



City of Yelm

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March 16, 2021

C&E Developments, LLC
Attn: Valeska Rae
901 Binghampton Street
Rainier, WA 98576

CASE NUMBER: 2020.0295.VA0002

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
CITY OF YELM

OFFICE OF THE HEARING EXAMINER

CITY OF YELM

REPORT AND DECISION

CASE NUMBER: 2020.0295.VA0002

APPLICANT: C&E Developments, LLC
Attn: Valeska Rae
901 Binghampton Street
Rainier, WA 98576

PLANNER: Tami Merriman

SUMMARY OF REQUEST:

Variance from the City of Yelm Unified Development Code standards for building setbacks to allow construction of four, multi-family, dwelling units on a parcel located on the north side of Stevens Avenue at its intersection with 4th Street and identified by the Assessor's Tax Parcel Number 64423400100. The property is zoned Commercial (C-1).

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 March 4, 2021, at 10:00 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
EXHIBIT A - Variance Application Package

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 City Staff Report, and testified that the site consists of an undeveloped lot at the intersection of Stevens Avenue and N.E. 4th Street. The City provided proper notice to include posting the site and publishing in the paper. She received no comments from the notice except SEPA responses from agencies. The site is located in the C-1 zone classification that allows multi-family uses on lots of record with site plan review at a density of 8-16 dwelling units per acre. At the present site, the minimum density allowed is three and the maximum six. The parcel has an irregular shape and creates difficulty in building. The applicant requests a variance to allow the minimum density. Site plan review approval is a ministerial decision that requires no public notice, but RCW 36.70.120 allows only one, open record hearing for a project. The C-1 zone allows the proposed use and GMA encourages low cost housing. The C-1 zone requires a front yard setback of 25 feet, side yard setback of ten feet, and rear yard setback of 25 feet. If the setbacks are enforced, a multi-family use could not occur on the site. She then reviewed the variance criteria and noted that surrounding parcels are developed with single-family homes, except for a commercial development to the east. Properties in the area were developed prior to adoption of the present code, and many structures do not meet the 25 foot wide, front yard setback. Staff finds that the variance request complies with all criteria. Concerning the findings for SPR approval, the project meets all City development standards, and concurrency is available for all utilities. The code requires a minimum, nine foot by 20 foot parking stall, and one of the proposed stalls does not meet the requirement. Furthermore, the site plan shows a fence to the property line with the street. However, the applicant must provide an adequate line of sight. Staff will allow the reduction of landscaping in front of the building due to the setback.

Upon questioning by the Examiner, MS. MERRIMAN testified that the City has 200 water connections and the applicant is not proposing a subdivision. Water availability will be determined upon building permit application. The variance is to reduce the front yard setback from 25 feet to ten feet. The setback from the east property line will measure 20 feet, and more than 20 feet of setback will exist at the northwest corner of the building. The distance to the point of the triangle at the rear of the site exceeds the rear yard setback requirement. Staff is unsure whether the north and west property lines are side or rear yards.

VALESKA RAE appeared on behalf of the applicant and testified that the request is for a variance from 25 feet to ten feet. Staff is showing an older site plan. All conditions are doable and acceptable. She had a question regarding Condition 2 that requires the nine foot by 20 foot parking stall. One of the spaces is nine feet by 19 feet as compared with the nine foot by 20 foot requirement.

MS. MERRIMAN responded by testifying that the City would allow the reduced parking stall to be included with the variance.

No one spoke further in this matter and so the Examiner took the request under advisement and the hearing was concluded at 10:30 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, heard testimony, and taken this matter under advisement.
2. The proposal is categorically exempt from review pursuant to the Washington State Environmental Policy Act (SEPA) in accordance with Section 197-11-800(b) of the Washington Administrative Code (WAC) and Section 18.20.020 of the Yelm Municipal Code (YMC).
3. Notice of this application was sent to state and local agencies and mailed to property owners within 300 feet of the site on January 7, 2021, as well as published in the Nisqually Valley News in the legal notice section on January 7, 2021. 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 February 22, 2021. Notice of the public hearing was published in the Nisqually Valley News in the legal notice section on February 18, 2021.
4. The applicant, C&E Developments, LLC, and Valeska Rae, has a possessory ownership interest in an unimproved, triangular shaped, .35 acre parcel of property that abuts the east side of Stevens Avenue N.E., immediately north of its intersection with N.E. 4th Street within the City of Yelm. The hypotenuse of the triangle extends along Stevens Avenue and the north and east property lines come together in a point at the northeast corner of the parcel. Both the east and north property lines of the triangle also intersect the hypotenuse at triangular points. Thus, the configuration of the lot together with required setbacks significantly limits the building envelope and prohibits a multi-family use of the site that can meet the required, minimum density. A three unit structure will require the same setbacks as a four unit structure.
5. The applicant desires to construct a two story, four unit, residential structure that will contain 3,421 square feet on the ground floor and 3,663 square feet on the second floor for a total of 7,084 square feet. The project will result in total impervious coverage of 6,540 square feet and lot coverage of 42.89 percent. To accomplish its goals the applicant has requested the following variances:

- A. Reduction in the front yard setback from 25 feet to ten feet.
 - B. Reduction in the rear yard setback should the City determine that the east and north property lines are rear property lines. The setback would reduce the rear yard setback from the required 25 feet to a minimum of 20 feet. No variance is necessary if the said property lines are considered side yards.
 - C. Reduction in the area of one parking stall from the required nine feet by 20 feet to nine feet by 19 feet.
6. The parcel is located within the Commercial (C-1) zone classification of the YMC. Section 18.36.020 YMC authorizes residential development on lots of record within the C-1 zone that do not exceed one acre in size. Section 18.36.040 YMC requires that residential development in the C-1 zone meet development standards of the High Density Residential Development (R-16) zone classification. Said standards require densities of between eight and 16 dwelling units per acre. The applicant's parcel size will support a minimum of three dwelling units and a maximum of six dwelling units. The applicant proposes four dwelling units within one structure.
7. Abutting uses include single-family dwellings to the north and east, to the west across Stevens Avenue and a commercial use to the south. Driveways will separate the multi-family four-plex from structures on abutting parcels. Houses abutting Stevens Avenue to the west appear to have been constructed prior to adoption of the C-1 setback requirements, and are closer than 25 feet from the road. Thus, granting the variance will not create a structure that appears out of character with the area. The site plan shows a circular driveway extending around the residential structure and a barbeque area for residents at the rear. Furthermore, the front yard setback is measured from the sidewalk, so the structure will provide a greater setback from the travel portion of the road.
8. Prior to obtaining a variance the applicant must show that the request satisfies the criteria set forth in YMC 18.14.100(C). Findings on each criterion are hereby made as follows:
- A. Literal interpretation and application of the setback and parking stall provisions will deprive the applicant of rights commonly enjoyed by other properties in the same district. Without the variances the applicant cannot make a residential use of the parcel, and probably very little use, if any, due to the significant setbacks and irregular shape.
 - B. The variance is necessary for the preservation and enjoyment of a property right possessed by other properties in the vicinity, but which is denied to the property in question because of special circumstances. The special circumstances justifying all of the variances is the triangular shape

of the parcel and the fact that the hypotenuse abuts Stevens Avenue and requires a 25 foot wide setback.

- C. The hardship is specifically related to the shape of the property, its size, and the application of the YMC and not from deed restrictions or the applicant's own actions. The applicant did not create the lot.
 - D. Granting the variances will not materially, detrimentally impact the public welfare nor will it injure property rights of owners in the vicinity. Parcels in the area were developed under less stringent setback regulations and structures thereon extend closer to front, side, and rear property lines. The applicant's proposal will not adversely affect the existing character of the area.
 - E. The applicant proposes a use allowed in the C-1 zone classification.
9. Site Plan Review (SPR) approval is normally granted administratively and without public notice. Staff has provided findings of fact that evaluate the project with applicable SPR standards as set forth on pages 6-11 of the Staff Report. The Examiner has reviewed staff's evaluation, agrees therewith, and adopts all of staff's findings of fact as his own as if set forth in full herein. Provided, however, that since the applicant has shown that the reduction in area of one parking stall satisfies the criteria for a variance, applicable findings should be amended to so reflect. Furthermore, proposed Condition 2 that requires the applicant to increase the dimensions of the parking stall is no longer applicable and therefore eliminated.

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 variances and site plan review approval satisfies all criteria set forth in the YMC and therefore should be approved subject to the following conditions:
 - 1. Setbacks shall be based on the approved variance request of 10-foot front yard setback and 10-foot side yard setbacks. The 25 foot rear yard setback is reduced at the eastern building line.
 - 2. The civil engineering plans shall include a detailed landscape plan that includes:
 - a. The solid wood fence on the perimeter shall not extend within 20 feet of the back of right of way to allow for line of site requirements.
 - b. Perimeter landscaping from the end of the solid wood fence to the back or right of way.

- c. Perimeter landscaping is required along the property frontage, where not in conflict with utilities.
 - d. Parking landscaping shall be included around all of the parking area where not in conflict of utilities.
 - e. Above ground stormwater facilities shall be incorporated with all on site landscaping.
3. Civil engineering plans shall clearly show location of trash enclosure with required landscaping if proposed.
 4. Civil engineering plans shall include an illumination plan for any onsite lighting.
 5. Civil engineering plans shall include the location of onsite cluster box units.
 6. Each dwelling unit 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.
 7. Each dwelling unit 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. Fire protection to the buildings must be provided per the International Fire Code. The specific requirements for installation of additional fire hydrants will be determined during civil plan review. The International building code (IBC) provides occupancy ratings for different types of uses. The fire coverage system for the proposed use must meet IBC requirements.
 9. Identified in the 2002 City of Yelm Water Comprehensive Plan is a requirement to install fire hydrant locks as part of the City's water conservation and accountability program.
 10. 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.
 11. The existing driveway is required to be removed. All curb and sidewalk replacement shall meet current ADA standards, and the planter strip with street trees continued.
 12. All electrical and communication facilities other than electrical or communication services located on private property shall be installed underground.

13. Payment of a fire impact fee is due at the time of building permit issuance.
14. Payment of a school impact fee is due at the time of building permit issuance.
15. Payment of a traffic facilities charge is due at the time of building permit issuance.
16. The site plan is valid for eighteen (18) months from the date of this approval. The applicant may request a six-month extension on the approval, if the request is made in writing prior to the expiration date of this approval.
17. The decision set forth herein is based upon representations made and exhibits, including plans and proposals submitted at the hearing conducted by the hearing examiner. Any substantial change(s) or deviation(s) in such plans, proposals, or conditions of approval imposed shall be subject to the approval of the hearing examiner and may require further and additional hearings.
18. The authorization granted herein is subject to all applicable federal, state, and local laws, regulations, and ordinances. Compliance with such laws, regulations, and ordinances is a condition precedent to the approvals granted and is a continuing requirement of such approvals. By accepting this/these approvals, the applicant represents that the development and activities allowed will comply with such laws, regulations, and ordinances. If, during the term of the approval granted, the development and activities permitted do not comply with such laws, regulations, or ordinances, the applicant agrees to promptly bring such development or activities into compliance.

DECISION:

The request for variances to allow reductions in the front yard setback from 25 feet to ten feet, to allow construction of the building in accordance with the setbacks shown from the south and north property lines, and to allow reduction of the dimensions one parking stall from the required nine feet by 20 feet to nine feet by 19 feet for a site located at the northwest corner of the intersection of Stevens Avenue and 4th Street within the City of Yelm is hereby granted subject to the conditions contained in the conclusions above.

ORDERED this 16th day of March, 2021.



STEPHEN K. CAUSSEAU, JR.
Hearing Examiner

TRANSMITTED this 16th day of March, 2021, to the following:

APPLICANT: C&E Developments, LLC
Attn: Valeska Rae
901 Binghampton Street
Rainier, WA 98576

OTHERS:

CITY OF YELM

CASE NUMBER: 2020.0295.VA0002

NOTICE

All final decisions of the hearing Examiner may be appealed to the City Council at a closed record appeal hearing, initiated by a person who has standing to appeal. All appeals must be filed within 21 days from the date of the decision being appealed in accordance with Section 18.10.100 Yelm Municipal Code.