Petition to deny Whispering Views Estates

Petition summary and background	The Selah City Council granted Dan Bowers a variance and a short plat to property located at 207 E Goodlander Road. The short plat created eight approximately one half acre lots. The variance that was granted is for a 25' easement for utilities and a 20' private road to serve these lots. Under the short plat, a duplex would be allowed on each of the eight lots. We believe this action restricts the property from further division of parcels.
Action petitioned for	We, the undersigned, are concerned citizens who urge our leaders to act now to now to deny the proposed rezone from R-2 to Planned Development (PD) proposed by Carl Torkelson on the property at 207 E Goodlander Road, that was granted a private road to serve a single duplex on each of eight parcels. The proposed development is for 48 units that do not approximate the surrounding neighborhoods in design or density.

Printed Name	Signature	Address	Comment	Date
Jamie McNeff	Jamie McNeff	121 Frosty La Selah		4/8/15
Jared Hunt	[illegible]	201B Valley View Ave		4/8/15
Allison Simon	Allison Simon	1605 Selah Loop Rd.		4/8/15
Kimberly Willis	[illegible]	300 goose haven Selah Lane Selah		4/8/15
Shannon Lingyn	Shannon Lingyn	205 park Ave		4/8/15
Corina Martin	Corina Martin	710 Gore Road		4/8/15
Ryan Longton	[illegible]	3661 Selah Loop Rd		4-8-15
Hatty T. Miller	[illegible]	205 Olympic Ave	Moxee 98936	4/8/15
Sandy Kruzeski	Sandy Kruzeski	302 N. 9th St.	98942	4/8/15
Michelle Bryant	[illegible]	610 Gore Rd		4/8/15

Petition to deny Whispering Views Estates

Petition summary and background	The Selah City Council granted Dan Bowers a variance and a short plat to property located at 207 E Goodlander Road. The short plat created eight approximately one half acre lots. The variance that was granted is for a 25' easement for utilities and a 20' private road to serve these lots. Under the short plat, a duplex would be allowed on each of the eight lots. We believe this action restricts the property from further division of parcels.
Action petitioned for	We, the undersigned, are concerned citizens who urge our leaders to act now to now to deny the proposed rezone from R-2 to Planned Development (PD) proposed by Carl Torkelson on the property at 207 E Goodlander Road, that was granted a private road to serve a single duplex on each of eight parcels. The proposed development is for 48 units that do not approximate the surrounding neighborhoods in design or density.

Printed Name	Signature	Address	Comment	Date
Christina Vasquez	Christina Vasquez	2545 Speyers Rd	deny	4-11-15
Tami Vasquez	[illegible]	1950 Nagler Rd.		4-11-15
[illegible]	[illegible]	413 So 5th St #A Selah WA 98942		4-11-15
Robert Zeigler	Robert Zeigler	861 Box Canyon Rd		4-11-15
Sheranda Ross	Sheranda Ross	341 E. Goodlander Rd.		4-11-15
Linda L Hoselton	Linda L Hoselton	640 Sheets Rd Yakima		4-11-15
Lonnie Upson	[illegible]	151 LANCASTER RD.		4-11-15
Ann Rogers	Ann Rogers	710 st Rt 821 #82	To Damon appearently NOT	4/11/15
Jean Brest	Jean Brest	1721 Gibson Rd		4-11-15
Randi Parker	[illegible]	902 W. 5th Ave 98942		4/11/15

Petition to deny Whispering Views Estates

Petition summary and background	The Selah City Council granted Dan Bowers a variance and a short plat to property located at 207 E Goodlander Road. The short plat created eight approximately one half acre lots. The variance that was granted is for a 25' easement for utilities and a 20' private road to serve these lots. Under the short plat, a duplex would be allowed on each of the eight lots. We believe this action restricts the property from further division of parcels.
Action petitioned for	We, the undersigned, are concerned citizens who urge our leaders to act now to now to deny the proposed rezone from R-2 to Planned Development (PD) proposed by Carl Torkelson on the property at 207 E Goodlander Road, that was granted a private road to serve a single duplex on each of eight parcels. The proposed development is for 48 units that do not approximate the surrounding neighborhoods in design or density.

Printed Name	Signature	Address	Comment	Date
Sandra Lopez	Sandra Lopez	205 W. Selah Ave		4/11/15
Daniel DeLeon	[illegible]	31 Anderson Rd	Suck it	4/11/15
Tom Hagemann	[illegible]	160 Sona Rd		4-11-15
K Anderson	Kathi Anderson	315 Buchanan Rd.		4-11-15
S Pepper	Sharon Pepper	150 Mc Donagle		4-11-15
Molly Burkett	Molly Burkett	983 N Wenas Rd		4-11-15
Thomas Perry	[illegible]	5580 State Rt 410 Naches		4/11/15
Matt Surginer	[illegible]	63 nagler rd Selah Wa		4/11/15
RON SCOTT	[illegible]	4810 N WENAS RD		4/11/15
Whitney Maxwell	Whitney Maxwell	190 Heron Dr Selah		4/11/15

Petition to deny Whispering Views Estates

Petition summary and background	The Selah City Council granted Dan Bowers a variance and a short plat to property located at 207 E Goodlander Road. The short plat created eight approximately one half acre lots. The variance that was granted is for a 25' easement for utilities and a 20' private road to serve these lots. Under the short plat, a duplex would be allowed on each of the eight lots. We believe this action restricts the property from further division of parcels.
Action petitioned for	We, the undersigned, are concerned citizens who urge our leaders to act now to now to deny the proposed rezone from R-2 to Planned Development (PD) proposed by Carl Torkelson on the property at 207 E Goodlander Road, that was granted a private road to serve a single duplex on each of eight parcels. The proposed development is for 48 units that do not approximate the surrounding neighborhoods in design or density.

Printed Name	Signature	Address	Comment	Date
Gena Oslin	Gena Oslin	3890 N Wenas Rd		4/11/15
Raymond Oslin	Raymond Oslin	3890 N. Wenas Rd.		4-11-15
Gary Thompson	[illegible]	710 W Home Ave		4/11/15
Christie Biggers	Christie Biggers	703 W. Home Ave		4/12/15
Tim Biggers	Tim Biggers	703 W. Home Ave.		4/12/15
Lisa Raap	Lisa Raap	702 W. Home Ave		4/12/15
LuAnn Harris	LuAnn Harris	609 W. Home Ave	Issues of Safety + Traffic Congestion.	4/12/15
Dorothy Morris	Dorothy Morris	607 W. Home Ave		4/12/15
[illegible]	[illegible]	[illegible]		
Rosy Carvo	Rosy Carvo	507 Speyers Rd	Safty Issues	4/12/15
[illegible]	Michael J Olmstock	503 W. Bartlett Ave	Safety Issues	4/12/15

Petition to deny Whispering Views Estates

Petition summary and background	The Selah City Council granted Dan Bowers a variance and a short plat to property located at 207 E Goodlander Road. The short plat created eight approximately one half acre lots. The variance that was granted is for a 25' easement for utilities and a 20' private road to serve these lots. Under the short plat, a duplex would be allowed on each of the eight lots. We believe this action restricts the property from further division of parcels.
Action petitioned for	We, the undersigned, are concerned citizens who urge our leaders to act now to now to deny the proposed rezone from R-2 to Planned Development (PD) proposed by Carl Torkelson on the property at 207 E Goodlander Road, that was granted a private road to serve a single duplex on each of eight parcels. The proposed development is for 48 units that do not approximate the surrounding neighborhoods in design or density.

Printed Name	Signature	Address	Comment	Date
Amber White	Amber White	743 W. Huntzinger Rd		04/11/15
Jaclyn Davis	Jaclyn M. Davis	2100 Freimuth Rd		4/11/15
Elizabeth Bergquist	Elizabeth Bergquist	710 SR 821 #65		4/11/15
Donald Peters	Donald Peters	195 Game Ridge Rd.		4/11/15
Gene A. Mellick	Gene A. Mellick	1301 Wenas Sp. 11		4/11/15
Ray H Roff	Ray Roff	941 Firing Center Rd		4/11/15
Elias Rebollosa	Elias Rebollosa	Selah Loop		4/11/15
Dee Goodall	Dee Goodall	Selah Loop		4/11/15
Tyler Biles	[illegible]	403 Riverview Ave		4/11/15
Richard Vollmer	Richard Vollmer	171 Williams Way		4/11/15

Petition to deny Whispering Views Estates

Petition summary and background	The Selah City Council granted Dan Bowers a variance and a short plat to property located at 207 E Goodlander Road. The short plat created eight approximately one half acre lots. The variance that was granted is for a 25' easement for utilities and a 20' private road to serve these lots. Under the short plat, a duplex would be allowed on each of the eight lots. We believe this action restricts the property from further division of parcels.
Action petitioned for	We, the undersigned, are concerned citizens who urge our leaders to act now to now to deny the proposed rezone from R-2 to Planned Development (PD) proposed by Carl Torkelson on the property at 207 E Goodlander Road, that was granted a private road to serve a single duplex on each of eight parcels. The proposed development is for 48 units that do not approximate the surrounding neighborhoods in design or density.

Printed Name	Signature	Address	Comment	Date
R NAPPER	Ralph Napper	1691 W HOFTZINGER		4/11/2015
Peggy L Bailey	Peggy L Bailey	1130 N. Wenas Ld. #6 Selah		4/11/15
KEN KOBES	Kenneth W. Kobes	" " " "		4/11/15
Yesenia Zuniga	[illegible]	704 W Goodlander Rd		4/11/15
CHRISTINA DOYLE	Christina Doyle	325 E. Goodlander Rd.		4/11/15
Erin Lantrip	Erin C Lantrip	220 Weems way	Stupidity!!!	4/11/15
Dena Cavalier	Dena Cavalier	502 S 5th St		4-11-15
Kenny Graham	Kenneth Graham	502 S 5th St #24		4-11-15
Steve K. Ruiml	[illegible]	PO B 1065 Selah	NOT good	4-11-15
GLORIA FIELD	Gloria Field	130 Kader Lane Selah	NOT NEEDED	4-11-15

Petition to deny Whispering Views Estates

Petition summary and background	The Selah City Council granted Dan Bowers a variance and a short plat to property located at 207 E Goodlander Road. The short plat created eight approximately one half acre lots. The variance that was granted is for a 25' easement for utilities and a 20' private road to serve these lots. Under the short plat, a duplex would be allowed on each of the eight lots. We believe this action restricts the property from further division of parcels.
Action petitioned for	We, the undersigned, are concerned citizens who urge our leaders to act now to now to deny the proposed rezone from R-2 to Planned Development (PD) proposed by Carl Torkelson on the property at 207 E Goodlander Road, that was granted a private road to serve a single duplex on each of eight parcels. The proposed development is for 48 units that do not approximate the surrounding neighborhoods in design or density.

Printed Name	Signature	Address	Comment	Date
Bri Valencourt	Bri Valencourt	606 N 14th St		4/15/15
Ethan Baze	Ethan Baze	404 S 1st St		4/15/15
Cindy Sturgeon	Cindy Sturgeon	121 Selah Nachos		4.15.15
Randi Backer	Randi Backer	554 S. 5th St. #206		4-15-15
Jennifer Grubb	Jennifer Grubb	810 S. 4th St. Up		4.15.15
Jacquie Senn	[illegible]	508 W 2nd St		5.15.15
Nicole Sinker	Nicole Sinker	1001 Goodlander Dr.		5-15-15
Josh Fritts	Josh Fritts	Selah		5-15-15

Petition to deny Whispering Views Estates

Petition summary and background The Selah City Council granted Dan Bowers a variance and a short plat to property located at 207 E Goodlander Road. The short plat created eight approximately one half acre lots. The variance that was granted is for a 25' easement for utilities and a 20' private road to serve these lots. Under the short plat, a duplex would be allowed on each of the eight lots. We believe this action restricts the property from further division of parcels.

Action petitioned for We, the undersigned, are concerned citizens who urge our leaders to act now to now to deny the proposed rezone from R-2 to Planned Development (PD) proposed by Carl Torkelson on the property at 207 E Goodlander Road, that was granted a private road to serve a single duplex on each of eight parcels. The proposed development is for 48 units that do not approximate the surrounding neighborhoods in design or density.

Printed Name	Signature	Address	Comment	Date
MARGE GARCIA	Marge Garcia	312 S. 3RD ST.		4/14/15
LES ZIKLE	Les Zikle	1799 Naches Hights Rd		4/14/15
JAMES B. KASSNER	[illegible]	P.O. BOX 695 SELAH		4/16/15
Jenna Record	Jenna Record	1313 Crusher Canyon Rd		4/16/15
Jim Tums Joann Toms	Jim Tums	10 Viking Dr		5-16-15
Michelle Weaver	Michelle A Weaver	103 Palmer dr		5-16-15
Kristin Boettcher	Kristin Boettch	P.O. Box 262		5-16-15
Kelley Berriman	Kelley Berriman	2102 Selah Loop Rd		5-16-15
Miranda Tousley	Miranda Tousley	802 Hillview ave		5/16/15

Petition to deny Whispering Views Estates

Petition summary and background	The Selah City Council granted Dan Bowers a variance and a short plat to property located at 207 E Goodlander Road. The short plat created eight approximately one half acre lots. The variance that was granted is for a 25' easement for utilities and a 20' private road to serve these lots. Under the short plat, a duplex would be allowed on each of the eight lots. We believe this action restricts the property from further division of parcels.
Action petitioned for	We, the undersigned, are concerned citizens who urge our leaders to act now to now to deny the proposed rezone from R-2 to Planned Development (PD) proposed by Carl Torkelson on the property at 207 E Goodlander Road, that was granted a private road to serve a single duplex on each of eight parcels. The proposed development is for 48 units that do not approximate the surrounding neighborhoods in design or density.

Printed Name	Signature	Address	Comment	Date
Paul Swanson	[illegible]	1700 Cedar Lane		5-16-15
[illegible]	[illegible]	4010 [illegible]	Torkelson is Evil	5-17-15
Elizabeth Myers	Elizabeth Myers	1060 W. Huntzinger Rd.		5-16-15
ERIK HOREATICO	[illegible]	1409 JESICA DRIVE		5/16/15
Diana Flores	[illegible]	502 South 5th St Apt 7		5/16/15
Nicolas lopez	Nicolas lopez	337 E GOODLANDER RD	NO	5/16/15
Karen Cooney	Karen Cooney	7610 W Nob Hill Blvd		5/16/15
Theresa McBride	Theresa McBride	340 BAKER Rd		5/16/15
Jennifer Quigley	Jennifer Quigley	1701 Heritage Hills Drive		5/16/15
Susan Graf	[illegible]	303 Sherlyn Dr		5/16/15

Petition to deny Whispering Views Estates

Petition summary and background	The Selah City Council granted Dan Bowers a variance and a short plat to property located at 207 E Goodlander Road. The short plat created eight approximately one half acre lots. The variance that was granted is for a 25' easement for utilities and a 20' private road to serve these lots. Under the short plat, a duplex would be allowed on each of the eight lots. We believe this action restricts the property from further division of parcels.
Action petitioned for	We, the undersigned, are concerned citizens who urge our leaders to act now to now to deny the proposed rezone from R-2 to Planned Development (PD) proposed by Carl Torkelson on the property at 207 E Goodlander Road, that was granted a private road to serve a single duplex on each of eight parcels. The proposed development is for 48 units that do not approximate the surrounding neighborhoods in design or density.

Printed Name	Signature	Address	Comment	Date
Anna Feise	Anna Feise	810 N. 6th Ave 98902 #104 Yakima, Wa		5/16/15
JAMES M. BAKER	[illegible]	110 KINNE LN. SELAH WA.		5/16/15
Jo McGuire	[illegible]	90 McGuire Lane Selah Wa	Please Stop	5/16/15
Mary Duren	[illegible]	80 Buchanan Rd Selah		5/16/15
Lynne Alvord	Lynne Alvord	901 W 7th Ave Selah		5/16/15
Jerry Stark	Jerry Stark	209 W 5th St.	No way	5/16/15
Apolonio Villarreal	Apolonio Villarreal	209 N. 5th St Apt C		5/16/15
Noel Gonzalez	[illegible]	261 Gore Rd.	You got to stop man.	5/16/15
Marcel	[illegible]	207 E Nacches Ave Selah		5/16/15
JOLENE AVELIS	[illegible]	1600 N. WENAS Rd		5/16/15

Petition to deny Whispering Views Estates

Petition summary and background	The Selah City Council granted Dan Bowers a variance and a short plat to property located at 207 E Goodlander Road. The short plat created eight approximately one half acre lots. The variance that was granted is for a 25' easement for utilities and a 20' private road to serve these lots. Under the short plat, a duplex would be allowed on each of the eight lots. We believe this action restricts the property from further division of parcels.
Action petitioned for	We, the undersigned, are concerned citizens who urge our leaders to act now to now to deny the proposed rezone from R-2 to Planned Development (PD) proposed by Carl Torkelson on the property at 207 E Goodlander Road, that was granted a private road to serve a single duplex on each of eight parcels. The proposed development is for 48 units that do not approximate the surrounding neighborhoods in design or density.

Printed Name	Signature	Address	Comment	Date
[illegible]	[illegible]	3271 S. Naches Rd	Good Idea	
Monica DeLeon	Monica DeLeon	413 N. 31st Ave, Ya[illegible]		
David Aldesson	David Aldesson	1400 N 1st street Yakima		
Lynda Birmingham	Lynda Birmingham	320 Clemans View Rd	Need 5r Living Area	5/16/15
Sabrina Berry	[illegible]	220 Taylor loop Rd		5/16/15
Ashley Resler	[illegible]	2126 S. 67th Ave	Great Idea	5-16-15
Amy Manning	Amy Manning	612 S. 1st St. #13 Selah	Great Idea	5-16-15
Pete Rippinger	[illegible]	50 Lucky Lane		5/16/15
Magen Holgate	Magen Holgate	5 S. 8th St.		5/16/15
AARON Cockrum	[illegible]	618 S. 69TH AVE		5/16/15

Petition to deny Whispering Views Estates

Petition summary and background	The Selah City Council granted Dan Bowers a variance and a short plat to property located at 207 E Goodlander Road. The short plat created eight approximately one half acre lots. The variance that was granted is for a 25' easement for utilities and a 20' private road to serve these lots. Under the short plat, a duplex would be allowed on each of the eight lots. We believe this action restricts the property from further division of parcels.
Action petitioned for	We, the undersigned, are concerned citizens who urge our leaders to act now to now to deny the proposed rezone from R-2 to Planned Development (PD) proposed by Carl Torkelson on the property at 207 E Goodlander Road, that was granted a private road to serve a single duplex on each of eight parcels. The proposed development is for 48 units that do not approximate the surrounding neighborhoods in design or density.

Printed Name	Signature	Address	Comment	Date
Marcos Evans	Marcos Evans	1111 Washington Ave	Stop it	5-16-15
Larry Tracy	[illegible]	690 Gunn Rd	Stop	5-16-15
Garrett Kincaid	Garrett Kincaid	1108 W Home Ave	Stop it	5/16/15
Jason Clark	[illegible]	603 N 2nd ST Yakima WA	Our community does not need this type of growth	5/16/15
Cecil Mader	[illegible]	213 Sycamore ST		5/16/15
David Ruck	[illegible]	1201 Heritage Hills Dr	Stop it	5/17/15
Caleb Brotherton	[illegible]	8 North 3rd st.	Please Don't	5/17/15
Jesse Radillo	[illegible]	995 Gibson Rd Selah		5/17/15
Cynthia Davis	Cynthia Davis	251 Adobe Way, Selah		5-17-15
Leanna Lydon	[illegible]	2260 N. Wenas Rd		5-17-15

Petition to deny Whispering Views Estates

Petition summary and background	The Selah City Council granted Dan Bowers a variance and a short plat to property located at 207 E Goodlander Road. The short plat created eight approximately one half acre lots. The variance that was granted is for a 25' easement for utilities and a 20' private road to serve these lots. Under the short plat, a duplex would be allowed on each of the eight lots. We believe this action restricts the property from further division of parcels.
Action petitioned for	We, the undersigned, are concerned citizens who urge our leaders to act now to now to deny the proposed rezone from R-2 to Planned Development (PD) proposed by Carl Torkelson on the property at 207 E Goodlander Road, that was granted a private road to serve a single duplex on each of eight parcels. The proposed development is for 48 units that do not approximate the surrounding neighborhoods in design or density.

Printed Name	Signature	Address	Comment	Date
John Grams	[illegible]	1007 University Park Way		5/16/15
Samantha Grams	Samantha Grams	1007 University Pkwy		5/16/15
Derek Stout	Derek Stout	15 N. 1st Street		5/16/15
Willie Nickerson	[illegible]	3275 S. Naches Rd Naches WA 98937		5/16/15
Carrie Green	[illegible]	Moxee		5-16-15
Muriel Cort	[illegible]	4009 Pine Rd Edmonds Wa 98902		5-16-15
Melissa DeLeon	[illegible]	413 N. 31st Ave, Yakima		5-16-15
Jessica Glease	[illegible]	25423 Cumberland Blanchard WA		5/16/15
Michael Kesler	[illegible]	400 Lynwood Ln Selah WA		5/16/15
Cutty Cantrell	Cutty Cantrell	618 S. 109th Ave Yakima WA		5/16/15

Petition to deny Whispering Views Estates

Petition summary and background	The Selah City Council granted Dan Bowers a variance and a short plat to property located at 207 E Goodlander Road. The short plat created eight approximately one half acre lots. The variance that was granted is for a 25' easement for utilities and a 20' private road to serve these lots. Under the short plat, a duplex would be allowed on each of the eight lots. We believe this action restricts the property from further division of parcels.
Action petitioned for	We, the undersigned, are concerned citizens who urge our leaders to act now to now to deny the proposed rezone from R-2 to Planned Development (PD) proposed by Carl Torkelson on the property at 207 E Goodlander Road, that was granted a private road to serve a single duplex on each of eight parcels. The proposed development is for 48 units that do not approximate the surrounding neighborhoods in design or density.

Printed Name	Signature	Address	Comment	Date
RYAN BABAT		80 COLUMBUS WAY		4.10.15
Tiffany Babat	T Babat	80 Columbus Way		4-10-15
MIGUEL BALDERAS	Miguel Balderas	702 S. 4th. SELAH		5/16/15
Isaac Smith		501 N. 14th.		5/16/15
Robin Sopher	Robin Sopher	2040 Pleasant Hill Rd		5/16/15
Constance Pady		8012 N. 4th Apt 49 Yakima		5/16/15
John Harper		904 Cascade Dr. Selah 98942		5-16-15
Ron Johnson	Ron Johnson	2651 Speyers Rd Selah, WA. 98942		5-16-15
Esther Wells		~~2101 McPherson~~ P.O. Box 1052 Selah, WA 98942		5-16-15
Gerald Schmidt		401 Parish Rd		5/16/15

Petition to deny Whispering Views Estates

Petition summary and background	The Selah City Council granted Dan Bowers a variance and a short plat to property located at 207 E Goodlander Road. The short plat created eight approximately one half acre lots. The variance that was granted is for a 25' easement for utilities and a 20' private road to serve these lots. Under the short plat, a duplex would be allowed on each of the eight lots. We believe this action restricts the property from further division of parcels.
Action petitioned for	We, the undersigned, are concerned citizens who urge our leaders to act now to now to deny the proposed rezone from R-2 to Planned Development (PD) proposed by Carl Torkelson on the property at 207 E Goodlander Road, that was granted a private road to serve a single duplex on each of eight parcels. The proposed development is for 48 units that do not approximate the surrounding neighborhoods in design or density.

Printed Name	Signature	Address	Comment	Date
Consuelo Cuevas	Consuelo Cuevas	301 N 10th st selah WA 98942	NO	4/14
Andrea Chacon	[illegible]	301 N 10th st selah WA 98942	NO	4/14
David Lemmon	[illegible]	318 S. 1st St. Selah	NO	4-15-15
Kris M Clark	Kris M Clark	316 S 1st St Selah	Laws are laws NO ONE Should be above them	4-15.15
Natte Mills	[illegible]	316 S 1st Selah	no	4/15/15
Kim Cohn	Kim Cohn	506 Sunrise Pl.	No	4/15/15
Lacata Peace	Lacata Peace	1749 Reservoir Loop	—	4.15.15
Sandy [illegible]	Sandy [illegible]	141 wenas way		4-15-15
Rick Fowler	Rick Fowler	141 Wenas way		4-15-15
Lorraine Fowler	Lorraine [illegible]	131 Wenas # 138-A		4-15-15

Petition to deny Whispering Views Estates

Petition summary and background	The Selah City Council granted Dan Bowers a variance and a short plat to property located at 207 E Goodlander Road. The short plat created eight approximately one half acre lots. The variance that was granted is for a 25' easement for utilities and a 20' private road to serve these lots. Under the short plat, a duplex would be allowed on each of the eight lots. We believe this action restricts the property from further division of parcels.
Action petitioned for	We, the undersigned, are concerned citizens who urge our leaders to act now to now to deny the proposed rezone from R-2 to Planned Development (PD) proposed by Carl Torkelson on the property at 207 E Goodlander Road, that was granted a private road to serve a single duplex on each of eight parcels. The proposed development is for 48 units that do not approximate the surrounding neighborhoods in design or density.

Printed Name	Signature	Address	Comment	Date
Joyce Furstenau	Joyce M Furstenau	1851 Nagler Rd, Selah		4/8/15
Kathy Currier	Kathy Currier	346 Ray Symmonds		4/8/15
Bob Currier	Bob Currier	346 Ray Symmonds		4/8/15
PAT A King	Patricia A King	5771 N. Wenas Rd		
Terri Bertelsen	Terri Bertelsen	1801 Nagler Rd		4.15.15
Steve Bertelsen	Steve Bertelsen	1801 Nagler Rd		4-15-15
Carol Sharp (Carol Sharp)	Carol A ~~Loop~~ Sharp	981 Selah Loop Rd		4-15-15
TIM McDONALD	[illegible]	109 W GOODLANDER RD		
MORGAN ANDERSON	[illegible]	63 Lyle Ave Selah		4-15-15

Petition to deny Whispering Views Estates

Petition summary and background	The Selah City Council granted Dan Bowers a variance and a short plat to property located at 207 E Goodlander Road. The short plat created eight approximately one half acre lots. The variance that was granted is for a 25' easement for utilities and a 20' private road to serve these lots. Under the short plat, a duplex would be allowed on each of the eight lots. We believe this action restricts the property from further division of parcels.
Action petitioned for	We, the undersigned, are concerned citizens who urge our leaders to act now to now to deny the proposed rezone from R-2 to Planned Development (PD) proposed by Carl Torkelson on the property at 207 E Goodlander Road, that was granted a private road to serve a single duplex on each of eight parcels. The proposed development is for 48 units that do not approximate the surrounding neighborhoods in design or density.

Printed Name	Signature	Address	Comment	Date
AL Henderson	Al Henderson	110 Elby Lane Selah	Follow the rules	4-11-15
Ken Blehm	Ken Blehm	91 Lorry Ln Selah	Torkelson Does not Have To Comply?	4-14-15
PAT ROGGE	Pat Rogge	222 Lancaster Rd	this whole project is very poorly planned	4-15-15
D.W. Rogge	DW Rogge	222 Lancaster Rd	- not a good plan!	4-15-15
Kathleen Fountaine	Kathleen Fountaine	510 Southern Ave Selah	Disgraceful Development	4/15/15
Lidia Anderson	Lidia Anderson	63 Lyle Ave Selah	comply as I would have to comply	4/15/15

Petition to deny Whispering Views Estates

Petition summary and background	The Selah City Council granted Dan Bowers a variance and a short plat to property located at 207 E Goodlander Road. The short plat created eight approximately one half acre lots. The variance that was granted is for a 25' easement for utilities and a 20' private road to serve these lots. Under the short plat, a duplex would be allowed on each of the eight lots. We believe this action restricts the property from further division of parcels.
Action petitioned for	We, the undersigned, are concerned citizens who urge our leaders to act now to now to deny the proposed rezone from R-2 to Planned Development (PD) proposed by Carl Torkelson on the property at 207 E Goodlander Road, that was granted a private road to serve a single duplex on each of eight parcels. The proposed development is for 48 units that do not approximate the surrounding neighborhoods in design or density.

Printed Name	Signature	Address	Comment	Date
Philip Volland	Philip Volland	404 S. 1st St. #1 98942	TRAFFIC SAFETY CONGESTION ISSUES	4-12-15
C.L. Grubbs	C L Grubbs	351 LANCASTER SELAH 98942	" "	4-12-15
Pamela McSloy	Pamela McSloy	282 Lancaster Rd Selah 98942	same as above.	4/14/15
Ray Yocom	[illegible]	282 Lancaster Rd Selah WA 98942	Existing infrastructure does not support this high density	4/14/15
Nancy Volland	Nancy Volland	286 Lancaster Rd. Selah	over crowded schools safety congested area	4-15-15
Tina Standfill	Tina Standfill	151 Thurlin Rd.	already bad Traffic & Safety issues.	4-11-15
Jim Martin	Jim Martin	280 LANCASTER Rd	TRAFIC PUBLIC SAFETY	4-11-15
SHERRY GRUBBS	Sherry Grubbs	351 Lancaster Rd	Traffic & congestion	4-15-15

Petition to deny Whispering Views Estates

Petition summary and background	The Selah City Council granted Dan Bowers a variance and a short plat to property located at 207 E Goodlander Road. The short plat created eight approximately one half acre lots. The variance that was granted is for a 25' easement for utilities and a 20' private road to serve these lots. Under the short plat, a duplex would be allowed on each of the eight lots. We believe this action restricts the property from further division of parcels.
Action petitioned for	We, the undersigned, are concerned citizens who urge our leaders to act now to now to deny the proposed rezone from R-2 to Planned Development (PD) proposed by Carl Torkelson on the property at 207 E Goodlander Road, that was granted a private road to serve a single duplex on each of eight parcels. The proposed development is for 48 units that do not approximate the surrounding neighborhoods in design or density.

Printed Name	Signature	Address	Comment	Date
Kristina Renner	[illegible]	1122 Tibbling Rd Selah		4/8/15
DIANE UNDERWOOD	D. L. Underwood	402 No 9th St. Selah	Traffic Congestion - Safety Issues - Fire/Gas Explosion -	4.8.15
ABDUL MAROOF	[illegible]	402 No 9th St Selah	Usally & Issues Fire/gas Traffic.	4-8-15
Judy Russell	Judy M Russell	310 N 9th Street	This is wrong for our School & citizens	4-15-15
Lee Russell	Lee Russell	310 N. 9th Street	to close to School to Close traffic	4-15-15
MAUREEN RICHARDSON	Richardson	809 W. Home Ave	TO MANY TO CLOSE	4/15/2015
Roger Floyd	Roger Floyd	220 Lancaster		4-15-15
CAROL Floyd	Carol Floyd	220 Lancaster Rd	Traffic Problem	4-15-15

Petition to deny Whispering Views Estates

Petition summary and background	The Selah City Council granted Dan Bowers a variance and a short plat to property located at 207 E Goodlander Road. The short plat created eight approximately one half acre lots. The variance that was granted is for a 25' easement for utilities and a 20' private road to serve these lots. Under the short plat, a duplex would be allowed on each of the eight lots. We believe this action restricts the property from further division of parcels.
Action petitioned for	We, the undersigned, are concerned citizens who urge our leaders to act now to now to deny the proposed rezone from R-2 to Planned Development (PD) proposed by Carl Torkelson on the property at 207 E Goodlander Road, that was granted a private road to serve a single duplex on each of eight parcels. The proposed development is for 48 units that do not approximate the surrounding neighborhoods in design or density.

Printed Name	Signature	Address	Comment	Date
~~David~~ David G. Smith	[illegible]	181 Perry Way Yakima, WA 98901		4/12/15
Reta Jump	Reta Jump	1410 McGonagle Rd Selah, WA 98942		4/12/15
Ray Jump	Ray Jump	1410 McGonagle Rd Selah wa		4/12/15
Todd Guldjord	Todd Guldjord	930 Redtail Road Yakima WA 98908		4/12/15

Petition to deny Whispering Views Estates

Petition summary and background	The Selah City Council granted Dan Bowers a variance and a short plat to property located at 207 E Goodlander Road. The short plat created eight approximately one half acre lots. The variance that was granted is for a 25' easement for utilities and a 20' private road to serve these lots. Under the short plat, a duplex would be allowed on each of the eight lots. We believe this action restricts the property from further division of parcels.
Action petitioned for	We, the undersigned, are concerned citizens who urge our leaders to act now to now to deny the proposed rezone from R-2 to Planned Development (PD) proposed by Carl Torkelson on the property at 207 E Goodlander Road, that was granted a private road to serve a single duplex on each of eight parcels. The proposed development is for 48 units that do not approximate the surrounding neighborhoods in design or density.

Printed Name	Signature	Address	Comment	Date
Willie Morris	Willie R. Morris	100 Weems Way		4/13/15
Delma Morris	Delma Morris	100 Weems Way		4/13/15
Rick Fowler	[illegible]	141 Weems Way		4/13/15
Ron Caldwell	Ronald E. Caldwell	130 Weems Way		4/15/2015
Lisa Freeze	Lisa Freeze	1116 Collins Rd		4/15/15
Dianne Caldwell	Dianne Caldwell	130 Weems Way		4/15/15
Ron Anderson	Ron Anderson	120 Heslow Dr		4/15/15
Louise A Worley	Louise A. Worley	200 Weems Way		4/15/15

Petition to deny Whispering Views Estates

Petition summary and background	The Selah City Council granted Dan Bowers a variance and a short plat to property located at 207 E Goodlander Road. The short plat created eight approximately one half acre lots. The variance that was granted is for a 25' easement for utilities and a 20' private road to serve these lots. Under the short plat, a duplex would be allowed on each of the eight lots. We believe this action restricts the property from further division of parcels.
Action petitioned for	We, the undersigned, are concerned citizens who urge our leaders to act now to now to deny the proposed rezone from R-2 to Planned Development (PD) proposed by Carl Torkelson on the property at 207 E Goodlander Road, that was granted a private road to serve a single duplex on each of eight parcels. The proposed development is for 48 units that do not approximate the surrounding neighborhoods in design or density.

Printed Name	Signature	Address	Comment	Date
Emily Eaton	[illegible]	73 Lancaster Rd. Selah, Wa.	They are an eye sore to the community	4-15-15
Jinnae Lindner	[illegible]	630 Quail Ct. Selah	Build something more attractive	4-15-15
Brianna St. Hilaire	[illegible]	1103 Speyers Road, Selah	Worried about school overflow & class size	4/15/15
Risa Miller	[illegible]	240 BAKER RD.	Rental Schools Low income	4/15/15
Lindsey Vaagen	[illegible]	573 McPherson Ln.	Lack of attention & consideration of neighbors. Overcrowds school	4-15-15

Petition to deny Whispering Views Estates

Petition summary and background	The Selah City Council granted Dan Bowers a variance and a short plat to property located at 207 E Goodlander Road. The short plat created eight approximately one half acre lots. The variance that was granted is for a 25' easement for utilities and a 20' private road to serve these lots. Under the short plat, a duplex would be allowed on each of the eight lots. We believe this action restricts the property from further division of parcels.
Action petitioned for	We, the undersigned, are concerned citizens who urge our leaders to act now to now to deny the proposed rezone from R-2 to Planned Development (PD) proposed by Carl Torkelson on the property at 207 E Goodlander Road, that was granted a private road to serve a single duplex on each of eight parcels. The proposed development is for 48 units that do not approximate the surrounding neighborhoods in design or density.

Printed Name	Signature	Address	Comment	Date
Lisa Gordon	[illegible]	90 Columbus Way Selah	This is irresponsible development. It should be stopped!	4/7/15
David Gordon	[illegible]	90 Columbus Way Selah	please Develop responsibly LISTEN	4/7/15
Calie Gordon	Calie Gordon	90 Columbus Way		4/7/15
Cordae Gordon	Cordae E.G.	90 Columbus Way		4/7/15
Cambree Gordon	Ca m b R	90 Columbus Way		4/7/15
Chloe Gordon	Chloe Gordon	90 Columbus Way		4/7/15
Bill Hogan	[illegible]	260 E. Pomona Rd	irresponsible	4/8/15
Owen Wandmaker	[illegible]	521 Ames Rd.		4/8/15
Marvis Huck	Marvis Huck	102 N 8th Street	You don't need places on every piece of property in Selah	4/9/15
Nick Brown	[illegible]	850 Ames Rd		4/9/15

U

Petition to deny Whispering Views Estates

Petition summary and background	The Selah City Council granted Dan Bowers a variance and a short plat to property located at 207 E Goodlander Road. The short plat created eight approximately one half acre lots. The variance that was granted is for a 25' easement for utilities and a 20' private road to serve these lots. Under the short plat, a duplex would be allowed on each of the eight lots. We believe this action restricts the property from further division of parcels.
Action petitioned for	We, the undersigned, are concerned citizens who urge our leaders to act now to now to deny the proposed rezone from R-2 to Planned Development (PD) proposed by Carl Torkelson on the property at 207 E Goodlander Road, that was granted a private road to serve a single duplex on each of eight parcels. The proposed development is for 48 units that do not approximate the surrounding neighborhoods in design or density.

Printed Name	Signature	Address	Comment	Date
Cheryl Natland	Cheryl Natland	9 S. 10th ST. Selah	This will cause a big traffic problem	4/10/2015
Tani Fullerton	Tani Fullerton	2320 N Wenas Rd Selah	Traffic Issues	4/11/15
Mark Fullerton	[illegible]	" " " " "	STUPID	4/11/15
Haylor Fullerton	Haylor Fullerton	2320 N Wenas Rd Selah		4/11/15
Ted Trapp	Ted Trapp	1705 W. Yakima Ave Selah		4/11/15
Dana Trapp	Dana Trapp	1705 W. Yakima Ave Selah	as compatable as turds in a punch bowl	4/11/15
DAVID SEAL	David Seal	1241 SELAH LOOP RD	UGLY TRAFFIC IS BAD	4/14/15
Tim Aberle	[illegible]	10 Reynolds Lane	Too much Traffic Winter will be bad	4/15/15
Eileen Kappenman	Eileen Kappenman	207 W Goodlander Rd	No More Building here	4/15/15
Jerry Kappenman	Jerry Kappenman	207 W Goodlander Rd	Ugly —	4/15/15

Petition to deny Whispering Views Estates

Petition summary and background	The Selah City Council granted Dan Bowers a variance and a short plat to property located at 207 E Goodlander Road. The short plat created eight approximately one half acre lots. The variance that was granted is for a 25' easement for utilities and a 20' private road to serve these lots. Under the short plat, a duplex would be allowed on each of the eight lots. We believe this action restricts the property from further division of parcels.
Action petitioned for	We, the undersigned, are concerned citizens who urge our leaders to act now to now to deny the proposed rezone from R-2 to Planned Development (PD) proposed by Carl Torkelson on the property at 207 E Goodlander Road, that was granted a private road to serve a single duplex on each of eight parcels. The proposed development is for 48 units that do not approximate the surrounding neighborhoods in design or density.

Printed Name	Signature	Address	Comment	Date
Clelan Terry	Clelan Terry	50 Columbus Way-Selah	do not approximate the surrounding homes	4-8-15
Jan Terry	Jan Terry	50 Columbus Way Selah	This development does not fit surrounding homes	Apr. 8, 2015
Tom Widick	Tom Widick	2051 SELAH LOOP	DONT NEED IT	4-8-2015
Adele Kilseiner	Adele Kilseiner	330 Rankin Rd.	development does not fit neighborhood.	4/8/15
Brooke Vetsch	Brooke Vetsch	10 Denny Ave Naches WA	does not fit in the neighborhood	4/9/15
Bob Nelson	Bob Nelson	706 Terry Lane Selah	No -	
Darrell Robertson	Darrell Robertson	707 Terry Lane Selah	Bad traffic issues will result	4/9/15
Judy Robertson	Robertson	707 Terry Lane Selah		4/9/15
James Brownlee	Jas C Brownlee	708 Terry Lane Selah		4/9/15
Marilyn Nelson	Marilyn Nelson	706 Terry Lane-Selah	Not appropriate for neighborhood	4/9/15

Petition to deny Whispering Views Estates

Petition summary and background	The Selah City Council granted Dan Bowers a variance and a short plat to property located at 207 E Goodlander Road. The short plat created eight approximately one half acre lots. The variance that was granted is for a 25' easement for utilities and a 20' private road to serve these lots. Under the short plat, a duplex would be allowed on each of the eight lots. We believe this action restricts the property from further division of parcels.
Action petitioned for	We, the undersigned, are concerned citizens who urge our leaders to act now to now to deny the proposed rezone from R-2 to Planned Development (PD) proposed by Carl Torkelson on the property at 207 E Goodlander Road, that was granted a private road to serve a single duplex on each of eight parcels. The proposed development is for 48 units that do not approximate the surrounding neighborhoods in design or density.

Printed Name	Signature	Address	Comment	Date
Sara Bicsak	Sara Bicsak	Selah 201 Poplar Lane		4/8/15
Linda McKee	[illegible]	309 Sherlyn Dr		4/8/15
Kathy Kester	Kester, Kathy	60 Lorry Lane		4-8-15
Lorie Ayres	Lorie Ayres	60 Lorry Lane		4-8-15
JoAnn Larson	JoAnn Larson	9 Viking Dr		4-8-15
Sister Campiese	Tori Campiese	60 Lorry Lane		4/03/15
Sister Crofts	[illegible]	60 Lorry lane		4-8-15
Michael Ritch	Michael D. Ritch	51 Herlan Pl.		4-8-15
Robert Newell	Robert Newell	9 Viking Drive	Torkelson does not represent our city.	4-11-15
Judy Henderson	Judy Henderson	110 Elby Ln		4-11-15

Petition to deny Whispering Views Estates

Petition summary and background	The Selah City Council granted Dan Bowers a variance and a short plat to property located at 207 E Goodlander Road. The short plat created eight approximately one half acre lots. The variance that was granted is for a 25' easement for utilities and a 20' private road to serve these lots. Under the short plat, a duplex would be allowed on each of the eight lots. We believe this action restricts the property from further division of parcels.
Action petitioned for	We, the undersigned, are concerned citizens who urge our leaders to act now to now to deny the proposed rezone from R-2 to Planned Development (PD) proposed by Carl Torkelson on the property at 207 E Goodlander Road, that was granted a private road to serve a single duplex on each of eight parcels. The proposed development is for 48 units that do not approximate the surrounding neighborhoods in design or density.

Printed Name	Signature	Address	Comment	Date
Shelly Friedrich	Shelly Friedrich	509 Lacey Ave Selah		4/9/15
Emma Friedrich	Emma Friedrich	66 Lancaster Rd	traffic is going to be a problem	4-10-15
Jose L. Palacios	[illegible]	305 E. Goodlander Rd.		4/13/15
Kacie Sears	[illegible]	309 E. Goodlander Rd		4/13/15
Dorthy Kilpatrick	Dorthy Kilpatrick	313 E. Goodlander Rd	too congested now	4/13/15
Calvin Kilpatrick	Calvin Kilpatrick	313 E Goodlander Rd.		4/13/15
Jason Hartline	[illegible]	80 Lancaster Rd		4/13/15
Fidel Montes	[illegible]	41 Lancaster Rd		4/13/15
Sergio Gutierrez	Sergio Gtz	50 Lancaster	I honestly think we need to have better and wide roads first	4/13/15
Paul Wangler	Paul W Wangler	301 Goodlander		4/13/15

Petition to deny Whispering Views Estates

Petition summary and background	The Selah City Council granted Dan Bowers a variance and a short plat to property located at 207 E Goodlander Road. The short plat created eight approximately one half acre lots. The variance that was granted is for a 25' easement for utilities and a 20' private road to serve these lots. Under the short plat, a duplex would be allowed on each of the eight lots. We believe this action restricts the property from further division of parcels.
Action petitioned for	We, the undersigned, are concerned citizens who urge our leaders to act now to now to deny the proposed rezone from R-2 to Planned Development (PD) proposed by Carl Torkelson on the property at 207 E Goodlander Road, that was granted a private road to serve a single duplex on each of eight parcels. The proposed development is for 48 units that do not approximate the surrounding neighborhoods in design or density.

Printed Name	Signature	Address	Comment	Date
Mary R. Johnson	Mary R. Johnson	308 N 10th St Selah, WA 98942	Keep our town safe Protect Home owner rights	4-7-15
Aleisha M. Hoy	Aleisha M Hoy	308 N 10th St Selah WA. 98942		4-7-15
Aimee Eblin	[illegible]	806 W. HOME AVE SELAH, WA 98942	who's going to pay for new Schools?	4-7-15
Warren Lucas	Warren Lucas	804 W. Home Ave Selah WA 98942		4-7-15
Amy Lucas	[illegible]	804 W. Home Ave Selah, WA 98942		4-7-15
Kelly Hede	Kelly Hede	802 W. Home Ave Selah, WA 98942		4-7-15
Janet Hede	Janet Hede	802 W. Home Ave Selah, WA 98942	the money to build could be use to better use for my grandkids	4-7-15
Marcie Wyle	Marcie Wyle	801 W Home Ave Selah 98942		4-7-15
Kaleen Nichols	[illegible]	711 W Home Ave Selah 98942		4-7-15
Janet Ries	Janet Ries	711 W Home Ave Selah		4-7-15

Petition to deny Whispering Views Estates

Petition summary and background	The Selah City Council granted Dan Bowers a variance and a short plat to property located at 207 E Goodlander Road. The short plat created eight approximately one half acre lots. The variance that was granted is for a 25' easement for utilities and a 20' private road to serve these lots. Under the short plat, a duplex would be allowed on each of the eight lots. We believe this action restricts the property from further division of parcels.
Action petitioned for	We, the undersigned, are concerned citizens who urge our leaders to act now to now to deny the proposed rezone from R-2 to Planned Development (PD) proposed by Carl Torkelson on the property at 207 E Goodlander Road, that was granted a private road to serve a single duplex on each of eight parcels. The proposed development is for 48 units that do not approximate the surrounding neighborhoods in design or density.

Printed Name	Signature	Address	Comment	Date
Loren Lyons	[illegible]	Selah WA 807 W Home Ave		4/7/2015
CAROL LYONS	Carol A. Lyons	807 W. HOME AVE SELAH		4-7-15
Paul Sattler	Paul Sattler	808 W Home Ave Selah		4-7-15
DEWIN HOY	[illegible]	803 W Home Ave SELAH WA.	UNREASONABLE	4/7/15
Shirley Johnson Hoy	Shirley Johnson Hoy	808 W. Home Ave Selah Wa	unsafe use of space MISSUSE OF OUR CITY ZONE	4/7/15
mikel Perez	mikel Perez	50 Rome RD.		4/7/15
Gena Dapk	[illegible]	71 Kime Ln. Selah Wa.		4-7-15
Nami Webb	[illegible]	305 S 3rd St. B Selah		4-7-15
Haley Arrington	Haley Arrington	1001 Goodlander Dr.		4/7/15
Alec Johnson	[illegible]	3260 South Wenas Rd		4/7/15

Petition to deny Whispering Views Estates

Petition summary and background	The Selah City Council granted Dan Bowers a variance and a short plat to property located at 207 E Goodlander Road. The short plat created eight approximately one half acre lots. The variance that was granted is for a 25' easement for utilities and a 20' private road to serve these lots. Under the short plat, a duplex would be allowed on each of the eight lots. We believe this action restricts the property from further division of parcels.
Action petitioned for	We, the undersigned, are concerned citizens who urge our leaders to act now to now to deny the proposed rezone from R-2 to Planned Development (PD) proposed by Carl Torkelson on the property at 207 E Goodlander Road, that was granted a private road to serve a single duplex on each of eight parcels. The proposed development is for 48 units that do not approximate the surrounding neighborhoods in design or density.

Printed Name	Signature	Address	Comment	Date
Todd Martin	[illegible]	20 Reservoir Loop		4/8/15
Chuck Lammer	[illegible]	743 W Huntzinger		4/8/15
Gerardo Garduño	[illegible]	707 Jamie Dr.		4/8/15
Mike Wheeler	[illegible]	1151 N Wenas		4/8/15
[illegible]	[illegible]	1060 N Wenas		4/8/15
Manuel Garcia	[illegible]	1130 N Wenas #29		4/8/15
[illegible]	[illegible]	150 Shu Rd		4/8/15
Julie Queen	[illegible]	450 Hoffman Rd		4/8/15
Stacy Stoltenow	[illegible]	904 N. 1st St		4-8-15
Norman Reuse	[illegible]	505 Jamie DR		4-8/15

Petition to deny Whispering Views Estates

Petition summary and background	The Selah City Council granted Dan Bowers a variance and a short plat to property located at 207 E Goodlander Road. The short plat created eight approximately one half acre lots. The variance that was granted is for a 25' easement for utilities and a 20' private road to serve these lots. Under the short plat, a duplex would be allowed on each of the eight lots. We believe this action restricts the property from further division of parcels.
Action petitioned for	We, the undersigned, are concerned citizens who urge our leaders to act now to now to deny the proposed rezone from R-2 to Planned Development (PD) proposed by Carl Torkelson on the property at 207 E Goodlander Road, that was granted a private road to serve a single duplex on each of eight parcels. The proposed development is for 48 units that do not approximate the surrounding neighborhoods in design or density.

Printed Name	Signature	Address	Comment	Date
Lester M George	Lester M George	72 Overland Dr	NO	4/10/15
Bruce Eshleman	Bruce Eshleman	1310 Heritage Hills Pl.	NO	4/10/15
Shellie Zamora	Shellie Zamora	410 1/2 N. 13th St.	NO	4/10/15
Gretchen Iplen	[illegible]	91 Rivers Edge Ln. Yakima		4/10/15
Joseph Woods	[illegible]	506 S 1st St	NO	4/10/15
Chris Swan	[illegible]	40 Whites Place	NO	4/10/15
John Wagley	[illegible]	111 Quail Ridge Rd	NO	4/10/15
Manuel Pinguinos	[illegible]	1790 Selah Loop Rd #61	No thank you	4/10/15
Stacy Bortz	[illegible]	2191 Nwenas Rd.	NO	4/10/15
Ann Weeks	[illegible]	330 Sole Rd	No	4/10/15

Petition to deny Whispering Views Estates

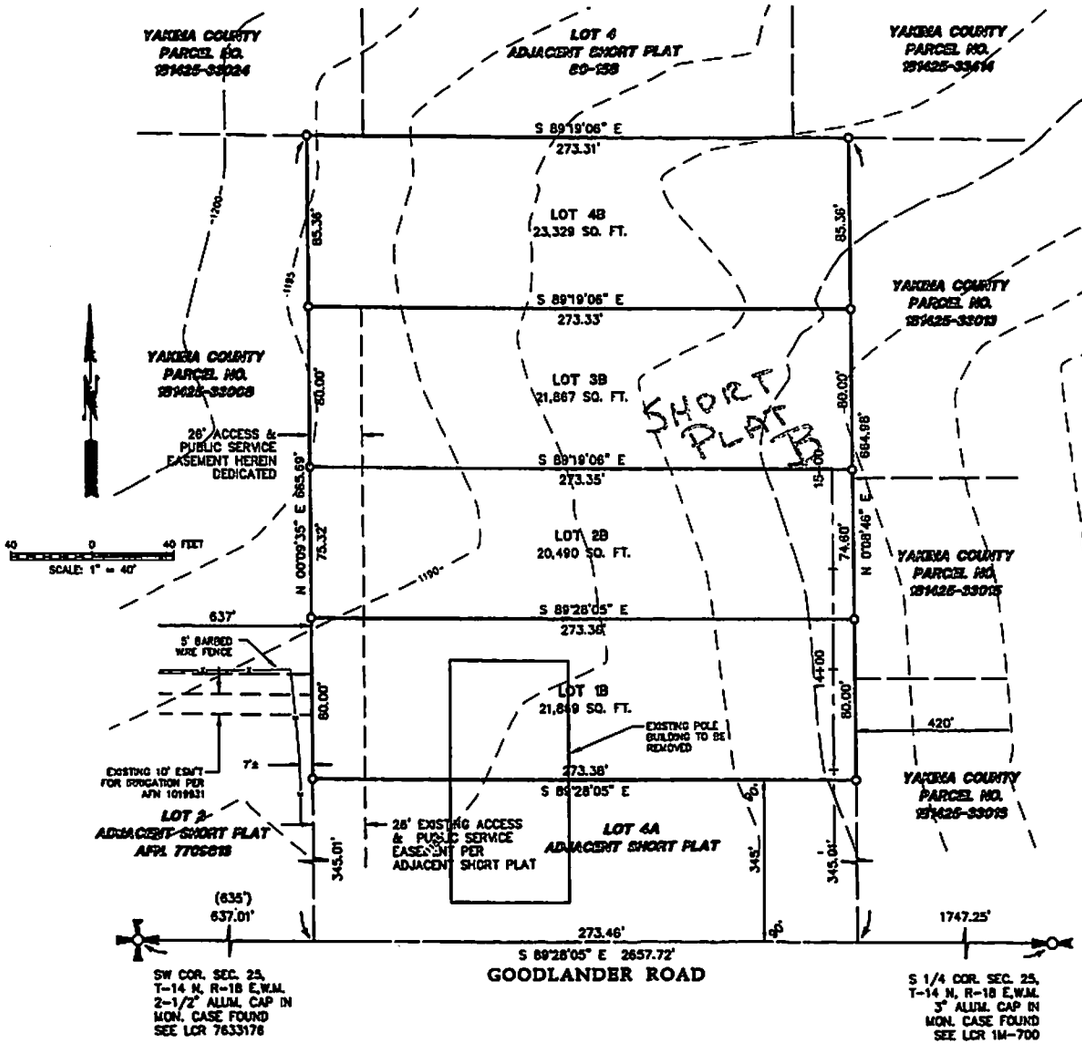
Petition summary and background	The Selah City Council granted Dan Bowers a variance and a short plat to property located at 207 E Goodlander Road. The short plat created eight approximately one half acre lots. The variance that was granted is for a 25' easement for utilities and a 20' private road to serve these lots. Under the short plat, a duplex would be allowed on each of the eight lots. We believe this action restricts the property from further division of parcels.
Action petitioned for	We, the undersigned, are concerned citizens who urge our leaders to act now to now to deny the proposed rezone from R-2 to Planned Development (PD) proposed by Carl Torkelson on the property at 207 E Goodlander Road, that was granted a private road to serve a single duplex on each of eight parcels. The proposed development is for 48 units that do not approximate the surrounding neighborhoods in design or density.

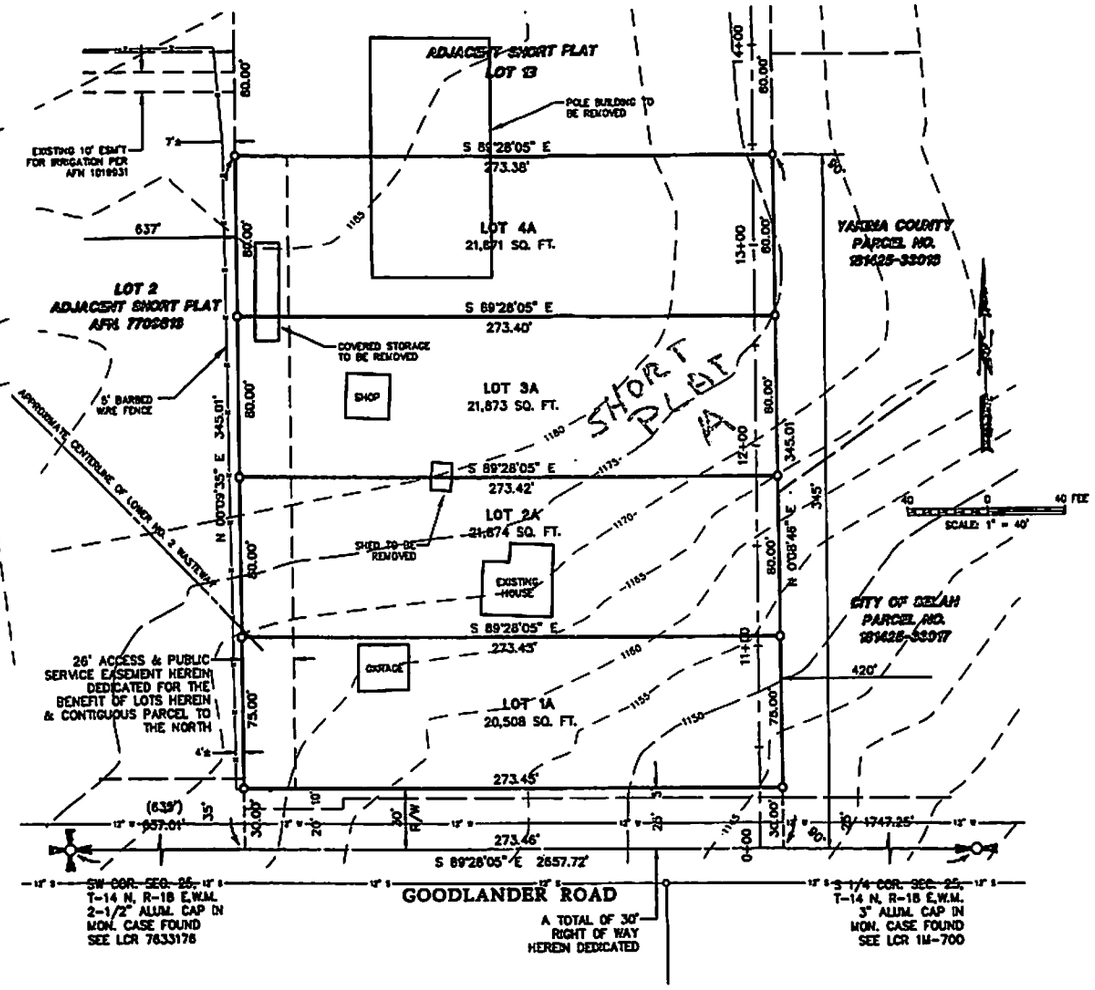
Printed Name	Signature	Address	Comment	Date
CATTE		1023 Gibson A. Selah WA	98942	4/10
Jennifer Walker	Jennifer Walker	991 Sagi Tr. Rd.,	Yakima Wa 98901	4/10
Mark Forgey		1631 Selah Loop Rd	98942	4/10
Scott Blackledge Scott B		190 Nighthawk Ln	98942	4/10
Peggy Blackledge	Peggy Blackledge	"	"	4/10
John McDonald	John McDonald	1651 Gibson Rd		4/10
Dee Pearson	Dee Pearson	2561 Fidalgo Rp. Rd, Selah	697-4248	4/10
Corey Piper	Corey Piper	261 McPherson		4/10
Orion Lewis	Orion	13035 Hird Ave	Yakima WA	4/10
Tina Erickson	Tina Erickson	PO Box 1108	Selah WA 98942	4/10

Petition to deny Whispering Views Estates

Petition summary and background	The Selah City Council granted Dan Bowers a variance and a short plat to property located at 207 E Goodlander Road. The short plat created eight approximately one half acre lots. The variance that was granted is for a 25' easement for utilities and a 20' private road to serve these lots. Under the short plat, a duplex would be allowed on each of the eight lots. We believe this action restricts the property from further division of parcels.
Action petitioned for	We, the undersigned, are concerned citizens who urge our leaders to act now to now to deny the proposed rezone from R-2 to Planned Development (PD) proposed by Carl Torkelson on the property at 207 E Goodlander Road, that was granted a private road to serve a single duplex on each of eight parcels. The proposed development is for 48 units that do not approximate the surrounding neighborhoods in design or density.

Printed Name	Signature	Address	Comment	Date
Greg Lommers	[illegible]	81 Ames		4/11/15
Arleen Lommers	Arleen Lommers	81 Ames		4/11/15
Dustin Ricl	[illegible]	140 Weras		4-11-15
Lyla Hagemann	L Hagemann	116 E Barnett Ave		4/11/15
Tammy McKee	Tammy McKee	694 Apple Way		4/11/15
K Dunnett	[illegible]	403 E. Goodlander		4-11-15
B Fred	[illegible]	403 E Goodlander		4-11-15
Kurt Luther	[illegible]	241 Poplar Lane		4-11-15
Pat Luther		116 R Home		4-11-15
Larry Handy	Larry Handy	1281 Lancaster Rd		4-11-15





SURVEYOR'S CERTIFICATE

THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF THE SURVEY RECORDING ACT AT THE REQUEST OF CARL TORKELSON IN JUNE, 2014.

RICHARD L. WEHR, CERTIFICATE NO. 16929.

SURVEYOR'S CERTIFICATE

THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF THE SURVEY RECORDING ACT AT THE REQUEST OF CARL TORKELSON IN JUNE 2014.

RICHARD L. WEHR, CERTIFICATE NO. 16929.

Exhibit E-16

Exhibit 13

TORKELSON
Construction, Inc.

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!

May 28, 2014

City of Selah
Planning Commission
113 West Naches Avenue
Selah, WA 98942

RE: Short Plats for 207 W. Goodlander Road

To Whom It May Concern:

I am writing this letter in order to bring attention to the Planning Commission's actions at the May 21, 2014 meeting. In my opinion some of you allowed an Attorney to focus your emotions on a situation that wasn't even proposed and/or on the table to be considered. After the Attorney's lengthy and emotional presentation, it was very evident that personal feelings became involved instead of decisions based on FACT, CODE and PREVIOUS PRECEDENCE.

In the first item to be decided, a recommendation of Approval was made to Short Plat a parcel into two approximate quarter size acre lots with a 20' access road to the back parcel. The back parcel was roughly just over a quarter acre in size. It is zoned R-2 and can have a density of 12 units to the acre. Gerald Moss, the citizen who owns this property would like to build a Tri-Plex on his back lot and could eventually put more units on his front lot. Mr. Moss' original large lot is 334' deep.

Mr. Bower's has 2 large lots of 345' deep and 320' deep proposed into 4 lots each. He would also like a 20' access road and could build 3 units per quarter acre. Mr. Bowers request is almost identical to Mr. Moss' request. The only difference is Mr. Bowers has more land. Why would you treat him different because he has more land? Is there a **code** against having a larger parcel of land?

The 20' access road meets fire code. It is also more than adaquate for 2 vehicles to pass. The average width of most vehicles is 6' to 7' wide. An oversized load is determined at 8' 6". This was stated by Commissioner Pendleton in last week's meeting. Even two oversized vehicles could pass each other easily.

Mr. Bower's proposed road would be maintained by the owners of the lots. This is done by a Homeowners Association and strict Covenants. Also, keep in mind that the proposed road stops at the last lot to the North and does not go to the ending property line of the parent parcel. This private road is meant to service only these lots. These 20' access roads are all over Selah. Several have been approved over the last five years and are also located on property with the same density or higher as Mr. Bowers property. The Planning Commission, on May 21st, 2014, recommended approval for one of these properties. At that time, the Planning Commission was also given a list of properties that have been approved in the past.

Please remember an Attorney is hired to serve their clients, not always the City of Selah. In my opinion, in this case, this attorney wants to consume land with roadway and setbacks to help lower density. He also wants to set conditions on how many buildings could be built and at what height. I believe that Mr. Bowers should be treated the same as all that have come before him, **especially** one in the same meeting. I also believe that there has been a huge precedence set for recommendation of "approval" for this request. Just as an Attorney serves his client, you as an individual on the Planning Commission, serve the City of Selah.

Once again, in my opinion I think a Planning Commission needs to base their recommendation on FACT, CODE and PREVIOUS PRECEDENCE. All personal feelings and emotions should never come into play and be totally left out of the Commissions decisions.

When it comes to land rights, all citizens should be allowed to develop their land with exacting transparency and equality.

Thank you for your time and consideration on Mr. Bowers request.

Sincerely,

Carl L. Torkelson
President

EXHIBIT
12

CITY OF SELAH PLANNING COMMISSION
May 28, 2014 – continued hearing.

AMENDMENT TO STAFF REPORT DATED —MAY 16, 2014

HEARING DATES—MAY 21 AND MAY 28, 2014

FILE NO:	915.45.14-02	Subdivision Variance
	913.45.14-02	Short Plat
	913.45.14-04	Short Plat

PROPONENT: BOWERS, DANIEL

City of Selah staff, based upon concerns and issues raised during the hearing process in this matter and based its upon further review of this application, now submits this amendment to its Staff Report dated May 16, 2014 for the Planning Commission's consideration.

AMENDED RECOMMENDATIONS

(Item # 1--Variance) **APPROVAL** of the twenty-six (26) foot wide utility / access easement to serve all lots that would not have abutting public street frontage. The variance does not appear to be contrary to the public interest or the comprehensive plan.

(Item #2—Short Plat) **APPROVAL** of the two short plat applications subject to the following THIRTEEN conditions:

1. Final lot dimensions, lot area, and improvements indicated on the proposed short plat map or specific conditions imposed by the Commission must substantially conform to the short plat recommended by the Planning Commission.

2. The following note must be placed on the short plat map:

   The owner(s) shown hereon, or any grantees or assignees in interest, hereby covenant and agree to retain all surface water generated within the short plat on-site.

3. A twenty-six (26) foot wide easement shall be provided across the westerly twenty-six (26) feet of Lot 1A, and subsequent Lots 2A, 3A, 4A, 1B, 2B, and 3B for utility and vehicular access to all lots.

Exhibit #E 18

4. A ten (10) foot wide easement shall be provided across the easterly ten (10) feet of Lot 1A, and subsequent lots 2A, 3A, 4A, 1B, 2B, and 3B for utilities.

5. The short plat shall be recorded within five (5) years of the City's approval or such approval expires.

6. The recorded short plat shall provide reference of a separate, twenty six foot wide, access and utility easement in favor of Lots 2A, 3A, 4A, 1B, 2B, and 3B across Lot 1A along the westerly twenty six feet of each lot. The subject access/utility easement over and across Lot 1 and the remaining lots, EXCEPTING LOT 4B, is for the purpose of accessing, constructing, installing, maintaining and operating private utilities within the easement and the right of ingress and egress with perpetual right to enter into and upon said land for the purpose of installing and maintaining said private utilities, and also, at all times in the future, for the purpose of repairing, inspecting, making connections therewith, maintaining and operating the utilities.

   The recorded short plat shall provide reference of a separate, ten foot wide, utility easement in favor of Lots 2A, 3A, 4A, 1B, 2B, and 3B across Lot 1A along the easterly ten feet of each lot. The subject access/utility easement over and across Lot 1 and the remaining lots, EXCEPTING LOT 4B, is for the purpose of accessing, constructing, installing, maintaining and operating private utilities within the easement with perpetual right to enter into and upon said land for the purpose of installing and maintaining said private utilities, and also, at all times in the future, for the purpose of repairing, inspecting, making connections therewith, maintaining and operating the utilities.

7. Short Plat 913.35.14-04 (parcel 181425-33030 shall be required to dedicate five (5) feet of right of way (plus or minus) adjacent to East Goodlander for roadway purposes such that the total of the East Goodlander right of way shall be 30 feet after dedication.

8. Within the twenty-six (26) foot wide access/utility easement shall be provided a minimum twenty (20) foot wide hard surfaced driving area extending from East Goodlander to the south lot line of proposed Lot 4B.

9. In accordance with the IFC Section 503.1 no structure will be constructed upon any of the lots using the 20 foot wide road (identified in condition 8 for access and egress) that has any portion of the structure more than 150 feet from the 20 foot road required under condition 8.

   The recorded short plat shall provide reference to this restriction on the maximum distance at with a structure may be constructed upon each Lot from the access road.

CITY OF SELAH

Planning Department
113 South Second Street
Selah, Washington 98942

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

REGULAR SUBDIVISION PROCEDURES

A regular subdivision is the division or redivision of land into five (5) or more lots, tracts, or parcels, any one of which is less than twenty (20) acres in size, for the purpose of sale, lease or transfer of ownership. The division of any land which has been divided under the Short Subdivision procedures within five (5) years shall also require a regular subdivision.

PROCEDURES IN THE REGULAR SUBDIVISON PROCESS

he general procedure for processing an plication for a regular subdivision consists five separate steps:

Preparation and submission to the anning Department of a tentative map of e proposed subdivision;

Submission of Preliminary Plat for public aring before the Hearing Examiner and ty Council;

Installation or bonding of improvements cording to the approved Preliminary Plat;

sion of Final Plat to the City uncil for approval;

Recording of plat in Yakima County ditor's Office.

p 1: Request information.

Contact the City Planner for information ut fees, required plans and application ns.

Contact the Public Works Department for rmation regarding the engineering irements for a subdivision.

meeting may be arranged between the Administrator, Public Works Director City Planner to review the tentative map e proposed subdivision

2: Preliminary Plat Submittal.

pplicant will be given Preliminary Plat ication forms at the tentative plat ing...

le the application with the City Planner ay the appropriate fees...

required by law, the subdivider shall n environmental checklist. Applicant ll be notified of the exact time

4) The City Planner will prepare a staff report.

5) The Hearing Examiner will hold a public hearing.

(a) Applicant and owner will be notified of time and place of hearing.

(b) The hearing will be conducted in the formal manner. The City Planner will present the application, staff report and staff recommendations. Everyone who wishes to testify for or against the request will have a chance to do so,.

(c) The Hearing Examiner will issue a written recommendation within ten (10) working days from the date of the hearing.

(d) The Hearing Examiner recommendation will be forwarded to City Council.

6) City Council will hold a public meeting.

(a) At its first meeting after receiving the Hearing Examiner's recommendation the City Council will set a date for a public meeting to consider adoption or rejection of the recommendation.

(b) At the public meeting the City Council will either adopt or reject the Hearing Examiner's recommendation; if the Coty Council wants to make a change in the recommendation, a public hearing must be scheduled for the Council to adopt its own recommendation for approval or disapproval.

Step 3: Final Plat Submittal.

1) The original and two copies of the proposed final plat for all or a portion of the property shall be filed with the City Clerk within eighteen (18) months. If the final plat is not filed within eighteen months, preliminary plat approval will expire.

2) After approval of the preliminary plat, the applicant should work with the Public Works Department to accomplish installation or bonding of improvements.

3) Final plat application, forms and instruction are available in the Planning Department.

4) File the final plat with the City Clerk . Filing fee is not taken at this time.

5) When Public Works has approved final plat, the City Clerk will collect filing fees from applicant and "officially" accept final plat application.

6) After receipt of the final plat the City Administrator shall set a public meeting time before the City Council and notify the Hearing Examiner of the meeting date.

7) At the public meeting the City Council will either approve, disapprove or return the final plat to the applicant for modification or correction.

8) If the final plat is approved, the Planning Department will obtain the Mayor's and City Clerk's signatures on the Mylar,.

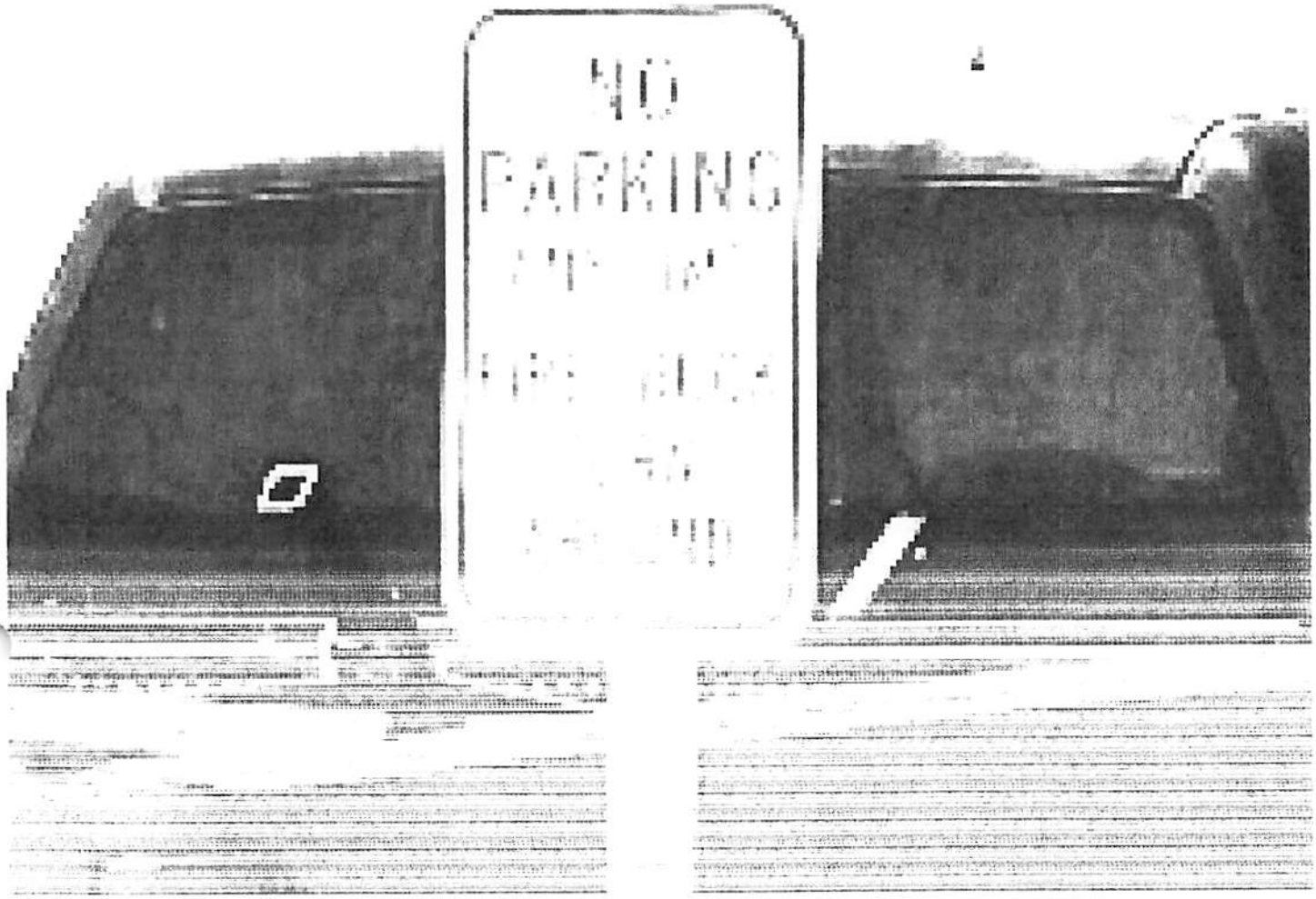
Step 4: The Recording process.

1) The final plat must be recorded in the Yakima County Auditor's office within six (6) months after approval by the City Council; if not recorded within this time, the plat approval is null and void.

2) The plat does not become official until it is recorded.

3) It is the applicant's responsibility to have the plat recorded with the County Auditor. The short subdivision is kept on file with the Planning Department, Public Works Department, and the City Clerk's office. The original map Mylar is kept on file in the Public Works Department.

Exhibit 19


NO
PARKING

PLSA ENGINEERING & SURVEYING

July 29, 2015

Mr. Carl Torkelson
Torkelson Construction
P.O. Box 292
Selah, WA 98942

RE: UltraBlock Retaining Wall Design – Whispering View Estates, Selah, WA
PLSA Project No. 13257

Dear Carl:

Please find attached one set of retaining wall plans with structural calculations. The calculations are based on test data that specifically define the interactive properties between UltraBlock segmental retaining wall blocks. Material substitutions are not advised as interactions between alternate block configurations may not perform as the tested combination of materials.

Thank you for allowing us to be of service to you and please contact me if there are any further comments or if you need additional copies.

Sincerely,

SCOTT D. GARLAND
STATE OF WASHINGTON
46938
REGISTERED
PROFESSIONAL ENGINEER

SCOTT GARLAND, P.E.

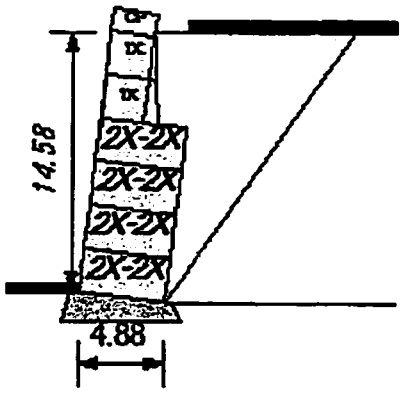
SG:jc
Enclosures

HF Exhibit 20

ULTRABLOCK, INC.

UltraWall

UltraWall v3.3 Build 14226



Project: Whispering View Estates
Location: Selah
Designer: Jeff
Date: 7/29/2015
Section: Section 4
Design Method: NCMA_09_3rd_Ed
Design Unit: Ultrablock

SOIL PARAMETERS	φ	coh	γ
Retained Soil:	30 deg	0 psf	120 pcf
Foundation Soil:	30 deg	0 psf	120 pcf

Leveling Pad: Crushed Stone
Crushed Stone Interface is true, φ = 1deg

GEOMETRY

Design Height:	15.00 ft	Live Load:	100 psf
Wall Batter/Tilt:	0.00/ 7.10 deg	Live Load Offset:	2.00 ft
Embedment:	0.50 ft	Live Load Width:	20 ft
Leveling Pad Depth:	1.00 ft	Dead Load:	0 psf
Slope Angle:	0.0 deg	Dead Load Offset:	0.0 ft
Slope Length:	0.0 ft	Dead Load Width:	100 ft
Slope Toe Offset:	0.0 ft	Leveling Pad Width:	5.92 ft

FACTORS OF SAFETY

Sliding:	1.50	Overturning:	1.50
Bearing:	2.00		

RESULTS

FoS Sliding:	2.02 (fnd)	FoS Overturning:	1.81
Bearing:	3115.67	FoS Bearing:	2.76

Name	Elev.[dpth]	ka	Pa	Paq	Paqd	(PaC)	PaT	FSsl (base of leveling pad)	FoS OT	%D/H
CP	14.64[0.36]	0.817	3	0	0	0	3	100.00	100.00	200%
1X	12.20[2.80]	0.233	101	13	0	0	114	100.00	18.18	88%
1X	9.76[5.24]	0.245	387	63	0	0	450	43.63	4.72	47%
2X-2X	7.32[7.68]	0.443	1647	213	0	0	1860	14.44	4.09	64%
2X-2X	4.88[10.12]	0.377	2404	272	0	0	2676	9.09	2.88	49%
2X-2X	2.44[12.56]	0.339	3303	328	0	0	3631	6.40	2.23	39%
2X-2X	0.00[15.00]	0.313	4334	390	0	0	4724	2.31 (2.02)	1.81	33%

Note: Calculations are for Preliminary use only and should
not be used for construction without the review of a qualified professional.

ULTRABLOCK, INC.

NOTES ON DESIGN UNITS

The wall section is designed on a 'per unit width bases' (lb/ft/ft of wall or kN/m/meter of wall). In the calculations the software shows lb/ft or kN/m, neglecting the unit width factor for simplicity.

The weights for the wall unit are shown as lbs / ft3 (kN / m3). For SRW design a 1 sf unit is typically 1 ft deep, 1.5 ft wide and 8 inches tall (or 1 ft3). therefore a typical value of 120 pcf is shown. With larger units the unit weight will vary with the size of the unit. Say we have 4 ft wide unit, 1.5 ft tall and 24 inches deep with a tapered shape (sides narrow), built with 150 pcf concrete. We add up the concrete, the gravel fill and divide by the volume and and the results may come out to 140 pcf, as shown in the table. The units with more gravel may have lower effective unit weights based on the calculations.

Hollow Units

Hollow units with gravel fill are treated differently in AASHTO. If the fill can fall out as the unit is lifted, then AASHTO only allows 80% of the weight of the fill to be used for eccentricity (overturning calculations). In the properties page for the units the weight of the concrete may be as low as 75 pcf. This is the effective unit weight of the concrete only (e.g. the weight of the concrete divided by the volume of the unit). The density of the concrete maybe 150 pcf, but not the effective weight including the volume of the void spaces used for gravel fill.

Rounding Errors

When doing hand calculations the values may vary from the values shown in the software. The program is designed using double precision values (64 bit precision: 14 decimal places). Over several calculations the results may differ from the single calculation the user is making, probably inputting one or two already rounded values.

Result Rounding

As noted above the software is based on double precision values. For example, using an NCMA design method an allowable factor of safety of 1.5 the software may calculate a value of 1.49999999999999, since this is less than 1.5, it would be false (NG), even though the results shown is 1.50 (results are rounded to 2 places on the screen). In the design check we round to 2 decimal places to check against the suggested value (1.49999999999 rounds to 1.50). Given the precision of the calculation, this will provide a safe design even though the 'absolute' value is less than the minimum suggested.

ULTRABLOCK, INC.

ESIGN DATA

ARGET DESIGN VALUES (Factors of Safety)

Minimum Factor of Safety for the sliding along the base	FSsl =1.50
Minimum Factor of Safety for overturning about the toe	FSot =1.50
Minimum Factor of Safety for bearing (foundation shear failure)	FSbr =2.00

MINIMUM DESIGN REQUIREMENTS

Minimum embedment depth	Min_emb =0.50 ft

INPUT DATA

Geometry

Wall Geometry

Design Height, top of leveling pad to finished grade at top of wall	H =14.58 ft
Embedment, measured from top of leveling pad to finished grade	emb =0.50 ft
Leveling Pad Depth	LP Thickeness =1.00 ft
Face Batter, measured from vertical	i =0.00 deg

Slope Geometry

Slope Angle, measured from horizontal	β =0.00 deg
Slope toe offset, measured from back of the face unit	STL_offset =0.00 ft
Slope Length, measured from back of wall facing	SL_Length =0.00 ft

NOTE: If the slope toe is offset or the slope breaks within three times the wall height, a Coulomb Trial Wedge method of analysis is used.

Surcharge Loading

Live Load, assumed transient loading (e.g. traffic)	LL = 100.00 psf
Live Load Offset, measured from back face of wall	LL_offset =2.00 ft
Live Load Width, assumed strip loading	LL_width = 20.00 ft
Dead Load, assumed permanent loading (e.g. buildings)	DL = 0.00 psf
Dead Load Offset, measured from back face of wall	DL_offset =0.00 ft
Dead Load Width, assumed strip loading	DL_width = 100.00 ft

Soil Parameters

Retained Zone

Angle of Internal Friction	φ = 30.00 deg
Cohesion	coh =0.00 psf
Moist Unit Weight	gamma =120.00 pcf

Foundation

Angle of Internal Friction	φ = 30.00 deg
Cohesion	coh =0.00 psf
Moist Unit Weight	gamma =120.00 pcf

ULTRABLOCK, INC.

ETAINING WALL UNITS

STRUCTURAL PROPERTIES:

N is the normal force [or factored normal load] on the base unit
The default leveling pad to base unit shear is 0.8 tan(φ) [AASHTO 10.6.3.4] or
may be the manufacturer supplied data. φ is assumed to be 40 degrees for a stone leveling pad.
The shear equations are setup as N(tan φ) + Intercept

Unit Designation: Cap
Unit Dimensions:
Height = 1.23 ft
Width = 4.92 ft
Weight = 423 lbs
Depth = 2.46 ft
Density = 140.00 pcf
Unit to Unit Shear
τ = N tan(0.00) + 17796.00 ppf
Unit to Leveling Pad Shear
τ = N tan(34.00) + 0.00 ppf

Unit Designation: Full
Unit Dimensions:
Height = 2.46 ft
Width = 4.92 ft
Weight = 846 lbs
Depth = 2.46 ft
Density = 140.00 pcf
Unit to Unit Shear
τ = N tan(0.00) + 17796.00 ppf
Unit to Leveling Pad Shear
τ = N tan(33.80) + 0.00 ppf

Unit Designation: Double
Unit Dimensions:
Height = 2.46 ft
Width = 4.92 ft
Weight = 1692 lbs
Depth = 4.92 ft
Density = 140.00 pcf
Unit to Unit Shear
τ = N tan(0.00) + 17796.00 ppf
Unit to Leveling Pad Shear
τ = N tan(33.80) + 0.00 ppf

ULTRABLOCK, INC.

FORCE DETAILS

The details below shown how the forces and moments are calculated for each force component. The values shown are not factored. All loads are based on a unit width (ppf / kNpm).

Layer	Block Wt	X-Arm	Moment	Soil Wt	X-Arm	Moment
1	423.04	3.05	1291.23	0.63	4.29	2.72
2	846.08	2.75	2325.39	54.96	4.16	228.83
3	846.08	2.44	2068.30	154.01	4.06	625.66
4	1692.15	3.37	5702.38	0.00	5.83	0.00
5	1692.15	3.07	5188.21	0.00	5.52	0.00
6	1692.15	2.76	4674.04	0.00	5.22	0.00
7	1692.15	2.46	4159.88			

Block Weight (Force v) = 8884 ppf X-Arm = 2.86 ft

Soils Block Weight (Force v) = 210 ppf X-Arm = 4.25 ft

Active Earth Pressure Pa = 4334 ppf

Pa_h (Force H) = Pa cos(batter + δ) = 4334 x cos(2.2 + 30.0) = 3667 ppf

Y-Arm = 5.06 ft

Pa_v (Force V) = Pa sin(batter + δ) = 4334 x sin(2.2 + 30.0) = 2310 ppf

X-Arm = 4.68 ft

Live Load Pq = 390 ppf

Pq_h (Force H) = Pq cos(batter + δ) = 390 x cos(2.2 + 30.0) = 330 ppf

Y-Arm = 7.59 ft

Pq_v (Force V) = Pq sin(batter + δ) = 390 x sin(2.2 + 30.0) = 208 ppf

X-Arm = 4.58 ft

ULTRABLOCK, INC.

CALCULATION RESULTS

OVERVIEW

UltraWall calculates stability assuming the wall is a rigid body. Forces and moments are calculated about the base and the front toe of the wall. The base block width is used in the calculations. The concrete units and granular fill over the blocks are used as resisting forces.

EARTH PRESSURES

The method of analysis uses the Coulomb Earth Pressure equation (below) to calculate active earth pressures. Wall friction is assumed to act at the back of the wall face. The component of earth pressure is assumed to act perpendicular to the boundary surface. The effective δ angle is δ minus the wall batter at the back face. If the slope breaks within the failure zone, a trial wedge method of analysis is used.

EXTERNAL EARTH PRESSURES

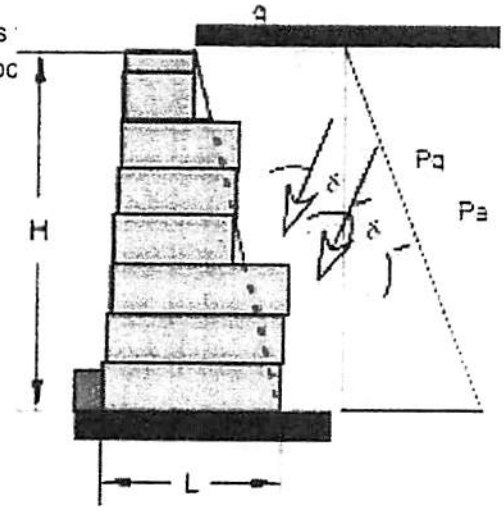
Effective δ angle (3/4 retained phi)	δ =30.0 deg
Coefficient of active earth pressure	ka =0.313
External failure plane	ρ = 54 deg
Effective Angle from horizontal	Eff. Angle =87.79 deg
Coefficient of passive earth pressure: kp = (1 + sin(φ)) / (1 - sin(φ))	kp =3.00

$$Ka := \frac{\cos(\phi_i + i)^2}{\cos(i)^2 \cdot \cos(\delta_i - i)\left(1 + \sqrt{\frac{\sin(\phi_i + \delta_i)\cdot\sin(\phi_i - \beta)}{\cos(\delta_i - i)\cdot\cos(i + \beta)}}\right)^2}$$

W0: stone within units
W1: facing units
W2: stone over the tails
W9: Driving force Pa
W10: Driving Surcharge load Paq
W11: Driving Dead Load Surchage Paqd

FORCES AND MOMENTS

The program resolves all the geometry into simple geometric shapes
coordinates are referenced to a zero point at the front toe of the base bloc



UNFACTORED LOADS

Name	Factor γ	Force (V)	Force (H)	X-len	Y-len	Mo	Mr
Face Blocks(W1)	1.00	8884	--	2.86	--	--	25409
Soil Wedge(W2)	1.00	210	--	4.25	--	--	892
LvlPad(W18)	1.00	1050	--	--	--	--	--
Pa_h	1.00	--	3667	--	5.06	18565	--
Pa_v	1.00	2310	--	4.68	--	--	10809
Pq_h	1.00	--	330	--	7.59	2507	--
Pq_v	1.00	208	--	4.58	--	--	953
Sum V / H	1.00	11611	3997		Sum Mom	21072	38063

Note: live load forces and moments are not included
SumV or Mr as live loads are not included as resisting forces.

Note: Calculations are for Preliminary use only and should
not be used for construction without the review of a qualified professional.
UltraWall

ULTRABLOCK, INC.

BASE SLIDING

Sliding at the base is checked at the block to leveling pad interface between the base block and the leveling pad. Sliding is also checked between the leveling pad and the foundation soils.

Forces Resisting sliding = W1 + W2 + Pav + Pqv	
8884 + 210 + 2310 + 208	N =11611 ppf
Resisting force at pad = (N tan(slope) + intercept x L)	
11611 x tan(33.8) + 0.0 x 4.9	Rf1 =9161
where L is the base block width	
Friction angle is the lesser of the leveling pad and Fnd	φ =30.00 deg
N1 includes N (the leveling pad) + leveling pad (LP)	
11611 + 1050	N1 = 12662 ppf
Passive resistance is calculated using kp = (1 + sin(30))/(1 - sin(30))	kp = 3.00
Force at top of resisting trapezoid, d1 = 0.50	Fp1 = 180.00 ppf
Force at base of resisting trapezoid, d2 = 2.11	Fp2 = 760.47 ppf
Depth of trapezoid	depth = 1.61 ft
Pp = [(Fp1 + Fp2) / 2] * depth	Pp = 758.20
Resisting force at fnd = (N1 tan(phi) + c L) + Pp	
12662 x tan(30) + 0 x 5.4 + 758	Rf2 = 8068
where LP = lvl pad thickness * 130pcf * (L + lvl pad thickness/2)	
Driving force is the horizontal component of	
Pah + Pqh	
3667 + 330	Df =3997
FSsl = Rf1/Df / Rf2/Df	FSsl =2.31 / 2.02

ULTRABLOCK, INC.

OVERTURNING ABOUT THE TOE

Overturning at the base is checked by assuming rotation about the front toe by the block mass and the soil retained on the blocks. Allowable overturning can be defined by eccentricity (e/L). For concrete leveling pads eccentricity is checked at the base of the pad.

Moments resisting eccentricity = M1 + MPav + MPqv
25409 + 892 + 10809 + 953 — Mr =38063 ft-lbs

Moments causing eccentricity = MPah + MPqh
18565 + 2507 — Mo =21072 ft-lbs

e = L/2 - (Mr - Mo)/ N1
e =4.92/2 - (38063 - 21072) /12662 — e =1.00

e/L = 0.20

FSot = Mr / Mo
FSot =38063 / 21072 — FSot =1.81

Note: Calculations are for Preliminary use only and should not be used for construction without the review of a qualified professional.

ULTRABLOCK, INC.

ECCENTRICITY AND BEARING

Eccentricity is the calculation of the distance of the resultant away from the centroid of mass. In wall design the eccentricity is used to calculate an effective footing width.

Calculation of Eccentricity

SumV = (W1 + W2 + LL + Pa_v + Pq_v)

e = L/2 - (SumMr + M_LL - SumMo)/(SumV + LL)

e =4.92/2 - (16991 /11611.12) e =0.995 ft

Calculation of Bearing Pressures

Qult = c * Nc + q * Nq + 0.5 * γ* (B') * Ng

where:

Nc =30.14

Nq =18.40

Ng =22.40

c =0.00 psf

q = 180.00 psf

B' = B - 2e + lvlpad = 3.93 ft

Gamma =120 pcf

Calculate Ultimate Bearing, Qult — Qult =8590 psf

Bearing Pressure = (SumVert / B') + (LP width * gamma) — sigma =3115.67 psf

Calculated Factors of Safety for Bearing — Qult/sigma =2.76

City of Selah
Council Minutes
October 12, 2010

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

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

B. Roll Call

Members Present: Keith Larson, Paul Overby, John Tierney, Kevin Jorgensen, Dave Smeback, John Gawlik

Members Excused:

Staff Present: Frank Sweet, City Supervisor; Bob Noe, City Attorney; Joe Henne, Public Works Director; Dennis Davison, Community Planner; Jerry Davis, Fire Chief; Stacy Dwarshuis, Police Chief; Dale Novobielski, Clerk/Treasurer; Monica Lake, Executive Assistant

Mayor Bob Jones welcomed the students attending the meeting.

C. Pledge of Allegiance

Councilman Gawlik led the Pledge of Allegiance. Pastor Rex Van Beek led the opening prayer.

D. Agenda Changes

Mayor Jones noted Agenda changes as printed.

1. M – 4 Resolution Authorizing the Mayor to Sign the Agreement between the City of Selah and Yakima Basin Environmental Education Program for Professional Consultant Services relative to Stormwater Education.

E. Public Appearances

F. Getting To Know Our Businesses

G. Communications

The Mayor requested Pastor Van Beek address the Council.

2. Written

a. Letter from Selah United Methodist Church Thanking the Police Department for Escorting their Centennial Celebration Parade

Pastor Van Beek addressed the Council, thanking the Police Department and Chief Dwarshuis for their cooperation and assistance during the Centennial Celebration parade. He spoke briefly on the history of the church, and the walk from the city plaza (the original location of the Selah United Methodist Church) to their present location.

1. Oral

Mayor Jones opened the Public Hearing.

a. Clarification re: Fifth Street Estates Public Meeting

Kathy Hoffert asked if comments would be allowed during the Fifth Street Estates Public Meeting.

City Supervisor Frank Sweet explained the difference between a Public Hearing and a Public Meeting to Ms. Hoffert, stating that a Public Meeting is for Council action only.

Mayor Jones introduced his two grandsons, Taylor and Tanner, to the Council and welcomed them to the meeting.

The Mayor closed the Public Hearing, moving on to the Consent Agenda.

H. Proclamations/Announcements

I. Consent Agenda

Mayor Jones read the Consent Agenda.

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

* 1. Approval of Minutes: Study Session & Council Meeting September 28, 2010

* 2. Approval of Claims & Payroll:

Payroll Checks	Nos. 69481 – 69571	for a total of	$222,783.94
Claim Checks	No. 56985	for a total of	$ 2,866.35
Claim Checks	Nos. 56986 – 57074	for a total of	$130,145.57

* 3. Resolution M – 1 Resolution authorizing the Mayor to Sign a Letter to Yakima Valley Conference of Governments notifying them of the City of Selah's Approval of the Proposed YVCOG 2011 Budget

* 4. Resolution M – 2 Resolution authorizing the Mayor to Sign a Grant Agreement between the City of Selah and the Department of Ecology for the Municipal Stormwater Capacity Grant Project

* 5. Resolution M – 3 Resolution to accept Well No. 8 Drilling, Casing, Testing, and Pump as Complete

Councilman Larson moved and Councilman Jorgensen seconded to adopt the Consent Agenda as read. By voice vote, approval was unanimous.

* 6. Resolution M – 4 Resolution authorizing the Mayor to Sign the Agreement between the City of Selah and Yakima Basin Environmental Education Program for Professional Consultant Services relative to Stormwater Education

Councilman Gawlik moved and Councilman Tierney seconded the addition of Resolution M-4 to the Consent Agenda as read. By voice vote, approval was unanimous.

J. Public Hearings

K. New Business

1. Select Council Member to Fill Vacancy

Mayor Jones addressed the concerns expressed about the alleged illegal vote to select a Council Member at the last Council meeting. City Supervisor Frank Sweet talked a bit about the process of filling a position. The Mayor requested Executive Assistant Monica Lake to poll the Council on their votes, according to seniority. The City Supervisor requested a motion and a second prior to polling the Council.

Councilman Overby moved to appoint Allen Schmid to the Council and follow up by polling the Council Members. Councilman Jorgensen seconded. Roll was called: Council Member Larson – yes; Council Member Overby – yes; Council Member Tierney – no; Council Member Jorgensen – yes; Council Member Smeback – yes; Council Member Gawlik – no.

City Attorney Bob Noe requested that the Council Members identify which candidate they voted for. The Mayor requested roll that be called, with each Council Member stating who they voted for.

Roll was called: Council Member Larson – Allen Schmid; Council Member Overby – Allen Schmid; Council Member Tierney – Patrick Kelly; Council Member Jorgensen – Allen Schmid; Council Member Smeback – Allen Schmid; Council Member Gawlik – Patrick Kelly.

Allen Schmid was called to the podium and sworn in as a Council Member by Clerk/Treasurer Dale Novobielski. Councilman Schmid then proceeded to his seat at the Council table.

Councilman Jorgensen commented on the Council Member selection, noting that in the most recent election 681 people voted for Councilman Gawlik and 676 people voted for Councilman Schmid. He went on to say that Selah is in a unique position right now in that 100% of the people who voted in the last election now had their chosen representative on the Council.

2. FIFTH STREET ESTATES public meeting to Consider Hearing Examiner's Recommendation

Councilman Gawlik recused himself, stating that he was a building inspector for the City of Selah for almost 6 years, and he worked with Mr. Torkelson on his projects for approximately 10 months after his employment with the City of Selah concluded. He stated that he has also received numerous pieces of communication from opponents, and in the interest of fairness he recused himself from this issue.

Councilman Tierney recused himself, stating that in the interest of fairness on this issue, he felt it necessary to recuse himself. He said that he has had contact and correspondence with many of the people who are opposed to the issue, and reminded the Council that he had recused himself on a previous issue involving Mr. Torkelson and the City.
Councilman Overby stated that he had been asked to recuse himself in the past, but nothing has been brought up so far in regards to this development. He stated that he has not received any correspondence in this matter and in the interests of fairness it is up to the proponent whether he be recused from this issue.

Attorney Ken Harper, representing Mr. Torkelson, responded to Councilman Overby's statement, stating that Councilman Overby had indeed been asked to recuse himself in previous matters dealing with Mr. Torkelson. He referenced documentation submitted to the Planning Commission by Councilman Overby, in his capacity as a Council Member, in opposition to Mr. Torkelson's projects. He spoke briefly on the appearance of fairness doctrine, noting the key involves a quasi-judicial decision. He asked Councilman Overby if he had signed a petition on behalf of the South Selah Neighborhood Association, with respect to its opposition to a project of his client in the vicinity of Fifth Street and Southern Avenue.

Councilman Overby responded that he was not a Council Member at that time, but that this has come up before as the signature was undated. He also stated that the document was specific to a development at 605, and not this particular one. He then stated that this is why he has a question as to whether this is an issue that warrants his recusal at this time.

Attorney Harper asked if he has had communication with any individual who identifies himself or herself as a member of the South Selah organization.

Councilman Overby responded that he did not believe so. He deferred to City Attorney Bob Noe.

Selah City Attorney Bob Noe stated that he did not believe Councilman Overby had had any ex parte conversations on this matter.

Attorney Harper asked if Councilman Overby had any lingering views or predispositions against Mr. Torkelson's proposal of Fifth Street Estates, based on any decisions or view he might have had prior to this point.

Councilman Overby stated that his views have to do with the increase in the density in the south, but that the R-3 zoning is intact and this would in no way add to or detract from that. He said that in the interest of fairness, he felt that he should recuse himself.

Attorney Harper thanked Councilman Overby for his candor, and then requested that he recuse himself, noting that it was on the basis of Councilman Overby's own concerns and that he recognizes that the petition no longer represents the Councilman Overby's views.

Councilman Overby stated that he would like to recuse himself from the issue at this time.

Councilman Schmid stated that he would like to recuse himself, as he has given testimony on this issue. He said that in the interests of fairness, he feels he should recuse himself.

Attorney Harper said that he and his client both take the fairness act seriously, and he appreciated the candor of the Council Members.

Councilman Larson said that Mr. Hoffert had addressed him after a Council Meeting about a year ago, and while that is the only communication he has had, he was concerned that it qualified as ex parte communication.

Attorney Harper responded, asking Councilman Larson if it was an exchange of opinions or if Mr. Hoffert had merely been expressing his views.

Councilman Larson stated that Mr. Hoffert was expressing his opinion on the issues discussed.

Attorney Harper asked if he responded with an opinion.

Councilman Larson said that he talked about the increase in density, and the R-3 zoning. He also commented to Mr. Hoffert that the density on that property was only half of the allowable density, and that he didn't understand why it was still such a big issue. He felt that was the extent of his conversation with Mr. Hoffert.

Attorney Harper inquired if he felt that this would affect his ability to be fair in the matter before the Council today.

Councilman Larson responded that he did not think so.

Attorney Harper said he did not feel a need to request recusal.

Selah City Attorney Bob Noe called point of order, stating that they did not have a quorum at this point. He said that under the statute, if there is not a quorum due to objections or recusals, then they all would come back and listen too the issue. He asked Attorney Harper to confirm.

Attorney Harper initially agreed then stated he was unsure whether he did agree or not. He said that his understanding is that in the absence of quorum that the matter can proceed with the Council Members coming back and asked for Attorney Noe's opinion.

The City Attorney stated that was his understanding of how the statute works.

Attorney Harper agreed to the extent necessary to create quorum, but felt that did not allow all the Council Members to come back and hear the matter.

The City Attorney inquired if he felt this meant it put the onus on the proponent to select who they wanted to come back. He stated again that he felt it means they all come back on, but that they could check the statute.

City Supervisor Sweet asked if they would all vote at that point.

The City Attorney indicated yes.

The City Supervisor then said they could take a look at the statute, take a quick 5 minute break to look it up then come back and take care of business.

The Mayor announced a recess at 4:27pm, and the City Supervisor, City Attorney, and Attorney Harper left the Council Chambers to check the statute.

The Mayor reopened the meeting at 4:36 pm.

The City Attorney said that they took a look at the statute. He said it talked about the rule of necessity: when you have Members who recuse themselves or there are objections to them and it results in a lack of quorum, then those Members can be brought back on out of necessity to hear the matter. He stated that they called Municipal Research Services Center to get their opinion on the statute, and their opinion is the same as his. He went on to state that the proponent's Attorney does not agree with that.

Attorney Harper stated his objections, saying that he believed that when Members recuse themselves and the next recusal would result in a lack of quorum, then that Member should not be recused but able to hear the matter to avoid a loss of quorum. He stated that he objected to having all the Council Members brought back, including those who said they wanted to be recused, as he did not feel that was necessary. He did feel it was necessary to allow the Council to act on the basis of a quorum, and that it would only take one additional Council Member to constitute a quorum. He felt that the appearance of fairness doctrine should yield only to the extent necessary to bring back one Council Member, and that is should be the last Council Member recused.

The Mayor said he would bring back Councilman Schmid, and asked Attorney Noe if he was agreeable with that.

The City Attorney stated again that he felt they should all come back; that's the way he read the statute.

Kathy Hoffert spoke up from the audience, saying that she objected to the proponent's Attorney looking at the statute with the City Attorney. She felt it was unfair to the opposition and that the Council was giving the proponent a lot of leeway when it was not supposed to be that way. She stated that if they were talking about fairness, then she felt that all the Council Members should be brought back in to vote.

The City Attorney reiterated that the way he has always read the statute is that they all come back in, and that MRSC agreed when they were contacted.

The City Supervisor said that historically they follow what MRSC says, and to bring them all back.

The Mayor requested the Council Members to be brought back.

Council Members Gawlik, Tierney, Overby and Schmid returned to the meeting.

Mr. Carl Torkelson said that they aren't sure about this, since they are discussing it, and that he has made the mistake before of sitting there while the Council tried to rezone property out from under him. He stated that the Council has a lawsuit upon them right now because of that, and more than likely he'll get some money out of that lawsuit because of the Council's actions. He asked that the Council table this discussion until they know what they're doing and know exactly the right answer, before they make a mistake again. He stated that he asked them to do so last time, but they didn't, and instead made a decision to rezone his property. He went on to say that he got a lawyer from Seattle and put a tort claim on the Council. He asked why they didn't do the smart thing this time and table it, until they know exactly what they are supposed to and how to do it, and get it right.

The City Attorney stated that he knows exactly what he is doing and has addressed this issue many times, and that MRSC echoes his position, so he is sticking with it.

Mr. Torkelson stated that he wanted that to be said in case they ended up in court.

Ms. Kathy Hoffert spoke up from the audience asking if that was for the record, that he was threatening the Council Members.

Mr. Torkelson said he wasn't threatening anybody.

Ms. Hoffert said yes, he was.

The Mayor stated that from here on out this was a Council matter and everybody is involved, then called on Community Planner Dennis Davison to address the Council.

Community Planner Davison discussed the minutes from the Hearing Examiner's public hearings, along with the binders of documentation handed out with the packets. He gave a brief summary of the issue at hand, explained why the Hearing Examiner recommended denial and stated that the staff's report recommended denial of the Hearing Examiner's recommendation and approval of the planned development. He then opened the discussion to questions from the Council Members.

Councilman Gawlik asked why he was back in, as he had recused himself from the voting process.

The Mayor replied that it was because we didn't have a quorum.

The City Attorney stated that there was a statute that applies to let them back in when there isn't a quorum.

Councilman Jorgensen said that it looks like the Hearing Examiner's main reason for recommending denial is due to the vagueness of the Ordinance, and asked if that was a fair statement.

The City Attorney responded that he did read the Hearing Examiner's decision dated September 13th, and it looks like he found compliance with everything except Chapter 10.24 of the Selah Municipal Code, specifically .010, sub 1, which is admittedly vague. He felt that the Hearing Examiner struggled with that vagueness. He went on to say that the problem with having vague standards for development standards is that it's tough for a proponent to meet the standard.

Councilman Smeback said that he is worried by the wording the City has currently that was adopted by the Planning Commission for the City.

The City Attorney inquired if it was the terms of the Ordinance itself that worried him.

Councilman Smeback responded that it is the way the paragraph is written.

The City Attorney responded that that is our Ordinance; it went through the Planning Commission and came to the Council and became part of the City's Ordinances.

Councilman Smeback stated that he remembered the original was even more vague and that this Ordinance was an attempt to be more specific.

The City Attorney said that if we wanted to discuss the intent behind the provision, he felt that the intent of the Council, and probably the Planning Commission, was to provide flexibility. He said that the language is vague to the extent that it provides flexibility, and that the Hearing Examiner flipped it around and used the vagueness as a method for recommending a denial. He stated that he felt the intent is the opposite; the vagueness is there so there can be approvals. He mentioned that this is consistent with case law, citing Anderson versus the City of Issaquah found that Issaquah cannot deny a permit based on vague standards.

Councilman Jorgensen stated that there are dwellings constructed on this ground.

The Community Planner agreed, and pointed out the 2 lots currently without a dwelling on the site map posted on the bulletin board.

Councilman Jorgensen inquired if the existing building were currently renter-occupied dwellings.

The Community Planner said yes, they are.

Councilman Jorgensen asked if the intent now was to convert these to individual parcels that would be sold off and be owner-occupied dwellings.

The Community Planner affirmed that they would be individual parcels available for sale.

Councilman Jorgensen asked if the County would assign a parcel number to each individual property.

The Community Planner stated that the property would be subdivided into 12 lots, with an open space area, and each parcel would be provided a tax parcel number.

Councilman Tierney commented that there is no assurance that they would be owner-occupied.

The Community Planner said no, there is never any assurance that they would be owner-occupied. He stated that half the single family homes in Selah are renter-occupied. He said they are available for sale, but there's never any assurance they will sell.

Councilman Smeback inquired as to what would be in that open space.

The Community Planner referred the Council to the site plan in their binders, which shows seven trees and three picnic tables.

Councilman Overby asked, in regard to the cited case versus the City of Issaquah, and in light of a vague standard the hearing Examiner rules as vague, if the burden of proof lies on the City to prove that the proponent is not meeting the standards.

The City Attorney concurred, stating that if you are going to have development standards they have to be very specific in order for a proponent to meet those standards. He said if they are vague, then it becomes difficult for a proponent to know what they need to do to meet those standards. He said if you have a vague standard, the burden of proof shifts to the City on how the proponent doesn't meet that standard versus the burden being on the proponent to establish that they meet it. He went on the say that is what the case law provides for, for vague standards.

Councilman Overby commented that it was fairly awkward in this situation. He said the City staff are saying not only do they not not meet it, but they actually do meet to our standards. He went on to say that the burden of proof would be on the City staff and the City, and they are saying they meet the standards.

The City Attorney stated that we are recommending approval, and that the standard in our opinion is vague and that it would be difficult to deny the application based on a vague standard.

Councilman Tierney asked if there was an avenue available to clarify those standards with City staff, and if it had been done in this case.

The City Attorney stated that, while he was not directly involved in the application process, he understood that there was some back and forth on how to meet the standards.

The Community Planner said he read the Ordinance when reviewing the application submitted. He stated that he made suggestions where he thought it might be weak, but didn't feel it was his place to tell him what to put in the application.

Councilman Tierney said the purpose of Chapter 10.24.010 of the Selah Municipal Code is to allow new development that is consistent with the Comprehensive Plan. He asked if the developer was to go back to the Comprehensive plan to determine what is consistent with his new development.

The Community Planner referenced the Comprehensive Plan, stating that the land is designated High Density Residential and the developer's consistency is to develop a project that does not exceed the permissible density according to the Comprehensive Plan.

Councilman Tierney asked if he is compliance with that with 16 units.

The Community Planner affirmed that he is compliant, and could have more than 12 units on the property if he chose.

Councilman Overby raised a question on the Hearing Examiner referencing that it did not meet the criteria for esthetically appealing, which is contained in 10.24.01. He inquired of the City Attorney how you would define esthetically pleasing from a legal standpoint.

The City Attorney responded that that was the point he was making; it's vague. He stated that from a legal standpoint, he didn't feel you could deny someone based on a vague standard such as this one.

Councilman Tierney asked if you took out section 1 of 10.24.010, and the rest of the Ordinance stands, what position we would be in as a council for approval or denial. He added that it is a severable statute, if any portion is deemed unconstitutional or illegal or improper; then the rest of the statute stands.

The City Attorney stated that this is another point of contention with the Hearing Examiner's decision; he mentions sections 2 through 8 but those were eliminated by the Ordinance. He stated that there is only section 1 now, but Hearing Examiner seems to believe that they are retained but what was passed by the Council eliminated those sections.

Councilman Tierney then asked if the Hearing Examiner's interpretation of sections 2 through 8 was incorrect.

The City Attorney noted that the Hearing Examiner used sections 2 through 8 as examples of the intent of the Planned Development Zone, but they are not in the Ordinance.

Councilman Smeback stated that in looking through the conditions and covenants, he noticed that they seem very similar to condo associations around Yakima. He asked the City Attorney if he saw those conditions as being enforceable.

The City Attorney responded by saying that those types of covenants are enforceable among the association of the homeowners; the City can't really enforce those. He went on to say that people assume since it's recorded that the City is the strong arm and the enforcement mechanism, but in reality it is the association of owners that has to see to the enforcement. He stated this is a pretty typical set of CCRs you'd see with a development such as this.

Councilman Tierney brought up another question in regards to sections 2 through 8, referencing page 73 of the binder provided by the Community Planner. He stated that it shows section 2, section 3, section 4, section 5, section 6 and section 7, which was passed by the Council in October of 2009, which leads him to believe these are a part of that ordinance.

The City Attorney pointed out if you look at those sections, they have nothing to do with 2 through 8. He stated that they're just titles for that particular ordinance. He went on to state that section 7 talks about the effective date of the Ordinance, section 6 is severability, section 5 relates to 10.24.060 – a completely different Ordinance. He said the one thing that relates to 10.24.010 is section 2 of that Ordinance, and there is no 2 through 8 under that section 2.

Councilman Tierney commented that it's no wonder he is confused.

Councilman Jorgensen made the comment that, as he stated in the Matson case, he is firmly, ideologically bound to the fact that private property rights are sacred. He went on to say that he accepts the fact that governments have the right, in protection of the citizenry, to encumber that private property owner with certain regulations. He felt that in this case it could have been multi-density with a lot more housing units per parcel. There are other similar development throughout the community by this same developer that add, not detract to our community.

Councilman Jorgensen moved that the Council approve the staff's recommendation in denying the Hearing Examiner's recommendation and make a motion for approval. Councilman Larson seconded. The Community Planner requested that the motion be for the Planned Development and the Preliminary Plat, since they are part and parcel. Councilman Jorgensen added to his motion, stating "and the preliminary plat as is recommended because it also includes all the conditions". Councilman Larson seconded the amended motion. Roll was called: Council Member Larson – yes; Council Member Overby – yes; Council Member Tierney – no; Council Member Jorgensen – yes; Council Member Smeback – yes; Council Member Gawlik – abstain; Council Member Schmid - abstain. Motion carried with 4 voting aye, 1 voting no and 2 abstentions.

Prior to casting his vote, Councilman Tierney stated that many months ago he requested the authority of this Council to review these proposals and was denied, referred instead to the Hearing Examiner who does the analysis. He said that the Council was deemed not qualified to do so. He went on to say that based upon that, he has no option but to rely upon the expertise of the Hearing Examiner.

The City Attorney clarified that staff will put together findings and bring back an Ordinance to effectuate the Zone change at the next meeting.

Councilman Tierney inquired if there was something that could be done in the immediate future to clean the Ordinance up.

The Mayor responded that he thought there was.

The City Supervisor responded that they are doing some research right now into Ordinances that are not vague, that would allow staff to advise developers on what they need to do to meet requirements. He went on to say that they hoped to have some of those Ordinances in a week to 10 days to take to the Public Works committee and then take back to the Council.

Councilman Tierney reiterated the need to clean the Ordinance up; that it is neither fair to developers or homeowners/citizens in the community to have something drag on like this. He stated that he is pro-growth and pro-business, but that this has gone on so long that it needs to be clearer for everyone involved.

L. Old Business

M. Resolutions

* 1. Resolution Authorizing the Mayor to Sign a Letter to Yakima Valley Conference of Governments notifying them of the City of Selah's Approval of the Proposed YVCOG 2011 Budget

* 2. Resolution Authorizing the Mayor to Sign a Grant Agreement between the City of Selah and the Department of Ecology for the Municipal Stormwater Capacity Grant Project

* 3. Resolution to Accept Well No. 8 Drilling, Casing, Testing, and Pump as Complete

* 4. Resolution authorizing the Mayor to Sign the Agreement between the City of Selah and Yakima Basin Environmental Education Program for Professional Consultant Services relative to Stormwater Education

N. Ordinances

1. PROPOSED Ordinance of the City of Selah, Washington, creating a new Selah Municipal Code Chapter 6.77, Registration and Maintenance of Abandoned Properties

Mayor Jones briefly spoke on the background of the proposed ordinance, and then deferred to City Attorney Bob Noe for further discussion.

Councilman Gawlik commented as to his time as a Code Enforcement Officer and talked about the possibility of the City filing a lien at the County Auditor's against the property owners. He stated that he was not opposed to any Ordinances, but wanted to enlighten the Council as to the tools already available.

The Mayor acknowledged the possibility, and then shared the frustration he and City Supervisor Frank Sweet have experienced in trying to contact someone at the lending institutions to deal with the issue.

City Attorney Bob Noe noted that the house had to be deemed dangerous for the lien to be filed, and that most of these houses would not fall under that category, as most of these houses simply have maintenance issues. He then spoke on the proposed Ordinance, touching on the highlights of the proposal.

Councilman Jorgensen queried as to houses that are not foreclosures, but have been let go or abandoned by the owners.

The City Attorney stated that the nuisance codes would come into play in that type of situation, and that there are mechanisms to try to locate the owner, even to the extent of a court order that allows service by publication.

Councilman Overby enquired about the elderly, who might not be able to fulfill the requirements of the codes.

The City Attorney responded that those might have to be looked at on a case by case basis. He discussed the options available to the City in those types of cases.

The City Supervisor stated that they would usually try to contact the next of kin, or whoever is in charge of their affairs, to deal with the issue.

Councilman Overby asked if there was some latitude, as the abatement penalties seem a lot stiffer than the existing Ordinance.

The City Supervisor said that it would never get to that situation as long as there was someone willing to work with the City. This Ordinance would apply to those times the lending institution ignores the City's request.

Councilman Overby asked which fund the fees would go into.

Attorney Noe responded that there could be a designated fund for it to go into, but it would probably go into the General Fund.

The City Supervisor commented that it would probably be revenue for Code Enforcement, as those people would be doing the work. He went on to say that this will be going to the Public Works committee, and to please contact him or Attorney Noe with questions or concerns.

O. Communications

1. Oral

P. Reports/Announcements

1. Mayor
2. Council Members

Councilman Tierney had no report.

Councilman Larson welcomed Councilman Schmid to the Council.

Councilman Jorgensen had no report.

Councilman Smeback welcomed Councilman Schmid to the Council.

Councilman Overby welcomed Councilman Schmid to the Council. He expressed an opinion about the process of selecting a Council Member and requested that they codify the process for the future.

The City Supervisor indicated the intent to bring this before the Council in the future in regards to the selection process, most likely in the form of a Policy rather than an Ordinance.

Councilman Gawlik had no report.

Councilman Schmid had no report.

3. Boards
4. Departmental

Community Planner Dennis Davison briefly discussed his intent to present an Ordinance at the next Council Meeting, to appoint a Hearing Examiner Pro Tem in cases where the Hearing Examiner chooses to recuse himself from hearing them. The Mayor polled the Council and the consensus was to have the Ordinance presented at the next meeting.

Clerk/Treasurer Dale Novobielski had no report.

Public Works Director Joe Henne had no report.

Fire Chief Jerry Davis mentioned the Fire Commissioners' meeting later tonight to discuss the joint budget for the City district.

Police Chief Stacy Dwarshuis had no report.

City Attorney Bob Noe had no report.

City Supervisor Frank Sweet handed out packets concerning the 2011 Budget and briefly explained the current status of the 2011 Budget, highlighting some specific issues.

Councilman Gawlik confirmed that if the Initiatives regarding liquor fail, it would take care of a large percentage of the current budget shortfall. He then inquired about furloughs as an option.

The City Supervisor stated that everything is on the table at this point. He talked about the frugality of the City in previous years, and how this means there isn't extra in the budget to be cut to balance it. He touched on some areas that need to be analyzed, and how revenues might be increased to help in this issue.

The Mayor said that furloughs are out, and that they will be going back over the budget to see what can be cut out.

Councilman Gawlik expanded on his reasons for mentioning furloughs.

The Mayor responded that he feels the City has a tight and efficient crew.

The City Supervisor stated that he feels furloughs are more for public relations and not really effective, since work not getting done leads to overtime and that removes any economic savings for the City. He indicated that the intent is to still provide services and keep the employees on staff.

Councilman Tierney inquired about a shortfall on water, asking if the numbers included the 3% increase.

The City Supervisor confirmed that the numbers do reflect the 3% increase.

Q. Executive Session

No Executive Session was scheduled.

R. Adjournment

Council Member Larson moved, and Council Member Jorgensen seconded that the meeting be adjourned. By voice vote, the motion passed unanimously.

The meeting adjourned at 5:30pm.

Robert L. Jones, Mayor

Keith Larson, Council Member

Paul Overby, Council Member

John Tierney, Council Member

Kevin Jorgensen, Council Member

Dave Smeback, Council Member

John Gawlik, Council Member

Allen Schmid, Council Member

ATTEST:

Dale E. Novobielski, Clerk/Treasurer

Exhibit K

RECEIVED
DEC 21 2010
CITY OF SELAH
PUBLIC WORKS

CITY OF SELAH, WASHINGTON
HEARING EXAMINER'S RECOMMENDATION

December 20, 2010

In the Matter of a Planned Development Rezone Application and a Preliminary Plat Application Submitted by:	)	**File No. 914.79.10-02 (Planned Development Rezone) File No. 912.79.10-02 (Preliminary Plat)**
Torkelson Construction, Inc.	)	
For a Planned Development Rezone and a Preliminary Plat to be known as "Southern Estates" located at 605 Southern Avenue	)	**File No. 971.79.10-09 (Environmental Review)**

A. <u>Introduction.</u> The introductory findings relative to the hearing process for this matter are as follows:

(1) The Hearing Examiner conducted an open record public hearing for this matter on December 1, 2010.

(2) The staff report presented by Selah Community Planner Dennis Davison recommended approval of this change in zoning from Multiple Family Residential (R-3) to Planned Development (PD), and approval of this preliminary plat subject to enumerated conditions.

(3) The applicant's attorney, Kenneth Harper of Menke Jackson Beyer Ehlis & Harper, LLP, presented testimony and a legal memorandum in support of the rezone and the preliminary plat applications. The applicant's representative, Carl Torkelson, also answered questions and supplied information during the hearing.

(4) A resident living about one-half block southwest of the site, Jane Williams, read a letter signed by herself and her husband Bruce Williams dated December 1, 2010;

read a letter signed by Dave Hoffert of 606 Southern Avenue dated December 1, 2010; and elaborated on the points in those letters at the hearing.

(5) Documents admitted into the record at the hearing and considered by the Hearing Examiner include a "Southern Estates" application packet which includes the Planned Development (PD) rezone application, the environmental checklist, the Development Plan and Program, the Final Development Plan and Program and the Preliminary Planned Development/Plat Map; Mr. Davison's staff report and recommendation dated November 22, 2010; the City's zero lot line zoning ordinance definition adopted in 2004; the Notice of Completeness dated October 28, 2010; the Determination of Nonsignificance and Adoption of Existing Environmental Document and notice thereof dated November 19, 2010; the City of Selah Hearing Examiner's Notice of the Public Hearing/Environmental Determination to the Yakima Herald-Republic and to property owners within 600 feet dated November 18, 2010; Mr. Harper's Memorandum in Support of Applications of Torkelson Construction, Inc. dated December 1, 2010; Mr. Hoffert's letter dated December 1, 2010; the letter of Mr. and Mrs. Williams dated December 1, 2010; and the Order on South Selah Neighborhood Association's Land Use Petition Act Appeal dated January 9, 2009.

(6) Supplemental exhibits requested by the Hearing Examiner at the hearing which were submitted by Mr. Davison's letter dated December 6, 2010, include the Affidavit of Mailing to Adjacent Property Owners dated November 19, 2010; the published notice of hearing dated November 20, 2010; Ordinance 1779 amending Chapter 10.24 Planned Development Zoning District provisions adopted October 13, 2009; the SEPA Final Mitigated Determination of Nonsignificance and notice thereof dated July 20, 2007; and a copy of the 2005 City of Selah Urban Growth Area Comprehensive Plan. The record was closed upon receipt of these supplemental exhibits which will be included in the record.

(7) Other matters of public record which have been considered by the Hearing Examiner in reaching his recommendation in this matter include the City's Planned Development (PD) Zoning District ordinance, Chapter 10.24 of the Selah Municipal Code (SMC); the Selah Subdivision Code, Chapter 10.50 of the SMC; Ordinance 1795 adopted March 23, 2010, amending Section 10.50.041 of the Subdivision Code; the Hearing Examiner Recommendation for the adjacent "Fifth Street Estates" Planned Development (PD) rezone and preliminary plat applications dated September 13, 2010; and the City Council's Findings, Conclusions and Decision for the adjacent "Fifth Street

Estates" Planned Development (PD) rezone and preliminary plat applications dated October 26, 2010.

(8) This recommendation for the requested Planned Development (PD) rezone and the proposed preliminary plat has been issued within 14 calendar days and within 10 business days of the date that the record was closed upon the Hearing Examiner's receipt of the supplemental exhibits included in the record.

B. Summary of Recommendation. The Hearing Examiner recommends approval of this change in zoning from Multiple Family Residential (R-3) to Planned Development (PD), and approval of this preliminary plat of "Southern Estates" with conditions.

C. Basis for Recommendation. Based on a view of the site with no one else present on December 1, 2010; the staff report, exhibits, testimony and other evidence presented at the open record public hearing on December 1, 2010; the supplemental information requested by the Hearing Examiner and submitted by Mr. Davison by letter dated December 6, 2010; the SEPA Determination of Nonsignificance adopting a previously finalized Mitigated Determination of Nonsignficance which became final without an appeal; and a consideration of the applicable zoning ordinance provisions, subdivision requirements, development standards and consistency criteria; the Hearing Examiner makes the following:

FINDINGS

I. Applicant and Owner. The applicant is Torkelson Construction, Inc. and the applicant's representative is Carl Torkelson. The property owner of record is Tk Investments Yakima, LLC.

II. Application. This application requests a rezone from the Multiple Family Residential (R-3) zone to the Planned Development (PD) zone and approval of a preliminary plat containing 24 single-family residential lots consistent with the Planned Development Plan and Program.

III. Location and Parcel Number. The location of the proposal is 605 Southern Avenue. The Yakima County Assessor's tax parcel number is 181302-13006.

IV. Subject Property Zoning and Land Use. The current zoning of the property is Multiple Family Residential (R-3) and the current land use is 24 residential structures.

V. Current Vicinity Zoning and Land Use. Surrounding zoning and land uses are as follows:

(1) North: Multiple Family Residential (R-3); vacant hillside with a single triplex located 600 feet to the northeast.

(2) South: One-Family Residential (R-1); Southern Avenue and the developed subdivisions of "Oakwood Manor" (6 lots) and "South Terrace Addition" (11 lots).

(3) East: Planned Development (PD) and Two-Family Residential (R-2); single-family residences.

(4) West: Single-Family Residential (R-1) in unincorporated Yakima County; a single-family residence and a pasture.

VI. Selah Urban Growth Area Comprehensive Plan Designation. The subject property is within an area designated High Density Residential in the 2005 City of Selah Urban Growth Area Comprehensive Plan on the Future Land Use Map. This designation provides for a maximum density of twenty-four (24) dwelling units per acre. The

proposed density is 12.63 dwellings per gross acre which is below the maximum density set forth in the High Density Residential designation. Density in the adjacent residential subdivisions immediately to the south, "Oakwood Manor" and "South Terrace Addition," is 3.97 dwelling units per acre.

VII. Development Plan. The proposed Development Plan and Program contains the following main elements:

(1) Proposed Lot Development and Lot Sizes: The plan proposes 24 residential lots ranging in size from 1,714 square feet to 5,156 square feet on 1.90 acres. The average lot size is 3,176 square feet. A common open space area is 9,044 square feet in size. The density of the development plan is 12.63 residential units per gross acre. There are eight 2-story residences and sixteen 3-story residences on the property. The size of the units range from 1,650 to 1,700 square feet. Each residence has a two-car double garage and two outside lights facing the street. Renderings and photographs of the architectural styles of the structures are included in the applicant's Development Plan for the property. The approximate dimensions and sizes of the lots are as follows:

Lot 1: 44' x 115' and 5,156 sq. ft.±;	Lot 13: 32' x 115' and 3,680 sq. ft. ±;
Lot 2: 32' x 115' and 3,680 sq. ft.±;	Lot 14: 32' x 115' and 3,680 sq. ft. ±;
Lot 3: 32' x 115' and 3,680 sq. ft. ±;	Lot 15: 42' x 115' and 4,778 sq. ft. ±;
Lot 4: 32' x 115' and 3,680 sq. ft. ±;	Lot 16: 35' x 78' and 2,770 sq. ft. ±;
Lot 5: 63' x 71' and 4,416 sq. ft. ±;	Lot 17: 30' x 78' and 2,340 sq. ft. ±;
Lot 6: 24' x 71' and 1,714 sq. ft. ±;	Lot 18: 30' x 78' and 2,340 sq. ft. ±;
Lot 7: 33' x 72' and 2,370 sq. ft. ±;	Lot 19: 30' x 78' and 2,340 sq. ft. ±;
Lot 8: 33' x 70' and 2,321 sq. ft. ±;	Lot 20: 30' x 78' and 2,340 sq. ft. ±;
Lot 9: 30' x 71' and 2,124 sq. ft. ±;	Lot 21: 30' x 78' and 2,340 sq. ft. ±;
Lot 10: 30' x 71' and 2,137 sq. ft. ±;	Lot 22: 30' x 78' and 2,340 sq. ft. ±;
Lot 11: 57' x 72' and 4,139 sq. ft. ±;	Lot 23: 30' x 78' and 2,340 sq. ft. ±;
Lot 12: 35' x 115' and 4,025 sq. ft. ±;	Lot 24: 41' x 78' and 3,158 sq. ft. ±;

PARCEL A: 55' x 136' and 9,044 sq. ft. ±; Open Space: 9,044 sq. ft.

(2) Transportation Improvements: All lots will be served by a paved private interior drive that is twenty-four (24) feet wide. The private interior drive is constructed

without curb or gutter and accesses Southern Avenue. A recommended plat condition is construction of a five (5)-foot-wide sidewalk along the Southern Avenue frontage.

(3) Storm Drainage: Storm drainage is to be retained on site.

(4) Water Service: The lots will be served by private interior water lines connected to a 12-inch municipal water line located in Southern Avenue.

(5) Sewer Service: The lots will be served by private interior sewer lines connected to an existing 8-inch municipal sewer line located in Southern Avenue.

(6) Fire Hydrants: In addition to hydrants located at South 5th Street and Southern Avenue and at South 7th Street and Southern Avenue, an additional hydrant is located within the development between Lots 7 and 8.

(7) Utility Easements: Utilities will be located in an easement running through the center of the private community open space with branches to individual dwellings.

(8) Covenants: A homeowners association will assume responsibility for maintenance of the community open space, private streets, utilities and drainage facilities. The proponent prepared and submitted the Southern Estates Declaration of Covenants, Conditions and Restrictions which is to be recorded with respect to the property.

VIII. Applicable City Ordinances and Jurisdiction. In addition to consideration of the environmental review information for this matter, the main City ordinance provisions applicable to this matter are Chapter 10.24 (zoning) and Chapter 10.50 (subdivision) of the Selah Municipal Code. The Hearing Examiner has jurisdiction to make recommendations to the Selah City Council regarding rezones and preliminary plats pursuant to Sections 21.03.050, 10.24.100 and 10.50.026 of the SMC.

IX. Notices. Notices of the December 1, 2010, public hearing were provided in accordance with Sections 21.07.030 and 21.07.035 of the SMC in the following manners:

Posting of Land Use Action Sign on the Property:	November 1, 2010
Mailing of Notice of Hearing to Owners within 600 feet:	November 19, 2010
Publishing of Notice of Hearing:	November 20, 2010

X. <u>Planned Development Rezone Review Criteria.</u> Section 10.24.060 of the Selah Municipal Code (SMC) provides that an application for rezone to a Planned Development (PD) zone shall be heard before the City of Selah Hearing Examiner at an open record public hearing and that the recommendation to approve or deny the application shall be based on six criteria. The Hearing Examiner's analysis of the requested zone change to Planned Development (PD) in light of those six criteria is as follows:

(1) **Subsection 10.24.060(1) -- Substantial conformance to the City of Selah Urban Growth Area Comprehensive Plan.** The City of Selah Urban Growth Area Comprehensive Plan's Future Land Use Map designates this property as High Density Residential. (Comprehensive Plan at page 37). This designation contemplates a maximum density of twenty-four (24) dwelling units per acre. (Comprehensive Plan at page 35). The proposed density of 12.63 units per acre complies with the maximum density for the site prescribed by the Comprehensive Plan. The Comprehensive Plan also provides that each development of land in the Multiple Family Residential zone should provide usable open space for the enjoyment of the residents therein. The applicant's Final Development Plan and Program includes 9,044 square feet of "common open area" for use by residents. This open space exceeds ten percent of the total development. In addition, each unit has its own private fenced yard. The proposal also will meet the goal of encouraging private ownership of single-family housing. Table 3-4 of the Comprehensive Plan indicates that more acres of additional single-family residential property will be needed by 2025 than any other type of land use. (Comprehensive Plan at page 32). The proposal will also help expand home ownership opportunities for low-income and moderate-income citizens. (Comprehensive Plan at pages 41). Several sources of funds to assist in the acquisition of affordable housing are specifically detailed in the Comprehensive Plan at pages 41 to 43. Finally, specific goals and policies of the Comprehensive Plan's Housing Element at pages 12 and 13 of the Comprehensive Plan that are fulfilled by this proposal include the following:

> 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.

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

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

(2) **Subsection 10.24.060(2) -- The proposal's harmony with the surrounding area, or its potential future use.** The proposal is in harmony with a similar type of single-family residences adjacent to the site on the east. There are also single-family residences to the south and west. The property to the north is a vacant hillside with a triplex located 600 feet to the northeast. The Final Development Plan and Program for the proposal specifies the residential density of 12.63 units per gross acre which is about one-half of the density allowed in the High Density Residential Comprehensive Plan designation for the site and which is consistent with that permitted in the existing R-3 zoning of the site. The proposed Planned Development use does not present any greater impacts than those permitted under the existing R-3 zoning of the site and of the vacant land north of the site. A Planned Development use may not be denied if the proposal presents impacts no greater than those permitted under existing zoning. *Hansen v. Chelan County*, 81 Wn. App. 133, 913 P.2d 409 (Div. 3, 1996). When the environmental impacts of this proposal were analyzed and mitigated by means of the MDNS adopted by the City for this proposal, it was determined that there would be no probable significant adverse environmental impacts which are not mitigated. The proposal is therefore in harmony with the surrounding area, including potential future uses in the area.

(3) **Subsection 10.24.060(3) -- The system of ownership and means of development, preserving and maintaining open space.** The Comprehensive Plan does not establish any particular system of ownership of residential planned developments, but contemplates both leaseholds and condominium ownership. Here the system of ownership would be a combination of condominium and fee simple ownership since each of the 24 lots could be bought and sold, but the designated common open space, private interior road, utilities and drainage would be maintained by a homeowners association. "Open space" and "Common Open Space" are defined as follows in Appendix A to Chapters 10.02 through 10.48 of the City's zoning ordinance:

> " 'Open space' means undeveloped land that serves a functional role in the life of the community. This term is further categorized as follows:

(1) Common Open Space. Open space within or related to a development that is not dedicated for public use, but is designed, intended and legally committed for the common use or enjoyment of the residents of the development."

The proposed Final Development Plan and Program contains a "common open area" that exceeds ten percent of the property. This space was both designed and intended for the common use and enjoyment of the residents. The declaration of covenants, conditions and restrictions will establish easements to protect this open space and provisions for its preservation and maintenance. The open space lies at the center of the proposed development. The location, shape and size of the open space are suitable for this development as required by Subsection 10.24.080(1) of the SMC. The purpose of the common area is to provide an outdoor recreation area for residents, consistent with Subsection 10.24.080(2) of the SMC. The development plan indicates that the common open space will be suitably improved for its intended use as required by Subsection 10.24.080(3) of the SMC.

(4) **Subsection 10.24.060(4) -- The adequacy of the size of the proposed district to accommodate the contemplated development.** The City has previously approved other PD zones of a similar size or a smaller size. The proposed density is well below that permitted in the R-3 zone and there was no evidence suggesting that the size of the development is inadequate. Since the City's zoning ordinance does not specify an "adequate" size for a planned development, the 1.9 acres of this site is properly found to be adequate in the absence of evidence otherwise. *Sunderland Family Treatment Services v. City of Pasco*, 127 Wn.2d 782, 797, 903 P.2d 986 (1995); *Sleasman v. Olympia*, 159 Wn.2d 639, 643, 151 P.3d 990 (2007); *Morin v. Johnson*, 49 Wn.2d 275, 279, 300 P.2d 569 (1956). The size of the proposed Planned Development (PD) zone is adequate to accommodate this proposed development which includes substantial common open space in addition to individual fenced back yard areas for each residence.

(5) **Subsection 10.24.060(5) -- Compliance with the City's subdivision code, if a proposed planned development application is combined with a proposal to divide land into lots.** Since this proposed planned development application is combined with a proposal to divide land into lots, compliance with the City's subdivision code, Chapter 10.50 of the SMC, is required. This proposal complies with the City's subdivision code for the reasons set forth below in Section XI of this recommendation entitled Preliminary Plat Review Criteria.

(6) **Subsection 10.24.060(6) -- Compliance with SMC Chapter 10.24.** Chapter 10.24 of the SMC relative to Planned Development (PD) zone requirements contains many specific requirements, including the requirements of Subsections 10.24.060(1) through (5) of the SMC discussed above. Subsection 10.24.060(6) of the SMC has recently been authoritatively interpreted by the Selah City Council to place the burden upon the City to establish that a proposal fails to serve the purpose of the Planned Development zone set forth in Section 10.24.010 of the SMC because of the vagueness of the standards therein. That section contains the following general standards:

> "**10.24.010 Purpose.** A planned development zone approved in accordance with this chapter shall be a separate zoning district. Regardless of underlying zoning requirements, a planned development zone may permit all proposed uses and developments that can be shown to be in conformance with the policies of the comprehensive plan. A planned development zone may be permitted at any location subject to the provisions of this chapter. Approval of a planned development zone shall modify and supersede all regulations of the underlying zoning district. An applicant may also file a subdivision or binding site plan application which, if filed, may be processed concurrently with the planned development zone application.
>
> The purpose of this chapter, providing for the establishment of a planned development zone, is to allow new development that is consistent with the comprehensive plan but that would not be readily permitted in other zoning districts due to limitations in dimensional standards, permitted uses, or accessory uses. In addition, planned development zones may:
>
> > (1) Encourage flexibility in design and development that are architecturally and environmentally innovative, that will encourage a more creative approach in the development of land, and which will result in a more efficient, aesthetic and desirable utilization of the land than is possible through strict application of standard zoning and subdivision controls; provided, that subdivision controls are applicable to planned development zoning only when a planned development zone application is combined with a proposal to divide land into lots; ..."

Like the adjacent development to the east, this proposal is arguably a more efficient use of the property and arguably more aesthetically pleasing and desirable than a multi-family apartment complex that could be constructed on the site outright. At least the evidence at the hearing did not establish otherwise in view of the Community Planner's

recommendation of approval of the rezone to Planned Development (PD). This proposed rezone to the Planned Development (PD) zone satisfies all of the specific standards for such a rezone set forth in Subsections 10.24.060(1) through (5) of the SMC as discussed in detail above. It also satisfies the Selah City Council's authoritative interpretation of the final subsection thereof announced in its Findings, Conclusions and Decision for the adjacent development to the east (File No. 914.79.10-01) in light of the Community Planner's recommendation of approval. The weight of the evidence presented in this matter therefore satisfies the criteria for the requested change in zoning of this site from the Multiple Family Residential (R-3) zone to the Planned Development (PD) zone.

XI. Preliminary Plat Review Criteria. Section 10.50.025 of the SMC provides that the Hearing Examiner shall consider all relevant evidence to determine whether to recommend that a preliminary plat be approved, conditionally approved or disapproved by the City Council, and that the Hearing Examiner shall determine whether the proposed preliminary plat complies with applicable subdivision standards. The Hearing Examiner's consideration of this proposed preliminary plat utilizing the applicable review criteria may be detailed as follows:

(1) **Compliance with the standards set forth in Chapter 10.50 of the SMC relating to subdivisions:** As proposed and with the recommended conditions, this preliminary plat will meet all subdivision design requirements in Chapter 10.50 of the SMC in view of the flexibility in standards provided by the Planned Development zone provisions of Chapter 10.24 of the SMC and the amendments to Section 10.50.041 of the SMC pertaining to private street standards adopted on March 23, 2010, by Ordinance 1795. This review and the recommended conditions are intended to ensure compliance with the subdivision requirements.

(2) **Appropriate provisions for drainage:** The requirement to retain storm drainage on site makes appropriate provisions for drainage.

(3) **Appropriate provisions for roads, alleys and other public ways:** The proposed lots will be served by way of a paved private interior road which is twenty-four (24) feet in width within a private access easement that is thirty (30) feet in width. The private interior road is constructed without curb or gutter. The proposed covenants in the

record prohibit parking any type of vehicle on any common area, including the private interior road. The private interior road is U-shaped so as to access Southern Avenue at two locations. No lot will have direct access to Southern Avenue. Southern Avenue is a paved public Collector street which is twenty-six (26) feet in width within a public right-of-way that is sixty (60) feet in width. Southern Avenue is constructed without curb, gutter or sidewalks. It intersects South Fifth Street, a Local Access street, which runs adjacent to the adjoining property to the east. South Fifth Street likewise is constructed without curb, gutter or sidewalks. The existing carrying capacity of Southern Avenue is about 6,000 vehicle trips per day. The traffic counts on Southern Avenue west of South 1st Street for vehicle trips per day were 921 in 1988, 986 in 1992, 1,210 in 2002 and 1,519 in 2009. Southern Estates at total occupancy would contribute an estimated 240 vehicle trip ends per day (10 vehicle trip ends per dwelling per day). Even though the testimony and letter of Jane Williams asserted that the private road is not legal or large enough for rescue or fire vehicles, Mr. Davison testified that such is not the case. The design of the private road complies with the subdivision road standards of Section 10.50.041 of the SMC as amended by Ordinance 1795. Approval of the preliminary plat would not impose any different fire protection or rescue uses on the road than the use for which it was originally approved -- namely to serve 24 residential units. The testimony and letter of Jane Williams referring to the lack of a sidewalk along the south side of the site is addressed by the recommended plat requirement to install a sidewalk along the south frontage of the site on Southern Avenue. When she asked why two years was being allowed for completion of the sidewalk, the applicant indicated that it would be constructed in conjunction with the sidewalk requirement for the adjacent property within one year, so the Hearing Examiner is recommending that the sidewalk be constructed within one year of the date of recording. As conditioned, appropriate provisions are made for roads, alleys and other public ways.

(4) **Appropriate provisions for a water supply:** The lots will be served by private interior water lines connected to a 12-inch municipal water line located in Southern Avenue. Since the available municipal water supply capacity is adequate to serve the proposed preliminary plat, appropriate provisions are made for a water supply.

(5) **Appropriate provisions for sanitary sewage disposal:** The lots will be served by private interior sewer lines connected to an 8-inch municipal sewer line located in Southern Avenue. Since the available municipal sewage disposal capacity is adequate to serve the proposed preliminary plat, appropriate provisions are made for sanitary sewage disposal.

(6) **Appropriate provisions for parks and playgrounds:** The testimony indicated that there is a park several blocks north of the proposed preliminary plat and that the 9,044 square feet of common open space within the proposed preliminary plat will be reserved and maintained for the common use or enjoyment of the residents of the plat. Although the testimony and letter of Jane Williams asserted that litter and weeds have been allowed to accumulate in the common mailbox area and that it would be easier for the City to deal with a single owner than with multiple owners and a homeowners association, a recommended condition of this preliminary plat is that the City require any provisions for control and enforcement of common open space maintenance requirements that it deems appropriate to be included in the recorded covenants. The common open space within the plat in addition to the individual fenced back yards for each dwelling unit and a park in the area will make appropriate provisions for parks and playgrounds.

(7) **Appropriate provisions for fire protection facilities:** Despite the assertion of fire safety concerns expressed in the testimony and letter of Jane Williams, the location of fire hydrants at South 5th Street and Southern Avenue, at South 7th Street and Southern Avenue and between Lots 7 and 8 of the proposed preliminary plat make appropriate provisions for fire protection facilities.

(8) **Appropriate provisions for minimum lot size:** Since Comprehensive Plan Amendment 2006-3 deleted the one-acre minimum lot size requirement for the High Density Residential land use designation and since the Planned Development (PD) zone does not have a specified minimum lot size requirement, the proposed preliminary plat which contains lot sizes between 1,714 square feet and 5,156 square feet with an average lot size of 3,176 square feet and 9,044 square feet of common open space makes appropriate provisions for minimum lot size.

(9) **Appropriate provisions for other public and private facilities and improvements:** The plat will be served by utilities and public services appropriate for a residential development. The utilities will be located in an easement running through the center of the private common open space with branches to the individual dwellings. Numerous easements, the private utilities and the private driveways that provide utility and vehicular access to individual lots are shown on the proposed preliminary plat.

(10) **Appropriate provisions for requirements of the City's Comprehensive Plan and zoning ordinance:** The proposed preliminary plat makes appropriate provisions for requirements of the City's Comprehensive Plan and zoning ordinance for the reasons set forth above relative to the Planned Development Rezone Review Criteria. Even though the testimony and letter of Jane Williams and the letter of Dave Hoffert

assert that the Superior Court has ruled this property to be illegal as a Planned Development, the Superior Court Order dated January 9, 2009, in fact held that it was improper to approve the development as five purported multi-family dwelling units. This was because the buildings and structures were based upon single-family plans and specifications and were connected by non-structural causeways appearing to be cosmetic with no structural utility to improve the liveability of the separate buildings. In that sense, the Court's Order instead noted the essential single-family dwelling nature of the structures. While such structures are not allowed in the Multiple Family Residential zone, they are allowed in the Planned Development zone. At the hearing the applicant expressed a desire to remove the roofline connections which currently connect some of the units. The Hearing Examiner recommends that the applicant be allowed to remove roofline connections between some of the structures because that would make those structures completely separate like other single-family residences. To the extent that some lots would constitute zero lot line development, that type of development would be allowed in the Planned Development zone. But since that type of development is not required in a Planned Development zone, it is recommended that either the existing configuration of the structures or modifications to further separate some of them could be allowed in this planned development without running counter to any of the Planned Development zone requirements. Even though the testimony and letter of Jane Williams asserts that the proposal violates various code requirements relative to off-street parking, landscaping, lighting and other features, the requirements of the Planned Development zone are even more flexible than the Multiple Family Residential zone requirements which the City complied with according to finding 3 of the Superior Court Order in the record. Finally, no evidence was submitted to support the assertion in the letter of Dave Hoffert that the applicant has a conflict of interest in this matter because he sits on the Selah Planning Commission. This recommendation is being made to the City Council by the Hearing Examiner rather than by the Planning Commission. Despite the assertions otherwise, the weight of the evidence presented at the hearing was to the effect that the preliminary plat makes appropriate provisions for requirements of the City of Selah's Comprehensive Plan and zoning ordinance.

CONCLUSIONS

Based on the Findings above, the Hearing Examiner reaches the following Conclusions:

(1) The Hearing Examiner has jurisdiction to recommend to the City of Selah City Council the approval of a proposed rezone to the Planned Development (PD) zone and a proposed preliminary plat pursuant to Sections 21.03.050, 10.24.100 and 10.50.026 of the Selah Municipal Code.

(2) Notices of the open record public hearing were provided in accordance with Sections 21.07.030 and 21.07.035 of the Selah Municipal Code.

(3) A SEPA Determination of Nonsignificance adopting a previous SEPA Mitigated Determination of Nonsignificance was issued for this proposed Planned Development (PD) rezone and preliminary plat of Southern Estates on November 19, 2010, which found that there are no probable significant adverse environmental impacts that are not mitigated and which became final without any appeals.

(4) The proposed zoning map amendment and subdivision are consistent with the Comprehensive Plan for development of the High Density Residential designation, and the proposed subdivision for a type of single-family housing allowed in an approved subdivision to the east is consistent with the Comprehensive Plan.

(5) The proposed subdivision will have no greater impact than the development of apartment, townhouse or condominium complexes contemplated for the High Density Residential future land use designation and permitted outright on the subject property.

(6) The proposed rezone and subdivision meets the City's Planned Development (PD) rezone criteria set forth in Section 10.24.060 of the Selah Municipal Code.

(7) The proposed rezone and subdivision serves the purposes of the Planned Development ordinance, including the general standards set forth in Section 10.24.010 of the Selah Municipal Code in view of the City staff's recommendation of approval and the burden relative to such general standards which has been authoritatively placed upon the City under the circumstances.

(8) Where, as is the case here, a proposed rezone will implement policies of the Comprehensive Plan, a rezone is not required to be supported by a change in circumstances.

(9) The proposed rezone and subdivision meets the City's subdivision standards set forth in Chapter 10.50 of the Selah Municipal Code.

(10) Preliminary plat approval is appropriate following rezone and subject to the conditions set forth in this recommendation.

(11) This proposed planned development and preliminary plat are consistent with the City's development regulations and the City's Comprehensive Plan relative to the type of land use, the level of development such as units per acre or other measures of density, and the characteristics of the development such as development standards.

RECOMMENDATION

Based upon the foregoing Findings and Conclusions, the Hearing Examiner recommends to the Selah City Council that the requested zoning map amendment to change the zoning of the subject parcel from Multiple Family Residential (R-3) to Planned Development (PD) described in the application and related documents which are assigned file number 914.79.10-02 be **APPROVED**, and that the requested 24-lot preliminary plat of "Southern Estates" described in the application and related documents which are assigned file number 912.79.10-02 be **APPROVED** subject to the following conditions:

(1) All design and/or improvement notations indicated on the preliminary plat are included herein as conditions of preliminary plat approval (i.e., private easement widths and locations, lot size, lot configuration, etc.).

(2) Final lot dimensions and lot sizes must substantially conform to the preliminary plat unless otherwise amended during the public hearing process.

(3) Upon completion of construction and prior to final plat approval, final "as-built" construction plans and a written certification by a Licensed Professional Engineer that said private improvements were completed in accordance with the construction plans must be submitted to the Public Works Department for long-term storage.

(4) Prior to recording the final plat of "Southern Estates," the developer shall saw cut the existing Southern Avenue pavement south of the north pavement edge and reconstruct the street to City standards, including a new barrier curb, gutter and five (5)-foot-wide sidewalk. Except at intersections, the developer may elect to construct rolled

curbs and gutters rather than barrier curbs and gutters. In lieu of construction, the proponent may submit a performance bond expiring no earlier than one (1) year from the date of recording. If the proponent fails to complete the required improvements within one (1) year from the date of recording, the City will utilize the bond to complete the improvements.

(5) Once the required improvements are completed, the proponent shall submit a surety bond, or such other secure financial method acceptable to the City, in the amount of fifteen percent (15%) of the cost of the required improvements as determined by the Public Works Director to be held for a period of two (2) years from the completion of improvements to guarantee against defects in materials and workmanship.

(6) The following note must be placed on the face of the final plat map for the plat of "Southern Estates":

> "The Southern Estates Homeowners Association, any grantees or assignees in interest, hereby covenant and agree to retain all surface water generated within the plat on-site."

(7) The "Southern Estates Declaration of Covenants, Conditions and Restrictions" shall provide in a manner acceptable to the City Attorney for the ongoing dedication and maintenance of common areas subject to such control and enforcement ability in the City as the City shall deem appropriate and advisable. The Southern Estates Declaration of Covenants, Conditions and Restrictions otherwise containing substantially the same provisions as the covenants in the record of this proceeding shall be recorded simultaneously with the final plat map.

DATED this 20th day of December, 2010.

Gary M. Cuillier

Gary M. Cuillier, Hearing Examiner

Exhibit L

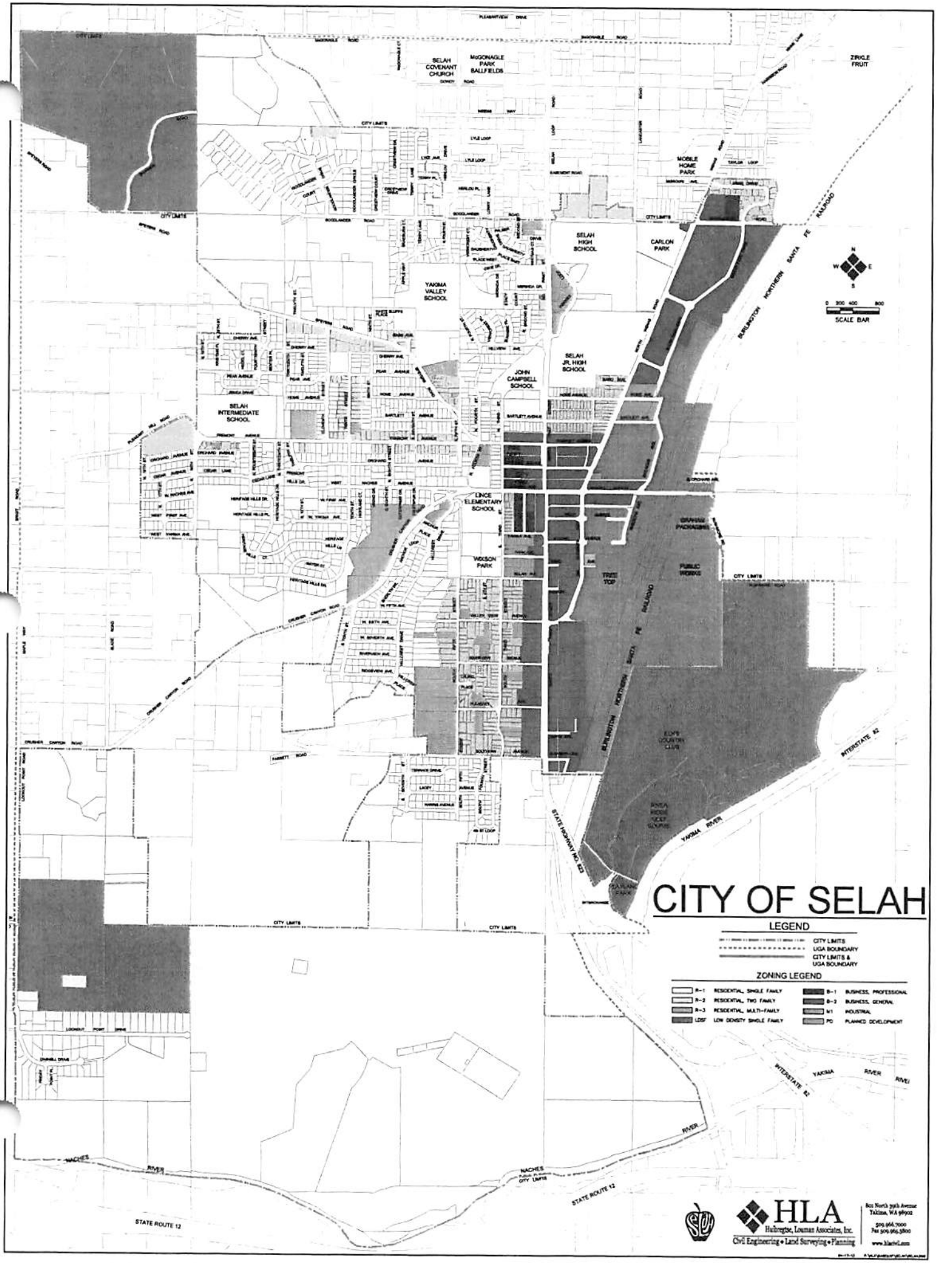
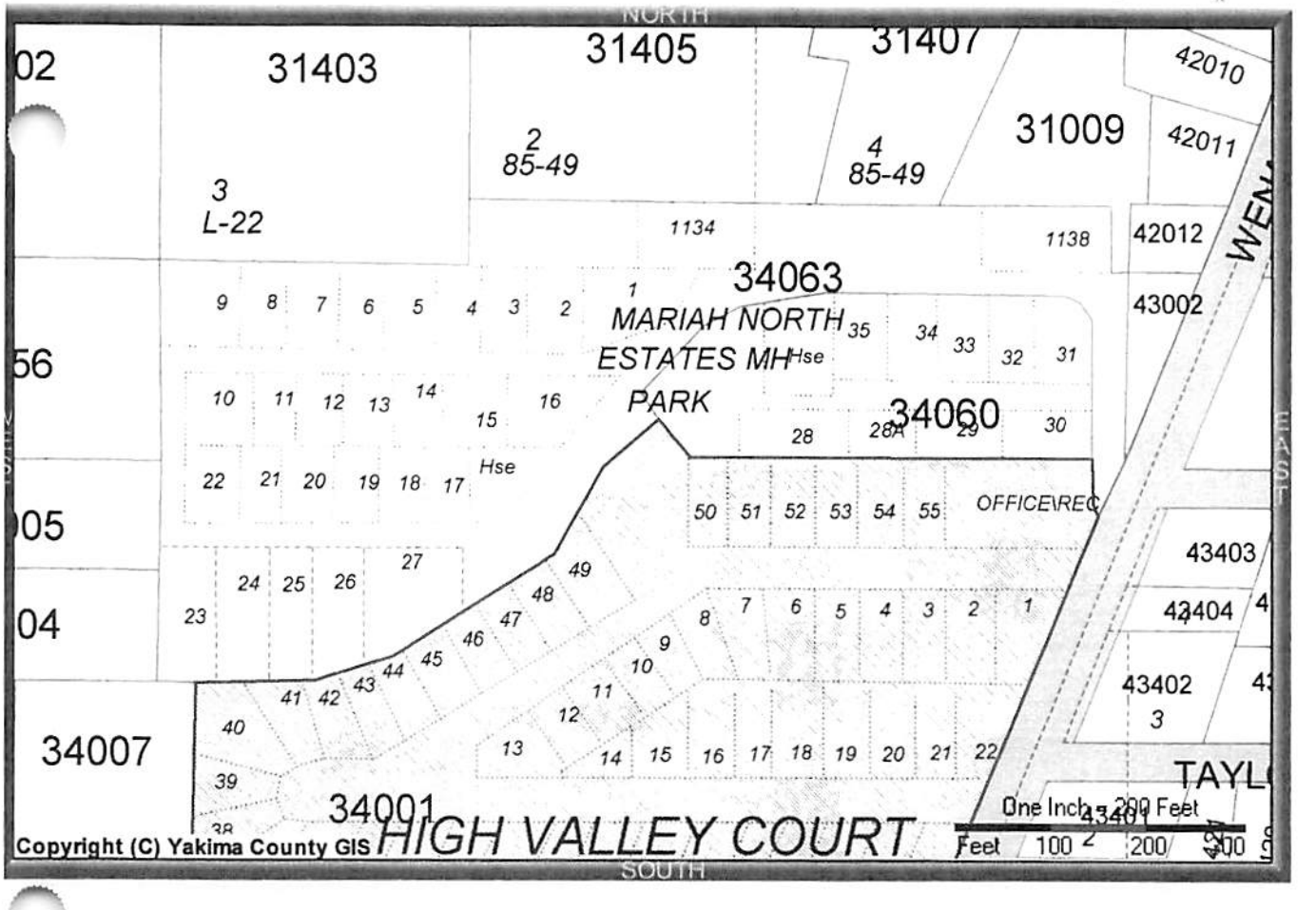

CITY OF SELAH
LEGEND
CITY LIMITS
UGA BOUNDARY
CITY LIMITS & UGA BOUNDARY
ZONING LEGEND
R-1 RESIDENTIAL, SINGLE FAMILY
R-2 RESIDENTIAL, TWO FAMILY
R-3 RESIDENTIAL, MULTI-FAMILY
LDSF LOW DENSITY SINGLE FAMILY
B-1 BUSINESS, PROFESSIONAL
B-2 BUSINESS, GENERAL
M1 INDUSTRIAL
PD PLANNED DEVELOPMENT
SCALE BAR
SELAH COVENANT CHURCH
McDONALD PARK BALLFIELDS
ZIRKLE FRUIT
MOBILE HOME PARK
SELAH HIGH SCHOOL
CARLON PARK
YAKIMA VALLEY SCHOOL
SELAH JR. HIGH SCHOOL
JOHN CAMPBELL SCHOOL
SELAH INTERMEDIATE SCHOOL
LINCE ELEMENTARY SCHOOL
WIXSON PARK
TREE TOP
PUBLIC WORKS
GRAHAM PACKAGING
EDP'S COUNTRY CLUB
RIVER RIDGE GOLF COURSE
BURLINGTON NORTHERN SANTA FE RAILROAD
STATE HIGHWAY NO. 823
INTERSTATE 82
YAKIMA RIVER
NACHES RIVER
STATE ROUTE 12
CITY LIMITS
HLA
Huibregtse, Louman Associates, Inc.
Civil Engineering • Land Surveying • Planning

Exhibit M



PROPERTY PHOTO	PROPERTY INFORMATION	
	Parcel Address: **1060 N WENAS RD, ,WA**	
	Parcel Owner(s): **HIGH VALLEY MHC LLC**	
	Parcel Number: **18142534001**	Parcel Size: **7.48 Acre(s)**
	Property Use: **15 Mobile Home Park**	
	TAX AND ASSESSMENT INFORMATION	
	Tax Code Area (TCA): **403**	Tax Year: **2015**
	Improvement Value: **$1473700**	Land Value: **$71800**
	CurrentUse Value: **$0**	CurrentUse Improvement: **$0**
	New Construction:**$0**	Total Assessed Value:**$1545500**

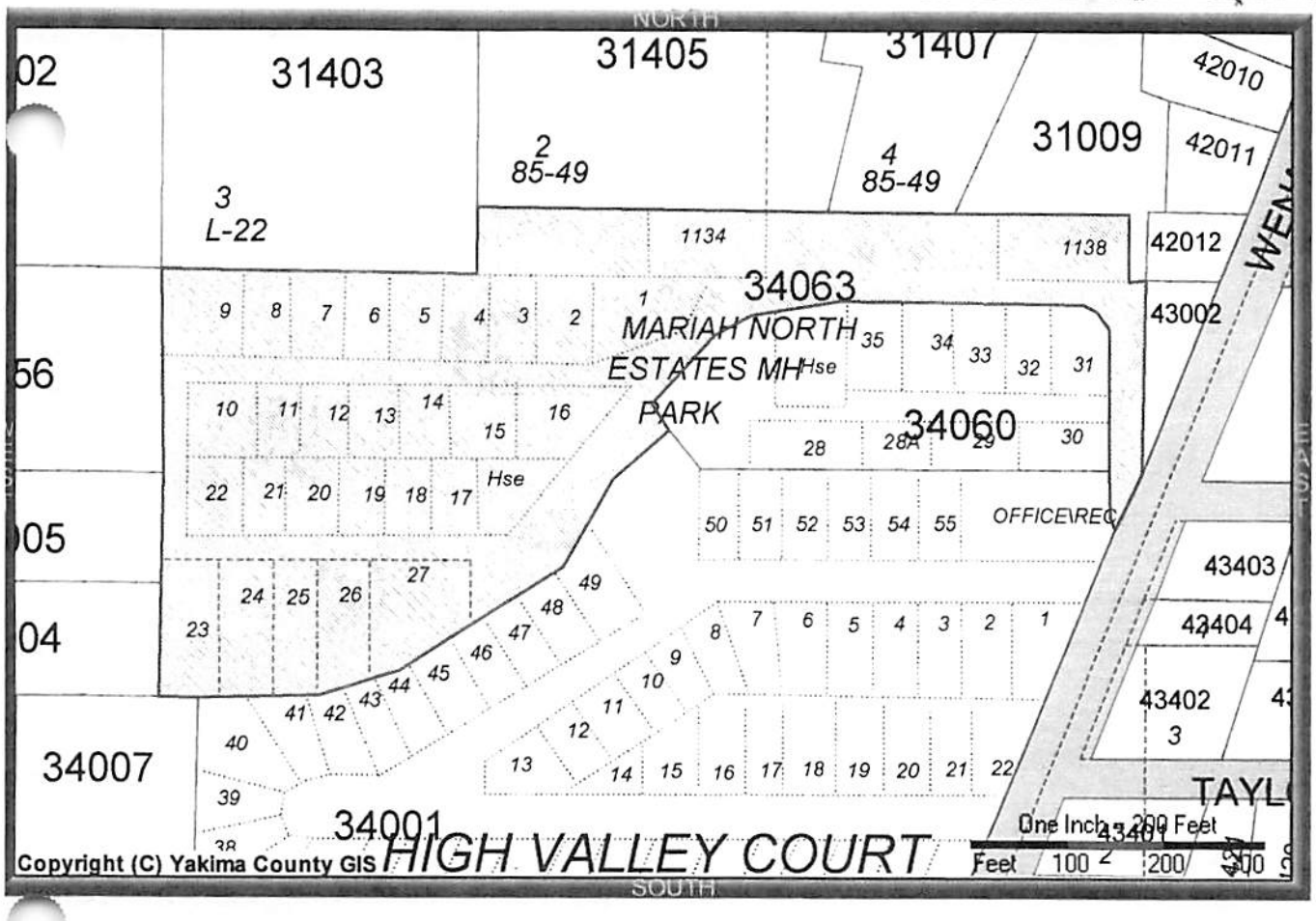
OVERLAY INFORMATION		
Zoning: **R-2**	Jurisdiction: **County**	
Urban Growth Area: **Selah**	Future Landuse Designation: **UGA (Yakima County Plan 2015)**	
FEMA: **Not in floodplain (X)**	FIRM Panel Number: **53077C0717D**	
LOCATION INFORMATION		
+ Latitude:**46° 40' 03.061"**	+ Longitude:**-120° 31' 18.011"**	Range:**18** Township:**14** Section:**25**

Narrative Description: **BEG N 89 D 59'W 16 FT AND S 0 D 23'E273.5 FT OF NE COR SE1/4 SW1/4, TH N 0D 23'W 86.2 FT, TH S 30 D 36'W 421.6FT, TH N 40 D 10'W 53.1 FT, TH S 47 D18'W 81.5 FT, TH S 29 D 41'30 W 97 FT,TH S 56 D 58'W 200 FT, TH S 68 D 08'W87.52 FT, TH S 89.45'W 122.36 FT, TH S231.95 FT TO S LN N1/2 SE1/4 SW1/4, THE 766.05 FT M OR L TO W LN WENAS RD,TH NE'LY TO POB, EX FOL: BEG AT NE CORSE1/4 SW1/4, TH S 0 D 19'50 E 273.5 FTTH N 89 D 52'45 W 16 FT, TH N 0 D 19'50 W 71.01 FT TO TRUE POB, TH N 0 D19'50 W 19.58 FT, TH S 89 D 45'55 W 8FT, TH S 22 D 33'E 21.51 FT TO TRUEPOB**

DISCLAIMER

MAP AND PARCEL DATA ARE BELIEVED TO BE ACCURATE, BUT ACCURACY IS NOT GUARANTEED; THIS IS NOT A LEGAL DOCUMENT AND SHOULD NOT BE SUBSTITUTED FOR A TITLE SEARCH, APPRAISAL, SURVEY, FLOODPLAIN OR ZONING VERIFICATION

[Print Map] [Close Map]



PROPERTY PHOTO	PROPERTY INFORMATION	
	Parcel Address: **1130 N WENAS RD, SELAH ,WA 98942**	
	Parcel Owner(s): **MORIAH NORTH ESTATES LLC**	
	Parcel Number: **18142534063**	Parcel Size: **5.73 Acre(s)**
	Property Use: **15 Mobile Home Park**	
	TAX AND ASSESSMENT INFORMATION	
	Tax Code Area (TCA): **403**	Tax Year: **2015**
	Improvement Value: **$717200**	Land Value: **$75000**
	CurrentUse Value: **$0**	CurrentUse Improvement: **$0**
	New Construction:**$0**	Total Assessed Value:**$792200**

OVERLAY INFORMATION		
Zoning: **R-2**	Jurisdiction: **County**	
Urban Growth Area: **Selah**	Future Landuse Designation: **UGA (Yakima County Plan 2015)**	
FEMA: **Not in floodplain (X)**	FIRM Panel Number: **53077C0717D**	
LOCATION INFORMATION		
+ Latitude:**46° 40' 06.122"**	+ Longitude:**-120° 31' 20.501"**	Range:**18** Township:**14** Section:**25**

Narrative Description: **Section 25 Township 14 Range 18 Quarter SW: BEG 8.84 FT N OF NE COR SE1/4 SW1/4,TH S 282.34 FT,TH W 16 FT,TH N 90.59 FT, TH E 10 FT,TH N 146.97 FT,TH CURVE LT RAD 30 FT CHOR89^37'W> 250.7 FT,TH S 79^36'W 71.06 FT,TH CURVE LT RAD 184 FT CHORD 78.87 FT,TH S 39^59' W 83.3 FT,TH S 63^52'E 31.08 FT,TH S 48^ 59'W 86.74 FT,TH S 29^41'W 97 FT,TH S > 56^58'W68^08'W 87.52 FT,TH S 89^45'W 167.36 FT M/L TO A PT 335.3 FT E OF W LN SD SUBD,TH N 429.8 FT,TH N 89^ 54'07 E 997 M/L TO POB AND S 73 FT OF SE1/4 NE1/4 SW1/4, EX BEG 8.84 FT NFT,TH W 664.71 FT,TH N 6.3 FT,TH N 89^54'07"E 664.7 FT TO BEG EX E 16.5 FT,**

DISCLAIMER

MAP AND PARCEL DATA ARE BELIEVED TO BE ACCURATE, BUT ACCURACY IS NOT GUARANTEED; THIS IS NOT A LEGAL DOCUMENT AND SHOULD NOT BE SUBSTITUTED FOR A TITLE SEARCH, APPRAISAL, SURVEY, FLOODPLAIN OR ZONING VERIFICATION

Exhibit N

In the Matter of the Application by	)	Selah City File Nos. 912.79.05-1,
	)	914. 79.05-1
	)	
	)	
	)	
Torkelson Construction, Inc.	)	HEARING EXAMINER'S
	)	RECOMMENDATION
	)	
	)	
To rezone R-3 Property at 605 Southern	)	
Avenue to PD and create the 24- lot	)	
Southern Estates Subdivision	)	

Torkelson Construction, Inc. ("Torkelson")has applied to rezone the subject property from Multiple Family Residential (R-3) to Planned Development. Torkelson also seeks to subdivide the PD property into twenty-four lots and develop multiple story residences, leaving a common open space lot in the center of the development for recreational amenity value. The City of Selah Community Planner provided a staff report on the applications to the Hearing Examiner. The staff report recommended denial of the rezone based on a view that the project does not meet the purposes of the Planned Development Ordinance. Since denial was recommended, the staff report did not include recommended conditions on approval of the development. The Hearing Examiner conducted a site visit on May 11, 2005. An open record hearing on the proposed zoning map amendment and preliminary plat was conducted on the same date at Selah City Hall. Several members of the public attended the hearing and provided comment, principally in opposition to the proposed development. The comments pertained to the intensity of development, its aesthetic impacts, traffic impacts and the suitability of the proposed open space for its intended use. Based on the lack of information in the record after hearing regarding the suitability of the open space proposed for the project, the Hearing Examiner reopened the record to allow the applicant to provide additional information. Torkelson provided open space information by a letter dated June 9, 2005. The letter did not include information regarding instruments for assuring City of Selah enforcement of open space preservation terms

SUMMARY OF RECOMMENDATION: The requested and duly noticed change in zoning for the subject property and the preliminary plat application should be DENIED.

From the site visit, a review of the staff report and other exhibits, information and public comment received at the hearing, and a review of City of Selah Zoning Ordinance and Comprehensive Plan, the Hearing Examiner makes the following

FINDINGS

1. **Applicant and Owner:** Torkelson Construction, Inc. P.O. Box 292, Selah, WA 98942.

2. **Application:** Zoning map amendment to change the subject property from R-3 to PD, and preliminary plat of the rezoned property.

3. **Location and Parcel Numbers:** The property is located at 605 Southern Avenue. The County Assessor's parcel number for the affected property is 181302-13006. The legal description in the application is:

> Commencing at a point 25 feet North of the Southeast corner of the Southwest quarter of the Northeast quarter of Section 2, Township 13 North, Range 18 E.W.M.; running thence North 295 feet; thence West 426 feet; thence South 295 feet; thence East 426 feet to the point of beginning; EXCEPT the East 140 feet thereof.

4. **Subject Property Zoning and Land Use:** The parcel is in the R-3 zoning district, based on a zoning map amendment approved by the Selah City Council in January, 2005. There is currently a single family dwelling on the property.

5. **Current Vicinity Zoning and Land Use:**

   a. Surrounding Zoning:

Location	Zoning District
North	Multiple Family Residential (R-3)
South	Two Family Residential (R-2)
East	Multiple Family Residential (R-3)
West	Two Family Residential (R-2)

b. Surrounding Land Use:

Location	Land Use
North	Vacant hillside
South	Single family residences
East	Single family residence and duplexes
West	Single family residence and undeveloped acreage

6. **Selah Urban Growth Area Comprehensive Plan Designation:** The entire 1.94 acres is designated High Density Residential on the Future Land Use Map.

7. **Development Plan**

a. Proposed Lot Development and Lot Sizes: The plan proposes 24 residential lots. According to the preliminary plat of the planned development, the residential lots range in size from 2,340 square feet to 6,120 square feet. Average lot size is 3,206.8 square feet. A twenty-fifth lot, Tract "A", a non-residential open space lot, is 8,802 square feet. The proposed structures on the lots are stand-alone residences, sixteen of which are three stories and eight of which are two stories in height. Renderings and photographs of the architectural styles of the two- and three-story houses are included in the applicant's development plan. All back yards would be fenced. The common open space would include one or more covered picnic table areas.

b. Transportation Improvements: The lots would be served by a 20-foot paved one way private drive on a 30-foot access and utility easement. The private street, as proposed, would be constructed without curb, gutter or sidewalks. Individual driveways will connect to the private interior street. The location of the driveways is not indicated on the preliminary plat.

c. Storm Drainage – No provision is made in the development plan for storm drainage except that on-tract drainage is contemplated in the declaration of covenants proposed for the project.

d. Water Service: The lots would be served by the City of Selah municipal water system. Landscaping and landscaping maintenance is the responsibility of the homeowners association according to the draft subdivision covenants.

e. Sewer: A single six (6) inch collection line will be located within the utility easement with individual connection to each residence.

f. Fire Hydrants: Subject to fire code compliance, a hydrant would be placed at the mid-point of the northern-most segment of the private access road.

g. Utility easements: Utilities will be located in an easement running through the center of the development from Southern Avenue with branches serving the dwellings fronting on the northern-most segment of the private road.

h. Covenants: The Southern Estates Declaration of Covenants, Conditions and Restrictions would establish that a homeowners association will assume responsibility for maintenance of the common area, private street, utilities, drainage facilities, and landscaping.

8. Environmental Review: A determination of nonsignificance (DNS) was issued April 14, 2003. No substantive or procedural comments were received during the comment period.

9. Analysis:

a. Rezone review criteria. The Hearing Examiner is charged by SMC 10.24.060 with applying specified criteria in making a recommendation on an application for rezone to a PD zone. Those criteria are set forth and analyzed below. In addition, a project permit such as a site-specific rezone must be determined during project review to be consistent with a local government's development regulations or the appropriate elements of the comprehensive plan, specifically considering :

- The type of land use;
- The level of development, such as units per acre or other measures of density;
- The characteristics of the development, such as development standards.

The current PD ordinance effectively addresses all of the considerations that are brought to bear in consistency review.

b. Planned Development Ordinance (10.24.060). The ordinance provides five criteria for consideration in review of a PD proposal. They are addressed in turn in the following paragraphs.

(1) Substantial conformance with the comprehensive plan. The Comprehensive Plan ("the Plan") establishes the definition of High Density Residential use at P. 28. The

Plan encourages compact multifamily housing units. The Plan does not establish any particular type of tenancy for such housing units, but rather contemplates both leaseholds and condominium ownership.

The intensity of development is determined both in the scheme of the Plan and in the zoning ordinance by a combination of density and lot size. The Plan reflects a policy decision on the right combination of density and lot size in the various residential future land use categories. The High Density Residential designation is intended to provide areas for high density development up to twenty-four (24) dwelling units per gross acre. Developments in the high density areas are intended to provide usable open space for the enjoyment of residents.

Much of the public comment regarded the perceived inappropriateness of the density of the proposed use. The density of the proposed development is 12.37 dwelling units per gross acre, which is below the maximum density set out for the high density residential designated lands, and is higher than the maximum density set for Moderate Density Residential land (12 dwelling units per acre).

The High Density Residential use category is designed to accommodate compact development with minimum lot sizes of one acre. The proposed lot sizes are much less than the targeted lot size for high-density residential properties. Thus while there is no inconsistency with the plan from the density perspective, the subdivision is not consistent with the lot size provision of the Plan, and is therefore not consistent with the overall scheme of development for High Density Residential properties.

The Plan addresses transportation and sets Levels of Service for city streets. Pedestrian circulation and associated lighting and sidewalks are important considerations under the Plan. See p. 71 of the Plan, concerning the creation of a unifying and aesthetically pleasing experience through use of street lighting and sidewalks. Some public comment was directed toward traffic and pedestrian safety both within and outside of the subject property. The comment may be characterized as an expression of concern or as anecdotal evidence. The concerns for significant increases to traffic or pedestrian risk are not corroborated by the Community Planner or the Public Works Department. No information presented indicates that the Level of Service standard (LOS C) set for Southern Avenue would be compromised as a result of the project. The 240 vehicle trips

to be added to Southern Avenue from the project would also be within the available trip capacity as set forth in the staff report.

The proposed project does not provide for sidewalks or lighting consistent with the lighting standards for subdivision internal streets. The proposal suggests that lighting on the housing units will be adequate. The asserted adequacy is not put in terms that suggest consistency with the Plan, but neither is there any suggestion that the proposed lighting scheme is in conflict with the plan.

(2) *Harmony with present and future surrounding uses.* In the surrounding community, there is a preponderance of conventionally-designed single family dwellings on typical R-1 (or larger) lots. New residential development in the vicinity has included access streets meeting city design standards. The proposed use is residential and of a scale similar to other structures. Several comments at the hearing indicated dissatisfaction with the design of the dwellings, essentially suggesting that the proposed development is not harmonious with the surrounding uses. No comments directed the Hearing Examiner to any pertinent architectural standards in either in the Comprehensive Plan or the zoning ordinance. In absence of a specific standard, it would be incumbent on the City to show that the proposed development is somehow not in harmony with the surrounding uses. See *Sunderland Family Treatment Services v. City of Pasco*, 127 Wash.2d 782, 903 P.2d 986 (1995).

As noted, the density would be less than the maximum provided for R-3 property. The property is zoned R-3, and the development, while different in character from multifamily housing development, would have no greater impact than would a three or four story flat development with forty or more dwelling units allowable in the R-3 use district. If a proposed use would have no more impact than a use that is permitted outright, it is difficult to discern a basis for denying it on the basis of impacts. See *Hansen v. Chelan County*, 81 Wash.App. 133, 913 P.2d 409 (1996). There has been no showing that the proposed use would have impacts to present and future surrounding uses different from or greater than those presented by multifamily residential structures built on the same property.

The aesthetic differences have not been argued to interfere with surrounding land uses. Aesthetic impacts may have an effect on property values, but no evidence has

presented to show by any standard of proof that surrounding property values would be differently affected by the proposed development than by the development of a larger scale multifamily residential development. As a matter of record, the Community Planner noted that property maintenance by a Homeowners Association—as proposed in this case—tends to be better than maintenance on standard rental property.

(3) *System of ownership and means of development, preserving and maintaining open space.* The system of ownership proposed for the properties is a blend of condominium and fee simple ownership, since each lot could be bought and sold, but the landscaping in the front yards of the proposed houses would be maintained by the Homeowners Association. The proposed covenants for the development address the conveyance of the open space to the Homeowners Association and the maintenance of common open space, but not its protection. SMC 10.24.090 requires that final development plan and program submitted by the applicant assures permanent retention of the open space and provides for enforcement of maintenance and retention of the open space by the City of Selah. These elements do not appear to be included in a clear way in the final plan and program.

(4) *Adequacy of PD size.* The ordinance does not provide a specific standard that would allow a determination of the adequacy of the size of a parcel proposed for a planned development. As with harmony, adequacy should be interpreted to further the purposes of the ordinance. A denial based on "inadequacy" would have to be supported by findings that showed inadequacy. The proposed project can be developed to comply with necessary setback requirements. No evidence has been presented indicating that size of the district is inadequate. The key question is whether the size of the PD is sufficient to provide open space that complies with the requirements of the ordinance. Open space is discussed in greater detail in the next section.

(5) *Compliance with Chapter 10.24 SMC.* This criterion was added to the ordinance in 2004. As a general rule, zoning ordinances are adopted to protect the public health, safety and welfare and are construed liberally to serve their purposes. Chapter 10.24 SMC allows for the relaxation of the zoning standards when certain purposes are served. The application must serve the purposes of the Chapter 10.24 SMC in order to comply with it. Otherwise, the ordinance would provide a basis for case by case

undercutting of the development standards in the zoning and subdivision ordinances. The terms of Chapter 10.24 SMC must not be construed to undercut the generally applicable zoning and subdivision ordinances. In addition, because the PD amounts to a partial dispensation from the requirements of the zoning and subdivision ordinances, the applicant bears the burden of showing that one or more of the purposes of the ordinance are served. The purposes of the ordinance are set forth at SMC 10.24.010 as:

> (1) Encourage flexibility in design and development that are architecturally and environmentally innovative, that will encourage a more creative approach in the development of land, and which will result in a more efficient, aesthetic and desirable utilization of the land than is possible through strict application of standard zoning and subdivision controls;
> (2) Encourage land development that, to the greatest extent possible, preserves natural vegetation, respects natural topographic and geologic conditions, and refrains from adversely affecting flooding, soil, drainage, and other natural ecological conditions;
> (3) Combine and coordinate architectural styles, building shapes, and structural/visual relationships that allows mixing of different land uses in an innovative and functionally efficient manner;
> (4) Permit flexibility of design, placement of buildings, use of required open spaces, circulation facilities, off-street parking areas and otherwise to better utilize the potential of the site;
> (5) Promote an efficient use of land resulting in the adequate and economical provision of streets, utilities, and other infrastructure features;
> (6) Promote land developments that are compatible and congruous with adjacent and nearby land uses; [and]
> (7) Allow unique and unusual land uses to be planned for and located in a manner that ensures harmony with the surrounding community[.]

Chapter 10.24 SMC also establishes substantive requirements for common open space and for retention and maintenance of open space. Maintenance and use of open space is a critical aspect of the PD ordinance. The proposed project is analyzed against the purposes of the ordinance in the following paragraphs.

: More efficient, aesthetic and desirable utilization of the land: The applicant indicates its belief that the PD will meet this purpose. It suggests that 24 units is better than the 45 units that could be built on the property under the current zoning. However, the more intense development would be allowed by the zoning and would be consistent

with the comprehensive plan. In this sense, the proposed use would be less efficient in that it would reduce the number of housing units that would otherwise be available in the city to persons in the multifamily housing market. In addition the objective of efficiency or desirability is presumably intended to meet the public interest rather than a private developer's interest. No persuasive case has been made regarding the greater public benefit that would be provided by the PD than would be provided under the zoning and subdivision rules.

· Preservation of natural vegetation, respects natural topographic and geologic conditions, and refrains from adversely affecting flooding, soil, drainage, and other natural ecological conditions: The applicant suggests that the proposed development would preserve more natural vegetation. Less coverage appears to result from the PD, but a larger percentage of landscaping vegetation is not the same as preservation of natural vegetation. One of the virtues of open space protection under the PD ordinance is the protection of natural amenities or environmental functions. Avoidance of such features is the objective of allowing departures from the zoning ordinance requirements. In the proposed case, there is no evidence that any natural vegetation will be preserved. Furthermore, based on the topography of the property, the absence of live water and the lack of any history pertaining to flooding or drainage issues, no environmental amenities appear to be served by the proposal.

· Mixing of different land uses in an innovative and functionally efficient manner: The applicant emphasizes the use of innovative architecture and varying numbers of stories for the homes in arguing that this purpose is served by the proposed zoning. However, the thrust of the listed purpose relates to the mixing of uses. All of the proposed uses are residential except for the recreational open space. Indeed, the basic nature of the proposal is for a small-lot residential subdivision. Multifamily housing must include outdoor space for the enjoyment of the residents. A forty-five unit apartment complex would be required to provide 9,000 square feet of recreational space, so no particular benefit in terms of functional efficiency is served by the proposed Tract A. Furthermore, Tract A would be enclosed on most of its perimeter by the back yard fences of private homes, thus delimiting open space values afforded by the project.

· Better utilization the potential of the site: The applicant expresses its opinion that the proposed use would be better than apartment complex development. However, the test that must be applied is whether the site presents some particular characteristics that warrant relief from the development of the standards to take the best advantage of the site. The current site appears unremarkable with regard to the development challenges it presents. It does not suggest any measures that would serve to allow better utilization for residential development. No particular constraints on multifamily housing appear to be present.

· Promotion of adequate and economical provision of streets, utilities, and other infrastructure features though efficient use of land: Fewer units would require fewer utility services, and more green space would mean less road surface within the property according to the applicant. These statements may be true, but do not respond to the criterion, which is intended not to address the economic advantage of the developer, but rather to address public infrastructure costs. Fewer units do not actually promote efficiency.

· Compatibility and congruity with adjacent and nearby land uses: The applicant asserts that the single family residential development would be more compatible with surrounding R-1 uses than multifamily housing development. Compatibility relates to whether the development of a particular use would interfere with the neighboring uses. Differing intensities of residential use do not raise issues of incompatibility in and of themselves. The City Council has already determined that the development of multifamily housing on the subject property does not warrant compatibility review. Conversely, public commenters were clearly concerned about the congruity of the proposed architectural style and lot size of the residential units with the architecture and lot size of the surrounding properties. As noted though, it would be incumbent on the city to show that the proposed development was somehow more incongruous than an apartment complex with the surround properties.

· Allowing unique and unusual land uses to be planned for and located in a manner that ensures harmony with the surrounding community: The applicant suggests that the architectural style and lot sizes for the proposed development render it a "unique and unusual land use." Single family residential use is simply not a unique use.

regardless of architectural style. Houses such as those proposed could be located in any residential use district. On the other hand, the language suggests a site selection process for a use not generally addressed by the development regulations, subject to assurance through appropriate means that such a development is in harmony with surrounding uses.

· Open space standards: Open space must be suitable in size, location, shape and character. The proposed space is accessible to all of the proposed lots for recreational use, although the layout for the lots indicates that Tract A is confined within the back yard fences of the southern block of lots. Access is by means of a walkway from the northernmost segment of the proposed private road. The fence that would circumscribe the open space somewhat undercuts the open space value, but Tract A nevertheless appears to meet the letter of SMC 10.24.080.

From the foregoing findings, the Hearing Examiner makes the following

CONCLUSIONS

1. The Hearing Examiner has jurisdiction to make a recommendation to the City Council on an application for a Planned Development.

2. The proposed zoning map amendment and subdivision is not consistent with the minimum lot size contemplated in the Comprehensive Plan for development of the High Density Residential future land use designation, and the proposed subdivision would be different in character from multifamily housing provided for in the comprehensive plan.

3. It is not clear that the proposed subdivision would have any greater impact than would the development of apartment, townhouse, or condominium complexes on one acre lots as is contemplated for the High Density Residential future land use designation.

4. The PD and subdivision would result in lot sizes that are much less than the lot sizes determined by the City Council to be the minimum lot sizes in the R-3 use district.

5. Provisions of the Comprehensive Plan should not be dismissed without appropriate compliance with requisite plan modification procedures, and the Hearing

Examiner should not substitute his judgment for that of the City Council exercised in adopting the Comprehensive Plan.

6. Although it does not appear to present greater impacts than allowable uses in the R-3 zone, the proposed rezone and subdivision does not materially serve the purposes of the PD ordinance or otherwise provide a public benefit to any greater extent than would the development of an apartment, townhouse or condominium complex on the property on lots that conform to the minimum lot size requirements applicable in the R-3 use district.

7. In absence of an affirmative public benefit realized through satisfaction of the stated purposes of the PD ordinance, approval of the proposed PD would undercut the regulatory scheme of the zoning and subdivision ordinances.

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

RECOMMENDATION

The applications to amend the zoning map to change the zoning of the subject parcels from R-3 to Planned Development and subdivide the parcel in accordance with the submitted preliminary plat should be DENIED.

DATED THIS 21st DAY OF JUNE, 2005

PATRICK D. SPURGIN
HEARING EXAMINER

LAW OFFICE OF PATRICK D. SPURGIN
411 NORTH 2ND STREET
YAKIMA, WASHINGTON 98901
TELEPHONE: 509.248.4282
FAX: 509.575.5661

August 16, 2015

Mr. Donald Wayman, City Administrator
City of Selah
115 West Naches Avenue
Selah, WA 98942

RE: Hearing Examiner Recommendation on "Whispering View Estates" Planned Development (File Nos. 912.45.l4-02; 914.45.14-01)

Dear Mr. Wayman:

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

Sincerely,

Patrick D. Spurgin, Hearing Examiner

City of Selah, Washington
Office of the Hearing Examiner

Application for a Rezone and Preliminary Plat	)	**Selah File Nos. 912.45.14-01; 914.45.14-01**
By Torkelson Construction, Inc	)	**HEARING EXAMINER RECOMMENDATION**
To Rezone Property at 207 East Goodlander Road from Two-Family Residential to Planned Development and Approve the 47-Lot Preliminary Plat of "Whispering View Estates."	)	

I. INTRODUCTION.

Torkelson Construction, Inc. (hereafter "Applicant") has applied to rezone and subdivide 8 parcels of property in accordance with Planned Development provisions of the Selah zoning ordinance that were in effect prior to the City Council's decision to repeal the Planned Development provisions on May 26, 2015.

The original application materials and State Environmental Policy Act environmental checklist were submitted by the Applicant to the city on January 10, 2014. The proposal provided for single family townhome development on reduced size lots, together with relief from block and street design standards. The application was deemed complete by the city on February 7, 2014. There is some indication in the record that the Planned Development application had been "withdrawn" or, in the alternative, "put on hold" in association with the short-platting of the property. In any case, the public hearing scheduled for the original application was continued on March 24, 2014. Subsequently, in April, 2014, the property owner of record at the time, Danny Bowers, subdivided the subject property into the current 8 lots. The city authorized the use of a 20-foot wide paved access road to serve the lots from the west side of the property. An administrative appeal of the Class 2 review approval of applications for multifamily residential development on the short plat lots has been filed by neighbors.

The current Planned Development proposal would result in the subdivision of the existing lots into 47 new single family lots, two open space lots and an open space parking tract. The original application materials have been supplemented by the Applicant through several submissions the request of the city. Additional information related the proposal was provided by the Applicant for the record at the public hearing required for a Planned Development application.

The public hearing was conducted on July 31, 2015. A staff report was provided to the Hearing Examiner on July 27, 2015 along with numerous exhibits. Attorney Kenneth Harper and Carl Torkelson represented the applicant at the hearing, and provided a memorandum in support of the application. Attorney Mark Fickes, appearing on behalf of neighboring landowners John and

Helen Teske, provided both a hearing brief and argument at the hearing. The Applicant's traffic engineer provided testimony regarding transportation system impacts presented by the proposal. Other members of the public provided extensive statements and documentary evidence for the record at the hearing. Some comment was supportive of the proposed development, based on the specific character of the proposed single family dwellings and an expressed demand for the type of housing in light of the very limited number of open rental units within the city. Other commenters noted issues with the city and Applicant's compliance with Planned Development ordinance procedural and substantive provisions, including consistency with the 2005 Selah Urban Area Comprehensive Plan compliance. Much public comment also addressed the process by which the Class 2 review of the multiple family residential proposal was conducted. Comments addressed both satisfaction of SEPA requirements and the potential coercive effect of existing development of the property on the Planned Development review process, including asserted conflicts of interest on the part of city staff that processed the various land use applications. A petition containing several hundred signatures of persons opposed to the proposed project was entered into the record.

Numerous comment letters were submitted during the comment periods before and after the SEPA threshold determination was issued. City staff considered the public comment letters in making the requests for additional information from the Applicant. A summary of issues raised by public comment letters and hearing statements includes

- Adequacy of compliance with application procedures.
- 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.
- Adequacy of the private streets in the proposed use for fire lanes, emergency access and maneuvering, and sufficient parking.
- Traffic on East, Goodlander including traffic generated by the High School and Carlon Park, especially during sporting events.
- Sight distance on East Goodlander.
- Erosion, grading, significant cuts and fills, and lateral support.
- Project impact on schools.
- Steep slopes in the southeast corner of the property.

II. SUMMARY OF RECOMMENDATION.

Based on application materials, substantial public comment and information contained in public records and documents, the Hearing Examiner's findings and conclusions indicate that the proposed Planned Development rezone application by Torkelson Construction, Inc. to rezone property described in the Whispering Views Estate materials of record complies with the 2005 Selah Comprehensive Plan and Chapter 10.24 of the Selah Municipal Code, except with respect to compatibility of the planned development of Lots 40 through 47 with neighboring uses. Therefore, the recommendation is that the rezone should be denied, but without prejudice and with allowance for reopening the open record proceeding commenced in accordance SMC

10.24.060 to allow consideration of and public comment on measures to reasonably correct the incompatibility arising from the bulk, dimensions and location of the proposed structures.

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

III. FINDINGS.

A. ADOPTION OF SPECIFIED STAFF REPORT FINDINGS

The following findings related to the proposed Planned Development and Preliminary Plat are adopted from the staff report unless otherwise noted. The evidence included in the exhibits and cited in the staff report and supporting the factual findings is the basis for this adoption. Some of the staff report findings have been relocated for consistency with the subject matter under each heading.

1. PROPOSAL:

a. 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). Developable lots are proposed for detached single family dwellings. The proposed lot sizes range from 2,480 to 4,747 square feet. 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. 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' [1]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.

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 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.

b. Preliminary Plat of "Whispering View Estates" subdividing eight lots (totaling

[1] The CCRs included in the application materials do not address the management of Tract "B".

3.97 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 site plan [introduced into the record at the hearing], the tracts will also be occupied by overflow parking and private access roads. After city staff requested additional information following the comment period, the applicant amended the site plan to reconfigure initially propose easterly access road, replacing the straight road section in the steepest part of the site with an S-curve section to accommodate 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. Phasing: None.

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

ii. 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.

iii. 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.

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

v. Transportation: 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 East 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 to meet fire apparatus standards of the Fire Code.

vi. 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.

2. PROPONENT: Torkelson Construction, Inc.

3. PROPERTY OWNER: Carl and Candi Torkelson

4. 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).

5. 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.

6. 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 East 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.

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 Fire Code 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 a comment letter from the Fire Department, the exceedence of the slope standard is allowable because it is for a short distance, it is necessary to accommodate the topography, and it is a secondary access road rather than the primary approach to the development.

7. 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.

8. 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.

a. Existing Land Use, Plan Designation and Zoning:

i. 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. The current zoning was assigned to the property during the process of annexation of the property into the city. Seven other residential structures have been constructed over the past year, one of which is part of a six unit multiple-family residential structure approved by the Class 2 review on June 19, 2015, which is currently subject to administrative appeal. The site was subdivided into 8 lots by two short plats in 2014.

ii. North: Zoning is R-1, under Yakima County jurisdiction and the Selah Urban Area Plan designation is Low Density Residential. The area includes 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 to the northwest is a church 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.

iii. 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.

iv. East: Two parcels totaling 1.99 acres (1.62 and 0.37 acre respectively) with frontage on East 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 has 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.

v. 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 East Goodlander and Wenas Road and continuing south. 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.

9. ENVIRONMENTAL REVIEW: A Mitigated Determination of Nonsignificance (MDNS) (971.45.14-01) was issued on June 29, 2015.[2] 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:

a. Preparation of a traffic impact analysis to evaluate project related impacts on East Goodlander Road intersections with 1st Street, Lancaster and Wenas Roads.

b. 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 included:

i. Overall suitability of a private road designed to fire apparatus road standards to accommodate traffic generated by 48 residential units.

ii. Lack of or insufficient overflow and visitor parking

iii Lack of pedestrian facilities.

iv. 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)[3] 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.

---

[2] Though not discussed in the staff report, a final MDNS was issued on July 15, 2015. The appeal deadline set forth the final MDNS was July 22, 2015. No appeal was filed before the deadline.

[3] Prepared by Whipple Consulting Engineers, Inc. under the supervision of Todd C. Whipple, PE.

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.

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

a. Impact of proposed private road design, lack of or insufficient parking, lack of pedestrian facilities and steep slopes.

b. 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 were identified as necessary for the project to avoid significant adverse environmental impacts that would require the preparation of an environmental impact statement under SEPA:

a. 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.

b. Recommendations made for the private roads by the Traffic Impact Analysis including illumination and warning signs shall be implemented.

c. 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.

d. 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 [sic] not exceed a total of 115% of the engineer's estimate.

10. FINAL 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. 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.

a. 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.

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

c. 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.

d. 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.

e. Subdivision map, in the event a proposed planned development application is combined with a proposal to divide land into lots, identifying proposed lot configuration and size in square feet: The preliminary plat has been provided.

f. 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.

g. Location and size in square feet of community facilities.[4]

h. 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.

i. Traffic flow plan: No traffic flow plan is provided.

j. Location and dimension of walks, trails or easements: No walks or trails are shown. Access and utility easements are shown.

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: 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.

l. Location, arrangement, number and dimensions of truck loading and unloading spaces and docks: Not typical or applicable to this proposed land use.

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: 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.

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

[4] No specific finding is included in the staff report regarding the community facilities requirement.

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.

o. Indication of stages of development: No phasing is proposed.

p. 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.

q. Tables showing total number of acres, distribution of area by use, percent designated for dwellings, commercial or industrial uses and open space, number of off-street parking spaces, streets, parks, playgrounds, schools and open spaces: 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.[5]

r. 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.

s. 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.

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

11. COMPREHENSIVE PLAN: 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. Predominant 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.

a. Relevant[6] Goals and Policies

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

---

[5] The staff report observes that, since the size and configuration of the project is not significantly different from that originally proposed, the table provide a reasonable representation. There is no evidence in the record contradicting this observation.

[6] The staff finding identified "applicable" goals and policies. In the view of the Hearing Examiner, "applicable" goals and policies are those with regulatory significance. See *Cingular Wireless v. Thurston County* 131 Wn.App. 756, 129 P.3d 300 (Wash.App. Div. 2 2006). Relevant Goals and Objectives, on the other hand, inform the meaning of applicable ordinances and comprehensive plan provisions with regulatory significance.

ii. 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.

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

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

v. 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.

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

vii. 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.

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

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

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

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

xii. 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.

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

xiv. 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.

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

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

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

xviii. 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 cui-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.

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

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

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

xvii. 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.

12. SUBDIVISION APPLICATION: The proposed preliminary plat does not conform to the following subdivision standards.

a. 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).

b. Curbs and gutters of cement concrete are required in accordance with SMC 10.50.043.

c. 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(e)(3) requires lots to front on a public street. These 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. SMC 10.50.041 (d)(4) allows private streets where there will be no adverse effect of future traffic circulation of neighboring parcels. This property is served by Bowers Drive.[7,8]

B. HEARING EXAMINER JURISDICTION AND SCOPE OF REVIEW

The Hearing Examiner has jurisdiction to conduct open record hearings on Planned Development applications based on SMC 10.24.060 that were vested prior to the repeal of the ordinance.[9] Hearing Examiner preliminary plat review authority is included in SMC 10.50.025. The Hearing

---

[7] The staff report notes that the current configuration of Bowers Drive is based on a variance for the previously approved short plats primarily due to the shape of the property, and that, as such it is an existing condition, with the other private roads being added to it. The staff report seems to imply that this prior variance constitutes "good cause" for a reduction of the street standards with regard to the Planned Development. However, the record does not contain evidence to show that the prior variance has any relationship to the appropriateness of the street design for the proposed Planned Development.

[8] The staff report also indicates that, 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 properties, their extension and possibly even their upgrade to higher standards is not completely ruled out. It is not clear how this assertion constitutes "good cause" for the reduction in street design standards.

[9] The repeal ordinance specifically vested pending applications for Planned Developments, which included the subject application, according to information included in the Applicant's memorandum in support of its applications..

Examiner is charged with recommending approval or denial of the Planned Development rezone. Minor rezone review authority is included in SMC 10.40.070.

1. MATTERS OUTSIDE OF HEARING EXAMINER JURISDICTION:

a. SEPA: In absence of delegation of review authority to the Hearing Examiner, the City Council is the appeal authority for review of SEPA compliance. SMC 11.40.420. Therefore, matters of compliance with SEPA procedural and substantive compliance related to the subject application for a Planned Development rezone and subdivision are outside the scope of hearing examiner jurisdiction.

b. The earlier Class 2 review actions: Several comments were raised at the hearing and in comment letters concerning the decision process in the earlier Class 2 multifamily residential review, including issues related to structure and driveway design, appearance of fairness and prejudice to the current Planned Development review as a result of the existing construction based on the Class 2 review. The Class 2 approval is subject to an appeal to the City Council, and as such is subject to affirmation, remand or denial. SMC 21.09.040. Thus the earlier Class 2 decision is neither final nor conclusive. SMC 10.06.090. For purposes of the present proceeding, this lack of finality renders any Applicant or administrative action taken in reliance on the earlier Class 2 approval to be irrelevant.

c. Completeness of Application Materials: Several comments were received both in writing and at the hearing stating that, based on the requirements for information to be included in application materials as enumerated in SMC 10.24.030 and SMC 10.24.050, it is inappropriate to proceed with the hearing process. Administrative procedures are addressed in Title 21 SMC. The administrative official determines when a land use application is complete. The determination of completeness is to be made when the application is sufficient for continued processing even though additional information may be required or project modifications may be subsequently undertaken. SMC 21.05.050. A determination of completeness may be disputable, but generally, this does not invalidate an administrative decision unless a person can claim that they were prejudiced as a result of the procedural failure. Without such prejudice, the use of a flawed procedure is "harmless error." *Young v. Pierce County*, 120 Wn.App. 175, 188, 84 P.3d 927 (Div. 2 2004) ("Harmless error is one that is "not prejudicial to the substantial rights of the party assigning [error,]" and does not affect the outcome of the case.") If the information necessary for a final administrative action (such as a Hearing Examiner recommendation) is not provided, such information can be addressed in the course of the proceeding.

2. REVIEW CRITERIA.

The review criteria specifically applicable to a Planned Development zone application are set out in the provisions of SMC 10.24.060 in effect at the time the application materials were submitted. The Planned Development ordinance that was in effect at the time the application was deemed by the administrative official to be complete is attached as Appendix 1 to this recommendation. The review criteria are

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

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

(3) The system of ownership and means of development, preserving and maintaining open space;
(4) The adequacy of the size of the proposed district to accommodate the contemplated development;
(5) Compliance with the city's subdivision code, if a proposed planned development application is combined with a proposal to divide land into lots;
(6) Compliance with [Chapter 10.24 SMC].

Public comments raised concerns regarding the compliance of the amended application with the provisions of SMC 10.40.070, which concerns review criteria applied in hearing examiner review of "minor rezones." In particular, public comment concerned whether there is any public purpose to be served by the zoning change as required in SMC 10.40.050(c)(3), any change in circumstance to substantiate a rezone based on SMC 10.40.050(c)(4) and the suitability of the property for the proposes uses based on SMC 10.40.050(c)(7) . These provisions are made applicable to a minor rezone based on SMC 10.40.070(a). Commenters argued that both the Planned Development and minor rezone criteria apply to the present application based on the language of SMC 10.24.060 providing that application for rezone to a planned development zone shall be heard before the city of Selah hearing examiner at an open record public hearing within the time and "in the manner provided by Chapter 10.26 of this title." The staff report does not analyze the application based on the minor rezone review criteria, noting the analyses of the relationship of Planned Development rezones and minor rezones in other administrative proceedings.

The Planned Development ordinance makes no mention of either major or minor rezone review requirements, and some of the Planned Development review requirements overlap the SMC 10.40.050(c) review requirements, particularly with regard to consistency with the *Comprehensive Plan* and harmony or compatibility of the proposed action with neighboring uses. In addition, the purpose of the Planned Development zoning provision as expressed in SMC 10.24.010 is to provide project-specific relief from otherwise applicable zoning standards in order to allow creative use of property consistent with the *Comprehensive Plan*, in contrast to SMC 10.40.050(c), which concerns adjustments to zoning to allow a different array uses than would be allowable under existing zoning. The broader rezoning ordinance is reviewed based on the relationship of the changed zoning designations (and permissible uses in the zone) with changes in circumstances, suitability of property for uses allowed in a proposed zone, and public purposes to be served by change of designation.

The application of the different review criteria to the same proposal presents the awkward possibility of the proposal being appropriate under one set of criteria, and inappropriate under the other. In the interest of providing a complete record, the application materials are reviewed below under and the specific Planned Development review criteria in SMC 10.24.060, supplemented by additional criteria in SMC 10.40.050(c) §§(3), (4) and (7).

3. SUBSTANTIAL CONFORMANCE TO THE *COMPREHENSIVE PLAN*: The maximum density the property could be developed to is 47 dwelling units, and the proposed use is for 47 units, so the density substantially conforms to the *Comprehensive Plan* density limits.

The Moderate Density Residential designation of the property contemplates duplexes as the predominant use with a mixture of other housing types. The Comprehensive Plan future land use scheme depends on the zoning standards to assure compatibility above and beyond density limits.

a. The Applicant cautions against the use of elements of the *Comprehensive Plan* as regulatory standards, and in relying on *Comprehensive Plan* provisions outside of the Land Use Element, such as the Housing Element as the basis for regulatory decisions in project permit review. It is rightly observed that specifics in zoning ordinances take precedence over aspirations expressed in comprehensive plans. However, "[a] planned development zone may permit all proposed uses and developments that can shown to be in conformance with the policies of the comprehensive plan. The purpose [of providing for the establishment of a planned development zone] is to allow new development that is consistent with the comprehensive plan but that would not be readily permitted in other zoning districts due to limitations in dimensional standards, permitted uses, or accessory uses." SMC 10.24.010. Where, as here, the zoning code itself expressly requires that a proposed use comply with a comprehensive plan, the proposed use must satisfy both the zoning code and the comprehensive plan, so long as the ordinance and the plan are not inconsistent. *Cingular Wireless, LLC v. Thurston County,* 131 Wn.App. 756, 770-773, 129 P.3d 300, (Div. 2 2006). In the present case, the Planned Development ordinance relies explicitly on the *Comprehensive Plan* to assess the acceptability of a proposed Planned Development. Nothing in the zoning ordinance appears to limit the relevance of the Comprehensive Plan provisions to only the Future Land Use map designation. See SMC 10.02.030. Comprehensive plans are intended to be internally consistent. WAC 365-196-500.

This leads to the fundamental question of whether there is any regulatory effect to particular *Comprehensive Plan* goals and policies above and beyond regulatory provisions in the zoning ordinance. The answer sets up the operative question of whether the proposal is inconsistent with any such provisions. *Comprehensive Plan* goals are generally statements of community aspirations consistent with GMA guidance, as noted by the Applicant, and by their terms do not carrying regulatory weight. Policies and objectives related to drainage and stormwater management are fulfilled through applicable design requirements in Title 10 SMC. Other objectives and policies may have more regulatory significance. Examples include

i. 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.

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

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

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

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

vi. 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.

vii. Objective ENV 2: Adopt land use policies that reduce or eliminate negative impacts of development on stormwater drainage capacities and systems. (Related policies provided for regulation and retention of stormwater)

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

ix. 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.

\

b. REGULATORY POLICY ANALYSIS: Policy HSG 2.1 cannot be read to generally disallow development that increases dwelling unit density on a property above the dwelling unit density on neighboring properties, since density is regulated by the zoning ordinance. The existing zoning already allows a density up to 12 dwelling units per acre, and the proposal does not alter the density already allowed. All of the listed transportation policies can be viewed as generally regulating development. In absence of a transportation analysis, a failure to address those provisions would be problematic. However, in this case, the Applicant was required to provide an analysis of transportation system effects, and, with the concurrence of the Fire Chief, the resulting evidence credibly indicates that the *Comprehensive Plan* provisions are met in the latest site plan.[10] See the Traffic Study in the SEPA-related binder exhibits accompanying the staff report. This includes satisfaction of the policy implicitly promoting pedestrian safety in Policy TRAN 3.1, requiring sidewalks on local streets. Stormwater management has been addressed by City engineering review of plans submitted by the applicant, based on the testimony at hearing of the Community Planner.

c. COMPATIBILITY ANALYSIS: The subject matter of Policy HSG 2.2 and Objective HSG 3 is the source of the greatest public controversy over the proposal. The subject matter covers much of the same territory as SMC 10.24.060(2), relating to the harmony of the proposed development with the surrounding area and its future uses.

The weight of the public comment is that project design and density and intensity of use is not compatible with and adversely affects neighboring properties. Some comment suggests that likelihood of a predominance of rental occupancy renders the proposal incompatible. However, there is no substantial evidence that rental use of the properties will lead to adverse effects on neighbors or the surrounding area. Other comments suggests that there are simply too many structures being proposed. As noted, however, the proposed residential density is consistent with the *Comprehensive Plan*. Many comments complained of a "bad fit" between the proposal and the neighborhood. There is no factual basis offered for equating any given number of dwelling units with incompatibility or substantiating a "bad fit."

[10] Some public comment raised questions concerning the reliability of the data based on their observed manipulation of the traffic measuring devices. However, to accept such evidence as controlling would be effectively a collateral attack on the SEPA threshold determination. The appeal period for the threshold determination has passed.

The Teskes offered evidence of impacts from the dimensions and reduced impacts to the view and light on their property from the intensity of multi-story construction at the project. See Hearing Exhibit 9. The staff report information does not negate this information, but rather notes that the proposed rear setbacks proposed for the northern tier of lots is the same as that provided in the R-2 zoning district. The Applicants arguments indicate that this is an aesthetic issue addressed in SEPA review, and the SEPA appeal period has run. However, as was the case in *Cingular Wireless, LLC v. Thurston County,* SEPA determinations on do not invariably resolve compatibility issues.

Under the current zoning the northern most lot in the existing short plat (per Hearing Exhibit 16) could be developed under Class 1 review (without compatibility review) according to Table 10.28A-5 is a single family residence and or a duplex. Lot coverage would be limited to 50%, allowing a structure with 11,600 square foot building envelop 35 feet high setback 8 feet on the side yard line and 20 feet on the backyard line. This would allow for a structural length of 258 feet, but with a depth of 45 feet, more or less. Of course, this size of structure is not required, and whether such a structure ever would is a matter of pure speculation. This is the practical effect of the proposed design of the northern tier of lots and structures. It is clear that the Teskes or other neighbors had no expectation of such a single family or duplex structure as a result of the designation of the property as R-2 during the annexation process. In short, the Teskes and other commenters[11] are asserting that the bulk and location of the structure actually proposed oppresses their enjoyment of their property in a way they did not expect from the current zoning. It cannot be said that such a reaction is unreasonable based on the evidence the Teskes provided. On this basis the design of this tier of lots is not compatible with the neighboring uses.

As the Applicant has noted, evaluation of existing development is a proper basis gauge compatibility. Memorandum in Support of Applications of Torkelson Construction at 10-11. The incompatibility may be addressed by measures taken to approximate the mixtures of bulk and dimensions in other residential development. None of the photographs of existing developments constructed by the Applicant offer the magnitude bulk and dimension looming over adjacent properties as are presented by the Teskes photographic evidence.

4. THE PROPOSAL'S HARMONY WITH THE SURROUNDING AREA: As has been noted, harmony is nowhere indicated in either the *Comprehensive Plan* or the zoning ordinance to be concerned with the percentage of occupants likely by some accounts to be renters. Harmony may be argued to be architectural similarity or congruity, but such an assertion is not supported elsewhere. To the contrary, one of the ends that may be served a planned development is to "[encourage] flexibility in design and development that are architecturally and environmentally innovative[.]" There is nothing in the record to suggest interference of the proposed project with future uses in the vicinity. Finally, as noted above, to the extent harmony relates to compatibility, the only substantial evidence of compatibility relates to the effect of the proposed north tier of lots and buildings on the neighboring property uses; with that caveat, the record does not support a determination that single family residential development is not harmonious with other single family residential development in the area.

[11] See Binder Exhibits 31 and 32.

5. THE SYSTEM OF OWNERSHIP AND MEANS OF DEVELOPMENT, PRESERVING AND MAINTAINING 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. Its development must be coordinated with the dwellings of the planned development. Its permanent retention and maintenance must be assured by restrictive covenants, dedication to the public, by an owner's association or by another method approved by the hearing examiner and city attorney. The City is to be vested with the right to enforce permanent retention and maintenance and may perform necessary maintenance and assess the costs to the property owners.

The open space provided on the plat is consistent in quantity 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 as "grass parks" and shown to be in lawn on the grading/drainage plans and are accessible for casual recreational 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." Each lot has between 780 and 2,083 square feet of open area, excluding streets and off-street parking. 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.

The zoning ordinance provides no specific standard for evaluating suitability of a use for any particular recreational or amenity value. Thus the City would bear the burden of showing unsuitability. The system of ownership maintenance and control for the grass parks is not explicit in the development plan, but can be addressed through inclusion of appropriate provisions in the CCRs.

6. THE ADEQUACY OF THE SIZE OF THE PROPOSED DISTRICT TO ACCOMMODATE THE CONTEMPLATED DEVELOPMENT: The proposed district would be developed principally into small lot single family dwellings, along with open space grass parks and overflow parking. The district is sufficient in size to meet the SEPA mitigation requirements and other standards not subject to modification through the Planned Development process based on the staff analysis.

7. COMPLIANCE WITH THE CITY'S SUBDIVISION CODE: All subdivision code requirements apply unless the proposal is exempted as part of a planned development. Lot and block design standards for subdivisions may be modified for good cause as part of planned development. SMC 10.50.41(d) and (e). In this case, the modifications are fundamental to the plan of development. In addition, the proposal calls for private streets. The regulatory requirements for private streets are not well elucidated in the subdivision ordinance, although

generally, all subdivisions are required to have suitable provisions for access. RCW 58.17.110. Where there is no evidence that generally applicable standards are unnecessary to meet access requirements, it may be appropriate that standards otherwise not modifiable in accordance with SMC 10.50.41(d) and (e) should be applied to private access streets in Planned Developments as well. However, in this instance, interior traffic and pedestrian safety issues associated with the private street paved surface were analyzed as part of SEPA and found to be insignificant, subject to mitigation measures.

8. COMPLIANCE WITH CHAPTER 10.24 SMC: Certain procedural requirements are called out in the Planned Development ordinance. These include:

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

While all these elements are indicated as required in the final development plan and program, the ordinance does not specify that every Planned Development project must have all of the elements. The ordinance is not clear as to which of the listed elements might be necessary and which are not. In the present case, while the initial submittals may have been incomplete for purposes of applying the review criteria, the submissions have been supplemented through additional information provided both at the Community Planner's request and through the hearing process. Omissions from the earlier document submittals have not been shown in this instance to be other than harmless error.

9. APPLICATION OF THE MINOR REZONE REVIEW CRITERIA: As has been noted, there are different perspectives on whether a Planned Development really constitutes a rezone or a method for obtaining relief from strict development standards consistently with the ordinance's stated flexibility objectives. This is more complicated when a Planned Development is intended to essentially change the standards governing a use that is already a permitted use in the affected district. On balance, this hearing examiner is inclined to view the present case a not an actual change to allowable uses, but rather a question of the appropriate regulation of a permitted use. Nonetheless, in the interest of assuring full consideration of the matters, the following analysis is included.

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

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

ii. Whether the timing is appropriate to provide additional land for a particular use."

The Applicant asserts that the general consistency of the proposal with the *Comprehensive Plan*, taken together with affordable housing goals satisfies any concern regarding public purpose. Data presented by the Applicant and testimony by some public commenters was offered to show an exhausted pool of rental properties within the City. Other testimony reported interest in the

unique architectural style and low maintenance requirements presented by the proposal. The development plan is also asserted to foster emerging public objectives of federal agencies to facilitate home ownership. See Hearing Exhibit 6. Other public comment dismissed these assertions and submitted that the economic interest of the Applicant should not drive this decision. Evidence of housing demand and related economic considerations is appropriately included in an evaluation of public need. It drives the Land Use Element in the *Comprehensive Plan*. This is not an addition of a new residential property zone as contemplated in the first sub-criterion for public need set out above. Accordingly the second sub-criterion does not apply either.

b. Whether substantial changes in circumstances exist to warrant an amendment to the current designation or zone. The Applicant argues that rezones that implement the policies of the *Comprehensive Plan* do not require an underlying change of circumstances to be supportable. However, the Applicant does not identify any policies that require the rezone to be effectively implements. Nevertheless, as has been discussed, this proposal is not a change in allowable uses, but rather a change in standards applicable to a use that are intended to assure compatibility. The Applicant, in testimony and in Hearing Exhibit 6, offered an account of changes in circumstances that rationalize the Planned Development. Nothing in the record amounts to substantial evidence of an absence of any change in circumstances.

c. The suitability of the property in question for uses permitted under the proposed zoning. The project is not proposing uses that are not allowable under the current zoning.

From the foregoing Findings, the Hearing Examiner makes the following

IV. CONCLUSIONS.

1. Any of the foregoing Findings that are more suitably characterized as conclusions are deemed to be such.

2. Although it is very clear that there is a great amount of community opposition to proposed development, the proposed action is for the most part not inconsistent with provisions of the Comprehensive Plan that have regulatory significance. The principal exception is the effect of the bulk, dimensions and proximity of the structures proposed on Lots 40 through 47 on the neighboring properties as evidenced through exhibits and testimony provided through the neighbors' counsel through briefing and at the hearing.

3. Through its application materials, as supplemented by additional submittals prior to and during the hearing, and through testimony at the hearing, the Applicant has provided substantial evidence that, but for the issues of compatibility with the neighbors to the north of the project, the project would warrant a recommendation of approval under the Planned Development ordinance review criteria, subject to conditions identified as appropriate to satisfy SEPA, and assure compliance with the Comprehensive Plan regulatory provisions and the elements of Chapter 10.24 SMC in effect for this proposal.

4. For a Planned Development, the ordinance does not provide for an approval in part and a denial in part, though the compatibility issues with the northern neighbors might warrant such a result. Consequently, the compatibility issues indicate that the appropriate action is to recommend denial without prejudice in order to allow the Applicant to develop reasonable measures to address such incompatibility.

5. The provisions of SMC 10.24.060 providing for an open record hearing on a Planned Development in the same manner provided by Chapter 10.26 SMC do not sensibly require the application of the substantive tests typically applied to major and minor rezones in this instance, but rather provide a procedural framework for the Planned Development review process.

6. If the City Council is persuaded that the Planned Development meets the requirements of Chapter 10.24 SMC notwithstanding a recommendation for denial without prejudice, the approval should be appropriately conditioned on the following requirements as set out in the staff report *and supplemented as appropriate based on hearing testimony*:

a. Final lot dimensions and lot area shall substantially conform to the preliminary plat.

b. 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.

c. 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.

d. 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.

e. 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 proposed preliminary plat entered into the record at the time of hearing. 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. The CCRs shall be amended prior to recordation to provide for timely snow removal and disposal to assure protection of traffic and pedestrian safety.

f. 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).

g. 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.

h. The private interior streets shall be constructed, at minimum, to the fire apparatus road standards of the International Fire Code to the following specifications:

i. 20 foot wide (minimum) asphalt surfacing

ii. Not to exceed 10 percent slope except as otherwise allowed by the Fire Chief.

iii. 26 foot wide access easements for the north-south private roads along the east and

west property lines as depicted by the preliminary plat.

iv. More than one access point to the public street system.

i. The following signs and shall be provided on the private roads maintained through the homeowners association established in accordance with the CCRs:

i. No parking signs

ii. Fire lane signs as specified in the IFC D103.6. They shall be posted on both sides of the road.

iii. Warning signs and "Share the Road" plaques as recommended by the traffic study.

j. 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.

k. 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.

l. A NPDES construction stormwater general permit shall be obtained unless determined by the Department of Ecology that it is not required.

m. A dust control plan shall be prepared and implemented during construction as required by the Yakima Regional Clean Air Agency.

n. Documentation of the ownership and providing for perpetual maintenance of the two common open space tracts in grass for casual recreational purpose shall be provided prior to recording the final plat for approval by the City of Selah. Documentation may include covenants, establishment of a homeowner's association or deed restrictions and they shall be recorded prior to recording the final plat. Any such documentation shall a mechanism for assuring adequate funding for reasonable care of landscaping.

o. 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.

p. 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 sewers lines shall be installed, require permits and inspection under the International Residential Code.

q. 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.

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

s. 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 official plat recording.

t. All required street signs, posts and appurtenances on public improvements, rights of way or easements must be supplied by the developer and will be installed by the City.

u. 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."

v. 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.

w. 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.

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

V. RECOMMENDATION.

The application by Torkelson Construction to rezone property, described in the develop plan and preliminary plat presented at the July 31, 2015 open record hearing, from Two-family Residential to Planned Development and to subdivide the same property into 47 single family residential lots, as specified in the supplemented application materials (File No. 912.45.14-01 and 914.45.14-01), should be DENIED WITHOUT PREJUDICE, with allowance for reopening the open record proceeding commenced in accordance SMC 10.24.060 to allow consideration of and public comment on additional information and amended development plan or program material submitted by the Applicant in its discretion to reasonably resolve incompatibility with neighboring land owners from the proposed structures on Lots 40 through 47.

DATED THIS 16TH DAY OF AUGUST, 2015.

PATRICK D. SPURGIN
HEARING EXAMINER

APPENDIX 1

Chapter 10.24 - PLANNED DEVELOPMENT (PD) ZONING DISTRICT

Sections:

10.24.010 - Purpose.

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

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

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

(Ord. 1634 § 78, 2004.)

(Ord. No. 1779, 10-13-09)

10.24.020 - Notification of intent.

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

(Ord. 1634 § 79, 2004.)

10.24.030 - Development plan and program.

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

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

(A) The boundaries of the site,

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

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

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

(E) Proposed public dedications,

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

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

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

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

(J) Proposed drainage facilities,

(K) Proposed landscaping,

(L) Building types and intensities,

(M) Pedestrian and vehicular circulation pattern,

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

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

(A) Proposed ownership pattern,

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

(C) Waste disposal facilities,

(D) Lighting,

(E) Water supply,

(F) Public transportation,

(G) Community facilities,

(H) General timetable of development.

(Ord. 1634 § 80. 2004.)

(Ord. No. 1779. 10-13-09)

10.24.040 - Informal review by the planning department.

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

(Ord. 1634 § 81, 2004.)

10.24.050 - Rezone application—Final development plan and program.

Upon completion of the informal review, the applicant may submit a verified rezone application requesting a change of zoning to a planned development zone pursuant to Chapter 10.26 of the Selah

Code. The final development plan and program consisting of the plan elements and program elements enumerated below shall accompany the rezone application.

(1) Plan Elements.

(A) Existing maps drawn to scale of not less than one inch to one hundred feet and proposed final contour map;

(B) Location, with the names of all existing and proposed streets, public ways, railroad and utility rights-of-way, parks or other open spaces and all land uses within two hundred feet of the boundary of the development;

(C) Existing sewers, water mains and other underground facilities within and adjacent to the development and their certified capacities;

(D) Proposed sewer or other waste disposal facilities, water mains and other underground utilities;

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

(F) Proposed land use map identifying the location and purpose of each structure;

(G) Location and size in square feet of community facilities;

(H) Location and size in square feet of open space;

(I) Traffic flow plan;

(J) Location and dimension of walks, trails or easements;

(K) Location of off-street parking areas, arrangement, number and dimensions of auto garages and parking spaces, width of aisles, bays and angles of parking;

(L) Location, arrangement, number and dimensions of truck loading and unloading spaces and docks;

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

(N) Approximate location, height and materials of all walls, fences and screens;

(O) Indication of stages of development.

(2) Program elements.

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

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

(C) Tables indicating overall densities and density by dwelling types and any proposal for the limitation of density;

(D) Restrictive covenants, other than those relating to retention and maintenance of common open space;

(E) Development timetable.

(Ord. 1634 § 82, 2004.)

(Ord. No. 1779, 10-13-09)

10.24.060 - Rezone—Hearing and findings.

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

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

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

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

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

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

(6) Compliance with this chapter.

(Ord. 1634 § 83, 2004.)

(Ord. No. 1779, 10-13-09)

10.24.070 - Project densities.

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

(Ord. 1634 § 84, 2004.)

10.24.080 - Common open space requirements.

(a) Common open space in a planned development zone shall meet the following requirements:

(1) The location, shape, size and character of the open space must be suitable for the planned development;

(2) Common open space must be used for amenity or recreational purposes. The uses authorized for the common open space must be appropriate to the scale and character of the planned development, considering its size, density, expected population, topography and number and type of dwelling units to be provided;

(3) Common open space must be suitably improved for its intended use, but common open space containing natural features may be left unimproved. The buildings, structures and improvements which are permitted in the common open space must be appropriate to the uses which are authorized for common open space and must conserve and enhance the amenities of the common open space in regard to its topography and unimproved condition.

(b) The development schedule which is a part of the development plan must coordinate improvement of common open space, construction of buildings, structures and improvements in the common open space and the construction of residential dwellings in the planned development.

(Ord. 1634 § 85, 2004.)

10.24.090 - Retention and maintenance of common open space.

(a) The final development plan and program shall include a provision approved by the hearing examiner as being sufficient to assure permanent retention and maintenance of the common open space in a planned development district. Such assurances may be in the form of restrictive covenants, dedication of the open space to the public where such dedication will be accepted by the legislative body, an undertaking by an association of owners of property within the planned development district zone, or in any other form or by any other method approved by the hearing examiner and city attorney as being practical and legally sufficient to assure the permanent retention and maintenance

of the common open space. All legal documents to carry out the plan and program in this regard shall be filed by the applicant with the final development plan and program accompanying the rezone application, and shall be subject to approval as to form by the city attorney. All such plans and programs shall contain provisions whereby the city will be vested with the right to enforce the permanent retention and maintenance of the common open space and further that in the event the common open space is permitted to deteriorate, or is not maintained in a condition consistent with the approved plan and program, then in such event the city may at its option cause necessary maintenance to be performed and assess the costs thereof to the owners of the property within the planned development zone.

(b) No common open space may be put to any other use than as specified in the approved final development plan unless the development plan has been modified to permit such other use pursuant to Section 10.24.110 of this chapter. No such modification of use shall be deemed as a waiver of any of the provisions of the approved final development plan assuring the permanent retention and maintenance of the common open space.

(Ord. 1634 § 86, 2004.)

10.24.100 - Recommendation of the hearing examiner—Subsequent procedure.

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

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

(Ord. 1634 § 87, 2004.)

10.24.110 - Modifications to development.

(a) Major Modifications. Applications for major modifications in the final development plan and program must be submitted to the planning department for review and hearings held and recommendations made by the hearing examiner and the legislative body shall adopt or reject the hearing examiner's recommendation as if such application were an original application for a planned development zone.

(b) Minor Modifications. Minor modifications in the final development plan and program may be approved by the city administrator. Such changes may include minor shifting of the location of buildings, proposed streets, public or private ways between the easements, parks or other public open spaces, or other features of the plan, but shall not include those changes involving increases of density, changes of boundaries, changes in land use or other changes of location which are not devoted to specific land uses.

(Ord. 1634 § 88, 2004.)

(Ord. No. 1879, § 1, 5-8-12)

10.24.120 - Review of previous planned development rezone approval.

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

days prior to such hearing, and after otherwise giving notice of such hearing as required by Title 21 of the Selah Municipal Code.

(Ord. 1634 § 89, 2004.)

10.24.130 - Review hearing for non-development.

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

(Ord. 1634 § 90, 2004.)

10.24.140 - Reconstruction of buildings or improvements.

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

(Ord. 1634 § 91, 2004.)

10.24.150 - Review of decision.

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

(Ord. 1634 § 92, 2004.)