



DEPARTMENT OF COMMUNITY DEVELOPMENT

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**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. 90th 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.

A handwritten signature in black ink, appearing to read "Trevor Martin", written over a horizontal line.

Trevor Martin
Senior Planner

Date of Mailing: **October 12, 2021**
Enclosures: Hearing Examiner's Recommendation

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CITY 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)	
)	
A DLT Investment Group, LLC)	PD#002-21
)	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 th 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 92nd Avenue to the west of the proposal, Carl Newman, asked what sitescreening, gating, signing and/or other

measures will be taken to keep pedestrians from walking up South 92nd Avenue to Tieton Drive and asked what measures will be taken to extend the sewer line and/or sewer easements from South 90th 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 92nd 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 92nd 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 92nd Avenue be modified or that the gates be required to permanently block vehicular access to South 92nd Avenue. He also added relative to Mr. Newman's concern that there is a school bus stop on Tieton Drive at South 92nd Avenue that would likely result in a significant amount of foot traffic on South 92nd 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.

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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 20th Avenue, Suite 3, Yakima, Washington 98902 (*Document Index #E-1; September 17, 2021 email from Tom Durant; Secretary of State website*).

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II. Location. The location of the proposal is south of Tieton Drive at 502 South 90th Avenue on the west side of South 90th 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 90th 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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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

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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.

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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

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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.

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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 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 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 90th Avenue. There is no proposed vehicular access to or from South 92nd Avenue other than for emergency vehicles. Gates at the west end of the private streets will block vehicular access to and from South 92nd 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 92nd 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.

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(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. 92nd 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

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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*

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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. 90th Avenue, a road maintenance agreement for future lot owners, streetlights as directed by the City, fire hydrants within 500 feet*

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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*

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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

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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*

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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*

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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

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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*

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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. 92nd 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

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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

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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.

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(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.

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(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

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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

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

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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 92nd 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 92nd 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

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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 90th 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 92nd 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.

(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.

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(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

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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 92nd 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 90th 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

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 90th 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.

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(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 90th 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 90th Avenue and driveway improvements to South 92nd 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.

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(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),

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§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:

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(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

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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 92nd 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.

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(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 90th 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.

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(8) Subsection 14.20.100(A)(4)(e) -- Appropriate provisions for transit stops. Yakima Transit Route 1 is accessible at the corner of 90th 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 92nd 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 92nd 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 90th Avenue to South 92nd 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 92nd 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 90th 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 9th 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 90th 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 90th Avenue. This sidewalk will make it more desirable for pedestrians to use South 90th Avenue than South 92nd 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 92nd Avenue to South 90th Avenue. Otherwise there is no mechanism or policy that can limit pedestrian use of South 92nd Avenue which is a platted City right-of-way (*Emails of Tom Durant and Trevor Martin dated September 24, 2021*).

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(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 90th 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.

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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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.

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(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 92nd 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 92nd 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 92nd 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.

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(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.

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(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 7th day of October, 2021.



Gary M. Cuillier, Hearing Examiner