



LESTER & SONYA MAKALII – APPEAL
APP#004-23
(PSP#003-22, APP#002-23)

City Council
Closed Record Appeal Hearing
June 6, 2023

EXHIBIT LIST

Appellant: Gary Lofland
File Numbers: APP#004-22
Site Address: 7411 Englewood Ave
Staff Contact: Joseph Calhoun, Planning Manager

Table of Contents

CHAPTER AA	Exhibits from Hearing Examiner Hearing
CHAPTER BB	Hearing Examiners Decision
CHAPTER CC	Appeal to City Council Application
CHAPTER DD	Appellant's Written Argument & Rebuttal Response
CHAPTER A	Staff Report
CHAPTER B	Maps
CHAPTER C	Site Plan
CHAPTER D	DST Review & Agency
CHAPTER E	Comments Applications
CHAPTER F	Public Notices
CHAPTER G	Public Comments

(PSP#003-22, APP#002-23)

EXHIBIT LIST

CHAPTER AA

Exhibits from Hearing Examiner Hearing

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City of Yakima

**Appeal of Decision of Planning Department
APP 002-22 (PSP 003-22)**

Before the Hearing Examiner

Reply of Appellant

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I. THE CITY'S POSITION

The City Attorney asserts "The City of Yakima has adopted applicable developmental regulations, so the adopted comprehensive plan cannot serve as the developmental regulations to be reviewed as part of the land use evaluation" and relies on Citizens of Mount Vernon v. City of Mount Vernon, 133 Wn.2d 861, 863 (1997).

II. LONG-ESTABLISHED LEGAL PRECEDENT REQUIRES COMPLIANCE WITH BOTH THE ZONING CODE AND COMPREHENSIVE PLAN

The City Attorney failed to bring to the attention of the Hearing Examiner the numerous cases that hold:

But where the zoning code itself expressly requires that a proposed use must comply with both the zoning code and the comprehensive plan, the proposed use must comply with both the zoning code and the comprehensive plan.

Deer Creek Developers, LLC v. Spokane County, 157 Wn. App. 1, 18 (Div. III, 2010); Lakeside Industries v. Thurston County, 119 Wn. App. 886, 895 (Div. II, 2004); Cingular Wireless v. Thurston County, 131 Wn. App. 756, 770 (Div. II, 2006)

One would expect the City and its counsel to be aware of these decisions and have the candor to have provided these precedential decisions to the Hearing Examiner.

III. THE YAKIMA MUNICIPAL CODE REQUIRES COMPLIANCE WITH THE COMPREHENSIVE PLAN

Yakima Municipal Code 14.15.050 provides:

Following the notice of application, the administrator shall approve, disapprove, or return for modification all preliminary short subdivision

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applications. In reaching the conclusion to approve or disapprove short subdivisions, the administrator shall determine whether the requirements of this title have been satisfied **and make a formal written finding of fact as to whether the short subdivision is consistent with the standards of the City of Yakima zoning ordinance and urban area comprehensive plan.**

(Emphasis added)

The YMC clearly and unmistakably requires an application for short subdivision, such as the one subject to this appeal, to comply with the urban area plan and the Planning Department to make formal written findings of fact that the short subdivision is consistent with the urban area comprehensive plan. The use of the word “shall” connotes the imperative. The Planning Department cannot be allowed to ignore this clearly stated requirement.

IV. THE CITY PLANNING DEPARTMENT DID NOT COMPLY WITH THE REQUIREMENTS OF YMC 14.15.050

In the decision dated August 11, 2022, the Department failed to make the required findings of fact that the short subdivision is consistent with the urban area comprehensive plan. The weak and failed attempt of the Planning Department to justify the decision contained in the “staff response” which begins “While not explicitly cited in the report...” (which appears on page 2 of Doc. Index A-1) underscores the Department’s failure to consider, let alone comply with, the requirements of YMC 14.15.050 which requires formal written findings the short subdivision is consistent with the comprehensive plan.

The Planning Department also failed to comply with YMC 14.15.040.

V. THE SHORT SUBDIVISION IS NOT CONSISTENT WITH THE URBAN AREA COMPREHENSIVE PLAN

A. Neighborhood

The City Attorney concedes the appellant’s definition is correct. a neighborhood is “the area of a town that surrounds someone’s home.” The City’s memorandum underscores a neighborhood is “nearness in space... proximity...adjacent” “the immediate vicinity, near or next to a specified place.” (see AA-3 page 5). This admits the Department’s use of a quarter of a mile in all directions to define the neighborhood was wrong.

The attempt to include the subdivision south of Englewood ignores the undisputed fact that there is an unbroken fence along the subdivision and not access to or from the subdivision along Englewood and the only access is on 74th. The City Attorney ignores these facts

which precludes a determination that the subdivision south of Englewood is part of the neighborhood subject of this appeal.

The neighborhood as defined by the appellant is what must be considered.

B. The short subdivision is not consistent with the comprehensive plan

There is no presumption which favors a short subdivision. (See, Parkridge v. City of Seattle, 89 Wn.2d 454, 462 (1978)). There must be a determination that the short subdivision preserves and enhances the established neighborhood and is compatible in scale, style, density, and aesthetic qualities.” The burden of demonstrating this is on the applicant. Mount Vernon, 133 Wn.2d at 875.

The appellant has demonstrated in the opening memorandum that the proposed short subdivision does not meet the requirements of the Comprehensive Urban Plan. The argument will not be repeated.

VI. CONCLUSION

The Planning Department failed to meet the requirements of YMC 14.15.050. The Planning Department should be more concerned with complying with YMC 14.15.050 than justifying its decision. The proponents of the short subdivision have the burden of demonstrating the requirements of the zoning plan and the comprehensive plan have been met. They have not done so.

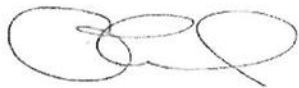
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The application for short subdivision must be denied.

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Dated this 21st day of October, 2022.



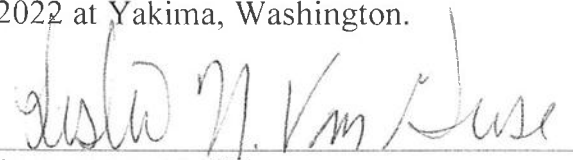
Gary Lofland
Appellant

CERTIFICATE OF TRANSMITTAL

I certify under penalty of perjury under the laws of the state of Washington that the undersigned caused a copy of this document to be sent to the attorney(s) of record listed below as follows:

Lester and Sonia Makaii 7411 Englewood Ave Yakima, WA 98908	<input checked="" type="checkbox"/> via U.S. Mail <input type="checkbox"/> via fax <input type="checkbox"/> via e-mail <input type="checkbox"/> via hand delivery
Joseph Calhoun Planning Manager City of Yakima	<input type="checkbox"/> via U.S. Mail <input type="checkbox"/> via fax <input checked="" type="checkbox"/> via e-mail <input type="checkbox"/> via hand delivery

DATED this 21ST day of October, 2022 at Yakima, Washington.



LESLIE VAN GUSE

**CITY OF YAKIMA
HEARING EXAMINER**

In re:

The Matter of the Makalii Short Plat

NO. APP#002-22

MEMORANDUM

This Memorandum is submitted after the City of Yakima's (hereinafter referred to as "City") oral motion to allow post-hearing briefing was granted by the Hearing Examiner. This memorandum includes analysis regarding the specific questions posed by the Hearing Examiner, as well as a response to Appellant Lofland's Prehearing Statement.

- 1. Comprehensive Plans are used as guidance; the adoption of the development regulations, and affirmative statements regarding development regulations in Planning Division decisions meets the requirements of the Yakima Municipal Code.**

Comprehensive plans adopted by cities serve as guidance documents to land use planning and the development of land use regulations which further the goals and policies of an adopted comprehensive plan. Cities are required to plan through the comprehensive plan process to create "common goals expressing the public's interest" in various land use, economic development and health and safety matters associated with growth.

MEMORANDUM - 1

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DOC.

INDEX

AA-3

1 RCW 36.70A.010. RCW 36.70A.020 outlines the various elements to be considered when
2 doing comprehensive planning, and states the following: “The following *goals* are adopted to
3 *guide* the development and adoption of comprehensive plans and development regulations of
4 those counties and cities that are required or choose to plan under RCW 36.70A.040.”
5 RCW 36.70A.020 (emphasis added). RCW 36.70A.040 goes on to require that jurisdictions
6 “adopt development regulations that are consistent with and implement the comprehensive
7 plan....” RCW 36.70A.040(3) & (4). If comprehensive plans were intended by the legislature
8 to be the development regulations of jurisdictions there would not have been a statutory
9 requirement to adopt further development regulations to implement comprehensive plans. *See*
10 *generally Department of Ecology v. Campbell & Gwinn, LLC*, 146 Wn.1, 43 P.3d 4 (2002);
11 *City of Seattle v. Long*, 198 Wn.2d 136, 493 P.3d 94 (2021). As such, comprehensive plans
12 are not regulations and do not include strict requirements cities must follow in evaluating each
13 land use application. Instead, a comprehensive plan is a guiding document for cities to use
14 when evaluating development regulations and land use actions.
15

16
17 Comprehensive plans can be used as regulations when a jurisdiction has not adopted
18 its own development regulations. RCW 36.70A.030(1) states:
19
20

21 Fundamental land use planning choices made in adopted comprehensive plans
22 and development regulations shall serve as the foundation for project review.
23 The review of a proposed project’s consistency with applicable development
24 regulations, or in the absence of applicable regulations the adopted
25 comprehensive plan, under RCW 36.70B.040 shall incorporate the
26 determinations under this section.

27 The City of Yakima has adopted applicable development regulations, so the adopted
28 comprehensive plan cannot serve as the development regulations to be reviewed as part of the
29 land use evaluation. *See Citizens of Mount Vernon v. City of Mount Vernon*, 133 Wn.2d 861,
30 863, 947 P.2d 1208 (1997).
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32 MEMORANDUM - 2
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DOC.

INDEX

44 AA-3

1 Courts also view comprehensive plans as guidance documents and not strict
2 regulations. In *Citizens of Mount Vernon v. City of Mount Vernon*, the court extensively
3 outlined why the comprehensive plan of Mount Vernon was guidance and was not to be used
4 to make specific land use decisions. *Id.*, 133 Wn.2d 861, 873, 947 P.2d 1208 (1997). The
5 developer of a proposed commercial planned unit development wished to place the
6 development in a residential zone. Mount Vernon's development regulations only allowed
7 commercial planned unit developments in commercial zones. However, the comprehensive
8 plan designated the area as one with future potential need for community retail, of which the
9 commercial planned unit development included. *Id.* at 863-864.

12 The commercial developer argued that "the comprehensive plan is the only required
13 document necessary to make this specific land use decision" and that "a comprehensive plan
14 can be used to make a specific land use decision." *Id.* at 872-873. The Court disagreed.

16 [C]omprehensive plans generally are not used to make specific land use
17 decisions. Instead, we stated a comprehensive plan is a "guide" or "blueprint"
18 to be used when making land use decisions. Although the court [in *Barrie v.*
19 *Kitsap County*, 93 Wn.2d 843, 613 P.2d 1148 (1980)] confirmed there need not
20 be "strict adherence" to a comprehensive plan, any proposed land use decision
must generally conform with the comprehensive plan.

21 Since a comprehensive plan is a guide and not a document designed for making
22 specific land use decisions, conflicts surrounding the appropriate use are
23 resolved in favor of the more specific regulations, usually zoning regulations.

24 *Id.* at 873 (internal citations omitted).

25 It is the development regulations that implement the goals and policies of the
26 comprehensive plan. Those development regulations include the intent statements, minimum
27 lot sizes, setbacks and densities of each zone found in the Yakima Municipal Code. The
28 legislature, here the City Council, adopted these regulations as the development regulations of
29 the City of Yakima. Under YMC 15.01.010, the City Council, through adoption, has stated
30

32 MEMORANDUM - 3

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DOC.
INDEX
AA-3

1 that the zoning ordinance containing the development regulations “is enacted under the
2 authority granted to the city of Yakima by . . . RCW 36.70.”¹ The Council also enacted with
3 the development regulations the purpose and intent statement, which states in part:
4

5 The purpose of this title is to implement the Yakima urban area comprehensive
6 plan and promote the general health, safety and welfare of present and future
7 inhabitants of the Yakima urban growth area. The goals and policies of the
8 urban area comprehensive plan will be used for interpretation and
9 implementation. These goals are accomplished in many ways, including:

- 10 1. Achieving public and private land use decisions consistent with the
11 policies and objectives of the Yakima urban area comprehensive
12 plan;
- 13 2. Dividing the Yakima urban area into districts according to the use
14 of land and structures and the intensity of such use;
- 15 3. Encouraging the location and use of structures and land for
16 commerce, industry and residences in districts where they are
17 compatible with neighboring land uses;
- 18 4. Encouraging development in areas where adequate public services
19 including water and sewer, police and fire protection, roads, and
20 schools can be provided, and limiting development in areas where
21 these facilities are not provided;
- 22 ...
- 23 10. Protecting existing land uses and property values from adverse
24 impacts of adjoining developments;
- 25 ...

26 YMC 15.01.030. The section goes on to state: “This title is designed to be flexible and
27 intentionally increases the potential uses or choices available to individual property owners. .
28 . . The intent statements serve as a guide to the administration and interpretation of this title
29 and are declared to be an official statement of legislative finding and purpose.” *Id.* As such,
30 the adoption of the SR zoning district and the regulations associated with the SR zoning district
31 are a legislative declaration of what is considered consistent with the comprehensive plan.
32

33 ¹ RCW 36.70 is the Planning Enabling Act which outlines the requirements of comprehensive plans.

1 Affirmative statements were made regarding the SR zone and its regulations in the
2 Administrator's Decision, which constitute affirmative statements both that the proposed short
3 subdivision is consistent with the standards of the zoning ordinance and that the short
4 subdivision is consistent with the comprehensive plan, as required by YMC 14.15.050 and
5 YMC 14.15.060. The City Council outlined in the zoning code that regulations associated with
6 the SR zoning district are its declaration of consistency with the Yakima Urban Area
7 Comprehensive Plan.
8

9
10 **2. The definition of neighborhood in the context of this appeal.**

11 Neighborhood is not defined in the Yakima Municipal Code Title 14 or Title 15. The
12 term is used in a variety of places in the code, including to describe zoning districts
13 (YMC 15.03), as well as formal neighborhood plans like the West Valley Neighborhood Plan
14 (YMC 1.42.070(A)). Courts may look to the ordinary meaning of a word, as defined in the
15 dictionary, when an ordinance does not define a term. *Jones v. Department of Labor and*
16 *Industries*, 17 W.App.2d 437, 445, 486 P.3d 949 (2021).
17

18 "Neighborhood" is defined as "the region near where one is or resides; vicinity."
19 WEBSTER'S NEW ILLUSTRATED DICTIONARY & THESAURUS 653 (1992). "Vicinity" is defined
20 as "nearness in space or relationship; proximity; a region adjacent or near." *Id.* at 1083.
21 Similarly, Black's Law Dictionary defines "neighborhood" as "the immediate vicinity; the area
22 near or next to a specified place; people living in a particular vicinity, usually forming a
23 community within a larger group and having similar economic statuses and social interests."
24 BLACK'S LAW DICTIONARY 1060 (7th ed. 1999).
25

26 As pointed out in the hearing, the City requires notice of land use matters to be sent to
27 those properties within 300 feet of the proposed short subdivision. YMC 14.15.040. This,
28 however, does not necessarily define a "neighborhood." Looking at the immediate vicinity of
29
30
31

1 the short plat location, and within 300 feet, there are homes that sit on acreage ranging from
2 0.19 acres to over 0.5 acres. Depending on which parcels one picks and chooses, the average
3 acreage per lot could change. Appellant argues that the neighborhood only consists of specific
4 properties it believes constitutes a neighborhood--only those properties near the proposed
5 subdivision, but only those north of Englewood.
6

7 The administrative official is tasked with evaluating the proposal to determine if it
8 meets the goals and policies of the comprehensive plan, which in this particular case, involved
9 the evaluation of Goal 2.3—to preserve and enhance the quality, character, and function of
10 Yakima’s residential neighborhoods. *See Staff Report*, page 2. In evaluating that goal, the
11 administrative official looks, in part, to ensure that new development is compatible to
12 established neighborhoods, taking into account scale, style, density and aesthetics. *See id.*²
13
14

15 Here, the administrative official evaluated those elements in relation to the surrounding
16 neighborhood. Appellant referred to the 300 foot radius as the City’s definition in his briefing.
17 *Prehearing Statement of Appellant*, page 3. The City has not defined neighborhood. The 300
18 foot radius is for notification purposes only.
19

20 Let’s assume for argument that the neighborhood consists of the surrounding properties
21 within approximately 300 feet of the proposed short subdivision. The Decision lists the zoning
22 of the surrounding properties as R-1 and SR. As such, the short subdivision lots are surrounded
23 by lots of varying sizes, but all have the same use—single family residential (adjacent lots are
24 zoned either R-1 or SR) and all include detached single-family dwellings). *See Staff Report*,
25 page 2. All of the surrounding lots (regardless of zoning of R-1 or SR) are subject to the same
26 setbacks, fencing requirements, and height restrictions. *See Table 5-1: Design Requirements*
27
28

29
30 ² It should be noted that the ¼ mile information was provided as further example of how the size of the property
31 is compatible, and was provided in response to the Appeal, not in the original decision.
32

1 and Standards, YMC 15.05.030.³ This was affirmatively stated in the decision on pages 5-6.
2 The design standards for the SR and R-1 zones are set forth to ensure that there is appropriate
3 design standards in a neighborhood, furthering policy 2.3.2 of the Comprehensive Plan
4 requiring compatibility of new development.
5

6 Appellant argues that the density will impermissibly increase due to the subdivision
7 creating lots that are smaller than surrounding lots to the north of Englewood (proposed lots
8 are approximately 0.3 acre while smallest lot on the north side of Englewood is approximately
9 0.4 acre).⁴ Contrary to appellant's assertion that density is not defined, Yakima Municipal
10 Code district and map overlay intent statements outline what density means in each zoning
11 district. See YMC 15.03.020. In the R-1 district (of which the proposed subdivision is
12 surrounded on three sides) the district allows "moderate-density residential development, up
13 to seven dwelling units per net residential acre, in areas served by public water and sewer
14 system." YMC 15.03.020(B)(3). In the SR district (of which the proposed subdivision is
15 bordered on the West) the density allowance is the same: "Allow residential developments to
16 seven dwelling units per net residential acre in areas with both public water service and sewer
17 system." YMC 15.03.020(A)(4). The property sought to be subdivided is zoned SR and has
18 access to both public water service and public sewer. The determination by the administrative
19 official that the proposer's 1.78 acres of property be divided into 4 lots (approximately 2.3
20 dwelling units per acre) meets the intent statement of the SR zone, and is consistent with the
21 intent statements and requirements of the surrounding properties zoned SR and R-1.⁵
22
23
24
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26
27 ³ No variances to the design requirements were requested in the process, and if any of the design requirements
28 and standards were requested to be altered, a variance procedure would be required by the code.

29 ⁴ It should be noted that there are lots across the street off of Englewood within 300 feet of the proposed
30 subdivision that are less than 0.2 acre. The proposed subdivision's 0.3 acre lots are larger than some lots
31 within 300 feet and smaller than others.

32 ⁵ The applicant submitted a set of covenants for review in this matter. After review, it does not appear that the
33 covenants are relevant to the proceeding at hand. The covenants apply to Short Plat 86-92. Applicant's property

MEMORANDUM - 7

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DOC.
INDEX
AA-3

1 **3. Conclusion.**

2 All of the statements made in the administrative official's findings of fact and
3 conclusions are affirmative statements regarding the development code, which is the
4 instrument used to enforce and comply with Yakima's comprehensive plan. Those statements
5 constitute the formal written findings of fact that the application submitted is consistent with
6 the comprehensive plan, as required by YMC 14.15.050 and YMC 14.15.060.
7

8 Appellant argues, in part, that since the administrative official did not use the wording
9 of the ordinance in the decision that it fails to meet the short subdivision criteria. There are
10 many findings and conclusions listed in the decision that refer to the Yakima Municipal Code
11 development regulations. Since those regulations are the implementing regulations of the
12 comprehensive plan, which is a guidance document, the administrative official did provide the
13 necessary findings that the proposal meets the goals and policies of the comprehensive plan.
14 The decision should be upheld.
15

16 However, if the Hearing Examiner believes that the administrative official could have
17 been clearer that the goals and policies of the comprehensive plan were met, then the City
18 would ask that the Hearing Examiner modify the decision to include a finding or conclusion
19 as follows:
20

21
22 "This short subdivision is consistent with the standards of the city of Yakima
23 zoning ordinance, YMC 14.15.060, YMC 14.15.070, and the City's urban area
24 comprehensive plan."

25 Although the statements already included in the decision show that the administrative
26 official found that the short subdivision was consistent with the development standards, short
27 subdivision standards, and the comprehensive plan, if the Hearing Examiner finds that the
28

29

is part of Short Plat 95-68 and appears to contain only a small portion of Lot 4 of Short Plat 86-92. The covenants
30 themselves do not appear relevant or have not been upheld by the owners, and the City does not enforce covenants
31 between private parties.

32 MEMORANDUM - 8

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DOC.


NDEX

AA-3

1 above conclusory statement is necessary, the City asks that the Hearing Examiner modify the
2 decision accordingly. Under both 14.50.010 and YMC 16.08.018, the hearing examiner may
3 modify the administrative official's decision.
4

5 RESPECTFULLY SUBMITTED this 17th day of October, 2022.
6

7 CITY OF YAKIMA LEGAL DEPARTMENT
8

9
10 By: 
11 SARA WATKINS, WSBA No. 33656
12 City Attorney
13 Attorneys for City of Yakima
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32 MEMORANDUM - 9
33

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DOC.

INDEX

4A-3

DECLARATION OF RESTRICTIVE AND PROTECTIVE COVENANTS, ALL ETC.

KNOW ALL MEN BY THESE PRESENTS: That each and every lot in the following described tract or subdivision of real estate in Yakima County, Washington:

Lots 2, 3 and 4 of Short Plat 86-92, records of Yakima County, Washington

(is hereby rendered subject to the following restrictive and protective covenants, and that the same are hereby imposed upon each and every lot, except as hereinafter set forth in said tract or subdivision; and said covenants shall run with the land, and all subsequent purchasers and owners of any of said lots shall take and hold the same subject thereto; and every purchaser and grantee of any of said lots by the acceptance of a deed thereto accepts and agrees to said covenants as hereinafter stated:

1. All lots in said subdivision shall be known as designated as residential lots. No structures shall be erected, altered, placed or permitted to remain upon said residential building lots, other than one detached, single-family dwelling of not more than 2 1/2 feet from the highest point on the lot, excluding chimneys, except as hereinafter provided, exclusive of basement, and private garage for not more than four cars, except that any property owner shall have the right to maintain a private greenhouse, summerhouse, and/or swimming pool and tennis court, together with related cabana or shelter. All lots to remain at present size, unless prior approval is granted by the control committee.

2. No building or structure intended for or adapted to business or professional purposes, not any apartment house, duplex house, flat building, lodging house, rooming-house, hotel, hospital or sanitarium shall be erected, placed or permitted to remain on any lot.

No room or rooms in any residence or parts thereof may be rented or leased. Nothing in this section, however, shall be construed as preventing the renting or leasing of an entire lot, together with its improvements, as a single unit to a single family.

3. Every principal residence constructed on any lot shall not have less than 1800 square feet of all enclosed floor area devoted to living purposes, exclusive of roofed or unroofed porches, terraces, garages, or carports, on the main floor. The roof pitch for each principal residence shall not be less than 6"/12". Siding shall be limited to cedar and/or brick roofs shall be limited to shake, wood shingle or tile. Fireplaces to have brick or cedar chase. Windows shall be wood, bronze aluminum or white aluminum.

4. No horses, cattle, sheep, goats, pigs, rabbits, poultry, dogs, cats or other livestock of any description shall be kept or maintained for business purposes on any part of the said property, with the exception of dogs, cats or other animals which are bona fide pets, and which do not make objectionable noises or otherwise constitute a nuisance or inconvenience to residents of other properties.

5. Easements and rights-of-way in perpetuity are hereby reserved for the erection, construction, maintenance and operation of wire, cables, pipes, conduits and apparatus for the transmission of electrical energy, for telephone, television and radio lines, and for the furnishing of water, gas, sewer service or for other utility purposes, together with the right to enter for the purpose of installing, maintaining, and reading gas, electric and water meters, together with the further right to the undersigned to convey or lease the whole or any portion of such easement, right-of-way, right-of-entry to any person or to any corporation or municipality, over, under, along, across, upon and through the designated utility strips as shown on the face of the plat of said subdivision.

Page One of Three

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OCT 14 2022

CITY OF YAKIMA
PLANNING DIV.

DOC.
INDEX
#AA-2

6. No derrick or other structure designed for the use in boring for oil, or natural gas be produced or extracted therefrom.

7. No advertising signs of any character shall be erected, placed or permitted or maintained on any lot or on any building within the tract, other than a name plate of the occupants and the street number and address, provided a sign no larger than 2'6" X 2'6" may be used for selling or renting purposes.

8. No elevated tanks of any kind shall be erected, placed or permitted upon any part of said property. Any tanks for use in connection with any residence constructed on said property, including tanks for the storage of gas and oil, must be below ground. All types of refrigerating, cooling or heating equipment must be concealed, with the exception of solar heating and cooling devices, which may be installed on roofs.

9. No boats, trailer houses, or equipment of this type shall be stored or parked upon any property where it might be visible from any street.

10. No trailer, basement, unfinished house, tent, shack, garage, barn or other outbuilding erected on the tract, shall at any time be used as a residence, temporarily or permanently; nor shall any structure of a temporary character be used as a residence. The work of construction of all buildings and structures shall be prosecuted with reasonable diligence from the commencement of construction until such buildings structures and are fully completed and painted or stained including landscaping front and rear of property before the end of nine (9) months from the date construction begins. No building or structure shall be moved onto any land embraced in such subdivision from any land outside of said subdivision. No structure on said property shall be occupied as a residence until the installation of adequate plumbing, connected to a septic tank or sewer.

11. Fruit trees and other domestic crops on said subdivision shall be permitted, but if so retained, they shall be properly sprayed and cared for so that they shall not cause a nuisance to or infect adjoining commercial orchards, or orchards in the vicinity.

12. Each lot at all times shall be kept in a clean, sightly and wholesome condition. No trash, litter, junk, boxes, containers, bottles, cans, implements, machinery, lumber or other building materials shall be permitted to remain exposed upon any lots so they are visible from any neighboring lot or road, except as it is necessary during the period of construction. No lot shall be used in whole, or part, for the storage of any property or thing, which will cause such lot to appear in an unclean, disorderly or untidy condition, or that will be otherwise obnoxious. No obnoxious or offensive activity shall be carried on upon any lot nor shall anything be done, placed, or stored thereon which may be, or become an annoyance or nuisance to the neighborhood or occasion any noise or odor which will or might disturb the peace, quiet, comfort or serenity of the occupants of nearby properties. Any vehicular repair shall not be done externally of the residence.

Each lot shall at all times be kept reasonably clear of weeds and other unsightly growth which shall include unmowed lawns.

In the event any structure is destroyed either wholly or partially by fire or any other casualty, said structure shall be promptly rebuilt or remodeled to conform to this declaration, or all remaining portions of the structure, including the foundations and all debris, shall be promptly removed from the property.

Page Two of Three

Vol 1210 1058

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OCT 14 2022

CITY OF YAKIMA
PLANNING DIV

DOC.

INDEX

AA-2

13. No building shall be erected, placed or altered on any lot until the construction plans and specifications and a plan showing the location of the structure have been approved by the Control Committee as to quality of workmanship and materials, harmony of external design with existing structures, and as to location with respect to topography and finish grade elevation.

The Control Committee hereinafter referred to shall be and they are hereby given the authority after receiving written petition therefor to allow the installation of a fence, wall, hedge or shrubs contrary than is provided in these restrictions, upon showing to their satisfaction that such will not be a detriment to adjoining property or injurious to the subdivision or constitute a dangerous hazard. Said Control Committee shall be the exclusive judges of such determination. Said fence shall be of the style, material and workmanship as that fence on the West boundary of the tract.

The Control Committee shall be composed of David Rodman and Sally Strother, of Yakima, Washington, as long as they have a material interest in any of said lots. In the event of death or resignation of any member of the Committee, the remaining members shall have the full authority to designate a successor.

The Committee's approval or disapproval as required in these covenants shall be in writing. In the event the Committee fails to approve or disapprove within thirty (30) days after plans and specifications or requests have been submitted to it, then and in that event, no additional approval will be required, and it shall be inferred that permission has been granted to proceed according to such plans, specifications or requests.

14. These covenants shall run with the land and shall be binding on all owners of property in said tract and all persons claiming under them. It is agreed and understood, however, that these covenants may be altered, changed or amended by the Control Committee.

15. If any purchaser or owner of any portion of said property, or their heirs or assigns, shall violate or attempt to violate any of the covenants, herein, it shall be lawful for any other person or persons owning any real estate situated in said development or subdivision to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant and to recover damages for such violation, and the failure of the owners of any real estate situated in said subdivision to enforce any of the restrictions herein set forth at the time of violation shall not be deemed to be a waiver of the right to do so thereafter, or for subsequent or other violations. The prevailing party in such suit or action shall be entitled to reasonable attorney's fees.

16. Invalidity of any of these covenant by judgment of court order shall in no way affect any of the other provisions hereof, which shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this instrument this 18 day of May, 1987

Sally Strother
Sally Strother

wt 1210 1059

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DOC.
INDEX
AA-2

OCT 14 2022
CITY OF YAKIMA
PLANNING DIV

ADDENDUM / AMENDMENT TO PURCHASE AND SALE AGREEMENT

The following is part of the Purchase and Sale Agreement dated 12-23-16 1
between Lester + Sonja Makali ("Buyer") 2
and Melanie Powers-Ziegler ("Seller") 3
concerning 7411 Englewood Ave Yakima WA 98908 (the "Property"). 4

IT IS AGREED BETWEEN THE SELLER AND BUYER AS FOLLOWS:

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D. Buyers wish to be relieved from the restrictive and protective covenants that encumber 7411 Englewood Ave Yakima WA 98908 PN 181317-34422. As understood this property was included into the protective covenants and restrictions due to a lot line adjustment and was not originally part of the CCRs for the subdivisions. If property can not be removed by the agreed consensus of affected members, the Buyers wish to terminate the purchase and sales agreement.

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ALL OTHER TERMS AND CONDITIONS of said Agreement remain unchanged.

OCT 14 2022

CITY OF YAKIMA
PLANNING DIV

DOC.
INDEX
AA-2

Initials: BUYER: L.M. Date: 3 Jan 17 SELLER: _____ Date: _____
BUYER: S.M. Date: Jan. 3, 2017 SELLER: _____ Date: _____

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OCT 12 2022

CITY OF YAKIMA
PLANNING DIV.

City of Yakima

Appeal of Decision of Planning Department
APP 002-22 (PSP 003-22)

Before the Hearing Examiner

Prehearing Statement of Appellant

I. INTRODUCTION

This is an appeal from the August 11, 2022 decision of the Planning Division of the Yakima Department of Community Development. That decision granted the application of Lester and Sonya Makalii for a short plat to create four lots on approximately 1.78 acres. Although opposed by neighbors, the application was granted by the Planning Manager on August 11, 2022.

A timely appeal of the decision was filed on August 22, 2022. The appeal is based upon the Planning Division's failure to consider, address, or make written findings regarding the goals and policies of the Yakima Comprehensive Plan 2040 Future Land Use Map and failure to comply with YMC 14.15.050 and .060.

The August 11th decision of the Planning Division failed consider or address the Yakima Comprehensive Plan 2040 which mandates the City to "Preserve and enhance the quality, character, and function of Yakima's residential neighborhoods" and to "Ensure the new development is compatible in scale, style, density, and aesthetic quality to an established neighborhood."

II. LEGAL STANDARDS

When interpreting a statute, the court's fundamental objective is to give effect to the legislature's intent. If the meaning of the statute is plain on its face a court gives effect to that plain meaning as the legislature's intent. Department of Ecology v Campbell and Gwinn LLC, 146 Wn.2d 1, 10 (2020). The court presumes the legislature says what it means and means what it says. Central Puget Sound Regional Transit Authority v. Airport Investment Company, 186 Wn.2d 336, 347 (2016). Courts are required to "give effect to every word, clause and sentence in a statute," leaving no part superfluous. Cox v. Helenius, 103 Wn.2d 383, 387 (1985).

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OCT 12 2022

CITY OF YAKIMA
PLANNING DIV.

III. THE LEGISLATIVE ENACTMENTS

A. Yakima Municipal Code

The Yakima Municipal Code requires, by use of the imperative "shall", that an application for a short plat must comply with the urban area comprehensive plan. It provides:

14.15.050 Administrator's approval/disapproval.

Following the notice of application, the administrator shall approve, disapprove, or return for modification all preliminary short subdivision applications. **In reaching the conclusion to approve or disapprove short subdivisions, the administrator shall determine whether the requirements of this title have been satisfied and make a formal written finding of fact as to whether the short subdivision is consistent with the standards of the city of Yakima zoning ordinance and urban area comprehensive plan.** (Ord. 2011-08 § 1 (part), 2011: Ord. 98-65 § 2 (part), 1998. Formerly 14.15.040. (Emphasis added).

14.15.060 Findings and conclusions.

The administrator **shall not** approve a preliminary short plat and short subdivision unless written findings are made that the criteria for approval from YMC 14.15.020 along with all applicable laws and regulations have been met.

B. The Yakima Comprehensive Plan 2040

The Yakima Comprehensive Plan 2040 includes a specific goal:

Goal 2.3. Residential Uses. Preserve and enhance the quality, character, and function of Yakima's residential neighborhoods.

It also includes a specific policy:

Policy 2.3.2. Preserve and enhance established residential neighborhoods. Specifically:

A. Ensure that new development is compatible in scale, style, density, and aesthetic quality to an established neighborhood.

B. Protect the character of single-family neighborhoods by focusing higher intensity land uses close to commercial and community services and transit.

OCT 12 2022

CITY OF YAKIMA
PLANNING DIV.

It is clear the legislative intent of the Yakima City Council was that the Planning Department is required to consider the Yakima Comprehensive Plan 2040. It is not legally adequate to rely solely on the zoning ordinance, both must be considered.

IV. THE FAILURE OF THE PLANNING DEPARTMENT

In the decision dated August 11, 2022, the Planning Department identified the Yakima Comprehensive Plan 2040, its purpose, goal 2.3, and policy 2.3.2 (Exhibit 1 page 2). The Planning Department failed to address those considerations and make written findings as required by YMC 14.15.050.

As a result, the decision of the Planning Department is in error. A decision is "arbitrary and capricious" when it is willful and unreasoning and taken without consideration of the facts and circumstances of the surrounding action." Spokane County v Eastern Washington Growth Management Hearings Bd., 176 Wn. App. 555, 566-67 (Division III, 2013). The failure to follow a prescribed procedure, the erroneous interpretation or application of the law, or lack of substantial evidence to support the decision makes the decision arbitrary and capricious. Id., 176 Wn. App. at 565.

The Planning Department failed to follow the prescribed procedure which requires consideration of the goals and policies of the Comprehensive Plan and make specific written findings. The erroneous interpretation and application of the YMC, and the lack of substantial evidence to support the decision because the Planning Department failed to consider the requirements of the YMC makes the decision erroneous.

As a result, the decision of the Planning Department cannot be upheld. A proper consideration of the requirements leads to the conclusion the application must be denied.

V. RELEVANT CONSIDERATIONS

A. **Defining Neighborhood**

The clearly stated purpose of the Comprehensive Plan is to "preserve and enhance the quality, character, and function of Yakima's residential neighborhoods." We must first look at what is meant by a "neighborhood." Because neither the Comprehensive Plan nor the YMC defines the term, the plain meaning of non-technical statutory terms can be derived from the dictionary definition. Columbia River Keeper v. Port of Vancouver, 188 Wn.2d 421, 435 (2017).

The Cambridge Dictionary defines the word "neighborhood" as "the area of a town that surrounds someone's home..." The Yakima City Council, when it adopted the Municipal Code, clearly agreed with that definition because when there is an application

OCT 12 2022

CITY OF YAKIMA
PLANNING DIV.

for a short subdivision, notices are sent to those within 300 feet of the land proposed to be subdivided. YMC 14.15.040. The neighborhood is that area within 300 feet of the property to be subdivided.

B. The Characteristics of the Neighborhood

1. The surrounding neighborhood property is composed of homes on one half (1/2) of an acre. (Exhibit 2).
2. The homes in the neighborhood are long established.
3. The development south of Englewood cannot be considered part of the neighborhood because there is no access to Englewood Ave. from that development. The only access to the development is from 74th Avenue. There is a fence along the north end of the development (south side of Englewood Avenue) which blocks access to Englewood. (Exhibit 3).

C. Detriments to the Neighborhood of the Proposed Subdivision

1. The density of the proposed subdivision is incompatible with the size of the lots in the established neighborhood.
2. The existing neighborhood is one residence on a half-acre lot or greater. There are some half-acre lots with no homes. The proposed lots are:

lot 2 13,617 sf = .31 acre

lot 3 13,296 sf = .30 acre

lot 4 13,691 sf = .30 acre

This results in a 40% reduction in the size of the neighborhood lots. (.3 divided by .5 = .6. The proposed lots are 60% of the lots in the established neighborhood) (note: 1 acre = 43,560 sf).

3. The Makalii's current residence (lot 1) would be 39,098 sf or .89 acre which would be consistent with the character of the neighborhood.
4. YMC 15.05.030(c) demonstrates and underscores that the size of the new lots (lots 2,3,4) is incompatible with the neighborhood. That provision of the code establishes the minimum lot size:

OCT 12 2022

CITY OF YAKIMA
PLANNING DIV.

15.05.030 Creation of new lots—Subdivision requirements.

...

- (c) Maximum Number of Dwelling Units Permitted per Net Residential Acre. Maximum number of dwelling units permitted per net residential acre is used to determine the maximum number of dwelling units permitted within a single subdivision, short subdivision, mobile home park, multifamily development, or planned residential development.

...

- (c) Minimum Lot Size. Minimum lot size is the smallest lot size permitted in a particular zoning district when land is subdivided, short platted, resub divided, or when lot lines are adjusted. No lot shall be created that is smaller than the applicable minimum lot size standard established in Table 5-2.

1. In residential districts, this standard is intended to maintain the residential character of the area and will vary by dwelling type, the suitability of the land for development, and the type of water and sewer system. The following are the minimum lot size requirements in the residential districts, except when the Yakima health district determines that a larger area is necessary for the safe installation of approved water supply and sewage disposal systems:

Situation	Required Minimum Lot Size
-----------	---------------------------

...

Public or community water system and an individual sewer system	14,500 square feet.
---	---------------------

Because the August 11, 2022 decision of the Planning Department requires public sanitary, sewer, and domestic water (Exhibit 4 page 10, VI (B)) the lots are incompatible.

A 14, 500 sf. lot is required, the three proposed lots (lots 2,3,4) do not meet the required minimum lot size and are incompatible with the established neighborhood lot sizes.

OCT 12 2022

CITY OF YAKIMA
PLANNING DIV.

D. Other Words Used in the Comprehensive Plan and Which City Counsel Required Must Be Considered Underscore the Proposed Lots are Incompatible With the Established Neighborhood Lot Sizes

Policy 2.3.2 requires the new development to be compatible in "scale, style, density, and aesthetic qualities to an established neighborhood" with a goal to "Preserve and enhance the quality, character, and function of Yakima's residential neighborhoods." The terms are not defined and again we look to the dictionary definition using Merriam-Webster Dictionary.com:

<u>Scale</u>	Proportion. Ratio in size. Proportional dimension.
<u>Style</u>	Distinctive quality, form, or type of something.
<u>Density</u>	Average number of units or individuals by space.
<u>Quality</u>	Inherent feature, distinguishing characteristics.
<u>Character</u>	Feature used to separate or distinguish something into categories.
<u>Function</u>	Mathematical correspondence.

As demonstrated in Section V (c)(2), page 4 above, the proposed lots are a 40% reduction in the size of the lots in the established neighborhood. They do not have the same proportion (scale) of the established lots, the "density" is not consistent with the established lots, the "character" differs because of the size, they had differing characteristics, and they do not correspond mathematically (function) because of the reduced size.

This is readily observed by reviewing Exhibit 5(a) and (b) which show how the neighborhood is changed by the proposed lots. The Exhibit shows the proposed lots with the approximate size of a house the size of that currently in the property.

VI. CONCLUSION

The Yakima City Council, by adopting the YMC required an equal consideration of both the zoning ordinance and the Comprehensive Plan. The intent and purpose of the Comprehensive Plan is to "Preserve and enhance the quality, character, and function of Yakima's residential neighborhoods". Approval of this application does not preserve and enhance the quality and character of the neighborhood. Instead, it would permit a higher density in the affected area which degrades the neighborhood and does not "preserve and enhance" the neighborhood. The Planning Department decision recognized the degradation and provided the neighbors "...may request a change in valuation for property tax purposes..."

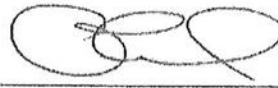
A proper consideration of the required factors requires the application be denied.

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OCT 12 2022

CITY OF YAKIMA
PLANNING DIV.

Dated this 7th day of October 2022.



Gary Lofland

DOC.
INDEX

AA-1

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OCT 12 2022

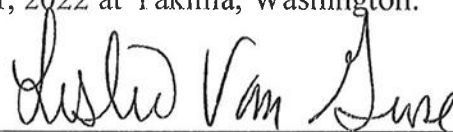
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PLANNING DIV.

CERTIFICATE OF TRANSMITTAL

I certify under penalty of perjury under the laws of the state of Washington that the undersigned caused a copy of this document to be sent to the attorney(s) of record listed below as follows:

Lester and Sonia Makaii 7411 Englewood Ave Yakima, WA 98908	<input checked="" type="checkbox"/> via U.S. Mail <input type="checkbox"/> via fax <input type="checkbox"/> via e-mail <input type="checkbox"/> via hand delivery
Joseph Calhoun Planning Manager City of Yakima	<input checked="" type="checkbox"/> via U.S. Mail <input type="checkbox"/> via fax <input type="checkbox"/> via e-mail <input type="checkbox"/> via hand delivery

DATED this 7th day of October, 2022 at Yakima, Washington.



LESLIE VAN GUSE

OCT 12 2022

CITY OF YAKIMA
PLANNING DIV.

5. The proposal was reviewed by the City's Development Services Team (August 2, 2022).

B. Current Zoning and Land Use:

1. The subject property is approximately 1.78 acres, is zoned Suburban Residential (SR), and is currently occupied by an existing detached single-family dwelling.
2. The surrounding properties contain uses and zoning as follows:

Direction	Zoning	Land Use
North	Single-Family Residential (R-1)	Detached Single-Family Dwelling
South	Single-Family Residential (R-1)	Detached Single-Family Dwellings
East	Single-Family Residential (R-1)	Detached Single-Family Dwelling
West	Suburban Residential (SR)	Detached Single-Family Dwelling

C. Yakima Comprehensive Plan 2040 Future Land Use Map:

1. **Purpose:** The Low Density Residential Future Land Use designation provides for low density residential development.
2. The following goals and policies apply to this proposal:
 - **Goal 2.3: Residential uses.** Preserve and enhance the quality, character, and function of Yakima's residential neighborhoods.
 - **Policy 2.3.2:** Ensure that new development is compatible is scale, style, density, and aesthetic quality to an established neighborhood.

D. Applicable Law:

- a. **Short Subdivision Defined:** Pursuant to YMC § 14.10.020, "Short Subdivision" means the division or redivision of land into nine or fewer lots for the purpose of sale, lease, or transfer of ownership in the present or future except as provided in YMC §§ 14.05.160 and 14.05.170.
- b. **SR Zoning District Defined:** Pursuant to YMC § 15.03.020 (A), The intent of the suburban residential district is to provide a variety of residential lifestyles with densities generally ranging from one unit per five net residential acres to seven units per net residential acre. The higher density is reviewed and considered to be permitted when a public water system and the regional sewer system are available, or if these utilities are not available, community water and sewer systems may be allowed after review by Yakima County

Project Name: LESTER & BONTA MARLIN
Site Address: 7411 ENGLEWOOD AVE
File Number(s): PSP#003-22
Proposal: Proposed preliminary short plat to create four lots in the SR zoning district.



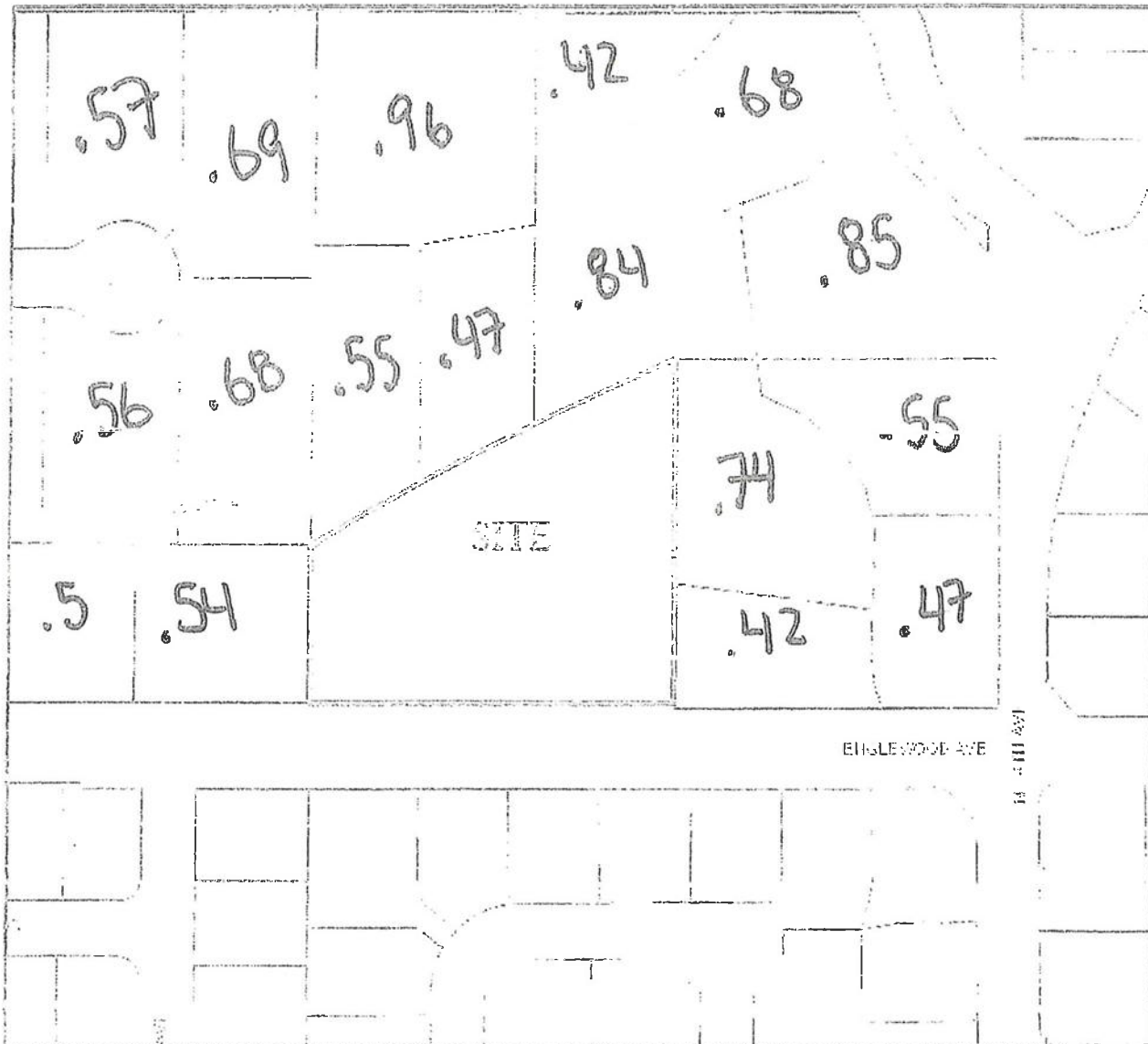
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OCT 12 2022

CITY OF YAKIMA
PLANNING DIV.



VICINITY MAP



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City of Yakima 7/6/2022

EXHIBIT 2

DOC.
INDEX
44-1

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7586 Englewood Ave - Google Maps

Google Maps 7586 Englewood Ave

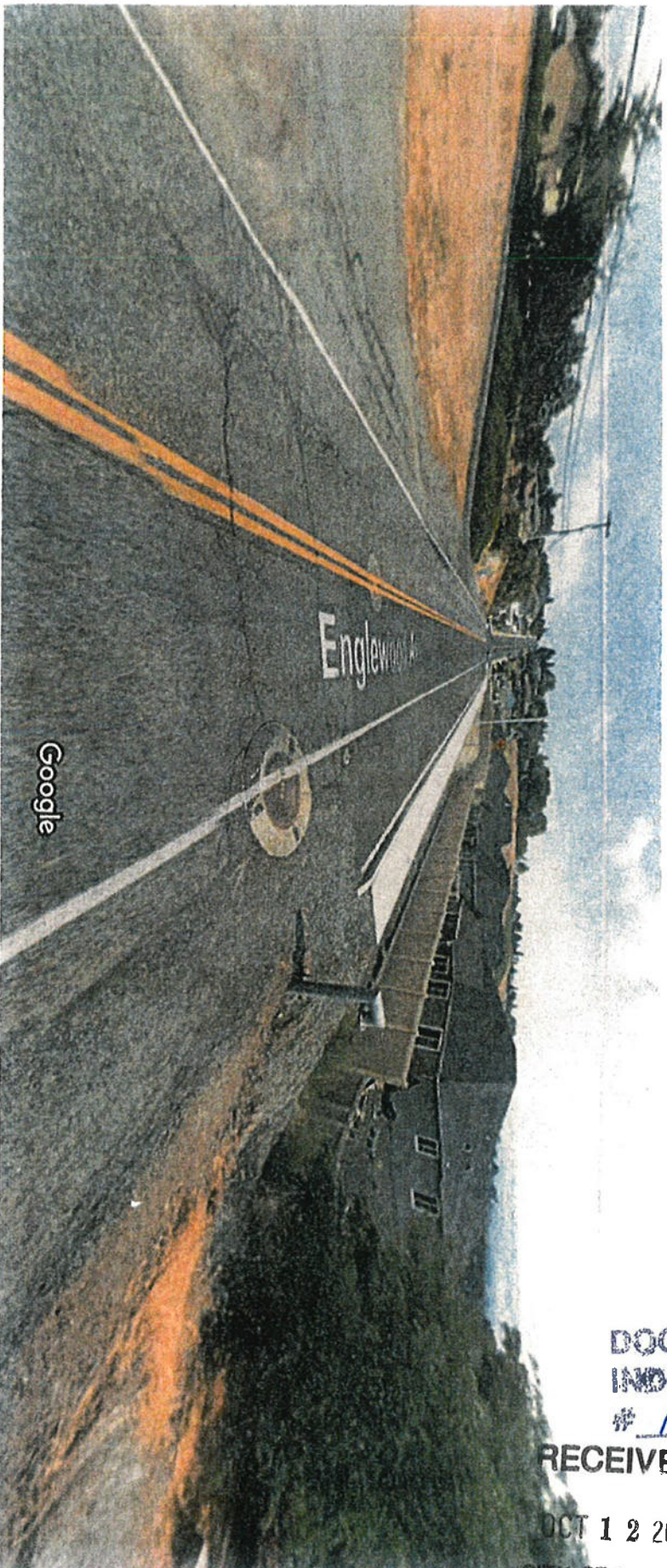


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Yakima, Washington



Street View - Sep 2022



DOC.
INDEX
AA-1

RECEIVED

OCT 12 2022

CITY OF YAKIMA
PLANNING DIV.

EXHIBIT 3A

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7409 Englewood Ave - Google Maps

Google Maps

7409 Englewood Ave

DOC.
INDEX
AA-1

RECEIVED

OCT 12 2022

CITY OF YAKIMA
PLANNING DIV

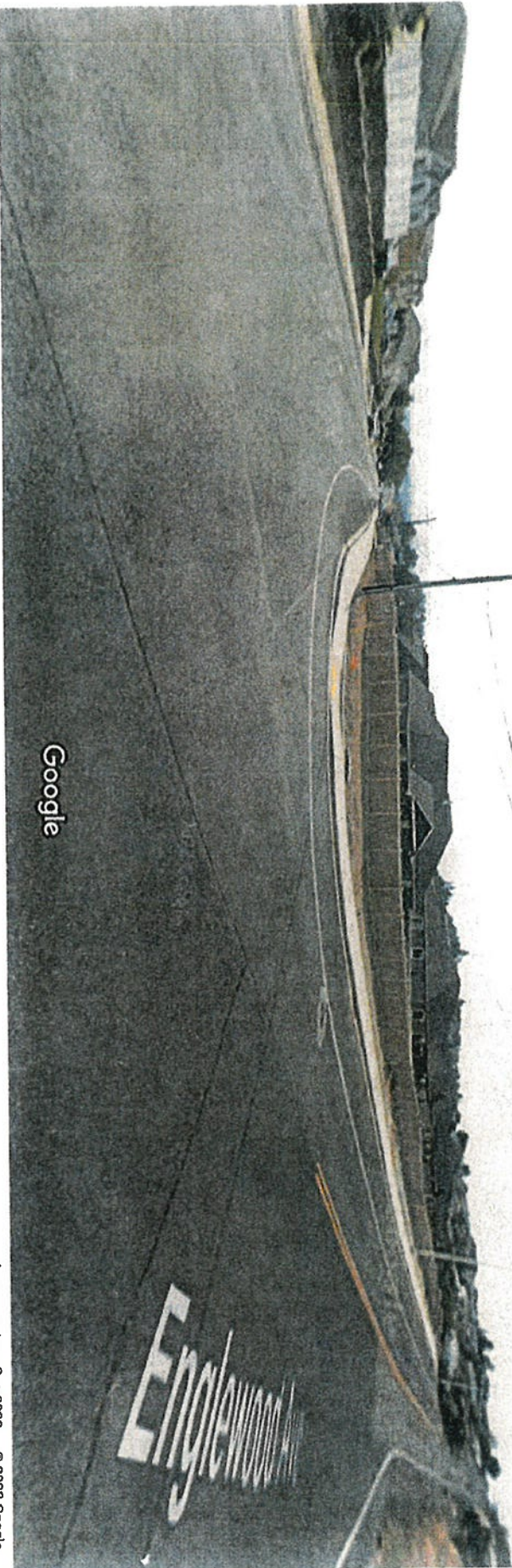


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Yakima, Washington

Google

Street View - Sep 2022



EXHIBIT 3B

relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who walk to and from school. The administrator may determine that other considerations are appropriate to evaluate as criteria for approval.

C. The proposed short plat serves the public use and interest.

VI. DECISION:

The City of Yakima Subdivision Administrator hereby approves this Preliminary Short Plat request, file number PSP#003-22, based upon the above findings and conclusions and subject to the conditions of approval as follows:

- A. An eight-foot-wide utility easement shall be dedicated along the front of each lot in accordance with YMC §§ 12.02.010 and 12.02.020;
- B. Each lot and development shall be served by sanitary sewer and domestic water lines in accordance with YMC §§ 12.03.010, 12.03.040, 12.03.070, 12.04.010, 12.04.020, and 12.04.040 prior to the recording of the final plat;
 - a. Sewer shall be served by independent side sewer connections to the main and the associated easements for connection shall be shown on the face of the Final Short Plat.
 - b. Engineered plans shall be submitted to Nob Hill Water. A final acceptance letter shall be required from Nob Hill Water prior to Final Plat approval.
- C. An additional fire hydrant shall be installed at a location acceptable to Nob Hill Water and the Codes Division, prior to Final Plat approval.
- D. Curb, gutter, sidewalk, pavement widening and storm drainage shall be installed along the site's Englewood frontage.
- E. New or altered driveways shall be installed in accordance with YMC § 15.06.065 (C) and Ch. 8.64;
- F. In accordance with YMC § 8.72.030 (A), an excavation and street break permit shall be obtained for all work within the public right-of-way.
- G. All frontage improvements shall be completed or bonded for prior to short plat approval. Civil engineering plans for public improvements shall be approved prior to bonding for public improvements;
- H. Prior to clearing and grading the applicant shall submit a TESC plan for review and approval and shall pass an erosion control inspection.
- I. In accordance with YMC § 14.05.200 (B), 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;

Lester and Sonya Makalii
PSP#003-22

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OCT 12 2022
CITY OF YAKIMA
PLANNING DIV

EXHIBIT 4

DOC.
INDEX
AA-1



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OCT 12 2022

CITY OF YAKIMA
PLANNING DIV

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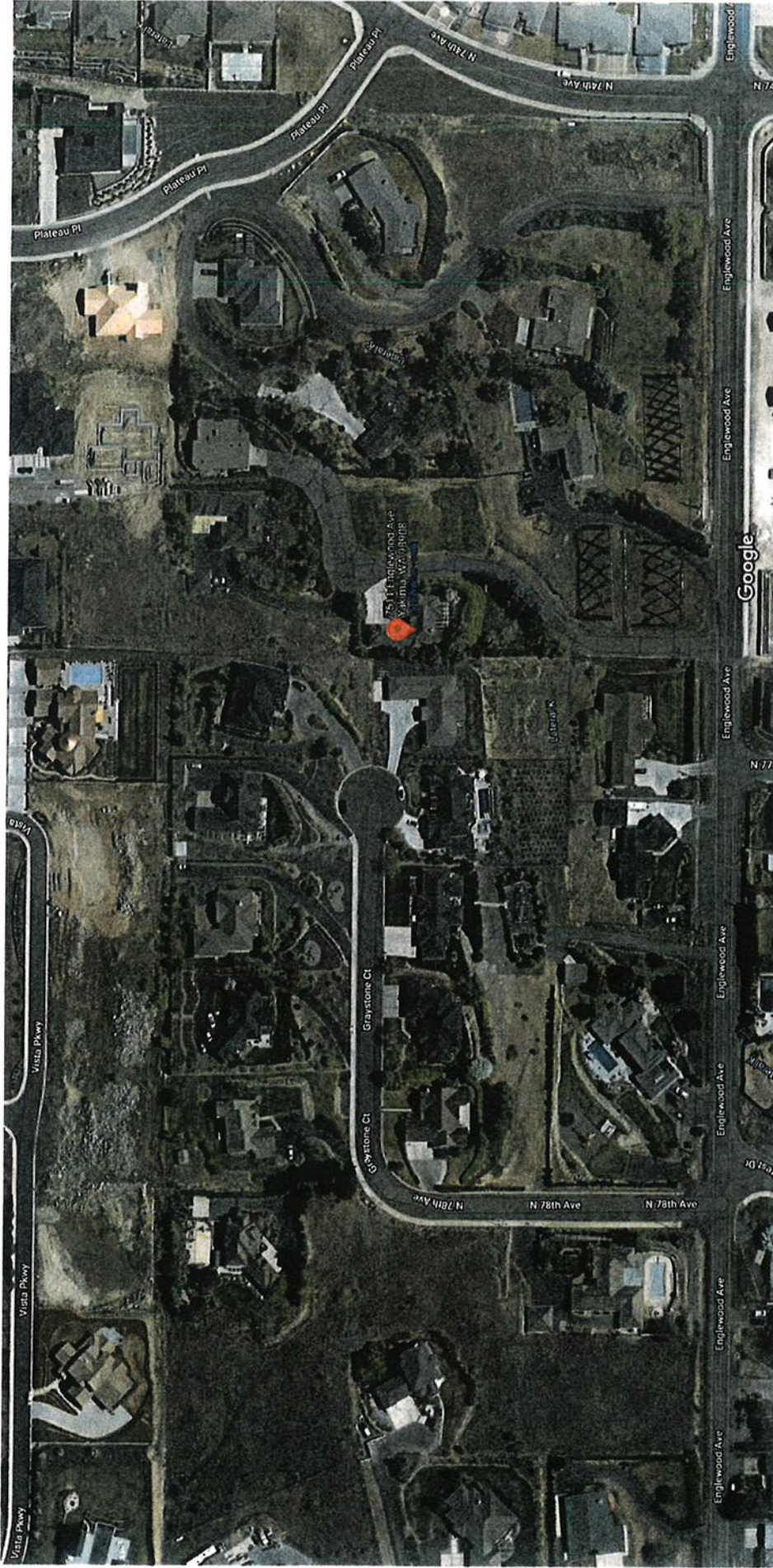
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DOC. INDEX
AA-1 5/7

Google Maps 7511 Englewood Ave



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OCT 12 2022
CITY OF YAKIMA
PLANNING DIV.

EXHIBIT 5B

R & SONYA MAKALII – APPEAL
APP#004-23
(PSP#003-22, APP#002-23)

EXHIBIT LIST

CHAPTER BB

Hearing Examiner's Decision

[illegible]

City of Yakima, Washington Hearing Examiner's Decision

November 7, 2022

In the Matter of an Appeal by)
Gary Lofland of the Approval) APP#002-22
Of a Preliminary Short Plat) (PSP#003-22)

I. Open Record Public Hearing Proceedings. A summary of the proceedings at the open record public hearing for this Appeal that was conducted by the Hearing Examiner on October 13, 2022, may be summarized as follows:

(1) Following the Hearing Examiner's introductory remarks, Yakima City Attorney Sara Watkins requested that the record be kept open for her to submit a response to the Prehearing Statement of the Appellant which was recently received by the City. Then City of Yakima Planning Manager Joseph Calhoun presented his staff report which recommended that the appeal be denied and that the preliminary short plat decision be affirmed. (*Document Index A-1*). Next Appellant Gary Lofland presented arguments in support of his Appeal to the effect that the administrator did not and could not make the requisite written findings of fact that the preliminary short plat decision is consistent with the standards of the zoning ordinance and the Comprehensive Plan for reasons that are set forth in detail in his Prehearing Statement of Appellant submitted prior to the hearing. (*Document Index AA-1*). Then Applicant Lester Makalii testified that he and his wife are trying to add places for their children to live and could add 1,000 square feet to the western lots from the area behind their house.

(2) The record for this Appeal was kept open for the parties to submit additional information. On October 14, 2022, the information relative to restrictive covenants that Applicant Lester Makalii testified were a condition of their purchase of the property was received for the record from Planning Manager Joseph Calhoun who explained

Appeal by Gary Lofland of the
Makalii Preliminary Short Plat
At 7411 Englewood Avenue
APP#002-22 of PSP#003-22

1

DOC.
INDEX

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BB-1

RECEIVED

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CITY OF YAKIMA
PLANNING DIV.

why the information does not appear to be relevant to this Appeal and who also reported that the Applicants decided to retain the lot configurations shown on their approved preliminary short plat rather than add 1,000 square feet to the western lots by reducing the size of their home lot as Mr. Makalii proposed at the hearing. (*Document Index AA-2*). The responsive Memorandum of City Attorney Sara Watkins addressing the nature and meaning of Comprehensive Plan provisions involved in this Appeal was received for the record on October 18, 2022. (*Document Index AA-3*). The Reply of Appellant citing authorities and presenting arguments relative to the need for the preliminary short plat to comply with both the zoning code and the Comprehensive Plan was received for the record from Appellant Gary Lofland on October 21, 2022. (*Document Index AA-4*). The record of this Appeal was closed on that date. This Decision has been issued within eleven business days of that date due to a one-business-day extension allowed by the parties to the Appeal.

II. Basis for this Appeal Decision. Based upon the Hearing Examiner's views of the site and surrounding area on October 10, 2022, and November 2, 2022, without anyone else present; his consideration of the Appeal information, the staff report, the exhibits, the testimony and the other evidence presented at the open record public hearing on October 13, 2022, and the additional information and arguments received for the record by October 21, 2022; and his consideration of applicable Comprehensive Plan provisions, applicable Yakima Municipal Code (YMC) short plat and zoning provisions, and applicable Washington court decisions; the Hearing Examiner issues the following Findings, Conclusions and Decision.

III. Hearing Examiner Authority. YMC §14.50.010(F) and YMC §16.08.018(G) provide that the Hearing Examiner may affirm or reverse, wholly or in part, or modify the decision that is being appealed and to that end shall have all of the powers of the officer from whom the appeal was taken. YMC §16.08.020(A) provides that the

Hearing Examiner shall hear appeals de novo so that any party may present evidence in addition to the evidence that was in the record prior to this Appeal.

IV. Nature of the Action Subject to this Appeal. The nature of the action that is being appealed may be summarized as follows:

(1) An application by Lester and Sonya Malakii requesting approval of a 4-lot Preliminary Short Plat of their 1.78-acre parcel at 7411 Englewood Avenue was received by the City Planning Division on April 13, 2022, and was deemed complete for processing on July 5, 2022. (*Document Index E-1 and F-1*).

(2) The application was processed under the provisions of YMC Chapter 14.15 entitled "Short-Subdivision – Procedure." That procedure included the mailing of a Notice of Application to the property owners within 300 feet of the proposed preliminary short plat which allowed a 20-day comment period. (*Document Index F-2*). The Notice of Application was mailed on July 6, 2022. (*Document Index F-2c*).

(3) In response to the Notice of Application, written comments were submitted in opposition to the proposed preliminary short plat by residents of the area Alfonso and Stella Pineda, Rachael Miner, Gary and Marcia Lofland, Frank Torres and Margaret Fousha which mainly objected to increased noise, traffic and adverse effect on the character of the area that would result from three additional homes on three of the four lots in the short plat that are about 60% of the size of their lots which surround the preliminary short plat on the north side of Englewood Avenue. (*Document Index G-1, G-2, G-3 and G-4 respectively*).

(4) The Administrative Official issued a Notice of Decision on August 11, 2022, approving the preliminary short plat subject to conditions. (*Document Index F-3*). The size of the lots in the preliminary short plat are 39,098 square feet for Lot 1 where the Applicants' home is located; 13,617 square feet for Lot 2 adjacent to the south of Lot 1; 13,296 square feet for Lot 3 across the shared driveway and southwest of the Applicants' home; and 13,793 square feet for Lot 4 across the shared driveway and west of the Applicants' home. (*Document Index C-1*).

(5) On August 22, 2022, a timely Appeal of the approval of the Malakii Preliminary Short Plat was filed by Gary Lofland. (*Document Index E-2*).

Appeal by Gary Lofland of the
Makalii Preliminary Short Plat
At 7411 Englewood Avenue
APP#002-22 of PSP#003-22

3

DOC.

INDEX

#

BB-1

RECEIVED

NOV 07 2022

CITY OF YAKIMA
PLANNING DIV.

V. Appeal Hearing Notices. In accordance with YMC §14.50.010 and YMC §16.08.018(D)(2), the preliminary short plat site was posted with a land use action sign on September 12, 2022. (*Document Index F-4*). A Notice of Appeal of Administrative Official's Decision & Public Hearing for a public hearing on October 13, 2022, at 9:00 a.m. in the City Council Chambers at City Hall (*Document Index F-5*) was mailed to the Applicants, the Appellant, all parties of record and all property owners within 300 feet of the preliminary short plat site on September 14, 2022 (*Document Index F-5c and F-5d*) and was published in the City's official newspaper, the Yakima Herald-Republic, on September 19, 2022. (*Document Index F-5a*).

VI. Stated Reasons for the Appeal. The Appellant's stated reasons or grounds for the Appeal set forth in his Supplemental Application for Appeal (*Document Index E-2*) are as follows:

In the decision dated August 11, 2022 the Planning Division of the Yakima Department of Community Development failed to consider or address the goals and policies of the Yakima Comprehensive Plan 2040 Future Land Use Map.

Goal 2.3 provides "Residential uses, Preserve and enhance the quality, character, and function of Yakima's residential neighborhoods." Policy 2.3.2 provides "Ensure that new development is compatible in scale, style, density, and aesthetic quality to an established neighborhood."

The Planning Department ignored documents submitted that clearly demonstrated that the surrounding property (13 lots) are all half acre lots. The Planning Department failed to address how the requested subdivision, which would result in three (3) lots of approximately one-fourth (.25) of an acre, is consistent with the Goals and Policies of the Comprehensive Plan 2040.

The .25 acre lots are not compatible in scale, style, density, and aesthetic quality of the long established neighborhood. Nor does it enhance the quality and character of the residential neighborhood.

The decision of the Planning Department failed to comply with the requirements of YMC 14.15.050 and .060.

The decision of the Planning Department is incorrect and must be overturned. The request for Short Subdivision must be denied.

VII. The Planning Staff's Response to the Stated Reasons for the Appeal.

The Planning Staff's responses to the stated reasons or grounds for the Appeal that are set forth in its staff report (*Document Index A-1*) are as follows:

The staff report dated August 11, 2022, did not fail to consider or address goals in the Yakima Comprehensive Plan, nor did it ignore comments submitted by adjacent property owners.

Section III.C. of the staff report notes that the site has a future land use designation of Low Density Residential and cites Goal 2.3 and Policy 2.3.2 as referenced in the appellant's statement above. While not explicitly cited in the staff report, the Principal Uses and Density of the Low Density Residential Future Land Use Designation include:

Single-family detached dwellings are the predominant dwelling type...The permitted density is up to seven net dwelling units per acre for infill development. (Comp Plan 2040, 2.2.1(C)).

The implementing zoning districts of the Low Density Residential Future Land Use Designation include SR and R-1 (Comp Plan 2040, 2.2.1(D)).

Additional goals and policy statements which dictate how the Comprehensive Plan interacts with the Zoning Ordinance include:

Goal 2.1 – Establish a development pattern consistent with the community's vision.

Policy 2.1.1 – Designate the general distribution, location and extent of the uses of land for housing, commerce, recreation, open spaces, public utilities and facilities and other land uses.

Policy 2.1.2 – Establish land use designations, densities and intensities as shown under Goal 2.2.

Policy 2.1.4 – Manage and maintain the City’s Official Zoning Map to ensure continued consistency with the Future Land Use Map.

Policy 2.1.5 – Implement land use designations through a clear regulatory process that ensures transparency, fairness, and predictability in the land development process.

In accordance with YMC § 15.03.020: “The district intent statements define the specific purpose of each district and/or zoning map overlay. They shall reflect the policies of the Yakima urban area comprehensive plan; serve as a guide for determining the appropriate location of uses; help determine appropriate conditions for development; and help the administrative official interpret the standards and provisions.”

As documented in Section III.D.b. of the staff report, the intent of the SR zoning district is to “...provide a variety of residential lifestyles with densities generally ranging from one unit per five net residential acres to seven units per net residential acre. The higher density is reviewed and considered to be permitted when a public water system and the regional sewer system are available...(4) Allow residential development to seven dwelling units per net residential acre in areas with both public water service and sewer system....The district is characterized by a mixture of land uses and residential densities including small farms, scattered low-density residential development, and clusters of higher-density residential development. The minimum lot size in the district varies according to the suitability of the land for development and the provision of urban level services. See YMC 15.05.030(E).”

Although “neighborhood” is not defined, looking at lots within ¼ mile in each direction, there are residential lots in a range of sizes. To the south and southeast in newer developments the lot sizes are approximately 0.20 acre. In a newer development to the east, along Modesto Way, the lots are approximately 0.26 acre. To the north, in a newer development along Plateau Place, the lot sizes are between 0.40 and 0.50 acre. To the west along Graystone Court, the lot sizes average approximately 0.55 acre.

Appellant states that the lot sizes of 0.25 acre per lot is incompatible with neighboring 0.50 acre lots. However, the Comprehensive Plan does not require that all residential lots are the same size or similar sizes to preserve and enhance established residential neighborhoods. Taking an overall evaluation of the

proposed plat and the neighboring uses of land and neighborhood adjacent to the proposed plat location, the density of the proposed plat is compatible in scale. The single family neighborhoods' character is also protected through the approval of a plat with single family homes on similarly large lots.

IV. CONCLUSIONS:

- A. The appellant has not submitted any evidence demonstrating that the Planning Department failed to comply with the requirements of YMC 14.15.050 and .060. The proposed lots are consistent with the Comprehensive Plan and the applicable provisions of the SR zoning district.
- B. The proposed lots are in conformance with the minimum lot sizes and density requirements for development with available public water and sewer.
 - a. Proposed lots range from approximately 14,401 [13,296] to 63,579 [39,098] square feet – the minimum lot size is 6,000 square feet.
 - b. The proposed density is approximately 2.3 dwelling units per acre – the maximum density is 7 dwelling units per acre.
- C. The SR zoning district and applicable development standards conform with and implement the Low Density Residential Zoning District Future Land Use Designation of the 2040 Comprehensive Plan.
- D. The Hearing Examiner has the jurisdiction to render a final decision on this matter.

V. RECOMMENDATION:

Based upon the above findings and conclusions, the City of Yakima Planning Division recommends denial of the Appeal (APP#002-22) and retention of the Preliminary Short Plat decision (PSP#003-22).

VIII. A Summary of the Appellant's Contentions and Arguments. The Appellant's contentions and arguments may be summarized as follows:

The August 11th decision of the Planning Division failed to consider or address the Yakima Comprehensive Plan 2040 which mandates the City to "Preserve and enhance the quality, character and function of Yakima's residential neighborhoods" and

Appeal by Gary Lofland of the
Makalii Preliminary Short Plat
At 7411 Englewood Avenue
APP#002-22 of PSP#003-22

7

DOC.
INDEX
BB-1

RECEIVED

NOV 07 2022

CITY OF YAKIMA
PLANNING DIV

to “Ensure the new development is compatible in scale, style, density, and aesthetic quality to an established neighborhood.” The fundamental objective when interpreting an ordinance is to give effect to the legislature’s intent. If the meaning is plain on its face, that plain meaning gives effect to the legislature’s intent. *Department of Ecology v. Campbell & Gwinn, LLC*, 146 Wn.2d 1, 10 (2020). The legislature is presumed to say what it means and mean what it says. *Central Puget Sound Regional Transit Authority v. Airport Investment Company*, 186 Wn.2d 336, 347, (2016). It is necessary to give effect to every word, clause and sentence, leaving no part superfluous. *Cox v. Helenius*, 103 Wn.2d 383, 387 (1985).

YMC §14.15.050 provides that “In reaching the conclusion whether to approve or disapprove short plat subdivisions, the administrator shall determine whether the requirements of this title have been satisfied and make a formal written finding of fact as to whether the short subdivision is consistent with the standards of the city of Yakima zoning ordinance and urban area comprehensive plan.” YMC §14.15.060 provides that “The administrator shall not approve a preliminary short plat and short subdivision unless written findings are made that the criteria for approval from YMC 14.15.020 along with all applicable laws and regulations have been met.” It is not legally adequate to rely solely on the zoning ordinance, both must be considered. Since the Planning Division failed to consider Comprehensive Plan Goal 2.3 and Policy 2.3.2 and make written findings as required by YMC 14.15.050, the decision is in error and arbitrary and capricious. A decision is held to be “arbitrary and capricious” when it is willful and unreasoning and taken without consideration of the facts and circumstances of the surrounding action. *Spokane County v. Eastern Washington Growth Management Hearings Bd.*, 176 Wn. App. 555, 566-67 (Division III, 2013).

The Appellant indicates that we must first look at what is meant by a “neighborhood.” Because neither the Comprehensive Plan nor YMC defines the term, the plain meaning of non-technical terms can be derived from the dictionary definition. *Columbia River Keeper v. Port of Vancouver*, 188 Wn.2d 421, 435 (2017). A definition of “neighborhood” in the Cambridge Dictionary is “the area of a town that surrounds someone’s home.” In order to add specificity to that definition, the Appellant contends that the City Council’s requirement to send notices of a short subdivision application to property owners within 300 feet of the land to be subdivided pursuant to YMC §14.15.040 means that a neighborhood is intended by the City Council to be the area within 300 feet of the property to be subdivided. The Appellant in addition states that “the development south of Englewood cannot be considered part of the neighborhood because there is no access to Englewood Ave. from the development. The only access

to the development is from 74th Avenue. There is a fence along the north end of the development (south side of Englewood Avenue) which blocks access to Englewood. (Exhibit 3).”

Using that definition, the Appellant contends that the lots in the preliminary short plat of 39,098 square feet (0.89 of an acre), 13,617 square feet (0.31 of an acre), 13,296 square feet (0.30 of an acre) and 13,691 [13,793] square feet (0.30 [0.31] of an acre (*Document Index C-1*) when compared with the 0.50-acre or larger lots within 300 feet of the preliminary short plat north of Englewood Avenue are not consistent with Comprehensive Plan Goal 2.3 and Policy 2.3.2. Using this definition of “neighborhood,” the Appellant also concludes that three of the four lots within the preliminary short plat are 60% of the size of the other lots in the neighborhood or 40% smaller than the other lots in the neighborhood. The Appellant in addition contends that YMC §15.05.030 demonstrates and underscores that the size of new lots 2, 3 and 4 of the preliminary short plat is incompatible with the neighborhood because Appellant reads that section to require a minimum lot size of 14,500 square feet which, if correct, would be less than the required minimum lot size for the applicable Suburban Residential (SR) zoning district. (*Document Index AA-1, pages 3-6 and Document Index AA-4*). Lastly the Appellant in its Reply of Appellant cites three cases for the proposition that where the zoning code itself expressly requires that a proposed use must comply with both the zoning code and the Comprehensive Plan, the proposed use must comply with both the zoning code and the Comprehensive Plan. *Deer Creek Developers, LLC v. Spokane County*, 157 Wn. App. 1, 18 (Div. III, 2010); *Lakeside Industries v. Thurston County*, 119 Wn. App. 886, 895 (Div. II, 2004); *Cingular Wireless v. Thurston County*, 131 Wn. App. 756, 770 (Div. II, 2006).

IX. A Summary of the Respondent City’s Contentions and Arguments. The Respondent City’s contentions and arguments may be summarized as follows:

In response to the Appellant’s contentions and arguments, the City through its City Attorney Sara Watkins first cites RCW 36.70A.040 which requires that jurisdictions “adopt development regulations that are consistent with and implement the comprehensive plan.” The contention therefore is that comprehensive plans are not regulations and do not include strict requirements that cities must strictly adhere to in evaluating each land use application, but are guiding documents for cities to use when adopting development regulations as indicated by Court decisions such as *Citizens of*

Appeal by Gary Lofland of the
Makalii Preliminary Short Plat
At 7411 Englewood Avenue
APP#002-22 of PSP#003-22

9

DOC.
INDEX
BB-1

RECEIVED

NOV 07 2022

CITY OF YAKIMA
PLANNING DIV.

Mt. Vernon v. City of Mt. Vernon, 133 Wn. 2d 861, 863, 947 P. 2d 1208 (1997) and *Barrie v. Kitsap County*, 93 Wn. 2d 843, 613 P.2d 1148 (1980). An exception to that set forth in RCW 36.70A.030(1) and YMC Chapter 16.06 is where a jurisdiction has not adopted development regulations applicable to an aspect of a proposed project at issue. They require a finding that a proposed project is consistent with applicable development regulations, or in the absence of applicable regulations, the adopted comprehensive plan.

The City additionally cites City zoning ordinance provisions enacted by the Yakima City Council such as YMC §15.01.010 which states that the zoning ordinance containing the development regulations “is enacted under the authority granted to the city of Yakima by ... RCW 36.70” and YMC §15.01.030 which states relative to the City’s zoning ordinance that “The purpose of this title is to implement the Yakima urban area comprehensive plan ... The goals and policies of the urban area comprehensive plan will be used for interpretation and implementation ... This title is designed to be flexible and intentionally increases the potential uses of choices available to individual property owners ... The intent statements serve as a guide to the administration and interpretation of this title and are declared to be an official statement of the legislative finding and purpose.” The City concludes therefore that the City Council’s adoption of the Suburban Residential (SR) zoning district and the regulations associated with that district for this property constitute legislative declarations of what is found to be consistent with the Comprehensive Plan. And it therefore follows that the affirmative statements regarding the SR zoning district regulations in the preliminary short plat decision constitute affirmative statements that the proposed short subdivision is consistent with both the standards of the zoning ordinance and the Comprehensive Plan as required by YMC §14.15.050 and YMC §14.15.060.

The City is in substantial agreement with the Appellant’s dictionary definition of the word “neighborhood.” The City refers to the Webster’s New Illustrated Dictionary & Thesaurus 653 (1992) “neighborhood” definition of “the region where one is or resides; vicinity” and that dictionary’s definition of the word “vicinity” as “nearness in space or relationship; proximity; a region adjacent or near,” as well as the Black’s Law Dictionary definition of “neighborhood” as “the immediate vicinity; the area near or next to a specified place; people living in a particular vicinity, usually forming a community within a larger group and having similar economic statuses and social interests.” However, the City contends that the 300-foot notice requirement for proposed preliminary short subdivisions of YMC §14.15.040 is only a notice provision that does not necessarily define a “neighborhood.” But nevertheless the City contends

that even assuming that the 300-foot notice requirement is intended to constitute the “neighborhood,” the properties within 300 feet of the proposed preliminary short plat range in size from 0.19 acres to over 0.5 acres, and depending upon which parcels one picks and chooses, the average lot size could change. The City also notes that the Appellant seeks to exclude from its “neighborhood” definition the smaller lots within 300 feet of the short plat south of Englewood Avenue which it believes should not constitute part of the neighborhood because they are fenced and do not have access to Englewood Avenue. The City further contends that also assuming that the neighborhood should only include the property north of Englewood Avenue, the preliminary short plat decision states on pages 5-6 that all of the properties surrounding the preliminary short plat are within either the R-1 or SR zoning district and are all developed with single-family residences subject to the same setback, fencing and height design standards so as to be consistent with the Comprehensive Plan. As to the preliminary short plat’s consistency with the density permitted in the surrounding R-1 and SR zoning districts, the City cites YMC §15.03.020(A)(4) which allows “moderate-density residential development up to seven dwelling units per net residential acre in areas such as this served with both public water service and sewer system” and points out that the density of the preliminary short plat is about 2.3 dwelling units per acre.

X. The Hearing Examiner’s Findings Relative to the Meaning of the Word “Neighborhood.” The Findings of the Hearing Examiner relative to the meaning of the word “neighborhood” are as follows:

(1) The fact that the City Council currently requires that notices of a proposed preliminary short plat application must be sent to the owners of property within 300 feet of the site of the proposal indicates that the City Council considers the owners of those properties to be potentially interested in submitting written comments either in favor of the proposal or in opposition to it. However, the City Council only specified the 300-foot distance for the type of notice required for the mailing to property owners. It did not include that distance in a definition of the “neighborhood.” It should also be noted that the mailing of the notice is not the only way the City Council required in order to convey notice of the application to the public. Notice must also be published in the City’s official newspaper, the Yakima Herald-Republic, and posted on the proposed preliminary short plat site which would be expected to provide notice to a

greater segment of the population than only to those within 300 feet of the site. The Hearing Examiner therefore finds that the types of notices required for preliminary short plat applications evidence a legislative intent that the properties within at least 300 feet as a minimum from the preliminary short plat site be considered the size of its “neighborhood” depending upon the circumstances. There are much larger neighborhoods officially recognized by the City such as through adoption of the West Valley Neighborhood Plan, and there are much larger well-known neighborhoods in the City such as the Barge Chestnut Neighborhood. However for purposes of this particular preliminary short plat, the Hearing Examiner accepts the Appellant’s position that the “neighborhood” includes property located within 300 feet from the preliminary short plat because evidence of legislative intent is lacking in this record to support any specific larger area and because the arguments presented for this record establish the fact that 300 feet from the preliminary short plat is the minimum distance that should be considered this site’s “neighborhood.”

(2) As to the Appellant’s position that the property within 300 feet to the south of the preliminary short plat should not be considered to be within its “neighborhood” because it is fenced along Englewood Avenue and does not have access to that street, none of the “neighborhood” definitions presented for this record exclude areas that have fencing in the back yards of the residences or that use different streets for access to the residences. Furthermore, evidence of the nature and character of the area to the south of the preliminary short plat establishes the fact that it should be considered as part of its surrounding “neighborhood.” When the Hearing Examiner viewed the site and surrounding area to aid in understanding the evidence relative to the area south of the site as depicted in the Appellant’s photographs designated as Exhibits 3A and 3B of the Prehearing Statement of Appellant (*Document Index AA-1*), it was obvious that the area is developed entirely with single-family residences; that since the homes are at a slightly lower elevation than the homes north of Englewood Avenue, they are within the primary view of most of the homes north of Englewood Avenue which face south with a hill behind them; that the residences south of Englewood Avenue and their access are within walking distance of the preliminary short plat by way of a sidewalk along both Englewood Avenue and 74th Avenue; and that the primary streets used by residents north of Englewood Avenue to reach Summitview Avenue in order to access commercial retail and service uses south and east of the preliminary short plat are also both Englewood Avenue and 74th Avenue which are adjacent to the single-family residential development south of the preliminary short plat. For these reasons the

preponderance of the evidence requires that the residences to the south and within 300 feet of the preliminary short plat should be included as part of its “neighborhood.”

XI. The Hearing Examiner’s Findings Relative to the Consistency of the Preliminary Short Plat with the Quality, Character, Function, Scale, Style, Density and Aesthetic Quality of its “Neighborhood.” The Findings of the Hearing Examiner relative to the preliminary short plat’s consistency with the quality, character, function, scale, style, density and aesthetic quality of the neighborhood as set forth in Comprehensive Plan Goal 2.3 and Policy 2.3.2 are as follows:

(1) The Appellant cites the Merriam-Webster Dictionary to define “quality” as “inherent feature, distinguishing characteristics.” The inherent feature of the preliminary short plat includes the fact that it will allow for the construction of single-family residences no higher than 35 feet, single-family residences no larger than what will allow at least 40% of the lot area to be free of buildings and other impervious surfaces and single-family residences no larger than what will comply with requisite setback requirements. One of the lots will be 0.89 of an acre which is larger than most, if not all, of the other lots in the neighborhood. The 0.30-acre and 0.31-acre sizes of the other three lots are in between the 0.20-acre size of the lots in the neighborhood south of the preliminary short plat and the 0.50-acre or larger size of the lots in the neighborhood north of Englewood Avenue. The significantly smaller size of the lots in the neighborhood south of the preliminary short plat are shown by Exhibit 2 of the Prehearing Statement of Appellant (*Document Index AA-1*) and by the Zoning Map, Future Land Use Map, Aerial Map and Vicinity Map set forth in the record. (*Document Index B-1 and B-2*). For these reasons, the Hearing Examiner finds that the preliminary short plat is in fact consistent with the “quality” of the neighborhood.

(2) The Appellant’s definition of “character” is a “feature used to separate or distinguish something into categories.” The feature separating or distinguishing the preliminary short plat into a category is that it is a residential short plat rather than a commercial or industrial short plat. Since it will allow for the placement of single-family residences in a single-family residential neighborhood, it will be consistent with the character of the neighborhood. If its lot sizes were to be considered a feature under

this definition, the lot sizes of the preliminary short plat which include one larger lot and three lots being of sizes between the sizes of the smaller lots and the sizes of the larger lots in the neighborhood dictate a finding that the preliminary short plat is consistent with the “character” of the neighborhood.

(3) The Appellant’s definition of “function” as “mathematical correspondence” is not applicable in this context. The function of the preliminary short plat is to provide lots for three additional single-family residences. This function is the same as the function of all of the other lots in the neighborhood which is to provide areas for single-family residences. Therefore the preliminary short plat is consistent with the “function” of the neighborhood.

(4) The Appellant’s definition of “scale” is “proportion. ratio in size. proportional dimensions.” The buildings to be constructed in the preliminary short plat will be proportional in size and dimensions to the other residences in the neighborhood because they will have to be of a size that will leave at least 40% of each lot free of buildings or other impervious surfaces and will have to be a height of not more than 35 feet with requisite setbacks required in the SR zoning district. The lot sizes of the preliminary short plat are more than twice the 6,000-square-foot minimum lot size allowed in the SR zoning district by YMC §15.05.030 and YMC Table 5-2 where, as here, the lots will be served by public water and sewer. (*Document Index AA-1, page 4*). The preliminary short plat includes one lot larger than the other lots in the neighborhood and three lots in between the size of the smaller lots and the larger lots in the neighborhood. Therefore the preliminary plat is in fact consistent with the “scale” of the neighborhood.

(5) The Appellant defines “style” as a “distinctive quality, form or type of something.” The distinctive quality, form or type of the preliminary short plat is that it is a residential rather than a commercial or industrial short plat. The buildings to be constructed on three of the lots will also be new single-family residences and in that sense will be of the style of other buildings in the neighborhood. Thus the preliminary short plat is in fact consistent with the “style” of the neighborhood.

(6) The Appellant defines “density” as the “average number of units or individuals by space.” Since the lot sizes of the preliminary short plat are all more than twice the 6,000-square-foot minimum lot size specified for the SR zoning district, the average number of dwelling units in the preliminary short plat is only about 2.3 dwelling units per net residential acre in the SR zoning district which allows seven

dwelling units per net residential acre. (*Document Index AA-1, page 4*). The preliminary short plat lot sizes are larger than the numerous lots in the south half of the 300-foot neighborhood distance, and the lot sizes of three of the four lots in the preliminary short plat are smaller than the lots in the neighborhood north of Englewood Avenue. The preliminary short plat is therefore consistent with the “density” of the neighborhood.

(7) The Appellant does not define “aesthetic quality,” but the quality of the appearance of the preliminary short plat will be the same as the “quality” of the preliminary short plat described above in subsection XI(1) of this Decision. The preliminary short plat will have new single-family residences on lots more than twice the size required in the SR zoning district with a density of only about 2.3 dwelling units per net residential acre in a zoning district that allows seven dwelling units per net residential acre. The residences will be subject to the same 60% maximum lot coverage, the same 35 maximum height, the same setback requirements and the same additional development requirements that are applicable to all of the other residences in the neighborhood. The preliminary short plat is therefore in fact found to be consistent with the “aesthetic quality” of the neighborhood.

(8) For the reasons set forth above, the Hearing Examiner finds that the Makalii Preliminary Short Plat is consistent with Goal 2.3 and Policy 2.3.2 of the Comprehensive Plan. The City presents additional reasons for finding this preliminary short plat and the preliminary short plat decision appealed from to contain the requisite findings which will be addressed in the next section as an alternative basis for this Decision.

XII. The Hearing Examiner’s Findings Relative to the Adequacy of the Administrative Official’s Findings Issued for the Preliminary Short Plat

Decision. The Findings of the Hearing Examiner relative to the adequacy of the Administrative Official’s findings issued for the Makalii Preliminary Short Plat decision are as follows:

(1) The Administrative Official set forth in the decision approving the Makalii Preliminary Short Plat (*Document Index F-3, page 2*) the following findings and conclusion specifically in reference to the Comprehensive Plan:

Appeal by Gary Lofland of the
Makalii Preliminary Short Plat
At 7411 Englewood Avenue
APP#002-22 of PSP#003-22

15

DOC.
INDEX
BB-1

RECEIVED

NOV 07 2022

CITY OF YAKIMA
PLANNING DIV.

“1. Purpose: The Low Density Residential Future Land Use designation provides for low density residential development.

2. The following goals and policies apply to this proposal:

- Goal 2.3: Residential uses. Preserve and enhance the quality, character and function of Yakima’s residential neighborhoods.
- Policy 2.3.2: Ensure that new development is compatible in scale, style, density and aesthetic quality to an established neighborhood.

...

V. CONCLUSIONS:

A. The Preliminary Short Plat, as conditioned, complies with the general requirements for short subdivision approval as specified by YMC Ch. 14.15 and 15.05.”

(2) The City Attorney’s Responsive Memorandum cites State statutes, Court cases and City ordinance provisions to the effect that Comprehensive Plan provisions are guidelines to be used by the City Council for implementing zoning ordinance regulations rather than regulations in and of themselves except where applicable zoning ordinance provisions have not been adopted relative to an aspect of a proposed project at issue. A summary of those authorities are described above in section IX of this Decision. An additional City ordinance provision to that effect is YMC §15.03.010 which states that “The following zoning districts are established to protect the public health, safety and general welfare by implementing the goals and policies adopted in the Yakima urban area comprehensive plan,” The City’s position is that since the Administrative Official set forth numerous SR zoning district regulations applicable to the preliminary short plat, those descriptions of applicable zoning regulations constitute formal written findings of fact to the effect that the preliminary short plat is consistent with both the zoning ordinance and the Comprehensive Plan as required by YMC §14.15.050 and YMC §14.15.060 because the SR zoning district implements the Goals and Policies of the Comprehensive Plan’s Low Density Residential designation. Along these same lines, it should also be added that the zoning ordinance regulations are the only applicable “standards” that require a formal written finding as to consistency under YMC §14.15.050 because the Ninth New Collegiate Dictionary defines that word in this context by stating that “STANDARD applies to any definite rule, principle or measure established by authority” as opposed to general Comprehensive Plan Goals

Appeal by Gary Lofland of the
Makalii Preliminary Short Plat
At 7411 Englewood Avenue
APP#002-22 of PSP#003-22

16
RECEIVED

NOV 07 2022

**CITY OF YAKIMA
PLANNING DIV.**

DOC.

INDEX

BB-1

and Policies. The main determination as to a proposal's consistency with the Comprehensive Plan is to ensure that the zoning ordinance regulations being applied to a proposal are the regulations of a zoning district that the City Council has declared to be consistent with the Comprehensive Plan by its adoption of Comprehensive Plan provisions such as for example Exhibit 2-2 of the Land Use Element of the Comprehensive Plan entitled Land Use Designations and implementing zoning districts.

(3) As noted above in section VIII of this Decision, the Appellant in response to the City's position cites three Court cases which contain a statement to the effect that where a zoning code itself expressly requires that a proposed use must comply with both the zoning code and the comprehensive plan, the proposed use must comply with both the zoning code and the comprehensive plan. They are *Deer Creek Developers, LLC v. Spokane County*, 157 Wn. App. 1, 18 (Div. III, 2010); *Lakeside Industries v. Thurston County*, 119 Wn. App. 886, 895 (Div. II, 2004); and *Cingular Wireless v. Thurston County*, 131 Wn. App. 756, 770 (Div. II, 2006).

(4) As explained on page 19 of the *Deer Creek Developers* case, the facts were that the proposed residential subdivision was expressly prohibited in the applicable Light Industrial (LI) zoning district by the zoning ordinance. Even though the Comprehensive Plan likewise contained a policy discouraging residential uses in the LI zoning district, the facts of that case do not involve the application of Comprehensive Plan policies to express more stringent regulations than the applicable zoning ordinance provisions. The general Comprehensive Plan provision was consistent with the specific zoning ordinance regulation in that case.

(5) The *Lakeside Industries* case held at 83 P.3d 436 and 439 that the Thurston County Commissioners lacked legal authority to apply the sub-area plan's general purpose to deny a use which the County's zoning code specifically allowed. Applying that holding to the facts of this Appeal would mean that the City's Administrative Official lacked legal authority to apply the City's Comprehensive Plan Goal 2.3 and Policy 2.3.2 to deny the Applicants' right to include 6,000-square-foot lot sizes in their short plat since those lot sizes are specifically allowed by the City's zoning code.

(6) The *Cingular Wireless* case held at 129 P.3d 304 that even though a proposed cell tower complied with the specific zoning ordinance provisions applicable only to cell towers, it could be denied for the failure to comply with the general zoning ordinance provisions for special uses such as the failure to comply with the purpose and intent of the zoning district to enhance and preserve the rural agricultural character in

Appeal by Gary Lofland of the
Makalii Preliminary Short Plat
At 7411 Englewood Avenue
APP#002-22 of PSP#003-22

17

DOC.
INDEX
BB-1

RECEIVED

NOV 07 2022

CITY OF YAKIMA
PLANNING DIV.

areas where there is currently little development in addition to the failure to comply with the Comprehensive Plan's policy to locate private utility facilities near compatible land uses as defined in the County's Special Use standards.

(7) It should first be noted that all three cases require that the proposal "comply with" the Comprehensive Plan rather than "be consistent with" it as is required by the City's short plat provision, YMC §14.15.050. The Webster's Ninth New Collegiate Dictionary which is one of the sources listed by YMC §15.02.020 to be used for undefined terms defines the word "comply" in this context as "obey" and the word "consistent" in this context as "harmonious." Basing land use decisions on general guidelines that are required to be harmonious rather than obeyed as regulations can lead to arbitrary, unfair and unpredictable land use decision-making which can vary with different decision-makers and which can be prove to be too vague to allow for Court review of the reasonableness of the decisions. Where decisions are based on general guidelines, the City has the burden to show why a generally permitted use is inappropriate to support a denial of the use. *Sunderland Treatment Services v. City of Pasco*, 127 Wn.2d 782, 903 P.2d 986 (1995) at page 797. Furthermore, the potential liability for making decisions based upon general Comprehensive Plan provisions is illustrated by testimony in favor of the passage of RCW Chapter 64.40 which prescribes liability for imposition of requirements or conditions in excess of the zoning or other restrictions upon the use of land under some circumstances. That testimony included in the legislative history of the bill is set forth in the case of *Manna Funding, LLC v. Kittitas County*, 295 P.3d 1197 (Wn. App. Div. III – 2013) at page 1205:

"In addition, a bill summary from the Washington Association of Realtors contained in the Senate Committee file sheds further light on the object of legislative remedy – government attempts to downzone property following receipt of applications. The Realtors summary explains that a typical example of the problem was a developer who filed a legal action claiming an arbitrary and capricious decision by the county for approving his plat, but with one-third less lots than allowed by zoning. Two years later, the court overturned the lower density so the plat was finally approved as originally requested with full density, but current law (pre-chapter 64.40 RCW) did not give the property owner any damages relief."

(8) For reasons set forth in this section of the Decision, the Hearing Examiner concludes that the authorities support the City's position to the effect that general Comprehensive Plan Goals and Policies usually constitute only guidelines for the

implementation of zoning regulations rather than independent regulations themselves. As previously indicated above, consistency with the Comprehensive Plan provisions mainly requires a determination that the zoning district regulations being applied to a proposed project have been declared by the City Council to be consistent with the Future Land Use Map designation for the property by its adoption of Comprehensive Plan provisions such as Exhibit 2-2 of the Land Use Element of the Comprehensive Plan entitled Land Use Designations and implementing zoning districts.

(9) The Comprehensive Plan provisions should only be elevated to the status of regulations if they are specific and mandatory and only in the absence of specific zoning regulations applicable to the aspect of the proposal at issue. In this Hearing Examiner's experience, such situations are extremely rare, having been applied in only one case out of over 700 decisions or recommendations issued since 2003 for a total of seven jurisdictions (*New Cingular Wireless PCS, LLC ("AT&T") by Smartlink, LLC – Yakima County CUP2019-00039 & SEP2019-00011*). The Comprehensive Plan Goal 2.3 and Policy 2.3.2 do not prescribe specific lot size requirements in the absence of zoning ordinance lot size regulations. Requiring lots to be larger than the specific SR zoning district lot size regulations would raise questions as to where to draw the line on a slippery slope, how to ensure predictability and consistency in land use decisions by different decision-makers and how to satisfy a court that sufficient standards exist for deviation from specific zoning regulations. The northern portion of the Future Land Use Map (*Document Index B-2*) illustrates how difficult it would be, especially in newly annexed areas, to ensure that newly platted lot sizes are at least more than 60% of the size of the adjacent large lots in the neighborhood as Appellant contends should be required here.

(10) Since the Makalii Preliminary Short Plat decision finds that the Low Density Residential Future Land Use designation provides for low density residential development and that the same goal and policy relied upon by the Appellant is applicable to this proposal, it is clear that the Administrative Official found the proposal to be consistent with those same provisions in view of the fact that the decision approves the proposal. Since the Makalii Preliminary Short Plat decision includes numerous findings as to the SR zoning regulations used to implement and be consistent with the City's Comprehensive Plan, it in fact contains formal findings as to the proposal's consistency with the Comprehensive Plan. It also contains a formal conclusion as to compliance with the short plat requirements of YMC Chapter 14.15.

(11) Since the hearing for this Appeal is de novo, the Administrative Official's additional reasons for approval of the Makalii Preliminary Short Plat set forth in the staff report are part of the record.

(12) Pursuant to the Hearing Examiner's authority in YMC §14.50.010(F) and YMC §16.08.018(G) to modify the decision appealed from, the Makalii Preliminary Short Plat decision is modified to add a formal written finding of fact to the effect that "the short subdivision is consistent with the standards of the City of Yakima subdivision ordinance, zoning ordinance and urban area comprehensive plan."

(13) As modified the Makalii Preliminary Short Plat decision is affirmed and the appeal of that decision is denied.

(14) This Decision may be appealed to the Yakima City Council within the time and in the manner required by applicable City ordinance provisions.

DATED this 7th day of November, 2022.



Gary M. Cuillier, Hearing Examiner

Appeal by Gary Lofland of the
Makalii Preliminary Short Plat
At 7411 Englewood Avenue
APP#002-22 of PSP#003-22

20

DOC.
INDEX
BB-1

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CITY OF YAKIMA
PLANNING DIV.

R & SONYA MAKALII – APPEAL
APP#004-23
(PSP#003-22, APP#002-23)

EXHIBIT LIST

CHAPTER CC

Appeal to City Council Application

[illegible]

NOV 23 2022

☐ REC'VD ☐ FAXED☐ PAID ☐ FYI

LAND USE APPLICATION

CITY OF YAKIMA, DEPARTMENT OF COMMUNITY DEVELOPMENT

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

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

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

Answer all questions completely. If you have any questions about this form or the application process, please ask a Planner. Remember to bring all necessary attachments and the required filing fee when the application is submitted. The Planning Division cannot accept an application unless it is complete and the filing fee paid. Filing fees are not refundable. This application consists of three parts. PART I – GENERAL INFORMATION AND PART III – CERTIFICATION are on this page. PART II contains additional information specific to your appeal and MUST be attached to this page to complete the application.

PART I – GENERAL INFORMATION

1. Appellant's Information:	Name:	Gary and Marcia Lofland						
	Mailing Address:	7511 Englewood Ave						
	City:	Yakima	St:	WA	Zip:	98908	Phone:	(509)930-4476
	E-Mail:	glofland@glofland.net						

Any additional appellant parties may be listed on a separate page

2. Site Address of the Proposal Being Appealed: 7411 Englewood Ave, Yakima, WA. 98908

PART II – SUPPLEMENTAL APPLICATION (SEE ATTACHED SHEET)

PART III – CERTIFICATION

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

Appellant's Signature

Date

FILE/APPLICATION(S)#:

APP#004-22

DATE FEE PAID:

11/23/2022

RECEIVED BY:

A. Firth

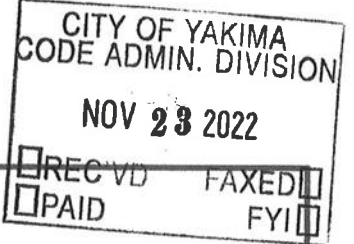
AMOUNT PAID:

340.00

RECEIPT NO:

CR-22-00

DOC.
INDEX# CD-1



Supplemental Application For:

APPEAL

Yakima Urban Area Zoning Ordinance Chapter 15.16/Chapter 16.08

PART II – SUPPLEMENTAL APPLICATION

1. THIS APPLICATION IS AN APPEAL OF:

- ☐ Administrative Official's Decision ☒ Hearing Examiner's Decision
- ☐ Subdivision Administrator's Decision ☐ SEPA Determination
- ☐ Other: _____

2. FILE NUMBER(S) OF PROPOSAL BEING APPEALED: APP#002-22 (PSP#003-22)

3. DESCRIPTION OF ACTION BEING APPEALED:

Decision of Hearing Examiner dated November 9, 2022 approving the 4-lot preliminary short plat of a 1.78 parcel at 7411 Englewood Avenue

4. REASON FOR APPEAL - Describe the specific error(s) or issues(s) upon which the appeal is based, including an explanation of why the decision is not consistent with the Yakima Urban Area Plan, The Yakima Urban Area Zoning Ordinance, or other provisions of law. (Reference the section, paragraph, and page of the provision(s) cited.) (Attach if lengthy):

YMC 14.15.050 requires the administrator " ...make a formal written finding of fact as to whether the short plat subdivision is consistent with the standards of Yakima zoning ordinance and urban area comprehensive plan." YMC 14.15.060 prohibits the administrator from approving a short subdivision without such findings. The August 11, 2022 decision of the Planning Department did not comply with these requirements and failed to make formal written findings regarding the urban area comprehensive plan Goal 2.3 and Policy 2.3.2 (see: Department decision p. 5 ff). The Hearing Examiner's decision dated November 9, 2022 attempted to bootstrap the Planning Department Decision to comply with the YMC (Examiner Decision p. 11 ff.) but failed to do so. Although he sought to address the requirements of the urban area plan's goals and policies, the findings and conclusions are not supported by substantial evidence. (Neither the YMC nor the urban plan defines words such as a "neighborhood" and other terms). As a result application results in varying determinations based upon the subjective and varying determination at the discretion of the department and examiner. Thus the code is void for vagueness. The Hearing Examiner inappropriately considered matters outside the record to support his decision. The Department failed to comply with YMC 14.15.040.

R & SONYA MAKALII – APPEAL
APP#004-23
(PSP#003-22, APP#002-23)

EXHIBIT LIST

CHAPTER DD

Appellant's Written Argument & Rebuttal Response

[illegible]



DEPARTMENT OF COMMUNITY DEVELOPMENT

Joan Davenport, AICP, Director

Planning Division

Joseph Calhoun, Manager

129 North Second Street, 2nd Floor, Yakima, WA 98901

ask.planning@yakimawa.gov · www.yakimawa.gov/services/planning

CITY OF YAKIMA

Appeal of the Decision of the Hearing Examiner

APP#002-22/APP#004-22 (PSP#003-22)

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MAR 27 2023

CITY OF YAKIMA
PLANNING DIV

Subject: Rebuttal of Appellant's March 9, 2023 written argument

I. **DESCRIPTION:**

The appellant provided several statements in his March 9, 2023 written argument which will be responded to below.

II. **VOID FOR VAGUENESS**

Appellant argues that because the term "neighborhood" is not defined, the municipal code section is unconstitutionally vague. Ordinances are presumed to be constitutional, and the appellant is responsible for proving otherwise. Every presumption should be made in favor of an ordinance being constitutional.¹ "An ordinance violates one's due process rights when it forbids conduct in terms so vague that persons of common intelligence must guess at its meaning and differ as to its application."² If an ordinance provides fair notice of what is required in the context of well-defined usage and common understanding, it is not vague. An ordinance is not required to meet impossible standards of specificity.³

Not every word in the municipal code will be defined, and the fact that a word is undefined does not automatically rise to a constitutional void for vagueness claim. In cases where terms are undefined, their ordinary meaning can be ascertained from the dictionary.⁴

Although "neighborhood" is not specifically defined in Yakima's code, the process provides for due process to the applicant and the surrounding property owners. What constitutes a neighborhood can be dependent on a variety of factors, so there is no, one, definition that could be used to evaluate every land use decision. This does not mean that the code is void for vagueness or that the public is not afforded due process—the public has an opportunity to be heard at a hearing or submit written comment, as well as the right to appeal, to explain their thoughts as to whether the property at issue in a land use application affects their neighborhood.⁵

¹ *Cannabis Action Coalition v. City of Kent*, 183 Wn.2d 219, 226, 351 P.3d 151 (2015).

² *Burien Bark Supply v. King County*, 106 Wn.2d 868, 871, 725 P.2d 994 (1986).

³ *Id.*

⁴ *Tateuchi v. City of Bellevue*, 15 Wn.App. 2d 888, 898, 478 P.3d 142 (2020).

⁵ *See Anderson v. City of Issaquah*, 70 Wn.App. 64, 80, 851 P.2d 744 (1993), quoting *Standard Mining and Dev. Corp.*, 82 Wn.2d 321, 330-331, 510 P.2d 647 (1973).

DOC.
INDEX

DD-2



III. **HEARING EXAMINER'S DECISION IS NOT SUPPORTED BY SUBSTANTIAL EVIDENCE AND FAILED TO ENGAGE IN THE REQUIRED ANALYSIS**

1. **The Hearing Examiner's Determination of the Neighborhood is in error.**

Appellant argues that the Hearing Examiner failed to properly define "neighborhood" in his decision by including all properties within the 300-foot notification radius rather than limiting the neighborhood to only those parcels provided in Doc G-3 (Appellant's argument included a copy of Exhibit G-3: Vicinity Map which includes acreage calculations of properties north of Englewood Avenue). Appellant states that access to the area south of Englewood is from 74th Avenue which is far from the subject property and therefore should not be considered. Rather, only the properties north of Englewood should be included because "It is a neighborhood of one-half acre lots."

Preliminary Short Plat applications require public notification of properties within 300-feet of the site. This includes properties both north and south of Englewood Avenue. Staff agrees with the Hearing Examiner's Findings relative to the meaning of the word "Neighborhood" (Hearing Examiner's Decision Section X, pages 11-13).

2. **Other Required Considerations Were Not Met.**

Appellant argues that the Hearing Examiner's decision is not supported by substantial evidence related to the stated goal to "preserve and enhance the quality, character, and function of Yakima's residential neighborhoods and the Comprehensive Plan Policy 2.2.3 to "Ensure that new development is compatible in scale, style, density, and aesthetic quality to an established neighborhood." Appellant further argues that the proposal is not compatible in scale because 0.3 acres lots are 40% smaller than 0.5 acre lots; that the proposal is not compatible in density because they are not one-unit per 0.5 acre; and that the proposal is not compatible in style, again because the proposed lots are 40% smaller than 0.5 acre lots.

Staff agrees with the Hearing Examiner's Findings relative to scale, style and density (Hearing Examiner Decision Section XI. (4), (6), and (5), respectively – pages 14-15).

3. **What Was Not Addressed / The Examiner's Focus was Only on Compliance with the Code he Ignored Required Considerations.**

Appellant argues that the statement in YMC 15.01.030 "...designed to guard against and mitigate undue adverse impacts and protect individual neighborhoods..." and the same section's purpose of "Protecting existing land uses and property values from adverse impacts of adjoining developments;" along with the Comprehensive Plan's purpose to "Preserve and enhance neighborhoods" are not considered or addressed in the Hearing Examiner's decision. Appellant argues further "One cannot say that forcing three .3 acre lots in an area to .5 acre lots preserves, enhances and protects the neighborhood or protects property values." Appellant continues that the decision to accept the .3 acre lot size was solely because the minimum lot size was met. Appellant concludes that "the Hearing Examiner did not consider the clearly stated policy protection the property of the surrounding landholders as he was supposed to do."

RECEIVED

MAR 27 2023

CITY OF YAKIMA
PLANNING DIV

DOC.
INDEX

DD-2

This argument is not an accurate interpretation of YMC 15.01.030 or the Comprehensive Plan. Rather, this section lays the groundwork for the entire zoning ordinance, as implementing legislation of the Comprehensive Plan. The complete section provides the following:

15.01.030 Purpose and intent.

The purpose of this title is to implement the Yakima urban area comprehensive plan and promote the general health, safety and welfare of present and future inhabitants of the Yakima urban growth area. The goals and policies of the urban area comprehensive plan will be used for interpretation and implementation. These goals are accomplished in many ways, including:

1. Achieving public and private land use decisions consistent with the policies and objectives of the Yakima urban area comprehensive plan;
2. Dividing the Yakima urban area into districts according to the use of land and structures and the intensity of such use;
3. Encouraging the location and use of structures and land for commerce, industry and residences in districts where they are compatible with neighboring land uses;
4. Encouraging development in areas where adequate public services including water and sewer, police and fire protection, roads, and schools can be provided; and limiting development in areas where these facilities are not provided;
5. Securing economy in local governmental expenditures;
6. Encouraging innovative site design;
7. Providing for adequate privacy, light, air, and view;
8. Promoting development within the Yakima urban growth area that is cost-effective to build and maintain;
9. Reducing the time required for public review of proposed projects;
10. Protecting existing land uses and property values from adverse impacts of adjoining developments;
11. Reducing traffic danger and congestion on roads and highways;
12. Minimizing public and private losses due to flooding.

This title is designed to be flexible and intentionally increases the potential uses or choices available to individual property owners. This flexibility is balanced by procedures and standards based on the Yakima urban area comprehensive plan designed to guard against and mitigate undue adverse impacts and to protect individual neighborhoods and the community's general welfare. Both concepts are essential to this title and declared necessary for the promotion of the general health, safety and welfare.

Further, this title divides all the land within the unincorporated portion of the Yakima urban area and the city of Yakima into zoning districts. Each zoning district has an intent statement that clearly defines the district's purpose, identifies the general character of the area within the district, and establishes policies to be achieved by development in the district. Distinctions between each district are significant and based on the Yakima urban area comprehensive plan. The intent statements serve as a guide to the administration and interpretation of this title and are declared to be an official statement of legislative finding and purpose.

RECEIVED The establishment of the SR zoning district is a component of the Comprehensive Plan implementation as outlined in YMC 15.01.030. YMC 15.03.020 provides the following:

MAR 27 2023

CITY OF YAKIMA
PLANNING DIV

DOC.
INDEX
DD-8

15.03.020 District and map overlay intent statements.

The district intent statements define the specific purpose of each district and/or zoning map overlay. They shall reflect the policies of the Yakima urban area comprehensive plan; serve as a guide for determining the appropriate location of uses; help determine appropriate conditions for development; and help the administrative official interpret the standards and provisions.

A. Suburban Residential District (SR). The intent of the suburban residential district is to provide a variety of residential lifestyles with densities generally ranging from one unit per five net residential acres to seven units per net residential acre. The higher density is reviewed and considered to be permitted when a public water system and the regional sewer system are available, or if these utilities are not available, community water and sewer systems may be allowed after review by Yakima County health district and the city of Yakima. (See YMC Chapter [15.05](#), Table 5-1.) This district is further intended to:

1. Limit residential density to one unit per five net residential acres in areas where flooding, airport noise, or other environmental constraints make the land unsuitable for residential use at higher densities. Development at a lower density will be reviewed to allow conversion to higher densities once utilities are available or other limiting issues are mitigated;
2. Maintain surface and groundwater quality along with the avoidance of potential health hazards, by limiting residential density to one unit per five net residential acres, in areas where public services will not be provided, and the dwelling units have individual wells and septic tanks. Development at a lower density will be reviewed to allow conversion to higher densities once utilities are available or other limiting issues are mitigated;
3. Provide the opportunity for suburban residential development, up to three dwelling units per net residential acre, in areas with either public water service or a community sewer system; and
4. Allow residential development to seven dwelling units per net residential acre in areas with both public water service and sewer system.

This district is characterized by a mixture of land uses and residential densities including small farms, scattered low-density residential development, and clusters of higher-density residential development. The minimum lot size in the district varies according to the suitability of the land for development and the provision of urban level services. See YMC [15.05.030\(E\)](#).

The purpose of a district intent statement is to "reflect the policies of the Comprehensive Plan; and to serve as a guide for determining the appropriate location of uses." The SR zoning district allows residential densities up to seven dwelling units per net residential acre where public water and regional sewer are available, which is the case for the proposed short plat. YMC 15.03.030(C) provides the following:

15.05.030 Creation of new lots—Subdivision requirements.

C. Minimum Lot Size. Minimum lot size is the smallest lot size permitted in a particular zoning district when land is subdivided, short platted, resubdivided, or when lot lines are adjusted. No lot

RECEIVED

MAR 27 2023

CITY OF YAKIMA
PLANNING DIV

DOC.
INDEX

DD-2

shall be created that is smaller than the applicable minimum lot size standard established in Table 5-2.

1. In residential districts, this standard is intended to maintain the residential character of the area and will vary by dwelling type, the suitability of the land for development, and the type of water and sewer system. The following are the minimum lot size requirements in the residential districts, except when the Yakima health district determines that a larger area is necessary for the safe installation of approved water supply and sewage disposal systems:

Situation	Required Minimum Lot Size
In the floodplain, airport, and greenway overlay districts:	One acre (provided the minimum lot size of the underlying zoning district shall apply, when, in the opinion of the reviewing official, the lot has a buildable area outside the overlay district and a plat restriction prohibits development on that portion of the lot within the overlay district).
Individual water system and individual sewer system:	One-half acre.
Public or community water system and an individual sewer system:	14,500 square feet.
Individual water system and the regional or an approved community sewer system:	9,600 square feet.
Public or community water system and the regional or an approved community sewer system:	See Table 5-2.

Table 5-2 allows for a 6,000 square-foot minimum lot size in the SR zone for detached single-family home construction. YMC 15.05.030(C)(1) specifically provides that "In residential districts, this [minimum lot size] standard is intended to maintain the residential character of the area and will vary by dwelling type, the suitability of the land for development, and the type of water and sewer system." All lots in the proposed preliminary short plat exceed the 6,000 square-foot minimum. The proposed density of approximately 2.3 dwelling units per net residential acre is well below the allowed 7 unit maximum.

RECEIVED

MAR 27 2023

CITY OF YAKIMA
PLANNING DIV

DOC.

INDEX

DD-2

Neither the Comprehensive Plan nor the Zoning Ordinance require a minimum lot size for new subdivision as a function or percentage of the surrounding lot sizes. Rather adherence to the zoning ordinance standard, in this case a minimum 6,000 square-foot lot, is intended to maintain the residential character of the area, coupled with the intent to provide a variety of residential lifestyles "including small farms, scattered low-density residential development, and clusters of higher-density residential development" as stated in RCW 15.03.020(A).

Development found to be consistent with the Zoning Ordinance requirements considers and implements the goals and policies of the Comprehensive Plan. As such, by determining that the proposed development is consistent with the Zoning Ordinance, the Hearing Examiner determined that the proposed development was also consistent with the City's Comprehensive Plan.

IV. RECOMMENDATION:

Staff recommends that the City Council uphold the Hearing Examiner's decision and deny Appeal APP#004-22.

RECEIVED

MAR 27 2023

**CITY OF YAKIMA
PLANNING DIV**

**DOC.
INDEX
DD2**

City of Yakima
Appeal of the Decision of the Hearing Examiner
APP#002-22 (PSP#003-22)

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MAR 09 2023

Before the Yakima City Council

**CITY OF YAKIMA
PLANNING DIV**

I. INTRODUCTION

This is an appeal from the November 7, 2022 decision of the Hearing Examiner. That decision granted the application of Lester and Sonya Makalii for a short plat to create four lots on approximately 1.78 acres. Three of the proposed lots are .3 acre.

The long-established neighborhood surrounding the property in question consists of established lots of one-half acre or greater (the average lot size in Doc AA-1 and G-3 is .62 acre-attached). It is difficult to understand how a decision that allows the subject property to be divided to include three (3) lots, each .3 of an acre (a 40% reduction in size) preserves and enhances the quality, character, and function of the residential neighborhood.

But that is what has occurred. The Planning Department and Hearing Examiner determined the 40% reduction in the size of the lots would preserve and enhance the character and function of this established neighborhood. Without a clear definition of a neighborhood they did so arbitrarily.

II. THE REQUIREMENTS OF THE YAKIMA MUNICIPAL CODE

The Yakima Municipal Code requires that a proposed short plat must be "...consistent with the standards of the city of Yakima zoning ordinance **and** urban area comprehensive plan." YMC 14.15.050. Formal written findings of fact are required.

The Yakima Comprehensive Plan 2040 includes specific goals and policies:

Goal 2.3. Residential Uses. Preserve and enhance the quality, character, and function of Yakima's residential neighborhoods.

Policy 2.3.2. Preserve and enhance established residential neighborhoods.
Specifically:

- A. Ensure that new development is compatible in scale, style, density, and aesthetic quality to an established neighborhood.
- B. Protect the character of single-family neighborhoods by focusing higher intensity land uses close to commercial and community services and transit.

DOC.
INDEX
PD-1

YMC 15.01.030 also instructs:

...”procedures and standards based on the Yakima urban area comprehensive plan [sic: are] designed to guard against and mitigate undue adverse impacts and to protect individual neighborhoods and the community’s general welfare.”

The YMC also seeks to achieve “...private land use decisions consistent with the policies and objectives of the Yakima urban area comprehensive plan.” Protecting existing land uses and property values from adverse impacts of adjoining developments.

III. A CONSTITUTIONAL PROBLEM ARISES-VOID FOR VAGUENESS

Although the YMC requires consideration of the neighborhood surrounding the subject property, the code does not define the word “neighborhood.” The City conceded that in the memorandum filed before the Hearing Examiner. (Doc AA-3, page 5 line 11). The City also acknowledged the requirement that notice be provided to those properties within 300 feet of the subject property does not define a neighborhood (Doc AA-3, page 5 line 28-29). The City Planning Department arbitrarily decided the appropriate neighborhood was “...lots within ¼ mile in each direction” which is 1,320 feet (Doc A-1, page 4). No objective standard is provided, the term neighborhood is so vague that people of common intelligence differ and guess as to its meaning and is subject to arbitrary determination of what it means..

A statute which either forbids or requires the doing of an act in terms so vague that men [and women] of common intelligence must necessarily guess at its meaning and differ as to its application, violates the first essential of due process of law. *Anderson v City of Issaquah*, 70 Wash. App. 64, 75 (Div. I, 1993). The purpose of the void for vagueness doctrine is to limit arbitrary and discretionary enforcements of the law. *Burien Bark Supply v. King County*, 106 Wash.2d at 871, 725 P.2d 994. In the area of land use, a court looks not only at the face of the ordinance but also at its application to the person who has sought to comply with the ordinance and/or who is alleged to have failed to comply. *Burien Bark Supply v King County*, 106 Wash.2d 868, 871, 725 P.2d 994.

Here the deficiency of the YMC is clear, it cannot be ascertained from the statute what constitutes a neighborhood. The Planning department uses one measure, looking at lots within ¼ mile or 1320 feet in all directions. The city recognizes the 300-foot notification does not define a neighborhood but does not offer a definition, the hearing examiner looks at a 300-foot distance, no one is certain.

RECEIVED

MAR 09 2023

CITY OF YAKIMA
PLANNING DIV

DOC.

INDEX

DD-1

So, what is a neighborhood? Thus, on its face the YMC is unconstitutionally vague, and it is arbitrary in its application. Neighborhood can mean whatever the Planning department chooses it to mean.

The YMC sections do not give effective or meaningful guidance. Thus, with no objective guidance each City Council member is left guessing at what is meant by neighborhood and will necessarily resort to an arbitrary personal concept. This is the epitome of discretionary, arbitrary enforcement.

This alone requires the decision of the Hearing Examiner to be overturned and the request for a short plat be denied. The provision of the YMC is void for vagueness.

IV. THE HEARING EXAMINER'S DECISION IS NOT SUPPORTED BY SUBSTANTIAL EVIDENCE AND HE FAILED TO ENGAGE IN THE REQUIRED ANALYSIS

A. Substantial Evidence

Substantial evidence is evidence sufficient to persuade a fair-minded, rational person of the truth of the declared premise. *Worldwide Video, Inc. v. Tukwila*, Wash.2d 382, 387, 816 P.2d 18 (1991).

B. The Definition of the Word Consistent

Since the YMC requires the proposed short plat to be consistent with both the zoning ordinance and the comprehensive plan it is important to understand the meaning of the word consistent. The Merriam-Webster Dictionary defines consistent as "marked by harmony, regularity, a steady continuity; free from variation or contradiction...marked by agreement...showing steady conformity." This definition must guide the analysis.

C. The Hearing Examiner's Determination of the Neighborhood is in Error

The Hearing Examiner found the neighborhood included the development south of Englewood which was within 300 feet of the subject property. (Decision page 13). The houses in that development that are within the 300-foot distance are part of a separate and distinct neighborhood of higher density houses on small lots. The area south has a fence the length of Englewood with no gates or openings that allow access to Englewood. The fence continues south on 74th. (Exhibit 3 A & B). The access to that development and those houses is on 74th far from the subject property. As such those houses cannot be considered part of the neighborhood any more than those within ¼ of a mile, the standard used by the Planning Department. The Hearing Examiner's Decision was in error.

RECEIVED

MAR 09 2023

CITY OF YAKIMA
PLANNING DIV.

DOC.

INDEX

#

DD-2

The appropriate neighborhood is that depicted in Doc G-3 which is attached. It is a neighborhood consisting of one-half acre lots.

D. Other Required Considerations Were Not Met

To meet the stated goal to “preserve and enhance the quality, character, and function of Yakima’s residential neighborhoods” the Yakima Comprehensive Plan 2040 includes the policy that the city is to “Ensure that the new development is compatible in scale, style, density, and aesthetic quality to an established neighborhood. (Comprehensive Plan, Policy 2.3.2). The Hearing Examiner’s decision is not supported by substantial evidence.

The analysis must look to the meaning of the words used. Again, using the Merriam-Webster Dictionary we find:

Preserve: “maintain”

Enhance: “to increase or improve in value, quality, desirability, or attractiveness”

Ensure: “guarantee”

The Hearing Examiner’s decision does not mention, let alone consider or apply, these requirements of the YMC.

The Hearing Examiner was also clearly incorrect in his analysis:

Scale is defined as proportion, ratio in size. The proposed lots of .3 of an acre. A 40% reduction in the one-half acre lots does not meet the requirement of scale. (There is a 50% reduction if the average size of the lot is used).

Density is the average number of units by space. The neighborhood consists of one unit (house) for each half-acre. The short plat results in an increase in density, more houses on much smaller lots which is not the density of the neighborhood and is a higher density.

Style is a distinctive quality, form, or type of something. The distinctive quality form or type of lot in the neighborhood is .5 acre. A 40% reduction in size is not the same style.

E. What Was Not Addressed

It is important to note what was not addressed by the Planning Department or the Hearing Examiner’s decision.

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PLANNING DIV.

DOC.
INDEX

DD-2

YMC 15.01.030 states it is:

“...designed to guard against and mitigate undue adverse impacts and protect individual neighborhoods...”

And its purpose is:

“Protecting existing land uses and property values from adverse impacts of adjoining developments.”

The Comprehensive Plan’s purpose is to:

“Preserve and enhance established neighborhoods.”

Those protections are not considered or addressed in the Hearing Examiner’s decision. One cannot say that forcing three .3 acre lots in an area to .5 acre lots preserves, enhances and protects the neighborhood or protects property values.

F. The Examiner’s Focus was Only on Compliance with the Code he Ignored Required Considerations

The reason why the above matters set forth in sections D and F above were not addressed was that the Examiner’s focus was on the code. If the issue complied with the code, then it received his approval. He did not consider the Comprehensive Plan as applied to the issue.

As an example, the Hearing Examiner found the .3-acre lot size was acceptable solely because they met the minimum lot size 6000 square foot lot size allowed in a SR zoning district (Decision page 14, XI(4)). Similarly, when considering density and aesthetic quality, the Hearing Examiner found the .3 acre lots acceptable because they met the 6000 square foot lot . (Decision page 14, XI (6) and (7). Consideration of quality was the same, if the lots fit within the zoning code they were acceptable. (Decision page 13, XI(1).

The weighing of competing goals and policies is a fundamental planning responsibility of the local government. *Spokane County v Eastern Washington Growth Management Hearings Board*, 173 Wa. App. 310, 333 (Division III, 2013).

The Hearing Examiner did not consider the clearly stated policy protection the property of the surrounding landholders as he was supposed to do.

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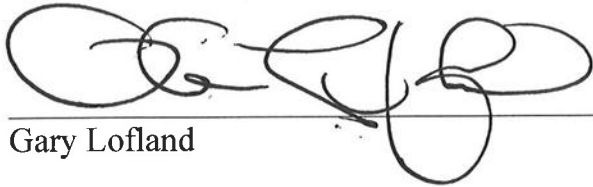
DOC.
INDEX

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V. CONCLUSION

The Decision of the Hearing Examiner must be overturned and the request for a short plat denied.

Dated this 9th day of March 2023.



A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, positioned above a horizontal line.

Gary Lofland

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CITY OF YAKIMA
PLANNING DIV.

**DOC.
INDEX**

DD2

Project Name: LESTER & SONYA MAKALI

Site Address: 7411 ENGLEWOOD AVE

File Number(s): PSP#003-22

Proposal: Proposed preliminary short plat to create four lots in the SR zoning district.



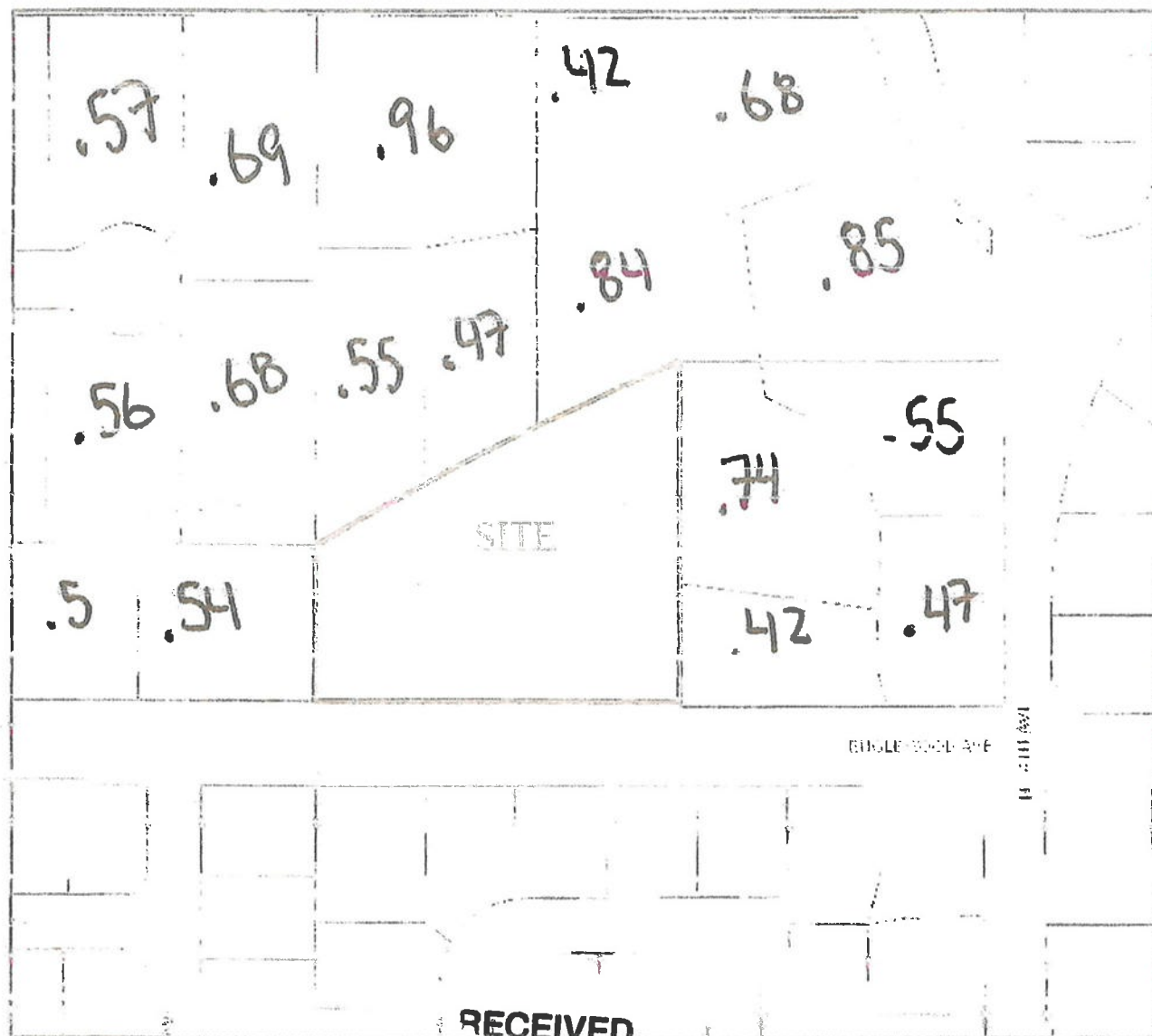
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PLANNING DIV.



VICINITY MAP



MAR 09 2023

CITY OF YAKIMA
PLANNING DIV

DOC.
INDEX

43

DOC.
INDEX

DD-2

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Date Created: 7/6/2022

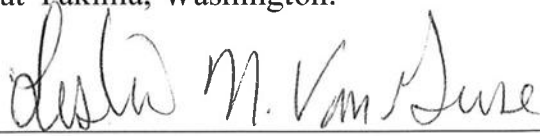


CERTIFICATE OF TRANSMITTAL

I certify under penalty of perjury under the laws of the state of Washington that the undersigned caused a copy of this document to be sent to the attorney(s) of record listed below as follows:

Lester and Sonia Makaii 7411 Englewood Ave Yakima, WA 98908	<input checked="" type="checkbox"/> via U.S. Mail <input type="checkbox"/> via fax <input type="checkbox"/> via e-mail <input type="checkbox"/> via hand delivery
Joseph Calhoun Planning Manager City of Yakima	<input type="checkbox"/> via U.S. Mail <input type="checkbox"/> via fax <input type="checkbox"/> via e-mail <input checked="" type="checkbox"/> via hand delivery
Sara Watkins City of Yakima Legal Department 129 N. 2 nd Street Yakima, WA 98901 sara.watkins@yakimawa.gov	<input type="checkbox"/> via U.S. Mail <input type="checkbox"/> via fax <input checked="" type="checkbox"/> via e-mail <input type="checkbox"/> via hand delivery

DATED this 9th day of March 2023 at Yakima, Washington.



LESLIE VAN GUSE

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MAR 09 2023

CITY OF YAKIMA
PLANNING DIV

DOC.

INDEX

DD-2

LESTER & SONYA MAKALII – APPEAL

APP#002-22

(PSP#003-22)

EXHIBIT LIST

CHAPTER A

Staff Report

[illegible]



DEPARTMENT OF COMMUNITY DEVELOPMENT

Joan Davenport, AICP, Director

Planning Division

Joseph Calhoun, Manager

129 North Second Street, 2nd Floor, Yakima, WA 98901

ask.planning@yakimawa.gov · www.yakimawa.gov/services/planning

**CITY OF YAKIMA
APPEAL OF THE ADMINISTRATIVE OFFICIAL'S DECISION
for
REQUEST FOR PRELIMINARY SHORT PLAT**

FILE NUMBER(S): APP#002-22, PSP#003-22
APPELLANT: Gary Lofland
PROJECT LOCATION: 7411 Englewood Ave
PROPERTY OWNER: Lester and Sonya Makalii
TAX PARCEL NUMBER: 181317-34422
DATE OF REQUEST: April 13, 2022
DATE OF COMPLETE APP: July 5, 2022
DATE OF DECISION: August 11, 2022
DATE OF APPEAL: August 22, 2022
DATE OF RECOMMENDATION: October 13, 2022
STAFF CONTACT: Joseph Calhoun, Planning Manager

I. DESCRIPTION OF REQUEST:

Appeal of the decision for a Preliminary Short Plat in the SR zoning district.

II. FACTS:

A. Processing

1. The application for a 4-lot Preliminary Short Plat was received on April 13, 2022 and was deemed complete for processing on July 5, 2022.
2. This application was processed under the provisions of YMC Ch. 14.15 (Short-Subdivision Procedure).
3. The Administrative Official issued a Notice of Decision on August 11, 2022, approving the request subject to conditions.
4. On August 22, 2022, a timely appeal was filed by Gary Lofland.
5. **Public Notice:** Pursuant to YMC §§ 14.50.010 and 16.08.018 – Appeal of the Administrative Official's Decision:
 - a. The subject site was posted with land use action signs on September 12, 2022;
 - b. On September 14, 2022, a Notice of Appeal and Public Hearing was sent to parties of record, the applicant, and the appellant that set the hearing date of October 13, 2022 at 9:00 a.m.

**DOC.
INDEX**

A-1



- c. On September 14, 2022, a legal notice was provided in the *Yakima Herald-Republic*.

B. Hearing Examiner Authority:

In accordance with YMC §§ 14.50.010(F) and 16.08.018(G), the Hearing Examiner may affirm or reverse, wholly or in part, or modify the order, requirement, decision, or determination, and to that end shall have all the power of the officer from whom the appeal is taken.

III. APPEAL RESPONSE:

A. Appeal:

The appellant provides the following statements (staff response is in *italics*):

- 1. In the decision dated August 11, 2022 the Planning Division of the Yakima Department of Community Development failed to consider or address the goals and policies of the Yakima Comprehensive Plan 2040 Future Land Use Map.**

Goal 2.3 provides “Residential uses, Preserve and enhance the quality, character, and function of Yakima’s residential neighborhoods.” Policy 2.3.2 provides “Ensure that new development is compatible in scale, style, density, and aesthetic quality to an established neighborhood.”

The Planning Department ignored documents submitted that clearly demonstrated that the surrounding property (13 lots) area all half acre lots. The Planning Department failed to address how the requested subdivision, which would result in three (3) lots of approximately one-fourth (.25) of an acre, is consistant (sic) with the Goals and Policies of the Comprehensive Plan 2040.

The .25 acre lots are not compatible in scale, style, density, and aesthetic quality of the long established neighborhood. Nor does it enhance the quality and character of the residential neighborhood.

The decision of the Planning Department failed to comply with the requirements of YMC 14.15.050 and .060.

The decision of the Planning Department is incorrect and must be overturned. The request for Short Subdivision must be denied.

Staff response:

The staff report dated August 11, 2022, did not fail to consider or address goals in the Yakima Comprehensive Plan, nor did it ignore comments submitted by adjacent property owners.

Section III.C. of the staff report notes that the site has a future land use designation of Low Density Residential and cites Goal 2.3 and Policy 2.3.2 as

referenced in the appellant's statement above. While not explicitly cited in the staff report, the Principal Uses and Density of the Low Density Residential Future Land Use Designation include:

Single-family detached dwellings are the predominant dwelling type...The permitted density is up to seven net dwelling units per acre for infill development. (Comp Plan 2040, 2.2.1(C))

The implementing zoning districts of the Low Density Residential Future Land Use Designation include SR and R-1 (Comp Plan 2040, 2.2.1(D)).

Additional goals and policy statements which dictate how the Comprehensive Plan interacts with the Zoning Ordinance include:

Goal 2.1 – Establish a development pattern consistent with the community's vision.

Policy 2.1.1 – Designate the general distribution, location and extent of the uses of land for housing, commerce, recreation, open spaces, public utilities and facilities and other land uses.

Policy 2.1.2 – Establish land use designations, densities and intensities as shown under Goal 2.2.

Policy 2.1.4 – Manage and maintain the City's Official Zoning Map to ensure continued consistency with the Future Land Use Map.

Policy 2.1.5 – Implement land use designations through a clear regulatory process that ensures transparency, fairness, and predictability in the land development process.

In accordance with YMC § 15.03.020: "The district intent statements define the specific purpose of each district and/or zoning map overlay. They shall reflect the policies of the Yakima urban area comprehensive plan; serve as a guide for determining the appropriate location of uses; help determine appropriate conditions for development; and help the administrative official interpret the standards and provisions."

As documented in Section III.D.b. of the staff report, the intent of the SR zoning district is to "...provide a variety of residential lifestyles with densities generally ranging from one unit per five net residential acres to seven units per net residential acre. The higher density is reviewed and considered to be permitted when a public water system and the regional sewer system are available...(4) Allow residential development to seven dwelling units per net residential acre in areas with both public water service and sewer system....The district is characterized by a mixture of land uses and residential densities including small farms, scattered low-density residential development, and clusters of higher-density residential development. The minimum lot size in the district varies

according to the suitability of the land for development and the provision of urban level services. See YMC 15.05.030(E)."

Although "neighborhood" is not defined, looking at lots within ¼ mile in each direction, there are residential lots in a range of sizes. To the south and southeast in newer developments the lot sizes are approximately 0.20 acre. In a newer development to the east, along Modesto Way, the lots are approximately 0.26 acre. To the north, in a newer development along Plateau Place, the lot sizes are between 0.40 and 0.50 acre. To the west along Graystone Court, the lot sizes average approximately 0.55 acre.

Appellant states that the lot sizes of 0.25 acre per lot is incompatible with neighboring 0.50 acre lots. However, the Comprehensive Plan does not require that all residential lots are the same size or similar sizes to preserve and enhance established residential neighborhoods. Taking an overall evaluation of the proposed plat and the neighboring uses of land and neighborhood adjacent to the proposed plat location, the density of the proposed plat is compatible in scale. The single family neighborhoods' character is also protected through the approval of a plat with single family homes on similarly large lots.

IV. CONCLUSIONS:

- A. The appellant has not submitted any evidence demonstrating that the Planning Department failed to comply with the requirements of YMC 14.15.050 and .060. The proposed lots are consistent with the Comprehensive Plan and the applicable provisions of the SR zoning district.
- B. The proposed lot are in conformance with the minimum lot sizes and density requirements for development with available. public water and sewer.
 - a. Proposed lots range from approximately 14,401 to 63,579 square feet – the minimum lot size is 6,000 square feet.
 - b. The proposed density is approximately 2.3 dwelling units per acre – the maximum density is 7 dwelling units per acre.
- C. The SR zoning district and applicable development standards conform with and implement the Low Density Residential Zoning District Future Land Use Designation of the 2040 Comprehensive Plan.
- D. The Hearing Examiner has the jurisdiction to render a final decision on this matter.

V. RECOMMENDATION:

Based upon the above findings and conclusions, the City of Yakima Planning Division recommends **denial** of the Appeal (APP#002-22) and **retention** of the Preliminary Short Plat decision (PSP#003-22).

LESTER & SONYA MAKALII – APPEAL

APP#002-22

(PSP#003-22)

EXHIBIT LIST

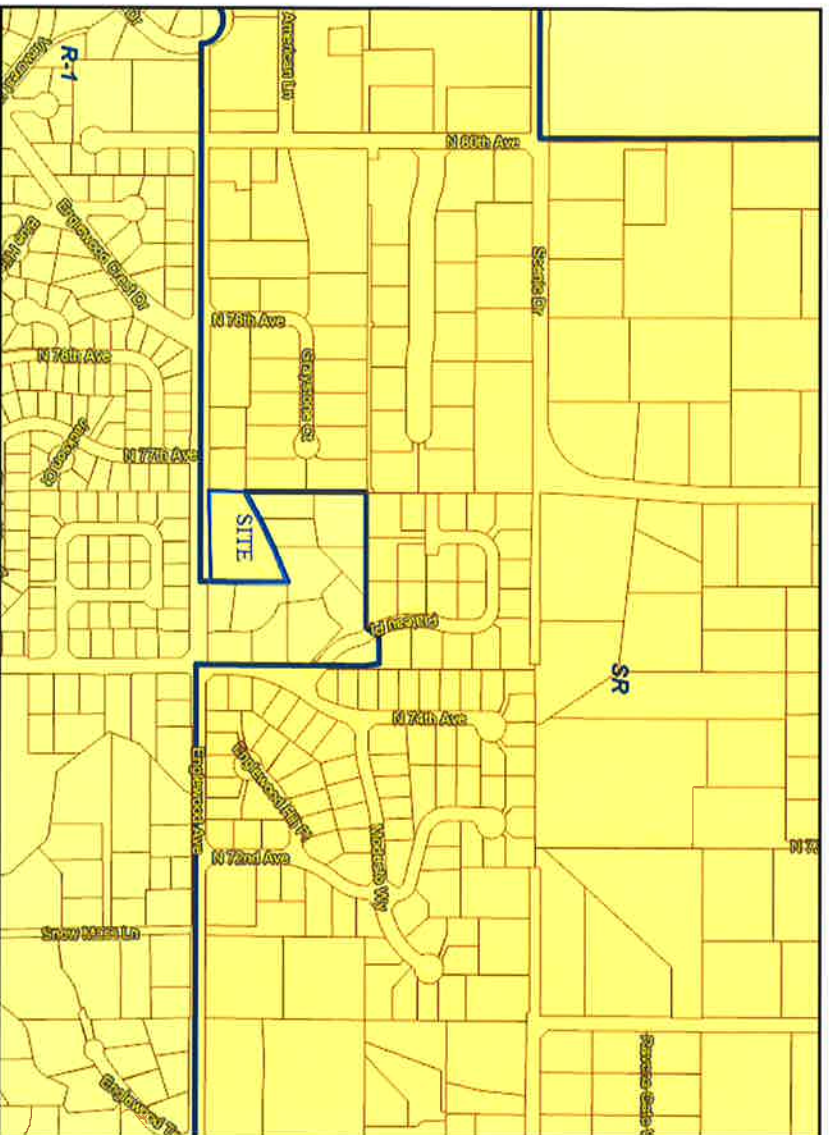
CHAPTER B

Maps

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Project Name: LESTER & SONYA MAKALI - APPEAL
Site Address: 7411 ENGLEWOOD AVE
File Number(s): APP#002-22

ZONING MAP



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

DOC. INDEX
 # B-2

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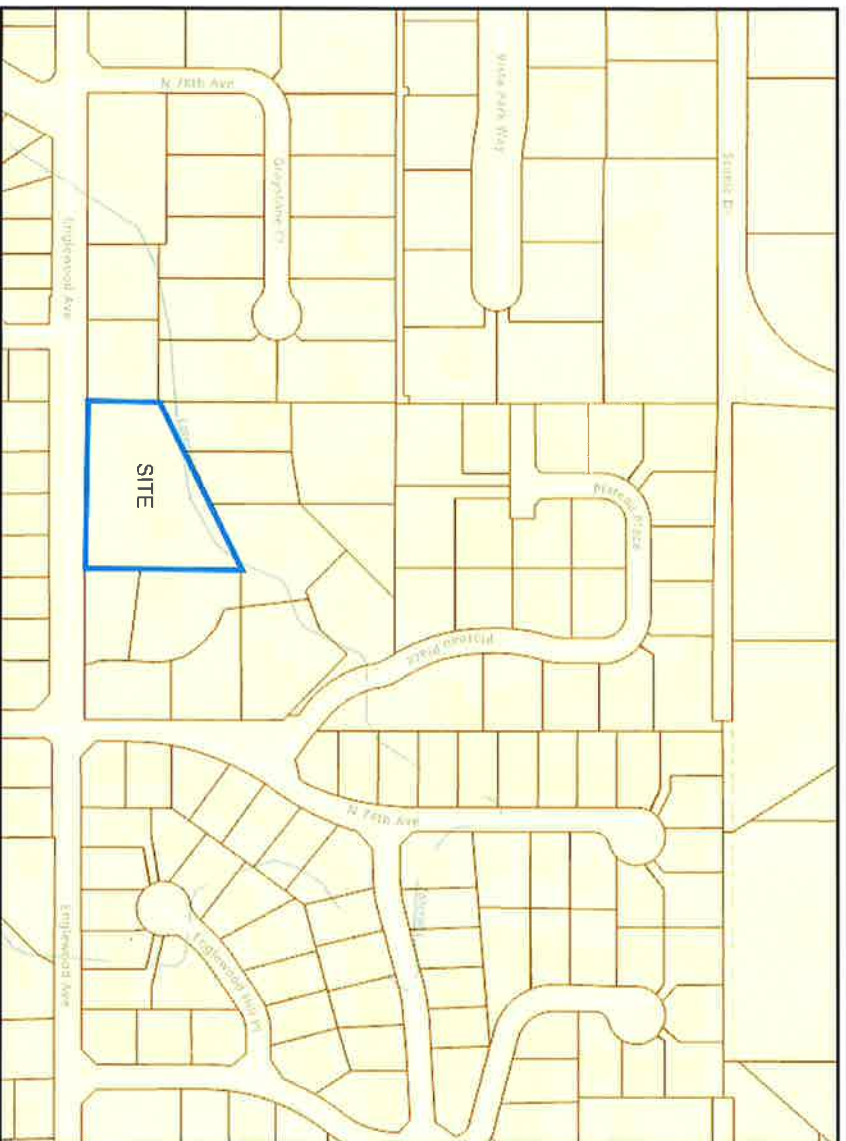
Date Created: 8/24/2022



Project Name: LESTER & SONYA MAKALI - APPEAL
Site Address: 7411 ENGLEWOOD AVE
File Number(s): APP#002-22



FUTURE LAND USE MAP



- Yakima Future Land Use Designations**
- Low Density Residential
 - Mixed Residential
 - Central Business Core Commercial
 - Commercial / Mixed Use
 - Regional Commercial
 - Community Mixed Use
 - Industrial

DOC. INDEX
 # B-7

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Project Name: LESTER & SONYA MAKALI - APPEAL

Site Address: 7411 ENGLEWOOD AVE

File Number(s): APP#002-22



AERIAL MAP



DOC.
INDEX

B-2

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Date Created: 8/24/2022



Project Name: LESTER & SONYA MAKALII/ GARY LOFLAND

Site Address: 7411 ENGLEWOOD AVE

File Number(s): APP#002-22 (PSP#003-22)

Proposal: Appeal of the Administrative Official's decision on PSP#003-22 a proposed preliminary short plat to create four lots in the SR zoning district.



VICINITY MAP



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Date Created: 9/9/2022



DOC.

INDEX

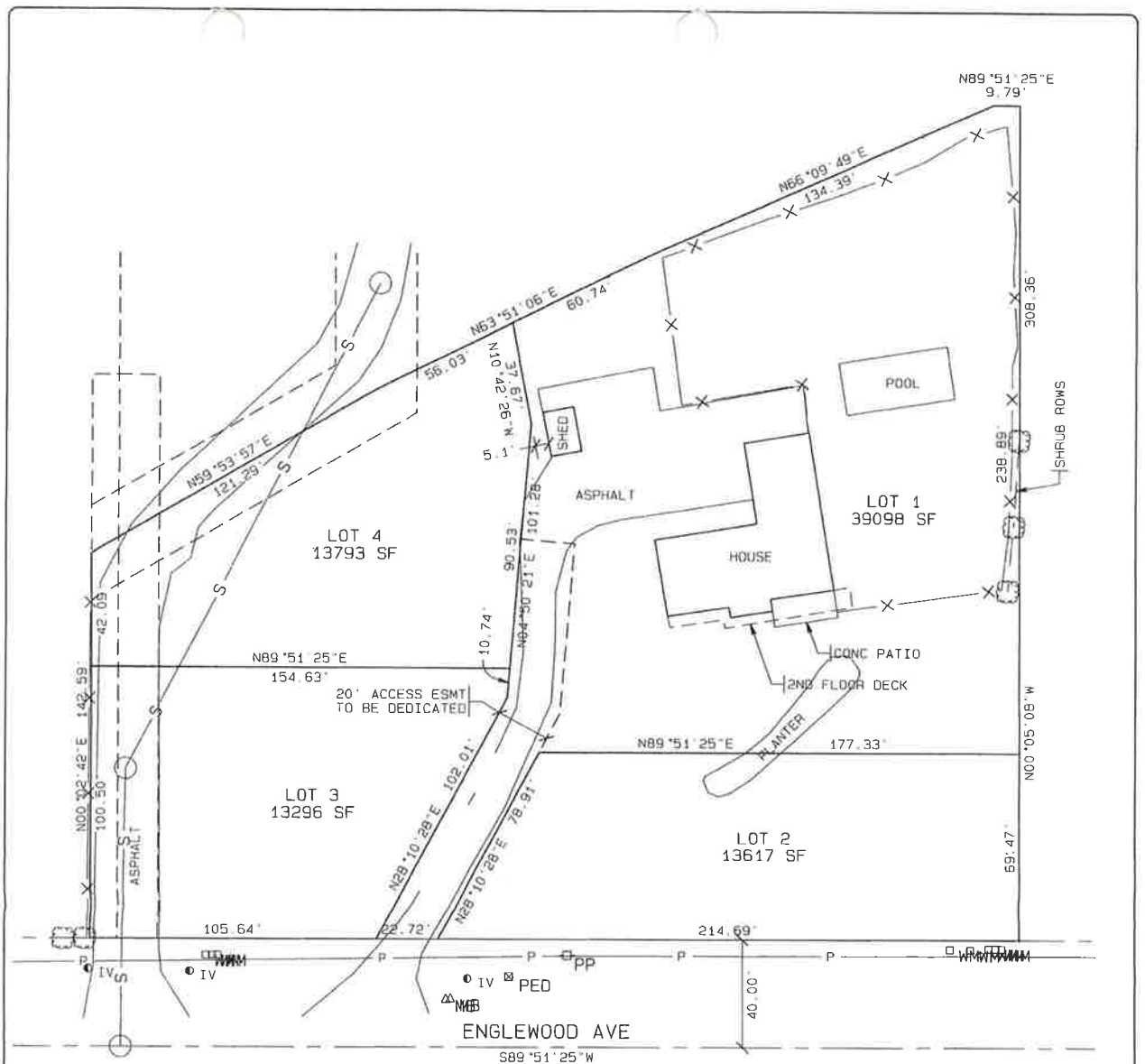
B-1

(PSP#003-22)

CHAPTER C

Site Plan

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CITY OF YAKIMA
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LEGEND

- X— DENOTES EXISTING FENCE
- S— DENOTES EXISTING SEWER
- P— DENOTES OVERHEAD POWER, TEL. & CABLE TV
- DENOTES EXISTING MANHOLE
- WM DENOTES EXISTING WATER METER
- IV DENOTES EXISTING IRRIGATION VALVE
- PP DENOTES EXISTING POWER POLE
- ⊠ PED DENOTES EXISTING PEDESTAL (AS NOTED)
- △ MB DENOTES EXISTING MAILBOX
- DENOTES EXISTING SHRUB

SITE ADDRESS
7411 ENGLEWOOD AVE



7/1/22



PRELIMINARY PLAT SITE PLAN
FOR
SONYA MAKALII

TAX PARCEL #: 181317-34422
SECTION 17, TOWNSHIP 13 NORTH, RANGE 18 EAST, W.M.

SHEET 1 OF 1 JOB # 22022 DATE JULY 1, 2022

CHANDLER SURVEYING LLC
PO BOX 2275
YAKIMA, WA 98907
509-454-8195

DOC.
INDEX
C-1

PLAT PLAN CHECKLIST

Please complete this checklist and include it with your preliminary plat. It is highly encouraged to that the preliminary plat be prepared by a registered surveyor or engineer due to the level of detail required for review. Final plats must be prepared by a registered land surveyor in the state of Washington.

<input checked="" type="checkbox"/>	The plat shall be a legible and reproducible drawing at a scale of one inch equals one hundred feet or larger of the entire contiguous tract owned by the applicant. The scale shall be noted on the plat.
<input checked="" type="checkbox"/>	Date prepared.
<input checked="" type="checkbox"/>	North arrow.
<input checked="" type="checkbox"/>	Name and address of owner(s) whose property is shown on the map.
<input checked="" type="checkbox"/>	The name, location and width of all streets and alleys abutting the property.
<input checked="" type="checkbox"/>	Tract and lot identification, lot lines, and dimensions of each lot.
<input checked="" type="checkbox"/>	Approximate location of existing improvements, buildings and permanent structures.
<input checked="" type="checkbox"/>	Lot corners and lines marking the division of the land into nine or fewer lots.
<input type="checkbox"/>	Size and location of water, sewer, and utility easements proposed to serve the lots to be created and their point of connection with existing services
<input type="checkbox"/>	If requested by the administrator, contour lines at two-foot elevation intervals for slopes less than ten percent. Elevations shall be based on city of Yakima datum if available.
<input type="checkbox"/>	Contour lines at five-foot intervals shall be required for slopes greater than ten percent. Elevations shall be based on city of Yakima datum if available

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COMMUNITY DEVELOPMENT

DOC.
INDEX

G-1

LESTER & SONYA MAKALII – APPEAL
APP#002-22
(PSP#003-22)

EXHIBIT LIST

CHAPTER D

DST Review

[illegible]



CITY OF YAKIMA PLANNING DIVISION

DST COMMENTS SUBMITTED IN SMARTGOV

Project Name: LESTER & SONYA MAKALII - APPEAL

File Number: APP#002-22

DST -
WASTEWATER DST
COMMENTS

Each lot is required to be connected to City sewer mainline with an independent side sewer connection. Proposed connections for each lot with associated easement identification, if needed, will need to be shown on the site plan for wastewater approval.

08/03/2022

dana.kallevig@yakimawa.gov

DST - SURFACE DST
WATER COMMENTS

For the plat itself there are no comments. Prior to any clearing and grading the applicant shall submit a TESC plan for review and approval and shall pass an erosion control inspection.

08/01/2022

randy.meloy@yakimawa.gov

DST - NOB HILL DST
WATER COMMENTS

OWNER/DEVELOPER WILL NEED TO CONTACT NOB HILL WATER IN ORDER TO OBTAIN A COST ESTIMATE FOR MAINLINE EXTENTION FOR THE FOUR NEW LOTS. OWNER WILL NEED TO SUBMIT SIGNED ENGINEERED PLANS TO NOB HILL WATER FOR WATER CONNECTION.

05/12/2022

kirsten.mcpherson@yakimawa.gov

DOC.
INDEX
D-5



**City of Yakima Development Services Team
Request For Comments
July 28, 2022**

To:	City of Yakima Development Services Team
From:	Joseph Calhoun, Planning Manager
Subject:	Request for Comments
Applicant:	Lester and Sonya Makalii
File Number:	PSP#003-22
Location:	7411 Englewood Ave
Parcel Number(s):	181317-34422
DST MEETING DATE:	8/2/2022

Four lot Preliminary Short Plat in the SR zoning district.

Please review the attached application and site plan and prepare any written comments you might have regarding this proposal. This project will come up for discussion at the weekly DST meeting to be held **August 2, 2022 at 2:00 p.m.** As always, should you have comments, but find you are unable to attend, please submit your comments prior to the meeting. My email address is joseph.calhoun@yakimawa.gov. Should you have any questions, or require additional information, please call me at (509) 575-6042.

**DOC.
INDEX**

D-4



COMMUNITY DEVELOPMENT DEPARTMENT

Code Administration Division

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

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

codes@yakimawa.gov • www.buildingyakima.com

July 15, 2022

Joseph Calhoun
City of Yakima Planning Division
129 N 2nd St.
Yakima, WA 98901

From: Glenn Denman, Building Official

Re: DST Comments: PSP#003-22, 7411 Englewood Ave

Due to the location of publicly available fire hydrants, an additional fire hydrant will need to be installed to serve new structures, if proposed, in accordance with Chapter 5 of the Washington State Fire Code.

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

DOC.
INDEX
D-3



DATE: May 6, 2022
TO: Trevor Martin, Senior Planner
FROM: Mike Shane, Water/Irrigation Engineer
RE: PSP#003-22— 7411 Englewood Ave. (Parcel # 18131734400) LESTER & SONYA
MAKALII

Project Description – Proposed preliminary short plat to create four lots in the SR zoning district.

Per the Yakima Municipal Code, this project requires Title 8 and Title 12 improvements, including but not limited to the following:

8.67 and 12.05 – New curb, gutter and sidewalk, including associated pavement widening and storm drainage, shall be installed along the site's frontage. Street improvements shall conform to standard detail R3. New sidewalks shall be constructed per standard detail R5

8.64 - Driveway(s) to be constructed per this chapter and standard detail R4.

8.72 - An excavation and street break permit shall be obtained for all work within the public right of way. Refer to chapter 8 for requirements. Civil engineering plans and an ENG permit will be required for new improvements.

12.02 – Easements shall be established per this chapter.

12.06 – Street and right of way widths shall conform to this section unless otherwise approved. Englewood Ave. is classified as Residential, requiring a right of way width of 50' (25' half width). Adequate right of way shall be dedicated if necessary to provide for 25' width from centerline of right of way along frontage.

YMC 14.05.200 / 14.20.130 – All frontage improvements shall be completed prior to short plat approval. At the discretion of the City Engineer, the owner may bond for required frontage improvements, or may be allowed to postpone improvements through a Covenant/Deferral Agreement. If bonding is allowed, it shall be executed and recorded prior to or as part of approval of the short plat. Civil engineering plans, which are stamped and signed by a civil engineer, are required to be submitted for review and approval for all Title 12 required improvements and prior to approval of bonding. If frontage are required at this time, they shall be completed prior to Certificate of Occupancy.

**DOC.
INDEX**

D-2



COMMUNITY DEVELOPMENT DEPARTMENT
Joan Davenport, AICP, Director

Glenn Denman, Manager
Code Administration Division
129 North Second Street, 2nd Floor Yakima, Washington 98901
Phone (509) 575-6126 • Fax (509) 576-6576 E-mail: codes@yakimawa.gov

April 21, 2022

To: City of Yakima Planning Division
From: Lisa Maxey, Permit Project Coordinator
Re: Preliminary Addressing for PSP#003-22
Four-lot short plat
7411 Englewood Ave – 181317-34422

Preliminary Addressing for this Proposal:

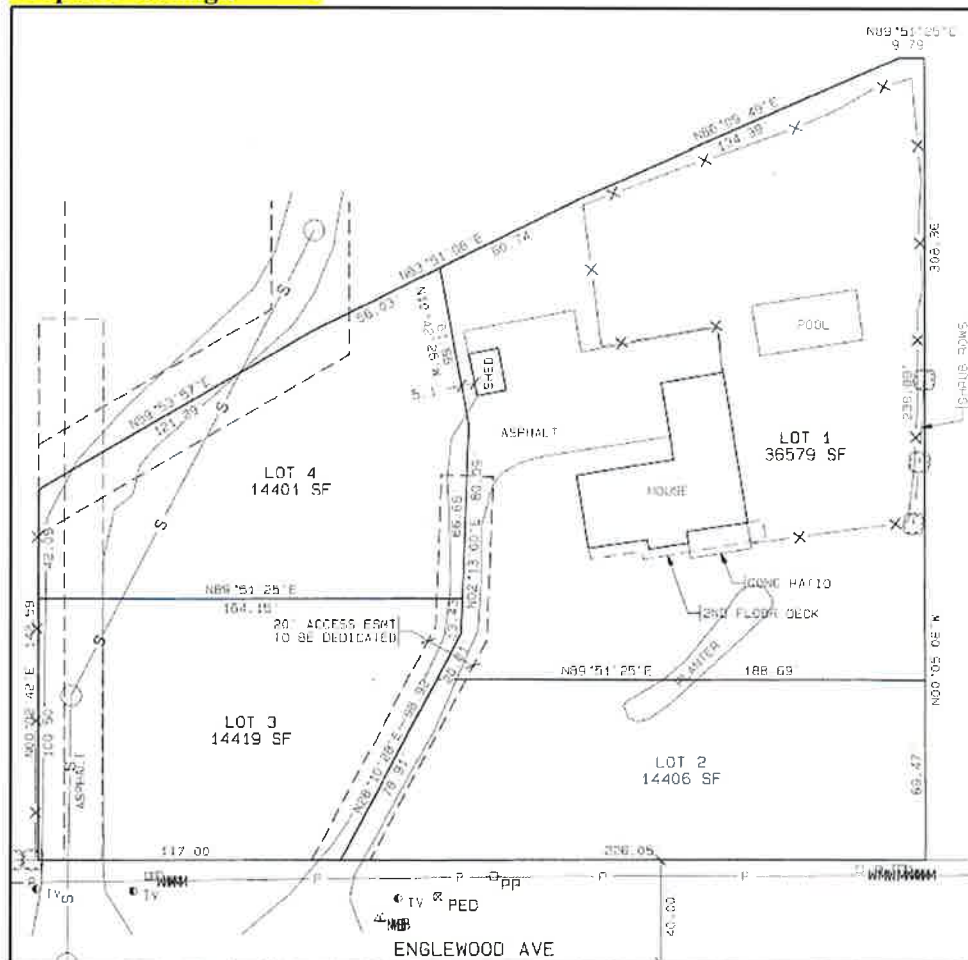
Lot 1 (existing house): 7411 Englewood Ave

Lot 3: 7415 Englewood Ave

Lot 2: 7413 Englewood Ave

Lot 4: 7417 Englewood Ave

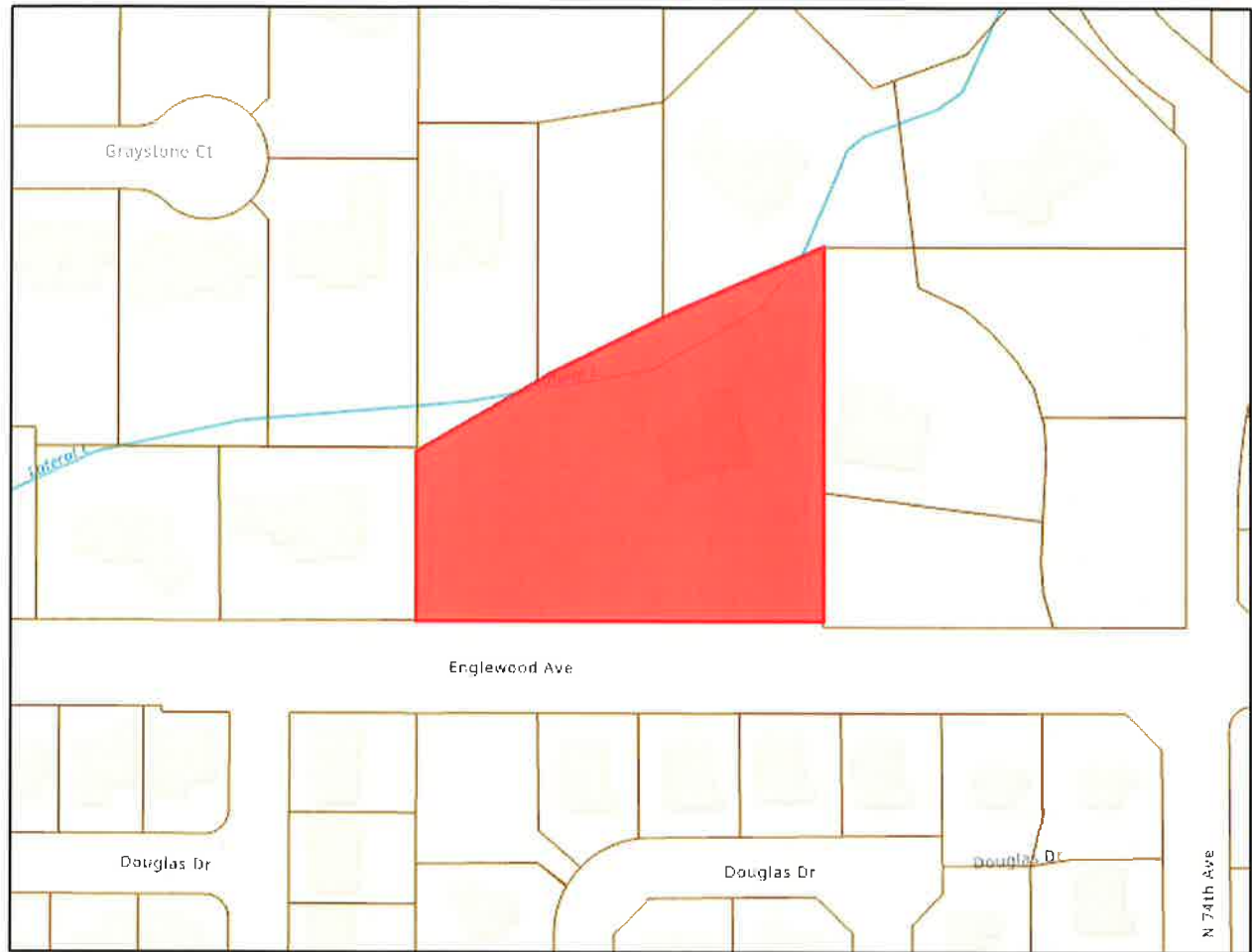
Proposed Configuration:



DOC.
INDEX

D-1

Existing Configuration:



DOC.
INDEX

D-1

(PSP#003-22)

Application

[illegible]

AUG 22 2022

☐ REC'D ☐ FAXED
☐ PAID ☐ FYI

LAND USE APPLICATION

CITY OF YAKIMA, DEPARTMENT OF COMMUNITY DEVELOPMENT

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

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

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

Answer all questions completely. If you have any questions about this form or the application process, please ask a Planner. Remember to bring all necessary attachments and the required filing fee when the application is submitted. The Planning Division cannot accept an application unless it is complete and the filing fee paid. Filing fees are not refundable. This application consists of three parts. PART I – GENERAL INFORMATION AND PART III – CERTIFICATION are on this page. PART II contains additional information specific to your appeal and MUST be attached to this page to complete the application.

PART I – GENERAL INFORMATION

1. Appellant's Information:	Name:	Gary Lofland						
	Mailing Address:	7511 Englewood Ave						
	City:	Yakima	St:	WA	Zip:	98908	Phone:	(509)930-4476
	E-Mail:	glofland@glofland.net						

Any additional appellant parties may be listed on a separate page

2. Site Address of the Proposal Being Appealed: 7411 Englewood

PART II – SUPPLEMENTAL APPLICATION (SEE ATTACHED SHEET)

PART III – CERTIFICATION

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

Appellant's Signature

8/22/22

Date

FILE/APPLICATION(S)#:

APP# 002- 22

DATE FEE PAID:

8/23/2022

RECEIVED BY:

A. Fink

AMOUNT PAID:

\$500.00

RECEIPT NO:

CR. 22 002636

AUG 22 2022



Supplemental Application For:

APPEAL

Yakima Urban Area Zoning Ordinance Chapter 15.16/Chapter 16.08

CITY OF YAKIMA
PLANNING DIV**PART II – SUPPLEMENTAL APPLICATION****1. THIS APPLICATION IS AN APPEAL OF:**

- ☒ Administrative Official's Decision
 ☐ Hearing Examiner's Decision
☐ Subdivision Administrator's Decision
 ☐ SEPA Determination
☐ Other: _____

2. FILE NUMBER(S) OF PROPOSAL BEING APPEALED: PSP 003-22**3. DESCRIPTION OF ACTION BEING APPEALED:**Request for Short Subdivision**4. REASON FOR APPEAL - Describe the specific error(s) or issues(s) upon which the appeal is based, including an explanation of why the decision is not consistent with the Yakima Urban Area Plan, The Yakima Urban Area Zoning Ordinance, or other provisions of law. (Reference the section, paragraph, and page of the provision(s) cited.) (Attach if lengthy):**

In the decision dated August 11, 2022 the Planning Division of the Yakima Department of Community Development failed to consider or address the goals and policies of the Yakima Comprehensive Plan 2040 Future Land Use Map.

Goal 2.3 provides "Residential uses. Preserve and enhance the quality, character, and function of Yakima's residential neighborhoods." Policy 2.3.2 provides "Ensure that new development is compatible in scale, style, density, and aesthetic quality to an established neighborhood."

The Planning Department ignored documents submitted that clearly demonstrated that the surrounding property (13 lots) are all half acre lots. The Planning Department failed to address how the requested subdivision, which would result in three (3) lots of approximately one-fourth (.25) of an acre, is consistent with the Goals and Policies of the Comprehensive Plan 2040.

The .25 acre lots are not compatible in scale, style, density, and aesthetic quality of the long established neighborhood. Nor does it enhance the quality and character of the residential neighborhood.


The decision of the Planning Department failed to comply with the requirements of YMC 14.15.050 and .060.

The decision of the Planning Department is incorrect and must be overturned. The request for Short Subdivision must be denied

DOC.

INDEX

E-2

	LAND USE APPLICATION		APR 13 2022	
	CITY OF YAKIMA, DEPARTMENT OF COMMUNITY DEVELOPMENT 129 NORTH SECOND STREET, 2ND FLOOR, YAKIMA, WA 98901 PHONE: (509) 575-6183 EMAIL: ask.planning@yakimawa.gov		<input type="checkbox"/> REC'D <input type="checkbox"/> PAID <input type="checkbox"/> FAXED <input type="checkbox"/> FYI	
INSTRUCTIONS – PLEASE READ FIRST Please type or print your answers clearly.				
Answer all questions completely. If you have any questions about this form or the application process, please ask a Planner. Remember to bring all necessary attachments and the required filing fee when the application is submitted. The Planning Division cannot accept an application unless it is complete and the filing fee paid. Filing fees are not refundable. This application consists of four parts. PART I - GENERAL INFORMATION AND PART IV - CERTIFICATION are on this page. PART II and III contain additional information specific to your proposal and MUST be attached to this page to complete the application.				
PART I – GENERAL INFORMATION				
1. Applicant's Information:	Name:	Same as Owner		
	Mailing Address:			
	City:	St:	Zip:	Phone: ()
	E-Mail:			
2. Applicant's Interest in Property:	Check One:	<input type="checkbox"/> Owner	<input type="checkbox"/> Agent	<input type="checkbox"/> Purchaser <input type="checkbox"/> Other
3. Property Owner's Information (If other than Applicant):	Name:	Lester K. and Sonya Makalii		
	Mailing Address:	7411 Englewood Ave		
	City:	St:	Zip:	Phone: ()
	E-Mail:			
4. Subject Property's Assessor's Parcel Number(s): 181317-34422				
5. Legal Description of Property. (if lengthy, please attach it on a separate document) Lot 1 of Short Plat 95-68				
6. Property Address: 7411 Englewood Ave, Yakima, WA 98908				
7. Property's Existing Zoning: <input checked="" type="checkbox"/> SR <input type="checkbox"/> R-1 <input type="checkbox"/> R-2 <input type="checkbox"/> R-3 <input type="checkbox"/> B-1 <input type="checkbox"/> B-2 <input type="checkbox"/> HB <input type="checkbox"/> SCC <input type="checkbox"/> LCC <input type="checkbox"/> CBD <input type="checkbox"/> GC <input type="checkbox"/> AS <input type="checkbox"/> RD <input type="checkbox"/> M-1 <input type="checkbox"/> M-2				
8. Type Of Application: (Check All That Apply) <input checked="" type="checkbox"/> Preliminary Short Plat <input type="checkbox"/> Transportation Concurrence <input type="checkbox"/> Other:				
PART II – SUPPLEMENTAL APPLICATION & PART III – REQUIRED ATTACHMENTS				
SEE ATTACHED SHEETS				
PART IV – CERTIFICATION				
I certify that the information on this application and the required attachments are true and correct to the best of my knowledge.				
Lester K. Makalii		4.13.22		
Property Owner's Signature		Date		
Sonya Makalii		4.13.22		
Applicant's Signature		Date		
FILE/APPLICATION(S)# PSP#003-22				
DATE FEE PAID:	RECEIVED BY:	AMOUNT PAID:	RECEIPT NO:	
04/13/2022	McEllinger	\$435.00	CR-22-001033	



Supplemental Application For:
PRELIMINARY SHORT PLAT
CITY OF YAKIMA, SUBDIVISION ORDINANCE, TITLE 14

PART II - APPLICATION INFORMATION

1. PROPERTY OWNERS (attach if long): List all parties and financial institutions having an interest in the property.

Lester K. Makali
Sonya Makalii

RECEIVED

APR 13 2022

CITY OF YAKIMA
COMMUNITY DEVELOPMENT

2. SURVEYOR AND/OR CONTACT PERSON WITH THEIR CONTACT INFORMATION:

Chandler Surveying LLC
PO Box 2275
Yakima, WA 98907

3. NUMBER OF LOTS AND THE RANGE OF LOT SIZES: 4 lots - 36579 sf, 14406 sf, 14419 sf, 14401 sf

4. SITE FEATURES:

A. General Description: ☐ Flat ☐ Gentle Slopes ☐ Steepened Slopes

B. Describe any indication of hazards associated with unstable soils in the area, i.e. slides or slipping?

None

C. Is the property in a 100-Year Floodplain or other critical area as mapped by any local, state, or national maps or as defined by the Washington State Growth Management Act or the Yakima Municipal Code?

5. UTILITY AND SERVICES: (Check all that are available)

☒ Electricity ☒ Telephone ☒ Natural Gas ☐ Sewer ☒ Cable TV ☒ Water No 6th fl ☒ Irrigation Yakima Trier

6. OTHER INFORMATION:

A. Distance to Closest Fire Hydrant: 350 ft

B. Distance to Nearest School (and name of school): 1.5 miles (Summitview Elementary)

C. Distance to Nearest Park (and name of park): 1.3 miles (Gaillean Park Harman Center)

D. Method of Handling Stormwater Drainage:

E. Type of Potential Uses: (check all that apply)

☒ Single-Family Dwellings ☐ Two-Family Dwellings ☐ Multi-Family Dwellings ☐ Commercial ☐ Industrial

PART III - REQUIRED ATTACHMENTS

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

2. PRELIMINARY PLAT REQUIRED (please use the attached City of Yakima Preliminary Plat Checklist)

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

Lester K. Makali
Property Owner Signature (required)

April 13 2022
Date

LESTER & SONYA MAKALII – APPEAL
APP#002-22
(PSP#003-22)

EXHIBIT LIST

CHAPTER F
Public Notices

DOC INDEX #	DOCUMENT	DATE
F-1	Notice of Complete Application	07/05/2022
F-2	Notice of Application F-2a: Press Release & Distribution Email F-2b: Parties and Agencies Notified F-2c: Affidavit of Mailing	07/06/2022
F-3	Notice of Decision F-3a: Press Release & Distribution Email F-3b: Parties and Agencies Notified F-3c: Affidavit of Mailing	08/11/2022
F-4	Land Use Installation Certificate	09/12/2022
F-5	Notice of Appeal & Public Hearing F-5a: Legal Ad F-5b: Press Release and Distribution Email F-5c: Parties and Agencies Notified F-5d: Affidavit of Mailing	09/14/2022
F-6	HE Packet and Agenda Distribution List	10/06/2022
F-7	HE Agenda & Sign-In Sheet	10/13/2022
F-8	Notice of Hearing Examiner's Decision (See DOC Index# BB-1 for HE Decision) F-8a: Parties and Agencies Notified F-8b: Affidavit of Mailing	11/09/2022
F-9	Notice of Appeal of Hearing Examiners Decision F-9a: Parties and Agencies Notified F-9b: Affidavit of Mailing	12/30/2022
F-10	Notice of Appeal of Hearing Examiners Decision Extension to File Written Memorandum F-10a: Parties and Agencies Notified F-10b: Affidavit of Mailing	02/10/2023

AFFIDAVIT OF MAILING

STATE OF WASHINGTON

CITY OF YAKIMA

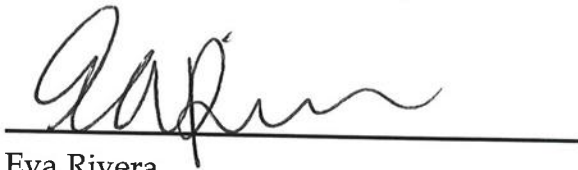
RE: APP#004-22

LESTER & SONYA MAKALII/ LOFLAND - CC APPEAL

7411 ENGLEWOOD AVE

I, Eva Rivera, as an employee of the City of Yakima, Planning Division, have dispatched through the United States Mails, a **Notice of Appeal of the Hearing Examiner's Decision Extension to File Written Memorandum**; a true and correct copy of which is enclosed herewith; that said notice was addressed to the appellant and all parties of record, and that said notices were mailed by me on this 10th day of February, 2023.

That I mailed said notices in the manner herein set forth and that all of the statements made herein are just and true.



Eva Rivera

Planning Technician

DOC.
INDEX
F-106

18132021494
COLUMBIA RIDGE HOMES LLC
404 S 51ST AVE
YAKIMA, WA 98908

18131734407
ALFONSO M & STELLA L PINEDA
12431 W SUNLAND AVE
AVONDALE, AZ 85323

18131733428
BRIAN & MARY MCGUIRE
7700 GRAYSTONE CT
YAKIMA, WA 98908

18132021496
ERICKSON & HEIDI SMITH
7403 W DOUGLAS DR
YAKIMA, WA 98908

18131734421
GARY E & MARCIA A LOFLAND
7511 ENGLEWOOD AVE
YAKIMA, WA 98908

18132021502
HALEY RAE FARLEY
504 N 76TH AVE
YAKIMA, WA 98908

18132022503
KAREEN CROFTON
513 N 77TH AVE
YAKIMA, WA 98908

18132022461
LARRY & BONNIE OSBURN
7701 DOUGLAS DR
YAKIMA, WA 98908

18132021517
LISA M & JESUS SILVA
505 N 75TH AVE
YAKIMA, WA 98908

18131734409
MARTHA A SALAZAR FLORES
PO BOX 11432
YAKIMA, WA 98909

18131733413
THE KEVIN AND BARBARA KELLY 2017
TRUST
7707 ENGLEWOOD AVE
YAKIMA, WA 98908

18131734410
ALFONSO M & STELLA L PINEDA
12431 W SUNLAND AVE
AVONDALE, AZ 85323

18131734415
DANIEL R & CYNTHIA D PETERSON
7509 ENGLEWOOD AVE
YAKIMA, WA 98908

18131733412
FRANK C & TINA R TORRES
7705 ENGLEWOOD AVE
YAKIMA, WA 98908

18131734404
GENE C & GERI L WEBER
7407 ENGLEWOOD AVE
YAKIMA, WA 98908

18131733426
JAMES D & KRISTIN WILLIAMS
7600 GRAYSTONE CT
YAKIMA, WA 98908

18131733425
KIMBERLY BANNISTER LAWLER
7601 GRAYSTONE CT
YAKIMA, WA 98908

18131734422
LESTER K & SONYA MAKALII
7411 ENGLEWOOD AVE
YAKIMA, WA 98908

18131734414
MARGARET S FOUSHA
7505 ENGLEWOOD AVE
YAKIMA, WA 98908

18131733427
MATTHEW D & DANELLE R CLARK
7604 GRAYSTONE CT
YAKIMA, WA 98908

18131734408
THE MASHNI FAMILY REVOCABLE
LIVING TRUST
8567 GREYLAG WAY
ELK GROVE, CA 95757

18132021518
AUSTIN & MORGAN BENSON
504 N 75TH AVE
YAKIMA, WA 98908

18132022504
DANIEL W PURKEY
515 N 77TH AVE
YAKIMA, WA 98908

18131734418
GARY E LOFLAND
7511 ENGLEWOOD AVE
YAKIMA, WA 98908

18131734443
GEORGE F & MAVIS R VELIKANJE
7405 ENGLEWOOD AVE
YAKIMA, WA 98908

18132022502
JOHN MICHAEL HERNANDEZ
511 N 77TH AVE
YAKIMA, WA 98908

18132022488
KURTIS WILES
7700 DOUGLAS DR
YAKIMA, WA 98908

18132021525
LETICIA RODRIGUEZ
505 N 76TH AVE
YAKIMA, WA 98908

18132021501
MARIA QUIROZ
7601 W DOUGLAS DR
YAKIMA, WA 98908

18132021499
MEGAN P BENNETT
7505 W DOUGLAS DR
YAKIMA, WA 98908

DOC.
INDEX

F-10a

18132022462
MICHAEL A & ESTHER L SEIDL
7703 DOUGLAS DR
YAKIMA, WA 98908

18132021498
NIKHIL LIZOTTE
7503 W DOUGLAS DR
YAKIMA, WA 98908

18132021497
PAUL & HEATHER BROWN
7501 W DOUGLAS DR
YAKIMA, WA 98908

18131734403
RACHAEL I MINER
7507 ENGLEWOOD AVE
YAKIMA, WA 98908

18132021500
SHANE B & LINDA R SMITH
7507 DOUGLAS DR
YAKIMA, WA 98908

18132021503
STEVEN G & JANE E HOWARD
502 N 76TH AVE
YAKIMA, WA 98908

18132021495
TESIA DAWN & CODY NEAL BROWN
7401 W DOUGLAS DR
YAKIMA, WA 98908

276
Total Parcels - LESTER & SONYA
MAKALII-APPEAL - APP#004-22

DOC.
INDEX
F-10a

In-House Distribution E-mail List		Revised 10/26/2022
Name	Division	E-mail Address
Jaime Vera	Air Terminal	Jaime.Vera@yakimawa.gov
Silvia Corona	Clerk's Office	Silvia.Corona@yakimawa.gov
Lisa Maxey	Code Administration	Lisa.Maxey@yakimawa.gov
Glenn Denman	Code Administration	Glenn.Denman@yakimawa.gov
John Zabell	Code Administration	John.Zabell@yakimawa.gov
Pedro Contreras	Code Administration	Pedro.Contreras@yakimawa.gov
Suzanne DeBusschere	Code Administration	Suzanne.Debusschere@yakimawa.gov
Tony Doan	Code Administration	Tony.Doan@yakimawa.gov
Joan Davenport	Community Development	Joan.Davenport@yakimawa.gov
Rosalinda Ibarra	Community Development	Rosalinda.Ibarra@yakimawa.gov
Bill Preston	Engineering	Bill.preston@yakimawa.gov
Kirsten McPherson	Engineering	Kirsten.McPherson@yakimawa.gov
Dan Riddle	Engineering	Dan.Riddle@yakimawa.gov
Aaron Markham	Fire	Aaron.markham@yakimawa.gov
Jeremy Rodriguez	Fire	Jeremy.Rodriguez@yakimawa.gov
Sara Watkins	Legal	Sara.Watkins@yakimawa.gov
Joseph Calhoun	Planning	Joseph.Calhoun@yakimawa.gov
Eva Rivera	Planning	Eva.rivera@yakimawa.gov
Matt Murray	Police	Matthew.murray@yakimawa.gov
Scott Schafer	Public Works	Scott.Schafer@yakimawa.gov
Leovardo Cruz	Refuse	Leovardo.Cruz@yakimawa.gov
Randy Layman	Refuse	Randy.Layman@yakimawa.gov
Gregory Story	Transit	Gregory.Story@yakimawa.gov
James Dean	Utilities	James.Dean@yakimawa.gov
Dana Kallevig	Wastewater	Dana.Kallevig@yakimawa.gov
Randy Meloy	Wastewater	Randy.Meloy@yakimawa.gov
Dave Brown	Water/Irrigation	David.Brown@yakimawa.gov
Mike Shane	Water/Irrigation	Mike.Shane@yakimawa.gov

Outside Distribution		
Name	Address	Notified?
<i>(Subdivision notices ONLY)</i> Pacific Power Attn: Estimating Department	500 N Keys Rd, Yakima, WA 98901	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<i>(Projects Adjacent to BNSF Right of Way ONLY)</i> Central Washington Railroad	111 University Parkway, Suite 200 Yakima, WA 98901 (509) 453-9166 Tim Marshall, General Manager, tmarshall@cbr.com Kim Yeager, Real Estate Manager, kyeager@ihdlc.com	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> E-mail
<i>(Shoreline notices ONLY)</i> Department of Ecology	crosepa@ecy.wa.gov	<input type="checkbox"/> E-mail

Additional Parties of Record or Interested Parties Notified		
Name	Address	E-mail
Gary Lofland	glofland@glofland.net	
Marcia Lofland		glofland2@charter.net
Sonya Makalii		sonyamakalii@gmail.com

Type of Notice: NAC of HE Appeal - Ext.
File Number(s): App# 004.22
Date of Mailing: 02/10/2023

DOC.
INDEX
F-10a

Rivera, Eva

From: Rivera, Eva
Sent: Friday, February 10, 2023 11:29 AM
To: Bradburn, Trace; Brown, David; Calhoun, Joseph; Contreras, Pedro; Corona, Silvia; Cruz, Leovardo; Davenport, Joan; Dean, James; DeBusschere, Suzanne; Denman, Glenn; Doan, Tony; Ibarra, Rosalinda; Kallevig, Dana; Layman, Randy; Markham, Aaron; Maxey, Lisa; McPherson, Kirsten; Meloy, Randy; Murray, Matthew; Preston, Bill; Riddle, Dan; Rivera, Eva; Rodriguez, Jeremy; Schafer, Scott; Shane, Mike; Story, Gregory; Vera, Jaime; Watkins, Sara; Zabell, John
Cc: 'glofland@glofland.net'; 'glofland2@charter.net'; 'sonyamakalii@gmail.com'
Subject: NTC OF APPEAL OF HE DECISION EXTENSION - LESTER & SONYA MAKALII/ LOFLAND - APP#004-22
Attachments: NTC OF APPEAL-EXTENSION_APP#004-22.pdf

Good morning,

Attached you will find a Notice of Appeal Extension for the above-mentioned project. If you have any questions about the project please contact the assigned planner, Joseph Calhoun at joseph.calhoun@yakimawa.gov.

Thank you!



Eva Rivera
Planning Technician
Phone: 509-575-6261
Email: eva.rivera@yakimawa.gov

This email is a public record of the City of Yakima and is subject to public disclosure unless exempt under the Washington Public Records Act. This email is subject to the State Retention Schedule.

DOC.
INDEX

F-10a



DEPARTMENT OF COMMUNITY DEVELOPMENT

Joan Davenport, AICP, Director

Planning Division

Joseph Calhoun, Manager

129 North Second Street, 2nd Floor, Yakima, WA 98901

ask.planning@yakimawa.gov · www.yakimawa.gov/services/planning

NOTIFICATION OF APPEAL - HEARING EXAMINER'S DECISION

Extension to File Written Memorandum

February 10, 2023

City File APP#004-22

This notice is being provided to extend the period for submission of written memorandum to March 10, 2023 for the Hearing Examiner's Decision on APP#002-22/PSP#003-22. A request from the appellant to extend the time period was submitted on January 23, 2023 and approved by City Council on February 7, 2023. Copies of the Notice of Appeal and any written argument or memorandum of authorities accompanying the Notice of Appeal may be obtained from the Planning Division.

In accordance with YMC 16.08.025(B)(2) "**All parties named in the appeal of the hearing examiner's decision wishing to respond to the appeal may submit a written argument or memorandum to the legislative body within thirty days from the date that the notice is mailed, and any written argument or memorandum shall not include the presentation of new evidence and shall be based only upon the facts presented to the examiner.**" Parties named in the appeal may also submit rebuttal documents pursuant to the schedule outlined below. For the full text of the appeal procedures, please see YMC 16.08.025 and YMC 16.08.030. Please submit written argument or memorandum of authority to:

**Joan Davenport, AICP, Community Development Director
City of Yakima, Department of Community Development
129 N. 2nd St.
Yakima, WA 98901**

Upon completion of the extended submittal period for submission of any written argument or memorandum, the appellant at their expense may obtain copies of any such submissions, and shall be provided a fifteen-day rebuttal period, starting on the thirty-first day from the date of mailing. *Please be certain to reference the file number or appellant's name in your correspondence. (APP#004-22, Gary Lofland)*

Public Notice Hearing on Appeal: Subsequent to the submission and rebuttal periods discussed above and outlined below, the record will be transferred to the Legislative Body. A separate notice to identify the date and time of the City Council's public hearing to consider the appeal will be sent to the appellant and parties of record.

For further information or assistance, you may contact Joseph Calhoun, Planning Manager, at (509) 575-6042, or email joseph.calhoun@yakimawa.gov

Applicable Dates:

Date of Mailing: February 10, 2023

Extended submittal period for written argument or memorandum ends: March 10, 2023 at 5:00 pm

15 day rebuttal period begins: March 11, 2023

15 day rebuttal period ends: March 27, 2023 at 5:00 pm

Enclosures: Notice of Appeal

**DOC.
INDEX**

F-10



DEPARTAMENTO DE DESARROLLO COMUNITARIO

Joan Davenport, AICP, Directora

Division de Planificación

Joseph Calhoun, Gerente

129 Norte Calle 2ª, 2º Piso, Yakima, WA 98901

ask.planning@yakimawa.gov · www.yakimawa.gov/services/planning

**AVISO DE APELACIÓN
DE LA DECISIÓN DEL EXAMINADOR DE AUDIENCIAS
Prórroga para Presentar el Memorando Escrito
10 de febrero, 2023
No. de Archivo: APP#004-22**

Este aviso se proporciona para extender el periodo para la presentación del memorando por escrito hasta el 10 de marzo, 2023 por la decisión del examinador de audiencias sobre APP#002-22/PSP#003-22. El 23 de enero, 2023 se presentó una solicitud del apelante para extender el periodo de tiempo y fue aprobado por el Concejo Municipal el 7 de febrero, 2023. Se puede obtener copias del Aviso de Apelación y cualquier argumento escrito o memorando de autoridad que acompañe al Aviso de Apelación en la División de Planificación.

De acuerdo al Código Municipal YMC § 16.08.025(B)(2), ***“Todas las personas nombradas en la apelación de la decisión del examinador de audiencias que deseen responder a la apelación pueden presentar un argumento o memorando por escrito al cuerpo legislativo dentro de los treinta días a partir de la fecha de envío de la notificación de apelación; y cualquier argumento o memorando escrito no incluirá la presentación de nuevas pruebas y se basará solo en los hechos presentados al examinador.”*** Las partes nombradas en la apelación también pueden presentar documentos de refutación de conformidad con el cronograma que se describe a continuación. Para obtener el texto completo de los procedimientos de apelación, consulte YMC 16.08.025 y YMC 16.08.030. Envíe un argumento por escrito o un memorando de autoridad a:

**Joan Davenport, AICP, Directora de Desarrollo Comunitario
City of Yakima, Departamento de Desarrollo Comunitario
129 N. 2nd St.
Yakima, WA 98901**

Una vez completado el periodo de treinta días para la presentación de cualquier argumento o memorando escrito, el apelante por cuenta propia puede obtener copias de tales presentaciones, y se le proporcionará un periodo de refutación de quince días, a partir del trigésimo primer día de la fecha de envío del aviso de la apelación. *Asegúrese de mencionar el número de expediente o el nombre del apelante en su correspondencia. (APP#004-22, Gary Lofland)*

Aviso de Reunión Pública sobre la Apelación:

Después de los periodos de presentación y refutación mencionados anteriormente y descritos a continuación, el archivo será transferido al Cuerpo Legislativo. Se enviará un aviso por separado para informar la fecha y hora de la reunión pública del Concejo de la Ciudad para considerar la apelación al apelante y todas las personas registradas.

Para más información o asistencia puede contactar a la Oficina de Planificación al (509) 575-6183 o por correo electrónico al: ask.planning@yakimawa.gov.

Fechas Aplicables

Fecha de Envío: 10 de febrero, 2023

Periodo de treinta (30) días para presentar argumento escrito o memorando termina: 10 de marzo, 2023 a las 5:00 p.m.

DOC.
INDEX

F-10

Periodo de quince (15) días de refutación comienza: 11 de marzo 2023

Periodo de quince (15) días de refutación termina: 27 de marzo, 2023 a las 5:00 p.m.

Adjuntos: Aplicación de Apelación

**DOC.
INDEX**

F10

AFFIDAVIT OF MAILING

STATE OF WASHINGTON

CITY OF YAKIMA

RE: APP#004-22

LESTER & SONYA MAKALII/ LOFLAND - CC APPEAL

7411 ENGLEWOOD AVE

I, Eva Rivera, as an employee of the City of Yakima, Planning Division, have dispatched through the United States Mails, a **Notice of Appeal of the Hearing Examiner's Decision**; a true and correct copy of which is enclosed herewith; that said notice was addressed to the appellant and all parties of record, and that said notices were mailed by me on this 30th day of December, 2022.

That I mailed said notices in the manner herein set forth and that all of the statements made herein are just and true.



Eva Rivera

Planning Technician

DOC.

INDEX

F-9b

18132021494
COLUMBIA RIDGE HOMES LLC
404 S 51ST AVE
YAKIMA, WA 98908

18131734407
ALFONSO M & STELLA L PINEDA
12431 W SUNLAND AVE
AVONDALE, AZ 85323

18131733428
BRIAN & MARY MCGUIRE
7700 GRAYSTONE CT
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ERICKSON & HEIDI SMITH
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7701 DOUGLAS DR
YAKIMA, WA 98908

18132021517
LISA M & JESUS SILVA
505 N 75TH AVE
YAKIMA, WA 98908

18131734409
MARTHA A SALAZAR FLORES
PO BOX 11432
YAKIMA, WA 98909

18131733413
THE KEVIN AND BARBARA KELLY 2017
TRUST
7707 ENGLEWOOD AVE
YAKIMA, WA 98908

18131734410
ALFONSO M & STELLA L PINEDA
12431 W SUNLAND AVE
AVONDALE, AZ 85323

18131734415
DANIEL R & CYNTHIA D PETERSON
7509 ENGLEWOOD AVE
YAKIMA, WA 98908

18131733412
FRANK C & TINA R TORRES
7705 ENGLEWOOD AVE
YAKIMA, WA 98908

18131734404
GENE C & GERI L WEBER
7407 ENGLEWOOD AVE
YAKIMA, WA 98908

18131733426
JAMES D & KRISTIN WILLIAMS
7600 GRAYSTONE CT
YAKIMA, WA 98908

18131733425
KIMBERLY BANNISTER LAWLER
7601 GRAYSTONE CT
YAKIMA, WA 98908

18131734422
LESTER K & SONYA MAKALII
7411 ENGLEWOOD AVE
YAKIMA, WA 98908

18131734414
MARGARET S FOUSHA
7505 ENGLEWOOD AVE
YAKIMA, WA 98908

18131733427
MATTHEW D & DANELLE R CLARK
7604 GRAYSTONE CT
YAKIMA, WA 98908

18131734408
THE MASHNI FAMILY REVOCABLE
LIVING TRUST
8567 GREYLAG WAY
ELK GROVE, CA 95757

18132021518
AUSTIN & MORGAN BENSON
504 N 75TH AVE
YAKIMA, WA 98908

18132022504
DANIEL W PURKEY
515 N 77TH AVE
YAKIMA, WA 98908

18131734418
GARY E LOFLAND
7511 ENGLEWOOD AVE
YAKIMA, WA 98908

18131734443
GEORGE F & MAVIS R VELIKANJE
7405 ENGLEWOOD AVE
YAKIMA, WA 98908

18132022502
JOHN MICHAEL HERNANDEZ
511 N 77TH AVE
YAKIMA, WA 98908

18132022488
KURTIS WILES
7700 DOUGLAS DR
YAKIMA, WA 98908

18132021525
LETICIA RODRIGUEZ
505 N 76TH AVE
YAKIMA, WA 98908

18132021501
MARIA QUIROZ
7601 W DOUGLAS DR
YAKIMA, WA 98908

18132021499
MEGAN P BENNETT
7505 W DOUGLAS DR
YAKIMA, WA 98908

DOC.
INDEX

#

Fga

18132022462
MICHAEL A & ESTHER L SEIDL
7703 DOUGLAS DR
YAKIMA, WA 98908

18132021498
NIKHIL LIZOTTE
7503 W DOUGLAS DR
YAKIMA, WA 98908

18132021497
PAUL & HEATHER BROWN
7501 W DOUGLAS DR
YAKIMA, WA 98908

18131734403
RACHAEL I MINER
7507 ENGLEWOOD AVE
YAKIMA, WA 98908

18132021500
SHANE B & LINDA R SMITH
7507 DOUGLAS DR
YAKIMA, WA 98908

18132021503
STEVEN G & JANE E HOWARD
502 N 76TH AVE
YAKIMA, WA 98908

18132021495
TESIA DAWN & CODY NEAL BROWN
7401 W DOUGLAS DR
YAKIMA, WA 98908

37
Total Parcels - LESTER & SONYA
MAKALII-APPEAL - APP#004-22

DOC.
INDEX
19a

In-House Distribution E-mail List		Revised 10/26/2022
Name	Division	E-mail Address
Jaime Vera	Air Terminal	Jaime.Vera@yakimawa.gov
Silvia Corona	Clerk's Office	Silvia.Corona@yakimawa.gov
Lisa Maxey	Code Administration	Lisa.Maxey@yakimawa.gov
Glenn Denman	Code Administration	Glenn.Denman@yakimawa.gov
John Zabell	Code Administration	John.Zabell@yakimawa.gov
Pedro Contreras	Code Administration	Pedro.Contreras@yakimawa.gov
Suzanne DeBusschere	Code Administration	Suzanne.Debusschere@yakimawa.gov
Tony Doan	Code Administration	Tony.Doan@yakimawa.gov
Joan Davenport	Community Development	Joan.Davenport@yakimawa.gov
Rosalinda Ibarra	Community Development	Rosalinda.Ibarra@yakimawa.gov
Bill Preston	Engineering	Bill.preston@yakimawa.gov
Kirsten McPherson	Engineering	Kirsten.McPherson@yakimawa.gov
Dan Riddle	Engineering	Dan.Riddle@yakimawa.gov
Aaron Markham	Fire	Aaron.markham@yakimawa.gov
Jeremy Rodriguez	Fire	Jeremy.Rodriguez@yakimawa.gov
Sara Watkins	Legal	Sara.Watkins@yakimawa.gov
Joseph Calhoun	Planning	Joseph.Calhoun@yakimawa.gov
Eva Rivera	Planning	Eva.rivera@yakimawa.gov
Matt Murray	Police	Matthew.murray@yakimawa.gov
Scott Schafer	Public Works	Scott.Schafer@yakimawa.gov
Leovardo Cruz	Refuse	Leovardo.Cruz@yakimawa.gov
Randy Layman	Refuse	Randy.Layman@yakimawa.gov
Gregory Story	Transit	Gregory.Story@yakimawa.gov
James Dean	Utilities	James.Dean@yakimawa.gov
Dana Kallevig	Wastewater	Dana.Kallevig@yakimawa.gov
Randy Meloy	Wastewater	Randy.Meloy@yakimawa.gov
Dave Brown	Water/Irrigation	David.Brown@yakimawa.gov
Mike Shane	Water/Irrigation	Mike.Shane@yakimawa.gov

Outside Distribution		
Name	Address	Notified?
<i>(Subdivision notices ONLY)</i> Pacific Power Attn: Estimating Department	500 N Keys Rd, Yakima, WA 98901	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<i>(Projects Adjacent to BNSF Right of Way ONLY)</i> Central Washington Railroad	111 University Parkway, Suite 200 Yakima, WA 98901 (509) 453-9166 Tim Marshall, General Manager, tmarshall@cbr.com Kim Yeager, Real Estate Manager, kyeager@ihdlc.com	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> E-mail
<i>(Shoreline notices ONLY)</i> Department of Ecology	crosepa@ecy.wa.gov	<input type="checkbox"/> E-mail

Additional Parties of Record or Interested Parties Notified		
Name	Address	E-mail
Eary Lofland	glotland@glotland.net →	
Marcia Lofland		glotland2@charter.net
Sonya Makalii		Sonyamakalii@gmail.com

Type of Notice: Ntc of Appeal of HE Dec.
File Number(s): APP#004.22
Date of Mailing: 12/30/2022

DOC.
INDEX
F-9a

Rivera, Eva

From: Rivera, Eva
Sent: Friday, December 30, 2022 10:29 AM
To: Brown, David; Calhoun, Joseph; Contreras, Pedro; Corona, Silvia; Cruz, Leovardo; Davenport, Joan; Dean, James; DeBusschere, Suzanne; Denman, Glenn; Doan, Tony; Ibarra, Rosalinda; Kallevig, Dana; Layman, Randy; Markham, Aaron; Maxey, Lisa; McPherson, Kirsten; Meloy, Randy; Murray, Matthew; Preston, Bill; Riddle, Dan; Rivera, Eva; Rodriguez, Jeremy; Schafer, Scott; Shane, Mike; Story, Gregory; Vera, Jaime; Watkins, Sara; Zabell, John
Cc: Calhoun, Joseph; 'glofland@glofland.net'; 'glofland2@charter.net'; 'sonyamakalii@gmail.com'
Subject: NTC OF APPEAL OF HE DECISION - LESTER & SONYA MAKALII/ LOFLAND - APP#004-22
Attachments: NTC OF APPEAL OF HE DEC_APP#004-22.pdf

Good morning,

Attached you will find a Notice of Appeal for the above-mentioned project. If you have any questions about the project please contact the assigned planner, Joseph Calhoun at joseph.calhoun@yakimawa.gov.

Thank you!



Eva Rivera
Planning Technician
Phone: 509-575-6261
Email: eva.rivera@yakimawa.gov

This email is a public record of the City of Yakima and is subject to public disclosure unless exempt under the Washington Public Records Act. This email is subject to the State Retention Schedule.



DEPARTMENT OF COMMUNITY DEVELOPMENT

Joan Davenport, AICP, Director

Planning Division

Joseph Calhoun, Manager

129 North Second Street, 2nd Floor, Yakima, WA 98901

ask.planning@yakimawa.gov · www.yakimawa.gov/services/planning

**NOTIFICATION OF APPEAL
HEARING EXAMINER'S DECISION**

December 30, 2022

City File APP#004-22

This notice is being provided to parties of record and the appellant that a timely appeal was filed by Gary Lofland on November 23, 2022 for the Hearing Examiner's Decision on APP#002-22/PSP#003-22. Copies of the Notice of Appeal and any written argument or memorandum of authorities accompanying the Notice of Appeal may be obtained from the Planning Division.

In accordance with YMC 16.08.025(B)(2) "**All parties named in the appeal of the hearing examiner's decision wishing to respond to the appeal may submit a written argument or memorandum to the legislative body within thirty days from the date that the notice is mailed, and any written argument or memorandum shall not include the presentation of new evidence and shall be based only upon the facts presented to the examiner.**" Parties named in the appeal may also submit rebuttal documents pursuant to the schedule outlined below. For the full text of the appeal procedures, please see YMC 16.08.025 and YMC 16.08.030. Please submit written argument or memorandum of authority to:

**Joan Davenport, AICP, Community Development Director
City of Yakima, Department of Community Development
129 N. 2nd St.
Yakima, WA 98901**

Upon completion of the thirty-day submittal period for submission of any written argument or memorandum, the appellant at their expense may obtain copies of any such submissions, and shall be provided a fifteen-day rebuttal period, starting on the thirty-first day from the date of mailing. *Please be certain to reference the file number or appellant's name in your correspondence. (APP#004-22, Gary Lofland)*

Public Notice Hearing on Appeal: Subsequent to the submission and rebuttal periods discussed above and outlined below, the record will be transferred to the Legislative Body. A separate notice to identify the date and time of the City Council's public hearing to consider the appeal will be sent to the appellant and parties of record.

For further information or assistance, you may contact Joseph Calhoun, Planning Manager, at (509) 575-6042, or email joseph.calhoun@yakimawa.gov

Applicable Dates:

Date of Mailing: December 30, 2022

30 day submittal for written argument or memorandum ends: January 30, 2023 at 5:00 pm

15 day rebuttal period begins: January 31, 2023

15 day rebuttal period ends: February 14, 2023 at 5:00 pm

Enclosures: Notice of Appeal

DOC.

INDEX

F-9



DEPARTAMENTO DE DESARROLLO COMUNITARIO

Joan Davenport, AICP, Directora

Division de Planificación

Joseph Calhoun, Gerente

129 Norte Calle 2ª, 2º Piso, Yakima, WA 98901

ask.planning@yakimawa.gov · www.yakimawa.gov/services/planning

**AVISO DE APELACIÓN
DE LA DECISIÓN DEL EXAMINADOR DE AUDIENCIAS**

30 de diciembre, 2022

No. de Archivo: APP#004-22

Esta notificación se proporciona al apelante, el solicitante, y personas registradas para avisarles que Gary Lofland, presento una apelación oportuna el día 23 de noviembre 2022 sobre la decisión del Examinador de Audiencias del archivo APP#002-22/PSP#003-22. Se pueden obtener copias del Aviso de Apelación y cualquier argumento escrito o memorando de autoridades que acompañe el aviso en las oficinas de la Division de Planificación.

De acuerdo al Código Municipal YMC § 16.08.025(B)(2), ***“Todas las personas nombradas en la apelación de la decisión del examinador de audiencias que deseen responder a la apelación pueden presentar un argumento o memorando por escrito al cuerpo legislativo dentro de los treinta días a partir de la fecha de envió de la notificación de apelación; y cualquier argumento o memorando escrito no incluirá la presentación de nuevas pruebas y se basara solo en los hechos presentados al examinador.”*** Las partes nombradas en la apelación también pueden presentar documentos de refutación de conformidad con el cronograma que se describe a continuación. Para obtener el texto completo de los procedimientos de apelación, consulte YMC 16.08.025 y YMC 16.08.030. Envíe un argumento por escrito o un memorando de autoridad a:

**Joan Davenport, AICP, Directora de Desarrollo Comunitario
City of Yakima, Departamento de Desarrollo Comunitario
129 N. 2nd St.
Yakima, WA 98901**

Una vez completado el periodo de treinta días para la presentación de cualquier argumento o memorando escrito, el apelante por cuenta propia puede obtener copias de tales presentaciones, y se le proporcionara un periodo de refutación de quince días, a partir del trigésimo primer día de la fecha de envió del aviso de la apelación. *Asegúrese de mencionar el número de expediente o el nombre del apelante en su correspondencia. (APP#004-22, Gary Lofland)*

Aviso de Reunión Publica sobre la Apelación:

Después de los periodos de presentación y refutación mencionados anteriormente y descritos a continuación, el archivo será transferido al Cuerpo Legislativo. Se enviara un aviso por separado para informar la fecha y hora de la reunión pública del Concejo de la Ciudad para considerar la apelación al apelante y todas las personas registradas.

Para más información o asistencia puede contactar a la Oficina de Planificación al (509) 575-6183 o por correo electrónico al: ask.planning@yakimawa.gov.

DOC.
INDEX

#

1-9

Fechas Aplicables

Fecha de Envío: 30 de diciembre 2022

Periodo de treinta (30) días para presentar argumento escrito o memorando termina: 30 de enero 2023 a las 5:00 p.m.

Periodo de quince (15) días de refutación comienza: 31 de enero 2023

Periodo de quince (15) días de refutación termina: 14 de febrero 2023

Adjuntos: Aplicación de Apelación

DOC.
INDEX

1-9

AFFIDAVIT OF MAILING

STATE OF WASHINGTON

CITY OF YAKIMA

RE: APP#002-22 (PSP#003-22)

LESTER & SONYA MAKALII - APPEAL

7411 ENGLEWOOD AVE

I, Eva Rivera, as an employee of the City of Yakima Planning Division, have dispatched through the United States Mails, a **Notice of Hearing Examiner's Decision**; a true and correct copy of which is enclosed herewith; that said notice was addressed to the applicant, parties of record, and all property owners of record within a radius of 300 feet of subject property; that said property owners are individually listed on the mailing list retained by the Planning Division; and that said notices were mailed by me on the 9th day of **November, 2022**.

That I mailed said notices in the manner herein set forth and that all of the statements made herein are just and true.



Eva Rivera
Planning Technician

DOC.
INDEX
F-80

18132021494
COLUMBIA RIDGE HOMES LLC
404 S 51ST AVE
YAKIMA, WA 98908

18132021500
COLUMBIA RIDGE HOMES LLC
404 S 51ST AVE
YAKIMA, WA 98908

18131734408
THE MASHNI FAMILY REVOCABLE
LIVING TRUST
8567 GREYLAG WAY
ELK GROVE, CA 95757

18132021498
ALEXIS GRATTON
7503 W DOUGLAS DR
YAKIMA, WA 98908

18131734407
ALFONSO M & STELLA L PINEDA
7409 ENGLEWOOD AVE
YAKIMA, WA 98908

18131734410
ALFONSO M & STELLA L PINEDA
7409 ENGLEWOOD AVE
YAKIMA, WA 98908

18132021518
AUSTIN & MORGAN BENSON
504 N 75TH AVE
YAKIMA, WA 98908

18131733428
BRIAN & MARY MCGUIRE
7700 GRAYSTONE CT
YAKIMA, WA 98908

18132022461
CHRISTOPHER J & VANESSA C OSBURN
7701 DOUGLAS DR
YAKIMA, WA 98908

18131734415
DANIEL R & CYNTHIA D PETERSON
7509 ENGLEWOOD AVE
YAKIMA, WA 98908

18132022504
DANIEL W PURKEY
515 N 77TH AVE
YAKIMA, WA 98908

18132021496
ERICKSON & HEIDI SMITH
7403 W DOUGLAS DR
YAKIMA, WA 98908

18131733412
FRANK C & TINA R TORRES
7705 ENGLEWOOD AVE
YAKIMA, WA 98908

18131734418
GARY E LOFLAND
7511 ENGLEWOOD AVE
YAKIMA, WA 98908

18131734421
GARY E & MARCIA A LOFLAND
7511 ENGLEWOOD AVE
YAKIMA, WA 98908

18131734404
GENE C & GERI L WEBER
7407 ENGLEWOOD AVE
YAKIMA, WA 98908

18131734443
GEORGE F & MAVIS R VELIKANJE
7405 ENGLEWOOD AVE
YAKIMA, WA 98908

18132021502
HALEY RAE FARLEY
504 N 76TH AVE
YAKIMA, WA 98908

18132022503
JAIME BASURTO PRIETO
513 N 77TH AVE
YAKIMA, WA 98908

18131733426
JAMES D & KRISTIN WILLIAMS
7600 GRAYSTONE CT
YAKIMA, WA 98908

18132022502
JOHN MICHAEL HERNANDEZ
511 N 77TH AVE
YAKIMA, WA 98908

18131733413
KEVIN & BARBARA J KELLY
7707 ENGLEWOOD AVE
YAKIMA, WA 98908

18131733425
KIMBERLY BANNISTER LAWLER
7601 GRAYSTONE CT
YAKIMA, WA 98908

18132022488
KURTIS WILES
7700 DOUGLAS DR
YAKIMA, WA 98908

18131734422
LESTER K & SONYA MAKALII
7411 ENGLEWOOD AVE
YAKIMA, WA 98908

18132021525
LETICIA RODRIGUEZ
505 N 76TH AVE
YAKIMA, WA 98908

18132021517
LISA M & JESUS SILVA
505 N 75TH AVE
YAKIMA, WA 98908

18131734414
MARGARET S FOUSHA
7505 ENGLEWOOD AVE
YAKIMA, WA 98908

18132021501
MARIA QUIROZ
7601 W DOUGLAS DR
YAKIMA, WA 98908

18131734409
MARTHA A SALAZAR FLORES
PO BOX 11432
YAKIMA, WA 98909

DOC.
INDEX

F-8a

18131733427
MATTHEW D & DANELLE R CLARK
7604 GRAYSTONE CT
YAKIMA, WA 98908

18132021499
MEGAN P BENNETT
7505 W DOUGLAS DR
YAKIMA, WA 98908

18132022462
MICHAEL A & ESTHER L SEIDL
7703 DOUGLAS DR
YAKIMA, WA 98908

18132021497
PAUL & HEATHER BROWN
7501 W DOUGLAS DR
YAKIMA, WA 98908

18131734403
RACHAEL I MINER
7507 ENGLEWOOD AVE
YAKIMA, WA 98908

18132021503
STEVEN G & JANE E HOWARD
502 N 76TH AVE
YAKIMA, WA 98908

18132021495
TESIA DAWN & CODY NEAL BROWN
7401 W DOUGLAS DR
YAKIMA, WA 98908

37
Total Parcels - LESTER & SONYA
MAKALII-APPEAL - APP#002-22

*Ntc of HE Dec.
APP#002-22
Sent 11/09/2022*

DOC.
INDEX

F-8a

In-House Distribution E-mail List			Revised 10/26/2022
Name	Division	E-mail Address	
Jaime Vera	Air Terminal	Jaime.Vera@yakimawa.gov	
Silvia Corona	Clerk's Office	Silvia.Corona@yakimawa.gov	
Lisa Maxey	Code Administration	Lisa.Maxey@yakimawa.gov	
Glenn Denman	Code Administration	Glenn.Denman@yakimawa.gov	
John Zabell	Code Administration	John.Zabell@yakimawa.gov	
Pedro Contreras	Code Administration	Pedro.Contreras@yakimawa.gov	
Suzanne DeBusschere	Code Administration	Suzanne.Debusschere@yakimawa.gov	
Tony Doan	Code Administration	Tony.Doan@yakimawa.gov	
Joan Davenport	Community Development	Joan.Davenport@yakimawa.gov	
Rosalinda Ibarra	Community Development	Rosalinda.Ibarra@yakimawa.gov	
Bill Preston	Engineering	Bill.preston@yakimawa.gov	
Dan Riddle	Engineering	Dan.Riddle@yakimawa.gov	
Aaron Markham	Fire	Aaron.markham@yakimawa.gov	
Jeremy Rodriguez	Fire	Jeremy.Rodriguez@yakimawa.gov	
Sara Watkins	Legal	Sara.Watkins@yakimawa.gov	
Joseph Calhoun	Planning	Joseph.Calhoun@yakimawa.gov	
Eva Rivera	Planning	Eva.rivera@yakimawa.gov	
Matt Murray	Police	Matthew.murray@yakimawa.gov	
Scott Schafer	Public Works	Scott.Schafer@yakimawa.gov	
Leovardo Cruz	Refuse	Leovardo.Cruz@yakimawa.gov	
Randy Layman	Refuse	Randy.Layman@yakimawa.gov	
Gregory Story	Transit	Gregory.Story@yakimawa.gov	
James Dean	Utilities	James.Dean@yakimawa.gov	
Dana Kallevig	Wastewater	Dana.Kallevig@yakimawa.gov	
Randy Meloy	Wastewater	Randy.Meloy@yakimawa.gov	
Dave Brown	Water/Irrigation	David.Brown@yakimawa.gov	
Mike Shane	Water/Irrigation	Mike.Shane@yakimawa.gov	

Outside Distribution		
Name	Address	Notified?
(Subdivision notices ONLY) Pacific Power Attn: Estimating Department	500 N Keys Rd, Yakima, WA 98901	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
(Projects Adjacent to BNSF Right of Way ONLY) Central Washington Railroad	111 University Parkway, Suite 200 Yakima, WA 98901 (509) 453-9166 Tim Marshall, General Manager, tmarshall@cbrr.com Kim Yeager, Real Estate Manager, kyeager@ihdlc.com	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> E-mail

Additional Parties of Record or Interested Parties Notified		
Name	Address	E-mail
Marcie Lofland		Glofland2@charter.net
Dexter + Sonya Makalii		Sonyamakalii@gmail.com

Type of Notice: NTC of HE Dec
File Number(s): APP#002-22
Date of Mailing: 11/09/2022

DOC.
INDEX
F-8a

Rivera, Eva

From: Rivera, Eva
Sent: Wednesday, November 09, 2022 9:05 AM
To: Brown, David; Calhoun, Joseph; Contreras, Pedro; Corona, Silvia; Davenport, Joan; Dean, James; DeBusschere, Suzanne; Denman, Glenn; Doan, Tony; Ibarra, Rosalinda; Kallevig, Dana; Layman, Randy; Linos, Irene; Markham, Aaron; Maxey, Lisa; Meloy, Randy; Murray, Matthew; Preston, Bill; Riddle, Dan; Rivera, Eva; Rodriguez, Jeremy; Schafer, Scott; Shane, Mike; Story, Gregory; Watkins, Sara; Zabell, John
Cc: Calhoun, Joseph; 'glofland@glofland.net'; 'glofland2@charter.net'; 'sonyamakalii@gmail.com'
Subject: NTC OF HE DECISION - APP#002-22 (PSP#003-22)
Attachments: NTC OF HE DEC_APP#002-22.pdf

Good morning-

Attached is the Hearing Examiner's Decision for the above-entitled project. If you have any questions about this proposal please contact the assigned planner Joseph Calhoun at joseph.calhoun@yakimawa.gov.

Thank you!



Eva Rivera
Planning Technician
Phone: 509-575-6261
Email: eva.rivera@yakimawa.gov

This email is a public record of the City of Yakima and is subject to public disclosure unless exempt under the Washington Public Records Act. This email is subject to the State Retention Schedule.

DOC.
INDEX

F8a



DEPARTMENT OF COMMUNITY DEVELOPMENT
Joan Davenport, AICP, Director

Planning Division

Joseph Calhoun, Manager

129 North Second Street, 2nd Floor, Yakima, WA 98901

ask.planning@yakimawa.gov · www.yakimawa.gov/services/planning

NOTIFICATION OF HEARING EXAMINER'S DECISION

DATE: 11/09/2022
TO: Applicant, Adjoining Property Owners & Parties of Record
SUBJECT: Notice of the Hearing Examiner's Decision
FILE #(S): APP#002-22 (PSP#003-22)
APPELLANT: Gary Lofland
PROJECT LOCATION: 7411 Englewood Ave

On November 7, 2022, the City of Yakima Hearing Examiner rendered his decision on **APP#002-22 (PSP#003-22)**, an appeal of the Administrative Official's decision on PSP#003-22 a proposed preliminary short plat to create four lots in the SR zoning district.

Enclosed is a copy of the Hearing Examiner's Decision. Any part of the Hearing Examiner's decision may be appealed to the Yakima City Council. Appeals shall be filed within fourteen (14) days following the date of mailing of this notice and shall be in writing on forms provided by the Planning Division. Forms can be found online at: www.yakimawa.gov/services/planning/. The appeal fee of \$340 must accompany the appeal application.

For further information or assistance, you may contact the City of Yakima Planning Department, at (509) 575-6183 or email: ask.planning@yakimawa.gov.

A handwritten signature in black ink, appearing to read "Eva Rivera".

Eva Rivera
Planning Technician

Date of Mailing: November 9, 2022
Enclosures: Hearing Examiner's Decision

**DOC.
INDEX
#** F-8





DEPARTMENT OF COMMUNITY DEVELOPMENT
Joan Davenport, AICP, Director

Planning Division

Joseph Calhoun, Manager

129 North Second Street, 2nd Floor, Yakima, WA 98901

ask.planning@yakimawa.gov · www.yakimawa.gov/services/planning

**CITY OF YAKIMA
HEARING EXAMINER
AGENDA**

Thursday, October 13, 2022

Yakima City Hall Council Chambers – 129 N 2nd Street, Yakima, WA

Beginning at 9:00 a.m.

I. CALL TO ORDER

II. INTRODUCTION

III. PUBLIC HEARINGS

A. LESTER & SONYA MAKALII - APPEAL

08/22/2022 APP#002-22

PLANNER: Joseph Calhoun

ADDRESS: 7411 Englewood Ave

REQUEST: Appeal of the Administrative Official's decision on PSP#003-22 a proposed preliminary short plat to create four lots in the SR zoning district.

B. NOB HILL WATER ASSOC

09/02/2022 CL3#002-22

PLANNER: Eric Crowell

ADDRESS: 1419 s 44th Ave

CAO#010-22

SEPA#016-22

REQUEST: Proposal to drill a new well estimated to be approximately 1,400 ft. deep and construct a new pumphouse. Associated improvements include potable water infrastructure to adjust for well location, connection to the well pumphouse, power and telecommunication infrastructures to facilitate operation of the well and stormwater and drainage infrastructure.

IV. ADJOURNMENT

The staff recommendation report on the listed project(s) is available online at: www.buildingyakima.com

DOC.

INDEX

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F-7





SIGN-IN SHEET

City of Yakima HEARING EXAMINER
City Hall Council Chambers
Thursday, October 13, 2022
Beginning at 9:00 a.m.



Public Hearings

CASE	FILE #	PROJECT NAME	SITE ADDRESS
A.	APP#002-22 (PSP003-22)	Lester & Sonya Makalii – Appeal	7411 Englewood Ave
B.	CL3#002-22, CAO#010-22 SEPA#016-22	Nob Hill Water Assoc.	1419 S 44 th Ave

PLEASE WRITE LEGIBLY

Agenda Item of Interest	NAME	MAILING ADDRESS or E-MAIL	ZIP CODE
A	GARY LOFLAND	GLOFLAND@GLOFLAND.NET	98908
A	Marcie Lofland	Glofland2@charter.net	98908
B	DAVE ENGLAND	DAVE@NOBHILLWATER.ORG	98908
A	LESTER & Sonya MAKALII	7411 Englewood Ave Yakima WA. Sonya.makalii@gmail.com	98908
A	Rachael Minor	7507 Englewood Ave	98908

Hearing Examiner AGENDA ONLY
Distribution List – 06/17/2021

Add Interested – Parties of Record

Phil Lamb
311 North 3rd Street
Yakima, WA 98901

KIT-KATS Radio
4010 Summitview, Suite 200
Yakima, WA 98908

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mike.brown@yakimawa.gov
sean.davido@yakimawa.gov
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john.fannin@yakimawa.gov

Yakima Assoc. of Realtors
Gov. Affairs Committee
2707 River Road
Yakima, WA 98902-1165

KIMA TV
2801 Terrace Heights Drive
Yakima, WA 98901

Police Chief – Matthew Murray
Matthew.murray@yakimawa.gov

KCYU-FOX 68
David Okowski
1205 West Lincoln Ave.
Yakima, WA 98902

KNDO TV
216 West Yakima Avenue
Yakima, WA 98902

Fire Chief – Aaron Markham
Aaron.markham@yakimawa.gov

Sonya Claar-Tee
City Clerk
sonya.claartee@yakimwa.gov

Pacific Power
Mike Paulson
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Yakima, WA 98901

Yakima Herald-Republic
P.O. Box 9668
Yakima, WA 98909

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cally.price@yakimawa.gov

Office of Rural FWH
Marty Miller
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Yakima School Dist. #7
Superintendent
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Yakima, WA 98902

Gary Cuillier
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Yakima, WA 98901

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Attn: Newsroom
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Yakima, WA 98907-1749

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Maud Scott
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Yakima, WA 98901

Reed C. Pell
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Yakima Valley C.O.G.
311 N. 4th Street #204
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ALFONSO M & STELLA L PINEDA
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YAKIMA, WA 98908

RACHAEL I MINER
7507 ENGLEWOOD AVE
YAKIMA, WA 98908

MARGARET S FOUSHA
7505 ENGLEWOOD AVE
YAKIMA, WA 98908

FRANK C & TINA R TORRES
7705 ENGLEWOOD AVE
YAKIMA, WA 98908

DOC.
INDEX

F-6

**Hearing Examiner Packet AGENDA,
STAFF REPORT, SITE PLAN AND
MAPS...Updated 08/17/2022**

**INCLUDE APPLICANT & PROPERTY
OWNER(S)**

Sara Watkins
City Legal Department
Sara.watkins@yakimawa.gov

Archie Matthews
ONDS
Archie.matthews@yakimawa.gov

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Dana.kallevig@yakimawa.gov

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Rosalinda Ibarra
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Joseph Calhoun
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Yakima County Planning Manager
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Yakima County Public Services
Lisa Freund
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Yakima County Commissioners
Commissioners.web@co.yakima.wa.us

Eva Rivera
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Gary Lofland
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glofland@glofland.com

Lester & Sonya Makalii
7411 Englewood Ave
Yakima, WA 98908

Binder Copy / For the Record / File

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Po Box 2275
Yakima, WA 98907
Dpcpls77@gmail.com

DOC.
INDEX

F-6

AFFIDAVIT OF MAILING

STATE OF WASHINGTON

CITY OF YAKIMA

RE: APP#002-22

LESTER & SONYA MAKALII - APPEAL

7411 ENGLEWOOD AVE

I, Eva Rivera, as an employee of the City of Yakima, Planning Division, have dispatched through the United States Mails, a **Notice of Appeal of Administrative Official's & Public Hearing**. A true and correct copy of which is enclosed herewith; that said notice was addressed to the applicant, appellant, all parties of record, and all property owners of record within a radius of 300 feet of subject property, that said property owners are individually listed on the mailing list retained by the Planning Division, and that said notices were mailed by me on this 14th day of September, 2022.

That I mailed said notices in the manner herein set forth and that all of the statements made herein are just and true.



Eva Rivera

Planning Technician

DOC.
INDEX
FSd

18132021494
COLUMBIA RIDGE HOMES LLC
404 S 51ST AVE
YAKIMA, WA 98908

18132021500
COLUMBIA RIDGE HOMES LLC
404 S 51ST AVE
YAKIMA, WA 98908

18131734408
THE MASHNI FAMILY REVOCABLE
LIVING TRUST
8567 GREYLAG WAY
ELK GROVE, CA 95757

18132021498
ALEXIS GRATTON
7503 W DOUGLAS DR
YAKIMA, WA 98908

18131734407
ALFONSO M & STELLA L PINEDA
7409 ENGLEWOOD AVE
YAKIMA, WA 98908

18131734410
ALFONSO M & STELLA L PINEDA
7409 ENGLEWOOD AVE
YAKIMA, WA 98908

18132021518
AUSTIN & MORGAN BENSON
504 N 75TH AVE
YAKIMA, WA 98908

18131733428
BRIAN & MARY MCGUIRE
7700 GRAYSTONE CT
YAKIMA, WA 98908

18132022461
CHRISTOPHER J & VANESSA C OSBURN
7701 DOUGLAS DR
YAKIMA, WA 98908

18131734415
DANIEL R & CYNTHIA D PETERSON
7509 ENGLEWOOD AVE
YAKIMA, WA 98908

18132022504
DANIEL W PURKEY
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YAKIMA, WA 98908

18132021496
ERICKSON & HEIDI SMITH
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YAKIMA, WA 98908

18131733412
FRANK C & TINA R TORRES
7705 ENGLEWOOD AVE
YAKIMA, WA 98908

18131734418
GARY E LOFLAND
7511 ENGLEWOOD AVE
YAKIMA, WA 98908

18131734421
GARY E & MARCIA A LOFLAND
7511 ENGLEWOOD AVE
YAKIMA, WA 98908

18131734404
GENE C & GERI L WEBER
7407 ENGLEWOOD AVE
YAKIMA, WA 98908

18131734443
GEORGE F & MAVIS R VELIKANJE
7405 ENGLEWOOD AVE
YAKIMA, WA 98908

18132021502
HALEY RAE FARLEY
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18132022503
JAIME BASURTO PRIETO
513 N 77TH AVE
YAKIMA, WA 98908

18131733426
JAMES D & KRISTIN WILLIAMS
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YAKIMA, WA 98908

18132022502
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18131733413
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18131733425
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18132022488
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18131734422
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18132021525
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YAKIMA, WA 98908

18132021517
LISA M & JESUS SILVA
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YAKIMA, WA 98908

18131734414
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18132021501
MARIA QUIROZ
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18131734409
MARTHA A SALAZAR FLORES
PO BOX 11432
YAKIMA, WA 98909

DOC.
INDEX

F-5c

18131733427
MATTHEW D & DANELLE R CLARK
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18132021499
MEGAN P BENNETT
7505 W DOUGLAS DR
YAKIMA, WA 98908

18132022462
MICHAEL A & ESTHER L SEIDL
7703 DOUGLAS DR
YAKIMA, WA 98908

18132021497
PAUL & HEATHER BROWN
7501 W DOUGLAS DR
YAKIMA, WA 98908

18131734403
RACHAEL I MINER
7507 ENGLEWOOD AVE
YAKIMA, WA 98908

18132021503
STEVEN G & JANE E HOWARD
502 N 76TH AVE
YAKIMA, WA 98908

18132021495
TESIA DAWN & CODY NEAL BROWN
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YAKIMA, WA 98908

37
Total Parcels - LESTER & SONYA
MAKALII-APPEAL - APP#002-22

*Ntc of App + Pub Hearing
App# 002-22
sent on 09/14/2022*

DOC.
INDEX

F-5c

In-House Distribution E-mail List		Revised 07/21/2022
Name	Division	E-mail Address
Jaime Vera	Air Terminal	Jaime.Vera@yakimawa.gov
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Glenn Denman	Code Administration	Glenn.Denman@yakimawa.gov
John Zabell	Code Administration	John.Zabell@yakimawa.gov
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Eva Rivera	Planning	Eva.rivera@yakimawa.gov
Irene Linos	Planning	Irene.Linos@Yakimawa.gov
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Leovardo Cruz	Refuse	Leovardo.Cruz@yakimawa.gov
Randy Layman	Refuse	Randy.Layman@yakimawa.gov
Gregory Story	Transit	Gregory.Story@yakimawa.gov
James Dean	Utilities	James.Dean@yakimawa.gov
Dana Kallevig	Wastewater	Dana.Kallevig@yakimawa.gov
Randy Meloy	Wastewater	Randy.Meloy@yakimawa.gov
Dave Brown	Water/Irrigation	David.Brown@yakimawa.gov
Mike Shane	Water/Irrigation	Mike.Shane@yakimawa.gov

Outside Distribution		
Name	Address	Included In Mailing?
Pacific Power Attn: Estimating Department (Subdivision notices ONLY)	500 N Keys Rd, Yakima, WA 98901	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Additional Parties of Record or Interested Parties Notified		
Name	Address	E-mail

Type of Notice: Ntc of Appeal + Pub. Hearing
File Number(s): App# 002-22
Date of Mailing: 09/14/2020

DOC.
INDEX

F-5c

Rivera, Eva

From: Rivera, Eva
Sent: Wednesday, September 14, 2022 10:08 AM
To: Brown, David; Calhoun, Joseph; Contreras, Pedro; Corona, Silvia; Davenport, Joan; Dean, James; DeBusschere, Suzanne; Denman, Glenn; Doan, Tony; Ibarra, Rosalinda; Kallevig, Dana; Layman, Randy; Linos, Irene; Markham, Aaron; Matthews, Archie; Maxey, Lisa; Meloy, Randy; Murray, Matthew; Preston, Bill; Riddle, Dan; Rivera, Eva; Rodriguez, Jeremy; Schafer, Scott; Shane, Mike; Story, Gregory; Watkins, Sara; Zabell, John
Cc: Calhoun, Joseph; 'glofland@glofland.net'; 'dpcpls77@gmail.com'
Subject: NTC OF APPEAL - LESTER & SONYA MAKALII - APPEAL - APP#002-22
Attachments: NTC OF APPEAL_APP#002-22.pdf

Good morning,

Attached is a Notice of Appeal for the above-entitled project. If you have any questions about this proposal please contact Planning Manager Joseph Calhoun at joseph.calhoun@yakimawa.gov.

Thank you!



Eva Rivera
Planning Technician
Phone: 509-575-6261
eva.rivera@yakimawa.gov

This email is a public record of the City of Yakima and is subject to public disclosure unless exempt under the Washington Public Records Act. This email is subject to the State Retention Schedule.

AFFIDAVIT OF PUBLICATION

Rosalinda Ibarra
City Of Yakima Planning
129 N 2nd Street
Yakima WA 98901

RECEIVED

SEP 22 2022

FINANCE DEPT.

STATE OF WASHINGTON, COUNTIES OF YAKIMA

The undersigned, on oath states that he/she is an authorized representative of Yakima Herald-Republic, Inc., publisher of Yakima Herald-Republic and El Sol de Yakima, of general circulation published daily in Yakima County, State of Washington. Yakima Herald-Republic and El Sol de Yakima have been approved as legal newspapers by orders of the Superior Court of Yakima County.

The notice, in the exact form annexed, was published in the regular and entire issue of said paper or papers and distributed to its subscribers during all of the said period.

09/14/2022

Agent

JACKIE CHAPMAN

Signature

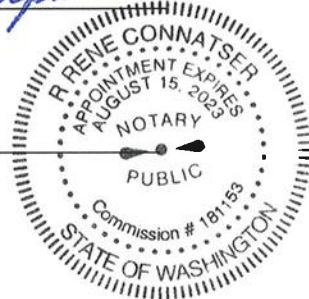
Jackie Chapman

Subscribed and sworn to before me on

September 19, 2022

R. Rene Connatser

(Notary Signature) Notary Public in and for the State of Washington, residing at Yakima



Publication Cost: \$112.85
Order No: 39086
Customer No: 23222
PO #:

DOC.
INDEX

F5a

Legal Notice

NOTICE OF APPEAL OF ADMINISTRATIVE OFFICIAL'S DECISION City File #: APP#002-22 A timely appeal was filed by Gary Lofland on August 22, 2022 for the Administrative Official's Decision on PSP#003-22. The decision approved a requested four (4) lot preliminary short plat in the SR zoning district. The subject property is located at 7411 Englewood Ave., Yakima, WA 98908. In accordance with YMC §§ 14.50.010(C) and 16.08.018 (D), "The [Planning] division shall: 1. Set a reasonable time and place for the hearing of the appeal; and, 2. Provide a notice of appeal and public hearing to the official whose decision is being appealed and parties entitled to notice of the decision, including posting of property and published notice at least ten days prior to the hearing." **Notice of Public Hearing:** The Hearing Examiner will hold a public hearing on **10/13/22 at 9:00 a.m.** in the City Council Chambers at 129 N. 2nd Street, Yakima, WA, 98901. In accordance with YMC § 16.08.018 (G), testimony given during the appeal shall be limited to those points cited in the appeal application. At the conclusion of the hearing, the Hearing Examiner will issue his written decision within ten working days unless a longer period is mutually agreed to by the applicant and the examiner. **Final Decision:** In accordance with YMC §§ 14.50.020(A) and 16.08.018(H), "Except as otherwise provided, all appeal decisions by the hearing examiner shall be final and conclusive on all parties unless appealed to the legislative body pursuant to this chapter." For further information or assistance, you may contact Joseph Calhoun, Planning Manager, at (509) 575-6042, or email to: joseph.calhoun@yakimawa.gov

(39086) September 14, 2022

Publication Cost: \$112.85
Order No: 39086
Customer No: 23222
PO #:

DOC.
INDEX

F-5a

Public Notices

Legal Notice

NOTICE OF APPEAL OF ADMINISTRATIVE OFFICIAL'S DECISION City

File #: APP#002-22 A timely appeal was filed by Gary Lofland on August 22, 2022 for the Administrative Official's Decision on PSP#003-22. The decision approved a requested four (4) lot preliminary short plat in the SR zoning district. The subject property is located at 7411 Englewood Ave., Yakima, WA 98908. In accordance with YMC §§ 14.50.010(C) and 16.08.018 (D), "The [Planning] division shall: 1. Set a reasonable time and place for the hearing of the appeal; and, 2. Provide a notice of appeal and public hearing to the official whose decision is being appealed and parties entitled to notice of the decision, including posting of property and published notice at least ten days prior to the hearing." **Notice of Public**

Hearing: The Hearing Examiner will hold a public hearing on **10/13/22 at 9:00 a.m.** in the City Council Chambers at 129 N. 2nd Street, Yakima, WA, 98901. In accordance with YMC § 16.08.018 (G), testimony given during the appeal shall be limited to those points cited in the appeal application. At the conclusion of the hearing, the Hearing Examiner will issue his written decision within ten working days unless a longer period is mutually agreed to by the applicant and the examiner.

Final Decision: In accordance with YMC §§ 14.50.020(A) and 16.08.018(H), "Except as otherwise provided, all appeal decisions by the hearing examiner shall be final and conclusive on all parties unless appealed to the legislative body pursuant to this chapter." For further information or assistance, you may contact Joseph Calhoun, Planning Manager, at (509) 575-6042, or email to:

joseph.calhoun@yakimawa.gov

(39086) September 14, 2022

DOC.
INDEX

F-5a



DEPARTMENT OF COMMUNITY DEVELOPMENT
Joan Davenport, AICP, Director

Planning Division

Joseph Calhoun, Manager

129 North Second Street, 2nd Floor, Yakima, WA 98901

ask.planning@yakimawa.gov · www.yakimawa.gov/services/planning

**NOTICE OF APPEAL OF ADMINISTRATIVE OFFICIAL'S DECISION & PUBLIC HEARING
September 14, 2022**

City File #: APP#002-22

This notice is being provided to parties of record, the applicant, and the appellant that a timely appeal was filed by Gary Lofland on August 22, 2022 for the Administrative Official's Decision on PSP#003-22. The decision approved a requested four (4) lot preliminary short plat in the SR zoning district. The subject property is located at 7411 Englewood Ave., Yakima, WA 98908.

In accordance with YMC §§ 14.50.010(C) and 16.08.018(D), "The [Planning] division shall:

1. Set a reasonable time and place for the hearing of the appeal; and,
2. Provide a notice of appeal and public hearing to the official whose decision is being appealed and parties entitled to notice of the decision, including posting of property and published notice at least ten days prior to the hearing."

Notice of Public Hearing: The Hearing Examiner will hold a public hearing on **October 13, 2022 at 9:00 a.m.** in the City Council Chambers at 129 N. 2nd Street, Yakima, WA, 98901. In accordance with YMC § 14.50.010(F) and 16.08.018 (G), testimony given during the appeal shall be limited to those points cited in the appeal application. At the conclusion of the hearing, the Hearing Examiner will issue his written decision within ten working days unless a longer period is mutually agreed to by the applicant and the examiner.

Final Decision: In accordance with YMC §§ 14.50.020(A) and 16.08.018(H), "Except as otherwise provided, all appeal decisions by the hearing examiner shall be final and conclusive on all parties unless appealed to the legislative body pursuant to [YMC Chs. 14.50 and 16.08]."

For further information or assistance, you may contact Joseph Calhoun, Planning Manager, at (509) 575-6042, or email to: joseph.calhoun@yakimawa.gov

A handwritten signature in black ink, appearing to be "JC" or similar initials, written over a horizontal line.

Joseph Calhoun
Planning Manager

Enclosures: Appeal Application and Preliminary Short Plat

DOC.
INDEX

#

F-5





DEPARTAMENTO DE DESARROLLO COMUNITARIO

Joan Davenport, AICP, Directora

Division de Planificación

Joseph Calhoun, Gerente

129 Norte Calle 2ª, 2º Piso, Yakima, WA 98901

ask.planning@yakimawa.gov · www.yakimawa.gov/services/planning

**AVISO DE APELACIÓN DE LA DECISIÓN DEL FUNCIONARIO ADMINISTRATIVO Y
AUDIENCIA PÚBLICA**

14 de septiembre 2022

No. de Archivo: APP#002-22

Esta notificación se proporciona al apelante, el solicitante, y personas registradas para avisarles que Gary Lofland, presento una apelación oportuna el 22 de agosto, 2022 sobre la decisión administrativa del archivo PSP#003-22. La decisión administrativa aprobó una solicitud para una subdivisión preliminar de cuatro lotes en la zona residencial SR. La propiedad está localizada en 7411 Englewood Avenue, Yakima, WA 98902.

De acuerdo al Código Municipal YMC § 16.08.018(D), "La división [de Planificación] deberá:

1. Establecer un tiempo y lugar razonable para la audiencia pública de apelación; y,
2. Proporcionar un aviso de apelación y audiencia pública al funcionario cuya decisión se está apelando y a las partes con derecho a recibir notificación de la decisión, incluyendo la publicación del aviso en la propiedad en cuestión y la publicación oficial del anuncio al menos diez días antes de la audiencia."

Audiencia de Apelación: El Examinador de Audiencias llevara a cabo una audiencia pública el **13 de octubre 2022 a las 9:00 a.m.** en la Sala del Concejo Municipal ubicado en el 129 North 2nd Street, Yakima, WA 98901. De acuerdo con el Código Municipal YMC § 14.50.010(F) y YMC 16.08.018(G), el testimonio dado durante la apelación se limitará a los puntos citados en la solicitud de apelación. Al final de la audiencia pública, el Examinador de Audiencias imitara su decisión por escrito dentro de diez días hábiles a menos que un periodo más largo se acuerde mutuamente entre el Examinador y apelante.

Decisión Final: De acuerdo con el Código Municipal YMC § 14.50.020(A) y YMC 16.08.018(H), "A excepción de lo contrario, todas las decisiones de apelación del examinador de audiencia serán definitivas y concluyentes para todas las partes a menos que se apelen ante el cuerpo legislativo conforme a [YMC Chs. 14.50 y 16.08]."

Para más información o asistencia puede contactar al Departamento de Planificación, al (509) 575-6183 o por correo electrónico a: ask.planning@yakimawa.gov.

Joseph Calhoun
Gerente de Planificación

Adjuntos: Aplicación de Apelación y Subdivisión Preliminar

DOC.
INDEX

F-5



CITY OF YAKIMA
LAND USE ACTION INSTALLATION
CERTIFICATE

File Number:	APP# 002-22 / PSP#003-22
Applicant/Project Name:	Lofland / Makali
Site Address:	7411 Englewood Ave
Date of Posting:	9/12/2022

Location of Installation (Check One):

☒ Land Use Action Sign is installed per standards described in YMC §15.11.080(C).

☐ Land Use Action Sign is installed in an alternate location on the site.

Note: this alternate location (if not pre-approved by the Planning Manager) may not be acceptable by the Planning Division and is subject to relocation (at the owner's expense) to a more visible site on the property.

The alternative location is:

The required notice of application will be sent to the applicant and property owners within a 300-foot radius after the Planning Division has received this Land Use Action Installation Certification. Failure to post a Land Use Action sign and return this form signed in a timely manner may cause a delay in the application review process.

I hereby testify that the installed sign fully complies with the Land Use Action sign installation standards (see pg. 2), that the sign will be maintained until a decision has been rendered, and that the sign will be returned within **30 days** from the date the final decision is issued.

posted By [Signature]
Applicant's Signature

9/12/22
Date

posted By Joseph Calhoun
Applicant's Name (Please Print)

509-575-6042
Applicant's Phone Number

Please remit the above certification and deliver to the City of Yakima Planning Division via email to ask.planning@yakimawa.gov or in person/by mail to: City of Yakima, Planning Division, 129 North 2nd Street, Yakima, WA 98901.



DOC.
INDEX

F-4

AFFIDAVIT OF MAILING

STATE OF WASHINGTON

CITY OF YAKIMA

RE: PSP#003-22
LESTER & SONYA MAKALII
7411 ENGLEWOOD AVE

I, Eva Rivera, as an employee of the City of Yakima Planning Division, have dispatched through the United States Mails, a **Notice of Decision (Administrative Official)**; a true and correct copy of which is enclosed herewith; that said notice was addressed to the applicant, SEPA Reviewing Agencies, all parties of record, and all property owners of record within a radius of 300 feet of subject property; that said property owners are individually listed on the mailing list retained by the Planning Division; and that said notices were mailed by me on this 11th day of August, 2022.

That I mailed said notices in the manner herein set forth and that all of the statements made herein are just and true.



Eva Rivera
Planning Technician

DOC.
INDEX
F-3c

18132021494
COLUMBIA RIDGE HOMES LLC
404 S 51ST AVE
YAKIMA, WA 98908

18132021500
COLUMBIA RIDGE HOMES LLC
404 S 51ST AVE
YAKIMA, WA 98908

18132021503
COLUMBIA RIDGE HOMES LLC
404 S 51ST AVE
YAKIMA, WA 98908

18132021517
COLUMBIA RIDGE HOMES LLC
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ALFONSO M & STELLA L PINEDA
7409 ENGLEWOOD AVE
YAKIMA, WA 98908

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ALFONSO M & STELLA L PINEDA
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YAKIMA, WA 98908

18132021518
AUSTIN & MORGAN BENSON
504 N 75TH AVE
YAKIMA, WA 98908

18131733428
BRIAN & MARY MCGUIRE
7700 GRAYSTONE CT
YAKIMA, WA 98908

18131734415
DANIEL R & CYNTHIA D PETERSON
7509 ENGLEWOOD AVE
YAKIMA, WA 98908

18132021496
ERICKSON & HEIDI SMITH
7403 W DOUGLAS DR
YAKIMA, WA 98908

18131733412
FRANK C & TINA R TORRES
7705 ENGLEWOOD AVE
YAKIMA, WA 98908

18131734418
GARY E LOFLAND
7511 ENGLEWOOD AVE
YAKIMA, WA 98908

18131734421
GARY E & MARCIA A LOFLAND
7511 ENGLEWOOD AVE
YAKIMA, WA 98908

18131734404
GENE C & GERI L WEBER
7407 ENGLEWOOD AVE
YAKIMA, WA 98908

18131734443
GEORGE F & MAVIS R VELIKANJE
7405 ENGLEWOOD AVE
YAKIMA, WA 98908

18132022504
GUY S & SHERYL CUMMINGS
515 N 77TH AVE
YAKIMA, WA 98908

18132021502
HALEY RAE FARLEY
504 N 76TH AVE
YAKIMA, WA 98908

18132021501
ISIDRO RENTERIA
7601 W DOUGLAS DR
YAKIMA, WA 98908

18132022503
JAIME BASURTO PRIETO
513 N 77TH AVE
YAKIMA, WA 98908

18131733426
JAMES D & KRISTIN WILLIAMS
7600 GRAYSTONE CT
YAKIMA, WA 98908

18132022502
JOHN MICHAEL HERNANDEZ
511 N 77TH AVE
YAKIMA, WA 98908

18131733413
KEVIN & BARBARA J KELLY
7707 ENGLEWOOD AVE
YAKIMA, WA 98908

18131733425
KIMBERLY BANNISTER LAWLER
7601 GRAYSTONE CT
YAKIMA, WA 98908

18132022488
KURTIS WILES
7700 DOUGLAS DR
YAKIMA, WA 98908

18132022461
LARRY & BONNIE OSBURN
7701 DOUGLAS DR
YAKIMA, WA 98908

18131734422
LESTER K & SONYA MAKALII
7411 ENGLEWOOD AVE
YAKIMA, WA 98908

18132021525
LETICIA RODRIGUEZ
505 N 76TH AVE
YAKIMA, WA 98908

18131734414
MARGARET S FOUSHA
7505 ENGLEWOOD AVE
YAKIMA, WA 98908

18131734408
MARISA G ALVAREZ
601 N 74TH AVE
YAKIMA, WA 98908

18131734409
MARTHA A SALAZAR FLORES
PO BOX 11432
YAKIMA, WA 98909

DOC.
INDEX

F-36

Ref'd
07/15/2022

18131733427
MATTHEW D & DANELLE R CLARK
7604 GRAYSTONE CT
YAKIMA, WA 98908

18132021499
MEGAN P BENNETT
7505 W DOUGLAS DR
YAKIMA, WA 98908

18132022462
MICHAEL A & ESTHER L SEIDL
7703 DOUGLAS DR
YAKIMA, WA 98908

18132021498
NIKHIL LIZOTTE
7503 W DOUGLAS DR
YAKIMA, WA 98908

18132021497
PAUL & HEATHER BROWN
7501 W DOUGLAS DR
YAKIMA, WA 98908

18131734403
RACHAEL I MINER
7507 ENGLEWOOD AVE
YAKIMA, WA 98908

18132021495
TESIA DAWN & CODY NEAL BROWN
7401 W DOUGLAS DR
YAKIMA, WA 98908

37
Total Parcels - Makalii - PSP#003-22

*Notice of Decision
PSP#003-22
dat 08/11/2022*

Chandler Surveying LLC
PO Box 2275
Yakima, WA 98907

DOC.
INDEX

F-3b

In-House Distribution E-mail List		Revised 07/21/2022
Name	Division	E-mail Address
Jaime Vera	Air Terminal	Jaime.Vera@yakimawa.gov
Silvia Corona	Clerk's Office	Silvia.Corona@yakimawa.gov
Lisa Maxey	Code Administration	Lisa.Maxey@yakimawa.gov
Glenn Denman	Code Administration	Glenn.Denman@yakimawa.gov
John Zabell	Code Administration	John.Zabell@yakimawa.gov
Pedro Contreras	Code Administration	Pedro.Contreras@yakimawa.gov
Suzanne DeBusschere	Code Administration	Suzanne.Debusschere@yakimawa.gov
Tony Doan	Code Administration	Tony.Doan@yakimawa.gov
Joan Davenport	Community Development	Joan.Davenport@yakimawa.gov
Rosalinda Ibarra	Community Development	Rosalinda.Ibarra@yakimawa.gov
Bill Preston	Engineering	Bill.preston@yakimawa.gov
Dan Riddle	Engineering	Dan.Riddle@yakimawa.gov
Aaron Markham	Fire	Aaron.markham@yakimawa.gov
Jeremy Rodriguez	Fire	Jeremy.Rodriguez@yakimawa.gov
Sara Watkins	Legal	Sara.Watkins@yakimawa.gov
Archie Matthews	ONDS	Archie.Matthews@yakimawa.gov
Joseph Calhoun	Planning	Joseph.Calhoun@yakimawa.gov
Eva Rivera	Planning	Eva.rivera@yakimawa.gov
Irene Linos	Planning	Irene.Linos@Yakimawa.gov
Matt Murray	Police	Matthew.murray@yakimawa.gov
Scott Schafer	Public Works	Scott.Schafer@yakimawa.gov
Leovardo Cruz	Refuse	Leovardo.Cruz@yakimawa.gov
Randy Layman	Refuse	Randy.Layman@yakimawa.gov
Gregory Story	Transit	Gregory.Story@yakimawa.gov
James Dean	Utilities	James.Dean@yakimawa.gov
Dana Kallevig	Wastewater	Dana.Kallevig@yakimawa.gov
Randy Meloy	Wastewater	Randy.Meloy@yakimawa.gov
Dave Brown	Water/Irrigation	David.Brown@yakimawa.gov
Mike Shane	Water/Irrigation	Mike.Shane@yakimawa.gov

Outside Distribution		
Name	Address	Included In Mailing?
Pacific Power Attn: Estimating Department (Subdivision notices ONLY)	500 N Keys Rd, Yakima, WA 98901	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Additional Parties of Record or Interested Parties Notified		
Name	Address	E-mail

Type of Notice: Notice of Decision
File Number(s): PSP#003-22
Date of Mailing: 08/11/2022

DOC.
INDEX
F-3b

Rivera, Eva

From: Rivera, Eva
Sent: Thursday, August 11, 2022 8:56 AM
To: Brown, David; Calhoun, Joseph; Contreras, Pedro; Corona, Silvia; Davenport, Joan; Dean, James; DeBusschere, Suzanne; Denman, Glenn; Doan, Tony; Ibarra, Rosalinda; Kallevig, Dana; Layman, Randy; Linos, Irene; Markham, Aaron; Matthews, Archie; Maxey, Lisa; Meloy, Randy; Murray, Matthew; Preston, Bill; Riddle, Dan; Rivera, Eva; Rodriguez, Jeremy; Schafer, Scott; Shane, Mike; Story, Gregory; Watkins, Sara; Zabell, John
Cc: Calhoun, Joseph; 'dpcpls77@gmail.com'
Subject: NOTICE OF DECISION - LESTER & SONYA MAKALII - PSP#003-22
Attachments: NOTICE OF DECISION_Lester and Sonia - PSP#003-22.pdf

Good morning,

Attached is a Notice of Decision regarding the above-entitled project. If you have any questions about this proposal please contact assigned planner Joseph Calhoun at joseph.calhoun@yakimawa.gov.

Thank you!



Eva Rivera
Planning Technician
Phone: 509-575-6261
eva.rivera@yakimawa.gov

This email is a public record of the City of Yakima and is subject to public disclosure unless exempt under the Washington Public Records Act. This email is subject to the State Retention Schedule.



DEPARTMENT OF COMMUNITY DEVELOPMENT

Joan Davenport, AICP, Director

Planning Division

Joseph Calhoun, Manager

129 North Second Street, 2nd Floor, Yakima, WA 98901

ask.planning@yakimawa.gov · www.yakimawa.gov/services/planning

CITY OF YAKIMA

FINDINGS of FACT, CONCLUSIONS, & DECISION

for

REQUEST FOR SHORT SUBDIVISION

File Number: PSP#003-22

TO: Applicant, Adjoining Property Owners & Parties of Record
APPLICANT: Lester and Sonya Makalii
APPLICANT ADDRESS: 7411 Englewood Ave, Yakima, WA 98908
PROPERTY OWNER: Lester and Sonya Makalii
PROPERTY OWNER ADDRESS: 7411 Englewood Ave, Yakima, WA 98908
PROJECT LOCATION: 7411 Englewood Ave
TAX PARCEL NUMBER: 181317-34422
DATE OF REQUEST: April 13, 2022
DATE OF DECISION: August 11, 2022
STAFF CONTACT: Joseph Calhoun, Planning Manager

I. DESCRIPTION OF REQUEST:

Proposed preliminary short plat to create four lots, located in the SR zoning district.

II. SUMMARY OF DECISION:

Approved, subject to conditions.

III. FACTS:

A. **Processing**

1. The application for a Preliminary Short Plat was received on April 13, 2022.
2. The application was deemed complete for processing on July 5, 2022.
3. This application is being processed under the provisions of Ch. 14.15 (Short Subdivision).
4. **Public Notice:** Pursuant to YMC § 14.15.040—Public Notice of Short Plat Application and YMC § 16.05.010—Notice of Application:
 - a. A Notice of Application was sent to the applicant and adjoining property owners within 300 feet of the subject property on July 6, 2022.
 - b. The 20-day public comment period for this application ended on July 26, 2022, and four comments were received.

DOC.
INDEX
F-3



5. The proposal was reviewed by the City's Development Services Team (DST) on August 2, 2022.

B. Current Zoning and Land Use:

1. The subject property is approximately 1.78 acres, is zoned Suburban Residential (SR), and is currently occupied by an existing detached single-family dwelling.
2. The surrounding properties contain uses and zoning as follows:

<u>Direction</u>	<u>Zoning</u>	<u>Land Use</u>
North	Single-Family Residential (R-1)	Detached Single-Family Dwelling
South	Single-Family Residential (R-1)	Detached Single-Family Dwellings
East	Single-Family Residential (R-1)	Detached Single-Family Dwelling
West	Suburban Residential (SR)	Detached Single-Family Dwelling

C. Yakima Comprehensive Plan 2040 Future Land Use Map:

1. Purpose: The Low Density Residential Future Land Use designation provides for low density residential development.
2. The following goals and policies apply to this proposal:
 - Goal 2.3: Residential uses. Preserve and enhance the quality, character, and function of Yakima's residential neighborhoods.
 - Policy 2.3.2: Ensure that new development is compatible is scale, style, density, and aesthetic quality to an established neighborhood.

D. Applicable Law:

- a. Short Subdivision Defined: Pursuant to YMC § 14.10.020, "Short Subdivision" means the division or redivision of land into nine or fewer lots for the purpose of sale, lease, or transfer of ownership in the present or future except as provided in YMC §§ 14.05.160 and 14.05.170.
- b. SR Zoning District Defined: Pursuant to YMC § 15.03.020 (A), The intent of the suburban residential district is to provide a variety of residential lifestyles with densities generally ranging from one unit per five net residential acres to seven units per net residential acre. The higher density is reviewed and considered to be permitted when a public water system and the regional sewer system are available, or if these utilities are not available, community water and sewer systems may be allowed after review by Yakima County

health district and the city of Yakima. (See YMC Chapter [15.05](#), Table 5-1.) This district is further intended to:

1. Limit residential density to one unit per five net residential acres in areas where flooding, airport noise, or other environmental constraints make the land unsuitable for residential use at higher densities. Development at a lower density will be reviewed to allow conversion to higher densities once utilities are available or other limiting issues are mitigated;
2. Maintain surface and groundwater quality along with the avoidance of potential health hazards, by limiting residential density to one unit per five net residential acres, in areas where public services will not be provided, and the dwelling units have individual wells and septic tanks. Development at a lower density will be reviewed to allow conversion to higher densities once utilities are available or other limiting issues are mitigated;
3. Provide the opportunity for suburban residential development, up to three dwelling units per net residential acre, in areas with either public water service or a community sewer system; and
4. Allow residential development to seven dwelling units per net residential acre in areas with both public water service and sewer system.

This district is characterized by a mixture of land uses and residential densities including small farms, scattered low-density residential development, and clusters of higher-density residential development. The minimum lot size in the district varies according to the suitability of the land for development and the provision of urban level services. See YMC [15.05.030\(E\)](#).

- c. State Environmental Policy Act (SEPA): Pursuant to WAC 197-11-800 (6)(D), short plats are categorically exempt from the provisions of the State Environmental Policy Act.
- d. Easement Location and Width: Pursuant to YMC § 12.02.020, 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.
- e. Sidewalk Requirement: Pursuant to YMC § 15.05.020 (J), sidewalks on one side of the street are required with new construction (except single-family structures). A sidewalk is required if one exists within two hundred feet of the development on the same side of the street. Replacement of existing sidewalk is required only if existing sidewalk presents a safety hazard, except that for applications under the jurisdiction of the city of Yakima, the provisions of Title 12 of the Yakima Municipal Code shall prevail over the provisions of this section to the extent of any conflict between such provisions.
- f. Sewer Service Required: Pursuant to YMC § 12.03.010, all new lots and development shall be served by a sanitary sewer line located adjacent to the

lot or development site.

- g. Side Sewer Service: Pursuant to YMC §12.03.070, each building containing sanitary facilities shall be served by a separate private side sewer line from a public main. Branched side sewers serving multiple buildings and properties shall not be permitted. Single side sewers serving multi-unit buildings are permitted.
- h. Service Required: Pursuant to YMC § 12.04.010, 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.
- i. Water Line Extension Required: Pursuant to YMC § 12.04.020, 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.
- j. Design Standards, Adjustment of Standards: Pursuant to YMC § 12.06.030, final design of street improvement standards is subject to approval by the city engineer. The engineer, at his/her sole discretion, may adjust these standards to facilitate construction of new streets and improvements of existing streets.
- k. Use of Public Sewers Required: Pursuant to YMC § 7.65.030 (E), the owners of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sewer of the city, are required at the owners' expense to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter within ninety days after date of official notice to do so; provided, that said public sewer is within two hundred feet of the property line.
- l. Allowance of Bond: Pursuant to YMC 14.05.200 (B), 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.

IV. FINDINGS:

A. General Site Conditions

1. The subject plat is located at 7411 Englewood Ave., and is zoned Suburban Residential (SR).
2. The preliminary short plat proposes to subdivide one existing tax parcel into four (4) lots of record, ranging from approximately 14,401 to 63,579 square feet in size.
3. The subject property is currently occupied by a detached single-family dwelling.
4. The property's frontage is on Englewood Ave. which does not have curb, gutter, or sidewalk.
5. City of Yakima sewer is located along the west property line in an existing easement. Nob Hill Water Association water is located in Englewood Ave.
6. Open space, parks, recreation, and playgrounds are located approximately within 1.8 and 1.2 miles of this subdivision due to the proximity of Gilbert Park and Gaillion Park, respectively.

Apple Valley Elementary School is located approximately within 1.6 miles, Summitview Elementary School is located approximately within 1.3 miles.

7. There is nexus to require curb, gutter, and sidewalk on Englewood, as existing curb, gutter and sidewalk facilities exist approximately 175-feet east along Englewood Ave.
8. Yakima Transit Route 1 is approximately 0.6 miles south of the subject plat on Summitview Ave.

B. Title 15—Urban Area Zoning Ordinance Development Standards

1. In accordance with YMC § 15.05.020 (C), the maximum lot coverage of 60 percent in the SR zoning district is intended to protect the open character of each district, and ensure that land is available to accommodate septic tanks and drainfields.
2. All lots within the subject plat have sufficient area to meet the applicable setbacks of YMC § 15.05.030, Table 5-1 for the SR zoning district.
3. In accordance with YMC § 15.05.030, Table 5-2, all lots meet the minimum lot size of 6,000 square feet for a detached single-family dwelling.

4. In accordance with YMC § 15.05.030, Table 5-2 all lots meet the minimum lot width of 50 feet for a detached single-family dwelling.
5. In accordance with YMC § 15.05.020 (H), all lots have a minimum of 20 feet of frontage upon a public street or are accessed by an easement.

C. Title 14—Subdivision Development Standards

1. In accordance with YMC § 14.25.040 (B), all lots within the proposed short plat have a minimum of 20 feet of direct access to and frontage upon a dedicated public street or easement.
2. In accordance with YMC § 14.25.040 (D), all lots have a minimum lot width at the building setback line consistent with YMC § 15.05.030, Table 5-2.
3. In accordance with YMC § 14.25.050, the subject plat meets all applicable block design standards.

D. Public Comment: The following comments were received during the 20-day comment period:

1. Rachael Miner: I received a letter informing me of a short plat development next to my property. I have lived in my home for eight years. The reason I moved to this location is the large lots surrounding my home, which allows me privacy.

This four-lot development I highly oppose. The density of this development is small for three additional homes. In addition, the extra traffic and neighborhood noise would be much greater than what I want to live with. Our current community is very quiet and my neighbors are all opposed to this small lot being developed next to their homes.

Please consider reducing the amount of homes that can be built on this single lot. Your decision to reduce the amount of home sites would be greatly appreciated.

2. Margaret S Fousha: I am writing to object to the subdivision proposed by the applicant "Makalii." I don't want this development in my neighborhood. We are overwhelmed with new construction right now. I have the usual complaints – increased noise, increased traffic, it obstructs my view.

I also think the lots are small for homes in this area. I could accept 1 or 2 homes. Please consider my concerns in your decision.

3. Alfonso and Stella Pineda: This correspondence is in reply to the Notice of Application related to...PSP#003-22. We are owners of the property/residence located at 7409 Englewood Avenue which borders Mr. and Mrs. Makalii's property to the east. We maintain ownership of said property in Yakima but have relocated to...Arizona. We respectfully request you to consider:

1. Whether existing/current property lines are not protected/vested due to passage of time (grandfathered).

2. Any physical changes along the property lines do not have any financial impact on us, changes to any utilities and/or irrigation system be made at no expense to us.

3. Any such construction, fences, structure do not impact any future development of our easements, setbacks, etc.

These considerations are submitted to protect our current and future interests. I assume that your department is neutral and consider the impact being proposed by Mr. and Mrs. Makalii. Thank you for your consideration in this matter.

4. Neighborhood group (Gary and Marcia Lofland, Margaret S Fousha, Frank Torres): Please consider these comments to the application. We are opposed to the application for the following reasons:

1. The application misrepresents the useable space for proposed lots 3 and 4 because it does not consider easements. The useable space is significantly less. Using the designated width of the driveway to lot 1 which is 22.72 as the width of the easements it is discovered:

a. Lot 4 is represented as being 13,793 SF. The easement on the west is 42.9 feet in length. The easement wet to northeast is 121.29 feet in length. The easements are 22.72 feet wide. Thus $49 \times 22.72 = 974.69$. the west-northeast easement is $121.29 \times 22.72 = 2769.57$. The total of the easements reduces the useable property by 3744.26 SF bringing the actual useable property to 10,048.74 SF.

b. Lot 3 is represented as being 13,296 SF. The easement on the west is 100.5 feet in length. Thus $105.5 \times 22.72 = 2396.96$ SF. The actual useable property in 10899.04 SF.

2. A large portion of the north boundary of lot 4 contains a steep drop-off which because of the slope of the access driveway created by the existing easement there is even less useable space in lot 4.

3. There is no access easement designated for lots 2 and 4 from the property driveway.

4. The south boundary of proposed lot 2 has a steep drop-off to the road. The distance from the road to the south border of the lot is over 15-feet. This may be unstable with excavation. This is not shown in the application or Preliminary Short Plat which in 4(B) indicates no "unstable soil – i.e. slides or slipping".

5. The proposed division of the property into small lots degrades the character of the neighborhood north of Englewood Avenue. All surrounding lots are approximately one-half (.5) of an acre.

We ask the Department to deny the application.

Staff response to submitted comments:

1. *The proposed lot sizes and density are consistent with the SR zoning district for development that has access to public sewer and water. The minimum lot*

size is 6,000 square-feet and the maximum density is 7 units per acre. This proposal includes a minimum lot size of 13,296 square feet and is at a density of approximately 2.3 dwellings per acre.

2. *There are no physical changes to the exterior property lines that would impact adjacent parcels. All connections to existing utilities and/or extensions of utilities are the financial responsibility of the applicant.*
3. *The area impacted by easements is still part of the proposed lots overall lot size, just as they are part of the existing lot's overall lot size. No structures are allowed in any easement and no grading, landscaping, or other such improvement is allowed which would render an easement unusable for its intended purpose. The "useable" space outside of the easements on all lots is still in excess of the 6,000 square-foot minimum lot size in the SR zone.*
4. *The subject property is not within a mapped geologically hazardous area. The applicant is required to provide temporary erosion and sediment control plan prior to any grading on the property.*

E. Development Services Team Review: A Development Services Team (DST) Review was held on August 2, 2022 for technical review of the plat, and the following comments were received:

1. Code Administration
 - a. Due to the location of publicly available fire hydrants, an additional fire hydrant will need to be installed to serve new structures, if proposed, in accordance with Chapter 5 of the Washington State Fire Code.
 - b. These findings are not intended to be an exhaustive review of this proposal.
 - c. Preliminary addressing for this proposal:

Lot 1: 7411 Englewood Ave
Lot 2: 7413 Englewood Ave
Lot 3: 7415 Englewood Ave
Lot 4: 7417 Englewood Ave
2. Engineering
 - a. This project requires Title 8 and Title 12 improvements, including but not limited to the following:
 - i. YMC 8.60 and 12.05 – New curb, gutter and sidewalk, including associated pavement widening and storm drainage, shall be installed along the site's frontage. Street improvements shall conform to standard detail R3. New sidewalks shall be constructed per standard detail R5.
 - ii. YMC 8.64 – Driveway(s) to be constructed per this chapter and standard detail R4.
 - iii. YMC 8.72 – An excavation and street break permit shall be obtained for all work within the public right of way. Refer to chapter 8 for requirements.

Civil engineering plans and an ENG permit will be required for new improvements.

- iv. 12.02 – Easements shall be established per this chapter.
 - v. 12.06 – Street and right of way widths shall conform to this section unless otherwise approved. Englewood is classified as a Residential, requiring a right of way width of 50' (25' half width). Adequate right of way shall be dedicated if necessary to provide for 25' width from centerline of right-of-way along frontage.
 - b. 14.05.200 / 14.20.130 – All frontage improvements shall be completed prior to short plat approval. At the discretion of the City Engineer, the owner may bond for required frontage improvements, or may be allowed to postpone improvements through a Covenant/Deferral Agreement. If bonding is allowed, it shall be executed and recorded prior to or as part of approval of the short plat. Civil engineering plans, which are stamped and signed by a civil engineer, are required to be submitted for review and approval for all Title 12 improvements and prior to approval of bonding. If frontage improvements are required at this time, they shall be completed prior to Certificate of Occupancy.
- 3. Wastewater
 - a. Each lot is required to be connected to City sewer mainline with an independent side sewer connection. Proposed connections for each lot with associated easement identification, if needed, will need to be shown on the site plan for wastewater approval.
 - 4. Surface Water Engineer
 - a. For the plat itself there are no comments. Prior to clearing and grading the applicant shall submit a TESC plan for review and approval and shall pass an erosion control inspection.
 - 5. Nob Hill Water Association
 - a. Owner/developer will need to contact Nob Hill Water to obtain a cost estimate for mainline extension for the four new lots. Owner will need to submit signed engineered plans to Nob Hill Water for water connection.
 - 6. Yakima-Tieton Irrigation District
 - a. Parcel 181317-34422 is within the District boundary and has 1.52 shares of Yakima-Tieton Irrigation, so they will need to show "Irrigation Approval" on the face of the short plat. They will need to follow our Resolution 97-5.

V. CONCLUSIONS:

- A. This Preliminary Short Plat, as conditioned, complies with the general requirements for short subdivision approval as specified by YMC Ch. 14.15 and 15.05.
- B. The proposed short subdivision appropriately provides for the public health, safety and general welfare, for open spaces, drainage ways, streets or roads, alleys and 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 walk to and from school. The administrator may determine that other considerations are appropriate to evaluate as criteria for approval.

C. The proposed short plat serves the public use and interest.

VI. DECISION:

The City of Yakima Subdivision Administrator hereby approves this Preliminary Short Plat request, file number PSP#003-22, based upon the above findings and conclusions and subject to the conditions of approval as follows:

- A. An eight-foot-wide utility easement shall be dedicated along the front of each lot in accordance with YMC §§ 12.02.010 and 12.02.020;
- B. Each lot and development shall be served by sanitary sewer and domestic water lines in accordance with YMC §§ 12.03.010, 12.03.040, 12.03.070, 12.04.010, 12.04.020, and 12.04.040 prior to the recording of the final plat;
 - a. Sewer shall be served by independent side sewer connections to the main and the associated easements for connection shall be shown on the face of the Final Short Plat.
 - b. Engineered plans shall be submitted to Nob Hill Water. A final acceptance letter shall be required from Nob Hill Water prior to Final Plat approval.
- C. An additional fire hydrant shall be installed at a location acceptable to Nob Hill Water and the Codes Division, prior to Final Plat approval.
- D. Curb, gutter, sidewalk, pavement widening and storm drainage shall be installed along the site's Englewood frontage.
- E. New or altered driveways shall be installed in accordance with YMC § 15.06.065 (C) and Ch. 8.64;
- F. In accordance with YMC § 8.72.030 (A), an excavation and street break permit shall be obtained for all work within the public right-of-way.
- G. All frontage improvements shall be completed or bonded for prior to short plat approval. Civil engineering plans for public improvements shall be approved prior to bonding for public improvements;
- H. Prior to clearing and grading the applicant shall submit a TESC plan for review and approval and shall pass an erosion control inspection.
- I. In accordance with YMC § 14.05.200 (B), 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;

- J. The applicant is authorized to have the short plat prepared by a registered land surveyor in accordance with the provisions of YMC Ch. 14.15. The final short plat must be substantially the same, with regard to lot sizes and layout, as the preliminary plat;
- K. A current Short Plat Certificate, title report, or title policy covering the subject property must accompany the final short plat in accordance with YMC § 14.15.090 (J);
- L. All addresses shall be clearly shown on the face of the Final Plat (RCW 58.17.280). Additionally, a note shall be shown on the face of the Final Plat stating: "The addresses shown on this plat are accurate as of the date of recording, but may be subject to change. The City of Yakima Code Administration Division is responsible for the confirmation or reassignment of addresses at the time of building permit issuance." The following addresses shall be utilized for the created lots:
 - Lot 1: 7411 Englewood Ave
 - Lot 2: 7413 Englewood Ave
 - Lot 3: 7415 Englewood Ave
 - Lot 4: 7417 Englewood Ave
- M. Irrigation approval is required, and shall be shown on the face of the final plat;
- N. All other requirements of the zoning and subdivision ordinance, although not specifically set forth herein, must be complied with in their entirety;
- O. A final short plat and accompanying application shall be submitted within five years of the date of this decision, in accordance with Ch. 14.15;
- P. In accordance with YMC § 14.15.100, the City shall not issue any building permits until a copy of the recorded short plat is submitted;

Entered this **11th day of August, 2022**, pursuant to the authority granted under YMC Ch. 14.15. The decision constitutes the preliminary subdivision approval and is hereby granted.

The preliminary short plat decision is valid for five years unless appealed under YMC Ch. 16.08. The preliminary short plat decision may be extended one time up to one additional year prior to the expiration date, as set forth in YMC §§ 14.15.070 and 15.12.060.



Joseph Calhoun, Planning Manager for
Joan Davenport, AICP, Community Development Director

APPEAL

Pursuant to YMC § 16.08.018, any person aggrieved by this decision may request a review of this decision by the Hearing Examiner. Such requests must be submitted in writing within fourteen days from the mailing date of this decision, to the City of Yakima, Community Development

Department, 129 North Second Street, Yakima, WA 98901, and must be accompanied by the application fee of \$580.00.

Pursuant to RCW 36.70B.130, property owners affected by this decision may request a change of valuation for property tax purposes notwithstanding any program of revaluation.

AFFIDAVIT OF MAILING

STATE OF WASHINGTON

CITY OF YAKIMA

RE: PSP#003-22

LESTER & SONYA MAKALII

7411 ENGLEWOOD AVE

I, Irene Linos, as an employee of the City of Yakima Planning Division, have dispatched through the United States Mails, a **Notice of Application**; a true and correct copy of which is enclosed herewith; that said notice was addressed to the applicant and all property owners of record within a radius of 300 feet of subject property; that said property owners are individually listed on the mailing list retained by the Planning Division; and that said notices were mailed by me on this 6th day of July, 2022.

That I mailed said notices in the manner herein set forth and that all of the statements made herein are just and true.



Irene Linos

Department Assistant I

DOC.
INDEX

F-2c

18132021494
COLUMBIA RIDGE HOMES LLC
404 S 51ST AVE
YAKIMA, WA 98908

18132021500
COLUMBIA RIDGE HOMES LLC
404 S 51ST AVE
YAKIMA, WA 98908

18132021503
COLUMBIA RIDGE HOMES LLC
404 S 51ST AVE
YAKIMA, WA 98908

18132021517
COLUMBIA RIDGE HOMES LLC
404 S 51ST AVE
YAKIMA, WA 98908

18131734407
ALFONSO M & STELLA L PINEDA
7409 ENGLEWOOD AVE
YAKIMA, WA 98908

18131734410
ALFONSO M & STELLA L PINEDA
7409 ENGLEWOOD AVE
YAKIMA, WA 98908

18132021518
AUSTIN & MORGAN BENSON
504 N 75TH AVE
YAKIMA, WA 98908

18131733428
BRIAN & MARY MCGUIRE
7700 GRAYSTONE CT
YAKIMA, WA 98908

18131734415
DANIEL R & CYNTHIA D PETERSON
7509 ENGLEWOOD AVE
YAKIMA, WA 98908

18132021496
ERICKSON & HEIDI SMITH
7403 W DOUGLAS DR
YAKIMA, WA 98908

18131733412
FRANK C & TINA R TORRES
7705 ENGLEWOOD AVE
YAKIMA, WA 98908

18131734418
GARY E LOFLAND
7511 ENGLEWOOD AVE
YAKIMA, WA 98908

18131734421
GARY E & MARCIA A LOFLAND
7511 ENGLEWOOD AVE
YAKIMA, WA 98908

18131734404
GENE C & GERI L WEBER
7407 ENGLEWOOD AVE
YAKIMA, WA 98908

18131734443
GEORGE F & MAVIS R VELIKANJE
7405 ENGLEWOOD AVE
YAKIMA, WA 98908

18132022504
GUY S & SHERYL CUMMINGS
515 N 77TH AVE
YAKIMA, WA 98908

18132021502
HALEY RAE FARLEY
504 N 76TH AVE
YAKIMA, WA 98908

18132021501
ISIDRO RENTERIA
7601 W DOUGLAS DR
YAKIMA, WA 98908

18132022503
JAIME BASURTO PRIETO
513 N 77TH AVE
YAKIMA, WA 98908

18131733426
JAMES D & KRISTIN WILLIAMS
7600 GRAYSTONE CT
YAKIMA, WA 98908

18132022502
JOHN MICHAEL HERNANDEZ
511 N 77TH AVE
YAKIMA, WA 98908

18131733413
KEVIN & BARBARA J KELLY
7707 ENGLEWOOD AVE
YAKIMA, WA 98908

18131733425
KIMBERLY BANNISTER LAWLER
7601 GRAYSTONE CT
YAKIMA, WA 98908

18132022488
KURTIS WILES
7700 DOUGLAS DR
YAKIMA, WA 98908

18132022461
LARRY & BONNIE OSBURN
7701 DOUGLAS DR
YAKIMA, WA 98908

18131734422
LESTER K & SONYA MAKALII
7411 ENGLEWOOD AVE
YAKIMA, WA 98908

18132021525
LETICIA RODRIGUEZ
505 N 76TH AVE
YAKIMA, WA 98908

18131734414
MARGARET S FOUSHA
7505 ENGLEWOOD AVE
YAKIMA, WA 98908

18131734408
MARISA G ALVAREZ
601 N 74TH AVE
YAKIMA, WA 98908

18131734409
MARTHA A SALAZAR FLORES
PO BOX 11432
YAKIMA, WA 98909

DOC.
INDEX

F-20

18131733427
MATTHEW D & DANELLE R CLARK
7604 GRAYSTONE CT
YAKIMA, WA 98908

18132021499
MEGAN P BENNETT
7505 W DOUGLAS DR
YAKIMA, WA 98908

18132022462
MICHAEL A & ESTHER L SEIDL
7703 DOUGLAS DR
YAKIMA, WA 98908

18132021498
NIKHIL LIZOTTE
7503 W DOUGLAS DR
YAKIMA, WA 98908

18132021497
PAUL & HEATHER BROWN
7501 W DOUGLAS DR
YAKIMA, WA 98908

18131734403
RACHAEL I MINER
7507 ENGLEWOOD AVE
YAKIMA, WA 98908

18132021495
TESIA DAWN & CODY NEAL BROWN
7401 W DOUGLAS DR
YAKIMA, WA 98908

37
Total Parcels - Makalii - PSP#003-22

Chandler Surveying LLC
PO Box 2275
Yakima, WA 98907

NTC of App
PSP#003-22
Sent 07/06/2022

DOC.
INDEX

F-2c

In-House Distribution E-mail List		Revised 05/02/2022
Name	Division	E-mail Address
Jaime Vera	Air Terminal	Jaime.Vera@yakimawa.gov
Silvia Corona	Clerk's Office	Silvia.Corona@yakimawa.gov
Lisa Maxey	Code Administration	Lisa.Maxey@yakimawa.gov
Glenn Denman	Code Administration	Glenn.Denman@yakimawa.gov
John Zabell	Code Administration	John.Zabell@yakimawa.gov
Pedro Contreras	Code Administration	Pedro.Contreras@yakimawa.gov
Suzanne DeBusschere	Code Administration	Suzanne.Debusschere@yakimawa.gov
Tony Doan	Code Administration	Tony.Doan@yakimawa.gov
Joan Davenport	Community Development	Joan.Davenport@yakimawa.gov
Rosalinda Ibarra	Community Development	Rosalinda.Ibarra@yakimawa.gov
Bill Preston	Engineering	Bill.preston@yakimawa.gov
Dan Riddle	Engineering	Dan.Riddle@yakimawa.gov
Aaron Markham	Fire	Aaron.markham@yakimawa.gov
Jeremy Rodriguez	Fire	Jeremy.Rodriguez@yakimawa.gov
Sara Watkins	Legal	Sara.Watkins@yakimawa.gov
Archie Matthews	ONDS	Archie.Matthews@yakimawa.gov
Joseph Calhoun	Planning	Joseph.Calhoun@yakimawa.gov
Irene Linos	Planning	Irene.Linos@Yakimawa.gov
Matt Murray	Police	Matthew.murray@yakimawa.gov
Scott Schafer	Public Works	Scott.Schafer@yakimawa.gov
Leovardo Cruz	Refuse	Leovardo.Cruz@yakimawa.gov
Randy Layman	Refuse	Randy.Layman@yakimawa.gov
Gregory Story	Transit	Gregory.Story@yakimawa.gov
James Dean	Utilities	James.Dean@yakimawa.gov
Dana Kallevig	Wastewater	Dana.Kallevig@yakimawa.gov
Randy Meloy	Wastewater	Randy.Meloy@yakimawa.gov
Dave Brown	Water/Irrigation	David.Brown@yakimawa.gov
Mike Shane	Water/Irrigation	Mike.Shane@yakimawa.gov

Outside Distribution		
Name	Address	Included In Mailing?
Pacific Power Attn: Estimating Department (Subdivision notices ONLY)	500 N Keys Rd, Yakima, WA 98901	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Additional Parties of Record or Interested Parties Notified		
Name	Address	E-mail

Type of Notice: NTC of Application
File Number(s): PSP #003-22
Date of Mailing: 07/06/2022

DOC.
INDEX
F-2c

Linos, Irene

From: Linos, Irene
Sent: Wednesday, July 06, 2022 9:06 AM
To: Brown, David; Calhoun, Joseph; Contreras, Pedro; Corona, Silvia; Davenport, Joan; Dean, James; DeBusschere, Suzanne; Denman, Glenn; Doan, Tony; Ibarra, Rosalinda; Kallevig, Dana; Layman, Randy; Linos, Irene; Markham, Aaron; Matthews, Archie; Maxey, Lisa; Meloy, Randy; Murray, Matthew; Preston, Bill; Riddle, Dan; Rodriguez, Jeremy; Schafer, Scott; Shane, Mike; Story, Gregory; Watkins, Sara; Zabell, John
Cc: Calhoun, Joseph; 'DPCPLS77@GMAIL.COM'
Subject: NOTICE OF APPLICATION - LESTER AND SONYA MAKALII - PSP#003-22
Attachments: NOTICE OF APPLICATION_Lester and Sonya Makalii - PSP#003-22.pdf

Attached is a Notice of Application for the above-entitled project. If you have any questions about this proposal please contact assigned planner Joseph Calhoun at Joseph.Calhoun@yakimawa.gov

Thank you!



Irene Linos
Department Assistant I
City of Yakima Planning Division
(509) 575-6183



DEPARTMENT OF COMMUNITY DEVELOPMENT

Joan Davenport, AICP, Director

Planning Division

Joseph Calhoun, Manager

129 North Second Street, 2nd Floor, Yakima, WA 98901

ask.planning@yakimawa.gov · www.yakimawa.gov/services/planning

NOTICE OF APPLICATION

DATE: July 6, 2022
TO: Applicant and Adjoining Property Owners
FROM: Joan Davenport, AICP, Community Development Director
APPLICANT: Lester and Sonya Makalii
FILE NUMBER: PSP#003-22
LOCATION: 7411 Englewood Ave
TAX PARCEL NUMBER(S): 181317-34422
DATE OF APPLICATION: April 13, 2022
DATE OF COMPLETE APP: July 5, 2022

PROJECT DESCRIPTION Proposed preliminary short plat to create four lots, located in the SR zoning district.

DETERMINATION OF CONSISTENCY Pursuant to YMC § 16.06.020(A), the project considerations are determined to be consistent with applicable development regulations, as follows:

1. The type of land use: Preliminary Short Plat for four single-family lots in the SR zoning district.
2. Level of development: Four single-family lots on approximately 1.78 acres.
3. Infrastructure and public facilities: The subject property is able to be served by public streets, water, sewer, garbage collection, etc.
4. Characteristics of development: The proposal shall adhere to all Title 12 and Title 15 development standards.

Pursuant to YMC § 16.06.020(B), the development regulations and comprehensive plan considerations are found to be consistent, as follows:

1. The type of land use: Preliminary Short Plat for four single-family lots in the SR zoning district.
2. Density of Development: Approximately 2.3 dwelling units per net residential acre.
3. Availability and adequacy of infrastructure and public utilities: The subject property is able to be served by public facilities.

REQUEST FOR WRITTEN COMMENTS Your views on this proposal are welcome. All written comments received by 5:00 P.M. on **July 26, 2022**, will be considered prior to issuing the final decision on this application. Please reference file numbers (PSP#003-22) and applicant's name (Makalii) in any correspondence you submit. You can mail your comments to:

Joan Davenport, AICP, Community Development Director
City of Yakima, Department of Community Development
129 N. 2nd St.; Yakima, WA 98901

NOTICE OF DECISION A copy of the decision will be mailed to parties of record and entities who were provided this notice once it is rendered. The decision will be final unless appealed.

The file containing the complete application is available for public review at the City of Yakima Planning Division, City Hall – 2nd Floor, 129 N. 2nd St., Yakima, WA. If you have any questions on this proposal, please contact Joseph Calhoun, Planning Manager at (509) 576-6736, or email to: joseph.calhoun@yakimawa.gov

Enclosed: Narrative, Plat, and Vicinity Map

DOC.
INDEX
F-2



DEPARTAMENTO DE DESARROLLO COMUNITARIO
Joan Davenport, AICP, Directora

Division de Planificación

Joseph Calhoun, Gerente

129 Norte Calle 2ª, 2º Piso, Yakima, WA 98901

ask.planning@yakimawa.gov · www.yakimawa.gov/services/planning

AVISO DE APLICACIÓN

El Departamento de Desarrollo Comunitario de la Ciudad de Yakima ha recibido una aplicación por parte de un propietario/solicitante y este es un aviso sobre esa solicitud. Información sobre la ubicación de la propiedad en cuestión y la solicitud es la siguiente:

FECHA OTORGADA: 6 de julio, 2022
PARA: Solicitante y Propietarios Adyacentes
DE: Joan Davenport, AICP, Directora de Desarrollo Comunitario
SOLICITANTE: Lester and Sonya Makalii
No. DE ARCHIVO: PSP#003-22
UBICACIÓN: 7411 Englewood Avenue
No. DE PARCELA(S): 181317-34422
FECHA DE APLICACIÓN: 13 de abril, 2022
FECHA DE APLICACIÓN COMPLETA: 5 de julio, 2022

DESCRIPCIÓN DEL PROYECTO: Propuesta para una subdivisión preliminar para crear cuatro lotes ubicados en la zona residencial SR.

DETERMINACIÓN DE LA CONSISTENCIA: Conforme al Código Municipal YMC §16.06.020(A), las consideraciones del proyecto se determinan coherentes a las siguientes normas de desarrollo aplicables:

1. El tipo de uso terrenal: Subdivisión preliminar para cuatro lotes unifamiliares en la zona SR.
2. Nivel de desarrollo: Cuatro lotes unifamiliares en aproximadamente 1.78 acres.
3. Infraestructura e instalaciones públicas: La propiedad puede ser servida por calles públicas, agua, drenaje, recolección de basura, etc.
4. Características del desarrollo: La propuesta se adherirá a todas las normas de desarrollo del título 12 y del título 15.

Conforme al Código Municipal YMC §16.06.020(B), los reglamentos de desarrollo y las consideraciones del plan comprensivo son coherentes, de la siguiente manera:

1. El tipo del uso terrenal: Subdivisión preliminar para cuatro lotes unifamiliares en la zona SR.
2. Densidad del desarrollo: Aproximadamente 2.3 unidades de vivienda por acre residencial.
3. Disponibilidad y adecuación de infraestructura y servicios públicos: La propiedad puede ser servida por instalaciones públicas.

SOLICITUD DE COMENTARIOS ESCRITOS: Sus opiniones sobre esta propuesta son bienvenidas. Todos los comentarios recibidos por escrito antes de las 5:00 p.m. el **26 de julio, 2022** serán considerados antes de emitir la decisión final sobre esta solicitud. Por favor de hacer referencia al número de archivo (PSP#003-22) o al nombre del solicitante (Makalii) en cualquier correspondencia que envíe. Por favor de enviar sus comentarios sobre esta propuesta a:

Joan Davenport, AICP, Community Development Director
City of Yakima, Department of Community Development
129 N. 2nd St., Yakima, WA 98901

AVISO DE LA DECISIÓN FINAL: Cuando la decisión final sea emitida, una copia será enviada a las personas que mandaron comentarios o que recibieron este aviso. La decisión será definitiva a menos de que sea apelada. El archivo que contiene la aplicación completa está disponible para inspección pública en la Oficina de Planificación de la Ciudad de Yakima en el 129 al Norte la Calle 2da, Yakima, WA. Si tiene cualquier pregunta sobre esta propuesta, puede contactar a la Oficina de Planificación al (509) 575-6183 o por correo electrónico al: ask.planning@yakimawa.gov

Adjunto: Narrativa, Plan del Sitio, Mapa

DOC.
INDEX
F-2



DEPARTMENT OF COMMUNITY DEVELOPMENT
Joan Davenport, AICP, Director

Planning Division

Joseph Calhoun, Manager

129 North Second Street, 2nd Floor, Yakima, WA 98901

ask.planning@yakimawa.gov · www.yakimawa.gov/services/planning

July 5, 2022

FILE NUMBER(S): PSP#003-22
APPLICANT: Lester and Sonya Makalii
APPLICANT ADDRESS: 7411 Englewood Ave
PROJECT LOCATION: 818 S. 48th Ave.
TAX PARCEL NO: 181317-34422
DATE OF REQUEST: April 13, 2022
SUBJECT: Notice of Complete Application

Mr. and Mrs. Makalii:

The application for your Preliminary Short Plat for 7411 Englewood Ave. was received on April 13, 2022. As of July 5, 2022, the application is considered **complete** as required by the City of Yakima's Municipal Code (YMC) and site plan checklist, as referenced in YMC §§ 14.15.010.

The Development Services Team (DST) will hold a meeting to review your project. Continued processing of your request will include, but is not limited to the following:

1. A Notice of Application will be sent to all property owners within 300 feet of your project. This notice will include a request for public comments during a 20-day comment period as is required by the City of Yakima. Notice of Application is scheduled to be issued on July 8, 2022 and the comment period will end on July 28, 2022.
2. Following the comment period, a staff report will be prepared by the Planning Division, which will state the Administrative Official's findings and decision. This will be followed by a 14-day appeal period.

For any questions regarding this matter, please contact me at joseph.calhoun@yakimawa.gov.

Sincerely,

A handwritten signature in black ink, appearing to be "JC" or similar initials, written over a horizontal line.

Joseph Calhoun
Planning Manager

DOC.
INDEX

F-1



LESTER & SONYA MAKALII – APPEAL
APP#002-22
(PSP#003-22)

EXHIBIT LIST

CHAPTER G

Public Comments

[illegible]

July 25, 2022
File # PR#003-22
re: Sonya & Lester Makalii

Dear Joan Davenport,

I am writing to object to the subdivision proposed by the applicant "Makalii". I don't want this development in my neighborhood. We are overwhelmed with new construction right now. I have the usual complaints - increased noise, increased traffic, it obstructs my view -

I also think the lots are small for homes in this area. I could accept 1 or 2 homes.

Please consider my concerns in your decision.

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JUL 27 2022

CITY OF YAKIMA
PLANNING DIV.

Thank you

Margaret Fousha

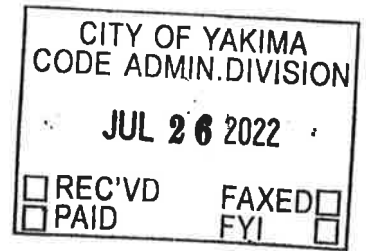
Margaret S Fousha

7505 Englewood Ave

DOC.

INDEX

G-4



Joan Davenport
Community Development Director
Department of Community Development
City of Yakima
129 N. 2nd Street
Yakima, WA 98901

Re: file number PSP#003-22
Application of Lester and Sonya Makalii
7411 Englewood Ave

OPPOSITION TO APPLICATION

Please consider these comments to the application. We are opposed to the application for the following reasons.

1. The application misrepresents the usable space for proposed lots 3 and 4 because it does not consider easements. The useable space is significantly less. Using the designated width of the driveway to lot 1 which is 22.72 as the width of the easements it is discovered:
 - a. Lot 4 is represented as being 13,793 SF. The easement on the west is 42.9 feet in length. The easement west to northeast is 121.29 feet in length. The easements are 22.72 feet wide. Thus $42.9 \times 22.72 = 974.69$. The west-northeast easement is $121.29 \times 22.72 = 2769.57$. The total of the easements reduces the useable property by 3744.26 SF bringing the actual useable property to 10,048.74 SF.

1.

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JUL 26 2022

CITY OF YAKIMA
PLANNING DIV.

- b. Lot 3 is represented as being 13,296 SF. The easement on the west is 100.5 feet in length. Thus $105.5 \times 22.72 = 2396.96$ SF. The actual useable property is 10899.04 SF.
2. A large portion of the north boundary of lot 4 contains a steep drop-off which because of the slope of the access driveway created by the existing easement there is even less useable space in lot 4. The drop off is shown in red in the attached. A photograph is included.
 3. There is no access easement designated for lots 2 and 4 from the property driveway.
 4. The south boundary of proposed lot 2 has a steep drop-off to the road. The distance from the road to the south border of the lot is over 15 feet. This may be unstable with excavation. This is not shown in the application or Preliminary Short Plat which in 4(B) indicates no "unstable soil- i.e., slides or slipping". The area is shown in red on the attachment. Two pictures are attached.
 5. The proposed division of the property into small lots degrades the character of the neighborhood north of Englewood Avenue. All surrounding lots and nearby lots are approximately one-half (.5) of an acre as shown by the attached exhibit which was developed from the Yakima County website.

2.

DOC.

INDEX

6-3

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JUL 26 2022

CITY OF YAKIMA
PLANNING DIV.

We ask the Department to deny the application.

Dated this 26th day of July 2020

Signed by

GAM & MARIA LOFANO / Maria Lofano
7511 ENGLEWOOD

Margaret S Fousha
7505 Englewood

Frank Jarvis
7705 Englewood Ave

Project Name: LESTER & SONYA MAKALII

Site Address: 7411 ENGLEWOOD AVE

File Number(s): PSP#003-22

Proposal: Proposed preliminary short plat to create four lots in the SR zoning district.



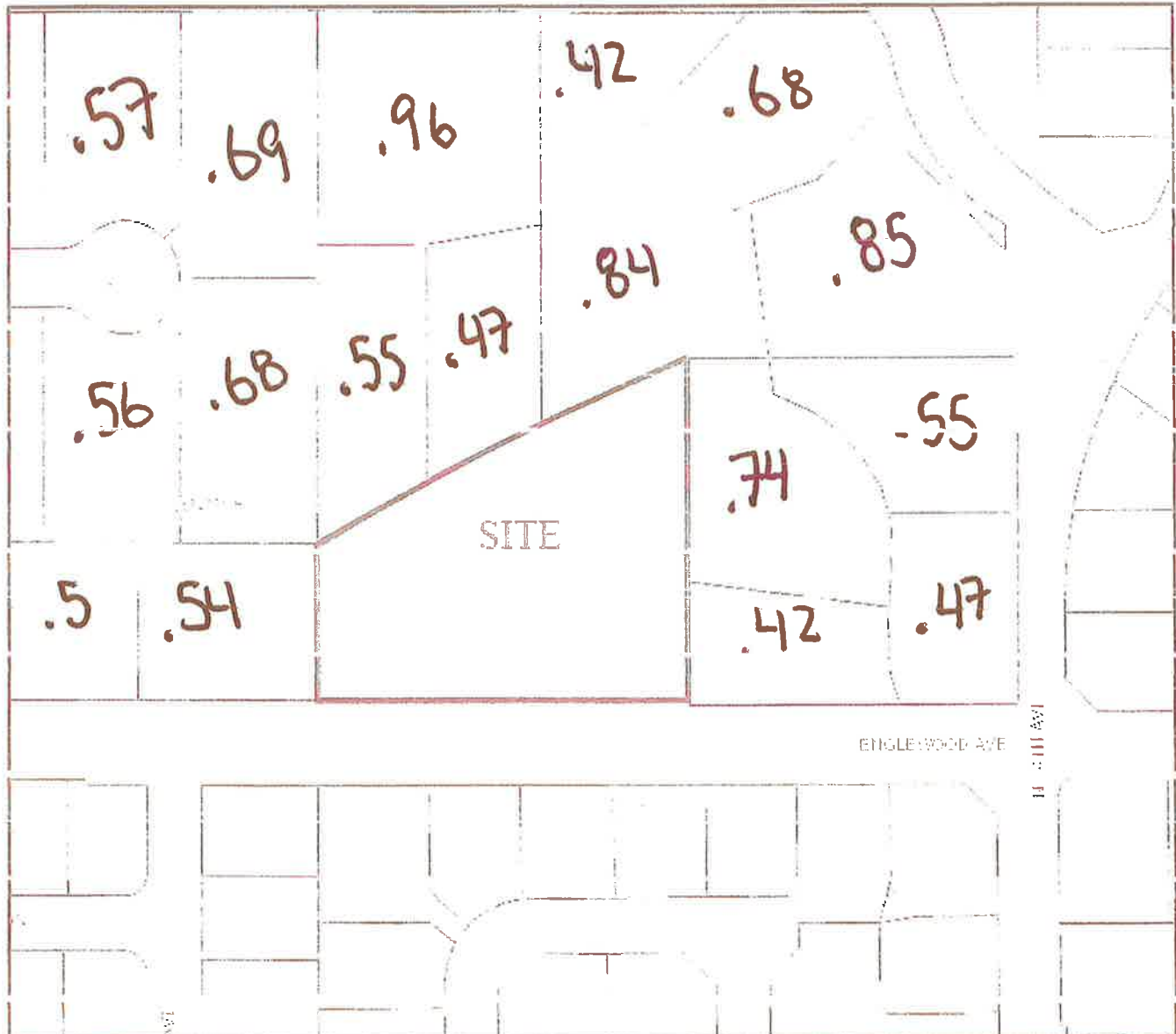
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JUL 26 2022

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PLANNING DIV.



VICINITY MAP



DOC.
INDEX

93

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

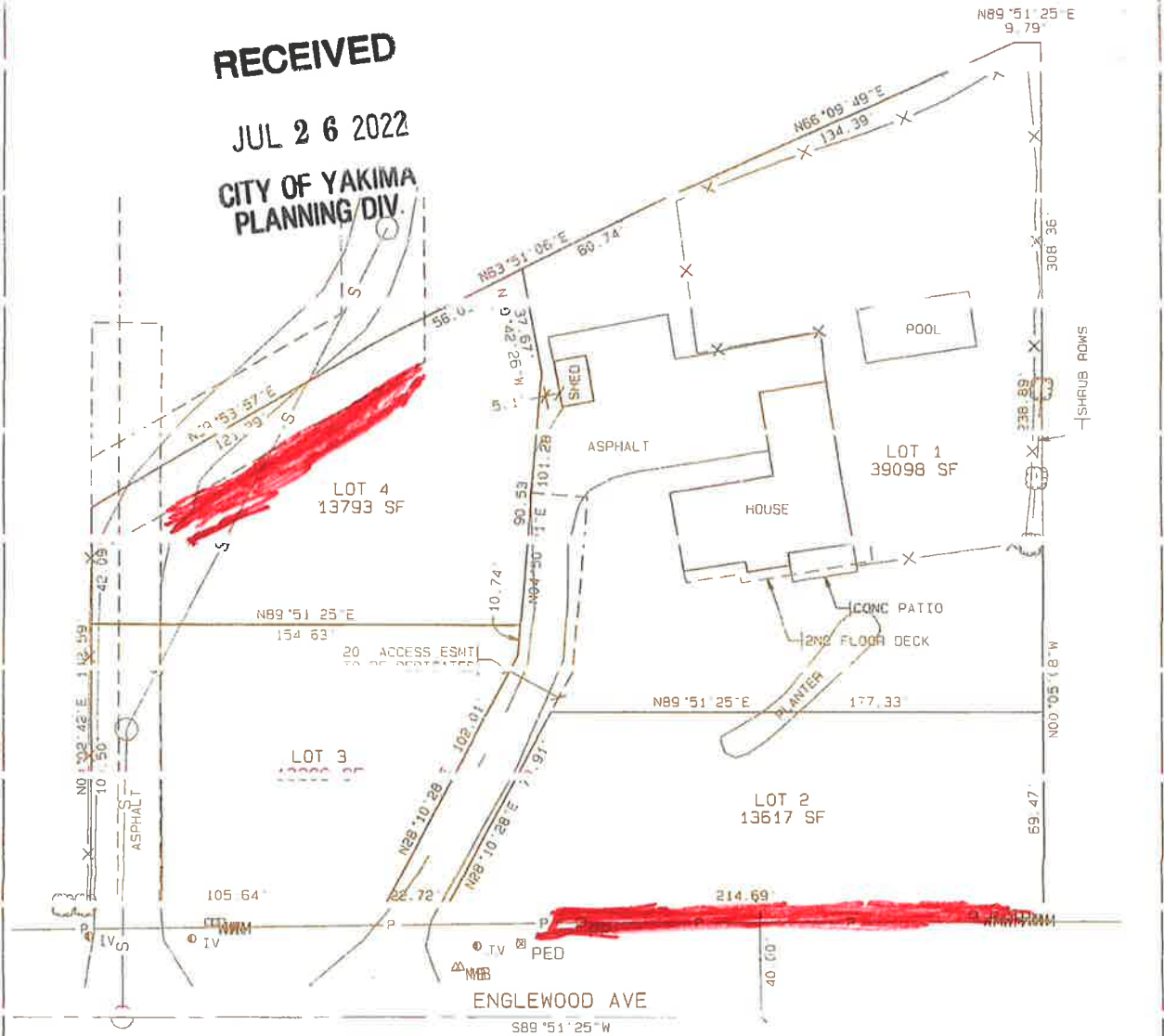
Date Created: 7/6/2022



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PLANNING DIV.



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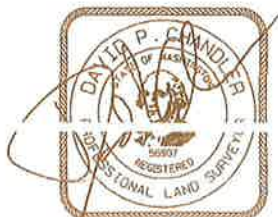
COMMUNITY DEVELOPMENT

LEGEND

- X— DENOTES EXISTING FENCE
- S— DENOTES EXISTING SEWER
- P— DENOTES OVERHEAD POWER, TEL. & CABLE TV
- DENOTES EXISTING MANHOLE
- WM DENOTES EXISTING WATER METER
- IV DENOTES EXISTING IRRIGATION VALVE
- HP— DENOTES EXISTING HIGHWAY
- PED DENOTES EXISTING PEDESTAL (AS NOTED)
- △ MB DENOTES EXISTING MAILBOX
- DENOTES EXISTING SHRUB

SITE ADDRESS

7411 ENGLEWOOD AVE



GRAPHIC SCALE

1"=40'



PRELIMINARY PLAT SITE PLAN

FOR

SONYA MAKAI TT

TAX PARCEL #: 191317-34422
SECTION 17, TOWNSHIP 13 NORTH, RANGE 18 EAST, W N

CHANDLER SURVEYING LLC

PO BOX 2275
YAKIMA, WA 98907
509 225 0100

SHEET 1 OF 1 JOB # 2022-001 DATE 7/1/22

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INDEX

613

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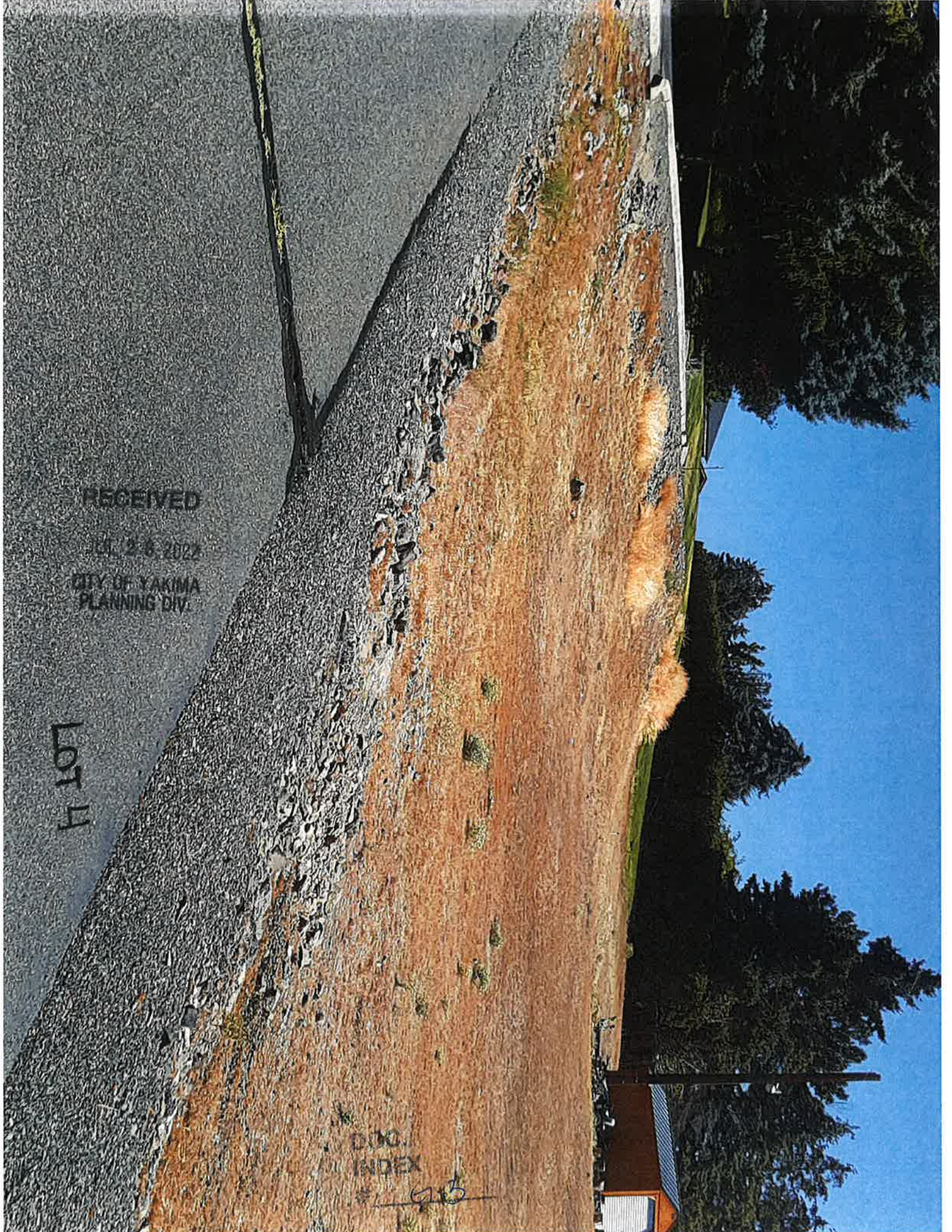
JUL 26 2022

CITY OF YAKIMA
PLANNING DIV.

LOT 4

D.D.C.
INDEX

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JUL 26 2022

19

CITY OF YAKIMA
PLANNING DIV.

198-1

LOT 7

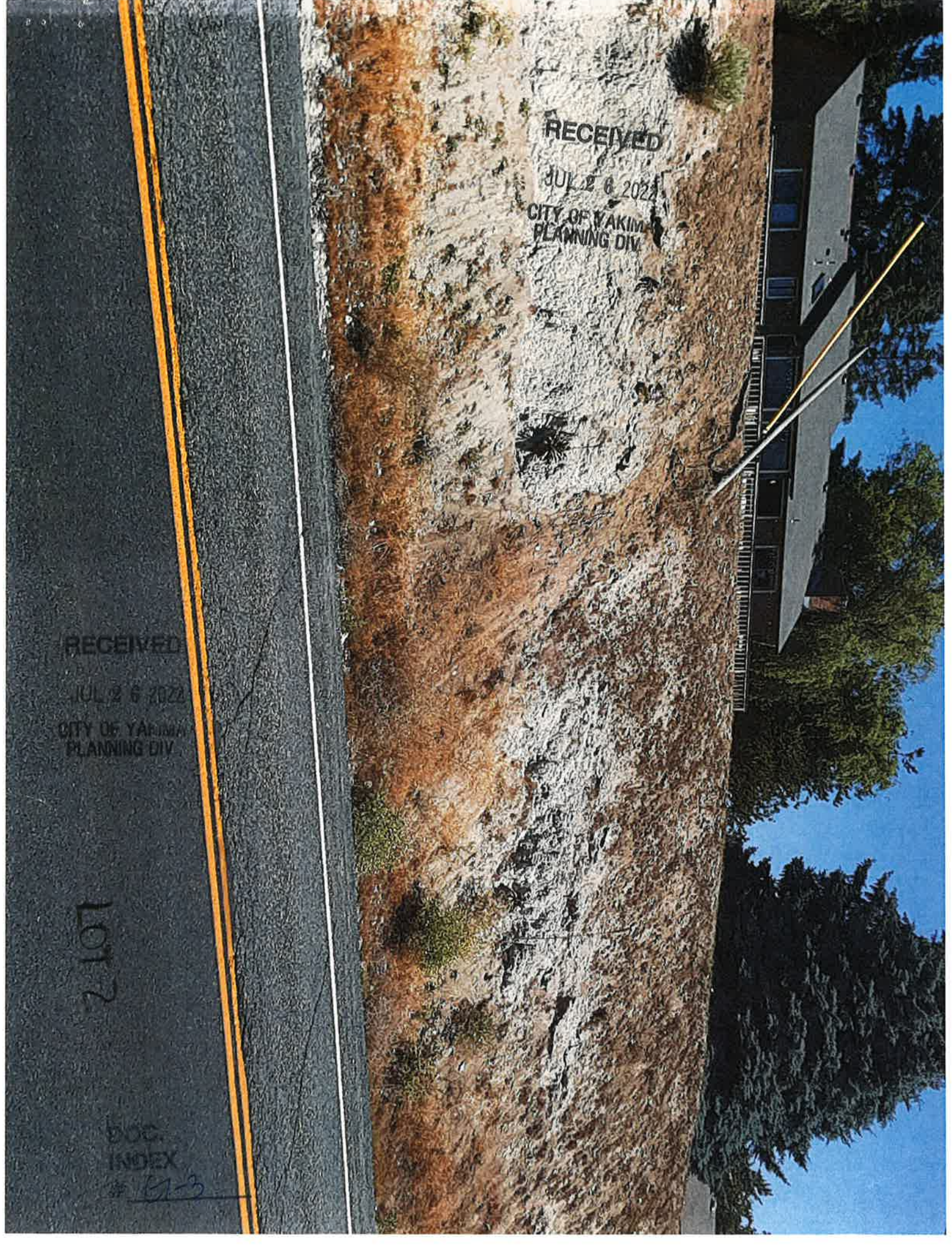
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LOT 2

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INDEX
61-3



7507 Englewood Avenue
Yakima, WA 98908
July 20, 2022

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CITY OF YAKIMA
PLANNING DIV.

Department of Community Development
Attention: Joan Davenport, AICP, Director
129 North Second Street, 2nd Floor
Yakima, WA 98901

Dear Community Development:

I received a letter informing me of a short plat development next to my property. I have lived in my home for eight years. The reason I moved to this location is the large lots surrounding my home, which allows me privacy.

This four lot development I highly oppose. The density of this development is small for three additional homes. In addition, the extra traffic and neighborhood noise would be much greater than what I want to live with. Our current community is very quiet and my neighbors are all opposed to this small lot being developed next to their homes.

Please consider reducing the amount of homes that can be built on this single lot. Your decision to reduce the amount of home sites would be greatly appreciated.

Sincerely,



Rachael Miner

Reference #: PSP#003-22 (Lester and Sonya Makalii)

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INDEX

G-2

✓
Alfonso and Stella Pineda
12432 W Sunland Avenue
Avondale, Arizona 85323

July 26, 2022

Ms Joan Davenport AICP
City of Yakima
Department of Community Development
129 N 2nd Street
Yakima, WA 98901

Subject: PSP#0003-22 Makalii

Dear Ms Davenport:

This correspondence is in reply to the Notice of Application related to the above referenced File PSP #003-22. We are owners of the property/residence located at 7409 Englewood Avenue which borders Mr and Mrs Makalii's property to the East. We maintain ownership of said property in Yakima but have relocated to 12431 W Sunland Avenue, Avondale, AZ 85323. The 7409 Englewood Avenue in Yakima is being leased through Accolade Property Management LLC in Ellensburg at (509)933-2600.

We respectfully request you consider:

- 1) Whether existing/current property lines are not protected/vested due to passage of time (Grandfathered).
- 2) Any physical changes along the property lines do not have any financial impact on us, changes to any utilities and or irrigation system be made at no expense to us.
- 4) Any such construction, fences, structures do not impact any future development of our easements, setbacks, etc.

These considerations are submitted to protect our current and future interests. I assume that your Department is neutral and consider the impact being proposed by Mr and Mrs Makalii.

Thank you for your consideration and attention to this matter. If you have any questions, please feel free to contact us by phone or email at elpineda9@hotmail.com.

Very truly yours

Alfonso M Pineda
(509) 930-9302

Stella L Pineda
(509)952-4588

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DOC.
INDEX

6-1