

## **NOTICE OF DECISION**

DATE: June 6, 2022  
PROJECT NAME: El Rey Burro  
PROJECT LOCATION: 604 Yelm Ave. W, Yelm, WA  
PARCEL NUMBER: 21724141300  
CASE NUMBER: 2022.0031

**NOTICE IS HEREBY GIVEN** that the Public Services Department issued an administrative site plan review approval to El Rey Burro at the above referenced location.

The complete decision may be viewed on the City's website at [www.yelmwa.gov](http://www.yelmwa.gov) and choosing 'I Want To' then 'View' then 'Public Notices' from the menu system. A copy of the decision may also be obtained at the Public Services Department at 901 Rhoton Rd. NW, Yelm, WA 98597 during normal business hours for a fee of 15 cents per page. For additional information, please contact the Public Services Department at 360-458-8496.

### **ADMINISTRATIVE SITE PLAN REVIEW 2022.0031**

#### **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION**

##### **FINDINGS OF FACT**

1. El Rey Burro proposes to construct a 1,400 square foot drive-through restaurant located at 604 Yelm Ave. W, Yelm, WA, identified by Assessor's Tax Parcel Number 21724141300. The project includes demolishing a preexisting building, building a 1,400 square foot restaurant with a drive-through, paved parking with 8 new parking spots, and frontage improvements onto Longmire Street.
2. The property is currently developed with an abandoned office building. The properties to the North and West are currently undeveloped. The property is approximately .03 acres.
3. The property is zoned Commercial (C-1) which is codified at Chapter 18.36 YMC. The C-1 district is intended to provide for the location of business centers to serve the needs of the community for convenience goods and services such as food, drugs, household

supplies, automobile servicing, recreation, and entertainment. Service oriented establishments are permitted in the C-1 district. [Section 18.36.020 YMC].

4. El Rey Burro submitted a site plan review application on March 17, 2022, and it was determined to be complete on April 7, 2022. The application materials included a preliminary site plan, a traffic impact analysis, a quality geo report, landscape plans, and a drainage and erosion control report.
5. As required by Section 18.10.050 YMC, the Yelm Public Services Department mailed a Notice of Application to local and state agencies and surrounding property owners on April 21, 2022. In addition, the notice was published on the City's website on April 21, 2022 and published in the Nisqually Valley News on April 26, 2022. Two comments were received. One regarding the property owner of the parcels to the North and to the West, the property owner was concerned about potential littering of her parcels originating from the location of El Rey Burro. The second comment was from a local property owner over traffic concerns at the intersection of Longmire St. NW, and Yelm Ave. W.
6. Chapter 13.04 YMC and Chapter 4 of the Development Guidelines establish requirements for connection to the City's water system.
  - a) The site is currently connected to City water service. Water connections are based on a consumption rate of 875 cubic feet a month. The civil engineer shall provide estimated water calculations at the time of civil plan review to determine if additional water connections are needed to serve the project.
  - b) 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 assembly is required to protect Yelm's water system from cross-connections from all new development [Section 13.04.220 (D) YMC].

The commercial meter currently does not have a reduced pressure backflow assembly which does not meet requirements for non-irrigation meters. A reduced pressure backflow assembly is required on the commercial meter. Double check valves assemblies will be installed with any proposed irrigation meters.
7. Chapter 13.08 YMC and Chapter 5 of the Development Guidelines establish requirements for connection to the City's sewer system.
  - a) The site is currently connected to City sewer service. Sewer connections are based on water usage. Proposed water calculations will be used to determine if additional sewer connections are required.
  - b) Any commercial use that potentially generates Fats, Oils, or Greases (FOG) are required to remove FOG from the wastewater before it enters the STEP tank through grease traps and grease interceptors.
  - c) Proof of compliance with FOG regulations is required at civil plan submission (if this is required).
8. All of Yelm is considered a critical aquifer discharge area. The control and treatment of stormwater is required to protect the critical aquifer. The City has adopted the latest

edition (2019) of the Stormwater Management Manual for Western Washington (SMMWW) published by the Washington Department of Ecology [Chapter 18.27 YMC].

9. Chapter 18.16 YMC requires a determination that the infrastructure facilities necessary to serve a proposed development are in place or planned for and properly funded with a reasonable expectation that the facilities will be in place at the time needed to preserve adopted levels of service.

- a) Concurrency with sewer infrastructure means the project is within an area approved for sewer pursuant to the adopted sewer comprehensive plan for the City and improvements necessary to provide facilities and services are present to meet the needs of the proposed development.

The proposed development is connected to City sewer service. This satisfies the concurrency requirement for sewer.

- b) Concurrency with water infrastructure means the project is within an area approved for municipal water service pursuant to the adopted water comprehensive plan for the City and improvements necessary to provide services are present.

The proposed development is connected to City water service. This satisfies the concurrency requirement for water.

- c) Concurrency with transportation infrastructure means that the project completes frontage improvements, makes off-site improvements required for the safe movement of traffic and pedestrians if impacted by traffic from the development, and pays a traffic facilities charge.

The parcel fronts, Longmire St. NW, and Yelm Ave. W, Longmire St. NW. is not constructed to City standards. Yelm Ave. W. is constructed to City standards. The applicant has submitted a landscape set with future plans to construct their portion of Longmire St. NW. up to City standards.

Transportation Facility Charges are due and payable at the time of building permit issuance.

With the expectations to bring Longmire St. NW. up to City standards, and payment of Transportation Facility Charges satisfies concurrency for transportation improvements.

- d) Concurrency with school infrastructure means the developer pays a school impact fee at the time of construction.

The project does not impact schools as it does not increase student population.

- e) Concurrency with fire protection means the developer pays a fire impact fee at the time of construction.

Payment of the Fire Impact Fee at the time of building permit issuance satisfies concurrency requirements.

10. Frontage improvements are required as part of development in the City [Section 18.16.050 YMC].

The parcel fronts Longmire St. NW, and Yelm Ave. W, Longmire St. NW, is considered a local access residential and does not meet the standards for frontage improvements. Yelm Ave. W. is considered a major arterial and is up to City standards for frontage requirements. Frontage improvements are required along Longmire St. NW.

Transportation facilities charges are required for any new PM peak hour trips generated by this project. PM peak hour trips are calculated using the ITE trip generation manual.

Drive-through windows with indoor seating have a trip generation rate of 678 total average weekday daily trips with 47 PM peak hour trips. 24 of these PM peak hour trips will be pass-by trips and 23 new PM peak hour trips will be generated.

Due to this location having existed previously as a pet groomers/pet store, 3.15 trips are deducted from the trip generation of new PM peak hour trips. Traffic Facilities Charges for the 19.85 new PM peak hour trips are due at building permit issuance.

11. This project is exempt from SEPA review pursuant to WAC 197-11-800(1)(d).
12. The Yelm Critical Areas and Resource Lands, Chapter 18.21 YMC provides protection for critical aquifer recharge areas, frequently flooded areas, wetlands, geologically hazardous areas, and fish and wildlife habitat conservation areas.
  - a. 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 is required to protect the aquifer. [Section 18.21.070 (C) YMC]
  - b. 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. 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 the site is already developed with gravel, a critical areas report is not required.

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.

13. 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.

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.

14. Title 18 YMC is the Unified Development Code for the City of Yelm and establishes standards for development within the various zoning districts. The subject property is identified by the Zoning Map as being within the C-1 zoning district. The properties to the North and West are currently undeveloped.

- a. Service oriented establishments are allowed in the C-1 zoning district as a permitted use [Section 18.36.020 (L) YMC].

- b. Setback requirements for the C-1 zoning district are 15 foot front yard, 10-foot side yards, and 20-foot rear yard [Section 18.37.040 YMC].

The proposed building meets the C-1 setback requirements.

- c. Buildings in the C-1 zoning district may be up to 40 feet in height [Section 18.36.040 YMC].

The proposed building meets the height requirement for the C-1 zoning district.

- d. Yelm Ave. W. is considered a pedestrian-oriented street, properties fronting pedestrian-oriented streets shall include features in compliance with Section 18.36.040(I) YMC.

The current building entry does not have direct access to the public sidewalk. A paved pedestrian walkway is required from the public sidewalk to the building entrance.

- e. Developments in the C-1 district are required to provide at least two pedestrian amenities near the sidewalk such as pedestrian furniture, weather protection such as awning, or window displays over the majority of the front façade.

Compliance with Section 18.36.040(J) YMC is required at building permit submittal.

Pedestrian seating, a screen wall, or pedestrian lighting are options to satisfy this requirement.

15. Chapter 18.52 YMC provides guidance for ingress and egress. An ingress is proposed on Longmire St. NW. and an egress is proposed onto Yelm Ave. W.

The proposed width of the ingress and egress meet the Yelm Development guideline standards.

16. Chapter 18.54 YMC provides guidance for parking requirements.

- a. Service oriented establishments require a minimum of one parking stall per 200 square feet of gross floor area [Section 18.54.030 YMC]. This would require 7.2 parking stalls, there are 8 parking stalls being proposed.

The proposal exceeds the minimum requirements of Section 18.54.030 YMC.

- b. Handicapped parking shall meet the guidelines of the International Building Code.

At least one accessible parking space must be van accessible. The van accessible parking stall(s) shall have an additional sign that identifies the parking space(s) as “van accessible”.

17. Chapter 18.57 YMC requires the protection trees during development. There are minimal trees onsite.

If any trees with a diameter exceeding 8 inches are removed, they must be replaced at a 1:1 basis.

18. Title 18 YMC provides guidance and regulation for site planning during development. Chapter 18.55 establishes landscaping requirements for various types of development.

- a. Perimeter landscaping shall include an 8 foot planter area with a combination of evergreen and deciduous trees to provide partial screening between uses.

The site currently does not have adequate perimeter landscaping on Northwest and Northeast sides. Perimeter landscaping is required on the Northwest and Northeast sides. Civil plans shall include a landscape plan with perimeter landscaping pursuant to Section 18.55.020(B) YMC. All species and plant materials shall be pursuant to Section 18.55.040 YMC.

- b. Pedestrian corridors require streetscape landscaping to provide visual relief and separation of pedestrians from streets and parking areas.

Streetscape landscaping is considered part of frontage improvements, the proposed site does not have adequate perimeter landscaping.

- c. Parking landscaping includes a minimum of 24 square feet of landscape area for each parking stall proposed, planting area must contain at least one tree with no parking stall located more than 50 feet from a tree.

The preliminary landscape plan proposes adequate parking lot landscape.

- d. Stormwater Facility Landscaping includes landscaping of the stormwater facility to be incorporated with all on-site landscaping.

Any above ground stormwater facilities shall have stormwater facility landscaping in compliance with Section 18.55.020 (E).

19. Chapter 18.59 YMC regulates site planning during development.

- a. 18.59.060 requires new development on corner lots at street intersections to enhance the property’s visual qualities at the corner.

The preliminary site plan does not propose at least one or more of the criteria required under Chapter 18.59.060 YMC, proof of compliance with corner enhancement regulations is required at civil plan submission.

- b. Chapter 18.59.020 requires development to relate to street fronts by defining the street edge with building and landscape. This is achieved by providing direct access to the building from the public sidewalk and substantial landscaping when parking is located adjacent to street frontage.

This proposal does not provide pedestrian access from a street frontage, parking is not located adjacent to a street frontage, and the street edge is not being defined with building landscaping.

- c. Trash enclosures shall incorporate the architectural feature of the primary structure and landscaping. Trash enclosures should be located to the rear of the site, and not located between a street and building, and location approved by the local provider. The enclosure shall be constructed of CMU, wood or architectural steel, with gates of similar durable materials [Section 18.59.040 YMC].

The proposed site plan trash enclosure is in the correct area, however does not meet the required enclosure size which is 8'x20' for a restaurant or 8'x24' for a restaurant with grease storage.

- d. Section 18.59.050 YMC provides guidance for illumination. Parking lot illumination levels shall be a minimum of one-half foot candle and not exceed 0.1 foot candle at five feet past the edge of the property line(s). Fixtures shall be mounted to a maximum of 20 feet above grade.

A lighting plan is required at civil plan submission.

- 20. Chapter 18.60 provides sidewalk and pathway requirements for various types of developments.

- a. All development shall incorporate elements that follow YMC pedestrian circulation guidelines pursuant to YMC 18.60.030.

All pathways shall be paved a minimum of 60 inches wide and buildings shall have a paved pedestrian pathway from the street sidewalk to the main entry of the building, since this access would traverse a parking lot the material shall be a different material than the parking lot material.

- b. Architectural elements of a building and landscaping must be used to define the sites entrance pursuant to Chapter 18.60.050 YMC.
- c. The area between the building and the public streets are considered a pedestrian oriented space and must be developed as such.

The proposed site plan does not include a pedestrian oriented space between the building and street frontage.

- 21. Chapter 18.61 YMC provides requirements for building design.

- a. Buildings facing a public street or park shall be enhanced with at least one element of Section 18.61.040 YMC.

Proof of compliance is due at building permit submittal.

- b. All buildings must adhere to the allowed materials and colors, and roof-mounted mechanical equipment shall be screened.

Proof of compliance is due at building permit submittal.

## **CONCLUSIONS OF LAW**

- A. Section 18.13.020 (B) YMC allows the Site Plan Review Committee to approve a proposal when the preliminary site plan conforms to the standards, provisions and policies of the city as expressed in its various adopted plans and ordinances.
- B. El Rey Burro has established that the request for site plan review approval can satisfy all criteria set forth in Section 18.13.020(C) YMC, meet all requirements of the C-1 Commercial Zoning classification, and meet all other requirements of the Yelm Municipal Code. Therefore, the preliminary site plan should be approved subject to the following conditions:
  - 1. An RPBA is required on the commercial water meter.
  - 2. Proof of compliance with the City's Fats, Oils, or Greases (FOG) regulations is required.
  - 3. Civil plan submission shall include estimated water calculations to determine if additional water connections are needed to serve project.
  - 4. Frontage improvements are required along Longmire St. NW.
  - 5. A paved pedestrian walkway is required from the public sidewalk to the building entrance using a different material than the parking lot.
  - 6. Building permit submittal shall show compliance with Section 18.36.040(J) YMC regarding pedestrian amenities near the sidewalk.
  - 7. At least one accessible parking space must be van accessible. The van accessible parking stall(s) shall have an additional sign that identifies the parking space(s) as "van accessible".
  - 8. Perimeter landscaping is required on the Northwest and Northeast sides. Civil plans shall include a landscape plan with perimeter landscaping pursuant to Section 18.55.020(B) YMC.
  - 9. At least one or more of the criteria under Chapter 18.59.060 YMC (relating development to street fronts) is required. Civil plans shall show compliance with this.
  - 10. The street edge must be defined with building landscaping pursuant to Chapter 18.59.020 YMC.



11. Trash enclosure must be at least 8'x20' or 8'x24' if there is grease storage.
  12. A lighting plan is required at civil submission.
  13. Architectural elements of a building and landscaping must be used to define the sites entrance pursuant to Chapter 18.60.050 YMC. Proof of compliance is due at the time of building permit submittal.
  14. A pedestrian oriented space between the building and street frontage is required pursuant to Chapter 18.60.060 YMC.
  15. This building shall be enhanced with at least one element of Section 18.61.040 YMC proof of compliance is due at building permit submittal.
  16. The building must adhere to the allowed materials and colors proof of compliance is due at building permit submittal.
- C. 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.

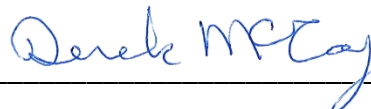
## DECISION

The request for site plan review approval is hereby granted subject to the conditions contained in the conclusions above.

Dated this 6<sup>th</sup> day of June, 2022

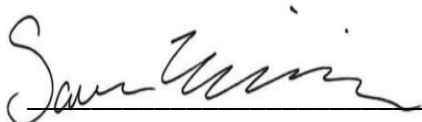


London Hawes,  
Planning and Building Manager



Derek McCoy for Cody Colt  
Public Works Director

Prepared this 6<sup>th</sup> day of June, 2022



Sara Williams,  
Assistant Planner

## **APPEAL**

The Site Plan Review Committee's decision in this matter may be appealed pursuant to Chapter 18.10 YMC, to the City of Yelm Hearing Examiner no later than 21 days from the date of this decision. An appeal must be in writing, contain specific factual objections, and include the appeal fee of \$1,250.00.