



**City of Yelm**  
EST. 1924  
**WASHINGTON**

## **NOTICE OF DECISION**

DATE: June 1, 2021  
PROJECT NAME: McKenzie Meadows Subdivision Alteration  
PROJECT LOCATION: 15425 Prairie Wind Court SE, Yelm, WA 98597  
PARCEL NUMBER: 6441000002  
CASE NUMBER: 2020.0286.PR0009

**NOTICE IS HEREBY GIVEN** that the Community Development Department issued a subdivision alteration approval to C & E Developments, LLC at the above referenced location.

The complete decision may be viewed on the City's website at [www.yelmwa.gov](http://www.yelmwa.gov) and choosing 'I Want To' then 'View' then 'Public Notices' from the menu system. A copy of the decision may also be obtained at the Community Development Department in City Hall at 106 2<sup>nd</sup> Street SE, Yelm, WA 98597 during normal business hours for a fee of 15 cents per page. For additional information, please contact the Community Development Department at 360-458-3835.

# ADMINISTRATIVE SUBDIVISION ALTERATION 2020.0286.PR0009

## FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION

### FINDINGS OF FACT

1. C & E Developments, LLC proposes to subdivide a tract designated as future development into three lots in the McKenzie Meadows subdivision. The parcel is located at 15425 Prairie Wind Court SE Yelm, WA identified by Assessor's Tax Parcel Number 64410000002. The proposal includes subdividing Tract B of the McKenzie Meadows subdivision into three single-family residential lots.
2. McKenzie Meadows subdivision was recorded in May 2013 and identifies Tract B as a 'Future Development Area'. This tract was designated for future development subject to a future street connection requirement, and due to the location of a single family exempt well serving an adjoining property. Surrounding properties are all developed residentially. The parcel is approximately 0.73 acres.
3. The Hearing Examiner provided clarification in November 2019 regarding the preliminary subdivision of McKenzie Meadows. The clarification mandated that Tract B could only be developed if the well head protection covenant is abandoned or if the plat is altered to allow development of the portion of Tract B not encompassed by the well head protective covenant. A well is located at this property and has not been decommissioned. The approval of this project requires that development within the well protection area meets Department of Health and covenant requirements. Any development on the parcel is subject to the protection requirements of the recorded well radius.
4. C & E Developments, LLC submitted a subdivision alteration application on September 22, 2020, and it was determined to be complete on March 12, 2021. The application materials included a preliminary subdivision plan and historical data regarding the subdivision.
5. As required by Section 18.10.050 YMC, the Yelm Community Development Department mailed a Notice of Application to local and state agencies and surrounding property owners on March 12, 2021. In addition, the notice was published on the City's website on March 12, 2021 and published in the Nisqually Valley News on March 25, 2021.

Comments were received from property owners within the McKenzie Meadows subdivision, as well as an adjoining property owner, expressing concerns regarding the recorded well covenant, the CC&Rs for the McKenzie Meadows subdivision, and confusion regarding a previous land use application. Additional comments concerned potential tree removal and disrepair of existing fencing.

As established by the City of Yelm Hearing Examiner, development in Tract B must occur outside of the well protection radius. As clarified in number 6 below, the McKenzie Meadows CC&Rs provide a waiver of opposition to continued development within this subdivision. No application has been received for development on this parcel, however the city has discussed development in presubmission meetings.

Further analysis regarding these comments is provided below.

6. Pursuant to Section 58.17.215 RCW, the alteration of any subdivision in Washington requires an application containing the signatures of the majority of all persons having an ownership interest of lots, parcels, sites, or divisions in the subject subdivision to be altered.

The McKenzie Meadows Homeowners' Association includes in Article 16 Section 11 of their Declaration of Covenants, Conditions, & Restrictions (CC&R's) a Waiver of Opposition to Continued Development of McKenzie Meadows. The City finds that this covenant satisfies the requirements of Section 58.17.215 RCW.

7. The property is zoned Moderate Density Residential (R-6) which is codified at Chapter 18.32 YMC. The R-6 district is intended to permit residential uses.

8. Chapter 18.16 YMC requires a determination that the infrastructure facilities necessary to serve a proposed development are in place or planned for and properly funded with a reasonable expectation that the facilities will be in place at the time needed to preserve adopted levels of service.

- a. Concurrency with sewer infrastructure means the project is within an area approved for sewer pursuant to the adopted sewer comprehensive plan for the City and improvements necessary to provide facilities and services are present to meet the needs of the proposed development.

The proposed site is currently located in the City of Yelm's STEP sewer system service area, and the new residences are required to connect.

Connecting to the City sewer system would satisfy the concurrency requirement for sewer.

- b. Concurrency with water infrastructure means the project is within an area approved for municipal water service pursuant to the adopted water comprehensive plan for the City and improvements necessary to provide services are present.

The proposed project is located in the City of Yelm's water service area and the new residences are required to connect.

At this time, the City of Yelm has approximately 175 ERU's available, which is adequate for 2-3 years of growth.

Connecting to the City water system would satisfy the concurrency requirement for water.

- c. Concurrency with transportation infrastructure means that the project completes frontage improvements, makes off-site improvements required for the safe movement of traffic and pedestrians if impacted by traffic from the development, and pays a traffic facilities charge.

Prairie Wind Ct SE and Cullens Rd NW were constructed to city standards as part of the McKenzie Meadows subdivision.

Transportation Facility Charges are due and payable at the time of building permit issuance.

The payment of Transportation Facility Charges satisfies concurrency for transportation improvements.

- d. Concurrency with school infrastructure means the developer pays a school impact fee at the time of construction.

Payment of the School Impact Fee at the time of building permit issuance satisfies concurrency requirements.

- e. Concurrency with fire protection means the developer pays a fire impact fee at the time of construction.

Payment of the Fire Impact Fee at the time of building permit issuance satisfies concurrency requirements.

- 9. A Mitigated Determination of Non-Significance was issued for the McKenzie Meadow Subdivision on October 2, 2006. This MDNS anticipated future development of Tract B and is hereby referenced and included in this review.

- 10. The Yelm Critical Areas and Resource Lands, Chapter 18.21 YMC provides protection for critical aquifer recharge areas, frequently flooded areas, wetlands, geologically hazardous areas, and fish and wildlife habitat conservation areas.

- a. All of Yelm is identified as a critical aquifer recharge area. Compliance with Federal, State, and County water source protection regulations and with the City's adopted stormwater regulations is required to protect the aquifer. [Section 18.21.070 (C) YMC]
- b. The Mazama Pocket Gopher has been listed as a threatened species by the Washington Department of Fish and Wildlife since at least 2008. Yelm has protected this species through the implementation of the Critical Areas Code. When a development occurs on property suspected to be occupied by the Mazama Pocket Gopher, the Community Development Department has required the applicant prepare a critical areas report which would include mitigation measures if it was determined that pocket gophers would be impacted by the proposed development. The Washington Department of Fish and Wildlife is provided with notice of all threshold determinations issued pursuant to the State Environmental Policy Act and the City consults with the Department when a critical areas report is required.

In April, 2014, the U.S. Fish and Wildlife Service listed the Yelm subspecies of the Mazama Pocket Gopher as threatened under the Endangered Species Act. While the City of Yelm is not responsible for implementation or enforcement of the Endangered Species Act, it consults with the Service and provides notice to applicants that the pocket gopher is a federally protected species and a permit from the U.S. Fish and Wildlife Service may be required.

Compliance with Yelm's requirements under the Critical Areas Code does not ensure compliance with the provisions of the Endangered Species Act. The applicant should contact the US Fish and Wildlife Service with any questions about compliance with Federal standards for threatened species.

Visual reconnaissance of the site showed no evidence of gophers.

11. Fire protection to the buildings must be provided per the International Fire Code. The specific requirements for installation of additional fire hydrants will be determined during civil plan review. The International building code (IBC) provides occupancy ratings for different types of uses. The fire coverage system for the proposed use must meet IBC requirements.

Identified in the 2002 City of Yelm Water Comprehensive Plan is a requirement to install fire hydrant locks as part of the City's water conservation and accountability program.

12. All of Yelm is considered a critical aquifer discharge area. The control and treatment of stormwater is required to protect the critical aquifer. The City has adopted the latest edition of the Stormwater Management Manual for Western Washington (SMMWW) published by the Washington Department of Ecology. [Chapter 18.27 YMC].

Stormwater from new impervious surfaces is required to be treated and released. Roof runoff shall be distributed to individual dry wells.

13. Title 18 YMC is the Unified Development Code for the City of Yelm and establishes standards for development within the various zoning districts. The subject property is identified by the Zoning Map as being within the R-6 zoning district. Surrounding properties are developed as single-family residences.

- a. Residential development is allowed in the R-6 zone as a permitted use. [Section 18.32.020(A) YMC]

- b. Setback requirements for the R-6 zoning district are 15 foot front yard, 5 foot side yard, and 25 foot rear yard. The minimum driveway approach is 20 feet [Section 18.32.040 YMC].

The conceptual site plan shows conformance with this requirement.

- c. Buildings in the R-6 zoning district may be up to 35 feet in height. [Section 18.32.040 YMC].

Building heights will be reviewed at the time of building permit issuance.

- d. Residential uses require two parking spaces per dwelling unit.

The conceptual site plan shows conformance with this requirement.

14. Title 18 YMC provides guidance and regulation for site planning during development. Chapter 18.55 establishes landscaping requirements for various types of development.

- a. Perimeter landscape includes an 8 foot planter area with a combination of evergreen and deciduous trees. For residential development, a solid wood fence is acceptable on side and rear yards.

Fencing was constructed at the time of development of the McKenzie Meadows subdivision.

Public comment received mentioned the poor state of the wooden fencing facing Coles Ct SE. Repair and/or replacement of perimeter fencing adjacent to the newly created parcels is required.

- b. Pedestrian corridors require streetscape landscaping to provide visual relief and separation of pedestrians from streets and parking areas. This landscaping is achieved with frontage improvements.

Frontage improvements for Prairie Wind Ct SE and Cullens Rd NW were completed at the time of development of the McKenzie Meadows subdivision.

- c. Public comment received voiced concern over the number of trees removed for future development.

The removal of existing trees on this site requires a tree and vegetation plan that will require tree replacement at a 1:1 basis for any trees removed that are over 8 inches in diameter.

- 15. Chapter 13.04 YMC and Chapter 6 of the Development Guidelines establish requirements for connection to the City's water system. Water service connections are by a service line and water meter in the public right-of-way. [Section 13.04.110 YMC].

There is an 8-inch water main located in Prairie Wind Court SE. Connection to City water services is required. Each dwelling unit is required to have a separate meter. Civil plans shall ensure that the existing infrastructure is capable of supporting the proposed development for both potable water pressure and fire flows.

- 16. Chapter 13.08 YMC and Chapter 7 of the Development Guidelines establish requirements for connection to the City's sewer system. Development requires extension of utility lines to all property frontages.

The property is located in the City of Yelm's STEP sewer system service area. There is a 3-inch sewer main located in Prairie Wind Court SE. New residences on this site will be required to connect.

- 17. The existing well on the site includes a 100 foot well head protection radius. The original recorded covenant states that there will be no construction of any cesspools, sewers, privies, septic tanks, drainfields, manure piles, garbage of any kind, barns, chicken houses, rabbit hutches, pigpens or other enclosed structures for the keeping of animals.

Standard covenants in Thurston County provide that the well setbacks for potential sources of contamination are: Fifty (50) feet from a septic tank, septic holding tank, septic containment vessel, septic pump chamber, and septic distribution box, building sewers, public sewers, collection and non-perforated sewer distribution lines except building drains. One hundred (100) feet from the edge of a drainfield, or a proposed or reserve drainfield which has been reviewed Thurston County and is under valid design approval. One hundred (100) feet from all other sources or potential sources of contamination such as manure, sewage, and industrial lagoons; hazardous waste sites; sea/salt water intrusion areas; chemical and petroleum storage areas; pipelines used to convey materials with contamination potential; livestock barns, chicken houses, rabbit hutches, pigpens, or other enclosures or structures for the keeping or maintenance of fowls or animals, manure piles and livestock feed lots. The well

described herein shall not be located in a garage, barn, storage building or dwelling or within five (5) feet from any existing building structure or building projection.

The proposal shows that all development of homes and their appurtenances are located outside of the 100 foot well protection radius. The proposal also proposes to include a deed restriction that notes no development within the well protective radius is allowed until the well has been abandoned.

The proposal adequately protects the well protection radius by keeping all development outside of the well radius and places a deed restriction on the parcels to provided continued protection of the well radius.

### **CONCLUSIONS OF LAW**

- A. Section 18.13.020 (B) YMC allows the Site Plan Review Committee to approve a proposal when the preliminary site plan conforms to the standards, provisions and policies of the city as expressed in its various adopted plans and ordinances.
- B. C & E Developments, LLC has established that the request for site plan review approval can satisfy all criteria set forth in Section 18.13.020(C) YMC, meet all requirements of the R-6 Moderate Density Residential Zoning classification, and meet all other requirements of the Yelm Municipal Code. Therefore, the preliminary site plan should be approved subject to the following conditions:
  - 1. Transportation Facilities charges are due at the time of building permit issuance.
  - 2. School mitigation fees are due at building permit issuance.
  - 3. Stormwater from new impervious surfaces is required to be treated and released. Roof runoff shall be distributed to individual dry wells.
  - 4. Fire protection to the buildings must be provided per the International Fire Code.
  - 5. If new fire hydrants are installed, hydrant locks are required.
  - 6. Payment of a Fire Impact Fee is due at the time of building permit issuance.
  - 7. A minimum of two parking stalls are required for each dwelling unit.
  - 8. The detailed landscape plan shall provide detail for fencing other than chain link. Fencing facing Coles Ct SE and Cullens Road NW must be repaired or replaced.
  - 9. The removal of existing trees on Tract B requires a tree and vegetation plan, with tree replacement at a 1 to 1 basis.
  - 10. Connection to City water service is required for new construction. Connection shall be made at the service main located within Prairie Wind Ct SE. Each unit shall be served by a separate meter.
  - 11. A deed restriction shall be recorded for each parcel for the well radius protection areas.
  - 12. Development within the well protection area must meet all Department of Health requirements until the time at which the well is decommissioned.

13. Connection to City sewer service is required for the new construction.  
Connection shall be made at the main located within Prairie Wind Ct SE.
- C. The subdivision alteration is valid for five (5) years from the date of this approval unless construction has begun and all other required permits have been issued.

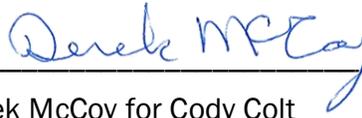
### **DECISION**

The request for subdivision alteration is hereby granted subject to the conditions contained in the conclusions above.

Dated this 1<sup>st</sup> day of June, 2021



\_\_\_\_\_  
Grant Beck,  
Community Development Director



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Derek McCoy for Cody Colt  
Public Works Director

Prepared this 10<sup>th</sup> day of May, 2021



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Casey Mauck,  
Assistant Planner

### **APPEAL**

The Site Plan Review Committee's decision in this matter may be appealed pursuant to Chapter 18.10 YMC, to the City of Yelm Hearing Examiner no later than 21 days from the date of this decision. An appeal must be in writing, contain specific factual objections, and include the appeal fee of \$1,250.00.