

BEFORE THE CITY OF YELM HEARING EXAMINER

IN RE:)	HEARING NO. SUB 2023-0028
SHELM MEADOWS PRELIMINARY)	FINDINGS OF FACT,
PLAT,)	CONCLUSIONS OF LAW
Applicant.)	AND DECISION

OWNER: Blue Fern
 18300 Redmond Way, Suite 120
 Redmond, WA 98052

REPRESENTATIVE: Core Design, Inc./Holli Heavrin
 12100 NE 195th Street, Suite 300
 Bothell, WA 98011

PLANNER: Clayton Wiebe

SUMMARY OF REQUEST:

The Applicant seeks Preliminary Plat approval for the development of 14.92 acres into 90 single-family residential lots. The subdivision also includes 5 tracts including a storm tract, 2 access tracts, and 2 open space tracts. The site is located at 16330 Railway Road SE.

LOCATION OF PROPOSAL:

16330 Railway Road SE

SUMMARY OF DECISION:

The requested Preliminary Plat is **approved** subject to the amended conditions recommended by City Staff.

PUBLIC HEARING

The Public Hearing commenced on Thursday, October 26, 2023, at 10:00 a.m. The hearing took place in person at the Yelm City Hall. The City appeared through Gary Cooper, Planner, and Clayton Wiebe, Associate Planner. The Applicant appeared through Holli Heavrin of Core Design, Inc., representative of the Owner, Blue Fern. Several members of City Staff and

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1 the Applicant's representatives were also present. One member of the public was present, Angela
2 Dayton-Foust who spoke briefly. Testimony was received from the City through Mr. Cooper
3 and Mr. Wiebe, and from the Applicant through Ms. Heavrin. All testimony was taken under
4 oath and a verbatim recording of the proceedings was maintained.

5 The following exhibits were received in advance of the public hearing or during the
6 public hearing:

- 7 Exhibit 1: Staff Report including all attachments.
8 Exhibit 2: Proposed addendum to the record submitted by City Staff setting
9 Exhibit 3: Applicant's PowerPoint demonstration.

10 Prior to commencement of the hearing I undertook an independent site visit wherein I
11 examined the property site and surrounding properties.

12 The hearing commenced with the testimony of Gary Cooper, City Planner. Mr. Cooper
13 was relying primarily on the Staff Report prepared by Clayton Wiebe, Associate Planner, who
14 was also present and assisted Mr. Cooper in providing testimony. As laid out in the Staff Report
15 prepared by Mr. Wiebe, the proposed Preliminary Plat known as "Shelm Meadows" consists of a
16 14.92-acre parcel along the north side of Railway Road and bearing an address of 16330 Railway
17 Road SE. The Preliminary Plat application is for the subdivision of the 14.92 acres into 90
18 single-family residential lots along with an internal road system, 2 recreational access tracts, a
19 utility tract, and 2 open space tracts.

20 The site currently contains 2 single-family residences and is used for agricultural
21 purposes. It is zoned Moderate Density Residential (R-6). Surrounding properties to the east and
22 west are predominantly low density/rural residential. Property to the south, across Railway
23 Road, is located outside of City limits and is regulated by Thurston County. Immediately north
24 of the property is the Yelm-Tenino Trail followed by the Northern Pacific Road. North of the
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1 Northern Pacific Road are industrial properties. Immediately west of the site is an electrical
2 substation. The project site is generally flat.

3 Mr. Cooper noted that there had been no public comments regarding the project in
4 advance of the public hearing. Comment had been received from the Nisqually Tribe who
5 requested a Cultural Resources Study. That study has been performed and found that there were
6 no cultural resources on site. The project underwent SEPA review and a DNS was issued. The
7 only comments received in response to the DNS were from the Department of Ecology and were
8 of a standard nature.

9 Mr. Cooper then undertook an analysis of the project with respect to all concurrency
10 requirements and concluded that the project, as conditioned, satisfies all concurrency
11 requirements for water, sewer, stormwater, traffic, fire, schools and police. Mr. Cooper then
12 briefly examined the property's zoning designation and noted that the proposed use is consistent
13 with its designation as Moderate Density Residential, allowing for up to 6 units per acre. The
14 project, as designed, will satisfy all density and lot size requirements. The project will also
15 satisfy all minimum open space requirements as well as requirements for trees, lighting plans,
16 etc. Mr. Cooper completed his testimony by noting that the City wishes to add two additional
17 conditions to project approval (Conditions 14 and 15) which relate to landscaping requirements.
18 The proposed language of these two new conditions is found in Exhibit 2.

19 At the conclusion of Mr. Cooper's testimony he was asked several questions by the
20 Hearing Examiner. In response to these questions, Mr. Cooper acknowledged that the project
21 will provide curbs, gutters, sidewalks, street trees and lighting along all internal roads as well as
22 streetscape landscaping along Railway Road, including sidewalks. Mr. Cooper also
23 acknowledged that the project abuts an electrical substation to the west; that City standards do
24 not require any specific buffering between the residential development and this substation; but
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1 that the Applicant's Landscape Plan provides for fencing and perhaps some landscaping to serve
2 as a buffer between the two uses. Mr. Cooper also acknowledged that the project has 5 open
3 space tracts including: 2 pedestrian access tracts to allow residents access to the Yelm-Tenino
4 Trail immediately to the north; a stormwater tract (Tract C) and 2 recreational open space tracts
5 (Tracts A and B). The exact recreational use of these 2 open space tracts has not been fully
6 determined but they are envisioned to include benches, play areas and play equipment. At the
7 conclusion of testimony by Mr. Cooper and Mr. Wiebe, the Applicant appeared through its
8 representative, Holli Heavrin, of Core Design. Ms. Heavrin assisted with answers to a few
9 questions that had earlier been posed to City Staff. She confirmed that there is no existing
10 potable water line to the site and that existing mains will need to be extended. She also provided
11 further explanation as to the intended recreational uses of the open space: Tract A envisions a
12 large play area, benches, etc. while Tract B (immediately adjacent to the stormwater Tract C)
13 will provide added recreational opportunities. Parking will be allowed on both sides of all
14 internal streets and each residence will include a garage. Ms. Heavrin acknowledged that the
15 electrical substation to the west poses some issues with conflicting uses but that the Applicant
16 intends to provide adequate buffering, either in the form of a fence or perhaps additional
17 landscaping. Ms. Heavrin concluded her testimony by noting that the Applicant has no objection
18 to the City's proposed conditions including the 2 new conditions.

19 Following Ms. Heavrin's testimony the hearing was opened for public comment. The
20 only person present was Angela Dayton-Foust who asked to briefly testify. Ms. Foust resides
21 across the street from the project at 16333 Railway Road SE. The properties on her side of
22 Railway Road are located in the County, not the City, and rely on individual wells for potable
23 water supply. Ms. Foust is concerned that the project may have negative impacts upon her
24 existing well especially as it is fairly shallow (25 feet). Ms. Foust also expressed concern over
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1 residents of the new project driving at fast speeds and asked for consideration of calming devices
2 (speedbumps) along Railway Road. After Ms. Foust completed her testimony her concerns were
3 relayed to City Staff and the Applicant for response. Mr. Cooper responded by explaining the
4 project has been conditioned upon the Applicant undertaking a research of all nearby wells to
5 ensure that their wellhead protection areas are kept free of any development. Ms. Heavrin then
6 added that the project has been conditioned upon utilizing all Best Management Practices during
7 construction to ensure that groundwater is not impacted in any way and, further, that the project
8 itself is conditioned on stormwater management in accordance with the Ecology Manual to
9 ensure that the City's critical aquifer is both protected and recharged. This means that all onsite
10 stormwater will be retained and treated onsite, with bioswales used to ensure water integrity.

11 Following Ms. Foust's testimony there was no additional public testimony nor any further
12 response from City Staff or the Applicant, and the hearing was adjourned.

13 The subdivision request is fairly straightforward, has the Staff's full support and has no
14 substantive public opposition. I concur with the recommendations of City Staff and conclude
15 that the Preliminary Plat, as conditioned, should be approved.

16 I therefore make the following:

17 **FINDINGS OF FACT**

18 1. Any Findings of Fact contained in the foregoing Public Hearing Section are
19 incorporated herein by reference and adopted by the Hearing Examiner as his own Findings of
20 Fact.

21 **General Findings**

22 2. The Hearing Examiner has admitted documentary evidence into the record, heard
23 testimony and taken this matter under advisement.

1 3. City Staff, as Responsible Official, issued a SEPA Determination of
2 Nonsignificance (DNS) on September 19, 2023. The Determination is final and has not been
3 appealed. Comments received by the City in response to the SEPA Determination have been
4 incorporated into project conditions.

5 4. Notice of the Application was mailed to State and local agencies and properties
6 within 300 feet of the site on April 18, 2023, and published in the Nisqually Valley News on
7 April 19, 2023. No comments were received from members of the public. Comments were
8 received from the Nisqually Indian Tribe, requesting a Cultural Resources Study. That study
9 was completed in May, 2023, and found no archaeological resources in the project area. The
10 report was submitted to the Tribe and to DAHP who concurred with the findings and
11 recommended a standard Inadvertent Discovery Plan be followed. The Nisqually Indian Tribe
12 concurred.

13 5. Notice of the Public Hearing before the Hearing Examiner was posted on the
14 project site, mailed to property owners within 300 feet, and mailed to the recipients of the Notice
15 of Application on October 16, 2023. Notice was also published in the Nisqually Valley News on
16 October 12, 2023. No public comments were received in response but standard comments were
17 received from the Department of Ecology.

18 6. The Applicant proposes to develop 14.92 acres currently used as rural residential
19 property into 90 single-family residential lots. The proposed development also includes an
20 internal roadway system; 2 access tracts to allow access to the adjoining Yelm-Tenino Trail; a
21 tract for stormwater management (Tract C); and 2 recreational open space tracts (Tracts A and
22 B).

23 7. The project site is relatively flat, has no critical areas onsite and is largely devoid
24 of trees, being used primarily for agricultural purposes.

1 8. The parcel is located in the Moderate Density Residential (R-6) zone
2 classification. This zoning designation is intended to provide for medium density single-family
3 residential development and allow between 3 to 6 dwelling units per gross acre of land. Abutting
4 property to the west contains an electrical substation and, further west, rural residential
5 properties. Properties to the east are of a similar low density/rural residential quality. Properties
6 to the south, across Railway Road, are located outside of the City limits and are under Thurston
7 County regulation. These properties are generally rural residential in nature. To the immediate
8 north of the project is the Yelm-Tenino Trail followed by the Northern Pacific Road and, further
9 north, industrial properties. The project site is largely undeveloped but does contain 2 residences
10 intended for demolition following project approval.

11 9. The Applicant's Site Plan (the "Site Plan") can be found as page 2 of the
12 Applicant's PowerPoint presentation (Exhibit 3). The Site Plan identifies 2 existing trees on
13 proposed Lots 3 and 38 to be retained. All other trees onsite will be removed and replaced as
14 part of the proposed Landscape Plan. The Site Plan also identifies the 2 access tracts, Tracts D
15 and E, providing access to the Yelm-Tenino Trail; Tract C, providing stormwater management;
16 and Tracts A and B, providing recreational open space. The Site Plan also identifies all internal
17 roadways including proposed connections to future development to the east and west.

18 10. The project has received almost no public comment. The only comment received
19 was from Ms. Angela Dayton-Foust who is concerned that site development may somehow
20 impact her shallow well providing her with potable water. Ms. Foust's concerns were responded
21 to by City Staff and the Applicant, both of which provided assurances that neither project
22 construction or future development will have a negative impact upon her private well.

23 Findings Relating to Compliance with Concurrency Requirements.

24 11. Pursuant to YMC 18.16.010, no land use shall be approved unless concurrency
25 requirements are satisfied including those specifically required for preliminary subdivisions,

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1 binding site plans, mixed use developments and planned residential developments. YMC
2 18.16.050(c)(1).

3 12. The Staff Report, commencing on page 3, examines these criteria and finds that
4 all requirements have been satisfied:

5 ● The project has undergone SEPA Review resulting in a DNS. City Staff finds
6 that the project, as conditioned, will not harm the public health, safety and general welfare.

7 Similarly, Staff finds that the project is consistent with the City's Comprehensive Plan.

8 ● Appropriate provisions have been made for potable water supplies as part of the
9 preliminary land division process. Although there is no current water main located in Railway
10 Road, the project proposes to connect to the existing water main located at the intersection of
11 Railway Road SE and Middle Street SE.

12 ● Any existing wells on the property must be decommissioned and any water rights
13 associated with these wells shall be dedicated to the City.

14 ● Appropriate provision must be made for sewer infrastructure. The City's Sewer
15 Comprehensive Plan identifies the property as being within the Sewer Service Area and is not
16 currently connected to the City's STEP sewer system. There are no sewer mains located in
17 Railway Road but the project proposes to connect to the existing sewer line located the
18 intersection of Railway Road SE and Middle Street SE. The requirement for concurrency with
19 sewer infrastructure has therefore been met.

20 ● Concurrency with transportation infrastructure is met by demonstrating that levels
21 of service at concurrency intersections will not drop below accepted levels of service. The
22 Applicant has provided a Traffic Impact Analysis (TIA) demonstrating that the project will not
23 cause nearby intersections to drop below accepted levels of service (Exhibit D to the Staff
24 Report). The Developer will install frontage improvements along Railway Road pursuant to the
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1 City's Neighborhood Collectors standards and all internal streets will be constructed to adopted
2 Local Access Residential standards. Traffic facility charges will be applied at the time of
3 building permit issuance. Collectively, these conditions satisfy the requirement for concurrency
4 with transportation infrastructure.

5 • Concurrency with fire protection is achieved when the Developer makes a
6 contribution to the Fire Protection Facilities as identified in the most current version of the
7 Capital Facilities Plan. This fee will be collected at the time of building permit issuance.
8 Payment of this fee satisfies the requirement for concurrency with fire protection.

9 • Concurrency with school infrastructure is achieved when the Developer makes
10 contributions to school facilities as identified in the most current version of the Capital Facilities
11 Plan adopted by the Yelm community schools. This fee will be collected at the time of building
12 permit issuance. Payment of this fee satisfies the requirement of the concurrency with school
13 infrastructure.

14 13. Staff therefore finds, and the Hearing Examiner concurs, that the project, as
15 conditioned, will satisfy all concurrency requirements.

16 Findings Relating to Critical Areas.

17 14. The project must demonstrate compliance with the City's Critical Areas
18 Regulations, Chapter 18.21 YMC.

19 15. The Staff Report, commencing at page 5, examines the project's compliance with
20 critical area requirements.

21 16. The site is identified as a critical aquifer recharge area and must comply with all
22 federal, state and county protection regulations and with the City's adopted stormwater
23 regulations.

24 17. There are no identified wetlands or other critical areas located on the project site.
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1 18. Important animal and plant species, their habitats and primary association, and
2 other important habitats are protected under the Critical Areas Regulations. In particular, the
3 Mazama pocket gopher is recognized as threatened and the City's Critical Areas Regulations
4 require its protection. The property site is mapped with soils that often contain the presence of
5 Mazama pocket gopher. Therefore, a Mazama pocket gopher study was conducted. The report
6 finds no indicators for the Mazama pocket gopher.

7 19. City Staff finds, and the Hearing Examiner concurs, that the project, as
8 conditioned, is compliant with the Critical Areas Requirements found in Chapter 18.21 YMC.

9 Findings Relating to Compliance with Design Standards

10 20. The proposed use is permitted use in the R-6 Zoning District.

11 21. The project must satisfy all development regulations of the R-6 Zoning District.
12 The Staff Report, commencing at page 6, analyzes the project with respect to all requirements for
13 design standards and finds that the project, as conditioned, satisfies all City requirements for
14 design standards. More particularly:

- 15 ● The project will meet all setback requirements.
- 16 ● The project has been conditioned upon a Lighting Plan meeting the requirements
17 of YMC 18.59.050.
- 18 ● Each residential unit will have 2 parking spaces satisfying the requirements of
19 YMC 18.54.030(A). Additional on-street parking will be allowed on both sides of each internal
20 road.
- 21 ● The project will satisfy all requirements of Chapter 13.04 YMC and Chapter 6 of
22 the Development Guidelines relating to water supply. The project will require a new 10-inch
23 water main to be extended north from Middle Street along the property's frontage along Railway
24 Road. All cross connection and backflow control requirements will be imposed on the project.
25 Fire hydrants and locks will be installed and paid for by the Applicant.

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1 ● The project will be required to connect to the City's sewer system. A new 6-inch
2 STEP sewer main will be installed along Railway Road.

3 ● Street frontage improvements will be made as required by Chapter 18.16 YMC.
4 Those along Railway Road will be installed to the City's adopted Neighborhood Collector
5 standards while those on internal streets will be constructed to adopted Local Access Residential
6 standards.

7 ● The Site Plan has been prepared to comply with the requirements for the required
8 number of vehicular accesses per Chapter 18.52 YMC.

9 ● All streets have been laid out to allow for continuation onto adjoining properties
10 per YMC 18.52.090.

11 ● The project has been conditioned to comply with all requirements of the current
12 version of the Stormwater Management Manual for Western Washington. The Applicant has
13 submitted a preliminary Stormwater Report demonstrating proper treatment and infiltration of
14 stormwater. Stormwater facilities will require continued maintenance to ensure they remain in
15 proper working condition.

16 ● The project has been conditioned upon approval of the proposed Landscape Plan
17 as well as approved streetscape landscaping on all street frontage. Perimeter landscaping will
18 also be required for the stormwater bioretention pond. Final Landscape Plans will be submitted
19 with civil plans and shall include a detailed Irrigation Plan.

20 ● Per YMC 18.56.010 a project must include at least 5% of the gross area as
21 qualified open space. The Applicant's preliminary Landscape Plan identified .80 acres as open
22 space in 4 tracts, including Tracts C and D which provide access to the Yelm-Tenino Trail. The
23 Conceptual Landscape Plan shows pedestrian walkways, playground areas and landscaped areas
24 as well as park or play equipment.

1 **DECISION**

2 Having entered his Findings of Fact and Conclusions of Law, the Preliminary Plat is
3 **approved**, subject to the following conditions:

4 1. Any trees removed as a result of the development shall be replaced at a ratio
5 of two replacement trees per each removed tree (2:1).

6 2. A lighting plan conforming to 18.59.050 of the Yelm Municipal Code (YMC)
7 must be submitted at the time of Civil Plan Review.

8 3. Plans submitted during Civil Plan Review shall include all survey monuments.

9 4. Any proposed irrigation system shall incorporate a backflow prevention device
10 and conform with the cross-connection and backflow control program as defined in Section
11 13.04.220(D) YMC. The final landscape plan submitted with civil plans must provide a
12 detailed irrigation plan.

13 5. Frontage improvements along Railway Road are required, and must be
14 completed to the Neighborhood Collector standard. The proposed local access roads must be
15 completed to the Local Access Residential standard. These standards are illustrated in
16 Chapter 2 of Yelm's Engineering Specifications and Standards Details.

17 6. The Applicant shall pay all School Impact Fees, Fire Impact Fees, and
18 Transportation Facility Charges at the time of building permit issuance.

19 7. Plans submitted during Civil Plan Review shall include an addressing map for
20 approval by the Building Official.

21 8. Plans submitted during Civil Plan Review shall include the proposed location and
22 details for mailbox placement and these plans must conform to Section 18.59.080 YMC.

23 9. The Applicant shall provide a performance assurance device in order to
24 provide for maintenance of the required landscaping for this subdivision, until the
25 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.

10. 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 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 according to SWMMWW
standards.

1 11. The Applicant shall secure all necessary demolition permits prior to demolition
2 of current structures on property and shall provide the required Olympic Region Clean Air
Agency (ORCAA) report before demolition may begin.

3 12. The Applicant shall submit a fire hydrant plan to the Planning & Building
4 Department for review and approval as part of the civil engineering plans prior to final
5 subdivision approval. The Applicant shall submit fire flow calculations for all existing and
6 proposed hydrants. 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
Planning & Building Department prior to final plat recording.

7 13. The civil engineering plans shall include a search and report of adjacent wells
8 and their locations. Any onsite wells shall be decommissioned, and water rights dedicated to the
9 City of Yelm. Offsite wells within 100 feet of the property shall be identified, and well
protection radius provided.

10 14. Streetscape landscaping is required. Preliminary landscaping plans indicate
11 streetscape landscaping, including shrubs and street trees, for the frontage improvements along
Railway Road and for the new internal streets (Streets 'A', 'B', 'C', 'D', and 'E'). During Civil Plan
Review, the final landscaping plans must conform to Section 18.55.020(C) YMC.

12 15. Perimeter landscaping is required. For residential subdivisions, a perimeter fence
13 may be used instead. Plans submitted during Civil Plan Review must include either a perimeter
14 fence or a perimeter landscape conforming to Section 18.55.020(B) YMC.

15 DATED this 27 day of OCTOBER, 2023.

16
17
18 Mark C. Scheibmeir
City of Yelm Hearing Examiner