

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 SEPA DETERMINATION & PUBLIC HEARING July 22, 2020

City File #: APP#002-20

This notice is being provided to parties of record, the applicant, and the appellant that a timely appeal was filed by the Washington State Department of Transportation (WSDOT) on April 29, 2020 regarding the Administrative Official's issuance of a Mitigated Determination of Nonsignificance (file no. CL1#009-20 & SEPA#002-20) for a proposal submitted by Stealth Investments LLC (651 N Keys Rd, Yakima, WA 98901). The decision approved, subject to conditions, the applicant's request for zoning approval to construct 44 fourplexes and 2 duplexes in the Multifamily Residential (R-3) zoning district.

In accordance with YMC § 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."

Appeal Hearing: The Hearing Examiner will hold a public hearing on August 13, 2020 at 9:00 a.m. Due to the COVID-19 pandemic, the hearing will not be held in the City Hall Council Chambers, but will be held virtually via Zoom. This Zoom public hearing will be live streamed at www.yakimawa.gov (go to the "City Council" drop-down menu and select "Stream Meetings Live") and telecast live on Y-PAC, Spectrum Cable Channel 194.

IF YOU WOULD LIKE TO ATTEND THIS VIRTUAL MEETING TO LISTEN AND/OR TESTIFY, PLEASE REGISTER WITH YOUR NAME AND EMAIL ADDRESS IN ADVANCE HERE:

https://cityofyakima.zoom.us/webinar/register/WN_qAkt0_U7QdaeAP-4KGcYmw
After registering, you will receive emailed instructions for joining the meeting online with your device or by calling in.

View the Hearing Online by Zoom: To join the meeting, click the link in the confirmation email that you received after registering. All attendees will be muted upon entry. If you wish to speak during the public hearing, use the "raise your hand" feature. When it is your turn to speak, the host will unmute you. A message will appear on your screen, and you will need to select "unmute." You should announce your name and mailing address for the record prior to making your comments. Once you are finished with your comments, the host will mute you.





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Listen to the Hearing by Phone: You may call any of the phone numbers listed in the confirmation email that you received after registering. You will need to enter the meeting ID and password when prompted. All attendees will be muted upon entry. If you wish to speak during the public hearing, press *9 on your phone to "raise your hand." When it is your turn to speak, you will hear an automated announcement indicating your phone has been unmuted and you can now be heard by all participating in the meeting. You should announce your name and mailing address for the record prior to making your comments. Once you are finished with your comments, the host will mute you and you will hear an automated announcement indicating your phone has been muted.

In accordance with YMC 16.08.018(G) "Testimony given during the appeal shall be limited to those points cited in the appeal application." Written testimony received by 5:00 p.m. on August 3, 2020, will be considered prior to issuing the staff report to the Hearing Examiner, and will be made part of the official record.

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. The decision of the examiner will be final unless appealed to the legislative body.

For further information or assistance you may contact Trevor Martin, Associate Planner, at (509) 575-6162, or email to: trevor.martin@yakimawa.gov.

Trevor Martin Associate Planner

Enclosures: Appeal Application and Site Plan





DEPARTMENTO DE DESARROLLO COMUNTARIO Joan Davenport, AICP, Directora

División de Planificación Joseph Calhoun, Gerente 129 Norte Calle 2da, 2^{do} Piso, Yakima, WA 98901 ask.planning@yakimawa.gov · www.yakimawa.gov/services/planning

AVISO DE APELACIÓN DE LA DETERMINACIÓN DE LA REVISIÓN AMBIENTAL (SEPA) Y AUDIENCIA PÚBLICA 22 de julio, 2020

No. de Archivo: APP#002-20

Este aviso esta proporcionado a todas las personas registradas, al solicitante, y al apelante de que el Departamento de Transporte del Estado de Washington (WSDOT) presento una apelación oportuna el 29 de abril 2020 con respeto a la decisión oficial sobre la otorgación de una Determinación Mitigada de No Significancia (No. de archivo CL2#009-20 y SEPA#002-20) para una propuesta presentada por Stealth Investments (651 N Keys Rd, Yakima, WA 98901). La decisión aprobó, sujeto a condiciones, la propuesta del solicitante para construir 44 fourplexes y 2 duplexes en el distrito residencial multifamiliar R-3.

De acuerdo con el Código Municipal de Yakima (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 este siendo apelada y a las personas con derecho a recibir aviso de la decisión, incluyendo la fijación del aviso en la propiedad y publicación del aviso al menos diez días antes de la audiencia pública."

Audiencia Pública de la Apelación: El Examinador de Audiencias llevara a cabo una audiencia pública el 13 de agosto, 2020 a las 9:00 a.m. Debido a la pandemia de COVID-19, la audiencia pública no se llevara a cabo en la Sala del Concejo Municipal, sino que será programada virtualmente usando la plataforma Zoom. Esta audiencia pública de Zoom será trasmitida en vivo por internet en www.yakimawa.gov (vaya al menú de "City Council" y seleccione "Stream Meetings Live"), también se transmitirá en vivo por YPAC, canal de cable Spectrum 194.

SI DESEA ASISTIR A ESTA REUNIÓN VIRTUAL PARA ESCUCHAR Y/O TESTIFICAR, REGÍSTRESE POR ADELANTADO CON SU NOMBRE Y CORREO ELECTRÓNICO AQUÍ:

https://cityofyakima.zoom.us/webinar/register/WN_qAkt0_U7QdaeAP-4KGcYmw
Después de registrarse, recibirá instrucciones por correo electrónico para ingresar en línea con su dispositivo o llamando por teléfono.

Ver la audiencia pública en línea por Zoom: Para ingresar a la reunión, haga clic en el enlace ubicado en el correo electrónico de confirmación que recibió al registrase. Todos los participantes serán silenciados al ingresar. Si desea hablar durante la audiencia pública, use la función para "levantar la mano". Cuando sea su turno de hablar, el anfitrión desactivara el



silenciador. Un mensaje aparecerá en su pantalla y seleccione la opción "unmute". Debe anunciar su nombre y dirección postal para el registro antes de hacer sus comentarios. Una vez haya terminado sus comentarios, el anfitrión lo silenciará.

Escuche la audiencia pública por teléfono: Puede llamar a cualquiera de los números telefónicos ubicados en el correo electrónico de confirmación que recibió al registrarse. Deberá ingresar el ID y la contraseña de la reunión cuando se lo solicite. Todos los participantes serán silenciados al ingresar. Si desea hablar durante la audiencia pública, presione *9 en su teléfono para "levantar la mano". Cuando sea su turno de hablar, escuchara un anuncio automatizado indicando que el audio de su teléfono ha sido activado y todos los participantes pueden escucharlo. Debe anunciar su nombre y dirección postal para el registro antes de hacer sus comentarios. Una vez haya terminado sus comentarios, el anfitrión lo silenciará y escuchara un anuncio automatizado indicando que su teléfono ha sido silenciado.

De acuerdo con el Código Municipal de Yakima (YMC) 16.08.018(G) "El testimonio dado durante la apelación se limitara a los puntos citados en la solicitud de apelación". Testimonio escrito recibido antes de las 5:00 p.m. el 3 de agosto del 2020, se considerara antes de emitir el informe al Examinador de Audiencias.

Al concluir la audiencia pública, el Examinador de Audiencias emitirá su decisión por escrito dentro de diez días hábiles, a menos que el solicitante y el examinador acuerden mutuamente un periodo más largo. La decisión del examinador será definitiva a menos que sea apelada ante el cuerpo legislativo.

Si tiene preguntas sobre esta propuesta o este aviso, por favor de contactar a la Oficina de Planificación al (509) 575-6183 o por correo electrónico al: ask.planning@yakimawa.gov.

Trevor Martin

Planificador Asociado

Documentos Adjuntos: Aplicación de Apelación y Plano del Sitio



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 – GENERAI	INFORMATION									
1. Appellant's Information:	Name:	Washington State Department of Transportation, c/o Paul Gonseth, P.E.								
	Mailing Address:	2809 Rudkin Road								
	City:	Union Gap	St:	WA	Zip:	98903	Phone:	(509) 577-1630	
	E-Mail:	ail: gonsetp@wsdot.wa.gov								
	Any addi	tional appellant part	ies n	nay be lis	ted or	n a separate j	page			
2. Site Address of the	he Proposal Being	Appealed: 5001 Pow	erho	use Roa	d					
PART II - SUPPLE	MENTAL APPLICA	ATION (SEE ATTAC	CHEI	SHEET)					
PART III – CERTIF	ICATION									
3. I certify that the ir	ıformation on this ap	pplication and the req	uired	attachme	ents ar	e true and co	rrect to the	e best o	f my knowledge.	
Boul Donas 9										
Appellant's Signature Date										
FILE/APPLICATIO	N(S)#: APP	#002-20)				- V			
DATE FEE PAID:	RECEIVE	D BY:	AM	OUNT PA	AID:	••	RECEIP'	T NO:		
4/29/2	0 On	line	1	9 58	30.	DO	CR-	20-	004386	

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Supplemental Application For:

APPEAL

Yakima Urban Area Zoning Ordinance Chapter 15.16/Chapter 16.08

1.69	
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 APPR	EALED: SEPA #002-20, CL1 #009-20
3. DESCRIPTION OF ACTION BEING APPEALED);
WSDOT appeals the Mitigated Determination of Nonsignific 2020.	cance issued by the City of Yakima for Lexar Homes on April 15,
A DELACON FOR ADDRAG D. H. d. J.C.	
	rror(s) or issues(s) upon which the appeal is based, including with the Yakima Urban Area Plan, The Yakima Urban Area
	ence the section, paragraph, and page of the provision(s) cited.)
(Attach if lengthy):	, , , , , , , , , , , , , , , , , , ,
Notice of Appeal attached.	
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	CITY OF YAKIMA PLANNING DIV.

Any additional appellant parties may be listed on a separate page

PART I – GENERAL INFORMATION (continued)

Attorney for Appellant's Information

Name: Assistant Attorney General Yasmine Tarhouni for Washington State Dep't of Transportation

Mailing Address: P.O. Box 40113

City: Olympia State: WA Zip: 98504 Phone: (360) 753-6130

E-Mail: yasmine.tarhouni@atg.wa.gov

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CITY OF YAKIMA PLANNING DIV.

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1 APR 2 9 2020 2 CITY OF YAKINA PLANNING DIV. 3 4 5 6 7 BEFORE THE DIRECTOR OF COMMUNITY DEVELOPMENT FOR THE CITY OF YAKIMA, PLANNING DIVISION, WASHINGTON 8 FILE NOS. SEPA #002-20, CL 1#009-20 9 In Re: 10 **NOTICE OF APPEAL** Appeal by Washington State Department of Transportation of the 11 Determination of Nonsignificance for Stealth Investments LLC 12 13 LOCATION: 5001 Powerhouse Road 14 PARCEL NUMBER: 181309-41012 PROPONENT: Stealth Investments LLC c/o Josh Sevigny 15 PROPERTY OWNER: Stealth Investments LLC c/o Josh Sevigny LEAD AGENCY: City of Yakima 16 The State of Washington, by and through its Department of Transportation, appeals the 17 Mitigated Determination of Nonsignificance (MDNS) of the City of Yakima (City). This appeal 18 is made pursuant to Yakima Municipal Code (YMC) Chapter 15.16 and YMC Chapter 16.08. 19 I. **IDENTITY OF APPELLANT** 20 The Appellant is the Washington State Department of Transportation (WSDOT). It is an 21 executive agency of the State of Washington entrusted with the construction, operation, and 22 maintenance of the state highway system. WSDOT submitted written comments or information 23 to the City on the proposed action and has standing to appeal the MDNS. 24 II. **DECISION BEING APPEALED** 25 WSDOT appeals the MDNS issued by the City for Stealth Investments LLC (Stealth

Investments) on April 15, 2020. A copy of the MDNS is attached to this appeal.

NOTICE OF APPEAL

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ATTORNEY GENERAL OF WASHINGTON Transportation & Public Construction Division 7141 Cleanwater Drive SW P.O. Box 40113

Olympia, WA 98504-0113

III. STATEMENT OF FACTS

- 3.1 Stealth Investments, LLC and Josh Sevigny (collectively, Applicants), submitted a development application for a project referred to as "Sevigny Powerhouse Development" (City of Yakima File: CL1 #009-20 and SEPA #002-20) (Stealth Project).
- 3.2 The Stealth Project proposes to construct a multi-family residential development consisting of 44 fourplexes and two duplexes on parcel 181309-41012 (16.01 acres), as well as a private asphalt paved access drive, concrete rolled curbs and gutters, concrete sidewalks, storm drainage infrastructure, utilities, and landscape areas. The Stealth Project will also construct 180 garage parking spaces and 180 spaces in front of garages. Approximately 450 people will reside in the completed project.
- 3.3 The Stealth Project is located at 5001 Powerhouse Road. The Stealth Project will be served by Powerhouse Road, and is adjacent to U.S. Highway 12 (US 12), a fully-controlled limited access facility with a posted speed limit of 60 miles per hour (mph). WSDOT has acquired all access rights to the highway. Direct access to US 12 is restricted solely to existing public road intersections and interchanges.
- 3.4 The Stealth application states that the Stealth Project will generate approximately 1055 daily vehicle trips based on the Institute of Transportation Engineers (ITE) Trip Generation Manual 9th edition. AM peak volume is projected to be approximately 80 vehicles and PM peak volume is projected to be approximately 98 vehicles.
- 3.5 The vehicle trips generated by this project will utilize the US 12/Ackley Road intersection. This intersection is currently operating at Level of Service (LOS) F. The vehicle trips generated by this project will also utilize the Powerhouse Road/Ackley Road intersection. The US 12/Ackley Road intersection is approximately 250 feet from the Powerhouse Road/Ackley Road intersection.
- 3.6 Due to the close proximity of the Powerhouse Road/Ackley Road intersection, traffic queues along Ackley Road currently meet or exceed the length of Ackley Road itself and

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CITY OF YAKIMA PLANNING DIV.

cause excessive left-turning queues along US 12. When these queues exceed available storage, traffic can block the 60 mph through lanes on US 12 in both directions, causing a serious traffic hazard.

- 3.7 On February 19, 2020, WSDOT received a Notice of Application and State Environmental Policy Act (SEPA) checklist for the Stealth Project, soliciting comments for a comment period ending on March 10, 2020. The Notice of Application did not include a Traffic Impact Analysis (TIA). On March 10, 2020, WSDOT provided the following comments (among others) via email to the City:
 - 3.7.1 The Applicant indicates 1,055 trips per day will be generated by this proposal; however, the 10th edition of the ITE Trip Generation Manual estimates that 180 units of multi-family housing (Land Use 220) may generate up to 1,318 vehicle trips per weekday with 121 trips occurring during the PM peak hour. These volumes are higher than the proponent's estimate and we expect a significant number of these trips will utilize the intersection of US 12 and Ackley Road.
 - 3.7.2 The US 12/Ackley Road intersection is currently operating at capacity in the PM peak hour. Queue lengths in the westbound left-turn lane regularly exceed the available storage and traffic generated by this project will create the need for intersection improvements. Therefore, consistent with other proposals in this area, WSDOT requires a traffic impact analysis (TIA) be performed at this time by a licensed traffic engineer at the proponent's expense and submitted to WSDOT, Yakima County, and the City of Yakima for review and comment. The TIA must analyze this proposal's impacts to the US 12/Ackley Road and Powerhouse Road/Ackley Road intersections and identify necessary mitigation to be implemented by the proponent to offset those impacts.
- 3.8 In response to WSDOT's comments, on March 25, 2020, the City sent WSDOT a copy of a TIA the Applicants conducted in May 2019, prepared by Transportation Engineering NorthWest (Stealth TIA).

3.9 On April 15, 2020, the City issued a Mitigated Determination of Nonsignificance. The City's Findings of Fact, Conclusions, and Notice of Decision that incorrectly summarized WSDOT's comments on the proposed Stealth Project, and stated that the Applicant[s] "indicates 387 trips per day will be generated by this proposal," even though the Application states that 1055 trips will be generated. The City appears to have cut-and-pasted WSDOT's comments on another development, the Lexar Project, into the Stealth Project's Findings of Fact and mistakenly responded to those, instead of to WSDOT's comments on the Stealth Project.

- 3.10 The Stealth TIA failed to analyze the US 12/Ackley Road intersection, even though it is reasonable to expect traffic impacts to that intersection as a result of the Stealth Project.
- 3.11 The Stealth TIA analyzed the Powerhouse Road/Ackley Road intersection and concluded that it would be expected to operate at LOS F with or without the proposed project. The Stealth TIA also concluded that the Stealth Project was not expected to create significant adverse impacts to the adjacent street network and therefore did not identify any traffic mitigation necessary for the project. Although the Lexar TIA included trip distribution, it did not provide sufficient justification or modeling for its conclusions.
- 3.12 The Stealth TIA stated that the existing delay in the southbound Powerhouse Road/Ackley Road intersection for PM peak hour service in the shared left-right lane is 76.8 seconds. The Stealth TIA further shows that after the Stealth Project is built, the projected 2024 delay for the southbound Powerhouse Road/Ackley shared left-right lane for PM peak hour service is 204.2 seconds. Even accounting for additional projected delay over the next four years, the Stealth Project will cause additional delay at this intersection.
- 3.13 The Stealth TIA did not perform a PM peak hour analysis of the US 12/Ackley Road intersection. Consequently, it is unknown whether the Stealth Project will have PM peak hour impacts to this intersection, which is currently heavily congested.

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3.14 The increased delay at the Powerhouse Road/Ackley Road intersection, as well as additional trips identified in the Application, place a burden on critical state highway infrastructure and exceed WSDOT's requirements for mitigation based on generated vehicular trips.

IV. GROUNDS FOR REVIEW

In making its threshold determination of mitigated nonsignificance, the City erred in the following ways:

- 4.1 The City failed to analyze the traffic impacts of the Stealth Investments Project on the US 12 and Ackley Road intersection.
- 4.2 The City failed to analyze the traffic impacts of the Powerhouse Road and Ackley Road intersection.
- 4.3 The City failed to require or otherwise consider mitigation measures for traffic impacts to the US 12/Ackley Road or Powerhouse Road/Ackley Road intersections.
- 4.4 The City failed to include the Stealth TIA in its Notice of Application to the public, depriving WSDOT of an opportunity to meaningfully assess the Stealth TIA and comment on the TIA prior to the conclusion of the comment period.
- 4.5 The City's failure to analyze traffic impacts, identify mitigation, and meaningfully inform the public violates the Washington State Environmental Policy Act (SEPA), codified at Chapter 43.21C RCW.
- 4.6 The City failed to coordinate with WSDOT regarding the level of service and traffic impacts to State Highway facilities, in violation of YMC 12.08, the City of Yakima's 2040 Comprehensive Plan, and 2040 Transportation System Plan.
- 4.7 As a result, the City lacks the information needed to determine that these traffic impacts would not be significant and that the project would not require additional mitigation or an environmental impact statement.

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4.8 As a result of the City's failure to coordinate with WSDOT and meaningfully linform the public, WSDOT lacks the information necessary to monitor the performance of state facilities and to plan for improvements and future growth.

V. REQUEST FOR RELIEF

WSDOT respectfully requests that the Hearing Examiner enter an order that:

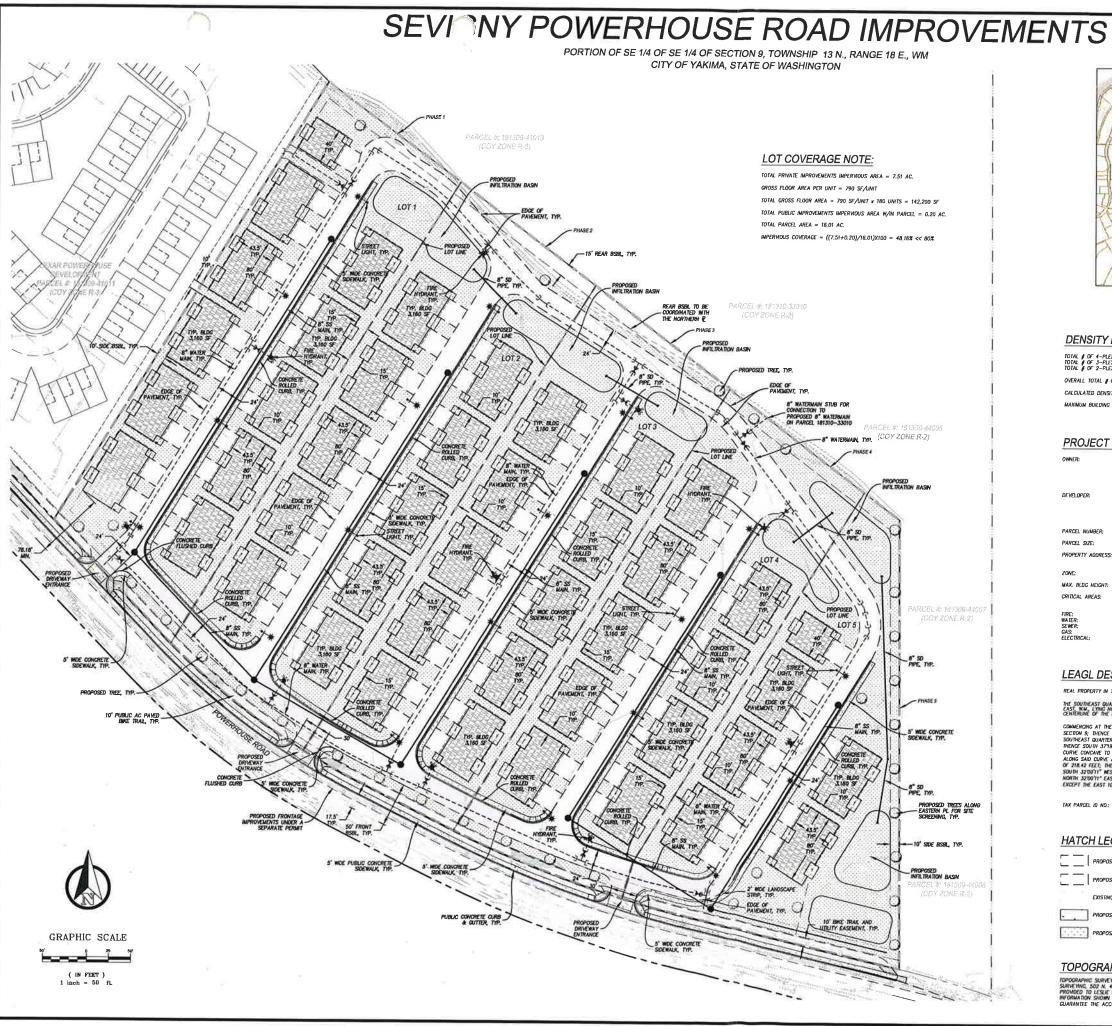
- a) requires the City to analyze traffic impacts to the US 12/Ackley Road and Powerhouse Road/Ackley Road intersections;
- b) requires the City to perform a PM peak hour analysis of the US 12/Ackley Road intersection:
- c) requires the City to identify mitigation measures for traffic impacts to WSDOT highway infrastructure, including the US 12/Ackley Road intersection, and condition any city approvals for the Stealth Project on the submittal of a TIA that includes analysis of the two intersections identified above, including trip distribution that is well-supported by modeling and industry standards, as well as mitigation measures that will reduce the severity of the traffic impacts below the level of significance.
- d) In the alternative, WSDOT requests that the Hearing Examiner order that an Environmental Impact Statement be prepared that analyzes these impacts and identifies mitigation measures.

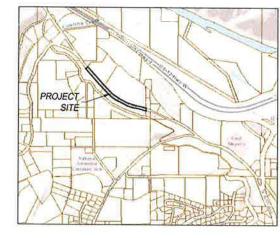
DATED this 29th day of April, 2020.

ROBERT W. FERGUSON Attorney General

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YASMINE L. TARHOUNI, WSBA #50924
MATTHEW D. HUOT, WSBA #40606
Assistant Attorney General
Attorneys for Appellant





VICINITY MAP

DENSITY NOTE:

OVERALL TOTAL # OF RESIDENTIAL UNITS: (44x4)+(0x3)+(2x2) = 180 UNITS CALCULATED DENSITY FOR ZONE: 180 UNITS/16_01 ACRES = 11.24 DU/RA MAXIMUM BUILDING HEIGHT = 50 FEET

PROJECT SITE INFORMATION:

DEVELOPER:

PARCEL NUMBER:

LEAGL DESCRIPTION:

REAL PROPERTY IN THE COUNTY OF YAKMA, STATE OF WASHINGTON, DESCRIBED AS FOLLOWS:

TAX PARCEL ID NO.: 181309-41012.

HATCH LEGEND:

PROPOSED AC PAVEMENT (POWERHOUSE RD) PROPOSED AC PAVEMENT (BIKE PATH)

PROPOSED CONCRETE SIDEWALK

TOPOGRAPHIC AND BOUNDARY NOTE:



eslieEngineerings Civil & Structural Engineering

LESLIE ENGINEERING, LL

PREHIMITOR TON

SEVIGNY POWERHOUSE ROAD DEVELOPMENT STEALTH INVESTMENTS 5001 POWERHOUSE ROAD YAKIMA, WA 98908

PREPARED FOR

JOSH SEVIGNY TEALTH INVESTMENTS LLI 651 N. KEYS RD. YAKIMA, WA 98901



COVER SHEET & OVERALL SITE PLAN