

July 9, 2019

City of Yelm Staff Report
20180280 The Hutch Residential Subdivision

List of Exhibits

Staff Report
Exhibit 1 Notice of Public Hearing
Exhibit 2 Notice of Application
Exhibit 3 Preliminary Plat
Exhibit 4 MDNS
Exhibit 5 Ecology Comments
Exhibit 6 Lascik Comment
Exhibit 7 Thomas Comment
Exhibit 8 AHBL Presentation
Exhibit 9 Tyler Terrace Decision 20150212
Exhibit 10 2005 Hutch Decision 20050601



City of Yelm

EST. 1924

WASHINGTON

“Proudly Serving Our Community”

Case Number: 20180280

Applicant: Mitchell Development II, LLC
910 Traffic Ave
Sumner, WA 98390

Agent: AHBL
Matt Weber, PE
2215 North 30th Street #300
Tacoma, WA 98403

Request: Subdivide 19.48 acres into 118 single family residential lots

Public Hearing Date: July 2019

Recommendation: Approval with conditions

PROPOSAL

The applicant proposes to subdivide a 19+ acre parcel into 118 residential lots for single family dwellings. The property is zoned Moderate Density Residential (R-6), which allows between 3 to 6 dwelling units per gross acre of land.

PROPERTY CHARACTERISTICS

The property is located at 9306 Mountain View Road SE and is located between Mountain View Road and Killion Road, approximately 1,000 feet north of Yelm Avenue West (SR 510). The property is identified by two Assessor's Tax Parcel Numbers 21713430200 and 21713430300.

The property has historically been used for light agricultural uses and was once part of a larger ownership which included the 20 acres immediately to the south of the subject property.

Surrounding properties to the east, west, and north are predominately moderate density residential. The property to the south of the subject site is zoned General Commercial (C-1) and is expected to eventually develop consistent with commercial zoning. The property is generally flat and level with less than 5% slopes.

NOTICE OF APPLICATION AND PUBLIC HEARING

Notice of this application was mailed to state and local agencies and property owners within 300 feet of the site on October 31, 2018, as well as published in the Nisqually Valley News in the legal notice section on November 9, 2018.

Comments were received from two adjacent property owners with concerns regarding the movement of pocket gophers and moles from this property to theirs, noise during construction, setbacks of new homes, the condition of fencing, traffic impacts and effects to personal well due to stormwater retention. The property owners suggest a vermin barrier between properties.

Preliminary reconnaissance showed no evidence of pocket gophers, a vermin barrier would not be required at this time. Best management practices for fence construction is listed as a condition of approval. Traffic impact were reviewed as part of the Transportation Impact Analysis, and became mitigating measures of the Mitigated Determination of Non significance discussed below. Stormwater from the site will be treated and released back into the ground. The stormwater facilities should have no effect on well levels.

Notice of the date and time of the public hearing before the Hearing Examiner was posted on the project site, mailed to property owners within 300 feet of the site, and mailed to the recipients of the Notice of Application on Tuesday, June 30, 2019. Notice of the public hearing was published in the Nisqually Valley News in the legal notice section on Friday, June 28, 2019.

STATE ENVIRONMENTAL POLICY ACT

The City of Yelm SEPA Responsible Official issued a Mitigated Determination of Non significance (MDNS) based on Section 197-11-158 WAC on April 23, 2019. The determination is final and fulfills the City's responsibility for disclosure of potential significant environmental impacts.

Mitigation Measures:

1. The east half of Mt. View Road along the property frontage shall be improved to City standards for a Neighborhood Collector.
2. Mt. View Road shall be improved to include two 16' drive lanes, with shoulder from the southern property line to the intersection of Yelm Avenue West.
3. All interior streets shall be improved to City standards for a local access residential.
4. Transportation facilities charges due and payable at building permit issuance.
5. Stormwater facilities shall meet the standards of the most recent Stormwater Management Manual for Western Washington as published by the Washington State Department of Ecology.
6. Compliance with Yelm's requirements under the Critical Areas Code does not ensure compliance with the provisions of the Endangered Species Act. The applicant should contact the US Fish and Wildlife Service with any questions about compliance with Federal standards for threatened species if, at any time, evidence of Priority Habitat Species or Mazama Pocket Gopher is found.

Comments were received from the Washington Department of Ecology (ECY), which noted that the project is subject to existing regulations regarding toxics and waste cleanup and water quality, as well as subject to National Pollution Discharge Elimination System (NPDES) regulation. ECY also noted that the National Wetland Inventory (NWI) shows wetlands on this parcel. Local environmental mapping shows no wetlands located in this area, vegetation does not indicate wetlands. The NWI is based on aerial photos from 1981, and US Fish and Wildlife specifically states on the website in the disclaimer, data limitations, exclusions, and precautions to verify local accuracy.

CONCURRENCY

The intent of the City's concurrency management program, as required by the Growth Management Act, is based on the maintenance of specified levels of service through capacity monitoring, allocation and reservation procedures.

Concurrency describes the situation in which water, sewer and/or transportation facilities are available when the impacts of development occur. [Section 18.16.020 YMC]

Water

The level of service for water infrastructure is the ability to provide potable water to the consumer for use and fire protection in accordance with adopted health and environmental regulations. [Section 18.16.030 YMC]

Concurrency for subdivisions is met when, at the time of preliminary approval, the planned infrastructure identified in the six-year improvement program and water rights acquisition program of the water system plan are sufficient to provide for the proposed land division.

The State Subdivision Act, Chapter 58.17 RCW, requires that the City of Yelm make a written determination that appropriate provisions are made for potable water supplies as part of the preliminary land division process.

As of May 31, 2019, the City has approximately 240 water connections available for new development. 240 connections will provide for 2 to 3 years' worth of growth at historical rates. This connection limit is based on storage capacity and available water rights.

The City has been planning since 1994 for the acquisition of new water rights, which were approved by the Washington State Department of Ecology in 2010. This approval was appealed and was upheld by the Pollution Control Hearings Board and by Superior Court, but was overturned by the Washington Supreme Court on October 8, 2015.

The Washington State Legislature adopted the 2018 Streamflow Restoration Act. The act requires the Washington Department of Ecology to issue new water rights to up to 5 pilot projects in order to monitor and report the effectiveness of out of kind mitigation for new water rights.

The City of Yelm was selected as a pilot project and is currently working diligently in updating its water rights application, and anticipates submittal in 2019. At that time, the City will review and update its concurrency policy to allow the approval of preliminary subdivisions as water would be expected to be available at the time of new demand.

At this time, with a limited number of water connections and no application pending for additional water rights, it is not possible to find that water will be reasonably available at the time it is needed for new homes if the preliminary subdivision was approved at this time.

Sewer

Concurrency with sewer infrastructure is achieved pursuant to Section 18.16.050 (B)(2) YMC when the project is within an area approved for sewer pursuant to the adopted sewer comprehensive plan for the city and, at the time of preliminary approval, the planned infrastructure identified in the six year improvement program of the sewer system plan are sufficient to provide for the proposed land division and it is reasonable anticipated that the treatment plant has sufficient capacity to provide for the proposed land division.

The City's Sewer Comprehensive Plan identifies the property as being within the sewer service area and is not currently connected to the City's S.T.E.P. sewer system. There are sewer mains located in both Mt. View Road and Killion Road. These mains were installed by a previous development, and the properties are subject to a sewer latecomer agreement.

The development is required to connect to and extend the main along all new proposed roadways within the subdivision. The improvements required to serve the project will be specifically identified during civil plan review. This satisfies the requirement for concurrency with sewer infrastructure.

Transportation

Concurrency with transportation infrastructure is achieved pursuant to Section 18.16.050 (B)(2) YMC when the level of service at concurrency intersections will not drop below accepted levels of service due to new trips associated with the proposed land division unless the planned improvements identified in the six year transportation improvement program would maintain levels of service.

Frontage improvements are required as part of development. The developer has indicated that frontage improvements along Mountain View Road will be installed to the City's adopted Neighborhood Collector standard and that internal streets will be constructed to adopted Neighborhood Collector (subdivision entrance roads) and local access residential standards. Frontage improvements along Killion Road were completed as part of a City-sponsored Local Improvement District. The transportation impact analysis describes impact to intersections, and specifically the intersection at Mt. View Road and Yelm Avenue (SR 510). This intersection was also improved as part of the Killion Road LID. The applicant proposes to provide upgraded drive lanes from the project frontage south to the intersection.

Finally, Traffic Facility Charges are applied at the time of building permit issuance. These conditions satisfy the requirement for concurrency with transportation infrastructure.

Fire Protection

Concurrency with fire protection is achieved pursuant to Section 18.16.090(C) YMC when the developer makes a contribution to the fire protection facilities as identified in the most current version of the capital facilities plan adopted by the SE Thurston Regional Fire Authority and endorsed by resolution of the Yelm City Council. This fee is subject to change

and is collected at the time of building permit issuance. Payment of this fee satisfies the requirement for concurrency with fire protection.

School

Concurrency with school infrastructure is achieved pursuant to Section 18.16.090(B) YMC when the developer makes a contribution to school facilities as identified in the most current version of the capital facilities plan adopted by Yelm Community Schools, and endorsed by resolution of the Yelm City Council. This fee is subject to change and is collected at the time of building permit issuance. Payment of this fee satisfies the requirement for concurrency with school infrastructure.

CRITICAL AREAS

The Yelm Critical Areas Code, Chapter 18.21 YMC provides protection for wetlands, critical aquifer recharge areas, frequently flooded areas, geologically hazardous areas, and fish and wildlife habitat areas.

Aquifer Recharge

All of Yelm is identified as a critical aquifer recharge area. Compliance with Federal, State, and County water source protection regulations and with the City's adopted stormwater regulations are required to protect the aquifer [Section 18.21.070 (C) YMC].

The stormwater system proposed is a BayFilter treatment system which has a general use designation in the 2014 Stormwater Management Manual for Western Washington for source water protection.

Wetlands

ECY noted that the NWI shows wetlands on this parcel. Local environmental mapping shows no wetlands located in this area, vegetation does not indicate wetlands. The NWI is based on aerial photos from 1981, and US Fish and Wildlife specifically states on the website in the disclaimer, data limitations, exclusions, and precautions to verify local accuracy.

Fish and Wildlife habitat conservation areas, wetlands and flood zones

The Mazama Pocket Gopher has been listed as a threatened species by the Washington Department of Fish and Wildlife since at least 2008. Yelm has protected this species through the implementation of the Critical Areas Code, Chapter 18.21 YMC. When a development occurs on property suspected to be occupied by the Mazama Pocket Gopher, the Community Development Department has required the applicant prepare a critical areas report which would include mitigation measures if it was determined that pocket gophers would be impacted by the proposed development. The Washington Department of Fish and Wildlife is provided with notice of all threshold determinations issued pursuant to the State Environmental Policy Act and the City consults with the Department when a critical areas report is required.

In April, 2014, the U.S. Fish and Wildlife Service listed the Yelm subspecies of the Mazama Pocket Gopher as threatened under the Endangered Species Act. While the City of Yelm is not responsible for implementation or enforcement of the Endangered Species Act, it

consults with the Service and provides notice to applicants that the pocket gopher is a federally protected species and a permit from the U.S. Fish and Wildlife Service may be required.

As part of the application, a gopher reconnaissance was completed by Land Services Northwest, LLC. The report states that there were no indicators for the Mazama Pocket Gopher.

Compliance with Yelm's requirements under the Critical Areas Code does not ensure compliance with the provisions of the Endangered Species Act. The applicant should contact the US Fish and Wildlife Service with any questions about compliance with Federal standards for threatened species if, at any time, evidence of Priority Habitat Species or Mazama Pocket Gopher is found.

DESIGN STANDARDS

Lot Size and Setbacks

The Yelm Unified Development Code does not establish minimum or maximum lot sizes, although it does require standard yard setbacks of 15 feet from the front property line adjacent to local access road with a minimum 20 foot driveway approach, 5 feet from side property lines, and 25 feet from the rear property line. The setback for a flanking yard is 15 feet from the property line. The preliminary site plan shows 3 corner lots which may pose a challenge for the safe placement of driveway entrances, and possible interference with driving sight distances if owners desire to fence their yards.

Street Lighting

Adequate street lighting is necessary to provide safety to pedestrians, vehicles, and homeowners. Street lighting is reviewed at the time of civil plan review in order to assure adequate lighting.

Parking

Residential uses require two spaces per dwelling unit. This is typically achieved within a standard driveway approach. [Section 18.54.030 (A)]

On-street parking is allowed on both sides of local access residential streets.

Water

Chapter 13.04 YMC and Chapter 6 of the Development Guidelines establish requirements for connection to the City's water system.

The site is not currently connected to City water service. Water connections are based on Equivalent Residential Units (875 cubic feet of water consumption per month).

There is an 8-inch service main located on Mt. View Road, and a 10-inch main located on Killion Road.

These mains were required to be installed by a developers of properties north of this site. For Mt. View Road there is a water latecomers' fee associated with parcel 21713430200 in the amount of \$18,204.27 plus interest.

For Killion Road there is a water latecomers' fee associated with parcel 21713430300 in the amount of \$14,685.82 plus interest. These latecomer fees are required to be paid at the time of connection to the water system.

The City implements a cross-connection and backflow control program pursuant to Title 43 RCW and Chapter 248-54 WAC. [Section 13.04.220 YMC] A backflow prevention device is required to protect Yelm's water system from cross-connections from any irrigation systems. [Section 13.04.220 (D)].

Fire hydrant locks are required to be installed, and paid for by the applicant.

There is history of a well located at the southern property line, near proposed lot 23. The stormwater report states that the well will be abandoned prior to final subdivision. Washington State Department of Ecology (ECY) website shows a well located at the northern property line as well. Any wells located onsite must be decommissioned pursuant to ECY standards, and water rights dedicated to the City. A well protection radius must be provided if offsite wells are not abandoned.

As stated in the concurrency section above, with a limited number of water connections and no application pending for additional water rights, it is not possible to find that water will be reasonably available at the time it is needed for new homes if the preliminary subdivision was approved at this time.

Sewer

Chapter 13.08 YMC and Chapter 7 of the Development Guidelines establish requirements for connection to the City's sewer system.

The property is located in the City of Yelm's S.T.E.P. sewer system service area, and is not connected to the City of Yelm's S.T.E.P. sewer system. Sewer connections are based on Equivalent Residential Unit (875 cubic feet of water consumption per month). There is a 3-inch sewer main located on Mt. View Road, and a 4-inch main located on Killion Road. Connection to City sewer service is required.

These mains were required to be installed by a developers of properties north of this site. For Mt. View Road there is a sewer latecomers' fee associated with parcel 21713430200 in the amount of \$13,713.73 plus interest.

For Killion Road there is a sewer latecomers' fee associated with parcel 21713430300 in the amount of \$5,117.58 plus interest. These latecomer fees are required to be paid at the time of connection to the sewer system.

Transportation

The City of Yelm Development Guidelines and the concurrency requirements of Chapter 18.16 YMC require all new subdivisions to improve street frontages to current City standards.

The developer has indicated that frontage improvements along Mountain View Road will be installed to the City's adopted Neighborhood Collector standard and that internal streets will

be constructed to adopted Neighborhood Collector (subdivision entrance roads) and local access residential standards. Frontage improvements along Killion Road were completed as part of a City-sponsored Local Improvement District (LID). The eastern 10 acres of the property is within the LID boundary and is assessed a share of the total project cost. The City Council, by Resolution Number 496 established a Transportation Facility Charge credit \$564 per peak PM trip for those properties within the Killion Road LID.

The transportation impact analysis describes impact to intersections, and specifically the intersection at Mt. View Road and Yelm Avenue (SR 510). This intersection was also improved as part of the Killion Road LID. The applicant proposes to provide upgraded drive lanes from the project frontage south to the intersection.

The Unified Development Code at Chapter 18.52 requires subdivisions of 25 or more housing units provide more than one vehicular access from an arterial or collector street. It also requires that no street shall extend for a distance greater than 660 feet without including a provision for at least one intersection, or other traffic calming measure. The preliminary site plan meets this requirement.

Section 18.52.090 requires the layout of streets to provide for continuation of streets. The preliminary site plan shows two future connections to unplatted property to the north.

Stormwater

Impervious surfaces create stormwater runoff which, when uncontrolled and untreated can create health, safety, and environmental hazards. The City of Yelm has adopted the most current version of the Stormwater Management Manual for Western Washington, which requires all development to treat and control stormwater.

The applicant has submitted a preliminary stormwater report which includes a conceptual design for the treatment and infiltration of stormwater. The stormwater system proposed is a BayFilter treatment system which has a general use designation in the 2014 Stormwater Management Manual for Western Washington for source water protection.

Stormwater facilities require continued maintenance to ensure they remain in proper working condition.

Landscape

The Unified Development Code at Section 18.55.020 YMC requires landscaping for all new development. For residential subdivisions, the perimeter landscape is met with a solid wood fence. Based on comments from neighboring property about failing fencing, fences should be constructed using best management practices, including fence brackets and proper construction.

Streetscape landscaping is required as part of street frontage improvements.

The underground storm treatment area is proposed as open space. A perimeter landscape or other onsite landscaping theme should be incorporated.

Since 2009, the City Council has limited the use of water for irrigation of existing facilities to the minimum required according to the Washington Irrigation Guide, and has required water

conservation measures for new development. Conditions of approval which limit the need for irrigation for required landscaping and limit the loss of water from the irrigation system are appropriate. A condition restricting landscaping in order to minimize the need for irrigation and to minimize the loss of water when irrigating is appropriate to ensure compliance with Section 13.04.097 YMC.

If the landscape plan includes irrigation, it shall include the following water conservation requirements:

- a. Choose irrigation devices and design the irrigation system to positively prevent runoff or overspray onto impermeable hardscape under all conditions regardless of wind or possible equipment misalignment.
- b. Assign separate station/zones (hydrozones) to areas with dissimilar water or scheduling requirements. For example; separate zones should be designed for trees, shrubs, flowers, shady areas, sunny areas, drip irrigation and sprinklers.
- c. Locate sprinkler heads based on a thorough evaluation of physical, environmental, and hydraulic site conditions, including wind. The design must not permit sprinklers to overspray onto impermeable hardscape under any condition.
- d. Specify drip irrigation for all zones planted in one-gallon or larger size.
- e. Specify weather-based irrigation controllers (WBIC).
- f. Specify check valves wherever necessary to prevent low-head drainage.

The final landscape plan submitted with civil plans shall provide a detailed irrigation plan.

Open Space

The Unified Development Code at Section 18.56.010 YMC requires residential developments to include equal to or greater than five percent of the gross area of the development as qualified open space. The applicant has provided a preliminary landscape plan that shows .97 acres as open space in 3 tracts. Tracts A & B are underground stormwater facilities. The conceptual plan shows a pedestrian pathway, however does not show safe connection to sidewalks. Sidewalk connections for internal pathways are required. While a pathway and bench is a component of open space, it would be considered for access to the area. Park or play equipment should be included.

Mailboxes

New residential development shall coordinate the US Postal Service for the location of mailboxes. Mailboxes shall be cluster box units (CBU). Placement of CBU mailboxes shall be placed in a location that does not interfere with individual driveway access, or pedestrian pathways.

Subdivision Name and Addressing

A subdivision name must be reserved with the Thurston County Auditor's Office prior to submitting for final subdivision approval.

Addressing and street naming within the subdivision will be assigned or approved by the Community Development Department prior to application for final subdivision approval.

STAFF RECOMMENDATION

Section 18.14.050 YMC requires written findings prior to a decision on a preliminary subdivision.

The applicant has not established that the proposed subdivision adequately provides for the public health, safety and general welfare and for such open spaces, drainage ways, streets, sanitary wastes, parks and recreation, schools, sidewalks, and, that the public use and interest will be served by the subdivision of the property, as it is not possible to be reasonably certain that potable water will be available at the time homes would be constructed on the proposed lots.

The Community Development Department recommends that the preliminary subdivision be denied for lack of concurrency with water infrastructure. If the Examiner finds that concurrency requirements have been met, the Department would recommend the following conditions be included with any preliminary approval:

1. The conditions of the Mitigated Determination of Non-Significance are hereby referenced and are considered conditions of this approval.
2. No construction is authorized under this approval unless the City has made application for additional water rights with the Washington State Department of Ecology and the Community Development Department Administrator determines that water will be available at the time there will be demand for water from homes within the subdivision. The Administrator's decision may be reviewed by the Hearing Examiner at the request of the applicant, provided the applicant shall be responsible for any costs of the Examiner's review.
3. The applicant shall show on civil plans, and the on the face of the final subdivision map, the driveway placement for lots 53, 79, and 81 to be located on the east or west property lines.
4. The applicant shall provide specific fencing restrictions for lots 53, 79, and 81 in the Covenants and Restrictions for the Homeowners Association, and on the face of the final subdivision map, to provide for adequate sight distance.
5. Connection to the water system will be at the stub outs provided on Killion and Mt. View Road, and lines extended within the new internal streets. Each dwelling unit within the subdivision shall connect to the City water system. The connection fee and meter fee will be established at the time of building permit issuance. All conditions for cross connection control shall be met, as required in Section 246-290-490 WAC.
6. Prior to final subdivision approval, the developer shall pay all latecomer assessments due on the parcels.
7. The applicant shall submit a fire hydrant plan to the Community Development Department for review and approval as part of the civil engineering plans prior to final subdivision approval. The applicant shall submit fire flow calculations for all existing

and proposed hydrants. All hydrants must meet minimum City standards. The applicant shall be responsible for the fee for hydrant locks on all fire hydrants required and installed as part of development. These fees shall be collected by the Community Development Department prior to final plat recording.

8. The civil engineering plans shall include a search and report of adjacent wells and their locations. Any onsite wells shall be decommissioned, and water rights dedicated to the City. Offsite wells within 100 feet of the property shall be identified, and well protection radius provided.
9. Connection to the sewer system will be at the stub outs provided on Killion and Mt. View Road, and lines extended within the new internal streets. Each dwelling within the subdivision shall connect to the City S.T.E.P sewer system. The connection fee and inspection fee will be established at the time of building permit issuance.
10. The final landscape plan submitted as part of the civil plan review shall include details of the minimum five (5) percent of the gross land area as qualified open space, with active recreation component.
11. The landscape plan shall identify the type II perimeter fencing that includes best construction methods for fencing, streetscape landscape, and appropriate landscape for park areas.
12. If irrigation is provided, an irrigation plan shall be submitted as part of the landscape plans, and compliant with Section 13.04.097 YMC.
13. The applicant shall provide a performance assurance device in order to provide for maintenance of the required landscape for this subdivision, until the homeowners association becomes responsible for the landscaping maintenance. The performance assurance drive shall be 150 percent of the anticipated cost to maintain the landscaping for three years.
14. Stormwater facilities shall be located in separate recorded tracts owned and maintained by the homeowners association. The stormwater system shall be held in common by the Homeowners Association and the homeowner's agreement shall include provisions for the assessment of fees against individual lots for the maintenance and repair of the stormwater facilities. All roof drain runoff shall be infiltrated on each lot utilizing individual drywells.
15. Street lighting is required. The applicant shall contact Intolight to provide a lighting design plan for review and approval.
16. Pursuant to Chapter 18.16, the applicant shall pay School and Fire impact fees at the time of building permit issuance.
17. The civil engineering plans shall include an addressing map for approval by the Building Official.
18. The civil engineering plans shall include the proposed location and details for mailbox placement.
19. Prior to final subdivision application, a subdivision name must be reserved with the Thurston County Auditor's Office.



City of Yelm
EST. 1924
WASHINGTON

“Proudly Serving Our Community”

NOTICE OF PUBLIC HEARING - YELM HEARING EXAMINER

DATE: Tuesday, July 9, 2019 – 9:00 AM

PLACE: Yelm City Hall, 106 2nd Street SE, Yelm WA

PURPOSE: Public Hearing to receive comments regarding the following:

1. The Hutch, 118 Lot Subdivision
Case Number 20180280. Request to subdivide 19.48 +/- acres into 118 single family lots, located between Mountain View Road and Killion Road in Yelm, WA. Assessor's Tax Parcel Numbers 21713430200 & 21713430300.

The City of Yelm Hearing Examiner will hold a public hearing to receive comments on the application listed above. The Hearing Examiner will make a decision on these matters within 10 working days after the hearing.

Testimony may be given at the hearing or through any written comments. Comments must be received by the close of the public hearing. Such written comments may be submitted to the City of Yelm at the address shown above or mailed to: City of Yelm Community Development Department, 106 2nd Street SE, Yelm WA 98597.

Any related documents are available for public review during normal business hours at the City of Yelm, 106 2nd Street SE, Yelm WA 98597. For additional information, please contact the Community Development Department at (360) 458-3835.

It is the City of Yelm's policy to provide reasonable accommodations for people with disabilities. If you are a person with a disability in need of accommodations to conduct business or to participate in government processes or activities, please contact Lori Mossman at 360-458-8402 at least five working days prior to the scheduled event. For information on the Americans with Disabilities Act and the Title VI Statement visit our web page at <http://www.yelmwa.gov/human-resources/>.

Lori Mossman, City Clerk

DO NOT PUBLISH BELOW THIS LINE



City of Yelm

Community Development Department

*105 Yelm Ave W
YELM, WA 98597
360-458-3835*

NOTICE OF APPLICATION

Mailed on: October 31, 2018

PROJECT NAME: The Hutch, 118 lot Subdivision

PROJECT LOCATION: 9306 Mountain View Road, Yelm, WA 98597

PROJECT PARCEL NUMBER: 21713430200 & 21713430300

LAND USE CASE NUMBER: 20180280

An application submitted by Mitchell Development II LLC, 910 Traffic Avenue, Sumner, WA 98390, for the above referenced project was received by the City of Yelm on July 23, 2018. The City has determined the application to be complete on October 31, 2018. The application and any related documents are available for public review during normal business hours at the City of Yelm, 105 Yelm Ave W, Yelm WA. For additional information, please contact the Community Development Department at 360-458-3835.

PROJECT DESCRIPTION: The applicant proposes to construct a 118 lot residential subdivision on 19.48 acres between Mountain View Road and Killion Road.

ENVIRONMENTAL and OTHER DOCUMENTS SUBMITTED WITH THE APPLICATION: A preliminary site plan, preliminary drainage report, updated environmental checklist, and updated traffic impact analysis was submitted.

Additional Information or Project Studies Requested by the City: N/A

No preliminary determination of consistency with City development regulations has been made. At minimum, this project will be subject to the following plans and regulations: City of Yelm Comprehensive Plan, Unified Development Code Title 18 YMC, and the Stormwater Management Manual for Western Washington.

The City of Yelm invites your comments early in the review of this proposal. Comments should be directed to Tami Merriman, Community Development Department, 105 Yelm Ave W, Yelm WA 98597, 360-458-3835.

THE 15-DAY PUBLIC COMMENT PERIOD ENDS AT 5:00 PM ON NOVEMBER 15, 2018

This notice has been provided to appropriate local and state agencies, and property owners within 300 feet of the project site. These recipients will also receive the following items when available or if applicable: Environmental Threshold Determination, Notice of Public Hearing and Notice of Final Decision. If the proposed project requires a City Council decision, it will be mailed to all those who participate in the public hearing and to anyone else requesting the decision in writing. Additionally, there will be a 14-day public comment period if an environmental determination is issued. Opportunities for appeal occur within twenty one (21) days after the date the notice of decision is issued. City Council decision can be appealed through Superior Court.



Project Title:
THE HUTCH

Client:
MITCHELL DEVELOPMENT II, LLC

910 TRAFFIC AVENUE
SUMNER, WA 98390-9208

PHIL MITCHELL

Job No.
2180115.10

Issue Set & Date:
PRELIMINARY PLAT

7/12/2018



07/23/2018

NOTICE
ALTERATION OF THIS DOCUMENT SHALL INVALIDATE THE PROFESSIONAL SEAL AND SIGNATURE. PUBLICATION OF THIS DOCUMENT DOES NOT DEROGATE FROM RESERVED OWNERSHIP RIGHTS IN IT. THIS DOCUMENT IS FOR USE ONLY FOR THE PROJECT IDENTIFIED IN THE TITLE BLOCK AND IS NOT TO BE USED FOR REPAIR, REMODEL, OR ADDITION TO THAT PROJECT OR FOR ANY OTHER PROJECT.

△

△

△

△

Revisions:

Sheet Title:
PRELIMINARY PLAT

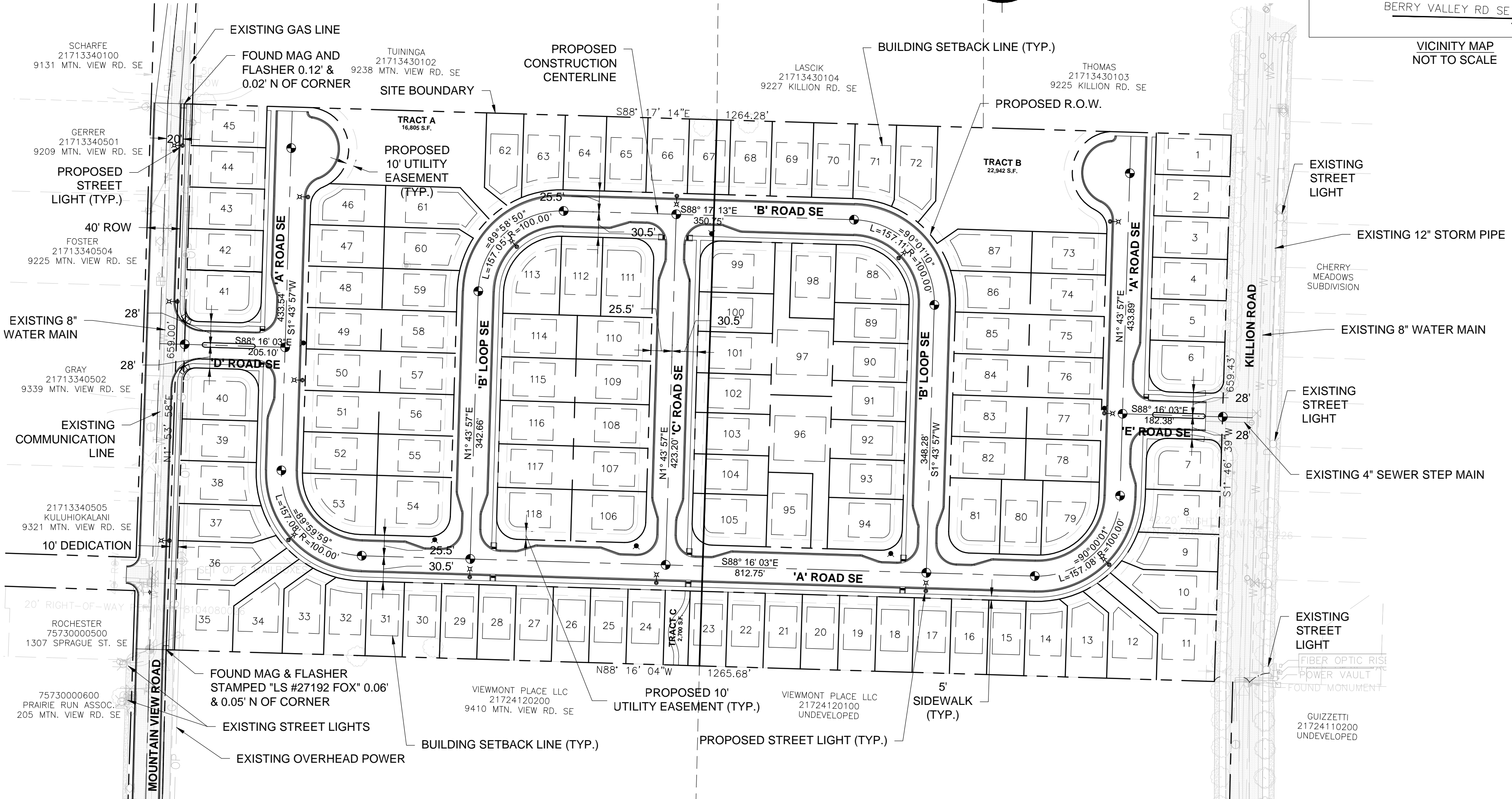
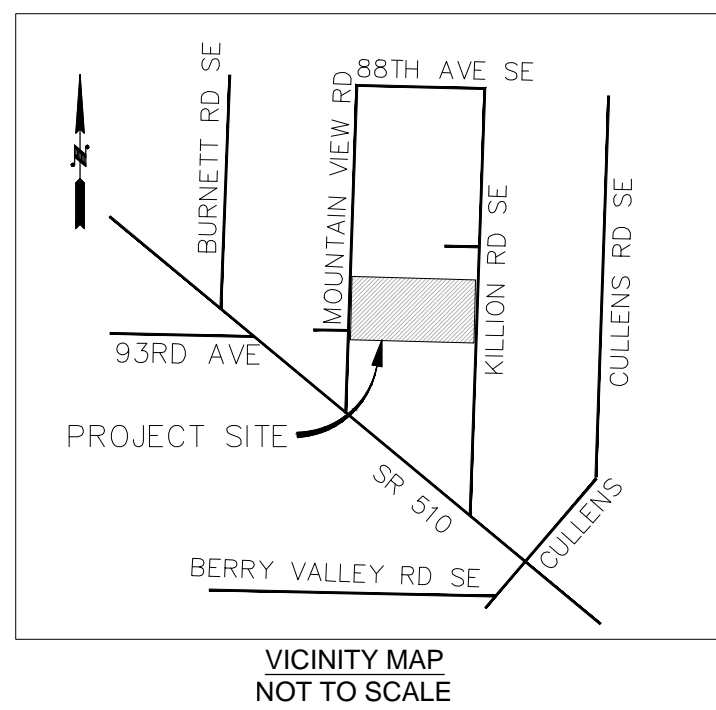
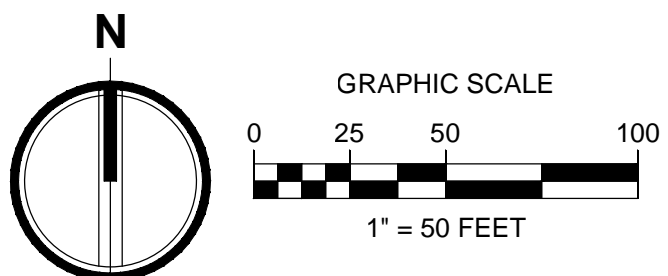
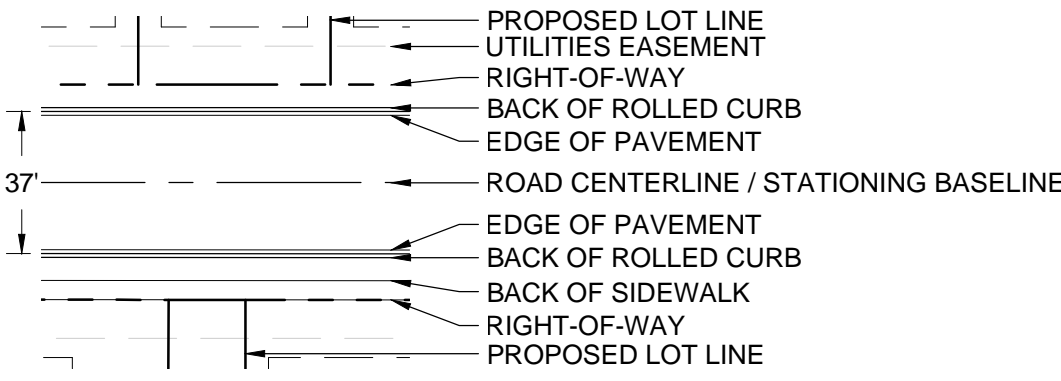
Designed by: Drawn by: Checked by:

Sheet No.

C1.0
1 of 1 Sheets

THE HUTCH

Sec. 13, Twp. 17 N., Rge. 1 E., W.M.
YELM, WASHINGTON



OWNER

MITCHELL DEVELOPMENT II, LLC
910 TRAFFIC AVENUE
SUMNER, WA 98390-9208
CONTACT: PHIL MITCHELL

CIVIL ENGINEER

AHBL
2215 NORTH 30TH STREET, SUITE 300
TACOMA, WA 98403
PH. (253) 383-2422
FAX (253) 383-2572
CONTACT: SCOTT KAUL, PE



MINIMUM SETBACKS

(ACCORDING TO CITY OF YELM)
FRONT: 15'
SIDE: 5' MIN EA SIDE, BOTH MUST = 12'
SIDE SIDE (FLANKING STREET): 15'
REAR: 25'

SITE STATISTICS

TOTAL SITE GROSS AREA:	19.48 ACRES
ZONING:	R-6
NET AREA (ROADS)	8.06 AC.
NET LENGTH (ROADS)	3,767.97 L.F.
TOTAL NO. OF DWELLING UNITS	118
DENSITY	6 UNIT/ACRE
SMALLEST LOT SIZE	4,050 S.F.
AVERAGE LOT SIZE	4,356 S.F.
OPEN SPACE	42,445 S.F.
USE OF TRACTS	
'A' - STORMWATER/OPEN SPACE	16,803 S.F.
'B' - STORMWATER/OPEN SPACE	22,942 S.F.
'C' - OPEN SPACE	2,700 S.F.

(42,445 S.F. (5% GROSS AREA))

VERTICAL DATUM

NAVD 1988 VERTICAL DATUM ON ORTHOMETRICALLY CORRECTED GPS OBSERVATION USING WSRN AND GEOID 2012A.

BASIS OF BEARING

NAD 1983
WASHINGTON STATE PLANE SOUTH PROJECTION. BASED ON GPS OBSERVATION USING WSRN AND GEOID 2012A. UNITS OF MEASUREMENTS ARE US SURVEY FEET.

LEGAL DESCRIPTION

PER CHICAGO TITLE COMPANY OF WASHINGTON
ORDER NO. 180021682 DATED JANUARY 23, 2018

FOR APN 21713430200 AND 21713430300
THE SOUTH HALF OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 13, TOWNSHIP 17 NORTH, RANGE 1 EAST, W.M.

EXCEPTING THEREFROM PORTION TAKEN FOR KILLION ROAD PER INSTRUMENT RECORDED DECEMBER 7, 2007 UNDER RECORDING NO. 3976226;

IN THURSTON COUNTY, WASHINGTON.

SITE ADDRESS

9306 SE MOUNTAIN VIEW RD
YELM, WA 98597

PARCEL NUMBERS

21713430200
21713430300

SEPA #: 20180280

MITIGATED DETERMINATION OF NON-SIGNIFICANCE

Proponent: Mitchell Development II, LLC

Description of Proposal: The Hutch Subdivision. Subdivide approximately 19 acres into 118 single-family residential lots, including the construction of stormwater facilities, interior streets, and street improvements to Mt. View Road.

Location of the Proposal: The project is located at 9306 Mt. View Road SE, north of Yelm Avenue West (SR510), between Mt. View Road and Killion Road

Section/Township/Range: Section 13, Township 17 North Range 1 East, W.M.

Threshold Determination: The City of Yelm as lead agency for this action has determined that this proposal does not have a probable significant adverse impact on the environment. Therefore, an environmental impact statement (EIS) will not be required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

Mitigating Measures: See Attachment A

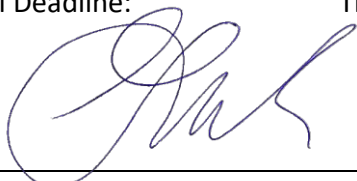
Lead agency: City of Yelm

Responsible Official: Grant Beck, Community Development Director

Date of Issue: April 23, 2019

Comment Deadline: May 7, 2019

Appeal Deadline: There is no local administrative appeal of a MDNS



 Grant Beck, Community Development Director

This Mitigated Determination of Non-Significance (MDNS) is issued pursuant to Washington Administrative Code 197-11-340 (2). Comments must be submitted to Grant Beck, Community Development Department, at City of Yelm, 106 2nd Street SE, Yelm, WA 98597, by May 7, 2019, at 5:00 P.M. The City of Yelm will not act on this proposal prior May 7, 2019 at 5:00 P.M.

 DO NOT PUBLISH BELOW THIS LINE

Published: Nisqually Valley News, Friday, April 26, 2019

Posted in public areas: Wednesday, April 24, 2019

Copies to: All agencies/citizens on SEPA mailing list

Dept. of Ecology w/checklist

ATTACHMENT A
Project Number 20180280

Findings of Fact

- A. This Mitigated Determination of Non Significance is based on the project as proposed and the impacts and potential mitigation measures reflected in the following environmental documents:
- Environmental Checklist (October 2018, prepared by AHBL)
 - Stormwater Report (July 2018, prepared by AHBL)
 - Traffic Impact Analysis (April 2019, prepared by Heath & Associates, Inc)
 - Mazama Pocket Gopher (Thomomys Mazama) Reconnaissance (March 2019, prepared by Land Services NW, LLC)
- B. A Mitigated Determination of Non Significance was issued for this site for a subdivision application of the same number of parcels in 2006 under SEPA 20050601, however the approval expired in 2016. The current application is by a different applicant, adoption of the previous MDNS is not appropriate, as circumstances have changed since the 2006 MDNS. A new environmental checklist, stormwater report, habitat assessment, and traffic impact analysis have been submitted.
- C. The City of Yelm has adopted a concurrency management system as required by the Growth Management Act. Chapter 18.16 YMC (Concurrency Management) is designed to ensure that the improvements required to support development are available at the time of development. A concurrency determination may be issued for a proposal as it relates to transportation issues when: the development provides on-site frontage improvements; the project makes off-site improvements as necessary to provide for the safe movement of traffic; and the project makes a contribution to projects identified in the six year transportation improvement program in the form of a transportation facilities charge.
- D. The City of Yelm and the Washington State Department of Transportation (WSDOT) have established a minimum intersection level of service (LOS) standard of “D” for all intersections in the City’s commercial zones, with the exception of the intersection of Yelm Avenue and First Street NW where the standard is LOS “F”.
- E. All intersections in the City are currently operating in compliance with the adopted LOS standard.
- F. The traffic impact analysis (TIA) submitted as part of the application indicates that the project will generate an average of 1,211 average weekday daily trips per day, with a PM peak of 119 vehicles per hour. The previous TIA required off-site mitigation measures including intersection improvements to Yelm Avenue West and Mt. View Road, and the completion of Killion Road improvements. These projects were completed with an LID, and the property has been assessed as part of the LID. The current TIA indicates that, with average growth and the completion of the previous required improvements, the impacted intersections will stay within adopted standards.
- G. Mt. View Road is classified as a neighborhood collector street, but not currently improved to

collector standards. A neighborhood collector street is designed to accommodate between 500 – 6,000 average daily trips (ADT). Mt. View presently accommodates approximately 641 ADT, which the proposed subdivision would be expected to increase by 565 ADT, an increase of 90%.

- H. The City of Yelm is identified as a Critical Aquifer Recharge Area, a designated environmentally sensitive area. Potential Impacts to groundwater quality and quantity will be mitigated through measures that meet or exceed the standards in the Stormwater Management Manual for Western Washington, as published by the Washington State Department of Ecology.
- I. The Mazama Pocket Gopher has been listed as a threatened species by the Washington Department of Fish and Wildlife since at least 2008. Yelm has protected this species through the implementation of the Critical Areas Code. In April, 2014, the U.S. Fish and Wildlife Service listed the Yelm subspecies of the Mazama Pocket Gopher as threatened under the Endangered Species Act. While the City of Yelm is not responsible for implementation or enforcement of the Endangered Species Act, it consults with the Service and provides notice to applicants that the pocket gopher is a federally protected species and a permit from the U.S. Fish and Wildlife Service may be required.

The Mazama Pocket Gopher (MPG) reconnaissance report by Land Services NW, LLC states that the area is a low and high soil preference for the MPG. The gopher was not found within 600 feet of the project area in previous studies known by WDFW. The survey noted numerous mounds that indicate moles, with no indicators for the MPG.

Mitigation Measures

1. The east half of Mt. View Road along the property frontage shall be improved to City standards for a Neighborhood Collector.
2. Mt. View Road shall be improved to include two 16' drive lanes, with shoulder from the southern property line to the intersection of Yelm Avenue West.
3. All interior streets shall be improved to City standards for a local access residential.
4. Transportation facilities charges due and payable at building permit issuance.
5. Stormwater facilities shall meet the standards of the most recent Stormwater Management Manual for Western Washington as published by the Washington State Department of Ecology.
6. Compliance with Yelm's requirements under the Critical Areas Code does not ensure compliance with the provisions of the Endangered Species Act. The applicant should contact the US Fish and Wildlife Service with any questions about compliance with Federal standards for threatened species if, at any time, evidence of Priority Habitat Species or Mazama Pocket Gopher is found.



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

*PO Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341*

May 7, 2019

Tami Merriman, Associate Planner
City of Yelm
Community Development Department
PO Box 479
Yelm, WA 98597

Dear Tami Merriman:

Thank you for the opportunity to comment on the mitigated determination of nonsignificance for The Hutch Subdivision Project (20180280) located at 9306 Mountain View Road Southeast as proposed by AHBL, Inc. for Mitchell Development II, LLC. The Department of Ecology (Ecology) reviewed the environmental checklist and has the following comment(s):

**SHORELANDS & ENVIRONMENTAL ASSISTANCE:
Zachary Meyer (360) 407-6167**

The National Wetlands Inventory (<https://www.fws.gov/wetlands/data/mapper.html>) has a wetland mapped on this parcel. A wetland determination should be made to ground-truth the presence or absence of wetlands onsite. Impacts to wetlands would require permits from the Department of Ecology and likely the Army Corp of Engineers. For questions or technical assistance, please contact Ecology Wetlands/Shorelands Specialist, Zachary Meyer, via email at Zachary.Meyer@ecy.wa.gov or by phone at (360) 407-6167.

**WATER QUALITY/WATERSHED RESOURCES UNIT:
Chris Montague-Breakwell (360) 407-6364**

Erosion control measures must be in place prior to any clearing, grading, or construction. These control measures must be effective to prevent stormwater runoff from carrying soil and other pollutants into surface water or stormdrains that lead to waters of the state. Sand, silt, clay particles, and soil will damage aquatic habitat and are considered to be pollutants.

Any discharge of sediment-laden runoff or other pollutants to waters of the state is in violation of Chapter 90.48 RCW, Water Pollution Control, and WAC 173-201A, Water Quality Standards for Surface Waters of the State of Washington, and is subject to enforcement action.

Construction Stormwater General Permit:

The following construction activities require coverage under the Construction Stormwater General Permit:

1. Clearing, grading and/or excavation that results in the disturbance of one or more acres **and** discharges stormwater to surface waters of the State; and
2. Clearing, grading and/or excavation on sites smaller than one acre that are part of a larger common plan of development or sale, if the common plan of development or sale will ultimately disturb one acre or more **and** discharge stormwater to surface waters of the State.
 - a) This includes forest practices (including, but not limited to, class IV conversions) that are part of a construction activity that will result in the disturbance of one or more acres, **and** discharge to surface waters of the State; and
3. Any size construction activity discharging stormwater to waters of the State that Ecology:
 - a) Determines to be a significant contributor of pollutants to waters of the State of Washington.
 - b) Reasonably expects to cause a violation of any water quality standard.

If there are known soil/ground water contaminants present on-site, additional information (including, but not limited to: temporary erosion and sediment control plans; stormwater pollution prevention plan; list of known contaminants with concentrations and depths found; a site map depicting the sample location(s); and additional studies/reports regarding contaminant(s)) will be required to be submitted.

You may apply online or obtain an application from Ecology's website at:

<http://www.ecy.wa.gov/programs/wq/stormwater/construction/> - **Application**. Construction site operators must apply for a permit at least 60 days prior to discharging stormwater from construction activities and must submit it on or before the date of the first public notice.

TOXICS CLEANUP: Thomas Middleton (360) 407-7263

If contamination is suspected, discovered, or occurs during the proposed SEPA action, testing of the potentially contaminated media must be conducted. If contamination of soil or groundwater is readily apparent, or is revealed by testing, Ecology must be notified. Contact the Environmental Report Tracking System Coordinator for the Southwest Regional Office (SWRO) at (360) 407-6300. For assistance and information about subsequent cleanup and to identify the type of testing that will be required, contact Thomas Middleton with the SWRO, Toxics Cleanup Program at (360) 407-7263.

SOLID WASTE MANAGEMENT: Derek Rockett (360) 407-6287

All grading and filling of land must utilize only clean fill. All other materials may be considered solid waste and permit approval may be required from your local jurisdictional health department prior to filling. All removed debris resulting from this project must be

Tami Merriman

May 7, 2019

Page 3

disposed of at an approved site. Contact the local jurisdictional health department for proper management of these materials.

Ecology's comments are based upon information provided by the lead agency. As such, they may not constitute an exhaustive list of the various authorizations that must be obtained or legal requirements that must be fulfilled in order to carry out the proposed action.

If you have any questions or would like to respond to these comments, please contact the appropriate reviewing staff listed above.

Department of Ecology
Southwest Regional Office

(MLD:201902215)

cc: Zachary Meyer, SEA
Chris Montague-Breakwell, WQ
Thomas Middleton, TCP
Derek Rockett, SWM
Sheri Greene, AHBL, Inc. (Contact)
Phil Mitchell, Mitchell Development II, LLC (Applicant)

Tami Merriman

From: Christopher Lascik <c.lascik3@gmail.com>
Sent: Thursday, November 15, 2018 9:24 AM
To: Tami Merriman
Subject: Fwd: Please send comment to me

Greetings Tami,

This email is in response to the "Notice of Application" for project name; The Hutch, which is a 118 lot subdivision located at 9306 Mountain View Road, Yelm, WA 98597. Parcel numbers are 21713430200 and 21713430300.

Land use case number is 20180280.

I have forwarded an email (below) that was written by my neighbor, Neil Thomas. I would also like to be put on record that I am the property owner of 9227 Killion Road SE. Yelm, WA 98597 and I as well have concerns with the development of this property that could affect my use of property, in addition, affect the value of my property now and in the future. As a property owner that has several hundred feet of a property line with this proposed community, I agree with all of the concerns put forward by Neil. I would like to summarize these points coming from the perspective of my family.

In response to the Pocket Gophers and other rodents that are known to inhabit the land of the parcels that are being developed, I too am very concerned about the migration of these animals onto my property as a result of disturbing the land and heavy machinery use. The reason my family decided to move onto this property of two and half acres is to develop and begin a family farm. We have plans to start a business selling produce to local restaurants and to sell at farmers markets. We also have started the process of acquiring livestock (goats, chickens, turkeys, honey bees, etc.). In the time we have lived at this property there has been no new signs of Pocket Gophers or moles. I am concerned that this development will create rodent problems that would greatly affect my business. I agree that there should be a barrier to protect against this, buried a minimum of 24 inches below the ground and 24 inches above the ground. It should also be durable enough with small openings to prevent all sized vermin from crossing into my property.

In response to the noise of clearing the land and noise of development, I too am concerned with the stress that this could create for my family. When I say family, I have a wife and I am also a father of three year old twin girls. My daughters room is located on the southwest end of the house, which is the side and corner of where this development will be taking place. At our previous address, we lived across the street from a senior living development that began and ended during our time there, so we fully understand the noises and lack of sleep that can happen during all phases of development. I as well would be okay with a time of construction being from around 9am to 5pm, Monday through Friday. I would also like the contractor to put in writing that they would fix any and all improvements to my property that were displaced or damaged as a result of the use of heavy equipment.

In response to the value and privacy of my property, it would also be nice to be provided with the proposed site plan of the layout of this community in order to address any concerns about how the proposed properties will affect mine. I agree that having small homes on small lots with low value could result in a loss of value to our properties. With the amount of prospected houses and families that will be living alongside my property line I feel that the protection of living conditions, preserving privacy, and the character of the adjacent neighbors is among the highest of my concerns. I would also prefer that all homes be set back at least 15 feet from my property line. To concur with Neil about the fence, I am concerned about family pets or trash entering my property. As seen with the development across the street, Cherry Meadows, the "privacy" fence is already

showing signs of falling apart and boards falling off from the residents dogs bursting through. I too own a dog that roams the property, and this could cause a huge problem. This type of money saving construction concerns me about the well being and safety of my family and my business, including livestock. In contrary; with having a farming business, I will be having tractors running a lot of hours during the day and livestock roaming the property. I too wouldn't want any disgruntled neighbors as a result of their houses being 5 feet (minimum county setback) from my property, especially if there could be up to 10 or 15 homes/families sharing my property line. I would also be concerned about noise, light pollution, and solar access, especially if the houses were tall enough to affect the amount of sun my property gets. Because these proposed houses are being built on the south end of my property, it would be a high probability that it would prevent solar access, particularly in the fall and winter months, that would in return affect my farm business.

I agree completely with Neil about the water issue and how it could greatly affect my well because the water run off of the community will be going into storm drains rather than draining through the ground to the water table. I am concerned about the water rights of Yelm and that we too one day may get a dry well and loose my properties only source of water. My business relies on our well to provide a sufficient amount of water to grow produce and provide water for livestock. As Neil stated, I too am a property owner in the unincorporated area of Thurston County, and I own the water rights to my property and will not stand for over use of Yelm City Water Rights in order to approve more developments. Should this occur, me and my neighbors would be forced to seek relief through the courts. If I ever need to connect to city water and sewer in the future, will the construction plans facilitate or hurt that problem with my property? The traffic is also a big concern on how much it could bring through Killion Road. I would like this to be looked at and addressed prior to the development of this property.

I would hope you understand that I do not have the intention to stop the development of this property, in fact it could have some positive points to it for the city as a whole. However, I would appreciate my following concerns as well as my neighbor Neil Thomas, be considered and addressed before the approval of this development, whether it be through mitigation, contracts, or conversations. I appreciate your time reading this email, and look forward to hearing from someone soon regarding it.

Thank you,

Christopher Lascik
Glacier Roots Farm

----- Forwarded message -----

From: **Neal Thomas** <Neal@nwdreamhomes4u.com>
Date: Fri, Nov 9, 2018 at 5:07 PM
Subject: RE: Please send comment to me
To: Tami Merriman <tamim@ci.yelm.wa.us>

Hi Tami,

This email is in regards to the lot subdivision with project name 'The Hutch', 118 lot Subdivision located at 9306 Mountain View Rd, Yelm, WA 98597, land use case # 20180280.

I would like it to be put in record that I am the property owner of 9225 Killion Rd SE, Yelm, WA 98597 and I have concerns with the development of this property that could affect my use of my property as well as the value of my property now and in the future.

Pre-development: the plot of land proposed to you for development has been used to grow grass hay for at least the last 13 years that I know of. As a result this property is filled with rodents of just about every kind from field mice to moles. I am concerned that once heavy equipment is brought in and earth is moved that these vermin will scatter to any neighboring property, mine being one of them. This last summer I had a pocket gopher study done to my property in order to put in a family member unit. I was told by the State Wildlife Department and the Thurston County Inspector which made multiple trips to inspect my property for pocket gophers, that they have documented Pocket Gophers 600 feet away to the south of my property. This would put a Pocket Gopher population on the south end of the subject property. This greatly concerns me as the Land Developer would be driving heavy equipment and working out of the south end of the property in order to develop the north end. This would again send these vermin migrating. So before anything is done to that property I would want a above ground and below ground vermin barrier put in to stop any potential migration of any kind. From what I read a proper vermin barrier would be buried a minimum of 24 inches below the ground and extend a minimum of 24 inches above the ground. The barrier itself should be durable enough to stop the smallest of rodents from either burrowing or running across the ground. Additionally, it should cut back into the subject property to prevent rodents from going around it.

I would also be concerned on the time of day and days of the week I would have to put up with noisy and heavy equipment that could create stress on my family members, animals, and the improvements on my property that could be damaged because of continuous vibration of the earth. I would probably be okay if the time of this construction was limited to 9 am to 5 pm Monday through Friday and that the contractor put in writing that they would fix any and all improvements to my property that were displaced or damaged as a result of the use of heavy equipment.

To this date, I do not have and have not been given a site plan to see just how the layout of this community would look. Can you please provide me with the proposed one so that I can comment on any concerns that I may have around the layout of the community? For now, I would like to point out that 118 lots on less than 20 acres that would require basic infrastructure i.e. roads would make for extremely small parcels and small homes. This brings upon several concerns that I would like addressed. The first one is what this would do to the value of my property having small homes on small lots with low values could result in loss of value to mine and my neighbor's property. As a real estate agent I have the ability to estimate that loss to be as high as 15% of the value of my property. With a current market value of \$345,000 that would put my losses at \$51,750. In order for me not to suffer loss in value, the lots would need to be a minimum of 5,000 sq ft with homes no smaller than 2,000 sq ft. I am also concerned with the size of the lots, 118 homes would be, that the setback from the street would put the homes at or less than the minimum county setback of 5 feet from my property. I would prefer any home placed in that field to have a setback from my property line of at least 15 feet. This may sound a little restrictive but I am betting that there could be as many as 20 homes placed along my property line. Each one of these homes occupied by a family with pets would create quite a bit of noise and stress to my family and animals, not to mention the potential for those occupying to throw debris/trash into my yard creating problems that I and my family will have to deal with. In addition to the 15 foot setback, the land developer needs to put a permanent barrier/fence between those lots/homes and my property. Currently right now the only thing that separates our two properties is a double stranded barb wire fence. On my side, I have a in ground wire

transmitter that restrains my animals from leaving my yard. I have used this for the past 13 years and it has worked just fine. All these new homes would come with pets that could enter my yard and do damage or injury to my property and my pets and possibly even my family. This is why I would request a permanent and durable barrier, not just the standard 6 foot wooden privacy fence stapled together with a life span of about 3 years as we've seen from the construction across the street in the Cherry Meadows community. This barrier would also need to provide privacy as well.

As for the water issue, I am also concerned that even though this community is being fed by Yelm City Water, the water shed coming from this property and from rain that feeds the ground water could adversely affect my well in numerous ways. First, like many, I am concerned that the city of Yelm continues to exceed their water rights and one day my well may dry up leaving my property without a source of water. As a property owner in the unincorporated area of Thurston County, I do own the water rights to my property and will not stand for over use of Yelm City Water Rights in order to approve more developments. Should this occur, me and my neighbors would be forced to seek relief through the courts. It also concerns me that again with the water run off of this property going to the storm water system instead of draining through the ground to the water table, this can have an adverse effect on my well.

While I understand some of the infrastructure i.e. electric, water, sewer, storm water and telecommunication lines were stubbed out to this property at the time Killion Rd was improved by the city of Yelm during the first phase of the bypass, I may have concerns depending on how that infrastructure would be ran throughout this community and request that information so that I can express any concerns I may or may not have.

Traffic: 118 new homes will bring with it an increase in traffic on Killion Rd, which runs right in front of my property. This is a concern because the bypass which was supposed to relieve traffic has not been finished and as a result would increase noise to my property. This additional traffic could have other unforeseen consequences that I would like looked at and addressed prior to development of this property. I would like to see entrance and exits to this development on both sides of the development. One on Killion and one on Mountain View Rd as a minimum.

In closing I would like you and everyone involved to know it is not my intention to stop the development of this property. However, the above concerns need to be addressed before I can give my blessings. In your letter, dated Oct 31st, it gives me 15 days to add comments and concerns and while I have expressed some of those, I have not been given full information needed to fully consider the impact it could have on my property i.e. I have not received the proposed layout of subdivision with infrastructure and lots. Additionally, I have not been given proper contact information to the land developer or the owner in order to express and possibly work out concerns with them. In the letter I received, while it named a contractor, the address listed belongs to a car dealership and not a land developer. There are no phone numbers and you Tami are my only contact at the time of this email. If this is the information that was given to you, I have to question why incorrect information would be put on a permit request. Please provide updated contact information when you get it. You may also share my contact information below with the owner and contractor of this project. They are welcome to contact me anytime. I think that all will find I am easy to work with as long as we can address my concerns.

Thank you and please reply so that I know you have received this email,

Neal



NEAL THOMAS
Real Estate Broker

Best Choice
REALTY
OLYMPIA

P: 360-485-6768
E: neal@nwdreamhomes4u.com
W: BestChoiceRealtyOlympia.com

Your referral is the greatest compliment we can receive! It would be our honor to be a resource for you, your family, friends and coworkers.

From: Tami Merriman <tamim@ci.yelm.wa.us>
Sent: Wednesday, November 7, 2018 8:54 AM
To: neal@nwdreamhomes4U.com
Subject: Please send comment to me

At this email address.

Tami Merriman, Associate Planner
Community and Economic Development
105 Yelm Ave. W
Yelm, WA 98597
360.458.8496
tamim@yelmwa.gov

Tami Merriman

From: Neal Thomas <Neal@NWDreamHomes4U.com>
Sent: Friday, November 9, 2018 5:07 PM
To: Tami Merriman
Subject: RE: Please send comment to me

Hi Tami,

This email is in regards to the lot subdivision with project name 'The Hutch', 118 lot Subdivision located at 9306 Mountain View Rd, Yelm, WA 98597, land use case # 20180280.

I would like it to be put in record that I am the property owner of 9225 Killion Rd SE, Yelm, WA 98597 and I have concerns with the development of this property that could affect my use of my property as well as the value of my property now and in the future.

Pre-development: the plot of land proposed to you for development has been used to grow grass hay for at least the last 13 years that I know of. As a result this property is filled with rodents of just about every kind from field mice to moles. I am concerned that once heavy equipment is brought in and earth is moved that these vermin will scatter to any neighboring property, mine being one of them. This last summer I had a pocket gopher study done to my property in order to put in a family member unit. I was told by the State Wildlife Department and the Thurston County Inspector which made multiple trips to inspect my property for pocket gophers, that they have documented Pocket Gophers 600 feet away to the south of my property. This would put a Pocket Gopher population on the south end of the subject property. This greatly concerns me as the Land Developer would be driving heavy equipment and working out of the south end of the property in order to develop the north end. This would again send these vermin migrating. So before anything is done to that property I would want a above ground and below ground vermin barrier put in to stop any potential migration of any kind. From what I read a proper vermin barrier would be buried a minimum of 24 inches below the ground and extend a minimum of 24 inches above the ground. The barrier itself should be durable enough to stop the smallest of rodents from either burrowing or running across the ground. Additionally, it should cut back into the subject property to prevent rodents from going around it.

I would also be concerned on the time of day and days of the week I would have to put up with noisy and heavy equipment that could create stress on my family members, animals, and the improvements on my property that could be damaged because of continuous vibration of the earth. I would probably be okay if the time of this construction was limited to 9 am to 5 pm Monday through Friday and that the contractor put in writing that they would fix any and all improvements to my property that were displaced or damaged as a result of the use of heavy equipment.

To this date, I do not have and have not been given a site plan to see just how the layout of this community would look. Can you please provide me with the proposed one so that I can comment on any concerns that I may have around the layout of the community? For now, I would like to point out that 118 lots on less than 20 acres that would require basic infrastructure i.e. roads would make for extremely small parcels and small homes. This brings upon several concerns that I would like addressed. The first one is what this would do to the value of my property having small homes on small lots with low values could result in loss of value to mine and my neighbor's property. As a real estate agent I have the ability to estimate that loss to be as high as 15% of the value of my property. With a current market value of \$345,000 that would put my losses at \$51,750. In order for me not to suffer loss in value, the lots would need to be a minimum of 5,000 sq ft with homes no smaller than 2,000 sq ft. I am also concerned with the size of the lots, 118 homes would be, that the setback from the street would put the homes at or less than the minimum county setback of 5 feet from my property. I would prefer any home placed in that field to have a setback from my property line of at least 15 feet. This may sound a little restrictive but I am betting that there could be as many as 20 homes placed along my property line. Each one of these homes occupied by a family with pets would create quite a bit of noise and stress to my family and animals, not to mention the potential for those occupying to throw debris/trash into my yard creating problems that I and my family will have to deal with. In addition to the 15 foot setback, the land developer needs to put a permanent

barrier/fence between those lots/homes and my property. Currently right now the only thing that separates our two properties is a double stranded barb wire fence. On my side, I have a in ground wire transmitter that restrains my animals from leaving my yard. I have used this for the past 13 years and it has worked just fine. All these new homes would come with pets that could enter my yard and do damage or injury to my property and my pets and possibly even my family. This is why I would request a permanent and durable barrier, not just the standard 6 foot wooden privacy fence stapled together with a life span of about 3 years as we've seen from the construction across the street in the Cherry Meadows community. This barrier would also need to provide privacy as well.

As for the water issue, I am also concerned that even though this community is being fed by Yelm City Water, the water shed coming from this property and from rain that feeds the ground water could adversely affect my well in numerous ways. First, like many, I am concerned that the city of Yelm continues to exceed their water rights and one day my well may dry up leaving my property without a source of water. As a property owner in the unincorporated area of Thurston County, I do own the water rights to my property and will not stand for over use of Yelm City Water Rights in order to approve more developments. Should this occur, me and my neighbors would be forced to seek relief through the courts. It also concerns me that again with the water run off of this property going to the storm water system instead of draining through the ground to the water table, this can have an adverse effect on my well.

While I understand some of the infrastructure i.e. electric, water, sewer, storm water and telecommunication lines were stubbed out to this property at the time Killion Rd was improved by the city of Yelm during the first phase of the bypass, I may have concerns depending on how that infrastructure would be ran throughout this community and request that information so that I can express any concerns I may or may not have.

Traffic: 118 new homes will bring with it an increase in traffic on Killion Rd, which runs right in front of my property. This is a concern because the bypass which was supposed to relieve traffic has not been finished and as a result would increase noise to my property. This additional traffic could have other unforeseen consequences that I would like looked at and addressed prior to development of this property. I would like to see entrance and exits to this development on both sides of the development. One on Killion and one on Mountain View Rd as a minimum.

In closing I would like you and everyone involved to know it is not my intention to stop the development of this property. However, the above concerns need to be addressed before I can give my blessings. In your letter, dated Oct 31st, it gives me 15 days to add comments and concerns and while I have expressed some of those, I have not been given full information needed to fully consider the impact it could have on my property i.e. I have not received the proposed layout of subdivision with infrastructure and lots. Additionally, I have not been given proper contact information to the land developer or the owner in order to express and possibly work out concerns with them. In the letter I received, while it named a contractor, the address listed belongs to a car dealership and not a land developer. There are no phone numbers and you Tami are my only contact at the time of this email. If this is the information that was given to you, I have to question why incorrect information would be put on a permit request. Please provide updated contact information when you get it. You may also share my contact information below with the owner and contractor of this project. They are welcome to contact me anytime. I think that all will find I am easy to work with as long as we can address my concerns.

Thank you and please reply so that I know you have received this email,
Neal



NEAL THOMAS
Real Estate Broker

Best Choice
REALTY
OLYMPIA

P: 360-485-6768
E: neal@nwdreamhomes4u.com
W: BestChoiceRealtyOlympia.com

Your referral is the greatest compliment we can receive! It would be our honor to be a resource for you, your family, friends and coworkers.

From: Tami Merriman <tamim@ci.yelm.wa.us>
Sent: Wednesday, November 7, 2018 8:54 AM
To: neal@nwdreamhomes4u.com
Subject: Please send comment to me

At this email address.

Tami Merriman, Associate Planner
Community and Economic Development
105 Yelm Ave. W
Yelm, WA 98597
360.458.8496
tamim@yelmwa.gov

THE HUTCH PRELIMINARY PLAT

Case Number 20180280



PUBLIC HEARING
JULY 9, 2019
9:00 AM



The Hutch Preliminary Plat

Previously approved for 118 Single Family Residential Lots Case No: SUB-05-0601-YL

- 118 Single Family Residential Lots
- Average Lot Size: 4,356 square feet
- Minimum Setbacks:
 - Front: 15 feet
 - Side: 5 foot minimum each side, both must equal 12 feet
 - Side (Flanking Street): 15 feet
 - Rear: 25 feet
- Stormwater/Open Space Tracts: 42,445 square feet (5% of Gross Area)
- Interior Plat Landscaping:

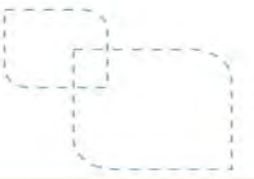
Road Streetscape with 6 foot planter strip with a combination of deciduous and evergreen trees and vegetative cover. Tree spacing 1 per every 35 feet

A 6 foot solid wood fence will be constructed along the north and south boundary of the site
- Interior streets shall be improved to city standards for local access residential
- Parking provided on each lot. On-site Local Street provides additional parking

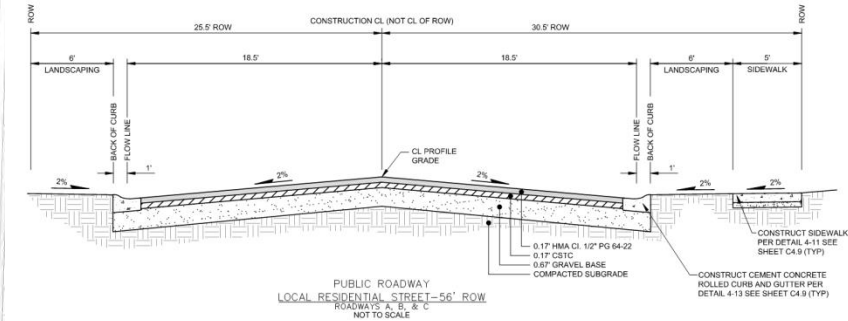


The Hutch Preliminary Plat

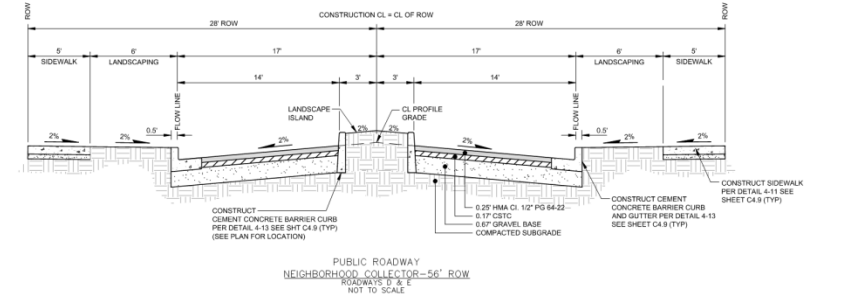
On-site Roadway Sections



Cross Section Roads A, B and C

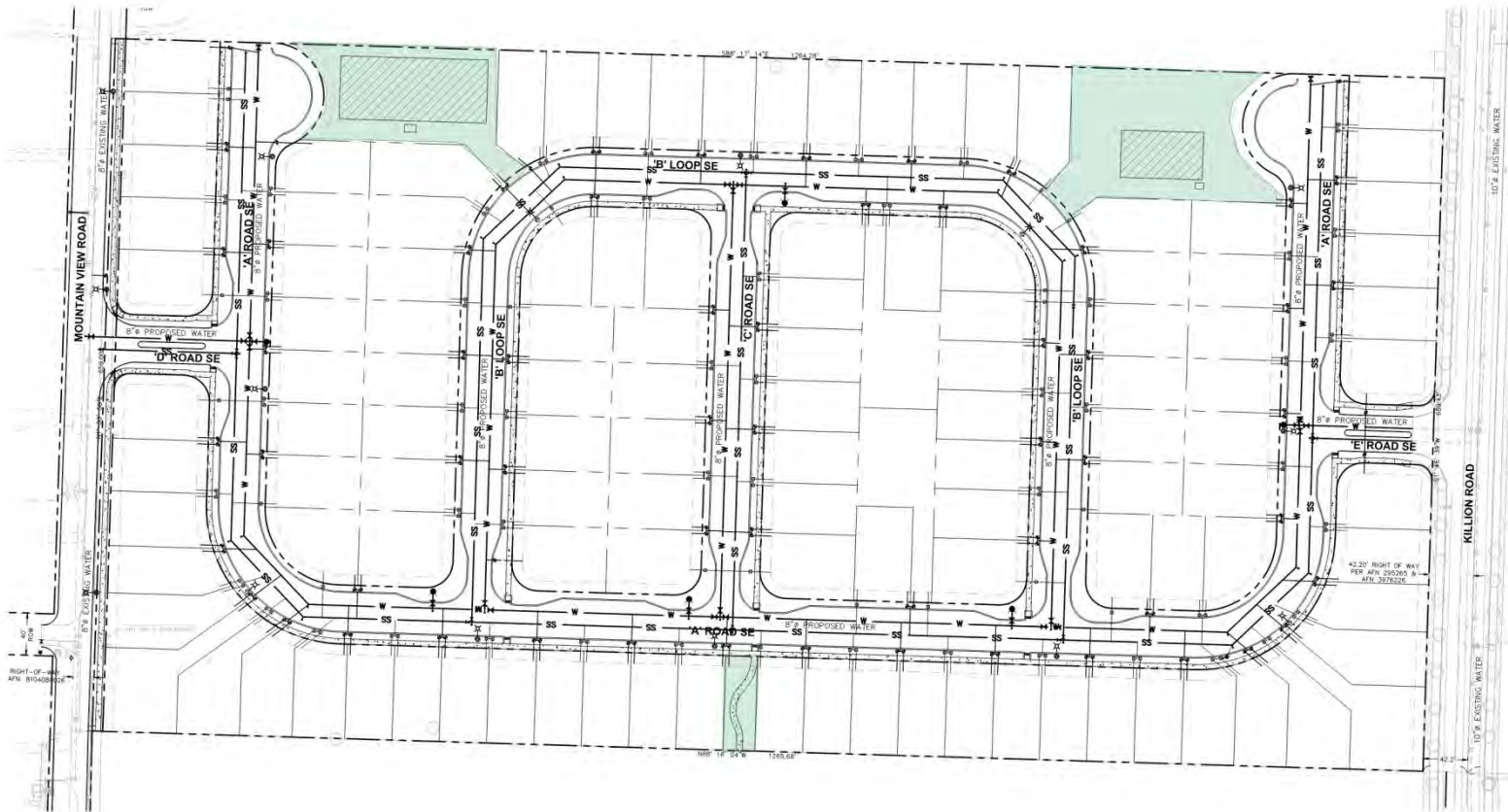


Cross Section Roads D and E



The Hutch Preliminary Plat

Utility Plan

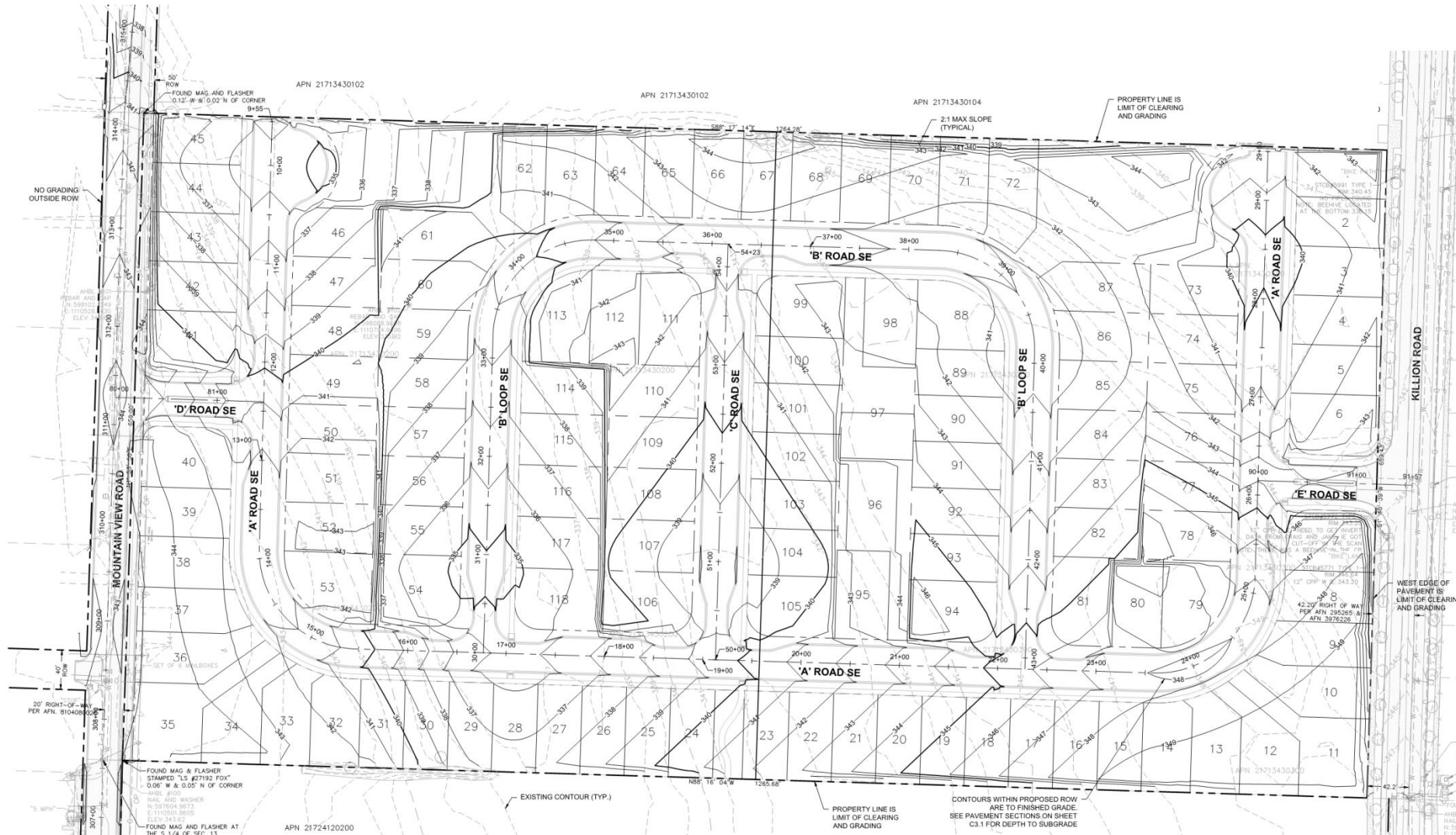


UTILITIES

- City of Yelm Sewer S.T.E.P. System
- City of Yelm Water
- Onsite Stormwater treatment and infiltration
- Homesites with individual onsite drywells to infiltrate roof runoff.

The Hutch Preliminary Plat

Grading Plan



GRADING

Cut: 26,500 CY

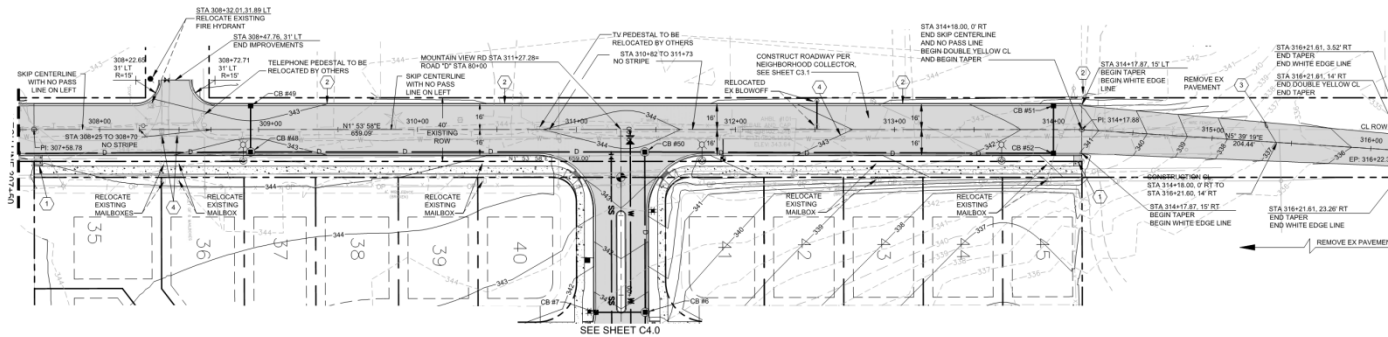
Fill: 23,500 CY

NET: 3,000 CY (Fill)

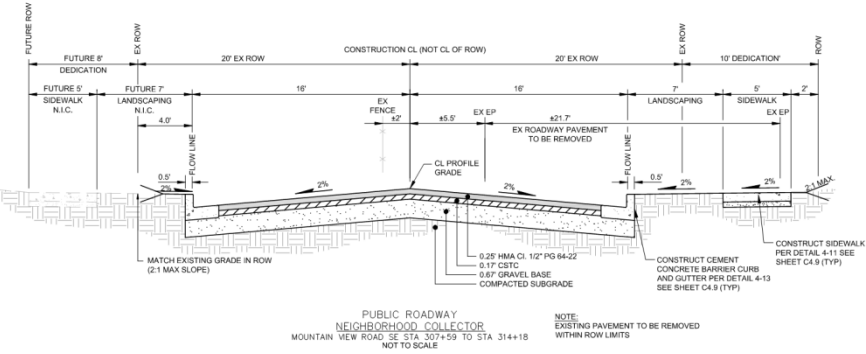
The Hutch Preliminary Plat

Offsite Road Improvements

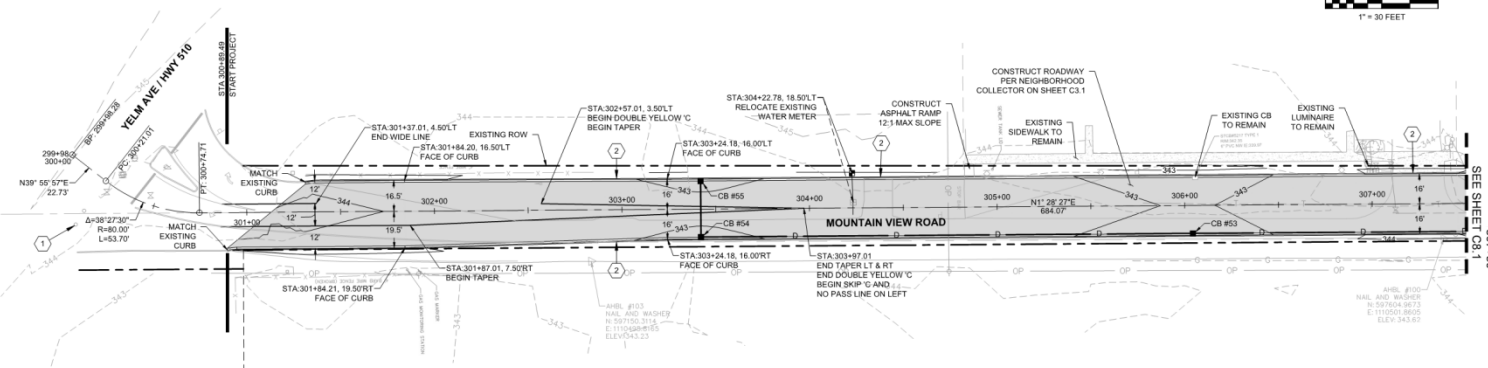
Improvements to east half of Mountain View Road along frontage of property to City Standards for Neighborhood Collector.



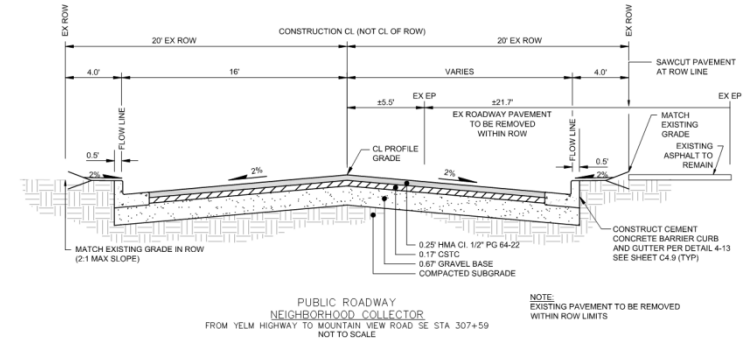
Cross Section



Improvements to Mountain View Road from south property line to the intersection of West Yelm Avenue will include new curb and gutter and two drive lanes with channelization and turn pocket at West Yelm Avenue.



Cross Section



The Hutch Preliminary Plat

Staff report recommends the Preliminary Plat be denied for lack of concurrency with water infrastructure. Applicant requests Hearing Examiner's Approval of the Preliminary Plat:

Water Concurrency:

- 240 connections available as of May 2019
- City has been selected to participate in Water Rights Pilot Program. City to submit the application in 2019
- We agree with City recommended condition of approval #2, which states no construction until application for additional water rights has been made
- Preliminary Plat Approval allows 5 years for completion. Water is anticipated this year
- Preliminary Plat approval would allow us to proceed with engineering and approval of the civil plans

Tyler Terrace Preliminary Plat Approval – Case 20150212

Findings:

(19) Concurrency requires an evaluation of water availability at a time before development will actually occur. The determination necessarily involves a forecast and judgment.

(22) YMC 18.16.060 *"A finding of concurrency is not a guarantee that water and/or sewer will be available to serve the proposed project at the time a building permit application is made"*.

Conclusions:

(17) *"A finding of concurrency is not a guarantee that water and/or sewer will be available to serve the proposed project at the time a building permit application is made"*. The risk of no water service lies with the applicant and not with the city.

The Hutch Preliminary Plat

Proposed Conditions of Approval of the Preliminary Plat

- We agree with City's recommended condition of approval
- Allow review and approval of civil plans
- No construction is authorized unless City has made application for additional water rights
- If the Examiner cannot approve the Preliminary Plat at this time due to water, we request that the record be held open until the City makes water right application and can recommend approval

Questions?



City of Yelm

Community Development Department

105 Yelm Avenue West

P.O. Box 479

Yelm, WA 98597

January 12, 2016


Mountain Terrace Builders, LLC
14730 State Route 507 S.E.
Yelm, WA 98597

RE: 20150212 Tyler Terrace Administrative Subdivision

Dear Applicant:

Transmitted herewith is the Report and Decision of the City of Yelm Hearing Examiner relating to the above-entitled matter.

Very truly yours,


STEPHEN K. CAUSSEAU, JR.
Hearing Examiner

SKC/jjp

cc: Parties of Record

RECEIVED
JAN 19 2016

BY:

OFFICE OF THE HEARING EXAMINER

CITY OF YELM

REPORT AND DECISION

CASE NO.: 20150212 Tyler Terrace Administrative Subdivision

APPLICANT: Mountain Terrace Builders, LLC
14730 State Route 507 S.E.
Yelm, WA 98597

AGENT: Larson & Associates
4401 South 66th Street
Tacoma, WA 98409

PLANNER: Tami Merriman

SUMMARY OF REQUEST:

Subdivide approximately 2.14 acres located at 15624 Coates Road into 11 single-family residential lots.

SUMMARY OF DECISION: Request granted, subject to conditions.

PUBLIC HEARING:

After reviewing Community Development Department Staff Report and examining available information on file with the application, the Examiner conducted a public hearing on the request as follows:

The hearing was opened on December 14, 2015, at 9:00 a.m.

Parties wishing to testify were sworn in by the Examiner.

The following exhibits were submitted and made a part of the record as follows:

- EXHIBIT "1"** - Community Development Department Staff Report with Attachments
EXHIBIT "2" - Letter from Mr. Lynn dated December 16, 2015

The Minutes of the Public Hearing set forth below are not the official record and are provided for the convenience of the parties. The official record is the recording of the hearing that can be transcribed for purposes of appeal.

TAMI MERRIMAN appeared, presented the Community Development Department Staff Report, and testified that the City recommends denial due to the unavailability of water. If the Examiner finds that water is available, then staff would recommend imposition of the conditions of approval at the end of the Staff Report. The applicable R-6 zone classification authorizes 3-6 units per acre, and single-family residential homes abut the parcel to the north and south. Yelm Creek and steep slopes are to the east. The City allows administrative approval of an 11 lot subdivision unless someone requests a hearing. Here, the City received a request for a hearing, but the person requesting the hearing is not present and the City was unable to contact her. To obtain preliminary plat approval an applicant must show concurrency with water, sewer, and transportation. An applicant has five years to process a preliminary plat to final plat approval. The City has 472 water connections as of November, 2015, that will accommodate two to three years of normal growth. The State DOE approved additional water rights for the City in 2010 but following approval by the Pollution Control Hearings Board and the Superior Court, the Supreme Court denied the water rights approval in a decision issued in October, 2015. The City will reapply but at present is limited to 472 connections. The applicant needs to assure adequate water and with the Supreme Court decision such may not be feasible. The City is unsure regarding water availability. If the Hearing Examiner rules otherwise then the applicant meets concurrency requirements. The City can provide sewer service and Coates Road has already been completed. The applicant will pay the traffic impact fee and a fire impact fee if such is adopted by the City. The plat is exempt from SEPA review but is in a recharge area. The stormwater regulations will assure protection. No pocket gopher habitat was found on the site pursuant to soil maps and lack of any evidence. Yelm Creek is not a shoreline of the state but is protected by the critical areas ordinance. A wetland associated with the creek requires an 80 foot wide buffer. The applicant can reduce the width based upon the steep slopes, trees, and the fact that the reduction will not affect the buffer. The reduction falls within the administrative buffer approval. No construction will occur in the rear yards of the lots. The applicant will construct the street to City standards to include sidewalks on one side and street lighting. No connectivity is possible to the east across the creek or to the north and south due to previously developed single-family subdivisions. More than five percent of the site will remain in open space. The site plan shows fencing along the north and south property lines. Lot 1 shows landscaping, but a fence is better along the west side of Lot 1.

WILLIAM LYNN, attorney at law, appeared and introduced the applicant's presentation.

GRANT MIDDLETON, professional engineer, Larson & Associates, appeared and testified that the parcel abuts the east side of Coates Road and development has already occurred on the north and south. The parcel is flat until the east property line where a steep slope descends to Yelm Creek and impacts the site. They will maintain

the slope in its natural condition. All public utilities are in place. They will construct an underground, public storm system and establish a park over the top thereof. They will use an Aqua Swirl device for cleansing. Upon questioning by Mr. Lynn, Mr. Middleton testified that they began designing the plat several years ago and were about 60 percent complete when the applicant put the project on hold due to water availability issues. They are now 80 to 85 percent ready to submit for final plat approval. They have no issues with the City and the plat is straight forward with a cul-de-sac road.

MIKE KEMPINSKI, applicant, appeared and testified that he is a developer that builds homes. He purchased the property when water was available, and now the City advises they do not have water. They currently have a house on the property and rent it. Plat development will require them to demolish the house and then they will have no income from the project. They didn't close on the property at first due to the recession, but eventually closed and Mr. Middleton began the engineering. If the plat is approved, he will perform the dirt work himself with his own company. He anticipates completion of the plat by the end of 2016. They will construct homes four at a time and pull four building permits at a time. They want to build homes on the site and sell them. He has constructed a couple of subdivisions that are now built-out. He anticipates 1.5 to two years to develop the subdivision. He anticipates one year to complete the subdivision and two years to build the homes.

MR. LYNN reappeared and testified that concurrency management is not an exact science. It is a best estimate and sets forth a purpose. The finding of concurrency is outside of the City's control. The City does not have a duty to provide utilities or water regardless of a finding of concurrency. Concurrency is not a guarantee. As at present the City is expected to have water availability. He then referred to YMC 18.60.050 regarding approval of a six year plan and water adequacy plan. This application proposes to end in 2016. Equipment is ready and can move on the site ASAP. They will build homes early in 2017 and will work within the City time frame for water reserves. The City has a reconsideration motion pending before the Supreme Court and also has prepared other plans to submit. The Examiner could enter a finding of fact regarding completion of construction of the project in 2016. If it is not completed, the matter could return to the City for consideration of concurrency. The Examiner could also include language in the decision that water is not guaranteed or assured, and could also make it clear to a potential future buyer that there is no guarantee of water service.

GRANT BECK appeared and testified that the City has submitted a reconsideration request to the Supreme Court, which has accepted it. A hydrogeologist will review the matter. The Supreme Court found that the water withdrawal was not fully mitigated during the shoulder seasons. Those seasons would have a lower water requirement. They will attempt to eliminate the shoulder season impact. He is unsure how DOE will process the new application.

No one spoke further in this matter and the Examiner left the record open for the applicant and Mr. Beck to reach agreement and provided language for the decision

and/or conditions of approval. The Examiner subsequently received a letter dated December 16, 2015, from Mr. Lynn and marked it as Exhibit 2.

The Examiner then took the request under advisement and the hearing was concluded at 9:50 a.m.

NOTE: A complete record of this hearing is available in the City of Yelm Community Development Department.

FINDINGS, CONCLUSIONS, AND DECISION:

FINDINGS:

1. The Hearing Examiner has admitted documentary evidence into the record, viewed the property, heard testimony, and taken this matter under advisement.
2. The project as proposed is exempt from review pursuant to the State Environmental Policy Act (SEPA) pursuant to Section 197-11-800 of the Washington Administrative Code (WAC) and Section 18.20.020 of the Yelm Municipal Code (YMC).
3. Notice of this application was posted on and around the land proposed to be subdivided in 5 places, mailed to state and local agencies and property owners within 300 feet of the project site on October 6, 2015. The notice for the application stated that a public hearing to consider the plat would not occur unless one was requested. A request for a hearing was received from Summer Unruh on October 8, 2015.

On December 4, 2025, notice of the date and time of the public hearing before the Hearing Examiner was posted on the project site, mailed to the owners of property within 300 feet of the project site, mailed to any person that commented on the subdivision, and was published in the Nisqually Valley News in the legal notice section.

4. The applicant has a possessory ownership interest in a generally rectangular, 2.14 acre parcel of property abutting the east side of Coates Road S.E. within the City of Yelm. The applicant requests preliminary plat approval to allow subdivision of the site into 11 single-family residential lots and four tracts. Improvements on the site include a single-family residential home and one accessory structure, both of which will be demolished and removed upon plat development.
5. The parcel abuts Coates Road for 159 feet and varies in depth from 659 feet along the south property line to 530 feet along the north property line. The west property line measures 205 linear feet and intersects the north and south

property lines at an angle. The topography of the site is generally level except for the eastern portion that descends down a steep slope for approximately 22 vertical feet to Yelm Creek and an associated wetland. The tip of the east property line extends across Yelm Creek. No development will occur on or east of the steep slope that is set aside in Tract D.

6. The preliminary plat map shows all 11 lots served by an internal plat road extending east from Coates Road along the parcel's north property line and terminating in a cul-de-sac. A sidewalk extends along the south side of the road and wraps the cul-de-sac. All lots will access onto the internal plat road. The plat proposes a minimum lot size of 3,793 square feet, a maximum lot size of 6,582 square feet, and an average lot size of 4,443 square feet. The density calculates to 5.1 dwelling units per acre. Tract B, a 4,139 square foot parcel, will support the underground stormwater system and an above-ground park. The 12,215 square foot Tract D will remain in undisturbed open space and will protect the steep slopes, riparian habitat buffer, and Yelm Creek itself.
7. The parcel is located within the Moderate Density Residential (R-6) zone classification of the Yelm Municipal Code (YMC). Section 18.32.020(A) YMC authorizes "Single-family residential units" on individual lots as an outright permitted use. While the Yelm Unified Development Code does not establish minimum or maximum lot sizes, it does require minimum structural setbacks as follows:
 - A. Front property line 15 feet from a local access road with minimum 20 foot wide, driveway approach.
 - B. Five feet from side property lines, and minimum 15 foot wide, flanking yard setback.
 - C. 25 feet from the rear property line.

The mostly rectangular lots provide a sufficient building envelop to support a reasonably sized, single-family residential home.

8. Abutting uses include single-family residential dwellings to the north and south and across Coates Road to the west. The proposed plat will fit well with existing development.
9. The southeastern portion of the site contains critical areas to include Yelm Creek, associated wetlands and buffers, and riparian habitat. In accordance with YMC 18.21.110, the riparian habitat extends 150 feet from Yelm Creek. Structures and/or development is not allowed within said area. However, the YMC authorizes reductions in the riparian habitat width if such reduction does not adversely impact habitat, does not degrade the habitat, and provides

additional protection. In the present case, the applicant requests an administrative reduction of the buffer width of not more than 25 percent. The City supports the request as the buffer is located within the eastern steep slope area that also includes a ridge and slope to the west away from the creek and into the developable portion of the site. The proposed buffer area is heavily forested and the ridge disassociates the western edge of the buffer from the creek. Conditions of approval prohibit construction in the rear yards of Lots 9, 10, and 11 that contain the outer edge of the habitat buffer. Section 18.21.060(F)(6) YMC requires an 80 foot wide, wetland buffer for the Category III wetland associated with Yelm Creek. The entire buffer is included within the riparian habitat buffer. No development will occur within the 100 year floodplain of Yelm Creek.

10. The applicant will construct the internal plat road to local access residential standards and dedicate the road to the City upon final plat approval. The street will consist of two, 11 foot wide, travel lanes; two, seven foot wide, parking lanes; concrete, rolled edge curb and gutter; six foot wide, planter strip with street trees; five foot wide sidewalk on one side of the street; and street lighting. All lots will access from either the south side of the street or the cul-de-sac. No lots will access from the north side of the street. The proposed sidewalk extends across the frontage of all 11 lots. The applicant will provide at least the minimum of two, off-street, parking spaces per lot, and as previously found, parking is available on both sides of the internal plat street.
11. Chapter 18.55 YMC establishes landscaping requirements for various types of development. Said Chapter requires an eight foot wide, perimeter landscape area but also allows a six foot tall, solid board fence in residential subdivisions as an alternative. The conceptual landscape plan shows landscaping adjacent to Coates Road. However, such may conflict with underground utilities, and fencing may be more appropriate. The landscape plan includes street trees along both sides of the street, and landscaping will be required in the open space park area (Tract B). The riparian habitat buffer will remain undisturbed. The applicant must also meet YMC requirements for irrigation.
12. The City of Yelm will provide sanitary sewer service to the site as the parcel is within the City's sewer service area. A sewer main exists in Coates Road and the applicant must connect a sewer line thereto and extend the main within the internal road right-of-way.
13. The applicant must pay traffic facility charges at the time of building permit issuance and must also enter into a mitigation agreement with the Yelm School District. Finally, if at the time of building permit issuance the Southeast Thurston Regional Fire Authority has adopted a regional wide impact fee that is subsequently adopted by the City Council, the applicant must also pay said fee.

14. The applicant will construct a stormwater system that will ensure retention of all stormwater runoff onsite. The applicant proposes to utilize an Aqua-Swirl basin for treatment of stormwater prior to its release to an infiltration trench. Individual drywell systems will accommodate roof runoff from all structures.
15. The preliminary plat complies with Chapter 18.56 YMC that sets forth guidelines for retention and creation of open space. Said Chapter requires a minimum of five percent of the gross area of a new subdivision as usable open space. Appropriate uses for open space include environmental interpretation, protection, or education, and active recreation parks. The applicant proposes to retain the 12,215 square foot Tract D in open space to provide environmental protection and will also provide a 4,139 square foot, park on Tract B. Such calculates to approximately 17.5 percent of the site, well in excess of the minimum five percent.
16. The primary issue concerning preliminary plat approval concerns the City's ability to provide potable water to the plat at final plat approval/building permit issuance. The City is the sole water purveyor within the city limits. Since 1994 the City has recognized the need for and has attempted to acquire new water rights to serve development within the City. Finally, in 2010 the Washington State Department of Ecology (ECY) approved additional water rights that would allow the City to serve the present plat and other development within city limits. ECY's approval was subsequently appealed, but said appeal was denied by the State Pollution Control Hearings Board and Thurston County Superior Court. However, the State of Washington Supreme Court in Sarah Foster v. The Department of Ecology, et. al., 184 Wn. 2d 465 (2015), issued on October 8, 2015, reversed the decision of ECY, the Board, and the Superior Court. As a result the City did not acquire additional water rights and as of November 30, 2015, had 472 water connections available for new development. The City anticipates that such connections will accommodate two to three years of growth at historical rates.
17. The City expects to reapply for additional water rights but has no estimation as to when additional water will become available based upon the timing of ECYs processing the new application and the possibility of further appeals. RCW 58.17.140 authorizes a five year period for processing a preliminary plat to final plat approval. Only after final plat approval can homes be constructed on the new lots and water provided. The applicant cannot reserve water for the proposed 11 lots at the present time. The City asserts that because of its limited number of connections and no application pending for additional water rights, the plat does not make appropriate provision for potable water supplies. The water purveyor (City) cannot commit to providing water at final plat approval.
18. The applicant asserts that it is ready to commence construction of the preliminary plat and that its own company will perform all of the "dirt work" necessary. It anticipates completion of plat development in a one year period

and the sale of lots over a two year period. Thus, final plat approval should occur near the end of 2016, and home construction should commence soon thereafter and be completed by the end of 2018. In the meantime the Supreme Court has accepted a petition for reconsideration of its decision, and the City will submit either a new or revised application to ECY that will address the deficiencies in its original application as identified by the Supreme Court. Finally, the applicant asserts that the risk of having no water available at final plat approval is its own and not that of the City.

19. Concurrency requires an evaluation of water availability at a time before development will actually occur. The determination necessarily involves a forecast and some judgment. In the case of a subdivision approved by the Hearing Examiner, the YMC addresses water concurrency as follows:

- b. Water. At the time of preliminary approval, the planned infrastructure identified in the six-year improvement program and water rights acquisition program of the water system plan are sufficient to provide for the proposed land division YMC. 18.16.050.C.1(b)

This language requires fact specific findings regarding the particular proposal under consideration. Said section does not impose a moratorium on development but does require the City and the Examiner to evaluate each project on a case by case basis. The Examiner has no authority to impose a moratorium and must evaluate each preliminary plat individually as to water provision at final plat approval.

20. In the present case it is more probable than not that water will be available at final plat approval and at the issuance of building permits. Such finding is based on the specific characteristics of the proposed preliminary plat that includes its small size; the need for only ten new hook ups since one occupied residence exists on the site; the simplicity of the plat development plan as established by the testimony of the applicant's engineer; completion of 80 to 85 percent of the engineering and no complications anticipated in completing the plans; the applicant's stated intention and ability to complete the improvements by the end of 2016; and the applicant's experience in developing small projects. However, the City has not provided a certificate of water availability. The City also has fully disclosed to the applicant the limited number of water connections that remain available. The City also recommends denial of the preliminary plat application based upon the lack of water availability upon final plat approval.
21. The finding of concurrency for potable water is also based in part on the applicant's commitment to construct all improvements before the end of 2016 so that it may obtain building permits in 2017. The City has acknowledged that at expected growth rates water should be available for two to three years even without additional water rights. However, circumstances outside the applicant's

control could cause a deviation from its schedule. For that reason a condition requires the applicant to substantially complete all improvements and submit a complete application for final plat approval to the City by February 1, 2017, unless it obtains an extension from the Examiner.

22. The applicant has called the Examiner's and the City's attention to YMC 18.16.060 that reads:

"The factors affecting available capacity, in some instances, lie outside of the city's control. The city's adoption of this chapter relating to the manner in which the city will make its best attempt to determine infrastructure capacity does not create a duty in the city to provide water or sewer service to the public or any individual, regardless of whether a finding of concurrency has been made.

A finding of concurrency is not a guarantee that water and/or sewer will be available to serve the proposed project at the time a building permit application is made." (emphasis added)

The above language and language to the effect that the applicant drew the Examiner's attention to it and that the applicant asserted that the risk lies with the applicant and not the City should water not be available, must be placed in a note on the final plat.

CONCLUSIONS:

1. The Hearing Examiner has jurisdiction to consider and decide the issues presented by this request.
2. The applicant has shown that the request for preliminary plat approval for Tyler Terrace is consistent with the applicable R-6 Moderate-Density Residential zone classification and all requirements of the Critical Areas Ordinance set forth in Chapter 18.21 YMC. The proposed preliminary plat satisfies all development standards to include transportation, street lighting, parking, water system, stormwater system, open space, and landscaping.
3. The plat makes appropriate provision for the public health, safety, and general welfare for open spaces, drainage ways, streets, roads, alleys, other public ways, transit stops, critical areas, potable water supplies, sanitary waste, parks and recreation, playgrounds, schools and school grounds, and safe walking conditions.
4. The proposed preliminary plat will serve the public use and interest by providing an attractive location for a small, single-family residential subdivision in a developed area of the City while at the same time providing protection for Yelm

Creek and its associated wetlands and habitat. Therefore, the preliminary plat should be approved subject to the following conditions:

1. A mitigation agreement between the applicant and the school district is required and shall be paid at or prior to building permit issuance.
2. Civil construction plans shall provide building footprints on the residential lots to assure appropriate space is available for all utilities and required off-street parking.
3. The applicant shall mitigate transportation impacts based on the new P.M. peak hour trips generated by the project. The Transportation Facility Charge (TFC) is \$1,512 per dwelling unit. This fee is subject to change. Actual costs shall be determined at building permit issuance.
4. All internal plat roads shall be constructed to meet City of Yelm Standards for a local access residential street.
5. Connection to the water system will be at the stub out provided to the southeast of the proposed internal road, and lines extended within the new internal street. Each dwelling unit with the subdivision shall connect to the City water system. The connection fee and meter fee will be established at the time of building permit issuance.
6. The applicant shall submit a fire hydrant plan to the Community Development Department for review and approval as part of the civil engineering plans prior to final subdivision approval. The applicant shall submit fire flow calculations for all existing and proposed hydrants. All hydrants must meet minimum City standards. The applicant shall be responsible for the fee for hydrant locks on all fire hydrants required and installed as part of development. These fees shall be collected by the Community Development Department prior to final plat recording.
7. Connection to the sewer system will be at the stub out provided to the southeast of the proposed internal road, and lines extended within the new internal street. Each dwelling within the subdivision shall connect to the City S.T.E.P sewer system. The connection fee and inspection fee will be established at the time of building permit issuance.
8. Any existing wells and on-site sewage disposal systems shall be abandoned pursuant to applicable Washington State and Thurston County health regulations. Evidence that all wells and sewage disposal systems have been abandoned in an approved manner is required prior to approval of civil engineering plans.

9. The applicant shall design and construct all stormwater facilities in accordance with the Stormwater Management Manual for Western Washington as written by the *Washington State Department of Ecology*.

All roof drain runoff shall be infiltrated on each lot utilizing individual drywells. The stormwater system shall be held in common by the Homeowners Association. The Homeowners Agreement shall include provisions for the assessment of fees against individual lots for the maintenance and repair of the stormwater facilities.

Best Management Practices are required during construction. Stormwater facilities shall be approved by the City of Yelm and must be treated and disposed of on-site and be located outside of the City right-of-way. A final stormwater plan which includes an operation and maintenance plan is required as part of civil plan application submission.

10. Street lighting is required. The Applicant shall contact Intolight and provide a lighting design plan for review and approval.
11. Prior to the submission final plat application, the applicant will provide the Community Development Department an addressing map for approval.
12. Prior to the submission of final plat application, a subdivision name must be reserved with the Thurston County Auditor's Office.
13. The applicant shall provide a minimum of five (5) percent of the gross land area as qualified open space. The reduced riparian buffer, which includes wetland buffers and flood zone, shall remain undisturbed and an active recreation component provided in the proposed stormwater tract.
14. The civil engineering plans shall include final landscaping and irrigation plans which are consistent with the preliminary plans and include the following required landscaping:
 - a. Perimeter landscaping is required around the perimeter of the site in the form of a six foot wood fence. Fence type and location shall be shown on the landscape plan.
 - b. Streetscape landscaping is required as part of internal street improvements. Streetscape landscaping shall consist of drought tolerant shrubs and bark instead of grass along with approved street trees.
 - c. On site landscaping is required in the active recreation area.
 - d. A detailed irrigation plan consistent with the irrigation requirements stated in the findings above is required.

- e. A final detailed landscape plan is required as part of civil plan review and approval.
- 15. The applicant shall provide a performance assurance device in order to provide for maintenance of the required landscaping until the homeowners' association becomes responsible for landscaping maintenance. The performance assurance device shall be 150 percent of the anticipated cost to maintain the landscaping for three years.
- 16. The applicant shall substantially complete plat improvements and submit a completed application for final plat approval to the City by December 31, 2016, unless it requests and obtains an extension for submittal of such application from the Hearing Examiner. Failing to make a timely submittal or obtain an extension will result in a new evaluation of water availability that could result in denial of the plat.
- 17. This preliminary plat is governed by Section 18.16.060 of the Yelm Municipal Code that was specifically identified and drawn to the Examiner's attention by the applicant. Said section reads as follows:

"The factors affecting available capacity, in some instances, lie outside of the city's control. The city's adoption of this chapter relating to the manner in which the city will make its best attempt to determine infrastructure capacity does not create a duty in the city to provide water or sewer service to the public or any individual, regardless of whether a finding of concurrency has been made.


A finding of concurrency is not a guarantee that water and/or sewer will be available to serve the proposed project at the time a building permit application is made." (emphasis added)

The above quoted language, the fact that the applicant specifically advised the Examiner of this language, and the applicant's assertion that the risk of no water service lies with the applicant and not with the City shall be placed in a note on the final plat.

DECISION:

The request for preliminary plat approval of Tyler Terrace is hereby granted subject to the conditions contained in the conclusions above.

ORDERED this 12th day of January, 2016.



STEPHEN K. CAUSSEAU, JR.
Hearing Examiner

TRANSMITTED this 12th day of January, 2016, to the following:

APPLICANT: Mountain Terrace Builders, LLC
14730 State Route 507 S.E.
Yelm, WA 98597

AGENT: Larson & Associates
4401 South 66th Street
Tacoma, WA 98409

OTHERS:
Gordon Thomas Honeywell
Attn: William T. Lynn
1201 Pacific Avenue, Suite 2100
Tacoma, WA 98402

CITY OF YELM

CASE NO.: 20150212 Tyler Terrace Administrative Subdivision

NOTICE

1. RECONSIDERATION:

Any interested party or agency of record, oral or written that disagrees with the decision of the hearing examiner may make a written request for reconsideration by the hearing examiner. Said request shall set forth specific errors relating to:

- A. Erroneous procedures;
- B. Errors of law objected to at the public hearing by the person requesting reconsideration;
- C. Incomplete record;
- D. An error in interpreting the comprehensive plan or other relevant material;
- E. Newly discovered material evidence which was not available at the time of the hearing. The term "new evidence" shall mean only evidence discovered after the hearing held by the hearing examiner and shall not include evidence which was available or which could reasonably have been available and simply not presented at the hearing for whatever reason.

The request must be filed no later than 4:30 p.m. on **January 27, 2016**, (10 days from mailing) with the Community Development Department 105 Yelm Avenue West, Yelm, WA 98597. This request shall set forth the bases for reconsideration as limited by the above. The hearing examiner shall review said request in light of the record and take such further action as he deems proper. The hearing examiner may request further information which shall be provided within 10 days of the request.

2. APPEAL OF EXAMINER'S DECISION:

The final decision by the Examiner may be appealed to the city council, by any aggrieved person or agency of record, oral or written that disagrees with the decision of the hearing examiner, except threshold determinations (YMC 15.49.160) in accordance with Section 2.26.150 of the Yelm Municipal Code (YMC).

NOTE: In an effort to avoid confusion at the time of filing a request for reconsideration, please attach this page to the request for reconsideration.

OFFICE OF THE HEARING EXAMINER

CITY OF YELM

REPORT AND DECISION

CASE NO.: SUB-05-0601-YL
THE HUTCH PRELIMINARY PLAT

APPLICANT: Denny Balascio
Yelm Property Development
P.O. Box 2950
Yelm, WA 98597

R-12 file
RECEIVED
OCT 30 2006

AGENT: Skillings Connelly, Inc.
P.O. Box 5080
Lacey, WA 98509

SUMMARY OF REQUEST:

The applicant is requesting approval to allow subdivision of approximately 19.65 acres into 118 single family residential lots. The property is zoned Moderate Density Residential (R-6), which allows between 3 and 6 dwelling units per gross acre of land.

SUMMARY OF DECISION:

Request granted, subject to conditions.

PUBLIC HEARING:

After reviewing Planning and Community Development Staff Report and examining available information on file with the application, the Examiner conducted a public hearing on the request as follows:

The hearing was opened on October 3, 2006, at 9:00 a.m.

Parties wishing to testify were sworn in by the Examiner.

The following exhibits were submitted and made a part of the record as follows:

EXHIBIT "1" - Planning and Community Development Staff Report and Attachments

EXHIBIT "2" - Photographs of play equipment

GRANT BECK appeared, presented the Community Development Department Staff Report, and testified that the site is located within the Medium Density Residential zone which allows densities of three to six dwelling units per acre. The project meets the density requirements. The overall parcel originally included the southern parcel when it was farmed. Zoning is LDR to the north and west and parcels to the north are in unincorporated Thurston County, but in Yelm's Urban Growth Area. Proper notice was given and the City issued an MDNS and received no appeals. The City recently approved an LID for the Killion Road project and construction bidding will occur next month. The LID will construct all improvements which the MDNS required this applicant to do. Compliance with the MDNS will ensure concurrency for transportation. He then introduced Exhibit "2", photographs of play equipment appropriate for the community park. The two northern open space parcels show no improvements. Concerning water, a well exists on the parcel to the south, and if not abandoned, the applicant will need to provide a well protection radius which would impact development of the plat. However, the well is proposed for abandonment. The Mountain View North subdivision has an approved latecomers agreement and Killion Estates will also have such an agreement approved. The applicant will comply with both latecomers agreement per City Council action. The project proposes alternate technology for water quality which DOE and the City engineer have approved.

The applicant will provide underground stormwater facilities. The applicant must provide appropriate landscaping between the commercial use on the south and a Type 2 landscape buffer along other property lines. The mitigation addresses the location of the site in an aquifer recharge area, but no other critical areas exist on the site. Staff recommends approval subject to conditions.

BOB CONNELLY, professional engineer, appeared on behalf of the request and testified that with the changes in the staff report as described by Mr. Beck they have reached agreement with the City. A concerned neighbor expressed concerns regarding a horse arena on the northwest side of the parcel. They will install fencing for their Type 2 landscaping buffer. He has concerns about the timing of the Yelm Avenue construction and requested the condition changed from completion to contracted for construction. They will not construct all homes in the plat at once and the first homes will not come on line until three to four months following final plat approval. He agreed with a note on the final plat to advise residents of the arena.

MR. BECK reappeared and testified that he opposes the note on the final plat because all properties are in the Urban Growth Area and will develop with urban uses. The arena will become a nonconforming use upon annexation. We are essentially protecting a use that will go away. He is never opposed to working with applicants on a timing issue and would do so to address the Yelm Avenue construction in this instance.

No one spoke further in this matter and so the Examiner took the request under

advisement and the hearing was concluded.

NOTE: A complete record of this hearing is available in the City of Yelm Community Development Department

FINDINGS, CONCLUSIONS AND DECISION:

FINDINGS:

1. The Hearing Examiner has admitted documentary evidence into the record, heard testimony, and taken this matter under advisement.
2. The City of Yelm SEPA Responsible Official issued a Mitigated Determination of Nonsignificance based on WAC 197-11-158 on July 21, 2006. No appeals were filed.
3. Notice of the date and time of the public hearing before the Hearing Examiner was posted on the project site and mailed to the owners of property within 300 feet of the project site on September 25, 2006, and published in the Nisqually Valley News in the legal notice section on September 22, 2006.
4. The applicant has a possessory ownership interest in a rectangular, 19.48 acre parcel of property extending between the west side of Killion Road and the east side of Mountain View Road, north of SR-510 within the City of Yelm. The applicant requests preliminary plat approval to allow subdivision of the site into 118 single family residential lots and three tracts.
5. The preliminary plat map shows access provided from both Mountain View Road and Killion Road and a looped road system providing access to all lots. Cul-de-sac roads extend to the north property line at the east and west portions of the site and can provide future access to abutting parcels if and when they develop. Tracts "A" and "B" located in the east and west portions of the plat along the north property line will provide areas for open space and an underground stormwater facility. The applicant will improve said parcels with outdoor recreational equipment. Tract "C", a 30 foot wide rectangular parcel, extends between the southern internal plat road and the south property line of the parcel and will provide pedestrian access to the future commercial areas to the south. The preliminary plat map shows a minimum lot size of 4,050 square feet, an average lot size of 4,356 square feet, and a density of six dwelling units per acre. The three open space tracts will total 42,445 square feet or 5% of the gross area of the plat.
6. Abutting uses to the east, west, and north are generally low density residential, but the property to the south, while presently undeveloped, is located within the General

Commercial (C1) zone classification and will likely support commercial uses in the future. The property to the east of the site across Killion Road has received approval for a single family residential plat similar to the proposed project and construction has begun.

7. The site is located within the Moderate Density Residential (R6) zone classification of the Yelm Municipal Code (YMC). Section 17.15.020(A) YMC authorizes single family detached dwellings on individual lots as outright permitted uses in the R6 classification. Section 17.15.050 YMC sets forth the density and lot development guidelines and requires setbacks from arterials of 35 feet, collector streets of 25 feet, side yards of five feet, and rear yard of 25 feet. Said section limits the maximum building area coverage to 50% and the maximum development coverage to 75% of the gross lot area. Section 17.15.020(A) YMC provides a density range of between three and six dwelling units per gross acre. The preliminary plat proposes a density of six dwelling units per gross acre and the rectangular lot sizes and minimum 45 foot lot widths provide a building envelope which can support a reasonably sized single family structure which will meet required setbacks. The preliminary plat satisfies the bulk regulations of the R6 classification.
8. Section 16.16.270 YMC, a portion of the subdivision code, requires the dedication of a minimum of 5% of the gross land area of the plat as open space which the applicant must use for environmental interpretation, parks or athletic fields, off-road foot paths or bicycle trails, or any use which would further the purposes of parks. The applicant proposes a pedestrian pathway within Tract "C", and a condition of approval requires the improvement of the two tracts along the north property line with playground equipment, picnic tables and/or athletic courts. The applicant has agreed that the playground equipment shown in Exhibit "2" is appropriate for the northern open space areas. The plat makes appropriate provision for open spaces, parks and recreation, and playgrounds.
9. According to the applicant's Traffic Impact Analysis (TIA) prepared by Skillings Connelly, the project will generate 1,130 average daily trips with 119 occurring during the p.m. peak period. The engineer anticipates that half of the plat generated traffic will use Killion Road and half will use Mountain View Road, and that all vehicles will travel south to SR-510. Mountain View Road, classified as a neighborhood collector street, currently accommodates 315 average daily trips (adt) and traffic from the proposed subdivision will increase said volume by 565 adt. Such will increase the traffic volume on Killion Road to 880 adt from its present 315 adt. The City classifies Mountain View Road as a neighborhood collector street which should accommodate between 500 to 6,000 adt. However, Mountain View Road does not meet the standards for a neighborhood collector, and due to the significant increases in traffic, the applicant will construct Mountain View Road to neighborhood collector standards (not including sidewalks or planter strips) from

SR-510 to the north property line of the plat parcel. The applicant will also improve the east half of Mountain View Road across the plat frontage to City standards for a neighborhood collector, will realign the intersection of Mountain View Road and SR-510, and install a left turn lane. The City has recently formed a Local Improvement District (LID) to realign Killion Road, install a traffic signal at the intersection of SR-510, and reconstruct portions of SR-510. The eastern ten acres of the project is within the boundaries of the LID and the City will assess an aliquot portion of the project cost upon completion. Such will satisfy the applicant's frontage improvement requirements and will also mitigate traffic impacts to Killion Road and SR-510. The applicant will also pay the City traffic facility charges at the time of building permit issuance. The plat makes appropriate provision for streets, roads, alleys, and other public ways.

10. The City will provide both domestic water and fire flow to the site as the parcel is within the City's water service area. The applicant must pay appropriate connection fees and decommission any wells on the parcel. The parcel is also subject to a latecomers agreement for construction costs of the waterline in Mountain View Road which must be paid prior to final plat approval. Furthermore, the developers of the Cherry Meadows subdivision located north of the parcel on Killion Road have also extended a waterline along Killion Road and the applicant must satisfy a latecomers agreement for construction costs approved by the Yelm City Council. Compliance with the latecomers agreement, construction of the water infrastructure, and payment of the connection fees will ensure that the plat makes appropriate provision for potable water supplies.
11. The City will provide sanitary sewer service to each lot as the parcel is within the City's sewer service area. The applicant must also satisfy obligations under latecomers agreements for sewer lines in Mountain View Road and Killion Road. The plat makes appropriate provision for sanitary waste.
12. The applicant must construct the stormwater facilities to City standards which include the 1992 Department of Ecology stormwater manual. The applicant must also treat stormwater prior to discharge and has proposed to use the aqua-swirl concentrator from Aqua-Shield, Inc. Both the Department of Ecology and the City have approved said treatment device for pretreatment of stormwater prior to infiltrating the water into the ground. Use of the aqua-swirl concentrator and construction of the stormwater facilities to City standards will ensure that the plat makes appropriate provision for drainage ways.
13. A mitigating measure in the MDNS requires the applicant to enter into a mitigation agreement with Yelm Community Schools to mitigate the impact on the district of school aged children residing in the plat. Entry of the agreement ensures that the plat makes appropriate provision for schools and school grounds.

14. The applicant will install sidewalks on both sides of internal plat roads and along the east side of Mountain View Road across the plat frontage. The LID for Killion Road will include sidewalk installation along the plat frontage as well. The plat makes appropriate provisions for safe walking conditions.
15. The applicant will meet the on-site parking requirements set forth in Chapter 17.72 YMC and will also provide on-street parking on both sides of the local access streets. The applicant must also provide adequate streetlighting to provide safety for pedestrians, vehicles, and homeowners. The project must meet the landscaping requirements set forth in Chapter 17.80 YMC, and the applicant proposes fencing around the perimeter to include the south property line adjacent to the future commercial area.
16. A horse arena abuts a portion of the north property line, but is located within the City's Urban Growth Area. Upon annexation to the City, the arena will become a non-conforming use and the property likely developed in accordance with the future urban zoning. Therefore, a condition will not require a note on the final plat to advise future lot owners of the existence of the arena.
17. A mitigating measure in the MDNS requires completion of improvements to SR-510 prior to final plat approval. The applicant expressed concern regarding failure to complete construction in a timely manner, thereby delaying final plat approval. The Yelm Avenue improvements condition is a mitigating measure of the SEPA MDNS and therefore subject to adjustment by the environmental official and not the Examiner. However, the City will work with the applicant regarding timing issues.

CONCLUSIONS:

1. The Hearing Examiner has jurisdiction to consider and decide the issues presented by this request.
2. The proposed preliminary plat is consistent with the R6 zone classification of the Yelm Municipal Code.
3. The proposed preliminary plat makes appropriate provision for the public health, safety, and general welfare for open spaces, drainage ways, streets, roads, alleys, other public ways, transit stops, potable water supplies, sanitary waste, parks and recreation, schools and school grounds, and safe walking conditions. The proposed preliminary plat will serve the public use and interest by providing an attractive location for a single family residential subdivision while making significant infrastructure improvements and providing a connection between Mountain View Road and Killion Road. Therefore, the proposed preliminary plat should be

approved subject to the following conditions:

1. The conditions of the Mitigated Determination of Non-significance are hereby referenced and are considered conditions of this approval.
2. Each dwelling unit with the subdivision shall connect to the City water system. The connection fee and meter fee will be established at the time of building permit issuance. All conditions for cross connection control shall be met, as required in Section 246-290-490 WAC.

3. Prior to final subdivision approval, the developer shall pay any latecomers assessments approved by the City Council before final subdivision approval, including the assessment for water system improvements in Mountain View Road.
4. Each dwelling within the subdivision shall connect to the City S.T.E.P. sewer system. The connection fee and inspection fee will be established at the time of building permit issuance.
5. Prior to final subdivision approval, the developer shall pay any latecomers assessments approved by the City Council before final subdivision approval, including the assessment for sewer system improvements in Mountain View Road.
6. Prior to construction, civil engineering plans shall be submitted to the Community Development Department for review and approval. Civil plans submission shall be consistent with the requirements of the Yelm Development Guidelines and shall include details on all required infrastructure.
7. The civil engineering plans shall include a fire hydrant plan consistent with the Yelm Development Regulations which includes the proposed location of all hydrants and service lines and fire flow calculations for all existing and proposed hydrants. The applicant shall be responsible for the fee for hydrant locks on all fire hydrants required and installed as part of development. The applicant shall coordinate with the Yelm Public Works Department to purchase required hydrant locks.
8. The civil engineering plans shall include a landscaping plan that is consistent with the conceptual landscaping plan but that identifies type I landscaping along the southern property boundary, type II landscape buffer along the northern property line and the frontages of Killion and Mountain View Roads, and landscaping appropriate to a neighborhood park in the two northern open space/stormwater tracts. The landscaping plans shall include plans for irrigation of all planting strips and required landscaping located in any open space tract and along Mountain View and Killion Roads. Irrigation plans shall include a separate water meter and approved backflow prevention devices.
9. The applicant shall provide a minimum of five (5) percent of the gross land area as qualified open space developed as parks. The final landscape plans shall include plans to create neighborhood parks within the two northern open space tracts which include a mix of elements typically found in an improved park area such as play equipment, athletic courts, and picnic

facilities.


10. The civil engineering plans shall include plans for the collection, treatment, and infiltration of stormwater in accordance with the 1992 DOE Stormwater Manual, as adopted by the City of Yelm. Best Management Practices (BMP's) are required during construction. A 10-foot setback from all property lines and easements are required for stormwater facilities. The final stormwater plan shall include an operation and maintenance plan. The stormwater system shall be held in common by the Homeowners Association and the Homeowners Agreement shall include provisions for the assessment of fees against individual lots for the maintenance and repair of the stormwater facilities. All roof drain runoff shall be infiltrated on each lot utilizing individual drywells.
11. Street lighting is required. The Applicant shall contact Intolight to provide a lighting design plan for review and approval.
12. Pursuant to the requirements of Chapter 15.40 YMC, the following requirements must be met for concurrency purposes:

The builder of any structure within the subdivision shall pay a fire protection impact fee pursuant to Section 15.40.020(B)(6) YMC. The impact fee for 2006 is \$0.216 per square foot of new development, and is payable at building permit issuance (fee subject to change).
13. Prior to the approval of civil engineering plans, the applicant will provide the Community Development Department an addressing map for approval.
14. Prior to the submission of final plat application, a subdivision name must be reserved with the Thurston County Auditor's Office.
15. The applicant shall provide a performance assurance device in order to provide for maintenance of the required landscaping until the tenant or homeowners' association becomes responsible for landscaping maintenance. The performance assurance device shall be 150 percent of the anticipated cost to maintain the landscaping for three years.
16. The well located on the property south of the subject site, which is under the control of the applicant, shall be abandoned pursuant to requirements State and County Health regulations unless evidence is submitted prior to final subdivision approval that a well protection radius will not be required or will not impact lots within the proposed subdivision.

DECISION:

The request for preliminary plat approval of The Hutch is hereby granted subject to the conditions contained in the conclusions above.

ORDERED this 25th day of October, 2006.


STEPHEN K. CAUSSEAU, JR.
Hearing Examiner

TRANSMITTED this 25th day of October, 2006, to the following:

APPLICANT: Denny Balascio
Yelm Property Development
P.O. Box 2950
Yelm, WA 98597

AGENT: Skillings Connelly, Inc.
P.O. Box 5080
Lacey, WA 98509

OTHERS:

Marjorie Storem
1310 Yelm Avenue West
Yelm, WA 98597

City of Yelm
Tami Merriman
105 Yelm Avenue West
P.O. Box 479
Yelm, Washington 98597

CASE NO.: SUB-05-0601-YL, THE HUTCH PRELIMINARY PLAT

NOTICE

1. **RECONSIDERATION:** Any interested party or agency of record, oral or written, that disagrees with the decision of the hearing examiner may make a written request for reconsideration by the hearing examiner. Said request shall set forth specific errors relating to:

- A. Erroneous procedures;
- B. Errors of law objected to at the public hearing by the person requesting reconsideration;
- C. Incomplete record;
- D. An error in interpreting the comprehensive plan or other relevant material; or
- E. Newly discovered material evidence which was not available at the time of the

hearing. The term "new evidence" shall mean only evidence discovered after the hearing held by the hearing examiner and shall not include evidence which was available or which could reasonably have been available and simply not presented at the hearing for whatever reason.

The request must be filed no later than 4:30 p.m. on November 6, 2006 (10 days from mailing) with the Community Development Department 105 Yelm Avenue West, Yelm, WA 98597. This request shall set forth the bases for reconsideration as limited by the above. The hearing examiner shall review said request in light of the record and take such

further action as he deems proper. The hearing examiner may request further information which shall be provided within 10 days of the request.

2. **APPEAL OF EXAMINER'S DECISION**: The final decision by the Examiner may be appealed to the city council, by any aggrieved person or agency of record, oral or written that disagrees with the decision of the hearing examiner, except threshold determinations (YMC 15.49.160) in accordance with Section 2.26.150 of the Yelm Municipal Code (YMC).

NOTE: In an effort to avoid confusion at the time of filing a request for reconsideration, please attach this page to the request for reconsideration.