use of open space, road maintenance, plowing, and liability insurance requirements.

The open space is inadequate for the size of the development. In fact, some of the open space is on land so steep as to be usable.

There are no curbs, gutters, lighting, or sidewalks for pedestrian safety.

The open space is inadequate for the size of development.

There was no study recorded for the steep grade that connects to the already busy E. Goodlander.

There has been no change of circumstance to warrant the density change in this location.

The density proposed does not match the surrounding area as per the municipal codes require.

E. Goodlander is already congested and a huge traffic hazard. This would add much more traffic.

There are no designs to minimize lighting or noise pollution for the surrounding property owners.

There are no designs for retaining walls the slopes within the property to ensure safety for the residence or children who will play there.

There is no additional parking or No handicap parking. Where will visitors park.

Not enough space for fire trucks, Ambulances, or police to maneuver safely.

The emergency services is already short on monies to operate, how will these services be affective when they are already over whelmed.

I Strongly urge you to deny this rezone application. Reconsider the damage already done. Mr. Wayman should not have any say so's as to where Mr. Torkelson is involved. Mr Wayman is a renter and there is a Financial motive.



Handwritten signature of Dan Bower

4045. 1st Street apt 6
(509)961-6349

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Pat Spurgeon
Hearing Examiner
Selah Planning Department
222 S. Rushmore Road
Selah, WA 98942

Reasons for denying The E. Goodlander PD rezoning application:

There are no curbs, gutters, lighting, or sidewalks for pedestrian safety.
The open space is inadequate for the size of development.
There was no study recorded for the steep grade that connects to the already busy E. Goodlander.
There has been no change of circumstance to warrant the density change in this location.
The density proposed does not match the surrounding area as per the municipal codes require.
E. Goodlander is already congested and a huge traffic hazard. This would add much more traffic.
There are no designs to minimize lighting or noise pollution for the surrounding property owners.
There are no designs for retaining walls the slopes within the property to ensure safety for the residence or children who will play there.
There is no additional parking or No handicap parking. Where will visitors park.
Not enough space for fire trucks, Ambulances, or police to maneuver safely.
The emergency services is already short on monies to operate, how will these services be affective when they are already over whelmed.
The Variances on the 20' road is not adiquate for anything over the one building it was approved for.
The short plat granted to Dan Bowers in 2014 is not eligible for modification for five years.
It should be mandatory that the road that is only 20' be improved to 50' for any development over 16 units, that the road variances were approved for.
The Grade from the development accessing Goodlander is excessive and unsafe, especially in inclement weather.
There is a lack of precise covenants within the development regarding use of open space, road maintenance, plowing, and liability insurance requirements.
The open space is inadiquate for the size of the development. In fact, some of the open space is on land so steep as to be usable.

In January 2014, when this this development was originally applied for, Dan Bower was the owner of the property not Torkelson, as per your short plat application form signed by Dan Bower on April 11, 2014. I do NOT believe that Torkelson has a current or completed application in his file. The Original Application I believe was turned in before he took possession of this property. – therefore it should not be allowed, it should be denied and everything should start from from the beginning and done correctly. Including the road variances.

I Strongly urge you to deny this rezone application. Reconsider the damage already done. Mr. Wayman should not have any say so's as to where Mr. Torkelson is involved. Mr Wayman is a renter and there is a Financial motive.

Elizabeth Bgr

501 S. 5th St
Selah, WA

509-833-4856



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Selah Planning Department
222 S. Rushmore Road
Selah, Wa 98942

To: Tom Durand, and Pat Spurgeon
City Planner Hearing Examiner

Lying to the City Council to get permits or applications for the sole purpose of Monetary gain is not a good reason to approve this application. **Therefore I am requesting that this PD rezone application be denied.**

- *These Plots Can not be changed legally for years, from 2014 when they were created.*
- *The road Variance was only approved to serve 8 duplexes or 16 units*
- *As in the Committee Minute – Mr Torkelson has Lied to obtain permits*
- *This Development does not in any means match the surrounding areas.*
- *The Private road "Bowers Drive" was only created to serve the maximum of 16 units*
- *If the PD is going to be entertained then the road variances need to be reconsidered.*
- *There are no sidewalk for pedestrians*
- *There are no Gutters for water run off*
- *There is not enough parking*
- *There is no Handicap Parking*
- *The Site Plans were not finished prior to building*
- *The SEPA reports were not finished*
- *The EPA currently has Torkelson under review for not following the environmental review plans, to which were not finished prior to the start of building.*
- *The Study of the SEPA report was not done by the City.*
- *The Open Space is inadequate for this size of development.*
- *In January of 2014 this original application was improperly represented, Carl Torkelson did not legally own this Property til December of 2014. So I believe that this application is illegal.*

I urge you to deny this rezone application. In fact I ask that you revisit the variances that was granted, now that the true intentions of the developer have been clearly revealed.

Marcie Wyle
Marcie Wyle



Pat Spurgeon
Hearing examiner
Selah Planning Department
222 S. Rushmore Road
Selah, WA 98942

I graduated from Selah High in 2000, I still visit my parents who live near some of the Construction areas. I can't say that I agree with the way this town has been growing. Why does this town need these compact ugly three story buildings. At the corner of 5th and Southern, these buildings are so squished together there is no room for two cars to pass each other going different directions, they are almost all concrete, where is the green grass for the children? Where is the visitor parking? Heaven forbid if there is ever an emergency that requires an ambulance or firetruck they would not be able to maneuver inside this complex.

What a Conspiracy within the City Counsel! This short plat that was granted to Dan Bower in 2014, is not eligible for modification for at least 5 years. This means that the Decision Mr. Wayman made concerning the six-plex was not legal. Living on this property and paying rent to the contractor, has greatly influenced his opinion and decisions. All conversations, decisions, applications, permits anything that has to do with Mr. Torkelson, that Mr. Wayman has had any part in, is Corrupt. This is in direct violation in Code 1.60.060 – Conflict of Interest.

Carl Torkelson did not own the property in January of 2014 (as proven by the document signed by Dan Bower in April 2014 claiming ownership). This application was never processed, the City failed to conduct any environmental review process as per the SEPA and because of the opposition of the neighbors. This application still may not be complete as the provisions of the Selah zoning ordinance (SMC 10.24.030 and SMC 10.24.050).

The Environmental checklist on the original application, was not complete, it has not sufficiently identified the environmental effects of the project. As per the Selah Municipal Code requires, there has been no new SEPA checklist and application filed after Torkelson's became owner. An environmental Review should have been conducted upfront at the short plat and variance stage, especially when the development intentions were known by the City.

The Traffic Study also proves conspiracy. Why didn't the City hire this survey to be done, by a non-biased company? By allowing this to be handed back to the developer shows the City does not use proper procedures and abuses the sworn power to protect the city. But, instead hands this back to the developers to handle as pleased. The traffic strips were supposed to be on the road for count for two weeks – funny how they disappeared for several days in the middle of the two weeks, and when they returned they were put in different spots as not to correctly count the cars in the congested areas. This traffic study should be redone when the school starts up in the fall.

Even though the City denied or downplayed at the public hearings that the developer's intentions was 48 units, The Council narrowly approved the short plat and variance with conditions. It is stated in the records the planning committee and the council are concerned about the applicants future development intentions. The record is clear that the variance was granted by the City, was NOT approved to serve 48 houses in this development, the maximum was 15. In order for Mr. Torkelson to have 48 units on this site their needs to be a regulated City Street alt least 50' with curbs and gutters.

The City has failed to follow procedure in the Selah's Building code, by allowing Mr. Torkelson to move over 500 cubic yards of soil to build this substandard road with no environmental review attached to the building permit applications. The buildings built were built in a fashion that does not appear to meet setbacks, and set close enough to the street as not to allow expansion. These Houses should be moved at the owners expense to allow proper procedures.

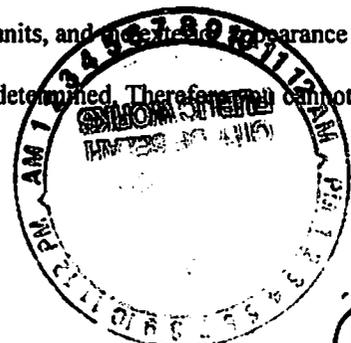
The density is not compatible with the comprehensive plan, it does not meet the surrounding areas. The Mr. Torkelson and the City has failed to prove the need for this kind of development.

This application is missing the property owners signature, and there is not a new application in place when the property changed hands. This application is missing:

- *restrictive covenants
- *adequate open space
- *goals and objectives as to why this meets the public interest and being consistent with the Comprehensive Plan
- *approximate location, height, materials of all walls, fences and screens
- *Preliminary plans, evaluations of buildings including height, bulk, number of dwellings units, and appearance of the buildings or structures.

Without all information substantial conformance with the Comprehensive Plan cannot be determined. Therefore, I cannot approve this application with good reason.

Christyl Guthrie
305 N.. 35th Ave
Yakima, Wa 98902



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To: Tom Durand, and Pat Spurgeon
City Planner Hearing Examiner
Selah Planning Department
222 S. Rushmore Road
Selah, Wa 98942

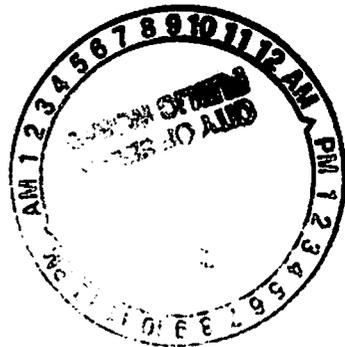
I do NOT believe that Torkelson has a current completed application in his file. The Original Application I believe was turned in before he took possession of this property. I don't believe he has ever corrected this error. The traffic Study was not done by the City – therefore it should not be allowed. The road variance approved for the private road, was approved on the understanding that it was to serve 16 units only.

There are no curbs, gutters, lighting, or sidewalks for pedestrian safety.
The open space is inadequate for the size of development.
Bower Drive is too steep going on to E. Goodlander, this is an accident waiting to happen.
There has been no change of circumstance to warrant the density change.
E. Goodlander is already a traffic hazard waiting to happen
There are no designs to minimize lighting or noise pollution for the surrounding property owners.
There are no designs for retaining walls the slopes within the property.
There is no additional parking
No handicap parking
Not enough space for fire trucks, Ambulances, or police to move around safely.

Zoning can not be changed or modified for 5 years. It was rezoned into plats in 2014

This is not what I want the community to look like.
I Strongly urge you to deny this rezone application.

STACY SWANZE
321 Lancaster Rd.
Selah WA 98942



Selah Planning Department
222 S. Rushmore Road
Selah, Wa 98942

To: Tom Durand, and Pat Spurgeon
City Planner Hearing Examiner

This PD application From Torkelson should be denied. He is not Grandfathered into the May PD decision, because his application was not complete. You might want to check files – I don't even think that there is a application – He has withdrawn so many times.

These 8 Plat was Created in 2014 for the sole purpose of 8 duplexes – sixteen units – this is all that can legally be built for 5 Years.

Mr. Torkelson has lied to the committee and the council from the beginning. He stated that he owned the property in 2013. Then he represented Dan Bower as the Owner in 2014. He got permits started building as the owner, before he actually bought the property.

This development does not match any of the surrounding area.

This 20' road was not designed for the maximum of 48 houses, it was designed to serve 2 duplexes or 16 units, if this PD is being entertained, than the variances should be re-evaluated. This road will not sustain the amount of traffic that will be created and still allow the safety for the public using this access with no sidewalks or gutters.

There is not enough parking – There are two tenets living is these rentals as of today and they are already parking on the street. How will emergency vehicles get into and around this property?

The site plans, environmental review, and SEPA reports should have been finished long before any ground was disturbed. This did not happen. Ground was broke, and when flagged by the EPA Carl took three months to finish this review. All the awhile building. This should not have been allowed.

The Study that was Ordered for the SEPA report, was not done by the City. The firm that was hired removed the count strips before the time period was over and when brought to the attention of the City they were replaced in different spots. Are these counts accurate.

Lying to the City to get permits for the sole purpose of monetary gain is not a reason to approve this request.

I am asking you to deny this proposal.

*Carol Floyd
220 Lancaster Rd.
Selah, Wa. 98942*

3881096



83

Pat Spurgeon
Hearing examiner
Selah Planning Department
222 S. Rushmore Road
Selah, WA 98942

Please deny the application for the PD on East Goodlander:

- * All of these rentals being built will lower property taxes in this area.
- * There are no curbs, gutters, lighting, or sidewalks for pedestrian safety.
- * The open space is inadequate for the size of development.
- * There was no study recorded for the steep grade that connects to the already busy E. Goodlander.
- * There has been no change of circumstance to warrant the density change in this location.
- * The density proposed does not match the surrounding area as per the municipal codes require.
- * E. Goodlander is already congested and a huge traffic hazard. This would add much more traffic.
- * The Grade from the development accessing Goodlander is excessive and unsafe, especially in inclement weather.
- * There is a lack of precise covenants within the development regarding use of open space, road maintenance, plowing, and liability insurance requirements.
- * The open space is inadequate for the size of the development. In fact, some of the open space is on land so steep as to be usable.
- * There is no additional parking or No handicap parking. Where will visitors park.
- * Not enough space for fire trucks, Ambulances, or police to maneuver safely.
- * There are no designs to minimize lighting or noise pollution for the surrounding property owners.
- * There are no designs for retaining walls the slopes within the property to ensure safety for the residence or children who will play there.
- * The renters don't pay the taxes needed, emergency services is already short on monies to operate, how will these services be affective when they are already over whelmed?

Roy G. Lloyd
2202 ANCASTER RD.
509 388 1096



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Tom Durand,
City Planner
Selah Planning Department
222 S. Rushmore Road
Selah, Wa 98942

Pat Spurgeon
Hearing Examiner
Selah Planning Department
222 S. Rushmore Road
Selah, WA 98942

I am asking that you deny the Application for PD rezoning Carl Torkelson has submitted.

Zoning can not be changed or modified for 5 years. It was rezoned into plats in 2014

This acreage was originally subdivided into 8 plats with the intention of a duplex on each one, *The variance for this road was only approved for the max of 16 units, that is all this road was approved for, that is all that should be built. I do NOT believe that Torkelson has a current completed application in his file. The Original Application I believe was turned in before he took possession of this property. – therefore it should not be allowed.
There are no curbs, gutters, lighting, or sidewalks for pedestrian safety.
The open space is inadequate for the size of development.
There was no study recorded for the steep grade that connects to the already busy E. Goodlander.
There has been no change of circumstance to warrant the density change.
E. Goodlander is already congested and a huge traffic hazard.
There are no designs to minimize lighting or noise pollution for the surrounding property owners.
There are no designs for retaining walls the slopes within the property to ensure safety for the residence or children who will play there.
There is no additional parking
No handicap parking
Not enough space for fire trucks, Ambulances, or police to move around safely.
The emergency services is already short on monies to operate, how will these services be affective when already over whelmed.

I Strongly urge you to deny this rezone application. Reconsider the damage already done.

Jay Harris
JAY HARRIS
191 LANCASTER
SELAH WA 98942



85

Pat Spurgeon
Hearing examiner
Selah Planning Department
222 S. Rushmore Road
Selah, WA 98942

Deny this PD rezone application Because:

By allowing this project to pass through the system shows how little the Council cares for the Community.

By turning a blind eye the Council is encouraging this misuse of Municipal and Buildings Codes to continue.

- *This property can not be rezoned for 5 years from 2014 when it was divided into 8 lots.*
- *Don Wayman is in direct violation with Code 1.60.060*
- *Don approving the sixplex, or having any City business with Mr. Torkelson is opening the City for a law suit.*
- *The Council put restrictions on the variance for this 20' private road for no more than 15 units total.*
- *These rentals will lower the surrounding property value.*
- *These houses are not attractive and do not fit the dynamics of the surrounding areas.*
- *There are no sidewalks, curbs lighting or gutters.*
- *Open space is inadequate for this size of development.*
- *No study for the steep grades connecting to Goodlander.*
- *No change of circumstances to merit such demand.*
- *Density does not match surrounding areas.*
- *Goodlander is already heavily congested*
- *The grade onto Goodlander is excessive and unsafe, especially in bad weather.*
- *Lack of covenant. Regarding use of open space, road maintenance, plowing, and liability insurance*
- *No additional or handicap parking*
- *Inadequate maneuverable space for emergency vehicles.*
- *No design for light or noise pollution for surrounding neighbors.*
- *No designs for retaining walls on the slopes within the development to ensure safety.*
- *This kind of development will overload the emergency services that is to protect it.*
- *Torkelson did not have proper paperwork finished prior to his application process (environmental review, SEPA)*
- *There is no Current application application or SEPA since Mr. Torkelson bought the property in December or 2014.*
- *Dan Bowers was approved for 7 duplexes and one house total of 15 units – that is all that can be built on this road, or on this property for 5 years.*

To maximize for monetary gain to the developer is not a reason to allow variances or ignore the codes:

Ray Friedrich
Leo Lancaster
Selah



86

Pat Spurgeon
Hearing examiner
Selah Planning Department
222 S. Rushmore Road
Selah, WA 98942

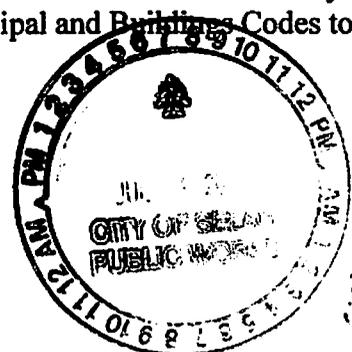
Deny this PD rezone application Because:

To maximize for monetary gain to the developer is not a reason to allow variances or ignore the codes:

- This property can not be rezoned for 5 years from 2014 when it was divided into 8 lots.
- Don Wayman is in direct violation with Code 1.60.060
- Don approving the sixplex, or having any City business with Mr. Torkelson is opening the City for a law suit.
- The Council put restrictions on the variance for this 20' private road for no more than 15 units total.
- These rentals will lower the surrounding property value.
- These houses are not attractive and do not fit the dynamics of the surrounding areas.
- There are no sidewalks, curbs lighting or gutters.
- Open space is inadequate for this size of development.
- No study for the steep grades connecting to Goodlander.
- No change of circumstances to merit such demand.
- Density does not match surrounding areas.
- Goodlander is already heavily congested
- The grade onto Goodlander is excessive and unsafe, especially in bad weather.
- Lack of covenant. Regarding use of open space, road maintenance, plowing, and liability insurance
- No additional or handicap parking
- Inadequate maneuverable space for emergency vehicles.
- No design for light or noise pollution for surrounding neighbors.
- No designs for retaining walls on the slopes within the development to ensure safety.
- This kind of development will overload the emergency services that is to protect it.
- Torkelson did not have proper paperwork finished prior to his application process (environmental review, SEPA)
- There is no Current application application or SEPA since Mr. Torkelson bought the property in December or 2014.
- Dan Bowers was approved for 7 duplexes and one house total of 15 units – that is all that can be built on this road, or on this property for 5 years.

By allowing this project to pass through the system shows how little the Council cares for the City.
By turning a blind eye the Council is encouraging this misuse of Municipal and Building Codes to continue.

Emma Friedrich
100 Lancaster
Selah



87

Pat Spurgeon
Hearing examiner
Selah Planning Department
222 S. Rushmore Road
Selah, WA 98942

Please deny the application for the PD on East Goodlander:

- * All of these rentals being built will lower property taxes in this area.
- * There are no curbs, gutters, lighting, or sidewalks for pedestrian safety.
- * The open space is inadequate for the size of development.
- * There was no study recorded for the steep grade that connects to the already busy E. Goodlander.
- * There has been no change of circumstance to warrant the density change in this location.
- * The density proposed does not match the surrounding area as per the municipal codes require.
- * E. Goodlander is already congested and a huge traffic hazard. This would add much more traffic.
- * The Grade from the development accessing Goodlander is excessive and unsafe, especially in inclement weather.
- * There is a lack of precise covenants within the development regarding use of open space, road maintenance, plowing, and liability insurance requirements.
- * The open space is inadequate for the size of the development. In fact, some of the open space is on land so steep as to be usable.
- * There is no additional parking or No handicap parking. Where will visitors park.
- * Not enough space for fire trucks, Ambulances, or police to maneuver safely.
- * There are no designs to minimize lighting or noise pollution for the surrounding property owners.
- * There are no designs for retaining walls the slopes within the property to ensure safety for the residence or children who will play there.
- * The renters don't pay the taxes needed, emergency services is already short on monies to operate, how will these services be affective when they are already over whelmed?

Cynthia Hagen
110 E Fremont Ave Apt 2
Selah WA 98942



88

Pat Spurgeon
Hearing examiner
Selah Planning Department
222 S. Rushmore Road
Selah, WA 98942

I am asking you to Please deny the application for the PD on East Goodlander:

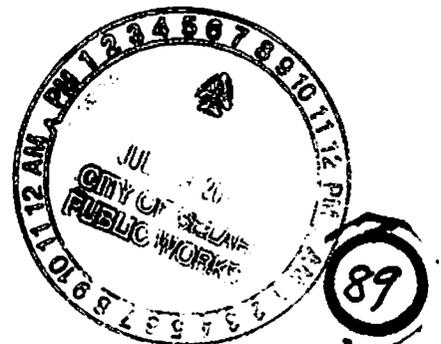
As a graduate of Selah High, I have spent a lot of time in Selah. My parents still live in Selah and I visit often. I am appalled to see for the City Council has let these developers come in and build these ugly houses. I tried to drive thru the development on Southern and 5th Ave. where I used to live. There was not enough space to drive thru this development, there were several times that two cars wanted to pass each other and there was not enough room. Heaven forbid if I were an emergency vehicle trying to reach someone to save a life, I would not have made it in time. I have attended a few meetings and witnessed Mr. Torkelson threaten his way through meetings. What is the Council afraid of? A law suit? A bully? Does the Council even consider that the Community can go to the prosecutor's office and file a suit of their own, for conflict of interest, conspiracy, and abusing power for their own good by not checking applications for validity.

Reasons;

- *The 20' private road was not approved for 48 units only 16, and 16 is all that should be built on this 3.97 acre property, as per Dan Bowers original plans.
- *All of these rentals being built will lower property taxes in this area.
- * There are no curbs, gutters, lighting, or sidewalks for pedestrian safety.
- * The open space is inadequate for the size of development.
- * There was no study recorded for the steep grade that connects to the already busy E. Goodlander.
- * There has been no change of circumstance to warrant the density change in this location.
- * The density proposed does not match the surrounding area as per the municipal codes require.
- * E. Goodlander is already congested and a huge traffic hazard. This would add much more traffic.
- * The Grade from the development accessing Goodlander is excessive and unsafe, especially in inclement weather.
- * There is a lack of precise covenants within the development regarding use of open space, road maintenance, plowing, and liability insurance requirements.
- * The open space is inadequate for the size of the development. In fact, some of the open space is on land so steep as to be usable.
- * There is no additional parking or No handicap parking. Where will visitors park.
- * Not enough space for fire trucks, Ambulances, or police to maneuver safely.
- * There are no designs to minimize lighting or noise pollution for the surrounding property owners.
- * There are no designs for retaining walls the slopes within the property to ensure safety for the residence or children who will play there.
- * The renters don't pay the taxes needed, emergency services is already short on monies to operate, how will these services be affective when they are already over whelmed?

The biggest reason: Where is The original application that gives Mr. Torkelson permits to build what he has done already. As per the Short Plat application signed by MR. Bower in April 2014, Torkelson was not an owner in January of 2014 when the only application on file was submitted.

J. Guthrie
3911 Freway Ave
Union Gap, WA 98903



Tom Durand,
City Planner
Selah Planning Department
222 S. Rushmore Road
Selah, Wa 98942

Pat Spurgeon
Hearing Examiner
Selah Planning Department
222 S. Rushmore Road
Selah, WA 98942

I am asking that you deny the Application for PD rezoning Carl Torkelson has submitted.

Zoning can not be changed or modified for 5 years. It was rezoned into plats in 2014

This acreage was originally subdivided into 8 plats with the intention of a duplex on each one, *The variance for this road was only approved for the max of 16 units, that is all this road was approved for, that is all that should be built. I do NOT believe that Torkelson has a current completed application in his file. The Original Application I believe was turned in before he took possession of this property. - therefore it should not be allowed.

- There are no curbs, gutters, lighting, or sidewalks for pedestrian safety.
- The open space is inadequate for the size of development.
- There was no study recorded for the steep grade that connects to the already busy E. Goodlander.
- There has been no change of circumstance to warrant the density change.
- E. Goodlander is already congested and a huge traffic hazard.
- There are no designs to minimize lighting or noise pollution for the surrounding property owners.
- There are no designs for retaining walls the slopes within the property to ensure safety for the residence or children who will play there.
- There is no additional parking
- No handicap parking
- Not enough space for fire trucks, Ambulances, or police to move around safely.
- The emergency services is already short on monies to operate, how will these services be affective when already over whelmed.

I Strongly urge you to deny this rezone application. Reconsider the damage already done.



BRUCE FRAZIER
80 GALA DR
SELAH WA
98942

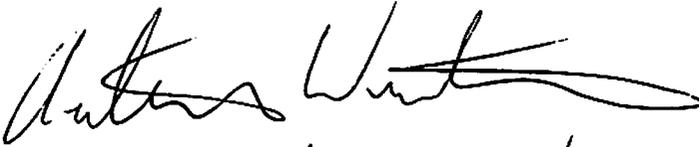
90

Pat Spurgeon
Hearing examiner
Selah Planning Department
222 S. Rushmore Road
Selah, WA 98942

Deny this application Because:

- this property can not be rezoned for 5 years from 2014 when it was divided into 8 lots.
- Don Wayman is in direct violation with Code 1.60.060
- Don approving the sixplex, or having any City business with Mr. Torkelson is opening the City for a law suit.
- The 20' private road has restrictions for only 15 units total.
- These rentals will lower the surround property value.
- these house are not attractive and do not fit the dynamics of the surrounding areas.
- There are no sidewalks, curbs lighting or gutters.
- Open space is inadequate for this size of development.
- No study for the steep grades connecting to Goodlander.
- No change of circumstances to merit such demand.
- Density does not match surrounding areas.
- Good lander is already heavily congested
- the grade onto Goodlander is excessive and unsafe, especially in bad weather.
- Lack of covenant. Regarding use of open space, road maintenance, plowing, and liability insurance
- No additional or handicap parking
- Inadequate maneuverable space for emergency vehicles.
- No design for light or noise pollution for surrounding neighbors.
- No designs for retaining walls on the slopes within the development to ensure safety.
- This kind of development will overload the emergency services that is to protect it.

The City has turned its back on the community, and has not followed the municipal code that the City was built on. This contractor has not followed the rules, has lied (can be verified with the council's minutes), has manipulated the system thru threats of suing and now by his renter Don Wayman, who is financially indebted to Mr. Torkelson. How corrupt is this Council?


Arthur Wentworth
210 sole Rd
Selah



To: Tom Durand, and Pat Spurgeon
City Planner Hearing Examiner
Selah Planning Department
222 S. Rushmore Road
Selah, Wa 98942

I am writing this letter to ask that you deny the PD Rezone application for Carl Torkelson:

The Application was not finished- before the vote to change the wording of the PD. It is not grandfathered into this PD wording. Not to mention in Committee meetings it has been mentioned that He is not building 48 units on this property only 8 duplexes. 16 units is all that should be built on this property.

The Original Application was in error, for when he first turned this application which seems to be the only one on file, Carl and Candy Torkelson were not the legal owners of this property. This property was transferred in December of 2014 and no new applications have been resubmitted. Therefor I question if this Building development is even legal.

Zoning can not be changed or modified for 5 years. It was rezoned into plats in 2014

There is a huge conflict of interest when a person with the interests of construction sits on the planning committee. Not to mention a Council member pays rent to this same contractor.

The traffic Study was flawed – the counting strips were supposed to be out for two weeks, they were not. They disappeared in the middle of the two weeks for several days and reappeared in different locations as not to count the true number of cars using this road.

There is no Compaction on soil for over half of this property where these house are to be built.

The 20' road is not equipt to handle the traffic flow that it would be used for, it was orginally designed for the max of 16 units.

There are no curbs, gutters, lighting, or sidewalks for pedestrian safety.

The open space is inadequate for the size of development.

The grade slope onto East Goodlander is to Steep, this will cause problems in the winter. Potential traffic accidents on E. Goodlander.

There has been no change of circumstance to warrant the density change.

I Strongly urge you to deny this rezone application, now that this developer has shown what he had in mind all along. You can see more clearly how this Council has been lied to by this developer.

Tom Durand
7-3-2015
80 Lancaster Rd



92

Pat Spurgeon
Hearing examiner
Selah Planning Department
222 S. Rushmore Road
Selah, WA 98942

As a Former employee of the Selah school District, I have seen the difference that Renters Vs. Homeowners brings to the table as for as low moral in the children. Renters do not care about where they live, or the community for eventually they will move on. The renters don't pay the taxes need for the schools, police and Fire departments, or the road repair, Homeowners Do. We need more affordable housing that young people can purchase with green grass for their children to play on, not crammed together society that doesn't pay into the community where it is located.

More Reasons for denying The E. Goodlander PD rezoning application:

In January 2014, when this this development was originally applied for, Dan Bower was the owner of the property not Torkelson, as per your short plat application form signed by Dan Bower on April 11, 2014. I do NOT believe that Torkelson has a current or completed application in his file. The Original Application I believe was turned in before he took possession of this property. – therefore it should not be allowed, it should be denied and everything should start from from the beginning and done correctly. Including the road variances.

The short plat granted to Dan Bowers in 2014 is not eligible for modification for five years.

It should be mandatory that the road that is only 20' be improved to 50' for any development over 16 units, that the road variances were approved for.

The Grade from the development accessing Goodlander is excessive and unsafe, especially in inclement weather. There is a lack of precise covenants within the development regarding use of open space, road maintenance, plowing, and liability insurance requirements.

The open space is inadequate for the size of the development. In fact, some of the open space is on land so steep as to be usable.

There are no curbs, gutters, lighting, or sidewalks for pedestrian safety.

The open space is inadequate for the size of development.

There was no study recorded for the steep grade that connects to the already busy E. Goodlander.

There has been no change of circumstance to warrant the density change in this location.

The density proposed does not match the surrounding area as per the municipal codes require.

E. Goodlander is already congested and a huge traffic hazard. This would add much more traffic.

There are no designs to minimize lighting or noise pollution for the surrounding property owners.

There are no designs for retaining walls the slopes within the property to ensure safety for the residence or children who will play there.

There is no additional parking or No handicap parking. Where will visitors park.

Not enough space for fire trucks, Ambulances, or police to maneuver safely.

The emergency services is already short on monies to operate, how will these services be affective when they are already over whelmed.

Don Wayman is a conflict of interest and should not be involved in any decision making that concerns his landlord Carl Torkelson. This is a financial bond between them and goes against the conflict of interest manciple code.

I Strongly urge you to deny this rezone application. Reconsider the damage already done. Torkelson is a bully and threatens any one that says no to him, Just read the minutes from any planning committee or City Council meeting where someone has said no to his proposal.

Sarah Lancaster

Sarah Lancaster
861 Firing Center Road
Yakima, Wa 98901
509-961-5252



93

Pat Spurgeon
Hearing examiner
Selah Planning Department
222 S. Rushmore Road
Selah, WA 98942

Reasons for denying The E. Goodlander PD rezoning application:

In January 2014, when this this development was originally applied for, Dan Bower was the owner of the property not Torkelson, as per your short plat application form signed by Dan Bower on April 11, 2014. I do NOT believe that Torkelson has a current or completed application in his file. The Original Application I believe was turned in before he took possession of this property. (December 2014) – therefore this application should not be allowed, it should be denied and everything should start from from the beginning and done correctly. Including the road variances and all permits.

***The short plat granted to Dan Bowers in 2014 is not eligible for modification for five years.**

***It should be mandatory that the road that is only 20' be improved to 50' for any development over 16 units, that the road variances were approved for.**

* All of these rentals being built will lower property taxes in this area

* The Grade from the development accessing Goodlander is excessive and unsafe, especially in inclement weather.

* There is a lack of precise covenants within the development regarding use of open space, road maintenance, plowing, and liability insurance requirements.

* The open space is inadequate for the size of the development. In fact, some of the open space is on land so steep as to be usable.

* There are no curbs, gutters, lighting, or sidewalks for pedestrian safety.

* The open space is inadequate for the size of development.

* There was no study recorded for the steep grade that connects to the already busy E. Goodlander.

* There has been no change of circumstance to warrant the density change in this location.

* The density proposed does not match the surrounding area as per the municipal codes require.

* E. Goodlander is already congested and a huge traffic hazard. This would add much more traffic.

* There are no designs to minimize lighting or noise pollution for the surrounding property owners.

* There are no designs for retaining walls the slopes within the property to ensure safety for the residence or children who will play there.

* There is no additional parking or No handicap parking. Where will visitors park.

* Not enough space for fire trucks, Ambulances, or police to maneuver safely.

* The renters don't pay the taxes needed, emergency services is already short on monies to operate, how will these services be affective when they are already over whelmed?

All this work Mr. Torkelson has done, I'm not sure its legal, and it is possible that the City can be held accountable for not checking the permits more carefully.

I Strongly urge you to deny this rezone application. Reconsider the damage already done.



Larry Lancaster
861 Firing Center Road
Yakima, Wa 98901
509-457-0566



Pat Spurgeon
Hearing examiner
Selah Planning Department
222 S. Rushmore Road
Selah, WA 98942

I am asking you to Please deny the application for the PD on East Goodlander:

The biggest reason: Where is the original application that gives Mr. Torkelson permits to build what he has done already. As per the Short Plat application signed by MR. Bower in April 2014, Torkelson was not an owner in January of 2014 when the only application on file was submitted.

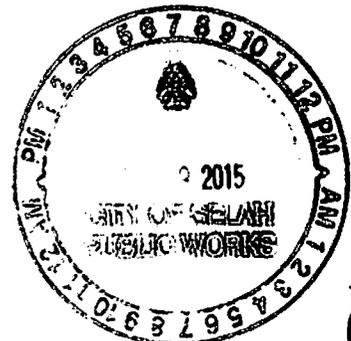
Other Reasons;

- *The 20' private road was not approved for 48 units only 16, and 16 is all that should be built on this 3.97 acre property, as per Dan Bowers original plans.
- *the private road was only approved 16 units and there is already 7 houses built that should be all that is allowed
- *All of these rentals being built will lower property taxes in this area.
- * These houses are not attractive.
- * There are no curbs, gutters, lighting, or sidewalks for pedestrian safety.
- * The open space is inadequate for the size of development.
- * There was no study recorded for the steep grade that connects to the already busy E. Goodlander.
- * There has been no change of circumstance to warrant the density change in this location.
- * The density proposed does not match the surrounding area as per the municipal codes require.
- * E. Goodlander is already congested and a huge traffic hazard. This would add much more traffic.
- * The Grade from the development accessing Goodlander is excessive and unsafe, especially in inclement weather.
- * There is a lack of precise covenants within the development regarding use of open space, road maintenance, plowing, and liability insurance requirements.
- * The open space is inadequate for the size of the development. In fact, some of the open space is on land so steep as to be usable.
- * There is no additional parking or No handicap parking. Where will visitors park.
- * Not enough space for fire trucks, Ambulances, or police to maneuver safely.
- * There are no designs to minimize lighting or noise pollution for the surrounding property owners.
- * There are no designs for retaining walls the slopes within the property to ensure safety for the residence or children who will play there.
- * The renters don't pay the taxes needed, emergency services is already short on monies to operate, how will these services be affective when they are already over whelmed?

I was raised in Selah, and someday hoping to move back and raise my daughter here. However I do not agree with the politics of the Current City Council. I do not understand how there are so many conflicts of interest, lies and deceit and no body cares. How does Mr. Torkelson get so much passed thru this system, with incorrect paperwork.



Brandi Wedeman
1504 W. Mead
Yakima, WA 98902



95

Pat Spurgeon
Hearing examiner
Selah Planning Department
222 S. Rushmore Road
Selah, WA 98942

My name is Kendra I am a teacher at the Selah Intermediate School. I have one child that attends Selah Middle School and one that currently attends childcare in Selah. Listening to the People of Selah Complain Day in and Day out is amazing what you hear. I am glad that I don't live in this town. As a professional in the Selah School District, I teach Special Education, I can tell you how this affects the Classroom sizes of our schools. Our classrooms are already filled to capacity and no extra funds to get supplies that we would like to have to better the children's education. If these extra rentals are build, this town will be adding a few hundred more children to a school is already overcrowded. How can you fit an extra two to three hundred children into a school that has no space to teach them. The School District and the City Council needs to work together to focus on a better future for our children's sake.

It saddens me to drive though Selah and see how it has changed. The once proud home-owned properties, where people took pride in showing off their accomplishments, has now turned into ran down rentals that show no pride, no values, no enthusiasm for town they live in.

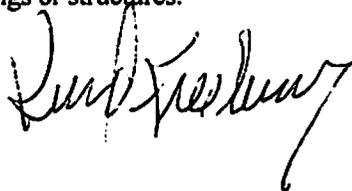
Please do not allow this application for the PD it really does not fit the dynamics of this town.

- * Mr. Wayman living on a site were current construction and building permits are being approved by him is a **HUGE conflict of interest**, anything that has been approved by Mr. Wayman has tainted the City Council and needs to be revoked immediately and turned over to someone who is impartial.
 - * Goodlander Road is already congested with traffic especially when school is starting or getting out. When there are ball games going on at Carlon Park, How will all this extra traffic be handled? I know the Traffic counters were only out for about 4 days is that long enough to really get on impact study accurate?
 - * Is the 20' road that connects into Goodlander sufficient to sustain 48 units of traffic. This should be a major City Street I believe 50' with easements, sidewalks for children and pedestrians and gutters for water runoff. The Council narrowly approved the short plat and variance with conditions. It is stated in the records the planning committee and the council are concerned about the applicants future development intentions. The record is clear that the variance was granted by the City, was NOT approved to serve 48 houses in this development, the maximum was 15 units.
 - * This Property was just rezoned into plats in 2014, how is it that City code states it **cannot be modified for 5 years** and it is now being voted on again? That means this application should not even be considered.
 - *The City has failed to follow procedure in the Selah's Building code, by allowing Mr. Torkelson to move over 500 cubic yards of soil to build this substandard road with no environmental review attached to the building permit applications. The buildings built were built in a fashion that does not appear to meet setbacks, and set close enough to the street as not to allow expansion. These Houses should be moved at the owners expense to allow proper procedures.
 - *The Environmental checklist on the original application, was not complete, it has not sufficiently identified the environmental effects of the project. As per the Selah Municipal Code requires, there has been no new SEPA checklist and application filed after Torkelson's became owner. An environmental Review should have been conducted upfront at the short plat and variance stage, especially when the development intentions were known by the City
 - * The density is not compatible with the comprehensive plan, it does not meet the surrounding areas.
- The Mr. Torkelson and the City has failed to prove the need for this kind of development.

The original application is missing important information which should have been completed prior to any permits being issued:

- *restrictive covenants
- *adequate open space
- *goals and objectives as to why this meets the public interest and being consistent with the Comprehensive Plan
- *approximate location, height, materials of all walls, fences and screens
- *Preliminary plans, evaluations of buildings including height, bulk, number of dwellings units, and the exterior appearance of the buildings or structures.

Kendra Freeburg
906 S. 10th Ave
Yakima, Wa 98902



Pat Spurgeon
Hearing examiner
Selah Planning Department
222 S. Rushmore Road
Selah, WA 98942

What a Conspiracy within the City Council! What kind of kick backs are the Council and Planning commission receiving to turn their back to the improper paper work, the lies, and the threats, and the deceit of Mr. Torkelson?

There is such Conflict of Interest within the system, the most recent would be Don Wayman approving the sixplex. Don Wayman living within the application construction zone taints the whole City Council. The fact that Mr. Wayman did not recuse himself proves there is a conspiracy within the system. Anything that Mr. Wayman has spoke about, voted on, or approved should be revoked immediately. Most recent the Notice of Open Record and public hearing letter. Mr. Wayman is financially attached to MR. Torkelson, anything that pertains to Mr. Torkelson , Mr. Wayman, must recuse himself, as per the Municipal code 1.60.060.

Carl Torkelson did not own the property in January of 2014 (as proven by the document signed by Dan Bower in April 2014 claiming ownership). This application was never processed, the City failed to conduct any environmental review review process as per the SEPA and because of the opposition of the neighbors. This application still may not be complete as the provisions of the Selah zoning ordinance (SMC 10.24.030 and SMC 10.24.050).

This short plat that was granted to Dan Bower in 2014, is **not eligible for modification for at least 5 years.** That makes this application null and void.

The Environmental checklist on the original application, was not complete, it has not sufficiently identified the environmental effects of the project. As per the Selah Municipal Code requires, there has been no new SEPA checklist and application filed after Torkelson's became owner. An environmental Review should have been conducted upfront at the short plat and variance stage, especially when the development intentions were known by the City.

The Traffic Study also proves conspiracy. Why didn't the City hire this survey to be done, by a non-biased company? By allowing this to be handed back to the developer shows the City does not use proper procedures and abuses the sworn power to protect the city. But, instead hands this back to the developers to handle as pleased. The traffic strips were supposed to be on the road for count for two weeks – funny how they disappeared for several days in the middle of the two weeks, and when they returned they were put in different spots as not to correctly count the cars in the congested areas. This traffic study should be redone when the school starts up in the fall.

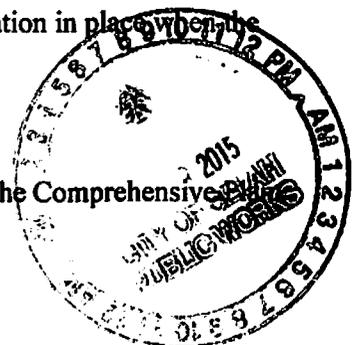
Even though the City denied or downplayed at the public hearings that the developer's intentions was 48 units, The Council narrowly approved the short plat and variance with conditions. It is stated in the records the planning committee and the council are concerned about the applicants future development intentions. The record is clear that the variance was granted by the City, was NOT approved to serve 48 houses in this development, the maximum was 15. In order for Mr. Torkelson to have 48 units on this site their needs to be a regulated City Street alt least 50' with curbs and gutters.

The City has failed to follow procedure in the Selah's Building code, by allowing Mr. Torkelson to move over 500 cubic yards of soil to build this substandard road with no environmental review attached to the building permit applications. The buildings built were built in a fashion that does not appear to meet setbacks, and set close enough to the street as not to allow expansion. These Houses should be moved at the owners expense to allow proper procedures.

The density is not compatible with the comprehensive plan, it does not meet the surrounding areas. The Mr. Torkelson and the City has failed to prove the need for this kind of development.

This application is missing the property owners signature, and there is not a new application in place when the property changed hands. This application is missing:

- *restrictive covenants
- *adequate open space
- *goals and objectives as to why this meets the public interest and being consistent with the Comprehensive



*approximate location, height, materials of all walls, fences and screens

*Preliminary plans, evaluations of buildings including height, bulk, number of dwellings units, and the exterior appearance of the buildings or structures.

Without all information substantial conformance with the Comprehensive Plan cannot be determined. Therefore you cannot approve this application with good reason.



Chris Brock
1790 Selah Loop Rd
Selah, Wa 98942
509-580-0869



July 21, 2015

City of Selah
222 S. Rushmore Road
Selah, WA 98942

Attn: Joe Henne
Public Works Director

Re: Whispering Views
Storm Drainage Review
HLA Project No. 15006G



Dear Joe:

On July 15, 2015, we received a four page Grading and Drainage plan set and storm drainage report for the Whispering View Estates development.

Per your request, we have completed our review of the documents and provide the following comments:

1. The storm drainage report indicates that stormwater will be conveyed to the designated drainage basins. However, the roadway design has no curbs, drainage structures, or piping to convey stormwater, allowing water to run off the roadway onto the building lots, down the side of the road across driveway entrances, and to low points in the new topography.
2. The stormwater plan currently assumes all drainage will remain on the lots in provided gravel. Unless captured in swales, stormwater will flow through lots, and along roadways, collecting at the lowest elevations.
3. We noticed that there are several "landscape walls" planned throughout the project. One of the walls appears to be 20'+ in height. We assume all structural walls (four foot height and taller) and their relationship to stormwater conveyance will be addressed on plans for future phases.
4. Because all roads within the development are private, the main goal for the City is to have the development maintain all stormwater on site. A visit to the site on July 20, 2015, indicates that stormwater (or construction water) has been running down the westerly roadway onto City property along Goodlander Road. There is no "speed bump" at the bottom of the roadway to direct stormwater to the east. There is no bio-infiltration swale to channel water to Swale B. Instead, the ground rises to the east where the future bio-infiltration swale is shown on the Grading and Drainage plans.

Without a traditional stormwater conveyance system in place there is no way for the developer to provide meaningful design and calculations for stormwater collection and disposal for the site.

City of Selah
July 21, 2015
Page 2.

At this time, our recommendation is have the developer immediately submit and implement an interim stormwater plan for the current approved development phase. If the development is allowed to continue as currently designed, the City should monitor the site as development continues to confirm that stormwater is maintained on site during significant rain events.

Per your request, the plans and report are being returned with this letter.

Please advise if we may answer questions or provide additional information.

Very truly yours,



Terry D. Alapeteri, PE

TDA/sms

Enclosures



CITY OF SELAH

Public Works Department

222 South Rushmore Road
SELAH, WASHINGTON 98942

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

July 22, 2015

Torkelson Construction
P. O. Box 292
Selah, WA 98942

Re: Review Comments of Whispering View Estates, North & South Grading & Drainage Plans and Stormwater Management Report by PLSA Engineering and Surveying

Dear Carl,

The City's engineering consultant was asked to review the above documents and this letter is based on their comments. Public Works concurs with these comments from Huijbregtse, Louman Associates, Inc., see attachments.

The HLA comments center around four (4) main concerns:

Being this is not a traditional curb & gutter road design with catch basins and piping system it is doubtful that stormwater will flow as desired to the swales. There is also a reliance on gravel shoulders to stop water from flowing off your site. Earth is shown to be placed up against landscaped walls. These walls are over 20 feet high in places and are shown to be "by others". How can approval be requested for grading a site that relies on walls that are not part of the plans and no design provided?

As I see it, the city has two items of responsibility:

1. The building code requires walls over 4 feet in height, or any wall that is protecting a foundation, to be designed by an engineer.
2. Stormwater is to be kept on your property.

These plans do not satisfy our concerns and cannot be approved. It also appears that you have started grading without a permit. Any grading requiring a permit must stop.

Feel free to contact me with any questions.

Sincerely,

Joe Henne,
Public Works Director

cc: Tom Durant, Contracted Community Planner, File No. 971.45.14-01
Chron



July 21, 2015

City of Selah
222 S. Rushmore Road
Selah, WA 98942

Attn: Joe Henne
Public Works Director

Re: Whispering Views
Storm Drainage Review
HLA Project No. 15006G



Dear Joe:

On July 15, 2015, we received a four page Grading and Drainage plan set and storm drainage report for the Whispering View Estates development.

Per your request, we have completed our review of the documents and provide the following comments:

1. The storm drainage report indicates that stormwater will be conveyed to the designated drainage basins. However, the roadway design has no curbs, drainage structures, or piping to convey stormwater, allowing water to run off the roadway onto the building lots, down the side of the road across driveway entrances, and to low points in the new topography.
2. The stormwater plan currently assumes all drainage will remain on the lots in provided gravel. Unless captured in swales, stormwater will flow through lots, and along roadways, collecting at the lowest elevations.
3. We noticed that there are several "landscape walls" planned throughout the project. One of the walls appears to be 20'+ in height. We assume all structural walls (four foot height and taller) and their relationship to stormwater conveyance will be addressed on plans for future phases.
4. Because all roads within the development are private, the main goal for the City is to have the development maintain all stormwater on site. A visit to the site on July 20, 2015, indicates that stormwater (or construction water) has been running down the westerly roadway onto City property along Goodlander Road. There is no "speed bump" at the bottom of the roadway to direct stormwater to the east. There is no bio-infiltration swale to channel water to Swale B. Instead, the ground rises to the east where the future bio-infiltration swale is shown on the Grading and Drainage plans.

Without a traditional stormwater conveyance system in place there is no way for the developer to provide meaningful design and calculations for stormwater collection and disposal for the site.

City of Selah
July 21, 2015
Page 2.

At this time, our recommendation is have the developer immediately submit and implement an interim stormwater plan for the current approved development phase. If the development is allowed to continue as currently designed, the City should monitor the site as development continues to confirm that stormwater is maintained on site during significant rain events.

Per your request, the plans and report are being returned with this letter.

Please advise if we may answer questions or provide additional information.

Very truly yours,



Terry D. Alapeteri, PE

TDA/sms

Enclosures

Durant, Thomas

From: Mark Fickes <mfickes@halversonNW.com>
Sent: Thursday, July 23, 2015 8:50 AM
To: Durant, Thomas
Cc: 'Bob Noe'; Theresa Irwin-Akland; 'John Teske'
Subject: Request for Torkelson permits - Stop Work Order

Tom:

The applicant is now framing additional Units in front of the Teske's residences despite continuing requests from our office for the City to issue "Stop Work" orders until the appeals of the project approvals can be heard. Please provide our office copies of the building permits the City must have recently issued for this applicant to continue the work.

Issuing permits before a discretionary decision (the Class II Review) becomes final was illegal and inconsistent with the City Code, applicable law and notices the City sent out to interested parties. I know of no jurisdiction that issues construction permits before administrative appeal processes are completed following contested discretionary decisions by the zoning authority. The only time "build at your own risk" policies are appropriate are for allowed or Class I uses, such as issuing footing and foundation permits before a final building permit is issued. In this case, no permits should have been issued by the City until the Class II Decision was final....which it isn't because of a timely appeal by the neighbors. I will be asking the applicant at the upcoming public hearings whether he thinks he's "building at his own risk" and would be happy to remove portions of his development if required decisions are denied or conditioned.....my strong suspicion will be the answer is "no."

The process by which the City has allowed this developer to build half the project before all discretionary permits are final has been grossly unfair and wrought with procedural irregularities...the granting of permits knowing an appeal was coming being the worse one. City officials and planning staff can't think the neighbors will get a fair hearing when staff's action (allowing the project to be built), forces the Council to choose between a decision that requires the owner to rip down and remove a partially completed project or approving an obviously incompatible development. As the City knows, this applicant is NOT entitled to build any additional Units as a matter of right....he must get a rezone or a final Class II Decision from Council. The neighbors will be asking these permits to be denied or mitigated to reduce compatibility conflicts in accordance with the clear standards in Selah's zoning code. Mitigating conditions could legally include height restrictions, density reductions, setback increases, etc.....basically, any number of common sense conditions the Code allows (and staff and the zoning official refused to recommend) which would help to ameliorate the stark contrast of 48 connected or non-connected townhouse units next to a low density residential neighborhood. Having the project partially built before Council can review the record impairs the integrity of the process and is clearly intended by the applicant to limit Council's decision making authority. This is WRONG.

Please consider this e-mail as part of the formal record in both the pending rezone/plat for this project and the Class II Appeal. We will be bring these issues to the attention of the Examiner and Council, and ultimately to the courts.

Thank you.

Mark E. Fickes

HALVERSON NORTHWEST

Mark E. Fickes, Attorney



p. 509.248.6030 f. 509.453.6880

mfickes@halversonNW.com

405 E. Lincoln Avenue, Yakima, WA 98901

halversonNW.com

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Halverson Northwest Law Group P.C.

Whispering Views Estates
912.42.14-01 Preliminary Plat
914.42.14-01 Planned Development
971.42.14-01 Environmental Review

Whispering View Binder Exhibits

<u>Exhibit</u>		<u>Pages</u>
B1	Application, revised with new parcel numbers	2
B2	Development Plan and Program	10
B3	Final Development Plan and Program	13
B4	Declaration of Covenant, Conditions and Restrictions	24
B5	Preliminary Plat – current	
B6	Preliminary Plat submitted with application – superceded	
B7	<i>Replacement pages for Development Plan & Program submitted 7/27/15</i>	
B8	<i>Replacement pages for Final Development Plan & Program submitted 7/27/15</i>	
B9	<i>Replacement page for Declaration of Covenant Conditions & Restrictions</i>	
B10	<i>Site Plan with updated Lot Area Table submitted 7/29/2015</i>	

CITY OF SELAH

APPLICATION FOR ZONING CODE AMENDMENT
APPLICATION REQUIREMENTS

Date Submitted/Received by

____ Non-Refundable Application Fee

____ Site Plan (~~Six~~ ^{Two} ~~(6)~~ ² copies) 12 1/2" x 17"

____ Vicinity Site Map with North Arrow

____ List of Adjacent Property Owners (From County Assessor Office)

*All application requirements must be completed before the application is accepted by the City.

1. TYPE OF ZONING CODE AMENDMENT REQUIRED

Rezone:

Other: _____

A. If requested rezone, what is the original zoning and requested zoning (i.e. R-1 to R-2)

R2 to PD

Comprehensive Plan Designation: Moderate Density Residential

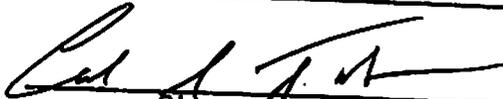
B. If amendment to zoning code, what is the proposed amendment (please attach amendment to application).

2. NAME OF APPLICANT:

Torkelson Construction, Inc.

ADDRESS OF APPLICANT:

P.O. Box 292
Selah, WA 98942


Signature

TELEPHONE: WORK 697-3305
Cell 945-0133

HOME 697-3301

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

Carl L. Torkelson
Candi R. Torkelson



Candi R Seckelton
Signature

TELEPHONE: WORK 697-3305 HOME 697-3301

Cell 945-0133

4. Yakima County Assessor's Office Parcel No. for Property(s) 181425-33419 + 33420 + 33421 + 33422 + 33423 + 33424 + 33425 + 33426

Legal Description of property: on plat map

4. Summary of proposed rezone or zoning code amendment.

We would like to rezone from Moderate Density to a Planned Development.



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Candi Torkelson
Cell: (509) 961-7656

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DEVELOPMENT PLAN AND PROGRAM

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1.) AN ACCURATE MAP DRAWN TO SCALE OF NOT LESS THAN ONE INCH TO ONE HUNDRED FEET DEPICTING THE FOLLOWING:

- (a) The Boundaries of the site:
(See Plat Map)
- (b) Names and dimensions of all street bounding or touching the boundaries of the site:
(See Plat Map)
- (c) Horizontal and vertical dimensions of all Buildings and structures proposed to be located on the site which shall include drawings, architectural renderings or photographs of proposed buildings which will become part of public record:
(See Plat Map for Horizontal Dimensions)

	Total	Horizontal Dimensions	Vertical Dimensions
3 Story	48	24 x 32	32.5' tall in ht

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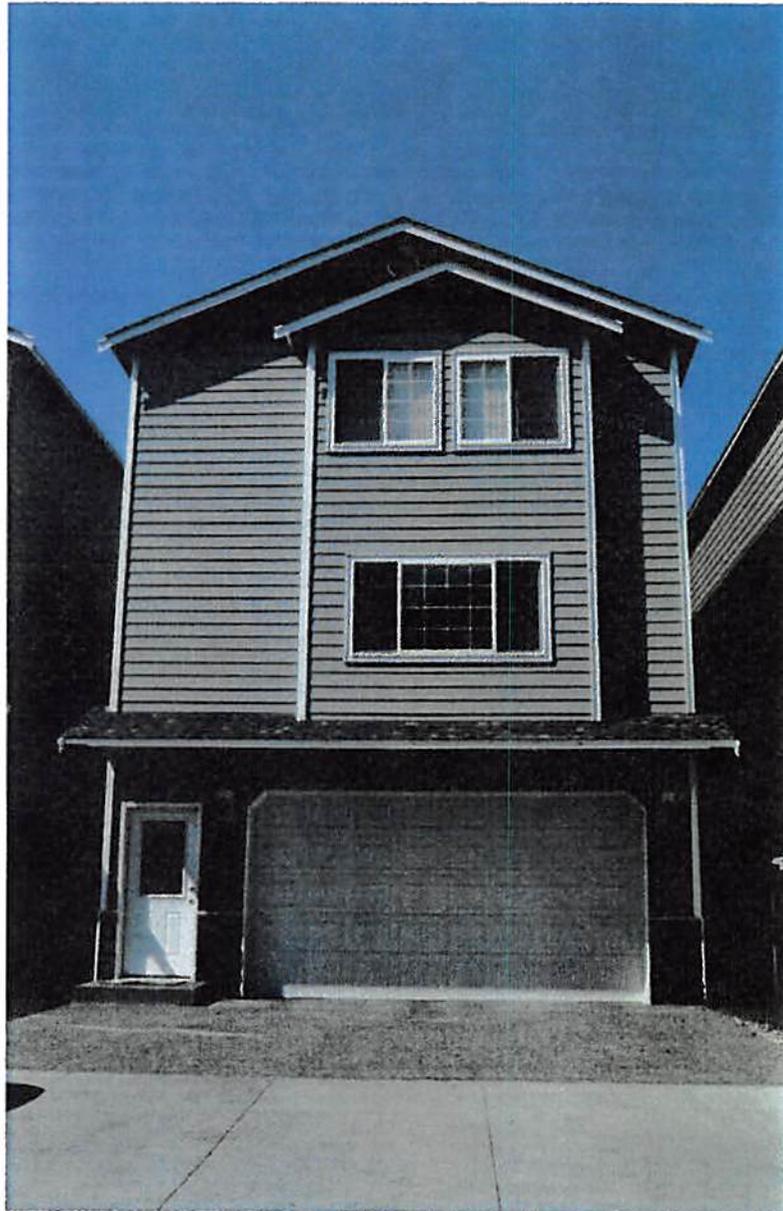


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3 STORY (single view)



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- (d) Proposed location and dimension of “common or community open space:”
(See Plat Map)
- (e) Proposed public dedications:
(See Plat Map)
- (f) Location of off street parking facilities showing points of ingress to and egress from the site:
(See Plat Map)
- (g) Location and direction bearing of all major physiographic features such as railroads, drainage canals and shorelines:
(N/A for this Project)
- (h) Existing topographic contours at intervals of not more than five feet:
(See Plat Map)
- (i) Proposed contours at intervals of not more than one foot:
(See Plat Map)
- (j) Proposed drainage facilities:
(See Plat Map)

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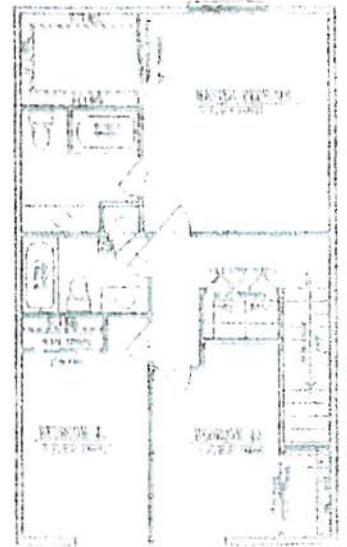
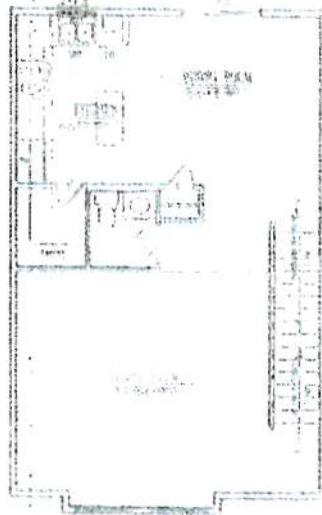


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3 STORY (renderings)



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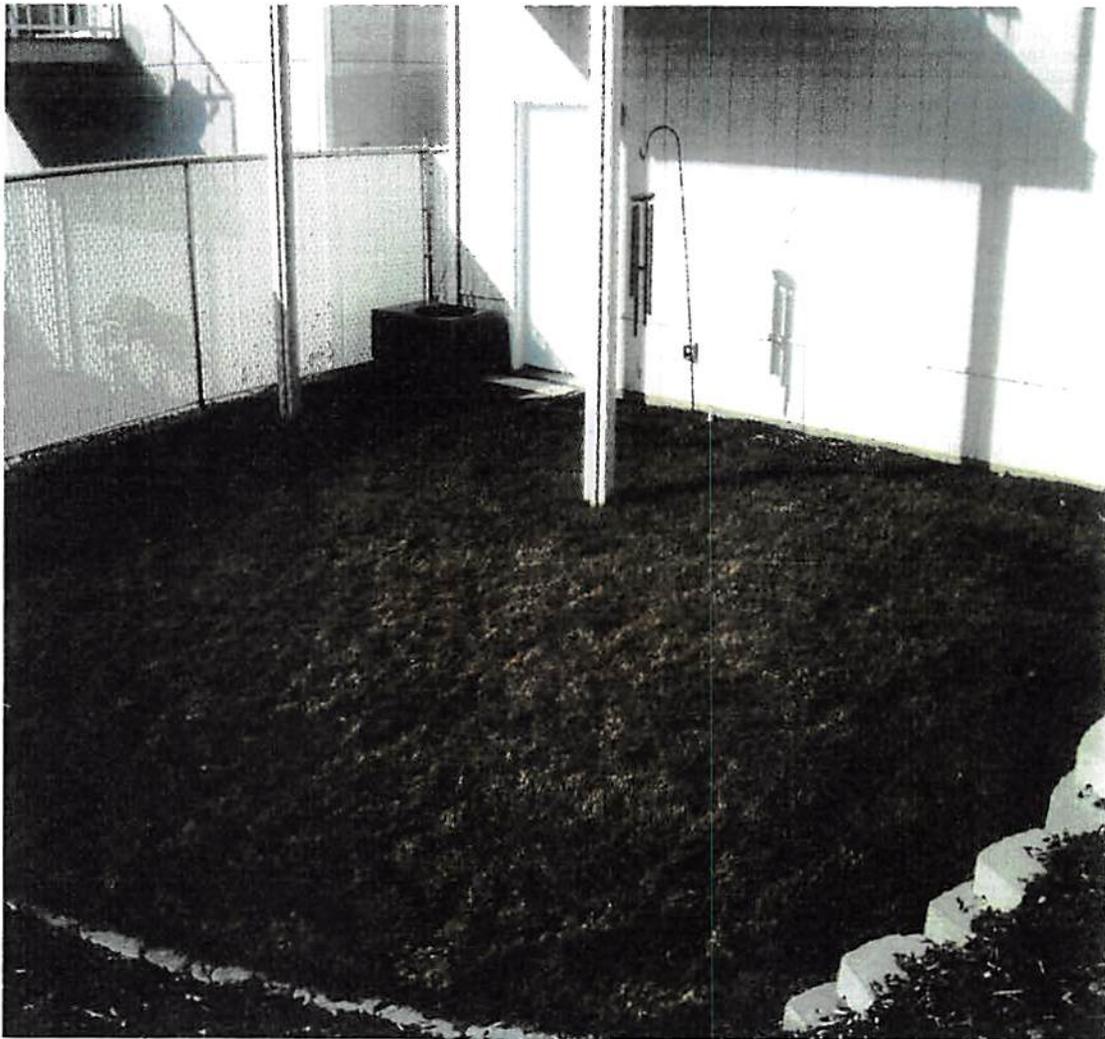


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- (k) Proposed landscaping:
(See Picture Below)



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(l) Building types and intensities:

48	3 Story Buildings	1750 sq ft each
----	-------------------	-----------------

48 TOTAL BUILDINGS

(m) Pedestrian and vehicular circulation pattern:
(See Plat Map)

(n) Proposed Subdivision map identifying proposed lot configuration and size in square feet:
(See Plat Map)

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2.) **A WRITTEN PROGRAM FOR DEVELOPMENT
SETTING OUT DETAILED INFORMATION
CONCERNING THE FOLLOWING SUBJECTS AS
THEY MAY BE INVOLVED IN OR PROVIDED
FOR BY THE PLANNED DEVELOPMENT
PROJECT:**

- (a) Proposed ownership pattern:
Each individual lot will have the ability to be sold separately from the rest. We are looking to build a mid range, low maintenance unit for the mid level market. Each single family residence will have its own lot yet share a portion of the Park/Green space area.
- (b) Operation and maintenance proposal, i.e. homeowner association:
(See CC & R's Attached)
- (c) Waste disposal facilities:
All garbage will be picked up on site from each owners trash cans.
- (d) Lighting
Each home will have 2 front lights facing the street. This should be adequate for all lighting purposes.

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- (e) Water Supply:
All units will be hooked to city of Selah's water supply.

- (f) Public Transportation:
There will be no public transportation to this plat.

- (g) Community facilities:
The shared park will be the only common facility to all living in Whispering View Estates.

- (h) General timetable of development:
The development and construction of this plat should take up to 6 to 9 months.

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REZONE APPLICATION- FINAL DEVELOPMENT PLAN AND PROGRAM

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1.) **PLAN ELEMENTS:**

- (a) Existing maps drawn to scale of not less than one inch to one hundred feet and proposed final contour map:
(See Plat Map)
- (b) Location with the names of all existing and proposed streets, public ways, railroad and utility right-of-way, parks or other open spaces and all land uses within two hundred (200) feet of the boundary of the development:
(See Plat Map)
- (c) Existing sewers, water mains and other underground facilities within and adjacent to the development and their certified capacities: **(See Plat Map)**
- (d) Proposed sewer or other waste disposal facilities, water mains and other underground utilities:
(See Plat Map)
- (e) Subdivision map identifying proposed lot configuration and size in sq. feet:
(See Plat Map)

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- (f) Proposed land use map identifying the location and purpose of each structure:
(See Plat Map)
- (g) Location and size in sq. feet of Community facilities:
(See Plat Map)
- (h) Location and size in sq. feet of open space:
(See Plat Map)
- (i) Traffic flow plan:
- (j) Location and dimension of walls trails or easements:
(See Plat Map)
- (k) Location of off – street parking areas, arrangement, number and dimensions of auto garages and parking spaces width of aisles, bays and angles of parking:
(See Plat Map)
- (l) Location arrangement, number and dimensions of truck loading and unloading spaces and docks:
(See Plat Map)

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- (m) Preliminary plans elevations of typical buildings and structures including general height, bulk, number of dwelling units and the exterior appearance of the buildings or structures:

	Total	Height	Appearance
3 Story Buildings	48	32.5'	Pictures Attached

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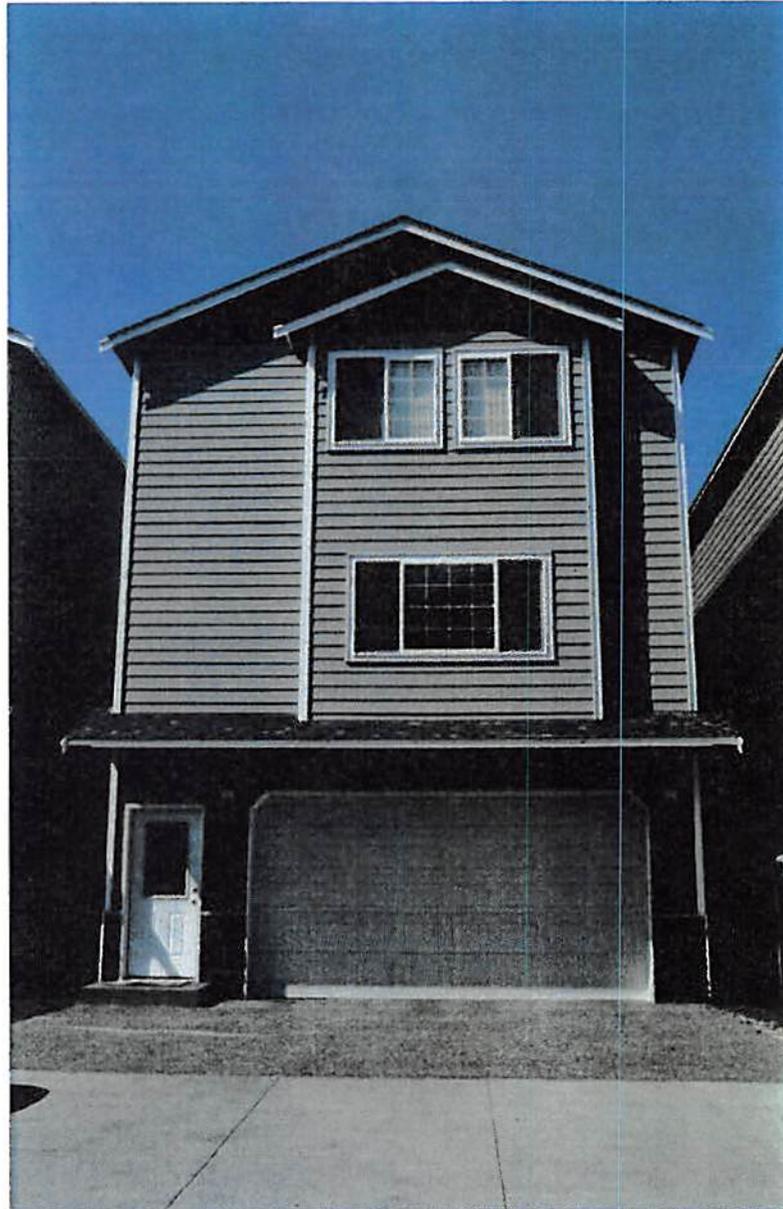


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3 STORY (single view)



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3 STORY (street view)



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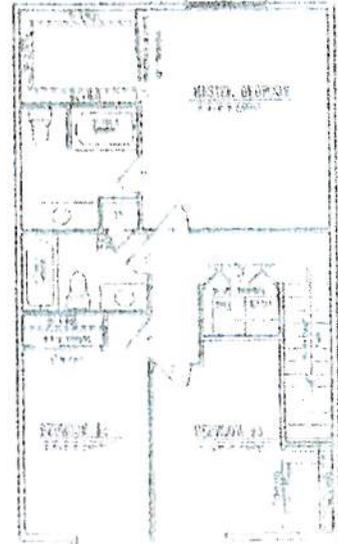
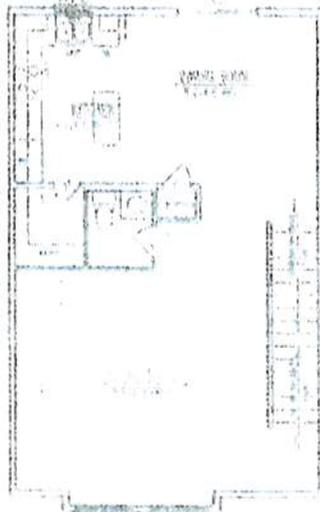


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3 STORY (renderings)



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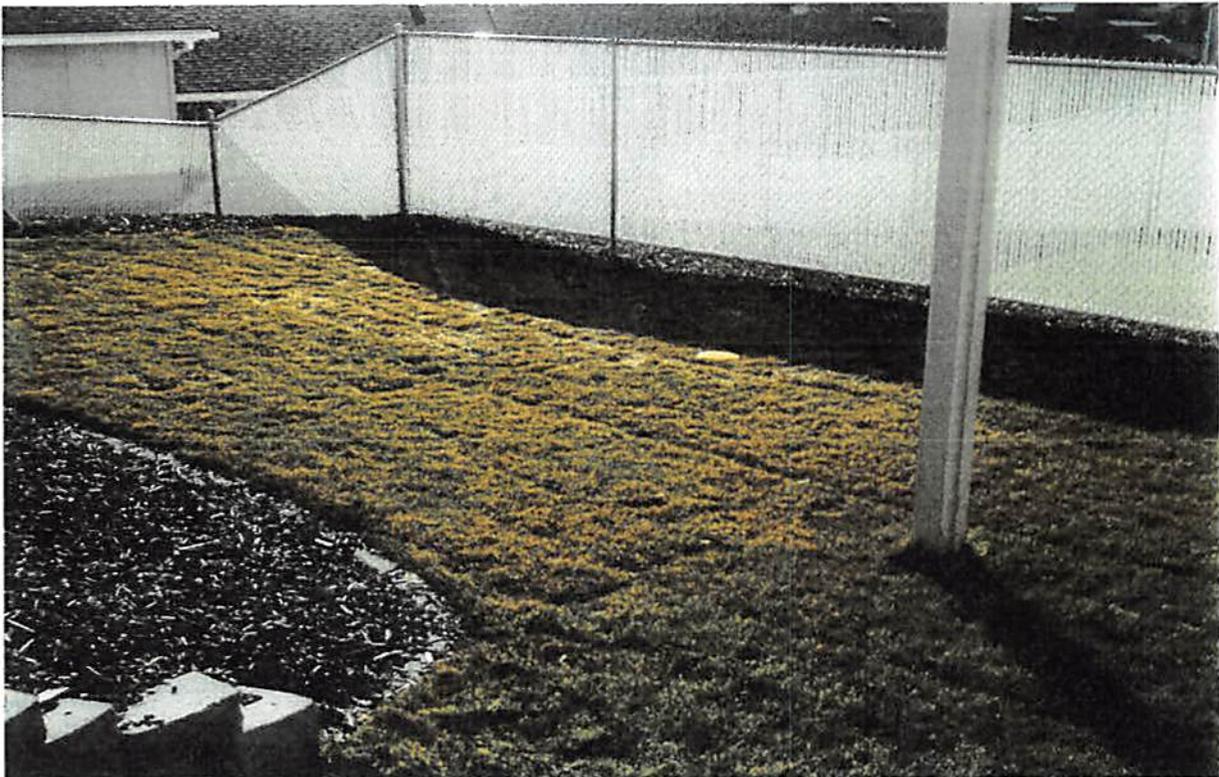


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- (n) Approximate location height and materials of all walls, fences and screens. Every back yard will be fenced with 6' chain link fencing which will include white privacy slates: (See Picture Below)



- (o) Indication of stages of development:
(All development will be done at once)

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2.) PROGRAM ELEMENTS:

- (a) Statement of goals and objectives (i.e. why it would be in the public interest and be consistent with the comprehensive plan:

The parcel in question is zoned high density R-2. We would like to change it over to a Planned Development to produce individual ownership and potential residential sales. The individual lots would make for a higher tax base and hopefully a better maintained plat through private ownership. It is our goal at Torkelson Construction, Inc. to build quality long lasting neighborhoods to increase the value of the community in which we live.

- (b) Tables showing total number of Acres, distribution of Area by use, percent designated for dwellings, Commercial or Industrial uses and open space number of off street parking spaces, streets, parks, playgrounds, schools and open spaces attached:

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LOT #	LOT SIZE SQ. FT.	BUILDING ENVELOPE SQ. FT.	% OF BUILDING TO LOT	PARKING SPACE PER LOT	INDIVIDUAL YARD SPACE SQ. FT.	DRIVE-WAY SPACE SQ. FT	ACCESS ROAD AREA SQ.FT.
1	2186	840	38.4%	4	866	480	0
2	4368	840	19.2%	4	2083	480	965
3	2700	840	31.1%	4	780	480	600
4	2700	840	31.1%	4	780	480	600
5	3732	840	22.5%	4	873	480	1539
6	2537	840	33.1%	4	898	480	319
7	2480	840	33.9%	4	850	480	310
8	2480	840	33.9%	4	850	480	310
9	2480	840	33.9%	4	850	480	310
10	4697	840	17.9%	4	967	480	2410
11	4654	840	18.0%	4	924	480	2410
12	2480	840	33.9%	4	850	480	310
13	2480	840	33.9%	4	850	480	310
14	2480	840	33.9%	4	850	480	310
15	2579	840	32.6%	4	939	480	320
16	4050	840	20.7%	4	1125	480	1605
17	3150	840	26.7%	4	1130	480	700
18	3150	840	26.7%	4	1130	480	700
19	4050	840	20.7%	4	1125	480	1605
20	2620	840	32.1%	4	970	480	330

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21	2480	840	33.9%	4	850	480	310
22	2480	840	33.9%	4	850	480	310
23	2480	840	33.9%	4	850	480	310
24	4611	840	18.2%	4	892	480	2399
25	4567	840	18.4%	4	1268	480	1979
26	2480	840	33.9%	4	850	480	310
27	2480	840	33.9%	4	850	480	310
28	2480	840	33.9%	4	850	480	310
29	2662	840	31.6%	4	1006	480	336
30	4050	840	20.7%	4	1125	480	1605
31	3150	840	26.7%	4	1130	480	700
32	3330	840	25.2%	4	1264	480	746
33	3395	840	24.7%	4	1329	480	746
34	4316	840	19.5%	4	1054	480	1942
35	2640	840	31.8%	4	990	480	330
36	2640	840	31.8%	4	990	480	330
37	2640	840	31.8%	4	990	480	330
38	2640	840	31.8%	4	990	480	330
39	2640	840	31.8%	4	990	480	330
40	4351	840	19.3	4	1078	480	1953

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41	2949	840	28.5%	4	1287	480	342
42	2902	840	28.9%	4	1242	480	340
43	2902	840	28.9%	4	1242	480	340
44	2902	840	28.9%	4	1242	480	340
45	2902	840	28.9%	4	1242	480	340
46	2902	840	28.9%	4	1242	480	340
47	2902	840	28.9%	4	1242	480	340
48	2968	840	28.3%	4	1296	480	352
TRACT A	13765	0	0.0%	0	12259	0	1506
TRACT B	10656	0	0.0%	0	8836	0	1820
TOTALS	172315	40320		192	71016	23040	37939

Sq. Ft. of Green Belt Area =	71016	% of Parcel	=	41.2%
Sq. Ft. of Private Road Way =	37939	% of Parcel	=	22.0%
Sq. Ft. of Drive-Way =	23040	% of Parcel	=	13.4%

- (c) Tables indicating overall densities and density by dwelling types and any proposal for the limitation of density:

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Builder reserves the right to change floor plan or elevations



P.O. Box 292
Selah, Washington 98942
Phone: (509) 697-3305
Fax: (509) 697-3504
torkelson@fairpoint.net

Carl Torkelson
Cell: (509) 945-0133
Candi Torkelson
Cell: (509) 961-7656

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- (c) Tables indicating overall densities and density by dwelling types and any proposal for the limitation of density:

There will be 48 units with approximately 3 to 4 persons per unit.

- (d) Restrictive Covenants, other than those relating to retention and maintenance of common open space:
(See Attached Covenants)

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AFTER RECORDING RETURN TO:

Carl & Candi Torkelson
TORKELSON CONSTRUCTION, INC.
P.O. Box 292
Selah, WA 98942

**DECLARATION OF COVENANT, CONDITIONS
AND RESTRICTIONS
OF
WHISPERING VIEW ESTATES**

THIS DECLARATION MADE THIS _____ day of _____, 2014 by CARL L. TORKELSON and CANDI R. TORKELSON, hereinafter referred to as "Declarant" is made with reference to the following facts:

A. Declarant is the owner of a certain property located in the City of Selah ("City"), County of Yakima, State of Washington, more particularly described as all that land within the boundaries of the subdivision shown on the plat recorded in Yakima County, Washington, recorded under Yakima County Auditor's File No. _____.

B. Whispering View Estates shall be referred to as the "project" as defined in Section 1.21.

C. Each lot of Whispering View Estates shall have appurtenant to it a membership in the Whispering View Estates Homeowners Association, which shall own the common area.

D. Declarant intends by this document to impose upon the property mutually beneficial restrictions under a general plan of improvement for the benefit of all owners of lots.

Now, therefore, Declarant hereby declares that all of the property described above shall be held, sold, leased, mortgaged, encumbered, rented, used, occupied, improved and conveyed subject to the following declarations, limitations, easements, restrictions, covenants and conditions, which are imposed as equitable servitude pursuant to a general plan for the development of the property for the purpose of enhancing and protecting the value and desirability of the project and every part thereof, and which shall run with the real property and be binding on Declarant and its successors and assigns, and on all parties having or acquiring any right, title or interest in or to the described property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE 1
DEFINITIONS**

1.1 "Articles" shall mean and refer to the Articles of Incorporation of the Association, as amended from time to time.

1.2 Assessment" shall mean that portion of the cost of maintaining, improving, repairing, operating and managing the property which is to be paid by each lot owner as determined by the Association.

1.3 "Association" shall mean and refer to the Whispering View Estates Homeowners Association.

1.4 "Board" or "Board of Directors" shall mean and refer to the governing body of the Association.

1.5 "Common Area" shall mean and refer to the portions of the property and all improvements thereon owned by the Association for the common use and enjoyment of the owners, specifically including the common easements. The "common area" shall consist of: (i) the Road Easements comprised of the entry to the project from Southern Ave for ingress and egress to and from each of the lots in the project; (ii) the Maintenance and Yard Easement for the purpose of maintenance of the roofs and siding of the dwellings in the project as well as all yards in the project; and (iii) all improvements owned by the Association.

1.6 "Common Expenses" means and includes the actual and estimated expenses of operating the common area and any reasonable reserve for such purposes as found and determined by the Board and all such designated common expenses by or pursuant to this Declaration. Common expenses shall include the expense of periodic maintenance and testing of all built-in fire detection and protection devices.

1.7 "Declarant" shall mean and refer to CARL L. TORKELSON and CANDI R. TORKELSON, their successors and assigns.

1.8 "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions, as amended or supplemented from time to time.

1.9 "Eligible holder mortgages" shall mean mortgages held by "eligible mortgage holders".

1.10 "Eligible mortgage holder" shall mean a first lender who has requested notice of certain matters from the Association in accordance with Section 8.5C.

1.11 "Eligible insurer or guarantor" shall mean an insurer or governmental guarantor of a first mortgage who has requested notice of certain matters from the Association in accordance with Section 8.5C.

1.12 "First lender" shall mean any bank, savings and loan association, insurance company, or other financial institution holding a recorded first mortgage on any lot.

1.13 "Lot" shall mean and refer to any plot of land, together with any improvements thereon, shown upon any recorded subdivision map of the property with the exception of the common area and the private road or utility easements shown on the Map.

1.14 "Map" shall mean and refer to that Map entitled Whispering View Estates filed for record on _____, 2014, recorded in Yakima County, Washington, under Yakima County Auditor's File No. _____.

1.15 "Member" shall mean and refer to a person entitled to membership in the Association as provided herein.

1.16 "Mortgage" shall include a deed of trust as well as a mortgage.

1.17 "Mortgagee" shall include a beneficiary or holder of a deed of trust as well as a mortgagee.

1.18 "Mortgagor" shall include the grantor of a deed of trust as well as a mortgagor.

1.19 "Owner" or "owners" shall mean and refer to the record holder, whether one (1) or more persons or entities, of a fee simple title to any lot which is a part of the project but excluding those persons or entities having an interest merely as security for the performance of an obligation. If a lot is sold under a contract of sale and the contract is recorded, the purchaser, rather than fee owner, will be considered the "owner" from and after the date the Association receives a written notice of the recorded contract.

1.20 "Person" means a natural person, corporation, partnership, a trustee, or other legal entity.

1.21 "Project" shall mean and refer to the entire real property described above including all improvements and structures erected or to be erected thereon.

1.22 "Project documents" shall mean and refer to this Declaration, together with the other basic documents used to create and govern the project, including the Map, Articles, and Bylaws, but excluding unrecorded rules and regulations adopted by the Board or the Association.

1.23 "Property" shall mean and refer to the real property described above and all improvements erected or to be erected thereon, and such additions thereto as may hereafter be brought within the jurisdiction of the Association, and all property, real, personal or mixed, intended for use in connection with the project.

1.24 "Restricted and common area" shall mean and refer to those portions of the common area easements, if any, set aside for exclusive use of a lot owner or owners, pursuant to Section 2.7, and shall constitute "exclusive use common area".

1.25 "Singular and plural" The singular and plural number and the masculine, feminine and neuter gender shall each include the other where the context requires.

ARTICLE II DESCRIPTION OF PROJECT, DIVISION OF PROPERTY, AND CREATION OF PROPERTY RIGHTS

2.1 Description of Project: The project is a 48 single family unit subdivision planned development, which consists of the property and all improvements thereon. Lots 1-48 are single family residential lots.

2.2 Easements: Dedication of Common Area: Each of the lots shown on the Map shall have appurtenant to it as the dominant tenement an easement over the common area(s) and the servient tenement now or hereafter owned by the Association, for ingress and egress, and for use, occupancy and enjoyment, and where applicable, for the construction, maintenance and operation of utilities. All of the easements are subject to the following provisions:

A. The right of the Association to discipline members, and to suspend the voting rights of a member for any period during which any assessment against his lot remains unpaid, and for any infraction of the rules contained in the Declarations, Bylaws, Articles or written rules and regulations in accordance with the provisions of Sections 4.10, 5.2F and 8.1 hereof;

B. The right of the Association to dedicate, transfer or mortgage all or any part of the common area to any public agency, authority and/or utility for such purposes and subject to such conditions as may be agreed to by the members, provided, that in the case of the borrowing of money and the mortgaging of its property as security therefore, the rights of such mortgagee shall be subordinate to the rights of the members of the Association. No such dedication, transfer or mortgage shall be effective unless an instrument signed or approved by three-fourths (3/4) of each class of members agreeing to such dedication, transfer or mortgage has been recorded.

C. The right of the Association to grant easements under, in, upon, across, over, above or through any portion of the common area for purposes, including, by way of example and not by way of limitation, access, utilities, and parking, which are beneficial to the development of the properties in accordance with the general plan established by this Declaration;

D. To avoid the necessity of a separate television antenna for each lot, a cable television system has been installed and may or shall be hooked up to each dwelling on each lot. Said system shall be maintained by the cable television franchisee. Each individual lot owner shall be responsible for the payment of all fees for cable television service to that particular lot. To the extent required to effectuate the foregoing plan, there shall be an easement in favor of each lot for the purpose of connecting the same with the central cable television line. Each lot shall be subject to an easement in favor of all other lots and in favor of the entity holding the CATV franchise, to provide for the passage through the lot and any structure thereon of television connections from any other lot to the cable system and shall be subject to a further easement for the placement and maintenance of such connections;

E. Easements for work necessary to complete development and construction of the project, including all parcels annexed or to be annexed. The foregoing easements are granted and reserved subject to the condition that their use and enjoyment shall not unreasonably interfere with the use, occupancy or enjoyment of all or any part of the lot servant to them or to which they appurtenant.

2.3 Easements to Accompany Conveyance Lot: Easements that benefit or burden any lot shall be appurtenant to that lot and shall automatically accompany the conveyance of the lot, even though the description in the instrument of conveyance may refer only to the fee title to the lot.

2.4 Delegation of Use: Any owner may delegate, in accordance with the Bylaws, his right of enjoyment to the common area and facilities to the members of his family, his tenants, or contract purchasers, who reside on the property.

2.5 Conveyance of Common Area to Association: On or before conveyance of title to the first lot, Declaration shall deed the common area easements to the Association to be held for the benefit of the members of the Association.

2.6 Owners' Rights and Easements for Utilities: The rights and duties of the owners of lots within the project with respect to sanitary sewer, drainage, water, electric, gas, television, receiving, telephone equipment, cables and lines, exhaust flues, and heating and air conditioning facilities (hereinafter referred to, collectively, as "utility facilities") shall be as follows:

A. Whenever utility facilities are installed within the project, which utility facilities or any portion thereof lie in or upon a lot or lots owned by other than the owner of a lot served by said utility facilities, the owners of any lots served by said utility facilities shall have the right or reasonable access for themselves or for utility companies or the City of Selah to repair, to replace and generally maintain said utility facilities as and when the same may be necessary, due to failure or inability of the Board to take timely action to make such repairs or perform such maintenance.

B. Whenever utility facilities are installed within the project which utility facilities serve more than one (1) lot, the owner of each lot served by the utility facilities shall be entitled to the full use and enjoyment of such portions of the utility facilities as service to his lot.

C. In the event of a dispute between owners with respect to the repair or rebuilding of the utility facilities, or with respect to the sharing of the cost thereof, then, upon written request of one (1) of such owners addressed to the Association, the matter shall be submitted to arbitration within sixty (60) days pursuant to the rules of the American Arbitration Association, and the decision of the Arbitrator(s) shall be final and conclusive on the parties.

2.7 Restricted Common Areas: The following described portions of the common area, referred to as "restricted common areas", as the servient tenements, are subject to exclusive easements in favor of the lot to which they are attached or assigned by lot number on the Map as the dominant tenement and shall be appurtenant to these lots: (1) The parking areas between the garages and the access road, are reserved for the residence to which it is adjacent; (2) Each entry, patio, and privacy screened area surrounding the back yard is reserved for the residence to which it is adjacent; and (3) A mail box is reserved for each residence.

Conveyance and resale of any residence includes the exclusive right to the use of the limited common areas and facilities appurtenant to the residence, even though the deed or other instrument of conveyance may fail to say so, subject to the terms of the Road Easement and Maintenance and Yard Easements.

A. Common Areas: Parcel A of Whispering View Estates

2.8 Encroachment Easements: Each lot is hereby declared to have an easement over adjoining lots and common area for the purpose of accommodation. Any encroachment due to foundations, exterior walls, windows, roof overhangs, fences or walls which are built in accordance with the original design, plans and specifications of Declarant, or due to minor engineering errors, minor errors in original construction, settlement or shifting of the building, or

similar causes. There shall be valid easements for the maintenance of said encroachments as long as they shall exist, and the rights and obligations of owners shall not be altered in any way by said encroachment, settlement or shifting; provided, however, that in no event shall a valid easement for encroachment be created in favor of an owner or owners if said encroachment occurred due to the intentional conduct of said owner or owners. In the event a structure is partially or totally destroyed, and then repaired or rebuilt, the owners of each adjoining lot agree that minor encroachments over adjoining lots and common area shall be permitted and that there shall be valid easements for the maintenance of said encroachments so long as they shall exist.

2.9 Easements:

A. Easements: In all cases where a structural wall of a residence that was built as part of the original construction is located on the boundary line between adjacent lots, the owner of the residence shall have a nonexclusive easement over the adjacent lot for access to and maintenance of the wall, the reconstruction of the wall in the event of the partial or total destruction of the same, drainage associated with the wall or the residence of which the wall is apart, and an easement to accommodate the foundation and/or roof or eaves encroachment as per the original design, plans and specifications which were the basis for the original construction of the residence or residences on the other lots. The owner of a lot having a structural wall situated on the boundary line between his lot and the adjoining lot shall not attach anything to the outside of the wall which shall protrude across the boundary line into the adjoining lot, and the owner of the adjoining lot upon which such a wall is situated shall not attach anything to the outside of the wall without (in each case) the consent and permission of the owner of the adjoining lot upon which the residence of which the wall is a part is situated.

B. Arbitration: In the event of a dispute arising concerning the provisions of this section, the matter shall be submitted to arbitration under the rules of the American Arbitration Association.

2.10 Party Walls:

A. General Rules of Law to Apply: Each wall that is built as part of the original construction of a residence, is located on the boundary line with an adjacent lot and either is used in common with the residence on the adjacent lot or abuts against a similar wall on the adjacent lot between two (2) lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

B. Sharing of Repair and Maintenance: The cost of reasonable repair and maintenance of a party Wall shall be shared by the owners who make use of the wall in proportion to such use

C. Destruction by Fire or Other Casualty: If a party wall is destroyed or damaged by fire or other casualty, any owner who has used the wall may restore it, and if the other owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use; provided, however, that the owner or owners whose negligent act or omission proximately caused the damage or destruction, shall bear the full cost of restoration that is not covered by insurance.

D. Weatherproofing: Notwithstanding any other provisions of this Article, an owner who by his negligent or willful act caused the party wall to be exposed to the elements shall bear the whole cost furnishing the necessary protection against such elements.

E. Right to Contribution Runs with Land: The right of any owner to contribution from any other owner under this Article Shall be appurtenant to the land and shall pass to such owner's successors in title.

F. Arbitration: In the event of any dispute arising concerning a party wall, or under the provisions of this Article, the matter shall be submitted to arbitration under the rules of the American Arbitration Association.

2.11 Maintenance Easement: An easement over each lot as the servient tenement is reserved by Declarant and is hereby granted to the Association, for the purpose of entering on

the property to perform such maintenance, if any, as the Association elects or is required to do in accordance with the provisions of Section 5.1A of this Declaration

2.12 Yard Maintenance Easement: An easement over the yard of each lot as the servient tenement is reserved by Declarant, and is hereby granted to the Association, for the purpose of entering the yard to maintain the landscaping thereon. It shall be the responsibility of the Association to maintain the landscaping of the yards throughout the project in accordance with the rules and reputations adopted by the Association.

2.13 Provision for Municipal Services: Domestic water supply services to each lot, in the common area, will be provided by the City of Selah or the Selah-Naches irrigation District. The City of Selah also provides sanitary sewer service. To assure the City of Selah, at their option in the event a service or maintenance contract is entered into between the Association and the City of Selah, access to maintain and repair its services and facilities for the provisions of police and fire protection, the Association shall keep all utilities, including but not limited to, storm drains, sewers, access ways, roadways, lighting and appurtenances thereto on the subdivided property, in a state of good condition and repair, consistent with the standard of quality of said roadways and appurtenances upon original installation. All such repairs shall be made at the expense of the Association.

2.14 Drainage Easements: An easement over and under each lot is reserved by Declarant, and is hereby granted to the Association for the maintenance of an in-tract storm drainage system. Reciprocal appurtenant easements between each lot and the common area and between adjoining lots are hereby created for the flow of surface water.

2.15 Other Easements: The common area and each lot are subject to all easements, dedications, and rights of way granted or reserved in, on, over and under the property as shown on the Map.

2.16 Rights of Entry and Use: The lots and common area (including restricted common area) shall be subject to the following rights of entry and use:

A. The right of the Association agents to enter any lot to cure any violation of this Declaration or the Bylaws, provided that the owner has received notice and a hearing as required by the Bylaws (except in the case of an emergency) and the owner has failed to cure the violation or take steps necessary to cure the violation within thirty (30) days after the finding of a violation by the Association;

B. The access rights of the Association to maintain repair or replace improvements or property located in the common area as described in Section 5.2E;

C. The easements described in this Article 11.

D. The right of the Association's agents to enter any lot to perform maintenance as described in Section 8.6.

E. The rights of the Declarant during the construction period as described in Section 8.9.

2.17 Partition of Common Area: There shall be no subdivision or partition of the common area, nor shall any owner seek any partition or subdivision thereof. Notwithstanding any provisions to the contrary contained in this Declaration and in order to provide a means of terminating the project if this should be necessary or desirable, on occurrence of any of the conditions allowing an owner of a lot to maintain an action for partition, three-quarters (3/4) of the owners of lots shall have the right to petition the Superior Court having jurisdiction to alter or vacate the recorded Subdivision. Nothing herein shall be construed to prohibit partition of a joint tenancy or co-tenancy in any lot.

ARTICLE III

ASSOCIATION, ADMINISTRATION, MEMBERSHIP AND VOTING RIGHTS

3.1 Association to Own and Manage Common Areas: The Association shall own and manage The common area easements in accordance with the provisions of this Declaration, the Articles and the Bylaws of the Association.

3.2 Membership: the owner of a lot shall automatically, upon becoming the owner of same, be a member of the Association, and shall remain a member thereof until such time as his ownership ceases for any reason. Membership shall be appurtenant to and may not be separate from ownership of a lot. Membership shall be held in accordance with the Articles and Bylaws of the Association.

3.3 Transfer of Membership: Membership in the Association shall not be transferred, encumbered, pledged or alienated in any way, except upon the sale or encumbrance of the lot to which it is appurtenant, and then only to the purchaser, in the case of a sale, or mortgagee, in the case of an encumbrance of such lot. On any transfer of title to an owner's lot, including a transfer on the death of an owner, membership passes automatically with title to the transferee.

3.4 Membership, Classes and Voting Rights: The Association shall have two (2) classes of voting membership:

Class A: Class A members shall be all owners with the exception of the Declarant (as defined in Section 1.7) and shall be entitled to one (1) vote for each lot owned. When more than one (1) person holds an interest in any lot, all such persons shall be members. The vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any lot.

Class B: The Class B member or members shall be the Declarant and shall be entitled to vote as follows: Voting shall be the same as for Class A memberships, except that the Class B member may triple its votes for each lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier: (i) When the total votes outstanding in the Class A membership equal the total votes (tripled as stated above) outstanding in the Class B membership; or (ii) on the second anniversary date of the recording this Declaration.

ARTICLE IV MAINTENANCE AND ASSESSMENTS

4.1 Creation of the Lien and Personal Obligation of Assessments: The Declarant, for each lot owned within the project, hereby covenants, and each owner of any lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is covenant and agrees: (1) to pay to the Association annual assessments or charges and special assessments for purposes permitted herein, such assessments to be established and collected as hereinafter provided; and (2) to allow the Association to enforce an assessment lien established hereunder by non judicial proceeding under a power of sale or by any other means authorized by law. The annual and special assessments, together with fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made, the lien to become effective upon recordation of notice of delinquent assessment. Each such assessment, together with interest, late charges, collection costs, and reasonable attorney's fees, shall also be the personal joint and several obligation of the person who was the owner of such property at the time when the assessment fell due. No owner of a lot may exempt himself from liability for his contribution toward the common expenses by waiver of the use or enjoyment of any of the common areas or by the abandonment of his lot.

4.2 Annual Assessment:

A. The Board has authority to impose annual assessments, provided that it may not impose a regular assessment that is more than ten percent (10%) greater than the regular assessment for the Association's preceding fiscal year or impose special assessments which in the aggregate exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year without the approval of owners casting a majority of the votes at a meeting or election of the Association, provided, that the foregoing provisions do not limit assessment increases for the following purposes: (1) The maintenance or repair of the common areas or

other areas which the Association is obligated to maintain or repair, including, but not limited to, the payment of insurance premiums, the payment of utility bills, the cost incurred in maintaining structures or improvements which includes snow removal from private road and common area landscaping maintenance and funding reserves; and (2) addressing emergency situations.

B. The Board may not, without the vote or written consent of a majority of the voting power of the Association residing in members other than the Declarant, impose a regular annual assessment which is more than twenty percent (20%) greater than the regular annual assessment for the immediately preceding fiscal year.

C. Without membership approval, the Board of Directors may fix the annual assessment at an amount not in excess of the maximum. However, the annual assessment may not be decreased, whether by the Board or by the members, by more than ten percent (10%) without the approval of a majority of the voting power of the Association residing in members other than the Declarant. Failure by the Board to set assessments shall not be deemed a waiver of the assessments but rather the prior year's assessment shall continue.

D. Subject to the limitations on the maximum and minimum amount of assessments herein provided, if, at any time during the course of any year, the Board shall deem the amount of the annual assessment to be inadequate or excessive, the Board shall have the power, at a regular or special meeting, to raise the assessment for the balance of the assessment year, effective on the first day of the month next following the date of the revision, provided that the Board may not by such action increase the assessments by more than five percent (5%) in the aggregate (including increases in special assessments) of the budgeted gross expenses of the Association for that fiscal year without the consent of a majority of the voting power of the Association residing in members other than the Declarant, and any approval that may be required under Section 4.3.

4.3 Special Assessments for Capital Improvements or Extraordinary Expenses; Reserves for Replacement: The Board of Directors may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the common area, including fixtures and personal property related thereto, or for extraordinary expenses incurred by the Association, provided that in the event special assessments exceed in the aggregate five percent (5%) of the budgeted gross expenses of the Association for that fiscal year, the vote or written consent of a majority of the voting power of the Association residing in members other than the Declarant shall be required to approve such assessments and the Association shall obtain any approval that may be required under Section 4.3. Special assessments shall be levied on the same basis as regular assessments.

As part of the regular annual assessments for maintenance authorized above, the Board of Directors shall annually fix the amount to be contributed pro rata by each member to reserve funds for the purpose of defraying, in whole or in part, the cost or estimated cost of any reconstruction, repair or replacement of improvements, including fixtures and personal property related thereto. Such determination shall be made after consideration of the need for additional funds and of the Association's capital position. The Board shall maintain a separate account for those reserve funds. The Board shall fix the method of payment of such assessments and Shall be empowered to permit either lump sum or monthly payments. Separate records shall be maintained for all funds deposited to the said account, which shall be designated as a "Reserve Account".

Amounts received by the Association as contributions, assessments or dues from the owners shall be held in one (1) or more accounts. Deposits shall be made, and funds accounted for, so that reserves for capital improvements and for replacement may be separate from funds for operating expenses or repair and maintenance funds if the Board considers it necessary. Capital improvement and replacement funds shall be used solely for capital improvements and replacements of the common area within the project.

4.4 Notice and Quorum for Any Action Authorized Under Sections 4.3 and 4.4: Any action authorized under Sections 4.3 and 4.4, which requires a vote of the membership, shall be taken at a meeting called for that purpose, written notice of which shall be sent to all members not less than ten (10) nor more than ninety (90) days in advance of the meeting, specifying the place, day and hour of the meeting and, in the case of a special meeting, the nature of the business to be undertaken.

4.5 Division of Assessments: All assessments, both annual and special, shall be charged to and divided among the lot owners equally, Assessments may be collected on a monthly basis.

4.6 Date of Commencement of Annual Assessment; Due Dates: The regular assessments provided for herein shall commence as to all lots covered by this Declaration on the first day of the month following the closing of the first sale on the conveyance of the first lot to the purchaser thereof. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year.

Subject to the provisions of Section 4.3 hereof, the Board of Directors shall use its best efforts to fix the amount of the annual assessment against each lot and send written notice thereof to every owner at least forty-five (45) days in advance of each annual assessment period, provided that failure to comply with the foregoing shall not affect the validity of any assessment levied by the Board. The due date shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified lot have been paid. Such a certificate shall be conclusive evidence of such payment.

4.7 Effect of Nonpayment of Assessments: Any assessment not paid within fifteen (15) days after the due date shall be delinquent, shall bear interest at the rate of twelve percent (12%) per annum commencing thirty (30) days after the due date until paid, and shall incur a late payment penalty in an amount to be set by the Board from time to time, not to exceed the maximum permitted by applicable law or in the amount of Twenty-Five Dollars (\$25.00) or ten percent (10%) of the delinquent assessment, whichever is greater.

4.8 Transfer of Lot by Sale or Foreclosure: Sale or transfer of any lot shall not affect the assessment lien. However, the sale of any lot pursuant to mortgage foreclosure of a first mortgage shall extinguish the lien of such assessments (including attorney's fees, late charges, or interest levied in connection therewith) as to payments which became due prior to such sale or transfer (except for assessment liens recorded prior to the mortgage). No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

Where the mortgagee of a first mortgage of record or other purchaser of a lot obtains title to the same as a result of foreclosure of any such first mortgage, such acquirer of title, his successor and assigns, shall not be liable for the share of the common expenses or assessment by the Association chargeable to such lot which became due prior to the acquisition of title to such lot by such acquirer (except for assessment liens recorded prior to the mortgage). (No amendment of the preceding sentence may be made without the consent of owners of lots to which at least three-quarters (3/4) of the votes in the Association are allocated, and the consent of the eligible mortgage holders holding first mortgages). Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from owners of all of the lots including such acquirer, his successors or assigns.

In a voluntary conveyance of a lot, the grantee and the grantor shall be jointly and severally liable to the Association for all unpaid assessments against the lot for the grantor's share of the common expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefore.

However, any such grantee shall be entitled to a statement from the Association, dated as of the record date of conveyance, setting forth the amount of the unpaid assessments against the grantor due the Association, and such grantee shall not be liable for, nor shall the lot conveyed be subject to a lien for, any unpaid assessments made by the Association against the grantor in excess of the amount set forth in the statement; provided, however, the grantee shall be liable for any such assessment becoming due after the date of any such statement.

4.9 Priorities; Enforcement; Remedies: If an assessment is delinquent, the Association may record a notice of delinquent assessment and establish a lien against the lot of the delinquent owner prior and superior to all other liens except (1) all taxes, superior thereto; and (2) the lien or charge or any first mortgage of record (meaning any recorded mortgage or deeds of trust with first priority over other mortgages or deeds of trust) made in good faith and for value. The notice of delinquent assessment shall state the amount of the assessment, collection costs, attorney's fees, late charges and interest, a description of the separate interest against which the assessment and other sums are levied, the name of the record owner, and the name and address of the trustee authorized by the Association to enforce the lien by sale. The notice shall be signed by any officer of the Association or by any management agent retained by the Association.

An assessment lien may be enforced in any manner permitted by law, including sale, by the court, sale by the trustee designated in the notice of delinquent assessment, or sale by a trustee substituted pursuant to law. Any sale shall be conducted in accordance with the provisions of any successor statutes thereto, applicable to the exercise of powers of sale in mortgages and deeds of trust, or in any other manner permitted by law. Nothing herein shall preclude the Association from bringing an action directly against the owner for breaching the personal obligation to pay assessments.

Fines and penalties for violation of restrictions are not "assessments" and are not enforceable by assessment lien.

The Association, acting on behalf of the owners, shall have the power to bid for the lot at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. Where the purchase of a foreclosure lot will result in a five percent (5%) or greater increase in assessments, the purchase shall require the vote or written consent of a majority of the total voting power of the Association, including a majority of members other than Declarant. During the period a lot is owned by the Association, following foreclosure: (1) No right to vote shall be exercised on behalf of the lot; (2) no assessment shall be assessed or levied on the lot; and (3) each other lot shall be charged, in addition to its usual assessment, its share of the assessment that would have been charged to such lot had it not been acquired by the Association as a result of foreclosure. After acquiring title to the lot at foreclosure sale following notice and publication, the Association may execute, acknowledge and record a deed conveying title to the lot which deed shall be binding upon the owners, successors, and all other parties. Suit to recover a money judgment for unpaid common expenses, rent and attorney's fees shall be maintainable without foreclosing or waiving the lien securing the same. The Board may temporarily suspend the voting rights of a member who is in default in payment of any assessment, after notice and hearing, as provided in the Bylaws.

4.10 Unallocated Taxes: In the event that any taxes are assessed against the common area, or the personal property of the Association, rather than being assessed to the lots, said taxes shall be included in the assessments made under the provisions of Section 4.1 and, if necessary, a special assessment may be levied against the lots in an amount equal to said taxes, to be paid in two (2) installments, thirty (30) days prior to the due date of each tax installment.

4.11 Exempt Property: Those lots having no structural improvements for human occupancy shall be exempt from the payment of that portion of any assessment which is for the purpose of defraying expenses and reserves directly attributable to the existence and use of the structural improvement. The exemption may include (a) Roof replacement; (b) exterior

maintenance; (c) walkway lighting; and (d) insurance on uncompleted residences.

Any such exemptions from the payment of assessments shall be in effect only until a notice of completion of the payment of assessments shall be in effect until a notice of completion of the structural improvement has been recorded or until one hundred twenty (120) days after the issuance of a building permit for the structural improvement, whichever occurs first.

ARTICLE V **DUTIES AND POWERS OF THE ASSOCIATION**

5.1 Duties: In addition to the duties enumerated in the Articles and Bylaws or elsewhere provided for in this Declaration, and without limiting the generality thereof, the Association shall perform the following duties:

A. Maintenance: The Association shall maintain and repair the following:

(1) The common area, all improvements and landscaping thereon, and all property owned by the Association, including without limitation, private streets, irrigation systems, lighting fixtures, and utility, sewer or drainage systems not maintained by a public entity, utility company, or improvement district. Association shall also be responsible for snow removal on the private road located within the planned development.

(2) The exterior surfaces of the residences, including roofs, siding, trim, railings and skylights, but excluding windows; provided, -however, each lot owner shall be responsible for maintaining the windows and other parts of his or her home in a manner that does not damage the roofs, siding and party walls. Maintenance shall include without limitation, painting, staining or caulking as often as the Board deems appropriate. Each lot owner shall be responsible for structural repairs to his or her residence, including without limitation, the foundation(s) and walls.

(3) The landscaping for each lot except for private patio areas. Maintenance shall include regular fertilization, irrigation and other garden management practices necessary to promote a healthy, weed free environment for optimum plant growth. If the Association incurs any maintenance or repair costs because of the willful or negligent act or omission of any owner or the owner's agents, occupants, or invitees, and such cost was not covered by insurance maintained by the Association, the Association shall charge the responsible owner who immediately shall pay the charges to the Association together with interest thereon at the rate of twelve percent (12%) per annum (but not in excess of the maximum interest rate authorized by law) from the date the cost was incurred by the Association until the date the charge is paid by the owner. If the owner disputes the charge, the owner shall be entitled to a notice and a hearing as provided in the Bylaws before the charge may be collected. The Association may, but shall not be obligated to, adopt rules and regulations under which the individual lot owners may maintain garden areas on a portion of their individual lots.

B. Insurance: The Association shall obtain and maintain the following insurance:

(1) A casualty policy insuring all improvements and fixtures owned by the Association, unless the Board in its sole discretion determines that such insurance is not necessary;

(2) A comprehensive public liability policy insuring the Association, its agents, the Declarant, and the owners or occupants of the lots and their respective family members, guests, invitees and agents against any liability incident to the ownership or use of the common area easements cirony other .Association owned or maintained real or personal property.

(3) Workers' compensation insurance to the extent required by law;

(4) Fidelity bonds or insurance covering officers, directors, and

employees that have access to any Association funds, unless a majority of the members vote to suspend this requirement;

(5) Flood insurance on common area improvements if the project is located in an area designated by an appropriate governmental agency as a special flood hazard area;

(6) Officers and directors liability insurance; and

(7) Such other insurance as the Board in its discretion considers necessary or advisable.

The amount, term and coverage of any policy required hereunder (including the type of endorsements, the amount of the deductible, the named insured, the loss payees, standard mortgage clauses, and notices of changes or cancellations) shall satisfy the minimum requirements imposed for this type of project by the Federal National Mortgage Association ("FNMA") and the Federal Home Loan Mortgage Corporation ("FHLMC") or any successor thereto. If FNMA or FHLMC requirements conflict, the more stringent requirement shall be met. If FNMA or FHLMC do not impose requirements on any policy required hereunder, the term, amount and coverage of such policy shall be no less than that which is customary for similar policies on similar projects in the area.

Each owner appoints the Association or any insurance trustee designated by the Association to act on behalf of the owners in connection with all insurance matters arising from any insurance policy maintained by the Association, including without limitation, representing the owners in any proceeding, negotiation, settlement or agreement.

Any insurance maintained by the Association shall contain a "waiver of subrogation" as to the Association and its officers, directors and members, the owners and occupants of the lots (including Declarant) and mortgagees, "and, if obtainable, a cross-liability to each other insured. The Association shall periodically (and not less than once every three (3) years) review all insurance policies maintained by the Association to determine the adequacy of the coverage and to adjust the policies accordingly.

Each buyer of a lot shall pay the portion of the premium(s) attributable to the buyer's lot (prorated to the date of close of escrow) for the policy or policies purchased by Declarant for the Association.

Each owner shall obtain and maintain, at the owner's sole expense, fire and casualty coverage as may be required by any mortgagee of the owner's lot and in no event less than the amount and type of fire and casualty insurance required to be obtained and maintained as determined by the Board. All such individually carried insurance shall contain a waiver of subrogation by the carder as to the other owners, the Association, Declarant, and the mortgagees of such lot. Each owner shall provide proof of insurance to the Board at least annually.

The Association, and its directors and officers, shall have no liability to any owner or mortgagee if, after a good faith effort, it is unable to obtain the liability insurance required hereunder, because the insurance is no longer available or, if available, can be obtained only at a cost that the Board in its sole discretion determines is unreasonable under the circumstances, or the members fail to approve any assessment increase needed to fund the insurance premiums. In such event, the Board shall immediately notify each member and any mortgagee entitled to notice that the liability insurance will not be obtained or renewed.

C. Discharge of Liens: The Association shall discharge by payment, if necessary, any lien against the common area and charge the cost thereof to the member or members responsible for the existence of the lien after notice and hearing as provided in the Bylaws.

D. Assessments: The Association shall fix, levy, collect and enforce assessments as set forth in Article IV hereof.

E. Payment of Expenses: The Association shall pay all expenses and obligations incurred by the Association in the conduct of its business including, without limitation, all licenses, taxes or governmental charges levied or imposed against the property of the Association.

F. Enforcement: The Association shall enforce this Declaration.

5.2 Powers: In addition to the powers enumerated in the Articles and Bylaws, or elsewhere provided for herein, and without limiting the generality thereof, the Association shall have the following powers:

A. Utility Services: The Association shall have the authority (but not the obligation) to obtain, for the benefit of all the owners, all water, gas, electric service, garbage collection and cable television service. While the Association has this authority, the project has been established on the basis that each unit owner will pay for these services on an individual lot-by-lot basis.

B. Easements: The Association shall have authority (by majority vote) to grant easements in addition to those shown on the Map where necessary for utilities, cable television and sewer facilities over the common area to serve the common areas and lots.

C. Manager: The Association may employ a manager or other persons and contract with independent contractors or managing agents to perform all or any part of the duties and responsibilities of the Association, except for the responsibility to levy fines, impose discipline, hold hearings; file suit, record or foreclose liens, or make capital expenditures, provided that any contract with a firm or person appointed as a manager or managing agent shall not exceed a one (1) year term, shall provide for the right of the Association to terminate the same at the first annual meeting of the Association, and to terminate the same without cause or payment of a termination fee on ninety (90) days' written notice, or for cause on thirty (30) days' written notice.

D. Adoption of Roles: The Association or the board may adopt reasonable rules not inconsistent with this Declaration relating to the use of the common area and all facilities thereon, and the conduct, of owners and their tenants and guests with respect to the property and other owners.

E. Access: The Board or its agents may enter any residence, restricted common area, patio area, roof area and/or garage area as necessary in connection with any maintenance or emergency repairs for which the Association is responsible. Such entry shall be made with as little inconvenience to the owners as practicable, and any damage caused thereby shall be repaired by the Association at the expense of the common fund. Except in case of emergency, twenty-four (24) hour advance notice shall be given to the owner or occupant.

F. Assessments, Liens and Fines: The Association shall have the power to levy and collect assessments in accordance with the provisions of Article IV hereof. The Association may impose fines or take disciplinary action against any owner for failure to pay assessments or for violation of any provision of the project documents. Penalties may include but are not limited to fines, temporary suspension of voting rights or other appropriate discipline, provide the member is given notice and hearing as provided in the Bylaws before the imposition of an fine or disciplinary action.

G. Enforcement: The Association shall have the authority to enforce this Declaration.

H. Acquisition and Disposition of Property: The Association shall have the power to acquire (by gift, purchase or otherwise) own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, or otherwise dispose of real or personal property in connection with the affairs of the Association. Any transfer of property shall be by document signed or approved by the three-fourths (3/4) of the total voting of the Association which shall include three-fourths (3/4) of the voting power of each class member.

I. Loans: The Association shall have the power to borrow money, but only with the assent (by vote or written consent) of three-fourths (3/4) of the total voting power of the Association including three-fourths (3/4) of the members other than Declarant to mortgage, pledge, deed in trust or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred.

J. Dedication: The Association shall have the power to dedicate, sell, or transfer all or any part of the common area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication shall be effective unless an instrument has been signed or approved by three-fourths (3/4) of the total voting power of the Association including three-fourths (3/4) of the members other than Declarant agreeing to such dedication, sale or transfer.

K. Contracts: The Association shall have the power to contract for goods and/or services for the common areas, facilities and interests or for the Association, subject to any limitations set forth elsewhere in the project documents.

L. Delegation: The Association, the Board, and the officers of the Association shall have the power to delegate their authority and powers to committees, officers or employees of the Association, or to a manager employed by the Association; provided, that the Board shall not delegate its responsibility:

(1) To make expenditures for capital additions or improvements chargeable against the reserve funds;

(2) To conduct hearings concerning compliance by an owner or his tenant, lessee, guest or invitee with this Declaration, Bylaws or rules and regulations promulgated by the Board;

(3) To make a decision to levy monetary fines, impose special assessments against individual units, temporarily suspend an owner's rights as a member of the Association or otherwise impose discipline;

(4) To make a decision to levy regular or special assessments; or

(5) To make a decision to bring suit, record a claim of lien or institute foreclosure proceedings for default in payment or assessments.

M. Water Service: The Association shall have the authority to acquire and pay for water service for the purpose of maintaining the landscaping in the project. Individual lot owners shall be responsible for paying for water service to their individual residences.

5.3 Commencement of Association Duties and Powers: Until incorporation of the Association, all duties and powers of the Association as described herein, including all rights of consent and approval shall be and remain the duties and powers of Declarant. From and after the date of incorporation of the Association, the Association shall assume all duties and powers, and Declarant shall be relieved of any further liability therefore.

ARTICLE VI

ARCHITECTURAL AND LANDSCAPING CONTROL

6.1 Approval of Plans: No building, fence, wall, pool, spa, obstruction, outside or exterior wiring, balcony, screen, patio, patio cover, tent, awning, carport, carport cover, trellis, improvement or structure of any kind shall be commenced, installed, erected, painted or maintained upon the property, nor shall any alteration or improvements of any kind be made thereto, or to the exterior of any residence, until the same has been approved in writing by the Board, or by an Architectural Control Committee appointed by the Board. Plans and specifications showing the nature, kind, shape, color, size, materials and location of such improvements, alterations, etc., shall be submitted to the Board or to the Architectural Control Committee for approval as to the quality of workmanship and design and harmony of external design with existing structures, and as to location in relation to surrounding structures, topography, and finish grade elevation. No fence or wall shall be erected, placed or altered on any lot nearer to any street than the minimum building set back line. No permission or approval

shall be required to repaint in accordance with the original color scheme previously approved by the Committee or the Board, or to rebuild in accordance with plans and specifications previously approved by the Committee or by the Board. Nothing contained herein shall be construed to limit the right of an owner to remodel the interior of his residence, or to paint the interior of his residence any color desired.

6.2 Architectural Control Committee Action: The Architectural Control Committee shall consist of three (3) members. Declarant may appoint all of the original members of the Committee. The Declarant reserves to itself the power to appoint a majority of the members to the Committee until eighty-seven and one-half percent (87.5%) of all the lots in the project have been sold or until the expiration of three (3) years from the date of recording of this document, whichever first occurs. Thereafter, the Board shall have the power to appoint all of the members of the Committee. Members appointed to the Committee by the Board shall be from the membership of the Association. Members appointed to the Committee by the Declarant need not be members of the Association. A majority of the Committee may designate a representative to act for it. In the event of the death or resignation of any member of the Committee, the successor shall be appointed by the person, entity or group which appointed such member until Declarant no longer has the right to appoint any members to the Committee, and thereafter the Board shall appoint such a successor. Neither the members of the Committee nor its designated representative shall be entitled to any compensation for services performed pursuant hereto. In the event the Committee fails to approve or disapprove plans and specifications within thirty (30) days after the same have been submitted to it, approval will not be required and the related covenants shall be deemed to have been fully complied with.

6.3 Landscaping: No landscaping of patios or yards or portions of lots visible from the street or from any common area shall be undertaken by any owner until plans and specifications showing the nature, kind, shape, and location of the materials shall have been submitted to and approved in writing by the Architectural Control Committee or the Board.

6.4 Governmental Approval: Before commencement of any alterations or improvements approved by the Architectural Control Committee, the owner shall comply with all appropriate governmental laws and regulations. Approval by the Committee does not satisfy the appropriate approvals that may be required by any governmental entity with appropriate jurisdiction.

ARTICLE VII

USE RESTRICTIONS

In addition to all of the covenants contained herein, the use of the property and each lot is subject to the following:

7.1 Use of Lot: No lot shall be occupied and used except for residential purposes by the owners, their tenants, and social guests, except that Declarant, its successors or assigns, may use the property for a model home site or sites, and display and sales office during construction until the last lot is sold by Declarant, or, where Declarant elects to retain one (1) or more lots as an investment, until three (3) years from the date of closing of the first sale in the project. No tent, shack, trailer, basement, garage, outbuilding or structure of a temporary character shall be used on any lot at any time as a residence, either temporarily or permanently.

7.2 Nuisances: No noxious, illegal or seriously offensive activities shall be carried on upon any lot, or any part of the property, nor shall anything be done thereon which may be or may become a serious annoyance or a nuisance to or which may in any way interfere with the quiet enjoyment of each of the owners of his respective lot.

7.3 Vehicle Restrictions: No trailer, camper, recreational vehicle, commercial vehicle, pick-up truck, van (other than standard size pick-up trucks or standard size vans), boat, inoperable automobile or similar equipment shall be permitted to remain upon any area within the property, other than temporarily or unless placed within an enclosed garage. Commercial vehicles shall not include sedans (or standard size vans or pickup trucks) which are used both

for business and personal use, provided that any signs or markings of a commercial nature on such vehicles shall be unobtrusive and inoffensive as determined by the Board. No noisy or smoky vehicles shall be operated upon the property. No unlicensed motor vehicles shall be operated upon the property. Twenty-four (24) hours after notice has been personally delivered to the vehicle owner by an agent of the Association or placed on the windshield of a vehicle, or seventy-two (72) hours after notice has been mailed to the address of the registered owner of a vehicle parked, stored, or maintained on the premises in violation of the provisions of this Declaration, the vehicle owner shall be deemed to have consented to the removal of said vehicle from the project, and the Association or its agents or employees shall have the authority to tow away and store any such vehicle, whether said vehicle shall belong to a lot owner or his tenant, member of his family or his guest or invitee. Charges for such towing and storage shall be paid by the lot owner responsible for the presence of such vehicle. No owner or tenant shall park more than two (2) vehicles in the project at any onetime, except on a temporary basis. The Board may adopt such rules and regulations as the Board determines are appropriate for carrying out the intent of this section.

7.4 Parking: There shall be no parking, of any type vehicle, within or on any common area including the private road located within the planned the development of Whispering View Estates.

7.5 Storage in Common Area: Nothing shall be stored in the common area without the prior consent of the Board.

7.6 Signs: No signs, except the developments name plaquered shall be displayed to the public view on any lot or on any portion of the property except such signs as are approved by the Board or committee appointed by the Board. "For Sale" or "For Rent" signs shall be allowed, provided they do not exceed five (5) square feet in size.

7.7 Animals: No animals of any kind shall be raised, bred, or kept on any lot or in the common area except usual and ordinary household pets such as dogs or cats, provided they are kept under reasonable control at all times. Notwithstanding the foregoing, no pets may be kept on the property which result in an annoyance or are obnoxious to other owners. No pets shall be allowed in the common area except as may be permitted by rules of the Board. No owner shall allow his or her pet to enter the common area except on a leash. After making a reasonable attempt to notify the owner, the Association or any owner may cause any unleashed dog found within the common areas to be removed by the Association to a pound or animal shelter by calling the appropriate authorities. Owners shall be fully responsible for any damage caused by their pets.

7.8 Garbage and Refuse Disposal: All rubbish, trash and garbage shall be regularly removed from the lots, and shall not be allowed to accumulate thereon. "Trash, garbage and other waste shall not be kept except in sanitary containers. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition and shall be kept in the garage except on the day of garbage pickup.

7.9 Liability of Owners for Damage to Common Areas: The owner of each lot shall be liable to the Association for all damage to the common area improvements (including landscaping) caused by such owner or the owner's agents, occupants, invitees or pets, except for that portion of damage covered by insurance carried by the Association. The responsible owner shall be charged with the cost of repairing such damage (including interest thereon) as described in Section 5.1A.

7.10 Leasing of Lots: No owner shall be permitted to lease his lot for any period Less than thirty (30) days. Any lease agreement shall be required to provide that the term of the lease shall be subject in all respects to the provisions of the Declaration, Articles and Bylaws and to all house rules and regulations adopted by the Board and that any failure of the Lessee to comply with the terms of such documents shall be a default under the law. All leases shall be required to be in writing. Other than the foregoing, there is no restriction in the right of any owner to lease his Lot. All owners leasing or renting their lots shall promptly notify the Secretary of the Association in writing of the names of all tenants and members of tenant's family occupying

such lot and of the address and telephone number where such owner can be reached.

ARTICLE VIII GENERAL PROVISIONS

8.1 Enforcement: The Association, or any owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration, the Articles and Bylaws and in such action shall be entitled to recover reasonable attorney's fees as are ordered by the court. Failure by the Association or by any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

8.2 Invalidity of Any Provision: Should any provision or portion hereof be declared invalid or in conflict with any law of the jurisdiction where this project is situated, the validity of all other provisions and portions hereof shall remain unaffected and in full force and effect.

8.3 Term: The covenants and restrictions of this Declaration shall run with and bind the property, and shall inure to the benefit of and shall be enforceable by the Association or the owner of any property subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of thirty (30) years from the date of this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by a majority of the then owners of the lots, has been recorded within the year preceding the beginning of each successive period of ten (10) years, agreeing to change said covenants and restrictions in whole or in part or to terminate the same.

8.4 Amendments: Prior to close of escrow of the sale of the first lot, Declarant may amend this Declaration. After the sale of the first lot, this Declaration may be amended only by the affirmative vote (in person or by proxy) or written consent of members representing a majority of the affirmative votes or written consent of members other than the Declarant. However, the percentage of voting power necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. Any amendment must be certified in writing, executed and acknowledged by the President and recorded in the Yakima County Auditor's Office. No amendment shall adversely affect the rights of the holder of any mortgage of record prior to the recordation of such amendment.

8.5 Rights of First Lenders: No breach of any of the covenants, conditions and restrictions herein contained or the enforcement of any lien provisions herein shall render invalid the lien of any first mortgage on any lot made in good faith and for value, but all of said covenants, conditions and restrictions shall be binding upon and be effective against any owner whose title is derived through foreclosure or trustee's sale, or otherwise. Notwithstanding any provision in this Declaration to the contrary, first lenders shall have the following rights:

A. Copies of Project Documents: The Association shall make available to all owners and first lenders, and to holders, insurers or guarantors of any first mortgage, current copies of the Declaration, Bylaws, Articles or other rules concerning the project and the books, records and financial statements of the Association. "Available" means available for inspection, upon request, during normal business hours or under other reasonable circumstances.

B. Audited Statement: "The holders of fifty-one percent (51%) or more of first mortgages shall be entitled, upon written request, to have an audited financial statement for the immediately preceding fiscal year prepared at the sole expense of the party requesting the audited financial statement, if one is not otherwise available. Due to the size of the project, it is not anticipated that the financial statements for the projects will be audited. Such statement shall be furnished within a reasonable time following such request.

C. Notice of Action: Upon written request to the Association, identifying the name and address of the eligible mortgage holder or eligible insurer or guarantor, and the lot

number or address, such eligible mortgage holder or eligible insurer or guarantor will be entitled to timely written notice of:

(1) Any condemnation loss or any casualty loss which affects a material portion of the project or any lot on which there is first mortgage held, insured or guaranteed by such eligible mortgage holder or eligible insurer or guarantor, as applicable;

(2) Any default in performance of obligations under the project documents or delinquency in the payment of assessments or charges owed by an owner of a lot subject to a first mortgage held, insured or guaranteed by such eligible mortgage holder or eligible insurer or guarantor, which remains uncured for a period of sixty (60) days;

(3) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;

(4) Any proposed action which would require the consent of a specified percentage of eligible mortgage holders as specified in Section 8.5D. The Association shall discharge its obligation to notify eligible holders or eligible insurers or guarantors by sending written notices required herein to such parties at the address given on the current request for notice, in the manner prescribed by Section 8.13.

D. Consent to Action: Except as provided by statute or by other provision of the project documents in case of substantial destruction or condemnation of the project, and further excepting any real location of interests in the common area(s) which might occur pursuant to any plan of expansion or phased development contained in the original project documents:

(1) The consent of owners of lots to which at least seventy-five percent (75%) of the votes in the Association are allocated and the approval of eligible mortgage holders holding mortgages on lots which have at least seventy-five percent (75%) of the votes of lots subject to eligible holder mortgages, shall be required to terminate the legal status of the project as a planned unit development project.

(2) The consent of owners of lots to which at least seventy-five percent (75%) of the votes in the Association are allocated and the approval of eligible mortgage holders holding mortgages on lots which have at least fifty-one percent (51%) of the votes of the lots subject to eligible holder mortgages, shall be required to add or amend any material provisions of the project documents which establish, provide for, govern, or regulate any of the following: (i) voting; (ii) assessments, assessment liens or subordination of such liens; (iii) reserves for maintenance, repair and replacement of the common area(s) or lots; (iv) insurance or fidelity bond; (v) rights to use of common areas; (vi) responsibility for maintenance and repair of the several portions of the project; (vii) expansion or contraction of the project or the addition, annexation or withdrawal of property to or from the project (except as provided in paragraph D(1) above; (viii) boundaries of any lot; (ix) the interests in the general or restricted common areas; (x) convertibility of lots into common areas or of common areas into lots; (xi) leasing of lots; (xii) imposition of any right of first refusal or similar restriction on the right of a lot owner to sell, transfer, or otherwise convey his or her lot; (xiii) any provisions which are for the express benefit of mortgage holders, eligible mortgage holders, or eligible insurers or guarantors of first mortgages on lots.

(3) An addition or amendment to such document shall not be considered material if it is for the purpose of correcting technical errors, or for clarification only. An eligible mortgage holder who receives a written request to approve additions or amendments who does not deliver or post to the requesting part a negative response within thirty (30) days shall be deemed to have approved such request.

E. Right of First Refusal: The right of a lot owner to sell, transfer or otherwise convey his or her lot shall not be subject to any right of first refusal or similar restriction.

F. Contracts: Any agreement for professional management of the project, or lease or any other contract providing for services of the developer, sponsor, or builder, may not exceed one (1) year. Any agreement, contract, or lease, including a management contract entered into prior to passage of control of the Board of Directors of the Association to lot purchasers, must provide for termination by either party for cause on thirty (30) days' written

notice, or without cause and without payment of a termination fee or penalty on ninety (90) days' or less written notice.

G. Reserves: Association dues or charges shall include an adequate reserve fund for maintenance, repairs and replacement of those improvements which the Association is obligated to maintain that must be replaced on a periodic basis, and the assessments therefore shall be payable in regular installments rather than by special assessments.

H. Priority of Liens: Any first lender who obtains title to a lot pursuant to the remedies provided in the mortgage or foreclosure of the mortgage will not be liable for such lots unpaid assessments and fees, late charges, fines or interest levied in connection therewith which accrue prior to the acquisition of title to such lot by the mortgagee (except for claims for a pro rata share of such assessments or charges to all project lots including the mortgaged lot, and except for assessment liens recorded prior to the mortgage).

I. Distribution of Insurance or Condemnation Proceeds: No owner, or any other party shall have priority over any rights of first lenders pursuant to their mortgages in the case of a distribution to lot owners of insurance proceeds or condemnation awards for losses to or taking of common area property.

J. Restoration or Repair: Any restoration or repair of the project, after a partial condemnation or damage due to an insurable hazard, shall be performed substantially in accordance with the Declaration and the original plans and specifications, unless other action is approved by eligible mortgage holders holding mortgages on lots which have at least fifty-one percent (51%) of the votes of lots subject to eligible holder mortgages.

K. Termination: Any election to terminate the legal status of the project after substantial destruction of a substantial taking in condemnation of the project property must require the approval of eligible mortgage holders holding mortgages on lots which have at least fifty-one percent (51%) of the votes of lots subject to eligible holder mortgages.

L. Reallocation of Interests: No reallocation of interests in the common areas resulting from a partial condemnation or partial destruction of the project may be affected without the prior approval of eligible mortgage holders holding mortgages on all remaining lots whether existing in whole or in part, and which have at least fifty-one percent (51%) of the votes of such remaining lots subject to eligible holder mortgages.

M. Termination of Professional Management: When professional management has been previously required by any eligible mortgage holder or eligible insurer or guarantor, whether such entity became an eligible mortgage holder or eligible insured or guarantor at that time or later, any decision to establish self management by the Association shall require the prior consent of owners of lots to which at least seventy-five percent (75%) of the votes in the Association are allocated and the approval of eligible mortgage holders holding mortgages on lots which have at least fifty-one percent (51%) of the votes of lots subject to eligible holder mortgages.

N. Payment of Taxes or Insurance by Lenders: First lenders may, jointly or singly, pay taxes or other charges which are in default and which may have become a charge against the common area property and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy, for such common area property and first lenders making such payment provided that said lender(s) have given notice to the Association prior to the making of such payment(s) and the Association has failed to pay the same.

8.6 Owners' Right and Obligation to Maintain and Repair: Except for those portions of the project which the Association is required to maintain and repair, each lot owner shall, at his sole cost and expense, maintain and repair his lot and all improvements thereon, and all landscaping thereon, keeping the same in good condition. In the event an owner of any lot shall fail to maintain his lot and the improvements thereon as required herein, the Association's agents may, after notice and hearing as provided in the Bylaws, enter the lot and perform the necessary maintenance. The cost of such maintenance shall immediately be paid the Association by the owner of such lot, together with interest at the rate of twelve percent (12%)

per annum (but not to exceed the maximum interest rate authorized by law) from the date the cost was incurred by the Association until the date the cost is paid by the owner.

8.7 Damage or Destruction: If an improvement on any lot other than a common area lot is damaged or destroyed by fire or other casualty, the owner of such lot shall repair or reconstruct the improvement in accordance with the original as-built plans and specifications, modified as may be required by applicable building codes and regulations in force at the time of such repair or reconstruction or as authorized by the Architectural Control Committee. The repair or reconstruction shall commence no later than ninety (90) days after the date of such damage or destruction, and shall be completed no later than one hundred eighty (180) days after such date, subject to delays that are beyond the control of the owner. Notwithstanding the foregoing, the owner shall take such steps as may be reasonably required to secure any hazardous conditions resulting from the damage or destruction.

8.8 Condemnation: If all or any part of a lot (except the common area) is taken by eminent domain, the award shall be disbursed to the owner of the lot subject to the rights of the owner's mortgagees. If the taking renders the lot uninhabitable, the owner shall be divested of any further interest in the project, including membership in the Association, and the interests of the remaining owners shall be adjusted accordingly. If all or any parts of the common area is taken by eminent domain, the proceeds of condemnation shall be used to restore or replace the portion of the common area affected by condemnation, if restoration or replacement is possible, and any remaining funds, after payment of any and all fees and expenses incurred by the Association relating to such condemnation, shall be distributed among the owners in the same proportion as such owners are assessed, subject to the rights of mortgagees. If necessary, the remaining portion of the project shall be resurveyed to reflect such taking. The Association shall participate in the negotiations, and shall propose the method of division of the proceeds of condemnation, where lots are not valued separately by the condemning authority or by the court. The Association shall represent lot owners in any condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for acquisition of the common area(s), or part thereof.

8.9 Limitation of Restrictions on Declarant: Declarant is undertaking the work of construction of the subdivision and incidental improvements upon the property. The completion of that work and the sale, rental, and other disposal of lots is essential to the establishment and welfare of said property as a residential community. In order that said work may be completed and said property be established as a fully occupied residential community as rapidly as possible, nothing in this Declaration shall be understood or construed to:

A. Prevent Declarant, its contractors or subcontractors from doing on the property, or any lot, whatever is reasonably necessary or advisable in connection with the completion of said work;

B. Prevent Declarant or its representatives from erecting, constructing and maintaining on the property (except upon lots owned by others), such structures as may be reasonable and necessary for developing said property as a residential community and disposing of the same by sale, lease or otherwise;

C. Prevent Declarant from conducting on the property (except upon lots owned by others) its business of completing said work and of establishing a plan of residential ownership and of disposing of said property in lots by sale, lease or otherwise;

D. Prevent Declarant from maintaining such sign or signs on the property (except upon lots owned by others) as may be necessary for the sale, lease or disposition thereof.

The foregoing rights of Declarant shall terminate upon sale of Declarant's entire interest in the project, or three (3) years after the date of recordation of the deed on the first lot to be sold in the project, whichever occurs first.

So long as Declarant, its successors and assigns, owns one (1) or more of the lots described herein, Declarant, its successors and assigns, shall be subject to the provisions of this Declaration. Declarant shall make reasonable efforts to avoid disturbing the use and enjoyment of lots and the common area by their owners, while completing any work necessary

to said lots or common area.

8.10 Termination of Any Responsibility of Declarant: In the event Declarant shall convey all of its rights, title and interest in and to the property to any partnership, individual or individuals, corporation or corporations, then and in such event, Declarant shall be relieved of the performance of any further duty or obligation hereunder and such partnership, individual or individuals, corporation or corporations, shall be obligated to perform all such duties and obligations of the Declarant.

8.11 Owners Compliance: Each owner, tenant or occupant of a lot shall comply with the provisions of this Declaration, and (to the extent they are not in conflict with the Declaration) the Articles and Bylaws, and the decisions and resolutions of the Association or the Board, as lawfully amended from time to time. Failure to comply with any such provisions, decisions, or resolutions, shall be grounds for an action (1) to recover sums due, (2) for damages, (3) for injunctive relief, (4) for costs and attorney's fees, or (5) for any combination of the foregoing.

All agreements and determinations lawfully made to the Association in accordance with the voting percentages established in this Declaration or the Articles or Bylaws, shall be deemed to be binding on all lot owners, their successors and assigns.

8.12 Notices: Any notice permitted or required by the Declaration, Articles or Bylaws may be delivered either personally or by mail. If delivery is by mail, shall be deemed to have been delivered seventy-two (72) hours after a copy of the same has been deposited in the United States mail, first class or registered, postage prepaid, addressed to the person to be notified at the current address given by such person to the Secretary of the Board or addressed to the residence of such person if no address has been given to the Secretary.

8.13 Fair Housing: No owner shall, either directly or indirectly, forbid or restrict the conveyance, encumbrance, leasing or mortgaging or occupancy of his lot to any person of a specified race, sex, adulthood, marital status, color, religion, ancestry, physical handicap, or national origin.

8.14 FHA/VA Approval: So long as the Federal Housing Administration ("FHA") or the Veterans Administration ("VA") has jurisdiction over any loan secured by a deed of trust on any lot in the project, and as long as there is a Class B membership, the following actions will require the prior approval of the FHA or the VA. Annexation of additional properties or dedication of common area or any amendment to this Declaration.

8.15 Binding Arbitration: In a case of any claim or dispute between the Declarant, its builder, general contractor, or broker, or their agents or employees, on the one hand and any lot owner(s), on the other hand, which claim or dispute relates to the rights and/or duties of the parties under the project documents, or relates to the design or construction of the project or any part thereof (except for disputes relating to alleged common area deficiencies) the procedure shall be as follows: The aggrieved party or parties shall notify the other party or parties of the grievance, in writing. When such notice is received by Declarant, it shall promptly respond with an investigation, inspection, meeting, discussion, or other action reasonably appropriate to the circumstances. Appropriate action shall include, without limitation, prompt communication with the aggrieved party or parties, and a proposed course of action to resolve the problem. All parties involved in the matter shall negotiate in a good faith attempt to amicably resolve the problem. If the parties are unable to resolve the problem within a reasonable period of time (not to exceed ninety (90) days after the first notice of claim or dispute), the matter shall be submitted to binding arbitration pursuant to Washington state law regarding arbitrations; provided that if the dispute or claim involves a sum not in excess of the jurisdictional limit of the Small Claims Court, the lot owner shall have the option of taking the matter to Small Claims Court in lieu of binding arbitration.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has executed this Declaration this _____ day of _____, 2014.

DECLARANTS

STATE OF WASHINGTON)

: ss.

County of Yakima)

I certify that I know or have satisfactory evidence that _____ and _____ are the persons who appeared before me, and said persons acknowledged that they signed this instrument and acknowledged it to be their free and voluntary act for the uses and purposes mentioned in the instrument.

Dated this _____ day of _____, 2014

Print name _____
Notary Public in and for the State of _____

Washington.

My appointment expires: _____
Residing at _____

**ADDENDUM TO
DECLARATION OF COVENANT, CONDITIONS AND RESTRICTIONS
OF WHISPERING VIEW ESTATES**

THIS ADDENDUM made this _____ day of October, 2014, by CARL L. TORKELSON and CANDI R. TORKELSON, hereinafter referred to as "Declarant," is made as an addendum to that certain Declaration of Covenant, Conditions and Restrictions of Whispering View Estates, dated October _____, 2014, and recorded under Yakima County Auditor's File No. _____, hereafter referred to as the "subject CCRs."

The subject CCRs are hereby amended consistent with the following:

The Association shall be, and hereby is, granted an easement in gross over the common areas for the purpose of entering, holding, and maintaining the same in a manner consistent with the establishment and preservation of landscaping throughout the project for the common use and enjoyment of all the Members of the Association in accordance with the rules and regulations adopted by the Association; provided, that said easement in gross is and shall remain subordinate and subject to the terms of paragraph 2.7 of the subject CCRs, entitled "Restricted Common Areas."

The easement created pursuant to this addendum shall be subject to the right of the City of Selah to enforce the same for the retention and maintenance of common open space pursuant to the requirements of Selah Municipal Code sec. 10.24.090, as the same exists on the date hereof.

Terms used herein that are defined in the subject CCRs shall be construed in a manner consistent with the definitions contained in the subject CCRs.

Except as specifically amended herein, the subject CCRs shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has executed this instrument this _____ day of October, 2014.

DECLARANTS

STATE OF WASHINGTON)

: ss.

County of Yakima)

I certify that I know or have satisfactory evidence that _____
_____ and _____ are the persons who
appeared before me, and said persons acknowledged that they signed this instrument and
acknowledged it to be their free and voluntary act for the uses and purposes mentioned in the
instrument.

Dated this _____ day of _____, 2014

Print name _____
Notary Public in and for the State of Washington.
My appointment expires: _____
Residing at _____