



City of Yelm

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December 29, 2020

Tahoma Terra Holdings, LLC
P.O. Box 73790
Puyallup, WA 98373

**RE: 2020.0266.SP0002
TAHOMA TERRA PH II DIV III**

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 NO.: 2020.0266.SP0002
TAHOMA TERRA PH II DIV III

APPLICANT: Tahoma Terra Holdings, LLC
P.O. Box 73790
Puyallup, WA 98373

AGENT: KPFF Consulting Engineers
612 Woodland Square Loop S.E., Suite 100
Lacey, WA 98503

PLANNER: Tami Merriman

SUMMARY OF REQUEST:

Subdivide approximately 46.6 acres within the Tahoma Terra Master Planned Community into 234 single family units, and a 48 unit multi-family component. The proposal will include four phases and will complete the build out of the Tahoma Terra Master Planned Community.

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 17, 2020, 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**
- ATT. A - Application**
- ATT. B - Preliminary Site Plans**
- ATT. C - Notice of Application**
- ATT. D - Letter from Cascadia Law Group**
- ATT. E - Letter from Dan and Kelley Koidahl**
- ATT. F - Notice of Public Hearing**
- ATT. G - PP Revisions No Clouds**
- ATT. H - PP Revisions With Clouds**
- ATT. I - 78MF Revisions**
- ATT. J - Park Exhibit**

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 this project will represent the full build-out of the 720 acre Tahoma Terra Master Planned Community. The site consists of four tax parcels and zoning includes MD, HD, and LD. The City provided proper notice and received a comment from Cascadia Law Group concerning water rights. The MDNS addresses those concerns. She also received a letter expressing concerns from property owners on the opposite side of Tahoma Boulevard within a low density residential area. Residents express concerns regarding the multi-family development and the size of the structures. However, zoning of the entire master planned community was adopted in 2005 and cannot be changed now. Residents also desire additional landscaping to screen the buildings that she thinks is appropriate and has added a condition of approval. The responsible official issued the MDNS in 2005 that required many mitigating measures to mitigate impacts of the project to include transportation. All transportation requirements are either completed, under construction, or should be completed in 2021. Concerning water rights, the City has submitted its package to DOE and expects its decision in 2021. The City will not grant final plat approval until water rights are available as set forth in the mitigating measure. The final master plan was approved in 2005, and the entire project, to include Phase II, Division III complies with all MDNS measures and all master plan community conditions of approval. They are providing the required number of multi-family units and single-family units. They must provide 48 multi-family units to meet the correct percentage. The City submitted its water rights application in September, 2020, and expects approval in 2021. Tahoma Terra has used all of its water rights, and the City will provide no further connections. City sewers will serve all residences. In addition to the traffic improvements the applicant will pay a traffic impact fee at the building permit stage. They will also pay fire and school impact fees. In reviewing the master plan conditions, questions arose regarding the conceptual requirements, and the applicant had questions regarding conditions. The applicant wants it on the record to show they have met the intent by providing a unique entryway and distinct neighborhoods.

Attachment 1 is a two page document that shows higher and medium density development. They will provide a variety of housing types by adding townhouses at the northeast corner in place of single-family dwellings. The full build-out will provide 237 lots due to the townhouses. No further mitigation is necessary as the project meets the density requirements of the original master plan. The City has concerns regarding the pocket park locations shown in Attachment J. Parks are located adjacent to each other in the southwestern portion of the development. The applicant has indicated that it will move the three parks to a central location, and the conditions address the requirement. She has not seen the elevations on the apartment buildings, but they will need to accommodate a total of 48 units. They will also need to obtain site plan approval. The landscaping can be addressed at that time.

EVAN MANN, Apex Engineering, appeared and testified that they need clarification of Condition 3 because while each item makes sense, it is wide open and needs clarity. The landscaping is planned for the HD development. The project meets the intent of the single-family/multi-family requirements. Additional landscaping requirements are not appropriate. They will provide street trees and other plantings. The multi-family buildings are at a lower grade than the single-family homes across the street. Only one building (the western) will be across the street from single-family homes. The three other buildings are opposite open space and will have no impact on views. The buildings are not out of scale and won't loom over the homes. Building A will have an entry monument that will include street trees and landscaping. They propose three story buildings to accommodate the 48 units. They will have 12 apartments in each building that will be a mix of one, two, and three bedrooms. They will not build something that will not rent. The site plan review will determine the designs of the buildings. They will also consider enhanced landscaping. Condition 3b refers to distinct neighborhoods. Monuments will designate Phases I and II in the east, and the west part of the plat will be Phases III and IV. They will have another monument tract for the lower density homes. They have not designed the entry features as yet. They will include the monument design with the landscape and full development plan. Concerning Condition 3b, Lots 1-10 are not part of the original application, but are in response to Condition 3b. The plat now contains 237 lots in order to provide a variety of housing types. They will have ten tracts, 227 single-family, detached dwellings and ten attached dwellings. Concerning Condition 3e, they located the parks to the south as a large park is very close to the north property line. They located the parks along the south plat road. They may relocate two parks to the north side of the block. They are concerned about the timing for water provision and will not do any infrastructure construction for several years. The water rights will be completed well in advance of the time they anticipate starting construction.

DUSTER MARTIN, a neighbor who resides across Tahoma Boulevard from the development, had questions regarding the apartments. Why, if they can relocate pocket parks, can't they relocate the apartment buildings? He does not want the buildings right across the street and is concerned about the height of the apartments, even though his home is approximately ten feet above the street. He questioned the height of the trees and the enhanced landscaping and whether the apartments include low income

housing. He also has concerns regarding reduction of property values due to multi-family development.

MS. MERRIMAN reappeared and testified that the location of the multi-family dwellings were determined in 2005 when the City Council approved the master plan. They wanted the multi-family dwellings located close to bus service and within walking distance of a bus stop. They also wanted high density residential closer to the main, arterial roads. The other apartment complex should be there also, but for other reasons is not. The zoning was established in 2005, and high density zoning was adopted where the apartments are proposed. It is easy relatively to relocate pocket parks as we are just adjusting a small parcel of land. Three story, multi-family structures vary between 30 and 38 feet in height. The City wants only the perimeter landscaping enhanced.

MR. MANN reappeared and testified that the maximum height of structures is determined by the zoning code covering the master plan. They propose no, low-income apartments, as all will be market rate. They want to attract all levels of tenants, but all apartments will be market rate. The apartments will have their own rules and standards that will be enforced. The rules will limit the type of activities that can occur on the site. The apartments will be located close to a major park and transit. They don't own other land on which to place apartments and must locate them here. He believes that a full blend between the uses will exist as there is a large, horizontal separation between the dwellings across the street and the apartment buildings. The apartment buildings will fit into the grade, and the one building to the west is the only one facing the residential dwellings. It will be at the same grade as the street, whereas the homes across the street are ten to 15 feet higher. They will utilize the street tree list per the master plan and anticipate planting two inch, deciduous trees that will grow to 20 to 35 feet in height. They will plant them on 35 foot centers so that the canopies will grow together. They will provide irrigation for the trees and will place a bond to ensure survival. The homes across the street are two story and the canopy will be at the same height as the third story apartments.

MS. MERRIMAN reappeared and testified that the master plan authorizes a maximum building height of 45 feet, but most are 30 to 38 feet.

MR. MARTIN reappeared and asked if Section 8 housing would apply. Mr. Mann responded by testifying he is unsure of that program. Mr. Martin then ascertained that the reason for the location of the apartments is because they are constrained by the zoning.

MR. MANN in response to Mr. Martin's question testified that the multi-family buildings will not already impact property values of single-family homes across the street. If anything, development of the site will increase the salability of the homes.

No one spoke further in this matter and so the Examiner took the request under advisement and the hearing was concluded at 10:20 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. Following review pursuant to the State Environmental Policy Act (SEPA) the City of Yelm responsible official issued a threshold Mitigated Determination of Non-significance (MDNS) based on WAC 197-11-158 on May 24, 2005. This determination is final and fulfils the City's responsibility for disclosure of potential, significant environmental impacts.
3. Notice of this application was mailed to state and local agencies and property owners within 300 feet of the site on October 6, 2020, as well as published in the Nisqually Valley News in the legal notice section on October 8, 2020. 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 Thursday, December 3, 2020. Notice of the public hearing was published in the Nisqually Valley News in the legal notice section on Thursday, December 3, 2020.
4. The applicant, Tahoma Terra Holdings, LLC, has a possessory ownership interest in Phase II, Division III of the Tahoma Terra Master Planned Community, approved in 2005. Phase II, Division III consists of a generally rectangular, 46.6 acre parcel of property abutting the south side of Tahoma Boulevard immediately west of Thompson Creek. Tahoma Terra, Phase II, Divisions I and II, are located on the north side of Tahoma Boulevard opposite Division III.
5. The applicant requests preliminary plat approval to allow subdivision of the parcel into 227 single-family residential lots, ten townhouse lots (two sets of five townhouses each), and 48, multi-family dwelling units in four buildings. The apartment buildings will be located directly adjacent to Tahoma Boulevard in the eastern portion of the project. The entire development is consistent with the master plan zoning code, density, and ratio of multi-family/single-family dwellings.
6. The applicant proposes to improve the site in two phases. Phases I and II will be located in the eastern portion of the site and will include the apartments and townhomes. The western portion of the site will consist of Phases III and IV where development is limited to low density, single-family residential homes. The two western accesses into the parcel from Tahoma Boulevard will align with

accesses in Phase II, Divisions I and II. A road along the southern portion of the site will connect the phases. The site plan shows a looped road system through each of the two phases, and storm drainage tracts located in the northeast corner and southwest corners of the site. The townhomes are shown between the easternmost access to Tahoma Boulevard and the storm drainage tract. The townhomes are on the opposite side of the easternmost, internal plat road from the apartment complex. Separate monument signs are shown adjacent to Tahoma Boulevard for Phases I and II and Phases III and IV. In addition to the townhomes and apartments, Phase I will also include 90, single-family residential lots.

7. The Tahoma Terra Master Planned Development was approved in 2005 and was subject to review pursuant to the State Environmental Policy Act (SEPA). Following SEPA review, the City responsible official issued a threshold MDNS setting forth seven mitigating measures that the present applicant must meet during development of Phase II, Division III. The MDNS imposes mitigating measures for water rights, traffic improvements, schools, and critical areas. Conditions of approval that govern approval of the project include those imposed in the decision approving the Tahoma Terra Conceptual Master Plan dated August 5, 2005. Conditions include density requirements, location, neighborhood commercial areas, minimum acreage of open spaces, multi-family units, and pocket parks. In addition, staff is recommending 15 conditions of approval that address various aspects of plat development to include water service.
8. Staff analyzed the status of all mitigating measures set forth in the 2005 MDNS on pages 2-5 of the Staff Report. Staff found that the overall project is in compliance with all said measures.. The Examiner has reviewed staff's analysis, agrees therewith, and hereby incorporates said analysis herein as his own as if set forth in full.
9. Staff also analyzed all conditions of approval required by the Conceptual Master Plan approval decision dated August 5, 2005, and finds that this project and the overall master plan are in compliance therewith, subject to relocating the pocket parks. The Examiner has reviewed staff's analysis as set forth on pages 5-7 of the Staff Report, agrees therewith, and incorporates said analysis as his own as if set forth in full herein.
10. The primary concern regarding development of the plat concerns the provision of domestic water and fire flow to the site. Tahoma Terra has utilized all water rights conveyed to the City, and any future development requires an additional water source. The applicant has identified no additional water rights that it can transfer to the City or otherwise utilize. Therefore, the applicant is relying totally upon the City as the water purveyor to provide sufficient water (in accordance with the MDNS) that will allow it to apply for final plat approval. The State Department of Ecology (ECY) selected the City as a pilot project under the 2019 Stream Flow Restoration Act, and the City submitted an application for additional

water rights in September, 2020. ECY is presently reviewing the application and the City expects a report of examination in 2021. The City is optimistic about receiving approval since its previous application was approved by both ECY and the Pollution Control Hearings Board prior to its being overturned by the Washington Supreme Court. The State Legislature adopted the 2018 Stream Flow Restoration Act in response to the Supreme Court's decision. The applicant's representative testified that the applicant does not anticipate commencing infrastructure construction for another three years, which should be a sufficient time to finally determine the water service issue. In the meantime Tahoma Terra can neither apply for nor receive final plat approval. Any infrastructure construction will occur at the owner's risk.

11. The City's Sewer Comprehensive Plan identifies the site as within the City's sewer service area, but not connected to the City's STEP sewer system. However, sewer mains exist in Tahoma Boulevard and the applicant can connect the project thereto. The City has determined that planned infrastructure improvements identified in its six year improvement program of the sewer system will result in sanitary sewer service becoming available to all residential dwelling units within the subdivision.
12. The applicant will pay traffic impact fees at the time of building permit issuance and has already completed or is in the process of completing all MDNS required, offsite, traffic improvements. The applicant will also make a contribution to fire protection facilities in conformance with the most current version of the Capital Facilities Plan adopted by the Southeast Thurston Regional Fire Authority and endorsed by the Yelm City Council. The applicant must ensure compliance with the International Fire Code in providing fire protection and with the International Building Code for its fire coverage system. The applicant must install hydrants with hydrant locks and backflow prevention devices and must pay the fire impact fee at building permit issuance.
13. The City protects the Mazama Pocket Gopher that is listed as a threatened species by the Washington Department of Fish and Wildlife. The City requires a Critical Areas Report on those parcels proposed for development that could provide gopher habitat. In the present case staff reviewed soil maps that show the area of development as having a low suitability for gopher habitat. The property has been previously disturbed, used for storage of fill, and used for stormwater treatment. The City found no evidence that the site contains any protected species.
14. The project generally satisfies the Design Standards set forth in the Conceptual Master Site Plan Approval as it divides the project into two divisions and provides entry monuments for both. In addition the storm drainage bioretention pond, infiltration pond, and a community park essentially separate the project into two separate divisions. One internal plat road and one tier of lots abutting said road

connect the two divisions. Otherwise, the two divisions are separated. The applicant will relocate the pocket parks as suggested by staff.

15. Residents in Phase II, Divisions I and II abutting the north side of Tahoma Boulevard raised concerns regarding the location of tall, multi-family buildings directly across the street from their homes. Concerns include potential interference with views and incompatibility of uses. As testified to at the hearing, homes on the north side of Tahoma Boulevard are ten to 15 feet above Tahoma Boulevard. The apartment buildings will be located at the grade of the road, and therefore will not create a looming effect over the homes. In addition, only one apartment building (the westernmost) will be directly across Tahoma Boulevard. The balance of the three apartment buildings will be opposite open space areas on the north side of Tahoma Boulevard. Furthermore, the zoning for both the single-family residential homes to the north and the apartment buildings to the south was established at the approval of the Tahoma Terra project in 2005. Finally, a significant horizontal separation between structures is provided by Tahoma Boulevard, setbacks for the single-family dwellings, and setbacks for the apartment buildings. The applicant will also plant street trees that will grow to a height of 35 to 40 feet and serve to screen the apartment buildings. At the time of site plan review the City will request additional perimeter landscaping and buffering for the buildings.

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 satisfies all criteria set forth in Section 18.14.050 of the Yelm Municipal Code. The project provides for the public health, safety, and general welfare for open spaces, drainage ways, streets, critical areas, transit stops, sanitary waste, parks and recreation, schools, and safe walking conditions. Therefore the request for preliminary plat approval of Tahoma Terra Phase II, Division III should be granted subject to compliance with the following conditions of approval:
 1. The conditions of the Mitigated Determination of Non-Significance are hereby referenced and are considered conditions of this approval.
 2. Final subdivision for any phase of this approval shall not be allowed until the applicant provides water rights sufficient to serve the remaining Master Plan, or the City obtains water rights through the Department of Ecology which are sufficient to serve the projected density of the City, its urban growth area, and the subject property.

3. The applicant shall provide revised preliminary site plans showing;
 - a. Enhanced landscaping around the high density zoning
 - b. Distinct sub-neighborhoods
 - c. Unique entry features
 - d. Intent for various housing types and sizes
 - e. Pocket parks centrally located within each sub neighborhood
4. Each dwelling unit within the subdivision shall connect to the City water system, pursuant to the terms of the water right conveyances, including the terms for issuance of building permits and water connection fees.
5. All conditions for cross connection control shall be met as required in Section 246-290-490 WAC.
6. Each dwelling within the subdivision shall connect the City S.T.E.P. sewer system. The connection and inspection fees will be established at the time of building permit issuance.
7. Any irrigation systems for planting strips in the Boulevard and collector streets, any large open spaces, and stormwater tracts shall be served by an irrigation system utilizing reclaimed water where available and approved through a reclaimed water user's agreement. Civil engineering plans shall identify proposed reclaimed water lines, meters, and valves pursuant to adopted City standards.
8. The final landscape plan submitted as part of the civil plan review shall include details of the active recreation component of each pocket park. The final landscape plans shall meet the standards of Chapter 18.55 YMC as amended in the final master site plan approval. All landscaping within City right-of-way, including all planter strips in the Boulevard and internal streets, shall include drought tolerant shrubs, a weed barrier, landscaping material, and drip irrigation.
9. The final stormwater plan shall be consistent with the 1992 DOE Stormwater Manual and amended pursuant to the Letter of Understanding between the Tahoma Terra Master Planned Community and the City, dated May 24, 2016. Stormwater facilities shall be located in separate recorded tracts owned and maintained by the homeowner's 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, unless the need for conveyance to the stormwater system is needed.

10. The civil engineering plans shall include the location of fire hydrants consistent with the Yelm Development Guidelines and applicable fire codes. The plan shall include fire flow calculations for all existing and proposed hydrants and the installation of hydrant locks on all fire hydrants required and installed as part of development.
11. The civil engineering plans shall include street lighting consistent with the final master site plan approval.
12. The civil engineering plans shall include an addressing map for approval by the Building Official.
13. The civil engineering plans shall include the proposed location and details for mailbox placement.
14. The applicant shall provide a performance assurance device in order to provide for maintenance of the required landscape for this subdivision, until the homeowner's 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.

DECISION:

The request for preliminary plat approval of Tahoma Terra Phase II, Division III is hereby granted subject to the conditions contained in the conclusions above.

ORDERED this 29th day of December, 2020.



STEPHEN K. CAUSSEAU, JR.
Hearing Examiner

TRANSMITTED this 29th day of December, 2020, to the following:

APPLICANT: Tahoma Terra Holdings, LLC
P.O. Box 73790
Puyallup, WA 98373

AGENT: KPFF Consulting Engineers
612 Woodland Square Loop S.E., Suite 100
Lacey, WA 98503

OTHERS:

Dan and Kelley Koidahl yellowposies@outlook.com

CITY OF YELM

CASE NO.: 2020.0266.SP0002
TAHOMA TERRA PH II DIV III

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.