

**GREG & ADELE BAINTER  
PLAT OF “UPPER VALLEY ESTATES”  
PD#002-21, PLP#002-21, CL2#019-21, SEPA#010-21, TCO#008-21**

**City Council  
Closed Record Public Hearing  
December 14, 2021**

**EXHIBIT LIST**

Applicant: Greg & Adele Bainter  
File Numbers: PD#002-21, PLP#002-21, CL2#019-21, SEPA#010- 21, TCO#008-21  
Site Address: 502 S. 90<sup>th</sup> Ave.  
Staff Contact: Trevor Martin, Senior Planner

**Table of Contents**

CHAPTER AA	Hearing Examiner Recommendation
CHAPTER A	Staff Report
CHAPTER B	Maps
CHAPTER C	Site Plan
CHAPTER D	DST Review & Agency Comments
CHAPTER E	Applications
CHAPTER F	Public Notices
CHAPTER G	Public Comments

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OCT - 7 2021

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COMMUNITY DEVELOPMENTCITY OF YAKIMA, WASHINGTON  
HEARING EXAMINER'S RECOMMENDATIONS

October 7, 2021

In the Matter of a Planned Development,	)	
Class (2) Duplex Use and 20-Lot Long Plat	)	
Submitted on behalf of the Property Owner	)	
	)	PD#002-21
A DLT Investment Group, LLC	)	CL2#019-21
	)	PLP#002-21
For a Planned Development, 20 Class (2)	)	SEPA#010-21
Duplex Uses and a 20-Lot Preliminary Plat	)	
Of "Upper Valley Estates" to be Located	)	
At 502 South 90 <sup>th</sup> Avenue in the B-2 Zone	)	

**A. Introduction.** The preliminary findings relative to the hearing process for this matter are as follows:

(1) The Hearing Examiner conducted an open record public hearing on September 9, 2021.

(2) The comprehensive Planning Division staff report which was prepared and presented by Senior Planner Trevor Martin recommended approval of the applications for a Planned Development, 20 Class (2) Duplex Uses and a 20-Lot Preliminary Long Plat, subject to conditions (*Document Index #A-1*).

(3) Testimony in favor of the application was presented by the property owner's representative, Thomas Durant of PLSA Engineering – Surveying – Planning, who suggested revisions to some of the recommended conditions.

(4) The resident living across South 92<sup>nd</sup> Avenue to the west of the proposal, Carl Newman, asked what sitescreening, gating, signing and/or other

OCT - 7 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

measures will be taken to keep pedestrians from walking up South 92<sup>nd</sup> Avenue to Tieton Drive and asked what measures will be taken to extend the sewer line and/or sewer easements from South 90<sup>th</sup> Avenue to the west boundary of the subdivision so that his property will have access to the City sewer line in the future.

(5) A resident living across Tieton Drive directly north of South 92<sup>nd</sup> Avenue, Jeffrey Swan, testified as to a concern expressed in his written comment (*Document Index #G-3*) to the effect that in his experience proposed gates to keep vehicular traffic from using South 92<sup>nd</sup> Avenue will in the very short future be opened to vehicular traffic that would shine disturbing bright headlights into their living room, kitchen and bedrooms. He requested that the grade approaching Tieton Drive on South 92<sup>nd</sup> Avenue be modified or that the gates be required to permanently block vehicular access to South 92<sup>nd</sup> Avenue. He also added relative to Mr. Newman's concern that there is a school bus stop on Tieton Drive at South 92<sup>nd</sup> Avenue that would likely result in a significant amount of foot traffic on South 92<sup>nd</sup> Avenue, and that other than these concerns he is not opposed to the proposed development.

(6) No one else appeared to present testimony relative to this proposal, and no other written comments were submitted by nearby residents or other members of the public relative to this proposal.

(7) Due primarily to the concerns raised by the testimony of Mr. Newman and Mr. Swan, the record was left open for receipt of additional information from Mr. Durant and Mr. Martin relative to those concerns and to clarify the different references in the record as to the current owner(s) of the property. Part of the requested information was provided by an email from Mr. Durant on September 17, 2021, and the remainder of the requested information was provided by emails from Mr. Durant and Mr. Martin on September 24, 2021. Those emails shall be given Document Index numbers and included in the record that will be transmitted to the City Council for its consideration and decision regarding these applications.

(8) This recommendation has been issued within ten business days of receipt of all of the requested additional information on September 24, 2021, when the record was closed.



OCT - 7 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

**B. Summary of Recommendations.** The Hearing Examiner recommends approval of this Rezone to the Planned Development Overlay and these 20 Class (2) duplexes in a 20-Lot Preliminary Long Plat, subject to conditions.

**C. Basis for Recommendations.** Based on a view of the site with no one else present on September 7, 2021; the staff report, exhibits, testimony and other evidence presented at the open record public hearing on September 9, 2021; a consideration of additional requested information that was received on September 17 and September 24, 2021; and a consideration of the applicable Master Planned Development criteria, the Class (2) use criteria, the Preliminary Long Plat criteria, and the applicable development standards and consistency criteria; the Hearing Examiner makes and issues the following:

### **FINDINGS**

**I. Applicant/Property Owner/Representative.** Originally these applications were submitted by Greg and Adele Bainter and DLT Construction, LLC on April 19, 2021, but since that time, Greg and Adele Bainter sold the property to Nasser Awad who then conveyed the property by Quit Claim Deed to its present owner, A DLT Investment Group, LLC, P.O. Box 268, Wapato, Washington which is represented by Thomas Durant of PLSA Engineering – Surveying – Planning, 521 North 20<sup>th</sup> Avenue, Suite 3, Yakima, Washington 98902 (*Document Index #E-1; September 17, 2021 email from Tom Durant; Secretary of State website*).

OCT - 7 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

**II. Location.** The location of the proposal is south of Tieton Drive at 502 South 90<sup>th</sup> Avenue on the west side of South 90<sup>th</sup> Avenue. The parcel is Yakima County Assessor's Parcel No. 181330-21433 (*Document Index #A-1 and #E-1*).

**III. Application.** The main aspects of the history and details of this Master Planned Development Rezone application, this application for Class (2) duplex uses by means of Type (3) review and this 20-Lot Preliminary Long Plat application for the 20 duplexes may be summarized as follows:

(1) These applications are for approval of a Planned Development, 20 Class (2) duplex uses and a 20-Lot Preliminary Long Plat for the 20 duplexes. The property is located on about 5.43 acres in the Local Business District (B-2) zoning district south of Tieton Drive at 502 South 90<sup>th</sup> Avenue (*Document Index #C-1 and page 1 of #A-1*).

(2) The applications were received on April 19, 2021. They are being processed under YMC Chapter 15.28 for the Master Planned Development Overlay Rezone, YMC Chapters 15.14 and 15.15 for the Class (2) duplex uses that have been referred to the Hearing Examiner for Type (3) review, YMC Chapter 14.20 for the Preliminary Long Plat review and YMC Chapter 6.88 for the SEPA Environmental review.

**IV. Jurisdiction.** Section 15.28.040(D) of the Yakima Municipal Code (YMC) provides that the Hearing Examiner shall hold a public hearing and submit a recommendation to the City Council relative to the Planned Development criteria listed in YMC §15.28.040(A); YMC §14.20.100(B) provides that the Hearing Examiner shall make a recommendation to the City Council with written findings of fact and conclusions to either approve or disapprove a proposed Preliminary Long Plat based on the criteria in YMC §14.20.100(A); YMC §15.11.100(A)(1)

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OCT - 7 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

provides that if any of the required approvals constitute a recommendation to the legislative body, the decision of the administrative official as to all such permits or approvals shall constitute a recommendation to the legislative body. Since the Planned Development and Preliminary Long Plat applications constitute a recommendation to the City Council, the related Class (2) duplex use application also constitutes a recommendation to the City Council.

**V. Notices.** The property was posted with a land use action sign on June 11, 2021 (*Document Index #F-2*). A Notice of Application and Environmental Review was sent to the applicant, SEPA reviewing agencies and property owners within 300 feet of the subject property on June 16, 2021 (*Document Index #F-3c*). The Notice of Public Hearing was mailed to the applicant, SEPA reviewing agencies and property owners within 300 feet of the subject property on July 29, 2021, and was published in the Yakima Herald-Republic on July 31, 2021. (*Document Index #F-4d and #F-4a*). The SEPA Mitigated Determination of Nonsignificance was mailed to the applicant and property owners within 300 feet of the subject property on July 30, 2021 (*Document Index #F-5*).

**VI. Zoning and Land Use.** The zoning of the subject property is Local Business District (B-2). Although the B-2 zoning district is primarily intended to provide areas for small retail shopping and service needs of the community that need a higher level of visibility and easy access to major arterials, YMC Table 4-1 in YMC §15.04.030 provides that duplexes are Class (2) uses that are generally

OCT - 7 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

permitted in the B-2 zoning district. The zoning and land use characteristics of the surrounding properties are as follows:

<u>Location</u>	<u>Zoning</u>	<u>Land Use</u>
North	Single-Family Residential (R-1)	Single-Family Residential
South	Single-Family Residential (R-1)	Single-Family Residential
East	Local Business District (B-2)	Single-Family Residential
West	Single-Family Residential (R-1) Multifamily Residential (R-3)	Single-Family Residential

(Document Index #A-1, page 4).

**VII. Yakima Comprehensive Plan 2040.** The subject property is located within the Community Mixed Use designation of the Comprehensive Plan which is intended to allow for a mixture of neighborhood scaled retail, commercial service, office and high density residential uses. The following Comprehensive Plan goals and policies apply to this proposal as well as numerous others described in Subsection X(12) of these recommendations:

(1) Goal 2.3: Preserve and enhance the quality, character, and function of Yakima's residential neighborhoods.

(2) Policy 2.3.1: Provide for a wide variety of housing types within the city to meet the full range of housing needs for Yakima's evolving population.

(3) Policy 2.3.1(E): Duplexes. Continue to allow duplexes in appropriate residential zones, provided density standards are met. Consider incorporating design standards that emphasize a pedestrian-oriented design and the inclusion of usable open space.

(4) Policy 2.3.3: Create walkable residential neighborhoods with safe streets and good connections to schools, parks, transit, and commercial services.

(5) Goal 5.1: Encourage diverse and affordable housing choices.

(6) Goal 5.2: Preserve and improve existing residential neighborhoods.

OCT - 7 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

**VIII. Environmental Review.** These applications were required to undergo State Environmental Policy Act (SEPA) review due to the requirements of a Planned Development and Preliminary Long Plat. On June 16, 2021, a Notice of Application and Environmental Review was sent to the applicant, SEPA reviewing agencies and property owners of record within 300 feet of the subject property. Only one written public comment and three written agency comments were submitted relative to these applications. The slightly edited written comments with the Planning Division and Hearing Examiner findings relative thereto in italics are as follows:

(1) Washington Department of Archaeology and Historic Preservation (DAHP) Comment dated June 30, 2021: Our statewide predictive model indicates that there is a high probability of encountering cultural resources within the proposed project area. Further, the scale of the proposed ground disturbing actions would destroy any archaeological resources present. Identification during construction is not a recommended detection method because inadvertent discoveries often result in costly construction delays and damage to the resource. Therefore, we recommend a professional archaeological survey of the project area be conducted prior to ground disturbing activities. We also recommend consultation with the concerned Tribes' cultural committees and staff regarding cultural resource issues.

These comments are based on the information available at the time of this review and on behalf of the SHPO in conformance with Washington State law. Should additional information become available, our assessment may be revised.

Thank you for the opportunity to comment on this project and we look forward to receiving the survey report. Please ensure that the DAHP Project Number (a.k.a. Project Tracking Code) is shared with any hired cultural resource consultants and is attached to any communications or submitted reports (*Document Index #G-1*).

*The applicant shall conduct a cultural resource survey of the site, and submit documentation of the survey to DAHP and the City, prior to the issuance of*

OCT - 7 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

*any building permits for the site. This was one of the Required Mitigation Measures of the Mitigated Determination of Nonsignificance which was not appealed.*

(2) Washington Department of Ecology Comment dated July 2, 2021:  
TOXICS CLEAN-UP – Historical aerial photos indicate your project is located on property that was occupied by orchard during the time period when lead arsenate was applied as a pesticide, often resulting in shallow soil contamination from lead and/or arsenic. Before proceeding, your project is required to conduct soil sampling under the Model Toxics Control Act (Chapter 173-340 WAC).

If sampling indicates elevated levels of lead and arsenic, cleanup will be required prior to occupancy. The Department of Ecology plans to use Model Remedies for lead and arsenic pesticide contamination in historical orchards of Central Washington. A Focus Sheet on the Model Remedies can be found at <https://apps.ecology.wa.gov/publications/documents/2109007.pdf>.

Compliance with a Model Remedy ensures your project meets the minimum standards of the Model Toxics Control Act, and if implemented as described, your property will be successfully cleaned up to Washington State standards. Ecology can provide free initial sampling as well as free technical assistance for your project. WATER QUALITY: Project with Potential to Discharge Off-Site – If your project anticipates disturbing ground with the potential for stormwater discharge off-site, the NPDES Construction Stormwater General Permit is recommended. This permit requires that the SEPA checklist fully disclose anticipated activities including building, road construction and utility placements. Obtaining a permit may take 38-60 days. The permit requires that a Stormwater Pollution Prevention Plan (Erosion Sediment Control Plan) shall be prepared and implemented for all permitted construction sites. These control measures must be able to prevent soil from being carried into surface water and storm drains by stormwater runoff. Permit coverage and erosion control measures must be in place prior to any clearing, grading, or construction.

In the event that an unpermitted Stormwater discharge does occur off-site, it is a violation of Chapter 90.48 RCW, Water Pollution Control and is subject to enforcement action (*Document Index #G-2*).

*The site shall undergo soil sampling under the Model Toxics Control Act (WAC 173-340) before any building permits shall be issued for the subject project.*

OCT - 7 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

*The project shall submit for the NPDES Construction Stormwater General Permit, and a Stormwater Pollution Prevention Plan (Erosion Sediment Control Plan) prior to the issuance of any building permits for the subject project.*

(3) Nearby Resident Jeffery Swan Comment dated July 26, 2021: I am writing to express my concern about any access the development would have to the gravel road bordering the west side of the property which is South 92nd Avenue. As that road grade/slope is presently constructed, when vehicles on the road are stopped for traffic on 92nd and Tieton, the headlights shine directly across into my home (living room, kitchen, and bedrooms). My entire house is illuminated with these bright lights, disturbing daily living and sleep activities.

Currently there are but a few residences that utilize that road and so the lights at night are annoying but manageable. However, I am very concerned that the proposed 40 residential units will make the situation beyond bearable. I understood from the plans that access from the units to 92nd Ave would be for fire lanes / emergency use only. However, my experience suggests that in the very short future that will be opened to general use.

I am greatly worried about the increase in traffic. If this development goes forward I request there be some accommodation to modify the 92<sup>nd</sup>/Tieton intersection so the vast increase of vehicle lights will not disturb the enjoyment of my residence, and/or permanently block access from the units to 92<sup>nd</sup> Avenue. (Document Index #G-3).

*The applicant is proposing that the sole access to and from the lots within the plat will be from South 90<sup>th</sup> Avenue. There is no proposed vehicular access to or from South 92<sup>nd</sup> Avenue other than for emergency vehicles. Gates at the west end of the private streets will block vehicular access to and from South 92<sup>nd</sup> Avenue. A condition of these recommendations will be that any change in the gates at the west end of the streets that prevent vehicular access to and from South 92<sup>nd</sup> Avenue, except for emergency vehicles, may only be allowed in the future if the criteria for approval of a Class (3) use are satisfied through the Type (3) review process that requires public notice and an open record public hearing conducted by the Hearing Examiner or, if the Type (3) review process does not exist at that time, then only if approved through a comparable procedure that does exist at that time.*

OCT - 7 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

(4) Yakima County Flood Control District/Water Resources Comment dated August 17, 2021: By looking at the lidar contours and location of the canal north of Tieton Drive it appears there is a natural drainageway starting at the middle of the lot on north side. It's likely over the years this lot has had some reshaping for agricultural purposes, but the current flow would be from the middle of the lot, downslope to or on top of S. 92<sup>nd</sup> Ave., then moving off the road into the lot on the south end. More recent development may have further modified the topography but it's apparent there was (and probably still should be) a drainageway from north of Tieton Drive downslope towards Shaw Creek. The FCZD is asking that the applicant keep pass-through flow from upslope in mind when designing the project (*Document Index #G-4*).

*The applicant shall work with the Yakima County Department of Ecology and City of Yakima Stormwater Division to ensure that draining from the site is mitigated properly, and adhere to the conditions issued in the MDNS.*

The City's SEPA Responsible Official issued a Mitigated Determination of Non-significance (MDNS) on July 30, 2021. Its requirements which became final when the appeal period passed without an appeal are as follows:

(1) A professional archaeological survey of the site shall be conducted, including consultation with the Yakama Nation, prior to any ground disturbing activities being permitted.

(2) The soil shall be tested for lead and/or arsenic contamination in accordance with the Model Toxics Control Act. If elevated levels are found, cleanup shall be required prior to a certificate of occupancy.

(3) NPDES Construction Stormwater General Permit shall be required.

(4) A Stormwater Pollution Prevention Permit (SWPPP) shall be required.

**IX. Transportation Concurrency Ordinance.** The applicant applied for Transportation Concurrency review under Application No. TCO#010-2. The proposed 20-lot Planned Development and Preliminary Long Plat for 20 duplexes were approved for Concurrency on July 26, 2021, based on a finding that the



OCT - 7 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

traffic resulting from the development will not exceed the PM peak hour capacity of the City arterial system and reserve capacity exists on all impacted streets (*Document Index #H-2*).

**X. Applicants' Statement of Details Relative to the Proposed Planned Development.** Pursuant to YMC §15.28.030, the applicant's very thorough narrative for the Planned Development application provides answers set forth in italics below to specific questions relative to the proposal as follows:

(1) What land uses are proposed? *The subdivision is proposed for a total of 40 duplex residential units. The application is being made as a Residential planned development under YMC 15.28.020(A)(1), listed as permitted in the B-2 zone. Two family residential (duplexes) is a permitted use in residential planned developments (YMC 15.28.020(B)(1)(a)).*

(2) Will the land be subdivided? If so, what type of subdivision? (Long Plat, Short Plat, Binding Site Plan, etc.) *The 20 individual lots are to be created by regular subdivision (long plat).*

(3) How does the proposed Planned Development allow flexibility in development standards and permitted uses while ensuring compatibility with neighboring uses? *Duplexes are a Class 2 land use (usually permitted) in the B-2 zoning district. Proposed lot sizes, lot widths and setbacks exceed the minimum zoning standards of the B-2 zone and generally conform to or exceed the more restrictive standards of the R-2 zone. Revised street improvement standards are intended for narrower streets allowing more intimacy, larger yards and reduced impervious surfaces. The private streets will have low speeds and traffic levels with most parking off-street. Residential development of a portion of this commercially zoned area provides opportunities for mixed use and would provide for a transition from lower density R-1 zoned properties north and directly south of the site to the mostly undeveloped commercially zoned property to the east. The proposal is consistent in use and allowable density with (mostly undeveloped) R-3 zoned property to the west. Limiting all but emergency access to S. 90th Avenue*

OCT - 7 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

*reduces potential traffic impacts on S. 92nd Avenue, a private street in an unimproved right-of-way that at present serves a small number of single-family homes.*

(4) Describe how the proposed Planned Development facilitates the efficient use of the land. *Narrower streets allow for larger residential lots and yards with setbacks that meet or exceed standards that would be required in the R-2 zoning district and are higher than the less strict standards of the B-2 zone. Limiting most access to one side of the development keeps the individual private streets from becoming through-streets and the associated impact that it would have on adjoining neighborhoods.*

(5) Describe how the proposed Planned Development increases economic feasibility (i.e., fostering efficient arrangement of land use, buildings, transportation systems, open space and utilities). *The lot arrangement is an efficient use of the site given its shape and dimensions. The depth (north-south dimension) of the property results in larger lots in order to accommodate the private streets and building footprints. With the gated emergency access, there is no need to put in vehicle turnarounds or to use the additional land needed to construct them. Utility extensions provide for connection to all lots and facilitates further utility extension to properties to the west. No common open space is proposed because lot sizes are sufficient for private yards.*

(6) How does the proposed Planned Development preserve or enhance natural amenities, features, shorelines and critical areas in the development of the site? *Critical areas, although nearby, are not on the proposed site, so there would be no impact on them. The site is gently sloping, with the slope increasing somewhat at the north end to Tieton Drive. Lot and building development generally follow the contours of the slope and larger rear yards are provided along the tier of lots at the north end of the site to provide for the steeper slope area and additional distance from Tieton Drive.*

(7) Identify environmental impacts and appropriate mitigation measures. *SEPA review has not been completed and significant environmental impacts have not been identified. Some of the site considerations that are being made, based in part on meeting with the City Development Services Team, include providing frontage improvements on S. 90<sup>th</sup> Avenue, a road maintenance agreement for future lot owners, streetlights as directed by the City, fire hydrants within 500 feet*

OCT - 7 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

of all lots. Limiting direct access to S. 90th Avenue, providing additional setbacks and yard areas than would be required by current zoning, and a low residential density provides for additional mitigation and compatibility with surrounding land uses.

(8) How does the proposed Planned Development encourage environmentally sustainable development? *The project uses "low-impact development" concepts defined as stormwater management and land development strategies that emphasize conservation and use of existing natural site features integrated with disturbed, small-scale stormwater controls to more closely mimic natural hydrologic patterns in residential settings (YMC 15.02.020). Stormwater will be retained on-site and drainage and infiltration facilities provided. The proposal accommodates population growth within the urban growth area to the benefit of resource and sensitive lands farther out and to reduce sprawl. While the B-2 zoning district allows for 80 percent lot coverage, the lot coverage of these lots is around 60 percent including private streets in the calculation. Proposed density, lot coverage and large yards ensures that stormwater facilities are functional.*

(9) What services and facilities are available to serve the property? Are those services adequate? *Available utilities include a recently constructed 8-inch sewer line in 90th Avenue that extends south to connect to a larger line in Midvale Avenue and 8-inch water lines extending south on both 90th and 92nd Avenues from a 12 inch main in Tieton Drive. There are two existing fire hydrants on Tieton Drive that should be able to provide the maximum of 600 feet from a hydrant to most of the lots in the development. Also available are electric power, cable television and telephone. The site is in the West Valley School District – Cottonwood Elementary School is about 3/4 mile away as measured along City streets – and is served by City fire, police and emergency services.*

(10) Will the proposed development promote economic development, job creation diversification or affordable housing? *With or without the Master Planned Development, the project provides economic development and construction jobs. The proposed housing adds to capacity currently needed in the community.*

(11) How does the proposed development create vibrant mixed-use neighborhoods, with a balance of housing, commercial, and recreational facilities? *The proposal, along with neighboring properties, provide a mix of housing and commercial opportunities to this area. Many of the surrounding lands are*

OCT - 7 2021

YAKIMA  
DEVELOPMENT

*undeveloped or partially developed, but based on their zoning, a mix of single-family and moderate to high density residential development should be expected along Tieton Drive with a mix of commercial or possibly mixed-use development. Single-family residential development becomes more prevalent farther to the south and east with single-family homes immediately adjacent along 92nd Avenue and to the east on Tieton Drive.*

(12) How is the proposal consistent with goals, policies, and objectives of the Yakima Urban Area Comprehensive Plan? *The proposal is consistent with the purpose of the Community Mixed-Use future land use designation to allow for a mixture of neighborhood scaled retail, commercial service, office, and high-density residential uses (Policy 2.2.3.A). While many of these land uses are not yet developed in this location, the zoning of undeveloped areas is consistent with the purpose statement. The mixture and density of retail, commercial service, office and high density residential depend on the area's context. Being in a transitional area nearer to residential neighborhoods suggests a mix with residential more prevalent. The proposed density of 4 to 5 dwelling units per acre (depending on how it is calculated) is lower than allowed maximums and results from the efficient development of this site. The zoning of mostly undeveloped areas nearby indicate a mixture of commercial and residential land uses at varying densities. Adequate public services can be provided (Policy 2.L.7). The proposal contributes to the provision of a wide variety of housing types within the city to meet the full range of housing needs for Yakima's evolving population (Policy 2.3.L). Duplexes are allowed in appropriate residential zones provided that density standards are met (Policy 2.3.1.E). Duplexes are also a permitted Class 2 uses in the B-2 zone. Pedestrian orientation is provided by the private access streets and minor local street with sidewalks connecting to Tieton Drive. Lot size and home design provide usable open space on each lot. The proposal helps to preserve and enhance nearby residential neighborhoods (Policy 2.3.2) by providing for relatively low density housing to transition from those neighborhoods to the other commercially zoned lands. The site location along Tieton Drive, served by public transit, is suitable for higher density residential development. The private residential streets are safe and walkable (Policy 2.3.3), tie into existing sidewalks on Tieton Drive with good connections and transit access. The proposal adds to the diversity of housing choices consistent with Goal 5.1. The use of transitional densities to ensure compatibility is consistent with Policy 5.4.2. In this case the*

OCT - 7 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

*transition is from the single-family residential neighborhoods to the southwest along 92nd Avenue to the commercially zoned (but mostly undeveloped) areas on the east side of S. 90th Avenue. The mostly undeveloped areas directly to the west are zoned R-3, being compatible rather than transitional. The proposal provides for a wide variety of housing types within the city to meet the full range of housing needs for Yakima's evolving population (Policy 2.3.1). Under Goal 2.7: "Resource protection and sustainable design. Reinforce and enhance Yakima's environmental stewardship" are policies to protect sensitive natural areas, restore graded natural areas, use functional negligible impact development features such as bio-swales. Under Goal 5.1: "Encourage diverse and affordable housing choices," are Policy 5.1.4 and 5.1.9 supporting the provision of housing options to increase affordable and market rate housing, diversity of housing to support a variety of households, dispersion of affordable housing throughout the City, convenient access to transit, a range of unit types, ownership housing when possible and long-term affordability. This proposal is consistent with many of these objectives particularly in terms of affordability, housing diversity and access to transit.*

(13) How does the proposed Planned Development utilize unique and innovative facilities that encourage the efficient and economical use of the land? *Development of the project to the characteristics of the site. Modified, narrower streets provide additional lot area and reduced impervious surfaces.*

(14) Does the proposed Planned Development promote a sound system for traffic and pedestrian circulation? Describe. *The small-scale private access streets will provide safe, low traffic routes for vehicles and pedestrians to public streets and access to transit on Tieton Drive. Sidewalks on both sides of Tieton Drive provide continuous access to Cottonwood School, existing commercial areas to the east and future commercial areas to the west and south.*

(15) How does the proposed Planned Development promote open space and use of natural and/or developed amenities? *Proposed lots range in size from 9,902 to 14,491 square feet, compared to the minimum duplex lot size of 6,000 square feet. The larger lot size is due, in part to how the lots fit within the dimensions of the site and proposed and existing streets. However, it does provide for a lower residential density than could be allowed, if the smaller lots were used. It also provides for setbacks that meet or exceed the minimum standards of the R-2 zone rather than the smaller setbacks standards allowed in the B-2 zone. Distances*

OCT - 7 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

*from the building envelopes shown on the site plan from Tieton Drive ranging from 27 feet to 37 feet (measured from the property line, rather than centerline of the street) accommodate the steeper slope up to Tieton Drive and provide a larger buffer from residential units to the arterial street.*

(16) Will the proposed Planned Development provide an architecturally attractive, durable and energy efficient development? *Residential buildings will be similar in appearance but varied to avoid a monotonous look and consistent with similar residential units in nearby subdivisions. Colors will be earthtones or otherwise muted rather than bold and bright. They will be designed to conform to current building codes and the Washington State Energy Code. All City setback, lot coverage, lot size and lot width standards are to be met, or as already described, exceeded on the residential lots.*

(17) Please provide a summary of all previously known land use decisions affecting the applicant's property and all outstanding conditions of approval with respect to such prior land use decisions. *Previous land use decision applicable to the site include a short plat recorded in 1992 and rezoning to B-2 by Yakima County in 2004. A note on the 1992 short plat limited access from Lot 2 to S. 92nd Avenue. However, significant changes that have occurred since include: Lots 1 and 2 of that short subdivision have been combined to form the lot that is the subject of this application; Tieton Drive has been improved from a two-lane rural road to a four-lane arterial street with curbs, sidewalks and streetlights and South 90th Avenue has been partially improved. At the time the short plat was recorded, Lot 2, for which the access restriction was placed on the short plat, had frontage on 92nd Avenue but not on Tieton Drive. The combined lots now have frontage on all three streets. At the time the 1992 short plat was recorded, there was only a partial dedication of right-of-way for S. 90th Avenue. Since then, full right-of-way width has been dedicated, and the S. 90th Avenue intersection with Tieton Drive has been constructed including extension of curb and sidewalk and additional right-of-way dedicated. The 2004 rezone approval of this property included a condition that this restriction on access should be removed or waived once the construction of S. 90th Avenue has been completed. Every indication is that Yakima County, and since annexation, the City of Yakima, has intended access to this property from the improved intersection of S. 90th Avenue. A plat note on the 1992 short plat also required participation in a road maintenance association for S. 92nd Avenue while it remains a private road. There is no indication that this*

OCT - 7 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

*occurred, and it would be unnecessary with access to that street restricted as proposed. A plat note on the 1992 short plat requires the abandonment and removal of a well and garage as necessary to facilitate road improvements of 90th Avenue. This is to be done when the street improvements are required. While it isn't clear if this note refers to existing improvements on the part of the property that is the subject of this application, the existing buildings will be removed. Requirements from the 2004 rezone of this property to be imposed in conjunction with Type 2 or 3 Review have been met, will be met as they pertain to this part of the site by this project or do not pertain to this part of the site.*

*(a) S. 90th Avenue is to be constructed as a hard surfaced public street as required by the City of Yakima.*

*(b) No commercial access to S. 92nd Avenue or Tieton Drive results from this proposal.*

*(c) Sewer and water mains are in place and will be extended as necessary to serve the development as required by the City of Yakima and Nob Hill Water.*

*(d) A public utility easement has been dedicated from the south end of S. 90th Avenue through the property that was the subject of the 2005 rezone to Midvale Avenue.*

*(18) Any other development standards proposed to be modified from the underlying zoning district requirements. Private roads are allowed in master planned development overlays by YMC 15.09.100, which requires the private road to be constructed to the minimum standards of the jurisdiction. The minimum standards are in Title 12 and the fire apparatus road standards required by YMC 15.05.055. Deviation from these standards are as follows:*

*(a) Deviation from Title 12 standards for private roads (YMC 12.05.090) include easement width of 40 feet rather than 50 feet, pavement width of 25 feet rather than 30 feet, no sidewalks on the private road. No cul-de-sac or hammerhead turnaround on the bases that emergency access gates render them unnecessary for emergency vehicles and that refuse collection will take place on public street frontages.*

*(b) No improvement of 92nd Avenue is proposed based on its not being used for access to the development except for emergency vehicles. While YMC 12.05.010 requires sidewalk installation on new, improved, and reconstructed streets, it is required on the frontage of newly developed or*

OCT - 7 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

*redeveloped lots where feasible. Under YMC 15.05.020(J) a sidewalk is required if one exists within two hundred feet of the development on the same side of the street. Street lighting is to be provided as directed per YMC 12.06.080, so it is not a modified development standard.*

(19) What are the aesthetic considerations related to building bulk, architectural compatibility, light and glare, urban design, solar access and shadow impacts. *Residential buildings are designed to be architecturally similar to duplexes being constructed in Cottonwood Grove and other newer developments in the surrounding area. Setbacks, height and other bulk standards are either met or exceeded. There is no extraordinary light or glare. With proposed building height, wider than typical setbacks on external site boundaries and topographic characteristics of the site, no adverse solar access issues are expected.*

(20) Please provide an inventory of any on-site cultural, historic and/or archaeological resources. *Review of public records available on-line from the Department of Archaeology and Historical Preservation showed no inventoried resources on the project site. There are two older homes shown as eligible for listing that are nearby, both on the north side of Tieton Drive.*

## **XI. Applicant's Statement of Details Relative to the Class (2) Duplex**

**Uses.** Pursuant to YMC §15.14.030, the applicant's detailed narrative for the application for approval of 20 Class (2) duplex uses also provides answers set forth in italics below to specific questions relative to the proposal:

(1) Fully describe the proposed development including number of dwelling units and parking spaces. If the proposal is for a business, describe hours of operation, days per week, and all other relevant information related the business: *This Type 2 review application is for the development of 20 duplexes in the B-2 zone. Off-street parking on each residential lot is to provide a minimum of two parking spaces per unit, or four spaces per lot for a total of at least 80 parking spaces.*

(2) How is the proposal compatible to neighboring properties? *Much of the surrounding areas are vacant or partially undeveloped with a cluster of single*



OCT - 7 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

*family residences served by S. 92nd Avenue. The larger, partially developed parcels are characterized by single-family residences and a few scattered commercial buildings. More intensely developed residential areas are 400 feet to the southeast in the Cottonwood Grove subdivision and north of Tieton Drive. Because of the developing nature of the area, compatibility is influenced by the zoning of surrounding properties, including B-2 zoning of the site and other properties on S. 90th Avenue to the east and southeast, R-3 zoning to the west across S. 92nd Avenue, and more B-2 zoning on the south side of Tieton Drive beyond that. The proposal will provide moderate density residential alternative to the allowed commercial use compatible especially with existing and future residential uses to the south and west on S. 92<sup>nd</sup> Avenue and north across Tieton Drive.*

*(3) What mitigation measures are proposed to promote compatibility? Lots are proposed with larger yards and setbacks than could be allowed for this use. Direct access is to S. 90th Avenue and not to Tieton Drive. Access to S. 92nd Avenue is limited to emergency vehicle access. The slope uphill to Tieton at the north end of the site provides some additional buffer from the residential units to the street.*

*(4) How is your proposal consistent with current zoning of your property? The intent of the Local Business (B-2) zone is to provide areas for commercial activities that meet the small retail shopping and service needs of the community; and accommodate small scale commercial uses that need a higher level of visibility and easy access to major arterials. Characteristic uses include small retail sales and service establishments (YMC 15.03.020(F)). This purpose statement is supplemented by comprehensive plan policies including locational criteria for the underlying Community Mixed-Use future land use designation that provide for a mixture of neighborhood scaled retail, commercial service, office, and high-density residential uses. Duplexes, and other residential land uses have been added to the list of permitted (in this case Type 2) land uses in Table 4-1 of the zoning ordinance.*

*(5) How is your proposal consistent with uses and zoning of neighboring properties? The zoning of surrounding properties is Single-Family Residential (R-1) to the north, south, southwest and farther removed properties to the east. The immediately surrounding property on S. 90th Avenue to the east and southeast is*

OCT - 7 2021

YAKIMA  
PLANNED DEVELOPMENT

*zoned B-2 and property to the west parallel to the south side of Tieton Drive is zoned Multi-Family Residential (R-3) with additional B-2 zoning beyond it to the intersection of S. 96th Avenue and Tieton Drive. The surrounding area has a mixed-use character as indicated by its zoning. The moderate density of the proposed use would be consistent, and transition from lower intensity areas to the future commercial use of the neighboring B-2 lands on 90th Avenue.*

*(6) How is your proposal in the best interest of the community? The proposed housing is consistent with comprehensive plan policies to provide for a wide variety of housing types within the city to meet the full range of housing needs for Yakima's evolving population, encourage diverse and affordable housing choices throughout the City, convenient access to transit and a range of unit types.*

**XII. Development Services Team and Interested Agency Comments.** The following comments were submitted by the Development Services Team as a result of its review conducted during the week of July 20, 2021:

**(1) Code Administration:**

(a) Prior to submittal of the final plat, names of the private streets shall be selected and provided to the Permit Project Coordinator in order to complete the assignment of addressing. The final plat must display these addresses.

(b) Pursuant to the 2018 City of Yakima amendments to the Washington State Fire Code, Sections 503.1 and 503.2, where dead ends exceed 150 feet, an area shall be provided for fire department apparatus turn arounds. If access through gates will be provided onto S 92nd Ave, approved gates and key boxes shall be provided, and approved driveways shall be installed where apparatus will be entering onto S 92nd Ave.

**(2) Engineering:** This project requires Title 8 and 12 improvements, including but not limited to the following:

(a) 8.67 and 12.05 – New curb, gutter and sidewalk, including associated pavement widening and storm drainage, shall be installed along S. 90th Ave. and S. 92nd Ave. Street improvements shall conform to

OCT - 7 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

standard detail R3, including private streets. New sidewalks shall be constructed per standard detail R5.

(b) 8.64 – Driveways to be constructed per this chapter and standard detail R4.

(c) 8.72 – An excavation and street break permit shall be obtained for all work within the public right of way.

(d) 12.02 – Easements will need to be established per this chapter.

(e) 12.06 – Street and right of way widths shall conform to this section unless otherwise approved. S. 90th Ave. and S. 92nd Ave. are both classified as residential, requiring a total of 50' of right of way. Both appear to be adequate. Private streets shall be constructed with curbs, sidewalks, and street lighting and shall otherwise conform to the standards for public streets. Private streets shall provide cul-de-sac/hammer head turnaround to accommodate emergency and refuse collection vehicles.

(f) 12.06.050 Cul-de-sac streets – S. 90th Ave - Cul-de-sacs shall be constructed within a street right-of-way eighty feet in diameter and have an improved diameter of sixty-five feet. The maximum length of a cul-de-sac street shall be six hundred feet measured along the street centerline from the nearest through street intersection to the center of the cul-de-sac.

(g) 12.06.080 - Street lighting - At minimum, one street light shall be installed midblock where the street exceeds five hundred feet in total length. Street lighting shall meet the design and placement standards of the city engineer. Lighting improvements shall become the property of the city of Yakima upon installation and will thereafter be maintained by the city.

(h) YMC 14.05.200 / 14.20.130 – All frontage improvements shall be completed prior to long plat approval. At the discretion of the City Engineer, the owner may bond for required frontage improvements. Bonding shall be executed and recorded prior to or as part of approval of the long plat. Civil engineering plans for public improvements shall be approved prior to bonding for public improvements. All frontage improvements shall be completed prior to Certificate of Occupancy. Civil engineering plans for public improvements shall be approved prior to issuance of building permits.

OCT - 7 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

(3) Stormwater: As this project involves clearing or grading one acre or more, a Large Project Stormwater Permit shall be required from the applicant. The requirements of a Large Project Stormwater Permit are:

- (a) Drainage plan(s) and calculations
- (b) Stormwater maintenance agreement and plan
- (c) Proof that the maintenance agreement was recorded in the Yakima County Auditor's Office
- (d) Construction Stormwater Pollution Prevention Plan (SWPPP) or Erosivity Waiver. The Construction SWPPP (or Erosivity Waiver Certificate Statement) shall be reviewed and approved by the Surface Water Engineer prior to any grading or construction. A Temporary Erosion and Sediment Control (TESC) plan shall be submitted for approval.
- (e) In lieu of turning in a Construction Stormwater Pollution Prevention Plan, the applicant can satisfy this requirement by obtaining a Construction Stormwater General Permit through the Washington State Department of Ecology. A copy of the signed General Permit shall be delivered to the Surface Water Engineer.
- (f) A narrative explaining how Core Elements 1-8 are being satisfied.
- (g) An operation and maintenance plan for the perpetual maintenance of the facilities is now required.

Grading and/or building permits shall not be issued without the project site first passing an erosion control inspection. Complete stormwater design plans, specifications and runoff/storage calculations supporting the stormwater design are required pursuant to the Eastern Washington Stormwater Manual and City of Yakima standards. These plans and control measures must be completed by a licensed Professional Engineer and then be reviewed and approved by the City of Yakima Surface Water Engineer prior to construction. UIC Registration – Stormwater: In accordance with the August 2019 edition of the Department of Ecology's Stormwater Management Manual for Eastern Washington (SMMEW), Underground Injection Control (UIC) wells constructed on or after February 3, 2006 are considered new and must be registered with the Department of Ecology (DOE) 60 days prior to construction. UIC wells that receive polluted runoff shall retain the larger of the 100-year 3-hour and 100-year 24-hour storms and shall be designed for treatment using Table 5.23 of the SMMEW.

OCT - 7 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

(4) Sewer: Sewer is available for site in S 90th Ave. Sewer service to site to be reviewed and approved on associated ENG permit.

(5) Nob Hill Water: Owner will need to contact Nob Hill Water Association for a cost estimate for new development. Finalized engineered plans will be required to design and produce cost estimate.

### **XIII. Applicable City Ordinance Provisions Relative to the Proposed**

**Master Planned Development.** City ordinance provisions applicable to the proposed Master Planned Development include the following:

(1) Master Planned Development Defined: Pursuant to YMC §15.02.020, "Master planned development" means any development within the Yakima urban growth area approved under YMC Chapter 15.28 (i.e., planned residential development, planned commercial development, planned industrial development, and planned mixed-use development).

(2) YMC §15.28.010(A): Purpose: A master planned development overlay (PD) is a comprehensive development plan intended to provide flexibility in design and building placement, promote attractive and efficient environments that incorporate a variety of uses, densities and/or dwelling types, provide for economy of shared services and facilities, and economically utilize the land, resources, and amenities.

(3) YMC §15.28.025: Minimum Project Size: The minimum project size for a master planned development shall be two acres. All properties included in the master development plan shall be contiguous with logical outer boundaries.

(4) YMC §15.28.040(A): Application: The master planned development overlay application shall be reviewed using the rezone procedures described in YMC §15.23.030, but the rezone criteria of YMC §15.23.030(D)(1) through (7) shall not be used.

(5) YMC §15.28.050: Development Agreement: An approved master planned development overlay (including conditions and development standards) shall be incorporated into a development agreement as authorized by RCW

OCT - 7 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

36.70B.170. The development agreement shall provide for vesting of such development conditions and standards as are deemed reasonable and necessary to accomplish the goals of the master planned development. This agreement shall be binding on all property owners within the master planned development and their successors and shall require that development of the subject property be consistent with and implement the provisions of the approved master planned development. The approved development agreement shall be signed by the city manager and all property owners and lienholders within the boundaries of the master planned development overlay and recorded prior to approval and/or issue of any implementing plats or permits.

(6) YMC §15.28.070(A):Vesting: The master planned development review shall be vested to development regulations, standards, conditions, and laws applicable at the time the development agreement described in YMC §15.28.050 is recorded, inclusive of specific conditions and standards set forth in said development agreement. The vesting period shall be for the time stated in the development agreement associated with each specific master planned development and shall be agreed upon by the parties to the development agreement after giving consideration to the extent and complexity of the proposed development as well as specific development planning considerations raised by the developer. During the stated vesting period the applicant shall be entitled to implement the master planned development in accordance with the terms and conditions of approval described in the development agreement.

**XIV. City Ordinance Provisions Applicable to the Twenty Proposed Class (2) Duplex Uses.** City of Yakima ordinance provisions which are applicable to the seven proposed Class (2) duplex uses include the following:

(1) YMC §15.04.020(B): Class (2) Land Use Defined: Pursuant to YMC §15.04.020(B), Class (2) uses are generally permitted in the district. However, the compatibility between a Class (2) use and the surrounding environment cannot be determined in advance, and occasionally a Class (2) use may be incompatible at a particular location. Therefore, a Type (2) review by the administrative official is required in order to promote compatibility with the intent and character of the

OCT - 7 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

district and the policies and development criteria of the Yakima urban area comprehensive plan. The procedures in YMC Chapter 15.14 shall be used to review and evaluate Class (2) uses. In certain circumstances, the administrative official may require that a Class (2) use undergo a Type (3) review, as provided within this title.

(2) YMC §15.14.020: Type (2) Review: Type (2) Review is required for any proposed use shown on Table 4-1 as a Class (2) use, for Class (1) uses requiring Type (2) review in YMC §15.13.020; and for other specific reviews established by this title.

(3) YMC §15.02.020: Compatibility Defined: "Compatibility" means the characteristics of different uses or developments that permit them to be located near each other in harmony with or without special mitigation measures.

(4) YMC §15.10.020: Dwelling, Two-Family Defined: "Dwelling, two-family" means a structure designed exclusively for occupancy by two families living independently of each other and containing two attached dwelling units on the same lot. This definition includes the term "duplex."

(5) Parking Spaces Required: YMC Table 6-1 in YMC §15.06.040 requires two-family dwellings or duplexes to have two spaces per unit or a total of four spaces. Construction and Maintenance: Pursuant to YMC §15.06.110, all off-street parking lots, driveways, travel ways, parking aisles, vehicle storage, and vehicle sales lots having a capacity of three or more vehicles shall be constructed in the following manner:

(a) Surfacing. Paved with two-inch-thick asphaltic surfacing on an aggregate base, or an equivalent surfacing acceptable to the administrative official, so as to eliminate dust or mud. Pervious asphalt or concrete materials are encouraged.

(b) Grading and Drainage. Graded and drained so all surface water is disposed of on site. Grading and drainage facilities shall be designed according to accepted engineering standards and the Eastern Washington Stormwater Manual, and requires review by the city engineer or designee.

(c) Border Barricades. Any parking, vehicle storage, or motor vehicle sales area abutting the street property line shall provide a concrete curb at least six inches in height and located at least two feet from the street property line. The curb shall be securely anchored. No curb shall be

OCT - 7 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

required across any driveway or entrance to the parking area, or if the parking lot is separated from the street by a fence or hedge.

(d) Markings. All parking spaces (except motor vehicles sales areas) shall be marked by durable painted lines at least four inches wide and extending the length of the stall or by curbs or other means approved by the administrative official to indicate individual parking stalls. Signs or markers located on the parking lot surface shall be used as necessary to ensure safe and efficient use of the parking lot. In addition, when required, all accessible parking spaces shall be marked and signed in compliance with the currently adopted International Building Code.

(6) Sitescreening: In this situation, YMC §15.07.060 and YMC Table 7-1 in YMC §15.07.050 require Sitescreening Standard A to be installed along the north property line of the site south of Tieton Drive. The applicant plans to fence the rear and side yards of the duplexes, but not the front yards of the lots that abut South 92<sup>nd</sup> Avenue where fencing which can have a maximum height of 4 feet can be voluntarily installed by homeowners (*Email of Tom Durant dated September 24, 2021*). Since a condition of these recommendations will be that the plat must be designed so that vehicular traffic will not be allowed to use South 92<sup>nd</sup> Avenue for access to or from the plat, steps needed to comply with that requirement shall be taken such as the installation of landscaping, rock or other means to prevent vehicular access around the ends of the emergency vehicle gates at the west end of the private streets.

(7) Sitescreening Standard A: YMC §15.07.040(A) provides that Sitescreening Standard A consists of a ten-foot-wide landscaped planting strip with trees at twenty-foot to thirty-foot centers, which includes shrubs and ground-cover.

(8) Lot Coverage: When developed, each duplex lot shall not exceed the lot coverage limitation of not more than 80% in the Local Business (B-2) zoning district. The applicant indicated that the lot coverage will be much less than that.

(9) Setbacks: Pursuant to Table YMC 5-1 in YMC Chapter 15.05, the required structure setbacks in the B-2 zoning district are as follows:

Front: 30 feet from centerline of right-of-way

Rear: 0 from adjacent B-2

20 feet from the property line if abutting residential



OCT - 7 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

Side, Property: 0 from adjacent B-2  
20 feet from the property line if abutting residential

(10) Street Improvements: Half-street improvements are a recommended condition for South 90<sup>th</sup> Avenue. Three 25-foot-wide paved private streets within 40-foot-wide rights-of-way are proposed to serve the lots as the interior streets for this proposed Preliminary Plat of "Upper Valley Estates." It is recommended that the flexibility allowed for Planned Developments require frontage improvements to South 92<sup>nd</sup> Avenue only if it is used for access in the future which should be noted on the face of the plat.

**XV. Applicable City Ordinance Provisions and State Statutory Provisions Relative to the Proposed 20-Lot Preliminary Long Plat.** City of Yakima ordinance provisions and State statutory provisions which are applicable to the proposed 20-Lot Preliminary Long Plat include the following:

(1) YMC §15.05.030(A): Creation of new lots – Subdivision requirements: Table of Subdivision Requirements: Pursuant to YMC §15.05.030(A), the Table establishes basic development criteria for lot size and width that must be met when reviewing an application for a new subdivision. For two-family dwelling construction in the B-2 zoning district, the minimum lot size is 6,000 square feet.

(2) YMC §15.05.055(1): New development improvement standards: Fire apparatus access roads for multiple-family residential developments and one- or two-family residential developments shall be subject to the provisions of Sections D106 and D107, respectively, of Appendix D of the International Fire Code (2009 Edition). Additionally, such residential developments shall be subject to the requirements of Section D105 of Appendix D, International Fire Code (2009 Edition), pertaining to aerial fire apparatus roads, as applicable. All provisions of the International Fire Code referenced above are hereby adopted and incorporated herein by this reference, as now existing or as hereafter amended and adopted by the city. Minimum requirements for the primary and secondary access will be at least twenty-foot-wide, unobstructed, paved lanes.

(3) YMC §15.05.020(H): Site design requirements and standards: Access Required: All new development shall have a minimum of twenty-feet of lot frontage upon a public road or be served by an access easement at least twenty feet in width. The purpose of this standard is to provide for vehicular access to all new development; provided, the construction of single-family and two-family dwellings on existing legally established lots is exempt from the requirements of this section.

(4) YMC §15.09.100(H): Private Street Review Requirements: The face of any plat, short plat, master development plan, binding site plan, or condominium document containing a private road, and all subsequent documents transferring ownership of lots within the master development or plat, shall bear the following language:

“The City of Yakima has no responsibility to build, improve, maintain or otherwise service any private road for this plat. Any right-of-way dedicated to the public by this plat shall not be opened as a City (or County) street until such time as it is improved to city street standards and accepted as part of the City transportation system.”

(5) YMC §12.02.010: Establishment of easements: Public utility easements shall be established for the location of new and proposed public utility lines serving new land divisions and land development. Public utility easements shall also be established across the front of new lots and redeveloped lots to provide future utility access as determined necessary by the city engineer. Public utility easements shall be dedicated (granted) at the time that subdivision and/or land use approval is granted.

(6) YMC §12.02.020: Easement location and width: Eight-foot-wide utility easements shall be dedicated along the front of each lot in subdivisions and short subdivisions. Easements for new and/or future utility lines shall be a minimum of eight feet in width, or twice the buried depth of the utility, whichever is greater.

(7) YMC §12.03.010: Sewer service required: YMC §12.03.010 requires all new lots and developments to be served by a sanitary sewer line located adjacent to the lot or development site.

(8) YMC §12.03.040: Minimum sewer size: The minimum size for public sewer lines is eight inches in diameter.

OCT - 7 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

(9) YMC §12.03.070: Side sewer service: Each building containing sanitary facilities shall be served by a separate private side sewer line from a public main.

(10) YMC §12.03.090: Gravity flow required: Sewer lines shall be designed for gravity flow operation. Lift stations and force mains (pressurized lines) shall be limited to those locations and circumstances where they are consistent with the comprehensive sewer plan and are the preferable short-term solution to service of the development site and other properties in the vicinity.

(11) YMC §12.04.010: Water service required: All new lots and development shall be served by a public water supply line maintained by the city of Yakima, Nob Hill Water Company, or other water purveyor, and located adjacent to the lot or development site. The water line shall be capable of providing sufficient flow and pressure to satisfy the fire flow and domestic service requirements of the proposed lots and development as approved by the city engineer in cooperation with the code administration manager and water irrigation division manager.

(12) YMC §12.04.020: Water line extension required: Water lines shall be extended to the point where the adjoining property owner's responsibility for further extension begins. This typically requires extension across the street or easement frontage of the developing property. In some cases it will require dedication of an easement and a line extension across the property or extension along two or more sides of the developing property. Extensions will be consistent with and implement the city's adopted water comprehensive plan.

(13) YMC §12.04.040: Minimum size and material standards: New water lines in the city of Yakima water system shall be constructed of Class 52 ductile iron and shall be a minimum of eight inches in diameter. Improvements and additions to the Nob Hill Water Company system shall conform to the requirements of the Nob Hill Water Company.

(14) YMC §12.05.010: Sidewalk installation required: Sidewalks shall be installed along both sides of all new, improved, and reconstructed streets. Projects which repair small portions of or maintain existing street shall not be considered "improvement" for the purpose of this section and shall not trigger the requirements of this section. Sidewalks shall also be installed across the frontage of all newly developed or redeveloped lots where feasible.

OCT - 7 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

(15) YMC §12.06.020 Right-of-way and pavement width standards: Right-of-way shall be dedicated and street surfacing provided in accordance with West Valley Neighborhood plan and Table 5-1 of the Yakima urban Area Transportation Plan.

(16) YMC §12.06.030: Design standards, adjustment of standards: ... Final design of street improvements is subject to approval by the city engineer. The city engineer, at his discretion, is authorized to adjust these standards as necessary to facilitate the construction of new streets and improvement of existing streets. Projects which repair small portions of or maintain existing streets shall not be considered "improvements" for the purposes of this section.

(17) YMC §12.06.070: Provision of street curbing: Barrier curbs shall be installed along all public streets. Rolled mountable curbs may be permitted along residential access streets. Curb design shall be consistent with the standards of the city engineer.

(18) YMC §12.06.080: Street lighting: A street light shall be installed at each street intersection and at mid block if the block exceeds five hundred feet in length. Street lights shall meet the design and placement standards of the city engineer. Lighting improvements shall become the property of the city of Yakima upon installation and will thereafter be maintained by the city.

(19) YMC §14.05.200 (A-B): Allowance of bond in lieu of actual construction of improvements prior to approval of short plat or final plat: The subdivision or short subdivision applicant may, as an alternative to actual construction of any required improvements, provide a surety bond or other secure method providing for and securing to the city the actual construction of required improvements within a specified period of time and expressed in a bond or other appropriate instrument establishing such security. Any bond or other method of securing actual construction of required improvements shall specify the improvements covered and the schedule for completion. In cases of subdivision, the bond or other method of securing actual construction of required improvements shall be subject to approval by the city engineer and city attorney prior to approval of the final plat by the city council. In cases of short subdivisions, the bond or other method of securing actual construction of required improvements shall be subject to approval by the city engineer and city attorney prior to approval of the final short plat by the administrator. In no case shall the

amount of the bond or other method of securing actual construction of required improvements be less than one hundred ten percent of the estimated actual cost of the improvements based upon the approved civil engineering design of the required improvements.

(20) RCW 58.17.280 and YMC Ch 14.15.090 – Naming and numbering of short subdivisions, subdivisions, streets, lots and blocks: Any city, town or county shall, by ordinance, regulate the procedure whereby short subdivisions, subdivisions, streets, lots and blocks are named and numbered. A lot numbering system and a house address system, however, shall be provided by the municipality for short subdivisions and subdivisions and must be clearly shown on the short plat or final plat at the time of approval.

(21) RCW 58.17.110 and YMC 14.20.120: The city, town, or county legislative body shall inquire into the public use and interest proposed to be served by the establishment of the subdivision and dedication. It shall determine: (a) If appropriate provisions are made for, but not limited to, the public health, safety, and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, and shall consider all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and (b) whether the public interest will be served by the subdivision and dedication.

**XVI. Master Planned Development Overlay Criteria and Findings.** The purpose of a Planned Development described in YMC Chapter 15.28 is to provide flexibility in design and building placement, promote attractive and efficient environments that incorporate a variety of uses, densities and/or dwelling types, provide for economy of shared services and facilities, and economically utilize the land, resources and amenities. YMC §15.28.040(D) provides that the Hearing Examiner shall evaluate a Master Planned Development application and other

OCT - 7 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

evidence submitted into the record, and shall issue a recommendation to the City Council based upon the following considerations and criteria:

**(1) Subsection 15.28.040(D)(1) -- The Master Planned Development application demonstrates the economic and efficient use of land and provides for an integrated and consistent development plan for the site.** The reduced width of the private streets allows for lots that are larger than required which will also increase the amount of open space and recreation area within the lots of the planned development.

**(2) Subsection 15.28.040(D)(2) -- The applicant has identified development standards and uses that are consistent with the overall plan and designed in a manner that is compatible with adjacent land uses after consideration of applicable mitigation and site design.** The Hearing Examiner may consider development standards that are different from currently adopted development standards in order to provide flexibility in site planning; to implement project design and concepts; to respond to market conditions; or to otherwise achieve the public benefits contemplated by the concept plan. The modifications of street standards from 50 to 40 feet of right-of-way width with 25 feet of pavement width and with emergency gates preventing vehicular access to and from South 92<sup>nd</sup> Avenue which will require the applicant to install improved driveways through the gates for the passage of emergency vehicles are features that will provide flexibility while promoting the compatibility of the planned development with the adjacent land uses.

**(3) Subsection 15.28.040(D)(3) -- Consideration shall be given to "negligible impact development" concepts.** The density of the proposed development is only 8.3 dwelling units per net residential area which is computed as follows: 40 dwelling units ÷ 4.8 acres (acreage with streets removed) = 8.3 dwelling units per net residential acre. Consideration was also given to "negligible impact development" concepts by designing the duplex lots to exceed the minimum lot size of 6,000 square feet with provisions to limit vehicular access solely to South 90<sup>th</sup> Avenue so as to address potential significant adverse impacts of the development. In addition, the proposal will potentially have a long-range positive impact for the surrounding area by serving as a buffer between existing single-family homes and any future commercial or high density residential

OCT - 7 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

development that may occur on the property zoned Local Business District (B-2) to the east or any future high density residential development that may occur in the Multifamily Residential District (R-3) zoning district to the west.

**(4) Subsection 15.28.040(D)(4) -- There will be adequate infrastructure capacity available by the time each phase of development is completed.** There is only one phase for this development. All lots will be served by City of Yakima sewer and Nob Hill Water Association water. To avoid additional driveway impact onto Tieton Drive, proposed Lots 1-4 will only have access onto Tieton Drive through the internal plat street network, and no lot may have direct access to Tieton Drive. SITESCREENING Standard 'A' shall be installed along the northern property line of Lots 1-4, to help minimize any impact from traffic along Tieton Drive. Additional vegetative buffering is encouraged along Lots 1-4, but is not required at this time. There will be adequate transportation infrastructure, as noted in the Traffic Concurrency decision. The private road provides for an efficient traffic circulation pattern.

**(5) Subsection 15.28.040(D)(5) -- The Master Planned Development contains design, landscaping, parking/traffic management, and use mixture and location that limit or mitigate conflicts between the Master Planned Development and adjacent uses. Consideration shall be given to site planning that supports land use flexibility through means of appropriate setbacks, landscaping, site screening, buffers, and other design features or techniques.** The proposed lot sizes will allow the dwelling units to be situated in a low density manner that can serve as a buffer between single-family residences in the area and any existing or future commercial or high density residential uses in the area.

**(6) Subsection 15.28.040(D)(6) -- All potential significant off-site impacts including noise, shading, glare, and traffic have been identified and mitigation incorporated to the extent reasonable and practical.** There are not anticipated to be any significant off-site impacts. Each duplex will have its own parking. Vehicular traffic will be limited to South 90<sup>th</sup> Avenue which will be improved to the City's half-street standards. A SEPA Mitigated Determination of Nonsignificance (MDNS) was issued on July 30, 2021, with four Required Mitigation Measures which was not appealed. All off-site impacts have been addressed, and the City has no other concerns at this time which cannot be addressed at the project stage.

OCT - 7 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

**(7) Subsection 15.28.040(D)(7) -- The project is designed and includes appropriate consideration of open spaces and transportation corridors, designs of street and public open space amenities, and results in the functional and visual appearance of one integrated project.** The development contains private open spaces located on the individual lots. The duplex lots will be visually separate due to emergency gates on the west end of the private streets, sole access from the east side of the site by way of South 90<sup>th</sup> Avenue and sitescreening on the north boundary of the planned development.

**(8) Subsection 15.28.040(D)(8) -- The proposed project is not adverse to the public health, safety, or welfare.** The development will not adversely affect the environs of the area, nor is it expected to cause any traffic concerns. It will promote the public health, safety and welfare by providing additional housing options within the City. The City of Yakima Housing Action Plan recently adopted in June of 2021 concluded that the City will need approximately 5,517 new dwelling units to meet the City's projected growth needs. The proposed Planned Development will help the City meet that goal and provide an increased variety of housing within the City.

**(9) Subsection 15.28.040(D)(9) -- The public benefits of approving the Master Planned Development outweigh the effect of modification of standards to the underlying zoning district.** Approval of this Planned Development will provide for twenty duplex lots that will be larger than the requirements of the B-2 zoning district. Public facilities will be provided to each site, and access to the site will be improved by street improvements to South 90<sup>th</sup> Avenue and driveway improvements to South 92<sup>nd</sup> Avenue for emergency vehicles that may use the emergency gates. The additional amount and variety of residential housing will provide a benefit to the public that outweighs the effect of modification of standards relative primarily to the width of the private streets which will be adequate for the twenty duplexes.

**(10) Subsection 15.28.040(D)(10) -- The proposed development is designed to be consistent with the provisions of the Shoreline Master Program and Critical Areas Ordinance of the City of Yakima.** The subject property is not within a critical area.



OCT - 7 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

(11) Subsection 15.28.030(B)(5) -- The following elements set forth in Subsection 15.28.030(B)(5) of the YMC are properly addressed in a Development Agreement:

- (A) Narrative description of project and objectives;
- (B) Summary of development standards;
- (C) Site plan elements;
- (D) Development phasing, including times of performance to preserve vesting;
- (E) Public meeting summaries;
- (F) Performance standards and conditions addressing the above items;
- (G) Criteria for determining Major vs. Minor modifications and amendments; and
- (H) Signature(s) by each owner of property within the Master Development Plan area acknowledging that all owners will agree to be bound by conditions of approval, including use, design and layout, and development standards contained within an approved Plan and Development Agreement.

One of the recommended conditions for approval of the proposed Planned Development would be the recording of a Development Agreement prior to final plat approval.

**XVII. Class (2) Duplex Use Criteria and Findings.** Since a duplex is listed as a Class (2) use in the B-2 zoning district by YMC Table 4-1 in YMC §15.04.030, the Hearing Examiner's findings and conclusions relative to the proposed duplex use on twenty of the lots within the Planned Development and the Preliminary Long Plat are required to include specific reasons and ordinance provisions demonstrating that the duplex uses satisfy all of the following Class (2) use requirements that are set forth in YMC §15.04.020(B), §15.14.040(G),

OCT - 7 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

§15.02.020 and the similar Type (3) Review criteria that are set forth in YMC

§15.15.040(I):

**(1) Compliance and Compatibility with the Objectives and Development Standards of the Comprehensive Plan.** The proposed duplex uses would be compliant and compatible with Comprehensive Plan Goals 2.3, 5.1 and 5.2, as well as Policies 2.3.1, 2.3.1(E) and 2.3.3 as described above in Section VII of these recommendations and the many other Comprehensive Plan Goals and Policies described in the applications by the applicant and set forth in Subsection X(12) of these recommendations.

**(2) Compliance and Compatibility with the Intent and Character of the Local Business District (B-2) Zoning District.** The proposed 20 duplexes on a 5.43-acre parcel would be compliant and compatible with the intent of the Local Business District (B-2) zoning district primarily because YMC Table 4-1 in YMC §15.04.030 allows duplexes as Class (2) uses that are generally permitted in that zone. The duplexes would be compliant and compatible with the character of the B-2 zoning district which is developed with residential uses. Conditions have been included in these recommendations that are intended to help address the concerns of the resident to the west and the resident to the north expressed in their testimony at the hearing and in one written comment. The proposed duplexes will have the possible long-term effect on the character of the B-2 zoning district in this location by serving as transitional uses which buffer existing and future single-family residences in the area from possible future commercial or high density residential development allowed in the Local Business (B-2) zoning district to the east and which buffer existing and future single-family residences in the area from possible future high density residential uses allowed in the Multifamily Residential (R-3) zoning district to the west.

**(3) Compliance with the Provisions and Standards Established in the Zoning Ordinance.** Provisions and standards in the zoning ordinance applicable to the duplexes include those detailed above in the comments of the Development Services Team in Section XII of these recommendations and in the ordinance provisions set forth in Sections XIII, XIV and XV of these recommendations. Some examples of compliance by the proposed Class (2) duplexes with zoning ordinance standards include the following:

OCT - 7 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

(a) Parking: 4 off-street parking spaces are required for each duplex for a total of 80 off-street parking spaces for the proposed preliminary plat.

(b) Lot Coverage: Lot coverage is proposed as approximately 60 percent per lot which is significantly less than the standard of 80 percent allowed in the B-2 zoning district.

(c) Setbacks: The setbacks of the proposed duplexes will meet the standards of the zoning district.

(d) Sitescreening: Sitescreening Standard 'A' shall be installed along the northern property line of the site prior to the issuance of a certificate of occupancy for any of the proposed duplexes.

(e) Public Facilities: City of Yakima sewer and Nob Hill Water Association water are available or capable of being extended. The property is accessed from Tieton Drive which is a minor arterial street.

**XVIII. Preliminary Plat Review Criteria.** Section 14.20.100 of the YMC provides that the Hearing Examiner shall review a proposed Preliminary Long Plat during an open record public hearing to inquire into and determine whether or not the following standards are satisfied:

**(1) Subsection 14.20.100(A)(1) -- Consistency with the provisions of the City's Urban Area Zoning Ordinance.** A determination of consistency with the provisions of the City's Urban Area Zoning Ordinance involves a consideration of the following provisions of Title 15 of the Yakima Municipal Code (YMC):

(a) Consistency with Intent of Local Business District (B-2) Zoning District: The proposed Preliminary Plat is consistent with the intent of the B-2 zoning district because YMC Table 4-1 in YMC §15.04.030 provides that duplexes are Class (2) uses in the B-2 zoning district which YMC §15.04.020(B) states are generally permitted in that zoning district.

(b) Consistency with Development Standards of the Local Business District (B-2) Zoning District: YMC Chapter 15.05 is designed to establish certain development requirements and the purpose of YMC Chapter 15.28

OCT - 7 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

is to allow flexibility in development standards. The proposed development meets the requirements of those YMC Chapters insofar as it complies with many development standards and also includes appropriate modifications to some of the standards such as the reduced width of the private interior streets with emergency vehicle access gates at the west end to prevent access to South 92<sup>nd</sup> Avenue by vehicles other than emergency vehicles.

(c) Consistency with Intent of Planned Development Provisions: As previously noted, a Planned Development is a comprehensive development plan which is intended to: (i) provide flexibility in design and building placement; (ii) promote attractive and efficient environments that incorporate a variety of uses, densities, and/or dwelling types; (iii) provide for economy of shared services and facilities; and (iv) economically utilize the land, resources and amenities (YMC §15.28.010(A)). A residential Planned Development is designed to provide a type or mixture of residential dwellings with attendant streets, utilities, public facilities, and appurtenant common open space and recreational facilities, or other areas or facilities. A Planned Development is authorized in any residential zone that may include incidental or supporting uses and facilities that are consistent with the primary use of the site for residential dwelling units (YMC §15.28.020(A)). Uses in a residential Planned Development include: one-family, two-family and multi-family residences; recreational and amusement facilities which are intended to serve the development; and any other uses authorized in the underlying zone pursuant to either Type (1), (2) or (3) review as set forth in Table 4-1 (YMC §15.28.020(B)(1)(a), (b) and (f)). As has been previously noted, this proposed development meets the intent of the Planned Development provisions of the zoning ordinance.

**(2) Subsection 14.20.100(A)(2) -- Consistency with the provisions of the Comprehensive Plan.** The Future Land Use Map of the Yakima Urban Area Comprehensive Plan designates the property within the proposed Preliminary Plat as suitable for Commercial Mixed Use development. This proposed Preliminary Plat is consistent with that designation and is also consistent with Comprehensive Plan Goals 2.3, 5.1 and 5.2 and Policies 2.3.1, 2.3.1(E) and 2.3.3 as described above in Section VII of these recommendations and is also consistent with the many other Comprehensive Plan Goals and Policies described in the applications by the applicant and set forth in Subsection X(12) of these recommendations.

A DLT Investment Group, LLC  
Planned Development; 20 Class (2) Duplexes;  
"Upper Valley Estates" 20-Lot Preliminary Plat:  
502 South 90<sup>th</sup> Avenue; Parcel #181330-21433  
PD#002-21; CL2#019-21; PLP#002-21; SEPA#010-21

38

DOC.  
INDEX  
# AA-1

OCT - 7 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

(3) **Subsection 14.20.100(A)(3) -- Consistency with the provisions of this title, Title 14 entitled "Subdivision Ordinance."** With the approval of the proposed Planned Development adjustments and imposition of the recommended conditions, this Preliminary Plat will meet the design requirements in YMC Chapters 14.25 and 14.30 of the City's subdivision ordinance and in the City's Title 12 development standards. This review and the recommended conditions are intended to ensure consistency with the provisions of the City's subdivision ordinance as well as other applicable City ordinances.

(4) **Subsection 14.20.100(A)(4)(a) -- Appropriate provisions for public health, safety and general welfare.** The construction of new residential units which will complement uses in the area will promote the public health, safety and general welfare insofar as there is a need in this community for a variety of housing options such as the proposed duplexes and insofar as this proposed Preliminary Plat would be required to comply with Planned Development conditions and all other conditions of approval specified by the City Council.

(5) **Subsection 14.20.100(A)(4)(b) -- Appropriate provisions for open spaces.** The proposed lots are larger than minimum sizes required in the B-2 zoning district of 6,000 square feet. Lot coverage will be about 60% in the B-2 zoning district which allows 80% lot coverage with impervious surfaces. The increased lot sizes, reduced lot coverage, and compliance with standard setback requirements will provide open spaces on the lots and adequate light and air for future residents in accordance with the standards in the zoning ordinance without additional open spaces.

(6) **Subsection 14.20.100(A)(4)(c) -- Appropriate provisions for drainage ways.** Stormwater will be retained on the site. Drainage system facilities will be provided in accordance with state and local regulations including the Eastern Washington Stormwater Manual and the City of Yakima Municipal Code requirements.

(7) **Subsection 14.20.100(A)(4)(d) -- Appropriate provisions for streets or roads, alleys and other public ways.** Appropriate provisions will be made for streets. The applicant will construct half-street improvements to South 90<sup>th</sup> Avenue to City standards along the frontage of the plat from Tieton Drive which will provide access to the three paved 25-foot-wide private interior streets that will be within 40-foot-wide combined street/utility rights-of-way.

OCT - 7 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

**(8) Subsection 14.20.100(A)(4)(e) -- Appropriate provisions for transit stops.** Yakima Transit Route 1 is accessible at the corner of 90<sup>th</sup> Avenue and Tieton Drive directly adjacent to the site.

**(9) Subsection 14.20.100(A)(4)(f) -- Appropriate provisions for potable water supplies, irrigation and other water suppliers.** All lots will be served with public domestic water and water for fire protection purposes by the City of Yakima which will constitute appropriate provisions for water. In addition, the preliminary plat shows looped water lines that would tie into the existing water line extending south into South 92<sup>nd</sup> Avenue from Tieton Drive. That is the conceptual design which is subject to approval by the Nob Hill Water Association. Even without the looping, the existing water line in South 92<sup>nd</sup> Avenue would appear to be available for future development to the west and south of the plat.

**(10) Subsection 14.20.100(A)(4)(g) -- Appropriate provisions for sanitary waste disposal.** There will be appropriate provisions for sanitary waste disposal for the proposed Preliminary Plat in the form of public sewer service provided in accordance with the City of Yakima's Title 12 standards. A City of Yakima sewer main capable of serving all of the lots has been extended south from Tieton Drive. In addition, in order to provide "to and through" sewer line availability to the west of the development, a sewer line is shown on the preliminary plat to extend in the southernmost access/utility easement from South 90<sup>th</sup> Avenue to South 92<sup>nd</sup> Avenue. The sewer line would terminate at the west property line of the plat where it could be accessed by some of the future development west of the plat. Property south and west of the plat may have to extend the 12-inch line that ends in Midvale Avenue from that point northerly in the South 92<sup>nd</sup> Avenue right-of-way. That right-of-way, according to County mapping, is continuous from Midvale Avenue to Tieton Drive. The right-of-way, according to the County Assessor mapping, is a public street right-of-way and according to City GIS mapping, is within the City limits. It is improved with pavement, curbs and streetlights on both sides and sidewalk on one side for about 320 feet from the centerline of Tieton Drive. Extension of the sewer line from the south will likely require crossing Shaw Creek in the same manner that Greg Bainter was required to cross the creek in extending the existing sewer line on South 90<sup>th</sup> Avenue (*Email from Tom Durant dated September 24, 2021*).

**(11) Subsection 14.20.100(A)(4)(h) and 14.20.100(A)(4)(i) – Appropriate provisions for parks, recreation and playgrounds.** Open space, parks, recreation, and playgrounds are located approximately within 1.5 miles of this proposed preliminary plat at West Valley Park. The proposed preliminary plat is not located in a planned parks and recreation area. Other provisions for parks and recreation areas are not necessary within the proposed preliminary plat due to the size, number and location of the proposed lots and the fact that provisions for playgrounds exist at the schools which children within the proposed preliminary plat would be attending, and could also be individually provided on the lots themselves which are of a size which would allow for playground areas as needed or desired.

**(12) Subsection 14.20.100(A)(4)(j) -- Appropriate provisions for schools and schoolgrounds.** West Valley High School and 9<sup>th</sup> Grade School are located within about 1.5 miles from this proposed plat, and Cottonwood Elementary School is located within about .7 of a mile from this proposed plat.

**(13) Subsection 14.20.100(A)(4)(k) -- Appropriate provisions for sidewalks.** Per the provisions of the Planned Development Agreement, the proposed plat will not have internal sidewalks along the three private interior streets for the lots, but will have a sidewalk to Tieton Drive along its frontage on South 90<sup>th</sup> Avenue.

**(14) Subsection 14.20.100(A)(4)(l) -- Appropriate provisions for other planning features that assure safe walking conditions for students who walk to and from school.** There was no evidence presented at the hearing of a need for other planning features to be provided within this preliminary plat in order to make appropriate provisions for safe walking conditions for students who walk to and from school in addition to the sidewalk that will be constructed on South 90<sup>th</sup> Avenue. This sidewalk will make it more desirable for pedestrians to use South 90<sup>th</sup> Avenue than South 92<sup>nd</sup> Avenue when walking to and from Tieton Drive, especially if the residents can convince the School District to move the school bus stop on Tieton Drive from South 92<sup>nd</sup> Avenue to South 90<sup>th</sup> Avenue. Otherwise there is no mechanism or policy that can limit pedestrian use of South 92<sup>nd</sup> Avenue which is a platted City right-of-way (*Emails of Tom Durant and Trevor Martin dated September 24, 2021*).

OCT - 7 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

**(15) Subsection 14.20.100(A)(5) -- Public use and interest.** A Note on Plat #0249301 recorded on February 6, 1992, states "The owner shown hereon, their grantees and assignees in interest, hereby covenant and agree to properly abandon and/or remove the well & garage located within the 30 foot right-of-way along the east at such time as further division and/or development of the property triggers the requirement for road improvements within said right-of-way. Prior to installation of right-of-way improvements, the conditions of the 1992 plat note must be satisfied and verified by the City of Yakima. A rezone of the property approved by Ordinance 14-2004 which was recorded on January 10, 2005, conditioned future development of the subject property under Section VI, General Provisions, Number 2, which states "The governmental entity with land use jurisdiction over said property may enforce the requirements of this agreement." The applicant specifically mentioned conditions within the Ordinance in the narrative. Per the Ordinance, the applicant may discuss any deviation from the specifically outlined conditions, and propose any development based upon the City of Yakima Municipal Code Standards. As conditioned by the recommended conditions, the evidence indicated that this proposed Preliminary Long Plat will be consistent with neighboring land uses and will help serve the residential needs of this area by providing additional home ownership opportunities.

**(16) Time Limitation:** The applicant has five years from the date of Preliminary Plat approval to submit the Final Plat. If more time is needed, at least 30 days prior to the expiration of Preliminary Plat approval the applicant must submit to the City Council a written request asking to extend the approval period for a maximum of one year (YMC §14.20.160). Before the Final Plat can be recorded, all required infrastructure must be engineered, completed and inspected or engineered and financially secured and receive Final Plat approval from the Community Development Department.

**XIX. Consistency Analysis under Subsection 16.06.020(B) of the Yakima Municipal Code.** The following analysis involves the consistency of the Planned Development and Preliminary Long Plat with applicable development regulations, or in the absence of applicable regulations, the adopted



Comprehensive Plan as mandated by the State Growth Management Act and the Yakima Municipal Code. During project review, neither the City nor any subsequent reviewing body may re-examine alternatives to, or hear appeals on, the following items identified in these conclusions except for issues of code interpretation:

**(1) The type of land use contemplated by the proposal** (a residential development) is permitted as a Planned Development and Plat for duplexes on this site so long as the proposal complies with the requisite criteria for approval and the conditions imposed by the Yakima City Council.

**(2) The level of development** with the proposed residential density of the development of about 8.3 dwelling units per net residential acre and the lot coverage with impervious surfaces of about 20% less than allowed in the B-2 zoning district will not exceed the allowable level of development in the Local Business District (B-2) zoning district.

**(3) The availability and adequacy of infrastructure and public facilities** is not an issue because the additional infrastructure that will be provided at the applicant's expense will ensure that adequate infrastructure and public facilities will be available for the proposed Planned Development and Preliminary Long Plat. Water will be provided by the Nob Hill Water Association and sewer will be provided by the City of Yakima. Irrigation water will be provided by the Yakima Valley Canal Company (*Document Index #E-1, page 7 of the Environmental Checklist*). Access from Tieton Drive will be by way of South 90<sup>th</sup> Avenue which will be improved to half-street City standards. Interior streets will consist of 25-foot-wide paved private streets within 40-foot-wide combined street/utility rights-of-way.

**(4) The character of the proposal, such as the proposal's consistency with applicable development standards of the City's Urban Area Zoning Ordinance**, primarily involves compliance with the Planned Development Agreement and conditions of Preliminary Plat approval imposed by the City Council.

OCT - 7 2021

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CITY OF YAKIMA PLANNED DEVELOPMENT

## CONCLUSIONS

Based upon the foregoing Findings, the Hearing Examiner reaches and issues the following Conclusions:

(1) The Hearing Examiner has jurisdiction to recommend to the Yakima City Council the approval of this proposed Planned Development and Preliminary Long Plat of "Upper Valley Estates" with twenty Class (2) duplexes by virtue of YMC §1.43.080, YMC §15.28.040, YMC §15.14.040(G), YMC §15.15.040(I) and YMC §14.20.100.

(2) A SEPA Mitigated Determination of Nonsignificance (MDNS) was issued for this proposed Planned Development and Preliminary Long Plat on July 30, 2021, imposing four Required Mitigation Measures which became final without an appeal.

(3) The proposed modifications to development standards described in these recommendations which primarily relate to the width of the private streets in the Planned Development and which will all be described in a Development Agreement will allow for flexibility in the siting of the 20 proposed new duplexes.

(4) The proposed Planned Development as conditioned below satisfies all of the considerations and criteria for approval set forth in YMC §15.28.040(D).

(5) The proposed Class (2) duplex uses as conditioned below satisfy all of the considerations and criteria for approval set forth in YMC §15.14.040(G) and YMC §15.15.040(I).

(6) The proposed Preliminary Long Plat as conditioned below satisfies the criteria for approval set forth in YMC §14.20.100 and RCW 58.17.110 because it is in compliance with the City's Comprehensive Plan, zoning ordinance and subdivision ordinance; makes appropriate provisions for the public health, safety and general welfare and for open spaces, drainage ways, streets, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds and sidewalks; will serve the public use and interest; and, according to the weight of the evidence presented at the hearing, does not require that specific provisions be made for the other requisite plat considerations such as additional schools,

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OCT 27 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

additional schoolgrounds or additional planning features that assure safe walking conditions for students who walk to and from school.

(7) The proposed Planned Development, the proposed 20 Class (2) duplexes and the proposed 20-lot Preliminary Long Plat are all in compliance with the consistency requirements of YMC §16.06.020(B).

### **RECOMMENDATIONS**

The Hearing Examiner recommends to the Yakima City Council that the proposed Planned Development and the proposed 20-lot Preliminary Plat of “Upper Valley Estates” for 20 Class (2) duplexes as described in the project narrative; as shown on the Preliminary Plat of “Upper Valley Estates” dated January 25, 2021, which was received by the Planning Division on April 19, 2021; as described in these recommendations; and as described in related documents in the record of this matter which consists of the Planning Division file numbers PD#002-21, CL2#019-21, PLP#002-21 and SEPA#010-21 be **APPROVED**, subject to the following conditions:

(1) The applicant shall enter into a Development Agreement with the City of Yakima.

(2) The applicant shall submit and gain approval of civil engineered plans which provide for design of all Title 12 development standards, including but not limited to curb, gutter, sidewalk, street lighting, stormwater, and street design except for the modifications thereto that are allowed by the City Council and included in the requisite Development Agreement.

(3) Prior to approval of the final plat, all approved improvements shall be constructed or financially secured according to the standards and requirements of the City Engineer and YMC Title 12.

A DLT Investment Group, LLC  
Planned Development; 20 Class (2) Duplexes;  
“Upper Valley Estates” 20-Lot Preliminary Plat:  
502 South 90<sup>th</sup> Avenue; Parcel #181330-21433  
PD#002-21; CL2#019-21; PLP#002-21; SEPA#010-21

45

DOC.  
INDEX  
# AA-1

OCT - 7 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

(4) Emergency gates and landscaping, rocks or other improvements necessary to prevent vehicular access other than emergency vehicular access to or from the plat by way of South 92<sup>nd</sup> Avenue, either through or around the ends of said gates, shall be installed and maintained at the west end of the three private streets, and driveways sufficient to allow emergency vehicular access to and from South 92<sup>nd</sup> Avenue shall be constructed prior to issuance of a certificate of occupancy for any of the duplexes. Any change in the condition or design of the gates or improvements at the west end of the streets that allows vehicular access to and from South 92<sup>nd</sup> Avenue other than emergency vehicular access may be allowed in the future only if the criteria for approval of a Class (3) conditional use are satisfied through the Type (3) review process which requires public notice and an open record public hearing conducted by the Hearing Examiner or, if the Type (3) review process does not exist at that time, then only if approved through a comparable process or procedure that does exist at that time.

(5) All lots shall be served with public water from the Nob Hill Water Association. No individual domestic or irrigation wells shall be permitted for any of the lots. Prior to final plat approval, written verification from the Nob Hill Water Association must be submitted to the Planning Division indicating that all construction required to provide each lot with domestic water has been completed and that the fees have been paid.

(6) All lots shall be provided with public sewer service according to YMC Title 12 standards. Prior to final plat approval, written verification from the City of Yakima Engineering Department must be provided to the Planning Division indicating that all sewer extensions have been completed and inspected or financially secured.

(7) Easements for new and future utility lines shall be dedicated along the front of each lot in subdivisions that are a minimum of 8 feet in width, or twice the buried depth of the utility, whichever is greater, in accordance with YMC §12.02.020.

(8) All public and private utilities shall be located underground with the exception of telephone boxes and such similar structures.

(9) All public and private utilities to be located within public road rights-of-way must be installed or constructed there prior to the start of road construction.

OCT - 7 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

(10) Fire hydrants shall be placed at the locations specified by the Building Codes and Planning Division and the Yakima Fire Department. All lots must be provided with adequate fire flow.

(11) A note shall be placed on the face of the Final Plat stating "The streets within this plat are private and do not meet the standards for public streets. If the streets are ever to be made public, they will have to be reconstructed to meet the City Standards at that time."

(12) All permits required by the Yakima Regional Clean Air Agency must be obtained and a copy must be provided to the City of Yakima Code Administration prior to commencement of site preparation. The developer shall designate a responsible party to serve during working hours as the contact for suspected air quality violations.

(13) An NPDES Permit and a Stormwater Pollution Prevention Plan shall be prepared and submitted to the City.

(14) The Note on the 1992 plat regarding the removal of any buildings and any well on the site of the proposed planned development shall be satisfied and verified by the City of Yakima.

(15) Prior to submittal of the final plat, names of the private streets shall be selected and provided to the Permit Project Coordinator in order to complete the assignment of addressing. All addresses must be clearly shown on the face of the final plat as required by RCW 58.17.280.

(16) This plat shall be subject to the following notes, which must be placed on the face of the plat:

(a) The addresses shown on this plat are accurate as of the date of recording, but may be subject to change. The City of Yakima Building Codes Division is responsible for the confirmation or reassignment of addresses at the time of building permit issuance.

(b) The owners shown hereon, their grantees and assignees in interest hereby covenant and agree to retain all surface water generated within the plat on-site.

(17) Irrigation approval of the Yakima Valley Canal Company shall be shown on the face of the final plat.

OCT - 7 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

(18) A Cultural Resources Survey shall be conducted on the subject site as required by the SEPA Mitigated Determination of Nonsignificance.

(19) All other requirements of the zoning and subdivision ordinance, although not specifically set forth herein, shall be complied with in their entirety except for the modifications to requirements shown on the proposed Preliminary Plat of "Upper Valley Estates" dated January 25, 2021, and plus any additional conditions described in these recommendations that are adopted by the Yakima City Council and included within the Development Agreement.

(20) Upon preliminary plat approval, the applicant has five years to submit the final plat. In order to request an extension of time, the applicant must submit to the City Council a written request at least 30 days prior to the expiration of approval asking the City Council to extend the approval period for a maximum period of one year.

**DATED** this 7<sup>th</sup> day of October, 2021.

  
\_\_\_\_\_  
Gary M. Cuillier, Hearing Examiner

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DEPARTMENT OF COMMUNITY DEVELOPMENT

Joan Davenport, AICP, Director

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Joseph Calhoun, Manager

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**CITY OF YAKIMA  
FINDINGS of FACT, CONCLUSIONS, & RECOMMENDATION  
for**

**REQUEST FOR MASTER PLANNED DEVELOPMENT, PRELIMINARY LONG PLAT, TYPE 2  
REVIEW, AND ENVIRONMENTAL REVIEW**

**File Number(s): PD#002-21, PLP#002-21, CL2#019-21, SEPA#010-21 & TCO#010-21**

<b>APPLICANT:</b>	PLSA Engineering & Surveying
<b>APPLICANT ADDRESS:</b>	521 N 20 <sup>th</sup> Ave. Ste. #3, Yakima, WA 98902
<b>PROJECT LOCATION:</b>	502 S. 90 <sup>th</sup> Ave.
<b>NAME OF PLAT:</b>	Upper Valley Estates
<b>TAX PARCEL NUMBERS:</b>	181330-21433
<b>DATE OF REQUEST:</b>	April 19, 2021
<b>DATE OF RECOMMENDATION:</b>	September 8, 2021
<b>STAFF CONTACT:</b>	Trevor Martin, Associate Planner

**I. DESCRIPTION OF REQUEST:**

Proposed Master Planned Development, Preliminary Long Plat, and Type 2 Land Use Review to subdivide one parcel totaling approximately 5.43 acres, into 20 residential lots for duplexes in the Local Business District (B-2) zoning district.

**II. SUMMARY OF DECISION:**

The Administrative Official recommends approval, subject to conditions.

**III. FACTS:**

**I. Processing**

1. The applications for a Master Planned Development, Type 2, and Preliminary Long Plat were received on April 30, 2021. The applications for Type 2 Review and Adjustment were received on April 19, 2021.
2. The applications were deemed complete for processing on June 16, 2021.
3. The applications are being processed under YMC Ch. 15.28 for Master Planned Development Overlay, YMC Ch. 15.14 for Type 2 Review, YMC Title 14 for Subdivision, and YMC Ch. 6.88 for Environmental Review.
4. Pursuant to YMC Ch. 1.43 and YMC § 15.23.030, the Hearing Examiner has the authority to hold a public hearing and provide a recommendation to the City Council on a Planned Development and Preliminary Long Plat request.
5. **Public Notice:** In accordance with YMC § 15.11.080 and YMC § 16.05.010, notice was provided for this application as follows:
  - a. The subject property was posted with a land use action sign on June 16, 2021.

DOC. INDEX #

A-1





- b. A Notice of Application and Environmental Review was sent to the applicant, SEPA agencies, and adjoining property owners within 300 feet of the subject property on June 16, 2021.
- c. During the 20 day public comment period, the following comments were received from the general public and SEPA Agencies:

- i. A comment was received from the Washington Department of Archaeology and Historic Preservation (DAHP), which states:  
"Our statewide predictive model indicates that there is a high probability of encountering cultural resources within the proposed project area. Further, the scale of the proposed ground disturbing actions would destroy any archaeological resources present. Identification during construction is not a recommended detection method because inadvertent discoveries often result in costly construction delays and damage to the resource. Therefore, we recommend a professional archaeological survey of the project area be conducted prior to ground disturbing activities. We also recommend consultation with the concerned Tribes' cultural committees and staff regarding cultural resource issues.

These comments are based on the information available at the time of this review and on behalf of the SHPO in conformance with Washington State law. Should additional information become available, our assessment may be revised.

Thank you for the opportunity to comment on this project and we look forward to receiving the survey report. Please ensure that the DAHP Project Number (a.k.a. Project Tracking Code) is shared with any hired cultural resource consultants and is attached to any communications or submitted reports..."

*Staff Response: the applicant shall conduct a cultural resource survey of the site, and submit documentation of the survey to DAHP and the City, prior to the issuance of and building permits for the site.*

- ii. Another comment was received from the Yakima County Flood Control District, and this comment states:  
"By looking at the lidar contours and location of the canal north of Tieton Ave. it appears there is a natural drainageway starting at the middle of the lot on north side. It's likely over the years this lot has had some reshaping for agricultural purposes, but the current flow would be from the middle of the lot, downslope to or on top of S 92nd Ave, then moving off the road into the lot on the south end.  
More recent development may have further modified the topography but its apparent there was (and probably still should be) a drainageway from north of Tieton Drive downslope towards Shaw Creek. The FCZD is asking that the applicant keep pass-through flow from upslope in mind when designing the project.

*Staff Response: The applicant shall work with the Yakima County Department of Ecology and City of Yakima Stormwater Division to ensure that draining from the site is mitigated properly, and adhere to the conditions issued in the MDNS.*

iii.

A comment was received from a neighboring resident at 920 Bell Ave., their comments stated:

I am writing to express my concern about any access the development would have to the gravel road bordering the west side of the property which is South 92nd Avenue. As that road grade/ slope is presently constructed, when vehicles on the road are stopped for traffic on 92nd and Tieton, the headlights shine directly across into my home (living room, kitchen, and bedrooms). My entire house is illuminated with these bright lights, disturbing daily living and sleep activities.

Currently there are but a few residences that utilize that road and so the lights at night are annoying but manageable. However, I am very concerned that the proposed 40 residential units will make the situation beyond bearable. I understood from the plans that access from the units to 92nd Ave would be for fire lanes / emergency use only. However, my experience suggests that in the very short future that will be opened to general use.

I am greatly worried about the increase in traffic. If this development goes forward I request there be some accommodation to modify the 92nd/ Tieton intersection so the vast increase of vehicle lights will not disturb the enjoyment of my residence, and/or permanently block access from the units to 92nd Ave.

*Staff response: The applicant is proposing access from S. 90<sup>th</sup> Ave. only. There is no proposed access to South 92<sup>nd</sup> Ave other than emergency access.*

iv.

A final comment from the Washington Department of Ecology was received during the 20-day public comment period, this comment states:

"Historical aerial photos indicate your project is located on property that was occupied by orchard during the time period when lead arsenate was applied as a pesticide, often resulting in shallow soil contamination from lead and/or arsenic. Before proceeding, your project is required to conduct soil sampling under the Model Toxics Control Act (Chapter 173-340 WAC).

If sampling indicates elevated levels of lead and arsenic, cleanup will be required prior to occupancy. The Department of Ecology plans to use Model Remedies for lead and arsenic pesticide contamination in historical orchards of Central Washington. A Focus Sheet on the Model Remedies can be found at <https://apps.ecology.wa.gov/publications/documents/2109007.pdf> Compliance with a Model Remedy ensures your project meets the minimum standards of the Model Toxics Control Act, and if implemented as described, your property will be successfully cleaned up to Washington State standards. Ecology can provide free initial sampling as well as free technical assistance for your project.

#### WATER QUALITY

Project with Potential to Discharge Off-Site – If your project anticipates disturbing ground with the potential for stormwater discharge off-site, the NPDES Construction Stormwater General Permit is recommended. This permit requires that the SEPA checklist fully disclose anticipated activities including building, road construction and utility placements. Obtaining a permit may take 38-60 days.

The permit requires that a Stormwater Pollution Prevention Plan (Erosion Sediment Control Plan) shall be prepared and implemented for all permitted construction sites. These control measures must be able to prevent soil from being carried into surface water and storm drains by stormwater runoff.

Permit coverage and erosion control measures must be in place prior to any clearing, grading, or construction.

In the event that an unpermitted Stormwater discharge does occur off-site, it is a violation of Chapter 90.48 RCW, Water Pollution Control and is subject to enforcement action

*Staff Response: Staff Response –The site shall undergo soil sampling under the Model Toxics Control Act (WAC 173-340) before any building permits shall be issued for the subject project.*

*The project shall submit for the NPDES Construction Stormwater General Permit, and a Stormwater Pollution Prevention Plan (Erosion Sediment Control Plan) prior to the issuance of any building permits for the subject project.*

6. **Environmental Review:** A Notice of Application and SEPA Environmental Review was mailed to SEPA agencies, the applicant, and adjoining property owners within 300 feet of the subject property on June 16, 2021. Three SEPA agency comments were received during the comment period that ended July 6, 2021. A SEPA Mitigated Determination of Nonsignificance (MDNS) was issued on July 30, 2021. No appeals have been filed with the City of Yakima Planning Division.

## II. Current Zoning and Land Use:

1. The subject property is approximately 5.43 acres, and is zoned Local Business District (B-2).
2. The surrounding properties contain uses and zoning as follows:

<u>Direction</u>	<u>Zoning</u>	<u>Land Use</u>
North	Single-Family Residential (R-1)	Single Family
South	Single-Family Residential (R-1)	Single Family
East	Local Business District (B-2)	Single Family
West	Multifamily Residential (R-3) Single-Family Residential (R-1)	Single Family

## III. Written Narrative:

**Pursuant to YMC § 15.28.030, the applicant provided the following statements in the Planned Development application:**

1. What land uses are proposed?  
*The subdivision is proposed for a total of 40 duplex residential units. The application is being made as a Residential planned development under YMC 15.28.020(A)(1), listed as permitted in the B-2 zone. Two family residential (duplexes) is a permitted use in residential planned developments (YMC 15.28.020(B)(1)(a)).*

2. Will the land be subdivided? If so, what type of subdivision? (Long Plat, Short Plat, Binding Site Plan, etc.)  
*The 20 individual lots are to be created by regular subdivision (long plat).*
3. How does the proposed Planned Development allow flexibility in development standards and permitted uses while ensuring compatibility with neighboring uses?  
*Duplexes are a Class 2 land use (usually permitted) in the B-2 zoning district. Proposed lot sizes, lot widths and setbacks exceed the minimum zoning standards of the B-2 zone and generally conform to or exceed the more restrictive standards of the R-2 zone.*  
*Revised street improvement standards are intended for narrower streets allowing more intimacy, larger yards and reduced impervious surfaces. The private streets will have low speeds and traffic levels with most parking off-street. Residential development of a portion of this commercially zoned area provides opportunities for mixed use and would provide for a transition from lower density R-1 zoned properties north and directly south of the site to the mostly undeveloped commercially zoned property to the east. The proposal is consistent in use and allowable density with (mostly undeveloped) R-3 zoned property to the west. Limiting all but emergency access to S. 90th Avenue reduces potential traffic impacts on S. 92nd Avenue, a private street in an unimproved right-of-way that at present serves a small number of single-family homes.*
4. Describe how the proposed Planned Development facilitates the efficient use of the land.  
*Narrower streets allow for larger residential lots and yards with setbacks that meet or exceed standards that would be required in the R-2 zoning district and are higher than the less strict standards of the B-2 zone. Limiting most access to one side of the development keeps the individual private streets from becoming through-streets and the associated impact that it would have on adjoining neighborhoods.*
5. Describe how the proposed Planned Development increases economic feasibility (i.e., fostering efficient arrangement of land use, buildings, transportation systems, open space and utilities).  
*The lot arrangement is an efficient use of the site given its shape and dimensions. The depth (north-south dimension) of the property results in larger lots in order to accommodate the private streets and building footprints. With the gated emergency access, there is no need to put in vehicle turnarounds or to use the additional land needed to construct them. Utility extensions provide for connection to all lots and facilitates further utility extension to properties to the west. No common open space is proposed because lot sizes are sufficient for private yards.*
6. How does the proposed Planned Development preserve or enhance natural amenities, features, shorelines and critical areas in the development of the site?  
*Critical areas, although nearby, are not on the proposed site, so there would be no impact on them. The site is gently sloping, with the slope increasing somewhat at the north end to Tieton Drive. Lot and building development generally follow the contours of the slope and larger rear yards are provided along the tier of lots at the north end of the site to provide for the steeper slope area and additional distance from Tieton Drive.*
7. Identify environmental impacts and appropriate mitigation measures.

*SEPA review has not been completed and significant environmental impacts have not been identified. Some of the site considerations that are being made, based in part on meeting with the City Development Services Team, include providing frontage improvements on S. 90<sup>th</sup> Avenue, a road maintenance agreement for future lot owners, streetlights as directed by the City, fire hydrants within 500 feet of all lots. Limiting direct access to S. 90th Avenue, providing additional setbacks and yard areas than would be required by current zoning, and a low residential density provides for additional mitigation and compatibility with surrounding land uses.*

8. How does the proposed Planned Development encourage environmentally sustainable development?

*The project uses "low-impact development" concepts defined as stormwater management and land development strategies that emphasize conservation and use of existing natural site features integrated with disturbed, small-scale stormwater controls to more closely mimic natural hydrologic patterns in residential settings (YMC 15.02.020). Stormwater will be retained on-site and drainage and infiltration facilities provided. The proposal accommodates population growth within the urban growth area to the benefit of resource and sensitive lands farther out and to reduce sprawl. While the B-2 zoning district allows for 80 percent lot coverage, the lot coverage of these lots is around 60 percent including private streets in the calculation. Proposed density, lot coverage and large yards ensures that stormwater facilities are functional.*

9. What services and facilities are available to serve the property? Are those services adequate?

*Available utilities include a recently constructed 8-inch sewer line in 90th Avenue that extends south to connect to a larger line in Midvale Avenue and 8-inch water lines extending south on both 90th and 92nd Avenues from a 12 inch main in Tieton Drive. There are two existing fire hydrants on Tieton Drive that should be able to provide the maximum of 600 feet from a hydrant to most of the lots in the development. Also available are electric power, cable television and telephone. The site is in the West Valley School District – Cottonwood Elementary School is about 3/4 mile away as measured along City streets - and is served by City fire, police and emergency services.*

10. Will the proposed development promote economic development, job creation diversification or affordable housing?

*With or without the Master Planned Development, the project provides economic development and construction jobs. The proposed housing adds to capacity currently needed in the community.*

11. How does the proposed development create vibrant mixed-use neighborhoods, with a balance of housing, commercial, and recreational facilities?

*The proposal, along with neighboring properties, provide a mix of housing and commercial opportunities to this area. Many of the surrounding lands are undeveloped or partially developed, but based on their zoning, a mix of single-family and moderate to high density residential development should be expected along Tieton Drive with a mix of commercial or possibly mixed-use development. Single-family residential development becomes more prevalent farther to the south and east with single-family homes immediately adjacent along 92nd Avenue and to the east on Tieton Drive.*

12. How is the proposal consistent with goals, policies, and objectives of the Yakima Urban Area Comprehensive Plan?

*The proposal is consistent with the purpose of the Community Mixed-Use future land use designation to allow for a mixture of neighborhood scaled retail, commercial service, office, and high-density residential uses (Policy 2.2.3.A). While many of these land uses are not yet developed in this location, the zoning of undeveloped areas is consistent with the purpose statement. The mixture and density of retail, commercial service, office and high density residential depend on the area's context. Being in a transitional area nearer to residential neighborhoods suggests a mix with residential more prevalent. The proposed density of 4 to 5 dwelling units per acre (depending on how it is calculated) is lower than allowed maximums and results from the efficient development of this site. The zoning of mostly undeveloped areas nearby indicate a mixture of commercial and residential land uses at varying densities.*

*Adequate public services can be provided (Policy 2.L.7)*

*The proposal contributes to the provision of a wide variety of housing types within the city to meet the full range of housing needs for Yakima's evolving population (Policy 2.3.L). Duplexes are allowed in appropriate residential zones provided that density standards are met (Policy 2.3.1.E). Duplexes are also a permitted Class 2 uses in the B-2 zone. Pedestrian orientation is provided by the private access streets and minor local street with sidewalks connecting to Tieton Drive. Lot size and home design provide usable open space on each lot.*

*The proposal helps to preserve and enhance nearby residential neighborhoods (Policy 2.3.2) by providing for relatively low density housing to transition from those neighborhoods to the other commercially zoned lands. The site location along Tieton Drive, served by public transit, is suitable for higher density residential development. The private residential streets are safe and walkable (Policy 2.3.3), tie into existing sidewalks on Tieton Drive with good connections and transit access.*

*The proposal adds to the diversity of housing choices consistent with Goal 5.1*

*The use of transitional densities to ensure compatibility is consistent with Policy 5.4.2. In this case the transition is from the single-family residential neighborhoods to the southwest along 92nd Avenue to the commercially zoned (but mostly undeveloped) areas on the east side of S. 90th Avenue. The mostly undeveloped areas directly to the west are zoned R-3, being compatible rather than transitional. The proposal provides for a wide variety of housing types within the city to meet the full range of housing needs for Yakima's evolving population (Policy 2.3.1).*

*Under Goal 2.7: "Resource protection and sustainable design. Reinforce and enhance Yakima's environmental stewardship" are policies to protect sensitive natural areas, restore graded natural areas, use functional low impact development features such as bio-swales.*

*Under Goal 5.1: "Encourage diverse and affordable housing choices," are Policy 5.1.4 and 5.1.9 supporting the provision of housing options to increase affordable and market rate housing, diversity of housing to support a variety of households, dispersion of affordable housing throughout the City, convenient access to transit, a range of unit types, ownership housing when possible and long-term affordability. This proposal is consistent with many of these objectives particularly in terms of affordability, housing diversity and access to transit.*

13. How does the proposed Planned Development utilize unique and innovative facilities that encourage the efficient and economical use of the land?

*Development of the project to the characteristics of the site. Modified, narrower streets provide additional lot area and reduced impervious surfaces.*

14. Does the proposed Planned Development promote a sound system for traffic and pedestrian circulation? Describe.

*The small-scale private access streets will provide safe, low traffic routes for vehicles and pedestrians to public streets and access to transit on Tieton Drive. Sidewalks on both sides of Tieton Drive provide continuous access to Cottonwood School, existing commercial areas to the east and future commercial areas to the west and south.*

15. How does the proposed Planned Development promote open space and use of natural and/or developed amenities?

*Proposed lots range in size from 9,902 to 14,491 square feet, compared to the minimum duplex lot size of 6,000 square feet. The larger lot size is due, in part to how the lots fit within the dimensions of the site and proposed and existing streets. However, it does provide for a lower residential density than could be allowed, if the smaller lot were used. It also provides for setbacks that meet or exceed the minimum standards of the R-2 zone rather than the smaller setbacks standards allowed in the B-2 zone. Distances from the building envelopes shown on the site plan from Tieton Drive ranging from 27 feet to 37 feet (measured from the property line, rather than centerline of the street) accommodate the steeper slope up to Tieton Drive and provide a larger buffer from residential units to the arterial street.*

16. Will the proposed Planned Development provide an architecturally attractive, durable and energy efficient development?

*Residential buildings will be similar in appearance but varied to avoid a monotonous look and consistent with similar residential units in nearby subdivisions. Colors will be earthtones or otherwise muted rather than bold and bright. They will be designed to conform to current building codes and the Washington State Energy Code. All City setback, lot coverage, lot size and lot width standards are to be met, or as already described, exceeded on the residential lots.*

17. Please provide a summary of all previously known land use decisions affecting the applicant's property and all outstanding conditions of approval with respect to such prior land use decisions.

*Previous land use decision applicable to the site include a short plat recorded in 1992 and rezoning to B-2 by Yakima County in 2004. A note on the 1992 short plat limited access from Lot 2 to S. 92nd Avenue. However, significant changes that have occurred since include: Lots 1 and 2 of that short subdivision have been combined to form the lot that is the subject of this application; Tieton Drive has been improved from a two-lane rural road to a four-lane arterial street with curbs, sidewalks and streetlights and South 90th Avenue has been partially improved. At the time the short plat was recorded, Lot 2, for which the access restriction was placed on the short plat, had frontage on 92nd Avenue but not on Tieton Drive. The combined lots now have frontage on all three streets. At the time the 1992 short plat was recorded, there was only a partial dedication of right-of-way for S. 90th Avenue. Since then, full right-of-way width has been dedicated, and the S. 90th Avenue intersection with Tieton Drive has been constructed including extension of curb and sidewalk and additional right-of-way dedicated. The 2004 rezone approval of this property included a condition that this restriction on access should be removed or waived once the construction of S. 90th Avenue has been completed. Every indication is that Yakima*

County, and since annexation, the City of Yakima, has intended access to this property from the improved intersection of S. 90th Avenue.

A plat note on the 1992 short plat also required participation in a road maintenance association for S. 92nd Avenue while it remains a private road. There is no indication that this occurred, and it would be unnecessary with access to that street restricted as proposed.

A plat note on the 1992 short plat requires the abandonment and removal of a well and garage as necessary to facilitate road improvements of 90th Avenue. This is to be done when the street improvements are required. While it isn't clear if this note refers to existing improvements on the part of the property that is the subject of this application, the existing buildings will be removed.

Requirements from the 2004 rezone of this property to be imposed in conjunction with Type 2 or 3 Review have been met, will be met as they pertain to this part of the site by this project or do not pertain to this part of the site.

- a. S. 90th Avenue is to be constructed as a hard surfaced public street as required by the City of Yakima.
- b. No commercial access to S. 92nd Avenue or Tieton Drive results from this proposal.
- c. Sewer and water mains are in place and will be extended as necessary to serve the development as required by the City of Yakima and Nob Hill Water.
- d. A public utility easement has been dedicated from the south end of S. 90th Avenue through the property that was the subject of the 2005 rezone to Midvale Avenue.

18. Any other development standards proposed to be modified from the underlying zoning district requirements.

Private roads are allowed in master planned development overlays by YMC 15.09.100, which requires the private road to be constructed to the minimum standards of the jurisdiction. The minimum standards are in Title 12 and the fire apparatus road standards required by YMC 15.05.055. Deviation from these standards are as follows:

- a. Deviation from Title 12 standards for private roads (YMC 12.05.090) include easement width of 40 feet rather than 50 feet, pavement width of 25 feet rather than 30 feet, no sidewalks on the private road. No cul-de-sac or hammerhead turnaround on the bases that emergency access gates render them unnecessary for emergency vehicles and that refuse collection will take place on public street frontages.
- b. No improvement of 92nd Avenue is proposed based on its not being used for access to the development except for emergency vehicles. While YMC 12.05.010 requires sidewalk installation on new, improved, and reconstructed streets, it is required on the frontage of newly developed or redeveloped lots where feasible. Under YMC 15.05.020(J) a sidewalk is required if one exists within two hundred feet of the development on the same side of the street.

Street lighting is to be provided as directed per YMC 12.06.080, so it is not a modified development standard.



19. What are the aesthetic considerations related to building bulk, architectural compatibility, light and glare, urban design, solar access and shadow impacts. *Residential buildings are designed to be architecturally similar to duplexes being constructed in Cottonwood Grove and other newer developments in the surrounding area. Setbacks, height and other bulk standards are either met or exceeded. There is no extraordinary light or glare. With proposed building height, wider than typical setbacks on external site boundaries and topographic characteristics of the site, no adverse solar access issues are expected.*

20. Please provide an inventory of any on-site cultural, historic and/or archaeological resources.

*Review of public records available on-line from the Department of Archaeology and Historical Preservation showed no inventoried resources on the project site. There are two older homes shown as eligible for listing that are nearby, both on the north side of Tieton Drive.*

**Pursuant to YMC § 15.14.030, the applicant has provided the following statements in the Type (2) Application:**

1. Fully describe the proposed development including number of dwelling units and parking spaces. If the proposal is for a business, describe hours of operation, days per week, and all other relevant information related the business:

*This Type 2 review application is for the development of 20 duplexes in the B-2 zone. Off-street parking on each residential lot is to provide a minimum of two parking spaces per unit, or four spaces per lot for a total of at least 80 parking spaces.*

2. How is the proposal compatible to neighboring properties?

*Much of the surrounding areas are vacant or partially undeveloped with a cluster of single family residences served by S. 92nd Avenue. The larger, partially developed parcels are characterized by single-family residences and a few scattered commercial buildings. More intensely developed residential areas are 400 feet to the southeast in the Cottonwood Grove subdivision and north of Tieton Drive. Because of the developing nature of the area, compatibility is influenced by the zoning of surrounding properties, including B-2 zoning of the site and other properties on S. 90th Avenue to the east and southeast, R-3 zoning to the west across S. 92nd Avenue, and more B-2 zoning on the south side of Tieton Drive beyond that. The Proposal will provide moderate density residential alternative to the allowed commercial use compatible especially with existing and future residential uses to the south and west on S. 92<sup>nd</sup> Avenue and north across Tieton Drive.*

3. What mitigation measures are proposed to promote compatibility?

*Lots are proposed with larger yards and setbacks than could be allowed for this use. Direct access is to S. 90th Avenue and not to Tieton Drive. Access to S. 92nd Avenue is limited to emergency vehicle access. The slope uphill to Tieton at the north end of the site provides some additional buffer from the residential units to the street.*

4. How is your proposal consistent with current zoning of your property?

*The intent of the Local Business (B-2) zone is to provide areas for commercial activities that meet the small retail shopping and service needs of the community; and accommodate small scale commercial uses that need a higher level of visibility*

*and easy access to major arterials. Characteristic uses include small retail sales and service establishments (YMC 15.03.020(F)). This purpose statement is supplemented by comprehensive plan policies including locational criteria for the underlying Community Mixed-Use future land use designation that provide for a mixture of neighborhood scaled retail, commercial service, office, and high-density residential uses. Duplexes, and other residential land uses have been added to the list of permitted (in this case Type 2) land uses in Table 4-1 of the zoning ordinance.*

5. How is your proposal consistent with uses and zoning of neighboring properties?  
*The zoning of surrounding properties is Single-Family Residential (R-1) to the north, south, southwest and farther removed properties to the east. The immediately surrounding property on S. 90th Avenue to the east and southeast is zoned B-2 and property to the west parallel to the south side of Tieton Drive is zone Multi-Family Residential (R-3) with additional B-2 zoning beyond it to the intersection of S. 96th Avenue and Tieton Drive. The surrounding area has a mixed-use character as indicated by its zoning. The moderate density of the proposed use would be consistent, and transition from lower intensity areas to the future commercial use of the neighboring B-2 lands on 90th Avenue.*
6. How is your proposal in the best interest of the community?  
*The proposed housing is consistent with comprehensive plan policies to provide for a wide variety of housing types within the city to meet the full range of housing needs for Yakima's evolving population, encourage diverse and affordable housing choices throughout the City, convenient access to transit and a range of unit types.*

#### **IV. Yakima Comprehensive Plan 2040:**

1. Defined: Community Mixed Use– The purpose of this designation is intended to allow for a mixture of neighborhood scaled retail, commercial service, office, and high density residential uses.
2. The following goals and policies apply to this proposal:
  - Goal 2.3: Preserve and enhance the quality, character, and function of Yakima's residential neighborhoods
    - Policy 2.3.1. Provide for a wide variety of housing types within the city to meet the full range of housing needs for Yakima's evolving population.
    - Policy 2.3.2 (A): Ensure that new development is compatible in scale, style, density, and aesthetic quality to an established neighborhood.
  - Goal 2.3. Create walkable residential neighborhoods with safe streets and good connections to schools, parks, transit, and commercial services.
  - Goal 2.5. Arterial corridors and other mixed-use centers. Enhance the character, function, and economic vitality of Yakima's arterial corridors and mixed use Centers.
    - Policy Allow for a mixture of compatible land uses along corridors and within mixed-use designated areas. This includes the integration of multi-family residential and office uses with retail and service commercial uses. Provide zoning and design standards to maintain compatibility between different uses and zones.
  - Goal 5.1. Encourage diverse and affordable housing choices.

- Goal 5.2. Preserve and improve existing residential neighborhoods.

#### **IV. APPLICABLE LAW**

##### **A. YMC § 12.02.010 Establishment of Easements:**

Public utility easements shall be established for the location of new and proposed public utility lines serving new land divisions and land development. Public utility easements shall also be established across the front of new lots and redeveloped lots to provide for future utility access as determined necessary by the city engineer. Public utility easements shall be dedicated (granted) at the time that subdivision and/or land use approval is granted.

##### **B. YMC § 12.02.020 Easement location and width:**

Eight-foot-wide utility easements shall be dedicated along the front of each lot in subdivisions and short subdivisions. Easements for new and/or future utility lines shall be a minimum of eight feet in width, or twice the buried depth of the utility, whichever is greater.

##### **C. YMC § 12.03.010 Sewer service required:**

All new lots and development shall be served by a sanitary sewer line located adjacent to the lot or development site.

##### **D. YMC § 12.03.040 Minimum sewer line size:**

The minimum size for public sewer lines is eight inches in diameter.

##### **E. YMC § 12.03.070 Side sewer service:**

Each building containing sanitary facilities shall be served by a separate private side sewer line from a public main.

##### **F. YMC § 12.04.010 Water service required:**

All new lots and development shall be served by a public water supply line maintained by the city of Yakima, Nob Hill Water Company, or other water purveyor, and located adjacent to the lot or development site. The water line shall be capable of providing sufficient flow and pressure to satisfy the fire flow and domestic service requirements of the proposed lots and development as approved by the city Engineer in cooperation with the code administration manager and water irrigation division manager.

##### **G. YMC § 12.04.020 Water line extension required:**

Water lines shall be extended to the point where the adjoining property owner's responsibility for further extension begins. This typically requires extension across the street or easement frontage of the developing property. In some cases it will require dedication of an easement and a line extension across the property or extension along two or more sides of the developing property. Extensions will be consistent with and implement the City's adopted water comprehensive plan.

##### **H. YMC § 12.04.040 Minimum size and material standards:**

New water lines in the city of Yakima water system shall be constructed of Class 52 ductile iron and shall be a minimum of eight inches in diameter. Improvements and additions to the Nob Hill Water Company system shall conform to the requirements of Nob Hill Water Company.

**I. YMC § 12.05.010 Sidewalk installation required:**

"Sidewalks shall be installed along both sides of all new, improved, and reconstructed streets..."

**J. YMC § 12.06.020 Right-of-way and pavement width standards:**

Right-of-way shall be dedicated and street surfacing provided in accordance with West Valley Neighborhood plan and Table 5-1 of the Yakima urban Area Transportation Plan.

**K. RCW 58.17.280 and YMC Ch 14.15.090 – Naming and numbering of short subdivisions, subdivisions, streets, lots and blocks:**

Any city, town or county shall, by ordinance, regulate the procedure whereby short subdivisions, subdivisions, streets, lots and blocks are named and numbered. A lot numbering system and a house address system, however, shall be provided by the municipality for short subdivisions and subdivisions and must be clearly shown on the short plat or final plat at the time of approval.

**L. RCW 58.17.110 and YMC 14.20.120:**

The city, town, or county legislative body shall inquire into the public use and interest proposed to be served by the establishment of the subdivision and dedication. It shall determine: (a) If appropriate provisions are made for, but not limited to, the public health, safety, and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, and shall consider all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and (b) whether the public interest will be served by the subdivision and dedication.

**M. Title 15 Development Standards:**

1. Master Planned Development Defined: Pursuant to YMC § 15.02.020, "Master planned development" means any development within the Yakima urban growth area approved under YMC Chapter 15.28 (i.e., planned residential development, planned commercial development, planned industrial development, and planned mixed-use development).

2. Class (2) Land Use Defined: Pursuant to YMC § 15.04.020 (B), "Class (2) uses are generally permitted in the district. However, the compatibility between a Class (2) use and the surrounding environment cannot be determined in advance, and occasionally a Class (2) use may be incompatible at a particular location. Therefore, a Type (2) review by the administrative official is required in order to promote compatibility with the intent and character of the district and the policies and development criteria of the Yakima Urban Area Comprehensive Plan. The procedures in YMC Ch. 15.14 shall be used to review and evaluate Class (1) uses that require a Type (2) review process."

3. YMC § 15.05.020 (H): Site design requirements and standards: Access Required:

All new development shall have a minimum of twenty-feet of lot frontage upon a public road or be served by an access easement at least twenty feet in width. The purpose of this standards is to provide for vehicular access to all

new development; provided, the construction of single-family on existing legally established lots is exempt from the requirements of this section.

4. YMC § 15.05.030 (A): Creation of new lots – Subdivision Requirements: Table of Subdivision Requirements:

Establishes basic development criteria for lot size and width that must be met when reviewing an application for a new subdivision. For single-family dwelling construction in the R-1 zoning district, the required minimum lot size is 6,000 square feet.

5. YMC § 15.05.055(1) New Development Improvement Standards

Fire apparatus access roads for multiple-family residential developments and one- or two-family residential developments shall be subject to the provisions of Sections D106 and D107, respectively, of Appendix D of the International Fire Code (2009 Edition). Additionally, such residential developments shall be subject to the requirements of Section D105 of Appendix D, International Fire Code (2009 Edition), pertaining to aerial fire apparatus roads, as applicable. All provisions of the International Fire Code referenced above are hereby adopted and incorporated herein by this reference, as now existing or as hereafter amended and adopted by the city. Minimum requirements for the primary and secondary access will be at least twenty feet wide, unobstructed, paved lanes.

6. YMC § 15.28.050, Master Planned Development Overlay – Development Agreement:

An approved master planned development overlay (including conditions and development standards) shall be incorporated into a development agreement as authorized by RCW 36.70B.170. The development agreement shall provide for vesting of such development conditions and standards as are deemed reasonable and necessary to accomplish the goals of the master planned development. This agreement shall be binding on all property owners within the master planned development and their successors and shall require that development of the subject property be consistent with and implement the provisions of the approved master planned development. The approved development agreement shall be signed by the city manager and all property owners and lienholders within the boundaries of the master planned development overlay and recorded prior to approval and/or issue of any implementing plats or permits.

7. Type (2) Review: Pursuant to YMC § 15.14.020, Type (2) Review is required for any proposed use shown on Table 4-1 as a Class (2) use, for Class (1) uses requiring Type (2) review in YMC 15.13.020; and for other specific reviews established by this title.

8. B-2 Zoning District Defined: Pursuant to YMC § 15.03.20 (F), the Local Business District is intended to:

- 1) Provide areas for commercial activities that meet the small retail shopping and service needs of the community; and
- 2) Accommodate small-scale commercial uses that need a higher level of visibility and easy access to major arterials.

Uses characteristic of this district include small retail sales and service establishments.

9. **Compatibility Defined:** Pursuant to YMC § 15.02.020, "Compatibility" means the characteristics of different uses or developments that permit them to be located near each other in harmony with or without special mitigation measures.
10. **Parking:** Pursuant to YMC § 15.06.040, Table 6-1, a two family dwellings require four spaces per twofamily building (2 spaces per unit).  
Parking Construction and Maintenance: Pursuant to YMC § 15.06.110 - All off-street parking lots, driveways, travel ways, parking aisles, vehicle storage, and vehicle sales lots having a capacity of three or more vehicles shall be constructed in the following manner:
  - 1) **Surfacing.** Paved with two-inch-thick asphaltic surfacing on an aggregate base, or an equivalent surfacing acceptable to the administrative official, so as to eliminate dust or mud. Pervious asphalt or concrete materials are encouraged.
  - 2) **Grading and Drainage.** Graded and drained so all surface water is disposed of on site. Grading and drainage facilities shall be designed according to accepted engineering standards and the Eastern Washington Stormwater Manual, which will require review by the city engineer or a designee.
  - 3) **Border Barricades.** Any parking, vehicle storage, or motor vehicle sales area abutting the street property line shall provide a concrete curb at least six inches in height and located at least two feet from the street property line. The curb shall be securely anchored. No curb shall be required across any driveway or entrance to the parking area, or if the parking lot is separated from the street by a fence or hedge.
  - 4) **Markings.** All parking spaces (except motor vehicles sales areas) shall be marked by durable painted lines at least four inches wide and extending the length of the stall or by curbs or other means approved by the administrative official to indicate individual parking stalls. Signs or markers located on the parking lot surface shall be used as necessary to ensure safe and efficient use of the parking lot. In addition, when required, all accessible parking spaces shall be marked and signed in compliance with the currently adopted International Building Code.
11. **Sitescreening:** Pursuant to YMC § 15.07.050, Table 7-1, Sitescreening Standard 'C' is required along the southern property line of the site. STANDARD C— A six-foot-high, view-obscuring fence, made of wood, masonry block, concrete, or slatted chain link material. A three-foot-wide planting strip landscaped with a combination of trees, shrubs and groundcover along the outside of the fence is also required when the fence is adjacent to a street, alley or pedestrian way.

12. Setbacks: Pursuant to YMC Ch. 15.05, Table 5-1, the required structure setbacks include (B-2 Zoning District):

Front:	30 feet from centerline of right-of-way
Rear:	0 from adjacent B-2 20 feet from the property line if abutting residential
Side, Property:	0 from adjacent B-2 20 feet from the property line if abutting residential

13. Frontage Improvements: the subject site is located along Tieton Ave. and South 90<sup>th</sup> Ave. additionally, the subdivision proposes to install three additional residential street as part of the proposed plat. Per City of Yakima subdivision standards (YMC § 14.30.010) full frontage improvements shall be installed along all new streets within the proposed Planned Development/Plat

**V. Development Services Team Review:** A Development Services Team (DST) Review was conducted the week of July 20, 2021, for this development, the following comments were received:

1. Code Administration

- Prior to submittal of the final plat, names of the private streets shall be selected and provided to the Permit Project Coordinator in order to complete the assignment of addressing. The final plat must display these addresses.
- Pursuant to the 2018 City of Yakima amendments to the Washington State Fire Code, Sections 503.1 and 503.2, where dead ends exceed 150 feet, an area shall be provided for fire department apparatus turn arounds. If access through gates will be provided onto S 92nd Ave, approved gates and key boxes shall be provided, and approved driveways shall be installed where apparatus will be entering onto S 92nd Ave.

2. Engineering

This project requires Title 8 and 12 improvements, including but not limited to the following:

- 8.67 and 12.05 – New curb, gutter and sidewalk, including associated pavement widening and storm drainage, shall be installed along S. 90th Ave. and S. 92nd Ave. Street improvements shall conform to standard detail R3, including private streets. New sidewalks shall be constructed per standard detail R5.
- 8.64 – Driveways to be constructed per this chapter and standard detail R4.
- 8.72 – An excavation and street break permit shall be obtained for all work within the public right of way.
- 12.02 – Easements will need to be established per this chapter.
- 12.06 – Street and right of way widths shall conform to this section unless otherwise approved. S. 90th Ave. and S. 92nd Ave. are both classified as residential, requiring a total of 50' of right of way. Both appear to be adequate. Private streets shall be constructed with curbs, sidewalks, and street lighting and shall otherwise conform to the standards for public streets. Private streets shall provide cul-de-sac/hammer head turnaround to accommodate emergency and refuse collection vehicles.

- f. 12.06.050 Cul-de-sac streets – S. 90th Ave - Cul-de-sacs shall be constructed within a street right-of-way eighty feet in diameter and have an improved diameter of sixty-five feet. The maximum length of a cul-de-sac street shall be six hundred feet measured along the street centerline from the nearest through street intersection to the center of the cul-de-sac.
- g. 12.06.080 - Street lighting - At minimum, one street light shall be installed midblock where the street exceeds five hundred feet in total length. Street lighting shall meet the design and placement standards of the city engineer. Lighting improvements shall become the property of the city of Yakima upon installation and will thereafter be maintained by the city.
- h. YMC 14.05.200 / 14.20.130 – All frontage improvements shall be completed prior to long plat approval. At the discretion of the City Engineer, the owner may bond for required frontage improvements. Bonding shall be executed and recorded prior to or as part of approval of the long plat. Civil engineering plans for public improvements shall be approved prior to bonding for public improvements. All frontage improvements shall be completed prior to Certificate of Occupancy. Civil engineering plans for public improvements shall be approved prior to issuance of building permits.

3. Stormwater

As this project involves clearing or grading one acre or more, a Large Project Stormwater Permit shall be required from the applicant. The requirements of a Large Project Stormwater Permit are:

- Drainage plan(s) and calculations
- Stormwater maintenance agreement and plan
- Proof that the maintenance agreement was recorded in the Yakima County Auditor's Office
- Construction Stormwater Pollution Prevention Plan (SWPPP) or Erosivity Waiver. The Construction SWPPP (or Erosivity Waiver Certificate Statement) shall be reviewed and approved by the Surface Water Engineer prior to any grading or construction. A Temporary Erosion and Sediment Control (TESC) plan shall be submitted for approval.
- In lieu of turning in a Construction Stormwater Pollution Prevention Plan, the applicant can satisfy this requirement by obtaining a Construction Stormwater General Permit through the Washington State Department of Ecology. A copy of the signed General Permit shall be delivered to the Surface Water Engineer.
- A narrative explaining how Core Elements 1-8 are being satisfied.
- An operation and maintenance plan for the perpetual maintenance of the facilities is now required.

Grading and/or building permits shall not be issued without the project site first passing an erosion control inspection.

Complete stormwater design plans, specifications and runoff/storage calculations supporting the stormwater design are required pursuant to the Eastern Washington Stormwater Manual and City of Yakima standards. These plans and control measures must be completed by a licensed Professional Engineer and then be reviewed and approved by the City of Yakima Surface Water Engineer prior to construction.



#### UIC Registration - Stormwater

In accordance with the August 2019 edition of the Department of Ecology's Stormwater Management Manual for Eastern Washington (SMMEW), Underground Injection Control (UIC) wells constructed on or after February 3, 2006 are considered new and must be registered with the Department of Ecology (DOE) 60 days prior to construction. UIC wells that receive polluted runoff shall retain the larger of the 100-year 3-hour and 100-year 24-hour storms and shall be designed for treatment using Table 5.23 of the SMMEW.

4. Sewer
  - a. Sewer is available for site in S 90th Ave. Sewer service to site to be reviewed and approved on associated ENG permit.
5. Nob Hill Water
  - a. Owner will need to contact nob hill water for cost estimate for new development. Finalized engineered plans will be required to design and produce cost estimate.

#### **V. FINDINGS:**

- A. Planned Development: Pursuant to YMC § 15.28.040(D), The hearing examiner shall evaluate a master planned development application and other evidence submitted into the record; and shall issue such recommendation based upon the following considerations and criteria (City staff response in italics):
  - a. The master planned development application demonstrates the economic and efficient use of land and provides for an integrated and consistent development plan for the site.
    - i. *The proposed action is to create additional housing units within the City of Yakima. The density and housing proposed is similar to housing founding less 1000 feet from the subject site. Per the City of Yakima Housing Action Plan (Adopted June 2021) the City will need approximately 5,517 new dwelling units to meet projected growth needs of the City. The proposed Master Plan will help the City meet that goal, and provide an increased variety of housing to the City.*
  - b. The applicant has identified development standards and uses that are consistent with the master plan and designed in a manner that is compatible with adjacent land uses after consideration of applicable mitigation and site design. The hearing examiner may consider development standards that are different from currently adopted development standards in order to provide flexibility in site planning; to implement project design and concepts; to respond to market conditions; or to otherwise achieve the public benefits contemplated by the concept plan.
    - i. Primary access to and from the site will be via 90<sup>th</sup> Ave. to Tieton Ave. The applicant has proposed limited access onto 92<sup>nd</sup> Ave. and has proposed to install emergency access gates to access the internal private streets, if the applicant wished to maintain this configuration, improved driveways through the gates shall be installed, removing the possibility any emergency vehicle from driving across and unimproved surface. If the applicant does not wish to install an improved driveway through the emergency

- gates, an approved fire apparatus turnaround shall be installed at the end of the private streets.
- ii. Additionally, the applicant has not proposed to install frontage improvements along 92<sup>nd</sup> Ave., or within the internal private streets. If 92<sup>nd</sup> becomes a primary access for the site, or if the internal private streets become public, frontage improvements, including curb, gutter, and sidewalks shall be installed along the internal streets and along 92<sup>nd</sup> Ave.
- c. Consideration shall be given to "low impact development" concepts.
    - i. The proposed development is for duplex housing, which will have a minimal impact on the surrounding neighborhoods.
  - d. There will be adequate infrastructure capacity available by the time each phase of development is completed.
    - i. The applicant has proposed to install street, and bring public facilities to each of the subject lots. Adequate infrastructure will be in place prior to the first issuance of a Certificate of Occupancy
  - e. The master planned development contains design, landscaping, parking/traffic management, and use mixture and location that limit or mitigate conflicts between the master planned development and adjacent uses. Consideration shall be given to site planning that supports land use flexibility through means of appropriate setbacks, landscaping, sitescreening, buffers, and other design features or techniques.
    - i. To avoid additional driveway impact onto Tieton Ave., proposed lots 1-4 shall have access onto Tieton Dr. through the internal plat street network only, and no lot may have direct access to Tieton Ave.
    - ii. Sitescreening Standard 'C' shall be installed along the northern property line of lots 1-4, to help minimize any impact from traffic along Tieton Dr.
    - iii. Additional vegetative buffering is encouraged along lots 1-4, but not required at this time.
  - f. All potential significant off-site impacts including noise, shading, glare, and traffic have been identified and mitigation incorporated to the extent reasonable and practical.
    - i. All off-site impacts have been addressed, and there are no other concerns from the City at this time.
  - g. The project is designed and includes appropriate consideration of open spaces and transportation corridors, designs of street and public open space amenities, and results in the functional and visual appearance of one integrated project.
    - i. The subject development will be constructed in a way similar to a traditional single family neighborhood, giving duplexes a traditional amount of yard space.
    - ii. Traffic will flow in and out of the neighborhood via 90<sup>th</sup> Ave. to Tieton Dr.
    - iii. Additionally, several schools and parks are within 2 miles of the subject site.
  - h. The proposed development is not adverse to the public health, safety, or welfare.
    - i. The proposed development takes into account public health, safety, and welfare. Public facilities will be provided to each site,

and access to the site will be improved, creating better access for emergency vehicles.

- i. The public benefits of approving the master planned development outweigh the effect of modification of standards to the underlying zoning district.
  - i. The City is pinched for housing at this time, and the creation of a variety of housing types is a net positive, as long as the proper facilities and improvements are installed along with the housing. The requests made by the applicant are appropriate. The proposed development and the standards requested by the applicant are appropriate, and this project will be a positive action for the community by providing additional, and alternative housing choice to the residents, and potential residents of the City.
  - j. The proposed development is designed to be consistent with the provisions of the shoreline master program and critical areas ordinance of the appropriate jurisdiction.
    - i. This section is not applicable to the development.
- B. This proposed planned development preliminary plat is approximately 5.43 acres in size and has been designed for duplex residences on individual lots, with associate frontage improvements.
- C. The project is occurring one phase and thus the density calculation is based upon a single action of dividing 5.43 acres in to 20 residential lots.

The density calculations are listed below:

  - a. Density for the proposed development as a whole
  - b. 40 dwelling units / 4.8 acres (acreage with streets removed)
  - c. = ~8.3 Dwelling Units Per Net Residential Acre
- D. The preliminarily platted rights-of-way are proposed as private streets with emergency access gates.
- E. Full street improvements will be required for all preliminary platted right-of-way.
- F. Parking: 4 parking are spaces for each two-family building.
- G. Lot Coverage: Lot coverage is proposed as approximately 60 percent per lot, complying with the standard of 80 percent allowed in the B-2 zoning district.
- H. Setbacks: The setbacks of the proposed request meet the standards of the zoning district.
- I. Sitescreening: Sitescreening standard 'C' shall be installed along the southern property line of the site prior to an issuance of occupancy for any of the proposed buildings.
- J. Public Facilities: City of Yakima sewer and Nob Hill water are available or capable of being extended. The property is accessed from Tieton Ave. which is a minor arterial street.
- K. Subdivision Ordinance:

As proposed, and with the recommended conditions, this preliminary plat meets all the design requirements of YMC Ch. 14.25 of the City's subdivision ordinance and the development standards of YMC Title 12. The recommended conditions are intended to ensure consistency with the provisions of the City's subdivision ordinance and that appropriate provisions are provided for the following:

- a. The proposed subdivision must be consistent with the provisions of the urban area zoning ordinance;
- b. The proposed subdivision must be consistent with the city of Yakima's comprehensive plan;
- c. The proposed subdivision must be consistent with the provisions of this title; and
- d. As required by RCW Chapter 58.17, the proposed subdivision must make appropriate provisions for:
  - i. **Public health, safety, welfare:** The construction of two-family dwellings will complement adjacent uses will promote the public health, safety and general welfare insofar as there is a need in this community for additional housing and insofar as this proposed preliminary plat would be required to comply with all applicable City development standards, and all conditions of approval specified by the City of Yakima Planning Commission.
  - ii. **Open spaces:** The proposed lots are larger than minimum sizes required in the B-2 zoning district. Lot coverage of 60% or less in the B-2 zoning district will provide adequate light and air for future residents in accordance with the standards in the zoning ordinance without additional open spaces.
  - iii. **Drainage systems:** Drainage system facilities will be provided in accordance with state and local regulations including the City of Yakima Municipal Code and the eastern Washington Storm Water Manual.
  - iv. **Streets, alleys, and other public ways:** The subject property has frontage upon Tieton Ave., designated as a Minor Arterial street which requires 80-feet of right-of-way. New interior streets will be designated as private streets, requiring 50-feet of right-of-way.
  - v. **Transit Stops:** Yakima Transit Route 1 is accessible at the corner of Tieton and 90<sup>th</sup> Avenues, directly adjacent the site.
  - vi. **Water supplies:** Public water is required to be used for domestic and fire flow purposes. An adequate water supply for this development is available from Nob Hill Water Company.
  - vii. **Sanitary waste disposal:** Public sewer is required to service all lots. City of Yakima sewer mains are within S. 90<sup>th</sup> Ave. and are capable of being extended to handle the demands of this development.
  - viii. **Parks and playgrounds:** Open space, parks, recreation, and playgrounds are located approximately within 1.5 miles of this

subdivision due to the proximity of West Valley Park. The proposed preliminary plat is not located in a planned parks and recreation area. Provisions for parks and recreation areas are not necessary within the proposed preliminary plat due to the size, number and location of the proposed lots and provisions for playgrounds exist at the schools which children within the proposed preliminary plat would be attending, and could also be individually provided on the lots themselves which are of a size which would allow for playground areas as needed or desired.

- ix. **Sites for schools:** West Valley High School and 9<sup>th</sup> Grade School are located approximately within 1.5 miles, and Cottonwood Elementary is located approximately within .7 miles of this subdivision.
- x. **Sidewalks:** Sidewalks are required and will be provided along this developments frontage along 90<sup>th</sup> Ave, and sidewalks will not be installed along the interior of the private streets in the development. Based upon standards above, a finding that the public use and interest will be served by the approval of this subdivision: This proposed 20-lot residential subdivision is consistent with neighboring land uses and better serves the needs of the City of Yakima than the undeveloped status of the property.

L. Transportation Concurrency:

This application was reviewed and approved for consistency with YMC 12.08 Transportation Capacity Management Ordinance on July 26, 2021. The proposed development will not exceed the PM peak hour capacity of the City Arterial street system and reserve capacity exists on all impacted streets. This review does not include any site development or safety issues which may be discussed at the project level or SEPA review.

M. Time Limitation:

Upon preliminary plat approval the applicant has five years from the date of preliminary approval to submit the final plat. Thereafter, 30 days prior to the expiration of preliminary approval the applicant must submit to the City Council a written request asking to extend the approval period for a maximum period of one year (YMC § 14.20.160 YMC). Before the final plat can be recorded all required infrastructure must be engineered, completed and inspected or engineered and financially secured and receive final plat approval from the City Council.

- N. Per Plat 02949301, recorded February 6, 1992 – A Note on the Plat states “The owner shown hereon, their grantees and assignees in interest, hereby covenant and agree to properly abandon and/or remove the well & garage located within the 30 foot right-of-way along the east at such time as further division and/or development of the property triggers the requirement for road improvements within said right-of-way.

- a. Prior to installation of right-of-way, the conditions of the 1992 plat note shall be satisfied and verified by the City of Yakima.

- O. There is an existing rezone with an Ordinance (Ordinance 14-2004) for the property that was recoded on January 10, 2005. There are several items within the Ordinance conditioning future development of the subject property. Under Section VI. General Provisions, Number 2, the ordinance specifically states "The governmental entity with land use jurisdiction over said property may enforce the requirements of this agreement". The applicant specifically mentioned conditions within the Ordinance in their narrative. Per the Ordinance, the applicant may discuss any deviation from the specifically outlined conditions, and propose any development based upon the City of Yakima Municipal Code Standards.

## **VI. CONCLUSIONS:**

1. The Hearing Examiner has jurisdiction to issue a recommendation and decision on this application to the City Council.
2. The proposed Master Planned Development is consistent with the goals and policies of the Yakima Comprehensive Plan 2040.
3. The applicant shall enter into a Development Agreement with the City of Yakima, ensuring all policies and conditions of the proposed development are met.
4. This Preliminary Plat complies with the general requirements for subdivision approval as specified by YMC Ch. 14.20 and Ch. 15.05.
5. The proposed subdivision meets the density standards of the B-2 zoning district having 8.3 dwelling units per net residential acre
6. The proposed Preliminary Long Plat has primary access via Tieton Ave. and new interior local access streets.
7. Affected streets have sufficient capacity for this proposal.
8. This proposed plat serves the public use and interest and provides for the possibility of creating new additional housing within the City of Yakima.
9. This preliminary subdivision complies with the goals and objectives of the 2040 Comprehensive Plan, the intent and purpose of the B-2 zoning district, the provisions of the Urban Area Zoning Ordinance, Subdivision Ordinance, Title 12 Development Standards and Chapter 12.08 the Traffic Concurrency Ordinance.
10. During project review it has been found that this request is in compliance with YMC §16.06.020 (B) for making a Determination of Consistency as follows:
  - a. The proposed use is permitted within the R-1 zoning district.
  - b. The proposed development is consistent with densities deemed appropriate for the R-1 zoning district by the Yakima Municipal Code, and is similar to densities of surrounding subdivisions.
  - c. This proposal is consistent with existing development regulations for this location.
11. The proposed plat complies with the provisions of RCW 58.17.110 and YMC 14.20.100, providing appropriately for: the public health, safety, and general welfare, open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school

grounds, sidewalks and other planning features that assure safe walking conditions for citizen of the neighborhood.

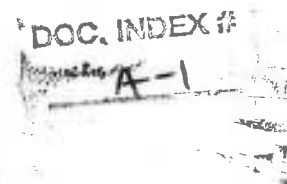
12. SEPA review resulted in the issuance of a DNS on July 30, 2021. The appeal period for this determination ended on August 10, 2021. No appeal was filed.
13. No adverse impacts have been identified from granting this approval that cannot be mitigated at the time of future development.
14. Public notice for this hearing was provided in accordance with zoning ordinance requirements.

#### **VII. RECOMMENDATION:**

The Planning Division recommends that the Planned Development and 20-lot subdivision known as "Upper Valley Estates" be approved subject to the following conditions:

1. The applicant shall enter into a development agreement with the City of Yakima.
2. The applicant shall submit and gain approval of civil engineered plans which provide for design of all Title 12 development standards, including but not limited to curb, gutter, sidewalk, street lighting, stormwater, and street design.
3. Prior to approval of the final plat, all approved improvements shall be constructed or financially secured according to the standards and requirements of the City Engineer and YMC Title 12.
4. Driveway requirement from Glenn's comment
5. All lots shall be served with public water from the Nob Hill Water Company. No individual domestic or irrigation wells shall be permitted for any of the lots. Prior to final plat approval, written verification from Nob Hill Water must be submitted to the Planning Division indicating that all construction required to provide each lot with domestic water has been completed and the fees paid.
6. All lots shall be provided with public sewer service according to YMC Title 12 standards. Prior to final plat approval, written verification from the City of Yakima Engineering Department must be provided to the Planning Division indicating that all sewer extensions have been completed and inspected or financially secured.
7. A minimum 8-foot wide public utility easement must be provided adjacent to all public road rights-of-way.
8. Easements for new and/or future utilities shall be a minimum of 16-feet in width, provided that the width of easements for buried utilities will be twice the depth of the planned excavation.
9. All public and private utilities shall be located underground, with the exception of telephone boxes and such similar structures.

10. All public and private utilities to be located within public road rights-of-way must be constructed prior to the start of road construction.
11. Fire hydrants shall be placed at the locations specified by the Building Codes and Planning Division and the Yakima Fire Department. All lots must be provided with adequate fire flow.
12. A note shall be placed on the face of the Final Plat stating "The streets within this plat are private and do not meet the standards for public streets. If the streets are ever to be made public, they will have to be reconstructed to meet the City Standards at that time."
13. All permits required by the Yakima Regional Clean Air Authority shall be obtained and a copy provided to the City of Yakima Code Administration prior to commencement of site preparation. The developer shall designate during working hours a responsible party to serve as contact for suspected air quality violations.
14. NPDES Permit and a Stormwater Pollution Prevention Plan shall be prepared and submitted to the City.
15. The Note of the 1992 plat shall be completed and verified by the City of Yakima.
16. All addresses shall be as specified in Exhibit "A" of this report. All addresses must be clearly shown on the face of the final plat as required by RCW 58.17.280.
17. This plat shall be subject to the following notes, which must be placed on the face of the plat:
  - a. The addresses shown on this plat are accurate as of the date of recording, but may be subject to change. The City of Yakima Building Codes Division is responsible for the confirmation or reassignment of addresses at the time of building permit issuance.
  - b. The owners shown hereon, their grantees and assignees in interest hereby covenant and agree to retain all surface water generated within the plat on-site.
18. Irrigation approval, for the Ahtanum Irrigation District, shall be shown on the face of the final plat.
19. A cultural Resources Survey shall be conducted on the subject site, if the applicant does not wish to have a cultural resources survey conducted on the site, an Inadvertent Discovery Plan (IDP) shall be prepared by the applicant, and a copy of the IDP shall be submitted to the City.
20. All other requirements of the zoning and subdivision ordinance, although not specifically set forth herein, shall be complied with in their entirety.
21. Upon preliminary plat approval, the applicant has five years to submit the final plat. Thereafter, 30 days prior to the expiration of said approval the applicant must submit to the City Council a written request asking to extend the approval period for a maximum period of one year.





## EXHIBIT LIST

[illegible]

**Project Name:** GREG & ADELE BANTER

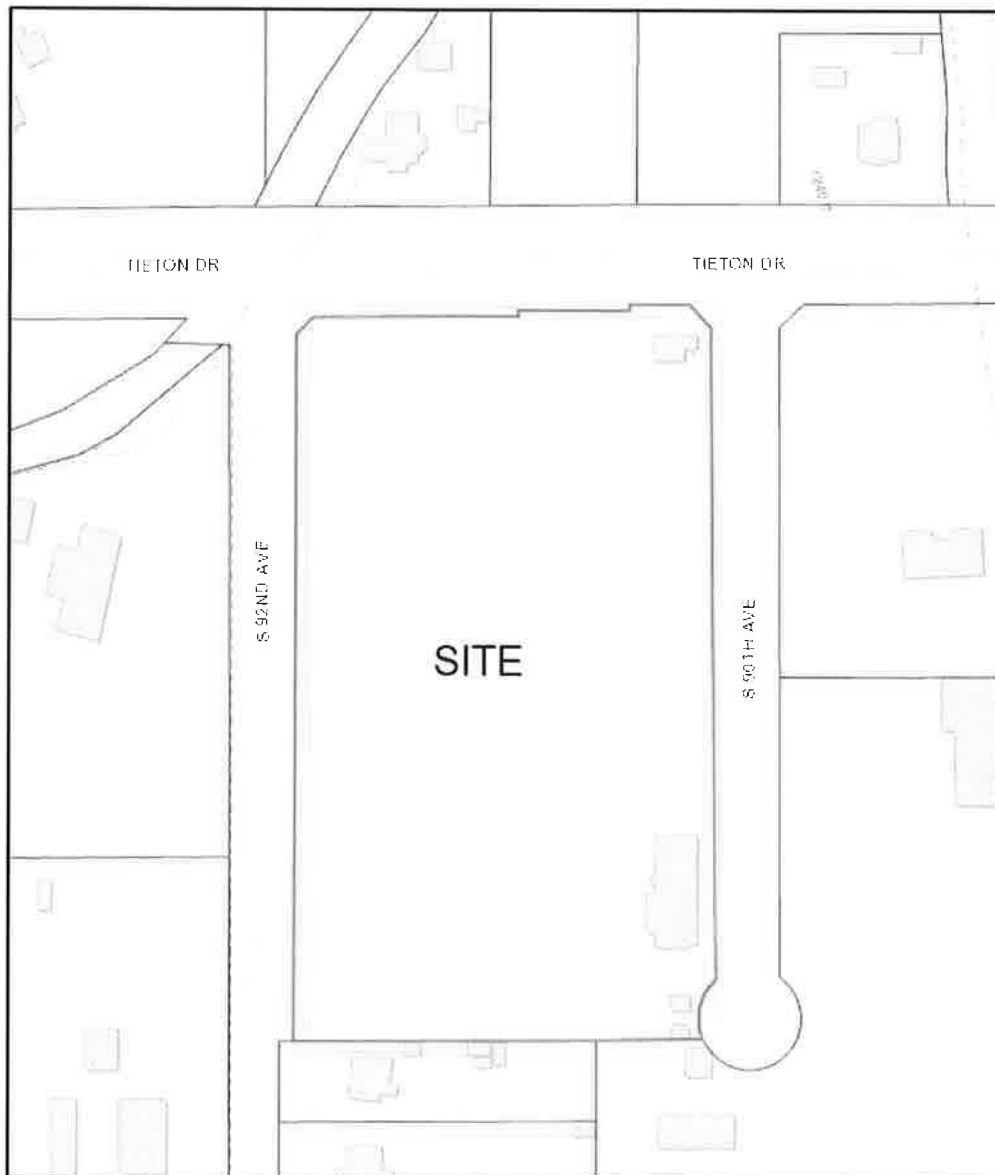
**Site Address:** 502 S 90TH AVE

**File Number(s):** PD#002-21, PLP#002-21, CL2#019-21, SEPA#010-21

**Proposal:** Master planned development to subdivide one parcel of 5.2 acres into 20 residential duplex lots (total of 40 residential units) with internal access by private streets, located in the B-2 zoning district.



## VICINITY MAP



Map Disclaimer: Information shown on this map is for planning and illustration purposes only. The City of Yakima assumes no liability for any errors, omissions, or inaccuracies in the information provided or for any action taken, or action not taken by the user in reliance upon any maps or information provided herein.  
Date Created: 4/21/2021



DOC. INDEX #

B-1

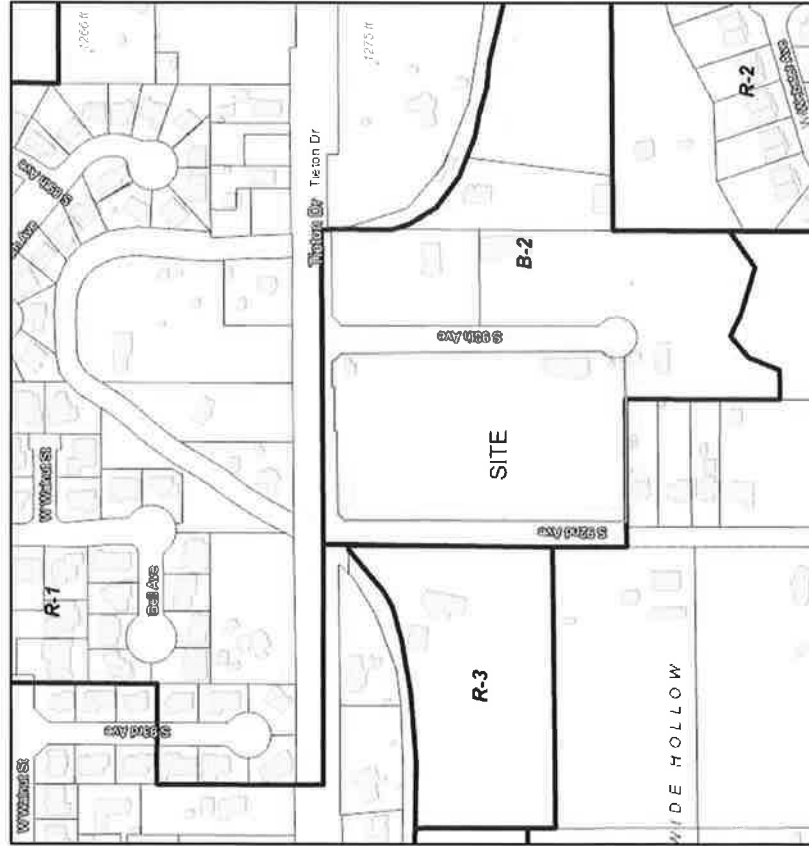
**Project Name:** GREG & ADELE BAINTER

**Site Address:** 502 S 90TH AVE

**File Number(s):** PD#002-21, PLP#002-21, CL2#019-21, SEPA#010-21



## ZONING MAP



- Yakima Urban Area Zoning**
- SR Suburban Residential
  - R-1 Single Family
  - R-2 Two Family
  - R-3 Multi-Family
  - B-1 Professional Business
  - B-2 Local Business
  - HB Historical Business
  - SCC Small Convenience Center
  - LCC Large Convenience Center
  - CBD Central Business District
  - GC General Commercial
  - M-1 Light Industrial
  - M-2 Heavy Industrial
  - RD Regional Development
  - AS Airport Support



Map Disclaimer: Information shown on this map is for planning and illustration purposes only. The City of Yakima assumes no liability for any errors, omissions, or inaccuracies in the information provided or for any action taken, or action not taken by the user in reliance upon any maps or information provided herein.

Date Created: 4/21/2021

DOC. INDEX #  
B-1



# FUTURE LAND USE MAP

**File Number(s):** PD#002-21, PLP#002-21, CL2#019-21, SEPA#010-21



## Yakima Future Land Use Designations

Low Density Residential

Mixed Residential

Central Business Core Commercial

Commercial Mixed Use

Regional Commercial

Community Mixed Use

Industrial



SITE

MOBILE

DOC. INDEX #



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Date Created: 4/21/2021



**Project Name:** GREG & ADELE BANTER

**Site Address:** 502 S 90TH AVE

**File Number(s):** PD#002-21, PLP#002-21, CL2#019-21, SEPA#010-21

## AERIAL MAP



DOC. INDEX #  
B-1



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Date Created: 4/21/2021

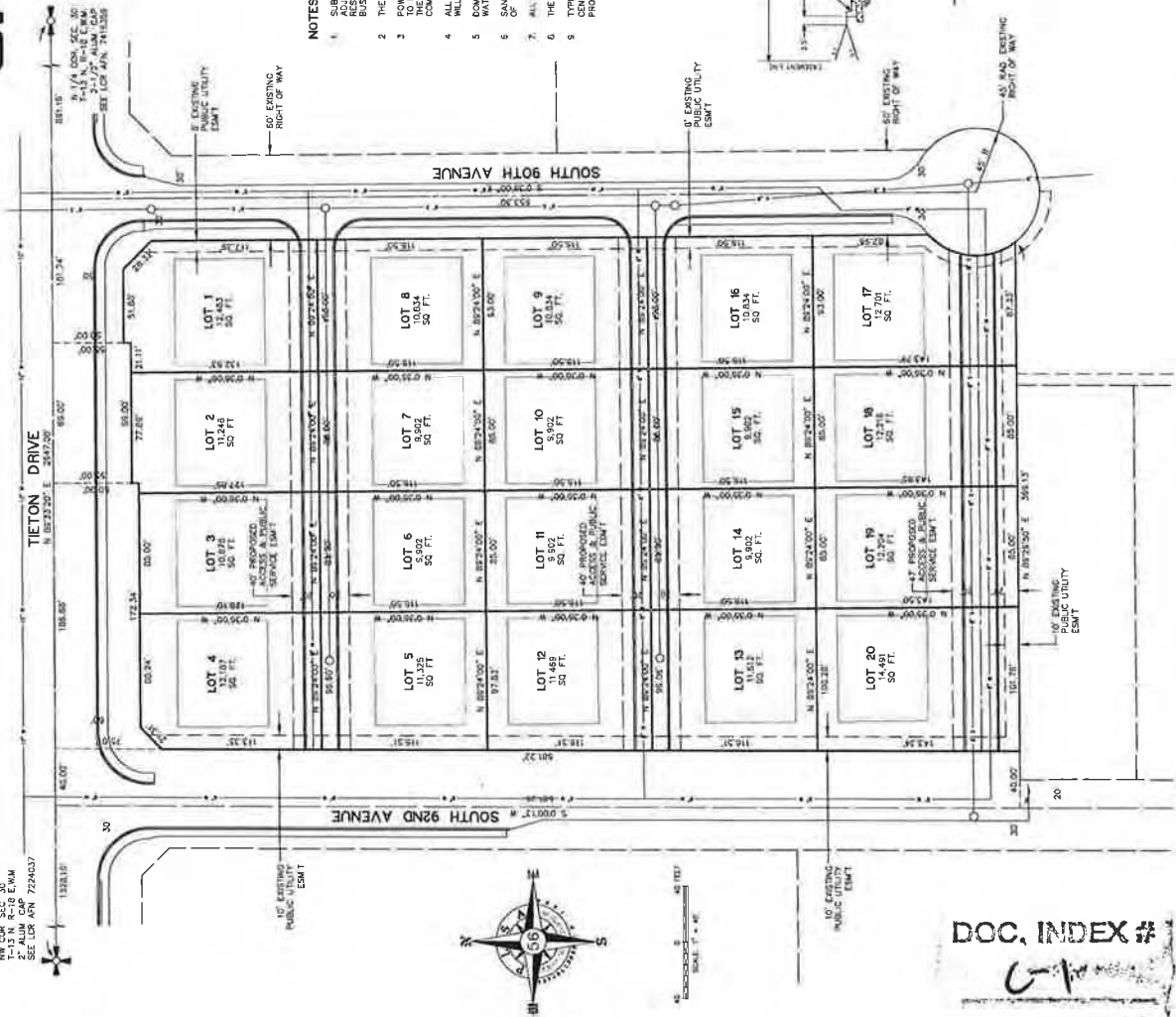
## EXHIBIT LIST

[illegible]

# PRELIMINARY PLAT OF UPPER VALLEY ESTATES

IN THE NE 1/4, NW 1/4, SEC. 30, T-13 N, R-18 E, WM

NW COR SEC. 30  
2" ALUM C&G  
SEE LOR AN 724637

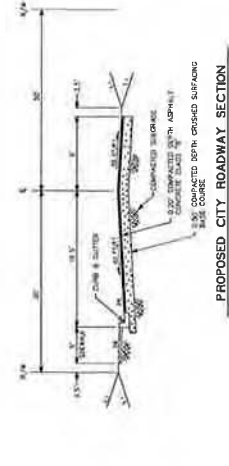
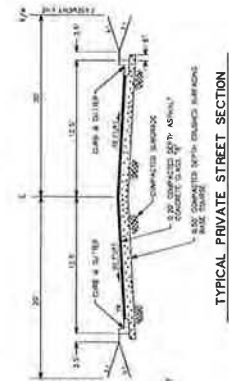


## LEGAL DESCRIPTION

LOT 1 OF THAT CERTAIN SHORT PLAT RECORDED IN BOOK 92 OF SHORT PLATS, PAGE 14 RECORDS OF YAKIMA COUNTY, WASHINGTON, TOGETHER WITH THAT PORTION OF LOT 2 OF SAID SHORT PLAT LYING NORTH OF A LINE DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 2, THENCE SOUTH 00°13' WEST, ALONG THE WEST LINE THEREOF, 432.51 FEET TO THE EAST 325.16 FEET TO THE EAST LINE OF SAID LOT 2, THENCE NORTH 0°29' 50" EAST 325.16 FEET TO THE EAST LINE OF SAID LOT 2, AND THE TERMINUS OF THE HEREIN DESCRIBED LINE, EXCEPT 50 FT. OF WAY CONVEYED TO YAKIMA COUNTY UNDER AUTOPLOT'S FILE NO. 728294, RECORDS OF YAKIMA COUNTY, WASHINGTON.

## NOTES

- SUBJECT PROPERTY IS ZONED B-2 LOCAL BUSINESS DISTRICT; RESIDENTIAL R-3, MULTI-FAMILY RESIDENTIAL AND B-2, LOCAL BUSINESS DISTRICT.
- THE TOTAL AREA OF THE PROPOSED PLAT IS 5.15 ACRES.
- POWER, TV CABLES, TELEPHONE CABLES AND GAS MAINS ARE TO BE LAIN BY THE CITY OF YAKIMA, THE PUBLIC UTILITY COMPANIES TO DETERMINE THE EXACT LOCATION.
- ALL STORM WATER GENERATED BY NEW IMPROVED SURFACES WILL BE RETAINED ON SITE.
- WASTEWATER IS PROPOSED TO BE SUPPLIED BY NOK HILL SANITARY SEWER IS PROPOSED TO BE PROVIDED BY THE CITY OF YAKIMA.
- ALL EXISTING BUILDINGS ON-SITE WILL BE REMOVED.
- THE SITE WILL BE RE-GRANDED TO CREATE BUILDABLE LOTS.
- THE CITY OF YAKIMA WILL BE RESPONSIBLE FOR THE BACKLASH FROM CONTROL OF PROPOSED 5' SIDE SETBACK FROM PROPERTY LINE AND 15' REAR SETBACK FROM PROPERTY LINE.



ENGINEER/SURVEYOR  
RICK MEYER FOR THE CITY OF YAKIMA  
1700 N. LINCOLN AVENUE  
YAKIMA, WASHINGTON 99202  
PH: 509-595-9595

OWNER/DEVELOPER  
JAMES DE LA TORRE  
2117 PINE STREET  
P.O. BOX 255  
MAPATO WA, 99551

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COMMUNITY DEVELOPMENT

DOC. INDEX #

<b>PLSA</b>	
ENGINEERING-SURVEYING-PLANNING 501 NORTH 20th AVENUE, SUITE 3 YAKIMA, WASHINGTON 99202 (509) 575-8990	
PRELIMINARY PLAT PARCEL NUMBER: 21433 FILED FOR: 21433 DATE: 03/17/2021 BY: PLSA	
DIT CONSTRUCTION, LLC 1001 W. 1st Ave. Sec. 30, T-13 N, R-18 E, WM 1 of 1	

[illegible]



**GREG & ADELE BAINTER**  
**PD#002-21, PLP#002-21, CL2#019-21, SEPA#010-21 &**  
**TCO#008-21**

**DST COMMENTS**

<b>Name</b>	<b>Comment</b>	<b>Date</b>
Glenn Denman – Code Administration Division	See Attached.	09/01/2021
Lisa Maxey – Code Administration Division	Prior to submittal of the final plat, names of the private streets shall be selected and provided to the Permit Project Coordinator in order to complete the assignment of addressing. The final plat must display these addresses.	05/28/2021
Mike Shane – Water/Irrigation Division	See Attached	07/07/2021
Kirsten McPherson – Nob Hill Water	Owner will need to contact Nob Hill Water for cost estimate for new development. Finalized engineered plans will be required to design and produce cost estimate.	05/05/2021
Dana Kallevig – Wastewater Division	Sewer is available for site in S 90th Ave. Sewer service to site to be reviewed and approved on associated ENG permit.	07/26/2021

DOC. INDEX #  
D-7



**COMMUNITY DEVELOPMENT DEPARTMENT**

*Code Administration Division*

*129 North Second Street, 2nd Floor Yakima, Washington 98901*

*Phone (509) 575-6126 • Fax (509) 576-6576*

*codes@yakimawa.gov • www.buildingyakima.com*

September 1, 2021

Trevor Martin  
City of Yakima Planning Division  
129 N 2<sup>nd</sup> St.  
Yakima, WA 98901

From: Glenn Denman, Building Official

Re: DST Comments: PD#002-21, 502 S 90<sup>th</sup> Ave

Pursuant to Chapter 10 of the Yakima Municipal Code (Washington State Fire Code amendments 503.1 and 503.2), all dead end roads in excess of 150 feet in length shall be provided with an approved area for turning around fire department apparatus.

These findings are not intended to be an exhaustive review of this proposal.

DCC. INDEX #

b-2

**DATE:** July 7, 2021  
**TO:** Trevor Martin, Associate Planner  
**FROM:** Mike Shane, Water / Irrigation Engineer  
**RE:** 502 S. 90<sup>th</sup> Ave. - PD #002-21/PLP#002-21 — (Parcel #18133021433) GREG & ADELE BANTER

---

**Project Description –** Master planned development to subdivide one parcel of 5.2 acres into 20 residential duplex lots (total of 40 residential units) with internal access by private streets, located in the B-2 zoning district.

**This project requires Title 8 and Title 12 improvements, including but not limited to the following:**

**8.67 and 12.05 –** New curb, gutter and sidewalk, including associated pavement widening and storm drainage, shall be installed along S. 90<sup>th</sup> Ave. and S. 92<sup>nd</sup> Ave. Street improvements shall conform to standard detail R3, including private streets. New sidewalks shall be constructed per standard detail R5.

**8.64 –** Driveways to be constructed per this chapter and standard detail R4.

**8.72 –** An excavation and street break permit shall be obtained for all work within the public right of way.

**12.02 –**Easements will need to be established per this chapter.

**12.06 –** Street and right of way widths shall conform to this section unless otherwise approved. S. 90<sup>th</sup> Ave. and S. 92<sup>nd</sup> Ave. are both classified as residential, requiring a total of 50' of right of way. Both appear to be adequate. Private streets shall be constructed with curbs, sidewalks, and street lighting and shall otherwise conform to the standards for public streets. Private streets shall provide cul-de-sac/hammer head turnaround to accommodate emergency and refuse collection vehicles.

**12.06.050 Cul-de-sac streets –** S. 90<sup>th</sup> Ave - Cul-de-sacs shall be constructed within a street right-of-way eighty feet in diameter and have an improved diameter of sixty-five feet. The maximum length of a cul-de-sac street shall be six hundred feet measured along the street centerline from the nearest through street intersection to the center of the cul-de-sac.

**12.06.080 - Street lighting -** At minimum, one street light shall be installed midblock where the street exceeds five hundred feet in total length. Street lighting shall meet the design and placement standards of the city engineer. Lighting improvements shall become the property of the city of Yakima upon installation and will thereafter be maintained by the city.

**YMC 14.05.200 / 14.20.130 –** All frontage improvements shall be completed prior to long plat approval. At the discretion of the City Engineer, the owner may bond for required frontage improvements. Bonding shall be executed and recorded prior to or as part of approval of the long plat. Civil engineering plans for public improvements shall be approved prior to bonding for public improvements. All frontage improvements shall be completed prior to Certificate of Occupancy. Civil engineering plans for public improvements shall be approved prior to issuance of building permits.

DCC. INDEX #

D-2



**City of Yakima Development Services Team  
Request For Comments  
July 15, 2021**

<b>To:</b>	City of Yakima Development Services Team
<b>From:</b>	Trevor Martin, Associate Planner
<b>Subject:</b>	Request for Comments
<b>Applicant:</b>	PLSA Engineering and Surveying
<b>File Number:</b>	PD#002-21, PLP#002-21, CL2#019-21, SEPA#010-21, TCO#008-
<b>Location:</b>	502 S 90TH AVE
<b>Parcel Number(s):</b>	18133021433
<b>DST MEETING DATE:</b>	7/20/2021

Master planned development to subdivide one parcel of 5.2 acres into 20 residential duplex lots (total of 40 residential units) with internal access by private streets, located in the B-2 zoning district.

Please review the attached application and site plan and prepare any written comments you might have regarding this proposal. This project will come up for discussion at the weekly DST meeting to be held July 20, 2021 at 2:00 p.m. As always, should you have comments, but find you are unable to attend, please submit your comments prior to the meeting. My email address is [trevor.martin@yakimawa.gov](mailto:trevor.martin@yakimawa.gov) and the Planning Department's fax number is (509) 575-6105. Should you have any questions, or require additional information, please call me at (509) 575-6162.


\_\_\_\_\_  
Contact Person

\_\_\_\_\_  
Department/Agency

DOC. INDEX #  
D-1

## EXHIBIT LIST

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CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

## LAND USE APPLICATION

CITY OF YAKIMA, DEPARTMENT OF COMMUNITY DEVELOPMENT

129 NORTH SECOND STREET, 2ND FLOOR, YAKIMA, WA 98901

PHONE: (509) 575-6183 EMAIL: ask.planning@yakimawa.gov

## INSTRUCTIONS - PLEASE READ FIRST Please type or print your answers clearly.

Answer all questions completely. If you have any questions about this form or the application process, please ask a Planner. Remember to bring all necessary attachments and the required filing fee when the application is submitted. The Planning Division cannot accept an application unless it is complete and the filing fee paid. Filing fees are not refundable.

This application consists of four parts. PART I - GENERAL INFORMATION AND PART IV - CERTIFICATION are on this page. PART II and III contain additional information specific to your proposal and MUST be attached to this page to complete the application.

## PART I - GENERAL INFORMATION

1. Applicant's Information:	Name:	DLT Construction, LLC				
	Mailing Address:	PO Box 268				
	City:	Wapato	St:	WA	Zip:	98951
	E-Mail:	Phone: ( ) 961-6610				
2. Applicant's Interest in Property:	Check One:	<input type="checkbox"/> Owner	<input type="checkbox"/> Agent	<input checked="" type="checkbox"/> Purchaser	<input type="checkbox"/> Other	
3. Property Owner's Information (If other than Applicant):	Name:	Greg & Adele Bainter				
	Mailing Address:	9004 Tieton Drive				
	City:	Yakima	St:	WA	Zip:	98908
	E-Mail:	Phone: ( ) 965-4162				

4. Subject Property's Assessor's Parcel Number(s): 181330-21433

5. Legal Description of Property. (if lengthy, please attach it on a separate document)

On preliminary plat

6. Property Address: 502 S. 90th Ave

7. Property's Existing Zoning:

☐ SR ☐ R-1 ☐ R-2 ☐ R-3 ☐ B-1 ☒ B-2 ☐ HB ☐ SCC ☐ LCC ☐ CBD ☐ GC ☐ AS ☐ RD ☐ M-1 ☐ M-2

8. Type Of Application: (Check All That Apply)

<input checked="" type="checkbox"/> Planned Development	<input checked="" type="checkbox"/> Development Agreement	<input type="checkbox"/> Admin. Adjustment	<input type="checkbox"/> Binding Site Plan
<input type="checkbox"/> Type (1) Review	<input checked="" type="checkbox"/> Type (2) Review	<input type="checkbox"/> Type (3) Review	<input type="checkbox"/> Comprehensive Plan Map or Text Amendment
<input type="checkbox"/> Critical Areas Review	<input type="checkbox"/> Easement Release	<input checked="" type="checkbox"/> Environmental Checklist (SEPA Review)	<input type="checkbox"/> Final Long Plat
<input type="checkbox"/> Final Short Plat	<input type="checkbox"/> Interpretation by Hearing Examiner	<input type="checkbox"/> Long Plat Alteration	<input type="checkbox"/> Modification
<input type="checkbox"/> Non-Conforming Use/Structure	<input type="checkbox"/> Overlay District	<input checked="" type="checkbox"/> Preliminary Long Plat	<input type="checkbox"/> Preliminary Short Plat
<input type="checkbox"/> Rezone	<input type="checkbox"/> Right-of-Way Vacation	<input type="checkbox"/> Shoreline	<input type="checkbox"/> Short Plat Amendment
<input type="checkbox"/> Short Plat Exemption	<input checked="" type="checkbox"/> Transportation Concurrence	<input type="checkbox"/> Variance	<input type="checkbox"/> Other:

## PART II - SUPPLEMENTAL APPLICATION &amp; PART III - REQUIRED ATTACHMENTS

SEE ATTACHED SHEETS

## PART IV - CERTIFICATION

I certify that the information on this application and the required attachments are true and correct to the best of my knowledge.

  
Property Owner's Signature

 04-19-21  
Date

Applicant's Signature

PLP# 002-21

FILE/APPLICATION(S) #

PD#002-21, CL2#019-21, SEPA# 010-21, TCO#008-21

DATE FEE PAID:

RECEIVED BY:

AMOUNT PAID:

RECEIPT NO:

DOC. INDEX #  
E-1



Supplemental Application For:  
**PLANNED DEVELOPMENT**  
YAKIMA MUNICIPAL CODE CHAPTER 15.28

**PART IV - NARRATIVE** (The following information should be addressed in the land use application)

1. What land uses are proposed?

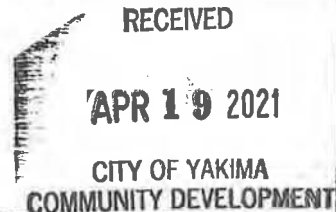
See Narrative

2. Will the land be subdivided? If so, what type of subdivision? (Long Plat, Short Plat, Binding Site Plan, etc)

See Narrative

3. How does the proposed Planned Development allow flexibility in development standards and permitted uses while ensuring compatibility with neighboring uses?

See Narrative



4. Describe how the proposed Planned Development facilitates the efficient use of the land.

See Narrative

5. Describe how the proposed Planned Development increases economic feasibility. (i.e. fostering efficient arrangement of land use, buildings, transportation systems, open space, and utilities)

See Narrative

6. How does the proposed Planned Development preserve or enhance natural amenities, features, shorelines and critical areas in the development of the site?

See Narrative

7. Identify environmental impacts and appropriate mitigation measures.

See Narrative

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COMMUNITY DEVELOPMENT

8. How does the proposed Planned Development encourage environmentally sustainable development?

See Narrative

9. What services and facilities are available to serve the subject property? Are those services adequate?

See Narrative

10. Will the proposed development promote economic development, job creation, diversification, or affordable housing?

See Narrative

11. How does the proposed development create vibrant mixed-use neighborhoods, with a balance of housing, employment, commercial, and recreational opportunities?

See Narrative

12. How is the proposed development consistent with goals, policies, and objectives of the Yakima Urban Area Comprehensive Plan?

See Narrative



13. How does the proposed Planned Development utilize unique and innovative facilities that encourage the efficient and economical use of the land?

See Narrative

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14. Does the proposed Planned Development promote a sound system for traffic and pedestrian circulation? Describe.

See Narrative

15. How does the proposed Planned Development promote open space and use of natural and/or developed amenities?

See Narrative

16. Will the proposed Planned Development provide an architecturally attractive, durable, and energy efficient development?

See Narrative

17. Please provide a summary of all previous known land use decisions affecting the applicant's property and all outstanding conditions of approval with respect to such prior land use decisions.

See Narrative

18. Any other development standards proposed to be modified from the underlying zoning districts requirements.

See Narrative

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COMMUNITY DEVELOPMENT

19. What are the aesthetic considerations related to building bulk, architectural compatibility, light and glare, urban design, solar access and shadow impacts.

See Narrative

20. Please provide an inventory of any on-site cultural, historic, and/or archaeological resources.

See Narrative

**Note:** if you have any questions about this process, please contact us City of Yakima, Planning Division, 129 N. 2nd St., Yakima, WA or 575-6183

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COMMUNITY DEVELOPMENT

Supplemental Application For:  
**PLANNED DEVELOPMENT**  
YAKIMA MUNICIPAL CODE CHAPTER 15.28

**PART II - APPLICATION INFORMATION**

1. PROPERTY OWNERS (attach if long): List all parties and financial institutions having an interest in the property.  
Greg & Adele Bainter
2. SURVEYOR AND/OR CONTACT PERSON WITH THEIR CONTACT INFORMATION:  
PLSA Engineering & Surveying      Contact: Thomas R. Durant    575-6990  
521 N. 20th Ave, Suite 3      Surveyor: Rick Wehr
3. NAME OF PLANNED DEVELOPMENT: 96th & Tleton
4. ZONING OF SUBJECT PROPERTY: (check all that apply)  
☐ SR ☐ R-1 ☐ R-2 ☐ R-3 ☐ B-1 ☒ B-2 ☐ HB ☐ SCC ☐ LCC ☐ CBD ☐ GC ☐ AS ☐ RD ☐ M-1 ☐ M-2
5. SITE FEATURES:  
A. General Description: ☐ Flat ☒ Gentle Slopes ☐ Steepened Slopes  
B. Describe any indication of hazards associated with unstable soils in the area, i.e. slides or slipping:  
C. Is the property in a 100-Year Floodplain or other critical area as mapped by any local, state, or national maps or as defined by the Washington State Growth Management Act or the Yakima Municipal Code?      No
6. UTILITY AND SERVICES: (Check all that are available)  
☒ Electricity ☒ Telephone ☒ Natural Gas ☐ Sewer ☒ Cable TV ☒ Water    Nob Hill    ☒ Irrigation Yakima Valley
7. OTHER INFORMATION:  
A. Distance to Closest Fire Hydrant: 8.5 to 700 feet  
B. Distance to Nearest School (and name of school): Cottonwood Elementary, approx. 3/4 mile  
C. Distance to Nearest Park (and name of park): West Valley Community, approx. 1 1/2 mile  
D. Method of Handling Stormwater Drainage: On-site retention  
E. Type of Planned Development: ☒ Residential ☐ Commercial ☐ Industrial ☐ Mixed Use

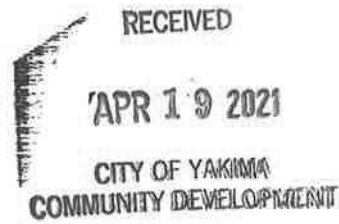
**PART III - REQUIRED ATTACHMENTS**

1. PRELIMINARY PLAT/SITE PLAN REQUIRED (please use the attached City of Yakima Plat/Site Plan Checklist)
2. TITLE REPORT (disclosing all lien holders and owners of record):
3. TRAFFIC CONCURRENCY (if required, see YMC Ch. 12.08, Traffic Capacity Test):
4. ENVIRONMENTAL CHECKLIST
5. NARRATIVE (attached)
6. DRAFT DEVELOPMENT AGREEMENT: (which shall include: Narrative Description of Project and Objectives; Summary of Development Standards; Site Plan Elements; Development Phasing, including times of performance to preserve vesting (YMC 15.28.070); Public Meeting Summaries; Performance Standards and Conditions addressing the items above; Criteria for Determining Major vs. Minor Modifications and amendments; and, Signatures by each owner of property within the Master Development Plan area acknowledging that all owners will agree to be bound by conditions of approval, including use, design and layout, and development standards contained within the approved Plan and Development Agreement.)

I hereby authorize the submittal of the planned development application to the City of Yakima for review. I understand that conditions of approval such as dedication of right-of-way, easements, restrictions on the type of buildings that may be constructed, and access restrictions from public roads may be imposed as a part of approval and that failure to meet these conditions may result in denial of the development.

Greg Bainter  
Property Owner Signature (required)

04-19-21  
Date



## Written Narrative – Part IV

### Introduction

Proposed is a 20-lot duplex subdivision served by three private streets that extend across the site but gated at 92<sup>nd</sup> Avenue for emergency access only. Regular access to the development is to be from S. 90<sup>th</sup> Avenue. The master planned development application is being used to provide for internal access by private streets as proposed and that do not meet all City private street standards.

#### 1. What land uses are proposed?

The subdivision is proposed for a total of 40 duplex residential units. The application is being made as a Residential planned development under YMC 15.28.020(A)(1), listed as permitted in the R-1 zone. Two family residential (duplexes) is a permitted use in residential planned developments (YMC 15.28.020(B)(1)(a)).

#### 2. Will the land be subdivided? If so, what type of subdivision? (Long Plat, Short Plat, Binding Site Plan, etc.)

The 20 individual lots are to be created by regular subdivision (long plat).

#### 3. How does the proposed Planned Development allow flexibility in development standards and permitted uses while ensuring compatibility with neighboring uses?

Duplexes are a Class 2 land use (usually permitted) in the B-2 zoning district. Proposed lot sizes, lot widths and setbacks exceed the minimum zoning standards of the B-2 zone and generally conform to or exceed the more restrictive standards of the R-2 zone.

Revised street improvement standards are intended for narrower streets allowing more intimacy, larger yards and reduced impervious surfaces. The private streets will have low speeds and traffic levels with most parking off-street. Residential development of a portion of this commercially zoned area provides opportunities for mixed use and would provide for a transition from lower density R-1 zoned properties north and directly south of the site to the mostly undeveloped commercially zoned property to the east. The proposal is consistent in use and allowable density with (mostly undeveloped) R-3 zoned property to the west. Limiting all but emergency access to S. 90<sup>th</sup> Avenue reduces potential traffic impacts on S. 92<sup>nd</sup> Avenue, a

private street in an unimproved right-of-way that at present serves a small number of single-family homes.

**4. Describe how the proposed Planned Development facilitates the efficient use of the land.**

Narrower streets allow for larger residential lots and yards with setbacks that meet or exceed standards that would be required in the R-2 zoning district and are higher than the less strict standards of the B-2 zone. Limiting most access to one side of the development keeps the individual private streets from becoming through-streets and the associated impact that it would have on adjoining neighborhoods.

**5. Describe how the proposed Planned Development increases economic feasibility (i.e., fostering efficient arrangement of land use, buildings, transportation systems, open space and utilities).**

The lot arrangement is an efficient use of the site given its shape and dimensions. The depth (north-south dimension) of the property results in larger lots in order to accommodate the private streets and building footprints. With the gated emergency access, there is no need to put in vehicle turnarounds or to use the additional land needed to construct them. Utility extensions provide for connection to all lots and facilitates further utility extension to properties to the west. No common open space is proposed because lot sizes are sufficient for private yards.

**6. How does the proposed Planned Development preserve or enhance natural amenities, features, shorelines and critical areas in the development of the site?**

Critical areas, although nearby, are not on the proposed site, so there would be no impact on them. The site is gently sloping, with the slope increasing somewhat at the north end to Tieton Drive. Lot and building development generally follow the contours of the slope and larger rear yards are provided along the tier of lots at the north end of the site to provide for the steeper slope area and additional distance from Tieton Drive.

**7. Identify environmental impacts and appropriate mitigation measures.**

SEPA review has not been completed and significant environmental impacts have not been identified. Some of the site considerations that are being made, based in part on meeting with the City Development Services Team, include providing frontage improvements on S. 90<sup>th</sup> Avenue, a road maintenance agreement for future lot owners, streetlights as directed by the City, fire hydrants within 600 feet of all lots. Limiting direct access to S. 90<sup>th</sup> Avenue, providing additional setbacks and yard areas than would be required by current zoning, and a low

residential density provides for additional mitigation and compatibility with surrounding land uses.

**8. How does the proposed Planned Development encourage environmentally sustainable development?**

The project uses “low-impact development” concepts defined as stormwater management and land development strategies that emphasize conservation and use of existing natural site features integrated with disturbed, small-scale stormwater controls to more closely mimic natural hydrologic patterns in residential settings (YMC 15.02.020). Stormwater will be retained on-site and drainage and infiltration facilities provided. The proposal accommodates population growth within the urban growth area to the benefit of resource and sensitive lands farther out and to reduce sprawl.

While the B-2 zoning district allows for 80 percent lot coverage, the lot coverage of these lots is around 60 percent including private streets in the calculation. Proposed density, lot coverage and large yards ensures that stormwater facilities are functional.

**9. What services and facilities are available to serve the property? Are those services adequate?**

Available utilities include a recently constructed 8-inch sewer line in 90<sup>th</sup> Avenue that extends south to connect to a larger line in Midvale Avenue and 8-inch water lines extending south on both 90<sup>th</sup> and 92<sup>nd</sup> Avenues from a 12 inch main in Tieton Drive. There are two existing fire hydrants on Tieton Drive that should be able to provide the maximum of 600 feet from a hydrant to most of the lots in the development. Also available are electric power, cable television and telephone. The site is in the West Valley School District – Cottonwood Elementary School is about 3/4 mile away as measured along City streets – and is served by City fire, police and emergency services.

**10. Will the proposed development promote economic development, job creation, diversification or affordable housing?**

With or without the Master Planned Development, the project provides economic development and construction jobs. The proposed housing adds to capacity currently needed in the community.

**11. How does the proposed development create vibrant mixed-use neighborhoods, with a balance of housing, commercial, and recreational facilities?**

The proposal, along with neighboring properties, provide a mix of housing and commercial opportunities to this area. Many of the surrounding lands are undeveloped or partially

developed, but based on their zoning, a mix of single-family and moderate to high density residential development should be expected along Tieton Drive with a mix of commercial or possibly mixed-use development. Single-family residential development becomes more prevalent farther to the south and east with single-family homes immediately adjacent along 92<sup>nd</sup> Avenue and to the east on Tieton Drive.

**12. How is the proposal consistent with goals, policies, and objectives of the Yakima Urban Area Comprehensive Plan?**

The proposal is consistent with the purpose of the Community Mixed-Use future land use designation to allow for a mixture of neighborhood scaled retail, commercial service, office, and high-density residential uses (Policy 2.2.3.A). While many of these land uses are not yet developed in this location, the zoning of undeveloped areas is consistent with the purpose statement. The mixture and density of retail, commercial service, office and high density residential depend on the area's context. Being in a transitional area nearer to residential neighborhoods suggests a mix with residential more prevalent. The proposed density of 4 to 5 dwelling units per acre (depending on how it is calculated) is lower than allowed maximums and results from the efficient development of this site. The zoning of mostly undeveloped areas nearby indicate a mixture of commercial and residential land uses at varying densities.

Adequate public services can be provided (Policy 2.1.7).

The proposal contributes to the provision of a wide variety of housing types within the city to meet the full range of housing needs for Yakima's evolving population (Policy 2.3.1).

Duplexes are allowed in appropriate residential zones provided that density standards are met (Policy 2.3.1.E). Duplexes are also a permitted Class 2 uses in the B-2 zone. Pedestrian orientation is provided by the private access streets and minor local street with sidewalks connecting to Tieton Drive. Lot size and home design provide usable open space on each lot.

The proposal helps to preserve and enhance nearby residential neighborhoods (Policy 2.3.2) by providing for relatively low density housing to transition from those neighborhoods to the other commercially zoned lands. The site location along Tieton Drive, served by public transit, is suitable for higher density residential development.

The private residential streets are safe and walkable (Policy 2.3.3), tie into existing sidewalks on Tieton Drive with good connections and transit access.

The proposal adds to the diversity of housing choices consistent with Goal 5.1.

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APR 19 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

The use of transitional densities to ensure compatibility is consistent with Policy 5.4.2. In this case the transition is from the single-family residential neighborhoods to the southwest along 92<sup>nd</sup> Avenue to the commercially zoned (but mostly undeveloped) areas on the east side of S. 90<sup>th</sup> Avenue. The mostly undeveloped areas directly to the west are zoned R-3, being compatible rather than transitional.

The proposal provides for a wide variety of housing types within the city to meet the full range of housing needs for Yakima's evolving population (Policy 2.3.1).

Under Goal 2.7: "Resource protection and sustainable design. Reinforce and enhance Yakima's environmental stewardship" are policies to protect sensitive natural areas, restore graded natural areas, use functional low impact development features such as bio-swales.

Under Goal 5.1: "Encourage diverse and affordable housing choices," are Policy 5.1.4 and 5.1.9 supporting the provision of housing options to increase affordable and market rate housing, diversity of housing to support a variety of households, dispersion of affordable housing throughout the City, convenient access to transit, a range of unit types, ownership housing when possible and long-term affordability. This proposal is consistent with many of these objectives particularly in terms of affordability, housing diversity and access to transit.

**13. How does the proposed Planned Development utilize unique and innovative facilities that encourage the efficient and economical use of the land?**

Development of the project to the characteristics of the site. Modified, narrower streets provide additional lot area and reduced impervious surfaces.

**14. Does the proposed Planned Development promote a sound system for traffic and pedestrian circulation? Describe.**

The small-scale private access streets will provide safe, low traffic routes for vehicles and pedestrians to public streets and access to transit on Tieton Drive. Sidewalks on both sides of Tieton Drive provide continuous access to Cottonwood School, existing commercial areas to the east and future commercial areas to the west and south.

**15. How does the proposed Planned Development promote open space and use of natural and/or developed amenities?**

Proposed lots range in size from 9,902 to 14,491 square feet, compared to the minimum duplex lot size of 6,000 square feet. The larger lot size is due, in part to how the lots fit within the dimensions of the site and proposed and existing streets. However, it does provide for a lower residential density than could be allowed, if the smaller lot size were used. It also



provides for setbacks that meet or exceed the minimum standards of the R-2 zone rather than the smaller setbacks standards allowed in the B-2 zone. Distances from the building envelopes shown on the site plan from Tieton Drive ranging from 27 feet to 37 feet (measured from the property line, rather than centerline of the street) accommodate the steeper slope up to Tieton Drive and provide a larger buffer from residential units to the arterial street.

**16. Will the proposed Planned Development provide an architecturally attractive, durable and energy efficient development?**

Residential buildings will be similar in appearance but varied to avoid a monotonous look and consistent with similar residential units in nearby subdivisions. Colors will be earthtones or otherwise muted rather than bold and bright. They will be designed to conform to current building codes and the Washington State Energy Code. All City setback, lot coverage, lot size and lot width standards are to be met, or as already described, exceeded on the residential lots.

**17. Please provide a summary of all previously known land use decisions affecting the applicant's property and all outstanding conditions of approval with respect to such prior land use decisions.**

Previous land use decision applicable to the site include a short plat recorded in 1992 and rezoning to B-2 by Yakima County in 2004. A note on the 1992 short plat limited access from Lot 2 to S. 92<sup>nd</sup> Avenue. However, significant changes that have occurred since include: Lots 1 and 2 of that short subdivision have been combined to form the lot that is the subject of this application; Tieton Drive has been improved from a two-lane rural road to a four-lane arterial street with curbs, sidewalks and streetlights and South 90<sup>th</sup> Avenue has been partially improved. At the time the short plat was recorded, Lot 2, for which the access restriction was placed on the short plat, had frontage on 92<sup>nd</sup> Avenue but not on Tieton Drive. The combined lots now have frontage on all three streets. At the time the 1992 short plat was recorded, there was only a partial dedication of right-of-way for S. 90<sup>th</sup> Avenue. Since then, full right-of-way width has been dedicated, and the S. 90<sup>th</sup> Avenue intersection with Tieton Drive has been constructed including extension of curb and sidewalk and additional right-of-way dedicated. The 2004 rezone approval of this property included a condition that this restriction on access *should* be removed or waived once the construction of S. 90<sup>th</sup> Avenue has been completed. Every indication is that Yakima County, and since annexation, the City of Yakima, has intended access to this property from the improved intersection of S. 90<sup>th</sup> Avenue.

A plat note on the 1992 short plat also required participation in a road maintenance association for S. 92<sup>nd</sup> Avenue while it remains a private road. There is no indication that this occurred, and it would be unnecessary with access to that street restricted as proposed.

A plat note on the 1992 short plat requires the abandonment and removal of a well and garage as necessary to facilitate road improvements of 90<sup>th</sup> Avenue. This is to be done when the street improvements are required. While it isn't clear if this note refers to existing improvements on the part of the property that is the subject of this application, the existing buildings will be removed.

Requirements from the 2004 rezone of this property to be imposed in conjunction with Type 2 or 3 Review have been met, will be met as they pertain to this part of the site by this project or do not pertain to this part of the site.

- a. S. 90<sup>th</sup> Avenue is to be constructed as a hard surfaced public street as required by the City of Yakima.
- b. No commercial access to S. 92<sup>nd</sup> Avenue or Tieton Drive results from this proposal.
- c. Sewer and water mains are in place and will be extended as necessary to serve the development as required by the City of Yakima and Nob Hill Water.
- d. A public utility easement has been dedicated from the south end of S. 90<sup>th</sup> Avenue through the property that was the subject of the 2005 rezone to Midvale Avenue.

**18. Any other development standards proposed to be modified from the underlying zoning district requirements.**

Private roads are allowed in master planned development overlays by YMC 15.09.100, which requires the private road to be constructed to the minimum standards of the jurisdiction. The minimum standards are in Title 12 and the fire apparatus road standards required by YMC 15.05.055. Deviation from these standards are as follows:

- a. Deviation from Title 12 standards for private roads (YMC 12.06.090) include easement width of 40 feet rather than 50 feet, pavement width of 25 feet rather than 30 feet, no sidewalks on the private road. No cul-de-sac or hammerhead turnaround on the bases that emergency access gates render them unnecessary for emergency vehicles and that refuse collection will take place on public street frontages.
- b. No improvement of 92<sup>nd</sup> Avenue is proposed based on its not being used for access to the development except for emergency vehicles. While YMC 12.05.010 requires sidewalk installation on new, improved, and reconstructed streets, it is required on the frontage of newly developed or redeveloped lots where feasible. Under YMC 15.05.020(J) a sidewalk is required if one exists within two hundred feet of the development on the same side of the street.

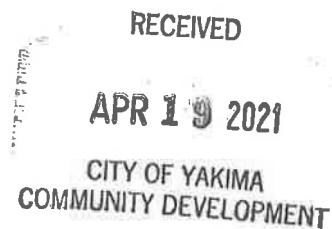
Street lighting is to be provided as directed per YMC 12.06.080, so it is not a modified development standard.

**19. What are the aesthetic considerations related to building bulk, architectural compatibility, light and glare, urban design, solar access and shadow impacts.**

Residential buildings are designed to be architecturally similar to duplexes being constructed in Cottonwood Grove and other newer developments in the surrounding area. Setbacks, height and other bulk standards are either met or exceeded. There is no extraordinary light or glare. With proposed building height, wider than typical setbacks on external site boundaries and topographic characteristics of the site, no adverse solar access issues are expected.

**20. Please provide an inventory of any on-site cultural, historic and/or archaeological resources.**

Review of public records available on-line from the Department of Archaeology and Historical Preservation showed no inventoried resources on the project site. There are two older homes shown as eligible for listing that are nearby, both on the north side of Tieton Drive.



# SITE PLAN CHECKLIST

The application shall include a concept site plan which includes the elements in this checklist. Please complete this checklist and include it with your site plan

**Check all boxes as: (✓ or X) Included or ( - ) Not Applicable**

<input checked="" type="checkbox"/>	Project boundaries
<input type="checkbox"/>	Primary uses and ancillary uses
<input type="checkbox"/>	Existing and proposed structures
<input type="checkbox"/>	Gross floor area of development
<input type="checkbox"/>	Maximum building heights
<input checked="" type="checkbox"/>	Minimum building setbacks
<input type="checkbox"/>	Maximum lot coverage
<input type="checkbox"/>	Any other development standards proposed to be modified from the underlying zoning district requirements
<input checked="" type="checkbox"/>	The proposed circulation system of arterial and collector streets including, if known, the approximate general location of local streets, private streets, off-street parking, service and loading areas, and major points of access to public rights-of-way, with notations of proposed public or private ownership as appropriate
<input type="checkbox"/>	The proposed location of new and/or expanded public and private utility infrastructure
<input type="checkbox"/>	Sitescreening, landscaping and street trees
<input type="checkbox"/>	A master planned development incorporating commercial or industrial facilities must provide a buffer or site design along the perimeter of the master planned development, which shall reasonably transition the master planned development to any adjacent properties zoned or used for residential purposes. If automobile parking, driveways, or machinery operation are to be provided within one hundred feet of a master planned development boundary, sitescreening shall be provided in accordance with YMC 15.07.020
<input type="checkbox"/>	Aesthetic considerations related to building bulk, architectural compatibility, light and glare, urban design, solar access and shadow impacts
<input type="checkbox"/>	Site features as appropriate to mitigate traffic, environmental, geotechnical, and other impacts as identified in technical studies required by this chapter
<input type="checkbox"/>	Shoreline and critical areas where applicable

**Note:** The Planning Division or reviewing official may require additional information to clarify the proposal, assess its impacts, or determine compliance with the YMC and other laws and regulations.

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Supplemental Application For:

## TYPE (2) REVIEW

YAKIMA URBAN AREA ZONING ORDINANCE, CHAPTER 15.14

### PART II – LAND USE DESIGNATION AS LISTED ON TABLE 4-1 PERMITTED LAND USES

1. PROPOSED LAND USE TYPE: (See YMC § 15.04.030)

Two-Family Dwelling (Duplex) (\*)

### PART III - ATTACHMENTS INFORMATION

2. SITE PLAN REQUIRED (Please use the City of Yakima Site Plan Checklist, attached)

3. TRAFFIC CONCURRENCY (if required, see YMC Ch. 12.08, Traffic Capacity Test)

4. ENVIRONMENTAL CHECKLIST (if required by the Washington State Environmental Policy Act)

### PART IV - WRITTEN NARRATIVE: (Please submit a written response to the following questions)

A. Fully describe the proposed development, including number of dwelling units and parking spaces. If the proposal is for a business, describe hours of operation, days per week and all other relevant information related the business.

See Attached Narrative

B. How is the proposal compatible to neighboring properties?

See Attached Narrative

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COMMUNITY DEVELOPMENT

C. What mitigation measures are proposed to promote compatibility?

See Attached Narrative

D. How is your proposal consistent with current zoning of your property?

See Attached Narrative

E. How is your proposal consistent with uses and zoning of neighboring properties?

See Attached Narrative

F. How is your proposal in the best interest of the community?

See Attached Narrative

DCC. INDEX #

E-1

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COMMUNITY DEVELOPMENT

## Written Narrative – Part IV: Type 2 Review

- A. Fully describe the proposed development including number of dwelling units and parking spaces. If the proposal is for a business, describe hours of operation, days per week, and all other relevant information related the business:**

This Type 2 review application is for the development of 20 duplexes in the B-2 zone. Off-street parking on each residential lot is to provide a minimum of two parking spaces per unit, or four spaces per lot for a total of at least 80 parking spaces.

- B. How is the proposal compatible to neighboring properties?**

Much of the surrounding areas are vacant or partially undeveloped with a cluster of single-family residences served by S. 92<sup>nd</sup> Avenue. The larger, partially developed parcels are characterized by single-family residences and a few scattered commercial buildings. More intensely developed residential areas are 400 feet to the southeast in the Cottonwood Grove subdivision and north of Tieton Drive. Because of the developing nature of the area, compatibility is influenced by the zoning of surrounding properties, including B-2 zoning of the site and other properties on S. 90<sup>th</sup> Avenue to the east and southeast, R-3 zoning to the west across S. 92<sup>nd</sup> Avenue, and more B-2 zoning on the south side of Tieton Drive beyond that. The proposal will provide moderate density residential alternative to the allowed commercial use compatible especially with existing and future residential uses to the south and west on S. 92<sup>nd</sup> Avenue and north across Tieton Drive.

- C. What mitigation measures are proposed to promote compatibility?**

Lots are proposed with larger yards and setbacks than could be allowed for this use. Direct access is to S. 90<sup>th</sup> Avenue and not to Tieton Drive. Access to S. 92<sup>nd</sup> Avenue is limited to emergency vehicle access. The slope uphill to Tieton at the north end of the site provides some additional buffer from the residential units to the street.

- D. How is your proposal consistent with current zoning of your property?**

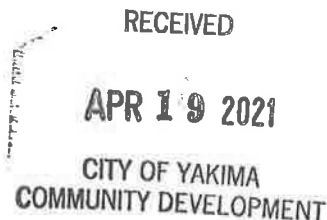
The intent of the Local Business (B-2) zone is to provide areas for commercial activities that meet the small retail shopping and service needs of the community; and accommodate small-scale commercial uses that need a higher level of visibility and easy access to major arterials. Characteristic uses include small retail sales and service establishments (YMC 15.03.020(F)). This purpose statement is supplemented by comprehensive plan policies including locational criteria for the underlying Community Mixed-Use future land use designation that provide for a mixture of neighborhood scaled retail, commercial service, office, and high-density residential uses. Duplexes, and other residential land uses have been added to the list of permitted (in this case Type 2) land uses in Table 4-1 of the zoning ordinance.

**E. How is your proposal consistent with uses and zoning of neighboring properties?**

The zoning of surrounding properties is Single-Family Residential (R-1) to the north, south, southwest and farther removed properties to the east. The immediately surrounding property on S. 90<sup>th</sup> Avenue to the east and southeast is zoned B-2 and property to the west parallel to the south side of Tieton Drive is zone Multi-Family Residential (R-3) with additional B-2 zoning beyond it to the intersection of S. 96<sup>th</sup> Avenue and Tieton Drive. The surrounding area has a mixed-use character as indicated by its zoning. The moderate density of the proposed use would be consistent, and transition from lower intensity areas to the future commercial use of the neighboring B-2 lands on 90<sup>th</sup> Avenue.

**F. How is your proposal in the best interest of the community?**

The proposed housing is consistent with comprehensive plan policies to provide for a wide variety of housing types within the city to meet the full range of housing needs for Yakima's evolving population, encourage diverse and affordable housing choices throughout the City, convenient access to transit and a range of unit types.





# ENVIRONMENTAL CHECKLIST

STATE ENVIRONMENTAL POLICY ACT (SEPA)

(AS TAKEN FROM WAC 197-11-960)

YAKIMA MUNICIPAL CODE CHAPTER 6.88

## PURPOSE OF CHECKLIST

Governmental agencies use this checklist to help determine whether the environmental impacts of your proposal are significant. This information is also helpful to determine if available avoidance, minimization or compensatory mitigation measures will address the probable significant impacts or if an environmental impact statement will be prepared to further analyze the proposal.

## INSTRUCTIONS FOR APPLICANTS

This environmental checklist asks you to describe some basic information about your proposal. Please answer each question accurately and carefully, to the best of your knowledge. You may need to consult with an agency specialist or private consultant for some questions. You may use "not applicable" or "does not apply" only when you can explain why it does not apply and not when the answer is unknown. You may also attach or incorporate by reference additional studies reports. Complete and accurate answers to these questions often avoid delays with the SEPA process as well as later in the decision-making process.

The checklist questions apply to **all parts of your proposal**, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help you describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

## USE OF CHECKLIST FOR NONPROJECT PROPOSALS

For non-project proposals (such as ordinances, regulations, plans and programs), complete the applicable parts of sections A and B plus the SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS (part D). Please completely answer all questions that apply and note that the words "project", "applicant", and "property or site" should be read as "proposal," "proponent," and "affected geographic area," respectively. The lead agency may exclude (for non-projects) questions in Part B – Environmental Elements – that do not contribute meaningfully to the analysis of the proposal.

## A. BACKGROUND INFORMATION (To be completed by the applicant.)

### 1. Name Of Proposed Project (If Applicable):

Upper Valley Estates

### 2. Applicant's Name & Phone:

DLT Construction, LLC  
(509) 961-6610

### 3. Applicant's Address:

PO Box 268  
Wapato, WA 98951

### 4. Contact Person & Phone:

Thomas R. Durant, 575-6990

### 5. Agency Requesting Checklist: City of Yakima

### 6. Proposed Timing Or Schedule (Including Phasing, If Applicable):

Begin project development Summer, 2021 and completion in one year.

### 7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain:

Considering other similar projects in this part of the City, but no specific plans or locations identified.

### 8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal:

None directly related to this proposal.

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COMMUNITY DEVELOPMENT



**A. BACKGROUND INFORMATION (To be completed by the applicant.)**

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain:

Not aware of any.

10. List any government approvals or permits that will be needed for your proposal, if known:

Master Planned Development  
Class 2 Review  
Preliminary and final plat  
Traffic Concurrency Review  
Building Permits  
Permit for Utility Connections

11. Give a brief, but complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.):

Subdivision of 5.2 acres into 20 duplex lots, ranging from 9,902 to 14,491 square feet in size including street improvements and the extension of sewer and water and other utilities to the lots. Construction of 20 duplexes. The lots are to be served by three private streets.

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist:

502 S. 90th Avenue. Southwest corner of S. 90th Avenue and Tieton Drive with frontage on S. 92nd Avenue on the west. The site is in the NW quarter of Section 30, T. 13 N., R. 18 E.W.M. Yakima County Parcel Number 181330-21433.

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APR 19 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

B. ENVIRONMENTAL ELEMENTS (To be completed by the applicant)	Space Reserved for Agency Comments
<b>1. Earth</b>	
<b>a. General description of the site (✓ one):</b>	
<input type="checkbox"/> flat <input type="checkbox"/> rolling <input type="checkbox"/> hilly <input type="checkbox"/> steep slopes <input type="checkbox"/> mountainous <input checked="" type="checkbox"/> other Gently sloping	
<b>b. What is the steepest slope on the site (approximate percent slope)?</b> Up to approximately 20% at the edge of fill for 92nd Avenue and Tieton Drive at the northwest corner of the site.	
<b>c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils.</b>  NRCS soil classification is primarily Esquatzel silt loam. A very small area in the NW corner of the site is mapped as Harwood loam. Both soil types are considered prime farmland. The site is not designated agricultural land of long term commercial significance due to its location in the City limits. No soil to be removed.	
<b>d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.</b>  No.	
<b>e. Describe the purpose, type, total area, and approximate quantities and total affected area of any filling, excavation, and grading proposed. Indicate source of fill.</b> Excavation and grading for internal streets and homesites. Entire property is effected area. Any off-site fill would be as needed to balance cuts and fills.	
<b>f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.</b> Some erosion potential during construction that can be addressed through commonly used erosion control practices.	
<b>g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?</b>  Approximately 60 percent.	
<b>h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:</b> Commonly used practices to control erosion. Objective to balance cuts & fills to the extent possible. Landscaping and drainage control of impervious surfaces for completed project.	
<b>2. Air</b>	
<b>a. What types of emissions to the air would result from the proposal during construction, operation, and maintenance when the project is completed? If any, generally describe and give approximate quantities if known.</b>  Some dust emissions during construction. Minimal vehicle exhaust emissions from the completed development.	
<b>b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.</b>  No.	
<b>c. Proposed measures to reduce or control emissions or other impacts to air, if any:</b> Dust control measures as specified by dust control plan such as application of water & controlling vehicle track-out. Parking and vehicle areas are to be hard-surfaced for completed project. Vehicle emissions controlled at the source by the State.	
<b>3. Water</b>	
<b>a. Surface Water</b>	

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 APR 19 2021  
 CITY OF YAKIMA  
 COMMUNITY DEVELOPMENT

B. ENVIRONMENTAL ELEMENTS (To be completed by the applicant)	Space Reserved for Agency Comments
<p>1. Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into. Shaw Ditch or Shaw Creek. If flows into Wide Hollow Creek.</p>	<p>RECEIVED APR 19 2021 CITY OF YAKIMA COMMUNITY DEVELOPMENT</p>
<p>2. Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans. No.</p>	
<p>3. Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material. N/A.</p>	
<p>4. Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known. No. Irrigation is provided by the Yakima Valley Canal Company.</p>	
<p>5. Does the proposal lie within a 100-year floodplain? If so, note location on the site plan. No.</p>	
<p>6. Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge. No.</p>	
<p>b. Ground Water</p>	
<p>1. Will groundwater be withdrawn from a well for drinking water or other purposes? If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well. Will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known. No. Domestic water to be provided by Nob Hill Water Association.</p>	
<p>2. Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals...; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve. None. Sewer service to be provided by the City of Yakima.</p>	
<p>c. Water Runoff (including stormwater)</p>	

B. ENVIRONMENTAL ELEMENTS (To be completed by the applicant)	Space Reserved for Agency Comments						
<p>1. Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.</p> <p>Rooftops and hard-surfaced parking and travel surfaces. It will flow into on-site retention and infiltration facilities.</p>							
<p>2. Could waste materials enter ground or surface waters? If so, generally describe.</p> <p>No.</p>							
<p>3. Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site? If so, describe.</p> <p>No.</p>							
<p>d. Proposed measures to reduce or control surface, ground, and runoff water, and drainage pattern impacts, if any:</p> <p>Stormwater plan preparation and approval by the City. On-site retention of stormwater.</p>							
<p><b>4. Plants</b></p>							
<p>a. Check (✓) types of vegetation found on the site:</p>							
<table border="1"> <tr> <td>Deciduous Tree:</td> <td><input type="checkbox"/> Alder</td> <td><input type="checkbox"/> Maple</td> <td><input type="checkbox"/> Aspen</td> <td><input checked="" type="checkbox"/> Other</td> </tr> </table>	Deciduous Tree:	<input type="checkbox"/> Alder	<input type="checkbox"/> Maple	<input type="checkbox"/> Aspen	<input checked="" type="checkbox"/> Other		
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<table border="1"> <tr> <td></td> <td><input type="checkbox"/> Shrubs</td> <td><input checked="" type="checkbox"/> Grass</td> <td><input type="checkbox"/> Pasture</td> <td><input type="checkbox"/> Crop Or Grain</td> <td><input type="checkbox"/> Orchards, vineyards, or other permanent crops</td> </tr> </table>		<input type="checkbox"/> Shrubs	<input checked="" type="checkbox"/> Grass	<input type="checkbox"/> Pasture	<input type="checkbox"/> Crop Or Grain	<input type="checkbox"/> Orchards, vineyards, or other permanent crops	
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<table border="1"> <tr> <td>Wet Soil Plants:</td> <td><input type="checkbox"/> Cattail</td> <td><input type="checkbox"/> Buttercup</td> <td><input type="checkbox"/> Bullrush</td> <td><input type="checkbox"/> Skunk Cabbage</td> <td><input type="checkbox"/> Other</td> </tr> </table>	Wet Soil Plants:	<input type="checkbox"/> Cattail	<input type="checkbox"/> Buttercup	<input type="checkbox"/> Bullrush	<input type="checkbox"/> Skunk Cabbage	<input type="checkbox"/> Other	
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Water Plants:	<input type="checkbox"/> Milfoil	<input type="checkbox"/> Eelgrass	<input type="checkbox"/> Water Lily	<input type="checkbox"/> Other			
<p><input type="checkbox"/> Other types of vegetation</p>							
<p>b. What kind and amount of vegetation will be removed or altered?</p> <p>Existing lawn and the one existing ornamental deciduous tree will be removed during development.</p>							
<p>c. List threatened or endangered species known to be on or near the site.</p> <p>None.</p>							
<p>d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:</p> <p>The completed development will be landscaped as typical of residential neighborhoods.</p>							
<p>e. List all noxious weeds and invasive species known to be on or near the site.</p> <p>None.</p>							
<p><b>5. Animals</b></p>							
<p>a. List any birds or other animals which have been observed on or near the site or are known to be on or near the site.</p> <p>Examples include:</p> <p><u>birds</u>: hawk, heron, eagle, <u>songbirds</u> other:</p> <p><u>mammals</u>: deer, bear, elk, beaver, other:</p> <p><u>fish</u>: bass, salmon, trout, herring, shellfish, other _____</p> <p>Song birds. Small mammals.</p>							
<p>b. List any threatened or endangered species known to be on or near the site.</p> <p>None.</p>							

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APR 19 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT


B. ENVIRONMENTAL ELEMENTS (To be completed by the applicant)	Space Reserved for Agency Comments
<p>c. Is the site part of a migration route? If so, explain. Not aware of it being in a migration route.</p>	<p>RECEIVED APR 19 2021 CITY OF YAKIMA COMMUNITY DEVELOPMENT</p>
<p>d. Proposed measures to preserve or enhance wildlife, if any: None.</p>	
<p>e. List any invasive animal species known to be on or near the site. None.</p>	
<p>6. Energy and Natural Resources</p>	
<p>a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.  Electric power and natural gas for heating, lighting and other residential energy needs.</p>	
<p>b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe. No.</p>	
<p>c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any: None.</p>	
<p>7. Environmental Health</p>	
<p>a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of this proposal? If so, describe. No.</p>	
<p>1. Describe any known or possible contamination at the site from present or past uses. None known.</p>	
<p>2. Describe existing hazardous chemicals/conditions that might affect project development and design. This includes underground hazardous liquid and gas transmission pipelines located within the project area and in the vicinity.  None.</p>	
<p>3. Describe any toxic or hazardous chemicals that might be stored, used, or produced during the project's development or construction, or at any time during the operating life of the project. Chemicals used for cleaning, maintenance and landscaping in the completed development, but nothing out of the ordinary for a typical residential land use.</p>	
<p>4. Describe special emergency services that might be required. None.</p>	
<p>5. Proposed measures to reduce or control environmental health hazards, if any: None.</p>	
<p>b. Noise</p>	
<p>1. What types of noise exist in the area, which may affect your project (for example: traffic, equipment, operation, other)? None.</p>	

B. ENVIRONMENTAL ELEMENTS (To be completed by the applicant)	Space Reserved for Agency Comments
<p>2. What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.</p> <p>Short term equipment noise during construction and traffic noise when the project is completed.</p>	
<p>3. Proposed measures to reduce or control noise impacts, if any:</p> <p>Construction hours limited as required by City Code. Residential units oriented away from and set back from traffic on Tieton Drive.</p>	
<p><b>8. Land and Shoreline Use</b></p>	
<p>a. What is the current use of the site and adjacent properties? Will the proposal affect current land uses on nearby or adjacent properties? If so, describe.</p> <p>The site is mostly vacant with a residence. Surrounding properties are mostly undeveloped with single-family homes and scattered commercial buildings. Single-family homes on S. 92nd Ave.</p>	
<p>b. Has the project site been used as working farmlands or working forest lands? If so, describe. How much agricultural or forest land of long-term commercial significance will be converted to other uses as a result of the proposal, if any? If resource lands have not been designated, how many acres in farmland or forest land tax status will be converted to nonfarm or nonforest use?</p> <p>The site has been in agricultural use in the past. It does not have current use tax status. No farmland of long-term commercial significance would be converted to non-farm use by this proposal.</p> <p>1. Will the proposal affect or be affected by surrounding working farm or forest land normal business operations, such as oversize equipment access, the application of pesticides, tilling, and harvesting? If so, how:</p> <p>No.</p>	<p>RECEIVED</p> <p>APR 19 2021</p> <p>CITY OF YAKIMA COMMUNITY DEVELOPMENT</p>
<p>c. Describe any structures on the site.</p> <p>A single-family residence and a former commercial building.</p>	
<p>d. Will any structures be demolished? If so, what?</p> <p>Both buildings will be demolished or removed.</p>	
<p>e. What is the current zoning classification of the site?</p> <p>B-2, Local Business</p>	
<p>f. What is the current comprehensive plan designation of the site?</p> <p>Community Mixed Use</p>	
<p>g. If applicable, what is the current shoreline master program designation of the site?</p> <p>N/A.</p>	
<p>h. Has any part of the site been classified as a critical area by the city or county? If so, specify.</p> <p>No.</p>	
<p>i. Approximately how many people would reside or work in the completed project?</p> <p>80 to 100 residents</p>	
<p>j. Approximately how many people would the completed project displace?</p> <p>One rental home would be eliminated and replaced with the 40 proposed residential units.</p>	

B. ENVIRONMENTAL ELEMENTS (To be completed by the applicant)	Space Reserved for Agency Comments
<p>k. <b>Proposed measures to avoid or reduce displacement impacts, if any.</b></p> <p>None.</p>	<p>RECEIVED APR 19 2021 CITY OF YAKIMA COMMUNITY DEVELOPMENT</p>
<p>l. <b>Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:</b> Traffic from the proposal will use 90th Avenue rather than 92nd Avenue for access to Tieton Drive.</p>	
<p>m. <b>Proposed measures to ensure the proposal is compatible with nearby agricultural and forest lands of long-term commercial significance, if any:</b> No agricultural or forest lands of long-term commercial significance in the vicinity.</p>	
<p><b>9. Housing</b></p>	
<p>a. <b>Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.</b> Forty middle income housing units.</p>	
<p>b. <b>Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.</b> One housing unit eliminated. Income level not determined.</p>	
<p>c. <b>Proposed measures to reduce or control housing impacts, if any:</b> The proposal increases the availability of affordable housing units.</p>	
<p><b>10. Aesthetics</b></p>	
<p>a. <b>What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?</b> Compliance with the 35 foot building height standard of the B-2 zone. Wood frame residential structures.</p>	
<p>b. <b>What views in the immediate vicinity would be altered or obstructed?</b> The site is below street level uphill to the north, so no substantial view obstruction is expected. The proposal will change the appearance of the site from an open field with a small house to a higher density residential development.</p>	
<p>c. <b>Proposed measures to reduce or control aesthetic impacts, if any:</b> Residential structures to be architecturally similar to new units being developed in nearby developments. Use of earthtone or similarly muted colors, not bold or bright.</p>	
<p><b>11. Light and Glare</b></p>	
<p>a. <b>What type of light or glare will the proposal produce? What time of day would it mainly occur?</b> Street lights and typical residential lighting. During all hours of darkness.</p>	
<p>b. <b>Could light or glare from the finished project be a safety hazard or interfere with views?</b> No.</p>	
<p>c. <b>What existing off-site sources of light or glare may affect your proposal?</b> None.</p>	
<p>d. <b>Proposed measures to reduce or control light and glare impacts, if any:</b> Lighting fixtures shielded and not directed toward surrounding areas.</p>	
<p><b>12. Recreation</b></p>	

B. ENVIRONMENTAL ELEMENTS (To be completed by the applicant)	Space Reserved for Agency Comments
a. <b>What designated and informal recreational opportunities are in the immediate vicinity?</b> Playground at Cottonwood Elementary School, about 800 feet to the south (3/4 mile by road).	<p>RECEIVED</p> <p>APR 19 2021</p> <p>CITY OF YAKIMA COMMUNITY DEVELOPMENT</p>
b. <b>Would the proposed project displace any existing recreational uses? If so, describe.</b> No.	
c. <b>Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:</b> No expected impacts.	
<b>13. Historic and Cultural Preservation</b>	
a. <b>Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state, or local preservation registers located on or near the site? If so, specifically describe.</b> Two older homes are located near but off of the site that are shown as eligible for listing. They are at 8901 and 9205 Tieton Drive.	
b. <b>Are there any landmarks, features, or other evidence of Indian or historic use or occupation? This may include human burials or old cemeteries. Are there any material evidence, artifacts, or areas of cultural importance on or near the site? Please list any professional studies conducted at the site to identify such resources.</b> None identified. The Environmental Assessment conducted by FEMA in 2015 for the Shaw and Wide Hollow Creeks Flood Control Project identified two historic residences on S. 92nd Avenue, but not eligible for listing.	
c. <b>Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required.</b> None	
<b>14. Transportation</b>	
a. <b>Identify public streets and highways serving the site or affected geographic area and describe proposed access to the existing street system. Show on site plans, if any.</b> Tieton Drive and S. 90th Avenue. Access is to be from 3 private streets extending from 90th to 92nd Avenues. To be gated on the west to limit access to 92nd Ave to emergency vehicles only.	
b. <b>Is the site or affected geographic area currently served by public transit? If so, generally describe. If not, what is the approximate distance to the nearest transit stop?</b> Yes. On Tieton Drive	
c. <b>How many parking spaces would the completed project or non-project proposal have? How many would the project or proposal eliminate?</b> At least two residential parking spaces per dwelling unit for a minimum of 80 spaces.	
d. <b>Will the proposal require any new or improvements to existing roads, streets, pedestrian bicycle or state transportation facilities, not including driveways? If so, generally describe (indicate whether public or private).</b> Construction of 3 private roads with curbs but no sidewalks. Frontage improvement of S. 90th Avenue to City standards including curb, gutter and sidewalk. Improvement of S. 92nd Avenue not proposed because it is not to be used for regular access to the site.	
e. <b>Will the project or proposal use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.</b> No.	



B. ENVIRONMENTAL ELEMENTS (To be completed by the applicant)	Space Reserved for Agency Comments
<p>f. How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and non-passenger vehicles). What data or transportation models were used to make these estimates?</p> <p>Residential development is expected to generate 400 daily vehicular trips or less based on the typical traffic generation estimates for single family residential development. The City will determine peak traffic volumes as part of its traffic concurrency review.</p>	
<p>g. Will the proposal interfere with, affect or be affected by the movement of agricultural and forest products on roads or streets in the area? If so, generally describe:</p> <p>No.</p>	
<p>h. Proposed measures to reduce or control transportation impacts, if any:</p> <p>No direct access from the site to Tieton Drive or S. 92nd Avenue. Gated approaches to S. 92nd Avenue to prevent the private streets from becoming through streets.</p>	
<b>15. Public Services</b>	
<p>a. Would the project result in an increased need for public services (for example: fire protection, police protection, public transit, health care, schools, other)? If so, generally describe:</p> <p>There would be an increase in the need for public services, but consistent with the growth potential being planned for in this location.</p>	
<p>b. Proposed measures to reduce or control direct impacts on public services, if any.</p> <p>None.</p>	
<b>16. Utilities</b>	
<p>a. Circle utilities currently available at the site:</p> <p>electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other _____</p>	
<p>b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.</p> <p>City of Yakima will provide sewer service. Domestic water from Nob Hill Water. Energy from Pacific Power. Utility installation in conjunction with site development.</p>	
<b>C. SIGNATURE (To be completed by the applicant.)</b>	
<p>The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.</p>	
	<p>April 19, 2021</p>
<p>Property Owner or Agent Signature</p>	<p>Date Submitted</p>
<p>Thomas R. Durant</p>	<p>Planning Manager, PLSA Engr &amp; Surveying</p>
<p>Name of Signee</p>	<p>Position and Agency/Organization</p>
<p><b>PLEASE COMPLETE SECTION "D" ON THE NEXT PAGE IF THERE IS NO PROJECT RELATED TO THIS ENVIRONMENTAL REVIEW</b></p>	

<b>D. SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS (To be completed by the applicant.) (IT IS NOT NECESSARY to use this sheet for project actions)</b>	<b>Space Reserved For Agency Comments</b>
<p>Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment. When answering these questions, be aware of the extent the proposal, or the types of activities that would likely result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.</p>	<p>RECEIVED</p> <p>APR 19 2021</p> <p>CITY OF YAKIMA COMMUNITY DEVELOPMENT</p>
<p>1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?</p>	
<p>Proposed measures to avoid or reduce such increases are:</p>	
<p>2. How would the proposal be likely to affect plants, animals, fish, or marine life?</p>	
<p>Proposed measures to protect or conserve plants, animals, fish, or marine life are:</p>	
<p>3. How would the proposal be likely to deplete energy or natural resources?</p>	
<p>Proposed measures to protect or conserve energy and natural resources are:</p>	
<p>4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?</p>	
<p>Proposed measures to protect such resources or to avoid or reduce impacts are:</p>	
<p>5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?</p>	
<p>Proposed measures to avoid or reduce shoreline and land use impacts are:</p>	
<p>6. How would the proposal be likely to increase demands on transportation or public services and utilities?</p>	
<p>Proposed measures to reduce or respond to such demand(s) are:</p>	
<p>7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.</p>	

# SITE PLAN INSTRUCTIONS

**In Order For Application To Be Determined Complete, A Site Plan Must Be Completed And Submitted.**

**A Detailed Site Plan Is Required:** On August 6, 1996, the City Council passed a resolution (No. R-96-91) adopting a requirement that all site plans submitted with any City of Yakima building permit application, land use application, and environmental application must contain the following information listed below and be acceptable by the appropriate division manager. All information that is applicable to your proposal shall be checked off and clearly displayed on the site plan. It is in the applicant's best interest to provide a carefully drawn and scaled site plan with all the required information. The decision on whether or not to grant approval of your development proposal is largely based on the information you provide. An application cannot be processed until an adequate site plan is submitted.

**Note: You may benefit from the aid of a professional in the preparation of a site plan.**

- 1) **Use Ink:** Use blue or black permanent ink. It may be helpful to draft the site plan in pencil then trace over in ink. Ink is necessary for adequate duplication. Computer drafted site plans are acceptable.
- 2) **Size of Paper:** The site plan shall be legibly drawn in ink on paper of sufficient size to contain the required information, but not less than 8.5" X 11" for Type (1) Review and 11" X 17" for Type (2) and Type (3) Reviews.
- 3) **Use A Straight Edge:** All lines must be straight and done with the aid of a ruler or other straight edge. Use a compass when delineating circular drawings such as cul-de-sacs.
- 4) **Drawn to Scale:** All site plans shall be drawn to a standard engineering scale and indicated on the site plan. The scale selected shall best fit the paper. The recommended scale shall be: 1"=20'. For example, if the distance from a structure to a property line is 20 feet, then the distance on the site plan will be 1 inch.
- 5) **Use Site Plan Checklist:** Use the site plan checklist and provide all applicable information on the site plan.
- 6) **Fill In Information On The Site Plan Template Available At The City Of Yakima Or Attach The Information Below To Your Site Plan:** Complete all information requested on the bottom of the site plan template. If you use a different medium, provide the requested information on the alternative paper.

## DETAILED SITE PLAN CHECKLIST

Please complete this checklist and include it with your site plan. The site plan must contain all pertinent information. Items not applicable to the proposed project shall be noted.

**Check all boxes as: ☒ Included or ☐ - Not Applicable**

<input checked="" type="checkbox"/>	Name, address, phone number, and signature of the owner or person responsible for the property.		
<input type="checkbox"/>	Site address, parcel number(s), and zoning designation		RECEIVED
<input type="checkbox"/>	Property boundaries and dimensions		
<input type="checkbox"/>	Names and dimensions of all existing streets bounding or touching the site		
<input type="checkbox"/>	Dimensions, location and use of proposed and existing structures		APR 19 2021
<input type="checkbox"/>	Structure setbacks		
<input type="checkbox"/>	North Arrow		
<input type="checkbox"/>	Lot coverage with calculations shown on site plan. (YMC § Ch. 15.05.020(C))		CITY OF YAKIMA COMMUNITY DEVELOPMENT
<input type="checkbox"/>	Location and size of any easements		
<input type="checkbox"/>	Location and type of existing and proposed landscaping including landscaping within the public right-of-way		
<input type="checkbox"/>	Location and size of existing and proposed side sewer and water service lines		
<input type="checkbox"/>	Adjacent land uses and zoning designations		
<input type="checkbox"/>	Location and size of all parking spaces with the parking calculations shown on the site plan		
<input type="checkbox"/>	Location and dimensions of proposed or existing driveway approaches.		
<input type="checkbox"/>	Vision clearance triangles at street intersections and at driveways. Clearview Triangle – YMC § Ch. 15.05.040		
<input type="checkbox"/>	Curb cuts intersecting with streets		
<input type="checkbox"/>	Location and size of new or existing loading spaces and docks		
<input type="checkbox"/>	Location and size of proposed or existing signs (YMC § Ch. 15.08)		
<input type="checkbox"/>	Location, type, and description of required sitescreening (YMC § Ch. 15.07)		
<input type="checkbox"/>	Location and size of required site drainage facilities including on-site retention.		
<input type="checkbox"/>	Location, size and surfacing of refuse container area		
<input type="checkbox"/>	Location and size of existing or proposed public sidewalks that are within 200-feet of the subject property.		
<input type="checkbox"/>	Proposed improvements located within the public right-of-way.		
<input type="checkbox"/>	Calculation of land use density		

Note: Planning Division or Reviewing Official may require additional information to clarify the proposal, assess its impacts, or determine compliance with the Yakima Municipal Code and other laws and regulations

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APR 19 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

original fwd to D. Della 4/21/2021

City of Yakima, Washington  
TRANSPORTATION CAPACITY ANALYSIS

TCO#008-21

The Washington State Growth Management Act (RCW 36.70A.70) requires all new development to be consistent with the existing or planned street system capacities. The City of Yakima adopted YMC Ch. 12.08 to implement this local requirement. The information you provide with this application will be used to estimate the impact of your development upon the PM Peak Hour traffic on the City of Yakima arterial streets.

## APPLICATION INFORMATION

FEE: \$250 (Receipt # \_\_\_\_\_)

Applicant Name: DLT Construction, LLCProject Address: 502 S. 90th AvenueContact Person: Jaime De La TorreMailing Address: PO Box 268Wapato, WA 98951Parcel No(s): 181330-21433

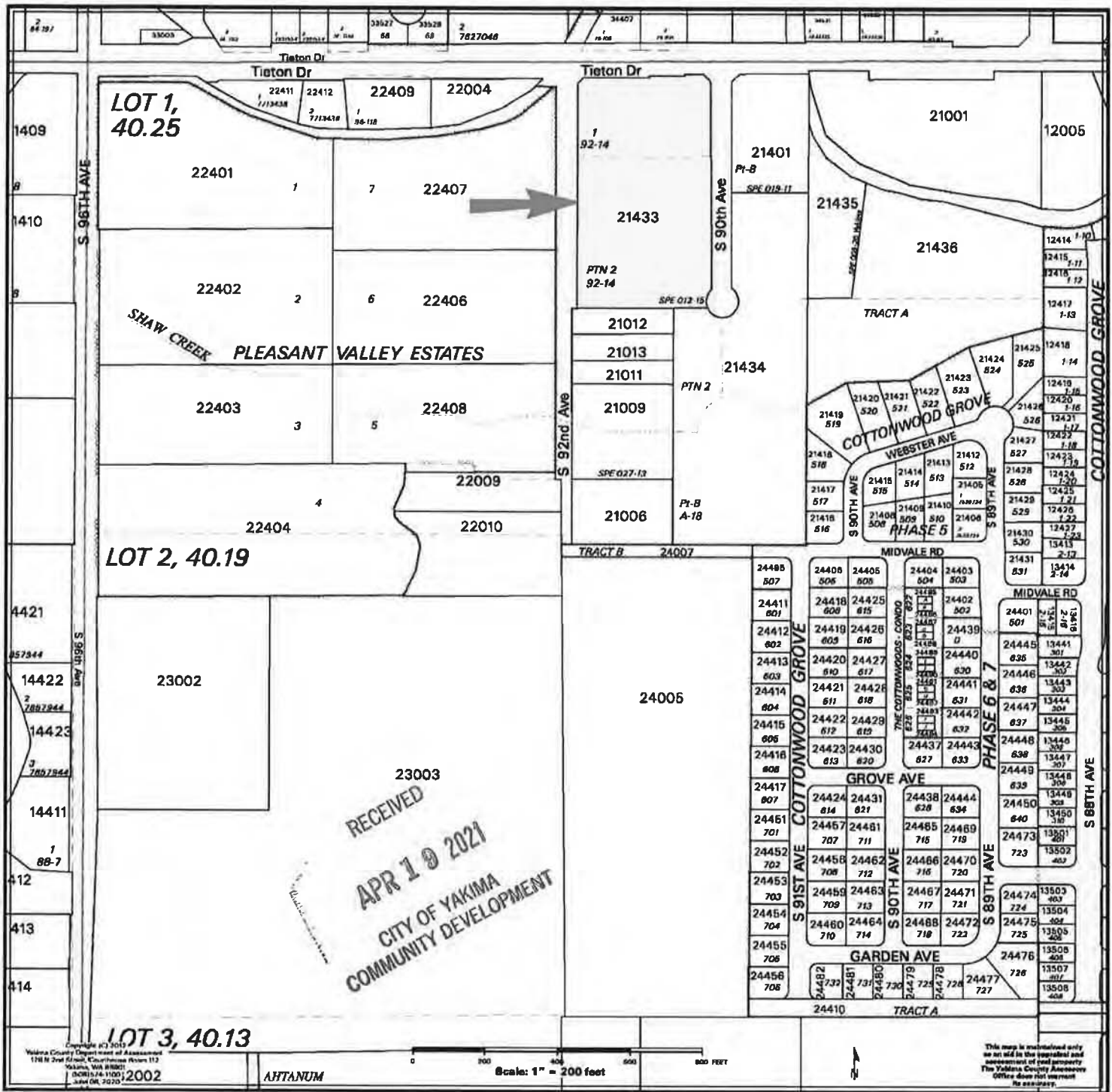
RESIDENTIAL	COMMERCIAL	INDUSTRIAL
Housing Type* <u>Duplex</u> (Single-Family, Apartments, etc)	Describe Use* _____	Describe Use* _____
Special Population* _____ (Nursing Homes, etc)	Gross Floor Area _____	Gross Floor Area _____
Other* _____ (Group Home, Daycare, Church, etc)	Parking Spaces _____ (Required/Provided)	Parking Spaces _____ (Required/Provided)
Number of Units <u>40</u>	Number of Employees _____	Number of Employees _____

\*Uses must match up with YMC Ch. 15.04, Table 4-1

Project Description: Master Planned Development and 20 duplex lot subdivision.

Submit this form with a site plan, the application fee, and any attachments to the City of Yakima, Permit Center, Yakima City Hall, 129 N. 2nd Street, Yakima, WA 98901. You will receive a Notice of Decision explaining the Findings of the resulting analysis. Please review the Decision when it is sent to you, as you only have 14 days to file a Request for Reconsideration or an Appeal.

Questions? Contact the City of Yakima, Planning Division, 129 N. 2nd Street, Yakima, WA 98901 - (509) 575-6183



Return to:  
Yakima County Public Works Department  
128 North 2nd Street, Room 408  
Yakima, Washington 98901

COUNTY EXCISE TAX  
DATE 07-15-2002  
PAID \$ none  
REC. NO. 345840  
BY G. Duff  
Yakima County Treasurer's Office

## WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, That the Grantor  
**BAINTER, husband and wife**

**GREGORY W. BANTER and ADELE E.**

for and in consideration of the sum of Ten Dollars and/or other valuable consideration

hereby convey and warrant to County of Yakima, State of Washington, the following described real estate and any after  
acquired interest therein, situate in Yakima County, State of Washington.

All that portion of Lot 1 of Short Plat No. 92-14, recorded under Auditor's File No. 2949301,  
records of Yakima County, Washington lying Northerly of the following described line:

Commencing at the North Quarter corner of Section 30, Township 13 North, Range 18 East,  
W.M.; thence West along the North line to said Section 30; a distance of 891.19 feet, as  
referenced on the above described short plat; thence South 0°25'49" East a distance of 30.0  
feet; thence South 89°43'31" West parallel with the North line of said Section 30 a distance of  
387.93 feet; thence South 0°00'13" West a distance of 45.0 feet to a point on the West line  
of said Lot 1, said point is the point of beginning of said line; thence North 44°56'57" East a  
distance of 21.29 feet; thence North 89°43'31" East a distance of 172.21 feet; thence North  
0°16'29" West, perpendicular to the North line of said Section 30 a distance of 5.0 feet; thence  
North 89°43'31" East a distance of 99.0 feet; thence North 0°16'29" West a distance of 5.0  
feet; thence North 89°43'31" East a distance of 52.0 feet to a point on the East line of said  
Lot 1 and the terminus of said line.

Situated in Yakima County, State of Washington. (C 2503; Tieton Drive, Parcel No.  
181330-21402, FA #STPUS 4562(005)

It is hereby understood by the parties herein that all water and assessment rights, of any kind  
shall remain with or revert back to the parcel from which this strip of land was acquired.

It is understood and agreed that the delivery of this deed is hereby tendered and that the terms and obligations hereof shall not  
become binding upon the County of Yakima unless and until accepted and approved hereon in writing for Yakima County Road  
Department, by the County Engineer.

Accepted and approved

YAKIMA COUNTY ROAD DEPARTMENT

By

Assistant County Engineer

Dated this 12 day of July 2002

Gregory W. Bainter  
Adele E. Bainter

(Individual Acknowledgment Form)

STATE OF WASHINGTON

County of YAKIMA

I, the undersigned, a notary public in and for the State of Washington, hereby certify that on this 12<sup>th</sup> day of  
July, 2002, personally appeared before me GREGORY W. AND ADELE E. BANTER  
known to be the individual(s) described in and who executed the  
foregoing instrument, and acknowledged that they signed and sealed the same as THEIR free  
and voluntary act and deed for the uses and purposes therein mentioned.  
Given under my hand and official seal the day and year last above written



William P. Roth  
Notary Public in and for the State of Washington  
Residing at YAKIMA



7282942  
Page: 1 of 1  
07/15/2002 02:02P  
Yakima Co. WA

DOC. INDEX #

E-1

WHEN RECORDED RETURN TO:

Gregory W. Bainter  
9018 Tieton Dr.  
Yakima, WA 98908

COUNTY EXCISE TAX

DATE 12-29-1999

PAID \$ 1683.00

REC. NO. 324395

BY G. Juff  
Yakima County Treasurer's Office

STATUTORY WARRANTY DEED

Grantor(s): 1) SANDERSON, BRIAN K. 2) SANDERSON, MELANIE E.  
Grantee(s): 1) BANTER, GREGORY W. 2) BANTER, ADELE E.  
Legal Description: Lot 1 of Short Plat No. 92-14, recorded under Auditor's File Number 2949301, records of Yakima County, Washington.

Assessor's Tax Parcel ID#: 181330-21402

Reference No.: n/a

48925

THE GRANTORS, BRIAN K. SANDERSON and MELANIE E. SANDERSON, husband and wife, for a valuable consideration, convey and warrant to GREGORY W. BANTER and ADELE E. BANTER, husband and wife, the following described real estate, situated in the County of Yakima, State of Washington:

Lot 1 of Short Plat No. 92-14, recorded under Auditor's File Number 2949301, records of Yakima County, Washington.

SUBJECT TO:

- (1) Liability for future annual assessments by reason of inclusion within the boundaries of Yakima-Tieton Irrigation District, Soil Conservation District Number 2 and Weed District Number 1;
- (2) Easement and rights of way over the lands herein described as may be necessary for canals, tunnels or other conduits and for telephone and transmission lines, required in connection with the irrigation works constructed, disclosed by deeds or water contracts appearing in the record executed in favor of: Yakima-Tieton Irrigation District;

STATUTORY WARRANTY DEED

1



FIDELITY TITLE COMPANY

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\$16.66

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Page: 1 of 3

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Yakima Co, WA

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APR 19 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

E-1

- (3) Right of way and secondary easement granted to Pacific Power and Light Company for lines and appurtenances, the specific location of which is not disclosed, granted by instrument recorded in Volume 331 of Deeds, under Auditor's File Number 773988 and in Volume 631 of Deeds, under Auditor's File Number 1921175;
- (4) An easement affecting the portion of said premises and for the purposes stated herein, and incidental purposes, for a drain line, in favor of adjoiners, as recorded June 20, 1912, in Volume 129 of Deeds, under Auditor's File Number 25499. Said easement affects a lien crossing diagonally over said lands;
- (5) Agreement and the terms and conditions thereof regarding operation and maintenance of an irrigation pipeline to be used in common with adjoiner, as recorded February 24, 1975, in Volume 945 of Official Records, under Auditor's File Number 2377289;
- (6) Reservations, restrictions, easements, conditions, agreements and disclosures set forth upon the face of said Short Plat, references to which is made as though fully incorporated herein;
- (7) An easement affecting the portion of said premises and for the purposes stated herein, and incidental purposes, as disclosed in instrument or by action herein set forth, for irrigation pipeline. Said easement is disclosed by Deed, dated February 10, 1992, and recorded or filed February 11, 1992, in Volume 1348 of Official Records, under Auditor's File Number 2949799;
- (8) An easement affecting the portion of said premises and for the purposes stated herein, and incidental purposes, as disclosed in instrument or by action herein set forth, for roadway. Said easement is in favor of the East 24 feet and benefits all parcels in Short Plat, as disclosed by Deed, dated February 10, 1992, and recorded or filed February 11, 1992, in Volume 1348 of Official Records, under Auditor's File Number 2949799;
- (9) Supplement to Short Plat, its terms and conditions, recorded February 6, 1992 in Volume 1348 of Official Records, under Auditor's File Number 2949302, regarding: Future Sewer Connection;
- (10) Supplement to Short Plat, its terms and conditions, recorded February 6, 1992 in Volume 1348 of Official Records, under Auditor's File Numbers 2949303 and 2949304, regarding: Future Street Construction; and
- (11) Rights reserved in federal patents, state or railroad deeds, building or use restrictions general to the area, zoning regulations, easements, conditions, restrictions, reservations, rights of way, covenants and other servitudes appearing of record or existing in fact over or upon the property, together with encroachments, claims of adverse possession, prescriptive easements or boundary line disputes visible by inspection or which would be disclosed by survey,

STATUTORY WARRANTY DEED

2



7150076  
Page: 2 of 3  
12/29/1999 11:01A  
Yakima Co, WA

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APR 19 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

DOC. INDEX #

E-1



and any future adjudication of surface water rights by any federal or state proceeding.

DATED this 28<sup>th</sup> day of December, 1999.

  
BRIAN K. SANDERSON


  
MELANIE E. SANDERSON

STATE OF WASHINGTON )  
                                  : ss.  
County of Yakima     )

ON THIS DAY personally appeared before me BRIAN K. SANDERSON and MELANIE E. SANDERSON, husband and wife, to me known to be the individuals described in and who executed the foregoing instrument, and acknowledged that they signed the same as their free and voluntary act and deed, for the purposes therein mentioned.

GIVEN UNDER my hand and official seal this 28<sup>th</sup> day of Dec, 1999.



  
NOTARY PUBLIC in and for the  
State of Washington, residing  
at Yakima. My Commission  
expires: 7/15/2000

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APR 19 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

STATUTORY WARRANTY DEED

3



7150076  
Page: 3 of 3  
12/29/1999 11:01A  
Yakima Co, WA

DOC. INDEX #  
E-1



FILE# 7876955  
YAKIMA COUNTY, WA  
06/18/2015 03:10:20PM

DEED  
PAGES: 2  
FLOWER & ANDREOTTI

Recording Fee: 73.00

COUNTY EXCISE TAX  
DATE JUN 18 2015  
PAID \$ None  
REC. NO. 440626  
BY *Rata*  
Yakima County Treasurer's Office

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CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

Return to: Flower & Andreotti  
303 East "D" Street #1  
Yakima, WA 98901

Document Title: Quit Claim Deed

Grantor: Bainter Group, LLC, a Washington limited liability company.

Grantee: Bainter, Gregory W. and Bainter, Adele, husband and wife.

Legal Description: That portion of Lot 2 of Short Plat recorded in Book 92 of Short Plats, page 14, records of Yakima County, Washington, lying North of a line described as follows: Beginning at the Northwest corner of said Lot 2, thence South 00°00'13" West, along the West line thereof 432.91 feet to a Southwest corner of said Lot 2 and the true point of beginning of the herein described line; thence North 89°29'50" East 359.16 feet to the East line of said Lot 2 and the terminus of the herein described line, EXCEPT right-of-way conveyed to Yakima County under Auditor's File No. 7282942.

Tax Parcel Number: A portion of 181330-21403

### QUIT CLAIM DEED

The Grantor, BANTER GROUP, LLC, a Washington limited liability company, for valuable consideration, receipt of which is acknowledged, conveys and quit-claims to GREGORY W. BANTER and ADELE BANTER, husband and wife, the following-described Yakima County, Washington real property together with all after-acquired title of Grantor therein:

DOC. INDEX #  
*E-1*

That portion of Lot 2 of Short Plat recorded in Book 92 of Short Plats, page 14, records of Yakima County, Washington, lying North of a line described as follows: Beginning at the Northwest corner of said Lot 2, thence South 00°00'13" West, along the West line thereof 432.91 feet to a Southwest corner of said Lot 2 and the true point of beginning of the herein described line; thence North 89°29'50" East 359.16 feet to the East line of said Lot 2 and the terminus of the herein described line, EXCEPT right-of-way conveyed to Yakima County under Auditor's File No. 7282942.

DATED: June 18, 2015.

BAINTER GROUP, LLC:

By: Gregory W. Bainter  
GREGORY W. BANTER, Member.

By: Adele Bainter  
ADELE BANTER, Member.

STATE OF WASHINGTON )

: ss.

County of Yakima )

I CERTIFY I know or have satisfactory evidence GREGORY W. BANTER and ADELE BANTER signed the foregoing instrument and on oath stated they were authorized to execute the instrument as the Members of BANTER GROUP, LLC, a Washington limited liability company, as the free and voluntary act of the company for the uses and purposes mentioned in the instrument.

DATED: June 18, 2015.

Patricia Andrews  
NOTARY PUBLIC in and for the  
State of Washington.

My commission expires: 7/15/16



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DOC. INDEX #

E-1

## COMMITMENT FOR TITLE INSURANCE

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APR 19 2021

CHICAGO TITLE INSURANCE COMPANY

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

## NOTICE

**IMPORTANT—READ CAREFULLY:** THIS COMMITMENT IS AN OFFER TO ISSUE ONE OR MORE TITLE INSURANCE POLICIES. ALL CLAIMS OR REMEDIES SOUGHT AGAINST THE COMPANY INVOLVING THE CONTENT OF THIS COMMITMENT OR THE POLICY MUST BE BASED SOLELY IN CONTRACT.

THIS COMMITMENT IS NOT AN ABSTRACT OF TITLE, REPORT OF THE CONDITION OF TITLE, LEGAL OPINION, OPINION OF TITLE, OR OTHER REPRESENTATION OF THE STATUS OF TITLE. THE PROCEDURES USED BY THE COMPANY TO DETERMINE INSURABILITY OF THE TITLE, INCLUDING ANY SEARCH AND EXAMINATION, ARE PROPRIETARY TO THE COMPANY, WERE PERFORMED SOLELY FOR THE BENEFIT OF THE COMPANY, AND CREATE NO EXTRACONTRACTUAL LIABILITY TO ANY PERSON, INCLUDING A PROPOSED INSURED.

THE COMPANY'S OBLIGATION UNDER THIS COMMITMENT IS TO ISSUE A POLICY TO A PROPOSED INSURED IDENTIFIED IN SCHEDULE A IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF THIS COMMITMENT. THE COMPANY HAS NO LIABILITY OR OBLIGATION INVOLVING THE CONTENT OF THIS COMMITMENT TO ANY OTHER PERSON.

## COMMITMENT TO ISSUE POLICY

Subject to the Notice; Schedule B, Part I—Requirements; Schedule B, Part II—Exceptions; and the Commitment Conditions, CHICAGO TITLE INSURANCE COMPANY, a Florida Corporation (the "Company"), commits to issue the Policy according to the terms and provisions of this Commitment. This Commitment is effective as of the Commitment Date shown in Schedule A for each Policy described in Schedule A, only when the Company has entered in Schedule A both the specified dollar amount as the Proposed Policy Amount and the name of the Proposed Insured.

If all of the Schedule B, Part I—Requirements have not been met within 180 days after the Commitment Date, this Commitment terminates and the Company's liability and obligation end.

## COMMITMENT CONDITIONS

## 1. DEFINITIONS

- (a) "Knowledge" or "Known": Actual or imputed knowledge, but not constructive notice imparted by the Public Records.

*This page is only a part of a 2016 ALTA® Commitment for Title Insurance [issued by Fidelity Title Company]. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I—Requirements; [and] Schedule B, Part II—Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form].*

- (b) "Land": The land described in Schedule A and affixed improvements that by law constitute real property. The term "Land" does not include any property beyond the lines of the area described in Schedule A, nor any right, title, interest, estate, or easement in abutting streets, roads, avenues, alleys, lanes, ways, or waterways, but this does not modify or limit the extent that a right of access to and from the Land is to be insured by the Policy.
- (c) "Mortgage": A mortgage, deed of trust, or other security instrument, including one evidenced by electronic means authorized by law.
- (d) "Policy": Each contract of title insurance, in a form adopted by the American Land Title Association, issued or to be issued by the Company pursuant to this Commitment.
- (e) "Proposed Insured": Each person identified in Schedule A as the Proposed Insured of each Policy to be issued pursuant to this Commitment.
- (f) "Proposed Policy Amount": Each dollar amount specified in Schedule A as the Proposed Policy Amount of each Policy to be issued pursuant to this Commitment.
- (g) "Public Records": Records established under state statutes at the Commitment Date for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without Knowledge.
- (h) "Title": The estate or interest described in Schedule A.
2. If all of the Schedule B, Part I—Requirements have not been met within the time period specified in the Commitment to Issue Policy, this Commitment terminates and the Company's liability and obligation end.
3. The Company's liability and obligation is limited by and this Commitment is not valid ~~WITH~~ **APR 19 2021**  
CITY OF YAKIMA  
COMMUNITY DEVELOPMENT
- (a) the Notice;  
(b) the Commitment to Issue Policy;  
(c) the Commitment Conditions;  
(d) Schedule A;  
(e) Schedule B, Part I—Requirements; [and]  
(f) Schedule B, Part II—Exceptions; and  
(g) a counter-signature by the Company or its issuing agent that may be in electronic form].
4. **COMPANY'S RIGHT TO AMEND**  
The Company may amend this Commitment at any time. If the Company amends this Commitment to add a defect, lien, encumbrance, adverse claim, or other matter recorded in the Public Records prior to the Commitment Date, any liability of the Company is limited by Commitment Condition 5. The Company shall not be liable for any other amendment to this Commitment.
5. **LIMITATIONS OF LIABILITY**  
(a) The Company's liability under Commitment Condition 4 is limited to the Proposed Insured's actual expense incurred in the interval between the Company's delivery to the Proposed Insured of the Commitment and the delivery of the amended Commitment, resulting from the Proposed Insured's good faith reliance to:  
(i) comply with the Schedule B, Part I – Requirements;  
(ii) eliminate, with the Company's written consent, any Schedule B, Part II – Exceptions; or  
(iii) acquire the Title or create the Mortgage covered by this Commitment.
- (b) The Company shall not be liable under Commitment Condition 5(a) if the Proposed Insured requested the amendment or had Knowledge of the matter and did not notify the Company about it in writing.

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- (c) The Company will only have liability under Commitment Condition 4 if the Proposed Insured would not have incurred the expense had the Commitment included the added matter when the Commitment was first delivered to the Proposed Insured.
- (d) The Company's liability shall not exceed the lesser of the Proposed Insured's actual expense incurred in good faith and described in Commitment Conditions 5(a)(i) through 5(a)(iii) or the Proposed Policy Amount.
- (e) The Company shall not be liable for the content of the Transaction Identification Data, if any.
- (f) In no event shall the Company be obligated to issue the Policy referred to in this Commitment unless all of the Schedule B, Part I—Requirements have been met to the satisfaction of the Company.
- (g) In any event, the Company's liability is limited by the terms and provisions of the Policy.

**6. LIABILITY OF THE COMPANY MUST BE BASED ON THIS COMMITMENT**

- (a) Only a Proposed Insured identified in Schedule A, and no other person, may make a claim under this Commitment.
- (b) Any claim must be based in contract and must be restricted solely to the terms and provisions of this Commitment.
- (c) Until the Policy is issued, this Commitment, as last revised, is the exclusive and entire agreement between the parties with respect to the subject matter of this Commitment and supersedes all prior commitment negotiations, representations, and proposals of any kind, whether written or oral, express or implied, relating to the subject matter of this Commitment.
- (d) The deletion or modification of any Schedule B, Part II—Exception does not constitute an agreement or obligation to provide coverage beyond the terms and provisions of this Commitment or the Policy.
- (e) Any amendment or endorsement to this Commitment must be in writing [and authenticated by a person authorized by the Company].
- (f) When the Policy is issued, all liability and obligation under this Commitment will end and the Company's only liability will be under the Policy.

**7. IF THIS COMMITMENT HAS BEEN ISSUED BY AN ISSUING AGENT**

The issuing agent is the Company's agent only for the limited purpose of issuing title insurance commitments and policies. The issuing agent is not the Company's agent for the purpose of providing closing or settlement services.

**8. PRO-FORMA POLICY**

The Company may provide, at the request of a Proposed Insured, a pro-forma policy illustrating the coverage that the Company may provide. A pro-forma policy neither reflects the status of Title at the time that the pro-forma policy is delivered to a Proposed Insured, nor is it a commitment to insure.

**9. ARBITRATION**

The Policy contains an arbitration clause. All arbitrable matters when the Proposed Policy Amount is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Proposed Insured as the exclusive remedy of the parties. A Proposed Insured may review a copy of the arbitration rules at [<http://www.alta.org/arbitration>](http://www.alta.org/arbitration).

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CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

AMERICAN  
LAND TITLE  
ASSOCIATION

DOC. INDEX #

E-1



# Fidelity Title Company

117 N. 4<sup>TH</sup> STREET • PO BOX 1682, YAKIMA, WASHINGTON 98907  
PHONE: (509) 248-6210 • (800) 666-8308 • FAX: (509) 248-2048

Agent for  
**CHICAGO TITLE INSURANCE COMPANY**  
**ALTA COMMITMENT**

## SCHEDULE A

Title Order No.: 199438 - YM

To: Fidelity Escrow  
117 N. 4th Street  
Yakima, WA 98901  
Attn: Christina Hennessy  
[christina@fitico.com](mailto:christina@fitico.com)

1. Effective Date: October 12, 2020 at 8:00 AM

2. Policy to be issued:

- (a) 2006 ALTA Standard Owner's Policy  
Proposed Insured: Purchaser with contractual rights under a purchase agreement with the vested owner identified at Item 4 below.  
Proposed Policy Amount: \$10,000.00
- (b) 2006 ALTA Extended Coverage Loan Policy  
Proposed Insured: Lender with contractual obligations under a loan agreement with the vested owner identified at Item 2 above.  
Proposed Policy Amount: \$10,000.00

### PREMIUM INFORMATION:

A. SHORT TERM	\$ TO COME	Tax: \$	Total: \$
B. SIMULTANEOUS EXT	\$ TO COME	Tax: \$	Total: \$

3. The estate or interest in the Land described or referred to in this Commitment is  
**A Fee**

4. The Title is, at the Commitment Date, vested in:

**GREGORY WILLIAM BAINTER and ADELE E. BAINTER, husband and wife**

5. The Land is described as follows:

*See Exhibit A attached hereto and made a part of hereof.*

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COMMUNITY DEVELOPMENT

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AMERICAN  
LAND TITLE  
ASSOCIATION

DOC. INDEX #

E-1

Commitment No.: 199438

**Exhibit A**

**Lot 1 and that portion of Lot 2 of Short Plat recorded in Book 92 of Short Plats, Page 14, under Auditor's File Number 2949301, records of Yakima County, Washington, lying North of a line described as follows:  
Beginning at the Northwest corner of said Lot 2;  
thence South 00°00'13" West, along the West line thereof 432.91 feet to the Southwest corner of said Lot 2 and the true point of beginning of the therein described line;  
thence North 89°29'50" East 359.16 feet to the East line of said Lot 2 and the terminus of the herein described line;  
EXCEPT right-of-way conveyed to Yakima County under Auditor's File Number 7282942.**

**Situated in Yakima County, State of Washington.**

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COMMUNITY DEVELOPMENT

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Commitment No.: 199438

**SCHEDULE B, PART I**  
**Requirements**

All of the following Requirements must be met:

1. The Proposed Insured must notify the Company in writing of the name of any party not referred to in this Commitment who will obtain an interest in the Land or who will make a loan on the Land. The Company may then make additional Requirements or Exceptions.
2. Pay the agreed amount for the estate or interest to be insured.
3. Pay the premiums, fees, and charges for the Policy to the Company.
4. Documents satisfactory to the Company that convey the Title or create the Mortgage to be insured, or both, must be properly authorized, executed, delivered, and recorded in the Public Records.
5. Additional requirements and/or exceptions may be added as details of the transaction are disclosed to, or become known by the Company.
6. For each policy to be issued as identified in Schedule A, Item 2; the Company shall not be liable under this commitment until it receives a designation for a Proposed Insured, acceptable to the Company. As provided in Commitment Condition 4, the Company may amend this commitment to add, among other things, additional exceptions or requirements after the designation of the Proposed Insured.
7. The Proposed Policy Amount(s) must be increased to the full value of the estate or interest being insured, and any additional premium must be paid. An Owner's policy should reflect an amount at least equal to the full value of the estate insured without deduction of encumbrances. A Loan policy shall be issued in an amount equal to the amount of the loan unless there is additional collateral reducing the need for coverage. Proposed Policy Amount(s) will be revised and premiums charged consistent therewith when the final amounts are approved.

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Commitment No.: 199438

**INFORMATION FOR THE CLOSER AND/OR INSURED:**

The following matters will not be listed as Special Exceptions in Schedule "B" of the Policy to be issued pursuant to this Commitment. Notwithstanding the absence of a Special Exception in Schedule "B" of the Policy to be issued, there will be no coverage for loss arising by reason of the matters listed below because these matters are either excepted from coverage under the General Exceptions section of Schedule "B", excluded from coverage under the Exclusions from Coverage or are not matters for which coverage is afforded under the insuring clauses of the Policy.

This Commitment shall not oblige the Company to issue any Endorsement. All Endorsements to be issued must be agreed to by the Company and appropriate for the estate insured.

Any sketch or map enclosed as an attachment herewith is furnished for information purposes only to assist in property location with reference to streets and other parcels. No representation is made as to accuracy and the Company assumes no liability for any loss occurring by reason of reliance thereof.

Washington has a graduated excise tax rate for sales occurring on or after 1/1/2020 for most properties, although a flat rate applies to properties formally classified and specially valued as timberland or agricultural land on the day of closing.

The rate of real estate excise tax applicable to a sale prior to 1/1/2020 is 1.78%.

The rate of real estate excise tax to a sale on or after 1/1/2020 for properties which are not formally classified and specially valued as timberland or agricultural land is:

State portion: 1.10% on any portion of the sales price of \$500,000 or less;  
1.28% on any portion of the sales price above \$500,000, up to \$1,500,000;  
2.75% on any portion of the sales price above \$1,500,000, up to \$3,000,000;  
3.00% on any portion of the sales price above \$3,000,000;

Local portion: 0.50% on the entire sales price in the following taxing districts:

300, 305, 308, 309, 325, 326, 330, 331, 333, 334, 335, 349, 350, 420, 428, 440, 443, 460, 464, 520, 528, 540, 544, 560, 565, 581, 585 and 586. All other property is subject to local excise tax at the rate of .25%.

Pursuant to RCW 82.45.180, in addition to real estate excise tax collected by the Yakima County Treasurer, a filing fee of \$5.00 will be collected on all taxable transactions. A filing fee of \$10.00 will be collected on all non-taxable transactions, and on all transactions wherein the calculated tax payment is less than \$5.00.

Notice: Please be aware that due to the conflict between federal and state laws concerning the cultivation, distribution, manufacture or sale of marijuana, the Company is not able to close or insure any transaction involving Land that is associated with these activities.

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Commitment No.: 199438

All documents presented for recording must be delivered by 2 p.m. to be recorded the day of delivery. Any documents presented for recording after 2 p.m. will be recorded the next day that the Yakima County Auditor's Office is open.

When E-Recording documents requires excise clearance, checks must be made payable to **Fidelity Title Company**. In accordance with Washington State Insurance Commissioner rules, all recording fees, excise tax, and excise affidavit filing fees must be included with recording packages. Failure to include these 3<sup>rd</sup> party fees will result in a delay of your recording.

**NOTES:**

1. Parcel number(s) assigned by the Yakima County Assessor's Office based upon their own composed narrative description, and used by the Yakima County Treasurer's Office in the collection of real property taxes and assessments: **181330-21433**

NOTE: The designated Levy Code is 586

2. Assessment levied by Soil Conservation District Number 2 for the year 2020 in the original amount of \$5.06, which has been paid.
3. Assessment levied by Horticulture Pest & Disease Control District for the year 2020 in the original amount of \$1.00, which has been paid.
4. According to the Yakima County Assessor's Office, the address for the property described in Exhibit A of our Commitment is 502 S. 90th Avenue, Yakima, Washington 98908.
5. The abbreviated legal description will read as follows:

LOT 1 & PTN LOT 2 SP 92-14

6. Title Contact: Yvonne Munson, [yvonne@fstitleco.com](mailto:yvonne@fstitleco.com)
7. 1 cc: Keller Williams, Attn: Rachel Toth, [r.toth@kw.com](mailto:r.toth@kw.com)

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Commitment No.: 199438

**SCHEDULE B, PART II**  
**Exceptions**

THIS COMMITMENT DOES NOT REPUBLISH ANY COVENANT, CONDITION, RESTRICTION, OR LIMITATION CONTAINED IN ANY DOCUMENT REFERRED TO IN THIS COMMITMENT TO THE EXTENT THAT THE SPECIFIC COVENANT, CONDITION, RESTRICTION, OR LIMITATION VIOLATES STATE OR FEDERAL LAW BASED ON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, HANDICAP, FAMILIAL STATUS, OR NATIONAL ORIGIN.

The Policy will not insure against loss or damage resulting from the terms and provisions of any lease or easement identified in Schedule A, and will include the following Exceptions unless cleared to the satisfaction of the Company:

**GENERAL EXCEPTIONS:**

- A. Rights or claims disclosed only by possession, or claimed possession, of the premises.
- B. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land.
- C. Easements, prescriptive rights, rights-of-way, streets, roads, alleys or highways not disclosed by the Public Records.
- D. Any lien, or right to a lien for contributions to employees benefit funds, or for state workers' compensation, or for services, labor or material heretofore or hereafter furnished, all as imposed by law and not shown by the Public Records.
- E. Taxes or special assessments which are not yet payable or which are not shown as existing liens by the Public Records.
- F. Any service, installation, connection, maintenance, or construction charges for sewer, water, electricity, natural gas or other utilities or garbage collection and disposal.
- G. Reservations or exceptions in United States Patents or in Acts authorizing the issuance thereof.
- H. Indian tribal codes or regulations, Indian treaty or aboriginal rights, including easements or equitable servitudes.
- I. Water rights, claims or title to water.

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APR 19 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

*This page is only a part of a 2016 ALTA® Commitment for Title Insurance [issued by Fidelity Title Company]. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I—Requirements; [and] Schedule B, Part II—Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form].*



Commitment No.: 199438

- J. Any defect, lien, encumbrance, adverse claim, or other matter that appears for the first time in the Public Records or is created, attaches, or is disclosed between the Commitment Date and the date on which all of the Schedule B, Part I – Requirements are met.

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**SPECIAL EXCEPTIONS:**

APR 19 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

1. Real Estate Excise Tax as may be due on this transfer.
2. Real property taxes for the second half of the assessment year 2020 in the original amount of \$1,047.71, which shall be delinquent after October 31<sup>st</sup>.
3. Assessment levied by City of Yakima Stormwater Fee for the second half of the year 2020, in the amount of \$75.39, which shall be delinquent after October 31<sup>st</sup>.
4. Local district assessments and/or charges due the City of Yakima.
5. Deed of Trust and the terms and conditions thereof, wherein Gregory W. Bainter and Adele E. Bainter, husband and wife is Grantor, and Valley Title Guarantee is Trustee, and Cashmere Valley Bank is Beneficiary, in the original amount of \$200,000.00, dated December 2, 2019, and recorded December 5, 2019, under Auditor's File Number 8036670.
6. Reservations, restrictions, easements, conditions, agreements and disclosures set forth upon the face of said Short Plat, reference to which is made as though fully incorporated herein.
7. Right of way and secondary easement granted to Pacific Power and Light Company for lines and appurtenances, the specific location of which is not disclosed, granted by instrument recorded in Volume 331 of Deeds, under Auditor's File Number 773988, and in Volume 631 of Deeds, under Auditor's File Number 1921175.
8. An easement affecting the portion of said premises and for the purposes stated herein, and incidental purposes, for a drain line, in favor of adjoiners, as recorded June 20, 1912, in Volume 129 of Deeds, under Auditor's File Number 25499. Said easement affects a line crossing diagonally over said lands.
9. Agreement and the terms and conditions thereof regarding operation and maintenance of an irrigation pipeline to be used in common with adjoiner, as recorded February 24, 1975, in Volume 945 of Official Records, under Auditor's File Number 2377289.
10. An easement affecting the portion of said premises and for the purposes stated herein, and incidental purposes, for irrigation pipeline, as recorded February 11, 1992, in Volume 1348 of Official Records, under Auditor's File Number 2949799.

*This page is only a part of a 2016 ALTA® Commitment for Title Insurance [issued by Fidelity Title Company]. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I—Requirements; [and] Schedule B, Part II—Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form.*



DOC. INDEX #

E-1

Commitment No.: 199438

11. An easement affecting the portion of said premises and for the purposes stated herein, and incidental purposes, for roadway, as recorded February 11, 1992, in Volume 1348 of Official Records, under Auditor's File Number 2949799.
12. Supplement to Short Plat, its terms and conditions, recorded February 6, 1992 in Volume 1348 of Official Records, under Auditor's File Number 2949302, regarding: Future sewer connection.
13. Supplement to Short Plat, its terms and conditions, recorded February 6, 1992 in Volume 1348 of Official Records, under Auditor's File Numbers 2949303 and 2949304, regarding: Future street construction.
14. An easement affecting the portion of said premises and for the purposes stated herein, and incidental purposes, for utility, in favor of Bainter Group, LLC, a Washington limited liability company, as recorded June 20, 2013, under Auditor's File Number 7807819.
15. An easement affecting the portion of said premises and for the purposes stated herein, and incidental purposes, for sewer, in favor of City of Yakima, as recorded August 13, 2015, under Auditor's File Number 7882810.

RECEIVED

CHICAGO TITLE INSURANCE COMPANY  
Fidelity Title Company

APR 19 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

By:

Yvonne Munson

Yvonne Munson, Authorized Signatory

jr/10-13-20

*This page is only a part of a 2016 ALTA® Commitment for Title Insurance [issued by Fidelity Title Company]. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I—Requirements; [and] Schedule B, Part II—Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form].*



DOC. INDEX #

E-1

**Fidelity Title Company**  
**As agent for**  
**Chicago Title Insurance Company and**  
**Fidelity National Title Insurance Company**  
(Members of the Fidelity National Financial, Inc. group of companies)

RECEIVED

**Privacy Statement**

APR 19 2021

**Effective Date: January 1, 2020**

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

Fidelity National Financial, Inc. and its majority-owned subsidiary companies (collectively, "FNF," "our," or "we") respect and are committed to protecting your privacy. This Privacy Notice explains how we collect, use, and protect personal information, when and to whom we disclose such information, and the choices you have about the use and disclosure of that information.

A limited number of FNF subsidiaries have their own privacy notices. If a subsidiary has its own privacy notice, the privacy notice will be available on the subsidiary's website and this Privacy Notice does not apply.

**Collection of Personal Information**

FNF may collect the following categories of Personal Information:

- contact information (e.g., name, address, phone number, email address);
- demographic information (e.g., date of birth, gender, marital status);
- identity information (e.g. Social Security Number, driver's license, passport, or other government ID number);
- financial account information (e.g. loan or bank account information); and
- other personal information necessary to provide products or services to you.

We may collect Personal Information about you from:

- information we receive from you or your agent;
- information about your transactions with FNF, our affiliates, or others; and
- information we receive from consumer reporting agencies and/or governmental entities, either directly from these entities or through others.

**Collection of Browsing Information**

FNF automatically collects the following types of Browsing Information when you access an FNF website, online service, or application (each an "FNF Website") from your Internet browser, computer, and/or device:

- Internet Protocol (IP) address and operating system;
- browser version, language, and type;
- domain name system requests; and
- browsing history on the FNF Website, such as date and time of your visit to the FNF Website and visits to the pages within the FNF Website.

Like most websites, our servers automatically log each visitor to the FNF Website and may collect the Browsing Information described above. We use Browsing Information for system administration, troubleshooting, fraud investigation, and to improve our websites. Browsing Information generally does not reveal anything personal about you, though if you have created a user account for an FNF Website and are logged into that account, the FNF Website may be able to link certain browsing activity to your user account.

DOC. INDEX #

E-1

### **Other Online Specifics**

**Cookies.** When you visit an FNF Website, a “cookie” may be sent to your computer. A cookie is a small piece of data that is sent to your Internet browser from a web server and stored on your computer’s hard drive. Information gathered using cookies helps us improve your user experience. For example, a cookie can help the website load properly or can customize the display page based on your browser type and user preferences. You can choose whether or not to accept cookies by changing your Internet browser settings. Be aware that doing so may impair or limit some functionality of the FNF Website.

**Web Beacons.** We use web beacons to determine when and how many times a page has been viewed. This information is used to improve our websites.

**Do Not Track.** Currently our FNF Websites do not respond to “Do Not Track” features enabled through your browser.

**Links to Other Sites.** FNF Websites may contain links to unaffiliated third-party websites. FNF is not responsible for the privacy practices or content of those websites. We recommend that you read the privacy policy of every website you visit.

RECEIVED

### **Use of Personal Information**

FNF uses Personal Information for three main purposes:

- To provide products and services to you or in connection with a transaction involving you.
- To improve our products and services.
- To communicate with you about our, our affiliates’, and others’ products and services, jointly or independently.

APR 19 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

### **When Information Is Disclosed**

We may disclose your Personal Information and Browsing Information in the following circumstances:

- to enable us to detect or prevent criminal activity, fraud, material misrepresentation, or nondisclosure;
- to nonaffiliated service providers who provide or perform services or functions on our behalf and who agree to use the information only to provide such services or functions;
- to nonaffiliated third party service providers with whom we perform joint marketing, pursuant to an agreement with them to jointly market financial products or services to you;
- to law enforcement or authorities in connection with an investigation, or in response to a subpoena or court order; or
- in the good-faith belief that such disclosure is necessary to comply with legal process or applicable laws, or to protect the rights, property, or safety of FNF, its customers, or the public.

The law does not require your prior authorization and does not allow you to restrict the disclosures described above. Additionally, we may disclose your information to third parties for whom you have given us authorization or consent to make such disclosure. We do not otherwise share your Personal Information or Browsing Information with nonaffiliated third parties, except as required or permitted by law. We do share Personal Information among affiliates (other companies owned by FNF) to directly market to you. Please see “Choices with Your Information” to learn how to restrict that sharing.

We reserve the right to transfer your Personal Information, Browsing Information, and any other information, in connection with the sale or other disposition of all or part of the FNF business and/or assets, or in the event of bankruptcy, reorganization, insolvency, receivership, or an assignment for the benefit of creditors. By submitting Personal Information and/or Browsing Information to FNF, you expressly agree and consent to the use and/or transfer of the foregoing information in connection with any of the above described proceedings.

DOC. INDEX #

E-1



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APR 19 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

### **Security of Your Information**

We maintain physical, electronic, and procedural safeguards to protect your Personal Information.

### **Choices With Your Information**

If you do not want FNF to share your information among our affiliates to directly market to you, you may send an "opt out" request by email, phone, or physical mail as directed at the end of this Privacy Notice. We do not share your Personal Information with nonaffiliates for their use to direct market to you.

Whether you submit Personal Information or Browsing Information to FNF is entirely up to you. If you decide not to submit Personal Information or Browsing Information, FNF may not be able to provide certain services or products to you.

**For California Residents:** We will not share your Personal Information or Browsing Information with nonaffiliated third parties, except as permitted by California law. For additional information about your California privacy rights, please visit the "California Privacy" link on our website (<https://fnf.com/pages/californiaprivacy.aspx>) or call (888) 413-1748.

**For Nevada Residents:** You may be placed on our internal Do Not Call List by calling (888) 934-3354 or by contacting us via the information set forth at the end of this Privacy Notice. Nevada law requires that we also provide you with the following contact information: Bureau of Consumer Protection, Office of the Nevada Attorney General, 555 E. Washington St., Suite 3900, Las Vegas, NV 89101; Phone number: (702) 486-3132; email: BCPINFO@ag.state.nv.us.

**For Oregon Residents:** We will not share your Personal Information or Browsing Information with nonaffiliated third parties for marketing purposes, except after you have been informed by us of such sharing and had an opportunity to indicate that you do not want a disclosure made for marketing purposes.

**For Vermont Residents:** We will not disclose information about your creditworthiness to our affiliates and will not disclose your personal information, financial information, credit report, or health information to nonaffiliated third parties to market to you, other than as permitted by Vermont law, unless you authorize us to make those disclosures.

### **Information From Children**

The FNF Websites are not intended or designed to attract persons under the age of eighteen (18). We do not collect Personal Information from any person that we know to be under the age of thirteen (13) without permission from a parent or guardian.

### **International Users**

FNF's headquarters is located within the United States. If you reside outside the United States and choose to provide Personal Information or Browsing Information to us, please note that we may transfer that information outside of your country of residence. By providing FNF with your Personal Information and/or Browsing Information, you consent to our collection, transfer, and use of such information in accordance with this Privacy Notice.

### **FNF Website Services for Mortgage Loans**

Certain FNF companies provide services to mortgage loan servicers, including hosting websites that collect customer information on behalf of mortgage loan servicers (the "Service Websites"). The Service Websites may contain links to both this Privacy Notice and the mortgage loan servicer or lender's privacy notice. The sections of this Privacy Notice titled When Information is Disclosed, Choices with Your Information, and Accessing and Correcting Information do not apply to the Service Websites. The mortgage loan servicer or lender's privacy notice governs use, disclosure, and access to your Personal Information. FNF does not share Personal Information collected through the Service Websites, except as required or authorized by contract with the mortgage loan servicer or lender, or as required by law or in the good-faith belief that such disclosure is necessary: to comply with a legal process or applicable law, to enforce this Privacy Notice, or to protect the rights, property, or safety of FNF or the public.

DOC. INDEX #

E-1

**Your Consent To This Privacy Notice; Notice Changes; Use of Comments or Feedback**

By submitting Personal Information and/or Browsing Information to FNF, you consent to the collection and use of the information in accordance with this Privacy Notice. We may change this Privacy Notice at any time. The Privacy Notice's effective date will show the last date changes were made. If you provide information to us following any change of the Privacy Notice, that signifies your assent to and acceptance of the changes to the Privacy Notice. We may use comments or feedback that you submit to us in any manner without notice or compensation to you.

**Accessing and Correcting Information; Contact Us**

If you have questions, would like to correct your Personal Information, or want to opt-out of information sharing for affiliate marketing, send your requests to [privacy@fnf.com](mailto:privacy@fnf.com), by phone to (888) 934-3354, or by mail to:

Chief Privacy Officer  
Fidelity National Financial, Inc.  
601 Riverside Avenue  
Jacksonville, FL 32204

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APR 19 2021

CITY OF YAKIMA  
COMMUNITY DEVELOPMENT

DOC. INDEX #

E-1

**GREG & ADELE BANTER**  
**PD#002-21, PLP#002-21, CL2#019-21, SEPA#010-21 &**  
**TCO#008-21**

**EXHIBIT LIST**

**CHAPTER F**  
**Public Notices**

<b>DOC INDEX #</b>	<b>DOCUMENT</b>	<b>DATE</b>
<b>F-1</b>	<b>Determination of Incomplete Application</b>	<b>05/13/2021</b>
<b>F-2</b>	<b>Land Use Action Installation Certificate</b>	<b>06/11/2021</b>
<b>F-3</b>	<b>Notice of Application, Environmental Review</b> <b>F-3a:</b> Press Release and Distribution Email <b>F-3b:</b> Parties and Agencies Notified <b>F-3c:</b> Affidavit of Mailing	<b>06/14/2021</b>
<b>F-4</b>	<b>Notice of Public Hearing</b> <b>F-4a:</b> Legal Ad <b>F-4b:</b> Press Release and Distribution Email <b>F-4c:</b> Parties and Agencies Notified <b>F-4d:</b> Affidavit of Mailing	<b>07/29/2021</b>
<b>F-5</b>	<b>Notice of Mitigated Determination of Non-Significance</b> <b>F-5a:</b> Parties and Agencies Notified <b>F-5b:</b> Affidavit of Mailing	<b>07/30/2021</b>
<b>F-6</b>	<b>HE Agenda and Packet Distribution List</b>	<b>09/02/2021</b>
<b>F-7</b>	<b>HE Agenda and Sign-in Sheet</b>	<b>09/09/2021</b>
<b>F-8</b>	<b>Notification of Hearing Examiner Recommendation</b> (See DOC INDEX# AA-1 for HE Recommendation) <b>F-8a:</b> Parties and Agencies Notified <b>F-8b:</b> Affidavit of Mailing	<b>10/12/2021</b>
<b>F-9</b>	<b>Letter of Transmittal to City Clerk: City Council Hearing</b> (Mailing Labels, Vicinity Map)	<b>11/02/2021</b>
<b>F-10</b>	<b>Notice of City Council Closed Record Public Hearing</b> (Vicinity Map)	<b>12/14/2021</b>



OFFICE OF THE CITY CLERK  
129 North Second Street  
Yakima, Washington 98901  
Phone (509) 575-6037 • Fax (509) 576-6614

**CITY OF YAKIMA  
NOTICE OF CLOSED RECORD PUBLIC HEARING  
Master Planned Development 502 S 90<sup>th</sup> Ave**

NOTICE IS HEREBY GIVEN that the Yakima City Council will conduct a Closed Record Public Hearing to consider the Hearing Examiner's recommendation regarding Master Planned Development for Greg & Adele Bainter to subdivide one parcel of approx. 5.2 acres into 20 residential duplex lots located at 502 S. 90<sup>th</sup> Ave submitted by DLT Construction LLC.

Said closed record public hearing will be held on **Tuesday, December 14, 2021, at 6:00 p.m.**, or soon thereafter, via Zoom. *Closed Record Hearing* means the public is invited to testify on the existing Planning Commission's records but will not be allowed to introduce any new information.

Any citizen wishing to comment on existing records is welcome to call in to the public hearing (information provided on the agenda). The City Council agenda will be posted online at: <https://www.yakimawa.gov/council/agendas-and-minutes/> Please contact City Planning for additional information at 509-575-6183.

Dated this 5<sup>th</sup> day of November, 2021.

Sonya Claar Tee, CMC  
City Clerk

DOC.  
INDEX

# F-10

**Project Name:** GREG & ADELE BAINTER

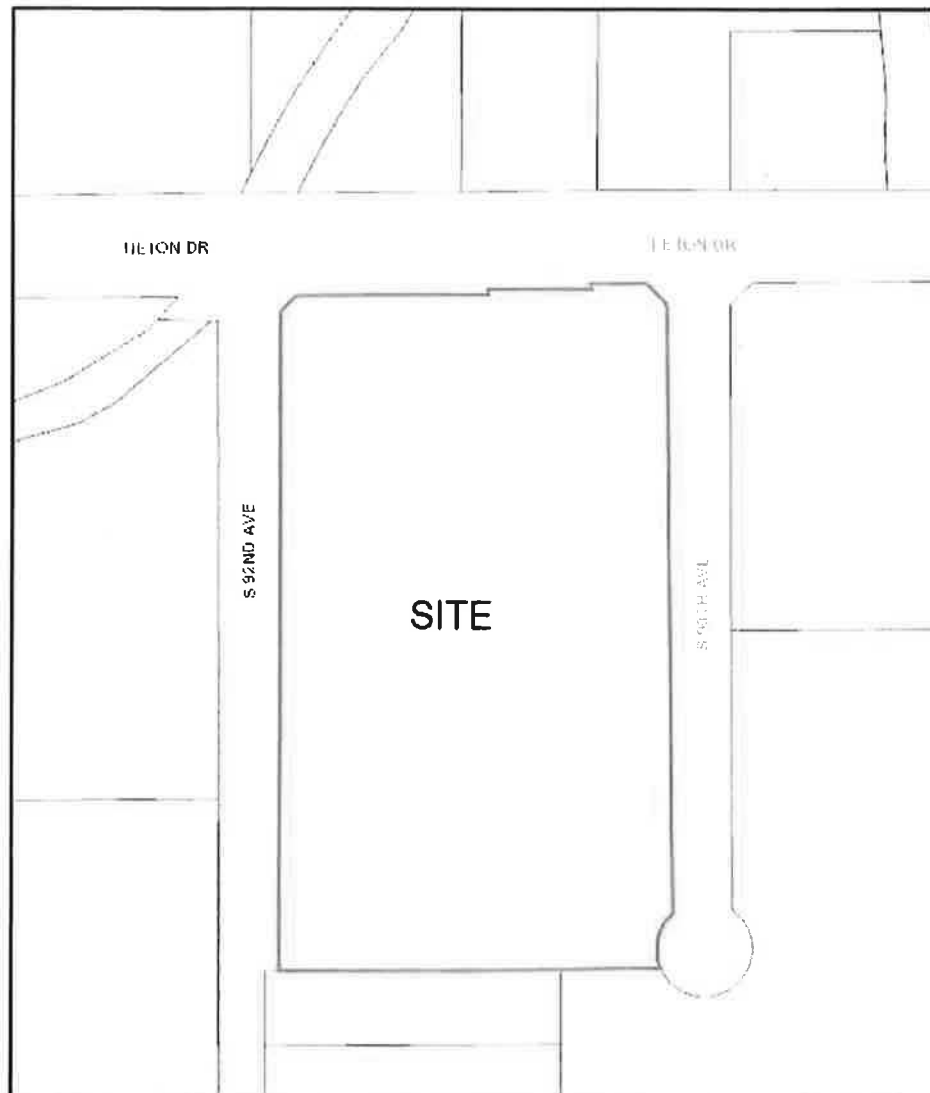
**Site Address:** 502 S 90TH AVE

**File Number(s):** PD#002-21, PLP#002-21, CL2#019-21, SEPA#010-21

**Proposal:** Master planned development to subdivide one parcel of 5.2 acres into 20 residential duplex lots (total of 40 residential units) with internal access by private streets, located in the B-2 zoning district.



## VICINITY MAP



Map Disclaimer: Information shown on this map is for planning and illustration purposes only. The City of Yakima assumes no liability for any errors, omissions, or inaccuracies in the information provided or for any action taken, or action not taken by the user in reliance upon any maps or information provided herein.  
Date Created: 4/21/2021



DOC.  
INDEX  
# F-10

CITY OF YAKIMA, PLANNING DIVISION

LETTER OF TRANSMITTAL

I, Analilia Núñez, as an employee of the City of Yakima, Planning Division, have transmitted to: Sonya Claar Tee, City Clerk, by hand delivery, the following documents:

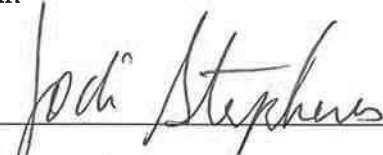
1. Mailing labels for Greg & Adele Bainter - PD#002-21, PLP#002-21, CL2#019-21, SEPA#010-21, TCO#008-21 including all labels for property owners within the 300 feet radius and parties of record.
2. E-mail distribution lists for In-House, Local Media, SEPA Reviewing Agencies, Interested Parties and Parties of Record
3. Vicinity Map

Signed this 2<sup>nd</sup> day of November, 2021.



Analilia Núñez  
Planning Technician

Received By: \_\_\_\_\_



Date: \_\_\_\_\_

11-2-21

DOC.  
INDEX

# F-9

18131934407  
EDWIN & ILA MILLER  
9007 TIETON DRIVE  
YAKIMA, WA 98908

18131934512  
JBS PROPERTIES INC  
1819 S 4TH AVE  
YAKIMA, WA 98903

18131934006  
BENNETT K OSBORNE  
9003 TIETON DR  
YAKIMA, WA 98908

18131933562  
JEFFREY B SWAN  
9200 BELL AVE  
YAKIMA, WA 98908

18133022004  
BRUCE L & REBECCA A SANISLO  
9208 TIETON DR  
YAKIMA, WA 98908

18133022407  
CARL R & JENNIFER K TATE NEUMAN  
603 S 92ND AVE  
YAKIMA, WA 98908

18133021435  
MICHAEL & KELLY MENARD SUGDEN  
8910 TIETON DR  
YAKIMA, WA 98908

18131934408  
FREDDY L & POK NAM BRICENO  
9005 TIETON DR  
YAKIMA, WA 98908

18133022408  
GILBERT DELL DANIELS TRUST  
1203 E ROSE LN UNIT 7  
PHOENIX, AZ 85014

18133021011  
RICHARD C & RENEE PECK  
703 S 92ND AVE  
YAKIMA, WA 98908

18133021433  
GREGORY W & ADELE BAINTER  
9004 TIETON DR  
YAKIMA, WA 98908

18133021013  
JEANNETTE MARTIN  
5808 SUMMITVIEW AVE, STE A, PMB  
403  
YAKIMA, WA 98908

18131933540  
WILLIAM & MERRY L STURM  
9203 TIETON DR  
YAKIMA, WA 98908

18133021001  
LINDA D SEAMAN  
8902 TIETON DR  
YAKIMA, WA 98908

18133021009  
MAX MICHAEL & KATE RUTGER  
705 S 92ND AVE  
YAKIMA, WA 98908

TOM DURANT  
PLSA ENGINEERING & SURVEYING  
521 N 20TH AVE, STE 3  
YAKIMA, WA 98902

18133022406  
RONALD L & KATHLEEN BRITT  
412 N 68TH AVE  
YAKIMA, WA 98908

18131934521  
PATRICK & JEAN CHITTIM  
8911 TIETON DRIVE  
YAKIMA, WA 98908

DLT CONSTRUCTION LLC  
PO BOX 268  
WAPATO, WA 98951

18133021012  
TRACY DAVIS  
609 S 92ND AVE  
YAKIMA, WA 98908

DOC.  
INDEX  
# F-9

Ahtanum Irrigation District  
Beth Ann Brulotte, Executive Assistant  
10705-B Gilbert Road  
Yakima, WA 98903-9203  
[bethb@ahthanum.net](mailto:bethb@ahthanum.net)

Charter Communications  
Manager  
1005 North 16th Ave  
Yakima, WA 98902

City of Yakima - Engineering Division  
Dan Riddle, Street Inspector  
129 N 2nd Street  
Yakima, WA 98901  
[Dan.Riddle@yakimawa.gov](mailto:Dan.Riddle@yakimawa.gov)

Greater Yakima Chamber of Commerce  
10 North 9th Street  
Yakima, WA 98901  
[chamber@yakima.org](mailto:chamber@yakima.org)

Office of Rural and Farm Worker Housing  
Marty Miller,  
1400 Summitview Ave, Ste# 203  
Yakima, WA 98902  
[Martym@orfh.org](mailto:Martym@orfh.org)

United States Postal Service  
Maintenance Dept.  
205 W Washington Ave  
Yakima, WA 98903  
[david.r.james@usps.gov](mailto:david.r.james@usps.gov)

WA State Department of Commerce  
Review Team,  
1011 Plum St SE  
Olympia, WA 98504-3172  
[reviewteam@commerce.wa.gov](mailto:reviewteam@commerce.wa.gov)

WA State Department of Ecology  
Lori White,  
[lori.white@ecy.wa.gov](mailto:lori.white@ecy.wa.gov)

WA State Department of Fish and Wildlife  
Eric Bartrand,  
1701 South 24th Ave  
Yakima, WA 98902  
[Eric.Bartrand@dfw.wa.gov](mailto:Eric.Bartrand@dfw.wa.gov)

WA State Department of Health  
Kelly Cooper,  
PO Box 47820  
Olympia, WA 98504  
[Kelly.cooper@doh.wa.gov](mailto:Kelly.cooper@doh.wa.gov)

Cascade Natural Gas  
8113 W Grandridge Blvd  
Kennewick, WA 99336

City of Union Gap  
Dennis Henne, Development Director  
P.O. Box 3008  
Union Gap, WA 98903  
[dennis.henne@uniongapwa.gov](mailto:dennis.henne@uniongapwa.gov)

City of Yakima - Wastewater Division  
Marc Cawley, Wastewater Operations  
[marc.cawley@yakimawa.gov](mailto:marc.cawley@yakimawa.gov)  
Dana Kallevig, Utility Project Manager  
[dana.kallevig@yakimawa.gov](mailto:dana.kallevig@yakimawa.gov)

Nob Hill Water Association  
Bob Irving, Engineering Technician  
6111 Tieton Drive  
Yakima, WA 98908  
[bob@nobhillwater.org](mailto:bob@nobhillwater.org)

Pacific Power  
Mike Paulson,  
500 North Keys Rd  
Yakima, WA 98901

WA State Attorney General's Office  
1433 Lakeside Court, Ste# 102  
Yakima, WA 98902

WA State Department of Ecology  
Annie Szvetcz, SEPA Policy Lead  
P.O. Box 47703  
Olympia, WA 98504-7703  
[separegister@ecy.wa.gov](mailto:separegister@ecy.wa.gov)

WA State Department of Ecology  
Rhonda Luke, Project Coordinator  
[FormerOrchards@ecy.wa.gov](mailto:FormerOrchards@ecy.wa.gov)

WA State Department of Fish and Wildlife  
[Scott.Downes@dfw.wa.gov](mailto:Scott.Downes@dfw.wa.gov)

WA State Department of Fish and Wildlife  
[TeamYakima@dfw.wa.gov](mailto:TeamYakima@dfw.wa.gov)

WA State Department of Natural  
Resources, SEPA Center  
PO Box 47015  
Olympia, WA 98504  
[sepacenter@dnr.wa.gov](mailto:sepacenter@dnr.wa.gov)

Century Link  
Manager  
8 South 2nd Ave, Rm#304  
Yakima, WA 98902

City of Yakima - Airport  
Rob Peterson, Director  
2400 West Washington Ave  
Yakima, WA 98903  
[rob.peterson@yakimaairportterminal.com](mailto:rob.peterson@yakimaairportterminal.com)

Federal Aviation Administration  
2200 W. Washington Ave  
Yakima, WA 98903

North Yakima Conservation District  
Manager  
1606 Perry Street, Ste. C  
Yakima, WA 98902

U.S. Army Corps of Engineers, Regulatory  
Branch  
David Moore, Project Manager  
P.O. Box 3755  
Seattle, WA 98124-3755  
[david.j.moore@usace.army.mil](mailto:david.j.moore@usace.army.mil)

WA State Department of Agriculture  
Kelly McLain,  
PO Box 42560  
Olympia, WA 98504  
[kmclain@agr.wa.gov](mailto:kmclain@agr.wa.gov)

WA State Department of Ecology  
Gwen Clear, Regional Coordinator  
1250 W Alder St  
Union Gap, WA 98903  
[crosepacoordinator@ecy.wa.gov](mailto:crosepacoordinator@ecy.wa.gov)

WA State Department of Ecology  
[sepaunit@ecy.wa.gov](mailto:sepaunit@ecy.wa.gov)

WA State Department of Fish and Wildlife,  
SEPA Desk  
PO Box 43200  
Olympia, WA 98504  
[SEPAdesk@dfw.wa.gov](mailto:SEPAdesk@dfw.wa.gov)

WA State Department of Social & Health  
Services, Office of Capital Programs  
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DOC.  
INDEX  
F9  
#



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DOC.

INDEX

# F-9

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Yakima-Tieton Irrigation District  
Sandra Hull,  
470 Camp 4 Rd  
Yakima, WA 98908

SEPA REVIEWING AGENCIES\_updated  
08/20/2021

Type of Notice: notice of public hearing  
File Number: PD# 002-21, PLPH 002-21, CE2# 019-21  
Date of Mailing: <sup>Hearing</sup> 12/14/21

DOC.  
INDEX  
# F-9

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Outside Distribution		
Name	Address	Included In Mailing?
Pacific Power Attn: Estimating Department (Subdivision notices ONLY)	500 N Keys Rd, Yakima, WA 98901	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Type of Notice: Notice of public Hearing  
File Number(s): PP# 002-21, PL# 002-2, CL2#019-21  
Date of Mailing: 12/14/21

DOC.  
INDEX  
# F-9

**Project Name:** GREG & ADELE BANTER

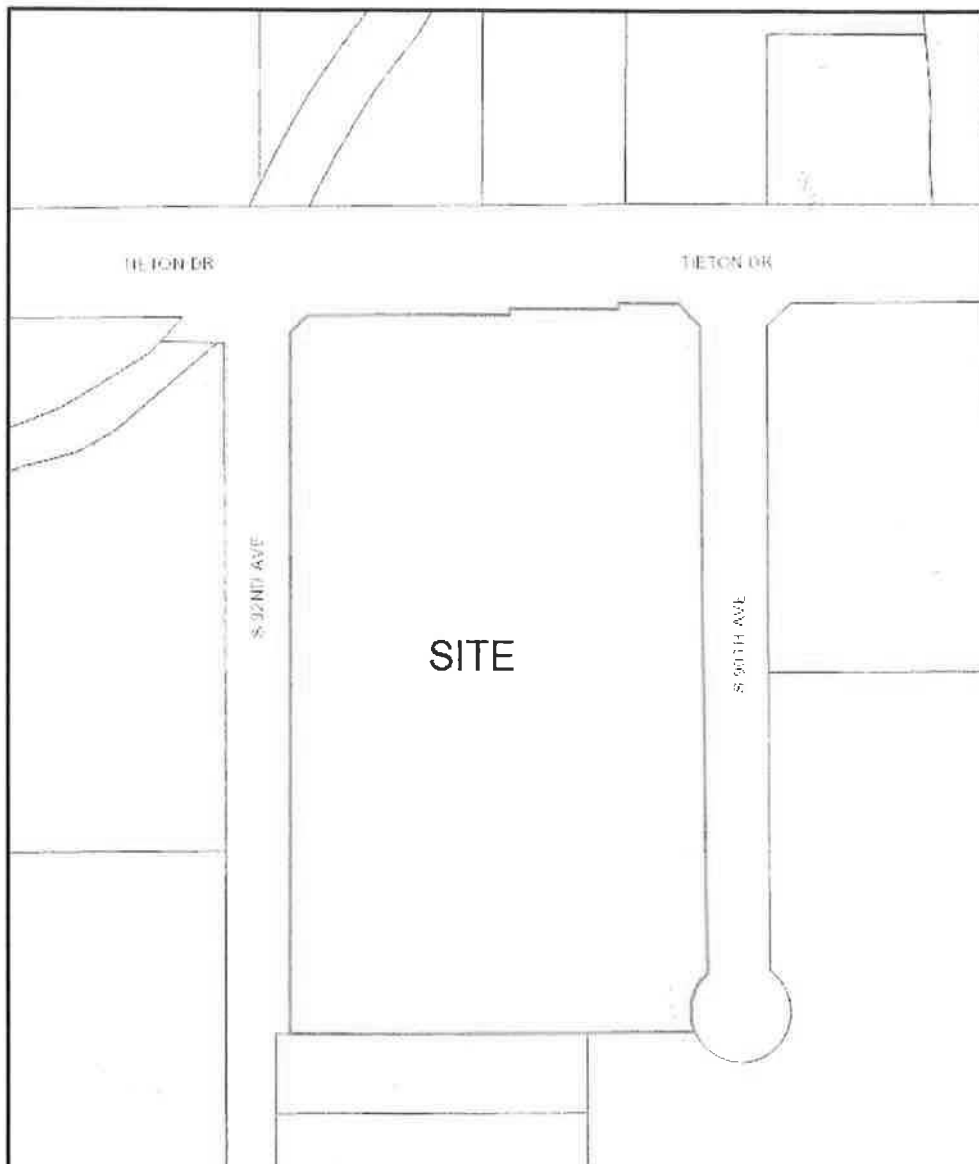
**Site Address:** 502 S 90TH AVE

**File Number(s):** PD#002-21, PLP#002-21, CL2#019-21, SEPA#010-21

**Proposal:** Master planned development to subdivide one parcel of 5.2 acres into 20 residential duplex lots (total of 40 residential units) with internal access by private streets, located in the B-2 zoning district.



## VICINITY MAP



Map Disclaimer: Information shown on this map is for planning and illustration purposes only. The City of Yakima assumes no liability for any errors, omissions, or inaccuracies in the information provided or for any action taken, or action not taken by the user in reliance upon any maps or information provided herein.

Date Created: 4/21/2021



DOC.  
INDEX  
# F-9

## Nunez, Analilia

---

**From:** Nunez, Analilia  
**Sent:** Tuesday, November 02, 2021 2:45 PM  
**To:** Claar Tee, Sonya  
**Subject:** Public Hearing for Greg & Adele Bainter - PD#002-21, PLP#002-21, CL2#019-21, SEPA#010-21, TCO#008-21  
**Attachments:** SEPA Agencies E-mail Distribution List \_updated 10.06.2021; Local Media List \_09.16.2021; In-House Distribution E-mail List\_ updated 09.02.2021; VicinityMap\_Bainter-PD#002-21, PLP#002-21, CL2#019-21, SEPA#010-21.pdf

Hi Sonya,

Please have the public hearing notice emailed to these distribution lists: In-house Distribution E-mail List updated 09.02.2021, Local Media List 09.16.2021, and SEPA Agencies E-mail Distribution List updated 10.06.2021.

Also, please email the notice to the following parties of record:

Diana Woods, Yakima County Public Services - [Dianna.woods@co.yakima.wa.us](mailto:Dianna.woods@co.yakima.wa.us)

Gwen Clear, Dept. of Ecology - [crosepa@ecy.wa.gov](mailto:crosepa@ecy.wa.gov)

Sydney Hanson, Dept. of Archeology & Historic Preservation - [Sydney.hanson@dahp.wa.gov](mailto:Sydney.hanson@dahp.wa.gov)

Jeff Swan - [jbswan2013@gmail.com](mailto:jbswan2013@gmail.com)

Nick Awad - [nickawad@live.com](mailto:nickawad@live.com)

PLSA Engr & Surveying - Tom Durant - [tdurant@plsaoofyakima.com](mailto:tdurant@plsaoofyakima.com)

I have attached the vicinity map and I am bringing down labels shortly.

Analilia Núñez

Planning Technician

City of Yakima Planning Division

p: 509.575.6261

129 North 2nd Street, Yakima, Washington, 98901



## AFFIDAVIT OF MAILING

STATE OF WASHINGTON

CITY OF YAKIMA

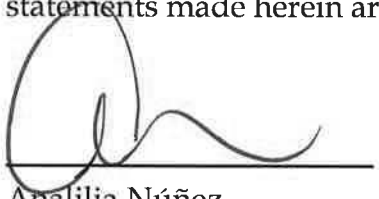
RE: PD#002-21, PLP#002-21, CL2#019-21, SEPA#010-21,  
TCO#008-21

Greg and Adele Bainter

502 S. 90<sup>th</sup> Ave.

I, Analilia Núñez, as an employee of the City of Yakima Planning Division, have dispatched through the United States Mails, a **Notice of Hearing Examiner's Recommendation**; a true and correct copy of which is enclosed herewith; that said notice was addressed to the applicant, parties of record, and all property owners of record within a radius of 300 feet of subject property; that said property owners are individually listed on the mailing list retained by the Planning Division; and that said notices were mailed by me on this 12<sup>th</sup> day of September, 2021.

That I mailed said notices in the manner herein set forth and that all of the statements made herein are just and true.



Analilia Núñez

Planning Technician

DOC.  
INDEX  
# F-86

18133021434  
BAINTER GROUP LLC  
9004 TIETON DR  
YAKIMA, WA 98908

18131934512  
JBS PROPERTIES INC  
1819 S 4TH AVE  
YAKIMA, WA 98903

18131934006  
BENNETT K OSBORNE  
9003 TIETON DR  
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18131934008  
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18133022004  
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18133022407  
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18131934407  
EDWIN & ILA MILLER  
9007 TIETON DRIVE  
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18131934408  
FREDDY L & POK NAM BRICENO  
9005 TIETON DR  
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18133022408  
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22  
Total Parcels - Greg & Adele Bainter -  
PD#002-21, PLP#002-21, CL2#019-21,  
SEPA#010-21, TCO#008-21

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NTC of HE REC  
sent 10/12/21

DOC.  
INDEX  
# F-89

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Type of Notice: NTC of HE Recommendation  
 File Number(s): PP# 002-21, PLP#002-21, CL2# 04-21  
 Date of Mailing: 9/12/21

DOC.  
 INDEX  
 # F-89



## Nunez, Analilia

---

**From:** Nunez, Analilia  
**Sent:** Tuesday, October 12, 2021 4:35 PM  
**To:** Brown, David; Calhoun, Joseph; Contreras, Pedro; Corona, Silvia; Davenport, Joan; Dean, James; DeBusschere, Suzanne; Denman, Glenn; Doan, Tony; Horton, Kelli; Ibarra, Rosalinda; Kallevig, Dana; Layman, Randy; Markham, Aaron; Matthews, Archie; Maxey, Lisa; Meloy, Randy; Murray, Matthew; Nunez, Analilia; Preston, Bill; Riddle, Dan; Rodriguez, Jeremy; Schafer, Scott; Shane, Mike; Story, Gregory; Watkins, Sara; Zabell, John; Zammarchi, Loretta  
**Cc:** Crowell, Eric; 'nickawad@live.com'; 'tdurant@plsaoofyakima.com'  
**Subject:** NOTICE OF HE RECOMENDATION\_Bainter - PD#002-21, PLP#002-21, CL2#019-21, SEPA#010-21, TCO#008-21  
**Attachments:** NOTICE OF HE RECOMENDATION\_Bainter - PD#002-21, PLP#002-21, CL2#019-21, ....pdf

Attached is a Notice of Hearing Examiner's Recommendation to City Council regarding the above-entitled project. If you have any questions about this proposal, please contact assigned planner Eric Crowell at [eric.crowell@yakimawa.gov](mailto:eric.crowell@yakimawa.gov).

Analilia Núñez  
Planning Technician  
City of Yakima Planning Division  
p: 509.575.6261  
129 North 2nd Street, Yakima, Washington, 98901



DOC.  
INDEX  
# F-89



DEPARTMENT OF COMMUNITY DEVELOPMENT  
Joan Davenport, AICP, Director

Planning Division  
Joseph Calhoun, Manager  
129 North Second Street, 2<sup>nd</sup> Floor, Yakima, WA 98901  
[ask.planning@yakimawa.gov](mailto:ask.planning@yakimawa.gov) · [www.yakimawa.gov/services/planning](http://www.yakimawa.gov/services/planning)

## NOTIFICATION OF HEARING EXAMINER'S RECOMMENDATION TO THE YAKIMA CITY COUNCIL

**DATE:** October 12, 2021  
**TO:** Applicant, Adjoining Property Owners and Parties of Record  
**SUBJECT:** Notice of the Hearing Examiner's Recommendation  
**FILE #(S):** PD#002-21, CL2#019-21, PLP#002-21 & SEPA#010-21  
**APPLICANT:** PLSA Engr & Surveying - Tom Durant, on behalf of Greg & Adele Bainter  
**PROJECT LOCATION:** 502 S. 90<sup>th</sup> Ave.

On October 7, 2021, the City of Yakima Hearing Examiner rendered their recommendation on **PD#002-21, CL2#019-21, PLP#002-21 & SEPA#010-21**, a master plan development to subdivide one parcel of 5.2 acres into 20 residential duplex lots (total of 40 residential units) with internal access by private streets, located in the B-2 zoning district. The applications were reviewed at an open record public hearing held on September 9, 2021.

Enclosed is a copy of the Hearing Examiner's Recommendation. The Hearing Examiner's Recommendation will be considered by the Yakima City Council in a public hearing to be scheduled. The City Clerk will notify you of the date, time and place of the public hearing.

For further information or assistance, you may contact Senior Planner Trevor Martin at (509) 575-6162 or email to: [trevor.martin@yakimawa.gov](mailto:trevor.martin@yakimawa.gov).

A handwritten signature in black ink, appearing to read "T. Martin", with a stylized flourish at the end.

Trevor Martin  
Senior Planner

Date of Mailing: **October 12, 2021**  
Enclosures: Hearing Examiner's Recommendation

DOC.  
INDEX  
# F-8





DEPARTMENT OF COMMUNITY DEVELOPMENT

Joan Davenport, AICP, Director

Planning Division

Joseph Calhoun, Manager

129 North Second Street, 2<sup>nd</sup> Floor, Yakima, WA 98901

ask.planning@yakimawa.gov · www.yakimawa.gov/services/planning

**CITY OF YAKIMA  
HEARING EXAMINER  
AGENDA**

**Thursday, September 9, 2021**

**Beginning at 9:00 a.m.**

**City Council Chambers**

**I. CALL TO ORDER**

**II. INTRODUCTION**

**II. PUBLIC HEARING**

**A. ROBERTO ARTEAGA/ARACELI GONZALES TELLO**

**03/29/2021 PD#001-21**

PLANNER: Eric Crowell

ADDRESS: 9503, 9509, 9515 Tieton Dr.

REQUEST: Master planned development consisting of seven residential lots, to be improved with 14 duplex units (ranging from 9,404 sq ft to 10,063 sq ft in size), and a 19,576 sq ft commercial lot, located in the R-1 zoning district.

**B. GREG & ADELE BANTER**

**04/19/2021 PD#002-21**

PLANNER: Trevor Martin

ADDRESS: 502 S. 90<sup>th</sup> Ave.

REQUEST: Master planned development to subdivide one parcel of 5.2 acres into 20 residential duplex lots (total of 40 residential units) with internal access by private streets, located in the B-2 zoning district.

**C. KERRY & GINA MARTIN**

**04/30/2021 RZ#006-21**

PLANNER: Trevor Martin

ADDRESS: 706 S. 48<sup>th</sup> Ave.

REQUEST: Proposed change to the Future Land Use map designation for one parcel from Low Density Residential to Community Mixed-Use and concurrent rezone from Single-Family Residential (R-1) to Local Business (B-2), and proposed multi-family development consisting of 14 apartment units with 29 parking spaces and associated site improvements.

**IV. ADJOURNMENT**

The staff recommendation report on the listed project(s) is available online at: [www.buildingyakima.com](http://www.buildingyakima.com)



**DOC.  
INDEX  
# F-7**





DEPARTMENT OF COMMUNITY DEVELOPMENT  
Joan Davenport, AICP, Director

Planning Division  
Joseph Calhoun, Manager  
129 North Second Street, 2<sup>nd</sup> Floor, Yakima, WA 98901  
ask.planning@yakimawa.gov · www.yakimawa.gov/services/planning

**CITY OF YAKIMA  
HEARING EXAMINER  
AGENDA**

**Thursday, September 9, 2021  
Beginning at 9:00 a.m.  
City Council Chambers**

**I. CALL TO ORDER**

**II. INTRODUCTION**

**II. PUBLIC HEARING**

**A. GREG & ADELE BANTER**

**04/19/2021 PD#002-21**

PLANNER: Trevor Martin

ADDRESS: 502 S. 90<sup>th</sup> Ave.

REQUEST: Master planned development to subdivide one parcel of 5.2 acres into 20 residential duplex lots (total of 40 residential units) with internal access by private streets, located in the B-2 zoning district.

**B. ROBERTO ARTEAGA/ARACELI GONZALES TELLO**

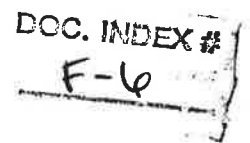
**03/29/2021 PD#001-21**

PLANNER: Eric Crowell

ADDRESS: 9503, 9509, 9515 Tieton Dr.

REQUEST: Master planned development consisting of seven residential lots, to be improved with 14 duplex units (ranging from 9,404 sq ft to 10,063 sq ft in size), and a 19,576 sq ft commercial lot, located in the R-1 zoning district.

**IV. ADJOURNMENT**



The staff recommendation report on the listed project(s) is available online at: [www.buildingyakima.com](http://www.buildingyakima.com)



Hearing Examiner Packet AGENDA,  
STAFF REPORT, SITE PLAN AND  
MAPS.....  
Updated 06/17/2021

Sara Watkins  
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ONDS  
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Joan Davenport  
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Bill Preston  
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Rosalinda Ibarra  
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Joseph Calhoun  
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Yakima County Public Services  
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Yakima County Commissioners  
[Commissioners.web@co.yakima.wa.us](mailto:Commissioners.web@co.yakima.wa.us)

Analilia Núñez  
Planning Technician  
[Analilia.nunez@yakimawa.gov](mailto:Analilia.nunez@yakimawa.gov)

**DON'T FORGET TO SEND ONE TO  
THE APPLICANT & PROPERTY  
OWNER.....**

Binder Copy  
For the Record/File

DCC. INDEX #  
F-6

**AFFIDAVIT OF MAILING**

STATE OF WASHINGTON

CITY OF YAKIMA

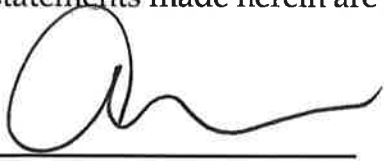
RE: SEPA#010-21

Greg and Adele Bainter

502 S. 90<sup>th</sup> Ave.

I, Analilia Núñez, as an employee of the Yakima City Planning Division, have dispatched through the United States Mails, a **Notice of Mitigated Determination of Non-Significance (MDNS)**; a true and correct copy of which is enclosed herewith; that said notice was addressed to the applicant and all property owners of record within a radius of 300 feet of subject property, listed SEPA agencies and all parties of record, that said property owners are individually listed on the mailing list retained by the Planning Division, and that said notices were mailed by me on the 30<sup>th</sup> day of July, 2021.

That I mailed said notices in the manner herein set forth and that all of the statements made herein are just and true.



Analilia Núñez

Planning Technician

DOC. INDEX #  
F-56

18133021434  
BAINTER GROUP LLC  
9004 TIETON DR  
YAKIMA, WA 98908

18131934512  
JBS PROPERTIES INC  
1819 S 4TH AVE  
YAKIMA, WA 98903

18131934006  
BENNETT K OSBORNE  
9003 TIETON DR  
YAKIMA, WA 98908

18131934008  
BENNETT K OSBORNE  
9003 TIETON DR  
YAKIMA, WA 98908

18133022004  
BRUCE L & REBECCA A SANISLO  
9208 TIETON DR  
YAKIMA, WA 98908

18133022407  
CARL R & JENNIFER K TATE NEUMAN  
603 S 92ND AVE  
YAKIMA, WA 98908

18131934407  
EDWIN & ILA MILLER  
9007 TIETON DRIVE  
YAKIMA, WA 98908

18131934408  
FREDDY L & POK NAM BRICENO  
9005 TIETON DR  
YAKIMA, WA 98908

18133022408  
GILBERT DELL DANIELS TRUST  
1203 E ROSE LN UNIT 7  
PHOENIX, AZ 85014

18133021401  
GREGORY W & ADELE BAITER  
9004 TIETON DR  
YAKIMA, WA 98908

18133021433  
GREGORY W & ADELE BAITER  
9004 TIETON DR  
YAKIMA, WA 98908

18133021013  
JEANNETTE MARTIN  
5808 SUMMITVIEW AVE, STE A, PMB  
403  
YAKIMA, WA 98908

18131933562  
JEFFREY B SWAN  
9200 BELL AVE  
YAKIMA, WA 98908

18133021001  
LINDA D SEAMAN  
9002 TIETON DR  
YAKIMA, WA 98908

18133021009  
MAX MICHAEL & KATE RUTGER  
705 S 92ND AVE  
YAKIMA, WA 98908

18133021435  
MICHAEL & KELLY MENARD SUGDEN  
8910 TIETON DR  
YAKIMA, WA 98908

18133021436  
MICHAEL & KELLY MENARD SUGDEN  
8910 TIETON DR  
YAKIMA, WA 98908

18131934521  
PATRICK & JEAN CHITTIM  
8911 TIETON DRIVE  
YAKIMA, WA 98908

18133021011  
RICHARD C & RENEE PECK  
703 S 92ND AVE  
YAKIMA, WA 98908

18133022406  
RONALD L & KATHLEEN BRITT  
412 N 68TH AVE  
YAKIMA, WA 98908

18133021012  
TRACY DAVIS  
609 S 92ND AVE  
YAKIMA, WA 98908

18131933540  
WILLIAM & MERRY L STURM  
9203 TIETON DR  
YAKIMA, WA 98908

22  
Total Parcels - Greg & Adele Bainter -  
PD#002-21, PLP#002-21, CL2#019-21,  
SEPA#010-21, TCO#008-21

DLT CONSTRUCTION LLC  
PO BOX 268  
WAPATO, WA 98951

TOM DURANT  
PLSA ENGINEERING & SURVEYING  
521 N 20TH AVE, STE 3  
YAKIMA, WA 98902

Ntz of MDWS  
sent 9/2/21

DOC. INDEX #  
F-59



WA State Dept of Archaeology & Historic Preservation  
1063 S Capitol Way, Ste 106  
Olympia, WA 98504-8343  
[Sepa@dahp.wa.gov](mailto:Sepa@dahp.wa.gov)

WA State Environmental Protection Agency  
NEPA Review Unit  
1200 6th Ave. #155, 14 D-12  
Seattle, WA 98101

West Valley School District  
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8902 Zier Road  
Yakima, WA 98908-9299  
[vonessensa@wvsd208.org](mailto:vonessensa@wvsd208.org)

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[SCplanning@wsdot.wa.gov](mailto:SCplanning@wsdot.wa.gov)

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[Commissioners.web@co.yakima.wa.us](mailto:Commissioners.web@co.yakima.wa.us)

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[jmarvin@yakama.com](mailto:jmarvin@yakama.com)

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[ryan.ibach@co.yakima.wa.us](mailto:ryan.ibach@co.yakima.wa.us)

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Stacey Locke, Assistant Superintendent of Operations  
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[sposner@utc.wa.gov](mailto:sposner@utc.wa.gov)

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Superintendent  
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Yakama Indian Nation, Yakima Tribal Council  
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Harold Maclean, Building Official  
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Yakima Regional Clean Air Agency  
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Yakima School District  
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104 North 4th Ave  
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DOC. INDEX #

F-59

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Manager  
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Greater Yakima Chamber of Commerce  
10 North 9th Street  
Yakima, WA 98901  
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Office of Rural and Farm Worker Housing  
Marty Miller,  
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[Martym@orfh.org](mailto:Martym@orfh.org)

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City of Yakima - Wastewater Division  
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Dana Kallevig, Utility Project Manager  
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[sepacenter@dnr.wa.gov](mailto:sepacenter@dnr.wa.gov)

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Rob Peterson, Director  
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Federal Aviation Administration  
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Yakima, WA 98903

North Yakima Conservation District  
Manager  
1606 Perry Street, Ste. C  
Yakima, WA 98902

U.S. Army Corps of Engineers, Regulatory  
Branch  
David Moore, Project Manager  
P.O. Box 3755  
Seattle, WA 98124-3755  
[david.j.moore@usace.army.mil](mailto:david.j.moore@usace.army.mil)

WA State Department of Agriculture  
Kelly McLain,  
PO Box 42560  
Olympia, WA 98504  
[kmclain@agr.wa.gov](mailto:kmclain@agr.wa.gov)

WA State Department of Ecology  
Gwen Clear, Regional Coordinator  
1250 W Alder St  
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[crosepacoordinator@ecy.wa.gov](mailto:crosepacoordinator@ecy.wa.gov)

WA State Department of Ecology  
[sepaunit@ecy.wa.gov](mailto:sepaunit@ecy.wa.gov)

WA State Department of Fish and Wildlife,  
SEPA Desk  
PO Box 43200  
Olympia, WA 98504  
[SEPAdesk@dfw.wa.gov](mailto:SEPAdesk@dfw.wa.gov)

WA State Department of Social & Health  
Services, Office of Capital Programs  
Larry Covey  
P.O. Box 45848  
Olympia, WA 98504  
[Larry.covey@dshs.wa.gov](mailto:Larry.covey@dshs.wa.gov)

DOO. FILED

F-54

Yakima Valley Canal Co  
Robert Smoot,  
1640 Garretson Lane  
Yakima, WA 98908

Yakima Valley Conference of Governments  
Lynn Deitrick, Senior Planner  
311 North 4th Street, Ste# 202  
Yakima, WA 98901  
[lynn.deitrick@yvcog.org](mailto:lynn.deitrick@yvcog.org)

Yakima Valley Museum  
Peter Arnold, Executive Director  
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Yakima, WA 98902  
[peter@yvmuseum.org](mailto:peter@yvmuseum.org)

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Yakima, WA 98901

Yakima Valley Trolleys  
PO Box 796  
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Yakima Waste Systems  
Keith Kovalenko, District Manager  
PO Box 2830  
Yakima, WA 98907  
[keithk@wasteconnections.com](mailto:keithk@wasteconnections.com)

Yakima-Tieton Irrigation District  
Sandra Hull,  
470 Camp 4 Rd  
Yakima, WA 98908

SEPA REVIEWING AGENCIES\_updated  
08/20/2021

Type of Notice: NTC OF MDNS

File Number: SEPA # 010-21

Date of Mailing: 7/30/21

DCC. INDEX #  
F-59

In-House Distribution E-mail List			Revised 06/14/2021
Name	Division	E-mail Address	
Silvia Corona	Clerk's Office	<a href="mailto:Silvia.Corona@yakimawa.gov">Silvia.Corona@yakimawa.gov</a>	
Lisa Maxey	Code Administration	<a href="mailto:Lisa.Maxey@yakimawa.gov">Lisa.Maxey@yakimawa.gov</a>	
Glenn Denman	Code Administration	<a href="mailto:Glenn.Denman@yakimawa.gov">Glenn.Denman@yakimawa.gov</a>	
John Zabell	Code Administration	<a href="mailto:John.Zabell@yakimawa.gov">John.Zabell@yakimawa.gov</a>	
Kelli Horton	Code Administration	<a href="mailto:Kelli.Horton@yakimawa.gov">Kelli.Horton@yakimawa.gov</a>	
Linda Rossignol	Code Administration	<a href="mailto:Linda.Rossignol@yakimawa.gov">Linda.Rossignol@yakimawa.gov</a>	
Pedro Contreras	Code Administration	<a href="mailto:Pedro.Contreras@yakimawa.gov">Pedro.Contreras@yakimawa.gov</a>	
Suzanne DeBusschere	Code Administration	<a href="mailto:Suzanne.Debusschere@yakimawa.gov">Suzanne.Debusschere@yakimawa.gov</a>	
Tony Doan	Code Administration	<a href="mailto:Tony.Doan@yakimawa.gov">Tony.Doan@yakimawa.gov</a>	
Joan Davenport	Community Development	<a href="mailto:Joan.Davenport@yakimawa.gov">Joan.Davenport@yakimawa.gov</a>	
Rosalinda Ibarra	Community Development	<a href="mailto:Rosalinda.Ibarra@yakimawa.gov">Rosalinda.Ibarra@yakimawa.gov</a>	
Bill Preston	Engineering	<a href="mailto:Bill.preston@yakimawa.gov">Bill.preston@yakimawa.gov</a>	
Dan Riddle	Engineering	<a href="mailto:Dan.Riddle@yakimawa.gov">Dan.Riddle@yakimawa.gov</a>	
Aaron Markham	Fire	<a href="mailto:Aaron.markham@yakimawa.gov">Aaron.markham@yakimawa.gov</a>	
Jeremy Rodriguez	Fire	<a href="mailto:Jeremy.Rodriguez@yakimawa.gov">Jeremy.Rodriguez@yakimawa.gov</a>	
Sara Watkins	Legal	<a href="mailto:Sara.Watkins@yakimawa.gov">Sara.Watkins@yakimawa.gov</a>	
Archie Matthews	ONDS	<a href="mailto:Archie.Matthews@yakimawa.gov">Archie.Matthews@yakimawa.gov</a>	
Joseph Calhoun	Planning	<a href="mailto:Joseph.Calhoun@yakimawa.gov">Joseph.Calhoun@yakimawa.gov</a>	
Analilia Nunez	Planning	<a href="mailto:Analilia.nunez@yakimawa.gov">Analilia.nunez@yakimawa.gov</a>	
Matt Murray	Police	<a href="mailto:Matthew.murray@yakimawa.gov">Matthew.murray@yakimawa.gov</a>	
Scott Schafer	Public Works	<a href="mailto:Scott.Schafer@yakimawa.gov">Scott.Schafer@yakimawa.gov</a>	
Loretta Zammarchi	Refuse	<a href="mailto:Loretta.Zammarchi@yakimawa.gov">Loretta.Zammarchi@yakimawa.gov</a>	
Randy Layman	Refuse	<a href="mailto:Randy.Layman@yakimawa.gov">Randy.Layman@yakimawa.gov</a>	
Gregory Story	Transit	<a href="mailto:Gregory.Story@yakimawa.gov">Gregory.Story@yakimawa.gov</a>	
James Dean	Utilities	<a href="mailto:James.Dean@yakimawa.gov">James.Dean@yakimawa.gov</a>	
Dana Kallevig	Wastewater	<a href="mailto:Dana.Kallevig@yakimawa.gov">Dana.Kallevig@yakimawa.gov</a>	
Randy Meloy	Wastewater	<a href="mailto:Randy.Meloy@yakimawa.gov">Randy.Meloy@yakimawa.gov</a>	
Dave Brown	Water/Irrigation	<a href="mailto:David.Brown@yakimawa.gov">David.Brown@yakimawa.gov</a>	
Mike Shane	Water/Irrigation	<a href="mailto:Mike.Shane@yakimawa.gov">Mike.Shane@yakimawa.gov</a>	

Outside Distribution		
Name	Address	Included In Mailing?
Pacific Power Attn: Estimating Department (Subdivision notices ONLY)	500 N Keys Rd, Yakima, WA 98901	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Type of Notice: NAC OF MDVJ  
 File Number(s): SEPA #010-21  
 Date of Mailing: 7/30/21

DOC. INDEX #  
F-59

## Nunez, Analilia

---

**From:** Nunez, Analilia  
**Sent:** Friday, July 30, 2021 4:40 PM  
**To:** Brown, David; Calhoun, Joseph; Contreras, Pedro; Corona, Silvia; Davenport, Joan; Dean, James; DeBusschere, Suzanne; Denman, Glenn; Doan, Tony; Horton, Kelli; Ibarra, Rosalinda; Kallevig, Dana; Layman, Randy; Markham, Aaron; Matthews, Archie; Maxey, Lisa; Meloy, Randy; Murray, Matthew; Nunez, Analilia; Preston, Bill; Riddle, Dan; Rodriguez, Jeremy; Rossignol, Linda; Schafer, Scott; Shane, Mike; Story, Gregory; Watkins, Sara; Zabell, John; Zammarchi, Loretta; Ahtanum Irrigation District - Beth Ann Brulotte; Cawley, Marc; Chamber of Commerce; Department of Agriculture; Department of Commerce (CTED) - Review Team; Department of Ecology; Department of Ecology - Former Orchards; Department of Ecology - Lori White; Department of Ecology - SEPA Register; Department of Ecology -CRO Coordinator; Department of Fish and Wildlife; Department of Fish and Wildlife; Department of Fish and Wildlife - Eric Bartrand; Department of Fish and Wildlife - Scott Downes; Department of Natural Resources; Dept of Social & Health Services - Larry Covey; Dept. Archaeology & Historic Preservation - SEPA Review; Energy Facility Site Evaluation Council - Stephen Posner; Henne, Dennis; Ibarra, Rosalinda; Kallevig, Dana; Nob Hill Water - Bob Irving; Nunez, Analilia; Office of Rural & Farmworker Housing - Marty Miller; Peterson, Robert; Riddle, Dan; Sergio Garcia; US Army Corps of Engineers - David Moore; WA State Dept of Health, Kelly Cooper; WA State Dept of Health, Office of Drinking Water; WA State Dept of Health, Office of Drinking Water; WA State Parks & Recreation Commission; WSDOT - Paul Gonseth; WSDOT - South Central Regional Planning Office; WSDOT Aviation - Max Platts; WVSD - Angela Watts, Asst Supt of Bus/Fin; WVSD - Mike Brophy, Supt.; Yakama Bureau of Indian Affairs - Rocco Clark; Yakama Nation Environmental Management Program - Elizabeth Sanchez; Yakama-Klickitat Fisheries - John Marvin; Yakama-Klickitat Fisheries Project - John Marvin; Yakima County Building Official - Harold Maclean; Yakima County Commissioners; Yakima County Flood Control District - Dianna Woods; Yakima County Flood Control District - Troy Havens; Yakima County Health District; Yakima County Health District - Ryan Ibach; Yakima County Planning - Manager - Tommy Carroll; Yakima County Planning - Zoning/Sub - Jason Earles; Yakima County Public Svcs Director, Lisa Freund; Yakima Greenway Foundation - Kellie Connaughton; Yakima Regional Clean Air Agency - Hasan Tahat; Yakima School District - Jay Baucom; Yakima School District - Stacey Locke; Yakima School District - Trevor Greene; Yakima Valley Museum - Peter Arnold, Exec Director; Yakima Valley Trolleys; Yakima Waste Systems - Keith Kovalenko; YVCOG - Lynn Deitrick  
**Cc:** Martin, Trevor  
**Subject:** NOTICE OF MNDS\_Bainter - SEPA#010-21  
**Attachments:** NOTICE OF MNDS\_Bainter - SEPA#010-21.pdf

Attached is a Mitigated Determination of Nonsignificance regarding the above-entitled project. If you have any questions about this proposal, please contact assigned planner Trevor Martin at [trevor.martin@yakimawa.gov](mailto:trevor.martin@yakimawa.gov).



Analilia Núñez  
Planning Technician  
City of Yakima Planning Division  
p: 509.575.6261  
129 North 2nd Street, Yakima, Washington, 98901



DEPARTMENT OF COMMUNITY DEVELOPMENT

Joan Davenport, AICP, Director

Planning Division

Joseph Calhoun, Manager

129 North Second Street, 2<sup>nd</sup> Floor, Yakima, WA 98901

ask.planning@yakimawa.gov · www.yakimawa.gov/services/planning

**WASHINGTON STATE ENVIRONMENTAL POLICY ACT  
MITIGATED DETERMINATION OF NONSIGNIFICANCE  
CITY OF YAKIMA, WASHINGTON  
July 30, 2021**

**PROJECT DESCRIPTION:** Master planned development to subdivide one parcel of 5.2 acres into 20 residential duplex lots (total of 40 residential units) with internal access by private streets, located in the Local Business (B-2) zoning district.

**LOCATION:** 502 S. 90<sup>th</sup> Ave.  
**PARCEL NUMBER:** 181330-21433  
**PROPONENT:** PLSA Engineering & Surveying c/o Tom Durant  
**PROPERTY OWNER:** Gregory W & Adele Bainter  
**LEAD AGENCY:** City of Yakima

**FILE NUMBERS:** PD#002-21, PLP#002-21, CL2#019-21, & SEPA#010-21

**DETERMINATION:** The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

**I. FINDINGS**

**A. Project History**

1. On April 19, 2021, PLSA Engineering and Surveying, on behalf of Gregory and Adele Bainter, submitted an Environmental Review (SEPA#010-21) for a to subdivide one parcel of 5.2 acres into 20 residential duplex lots (total of 40 residential units).

**B. Development Services Team (DST) Comments – A DST meeting for the project was held on July 10, 2021. Comments from the DST meeting will be incorporated into report and recommendation to the Yakima Hearing Examiner.**

**C. On June 30, 2021, the Department of Archaeology and Historic Preservation (DAHP) provided written comments which stated:**

1. "...Our statewide predictive model indicates that there is a high probability of encountering cultural resources within the proposed project area. Further, the scale of the proposed ground disturbing actions would destroy any archaeological resources present. Identification during construction is not a recommended detection method because inadvertent discoveries often result in costly construction delays and damage to the resource. Therefore, we recommend a professional archaeological survey of the project area be conducted prior to ground disturbing activities. We also recommend consultation with the concerned Tribes' cultural committees and staff regarding cultural resource issues..."

DCC. INDEX #

F-S



*Staff Response – An archaeological survey will be required as part of the MDNS conditions.*

- D. On July 2, 2021, the Washington State Department of Ecology provided written comments which stated:
1. Historical aerial photos indicate your project is located on property that was occupied by orchard during the time period when lead arsenate was applied as a pesticide, often resulting in shallow soil contamination from lead and/or arsenic. Before proceeding, your project is required to conduct soil sampling under the Model Toxics Control Act (Chapter 173-340 WAC).
  2. If sampling indicates elevated levels of lead and arsenic, cleanup will be required prior to occupancy. The Department of Ecology plans to use Model Remedies for lead and arsenic pesticide contamination in historical orchards of Central Washington. A Focus Sheet on the Model Remedies can be found at <https://apps.ecology.wa.gov/publications/documents/2109007.pdf>
  3. Compliance with a Model Remedy ensures your project meets the minimum standards of the Model Toxics Control Act, and if implemented as described, your property will be successfully cleaned up to Washington State standards.
  4. Ecology can provide free initial sampling as well as free technical assistance for your project...
  5. Project with Potential to Discharge Off-Site If your project anticipates disturbing ground with the potential for stormwater discharge off-site, the NPDES Construction Stormwater General Permit is recommended. This permit requires that the SEPA checklist fully disclose anticipated activities including building, road construction and utility placements. Obtaining a permit may take 38-60 days.
  6. The permit requires that a Stormwater Pollution Prevention Plan (Erosion Sediment Control Plan) shall be prepared and implemented for all permitted construction sites. These control measures must be able to prevent soil from being carried into surface water and storm drains by stormwater runoff. Permit coverage and erosion control measures must be in place prior to any clearing, grading, or construction.
  7. In the event that an unpermitted Stormwater discharge does occur off-site, it is a violation of Chapter 90.48 RCW, Water Pollution Control and is subject to enforcement action. More information on the stormwater program may be found on Ecology's stormwater website at: <http://www.ecy.wa.gov/programs/wq/stormwater/construction/>.

*Staff Response –The site shall undergo soil sampling under the Model Toxics Control Act (WAC 173-340) before any building permits shall be issued for the subject project.*

*The project shall submit for the NPDES Construction Stormwater General Permit, and a Stormwater Pollution Prevention Plan (Erosion Sediment Control Plan) prior to the issuance of any building permits for the subject project.*

## **II. CONCLUSIONS:**

- A. A Notice of Application was sent out on April 19, 2021. Two SEPA agency comments were received.
- B. As mitigated, this proposal will have no adverse environmental impacts.

### III. REQUIRED MITIGATION MEASURES:

This Mitigated Determination of Nonsignificance (MDNS) is hereby conditioned upon the following mitigated measures, as authorized under WAC 197-11-660 and Yakima Municipal Code YMC § 6.88.160, and the Yakima Urban Area Comprehensive Plan, which contains goals, policies, and regulations which provide substantive authority to require mitigation under the State Environmental Policy Act (SEPA).

1. A professional archaeological survey of the site shall be conducted, including consultation with the Yakama Nation, prior to any ground disturbing activities being permitted.
2. The soil shall be tested for lead and/or arsenic contamination in accordance with the Model Toxics Control Act. If elevated levels are found, cleanup shall be required prior to a certificate of occupancy.
3. NPDES Construction Stormwater General Permit shall be required; and
4. A Stormwater Pollution Prevention Permit (SWPPP) shall be required.

☒ This MDNS is issued under WAC 197-11-355. There is no further comment period on the MDNS.

Responsible Official: Joan Davenport  
Position/Title: SEPA Responsible Official  
Phone: (509) 575-6183  
Address: 129 N. 2nd Street, Yakima, WA 98901

Date: July 30, 2021

Signature

Joan Davenport (ACTING)

☒ You may appeal this determination to: Joan Davenport, AICP, Director of Community Development, at 129 N. 2nd Street, Yakima, WA 98901.

No later than **August 10, 2021**.

By method: Complete appeal application form and payment of \$580.00 appeal fee.

**You should be prepared to make specific factual objections. Contact the City of Yakima Planning Division to read or ask about the procedures for SEPA appeals.**



## AFFIDAVIT OF MAILING

STATE OF WASHINGTON

CITY OF YAKIMA

RE: PD#002-21, PLP#002-21, CL2#019-21  
Greg & Adele Bainter  
502 S. 90<sup>th</sup> Ave

I, Analilia Núñez, as an employee of the Yakima City Planning Division, have dispatched through the United States Mails, a **Notice of Public Hearing**. A true and correct copy of which is enclosed herewith; that said notice was addressed to the applicant, parties of record, listed SEPA agencies and all property owners of record within a radius of 300 feet of subject property, that said property owners are individually listed on the mailing list retained by the Planning Division, and that said notices were mailed by me on the 29<sup>th</sup> day of July, 2021.

That I mailed said notices in the manner herein set forth and that all of the statements made herein are just and true.



Analilia Núñez

Planning Technician

ECC. INDEX #  
F-4d

18133021434  
BAINTER GROUP LLC  
9004 TIETON DR  
YAKIMA, WA 98908

18131934512  
JBS PROPERTIES INC  
1819 S 4TH AVE  
YAKIMA, WA 98903

18131934006  
BENNETT K OSBORNE  
9003 TIETON DR  
YAKIMA, WA 98908

18131934008  
BENNETT K OSBORNE  
9003 TIETON DR  
YAKIMA, WA 98908

18133022004  
BRUCE L & REBECCA A SANISLO  
9208 TIETON DR  
YAKIMA, WA 98908

18133022407  
CARL R & JENNIFER K TATE NEUMAN  
603 S 92ND AVE  
YAKIMA, WA 98908

18131934407  
EDWIN & ILA MILLER  
9007 TIETON DRIVE  
YAKIMA, WA 98908

18131934408  
FREDDY L & POK NAM BRICENO  
9005 TIETON DR  
YAKIMA, WA 98908

18133022408  
GILBERT DELL DANIELS TRUST  
1203 E ROSE LN UNIT 7  
PHOENIX, AZ 85014

18133021401  
GREGORY W & ADELE BAITER  
9004 TIETON DR  
YAKIMA, WA 98908

18133021433  
GREGORY W & ADELE BAITER  
9004 TIETON DR  
YAKIMA, WA 98908

18133021013  
JEANNETTE MARTIN  
5808 SUMMITVIEW AVE, STE A, PMB  
403  
YAKIMA, WA 98908

18131933562  
JEFFREY B SWAN  
9200 BELL AVE  
YAKIMA, WA 98908

18133021001  
LINDA D SEAMAN  
8902 TIETON DR  
YAKIMA, WA 98908

18133021009  
MAX MICHAEL & KATE RUTGER  
705 S 92ND AVE  
YAKIMA, WA 98908

18133021435  
MICHAEL & KELLY MENARD SUGDEN  
8910 TIETON DR  
YAKIMA, WA 98908

18133021436  
MICHAEL & KELLY MENARD SUGDEN  
8910 TIETON DR  
YAKIMA, WA 98908

18131934521  
PATRICK & JEAN CHITTIM  
8911 TIETON DRIVE  
YAKIMA, WA 98908

18133021011  
RICHARD C & RENEE PECK  
703 S 92ND AVE  
YAKIMA, WA 98908

18133022406  
RONALD L & KATHLEEN BRITT  
412 N 68TH AVE  
YAKIMA, WA 98908

18133021012  
TRACY DAVIS  
609 S 92ND AVE  
YAKIMA, WA 98908

18131933540  
WILLIAM & MERRY L STURM  
9203 TIETON DR  
YAKIMA, WA 98908

22  
Total Parcels - Greg & Adele Bainter -  
PD#002-21, PLP#002-21, CL2#019-21,  
SEPA#010-21, TCO#008-21

DLT CONSTRUCTION LLC  
PO BOX 268  
WAPATO, WA 98951

TOM DURANT  
PLSA ENGINEERING & SURVEYING  
521 N 20TH AVE, STE 3  
YAKIMA, WA 98902

ntc of public  
Hearing  
7/29/21

DOC. INDEX #

F-46

In-House Distribution E-mail List			Revised 06/14/2021
Name	Division	E-mail Address	
Silvia Corona	Clerk's Office	<a href="mailto:Silvia.Corona@yakimawa.gov">Silvia.Corona@yakimawa.gov</a>	
Lisa Maxey	Code Administration	<a href="mailto:Lisa.Maxey@yakimawa.gov">Lisa.Maxey@yakimawa.gov</a>	
Glenn Denman	Code Administration	<a href="mailto:Glenn.Denman@yakimawa.gov">Glenn.Denman@yakimawa.gov</a>	
John Zabell	Code Administration	<a href="mailto:John.Zabell@yakimawa.gov">John.Zabell@yakimawa.gov</a>	
Kelli Horton	Code Administration	<a href="mailto:Kelli.Horton@yakimawa.gov">Kelli.Horton@yakimawa.gov</a>	
Linda Rossignol	Code Administration	<a href="mailto:Linda.Rossignol@yakimawa.gov">Linda.Rossignol@yakimawa.gov</a>	
Pedro Contreras	Code Administration	<a href="mailto:Pedro.Contreras@yakimawa.gov">Pedro.Contreras@yakimawa.gov</a>	
Suzanne DeBusschere	Code Administration	<a href="mailto:Suzanne.Debusschere@yakimawa.gov">Suzanne.Debusschere@yakimawa.gov</a>	
Tony Doan	Code Administration	<a href="mailto:Tony.Doan@yakimawa.gov">Tony.Doan@yakimawa.gov</a>	
Joan Davenport	Community Development	<a href="mailto:Joan.Davenport@yakimawa.gov">Joan.Davenport@yakimawa.gov</a>	
Rosalinda Ibarra	Community Development	<a href="mailto:Rosalinda.Ibarra@yakimawa.gov">Rosalinda.Ibarra@yakimawa.gov</a>	
Bill Preston	Engineering	<a href="mailto:Bill.preston@yakimawa.gov">Bill.preston@yakimawa.gov</a>	
Dan Riddle	Engineering	<a href="mailto:Dan.Riddle@yakimawa.gov">Dan.Riddle@yakimawa.gov</a>	
Aaron Markham	Fire	<a href="mailto:Aaron.markham@yakimawa.gov">Aaron.markham@yakimawa.gov</a>	
Jeremy Rodriguez	Fire	<a href="mailto:Jeremy.Rodriguez@yakimawa.gov">Jeremy.Rodriguez@yakimawa.gov</a>	
Sara Watkins	Legal	<a href="mailto:Sara.Watkins@yakimawa.gov">Sara.Watkins@yakimawa.gov</a>	
Archie Matthews	ONDS	<a href="mailto:Archie.Matthews@yakimawa.gov">Archie.Matthews@yakimawa.gov</a>	
Joseph Calhoun	Planning	<a href="mailto:Joseph.Calhoun@yakimawa.gov">Joseph.Calhoun@yakimawa.gov</a>	
Analilia Nunez	Planning	<a href="mailto:Analilia.nunez@yakimawa.gov">Analilia.nunez@yakimawa.gov</a>	
Matt Murray	Police	<a href="mailto:Matthew.murray@yakimawa.gov">Matthew.murray@yakimawa.gov</a>	
Scott Schafer	Public Works	<a href="mailto:Scott.Schafer@yakimawa.gov">Scott.Schafer@yakimawa.gov</a>	
Loretta Zammarchi	Refuse	<a href="mailto:Loretta.Zammarchi@yakimawa.gov">Loretta.Zammarchi@yakimawa.gov</a>	
Randy Layman	Refuse	<a href="mailto:Randy.Layman@yakimawa.gov">Randy.Layman@yakimawa.gov</a>	
Gregory Story	Transit	<a href="mailto:Gregory.Story@yakimawa.gov">Gregory.Story@yakimawa.gov</a>	
James Dean	Utilities	<a href="mailto:James.Dean@yakimawa.gov">James.Dean@yakimawa.gov</a>	
Dana Kallevig	Wastewater	<a href="mailto:Dana.Kallevig@yakimawa.gov">Dana.Kallevig@yakimawa.gov</a>	
Randy Meloy	Wastewater	<a href="mailto:Randy.Meloy@yakimawa.gov">Randy.Meloy@yakimawa.gov</a>	
Dave Brown	Water/Irrigation	<a href="mailto:David.Brown@yakimawa.gov">David.Brown@yakimawa.gov</a>	
Mike Shane	Water/Irrigation	<a href="mailto:Mike.Shane@yakimawa.gov">Mike.Shane@yakimawa.gov</a>	

Outside Distribution		
Name	Address	Included In Mailing?
Pacific Power Attn: Estimating Department (Subdivision notices ONLY)	500 N Keys Rd, Yakima, WA 98901	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Type of Notice: NTC of public Hearing  
File Number(s): PR# 002-21  
Date of Mailing: 7/29/21

DCC. INDEX #  
E-46

## Nunez, Analilia

---

**From:** Nunez, Analilia  
**Sent:** Thursday, July 29, 2021 4:16 PM  
**To:** Brown, David; Calhoun, Joseph; Contreras, Pedro; Corona, Silvia; Davenport, Joan; Dean, James; DeBusschere, Suzanne; Denman, Glenn; Doan, Tony; Horton, Kelli; Ibarra, Rosalinda; Kallevig, Dana; Layman, Randy; Markham, Aaron; Matthews, Archie; Maxey, Lisa; Meloy, Randy; Murray, Matthew; Nunez, Analilia; Preston, Bill; Riddle, Dan; Rodriguez, Jeremy; Rossignol, Linda; Schafer, Scott; Shane, Mike; Story, Gregory; Watkins, Sara; Zabell, John; Zammarchi, Loretta; Ahtanum Irrigation District - Beth Ann Brulotte; Cawley, Marc; Chamber of Commerce; Department of Agriculture; Department of Commerce (CTED) - Review Team; Department of Ecology; Department of Ecology - Former Orchards; Department of Ecology - Lori White; Department of Ecology - SEPA Register; Department of Ecology -CRO Coordinator; Department of Fish and Wildlife; Department of Fish and Wildlife; Department of Fish and Wildlife - Eric Bartrand; Department of Fish and Wildlife - Scott Downes; Department of Natural Resources; Dept of Social & Health Services - Larry Covey; Dept. Archaeology & Historic Preservation - SEPA Review; Energy Facility Site Evaluation Council - Stephen Posner; Henne, Dennis; Ibarra, Rosalinda; Kallevig, Dana; Nob Hill Water - Bob Irving; Nunez, Analilia; Office of Rural & Farmworker Housing - Marty Miller; Peterson, Robert; Riddle, Dan; Sergio Garcia; US Army Corps of Engineers - David Moore; WA State Dept of Health, Kelly Cooper; WA State Dept of Health, Office of Drinking Water; WA State Dept of Health, Office of Drinking Water; WA State Parks & Recreation Commission; WSDOT - Paul Gonseth; WSDOT - South Central Regional Planning Office; WSDOT Aviation - Max Platts; WVSD - Angela Watts, Asst Supt of Bus/Fin; WVSD - Mike Brophy, Supt.; Yakama Bureau of Indian Affairs - Rocco Clark; Yakama Nation Environmental Management Program - Elizabeth Sanchez; Yakama-Klickitat Fisheries - John Marvin; Yakama-Klickitat Fisheries Project - John Marvin; Yakima County Building Official - Harold Maclean; Yakima County Commissioners; Yakima County Flood Control District - Dianna Woods; Yakima County Flood Control District - Troy Havens; Yakima County Health District; Yakima County Health District - Ryan Ibach; Yakima County Planning - Manager - Tommy Carroll; Yakima County Planning - Zoning/Sub - Jason Earles; Yakima County Public Svcs Director, Lisa Freund; Yakima Greenway Foundation - Kellie Connaughton; Yakima Regional Clean Air Agency - Hasan Tahat; Yakima School District - Jay Baucom; Yakima School District - Stacey Locke; Yakima School District - Trevor Greene; Yakima Valley Museum - Peter Arnold, Exec Director; Yakima Valley Trolleys; Yakima Waste Systems - Keith Kovalenko; YVCOG - Lynn Deitrick; Brown, Michael; Davido, Sean; El Mundo; El Sol de Yakima; Fannin, John; KAPP TV News; KBBO-KRSE Radio - manager; KDNA Radio - Francisco Rios; KEPR TV News; KIMA TV News; KIT News; KIT/KATS/DMVW/KFFM - Lance Tormey; KNDO TV News; KNDU TV News; KUNW-TV Univision; KVEW TV News; La Casa Hogar; La Voz; Lozano, Bonnie; NWCN News; NWPR - Anna King; Randy Luvaas - Yakima Business Times; RCDR - Maria DJ Rodriguez; Tu Decides - Albert Torres; West Valley School District - Angela Watts; Yakima Herald Republic - Mai Hoang; Yakima Herald Republic Newspaper; Yakima Valley Business Times; YPAC - Randy Beehler  
**Cc:** Martin, Trevor  
**Subject:** NOTICE OF PUBLIC HEARING\_Bainter - PD#002-21, PLP#002-21, CL2#019-21  
**Attachments:** NOTICE OF PUBLIC HEARING\_Bainter - PD#002-21, PLP#002-21, CL2#019-21.doc....pdf

Attached you will find a Notice of Public Hearing regarding the above-entitled project. If you have any questions about this proposal, please contact assigned planner Trevor Martin at [trevor.martin@yakimawa.gov](mailto:trevor.martin@yakimawa.gov).

**YAKIMA  
HERALD-REPUBLIC**  
WE TELL YOUR STORIES YAKIMAHERALD.COM

**El Sol de Yakima**  
-Ad Proof-

This is the proof of your ad scheduled to run on the  
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Please confirm placement prior to deadline,  
by contacting your  
account rep at (509) 577-7740.

Date: 07/30/21	Run Dates:
Account #: 110358	Yakima Herald-Republic 07/31/21
Company Name: CITY OF YAKIMA PLANNING	YakimaHerald.com 07/31/21
Contact: ROSALINDA IBARRA,AP	
Address: 129 N 2ND STREET YAKIMA, WA 98901-2720	
Telephone: (509) 575-6164	
Fax:	

Ad ID: 982956
Start: 07/31/21
Stop: 07/31/21
Total Cost: \$131.40
# of Inserts: 2
Lines: 70.0
Ad Class: 6021
Ad Class Name: Public Legal Notices
Account Rep: Simon Sizer
Phone #: (509) 577-7740
Email: ssizer@YAKIMAHERALD.COM

## Ad Proof

### NOTICE OF PUBLIC HEARING

**APPLICANT:** PLSA Engineering & Surveying c/o Tom Durant **FILE NUMBER:** PD#002-21, PLP#002-21, CL2#019-21, SEPA#010-21  
**LOCATION:** 502 S. 90th Ave., Yakima WA **TAX PARCEL NUMBER(S):** 181330-21433  
**DATE OF APPLICATION:** April 19, 2021 **DATE OF COMPLETENESS:** June 14, 2021 **PROJECT DESCRIPTION:** Master planned development to subdivide one parcel of 5.2 acres into 20 residential duplex lots (total of 40 residential units) with internal access by private streets, located in the B-2 zoning district. **NOTICE OF PUBLIC HEARING.** This request requires that the Hearing Examiner hold an open record public hearing, which is scheduled for **September 9, 2021 at 9:00 a.m.**, in the City of Yakima Council Chambers, City Hall, 129 N. 2nd St., Yakima, WA. Any person desiring to express their views on the matter is invited to attend the hearing to provide testimony. Please reference file numbers (PD#002-21, PLP#002-21, CL2#019-21, & SEPA#010-21) and applicant's name (Bainter) in any correspondence you submit. You can mail your comments to: **Joan Davenport, AICP, Community Development Director City of Yakima, Department of Community Development 129 N. 2nd St.; Yakima, WA 98901**  
**NOTICE OF RECOMMENDATION** Following the public hearing, the Hearing Examiner will issue a recommendation within ten (10) business days. When available, a copy of the recommendation will be mailed to parties of record and entities who were provided this notice. The file containing the complete application is available for public review at the City of Yakima Planning Division, City Hall - 2nd Floor, 129 N. 2nd St., Yakima, WA. If you have questions regarding this proposal, please call Trevor Martin, Associate Planner, at (509) 575-6162, or e-mail to trevor.martin@yakimawa.gov

(982956) July 31, 2021

DOC. INDEX #

F-49

**NOTICE OF PUBLIC  
HEARING**

**APPLICANT:** PLSA Engineering & Surveying, c/o Tom Durant  
**FILE NUMBER:** PD#002-21, PLP#002-21, CL2#019-21, SEPA#010-21  
**LOCATION:** 502 S. 90th Ave., Yakima WA  
**TAX PARCEL NUMBER(S):** 181330-21433

**DATE OF APPLICATION:** April 19, 2021  
**DATE OF COMPLETENESS:** June 14, 2021

**PROJECT DESCRIPTION:** Master planned development to subdivide one parcel of 5.2 acres into 20 residential duplex lots (total of 40 residential units) with internal access by private streets, located in the B-2 zoning district.

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(982956) July 31, 2021

DOC. INDEX #

F-49



DEPARTMENT OF COMMUNITY DEVELOPMENT

Joan Davenport, AICP, Director

Planning Division

Joseph Calhoun, Manager

129 North Second Street, 2<sup>nd</sup> Floor, Yakima, WA 98901

ask.planning@yakimawa.gov · www.yakimawa.gov/services/planning

**NOTICE OF PUBLIC HEARING**

**DATE:** July 29, 2021  
**TO:** Applicant and Adjoining Property Owners  
**FROM:** Joan Davenport, AICP, Community Development Director  
**APPLICANT:** PLSA Engineering & Surveying c/o Tom Durant  
**FILE NUMBER:** PD#002-21, PLP#002-21, CL2#019-21, SEPA#010-21  
**LOCATION:** 502 S. 90<sup>th</sup> Ave., Yakima WA  
**TAX PARCEL NUMBER(S):** 181330-21433  
**DATE OF APPLICATION:** April 19, 2021  
**DATE OF COMPLETENESS:** June 14, 2021

**PROJECT DESCRIPTION** Master planned development to subdivide one parcel of 5.2 acres into 20 residential duplex lots (total of 40 residential units) with internal access by private streets, located in the B-2 zoning district.

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**Joan Davenport, AICP, Community Development Director**  
**City of Yakima, Department of Community Development**  
**129 N. 2nd St.; Yakima, WA 98901**

**NOTICE OF RECOMMENDATION** Following the public hearing, the Hearing Examiner will issue a recommendation within ten (10) business days. When available, a copy of the recommendation will be mailed to parties of record and entities who were provided this notice.

The file containing the complete application is available for public review at the City of Yakima Planning Division, City Hall – 2nd Floor, 129 N. 2nd St., Yakima, WA. If you have questions regarding this proposal, please call Trevor Martin, Associate Planner, at (509) 575-6162, or e-mail to [trevor.martin@yakimawa.gov](mailto:trevor.martin@yakimawa.gov)

DOC. INDEX

F-4



## AFFIDAVIT OF MAILING

STATE OF WASHINGTON

CITY OF YAKIMA

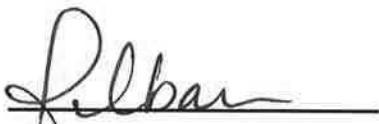
RE: PD#002-21, PLP#002-21, CL2#019-21, SEPA#010-21, TCO#008-21

Greg & Adele Bainter

502 S 90<sup>th</sup> Avenue

I, Rosalinda Ibarra, as an employee of the Yakima City Planning Division, have dispatched through the United States Mails, a **Notice of Application and Environmental Review**; a true and correct copy of which is enclosed herewith; that said notice was addressed to the applicant, SEPA reviewing agencies, and all property owners of record within a radius of 300 feet of subject property; that said property owners are individually listed on the mailing list retained by the Planning Division; and that said notices were mailed by me on the 16<sup>th</sup> day of June, 2021.

That I mailed said notices in the manner herein set forth and that all of the statements made herein are just and true.



Rosalinda Ibarra

Community Development Administrative Assistant

DOC. INDEX #

F-3C



18133021434  
BAINTER GROUP LLC  
9004 TIETON DR  
YAKIMA, WA 98908

18131934512  
JBS PROPERTIES INC  
1819 S 4TH AVE  
YAKIMA, WA 98903

18131934006  
BENNETT K OSBORNE  
9003 TIETON DR  
YAKIMA, WA 98908

18131934008  
BENNETT K OSBORNE  
9003 TIETON DR  
YAKIMA, WA 98908

18133022004  
BRUCE L & REBECCA A SANISLO  
9208 TIETON DR  
YAKIMA, WA 98908

18133022407  
CARL R & JENNIFER K TATE NEUMAN  
603 S 92ND AVE  
YAKIMA, WA 98908

18131934407  
EDWIN & ILA MILLER  
9007 TIETON DRIVE  
YAKIMA, WA 98908

18131934408  
FREDDY L & POK NAM BRICENO  
9005 TIETON DR  
YAKIMA, WA 98908

18133022408  
GILBERT DELL DANIELS TRUST  
1203 E ROSE LN UNIT 7  
PHOENIX, AZ 85014

18133021401  
GREGORY W & ADELE BAITER  
9004 TIETON DR  
YAKIMA, WA 98908

18133021433  
GREGORY W & ADELE BAITER  
9004 TIETON DR  
YAKIMA, WA 98908

18133021013  
JEANNETTE MARTIN  
5808 SUMMITVIEW AVE, STE A, PMB  
403  
YAKIMA, WA 98908

18131933562  
JEFFREY B SWAN  
9200 BELL AVE  
YAKIMA, WA 98908

18133021001  
LINDA D SEAMAN  
8902 TIETON DR  
YAKIMA, WA 98908

18133021009  
MAX MICHAEL & KATE RUTGER  
705 S 92ND AVE  
YAKIMA, WA 98908

18133021435  
MICHAEL & KELLY MENARD SUGDEN  
8910 TIETON DR  
YAKIMA, WA 98908

18133021436  
MICHAEL & KELLY MENARD SUGDEN  
8910 TIETON DR  
YAKIMA, WA 98908

18131934521  
PATRICK & JEAN CHITTIM  
8911 TIETON DRIVE  
YAKIMA, WA 98908

18133021011  
RICHARD C & RENEE PECK  
703 S 92ND AVE  
YAKIMA, WA 98908

18133022406  
RONALD L & KATHLEEN BRITT  
412 N 68TH AVE  
YAKIMA, WA 98908

18133021012  
TRACY DAVIS  
609 S 92ND AVE  
YAKIMA, WA 98908

18131933540  
WILLIAM & MERRY L STURM  
9203 TIETON DR  
YAKIMA, WA 98908

22  
Total Parcels - Greg & Adele Bainter -  
PD#002-21, PLP#002-21, CL2#019-21,  
SEPA#010-21, TCO#008-21

DLT CONSTRUCTION LLC  
PO BOX 268  
WAPATO, WA 98951

TOM DURANT  
PLSA ENGINEERING & SURVEYING  
521 N 20TH AVE, STE 3  
YAKIMA, WA 98902

Notice of Application 3  
SEPA Review  
4/16/2021

DOC. INDEX #

F-36

Ahtanum Irrigation District  
Beth Ann Brulotte, Executive Assistant  
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[chamber@yakima.org](mailto:chamber@yakima.org)

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Marty Miller,  
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United States Postal Service  
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Yakima, WA 98903

WA State Department of Commerce  
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1011 Plum St SE  
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[reviewteam@commerce.wa.gov](mailto:reviewteam@commerce.wa.gov)

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WA State Department of Ecology  
Rhonda Luke, Project Coordinator  
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David Moore, Project Manager  
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Office of Capital Programs  
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DOC. INDEX #

F-36

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Agency  
NEPA Review Unit  
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Yakima County Water Resources Division  
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WA State Dept of Health, Office of  
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[ryan.ibach@co.yakima.wa.us](mailto:ryan.ibach@co.yakima.wa.us)

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WA State Energy Facility Site Evaluation  
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WA State Parks & Recreation Commission  
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[jessica.logan@parks.wa.gov](mailto:jessica.logan@parks.wa.gov)

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[gonsetp@wsdot.gov](mailto:gonsetp@wsdot.gov)

Yakama Bureau of Indian Affairs  
Superintendent  
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Toppenish, WA 98948

Yakama Indian Nation, Yakima Tribal  
Council  
Ruth Jim,  
P.O. Box 151  
Toppenish, WA 98948

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Harold Maclean, Building Official  
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Yakima County Planning Division  
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Yakima Regional Clean Air Agency  
Hasan Tahat, Compliance and Engineering  
Division Supervisor  
186 Iron Horse Ct # 101  
Yakima, WA 98901  
[hasan@yrcaa.org](mailto:hasan@yrcaa.org)

Yakima School District  
Trevor Greene, Superintendent  
104 North 4th Ave  
Yakima, WA 98902  
[greenetrevor@yakimaschools.org](mailto:greenetrevor@yakimaschools.org)

DOC. INDEX #

F-36

Yakima Valley Canal Co  
Robert Smoot,  
1640 Garretson Lane  
Yakima, WA 98908

Yakima Valley Conference of Governments  
Lynn Deitrick, Senior Planner  
311 North 4th Street, Ste# 202  
Yakima, WA 98901  
[lynn.deitrick@yvcog.org](mailto:lynn.deitrick@yvcog.org)

Yakima Valley Museum  
Peter Arnold, Executive Director  
2105 Tieton Drive  
Yakima, WA 98902  
[peter@yvmuseum.org](mailto:peter@yvmuseum.org)

Yakima Valley Trolleys  
Paul Edmondson,  
313 North 3rd Street  
Yakima, WA 98901

Yakima Valley Trolleys  
PO Box 796  
Yakima, WA 98907  
[info@yakimavalleytrolleys.org](mailto:info@yakimavalleytrolleys.org)

Yakima Waste Systems  
Keith Kovalenko, District Manager  
PO Box 2830  
Yakima, WA 98907  
[keithk@wasteconnections.com](mailto:keithk@wasteconnections.com)

Yakima-Tieton Irrigation District  
Sandra Hull,  
470 Camp 4 Rd  
Yakima, WA 98908

SEPA REVIEWING AGENCIES\_updated  
05/03/2021

Type of Notice: Notice of Application & SEPA Review

File Number: PD#002-21, PLP#002-21, CL2#019-21, SEPA#010-21

Date of Mailing: 06/16/2021

DOC. INDEX #  
F-36

### In-House Distribution E-mail List

Revised 06/14/2021

Name	Division	E-mail Address
Silvia Corona	Clerk's Office	<a href="mailto:Silvia.Corona@yakimawa.gov">Silvia.Corona@yakimawa.gov</a>
Lisa Maxey	Code Administration	<a href="mailto:Lisa.Maxey@yakimawa.gov">Lisa.Maxey@yakimawa.gov</a>
Glenn Denman	Code Administration	<a href="mailto:Glenn.Denman@yakimawa.gov">Glenn.Denman@yakimawa.gov</a>
John Zabell	Code Administration	<a href="mailto:John.Zabell@yakimawa.gov">John.Zabell@yakimawa.gov</a>
Kelli Horton	Code Administration	<a href="mailto:Kelli.Horton@yakimawa.gov">Kelli.Horton@yakimawa.gov</a>
Linda Rossignol	Code Administration	<a href="mailto:Linda.Rossignol@yakimawa.gov">Linda.Rossignol@yakimawa.gov</a>
Pedro Contreras	Code Administration	<a href="mailto:Pedro.Contreras@yakimawa.gov">Pedro.Contreras@yakimawa.gov</a>
Suzanne DeBusschere	Code Administration	<a href="mailto:Suzanne.Debusschere@yakimawa.gov">Suzanne.Debusschere@yakimawa.gov</a>
Tony Doan	Code Administration	<a href="mailto:Tony.Doan@yakimawa.gov">Tony.Doan@yakimawa.gov</a>
Joan Davenport	Community Development	<a href="mailto:Joan.Davenport@yakimawa.gov">Joan.Davenport@yakimawa.gov</a>
Rosalinda Ibarra	Community Development	<a href="mailto:Rosalinda.Ibarra@yakimawa.gov">Rosalinda.Ibarra@yakimawa.gov</a>
Bill Preston	Engineering	<a href="mailto:Bill.preston@yakimawa.gov">Bill.preston@yakimawa.gov</a>
Dan Riddle	Engineering	<a href="mailto:Dan.Riddle@yakimawa.gov">Dan.Riddle@yakimawa.gov</a>
Aaron Markham	Fire	<a href="mailto:Aaron.markham@yakimawa.gov">Aaron.markham@yakimawa.gov</a>
Jeremy Rodriguez	Fire	<a href="mailto:Jeremy.Rodriguez@yakimawa.gov">Jeremy.Rodriguez@yakimawa.gov</a>
Sara Watkins	Legal	<a href="mailto:Sara.Watkins@yakimawa.gov">Sara.Watkins@yakimawa.gov</a>
Archie Matthews	ONDS	<a href="mailto:Archie.Matthews@yakimawa.gov">Archie.Matthews@yakimawa.gov</a>
Joseph Calhoun	Planning	<a href="mailto:Joseph.Calhoun@yakimawa.gov">Joseph.Calhoun@yakimawa.gov</a>
Analilia Nunez	Planning	<a href="mailto:Analilia.nunez@yakimawa.gov">Analilia.nunez@yakimawa.gov</a>
Matt Murray	Police	<a href="mailto:Matthew.murray@yakimawa.gov">Matthew.murray@yakimawa.gov</a>
Scott Schafer	Public Works	<a href="mailto:Scott.Schafer@yakimawa.gov">Scott.Schafer@yakimawa.gov</a>
Loretta Zammarchi	Refuse	<a href="mailto:Loretta.Zammarchi@yakimawa.gov">Loretta.Zammarchi@yakimawa.gov</a>
Randy Layman	Refuse	<a href="mailto:Randy.Layman@yakimawa.gov">Randy.Layman@yakimawa.gov</a>
Gregory Story	Transit	<a href="mailto:Gregory.Story@yakimawa.gov">Gregory.Story@yakimawa.gov</a>
James Dean	Utilities	<a href="mailto:James.Dean@yakimawa.gov">James.Dean@yakimawa.gov</a>
Dana Kallevig	Wastewater	<a href="mailto:Dana.Kallevig@yakimawa.gov">Dana.Kallevig@yakimawa.gov</a>
Randy Meloy	Wastewater	<a href="mailto:Randy.Meloy@yakimawa.gov">Randy.Meloy@yakimawa.gov</a>
Dave Brown	Water/Irrigation	<a href="mailto:David.Brown@yakimawa.gov">David.Brown@yakimawa.gov</a>
Mike Shane	Water/Irrigation	<a href="mailto:Mike.Shane@yakimawa.gov">Mike.Shane@yakimawa.gov</a>

### Outside Distribution

Name	Address	Included In Mailing?
Pacific Power Attn: Estimating Department (Subdivision notices ONLY)	500 N Keys Rd, Yakima, WA 98901	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Type of Notice:

File Number(s):

Date of Mailing:

Notice of Application & SEPA Review

PD#002-21, PLP#002-21, CL2#019-21, SEPA#010-21

06/16/2021

DCC. INDEX #  
F-36

**From:** Ibarra, Rosalinda  
**Sent:** Wednesday, June 16, 2021 10:56 AM  
**To:** Brown, David; Calhoun, Joseph; Contreras, Pedro; Corona, Silvia; Davenport, Joan; Dean, James; DeBusschere, Suzanne; Denman, Glenn; Doan, Tony; Horton, Kelli; Ibarra, Rosalinda; Kallevig, Dana; Layman, Randy; Markham, Aaron; Matthews, Archie; Maxey, Lisa; Meloy, Randy; Murray, Matthew; Nunez, Analilia; Preston, Bill; Riddle, Dan; Rodriguez, Jeremy; Rossignol, Linda; Schafer, Scott; Shane, Mike; Story, Gregory; Watkins, Sara; Zabell, John; Zammarchi, Loretta; Ahtanum Irrigation District - Beth Ann Brulotte; Cawley, Marc; Chamber of Commerce; Department of Agriculture; Department of Commerce (CTED) - Review Team; Department of Ecology; Department of Ecology - Former Orchards; Department of Ecology - Lori White; Department of Ecology - SEPA Register; Department of Ecology - CRO Coordinator; Department of Fish and Wildlife; Department of Fish and Wildlife; Department of Fish and Wildlife - Eric Bartrand; Department of Fish and Wildlife - Scott Downes; Department of Natural Resources; Dept of Social & Health Services - Larry Covey; Dept. Archaeology & Historic Preservation - SEPA Review; Energy Facility Site Evaluation Council - Stephen Posner; Henne, Dennis; Ibarra, Rosalinda; Kallevig, Dana; Nob Hill Water - Bob Irving; Nunez, Analilia; Office of Rural & Farmworker Housing - Marty Miller; Peterson, Robert; Riddle, Dan; US Army Corps of Engineers - David Moore; WA State Dept of Health, Kelly Cooper; WA State Dept of Health, Office of Drinking Water; WA State Dept of Health, Office of Drinking Water; WA State Parks & Recreation Commission; WSDOT - Paul Gonseth; WSDOT - South Central Regional Planning Office; WSDOT Aviation - Max Platts; WVSD - Angela Watts, Asst Supt of Bus/Fin; WVSD - Mike Brophy, Supt.; Yakama Bureau of Indian Affairs - Rocco Clark; Yakama Nation Environmental Management Program - Elizabeth Sanchey; Yakama-Klickitat Fisheries - John Marvin; Yakama-Klickitat Fisheries Project - John Marvin; Yakima County Building Official - Harold Maclean; Yakima County Commissioners; Yakima County Flood Control District - Dianna Woods; Yakima County Flood Control District - Troy Havens; Yakima County Health District; Yakima County Health District - Ryan Ibach; Yakima County Planning - Manager - Tommy Carroll; Yakima County Planning - Zoning/Sub - Jason Earles; Yakima County Public Svcs Director, Lisa Freund; Yakima Greenway Foundation - Kellie Connaughton; Yakima Regional Clean Air Agency - Hasan Tahat; Yakima School District - Jay Baucom; Yakima School District - Stacey Locke; Yakima School District - Trevor Greene; Yakima Valley Museum - Peter Arnold, Exec Director; Yakima Valley Trolleys; Yakima Waste Systems - Keith Kovalenko; YVCOG - Lynn Deitrick  
**Cc:** Martin, Trevor  
**Subject:** NOTICE OF APPLICATION & SEPA REVIEW - Greg & Adele Bainter - PD#002-21, PLP#002-21, CL2#019-21, SEPA#010-21  
**Attachments:** NTC OF APPLICATION & SEPA REVIEW - Bainter - PD#002-21, PLP#002-21, CL2#....pdf

Attached is a Notice of Application and Environmental Review for the above-entitled project. This project review also requires a public hearing which will be scheduled at a later time and a Notice of Public Hearing will be provided with the forthcoming SEPA Determination after the public comment period ends.

If you have any questions about this proposal please contact assigned planner Trevor Martin at [trevor.martin@yakimawa.gov](mailto:trevor.martin@yakimawa.gov)

Thank you!

**Rosalinda Ibarra**

Community Development Administrative Assistant

City of Yakima | Planning Division

129 North 2nd Street, Yakima WA 98901

p: (509) 575-6183 ♦ f: (509) 575-6105



*This email is a public record of the City of Yakima and is subject to public disclosure unless exempt under the Washington Public Records Act. This email is subject to the State Retention Schedule.*

DOC. INDEX #  
F-34

**From:** Ibarra, Rosalinda  
**Sent:** Wednesday, June 16, 2021 11:02 AM  
**To:** Gary Cuillier; Pat Spurgin (pds@spurginlawoffice.com)  
**Subject:** FW: NOTICE OF APPLICATION & SEPA REVIEW - Greg & Adele Bainter - PD#002-21, PLP#002-21, CL2#019-21, SEPA#010-21  
**Attachments:** NTC OF APPLICATION & SEPA REVIEW - Bainter - PD#002-21, PLP#002-21, CL2#....pdf

Attached is a Notice of Application and Environmental Review for the above-entitled project. This project review also requires a public hearing which will be scheduled at a later time and a Notice of Public Hearing will be provided with the forthcoming SEPA Determination after the public comment period ends.

If you have any questions about this proposal please contact assigned planner Trevor Martin at [trevor.martin@yakimawa.gov](mailto:trevor.martin@yakimawa.gov)

Thank you!

**Rosalinda Ibarra**

Community Development Administrative Assistant

City of Yakima | Planning Division

129 North 2nd Street, Yakima WA 98901

p: (509) 575-6183 ♦ f: (509) 575-6105



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DOC. INDEX #  
F-39



DEPARTMENT OF COMMUNITY DEVELOPMENT

Joan Davenport, AICP, Director

Planning Division

Joseph Calhoun, Manager

129 North Second Street, 2<sup>nd</sup> Floor, Yakima, WA 98901

ask.planning@yakimawa.gov · www.yakimawa.gov/services/planning

**NOTICE OF APPLICATION AND ENVIRONMENTAL REVIEW**

**DATE:** June 16, 2021  
**TO:** SEPA Reviewing Agencies, Applicant, and Adjoining Property Owners  
**FROM:** Joan Davenport, AICP, Community Development Director  
**APPLICANT:** PLSA Engineering & Surveying c/o Tom Durant  
**FILE NUMBER:** PD#002-21, PLP#002-21, CL2#019-21, SEPA#010-21, TCO#008-21  
**LOCATION:** 502 S 90TH AVE  
**TAX PARCEL NUMBER(S):** 181330-21433  
**DATE OF APPLICATION:** April 19, 2021  
**DATE OF COMPLETENESS:** June 14, 2021

**PROJECT DESCRIPTION:** Master planned development to subdivide one parcel of 5.2 acres into 20 residential duplex lots (total of 40 residential units) with internal access by private streets, located in the Local Business (B-2) zoning district.

**DETERMINATION OF CONSISTENCY:** Pursuant to YMC § 16.06.020(A), the project considerations are determined to be consistent with applicable development regulations, as follows:

1. The type of land use: Master Planned Development and Preliminary Long Plat for residential development.
2. Level of Development: Lots range from approximately 14,491 to 9,902 square feet in size.
3. Infrastructure and public facilities: The subject property is able to be served by public streets, water, sewer, garbage collection, etc.
4. Characteristics of development: The proposal shall adhere to all Title 6, 12, and Title 15 development standards.

Pursuant to YMC § 16.06.020(B), the development regulations and comprehensive plan considerations are found to be consistent, as follows:

1. The type of land use: Master Planned Development and Preliminary Short Plat for residential.
2. Density of Development: Approximately 7.6 dwelling units per net residential acre.
3. Availability and adequacy of infrastructure and public utilities: The subject property is able to be served by public facilities.

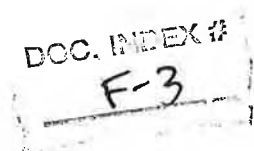
**NOTICE OF ENVIRONMENTAL REVIEW:** This is to notify agencies with jurisdiction and environmental expertise and the public that the City of Yakima, Planning Division, has been established as the lead agency, under WAC § 197-11-928 for this project. The City of Yakima has reviewed the proposed project for probable adverse environmental impacts and expects to issue a Determination of Nonsignificance (DNS) per WAC § 197-11-355. The proposal may include mitigation measures under applicable codes and the project review process may incorporate or require mitigation measures regardless of whether an EIS is prepared. A copy of the subsequent SEPA threshold determination will be mailed to parties of record and entities who were provided this notice and may be appealed pursuant to YMC § 6.88.170.

**Required Permits:** The following local, state, and federal permits/approvals may or will be needed for this project: Building Permit, Grading Permit

**Required Studies:** N/A

**Existing Environmental Documents:** None

**Development Regulations for Project Mitigation and Consistency Include:** the State Environmental Policy Act, the Yakima Urban Area Zoning Ordinance, YMC Title 12—Development Standards, and the Yakima Urban Area Comprehensive Plan.





**REQUEST FOR WRITTEN COMMENTS:** Agencies, tribes, and the public are encouraged to review and comment on the proposed project and its probable environmental impacts. There is a 20-day comment period for this review. This may be your only opportunity to comment. All written comments received by 5:00 p.m. on **July 6, 2021**, will be considered prior to issuing the final SEPA determination. Please reference file numbers (PD#002-21, PLP#002-21, CL2#019-21, & SEPA#010-21) and applicant's name (Bainter) in any correspondence you submit. You can mail your comments to:

**Joan Davenport, AICP, Community Development Director  
City of Yakima, Department of Community Development  
129 N. 2nd St., Yakima, WA 98901**

**NOTICE OF SEPA DECISION:** A copy of the decision of the SEPA threshold determination will be mailed to parties of record and entities who were provided this notice once it is rendered.

**NOTICE OF HEARING:** This review requires that the Hearing Examiner hold an open record public hearing. A separate Notice of Public Hearing will be issued concurrently with the SEPA Determination at a later time, in accordance with public notice guidelines.

The file containing the complete application is available for public review at the City of Yakima Planning Division, City Hall – 2nd Floor, 129 N. 2nd St., Yakima, WA. If you have any questions on this proposal, please contact Trevor Martin, Associate Planner at (509) 575-6162, or email to: [trevor.martin@yakimawa.gov](mailto:trevor.martin@yakimawa.gov).

**Enclosed:** Narratives, Project Descriptions, SEPA Checklist, Site Plans, and Vicinity Map

DCC. INDEX #  
F-3



DEPARTAMENTO DE DESARROLLO COMUNITARIO  
Joan Davenport, AICP, Directora

Division de Planificación  
Joseph Calhoun, Gerente  
129 Norte Calle 2ª, 2º Piso, Yakima, WA 98901  
ask.planning@yakimawa.gov · www.yakimawa.gov/services/planning

**AVISO DE APLICACIÓN Y REVISIÓN AMBIENTAL**

El Departamento de Desarrollo Comunitario de la Ciudad de Yakima ha recibido una aplicación por parte de un propietario/solicitante y este es un aviso sobre esa solicitud. Información sobre la ubicación de la propiedad en cuestión y la solicitud es la siguiente:

**FECHA OTORGADA:** 16 de junio, 2021  
**PARA:** Agencias de Revisión Ambiental, Solicitante y Propietarios Adyacentes  
**DE:** Joan Davenport, AICP, Directora de Desarrollo Comunitario  
**SOLICITANTE:** PLSA Engineering & Surveying c/o Tom Durant  
**No. DE ARCHIVO:** PD#002-21, PLP#002-21, CL2#019-21, SEPA#010-21, TCO#008-21  
**UBICACIÓN:** 502 S 90TH AVE  
**No. DE PARCELA:** 181330-21433  
**FECHA DE APLICACIÓN:** 19 de abril, 2021  
**FECHA DE APLICACIÓN COMPLETA:** 14 de junio, 2021

**DESCRIPCIÓN DEL PROYECTO:** Desarrollo planificado para dividir una parcela de 5.2 acres en 20 lotes residenciales para dúplexes (total de 40 unidades de viviendas residenciales) con acceso interno por calles privadas, ubicado en la zona comercial B-2.

**DETERMINACIÓN DE LA CONSISTENCIA:** Conforme al Código Municipal YMC §16.06.020(A), las consideraciones del proyecto se determinan consistentes a las siguientes normas de desarrollo aplicables:

1. El tipo de uso terrenal: Desarrollo planificado y Subdivisión Preliminar para desarrollo residencial.
2. Nivel de desarrollo: Tamaño de los lotes varían desde 14,491 a 9,902 pies cuadrados.
3. Infraestructura e instalaciones públicas: La propiedad puede ser servida por calles públicas, agua, drenaje, recolección de basura, etc.
4. Características del desarrollo: La propuesta se adherirá a las normas de desarrollo del Título 6, 12 y 15.

Conforme al Código Municipal YMC §16.06.020(B), los reglamentos de desarrollo y las consideraciones del plan comprensivo son coherentes, de la siguiente manera:

1. El tipo del uso terrenal: Desarrollo planificado y Subdivisión Preliminar para desarrollo residencial.
2. Densidad del desarrollo: Aproximadamente 7.6 unidades de vivienda por acre residencial
3. Disponibilidad y adecuación de infraestructura y servicios públicos: La propiedad puede ser servida por instalaciones públicas.

**AVISO DE REVISIÓN AMBIENTAL:** Esto es para notificar a las agencias con jurisdicción y experiencia ambiental y al público que la Ciudad de Yakima, Division de Planificación, se establece como la agencia principal, de acuerdo con la Ley Estatal de Política Ambiental de Washington (SEPA) bajo WAC §197-11-928 para la revisión de este proyecto. La Ciudad de Yakima ha revisado el proyecto propuesto para posibles impactos ambientales adversos y espera emitir una Determinación de No-Significancia (DNS) para este proyecto conforme al proceso DNS opcional en WAC § 197-11-355. La propuesta puede incluir medidas de mitigación bajo los códigos aplicables y el proceso de revisión del proyecto puede incorporar o requerir medidas de mitigación independientemente de si se prepara un EIS (Declaración de Impacto Ambiental). Una copia de la determinación de umbral posterior se puede obtener por solicitud y se puede apelar de acuerdo con el Código Municipal de Yakima YMC § 6.88.170.

**Permisos Requeridos:** Los siguientes permisos/aprobaciones locales, estatales, y federales pueden o serán necesarios para este proyecto: Permiso de Construcción, Permiso de Nivelación Terrenal

**Estudios Requeridos:** N/A

**Documentos Ambientales Existentes:** Ninguno

F-3

**Los Reglamentos de Desarrollo para la Mitigación y Consistencia de Proyectos Incluyen:** La Ley Estatal de Política Ambiental de Washington, La Ordenanza de Zonificación del Área Urbana de Yakima, Los Estándares de Desarrollo del Título 12, y el Plan Integral del Área Urbana de Yakima.

**SOLICITUD DE COMENTARIOS ESCRITOS:** Se anima a las agencias, tribus, y el público a revisar y comentar sobre el proyecto y sobre sus probables impactos ambientales. Habrá un periodo de veinte (20) días para hacer sus comentarios. Este podría ser su única oportunidad para comentar. Todos los comentarios recibidos por escrito antes de las 5:00 p.m. el **6 de julio, 2021** serán considerados antes de emitir la decisión final sobre esta solicitud. Por favor de hacer referencia al número de archivo (PD#002-21, PLP#002-21, CL2#019-21, SEPA#010-21) o al nombre del solicitante (Bainter) en cualquier correspondencia que envíe. Envíe sus comentarios sobre esta propuesta a:

**Joan Davenport, AICP, Community Development Director  
City of Yakima, Department of Community Development  
129 N. 2nd St., Yakima, WA 98901**

**AVISO DE LA DECISIÓN AMBIENTAL (SEPA):** Cuando la Determinación de la Revisión Ambiental sea emitida, una copia será enviada a las personas que mandaron comentarios o que recibieron este aviso.

**AVISO DE LA AUDIENCIA PUBLICA:** Esta revisión requiere que el Examinador de Audiencias conduzca una audiencia pública de registro abierto. Posteriormente se enviara Un Aviso de Audiencia Pública por separado junto con la Determinación Ambiental (SEPA), de acuerdo a las reglas de avisos públicos.

El archivo que contiene la aplicación completa está disponible para inspección pública en la Oficina de Planificación de la Ciudad de Yakima en el 129 al Norte la Calle 2da, Yakima, WA. Si tiene cualquier pregunta sobre esta propuesta, puede contactar a la Oficina de Planificación al (509) 575-6183 o por correo electrónico al: [ask.planning@yakimawa.gov](mailto:ask.planning@yakimawa.gov)

**Adjunto:** Narrativa, Descripción del Proyecto, Lista SEPA, Plan del Sitio, Mapa

DOC. INDEX #  
F-3



CITY OF YAKIMA  
LAND USE ACTION INSTALLATION  
CERTIFICATE

RECEIVED

JUN 11 2021

CITY OF YAKIMA  
PLANNING DIV.

File Number:	PD # 002-21
Applicant/Project Name:	Bainter
Site Address:	502 S. 90 <sup>th</sup> Ave
Date of Posting:	6/11/21
Land Use Sign ID#(s):	21 & 33

Location of Installation (Check One):

☒ Land Use Action Sign is installed per standards described in YMC §15.11.080(C).

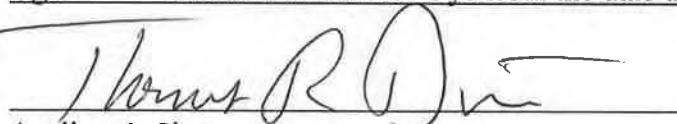
☐ Land Use Action Sign is installed in an alternate location on the site.

*Note: this alternate location (if not pre-approved by the Planning Manager) may not be acceptable by the Planning Division and is subject to relocation (at the owner's expense) to a more visible site on the property.*

The alternative location is:

The required notice of application will be sent to the applicant and property owners within a 300-foot radius after the Planning Division has received this Land Use Action Installation Certification. Failure to post a Land Use Action sign and return this form signed in a timely manner may cause a delay in the application review process.

I hereby testify that the installed sign fully complies with the Land Use Action sign installation standards (see pg. 2), that the sign will be maintained until a decision has been rendered, and that the sign will be returned within 30 days from the date the final decision is issued.

  
Applicant's Signature

June 11, 2021  
Date

Thomas R. Durant  
Applicant's Name (Please Print)

575-6990  
Applicant's Phone Number

Please fill out and sign the above certification after posting and deliver to the City of Yakima Planning Division via email to [ask.planning@yakimawa.gov](mailto:ask.planning@yakimawa.gov) or in person/by mail to: City of Yakima, Planning Division, 129 North 2<sup>nd</sup> Street, Yakima, WA 98901.



DEPARTMENT OF COMMUNITY DEVELOPMENT

Planning Division

Joan Davenport, AICP, Director

129 North Second Street, 2<sup>nd</sup> Floor, Yakima, WA 98901

[ask.planning@yakimawa.gov](mailto:ask.planning@yakimawa.gov) • [www.yakimawa.gov/services/planning](http://www.yakimawa.gov/services/planning)

May 13, 2021

**FILE NUMBER:** PD#002-21, PLP#002-21, CL2#019-21, SEPA#010-21  
**APPLICANT:** DLT Construction LLC  
**APPLICANT ADDRESS:** PO Box 268, Wapato, WA 98951  
**PROJECT LOCATION:** 502 S. 90<sup>th</sup> Ave.  
**TAX PARCEL NO:** 181330-21433  
**DATE OF REQUEST:** April 19, 2021  
**SUBJECT:** Notice of Incomplete Application

To Whom It May Concern,

After initial review, the application for your application, file numbers listed above, for 502 S. 90<sup>th</sup> Ave., which was received on April 19, 2021, is considered **incomplete** as required by the City of Yakima's Municipal Code. Per YMC § 15.11.040, please provide to following information prior to the continuation of your application:

1. In order to begin processing the application, all land use fees shall be paid the City of Yakima.

The city ask that you respond to this letter within two weeks of receiving this letter.

If you have any questions regarding this matter please call or email me at 509-575-6162 or [trevor.martin@yakimawa.gov](mailto:trevor.martin@yakimawa.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "T. Martin", written over a horizontal line.

Trevor Martin  
Associate Planner



## EXHIBIT LIST

[illegible]

**Nunez, Analilia**

---

**From:** Dianna Woods <dianna.woods@co.yakima.wa.us>  
**Sent:** Tuesday, August 17, 2021 4:27 PM  
**To:** Martin, Trevor  
**Cc:** Troy Havens; Nathan Paris  
**Subject:** Bainter CL2#019-21, PLP#002-21 & others

**RECEIVED**

**AUG 17 2021**

**CITY OF YAKIMA  
PLANNING DIV.**

Hi Trevor –

The Yakima County-wide Flood Control Zone District appreciates the opportunity to comment on this proposal. By looking at the lidar contours and location of the canal north of Tieton Ave. it appears there is a natural drainageway starting at the middle of the lot on north side. It's likely over the years this lot has had some reshaping for agricultural purposes, but the current flow would be from the middle of the lot, downslope to or on top of S 92<sup>nd</sup> Ave, then moving off the road into the lot on the south end.

More recent development may have further modified the topography but it's apparent there was (and probably still should be) a drainageway from north of Tieton Drive downslope towards Shaw Creek. The FCZD is asking that the applicant keep pass-through flow from upslope in mind when designing the project.

Sincerely,

Dianna Woods, CFM (Certified Floodplain Manager)

Program Analyst

FCZD / Water Resources

Yakima County Public Services Department

128 N. 2<sup>nd</sup> Street, Yakima, WA 98901

[dianna.woods@co.yakima.wa.us](mailto:dianna.woods@co.yakima.wa.us)

(509) 574-2328 Desk

DOC. INDEX #  
G-4

**Nunez, Analilia**

---

**From:** Jeffery B. Swan <jbswan2013@gmail.com>  
**Sent:** Monday, July 26, 2021 1:20 PM  
**To:** Martin, Trevor  
**Subject:** PD #002-21 and 502 S 90th Ave

**RECEIVED**

**JUL 26 2021**

**CITY OF YAKIMA  
PLANNING DIV**

Mr. Martin, and to others concerned:

Thank you for speaking with me last Friday on my concern about the residential development proposed at 502 S 90th Ave in Yakima (PD #002-21).

I am writing to express my concern about any access the development would have to the gravel road bordering the west side of the property which is South 92nd Avenue. As that road grade/ slope is presently constructed, when vehicles on the road are stopped for traffic on 92nd and Tieton, the headlights shine directly across into my home (living room, kitchen, and bedrooms). My entire house is illuminated with these bright lights, disturbing daily living and sleep activities.

Currently there are but a few residences that utilize that road and so the lights at night are annoying but manageable. However, I am very concerned that the proposed 40 residential units will make the situation beyond bearable. I understood from the plans that access from the units to 92nd Ave would be for fire lanes / emergency use only. However, my experience suggests that in the very short future that will be opened to general use.

I am greatly worried about the increase in traffic. If this development goes forward I request there be some accommodation to modify the 92nd/ Tieton intersection so the vast increase of vehicle lights will not disturb the enjoyment of my residence, and/or permanently block access from the units to 92nd Ave.

Thank you for considering my comments. Please feel free to contact me through this email address.

Jeff Swan  
920 Bell Ave Yakima, WA





STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

1250 West Alder Street • Union Gap, Washington 98903-0009 • (509) 575-2490

July 2, 2021

Trevor Martin  
Community Development  
City of Yakima  
129 North 2<sup>nd</sup> Street  
Yakima, WA 98901

**RECEIVED**  
JUL 02 2021  
CITY OF YAKIMA  
PLANNING DIV.

Re: SEPA Register 202103246, PD#002-21, PLP#002-21, CL2#019-21, SEPA#010-21,  
TCO#008-21

Dear Trevor Martin:

Thank you for the opportunity to comment during the Optional Determination of Non Significance process for the Upper Valley Estates subdivision of 5.2 acres into 20 residential duplex lots, proposed by Greg and Adele Bainter. We have reviewed the documents and have the following comments.

**TOXICS CLEAN-UP**

Thank you for the opportunity to comment on your proposed project.

Historical aerial photos indicate your project is located on property that was occupied by orchard during the time period when lead arsenate was applied as a pesticide, often resulting in shallow soil contamination from lead and/or arsenic. Before proceeding, your project is required to conduct soil sampling under the Model Toxics Control Act (Chapter 173-340 WAC).

If sampling indicates elevated levels of lead and arsenic, cleanup will be required prior to occupancy. The Department of Ecology plans to use Model Remedies for lead and arsenic pesticide contamination in historical orchards of Central Washington. A Focus Sheet on the Model Remedies can be found at

<https://apps.ecology.wa.gov/publications/documents/2109007.pdf>

Compliance with a Model Remedy ensures your project meets the minimum standards of the Model Toxics Control Act, and if implemented as described, your property will be successfully cleaned up to Washington State standards.

Ecology can provide free initial sampling as well as free technical assistance for your project.

DOC. INDEX #  
6-2

Trevor Martin  
July 2, 2021  
Page 2

RECEIVED

JUL 02 2021

CITY OF YAKIMA  
PLANNING DIV

Please contact **Jeff Newschwander**, Project Manager, at (509) 388-5223, for further information or to schedule your initial sampling.

## WATER QUALITY

### Project with Potential to Discharge Off-Site


If your project anticipates disturbing ground with the potential for stormwater discharge off-site, the NPDES Construction Stormwater General Permit is recommended. This permit requires that the SEPA checklist fully disclose anticipated activities including building, road construction and utility placements. Obtaining a permit may take 38-60 days.

The permit requires that a Stormwater Pollution Prevention Plan (Erosion Sediment Control Plan) shall be prepared and implemented for all permitted construction sites. These control measures must be able to prevent soil from being carried into surface water and storm drains by stormwater runoff. Permit coverage and erosion control measures must be in place prior to any clearing, grading, or construction.

In the event that an unpermitted Stormwater discharge does occur off-site, it is a violation of Chapter 90.48 RCW, Water Pollution Control and is subject to enforcement action.

More information on the stormwater program may be found on Ecology's stormwater website at: <http://www.ecy.wa.gov/programs/wq/stormwater/construction/>. Please submit an application or contact Lloyd Stevens Jr. at the Dept. of Ecology, (509) 574-3991 or email [lloyd.stevensjr@ecy.wa.gov](mailto:lloyd.stevensjr@ecy.wa.gov), with questions about this permit.

Sincerely,



Gwen Clear  
Environmental Review Coordinator  
Central Regional Office  
(509) 575-2012  
[crosepa@ecy.wa.gov](mailto:crosepa@ecy.wa.gov)

DCC, INDEX #  
6-2



Allyson Brooks Ph.D., Director  
State Historic Preservation Officer

June 30, 2021

RECEIVED

JUN 30 2021

CITY OF YAKIMA  
PLANNING DIV.

Joan Davenport  
Community Development Director  
City of Yakima  
129 North 2nd Street  
Yakima, WA 98901

In future correspondence please refer to:  
Project Tracking Code: 2021-06-04015  
Property: City of Yakima\_Bainter Subdivision Project (SEPA#010-21)  
Re: Survey Requested

Dear Joan Davenport:

Thank you for contacting the Washington State Historic Preservation Officer (SHPO) and Department of Archaeology and Historic Preservation (DAHP) and providing documentation regarding the above referenced project. Our statewide predictive model indicates that there is a high probability of encountering cultural resources within the proposed project area. Further, the scale of the proposed ground disturbing actions would destroy any archaeological resources present. Identification during construction is not a recommended detection method because inadvertent discoveries often result in costly construction delays and damage to the resource. Therefore, we recommend a professional archaeological survey of the project area be conducted prior to ground disturbing activities. We also recommend consultation with the concerned Tribes' cultural committees and staff regarding cultural resource issues.

These comments are based on the information available at the time of this review and on behalf of the SHPO in conformance with Washington State law. Should additional information become available, our assessment may be revised.

Thank you for the opportunity to comment on this project and we look forward to receiving the survey report. Please ensure that the DAHP Project Number (a.k.a. Project Tracking Code) is shared with any hired cultural resource consultants and is attached to any communications or submitted reports. Should you have any questions, please feel free to contact me.

Sincerely,

Sydney Hanson  
Transportation Archaeologist  
(360) 280-7563  
Sydney.Hanson@dahp.wa.gov

DCC. INDEX #  
6-1



[illegible]



## DEPARTMENT OF UTILITIES AND ENGINEERING

*Engineering Division*  
129 North Second Street  
Yakima, Washington 98901  
(509) 575-6111 • Fax (509) 576-6305

July 26, 2021

Jaime De La Torre  
PO Box 268  
Wapato, WA 98951

Subject: Notice of Decision for Transportation Concurrency – TCO#008-21  
502 South 90th Avenue  
ITE Trip Generation Code 210 – Single Family Homes

Jaime,

Enclosed is the Transportation Concurrency Analysis Decision for the proposed subdivision with 20 residential duplex lots to construct a total of 40 residential units at 502 South 90th Avenue, within the City of Yakima, Washington. This development has been APPROVED for Concurrency Analysis. Concurrency review determined that reserve capacity is available on all impacted arterial streets. Concurrency review does not evaluate impact to local access streets or street intersections. This review does not include safety or site design issues which will be addressed at the project review level of zoning and SEPA. This review concluded that the proposed development will not exceed the capacity of the arterial street system and reserve capacity exists on all impacted arterial streets.

Please review the enclosed report. You may appeal the Findings of this report or request Administrative Reconsideration within fifteen (15) days from the date of mailing of this Notice. Appeal forms and procedures are available at the Department of Community Development. If you have any questions, please call me at (509) 576-6754.

Sincerely,

Bill Preston, PE  
City Engineer

Enclosure

Cc: Planning  
TC File

DOC. INDEX #

H-2

**City of Yakima, Washington**  
**Engineering Division**  
**Transportation Concurrency Analysis**  
**TCO#008-21**

Date of Review: July 26, 2021  
Review Prepared by: Ben Annen, PE, City Engineering  
Proposed Development: Upper Valley Estates  
Subject Address: 502 South 90<sup>th</sup> Avenue  
ITE Land Use: 210 – Single Family Homes (220 – Apartment is for quadplexes and greater densities, not applicable)

Expected Net PM Peak Hour Trip Generation: 40 PM Peak Hour Trips  
Average Daily Weekday Trips: 381

**Summary of Impact:**

The applicant, DLT Construction, LLC, proposes to subdivide 20 residential duplex lots to construct a total of 40 residential units at 502 South 90<sup>th</sup> Avenue, within the City of Yakima, Washington. Traffic from this new development will enter/exit the Arterial Street system on Tieton Drive. City of Yakima Administrative procedures for Concurrency Analysis use the PM Peak hour trip of the adjacent street for the selected ITE use code. Based upon local data, City of Yakima Traffic Volumes for PM Peak Hour is assessed as 8.7% of total Average Daily Traffic (ADT). Peak hour reserve capacity includes any vehicle trips previously assigned under the Concurrency Ordinance. City of Yakima Transportation Concurrency assesses arterial street segment capacity only and does not address intersection capacity.

Street Segment	From - To	ADT	Year of Count	Pk Hr Capacity	Pk Hr Vol. (8.7% ADT)	Pk Hr Reserve Cap.	V/C	LOS	Project Pk Hr Trips	Total Pk Hr Vol. With TCO	Pk Hr Reserve Cap. After TCO	V/C with TCO	LOS with TCO
Tieton Drive	88th Ave - 80th Ave	7,360	2005	3200	640	2560	0.20	A	35	675	2525	0.21	A
Tieton Drive	80th Ave - 72nd Ave	10,080	2005	3200	877	2323	0.27	A	35	912	2288	0.28	A
Tieton Drive	72nd Ave - 64th Ave	11,023	2009	3200	959	2241	0.30	A	30	989	2211	0.31	A
Tieton Drive	88th Ave to 96th Ave	6,150	2006	3200	535	2665	0.17	A	5	540	2660	0.17	A
96th Ave	Tieton Dr to Summitview	3,120	2006	1600	271	1329	0.17	A	5	276	1324	0.17	A

**Summary of Impact to City of Yakima Arterial Streets:**

This application has been reviewed and approved for consistency with YMC 12.08 Transportation Capacity Management Ordinance. This development will not exceed the PM peak hour capacity of the City Arterial street system and reserve capacity exists on all impacted streets. This review does not include any site development or safety issues which may be discussed at the project level or SEPA review. The review does not address intersection level of service.

DOC. INDEX #

H-2

RECEIVED

Return Address:

Yakima County Commissioners  
128 N 2<sup>nd</sup> St Rm 232  
Yakima WA 98901

Title: Ordinance 14-2004

Reference: Concerning comprehensive planning and land use regulation, amending the official zoning map for the Yakima Urban Area and approving execution of a development agreement.

Grantor:

Yakima County Public Services  
128 N 2<sup>nd</sup> St  
Yakima WA 98901

Grantee:

The Public

Legal Description:

That part of the NE ¼ of the NE ¼ of the NW ¼, Section 30, Township 13 North, Range 18 East, W.M. lying southerly of the Yakima Valley Canal Right-of-Way [County Assessor's parcel # 181330-21002]; and

That portion of Lot 'B' of that certain Short Plat recorded in Volume 'A', Page 18, Short Plat Records of Yakima County, Washington, lying northerly of Shaw Creek [a portion of County Assessor's parcel # 181330-21401]; and

Lot 1 of that certain Short Plat recorded in volume 92, Page 14, Short Plat Records of Yakima County, Washington, except for northerly County road Right-of-way [County Assessor's parcel # 181330-21402]; and

Lot 2 of that certain Short Plat recorded in Volume 92, Page 14, Short Plat Records of Yakima County, Washington [County Assessor's parcel #181330-21403]

DOC. INDEX #

4-1



YAK COUNTY COMPTROLLER

7436399  
Page: 1 of 51  
8/18/2005 09:56A

# BOARD OF YAKIMA COUNTY COMMISSIONERS

## ORDINANCE NO. 14-2004

AN ORDINANCE concerning comprehensive planning and land use regulation, amending the official zoning map for the Yakima Urban Area and approving execution of a development agreement.

WHEREAS, the Board of Yakima County Commissioners (hereinafter "Board") adopted the Yakima Urban Area Zoning Ordinance on March 4, 1986 (Ordinance No. 10-1985, codified as YCC Title 15A), including the official zoning map for the Yakima Urban Area (YCC 15A.03.040); and,

WHEREAS, the Board adopted the Yakima Urban Area Comprehensive Plan on April 29, 1997 (Ordinance No. 2-1997); and,

WHEREAS, the Board amended the Yakima Urban Area Comprehensive Plan's Future Land Use Map by adopting Ordinance No. 13-2003 on October 14, 2003, which changed approximately 15 acres from Low Density Residential to Neighborhood Commercial in response to Yakima Urban Area Comprehensive Plan amendment application #ZON03-013 submitted by Greg Bainter, et. al.; and,

WHEREAS, application #ZON03-013 also requested a rezone from R-1 (Single-Family Residential) to B-2 (Local Business); and,

WHEREAS, Yakima County designated City of Yakima as nominal lead agency for the 2003 cycle of Yakima Urban Area Comprehensive Plan amendments, which included the proposed rezone, and the City issued an Addendum to the Final Environmental Impact Statement for the Yakima Urban Area Comprehensive Plan on August 6, 2003 in fulfillment of environmental review requirements of the State Environmental Policy Act (SEPA); and,

WHEREAS, 60-day notice of the proposed rezone was provided to the Department of Community, Trade, and Economic Development in accordance with RCW 36.70A.106 by the City of Yakima's and Yakima County's joint public notice dated June 13, 2003; and,

WHEREAS, the Hearing Examiner, in accordance with YCC Title 15A and YCC Title 16B, conducted an open record public hearing to consider the requested rezone on February 19, 2004, March 1, 2004 and April 1, 2004, and closed the record on May 11, 2004 after an opportunity for the parties to reach agreement on the issues proved to be unsuccessful; and,

WHEREAS, on May 25, 2004 the Hearing Examiner issued his recommendation (attached hereto as Exhibit 6) recommending denial of a portion of the requested rezone and recommending approval of the remaining portion of the requested rezone, subject to conditions; and,

WHEREAS, the Board held a closed record public hearing on the proposed rezone on July 20, 2004 and continued to July 27, 2004; and,

DOC. INDEX #

H-1





WHEREAS, the Board closed the hearing on July 27, 2004 after providing a full and complete opportunity for all interested parties to be heard; and,

WHEREAS, the Board, having deliberated on the matter, has determined that the hearing examiner's recommendation should be accepted in part and amended in part; and,

WHEREAS, based on the public hearing record in this matter, the Board finds that it is in the best interest of the County to enact this ordinance;

NOW THEREFORE, the Board makes the following findings in support of its actions:

#### Findings

1. Except as indicated below, the Board hereby adopts the Hearing Examiner's findings.
2. Any requirements consistent with YCC 15A.23.030 and Yakima Urban Area Comprehensive Plan objectives/policies C3.2, C3.3, C5, G2.2, G4.1, L1.1, T4.1, and E1 (attached as Exhibit 3) for sitescreening and buffering between potentially incompatible land uses, for providing water, sewer and street improvements, for providing easements for future utilities and access to property, for preventing vehicular access through residential areas, and for providing traffic control devices and other development-related improvements and municipal services are more appropriately imposed at the project review level rather than at the rezone level. Therefore, the rezone hereby approved is consistent with the Yakima Urban Area Zoning Ordinance and the Yakima Urban Area Comprehensive Plan without requiring such requirements as conditions precedent.
3. To ensure that the rezone is consistent with the Yakima Urban Area Zoning Ordinance and the Yakima Urban Area Comprehensive Plan, and particularly so that the aforementioned requirements can be appropriately considered at project level review, the applicants of this rezone have proposed executing a development agreement. The agreement attached hereto as Exhibit 1 is acceptable to the applicants and Yakima County.

FURTHERMORE, the Board makes the following conclusions in support of its actions:

#### Conclusions

1. Except as indicated below, the Board adopts the Hearing Examiner's conclusions.
2. Adequate public services are available to satisfy the utility and access requirement of existing and future Local Business (B-2) zone uses on the subject property if the development agreement attached hereto as Exhibit 1 is executed concurrently with this rezone ordinance and recorded thereafter with the Yakima County Auditor. This agreement is needed to ensure that appropriate considerations can be given at the project review level for infrastructure improvements, access and utility easements, vehicular access routes, sight screening, buffering, and other appropriate development-related improvements and mitigation of impacts to adjacent properties.

DOC. INDEX

H-1



7436399  
Page: 3 of 51  
01/10/2005 09:56A

3. The rezone hereby approved satisfies the seven criteria in YCC 15A.23.030 if the development agreement attached hereto as Exhibit 1 is executed concurrently with the adoption of this rezone ordinance. Infrastructure improvements and the other aforementioned requirements are more appropriately determined at project review level rather than as conditions precedent to this rezone.

NOW THEREFORE, IT IS HEREBY ORDAINED BY THE BOARD OF YAKIMA COUNTY COMMISSIONERS AS FOLLOWS:

**Section 1. Amending Yakima Urban Area Zoning Map.** The official zoning map for the Yakima Urban Area, referred to in YCC 15A.03.040, is hereby amended as follows: The Subject Site indicated on the attached Exhibit 2 is changed from R-1 (Single-Family Residential) to B-2 (Local Business), subject to execution of the development agreement attached hereto as Exhibit 1. Provided that, if a portion of parcel #181330-21002 is merged into parcel #181330-21001 (see Exhibit 2) within six months of the date of this ordinance, said portion will revert to R-1 zoning upon recording of the deed conveying said portion.

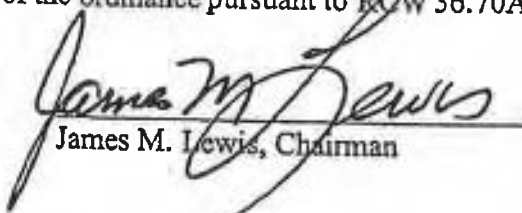
**Section 2. Severability.** If any section, phrase, or provision of this ordinance is held illegal, invalid or unenforceable, the remaining provisions shall remain in full force and effect.

**Section 3. Effective Date.** This ordinance shall become effective immediately upon adoption.

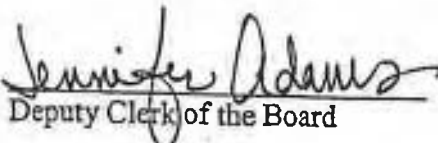
**Section 4. Instructions to Planning Services Division.** The Planning Services Division shall:

- (1) Transmit a copy of this ordinance to the Washington State Department of Community Trade and Economic Development within ten (10) days of its adoption pursuant to RCW 36.70A.106.
- (2) Promptly publish notice of adoption of the ordinance pursuant to RCW 36.70A.290.


ADOPTED this 23<sup>rd</sup> day of November 2004.

  
James M. Lewis, Chairman

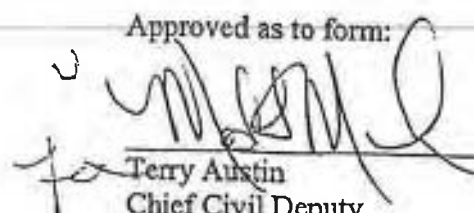
Attest: Jennifer Adams

  
Deputy Clerk of the Board

**RECUSED**  
Ronald F. Gamache, Commissioner

  
Jesse S. Palacios, Commissioner  
Constituting the Board of County Commissioners  
for Yakima County, Washington

Approved as to form:

  
Terry Austin  
Chief Civil Deputy



DCC. INDEX #

H-1



7436399  
Page: 4 of 51  
01/18/2005 09:56A

EXHIBIT 1

**DEVELOPMENT AGREEMENT  
BETWEEN PROPERTY OWNERS AND COUNTY OF YAKIMA**

This Development Agreement ("Agreement"), entered into between County of Yakima and the owners of the property ("said property") described herein, is executed as a condition of rezoning said property from Single-Family Residential (R-1) to Local Business (B-2) per Yakima County rezone file no. ZON03-013.

**I. Property Affected**

The property subject to this Agreement is depicted in Exhibit 2, attached to this Agreement, and legally described as follows:

That part of the NE ¼ of the NE ¼ of the NW ¼, Section 30, Township 13 North, Range 18 East, W.M. lying southerly of the Yakima Valley Canal Right-of-Way [County Assessor's parcel # 181330-21002]; and

That portion of Lot 'B' of that certain Short Plat recorded in Volume 'A', Page 18, Short Plat Records of Yakima County, Washington, lying northerly of Shaw Creek [a portion of County Assessor's parcel # 181330-21401]; and

Lot 1 of that certain Short Plat recorded in volume 92, Page 14, Short Plat Records of Yakima County, Washington, except for northerly County road Right-of-way [County Assessor's parcel # 181330-21402]; and

Lot 2 of that certain Short Plat recorded in Volume 92, Page 14, Short Plat Records of Yakima County, Washington [County Assessor's parcel #181330-21403].

**II. Purpose**

This Agreement prescribes the minimum terms and conditions for development on said property, which was rezoned by Yakima County Ordinance No. 14-2004 from Single-Family Residential (R-1) to Local Business (B-2) under the Yakima Urban Area Zoning Ordinance, YCC 15A (Yakima County rezone file no. ZON03-013). This agreement and the minimum terms and conditions for development on said property are necessary to ensure consistency of the rezone with the Yakima Urban Area Zoning Ordinance and the Yakima Urban Area Comprehensive Plan, and particularly to ensure timely provision of adequate urban infrastructure and to mitigate potential impacts of the rezone on adjacent residential properties.

**III. Applicability**

This Agreement and the terms and conditions contained herein shall apply to future development of said property, except for the following uses that shall not be governed by this Agreement:

- a. Existing uses of said property that were legal nonconforming uses under the R-1 zoning in effect prior to the Rezone of said property to R-2:



- b. Single-family residences;
- c. Legal home occupations that become existing Class 1 uses in the B-2 zone;
- d. Development that is exempted from the review and permit provisions of YCC 15A.12.020(c), attached hereto as Exhibit 4;
- e. Modifications of existing or approved Class 1 uses under YCC 15A.17.040, attached hereto as Exhibit 4, and modifications of existing or approved Class 2 or 3 uses under YCC 15A.17.050, attached hereto as Exhibit 4, regardless of whether or not the zoning approval being modified was made under the terms of this development agreement;
- f. Changes of legal nonconforming uses under YCC 15A.19.070, attached hereto as Exhibit 4;
- g. Alterations of legal nonconforming uses or structures under YCC 15A.19.080, attached hereto as Exhibit 4;
- h. Changes of any present legal non-conforming commercial uses or new uses of any existing commercial building used in a legal conforming or legally non-conforming use, if such change or new use is a Class 1 or Class 2 use, is similar in character and hours to the operation and the use originally approved or existing; and the parking and sitescreening requirements are equal to or less than the existing use [i.e., meets the criteria of YCC 15A.17.050(b)(2)(a) & (b) & (c)].

#### IV. Permit Process

Except as provided above, all proposed Class 1 uses in the B-2 zone shall be subject to the review process for Class 2 uses. In that process, any conditions that may be imposed upon Class 2 uses may be imposed upon said Class 1 uses, but otherwise such uses shall continue to be considered Class 1 uses with respect to the requirements and provisions of the Yakima Urban Area Zoning Ordinance. Provided that, after the improvements required in Section IV, items 'a' through 'd' have been completed, Class 2 review shall no longer be required for new Class 1 uses.

During review of proposed Class 1, Class 2, and Class 3 uses, the reviewing official shall ensure that appropriate provisions are made for the following items, in order to ensure that development will be consistent with the findings and conclusions of Ordinance No. 14-2004, which rezoned said property from R-1 to B-2:

- a. No new uses served by South 90<sup>th</sup> Avenue will be permitted until it is improved to hard surface urban access road standards. Upon accomplishment of this construction, the restriction on access to parcel no. 181330-21403 required by Short Plat 92-14 should be removed or waived.
- b. Provision of legal access to parcel no. 181330-21002 and hard surfacing of this access for any commercial uses of said parcel.
- c. No new uses requiring water and/or sewer services will be permitted until wet or dry water and/or sewer lines are installed (in a location and a manner acceptable to the water and sewer purveyors) that will allow service to the uses.
- d. Public dedication of a utility easement from the South 90<sup>th</sup> Avenue cul-de-sac south to the adjacent property to allow for looping and connection of public water and sewer mains to water and sewer mains on said adjacent property to the south in a location and a manner acceptable to the water and sewer purveyors.



YAK COUNTY COMMISSIONERS

7436399

Page: 6 of 51

01/19/2005 09:56A

- e. SITESCREENING and buffering of proposed uses from adjacent residential properties to mitigate adverse impacts. Appropriate techniques will be used including, but not limited to, view-obscuring fences and/or walls with rows of arbor vitae or equivalent tress, and the standard sitescreening techniques found in the Yakima Urban Area Zoning Ordinance. The preferences of adjacent property owners will be given significant consideration. Openings for pedestrian access through sitescreening will be considered and provided where appropriate.

The above items shall not be construed to limit the reviewing official's authority to condition development in the manner allowed by the Urban Area Zoning Ordinance.

#### V. Existing Residential Uses

The existing residences at 8910 Tieton Drive and 9004 Tieton Drive and the land immediately surrounding them, as depicted in the site plan attached hereto as Exhibit 5, will remain in residential use.

#### VI. General Provisions

1. This Agreement and any amendments hereto shall be recorded with the Yakima County Auditor promptly after execution and shall constitute a covenant running with said property that shall be binding on the heirs, successors and assigns of the parties. Unless rescinded earlier in the manner provided herein this agreement will remain in effect until December 31, 2024, after which this agreement and the covenant shall lapse and become null and void.
2. The governmental entity with land use jurisdiction over said property may enforce the requirements of this agreement.
3. With approval of the governmental entity having land use jurisdiction over said property, this Agreement may be modified or rescinded in the future so long as public notice and participation requirements for a Rezone are followed before the governmental entity with jurisdiction agrees to any amendment.
4. Amendments of this agreement that may in the future be agreed to by the parties hereto shall supersede prior versions of the agreement and the related covenant.

DOC. INDEX #

H-1



YAK COUNTY COMMISSIONERS

ORD

\$9.00

7436399

Page: 7 of 51

01/10/2005 09:56A

Yakima Co, WA

IN WITNESS WHEREOF, this Agreement has been entered into between Yakima County and the owners of said property on November 23, 2004.

Property Owners:

Gregory W. Bainter

Carol E. Bainter

Glen A. Roake

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DOC. INDEX #

H-1



YAK COUNTY COMMISSIONERS

ORD

\$9.68

7436399

Page: 8 of 51

61/16/2885 89:56A  
Yakima Co, WA

IN WITNESS WHEREOF, this Agreement has been entered into between Yakima County and the owners of said property on November 23, 2004.

Property Owners:

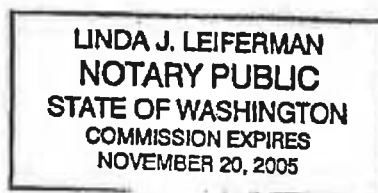
Gary Perrault  
Eva M. Perrault

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF Yakima County )

On this 31<sup>st</sup> day of December, 2004, before me, a Notary Public in and for the State of Washington, personally appeared GARY & Eva Perrault

personally know to me (or proved to me on the basis of satisfactory evidence) to be the person(s) who executed this instrument, on oath stated that he/she/they was/were authorized to execute the instrument, and acknowledged it to be the free and voluntary act for the uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.



Linda J. Leiferman  
NOTARY PUBLIC in and for the State of  
Washington, residing at Yakima

My appointment expires 11-20-05

Print Name Linda J. Leiferman

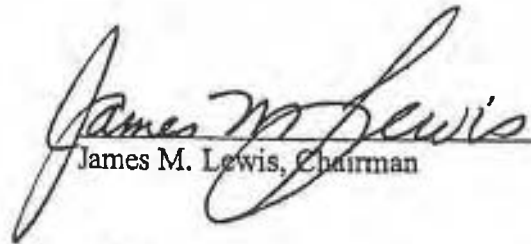
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4-1

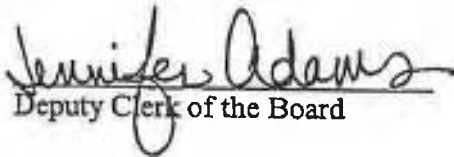


7436399  
Page: 8 of 51  
61/18/2005 09:56A  
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Board of Commissioners, County of Yakima, a Washington County

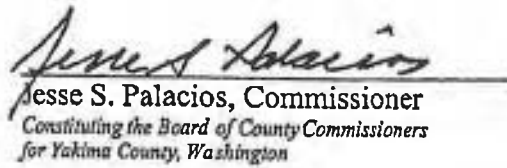
  
James M. Lewis, Chairman

Attest: Jennifer Adams

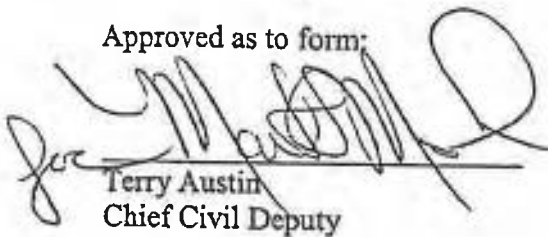
  
Deputy Clerk of the Board

RECUSED

Ronald F. Gamache, Commissioner

  
Jesse S. Palacios, Commissioner  
Constituting the Board of County Commissioners  
for Yakima County, Washington

Approved as to form:

  
Terry Austin  
Chief Civil Deputy



DOC. INDEX #

H-1



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Page: 18 of 51

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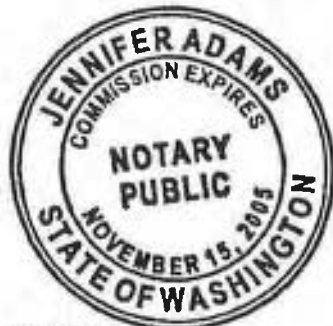


STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF Yakima County )

On this 30<sup>th</sup> day of November, 2004, before me, a Notary Public in and for the State of Washington, personally appeared Gregory and Adele Bainter

personally know to me (or proved to me on the basis of satisfactory evidence) to be the person(s) who executed this instrument, on oath stated that he/she/they was/were authorized to execute the instrument, and acknowledged it to be the free and voluntary act for the uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.



Jennifer Adams  
NOTARY PUBLIC in and for the State of Washington, residing at Yakima

My appointment expires 11/15/05

Print Name Jennifer Adams

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF Yakima County )

On this 1<sup>st</sup> day of December, 2004, before me, a Notary Public in and for the State of Washington, personally appeared Glen Radke

personally know to me (or proved to me on the basis of satisfactory evidence) to be the person(s) who executed this instrument, on oath stated that he/she/they was/were authorized to execute the instrument, and acknowledged it to be the free and voluntary act for the uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.



Jennifer Adams  
NOTARY PUBLIC in and for the State of Washington, residing at Yakima

My appointment expires 11/15/05

Print Name Jennifer Adams

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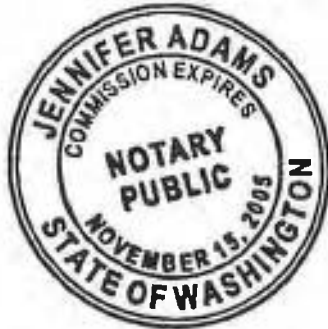
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STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF Yakima County )

On this 23<sup>rd</sup> day of November, 2004, before me, a Notary Public in and for the State of Washington, personally appeared James M. Lewis and Jesse S. Palacios, personally know to me (or proved to me on the basis of satisfactory evidence) to be the person(s) who executed this instrument, on oath stated that he/she/they was/were authorized to execute the instrument, and acknowledged it to be the free and voluntary act for the uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.



Jennifer Adams  
NOTARY PUBLIC in and for the State of  
Washington, residing at Yakima  
My appointment expires 11/15/05  
Print Name Jennifer Adams

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF Yakima County )

On this \_\_\_\_ day of November, 2004, before me, a Notary Public in and for the State of Washington, personally appeared Jim Lewis and Jesse Palacios, personally know to me (or proved to me on the basis of satisfactory evidence) to be the persons who executed this instrument, on oath stated that they were authorized to execute the instrument, and acknowledged it as the Board of Commissioners of COUNTY OF YAKIMA to be the free and voluntary act and deed of said County for the uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.

NOTARY PUBLIC in and for the State of  
Washington, residing at \_\_\_\_\_  
My appointment expires \_\_\_\_\_  
Print Name \_\_\_\_\_

DOC. INDEX #  
H-1



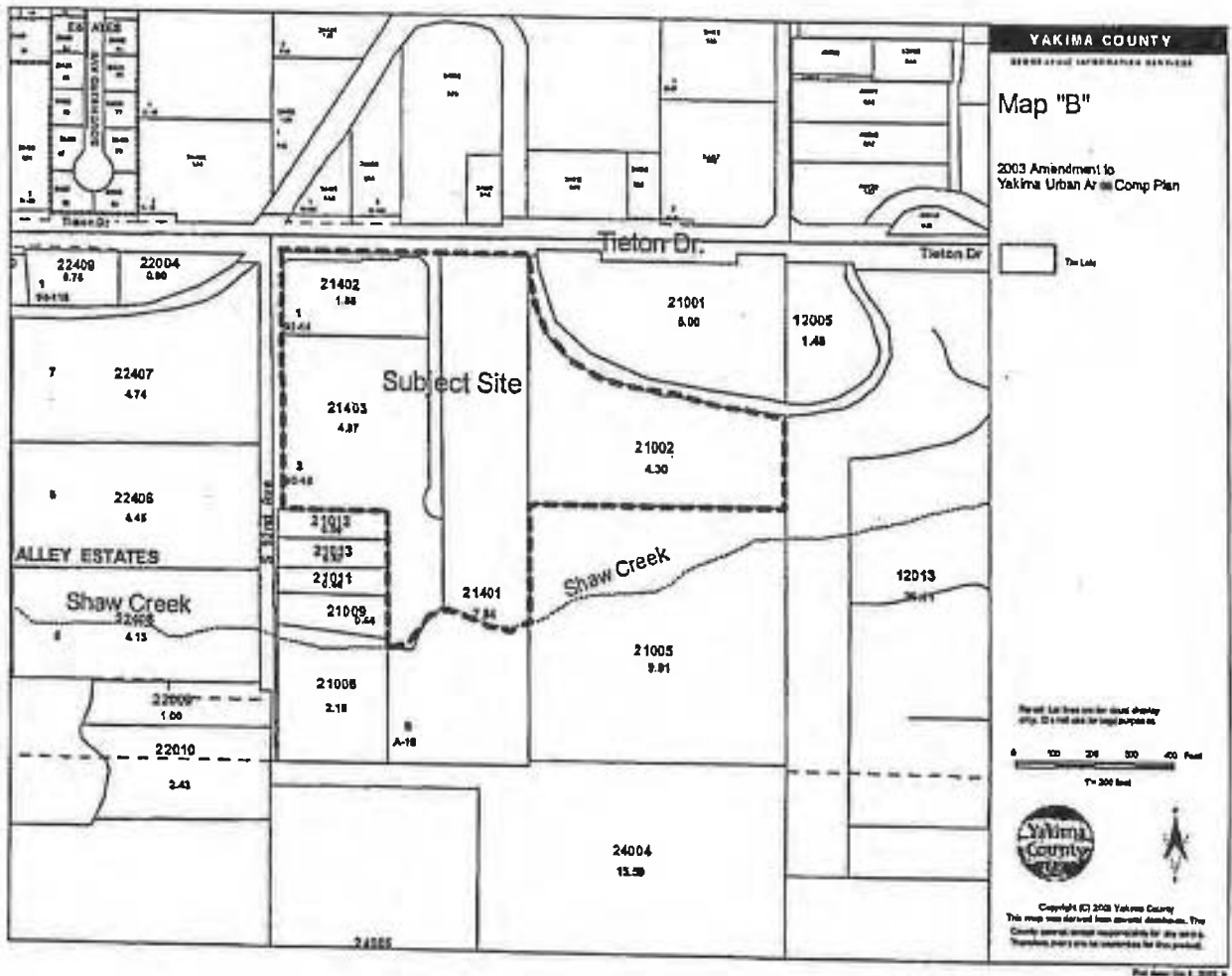
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Page: 12 of 51  
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Yakima Co. WA

# EXHIBIT 2



DOC. INDEX #

H-1



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Page: 13 of 51  
01/19/2005 09:56A  
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EXCERPTS FROM YAKIMA URBAN AREA ZONING ORDINANCE

15A.23.030 Rezones—Zoning Map Amendments.

- (a) Initiation - An amendment to the zoning map may be initiated by:
- (1) Resolution of the legislative body with jurisdiction or the regional planning commission; or
  - (2) A rezone application filed by the property owner(s).
- (b) Application - All rezone applications shall be filed with the planning department. The planning department shall process the application under the provisions of Section 15A.11.080. The application shall include the information required in Section 15A.11.030 and the signature of the owner(s) of the property.
- (c) Public Hearing by the Hearing Examiner - Upon receipt of a complete application for a rezone, the planning department shall forward the application to the hearing examiner for public hearing and review. Provided, that rezone applications initiated by the city or county to implement a newly adopted or amended Comprehensive Plan, or which are of broad general applicability shall be heard by the Regional Planning Commission under the provisions of RCW Chapter 36.70. The public hearing shall be held and notice provided under the provisions of Chapter 15A.11.090. The applicant shall appear in person or by agent or attorney. Failure to do so shall constitute sufficient cause for continuance or denial of the requested action. Other parties may appear in person or by agent or attorney, or may submit written comments.
- (d) Recommendation by the Regional Planning Commission - The regional planning commission, may if requested by the hearing examiner, submit a recommendation on the proposed rezone to the hearing examiner prior to the issuance of his decision. The recommendation of the regional planning commission shall in no way be binding on the hearing examiner.
- (e) Decision by the Hearing Examiner - Within ten days of the conclusion of the hearing, unless a longer period is agreed to in writing by the applicant, the examiner shall issue a written recommendation to approve, approve with conditions or deny the proposed rezone. The recommendation shall include the following considerations:
- (1) The testimony at the public hearing;
  - (2) The suitability of the property in question for uses permitted under the proposed zoning;
  - (3) The recommendation from interested agencies and departments;



- (4) The extent to which the proposed amendments are in compliance with and/or deviate from the goals and policies as adopted in the Yakima urban area Comprehensive Plan and the intent of this title;
- (5) The adequacy of public facilities, such as roads, sewer, water and other required public services;
- (6) The compatibility of the proposed zone change and associated uses with neighboring land uses; and,
- (7) The public need for the proposed change.

Notice of the hearing examiner's recommendation shall be mailed to the applicant at the address provided on the application form. The decision of the hearing examiner on rezone applications shall constitute a recommendation to the legislative body.

- (f) Action by the Legislative Body - Upon receipt of the hearing examiner's recommendation on a proposed rezone, the legislative body shall hold a public meeting and affirm or reject the hearing examiner's decision.

The legislative body shall conduct its own public hearing when it rejects the recommendation of the hearing examiner or desires additional public testimony. Notice of the public hearing shall be given in the manner set forth in Section 15A.11.090. In either case, the findings of the legislative body shall include the considerations established in subsection (E) of this section.

- (g) Time Limit and Notification - Proposed amendments shall be decided by the legislative body as soon as practicable and the applicant shall be notified in writing whether the rezone has been granted or denied. (Ord 10-1985 Mod. 6 §67, 1987; Ord. 10-1985 §1 (part), 1986)

## EXCERPTS FROM YAKIMA URBAN AREA COMPREHENSIVE PLAN

**Policy C3.2** - Specialty shopping centers (e.g., building supplies, home furnishing, and automobile sales and accessories) should be allowed where the following criteria are met:

1. Location on an arterial street;
2. Maximum size of 10 acres;
3. No vehicular access through residential areas; and
4. Adequate buffering between any adjacent residential uses.

Such centers may be allowed, when water and sewer service, street improvements, traffic control devices, municipal services and other development-related improvements are in place.

**Policy C3.3** - Community shopping centers (typical leading tenants may be a discount dept. store, building/home improvement store, drug/variety store) should be allowed where the following criteria are met:



1. Location on an arterial street;
2. Typical size of 10 to 30 acres;
3. No vehicular access through residential areas; and
4. Adequate buffering between any adjacent residential uses.

Such centers may be allowed, when water and sewer service, street improvements, traffic control devices, municipal services and other development-related improvements are in place.

**Objective C5:** New commercial development will be landscaped, and existing landscaping maintained, especially for buffers between residential and commercial uses.

**Policy G2.2** - Protect existing neighborhoods from excessive commercial and industrial encroachments through the establishment of definite neighborhood boundaries and implementation of zoning standards which minimize the impact on adjacent properties.

**Policy G4.1** - New urban development should be encouraged to locate first, within the City limits and second, within those portions of the Urban Growth Area where municipal services and public facilities are already present.

**Policy L1.1** - Promote a diversity of land uses by forming appropriate transitions between land uses by means of techniques such as landscape buffering and step down zoning.

**Policy T4.1** - Coordinate land use planning to insure that industrial and commercial uses are placed where transportation accessibility is or is planned to be greatest.

**Objective E1:** Encourage development in areas with few environmental hazards to minimize the loss of natural resources due to urbanization.

DCC. INDEX 37

H-1



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Page: 18 of 51  
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Yakima Co, WA

EXHIBIT 4

EXCERPTS FROM YAKIMA URBAN AREA ZONING ORDINANCE

15A.12.020 Required Permits.

- (c) Exemptions - The following development and modifications to development are exempt from the review and permit provisions of this title. Provided, they do not involve a required site improvement:
- (1) Normal structural repair and maintenance;
  - (2) Changes to conforming structures which do not involve structural alterations as that term is defined by this title;
  - (3) Rehabilitation of dwelling units when such rehabilitation does not expand the number of dwelling units nor physically expand the structure;
  - (4) Accessory structures otherwise meeting the specific development standards and requirements of this title and which do not require a building permit under the provisions of the Uniform Building Code as adopted by the city/county;
  - (5) Communication towers less than thirty-five feet in height and which meet the standards of Section 15A.04.130;
  - (6) Exempt signs;
  - (7) Yard sales meeting the requirements in Section 15A.04.060A;
  - (8) Alteration to land, including grading and leveling, paving stockpiling, and excavation, the fair market value of which does not exceed five hundred dollars;
  - (9) All grading, construction of private or public roads, landscaping, construction of sewer, waste water facilities, electric, and water utilities pursuant to an approved and valid short or long subdivision regulating such improvements.

15A.17.040 Modification of Approved and Existing Class (1) Uses Development and Approved and Existing Manufactured/Mobile Homes.

Review of proposed modifications to approved Class (1) uses and to existing Class (1) uses and which do not require Class (2) or (3) review shall be conducted by the building official under the provisions of Chapter 15A.13...

15A.17.050 Modification of Approved and Existing Class (2) and (3) Uses and Development.

- (a) Application - Requests for modification to existing uses or development requiring Class (2) or (3) review; and developments approved after Class (2) and (3) review or



DCC. INDEX #  
H-1

administrative adjustments to Class (1) or (2) uses, shall be made in writing to the planning department on forms supplied by the department and in accordance with the general procedures of Chapter 15A.11. A site plan conforming to the provisions of Section 15A.11.040 shall accompany the application. In the case of an approved Class (2) or (3) use or development, the site plan shall be the site plan previously approved by the reviewing official. The site plan shall also show the location, size, and type of modification proposed by the applicant.

- (b) Determination - Modifications to existing uses or development requiring Class (2) or (3) review or uses and developments approved after Class (2) and (3) review, may be administratively and summarily approved by the planning department if the department determines:

- (1) Any proposed change in the site design or arrangement:

- a) Will not increase residential density; and,
- b) Will not increase the amount of parking by more than ten percent (10%) or twenty (20) spaces (whichever is least), except that the amount of parking for controlled atmosphere and cold storage warehouses may be increased by up to twenty (20) spaces; and,
- c) Will not change or modify any special condition previously imposed under Class (1), (2) or (3) review; and,
- d) Will not increase the height of any structure; and,
- e) Will not adversely reduce the amount of existing landscaping or the amount or location of required sitescreening; and,
- f) Will not expand an existing nonconforming use, except as provided for in Section 15A.17.020, or render a conforming structure nonconforming; and,
- g) In the determination of the planning department will not create or materially increase any adverse impacts or undesirable effects of the project.

- (2) Any new use or change in use proposed:

- a) Is a Class (1) or (2) use in that particular district; and,
- b) Is similar in character and hours to the operation and the use originally approved or existing; and,
- c) The off-street parking and sitescreening requirements for the new use are equal to or less than the existing use;

DOC. INDEX

11-1





- (3) All proposed new structures, site improvements, or structural alterations to existing structures or site improvements comply with the development standards of Chapters 15A.05 through 15A.08.

Any proposed modification that does not meet all the requirements of this subsection shall be denied and shall be subject to the review procedures of Chapter 15A.14 for modifications of Class (1) and (2) uses and Chapter 15A.15 for modifications of Class (3) uses.

- (c) Decision and Notification of Decision - The planning department shall make and issue a written decision with simple findings and reasons for such decision within ten days following the receipt of the completed application for modification of development. The department shall mail its decision to the applicant.

Denials shall be final unless the applicant, within fourteen (14) days of the mailing of the decision:

- (a) Files a proper application for Class (2) or (3) review as appropriate, or  
(b) Appeals the decision.

Decisions to administratively approve modifications shall constitute a Certificate of Zoning Review and shall be forwarded immediately to the building official for the issuance of a development permit. In the issuance of a decision to administratively approve a modification, the planning department has the authority to impose conditions necessary to assure compliance with the development and design standards of Chapters 15A.05 through 15A.08 as would be allowed to the building official. However, the planning department has no authority to impose special conditions of approval or to adjust site design or development standards. (Ord. 10-1985 Mod. 6 §§61, 62, 1987; Ord. 10-1985 §1 (part), 1986; Ord. 3-1993 §51, 1993; Ord. 4-1995 §9, 1995)

15A.19.070 Change From a Nonconforming Use to a Class (1), (2) or (3) Use.

The following procedures shall be followed for changing a nonconforming use to a Class (1), (2) or (3) use:

- (a) Change to a Class (1) Use - Application for changing a nonconforming use to a Class (1) use shall be made under the provisions of Chapter 15A.13 Class (1) review.
- (b) Change to a Class (2) Use - Application for changing a nonconforming use to a Class (2) use shall be made and reviewed under the provisions of Chapter 15A.14 Class (2) Review. The administrative official may approve the proposed Class (2) use when he determines the proposed use is compatible with the objectives of the Yakima Urban Area Comprehensive Plan, the intent of the zoning district and the provisions and standards established herein.
- (c) Change to a Class (3) Use - Application for changing a nonconforming use to Class (3) use shall be made and reviewed under the provisions of Chapter 15A.15 Class (3)

DOC. INDEX

H-1



Review. The hearing examiner shall hold at least one public hearing on the proposed change prior to rendering a decision. The hearing examiner may approve the proposed Class (3) use when he determines it is compatible with the objectives of the Yakima Urban Area Comprehensive Plan and the purpose and intent of this title. (Ord. 10-1985 Mod. 6 §63 (part), 1987; Ord. 10-1985 §1 (part), 1986).

**15A.19.080 Reconstruction of a Nonconforming Use and Structure Damaged Beyond Seventy-five Percent of Value—Change From a Nonconforming Use to Another Nonconforming Use—Expansion of a Nonconforming Use or Structure.**

The following procedures shall be followed to replace a nonconforming structure damaged beyond seventy-five percent of its value using the most recent ICBO construction tables, change a nonconforming use to a different nonconforming use, expand a nonconforming use throughout a structure, or expand a nonconforming use or structure throughout a lot or onto an adjoining lot. Provided, a structure that is nonconforming only by reason of excessive building height or substandard setbacks or is a nonconforming single-family dwelling, may be altered or expanded under the modification provisions of Section 15A.17.050 when: the alteration or expansion:

- (a) Does not increase the degree of nonconformity of the structure; and,
- (b) Complies with development standards of the district in which it is located; and,
- (c) The nonconforming structure is occupied by a Class (1) or Class (2) use or is a single-family dwelling or duplex; and,
- (d) In the case of expanding a nonconforming single-family dwelling or duplex, the proposed expansion is fifty percent or less of the existing building area.

The provisions of Section 15A.17.050 shall also be used for the reconstruction of a nonconforming single-family dwelling damaged beyond seventy-five percent of its value using the most recent ICBO tables.

- (1) Application – The application procedures for replacement/reconstruction of a nonconforming structure damaged beyond seventy-five percent of its assessed value shall be the same as those established in Section 15A.14.030 for Class (2) uses. The application procedures for change or expansion of a nonconforming use or expansion of a nonconforming structure, shall be the same as those established in Section 15A.15.030 for Class (3) uses. A detailed site plan conforming to the provisions of Section 15A.11.050 shall accompany any applications required by this section.

- (2) Review.

- (a) Any nonconforming structure damaged beyond seventy-five percent of its assessed value using the most recent ICBO tables may be reconstructed subject to the Class (2) review process under the provisions of Section 15A.14.040 and subject to the conditions in Section 15A.19.080.3.
- (b) For any request to change from one nonconforming use to another or to expand a nonconforming use or structure, the planning department shall

DOC. INDEX #

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review and process the application for Class (3) review under the provisions of Section 15A.15.040 and subject to the conditions in Section 15A.19.080.3. The hearing examiner shall hold at least one public hearing. Within ten days after the public hearing, unless a longer period is agreed to on the record or in writing by the applicant, the hearing examiner shall render a written decision.

- (3) Conditions for Approval - The administrative official or hearing examiner may grant the relief requested if he finds all of the following:
- (a) That the expansion, change, reconstruction or replacement requested would not be contrary to the public health, safety or welfare; and
  - (b) That the proposed expansion, change, reconstruction or replacement is compatible with the character of the neighborhood; and, in the case of an expansion or change, does not significantly jeopardize future development of the area in compliance with the provisions and the intent of the zoning district; and
  - (c) That the significance of the applicant's hardship is more compelling than, and reasonably overbalances, the public interest resulting from denial of the relief requested; and
  - (d) That the use or structure was lawful at the time of its inception; and
  - (e) That the value of nearby properties will not be significantly depressed by approving the requested expansion, change, reconstruction or replacement.
  - (f) That the nonconforming structure shall comply with all applicable development standards and codes to the extent feasible.

The expansion, change, reconstruction or replacement requested shall be denied if the administrative official or hearing examiner finds that one or more of the provisions in subsection 3 a through f of this section are not met.

- (4) Findings and Conclusions - The administrative official or hearing examiner shall prepare written findings and conclusions stating the specific reasons for his decision to approve, approve with conditions, or deny the application. The findings shall include the administrative official or hearing examiner's determination regarding compliance of the proposed expansion, change, reconstruction or replacement with the criteria established in subsection 3 above. The administrative official or hearing examiner shall issue a Certificate of Zoning Review in accordance with Section 15A.15.060 upon approval of an application and accompanying site plan.

- (5) Conditional Approval - When approving reconstruction or replacement of a nonconforming structure, a change from a nonconforming use to another nonconforming use, or the expansion of a nonconforming use or structure, the



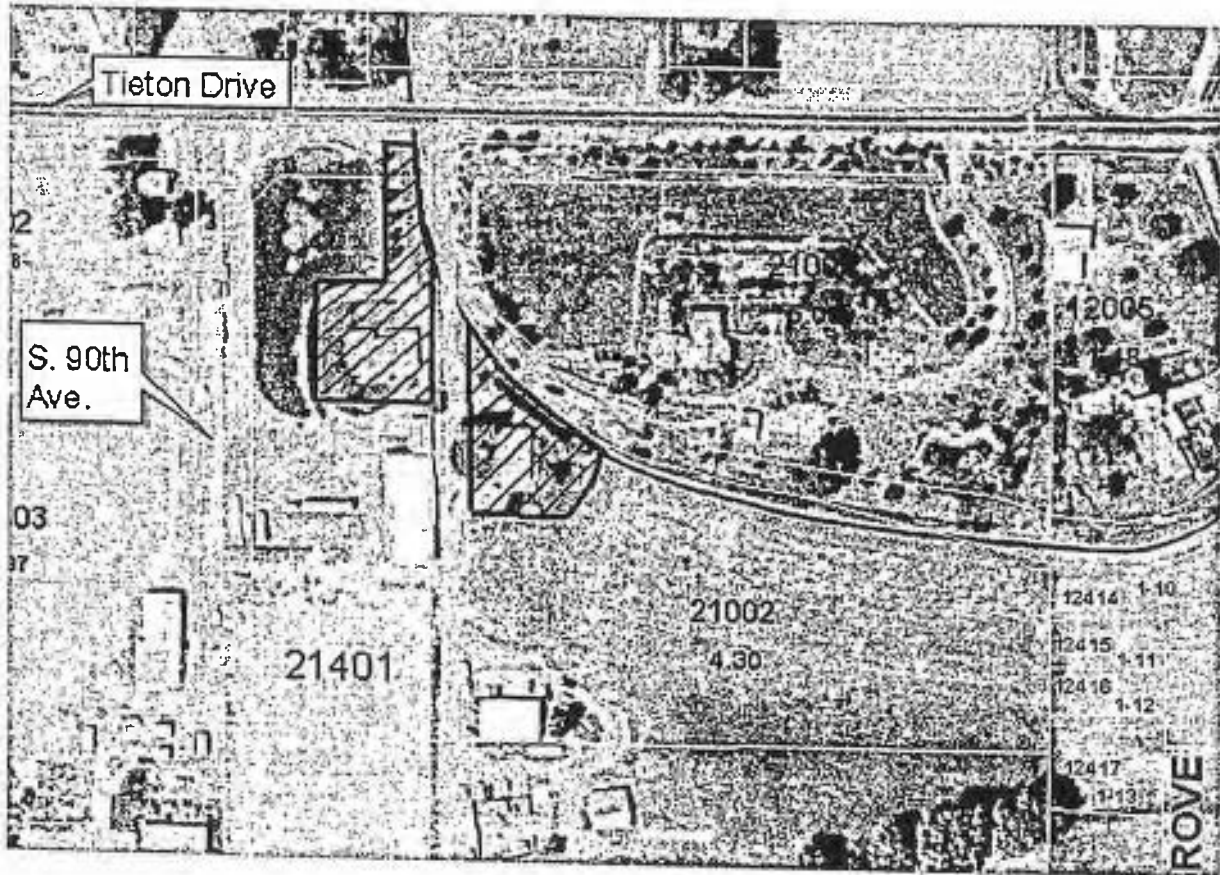
administrative official or hearing examiner may attach conditions to the proposed change, expansion, replacement or reconstruction or any other part of the development in order to assure that the development is improved, arranged and screened to be compatible with the objectives of the Yakima Urban Area Comprehensive Plan, this title, and neighboring land uses. (Ord. 10-1985 Mod. 6 §63 (part), 1987; Ord. 10-1985 §1 (part), 1986; Ord 16-1998).

DCC. INDEX #  
H-1



7436399  
Page: 22 of 51  
01/10/2005 09:56A

EXHIBIT 5



DCC. INDEX #

7436399  
Page 23 of 51  
01/18/2005 09:56A  
Yakima Co, WA



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EXHIBIT 6

County of Yakima, Washington  
Hearing Examiner's Recommendation

May 25, 2004

In the Matter of Rezone Application  
Submitted by:

Bainter Enterprises, LLC  
and others

For a Rezone of four parcels from  
Single-Family Residential (R-1)  
to Local Business (B-2)

ZON #03-013

**Introduction.** The Hearing Examiner conducted a public hearing on February 19, 2004, March 1, 2004 and April 1, 2004. The last exhibit accepted into the record, Exhibit 55, was dated and accepted into the record on May 11, 2004, and the record was closed on that date after an opportunity for the parties to reach agreement on the issues proved to be unsuccessful. This Recommendation has been issued within ten business days after the date when the record was closed. The staff report presented by Senior Planner Phil Hoge recommended approval of the Rezone application after completion of some of the infrastructure and after execution of a development agreement as conditions precedent thereto. The applicants' representatives, Mr. James C. Carmody of the law firm of Velikanje, Moore and Shore, P.S. and Mr. Thomas R. Durant of Durant Development Services, Inc., requested approval of the Rezone without any conditions precedent or alternatively with conditions different than those proposed in the staff report. A neighbor who opposed the Rezone, Mr. Matthew Seaman, and his representative, Mr. James K.

Bainter LLC, et. al.  
8910-9010 Tieton Drive  
Yakima, WA 98908  
ZON 03-013

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YAK COUNTY COMMISSIONERS

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Page: 24 of 51  
61/18/2005 09:56A  
Yakima Co. WA

DOC. INDEX #  
H-1

Adams of the law firm of Wagner, Luloff and Adams, requested denial of the Rezone or alternatively approval with conditions different from those recommended by the staff report or the applicants. The parties attempted without success from April 1, 2004 to May 10, 2004, to formulate an agreed recommendation, at which point the matter of formulating a recommendation was entrusted to the Hearing Examiner.

**Summary of Recommendation.** The Hearing Examiner recommends approval of this Rezone application subject to conditions that have aspects tailored to address concerns of each of the respective parties.

**Basis for Recommendation.** Based upon views of the site without anyone else present on February 18, 2004 and on May 23, 2004; the information contained in the application, staff report, exhibits, testimony and other evidence presented at an open record public hearing on February 19, March 1 and April 1, 2004; and a review of both the Yakima Urban Area Comprehensive Plan and the Yakima Urban Area Zoning Ordinance, the Hearing Examiner makes the following:

## **FINDINGS**

**Applicants.** Bainter Enterprises, LLC and Greg and Adele Bainter, 7501 Olmstead Court, Yakima, Washington 98908; Glen and Keli Radke, 8910 Tieton Drive, Yakima, Washington 98908; and Gary L. Perrault, 9010 Tieton Drive, Yakima, Washington 98908.

Bainter LLC, et. al.  
8910-9010 Tieton Drive  
Yakima, WA 98908  
ZON 03-013



**Location.** 8910, 9004, 9010 and 9010A Tieton Drive, Yakima, Washington; Parcel numbers 181330-21002 (Radke), 181330-21401 (Bainter), 181330-21402 (Bainter) and 181330-21403 (Perrault).

**Application.** This application requests Rezone of four contiguous parcels of land from Single-Family Residential (R-1) to Local Business (B-2). There are three applicants because one of the applicants owns two parcels. Although it is characterized as a non-project rezone, there are already on the property some commercial uses which would not be allowed in an R-1 zoning district, but which could be permitted in a B-2 zoning district. All of the commercial uses except one are considered legal nonconforming "grandfathered" uses.

**Notices.** Notices for the SEPA processes and the public hearing were provided in accordance with applicable ordinance requirements in the following manner:

Mailing of notice of public hearing	January 16, 2004
Legal Ad for hearing published.	January 20, 2004
Mailing of notice for rescheduled public hearing	January 30, 2004
Legal Ad for rescheduled hearing published	February 3, 2004
Posting of property	February 3, 2004

**State Environmental Policy Act.** Environmental review for this proposed Rezone was conducted concurrently with the 2003 amendments to the Yakima Urban Area Comprehensive Plan when it was contemplated that the Rezone would be processed concurrently with the Plan amendment. Yakima County and the City of Yakima were co-lead agencies. The process resulted in an Addendum to the final environmental impact statement for the Yakima Urban Area Comprehensive Plan which identified and

Bainter LLC, et. al.  
8910-9010 Tieton Drive  
Yakima, WA 98908  
ZON 03-013





considered the flooding along Shaw Creek, especially its south side; protecting the functional properties of Shaw Creek, which is a fish bearing Type 3 stream; and various impacts that new commercial uses could have on adjacent residences, including impacts involving vehicular access and safety, noise, lighting, glare and aesthetics. The Addendum which was adopted August 6, 2003 was not appealed within the appeal period.

**Current Comprehensive Plan and Zoning Designations and Land Uses.** The four parcels are currently designated Neighborhood Commercial, zoned R-1 and have the following land uses: Parcel 21002 (Radke): single family home, automobile repair business (use considered a code violation as per notice dated October 15, 2002) and open land; Parcel 21401 (Bainter): single family home, office studio, maintenance and storage for "monster-trucks" (since 1985) and open land; Parcel 21402 (Bainter): single family home and open land; Parcel 21403: single family home, meat cutting and wrapping business (since 1977), landscaping business (a home occupation) and open land. The existing zoning and existing land uses on adjacent properties are:

<u>Location</u>	<u>Comprehensive Plan</u>	<u>Zoning</u>	<u>Land Use</u>
North	Low Density Residential	R-1	Residential & undeveloped;
South	Low Density Residential & Medium Density Residential	R-1	Residential & agriculture;
East	Low Density Residential & Medium Density Residential	R-1	Residential (under construction) & agriculture;
West	Low Density Residential & Urban Reserve	SR & R-1	Residential & miscellaneous services

**Background & Proposed Uses.** The 1997 Yakima Urban Area Comprehensive Plan designated the site and adjacent properties as Low Density Residential. The site and adjacent properties were rezoned from Suburban Residential to R-1 in 1998. The adjacent properties to the south were redesignated Medium Density Residential through a Comprehensive Plan amendment submitted by Rich Hochrein as part of the 2000

Bainter LLC, et. al.  
8910-9010 Tieton Drive  
Yakima, WA 98908  
ZON 03-013



Comprehensive Plan amendments, and the zoning of this Medium Density Residential property is R-1. Thereafter the applicants submitted an application to redesignate the subject parcels from Low Density Residential to Neighborhood Commercial as part of the 2003 round of Yakima Urban Area Comprehensive Plan amendments. That application also included a request to concurrently rezone the parcels from R-1, Single-Family Residential, to B-2, Local Business. The public notices, the environmental review and the staff report for the Comprehensive Plan amendment included the concurrent Rezone as part of the application. The staff recommended denial of the requested Rezone based primarily on plan policies that encourage new urban development to be located within the city limits and fully served with public services, particularly roads, sewer and water. The Regional Planning Commission (RPC) found that the requested Rezone should be processed through the separate hearing examiner process based on ambiguity concerning the RPC's legal authority to recommend a concurrent rezone. The RPC also found that the County and City should follow the same procedures within the Yakima Urban Growth Area (UGA) and concluded that the requested Rezone should be processed through the separate hearing examiner process. In addition, the RPC found the area south of Shaw Creek was not suitable for a commercial Plan designation due to flooding. The RPC recommended the Neighborhood Commercial Plan designation only on the area north of Shaw Creek and did not recommend the concurrent Rezone. The Board of County Commissioners accepted the RPC's recommendation by adopting Ordinance No. 13-2003 on October 14, 2003.

Prior to that time Mr. Radke had constructed a 2,400 square-foot garage storage building on parcel 21002. In response to a complaint received by Yakima County Permit Services Division, the Yakima County Code Enforcement Officer issued a Notice of Violation on October 15, 2002 directing Mr. Radke to discontinue operating a commercial auto repair facility in a private use garage and to obtain a plumbing and



mechanical permit for the illegally installed plumbing and heating in the structure, which process will require a septic clearance prior to issuance of a plumbing permit.

In addition to seeking this Rezone to allow Mr. Radke to apply for approval of the commercial auto repair facility as a Class 2 use, the applicants are seeking this Rezone to Local Business to bring their other existing legal "grandfathered" nonconforming commercial uses on their properties into conformance with zoning. In addition to these objectives, however, the Rezone would additionally allow a specialty neighborhood commercial center to be developed in an area that is increasing in population and could benefit from nearby small-scale commercial services. The applicants plan to continue operating their existing businesses and to develop neighborhood-oriented commercial businesses on the rest of the property over time, though they do not appear to be in a hurry to do so. Mini-storage and recreational vehicle storage facilities and other retail or service businesses are presently under consideration. Initially, the existing homes on parcels 21002 and 21401 will remain in residential use to provide a buffer between the site and residential areas to the north and northeast.

The opinions expressed at the hearing relative to the requested Rezone vary considerably, from advocating approval of the Rezone without conditions because it fully implements the Comprehensive Plan designation, to denying the Rezone because it is spot zoning that is inconsistent with nine of the Comprehensive Plan Goals, Policies or Objectives.

**Rezone Review Criteria.** Recommendations regarding Rezone applications within the Yakima Urban Area must be based upon the following criteria specified in Section 15A.23.030 of the Yakima County Code (YCC):

1. **The testimony at the public hearing:** The staff report recommended approval of the Rezone application after completion of some of the infrastructure as a condition

Bainter LLC, et. al.  
8910-9010 Tieton Drive  
Yakima, WA 98908  
ZON 03-013



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precedent thereto. The applicants requested approval of the Rezone without conditions, particularly without conditions precedent, or alternatively with conditions different than those proposed in the staff report. A neighbor who opposed the rezone requested denial of the Rezone or alternatively approval with conditions more stringent than those recommended by the staff report or the applicants. The parties attempted without success from April 1, 2004 to May 10, 2004, to formulate an agreed recommendation.

2. **The suitability of the property for uses permitted under the proposed zoning:** The Yakima Urban Area Comprehensive Plan's Future Land Use Map was amended to the Neighborhood Commercial designation on the subject property north of Shaw Creek on October 14, 2003. Mr. Carmody argues that this Neighborhood Commercial designation supports the B-2 Local Business zoning classification to the extent that no other considerations or conditions are necessary or appropriate. His argument is based on the terminology in Figure III-3 of the Comprehensive Plan to the effect that the Local Business (B-2) zoning district "fully implements" the Neighborhood Commercial Plan designation. He cites authority for the proposition that the word "implements" means that the zoning district affirmatively carries out the Comprehensive Plan goals, policies, standards and directions. He also points out that the Board of County Commissioners has already previously considered the same seven criteria applicable to rezoning the property when it approved the Comprehensive Plan change. While these points are well-taken, they do not allow the Hearing Examiner to ignore the requirement of YCC 15A.23.030 to consider the same seven criteria again in light of the particular zoning district being requested. As Mr. Hoge points out, the term "fully implements" is used in Figure III-3 of the Plan to describe zoning districts that are deemed compatible with a Plan designation without the need for site-specific considerations. Since Figure III-3 also indicates that the B-1, HB and SCC zoning districts also fully implement the Neighborhood Commercial designation, the mandate in YCC 15A.23.030 to consider the



seven criteria already considered in the Plan redesignation process has to mandate a more detailed consideration in light of the specific zoning district being requested and the more specific facts that are available in the Rezone application process. The Comprehensive Plan guidelines as to consistency do not render the zoning ordinance requirements meaningless even though they are identical because the criteria are applied in more specific settings in the Rezone process. It is true, as Mr. Carmody argues, that the applicants' property north of Shaw Creek has been found to be suitable for the types of uses in the B-2 zoning district through the Board of County Commissioners' Plan redesignation process. But, as Mr. Hoge argues, that does not end the inquiry as to whether conditions may be needed to satisfy the seven Rezone criteria. That is particularly the case here. Here the Regional Planning Commission recommended the Plan change to Neighborhood Commercial "provided provisions are made to protect adjacent residential properties, and provide for street and utility improvements." The RPC also recommended a development agreement be required during its Plan redesignation process. Where there are already existing commercial uses on the site, a consideration of the circumstances involved in this Rezone application process can be more specific than in the typical nonproject Rezone application process where it is not known what commercial uses will be involved. Here some of the commercial uses can be known because they already exist. The Comprehensive Plan designation for the property north of Shaw Creek does support the B-2 zoning if the other six Rezone considerations in YCC 15A.23.030 allow, or can with the imposition of conditions allow, said Rezone to be granted.

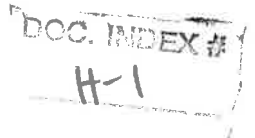
**3. Recommendations from interested agencies and departments:** In a memo dated July 1, 2003, The Yakima County Public Works Department's Surfacewater Management Division, recommended preserving or restoring adjacent portions of Shaw Creek for fish and wildlife; calculating Shaw Creek flood flows and depths to determine



proper location and building elevations; treating and detaining surface water discharges; mitigation or removal of any violations of the 50-foot Critical Areas Ordinance (CAO) buffer adjacent to Shaw Creek; retaining and infiltrating or evaporating increased flow from the site; designing future stormwater runoff treatment facilities according to Draft Final Eastern Washington Stormwater Management Manual methods; and preserving natural drainage courses in accordance with the "Core Elements" of the Draft Final Eastern Washington Stormwater Management Manual. Although Mr. Adams would make these recommendations of Public Works conditions precedent to the Rezone, Mr. Hoge's suggestion to address the concerns regarding Shaw Creek through project level review when particular projects are proposed for that part of the property would seem to most fairly and efficiently allocate the burden of completing those measures, particularly in view of the ambiguity left in the evidence as to the nature of past activities near the creek. The Yakima County Public Works Department also indicated in several exhibits that the existing easement onto Tieton Drive for Parcel No. 181330-21002 is only satisfactory for residential access and is not suitable for commercial access for several reasons. Mr. Adams agrees with that conclusion. Mr. Seaman is clear that he will not grant a commercial easement for that parcel in lieu of the existing residential easement. Mr. Carmody and Mr. Durant are unable to point to any viable alternative for commercial access to that parcel except over the Bainter property to South 90<sup>th</sup> Avenue, but they would like to preserve the possibility of finding a suitable alternative. Nob Hill Water desires to extend its pipe in South 92<sup>nd</sup> Avenue south of Tieton Drive to the south in order to connect and loop with the pipe in Hochrein's development, which is south and east of the subject site, which will require the grant of an easement to the boundary of the site.

**4. The extent to which the proposed amendments are in compliance with and/or deviate from the goals and policies as adopted in the Yakima Urban Area Comprehensive Plan and the intent of the Zoning Ordinance:**

Bainter LLC, et. al.  
8910-9010 Tieton Drive  
Yakima, WA 98908  
ZON 03-013



a) **Comprehensive Plan:** As indicated previously, the Comprehensive Plan designation of the subject property north of Shaw Creek was changed to Neighborhood Commercial on October 14, 2003. The Plan designation on the subject property south of Shaw Creek was not changed and remains Low Density Residential. Insofar as Figure III-3 of the Plan establishes that B-2 zoning is fully consistent with the Neighborhood Commercial Plan designation and is inconsistent with the Low Density Residential designation, B-2 zoning is consistent with the Plan for the property north of Shaw Creek which is designated Neighborhood Commercial, and is inconsistent with the Plan for the property south of Shaw Creek which is designated Low Density Residential. The Yakima Urban Area Comprehensive Plan defines Neighborhood Commercial as:

"Small scale shopping centers, with shared parking and access, usually located on arterial streets. Neighborhood commercial centers are dispersed throughout the Urban Service Area to provide convenience shopping to the residential population."

Other provisions of the Comprehensive Plan that apply to commercial development are:

(i) Policy G4.7 seeks to encourage development that shortens the distance between residential areas, schools, shopping and employment centers. While Mr. Adams correctly points out that the nature of the existing businesses on the property tends to draw people from other areas, it is also true that additional commercial development on the property will serve people in that area who would otherwise have to travel further for whatever goods and services will be offered there.

(ii) Policy G9.4 seeks to encourage commercial, industrial, office and multi-family developments to locate in distinct clusters in planned growth areas. The proposed Rezone would clearly further that policy.

(iii) Goal C.2 seeks to provide convenient shopping locations consistent with the development patterns of the community. While Mr. Adams correctly points out that there is a shopping center one mile away, the subject property is already devoted to



commercial uses that are not found in that nearby shopping center and future commercial uses may likewise be different than those found in the vicinity.

(iv) Policy C2.3 seeks to allow and encourage small scale mixed-use retail/residential/professional development within neighborhoods after contact is made with neighborhood residents to determine appropriate areas for small scale mixed-use developments. Here, after hearing neighborhood comments and being aware of a development agreement proposed by the applicants to mitigate potential impacts on adjacent properties, the Regional Planning Commission and Board of County Commissioners determined that part of the subject property was appropriate for such uses by amending the Comprehensive Plan's Future Land Use Map relative to the part of the property north of Shaw Creek.

(v) Objective C.3 seeks to allow retail facilities in those areas of the urban area not adequately served by retail centers. Although Mr. Adams suggests that the area is adequately served by existing shopping centers, there is evidence of recent residential development and growth in the area that would utilize additional retail uses at this site, as well as evidence that the proposed Rezone would result in different commercial uses on this site than are found in existing shopping centers in the area.

(vi) Policy C3.2 indicates that specialty shopping centers (e.g., building supplies, home furnishing, and automobile sales and accessories) should be allowed where located on an arterial street with a maximum size of 10 acres, no vehicular access through residential areas and adequate buffering between any adjacent residential uses when water and sewer service, street improvements, traffic control devices, municipal services and other development-related improvements are in place. Although the site is on Tieton Drive, Mr. Adams correctly points out that the site exceeds the maximum size for a specialty shopping center. He also points out that access through residential areas, lack of buffering and lack of public sewer prevent this site from meeting this Plan policy. The





portion of the site north of Shaw Creek recommended for Rezone is about 15 acres rather than 10 acres. The area suitable for development will be reduced by approximately half an acre due to Critical Areas Ordinance buffering standards adjacent to Shaw Creek, leaving an area suitable for development of approximately 14.5 acres. Mr. Adams is correct in his observations. Only with the imposition of conditions to prevent vehicular access through residential areas, to require effective buffering and to require infrastructure improvements to be in place for existing and future commercial uses will the Rezone be consistent with this policy. Though Mr. Hoge recommends five years for completion of the required improvements to be consistent with City of Yakima policies, this situation warrants an exception to normal policies. The fact that Code enforcement efforts are pending against an existing commercial use, a neighbor is waiting for sitescreening of that use, interest rates are on the rise and the applicants presently have the best chance of sharing costs equitably all suggest that the three-year period for completion of infrastructure proposed by Mr. Adams would better balance the competing interests.

(vii) Policy C3.3 indicates that community shopping centers (typical leading tenants may be a discount department store, building/home improvement store or drug/variety store) should be allowed where the same criteria as for specialty shopping centers are met except that the maximum size is 30 acres rather than 10 acres. Even though the proposed Rezone would satisfy the size criteria for this policy, Mr. Adams is again correct in pointing out that the proposed Rezone would satisfy this policy only if access would be limited to South 90<sup>th</sup> Avenue, only if commercial street improvements are in place, only if municipal services are provided and only if effective sitescreening and other protections for the neighborhood are required.

(viii) Policy G2.2 seeks to protect existing neighborhoods from excessive commercial and industrial encroachments through the establishment of definite neighborhood boundaries and implementation of zoning standards which minimize the



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impact on adjacent properties. Again Mr. Adams notes the current lack of protection for the surrounding residences. Similarly, the proposed Rezone satisfies this policy only if appropriate screening and buffering conditions are imposed on the commercial uses to minimize their impact on adjacent properties:

(ix) Policy G4.1 provides that new urban development should be encouraged to locate first, within the City limits and second, within those portions of the Urban Growth Area where municipal services and public facilities are already present. Even though the Planning Department recommended denial of the concurrent rezone a year ago based in part on noncompliance with this policy, the Planning Department concludes at this point that the policy does not prohibit new urban development outside of the city limits, particularly where the city limits is adjacent to the property and public services and facilities are nearby and can be required as conditions precedent to the Rezone taking effect. The Orchards shopping center is an example of an area that was rezoned to its current commercial zone while outside the city limits. The proposal is located adjacent to lands on the east and south that were approved for annexation on February 3, 2004. City sewers and Nob Hill Water are in the immediate vicinity, making the property ripe for extension of such utilities and annexation in the near future. Commercial development will necessitate improvements to South 90<sup>th</sup> Avenue by the property owners and the lines for the municipal services should be put in place as part of the street improvements in order to fully comply with this policy.

(x) Policy G4.2 provides that new urban development should be encouraged to be contiguous to existing development to avoid the inefficient "lead-frog" pattern of growth. As shown by the Cottonwood Grove subdivision under construction adjacent to the site on the east, Yakima's urban development now extends to the subject site.

(xi) Policy G4.3 provides that development within the unincorporated portion of the Urban Growth Area should be encouraged to occur only on a limited scale



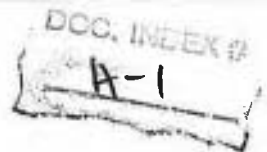
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to prevent the inefficient use and distribution of public facilities and services, and to discourage rural development from becoming urban in nature outside of the Urban Growth Boundary. The proposal is currently in the unincorporated portion of the Urban Growth Area. However, because it will soon be adjacent to city limits on the south and east, because water and sewer utilities are on adjacent properties and rights-of-way, and because Yakima's urban development has grown west to the subject property, the proposal substantially complies with the intent of this policy even though the subject property is currently outside city limits.

(xii) Policy G5.3 seeks to ensure compatibility and reduce conflicts between existing farm uses and new urban uses. Even though farming activities are adjacent south of Shaw Creek, these agricultural uses are on lands designated for future medium density residential use and rezoning the portion of the subject site that is adjacent to the existing farm uses (i.e., the area south of Shaw Creek) is not recommended.

(xiii) Policy L1.1 seeks to promote a diversity of land uses by forming appropriate transitions between land uses by means of techniques such as landscape buffering and step down zoning. Yakima Urban Area Comprehensive Plan Figure III-2 indicates that Neighborhood Commercial land uses are compatible with adjacent low-density and medium-density residential uses with appropriate site considerations. Conditions and a development agreement along the lines recommended by the Regional Planning Commission are measures intended to provide an appropriate transition between commercial uses on the site and adjacent residential uses.

(xiv) Policy T4.1 seeks to coordinate land use planning to insure that industrial and commercial uses are placed where transportation accessibility is or is planned to be greatest. Recent improvements to Tieton Drive provide accessibility to the arterial road system. Full consistency with this policy also requires that South 90<sup>th</sup> Avenue be built to hard surfaced standards for Urban Access Roads so it can provide



adequate commercial access to the subject property because County standards require that access to commercial uses be hard surfaced.

(xv) Policy C5 provides that new commercial development will be landscaped, and existing landscaping maintained, especially for buffers between residential and commercial uses. Through a combination of zoning ordinance provisions and the proposed development agreement, appropriate buffers between the commercial site and adjacent residential uses can be required.

(xvi) Objective E1 seeks to encourage development in areas with few environmental hazards to minimize the loss of natural resources due to urbanization. Although Mr. Seaman testified at the hearing that the topography of the creek area suggests that it could be subject to sheet flooding on the north as well as the south, the weight of evidence which led to the redesignation of the property as Neighborhood Commercial north of Shaw Creek was otherwise. Mr. Adams notes that the Shaw Creek area is environmentally sensitive. Project level conditions regarding storm water runoff and other conditions will have to be imposed upon uses in that area to address concerns of the County and the residents and to comply with this Plan objective.

(xvii) Summary: Comprehensive Plan policies support B-2 zoning on the subject site north of Shaw Creek, but conditions regarding street improvements and utilities will need to be imposed to comply with pertinent Plan policies relative to commercial uses.

b) **Urban Area Zoning Ordinance:** The uses that would potentially be allowable if the property were rezoned to Local Business (B-2) are found in Table 4-1 of the UAZO. While the applicants indicate they are considering uses such as mini-storage, recreational vehicle storage, automotive repair, and other retail or service businesses, other uses that are potentially allowable if the property is rezoned to B-2 include:

(i) As Class 1 (permitted) uses: day care center, storage of gravel and equipment for street construction, stockpiling of earthen materials, attached single



family dwelling (zero lot line), duplex, multi-family dwelling, advertising agencies, parking lots and garages, bakery, beauty and barber shops, various retail stores, insurance agents, medical offices, restaurant and drive-in eating facilities, video sales/rentals.

(ii) As Class 2 (usually permitted) uses: campgrounds, boarding house, animal clinic/hospital, various retail stores, automotive repair, automotive parts and accessories, hardware and garden equipment, grocery/convenience store closed at night, laundries and dry cleaners, auto and truck rental, service station closed at night, residential mini-storage.

(iii) As Class 3 (usually not permitted) uses: miniature golf, woodworking, offsite hazardous waste treatment and storage, 24-hour grocery/convenience store, lumber yards, 24-hour service station, taverns.

The application does not include any particular use at this time other than the commercial uses that are already on the site. The applicants have proposed a development agreement to limit impacts of future development on adjacent properties regardless of the nature of the uses because it would make new Class 1 uses in the B-2 zone subject to Class 2 review to ensure consideration of neighborhood comments in determining compatibility, would retain the existing homes at 8910 and 9004 Tieton Drive in single-family use and would provide for appropriate siting screening and buffering. Mr. Hoge's suggestion that the development agreement topics be limited to requirements that are appropriately handled through project level review when particular projects are proposed is the simplest approach for future decisionmaking. Imposing infrastructure requirements as conditions precedent to the Rezone is the only way to assure that they will be completed where we are dealing with four different parcels and three different owners who either need to cooperate in order to obtain the Rezone or need to reapply with a different proposal if they are unable to agree. The best way to assure that improvements that should be in place even for the existing commercial uses is to require them to be completed while the applicants are still united in their common goal of obtaining a Rezone of all four parcels.



5. The adequacy of public facilities such as roads, sewer, water and other required public services: Some improvements are necessary to provide adequate access and water and sewer services to the site. Hard surfaced access ways should be provided for existing commercial uses as well as future commercial uses to be consistent with County standards and Comprehensive Plan policies. Tieton Drive, which is four lanes with sidewalks and bicycle lanes, is adequate to provide access to the site. The right-of-way for South 90<sup>th</sup> Avenue, a cul-de-sac that currently provides access to three of the four parcels, is currently an unimproved road and should be improved prior to new commercial uses. But it would be difficult to impose the entire burden of improving South 90<sup>th</sup> Avenue upon the next proposed commercial use on one of the parcels in the future. And it would be difficult to persuade that next potential commercial user of the site to locate on the site and accept that burden without a sharing of costs. Now, while the owners are now united in a common effort, is the time for the cost of the infrastructure to be fairly allocated and the improvements to be completed as a condition precedent to the Rezone. The testimony at the hearing was undisputed that the current residential access easement across the canal right-of-way and across Seamans' property will not be approved as an commercial access to Radkes' Parcel No. 21002. The County Public Works Department recommends that access to this parcel be provided by way of South 90<sup>th</sup> Avenue and no other viable alternative was suggested at the hearing. Public water, provided by Nob Hill Water, is adjacent in Tieton Drive and stubbed into South 92<sup>nd</sup> Avenue and South 90<sup>th</sup> Avenue. Adequate dry line mains should be installed in South 90<sup>th</sup> Avenue to serve the rezoned area prior to or in conjunction with the construction of the South 90<sup>th</sup> Avenue road system. Installation after paving the cul-de-sac would require unnecessary repairs and expense later and it would be difficult to allocate the expense equitably at a later stage of development of one or more of the parcels. Easements will have to be provided to the south property line to allow for future looping. As part of the Tieton Drive

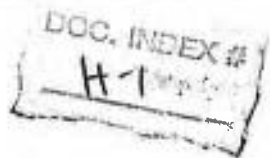


improvements, a dry sewer line was installed in Tieton Drive that will drain south along South 90<sup>th</sup> Avenue. To accommodate new developments on the site this sewer line will need to be extended south and connect with the sewer lines in the Hochrein development to the south and east and easements to the property line have to be provided for that purpose. All of these requirements of a commercial development are needed in view of the existing commercial uses on the site and they are best accomplished while all of the owners are cooperating in this joint effort to obtain a Rezone of their respective parcels in one application. Although Mr. Carmody argues that conditions precedent are unprecedented for a nonproject Rezone, Mr. Hoge's recommendation to require the infrastructure improvements as conditions precedent here makes sense. This application is more like a project Rezone than a nonproject Rezone because commercial uses are already in place that should at least have commercial access. Dry lines for utilities are best installed with the street improvements. Infrastructure improvements have been required as conditions precedent to a rezone on Powerhouse Road in the past. The infrastructure here being required would be to serve specific commercial land uses that are already in place. Cooperation in sharing the cost and providing the necessary access easement and utility easements is possible when all owners have the common goal of obtaining the Rezone, but unlikely otherwise. Once the Rezone is obtained, the concern of each will focus upon their own parcel(s). Imposing such conditions does not violate uniformity provisions of State law as suggested by Mr. Carmody because infrastructure improvements are uniformly required for Rezones where proposed uses are known. Here actual uses are known. They do have immediate and measurable impacts. There is a nexus and rough proportionality between the uses and the needed infrastructure and the Rezone cannot be in compliance with the Comprehensive Plan policies without requiring the infrastructure improvements. Whether they are required as conditions precedent or subsequent is a matter of practicality rather than legality. Requiring the Radke parcel to



have a commercial easement and driveway for his commercial building as a precondition to his commercial Rezone does not deprive it of its existing residential access. It is his inability to utilize that residential access for commercial purposes that requires him to procure access from South 90<sup>th</sup> Avenue. If he is hesitant to commit to sharing in the cost of improving South 90<sup>th</sup> Avenue, installing dry utility lines and establishing a commercial access easement over the Bainter property without first knowing whether his Class 2 use application would be approved, I would suggest that he be allowed to immediately apply for contingent approval of a Class 2 use for an auto repair shop to become effective only if the Rezone is ultimately approved. Imposing conditions precedent otherwise preclude his application for several years until after the infrastructure improvements must be completed. If his Class 2 use were to be conditionally approved, he could procure the financing or commit the resources to share in the infrastructure improvements needed to obtain that Rezone knowing that he will have a Class 2 permit to allow his use once the Rezone is approved. Mr. Carmody has asserted that there should be no conditions precedent required. Mr. Adams has asserted that there should be more conditions precedent required. The only conditions precedent here recommended are those that require cooperation and a sharing of expense among all the owners to insure successful completion of the infrastructure. If addressing Mr. Radke's Class 2 permit issues before he has to commit to sharing in the infrastructure expenses required for the Rezone would facilitate the completion of those improvements, it is suggested that he be allowed to seek conditional approval through the Class 2 process before the conditions precedent to the Rezone are completed unless some regulation or policy prohibits that approach.

6. **The compatibility of proposed zone change and associated uses with neighboring land uses:** Several concerns were expressed at the hearing about the compatibility of existing and possible future commercial uses on the subject property. Mr. Seaman's concerns include aesthetics, the need for site screening, traffic accidents on





Tieton Drive; adequate access; adequate provisions for utilities; adequate parking, excessive noise, excessive lights and glare, environmental hazards businesses may pose on the aquifer and Shaw Creek, effect on adjacent property values, terrain changes, flooding, creek bank erosion/silting, and the razing of trees adjacent to Shaw Creek. Mr. Seaman presented a detailed presentation with photographs clearly illustrating his concerns, primarily with the Radke parcel being utilized for a commercial auto repair business and being accessed by way of a residential easement over Mr. Seaman's property. It is helpful that potential impacts on adjacent residential uses are partially lessened by the topography of the site, a street configuration that can prevent commercial traffic from driving through adjacent residential areas and minimal street frontage on Tieton Drive. To further ensure mitigation of such impacts, the applicants have proposed a development agreement to be executed and recorded as a condition of Rezone approval. With the extra protection afforded by such a development agreement, the rezone would be as compatible with neighboring land uses as can reasonably be expected.

7. **The public need for the proposed change:** Mr. Carmody cited authority in his Hearing Memorandum to the effect that a **showing** of changed circumstances is not required if, as here, the proposed Rezone implements the policies of the Comprehensive Plan. Furthermore, the evidence presented at the hearing indicates that there has been and will be residential growth in the areas west of 80<sup>th</sup> Avenue, including the Cottonwood Grove subdivision development on the adjacent property to the east, that will need the products and services that will be made available by additional commercial businesses in that area. The Comprehensive Plan encourages the location of neighborhood commercial areas in close proximity to the neighborhoods they serve. Although the nearest commercial center is only about one mile to the east on 72<sup>nd</sup> Avenue, the location and size of the subject site is conducive to specialty commercial services rather than the type of retail stores in existing centers along 72<sup>nd</sup> Avenue at Tieton Drive and Nob Hill



Boulevard. The recent Comprehensive Plan Map amendment to the Neighborhood Commercial designation for the site that occurred on October 14, 2003 and the development of the surrounding neighborhood are both changed circumstances that support this requested Rezone.

Consistency of the Rezone with Development Regulations and the Comprehensive Plan under the Criteria Required by Section 16B.06.020 of the Yakima County Code is determined by consideration of the following factors which will be considered in greater detail during future project review:

a) The types of land uses permitted at the site through a Rezone to Local Business (B-2) would be consistent with the Comprehensive Plan designation of the site if needed conditions are imposed and a development agreement is formalized for the site.

b) The density of residential development or the level of development such as units per acre or other measures of density is not affected by this application because any use permitted on the site will be consistent with the density allowed by the Comprehensive Plan and zoning ordinance.

c) The availability and adequacy of infrastructure and public facilities is in need of improvement, not only to serve future commercial uses on the site, but also to serve those existing commercial uses on the site that will become conforming uses as a result of this Rezone. The conditions of this Rezone and of the development agreement can insure the availability and adequacy of street and utilities infrastructure and facilities.

d) The characteristics of the development will have to be consistent with the development regulations of the zoning ordinance. The zoning ordinance, critical areas ordinance and subdivision ordinance set forth specific standards for lot size, maximum lot coverage, minimum building setbacks, parking, building height, sight screening, buffering



from Shaw Creek, flood proofing, street development standards and other details of future development of the site. Except for the existing commercial uses on the site, project and environmental review will take place at the time of development.

## CONCLUSIONS

1. The Hearing Examiner has jurisdiction to issue a recommendation to the Board of Yakima County Commissioners regarding this Rezone application.
2. The public hearing notice requirements of the zoning ordinance have been satisfied.
3. After an Addendum to the integrated EIS/Yakima Urban Area Comprehensive Plan was issued to satisfy SEPA requirements on August 6, 2003, no comments were received and no appeals were filed.
4. The requested Rezone is consistent with the Future Land Use Map III-3 and the Land Use Compatibility Figure III-3 of the Yakima Urban Area Comprehensive Plan for the area north of Shaw Creek and is inconsistent therewith for the area south of Shaw Creek.
5. There have been significant changes in the land uses in the vicinity of the property under consideration that justify the proposed zoning change from low-density residential uses to neighborhood business uses.



6. Adequate public services are available to satisfy the utility and access requirements of existing and future Local Business (B-2) uses on this site if conditions precedent are satisfied and an appropriate development agreement is executed and recorded.

7. The requested rezone satisfies the seven criteria in Section 15A.23.030 of the Yakima Municipal Code to allow for approval of the Rezone if conditions precedent are satisfied and a development agreement is executed in accordance with this Recommendation.

8. Approval of this rezone application will benefit the public in several ways by providing increased investment in the community, increased tax base, increased employment opportunities and increased availability of commercial services for the neighborhood.

### RECOMMENDATION

The Hearing Examiner recommends that this application for a Rezone from Single-Family Residential (R-1) to Local Business (B-2) for property south of Shaw Creek be denied and for property north of Shaw Creek be deferred for APPROVAL at a later date if, and only if, all the following conditions precedent to a Rezone are accomplished within three (3) years from the date that the Ordinance prescribing the conditions precedent becomes effective:

- a. Construction of South 90<sup>th</sup> Avenue to hard surface Urban Access Road standards,

Bainter LLC, et. al.  
3910-9010 Tieton Drive  
Yakima, WA 98908  
ZON 03-013



including the conveyance of any necessary right of way therefor and the provision of commercial access from South 90<sup>th</sup> Avenue to Parcel No. 181330-21002.

- b. Access to all commercial uses within the area of the requested Rezone shall be from South 90<sup>th</sup> Avenue unless another access is required for emergency access by police or fire officials or codes, except that vehicular access to Tieton Drive Meats shall be allowed from South 92<sup>nd</sup> Avenue until South 90<sup>th</sup> Avenue is improved to the standards set forth above and until the local governmental entity having jurisdiction takes action at the owner's request, which is to be made promptly after South 90<sup>th</sup> Avenue is improved to waive or remove the restriction on access to Yakima County Assessor's Parcel No. 181330-21403 from South 90<sup>th</sup> Avenue per Short Plat 92-14.
- c. If requested by the Yakima Public Works Department, execution of a maintenance agreement by all owners of property within the area of the requested Rezone for the maintenance of South 90<sup>th</sup> Avenue until such time as South 90<sup>th</sup> Avenue is accepted by Yakima County, which agreement shall be in a form acceptable to the Yakima County Public Works Department.
- d. Procuring and granting of a forty (40)-foot-wide easement for ingress, egress and utilities from South 90<sup>th</sup> Avenue to Yakima County Assessor's Parcel No. 181330-21002. The easement will be hard-surfaced for the width of twenty four (24) feet. The owner of Yakima County Assessor's Parcel No. 181330-21002 shall agree to perpetually maintain said road and easement and execute a road maintenance agreement acceptable to the Yakima County Public Works Department for that purpose.
- e. Installation of dry lines for water and sewer mains adequate to serve the subject property in a location and a manner recommended by the Nob Hill Water Company and the City of Yakima respectively.
- f. Public dedication of a public utility easement south from South 90<sup>th</sup> Avenue to the area south of the requested Rezone to allow for looping and connecting of public water and sewer mains to water and sewer mains on the adjacent property to the south in a location and a manner recommended by the Nob Hill Water Company and the City of Yakima respectively.
- g. Execution and recording of a development agreement prior to approval of the ordinance granting the Rezone that will contain terms and conditions substantially as follows:



## DEVELOPMENT AGREEMENT

This Agreement between the property owners and the County [or City] of Yakima has been executed as part of Comprehensive Plan/Rezone Amendment ZON #03-013.

### I. Property Affected

The four parcels subject to this Agreement which are legally described in Exhibit A attached to this Agreement are the Bainter Enterprises Parcel Nos. 181330-21401 and 181330-21402, the Perrault Parcel No. 181330-21403 and the Radke Parcel No. 181330-21002.

### II. Purpose

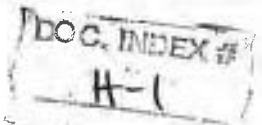
This Agreement prescribes terms and conditions for development on property in the area of the requested Rezone necessary to ensure compatibility with the neighborhood in the area of the requested Rezone.

### III. Applicability

This Agreement and the terms and conditions contained herein shall apply to the property described in Exhibit A in the area of the requested Rezone except for the following uses that shall not be governed by this Agreement:

- a. Existing uses of the property within the area of the requested Rezone described above that were legal nonconforming uses under the R-1 zoning in effect prior to the Rezone of the property to B-2;
- b. Single-family residences;
- c. Legal home occupations that become existing Class 1 uses in the B-2 zone;
- d. New development that is exempted from the review and permit requirements of Subsection 15A.12.020(c) of the Yakima Urban Area Zoning Ordinance (YUAZO) attached hereto as Exhibit B;
- e. Modifications of existing or approved Class I uses under Section 15A.17.040 of the YUAZO attached hereto as Exhibit C regardless of whether or not the zoning approval being modified was made under the terms of this development agreement;

Bainter LLC, et. al.  
8910-9010 Tieton Drive  
Yakima, WA 98908  
ZON 03-013



- f. Alterations of legal nonconforming uses or structures under Section 15A.19.080 of the YUAZO and changes of legal nonconforming uses under Section 15A.19.070 of the YUAZO attached hereto as Exhibit D;
- g. Change of any present commercial use or new use of any existing commercial building on the property within the area of the requested Rezone, except for Yakima County Assessor's Parcel No. 181330-21002, if such change of use or new use is to a Class I use and satisfies the criteria of Subsections 15A.17.050(b)(2)(b) and (b)(2)(c) of the YUAZO attached hereto as Exhibit E.

#### IV. Permit Process

Except as provided above, all Class I uses in the B-2 zone shall be subject to the review process for Class 2 uses. In that process, any conditions that may be imposed upon Class 2 uses may be imposed upon said Class I uses, but otherwise such uses shall continue to be considered Class I uses with respect to the requirements and provisions of the YUAZO. This provision shall also apply to any new Class I use of the commercial building on Yakima County Assessor's Parcel No. 181330-21002 occupied by Rad's Auto Repair which shall also be subject to the review process for Class 2 uses.

#### V. Existing Residential Uses

The existing residences at 8910 Tieton Drive and 9004 Tieton Drive and the land immediately surrounding them will remain in residential use. The areas subject to these restrictions will be established by site plan or legal description satisfactory to the Yakima County Planning Department.

#### VI. Access

Access to all commercial uses within the area of the requested Rezone shall be from South 90<sup>th</sup> Avenue, unless another access is required for emergency access by police or fire officials or codes, except that vehicular access to Tieton Drive Meats shall be allowed from South 92<sup>nd</sup> Avenue until South 90<sup>th</sup> Avenue is improved to the standards set forth above and until the local governmental entity having jurisdiction takes action at the owner's request, which is to be made promptly after South 90<sup>th</sup> Avenue is improved, to waive or remove the restriction on access to Yakima County Assessor's Parcel No. 181330-21403 from South 90<sup>th</sup> Avenue per Short Plat 92-14.

Bainter LLC, et. al.  
8910-9010 Tieton Drive  
Yakima, WA 98908  
ZON 03-013

DOC. INDEX #  
H-1



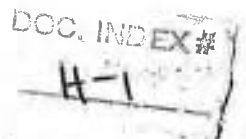
## VII. Sitescreening and Buffering

1. A six (6)-foot-high or higher view-obscuring fence or wall with a row of arborvitae or equivalent trees shall be provided along South 92<sup>nd</sup> Avenue for any new use on Yakima County Assessor's Parcel No. 181330-21403. The fence or wall and arborvitae or trees shall be placed regardless of adjacent land use.
2. Sitescreening Standard "A" as specified by the Yakima Urban Area Zoning Ordinance, consisting of a ten (10)-foot-wide landscaped planting strip with trees at 20 to 30 foot centers, shrubs and groundcover shall be provided for any new use along Tieton Drive and South 92<sup>nd</sup> Avenue on Yakima County Assessor's Parcel No. 181330-21402 regardless of adjacent land use.
3. Site development for any new use bordering the north and east property lines of Yakima County Assessor's Parcel No. 181330-21002 that includes sitescreening or buffering will be reviewed by the applicable local government using the following guidelines:
  - a. Sitescreening that is "view-obscuring" such as fences, walls or trees will either not be used, or will be set back down the slope in a manner that minimizes view obstruction to neighboring properties, unless affected neighbors do not oppose such view obstruction.
  - b. New buildings will be kept low in profile by limiting building height, using retaining walls, increasing setbacks from the property line or a combination of these measures.
  - c. Compliance is subject to the applicable local government adjusting or waiving Yakima Urban Area Zoning Ordinance standards that require sitescreening to consist of view-obscuring structures or trees located on the property line.
4. Openings for pedestrian access through sitescreening will be considered and provided where and if appropriate.

## VIII. General Provisions

1. This Agreement shall be recorded with the Yakima County Auditor promptly after its execution.
2. The governmental entity with land use jurisdiction over the above-described property or any owner of property within 500 feet of said property may enforce the requirements of

Bainter LLC, et. al.  
8910-9010 Tieton Drive  
Yakima, WA 98908  
ZON 03-013





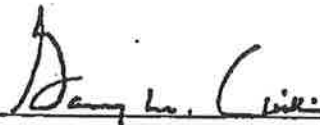
this Agreement by an action for specific performance and/or damages and for reasonable attorney fees and costs in Yakima County Superior Court.

3. With approval of the governmental entity with land use jurisdiction over the above-described property, this Agreement may be modified in the future if conditions change so as to impose a significant hardship that was not anticipated so long as public notice and participation requirements for a Rezone are followed before the governmental entity with jurisdiction approves such an amendment.

4. Except for amendments that may in the future be approved by the governmental entity with land use jurisdiction, this Agreement will remain in effect in perpetuity and shall constitute a covenant running with the land that shall be binding on the heirs, successors and assigns of the parties.

**[Signatures and acknowledgments of all owners and of the representative of the governmental entity with jurisdiction to allow for recording]**

**DATED this 25<sup>th</sup> day of May, 2004:**



**Gary M. Cuillier, Hearing Examiner**

Bainter LLC, et. al.  
8910-9010 Tieton Drive  
Yakima, WA 98908  
ZON 03-013





Department of Community and Economic Development  
Office of Code Administration

Receipt Number: CR-12-018342

129 North Second Street, 2nd Floor  
Yakima, Washington 98901

Receipt Date: 01/26/2012

Cashier: EHAZEN

Payer/Payee Name: BAINTER GROUP LLC

Application #	Parcel	Fee Description	Original Fee Amount	Amount Paid	Fee Balance
SEPA#003-12 608 S 90TH AVE	18133021403	SEPA Environmental Review	\$265.00	\$265.00	\$0.00
CAO#001-12 608 S 90TH AVE	18133021403	Critical Areas Review	\$200.00	\$200.00	\$0.00
			Total:	\$465.00	

Payment Method	Reference Number	Payment Amount
CHECK	2318	\$ 465.00
Total:		\$465.00

**Previous Payment History**

Receipt #	Receipt Date	Fee Description	Amount Paid	Application #	Parcel
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DOC. INDEX #

H-1



Community Development Department  
Code Administration Division

Receipt Number: CR-14-054622

129 North Second Street, 2nd Floor  
Yakima, Washington 98901

*CDE*

Receipt Date: 03/19/2014      Cashier: CDELLING      Payer/Payee Name: BAINTER GROUP LLC

Application #	Parcel	Fee Description	Original Fee Amount	Amount Paid	Fee Balance
SEPA#008-14 608 S 90TH AVE	18133021403	SEPA Environmental Review	\$265.00	\$265.00	\$0.00
CAO#001-14 608 S 90TH AVE	18133021403	Critical Areas Review	\$200.00	\$200.00	\$0.00
Total Paid:				\$465.00	
Tendered Amt:				\$465.00	
Change Due:				\$0.00	

Payment Method	Reference Number	Tendered Amount
CHECK	2326	\$ 465.00
Total:		\$465.00

**Previous Payment History**

Receipt #	Receipt Date	Fee Description	Amount Paid	Application #	Parcel
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DOC. INDEX #  
*H-1*

Offices of Code Administration/Code Enforcement  
City of Yakima

To: City of Yakima - Offices of Code Administration/Code Enforcement

From: Dr. Matthew Seaman

Date: June 2, 2014

Re: Unlawful Critical Area Alteration on Bainter parcel 181330-21403

CITY OF YAKIMA CODE ADMIN. DIVISION	
JUN 3 2014	
<input checked="" type="checkbox"/> REC'VD	<input type="checkbox"/> FAXED
<input type="checkbox"/> PAID	<input type="checkbox"/> FYI

408 S. 90th Ave  
ME 6/2/14

Please take immediate action to address the Unlawful Critical Area Alteration on property owned by Mr. Greg Bainter (AKA Bainter Group LLC). Shaw Creek is a Class 3 stream that has Critical Areas 50 feet to the north and 50 feet to the south of the stream; this Critical Area (Vegetative Buffer, Fish and Wildlife Area) has been mowed to the high water mark of the stream. As such, vegetation except for grass has been mowed such that there would appear to be no natural vegetation remaining within the Critical Area. It would appear that the protection of Critical Areas is addressed by the State of Washington Growth Management Act, City of Yakima Critical Area Ordinances, as well as 2012 documents for a Shaw Creek Fish and Wildlife Restoration project proposed by Mr. Bainter and approved by the City of Yakima. It would appear that Mr. Bainter failed to perform the required alterations (improvements) of the Fish and Wildlife Area as outlined in the 2012 Notice of Decision; in addition, it would appear that the City of Yakima failed to enforce the requirements outlined in that Notice of Decision. As a result, Mr. Bainter was allowed by the City of Yakima to move Shaw Creek to the south without restoration of the altered Critical Areas. There are added concerns related to the relocation of Shaw Creek to the south since this is a FEMA 100 year floodplain. The alterations to the Critical Area Floodway may lead to worsening of the flood damage associated with large seasonal floods that overflow the banks of Shaw Creek. It is known that the City has issued permission to an adjacent property owner, Mr. Radke, to mow the Shaw Creek Critical Areas. However, it would appear that the City has not issued any written permission that would allow Mr. Bainter to destroy these protected Critical Areas. There are also NO agricultural uses of Mr. Bainter's land; even Mr. Bainter has recently documented that his land is "vacant". It may be true that the land was once used for agriculture, perhaps orchard land (or other agricultural purposes) more than 10 years ago, but there is no current or recent use of this land that would allow Mr. Bainter to destroy the Critical Areas.

The expected action by the City of Yakima is the immediate execution of an order from the City of Yakima Offices of Code Administration (Code Enforcement) for Mr. Bainter to stop ongoing destruction (Unlawful Critical Area Alteration) of the Critical Areas associated with Shaw Creek. Past experience with City of Yakima Code Enforcement has demonstrated that the City has issued "bogus" shutdown orders; this means that the City has issued orders to stop illegal activities (by individuals) but then issues follow up statements that the order to stop illegal activities will not be enforced. Due to the documented practice of issuing "bogus" Code Enforcement Orders, I am requesting that the City seriously review the Duty to protect Critical Areas and issue an immediate and authentic order to stop Illegal (unlawful) Critical Area Alterations by Mr. Bainter. It is also requested that the City of Yakima make ongoing inspections and enforcement actions to ensure that the Shaw Creek Critical Areas are protected; specifically, Mr. Bainter needs to be monitored by the City to ensure that he does not continue to mow and destroy the Shaw Creek Critical Areas.

It would appear that the City of Yakima should post the site with a series of physical signs that document the "stop order" (to stop the Unlawful Critical Area Alteration). The City of Yakima would also appear to have a duty to disallow any further development at the site by Mr. Bainter (Bainter Group LLC). Currently the City of Yakima is reviewing SEPA/JARPA documents that have been submitted by Mr. Bainter to further alter the Shaw Creek Critical Areas as he places utilities at the site (see the Bainter Sewer Line Proposal currently under review with the City of Yakima Planning Department). While the City of Yakima has indicated that it will approve the Bainter Sewer Proposal, the legal obligation of the City is to disallow approval for development at the site until such time as the unlawfully altered Critical Areas are restored.

DOC. INDEX  
H-1

Given the involvement of the City of Yakima with respect to the destruction of the Shaw Creek Critical Areas, it may be inappropriate for the City to be the Lead Agency with the responsibility for restoration of the damaged Critical Areas. For this reason, State of Washington authorities should be made aware of the Unlawful Critical Area Alterations by Mr. Bainter and the role played by the City of Yakima.

MS 6/2/14

CITY OF YAKIMA	
CODE ADMIN. DIVISION	
JUN 3 2014	FAXED <input type="checkbox"/>
<input checked="" type="checkbox"/> REC'VD	FYI <input type="checkbox"/>
<input type="checkbox"/> PAID	

DOC. INDEX#
H-1