

# City of Union Gap

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## CITY OF UNION GAP NOTICE OF HEARING EXAMINER DECISION

**To:** Participating Parties

**From:** Dennis Henne, Director

**Subject:** Notice of Written Decision

**File Nos:** 2017.0208.SE0004 & 2017.0144.SX0005

**Re:** Sutherland Business Park Binding Site Plan

**Date:** November 8, 2017

On Tuesday, October 24, 2017 the Union Gap Hearing Examiner conducted a public hearing on the above matter. On November 7, 2017, the Hearing Examiner issued a written decision regarding the application.

The written decision together with the findings of fact in the matter is enclosed. This is the final City decision on this matter. In accordance with state law a party of record with standing may appeal the decision to Superior Court as provided in RCW Chapter 36.70C.

If you have any questions or need to discuss this matter in more detail please contact me at (509) 575-3638.

Sincerely,

Dennis Henne  
Director  
Public Works & Community Development

Enclosure

**CITY OF UNION GAP  
HEARING EXAMINER'S RECOMMENDATION**

**November 7, 2017**

<b>In the Matter of an Application for</b>	)	
<b>Approval of a Binding Site Plan</b>	)	
<b>Submitted by:</b>	)	
	)	
<b>Sutherland Business Park, LLC</b>	)	<b>2017.0208.SE0004</b>
<b>By Ron Doyle</b>	)	<b>2017.0144.SX0005</b>
	)	
<b>To Subdivide Approximately 7.55</b>	)	
<b>Acres into Four Parcels through the</b>	)	
<b>Commercial Binding Site Plan Process</b>	)	

**A. Introduction.** The hearing process conducted for this application may be summarized as follows:

- (1) The Hearing Examiner conducted a public hearing on October 24, 2017.
- (2) The thorough staff report presented by the City's Planner, Mike Shuttleworth of the Yakima Valley Conference of Governments, recommended approval of the proposed binding site plan subject to conditions.
- (3) Ron Doyle, the applicant's manager, testified in favor of the proposed binding site plan and indicated that smaller building sites will be more marketable than the single 7.55-acre parcel that currently exists.
- (4) No other testimony or written comments were submitted relative to this application. This recommendation has been issued within ten business days of the open record public hearing.

**B. Summary of Recommendation.** The Hearing Examiner recommends that the Union Gap City Council approve the proposed binding site plan subject to conditions.

**C. Basis for Recommendation.** Based upon a view of the site and surrounding area with no one else present on October 24, 2017; a consideration of the staff report, exhibits, testimony and other evidence presented at an open record public hearing on October 24, 2017; and a consideration of the City's applicable binding site plan ordinance requirements; the Hearing Examiner makes the following:

## **FINDINGS**

**I. Applicant/Property Owner.** The applicant/property owner is Sutherland Business Park, LLC by Ron Doyle, 7912 Scenic Drive, Yakima, Washington 98908.

**II. Location.** The binding site plan is proposed for a parcel on the southwest corner of the intersection of Market Street and Sutherland Drive. The parcel number is 191206-24406 and the legal description is Lot 1-2 of the City of Union Gap Binding Site Plan recorded under Auditor's File No. 7680641.

**III. Application.** The application requests approval of a binding site plan in accordance with Chapter 16.16 of the Union Gap Municipal Code (UGMC) to divide a 7.55-acre parcel into four commercial building sites.

**IV. Notices.** Public notice of the October 24, 2017, open record public hearing was provided in the following ways:

Mailing of notice to property owners within 300 feet:	October 4, 2017
Posting of the public hearing notice on the property:	October 5, 2017
Publishing of notice in the Yakima Herald-Republic:	October 8, 2017

**V. Environmental Review.** State Environmental Policy Act environmental review was conducted for the binding site plan. A SEPA Determination of Nonsignificance was issued on September 19, 2017, which was not appealed.

**VI. Zoning and Land Uses.** The parcel involved in this application is zoned Regional Commercial (C-2) and has a parking lot on the southern portion and is undeveloped on the northern portion. The zoning and land uses of nearby properties are as follows:

Direction	Zoning	Land Use
North	Regional Commercial (C-2)	Car wash
Northeast	Wholesale Warehouse (WW)	Retail store
East	Regional Commercial (C-2)	Undeveloped
Southeast	Regional Commercial (C-2)	Manufacturing business
South	Wholesale Warehouse (WW)	Manufacturing business
Southwest	Regional Commercial (C-2)	Undeveloped
West	Regional Commercial (C-2)	New permit for grocery store
Northwest	Regional Commercial (C-2)	Retail business

**VII. Binding Site Plan Criteria.** Section 16.16.060 of the City's subdivision ordinance provides that binding site plans shall be processed pursuant to Title 18 of the



Union Gap Municipal Code (UGMC) in the same manner as a preliminary plat including notice. UGMC §18.20.030 provides that binding site plans are reviewed as Type IV permit applications. After considering the testimony presented at a Hearing Examiner open record public hearing, the Hearing Examiner makes a recommendation to the City Council. The City Council will consider the Hearing Examiner's recommendation at a closed record hearing and make the final decision on the application. Subsection 16.20.070(A) of the City's subdivision ordinance provides that the Hearing Examiner shall consider agency reports, public testimony and all other relevant facts and whether the proposed subdivision makes appropriate provisions for the following:

- (1) Consistency with the comprehensive plan;
- (2) Consistency with applicable development regulations;
- (3) Availability and adequacy of public facilities identified in the comprehensive plan;
- (4) Appropriate density of residential development;
- (5) Public health, safety and general welfare;
- (6) Drainage ways and facilities;
- (7) Streets, alleys and other public ways;
- (8) Water supplies, sanitary waste, parks, playgrounds and open spaces;
- (9) Planning features to assure safe conditions for students who walk to and from school;
- (10) Sites for schools and school grounds; and
- (11) Whether the public use and interest will be served by the platting of such subdivision.

Subsection 16.20.070(D) of the City subdivision ordinance further provides that the Hearing Examiner's recommendation shall also be based upon the similar factors specified in RCW 58.17.110 as follows:

“A proposed subdivision and dedication shall not be approved unless the city, town, or county legislative body makes written findings that: (a) Appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and schoolgrounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and (b) the public use and interest will be served by the platting of such subdivision and dedication.”

The proposed binding site plan is analyzed in the context of those criteria in the following manner:

(1) **Consistency with the comprehensive plan.** The proposed binding site plan is consistent with the Commercial and Industrial comprehensive plan designation of the site. Even though the comprehensive plan does not discuss the dividing of commercial property, it does support a strong and diverse commercial base. Specifically, development pursuant to the site plan will be consistent with comprehensive plan goals and policies such as the following:

(a) **Goal LU 4:** Support a strong and diverse commercial and industrial base.

(b) **Policy LU 4.3:** Enhance vitality and visual interest of mixed use and commercial areas by providing incentives for the inclusion of open space, water features, public art, planters, arcades, and other public amenities.

(c) **Policy LU 4.4:** Direct industrial land uses toward sites that meet the following criteria:

- (i) Adequate arterial and/or rail transportation service capacity;
- (ii) Close proximity to existing and planned utility systems, in order to optimize the cost of providing essential public services; and
- (iii) Sites large enough to meet parking, landscape, and buffer requirements; and
- (iv) Areas that have adequate expansion space to meet future needs.



(d) Policy LU 4.5: Promote designs that achieve an industrial or business park like setting in light industrial and warehouse areas.

(e) Policy LU 4.6: Industrial developments shall use landscaping to screen and buffer adjacent uses.

(f) Policy LU 4.7: Require landscaping of parking lots to provide visual appeal.

(g) Policy LU 4.8: When parking is located in the front yard lot area of retail businesses, there should be at least one pedestrian walkway through the parking area from the sidewalk to the main building entrance.

**(2) Consistency with applicable development regulations.** The proposed binding site plan allows for development consistent with all applicable development standards that will have to comply with all applicable zoning regulations. The city operates under the 2015 International Building and Fire Codes (IBC and IFB) as published by the International Code Council (ICC) as required by state law. A wide variety of commercial uses are allowed subject to Class 1 review in the Regional Commercial District (C-2). The purpose of the district is to provide for larger scale uses that serve the community, region and traveling public. Development must be served by a full range of urban services with access by paved streets with curbs, gutters, and sidewalks. There is no minimum lot size or width in this district. Minimum building setbacks include the following: a front setback from an arterial of 5 feet and from a private access easement of 20 feet; a side setback from an arterial of 5 feet and from a residential district of 15 feet with no side setback required from other streets and property lines; and a rear setback of 15 feet from a residential district with no rear setback from streets and property lines. The proposed binding site plan is not located adjacent to a residential zoning district. Provisions relative to flood, inundation or swamp conditions are not applicable. The proposed binding site plan is not within a 100 year floodplain or within a floodway. The proposed binding site plan is located at the east edge of the currently adopted Airport Overlay Zone Traffic Pattern Zone, but is located outside of all other safety zones for the Yakima Airport. The proposed binding site plan has large enough lots to allow for required setbacks and for full compliance with all other site development standards of the development code. Further evaluation will be required for individual proposals.

(3) **Availability and adequacy of public facilities identified in the comprehensive plan.** Public facilities will be available and adequate for the uses in the binding site plan. All of the four new lots will have at least 126 feet of street frontage. Utilities are adjacent to the lots and can be extended into all four lots.

(4) **Appropriate density of residential development.** The binding site plan will not be used for residential development.

(5) **Public health, safety and general welfare.** The public health, safety and general welfare will be served by conditions of this recommendation; by the fact that the use of the property for commercial development will be consistent with development in the surrounding area; and by the applicable zoning development standards and land use requirements that have been adopted to serve the public health, safety and general welfare.

(6) **Drainage ways and facilities.** The adjacent streets contain drainage facilities. When the proposed sites are developed, the developers will be required to meet the storm drainage requirements of the City. All stormwater facilities must meet standards of the Eastern Washington Stormwater Management Manual as published by the Department of Ecology.

(7) **Streets, alleys and other public ways.** Access to all four lots will be by way of Market Street and Sutherland Drive. The proposed sites should not require the construction of additional public streets, alleys or other public ways.

(8) **Water supplies, sanitary waste, parks, playgrounds and open spaces.** Appropriate provisions for water supplies and sanitary waste disposal exist by virtue of public water and sewer services that are present in the existing street rights-of-way adjacent to all four lots. The City of Union Gap does not have a requirement for proposed development to provide parks, playgrounds or open spaces and there is no need for same in a commercial development.

(9) **Planning features to assure safe conditions for students who walk to and from school.** Since the binding site plan will accommodate commercial uses rather than



residential uses, there is no need for sidewalks or for other planning features to assure safe conditions for students who walk to and from school.

(10) **Sites for schools and school grounds.** Because of the regional commercial zoning and usage of the site, schools and school grounds are not required for the binding site plan. Development of the sites will provide additional funding for the school system by way of tax revenues that will be generated by the commercial uses.

(11) **Whether the public use and interest will be served.** As conditioned, the binding site plan is designed to allow for development of well-designed regional commercial uses that will benefit the City and the entire community.

(12) **Appropriate Provisions for Transit Stops and Other Features of the Proposal.** Other features of the proposed binding site plan that are provided in the interest of the public health, safety and general welfare to serve the public use and interest are:

(a) **TRANSIT STOPS:** There is a turnout area along the north side of Valley Mall Boulevard within walking distance of the lots.

(b) **DUST CONTROL:** The Yakima Regional Clean Air Agency requires that contractors doing demolition, excavation, clearing, construction or landscaping work file, and get the agency's approval of, a dust control plan prior to the start of any work.

**VIII. Consistency of the Proposed Binding Site Plan with Applicable Regulations and the Comprehensive Plan under the Criteria Set Forth in Subsection 18.50.010(B) of the Union Gap Development Code.** The consistency requirements necessitate consideration of the following factors:

(1) **The types of land uses permitted at the site** will consist of those uses allowed in the Regional Commercial District (C-2) which is the current zoning of the site.

(2) **The level of development, such as units per acre, the density of residential development or other measures of density** is not a factor here because there will not be any residential development on the site, and any future Regional Commercial District uses on the site will have to comply with the setback and density requirements for that zoning district.

(3) **The availability and adequacy of infrastructure and public facilities** are not an issue insofar as they exist nearby to support future Regional Commercial uses.

(4) **The character of the development** proposed for the site in the future will have to be consistent with applicable development standards of the Regional Commercial District (C-2).

## **CONCLUSIONS**

Based upon the foregoing findings, the Hearing Examiner reaches the following conclusions:

(1) The Hearing Examiner has jurisdiction to recommend approval by the Union Gap City Council of a binding site plan application.

(2) Notices were given for the public hearing in accordance with ordinance requirements.

(3) The proposed binding site plan was reviewed under the State Environmental Policy Act with the result that a SEPA Determination of Nonsignificance (DNS) was issued on September 19, 2017, which was not appealed.

(4) The binding site plan application satisfies all of the requisite respective criteria set forth in Section 16.16.060, Subsection 16.20.070(A) and Subsection 16.20.070(D) of the City's Subdivision Ordinance for binding site plan approvals.

## **RECOMMENDATION**

The Hearing Examiner recommends that the Union Gap City Council approve the applicant's binding site plan consisting of approximately 7.55 acres divided into four commercial lots designated as Lot 1-8, Lot 1-9, Lot 1-10 and Lot 1-11 on the applicant's binding site plan dated June 13, 2017, subject to the following conditions:

(1) Contractors doing clearing, grading, paving, construction or landscaping work on any of the lots of the binding site plan must file a dust control plan with the Yakima Regional Clean Air Agency (YRCAA). The proponent shall provide the City of Union Gap a copy of all permits issued prior to the issuance of any building permits.

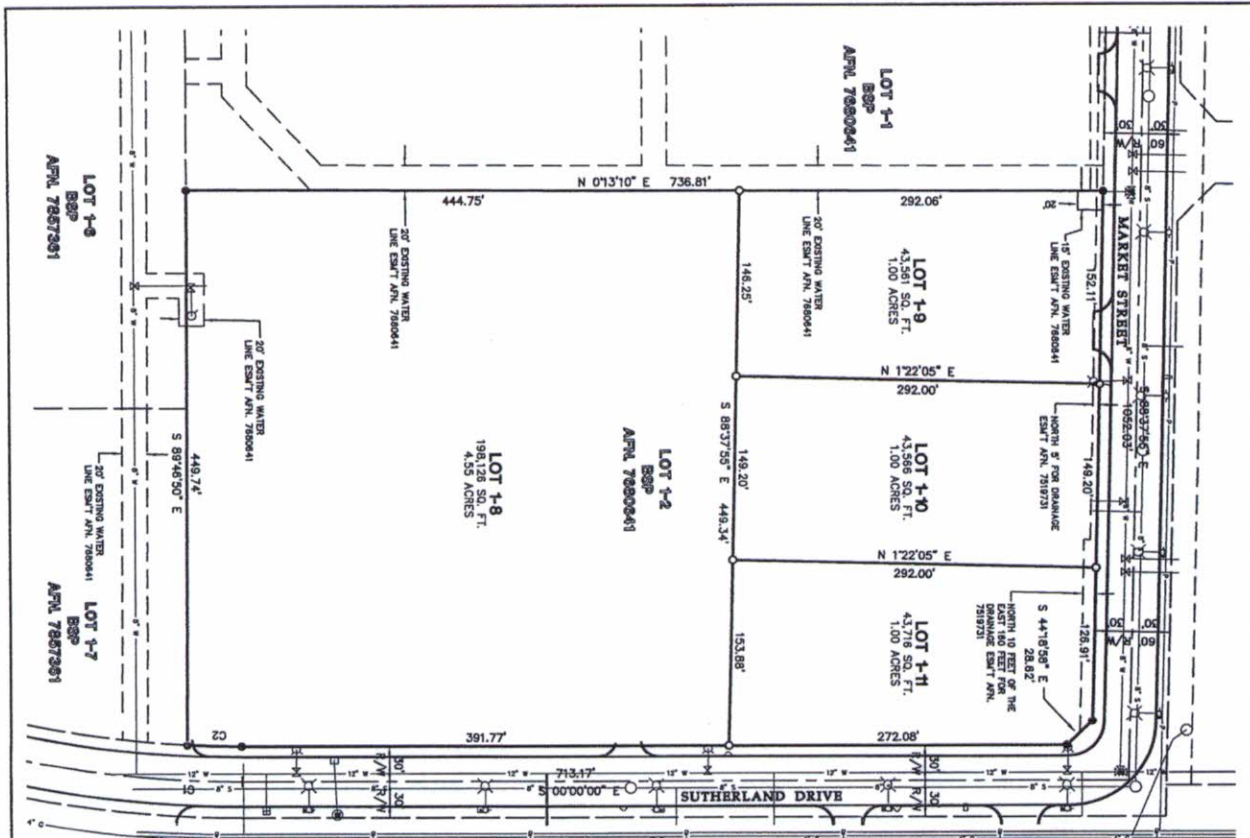
(2) Development on any of the lots of the binding site plan shall conform to all applicable development standards including, but not limited to, required parking, landscaping of parking lots, structure setbacks and building height. Such development requires plan review, permits and inspections prior to occupancy. (2015 International Building Code, Section 105).

(3) The developer of any of the lots of the binding site plan must secure a construction stormwater permit from the State of Washington Department of Ecology prior to undertaking any construction activity. All stormwater facilities must meet design standards of the Eastern Washington Stormwater Design Manual as published by the State of Washington Department of Ecology.

**DATED** this 7<sup>th</sup> day of November, 2017.

  
\_\_\_\_\_  
**Gary M. Cuillier, Hearing Examiner**





**LEGAL DESCRIPTION**  
 LOT 1-2, CITY OF UNION GAP BINDING SITE PLAN, RECORDED UNDER AUDITOR'S FILE NO. 788041, RECORDS OF YAKIMA COUNTY, WASHINGTON.



0 40 FEET  
 SCALE 1" = 40'

CURVE TABLE			
CURVE	RADIUS	DELTA	CHORD
C1	850.00	1416.19'	211.73'
C2	850.00	3704.19'	43.97'

**PLSA** ENGINEERING-SURVEYING-PLANNING  
 521 NORTH 20th AVENUE, SUITE 3  
 YAKIMA, WASHINGTON 98902  
 (509) 575-6990

DRAWN BY: RICK  
 DATE: 6/13/2017  
 JOB NO. 17184  
 SHEET NO.

CITY OF UNION GAP AMENDED BINDING SITE PLAN  
 PARCEL NO. 191206 - 24406  
 PREPARED FOR  
**SUTHERLAND BUSINESS PARK, L.L.C.**

NE 1/4, NW 1/4, SEC. 6, T-12 N, R-10 E, WM

**AUDITOR'S CERTIFICATE**

FILED FOR RECORD THIS \_\_\_ DAY OF \_\_\_\_\_  
 20\_\_\_ AT \_\_\_ M., UNDER A.F. NO. \_\_\_\_\_  
 RECORDS OF YAKIMA COUNTY, WASHINGTON.

COUNTY AUDITOR

BY DEPUTY

**SURVEYOR'S CERTIFICATE**

THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF THE SURVEY RECORDING ACT AT THE REQUEST OF RON DOYLE IN JUNE, 2017.

RICHARD L. WEHR DATE  
 CERTIFICATE NO. 18929.

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