

*STATE ENVIRONMENTAL POLICY ACT*  
**Mitigated Determination of Non-Significance**

May 24, 2023

**Town of Twisp**

**Agency Contact:** Kurt Danison. [townplanner@townoftwisp.com](mailto:townplanner@townoftwisp.com), 509 997 4081

**Agency File Number:** PD22-02

**Description of Proposal:**

*Palm Investments North LLC/Jerry and Julie Palm of Winthrop, Washington have submitted a revised application for preliminary approval of a 52 lot Planned Development to the Town of Twisp. The proposal entails development of Parcel No. 3322180099 with 52 residential lots ranging in size from 3,630 sq ft to 8,903 sq.ft. with 3 open space tracts of 8,390 sq.ft., 116,669 sq.ft. and 171,156 sq ft. As a planned development the application requests that interior lots have a zero-side yard setback. The proposed planned development, which proposed streets, water and stormwater utilities built to Town standards, is located west of the Painters Addition to Twisp with access from Harrison Street and proposed emergency access to Isabella Lane within the Town's reservoir access easement, within Section 18, Township 33 N., Range 22 E.W.M.*

**Applicant:** Palm Investments LLC  
PO Box 322  
Winthrop, WA 98862  
[Palmci1@gmail.com](mailto:Palmci1@gmail.com)  
509 322 3032

The Town of Twisp has determined that this proposal will not have a probable significant adverse impact on the environment. Pursuant to WAC 197-11-350(3), the proposal has been clarified, changed, and conditioned to include necessary mitigation measures to avoid, minimize or compensate for probable significant impacts. An environmental impact statement (EIS) is not required under RCW 43.21C.030. The necessary mitigation measures are listed below, the Environmental Checklist is attached and the application, special studies and related materials are available at: [townoftwisp.com](http://townoftwisp.com).

This determination is based on the following findings and conclusions:

*The application for the proposed planned development underwent a preliminary review process wherein a Determination of Non-Significance (“DNS”) was issued by the Town and was subject to numerous comments and several appeals. As a result, the Town withdrew the DNS and provided the applicant with a list of items to address in a revised SEPA Checklist and application for the planned development (“PD”). The Town issued a Mitigated Determination of Non-Significance (“MDNS”) on January 5, 2023, which was withdrawn as it was on the wrong form, then a new MDNS was issued on February 1, 2023, which was also withdrawn on March 23, 2023, when a commentor correctly pointed out that the notice provided did not meet the requirements of state statute.*

*The Planning Commission completed the required Public Hearing process on April 26, 2023, then began discussion of the conditions to be placed on the recommendation for preliminary approval of the PD. The hearing process entailed the Planning Commission completing its discussion of the proposed conditions on May 10, 2023, with the conditions primarily intended to address the issues brought up via the written comments from 35 individuals and couples, another 34 individuals (some also provided written comments) commenting during the public hearing process and the 9 appeals/comments submitted on the February 1, 2023, MDNS.*

*This final MDNS was not prepared until the conditions placed on the Planning Commission's recommendation for preliminary approval was determined as the conditions are an important part of the mitigation required to address potential significant impacts on the environment.*

*Many of the comments received on the original DNS and subsequent MDNS (withdrawn) mirrored the comments submitted on the PD application itself and were more about the Town's land use plans, codes and regulations, however, the following items have been addressed in the revised SEPA Checklist and the conditions of preliminary approval recommended by the Planning Commission:*

- 1. Air Quality*
- 2. Glare and light pollution*
- 3. Critical Areas*
- 4. Design Standards*
- 5. Density*
- 6. Traffic – volume, road capacity and emergency access*
- 7. Wetlands - delineation*
- 8. Stormwater – how will it be handled*
- 9. Consistency with Comprehensive Plan*
- 10. Consistency with Zoning Code*
- 11. Wildfire*
- 12. Contamination from previous agricultural use*

*The mitigating conditions set forth in the Mitigation Plan supporting this Mitigated Determination of Non-Significance attached hereto are requirements of approval of the PD.*

This MDNS is issued under WAC 197-11-350 and the comment period will end on *June 23, 2023*. Comments can be submitted to Kurt Danison, Town Planner, [townplanner@townoftwisp.com](mailto:townplanner@townoftwisp.com), P.O. Box 278, Twisp, WA 98856 509 997 4081

Signature Kurt E. Danison  
(electronic signature or name of signor is sufficient)

Date May 24, 2023

Appeal process:

You may appeal this determination to:

Okanogan County Superior Court

149 3<sup>rd</sup> Ave. South

Okanogan, WA 98840

No later than:

July 19, 2023

# Orchard Hills Planned Development

## Mitigation Plan

One of the conditions for preliminary approval of the PD requires that all mitigation measures set forth in the revised SEPA Checklist and any addendums thereto are required to be implemented and maintained throughout the life of the project.

### **Air Quality**

The applicant notes in the SEPA Checklist that all woodstoves must meet current state and federal standards and that the Department of Ecology publication “Methods for Dust Control” 2016 will be utilized to prepare a dust control plan in accordance with the Town of Twisp’s codes and regulations and best management practices.

The conditions for preliminary approval of the PD require that the Covenants, Conditions and Restrictions required prior to final approval contain a statement that limits each unit to one wood burning apparatus with no fireplaces allowed. Another condition is that the PD be redesigned so that there is at least 30 feet of clear space between structures, which will result in a reduction of the number of lots thus reducing the number of potential wood burning devices. It should also be noted that the Town may amend its code related to wood burning devices after the final approval of the PD. Any new construction within the PD would have to meet the new standards, that may further reduce the number and/or type of wood burning devices that in turn will reduce impacts to air quality.

The issue of resuspended dust from winter sanding operations is a Town issue that is not the responsibility of the developer.

### **Glare and light pollution**

The applicant notes in the SEPA Checklist that the project will adhere to current Town lighting standards and will limit all building sites to at least 30’ below the ridgeline. The conditions for preliminary approval of the PD states that the Covenants, Conditions and Restrictions required prior to final approval contain a statement that all exterior lighting comply with “Dark Sky” standards. It should also be noted that the Town may amend its code related to outdoor lighting after the final approval of the PD. Any new construction within the PD would have to meet the new standards, that may further reduce the potential for light and glare impacts.

### **Critical Areas**

Portions of the project site have been designated as Geological Hazardous Areas and Critical Aquifer Recharge Areas in the Town’s Comprehensive Plan. The applicant submitted a Geotechnical Report and a Limited Environmental Investigation prepared by qualified professionals. The studies provided data on the soils, topography, soil permeability and potential contamination from historic use of portions of the site as a commercial orchard. In general, the Geotechnical Report found the site suitable for the type of development being proposed and contained recommendations for measures to reduce potential impacts. The Limited

Environmental Investigation did find evidence arsenic in the soils on the project site and made the following recommendation:

“Because arsenic was detected in soil above the MTCA Method A cleanup level at the Subject Property, Ecology requires additional environmental investigation and/or cleanup to meet the requirements of MTCA and Ecology's Model Remedies for Cleanup of Former Orchard Properties in Central and Eastern Washington (July 2021, Publication No. 21-09-006). The highest concentrations of arsenic were measured in soil samples collected at depths of 8 and 10 feet bgs from test pits located nearest the bedrock ridge in the western portion of the Subject Property. It is possible that naturally occurring arsenic in the bedrock is a source of arsenic to soil at the Subject Property. However, because the Subject Property was historically used as orchard land, Ecology will likely require a background study of naturally occurring arsenic, completed in accordance with WAC 173-340-709, to establish area soil background concentrations and evaluate future cleanup requirements for the Subject Property.”

The applicant notes in the SEPA checklist that temporary sediment/erosion control measures will be incorporated during construction to prevent sediment transport off site. NPDES Construction Storm Water Permit from DOE will be obtained, and an associated plan implemented. All land disturbed during construction will be stabilized and revegetated. Measures to reduce or control erosion include stormwater management and dedication of permanent open space.

### **Design Standards**

The applicant notes in the SEPA Checklist that the project will comply with current Town standards.

The conditions for preliminary approval of the PD requires that the Covenants, Conditions and Restrictions required prior to final approval contain design criteria and standards for new homes and accessory buildings consistent with the requirements of TMC 18.45.050(2)

### **Density**

The proposed PD includes 52 individual single-family residential lots ranging in size from 3,630 sq ft to 8,903 sq.ft. with 3 open space tracts of 8,390 sq.ft., 116,669 sq.ft. and 171,156 sq ft. The PD was determined to meet the density standards set forth in the Twisp Zoning Code (Title 18, Table 5). While the proposed development is in an area zoned R1, with a minimum lot size of 10,000 sq ft, Table 5 contains a footnote indicating that the minimum lot size does not apply to a PD. Comprehensive Plan and Zoning regulations encourage PDs as a means to protect open space and critical areas by allowing flexibility in design, which includes clustering of dwellings on smaller lots.

As a result of the recommendations provided by a professional Fire Marshall, preliminary approval is conditioned on a redesign of the PD to ensure at least 30 feet between all structure envelopes. This will result in a reduction of the density in the final PD as lots will have to be combined and/or enlarged to address this requirement.

### **Traffic**

The applicant notes in the SEPA Checklist that a study by independent consultant SJC Alliance estimates that there will be 563 new trips per day on May St and Harrison Ave. The study noted

that the existing street network has the capacity to handle the increased traffic, The applicant also provided a supplemental traffic study that examined the current and projected capacity of the intersections of May Street and Second Avenue and Second Avenue and S.R. 20. The supplement found that both intersections have the capacity to address existing as well as projected traffic volumes.

As a result of the Fire Marshall's recommendation, preliminary approval is conditioned on the applicant working with the Town to amend the Emergency Response Plan to include traffic control at the intersection of May Street and Second Avenue if an evacuation order is given for the May Street neighborhood.

### **Wetlands**

The applicant provided a Wetlands Assessment conducted by a qualified professional. The Assessment found no wetlands on the subject property.

### **Stormwater**

The applicant states in the SEPA Checklist and a preliminary Stormwater Management Plan that stormwater runoff will result from developed hardscape areas including buildings, roadways, pedestrian paths, and parking areas. These areas will be directed via sloped surfaces and conveyance piping to water quality and infiltration swales or dry wells designed and sized to meet the requirements of the DOE Stormwater Manual for Eastern Washington 2019.

The conditions for preliminary approval of the PD requires: "A stormwater management plan compliant with Town standards and the Eastern Washington Stormwater Management Manual has to be prepared by a licensed engineer and approved by the Town and required improvements constructed to ensure that stormwater runoff from the development is retained, treated and dispersed within the project boundaries."

### **Consistency with Comprehensive Plan**

The applicant states in the SEPA Checklist that the proposal is developed pursuant to adopted Town of Twisp regulations. This is a proposed residential development with less overall density than the current zoning.

The Staff Report prepared for the Planning Commission noted that there are conflicts between the Comprehensive Planning and Zoning code: "The Town's Comprehensive Plan contains some contradictory goals and principles. Some support the type of development planned for Orchard Hills others seem to discourage such development. The provisions related to Planned Development support the proposed Orchard Hills planned development. The Planning Commission will have to determine whether recommending approval of the planned development, as conditioned, is consistent with the comprehensive plan."

The Planning Commission recommendation to Council to grant preliminary approval subject to a list of conditions means they determined that with conditions the PD is consistent with the Comprehensive Plan.

## **Consistency with Zoning Code**

The applicant states in the SEPA Checklist that the proposal is developed pursuant to adopted Town of Twisp regulations. This is a proposed residential development with less overall density than the current zoning.

The Staff Report prepared for the Planning Commission noted that there are conflicts between the Comprehensive Planning and Zoning code: “There is a conflict between the intent of the R1 zoning district and the regulations which provides for the reduction of minimum lot sizes through the PD process. There is also a conflict with the comprehensive plan which calls for a maximum density of 4 units per acre rather than the 6 permitted under zoning. However, as the zoning code has been adopted by ordinance, the zoning provisions prevail. The proposed use is considered allowed as it consists of single-family residences and falls within the allowable zoning density providing it follows the requirements for a planned development.”

The Planning Commission recommendation to Council to grant preliminary approval subject to a list of conditions means they determined that with conditions the PD is consistent with the Zoning Code.

## **Wildfire**

One of the key issues raised during the public review process was wildfire and the impact the number of new dwellings would have on traffic in the event of an emergency and the small lots limiting the space between structures thus contributing to fire spread in the event of a wildfire.

The Town retained a professional Fire Marshall who visited the site, reviewed the plans, and provided recommendations that addressed both issues. As a result, the Planning Commission recommended the following conditions be met prior to the PD being granted final approval:

- That all provisions of the International Fire Code related to access and fire flow be included in project designs and be built or bonded prior to granting of final approval of the PD.
- That the planned emergency access road, if approved, cannot be barricaded, and must be maintained year-round.
- That prior to final approval the applicant participates with the Town in the amendment of the adopted Comprehensive Emergency Response Plan that sets forth a plan for traffic control in the event of a wildfire or other emergency that necessitates evacuation of the May Street neighborhood.
- That all construction be completed in compliance with applicable requirements of the International Building Code and all homes meet the 2018 International Wildland-Urban interface code and that all homes be equipped with fire sprinklers if a second access isn't provided. A note on the final plat will also be required referencing the requirement that all homes meet the 2018 International Wildland-Urban Interface code and fire sprinklers be provided if a second access isn't provided.
- That each lot be labeled with an E911 address prior to filing and recording of PD Plat.
- That the Town amend its Capital Facilities Plan and Six Year Transportation Improvement Plan to add a second point of access from the May Street neighborhood to the Twisp Carlton Road with the intent of completing the project within 5 years.

- That a 100-foot-wide buffer as per Fire Marshall recommendation be created along the western boundary of the development from the western property line to Harrison Street. Such buffer shall be gravel, irrigated grass or other acceptable fire-resistant vegetation and must be completed prior to deeding of open space to Town.
- That a fire hazard reduction plan prepared by a qualified professional be prepared, approved by the Town and implemented in the proposed open space area south of Harrison Street be completed prior to deeding of open space to Town.
- That the PD be redesigned to eliminate proposed townhomes and modify lot sizes to ensure that there is a minimum of 30 feet of clear space between the eave line of structures.

### **Contamination from previous agricultural use**

Portions of the project site have been designated as Geological Hazardous Areas and Critical Aquifer Recharge Areas in the Town's Comprehensive Plan. The applicant submitted a Geotechnical Report and a Limited Environmental Investigation prepared by qualified professionals. The studies provided data on the soils, topography, soil permeability and potential contamination from historic use of portions of the site as a commercial orchard. In general, the Geotechnical Report found the site suitable for the type of development being proposed and contained recommendations for measures to reduce potential impacts. The Limited Environmental Investigation did find evidence arsenic in the soils on the project site and made the following recommendation:

“Because arsenic was detected in soil above the MTCA Method A cleanup level at the Subject Property, Ecology requires additional environmental investigation and/or cleanup to meet the requirements of MTCA and Ecology's Model Remedies for Cleanup of Former Orchard Properties in Central and Eastern Washington (July 2021, Publication No. 21-09-006). The highest concentrations of arsenic were measured in soil samples collected at depths of 8 and 10 feet bgs from test pits located nearest the bedrock ridge in the western portion of the Subject Property. It is possible that naturally occurring arsenic in the bedrock is a source of arsenic to soil at the Subject Property. However, because the Subject Property was historically used as orchard land, Ecology will likely require a background study of naturally occurring arsenic, completed in accordance with WAC 173-340-709, to establish area soil background concentrations and evaluate future cleanup requirements for the Subject Property.”

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### **Recreation**

The applicant states in the SEPA Checklist that currently residents of Painter's Addition use the land without permission for hiking. By putting 40% into open space and maintaining an informal route to the ridge summit and the informal hiking will be legal and maintained into the future. The applicant proposes to donate the open space land to the Town.

The Planning Commission recommends that the Town accept the donation and begin planning for

appropriate development of the property.