



*Planning Division*

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**NOTICE OF SEPA APPEAL**

**DATE:** November 9, 2012  
**TO:** Applicant, Adjoining Property Owners, SEPA Reviewing Agencies  
**FROM:** Steve Osguthorpe, Director  
**SUBJECT:** Notice of SEPA Appeal  
**APPELLANT:** City of Union Gap  
**LOCATION:** 2233 Longfibre Avenue  
**FILE NO:** APP#004-12  
**PARCEL NO:** 191335-43405

An appeal of the City of Yakima's SEPA Mitigated Determination of Nonsignificance (MDNS) for Lowe's Home Improvement Center (File SEPA#024-12) was received on November 2, 2012. A public hearing concerning this appeal will be held before the Hearing Examiner Pro Tem on Thursday, November 29, 2012 at 9:00 a.m. in the Yakima City Council Chambers, 129 North 2<sup>nd</sup> Street, Yakima, WA.

You are welcome to attend the public hearing or to submit your written comments on this project to:

Steve Osguthorpe, Director  
City of Yakima, Department of Community Development  
129 North 2nd Street  
Yakima, WA 98901

For additional information concerning this appeal please contact: Bruce Benson, Supervising Planner at (509) 575-6042 or [bbenson@ci.yakima.wa.us](mailto:bbenson@ci.yakima.wa.us)

Encl.: SEPA Appeal, Site Plan, and Mailing Map

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SEPA APPEAL  
City of Yakima File # SEPA #024-12  
Supplemental Application item No. 2 Attachment

The City of Yakima issued a Mitigated Determination of Non-Significance (MDNS) on October 18, 2012 without fully or appropriately addressing environmental concerns, issued a determination on incomplete/inaccurate documents and issued its decision while important environmental documents were under review without appropriate mitigation.

On August 10, 2012 the City of Yakima did issue a notice of application to commenting agencies with a comment period ending on August 30, 2012. The City of Union Gap, Community Development Department, Public Works Department, and Contract Engineers did issue comments to the City of Yakima on August 29, 2012 prior to the end of the comment period. On September 19, 2012, City of Union Gap staff met with Lowe's and their consultants to discuss the City's August 29, 2012 comments. On October 15, 2012 the City of Union Gap received copies of a revised site plan and revised traffic impact analysis from Lowe's consultants. On October 18, 2012, three days later, the City of Yakima issued its mitigated determination of non-significance without further review or consideration and specifically failing to consider the revised site plan and traffic impact analysis.

The City of Union Gap identifies the following issues with the MDNS as a basis for its appeal:

"Findings"

1. F(b) Jurisdiction: *"The right-of-way of Valley Mall Boulevard, in the area of the proposed right-in/right-out driveway, is located within the City of Yakima."*

Valley Mall Boulevard is a limited access facility as designate by the City of Union Gap pursuant to state law and ordinance. The applicant has revised the site plan to reflect a right-in only approach in response to Union Gap's position that there should be no access to Valley Mall Boulevard and the applicant submitted this proposal to the City of Union Gap for review on October 15, 2012. The City of Yakima fails to resolve this issue prior to issuing the MDNS. The City of Union Gap still holds the position that the City of Union Gap, purchased, constructed, maintains, and controls and has legal jurisdiction over the right-of-way along Valley Mall Boulevard. At no time prior to this application has the City of Yakima made any claim for maintenance or operation of said right-of-way. The City of Yakima does not have legal authority to authorize access to the City of Union Gap's right of way, and it does not have legal authority to authorize damage to the right of way in terms of access points or in any other respect. Please refer to the City of Union Gap's August 29, Comments which are part of the record herein when considering this appeal.

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2. G(1) (Development Coordinator Comments) Agency/Public Comments and Responses: *"The applicant has revised the access onto Valley mall Blvd. to be right-in only and submitted a revised Transportation Impact Analysis to accommodate the City of Union Gap."*

The City of Union Gap did receive a revised site plan and revised traffic impact analysis on October 15, 2012 from the applicant's consultants. The City of Yakima issued the MDNS on October 18, 2012 without giving the City of Union Gap the opportunity to review the revised documents and provide further comment. The revised plan does not in fact "accommodate the City of Union Gap.

The City of Yakima states that the applicant has submitted a revised TIA to "accommodate" the City of Union Gap. The original TIA did not include analysis for important intersections within the study area. The revised TIA now includes additional analysis for those intersections and the study shows the project degrading a City of Union Gap intersection to an unacceptable Level of Service (LOS) F. As a result of the City of Yakima issuing the MDNS without the appropriate timeframe to review and comment, the environmental impacts cannot be properly assessed and mitigated, if possible.

3. G(2)(a) (Development Coordinator Comments) Agency/Public Comments and Responses: *"The only intersection indicated to be a LOS D is located at the corner of Longfibre Road and Washington Avenue. This intersection is entirely within Yakima and Yakima's LOS standard is LOS D."*

The revised TIA submitted by the applicant on October 15, 2012, reflects an intersection within the City Limits of Union Gap as degraded to a LOS F. That intersection is the intersection of Goodman Road and Valley Mall Boulevard. Hence again the City of Yakima issued a MDNS without considering all current and revised environmental documents and the impacts were not properly mitigated.

4. G(3)(a) (Development Coordinator Comments) Agency/Public Comments and Responses: *"Issue regards potential filling of site. Grading and filling permits will be required and such work will be completed in accordance with the City of Yakima' development standards."*

The SEPA process is to identify and mitigate any potential environmental impacts. Sending out documents and a checklist that are not consistent with each other do not meet the intent of WAC 197-11. The applicant answers the question in detail referring that "Earthwork disturbance will be typical", but original site development plan note 7(c) states "significant fill material". This note along with others is dropped from the site plan provided with the amended MDNS, but there is not further discussion or mitigation. A grading permit from the City of Yakima

without any further public review or comment period is not appropriate to mitigate an environmental impact that has not clearly been represented.

5. G(3)(c) (Development Coordinator Comments) Agency/Public Comments and Responses: *"The applicant has revised the project access on Valley mall Blvd. to right-out only, and has provided an updated Transportation Impact Analysis"*

The City of Union Gap did receive a revised site plan and revised traffic impact analysis on October 15, 2012. The City of Yakima issued the MDNS on October 18, 2012(only three days later) without giving the City of Union Gap the opportunity to review the revised documents and provide further comment. The City of Union Gap still holds the position that the City of Union Gap, purchased, constructed, maintains, and controls the right-of-way along Valley Mall Boulevard. At no time prior to this application has the City of Yakima made any claim for maintenance or operation of said right-of-way.

6. G(1)(a) (Union Gap Public Works Comments)Agency/Public Comments and Responses: *"The executed development agreement between PPI and Union Gap has been noted by the applicant as it relates to Valley Mall Blvd. and Longfibre Road."*

The City of Yakima states that the agreement is "noted", but the proposed site plan is not in compliance with the agreement. Substantial public and private investment (including SEID grant money and loans) went into the development of Longfibre Road and Valley Mall Boulevard, hence the development agreement between the City of Union Gap and property benefitting property owners. The Development Agreement must be more than "noted" it must be fully complied with. Please again specifically refer to the City of Union Gap's August 29 Comments which are part of the record herein.

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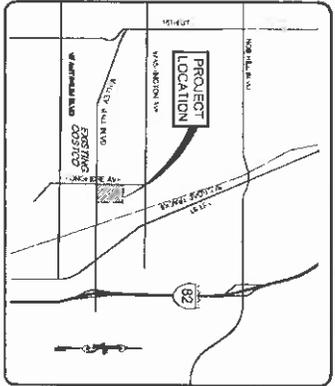
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OCT 15 2012

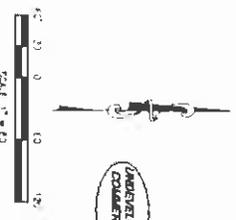
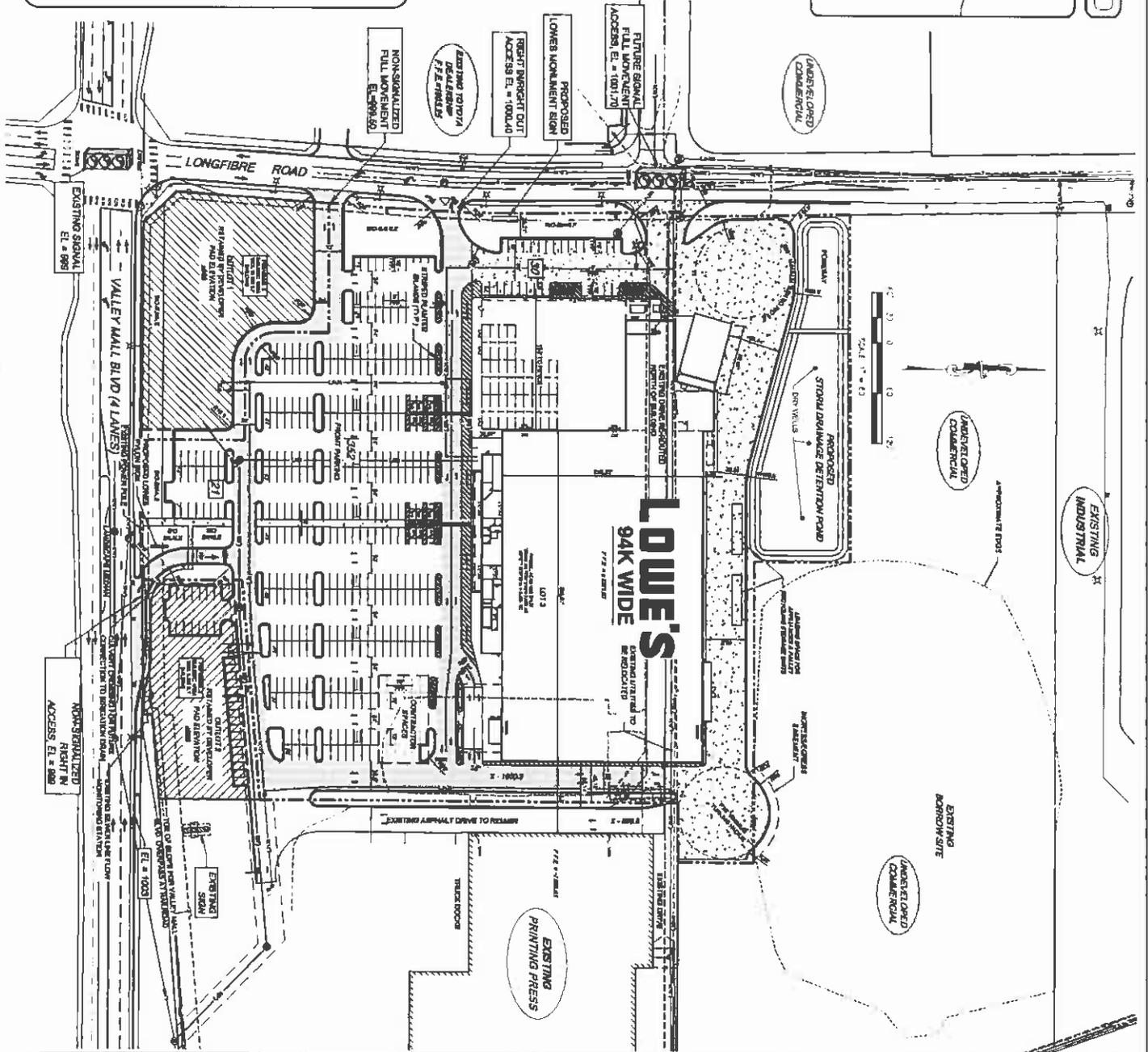
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VICINITY MAP - NOT TO SCALE

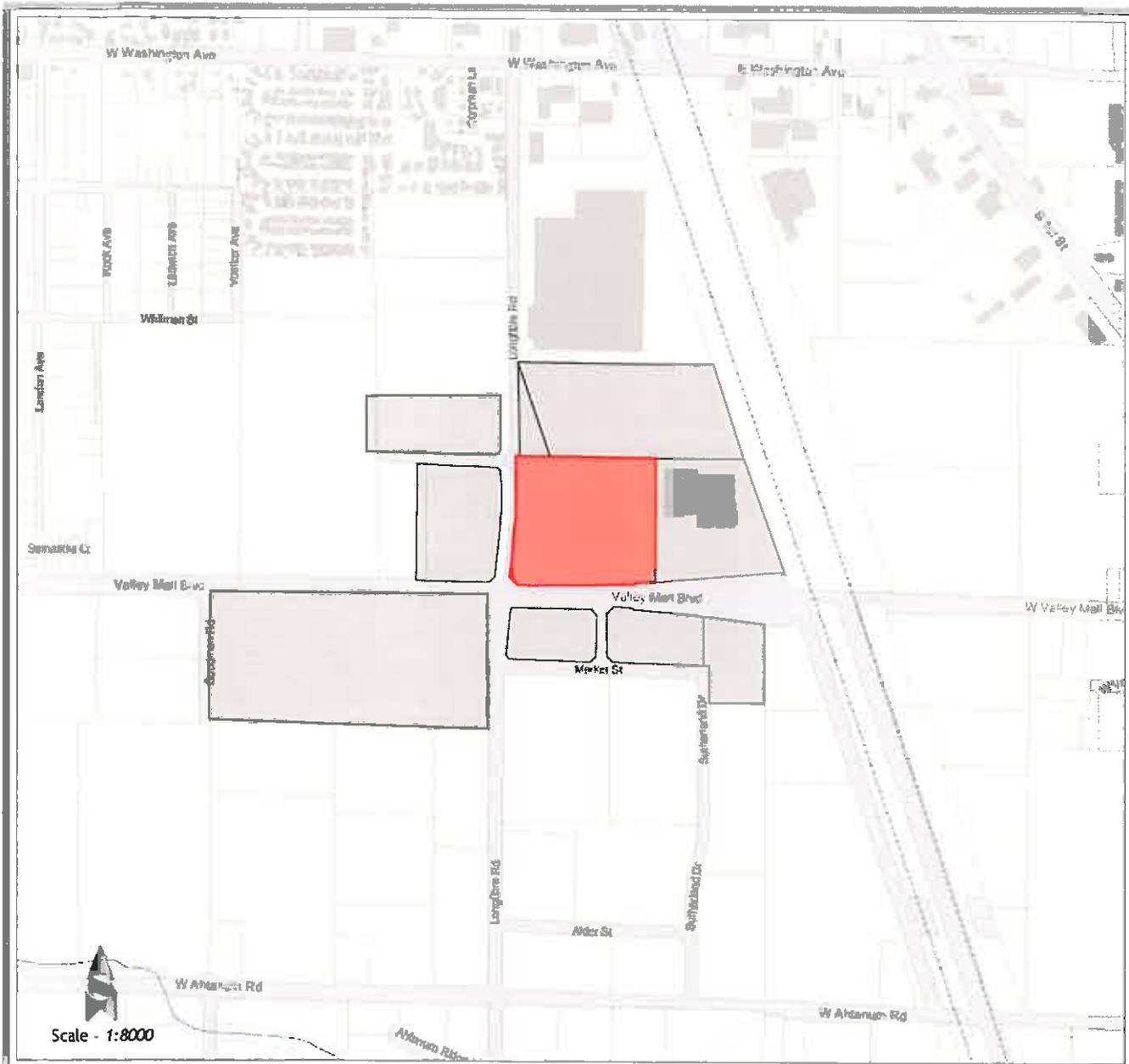


- CHANGES FROM APPROVED REC**
1. Right Out to Valley Mall Blvd. advanced
  2. Additional drive added at Longfibre.
  3. Added planter between Lowe's and Printing Press to make up elevation difference.
  4. Added Bar Swales

- SITE DEVELOPMENT NOTES**
1. Zoning: G-C (General commercial), pending the plan and subdivision required. Lowe's use is allowed including outdoor sales and display.
  2. Access: One Right In Only out to Valley Mall Blvd. and three full accesses to Longfibre Rd.
  3. Stormwater: On-site retention pond required for Lowe's and outdoor drainage; sufficient space is provided.
  4. Wetlands: None known.
  5. Building Modifications: Phototypical



1.0	2.0	3.0	4.0	5.0	6.0	7.0	8.0	9.0	10.0
11.0	12.0	13.0	14.0	15.0	16.0	17.0	18.0	19.0	20.0
21.0	22.0	23.0	24.0	25.0	26.0	27.0	28.0	29.0	30.0
31.0	32.0	33.0	34.0	35.0	36.0	37.0	38.0	39.0	40.0
41.0	42.0	43.0	44.0	45.0	46.0	47.0	48.0	49.0	50.0
51.0	52.0	53.0	54.0	55.0	56.0	57.0	58.0	59.0	60.0
61.0	62.0	63.0	64.0	65.0	66.0	67.0	68.0	69.0	70.0
71.0	72.0	73.0	74.0	75.0	76.0	77.0	78.0	79.0	80.0
81.0	82.0	83.0	84.0	85.0	86.0	87.0	88.0	89.0	90.0
91.0	92.0	93.0	94.0	95.0	96.0	97.0	98.0	99.0	100.0



### City of Yakima, Washington

File Number: SPA#002-12, SEPA#024-12

Bill Hordan Planning Services

Applicant: **Owner: Jay Sentz-Printing Press Properties LLC**

Request: **Amending Lot 2 of PSP#001-10 to create 3 lots in the GC zone and environmental review for the proposed construction of Lowe's on one of the lots, approx. 137,983 sq ft building with parking lot.**

Location: **Vicinity of Longfibre Rd & Valley Mall Blvd**

Parcel Number(s): **19133143405**



*Subject Area Site*



*Property Notification Area*

### **NOTIFICATION OF LAND USE APPLICATION**