SELAH CITY COUNCIL

5:30pm November 24, 2020

Selah City Council
Regular Meeting
Tuesday, November 24, 2020
5:30pm
Via Zoom

Mayor:	Sherry Raymond
Mayor Pro Tem:	Roger Bell
Council Members:	Russell Carlson
	Jacquie Matson
	Kevin Wickenhagen
	Clifford Peterson
	Suzanne Vargas
	Michael Costello

CITY OF SELAH
115 West Naches Avenue
Selah, Washington 98942

City Administrator:	Donald Wayman
City Attorney:	Rob Case
Clerk/Treasurer:	Dale Novobielski

AGENDA

A. Call to Order –Mayor Raymond

B. Roll Call

C. Councilmember Absence – Motion to Excuse

D. Pledge of Allegiance

E. Invocation

F. Agenda Changes **None**

G. Public Appearances/Introductions/Presentations

1. Katrina Henkle, Selah Downtown Association – Update

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

I. Communications

We are presently conducting the regular meeting portion of today's session. State law does not require a noncharter code city, such as the City of Selah, to allot time for public comment during a regular meeting between the Mayor and City Council. Historically, the City has chosen to allot time for public comment during its regular meetings, subject to a maximum of two minutes per commenter and common-sense standards of decorum. Recently, those standards of decorum have been increasingly infringed.

Those wishing to offer public comments during a regular meeting must comply with the following process and standards. Each commenter must state his/her full name and whether he/she is a registered voter residing within the city limits of Selah. Each commenter is limited to one comment and a maximum duration of two minutes per regular meeting. A maximum of thirty minutes per regular meeting will be allotted for all public comments. Comments must be constructive and respectful; no profanity, insults, defamation, or direct or implied personal attacks will be allowed. Criticism of City policy is allowed, but personal criticism of any individual is not allowed. The public comment process is not a question-and-answer process. Also, each commenter should speak solely for himself/herself rather than purporting to speak on behalf of others, repeating verbatim or nearly verbatim what another commenter has said, or repeating what a written document says.

In-person comments will be heard from the podium in the order offered by commenters (and during the Covid shutdown, written comments will be read aloud in the order received by City staff and telephonic comments may also be heard). The Mayor may cut off any in-person or telephonic comment that he/she deems inappropriate (and City staff, at the direction of the Mayor, may disallow or modify any written comment that is deemed inappropriate).

These standards are subject to revision. Those who infringe the applicable standards may be barred from offering public comments during future regular meetings.

Public comment during regular meetings is not the exclusive method to communicate with the Mayor or the City Council on any topic. People may send emails or letters, leave voicemails, or request in-person meetings, to or with the Mayor or any member(s) of the City Council. The Mayor and each member of the City Council has personal discretion over how and when he/she might respond to emails, letters, voicemails, and requests for in-person meetings.

2. Written **None**

J. Proclamations/Announcements **None**

K. Consent Agenda

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

Monica Lake * 1. Approval of Minutes: November 10, 2020 Council Meeting
Dale N. * 2. Approval of Claims & Payroll

L. Public Hearings

Jeff Peters 1. Closed Record Public Hearing to Consider the Hearing Examiner's Recommendation Regarding a Rezone PD-2020-001) of the subject property to Planned Development and approval of the Preliminary Plat of "Hillside Estates" (PLP-2020-002) and Adopting Findings and Conditions of Preliminary Plat Approval

Dale N. 2. Open Record Public Hearing to discuss the proposed 2021 Budget for the City of Selah

M. General Business

1. New Business **None**
2. Old Business **None**

N. Resolutions

Jeff Peters 1. Resolution Approving the Preliminary Plat of "Hillside Estates" (PLP-2020-002) and Adopting Findings and Conditions of Preliminary Plat Approval

Joe Henne * 2. Resolution Declaring and Accepting the West Goodlander Road Resurfacing and Sidewalk Improvements TIB Project Number P-E-182(P01)-1 / 3-E-182(005)-1 as Complete

Joe Henne * 3. Resolution Authorizing the Mayor to sign a "WSDOT Supplemental Agreement Number 6 Between the City of Selah and HLA Engineering and Land Surveying, Inc. for Construction Services of the East Goodlander Road Improvements Project"

Joe Henne 4. Resolution authorizing the Mayor to sign a "Consent to Transfer of LS Network Stock to InstarAGF Asset Management Inc."

Donald Wayman * 5. Resolution enacting Temporary Suspension of the Requirements and Enforcement of SMC 10.34.020 Off-Street Parking Spaces Table 34-1 Retail, Trade, and Services land use category for existing businesses located within the Professional Business and General Business zoning districts who choose to expand or establish outdoor sales areas

O. Ordinances

Jeff Peters 1. Ordinance Amending Ordinance No. 1634 Zoning Map Amendment No. PD-2020-001 Rezone to Planned Development (PD)

Dale N. 2. Ordinance to Establish the Amount of Taxes to be Levied Upon Real & Personal Property in the City of Selah, Yakima County, Washington, and Fixing the Tax Levy for the Year 2021.

P. Public Appearances **None**

Q. Reports/Announcements

1. Departments
2. Council Members
3. City Administrator
4. Boards **None**
4. Mayor

R. Executive Session **None**

S. Adjournment

Next Regular Meeting December 8, 2020

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

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

CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY

Council Meeting	Action Item
11/24/2020	K – 1

Title: Approval of Minutes: November 10, 2020 Council Meeting

From: Monica Lake, Executive Assistant

Action Requested: Approval

Staff Recommendation: Approval of Minutes

Board/Commission Recommendation: Not Applicable

Fiscal Impact: N/A

Funding Source: N/A

Background / Findings & Facts: See Minutes for details

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

City of Selah
Council Minutes
November 10, 2020

Regular Meeting
Electronically Via Zoom
115 West Naches Avenue
Selah, WA 98942

A. Call to Order — Mayor Raymond called the meeting to order at 5:33 pm.

B. Roll Call

Members Present: Kevin Wickenhagen; Jacquie Matson; Clifford Peterson; Roger Bell; Russell Carlson; Suzanne Vargas; Michael Costello

Members Absent: None

Staff Present: Donald Wayman, City Administrator; Rob Case, City Attorney; Dan Christman, Police Chief; Joe Henne, Public Works Director; Jeff Peters, Community Development Supervisor; Treesa Morales, Public Records Specialist; Monica Lake, Executive Assistant

C. Councilmember Absence – Motion to Excuse **None**

D. Pledge of Allegiance

Mayor Raymond led the Pledge of Allegiance.

E. Invocation

Pastor Mark Griesse gave the prayer.

F. Agenda Changes

Add: N – 3: Resolution Reenacting and Extended the Previously-Enacted Temporary Suspension of the Requirements and Enforcement of SMC 10.34.020 Off-Street Parking Spaces Table 34-1 Restaurant Land Uses for Existing Businesses who Choose to Expand or Establish Outdoor Eating Areas

G. Public Appearances/Introductions/Presentations

1. Katrina Henkle, Selah Downtown Association – Update

Katrina Henkle, Selah Downtown Association (SDA) Executive Director, addressed the Council. She said that, although they won't have the Christmas parade this year, the lighted trucks were working on a route to take them through neighborhoods in mid-December, and the fire trucks would also be making their way around town. She directed people to the SDA's website and social media for information and updates on those. She reminded everyone that Small Business Saturday was coming up, and that shopping with them provides holidays for your family and theirs as well. She ended by saying that

Police Chief Christman was working on meeting with all of the business owners and managers in town, with meetings set for November 19 for retailers, December 3 for coffee shops, and December 10 for restaurants.

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

I. Communications

1. Oral

Mayor Raymond opened the Public Meeting.

City Attorney Case read aloud the rules of conduct as stated in the Agenda.

Executive Assistant Lake said that there were twelve comments submitted, none of which would be read aloud.

Mayor Raymond closed the Meeting.

2. Written **None**

J. Proclamations/Announcements **None**

K. Consent Agenda

Council Member Wickenhagen moved to place N – 2 and N – 3 on the Consent Agenda.

Mayor Raymond stated that N – 2 was already on the Consent Agenda.

Council Member Carlson wished to keep N – 3 off the Consent Agenda, as he had a question regarding the item.

Executive Assistant Lake read the Consent Agenda.

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

* 1. Approval of Minutes: October 27, 2020 Council Meeting

* 2. Approval of Claims and Payroll:

Payroll Checks Nos. 83867 – 83897 for a total of $283,466.27
Claim Checks Nos. 75629 – 75698 for a total of $362,127.94

* 3. Resolution N – 2: Resolution Authorizing the Mayor to Sign a Legal Advertising Contract with the Yakima Herald-Republic for the 2021 Calendar Year

Council Member Wickenhagen moved, and Council Member Peterson seconded, approval of the Consent Agenda as read. Motion passed with six yes votes and one abstention.

City Administrator Wayman remarked that typically when a council member recuses him or herself they have a reason, and he would like to hear it.

Council Member Carlson responded that wasn't true, and he didn't need to give a reason for his abstention.

Mayor Raymond deferred to City Attorney Case.

City Attorney Case said that, with regard to what is tradition, he could only opine since he's been on board, and he didn't recall any abstentions other than today and the meeting prior to today. He felt that Council Members do have the right to abstain, and asked Council Member Carlson if he didn't want to state a reason.

Council Member Carlson declined to provide a reason.

City Attorney Case commented that he would have to read Robert's Rules as to whether they need an answer, and suggested that they table it to next council meeting, at which time Council Member Carlson can state his reason if it becomes necessary.

Council Member Carlson observed that there had been numerous abstentions prior to City Attorney Case's arrival that didn't have a reason or justification, just abstention.

L. Public Hearings

1. Public meeting to consider the Final Plat of Eagle Ridge Phase 3A

Community Development Supervisor Peters addressed L – 1. He said that this was actually a public meeting to consider the final plat of Eagle Ridge Phase 3A, which consists of three lots from Eagle Ridge Phase 3, which has been broken into two separate phases per the developer. He spoke briefly about the history of the plat, and finished by saying that the Public Works Director has signed off on it and he would entertain questions from Council Members.

Council Member Carlson wondered if the Hearing Examiner's recommendation had changed over the six-year period, and what the legal requirements were.

Community Development Supervisor Peters replied that once the plat was preliminarily approved by Council it vested the developers with those conditions put in place at that time. He recited the section of State law that pertained to the need for a public meeting, not a public hearing, saying that if the developer does not meet those criteria or there's a discrepancy in the final plat brought for approval then Council could deny approval until such time as the conditions were met.

Council Member Carlson asked if a developer could come back in years later and follow that.

Community Development Supervisor Peters responded that there was a provision in State law that changed the time frame from five years to seven years approximately twenty-three years ago, due to the downturn in the market, and Mr. Torkelson has made his time frames every single time a phase has been approved or final.

Council Member Vargas remarked that there was reference to Resolution No. 2467 but it wasn't in the packet, and requested that he provide a sense of the conditions.

Community Development Supervisor Peters answered that it dictates the conditions that needed to be met, which included putting in sewer, water, curb, gutter and sidewalk to all three lots, and that they would come back with another final plat approval in future to complete the plat of Eagle Ridge.

Council Member Matson asked for verification that all twenty-two conditions set forth had been met.

Community Development Supervisor Peters replied that they have, and that his department received a letter from PLSA indicating that the sidewalk been inspected, and the sewer and water lines installed. He noted that he also did a drive by to verify completion.

M. General Business

1. New Business

Council Member Matson gave a quick update on the student representative position, saying that there would be a three-person committee consisting of herself, Council Member Wickenhagen, and a third person yet to be selected by school administration, who would lay out what they want the student representative position to be and what they need to do for the City, as well as working on the application.

City Attorney Case said that he had looked through MRSC and Robert's Rules of Order online, and that Selah's Municipal Code Section 1.06.250, titled 'Voting – Abstention' states "In the event a member abstains from voting, that member shall announce his/her intention to abstain and reason for abstaining. An abstention shall not affect the presence of a quorum. An abstention shall not be considered as either a vote for or against the matter." He opined that it was probably necessary for Council Member Carlson to articulate a reason for his abstention and asked if he was willing to do so.

Council Member Carlson inquired as to the reason they were now enforcing it.

City Attorney Case responded that he had only been there for a little over the year, and if he making an argument that it hasn't been enforced, perhaps Council Members who had been here longer could speak to the matter, noting that Council Members Carlson and Vargas had shorter tenure her than himself but those who'd been on Council longer might wish to discuss it. He added that he was entitled to abstain, and that it didn't impact the quorum, but that the reason for abstaining needed to be announced.

Council Member Carlson wondered if he meant Council Member Costello, not Carlson.

City Attorney Case answered in the affirmative.

Council Member Carlson commented that he was happy to acknowledge the reason, saying that he opted not to vote on it as his business had applied for the Cares Business Grant, and there was a piece of information there about said grant.

2. Old Business **None**

N. Resolutions

1. Resolution Approving the Final Plat of "Eagle Ridge Phase 3A" and Authorizing the Mayor to Sign the Final Plat

Community Development Supervisor Peters addressed N – 1. He said that this was the actual Resolution allowing the Mayor to sign the final plat of Eagle Ridge Phase 3A and recommended approval.

Council Member Carlson moved, and Council Member Matson seconded, to Approve the Resolution Approving the Final Plat of "Eagle Ridge Phase 3A" and Authorizing the Mayor to Sign the Final Plat. Roll was called: Council Member Wickenhagen – yes; Council Member Matson – yes; Council Member Vargas – yes; Council Member Peterson – yes; Council Member Bell – yes; Council Member Costello – yes; Council Member Carlson – yes. By voice vote, approval was unanimous.

* 2. Resolution Authorizing the Mayor to Sign a Legal Advertising Contract with the Yakima Herald-Republic for the 2021 Calendar Year

3. Resolution Reenacting and Extended the Previously-Enacted Temporary Suspension of the Requirements and Enforcement of SMC 10.34.020 Off-Street Parking Spaces Table 34-1 Restaurant Land Uses for Existing Businesses who Choose to Expand or Establish Outdoor Eating Areas

City Administrator Wayman addressed N – 3. He said that the Resolution extends their previously enacted temporary restriction of requirements for off street parking for restaurants to February 28, 2021, per discussion two weeks prior, and that although businesses may opt not to use it, the opportunity would be there for them.

Council Member Carlson inquired if they were able to extend it to all businesses with the same guidelines of where they see fit using the same parameters.

City Administrator Wayman opined that they could extend it to other businesses, and some retail might be able to use it although he didn't know if a practical extension would work for them. He left the decisions up to Council.

Council Member Bell remarked that last time they passed the Resolution they did move to extend it to any business, and he felt it would be appropriate to do so now.

Council Member Bell moved to approve the Resolution Reenacting and Extended the Previously-Enacted Temporary Suspension of the Requirements and Enforcement of SMC 10.34.020 Off-Street Parking Spaces Table 34-1 Restaurant Land Uses for Existing Businesses who Choose to Expand or Establish Outdoor Eating Areas, with the addition that it be extended to any business.

Council Member Carlson asked if his motion was to extend it to any business that sees fit.

Mayor Raymond commented that was pretty open.

City Administrator Wayman observed that they have everything from auto parts to clothing with different classifications and asked Community Development Supervisor Peters for his opinion.

Community Development Supervisor Peters commented that he doesn't think it would need to apply to all different businesses, with part of that being some businesses don't have parking stalls not in city right of way, so it would only apply to a small amount of retail businesses that would be granted additional provisions for a right of way use permit to put wares in right of way use space, with the potential of creating problems with ADA in public right of way. He went on to say that they could certainly do that if Council wishes, but it would require a rewrite of the entire Resolution because it was specifically written for restaurants due to the Health Department.

City Administrator Wayman suggested allowing himself and Community Development Supervisor Peters to look through this at which businesses this would be effectively helpful for and bring back a new Resolution at the next meeting that might allow them to expand in the public right of way or existing space in their footprint.

Council Member Bell remarked that they had discussed before that very few businesses could take advantage but they did decide to open it to any business who could legitimately take advantage, and he didn't see why they would need to change that beyond an extension of the date.

Community Development Supervisor Peters didn't recall that discussion specifically honing in on all businesses, saying that he believed the final recommendation was to revise it on this particular resolution and move it back. He added that when they first put it together back in the spring they had looked at commercial businesses and found they wouldn't benefit by this.

City Administrator Wayman reiterated his recommendation to study who would benefit and how, and come back with a supplemental Resolution.

City Attorney Case stated that his opinion was consistent with what City Administrator Wayman said, and his suggestion would be that if Council is inclined to extend it regarding restaurants then perhaps they do so today so restaurants aren't left in limbo due to the previous Resolution sunsetting, and have an additional Resolution brought forward for the next meeting to address the other businesses.

Council Member Peterson commented that his recollection when they initially passed it was to do it for the restaurants that were ready to go, and that other businesses could come to the City and coordinate with staff in similar variances. He inquired if there had been any other businesses indicating a desire.

City Administrator Wayman answered that he had not received inquiries from any businesses other than restaurants.

Community Development Supervisor Peters added that he hadn't had any contact beyond restaurants either, and those he knew who had taken advantage of it were a drinking establishment on Naches, a Hispanic restaurant in Frankie Lee's strip mall, and Magic's Pizza.

City Administrator Wayman noted that Tailgater's had as well.

Community Development Supervisor Peters didn't think any restaurants were currently serving people outside, as most have packed up their outside seating areas.

Mayor Raymond asked what was the Council's desire.

Council Member Bell replied that his intent in bringing it up at the last meeting was a need to be business friendly whenever they could, and while they realized before that there would probably not be any other businesses who desire to do this, it's another method of feeling good about how the City treats businesses. He agreed that they could follow City Attorney Case's suggestion of passing the Resolution as written and come back with something else for other businesses later, although he would prefer to do it all now.

Council Member Carlson didn't feel that there would be a lot of businesses using it regardless, adding that the reason he brought up other businesses was they can't know the needs of every single business, and by opening up where appropriate they could let the business owners make that decision. He agreed with Council Member Bell that they shouldn't delay it, but cautioned that they be careful deciding how businesses could use the opportunity.

Council Member Bell modified his motion to be as written, and to look for another Resolution at the next meeting extending it to other businesses.

City Administrator Wayman extended an offer to Council Members to meet with him and talk about how to expand this to other businesses as they draft up the next attempt.

Council Member Carlson seconded the motion. Roll was called: Council Member Wickenhagen – yes; Council Member Matson – yes; Council Member Vargas – yes; Council Member Peterson – yes; Council Member Bell – yes; Council Member Costello – yes; Council Member Carlson – yes. By voice vote, approval was unanimous.

O. Ordinances

1. Ordinance Repealing Title 9.11.070 Relating to the City's Monthly Industrial Sewer Availability Fee

Community Development Supervisor Peters addressed O – 1. He said that this Ordinance repeals Title 9.1.070 Relating to the City's Monthly Industrial Sewer Availability Fee, and briefly reviewed the history of the Ordinance in place and the need at the time to reserve sewer capacity for industrial users. He went on to say that during the development and adoption of the 2018 General Sewer Plan adopted in November 2018, the City found that they no longer had excess treatment capacity for industrial sewer users to reserve, and therefore this Ordinance repeals the availability and the fee itself, with a physical

impact of sixteen thousand, three hundred twenty dollars annually to the Sewer Fund. He asked that Council repeal the Ordinance relating to this code.

Council Member Wickenhagen wondered if it was a mandatory fee or a voluntary fee.

Public Works Director Henne answered that it was a required monthly fee.

Council Member Wickenhagen asked if it was shared by multiple companies.

Public Works Director Henne replied in the negative, saying that it was enacted with Tree Top when they built their own treatment facility on Harrison Road, as they wanted to reserve the right to get back into the City's facility as they are currently doing. He added that they've updated the discharge permit and are able to handle it currently, but there are limitations on what the City can handle.

Council Member Bell inquired if in the future the City would be able to tell Tree Top or any other company needing that they don't have the capacity, or if it would be on an individual basis.

Public Works Director Henne responded that they would review the applicant's request and go from there. He corrected his previous statement, saying that SunRype is also involved in the reduction but are currently in the system year-round. He went on to say that they were putting Tree Top into the treatment plant but this year they've been putting them into the pretreatment lagoon, and that he would be meeting with Tree Top over the next few months to discuss improvements to their Harrison Road facility.

Council Member Bell expressed curiosity as to why the repeal was coming to them now.

City Administrator Wayman answered that they had a contract with Tree Top to reserve that space that eclipsed several years ago, and at this juncture they don't think it wise to hold that place for them when looking at daily discharge all year round. He added that Tree Top had asked for relief from the charge, pointing out that the agreement had sunsetted, and they realized it wasn't a good deal for the City to take revenue in while holding space for potential use.

Community Development Supervisor Peters remarked that, when you look at the General Sewer Plan, the loading capacity of the plant, and how much growth they can serve based on strengths of residential and industrial users, they don't have enough capacity to manage both residential and industrial reservation for future use. He went on to say that what that means is if they want to accommodate industrial growth in the future they will have to look at a major plant expansion to keep residential growing as well.

City Administrator Wayman commented that Tree Top are the City's industrial partners, and they don't want to treat them like second class citizens, but they also need to find ways to accommodate both residential growth and industrial growth. He said they were looking at solutions as to how to best accommodate all users, but they were coming into an era where they were going to have to look at an expansion of the wastewater treatment plant to accommodate growth and industrial partners.

Council Member Costello wondered how often businesses have overflow on a regular year.

Public Works Director Henne replied that the only one who does that now is Tree Top, with an agreement for November through March that helps them control the amount they fill up the lagoon on Harrison road and to mitigate any odors.

Council Member Carlson commented that his only question was whether there had been an agreement to keep this going after they identified that they didn't have that capacity but continued to charge the fee.

Public Works Director Henne responded that they can't just say they don't have capacity, as they have it but it's been exceeded periodically when Tree Top has been discharging into it. He said that he received a report from Wastewater Treatment Plant Supervisor Neumeyer and would be in contact with Tree Top regarding that, and the agreement done last year allows specific amounts and leaves it up to Tree Top to meet those discharge limits however they want to do it. He noted that if they find out they can't control that the City will have to ask them to go out to the lagoon on Harrison Road.

Council Member Carlson asked if it would allow for a year to year discussion rather than a long-term contract that ties up the wastewater treatment plant.

Public Works Director Henne answered in the affirmative, saying that they still pay a discharge amount to cover, as the City lost utility tax on that when they left, and that the other component was to retain plant capacity. He added that they would treat it on an almost daily basis, and would keep in contact with them and adjust.

City Administrator Wayman remarked that they would continue to work with Tree Top on things such as sending us cooler water, and to find solutions to make it easy for both to do business and meet the Department of ecology (DOE) requirements.

Community Development Supervisor Peters said that they have to account for all discharge and show they aren't exceeding their treatment plant numbers even if they aren't physically using it all, and this was being eliminated because they don't' have the ability to reserve it anymore.

Council Member Bell moved to Approve the Ordinance Repealing Title 9.11.070 Relating to the City's Monthly Industrial Sewer Availability Fee.

Council Member Peterson commented that when he was previously on Council he recalled that part of the problem when Tree Top was leaving the City was that all of their discharge wasn't metered so they didn't know exactly how much and when they were discharging into the City system. He wondered if all those problems had been resolved.

Public Works Director Henne responded that they know how much Tree Top is discharging to them, as they have flow meters at the pretreatment facility and required Tree Top to put in discharge flow meters on the connection to the system as well as a monitoring station to take samples themselves. He added that it was all based on strengths, as they have limits on certain amounts of strengths.

Council Member Peterson recalled that their biggest concern was aeriation rather than with the actual volume, asking how industrial waste affects their aeriation needs and capacity.

Public Works Director Henne replied that the amount of BODs coming in can require longer treatment times and more aeration, and it all depends on waste and their strengths.

Council Member Peterson wondered if the fruit industry had higher BOD than residential.

Public Works Director Henne answered in the affirmative, saying that it was due to the amount of sugars and stuff in industrial discharge that requires more treatment than domestic sewage.

Council Member Vargas asked for clarification on whether the fee was only charged during off months or all twelve months.

Public Works Director Henne replied that there are five months a year the fee isn't charged, and while the monthly listed was accurate, the annual amount was slightly off.

Council Member Peterson seconded the motion. Roll was called: Council Member Wickenhagen – yes; Council Member Matson – yes; Council Member Vargas – yes; Council Member Peterson – yes; Council Member Bell – yes; Council Member Costello – yes; Council Member Carlson – yes. By voice vote, approval was unanimous.

P. Public Appearances **None**

Q. Reports/Announcements

1. Departments

Public Works Director Henne said that the Well No. 7 rehab project had started, but the contractor had delays receiving some parts and hoped to start back up Monday. He remarked that the gazebo was up at Volunteer Park, and the walkway from the pathway to the gazebo would be asphalted in the spring. He finished by saying that he was closing out three projects and would likely present them at the next Council Meeting.

Community Development Supervisor Peters said that he would be bringing the preliminary Planned Development of Hillside Estates to Council at the next meeting, as the developer met the condition set by the Hearing Examiner last spring to be done prior to going to Council. He added that he would be bringing adoption of the 2018 building codes to the December meeting, and that his department has notified all contractors with master plans out that they need to bring in permits now before adoption of the new codes.

City Administrator Wayman asked why it was so important for contractors to get their plans in early.

Community Development Supervisor Peters replied that the International Code Council updates all building codes on a cycle, and in places like Washington State we do local amendments or add to the codes. He went on to explain that if a contractor doesn't bring in plans at this time then five days after publication of the Ordinance all master plans would need to be re-reviewed, costing developers to pay twice for the same thing to have reviewed under new codes for compliance. He noted that they were still working on the Shorelines plan and Sub Area plan, but neither would be done this year.

Council Member Peterson wondered why there wasn't a budget adjustment for emergency repairs for the wastewater and stormwater system.

Public Works Director Henne explained that they were able to utilize the vactor truck to remove soil, and have the Naches-Selah Irrigation District put in a mixture that creates a plug when it comes in contact with water, and the cost would be covered in the existing budget.

Police Chief Christman said that the Police Department was running well right now, and he was looking at reallocating duties to sergeants that were previously scattered around. He looked forward to talking with those Council Members he hadn't met yet.

Public Records Specialist Morales said she would be sending out Zoom invites for the 2021 Budget meetings the next day, which would be the same for all three days, and that there would be a link online as well for the public to attend.

City Attorney Case had no report.

2. Council Members

Council Member Costello had no report.

Council Member Wickenhagen no report

Council Member Carlson had no report.

Council Member Matson had no report.

Council Member Bell had no report.

Council Member Vargas thanked the SDA and all the businesses who participated in the downtown trick or treat, which she brought her kids through.

Council Member Peterson had no report.

3. City Administrator

City Administrator Wayman stated that they would be reviewing the 2012 budget on November 18, 19 and 20, with presentations form himself and staff, and during that time they would be able to answer questions about the budget. He added that he would appreciate it if they see an error or typo to give him or Clerk/Treasurer Novobielski a call before the budget meetings, and that they were looking forward to talking to Council and presenting the proposed budget.

4. Boards **None**

5. Mayor

Mayor Raymond encouraged Council Members to make the Zoom budget meetings if they can.

Council took a five-minute recess.

R. Executive Session

1. 30 Minute Session – Litigation RCW 42.30.110 (1)(i)

Council went into Executive Session at 6:59m. At 7:29pm, Council went back on the record. Mayor Raymond stated that no action was taken during the Executive Session.

City Attorney Case added that no votes were taken and no final action occurred.

S. Adjournment

Council Member Peterson moved, and Council Member Wickenhagen seconded, that the meeting be adjourned. By a show of hands, approval was unanimous.

The meeting adjourned at 7:32pm.

Sherry Raymond, Mayor

Roger Bell, Council Member

Russell Carlson, Council Member

Jacquie Matson, Council Member

Kevin Wickenhagen, Council Member

Clifford Peterson, Council Member

Suzanne Vargas, Council Member

Michael Costello, Council Member

ATTEST:

Dale E. Novobielski, Clerk/Treasurer

CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY

Council Meeting	Action Item
11/24/2020	K – 2

Title: Claims & Payroll

From: Monica Lake, Executive Assistant

Action Requested: Approval

Staff Recommendation:

Approval of Claims & Payroll as listed on Check Registers.

Board/Commission Recommendation: Not Applicable

Fiscal Impact: See Check Registers

Funding Source: See Check Registers

Background / Findings & Facts: See Check Registers

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

CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY

Council Meeting	Action Item
11/24/2020	L – 1

Title: Closed Record Public Hearing to Consider the Hearing Examiner's Recommendation Regarding a Rezone PD-2020-001) of the subject property to Planned Development and approval of the Preliminary Plat of "Hillside Estates" (PLP-2020-002) and Adopting Findings and Conditions of Preliminary Plat Approval.

From: Jeff Peters, Community Development Supervisor

Action Requested: Approval

Staff Recommendation: Conduct Public Hearing

Board/Commission Recommendation: Approval

Fiscal Impact: None

Funding Source: None

Background / Findings & Facts: The Hearing Examiner conducted an open record public hearing on May 19, 2020. On June 9, 2020, the Examiner issued his Findings and Conclusions recommending approval of the Rezone of the subject property to Planned Development, and Hillside Estates Preliminary Plat subject to conditions and the provisions of SMC 10.24.

Recommended Motion: I move that the Council accept the Hearing Examiner's recommendation to Rezone the subject property to Planned Development, and approve the Hillside Estates Preliminary Plat, and adopt the Hearing Examiner's Findings and Conclusions as its own.

CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY

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

Date:	Action Taken:
5/19/2020	Hearing Examiner Open Record Public Hearing

NCW Development, LLC.
PLP-2020-002, SEPA 2020-003, TCA-2020-002 & PD-2020-001

List of Exhibits

Item	Exhibit
Hearing Examiner Recommendation	1a
Applications:	
Planned Development & Preliminary Plat Application	1b
Planned Development Map	2b
State Environmental Policy Review Application	3b
Transportation Capacity Analysis	4b
Comments:	
Review Letter from HLA Engineering, May 4, 2020	1c
Comment Letter from Selah Public Works Department, May 5, 2020	2c
Comment from Selah Fire Department regarding addressing	3c
Proposed Addressing	4c
Notices:	
Notice of Complete Application, Development Application & Environmental Review	1d
Affidavit of Publication Yakima Herald Republic, April 3, 2020	2d
Affidavit of Mailing, April 3, 2020	3d
Notice of Public Hearing	4d
Affidavit of Publication from Yakima Herald Republic, April 24, 2020	5d
Declaration of Posting, April 29, 2020	6d
Notice of Public Hearing	7d
Affidavit of Publication from Yakima Herald, November 8, 2020	8d
Affidavit of Mailing, November 8, 2020	9d
Misc:	
Transportation Concurrency Analysis	1e
Draft Covenants, Conditions & Restrictions	2e
Draft Road Easement, Improvement & Maintenance	3e

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Received
JUN 09 2020
By
City of Selah
Planning Dept.

HAND CARRIED

June 9, 2020

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

RE: Hearing Examiner Recommendation on "Hillside Estates PD Overlay and Preliminary Plat (File Nos. PD-2020-001 and PLP-2020-002)

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

EXHIBIT
1a

City of Selah, Washington
Office of the Hearing Examiner

In the matter of the Review of the Application for the Rezone of 3.57 Acres in the R-1 Zoning District to the Planned Development Overlay District and the Associated Preliminary Plat for "Hillside Estates Planned Development"	)	**Selah File No. PD-2020-001; PLP-2020-002**
	)	**HEARING EXAMINER RECOMMENDATION**
Submitted by NCW Development, LLC	)	

I. INTRODUCTION.

On March 12, 2020, the City of Selah Planning Department received an application from NCW Development, LLC ("NCW") for a Planned Development Overlay Rezone and Preliminary Plat Review for property located on Speyers Road. The property is associated with an earlier application for Preliminary Long Plat, State Environmental Policy Act Checklist, and Transportation Concurrency review application submitted by NCW in February 2020. The February 2020 Environmental Review included the currently proposed nine lot Planned Development plat which is proposed to be Phase 2 of the Hillside Estates subdivision.

An open record hearing on the preliminary plat proposal was conducted on May 19, 2020 using the City's Zoom account. Zoom is cloud-based video communications computer application that allows virtual video and audio conferencing. The City provided a staff report and a set of hearing exhibits to the Hearing Examiner and the applicant prior to the hearing. The exhibits are listed in the staff report package and are made part of the hearing record. Additional exhibits were also provided for the record based on an e-mail received from a property owner in the vicinity. The letter registers objections regarding the adequacy of notice and opportunity to be heard, consistency of the development with neighborhood character, wildlife and view impacts, noise and traffic generation, dust impacts, and the lack of school capacity to serve the additional families associated with the development.

No members of the public joined the Zoom conference. The City was represented by Community Development Supervisor Jeff Peters, and NCW was represented by Stephanie Flowers. The Hearing Examiner viewed the site following the initial preliminary plat hearing for the Hillside Estates project. The hearing record was supplemented with an April 24, 2020 affidavit of mailing evidencing the public notice of the open record public hearing on the subject NCW application, together with the list of addressees to which notice was sent.

II. SUMMARY OF RECOMMENDATION.

This Planned Development overlay zone and preliminary plat should be approved, subject to

conditions set out in V. RECOMMENDATIONS, below, to assure compliance with Ch. 10.24 SMC, and subdivision design and zoning standards.

Based on the staff report and exhibits, the viewing of the site, written comments, testimony received at the open record hearing, and a review of pertinent development regulations and the *2017 Selah Urban Area Comprehensive Plan* ("*2017 Comprehensive Plan*") provisions, the Hearing Examiner makes the following

III. FINDINGS.

1. APPLICANT AND PROPERTY OWNER.

The preliminary plat application was filed by NCW Development, LLC, P.O. Box 119, Wenatchee, WA, 98807. NCW Development, LLC is the property owner of record based on information in the Yakima County GIS portal.

2. LOCATION AND PARCEL NUMBERS.

The subject property is in the vicinity of West Goodlander, Lander, and Speyers Roads. The Yakima County Assessor's Tax Parcel Number for the subject property is 181435-22002.

3. APPLICATION.

The applicant's statement in the PDO/Preliminary Plat application and Environmental Checklist dated February 14, 2020, requests this rezone and subdivision of land pursuant to Chapter 10.50 SMC, and Title 21 SMC, stating:

> [Through] this application, the property owner requests approval from the City of Selah to divide the subject property, located on Parcel 1814-35-22002, into a seven (8) [*sic*] lot Planned Development (Hillside Estates Planned Development) for the future construction of single family detached residential homes. The Hillside Estates Planned Development covers a total of 3.57 acres, with 0.70 acres dedicated to right of way. The average lot size is 0.32 acres. The Planned Development will include all necessary streets, sidewalks, services, utilities, and other public improvements that are necessary to support the project. Approval of the Hillside Estates PD benefits the City of Selah by providing future homes for people to live in and an expanded street network.

Proposed lot sizes range from 8,636 to 17,966 sq. ft. and 22,391 sq. ft. for an open-space lot. NCW proposes to comply with all development standards, except for public street width

standards. Therefore, the Planned Development includes a private street meeting the City's private street standards.

4. CURRENT SITE CONDITION AND ZONING

The subject property is accessible from Speyers Road, which is classified as an Urban Minor Arterial. In the vicinity of the subject property, Speyers Road is a two-way, two-lane arterial approximately 50 to 60-feet-wide with one lane in each direction. Curbs, gutters, and six (6) foot sidewalks have not been installed in the subject property's street frontage.

Surface topography across the sloping site includes a number of erosional drainage valleys, including a relatively significant and deeply incised valley extending across the western boundary of the site covered with dense vegetation and mature trees. Water likely flows through this drainage during periods of heavy stormwater runoff. A small number of off-road vehicle trails traverse the project site. Overall the site slopes down toward the southwest, with existing elevations ranging from approximately 1358 feet above mean seal level (MSL) near the northern tip of the project site to about 1,240 feet MSL where the property meets Speyers Road on the southern portion of the site.

5. ZONING AND LAND USE.

The City of Selah's Zoning Map identifies that the subject and surrounding properties are zoned Residential, Single-Family (R-1). SMC S 10.12.010 indicates that the purpose of the R-1 zoning district is to provide for single-family residential development where urban governmental services are currently available or will be extended by the proponent to facilitate development at no public costs. Specifically, the intent of this district is to:

- Provide for an orderly, phased transition from vacant or partially developed land to single-family residential development.
- Facilitate coordinated and collaborative public infrastructure investment.
- Require individual lot connections to municipal water and sewer systems.
- Require developments to meet the city's minimum urban development standards.
- Particular emphasis shall be given to ensuring that R-1 uses and land divisions will facilitate future urban development and extension of utilities.

Adjacent properties have the following characteristics:

Location	Zoning	Land Use
North	Residential, Single Family (R-1)	Single-Family Homes/Vacant
South	Residential, Single Family (R-1)	Single-Family Homes/Vacant
West	Residential, Single Family (R-1)	Single-Family Homes/Vacant
East	Residential, Single Family (R-1)	Single-Family Homes/Vacant

6. APPLICABLE COMPREHENSIVE PLAN PROVISIONS.

The City of Selah's Comprehensive Plan and Future Land Use Map designates the subject property as suitable for Low Density Residential development. The Low Density Residential designation is characterized as "Low-density residential development, up to five dwelling units per acre. Clustering of dwelling units, within the permitted density range is encouraged to preserve open space, steep slopes, drainage ways, etc..... The predominant use will be low density residential; however, it is the intent and desire of Selah that its low-density neighborhoods develop with a mix of housing types including single-family, duplexes, townhouses, and multi-family dwellings..

The Goals and Policies that apply to this designation and proposed land use are as follows:

6.1 County Wide Planning Goals and Policies:

A. 3.4: Urban growth will occur within UGAs only and not be permitted outside of an adopted UGA except for new fully contained communities.

B.3.1: Urban growth should be located first in areas already characterized by urban growth that have existing public facilities and service capacities to serve such development, and second in areas already characterized by urban growth that will be served by a combination of both existing public facilities and services and any needed public facilities that are provided by either public or private sources.

B.3.3: Infill development, higher density zoning and small lot sizes should be encouraged where services have already been provided and sufficient capacity exists and in areas planned for urban services within the next 20-years.

B.3.5: New urban development should utilize available/planned urban services.

6.2 City of Selah Goals and Policies:

Objective 2.2.1.: Encourage economic growth while maintaining quality development and controlling the cost of public improvements in Selah's UGA.

Policy 1: Growth should be encouraged in natural drainage basins.

Policy 2: Encourage development to areas where infrastructure (water, sewer, stormwater, and streets) is either present, can be easily extended, or is planned to be extended.

Policy 3: Conserve land, energy and financial resources by minimizing urban sprawl.

Policy 4: Streets, water, sewer, and stormwater management extensions should be designed to provide service to the maximum area possible with the least length of extension, while also making economic development and job creation a priority.

Goal 5.1: Encourage the availability of affordable housing to all economic segments of the population, while maintaining the character of the community.

Objective 5.1.1: Investigate and re-evaluate development regulations, permit procedures and funding decisions to meet the growing population and economic needs of the City.

Goal 5.2: Promote a variety of residential densities and housing types, and encourage preservation of existing housing stock.

Objective 5.2.1: Maintain and upgrade the character of existing residential neighborhoods.

Policy 2: Encourage new single-family development throughout low-density residential areas as redevelopment and infill construction at appropriate densities.

Objective HSG 5.2.2: Encourage new residential construction to be compatible with existing residential development.

Natural Environment/Critical Area Goals and Policies:

Goal 2.2: Development within natural drainage basins.

Policy 2: Encourage development to areas where infrastructure (water, sewer, stormwater, and streets) is either present, can be easily extended, or is planned to be extended.

Goal 2.3: Provide for the protection of significant natural features and the public health through land use policies.

Goal 1:8: Establish critical areas protection measures to protect environmentally sensitive areas, and protect people and property from hazards.

Policy 1: Use the best available science in a reasonable manner to develop regulations to protect the functions and values of critical areas.

Policy 2: Ensure proposed, and other development, and associated infrastructure are designated at a density, level of site coverage, and occupancy to preserve the structure, values and functions of the natural environment or to safeguard the public from hazards to health and safety.

7. PUBLIC NOTICE.

Public notice for this application and hearing was provided in accordance with the following:

7.1 Notice of Application, Environmental Review, and Opportunity to Provide Comment: A Notice of Application, Adoption of Existing Environmental Document, Opportunity to Provide Comment, was mailed to SEPA reviewing agencies; parties of record; and residences within 600 feet of the subject property on April 3, 2020, in accordance with SMC § 10.24.080 (A). The notice provided for a 14-day public comment period. No public comments were received by City staff during the public comment period.

7.2 Notice of Public Hearing & Legal Advertisement: A notice of public hearing advertising the May 19, 2020 to be conducted online and by phone via Zoom as the date, time, and means of holding the hearing was mailed to property owners within a 600-foot radius of the subject properties on April 24, 202. Legal notice of the public hearing was also published in the Yakima Herald Republic on April 24, 2020. A comment letter provided by e-mail to the City indicated that adequate notice of the hearing had not been provided. However, the mailing of the notice of hearing (Hearing Exhibit 4d) is evidenced by an Affidavit of Mailing dated and notarized on April 24, 2020.

7.3 Posting of Subject Property: In accordance with SMC § 21.07.035, the subject properties were posted with City of Selah Land Use Action signs on April 29, 2020.

8. ENVIRONMENTAL REVIEW.

In accordance with WAC 197-11-630, the City of Selah adopted its Mitigated Determination of Non-significance (MDNS) issued on March 25, 2020 for this proposal on April 3, 2020. The mitigation measures listed below are conditions of project processing without the prior preparation of an environmental impact statement as provided by the City of Selah's MDNS:

1. All site-specific impacts for construction of buildings, installation of utilities, dust control, and stormwater facilities are sufficiently addressed and/or mitigated through the implementation of the City of Selah's development standards. Compliance with all development standards are either required as a condition of approval as a part of the applicant's Class (3) zoning and/or building permit approval.

2. For Speyers Rd. and in accordance with the City's development standards for an Urban

Minor Arterial roadway, the developer shall dedicate approximately 10 ft. of right-of-way along the subject properties' frontage (equal a total of 60 ft. in width), and build a half street improvement which includes, curb, gutter, stormwater, sidewalks, and street lights.

3. Lander Rd. shall be dedicated and reconstructed with a total of 50-ft. of right-of- with 30-ft. of asphalt pavement, two 15-ft. wide lanes, curb, gutter (both sides), 6-ft. wide sidewalk on one side of the street, street lights, stormwater drainage, and no parking allowed as depicted upon the applicants Preliminary Plat. Additionally, where Lander Rd. has lots fronting on both sides of Lander Rd. sidewalks shall be installed on both sides of the street.

4. The applicant shall incorporate all recommended conditions of the December 2017 geotechnical report and Critical Area Substantial Development Permit into its construction documents.

5. NCW Development, LLC is required to submit a compliance report detailing how the December 2017 geotechnical report recommendations were incorporated into the grading, utility, streets, and final subdivision plans/construction documents which shall be reviewed and approved by the city prior to grading/building permit issuance.

6. Prior to issuance of any permits for the subject developments, the applicant shall obtain a NPDES stormwater permit for the proposed development from the WSDOE and provide the City of Selah a copy of said permit.

9. PROJECT ANALYSIS.

The proposed project is subject to review both with respect to criteria in both Chapters 10.24 SMC and 10.50 SMC. The criteria are set forth and analyzed in turn in the next subsections.

9.1 Planned Development Criteria and Analysis. A planned development overlay is to be approved or denied based upon the following criteria, which are listed in order of priority regarding the weight to be given to each factor

9.1.1 Compliance with the provisions Chapter 10.24 SMC:

9.1.1.1 Compliance with Planned Development Design Standards (SMC 10.24.100):

1. *Setbacks and Building Height*. The design standards specify building height and structural setback requirements. For the purpose of these setback standards, the determination of which is the side and rear setbacks is to be based on the building from which the setback is being measured and its orientation to the street. The application materials do not specify the locations of the structure that would be built on the lots.

However, all lots within the subject plat are sized appropriately to meet the setback standards in SMC 10.24.100. In addition, the application materials indicate that the development of the lots will comply with applicable zoning and code requirements. With respect to applicability of setback requirements, all the lots front on the private cul-de-sac proposed for the project, so the property boundaries on the street frontage constitute the front yards. Side yard boundaries are those property lines between each lot in the plat, and rear property line setbacks are to be based on the boundary between the platted properties and adjacent properties outside the plat.

2. *Pedestrian – Oriented Design*. At minimum, PDO streets must be improved with sidewalks that meet minimum city standards for public streets. The design must comply with the city's public parks plan and comprehensive plan. All streets within the subject planned development are proposed to be constructed with curb, gutter, sidewalk, and streetlights, or meandering pathway that is distinct from the street.

3. *Compatible and Efficient Layout*. Streets, lot lines, low-impact development techniques and facilities, landscaping areas, open space, building footprints and/or other features shall be arranged for maximum traffic flow efficiency and minimal impact to natural features, existing traffic patterns and uses in the vicinity. Vehicular entrances and exits to the PDO must be minimized by providing for common ingress, egress and circulation areas. But for the natural drainage running through the west side of the subject property, relief from street width dimensions for the interior street would not have been efficient. Under the proposed PDO, however, the proposed lots and open area tract are configured to provide building sites that are buildable without significant effect on the natural drainage on the west boundary of the plat or the steep slopes on the east boundary of the plat. The lots are also efficiently served by a single cul-de-sac intersecting with Speyers Road.

4. *Compatibility with Adjacent Uses*. The exterior of the PDO shall be highly compatible with adjacent uses. Measures to assure compatibility shall be described in the PDP. The principal means of assuring compatibility with the adjacent uses is that the proposal is for conventional single family custom homes that otherwise comply with zoning and subdivision design standards, except for the inclusion of the private street. As noted previously, the lot have been configured to avoid natural drainage and steep slope impacts. The public comment did not raise issues of compatibility of the proposed use with adjacent uses, but rather addressed wildlife and "built environment" impacts that have been addressed through SEPA review. There has been no appeal of the MDNS, which is the prescribed means of challenging the sufficiency of the SEPA threshold determination.

5. *Variety of Housing Types, Styles*. Housing types within a PDO with three structures or more must be varied to have a range of architectural variety. Although an

overall architectural theme may be appropriate, there shall be a range of housing styles within a theme to avoid the monotony of identical structures. The application requirements for a PDO require depiction of the exterior appearance of all proposed buildings and structures, which shall include drawings, architectural renderings and photographs SMC 10.24.070(a)(3). The applicant's planned development application does not identify a mixture of house/floor plans, or any particular structures. The proposed lot sizes are greater than the minimum allowed, providing ample room for custom homes. The limited number of lots, the topography, and the housing market do no suggest that monotonous housing types depicted in Figure 10.24.100(e)(2) in SMC 10.24.100 are likely in this setting.

6. *Design Diversity.* PDO's shall incorporate measures that promote design diversity. This is to be accomplished by (1) providing a mixture of lot sizes and/or front setbacks (which could be specified on the plat); and/or (2) providing a diversity of floor plans and facade treatments that avoid monotonous streetscapes. This could be accomplished with conditions on the plat and/or special covenants required for lots. In addition, as noted above, the main objective of the PDO application is to allow relaxation of the street width standards. In accordance with the applicant's Planned Development application and preliminary plat, the planned development will have a variety of lot sizes ranging from approximately 18,906 sq. ft. to 8,636 sq. ft. to accommodate different housing types, and floor plans, consistent with the design diversity criterion.

9.1.1.2 Open Space: As required by SMC § 10.24.110, the planned development is required to contain a common open space area of 12% of the total square footage of the total PDO, which consists primarily of large usable areas which are owned by all property owners within a PDO. As depicted in the preliminary plat, the 22,391 sq. ft. Open Space Tract totals 14% of the PDO square footage. The staff report recommends as a condition of approval that the applicant's homeowners association organic documents contain provisions for maintenance and upkeep of the open space tract. Additionally, the staff report recommends that, as the open space area has over a 10% grade and is not entirely usable to the public, the developer will be required to regrade the open space lot to a lesser grade more conducive to recreational use.

9.1.1.3 Parking, Lighting and Roads: As required by SMC 10.24.120, the planned development is required to provide a parking, lighting and street plan which meets the provisions of SMC 10.24.120 A - F.

1. The applicant has provided public street plans, which do not include streetlighting. As a condition of approval of the PDO, the staff report recommends that the applicant be required to submit a revised street lighting plan acceptable to the City of Selah Public Works Director.

2. The interior access street this development was originally designed to meet the City of Selah's public street standards. However, as initially designed, the rood narrows at the entrance to the planned development, so that it falls below the city's requirements for a public street. The proposed street as originally designed also exceeds the maximum 10% grade requirement of the International Fire Code, and the cul-de-sac does not meet the minimum 96 ft. diameter. The road does meet the requirements of the City's Adopted Design & Development Standards for private streets in SMC 10.24.120, with regard to width, sidewalk, curb, gutter, storm drainage, and street lighting. Additionally, provided the applicant can redesign the cul-de-sac, and reduce the grade of the road to meet the 10% or less grade requirements of the Fire Apparatus Road standards of the International Fire Code, and address curb radius issues along Speyers Road, the subject street will adequately serve the subdivision as a private road. The applicant submitted drafts of the road easements maintenance agreements, covenants and homeowner association documents in accordance with SMC 10.24.070. These documents will be required to be reviewed and approved by the City of Selah Public Works Director, and recorded prior approval of the Final Plat.

3. A detailed parking plan is not required for PDOs for conventional single family residential development that provides for with at least two off-street parking spaces per unit and streets wide enough to provide for on-street parking.

9.2 Subdivision Code Compliance (per SMC 10.24.050(e)).

The staff report includes an analysis of the consistency of the proposed preliminary plat with Chapter 10.50 SMC (the Selah subdivision code), and notes the following:

A) Public health, safety, welfare: The construction of new detached single-family dwellings which will complement adjacent uses will promote the public health, safety and general welfare insofar as there is a need in this community for single-family dwellings and insofar as this proposed preliminary plat would be required to comply with all applicable City development standards, and all conditions of approval specified by the City Council.

B) Open spaces: The proposed lots meet the minimum sizes required in the R-1 zoning district. Lot coverage of 35% or less in the R-1 zoning district will provide adequate light and air for future residents in accordance with the standards in the zoning ordinance, and additionally the planned development has a 22,391 sq. ft. Open Space tract amounting to 14% of the project area.

C) Drainage systems: The SEPA MDNS requires that drainage system facilities will be provided in accordance with state and local regulations.

D) Streets, alleys, and other public ways: In accordance with the applicant/developer's SEPA MDNS issued March 25, 2020, and planned development application the developer was required to:

1. Improve Speyers Rd. in accordance with the City's development standards for an Urban Minor Arterial roadway, with the developer dedicating approximately 10 ft. of right-of-way along the subject properties frontage (equal a total of 60 ft. in width), and build a half street improvement which includes, curb, gutter, stormwater, sidewalks, and street lights.

2. Additionally, in accordance with the development standards of [SMC 10.24.120], the developer is proposing to construct a private road that has curb, gutter, sidewalk on one side, and storm drainage.

E) Water supplies: Public water is required to be used for domestic and fire flow purposes. An adequate water supply for this development is available from the City of Selah. The applicant has submitted a public water main extension that would meet the requirements of SMC 10.50.045 provided the water line in the Hillside Estates Subdivision [immediately adjacent to the west] is extended down the hill into the Hillside Estates Planned Development and connected with a Pressure Reducing Valve (PRV). Furthermore, the water main and PRV will be installed, or financially secured, prior to the recording of this plat.

F) Sanitary waste disposal: Public sewer is required to service all lots. The City of Selah sewer mains in Speyers Rd. are capable of being extended to handle the demands of this development and will be installed, or financially secured, prior to the recording of this plat.

G) Parks and playgrounds: Volunteer Park is located within one mile from this development and is the closest city park to the subject property.

H) Sites for schools: The subject development is located within one mile from Selah Intermediate School, and Robert Lince Elementary School. No comments were received from the school district suggesting the need for an additional school at this location.

I) Sidewalks: Sidewalks are required and will be provided along this developments frontage and interior streets in accordance with SMC § 10.24.120 (f).

J) Serves the public interest and use: This proposed 7-lot residential subdivision/planned development is consistent with neighboring land uses and better serves the needs of the City of Selah than the undeveloped status of the property. It is also consistent with the Low Density Residential future land use designation of the property in the Comprehensive Plan, the implementation of which is in the public interest.

The staff report also recommended conditions that will assure compliance with the subdivision ordinance and related development standards. There is no evidence in the record that suggests that the subdivision would conflict with the public health, safety or welfare so long as the development complies with the conditions of approval and works in good faith with the City.

From the foregoing findings, the Hearing Examiner makes the following

IV. CONCLUSIONS.

1. Pursuant to SMC 10.24.0080, 10.50.025 and 10.50.026, the City of Selah Hearing Examiner is authorized to make a recommendation for approval or disapproval, with written findings of fact and conclusions to support the recommendation to the City Council on applications for Planned Development overlay zones and associated preliminary plats. Under the ordinance, within ten working days of the conclusion of a hearing, unless a longer period is agreed to in writing by the applicant, the Hearing Examiner is to render a written recommendation which shall include findings and conclusions based on the record. Because of workplace disruptions associated with COVID-19 responses, this Recommendation was delayed several days.

2. One of the purposes of the PD overlay zone is to provide useable open space as set out in the SMC 10.24.010(b). The staff report's recommendation to regrade the Open Space Tract identified on the preliminary plant to make it more useful to the residents is consistent with the purpose of the overlay zone. PD approval should therefore be conditional upon approval by the Public Works Director of a grading plan for the Open Space Tract making it more useful for recreational purposes by the residents.

3. The applicant must redesign the cul-de-sac to meet radius requirements, and reduce the grade of the road to meet the 10% or less grade requirements of the Fire Apparatus Road standards of the International Fire Code, and address curb radius issues along Speyers Road,

based on city staff comments. Any approval of the PD overlay zone must therefore be conditioned on such redesign being acceptable to the Selah Public Works Director.

4. As appropriately conditioned, the PD overlay zone and proposed preliminary plat are consistent with the *2017 Comprehensive Plan* future land use designation and other pertinent goals, objectives and policies.

5. The proposed preliminary plat, if properly conditioned to address standards in the Selah Zoning Ordinance and other provisions of the Selah Municipal Code, complies with subdivision and zoning standards, and is consistent with public health, safety and welfare.

V. RECOMMENDATION.

The application for rezoning property to the Planned Development overlay zone (File No. PD-2020-001) and preliminary plat review (File No. PLP-2020-002) submitted by NCW Development, LLC for the Hillside Estates Planned Development as specified in the application materials should be APPROVED SUBJECT TO THE CONDITIONS set forth below:

A. ZONING MAP AMENDMENT:

1. Planned Development Overlay zoning shall be applied to Parcel 181435-22002. In the event that there i5 any variation in the area of the subject lot, the City may at its discretion, use the minor rezone process to modify the zoning designation to conform to such change.

2. The applicant shall have a legal description of the area subject to the zone change prepared and submitted prior to final action by the City Council on the legislative zoning amendment.

B. GENERAL CONDITIONS:

1. In accordance with SMC § 10.50.041 and the applicant's preliminary plat, the applicant shall submit and gain approval of civil engineered plans which provide for design of all development standards, including but not limited to curb, gutter, sidewalk, street lighting, storm water, and street design. A detailed parking plan is not required so long as proposed single family residential development provides for at least two off-street parking spaces per unit and streets wide enough to provide for on-street parking in accordance with City standards.

2. Prior to final plat approval, the applicant shall submit an overall geotechnical analysis/study showing stability of filled areas to the satisfaction of the City of Selah's Public Works Director. All lots shall require compaction reports prior to construction.

3. Finished slopes shall be no steeper than 2:1 (horizontal to vertical) and provisions made for vegetating slopes greater than 15% by hydro-seeding with native, drought-tolerant plant species as described in the Planned Development Plan. As an alternative to vegetation, an engineered retaining wall or combination of walls may be installed. Building permits are required.

4. All lots shall be served with public water from the City of Selah in accordance with SMC 10.50.045. No individual domestic or irrigation wells shall be used to serve any of the lots.

5. All lots shall be provided with public sewer service in accordance with SMC § 10.50.045.

6. All mitigation measure specified in the Mitigated Determination of Non-significance issued March 25, 2020 by of City of Selah under file SEPA-2020-001 are hereby incorporated as conditions of this subdivision approval, and shall be complied with in their entirety.

7. All proposed construction is subject to plan review, inspections, and building permits.

8. The subject-planned development/plat is located within the Selah Naches Irrigation. Irrigation district approval required upon the face of the final plat.

9. All required air quality permits shall be obtained from the Yakima Regional Clean Air Agency. The developer shall designate a responsible party to serve as contact for suspected air quality violations during working hours.

10. A final binding stormwater/drainage control plan for the entire development and street shall be submitted and approved by the City's Public Works Department prior to construction of improvements for any area of the development. A construction stormwater permit shall also be secured from the Washington Department of Ecology; all plans shall meet the provisions of SMC § 9.24.020.

C. PLANNED DEVELOPMENT CONDITIONS:

1. As a condition of the Planned Development, Road "F" shown on the preliminary plat drawing dated March 12, 2020 shall be a private street and shall never be accepted by the City of Selah as a public street, unless first brought into compliance with City standards in its entirety prior to dedication.

2. The developer shall submit the completed Home Owner's Association and Common Area Maintenance Plan and proposed Covenants, Conditions and Restrictions to the City of Selah Public Works Director for review and approval outlining how the internal streets and Tract 1 Open Space tract as depicted on the preliminary plat will be maintained. These documents shall be recorded following approval of the PD overlay zone and preliminary plat, and prior to the approval of the final plat.

3. The developer shall submit a revised grading and landscape plan for Tract 1 Open Space either lessening the overall grade of the open space tract, or providing a plan for a walking path with rest areas/picnic stops.

4. Land uses and development in the PD overlay zone shall be subject to all applicable requirements of the Planned Development Plan and this decision. No facilities or structures that are not provided in the planned development shall be developed on the subject property based on this approval.

5. All structural development shall comply with the setback minimum standards set out in SMC 10.24.100(a).

6. Permitted Land uses are as stated in the Planned Development Plan and other land uses permitted in the R-1 zone using the level of review (Class 1, 2 or 3) provided in Title 10 SMC; *provided,* any change of land use or density of any lot (i.e., from residential, open space) shall require modification in accordance with SMC 10.24.140.

7. Modifications to the adopted master development plan may be requested from time to time and shall follow the requirements of SMC § 10.24.140.

D. Subdivision Conditions:

1. A current title certificate shall be submitted to the City of Selah, Planning Department, consisting of a report listing all parties having an interest in the land to be divided and a legal description of the land.

2. This plat shall be subject to the following notes, which must be placed on the face of the plat:

a. The addresses shown on this plat are accurate as of the date of recording, but may be subject to change. The City of Selah Building Codes Division is responsible for the confirmation or reassignment of addresses at the time of building permit issuance.

b. 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.

c. The streets within this plat are private and do not meet the standards for public streets. If the streets are ever to be made public, they will have to be reconstructed to meet the City Standards at that time.

3. The developer shall submit detailed plans for frontage improvements, the private road, and water and sewer connections to the City of Selah Public Works Director for approval prior to approval of the preliminary plat, and shall build or bond said improvements prior to approval of the final plat per Ch. 10.50 SMC.

4. Prior to approval of the Preliminary Plat, the developer shall submit a revised plat to the City of Selah Public Works Director for review and approval and providing for the dedication of all utility easements.

5. All addresses shall be as specified in the following table and must be clearly shown on the face of the final plat. In addition, the following note shall be placed upon the face of the final plat: "The addresses shown on this plat are accurate as of the date of recording, but may be subject to change". The City of Selah Planning Department is responsible for the confirmation or reassignment of addresses at the time of building permit issuance.

Lot 1	703 Hawthorne
Lot 2	705 Hawthorne
Lot 3	707 Hawthorne
Lot 4	709 Hawthorne
Lot 5	711 Hawthorne
Lot 6	710 Hawthorne
Lot 7	708 Hawthorne

6. Minimum eight-foot-wide utility easements shall be dedicated along the frontage of each lot in the subdivision (SMC § 10.50.045 (c)).

7. Easements for new and/or future utilities not located along the lot frontage shall be a minimum of 16-feet in width and centered on a side or rear lot line meeting the requirement s of SMC 10.50.045 (c).

8. All public and private utilities to be located within the private road right-of-way must be installed or financially secured prior to final plat approval.

9. All public and private utilities shall be located underground, with the exception of telephone boxes and such similar structures.

10. Fire hydrants Shall be placed at the locations Specified by the City of Selah Public Works and Selah Fire Department. All lots must be provided with adequate fire flow.

11. The Final Plat shall be prepared by a land surveyor, registered in the State of Washington, and contain all requirements of SMC 10.50.053-060 and comply with all applicable conditions.

12. Upon preliminary plat approval, the applicant has five years to submit the final plat. Thereafter, 30 days prior to the expiration of said approval the applicant must submit to the City Council a written request asking to extend the approval period for a maximum period of one year.

DATED THIS 9TH DAY OF JUNE 2020.

PATRICK D. SPURGIN
HEARING EXAMINER

Received

MAR 12 2020
By BS
City of Selah
Planning Dept.

LAND USE APPLICATION

PLANNED DEVELOPMENT

INSTRUCTIONS – PLEASE READ FIRST Please type or print your answers clearly.

Answer all questions completely. If you have any questions about this form or the application process, please ask a Planner. Remember to bring all necessary attachments and the required filing fee when the application is submitted. The Planning Division cannot accept an application unless it is complete and the filing fee paid. Filing fees are not refundable.

This application consists of four parts. PART I - GENERAL INFORMATION AND PART IV – CERTIFICATION are on this page. PART II and III contain additional information specific to your proposal and MUST be attached to this page to complete the application.

PART I – GENERAL INFORMATION

1. Applicant's Information:	Name:	NCW DEVELOPMENT, LLC					
	Mailing Address:	PO BOX 119					
	City:	WENATCHEE	St:	WA	Zip:	98807	Phone: (509) 783-2144
	E-Mail:	ERIDLEY@JUB.COM (Agent: Elizabeth Ridley, J-U-B ENGINEERS, Inc.)					
2. Applicant's Interest in Property:	Check One:	☑ Owner	☐ Agent	☐ Purchaser	☐ Other _____		
3. Property Owner's Information (If other than Applicant):	Name:	NCW DEVELOPMENT, LLC - Stephanie Flowers					
	Mailing Address:	PO Box 119					
	City:	Wenatchee	St:	WA	Zip:	98807	Phone: (509) 662-7119
	E-Mail:	StepahnieF@sellandconstruction.com					

4. Subject Property's Assessor's Parcel Number(s): 1814-352-2002

5. Legal Description of Property. (if lengthy, please attach it on a separate document)
See attached.

6. Property Address: Selah Lp / 12th St

7. Property's Existing Zoning: Please Circle all that apply
LDSF R-1 R-2 R-3 B-1 B-2 M-1

8. **Type Of Application:** (Circle All That Apply)

Planned Development — Critical Areas Review — Development Agreement — Overlay District

Environmental Checklist (SEPA Review) — Preliminary Long Plat — Major Modification

Minor Modification — Transportation Concurrency

PART II – SUPPLEMENTAL APPLICATION & PART III – REQUIRED ATTACHMENTS

SEE ATTACHED SHEETS

PART V – CERTIFICATION

I certify that the information on this application and the required attachments are true and correct to the best of my knowledge.

Property Owner's Signature _____ **Date** 3/5/20

Applicant's Signature _____ **Date** 3/5/20

FILE/APPLICATION(S)# PD-2020-002

DATE FEE PAID:	RECEIVED BY:	AMOUNT PAID:	RECEIPT NO:
3/12/2020	BS	400	26350

EXHIBIT
tabbies
1b

PART II - APPLICATION INFORMATION

1. PROPERTY OWNERS (attach if long): List all parties and financial institutions having an interest in the property.

   NCW DEVELOPMENT, LLC - Stephanie Flowers

2. SURVEYOR AND/OR CONTACT PERSON WITH THEIR CONTACT INFORMATION:

   John Shea - JUB Engineers, Inc, 2810 W. Clearwater Ave, Ste 201, Kennewick, WA 99336, 509-783-2144, jshea@jub.com

3. NAME OF PLANNED DEVELOPMENT: Hillside Estates Planned Development

4. SITE FEATURES:
   A. General Description: ☐ Flat ☐ Gentle Slopes ☑ Steepened Slopes
   B. Describe any indication of hazards associated with unstable soils in the area, i.e. slides or slipping: None.
   C. Is the property in a 100-Year Floodplain or other critical area as mapped by any local, state, or national maps or as defined by the Washington State Growth Management Act or the Selah Municipal Code? Critical Areas.

5. UTILITY AND SERVICES: (Check all that are available)

   ☑ Electricity ☑ Telephone ☑ Natural Gas ☑ Sewer ☐ Cable TV ☑ Water None ☐ Irrigation

6. OTHER INFORMATION:
   A. Distance to Closest Fire Hydrant: 600 ft.
   B. Distance to Nearest School (and name of school): Selah Intermediate School, 0.7 miles
   C. Distance to Nearest Park (and name of park): McGonagle Park, 0.87 miles
   D. Method of Handling Stormwater Drainage: On-site infiltration
   E. Type of Planned Development: ☑ Residential ☐ Commercial ☐ Industrial ☐ Mixed Use

PART III - REQUIRED ATTACHMENTS

1. PRELIMINARY PLAT/SITE PLAN REQUIRED (please use the attached City of Selah Plat/Site Plan Checklist)
2. TITLE REPORT (disclosing all lien holders and owners of record):
3. TRAFFIC CONCURRENCY (if required, see SMC Ch. 10.08.190, Traffic Capacity Test):
4. ENVIRONMENTAL CHECKLIST
5. NARRATIVE (attached)

   Through this application, the property owner requests approval from the City of Selah to divide the subject property, located on Parcel 1814-352-2002, into a seven (8) lot Planned Development (Hillside Estates Planned Development) for the future construction of single-family detached residential homes. The Hillside Estates Planned Development covers a total of 3.57 acres, with 0.70 acres dedicated to right of way. The average lot size is 0.32 acres. The Planned Development will include all necessary streets, sidewalks, services, utilities, and other public improvements that are necessary to support the project. Approval of the Hillside Estates PD benefits the City of Selah by providing future homes for people to live in and an expanded street network.

I hereby authorize the submittal of the planned development application to the City of Selah for review. I understand that conditions of approval such as dedication of right-of-way, easements, restrictions on the type of buildings that may be constructed, and access restrictions from public roads may be imposed as a part of approval and that failure to meet these conditions may result in denial of the development.

Property Owner Signature (required) — **Date** 3/5/20

PART IV – NARRATIVE (The following information should be addressed in the land use application)

What land uses are proposed?

The land use is proposed to stay the same, R1 (residential). The Hillside Estates Planned Development will consists of 7 lots that average at 0.32 acres.

Will the land be subdivided or has been subdivided? If so, what type of subdivision? (Long Plat, Short Plat, Binding Site Plan, etc)

Yes, Planned Development (PD).

How does the proposed / modified Planned Development allow flexibility in development standards and permitted uses while ensuring compatibility with neighboring uses?

The proposed Hillside Estates Planned Development will meet at City Zoning and Code requirements when fully developed.

Describe how the proposed / modified Planned Development facilitates the efficient use of the land.

The proposed PD will develop a very steep area in Selah, WA. This will take advantage of neglected areas and create infrastructure that may not have existed otherwise due to critical barriers (steep slopes).

Describe how the proposed / modified Planned Development increases economic feasibility. (i.e. fostering efficient arrangement of land use, buildings, transportation systems, open space, and utilities)

The layout of this Planned Development uses land efficiently, generating more revenue per acre. It will reduce the costs of land and infrastructure for individual projects and the costs of providing fire and police protection, utilities, and other public amenities.

How does the proposed / modified Planned Development preserve or enhance natural amenities, features, shorelines and critical areas in the development of the site?

This Planned Development will preserve the natural beauty of the steep slopes and rural character in the area.

Identify environmental impacts and appropriate mitigation measures. Planned or imposed on an existing Planned Development

No environmental impacts are expected. The Planned Development will ensure all development complies City and State environmental code. See SEPA for further information.

How does the proposed or modified Planned Development encourage environmentally sustainable development?

The Planned Development will encourage environmentally sustainable development by preserving open spaces adjacent to proposed lots, creating pedestrian friendly spaces with sidewalks, and reducing paving and control of storm water runoff. In turn, this will reduce infrastructure costs and improve sense of community and shared security.

What services and facilities are available to serve the subject property? Are those services adequate?

Required City infrastructure is available to the site.

Will the proposed or modified development promote economic development, job creation, diversification, or affordable housing?

This will create additional housing opportunities within City limits and increase the density of units without expansion of this boundary.

How does the proposed or modified development create vibrant mixed-use neighborhoods, with a balance of housing, employment, commercial, and recreational opportunities?

The Hillside Estates Planned Development is located in the Low Density Residential zone. The City only has one area in the northeast corner for low destiny single-family homes. This will help to balance the type of housing within the City of Selah. The Comprehensive Plan states Goal 5.2, to promote a variety of residential densities and housing types, and encourage preservation of existing housing stock.

How is the proposed development consistent with goals, policies, and objectives of the Selah Urban Area Comprehensive Plan?

The Land Use Element in the Comprehensive Plan demonstrated a demand for approximately 731 additional dwelling units by 2037. This need can be met with the available land to be developed within the City limits, where the Hillside Estates Planned Development is located. This is consistent with subsequent Policy 2: Encourage new single-family development throughout low density residential areas as redevelopment and infill construction at appropriate densities.

How does the proposed / modified Planned Development utilize unique and innovative facilities that encourage the efficient and economical use of the land?

Hillside Estates Planned Development proposes to develop bare land to increase the number of single-family units within City limits. Without expanding the existing City limits and developing land available now, this will reduce infrastructure costs and create additional stable communities.

Does the proposed / modified Planned Development promote a sound system for traffic and pedestrian circulation?

Lander Road is a through road connecting Speyers Road and W. Goodlander Road, which did not share access. This will increase pedestrian mobility in the area.

How does the proposed / modified Planned Development promote open space and use of natural and/or developed amenities?

The Hillside Estates Planned Development will develop an area of Selah with steep slopes. This PD will use these natural amenities to create a nine lot development, each with privacy from their neighbors because of these steep slopes.

Will the proposed / modified Planned Development provide an architecturally attractive, durable, and energy efficient development?

Yes.

Please provide a summary of all previous known land use decisions affecting the applicant's property and all outstanding conditions of approval with respect to such prior land use decisions.

No land use decisions on the subject property are known at the time of submittal.

If applying for a Modification of a Planned Development please circle either A or B next to the application type of modification:

A: "Major modification" means modifications, which substantially change the character, basic design, density, open space or other requirements and conditions of the approved planned development overlay, as further defined in SMC 10.24.140(b)

B: "Minor modification" means modifications which may affect the precise dimensions or siting of buildings (i.e., lot coverage, height, setbacks) but which do not affect the basic character or arrangement and number of buildings approved in the planned development overlay, as further defined in SMC 10.24.140(a)

Provide a complete description of the modification of your Planned Development including any changes to development regulations, conditions of approval, development agreement conditions, environmental mitigation required as part of your SEPA determination, and any other departures from your original application material.

Provide an explanation of how your proposed modification application qualifies as a Major or Minor Modification per the above definitions.

Does the proposed modification increase the total number of dwelling units in the planned development overlay above the maximum number set forth in the PDP, or would not decrease the number of dwelling units by more than ten percent? YES or NO

Does the proposed modification decrease the minimum or increase the maximum density for residential areas of the planned development overlay beyond the density ranges originally proposed in the Planned Development? YES or NO

Does the proposed modification reduce the approved or required amount of open space or recreation space or alter its location or configuration in a way that would lower its level of service or functionality? YES (please explain) or NO

Would the proposed modification reduce or adversely alter a standard or condition of approval of the Planned Development that is considered to be "preferred" by this chapter or that was imposed in order to assure consistency with the code and compatibility with adjacent land uses pursuant to SMC 10.24.050(c)? YES (please explain) or NO

Would the proposed modification violate any mitigation measure required by a Mitigated Determination of Nonsignificance (MDNS) or final environmental impact statement (FEIS). Additional environmental review shall be required for any action that is not categorically or statutorily exempt from SEPA unless part of a planned action pursuant to RCW 43.12C.440 or determined by the SEPA responsible official in accordance with WAC 197-11-600 that environmental impacts from the action had been adequately considered by a previously conducted environmental review? YES (please explain) or NO

Would the proposed modification adversely impact the project's fiscal projections to the detriment of the city? YES or NO

Would the proposed modification significantly change the overall design of the Planned Development? YES or NO

Any other development standards proposed to be modified from the underlying zoning districts requirements.

What are the aesthetic considerations related to building bulk, architectural compatibility, light and glare, urban design, solar access and shadow impacts.

Please provide an inventory of any on-site cultural, historic, and/or archaeological resources.

Plat/Short Plat Guarantee

Pacific Alliance Title, LLC
311 North Fourth Street, Suite 102
Yakima, WA 98901
Phone: (509) 225-6809
Fax: (509) 248-8924

PLAT CERTIFICATE

RE:

Pacific Alliance Title, LLC has examined the records of the Yakima County Auditor and the Yakima County Clerk, and hereby certifies that pursuant to the requirements as set forth in RCW 58.17.165, the parties executing the plat of SELAH HILLSIDE ESTATES are all of the necessary parties having an interest therein.

DATE: December 18, 2019

Pacific Alliance Title, LLC

By: _____
Title Officer

SCHEDULE A
PLAT/SHORT PLAT GUARANTEE

File No.: 2037270 Fee: $300.00

Date of Guarantee: December 18, 2019

Subdivision/Short Subdivision: Property Address
NKA Unassigned Selah, Washington 98942
NKA Selah Lp/12th St. Selah, Washington 98942
NKA Goodlander/MgGon Rd. Selah, Washington 98942
NKA Goodlander/McGon Rd. Selah, Washington 98942

PIN
181435-22001
181435-22002
181435-21015
181426-33500

The assurances referred to on the face page hereof are hereby given to the County of and the City within which said subdivision or short subdivision is located and are:

1. That, according to those public records which, under the recording laws, impart constructive notice of matters affecting the title to the land included within the exterior boundary shown on the above-referenced subdivision or short subdivision, the only parties having any record title interest in said land whose signatures are necessary, under the requirements of RCW Chapter 58.17, on the certificates consenting to the recordation of the plat and offering for dedication any streets, roads, avenues and other easements offered for dedication by said plat are:

   NCW DEVELOPMENT, LLC f/k/a Selland Developement Management LLC a Washington limited liability company

2. The plat referred to above is a subdivision of: **See attached SCHEDULE C**

NOTE:
The liability of the Company under this report shall be limited to the amount of actual loss sustained by the addressee because of reliance upon the information set forth herein, but in no event shall such liability exceed the limits outlined in our rate schedule.

SCHEDULE B

1. Assessments that may be levied, as follows:
   For/By : City of Selah

2. Assessments that may be levied, as follows:
   For/By : Selah Naches Irrigation District

3. Assessments that may be levied, as follows:
   For/By : Marisa Hill Water Users Association

4. Assessments that may be levied, as follows:
   For/By : Vahalla Heights Homeowners Association

5. Liability to future annual assessments for the current year and subsequent years, by the City of Selah, Marisa Hill Water Users, Vahalla Heights Homeowners Association, Weed, and Horticulture Pest and Disease Control District, which are not yet due and payable.

6. Deed of Trust, to secure an indebtedness of $750,000.00, including any interest, advances or other obligations secured thereby;
   Dated : May 13, 2008
   Recorded : May 30, 2008
   Auditor's File No. : 7614063
   Grantor : Goodlander Holdings LLC
   Trustee : UPF Incorporated
   Beneficiary : Washington Trust Bank
   Loan No. : unknown
   Modification thereto recorded under Auditor's File No. 7621875 and 7909829.

7. Terms and provisions as contained in an instrument ,
   Executed By : Goodlander Holdings
   Grantee Columbia Ridge Homes LLC
   As disclosed by instrument:
   Recorded : December 7, 2012
   Auditor's File No. : 7785032
   Which Among Other Things Provides: option to purchase real property dated March 6, 2012 affecting the property described herein

8. Easement or right-of-way for necessary canals, tunnels or other water conduits and for telephone and transmission lines required in connection with the Naches Selah Irrigation District, contained in instruments of record.

9. Conditions and reservations contained in Deed from the Selah Valley Company, recorded in Volume 71 Page 469 and Volume 103 page 263 records of Yakima County, Washington, as follows:

   Right-of-way for construction and maintenance of all laterals, flumes and waste ditches of the Selah Valley Company heretofore or hereafter constructed over and across the said land for the irrigation of other lands with the right and permission to enter upon said lands for the survey, location, construction, enlargement and repair of said lateral, flumes and waste ditches. No irrigation water shall be allowed to run to useless waste upon said land and there shall be constructed and maintained at the cost of the owner, such ditch or ditches, as may be necessary to carry the surplus water after the irrigation of lands, if any, back into some lateral of the irrigation system, provided always that said laterals may be reached by gravity flow by a ditch from the lowest point of said land within a distance not exceeding one-half mile, and the right-of-way can be obtained without expense to the owner. The owner waives any and all claims for loss or damage by reason of any break, leakage or overflow of said canal or any of its laterals.

10. Conditions and reservations contained in Deed from the Selah Valley Company, recorded in Volume 66 Page 590 and 71 Page 460 and Volume 68 Page 84, records of Yakima County, Washington, as follows:

    Right-of-way for construction and maintenance of all laterals, flumes and waste ditches of the Selah Valley Company heretofore or hereafter constructed over and across the said land for the irrigation of other lands with the right and permission to enter upon said lands for the survey, location, construction, enlargement and repair of said lateral, flumes and waste ditches. No irrigation water shall be allowed to run to useless waste upon said land and there shall be constructed and maintained at the cost of the owner, such ditch or ditches, as may be necessary to carry the surplus water after the irrigation of lands, if any, back into some lateral of the irrigation system, provided always that said laterals may be reached by gravity flow by a ditch from the lowest point of said land within a distance not exceeding one-half mile, and the right-of-way can be obtained without expense to the owner. The owner waives any and all claims for loss or damage by reason of any break, leakage or overflow of said canal or any of its laterals.

11. Easement for electrical transmission and distribution lines of one or more wires, and all necessary or desirable appurtenances, including telephone and telegraph wires, towers, poles, props, guys and other supports; and related matters,
    Recorded : May 22, 1963
    Auditor's File No. : 1952293
    Grantee : Pacific Power & Light Company

12. Easement, including the terms, covenants and provisions thereof, affecting a portion of said premises, for the purposes hereinafter stated, as granted by instrument,
    Recorded : July 5, 2006
    Auditor's File No. : 7515855
    For : ingress and egress, maintenance of roadway for access and placement of utilities

13. Covenants, conditions and restrictions contained in instrument, but omitting any covenant or restriction based on race, color, religion, sex, handicap, familial status or national origin, unless and only to the extent that said covenant (a) is exempt under Chapter 42, Section 3607 of the United States Code, or (b) relates to handicap but does not discriminate against handicapped persons,
    Recorded :June 4, 2008
    Auditor's File No. :7614453

    Amendment thereto recorded January 11, 2010 under Auditor's File No 7679089.

14. Terms and provisions as contained in an instrument,
    Entitled : Sewer Facility Development Contract (Latecomer Reimbursement)
    Executed By : Shane A. Snodgrass and Renee A. Snodgrass and City of Selah
    Recorded : December 6, 2017
    Auditor's File No. : 7965703

15. Any rights, easements, interests or claims which may exist or arise by reason of or reflected by the facts shown on the plat of a survey made by PLSA, on December 28, 2017 under Auditor's File Number 7967876, designated job No. 17202

16. Easement, including the terms, covenants and provisions thereof, affecting a portion of said premises, for the purposes hereinafter stated, as granted by instrument,
    Recorded : January 17, 2018
    Auditor's File No. : 7969546
    For : slope
    In favor of : City of Selah
    Affects : said premises and other property

17. Easement, including the terms, covenants and provisions thereof, affecting a portion of said premises, for the purposes hereinafter stated, as granted by instrument,
    Recorded : November 16, 2018
    Auditor's File No. : 7999093
    For : utilities
    In favor of : City of Selah
    Affects : said premises and other property

18. Valhalla Heights Water System Reimbursement Agreement, together with the terms and provisions contained therein,
    Recorded : November 17, 2016
    Auditor's File No. : 7928456

    Amendments thereto as recorded under Auditor's File Nos 7959859 and 8005384.

19. Pendency of Yakima County Superior Court Cause No. 77-2-01484-5, State of Washington, Department of Ecology, Plaintiff vs. (numerous named defendants), notice of which is given by Lis Pendens recorded under Yakima County Auditor's File No. 2479271, being an action for the determination of the rights to divert, withdraw or otherwise make use of the surface waters of the Yakima River Drainage Basin, in accordance with the provisions of chapters 90.03 and 90.44 Revised Code of Washington. (Attorney for Plaintiff: Charles B. Roe, Jr. Senior Assistant Attorney General)

    NOTE: The above pending action will be shown on Schedule B, Part II, of the ALTA Mortgage Policy, when issued, which schedule reflects matters of record which are subordinate to the lien of the insured Mortgage.

20. NOTES:

    General taxes and assessments for the year 2019, in the amount of $1,895.95. HAS BEEN PAID
    Parcel No. : 181435-22001
    Levy Code : 400
    Land Value : $162,500.00
    Improvements : $0.00
    Affects : Parcel C

21. General taxes and assessments for the year 2019, in the amount of $1,619.95. HAS BEEN PAID
    Parcel No. : 181435-22002
    Levy Code : 400
    Land Value : $138,600.00
    Improvements : $0.00
    Affects : Parcel D

22. General taxes and assessments for the year 2019, in the amount of $986.63. HAS BEEN PAID
    Parcel No. : 181435-21015
    Levy Code : 400

Land Value	: $83,500.00
Improvements	: $0.00
Affects	: Parcel C

23. General taxes and assessments for the year 2019, in the amount of $842.90. HAS BEEN PAID

Parcel No.	: 181426-33500
Levy Code	: 400
Land Value	: $72,900.00
Improvements	: $0.00
Affects	: Parcel A

End of Schedule B

SCHEDULE C

Parcel A: 181426-33500

Tract "A" of the Plat of VAHALLA HEIGHTS PHASE also shown of record as VALHALLA HEIGHTS PHASE 1, according to the plat thereof recorded under Auditor's File No. 7614452, records of Yakima County Washington.

Parcels B and C: 181435-21015 and 22001

The West half of the Northwest quarter of the Northeast quarter of the Northwest quarter AND the North half of the Northwest quarter of the Northwest quarter of Section 35, Township 14 North, Range 18, E.W.M.

EXCEPT that portion of the above described property located in said Sections 26 and 35 described as follows:
Beginning at the Northeast corner of the Northwest quarter of Section 35. Township 14 North, Range 18, E.W.M.;
thence North 90° 00' 00" West along the North line thereof 1030.60 feet;
thence North 58° 00' West 130.00 feet;
thence South 32° 00' West 30.00 feet, to the true point of beginning;
thence continuing South 32° 00' West 55.96 feet;
thence South 57° 20' West 115.27 feet;
thence South 65° 41' West 104.75 feet;
thence North 0° 49' West 294.28 feet, to a point bearing North 58° 00' West from the true point of beginning;
thence South 58° 00' East 266.90 feet, to the true point of beginning

Parcel D: 181435-22002

The South half of the Northwest quarter of the Northwest quarter of Section 35, Township 14 North, Range 18, E.W.M.
EXCEPT that portion described as follows:
Beginning at the Southwest corner of the said subdivision;
thence North 415 feet;
thence South 60° 30; East 300 feet;
thence South 40° 30' East 200 feet;
thence South 56° 30' East 100 feet;
thence South 69° 00' East 173 feet to the South line of said subdivision;
thence West along the South line of said subdivision 637 fee to the point of beginning.
AND EXCEPT the West 400 feet of the South 330 feet of the Southeast quarter of teh Northwest quarter of the Northwest quarter of said Section 35.
AND EXCEPT that portion of said premises for Selah Loop (Speyers) Road.
AND EXCEPT the South 60 feet of the East 208 feet feet of the South half of the Northwest quarter of the Northwest quarter of said Section 35

AND

The West 34 feet of the East 240 feet as measured along the North line of that portion of the Southwest quarter of the Northwest quarter lying Northerly of the Northerly right of way line of Selah Loop (Speyers) Road in Section 35, Township 14 North Range 18, E.W.M.

HILLSIDE PUD LEGAL DESCRIPTION:

A portion of Tax Parcel ID 181435-22002 containing approximately 3.57 acres

Parcel D: 181435-22002

The South half of the Northwest quarter of the Northwest quarter of Section 35, Township 14 North, Range 18, E.W.M.
EXCEPT that portion described as follows:
Beginning at the Southwest corner of the said subdivision;
thence North 415 feet;
thence South 60° 30; East 300 feet;
thence South 40° 30' East 200 feet;
thence South 56° 30' East 100 feet;
thence South 69° 00' East 173 feet to the South line of said subdivision;
thence West along the South line of said subdivision 637 fee to the point of beginning.
AND EXCEPT the West 400 feet of the South 330 feet of the Southeast quarter of teh Northwest quarter of the Northwest quarter of said Section 35.
AND EXCEPT that portion of said premises for Selah Loop (Speyers) Road.
AND EXCEPT the South 60 feet of the East 208 feet feet of the South half of the Northwest quarter of the Northwest quarter of said Section 35

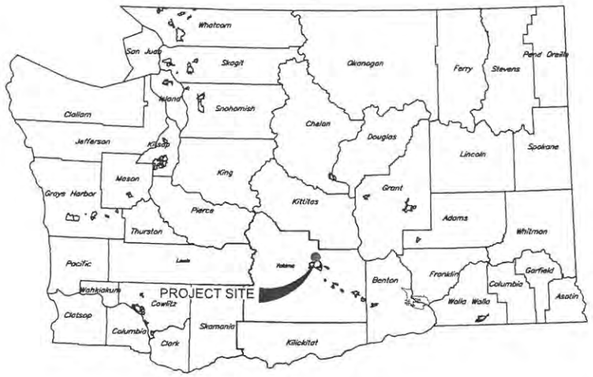
AND

The West 34 feet of the East 240 feet as measured along the North line of that portion of the Southwest quarter of the Northwest quarter lying Northerly of the Northerly right of way line of Selah Loop (Speyers) Road in Section 35, Township 14 North Range 18, E.W.M.

HILLSIDE ESTATES ROAD F PUD

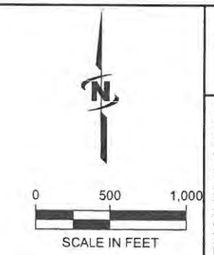
SELAH, WA

MARCH 2020



VICINITY MAP

PROJECT NO. 30-19-065



CONTACTS
OWNER:
NCW DEVELOPMENT LLC
PO BOX 119
WENATCHEE WA 98807
STEPHANIE FLOWERS
509.662.7119

ENGINEER:
DARRAL MOORE
JUB ENGINEERS, INC.
509.783.2144

Received
MAR 12 2020
By City of Selah Planning Dept.

J-U-B ENGINEERS, INC.

2810 West Clearwater Avenue, Suite 201, Kennewick, WA 99336
p 509 783 2144 f 509 736 0790 w www.jub.com

OTHER J-U-B COMPANIES THE LANGDON GROUP GATEWAY MAPPING INC.

811 Know what's below. Call before you dig.

CALL 2 BUSINESS DAYS IN ADVANC
YOU DIG, GRADE, OR EXCAVATE F
MARKING OF UNDERGROUND M
UTILITIES

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Kennewick, WA 99336
Phone: 509.783.2144

PRELIMINARY PLANS

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REVISION

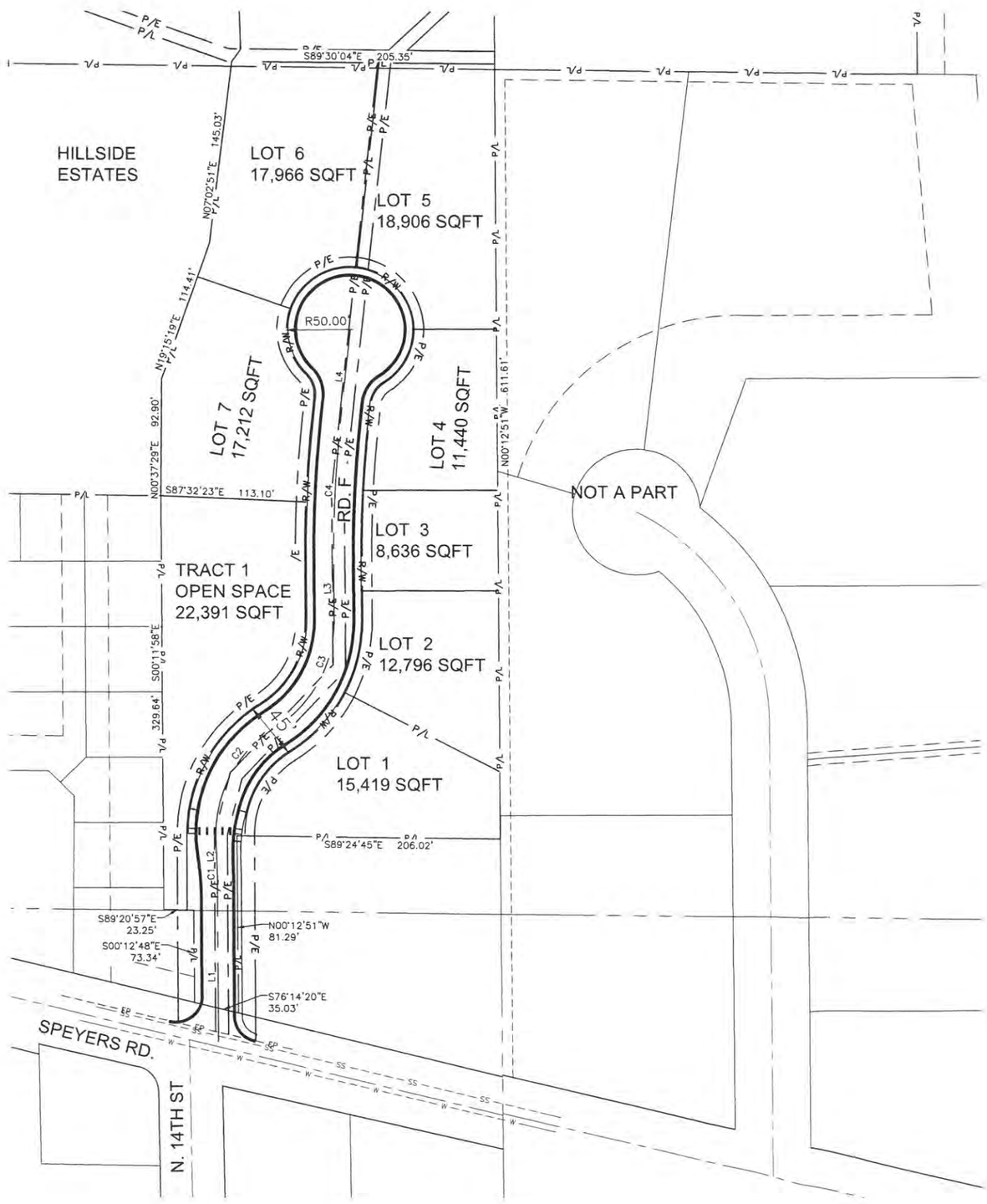
HILLSIDE ESTATES
SELAH, WA

COVER SHEET

FILE : 30-19-065_C-001
JUB PROJ. # : 30-19-065
DRAWN BY: JGC
DESIGN BY: DSM
CHECKED BY: DSM
ONE INCH

EXHIBIT
26

Plot Date:3/2/2020 11:32 AM Plotted By: Jason Cushing
Date Created:2/10/2020 \\KWKFILES\PUBLIC\PROJECT\JUB\30-19-065 - HILLSIDE ESTATES SELAH WA\CAD\SHEET\ROAD F\30-19-065 C-001.DWG



CURVE TABLE						
CURVE #	LENGTH	RADIUS	TANGENT	DELTA	CHORD BEARING	CHORD LENGTH
C1	8.36'	250.00'	4.18'	1°54'54"	N0°57'27"W	8.36'
C2	103.84'	100.00'	57.15'	59°29'39"	N27°49'55"E	99.23'
C3	100.90'	100.00'	55.21'	57°48'34"	N28°40'28"E	96.67'
C4	114.08'	1000.00'	57.10'	6°32'10"	N3°02'16"E	114.01'

LINE TABLE		
LINE #	DIRECTION	LENGTH
L1	N0°00'00"E	129.39'
L2	N1°54'54"W	24.90'
L3	N0°13'49"W	46.91'
L4	N6°18'21"E	71.64'

N

0 50 100
SCALE IN FEET

TOTAL AREA: 3.62 ACRES
OPEN SPACE: 0.51 ACRES (14%)
RIGHT OF WAY: 0.70 ACRES (19.3%)
TOTAL LOTS: 7
AVERAGE LOT SIZE: 0.33 ACRES
BIGGEST LOT: 0.43 ACRES
SMALLEST LOT: 0.20 ACRES

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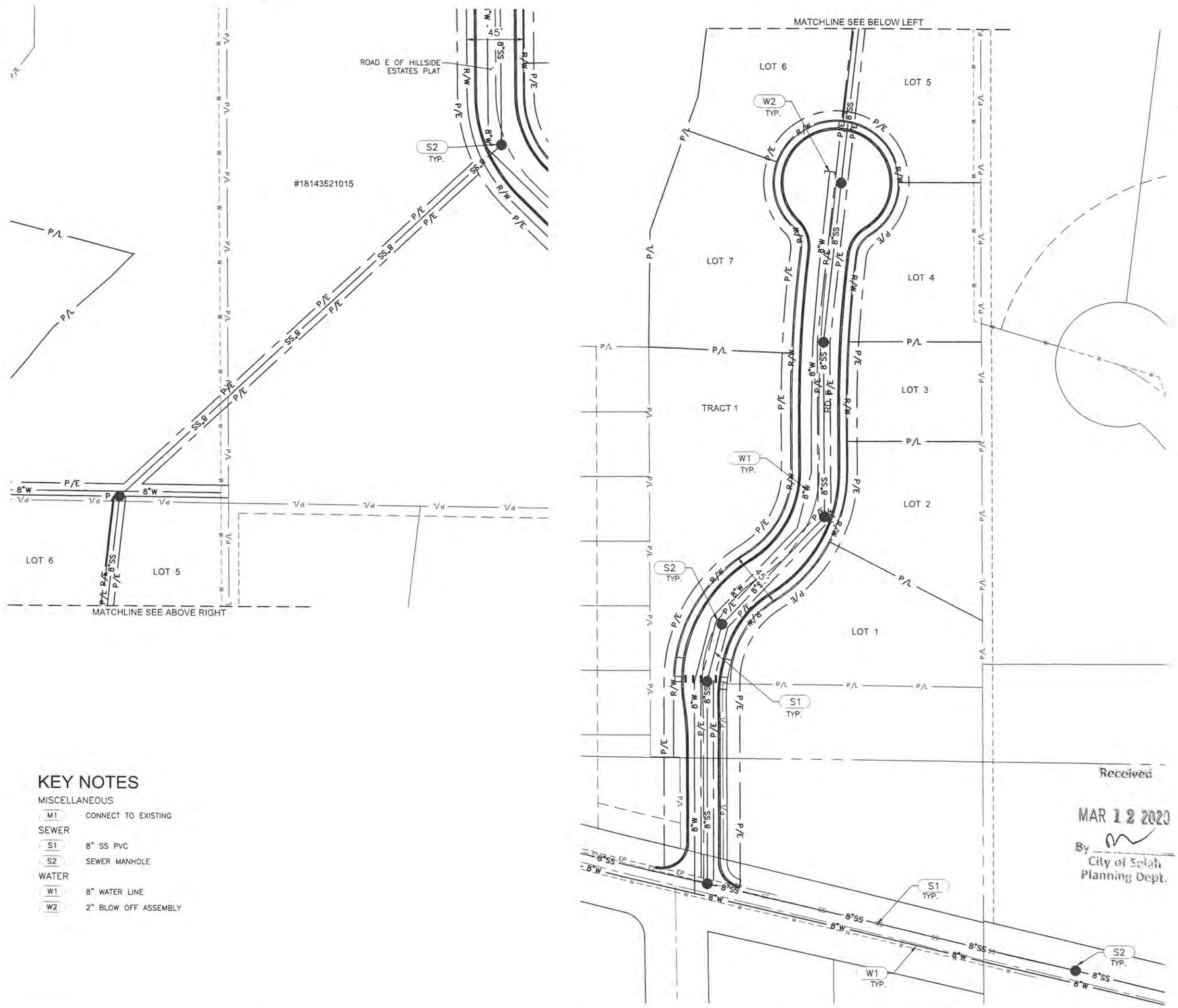
HILLSIDE PUD
SELAH, WA

OVERALL SITE PLAN

FILE: 30-19-065_C-100
JUB PROJ. # 30-19-065
DRAWN BY: JGC
DESIGN BY: DSM
CHECKED BY: DSM
ONE INCH
AT FULL SIZE, IF NOT ONE INCH, SCALE ACCORDING
LAST UPDATED: 3/5/2020

SHEET NUMBER:
C-100

Plot Date:3/5/2020 11:00 AM Plotted By: Darryl Moore
Date Created:3/5/2020 \\KWFILESP\PUBLIC\PROJECT\JUB\30-19-065 - HILLSIDE ESTATES SELAH, WA\CAD\SHEETS\ROAD P\30-19-065 C-100.DWG



KEY NOTES

MISCELLANEOUS

M1	CONNECT TO EXISTING

SEWER

S1	8" SS PVC
S2	SEWER MANHOLE

WATER

W1	8" WATER LINE
W2	2" BLOW OFF ASSEMBLY

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HILLSIDE ESTATES
SELAH, WA

OVERALL UTILITY PLAN

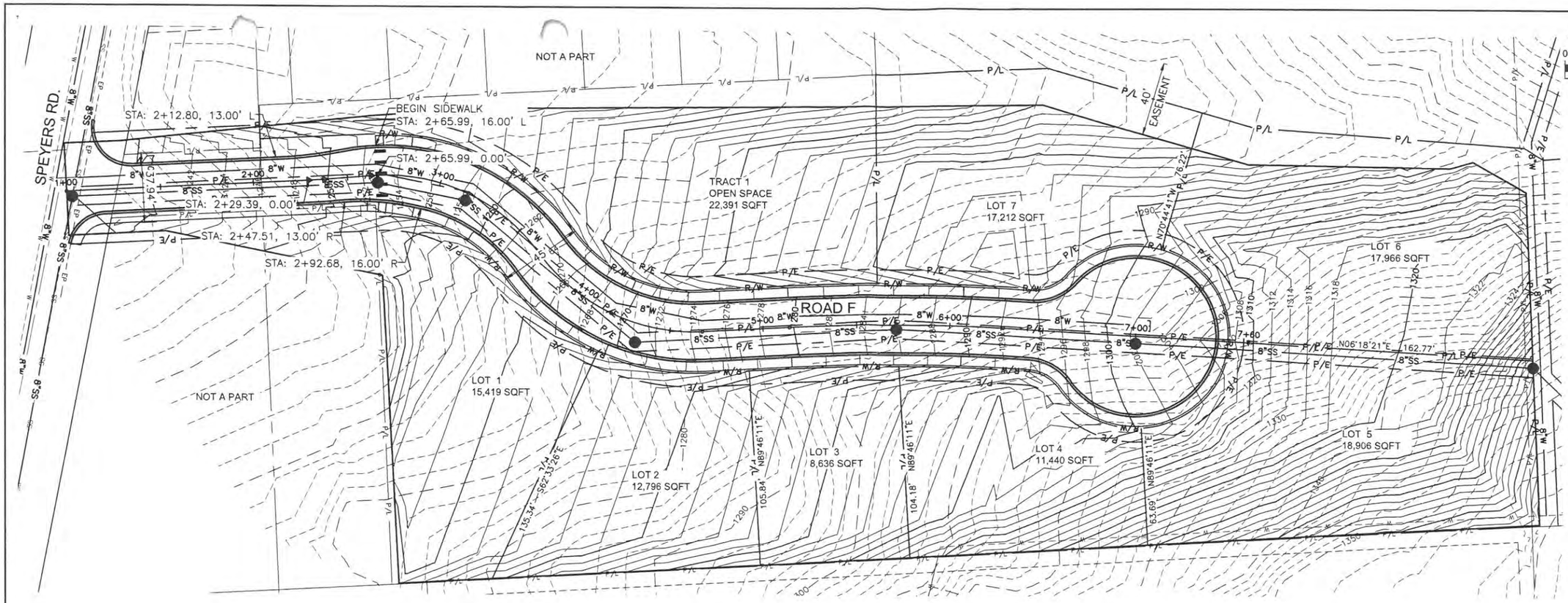
FILE :	30-19-065_C-101
JUB PROJ # :	30-19-065
DRAWN BY:	JGC
DESIGN BY:	DSM
CHECKED BY:	DSM

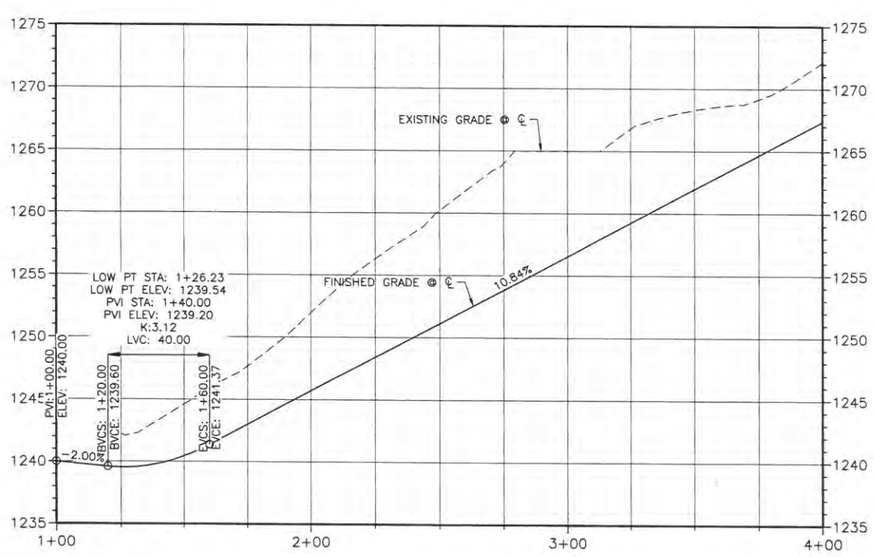
ONE INCH
AT FULL SIZE, IF NOT ONE INCH, SCALE ACCORDINGLY

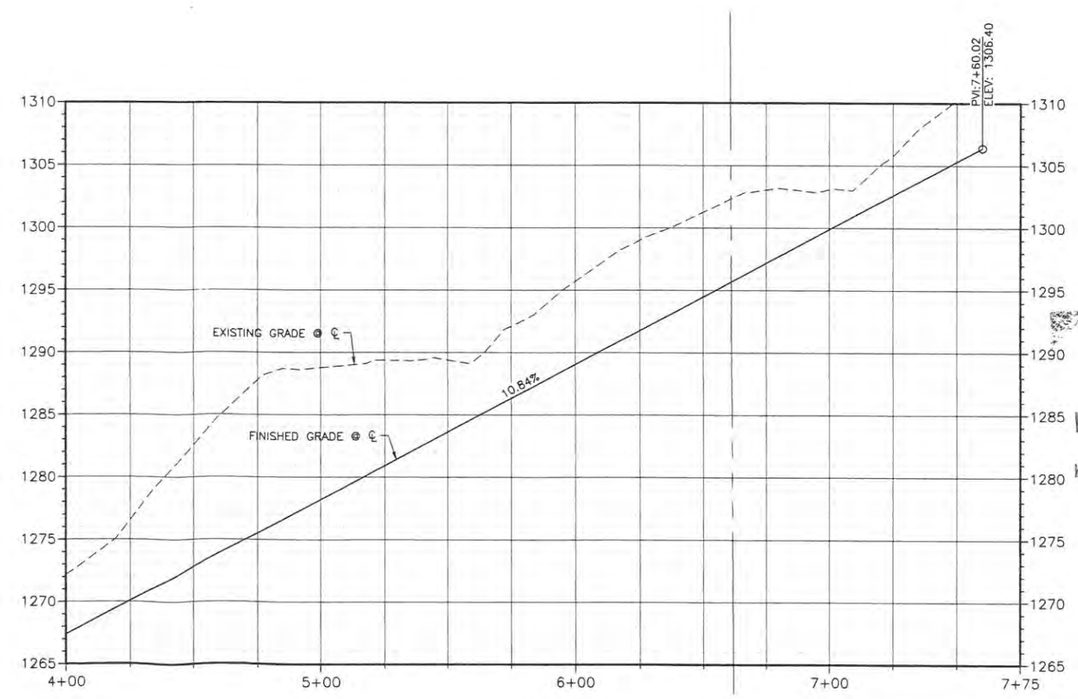
LAST UPDATED: 3/2/2020

SHEET NUMBER:
C-101

Plot Date:3/5/2020 11:14 AM Plotted By: Darral Moore
Date Created:2/10/2020 \\KWKFILES\PUBLIC\PROJECT\JUB\30-19-065 - HILLSIDE ESTATES-SELAH, WA\CAD\SHEET\ROAD PJ\30-19-065_C-101.DWG







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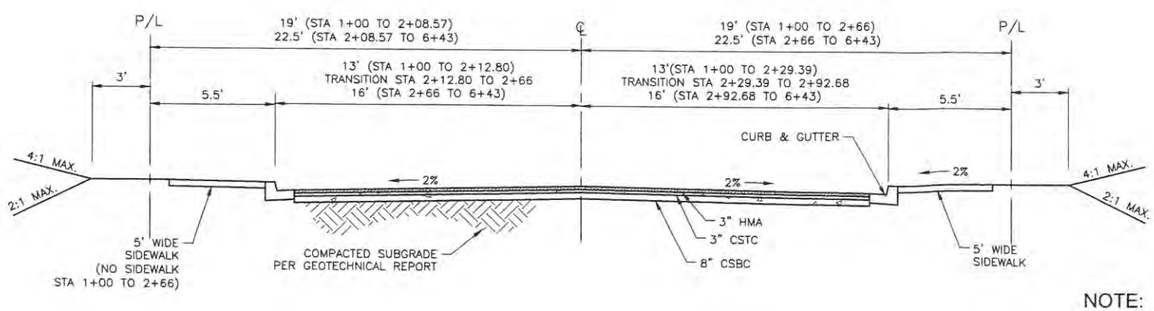
HILLSIDE ESTATES
SELAH, WA

ROAD F PLAN AND PROFILE

FILE: 30-19-065_C-201
JUB PROJ. #: 30-19-065
DRAWN BY: JGC
DESIGN BY: DSM
CHECKED BY: DSM
ONE INCH
AT FULL SIZE, IF NOT ONE INCH, SCALE ACCORDING
LAST UPDATED: 3/5/2020

SHEET NUMBER:
C-201

Plot Date:3/5/2020 11:16 AM Posted By: Darral Moore
Date Created:1/23/2020 \\KWFILES\PUBLIC\PROJECT\JUB\30-19-065 - HILLSIDE ESTATES SELAH, WA\CAD\SHEET\ROAD F\30-19-065 C-201.DWG



C ROADWAY SECTION (ROAD F)
SCALE: 1"=4'

NOTE:

1. CONSTRUCT ROADWAY SECTION IN ACCORDANCE WITH THIS DETAIL AND CITY OF SELAH STD DWG.
2. SIDEWALK, CURB AND GUTTER PER CITY OF SELAH STD DWG
3. ADJUST WIDTH OF ROADWAY AS SHOWN TO FIT WITHIN EXISTING PROPERTY LIMITS.
4. NO PARKING FROM STA 1+00 TO 3+00

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HILLSIDE ESTATES
SELAH, WA

ROAD SECTIONS

FILE : 30-19-065_C-501
JUB PROJ. # : 30-19-065
DRAWN BY: JGC
DESIGN BY: DSM
CHECKED BY: DSM
ONE INCH
AT FULL SIZE, IF NOT ONE INCH, SCALE ACCORDING
LAST UPDATED: 2/28/2020

SHEET NUMBER:
C-501

Plot Date:3/2/2020 11:12 AM Plotted By: Jason Cushing
Date Created:2/18/2020 \\WWKFILES\PUBLIC\PROJECTS\JUB\30-19-065_HILLSIDE ESTATES SELAH, WA\CAD\SHEETS\ROAD F\30-19-065_C-501.DWG

ENVIRONMENTAL CHECKLIST

STATE ENVIRONMENTAL POLICY ACT (SEPA)

RCW Chapter 43.21C

SEPA-2020-003

PURPOSE OF CHECKLIST

Governmental agencies use this checklist to help determine whether the environmental impacts of your proposal are significant. This information is also helpful to determine if available avoidance, minimization or compensatory mitigation measures will address the probable significant impacts or if an environmental impact statement will be prepared to further analyze the proposal.

INSTRUCTIONS FOR APPLICANTS

This environmental checklist asks you to describe some basic information about your proposal. Please answer each question accurately and carefully, to the best of your knowledge. You may need to consult with an agency specialist or private consultant for some questions. You may use "not applicable" or "does not apply" only when you can explain why it does not apply and not when the answer is unknown. You may also attach or incorporate by reference additional studies reports. Complete and accurate answers to these questions often avoid delays with the SEPA process as well as later in the decision-making process.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help you describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

USE OF CHECKLIST FOR NONPROJECT PROPOSALS

For non-project proposals (such as ordinances, regulations, plans and programs), complete the applicable parts of sections A and B plus the SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS (part D). Please completely answer all questions that apply and note that the words "project", "applicant", and "property or site" should be read as "proposal," "proponent," and "affected geographic area," respectively. The lead agency may exclude (for non-projects) questions in Part B – Environmental Elements – that do not contribute meaningfully to the analysis of the proposal.

A. BACKGROUND INFORMATION (To be completed by the applicant.)

1. **Name Of Proposed Project (If Applicable)**:
   Hillside Estates Subdivision

2. **Applicant's Name & Phone**:
   NCW Development, LLC

3. **Applicant's Address**:
   P.O. Box 119, Wenatchee, WA 98807

4. **Contact Person & Phone**:
   Stephanie Flowers - 509-662-7119

5. **Agency Requesting Checklist:** City of Selah

6. **Proposed Timing Or Schedule (Including Phasing, If Applicable)**:
   Summer 2020 - Phase 1 will include Hillside Estates (Long Plat). Phase 2 of the Hillside Estates (Planned Development), accessed of Speyers Road, will begin immediately after approval.

7. **Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain**:
   No

8. **List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal**:
   DOE Stormwater Permit
   Yakima Regional Clean Air Permit
   Geo Hazard Report

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3b

A. BACKGROUND INFORMATION (To be completed by the applicant.)

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain:

No

10. List any government approvals or permits that will be needed for your proposal, if known:

DOE Stormwater
Yakima Regional Clean Air

11. Give a brief, but complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.):

Total project is: 37.65 Acres developed into 51 residential lots.
Phase 1 consists of 42 lots and approximately 34.15 acres
Phase 2 consists of 9 lots and approximately 3.5 acres.
Phase 1 will include road improvements to Lander Road. Lander Road will be widened to include curb on both sides of the roadway and sidewalk on one side. The interior roads for Phase 1 will be constructed using the City of Selah 32' Super Elevated Roadway Standard with lots constructed on only one side of the road.
Phase 2 will include a road section designed to meet the requirements of the City of Selah Planned Development code.

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist:

Project is located between W. Goodlander Road and Speyers Road along Lander Road.
Phase 1 - Accessed of Lander Road.
Phase 2 - Accessed of Speyers Road, near the intersection of Speyers Rd. and N 14th St.

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B. ENVIRONMENTAL ELEMENTS (To be completed by the applicant)

EARTH

1. **General description of the site (✓ one):**
   ☐ flat ☐ rolling ☐ hilly ☑ steep slopes ☐ mountainous ☐ other: _____

2. **What is the steepest slope on the site (approximate percent slope)?**
   100%

3. **What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils.**
   Sand, gravel, clay.
   No Agricultural

4. **Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.**
   No.

5. **Describe the purpose, type, total area, and approximate quantities and total affected area of any filling, excavation, and grading proposed. Indicate source of fill.**
   Approximately 10,000 cubic yards of fill will be needed for this project. Source not yet known.

6. **Could erosion occur as a result of clearing, construction, or use? If so, generally describe.**
   Erosion could occur as a result of clearing, construction.

7. **About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?**
   35%

8. **Proposed measures to reduce or control erosion, or other impacts to the earth, if any:**
   Silt fences, inlet protection, water trucks

AIR

1. **What types of emissions to the air would result from the proposal during construction, operation, and maintenance when the project is completed? If any, generally describe and give approximate quantities if known.**
   Construction equipment during construction, normal residential traffic upon completion.

2. **Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.**
   No

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3. **Proposed measures to reduce or control emissions or other impacts to air, if any:**
   Water trucks will be used to reduce dust emissions.

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B. ENVIRONMENTAL ELEMENTS (To be completed by the applicant)

SURFACE WATER

1. **Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.**
   No

2. **Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.**
   No

3. **Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.**
   N/A

4. **Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.**
   No

5. **Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.**
   No

6. **Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.**
   No

GROUND WATER

1. **Will groundwater be withdrawn from a well for drinking water or other purposes? If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well. Will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known.**
   No

2. **Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals…; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.**
   None.

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B. ENVIRONMENTAL ELEMENTS (To be completed by the applicant)

WATER RUNOFF (INCLUDING STORM WATER)

1. **Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.**
   Stormwater will be collected in catch basins and infiltrated into the ground

2. **Could waste materials enter ground or surface waters? If so, generally describe.**
   No.

3. **Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site? If so, describe.**
   No.

4. **Proposed measures to reduce or control surface, ground, and runoff water, and drainage pattern impacts, if any:**
   Stormwater will be retained on site.

PLANTS

1. **Check (✓) types of vegetation found on the site:**

Deciduous Trees:	Evergreen Trees:	Wet Soil Plants:	Water Plants:	Other:
☐ Alder	☐ Fir	☐ Cattail	☐ Milfoil	☑ Shrubs
☐ Maple	☐ Cedar	☐ Buttercup	☐ Eelgrass	☑ Grass
☐ Aspen	☐ Pine	☐ Bullrush	☐ Water Lily	☐ Pasture
☐ Other	☐ Other	☐ Skunk Cabbage	☐ Other	☐ Crop Or Grain
		☐ Other		☐ Orchards, vineyards, or other permanent crops
				☐ Other types of vegetation

2. **What kind and amount of vegetation will be removed or altered?**
   All existing vegetation will be removed.

3. **List threatened or endangered species known to be on or near the site.**
   None.

4. **Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:**
   Residential landscaping will be installed by homeowner.

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5. **List all noxious weeds and invasive species known to be on or near the site.**
   None.

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B. ENVIRONMENTAL ELEMENTS (To be completed by the applicant)

ANIMALS

1. **List any birds or other animals which have been observed on or near the site or are known to be on or near the site.**
   Examples include:
   birds: hawk, heron, eagle, songbirds, other:
   mammals: deer, bear, elk, beaver, other:
   fish: bass, salmon, trout, herring, shellfish, other:
   songbirds

2. **List any threatened or endangered species known to be on or near the site.**
   None

3. **Is the site part of a migration route? If so, explain.**
   Pacific flyway

4. **Proposed measures to preserve or enhance wildlife, if any:**
   None

5. **List any invasive animal species known to be on or near the site.**
   None

ENERGY AND NATURAL RESOURCES

1. **What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.**
   Electric, natural gas

2. **Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.**
   No

3. **What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:**
   None.

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B. ENVIRONMENTAL ELEMENTS (To be completed by the applicant):

ENVIRONMENTAL HEALTH

1. **Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste that could occur as a result of this proposal? If so, describe.**
   No.

2. **Describe any known or possible contamination at the site from present or past uses.**
   None known

3. **Describe existing hazardous chemicals/conditions that might affect project development and design. This includes underground hazardous liquid and gas transmission pipelines located within the project area and in the vicinity.**
   None.

4. **Describe any toxic or hazardous chemicals that might be stored, used, or produced during the project's development or construction, or at any time during the operating life of the project.**
   None.

5. **Describe special emergency services that might be required.**
   None.

6. **Proposed measures to reduce or control environmental health hazards, if any:**
   None.

NOISE

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

2. **What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.**
   Construction noise in the short term.
   Residential traffic long term.

3. **Proposed measures to reduce or control noise impacts, if any:**
   Construction will be limited to normal working hours.

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B. ENVIRONMENTAL ELEMENTS (To be completed by the applicant)

LAND AND SHORELINE USE

1. **What is the current use of the site and adjacent properties? Will the proposal affect current land uses on nearby or adjacent properties? If so, describe.**

   Proposed site is undeveloped. Residential to the north, east, and south. Undeveloped to the west.

2. **Has the project site been used as working farmlands or working forest lands? If so, describe. How much agricultural or forest land of long-term commercial significance will be converted to other uses as a result of the proposal, if any? If resource lands have not been designated, how many acres in farmland or forest land tax status will be converted to nonfarm or nonforest use?**

   No

3. **Will the proposal affect or be affected by surrounding working farm or forest land normal business operations, such as oversize equipment access, the application of pesticides, tilling, and harvesting? If so, how:**

   No.

4. **Describe any structures on the site.**

   No existing structures on site.

5. **Will any structures be demolished? If so, what?**

   No

6. **What is the current zoning classification of the site?**

   R-1

7. **What is the current comprehensive plan designation of the site?**

   R-1

8. **If applicable, what is the current shoreline master program designation of the site?**

   N/A

9. **Has any part of the site been classified as a critical area by the city or county? If so, specify.**

   Yes, Yakima County has designated a majority of the site as a Critical Area - Geologically Hazardous Area for steep slops and erosion hazards.

10. **Approximately how many people would reside or work in the completed project?**

    Phase 1 - 42 residential homes
    Phase 2 - 9 residential homes

11. **Approximately how many people would the completed project displace?**

    None.

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FEB 14 2023
By _____
City of Selah
Planning Dept.

B. ENVIRONMENTAL ELEMENTS (To be completed by the applicant)

LAND AND SHORELINE USE

12. **Proposed measures to avoid or reduce displacement impacts, if any.**
N/A

13. **Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:**
Project is consistent with zoning

14. **Proposed measures to ensure the proposal is compatible with nearby agricultural and forest lands of long-term commercial significance, if any:**
None.

HOUSING

1. **Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.**
51 residential homes, middle income.

2. **Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.**
None.

3. **Proposed measures to reduce or control housing impacts, if any:**
None.

AESTHETICS

1. **What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?**
Approximately 35 feet. Exterior will be non-reflective NW materials

2. **What views in the immediate vicinity would be altered or obstructed?**
None.

3. **Proposed measures to reduce or control aesthetic impacts, if any:**
None.

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Planning Dept.

B. ENVIRONMENTAL ELEMENTS (To be completed by the applicant)

LIGHT AND GLARE

1. **What type of light or glare will the proposal produce? What time of day would it mainly occur?**
   Typical residential lighting.

2. **Could light or glare from the finished project be a safety hazard or interfere with views?**
   No.

3. **What existing off-site sources of light or glare may affect your proposal?**
   None.

4. **Proposed measures to reduce or control light and glare impacts, if any:**
   None.

RECREATION

1. **What designated and informal recreational opportunities are in the immediate vicinity?**
   None.

2. **Would the proposed project displace any existing recreational uses? If so, describe.**
   No.

3. **Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:**
   None.

HISTORIC AND CULTURAL PRESERVATION

1. **Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state, or local preservation registers located on or near the site? If so, specifically describe.**
   No.

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City of Selah
Planning Dept.

B. ENVIRONMENTAL ELEMENTS (To be completed by the applicant)

HISTORIC AND CULTURAL PRESERVATION

2. **Are there any landmarks, features, or other evidence of Indian or historic use or occupation? This may include human burials or old cemeteries. Are there any material evidence, artifacts, or areas of cultural importance on or near the site? Please list any professional studies conducted at the site to identify such resources.**
   No.

3. **Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required.**
   None.

TRANSPORTATION

1. **Identify public streets and highways serving the site or affected geographic area and describe proposed access to the existing street system. Show on site plans, if any.**
   Site is served by W. Goodlander, Speyers Road, and Lander Road.

2. **Is the site or affected geographic area currently served by public transit? If so, generally describe. If not, what is the approximate distance to the nearest transit stop?**
   Bus stop approximately 1,500 feet southeast of site.

3. **How many parking spaces would the completed project or non-project proposal have? How many would the project or proposal eliminate?**
   At least 2 car garage and driveway included with each house, plus street parking.

4. **Will the proposal require any new or improvements to existing roads, streets, pedestrian bicycle or state transportation facilities, not including driveways? If so, generally describe (indicate whether public or private).**
   Six new residential streets will be constructed to serve the new residential homes.

5. **Will the project or proposal use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.**
   No.

6. **How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and non-passenger vehicles). What data or transportation models were used to make these estimates?**
   472 vehicle trips per day per ITE model.
   Peak 7-8 AM and 5-6 PM.

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City of Eclair
Planning Dept.

B. ENVIRONMENTAL ELEMENTS (To be completed by the applicant)

TRANSPORTATION

7. **Will the proposal interfere with, affect or be affected by the movement of agricultural and forest products on roads or streets in the area? If so, generally describe:**
   No.

8. **Proposed measures to reduce or control transportation impacts, if any:**
   None.

PUBLIC SERVICES

1. **Would the project result in an increased need for public services (for example: fire protection, police protection, public transit, health care, schools, other)? If so, generally describe:**
   Yes, for 51 residential homes.

2. **Proposed measures to reduce or control direct impacts on public services, if any.**
   None.

UTILITIES

1. **Check (✓) utilities currently available at the site:**

   ☐ **electricity** ☐ **natural gas** ☐ **water** ☐ **refuse service** ☐ **telephone**

   ☐ **sanitary sewer** ☐ **septic system** ☐ **other**_____

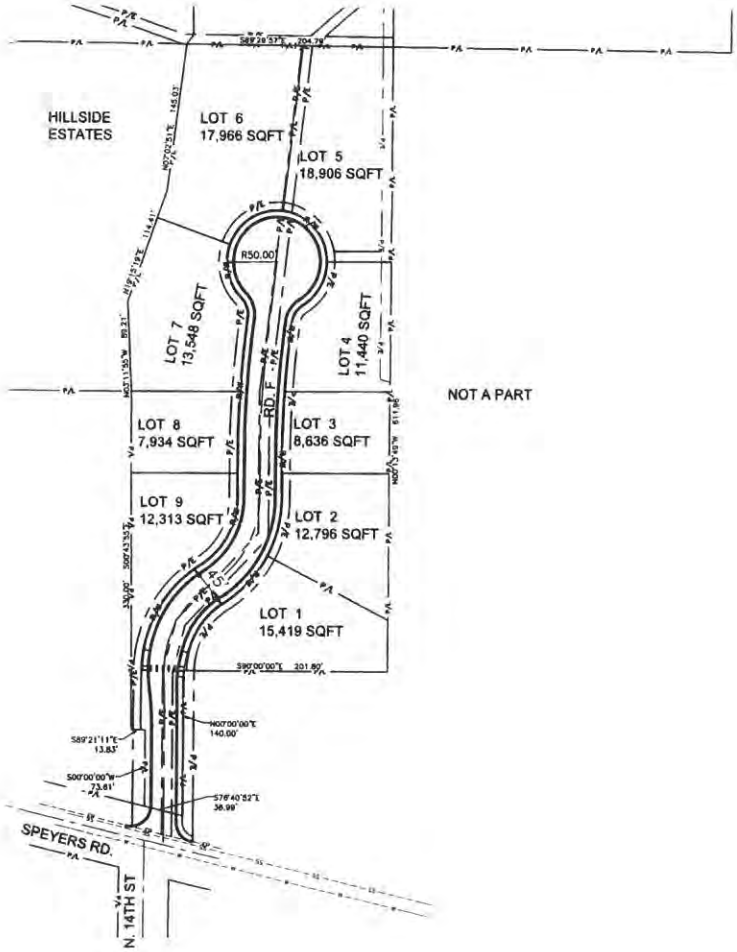
2. **Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.**
   Electric - Pacific Power
   Water & Sewer - City of Selah
   Telephone - Frontier
   Fiber - Charter
   Gas - Cascade Natural Gas

C. SIGNATURE (To be completed by the applicant.)

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

	1/30/2020
Property Owner or Agent Signature	**Date Submitted**
Stephanie Flowers	Project Manager, Selland Construction/NCW Development
Name of Signee	**Position and Agency/Organization**

PLEASE COMPLETE SECTION "D" ON THE NEXT PAGES IF THERE IS NO PROJECT RELATED TO THIS ENVIRONMENTAL REVIEW



TOTAL AREA:	3.57 ACRES
RIGHT OF WAY:	0.70 ACRES (19.61%)
TOTAL LOTS:	9
AVERAGE LOT SIZE:	0.32 ACRES
BIGGEST LOT:	0.43 ACRES
SMALLEST LOT:	0.18 ACRES

J-U-B ENGINEERS, INC.
2810 W. Clearwater Ave.
Suite 201
Kennewick, WA 99336
Phone: 509.783.2144
www.jub.com

PRELIMINARY PLANS

NOT FOR CONSTRUCTION

HILLSIDE PUD
SELAH, WA

OVERALL SITE PLAN

SHEET NUMBER:
C-100

Received

MAR 11 2020

By _____
City of Selah
Planning Dept.

City of Selah, Washington TRANSPORTATION CAPACITY ANALYSIS

The Washington State Growth Management Act (RCW 36.70A.070) requires all new development to be consistent with the existing or planned street system capacities. The City of Selaha adopted Selah Municipal Code Section 10.08.190 to implement this local requirement. The information you provide with this application will be used to estimate the impact of your development upon the PM Peak Hour traffic on the City of Yakima arterial streets.

APPLICATION INFORMATION

Applicant Name: NCW Development LLC
Contact Person: Stephanie Flowers
Mailing Address: PO Box 119
Wenatchee WA 98802
Project Address: Speyers + Lander Rd.

Parcel Number: 181435220002

RESIDENTIAL	COMMERCIAL	INDUSTRIAL
Number of Units 7	Describe _____	Describe _____
Housing Type: Single Family (single family, Apartment, condo, MHP)	Gross Floor Area: _____	Gross Floor Area: _____
Special Population: _____ (Assisted Living, Nursing Home, etc)	Parking Spaces: _____ (Required/Provided)	Parking Spaces: _____ (Required/Provided)
Other: _____ (Day Care, Church, etc)	Number of Employees _____	Number of Employees _____

Project Description: Development of 3.57 acres into 7 Residential lots in a Planned Development

*****PLEASE ATTACH A SITE PLAN*****

Submit this form and any required attachments to the City of Selah Public Works Department at 222 S. Rushmore Road. You will receive a Notice of Decision explaining the Findings of this analysis. Please review the Decision when it is sent to you, as there is a limited time period for Request for Reconsideration or Appeal.

Questions? Contact the City of Selah Planning Department at 222 S. Rushmore Road, Selah, WA 98942 Phone: 509-698-7365

EXHIBIT
4b

May 4, 2020

City of Selah
222 S. Rushmore Road
Selah, WA 98942

Attn: Joe Henne
Public Works Director

Re: Hillside Estates Preliminary Road A
Plan Review
HLA Project No. 20006G

Dear Joe:

Per your request, we have completed our review of the Plan Set for the Hillside Estates Preliminary Plat, received on April 29, 2020. Our review comments are below.

General Comments:

The City expressed concern about the natural storm drainage basin(s) upstream of the proposed property improvements. Per the attached image and our sketch on Sheet C-201, flow from the off-site storm drainage appears to run West of the proposed development and through the Snodgrass properties. A pass-through storm drainage plan was required for the Snodgrass development in 2015. The properties East of the proposed improvements are developed land and storm drainage from the East is not a concern.

Plan Comments:

1. Sheet C-100 and C-101

    a. As stated in the February 4, 2020, plan review comments for the overall plat, the 45' City right-of-way allowed for roadways with lots on only one side does not apply to Road F. Selah Standard Detail ST-3 applies to Road F including a 50' right-of-way width.

    b. The design plans indicated a reduced right-of-way width of approximately 38' for approximately 70 linear feet approaching Speyers Road. With vacant land available on both sides of the property, we recommend all efforts be made to acquire the additional property to achieve a 50' right-of-way width.

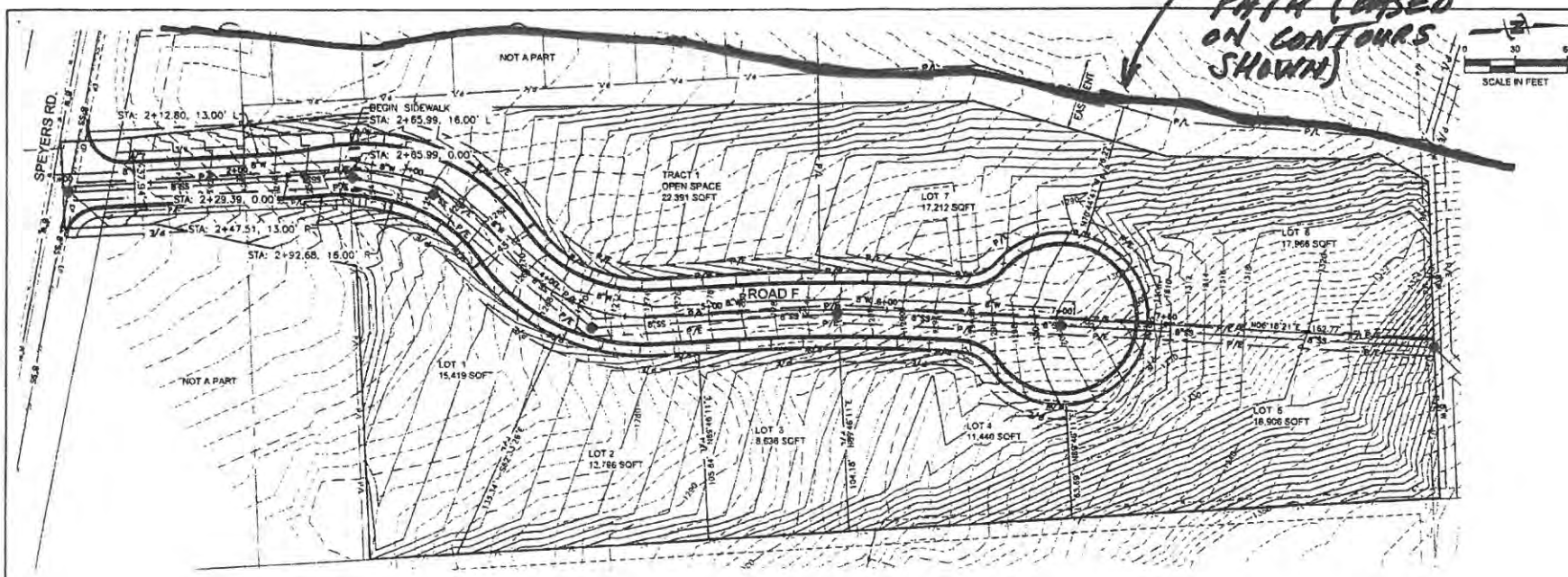
    c. The design plans show approximately a 25' offset, centerline to centerline, of Road F and N 14th Street across Speyers Road. With vacant land available on both sides of the property, we recommend all efforts be made to acquire the additional property to achieve a 50' right-of-way width and to reduce the centerline offset. The typical maximum offset allowed for roadways is ½-lane width (6'-8').

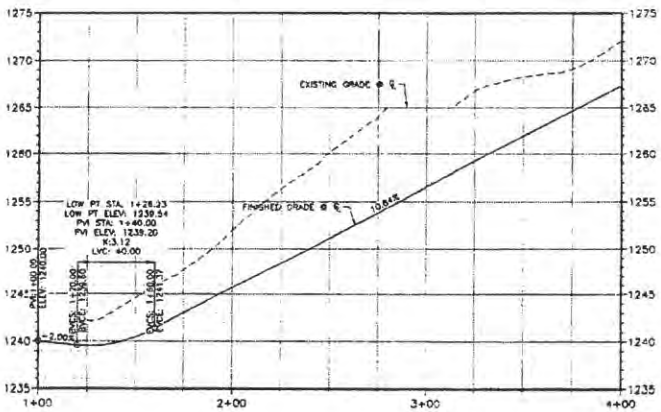
    d. The City may consider requiring Road F to be named N 14th Street.

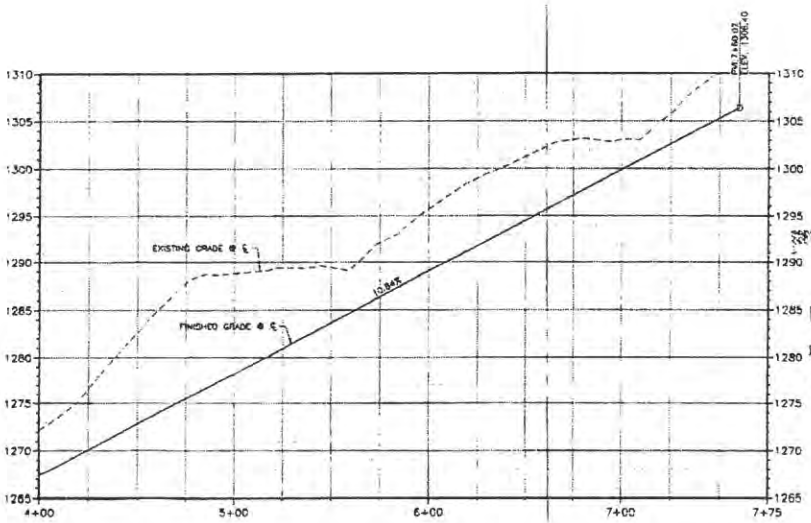
    e. There appears to be a new utility easement shown across the Snodgrass property. Has this easement been acquired? If not, the remaining easement on the west side of the Road F North of the Snodgrass property may be useless.

EXHIBIT
1c

PROBABLE OFF-SITE DRAINAGE PATH (BASED ON CONTOURS SHOWN)







Received
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By
Planning Dept.

J-U-B ENGINEERS, INC.
2810 W. Clearwater Ave.
Suite 201
Kennewick, WA 99336
Phone: 509.783.2144
www.jub.com

PRELIMINARY PLANS

NOT FOR CONSTRUCTION

HILLSIDE ESTATES
SELAH, WA

ROAD F PLAN AND PROFILE

SHEET NUMBER:
C-201

Memorandum

To: Jeff Peters, Community Development Supervisor

From: Joe Henne, Public Works Director

Date: May 5, 2020

Subject: Public Improvements for Hillside Estates PD

PW's comments on the preliminary plan sheets, dated 3-5-20, received to me 4-28-20 for above plat.

1. SMC 10.50.041 (11), Design Standards and Specifications, states that street jogs with centerline offsets of less than 200 hundred feet shall not be allowed.

2. Sta. 1+00, vertical curve is located in the R-O-W. The City will reconstruct Speyers Road in the future and the proposed location will interfere with the widening of Speyers Road. Moving the vertical curve will increase the slope of Road F above the 10% shown and must be addressed.

3. The radius for the entrance onto Road F need to be increased.

4. Road F does not meet the Public Works design criteria dated 2018, for a public street.

5. There have been no provisions for stormwater.

6. Dead end Water lines over 300 feet long are not permitted. A connection to a future line proposed Hillside Estates (non-PD) to the north should be made. Easements on lots 5 & 6 accordingly. A PRV will be needed between pressure zones.

7. The proposed cul-de-sac radius does not meet Code.

EXHIBIT

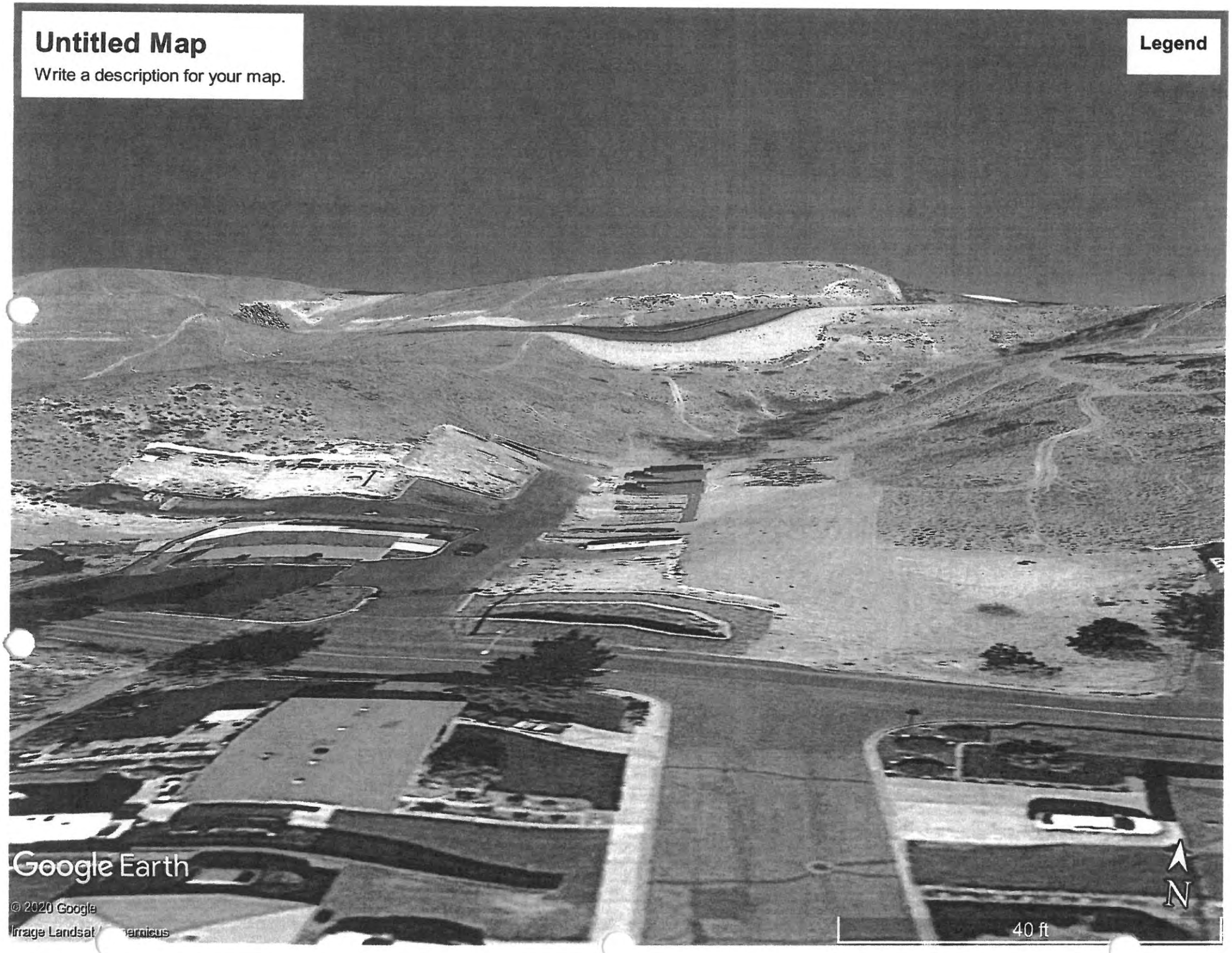
tabbies

2C

Untitled Map

Write a description for your map.

Legend



Peters, Jeff

From: Lange, James
Sent: Wednesday, April 29, 2020 6:50 AM
To: Peters, Jeff
Cc: Henne, Joe; Jones, Ty
Subject: Hillside Estates

Good morning,

I received your phone message this morning asking if I had any comments for Hillside Estates.
I sent you my comments on road names and addresses already, and I think those are worked out. I did not have any comments for the rest of the development previously.
With the new information about the road off of Speyers, my comment would be; private road – name it Hawthorne, if Joe and Ty are ok with everything and it becomes a public street – number it 14th.

I will add, all roads appear to meet IFC except Hilltop and Hawthorne (very top road & road off of Speyers). The grade exceeds 10% on each of these roads. I believe Hilltop shouldn't be that difficult to improve to 10% or less with fill. The Hawthorne or 14th road exceeds 10% for a very long distance. I understand that we live in a hilly area, but I feel that this may bring concerns for the city to consider allowing this to become a public street. It does not meet IFC. Exceptions for road grade have been granted in the past for certain roads based on location and topography, but are usually private roads with the development being held responsible for maintaining and a waiver signed. No matter which way this street ends up, public or private, a request for road grade exception steeper than 10% must be approved by the Fire Chief.

I would like to see the above named roads built to 10% per IFC. If this simply cannot be constructed, I would suggest a written request to Chief Hanna requesting exception to road grade for his review.

Thank you,

Jim Lange
Deputy Chief / Fire Marshal
Selah Fire Department
206 W. Fremont Ave
Selah, WA 98942
Ph: (509) 698-7310
Fax: (509) 698-7317

EXHIBIT
3C

Peters, Jeff

From: Lange, James
Sent: Wednesday, April 29, 2020 12:43 PM
To: Peters, Jeff
Subject: RE: Hillside Estates

Jeff,
All previous comments made were based on plans that I received from you dated January 30, 2020.
I was just made aware that there are new/separate plans for road F (14th or Hawthorne) that I had not received until now.

Comments – all previous comments apply in regards to grade. Additional comments are that the fire apparatus turnaround on newer plans don't seem to meet IFC. It appears that the turnaround has a 50' radius which include curb, sidewalk and gutter. IFC requires 96' diameter I.D. 100' would lonely allow 2' for curb, sidewalk and gutter on each side. (96' turnaround required).

Thanks,

Jim Lange

From: Peters, Jeff
Sent: Wednesday, April 29, 2020 7:49 AM
To: Lange, James <james.lange@selahwa.gov>
Subject: RE: Hillside Estates

Thanks Jim

Jeff Peters
Community Development Supervisor
CITY of SELAH
222 S. Rushmore Rd.
Selah, WA 98942
509-698-7366 Office
jeff.peters@selahwa.gov

From: Lange, James <james.lange@selahwa.gov>
Sent: Wednesday, April 29, 2020 6:50 AM
To: Peters, Jeff <jeff.peters@selahwa.gov>
Cc: Henne, Joe <joe.henne@selahwa.gov>; Jones, Ty <ty.jones@selahwa.gov>
Subject: Hillside Estates

Good morning,

I received your phone message this morning asking if I had any comments for Hillside Estates.
I sent you my comments on road names and addresses already, and I think those are worked out. I did not have any comments for the rest of the development previously.

Hillside Estates proposed addressing

Lot #	proposed address
1	1414 Huntington
2	1412 Huntington
3	1410 Huntington
4	1408 Huntington
5	1406 Huntington
6	1404 Huntington
7	1418 Hillside
8	1416 Hillside
9	1414 Hillside
10	1412 Hillside
11	1410 Hillside
12	1408 Hillside
13	1406 Hillside
14	1404 Hillside
15	1420 Horizon
16	1418 Horizon
17	1416 Horizon
18	1414 Horizon
19	1412 Horizon
20	1410 Horizon
21	1408 Horizon
22	1406 Horizon
23	1404 Horizon
24	1418 High Canyon
25	1416 high Canyon
26	1414 High Canyon
27	1412 High Canyon
28	1410 High Canyon
29	1408 High Canyon
30	1406 High Canyon
31	1404 High Canyon
32	1402 High Canyon
33	1400 High Canyon
34	710 Lander
35	712 Lander
36	714 Lander
37	716 Lander
38	718 Lander
39	803 Hilltop
40	805 Hilltop
41	807 Hilltop
42	809 Hilltop

EXHIBIT
tabbies
4c

CITY OF SELAH

Planning Department
222 South Rushmore Road
Selah, Washington 98942

Phone 509 698-7365
Fax 509 698-7372

CITY OF SELAH
NOTICE OF DEVELOPMENT APPLICATION, ADOPTION OF EXISTING ENVIRONMENTAL DOCUMENT & OPPORTUNITY TO PROVIDE COMMENT

DATE: April 3, 2020
TO: Applicant, and Adjoining Property Owners, SEPA Agencies
FROM: Jeff Peters, Community Development Supervisor

SUBJECT: Notice of Application, Adoption of Existing Environmental Document, and Opportunity to Provide Public Comment for a, seven-lot Planned Development, Preliminary Long Plat, and State Environmental Policy Act Checklist from NCW Development, LLC.

APPLICATION INFORMATION
File Numbers: PD-2020-001, PLP-2020-002, SEPA-2020-003, & TCA-2020-002

Project Description: On March 12, 2020, the City of Selah Planning Department received applications for a Planned Development, Preliminary Long Plat, and State Environmental Policy Act Checklist from NCW Development, LLC. The developer is proposing to rezone the subject 3.57 acres of property to a Planned Development Overlay to facilitate the subdivision/Preliminary Long Plat of the property into seven lots of record and one open space tract. The subdivision and planned development propose construction of seven single-family dwellings. Proposed lot sizes range from 8,636 to 17,966 sq. ft. and 22,391 sq. ft. for the open-space lot.

Project Location: Vicinity of W. Goodlander, Lander, and Speyers Roads, Selah, WA 98942.

Tax Parcel Numbers: 181435-22002

Project Applicant: NCW Development, LLC – Stephanie Flowers
P.O. Box 119
Wenatchee, WA 98807

Determination of Complete Application: This application was determined complete for processing on March 31, 2020. The decision on this application will be made within one-hundred twenty days of the determination of complete application.

Approvals, Actions and Required Studies: Rezone from Residential, Single Family (R-1) to Planned Development; Preliminary Plat; Development Plan and Program.

Request for Written Comments on the Proposal Written comments concerning the proposed Planned Development, Preliminary Plat will be accepted during **the public comment period that ends at 5:00 p.m., on April 17, 2020.** You may mail your comments to Selah Planning Department, 222 So. Rushmore Road, Selah, WA 98942, send them by fax to (509) 698-7372 or by e-mail to jeff.peters@selahwa.gov. Reference File Numbers: PD-2020-001, PLP-2020-002, SEPA-2020-003, & TCA-2020-002 or "NCW Development, LLC" in your correspondence.

Open Record Public Hearing The requested applications require both an open record public hearing and recommendation by the City of Selah Hearing Examiner, as well as a close[illegible] public hearing by the City of Selah city council. Following completion of the above iden[illegible]

EXHIBIT
1d

public comment period, the City of Selah will issue separate notices for the public hearings in accordance with SMC Title 21.

Application information and maps detailing the proposal are available during regular business hours at the Planning Department at 222 South Rushmore Road, Selah, Washington 98942 or online at https://selahwa.gov/planning/public-notices/. Contact the Planning Department with project, and procedural questions.

Dated this 3rd day of April 2020.

/s/

Jeff Peters, City Planner

ENVIRONMENTAL REVIEW: ADOPTION OF EXISTING ENVIRONMENTAL DOCUMENT:
The City of Selah is the lead agency for this proposal under the State Environmental Policy Act (SEPA). The City has reviewed the proposal for probable adverse environmental impacts and has determined that the following document meets the city's environmental review standards and is therefore being adopted.

Adoption for: Mitigated Determination of Non-Significance

Description of current proposal: Planned Development, Preliminary Long Plat, and State Environmental Policy Act Checklist from NCW Development, LLC. The developer is proposing a Rezone to a Planned Development Overlay and a Preliminary Long Plat to subdivide 3.57 acres of property into seven lots of record and one open space tract. The subdivision and planned development propose construction of seven single-family dwellings. Proposed lot sizes range from 8,636 to 17,966 sq. ft. and 22,391 sq. ft. for the open-space lot.

Proponent: NCW Development, LLC
Location of current proposal: Vicinity of W. Goodlander, Lander, and Speyers Roads, Selah, WA 98942.
Tax Parcel Numbers of current proposal: 181435-22002

Title of document being adopted: Washington State Environmental Policy Act Mitigated Determination of Nonsignificance City of Selah, Washington

Date of adopted document: March 25, 2020
File Numbers for adopted document: PLP-2020-001, SEPA-2020-001, TCA-001-2020 & CAO-2020-001.
Location of adopted document: Vicinity of W. Goodlander, Lander, and Speyers Roads, Selah, WA 98942.
Tax Parcel Numbers of adopted document: 181435-22001, 181435-22002, & 181435-21015

Description of adopted document: Environmental Review of the subdivision of a 42-lot Preliminary Long Plat of 37.65 acres, and future development of a nine lot Planned Development of 3.5 acres, and Critical Area Review, which contains geologically hazardous areas.

Availably of adopted document: The subject document is available to be read at the City of Selah Planning Department at 222 S. Rushmore Road, Selah, WA 98942 during business hours from 8:00 a.m. to 5:00 p.m. and on the city of Selah's website at: https://selahwa.gov/planning/sepa/.

The City of Selah has identified and adopted this document as being appropriate for this proposal after independent review. The document meets our environmental review needs for the current proposal and will accompany the proposal to the decision maker.

Responsible official: Donald C. Wayman

Position/Title: SEPA Responsible Official

Address: City of Selah, 115 W. Naches Avenue, Selah, WA. 98942

Date April 3, 2020 Signature

Contact Person: Contact Jeff Peters, Community Development Supervisor Planner (509) 698-7367 for more information.

YAKIMA HERALD-REPUBLIC
WE TELL YOUR STORIES YAKIMAHERALD.COM

El Sol de Yakima

Affidavit of Publication

STATE OF WASHINGTON,)
)
COUNTY OF YAKIMA)

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

That the annexed is a true copy of a:
CITY OF SELAH NOTICE OF DEVELOPMENT

it was published in regular issues (and not in supplement form) of said newspaper once each day and for a period of 1 times, the first insertion being on 04/03/2020 and the last insertion being on 04/03/2020

Yakima Herald-Republic 04/03/20

and the such newspaper was regularly distributed to its subscribers during all of the said period. That the full amount of the fee charged for the foregoing publication is the sum of $407.00

Jackie Chapman
Accounting Clerk

Sworn to before me this 3 day of, April 2020

R. Rene Connatser
Notary Public in and for the
State of Washington,
residing at Yakima

R RENE CONNATSER
APPOINTMENT EXPIRES AUGUST 15, 2023
NOTARY PUBLIC
Commission # 181153
STATE OF WASHINGTON

EXHIBIT
tabbies
2d

CITY OF SELAH NOTICE OF DEVELOPMENT APPLICATION, ADOPTION OF EXISTING ENVIRONMENTAL DOCUMENT & OPPORTUNITY TO PROVIDE COMMENT: DATE: April 3, 2020: **TO:** Applicant, and Adjoining Property Owners, SEPA Agencies: **FROM:** Jeff Peters, Community Development Supervisor: **SUBJECT:** Notice of Application, Adoption of Existing Environmental Document, and Opportunity to Provide Public Comment for a, seven-lot Planned Development, Preliminary Long Plat, and State Environmental Policy Act Checklist from NCW Development, LLC: **APPLICATION INFORMATION: File Numbers:** PD-2020-001, PLP-2020-002, SEPA-2020-003, & TCA-2020-002: **Project Description:** On March 12, 2020, the City of Selah Planning Department received applications for a Planned Development, Preliminary Long Plat, and State Environmental Policy Act Checklist from NCW Development, LLC. The developer is proposing to rezone the subject 3.57 acres of property to a Planned Development Overlay to facilitate the subdivision/ Preliminary Long Plat of the property into seven lots of record and one open space tract. The subdivision and planned development propose construction of seven single-family dwellings. Proposed lot sizes range from 8,636 to 17,966 sq. ft. and 22,391 sq. ft. for the open-space lot: **Project Location:** Vicinity of W. Goodlander, Lander, and Speyers Roads, Selah, WA 98942: **Tax Parcel Numbers:** 181435-22002: **Project Applicant:** NCW Development, LLC – Stephanie Flowers, P.O. Box 119, Wenatchee, WA 98807: **Determination of Complete Application:** This application was determined complete for processing on March 31, 2020. The decision on this application will be made within one-hundred twenty days of the determination of complete application: **Approvals, Actions and Required Studies:** Rezone from Residential, Single Family (R-1) to Planned Development; Preliminary Plat; Development Plan and Program: **Request for Written Comments on the Proposal** Written comments concerning the proposed Planned Development, Preliminary Plat will be accepted during **the public comment period that ends at 5:00 p.m., on April 17, 2020.** You may mail your comments to Selah Planning Department, 222 So. Rushmore Road, Selah, WA 98942, send them by fax to (509) 698-7372 or by e-mail to jeff.peters@selahwa.gov. Reference File Numbers: PD-2020-001, PLP-2020-002, SEPA-2020-003, & TCA-2020-002 or "NCW Development, LLC" in your correspondence: **Open Record Public Hearing** The requested applications require both an open record public hearing and recommendation by the City of Selah Hearing Examiner, as well as a closed record public hearing by the City of Selah city council. Following completion of the above identified public comment period, the City of Selah will issue separate notices for the public hearings in accordance with SMC Title 21. Application information and maps detailing the proposal are available during regular business hours at the Planning Department at 222 South Rushmore Road, Selah, Washington 98942 or online at https://selahwa.gov/planning/public-notices/. Contact the Planning Department with project, and procedural questions. Dated this 3rd day of April 2020. /s/ Jeff Peters, City Planner:

ENVIRONMENTAL REVIEW: ADOPTION OF EXISTING ENVIRONMENTAL DOCUMENT:

The City of Selah is the lead agency for this proposal under the State Environmental Policy Act (SEPA). The City has reviewed the proposal for probable adverse environmental impacts and has determined that the following document meets the city's environmental review standards and is therefore being adopted: **Adoption for:** Mitigated Determination of Non-Significance

Description of current proposal: Planned Development, Preliminary Long Plat, and State Environmental Policy Act Checklist from NCW Development, LLC. The developer is proposing a Rezone to a Planned Development Overlay and a Preliminary Long Plat to subdivide 3.57 acres of property into seven lots of record and one open space tract. The subdivision and planned development propose construction of seven single-family dwellings. Proposed lot sizes range from 8,636 to 17,966 sq. ft. and 22,391 sq. ft. for the open-space lot: **Proponent:** NCW Development, LLC: **Location of current proposal:** Vicinity of W. Goodlander, Lander, and Speyers Roads, Selah, WA 98942: **Tax Parcel Numbers of current proposal:** 181435-22002: Title of document being adopted: Washington State Environmental Policy Act Mitigated Determination of Nonsignificance City of Selah, Washington: **Date of adopted document:** March 25, 2020: **File Numbers for adopted document:** PLP-2020-001, SEPA-2020-001, TCA-001-2020 & CAO-2020-001: **Location of adopted document:** Vicinity of W. Goodlander, Lander, and Speyers Roads, Selah, WA 98942.

Tax Parcel Numbers of adopted document: 181435-22001, 181435-22002, & 181435-21015

Description of adopted document: Environmental Review of the subdivision of a 42-lot Preliminary Long Plat of 37.65 acres, and future development of a nine lot Planned Development of 3.5 acres, and Critical Area Review, which contains geologically hazardous areas: **Availably of adopted document:** The subject document is available to be read at the City of Selah Planning Department at 222 S. Rushmore Road, Selah, WA 98942 during business hours from 8:00 a.m. to 5:00 p.m. and on the city of Selah's website at: https://selahwa.gov/planning/sepa/. The City of Selah has identified and adopted this document as being appropriate for this proposal after independent review. The document meets our environmental review needs for the current proposal and will accompany the proposal to the decision maker. Responsible official: Donald C. Wayman, Position/Title: SEPA Responsible Official, Address: City of Selah, 115 W. Naches Avenue, Selah, WA, 98942: Date April 3, 2020

Contact Person: Contact Jeff Peters, Community Development Supervisor Planner (509) 698-7367 for more information.

(939870) April 3, 2020

Courtesy of Yakima Herald-Republic

CITY OF SELAH
AFFIDAVIT OF MAILING

STATE OF WASHINGTON
COUNTY OF YAKIMA

I, Brandy Tucker, being first duly sworn on oath dispose and says:

I am an employee of the City of Selah, 222 South Rushmore Road, Selah, Washington; that I did on the 3 day of April, 2020 caused to be mailed, 65 envelopes, containing a true and correct copy of the Notice of Application, Adoption of Existing SEPA and Opportunity to provide comment. Said envelopes mailed from Selah, WA. With the correct first class postage and addressed to the persons having made written or verbal comment regarding these files.

A listing of the persons to whom notice has been mailed is contained in file PD-2020-001, PLP-2020-002, SEPA-2020-003 & TCA-2020-002.

Signed

STATE OF WASHINGTON
COUNTY OF YAKIMA

On this day personally appeared before me, Brandy Tucker, to me known to be the individual referenced herein and who caused to be mailed PD-2020-001, PLP-2020-002, SEPA-2020-003 + TCA-2020-002

Given under my hand and official seal this 17th day of April 2020.

Caprise Groo
Signed

Notary Public in and for the State of Washington, residing at Yakima, WA. My term expires June 1, 2021.

CAPRISE GROO
NOTARY PUBLIC
STATE OF WASHINGTON
COMMISSION EXPIRES
JUNE 1, 20

EXHIBIT
3d

JOSE & YESI GRIMALDI
1290 W GOODLANDER RD
SELAH WA, 98942

O JEAN OWENS REV LIVING TRUST
1602 SPEYERS RD
SELAH WA, 98942

LFZ ORCHARDS LLC
PO BOX 1739
PROSSER WA, 99350

PAUL E JR & SUSAN C EMMANS
60 N LAKE LANE
SELAH WA, 98942

KIMBERLY LYNN DAY ACACIO
4219 B NOLA LOOP RD
YAKIMA WA, 98901

JOSHUA M MEDRANO
232 LYNWOOD LANE
SELAH WA, 98942

TREVOR J & KELLY J HERRUD
914 JAMIE DR
SELAH WA, 98942

KOBES FAMILY TRUST
1110 W GOODLANDER RD
SELAH WA, 98942

MONTY J JR & IVETTE L SUNDERLAND
708 N 12TH ST
SELAH WA, 98942

LEADING FORCE HOLDING CO LLC
17 N 3RD ST STE 101
YAKIMA WA, 98901

WILLIAM V ALLEN
1105 GOODLANDER RD
SELAH WA, 98942

CHRISTOPHER P KELLER
1720 SPEYERS RD
SELAH WA, 98942

TIFFANIE J & MICHAEL A KELLER
PO BOX 10234
YAKIMA WA, 98909

ROBERT J & LESLIE BLACKABY
10 HOVDE LANE
SELAH WA, 98942

PATRICK W & SARA B HOLLAND
300 LYNWOOD LN
SELAH WA, 98942

SHANE MACCALLA
130 HOVDE LN
SELAH WA, 98942

SELAH VALLEY RENTALS LLC
901 SUMMITVIEW AVE STE 250
YAKIMA WA, 98902

PAUL A & MARGARET M RIEL
704 N 12TH ST
SELAH WA, 98942

DAVID & ANDREA GIBB
707 N 12TH ST
SELAH WA, 98942

BRADLEY & TERRA RUDICK
1590 SPEYERS RD
SELAH WA, 98942

TERRENCE & BRANDON TRUHLER
110 LUPINE DR
YAKIMA WA, 98901

ELIZABETH FRANZ
1600 SPEYERS RD
SELAH WA, 98942

PAUL & ANETT SCHLABACH
440 LYNWOOD LN
SELAH WA, 98942

GINGER R WRIGHT GROENIG
80 HOVDE LANE
SELAH WA, 98942

BARBARA J WALLEN
PO BOX 1327
YAKIMA WA, 98907

JASON A & CHRISTY A NICHOLS
340 LYNNWOOD LN
SELAH WA, 98942

RODOLFO & LILIANA CARRILLO
332 LYNWOOD LN
SELAH WA, 98942

JONATHAN G MASON
709 N 12TH ST
SELAH WA, 98942

JESUS & KIM FARIAS
705 N 12TH ST
SELAH WA, 98942

NANCY NELSON
111 LYNNWOOD LN
SELAH WA, 98942

MARY E CLARK
101 LYNNWOOD LN
SELAH WA, 98942

JAMES & KELCEE STILTNER
1301 SPEYERS RD
SELAH WA, 98942

SETO LIVING TRUST
310 SLADE RD
SELAH WA, 98942

VELDA WELCH
1405 W CHERRY AVE
SELAH WA, 98942

RICH & MINDY SOWDER
1411 W CHERRY AVE
SELAH WA, 98942

WARREN & TAMMIJO PETERS
609 N 14TH ST
SELAH WA, 98942

NISHILA KANJI
67831 HWY 97
WAPATO WA, 98951

WILLIAM J & LAURA JONES
612 N 13TH ST
SELAH WA, 98942

MICHELLE & NICHOLAS BECKER
1523 W CHERRY AVE
SELAH WA, 98942

M K K I INCORPORATED
PO BOX 695
SELAH WA, 98942

SHANE & RENEE SNODGRASS
1403 SPEYERS RD
SELAH WA, 98942

THOMAS & JOLENE GIRARD
614 N 14TH ST
SELAH WA, 98942

GABINO HERNANDEZ
608 N 14TH ST
SELAH WA, 98942

MICHAEL COSTELLO
1407 W CHERRY AVE
SELAH WA, 98942

KEITH & JENNIFER ALHOLM
1413 W CHERRY AVE
SELAH WA, 98942

MARGARET & TONY HEUER
110 LYNNWOOD LN
SELAH WA, 98942

RANDOLPH & PAMELA HEIDE
613 N 14TH ST
SELAH WA, 98942

LAWRENCE HENNING
1415 W CHERRY AVE
SELAH WA, 98942

STANLEY D & DEBORAH VINSANT
1525 W CHERRY
SELAH WA, 98942

CHARLES ROY TURNER
607 N 13TH ST
SELAH WA, 98942

DANITA IRENE WORLEY
101 HOVDE LN
SELAH WA, 98942

BLAINE FARIS
61 SHERRY AVE
NACHES WA, 98937

ROYAL & PAIGE TEAS
1403 W CHERRY AVE
SELAH WA, 98942

DANIEL J HARRINGTON
1409 W CHERRY AVE
SELAH WA, 98942

AMY & RAFAEL MORFIN
611 N 14TH ST
SELAH WA, 98942

TERRY & LORI MULLINS
31 HOVDE LN
SELAH WA, 98942

GREG & KRISTI LUNNING
614 N 13TH ST
SELAH WA, 98942

ELIZABETH M KUDRNA
1521 W CHERRY AVE
SELAH WA, 98942

JEFFERY & MINDY CLARK
10 LYNWOOD LN
SELAH WA, 98942

BARBARA PESCHAU
702 N 12TH ST
SELAH WA, 98942

DANIEL & FREDEANNA SEAMAN
703 N 12TH ST
SELAH WA, 98942

CAROL ANN SIMMERMAN
1105 SPEYERS RD
SELAH WA, 98942

THEODORE & BELINDA HAYMAN
613 N 13TH ST
SELAH WA, 98942

ROBERTS & JANETTE GOODWIN
601 SPEYERS RD APT G
SELAH WA, 98942

TERESA R CASTANEDA
608 NORTH 12TH STREET
SELAH WA, 98942

CITY OF SELAH

Planning Department
222 South Rushmore Road
Selah, Washington 98942

Phone 509 698-7365
Fax 509 698-7372

CITY OF SELAH
NOTICE OF PUBLIC HEARING

DATE: April 24, 2020
TO: Applicant, and Adjoining Property Owners, SEPA Agencies
FROM: Jeff Peters, Community Development Supervisor

SUBJECT: Notice of Public Hearing for NCW Development, LLC – Hillside Estates Planned Development

APPLICATION INFORMATION:
File Numbers: PD-2020-001, PLP-2020-002, SEPA-2020-003, & TCA-2020-002

Project Description: On March 12, 2020, the City of Selah Planning Department received applications for a Planned Development, Preliminary Long Plat, and State Environmental Policy Act Checklist from NCW Development, LLC. The developer is proposing to rezone the subject 3.57 acres of property to a Planned Development Overlay to facilitate the Subdivision/Preliminary Long Plat of the property into seven lots of record and one open space tract. The subdivision and planned development propose construction of seven single-family dwellings. Proposed lot sizes range from 8,636 to 17,966 sq. ft. and 22,391 sq. ft. for the open-space lot.

Project Location: Vicinity of W. Goodlander, Lander, and Speyers Roads, Selah, WA 98942.

Tax Parcel Numbers: 181435-22002

Project Applicant: NCW Development, LLC – Stephanie Flowers
P.O. Box 119
Wenatchee, WA 98807

Determination of Complete Application: This application was determined complete for processing on March 31, 2020. The decision on this application will be made within one-hundred twenty days of the determination of complete application.

Approvals, Actions and Required Studies: Rezone from Residential, Single Family (R-1) to Planned Development; Preliminary Plat; Development Plan and Program.

COVID-19 Public Hearing Procedures/Changes: Applicant and adjoining property owners in accordance with the multiple proclamations by the Governor of the State of Washington,(in particular proclamation 20-28) guidance from the State Attorney General on the requirements of the Open Public Meetings Act, directives by the State Health Department and Yakima Health District regarding COVID-19, the City of Selah has determined that the Public Hearing for NCW Development, LLC will be conducted through electronic and telephonic means via **Zoom**.

Open Record Public Hearing: The above applications require that the City of Selah Hearing Examiner conduct an open record public hearing regarding the applicant's Planned Development. This public hearing has been scheduled for **May 19, 2020**, beginning at **10:00 a.m.** online using **electronic and telephonic means via Zoom**. Procedures for attendance of this public hearing

EXHIBIT
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will be provided on the City of Selah's website at: https://selahwa.gov/planning/hearing-examiner/ one week prior to the hearing. Any person desiring to express their views on this matter are invited to attend the public hearing via Zoom, or to submit their written comments to the below address. All interested persons may provide testimony on the application. SMC 21.09.050, & SMC 10.06.040, are pertinent to the hearing procedure. At the conclusion of the public hearing, the Hearing Examiner will consider the matter and issue a recommendation to the City Council for approval, approval with conditions, or denial of the Preliminary Long Plat.

Application information including the SEPA environmental checklist and maps detailing the proposal are available during regular business hours at the Planning Department at 222 South Rushmore Road, Selah, Washington 98942. The staff report will be available approximately one week before the hearing. Contact the Planning Department with project, procedural or environmental questions.

Dated this 24th day of April 2020.

/s/

Jeff Peters, Community Development Supervisor

CITY OF SELAH
AFFIDAVIT OF MAILING

STATE OF WASHINGTON
COUNTY OF YAKIMA

I, Brandy Tucker, being first duly sworn on oath dispose and says:

I am an employee of the City of Selah, 222 South Rushmore Road, Selah, Washington; that I did on the 24 day of April, 2020 caused to be mailed, 105 envelopes, containing a true and correct copy of the Notice of Public Hearing. Said envelopes mailed from Selah, WA. With the correct first class postage and addressed to the persons having made written or verbal comment regarding these files.

A listing of the persons to whom notice has been mailed is contained in file PD-202-003, PLP-2020-002, SEPA-202-003 & TCA-2020-002.

Signed

STATE OF WASHINGTON
COUNTY OF YAKIMA

On this day personally appeared before me, Brandy Tucker, to me known to be the individual referenced herein and who caused to be mailed

Given under my hand and official seal this 24th day of April 2020.

Signed

Notary Public in and for the State of Washington, residing at Yakima, WA. My term expires June 1, 2021.

CAPRISE GROO
NOTARY PUBLIC
STATE OF WASHINGTON
COMMISSION EXPIRES
JUNE 1, 2021

EXHIBIT
4d

YAKIMA HERALD-REPUBLIC
WE TELL YOUR STORIES YAKIMAHERALD.COM

El Sol de Yakima

Affidavit of Publication

STATE OF WASHINGTON,)
)
COUNTY OF YAKIMA)

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

That the annexed is a true copy of a:
CITY OF SELAH NOTICE OF PUBLIC HEARI

it was published in regular issues (and not in supplement form) of said newspaper once each day and for a period of 1 times, the first insertion being on 04/24/2020 and the last insertion being on 04/24/2020

Yakima Herald-Republic 04/24/20

and the such newspaper was regularly distributed to its subscribers during all of the said period. That the full amount of the fee charged for the foregoing publication is the sum of $244.20

Accounting Clerk

Sworn to before me this 24 day of, April 2020

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

R. RENE CONNATSER
APPOINTMENT EXPIRES AUGUST 15, 2023
NOTARY PUBLIC
Commission # 181153
STATE OF WASHINGTON

EXHIBIT
5d

CITY OF SELAH NOTICE OF PUBLIC HEARING: DATE: April 24, 2020: **TO:** Applicant, and Adjoining Property Owners, SEPA Agencies: **FROM:** Jeff Peters, Community Development Supervisor: **SUBJECT:** Notice of Public Hearing for NCW Development, LLC – Hillside Estates Planned Development: **APPLICATION INFORMATION:** File Numbers: PD-2020-001, PLP-2020-002, SEPA-2020-003, & TCA-2020-002: **Project Description:** On March 12, 2020, the City of Selah Planning Department received applications for a Planned Development, Preliminary Long Plat, and State Environmental Policy Act Checklist from NCW Development, LLC. The developer is proposing to rezone the subject 3.57 acres of property to a Planned Development Overlay to facilitate the Subdivision/Preliminary Long Plat of the property into seven lots of record and one open space tract. The subdivision and planned development propose construction of seven single-family dwellings. Proposed lot sizes range from 8,636 to 17,966 sq. ft. and 22,391 sq. ft. for the open-space lot: **Project Location:** Vicinity of W. Goodlander, Lander, and Speyers Roads, Selah, WA 98942: **Tax Parcel Numbers:** 181435-22002: **Project Applicant:** NCW Development, LLC – Stephanie Flowers, P.O. Box 119, Wenatchee, WA 98807: **Determination of Complete Application:** This application was determined complete for processing on March 31, 2020. The decision on this application will be made within one-hundred twenty days of the determination of complete application: **Approvals, Actions and Required Studies:** Rezone from Residential, Single Family (R-1) to Planned Development; Preliminary Plat; Development Plan and Program.: **COVID-19 Public Hearing Procedures/Changes:** Applicant and adjoining property owners in accordance with the multiple proclamations by the Governor of the State of Washington,(in particular proclamation 20-28) guidance from the State Attorney General on the requirements of the Open Public Meetings Act, directives by the State Health Department and Yakima Health District regarding COVID-19, the City of Selah has determined that the Public Hearing for NCW Development, LLC will be conducted through electronic and telephonic means via **Zoom.**: **Open Record Public Hearing:** The above applications require that the City of Selah Hearing Examiner conduct an open record public hearing regarding the applicant's Planned Development. This public hearing has been scheduled for **May 19, 2020**, beginning at **10:00 a.m.** online using **electronic and telephonic means via Zoom.** Procedures for attendance of this public hearing will be provided on the City of Selah's website at: https://selahwa.gov/planning/hearing-examiner/ one week prior to the hearing. Any person desiring to express their views on this matter are invited to attend the public hearing via Zoom, or to submit their written comments to the below address. All interested persons may provide testimony on the application. SMC 21.09.050, & SMC 10.06.040, are pertinent to the hearing procedure. At the conclusion of the public hearing, the Hearing Examiner will consider the matter and issue a recommendation to the City Council for approval, approval with conditions, or denial of the Preliminary Long Plat. Application information including the SEPA environmental checklist and maps detailing the proposal are available during regular business hours at the Planning Department at 222 South Rushmore Road, Selah, Washington 98942. The staff report will be available approximately one week before the hearing. Contact the Planning Department with project, procedural or environmental questions: Dated this 22nd day of April 2020 /s/ Jeff Peters, Community Development Supervisor.

(942140) April 24, 2020

Courtesy of Yakima Herald-Republic

DECLARATION OF POSTING

Applicant # PD-2020-001

Project Name: Hillside Estate PD

- ☐ CONDITIONAL USE PERMIT
- ☐ NONCONFORMING USE PERMIT
- ☐ ADMINISTRATIVE USE PERMIT
- ☐ FOREST PRACTICE CONVERSION OPTION HARVEST PLAN (COHP)
- ☐ BINDING SITE PLAN
- ☐ SHORT PLAT
- ☑ LONG LOT
- ☐ SHORT PLAT / LARGE LOT ALTERATION
- ☐ WETLAND PERMIT
- ☐ REZONE
- ☐ SITE PLAN REVIEW (SPR)
- ☐ VARIANCE
- ☐ ADMINISTRATIVE VARIANCE
- ☐ SUBDIVISION
- ☐ SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT
- ☐ SHORELINE NONCONFORMING USE PERMIT
- ☐ SHORELINE CONDITIONAL USE PERMIT SHORELINE VARIANCE
- ☐ PRELIMINARY PLAT
- ☐ MAJOR AMENDMENT
- ☐ MINOR AMENDMENT
- ☐ FORMAL PLAT ALTERATION
- ☑ PLANNED DEVELOPMENT OVERLAY
- ☐ PUBLIC FACILITY PERMIT
- ☐ WETLAND OR FISH & WILDLIFE VARIANCE
- ☐ WETLAND OR FISH & WILDLIFE REASONABLE USE EXCEPTION REQUEST FOR REMOVAL OF DEVELOPMENT MORATORIUM

NAME OF APPLICANT: **NCW Development, LLC for Hillside Estates PD**

I, Stephanie Flowers, on behalf of NCW Development, LLC., state that on the 29th day of April, 2020, I posted a sign relating to the Subdivision file number(s) PD-2020-001, TCA-2020-002 & SEPA-2020-003 - at the site in a location that complies with the City of Selah requirements:

Vicinity of W. Goodlander, Lander, and Speyers Roads, Selah, WA 98942.

Tax Parcel Numbers: 181435-22002

I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct:

Signed on 4/29 (Date), 2020, at Selah (City), WA (State)

Stephanie Flowers (Signature)

Stephanie Flowers (Print Name)

EXHIBIT

tabbies

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CITY OF SELAH

Planning Department
222 South Rushmore Road
Selah, Washington 98942

Phone 509 698-7365
Fax 509 698-7372

CITY OF SELAH CITY COUNCIL NOTICE OF PUBLIC HEARING TO CONSIDER HEARING EXAMINER'S RECOMMENDATION
Hillside Estates Planned Development and Preliminary Plat

Notice IS HEREBY GIVEN that the Selah City Council will conduct a **Closed Record Public Hearing on Tuesday, November 24, 2020, at 5:30 P.M.**, or as soon thereafter as practical, in the City of Selah Council Chambers, City Hall Building, 115 W. Naches Avenue, Selah, WA to consider the City of Selah Hearing Examiner's recommendation on a combined Rezone, Planned Development, and Preliminary Plat application titled "Hillside Estates". The proposed application requests rezone and subdivision of 3.57 acres of property to Planned Development into seven lots and one open space tract submitted by NCW Development, LLC. The site is located in the vicinity of W. Goodlander, Lander, and Speyers Roads, Selah, WA 98942 in the City of Selah.

This is a closed record public hearing; no new testimony or information will be taken.

Application information and maps detailing the proposal are available for public inspection during regular business hours at the City of Selah Planning Department, 222 South Rushmore Road Selah, WA. Tax Parcel Numbers: 181435-22002; City File Numbers: PD-2020-001; PLP-2020-002 & SEPA-2020-003.

COVID-19 Hearing Notification: Interested parties, please be advised in accordance with the multiple proclamations by the Governor of the State of Washington,(in particular proclamation 20-28) guidance from the State Attorney General on the requirements of the Open Public Meetings Act, directives by the State Health Department and Yakima Health District regarding COVID-19, the above scheduled public hearing may be held by electronic and telephonic means via **Zoom**. Procedures for attendance of this closed record public hearing will be provided on the City of Selah's website along with the city council agenda.

Dated this 8th day of November 2020.

/s/

Jeff Peters, City Planner

EXHIBIT
7d

YAKIMA HERALD-REPUBLIC
WE TELL YOUR STORIES YAKIMAHERALD.COM

El Sol de Yakima

Affidavit of Publication

STATE OF WASHINGTON,)
)
COUNTY OF YAKIMA)

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

That the annexed is a true copy of a:
CITY OF SELAH CITY COUNCIL NOTICE OF

it was published in regular issues (and not in supplement form) of said newspaper once each day and for a period of 1 times, the first insertion being on 11/08/2020 and the last insertion being on 11/08/2020

Yakima Herald-Republic 11/08/20
YakimaHerald.com 11/08/20

and the such newspaper was regularly distributed to its subscribers during all of the said period. That the full amount of the fee charged for the foregoing publication is the sum of $134.55

Jackie Chapman
Accounting Clerk

LISA M DRIPPS
NOTARY
My Comm. Expires
April 05, 2021
PUBLIC
STATE OF WASHINGTON

Sworn to before me this 11th day of November 2020

Lisa M. Dripps
Notary Public in and for the
State of Washington,
residing at Yakima

EXHIBIT
8d

CITY OF SELAH CITY COUNCIL NOTICE OF PUBLIC HEARING TO CONSIDER HEARING EXAMINER'S RECOMMENDATION Hillside Estates Planned Development and Preliminary Plat: Notice IS HEREBY GIVEN that the Selah City Council will conduct a **Closed Record Public Hearing** on **Tuesday, November 24, 2020, at 5:30 P.M.**, or as soon thereafter as practical, in the City of Selah Council Chambers, City Hall Building, 115 W. Naches Avenue, Selah, WA to consider the City of Selah Hearing Examiner's recommendation on a combined Rezone, Planned Development, and Preliminary Plat application titled "Hillside Estates". The proposed application requests rezone and subdivision of 3.57 acres of property to Planned Development into seven lots and one open space tract submitted by NCW Development, LLC. The site is located in the vicinity of W. Goodlander, Lander, and Speyers Roads, Selah, WA 98942 in the City of Selah.: This is a closed record public hearing; no new testimony or information will be taken.: Application information and maps detailing the proposal are available for public inspection during regular business hours at the City of Selah Planning Department, 222 South Rushmore Road Selah, WA. Tax Parcel Numbers: 181435-22002; City File Numbers: PD-2020-001; PLP-2020-002 & SEPA-2020-003.: **COVID-19 Hearing Notification:** Interested parties, please be advised in accordance with the multiple proclamations by the Governor of the State of Washington,(in particular proclamation 20-28) guidance from the State Attorney General on the requirements of the Open Public Meetings Act, directives by the State Health Department and Yakima Health District regarding COVID-19, the above scheduled public hearing may be held by electronic and telephonic means via **Zoom**. Procedures for attendance of this closed record public hearing will be provided on the City of Selah's website along with the city council agenda.: Dated this 8th day of November 2020 /s/ Jeff Peters, City Planner.

(963816) November 8, 2020

Courtesy of Yakima Herald-Republic

CITY OF SELAH
AFFIDAVIT OF MAILING

STATE OF WASHINGTON
COUNTY OF YAKIMA

I, Brandy Tucker, being first duly sworn on oath dispose and says:

I am an employee of the City of Selah, 222 South Rushmore Road, Selah, Washington; that I did on the 8 day of November, 2020 caused to be mailed, 2 envelopes, containing a true and correct copy of the Notice of Public Hearing. Said envelopes mailed from Selah, WA. With the correct first class postage and addressed to the persons having made written or verbal comment regarding these files.

A listing of the persons to whom notice has been mailed is contained in file PLP-2020-002.

Signed

STATE OF WASHINGTON
COUNTY OF YAKIMA

On this day personally appeared before me, Brandy Tucker, to me known to be the individual referenced herein and who caused to be mailed file PLP-2020-002

Given under my hand and official seal this 17th day of November 2020.

Caprise Groo
Signed

Notary Public in and for the State of Washington, residing at Yakima, WA. My term expires June 1, 2021.

CAPRISE GROO
NOTARY PUBLIC
STATE OF WASHINGTON
COMMISSION EXPIRES
JUNE 1, 2021

EXHIBIT
9d

Serena Matson
709 N 12th St
Selah, WA 98942

NCW Development
PO Box 119
Wenatchee WA 98907

City of Selah, Washington
Transportation Concurrency Analysis

Date of Review:	April 29, 2020
Review Prepared by:	Jeff Peters, Community Development Supervisor, (509) 698-7365
Proposed Development:	7 Lot Single-Family Residential Planned Development
Subject Address:	Vicinity of Lander/Speyers Rd., Selah, WA 98942
ITE Land Use:	210 – Single-Family Detached Housing

Average Weekday Trips = 66.64
PM Peak Hour Trips = 7.14

Summary of Information Used to Determine Concurrency:
The applicant, NCW Development, LLC, proposes to construct a Single-Family Residential 7 Lot Planned Development in the vicinity of Lander and Speyers Rd., within the city of Selah, Washington. Traffic from this new development will enter the Arterial Street system on Speyers Rd. City of Selah Administrative procedures for Concurrency Analysis identify that the city shall use the ITE Trip Generation Manual to determine the Average Daily Trips generated for a proposed development, any vehicle trips previously assigned under the Concurrency Ordinance, and Table 3-2 Peak Hour Volume and Level of Service of the City's 2017 Comprehensive Plan, to determine if carrying capacity exists within the affected public street system. City of Selah Transportation Concurrency analysis does not address intersection capacity.

Analysis of Impact to City of Yakima Arterial Streets:
This application has been reviewed and approved for consistency with the City of Selah's Transportation Capacity Management Ordinance. Speyers Rd. is designated as Minor Arterial street with current Average Annualized Daily Traffic counts 1,920. Peak hour volumes of 192. Based upon ITE Land Use 210, this subdivision will generate approximately 66.64 Average Weekday Trips and 7.14 Peak Hour Trips. Based upon the addition of the above projected traffic to Speyers Rd., this development will not exceed the capacity of the City street system, and reserve capacity exists on all impacted streets. This review does not include any site development or safety issues, which may be discussed at the project level or SEPA review. The review does not address intersection level of service.

EXHIBIT
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Received

MAY 11 2020

By

Return Address:
Planning Dept.
Ms. Caitlyn J. Evans
Jeffers, Danielson, Sonn & Aylward, P.S.
2600 Chester Kimm Road
P.O. Box 1688
Wenatchee, WA 98807-1688

7933774 17

FILE# 7933774
YAKIMA COUNTY, WA
01/11/2017 10:44:27AM
COVENANT
PAGES: 17
VALUED CUSTOMER
NCW DEVELOPMENT
Recording Fee: 89.00

Grantor/Grantee: NCW Development, LLC, a Washington limited liability company
Legal Description (abbreviated): ~~Valhalla Heights Phases 3 & 4~~, Yakima County, Washington.
Additional legal on page 14 (Exhibit "A"). HILLSIDE
Assessor's Tax Parcel ID#: ~~Parent Parcels (181426-33441~~, 181427-41404, 181426-33409, and 181426-33413)

DECLARATION OF

COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

~~VALHALLA HEIGHTS PHASES 3 & 4~~
HILLSIDE ESTATES &
HILLSIDE ESTATES PLANNED DEVELOPMENT

DRAFT / EXAMPLE

BEING UPDATED TO 2020 LAW

EXHIBIT
tabbies
2e

Received

MAY 11 2020

By _____
City of Selah
Planning Dept.

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DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
OF
VALHALLA HEIGHTS PHASES 3 & 4

NCW DEVELOPMENT, LLC, a Washington limited liability company, the owner of real property located in the City of Selah, Yakima County, Washington and described as follows:

SEE ATTACHED EXHIBIT "A"

does hereby establish the following protective covenants, conditions and restrictions for said property, said covenants to run with the land.

PREAMBLE

These protective covenants are reasonable, but carefully guarded to ensure that what is established in the theme is retained for the future of property values. Underground utilities will be included. Landscaping themes will be consistent. However, every location will be afforded a freedom of expression to encourage individualism.

1. DEFINITIONS

Defined terms will appear throughout this Declaration with the initial letter of such term capitalized. Unless the context clearly states otherwise, the following terms used in this Declaration are defined as follows:

1.1 "Association" shall mean and refer to the Valhalla Heights Phases 3 & 4 Homeowners Association, its successors and assigns.

1.2 "Board" shall mean and refer to the Developer until the Transition Date and thereafter the Board of Directors of Valhalla Heights Phases 3 & 4 Homeowners Association.

1.3 "Common Areas" shall mean all real property owned or to be maintained by the Association for the common use and enjoyment of the Owners. The Common Areas include, but are not limited to the entries, drainage holding areas and landscaped areas for common enjoyment

1.4 "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to the Properties recorded in the Office of the Yakima County Auditor.

1.5 "Developer" shall mean and refer to NCW Development, LLC, and its successors or assigns.

1.6 "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Areas.

1.7 "Majority of Members" shall mean and refer to the Developer until the Transition Date and thereafter the Members holding more than 50% of the total votes entitled to be cast with respect to a given matter (not just those represented at a meeting); and any specified fraction or percentage of the Members means the Members holding that fraction or percentage of the total votes entitled to be cast with respect to a given matter. Unless otherwise specified, any provision herein requiring the approval of the Members means the approval of a Majority of Members.

1.8 "Member" shall mean and refer to those persons entitled to membership as provided in Section 3.2 of this Declaration.

1.9 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Properties, including contract purchasers, but excluding those having such interest merely as security for the performance of an obligation.

1.10 "Properties" shall mean and refer to that certain real property subject to the Declaration of Covenants, Conditions and Restrictions of Valhalla Heights Phases 3 & 4, and such additions as may be brought within the jurisdiction of the Association.

1.11 "Transition Date" shall mean and refer to the first to occur of:

1.11.1 September 30, 2026; or

1.11.2 The day on which title to the last Lot in the Property owned by the Developer is conveyed to any third party for value, other than as security for performance of any obligation (for purposes hereunder, "third party" shall be defined as any person or entity that is not the Developer, a lineal descendant of the principal shareholders of the Developer, or spouse of any lineal descendant); or

1.11.3 Such date as Developer requires the Members to assume control of the Association, it being the Developer's right (but not obligation) to require the Members to assume control of the Association at any time.

2. ANNEXATION OF ADDITIONAL PROPERTY

Prior to the Transition Date, at the election of the Developer any real property abutting or appurtenant to the Properties, may be annexed to and become subject to this Declaration as set forth in this Section 2. Developer may amend this Declaration at any time to add or delete property.

2.1 Annexations. Developer may elect to annex any real property abutting or appurtenant to the Properties, or some or all the real property in increments of any size whatsoever, or to annex more than one such increment to any given time and in any given order. Developer is not obligated to annex any of said property, and none of said property shall become subject to this Declaration unless and until a supplemental declaration shall have been recorded as herein provided.

2.2 Supplemental Declaration. A supplemental declaration shall be a writing in recordable form which annexes additional real property to the plan of this Declaration and which incorporates by reference all of the covenants, conditions, restrictions, easements and other provisions as are set forth in this Declaration relating to supplemental declarations. Supplemental declarations may contain such complementary additions and modifications of the covenants, conditions and restrictions

contained in this Declaration as may be necessary to reflect the different character, if any, of the annexed property and as are not inconsistent with the plan of this Declaration. In no event, however, shall any such supplemental declaration revoke, modify or add to the covenants established by this Declaration with respect to the Property already subject to this Declaration.

2.3 Annexation Without Approval of Association. The annexed property may be annexed to and become subject to this Declaration and subject to the jurisdiction of the Association without the approval, assent or vote of the Association or its Members, provided that a supplemental declaration covering the annexed property shall be recorded by Developer. The recordation of said supplemental declaration shall constitute and effectuate the annexation unless a later effective date is specified in the supplemental declaration, making said real property subject to this Declaration and subject to the functions, powers and jurisdiction of the Association, and thereafter the annexed property shall be part of the Property for all intents and purposes of this Declaration and all the Owners of Lots in the annexed property shall automatically be Owners.

2.4 Boundary Line Adjustments. Developer shall retain and have the right at any time and from time to time to adjust any lot lines and/or boundaries and/or the configuration of the Valhalla Heights Phases 3 & 4 with respect to any lots or properties within the Valhalla Heights Phases 3 & 4 which are unsold, retained by or otherwise owned by Developer, provided, however, Developer shall not have the right or authority to move or adjust the boundary of any lot(s) owned by another party without first obtaining the consent of such party.

3. HOMEOWNERS ASSOCIATION

3.1 Purpose. The Association shall be formed by the Developer for the purpose of managing the Common Areas and enforcing the Declaration.

3.2 Membership. Every person or entity who is an Owner shall become a Member of the Association. Membership shall be appurtenant to and may not be separated from the Owner's interest in Valhalla Heights Phases 3 & 4. All Members shall have rights and duties as specified in this Declaration, and in the Articles, Bylaws, rules and regulations of the Association. The Association shall be governed by a Board of Directors as set out in the Bylaws.

3.3 Voting Rights. There shall be one vote for each membership in the Association. An Owner shall be entitled to one membership in the Association for each Lot s/he owns, so long as s/he is the Owner of the Lot. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association.

If the Owner of a Lot is other than one individual, the Owner shall specify, in writing to the Association, the individual who is the Member of the Association for the Lot. In the absence such written specification, Assessments shall nevertheless be charged against the Lot and Owner thereof, but there shall be no right to vote the membership. The Member must be an individual who is either an Owner or, if the Owner is or includes a Person other than an individual; an individual who is a partner, if the Owner is or includes a partnership; or an officer of the corporation, if the Owner is or includes a corporation; or a beneficiary of the trust, if the Owner is or includes a trust; or an owner of the entity, if the Owner is or includes a Person other than an individual, a partnership, a corporation or a trust. The Member, as so specified, shall be the only person entitled to vote for the Owner of the Lot at Association meetings and

elections. An Owner may change the individual who is the Member for his Lot, provided each such individual is eligible to be a Member hereunder, in such manner and with such frequency, and subject to such reasonable processing fees, as the Board from time to time may permit.

3.4 Temporary Developer Control. All of the rights, duties and functions of the Association shall be exercised only and entirely by the Developer until the Transition Date. To carry out this provision, Developer may, from and after the date of recording thereof, adopt and enforce temporary Bylaws, rules and regulations for the Association; may give notices and call meetings; determine, assess, collect, receive and expend assessments and Association funds; hire a manager or other employees or service agencies as required; purchase supplies and equipment and determine maintenance and other policies; set up and maintain Association books and accounts; and generally exercise all powers necessary to carry out the provisions of the Declaration. Acceptance of an interest in the Properties described in this Declaration indicates acceptance of the management authority of Developer until the Transition Date and, in carrying out the same, Developer is entitled to the power, indemnities and protections set forth in the Declaration for the Association.

3.5 Property Rights in Common Areas. Every Member, and his guests or tenants, shall have a right and easement of enjoyment in the Common Areas, which rights and easements shall be appurtenant to and shall pass with the transfer of every Lot, subject to the following restrictions.

3.5.1 The right of the Association to limit the number of guests of Members, and to adopt rules and regulations;

3.5.2 The right of the Association to exclusive use and management of said Common Areas for utilities such as pumps, pipes, wires, conduits and other utility equipment, supplies and materials;

3.5.3 The rights reserved to the Developer in the Declaration; and

3.5.4 The other restrictions, limitations and reservations contained or provided for in this Declaration, the Articles and Bylaws of the Association, and rules or regulations adopted by the Association.

3.6 Maintenance.

3.6.1 The Association shall maintain the Common Areas and improvements located thereon in the same condition as a reasonable prudent Owner would maintain his own home so that Valhalla Heights Phases 3 & 4 will reflect a high pride of ownership.

3.6.2 Each Owner hereby covenants and agrees to maintain his respective property in the same condition as a reasonable prudent Owner would maintain his own home so that Valhalla Heights Phases 3 & 4 will reflect a high pride of Ownership. If any Owner shall fail to so maintain his property, the Association shall have the right to notify said Owner in writing of the maintenance required. If said maintenance shall not be performed within thirty (30) days from the date said notice is delivered to the non-performing Owner, the Association shall have all remedies as provided in Section 3.9 of this Declaration.

ADD SECTION FOR PLANNED DEVELOPMENT COMMON AREA SPEC. REFERENCING LOTS

3.7 Common Expense.

3.7.1 Certain expenses shall be paid by the Association for the benefit of all Owners and shall be referred to as common expenses. The common expenses shall be paid by the Association from funds collected monthly, quarterly, or semi-annually and special assessments to be paid by Owners.

All expenses of maintaining and operating the Common Areas, whether held by the Developer or the Association, shall be common expenses. The common expenses shall include, but not be limited to, the following:

a. The expenses of maintaining the Common Areas held by either the Association or the Developer;

b. The cost of maintaining insurance coverage on Common Areas held by the Association or the Developer;

c. The cost of any repairs or replacement of the Common Areas held either by the Association or the Developer;

d. Costs of operating the Association; and

e. Any other expense which shall be designated as a common expense in the Declaration or, from time to time, by the Association.

3.7.2 An adequate reserve fund for the replacement of Common Area improvements shall be established and shall be funded by depositing into said fund a portion of the assessments collected from the Owners. The portion of the assessments deposited into said reserve fund shall be determined by the Developer until the Transition Date, and thereafter by the Association.

3.8 Assessments.

3.8.1 From and after the date of the first sale from the Developer to an Owner is executed and the transaction relating thereto is closed, each Lot shall be subject to monthly, quarterly, or semi-annual assessments or charges in an amount to be determined by the Developer until the Transition Date, and thereafter by the Association. The amount of assessments shall be that necessary to pay common expenses. The amount of the assessments may be increased or decreased periodically as may be necessary from time to time to properly provide for payment of said common expenses.

3.8.2 The amount of the assessments shall be equal for all Lots.

3.8.3 The Association shall, upon written demand, furnish a certificate in writing, setting forth whether the assessments on a specified Lot have been paid. A reasonable charge may be made for the issuance of these certificates.

3.8.4 In addition to the assessments authorized above, the Association, by and through its Board of Directors, may levy, in any year, a special assessment applicable to that year only, for

the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of facilities in the Common Areas, including the necessary fixtures and personal property related thereto, or for any other purpose determined necessary by the Board of Directors of the Association. The special assessment shall be equal for all Lots.. Special assessment may be payable in monthly installments, quarterly installments, or such other periodic installments as shall be determined by the Association.

3.9 Collection of Assessments, Enforcement of Declaration, Attorneys' Fees and Costs.

3.9.1 All assessments, together with interest, costs of collection and reasonable attorneys' fees, shall be charged against and shall be a continuing lien upon said Lot against which each assessment is made and shall also be the personal obligation of the Owner. Said lien shall have all the incidents of a mortgage on real property.

3.9.2 If any assessment is not paid or within thirty (30) days after its due date, the assessment shall bear interest from the due date at the lesser of 12 percent or the maximum rate allowed by law. Each Owner hereby expressly vests in the Association or its agents the right and power to bring all actions against such non paying Owner personally for the collection of delinquent assessments as a debt or to enforce lien rights of the Association by all methods for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in like manner as a Washington mortgage on real property, and each Owner hereby expressly grants to the Association the power of sale in connection with such liens. The liens shall be in favor of the Association, shall be for the benefit of the Association, and the amount of said liens shall include interest, costs of collection and reasonable attorneys' fees. The Association shall have the power to bid in an interest foreclosed at foreclosure sale and to acquire and hold, lease, mortgage and convey the same. In the event the Association employs an attorney to enforce said liens, or the collection of any amounts due, or to enforce compliance with or specific performance of this Declaration, Articles, Bylaws, rules and regulations of the Association or provisions of this Declaration, the Association shall be entitled to the award of reasonable attorneys' fees and costs incurred.

3.9.3 In the event any Owner shall be in arrears in the payment of the assessments due or shall be in default of the performance of any of the terms of the Articles, Bylaws, or rules and regulations of the Association or this Declaration for a period of thirty (30) days, said Owner's right to vote shall be suspended and shall remain suspended until all payments are brought current and all defaults remedied. In addition, the Association shall have other remedies against such delinquent Owners as may be provided in the Articles, Bylaws, rules and regulations of the Association.

3.10 Indemnification. To the fullest extent permitted by law, every director and officer of the Association and Developer (to the extent a claim may be brought against the Developer by reason of his appointment, removal or control over members of the Board) shall be indemnified by the Association, and every other person servicing as an employee or direct agent of the Association, against all expenses and liabilities, including without limitation attorneys' fees, reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having served in such capacity on behalf of the Association (or in the case of Developer by reason of having appointed, removed, controlled or failed to control members of the Board), or any settlement thereof, whether or not he is a director or officer or serving in such other

specified capacity at the time such expenses are incurred, provided that the Board shall determine, in good faith, that

such officer, director, other person, or Developer, did not act, fail to act, or refused to act with gross negligence or fraudulent or criminal intent in the performance of their duties. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which such persons may be entitled at law or otherwise.

3.11 Non-Liability of Officers. To the fullest extent permitted by law, neither Developer, the president, the Board, any committees of the Association or any member thereof, nor any directors or officers of the Association, shall be liable to any Member, Owner, occupant, the Association or any other person for any decision, approval or disapproval of drawings or specifications (whether or not defective), course of action, act, inaction, omission, error, negligence or the like made in good faith and which Developer, the president, the Board, or such committees or person reasonably believed to be within the scope of their respective duties.

4. GENERAL COVENANTS

4.1 Aesthetic Control. No grading, building (including outbuildings), fences, walls, landscape, hardscape or artwork or painting or change in color or materials of any building (including roofs and fencing) shall be erected, placed, made or altered on any Lot at any time until construction plans and specifications, a plan showing the location of any structure, the location and the surfacing of the driveway and the landscaping plans showing design, materials and color schemes, as the case may be, have been approved in writing by the Board of Directors of the Association as to quality of workmanship and materials, harmony of external design with existing structures and the intended nature of the plat as a high quality single family residential community, and as to conformity with these covenants and as to location with respect to topography and finished grade elevations. Harmony is to be maintained through use of complimentary colors and building materials where possible. The Board may delegate this function to an Aesthetic Control Committee appointed by the Board. Either the Board or the Aesthetic Control Committee may employ an architect or designer to review the plans.

4.2 Architectural or Aesthetic Review

Applications for aesthetic or architectural review by the Board or Aesthetic Control Committee will be reviewed and recommendations made within thirty (30) days from date of receipt of such plans, submittals or resubmittals.

The following drawings must be included when applicable with each application. Other drawings or exhibits may be included if the Owner feels that they might be of help to the Board in reviewing the project. The Board will not review incomplete applications.

1. Site Plan
2. Floor Plans
3. Elevations

4. Building and/or improvement Specifications: Building and/or improvement specifications should fully describe all materials, colors, and finishes to be visible. Materials and designs shall be of high quality to preserve the value of all dwellings in the Project.

4.3 Subdivision. No Lot may be subdivided.

4.4 Maintenance of Vacant Lots. It is the intent of these restrictions that vacant lots be maintained in a manner which enhances rather than detracts from the overall appearance of the subdivision. Lots should be mowed periodically during the summer to provide a maintained vs. unmaintained appearance. Upon thirty (30) days notice to the owner, the Association shall have the right at all times to enter upon any Lot to remove debris or other waste material and to mow overgrown vegetation and to charge the expense thereof to the Owner as an assessment. The Association shall have all rights and remedies for the collection of said assessment as provided in Section 3.9.

4.5 Nuisances. No activity shall be carried on upon any Lot or permitted thereon which may be or becomes a nuisance to the neighborhood.

4.6 Electrical, Telephone and CATV Service. No outdoor overhead wire or service drop for the distribution of electric energy, telecommunications or CATV purposes, nor any pole, tower or other structure supporting said outdoor overhead wires, shall be erected, placed or maintained. All Owners shall use underground service to connect to the underground electrical, telephone and CATV utility facilities.

4.7 Animals. No animals shall be allowed except traditional household pets. All pets must be kept within the boundary of the Owner's Lot.

Owners exercising their pets within the Valhalla Heights Phases 3 & 4, within public right of way or on any commonly maintained property, will be responsible for keeping their pet on a leash and for cleaning up after their pets.

4.8 Refuse. No trash, garbage, rubbish, refuse or other solid waste of any kind, including particularly, inoperable automobiles, appliances and furniture, shall be thrown, dumped, stored, disposed of, or otherwise placed on any part of the subdivision. Garbage and similar solid waste shall be kept in sanitary containers well suited for that purpose. Garbage cans and sanitary containers shall be screened, enclosed or otherwise out of view as discussed in Section 4.16 (Sightliness) of these Covenants.

4.9 Temporary Dwellings and Buildings. No mobile homes, trailers, basement, tents or other outbuilding shall be used on any Lot at any time, either temporarily or permanently, as a residence.

During construction of a permanent residence a temporary construction office may be permitted, but such use shall be limited to six (6) months. Such construction office must be located on-site or immediately adjacent to the lot under construction. Under no circumstances may the construction office or other vehicle or boat be used as a living facility for owner(s) or construction worker(s).

No outhouse or lavatory for privy purposes shall be erected or maintained or placed on any Lot or Lots; such convenience must be incorporated within or be a part of the building to which they appertain. However, during the construction of a residence, Owners and their contractors are encouraged to use portable sanitary facilities for privy purposes to provide workers with on-site bathroom facilities. These units should be placed to minimize their visibility from the roadway and other residences.

4.10 Landscaping. The landscaping approved by the Board must be completed on each Lot, as soon as practical after completion of construction, but no later than one year from the date the dwelling is completed. No trees, hedges or shrubs shall be grown or maintained in a fashion which unreasonably interferes with the other Lot Owners' use and enjoyment of their respective properties, this provision applies to, but is not limited to: tree or plant heights, fullness and color. The Board shall determine whether any given trees, hedges or shrubs unreasonably interfere with those rights and such determination shall be conclusive. All fruit trees shall be kept insect and disease free. Lawns shall be watered and cut and neatly trimmed during the summer at least weekly. All houses built for speculative buyers shall have, as a minimum, the front yard planted in grass as soon as construction is completed. Grass may be hydroseeded or sodded only.

4.11 Easements. Easements for utilities and drainage are reserved as delineated on the plat. Within these easements no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction or flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each Lot and all improvements in it shall be maintained continuously by the Owner of the Lot, except for those improvements in it for which a public authority, utility company or the Association is responsible.

4.12 Natural Drainage. No Owner shall change or interfere with the natural drainage of any part of the developed area without the prior written approval of the Board.

4.13 Excavations/Drilling. No excavation for minerals, stone, gravel or earth shall be made upon any Lot other than excavation for necessary construction purposes relating to main dwelling units, retaining and court walls, outbuildings and pools, and for the purpose of contouring, shaping, fencing and generally improving any Lot.

No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.

4.14 Signs. No billboard or advertising sign of any kind may be erected, placed or maintained on any Lot or Lots or on any building or structure thereon, except one "For Sale" sign used by a builder or Lot Owner to advertise a Lot. No sign may be more than six square feet, except with the proper written permission of the Board.

4.15 Antennae. There shall be no antennae of any sort either installed or maintained which is visible from neighboring Lots, streets or public areas. Satellite dishes of no larger than eighteen inches (18") in diameter are permitted, provided that the satellite dish is not mounted on the front of the home.

4.16 Sightliness. All service areas, mechanical equipment, other equipment, motorcycles, snowmobiles, motor homes, boats, recreational vehicles, any vehicle over 1-Ton, wood piles and storage piles shall be walled or screened to conceal them from the view of other Lots within the subdivision, streets or public areas. No resident's vehicles shall be parked on the streets. Clotheslines are specifically prohibited.

4.17 Businesses. No store or business shall be carried on upon said premises or permitted thereon which involves on-premise sales or on-premise customers, of which constitutes a nuisance.

4.18 Fire Safety. There shall be no exterior fires whatsoever, except for barbecues or propane fire pit.

4.19 Firearms. The use of firearms or explosives, including fireworks, except such fireworks as may be expressly approved by the Board, are prohibited, except the use of explosives as is required for construction work duly authorized by the Board.

4.20 Driveways. All driveways shall be surfaced by asphalt pavement, concrete or concrete pavers, as approved.

4.21 Storage Tanks. No storage tanks for fuel or gas, surface or underground, shall be permitted within the Valhalla Heights Phases 3 & 4.

4.22 Vehicle Repairs. No major or extended vehicle repairs shall be performed unless inside a closed garage.

4.23 Repair. All buildings located on any Lot shall be kept in good repair and in generally attractive condition.

4.24 Parking. At the time a structure is built on a Lot, adequate off-street parking for at least four cars shall be provided on the Lot. A minimum of a ~~three (3)~~ 2 car garage with garage door and electric garage door openers must be provided, or approved by the Board or Aesthetic Control Committee, while the additional parking may be permitted in paved areas provided for that purpose or on driveways. All parking areas shall be constructed of asphalt paving or concrete. No street parking will be permitted for residents' vehicles. Trucks larger than 1-ton, construction type equipment and mobile or stationary trailers shall be permitted within the development and parked on the streets for the purposes of construction of improvements within the development.

The intent of this provision is that residents' cars should be parked in an enclosed garage. Garages are to be used for the purpose of housing cars and not for boat storage, storage or other purpose unless all resident cars are accommodated within garages.

4.25 Recreation Vehicle (RV) Parking. No RV parking including any boats and trailers, will be allowed within the Valhalla Heights Phases 3 & 4 unless the RV is totally enclosed within a structure. There shall be no onsite parking of RVs except for temporary use by visitors.

4.26 Swimming Pools. Only in-ground swimming pools are permitted and swimming pools shall be designed as being visually connected to the residence through walls, decks, or courtyards and must be screened from view of neighbors, streets, and public places.

4.27 Letter and Delivery Boxes. The Developer will install approved postal boxes at locations and in clusters approved by the local post office. The Board in the future may renegotiate with the post office and alter the system initially installed.

4.28 Address Identification. Individual address identification devices for each residence may be installed by the Lot Owner. Such devices must utilize the same materials and colors as the residence and shall reflect its design character. No "unique" identification devices will be installed. The Board may in the future require installation of uniform address identification devices for all Lots, including those with previously constructed identification devices.

4.29 No Contest. Lot Owners may not contest or object to the construction and development activities of the Developer in completing this Project. Lot Owners may not object to or contest the activities of other Lot Owners or their builders as may be reasonably necessary to complete construction of residences and improvements on any lot provided such activity is in compliance with these covenants. In addition, Lot Owners may not object to or contest the development by Developer as residential properties, of whatever nature, of any annexed lands or any other abutting, adjacent or other properties located within one-half mile of the Valhalla Heights Phases 3 & 4 properties.

REF. PRIVATE RD. AGREEMENT FOR HAWTHORNE

4.30 ~~Marissa Hill Fire Access Road~~. Each Lot owner in the Valhalla Heights Phases 3 & 4 shall be responsible to participate in the Marissa Hill Drive road maintenance, including snow plowing, as defined in the "Agreement for Maintenance of Roadways", dated October 6, 1993, and filed under Yakima County Auditor's File No. 3020085 and the "Amendment to the Agreement for Maintenance of Roadways", dated August 25, 2000, and filed under Yakima County Auditor's File No. 7185788. The Marissa Hill Water Board Association, its successors or assigns, will provide an invoice for the maintenance costs to the Valhalla Heights Phases 3 & 4 Homeowners Association (HOA) which in turn will pay the invoice from the HOA dues. The fire access roadway across Lot 3 of the Marissa Hill Subdivision connecting Valhalla Heights Phases 3 & 4 to the existing Marissa Hill Drive roadway will be the sole responsibility of all Owners through their HOA for the maintenance, including snow plowing, of this roadway.

5. BUILDING COVENANTS

5.1 Single Family Dwellings. No structure shall be erected on any Lot except one single-family dwelling and associated accessory building. Such accessory buildings shall also be submitted to the Valhalla Heights Phases 3 & 4 Owners Association for approval and shall be of the same exterior building materials and colors as the primary structure.

5.2 Existing Structures. No existing structure of any nature shall be moved onto any Lot.

5.3 Manufactured or Mobile Homes. No manufactured, modular or mobile homes may be placed on any Lot.

5.4 Code. All buildings shall conform to the Uniform Building Code and any code adopted by the City of Selah.

5.5 Material. The use of new high quality materials is required on all construction within the Valhalla Heights Phases 3 & 4. T1-11 and/or similar siding and materials will not be allowed. All materials must combine to display a high quality, design consistent, professionally finished appearance. Designs and materials that appear significantly out of place when compared to the overall neighborhood will not be allowed.

5.6 Height Limit. The maximum height of any structure placed on the Lot shall be that as allowed by City of Selah ordinances at the time of building permit application.

5.7 Roofs.

5.7.1 Roof Slopes. All roof slopes of residences, including garages, are to be no less than 6 " in 12" or greater than 12 " in 12". Slopes in excess of 12 " in 12" will be considered on a lot-by-lot basis, taking into account the impact on views, and the aesthetics of the dwelling for which it is being proposed. The preferred roof form for the Valhalla Heights Phases 3 & 4 is the Hip Roof. Owners are encouraged to use this form of roof whenever possible. Roof form and appearance will be an important consideration when the Board is determining the acceptability of the home design.

5.7.2 Roof Materials. All roof materials shall meet at least 40-year architectural composition standards and any local jurisdictional standards. Tile roofs are permitted.

5.7.3 Roof Heights. Maximum Roof heights will be as specified by the City of Selah code.

5.8 Dwelling Size. The minimum size of living area for a residence shall be ~~2000~~ 1600 square feet, WITH NOT LESS THAN ~~1800~~ 1400 ON THE MAIN LEVEL, unless a smaller size is specifically approved by the Board or Aesthetic Control Committee as being of an external and overall design in keeping with and complimentary to the intended nature of the plat as a high quality single family residential community. The minimum requirements are exclusive of garages, balconies, patios and the like.

5.9 Garage Doors. All garages must be equipped with garage doors and electric/automatic openers.

5.10 Fences, Walls, and Retaining Devices. No fences or walls may be constructed or modified without the prior written approval by the Board. Any fence which is built must be maintained in a desirable manner, so that the fence is not broken, leaning, or otherwise having an unsightly appearance. Maximum fence height is to be six (6) feet or such lower height as may be required by the City of Selah Code. Walls and fences must be finished and maintained so as to present an attractive appearance on both sides. No chain link fencing will be allowed.

5.11 Time of Completion. Any dwellings or structures erected on said subdivision shall be completed within nine (9) months of commencement of construction.

6. ADMINISTRATIVE COVENANTS

6.1 Duration. This plat and dedication are made subject to the above restrictions and covenants which shall run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty-five (25) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument, signed by the then Owners of a majority of the Lots has been recorded, agreeing to change said covenants in whole or in part.

6.2 Amendment. Amendment of these Covenants shall be by two-thirds (2/3) vote, with one vote per Lot; provided, there shall be no amendment for the first three (3) years after the Transition Date. Amendments shall be in writing and recorded in the same manner as these covenants. This Section 6.2 shall not affect or apply to Developer's Annexation rights under Section 2 of these Covenants.

6.3 Severability. The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any provision shall not affect any other provision hereof.

6.4 Enforcement. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages.

The prevailing party in any dispute of the enforcement of these covenants shall be entitled to recover reasonable attorneys' fees.

DATED this 10th day of January, 2017.

NCW DEVELOPMENT, LLC
A Washington Limited Liability Company

By _____
Bradley Selland, Manager

STATE OF WASHINGTON)
) ss.
COUNTY OF Chelan)

I certify that I know or have satisfactory evidence that BRADLEY SELLAND is the person who appeared before me and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as Manager of NCW DEVELOPMENT, LLC, a Washington limited liability company, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this 10th day of January, 2017.

M K RILEY
NOTARY
PUBLIC
05-23-19
STATE OF WASHINGTON

Typed/Printed Name M K Riley
NOTARY PUBLIC
In and for the State of Washington
My appointment expires 5/23/19

EXHIBIT "A"

Tax Parcel No. 181426-33441:

Lot 3 of Short Plat recorded in Book 96 of Short Plats, page 57 recorded under Auditor's File No. 3133442, records of Yakima County, Washington,
TOGETHER WITH that portion of vacated Shannon Road that would attach by operation of law.

TOGETHER WITH that portion of Tract "B" Vahalla Heights Phase 1, according to the plat thereof recorded June 4, 2008 under Auditor's File No. 7614452, records of Yakima County, Washington, lying southerly and westerly of the following described line: Beginning at the most northerly corner of Lot 17 of said Vahalla Heights Phase 1; thence extending the northeasterly line of said lot in a northwesterly direction 93.30 feet more or less to the North line of said Tract "B" and the end of this described line.

Tax Parcel No. 181427-41404:

The East 630.03 feet, as measured along the North line of Lot 4 of Short Plat recorded in Book 96 of Short Plats, page 57 under Auditor's File No. 3133442, records of Yakima County, Washington,

TOGETHER WITH that portion of vacated Shannon Road that would attach by operation of law.

Tax Parcel No. 181426-33409:

Lot 9, Vahalla Heights Phase 1, according to the plat thereof recorded June 4, 2008 under Auditor's File No. 7614452, records of Yakima County, Washington.

Tax Parcel No. 181426-33413:

Lot 13, Vahalla Heights Phase 1, according to the plat thereof recorded June 4, 2008 under Auditor's File No. 7614452, records of Yakima County, Washington.

Received

MAY 11 2020

By _____
City of Selah
Planning Dept.

DRAFT

Return Address:

Mr. Peter A. Spadoni
Jeffers, Danielson, Sonn & Aylward, P.S.
2600 Chester Kimm Road
P.O. Box 1688
Wenatchee, WA 98807-1688

PRIVATE ROAD EASEMENT, IMPROVEMENT AND MAINTENANCE AGREEMENT

Grantor/Grantee: NCW Development, LLC, a Washington limited liability company
Legal Description (abbreviated): Tract "A" Plat of Vahalla Heights Phase 1 and ptns Sec. 35, T. 14 N., R. 18, E.W.M., Yakima County, Washington.
Additional legal on page 4.
Assessor's Tax Parcel ID#: parent parcels: 181435-22002, 181435-22001, 181435-21015 and 181426-33500

Parties and Property

1.1 NCW. NCW DEVELOPMENT, LLC, a Washington limited liability company ("NCW"), is the owner of the following described property:

SEE ATTACHED EXHIBIT "A"

(the "Entire Property").

Agreement

2.1 Development. NCW will be developing and dividing the Entire Property into lots and tracts according to the Hillside Estates Planned Development, recorded _____, 2020 under Yakima County Auditor's No. _____ ("Hillside Estates"). Lots numbered 1, 2, 3, 4, 5, 6, 7 and Tract 1 of the Hillside Estates Planned Development (collectively the "Hillside Lots" or individually a "Hillside Lot") will share a 45 foot wide private access road including a 50 foot radius cul-de-sac ("Hawthorne Road"), as generally depicted on the attached Exhibit "B." Tract 1 of the Hillside Lots will be deeded by NCW to _____, the homeowners association of Hillside Estates, (the "HOA").

2.2 Road Maintenance and Service. The Hillside Lot owners shall be obligated to maintain Hawthorne Road, as a private road for access to the Hillside Lots, in a satisfactory condition, including, but not limited to, snowplowing, surfacing and

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Attorneys at Law
2600 Chester Kimm Road / P.O. Box 1688
Wenatchee, WA 98807-1688
(509) 662-3685 / (509) 662-2452 FAX

EXHIBIT
3e

grading. The maintenance costs of Hawthorne Road will be assessed against each Hillside Lot as provided below.

2.3 Administration. This Agreement shall be administered by the HOA. The HOA shall have the authority to arrange for maintenance and repairs of Hawthorne Road as deemed necessary, provided however that any single expense in excess of $5,000 shall require the advance, written approval of the Hillside Lots, by a majority vote of the Hillside Lots as described in paragraph 2.4 below. The HOA shall also be in charge of paying bills related to the maintenance and repair of Hawthorne Road. Upon payment of such bills, the HOA will provide an invoice to all Hillside Lot owners with a request for reimbursement, or with a request for advance funding, with each of the Hillside Lot owners, which includes the HOA (owner of Tract 1) paying equal shares.

2.4 Voting Power. Decisions regarding the maintenance and operation of Hawthorne Road and as otherwise necessary in connection with this Agreement, shall be decided by a majority of the votes of the Hillside Lot Owners, with one (1) vote per Hillside Lot. Decisions regarding maintenance, service and improvements to Hawthorne Road, or modification or enforcement of this Agreement must be made by a majority vote of the owners of the Hillside Lots.

2.5 Grant of Easement. NCW hereby grants the owner(s) of the Hillside Lots nonexclusive, mutual, perpetual easement rights for use, maintenance, service and improvement of, ingress and egress over and on, and utilities under, Hawthorne Road, appurtenant to the Hillside Lots.

2.6 Construction Costs. The cost of the initial improvements to construct Hawthorne Road will be paid by NCW.

2.7 Assessments for Maintenance and Improvements. Each of the Hillside Lot owners, which includes the HOA (owner of Tract 1), shall be required to pay an equal share of all costs related to the maintenance, repair and/or improvement of Hawthorne Road. Should any owner of a Hillside Lot fail to pay an assessment, the HOA, or the remaining owners, or any individual owner, may, so long as the action to be taken is approved by a vote of enforcement pursuant to Paragraph 2.4:

a) File a lien against the Hillside Lot which dialed to pay and foreclose such lien as a mortgage;
b) Bring an action for monies owed; or
c) Seek injunctive relief.

2.8 Indemnification. Each owner within the Hillside Lots agrees to indemnify the other owners for that owner's assessed share the costs of maintenance, repair and/or improvement of Hawthorne Road and attorney's fees for enforcement, if any. Each owner of a Hillside Lot shall be responsible to pay and to indemnify the other owners for any damages caused by such owner, or such owner's guests or invitees, to Hawthorne Road. In addition, this indemnity provision shall not be construed to require

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that the underlying costs of an assessment be paid before the remaining owners have the right to enforce payment.

2.9 Future Subdivision. In the event any of the existing lots are subdivided, the responsibility for maintenance shall be reallocated.

2.10 Insurance. Each owner of the Hillside Lots is responsible for obtaining their own insurance for acts or omissions with regard to this Agreement.

2.11 Termination. This Agreement may be terminated by majority vote pursuant to Paragraph 2.4 only upon the City of Selah, or County of Yakima assuming responsibility for the road maintenance and upkeep.

2.12 Attorney's Fees and Venue. In the event any of the owners of the Hillside Lots must contact an attorney to settle a dispute involving this Agreement, or any portion thereof, the substantially prevailing party shall be entitled to collect all reasonable costs and expenses including, but not limited to, reasonable attorney's fees. The venue of any action taken to enforce any part of this Agreement shall be in Yakima County, Washington.

2.13 Successors and Assigns. This Agreement shall run with the land and be binding upon the owners, their heirs, successors and assigns and shall inure to the benefit of each owner within the real property described in paragraph 2.1 as the Hillside Lots.

DATED this _____ day of _____, 2020.

NCW DEVELOPMENT, LLC
A Washington Limited Liability Company

By_____
Bradley F. Selland, Manager

Jeffers, Danielson, Sonn & Aylward, P.S.
Attorneys at Law
2600 Chester Kimm Road / P.O. Box 1688
Wenatchee, WA 98807-1688
(509) 662-3685 / (509) 662-2452 FAX

DRAFT

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that BRADLEY F. SELLAND is the person who appeared before me and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Manager of NCW DEVELOPMENT, LLC, a Washington limited liability company, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this _____ day of _____, 2020.

_____
Typed/Printed Name _____
NOTARY PUBLIC
In and for the State of Washington
My appointment expires _____

Jeffers, Danielson, Sonn & Aylward, P.S.
Attorneys at Law
2600 Chester Kimm Road / P.O. Box 1688
Wenatchee, WA 98807-1688
(509) 662-3685 / (509) 662-2452 FAX

DRAFT

EXHIBIT "A"

Parcel A: 181426-33500

Tract "A" of the Plat of VAHALLA HEIGHTS PHASE 1, also shown of record as VALHALLA HEIGHTS PHASE 1, according to the Plat thereof recorded under Auditor's File No. 7614452, records of Yakima County, Washington.

Parcels B and C: 181435-21015 and 22001

The West half of the Northwest quarter of the Northeast quarter of the Northwest quarter AND the North half of the Northwest quarter of the Northwest quarter of Section 35, Township 14 North, Range18, E.W.M., Yakima County, Washington.

EXCEPT that portion of the above described property located in said Sections 26 and 35 described as follows: Beginning at the Northeast corner of the Northwest quarter of Section 35, Township 14 North, Range 18, E.W.M.; thence North 90°00'00" West along the North line thereof 1030.60 feet; thence North 58°00' West 130.00 feet; thence South 32°00' West 30.00 feet to the True Point of Beginning; thence continuing South 32°00' West 55.96 feet; thence South 57°20' West 115.27 feet; thence South 65°41' West 104.75 feet; thence North 0°49' West 294.28 feet, to a point bearing North 58°00' West from the True Point of Beginning; thence South 58°00' East 266.90 feet, to the True Point of Beginning.

Parcel D: 181435-22002

The South half of the Northwest quarter of the Northwest quarter of Section 35, Township 14 North, Range 18, E.W.M., Yakima County, Washington.
EXCEPT that portion described as follows: Beginning at the Southwest corner of the said subdivision; thence North 415 feet; thence South 60°30' East 300 feet; thence South 40°30' East 200 feet; thence South 56°30' East 100 feet; thence South 69°00' East 173 feet to the South line of said subdivision; thence West along the South line of said subdivision 637 feet to the Point of Beginning.
AND EXCEPT the West 400 feet of the South 330 feet of the Southeast quarter of the Northwest quarter of the Northwest quarter of said Section 35.
AND EXCEPT that portion of said premises for Selah Loop (Speyers) Road.
AND EXCEPT the South 60 feet of the East 208 feet of the South half of the Northwest quarter of the Northwest quarter of said Section 35.

AND

The West 34 feet of the East 240 feet as measured along the North line of that portion of the Southwest quarter of the Northwest quarter lying northerly of the northerly right of way line of Selah Loop (Speyers) Road in Section 35, Township 14 North, Range 18, E.W.M., Yakima County, Washington.

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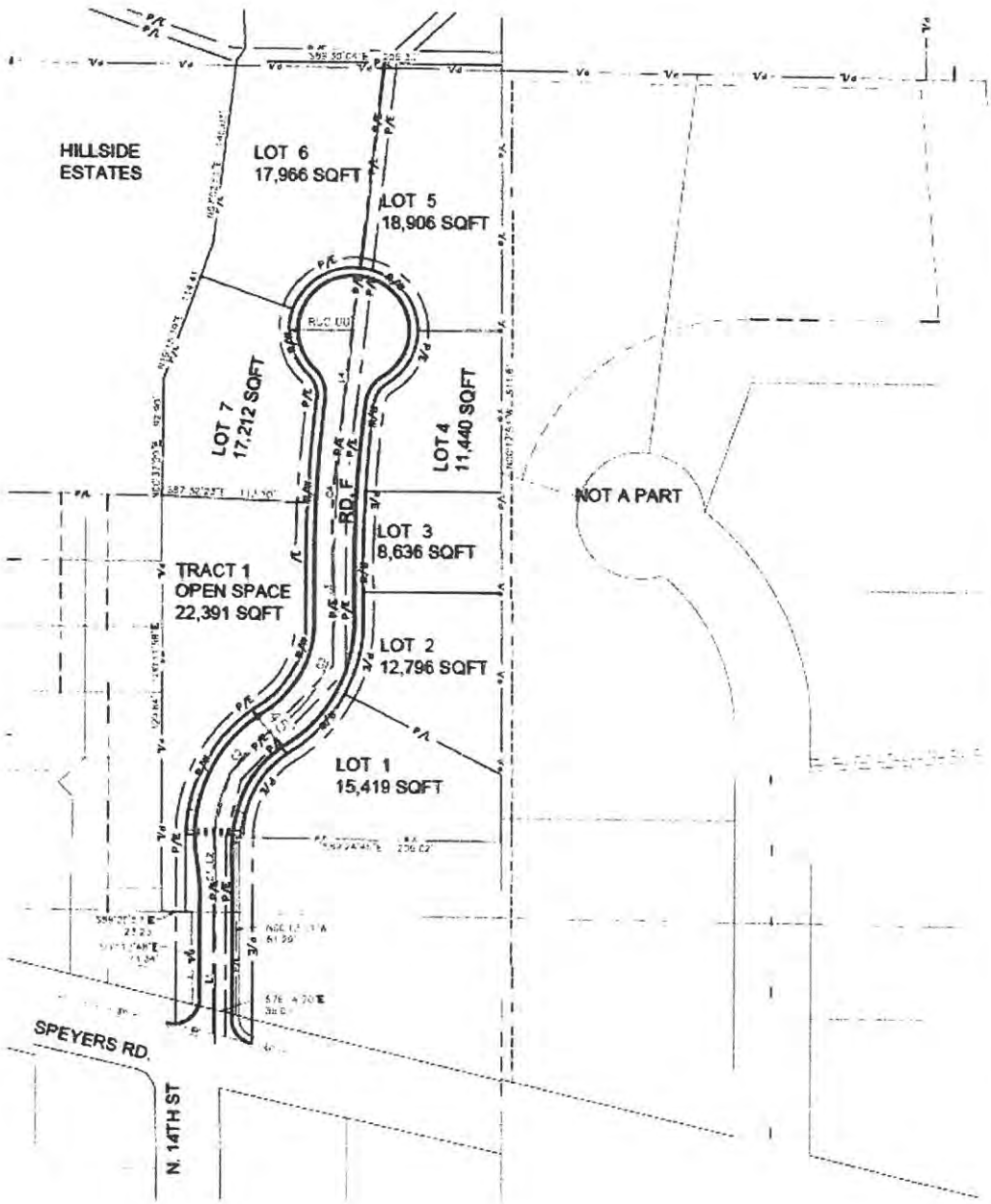
DRAFT

EXHIBIT "B"



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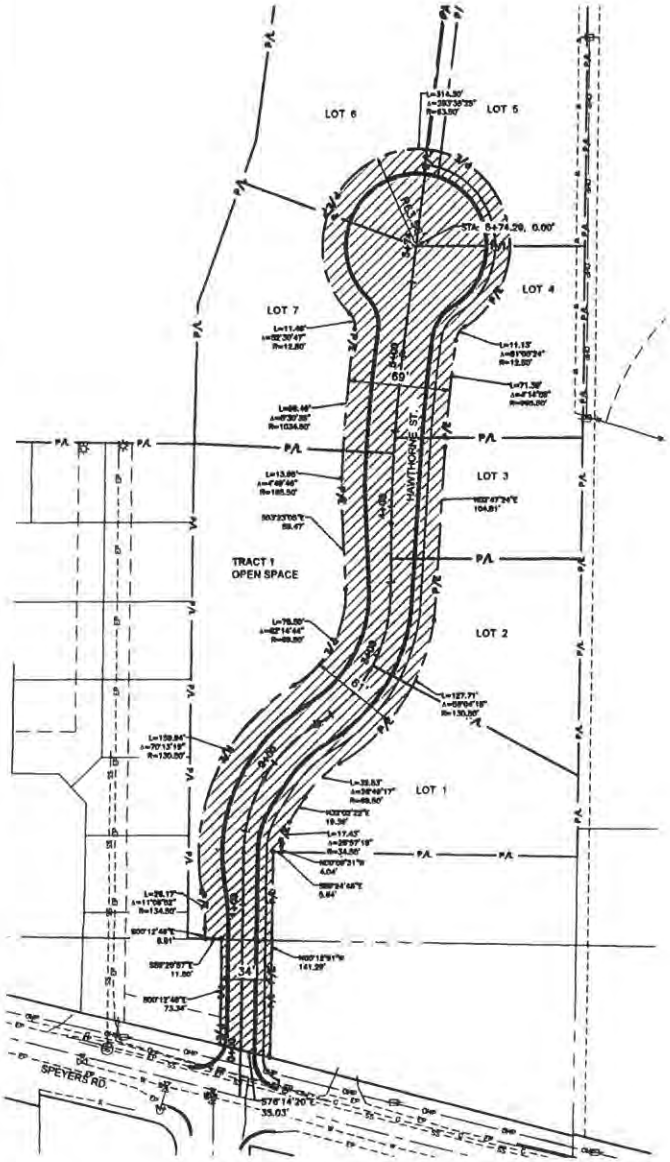
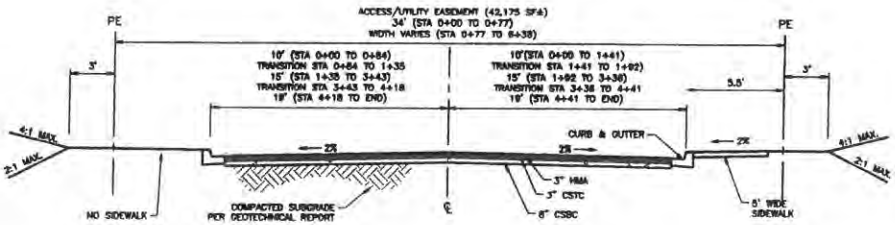
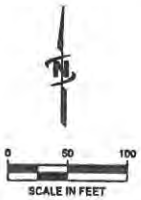




A ROADWAY SECTION
SCALE: 1"=4'

NOTE:
1. SIDEWALK, CURB AND GUTTER PER CITY OF SELAH STD DWG PER CODE SECTION 10.24.1209(b)(2)
2. NO PARKING FROM STA 0+00 TO 1+40
3. ONE-SIDED STREET PARKING STA 1+40 TO 4+35
4. DOUBLE SIDED PARKING STA 4+35 TO END



J-U-B ENGINEERS, INC.
2810 W. Clearwater Ave.
Suite 201
Kennewick, WA 99336
Phone: 509.783.2144
www.jub.com

PRELIMINARY PLANS

NOT FOR CONSTRUCTION

ISSUE OF DRAWINGS
J-U-B SHALL RETAIN ALL OWNERSHIP, COPYRIGHT, AND OTHER PROPERTY RIGHTS IN THESE DRAWINGS, AND THE SAME SHALL NOT BE USED, REPRODUCED, OR DISTRIBUTED, NOR SHALL THEY BE ISSUED WITHOUT WRITTEN CONSENT BY J-U-B. ALL OF CLIENT'S RULE SERVE WAS WITHOUT LIABILITY BY J-U-B, CONFORMS TO J-U-B.

NO.	DESCRIPTION	BY	DATE

HILLSIDE PUD
SELAH, WA

HAWTHORNE ST (PRIVATE)

FILE: 30-19-085_C-100A
JUB PROJ #: 30-19-085
DRAWN BY: —
DESIGN BY: —
CHECKED BY: —
1" ONE INCH
AT FULL SIZE, IF NOT ONE INCH, SCALE ACCORDINGLY
LAST UPDATED: 5/13/2020

SHEET NUMBER:
C-100A

Peters, Jeff

From:	Simon Sizer <ssizer@yakimaherald.com>
Sent:	Wednesday, April 22, 2020 10:44 PM
To:	Peters, Jeff
Cc:	Tucker, Brandy
Subject:	Re: City of Selah Legal Notice for publication on Friday April 24, 2020 - Hillside Estates Planned Development
Attachments:	FarleyAP-88-942140-1.pdf

Good evening. I have scheduled this legal notice for 4/24, for a cost of $244.20.

--

Simon Sizer | Legal & Obituary Clerk
Yakima Herald-Republic
114 North 4th Street, Yakima, WA 98901
P.O. Box 9668, Yakima, WA 98909
Phone: (509) 577-7740 | Fax: (509) 577-7766

From: Peters, Jeff <jeff.peters@selahwa.gov>
Sent: Wednesday, April 22, 2020 4:15 PM
To: Simon Sizer <ssizer@yakimaherald.com>
Cc: Tucker, Brandy <brandy.tucker@selahwa.gov>
Subject: City of Selah Legal Notice for publication on Friday April 24, 2020 - Hillside Estates Planned Development

Jeff Peters
Community Development Supervisor

CITY of SELAH
222 S. Rushmore Rd.
Selah, WA 98942
509-698-7366 Office
jeff.peters@selahwa.gov

Peters, Jeff

From: Stephanie Flowers <StephanieF@sellandconstruction.com>
Sent: Tuesday, April 28, 2020 2:45 PM
To: Peters, Jeff
Cc: Darral Moore
Subject: Hillside - Planned Development

Hi Jeff –
The intention was for Hawthorne Road in the Hillside Planned Development to be a public road.
Please let me know if you have any questions.

THANKS,

STEPHANIE FLOWERS, P.E.
SELLAND CONSTRUCTION, INC.
CELL: 509-881-7325

SELLAND
CONSTRUCTION

HTML has links - PDF has Authentication

PDF **WAC 197-11-965**

Adoption notice.

ADOPTION OF EXISTING ENVIRONMENTAL DOCUMENT

Adoption for (check appropriate box) □ DNS □ EIS □
other . . . .

Description of current proposal . . . .

. . . .

Proponent . . . .

Location of current proposal . . . .

. . . .

. . . .

Title of document being adopted . . . .

Agency that prepared document being adopted

. . . .

Date adopted document was prepared . . . .

Description of document (or portion) being adopted . . . .

. . . .

. . . .

If the document being adopted has been challenged (WAC **197-11-630**), please describe:

. . . .

The document is available to be read at (place/time) . . . .

. . . .

We have identified and adopted this document as being appropriate for this proposal after independent review. The document meets our environmental review needs for the current proposal and will accompany the proposal to the decision maker.

Name of agency adopting document . . . .

Contact person, if other than responsible official . . . . Phone . . . .

Responsible official . . . .

Position/title . . . . Phone . . . .

Address . . . .

Date . . . . Signature . . . .

CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY

Council Meeting	Action Item
11/24/2020	L – 2

Title: Open Record Public Hearing to discuss the proposed 2021 Budget for the City of Selah.

From: Dale Novobielski, Clerk/Treasurer

Action Requested: Public Hearing - Open Record

Staff Recommendation:

Conduct Public Hearing

Board/Commission Recommendation: Not Applicable

Fiscal Impact: See budget.

Funding Source: See budget.

Background / Findings & Facts: To gather input concerning the proposed 2021 Budget for the City of Selah.

Recommended Motion: N/A

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

Date:	Action Taken:
10/13/2020	Public Hearing on Revenue Sources for the 2021 Budget

CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY

Council Meeting	Action Item
11/24/2020	N – 1

Title: Resolution Approving the Preliminary Plat of "Hillside Estates" (PLP-2020-002) and Adopting Findings and Conditions of Preliminary Plat Approval.

From: Jeff Peters, Community Development Supervisor

Action Requested: Approval

Staff Recommendation: Approve accompanying resolution.

Board/Commission Recommendation: Approval

Fiscal Impact: None

Funding Source: None

Background / Findings & Facts: The Hearing Examiner conducted an open record public hearing on May 19, 2020. On June 9, 2020, the Examiner issued his Findings and Conclusions recommending approval of the Rezone of the subject property to Planned Development, and Hillside Estates Preliminary Plat subject to conditions and the provisions of SMC 10.24.

Recommended Motion: I move that the Council adopt the accompanying resolution accepting the Hearing Examiner's recommendation to approve the Hillside Estates Planned Development and Preliminary Plat.

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

Date:	Action Taken:
5/19/2020	Hearing Examiner Open Record Public Hearing

RESOLUTION NO. _____

RESOLUTION APPROVING THE PRELIMINARY PLAT OF "HILLSIDE ESTATES" (PLP-2020-002) AND ADOPTING FINDINGS AND CONDITIONS OF PRELIMINARY PLAT APPROVAL

WHEREAS, on November 24, 2020, the City of Selah City Council considered Preliminary Plat No. PLP-2020-002 known as "Hillside Estates" located in the vicinity of West Goodlander, Lander, and Speyers Roads Selah, WA. Yakima County Taxation Parcel Number: 181435-22002; and,

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

WHEREAS, the Hearing Examiner recommended approval of the Planned Development, Rezone, and Subdivision subject to 34 conditions of approval; and,

WHEREAS, the City of Selah Council is persuaded that the Planned Development meets the requirements of Chapter 10.24 SMC and has adopted the Hearing Examiner's recommendation that the Preliminary Plat be conditioned as recommended by the Examiner; and,

WHEREAS, the City of Selah Council has considered the Hearing Examiner's findings of fact and conclusions dated June 9, 2020, and the City staff report dated May 19, 2020, and the Council is satisfied that the matter has been sufficiently considered; and,

WHEREAS, the City Council adopts the Findings and Conclusions of the Hearing Examiner's Recommendation dated June 9, 2020; and,

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

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

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON that Preliminary Plat No. PLP-2020-002 designated as "Hillside Estates" be approved, that the Hearing Examiner's Findings and Conclusions supporting approval of the proposal be adopted with a date of June 9, 2020, with (34) specific conditions contained in said Findings and Conclusions.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON this 24th day of November, 2020.

_____
Sherry Raymond, Mayor

ATTEST:

_____
Dale E. Novobielski, Clerk/Treasurer

APPROVED AS TO FORM:

_____
Rob Case, City Attorney

CONDITIONS OF PRELIMINARY PLAT APPROVAL

A. ZONING MAP AMENDMENT:

1. Planned Development Overlay zoning shall be applied to Parcel 181435-22002. In the event that there i5 any variation in the area of the subject lot, the City may at its discretion, use the minor rezone process to modify the zoning designation to conform to such change.

2. The applicant shall have a legal description of the area subject to the zone change prepared and submitted prior to final action by the City Council on the legislative zoning amendment.

B. GENERAL CONDITIONS:

1. In accordance with SMC § 10.50.041 and the applicant's preliminary plat, the applicant shall submit and gain approval of civil engineered plans which provide for design of all development standards, including but not limited to curb, gutter, sidewalk, street lighting, storm water, and street design. A detailed parking plan is not required so long as proposed single-family residential development provides for at least two off-street parking spaces per unit and streets wide enough to provide for on-street parking in accordance with City standards.

2. Prior to final plat approval, the applicant shall submit an overall geotechnical analysis/study showing stability of filled areas to the satisfaction of the City of Selah's Public Works Director. All lots shall require compaction reports prior to construction.

3. Finished slopes shall be no steeper than 2:1 (horizontal to vertical) and provisions made for vegetating slopes greater than 15% by hydro-seeding with native, drought-tolerant plant species as described in the Planned Development Plan. As an alternative to vegetation, an engineered retaining

wall or combination of walls may be installed. Building permits are required.

4. All lots shall be served with public water from the City of Selah in accordance with SMC 10.50.045. No individual domestic or irrigation wells shall be used to serve any of the lots.

5. All lots shall be provided with public sewer service in accordance with SMC § 10.50.045.

6. All mitigation measure specified in the Mitigated Determination of Non-significance issued March 25, 2020 by of City of Selah under file SEPA-2020-001 are hereby incorporated as conditions of this subdivision approval, and shall be complied with in their entirety.

7. All proposed construction is subject to plan review, inspections, and building permits.

8. The subject-planned development/plat is located within the Selah Naches Irrigation. Irrigation district approval required upon the face of the final plat.

9. All required air quality permits shall be obtained from the Yakima Regional Clean Air Agency. The developer shall designate a responsible party to serve as contact for suspected air quality violations during working hours.

10. A final binding stormwater/drainage control plan for the entire development and street shall be submitted and approved by the City's Public Works Department prior to construction of improvements for any area of the development. A construction stormwater permit shall also be secured from the Washington Department of Ecology; all plans shall meet the provisions of SMC § 9.24.020.

C. PLANNED DEVELOPMENT CONDITIONS:

1. As a condition of the Planned Development, Road "F" shown on the preliminary plat drawing dated March 12, 2020 shall be a private street and shall never be accepted by the City of Selah as a public street, unless first brought into compliance with City standards in its entirety prior to dedication.

2. The developer shall submit the completed Home Owner's Association and Common Area Maintenance Plan and proposed Covenants, Conditions and Restrictions to the City of Selah Public Works Director for review and approval outlining how the internal streets and Tract 1 Open Space tract as depicted on the preliminary plat will be maintained. These documents shall be recorded following approval of the PD overlay zone and preliminary plat, and prior to the approval of the final plat.

3. The developer shall submit a revised grading and landscape plan for Tract 1 Open Space either lessening the overall grade of the open space tract, or providing a plan for a walking path with rest areas/picnic stops.

4. Land uses and development in the PD overlay zone shall be subject to all applicable requirements of the Planned Development Plan and this decision. No facilities or structures that are not provided in the planned development shall be developed on the subject property based on this approval.

5. All structural development shall comply with the setback minimum standards set out in SMC 10.24.100(a).

6. Permitted Land uses are as stated in the Planned Development Plan and other land uses permitted in the R-1 zone using the level of review (Class 1, 2 or 3) provided in Title 10 SMC; *provided,* any change of land use or density of any lot (i.e., from residential, open space) shall require modification

in accordance with SMC 10.24.140.

7. Modifications to the adopted master development plan may be requested from time to time and shall follow the requirements of SMC § 10.24.140.

D. Subdivision Conditions:

1. A current title certificate shall be submitted to the City of Selah, Planning Department, consisting of a report listing all parties having an interest in the land to be divided and a legal description of the land.

2. This plat shall be subject to the following notes, which must be placed on the face of the plat:

a. The addresses shown on this plat are accurate as of the date of recording, but may be subject to change. The City of Selah Building Codes Division is responsible for the confirmation or reassignment of addresses at the time of building permit issuance.

b. 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.

c. The streets within this plat are private and do not meet the standards for public streets. If the streets are ever to be made public, they will have to be reconstructed to meet the City Standards at that time.

3. The developer shall submit detailed plans for frontage improvements, the private road, and water and sewer connections to the City of Selah Public Works Director for approval prior to approval of the preliminary plat, and shall build or bond said improvements prior to approval of the final plat per Ch. 10.50 SMC.

4. Prior to approval of the Preliminary Plat, the developer shall submit a revised plat to the City of Selah Public Works Director for review and approval and providing for the dedication of all utility easements.

5. All addresses shall be as specified in the following table and must be clearly shown on the face of the final plat. In addition, the following note shall be placed upon the face of the final plat: "The addresses shown on this plat are accurate as of the date of recording, but may be subject to change". The City of Selah Planning Department is responsible for the confirmation or reassignment of addresses at the time of building permit issuance.

Lot 1	703 Hawthorne
Lot 2	705 Hawthorne
Lot 3	707 Hawthorne
Lot 4	709 Hawthorne
Lot 5	711 Hawthorne
Lot 6	710 Hawthorne
Lot 7	708 Hawthorne

6. Minimum eight-foot-wide utility easements shall be dedicated along the frontage of each lot in the subdivision (SMC § 10.50.045 (c)).

7. Easements for new and/or future utilities not located along the lot frontage shall be a minimum of 16-feet in width and centered on a side or rear lot line meeting the requirement s of SMC 10.50.045 (c).

8. All public and private utilities to be located within the private road right-of-way must be installed or financially secured prior to final plat approval.

9. All public and private utilities shall be located underground, with the exception of telephone boxes and such similar structures.

10. Fire hydrants Shall be placed at the locations Specified by the City of Selah Public Works and Selah Fire Department. All lots must be provided with adequate fire flow.

11. The Final Plat shall be prepared by a land surveyor, registered in the State of Washington, and contain all requirements of SMC 10.50.053-060 and comply with all applicable conditions.

12. Upon preliminary plat approval, the applicant has five years to submit the final plat. Thereafter, 30 days prior to the expiration of said approval the applicant must submit to the City Council a written request asking to extend the approval period for a maximum period of one year.

CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY

Council Meeting	Action Item
11/12/2019	N – 2

Title: Resolution Declaring and Accepting the "West Goodlander Road Resurfacing and Sidewalk Improvements TIB Project Number P-E-182(P01)-1 / 3-E-182(005)-1" as Complete

From: Joe Henne, Public Works Director

Action Requested: Approval

Staff Recommendation: To approve the attached Resolution that declares and accepts the "West Goodlander Road Resurfacing and Sidewalk Improvements TIB Project Number P-E-182(P01)-1 / 3-E-182(005)-1" as complete.

Board/Commission Recommendation: Not Applicable

Fiscal Impact: $142,622.66 Final Payment to Contractor and Retainage in the amount of $17,589.57 after the Close out Requirements have been met.

Funding Source: 111

Background / Findings & Facts: The City contracted with Central Paving LLC for the "West Goodlander Resurfacing and Sidewalk Improvements TIB Project Number P-E-182(P01)-1 / 3-E-182(005)-1". Final Payment is due now, and the retainage will be released after required labor documents have been received from Central Paving LLC and also after the four (4) conditions listed in the attached "HLA Final Progress Estimate and Project Acceptance" are completed.

Recommended Motion: To Authorize the Mayor to sign the attached Resolution Declaring and Accepting the "West Goodlander Road Resurfacing and Sidewalk Improvements TIB project number P-E-182(P01)-1 / 3-E-182(005)-1" as complete

CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY

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

Date:	Action Taken:
5/26/2020	Resolution Authorizing the Mayor to sign a Construction Contract between the City of Selah and Central Paving, LLC, of Ellensburg Washington, for the West Goodlander Road Improvements, Transportation Improvement Board (TIB) Projects P-E-182(P01)-1 and 3-E-182(005)-1.

RESOLUTION NO. _____

RESOLUTION DECLARING AND ACCEPTING THE "WEST GOODLANDER ROAD RESURFACING IMPROVEMENTS TIB PROJECT NUMBER P-E-182(P01)-1 / 3-E-182(005)-1" AS COMPLETE

WHEREAS, the City of Selah wishes to declare and accept the "West Goodlander Road Resurfacing and Sidewalk Improvements TIB Project Number P-E-182(P01)-1 / 3-E-182(005)-1" as complete; and

WHEREAS, the City wishes to proceed with the "Notice of Completion of Public Works Contract" process;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, that the Mayor is authorized to declare and accept the "West Goodlander Road Resurfacing and Sidewalk Improvements TIB project number P-E-182(P01)-1 / 3-E-182(005)-1" as complete.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, this 24th day of November 2020.

ATTEST:

_____
Sherry Raymond, Mayor

_____
Dale Novobielski, Clerk Treasurer

APPROVED AS TO FORM:

_____
Rob Case, City Attorney

HLA
Engineering and Land Surveying, Inc.

November 6, 2020

Received

NOV 09 2020

By _____
City of Selah
Planning Dept.

City of Selah
222 So. Rushmore Road
Selah, WA 98942

Attn: Mr. Joe Henne
Director Public Works

Re: City of Selah
WEST GOODLANDER ROAD IMPROVEMENTS
TIB Project No.: P-E-182(P01)-1 / 3-E-182(005)-1
HLA Project No.: 20026C / 20027C
Final Progress Estimate and Project Acceptance

Dear Joe:

Enclosed is Progress Estimate No. 3 designated as the Final for work performed by Central Paving, LLC, through September 28, 2020, in connection with their contract on the above referenced project. The amount due the Contractor of $142,622.66 is net after retainage, as per the contract documents. We recommend this Final Progress Estimate be considered and accepted by the Selah City Council.

This letter also serves as our recommendation for acceptance of this project by the City of Selah. We have reviewed the work performed by Central Paving, LLC on this project and believe it has been completed satisfactorily. Please provide us a copy of the Council resolution authorizing project acceptance.

Enclosed for your action is the "Notice of Completion of Public Works Contract" to be completed and sent to the Department of Revenue, Department of Labor and Industries, and Employment Security Department in Olympia. Forward one (1) copy each of the Notice of Completion to the Department of Revenue, Department of Labor and Industries, and the Employment Security Department as soon as the Selah City Council has accepted the project.

The retainage on this project in the amount of $17,589.57 should be released to Central Paving, LLC, after acceptance of the project and when the following conditions have been satisfied:

1. There are no liens or claims for labor and materials furnished on this project filed against the retainage.

2. A full sixty (60) days have elapsed since the official acceptance of this project by the City of Selah.

3. The City has received Notice of Completion clearance from the Department of Revenue, Department of Labor and Industries, and the Employment Security Department relative to this contract. Please provide a copy of each to our office.

G:\PROJECTS\2020\20026C - 20027C SE W GOODLANDER - CENTRAL PAVING\PROGRESS ESTIMATES\FINAL PROG EST NO 3\2019-09-18 EXAMPLE REVISED FINAL DOCS W RETAINAGE.docx

4. The City has received the following from HLA Engineering and Land Surveying, Inc. (HLA):

   a. HLA has confirmation that all punch list items identified during the final walk-through inspection have been completed.

   b. HLA has emailed a neatly marked 11" x 17" set of record drawings to the City of Selah on 09/17/20.

   c. A notarized certificate from the Contractor which states that all labor and materials furnished on this project have been paid for is attached.

   d. The required project labor and equal employment opportunity documents will be saved on a thumb drive and delivered to the City of Selah on November 9, 2020.

We would appreciate receiving a copy of your Council Resolution authorizing release of retainage.

Please contact this office if you have questions or if we may furnish additional information.

Very truly yours,

Stephen S. Hazzard, PE

SSH/mlh

Enclosures

Copy: Joel Greear, Central Paving, LLC (Email)
Marcy Howard, HLA (Hard Copy)
Caroline Fitzsimmons, HLA (Email)

NOTARIZED STATEMENT

TO THE

City of Selah

I hereby certify that

a) All materials and labor used and performed in the construction of the WEST GOODLANDER ROAD IMPROVEMENTS – Project Number 20026C / 20027C, for the City of Selah, have been paid in full and there are no liens or other legal actions pending;

b) Central Paving, LLC, has complied with the provisions of Section 1-07.19 (Gratuities) of the Standard Specifications; and

c) All industrial insurance premiums, as required under RCW 51.12.050 (Public Works) and RCW 51.12.070 (work done by contract) have been paid.

by _____

Joel breear - Managing Member
Name and Title *(Please print or type)*

Central Paving, LLC
Contractor

STATE OF Washington)
) SS
COUNTY OF Kittitas)

Taylor Wilson
COMMISSION EXPIRES 06/03/2023
NOTARY
PUBLIC
License Number 208108
STATE OF WASHINGTON

SIGNED AND SWORN TO (OR AFFIRMED) BEFORE ME ON 12th October, 20 20.

BY _____.
(Signature)

Notary Public Printed Name: Taylor Wilson

My Appointment Expires: 06/03/2023

(Please return completed CERTIFICATION form to HLA)

City of Selah
222 So. Rushmore Road
Selah, WA 98942

TO: Central Paving, LLC
1410 W. Dolarway Road
Ellensburg, WA 98926

WEST GOODLANDER ROAD IMPROVEMENTS
TIB Project No.: P-E-182(P01)-1 / 3-E-182(005)-1
HLA Project No.: 20026C / 20027C

Progress Estimate No.: 3 AND FINAL

Date: September 28, 2020

Item No.	Description	Unit	Contract Quantity	Unit Price	Estimate 3 Quantity	Quantity to Date	Amount	Contract Quantity
SCHEDULE A - RESURFACING IMPROVEMENTS (TIB PROJECT NO. 3-E-182(005)-1)								
1	Minor Change	FA	EST.	$5,000.00	0.00	0.00	$0.00	0%
2	Mobilization	LS	1	$20,000.00	0%	100%	$20,000.00	100%
3	Project Temporary Traffic Control	LS	1	$14,000.00	21%	100%	$14,000.00	100%
4	Unclassified Excavation Incl. Haul	CY	35	$100.00	0	36	$3,600.00	103%
5	Planing Bituminous Pavement	SY	1,150	$11.00	0	1,150	$12,650.00	100%
6	Crack Seal	FA	EST.	$15,000.00	745.36	6,999.21	$6,999.21	47%
7	HMA for Preleveling Cl. 3/8-Inch PG 64S-28	TON	100	$85.00	128.08	128.08	$10,886.80	128%
8	HMA Cl. 3/8-Inch PG 64S-28	TON	1,125	$85.00	1,183.19	1,183.19	$100,571.15	105%
9	Adjust Manhole	EA	12	$800.00	12	12	$9,600.00	100%
10	Adjust Valve Box	EA	13	$500.00	14	14	$7,000.00	108%
11	Inlet Protection	EA	9	$100.00	0	9	$900.00	100%
12	Landscape Restoration	FA	EST.	$1,000.00	233.89	233.89	$233.89	23%
13	Adjust Monument Case and Cover	EA	5	$750.00	4	4	$3,000.00	80%
14	Cement Conc. Curb Ramp	EA	3	$1,320.00	0	3	$3,960.00	100%
15	Pavement Markings	LS	1	$1,980.00	100%	100%	$1,980.00	100%
						SUBTOTAL	$195,381.05	
SCHEDULE B - SIDEWALK IMPROVEMENTS (TIB PROJECT NO. P-E-182(P01)-1)								
16	Minor Change	FA	EST.	$5,000.00	0.00	0.00	$0.00	0%
17	Mobilization	LS	1	$2,000.00	0%	100%	$2,000.00	100%
18	Project Temporary Traffic Control	LS	1	$3,000.00	0%	100%	$3,000.00	100%
19	Clearing and Grubbing	LS	1	$2,000.00	0%	100%	$2,000.00	100%
20	Unclassified Excavation Incl. Haul	CY	45	$100.00	0	47	$4,700.00	104%
21	Select Backfill, As Directed	CY	105	$40.00	0	105	$4,200.00	100%
22	Crushed Surfacing Top Course	TON	100	$60.00	0	106.60	$6,396.00	107%
23	Landscape Restoration	FA	EST.	$1,500.00	843.37	843.37	$843.37	56%
24	Cement Conc. Traffic Curb and Gutter	LF	510	$20.35	0	519	$10,561.65	102%
25	Chain Link Fence Type 4	LF	150	$40.00	151	151	$6,040.00	101%
26	Cement Conc. Sidewalk 6-Inch Thick	SY	85	$71.50	0	121	$8,651.50	142%
27	Cement Conc. Sidewalk 4-Inch Thick	SY	240	$44.00	6	251	$11,044.00	105%
28	Cement Conc. Curb Ramp	EA	4	$1,320.00	0	4	$5,280.00	100%
29	Mailbox Support, Type 1	EA	3	$550.00	3	3	$1,650.00	100%
30	Mailbox Support, Type 2	EA	1	$825.00	1	1	$825.00	100%
31	Retaining Wall	SF	1,500	$35.00	0	1,452	$50,820.00	97%
						SUBTOTAL	$118,011.52	

Item No.	Description	Unit	Contract Quantity	Unit Price	Estimate 3 Quantity	Quantity to Date	Amount	Contract Quantity
SCHEDULE C - WIDENING IMPROVEMENTS (LOCAL)								
32	Minor Change	FA	EST.	$5,000.00	0.00	0.00	$0.00	0%
33	Mobilization	LS	1	$2,000.00	0%	100%	$2,000.00	100%
34	Project Temporary Traffic Control	LS	1	$3,000.00	0%	100%	$3,000.00	100%
35	Unclassified Excavation Incl. Haul	CY	240	$40.00	0	240	$9,600.00	100%
36	Crushed Surfacing Top Course	TON	525	$40.00	42.78	549.26	$21,970.40	105%
37	HMA Cl. 3/8-Inch PG 64S-28	TON	20	$85.00	21.51	21.51	$1,828.35	108%
						SUBTOTAL	$38,398.75	
						SUBTOTAL, WORK TO DATE	$351,791.32	
						PLUS MATERIALS ON HAND	$0.00	
						SUBTOTAL AMOUNTS	$351,791.32	
						TOTAL	$351,791.32	
						LESS TOTAL RETAINAGE	$17,589.57	
						LESS AMOUNTS PREVIOUSLY PAID	$191,579.09	
						AMOUNT NOW DUE	$142,622.66	

Progress Estimate No. 1 $	9,703.61	Retainage $	510.72
Progress Estimate No. 2 $	181,875.48	Retainage $	9,572.39
Progress Estimate No. 3 AND FINAL $	142,622.66	Retainage $	7,506.46

I hereby certify that the foregoing is a true and correct statement of the work performed under this Contract.

Stephen S. Hazzard, PE

ACCEPTED:

I hereby accept the Final Progress Estimate and Final Contract Voucher Certification, in accordance with Section 1-09.9 of the WSDOT Standard Specifications.

Central Paving, LLC

Date: 10/12/2020

HLA ENGINEERING AND LAND SURVEYING, INC.

DATE: September 28, 2020
Progress Estimate No.: 3 AND FINAL

CITY OF SELAH
PROJECT NAME: WEST GOODLANDER ROAD IMPROVEMENTS

HLA PROJECT NO.: 20026C, 20027C
PRIME CONTRACTOR: CENTRAL PAVING, LLC
DESCRIPTION: SUMMARY OF COSTS

FORCE ACCOUNT SUMMARY

DATE	LOCATION	COST	COST TO DATE	COMMENTS
SCHEDULE A - RESURFACING IMPROVEMENTS (TIB PROJECT NO. 3-E-182(005)-1 - BID ITEM 1 - MINOR CHANGE				
			$0.00	
SCHEDULE A - RESURFACING IMPROVEMENTS (TIB PROJECT NO. 3-E-182(005)-1 - BID ITEM 6 - CRACK SEAL				
8/5/20	STA 3+00 - 34+00	$998.76	$998.76	***CENTRAL*** **-** CRACK SEAL.
8/5/20	STA 3+00 - 34+00	$2,446.82	$3,445.58	***STRIPE RITE*** **-** FLAGGING FOR CRACK SEAL WORK.
8/6/20	STA 3+00 - 34+00	$998.76	$4,444.34	***CENTRAL*** **-** CRACK SEAL.
8/6/20	STA 3+00 - 34+00	$2,554.87	**$6,999.21**	***STRIPE RITE*** **-** FLAGGING FOR CRACK SEAL WORK.
SCHEDULE A - RESURFACING IMPROVEMENTS (TIB PROJECT NO. 3-E-182(005)-1 - BID ITEM 12 - LANDSCAPE RESTORATION				
9/3/20	STA 18+00	$233.89	**$233.89**	***CENTRAL*** **-** SHOULDER WORK.
SCHEDULE B - SIDEWALK IMPROVEMENTS (TIB PROJECT NO. P-E-182(P01)-1 - BID ITEM 16 - MINOR CHANGE				
			$0.00	
SCHEDULE B - SIDEWALK IMPROVEMENTS (TIB PROJECT NO. P-E-182(P01)-1 - BID ITEM 23 - LANDSCAPE RESTORATION				
9/4/20	STA 21+20	$307.11	$307.11	***CENTRAL*** **-** INSTALL ECOLOGY BLOCKS FOR DRIVEWAY.
9/8/20	STA 23+00	$450.69	$757.80	***CENTRAL*** **-** REMOVAL OF CONCRETE.
9/8/20	STA 22+00	$85.57	**$843.37**	***STRIPE RITE*** **-** CHANGE OUT MAILBOX.

DATE	LOCATION	COST	COST TO DATE	COMMENTS
SCHEDULE C - WIDENING IMPROVEMENTS (LOCAL) - BID ITEM 32 - MINOR CHANGE				
			$0.00	

cc: Central Paving, LLC
Stephen Hazzard, PE, HLA
Eric Hovorka, HLA

City of Selah
WEST GOODLANDER ROAD IMPROVEMENTS
20026C / 20027C
Central Paving, LLC
Contractor's Phone No.: (509) 929-1044

PROJECT CLOSING CHECK LIST

**Dale:*

	Date Received/Sent:
▪ **The City has received the following from HLA Engineering and Land Surveying, Inc.:**	Emailed / Delivered
○ **Final Progress Estimate:**	11/09/20, " "
○ **Notice of Completion of Public Works Contract DOR/L&I/ESD:**	" "
○ **Notarized Statement:**	" "
○ **Confirmation that all Punch List items complete:**	✓
○ **Record Drawings:**	Emailed 09/17/20
Labor and equal employment opportunity documents:	
○ **Statement of Intent / Affidavit of Wages paid approved by the State Department of Labor and Industries:**	Delivered 11/09/20
○ **Certified payrolls for the Contractor and Sub-contractor:**	N/A
▪ **Council resolution authorizing project acceptance:**	
○ **Copy sent to HLA (mhoward@hlacivil.com):**	
▪ **Sent 1 copy of Notice of Completion of Public Works Contract to Department of Revenue:**	
○ **Received WS Department of Revenue Cert of Payment Of State Excise Taxes by PW Contractor release:** *(Example Copy Attached)*	
○ **Copy sent to HLA (mhoward@hlacivil.com):**	
▪ **Sent 1 copy of Notice of Completion of Public Works Contract to Employment Security Department:**	
○ **Received WS Employment Security Dept Cert of Payment of Contribution.... PW Contract release:** *(Example Copy Attached - Form EMS 8449 760 R3-98)*	
○ **Copy sent to HLA (mhoward@hlacivil.com):**	
▪ **Sent 1 copy of Notice of Completion of Public Works Contract to Department of Labor and Industries:**	
○ **Received Dept. of Labor & Industries Cert of Payment Of Industrial Insurance Premiums by PW Contractor release:** *(Example Copy Attached)*	
○ **Copy sent to HLA (mhoward@hlacivil.com):**	
▪ **There are no liens or claims for labor and materials filed against retainage:**	
▪ **A full sixty (60) days have elapsed since the official acceptance of this project by the City Council:**	
▪ **Released Retainage ($17,589.57):**	
○ **Copy sent to HLA (mhoward@hlacivil.com):**	

Employment Security Department
WASHINGTON STATE
P.O. Box 9046 Olympia, WA 98507-9046 | Fax 360-902-9287

CITY OF TIETON
Attn: Fred Munoz
PO BOX 357
TIETON, WA98947

) CERTIFICATE OF
) PAYMENT OF CONTRIBUTIONS
) PENALTIES AND INTEREST ON
) PUBLIC WORKS CONTRACT

ES Reference #: 26524800 7
UBI No: 600202757

CONTRACTOR:
SCHNEIDER EQUIPMENT INC
21881 RIVER RD NE
SCHNEIDER EQUIPMENT INC
SAINT PAUL, OR 97137-9508

The Employment Security Department hereby certifies those contributions, penalties and interest due from the above named contractor under the Employment Security Act have been paid in full or provided for with respect to the following public works contract:

Description: Well No 4 Drilling Casing and Testing.

Contract number: 18042A-C

The Employment Security Department hereby certifies that it has no claim pursuant to RCW 50.24.130 against the public body named above for tax attributable to service performed for said public body by the above named contractor on the above described contract. The Employment Security Department releases its lien on the retained percentage which is provided by RCW 60.28.040 for contributions, penalties and interest due from said contractor.

This certificate does not release said contractor from liability for additional contributions, penalties and interest which may be later determined to be due with respect to the above mentioned contract.

Dated at Olympia, Washington on March 27, 2019.

EMPLOYMENT SECURITY DEPARTMENT

Original - Disbursing Officer
Duplicate - Employer
Triplicate - Central Office Files

SAMPLE

STATE OF WASHINGTON
DEPARTMENT OF REVENUE

TOWN OF TIETON
C/O CLERK-TREASURER
PO BOX 357
TIETON WA 98947-0357

February 14, 2019
Letter ID: L0008528918
UBI: 600-202-757
Account ID: 600-202-757
Account Type: Excise Tax

We hereby certify that taxes, increases and penalties due or to become due from the contractor listed below under Chapter 180, Laws of 1935, as amended, with respect to the following publics works contract:

SCHNEIDER WATER SERVICES

CITY OF TIETON
WELL NO 4-DRILLING, CASING, AND TESTING
CONSTRUCTION OF A NEW PORTABLE WATER WELL TO PROVIDE A SOURCE OF GROUNDWATER FOR MUNICIPAL USE BY THE CITY OF TIETON. WELL CONSTRUCTION WILL INCLUDE A SURFACE SEAL, GROUTING, CASING, WELL SCREEN, DEVELOPMENT, DISINFECTION, PUMPING TESTS, AND SITE CLEANUP.

has been paid in full, or is in the Department's opinion readily collectible without recourse to the state's lien on the retained percentage.

This certificate is issued pursuant to the provision of Chapter 60.28 Revised Code of Washington for the sole purpose of informing the state, county, or municipal officer charged with the duty of disbursing or authorizing the payment of public funds to said contractor that the Department of Revenue hereby releases the state's lien on the retained percentage provided by this Chapter for excise taxes due from said contractor.

This certificate does not release said contractor from liability for additional tax that may be later determined to be due with respect to the above-mentioned contract or other activities.

Dated February 14, 2019 at Olympia, Washington,

Bettie Van Horn

Certifying Officer

STATE OF WASHINGTON

DEPARTMENT OF LABOR AND INDUSTRIES

PO Box 44274 Olympia, Washington 98504-4274

February 20, 2019

TIETON, CITY OF
PO BOX 357
TIETON WA 98947

2350031000040002000000000

CERTIFICATE TO RELEASE L&I'S HOLD ON RETAINAGE

The Washington State Department of Labor & Industries is granting approval to release our hold on the retained amount for **WELL NO. 4 - DRILLING, CASING AND TESTING, Contract HLA No. 18042A**, **Affidavit 824949** to the following contractor:

SCHNEIDER EQUIPMENT INC	514,763-00	600 202 757

We have determined that all workers' compensation premiums, increases, and penalties for this contractor have been paid in full or are readily collectible without recourse to the retained funds, per chapter 60.28 RCW.

The contractor may still be liable for payment if we later determine they owe additional premiums related to this contract or other activities.

Before final payment can be made to the contractor, you will also need to receive releases from the Departments of Revenue and Employment Security Department in addition to ensuring:

- All liens against retainage have been satisfied
- All *Affidavit of WagesPaid* forms have been filed

Thank you,

Wendy Bowe
Contract Release Specialist
(360)902-5772
MCWE235@LNI.WA.GOV

cc: SCHNEIDER EQUIPMENT INC
21881 RIVER RD NE
ST PAUL OR 97137

Sample

HLA
Engineering and Land Surveying, Inc.

* TRANSMITTAL *

Phone: (509) 966-7000 / FAX: (509) 965-3800
2803 River Road, Yakima, WA 98902

Date: November 9, 2020 **Project No.:** 20026C/20027C

To: City of Selah
222 So. Rushmore Road
Selah, WA 98942

Attention: Joe Henne

From: Rachelle Evans

Re: City of Selah
WEST GOODLANDER ROAD IMPROVEMENTS
Labor Documents

The enclosed binder includes the following labor documents for the project referenced above:

Labor Document Tracking Log

Central Paving, LLC
Approved Affidavit of Wages Paid
Approved Statement of Intent
L&I Certificate of Workers' Compensation
L&I Business and Licensing Information
DOR Business Lookup
SAM Registration
L&I Debarred Contractors List
OMWBE Search Results
City of Selah Business License
Labor Standards Interviews

Stripe Rite, Inc.
Request to Sublet Work
Approved Affidavit of Wages Paid
Approved Statement of Intent
L&I Certificate of Workers' Compensation
L&I Business and Licensing Information
DOR Business Lookup
SAM Registration
L&I Debarred Contractors List
OMWBE Search Results
City of Selah Business License
Labor Standards Interviews

Colby & Company, LLC dba D-Fence Fencing Company
Request to Sublet Work
Approved Affidavit of Wages Paid
Approved Statement of Intent
L&I Certificate of Workers' Compensation
L&I Business and Licensing Information
DOR Business Lookup
SAM Registration
L&I Debarred Contractors List
OMWBE Search Results
City of Selah Business License
Labor Standards Interview

Withrow Construction, Inc.
Request to Sublet Work
Approved Affidavit of Wages Paid
Approved Statement of Intent
L&I Certificate of Workers' Compensation
L&I Business and Licensing Information
DOR Business Lookup
SAM Registration
L&I Debarred Contractors List
OMWBE Search Results
City of Selah Business License

Wheeler Rock Products, LLC (Supplier)
Approved Affidavit of Wages Paid
Approved Statement of Intent

Weekly Statement of Working Days No. 1 through No. 7

Comment:

Attached, please find the required labor documentation for your records and retention. Labor documentation must be retained for three (3) years after City of Selah project acceptance. Please contact me if you have any questions or need additional information.

Thank you.

Copy to: HLA File Signed:

CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY

Council Meeting	Action Item
11/24/2020	N – 3

Title: Resolution Authorizing the Mayor to sign a "WSDOT Supplemental Agreement Number 6 Between the City of Selah and HLA Engineering and Land Surveying, Inc. for Construction Services of the East Goodlander Road Improvements Project".

From: Joe Henne, Public Works Director

Action Requested: Approval

Staff Recommendation: The Mayor to sign such Supplemental Agreement Number 6.

Fiscal Impact: $18,000.00

Funding Source: 111

Background / Findings & Facts: HLA Engineering and Land Surveying, Inc. (HLA) requests additional compensation for construction services related to the East Goodlander Road Improvements Project. Change Order No. 3 added twenty-one working days to the project for additional work performed by Granite Construction Inc., thus bringing the total project working days to ninety-one. HLA continued to perform construction services during the twenty-one days the project was extended. See the attached HLA document.

Recommended Motion: Authorize the Mayor to sign such Supplemental Agreement Number 6.

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

CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY

Date:	Action Taken:
10/27/2020	Resolution authorizing the Mayor to sign change order No.3 for the East Goodlander Road Improvement Project
7/23/2019	Resolution Authorizing the Mayor to sign WSDOT Supplemental Agreement Number 5 between the City of Selah and HLA Engineering and Land Surveying, Inc. for the Construction of East Goodlander Road Improvements project
2/12/2019	Resolution Authorizing the Mayor to sign the HLA Engineering and Land Surveying, Inc. Supplemental Agreement Number 4 for the East Goodlander Road Improvements project
7/12/2016	Resolution Authorizing the Mayor to sign the HLA Engineering and Land Surveying, Inc. Supplemental Agreement Number 3 for the East Goodlander Road Improvements project
12/9/2014	Resolution to Approve a Supplemental Agreement with Huibregtse, Louman Associates, Inc., No. 2 for the East Goodlander Road Improvements.
12/10/2013	Resolution Authorizing the Mayor to Sign the Huibregtse, Louman Associates, Inc. Supplemental Agreement Number 1 for the East Goodlander Road Improvements Project

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE MAYOR TO SIGN A "WSDOT SUPPLEMENTAL AGREEMENT NUMBER 6 BETWEEN THE CITY OF SELAH AND HLA ENGINEERING AND LAND SURVEYING, INC. FOR CONSTRUCTION SERVICES OF THE EAST GOODLANDER ROAD IMPROVEMENTS PROJECT".

WHEREAS, the City of Selah wishes to sign a "WSDOT Supplemental Agreement Number 6 with HLA Engineering and Land Surveying, Inc. for Construction Services of the East Goodlander Road Improvements Project";

WHEREAS, such Supplemental Agreement Number 6 specifies additional construction services provided due an increase in working days for additional work items; and

WHEREAS, the payable amount is $18,000 for the additional construction services specified in such Supplemental Agreement Number 6;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON that the Mayor be authorized to sign such Supplemental Agreement Number 6.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON this 24rd day of November, 2020.

_____
Sherry Raymond, Mayor

ATTEST:

_____
Dale E. Novobielski, Clerk/Treasurer

APPROVED AS TO FORM:

_____
Rob Case, City Attorney

Washington State Department of Transportation

Supplemental Agreement Number 6	Organization and Address HLA Engineering and Land Surveying, INc. 2803 River Road Yakima, WA 98902 Phone: 509-966-7000	
Original Agreement Number 12092E		
Project Number STPUS-4710(001)	Execution Date 11/13/2012	Completion Date 3/31/2021
Project Title East Goodlander Road Improvements	New Maximum Amount Payable $346,700.00	

Description of Work

Professional Engineering and Construction Services to reconstruct and widen existing two lanes, add a turn lane, and construct sidewalks, and gutter, and street lights.

The Local Agency of City of Selah

desires to supplement the agreement entered in to with HLA Engineering and Land Surveying, Inc.

and executed on 11/13/2012 and identified as Agreement No. 12092E

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

The changes to the agreement are described as follows:

I

Section 1, SCOPE OF WORK, is hereby changed to read:

Original construction contract duration was 70 working days. Actual construction duration was 91 working days.

II

Section IV, TIME FOR BEGINNING AND COMPLETION, is amended to change the number of calendar days for completion of the work to read: Completion date changes from December 31, 2020 to March 31, 2021.

III

Section V, PAYMENT, shall be amended as follows:

This supplement adds $18,000 to Supplemental Agreement No. 5 for a new maximum amount payable of $346,700.

as set forth in the attached Exhibit A, and by this reference made a part of this supplement.

If you concur with this supplement and agree to the changes as stated above, please sign in the Appropriate spaces below and return to this office for final action.

By: MICHAEL T. BATTLE, PE

Consultant Signature

By:

Approving Authority Signature

Date

DOT Form 140-063
Revised 09/2005

Washington State Department of Transportation

Supplemental Agreement Number 6	Organization and Address HLA Engineering and Land Surveying, INc. 2803 River Road Yakima, WA 98902 Phone: 509-966-7000	
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This supplement adds $18,000 to Supplemental Agreement No. 5 for a new maximum amount payable of $346,700.

as set forth in the attached Exhibit A, and by this reference made a part of this supplement.
If you concur with this supplement and agree to the changes as stated above, please sign in the Appropriate spaces below and return to this office for final action.

By: MICHAEL T. BATTLE, PE

Consultant Signature

By:

Approving Authority Signature

Date

DOT Form 140-063
Revised 09/2005

HLA
Engineering and Land Surveying, Inc.

October 21, 2020

City of Selah
222 S. Rushmore Road
Selah, WA 98942

Attention: Joe Henne

Re: City of Selah
PROJECT: EAST GOODLANDER ROAD IMPROVEMENTS
FED AID Project No.: STPUS-4710(001)
HLA Project No.: 12092C
Supplemental Agreement No. 6

Joe:

HLA Engineering and Land Surveying, Inc. (HLA) requests additional compensation for Services During Construction related to the East Goodlander Road Improvements project. Change Order No. 3 added 21 working days to the project for additional work performed by Granite Construction Inc., bringing the total project working days to 91.

HLA continued to perform construction services during the 21 days the project was extended. To date, HLA has expended $14,381 above our approved contract amount. Granite Construction, Inc., (Granite) has signed the final progress estimate and final construction contract costs have been established. HLA expects to complete final closeout paperwork during the 60-day period after the City accepts the project until all government releases are approved for Granite. HLA requests a total contract supplemental maximum of $18,000.

This project has been completed under budget with the City's costs at $555,800 of the anticipated $609,093 budget.

We have worked diligently for eight years to see this project through to completion, and we are proud to be a partner with the City on this successful community improvement. Thank you for considering our request.

Very truly yours,

Terry D. Alapeteri

Terry D. Alapeteri, PE

TDA/krb

attachments

Copy: file

G:\PROJECTS\2012\12092C SE EAST GOODLANDER RD IMPROVEMENTS - GRANITE CONST. CO\Contracts and Task Orders\2020-10-21 Supplement No. 6 letter.doc

2803 River Road ❖ Yakima, WA 98902 ❖ 509.966.7000 ❖ Fax 509.965.3800 ❖ www.hlacivil.com

HLA
Engineering and Land Surveying, Inc.

* TRANSMITTAL *

Phone: (509) 966-7000 / FAX: (509) 965-3800
2803 River Road, Yakima, WA 98902

Date: October 21, 2020

Project No.: 12092C

To: City of Selah
222 S. Rushmore Road
Selah, WA 98942

Attention: Joe Henne,
Public Works Director

From: Terry D. Alapeteri, PE

Re: City of Selah
EAST GOODLANDER ROAD IMPROVEMENTS
FED AID Project No.: STPUS-4710(001)

We are sending you attached the following items:

Three (3) Original, Supplemental Agreement No. 6

Comments:

Joe,

For council consideration see enclosed Supplemental Agreement No. 6 for the East Goodlander Road project. If approved, please return two signed Supplemental Agreements back to HLA. Let us know if you have any questions.

Thank you.

Copy to: Correspondence File Signed: Terry D. Alapeteri

Washington State Department of Transportation

Supplemental Agreement Number 6	Organization and Address HLA Engineering and Land Surveying, INc. 2803 River Road Yakima, WA 98902 Phone: 509-966-7000	
Original Agreement Number 12092E		
Project Number STPUS-4710(001)	Execution Date 11/13/2012	Completion Date 3/31/2021
Project Title East Goodlander Road Improvements	New Maximum Amount Payable $346,700.00	

Description of Work

Professional Engineering and Construction Services to reconstruct and widen existing two lanes, add a turn lane, and construct sidewalks, and gutter, and street lights.

The Local Agency of City of Selah
desires to supplement the agreement entered in to with HLA Engineering and Land Surveying, Inc.
and executed on 11/13/2012 and identified as Agreement No. 12092E
All provisions in the basic agreement remain in effect except as expressly modified by this supplement.
The changes to the agreement are described as follows:

I

Section 1, SCOPE OF WORK, is hereby changed to read:

Original construction contract duration was 70 working days. Actual construction duration was 91 working days.

II

Section IV, TIME FOR BEGINNING AND COMPLETION, is amended to change the number of calendar days for completion of the work to read: Completion date changes from December 31, 2020 to March 31, 2021.

III

Section V, PAYMENT, shall be amended as follows:

This supplement adds $18,000 to Supplemental Agreement No. 5 for a new maximum amount payable of $346,700.

as set forth in the attached Exhibit A, and by this reference made a part of this supplement.
If you concur with this supplement and agree to the changes as stated above, please sign in the Appropriate spaces below and return to this office for final action.

By: MICHAEL T. BATTLE, PE

Consultant Signature

By:

Approving Authority Signature

Date

DOT Form 140-063
Revised 09/2005

CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY

Council Meeting	Action Item
11/24/2020	N – 4

Title: Resolution authorizing the Mayor to sign a "Consent to Transfer of LS Network Stock to InstarAGF Asset Management Inc."

From: Joe Henne, Public Works Director

Action Requested: Approval

Staff Recommendation: The Mayor sign the "Consent to Transfer of LS Network Stock to InstarAGF Asset Management Inc."

Background / Findings & Facts: The City of Selah has an existing Franchise Agreement with Lightspeed Networks, Inc., d/b/a "LS Networks", dated May 22, 2012. A copy of the Franchise Agreement is attached to this AIS. On October 10, 2020, the stockholders of LS Networks agreed to sell all stock to the entity of InstarAGF Asset Management Inc. While ownership of the company will change, LS Networks, its operations, and services will remain the same. As a result, LS Networks will remain the franchisee and will continue to be bound by the terms and conditions of the Franchise Agreement. However, LS Networks requests, pursuant to Article IV of the Franchise Agreement, that the City consent to such stock sale to InstarAGF Asset Management Inc.

Recommended Motion: the Council authorize the Mayor to sign the Consent to Transfer form attached.

CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY

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

Date:	Action Taken:
5/22/2012	An Ordinance of the City of Selah, Washington, Granting Lightspeed Networks, Inc., DBA "LS Networks" an Oregon Corporation, A Non-Exclusive Franchise to Construct, Operate & Maintain a Telecommunications Network within the City of Selah.

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE MAYOR TO SIGN A "CONSENT TO TRANSFER OF LS NETWORKS STOCK TO INSTARAGF ASSET MANAGEMENT INC."

WHEREAS, the City of Selah has an existing Franchise Agreement with Lightspeed Networks, Inc., d/b/a "LS Networks";

WHEREAS, the City was notified by LS Networks that its stockholders have agreed to sell all stock to the entity of InstarAGF Asset Management Inc.; and

WHEREAS, LS Networks requests, pursuant to Article IV of the Franchise Agreement, that the City consent to such stock sale;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, that the Mayor is authorized to sign a "Consent to Transfer of LS Networks Stock to InstarAGF Asset Management Inc." to effectuate and confirm such consent by the City.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, this 24th day of November 2020.

ATTEST:

_____
Sherry Raymond, Mayor

_____
Dale Novobielski, Clerk Treasurer

APPROVED AS TO FORM:

_____
Rob Case, City Attorney

LS NETWORKS

Received

OCT 26 2020

By _____
City of Selah
Planning Dept.

October 21, 2020

Joe Henne
Public Works Director
City of Selah
Attn: Public Works Director
222 South Rushmore Rd,
Selah, WA 98942

Re: **LS Networks Shareholder Change Notice and Consent Request**

Dear Joe Henne:

On October 10, 2020, LS Networks' Shareholders agreed to sell all shares in LS Networks to InstarAGF Asset Management Inc. LS Networks' Franchise Agreement with Selah requires that we provide notice and request approval from Selah of changes in ownership. While control of the company will change, LS Networks, its operations, and services will remain the same.

InstarAGF, like LS Networks, is a company with values focused on enriching people's lives through support of critical infrastructure that connects people and communities. Our team is excited about this partnership and looks forward to continuing our work of providing reliable, high-speed internet options to our Pacific Northwest communities. Additional information can be found in the attached press release.

LS Networks will continue to own and operate its facilities in Selah and adhere to the requirements of its Franchise Agreement. Because the transaction is time-sensitive and we are eager to close as soon as possible, we request that Selah review and provide consent in 45 days. To streamline this process for Selah and to fulfill the requirements in Article IV of our Franchise Agreement, we have included a consent page for signature. Please sign and return this to us at your earliest convenience. If you believe a formal council meeting is necessary, could you please place this on your agenda for the next meeting and inform myself or the contact below when this request will be reviewed.

LS NETWORKS

503.227.8585
503.294.5300
921 WASHINGTON ST
SUITE 370
PORTLAND OR 97205

If you have any questions, please let us know. I have asked Kim Allen at the Busch Law Firm PLLC to assist me with gathering these documents and she can be reached at (425) 628-2666 or kim.allen@wirelesscounsel.com.

Thank you,

LS Networks

Leslie Boro
Corporate Counsel

CONSENT TO TRANSFER OF LS NETWORKS STOCK TO INSTARAGF ASSET MANAGEMENT INC.

On October 10, 2020, LS Networks' shareholders agreed to sell all shares in LS Networks to InstarAGF Asset Management Inc. While ownership of the company will change, LS Networks, its operations, and services will remain the same. As a result, LS Networks will remain the franchisee and will continue to be bound by the lawful terms and conditions of its current franchise agreement with the City of Selah ("Franchise Agreement").

LS Networks' Franchise Agreement with Selah requires that LS Networks provide notice to and request approval from Selah of changes in ownership. To comply with Article IV of the Franchise Agreement, LS Networks provided notice of the sale of its stock to Selah on October 21, 2020, to which Selah hereby consents as executed below.

I hereby warrant that I, on the behalf of the City of Selah, am authorized to consent to the transfer of ownership described above. No amendment or other alteration of the Franchise Agreement is adopted at this time. This consent is effective upon execution and shall have the force of a continuing agreement with the franchisee, LS Networks.

Executed on the ____ of _____, 202__.

_____
Signature

_____
Printed Name of Signatory

_____
Title

ATTEST:

_____
Clerk

InstarAGF AGREES TO ACQUIRE LS NETWORKS

New partnership positions best-in-class digital pioneer for next phase of growth and connectivity in the Pacific Northwest

Denver, Colorado and Portland, Oregon (October 15, 2020) --- InstarAGF Asset Management Inc. ("InstarAGF"), today announced it has entered into a definitive agreement to acquire 100% of LS Networks ("the "Company"), a leading fiber-optic bandwidth infrastructure services provider in the Pacific Northwest, from a collective of Oregon rural electric cooperatives. The Company's current management team will continue to lead the business, which will remain headquartered in Portland, Oregon.

LS Networks delivers essential digital reliability, quality and capacity to large and small commercial and individual customers in rural and urban communities to support family, business growth and sustainability. The Company's carrier-grade network includes over 7,000 route miles of fiber and extended reach throughout the Pacific Northwest serving national and international carriers, ISPs, data centers, schools, governments, healthcare organizations and businesses. LS Networks also provides Ethernet and dark fiber transport to towers, with existing connectivity to more than 500 on-net towers, with near-net proximity to an additional 800 towers throughout the region.

"LS Networks is a premier essential digital infrastructure platform with an established operating history, deep, diverse customer relationships and attractive growth profile," said Jack Bittan, Partner, InstarAGF. "We are delighted to partner with the leading provider of innovative solutions in the Pacific Northwest to help extend competitive fiber connectivity and advanced technologies to bridge the digital divide in our communities."

"As a long-term investor and owner of essential infrastructure businesses, InstarAGF's purpose as an organization is to enrich people's lives," said Gregory Smith, President and Chief Executive Officer, InstarAGF. "We share the Company's core values and look forward to building on its heritage of investing in local communities and enhancing critical digital infrastructure services, which are more important than ever before to our economy, well-being and future."

"Central Electric Cooperative and InstarAGF share a mutual interest in seeing LS Networks reach its full potential," said Dave Markham, President and CEO of Central Electric Cooperative and Chairman of LS Networks. "Under InstarAGF's leadership, the Company is positioned well to successfully expand on its core mission to provide high-speed connectivity throughout the state of Oregon and beyond."

"We are very excited to welcome InstarAGF to the LS Networks family," said Byron Cantrall, President and Chief Executive Officer, LS Networks. "We have a proud history of connecting rural and underserved communities to advanced technologies and innovating to address the evolving needs of our current and future customers for fiber-based networking solutions. We are grateful for the longstanding support and vision of our shareholders as LS Networks positions for our next phase of growth and connectivity, which includes expanding our high-quality network and service offering regionally and working hard to exceed our customers' expectations."

Financial terms of the transaction were not disclosed. The transaction is expected to close in early 2021, following the satisfaction of customary closing conditions, including required regulatory approvals. LS Networks was advised on the transaction by Stifel and Davis Wright Tremaine LLP. InstarAGF was advised by Wells Fargo Securities, LLC and DLA Piper LLP.

About InstarAGF Asset Management

InstarAGF is an independent alternative asset management firm focused on North American middle-market opportunities in the infrastructure sector and other alternative real asset categories. InstarAGF's growing footprint spans North America with a portfolio that includes aviation infrastructure, district energy, renewable energy, midstream energy services, and specialty ports and logistics businesses that deliver essential services and value to communities, partners and investors, helping us to fulfil our purpose of enriching people's lives. InstarAGF is a signatory to the United Nations-supported Principles for Responsible Investment. For more information: www.instaragf.com

About LS Networks

Headquartered in Portland, Oregon, LS Networks operates the largest locally owned and operated fiber-optic network in the Pacific Northwest. For more than 15 years, LS Networks has served rural, urban and underserved communities with high-speed connectivity and market-leading bandwidth that is transforming the regional telecommunications landscape for customers and partners. With a mission to be the most trusted provider of digital infrastructure through a focus on quality and innovation, LS Networks is proud to invest in local communities and create opportunities for businesses and citizens. For more information: www.lsnetworks.net.

Disclaimer:

This release contains "forward-looking information" within the meaning of Canadian provincial securities laws and "forward-looking statements" within the meaning of the United States' federal securities laws. Forward-looking statements include statements that are predictive in nature, depend upon or refer to future events or conditions, include statements regarding the operations, business, financial condition, expected financial results, performance, prospects, opportunities, priorities, targets, goals, ongoing objectives, and includes words such as "believes", "seeks", or negative versions thereof and other similar expressions, or future conditional verbs, such as "may", "will", "should", "would" and "could."

Although InstarAGF Asset Management believes that future anticipated results, performance or achievements expressed or implied by the forward-looking statements and information are based upon reasonable assumptions, the reader should not place undue reliance on forward-looking statements or information as statements or information involve known and unknown risks, uncertainties and other factors which may cause the actual results, performance or achievements to differ materially from anticipated future results, performance or achievements express or implied by such forward looking statements and information.

Factors that could cause actual results to differ materially from those contemplated or implied by forward-looking statements include: economic and financial conditions; the behavior of financial markets (including fluctuations in exchange and interest rates); availability of equity and debt financing; strategic actions including dispositions; the ability to complete and effectively integrate acquisitions and the ability to obtain expected benefits; regulatory and political factors; acts of God; and the possible impact of international conflicts, including terrorism, among other risks and factors.

This document is for informational purposes only and does not constitute a general solicitation, offer or invitation in any InstarAGF-managed funds in the United States or in any other jurisdiction and has not been prepared in connection with any such offer. In addition, the information contained in this document may not be relied on in any manner as legal, tax or investment advice. The views expressed herein do not constitute investment or any other advice and are subject to change.

This document has not been approved by the United States Securities and Exchange Commission or by any regulatory or supervisory authority of any state or other jurisdiction, nor has any such authority or commission passed on the adequacy of this document. Any representation to the contrary is unlawful.

For more information:

Sarah Borg-Olivier
Chief Operating Officer
InstarAGF Asset Management Inc.
Tel: (416) 568-1329
Email: Sarah.Borg-Olivier@InstarAGF.com

Dan Swanson
Vice President, Marketing
LS Networks
Tel: (971) 361-9765
Email: dswanson@lsnetworks.net

ORDINANCE NO. 1881

AN ORDINANCE OF THE CITY OF SELAH, WASHINGTON, GRANTING LIGHTSPEED NETWORKS, INC., DBA "LS NETWORKS" AN OREGON CORPORATION, A NON-EXCLUSIVE FRANCHISE TO CONSTRUCT, OPERATE & MAINTAIN A TELECOMMUNICATIONS NETWORK WITHIN THE CITY OF SELAH

An Ordinance granting a franchise (the "Franchise") to Light Speed Networks, Inc. dba "LS Networks, and Oregon Corporation, (hereinafter referred to as "Grantee"), to locate, construct, operate and maintain lines, poles, anchors, wires, cables, conduit, laterals, and other appurtenances, necessary and convenient to the provision of access to the Internet and Telecommunications service over, under, along and across all of Grantor's rights of way and public property in the City of Selah, Washington, and setting forth conditions accompanying the grant of Franchise; and,

WHEREAS, the Grantor duly fixed the time and place for hearing said application and due and timely notice of said hearing on such application was given pursuant to statute and ordinance, and hearing on said application having been held as prescribed by law, and the Grantor having been fully advised in the premises and having determined that it is in the public interest to grant such Franchise in the manner herein set forth; and,

WHEREAS, the City Council has determined that it is in the best interest of and consistent with the convenience and necessity of the City to grant a Franchise within the confines of the City to the Franchisee, and on the terms and conditions hereinafter set forth.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, as follows:

ARTICLE I. DEFINITIONS

For the purpose of this Franchise the following terms, phrases, words, and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number, and the use of any gender shall be applicable to all genders whenever required. The word "shall" is mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

A. "City" is the City of Selah, Washington.

B. "Franchisee" means LS Networks, the grantee of rights under this Franchise ordinance or its lawful successor, transferee or assignee.

C. "Easement" shall be limited to those Rights-of-Way owned or controlled by the City.

D. "Facilities" means any and all lines, poles, anchors, wires, cables, conduit, laterals, and other appurtenances, necessary and convenient to Grantee's provision of access to the Internet and Telecommunications service over its "System" defined below.

E. "Force Majeure" means any delays caused by reason of (1) civil commotion; (2) riots; (3) Acts of God and nature, including but not limited to floods, earthquakes, ice storms and tornadoes; (4) strikes or labor unrest; (5) the inability to secure materials; and (6) any other event or circumstances reasonably beyond the control of the Franchisee.

F. "Franchise" means the initial authorization, or renewal thereof, issued by the City, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, which authorizes the construction or operation of the System in, on and under the City's Rights-of-Way.

G. "Franchise Area" shall mean the area within the City limits of the City of Selah, Washington, including areas annexed during the term of this Franchise.

H. "Rights-of-Way" or "Right-of-Way" means the surface, the air space above the surface, and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, easement or similar property in which the City holds any property interest or exercises any rights of management or control and which, consistent with the purposes for which it was acquired or dedicated, may be used for the installation and maintenance of the System. No reference in this Franchise to a "Right-of-Way" shall be deemed to be a representation or guarantee by the City that its interests or other rights in such property are sufficient to permit its use for the installation and maintenance of the System, and the Franchisee shall be deemed to gain only those rights which the City has the right and power to give and only to the extent necessary to carry out the purposes of this Franchise.

I. "System" means the lines, poles, anchors, wires, cables, conduit, laterals, and other appurtenances, necessary and convenient to Grantee's provision of access to the Internet and Telecommunications service for the purpose of a wholesale communications business in accordance with applicable law.

ARTICLE II. GRANT OF FRANCHISE

SECTION 1. Grant

A. There is hereby granted to the Franchisee a non-exclusive right, privilege, and Franchise to have, acquire, construct, reconstruct, maintain, use and operate within the corporate limits of the City, the System and to have, acquire, construct, reconstruct, maintain, use and operate in, over, under, along, and across the present and future Rights-of Way all necessary or desirable wires, cables, underground conduits, manholes and other structures and appurtenances in connection with the System.

B. Limited Rights. This Franchise is intended to convey limited rights and interests only as to those Rights-of-Way in which the City has an actual interest. It is not a warranty of title or interest in any Right-of-Way; it does not provide the Franchisee with any interest in any particular location within the Right-of-Way; and it does not confer rights other than as

expressly provided in the grant hereof. This Franchise does not deprive the City of any powers, rights or privileges it now has, or may later acquire in the future, to use, perform work on or to regulate the use of and to control the City's Rights-of-Way covered by this Franchise, including without limitation the right to perform work on its roadways, streets or appurtenant drainage facilities, water and waste water facilities and including constructing, altering, paving, widening, grading, or excavating such streets.

Competitively Neutral. The City shall impose, on a competitively neutral and nondiscriminatory basis, similar terms and conditions upon other similarly situated providers of telecommunications services operating within the City. Any requirement imposed on Franchisee that is determined not in compliance with this Section 1(C.) shall be unenforceable against Franchisee.

SECTION 2. Term

The Franchise granted hereunder shall be for a term of twenty-five (25) years from and after the effective date of this ordinance, unless otherwise lawfully terminated in accordance with the terms of this Franchise.

SECTION 3. Franchise Subject to Other Laws

This Franchise is subject to and shall be governed by all applicable provisions of law. Notwithstanding any other provisions of this Franchise to the contrary, the Franchisee shall at all times comply with all laws and regulations of the state and federal government or any administrative agencies thereof, provided, however, if any such law or regulations shall require the Franchisee to perform any service, or shall permit the Franchisee to perform any service, or shall prohibit the Franchisee from performing any service, in conflict with the terms of this Franchise, City ordinance, or any regulation of the City Council, then as soon as possible following knowledge thereof, the Franchisee shall notify the attorney for the City of the point of conflict believed to exist between such regulation or law and regulations of the City Council, the City's ordinance or this Franchise.

SECTION 4. Other Franchises

This Franchise shall not be construed as any limitation upon the right of the City to grant to other persons rights, privileges, or authorities similar to the rights, privileges, and authorities herein set forth, in the same or other Rights-of-Way, public ways or public places. The City specifically reserves the right to grant at any time during the term of this Franchise or renewal thereof, if any, such additional Franchises as it deems appropriate.

SECTION 5. Waivers

A. The failure of the City on one or more occasions to exercise a right or to require compliance or performance under this Franchise, or any other applicable law shall not be deemed to constitute a waiver of such right or a waiver of compliance or performance by the City, nor shall it excuse the Franchisee from complying or performing, unless such right or such compliance or performance has been specifically waived in writing by the City.

B. No waiver by the City of any breach or violation of any provision of this Franchise or any ordinance shall be deemed to be a waiver or a continuing waiver by the City of any subsequent breach or violation of the same or any other provision. Neither the granting of the Franchise, nor any provision herein, nor any action by the City hereunder shall constitute a waiver of or a bar to the exercise of any governmental right or power of the City, as provided for under state and federal law, including without limitation the right of eminent domain.

C. No waiver of any provisions of this Franchise by the City shall be effective unless authorized in writing by the City.

SECTION 6 Franchise Acceptance; Prior Franchise Superseded and Repealed

A. Upon adoption of this Franchise and acceptance hereof by the Franchisee, the Franchisee agrees to be bound by all the terms and conditions contained herein, which acceptance shall constitute an absolute and unconditional acceptance of the Franchise and promise to comply with and abide by all its provisions, terms, and conditions. The Franchisee's signature at the end of this Franchise shall constitute compliance with this section.

B. By accepting the Franchise, the Franchisee: (1) acknowledges and accepts the City's legal right to issue and enforce the Franchise; (2) accepts and agrees to comply with each and every provision of this Franchise; and (3) agrees that the Franchise was authorized pursuant to processes and procedures consistent with applicable law, and that it will not raise any claim to the contrary.

SECTION 7. Police Powers

In accepting this Franchise, the Franchisee acknowledges that its rights hereunder are subject to the police powers of the City to adopt and enforce general ordinances necessary to the safety and welfare of the public, and the Franchisee agrees to comply with all generally applicable laws and ordinances enacted by the City pursuant to such power that do not alter the Franchisee's material obligations under this Agreement.

Any conflict between the provisions of this Franchise and any other present or future lawful exercise of the City' police powers shall be resolved in favor of the latter, except that any such exercise that is not of general application in the jurisdiction or applies specifically to the Franchisee or which contains provisions inconsistent with this Franchise shall prevail only if upon such exercise, the City finds an emergency exists constituting a danger to health, safety, property or general welfare or such exercise is mandated by law.

SECTION 8. Permits Required

In addition to this Franchise, in order for the Franchisee to be allowed to occupy or use the Rights-of-Way of the City, the Franchisee shall obtain all other required authorizations, certificates, licenses and permits, in accordance with federal, state and local law. The City shall not unreasonably withhold any permits requested by the Franchisee as determined by applicable law.

ARTICLE III. STANDARDS FOR USE OF RIGHT OF WAY

SECTION 1. Uses of Rights-of-way

A. **Non-exclusive Grant:** This grant for the use of all City Rights-of-Way is nonexclusive and does not establish priority for use over other franchise holders, permit holders and the City's own use of public property. Additionally, Franchisee shall respect rights and property of the City and other authorized users of the Rights-of-Way. Disputes between the Franchisee and other entities over the use of the Rights-of-Way shall first be submitted to the Mayor or Administrator of the City for possible resolution.

B. **Interference with Persons and Improvements**: The Franchisee's System shall be located, erected and maintained so that none of its facilities shall endanger or interfere with the lives of persons, or interfere with any improvements the City may deem proper to make, or unnecessarily hinder or obstruct the free use of Rights-of-Way or other public property. The City shall have power at any time to order and require Franchisee to remove and abate any pole, wire, cable, or other structure that is dangerous to life or property, and in case Franchisee, after notice, fails or refuses to act 'Within a reasonable time, the City shall have the power to remove or abate the same at the expense of the Franchisee.

C. **Relocation of the Facilities:** Franchisee shall upon request provide the City a current map of the location of Franchisee's facilities within the City. In the event that at any time during the period of this Franchise the City shall elect to alter the width or change the grade on any streets within any Right-of-Way, the Franchisee, upon reasonable notice by the City, shall begin removing and/or relocating as necessary, its poles, wires, cables, underground conduits, manholes and other fixtures at the Franchisee's expense, provided, if Franchisee's wires, cable, or other fixtures are placed within or attached to conduit, poles, or appliances owned or maintained by others, such as utility poles of a public utility pursuant to a pole attachment agreement, Franchisee shall undertake such removal or relocation in cooperation with the public utility. If Franchisee fails or refuses to act

within sixty days (60), of notice from the City, the City shall have the power to remove or abate the same at the expense of the Franchisee.

D. **Interference with utilities:** The Franchisee with the consent of the Public Works Director shall place poles, equipment or other fixtures in such a manner that does not unreasonably interfere with existing gas, electric or telephone facilities, traffic control signalization, street lights, fire alarm lines, communications lines, or water or sewer lines, or obstruct or hinder in any manner the various utilities serving the residents of the City.

E. **Additional Easements:** If additional private easements are necessary it shall be the Franchisee's responsibility to secure the same. The grant of this Franchise is limited to the City's control of its Rights-of- Way and does not extend to any other public or private property.

F. **Cooperation with Building Movers:** The Franchisee shall, at the request of any person holding a building-moving permit issued by the City, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting the same, and the Franchisee shall have the authority to require such payment from such person in advance. Unless otherwise agreed, the Franchisee shall be given not less than thirty (30) calendar days advance notice to arrange for such temporary wire changes.

G. **Construction and Maintenance, Excavation:**

1. The route of any underground portions of the system shall be subject to review and approval by the City. Engineering plans for construction in Rights-of-Way shall be submitted to the City prior to construction.

2. Except in an emergency, the Franchisee shall comply with generally applicable City ordinances, policies and rules pertaining to notification when excavating pavement in any Right-of-Way.

H. **Coordination of Placement of Manholes:** The Franchisee shall coordinate the placement of its manholes, if any, with the affected City Departments.

I. **Movement of Facilities during Emergencies:** During emergencies, the City may move the Franchisee's Facilities, but shall first make reasonable attempts to notify the Franchisee.

J. **Payment of the City's Locate Costs:** The Franchisee shall only pay for the City's locate costs that specifically relate to the Franchisee and so long as those costs are not already included in the permit fees. The Franchisee shall be required to obtain verifiable locates prior to any digging, trenching or excavation.

K **Acquisition of Facilities:** Upon the Franchisee's acquisition of Facilities in any Right-or-Way, or upon the addition or annexation of any area in which the Franchisee owns or operates any Facility, the Franchisee shall, at the City's request, submit to the City a statement describing all Facilities involved, whether authorized by the Franchise, permit, license or other prior right, and specifying the location of all such Facilities to the extent the Franchisee has possession of such information. Such Facilities shall immediately be subject to the terms of this Franchise.

L. **Discontinuing Use of Facilities:** Whenever the Franchisee intends to discontinue using any Facility within the Rights-of-Way, the Franchisee shall submit for the City's approval a complete description of the Facility and the date on which the Franchisee intends to discontinue using the Facility. The Franchisee may remove the Facility or request that the City permit it to remain in place. Notwithstanding the Franchisee's request that any such Facility remain in place, the City may require the Franchisee to remove the Facility from the Right-of-Way or modify the Facility as a condition of its remaining in place to protect the public health, welfare, safety or convenience, or otherwise serve, the public interest. The Franchisee shall complete such removal or modification in accordance with a schedule to be mutually agreed upon but in no event shall Franchisee fail to remove said facility within one hundred eighty (180) days of written demand by the City. Until such time as the Franchisee removes or modifies the Facility, or until the rights to and responsibility for the Facility are accepted by another Person having authority to construct and maintain such Facility, the Franchisee shall be responsible for all necessary repairs and relocations of the Facility, as well as maintenance of the Right-of-Way, in the same

manner and degree as if the Facility were in active use, and the Franchisee shall retain all liability for such Facility.

M. **Hazardous Substances:**

1. The Franchisee shall comply with all applicable local, state and federal laws, statutes, regulations, ordinances and orders concerning hazardous substances relating to the Franchisee's System in the Rights-of-Way.

2. The Franchisee shall maintain and inspect its System located in the Rights-of-Way. At any time, the City may inspect the Franchisee's Facilities in the Rights-of-Way to determine if any release of hazardous substances has occurred, or may occur, from or related to the Franchisee's System. In removing or modifying the Franchisee's Facilities as provided in this Franchise, the Franchisee shall also remove and properly dispose of all residues of hazardous substances related thereto.

3. The Franchisee shall indemnify and hold the City harmless against any and all liability, claims, costs, and expenses, of any kind, whether direct or indirect, incurred by the City arising out of a release of hazardous substances caused by the Franchisee's System in the Rights-of-Way.

N. **Completion of Work by the City:** On failure of the Franchisee to commence, pursue or complete any work required by law or by the provisions of this Franchise or any applicable permit to be done in any Right-of-Way, within the time prescribed and to the satisfaction of the City, the City may at its discretion cause the work to be done. The Franchisee shall pay to the City the reasonable costs of the work in the itemized amount reported by the City to the Franchisee within thirty (30) days after receipt of the itemized report.

SECTION 2. Use of Franchise Facilities

The City shall have the right, at no cost, during the life of this Franchise, to make additional use, for any public purpose, however City may not lease said facilities to a third party, of any poles controlled or maintained

exclusively by or for the Franchisee, providing that such uses do not unreasonably interfere with the operations of the Franchisee.

SECTION 3. Joint Use of Poles, Trenches, and Conduits

A. The Franchisee may be required to attach its wires to poles owned and maintained by another person or entity, or to permit the wires of another person or entity to be attached to the poles owned by the Franchisee, upon reasonable terms and for just compensation. All of the Franchisee's requirements pertaining thereto must be in accordance with applicable law.

B. Lines shall be located on poles in compliance with applicable safety standards and shall not interfere with the erection, replacement, operation, repair, or maintenance of the wires and appurtenances of the persons or entities occupying the poles.

C. The Franchisee may be required by the City to share trench space with another person or entity for the placement of facilities underground. Compensation to the Franchisee as well as terms of sharing trench space shall be resolved between the affected entities. Ducts, cables, or wires shall be placed in trenches in compliance with applicable safety standards and, pursuant to the space allocation plan of the City.

SECTION 4. Changes for Governmental Purposes

A. Whenever by reason of changes in the width or grade of any street within a Right-of-Way or in the location or manner of construction any water pipe, gas pipe, sewer or other underground or overhead structure for any governmental purpose whatsoever, it shall be deemed necessary by the Director of Public Works of the City to remove, alter, change, adapt, or conform the underground or overhead facilities of the Franchisee, such alterations or changes shall be made as soon as practicable by the Franchisee and begin within sixty (60) days of notice from the City, without claim for reimbursement or damages against the City; provided, however, if said requirements impose a financial hardship upon the Franchisee, the Franchisee shall have the right to present alternative proposals for the City's consideration, provided, further if Franchisee's wires, cable, or other

fixtures are placed within or attached to poles, conduits, or appliances owned or maintained by others, such as utility poles of a public utility pursuant to a pole attachment agreement, Franchisee shall undertake such removal, alteration, change or adaption in cooperation with the public utility. Except for Franchise revocation or termination or System abandonment, the City shall not require Franchisee to remove its facilities entirely from a Right-of-Way unless suitable alternatives are available for relocation at a reasonable cost. If Franchisee fails or refuses to begin such alterations or changes within such sixty day (60) period the City shall have the power to remove or abate the same at the expense of the Franchisee, all without compensation or liability for damages to the Franchisee.

B. In cases of emergency the City may require relocation of the Franchisee's facilities at the Franchisee's expense in the event the emergency creates an immediate threat to the public safety, health and welfare.

C. In an instance in which Franchisee had paid the cost of relocation of its facilities at the request of the City within the previous five (5) years, the share of the cost of relocation of Franchisee facilities will be split equally between the City and Franchisee where the City requests relocation of the same facilities, except in an emergency as determined by the City.

SECTION 5. Work by Others

A The City reserves the right to lay, and permit to be laid, sewer, electric, phone, gas, water, and other pipelines, cables, conduits and related appurtenances, and to do and permit to be done any underground or overhead work in, across, along, over, or under a Right-of-Way or other public place occupied by the Franchisee. The City also reserves the right to construct new streets and to alter the design of existing streets. In performing such work, provided the City complies with notification requirements of the Washington State Utility Notification Center 811 ("Call Before You Dig"), the City shall not be liable to the Franchisee for any damage so occasioned but nothing herein shall relieve any other person or entity from the responsibility for damages to the facilities of the Franchisee.

B. In the event that the City subsequently authorizes someone other than the Franchisee to occupy space under the surface of a Right-of-Way, such grant

shall be subject to the rights herein granted or heretofore obtained by the Franchisee. In the event that the City shall close or abandon any Right-of-Way which contains existing facilities of the Franchisee, any conveyance of land within such closed or abandoned Right-of-Way shall be subject to the rights herein granted or heretofore obtained by Franchisee; provided, that the Franchisee may be ordered to vacate any land so conveyed if an alternate route is practicable and if the Franchisee is reimbursed by the person to whom the property is conveyed for the reasonable costs of service disruptions, removal and relocation of facilities.

C. If the City shall require the Franchisee to adapt or conform its facilities or in any way or manner to alter, relocate, or change its facilities to enable any other entity or person, except the City, to use, or use with greater convenience, said Right-of-Way, the Franchisee shall not be bound to make any such changes until such other entity or person shall have undertaken, with good and sufficient bond, to reimburse the Franchisee for any costs, loss, or expense which will be caused by, or arise out of such change, alteration, or relocation of Franchisee's property; provided, however, that the City shall never be liable for such reimbursement.

SECTION 6. Construction Provisions

A. **Standards** The Franchisee's System constructed within the City shall comply with all applicable federal, state and local laws.

B. **Tree Trimming and Removal** To the extent permitted by law, the Franchisee shall have the authority after obtaining any consent legally required from any affected property owner to trim trees or other natural growth overhanging any of its Telecommunications System in the City so as to prevent branches from coming in contact with the Franchisee's wires, cables, or other equipment. The Franchisee shall reasonably compensate the City or property owner for any damages caused by such trimming, or shall, at its own cost and expense, reasonably replace all trees or shrubs damaged as a result of any construction, operation or maintenance of the System. The Franchisee shall make reasonable efforts not to harm such trees or shrubs. Any pruning or removal of trees or shrubs in the City shall comply with practices outlined in the American National Standards Institute, Inc., (ANSI) Tree Care Operations - Tree, Shrub, and Other Woody

Plant Maintenance Standard Practices and with City Code provisions, including licensing and permitting provisions, and shall be done by a qualified, professional arborist.

C. **Inspection** The City shall have the right, but not a duty, to inspect all construction and installation work performed by the Franchisee pursuant to this Franchise as it shall find necessary to ensure compliance by the Franchisee. Such inspection shall be in accordance with the provisions of this Franchise.

D. **Restoration of City Property** The Franchisee at its own cost and expense and in the manner approved by the City shall replace and restore all City property, including Right-of-Way, which is disturbed by the Franchisee's construction, installation, maintenance or operation of its Facilities, in accordance with the City's Design Standards and Standard Construction Specifications. Nothing herein shall prevent the City from charging the Franchisee its usual and customary fees of general applicability for inspection of such restoration or replacement work. The Franchisee shall be solely responsible for protecting the public health, safety and welfare on such City property from the time of disturbance until proper restoration. Failure of the Franchisee to replace or restore such City property within a reasonable time period after written notification by the City shall entitle the City to cause the proper restoration to be made at the Franchisee's expense. The Franchisee shall pay to the City the cost thereof, in the itemized amounts reported by the City to the Franchisee, within 30 days after receipt of such itemized report. Such payment shall not excuse a breach of the Franchise caused by the Franchisee's failure to commence, pursue or complete the required work.

E. **Restoration of Property** Whenever the Franchisee shall cause or any person acting on its behalf shall cause any disturbance, injury or damage to City property or private property by or because of the installation, maintenance or operation of its Facilities, such disturbance, injury or damage shall be remedied fully by the Franchisee at its expense. Further, the Franchisee shall, at its own cost and expense, replace and restore the respective property in accordance with the City's Design Standards and

Standard Construction Specifications within a reasonable time of the disturbance, injury or damage.

F. **Construction Necessary For Operation** Subject to applicable laws, regulations and ordinances of the City and the provisions of this Franchise, the Franchisee may perform all construction necessary for the operation of its System. All construction and maintenance of any and all Facilities within the Right-of-Way incident to the Franchisee's Telecommunications System shall, regardless of who performs the construction, be and remain the Franchisee's responsibility.

G. **Joint Trenching and Boring** The Franchisee may make excavations in the Rights-of-Way for any Facility needed for the maintenance or extension of the Franchisee. Prior to doing such work, the Franchisee shall give appropriate notice to the City and the notification association in accordance with applicable law (namely the Washington State Utility Notification Center 811 ("Call Before You Dig"). When obtaining a permit, the Franchisee shall inquire in writing about other construction currently in progress, planned or proposed, in order to investigate thoroughly all opportunities for joint trenching or boring. Whenever it is possible and reasonably practicable to joint trench or share bores or cuts, the Franchisee shall work with other providers, licensees, permittees, and franchisees so as to reduce so far as possible the number of street cuts within the City. If the Franchisee reasonably anticipates that trenching will encounter tree roots, the Franchisee shall consult with the City prior to trenching.

H. **Emergency Repairs** In the event that emergency repairs are necessary to any part of its System, the Franchisee shall immediately notify the City of the need for such repairs. The Franchisee may initiate such emergency repairs, and shall apply for appropriate permits within seventy-two (72) hours after discovery of the emergency. The Franchisee shall comply with all applicable City regulations relating to such excavations or construction, including the payment of permits or license fees, and shall reimburse the City for any damage to City utilities as a result of the emergency repairs. Likewise, in the event emergency repairs are necessary to any underground municipal utility to ameliorate a serious risk to the public health and/or safety, if the City knows or has reason to believe part of Franchisee's

system is buried in the area which is to be excavated, the City shall immediately notify Franchisee of the City's intent to excavate. Such notification shall be done in such manner as may be reasonably calculated under the circumstances of the emergency to provide Franchisee with an opportunity to identify the location of any part of its system buried within the proposed excavation site. If the City then damages the system while making the emergency excavation, so long as its actions are not wanton, the City and its officers, employees, and contractor shall have no liability for the damage.

I. **Location of Facilities** The Franchisee shall be a member of the Washington State Utility Notification Center 811 ("Call Before You Dig") as soon as underground assets are in place. After any City department, franchisee, licensee, permittee notifies the Franchisee of a proposed street excavation, in accordance with the rules applicable to such a member, the Franchisee shall, at the Franchisee's expense:

1. Mark on the surface all of its locatable underground Facilities within the area of the proposed excavation;

2. Notify the excavator of any unlocatable underground Facilities in the area of the proposed excavation; or

3. Notify the excavator that the Franchisee does not have any underground Facilities in the vicinity of the proposed excavation.

J. **Restoration of Streets** If the Franchisee excavates the surface of any Right-of-Way, the Franchisee shall be responsible for restoration of the Right-of-Way in accordance with the City's Design Standards and Standard Construction Specifications. The City may, after providing notice to the Franchisee, resurface any opening made by the Franchisee in the Right-of-Way, and the expense thereof shall be paid by the Franchisee. The City may, after providing notice to the Franchisee, remove and/or repair any work done by the Franchisee which, in the determination of the City, is inadequate or unsatisfactory. The cost thereof, including the costs of inspection and supervision, shall be paid by the Franchisee. All of the Franchisee's work under this Franchise, and this Section, in particular shall be performed and completed in strict compliance with all generally

applicable rules, regulations and ordinances of the City, including the posting of a performance bond good for a two year period covering work performed by the Franchisee or at the Franchisee's request.

K. **Reservation of City Rights** Nothing in this Franchise shall prevent the City from constructing or establishing any public work or improvement. All such work shall be done, insofar as practicable, so as not to obstruct, injure or prevent the use and operation of the Franchisee's System. However, if any of the Franchisee's System unreasonably interferes with the construction, maintenance or repair of any public improvement, the Franchisee's System shall be removed or replaced.

Any and all such removal or replacement shall be subject to all applicable notice requirements as specified in Section 4, at the expense of the Franchisee. Should the Franchisee fail to remove, adjust or relocate its Facilities by the date established by the City's written notice to the Franchisee, the City may affect such removal, adjustment or relocation, and the expense thereof shall be paid by the Franchisee.

L. Building Codes

1. The Franchisee shall strictly adhere to all building and zoning codes currently or hereafter in effect. The Franchisee shall arrange its lines, cables, and other appurtenances, on either public and private property, in such a manner as to cause no unreasonable interference with the use of said public or private property by any person. In the event of such interference, the City may require the removal or relocation of the Franchisee's lines, cables, Facilities and other appurtenances from the property in question.

2. All plans for aerial crossings near existing or proposed traffic signals, signs, flashers, or other traffic control devices shall be submitted to the City for approval. No crossings shall be permitted that obstruct traffic signals or other official traffic control devices.

M. **Underground and Overhead Construction**

1. **Preference for underground Installation.** In all sections of the City where the cables, wires, utilities or other like facilities are placed

underground, the Franchisee shall place its wires, or other like facilities, underground. If at any time the City determines that existing wires, cables, utilities or other like facilities anywhere in the City shall be changed from an overhead to an underground installation, the Franchisee shall, convert its facilities to an underground installation with prior reasonable notice. If Franchisee's wire, cable, utilities or other facilities are to be placed underground in a common trench or bore shared by others, Franchisee shall share equally the expense of the trenching and/or boring in proportion to the number of joint users. The Franchisee shall pay for all cable, wire conduit, or facilities installed for Franchisee's own use. If the Franchisee owns the aerial supporting structures, the additional incremental cost of undergrounding compared to aerial allocation will be paid by the City. Where no overhead poles exist, all wires and facilities shall be constructed underground.

2. **Overhead**. In areas of the City where electrical or telephone systems are installed on poles above ground, the Franchisee shall have the option of installing its System in like manner above ground or, alternatively, underground.

N. **Rights-Of-Way Occupancy**

1. Nothing in this Franchise shall give the Franchisee the right to attach its system to structures or poles owned by the City without consent of the City.

2. The Franchisee shall:

(a) Locate and install all transmission lines, equipment and structures so as to cause minimum interference with the rights and reasonable convenience of property owners;

(b) Keep and maintain all transmission lines, equipment and structures in a safe condition, and in good order and repair;

(d) Place any fixtures in any Right-of-Way in such manner as not to interfere with the usual travel of the Right-of-Way or cause unsafe conditions of any sort;

(e) Submit a traffic control plan to the City for approval and receive such approval at least 48 hours prior to commencing construction except in the case of emergency. Such traffic control plan shall be available for public inspection on the construction site at all times; and

(f) Notify adjacent property owners, businesses, residents, and others specified by the City prior to construction and major maintenance projects.

3. The Franchisee shall not make street cuts or curb cuts unless absolutely necessary, and only after a permit has been obtained from the City under such conditions as the City shall in its sole discretion determine.

4. Before beginning any excavation or other construction activity on a Right-of-Way which crosses or abuts any private property, the Franchisee shall clearly mark and delineate with flags, stakes or non-polluting water-soluble spray paint the boundaries of that Right-of-Way where it abuts or crosses the private property. After such excavation or other construction activity, the Franchisee shall restore such property to not less than the City's standards.

5. The Franchisee shall locate, mark and map any of its installed System for the City at no expense to the City. The Franchisee shall install underground warning tape with a metallic tracer at least twelve (12) inches above all feeder and trunk lines and above all fiber optic cable.

O. Stop Work

On notice from the City that any work is being performed contrary to the provisions of this Franchise, or in an unsafe or dangerous manner as determined by the City, or in violation of the terms of any applicable permit, laws, regulations, ordinances, or standards, the work may immediately be stopped by the City.

P. **Franchisee's Contractors** The Franchisee and its contractors shall be licensed and bonded in accordance with the City's ordinances, regulations

and requirements for any contractors working in the Rights-of-Way. Any act or omission of any contractor of the Franchisee which violates any provision of this Franchise shall be considered an act or omission of the Franchisee for the purposes of this Franchise.

Q. **Private Property** Except in the case of an emergency involving public safety or service interruption to a large number of subscribers, the Franchisee shall give reasonable notice to the property owners or legal tenants prior to entering upon any private premises, and said notice shall specify the work to be performed; provided that in the case of construction operations, such notice shall be delivered or provided at least forty-eight (48) hours prior to entry. If any damage is caused by any Franchisee activity or omission, the Franchisee shall reimburse the property owner one hundred percent (100%) of the cost of the damage or replace the damaged property. In the case of an emergency, the Franchisee shall attempt to contact the property owner or legal tenant in person, and shall leave a door hanger notice in the event personal contact is not made.

ARTICLE IV. ADMINISTRATION AND REGULATION

SECTION 1. Transfer of Ownership or Control

A. This Franchise shall not be assigned or transferred, leased or disposed of either in whole or in part by voluntary sale or involuntary sale, merger or consolidation, either legal or equitable or any right, interest or property therein, pass to or vest in any person, or entity without the prior written consent of the City Council, which consent shall not be unreasonably withheld. No consent will be required for a transfer in trust, mortgage, or other hypothecation as a whole or in part to secure an indebtedness.

B. The Franchisee shall promptly notify the City of any actual or proposed change in, or transfer of, or disposition of or acquisition by any other party of, control of the Franchisee. The word "control" as used herein is not limited to major stockholders but includes actual working control in whatever manner exercised. Every change, transfer, or acquisition of control of the Franchisee shall make the Franchise subject to cancellation

unless and until the City Council shall have consented thereto, which consent will not be unreasonably withheld. For the purpose of determining whether it shall consent to such change, transfer, disposition, or acquisition of control the City Council may inquire into the qualifications of the prospective controlling party, and the Franchisee shall assist the City Council in any such inquiry.

C. The proposed assignee must show its legal and technical qualifications and its financial responsibility as determined by the City Council and must agree to comply with all the provisions of the Franchise. Unless the Franchisee and the City Council otherwise agree on an extension of time, the City Council shall be deemed to have consented to a proposed transfer or assignment in the event it has not acted within ninety (90) days of notice.

D. The consent or approval of the City Council to any transfer of the Franchise shall not constitute a waiver or release of the right of the City in and to the Rights-of-Way, and any transfer shall by its terms, be expressly subordinate to the terms and conditions of this Franchise.

E. By its acceptance of this Franchise, the Franchisee specifically agrees that any such transfers occurring without prior approval of the City Council shall constitute a violation of this Franchise by the Franchisee. In no event shall a transfer of ownership or change of control be approved without the successor in interest becoming a signatory to this Franchise.

F. Within 30 days of any transfer or sale and upon request, if approved or deemed granted by the City, the Franchisee shall file with the City a copy of the deed, agreement, or other written instrument evidencing such sale or transfer of ownership or control certified and sworn to as correct by the Franchisee.

G. The City may inquire into the legal, technical and financial qualifications of the prospective controlling party or transferee, and the Franchisee shall assist the City in so inquiring. The City may condition said sale or transfer upon such terms and conditions as it deems reasonably appropriate; provided, however, the City shall not unreasonably withhold its approval and any such terms and conditions so attached shall be related to the legal, technical, and financial qualifications of the prospective controlling party or

transferee and to the resolution of outstanding and unresolved issues of noncompliance with the terms and conditions of this Franchise by the Franchisee.

H. Common Control Exemption Notwithstanding anything to the contrary in this Section, the prior written approval of the City Council shall not be required for any sale, assignment or transfer of the Franchise, the System or ownership to an entity controlling, controlled by, or under the same common control as the Franchisee.

ARTICLE V. FINANCIAL AND INSURANCE REQUIREMENTS

SECTION 1. Liability Insurance

A. **General Requirement** The Franchisee must have adequate insurance during the entire term of the Franchise to protect against claims for injuries to persons or damages to property which in any way relate to, arise from, or are connected with this Franchise or involve the Franchisee, its agents, representatives, contractors, subcontractors and their employees.

B. **Verification of Coverage**. If requested, the Franchisee shall furnish the City with certificates of insurance and endorsements or a copy of the page of the policy reflecting blanket additional insured status. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements for each insurance policy are to be on standard forms or such forms as are consistent with standard industry practices. The Franchisee hereby warrants that its insurance policies satisfy the requirements of this Franchise.

C. **Other Insurance** The Franchisee shall also provide Workers Compensation Insurance as required by Washington law.

D. **Insurance - No Limitation**. The Franchisee's maintenance of insurance policies required by this Franchise shall not be construed to excuse unfaithful performance by the Franchisee or to limit the liability of the Franchisee to the coverage provided in the insurance policies, or otherwise

to limit the City's recourse to any other remedy available at law or in equity.

SECTION 2. Compensation

A. **Utility Tax.** In consideration of permission to use the streets and Rights-of-Way of the City for the construction, operation, and maintenance of a Telecommunications system within the Franchise area the Franchisee shall pay to City during the term of this Franchise an amount equal to six percent (6%) of the Franchisee's Gross Revenues ("Utility Tax"). Any net uncollectables, bad debts or other accrued amounts deducted from Gross Revenues shall be included in Gross Receipts at such time as they are actually collected. Revenue from point to point services is based on the pro-rata share of the revenue from those services.

B. **Modification Resulting from Action by Law.** Upon thirty days notice and in the event any law or valid rule or regulation applicable to this Franchise limits the Utility Tax below the amount provided herein, or as subsequently modified, the Franchisee agrees to and shall pay the maximum permissible amount and, if such law or valid rule or regulation is later repealed or amended to allow a higher permissible amount, then Franchisee shall pay the higher amount commencing from the date of such repeal or amendment, up to the maximum allowable by law.

C. **Payment of Utility Tax.** Payments due under this Agreement shall be computed and paid quarterly for the preceding quarter, as of March 31, June 30, September 30, and December 31, each quarterly payment due and payable no later than 45 days after such dates. Not later than the date of each payment, the Franchisee shall file with the City a written statement, in a form satisfactory to the City and signed under penalty of perjury by an officer of the Franchisee, identifying in detail the amount of gross revenue received by the Franchisee, the computation basis and method, for the quarter for which payment is made.

D. **The Utility Tax includes all compensation for the use of the City's Rights-of-Way.** Franchisee may offset against the Utility Tax the amount of any fee or charge paid to the City in connection with the Grantee's use of the Rights-of-Way when the fee or charge is not imposed under a generally

applicable ordinance or resolution. The Utility Tax shall not be deemed to be in lieu of or a waiver of any ad valorem property tax or in lieu of or a waiver of any utility taxes which the City may now or hereafter be entitled to, or to participate in, or to levy upon the property of Franchisee.

SECTION 3. Indemnity

The Franchisee shall, at its sole cost and expense, indemnify and hold harmless the City, City Council, and any officers, employees and agents who have acted in their official capacities, boards and commissions, (collectively referred to as the "City" in this Section) and shall pay all damages and penalties which the City may be legally required to pay as a result of any act or omission by the Franchisee in the operation of the System throughout the term of this agreement. Such damages and penalties shall include, without limitation, damages arising out of copyright infringements, and the construction, erection, operation, maintenance and repair of the System, whether or not any act or omission complained of is authorized, allowed or prohibited by this Franchise. If legal action is filed against the City, to recover for any claim or damages as a result of any act or omission by the Franchisee in the operation of the System, the Franchisee, upon notice to it by the City, shall defend the City against the action. The Franchisee shall have the right to defend, settle or compromise any claims arising hereunder. In the event of a final judgment being obtained against the City as a result of any act or omission by the Franchisee in the operation of the System, the Franchisee shall pay the judgment and all costs and hold the City harmless there from. Nothing in this Franchise shall be interpreted to abridge or otherwise affect the City's right to intervene or participate in any suit, action or proceeding involving any provisions of this Franchise. The Franchisee shall pay all expenses incurred by the Franchisee and the City in defending with regard to all damages as set forth in this Section. These expenses shall include, without limitation, all out-of-pocket expenses, reasonable attorneys' fees, witness and discovery costs and the reasonable value of any services rendered by the City Attorney and its office, and any other agents and employees of the City.

The Franchisee will not be required to indemnify the City for the negligent acts of the City or its officials, boards, commissions, agents or employees.

The City will indemnify and hold the Franchisee harmless from any claims or causes of action arising from any acts by the City involving the City's use of the access channel(s) or the emergency alert system.

ARTICLE VI. ENFORCEMENT AND TERMINATION

SECTION 1. Forfeiture and Termination

A. In addition to all other rights and powers retained by the City under this Franchise or otherwise, the City reserves the right (after notice and the opportunity to cure as provided by Subsection C, below) to forfeit and terminate the Franchise and all rights and privileges of the Franchisee hereunder in the event of a material breach of this Franchise's terms and conditions. A material breach by Franchisee shall include, but shall not be limited to the following:

1. Violation of any material provision of the Franchise or any material rule, order, regulation or determination of the City Council made pursuant to the Franchise;

2. Attempt to evade any material provision of the Franchise or practice any fraud or deceit upon the City;

3. The Franchisee abandons the system or terminates the system's operations;

B. The foregoing shall not constitute a breach if the violation occurs but it is without fault of the Franchisee. The Franchisee shall not be excused by mere economic hardship nor by misfeasance or malfeasance of its directors, officers or employees.

C. The City shall make a written demand that the Franchisee comply with any such provision, rule, order, or determination under or pursuant to this Franchise. If the violation by the Franchisee continues for a period of thirty (30) days following such written demand without written proof that the corrective action has been taken or is being actively and expeditiously pursued, the City Council may appoint a hearing examiner to take under

consideration the issue of termination of the Franchise. The City shall cause to be served upon the Franchisee, at least twenty (20) days prior to the date of such hearing, a written notice of intent to request such termination and the time and place of the hearing. Public notice shall be given of the hearing and issue(s) which the City Council or hearing examiner is to consider.

D. The City Council or hearing examiner, if appointed, shall hear and consider the issue(s) and hear any person interested therein, and determine in its discretion, whether or not any violation by the Franchisee has occurred. The Franchisee shall be entitled to participate fully in the hearing process, including a presentation of evidence and questioning of witnesses, so that the record will include all information pertaining to the alleged violation.

E. If the City Council or hearing examiner, if appointed, shall determine the violation by the Franchisee was the fault of the Franchisee and within its control, the City Council or hearing examiner, if appointed, shall determine if the violation can be cured. If the violation cannot be cured, the Franchise may be forfeited or terminated. If the violation can be cured, the City Council or hearing examiner, if appointed, shall specify the action or actions to be taken by the Franchisee to cure the violation and set a compliance date. If there is no compliance within the period stated, then the City Council may terminate the Franchise. Such determination shall be subject to judicial review.

SECTION 2. Foreclosure

Upon the foreclosure or other judicial sale of all or a substantial part of the System, or upon the termination of any lease covering all or a substantial part of the System, the Franchisee shall notify the City of such fact, and such notification shall be treated as a notification that a change in control of the Franchisee has taken place, and the provisions of this Franchise governing the consent of the City Council to such change in control of the Franchisee shall apply.

SECTION 3. Receivership

The City shall have the right to cancel this Franchise one hundred twenty (120) days after the appointment of a receiver, or trustee, to take over and conduct the business of the Franchisee, whether in receivership, reorganization, bankruptcy or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of said one hundred twenty (120) days, or unless:

A. Within one hundred twenty (120) days after the election or appointment of a receiver or trustee, such receiver or trustee shall have fully complied with all the provisions of this Franchise and remedied all defaults hereunder; and,

B. Such receiver or trustee, within said one hundred twenty (120) days, shall have executed an agreement, duly approved by the court having jurisdiction in the premises, whereby such receiver or trustee assumes and agrees to be bound by each and every provision of this Franchise.

SECTION 4. Bankruptcy

The City shall have the right to cancel this Franchise immediately should the Franchisee liquidate, become insolvent, make a transfer for the benefit of creditors, or reorganize and enter into an arrangement for the benefit of creditors or file a voluntary petition in bankruptcy; or an involuntary petition in bankruptcy is filed against the Franchisee and is not dismissed within one hundred twenty (120) days after the filing.

SECTION 5. Removal of System

At the expiration of the term for which this Franchise has been granted, or upon its lawful termination or revocation as provided herein, the Franchisee shall forthwith, upon notice by the City, remove at the Franchisee's own expense all designated portions of the System from all Rights-of-Way within the City, and shall restore said Rights-of-Way in accordance with the City's Design Standards and Standard Construction Specifications; provided, however, the Franchisee shall have the right to sell its physical plant to a subsequent franchisee, subject to City approval as provided in Article IV, Section 2, in which case said plant need not be

removed and the Franchisee shall continue to operate the System during such interim period prior to the sale. If the Franchisee fails to commence removing or operating its Facilities within thirty (30) days of request and proceeds diligently with the removal, the City may perform the work at the Franchisee's expense. Any property of the Franchisee remaining in place in any Right-of-Way one hundred eighty (180) days after the expiration, termination or revocation of this Franchise shall be considered permanently abandoned and may become the property of the City at the City's discretion.

ARTICLE VII. MISCELLANEOUS PROVISIONS

SECTION 1. Notices

All notices from the Franchisee to the City pursuant to this Franchise shall be to:

Attn: Joe Henne, Public Works Director, 115 W. Naches Ave., Selah, WA 98942

Or to another person as designated by the City. All notices to the Franchisee pursuant to this Franchise shall be sent to:

Contracts Administration, LS Networks, 921 SW Washington St., STE 370, Portland, OR 97205, Phone: (503) 294-5300, Facsimile: (503) 227-8585

Or to such other person or address designated by the Franchisee. The Franchisee shall maintain with the Finance Director, throughout the term of the Franchise, an address for service of notices by mail. The Franchisee shall also maintain with the City, an office address and telephone number for the conduct of matters related to this Franchise during normal business hours. A new address and telephone number of the office shall be furnished to the City Clerk within fifteen (15) days after any change thereof.

SECTION 2. Time Limits Strictly Construed

Whenever this Franchise sets forth a time for any act to be performed by the Franchisee, such time shall be deemed to be of the essence, and any failure of the Franchisee to perform within the allotted time may be

considered a material violation of this Franchise and sufficient grounds for the City to invoke any relevant remedy. However, in the event that the Franchisee is prevented or delayed in the performance of any of its obligations under this Franchise by reason of force majeure, the Franchisee's performance shall be excused during the force majeure occurrence and the Franchisee thereafter shall, under the circumstances, promptly perform the affected obligations under this Franchise or procure a substitute which is satisfactory to the City.

SECTION 3. Cumulative Provision

The rights and remedies reserved to the City and the Franchisee by this Franchise are cumulative and shall be in addition to and not in derogation of any other rights or remedies which the City and the Franchisee may have with respect to the subject matter of this Franchise, and a waiver thereof at any time shall have no effect on the enforcement of such rights or remedies at a future time. Further, either the City or the Franchisee may seek any legal or equitable relief allowed by law provided that, if both parties agree, the City and the Franchisee may seek methods of alternative dispute resolution.

SECTION 4. Compliance with Federal, State, and Local Laws.

The Franchisee, its contractors, subcontractors, employees, and agents shall comply with all applicable federal, state, and local laws, rules, and regulations issued pursuant thereto. The Franchisee and the City have carefully reviewed this Franchise and believe that all provisions hereof are enforceable and in full compliance with all applicable local, state, and federal laws and regulations in effect on the date of execution. If the Franchisee shall discover that any significant aspect of the operation or of any provision of the plans, specifications, or configurations of the Franchisee's System is contrary to or inconsistent with any applicable law, ordinance, rule, or regulation, the Franchisee shall promptly report such fact to the City in writing. The Franchisee and the City shall also be entitled to all rights and be bound by all changes in applicable local, state, and federal laws which occur subsequent to the date of this Franchise. The Franchisee and the City acknowledge that their rights and obligations under this Franchise are explicitly subject to all such changes.

Section 5. Confidentiality

All records of the Franchisee maintained by the City shall be kept confidential and exempt from public disclosure to the maximum extent allowed by law.

SECTION 6. Captions

The captions to sections and subsections contained herein are intended solely to facilitate the reading thereof such captions shall not affect the meaning or interpretation of the text herein.

SECTION 7. Construction of Agreement

This Franchise shall be governed, construed, and enforced in accordance with the laws of the State of Washington (as amended), and any other applicable local, state and federal laws, rules, regulations, legislation, or orders (as such now exist, are later amended or subsequently adopted).

SECTION 8. No Joint Venture

Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the parties and neither party is authorized to, nor shall either party act toward third persons or the public in any manner which would indicate any such relationship with the other.

SECTION 9. Entire Agreement

This Franchise and all attachments represent the entire understanding and agreement between the parties hereto with respect to the subject matter hereof and supersede all prior oral and written negotiations between the parties. This Franchise can be amended, supplemented, modified, or changed only by an agreement in writing which makes specific reference to this Franchise or to the appropriate attachment and which is signed on behalf of both parties.

SECTION 10. Actions of the City or the Franchisee

In any action by the City or the Franchisee mandated or permitted under the terms hereof, it shall act in a reasonable, expeditious, and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

SECTION 11. Severability, Preemption, and Precedence

A. If any section, subsection, sentence, clause, phrase, provision, or portion of this Franchise is for any reason held invalid or unenforceable by any court of competent jurisdiction, or any state or federal regulatory agency having jurisdiction thereof, the remainder of this Franchise shall not be affected thereby, and each remaining section, subsection sentence, clause, phrase, provision, and portion of this Franchise shall be valid and enforceable to the fullest extent permitted by law.

B. In the event that federal or state laws, rules or regulations preempt a provision or limit the enforceability of a provision of this Franchise, then the provision shall be read to be preempted to the extent and for the time required by law. In the event such federal or state law, rule or regulation is subsequently repealed, rescinded, amended or otherwise changed so that the provision hereof that had been preempted is no longer preempted, such provision shall thereupon return to full force and effect, and shall thereafter be binding on the parties hereto, without the requirement of further action on the part of the City or Franchisee, and any amendments to this Franchise negotiated as a result of such provision being preempted shall no longer be of any force or effect with respect to that provision.

SECTION 12. Venue

Any action concerning a dispute arising under this Franchise shall be convened in The City of Union Gap, Washington.

SECTION 13. Interpretation

As a further condition of this Franchise, the parties acknowledge that this Franchise shall be deemed and construed to have been prepared mutually by both parties.

SECTION 14. Attorneys Fees.

In the event that either party shall take action, whether judicial or otherwise, to enforce or interpret any of the provisions of this Franchise, the prevailing party shall be entitled to recover from the other party all expenses which it may reasonably incur in such action, including attorneys' fees and costs, whether incurred in a court of law or otherwise.

SECTION 15. Effective Date

This Ordinance shall be in full force and effect one (1) day after publication and acceptance by the Franchisee as provided by law.

PASSED by the City Council of the City of Selah, Washington on the 22nd day of May, 2012

John Gawlik, Mayor

ATTEST:

Dale Novobielski, City Clerk/Treasurer

APPROVED AS TO FORM:

Robert F. Noe, City Attorney

THE GRANTEE, LIGHTSPEED NETWORKS, INC., DBA "LS NETWORKS" AN OREGON CORPORATION, HEREIN BEFORE REFERRED TO, FRANCHISEE, AND FOR ITS SUCCESSORS AND ASSIGNS, DOES ACCEPT ALL OF THE TERMS AND CONDITIONS OF THE FOREGOING FRANCHISE THIS 30 DAY OF MAY ,2012.

By_____

Michael Weidman, President and CEO

CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY

Council Meeting	Action Item
11/24/2020	N – 5

Title: Resolution enacting Temporary Suspension of the Requirements and Enforcement of SMC 10.34.020 Off-Street Parking Spaces Table 34-1 Retail, Trade, and Services land use category for existing businesses located within the Professional Business and General Business zoning districts who choose to expand or establish outdoor sales areas.

From: Donald Wayman, City Administrator

Action Requested: Approval

Staff Recommendation: Recommend approval of this temporary measure in order to support the recovery of local businesses.

Fiscal Impact: None

Funding Source: N/A

Background / Findings & Facts: Council passed a Resolution April 28, 2020 enacting a temporary suspension of SMC 10.34.020 to support local restaurants and taverns during the COVID-19 pandemic. On November 10, 2020, the Council approved an extension of these measures to February 28, 2021, and further requested that staff bring a resolution extending these same benefits to retail businesses within the City of Selah.

Recommended Motion: Approve the Resolution enacting Temporary Suspension of the Requirements and Enforcement of SMC 10.34.020 Off-Street Parking Spaces Table 34-1 Retail, Trade, and Services land use category for existing businesses located within the Professional Business and General Business zoning districts who choose to expand or establish outdoor sales areas.

RESOLUTION No. _____

RESOLUTION TEMPORARILY SUSPENDING THE REQUIREMENTS AND ENFORCEMENT OF SMC 10.34.020 OFF-STREET PARKING SPACES TABLE 34-1 RETAIL, TRADE, AND SERVICES LAND USE CATEGORY FOR EXISTING BUSINESSES LOCATED WITHIN THE PROFESSIONAL BUSINESS AND GENERAL BUSINESS ZONING DISTRICTS WHO CHOOSE TO EXPAND OR ESTABLISH OUTDOOR SALES AREAS

WHEREAS, the first confirmed cases of Novel Corona virus (COVID-19) have been detected in Yakima County, and the Centers for Disease Control (CDC) has issued warnings regarding the impacts and severity of such virus; and,

WHEREAS, COVID-19 is a respiratory disease that can result in serious illness or death and can easily spread from person to person; and,

WHEREAS, on February 29, 2020, the Governor of the State of Washington proclaimed that a State of Emergency exists in all counties in the State of Washington; and,

WHEREAS, on March 23, 2020, the Governor issued Proclamation 20-05 prohibiting and limiting certain activities and encouraging people to stay at home to limit the spread of COVID-19; and,

WHEREAS, on April 2, 2020, the Governor issued Proclamation 20-25.1 extending the effect of the previously-issued Proclamation No. 20-05 until May 4, 2020; and,

WHEREAS, on November, 15, 2020, the Governor issued a four-week state wide set of restrictions in response to the spread of COVID-19;

WHEREAS, the Selah City Council finds that many local businesses have been, and will continue to be, negatively impacted due to decreased patronage as a result of the prohibitions imposed by the Governor's proclamations and restrictions; and,

WHEREAS, the Selah City Council finds that many Selah retail, trade, and service establishments are smaller in size and scale than those of larger cities, and that absent temporary relief from certain otherwise-applicable zoning and usage rules such retail, trade, and service businesses may not be able to successfully operate subject to limitations to occupancy; and,

WHEREAS, the Selah City Council desires to grant temporary relief to Selah retail, trade and service businesses within the Professional (B-1) and General Business (B-2) zoning districts that allows but does not require, businesses to temporarily convert existing parking areas and/or other existing outdoor areas into outdoor sales areas; and

WHEREAS, the Selah City Council finds that it is in the best interest of the City to pass this Resolution; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SELAH:

Section 1. Temporary Suspension of SMC 10.34.020. The City of Selah hereby temporarily suspends the requirements and enforcement of SMC 10.34.020 Off-Street Parking Spaces Table 34-1 Retail, Trade and Services Category for existing businesses located within the Professional (B-1) and General Business (B-2) zoning districts that choose to expand or establish outdoor sales areas within their existing parking lots or other areas deemed allowable by the City of Selah Public Works Director in accordance with the following standards:

- Areas temporarily converted to outdoor sales areas must be clearly marked and separated from areas that are used for ingress and egress of vehicle traffic, for on-premise vehicle traffic, and for on-premises vehicle parking.

- Areas that are presently used for ADA ramps or parking stalls may not be converted and must continue to be used exclusively for ADA purposes. ADA compliance must be maintained at all times.

- Areas that are presently used for ingress and egress vehicle traffic or for on-premises vehicle travel may not be converted and must continue to be used exclusively for such purposes. Only parking stalls and other areas may be converted to outdoor sales areas.

Section 2. Expiration of Resolution. This Resolution shall automatically sunset and expire, and thus no longer have any continued or future effect, at 11:59 p.m., February 28, 2021.

Section 4. Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this Resolution is declared invalid or unconstitutional for any reason, such decision shall not affect the validity of the remaining portions of this Resolution.

ADOPTED BY THE CITY COUNCIL at a regular meeting, signed, and approved this 24th day of November 2020.

_____
Sherry Raymond, Mayor

ATTEST:

_____
Dale Novobleski, City Clerk

APPROVED AS TO FORM:

_____
D. R. (Rob) Case, City Attorney

CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY

Council Meeting	Action Item
11/24/2020	O – 1

Title: Ordinance Amending Ordinance No. 1634 § 15 Zoning Map Amendment (PD-2020-001) Hillside Estates.

From: Jeff Peters: Community Development Supervisor

Action Requested: Approval

Staff Recommendation: Adopt ordinance rezoning property and amending zoning map from One-Family Residential (R-1) to Planned Development (PD): Hillside Estates Planned Development Rezone PD-2020-001.

Board/Commission Recommendation: Approval

Fiscal Impact: None

Funding Source: None

Background / Findings & Facts: The Hearing Examiner conducted an open record public hearing on May 19, 2020. On June 9, 2020, the Examiner issued his Findings and Conclusions recommending approval of the Rezone of the subject property to Planned Development, and Hillside Estates Preliminary Plat subject to conditions and the provisions of SMC 10.24.

Recommended Motion: I move that the Council adopt the accompanying ordinance accepting the Hearing Examiner's recommendation to Rezone the subject property to Planned Development in conjunction with the Hillside Estates Planned Development.

CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY

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

Date:	Action Taken:
5/19/2020	Hearing Examiner Open Record Public Hearing

ORDINANCE NO. _____

ORDINANCE AMENDING ORDINANCE NO. 1634
ZONING MAP AMENDMENT NO. PD-2020-001 REZONE TO PLANNED DEVELOPMENT (PD)

WHEREAS, Chapter 35A.63 of the Revised Code of Washington authorizes the City Council of the City of Selah to adopt and amend official controls including zoning ordinances and zoning maps; and,

WHEREAS, the City of Selah Council has considered and adopted the Hearing Examiner's findings of fact and conclusions of approval of the 'Hillside Estates Planned Development' rezone and the Council is satisfied that the matter has been sufficiently considered; and,

WHEREAS, the City Council of the City of Selah finds that the zoning map amendment furthers the purpose, goals and objectives of the 2017 City of Selah Urban Growth Area Comprehensive Plan, the City of Selah Zoning Ordinance and the public health, safety and general welfare;

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Findings. The recitals set forth above are incorporated herein as the City Council's Findings. Further, the Hearing Examiner's Findings and Conclusions are adopted as the City Council's Findings and Conclusions by this reference.

Section 2. Amendment. The following described real property identified by Yakima County Tax Parcel Number: 181435-22002 is hereby reclassified from One Family Residential (R-1) to Planned Development (PD):

> Section 35 Township 14 Range 18 Quarter NW S1/2 NW1/4 NW1/4, EX BEG SW COR SD SUBD, TH N 415 FT, TH S 60^30'E 210.5 FT, TH N 28^16'13"E TO S R/W LN OF CO RD [SELAH LOOP ROAD (AKA S & EX W 400 FT OF S 330 FT OF SE1/4 NW1/4 NW1/4, & EX 60 FT RD SD R/W, & EX S 60 FT OF E 206 FT OF SE1/4 NW1/4 NW1/4 ALSO W 34 FT OF E 240 FT FT OF SW1/4 NW1/4 LY N'LY OF CO RD R/W

Section 3. This ordinance, implementing zoning map amendment number PD-2020-001 shall become effective five (5) days following legal publication of this ordinance or a summary of this ordinance.

Done this 24th day of November 2020.

_____
Sherry Raymond, Mayor

ATTEST:

_____
Dale E. Novobielski, Clerk-Treasurer

APPROVED AS TO FORM:

_____
Rob Case, City Attorney

ORDINANCE NO. _____

CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY

Council Meeting	Action Item
11/24/2020	O – 2

Title: Ordinance to Establish the Amount of Taxes to be Levied Upon Real & Personal Property in the City of Selah, Yakima County, Washington, and Fixing the Tax Levy for the Year 2021.

From: Dale Novobielski, Clerk/Treasurer

Action Requested: Approval

Staff Recommendation: Approve Ordinance.

Fiscal Impact: Total $ 2,179,081 Fund 001 General $ 1,372,880, 103 Fire Control $ 618,428 and 110 City Street $ 187,773.

Funding Source: Property taxes

Background / Findings & Facts: To establish and levy the amount of real and personal property taxes to be assessed in 2021.

Recommended Motion: I move to approve the Ordinance establishing the 2021 real and personal property tax levy.

ORDINANCE NO. _____

ORDINANCE TO ESTABLISH THE AMOUNT OF TAXES TO BE LEVIED UPON THE REAL AND PERSONAL PROPERTY IN THE CITY OF SELAH, YAKIMA COUNTY, WASHINGTON, AND FIXING THE TAX LEVY FOR THE YEAR 2021

WHEREAS, the City Council has held a Public Hearing on the revenue sources for the coming year's budget, including consideration of possible increases in property tax revenues for the 2021 calendar year, and

WHEREAS, the assessed valuation for the City is preliminary and is subject to change;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SELAH does ordain as follows:

The City Council of the City of Selah, Washington, does make, determine and levy the amount of taxes to be assessed in 2021 against real and personal property situated within the corporate limits of the City as follows:

REGULAR LEVY	$ 2,179,081*

*The regular levy request is a $ 56,262 increase from the 2020 levy amount consisting of a 1 % increase of that same 2020 levy amount, plus any amount allowed for new construction and increase in state assessed values.

PASSED AND ORDAINED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON this 24th day of November, 2020.

_____
Sherry Raymond, Mayor

ATTEST:

_____
Dale E. Novobielski, Clerk-Treasurer

APPROVED AS TO FORM:

_____
Rob Case, City Attorney