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August 12, 2021


AHBL, Inc
Attn: Sheri Greene
2215 North 30th Street #300
Tacoma, WA 98403

RE: 2021.0026

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.: 2021.0026

APPLICANT: AHBL, Inc
Attn: Sheri Greene
2215 North 30th Street #300
Tacoma, WA 98403

SUMMARY OF REQUEST:

Subdivide two parcels totaling approximately 7.22 acres into 29 single-family residential lots. The property is zoned Low Density Residential (R-4), which allows up to four dwelling units per gross acre of land. The site is located at 10447 Mill Road S.E., Yelm.

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 August 3, 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 A -Community Development Department Staff Report**
- EXHIBIT 1 - Notice of Public Hearing**
- EXHIBIT 2 - Notice of Application**
- EXHIBIT 3 - Preliminary Plat**
- EXHIBIT 4 - MDNS**
- EXHIBIT 5 - Environmental Checklist**
- EXHIBIT 6 - Pocket Gopher Report**
- EXHIBIT 7 - TIA**
- EXHIBIT 8 - Preliminary Stormwater Report**
- EXHIBIT 9 - SE Thurston Fire Authority Comments**
- EXHIBIT 10 - ORCAA Comments**
- EXHIBIT 11 - ECY Comments**

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.

CASEY MAUCK appeared, presented the City Staff Report, and testified that the applicant requests preliminary subdivision approval of a 7.22 acre parcel into 29 single-family residential lots. The site is in the LDR R-4 zone classification that authorizes a density of four dwelling units per acre. Such calculates to a total of 29 lots. One single-family home is on the site at present. The only public comment received was from the fire department that expressed a concern regarding EVA movement both out of the fire station and at the intersection of 104th/Mill Road. A TIA evaluated the subdivision entrance and the intersection and found that the project together with a second project in close proximity will not create a decrease in the level of service of the intersection. All intersections and driveways will continue operating at LOS A. The City provided proper notice and the site was posted. Concerning concurrency, future water rights for the City are imminent, and it has 173 remaining connections. The applicant will pay traffic, fire, and school impact fees. SEPA analysis included an evaluation of the TIA for this subdivision and the other nearby subdivision. The applicant will contribute to a left turn lane at SR-507. The applicant performed a gopher survey and found no evidence of gophers or habitat. The site is in an aquifer recharge area, and the stormwater plan must comply with the stormwater manual requirements for such areas. The City requires that subdivisions of 25 lots and above must provide more than one access. Here the applicant will provide a full service access and a second EVA access. The project meets requirements for open spaces, sewers, parking, and other requirements. Staff recommends approval subject to conditions.

MATT WEBER, civil engineer, AHBL, appeared on behalf of the applicant and testified that the applicant has the parcel under contract to purchase. He agrees with all conditions of approval. The TIA was performed for both projects, the other which is kitty corner to the northeast of the present project. They want to separate the TIF for both plats and just need clarification. The other subdivision is known as the Meadow at Mill Pond, and together they will provide 50 new lots. However, the condition refers to a TIF for all 50 lots, which is more than the proposed 29. Condition 5 requires improvements on the east side of Mill Road. However, the City recently constructed improvements and he questioned whether they needed to be rebuilt. They will dedicate additional right-of-way along the street.

MS. MAUCK agreed that no improvements to Mill Road are necessary and that the TIF should be clarified.

MR. WEBER testified that the fire department has a fire station directly across 104th from their project. They have aligned their access with the fire department's parking lot. However, the bay is to the east entrance, and they will do frontage improvements that will include widening and parking. They could sign the area in front of the fire

department for no parking. Such would add ten feet of width for left turn movements for the emergency vehicles.

MS. MAUCK testified that such could be discussed later in the project.

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. On July 7, 2021, the City of Yelm Responsible Official issued a Mitigated Determination of Nonsignificance (MDNS) following review pursuant to the State Environmental Policy Act (SEPA) based on Section 197-11-158 of the Washington Administrative Code (WAC). The determination is final and fulfills 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 June 3, 2021, as well as published in the Nisqually Valley News in the legal notice section on June 3, 2021.
4. The applicant, Mill Pond Development, LLC, and AHBL, Inc., has a possessory ownership interest in two, abutting parcels of property that together consist of approximately 7.22 acres. The parcels are located at the southwest quadrant of the intersection of 104th Avenue S.E. and Mill Road S.E. within the City of Yelm. Improvements on the site include one single-family residential home. The applicant requests preliminary plat approval to allow subdivision of the site into 29 single-family residential lots, a storm drainage tract, and an emergency vehicle (EVA) tract. Vegetation on the site consists of grass and evergreen trees. Slopes generally range from zero to five percent with steeper inclines occurring on the south side of the parcels. Development of the plat will require demolition of the single-family dwelling and accessory structures.
5. The preliminary plat map (Exhibit 3) shows that the plat parcels abut Mill Road for 528 linear feet and 104th Avenue for 492 feet. The parcels expand to 643 feet along the south property line. The plat map shows that a single, internal plat road will extend south from 104th Avenue and terminate in a "T" intersection at an east and west internal road. Both ends of said intersecting road terminate in a

cul-de-sac. The storm drainage facility is located in Tract A at the northeast corner of the site adjacent to the 104th/Mill intersection. The Tract B EVA extends from Mill Road to the primary internal plat road. All lots will access onto internal plat roads and no lots will access onto either Mill Road or 104th Avenue.

6. The site and parcels to the east and west are located within the Low Density Residential (R-4) zone classification of the Yelm Municipal Code (YMC). Parcels to the east and west are improved with single-family residential homes. The parcel abutting the south property line is located within the Open Space/Institutional District (OS) and improved with the Mill Pond Elementary School. The parcel to the north across 104th Avenue is also located within the R-4 classification, but is improved with a Southeast Thurston Fire Authority station. The proposed subdivision is consistent with the R-4 zone and with development in all directions.
7. Prior to obtaining preliminary plat approval the applicant must show that the request satisfies the criteria set forth in YMC 18.14.050(C). Findings on each criterion are hereby made as follows:
 - A. The proposed preliminary plat makes appropriate provisions for open spaces, parks and recreation, and playgrounds. Section 18.56.010 YMC requires a residential development to provide open space areas that equal five percent or more of the gross area of the development. The applicant proposes a .59 acre Tract A that will also serve as the stormwater facilities to include a retention pond. Conditions require landscaping of the pond in compliance with Chapter 18.55 YMC. Conditions also require that the final landscape plan for the pond show areas for recreation/open space pursuant to YMC 18.56.020 that may include play equipment and internal pathways. The .59 acre Tract A calculates to approximately 8.19 percent of the gross project area, far in excess of the required five percent.
 - B. The preliminary plat makes appropriate provision for drainage ways. The project includes 29 single-family homes, new roadways, and sidewalks. The Preliminary Stormwater Report prepared by AHBL, a qualified expert, shows that individual homes will utilize onsite infiltration trenches and/or drywells to infiltrate roof runoff. Increased stormwater runoff from new impervious areas will be collected, treated, and infiltrated onsite in accordance with the most recent Washington State Department of Ecology Stormwater Management Manual for Western Washington. The applicant has determined that the onsite soils have a high infiltration capacity, and that the stormwater facility will retain all runoff onsite through treatment systems and infiltration trenches. The stormwater system will be owned and maintained by the City.

- C. The preliminary plat makes appropriate provision for streets, roads, alleys, and other public ways. The applicant will pay the adopted traffic impact facility fee at the time of final plat approval. Such will mitigate the impacts of plat traffic on City streets. The Traffic Impact Analysis (TIA) prepared by Heath and Associates, a qualified expert, shows that the intersection of the internal plat road with 104th Avenue, and the studied intersections of SR-507/Mill Road and 104th Avenue/Mill Road will not decrease from their current levels of service. Specifically, the intersection of Mill Road and 104th will continue to operate at LOS A. The Southeast Thurston Fire Authority expressed concerns regarding emergency vehicles exiting its apparatus bay, and turning left from 104th Avenue onto Mill Road. Concerns include maneuvering around vehicles stopped on 104th Avenue when attempting to turn onto Mill Road. The authority requested an emergency traffic signal at the intersection. However, the TIA shows that said intersection will continue to operate at LOS A through 2024 on all approaches and lane movements, and therefore a nexus does not exist to require an emergency traffic signal. Furthermore, the Thurston County responsible official issued a threshold MDNS for the project and did not include a mitigating measure requiring installation of such signal. The fire authority did not appeal the MDNS and therefore SEPA review is final. However, the applicant will pay its proportionate share for a left turn lane on SR-507 at its intersection with Mill Road.
- D. A proposed condition of approval (5) requires the applicant to make frontage improvements to City standards on both Mill Road and 104th Avenue. However, the applicant testified at the hearing that the City had recently constructed such improvements on Mill Road and questioned the need to perform additional work. Staff agreed and therefore the applicant is only required to provide frontage improvements on 104th Avenue. The applicant will construct all internal plat roads to City standards and will provide a separate emergency vehicle access.
- E. No transit authority serves the area. The applicant will make a school impact fee payment to Yelm Community Schools to offset the impact of school-aged children residing in the subdivision. Finally, the applicant will install sidewalks on internal plat roads and along 104th Avenue. The plat makes appropriate provision for transit stops, schools and school grounds, and safe walking conditions.
- F. The applicant will install sewer lines within internal plat roads and will connect all lots thereto. The site is not presently connected to City water, but ten inch water mains are located in both 104th Avenue and Mill Road. While the City anticipates that it will receive additional water rights in the near future, the State Department of Ecology has not approved such rights as yet. However, the City does have sufficient water to accommodate 173 new connections. The applicant understands the issues regarding the

provision of water to the site, and that if it processes the plat to final plat approval prior to the City receiving additional water rights, it does so at its own risk. The plat makes appropriate provision for potable water and sanitary waste.

- G. Approval of the preliminary plat will serve the public use and interest by providing an appropriate and attractive location for a single-family residential subdivision that abuts an elementary school and is across the street from a fire station.
 - H. The proposed preliminary plat conforms with applicable zoning and other development regulations. The applicable R-4 classification authorizes single-family residential dwellings as outright permitted uses and does not require a minimum lot area. However, the proposed, rectangular shaped lots can meet all structural setbacks set forth in YMC 18.31.040(C).
 - I. The project satisfies all requirements for concurrency as set forth in the Staff Report. Furthermore, the City sewer system has capacity to serve all lots within the subdivision.
8. The TIA addressed both the present subdivision as well as the Meadows at Mill Pond preliminary plat that proposes a subdivision of 5.04 acres into 21 residential lots. The responsible official also considered the environmental impacts of both projects together. However, impact fees will be paid separately for each plat upon final approval. Therefore, the present plat will pay traffic impact fees for its 29 lots.
9. The applicant testified that street improvements on 104th will include widening for on-street parking. The applicant proposed to install “no parking” signs in the area opposite the fire department apparatus bay. Such would add an additional ten feet of width for left turn movements out of the fire station bay. The City indicated its desire to consider the applicant’s proposal at a later date.
10. The site is located within a potential habitat area of the Mazama pocket gopher that is listed as a threatened species by the Washington Department Fish and Wildlife and more recently by the U.S. Fish and Wildlife Service. The applicant submitted a study of the site by Land Services N.W., LLC, a qualified expert, that found no evidence of gophers on the site and no indicators of gopher use of the site.

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 YMC 18.14.050, all design standards set forth in the YMC, and all concurrency requirements. Therefore, the proposed preliminary plat should be approved subject to compliance with the following conditions:
 1. The conditions of the Mitigated Determination of Non-significance are hereby referenced and are considered conditions of this approval.
 2. 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.
 3. The civil engineering plans shall include plans for the collection, treatment, and infiltration of stormwater in accordance with the most current version of the Stormwater Management Manual for Western Washington. The final stormwater plan shall include an operation and maintenance plan and an agreement to maintain stormwater facilities.
 4. 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.
 5. Frontage improvements to City standards are required on 104th Ave SE.
 6. The new internal streets shall be constructed to City standards for a local access residential.
 7. Civil plans shall show appropriate measures to restrict Tract B to pedestrian and emergency vehicle access only.
 8. Lots shall not have direct driveway access to Mill Road SE or 104th Ave SE, and must instead access the new internal streets.

9. The development shall connect to the City water system, with the water line extending within the internal street.
10. Any onsite wells shall be decommissioned pursuant to Washington State Department of Ecology standards, and any associated water rights dedicated to the City.
11. The water 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.
12. The development shall connect to the City sewer system, with the sewer line extending within the internal street. The connection fee and inspection fee will be established at the time of building permit issuance.
13. Any onsite septic systems shall be abandoned per the Thurston County Health Department standards.
14. A final landscape plan must be submitted at civil plan submission showing perimeter, streetscape, and stormwater facility landscaping in compliance with Chapter 18.55 YMC.
15. 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 device shall be 150 percent of the anticipated cost to maintain the landscaping for three years.
16. The final landscape plan shall show recreation/open space uses on Tract A pursuant to Section 18.56.020 YMC.
17. Trees with a diameter exceeding 8 inches must be replaced at a 1:1 basis if removed.
18. Mailboxes for the site shall be cluster box units (CBU) and placed on site [Section 18.59.080 YMC]. The civil engineering plans shall include the proposed location and details for mailbox placement.
19. Adequate street lighting must be shown in civil plan submission.
20. Prior to final subdivision application, a subdivision name must be reserved with the Thurston County Auditor's Office.

21. The civil engineering plans shall include an addressing map for approval by the Building Official.
22. 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.
23. The applicant shall pay Traffic Facility Charges for 29 lots upon final plat approval.

DECISION:

The request for preliminary plat approval of The Vista at Mill Pond is hereby granted subject to the conditions contained in the conclusions above.

ORDERED this 12th day of August, 2021.



STEPHEN K. CAUSSEAU, JR.
Hearing Examiner

TRANSMITTED this 12th day of August, 2021, to the following:

APPLICANT: AHBL, Inc
 Attn: Sheri Greene
 2215 North 30th Street #300
 Tacoma, WA 98403

OTHERS:

CITY OF YELM

CASE NO.: 2021.0026

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.