



# City of Yelm

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October 14, 2021


Andrew Montero  
Marathon Development  
Nisqually Landing, LLC  
160 N.W. Gilman Boulevard, Suite 248  
Issaquah, WA 98027

**RE: 2021.0023**

Dear Applicant:

Transmitted herewith is the Report and Decision of the City of Yelm Hearing Examiner relating to the above-entitled matter.

Very truly yours,



**STEPHEN K. CAUSSEAU, JR.**  
Hearing Examiner

SKC/jjp

cc: Parties of Record  
CITY OF YELM

**OFFICE OF THE HEARING EXAMINER**

**CITY OF YELM**

**REPORT AND DECISION**

**CASE NO.:** 2021.0023

**APPLICANT:** Andrew Montero  
Marathon Development  
Nisqually Landing, LLC  
160 N.W. Gilman Boulevard, Suite 248  
Issaquah, WA 98027

**PLANNER:** Casey Mauck

**SUMMARY OF REQUEST:**

Administrative site plan and planned residential development approval to allow construction of a 60-unit apartment complex on approximately 8.31 acres. The planned residential development (PRD) zoning overlay allows a 20 percent increase in dwelling unit density. The property is located at 17021-103<sup>rd</sup> Avenue S.E., on the southeast corner of Walmart Boulevard S.E. (170<sup>th</sup> Street S.E.) and 103<sup>rd</sup> Avenue S.E. The property is identified by Assessor's Tax Parcel Number 64303100500.

**SUMMARY OF DECISION:** Request granted, subject to conditions.

**PUBLIC HEARING:**

After reviewing Community Development Department 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 September 16, 2021, at 10:00 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 A - Community Development Department Staff Report**
  - Exhibit I - Notice of Application**
  - Exhibit II - Notice of Public Hearing**
  - Exhibit III - Site Plan**
  - Exhibit IV - Mitigated Determination of Non-Significance**
  - Exhibit V - Environmental Checklist with City Markup**
  - Exhibit VI - Pocket Gopher Report**
  - Exhibit VII - Trip Generation Report**
  - Exhibit VIII - Preliminary Stormwater Report**
  - Exhibit IX - WA Dept of Ecology Comments**
- 

**The Minutes of the Public Hearing set forth below are not the official record and are provided for the convenience of the parties. The official record is the recording of the hearing that can be transcribed for purposes of appeal.**

CASEY MAUCK appeared, presented the City Staff Report, and testified that the site consists of an 8.31 acre parcel located in the R-6 zone that allows densities of between three and six dwelling units per acre. The zone allows 50 units on the site, but the overlay allows a 20 percent increase to 60 units. The City previously approved a site plan for 50 units, but the project did not go forward. The City provided proper notice and received no comments. The SEPA official adopted the previous threshold DNS. The applicant submitted a geotechnical report and a gopher habitat study. All infrastructure is available to serve the project. The City will receive additional water rights any day now and has 160 connections remaining. The applicant will build the project at its own risk if water does not become available. The TIA shows that no intersection will experience a LOS failure. The applicant will pay traffic, fire, and school impact fees. The site is located in a critical aquifer recharge area and the stormwater plan will meet the criteria therefor. The site has a high groundwater table and will require a flood analysis. They must meet all of the regulations. She then reviewed the design standards. They will not install a sewer line due to the high groundwater issue. 170<sup>th</sup> on the west side is the future bypass, and therefore the request to defer improvements is appropriate. They are providing landscaping and a dog park in the flood hazard area that will provide more public benefits. They will provide significant landscaping along the south property line that borders Walmart. The property to the east is used for livestock and the applicant will install a fence along the property line. In response to the letter of concern, she contacted DOT regarding its 507 bypass project, and DOT is aware of the contour of the river nearby.

ANDREW MONTERO, applicant, appeared and testified that the project will fulfill a significant gap in housing opportunities in the City, which is why they revised the project to add additional density. A dog park is a good addition. They are within the previously approved site plan and will meet or exceed all requirements. They will meet or exceed all stormwater guidelines that address pollutants and contaminants. He has reviewed conditions of approval and all seem appropriate.

BILL DUNNING, civil engineer, appeared and testified that he will address concerns regarding the river, pollution, and traffic. The project will require a minimal amount of grading, and the houses will be located above grade. The stormwater plan is in accordance with DOE regulations. They will include treatment for water quality in a high groundwater area. Quality measures will be installed in the storm facility. Jake Traffic Engineering performed a TIA and used the ITE Trip Generation Manual. They identified the number of p.m. peak trips and will pay the appropriate fees.

MS. MAUCK reappeared and testified that they sent notice of the project to DOT for comment. The City is working closely with DOT to ensure no problems and have recently swapped property with DOT for the bypass.

No one spoke further in this matter and so the Examiner took the request under advisement and the hearing was concluded at 10:30 a.m.

**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, heard testimony, and taken this matter under advisement.
2. The City of Yelm SEPA Responsible Official issued a threshold Mitigated Determination of Non-significance (MDNS) based on WAC 197-11-158 on November 1, 2019 for the original Nisqually Landing Apartments proposal. The changes in the present development application for a 60-unit proposal do not meet the threshold for a new environmental review. The SEPA determination from November, 2019, adequately covers this project. This determination is final and fulfills the City's responsibility for disclosure of potential, significant, environmental impacts.
3. Notice of this application was mailed to state and local agencies and property owners within 300 feet of the site on May 18, 2021, and published in the Nisqually Valley News in the legal notice section on May 20, 2021. No comments were received. Notice of the date and time of the public hearing before the Hearing Examiner was posted on the project site, mailed to property owners within 300 feet of the site, and posted on the City of Yelm website on Tuesday August 17, 2021. Notice of the public hearing was also published in the Nisqually Valley News in the legal notice section on Thursday August 26, 2021.

4. The applicant has a possessory ownership interest in a generally rectangular, 8.31 acre parcel of property located at the southeast quadrant of the intersection of 170<sup>th</sup> Street East and 103<sup>rd</sup> Avenue S.E. (Old Yelm McKenna Road). The site presently supports a mobile home.
5. The applicant requests administrative site plan and planned residential development (PRD) approval to allow improvement of the site with a 60 unit, apartment complex located in the southern half of the site. Construction will require removal of all improvements on the site. The site plan shows one access drive provided from 170<sup>th</sup> Street that will extend north to a four car garage, 24 apartment units, and numerous parking spaces. The drive will also provide access to the east to one apartment building containing 24 units and a second building containing 12 units. In addition to the parking spaces adjacent to the structures, the site also contains two, six unit and two, four unit garages. North of the improved portion of the site the applicant proposes a community dog park.
6. The parcel is located within the Moderate Density Residential (R-6) zone classification that allows between three and six dwelling units per gross acre of land. The applicant also requests approval of a PRD that allows a 20 percent increase in the dwelling unit density subject to meeting the criteria therefor. The parcel size allows a maximum of 50 dwelling units without a PRD and 60 dwelling units upon approval of a PRD.
7. Section 18.32.020 of the Yelm Municipal Code (YMC) sets forth the permitted uses for the R-6 zone classification. Subsection B authorizes "multi-family dwellings" as an outright permitted use. Section 18.32.040(A) YMC authorizes a density of not less than three nor more than six dwelling units per acre. Said section also authorizes a density bonus for PRDs.
8. Section 18.64.020 YMC sets forth the criteria for a PRD. Subsection A encourages imaginative design and the creation of permanent open space by preserving to the greatest possible extent the natural characteristics of the land, natural vegetation, waterways, and views. The R-6, a moderate density zone, qualifies for a 20 percent increase in density bonus.
9. The project meets all bulk requirements of the R-6 zone to include setbacks of 35 feet from an arterial, five feet from side yards, and 25 feet from the rear yard, and will also meet the 35 foot maximum height limit. Street lighting will be provided, and the site plan meets all parking requirements. The City will provide potable water, fire flow, and sanitary sewer service to the project. The applicant will install fire hydrants and hydrant locks in accordance with City regulations and will also pay fire impact fees. The applicant will provide greater than ten percent of the gross area of the development as qualified open space that will include a dog park for use by residents of the development in the high groundwater hazard area. The applicant will provide a pedestrian pathway to the dog park as well as fencing. The project satisfies YMC 18.64.020(A).

10. Section 18.64.020(C) YMC requires a PRD application to consider the relationship of the project site to the surrounding area, and requires that the design of the project minimize the undesirable impacts to adjacent properties. The parcel abuts Walmart on the south and an agricultural use with livestock on the east. The applicant will construct a fence along the east property line to ensure compatibility between future residents and livestock.
11. Section 18.64.020(E) YMC requires preservation of natural landscape features such as trees, drainage ways, and rock outcroppings when they contribute to the attractiveness of the proposed development. In the present case the site appears to have been used for agricultural purposes, but a heavy growth of trees is located in the northeast corner. No development is proposed thereon and the trees will remain. In addition the applicant will provide a 6.5 foot wide, perimeter landscape buffer along the east and west property lines and a four foot wide, landscape strip along the south property line adjacent to Walmart. No landscaping will occur in the high groundwater hazard area. Landscaping will also be installed in the parking areas pursuant to code, and the stormwater facility will likewise be landscaped. All existing trees with the exception of small growth trees are located outside of the proposed development area.
12. The project meets all concurrency requirements to include water, sewer, transportation, fire protection, and schools. The applicant will pay traffic, fire, and school impact fees.
13. The applicant has surveyed the high groundwater hazard area and is avoiding development in said area. Furthermore, the applicant submitted a Pocket Gopher Report performed by Land Services Northwest, LLC, that found no indicators of habitat for the Mazama Pocket Gopher.

**CONCLUSIONS:**

1. The Hearing Examiner has jurisdiction to consider and decide the issues presented by this request.
2. The applicant has shown that the request for approval of a planned residential development overlay is consistent with the goals and policies of the City of Yelm Comprehensive Plan and that the development provides more amenities than could result from traditional development. The project uses imaginative design and superior environmental amenities while minimizing undesirable impacts to adjacent properties.
3. The project satisfies all criteria for a planned residential development as set forth in YMC 18.64.020 and therefore should be approved subject to compliance with the following conditions:

1. The conditions of the Mitigated Determination of Non-significance are hereby referenced and are considered conditions of this approval.
2. Connection to City water is required.
3. Connection to City sewer service is required.
4. An agreement for deferral of frontage improvements for 170<sup>th</sup> St SE and 103<sup>rd</sup> Ave SE shall be signed and recorded with Thurston County.
5. The sewer main located in 170<sup>th</sup> St SE shall be extended to the location of the ingress to the site. An agreement for deferral of sewer main improvement requirements for 103<sup>rd</sup> Ave SE shall be signed and recorded with Thurston County.
6. Fencing along the east property line ending at the high groundwater hazard area will be shown at civil plan submission.
7. Parking lot landscaping meeting the standards of Section 18.55.020(D) YMC is required at civil plan submission.
8. Any above ground stormwater facilities shall be landscaped pursuant to the requirements of Chapter 18.55 YMC.
9. Pedestrian pathways should be provided from parking areas to the buildings, and from the public sidewalk to the development.
10. The applicant shall provide fencing detail in compliance with Section 18.61.050(B) YMC at civil plan submission.
11. Civil plans shall show compliance with Section 18.21.080(G) YMC regarding development in the HGWHA. A pedestrian pathway to the dog park is required and shall be shown on the final landscape plan.

**DECISION:**

The request for approval of a planned residential development to allow construction of a 60 unit apartment complex on an 8.31 acre parcel located at 17021-103<sup>rd</sup> Avenue S.E., Yelm, is hereby granted subject to the conditions contained in the conclusions above.

ORDERED this 14th day of October, 2021.

  
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**STEPHEN K. CAUSSEAU, JR.**  
Hearing Examiner

TRANSMITTED this 14th day of October, 2021, to the following:

**APPLICANT:** Andrew Montero  
Marathon Development  
Nisqually Landing, LLC  
160 N.W. Gilman Boulevard, Suite 248  
Issaquah, WA 98027

**OTHERS:**

CITY OF YELM



**CASE NO.: 2021.0023**

**NOTICE**

All final decisions of the hearing Examiner may be appealed to the City Council at a closed record appeal hearing, initiated by a person who has standing to appeal. All appeals must be filed within 21 days from the date of the decision being appealed in accordance with Section 18.10.100 Yelm Municipal Code.