

OFFICE OF THE HEARING EXAMINER

CITY OF YELM

REPORT AND DECISION

CASE NO.: MPD-05-0067-YL - TAHOMA TERRA

APPLICANT: Tahoma Terra LLC
4200 6th Avenue SE, Suite 301
Lacey, WA 98503

SUMMARY OF REQUEST:

The applicant has made application for a final master site plan on the portion of the Tahoma Terra Master Plan Development located east of Thompson Creek.

SUMMARY OF RECOMMENDATION:

It is hereby recommended to the City of Yelm City Council that the Final Master Plan for Phases 1 and 2 of the Tahoma Terra project be approved subject to adoption of then Final Master Plan Development Guidelines.

PUBLIC HEARING:

After reviewing Planning and Community Development Staff Report and examining available information on file with the application, the Examiner conducted a public hearing on the request as follows:

The hearing was opened on July 11, 2005, at 9:00 a.m.

Parties wishing to testify were sworn in by the Examiner.

The following exhibits were submitted and made a part of the record as follows:

EXHIBIT "1" - Planning and Community Development Staff Report and Attachments

GRANT BECK appeared, presented the Community Development Department Staff Report, and testified that this southwest area of Yelm was annexed in 1993 as an MPC. The City has a blank slat for development with uses consistent with the comprehensive plan. The MPC has its own zoning code with little direction for the first master plan. The first subdivision must be consistent with the conceptual and final plan approval.

STEVE CHAMBERLAIN appeared on behalf of the request and testified that they have developed a conceptual plan for the entire 220 acres, a final plan for the area east of Thompson Creek, and a preliminary plat of 89 lots. The site previously supported a large dairy farm and was purchased for the MPC. The site is generally level with rolling pasture east of the creek. To the west of the creek the topography ascends to a higher plateau covered with trees. Soils on the site consist of topsoil and sand and gravel which are conducive to development. The dairy farm ceased operation in 1993 or 1994, but other cattle have grazed on the site since then. They will use a natural feature design incorporating the City design guidelines. They anticipate seven to ten years to develop the entire site. They will locate the commercial area east of the creek and townhouses with overlook the golf course. They anticipate between 700 and 1,200 dwelling units over the 220 acres. They will collect, treat, and discharge all stormwater drainage into the soil, and will have a few ponds in the good soil areas. Sanitary sewers will serve the project as well as a major arterial. The City will provide potable water and sanitary sewer service, and they will construct parks throughout the development.

JEFF SCHRAMM, traffic engineer, appeared and testified that he has provided traffic studies for the past ten years and conducted such study for the entire MPC. He evaluated a conceptual analysis for all phases, and for Phases 1 and 2 east of the creek. They will provide mitigation for this project in addition to the State and City plans. The entire traffic analysis and development for the annexation area were considered by the City and the State. The MDNS sets forth mitigating measures for traffic which includes an approximate \$1 million dollar impact fee in addition to the road improvements. The 89 lot subdivision will require improvement of Longmire Street to Yelm Avenue to modified collector standards with shoulders and bike lanes. They will improve the Yelm/Longmire intersection with a center turn lane. Future development will require an extension of Killion Road as a new road to serve the development. No development will occur west of the creek until the initial connection is made. They will also install a new traffic signal and will widen both roads. These improvements will accommodate Phases 3 through 5. For the balance of the site they will improve Mosman Avenue and realign it to a four leg intersection which is also consistent with the City TIP. They will provide access to SR-510 by either Mosman or the new road connection to the south. All of the improvements are consistent with the City's plans and methods of determining mitigation.

STEVE SHANEWISE appeared and testified that he is a wetland scientist and studied the wetlands on the site. A wetland near the south property line drains north to the creek and the creek channel is in the wetland. All wetlands meet the definition of Category 2 for which the ordinance requires a 75 foot wide buffer, as compared with their 100 foot wide buffer. They will construct ballfields, park, and lawn in the creek bottom, and will remove fill from the wetlands and will cross the creek with a bridge. Construction will affect .5 to .6 acres of wetlands. They will restore two to four acres of drained wetlands.

MR. CHAMBERLAIN reappeared and testified that they will utilize purple pipe or recycled water from the sewer treatment plant for irrigation. While the water is not considered

drinkable, it is treated to that standard.

BOB DROLL, landscape architect, appeared and testified that 80% of his work is in the park and recreational fields. Larger developments can impact a City. They propose 60 acres of open space and parks and about 25% will be developed into active recreational areas. The balance will consist of habitat and open space. Neighborhood parks will contain playground apparatus for elementary children. They will also have activities for adults and seniors to include over a mile of walking trails consisting of paved, boardwalk, and crushed rock. They will have pocket parks within subdivisions also. The main park will have two picnic shelters.

MR. CHAMBERLAIN reappeared and testified that the applicant has 60 years experience in developing property and in home building. This will be the most unique development in the City and Quadrant Homes will build all of the residential dwellings. Phase 1 will consist of 89 lots. They will carry the same theme throughout the development starting with the residences in Phase 1 which will be single family residential exclusively. The primary access for the subdivision will be from Longer and they will work with adjoining property owners to minimize the impacts of construction. They will also bring utilities down Longer and will accommodate storm drainage on site.

JIM STROTT, Quadrant Homes, testified that his company is the largest home builder in the State and that they offer an entry level product. They have a mix of lots on this site and buyers can determine the size and quality of the home. They will have competitive pricing. They anticipate constructing two homes per week to manage the growth. They anticipate home sizes of 1,800 square feet which will sell for between \$150,000 and \$175,000 and 3,200 square foot homes which will sell for \$300,000 or more.

MR. BECK reappeared and testified that SEPA review has required different conditions for different phases. They have tied the MDNS measures to the number of trips generated not to the phases. Police stations in the area are substandard and the applicant will pay a police facility charge of \$310 per unit for replacement of the existing structure. Staff finds the project consistent with the comprehensive plan and the applicant had to provide more units to obtain the minimum four dwelling units per acre. The Land Use Element promotes mixed uses such as townhouses and neighborhood commercials, but not to compete with the downtown businesses. They will have a range of housing and housing prices. They will also provide parks and open space, but install the parks before development as they go along. The dairy farm had water rights and transferred them to the applicant. A condition of approval requires that development beyond the 89 units have a water transfer. The final development plan contains fixed development regulations for the phases covered. The Master Site Plan limits the size of the neighborhood commercial to ensure that it will not compete with downtown businesses. The pocket parks will be constructed in individual neighborhoods throughout all phases so that children don't need to go far from home. The subdivision conditions are straight forward and staff recommends approval subject to the mitigating measures and conditions.

MARGARET CLAPP appeared and testified that she is very impressed with the proposal and served on the Planning Commission during the southwest annexation. This MPC is what the commission members desired, and it meets all of the tests to include significant open space. She wants to see the wetland mitigation work and believes the applicant has done a first class job and will provide all infrastructure.

DIANE D'ACUTI appeared and concurs with Ms. Clapp. She did has transportation questions as she does not believe one stop light will handle the increased traffic. She also discussed the setbacks from Thompson Creek and ascertained that the applicant is vested under the old ordinance which requires less of a buffer. Thompson Creek will not flow unless someone cleans it out. Adding more water will cause the creek to back up and the streets to flood.

JAMES ZUKOWSKI appeared, asked questions, and obtained the following answers. The conceptual plan covers 220 acres and will result in construction of 800 to 1,200 residential units. The final plan covering the area east of the creek will result in approximately 216 units to include townhomes and commercial. He believes the Mosman extension a problem due to ownership issues. The critical areas located at the north end of the Thompson ballfields are still within a 100 foot buffer. He questioned the geotechnical hazard area for the extension of the boulevard. He questioned how trails would cross the creek and whether the picnic shelters would be for general citizen use or just for residents of the MPC and who is in charge.

JEAN HANDLEY appeared and testified that she was at the last Planning Commission meeting which updated the Critical Areas Ordinance. Now a subcommittee will testify as to the new regulations. The present regulations are outdated and she is concerned about retention of trees and the road widening. She questioned the source of funds which the City will use to build improvements. With the new population growth, Yelm will compete with other cities for grants. No one has discussed the impact on the fire department, but it will have a large impact and create a large burden. The fire department may need another building in addition to the police department. She questioned whether emergency vehicle access would be a problem for the lots. If an earthquake occurs, the State will not have any funds for this project. The City should stop the MPC if the State can't fund the improvements. She referred to the United States Supreme Court decision in the Mosman Road issue and requested a condition prohibiting the City from exercising eminent domain.

HENRY DRAGT appeared and testified that he owned and ran the dairy on the site, and sold the property in December. The sale was a fulfillment of his plans for the site since 1993. The City annexed the parcel in October, 2004, and approved the southwest area for a conceptual master plan for development to include this parcel. The critical areas study determined no significant impact. He believes the plan a great benefit for the City.

JENISE MUGLER appeared and testified that she owns the property south of the development and that the MDNS is out of date. In 1999 the checklist showed the development plans with more open space along the borders. The townhouses have now

changed to a high density development. The applicant must revisit the plan as the apartments are shown right on her property line along the south border. The creek goes through the corner and she desires more open space. Either offset the apartments or provide a greenbelt. The apartments are part of Phase 2.

ROSALIE SAECKER appeared and testified that she regularly uses Longmire. The applicant should construct all road improvements to include bike paths and sidewalks along Longmire. They should provide a bus stop at Yelm Avenue and Longmire. She questioned how the development will minimize traffic on Berry Valley Road.

GEORGE SWARTZ appeared and testified that he owns the property shown by red line and that he was left out of the loop. His concern is eminent domain because his parcel is necessary to extend Mosman Street.

MR. CHAMBERLAIN reappeared and testified that the current code requires a buffer of 75 feet, but they have expanded the buffer to at least 100 feet. The ballfields are outside of the 100 foot buffer. The impact of cattle on the creek is considerably greater than urban development. Their development will be compatible with the creek. Phase 1 consists of 89 lots. The picnic shelters are primarily for the use of the residents, but others can use them as well. The homeowner's association can rent the shelters to outside organizations. Trees lost on the site will be due to roads and development, but they will not lose that many trees. The site was logged many years ago, and they will replant trees where they can. The development will pay for its impacts with the taxes, impact fees, and required mitigation. They have worked with the City to mitigate impacts on the fire department and police department. They are looking at an area within the commercial portion of the MPC for the police department. They do not want to compete with downtown business. They do not propose a big box store, just neighborhood area uses. Such would prevent residents from having to go to SR-510 or SR-507. The townhomes can enhance the MPC by providing a mixed residential use. The townhomes are compatible with the creek and the golf course and will contain 18 to 20 units. They have no other opportunities for townhomes on Phases 1 and 2. All internal roads will have sidewalks and bike paths. Longmire will be the preferred route which will keep traffic off of Berry Valley. The timing of construction will direct traffic to the boulevard, and neither Longmire nor Berry Valley will serve as the main access. They will regrade the steep areas to balance the site to minimize traffic during the construction period. They have elevated the trails through the wetlands and across the creek. Critical areas about the south side of the site, and the nearest townhouse will be set back 50 feet from the property line.

MR. BECK reappeared and testified that both the comprehensive plan and GMA require the applicant to use the best available science. Wetland restoration is a big part of the project. Impacts on the fire department had a large amount of discussion in the MDNS, but the City can't justify the use of impact fees. The issue is the number of firefighters and not the fire department's capital facilities. The fire department has no plan to increase capital facilities. Most of the infrastructure will be located in Thurston Highlands and will be in place for that development. They could condition the south property line setback. The standards for that

development are in the guidelines. They could codify that requirement which would concern the non-golf course property. The State does not allow eminent domain for business or economic purposes. The decision on Mosman is seven to ten years down the road.

MS. MUGLER reappeared and testified that the townhouses should measure 100 feet from the off-site wetlands.

MS. HANDLEY reappeared and testified that the applicant evaluated the creek in a drought and did not get a true picture of its flow.

MS. KELLY PETERSON appeared and questioned the impact of 1,200 homes on the water supply.

MR. BECK testified that the City would have the right to the water, but the depth of withdrawal is not decided. The City could draw from other aquifers.

MS. NEWBY appeared and testified that she resides on Longmire Street and that trucks pass 25 feet from her window. A restaurant already exists at the Killion extension. She sees years of traffic and wants Berry Valley extended.

DARLENE BAKER appeared and testified regarding drinking water wells.

No one spoke further in this matter and so the Examiner took the request under advisement.

NOTE: A complete record of this hearing is available in the City of Yelm Community Development Department

FINDINGS, CONCLUSIONS AND DECISION:

FINDINGS:

1. The Hearing Examiner has admitted documentary evidence into the record, viewed the property, heard testimony, and taken this matter under advisement.
2. The City's SEPA Responsible Official issued and published a Mitigated Determination of Nonsignificance on May 24, 2005, based on Section 197-11-158 WAC.
3. A Notice of Public Hearing was mailed to the applicant and parties of record on June 20, 2005. This notice was also posted at City Hall and on the City of Yelm web site on the same date, and published in the *Nisqually Valley News* on June 24, 2005.
4. The applicant has a possessory ownership interest in a generally rectangular, 220 acre parcel of property located south of SR-510 and west of SR-507 in the southwest portion of the City of Yelm. The applicant requests Conceptual Master

Site Plan approval for the entire parcel; final master site plan approval for the portion of the parcel located east of Thompson Creek consisting of approximately 55 acres; and preliminary plat approval for Phase 1, located in the northwest corner of the site, which proposes 89 single-family residential lots on 15 acres.

5. The Draght family previously used the parcel for a dairy farm for many years, but ceased operation in 1993. Improvements on the site include a home and outbuildings associated with the dairy, and development of the site will require removal of all such improvements. Thompson Creek, a Type F stream and its associated floodplain and wetlands, bisects the eastern portion of the site in a north/south direction. A road used in conjunction with the dairy farm crosses Thompson Creek near the center of the site. Topography is relatively flat, but west of the creek, the topography rises as much as 50 feet with bluffs of 22-30 feet. Vegetation consists of pasture grass with forested areas in the northeast and southwest portions.
6. Abutting uses to the west, east and south consist of vacant parcels, agricultural uses, and single family dwellings on large lots. The Nisqually Valley Golf Course abuts the northeast corner. Berry Valley Road Southeast abuts the north portion of the west property line, and Durant Street abuts a portion of the north property line. Longmire Street SE dead ends at Durant Street and an extension of Longmire provides access to the dairy farm buildings.
7. The site is a portion of the 1993 southwest Yelm annexation which also included the 1,300-acre Thurston Highlands property, the golf course, and 150 additional acres. As part of the annexation process, the City prepared an Environmental Impact Statement (EIS) that assessed the impacts of up to 5,000 dwelling units to include several potential master plan communities, including the present site. In 1994 owners of the 1,260-acre Thurston Highlands property and the present site obtained conceptual master plan approval for a master plan development which included both properties. The City required preparation of a Supplemental Environmental Impact Statement (SEIS) prior to approval. The applicant performed little, if any, work on the project, and in accordance with the Yelm Municipal Code (YMC), the approval lapsed after five years. In 1999 another previous owner submitted an application for a master plan development for the present 220-acre parcel which the Yelm City Council approved subject to the preservation of the right-of-way for a boulevard designed to serve the project. However, the previous applicant did not meet City requirements, and the City deemed the application withdrawn for lack of progress. The present applicant, Tahoma Terra LLC., submitted its application on March 21, 2005.
8. Phases 1 and 2, located east of Thompson Creek, consist of 55 acres. Phase 1 will be developed into 89 single family residential homes, and Phase 2 is proposed for development into approximately 20 townhomes and 123 single family residential homes. In addition, Phase 2 will provide lots for five commercial

buildings and open space park areas associated with Thompson Creek.

9. The site plan shows Phase 1 located in the northeast corner of the site and access provided via Longmire Street and Berry Valley Road. Phase 2 is located to the west and south of Phase 1 and will take access from the same two roads. Upon development of future phases to the west of Thompson Creek, the applicant will construct the Tahoma Terra Boulevard along the north property line of Phase 1 and through the western portion of Phase 2. The boulevard will separate the commercial uses from the single family uses. A road extending south from Longmire Street along the east property line will provide access to approximately 20 townhomes located adjacent to the Nisqually Valley Golf Course. The abutting property owner to the south of the proposed townhomes requested a greater buffer width from her property line. Such will be addressed during the processing of a land use application covering Phase 2. The Final Master Plan shows a buffer width of approximately 50 feet.
10. The Final Master Plan shows a grid street system with all lots accessing from internal plat roads and access to the commercial area provided directly from the bulkhead and from a driveway system between the critical areas and the buildings. The buildings will have pedestrian access from Tahoma Terra Boulevard. A large parking area serving the community park is shown near the intersection of Longmire Street and Tahoma Terra Boulevard.
11. Prior to obtaining Final Master Plan approval, the applicant must show that the request satisfies the applicable criteria set forth in Section 17.62.060 YMC. Findings on each criteria are hereby made as follows:
 - A. The applicant has submitted maps and a text which show major development features and services for the first two phases.
 - B. The proposed Final Master Plan for Phases 1 and 2 provides all information required by Section 17.62.060(E) YMC as it sets forth the acreage within Phases 1 and 2, the total number of dwelling units, and the average number of dwelling units per acre (232 units on 55 acres) which calculates to a gross density of 4.2 dwelling units per acre. The conceptual site plan sets forth the acreage of open space including a separate figure for active recreation space and the percentage of the total area.
 - C. The neighborhood commercial requirements set forth in the Final Master Plan Development guidelines set forth the approximate floor area and type of commercial use. Said section authorizes a maximum building size of 30,000 square feet, maximum building footprint of 16,000 square feet, maximum impervious surface coverage of 70%, and building setback requirements. Said plan presently shows four buildings of 24,000 square feet and one building of 4,800 square feet. The present Final Master Plan

approval application reflects five acres of commercial uses.

- D. The means by which the proposed master plan meets the objectives set forth in Section 17.62.020 YMC are the same as for the conceptual master plan, and findings thereon are incorporated by their reference as if set forth in full.
12. The Final Master Plan for the portion of the property east of Thompson Creek is compatible with the conceptual plan, assuming that the development guidelines are adopted throughout the entire area. Said guidelines are consistent with the conceptual site plan and the City's comprehensive plan.
13. According to the traffic impact study provided by Transportation Engineering Northwest, a qualified transportation engineering firm, Phases 1 and 2 at buildout will generate 512 p.m. peak hour trips and 5,120 average daily trips. Phase 1 will generate 90 p.m. peak hour trips and 850 average daily trips, and Phase 2 will add 422 p.m. peak hour trips and 4,270 average daily trips. Phase 2 includes 125 units of single family detached housing, 20 condominiums, a gas station with car wash, and 48,000 square feet of gross floor area for office/commercial building uses. The traffic analysis anticipates that 85% of the traffic will travel northeast to SR-510 and 15% southwest to SR-507. Traffic mitigation includes payment of the City's Transportation Facility Charge, the reconstruction of Longmire Street to a modified collector standard and construction of a center left turn lane on SR-510 at the Longmire Street intersection. Upon any development west of Thompson Creek, the applicant must construct the Killion Road extension which will include a traffic signal and left turn lanes on all four legs of the intersection with SR-510. The traffic engineer estimates that three different intersections will have a decreased level of service, and one turning movement will have an increased level of service. Development of additional phases resulting in the construction of Tahoma Terra Boulevard and the installation of a full service, traffic controlled intersection with SR-510 should significantly improve traffic movement.

CONCLUSIONS:

1. The Hearing Examiner has jurisdiction to consider and decide the issues presented by this request.
2. The applicant has established that the request for Final Master Plan approval for Phases 1 and 2 satisfies all criteria set forth in Chapter 17.62 YMC, is consistent with the City Comprehensive Plan, and meets all other requirements of the YMC. Therefore, the Final Master Plan should be approved and the Tahoma Terra Final Master Plan Development Guidelines should be adopted to cover development of Phases 1 and 2.

RECOMMENDATION:

It is hereby recommended to the Yelm City Council that the Final Master Plan of Phases 1 and 2 of the Tahoma Terra project be approved subject to adoption of the Final Master Plan Development Guidelines.

ORDERED this 2nd day of August, 2005.

STEPHEN K. CAUSSEAU, JR.
Hearing Examiner

TRANSMITTED this 2nd day of August, 2005, to the following:

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