

CITY COUNCIL AGENDA

September 18, 2023



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The Study Session will take place in the City Council Chambers, 501 N Anderson Street, Ellensburg, WA 98926. No public comment will be accepted. The meeting is available to livestream on YouTube at ECTV Ellensburg.

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AMERICANS WITH DISABILITIES ACT

The City of Ellensburg strives to make our services, programs, and activities readily accessible and usable by individuals with disabilities. Reasonable accommodations will be made upon request. Please furnish the ADA Coordinator with your request in sufficient time for the City to provide a reasonable accommodation by calling the City of Ellensburg ADA Coordinator at (509) 962-7222 or email ADACoordinator@ellensburgwa.gov.

COUNCIL MEETING GUIDELINES FOR PUBLIC PARTICIPATION
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All City Council meetings are broadcast on Charter/Spectrum Channel 191 and available to livestream on Ellensburg Community Television at www.ectv2.com or on YouTube at [ECTV Ellensburg](#). You may also attend by phone, only, and listen to the meeting by following the registration instructions under “Procedure for Remote Participation During Meeting” below. Once you register, you will be sent a meeting invitation with a phone number for the meeting.

City Council accepts testimony or comments in person or via remote testimony under Citizen Comment on Non-Agenda Items (Item No. 7) as well as for all other topics under the Regular Agenda. Testimony or comments will be accepted in the following manner:

SUBMISSION OF WRITTEN COMMENTS

- **Written comments submitted in advance of meeting**

Submit written comments by mail to Beth Leader, City Clerk, Ellensburg City Hall, 501 N. Anderson St., Ellensburg, WA 98926, or via email to: cityclerk@ellensburgwa.gov. Comments received by 5 p.m. on the meeting date will be compiled, sent to the City Council and entered into the record.

- **Comments for public hearings**

Written comments must be received by the City Clerk by 5 p.m. on the meeting date. Comments can either be mailed to Beth Leader, City Clerk, Ellensburg City Hall, 501 N. Anderson St., Ellensburg, WA 98926, or sent via email to: cityclerk@ellensburgwa.gov. Comments received by 5 p.m. on the meeting date will be compiled, sent to the City Council and entered into the record.

PROCEDURE FOR REMOTE PARTICIPATION DURING MEETING

1. **Advance registration is required to provide public comment or hearing testimony via remote meeting attendance.** Anyone wishing to speak on items under the Agenda must register prior to 7 p.m. the day of the meeting. Once registered, you will receive an email with the meeting link and phone number (for those who wish to call into the meeting).
2. **Join the meeting early,** as you may need to download the app in advance to participate. Once you've joined the meeting, your camera and microphone will be muted until you are recognized by the Mayor to speak.
3. Please note that there may be several items on the City Council Agenda that will precede the agenda item you wish to address.
4. **The Mayor will identify the agenda item** and ask if anyone wishes to speak on the matter.
5. Any interested person may provide comments: 1) under Item 7 on non-agenda items, or 2) on any listed agenda items. If you wish to speak, you must:
 - a) **Raise your "virtual hand"** in the corner of Zoom application on the computer screen or press *9 on your phone. Raising your hand signals the moderator that you wish to speak.
 - b) **Wait to be called upon by the Mayor** using your name, e-mail, or phone number used to log in to the teleconference.
6. Please state your name, address, and whether you are representing only yourself or others.

PROCEDURE FOR IN-PERSON PARTICIPATION (COUNCIL CHAMBERS)

- ◆ When recognized, approach the microphone provided on the right side of the room.
- ◆ Please state your name, address, and whether you are representing only yourself or others.
- ◆ Each speaker's comments are to be limited to 3 MINUTES.
- ◆ Submit any written comments to the City Clerk.
- ◆ Speakers are cautioned not to make comments of a personal, impertinent or derogatory nature.
- ◆ Speakers may not identify themselves as candidates for elective public office or make any statements which assist or discuss the campaign of a candidate for elective office or discuss or campaign for or against a ballot proposition (unless the ballot proposition is being considered as part of the City Council agenda item).

PUBLIC COMMENT RULES FOR ALL MEETING PARTICIPANTS

1. Each speaker's comments are to be limited to 3 MINUTES.
2. Speakers are cautioned not to engage in conduct that disrupts, disturbs or otherwise impedes the orderly conduct of the Council meeting.
3. Speakers may not identify themselves as candidates for elective public office or make any statements which assist or discuss the campaign of a candidate for elective office or discuss or campaign for or against a ballot proposition (unless the ballot proposition is being considered as part of the City Council agenda item).

Please note: City Council Rules provide that no action will be taken by the Council at the meeting at which a subject is first introduced during the citizen comment period (Item 7 on the Agenda). Council may consider an item at a future meeting, thus you may wish to concisely state your concern and request placement of your matter on a future agenda. Staff will follow up with speakers as necessary.

CONSENT AGENDA

Members of the audience may request items be removed from the consent agenda by asking for recognition and making the request during Agenda Approval. Items will not be removed from the consent agenda unless your request is confirmed by a councilmember.

AGENDA ITEMS

If you wish to have an item placed on a Council agenda, a written request should be delivered to the City Manager's Office prior to noon on the Monday preceding the Council meeting. Assistance will be provided in preparing a request if you wish to contact the City Clerk at (509) 925-8614.

PUBLIC HEARINGS

City Council accepts testimony or comments in person or via remote testimony on a particular subject schedule for Public Hearing. Council will consider all testimony, respond to any questions, and take action after the public hearing is closed. Testimony or comments will be accepted in the following manner:

1. When recognized,
 - If attending in the Council Chambers, approach the microphone provided on the right side of the room.
 - If attending remotely, raise your "virtual hand" in the corner of Zoom application on the computer screen or press *9 on your phone.
2. Please state your name, address, and whether you are representing only yourself or others.
3. Please limit your comments to 5 MINUTES.
4. Submit written comments to the City Clerk.

**CITY OF ELLENSBURG
CITY COUNCIL AGENDA
Council Chambers
501 North Anderson Street
Ellensburg, WA 98926
And remotely via Zoom
Monday, September 18, 2023
6:00 PM – Study Session
7:00 PM - Regular Meeting**

Study Session (No Public Comment)

A	Demolition Ordinance Proposed Changes	6
B	Regulation of Banners and Flags in City Right-of-Way	32

Pledge of Allegiance

1. Call to Order and Roll Call

2. Proclamations (Public Comment Opportunity)

2.A	Celebrating National Voter Registration Day - September 19, 2023	39
2.B	Hispanic/Latinx Heritage Month 2023	40

3. Awards and Recognitions

3.A	Checkerboard Partnership Update (Public Comment Opportunity)	
3.B	Natural Gas Division Awards Presentation (Public Comment Opportunity)	42

4. Approval of Agenda (No Public Comment)

5. Consent Agenda (No Public Comment)

Items listed below have been distributed to Councilmembers in advance for study and will be enacted by one motion. If separate discussion is desired on an item, that item may be removed from the Consent Agenda and placed on the Regular Agenda at the request of a Councilmember or at the request of a member of the public with concurrence of a Councilmember. Requests to remove items should be made under Item 4 Approval of Agenda.

5.A	Approve Minutes of September 5, 2023 Regular Meeting	47
5.B	Acknowledge Minutes of Boards and Commissions	50
5.C	Supplement No. 1 to the Consultant Agreement with Power Engineers, Inc. for GIS Support Services	65
5.D	Contract Renewal - Small Government Enterprise Agreement between the City	

	of Ellensburg and ESRI for GIS Enterprise Software	69
5.E	Authorization to Execute a Mutual Aid Agreement for the Natural Gas Division	82
5.F	Project Acceptance - Bid Call 2022-01, Alder St – University Way to Dean Nicholson Boulevard and 14 th Ave Trail and Signalization Project	91
5.G	Project Acceptance - Bid Call 2021-05, 5th Avenue and Railroad Avenue Signalization Project	93
5.H	2023 Distribution Transformer Purchase	95
5.I	Approve September 18, 2023 Voucher Listing	97
6.	Petitions, Protests, and Communications	
6.A	Board and Commission Appointments (Public Comment Opportunity)	98
7.	Citizen Comment on Non-agenda Issues	
8.	Business Requiring Public Hearings	
8.A	Closed Record Hearing for Rezone Application P21-132, from Residential Suburban (R-S) and Residential Medium (R-M) to Residential High (R-H) Zoning, Submitted by Matt Stalder Representing Property Owners, and First Reading of Ordinance 4924 (Limited Public Comment)	104
9.	Introduction and Adoption of Ordinances and Resolutions	
9.A	Resolution 2023-24 Updating the Personnel Policies Manual for the City of Ellensburg (Public Comment Opportunity)	174
9.B	Dissolution of the Senior Citizen Advisory Commission and First Reading of Ordinance 4925 (Public Comment Opportunity)	184
10.	Unfinished Business	
11.	New Business	
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11.B	Historic Preservation Grant Extension Request (Public Comment Opportunity)	246
12.	Miscellaneous	
12.A	Manager's Report	262
12.B	Councilmembers' Reports	
13.	Executive Session	
14.	Adjournment	



Meeting Date: September 18, 2023
City of Ellensburg
City Council Agenda Report

Agenda Subject: Demolition Ordinance Proposed Changes
Submitted by: Stacey Henderson, Sr. Planner
Department: Community Development

Suggested Motion/Action:
For discussion purposes only

Background/Summary:

The Landmarks and Design Commission has requested that the demolition section of ECC 15.280, Landmarks Register and Procedures, be updated. Over the years, the commissioners have formed subcommittee's to discuss improving the demolition code. Discussions included adding demolition by neglect, reviewing proposed demolitions to "eligible" historic structures not listed on the Ellensburg Landmarks Register, application submittal requirements, and improving the demolition review process. After many iterations of drafts incorporating these requests, removing some that may not make sense for Ellensburg, and researching historic preservation ordinances of other Certified Local Governments in Washington, staff worked with the Landmarks and Design Commission to compile the draft as seen in Attachment 1.

Two new sections were added to the ordinance, including "Definitions" and "Application for demolition permit; demolition review standards". Staff has incorporated additional changes as well that are not demolition related, but help provide clarity for applicants and the commission moving forward. Due to the large volume of changes proposed at this time, staff is proposing to repeal and replace the existing ordinance, and therefore, have not provided the typical strike out draft as seen with other ordinance updates.

Previous Council Action:
N/A

Analysis:
Staff will present the general changes proposed in the ordinance for review and discussion by Council.

Financial Impact:
N/A

Budget Adjustment: No

Attachments:

1. LDC Ch. 15.280 Demo Code- Draft
2. CC Presentation PDF

Chapter 15.280 ELLENSBURG LANDMARKS REGISTER AND PROCEDURES

Sections:

15.280.010	Short title.
15.280.020	Declaration of purpose.
15.280.030	Definitions
15.280.040	Creation of Ellensburg landmarks and design commission.
15.280.050	Members, qualifications and terms.
15.280.060	Powers and duties.
15.280.070	Officers and records.
15.280.080	Landmarks and design commission staff.
15.280.090	Ellensburg landmarks register.
15.280.100	Review of changes to landmarks register properties.
15.280.110	Application for demolition permit; demolition review standards
15.280.120	Evaluation of economic impact.
15.280.130	Special valuation for historic properties.

15.280.010 Short title.

The following sections shall be known and may be cited as the “landmarks and design ordinance” of the city of Ellensburg. [Ord. 4656 § 1 (Exh. O2), 2013.]

15.280.020 Declaration of purpose.

This chapter is intended to identify, evaluate, designate, protect, enhance, and perpetuate historic places within the city of Ellensburg in order to:

- A. Safeguard the heritage of the city as represented by those buildings, districts, objects, sites, and structures which reflect significant elements of Ellensburg’s history;
- B. Foster civic pride in the beauty and accomplishments of the past;
- C. Stabilize and improve the economic vitality of buildings, neighborhoods, and the community as a whole;
- D. Strengthen the city’s tourism industry by enhancing its historic character;
- E. Facilitate early resolution of conflicts between preservation of historic resources and alternative land uses;
- F. Protect property values and public and private investment in the existing built environment;

G. Provide incentives to property owners for the acquisition, preservation, restoration, redevelopment, and continued use of outstanding historic properties; and

H. Encourage the rehabilitation of eligible historic properties through the “special valuation for improvements to historic property” program, a property tax incentive, as provided in Chapter 84.26 RCW. [Ord. 4656 § 1 (Exh. O2), 2013.]

15.280.030 Definitions

The following definitions are specific to this chapter and shall have the following meanings:

“Commission” means the city’s landmarks and design commission.

“Imminently Dangerous” means a condition that could cause serious or life-threatening injury or death at any time and is typically intended to describe situations that pose a danger in an occupied building.

“Landmark property” means real property together with improvements thereon, except property listed in a register primarily for objects buried below ground, which is listed on the Ellensburg Landmarks Register, stops at the parcel boundary, and does not include public right of way.

“Neglect” means the lack of proper maintenance for a building or structure, that contributes to the building being deemed structurally deficient.

“Ordinary repair and maintenance” means work for which a permit issued by the city is not required by law, and where the purpose and effect of such work is to correct any deterioration or decay of or damage to the real building or structure appurtenant therein and to restore the same, as nearly as may be practicable, to the condition prior to the occurrence of such deterioration, decay, or damage.

“Structure” for the purpose of this chapter, means anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground.

“Structurally Deficient” means any failure or deviation from the intended structural performance of a building element due to defective design, workmanship, material, or caused by the age of the building.

15.280.040 Creation of Ellensburg landmarks and design commission.

There is hereby created an Ellensburg landmarks and design commission which shall have the powers, duties and functions provided in this chapter. [Ord. 4656 § 1 (Exh. O2), 2013.]

15.280.050 Members, qualifications and terms.

A. The Ellensburg landmarks and design commission shall consist of seven members appointed by a majority of the Ellensburg city council. A majority of members so appointed shall be residents of the city of Ellensburg.

B. All members of the commission shall have demonstrated an active interest in historic preservation and design review.

C. The commission shall include at least two owners of property from within the downtown and First Railroad Addition historic districts, as defined in ECC 15.300.070(B) and (C), or a property individually listed on the Ellensburg landmarks register. One member shall be a member of the Ellensburg Downtown Association (EDA) for a term of four years. One member shall be a general at-large position. The commission shall include at least three professionals (active or retired) who work or worked among the related fields of history, architecture, construction, landscape design, historic preservation, planning, anthropology, archaeology, cultural geography, American studies, land use law, or real estate.

D. A commission action that would otherwise be valid shall not be rendered invalid by the temporary vacancy of one or all of the professional positions, unless the commission action is related to meeting certified local government (CLG) responsibilities cited in the certification agreement between the Ellensburg city council and the State Historic Preservation Officer.

E. Appointment of new members to the commission shall be for a period of four years. Vacancies shall be filled by the Ellensburg city council for any unexpired term in the same manner as the original appointment. [Ord. 4887 § 15, 2022; Ord. 4883 § 43, 2022; Ord. 4656 § 1 (Exh. O2), 2013.]

15.280.060 Powers and duties.

The primary role of the commission is twofold: 1) encourage the preservation of Ellensburg historic landmarks, and 2) to review proposed changes to Ellensburg landmarks properties.

A. Encourage the Preservation of Ellensburg Historic Landmarks. In the area of historic landmarks preservation, the primary role of the commission is to identify and actively encourage the conservation of Ellensburg's historic resources through a register of landmarks and historic resources and a review of proposed changes to landmarks; to raise community awareness of Ellensburg's history and built environment; and to serve as the city's primary resource in matters of heritage, historic planning, and preservation. In carrying out these responsibilities, the commission shall engage in the following:

1. Conduct and maintain a comprehensive Ellensburg historic resource inventory; publicize and periodically update inventory findings. Properties included in the

inventory shall be noted on official zoning records with an “HI” (for historic inventory). This notation shall not modify the underlying zone classification;

2. Initiate and maintain the Ellensburg landmarks register. This official register shall be compiled of buildings, structures, sites, objects, and districts evaluated by the commission as possessing historic significance worthy of recognition by the city of Ellensburg and worthy of preservation;

3. Review citizen nominations to the Ellensburg landmarks register according to evaluation criteria set forth in ECC 15.280.080, and adopt standards in its rules to guide this review;

4. Develop incentive programs to assist landmark owners with the use, reuse, and redevelopment of historic buildings. Such incentives may include façade design assistance, revolving loan funds, and tax or building code relief;

5. Review proposals to alter or demolish landmark buildings, landmark sites, or landmark districts listed in the register as provided in ECC 15.280.100; and adopt standards in its rules to guide this review and the issuance of certificates of appropriateness and demolition applications;

6. Conduct all commission meetings in compliance with Chapter 42.30 RCW, Open Public Meetings Act, provide for adequate public participation, and adopt standards in its rules to guide this action;

7. Submit nominations to the Washington Heritage Register and the National Register of Historic Places and adopt standards in its rules to guide this action;

8. Through staff, provide review and comment to the department of community development on development proposals affecting historic resources within the boundaries of the city of Ellensburg;

9. Provide review and comment to the Ellensburg city council on land use planning, housing, transportation, municipal improvements, and other activities proposed by any agency of the city of Ellensburg, Kittitas County, Washington State, or the federal government, as they relate to the historic resources of Ellensburg;

10. Advise the Ellensburg city council generally on matters of historic preservation and heritage tourism, and perform other related functions as assigned by the Ellensburg city council;

11. Investigate and report to the Ellensburg city council on current federal, state, local and private funding sources available to promote public and private historic preservation projects and heritage tourism in the city of Ellensburg;

12. Establish working liaisons with existing nonprofit organizations and with federal, state, and local government entities to further historic preservation objectives in Ellensburg;
13. Provide current information to property owners on techniques and appropriate treatments for maintaining and rehabilitating historic properties. This may take the form of pamphlets, newsletters, workshops, or similar activities;
14. Compile a list of historic preservation consultants, building movers, and available vacant lots to assist in avoiding demolition of historic buildings. Consider proposing a property maintenance ordinance to assist with mothballing vacant historic buildings;
15. Conduct educational and interpretive programs pertaining to Ellensburg's historic resources;
16. Review nominations to the State and National Register of Historic Places.
17. Serve as the local review board for special valuation as provided under Chapter 84.26 RCW and ECC 15.280.130; and
18. Administer the historic preservation grant program in accordance with procedures authorized and approved by the city council.

B. Review Proposed Changes to Ellensburg Landmarks Properties. In the area of design review, a primary role of the commission is to review and make the decisions on proposed changes (including signage) to landmark properties. See ECC 15.280.090 for the design review process for landmark property/district related projects.

C. Demolition Review. In the area of demolition review, the role of the commission is to review and make decisions on the proposed whole or partial demolition of a landmark property or property located within an Ellensburg Landmark District boundary.

15.280.070 Officers and records.

The commission shall select from among its membership a chairperson and such other officers as may be necessary to conduct the commission's business. A majority of the membership will constitute a quorum for the purpose of transacting business. Action by the commission shall be by majority vote. A tie vote on a motion to approve shall constitute a failure of the motion and denial of the application. All meetings shall be open to the public and the commission shall keep minutes of its proceedings, and the minutes and a copy of its adopted kept on file in the office of the city clerk and be open to inspection by the public. [Ord. 4656 § 1 (Exh. O2), 2013.]

15.280.080 Landmarks and design commission staff.

Assistance to the commission shall be provided by the department of community development, which shall assign a professionally qualified member of the department's staff, or a qualified consultant, to act as a preservation planner to assist the commission in fulfilling its historic landmarks preservation duties. Under direction of the commission, the preservation planner shall be the custodian of the commission's historic landmarks records. The preservation planner shall conduct official correspondence, assist in organizing the commission, and carry out the technical work of the commission in all historic landmarks preservation activities. [Ord. 4656 § 1 (Exh. O2), 2013.]

15.280.090 Ellensburg landmarks register.

There is hereby created an Ellensburg landmarks register.

A. Criteria for Eligibility to the Register. Any building, structure, site, object, or district may be designated for listing in the Ellensburg landmarks register if it is significantly associated with the settlement, development, architecture, politics, economy, social history, archaeology, or cultural heritage of the community; retains integrity of location, setting, design, materials, workmanship, feeling, and association; is at least 50 years old; and if it meets at least one of the following criteria:

1. Is associated with events that have made a significant contribution to the broad patterns of local, state, or national history;
2. Is closely linked with the life of a person important in the history of the city, state, or nation;
3. Embodies the distinctive visual characteristics of an architectural type, period, style, or method of construction;
4. Is an outstanding work of a designer, builder, or architect;
5. Has yielded, or may be likely to yield, important archaeological information related to history or prehistory; and/or
6. Because of prominent spatial location, contrasts of siting, age, or scale, it is an easily identifiable visual feature of its neighborhood and contributes to the distinctive identity of that neighborhood.

B. Process for Designating Properties to the Landmarks Register (a Type II Review Process Exception).

1. Any person may nominate a building, structure, site, object, or district for inclusion in the Ellensburg landmarks register. Members of the commission or the commission as a whole may generate nominations. In its designation

program, the commission shall consider the Ellensburg historic resource inventory and the Ellensburg comprehensive plan. Owner(s)' consent is required before the commission shall consider the nomination.

2. Nominations shall be made on forms provided by the commission. Completed nominations received by the commission will be scheduled for review within 15 working days of receipt.

3. The commission shall consider the merits of the nomination at a public hearing, in accordance with the criteria for eligibility set forth in subsection (A) of this section, and according to the nomination review process.

4. Adequate notice shall be given to the general public, the property owner(s), the author of the nomination, and lessees, if any, prior to the public hearing. Such notice shall include publication in a newspaper of general circulation in Ellensburg.

5. Within 10 days of holding the public hearing, the commission shall render a decision on whether a nominated property meets the criteria set forth in subsection (A) of this section. If the finding is that the nominated property meets the criteria set forth in subsection (A) of this section, the property shall be officially listed as a landmark, landmark site, or landmark district or part thereof. Notice of the decision shall be sent to the property owner(s), the author of the nomination, any occupants of the building, the preservation planner, and the Ellensburg city council. If the listed property is adjacent to the boundary of an existing landmark district, said boundary shall be amended accordingly. If the listed property will create a new landmark district, then the listed area shall be designated on the official zoning map with the notation "LR" to indicate the district is on the landmarks register. An isolated property shall be designated on the official zoning map with the notation "LR" to indicate the property is on the landmarks register.

6. For individual landmark designations, the commission shall include in its designation the applicable criteria on which the listing is based, a legal description of the property, and a list of all significant features that contribute to its historic character.

7. For landmark district designations, the commission shall include in its designation recommendation the applicable criteria, a description of the boundaries of the district, and a list of all buildings, structures, sites, and objects which contribute to its historic character.

8. Whenever the commission rejects the nomination of all or any part of a property, the commission shall, within 10 working days, issue a written decision including reasons supporting the determination that the criteria set forth in subsection (A) of this section have not been met. Notice of the decision shall be

sent to the property owner(s), author of the nomination, any lessees, the preservation planner, and the Ellensburg city council.

9. The commission's decision on a COA may be appealed to the hearing examiner in a closed record appeal hearing.

10. Properties listed in the Ellensburg landmarks register shall be recorded on official zoning records with an "LR" (for landmarks register). This designation shall not change or modify the underlying zone classification.

C. Downtown and Residential Historic Districts.

1. The existing downtown historic district, defined in ECC 15.300.070(B) and hereafter known as the "downtown historic district," and the existing residential historic district, defined in ECC 15.300.070(C) and hereafter known as the "First Railroad Addition historic district," are hereby designated as Ellensburg landmark districts. The geographic area encompassed by each district is identified on the map attached to the ordinance codified in this chapter and made a part of this chapter by reference.

2. The commission shall compile existing historical data and property records, prepare Ellensburg landmarks register nomination forms, and create complete landmark files for each of the landmark districts.

3. The provisions of ECC 15.280 shall hereafter apply to the downtown historic district and the First Railroad Addition historic district.

D. Change of Status from Noncontributing to Contributing within a District. The owner(s) of record of noncontributing property within a district may submit a COA application to the department for change of status of the property from noncontributing to contributing. The application shall identify all features of historical significance of the property in accordance with subsection A of this section and shall include the legal description and description of all interior and exterior features, and outbuildings, that contribute to its proposed designation as a contributing property.

E. Effects of Listing on the Ellensburg Landmarks Register.

1. Listing on the Landmarks register of historic places is an honorary designation denoting significant association with the historic, archaeological, engineering, or cultural heritage of the community. Properties are listed individually or as contributing properties to a historic district.

2. Prior to the commencement of any exterior work visible from a public right of way on a Landmarked building or any property located within the boundaries of a district, excluding ordinary repair and maintenance, the owner must apply for and receive a COA from the commission for the proposed work. Violation of this rule

shall be grounds for the commission to review the property for removal from the register.

3. This city is a certified local government (CLG), and therefore all qualifying properties listed on the Ellensburg and National Registers of Historic Places may be eligible for special tax valuation on their rehabilitation under ECC 15.280.130.

4. Prior to whole or partial demolition of a register property or contributing property within a district, the owner must apply for and receive a demolition approval pursuant to the requirements of ECC 15.280.110.

F. Removal of Properties from the Register. In the event that any designated landmark property is no longer deemed eligible for inclusion on the Landmarks Register by City staff or the commission, per requirements of subsections A.1-6 of this section, the commission may initiate removal of such designation by the same procedure as provided for in establishing the designation in subsection (B) of this section.

15.280.100 Review of changes to landmarks register properties.

A. Review Required.

1. No person shall alter, repair, enlarge, newly construct, relocate, or demolish any registered landmark building, or any structure located on a property within a landmark district, nor install any exterior sign or mural pursuant to subsection (A)(2) of this section, without review by the commission and issuance of a COA or a demolition permit (ECC15.280.110).

2. In the case of murals, the arts commission shall first review and provide recommendations to the commission regarding any proposal for a mural to be located on a registered landmark or within a landmark district. Factors to be considered by the arts commission include media to be used, method of application, stability, building/site, mural location and practicability of project.

3. This review shall apply to all exterior features of the building visible from a public right-of-way. This review applies whether or not a permit from the city of Ellensburg is required.

4. Review of alterations to Ellensburg landmarks register properties under this chapter is in lieu of design review required for projects and sign review per ECC 15.210.050(B).

B. Exemptions. The following activities are exempted from landmarks review and do not require a COA:

1. Ordinary repair and maintenance which does not visually alter exterior features of a building visible from a public right-of-way, and does not utilize substitute materials.
2. Repairs to or replacement of utility systems which do not alter exterior features visible from a public right-of-way.
3. Interior building construction, maintenance, remodeling, decoration, or other activities located within the building envelope.
4. Painting of previously painted exterior surfaces.
5. Construction on a Landmarked property or within a Landmark district that is not considered a structure per ECC 15.280.030, or a building per ECC 15.130. By way of example and not limitation, such work might include landscaping, fences, and detached arbors or gazebos.

C. Review Process for Proposed Changes to Registered Landmark Properties and Properties Located within a Landmark District (a Type II Review Process Exception 15.210.030(B)).

1. Requests for Review and Issuance of a COA for proposed changes to a Landmarked property, which can include demolition within the overall scope of work.
2. Application for a COA to a landmark property shall be made by filing an application with the preservation planner on forms provided by the department. A written description of materials required for the commission's review include but are not limited to; site plans, narratives, elevations, and material samples, and shall be provided to the applicant. Preliminary plans may be submitted to the preservation planner for review and an advisory opinion.
3. If an application is submitted to the department for any permit which affects a designated landmark, or a property located in a landmark district, the building official shall promptly refer such application to the preservation planner, and such shall be deemed an application for a COA if accompanied by the additional materials required for COA review. No city permit shall be issued, nor work begun, until the landmarks and design review process has been completed and a COA has been issued pursuant to this chapter.
4. Landmarks and Design Commission Review.
 - a. At a regularly scheduled public hearing, the commission shall review the proposed work according to the relevant design provisions set forth in Divisions IV and V of this title. After concluding the public hearing, the commission shall approve or disapprove the application. Approval of

COAs or demolition permits shall be based upon appropriateness of proposal as reflected in said design provisions, and upon review of demolition standards per ECC 15.280.120.

b. The commission may approve with or without conditions or disapprove an application. The decision of the commission shall be rendered within 30 working days of the date of receipt of a completed application, unless the parties agree to an extension. The commission's findings in support of any decision shall be in writing and shall cite the applicable design provisions.

c. If the commission makes a decision to issue a COA, such certificate shall be promptly issued to the applicant by the preservation planner and a copy of such certificate shall be transmitted to the building official.

d. If the commission denies the application, the applicant and the building official shall be notified of such denial, including the reasons why approval of the application is not warranted.

e. In the case of proposed demolition of a building or structure within a COA application that is listed in the landmarks register, the commission may require conditions of approval including, but not limited to, mitigation measures (e.g., to document the property, salvage significant architectural features of the building, install historical markers or plaques, prepare publications, etc., that provide historical context for the site).

f. The commission's decision on a COA may be appealed to the hearing examiner in a closed record appeal hearing.

15.280.110 Application for demolition permit; demolition review standards.

A. Permitted Reasons for Demolition. The proposed full or partial demolition of buildings or structures listed on the Ellensburg landmarks register individually or within a district, is disfavored in order to preserve the integrity of the city's historic landmarks and districts. Notwithstanding the foregoing, an application for a demolition permit under this chapter may be submitted for the following reasons:

1. Structural Deficiencies;
2. Economic Infeasibility; or
3. No longer meets the criteria for being considered as contributing to a district per 15.280.090(A).

B. Application.

1. An applicant proposing the full or partial demolition of any building or structure listed on the Ellensburg landmarks register or located within a landmark district,

shall supply the information required in this section. The information to be provided relates only to the property or building under review, but does not require information concerning an owner's assets or income except as it specifically relates to the property or building under review.

2. An application for full or partial demolition of a building or structure listed on the Ellensburg landmarks register, shall be deemed incomplete unless the application provides the following:

- a. A narrative explaining the reasons for the proposed demolition and how the proposed demolition satisfies the standards listed in subsection C.1;
- b. Photographs documenting the existing condition of the structure;
- c. Analysis of possible alternatives to demolition considered, including but not limited to one or more of the following:
 - i. Redesigning the project to avoid any impact to the structure or setting;
 - ii. Conversion of the structure into another use (adaptive reuse);
 - iii. Relocation of the structure on the property;
 - iv. Relocation of the structure to another property;
 - v. Salvaging from the structure historically significant architectural features and building materials; or
 - vi. Possible design alternatives.
- d. Where demolition is sought due to structural deficiencies or is so deteriorated, and there is so little historical fabric, that it would be unreasonably costly to retain the historic, cultural, and architectural significance of the structure through rehabilitation or renovation., the applicant shall supply a report from a Washington-licensed structural engineer supporting this claim; and
- e. Where demolition is sought for reasons of economic infeasibility and the applicant requests that the commission consider evidence of economic impact on the owner from denial or partial denial of a demolition permit,

the applicant shall supply a report that includes, but is not limited to, the requirements set forth in section 15.280.120.

f. Where demolition is sought within a Landmarks district due to the structure's ineligibility to be classified as contributing within the district, the applicant shall provide a written assessment of this claim supported by historical research demonstrating that the structure does not qualify to be reclassified as contributing per criteria set forth in ECC 15.280.090(A).

C. Demolition Permit Review Standards. An application for the partial or full demolition of a landmark property or structure in a landmark district, shall be granted if the application material provided pursuant to subsection B.2 satisfies one or more of the following criteria;

1. The applicant has demonstrated through the submitted materials and a report from a Washington-licensed structural engineer, that the building is considered structurally deficient, and the needed repairs prevent reasonable use of the structure. Notwithstanding the foregoing, neglect shall not constitute a basis for granting a demolition permit for a landmark building, or structure within the Landmark district boundaries;

2. The applicant has demonstrated through the submitted materials per section 15.280.120 Evaluation of Economic Impact, that the building cannot support the intended use or alternative uses prohibiting reasonable use of the structure;

3. The applicant has provided sufficient historical documentation to demonstrate that the subject building does not qualify to be relisted as contributing within the district per requirements of ECC 15.280.090(A); or

4. Emergency Conditions. If application of the criteria for demolition results in a denial, but the proposed action is necessary to correct an unsafe condition on the property, then the director may issue a permit strictly limited to correcting emergency conditions in accordance with ECC 15.280.110(C)(1)(e)(ii).

D. Exemptions. The following demolition activities do not require a demolition permit under this chapter:

1. Demolition review included as part of an approved COA design review application pursuant to 15.280.090 subsection (C).

2. City Abatement of Unsafe Conditions. In the event of a finding by the city building official of an unsafe condition or imminent danger, the building official may issue an abatement order allowing partial or complete demolition of a building or structure listed in the Ellensburg landmarks register provided, that all

reasonable efforts have first been made to preserve and correct unsafe conditions rather than to partially or completely demolish historic buildings or structures.

E. Review Process for Proposed Full or Partial Demolitions to Registered Landmark Properties and Properties Located within a Landmark District (a Type II Review Process Exception 15.210.030(B)).

1. Application for a demolition to a landmark property or property within a Landmark district shall be made by filing an application with the preservation planner on forms provided by the department. The application shall include a written description of materials required for the commission's review, including but not limited to the requirements listed in subsection B.2 of this section. Preliminary plans may be submitted to the preservation planner for consultation prior to the preapplication conference required by this subsection.

2. If a demolition application is submitted to the department for any permit which affects a designated landmark or a property located in a landmark district, the building official shall promptly refer such application to the preservation planner to initially determine whether the application is complete per the requirements of subsection B.2. of this section. An applicant may not commence any demolition work until the landmarks and design review process has been completed and permit for the proposed demolition has been issued by the department.

3. Landmarks and Design Commission Review.

- a. Mandatory preapplication conference. Applicants for a demolition permit under this chapter shall attend a preapplication conference with community development department staff including a historic preservation planner. The preapplication meeting shall occur before the proposal is reviewed by the commission. The purpose of the preapplication conference is to review with the applicant the requirements of this chapter, to provide preliminary comments on the acceptability of the proposal, and to discuss alternatives to demolition including available financial incentives.
- b. A scheduled public hearing on the application shall be scheduled within thirty (30) days of the preapplication conference unless the applicant requests a delay. The commission shall review the proposed demolition at the hearing. After concluding the public hearing, the commission shall approve or disapprove the application. Approval of demolition permits shall be based upon demolition standards set forth in this section.
- c. The commission may approve with or without conditions or disapprove an application. The decision of the commission shall be rendered

within fourteen (14) days of the date of hearing, unless the parties agree to an extension. The commission's findings in support of any decision shall be in writing and shall cite the applicable design provisions.

- d. If the commission makes a decision to approve a proposed demolition, such approval shall be promptly issued to the applicant by the preservation planner and a copy of such certificate shall be transmitted to the building official. The building official shall include any conditions for demolition required by city ordinance or state law (e.g., disconnection of utilities, rodent abatement and similar conditions).
- e. If the commission denies the application, the applicant and the building official shall be notified of such denial, including the reasons why approval of the application is not warranted.
- f. In the case of demolition of a building or structure listed in the landmarks register, the commission may require conditions of approval including, but not limited to, mitigation measures (e.g., to document the property, salvage significant architectural features of the building, install historical markers or plaques, prepare publications, etc., that provide historical context for the site).
- g. The commission's decision on a demolition permit may be appealed to a hearing examiner in a closed record appeal hearing.

F. Demolition permit expiration. A demolition permit issued under this chapter expires if the work authorized by the permit is not commenced within 180 days from the date of issuance of the demolition permit. The director may extend the time for commencement of work upon written request by the applicant showing circumstances beyond their reasonable control. Once a demolition permit expires, a new application for demolition must be submitted and approval obtained before work can be commenced.

G. Appeal. Any person aggrieved by any action of the commission denying or approving a demolition permit application may file a notice of appeal as set forth in Chapter 15.230 ECC.

15.280.120 Evaluation of economic impact.

A. In making its decision, the commission shall, when requested by the property owner, consider evidence of economic impact on the owner from the denial or partial denial of a COA or demolition permit. The commission may not deny a COA or demolition permit, in whole or in part, when it is established that the denial will, when available economic incentives are utilized, deprive the owner of a reasonable economic use of the property, and there is no viable and reasonable alternative which would have less impact on the significant features specified in the designation.

B. Where demolition of the building is sought for reasons of economic infeasibility, the applicant shall supply a report from the owner or a qualified professional such as a financial analyst or accountant. The report shall demonstrate that maintenance of the building or structure or any important features thereof proposed for demolition will impose an economic hardship upon the owner, rendering it impracticable to renovate, restore or reuse the structure, and rendering it economically infeasible to renovate, restore, or reuse the structure in comparison to the economic value of the proposed redevelopment. The report shall analyze the following:

1. Current level of economic return including the amount paid for the property, date of purchase, party from whom purchased and the relationship between the current owner of record, the applicant and the person from whom the property was purchased;
2. Annual gross income from the property for the previous three years, itemized operating and maintenance expenses for the previous three years, and depreciation deduction and annual cash flow before and after debt service, if any, during the same period;
3. Remaining balance on the mortgage or other financing secured by the property, real estate taxes paid on the property for the previous four years, and the most recent assessed value of the property;
4. Fair market value of the property at the time of application;
5. Whether the remainder of the site is capable of economically viable development even if the structure is required to remain on the site.
6. Consideration of available and applicable economic incentives for rehabilitation.

C. Upon reasonable notice to the owner, the landmarks and design commission may appoint an expert to provide advice and testimony concerning the value of the landmark, the availability of incentives, and the economic impacts of approval, denial, or partial denial of a COA or demolition permit.

D. Any adverse economic impact caused due to neglect shall not constitute a basis for granting a demolition permit. [Ord. 4656 § 1 (Exh. O2), 2013.]

15.280.130 Special valuation for historic properties.

A. There is hereby established and implemented a special valuation program for historic properties as provided in Chapter 84.26 RCW and Chapter 254-20 WAC.

B. The Ellensburg landmarks and design commission is hereby designated as the local review board for the purposes set forth in Chapter 84.26 RCW and is authorized to perform all functions of a local review board authorized by Chapter 84.26 RCW and Chapter 254-20 WAC.

C. The class of properties eligible to apply for special valuation in the city of Ellensburg means all properties listed on the Ellensburg landmarks register, or properties contributing to an Ellensburg landmarks register historic district, which have been substantially rehabilitated at a cost and within a time period which meets the requirements set forth in Chapter 84.26 RCW.

D. As used in this chapter, "Actual Cost of Rehabilitation" means costs incurred within twenty-four months prior to the date of an application for Special Valuation directly resulting from one or more of the following:

1. Improvements to an existing building located on or within the perimeters of the original structure; or
2. Improvements outside of but directly attached to the original structure which are necessary to make the building fully usable but shall not include rentable/habitable floor space attributable to new construction; or
3. Architectural and engineering services attributable to the design of the improvements; or
4. All costs defined as qualified rehabilitation expenditures for purposes of the federal historic preservation investment tax credit.

E. The landmarks and design commission shall comply with all other local review board responsibilities identified in Chapter 84.26 RCW and Chapter 254-20 WAC.

F. Any decision of the landmarks and design commission acting on any application for classification as historic property eligible for special valuation may be appealed to superior court under RCW 34.05.510 through 34.05.598 in addition to any other remedy of law. Any decision on the disqualification of historic property eligible for special valuation, or any other dispute, may be appealed to the county board of equalization. [Ord. 4656 § 1 (Exh. O2), 2013.]

Proposed Changes to ECC 15.280

New and Revised Sections

15.280.010 Short Title

15.280.020 Declaration of purpose

15.280.030 Definitions

15.280.040 Creation of Ellensburg Landmarks and Design Commission

15.280.050 Members, qualifications, and terms.

15.280.060 Powers and duties

15.280.070 Rules, officers, and records

15.280.080 Landmarks and design commission staff

15.280.090 Ellensburg Landmarks register

15.280.100 Review of changes to Landmarks register properties

15.280.110 Application for demolition permit; demolition review standards

15.280.120 Evaluation of Economic Impact

15.280.130 Special Valuation for historic properties



Proposed Changes to ECC 15.280

Demolition Code: Existing process under ECC 15.280.090(D)

1. Submit COA application to Community Development for proposed demolition for a Landmarked building.
2. Preliminary public meeting between applicant and commission to discuss demolition alternatives.
3. Public hearing to review the proposed COA application for demolition
4. LDC approves or denies COA request
5. Persons aggrieved may file appeal reviewed by City Council
6. No expiration of COA approval or denial



Proposed Changes to ECC 15.280

Commission Goals

1. Improve demolition review process for applicants and commission

Clear submittal and review guidelines- What needs to be submitted to make a good case for demolition of a Landmark, and what criteria can support consistent review.

2. Revise the requirement for the preliminary public meeting.

Improve process to create a more helpful environment for discussing alternatives and preparing applicants for the proposed demolition process.

3. Demolition by neglect.

To help encourage preservation and discourage demolition by way of harmful neglect of a building.

4. Include “Eligible” properties in demolition review.

Interested in preventing the demolition of more than Landmark Register properties.

- Historic Inventory -



Proposed Changes to ECC 15.280

Existing Process ECC 15.280.090(D)

1. Applicant submits COA application for proposed demolition to community development.
2. Preliminary public meeting between applicant and commission to discuss demolition alternatives.
3. Public Hearing for review of COA.
** LDC can require mitigation conditions*
4. LDC approves or denies COA request to demolish landmark property.
5. Persons aggrieved may file appeal reviewed by City Council.
6. No expiration on COA approval or denial.

Proposed new demolition section ECC 15.280.110

1. Applicant submits demolition application to Community Development.
** Exceptions: Imminent Danger/ Emergency Conditions/Unsafe Conditions - (pg 13 of 17)*
2. Demolition permit routed to planning triggering LDC review of proposed demolition.
3. Pre-Application meeting with preservation planner and Community Development staff to discuss demolition alternatives and application requirements.
** Application Submittal Requirements (pg 12 of 17)*
4. Public Hearing for review of Demolition Permit
** Decision Criteria (pg 11 of 17)*
** Mitigation Measures (pg 12 of 17)*
5. LDC issues a demolition approval or denial based on criteria in code (pg 15 of 17)
6. Persons aggrieved may file appeal to **Hearing Examiner** (pg 15 of 17)
7. Demolition permit decision expires (pg 15 of 17)



Proposed Changes to ECC 15.280

Proposed new definition section ECC 15.280.030

Commission	Means the city's landmarks and design commission.
Imminently Dangerous	Means a condition that could cause serious or life-threatening injury or death at any time and is typically intended to describe situations that pose a danger in an occupied building.
Landmark Property	Means real property together with improvements thereon, except property listed in a register primarily for objects buried below ground, which is listed on the Ellensburg Landmarks Register, stops at the parcel boundary, and does not include public right of way.
Neglect	Means the lack of proper maintenance for a building or structure, that contributes to the building being deemed structurally deficient.
Ordinary repair and Maintenance	Means a condition that could cause serious or life-threatening injury or death at any time and is typically intended to describe situations that pose a danger in an occupied building.
Structure	For the purpose of this chapter, means anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground.
Structurally Deficient	Means any failure or deviation from the intended structural performance of a building element due to defective design, workmanship, material, or caused by the age of the building.



Proposed Changes to ECC 15.280

Review Exemptions ECC 15.280.090(B)

Existing Exemptions

B. Exemptions. The following activities are exempted from landmarks review and do not require a COA: maintenance and repairs in-kind which do not alter the historic character-defining exterior features visible from a public right-of-way and do not utilize substitute materials; repairs to or replacement of utility systems which do not alter exterior features visible from a public right-of-way; and all interior work.

Proposed Exemptions

1. **Ordinary repair and maintenance** which does not visually alter exterior features of a building visible from a public right-of-way, and does not utilize substitute materials.
2. Repairs to or replacement of utility systems which do not alter exterior features visible from a public right-of-way.
3. Interior building construction, maintenance, remodeling, decoration, or other activities located within the building envelope.
4. **Painting of previously painted exterior surfaces.**
5. **Construction on a Landmarked property or within a Landmark district that is not considered a structure per ECC 15.280.030, or a building per ECC 15.130. By way of example and not limitation, such work might include landscaping, fences, and detached arbors or gazebos.**



Research

	CLG	Paint Review	Demo Review of “Eligible” Non-Listed Properties	
Walla Walla	YES	NO	NO	
Pullman	YES	NO	NO	
Spokane	YES	BOTH*	NO (Special boundary map)	* Some paint is not reviewed,
Wenatchee	YES	NO	NO	
Yakima	YES	NO	NO	
Bellingham	YES	NO*	NO	* No painting unpainted surfaces
Bothell	YES	NO	YES (Inventory)	
Vancouver	YES	NO	YES (Inventory)	
Pasco	YES	NO	NO	
Olympia	YES	NO	NO (can be any registry, not just local)	
Anacortes	YES	NO	NO	
Port Townsend	YES	YES	YES	
Chelan	NO (Advisory)	NO	NO	



REGULATION OF BANNERS AND FLAGS IN CITY RIGHT-OF-WAY

TERRY WEINER
ELLENSBURG CITY ATTORNEY

Presentation for
Ellensburg City Council Study Session
September 18, 2023



1

Quick Review – Purpose of Regulation (from 1/3/2023 City Council Study Session)

- Purpose is to regulate banners and flags hung in the City right-of-way as government speech
- Government speech requires the City review and approve banners and flags using the City right-of-way – either on light poles or from designated banner locations on 4th and Pearl and University Way
- Regulations which allow the City to control what is allowed without creating a “public forum”



2

2

“Banner, Flags and Decorations” Ordinance

Purpose statement:

1. Preserve aesthetic character of City
2. Promote the public health, safety and welfare of residents by
 - A. Controlling the permitting of:
 - Banners (street and vertical)
 - Flags (official and street)
 - Decorations
 - B. Over or on specific locations in the public right-of-way:
 - Streets
 - Streetlights and other poles
 - Sidewalks
3. Avoid visual clutter
4. Doesn't apply to City installations



3

3

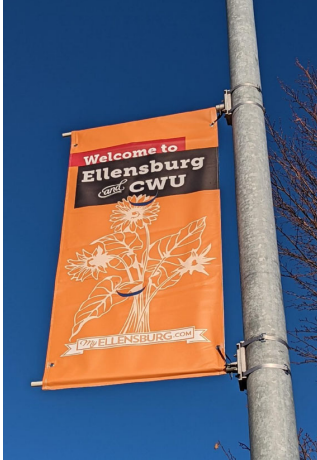
Street Banner



4

4

Street Flags



City of
Ellensburg
WASHINGTON

5

5

Decorations



City of
Ellensburg
WASHINGTON

6

6

Official Flags



7

7

LOCATIONS (maps to be developed)

- **Street banners**
 - East University Way (CWU)
 - West 4th Avenue between Main and Pearl
- **Vertical banners, street flags and decorations**
 - Streetlight poles with brackets located in CC, CCII, CH and PR zones
 - Flag post holes installed by the City in sidewalks
- **Official Flags**
 - Reserve for official flags only (American, WA State, POW)



8

8

EVENT TYPES - APPLICANTS

Non-profit organization based in Ellensburg that is primary organizer of a community event or city-sponsored event

- “Community event” means a recreational, entertainment, educational, charitable or similar event intended and held for the benefit of the entire community, and which is open to attendance by the entire community.
- “City-sponsored event means applicant is:
 - The City of Ellensburg; or
 - Has an intergovernmental relationship with the City (e.g., the Chamber, EDA, County, etc.); or
 - Is funded in whole or part by the City (using LTAC, etc.)



9

9

PROHIBITED EVENTS

Events which promote:

- Commercial product sales;
- Advocate for or against a political party, candidate for office or ballot proposition; or
- Religious events or services that promote or promulgate any particular religious belief, creed, tenet or denomination (Exception: denominational or fundraising event sponsored by religious and other nonprofit organizations for community events)



10

10

Next Steps

- **Revise ordinance based on feedback tonight**
- **Develop maps for vertical banners, street flags, etc.**
- **Establish cost recovery model for labor, brackets, etc.**
- **Review with stakeholder group and labor unions**
- **Bring ordinance back for Council consideration**



11

11

Stakeholders Group

- **Rodeo Board**
- **Service Groups (Rotary and Kiwanis)**
- **Boy Scouts**
- **Chamber of Commerce**
- **CWU**
- **EDA**
- **DEI Commission**
- **Others?**



12

12

Discussion

- **Definition**
- **Allowance for events**
- **Administrative review**
- **Location preferences (street banners, street flags, etc.)**
- **Cost recovery**
- **Consider City-owned brackets**



13



City of Ellensburg

PROCLAMATION

Celebrating National Voter Registration Day September 19, 2023

WHEREAS, voting is the foremost right and responsibility of citizens of the United States of America; and

WHEREAS, active and engaged citizens, regardless of gender, ethnicity, or political affiliation, are the foundation of democracy; and

WHEREAS, for any democracy to work, all eligible citizens must be able to vote for their representatives without barriers in free and fair elections; and

WHEREAS, the hallmark of good citizenship is community participation, including informed voting in every election in which a ballot is received; and

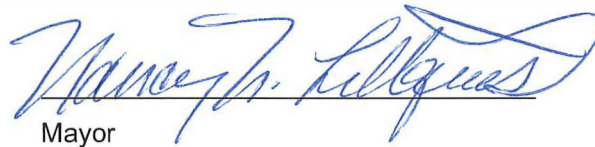
WHEREAS, good citizenship includes respecting other points of view, keeping an open mind, and taking care of one another and the environment that sustains us; and

WHEREAS, a thriving democracy includes governments that are open, transparent, inclusive and equitable.

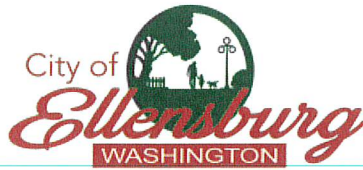
Now, Therefore, be it proclaimed that on September 19th, National Voter Registration Day, citizens are encouraged to remind friends and family to always be #VoteReady.

We join the Kittitas County League of Women Voters in reminding citizens to check their voter registration at VoteWA.gov to ensure they are ready and able to vote in the upcoming election.

Signed this 18th day of September 2023.


Mayor


Attest:
City Clerk



City of Ellensburg

PROCLAMATION

Hispanic/Latinx Heritage Month, 2023 Latinos: Driving Prosperity, Power, and Progress in America

Whereas, the Ellensburg City Council is committed to creating a community of belonging that improves the quality of life for all persons we serve; and

Whereas, Hispanic Heritage Month celebrates the Hispanic and Latinx histories, cultures and contributions of those whose ancestors were indigenous to North America as well as Spain, Mexico, the Caribbean, and Central and South America; and

Whereas, what began in 1968 as Hispanic Heritage Week under President Lyndon Johnson and expanded by Present Ronald Reagan to cover a 30-day period starting September 15 of each year, the United States annually observes Latinx and Hispanic Heritage Month; and

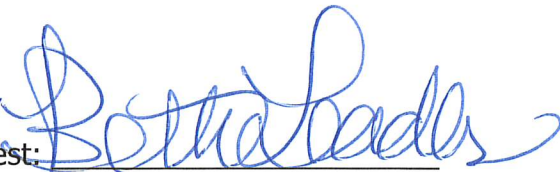
Whereas, the purpose of Hispanic Heritage Month is to create awareness of the contributions of people of Latinx and Hispanic people's heritage to American society; and recognize the civil rights leaders, community organizers, politicians, teachers, journalists, first responders, artists, healthcare professionals, athletes, inventors, entertainers with Latinx and Hispanic heritage; and

Whereas, our Hispanic and Latinx community represents over 10% of the population of Ellensburg and provides a diverse cultural heritage that enriches the political, economic and social growth of our community; and

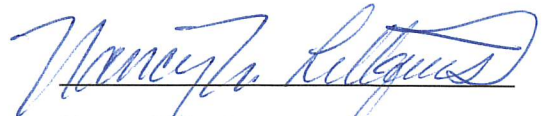
Whereas, the City Council encourages all members of our community to recognize and celebrate the accomplishments and contributions of these Hispanic and Latinx Americans and to celebrate this rich culture with events, educational opportunities, language classes, and traditional Hispanic and Latinx foods.

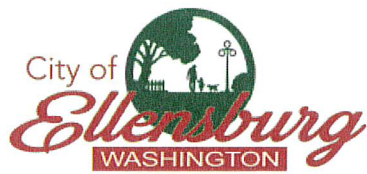
Now, Therefore, the City Council of Ellensburg does hereby proclaim September 15 - October 15, 2023 as Hispanic/Latinx Heritage Month.

Signed this 18th day of September, 2023.

Attest: 

City Clerk


Nancy Lillquist, Mayor



City of Ellensburg

PROCLAMATION

Mes de la Herencia Hispana de 2023

Personas latinas: impulsoras de la prosperidad, el poder y el progreso en Estados Unidos

Por cuanto el Concejo de la Ciudad de Ellensburg se compromete a crear una comunidad de pertenencia que mejore la calidad de vida de todas las personas a las que servimos.

Por cuanto en el Mes de la Herencia Hispana se celebran las historias de origen hispano y latino, las culturas y las contribuciones de las personas cuyos antepasados eran indígenas de América del Norte y de España, México, el Caribe, América Central y América del Sur.

Por cuanto lo que comenzó en 1968 como la Semana de la Herencia Hispana durante el gobierno del presidente Lyndon Johnson y que el presidente Ronald Reagan amplió para que abarque un período de 30 días a partir del 15 de septiembre de cada año, Estados Unidos celebra todos los años el Mes de la Herencia Hispana.

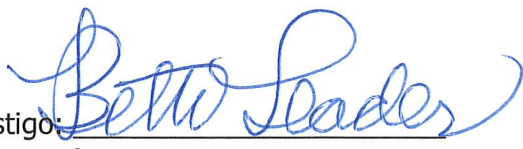
Por cuanto la finalidad del Mes de la Herencia Hispana es crear conciencia sobre las contribuciones de las personas de origen latino e hispano a la sociedad estadounidense y rendir reconocimiento a los líderes de derechos civiles, organizadores de la comunidad, políticos, maestros, periodistas, socorristas, artistas, profesionales sanitarios, deportistas, inventores y profesionales del entretenimiento de origen latino e hispano.

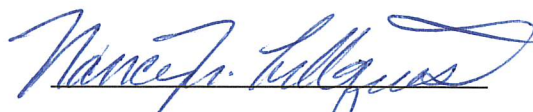
Por cuanto nuestra comunidad hispana y latina representa más del 10 % de la población de Ellensburg y aporta un patrimonio cultural diverso que enriquece el crecimiento político, económico y social de nuestra comunidad.

Por cuanto el Concejo de la Ciudad invita a todos los miembros de nuestra comunidad a reconocer y celebrar los logros y las contribuciones de estas personas estadounidenses de origen hispano y latino, y a celebrar esta rica cultura con eventos, oportunidades educativas, clases sobre el idioma y comidas tradicionales de origen hispano y latino.

Por lo tanto, por medio de la presente, el Concejo de la Ciudad de Ellensburg proclama que el período del 15 de septiembre al 15 de octubre de 2023 será el Mes de la Herencia Hispana.

Firmado el 18 de septiembre de 2023.

Testigo: 
Secretaría Municipal


Nancy Lillquist, Alcaldesa



1

2023 AWARDS

- Excellence in Environmental Stewardship
- SOAR Silver
- Safety Contest

Excellence in Environmental Stewardship Award
 The Excellence in Environmental Stewardship Award recognizes an APGA member that demonstrates excellence in their commitment to environmental stewardship. Only one agency wins this award annually and this is only the second year of the award.

SOAR Silver Award
 The SOAR (System Operational Achievement Recognition) award honors natural gas distribution utilities that demonstrate commitment to: system integrity, system improvement, employee safety, and workforce development. This is the second time the City of Ellensburg has received the Silver level designation.

Safety Contest Award
 The APGA Safety Contest is an annual award given out to natural gas system members for their dedication to keeping their employees safe every day on every job and is tied to overall incident rate. This is the fourth year in a row the City has received the honor.

2

SOAR SILVER AWARD



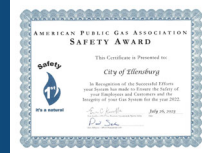
The APGA SOAR application consists of four categories, each with its own unique questions and points.

- Employee Safety: 35 Questions, 41 Possible Points
- System Integrity: 34 Questions, 58 Possible Points
- Workforce Development: 16 Questions, 24 Possible Points
- System Improvement: 22 Questions, 35 Possible Points

An APGA Task Group reviews the applications each year and decides on several forms of documentation to be requested as follow-up before then scoring the applications.

Prior to the start of each application year, the Task Group reviews the questions and adds, removes, or modifies questions to ensure the award is encouraging improvement of systems and not awarding points based on minimum standards.

SAFETY CONTEST AWARD



Each year the APGA accepts applications for its Safety Contest and then breaks the applications out into groups based on total man-hours. The City Gas Division falls into Group C (18,001 to 38,000 man-hours).

The winner of each Group is based on the lowest incident rate.

- Incidence Rate = Total Recordable Injuries x 200,000 / Man-Hours

For four straight years the City Gas Division has had an incidence rates of zero (0).

3



EXCELLENCE IN ENVIRONMENTAL STEWARDSHIP

2023 Award Winner



4

GAS DIVISION PROGRAM



Citywide Support

- City Transit Program
- City Power
- City Fleet
- Customer Solar
- Street Trees
- LEED Certified Buildings



Renewable Energy

- City Solar Generation
- Renewable Energy Rates
- City Wastewater Treatment Plant RNG
- City Purchased Power



Energy Conservation

- Residential Rebates
- Commercial Rebates



Methane Reduction

- System Operation & Materials
- Leak Surveys
- Leaks
- Pipeline Blowdowns
- System Valves
- Excess Flow Valves
- Damage Prevention
- Regulator Stations



Additional Measures

- Odorization
- Investment in Research & Development
- Carbon Offset Tree Program
- Operation & Maintenance Manual
- Propane Conversions
- Cross Training



EPA PARTNERSHIPS

- Methane Challenge
- Natural Gas STAR Program

5

5

SYSTEM OPERATION & MATERIALS

- Since 1956, only coated and cathodically protected steel or high density polyethylene have been used for the natural gas piping system.
- In addition to ensuring only high quality materials are used within our system, the steel portion continues to prove itself as leak free, through leak survey's, tapping coupons, and exposed pipe reports.
- EPA targets and PHMSA grant fund targets.

LEAK SURVEYS

- Each year a quarter of the gas system is leak surveyed, which is an increase from the regulations that require the system to be fully surveyed every 5 years. Discussion to increase our survey intervals to every 3 years is currently taking place.
- Over the past 7 years there have only been 2 underground leaks detected during leak survey on main and/or service lines. Most leaks found during leak survey are on meter sets and are so minor they can only be detected by equipment and not smell. Meter set leaks account for an average of 8 leaks found each year. The other leaks sometimes found consist of customer piping and valves.
- Additional Leak Survey's are also performed by the City Gas Division. These are "Post Construction" and "Targeted" leak surveys.

LEAKS

- Natural gas leaks fall within three different grade categories. Grade 1 leaks require prompt and continuous action until the leak is no longer hazardous. Grade 2 leaks should be repaired within one calendar year from the date reported. Grade 3 leaks should be reevaluated within 15 months of the reporting date.
- According to the Gas Division Leak Detection and Repair Program all leaks shall be promptly repaired to minimize the amount of unintentional emissions into the atmosphere. No leak shall be left to monitor in the future. This policy goes above and beyond the requirements and makes a strong statement in regards to reducing emissions. Even the smallest of leaks are repaired when discovered.
- Another way the City of Ellensburg Gas Division is minimizing unintentional gas is by maintaining a rapid response time to all leak/odor calls. Crews are also universally cross-trained so that if one member is occupied during a leak/odor call, they can dispatch another crew member immediately to ensure someone gets to the call as soon as possible. The Gas Division tracks its response time and averages 12 minutes (both during work hours and after hours).

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6

SYSTEM VALVES

- Each year every valve in the natural gas system is checked and serviced, confirming safe operation and no leaks. The regulations only require that emergency valves be checked and serviced annually. By checking every valve each year, we are able to find and mitigate valve leaks much sooner and reduce the amount of unintentional emissions released to the atmosphere.
- The City Gas Division also installs an increased number of valves to limit the customer shut offs and amount of pipe affected during a leak event. This doesn't just reduce the number of customers affected but also minimizes the amount of unintentional gas released during a leak event.

REGULATOR STATIONS

- The City of Ellensburg Gas Division has one Tap Station and one District Regulating Station. Both Stations operate on a worker-monitor dual cut system with no relief, keeping emissions out of the City's Station operations.

DAMAGE PREVENTION

- The City Gas Division's greatest threat to the integrity of its system and methane emissions has been identified as excavation damages. The City has worked hard through its Public Awareness and Damage Prevention Program to educate contractors, excavators, and homeowners to minimize damages and unintentional emissions. Some of the goals and measures implemented to enhance public awareness and damage prevention include:
 - Track and work toward reducing excavation damage frequency (damages per 1000 tickets) to below 2.
 - Send letters to contractors or excavators for any known improper excavation practices performed or safety related occurrences.
 - Ensure that all new gas lines are traceable. Map and locate non-pipe gas facilities, such as rectifier conduits and cathodic protection test site lead wires.
 - Improve maps and records to facilitate better asset location/identification.
 - Have no mislocates/mismarks annually.
 - Expand and utilize newer methods and technologies to reach stakeholder audiences with safety information and dig safe practices.

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ODORIZATION

- Specialized instruments are used by the Gas Division to determine the percentage of gas in air at which odor becomes readily detectable by a person with a normal sense of smell. Gas personnel check odor levels monthly and the results indicate a much quicker detectability than is required.
- The higher than typical injection rate the Gas Division operates at, increases the potential for customers to report a leak, both enhancing the safety of the system and also reducing the emissions from minor leaks that may go undetected longer with a lower concentration of odorant in the system.

ADDITIONAL PROGRAMS

- The Gas Divisions drive to reduce emissions is found throughout the Operation and Maintenance Manual in commitments, procedures, equipment used, work processes, sub-contractor requirements, etc. There are multiple Programs the Gas Division runs that provide tangible results in the effort to minimize carbon emissions, such as:
 - Leak Detection and Repair Program
 - Public Awareness and Damage Prevention Program
 - Distribution Integrity Management Program
 - UNDER WAY – Pipeline Safety Management System Program

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CITY OF ELLENSBURG

Minutes of City Council, Regular Meeting

Date of Meeting

September 5, 2023

Time of Meeting

7:00 PM

Place of Meeting

**Council Chambers
501 North Anderson Street
Ellensburg, WA 98926
And remotely via Zoom**

Pledge of Allegiance

The Pledge of Allegiance was led by Councilmember Monica Miller

1. Call to Order and Roll Call

Roll Call Present: Sarah Beauchamp, Rich Elliott, Nancy Goodloe, Nancy Lillquist, David Miller, Monica Miller, Adam Winn

Others present in person: City Manager Behrends Cerniwey, City Attorney Weiner, City Clerk Leader, Transit Manager Dunbar, Public Works & Utilities Director Lyyski, HR Director Young, Assistant Finance Director Bassett, Budget Officer Lanphere, and approximately five members of the public

No attendees remotely via Zoom

2. Proclamations

2.A Constitution Day and Citizenship Day 2023

Brian Elliott, Kittitas County Auditor, read the proclamation

3. Awards and Recognitions

4. Approval of Agenda

Councilmember Elliott moved to Approve the Agenda as presented. **Motion Approved 7-0**

5. Consent Agenda

5.A Approve Minutes of August 21, 2023 Regular Meeting

5.B Approve Minutes of August 21, 2023 Special Meeting

5.C Acknowledge Minutes of Boards & Commissions

5.D Approve University Way Banner Request from CWU - September 5-26, 2023

5.E Resolution 2023-22 Approving the Public Works & Utilities Department's Street Tree Removal Request for the Pine Street Sidewalk Improvements Project.

- 5.F Purchase and Sale Agreement Authorization for the Acquisition of Seattle Ave Utility Easement
- 5.G Bid Award – Bid Call No. 2023-11, Pine Street Sidewalk Improvements – 5th Ave to 6th Ave
- 5.H Approve September 5, 2023 Voucher Listing

Councilmember Elliott moved to Approve the Consent Agenda as presented. **Motion Approved 7-0**

6. Petitions, Protests, and Communications

7. Citizen Comment on Non-agenda Issues

Jason Self, spoke on behalf of People First of Washington and explained the State Convention would be held in Ellensburg this year. Other People First Ellensburg chapter members introduced themselves: Eric Forstrom, Secretary, Rusty, Vice President and Dennis, Treasurer.

8. Business Requiring Public Hearings

9. Introduction and Adoption of Ordinances and Resolutions

- 9.A Ordinance 4923 (Second Reading) 2023/2024 Supplemental Budget Ordinance (Public Comment Opportunity)
Gloria Lanphere, Budget Officer, presented information in the staff report. Council asked questions of staff.

Councilmember David Miller moved to Approve second reading and adoption of Ordinance 4923. **Motion Approved 7-0**

- 9.B Resolution 2023-23 Amending the Pay Plan for Fiscal Year 2023 (Public Comment Opportunity)
Lisa Young, HR Director, presented information in the staff report. She stated there was an amended version of the resolution which contained a scrivener's error.

Councilmember Elliott moved to Approve adoption of Resolution 2023-23 and approve the necessary budget adjustments. **Motion Approved 7-0**

10. Unfinished Business

11. New Business

- 11.A Central Transit Zero Emissions Transition Plan (Public Comment Opportunity)
Betsy Dunbar, Transit Manager, reviewed information in a presentation. Council asked questions of staff.

Councilmember Goodloe moved to approve the Central Transit Zero Emissions Transition Plan. **Motion Approved 7-0.**

12. Miscellaneous

12.A Manager's Report (No Public Comment)

The City Manager reviewed the report. She requested Council schedule a study session for September 18, 2023 at 6:00 pm.

Councilmember Elliott moved to approve scheduling a study session for September 18, 2023 at 6:00 pm. **Motion Approved 7-0.**

Councilmember Elliott moved to appoint councilmembers Goodloe, David Miller, and Winn to the council grants review committee. **Motion Approved 7-0.**

Multiple responses were received for an RFP for Legislative Advocacy Services. Information will be presented at a future Council meeting.

12.B Councilmembers' Reports (No Public Comment)

- Councilmember Beauchamp recognized the EDA for the Hoedown in the Downtown event
- Councilmember Elliott reported on the citizen advisory group for KITTCOM, who are working on development of a ballot measure for additional 911 infrastructure funding. He also attended the employee appreciation luncheon
- Councilmember Goodloe reported about plans for a World Café Belonging in the Burg event which will be held on CWU campus
- Councilmember David Miller commented about positive feedback about the fair and rodeo
- Councilmember Monica Miller attended the Hoedown in the Downtown event and participated in a walkabout downtown as part of a Creative District application process
- Mayor Lillquist attended the Audit Entrance meeting, Elks wine bar opening, employee appreciation luncheon. She attended the parade, fair and rodeo. She reported the County airport advisory committee and airport department was dissolved.

13. Executive Session

14. Adjournment

Meeting adjourned at 7:54 pm

Mayor

ATTEST:

City Clerk



CITY OF ELLENSBURG

Minutes of Affordable Housing Commission, Regular Meeting

Date of Meeting

August 2, 2023

Time of Meeting

4:30 PM

Place of Meeting

Zoom Only

1. Call to Order and Roll Call of Members

Present: Sarah Bedsaul, John Perrie, Sarah Beauchamp, Kim Funston, Dan Witkowski, Courtney Garzone

Commissioner Beauchamp arrived at 4:35 p.m.

Absent: Jordan Ruhle

Public Present: Stephen Greenfield

2. Approval of Agenda

Commissioner Perrie motioned to approve the Agenda. All in Favor. Passed

3. Approval of Minutes

Commissioner Perrie motioned to approve the minutes from June 7, 2023. All in favor. Passed

Commissioner Perrie motioned to approve the minutes from July 13, 2023. All in favor. Passed

4. New Business

a. Workplan Objective 1 Discussion

Draft Development Code regulations will be presented at the September 6, 2023 meeting. This is part of the objectives selected for the housing action plan.

b. Inclusionary Zoning Research Review

Staff member Johnston discussed his research on Inclusionary Zoning mandates. He found a variety of avenues other jurisdictions have used, such as recording covenants that address resale, refinancing, monitoring, and maintenance. Concern was expressed that staff may not be able to maintain the monitoring over the typical 30-year contract. Staffing would have to be verified prior to any mandates being considered. Perrie expressed concern over this being overcomplicated for owners and such a long commitment. Bedsaul sees the mandates as only applying to big projects. Property management agencies would be an extra cost and may raise rent, so a non-profit may be a better choice. The Lincoln Institute wished they'd done contracts longer than 30 years.

5. Unfinished Business

None

6. Citizen Comment

Stephen Greenfield requested an update on Catherine Park. When there is an update on Catherine Park, it will be put on the agenda. There is currently no updates on the project.

7. Staff Update/Discussion Items

None

8. Commission Representative Update

None

9. Adjournment

Meeting was adjourned at 4:54 p.m.



CITY OF ELLENSBURG	MINUTES OF ARTS COMMISSION, Regular Meeting
Date of Meeting:	June 8, 2023
Time of Meeting:	4:00pm
Place of Meeting:	CCCR and ZOOM

1. CALL TO ORDER

Co-Chair Dougherty called the meeting to order at 4:06pm.

Welcome Kelle Vandenberg, Arts and Economic Development Manager

2. ATTENDANCE

PRESENT: Alex Eyre, Jerry Dougherty, Courtney Blackstock, Jeffrey Snedeker, Jill Scheffer

COUNCIL LIASON: David Miller

ABSENT: Brian Kooser

VISITOR(S): Erin Oostra, Kyle Krauskopf

STAFF: Josephine Camarillo, Kelle Vandenberg, Stacey Henderson

3. APPROVAL OF AGENDA

MOTION made by Snedeker to approve the agenda. Seconded, motion approved.
Motion passed 4-0.

4. CORRESPONDENCE AND CITIZEN COMMENTS

Quilts of Valor needing to revise their 2023 grant project. Eyre will follow-up.

5. GUEST SPEAKER/PRESENTER

A. Erin Oostra, owner of Nuwave Gallery, introduced herself and expressed interest in applying for the open vacancy on the Arts Commission.

B. Renee Fyall – presented final mural design for 404 N. Pine. Mural will be painted directly to the building. Permissions have been granted for images used within the mural.

MOTION made by Scheffer to approve final design of 404 N. Pine Street, seconded, motion approved. Motion passed 5-0.

6. APPROVAL OF MINUTES

MOTION made by Snedeker to approve May 2023 minutes, seconded, motion approved. Motion passed 5-0.

7. BUDGET/FINANCIAL REPORT

No report. Three grant reimbursements submitted thus far.

8. NEW BUSINESS

A. EAC Grant Process: Compliance, Reporting and Marketing

Vandenberg is currently working with Nicole Klauss, City PIO, to update grant application and promotion. Grant will follow same timeline as other City grants. Funding committee will draft language for the application and send to Vandenberg. Commissioner Snedeker will create a press release and send to staff for output.

B. Bus Shelter Art: Glass

Staff Camarillo sent out three RFQ: Jim's Glass, S&T Window Films and FASTSIGNS. Once vendor is chosen, production of glass art will start. Deadline for quotes June 22, 2023 no later than 3pm.

9. SUBCOMMITTEE BUSINESS

A. Arts Alliance: Vandenberg met with Annette Roth (ArtsWA) regarding Creative District application.

- i. Performance/Production Space Feasibility Study
- ii. 180-Day Implementation Update (see attached flyer)
- iii. Community Events App: CWU CS481 they will deliver the app, app for all community events not just EAC events.

B. Funding: Dougherty will meet with Scheffer to update grant application.

C. Public Art: Eyre visited Walla Walla to assess Hosey sculptures. Potential smaller items to acquire include three totem sculptures and a small ball. Potential larger pieces include Terminal Thrust and After Burning. Eyre recommends Commission acquire the proposed art pieces for city art collection. Smaller pieces will be easy to transport. Large pieces pending transport. Dougherty has requested the National Guard at CWU to help. Commission in favor of sculptures.

- i. Hosey Public Art Pieces/Walla Walla Update: Alex/Jerry
 - i. Update on collection inventory
 - ii. Update on potential National Guard Program to move pieces as Civic Project.
- ii. Bus Stops Backdrops:
- iii. Unity Park Update

D. Advocacy/Public Relations: Snedeker will work with Vandenberg with the promotion of the Art grant

E. Art Walk:

- i. Art Treasure Award- Ceremony took place at Hotel Windrow. It was a good event and well attended. The last award medallion was used. Eyre would like to make a call for art for the creation of a new award.
- ii. New Venue: Kittitas Valley Hospital. They will start First Friday Artwalk in July.
- iii. Art Walk Map
- iv. Shortage of Art Walk Signs. Currently, there are no extra signs to give to any future new venues. Eyre asking the Commission if new signs should be ordered and with a potentially new design.

10. UNFINISHED BUSINESS

- A. Mural Restoration- 307 N Pearl St. (Joe Chanes)- no report
- B. New Mural- 404 N Pine St. (Renee Fyall)- see report under Guest Speaker

11. ANNOUNCEMENTS

Jerry reported on InspireWA conference he attended InspireWA.

- June 14: 100th Anniversary Dinner, Ellensburg Rodeo Hall of Fame
June 21: International Make Music Day
June: Summer Concert Series at Cornerstone Pie Kicks Off
July 7: First Friday Art Walk
July 7: VMT Summer Musical, 9-to-5 Opens, runs through July 22.

12. ACTION ITEMS:

Assigned	Task
AE	Follow up with Quilts of Valor re: 2023 grant project.
KV	Send updated grant application content to Jerry and Jill.
JD/JS	Create new content for the application regarding the percentage of funding for individual vs. organization and send content to KV
KV	Send final content out to EAC.
JS/BK	Write PR announcing opening of EAC 2023 Grant Cycle and send to KV/NK for review edits (NK: Nicole Klaus PIO for the City)
KV	Push out to social media channels and send to past awardees

13. NEXT MEETING

August 10, 2023, at 4pm.

14. ADJOURNMENT

With no further discussion, meeting adjourned at 5:43pm.

Respectfully submitted,
Josephine Camarillo, Staff Liaison
Drafted: 6-8-2023
Approved: 8-10-2023



CITY OF ELLENSBURG

Date of Meeting

Time of Meeting

Place of Meeting

Minutes of Landmarks & Design, Regular Meeting

June 6, 2023

5:45 PM

Council Chambers 501 North Anderson Street

Ellensburg, WA 98926

And remotely via Zoom

1. Call to Order and Roll Call

Roll Call Present- In Person: Fred Redmon, Marty Blackson, Jeff Watson, Cathy Poshusta

Roll Call Present-Via Zoom: Dorothy Stanley

Absent: Zane Kanyer (excused), Andy Polak (excused)

Also present- In Person: Stacey Henderson- Senior Planner, Kathy Boots- Planning Technician, Ginger Longo-applicant

Also present- Via Zoom: Monica Miller

Commissioner Redmon called the meeting to order at 5:42 p.m.

2. Approval of Agenda

Commissioner Watson moved to approve the agenda.

Motion Approved 5-0.

3. Approval of Minutes

Commissioner Watson moved to approve the May 16, 2023, minutes.

Motion Approved 5-0.

4. New Business

- A. (P23-048) Public Hearing for consideration of a Certificate of Appropriateness (COA) for the proposed repainting of the business storefront located at 309 N. Pearl Street, Parcel ID #847033, proposed by Ginger Longo, agent for property owner.

Appearance of fairness completed. Henderson read staff report. Staff recommend approval of COA with no conditions. Color samples were handed out by applicant. Public comment opened. No public comment. Public comment closed.

Commissioner Watson made a Motion that the Certificate of Appropriateness (COA) be granted by the Commission for the repainting of the Bossong Building storefront, located at 309 N. Pearl, as proposed, meeting findings of fact referenced number 1-5 on page 8-9 of agenda packet with no conditions. **Motion granted 5-0.**

5. Old Business

None

6. Citizen Comment

None

7. Staff Update/Discussion Items

A. Community Development Director Dan Carlson was introduced to the Commission.

B. Member Update

Andy Polak was approved to be a Commissioner by the City Council. He is currently out of town. A meeting will be set for the new Commissioners to learn about procedures.

C. May 20, 2023 celebration was successful. Around 30 people attended. CWU participated.

D. P23-042 & P23-043 COA murals have been postponed due to incomplete submittals

E. Next Meeting- Wednesday June 21, 2023.

F. Railroad District Survey will be emailed out and discussion will occur in the future

8. Commission Representative Update

Commissioner Stanley inquired about the procedures for rodent abatement

9. Adjournment

Chair Redmon adjourned the meeting at 6:00 p.m



CITY OF ELLENSBURG

Date of Meeting

Time of Meeting

Place of Meeting

Minutes of Landmarks & Design, Regular Meeting

June 21, 2023

5:45 PM

Council Chambers 501 North Anderson Street

Ellensburg, WA 98926

And remotely via Zoom

1. Call to Order and Roll Call

Roll Call Present- In Person: Fred Redmon, Cathy Poshusta, Andy Polak

Roll Call Present-Via Zoom: Dorothy Stanley, Zane Kanyer

Absent: Marty Blackson, Jeff Watson (excused), Council Liaison Monica Miller

Also present- In Person: Jeremy Johnston-Planning Manager, Kathy Boots- Planning Technician

Also present- Via Zoom: Ryan Kellogg-Applicant

Commissioner Redmon called the meeting to order at 5:45 p.m.

2. Approval of Agenda

Commissioner Stanley moved to approve the agenda.

Motion Approved 5-0.

3. Approval of Minutes

Commissioner Stanley moved to approve the June 6, 2023, minutes.

Motion Approved 5-0.

4. New Business

- A. (P23-054) Public Hearing for Consideration of a Certificate of Appropriateness (COA) to install a gazebo on the back patio at 301 N. Pearl St., Ellensburg, WA.

Johnston read staff report. In 2022 the applicant proposed roof structures. Kellogg has changed direction to one premanufactured gazebo that is smaller and removable and "coffee brown" in color. Staff recommend approval of COA with no conditions. Public comment opened. Appearance of fairness completed. The applicant had no additional information to add. No public comment. Public comment closed. Commissioner Kanyer motioned that the

Certificate of Appropriateness (COA) be granted by the Commission as presented. Commission deliberated. Commissioner Kanyer motioned that the Certificate of Appropriateness to install a gazebo on the back patio at 301 N. Pearl St., Ellensburg, WA. be granted by the Commission and finding of fact referenced in agenda packet apply and with no conditions. **Motion granted 5-0.**

5. Old Business

None

6. Citizen Comment

None

7. Staff Update/Discussion Items

A. Next Meeting- WEDNESDAY July 5, 2023

8. Commission Representative Update

No EDA update

9. Adjournment

Chair Redmon adjourned the meeting at 6:58 p.m



CITY OF ELLENSBURG

Minutes of Landmarks & Design Commission, Regular Meeting

Date of Meeting

July 5, 2023

Time of Meeting

5:45 PM

Place of Meeting

Council Chambers
501 North Anderson Street
Ellensburg, WA 98926
And remotely via Zoom

1. Call to Order and Roll Call of Members

Monica Miller (Council liaison)

Stacey Henderson, Senior Planner

Kathy Boots, Planning Technician

Renee Fyall, Nia Alfaro, Sadie Thayer, Marc Brown, Joe Chanes (applicants of COA's)

2. Approval of Agenda

Motion to approve agenda

3. Approval of Minutes

No minutes to approve

4. New Business

- 4.A (P23-056) Public Hearing for Consideration of a Certificate of Appropriateness (COA) for the previously installed shed roof structures at 301 N. Pine St. Appearance of fairness completed. Staff report read. Staff recommend COA be granted with one condition. 1. The applicant will work closely with staff to find a compatible color to paint the galvanized steel supports, before issuance of the COA. Applicant had nothing to add. Public comment opened. Applicant has no problem with painting condition. Nia Alfaro apologized for not getting COA and building permit prior to the work. Alfaro did not realize she needed the permits. Commission inquired about the fence. Applicant stated the fence will remain closed so structure will only be seen partially. Public comment closed. Redmon motioned Certificate of Appropriateness (COA) be **granted** by the LDC for the existing roof structures, as constructed, at 301 N. Pine St, with two conditions:
1. The applicant will work closely with staff to find a compatible color to paint the galvanized steel supports, before issuance of the COA.
 2. The applicant will buy paint intended for galvanized steel
- Motion granted 6-0
- 4.B (P23-066) Public Hearing for Consideration of a Certificate of Appropriateness (COA) for the proposed exterior repairs on the Cadwell building, located at 114

E 3rd Ave.

Appearance of fairness completed. Staff report read. Staff recommend COA be granted with no conditions. Sadie Thayer discussed phase 1 and the later phases. Public comment opened. Marc Brown (architect) reviewed the proposed restorations. Thayer explained funding sources and will come back to the Commission if paint colors change. No other public comment. Public comment closed. Watson motioned that the Certificate of Appropriateness (COA) be **granted** by the LDC for the Cadwell Building restoration at 114 E. 3rd Ave, as proposed, with **no conditions**. Motion granted 6-0.

4.C (P23-042) Public Hearing for Consideration of a Certificate of Appropriateness (COA) for the proposed installation of a new community mural, located on the south façade of the Fred Redmon building located at 404 N. Pine St, Parcel ID #487033.

Appearance of fairness completed. Andy Polak stated as part of the Downtown Association this project has been mentioned but he is not part of the committee for this project. Staff report read. The Arts Commission has recommended approval for this project. Staff recommends that the Certificate of Appropriateness (COA) be granted by the Commission to allow the installation of the new community mural, as proposed, on the south façade of 404 N. Pine St, with **two conditions**:

1. If the final design, materials, dimensions, or plans substantially deviate from the current proposal, the applicant shall bring the revised mural proposal back to the Arts Commission and LDC for additional review.
2. The applicant will provide a written authorization and signed maintenance plan from the building owner before final issuance of the COA can take place.

Renee Fyall summarized the size, placement, and painted wall base color. Public comment opened. No public comment. Commission asked about funding. EDA has funded the project but they are applying for other grants. Location of mural on wall was clarified. Public comment closed. Redmon motioned that the Certificate of Appropriateness (COA) be **granted** by the LDC to allow the installation of the new community mural, as proposed, on the south façade of 404 N. Pine St, with **two conditions**:

1. If the final design, materials, dimensions, or plans substantially deviate from the current proposal, the applicant shall bring the revised mural proposal back to the Arts Commission and LDC for additional review.
2. The applicant will provide a written authorization and signed maintenance plan from the building owner before final issuance of the COA can take place.

Watson amended the motion to include a third condition requiring that the south facade of the building be painted to match the front of the building. Amended Motion granted. Original motion with amendment was granted 6-0.

4.D (P23-043) Public Hearing for consideration of a Certificate of Appropriateness (COA) for the proposed restoration of a historic mural, located on the south façade of the historic Kleinberg Building, at 307 N. Pearl, Parcel ID #837033.

Appearance of fairness completed. Andy Polak stated as part of the Downtown Association this project has been mentioned but he is not part of the committee for this project. Staff report read. The Arts Commission has recommended approval for this project. Staff recommends that the Certificate of Appropriateness (COA) be granted by the Commission to allow the restoration of the Ross Bros. Mural, as proposed, on the south façade of 307 North Pearl St, with **three conditions**:

1. The applicant shall apply the preservation standards found in the *National Park Service Historic Preservation Brief 1- Assessing Cleaning and Water-Repellent Treatments for Historic Masonry Buildings*. Specifically, that the cleaning of the building be done through the gentlest means possible, and utilizing an appropriate paint including no paint sealers.
2. If the final design, materials, dimensions, or plans severely deviate from the current proposal, a recreation of the original mural, the applicant shall bring the mural proposal back to the LDC for additional review.
3. The applicant will provide a written authorization and signed maintenance plan from the building owner before final issuance of the COA can take place.

Public comment opened. Lynn McGowan (artist) explained the process she will complete for the restoration. Rendering shown. Commission asked McGowan questions regarding colors and mural paint. No other public comment. Public comment closed. Redmon motioned that the Certificate of Appropriateness (COA) be granted by the Commission to allow the restoration of the Ross Bros. Mural, as proposed, on the south façade of 307 North Pearl St, with **three conditions**: 1. The applicant shall apply the preservation standards found in the *National Park Service Historic Preservation Brief 1- Assessing Cleaning and Water-Repellent Treatments for Historic Masonry Buildings*. Specifically, that the cleaning of the building be done through the gentlest means possible, and utilizing an appropriate paint including no paint sealers. 2. If the final design, materials, dimensions, or plans severely deviate from the current proposal, a recreation of the original mural, the applicant shall bring the mural proposal back to the LDC for additional review. 3. The applicant will provide a written authorization and signed maintenance plan from the building owner before final issuance of the COA can take place. Motion passed 6-0.

5. Unfinished Business

None

6. Citizen Comment

None

7. Staff Update/Discussion Items

Next meeting July 18, 2023

Commission was reminded of orientation training for new members

Training for Wizaard will occur in July by DAPT

8. Commission Representative Update

Darren Reid will be the new EDA liason

9. Adjournment



CITY OF ELLENSBURG

Minutes of Landmarks & Design Commission, Regular Meeting

Date of Meeting

July 18, 2023

Time of Meeting

5:45 PM

Place of Meeting

**Council Chambers
501 North Anderson Street
Ellensburg, WA 98926
And remotely via Zoom**

1. Call to Order and Roll Call of Members

2. Approval of Agenda

Commissioner Stanley motioned to approve the agenda. Motion passed 5-0

3. Approval of Minutes

3.A Review of June 21, 2023 LDC Meeting Minutes.

Commissioner Watson motioned to approve the minutes from June 21, 2023. Motion passed 5-0.

4. New Business

4.A Public Hearing for Consideration of a Certificate of Appropriateness (COA) for the previously installed shed roof structure at 111 W 4th Ave.

Appearance of fairness completed. Staff report read. Henderson recommended approval of COA for the existing structure with no conditions and findings of fact apply as stated in the staff report. Public Comment opened. Applicant Leo D'Acquisto was present and spoke about his project. Public comment closed. Commissioner Watson motioned to approve the existing shed roof structure on the back patio, as constructed, at 111 West 4th Ave, with no conditions. Findings of Fact as outlined from staff report on page 8-9 and findings #1-5 are applicable. Motion Passed 5-0.

4.B Roberts Rules Process Discussion

Roberts Rules summarized. A recommended motion will now be part of the agenda packet. Findings of Fact can be stated the Commissioner agrees with per staff report on page x-x as provided. If a motion gets a 2nd, then the Commission can discuss it; otherwise a new motion would be needed. The new motion would be a motion to amend the original motion and then a vote is needed for the amendment to the motion. The final motion would be for the original motion with the amendment.

5. Unfinished Business

None

6. Citizen Comment

None

7. Staff Update/Discussion Items

New members will finish onboarding and provide certificates to staff.

The first meeting in August will be canceled due to no current COA's.

The next meeting will be August 15th, 2023. The meeting will be utilized for training.

8. Commission Representative Update

Commissioner Watson suggested the City powder coat the garbage cans and planters so they don't rust.

Commissioner Stanley asked for an update on the sign on the awning where the Valley Cafe used to be located.

New grant application was emailed to Commission members to utilize or provide to others.

8.A EDA Representative Update

EDA has several more murals in the planning stages.

9. Adjournment



CITY OF ELLENSBURG

Minutes of Lodging Tax Advisory Committee, Regular Meeting

Date of Meeting

August 2, 2023

Time of Meeting

2:00 PM

Place of Meeting

Remotely via Zoom Only

1. Call to Order and Roll Call

Roll Call Present: Adam Winn, Marie Smith, Lacie Dawson, Steve Townsend and Gemma Fortier (all remotely).

Also present: Cyndi LaChappelle-Mathis, Executive Assistant, Nancy Goodloe, and Tylene Carnell, DEI Commission (all remotely).

2. Approval of Minutes

Lacie Dawson moved to approve the May 3, 2023, and May 24, 2023, minutes as presented.

Motion approved 5-0.

3. Correspondence and Public Comment

None

4. Unfinished Business

4.A. Tourism Report

No Tourism Report currently.

4.B. Revenues and Expenses

Information acknowledged and discussed.

5. New Business

5.A Members Nancy Goodloe and Tylene Carnell from the DEI Commission introduced themselves and talked about the purpose of the DEI Commission and how they can help the LTAC Committee with recruiting a diverse group of community members.

The next meeting is scheduled for September 6, 2023.

6. Adjournment

With no further business, the meeting adjourned at 2:24 pm

Respectfully Submitted,

Cyndi LaChappelle-Mathis

Drafted: 8/3/2022

Approved: 9/6/2023



Meeting Date: September 18, 2023
City of Ellensburg
City Council Agenda Report

Agenda Subject: Supplement No. 1 to the Consultant Agreement with Power Engineers, Inc. for GIS Support Services
Submitted by: Derek Mayo, Engineering Manager
Department: Public Works & Utilities

Suggested Motion/Action:

Move to approve Supplement No. 1 to the Consultant Agreement with Power Engineers, Inc. for GIS Support Services in the amount of \$17,500.

Background/Summary:

The Public Works and Utilities Department has a consultant agreement with Power Engineers to provide GIS Support for the City. This support/contract includes staff support and necessary improvements to the City's GIS system.

Previous Council Action:

The consultant agreement was approved by City Council at the February 21, 2023 regular meeting.

Analysis:

The consultant agreement with Power Engineers was to provide support for our new GIS staff and to help complete necessary improvements to our GIS system that were outlined in the GIS Health Check/Evaluation that was completed in 2022. Power Engineers is nearing the end of their current contract funds and is in need of a supplement to ensure they have adequate funds to complete converting to our new GIS Environment, which is scheduled for early October. This supplement will also allow for additional support immediately after the conversion is complete. There are three primary reasons for needing the additional funds: 1) Additional efforts were needed to work with ESRI on cleaning up the 50,000 versions; 2) Power Engineers provided additional training and coaching of City staff (and future support) for the newly created GIS environment that is being implemented and will be more functional moving forward; 3) Power Engineers provided technical support and assistance to the City in support of our new billing software implementation, including designing and testing VPN solutions for the CIS application.

Financial Impact:

Supplement No. 1 will increase the maximum compensation payable under the agreement by \$17,500. Adequate budget and budget authority exist within the GIS budget for this increase.

Budget Adjustment: No

Attachments:

1. Supplement No. 1 to GIS Support Services Agreement

**SUPPLEMENT No. 1 TO
AGREEMENT FOR PROFESSIONAL SERVICES
BETWEEN THE CITY OF ELLENSBURG
AND
POWER ENGINEERS, INC.**

RELATING TO: GIS Support Services

This AMENDMENT to the AGREEMENT FOR PROFESSIONAL SERVICES dated the 21st day of February, 2023 is made and entered into this _____ day of _____, 20__ (“Effective Date”), by and between THE CITY OF ELLENSBURG, a non-charter code city of the State of Washington (hereinafter called the “CITY”) and POWER Engineers, Inc., a Corporation authorized to do business in the state of Washington (hereinafter called the “CONSULTANT”).

DESCRIPTION OF CHANGE

Increase the MAXIMUM COMPENSTATION in the Agreement.

REASON FOR CHANGE

1. The resolution provided by the GIS software vendor (Esri) to correct GIS data issues required changes to the GIS data model and the implementation of branched versioning to support the user data editing process. This was not planned for as part of the initial Agreement.
2. Additional knowledge transfer and technical coaching has been requested to help prepare CITY staff to provide the operational support and maintenance responsibilities of the GIS in the newly created environment. This will include additional support as needed after the GIS upgrade is completed.
3. CONSULTANT has provided technical support assistance for the CITY related to the GIS support for the new finance customer billing applications. This includes additional design and testing related to VPN solutions required for the new CITY finance application.

IMPACT ON SCOPE

1. Additional test data migration will be performed to verify the automated scripts will implement the required schema changes.
2. Additional testing, knowledge transfer, and documentation will be provided to assist the CITY GIS team resources in managing the new GIS environment.
3. Additional testing will be performed, and solution oversight provided to assist the IT team with the transition to the new GIS environment.

IMPACT ON BUDGET

\$17,500.00

Effective on September 5, 2023, CONSULTANT will perform all work to complete the scope of the Agreement at a blended rate for all resources of \$200.00 per hour.

IMPACT ON AGREEMENT

The CONSULTANT's total compensation (MAXIMUM COMPENSATION) and reimbursement under this Agreement, including labor, direct non-salary reimbursable costs and outside services, shall not exceed the maximum sum of \$137,500.00. This amount is the maximum amount to be paid under this Agreement and shall not be exceeded without prior written authorization from CITY in the form of a negotiated and executed amendment of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the day and year first written above.

CONSULTANT:

By: _____

Printed Name: _____

Title: _____

Tax ID#: 820324246

THE CITY OF ELLENSBURG:

By: _____

Printed Name: _____

Title: _____

ATTEST: _____
Clerk

Approved as to Form:

City Attorney



Meeting Date: September 18, 2023

**City of Ellensburg
City Council Agenda Report**

Agenda Subject: Contract Renewal - Small Government Enterprise Agreement between the City of Ellensburg and ESRI for GIS Enterprise Software

Submitted by: Teo Bicchieri, GIS Supervisor

Department: Public Works & Utilities

Suggested Motion/Action:

Move to approve contract between the City of Ellensburg and ESRI, the current contractor supplying the City with GIS software, for the total amount of \$101,299.80, to be paid out over three years, from the GIS budget.

Background/Summary:

Environmental Systems Research Institute, Inc. (ESRI) has provided the City of Ellensburg with GIS software services for many years through their Small Governments contracts. ESRI's ArcGIS suite of GIS software is the industry standard for geospatial analysis and data management and has been heavily adopted by the City. The current contract, which expires on January 14th, 2024, has provided staff the tools to build a database for continued use in supporting the services provided by the City to the residents of Ellensburg. Entering into another three year contract with ESRI will a) create continuity for users within the City who are working with all location based data, and b) allow for the creation and maintenance of a geospatial system of record for future enterprise softwares.

Previous Council Action:

The City has previously contracted with ESRI for geospatial software services.

Analysis:

ESRI provides the industry standard in geospatial software and has been a technical contractor providing software to the City of Ellensburg for several years. Entering into a new three year contract with ESRI to provide the same level of software currently used by the City at a total cost of \$101,299.80, will secure the City will a continuity of services for its utility businesses, its public works, City development services, and management of City assets.

As the City explores the acquisition of an Enterprise Management System, the geospatial database, with data accessed and manipulated via ESRI's ArcGIS Online and Enterprise Portal as well as via ArcPro, will likely serve as the system of record for any platform selected. ESRI software is currently being integrated into the new utility billing system, C2M, to ensure spatial accuracy for utility services.

There are alternatives to ESRI software. However, City staff and systems have been trained

and integrated into ESRI software and switching would require a time-intensive, expensive, and disruptive transition period which would not be guaranteed to yield comparable results.

Financial Impact:

The complete cost of the contract is broken down as follows:

- \$101,299.80 for three years of licensing for ESRI software including ArcPro desktop software, ArcGIS Online and Enterprise Creator licenses, service credits for storage and analysis, location sharing and tracking of field workers, mobile applications (Survey123, Field Maps, etc.), and higher tier tech support to name a few.
- \$33,766.60 per year will be paid to ESRI
- Changes in the number of necessary Creator licenses may necessitate additional purchases to maintain continuity of services.

Adequate budget and authority exist within the GIS budget.

Budget Adjustment: No

Attachments:

1. CityofEllensburgWASGEARenewalUpdated



July 21, 2023

Mr. Teo Bicchieri
City of Ellensburg
501 N Anderson St
Ellensburg, WA 98926-3147

Dear Teo,

The Esri Small Municipal and County Government Enterprise Agreement (SGEA) is a three-year agreement that will grant your organization access to Esri term license software. The EA will be effective on the date executed and will require a firm, three-year commitment.

Based on Esri's work with several organizations similar to yours, we know there is significant potential to apply Geographic Information System (GIS) technology in many operational and technical areas within your organization. For this reason, we believe that your organization will greatly benefit from an Enterprise Agreement (EA).

An EA will provide your organization with numerous benefits including:

- A lower cost per unit for licensed software
- Substantially reduced administrative and procurement expenses
- Complete flexibility to deploy software products when and where needed

The following business terms and conditions will apply:

- All current departments, employees, and in-house contractors of the organization will be eligible to use the software and services included in the EA.
- If your organization wishes to acquire and/or maintain any Esri software during the term of the agreement that is not included in the EA, it may do so separately at the Esri pricing that is generally available for your organization for software and maintenance.
- The organization will establish a single point of contact for orders and deliveries and will be responsible for redistribution to eligible users.
- The organization will establish a Tier 1 support center to field calls from internal users of Esri software. The organization may designate individuals as specified in the EA who may directly contact Esri for Tier 2 technical support.
- The organization will provide an annual report of installed Esri software to Esri.
- Esri software and updates that the organization is licensed to use will be automatically available for downloading.
- The fee and benefits offered in this EA proposal are contingent upon your acceptance of Esri's Small Municipal and County Government EA terms and conditions.

- Licenses are valid for the term of the EA.

This program offer is valid for 90 days. To complete the agreement within this time frame, please contact me within the next seven days to work through any questions or concerns you may have.

To expedite your acceptance of this EA offer:

1. Sign and return the EA contract with a Purchase Order or issue a Purchase Order that references this EA Quotation and includes the following statement on the face of the Purchase Order:

"THIS PURCHASE ORDER IS GOVERNED BY THE TERMS AND CONDITIONS OF THE ESRI SMALL MUNICIPAL AND COUNTY GOVERNMENT EA, AND ADDITIONAL TERMS AND CONDITIONS IN THIS PURCHASE ORDER WILL NOT APPLY."

Have it signed by an authorized representative of the organization.

2. On the first page of the EA, identify the central point of contact/agreement administrator. The agreement administrator is the party that will be the contact for management of the software, administration issues, and general operations. Information should include name, title (if applicable), address, phone number, and e-mail address.
3. In the purchase order, identify the "Ship to" and "Bill to" information for your organization.
4. Send the purchase order and agreement to the address, email or fax noted below:

Esri
Attn: Customer Service SG-EA
380 New York Street
Redlands, CA 92373-8100

e-mail: service@esri.com
fax documents to: 909-307-3083

I appreciate the opportunity to present you with this proposal, and I believe it will bring great benefits to your organization.

Thank you very much for your consideration.

Best Regards,

Heather Glock



Environmental Systems Research Institute, Inc.
380 New York St
Redlands, CA 92373-8100
Phone: (909) 793-2853
DUNS Number: 06-313-4175 CAGE Code: 0AMS3

Quotation # Q-501537

Date: August 8, 2023

Customer # 346625 Contract # ENTERPRISE AGREEMENT

City of Ellensburg
Public Works and Utilities
501 N Anderson St
Ellensburg, WA 98926-3147

ATTENTION: Teo Bicchieri
PHONE: (509) 925-8658
EMAIL: bicchierit@ci.ellensburg.wa.us

To expedite your order, please attach a copy of this quotation to your purchase order.
Quote is valid from: 7/21/2023 To: 10/19/2023

Material	Qty	Term	Unit Price	Total
168177	1	Year 1	\$28,400.00	\$28,400.00
Populations of 0 to 25,000 Small Government Enterprise Agreement Annual Subscription				
168177	1	Year 2	\$28,400.00	\$28,400.00
Populations of 0 to 25,000 Small Government Enterprise Agreement Annual Subscription				
168177	1	Year 3	\$28,400.00	\$28,400.00
Populations of 0 to 25,000 Small Government Enterprise Agreement Annual Subscription				
153148	10		\$275.00	\$2,750.00
ArcGIS Online Creator Annual Subscription - Year One				
153148	10		\$275.00	\$2,750.00
ArcGIS Online Creator Annual Subscription - Year Two				
153148	10		\$275.00	\$2,750.00
ArcGIS Online Creator Annual Subscription - Year Three				

Esri may charge a fee to cover expenses related to any customer requirement to use a proprietary vendor management, procurement, or invoice program.

For questions contact: Heather Glock	Email: hglock@esri.com	Phone: 909-793-2853 x8948
The items on this quotation are subject to and governed by the terms of this quotation, the most current product specific scope of use document found at https://assets.esri.com/content/dam/esrisites/media/legal/product-specific-terms-of-use/e300.pdf, and your applicable signed agreement with Esri. If no such agreement covers any item quoted, then Esri's standard terms and conditions found at https://go.esri.com/MAPS apply to your purchase of that item. If any item is quoted with a multi-year payment schedule, then unless otherwise stated in this quotation, Customer is required to make all payments without right of cancellation. Third-party data sets included in a quotation as separately licensed items will only be provided and invoiced if Esri is able to provide such data and will be subject to the applicable third-party's terms and conditions. If Esri is unable to provide any such data set, Customer will not be responsible for any further payments for the data set. US Federal government entities and US government prime contractors authorized under FAR 51.1 may purchase under the terms of Esri's GSA Federal Supply Schedule. Supplemental terms and conditions found at https://www.esri.com/en-us/legal/terms/state-supplemental apply to some US state and local government purchases. All terms of this quotation will be incorporated into and become part of any additional agreement regarding Esri's offerings. Acceptance of this quotation is limited to the terms of this quotation. Esri objects to and expressly rejects any different or additional terms contained in any purchase order, offer, or confirmation sent to or to be sent by buyer. Unless prohibited by law, the quotation information is confidential and may not be copied or released other than for the express purpose of system selection and purchase/license. The information may not be given to outside parties or used for any other purpose without consent from Esri. Delivery is FOB Origin for customers located in the USA.		



Environmental Systems Research Institute, Inc.
380 New York St
Redlands, CA 92373-8100
Phone: (909) 793-2853
DUNS Number: 06-313-4175 CAGE Code: 0AMS3

Quotation # Q-501537

Date: August 8, 2023

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Public Works and Utilities
501 N Anderson St
Ellensburg, WA 98926-3147

ATTENTION: Teo Bicchieri
PHONE: (509) 925-8658
EMAIL: bicchierit@ci.ellensburg.wa.us

To expedite your order, please attach a copy of this quotation to your purchase order.
Quote is valid from: 7/21/2023 To: 10/19/2023

Subtotal:	\$93,450.00
Sales Tax:	\$7,849.80
Estimated Shipping and Handling (2 Day Delivery):	\$0.00
Contract Price Adjust:	\$0.00
Total:	\$101,299.80

Esri may charge a fee to cover expenses related to any customer requirement to use a proprietary vendor management, procurement, or invoice program.

For questions contact:
Heather Glock

Email:
hglock@esri.com

Phone:
909-793-2853 x8948

The items on this quotation are subject to and governed by the terms of this quotation, the most current product specific scope of use document found at <https://assets.esri.com/content/dam/esrisites/media/legal/product-specific-terms-of-use/e300.pdf>, and your applicable signed agreement with Esri. If no such agreement covers any item quoted, then Esri's standard terms and conditions found at <https://go.esri.com/MAPS> apply to your purchase of that item. If any item is quoted with a multi-year payment schedule, then unless otherwise stated in this quotation, Customer is required to make all payments without right of cancellation. Third-party data sets included in a quotation as separately licensed items will only be provided and invoiced if Esri is able to provide such data and will be subject to the applicable third-party's terms and conditions. If Esri is unable to provide any such data set, Customer will not be responsible for any further payments for the data set. US Federal government entities and US government prime contractors authorized under FAR 51.1 may purchase under the terms of Esri's GSA Federal Supply Schedule. Supplemental terms and conditions found at <https://www.esri.com/en-us/legal/terms/state-supplemental> apply to some US state and local government purchases. All terms of this quotation will be incorporated into and become part of any additional agreement regarding Esri's offerings. Acceptance of this quotation is limited to the terms of this quotation. Esri objects to and expressly rejects any different or additional terms contained in any purchase order, offer, or confirmation sent to or to be sent by buyer. Unless prohibited by law, the quotation information is confidential and may not be copied or released other than for the express purpose of system selection and purchase/license. The information may not be given to outside parties or used for any other purpose without consent from Esri. Delivery is FOB Origin for customers located in the USA.



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Phone: (909) 793-2853
DUNS Number: 06-313-4175 CAGE Code: 0AMS3

To expedite your order, please attach a copy of this quotation to your purchase order.
Quote is valid from: 7/21/2023 To: 10/19/2023

If you have made ANY alterations to the line items included in this quote and have chosen to sign the quote to indicate your acceptance, you must fax Esri the signed quote in its entirety in order for the quote to be accepted. You will be contacted by your Customer Service Representative if additional information is required to complete your request.

If your organization is a US Federal, state, or local government agency; an educational facility; or a company that will not pay an invoice without having issued a formal purchase order, a signed quotation will not be accepted unless it is accompanied by your purchase order.

In order to expedite processing, please reference the quotation number and any/all applicable Esri contract number(s) (e.g. MPA, ELA, SmartBuy, GSA, BPA) on your ordering document.

BY SIGNING BELOW, YOU CONFIRM THAT YOU ARE AUTHORIZED TO OBLIGATE FUNDS FOR YOUR ORGANIZATION, AND YOU ARE AUTHORIZING ESRI TO ISSUE AN INVOICE FOR THE ITEMS INCLUDED IN THE ABOVE QUOTE IN THE AMOUNT OF \$_____, PLUS SALES TAXES IF APPLICABLE. DO NOT USE THIS FORM IF YOUR ORGANIZATION WILL NOT HONOR AND PAY ESRI'S INVOICE WITHOUT ADDITIONAL AUTHORIZING PAPERWORK.

Please check one of the following:

☐ I agree to pay any applicable sales tax.

☐ I am tax exempt, please contact me if exempt information is not currently on file with Esri.

Signature of Authorized Representative

Date

Name (Please Print)

Title

The quotation information is proprietary and may not be copied or released other than for the express purpose of system selection and purchase/license. This information may not be given to outside parties or used for any other purpose without consent from Environmental Systems Research Institute, Inc. (Esri).

Any estimated sales and/or use tax reflected on this quote has been calculated as of the date of this quotation and is merely provided as a convenience for your organization's budgetary purposes. Esri reserves the right to adjust and collect sales and/or use tax at the actual date of invoicing. If your organization is tax exempt or pays state tax directly, then prior to invoicing, your organization must provide Esri with a copy of a current tax exemption certificate issued by your state's taxing authority for the given jurisdiction.

Esri may charge a fee to cover expenses related to any customer requirement to use a proprietary vendor management, procurement, or invoice program.

For questions contact:
Heather Glock

Email:
hglock@esri.com

Phone:
909-793-2853 x8948

The items on this quotation are subject to and governed by the terms of this quotation, the most current product specific scope of use document found at <https://assets.esri.com/content/dam/esrisites/media/legal/product-specific-terms-of-use/e300.pdf>, and your applicable signed agreement with Esri. If no such agreement covers any item quoted, then Esri's standard terms and conditions found at <https://go.esri.com/MAPS> apply to your purchase of that item. If any item is quoted with a multi-year payment schedule, then unless otherwise stated in this quotation, Customer is required to make all payments without right of cancellation. Third-party data sets included in a quotation as separately licensed items will only be provided and invoiced if Esri is able to provide such data and will be subject to the applicable third-party's terms and conditions. If Esri is unable to provide any such data set, Customer will not be responsible for any further payments for the data set. US Federal government entities and US government prime contractors authorized under FAR 51.1 may purchase under the terms of Esri's GSA Federal Supply Schedule. Supplemental terms and conditions found at <https://www.esri.com/en-us/legal/terms/state-supplemental> apply to some US state and local government purchases. All terms of this quotation will be incorporated into and become part of any additional agreement regarding Esri's offerings. Acceptance of this quotation is limited to the terms of this quotation. Esri objects to and expressly rejects any different or additional terms contained in any purchase order, offer, or confirmation sent to or to be sent by buyer. Unless prohibited by law, the quotation information is confidential and may not be copied or released other than for the express purpose of system selection and purchase/license. The information may not be given to outside parties or used for any other purpose without consent from Esri. Delivery is FOB Origin for customers located in the USA.

Esri Use Only:

Cust. Name _____
 Cust. # _____
 PO # _____
 Esri Agreement # _____



SMALL ENTERPRISE AGREEMENT COUNTY AND MUNICIPALITY GOVERNMENT (E214-1)

This Agreement is by and between the organization identified in the Quotation ("**Customer**") and **Environmental Systems Research Institute, Inc. ("Esri")**.

This Agreement sets forth the terms for Customer's use of Products and incorporates by reference (i) the Quotation and (ii) the Master Agreement. Should there be any conflict between the terms and conditions of the documents that comprise this Agreement, the order of precedence for the documents shall be as follows: (i) the Quotation, (ii) this Agreement, and (iii) the Master Agreement. This Agreement shall be governed by and construed in accordance with the laws of the state in which Customer is located without reference to conflict of laws principles, and the United States of America federal law shall govern in matters of intellectual property. The modifications and additional rights granted in this Agreement apply only to the Products listed in Table A.

Table A
List of Products

Uncapped Quantities**Desktop Software and Extensions (Single Use)**

ArcGIS Desktop Advanced
 ArcGIS Desktop Standard
 ArcGIS Desktop Basic
 ArcGIS Desktop Extensions: ArcGIS 3D Analyst,
 ArcGIS Spatial Analyst, ArcGIS Geostatistical Analyst,
 ArcGIS Publisher, ArcGIS Network Analyst, ArcGIS
 Schematics, ArcGIS Workflow Manager, ArcGIS Data
 Reviewer

Enterprise Software and Extensions

ArcGIS Enterprise (Advanced and Standard)
 ArcGIS Monitor
 ArcGIS Enterprise Extensions: ArcGIS 3D Analyst,
 ArcGIS Spatial Analyst, ArcGIS Geostatistical Analyst,
 ArcGIS Network Analyst, ArcGIS Schematics, ArcGIS
 Workflow Manager, ArcGIS Data Reviewer

Enterprise Additional Capability Servers

ArcGIS Image Server

Developer Tools

ArcGIS Runtime Standard
 ArcGIS Runtime Analysis Extension

Limited Quantities

One (1) Professional subscription to ArcGIS Developer
 Two (2) ArcGIS CityEngine Single Use Licenses
 50 ArcGIS Online Viewers
 50 ArcGIS Online Creators
 10,000 ArcGIS Online Service Credits
 50 ArcGIS Enterprise Creators
 2 ArcGIS Insights in ArcGIS Enterprise
 2 ArcGIS Insights in ArcGIS Online
 5 ArcGIS Location Sharing User Type Extension (Online)
 5 ArcGIS Location Sharing User Type Extension
 (Enterprise)
 2 ArcGIS Parcel Fabric User Type Extensions (Enterprise)
 2 ArcGIS Utility Network User Type Extensions (Enterprise)
 2 ArcGIS Trace Network User Type Extensions (Enterprise)

OTHER BENEFITS

Number of Esri User Conference registrations provided annually	2
Number of Tier 1 Help Desk individuals authorized to call Esri	2
Maximum number of sets of backup media, if requested*	2
Five percent (5%) discount on all individual commercially available instructor-led training classes at Esri facilities purchased outside this Agreement	

*Additional sets of backup media may be purchased for a fee

Customer may accept this Agreement by signing and returning the whole Agreement with (i) the Quotation attached, (ii) a purchase order, or (iii) another document that matches the Quotation and references this Agreement ("**Ordering Document**"). **ADDITIONAL OR CONFLICTING TERMS IN CUSTOMER'S PURCHASE ORDER OR OTHER DOCUMENT WILL NOT APPLY, AND THE TERMS OF THIS AGREEMENT WILL GOVERN.** This Agreement is effective as of the date of Esri's receipt of an Ordering Document, unless otherwise agreed to by the parties ("**Effective Date**").

Term of Agreement: Three (3) years

This Agreement supersedes any previous agreements, proposals, presentations, understandings, and arrangements between the parties relating to the licensing of the Products. Except as provided in Article 4—Product Updates, no modifications can be made to this Agreement.

Accepted and Agreed:

(Customer)

By: _____
Authorized Signature

Printed Name: _____

Title: _____

Date: _____

CUSTOMER CONTACT INFORMATION

Contact: _____

Telephone: _____

Address: _____

Fax: _____

City, State, Postal Code: _____

E-mail: _____

Country: _____

Quotation Number (if applicable): _____

1.0—ADDITIONAL DEFINITIONS

In addition to the definitions provided in the Master Agreement, the following definitions apply to this Agreement:

"Case" means a failure of the Software or Online Services to operate according to the Documentation where such failure substantially impacts operational or functional performance.

"Deploy", "Deployed" and "Deployment" mean to redistribute and install the Products and related Authorization Codes within Customer's organization(s).

"Fee" means the fee set forth in the Quotation.

"Maintenance" means Tier 2 Support, Product updates, and Product patches provided to Customer during the Term of Agreement.

"Master Agreement" means the applicable master agreement for Esri Products incorporated by this reference that is (i) found at <https://www.esri.com/en-us/legal/terms/full-master-agreement> and available in the installation process requiring acceptance by electronic acknowledgment or (ii) a signed Esri master agreement or license agreement that supersedes such electronically acknowledged master agreement.

"Product(s)" means the products identified in Table A—List of Products and any updates to the list Esri provides in writing.

"Quotation" means the offer letter and quotation provided separately to Customer.

"Technical Support" means the technical assistance for attempting resolution of a reported Case through error correction, patches, hot fixes, workarounds, replacement deliveries, or any other type of Product corrections or modifications.

"Tier 1 Help Desk" means Customer's point of contact(s) to provide all Tier 1 Support within Customer's organization(s).

"Tier 1 Support" means the Technical Support provided by the Tier 1 Help Desk.

"Tier 2 Support" means the Esri Technical Support provided to the Tier 1 Help Desk when a Case cannot be resolved through Tier 1 Support.

2.0—ADDITIONAL GRANT OF LICENSE

2.1 Grant of License. Subject to the terms and conditions of this Agreement, Esri grants to Customer a personal, nonexclusive, nontransferable license solely to use, copy, and Deploy quantities of the Products listed in Table A—List of Products for the Term of Agreement (i) for the applicable Fee and (ii) in accordance with the Master Agreement.

2.2 Consultant Access. Esri grants Customer the right to permit Customer's consultants or contractors to use the Products exclusively for Customer's benefit. Customer will be solely responsible for compliance by consultants and contractors with this Agreement and will ensure that the consultant or contractor discontinues use of Products upon completion of work for Customer. Access to or use of Products by consultants or contractors not exclusively for Customer's benefit is prohibited. Customer may not permit its consultants or contractors to install Software or Data on consultant, contractor, or third-party computers or remove Software or Data from Customer locations, except for the purpose of hosting the Software or Data on Contractor servers for the benefit of Customer.

3.0—TERM, TERMINATION, AND EXPIRATION

3.1 Term. This Agreement and all licenses hereunder will commence on the Effective Date and continue for the duration identified in the Term of Agreement, unless this Agreement is terminated earlier as provided herein. Customer is only authorized to use Products during the Term of Agreement. For an Agreement with a limited term, Esri does not grant Customer an indefinite or a perpetual license to Products.

3.2 No Use upon Agreement Expiration or Termination. All Product licenses, all Maintenance, and Esri User Conference registrations terminate upon expiration or termination of this Agreement.

3.3 Termination for a Material Breach. Either party may terminate this Agreement for a material breach by the other party. The breaching party will have thirty (30) days from the date of written notice to cure any material breach.

3.4 Termination for Lack of Funds. For an Agreement with government or government-

owned entities, either party may terminate this Agreement before any subsequent year if Customer is unable to secure funding through the legislative or governing body's approval process.

3.5 Follow-on Term. If the parties enter into another agreement substantially similar to this Agreement for an additional term, the effective date of the follow-on agreement will be the day after the expiration date of this Agreement.

4.0—PRODUCT UPDATES

4.1 Future Updates. Esri reserves the right to update the list of Products in Table A—List of Products by providing written notice to Customer. Customer may continue to use all Products that have been Deployed, but support and upgrades for deleted items may not be available. As new Products are incorporated into the standard program, they will be offered to Customer via written notice for incorporation into the Products schedule at no additional charge. Customer's use of new or updated Products requires Customer to adhere to applicable additional or revised terms and conditions in the Master Agreement.

4.2 Product Life Cycle. During the Term of Agreement, some Products may be retired or may no longer be available to Deploy in the identified quantities. Maintenance will be subject to the individual Product Life Cycle Support Status and Product Life Cycle Support Policy, which can be found at <https://support.esri.com/en/other-resources/product-life-cycle>. Updates for Products in the mature and retired phases may not be available. Customer may continue to use Products already Deployed, but Customer will not be able to Deploy retired Products.

5.0—MAINTENANCE

The Fee includes standard maintenance benefits during the Term of Agreement as specified in the most current applicable Esri Maintenance and Support Program document (found at <https://www.esri.com/en-us/legal/terms/maintenance>). At Esri's sole discretion, Esri may make patches, hot fixes, or updates available for download. No Software other

than the defined Products will receive Maintenance. Customer may acquire maintenance for other Software outside this Agreement.

a. Tier 1 Support

1. Customer will provide Tier 1 Support through the Tier 1 Help Desk to all Customer's authorized users.
2. The Tier 1 Help Desk will be fully trained in the Products.
3. At a minimum, Tier 1 Support will include those activities that assist the user in resolving how-to and operational questions as well as questions on installation and troubleshooting procedures.
4. The Tier 1 Help Desk will be the initial point of contact for all questions and reporting of a Case. The Tier 1 Help Desk will obtain a full description of each reported Case and the system configuration from the user. This may include obtaining any customizations, code samples, or data involved in the Case.
5. If the Tier 1 Help Desk cannot resolve the Case, an authorized Tier 1 Help Desk individual may contact Tier 2 Support. The Tier 1 Help Desk will provide support in such a way as to minimize repeat calls and make solutions to problems available to Customer's organization.
6. Tier 1 Help Desk individuals are the only individuals authorized to contact Tier 2 Support. Customer may change the Tier 1 Help Desk individuals by written notice to Esri.

b. Tier 2 Support

1. Tier 2 Support will log the calls received from Tier 1 Help Desk.
2. Tier 2 Support will review all information collected by and received from the Tier 1 Help Desk including preliminary documented troubleshooting provided by the Tier 1 Help Desk when Tier 2 Support is required.
3. Tier 2 Support may request that Tier 1 Help Desk individuals provide verification of information, additional information, or answers to additional questions to

supplement any preliminary information gathering or troubleshooting performed by Tier 1 Help Desk.

4. Tier 2 Support will attempt to resolve the Case submitted by Tier 1 Help Desk.
5. When the Case is resolved, Tier 2 Support will communicate the information to Tier 1 Help Desk, and Tier 1 Help Desk will disseminate the resolution to the user(s).

6.0—ENDORSEMENT AND PUBLICITY

This Agreement will not be construed or interpreted as an exclusive dealings agreement or Customer's endorsement of Products. Either party may publicize the existence of this Agreement.

7.0—ADMINISTRATIVE REQUIREMENTS

7.1 OEM Licenses. Under Esri's OEM or Solution OEM programs, OEM partners are authorized to embed or bundle portions of Esri products and services with their application or service. OEM partners' business model, licensing terms and conditions, and pricing are independent of this Agreement. Customer will not seek any discount from the OEM partner or Esri based on the availability of Products under this Agreement. Customer will not decouple Esri products or services from the OEM partners' application or service.

7.2 Annual Report of Deployments. At each anniversary date and ninety (90) calendar days prior to the expiration of this Agreement, Customer will provide Esri with a written report detailing all Deployments. Upon request, Customer will provide records sufficient to verify the accuracy of the annual report.

8.0—ORDERING, ADMINISTRATIVE PROCEDURES, DELIVERY, AND DEPLOYMENT

8.1 Orders, Delivery, and Deployment

- a. Upon the Effective Date, Esri will invoice Customer and provide Authorization Codes to activate the nondestructive copy protection program that enables Customer to download,

operate, or allow access to the Products. If this is a multi-year Agreement, Esri may invoice the Fee up to thirty (30) calendar days before the annual anniversary date for each year.

- b. Undisputed invoices will be due and payable within thirty (30) calendar days from the date of invoice. Esri reserves the right to suspend Customer's access to and use of Products if Customer fails to pay any undisputed amount owed on or before its due date. Esri may charge Customer interest at a monthly rate equal to the lesser of one percent (1.0%) per month or the maximum rate permitted by applicable law on any overdue fees plus all expenses of collection for any overdue balance that remains unpaid ten (10) days after Esri has notified Customer of the past-due balance.

- c. Esri's federal ID number is 95-2775-732.

- d. If requested, Esri will ship backup media to the ship-to address identified on the Ordering Document, FOB Destination, with shipping charges prepaid. Customer acknowledges that should sales or use taxes become due as a result of any shipments of tangible media, Esri has a right to invoice and Customer will pay any such sales or use tax associated with the receipt of tangible media.

8.2 Order Requirements. Esri does not require Customer to issue a purchase order. Customer may submit a purchase order in accordance with its own process requirements, provided that if Customer issues a purchase order, Customer will submit its initial purchase order on the Effective Date. If this is a multi-year Agreement, Customer will submit subsequent purchase orders to Esri at least thirty (30) calendar days before the annual anniversary date for each year.

- a. All orders pertaining to this Agreement will be processed through Customer's centralized point of contact.
- b. The following information will be included in each Ordering Document:
 - (1) Customer name; Esri customer number, if known; and bill-to and ship-to addresses
 - (2) Order number
 - (3) Applicable annual payment due

9.0—MERGERS, ACQUISITIONS, OR DIVESTITURES

If Customer is a commercial entity, Customer will notify Esri in writing in the event of (i) a consolidation, merger, or reorganization of Customer with or into another corporation or entity; (ii) Customer's acquisition of another entity; or (iii) a transfer or sale of all or part of Customer's organization (subsections i, ii, and iii, collectively referred to as "**Ownership Change**"). There will be no decrease in Fee as a result of any Ownership Change.

- 9.1 If an Ownership Change increases the cumulative program count beyond the maximum level for this Agreement, Esri reserves the right to increase the Fee or terminate this Agreement and the parties will negotiate a new agreement.
- 9.2 If an Ownership Change results in transfer or sale of a portion of Customer's organization, that portion of Customer's organization will transfer the Products to Customer or uninstall, remove, and destroy all copies of the Products.
- 9.3 This Agreement may not be assigned to a successor entity as a result of an Ownership Change unless approved by Esri in writing in advance. If the assignment to the new entity is not approved, Customer will require any successor entity to uninstall, remove, and destroy the Products. This Agreement will terminate upon such Ownership Change.



Meeting Date: September 18, 2023
City of Ellensburg
City Council Agenda Report

Agenda Subject: Authorization to Execute a Mutual Aid Agreement for the Natural Gas Division
Submitted by: Darin Yusi, Gas Engineer
Department: Public Works & Utilities

Suggested Motion/Action:

Motion to authorize the City Manager to execute a Mutual Aid Agreement developed by the American Public Gas Association (APGA) for public natural gas utilities.

Background/Summary:

The City Natural Gas Division is a member of the American Public Gas Association (APGA) and benefits greatly through the resources and assistance the APGA provides. The APGA has developed a long standing Mutual Aid Agreement for public gas utilities. This Mutual Aid Program Agreement provides opportunities for gas utilities to support one another in situations of need, but does not obligate those utilities to provide assistance in those situations.

It is important for gas utilities to support each other and for formal processes/forms to be in place before the need arises, so that needs can be met quickly and efficiently. Gas Division staff have read through the agreement and recommend execution of the agreement for the City to become part of the APGA Mutual Aid Agreement.

Previous Council Action:

No previous council action.

Analysis:

Chapter 39.34 RCW (the "Interlocal Cooperation Act") permits local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities.

Utilizing this RCW and executing the APGA Mutual Aid Agreement would allow the City to request assistance and provide assistance in times of need.

The agreement contains provisions of mutual aid for manpower, equipment, apparatus, supplies and materials, and qualification of personnel performing tasks in assistance. Provisions for compensation and records are also listed within the agreement and are for all costs and expenses reasonably and actually incurred by a responding

system. This Mutual Aid Program Agreement provides opportunities for gas utilities to support one another in situations of need utilizing the provisions outlined, but does not obligate those utilities to provide assistance in those situations.

Financial Impact:

There is no immediate or anticipated financial impact.

In the event the agreement is utilized in the future, compensation, invoicing and reimbursement is defined in Article 3 of the Agreement and requesting party would reimburse for costs incurred.

Budget Adjustment: No

Attachments:

1. APGA Mutual Aid Agreement



APGA MUTUAL AID PROGRAM

Point of Contact Form

Please fill out this form to designate who will be your system's primary point of contact for all correspondence related to APGA's Mutual Aid Program. The official mutual aid agreement is enclosed and should be signed by the designated contact, and a witness should be present to attest.

The forms should then be mailed or faxed to APGA, or scanned and emailed directly to scook@apga.org. If you have any questions, contact Simon Cook of APGA's staff at (202) 930-6720, or by email at the address listed above. Additional information can also be found at www.apga.org/mutual-aid.

System Name: _____

Address: _____

City, State, Zip: _____

Main Contact: _____

Title: _____

Office Phone: _____

Cell Phone: _____

Email Address: _____

Fax Number: _____



**American Public Gas Association
Agreement for Mutual Aid**

This Agreement for Mutual Aid (this "Agreement") is made and entered into as of _____ day of _____ (the "Effective Date") by and between the undersigned Public Gas System, _____ (herein the "Operator"), and those other Public Gas Systems who shall have also executed and delivered to the American Public Gas Association ("APGA") an identical or substantially similar Agreement for mutual aid and who shall not have terminated such Agreement at the time mutual aid is requested.

Witnesseth:

Whereas, in the ordinary course of its operations, the Operator has employees with technical expertise in matters pertaining to the delivery of natural gas service, and owns equipment, facilities, properties, and other resources for that purpose; and

Whereas, subject to the terms and conditions set forth herein, and taking into consideration the Operator's utility responsibilities and primary operations to service its own customers, the public gas companies that have executed this agreement are willing, upon request from time to time, to perform specific services on an emergency or non-routine basis, and in connection therewith to make available such equipment, facilities, properties, and other resources, as may be requested from each other; and

Whereas, the Operator is authorized under the applicable law in the State where it is located to enter into such agreements with other natural gas systems to provide mutual aid and assistance in restoring and providing natural gas services in the event of natural disasters or other emergencies; and

Whereas, the mutual aid contracts may include provisions for providing personnel and furnishing equipment, apparatus, supplies and materials; and

Whereas, the Operator is willing to provide personnel and furnish equipment, apparatus, supplies and materials to the other public gas system entering into this agreement under the terms and provisions hereinafter provided.

Now, Therefore, in consideration of the execution and delivery of identical or substantially similar Agreements for mutual aid by other public gas systems, and the promises and mutual covenants contained herein and the mutual benefits provided thereby, IT IS HEREBY AGREED:

Article 1. Applicability and Term

1.1 **Applicability:** This Agreement shall apply to the Operator as of the Effective Date and any and all other public gas systems that have duly approved, executed and delivered this Agreement to the APGA (hereinafter collectively "Participating Systems" or individually "Participating System") either prior to or subsequent to the Effective Date, and that has not terminated its approval pursuant to Section 1.2 herein, and shall apply to each Participating System whether it is requesting assistance



from another public gas system ("Requesting System") or is providing services as requested hereunder ("Responding System").

- 1.2 Term: The term of this Agreement shall commence upon the execution and delivery of this Agreement to the APGA by the Operator and shall continue until terminated by the Operator at any time by giving the APGA thirty (30) days prior written notice of its desire to so terminate this Agreement. Termination of this Agreement shall not affect the Operator's existing compensation and/or indemnification rights and obligations under Sections 3 and 4 hereof, or any other accrued liability or obligation hereunder, including without limitation, the obligation of Requesting System to pay amounts due hereunder.

Article 2. Provision of Mutual Aid

- 2.1 Services: In the event of a natural disaster or other emergency affecting the natural gas system of any Participating System, the Responding Party upon the request of a Requesting System, may furnish to said Requesting System manpower, equipment, apparatus, supplies and materials as requested by said Requesting System (collectively "Services"); provided, however, that an Operator shall not be required to imperil the operation of its natural gas system, and it shall be the sole and absolute judge of its ability and capacity to furnish Services when requested; provided further that nothing in this Agreement shall be construed to deprive an Operator of its discretion to decline to send, or to recall its Services in aid of a Requesting System under any circumstances and at any time, whether or not obligated by contract to do so, and neither an Operator, nor any of its officers, agents, or employees may be held liable in any civil or criminal action for declining to send, or for recalling, Services to a Requesting System under this Agreement.
- 2.2 Personnel of the Responding System: Personnel furnished by the Responding System pursuant to this Agreement – while providing aid hereunder and while traveling to and from a Requesting System to provide aid hereunder – shall be conclusively deemed, for all purposes, to remain personnel of the Responding System and shall retain the same rights, privileges, immunities, and benefits as they receive while performing their normal duties for the Responding System. At all times, employees of a Responding Company continue to be employees of the Responding Company and are not ever deemed to be employees of a Requesting Company.
- 2.3 Operator Qualification. Requesting System must specify in their request for aid what tasks are covered tasks per 49 CFR 192 subpart N. The Requesting System receiving personnel pursuant is required to confirm that Responding Company personnel's knowledge, skills and ability are consistent with Requesting Company's needs.

Article 3. Compensation, Invoicing & Records

3.1 Compensation

- (a) Requesting System shall reimburse Responding System for all costs and expenses reasonably and actually incurred by Responding System as a result of furnishing mutual aid. Responding System shall submit an invoice to Requesting System, which includes documentation of all



costs and expenses. Such costs and expenses, without any added profit, may include, but not be limited to, the following:

- (1) Employees' wages and salaries for paid time spent in Requesting System's service area and paid time during travel to and from such service area, plus Responding System's standard payable additives to cover all employee benefits and allowances.
- (2) Employee travel and living expenses (meals, lodging and reasonable incidentals)
- (3) Replacement cost of materials and supplies expended or furnished
- (4) Other uninsured costs.
- (5) Charges, at rates internally used by Responding System, for the use of transportation equipment and other equipment requested.
- (6) Administrative and general costs, which are properly allocable to the mutual aid to the extent such costs, are not chargeable pursuant to the foregoing subsections.

3.2 Invoicing: Requesting System shall pay all costs and expenses reasonably and actually incurred of Responding System within sixty days after receipt of invoice and complete records. Termination of a request for aid by either party shall not relieve Requesting System from its obligation to pay such properly invoiced costs and expenses.

3.3 Records. Each Participating System (whether acting as a Requesting System or as a Responding System) shall cooperate in providing in a timely fashion all records or data reasonably requested to allow and facilitate applications for benefits, reimbursement, compensation, or otherwise effectuate its recordkeeping and reporting purposes in connection with the receipt or provision of mutual aid.

Article 4. Limitations of Liability, Hold Harmless & Indemnification

4.1 Limitations of Liability / Warranty: In furnishing Services under this Agreement, neither the Responding System, nor any officer, director, employee, or agent thereof, shall have any responsibility whatsoever to the Requesting System other than as stated in this Agreement. The Responding System will exercise due care to assure that the Services are performed in a workmanlike manner in accordance and consistent with any applicable legal standards. The sole and exclusive responsibility of the Responding System for any deficiency therein shall be promptly to correct or repair any deficiency or error or to re-perform such Services if directed to do so by the Requesting System, in either case at no additional cost to the Requesting System, so that the Services fully conform to the standards described in this Section. The Responding System makes no other warranty with respect to the provisions of Services, and the Requesting System agrees to accept any Services without further warranty of any nature.

4.2 Hold Harmless and Indemnification. A Requesting System receiving mutual aid pursuant to this Agreement hereby agrees, to the full extent permitted by law, but without waiving and subject to all defenses including all constitutional, statutory and common law immunities and limits of liability, to release, indemnify, defend, and hold harmless the Responding System, and its officers, agents, and employees, from and against any and all loss liabilities, claims, damages, fines, penalties, clean-up costs, and other pollution related damages, and all costs, fees (including reasonable attorneys' fees) and expenses reasonably and actually incurred related thereto, resulting or arising (directly or



indirectly) out of, or in any way connected with the provision of mutual aid to said Requesting System, including, without limitation, those resulting or arising (directly or indirectly) from the acts or omissions (negligent or otherwise) of the Responding System or its officers, agents, or employees, except those resulting solely from the willful or wanton misconduct or gross negligence of the Responding System or its officers, agents, or employees. Notwithstanding the foregoing, in no event shall a Requesting System be liable to the Responding System pursuant to the indemnification provided under this Section 4.2 in an amount excess of \$1,000,000.

- 4.3 Procedure. In the event any claim or demand is made or suit or action against the Responding System alleging liability for which the Requesting System shall indemnify and hold harmless the Responding System, the Responding System shall promptly notify the Requesting System thereof, and the Requesting System shall settle, compromise, or defend in the same such manner as it in its sole discretion deems necessary or prudent to the extent permitted by law.

Article 5. Miscellaneous

- 5.1 Participation of APGA. APGA's Vice President of Operations & Safety, or another APGA staff person appointed by the Vice President of Operations & Safety, shall endeavor to notify each Participating Party of the identity and contact personnel of each other Participating Party as it executes and delivers an identical or substantially similar Agreement, and shall, from time to time, provide an updated list of all Participating Parties. The APGA shall provide such other coordination and services as the Participating Systems may request and direct according to agreed upon protocols and operating procedures. The Operator hereby acknowledges that APGA, acting simply as a coordinator, shall not itself be responsible for the provision of emergency services hereunder or any liability hereunder and the Operator hereby agrees, to the fullest extent permitted by law but without waiving and subject to all defenses for governmental entities, all constitutional, statutory and common law immunities and limits of liability, to release, defend and hold harmless APGA, and its officers, agents, and employees.
- 5.2 Applicable Law. The rights and duties of the Responding System arising out of this Agreement shall be governed by and construed, enforced and performed in accordance with the laws of the state of the Responding System without regard to any conflicts of law principle that would direct the application of another jurisdiction's law.
- 5.3 Counterparts. This Agreement may be executed in one or more counterparts. The Operator acknowledges that each of the Participating Systems shall execute and deliver to APGA an identical or substantially similar agreement for mutual aid and agree that their mutual obligations hereunder, as a Requesting System or a Responding System, are memorialized by the executed copies delivered to APGA, and that, together, they shall be deemed one and the same Agreement.
- 5.4 Novation / Entire Agreement. If the Operator has become bound by the terms and provisions of a Mutual Aid Agreement previously delivered to APGA under APGA's Mutual Aid Program, the Operator hereby terminates that agreement, and except as specifically provided therein, the terms and provisions thereof shall become null and void. The Agreement contains the entire agreement



between the Operator and each and every Participating System delivering this Agreement to the APGA as to their respective rights and obligations related to the provision or receipt of Mutual Aid to or from any other Participating System and supersedes any prior contemporaneous contracts, agreements, understandings, or arrangements, whether written or oral, with respect thereto. Any oral or written statements, representations, promises, negotiations, or agreements, whether prior thereto or concurrently herewith, are superseded by and merged into this Agreement, except as to those fully executed and written agreements between the Operator and other gas system(s) already existing as of the Effective Date and not previously delivered to APGA; such agreements shall remain valid and in full force and effect as between the parties thereto.

- 5.5 Amendments. This Agreement shall not be amended, modified, or otherwise changed except when done so in writing and upon the prior written consent of all the Participating Systems, who at that time have not terminated their respective Agreements for Mutual Aid, or given notice of the termination thereof. However, the Operator hereby acknowledges that each of the Participating Systems may also provide or receive mutual aid under understandings or agreements other than under this Agreement without in any way affecting the validity of this Agreement and without the necessity of obtaining the assent of any other Participating System.
- 5.6 Severability. If any provision of this Agreement or portion thereof is determined to be void or unenforceable by a court of competent jurisdiction, such determination shall not affect any other provision of this Agreement or portions thereof, all of which other provisions and portions thereof shall remain in full force and effect.
- 5.7 Authorship. The Parties affirm that this Agreement is a product of joint authorship. As such, this Agreement is not to be construed or interpreted against or in favor of any one party, regardless of which party may have contributed more toward drafting this Agreement.”
- 5.8 REMEDIES / DISCLAIMER OF WARRANTY: THE SERVICES, APPARATUS, EQUIPMENT, MATERIALS, SUPPLIES AND WORKMANSHIP PROVIDED IN CONNECTION WITH THIS AGREEMENT ARE ALL PROVIDED ON AN AS IS – WHERE IS WITH ALL-FAULTS BASIS, AND NO SYSTEM THAT IS PARTICIPATING IN THIS AGREEMENT IS MAKING ANY REPRESENTATIONS OR WARRANTIES, EXPRESS, IMPLIED OR OTHERWISE RELATED THERETO, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS OF PARTICULAR PURPOSE, INFRINGEMENT OR INTERFERENCE, OR ARISING FROM COURSE OF DEALING OR USAGE OF TRADE. THE OPERATOR FURTHER AGREES THAT THE REMEDIES STATED HEREIN ARE EXCLUSIVE AND SHALL CONSTITUTE THE SOLE AND EXCLUSIVE REMEDIES FOR ITSELF AND ANY PARTICIPATING SYSTEM.



IN WITNESS WHEREOF, the Operator has executed and signed this Agreement by the authority of its governing body duly given to be effective the day and year first above written.

SYSTEM NAME: _____

By: _____
Authorized Signer

TITLE: _____

ATTEST: _____
Authorized Signer

TITLE: _____

_____ Please initial here if your system is unable to indemnify due to constitutional, statutory or common law immunities or limits of liability.



Meeting Date: September 18, 2023
City of Ellensburg
City Council Agenda Report

Agenda Subject: Project Acceptance - Bid Call 2022-01, Alder St – University Way to Dean Nicholson Boulevard and 14th Ave Trail and Signalization Project

Submitted by: Josh Mattson, Assistant City Engineer

Department: Public Works & Utilities

Suggested Motion/Action:
Move to accept Bid Call 2022-01 as complete

Background/Summary:

The construction of the Alder St – University Way to Dean Nicholson Boulevard and 14th Ave Trail and Signalization Project was completed in April 2023.

The project filled in the missing link of the Palouse to Cascades (PTC) Reconnect Trail from the existing PTC (previously named the John Wayne) trailhead at the Kittitas Valley Event Center (KVEC) on the west side of Alder St north past University Way to the pre-project end of the Reconnect Trail at Dean Nicholson Blvd/14th Ave. A 12-foot-wide concrete trail was installed with pedestrian street crossing improvements, traffic calming through roadway narrowing, lighting, benches, bike racks, landscaping, stormwater improvements, and a transit bus turnout.

The project also included signal upgrades at the intersection of University Way and Alder St and the installation of a new warranted traffic signal at the intersection of Alder St and Dean Nicholson Blvd/14th Ave with pedestrian crossing improvements, video detection, and improved lighting. Existing parking on the north side of 11th Ave was converted from parallel to diagonal for one block west of Alder St.

Staff has recently received the necessary project closeout paperwork from the contractor and Council is now being requested to accept the project as complete.

Previous Council Action:

December 21, 2020 Regular Council Meeting - Council adopted Resolution 2020-38 amending the Six-Year Transportation Improvement Plan (TIP) for 2021-2026 showing the project with secured funding. Council also authorized the Mayor and staff to execute any and all necessary grant paperwork associated with this project.

April 5, 2021 Regular Council Meeting - Council authorized the City Manager to execute the 'Cost Plus Fixed Fee' contract with SCJ Alliance in the amount of \$203,978 for preliminary engineering design and right of way acquisition as needed for the project.

April 4, 2022 Regular Council Meeting - Council awarded the above-mentioned project to Western Excavating, Inc.

Analysis:

The original contract amount bid for the project was \$1,810,726.26 with the final contract amount being \$1,816,134.05. Additional costs were incurred due to minor variations in the site conditions compared to the project plans.

Financial Impact:

This project was primarily funded through a Transportation Improvement Board grant award in the amount of \$1,201,220 with the remaining construction costs funded by Park Impact Fees in the amount of \$200,000 and Traffic Impact Fees in the amount of \$414,914.04. This project is included in the 2023/2024 Biennial budget.

Budget Adjustment: No

Attachments:

None



Meeting Date: September 18, 2023

**City of Ellensburg
City Council Agenda Report**

Agenda Subject: Project Acceptance - Bid Call 2021-05, 5th Avenue and Railroad Avenue Signalization Project

Submitted by: Josh Mattson, Assistant City Engineer

Department: Public Works & Utilities

Suggested Motion/Action:

Move to accept Bid Call 2021-05 as complete.

Background/Summary:

The construction of the 5th Avenue and Railroad Avenue Signalization project was completed in August 2023, which installed a traffic signal at the intersection of 5th Avenue and Railroad Avenue.

The new signal has traffic control phases dedicated to each through movement and north/south turning movements. The project also included radar/video vehicle and bicycle detection, emergency vehicle detection and preemption, pedestrian push buttons and displays, and will be connected to the City's existing traffic signal management system.

Staff has recently received the necessary project closeout paperwork from the contractor and Council is now being requested to accept the project as complete.

Previous Council Action:

January 18, 2022 Regular Council Meeting - Council awarded the above-mentioned project to Neppel Electric & Controls, LLC.

Analysis:

The original contract amount bid for the project was \$476,608.75 with the final contract amount being \$417,163.20 for Schedule "A", the only bid schedule for the project. Most of the cost savings were from liquidated damages imposed on the contractor due to construction delays.

Financial Impact:

This project was partially funded through a Distressed County Sales and Use Tax grant award in the amount of \$213,108 with the remaining construction costs funded by Traffic Impact Fees. This project is included in the 2023/2024 Biennial budget.

Budget Adjustment: No

Attachments:
None



Meeting Date: September 18, 2023
City of Ellensburg
City Council Agenda Report

Agenda Subject: 2023 Distribution Transformer Purchase
Submitted by: Paul Meyer, Electrical Engineer
Department: Public Works & Utilities

Suggested Motion/Action:

Approve the purchase of Distribution Transformers from Anixter, Inc for \$394,284.59, including tax.

Background/Summary:

The Public Works and Utilities – Light Division routinely budgets and publishes a bid for electrical distribution transformers. These distribution transformers are used for capital construction projects and to replenish inventory. Bid Call 2023-08 Distribution Transformers consisted of three schedules for varying sizes and types of distribution transformers. Staff received three bids and at the July 17, 2023, meeting City Council rejected these three bids as non-responsive and directed staff to request quotes directly from suppliers for the purchase of the distribution transformers.

Previous Council Action:

At the meeting on July 17, 2023, Council rejected all bids for Distribution Transformers, Bid Call No. 2023-08.

Below are awards of previous bids and direct quote purchases for Distribution Transformers:

Bid 2022-24 awarded 2/21/2023;

Bid 2022-18 awarded 10/17/22;

Bid 2022-03 direct purchase by quote 4/4/2022; and

Bid 2020-09 awarded 7/20/20.

Previous rejected bids for Distribution Transformers:

Bid 2023-08 rejected all bids (non-responsive) 7/17/23; and

Bid 2022-03 rejected all bids (non-responsive) 3/7/22.

Analysis:

Staff negotiated directly with distributors and received two quotes for pricing for the purchase of a total of 47 distribution transformers. Schedule A: includes five (5) One Phase Padmount transformers; Schedule B: includes six (6) Three Phase Padmount transformers and: Schedule C: includes thirty-six (36) Overhead Outdoor Polemount transformers. The quote from Anixter, Inc for GE Prolec distribution transformers is \$394,284.59, including tax. The quote from General Pacific, Inc for Howard distribution transformers is \$525,413.72.

Financial Impact:

The Engineer's estimate for the purchase of these distribution transformers is \$419,388.76, including tax. The quote from Anixter Inc is approximately 6% less than the Engineer's estimate. Adequate funds are available within the 2023 Light Division budget for purchase of the Distribution Transformers.

Budget Adjustment: No

Attachments:

None

VOUCHER APPROVAL

I, THE UNDERSIGNED, DO HEREBY CERTIFY UNDER PENALTY OF PERJURY THAT THE MATERIALS HAVE BEEN FURNISHED, THE SERVICES RENDERED OR THE LABOR PERFORMED AS DESCRIBED, OR THAT ANY ADVANCE PAYMENT IS DUE AND PAYABLE PURSUANT TO A CONTRACT OR IS AVAILABLE AS AN OPTION FOR FULL OR PARTIAL FULFILLMENT OF A CONTRACTUAL OBLIGATION, AND THAT THE CLAIM IS A JUST, DUE AND UNPAID OBLIGATION AGAINST THE CITY OF ELLENSBURG, AND THAT I AM AUTHORIZED TO AUTHENTICATE AND CERTIFY TO SAID CLAIM.

 9/11/23
AUDITING OFFICER DATE

CLAIMS VOUCHERS AUDITED AND CERTIFIED BY THE AUDITING OFFICER HAVE BEEN RECORDED ON THE ATTACHED LISTING, WHICH HAS BEEN MADE AVAILABLE TO THE COUNCIL AS OF THIS **18TH DAY OF SEPTEMBER 2023**. THE COUNCIL, BY A VOTE, HAS APPROVED FOR PAYMENT THE VOUCHERS INCLUDED IN THE ABOVE LIST AND FURTHER DESCRIBED AS FOLLOWS:

Claims Fund				Total Amounts
Check #'s	163217	TO	163355	\$ 655,410.48
EFT #'s	6439	TO	6462	\$ 1,042,989.68
Treasure Cash				Total Amounts
EFT #'S	171		182	\$ 192,628.11
Payroll Fund				Total Amounts
Check #'s	96089	TO	96095	\$ 12,556.78
Direct Deposits	74991	TO	75238	\$ 495,080.49

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

ATTEST: _____
CITY CLERK



Meeting Date: September 18, 2023
City of Ellensburg
City Council Agenda Report

Agenda Subject: Board and Commission Appointments (Public Comment Opportunity)
Submitted by: Cynthia LaChappelle-Mathis, Executive Assistant
Department: City Manager

Suggested Motion/Action:

Motion to approve the appointment of Judy Pless to the Civil Service Commission.

Background/Summary:

There is one vacancy on the Civil Service Commission and two applications for appointment. The applications for appointment were forwarded to the staff member assigned to the Civil Service Commission to process for consideration of the appointment.

Previous Council Action:

None

Analysis:

As directed by Council, the applicants requesting appointment have completed the preliminary process of attending a meeting and have been interviewed by a subcommittee of the Commission. The Civil Service Commission is recommending that Judy Pless fill the vacancy.

Financial Impact:

None

Budget Adjustment: No

Attachments:

1. B and C Agenda Report Chart 9-18-23
2. Civil Service Appointment Recommendation
3. Judy Pless Application

Boards and Commissions	Affordable Housing Commission	Arts Commission	Civil Service Commission	Diversity, Equity & Inclusion Commission	Ellensburg Business Development Authority Board	Environmental Commission	Landmarks and Design Commission	Library Board	Lodging Tax Advisory Committee	Parks and Recreation Commission	Planning Commission	Public Transit Advisory Committee	Senior Citizens Advisory Commission	Utility Advisory Committee
MEMBERS	7	7	3	9	9	7	7	7	7	7	7	7	7	7
Residency Requirements	Y	N	Y	Y	N	Y	Y	Y	N	Y	Y	N	N	Y
Current Members within City Limits	6	5	2	8	5	6	7	6	2	7	7	7	3	5
Current Members Outside City Limits	1	2	0	0	4	0	0	1	3	0	0	0	2	1
Current Members Outside but in UGA	0	0	0	0	0	0	0	0	0	0	0	0	0	0
VACANCIES	0	0	1	1	0	1 (EHS)	0	0	2	0	0	0	2	1 (Tele)
APPLICANTS														
Judy Pless			1st											



TO: City Council
FROM: Civil Service Commission
DATE: September 18, 2023 – Council Meeting Date
RE: Recommendation of Appointment

Kay Hartman and Judy Pless submitted an Application for Appointment to the Civil Service Commission. Both applicants attended the August 1, 2023, Civil Service Commission meeting. After the meeting staff confirmed that Kay and Judy wanted to proceed with the interview process.

The Civil Service Commission Chair, Rich Searle, and Trisha Weed, staff, conducted the interview on August 25, 2023.

The Civil Service Commission currently has one vacancy. Based on the interview and application materials, it is evident that both applicants would be good additions to the Commission. However, based off Judy's experience in working for a Washington State Public Agency, the subcommittee is recommending that the City Council appoint Judy Pless to the vacant Civil Service Commission.

From:
To:
Subject: Judy Pless[Ext] Online Form Submittal: Application for Appointment
Date: Wednesday, August 2, 2023 11:10:14 AM

CAUTION - EXTERNAL EMAIL: The email below is from an external source. Please exercise caution before opening attachments, clicking links, fulfilling requests, or following guidance.

Application for Appointment

Application for Appointment
For volunteering to serve on a Board or Commission

Boards & Commissions Civil Service Commission

Have you attended a meeting for the board or commission you are applying to? Yes

Name of Applicant: Judy Pless

Address

Mailing Address (If Different) Field not completed.

City Ellensburg

State WA

Zip 98926

Email Address

Phone Number

Length of Residency in Kittitas County 60

Do you live within the city limits? Yes

ECC 1.12.120 Residency qualification. Except where a commission, board or committee specifically requires city residency as a condition of appointment, members of all other commissions, boards and committees shall maintain residency within the Kittitas County limits. "Residency," as used herein, means residing within the city or county limits, as applicable, both at the time of appointment and for at least 270 days within each calendar year for the duration

of the member's term, but shall not include any period for which a member is absent due to military service.

If applying for the Sr. Citizens' Advisory Board, are you at least 55 years of age?

Field not completed.

Occupation Status and Background:

I retired from the Kittitas County Auditor's office after 45 years and 2 months and am currently still retired. My last position while employed for the Auditor's office was the Budget and Finance Manager.

During my employment the Auditor's office was responsible for the finances of Kittitas County, which included payroll for all county employees. The county's payroll consisted of seven bargained groups, non-union, exempt, and elected employees. The Sheriff's office included civil service positions. I worked with Human Resources for any questions that we needed answers for payroll regarding positions/candidates that were approved by the County's Civil Service Commission. I also supervised six employees and worked with all elected officials and department heads in the County. I was responsible for the adopted budget by the Board of County Commissioners, I informed human resources of any newly authorized positions in the budget.

I was born in Ellensburg and have lived within the city limits since June 1995. I am currently married to my husband, Ken Pless, for 44 years. My parents were Mel and Grace Wilson of Kittitas.

Organization Affiliations:

I am not associated with any organization.

Why are you seeking appointment?

In January 2023, the city published notifications about all the boards and commissions seeking volunteers. I thought about applying for the civil service commission, based upon my background. I didn't apply at that time as I was not ready. I reached out to the human resource department recently and received information, and at this time I am ready to fulfill the position if appointed and I understand the purpose of the Civil Service Commission.

Will you be able to attend meetings regularly if appointed?

Yes

If your first choice, as listed above, is not available, which other boards or commissions would you be interested in serving on?

Boards & Commissions

Field not completed.

Email not displaying correctly? [View it in your browser.](#)



Meeting Date: September 18, 2023
City of Ellensburg
City Council Agenda Report

Agenda Subject: Closed Record Hearing for Rezone Application P21-132, from Residential Suburban (R-S) and Residential Medium (R-M) to Residential High (R-H) Zoning, Submitted by Matt Stalder Representing Property Owners, and First Reading of Ordinance 4924 (Limited Public Comment)

Submitted by: Jeremy Johnston, Planning Manager

Department: Community Development

Suggested Motion/Action:

1. Move to approve rezone application request P21-132 to rezone parcels 652733 and 712733 to a Residential High (R-H) zoning designation and adopt the Hearing Examiner's Recommended Findings of Fact, Conclusions of Law, Decision and Conditions of Approval issued on August 17, 2023.
2. Move to conduct first reading of Ordinance 4924

Background/Summary:

This is a closed record quasi-judicial hearing to consider a site-specific rezone application (P21-132). The applicants seek to rezone the subject properties from Residential Suburban (R-S) and Residential Medium (R-M) to Residential High (R-H) for the purpose of developing a multifamily multiple building complex. A State Environmental Policy Act (SEPA) Determination of Mitigated Non-Significance (MDNS) was issued for the parcels on April 19, 2023, for the site-specific rezone.

Site History: The parcel 652733 is in the Residential-Suburban zone and is currently developed with a single-family dwelling that is proposed to be demolished. Parcel 712733 is a split zoned parcel. About $\frac{3}{4}$ of the parcel is already zoned Residential-High with the remaining $\frac{1}{4}$ of the parcel in the Residential-Medium zone. The proposal would be to develop the site with two multi-story multifamily buildings. The properties are bordered by Residential-Suburban zoning to the north and west; and Residential-High zoning to the south. The properties are bordered to the east by an unincorporated island with a future land use designation of Urban Neighborhood.

Site Characteristics: The site topography is relatively flat. Parcel 712733 currently contains a multifamily development established in 2020. Parcel 652733 contains a single-family dwelling which will be demolished according to the plans submitted.

Surrounding Properties: A zoning map of the surrounding properties is attached as **Exhibit B**. The zoning of the surrounding properties is further described below.

North: The properties to the north are zoned Residential Suburban and consist of single-

family dwellings on properties ranging in size from 1.84 and 2.70 acres.

South: The properties to the south are zoned Residential-Suburban, Residential-Medium and Residential-High and consist of single-family dwellings and multifamily dwellings.

East: The properties to the east are within an unincorporated island.

West: The properties to the west are zoned Residential-Suburban (R-S) and consist of single-family dwellings.

Access: Access to the property is from Airport Rd, an existing minor arterial.

Zoning and Development Standards, ECC Title 15: According to Ellensburg City Code (ECC) Table 15.310.040, *Dwelling, Multifamily* – multifamily dwellings are permitted in the Residential-High zone.

Comprehensive Plan Designations: A map of the comprehensive plan future land use designations is attached as **Exhibit C**. Both parcels are designated Urban Neighborhood which accommodates a range of housing types from small-lot single dwellings to large-scale multi-story, multi-dwelling developments. This future land use designation accommodates areas close to the University Campus and allows for residential high-density zoning per ECC 15.300.040(D)(4). The Urban Neighborhood designation is consistent with all adjacent parcels.

Public Comments: Community Development issued a notification of application on May 18, 2023 initiating a 21 day comment period which concluded on June 8, 2023. The City of Ellensburg Public Works Department submitted comments on June 2, 2023, stating that future development applications will require consistency with Public Works development standards.

Notice of the open record public hearing (**Exhibit E**) was published in the legal section of the Daily Record on May 18, 2023, and the site was posted with a land use action signs on May 11, 2023 (**Exhibit F**). On May 18, 2023, notice of the rezone was mailed to property owners within 300 feet of the proposed site (**Exhibit D**). The open record public hearing took place before the City of Ellensburg's Hearings Examiner on July 10, 2023.

1. Environmental (SEPA) Review

The applicant submitted the required SEPA checklist for review, which was processed as follows:

SEPA Checklist Submitted:	10/11/21; add. info 10/28/21
Determination of Completeness:	11/3/21
Notice to property owners:	01/14/22
SEPA Threshold Determination	04/19/23

Community Development received multiple agency and public comments during the comment period. The full comment letters are provided in **Exhibit J** of the review materials.

Community Development reviewed the comments received and the applicants' responses and drafted conditions to mitigate environmental impacts.

A SEPA **Mitigated Determination of Non-Significance (MDNS)** was issued on April 19, 2023 (**Exhibit G**), for the non-project site specific rezone. No appeals were filed.

Previous Council Action:

None

Analysis:

A. Ellensburg City Code Requirements for Site-Specific Rezone

Per Ellensburg City Code, site-specific rezone applications are subject to the Type IV review process, and the Hearings Examiner provides a recommendation to City Council after holding an open record public hearing.

The criteria for consideration of a site-specific rezone are set forth in ECC 15.250.060(C). The applicant has the burden of establishing that all of the following criteria apply to the proposed rezone:

1. Conditions have changed since the imposition of the zoning classification on the property;
2. The proposed rezone bears a substantial relationship to the public health, safety, morals, and general welfare;
3. The proposed rezone is consistent with the comprehensive plan;
4. The proposed rezone to a particular zoning district shall be consistent with the development standards in the Land Development Code for the zoning district.

B. Analysis of Criteria for a Site-Specific Rezone

The applicant has submitted an application **Exhibit H** with a narrative **Exhibit I** addressing the rezone criteria found in ECC 15.250.060(C). The applicant seeks Residential High (R-H) zoning to construct a 73-unit apartment complex. The information submitted by the applicant is followed by staff analysis.

1. Conditions have changed since the imposition of the zoning classification on the property.

Applicant narrative: *The conditions of the property and land use needs have changed dramatically since the last update to its zoning two decades ago. The City has expanded rapidly and as the area of the site has experienced infill of higher density rental developments with more needed with single family developments going elsewhere in town.*

Staff analysis: In 2011, the City of Ellensburg adopted Ordinance 4598 which created a split zone on parcel (712733). Rezoning this property to Residential-High (R-H) would eliminate this split zoned parcel which is in the interest of the City. Parcel 652733 is zoned Residential Suburban and borders parcel 712733 along its southern boundary line. The City of Ellensburg has experienced a housing shortage since the last zoning map update, particularly missing middle housing which often requires higher density to accomplish. The

site-specific rezone request for Residential High (R-H) zoning is consistent with the Urban Neighborhood land use designation.

2. The proposed rezone bears a substantial relationship to the public health, safety, morals, and general welfare.

Applicant narrative: *The rezone is critical to the area as the current as it will allow for the higher density development that the City has acknowledged is required to help alleviate the housing shortage of the town. With development thus encouraged on the site there will be more incentive for a project will trigger the remaining improvement of Idaho Ave as well as sidewalk improvements along Airport Rd assisting in the traffic and pedestrian flow from the growing population to the north commuting south into town.*

Staff analysis: The rezone of parcels 712733 and 652733 to a Residential High (R-H) zoning designation will allow for higher density residential development. The City of Ellensburg's Housing Action Plan, adopted by Ordinance in October of 2021, describes a need for higher density development to meet the projected housing needs through 2037. The residential structure will conform with Ellensburg City Code and will meet the goal encouraging opportunities for infill as supported by the comp plan without increasing an unexpected demand on utilities and services. This will support the public health, safety, and general welfare of the community by reducing pressures on the low housing supply options.

3. The proposed rezone is consistent with the comprehensive plan.

Applicant narrative: *The parcel is in the Urban Neighborhood area portion of the Future Land Use Map on page 29 of the Comprehensive Plan. The Residential High-Density zone is intended for the Urban Neighborhood area type shown stated in ECC 15.300.040(D).*

Staff analysis: The current comprehensive plan future land use designation for this parcel is Urban Neighborhood, which is consistent with the rezone request to residential High density (R-H) (**EXHIBIT C**).

4. The proposed rezone to a particular zoning district shall be consistent with the development standards in the LDC for the zoning district.

Applicant narrative: *ECC 15.300.040(A) additionally implies that RS is not an allowable zone the Urban Neighborhood use area. RS is also an inconsistent zone as it is for "areas characterized predominantly by single-family dwellings," while the area around the site is predominantly larger scale multifamily developments which is what the RH zone is intended for. The neighboring parcel to the south is zoned RH with a mid-rise apartment building on and so rezoning the parcel in question would create consistency in the neighborhood.*

Staff analysis: The current comprehensive plan future land use designation for this parcel is Urban Neighborhood, which is consistent with the rezone request to residential high density (R-H) pursuant to ECC 15.300.040(D)(4)(a) (**EXHIBIT C**).

Based on the assessment above, staff finds the proposal to be consistent with the rezone evaluation criteria found in ECC 15.25.060.

In addition, staff finds the request for Residential High (R-H) zoning to be in keeping with the following goals, policies and programs of the current Comprehensive Plan:

Goal LU-1, “Encourage development that creates a variety of housing, shopping, entertainment, recreation, gathering spaces, employment, and services that are accessible to neighborhoods.”

Policy B, “Integrate new development with consideration to design and scale that complements existing neighborhoods and provides effective transitions between different uses and intensities.”

Residential High-Density Zone (R-H). Pursuant to ECC15.300.040(D), the R-H zone is intended to comprise areas for high density multifamily residential development in areas served by transit and within walking distance from commercial services. This zone is appropriate for any of the following or combination thereof:

- a. Areas designated blended residential neighborhood, urban neighborhood, or community mixed-use in the comprehensive plan;
- b. Areas characterized by multifamily buildings;
- c. Areas adjacent to commercial zoned property;
- d. Areas located along corridors served by transit.

The applicant seeks Residential High Density (R-H) zoning to be able to construct a multifamily complex. Adjacent parcels to the south already contain multifamily structures. The applicant will be responsible for meeting all development standards under the Land Development Code.

Staff finds the proposal to be consistent with the criteria outlined in 15.250.060 pertaining to rezones.

Hearings Examiner:

On July 10, 2023, the application was presented to the City of Ellensburg’s Hearings Examiner at an open-record public hearing. No public testimony was given at the hearing and the Hearings Examiner issued a recommendation of approval on July 12, 2023, as presented by staff. Due to incorrect identification of ownership in the July 12, 2023 recommendation, the Hearings Examiner reissued the Recommended Findings of Fact, Conclusions of Law, Decision and Conditions of Approval on August 17, 2023, correcting the ownership section (**Exhibit 1**).

Financial Impact:

Budget Adjustment: No

Attachments:

1. Exhibit 1 - P21-132 HE Recommended Findings of Fact, Conclusions of Law, Decision and Conditions of Approval (1)
2. Exhibit A - P21-132 Location Map

3. Exhibit B - P21-132 Zoning Map
4. Exhibit C - P21-132 Future Land Use Map
5. Exhibit D - P21-132 Affidavit of Mailing and Buffer Map
6. Exhibit E - P21-132 Affidavit of Publication
7. Exhibit F - P21-132 Affid of Post Rezone
8. Exhibit G - P21-131 Signed MDNS
9. Exhibit H - P21-132 Application
10. Exhibit I - P21-132- Narrative
11. Exhibit J - P21-131 SEPA Comments
12. Exhibit K - Applicant Project Site Plan
13. Exhibit L - Returned Mailers
14. Exhibit M - Staff Report for HE
15. P21-132 Attachment - Ord 4924 1st Reading

**CITY OF ELLENSBURG
LAND USE HEARING EXAMINER**

IN THE MATTER OF P 21-132 Stalder	))))	CORRECTED RECOMMENDED FINDINGS OF FACT, CONCLUSIONS OF LAW, DECISION AND CONDITIONS OF APPROVAL
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THIS MATTER having come on for hearing in front of the City of Ellensburg Hearing Examiner on July 10, 2023, the Hearing Examiner having taken evidence hereby submits the following Recommended Findings of Fact, Conclusions of Law, and Decision and Conditions of Approval as follows:

I. RECOMMENDED FINDINGS OF FACT

1. The applicants seek to rezone the subject properties from Residential Suburban (R-S) and Residential Medium (R-M) to Residential High (R-H) for the purpose of developing a multifamily multiple building complex. A State Environmental Policy Action (SEPA) Determination of Mitigated Non-Significance (MDNS) was issued for the parcels on April 19, 2023 for the site specific rezone.
2. The applicants and the property owners are Harper 29th LLC (Parcel No. 712733) and Justin Bergener (Parcel No. 652733).
3. The parcels are located on the east side of Airport Road at the intersection with Idaho Street, in Ellensburg. Kittitas County Assessor's Parcel ID# 652733 and 712733 and addressed as 2307 and 2249 N. Airport Road.
4. Parcel No. 652733 is in the Residential-Suburban zone and is currently developed with a single-family dwelling that is proposed to be demolished. Parcel No. 712733 is a split zoned parcel. About ¾ of the parcel is already zoned Residential-High with the remaining 1/3 of the parcel in the Residential-Medium zone. The proposal would be to develop the site with two multistory multifamily buildings. The properties are bordered by Residential-Suburban zoning to the north and west and Residential-High zoning to the south. The properties are bordered to the east by an unincorporated island with a future land use designation of Urban Neighborhood.
5. The site topography is relatively flat. Parcel No. 712733 currently contains a multifamily development established in 2020. Parcel No. 652733 contains a single-family dwelling which will be demolished according to the plans submitted.
6. The zoning of the surrounding properties is further described below:

North: The properties to the north are zoned Residential Suburban and consist of single-family dwellings on properties ranging in size from 1.84 and 2.70 acres.

South: The properties to the south are zoned Residential-Suburban, Residential-Medium and Residential-High and consist of single-family dwellings and multifamily dwellings.

East: The properties to the east are within an unincorporated island.

Rezone P21-132
Stalder
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West: The properties to the west are zoned Residential-Suburban (R-S) and consist of single-family dwellings.

7. Access to the property is from Airport Rd, an existing minor arterial.
8. Zoning and Development Standards, ECC Title 15: Ellensburg City Code (ECC) Table 15.310.040, Dwelling, Multifamily – indicates that multifamily dwellings are permitted in the Residential-High zone.
9. Comprehensive Plan Designations: Both parcels are designated Urban Neighborhood which accommodates a range of housing types from small lot single dwellings to Large-scale multistory, multi-dwelling developments. This future land use designation accommodates areas close to the University Campus and allows for residential high-density zoning. The Urban Neighborhood designation is consistent with all adjacent parcels.
10. Community Development issued a notification of application on May 18, 2023, initiating a 21-day comment period which concluded on June 8, 2023. The City of Ellensburg Public Works Department submitted comments on June 2, 2023, stating that future development applications will require consistency with Public Works development standards.
11. Notice of the open record public hearing was published in the legal section of the Daily Record on May 18, 2023, and the site was posted with a land use action signs on May 11, 2023. On May 18, 2023, notice of the rezone was mailed to property owners within 300 feet of the proposed site. Three public comments were received. Community Development received multiple agency and public comments during the comment period. Community Development reviewed the comments received and the Applicants' responses and the Hearing Examiner has set conditions to mitigate environmental impacts.
12. The applicant submitted the required SEPA checklist for review, which was processed as follows:

SEPA Checklist Submitted:	10/11/21; add. info 10/28/21
Determination of Completeness:	11/3/21
Notice to Property owners:	01/14/22
SEPA Threshold Determination	04/19/23

13. A SEPA Mitigated Determination of Non-Significance (MDNS) was issued on April 19, 2023 for the non-project site specific rezone. The MDNS was not appealed.
14. Ellensburg City Code Requirements for Site-Specific Rezone: Per Ellensburg City Code, site-specific rezone applications are subject to the Type IV review process, and the Hearing Examiner provides a recommendation to City Council after holding an open record public hearing. To recommend approval, the Hearing Examiner must find that the application is in compliance with the decision criteria in ECC 15.250.060.
 - 14.1 The criteria for consideration of a site-specific rezone are set forth in ECC 15.250.060(C). The applicant has the burden of establishing that all the following criteria apply to the proposed rezone:
 - 14.1.1. Conditions have changed since the imposition of the zoning classification on the property;
 - 14.1.2. The proposed rezone bears a substantial relationship to the public health, safety, morals, and general welfare;
 - 14.1.3. The proposed rezone is consistent with the comprehensive plan;

Rezone P21-132
Stalder
Page 2 of 6

- 14.1.4. The proposed rezone to a particular zoning district shall be consistent with the development standards in the Land Development Code for the zoning district.
15. Analysis of Criteria for a Site-Specific Rezone. The applicant submitted an application with a narrative addressing the rezone criteria found in ECC 15.250.060(C). The applicant seeks Residential High (R-H) zoning in order to construct a 73-unit apartment complex. The information submitted by the applicant is followed by the Hearing Examiner's analysis. All are recommended findings of the Hearing Examiner.
- 15.1 Conditions have changed since the imposition of the zoning classification on the property.
- 15.1.1 The conditions of the property and land use needs have changed dramatically since the last update to its zoning two decades ago. The City has expanded rapidly and as the area of the site has experienced infill of higher density rental developments with more needed with single family developments going elsewhere in town.
- 15.1.2 In 2011, the City of Ellensburg adopted Ordinance 4598 which created a split zone on parcel (712733). Rezoning this property to Residential-High (R-H) would eliminate this split zoned parcel which is in the interest of the City. Parcel 652733 is zoned Residential Suburban and borders parcel 712733 along its southern boundary line. The City of Ellensburg's has experienced a housing shortage since the last zoning map update, particularly missing middle housing which often requires higher density to accomplish. The site-specific rezone request for Residential High (R-H) zoning is consistent with the Urban Neighborhood land use designation.
- 15.2 The proposed rezone bears a substantial relationship to the public health, safety, morals, and general welfare.
- 15.2.1 The rezone is critical to the area as the current as it will allow for the higher density development that the City has acknowledged is required to help alleviate the housing shortage of the town. With development thus encouraged on the site there will be more incentive for a project will trigger the remaining improvement of Idaho Ave as well as sidewalk improvements along Airport Rd assisting in the traffic and pedestrian flow from the growing population to the north commuting south into town.
- 15.2.2 The rezone of parcels 712733 and 652733 to a Residential High (R-H) zoning designation will allow for higher density residential development. The City of Ellensburg's Housing Action Plan, adopted by Ordinance in October of 2021, describes a need for higher density development to meet the projected housing needs through 2037. The residential structure will conform with Ellensburg City Code and will meet the goal encouraging opportunities for infill as supported by the comp plan without increasing an unexpected demand on utilities and services. This will support the public health, safety, and general welfare of the community by reducing pressures on the low housing supply options.
- 15.3 The proposed rezone is consistent with the Comprehensive Plan.
- 15.3.1 The parcel is in the Urban Neighborhood area portion of the Future Land Use Map on page 29 of the Comprehensive Plan. The Residential High-Density zone is intended for the Urban Neighborhood area type shown stated in ECC 15.300.040(D).

- 15.3.2 The current comprehensive plan land use designation for this parcel is Urban Neighborhood, which is consistent with the rezone request to residential High density (R-H).
- 15.4 The proposed rezone to a particular zoning district shall be consistent with the development standards in the LDC for the zoning district.
 - 15.4.1 ECC 15.300.040(A) additionally implies that RS is not an allowable zone the Urban Neighborhood use area. RS is also an inconsistent zone as it is for “areas characterized predominantly by single-family dwellings,” while the area around the site is predominantly larger scale multifamily developments which is what the RH zone is intended for. The neighboring parcel to the south is zoned RH with a mid-rise apartment building on and so rezoning the parcel in question would create consistency in the neighborhood.
 - 15.4.2 The current comprehensive plan land use designation for this parcel is Urban Neighborhood, which is consistent with the rezone request to residential High density (R-H).
 - 15.4.3 Based on the assessment above, the Hearing Examiner finds the proposal to be consistent with the rezone evaluation criteria found in ECC 15.25.060.
- 15.5 In addition, the Hearing Examiner finds the request for R-H zoning to be in keeping with the following goals, policies and programs of the Comprehensive Plan:
 - 15.5.1 Goal LU-1, “Encourage development that creates a variety of housing, shopping, entertainment, recreation, gathering spaces, employment, and services that are accessible to neighborhoods.”
 - 15.5.2 Policy B, “Integrate new development with consideration to design and scale that complements existing neighborhoods and provides effective transitions between different uses and intensities.”
 - 15.5.3 Residential High-Density Zone (R-H). The R-H zone is intended to comprise areas for high density multifamily residential development in areas served by transit and within walking distance from commercial services. This zone is appropriate for any of the following or combination thereof:
 - 15.5.3.1 Areas designated blended residential neighborhood, urban neighborhood, or community mixed-use in the comprehensive plan
 - 15.5.3.2 Areas characterized by multifamily buildings
 - 15.5.3.3 Areas adjacent to commercial zoned property
 - 15.5.3.4 Areas located along corridors served by transit
- 15.6 The applicant seeks Residential High Density (R-H) zoning to be able to construct a multifamily complex. Adjacent parcels to the south already contain multifamily structures. The applicant will be responsible for meeting all development standards under the Land Development Code.
- 16. The Hearing Examiner finds the proposal to be consistent with the criteria outlined in 15.250.050 pertaining to rezones.
- 17. An open record public hearing was held on July 10, 2023.
- 18. The following exhibits were admitted into the record:
 - 20.1 Exhibit A - Location Map
 - 18.2 Exhibit B - Zoning Map

- 18.3 Exhibit C - Future Land Use Map
 - 18.4 Exhibit D - Affidavit of Mailing
 - 18.5 Exhibit E - Affidavit of Publication
 - 18.6 Exhibit F - Affidavit of Posting
 - 18.7 EXHIBIT G - SIGNED MDNS
 - 18.8 Exhibit H - Application
 - 18.9 Exhibit I - Narrative
 - 18.10 Exhibit J - SEPA Comments
 - 18.11 Exhibit K - Applicant Project Site Plan
 - 18.12 Exhibit L - Returned Mailers
 - 18.13 Exhibit M - Staff Report
19. Appearing and testifying was Matt Stalder. Mr. Stalder testified that he was the agent for the property owners/applicants and that he had authority to testify on their behalf. Mr. Stalder agreed with all representations in the staff report and that the proposed Condition of Approval was acceptable.
20. No member of the public appeared at the hearing.
21. The proposal is appropriate in design, character and appearance with the goals and policies for the land use designation in which the proposed use is located.
22. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

II. RECOMMENDED CONCLUSIONS OF LAW

- 1. The Hearing Examiner has been granted authority to render this recommended Decision.
- 2. As conditioned, the proposed rezone is consistent with the intent, purposes and regulations of the City of Ellensburg Municipal Code and Comprehensive Plan.
- 3. As conditioned, this proposal does comply with Comprehensive Plan, the Shoreline Master Program, the zoning code and other land use regulations, and SEPA.
- 4. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

III. RECOMMENDED DECISION

The Hearing Examiner found the proposal to be consistent with the criteria outlined in 15.250.060 pertaining to rezones. The Hearing Examiner recommends approval of the rezone request, from Residential Suburban (R-S) and Residential Medium (R-M) to Residential High (R-H) for the purpose of developing a multifamily multiple building complex on parcels 652733 and 712733, to the City Council pursuant to the Recommended Condition of Approval below.

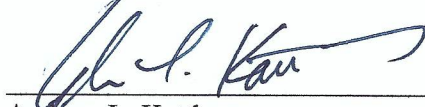
IV. RECOMMENDED CONDITION OF APPROVAL

- 1. The applicant shall adhere to any requirements related to any future development approvals, including meeting all requirements of utility providers, City departments, and affected districts, as outlined in adopted City Codes and other regulatory documents.

Rezone P21-132
Stalder
Page 5 of 6

Dated this 17th day of August, 2023.

CITY OF ELLENSBURG HEARING EXAMINER

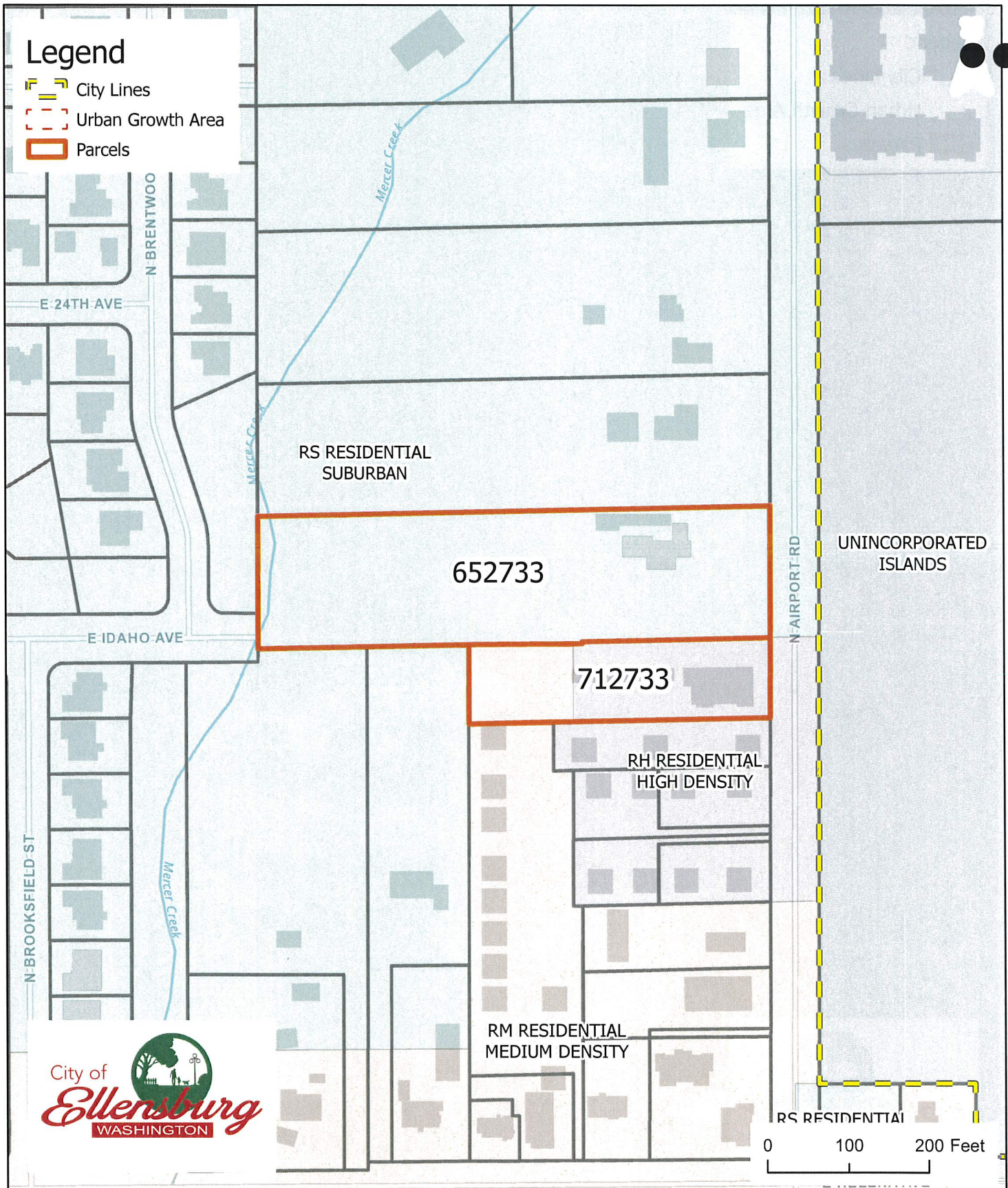
A handwritten signature in blue ink, appearing to read "A. L. Kottkamp", is written over a horizontal line.

Andrew L. Kottkamp

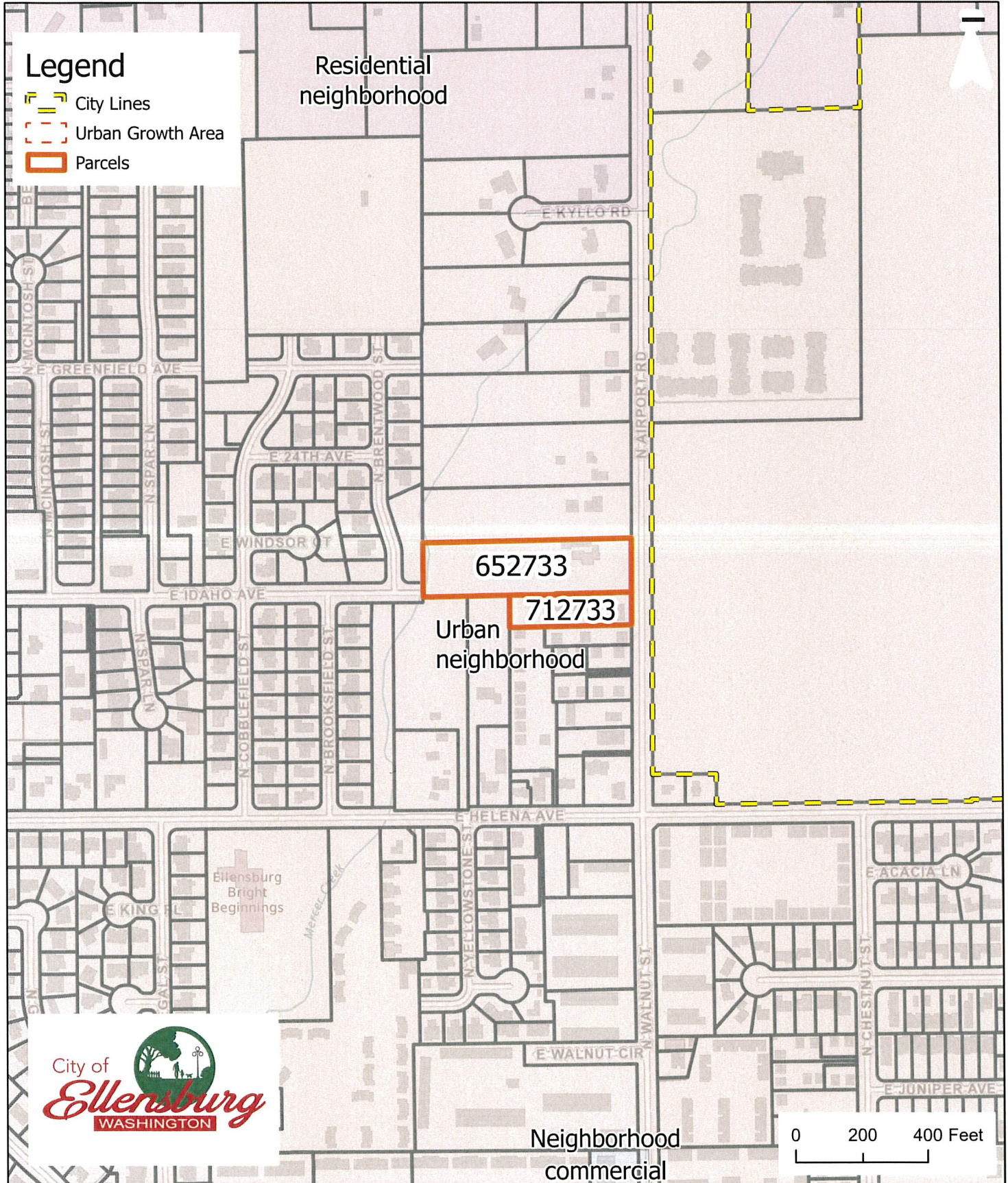
Parcel Location



Current Zoning Map



Future Land Use Map



BRENTWOOD HOME OWNERS ASSOCIATION 311 W 12TH AVE ELLENSBURG, WA 98926-2413	KITTITAS CO HOUSING AUTHORITY 107 W 11TH ST ELLENSBURG, WA 98926	MCGEE, COREY S & ALLISON MARIE VAN SICKLE 39802 SE WALNUT ST SNOQUALMIE, WA 98065-9563
THOMAS, JOEL M ETUX 19917 N WENAS RD SELAH, WA 98942-9166	BOE INVESTMENTS LLC 1851 DRY CREEK RD ELLENSBURG, WA 98926-6535	HARPER CAMBRIDGE LLC 18919 S TAPPS DR E LAKE TAPPS, WA 98391-8969
HEUKER, DONNA W PO BOX 725 CARSON, WA 98610-0725	EMERICH, SALLY 2313 AIRPORT RD ELLENSBURG, WA 98926-9331	KITTITAS CO (PUBLIC WORKS) 411 N RUBY ST STE 1 ELLENSBURG, WA 98926-6300
ANDARC LLC 311 W 12TH AVE ELLENSBURG, WA 98926-2413	MARTINEZ, VICTOR ETUX 1025 W UNIVERSITY WAY ELLENSBURG, WA 98926-2326	SMITH, JASON W & TERESA L 2514 CARRIAGE LOOP ELLENSBURG, WA 98926-5458
JOHNSTON PROPERTIES HELENA LLC 1211 N VUECREST ELLENSBURG, WA 98926-9576	WENG, JEAN XU 16809 246TH AVE NE WOODINVILLE, WA 98077-7575	SULLIVAN ROWELL PROPERTIES LLC 963 SW SIMPSON AVE STE 110 BEND, OR 97702-3487
SHISSLER, DAN & 2501 N AIRPORT RD ELLENSBURG, WA 98926	SILVERWOOD APARTMENTS LLC 120 SORENSON RD ELLENSBURG, WA 98926-5267	PAUL, MICHAEL & REBECCA 2210 N BROOKFIELD ST ELLENSBURG, WA 98926-4219
WOODS, JOHN C ETUX 2303 BRENTWOOD ST ELLENSBURG, WA 98926	BERGENER, JUSTIN & CELISE 1887 WHITNEY MESA DR HENDERSON, NV 89014-2069	ELLSWORTH, SHARON & ROBERT 1601 NW 73RD ST SEATTLE, WA 98117-5557
MILLER, JORDAN 601 E HELENA AVE ELLENSBURG, WA 98926-2054	FADDEN, THOMAS & HEATHER 4506 221ST PL SW MOUNTLAKE TERRACE, WA 98043-5982	MOHS, LAURIE A 2305 N BRENTWOOD ST ELLENSBURG, WA 98926-4227
OBRIEN, DONALD J ETUX 501 E HELENA ST ELLENSBURG, WA 98926	LAUB, JOSEPH MICHAEL 120 SORENSON RD ELLENSBURG, WA 98926	BARR, RAYMOND A 2214 N BROOKSFIELD ST ELLENSBURG, WA 98926-4219
CUPP, CODY W 406 E 24TH AVE ELLENSBURG, WA 98926-2524	M&D RENAISSANCE DEVELOPMENT LLC 12622 PINE ST GARDEN GROVE, CA 92840-5233	BLUE AGATE APARTMENTS LLC 2001 N WALNUT ST STE 195 ELLENSBURG, WA 98926-2181

P21-132 712733
652733
CERTIFICATE OF TRANSMITTAL

On this day, the undersigned sent to
the addressee(s) the original
document(s) by U.S. Mail.

I certify under penalty of perjury
under the laws of the State of WA
that the forgoing is true and correct.

Date 5/11/23

Signed

Kathy Boots



COMMUNITY DEVELOPMENT DEPARTMENT

501 N. Anderson St., Ellensburg WA 98926

Land Use Permitting (509) 962-7231 Construction Permitting (509) 962-7239

Charles Doan, Interim Director

Phone: (509) 962-7232 Fax: (509) 925-8655 E-Mail: doanc@ci.ellensburg.wa.us

May 18, 2023

RE: Notice of Application and Open Record Public Hearing for a Site-Specific Rezone Application, case # P21-132, submitted by Matt Stalder, Agent for Property Owner

Dear Property Owner,

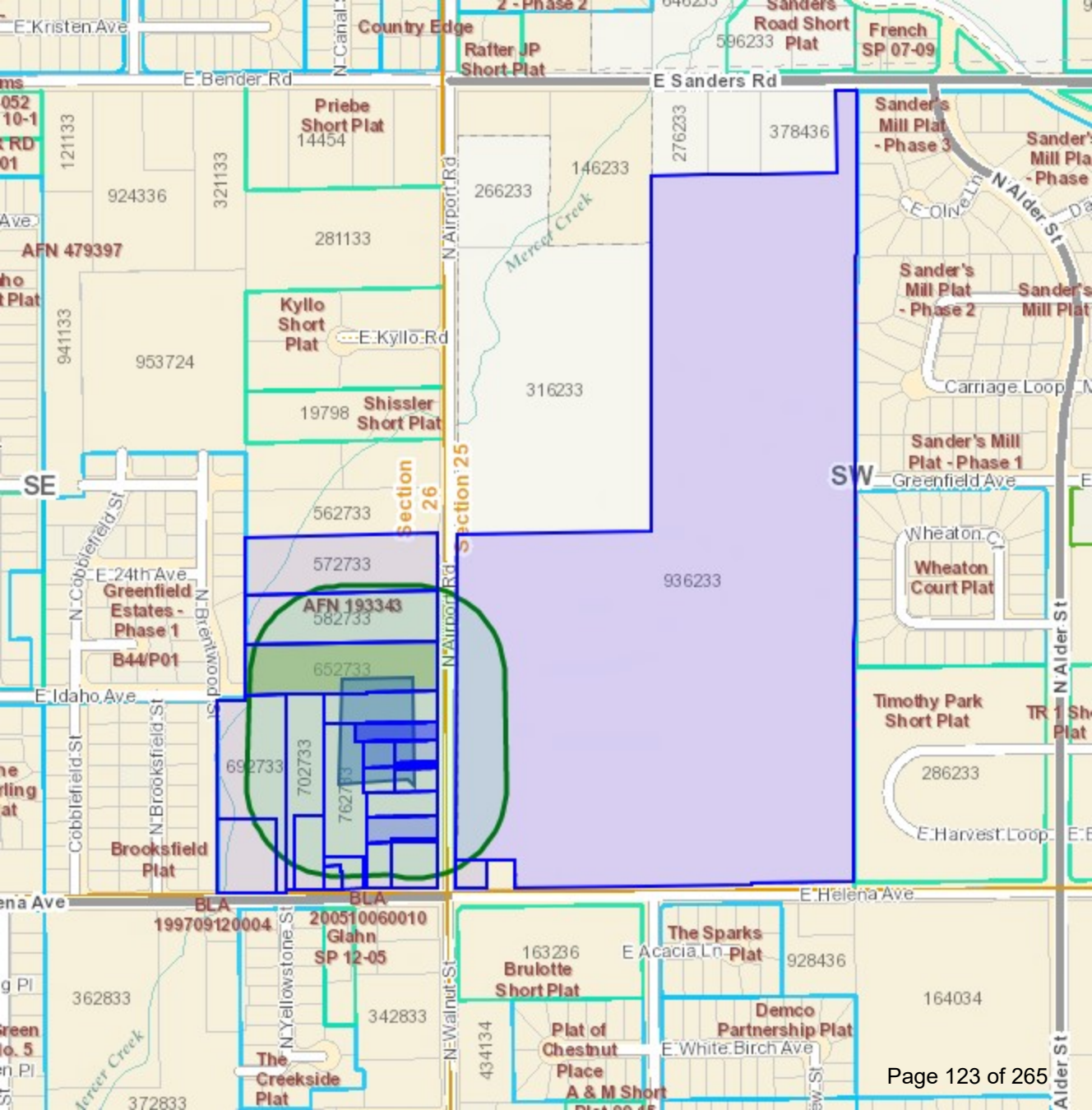
NOTICE IS HEREBY GIVEN that an application has been received from Matt Stalder to rezone parcel numbers 652733 and 712733 at 2307 and 2249 N Airport Rd. Parcel 652733 is currently zoned Residential Suburban (R-S) and parcel 712733 is split zoned between Residential Medium, (R-M) and Residential High Density (R-H). The application proposes rezoning both parcel to Residential High Density (R-H). The comment period is 21 **calendar days** beginning on the day following the date of notice of application. The Community Development Department must **receive all public comments** on the notice of application **by 5:00pm on Thursday, June 8, 2023**. Comments may be mailed, emailed, faxed, or personally delivered.

The original application was received on October 11, 2021, and determined complete on November 5, 2021. The notice of application and public hearing will be published in the Daily Record on May 18, 2023. A SEPA Determination of Non-significance (MDNS) for the rezone was issued on April 19, 2023.

NOTICE IS ALSO HEREBY GIVEN that an **Open Record Public Hearing** has been scheduled before the Ellensburg Hearing Examiner for **Monday, July 10, 2023 at 4:00 pm** to consider Rezone Application, P21-132. The hearing will be held both in person and remotely via Zoom.

Project Location: The parcels are located at located at 2307 and 2249 N Airport Rd, Kittitas County Assessor's Parcel Number 652733 and 712733.

Materials Available for Review: The submitted application and file documents may be examined by the public by visiting the **City of Ellensburg Community Development Department webpage** at <https://www.ci.ellensburg.wa.us/623/Public-NoticesCurrent-Projects>.



PROFORMA INVOICE

401 N Main St.
 Ellensburg, WA 98926
 Ph. (509) 204-8250 Fax: (907) 452-5054

BILLING DATE:	ACCOUNT NO:
05/17/23	50080

CITY OF ELLENSBURG-CITY CLERK
 501 N. ANDERSON
 ELLENSBURG, WA 98926

AD #	DESCRIPTION	START	STOP	TIMES	AMOUNT
373685	NOTICE OF APPLICATIO	05/18/23	05/18/23	2	\$99.25

**Payments:**

Date	Method	Card Type	Last 4 Digits	Check	Amount
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Discount: \$0.00
 Surcharge: \$0.00
 Credits: \$0.00

Gross: \$99.25
 Paid Amount: \$0.00

Amount Due: \$99.25

We Appreciate Your Business!

AFFIDAVIT OF PUBLICATION

State of Washington, County of Kittitas, ss: The undersigned being first duly sworn on oath, deposes and says: That he/she is the representative of The Daily Record, a daily newspaper. That said newspaper is a legal newspaper and has been approved as a legal newspaper by order of the superior court in the County in which it is published and it is now and has been for more than six months prior to the date of the publications hereinafter referred to, published in the English language continually as a newspaper in Ellensburg, Kittitas County, Washington, and it is now and during all of said time printed in an true copy of

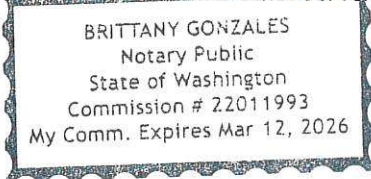
CITY OF ELLENSBURG-CITY CLERK
N/APPLICATION & PUBLIC HEARING P21-132

is published in regular issues (and not in supplement form) of said newspaper once a week for a period of 1 consecutive week(s), commencing on the following days.

05/18/23

All dates inclusive and that such newspaper were regularly distributed to its subscribers during all of said period. That the full amount of the fee charged for the foregoing publication is the sum of \$99.25 the rate of \$9.00 per column inch for each insertion.

Subscribed to me this date: 05/18/23



Printed Name
Notary Public in and for
The State of Washington
(SEAL)

Brittany Gonzales
Signed Name

Legals

NOTICE OF APPLICATION AND PUBLIC HEARING
REZONE REQUEST

NOTICE IS HEREBY GIVEN that the Hearing Examiner for the City of Ellensburg will hold an open record public hearing at 4:00 pm on Monday, July 10, 2023, to consider a Rezone application (P2-1-132) submitted by Matt Stalter, Agent for Justin Bergener and Harper 20th Ave LLC, property owners. The Rezone request is for two properties identified by Parcel ID # 712733 and 652733, addressed as 2307 and 2246 N Airport Rd., Ellensburg. The applicant seeks to have both parcels rezoned from Residential Suburban (R-S) and Residential Medium (R-M) to Residential High (R-H).

NOTICE IS FURTHER GIVEN that all persons interested in these matters may attend in person or remotely. Written comments may be filed with the Community Development Dept. City Hall, 501 N. Anderson St., Ellensburg, WA 98926, attention: Planning Manager Jeremy Johnson, or to his email: johnsonj@ci.ellensburg.wa.us. Comments must be submitted in writing by 5:00 pm on Thursday, June 8, 2023 in order to be included in the staff report provided to the Hearing Examiner in advance of the hearing. Any comments received after this date and time will be provided to the Hearing Examiner at the meeting itself.

The City of Ellensburg strives to make our meetings and activities readily accessible by individuals with disabilities. Please furnish your request in sufficient time for the City to provide a reasonable accommodation. A "Request for Accommodation" form may be obtained from the City Clerk (First Floor - City Hall) or by calling 509-925-9814.

PUBLISH: Daily Record: May 18, 2023 / LEGAL #: 373885

Public Notice
Kittitas County, Ellensburg WA

This call for sealed bids is for the replacement of the scales at the Cle Elum Transfer Station located at 50 Number 5 Mine Rd., Cle Elum, WA. Bids are due by June 1, 2023 at 2:30pm, at 205 W. 5th Ave., #108, Ellensburg WA 98926, at which time bids will no longer be accepted. Bids will be opened at 205 W. 5th Ave in the Commissioners Auditorium on June 1, 2023 at 2:30pm.

Specifications may be seen at the office of the Board of Commissioners and online at <http://www.co.kittitas.wa.us/notices/>.

Julie Kjosvick
Clerk of the Board

PUBLISH: Daily Journal of Commerce: May 18 & 25, 2023

PUBLISH: Daily Record: May 18 & 25, 2023 / LEGAL #: 373863

Public Notice
Kittitas County, Ellensburg WA

The Board of Kittitas County Commissioners will meet at 10:30 am on May 31, 2023, at the Kittitas County Courthouse, 205 West 5th Ave., Room 109 Ellensburg, WA to review community development and housing needs, inform citizens of the availability of funds and eligible uses of the state Community Development Block Grant (CDBG) and receive comments on proposed activities particularly from lower income persons residing in the Kittitas County area.

Up to \$2,000,000.00 may be available to Kittitas County on a statewide competitive basis to fund public facility, community facility, economic development, planning and affordable housing projects that principally benefit low-and moderate-income persons.

An outline of the proposed projects will be available at the Kittitas County Commissioners Office at <https://www.co.kittitas.wa.us/boc/meetings.aspx>

The Kittitas County Board of Commissioners Auditorium is handicap accessible. Arrangements to reasonably accommodate special needs, including handicap accessibility or interpreter, will be made upon receiving 24-hour advance notice by calling 509-962-7508.

More information is online at <http://www.co.kittitas.wa.us/notices/>.

Julie Kjosvick
Clerk of the Board

PUBLISH: North Kittitas County Tribune: May 18, 2023

PUBLISH: Daily Record: May 18 & 25, 2023 / LEGAL #: 373752

Legals

Public Notice
Kittitas County, Ellensburg WA

The Board of Kittitas County Commissioners will meet at 2:00 pm on June 6, 2023 in the Commissioner's Auditorium, 205 West 5th Avenue, Room 109, Ellensburg, WA to consider Amending KCC Chapter 14.04 and Title 20 to Adopt the 2021 International Building Codes with Washington State Amendments and Referenced Standards.

More information is online at <http://www.co.kittitas.wa.us/notices/>.

Julie Kjosvick
Clerk of the Board

PUBLISH: North Kittitas County Tribune: May 18 & 25, 2023

PUBLISH: Daily Record: May 18 & 25, 2023 / LEGAL #: 373844

**Ads with a price ALWAYS
generate more sales!**

Legals

NOTICE OF APPLICATION

Project Name (File Number): Mills-2 Short Plat (SP-23-00002)
Applicant: Amy Mills (Owner), Murray Groening (Authorized Agent)

Location: One parcel (#960738), located approximately .22 miles southeast of the intersection of Dry Creek Road and U.S. 97 in Section 30, T18, R16, W.M., and Section 25, T18, Range 16 W.M., Kittitas County map number 18-18-00054-0001. It is Lot 5A of the previously recorded Mills Short Plat (SP-18-00002 & SP-18-00003).

Proposal: Amy Mills is proposing a 2-lot short plat resulting in one (1) 6.68-acre lot and one (1) 6 acre lot.

Materials Available for Review: The submitted application and related filed documents may be examined by the public on the Community Development Services (CDS) website at <https://www.co.kittitas.wa.us/cds/land-use/default.aspx> then navigate to "Short Plat" & "SP-23-00002 Mills-2" or at the CDS offices at 411 N. Ruby St., Suite 2, Ellensburg, WA 98926 during normal business hours.
Phone: (509) 962-7506

Written Comments on this proposal can be submitted to CDS any time prior to 5:00 p.m. on June 5, 2023. Under Title 16.32, Short Subdivision Requirements are processed in an abbreviated administrative format, which does not involve a public hearing. All comments will be considered in the decision-making process, and any person has the right to comment on this application and receive notification of the Community Development Services administrative decision, once made. Appeals to an administrative land use decision may be filed within 10 working days with Kittitas County Community Development Services as outlined in Chapter 15A.07 of the Kittitas County Code. The current appeal fee is \$1670.

Designated Permit Coordinator (staff planner): Jeremiah Cromie, Contact Planner: (509) 962-7046; email at jeremiah.cromie@co.kittitas.wa.us

Notice of Application: May 18, 2023
Application Received: May 8, 2023
Application Complete: May 12, 2023

PUBLISH: Daily Record: May 18, 2023 / LEGAL #: 372618

CERTIFICATION OF
ORDINANCE ENACTMENT
CITY OF ELLENSBURG, WASHINGTON
501 North Anderson Street
Ellensburg, Washington 98926

The following ordinances were duly and regularly passed by the Ellensburg City Council on May 15, 2023:

ORDINANCE NO. 4909
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELLENSBURG, WASHINGTON ANNEXING PARCELS 744134, 474134, 513634, 503634 TO THE CITY OF ELLENSBURG, WASHINGTON, ASSIGNING RESIDENTIAL LOW ZONING CLASSIFICATION, PROVIDING FOR THE ASSUMPTION OF EXISTING CITY INDEBTEDNESS AND FIXING A TIME WHEN THE SAME SHALL BE EFFECTIVE.

ORDINANCE NO. 4914
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELLENSBURG, WASHINGTON ANNEXING PARCEL 17826 TO THE CITY OF ELLENSBURG, WASHINGTON, ASSIGNING RESIDENTIAL SUBURBAN ZONING CLASSIFICATION, PROVIDING FOR THE ASSUMPTION OF EXISTING CITY INDEBTEDNESS AND FIXING A TIME WHEN THE SAME SHALL BE EFFECTIVE.

ORDINANCE NO. 4916
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELLENSBURG, WASHINGTON RELATING TO CHAPTER 1.88 "DIVERSITY, EQUITY, AND INCLUSION COMMISSION" AND AMENDING SECTION 1.88.010 OF THE ELLENSBURG CITY CODE.

The above ordinances are on file with the undersigned, at the office of the City Clerk, where the same is open to public inspection. A copy of the full text of the ordinances will be mailed upon request.

Beth Leader/City Clerk

PUBLISH: Daily Record: May 18, 2023 / LEGAL #: 373698

Public Notice
Kittitas County, Ellensburg WA

The Board of Kittitas County Commissioners will meet at 2:00pm on June 6, 2023 at the Commissioners Auditorium, 205 West 5th Avenue, Room 109, Kittitas County Courthouse, Ellensburg, WA to consider a Speed Reduction on Thomas Road between Wilson Creek Road and Naneum Road and amend Kittitas County Code Chapter 10.08 Speed Limits on County Roads.

More information is online at <http://www.co.kittitas.wa.us/notices/>.

Julie Kjosvick
Clerk of the Board

PUBLISH: Daily Record: May 18 & 25, 2023 / LEGAL #: 373698

PUBLISH: Daily Record: May 18 & 25, 2023 / LEGAL #: 373698

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PUBLISH: Daily Record: May 18 & 25, 2023 / LEGAL #: 373698

Legals

NOTICE OF APPLICATION

Project File Number: LP-23-00002
Project Name: Tumbling Ridge Plat
Applicant: Tumbling Ridge LLC & Lucky Load LLC

Location: Two tax parcels (952139 and 952140) located approximately .4 miles northwest of the intersection of Bullying Road and I-90 off Jenkins Drive in Section 31, Township 20, Range 15 W.M., Kittitas County. The properties bear Kittitas County Map numbers 20-15-31050-0001 and 20-15-31050-0002. They are Lots 1 & 2 of the Tumbling Ridge Short Plat (SP-06-84).

Proposal: Tumbling Ridge LLC & Lucky Load LLC, submitted an application for a 7-lot plat (sub-division) on 2 parcels totaling 35.4 acres of land. The proposal includes 7 residential lots ranging in size from 5.01 acres to 5.17 acres. The subject properties are currently zoned Rural 5 with a Rural Residential land use designation on parcel 952140 and Mineral Lands on parcel 952139.

Materials Available for Review: The submitted application and related filed documents may be examined on the CDS website at <http://www.co.kittitas.wa.us/cds/land-use/default.aspx> and by navigating to "Long Plats", then the Project File Number under "LP-23-00002 Tumbling Ridge" or in person at 411 N. Ruby St., Suite 2, Ellensburg, WA 98926 during regular business hours. Phone: (509) 962-7506

Written Comments on this proposal can be submitted to CDS any time prior to 5:00 p.m. on Monday, June 5, 2023. Any person has the right to comment on the application and request a copy of the decision once made.

Environmental Review: The County expects to issue a Determination of Non-Significance (DNS) for this proposal and will use the optional DNS process under WAC 197-11-355, meaning this may be the only opportunity for the public to comment on the environmental impacts of the proposal. A copy of the threshold determination may be obtained from the County once made.

Public Hearing: An open record hearing will be scheduled before the Kittitas County Hearing Examiner. A Public Hearing Notice will be issued establishing the date, time, and location of this hearing.

Required Permits: Preliminary and Final Plat approval, SEPA, Grading Permit, Well/Septic permits, potential FPA permit from Department of Natural Resources.

Designated Permit Coordinator (staff contact): Jeremiah Cromie, Staff Planner: (509) 962-7046; email at jeremiah.cromie@co.kittitas.wa.us

Notice of Application: May 18, 2023
Application Received: March 27, 2023
Application Complete: April 18, 2023

PUBLISH: NKCT: May 18, 2023

PUBLISH: Daily Record: May 18, 2023 / LEGAL #: 372602

Notice of SEPA Action
Snoqualmie Pass Utility District
SE-23-00006

NOTICE IS HEREBY given that pursuant to WAC 197-11-355 and RCW 43.21C.030(2)(c), Kittitas County Community Development Services did, on May 18, 2023, issue a Mitigated Determination of Non-Significance (MDNS) on the proposed SEPA application submitted by Snoqualmie Pass Utility District. The applicants are proposing improvements to their Wastewater Treatment Plant. These improvements include expansion of the process building (130' x 64' addition), 30-foot diameter aerobic digester, a 120 foot by 40 foot covered drying bed area, rehabilitation of Lagoon 1 and rehabilitation or decommissioning of Lagoon 2. The project is proposed on a site that is zoned Light Industrial with a portion of Lagoon 2 in Commercial Forest Zoning. The property is located at 932 Hyak Drive East in parcel number 218335 and a portion of parcel 228735 at the end of Hyak Drive East approximately .61 miles southeast of the intersection of Hyak Drive East and I-90.

The lead agency for this proposal has determined that the proposal will not have a probable significant adverse impact on the environment. An Environmental Impact Statement (EIS) is not required under RCW 43.21C and WAC 197-11-355. This decision was made after review of a SEPA environmental checklist, and other information on file with the lead agency. The responsible official finds this information reasonably sufficient to evaluate the environmental impact of this proposal. The complete application file is available to the public on request or may be viewed at Kittitas County Community Development Services at 411 North Ruby Street, Suite 2, Ellensburg, WA 98926, or on the county website, <http://www.co.kittitas.wa.us/cds/land-use/default.aspx> (Miscellaneous SEPA Applications, file number SE-23-00006 Snoqualmie Pass Utility District).

Any action to set aside, enjoin, review, or otherwise challenge such action on the grounds of non-compliance with the provisions of Chapter 43.21C RCW (State Environmental Policy Act) and pursuant to Chapter 15A.07010 KCC, may be appealed by submitting specific factual objections in writing with a fee of \$1670.00 to Kittitas County Community Development Services, 411 North Ruby Street, Suite 2, Ellensburg, WA 98926. Timely appeals must be received no later than 5:00pm, June 2, 2023.

Direct questions regarding this proposal to:

Jeremiah Cromie
411 N. Ruby St., Suite 2
Ellensburg, WA, 98926
509-962-7506
jeremiah.cromie@co.kittitas.wa.us

Date: May 18, 2023

Appeal Period Ends: June 2, 2023

PUBLISH: NKCT Tribune: May 18, 2023

PUBLISH: Daily Record: May 18, 2023 / LEGAL #: 372610



COMMUNITY DEVELOPMENT DEPARTMENT

501 N. Anderson St, Ellensburg WA 98926

Land Use Permitting (509) 962-7231 Construction Permitting (509) 962-7239

Charles Doan, Interim Director

Phone: (509) 962-7232 Fax: (509) 925-8655 E-Mail: doanc@ci.ellensburg.wa.us

AFFIDAVIT OF POSTING

The Ellensburg City Code requires that all Type IV Projects (such as site-specific Rezones) shall have a notice posted at the site of the project. Per ECC 15.220.050, the following shall apply:

1. The posting of a weather-resistant sign posted on the subject property, visible to members of the public who may be passing on nearby public rights-of-way, and free from obstructions.
2. If the project abuts more than one public right-of-way, more than one sign may be required as determined by the responsible official.
3. The responsibility for the posting of the sign shall be upon the project applicant.
4. The sign shall be at least two feet by three feet in size, have a written description of the proposal, include a site drawing which shows the proposed project, have the date listed when comments are due, and where comments are to be mailed.

DATE: May 8, 2023	PLANNER: Jeremy Johnston, Planning Manager
PROJECT NAME: Rezone of Parcels 712733 and 652733, from R-S and R-M to R-H	FILE NUMBER: P21-132

PLEASE COMPLETE THE FOLLOWING:

I, Matt Stalder, certify that I am the landowner and/or authorized agent responsible for the posting of this land use project site and further certify that the site has been posted as required by Ellensburg City Code. I understand that the that the posting period begins immediately and ends after the ending of the appeal period on the final decision by the City Council and the sign(s) will be posted at the site until this time. **Please post the site and return this form to the Community Development Department in a timely manner.**

Signature

5/11

20 23

Date

Please return the above affidavit and a photograph of the posted sign(s) to Jamey Ayling, Planning Manager, by email: johnstonj@ci.ellensburg.wa.us; mail; or deliver to: Community Development Dept., City Hall, 501 N. Anderson St., Ellensburg, WA 98926.







**COMMUNITY DEVELOPMENT DEPARTMENT
501 N. Anderson St., Ellensburg, WA 98926**

**State Environmental Policy Act (SEPA)
MITIGATED DETERMINATION OF NON-SIGNIFICANCE (MDNS)**

Proponent: Matt Stalder, Agent for Owner

Description: A SEPA Environmental Checklist submitted by Matt Stalder, agent for property owner. The checklist is for the proposed new construction of a 73-unit multifamily complex consisting of two separate buildings. One proposed building is 4 stories with a 7,930 sf building footprint, and the other building is 3 stories with a 7,690 sf building footprint. The two proposed buildings and associated 100-105 off-street parking stalls would be located on Parcel ID #652733, at 2307 N Airport Rd, in Residential Suburban (R-S) zoning. Two main access points to the apartments and off-street parking are proposed from Airport Road. The applicant is also proposing a partial rezone of Parcel ID #712733 from split zoned R-H and R-M, to R-H. Mercer Creek runs along the western boundary of Parcel ID #652733. This project will also include construction of street improvements on Airport Road and Idaho Avenue.

Location: This proposed project is located directly west of Airport Rd, and northwest of the intersection of Helena Ave and Airport Rd., Parcel ID #652733 and ID #712733.

Lead Agency: City of Ellensburg

File #: P21-131

The City of Ellensburg acting as lead agency for this proposal, has determined that the proposal, as mitigated, does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public upon request.

The lead agency for this proposal has determined that certain **mitigation measures** shall be necessary in order to issue a Determination of Non-Significance for this proposal. Failure to comply with the mitigation measures herein will result in the issuance of a Determination of Significance (DS) for this project. **The mitigation measures include the following conditions which shall apply based on project specific analysis:**

1. The applicant shall comply with all requirements outlined in the City of Ellensburg Public Works division memo, dated 11/5/2021, regarding roadway and access, water, sewer, stormwater and the TIA.
2. Per the City of Ellensburg Public Works Department memo, dated 11/5/2021, the applicant shall extend Idaho Ave along the southern boundary of the parcel, and construct half street improvements along the Idaho Ave and Airport Rd frontages.
3. Per the City of Ellensburg Public Works Department memo, dated 11/5/2021, the applicant shall provide a larger survey map showing the existing Idaho Street right of way and depicting the horizontal curve in conformance with ASHTO requirements.
4. The applicant shall comply with all requirements outlined in the City of Ellensburg Fire Marshall division memo, dated 11/8/2021, regarding IFC and City of Ellensburg code requirements.
5. Per the request of the Department of Ecology, memo dated 11/15/2021, the applicant shall provide a wetland delineation and rating report, which shall be completed prior to any development of the parcels.
6. Per the request of the Department of Fish and Wildlife (WDFW), memo dated 11/17/2021, the applicant shall work closely with WDFW to obtain any necessary permits throughout the project including HPAs if applicable.
7. The applicant shall comply with all requirements included in the Critical Area Determination, P23-030.
8. The applicant shall develop civil and building plans that address the stormwater requirements of both the City of Ellensburg and the State Department of Ecology. These shall address any potential for flooding as may be required by Ellensburg City Code Chapter 15.630. Such plans shall be approved by City Staff prior to construction.
9. In the event that previously unknown cultural resources or human remains are encountered during the implementation of the project, work in the vicinity of the discovery shall be halted and a professional archaeologist, the Washington State DAHP, and all affected tribes should be consulted before proceeding.
10. Requirements of all City Departments, the Fire District, all utility providers, and affected agencies must be satisfied, as outlined in adopted City Codes and other regulatory documents.
11. If the applicant wishes to add to, or change, the proposed scope of work included in this application, a new SEPA proposal and/or addendum will need to be submitted to address any changes.

This **Mitigated Determination of Non-significance (MDNS)** is issued using the standard MDNS process under WAC 197-11-350.

Responsible Official: Jeremy Johnston
Title: Planning Manager
Address: City of Ellensburg
Community Development Dept.
501 N. Anderson St.
Ellensburg WA 98926
Phone: (509) 962-7653 Fax: (509) 925-8655

Date: 4/19/23 **Signature:**  _____

Appeals: Following the issuance of this MDNS, is a 14-day appeal period. Pursuant to ECC 15.270.200, appeals must be submitted as required by the City of Ellensburg's administrative appeal procedures for Type II permits per ECC 15.230.040(B), and shall be made to the Hearing Examiner and meet all requirements contained in Chapter 15.230 ECC.



Site Specific Rezone Permit Application Form

P21-132
RECEIVED
10/11/2021
COMMUNITY
DEVELOPMENT
PA-04
APPLICATION

Community Development Department

501 N. Anderson, Ellensburg, WA 98926 (509) 962-7239 (Building) (509) 962-7231 (Planning) commdev@ci.ellensburg.wa.us

A pre-application meeting is required prior to submitting a Rezone application. Site-specific rezones to change the current zoning of a property to a new zoning category that is consistent with the comprehensive plan land use designation for the property are reviewed as Type IV processes. Type V reviews involve the legislative revisions to the zoning map for area-wide changes including comprehensive plan updates and those proposed to implement subarea plans.

Application Fee: \$1200 (Pre-App Fee: \$500 may be applied here also)

In addition to the existing application fee, the applicant shall be required to pay a \$600 Hearing Examiner fee. If the Hearing Examiner fee is less than \$600, the difference shall be returned to the applicant. If the Hearing Examiner fee exceeds \$600, the additional cost shall be billed to and paid by the applicant.

The Planning Division will be unable to accept your Rezone Application if you fail to provide ALL of the following required material.

OFFICIAL USE ONLY:

Staff Person:	AW
Date Submitted:	10/11/2021
Fee Total:	\$1800.00
FILE #:	P21-132
Associated Permit File #:	P21-131-SEPA P21-118-PRE-APP

PROPERTY OWNER:	(Note: If the Applicant is not the Owner, attach written authorization from the legal owner(s).)		
Legal Owner Name(s):	Justin Bergener/Airport Apts LLC	Day Phone:	
Mailing Address:			
E-mail:	justinbergener@gmail.com	Cell Phone:	509-307-7365
*APPLICANT:	☐ Owner ☐ Contractor ☐ Tenant ☒ Other Agent		
Name:	Matt Stalder	Day Phone:	
Mailing Address:	2000 Quartz Mtn Dr		
E-mail:	staldermw@gmail.com	Cell Phone:	509-929-4820
CONTACT PERSON:	☐ Owner ☐ Contractor ☐ Tenant ☒ Other Agent		
Name:		Day Phone:	
Mailing Address:			
E-mail:		Cell Phone:	

PROJECT INFORMATION:			
Parcel Number(s) of Site:	652733, 712733		
Site Address (if any):	2307 N Airport Rd, 2249 N Airport Rd		
Current City Zoning Designation :	652733 = RS 712733 = RM RH	Requested City Zoning Designation :	RH

PROJECT INFORMATION:

Ellensburg City Code 15.250.060 requires that application for site specific rezone amendments to the zoning district map may only be approved if/all the following criteria are satisfied. Please include responses as an attachment.

(INCLUDE RESPONSES AS AN ATTACHMENT TO THIS APPLICATION)

1. Narrative project description (include as attachment): Please include at a minimum the following information in your description: describe project size, location, and all qualitative features of the proposal; include every element of the proposal in the description.

2. Applicant for rezone must demonstrate that the following criteria are met (attach additional sheets as necessary):

- A. Conditions have changed since the imposition of the zoning classification on the property.
- B. The proposed rezone bears a substantial relationship to the public health, safety, morals, and general welfare.
- C. The proposed rezone is consistent with the comprehensive plan; and
- D. The proposed rezone to a particular zoning district shall be consistent with the development standards in the LDC for the zoning district. :

Applicants may propose conditions to be imposed on the site specific rezone in order to mitigate any detrimental effect the rezone might have on uses or property in the immediate vicinity of the proposed rezone. Any conditions imposed by the city on the rezone shall be incorporated in a development agreement executed by the city council and the property owners(s), under the procedures set forth in RCW 36.70B.170 through 36.70B.170 through 36.70B.200 and ECC Chapter 15.380 (Development Agreements)

The burden of this demonstration is on the rezone applicant.

3. Site Plan Requirements:

The proposed project and dimensions in relation to the property boundaries. Show how the property is located in reference to existing streets, alleys and sidewalks.

The proposed project and dimensions in relation to all existing and proposed development on the property. Show all existing buildings or structures on subject property and those proposed to be located on property with setback dimensions and distances between buildings.

Show present and additional "off-street" parking, if required.

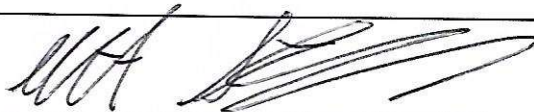
(The site plan shall be legibly drawn to a minimum scale of 1:20 on substantial paper a minimum 11" x 17" size)

SIGNATURE OF LEGAL OWNER or REPRESENTATIVE AS AUTHORIZED BY THE LEGAL OWNER:

I, Matt Stalder, (print name) affirm that the above responses are made truthfully and to the best of my knowledge. I hereby apply for this permit application and acknowledge that I have read this application and state that the information is correct and that I agree to comply with all city ordinances pertaining to this permit if granted.

I further affirm that I am the owner of record of the area proposed for the above-identified land use action or, if not the owner, attached herewithin is written permission from the owner(s) authorizing my actions on his/her/their behalf.

Signature of Legal Owner:
(or Authorized Agent)



Date: 8/31/21

Rezone Application Narrative for 2307 N Airport Rd

1. This application is requesting a site-specific rezone of 2307 N Airport Rd, parcel 652733, from Residential Suburban to Residential High Density. The total site is 2.34 acres on the northwest corner of Airport Rd and future Idaho Ave improvement. The site is relatively flat and with mostly pasture grass and a small single-family house on the east end and Mercer Creek following the west property line. The surrounding land use is high density multifamily buildings to the north and south, single family houses and medium density apartment buildings. The current zoning of R-S is inconsistent with surrounding land use, housing needs and comprehensive plan. In addition, the back half of 2249 N Airport Rd, parcel 712733 is requested to be rezoned from Residential Medium Density to Residential High Density at request of City Staff to eliminate split zoning.
2.
 - A. The conditions of the property and land use needs have changed dramatically since the last update to its zoning two decades ago. The City has expanded rapidly and as the area of the site has experienced infill of higher density rental developments with more needed with single family developments going elsewhere in town.
 - B. The rezone is critical to the area as the current as it will allow for the higher density development that the City has acknowledged is required to help alleviate the housing shortage of the town. With development thus encouraged on the site there will be more incentive for a project will trigger the remaining improvement of Idaho Ave as well as sidewalk improvements along Airport Rd assisting in the traffic and pedestrian flow from the growing population to the north commuting south into town.
 - C. The parcel is in the Urban Neighborhood area portion of the Future Land Use Map on page 29 of the Comprehensive Plan. The Residential High-Density zone is intended for the Urban Neighborhood area type shown stated in ECC 15.300.040(D).
 - D. ECC 15.300.040(A) additionally implies that RS is not an allowable zone the Urban Neighborhood use area. RS is also an inconsistent zone as it is for “areas characterized predominantly by single-family dwellings,” while the area around the site is predominantly larger scale multifamily developments which is what the RH zone is intended for. The neighboring parcel to the south is zoned RH with a mid-rise apartment building on and so rezoning the parcel in question would create consistency in the neighborhood.



CITY OF ELLENSBURG

Public Works Department
501 N. Anderson St., Ellensburg, WA 98926
Ph: (509) 962-7230 Fax: (509) 962-7127

Memorandum

Date: November 5, 2021
To: Stacey Henderson, Senior Planner
From: Craig Jones, Development Coordinator *CJ*
Through: Derek Mayo, City Engineer *DKM*
Re: SEPA for Apartment Buildings – Stalder P21-131

The following are the Public Works SEPA comments for the proposed apartment buildings at the corner of Airport Rd and Idaho Ave.

The applicant can view the City of Ellensburg's Development Standards on the City's website for more information. <http://www.ci.ellensburg.wa.us/index.aspx?NID=339>

At time of civil plan review, Staff will work with the developer's engineer regarding the specific issues related to frontage and utility improvements.

Water:

The water main available to serve this development is an 8" Ductile Iron main that runs in part of the existing Idaho Ave and a 12" Ductile Iron Main that runs in Airport Rd. The 8" main in Idaho Ave will need to be connected between the two existing 8" segments. See attached utility map.

Fire hydrants shall be placed in the proposed development per the Fire Marshal's requirements. Developer's engineer may be required to verify that fire flow capacity will meet the necessary requirements.

Specific issues related to water main and meter locations will be addressed at project civil submittal.

Sewer:

The sewer main available to serve this development is an 8" PVC main stub in the southeast corner of the property at the Idaho Ave extension. The developer will need to extend the 8" sewer main to serve the proposed buildings. See attached utility map.

Specific issues related to sewer main and side sewer construction will be addressed at project civil submittal.

Roadway and access:

This project will trigger the requirement for half street improvements along the Idaho Ave and Airport Rd frontages. The dedication of right of way and construction will need to be done for the future extension of Idaho Ave across the southern portion of the property. Additional right of way will need to be dedicated along Airport Rd to match current development standards.

Depending on Fire hydrant locations and Fire access requirements may alter the street widths. Street improvements include concrete curb/gutter, sidewalks, street lighting, permanent signage, asphalt, asphalt markings, gravel base, storm drainage, and other items associated with minimum public improvements consistent with Public Works Development Standards. The horizontal curve of Idaho St will need to meet ASHTO requirements. A larger survey showing the existing right of way for Idaho Ave will better show how much the road needs to curve. Under the Land Development Code the sidewalks will need to be separated from the curb. Existing power poles may need to be relocated to accommodate these frontage improvements. Adequate access to the interior of the project for the fire department may need to be verified by your engineer. Turning movements for the Fire apparatus may need to be shown on plans to verify adequate access to all portions of the project. Any drive aisles that will be fire lanes need to be posted no parking

Specific issues related to roadway and access construction will be addressed at project civil submittal.

Storm water:

There is no storm system available for a direct discharge. The existing road side ditches will need to be conveyed across the frontages of the property. All storm facilities will need to be designed so they will not be inundated with ground water. Your engineer will need to verify groundwater during peak irrigation season to confirm the project will not be effected by it.

The applicant shall use the current Stormwater Management Manual for Eastern Washington, or approved equivalent for reference in design of stormwater treatment and flow control for post construction requirements for new development and redevelopment. The design shall at a minimum use the following design storms, or as recommended for the proposed BMP, whichever is greater. Treatment shall be designed for the first ½" of rainfall on the property, and storm drainage detention on a 10 year storm event (1.2" of precipitation/24 hours) and retention facilities based on a 25 year storm event (1.6" of precipitation/24 hours). Specific issues related to storm water will be reviewed at time of civil plan submittal.

The applicant's design engineer should determine groundwater elevations in the vicinity of proposed storm water treatment and flow control facilities. The water surface elevation needs to be utilized in the facility designs and should be verified when groundwater is at its highest. Typically the groundwater in the Ellensburg area is elevated from April 15th through October 15th. However, groundwater on the subject site may not be associated with seasonal irrigation and could crest at another time during the year.

The following comments are from the City Stormwater Department;

1. If the site is an acre or greater the developer will need to make Notice of Intent (NOI) with Ecology and apply for a Stormwater General Construction Permit months in advance of construction. <https://ecology.wa.gov/Regulations-Permits/Permits-certifications/Stormwater-general-permits/Construction-stormwater-permit>

2. The Ecology permit requires a Stormwater Pollution Prevention Plan (SWPPP) be submitted with the plan set and be reviewed by the City of Ellensburg Stormwater Utility along with a set of temporary sediment erosion control plans (TESC).
3. In addition, Ecology now requires an Operation and Maintenance (O&M) Plan be submitted to the City for review and retainage. The O&M Plan must address the long term maintenance of the stormwater facilities (swales) that will be constructed onsite to deal with the flow control and treatment requirements of Core Element 5&6 in the Eastern Washington Stormwater Management Manual.

Here is a link for additional information from Ecology;
<https://ecology.wa.gov/Regulations-Permits/Permits-certifications/Stormwater-general-permits/Construction-stormwater-permit/eCoverage-packet>

Other issues:

During civil plan review, Public Works establishes the preliminary addressing plan, the developer will need to work with the Post Office to establish the mail delivery routing plan and mailbox locations. The Post Office requires the use of metal Collection Box Unit style mailboxes.

Due to the size and location of the project a complete Traffic Impact Analysis (TIA) will need to be completed. The TIA will need to evaluate the traffic impact before and after the proposed development. Contact the Public Works Department to discuss the limits of the TIA scope. The city has established transportation impact fees. This project may be required to pay impact fees. You can view the traffic impact fees online at <http://www.codepublishing.com/wa/ellensburg/>.

The developer is required to obtain all other permits (HPA if required, DOE construction site grading permit, etc.) that may be required as a result of plat development.

Additional utility easements may be required for any proposed utility outside of the right of way. Specific issues will be addressed at civil plan submittal.

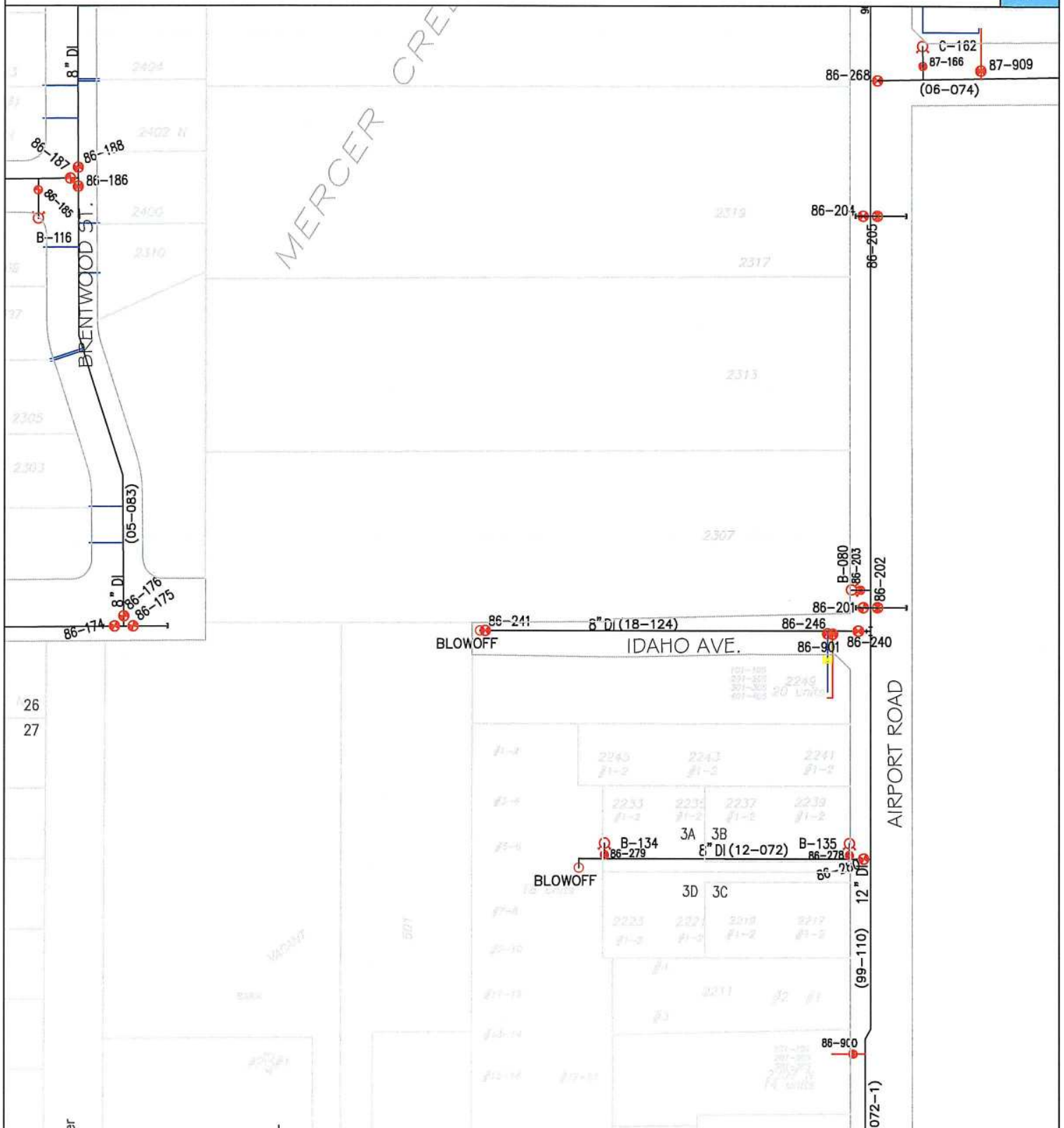
Any phasing plans for the project will need to be reviewed and may have additional requirements associated with utilities or temporary turn around.

Irrigation water will need to comply with Irrigation District requirements, and be continued through the site to downstream users.

Landscape plans will need to be included for review of any conflicts with existing or proposed utilities.

Cc File 21-105

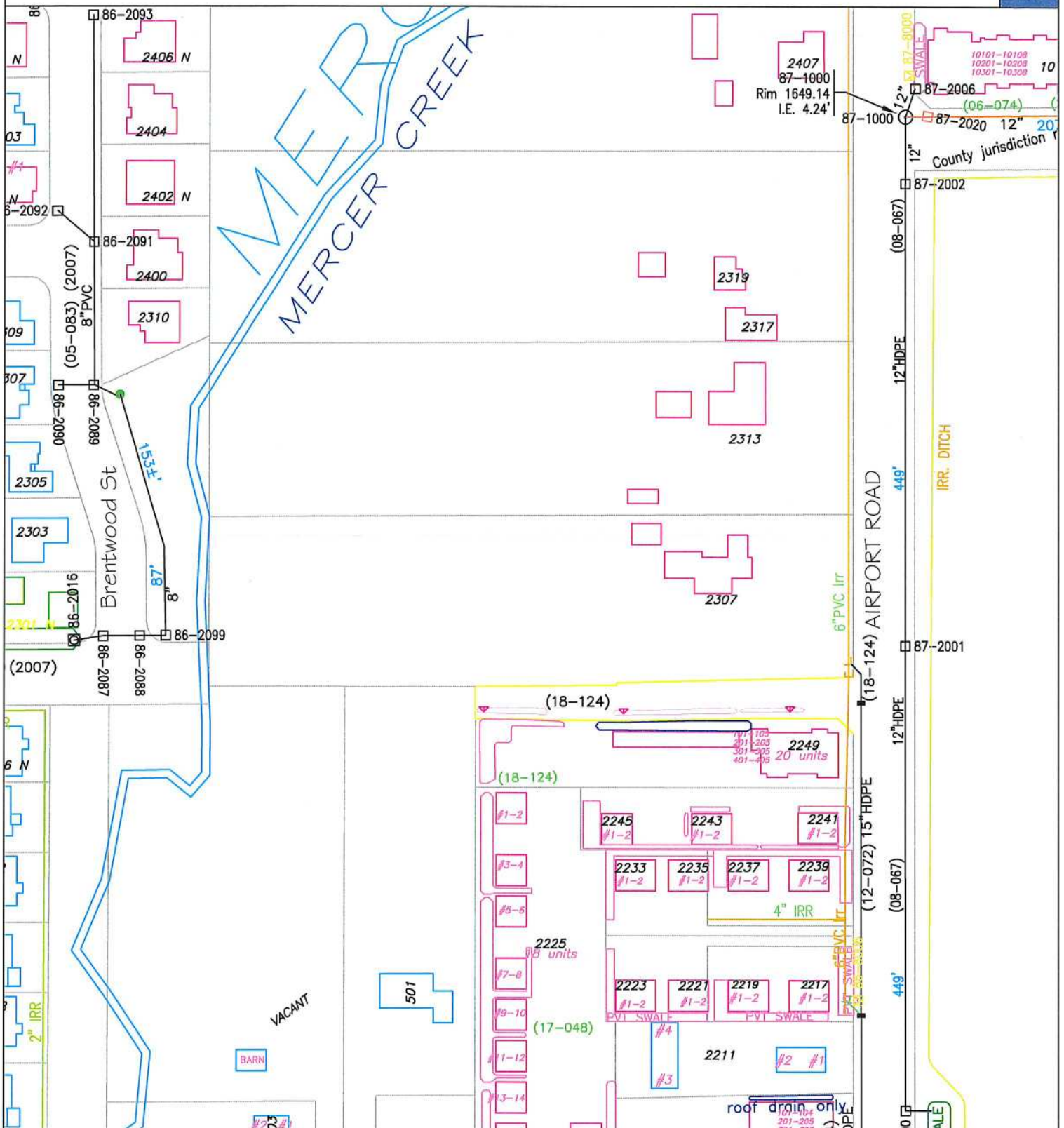






CITY OF ELLENSBURG
PUBLIC WORKS DEPARTMENT
UTILITY MAP REQUEST INFORMATION

STORM



DISCLAIMER:
THE CITY OF ELLENSBURG PUBLIC WORKS DEPARTMENT CANNOT VERIFY THE ACCURACY OF THE UTILITIES REPRESENTED ON THIS PLAN. THEY ARE DISPLAYED FOR EASE OF PLANNING AND INSTALLATION AND ARE BASED UPON THE BEST INFORMATION AVAILABLE. CONTRACTORS AND DEVELOPERS SHOULD REFER TO CIVIL PLANS FOR MOST CURRENT DESIGN REVISION AND CALL 811 BEFORE YOU DIG.



Know what's below.
Call before you dig.



Fire Marshal
509-856-4455 cell
509-933-7241 office
prevention@kvfr.org

Fire Marshal SEPA Comments

Project: 2307 N. Airport Rd Apartment Complex
Permit#: P21-131
Date: 11/08/2021

Comments:

- 1) Must meet 2018 IFC and City of Ellensburg code requirements at the time of construction for the occupancy classification and construction type. Will be required to meet current IFC and City of Ellensburg City Code anytime there is a change in occupancy classification.
- 2) The fire dept. access needs to be looped from Airport Rd. to Idaho, or fire dept. turnarounds shall be provided. Fire Dept. access roads and turnarounds shall meet IFC Appendix D requirements for width, turning radius, and no parking signs.
- 3) One KnoxBox per building, installed to the right of the main entrance on the address side, 3-5' above final grade.
- 4) Knox Key access control for any electric gates or KnoxBox and/or Knox padlock for any manual gates. Please contact the Fire Marshal for location coordination.
- 5) Standard Addressing per City Code and IFC requirements (8" minimum building lettering). The building needs to include a schematic with apartment locations and numbering located near the main entrance.
- 6) Fire sprinkler system is required for this project. Per IFC section 903 903.13, 13R is restricted to four stories, so if the building is greater than four floors it would require a NFPA 13 system.

- 7) FDC and PIV/WIV location shall be indicated on the plans and approved by the Fire Marshal.
- 8) A monitored Fire Alarm system required per IFC 907 requirements, and COE Code requirements. This includes a visible horn/strobe installed on the exterior address side of each building that is visible from the address side street.
- 9) Fire Alarm system is required to have the future capability to support visible alarm notification appliances in accordance with Chapter 11 of ICC A117.1.
- 10) Aerial Access is required preferably on the north or south side of the building, 26' wide between 15'-30' from the building with no overhead obstructions. Please indicate on plans.
- 11) Fire Hydrants based on sq. ft. of buildings based on IFC Section 5, Appendix B and C. As currently designed the site may require additional hydrant. There must be a hydrant within 100' of FDC connections.
- 12) Fire flow requirements need to be confirmed.
- 13) Class I standpipes may be required per IFC Section 905, depending on the height of the buildings.
- 14) An emergency responder radio coverage system will be required if signal strength does not meet minimum requirements of IFC 510.4.1.1 and 510.4.1.2.
- 15) Emergency guide provided to all occupants meeting requirement of IFC section 403.10.2.2
- 16) Fire Alarm Control panel, sprinkler riser, electrical room, and specifically panels and breakers for the fire alarm shall all marked with signs and/or markings meeting IFC and City of Ellensburg code requirements.
- 17) Fire extinguisher quantity and placement per IFC section 906.
- 18) EXIT Signs and Emergency egress lighting per IFC Section 1013.
- 19) Dumpsters 1.5 cubic yds. or larger shall be 5 ft. from the building unless protected by a sprinkler.

20) Fire riser shall have a listed strainer installed per ECC.

Thank you,

A handwritten signature in blue ink, appearing to read "Joe Delvo", is positioned above a horizontal line.

Joe Delvo
Fire Prevention Captain
Fire Investigator, IAAI-FIT
Kittitas Valley Fire & Rescue
400 East Mountain View Ave.
Ellensburg, WA
Phone: 509-933-7241
Cell: 509-856-4455
Fax: 509-933-7245
delvoj@kvfr.org

Stacey Henderson

From: Nicole Ogan <nicole.ogan@co.kittitas.wa.us>
Sent: Thursday, January 20, 2022 3:18 PM
To: Stacey Henderson
Subject: [Ext] Case #P21-131, SEPA Review

CAUTION - EXTERNAL EMAIL: The email below is from an external source. Please exercise caution before opening attachments, clicking links, fulfilling requests, or following guidance.

Good afternoon Stacey,

Please find my comments regarding the SEPA review for Case #P21-131:

- A. 6. Proposed timing states “fluid”. A more defined anticipated project schedule would be appreciated.
- COMPAS GIS mapping on the Kittitas County website shows the parcel to include 100 year floodplain and wetland areas.
- B. 1. F. states “no” for erosion occurrence but B. 1. H. states erosion control is to be planned by design engineer.
- B. 2. C. Proposed measures for the reduction or control of emissions should be provided.
- B. 3. A. 4. If access is from N. Airport Rd., a bridge should not necessary. If access is from Idaho St., a bridge would need to be constructed spanning Mercer Creek, within a floodplain and requires a Floodplain Development Permit. Additional environmental considerations should be take here as a lengthy and recent restoration project was completed in this area.
- B. 3. D. Proposed measures to control or reduce runoff should be provided.
- B. 5. It appears a table has been deleted from the checklist below.

Examples include:

birds: hawk, heron, eagle, songbirds, other:

mammals: deer, bear, elk, beaver, other:

fish: bass, salmon, trout, herring, shellfish, other _____

- 5. D. COMPAS GIS mapping shows the wetland in the middle to eastern portion of the parcel. Wetland identification and/or delineation may be warranted.
- 7. A. 1,2, 5. Environmental Health – This portion should be filled out to represent truck and equipment stored and operated on site.
- 14. B. Nearest transit stop is “nearby”. Is there an actual stop location?
- 14. F. Trip generation – applicant estimates 576 at 9 per unit. With 72 (see 9 c.) new units at 9 trips a day = 648 trips.
- 16. B. Utilities proposed include: water, sewer, electricity. Are additional services needed such as: internet, telephone, cable, garbage, etc.?

Thank you,

Nicole Ogan

Environmental/Transportation Planner

Office: (509)-962-7610

Cell: (509) 856-5019

Email: nicole.ogan@co.kittitas.wa.us



Kittitas County Public Works
411 N Ruby ST, Suite 1
Ellensburg WA 98926

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Memo

To: Kirsten Sackett, SEPA Official
From: The Environmental Commission
Date: 2/9/22
Re: P21-131 N Airport Road Rezone and Development SEPA

P21-131 N Airport Road Rezone and Development-SEPA

Council Members Lillquist and Winn recused themselves and left the discussion.

Mrs. Wilson presented the Airport Road Rezone and Development SEPA. The project is located at 2307 N Airport Road. It involves a rezone from R-S to R-H, construction of two apartment buildings with a total of 73 units, and approximately 100 parking spaces. The applicant will be required to extend and connect the eastern portion of E Idaho Street to the western portion of E Idaho Street. This connection will cross over Mercer Creek and the critical areas associated with the creek. The applicant will not be placing any buildings or parking areas within the creek buffer or wetland area. There was a brief discussion on the difference between recommendations that mitigated the environmental impact of a development and recommendations that would be considered environmentally friendly but not necessarily mitigated a direct impact.

Motion

Commissioner Wollman moved the Environmental Commission recommend the city require no net loss of floodplain storage. Commissioner Sledge seconded the motion. Commissioner Wollman explained the meaning of no net loss. The motion passed with all in favor.

Motion

Commissioner Sledge moved the Environmental Commission recommend the applicant install Level 2 car charging stations or contract with a private provider to provide Level 2 or fast charging car charging stations. Commissioner Condon seconded the motion. The motion passed with all in favor.

Motion

Commissioner Sledge moved the Environmental Commission recommend the applicant consider installing infrastructure which would later allow the addition of solar panels and/or rooftop wind turbines to supplement the city's electrical service. Commissioner Condon seconded the motion. The motion passed with all in favor.

Motion

Commissioner Wollman moved that the Environmental Commission recommend the city require the applicant prepare a long-term management plan for the streams, wetland and associated buffers. Commissioner Sledge seconded the motion. The motion passed with all in favor.



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

1250 West Alder Street • Union Gap, Washington 98903-0009 • (509) 575-2490

November 15, 2021

Stacey Henderson
City of Ellensburg
Community Development Dept.
501 N. Anderson Street
Ellensburg, WA 98926

Re: SEPA Register 202105879, P21-131

Dear Stacey Henderson:

Thank you for the opportunity to comment on the Pre-Threshold Consultation for the Airport Road 73-Unit Multifamily Complex and Rezone, proposed by Matt Stalder. We have reviewed the environmental checklist and have the following comment.

SHORELANDS/ENVIRONMENTAL ASSISTANCE

Thank you for providing the Department of Ecology (Ecology) an opportunity to review and comment on the proposed Threshold Determination for Airport Road Multifamily apartment complex. Development of the parcel could impact Waters of the United States and Water of the State due to the high likelihood of the presence of wetlands on the project site.

Ecology staff has conducted a desk review of the parcel. The review shows signs of hydrology occurring in the area during the growing season and especially during the dry months of the year (June-September). Image 1, is of a historical image from 1954, showing a large amount hydrologic signatures occurring in the area.

Image 2 depicts the parcel during summer, which shows signs of vegetative growth and hydrology without additional irrigation present. During this time of the year, one would expect less water and vegetative growth to occur in such areas without irrigation. LiDar imager (Image 3) is reviewed to examine the topography of the area. As seen in Image 3, there is a large depression occurring just west of the center of the parcel. These areas that are lower in elevation and close to a stream or drainage features can hold water for longer periods of time and thus create wetland conditions.

The collective information suggests wetlands occur on the parcel. Per the Revised Code of Washington (RCW) 90.48.030, the Department of Ecology has the authority to control and prevent pollution of waters of the State. Therefore, Ecology has the ability to request a wetland delineation be conducted on the site to prevent the pollution of state waters. Any wetland habitat found on site (or adjacent to) should be rated using the 2014 Update for the Washington State Wetland Rating System for Eastern Washington (Hruby, 2014). Rating scores will be used to determine the width of the City's required upland buffer surrounding any delineated wetlands per their Critical Areas Code.

Ecology recommends the City request a wetland delineation and rating be conducted prior to any development of the parcels. A delineation and rating are needed to determine the presence/absence of

wetland habitat on the parcel and the extent of surrounding upland habitat landward of the wetland boundary required for upland buffer habitat, per the City's Critical Area Ordinance.

Mitigation sequencing must be used to avoid and minimize impacts to wetland habitat to the greatest extent possible.

In the event impacts to wetlands and wetland buffers are unavoidable, a compensatory mitigation and monitoring plan must be submitted to the City for review and consideration, per their Critical Area Code.

Discharges into Waters of the State are regulated by the State under the Water Pollution Control Act, RCW 90.48, and Section 401 of the Clean Water Act and could require Ecology's review and authorization.

Placement of fill in wetlands may require an individual or general (nationwide) permit from the U.S. Army of Corps of Engineers (Corps). We advise the applicant to contact the Corps to determine if a permit is needed.

Ecology recommends the City request a qualified professional conduct a formal wetland delineation and rating, prior to any development. The resulting materials should be submitted to Ecology for review and verification. Ecology staff is available to provide technical assistance to the City by reviewing wetland delineations, ratings, and verifying wetland delineations in the field. Please contact **Lori White**, at (509) 575-2616 or lori.white@ecy.wa.gov, should you have any questions regarding the above comments.



Image 1. Aerial from 1954. Project area is in yellow polygon.

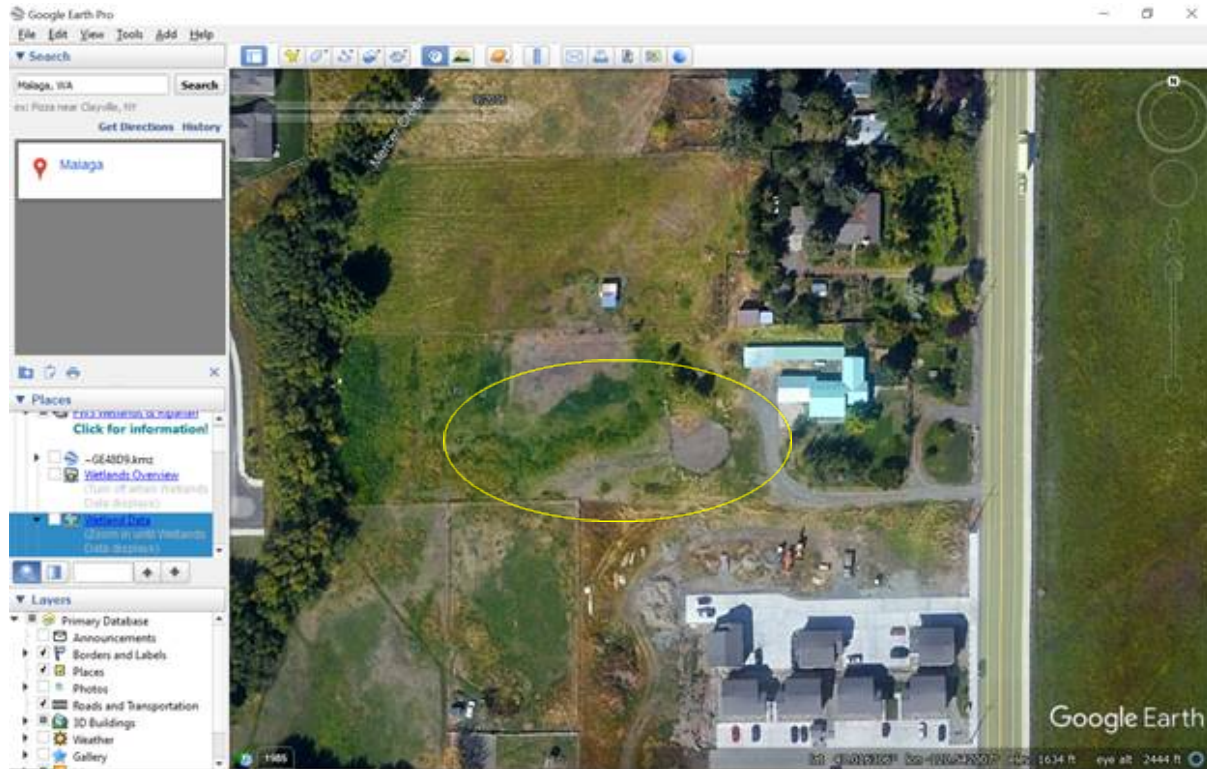


Image 2. Aerial from September 2016. Yellow polygon showing area of interest.

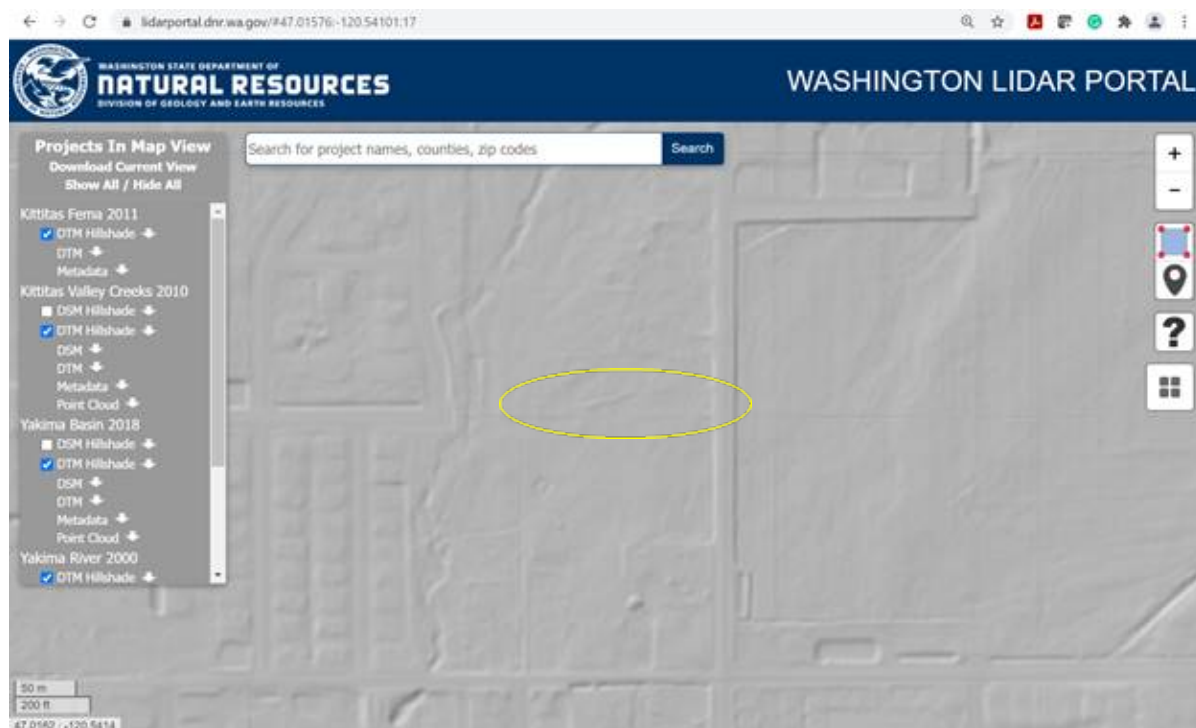


Image 3. LiDAR Imagery. Yellow Polygon depicting project area.

WATER QUALITY

Dividing or platting a piece of property is often the first step in a proposed development. An NPDES Construction Stormwater Permit may be required if there is a potential for stormwater discharge from a construction site with disturbed ground. Ground disturbance includes all utility placements, and building or upgrading roads. The permitting process requires going through SEPA, developing a stormwater pollution prevention plan, submitting an application, and a 30-day public notice process. This may take 38-60 days. A permit and a stormwater plan are required prior to beginning ground-breaking activities. Please contact **Wendy Neet** with the Department of Ecology, (509) 454-7277, with questions about this permit.

Project with Potential to Discharge Off-Site

The NPDES Construction Stormwater General Permit from the Washington State Department of Ecology is required if there is a potential for stormwater discharge from a construction site with disturbed ground. This permit requires that the SEPA checklist fully disclose anticipated activities including building, road construction and utility placements. Obtaining a permit may take 38-60 days.

The permit requires that a Stormwater Pollution Prevention Plan (Erosion Sediment Control Plan) shall be prepared and implemented for all permitted construction sites. These control measures must be able to prevent soil from being carried into surface water and storm drains by stormwater runoff. Permit coverage and erosion control measures must be in place prior to any clearing, grading, or construction.

More information on the stormwater program may be found on Ecology's stormwater website at: <http://www.ecy.wa.gov/programs/wq/stormwater/construction/>. Please submit an application or contact **Wendy Neet** at the Dept. of Ecology, (509) 454-7277 or wendy.neet@ecy.wa.gov, with questions about this permit.

Sincerely,



Gwen Clear
Environmental Review Coordinator
Central Regional Office
(509) 575-2012
crosepa@ecy.wa.gov



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

1250 W Alder St • Union Gap, Washington 98903-0009 • (509) 575-2490
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

February 4, 2022

Stacey Henderson
City of Ellensburg
Community Development Dept.
501 N. Anderson Street
Ellensburg, WA 98926

Re: SEPA Register 202200213, P21-131

Dear Stacey Henderson:

Thank you for the opportunity to comment on the Mitigated Determination of Non Significance for the Airport Road 73-Unit Multifamily Complex and Rezone, proposed by Matt Stalder. We have reviewed the environmental checklist and have the following comments.

WATER QUALITY

Project with Potential to Discharge Off-Site

The NPDES Construction Stormwater General Permit from the Washington State Department of Ecology is required if there is a potential for stormwater discharge from a construction site with disturbed ground. This permit requires that the SEPA checklist fully disclose anticipated activities including building, road construction and utility placements. Obtaining a permit may take 38-60 days.

The permit requires that a Stormwater Pollution Prevention Plan (Erosion Sediment Control Plan) shall be prepared and implemented for all permitted construction sites. These control measures must be able to prevent soil from being carried into surface water and storm drains by stormwater runoff. Permit coverage and erosion control measures must be in place prior to any clearing, grading, or construction.

More information on the stormwater program may be found on Ecology's stormwater website at: <http://www.ecy.wa.gov/programs/wq/stormwater/construction/>. Please submit an application or contact **Wendy Neet** at the Dept. of Ecology, (509) 454-7277 or email wendy.neet@ecy.wa.gov with questions about this permit.

Sincerely,

A handwritten signature in cursive script that reads "Gwen Clear".

Gwen Clear
Environmental Review Coordinator
Central Regional Office
(509) 575-2012
crosepa@ecy.wa.gov

CASCADE IRRIGATION DISTRICT

8063 Highway 10
Ellensburg, Washington 98926
509-962-9583

Overview

Cascade Irrigation District will require a \$50 per lot plat fee (*CID Resolution #01-2006*) as well as an engineered irrigation plan based on Cascade Irrigation District specifications (*CID Resolution #3-94 & CID Procedure #1 Standard Specifications for Irrigation Water Distribution Systems*).

The irrigation plan must include the point of entry of irrigation water, the system for provision of irrigation water to each parcel, a description of system proposed, and a description of provisions made including right of ways for the protection of other parcel within Cascade Irrigation District which are affected.

If pressurized pipe is proposed, it must include a sump, pump and the proposed system of water to the sump. (*CID Resolution #03-94 and CID Procedure #1 Standard Specifications for Irrigation Water Distribution Systems*).

Before Cascade Irrigation District can release or sign-off we require 1) approved, inspected and in place irrigation system, or 2) a signed Irrigation Facility Installation Agreement with respective bond covering proposed construction and costs, (*CID Procedure #1*) or 3) a variance. A variance is only by Cascade Irrigation District Board of Directors action after Board of Directors receives, reviews, and approves a formal petition for such.

If the plat is part of or wishes to become part of an existing LID operating within CID, they must complete all work to hook-up to the LID and pay the associated hook-up fees or a signed Irrigation Facility Installation Agreement with respective bond covering proposed construction and costs involved in such hook-up.

If installing a pressurized system not associated with an LID, the Developer will be required to form an owner's association to cover the operating costs and maintenance of the infrastructure. (*CID Resolution #2-2006*)

Attachments: All attachments may be obtained by Dropbox, please call or email Cascade Irrigation District at CID@fairpoint.net for the Dropbox online link to the files OR you may come to our office and pick up hard copies.

Thank you,

Kelton Montgomery
Cascade Irrigation District Manager
509-962-9583



State of Washington
DEPARTMENT OF FISH AND WILDLIFE

South Central Region • Ellensburg District Office • 1130 W. University Way, Ellensburg,
WA 98926

November 17, 2021

Stacey Henderson
Senior Planner
City of Ellensburg
501 North Anderson Street
Ellensburg, WA 98926

SUBJECT: P21-131 Stalder Airport Road 73 Unit Complex Project

Dear Ms. Henderson,

The Washington Department of Fish and Wildlife (WDFW) has reviewed the application materials associated with the proposed construction of a 73-unit multifamily complex near Mercer Creek at 2307 N. Airport Road. Thank you for the opportunity to provide comments on the pre-threshold determination.

As you're aware, WDFW is supportive of the Mid-Columbia Fisheries sponsored restoration project on Mercer Creek that is currently underway. The restoration project spans four private properties, including the property associated with this proposal. WDFW very much appreciates the thoughtful and proactive approaches to development, such as this one, that enhance the functions and values of critical areas in concert with development.

For this proposal, the buildings and parking area appear to be sited as far from Mercer Creek and the associated riparian and wetlands habitats as possible. The extension of Idaho Street and the associated utilities will need to consider and potentially mitigate impacts to Mercer Creek, riparian habitat, wetlands, and frequently flooded areas. WDFW looks forward to working together as design progresses on the project and exploring alternatives to avoid and/or mitigate impacts to these critical areas.

WDFW's [Water Crossing Design Guidelines](#) will be a helpful tool the project sponsors begin work on the new water crossing and I am available to assist throughout the process as well. The work in and around Mercer Creek will require a [Hydraulic Project Approval](#) (HPA) from WDFW to ensure the protection of fish life.

WDFW will also be interested in the proposed stormwater treatment plans as the groundwater is relatively high on portions of the property, as reflected by the wetlands present.

Thank you again for the opportunity to provide comments on the pre-threshold determination for this project. Please feel free to contact me at (509) 961-6639 or Jennifer.nelson@dfw.wa.gov if you have any questions about these comments.

Sincerely,

A handwritten signature in cursive script that reads "Jennifer Nelson". The ink is dark and the signature is fluid, with a large initial 'J' and a long, sweeping underline.

Jennifer Nelson
Area Habitat Biologist

February 2, 2022
Case #P21-131



Dear Ms. Henderson:

Imagine a rural neighborhood, where once the street was quiet and the dark of night with the stars shining bright was the norm.

Now, realize the reality that has been allowed. Where once, I looked out of my windows there was at least a dozen 100-foot blue spruces and green pastures. Now, therein lies 10- three story buildings erected to house 504 college students. It brought with them, traffic, noise, and a city of perpetual light that brightens every night and blocks every sunrise.

The neighbor to the north of this monstrous construction, has incurred great expense as the project displaced numerous ecosystems and sent the underground spring water to other locations. He has had to invest of his own monies, into a second sump pump to keep the water out of his house and half of the lawn he once mowed is under water...a swamp. The developers of the then Grove, held no responsibility for this neighbor's misfortune. My other neighbor who holds property to the south and west of the Grove/Verge also incurred flooding which, he also had to endure the expense at the with the construction of the Grove/Verge

And now, not only are there more apartments to the south...and the problem with them is twofold. It is proposed that two more structures, one three story and one four story, to be built close to Mercer Creek and again, displacing more ecosystems and pushing the underground spring water, to God only knows where. Our water table has been high since the beginning of time. What other neighbors are going to suffer with water problems at the potential construction of these 73-unit apartments? Will the developer be responsible for any flood damage to the already established property owners or will the existing homeowners have to absorb the potential expense of the developer's folly? It is so disappointing that these apartment buildings are even being considered for construction in a known residential neighborhood and flood plain.

People are moving their families here to this valley to get away from the city...College students come and go. At this time families cannot find affordable homes here to live in. They can find a house, they can find land, but not one in the same. They want to raise their families or retire with space around them. They are not looking to live in apartment buildings. Yet, all I can see in our Airport Road neighborhood, is the anschluss of apartments and urban sprawl. Please consider...if this were the neighborhood you lived in, would you like to look out in the morning and see a wall of three and four story apartments? Would you like to hear the roar of traffic whizzing by or the sound of parties? That is what this neighborhood is quickly becoming...a busy byway, noisy and less and less of a neighborhood and more just an extension of the University campus. Since growth and development of this area is imminent, perhaps an alternate solution would be to allow a couple of nice family homes. It would be less invasive to the ecosystem/underwater springs and more beneficial to the neighborhood as well as financially agreeable to the developer. I urge you to say no to this apartment project and say yes to keeping this a true family friendly neighborhood.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Anneliese Childress".

Anneliese Childress
2413 Airport Road
Ellensburg, WA 98926



Dan Shissler
2501 Airport Road
Ellensburg, WA 98926

Stacey Henderson
Senior Planner – Historic Preservation
City of Ellensburg

Ms. Henderson,

I am writing about the proposed apartments submitted by Matt Stalder on North Airport Road. I understand that "progress" and the shortage of local housing are in play here. The apartments have been moving further north every year. The problem with that is this is still a residential area. Those of us who live here don't want a 4 story behemoth looming over us, blocking out the sun.

We used to have a 3 story maximum in the city. Was that changed just to accommodate the new apartments on East Helena? I can see how that might be appropriate there because there weren't homes in the area when they were built. It is not appropriate here.

I am not opposed to having another apartment building there. I understand that the community needs them, especially if they can accommodate low income households. I do object to the height of the proposed building.

Thank you,

A handwritten signature in black ink that reads "Dan Shissler".

Dan Shissler

2501 Airport Road
Ellensburg, WA 98926

SEPA P21-131 Comment Response

For Cascade Irrigation: Project is not a plat or subdivision. Open irrigation trench starts on north end of site along Airport Rd and has stub on south end going into underground pvc line. The project will not use Cascade Irrigation water.

For DOE: Similar comments were taken after pre-app meeting and communication has been made with civil engineer to stay in compliance.

For Environmental Commission: For the first motion, applicant is in agreement of first motion and desires to cause no net loss of floodplain storage. As alluded to in the initial departmental response to comments, applicant will be making formal memo to appropriate City departments and City Council requesting that Idaho St not go all the way through, and an alternate design be allowed as to maintain multiple access points for project and fire and life safety systems. The second motion recommended the applicant install charging station, the 2018 WSEC that will be used for the project may have language requiring infrastructure for such stations be put in, applicant will study further. The third motion recommended consideration of renewable energy infrastructure in the project. Applicant will study further on what that infrastructure would consist of. The final motion requested the applicant prepare a long-term management plan for the streams, wetlands and buffers. Applicant refers interested parties in such a plan to the Mid-Columbia Fisheries project which is restoring the creek and wetland for expertise on management of the completed remediation.

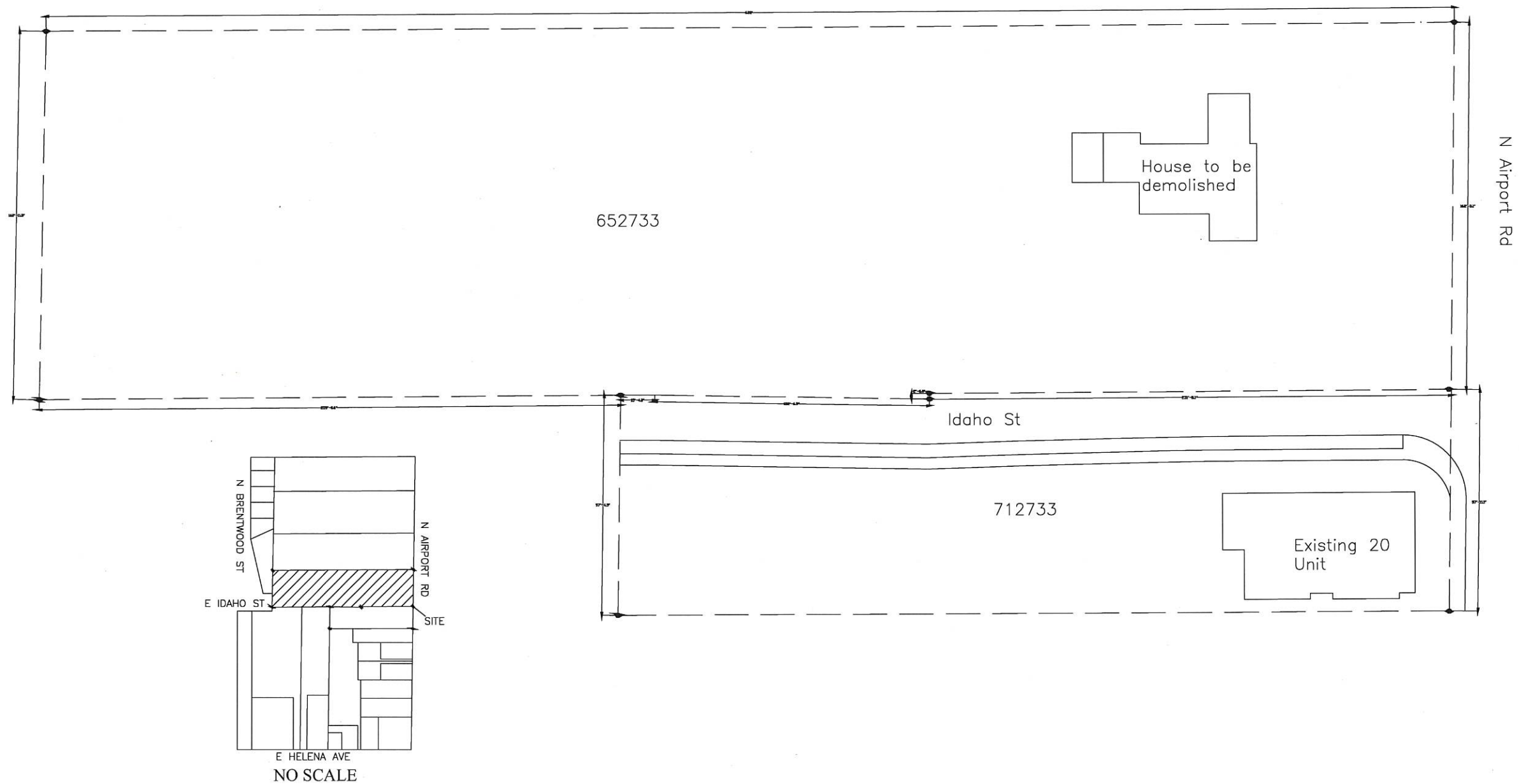
For Kittitas County: For point one, timing will remain “fluid” as the project is dependent upon getting a rezone approval, critical areas report, wetland delineation, architecture and engineering done if all previous mentioned gets approved, and so a more tangible schedule can be made to interested parties if and when building permits are ready to be issued. For point two, multiple reports and studies are required to be done because of the creek and associated areas. For point three, an erosion control plan is typically required for similar projects and experience of applicant with development of neighboring site is that erosion will be minimal in the project area away from the wetland. For point four, local material for grading elevation will be used reducing trucking amount for material hauling. For point five, applicant is in agreement, the existing Idaho street improvement off Airport Rd provides access points to project as well as Airport Rd providing the main access point. For point six, project will be in compliance with the Eastern Washington Stormwater Manual. For point seven, perhaps computer error or data transfer issues, applicants computer copy has table on it. For point eight, wetland delineation is warranted and required. For point nine, truck and equipment stored on site will produce emissions already mentioned for short term impact, project will require a net increase in trees on the site for landscaping compliance for long term impact. For point ten, there is a stop on Helena st east of the Airport Rd intersection and a new stop is planned to be put in to the west on the Helena st improvements being done this year. For point eleven, applicant error, 648 is more accurate. For point twelve, water, sewer, electricity, garbage, internet/cable.

For Ms. Childress: Environmental studies are required for each project to include groundwater impact. Zoning of the parcels in the area encourage redevelopment of larger multifamily buildings.

For Mr. Shissler: RH height limit is 45 feet, buildings will be under the threshold.

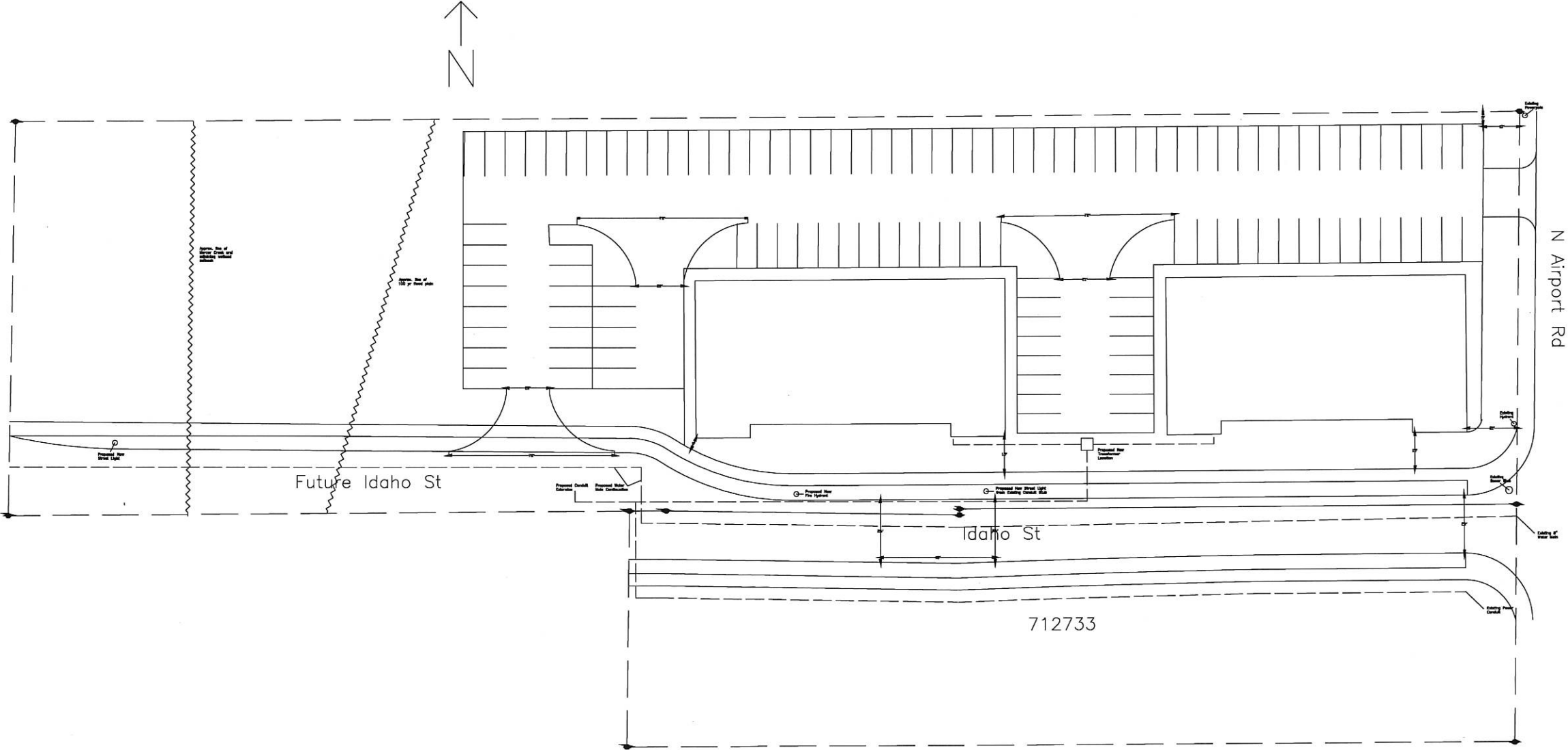
P21-132
RECEIVED
10/11/2021
COMMUNITY
DEVELOPMENT

EXISTING SITE LAYOUT



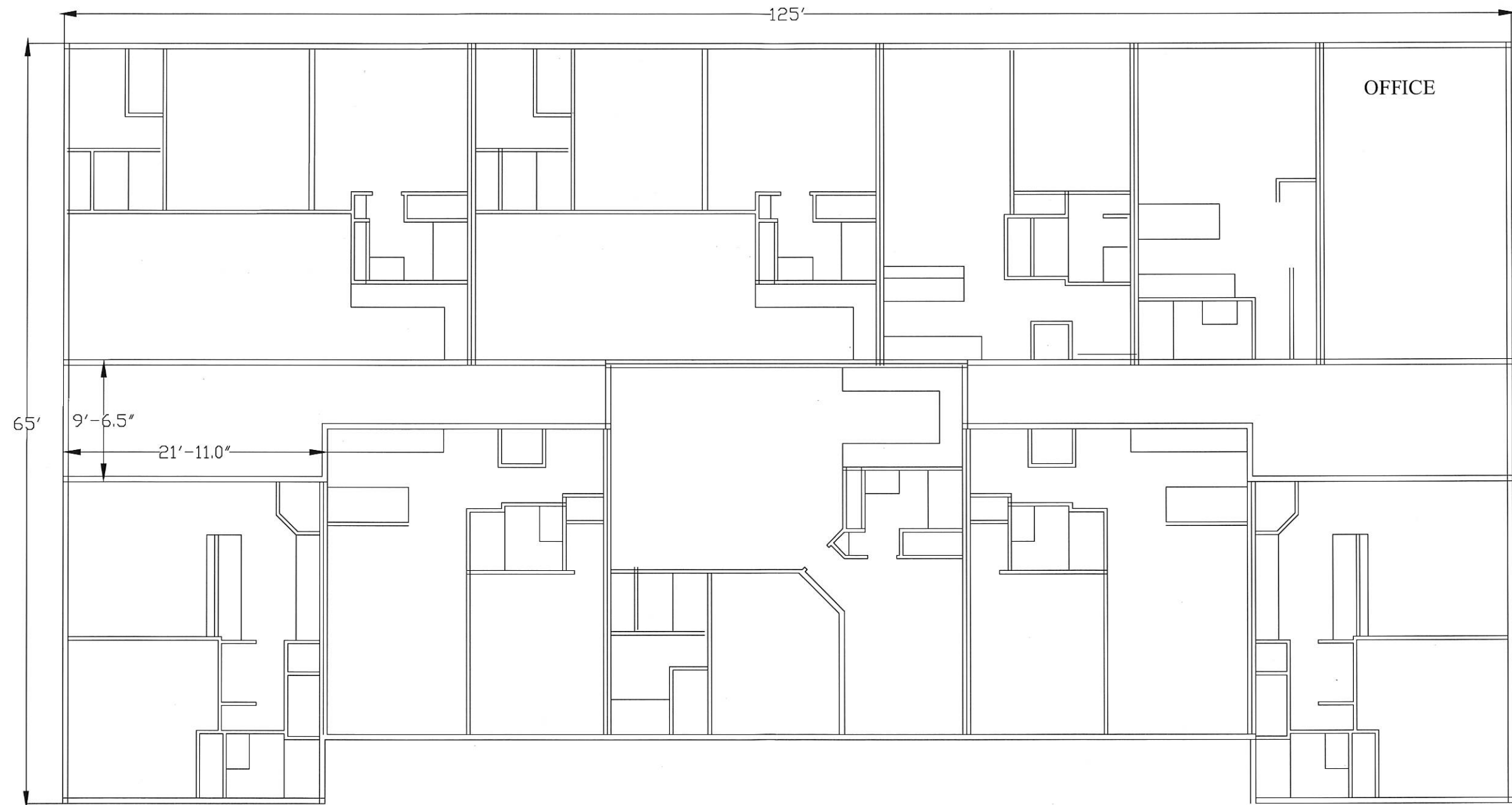
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PROPOSED SITE LAYOUT



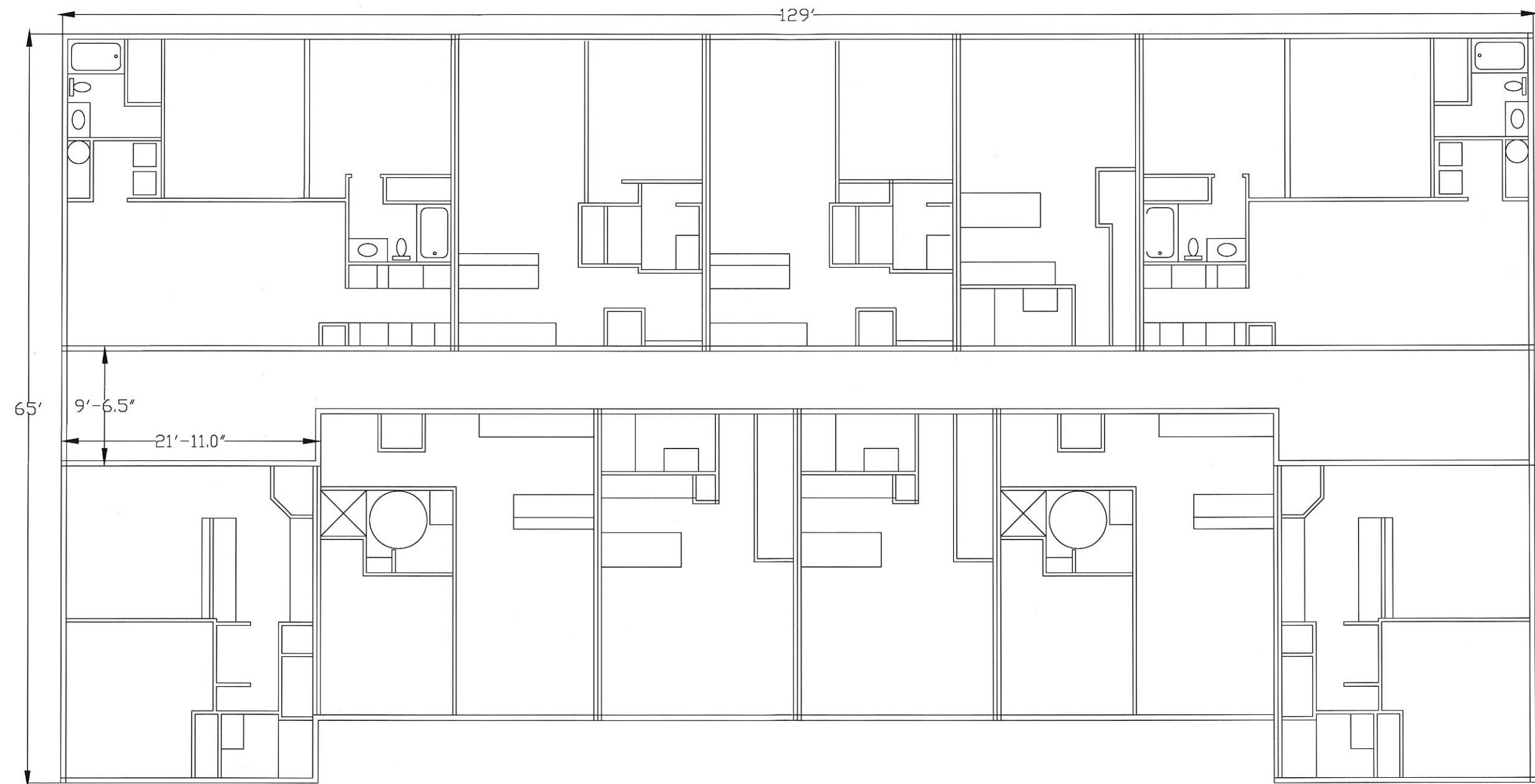
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Proposed First Floor-East Building



Scale = 1/4":1'

Proposed First Floor-West Building



Scale = 1/4":1'



501 N. ANDERSON STREET
ELLENSBURG, WASHINGTON 98926

OFFICE OF:

COE - COMMUNITY DEVELOPMENT

SEATTLE WA 980

11 MAY 2023PM 3:1



FP **US PC**
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First

05/11/2023
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FADDEN, THOMAS & HEATHER
4506 221ST PL SW
MOUNTLAKE TERRACE, WA 98043-5982

OFFICIAL NOTICE

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501 N. ANDERSON STREET
ELLENSBURG, WASHINGTON 98926

OFFICE OF:

COE - COMMUNITY DEVELOPMENT



SEATTLE WA 980



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FP **US PC**
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05/11/2023
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BERGENER, JUSTIN & CELISE
1887 WHITNEY MESA DR
HENDERSON, NV 89014-2069



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501 N. ANDERSON STREET
ELLENSBURG, WASHINGTON 98926

OFFICE OF:

COMMUNITY DEVELOPMENT

SPOKANE WA 990

26 MAY 2023PM 5:1



FP **US PC**
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First

05/25/2023
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FISHER, CHERYLE LYNN
PO BOX 1102
ELLENSBURG WA 98926-1900



OFFICIAL NOTICE

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98926-1900

992 NFE 1 42210005/30
FORWARD TIME EXP RTN TO SENDER
FISHER, CHERYLE L
PO BOX 1102
ELLENSBURG WA 98926-1900

RETURN TO SENDER



COMMUNITY DEVELOPMENT DEPARTMENT
501 N. Anderson St., Ellensburg WA 98926

STAFF REPORT

TO: Andrew Kottkamp, City of Ellensburg Hearing Examiner

FROM: Jeremy Johnston, Planning Manager
City of Ellensburg Community Development Department

RE: Open Record Public Hearing for Rezone Application P21-132, from Residential Suburban (R-S) and Residential Medium (R-M) to Residential High (R-H) Zoning, Submitted by Matt Stalder, property owner.

DATE: Monday, July 10, 2023, 4:00 pm via Zoom.

I. GENERAL INFORMATION

Applicant: Matt Stalder, property owner.

Requested Action: The applicant seeks to rezone the subject properties from Residential Suburban (R-S) and Residential Medium (R-M) to Residential High (R-H) for the purpose of developing a multifamily multiple building complex. A State Environmental Policy Action (SEPA) Determination of Mitigated Non-Significance (MDNS) was issued for the parcels on April 19, 2023 for the site specific rezone.

Location: The parcels are located on the west side of Airport Road at the intersection with Idaho Street, in Ellensburg; Kittitas County Assessor's Parcel ID# 652733 and 712733; addressed as 2307 and 2249 N. Airport Road. (**Exhibit A**).

II. BACKGROUND AND SITE INFORMATION

Site History: The parcel 652733 is in the Residential-Suburban zone and is currently developed with a single-family dwelling that is proposed to be demolished. Parcel 712733 is a split zoned parcel. About $\frac{3}{4}$ of the parcel is already zoned Residential-High with the remaining $\frac{1}{3}$ of the parcel in the Residential-Medium zone. The proposal would be to develop the site with two multistory multifamily buildings. The properties are bordered by Residential-Suburban zoning to the north and west; and Residential-High zoning to the south. The properties are bordered to the east by an unincorporated island with a future land use designation of Urban Neighborhood .

Site Characteristics: The site topography is relatively flat. Parcel 712733 currently contains a multifamily development established in 2020. Parcel 652733 contains a single-family dwelling which will be demolished according to the plans submitted.

Surrounding Properties: A zoning map of the surrounding properties is attached as **Exhibit B**. The zoning of the surrounding properties is further described below.

North: The properties to the north are zoned Residential Suburban and consist of single-family dwellings on properties ranging in size from 1.84 and 2.70 acres.

South: The properties to the south are zoned Residential-Suburban, Residential-Medium and Residential-High and consist of single-family dwellings and multifamily dwellings.

East: The properties to the east are within an unincorporated island.

West: The properties to the west are zoned Residential-Suburban (R-S) and consist of single-family dwellings.

Access: Access to the property is from Airport Rd, an existing minor arterial.

Zoning and Development Standards, ECC Title 15: Ellensburg City Code (ECC) Table 15.310.040, *Dwelling, Multifamily* – indicates that multifamily dwellings are permitted in the Residential-High zone.

Comprehensive Plan Designations: A map of the comprehensive plan future land use designations is attached as **Exhibit C**. Both parcels are designated Urban Neighborhood which accommodates a range of housing types from small lot single dwellings to Large-scale multistory, multi-dwelling developments. This future land use designation accommodates areas close to the University Campus and allows for residential high-density zoning. The Urban Neighborhood designation is consistent with all adjacent parcels.

Public Comments: Community Development issued a notification of application on May 18, 2023 initiating a 21 day comment period which concluded on June 8, 2023. The City of Ellensburg Public Works Department submitted comments on June 2, 2023, stating that future development applications will require consistency with Public Works development standards.

Notice of the open record public hearing (**Exhibit E**) was published in the legal section of the Daily Record on May 18, 2023, and the site was posted with a land use action signs on May 11, 2023 (**Exhibit F**). On May 18, 2023 notice of the rezone was mailed to property owners within 300 feet of the proposed site (**Exhibit D**). As of the date of this staff report no public comments have been received.

III. ENVIRONMENTAL (SEPA) REVIEW

The applicant submitted the required SEPA checklist for review, which was processed as follows:

SEPA Checklist Submitted:	10/11/21; add. info 10/28/21
Determination of Completeness:	11/3/21
Notice to Property owners:	01/14/22
SEPA Threshold Determination	04/19/23

Community Development received multiple agency and public comments during the comment period. The full comment letters are provided in **Exhibit J** of the review materials. Community Development reviewed the comments and received and the applicants' responses and drafted conditions to mitigate environmental impacts.

A SEPA **Mitigated Determination of Non-Significance (MDNS)** was issued on April 19, 2023 (**Exhibit G**), for the non-project site specific rezone.

IV. PROJECT ANALYSIS

A. Ellensburg City Code Requirements for Site-Specific Rezone

Per Ellensburg City Code, site-specific rezone applications are subject to the Type IV review process, and the Hearings Examiner provides a recommendation to City Council after holding an open record public hearing. The Hearings Examiner must find that the application is in compliance with the decision criteria in ECC 15.250.060.

The criteria for consideration of a site-specific rezone are set forth in ECC 15.250.060(C). The applicant has the burden of establishing that all of the following criteria apply to the proposed rezone:

1. Conditions have changed since the imposition of the zoning classification on the property;
2. The proposed rezone bears a substantial relationship to the public health, safety, morals, and general welfare;
3. The proposed rezone is consistent with the comprehensive plan;
4. The proposed rezone to a particular zoning district shall be consistent with the development standards in the Land Development Code for the zoning district.

B. Analysis of Criteria for a Site-Specific Rezone

The applicant has submitted an application (**Exhibit K**) with a narrative (**Exhibit L**) addressing the rezone criteria found in ECC 15.250.060(C). The applicant seeks Residential High (R-H) zoning in order to construct a 73 unit apartment complex. The information submitted by the applicant is followed by staff analysis.

- A. Conditions have changed since the imposition of the zoning classification on the property.

Applicant narrative: *The conditions of the property and land use needs have changed dramatically since the last update to its zoning two decades ago. The City has expanded rapidly and as the area of the site has experienced infill of higher density rental developments with more needed with single family developments going elsewhere in town.*

Staff analysis: In 2011, the City of Ellensburg adopted Ordinance 4598 which created a split zone on parcel (712733). Rezoning this property to Residential-High (R-H) would eliminate this split zoned parcel which is in the interest of the City. Parcel 652733 is zoned Residential Suburban and borders parcel 712733 along its southern boundary line. The City of Ellensburg's has experienced a housing shortage since the last zoning map update, particularly missing middle housing which often requires higher density to accomplish. The site-specific rezone request for Residential High (R-H) zoning is consistent with the Urban Neighborhood land use designation.

- B. The proposed rezone bears a substantial relationship to the public health, safety, morals, and general welfare.

Applicant narrative: *The rezone is critical to the area as the current as it will allow for the higher density development that the City has acknowledged is required to help alleviate the housing shortage of the town. With development thus encouraged on the site there will be more incentive for a project will trigger the remaining improvement of Idaho Ave as well as sidewalk improvements along Airport Rd assisting in the traffic and pedestrian flow from the growing population to the north commuting south into town.*

Staff analysis: The rezone of parcels 712733 and 652733 to a Residential High (R-H) zoning designation will allow for higher density residential development. The City of Ellensburg's Housing Action Plan, adopted by Ordinance in October of 2021, describes a need for higher density development to meet the projected housing needs through 2037. The residential structure will conform with Ellensburg City Code and will meet the goal encouraging opportunities for infill as supported by the comp plan without increasing an unexpected demand on utilities and services. This will support the public health, safety, and general welfare of the community by reducing pressures on the low housing supply options.

- C. The proposed rezone is consistent with the comprehensive plan.

Applicant narrative: *The parcel is in the Urban Neighborhood area portion of the Future Land Use Map on page 29 of the Comprehensive Plan. The Residential High-Density zone is intended for the Urban Neighborhood area type shown stated in ECC 15.300.040(D).*

Staff analysis: The current comprehensive plan land use designation for this parcel is Urban Neighborhood, which is consistent with the rezone request to residential High density (R-H) (**EXHIBIT C**).

- D. The proposed rezone to a particular zoning district shall be consistent with the development standards in the LDC for the zoning district.

Applicant narrative: ECC 15.300.040(A) additionally implies that RS is not an allowable zone the Urban Neighborhood use area. RS is also an inconsistent zone as it is for “areas characterized predominantly by single-family dwellings,” while the area around the site is predominantly larger scale multifamily developments which is what the RH zone is intended for. The neighboring parcel to the south is zoned RH with a mid-rise apartment building on and so rezoning the parcel in question would create consistency in the neighborhood.

Staff analysis: The current comprehensive plan land use designation for this parcel is Urban Neighborhood, which is consistent with the rezone request to residential High density (R-H) (**EXHIBIT C**).

Based on the assessment above, staff finds the proposal to be consistent with the rezone evaluation criteria found in ECC 15.25.060.

In addition, staff finds the request for Residential High (R-H) zoning to be in keeping with the following goals, policies and programs of the current Comprehensive Plan:

Goal LU-1, “Encourage development that creates a variety of housing, shopping, entertainment, recreation, gathering spaces, employment, and services that are accessible to neighborhoods.”

Policy B, “Integrate new development with consideration to design and scale that complements existing neighborhoods and provides effective transitions between different uses and intensities.”

Residential High-Density Zone (R-H). The R-H zone is intended to comprise areas for high density multifamily residential development in areas served by transit and within walking distance from commercial services. This zone is appropriate for any of the following or combination thereof:

- a. Areas designated blended residential neighborhood, urban neighborhood, or community mixed-use in the comprehensive plan;
- b. Areas characterized by multifamily buildings;
- c. Areas adjacent to commercial zoned property;
- d. Areas located along corridors served by transit.

The applicant seeks Residential High Density (R-H) zoning to be able to construct a multifamily complex. Adjacent parcels to the south already contain multifamily structures. The applicant will be responsible for meeting all development standards under the Land Development Code.

V. RECOMMENDATION

Staff finds the proposal to be consistent with the criteria outlined in 15.250.050 pertaining to rezones. As such, staff recommends that the Hearing Examiner recommend approval of the rezone request, Residential Suburban (R-S) and Residential Medium (R-M) to Residential High (R-H) for the purpose of developing a multifamily multiple building complex on parcels 652733 and 712733. to the City Council with the following condition:

- A. The applicant shall adhere to any requirements related to any future development approvals, including meeting all requirements of utility providers, City departments, and affected districts, as outlined in adopted City Codes, associated land use determinations, and other regulatory documents.

EXHIBITS:

- A. Location Map
- B. Current Zoning Map
- C. Comprehensive Plan Future Land Use Designation Map
- D. Affidavit of Mailing and Buffer Map
- E. Legal Notice of Public Hearing
- F. Land Use Action Sign and Affidavit of Posting
- G. SEPA MDNS
- H. Rezone Application
- I. Rezone Application Narrative
- J. SEPA Comments
- K. Applicant Project Site Plans
- L. Returned Mailers

ORDINANCE NO. 4924

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELLENSBURG, WASHINGTON, RELATING TO ZONING AND AMENDING TITLE 15 OF THE ELLENSBURG CITY CODE BY CHANGING THE ZONING CLASSIFICATION OF CERTAIN PROPERTY WITHIN THE CITY OF ELLENSBURG FROM RESIDENTIAL SUBURBAN (R-S) AND RESIDENTIAL MEDIUM (R-M) TO RESIDENTIAL HIGH (R-H).

WHEREAS, on October 11, 2021 the City received an application (P21-132) from property owner Justin Bergener (Parcel 652733) and Harper 20th Ave LLC (Parcel 712733), represented by Matt Stalder (Agent), requesting a rezone of two parcels located at 2307 and 2249 N Airport Rd, Parcel ID Numbers 652733 and 712733; and

WHEREAS, the application proposed to rezone the parcels from Residential Suburban (R-S) and Residential Medium (R-M) to Residential High (R-H); and

WHEREAS, pursuant to ECC Table 15.210.050(D), a Site-Specific Rezone Application is processed under a Type IV review, which requires a Hearing Examiner recommendation to City Council after an Open Record Hearing, with the final decision to be made by City Council after a Quasi-Judicial Closed Record Hearing; and

WHEREAS, the SEPA official for the City issued a Mitigated Determination of Non-Significance (MDNS), on April 19, 2023; and

WHEREAS, the Hearing Examiner held a duly noticed open record hearing on July 10, 2023, received evidence and heard testimony regarding the proposed rezone; and

WHEREAS, the Hearing Examiner on July 12, 2023, issued Recommended Findings of Fact, Conclusions of Law, Decision and Conditions of Approval for the rezone request from R-S and R-M to R-H. Due to an ownership error in the July 12, 2023 Recommended Findings of Fact, Conclusions of Law, Decision and Conditions of Approval, the Hearings Examiner reissued the recommendation on August 17, 2023, correcting the stated owners from the original recommendation; and

WHEREAS, the Ellensburg City Council held a closed record hearing on September 18, 2023 and at the conclusion of the hearing approved a motion to adopt the Hearing Examiner's Recommended Findings of Fact, Conclusions of Law, Decision and Conditions of Approval dated August 17, 2023, and to approve the applicant's request to rezone the subject property from R-S and R-M to R-H;

NOW, THEREFORE, the City Council of the city of Ellensburg, Washington, do hereby ordain as follows:

Section 1. The City Council adopts the findings of fact and conclusions based thereon, made and entered by the Hearing Examiner in support of the recommendation to the City Council

for approval with regard to the rezone for the hereinafter described property located on N Airport Rd, with Parcel ID Number 652733 and 712733 as set forth in the Hearing Examiner's "Recommended Findings of Fact, Conclusions of Law, Decision and Conditions of Approval," dated August 17, 2023 attached as Exhibit A.

Section 2. Title 15 of the Ellensburg City Code is hereby amended by changing the city's zoning map as adopted in ECC 15.300.020 for the following described area from Residential Suburban (R-S) to Residential High (R-H):

PARCEL ID NUMBER 652733 - ACRES 2.34, CD. 8737; SEC. 26, TWP. 18, RGE. 18 SE1/4 SE1/4 TAX NO. 14

Section 3. Title 15 of the Ellensburg City Code is hereby amended by changing the city's zoning map as adopted in ECC 15.300.020 for the following described area from a split zoned parcel consisting of Residential Medium (R-M) and Residential High (R-H) to a single zone of Residential High (R-H):

PARCEL ID NUMBER 712733 - ACRES 0.83; CD.#8734; PTN SE1/4 (LOT 1, B37/P227); SEC 26, TWP 18, RGE 18

Section 4. That the official zoning map of the City of Ellensburg, as well as the Geographic Information System (GIS) data shall be amended to incorporate the land use classifications herein provided.

Section 5. Except as modified herein, each and every provision of the City Land Development Code, Title 15, as amended, shall remain in full force and effect.

Section 6. Severability. If any portion of this ordinance is declared invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance.

Section 7. Corrections. Upon the approval of the City Attorney, the City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 8. Effective Date. This ordinance shall take effect and be in full force five (5) days after passage, approval and publication as required by law.

The foregoing ordinance was passed and adopted at a regular meeting of the City Council on the ____ day of _____, 2023.

Mayor

Attest:

City Clerk

Approved as to form:

City Attorney

Publish:

I, Beth Leader, City Clerk of said City, do hereby certify that Ordinance No. 4924 is a true and correct copy of said Ordinance of like number as the same was passed by said Council, that Ordinance No. 4924 was published as required by law.

Beth Leader

Exhibit A

August 17, 2023 Hearings Examiner Recommended Findings of Fact, Conclusions
of Law, Decision and Conditions of Approval



Meeting Date: September 18, 2023
City of Ellensburg
City Council Agenda Report

Agenda Subject: Resolution 2023-24 Updating the Personnel Policies Manual for the City of Ellensburg (Public Comment Opportunity)
Submitted by: Lisa Young, HR Director
Department: Human Resources

Suggested Motion/Action:

Move to adopt Resolution 2023-24, amending the Personnel Policies Manual for the City of Ellensburg.

Background/Summary:

Personnel Policies 7.2 Disability Benefits and Workers' Compensation, and 7.5 Continuation of Insurance Coverage, require amendment to comply with Washington State regulations and to ensure consistency across all policies within the policy manual.

Previous Council Action:

Approval of the City of Ellensburg Personnel Policy Manual and subsequent amendments. The Manual was last amended on 11/07/2022.

Analysis:

The primary purpose of these policy amendments is to comply with the Washington Paid Sick Leave Law, the Department of Labor and Industries (L&I) regulations for workers' compensation, and to ensure consistency within our own policies. When employees cannot work due to a work-related injury or illness, they are eligible to receive time loss payments through L&I. The City's policy on workers' compensation has historically required that an employee use their accrued paid leave (typically sick leave and/or vacation, or PTO, depending on the work group) when they need time off from work to recover from a work-related injury. They would then be required to submit their time loss payments from L&I to the Finance Department to buy back a pro-rated amount of their leave used. This has been a common past practice for government employers to avoid "double dipping", meaning an employee getting paid from two different sources equaling more than their full wages for the same period of time.

The Washington Paid Sick Leave law has changed the way employers administer their sick leave policies. The law prohibits the employer from mandating that an employee use their paid sick leave even when the leave qualifies. The law also states that workers' compensation benefits and paid sick leave are separate statutory rights that can be used concurrently, but an employer may not require an employee to use paid sick leave.

Human Resources staff have worked with Finance and Legal staff to review our policies and the State's regulations and have determined that our policies must be amended to ensure

compliance. The amended policy transitions our previous mandatory buy-back practice to a voluntary option. Additional language changes have also been implemented to ensure these policies align with our other policies, such as the inability to accrue additional paid leave while on unpaid leave, and to improve policy clarity.

Financial Impact:

Implementation of these policy changes does not create an immediate financial impact. However, potential savings could be realized from a reduction in staff time spent administering a mandatory buy-back policy. These changes could also limit the City's outstanding leave liability when employees do not elect to participate in the voluntary buy-back option. When some leave is carried forward until the employee departs from the City, it is paid out at a higher rate of pay.

Budget Adjustment: No

Attachments:

1. Addendum to Staff Report - Resolution 2023-24 - Workers' Compensation 7.2 and 7.5 - Draft Amendments - 09.18.2023
2. RESOLUTION - 2023-24 Policy Update - Workers' Compensation - 09.18.2023 CC
3. Attachment A - Resolution 2023-24 - Workers' Compensation 7.2 and 7.5 Amendments - 09.18.2023

7.1. ~~DISABILITY BENEFITS AND WORKERS'~~ COMPENSATION

All employees are covered by the Washington State Workers' Compensation Program ~~(employees with prior approval to work remotely from another state will be covered by other state or private plans)~~. This insurance covers employees in case of on-the-job injuries or job-related illnesses. For qualifying cases, Washington State ~~Worker's~~Workers' Compensation Insurance will pay the employee for ~~work days~~workdays lost and related injury or illness medical costs. All job-related accidents and injuries must be reported immediately to the employee's supervisor. The supervisor shall direct the injured employee to seek immediate medical treatment if necessary, and shall be responsible for ensuring, as soon as physically possible, that the injured employee completes the Washington State Labor and Industries claim form and the City's Personal Injury Accident Report form. The supervisor is required to complete the supervisor portion of the City accident report form.

Unless otherwise required by State law, the procedure for worker's' compensation time loss payment/reimbursement will be as follows:

If the job-related injury or illness requires the employee to be absent from work for more than ~~a week~~three (3) consecutive days, ~~the City will grant that employee~~the leave may be protected under the federal Family Medical Leave Act (FMLA), which is further discussed in Section 8.8 of these policies. ~~While on Family Medical Leave, the employee will be paid available and accrued RTO leave. At the option of the employee, when and if his/her RTO leave is exhausted, or not available, compensatory time or accrued PTO leave may be used.~~

If the job-related injury or illness requires the employee to be absent from work for more than three (3) consecutive days, State Industrial Insurance (Worker's' Compensation) will begin to pay time loss compensation. ~~for hours not compensated through Family Medical Leave, as referenced above.~~ This compensation varies according to a set formula based on marital status and number of dependents.

Employees ~~may~~cannot elect to use ~~RTO or PTO paid~~ leave and receive worker's' compensation at the same time, ~~because this results in a "double payment."~~ Typically, ~~a double payment occurs if the employee has applied for worker's compensation, but is receiving full pay through accrued leave while waiting for state benefits to be approved. If a double payment occurs, e~~Employees must ~~may~~ use the time loss money from worker's' compensation to "buy back" the ~~RTO or PTO paid~~ leave previously deducted from their accruals. ~~Compensatory time cannot be bought back.~~ Since worker's' compensation only pays a percentage of full wages, an

employee can only “buy back” ~~a-the~~ percentage of the leave their ~~buy-back~~time loss sum represents. Generally, the employee will not suffer an income loss while receiving worker’s compensation benefits so long as the employee has a paid leave balance available to supplement the difference between state benefits and compensation for normal working hours. ~~Compensatory time cannot be bought back.~~

~~If the employee wishes to participate in voluntary paid leave buy-back, they must submit their~~ ~~When an employee who has received RTO or PTO leave to cover a work-related injury or illness, later receives a~~ worker’s compensation time loss check, ~~he/she must turn the check over to payroll~~ within two (2) weeks of the check date. ~~Failure~~ Requests to buy-back leave that was used more than two (2) months prior to the check date will not be ~~honored~~accepted. ~~or refusal to re-pay the City for any duplication of benefits as required by this policy will be considered fraudulent and may subject the employee to discipline, including termination. Based upon the employee’s hourly rate and the amount of worker’s compensation time loss received, payroll will determine the amount of leave to be bought back.~~ Payroll will notify an employee when all available ~~RTO and/or PTO~~paid leave has been used. Once ~~RTO leave, if available, or other forms of accrued leave are exhausted~~notified this occurs, an employee who remains on worker’s compensation will keep additional worker’s compensation time loss payments until ~~he/she is~~ they are able to return to work or the employee’s condition can no longer be accommodated through medical leave or light duty options. If an employee’s condition appears to have lasting or potentially permanent impacts on the employee’s ability to perform essential functions of their job, they may request information on job openings within the City they are otherwise qualified and able to perform. Job retraining programs are also available through the Department of L&I. When it appears the employee will be medically unable to return to work, and no options for reasonable accommodation or other job opportunities have been found, an employee who can no longer perform the essential functions of their position will be subject to medical ~~termination~~separation.

In special circumstances, where the City is able to fill the employee’s position temporarily, ~~an-the~~ employee may apply for an unpaid leave of absence under the provisions of this Manual. Granting such a request will be the decision of the City Manager and will take into account the best interests of the City, the length of the leave, the City services that will be impacted, and other appropriate considerations. Such extended leave periods are within the discretion of the City Manager and will be evaluated based on the specific facts presented and full consideration of the City’s needs.

7.5. CONTINUATION OF INSURANCE COVERAGE and LEAVE ACCRUAL

~~Workers' Compensation Leave: An employee receiving Workers' Compensation time loss benefits continues to accrue PTO leave for up to six (6) months. While on workers' compensation, T~~the City ~~also~~ continues to pay the employer's portion of health insurance premiums, provided the employee continues to pay ~~his/her~~ their share of premiums, ~~if any~~ under the following circumstances:

- 1) FMLA is designated for up to twelve (12) weeks while the employee is on Workers' Compensation leave.
- 2) FMLA is exhausted but the employee remains in paid status by using their paid leave, until such time there is inadequate paid leave to qualify for benefits. After six (6) months, t

After FMLA is exhausted and the employee's paid leave is depleted, he ~~employee's~~ benefits shall cease unless the City Manager makes an exception in accordance with the provisions of Section 1.4. Tthe employee may continue health care benefits by self-paying insurance premiums for the remainder of the time ~~he/she~~ they receives Workers' Compensation benefits, ~~unless that~~ up to the maximum time frame ~~exceeds the period~~ provided under COBRA.

Employees who are on leave without pay do not continue to accrue PTO, and other forms of leave may also be impacted depending on the length of unpaid absence.

COBRA Rights: Upon an employee's termination from City employment or upon commencement of an unpaid leave of absence, at the employee's option and expense, the employee may be eligible to continue City health insurance benefits to the extent provided under the federal COBRA regulations. An administrative handling fee may be charged to the employee or ~~his/her~~ their dependents who elect to exercise their COBRA continuation rights.

RESOLUTION NO. 2023-24

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELLENSBURG updating the Personnel Policies Manual for the City of Ellensburg.

WHEREAS, the City of Ellensburg's Personnel Policies Manual currently contains policy 7.2 Disability Benefits and Workers Compensation, and 7.5 Continuation of Insurance Coverage; and

WHEREAS, the City's policy on Workers' Compensation has historically required that an employee use their paid leave to cover any absence that is due to a workplace injury or illness, then required that the employee buy back a prorated amount of the paid leave used once they received their Workers' Compensation time loss check; and

WHEREAS, Washington State regulations prohibit an employer from requiring an employee to use Washington Paid Sick Leave, which includes Paid Time Off (PTO) leave if a separate sick leave bank is not provided; and

WHEREAS, the Washington Department of Labor and Industries does not include an employee's utilized paid leave as wages when calculating time loss payments, and their guidance states that workers may use their earned paid leave and collect time loss benefits concurrently; and

WHEREAS, the City's third-party administrator for workers' compensation has advised that the City amend its policy to a voluntary buy-back program; and

WHEREAS, City Human Resources and Payroll staff believe continuing a voluntary buy-back policy would be beneficial for employees who want to save some of their paid leave for future use; and

WHEREAS, the federal Family Medical Leave Act (FMLA) allows an employer to designate all qualifying leave as protected under the FMLA, which was further supported by a Department of Labor opinion stating that employers are obligated to designate qualified leave as protected under FMLA, which provides for continuation of an employee's health care coverage for the duration of the protected leave; and

WHEREAS, Personnel Policy 8.4 Leave of Absence Without Pay, states that an employee shall not accrue PTO while on unpaid leave; and the proposed amendments to policy 7.5 align with policy 8.4 and the FMLA;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Ellensburg, Washington, as follows:

Section 1. Policies 7.2 and 7.5 of the City's Personnel Policies Manual will be updated as shown in "Attachment A".

Section 2. This policy is effective for non-represented employees upon approval of this Resolution.

Section 3. This policy will be effective for represented employees after notification and an opportunity to bargain is provided to the Unions.

All remaining terms and conditions of the City's Personnel Policies Manual remain in full force and effect.

ADOPTED by the City Council of the City of Ellensburg at a regular meeting on the 18th day of September, 2023.

Mayor

Attest:

City Clerk

7.2. WORKERS' COMPENSATION

All employees are covered by the Washington State Workers' Compensation Program (*employees with prior approval to work remotely from another state will be covered by other state or private plans*). This insurance covers employees in case of on-the-job injuries or job-related illnesses. For qualifying cases, Washington State Workers' Compensation Insurance will pay the employee for workdays lost and related injury or illness medical costs. All job-related accidents and injuries must be reported immediately to the employee's supervisor. The supervisor shall direct the injured employee to seek immediate medical treatment if necessary, and shall be responsible for ensuring, as soon as physically possible, that the injured employee completes the Washington State Labor and Industries claim form and the City's Personal Injury Accident Report form. The supervisor is required to complete the supervisor portion of the City accident report form.

Unless otherwise required by State law, the procedure for workers' compensation time loss payment/reimbursement will be as follows:

If the job-related injury or illness requires the employee to be absent from work for more than three (3) consecutive days, the leave may be protected under the federal Family Medical Leave Act (FMLA), which is further discussed in Section 8.8 of these policies.

If the job-related injury or illness requires the employee to be absent from work for more than three (3) consecutive days, State Industrial Insurance (Workers' Compensation) will begin to pay time loss compensation. This compensation varies according to a set formula based on marital status and number of dependents.

Employees may elect to use paid leave and receive workers' compensation at the same time. Employees may use the time loss money from workers' compensation to "buy back" the paid leave previously deducted from their accruals. Since workers' compensation only pays a percentage of full wages, an employee can only "buy back" the percentage of the leave their time loss sum represents. Generally, the employee will not suffer an income loss while receiving workers' compensation benefits so long as the employee has a paid leave balance available to supplement the difference between state benefits and compensation for normal working hours.

If the employee wishes to participate in voluntary paid leave buy-back, they must submit their workers' compensation time loss check to payroll within two (2) weeks of the check date. Requests to buy-back leave that was used more than two (2)

months prior to the check date will not be accepted. Payroll will notify an employee when all available paid leave has been used. Once notified, an employee who remains on workers' compensation will keep additional workers' compensation time loss payments until they are able to return to work or the employee's condition can no longer be accommodated through medical leave or light duty options. If an employee's condition appears to have lasting or potentially permanent impacts on the employee's ability to perform essential functions of their job, they may request information on job openings within the City they are otherwise qualified and able to perform. Job retraining programs are also available through the Department of L&I. When it appears the employee will be medically unable to return to work, and no options for reasonable accommodation or other job opportunities have been found, an employee who can no longer perform the essential functions of their position will be subject to medical separation.

In special circumstances, where the City is able to fill the employee's position temporarily, the employee may apply for an unpaid leave of absence under the provisions of this Manual. Granting such a request will be the decision of the City Manager and will take into account the best interests of the City, the length of the leave, the City services that will be impacted, and other appropriate considerations. Such extended leave periods are within the discretion of the City Manager and will be evaluated based on the specific facts presented and full consideration of the City's needs.

7.5. CONTINUATION OF INSURANCE COVERAGE and LEAVE ACCRUAL

While on workers' compensation, the City continues to pay the employer's portion of health insurance premiums, provided the employee continues to pay their share of premiums under the following circumstances:

- 1) FMLA is designated for up to twelve (12) weeks while the employee is on Workers' Compensation leave.
- 2) FMLA is exhausted but the employee remains in paid status by using their paid leave, until such time there is inadequate paid leave to qualify for benefits.

After FMLA is exhausted and the employee's paid leave is depleted, the employee may continue health care benefits by self-paying insurance premiums for the

remainder of the time they receive Workers' Compensation benefits, up to the maximum time frame provided under COBRA.

Employees who are on leave without pay do not continue to accrue PTO, and other forms of leave may also be impacted depending on the length of unpaid absence.

COBRA Rights: Upon an employee's termination from City employment or upon commencement of an unpaid leave of absence, at the employee's option and expense, the employee may be eligible to continue City health insurance benefits to the extent provided under the federal COBRA regulations. An administrative handling fee may be charged to the employee or their dependents who elect to exercise their COBRA continuation rights.



Meeting Date: September 18, 2023
City of Ellensburg
City Council Agenda Report

Agenda Subject: Dissolution of the Senior Citizen Advisory Commission and First Reading of Ordinance 4925 (Public Comment Opportunity)

Submitted by: Brad Case, Parks & Recreation Director

Department: Parks & Recreation

Suggested Motion/Action:

Move to conduct first reading of Ordinance 4925, dissolving the Senior Citizen Advisory Commission.

Background/Summary:

The Senior Citizen Advisory Commission's powers and duties are to consult and recommend to the City Council and other advisory boards and commissions on matters related to senior programs and the use of the Adult Activity Center, to encourage and promote senior programs and activities, and to make recommendations to Council regarding the long term recreational goals and needs for the senior population.

For the past year, staff have been reviewing and evaluating the effectiveness of the Senior Citizen Advisory Commission. The Commission has had two vacancies that haven't been filled for the last three years. Since 2020, staff and the Commission have encountered challenges with the requirement to host hybrid meetings, which has resulted in moving their monthly meetings out of the Adult Activity Center and into City Hall conference room, effectively eliminating any opportunity for seniors to attend the meetings. And lastly, the matters being discussed with the Commission are more informational in nature; there are rarely action items that come before the Commission. Due to all of these factors, staff has looked at alternative ways to gather input from the seniors but in a way less structured than the current commission.

Previous Council Action:

NA

Analysis:

As a way to better serve the users of the Adult Activity Center, staff have looked at alternative ways to gather input from the seniors in a way less structured than the current commission model. For the last two months, staff has been hosting 'Coffee with the Coordinator', which is an informal format--more participatory in nature--that meets once a month and is open to anyone from the Adult Activity Center. These opportunities have had better attendance than the Commission meetings, have generated meaningful dialogue between staff and seniors, and have been generally regarded as more positive outcomes than the traditional commission meeting format.

Based on this feedback, staff is recommending that the Senior Advisory Commission be dissolved and that the Parks & Recreation Commission add a formal liaison to the Commission who will represent the senior population, similar to the liaison position that is a part of the Diversity, Equity and Inclusion Commission. This representative would be voted on by the users of the Adult Activity Center and they would serve a one-year term in the liaison position. Staff will continue to host a monthly planning meeting where all members are welcome. Users will provide activities and ideas for the Adult Activity Center, the same as they do now. Discussion at meetings will continue to include topics such as activities and trips, volunteer opportunities, Adult Activity Center budget, and monthly attendance numbers.

The current members of the commission are in support of adopting this new model and feel like it would have more benefit for the users of the Adult Activity Center. At their August meeting, the Commission voted unanimously to make the recommendation to City Council to dissolve the Senior Citizen Advisory Commission and create a Senior Liaison to the Parks and Recreation Commission.

Financial Impact:

There is no financial impact associated with this action.

Budget Adjustment: No

Attachments:

1. Ordinance 4925- Senior Citizen Advisory Commission
2. Adult Activity Center Senior Liaison to Parks and Recreation Commission
3. Proposed Senior Advisory Committee Changes

ORDINANCE NO. 4925

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELLENSBURG, WASHINGTON, RELATING TO THE DISSOLUTION OF THE SENIOR CITIZEN ADVISORY COMMISSION AND REPEALING CHAPTER 1.48 ENTITLED “SENIOR CITIZEN ADVISORY COMMISSION” OF THE ELLENSBURG CITY CODE.

WHEREAS, the Senior Citizen Advisory Commission has had multiple vacancies for the last three years; and

WHEREAS, the Senior Citizen Advisory Commission typically has few discussion items on its agendas; and

WHEREAS, there have been no members of the public attending the meetings; and

WHEREAS, staff and commission members are requesting more flexibility regarding the time, date, and location of the meetings;

NOW, THEREFORE, the City Council of the City of Ellensburg, Washington do hereby ordain as follows:

Section 1. Chapter 1.48 of the Ellensburg City Code entitled “Senior Citizen Advisory Commission”, as last amended by Section 13 of Ordinance 4883, is hereby repealed in its entirety.

Section 2. Severability. If any portion of this ordinance is declared invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portion(s) of this ordinance.

Section 3. Corrections. Upon the approval of the City Attorney, the City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener’s/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 4. Effective Date. This ordinance shall take effect and be in force five (5) days after its passage, approval and publication.

The foregoing ordinance was passed and adopted at a regular meeting of the City Council on the ____ day of October, 2023.

MAYOR

ATTEST:

CITY CLERK

Approved as to form:

CITY ATTORNEY

Publish:

I, Beth Leader, City Clerk of said City, do hereby certify that Ordinance No. 4925 is a true and correct copy of said Ordinance of like number as the same was passed by said Council, and that Ordinance No. 4925 was published as required by law.

BETH LEADER

Adult Activity Center Senior Liaison to the City of Ellensburg Parks & Recreation Commission

About Senior Liaison to the Parks & Recreation Commission

The goal of the Liaison position is to foster collaborative working relationships between the City of Ellensburg Parks & Recreation Commission and the Adult Activity Center for greater impact on matters related to seniors and senior recreational programming in our community.

Liaisons are member representatives, appointed by the Adult Activity Center participants to communicate, collaborate, and/or coordinate common or intersected actions with the Parks & Recreation Commission.

Liaison members have a reciprocal communication and collaboration role—to keep the Parks & Recreation Commission informed of Adult Activity Center activities, report Parks & Recreation Commission activities, and coordinate any shared projects, events, programs, communications, activities, and/or interests.

Liaisons members do not vote on Parks & Recreation Commission actions. Liaison members will be invited to provide updates during regular meetings, may offer public comment on actions, and may be recognized by the Chair during meetings.

Responsibilities

- Attend regularly scheduled Parks & Recreation Commission meetings the second Wednesday of the month at 5:30 p.m. in the Council Chambers, Council Conference Room or via Zoom.
- Liaison member will be invited to participate in Parks & Recreation Commission retreat(s).
- Facilitate communication between the Adult Activity Center and the Parks & Recreation Commission
 - Inform the Parks & Recreation Commission of the Adult Activity Center programs, activities, facility needs
 - Report back to the Adult Activity Center with up to date information about Parks & Recreation Commission activities and updates.
 - Liaison should provide a monthly update on matters related to the Adult Activity Center during the designated Liaison Report item on the Parks & Recreation Commission agenda.
 - Meeting notices will be sent to Liaison email on file with Parks & Recreation Commission staff. Liaison members will be provided with meeting materials.

Liaison members will abide by the City of Ellensburg Board and Commission Code of Conduct.

Selections of the Liaison

Members of the Adult Activity Center will select a participant in January of each calendar year to represent Seniors as the Liaison to the Parks & Recreation Commission for that calendar year.

AAC Staff will notify the Parks & Recreation Commission staff and chair of the designated Senior Liaison for that calendar year.

Potential Senior Advisory Commission Changes

For the past couple months, the City’s Senior Citizen Advisory Commission opted to cancel their formal meetings and sample a new informal “Participatory” model of facility governance to offer broader participation by facility users and advise on activities and operations of the Adult Activity Center. Below is comparison of the current “Commission” versus “Participatory” model.

Governance/Organization	Current Commission Model	New Participatory Model	How it will be different
	• Senior Citizen Advisory Commission • Members appointed by City Council • Requires formal meeting notices, hosting hybrid meetings, quorum of members, formal minutes acknowledged by City Council	• Staff would host a monthly planning meeting where all members are welcome (Coffee with Katelyn) • AAC users will provide activities and ideas for the Adult Activity Center – same as they do now • A liaison member (senior advocacy role), voted by the AAC participants, attends monthly Parks & Recreation Commission meetings and reports back to AAC	• Senior Citizen Advisory Commission would not exist and would be replaced by a monthly facility user meeting to review budget and advise on activity calendar • No election of officers would be required • Less structure: no requirement for Zoom meetings agendas; minutes acknowledged by City Council; remote attendance, appointed members, etc.).

Facility	Participants assist with activity planning and scheduling	Participants may continue to assist with activity planning, open houses, and general activities	It won't look any different to what is currently happening
Meeting Discussions	Meeting agendas include: • Activities and trips • Volunteer opportunities • Adult Activity Center budget • Monthly Attendance Counts	Discussions at meeting will still focus on: • Activities and trips • Volunteer opportunities • Adult Activity Center budget • Monthly Attendance Counts	Meetings are not official City business, so: • There will be no votes or meeting minutes; however, meeting notes may be taken. • Informal meeting structure • Staff can lead discussions and ask questions.
Meeting Frequency	Monthly meetings, requiring a quorum of members, which has been difficult to achieve historically.	Meetings will still occur monthly unless, otherwise posted. This model offers some flexibility to respond to facility needs.	• Meetings can take place on different dates and times. • Added flexibility allows staff to offer meeting time at the best time for more participants to join.



Meeting Date: September 18, 2023
City of Ellensburg
City Council Agenda Report

Agenda Subject: Termination of the Affordable Housing Agreement with Stalder Interests for the 1st & Pine Properties (Parcels 617033 and 937033) (Public Comment Opportunity)

Submitted by: Jeremy Johnston, Planning Manager

Department: Community Development

Suggested Motion/Action:

This is a discussion item only. Council may wish to provide direction to the Affordable Housing Commission as they consider future applications for these surplus parcels.

Background/Summary:

An application to utilize the 1st and Pine City owned properties for affordable housing was submitted by Stalder Interests on October 13, 2020.

On May 5, 2021 the Affordable Housing Commission (AHC) heard a proposal by the applicant which would construct a 57-unit studio development using three buildings to provide rental opportunities to low-income residents. The applicant noted intentions to utilize Federal HUD funding for the project and was only requesting property acquisition (donation to the applicant) from the City with no request for City sales tax funds. The AHC recommended moving the item forward to Council to consider an award letter to Stalder Interests and to begin contract negotiations.

On September 7, 2021, City Council approved a conditional award letter which outlined certain accessibility minimums and noted the requirements of a development timeline consistent with the original application. The letter stated that the City of Ellensburg reserves the right to withdraw the award should the project not demonstrate the progress proposed within two years of the date of the award letter (9/7/2023).

On October 18, 2021, the City adopted Resolution 2021-32, declaring the 1st & Pine properties surplus for transfer to be used for affordable housing purposes.

On August 2, 2022, the City Manager signed an Affordable Housing Agreement with Stalder Interests to develop the 1st and Pine properties with affordable housing. Among several other things, the contract established certain benchmarks and timelines for the project.

On February 3, 2023, the City of Ellensburg sent a letter to the applicant noting that several elements of the Schedule of Performance section of the agreement had not been met including; Submission of Evidence of Financing, Satisfaction of Conditions Precedent, and Commencement of Construction. The letter requested clarity if the applicant intended to proceed with the project and requested a proposed modification to the schedule of

performance by February 24, 2023, if the applicant intended to proceed.

On February 23, 2023, the applicant provided a response to the City's request. The applicant stated that the project was being reevaluated to account for capital and commodity costs. The applicant also indicated that a recent increase in building height allowances in the zone would allow for a potential redesign to a single five-story building that could accommodate an elevator and more diversity in unit design beyond studio units. The applicant requested an extension to the timeline to draft the redesign and secure additional investor funding.

Community Development staff responded on March 6, 2023 requesting clarity on a timeframe for the redesign and noting that this proposed change would require another review by the AHC.

On June 28, 2023, the City of Ellensburg sent the applicant a letter noting that we had not received any communication from the applicant since the February 23rd proposal. In this letter, the City included a formal notice of failure to meet conditions 2 and 3 of the Schedule of Performance. Due to the delay in the project, the City required a revised plan to be submitted by July 31, 2023 or the City would terminate the project under section 7.4.2 of the agreement.

On July 28, 2023, the City received a revised narrative and Site Plan for the proposal.

The new narrative described a similar revision to the project as noted in the applicant's February 23, 2023, narrative. The applicant indicated that market conditions have changed since the original proposal and that federal funding sources now require more liquid and reserve assets and connections with agency personnel to be considered. The applicant noted that the project may need to consider an application for the City's affordable housing funds to cover increasing permitting, architecture, and environmental review fees.

On September 6, 2023, the project history was submitted to the Affordable Housing Commission for review. After hearing from the applicant, the Commission considered factors of failure to meet timelines and benchmarks described in the agreement and the significant changes to the most recent proposal submitted by the applicant. Thus, the Affordable Housing Commission recommended terminating the contract with Stalder Interests and to pursue new project proposals for the properties.

Previous Council Action:

On September 7, 2021, City Council approved a conditional award letter to Stalder Interests to develop the 1st and Pine properties as an affordable housing project. On October 18, 2021, the City of Ellensburg declared these properties surplus for affordable housing purposes through Resolution 2021-132.

Analysis:

To reflect the City Council's interest of timely construction on parcels of property that were surplussed for affordable housing, strict timelines for performance were incorporated into the Agreement (see Attachment No. 3 Standards of Performance). The revised project proposal from Stalder Interests includes significant changes to the project design and funding. The additional sales tax funding request would require amendment to the Agreement as well.

Staff will provide Stalder Interests with proper notice to terminate the current Agreement.

Council may want to consider providing direction to the Affordable Housing Commission on terms, process, and/or preferences for affordable housing project development as they consider any future applications for projects on these surplus parcels. Several elements to consider include: timelines, ADA/universal design, unit size (studio, 1-2 bedroom, etc.), and housing types.

Financial Impact:

Termination of the agreement incurs no additional cost to the City.

Budget Adjustment: No

Attachments:

1. Ellensburg-Stalder Affordable Housing Agreement 07-20-22

AFFORDABLE HOUSING AGREEMENT

by and between

CITY OF ELLENSBURG

and

STALDER INTERESTS, INC.

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ATTACHMENTS

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ATTACHMENT NO. 2	LEGAL DESCRIPTION OF THE SITE
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ATTACHMENT NO. 7	AFFORDABLE HOUSING COVENANT
ATTACHMENT NO. 8	AWARD LETTER

AFFORDABLE HOUSING AGREEMENT

THIS AFFORDABLE HOUSING AGREEMENT (the “Agreement”), dated, for identification purposes only, as of _____, 2022 (the “Effective Date”) is entered into by and between the **CITY OF ELLENSBURG**, a municipal corporation (“City”), **STADLER INTERESTS, INC.**, a Washington corporation (the “Developer”).

RECITALS

A. City is a municipal corporation which, as part of its governmental operations, seeks to add to the community’s supply of affordable housing units that are actively managed, which constitutes a public use and purpose and an essential governmental function for which public moneys may be spent, and other aid given and a proper public purpose, necessary in the public interest.

B. City currently owns that certain property consisting of approximately one-half (0.5) of an acre, known as 1st and Pine (the “Site”) within the corporate limits of the City of Ellensburg. Pursuant to Resolution 2021-32, the City Council has declared such property surplus to the City’s needs and has authorized disposal of the Site pursuant to RCW 39.33.015 for the public benefit purpose described in Resolution 2021-32 and RCW 39.33.015, namely to provide affordable housing for low-income and related facilities that support the goals of affordable housing development in providing economic and social stability for low-income persons. For this purpose “low-income” refers to an earnings threshold of 80% of AMI as set forth in RCW 43.63A.510.

C. Developer will develop the Site with a fifty-seven (57) unit multifamily development (“Project”) providing permanent housing to persons and families of limited income, as more particularly provided herein, with all of the dwelling units on the Site to be restricted to occupancy by low-income residents. The Project will be substantially similar in overall design to the proposal submitted by the Developer and approved by the Ellensburg City Council at its June 7, 2021 meeting. The Project is also subject to the terms and conditions of the City’s September 8, 2021 Award Letter, a copy of which is included hereto as Attachment 8.

D. Developer has requested assistance from City in the form of contribution of the Site.

E. By this Agreement, and subject to the terms and conditions herein, City desires to aid in the implementation of the Project as more fully described herein. The permitted income levels of the tenants of each Housing Unit and the permissible rents price to be charged for occupancy of each Housing Unit are set forth in detail in this Agreement and the Regulatory Agreement, in order to ensure compliance with the requirements this Agreement and other applicable federal and state laws and regulations.

F. Initially capitalized terms used in these Recitals are defined in these Recitals and in Section 1.1.

G. The Project is in the vital and best interest of City and the health, safety and welfare of the residents of the City, and in accord with the public purposes and provisions of applicable federal, state and local laws and requirements.

NOW, THEREFORE, for and in consideration of the mutual promises, covenants, and conditions herein contained, the parties hereto agree as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Defined Terms. As used in this Agreement (and in all other Project Documents, unless otherwise defined), the following capitalized terms shall have the following meanings:

“**Affiliate**” means any person or entity directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with Developer which, if Developer is a partnership or limited liability company, shall include each of the constituent partners or members, respectively thereof. The term “control” as used in the immediately preceding sentence, means, with respect to a person that is a corporation, the right to the exercise, directly or indirectly, of at least 50% of the voting rights attributable to the shares of the controlled corporation and, with respect to a person that is not a corporation, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of the controlled person.

“**Affordability Period**” means the duration of the affordable housing requirements that are required by this Agreement and set forth in the Regulatory Agreement. The Affordability Period shall continue until the later to occur of (i) the fifty-first (51st) anniversary of the Effective Date, or (ii) the fiftieth (50th) anniversary of the date the Certificate of Completion of Construction is issued to Developer.

“**Area Median Income**” or “**AMI**” means the Area Median Income for Kittitas County, Washington, as published annually, effective July 1, by the U.S. Department of Housing and Urban Development – HOME Income Limits.

“**Building Permit**” means the building permit(s) issued by City and required for the Improvements.

“**Certificate of Completion of Construction**” means Attachment No. 5.

“**City**” means the City of Ellensburg, a Washington municipal corporation.

“**City Code**” means the municipal code of City as amended from time to time.

“**City Conveyance**” means the conveyance by which Developer shall acquire title to the Site from City.

“**City Deed**” means a grant deed by which City will convey the Site to Developer. The form of the City Deed shall be substantially as set forth as Attachment 6.

“**City Conveyance Developer Certificate**” means the certificate delivered by Developer to the City as a condition of Closing.

“**City-Developer Purchase Price**” means the sum of \$158,188.73, which shall be deemed to be the value of the Site established upon conveyance of the Site to the Developer pursuant to Section 2.1 of this Agreement.

“**City Manager**” means the City Manager of City and the authorized designee(s) of the City Manager. Whenever the consent, approval or other action of the “City Manager” is required herein such consent may be provided by the City Manager or the authorized designee(s).

“**Civil Permits**” means the permit(s) issued by the City and required to construct the on-site utilities and infrastructure serving the Project.

“Conditions Precedent” shall have the meaning set forth therefor in Section 2.1.4 hereof.

“Construction” means the entire work of construction, development and improvement of the Site which is required pursuant to this Agreement, including as set forth in the Scope of Development and the Design Development Drawings.

“Construction Contract” means the contract entered into by and between General Contractor and Developer, if the General Contractor is not the Developer, for the construction of the Project, as approved by City Manager pursuant to this Agreement in the City Manager’s reasonable discretion.

“County” means the County of Kittitas, Washington.

“County Recorder” means the County Auditor or other official charged with recording of documents pertaining to title to land.

“Design Development Drawings” is defined in Section 4.2.

“Developer” means Stadler Interests, Inc., as defined in the first paragraph hereof.

“Effective Date” means the date of this Agreement.

“Eighty Percent Households” means households earning not greater than 80% of Kittitas County AMI, adjusted for household size.

“Environmental Claim” means (i) any judicial or administrative enforcement actions, proceedings, claims, orders (including consent orders and decrees), directives, notices (including notices of inspection, notices of abatement, notices of noncompliance or violation and notices to comply), requests for information or investigation instituted or threatened by any governmental authority pursuant to any Governmental Requirement; or, (ii) any suits, arbitrations, legal proceedings, actions or claims instituted, made or threatened that relate to any damage, contribution, cost recovery, compensation, loss or injury resulting from the release or threatened release (whether sudden or non-sudden or accidental or non-accidental) of, or exposure to, any Hazardous Materials, or the violation or alleged violation of any Governmental Requirement, or the general, manufacture, use, storage, transportation, treatment, or disposal of Hazardous Materials.

“Environmental Laws” as used in this Agreement means all laws, ordinances and regulations relating to Hazardous Materials, including, without limitation: the Clean Air Act, as amended, 42 U.S.C. Section 7401, et seq.; the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251, et seq.; the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. Section 6901, et seq.; the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (including the Superfund Amendments and Reauthorization Act of 1986), 42 U.S.C. Section 9601, et seq.; the Toxic Substances Control Act, as amended, 15 U.S.C. Section 2601, et seq.; the Occupational Safety and Health Act, as amended, 29 U.S.C. Section 651, et seq., the Emergency Planning and Community Right to Know Act of 1986, 42 U.S.C. Section 11001, et seq.; the Mine Safety and Health Act of 1977, as amended, 30 U.S.C. Section 801, et seq.; the Safe Drinking Water Act, as amended, 42 U.S.C. Section 300f, et seq.; all comparable state and local laws, laws of other jurisdictions or orders and regulations; and all laws, ordinances, statutes, codes, rules, regulations, orders and decrees of the United States, the state, the county, the city, or any other political subdivision in which the Site is located, and of any other political subdivision, agency or instrumentality exercising jurisdiction over City, Developer, or the Site.

“Escrow” means, unless the context requires otherwise, the escrow established for the recording of the City Deed and the Regulatory Agreement.

“Escrow Holder” means the holder of the Escrow, as designated by City.

“Event of Default” has the meaning set forth in Section 7.1.

“Fair Housing Laws” means the Fair Housing Act of 1968 as amended from time to time (42 U.S. Code Sections 3601-3619 and 3631), and State laws pertaining to housing including without limitation the Washington Law Against Discrimination, Chapter 49.60 RCW.

“Financing Plan” means a plan which accounts for all sources necessary for the construction of the Improvements; such Financing Plan is to be subject to review and approval by the City Manager.

“General Contractor” means the general contractor (which may be the Developer) engaged to supervise the subcontractors in the performance and completion of the construction of the Improvements. The General Contractor shall be reasonably acceptable to and approved by the City Manager, in the City Manager’s reasonable discretion. The parties acknowledge that the General Contractor may perform actual construction work for a portion of the Development, and may hire Subcontractors who shall be reasonably approved by the City Manager.

“Governmental Requirements” means all laws, ordinances, statutes, codes, rules, regulations, orders, and decrees of the United States, the state, the County, City, or any other political subdivision in which the Site is located, and of any other political subdivision, agency, or instrumentality exercising jurisdiction over Developer or the Project. The Governmental Requirements shall be deemed to require, without limitation, the payment of fees charged by governmental agencies having jurisdiction over the development of the Site.

“Hazardous Material” or **“Hazardous Materials”** means: (a) any substance, material, or waste which is or becomes regulated by any local governmental authority, the State of Washington, or the United States Government, including, but not limited to, any material or substance which is (i) defined as a “hazardous waste,” “dangerous wastes”, “hazardous substances”, “hazardous household substances”, “acutely hazardous waste,” “restricted hazardous waste,” or “extremely hazardous waste” under RCW Title 70, Chapter 70.105, (ii) petroleum, (iii) asbestos and/or asbestos containing materials; (iv) lead-based paint or any lead based or lead products; (v) polychlorinated biphenyls, (vi) designated as a “hazardous substance” pursuant to Section 311 of the Clean Water Act (33 U.S.C. Section 1317), (x) defined as a “hazardous waste” pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq. (42 U.S.C. Section 6903), (vii) Methyl-tertiary Butyl Ether; (xii) defined as “hazardous substances” pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601 et seq. (42 U.S.C. Section 9601); (viii) any other substance, whether in the form of a solid, liquid, gas or any other form whatsoever, which by any “Environmental Laws” (as defined above) either requires special handling in its use, transportation, generation, collection, storage, handling, treatment or disposal, or is defined as “hazardous” or harmful to the environment; and/or (ix) lead based paint pursuant to and defined in the Lead-Based Paint Poisoning Prevention Act, Title X of the 1992 Housing and Community Development Act, 42 U.S.C. §4800, et seq., specifically §§4821–4846, and the implementing regulations thereto. Notwithstanding the foregoing, “Hazardous Materials” shall not include such products in quantities as are customarily used in the construction, maintenance, rehabilitation, management, operation and residence of residential developments or associated buildings and grounds, or typically used in residential activities in a manner typical of other comparable residential developments, or substances commonly ingested by a significant population living within the Project, including without limitation alcohol, aspirin, tobacco and saccharine.

“Hazardous Materials Contamination” means the contamination (whether presently existing or hereafter occurring) of the improvements, facilities, soil, groundwater, air or other elements on, in or of the Site by Hazardous Materials, or the contamination of the buildings, facilities, soil, groundwater, air or other elements on, in or of any other property as a result of Hazardous Materials at any time (whether before or after the Effective Date) emanating from the Site.

“Housing Unit” or **“Housing Units”** means the fifty-seven (57) individual dwelling units at the Site to be constructed, leased, managed, and operated by Developer as long term affordable housing and in implementation of the Project.

“HUD” means the United States Department of Housing and Urban Development.

“HUD Loan” means a mortgage loan insured by the Federal Housing Administration under Section 221(d)(4) of the National Housing Act, as amended.

“Improvements” means all of the improvements all improvements required to be made under this Agreement and all other Project Documents.

“Indemnitees” means City and its elected officials, officers, employees, attorneys, contractors, elective and appointive boards and commissions, representatives, agents, and volunteers.

“Legal Description of the Site” means Attachment 2.

“Low-Income Household” means Eighty Percent Households.

“Map” means Attachment 1 hereof.

“Owner’s Title Policy” is defined in Section 2.4.

“Parties” means City and Developer.

“Project” is defined in Recital D above.

“Project Documents” means, collectively, this Agreement, the Regulatory Agreement, and the City Deed.

“RCW” means the Revised Code of Washington.

“Regulatory Agreement” means an instrument substantially in the form of Attachment 7 hereto.

“Remediation” is defined in Section 4.16.

“Rent” means the total of monthly payments by tenants of a Housing Unit for use and occupancy for the Housing Unit and facilities associated therewith, including utility allowance as established by the local public housing authority or as otherwise set by HUD.

“Schedule of Performance” means that certain Schedule of Performance attached hereto as Attachment 3, which generally sets forth the time for performing the various obligations of this Agreement. The time periods set forth in the Schedule of Performance for City approval of submittals, including without limitation any plans and drawings, submitted to City by Developer shall only apply and commence upon Developer’s complete submittal of all the required information. In no event shall an incomplete submittal by Developer trigger any of City Manager’s obligations of review and/or approval hereunder; provided,

however, that the City Manager shall notify Developer of an incomplete submittal as soon as is practicable. The Schedule of Performance is subject to modification from time to time upon prior written authorization of Developer and the City Manager on behalf of City. In addition to Section 8.2 extensions, the City Manager retains authority to extend times for performance for up to three hundred (300) days as all such extensions are aggregated.

“**Scope of Development**” shall have the meaning set forth in Section 4.1 hereof.

“**Site**” means that property so designated in the Legal Description of the Site and the Map.

“**Subcontractor**” and “**Subcontractors**” means, individually and collectively, one or more subcontractors hired by Developer or General Contractor for the Improvements to perform and complete, or to engage and supervise others to perform and complete, the construction of the Improvements. Developer shall submit to City information regarding the entity serving as the Subcontractor for any portion of the construction of the Improvements, including compliance with plans approved by City and the obtaining by Developer of all required licenses, certifications, insurance, etc., as reasonably requested by the City Manager.

“**Title Company**” means AmeriTitle or another title insurer designated by City.

“**WAC**” means the State of Washington Administrative Code as amended from time to time.

1.2 Singular and Plural Terms. Any defined term used in the plural in this Agreement or any Project Document shall refer to all members of the relevant class and any defined term used in the singular shall refer to any number of the members of the relevant class.

1.3 References and Other Terms. Any reference to this Agreement or any Project Document shall include such document both as originally executed and as it may from time to time be modified. References herein to Articles, Sections and Exhibits shall be construed as references to this Agreement unless a different document is named. References to subparagraphs shall be construed as references to the same Section in which the reference appears. The term “document” is used in its broadest sense and encompasses agreements, certificates, opinions, consents, instruments and other written material of every kind. The terms “including” and “include” mean “including (include) without limitation.”

1.4 Exhibits Incorporated. All attachments and exhibits to this Agreement, as now existing and as the same may from time to time be modified, are incorporated herein by this reference.

2. DISPOSITION OF THE SITE

2.1 Sale of the Site. As of the Effective Date, City holds fee title to the Site. Developer has completed its investigation of the Site and, provided all required permits and land use approvals are obtained with conditions acceptable to Developer, in its sole and absolute discretion, Developer shall deliver written notice to City of its intention to proceed with the Improvements. Developer’s investigation may have included, in Developer’s sole and absolute discretion: physical inspection of the Site, including, but not necessarily limited to, inspection and examination of soils, environmental factors, hazardous substances, archaeological information, geological, engineering and other tests, a review and investigation of zoning, permits and entitlements, review of all governmental matters affecting the Site, an appraisal of the Site, and such other matters pertaining to the Improvements as Developer deems appropriate. Developer shall have the right to, at any reasonable time and from time to time to inspect (or have its consultants inspect) the Site, and Developer shall not conduct any invasive soil, gas or groundwater sampling at the Site without first submitting a work plan to City which is acceptable to City in its reasonable discretion. No later than

ten (10) days after its receipt of any such proposed work plan from Developer, City shall notify Developer in writing whether it approves or reasonably disapproves of such work plan. All fees and other expenses incurred by Developer relating to the inspection of the Site shall be Developer's obligations. In the event Developer constructs the Improvements, all fees and expenses incurred by Developer relating to the inspection of the Site will be included in the total development cost. Developer agrees to repair any damage caused by Developer or Developer's consultants in making any inspection.

The purchase price for the sale of the Site by City to Developer, subject to all of the terms and conditions of this Agreement, shall be the City-Developer Purchase Price provided payment of such purchase price will be deferred and deemed satisfied if Developer performs its obligations under this Agreement including without limitation the renting of Housing Units to Low-Income Households in compliance with the Agreement.

2.1.1 Access to Site Prior to the Closing. Prior to the City Conveyance, representatives of the Developer shall have the right of access to all portions of the Site for the purpose of obtaining data and making surveys and tests necessary to carry out this Agreement, including without limitation the investigation of the environmental condition of the Site. The Developer agrees to notify the City in writing prior to undertaking any studies or work upon the Site prior to the City Conveyance. The City may require the Developer to execute a right of entry agreement satisfactory to City legal counsel prior to commencing such studies or work. Any preliminary work by the Developer shall be undertaken only after securing any and all necessary permits from the appropriate governmental agencies. The Developer shall indemnify, defend, and hold City harmless from any claims, losses, liabilities, and damages arising out of the activities of the Developer as set forth in this section. In addition, in the event that the Developer causes any damage to any portion of the Site, the Developer pursuant to this section shall promptly restore the Site as nearly as possible to the physical condition existing immediately prior to the Developer's entry onto the Site.

2.1.2 Conditions Precedent. City shall not convey title to any of the Site to, unless and until each and every one of the following conditions precedent (the "City Conveyance Conditions Precedent," which City Conveyance Conditions Precedent are solely for the benefit of City) has been fully satisfied, as determined in good faith by the City Manager (each of which conditions, if it requires action by Developer, shall also be a covenant of Developer):

(a) Financing Plan. Developer shall have submitted and shall have obtained approval of the City Manager of a Financing Plan. In addition, as a part of the Financing Plan, evidence of due formation and good standing shall have been filed with the Washington Secretary of State a copy shall be provided to City. In addition, Developer shall provide evidence that it has secured financing commitments for the Project that are sufficient to finance the Project, and shall provide a pro forma project budget that includes all funding sources for the Project. In addition, Developer shall have certified in writing to City that the financing commitments, affordable housing subsidies, and required equity contributions, are together projected to be sufficient to pay for the Construction of the Improvements through completion of the Project.

(b) Project Documents. Developer shall have delivered to the Escrow Holder, in recordable form, the Regulatory Agreement, duly executed by Developer.

(c) Civil Permits. Developer shall have satisfied all conditions to obtaining all Civil Permits to be obtained excepting for the payment of permit fees for all of the Site (the payment of which shall be made by Developer after Closing in conformity with City practices customarily applied to development within the corporate limits of City). Developer acknowledges and agrees that the plans prepared for the Improvements shall be subject to City's normal planning review process. If any parcel map

or lot line adjustment is required as to any of the Site, Developer shall bear the cost of preparing and procuring such parcel map or lot line adjustment.

(d) Land Use Approvals. Developer shall have obtained each of the land use approvals required for issuance of the Civil Permits.

(e) Environmental Risk and Documentation. City Manager shall supply documentation of completed environmental remediation through local and Department of Ecology records. The Developer acknowledges that in supplying such documentation and in conveying the Site, the City makes no warranties or representations regarding the compliance of the Site with any environmental laws or regulations.

(f) Insurance. City shall have received evidence, satisfactory to City Manager, that all of the insurance policies required by Section 4.5, below, are in full force and effect.

(g) Corporate Resolution. Developer shall deliver or shall have delivered to City a certified copy of a resolution of Developer's board of directors (or authorized executive committee) authorizing (or ratifying) the execution of the Project Documents (the "Developer's Resolution").

(h) Lease/Rental Agreement. Developer shall have submitted to City, and City shall have approved the standard form lease/rental agreement in conformance with the Regulatory Agreement for rental of the Housing Units to eligible tenants in accordance with the terms of this Agreement, which approval shall not be unreasonably withheld or delayed. Developer shall include certain terms in the standard form lease/rental agreement which clearly describe the requirements of qualification and rental to Low Income Households including without limitation: (i) the obligation to provide complete and timely income verifications, as and when reasonably requested by Developer and/or City, but not less frequently than prior to initial occupancy and then annually during the term of tenancy, (ii) the rules and regulations for use, occupancy, and quiet enjoyment of the Housing Units and the Site, (iii) tenant protections relating to notices, eviction, and (iv) such other terms as Developer and/or City deem reasonably necessary.

(i) Representations and Warranties. The representations and warranties of Developer contained in this Agreement shall be correct as of the close of Escrow as to the Site as though made on and as of that date, and City Manager shall have received a City Conveyance Developer Certificate to that effect signed by an officer of Developer.

(j) No Default under Agreement. No Event of Default by Developer shall have occurred under this Agreement, no event shall have occurred which, with the giving of notice or the passage of time or both, would constitute an Event of Default by Developer under this Agreement, Developer shall be in compliance with the provisions of this Agreement, and City Manager shall have received a City Conveyance Developer Certificate to that effect signed by an officer of Developer.

(k) No Other Defaults. Developer shall not be in default of this Agreement or any agreement with a lender, or prospective lender, for the Site or portion thereof, and no event shall have occurred which with the passage of time would constitute a default.

All conditions set forth in this section, or to City's obligations hereunder, are for City's benefit only and City Manager may waive all or any part of such rights by written notice to Developer and Escrow Holder. Closing of the acquisition shall constitute Developer's certification, to the best of Developer's knowledge, to the City that the City Conveyance Conditions Precedent have been satisfied.

2.1.3 Developer's Conditions of City-Developer Closing. Developer's obligation to proceed with the acceptance of conveyance of the Site is subject to the fulfillment or waiver by Developer of each and all of the conditions precedent (a) through (d), inclusive, described below ("Developer's Conditions Precedent"), which are solely for the benefit of Developer, and which shall be fulfilled or waived by the time periods provided for herein:

(a) Review and Approval of Title. Developer shall have reviewed and approved the condition of title of the Site.

(b) Title Policy. The Title Company shall, upon payment of Title Company's regularly scheduled premium, be irrevocably committed to issue the Owner's Title Policy for the Site upon close of Escrow, in accordance with Section 2.4 hereof.

(c) Property Condition. Developer shall have approved the condition of the Site.

(d) Permits. Developer is satisfied, in its sole discretion, that City is prepared to issue the Civil Permit and, after conveyance of the Site to Developer, all permits, subdivision approvals, and other entitlements to develop the Site on terms and conditions acceptable to Developer, in its sole satisfaction.

(e) City Conveyance Developer Certificate. Developer shall have delivered a City Conveyance Developer Certificate to the City Manager.

2.2 Escrow. The parties shall open Escrow with the Escrow Holder within fifteen (15) days after the Effective Date, for the recordation of the City Deed and Regulatory Agreement. City and Developer agree to execute such supplemental escrow instructions as may be reasonably required to implement this section. Developer shall be responsible to pay any premium, fees, costs and expenses for the Owner's Title Policy. Developer shall additionally pay, at its cost, all escrow fees, closing costs, and any amounts necessary to effect recording, escrow charges, and any costs necessary to cause the recording of the City Deed and Regulatory Agreement and closing of the transaction contemplated herein.

2.3 [Reserved]

2.4 Title Insurance, Disposition to Developer. Substantially concurrently with recordation of the City Deed, there shall be issued to Developer an ALTA owner's policy of title insurance ("Owner's Title Policy") in the amount of the Purchase Price, issued by the Title Company insuring fee simple title to the Site is vested in Developer in the condition required by this Agreement.

3. DEVELOPER ACTIVITIES FOLLOWING CONVEYANCE TO DEVELOPER

3.1 Property Taxes and Assessments. Ad valorem taxes and assessments levied, assessed or imposed on the Site for the period after the City Conveyance shall be borne by Developer.

3.2 Developer's Obligations after the City Conveyance. After the City Conveyance, Developer shall, at its sole cost and expense, promptly take: (i) all actions required by any federal, state or local governmental City or political subdivision or any Governmental Requirements with respect to the Site pursuant to this Agreement; (ii) all actions necessary to prepare the soil on the Site for the development required hereunder; and (iii) all actions necessary to make full use of the Site for the development and operation of affordable housing pursuant to this Agreement, which actions, requirements or necessity arise from the presence upon, about or beneath the Site of any Hazardous Materials regardless of when such Hazardous Materials were introduced to the Site and regardless of who is responsible for introducing such

Hazardous Materials to the Site. Developer shall take all actions necessary to promptly restore the Site to an environmentally sound condition for uses contemplated by this Agreement consistent with the standard of remediation required under applicable Governmental Requirements. The obligations under this section shall survive the issuance of the Certificate of Completion of Construction.

3.3 Duty to Prevent Hazardous Material Contamination. After the City Conveyance, Developer shall take all reasonably necessary precautions to prevent the release of any Hazardous Materials into the environment, in, on, under, or about the Site. Such precautions shall include compliance with all Governmental Requirements with respect to Hazardous Materials. In addition, during construction of the Improvements, Developer shall take all reasonably necessary precautions to prevent the release of any Hazardous Materials into the environment or onto or under the Site in violation of Environmental Laws. Such precautions shall include compliance with all Environmental Laws with respect to Hazardous Materials. In addition, Developer shall install and utilize such equipment and implement and adhere to such procedures as are consistent with applicable Environmental Laws and then-prevailing industry standards as respects the disclosure, storage, use, abatement, removal and disposal of Hazardous Materials.

3.4 Release of City by Developer. Developer hereby waives, releases and discharges forever City and its employees, officers, agents and representatives, from all present and future claims, demands, suits, legal and administrative proceedings and from all liability for damages, losses, costs, liabilities, fees and expenses, present and future, arising out of or in any way connected with Developer's ownership, improvement and/or disposition of the Site, any Hazardous Materials on the Site, or the existence of Hazardous Materials Contamination in any state on the Site, however they came to be located there.

3.5 "As Is" Conveyance. Developer expressly understands and agrees that Developer purchased the Site from City in an "AS IS" condition on the closing date. As of the closing, City specifically disclaimed the making of any representations or warranties, express or implied, regarding the Site or matters affecting the Site, including without limitation, the presence of Hazardous Materials on the Site, or the condition of the soil, its geology, the presence of known or unknown seismic faults, or the suitability of the Site for the development purposes intended hereunder.

4. SCOPE OF DEVELOPMENT; INSURANCE AND INDEMNITY, FINANCING

4.1 Scope of Development. Within a reasonable period of time after the Effective Date, and in any event, prior to commencement of construction of the Improvements Developer shall submit to City a reasonably detailed overview of the scope of the development of the Improvements that Developer intends to construct ("Proposed Scope of Development") for review by the City. The City may approve, disapprove, or modify the Proposed Scope of Development in its reasonable discretion. In the event the City disapproved or requests modifications to the Proposed Scope of Development, Developer shall make such needed or requested modifications and resubmit to the City for its review. This process shall continue until the City has approved the Proposed Scope of Development, which shall thereafter be referred to as the "Scope of Development". Developer shall develop the Improvements in accordance with the approved Scope of Development and the approved Design Development Drawings for the Improvements. The Improvements shall generally consist of not fewer than fifty-seven (57) dwelling units, as more particularly set forth in the Scope of Development. In the event of any inconsistency between the Scope of Development and the Design Development Drawings for the Improvements which have been approved by City, the approved Design Development Drawings for the Improvements shall control. Developer shall complete all off-site improvements required by City as condition(s) of approval included in the land use entitlement for the Project at no cost to City.

4.2 Design Review.

4.2.1 Developer Submissions. Before commencement of construction of the Improvements or other works of improvement upon the Site, Developer shall submit to City any plans and drawings (collectively, the “Design Development Drawings”) which may be required by City with respect to any permits and entitlements which are required to be obtained to develop the Improvements. Developer, on or prior to the date set forth in the Schedule of Performance, shall submit to City such plans for the Improvements as required by City in order for Developer to obtain Building Permits for the Improvements. The Design Development Drawings shall be consistent with the Scope of Development. Within forty-five (45) days after City’s disapproval or conditional approval of such plans, Developer shall revise the portions of such plans identified by City as requiring revisions and resubmit the revised plans to City.

4.2.2 City Review and Approval. City shall have all rights to review and approve or disapprove all Design Development Drawings and other required submittals in accordance with the City Code, and nothing set forth in this Agreement shall be construed to constitute City’s approval of any or all of the Design Development Drawings or to limit or affect City’s review and right to approve, approve subject to conditions, or disapprove Design Development Drawings, plans, drawings, applications, or submittals.

4.2.3 Revisions. Any and all change orders or revisions required by City and its inspectors which are required under the City Code and under other applicable laws and regulations shall be included by Developer in its Design Development Drawings and other required submittals and shall be completed during the construction of the Improvements.

4.2.4 Defects in Plans. City shall not be responsible either to Developer or to third parties in any way for any defects in the Design Development Drawings, nor for any structural or other defects in any work done according to the approved Design Development Drawings, nor for any delays reasonably caused by the review and approval processes established by this section.

4.2.5 Land Use Approvals. Before commencement of construction of the Improvements or other works of improvement upon the Site, Developer shall, at its own expense, secure or cause to be secured any and all land use and other entitlements, permits, and approvals which may be required for the Improvements by City or any other governmental agency affected by or having jurisdiction over such construction or work, except for those which are the responsibility of City as set forth herein. Developer shall, without limitation, apply for and secure, and pay all costs, charges and fees associated therewith, all permits and fees required by City, the County, and other governmental agencies with jurisdiction over the Improvements.

4.3 Time of Performance; Progress Reports. Developer shall submit all Design Development Drawings, commence and complete all Construction of the Improvements, and satisfy all other obligations and conditions of this Agreement within the times established therefor in this Agreement. Construction of the Improvements shall be commenced after the recording of the City Deed. Following the Effective Date, once Construction is commenced, it shall continuously and diligently be pursued to completion and without cessation for more than fifteen (15) days subject to Section 8.2. During the course of Construction and prior to issuance of the Certificate of Completion of Construction, Developer shall provide timely reports of the progress of Construction when requested by the City Manager. Developer shall complete construction of all of the Improvements on the Site by the time established therefor in the Schedule of Performance subject to Section 8.2.

Developer shall submit the Financing Plan by the time established therefor in the Schedule of Performance. In addition, Developer shall regularly (at least monthly) provide a progress report to the City Manager concerning the financing for and ongoing viability of the proposed development of the Improvements and leasing of the Housing Units to Low-Income Households in conformity with this

Agreement. Developer shall also meet monthly with the City Manager or the City Manager's designee to review progress; Developer shall also participate in such additional meetings, if any, as may be deemed appropriate by the City Manager. If requested by either party, such meetings shall be conducted as Zoom meetings, telephonic meetings, or other modes not involving in-person meetings. The meetings and reports shall continue until the completion of the Improvements.

4.4 Construction Costs. All costs of planning, designing, developing, obtaining permits for (including permit fees), and constructing the Improvements shall be borne solely by Developer.

4.5 Insurance Requirements. Until the Certificate of Completion of Construction has been issued upon completion of all of the Improvements, the following policies of insurance in form and substance reasonably satisfactory to City:

(a) workers' compensation insurance as required by the Industrial Insurance laws of the State of Washington in connection with the Improvements;

(b) upon commencement of the earlier to occur of clearing, demolition, or construction of the Improvements by Developer and at all times prior to completion of the Improvements, builder's risk-all risk insurance covering interests of the City, the Developer, Subcontractors, and Sub-subcontractors participating in the Construction. Builders Risk insurance shall be on a special perils policy form and shall insure against the perils of fire and extended coverage and physical loss or damage including flood, earthquake, theft, vandalism, malicious mischief, and collapse, covering 100% of the replacement cost of all Improvements (including offsite materials) during the course of construction and all other risks normally covered by "all risk" coverage policies in the area where the Site is located (including loss by flood if the Site is in an area designated as subject to the danger of flood)), and shall include coverage for temporary buildings, debris removal, and damage to materials in transit or stored off-site;

(c) following completion of the Improvements, fire and hazard "all risk" insurance covering 100% of the replacement cost of the Improvements in the event of fire, lightning, windstorm, vandalism, earthquake (if available at commercially reasonable rates), malicious mischief and all other risks normally covered by "all risk" coverage policies in the area where the Site is located (including loss by flood if the Site is in an area designated as subject to the danger of flood);

(d) public liability insurance in amounts reasonably required by the City Manager from time to time, and in no event less than \$2,000,000 for "single occurrence;" and

(e) property damage insurance in amounts reasonably required by the City Manager from time to time, and in no event less than \$2,000,000.

All such insurance shall provide that it may not be canceled or materially modified without 30 days prior written notice to City. City shall be an additional insured in the policies required under subparagraphs (d) and (e). No such insurance shall include deductible amounts to which City has not previously consented in writing. Certificates of insurance for the above policies (and/or original policies, if required by City) shall be delivered to City from time to time within 10 days after demand therefor. All policies insuring against damage to the Improvements shall contain an agreed value clause sufficient to eliminate any risk of co-insurance. No less than 30 days prior to the expiration of each policy, Developer shall deliver to City evidence of renewal or replacement of such policy reasonably satisfactory to the City Manager. The insurance requirements as set forth in this section may be modified from time to time upon mutual written agreement of the City Manager (for City) and Developer. It is contemplated that the construction lender may direct the use of insurance proceeds related to damage which occurs during construction so long as Developer demonstrates that completion of the Improvements is assured.

Coverage provided hereunder by Developer shall be primary insurance and not be contributing with any insurance maintained by City, and the policy shall contain such an endorsement. The insurance policy or the endorsement shall contain a waiver of subrogation for the benefit of the City. None of the above-described policies shall require Developer to meet a deductible or self-insured retention amount of more than Five Thousand Dollars (\$5,000.00) unless approved in writing by the City Manager. All policies shall be written by good and solvent insurers qualified to do business in Washington and shall have a policyholder's rating of A or better in the most recent edition of "Best's Key Rating Guide -- Site and Casualty." The required certificate shall be furnished by Developer at the time set forth herein.

Developer acknowledges and agrees that the insurance requirements contained herein are the minimum requirements of the City and that if HUD or any other lender requires that Developer maintain higher amounts and/or additional insurance coverage, Developer shall comply with such insurance requirements.

4.5.1 Public Entity Full Availability of Contractor Limits. If the Developer maintains higher insurance limits than the minimums shown above, the City shall be insured for the full available limits of such insurance maintained by the Developer, irrespective of whether such limits maintained by the Developer are greater than those required by this contract or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Developer.

4.5.2 Other Insurance Provision. The Developer's insurance policies are to contain or be endorsed to contain that they shall be primary insurance as respect the City. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be excess of the Developer's insurance and shall not contribute with it.

4.5.3 Subcontractors. The Developer shall cause each and every Subcontractor to provide insurance coverage that complies with all applicable requirements of the Developer-provided insurance as set forth herein, except the Developer shall have sole responsibility for determining the limits of coverage required to be obtained by Subcontractors. The Developer shall ensure that the City is an additional insured on each and every Subcontractor's insurance policy complying with this section.

4.6 Waiver of Subrogation. Developer hereby waives all rights to recover against City (or any officer, employee, agent or representative of City) for any loss incurred by Developer from any cause insured against or required by any Project Document to be insured against; provided, however, that this waiver of subrogation shall not be effective with respect to any insurance policy if the coverage thereunder would be materially reduced or impaired as a result. Developer shall use its best efforts to obtain only policies which permit the foregoing waiver of subrogation.

4.7 Obligation to Repair and Restore Damage Due to Casualty. If the Improvements shall be totally or partially destroyed or rendered wholly or partly uninhabitable by fire or other casualty required to be insured against by Developer, Developer shall promptly proceed to obtain insurance proceeds and take all steps necessary to begin reconstruction and, immediately upon receipt of insurance proceeds, to promptly and diligently commence the repair or replacement of the Improvements to substantially the same condition as the Improvements are required to be constructed pursuant to this Agreement, whether or not the insurance proceeds are sufficient to cover the actual cost of repair, replacement, or restoration, and Developer shall complete the same as soon as possible thereafter so that the Improvements can be occupied as an affordable housing project in accordance with this Agreement. In no event shall the repair, replacement, or restoration period exceed 12 months from the date Developer obtains insurance proceeds unless the City Manager, in his sole and absolute discretion, approves a longer period of time. City shall cooperate with Developer, at no expense to City, in obtaining any governmental permits required for the repair, replacement, or restoration. If, however, the then-existing laws of any other governmental agencies

with jurisdiction over the Site do not permit the repair, replacement, or restoration or the cost of such repair, replacement or restoration exceeds such insurance proceeds, Developer may elect not to repair, replace, or restore the Improvements by giving notice to City (in which event Developer will be entitled to all insurance proceeds) or Developer may reconstruct such other improvements on the Site as are consistent with applicable land use regulations and approved by City and the other governmental City or agencies with jurisdiction, and City may pursue remedies of its choosing under this Agreement, including without limitation termination.

4.8 Indemnity. Developer shall defend (by counsel satisfactory to City), indemnify and save and hold harmless City and its officers, contractors, agents and employees (collectively, the “Indemnitees”) from and against all claims, damages, demands, actions, losses, liabilities, costs and expenses (including, without limitation, attorneys’ fees and court costs) arising from the acts or omissions of the Developer, or those acting on its behalf, relating to: (i) a claim, demand or cause of action that any person has or asserts against Developer; (ii) any act or omission of Developer, any contractor, subcontractor or material supplier, engineer, architect or other person acting by or on behalf of Developer with respect to the Site; or (iii) the ownership, occupancy or use of the Site. Notwithstanding the foregoing portion of this section, Developer shall not be obligated to indemnify City with respect to the consequences of any act of gross negligence or willful misconduct of City. Developer’s obligations under this section shall survive the issuance of the Certificate of Completion of Construction (except that the issuance of such Certificate shall constitute conclusive evidence that construction of the Improvements has been completed), and termination of this Agreement. City will not unreasonably withhold approval of counsel proposed by an insurer under a policy provided under this Agreement.

In the event of a default or breach under this Agreement by Developer, Developer shall reimburse City immediately upon written demand for all costs reasonably incurred by City (including the reasonable fees and expenses of attorneys, accountants, appraisers and other consultants, whether the same are independent contractors or employees of City) in connection with the enforcement of the Project Documents and all related matters including the following: (a) City’s commencement of, appearance in, or defense of any action or proceeding purporting to affect the rights or obligations of the parties to any Project Document, and (b) all claims, demands, causes of action, liabilities, losses, commissions and other costs against which City is indemnified under the Project Documents. If such default remains uncured after any applicable cure period, such reimbursement obligations shall bear interest from the date occurring 10 days after City gives written demand to Developer at a rate equal to the lesser of 12% or the highest rate permitted by applicable law.

Subject to Section 8.19, Developer shall indemnify City from any real estate commissions or brokerage fees which may arise from this Agreement or the Site, including without limitation the acquisition of the Site by Developer, or marketing of Housing Units. Developer represents that it has engaged no broker, agent, or finder in connection with this transaction, and Developer agrees to hold City harmless from any claim by any broker, agent or finder in connection with this Agreement, the activities by Developer, or the Site.

4.9 Rights of Access. Prior to the issuance of the Certificate of Completion of Construction, for purposes of assuring compliance with this Agreement, representatives of City shall have the right of access to the Site, without charges or fees, at normal construction hours during the period of construction for the purposes of this Agreement, including but not limited to, the inspection of the work being performed in constructing the Improvements so long as City representatives comply with all reasonable safety rules. City representatives shall, except in emergency situations, notify Developer prior to exercising its rights pursuant to this section. Developer acknowledges that City is under no obligation to supervise, inspect, or inform Developer of the progress of construction, and Developer shall not rely upon City therefor. Any inspection by City is entirely for its purposes in determining whether Developer is in compliance with this

Agreement and is not for the purpose of determining or informing Developer of the quality or suitability of construction or any other work at the Site. Developer shall rely entirely upon its own supervision and inspection in determining the quality and suitability of the materials and work, and the performance of architects, subcontractors, and material suppliers. The rights of City under this section are in addition to and do not limit City's police power or exercise thereof.

4.10 Compliance with Laws. Developer shall carry out the design, construction and operation of the Improvements in conformity with all applicable laws, including all applicable state labor standards and federal prevailing wage laws, City zoning and development standards, building, plumbing, mechanical and electrical codes, and all other provisions of the City Code, and the Fair Housing Act, 42 U.S.C. Section 3601 et seq. (and 24 C.F.R. Part 100), and the Americans With Disabilities Act, 42 U.S.C. Section 12101, et seq., and the Fair Housing Act of 1968 as amended from time to time (42 U.S. Code Sections 3601-3619 and 3631), and State laws pertaining to housing including without limitation the Washington Law Against Discrimination, Chapter 49.60 RCW. The parties agree that the Conveyance of the Site by the City does not trigger the payment of prevailing wages by the Developer for the construction of the Improvements.

Without limitation as to other provisions of this Agreement providing for indemnification, Developer shall indemnify, protect, defend and hold harmless City and its officers, employees, contractors and agents, with counsel reasonably acceptable to City, from and against any and all loss, liability, damage, claim, cost, expense and/or "increased costs" (including reasonable attorney's fees, court and litigation costs, and fees of expert witnesses) which, in connection with the development, construction, and/or operation of the Improvements, including, without limitation, any and all public works (as defined by applicable law), results or arises in any way from any of the following: (1) the noncompliance by Developer of any applicable local, state and/or federal law, including, without limitation, any applicable federal and/or state labor laws (including, without limitation, if applicable, the requirement to pay state prevailing wages and/or federal prevailing wages); (2) the implementation of Prevailing Wage Laws; and/or (3) failure by Developer to provide any required disclosure or identification as required by Prevailing Wage Laws, as the same may be amended from time to time, or any other similar law. It is agreed by the parties that, in connection with the development of the Improvements, including, without limitation, any and all public works (as defined by applicable law), Developer shall bear all risks of payment or non-payment of prevailing wages under Washington law. The foregoing indemnity shall survive termination of this Agreement and shall continue after completion of the construction and development of the Improvements by Developer.

4.11 Nondiscrimination in Employment. Developer certifies and agrees that all persons employed or applying for employment by it, its Affiliates, subsidiaries, or holding companies are and will be treated equally by it without regard to, or because of race, color, religion, ancestry, national origin, sex, sexual orientation, age, pregnancy, childbirth or related medical condition, medical condition (cancer related) or physical or mental disability.

4.12 Property Taxes and Assessments. Ad valorem taxes and assessments, if any, on the Site, levied, assessed or imposed for any period prior to the City Conveyance shall be borne by City; ad valorem taxes and assessments levied, assessed or imposed on the Site for the period after the City Conveyance shall not be the responsibility of City.

Developer shall pay, prior to delinquency all applicable ad valorem real estate taxes and assessments on the Site. Developer shall remove or have removed any levy or attachment made on any of the Site or any part thereof which is owned or leased by Developer during its period of ownership, or assure the satisfaction thereof within a reasonable time, but in no event to exceed 60 days. Developer shall additionally defend, indemnify, and hold harmless City from and against any taxes, assessments,

mechanic's liens, claims of materialmen and suppliers, or other claims by private parties in connection with activities undertaken by Developer on the Site.

4.13 Liens and Stop Notices. Developer shall not allow to be placed on the Site or any part thereof any lien or stop notice related to its construction of Improvements. If a claim of a lien or stop notice is given or recorded affecting the Improvements Developer shall within 30 days of such recording or service or within five days of City's demand whichever last occurs:

- (a) pay and discharge the same; or
- (b) affect the release thereof by recording and delivering to City a surety bond in sufficient form and amount, or otherwise; or
- (c) provide City with indemnification from the Title Company against such lien or other assurance which City deems, in its sole discretion, to be satisfactory for the payment of such lien or bonded stop notice and for the full and continuous protection of City from the effect of such lien or bonded stop notice.

4.14 Certificate of Completion of Construction. Promptly after receipt of written request therefor from Developer after completion of the Improvements in conformity with this Agreement, City shall furnish Developer with a Certificate of Completion of Construction. The Certificate of Completion of Construction shall be a conclusive determination of satisfactory completion of the Improvements and the Certificate of Completion of Construction shall so state. Any party then owning or thereafter purchasing, leasing or otherwise acquiring any interest in the Site or such applicable portion shall not (because of such ownership, purchase, lease or acquisition) incur any obligation or liability under this Agreement except for those continuing covenants as set forth in documents recorded against the Site prior to the recordation of the Certificate of Completion of Construction for that phase. If City refuses or fails to furnish a Certificate of Completion of Construction after written request from Developer, City shall, within 30 days of written request therefor, provide Developer with a written statement of the reasons City refused or failed to furnish the Certificate of Completion of Construction. The statement shall also contain City's opinion of the actions Developer must take to obtain the Certificate of Completion of Construction.

4.15 Further Assurances. Developer shall execute and acknowledge (or cause to be executed and acknowledged) and deliver to City all documents, and take all actions, reasonably required by City from time to time to confirm the rights created or now or hereafter intended to be created under the Project Documents, to protect and further the validity, priority and enforceability of the Project Documents or otherwise to carry out the purposes of the Project Documents.

4.16 Property Standards. Developer agrees to ensure that Construction of the Project will comply with all applicable State and local codes, ordinances, and zoning requirements, including all applicable requirements set forth in the Governmental Requirements. The Project and all Housing Units and common areas at the Site must meet all such applicable requirements upon Project completion.

4.16.1 Construction Progress Inspections. Developer shall permit and facilitate progress and final inspections of Construction by the City to ensure that work is done in accordance with the applicable codes, the Construction Contract(s), and Design Development Drawings.

4.16.2 Ongoing Property Condition Standards. Developer shall maintain the Site and Improvements thereon in conformity with the Regulatory Agreement.

4.16.3 [Reserved]

4.16.4 Handicapped Accessibility. Developer shall comply with (a) Section 504 of the Rehabilitation Act of 1973, and implementing regulations at 24 CFR 8C governing accessibility of projects assisted with federal funds, if applicable; and (b) the Americans with Disabilities Act of 1990, and implementing regulations at 28 CFR 35–36 in order to provide handicapped accessibility to the extent readily achievable; and (c) the Uniform Federal Accessibility Standards (UFAS) pursuant to the Architectural Barriers Act of 1968, 42 U.S.C. 4151-4157, as amended.

4.16.5 Nondiscrimination, Equal Opportunity and Fair Housing. Developer shall carry out the Project and perform its obligations under this Agreement in compliance with all of the Governmental Requirements.

4.16.6 [Reserved]

4.16.7 Records and Reports. Developer shall maintain and submit to City annually such records, reports and information as City Manager may reasonably require in order to permit City to ensure Developer's compliance with the affordability requirements under this Agreement and the Regulatory Agreement and to permit the City to meet the recordkeeping and reporting requirements required of them pursuant to Governmental Requirements. Without limiting the following, Developer shall maintain records and submit annual reports as required by this Agreement.

4.17 Relocation. City represents and warrants to Developer that no individual or entity has possessory rights in the Site as of the Effective Date. Developer shall have no duties or responsibilities in relation to any relocation of persons from the Site or any portion thereof occurring prior to commencement of Construction of the Improvements.

4.18 HUD Loan Provisions. City hereby acknowledges that a HUD Loan may be utilized by Developer for the Construction of the Improvements, provided, that such acknowledgment shall not be deemed a requirement by the City that the Developer utilize a HUD Loan. For purposes of a HUD Loan, the conveyance of the Site to Developer by the City shall be considered contributed equity by the City.

5. DEVELOPER'S GENERAL REPRESENTATIONS AND WARRANTIES

As a material inducement to City to enter into this Agreement, Developer represents and warrants to City that:

5.1 Formation, Qualification and Compliance. Developer (a) is a Washington limited liability company, validly existing and in good standing under the laws of the State of Washington; (b) has all requisite authority to conduct its business and own, purchase, improve and lease its properties. Developer is in compliance in all material respects with all laws applicable to its business and has obtained all approvals, licenses, exemptions and other authorizations from, and has accomplished all filings, registrations and qualifications with any governmental City that are necessary for the transaction of its business; (c) Developer has and will in the future duly authorize, execute and deliver this Agreement and any and all other agreements and documents required to be executed and delivered by Developer in order to carry out, give effect to, and consummate the transactions contemplated by this Agreement; (d) Developer does not have any material contingent obligations or any material contractual agreements which could materially adversely affect the ability of Developer to carry out its obligations hereunder; (e) There are no material pending or, so far as is known to Developer, threatened, legal proceedings to which Developer is or may be made a party or to which any of its property is or may become subject, which have not been fully disclosed by Developer to City in this Agreement which could materially adversely affect the ability of Developer to carry out its obligations hereunder; and (f) There is no action or proceeding pending or, to Developer's best knowledge, threatened, looking toward the dissolution or liquidation of

Developer and there is no action or proceeding pending or, to Developer's best knowledge, threatened by or against Developer which could affect the validity and enforceability of the terms of this Agreement, or materially and adversely affect the ability of Developer to carry out its obligations hereunder. Each of the foregoing items (a) to (f), inclusive, shall be deemed to be an ongoing representation and warranty. Developer shall advise City in writing if there is any change pertaining to any matters set forth or referenced in the foregoing items (a) to (f), inclusive.

5.2 Execution and Performance of Project Documents. Developer has all requisite authority to execute and perform its obligations under the Project Documents. The execution and delivery by Developer of, and the performance by Developer of its obligations under, each Project Document has been authorized by all necessary action and do not and will not violate any provision of, or require any consent or approval not heretofore obtained under, any articles of incorporation, by-laws or other governing document applicable to Developer.

5.3 Covenant Not to Transfer Except in Conformity. Developer shall not sell or otherwise transfer or convey all or any part of the Site, or any interest therein (including Developer's interests in this Agreement), unless Developer has first obtained the prior written consent of the City Manager, which consent may be withheld in the City Manager's sole and absolute discretion. Developer's right to sell two years after Certificate of Occupancy shall not be unreasonably withheld. Any sale, lease, transfer or conveyance without such consent shall, at City's option, be void. In connection with the foregoing consent requirement, Developer acknowledges that City relied upon Developer's particular expertise in entering into this Agreement and continues to rely on such expertise to ensure the satisfactory completion of all of the Improvements, and the marketing and renting of the Housing Units to Low-Income Households to afford the community a substantial long-term, quality affordable housing resource. The City Manager's approval of a transfer or conveyance of all or a portion of the Site shall thus be based on a transferee's ability to ensure the long-term affordability and quality of the Housing Units. Notwithstanding the foregoing, consent from the City Manager shall not be required for the leasing of Housing Units to Low-Income Households in compliance with this Agreement.

6. AFFORDABLE HOUSING COVENANTS; MAINTENANCE, PROPERTY MANAGEMENT, AND OPERATION OF THE PROJECT.

The operation of the Project, including without limitation, repair and maintenance, income qualifications of tenants, rent, maintenance, monitoring, and reporting, shall be accomplished by Developer in conformity with the Regulatory Agreement, as more particularly set forth therein. The provisions of the Regulatory Agreement shall constitute portions of this Agreement as effectively as if set out at length herein.

6.1 Nondiscrimination. Developer by and for itself and any successors in interest covenants that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, physical or mental disability or medical condition, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Site, nor shall Developer itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the Site. The foregoing covenants shall run with the land.

Developer hereby covenants, by and for itself, its successors and assigns, and shall require all contractors and subcontractors providing work or services related to the Site to covenant, to comply with the following laws relating to nondiscrimination and equal opportunity: The Fair Housing Act (42 U.S.C. 3601-19) and implementing regulations at 24 CFR part 100 et seq.; Executive Order 11063, as amended by

Executive Order 12259 (3 CFR, 1959-1963 Comp., p. 652 and 3 CFR, 1980 Comp., p. 307) (Equal Opportunity in Housing Programs) and implementing regulations at 24 CFR part 107; title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-4) (Nondiscrimination in Federally Assisted Programs) and implementing regulations at 24 CFR part 1; the Age Discrimination Act of 1975 (42 U.S.C. 6101-6107) and implementing regulations at 24 CFR part 146; Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at part 8 of this title; title II of the Americans with Disabilities Act, 42 U.S.C. 12101 et seq.; 24 CFR part 8; Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and implementing regulations at 24 CFR part 135; Executive Order 11246, as amended by Executive Orders 11375, 11478, 12086, and 12107 (3 CFR, 1964-1965 Comp., p. 339; 3 CFR, 1966-1970 Comp., p. 684; 3 CFR, 1966-1970 Comp., p. 803; 3 CFR, 1978 Comp., p. 230; and 3 CFR, 1978 Comp., p. 264, respectively) (Equal Employment Opportunity Programs) and implementing regulations at 41 CFR chapter 60; Executive Order 11625, as amended by Executive Order 12007 (3 CFR, 1971-1975 Comp., p. 616 and 3 CFR, 1977 Comp., p. 139) (Minority Business Enterprises); Executive Order 12432 (3 CFR, 1983 Comp., p. 198) (Minority Business Enterprise Development); and Executive Order 12138, as amended by Executive Order 12608 (3 CFR, 1977 Comp., p. 393 and 3 CFR, 1987 Comp., p. 245) (Women's Business Enterprise).

Developer further covenants, by and for itself, its successors and assigns, and shall require all contractors and subcontractors providing work or services related to the Site to covenant, not to inquire about the sexual orientation or gender identity of an applicant for, or occupant of, the Project or any Housing Unit at the Site, for the purpose of determining eligibility for occupancy of such Housing Units or otherwise making such Housing Units available. This prohibition on inquiries regarding sexual orientation or gender identity does not prohibit any individual from voluntarily self-identifying sexual orientation or gender identity. Further, determinations of eligibility for occupancy of Housing Units at the Project shall be made in accordance with the eligibility requirements provided for such program by HUD, and such Housing Units shall be made available without regard to actual or perceived sexual orientation, gender identity, or marital status.

The covenants established in this section shall, without regard to technical classification and designation, be binding for the benefit and in favor of City and its successors and assigns, and shall remain in effect in perpetuity.

6.2 Effect of Violation of this Agreement after Completion of Construction. The covenants established in this Agreement, the City Deed, and the Regulatory Agreement, without regard to technical classification and designation, be binding for the benefit and in favor of City, its successors and assigns, as to those covenants which are for its benefit. The covenants contained in this Agreement shall remain in effect for the periods of time specified therein. The covenants against discrimination shall remain in effect in perpetuity.

City is deemed the beneficiary of the terms and provisions of this Agreement and of the covenants running with the land, for and in its own rights and for the purposes of protecting the interests of the community and other parties, public or private, in whose favor and for whose benefit this Agreement and the covenants running with the land have been provided. The Agreement and the covenants shall run in favor of City, without regard to whether City has been, remains or is an owner of any land or interest therein in the Site or in the Project Area. City shall have the right, if the Agreement or covenants are breached, to exercise all rights and remedies, and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breaches to which it or any other beneficiaries of this Agreement and covenants may be entitled.

7. DEFAULTS AND REMEDIES

7.1 Events of Default by Developer. The occurrence of any of the following, whatever the reason therefor, shall constitute an event of default by Developer (an “Event of Default”):

7.1.1 Developer fails to perform any obligation for the payment of money (other than payments of principal or interest) under any Project Document, and such failure is not cured within 10 days after Developer’s receipt of written notice that such obligation was not performed when due;

7.1.2 Developer fails to perform any obligation (other than obligations described in subparagraph 7.1.1. above) under any Project Document, and such failure is not cured within 30 days after Developer’s receipt of written notice that such obligation was not performed; provided that, if cure cannot reasonably be effected within such 30-day period, such failure shall not be an Event of Default so long as Developer (in any event, within 10 days after receipt of such notice) commences cure, and thereafter diligently (in any event within 90 days after receipt of such notice) prosecutes such cure to completion;

7.1.3 Any representation or warranty in any Project Document proves to have been incorrect in any material respect when made;

7.1.4 Construction on the Improvements ceases for 30 consecutive days for any reason (other than governmental orders, decrees or regulations, acts of God, strikes or other causes beyond Developer’s control, including those described in Section 8.2);

7.1.5 Developer is enjoined or otherwise prohibited by any governmental entity from constructing and/or occupying the Improvements and such injunction or prohibition continues unstayed for 30 days or more for any reason, subject to extensions permitted under Section 8.2;

7.1.6 Developer transfers or conveys the Site (or attempts to transfer or convey the Site) in any manner that is not in conformity with this Agreement; or

7.1.7 Developer provides any certification to City Manager that contains any information that Developer knows, or should have discovered using reasonable diligence, to be false or misleading when made; or

7.1.8 Prior to the end of the Affordability Period, Developer is dissolved, liquidated or terminated, or all or substantially all of the assets of Developer are sold or otherwise transferred without the City Manager’s prior written consent.

7.1.9 (i) Developer is the subject of an order for relief by a bankruptcy court, or is unable or admits its inability to pay its debts as they mature, or makes an assignment for the benefit of creditors; (ii) Developer applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitate or similar officer for it or any part of its property; (iii) any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer is appointed without the application or consent of Developer and the appointment continues undischarged or unstayed for 90 days; (iv) Developer institutes or consents to any bankruptcy, insolvency, reorganization, arrangement, readjustment of debt, dissolution, custodianship, conservatorship, liquidation, rehabilitation or similar proceeding relating to it or any part of its property; or any similar proceeding is instituted without the consent of Developer and continues undismissed or unstayed for 90 days; or (v) any judgment, writ, warrant of attachment or execution, or similar process is issued or levied against any property of Developer is not released, vacated or fully bonded within 90 days after its issue or levy.

7.2 Remedies upon Default. In addition to the rights of the City pursuant to Section 7.4.2 below, upon the occurrence of any Event of Default, City may, at its option and in its sole and absolute discretion, do any or all of the following:

7.2.1 In its own right or by a court-appointed receiver, take possession of the Site, enter into contracts for and otherwise proceed with the completion of the Improvements on the Site (or portions thereof) by expenditure of its own funds;

7.2.2 Exercise any of its rights under the Project Documents and any rights provided by law, including the right to foreclose on any security and exercise any other rights with respect to any security, all in such order and manner as City elects in its sole and absolute discretion; and

7.2.3 Seek and obtain an order for specific performance.

7.3 Cumulative Remedies; No Waiver. City's rights and remedies under the Project Documents are cumulative and in addition to all rights and remedies provided by law from time to time. The exercise by City of any right or remedy shall not constitute a cure or waiver of any default, nor invalidate any notice of default or any act done pursuant to any such notice, nor prejudice City in the exercise of any other right or remedy. No waiver of any default shall be implied from any omission by City to take action on account of such default if such default persists or is repeated. No waiver of any default shall affect any default other than the default expressly waived, and any such waiver shall be operative only for the time and to the extent stated. No waiver of any provision of any Project Document shall be construed as a waiver of any subsequent breach of the same provision. City's consent to or approval of any act by Developer requiring further consent or approval shall not be deemed to waive or render unnecessary City's consent to or approval of any subsequent act. City's acceptance of the late performance of any obligation shall not constitute a waiver by City of the right to require prompt performance of all further obligations; City's acceptance of any performance following the sending or filing of any notice of default shall not constitute a waiver of City's right to proceed with the exercise of its remedies for any unfulfilled obligations; and City's acceptance of any partial performance shall not constitute a waiver by City of any rights relating to the unfulfilled portion of the applicable obligation.

7.4 Termination.

7.4.1 Termination by Developer. This Agreement may, at the option of Developer, be terminated by notice given to City upon the occurrence of the following events, as of the time described below (and if no time is described below, the time established therefor in the Schedule of Performance):

(a) On or before twelve (12) months after the Effective Date, Developer has provided City with written notice that Developer has not obtained Building Permits and all required land use approvals with conditions acceptable to Developer, in its sole and absolute discretion, and desires to terminate this Agreement; or

(b) one or more of the Developer Conditions Precedent is not satisfied; or

(c) Developer elects to terminate on the basis that the development of the Improvements in accordance with this Agreement has become impracticable under the terms and conditions of this Agreement; or

(d) in the event of any default of City prior to the conveyance of the Site which has not been cured.

From the date of the notice of termination of this Agreement by Developer to City, this Agreement shall be deemed terminated and there shall be no further rights or obligations among the parties, excepting that Developer shall immediately quitclaim to City all right, title and interest of Developer in the Site (including without limitation fee title and any beneficial interests under deeds of trust, promissory notes, and agreements in respect to the Site).

7.4.2 Termination by City. This Agreement may be terminated, at the option of City, 30 days after written notice thereof is delivered to Developer by the City, under the following circumstances:

(a) Developer (or any successor in interest) assigns or attempts to assign, encumber, transfer, or convey the Agreement or any rights therein or in the Site (or any portion thereof) in violation of this Agreement; or

(b) On or before six (6) months after the Effective Date, Developer has provided City with written notice in accordance with Section 7.4.1(a) of its desire to terminate this Agreement; or

(c) by the time set forth therefor in the Schedule of Performance for the conveyance of the Site, Developer is in default under this Agreement and City does not execute a deed to convey the Site to Developer in the manner and condition and by the date provided in this Agreement; or

(d) one or more of the City Conditions Precedent is not satisfied; or

(e) Developer elects to terminate on the basis that the development of the Improvements in accordance with this Agreement has become impracticable under the terms and conditions of this Agreement; or

(f) in the event of any default of Developer prior to the conveyance of the Site which has not been cured; or

(g) Developer fails to perform any other obligation for the payment of money (other than payments of principal or interest) under any Project Document, and such failure is not cured within 10 days after Developer's receipt of written notice that such obligation was not performed when due; or

(h) Developer fails to perform any obligation (other than obligations described in Section 7.1.1 above) under any Project Document, and such failure is not cured within 30 days after Developer's receipt of written notice that such obligation was not performed; provided that, if cure cannot reasonably be effected within such 30 day period, such failure shall not be an Event of Default so long as Developer (in any event, within 10 days after receipt of such notice) commences cure, and thereafter diligently (in any event within 90 days after receipt of such notice) prosecutes such cure to completion; or

(i) Any representation or warranty by Developer in any Project Document proves to have been incorrect in any material respect when made; or

(j) Work on the Improvements ceases for 30 consecutive days for any reason (other than governmental orders, decrees or regulations, acts of God, strikes or other causes beyond Developer's control as described in Section 8.2); or

(k) Developer is enjoined or otherwise prohibited by any governmental entity from constructing and/or occupying the Improvements and such injunction or prohibition continues unstayed for 30 days or more for any reason, subject to extensions allowed under Section 8.2; or

(l) Developer transfers or conveys the Site (or attempts to transfer or convey the Site) in any manner that is not in conformity with this Agreement; or

(m) Developer provides any certification to City Manager that Developer knows to be false or misleading when made; or

(n) Developer is dissolved, liquidated or terminated, or all or substantially all of the assets of Developer are sold or otherwise transferred without the City Manager's prior written consent; or

(o) Developer is the subject of an order for relief by a bankruptcy court, or is unable or admits its inability to pay its debts as they mature, or makes an assignment for the benefit of creditors; or Developer applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer for it or any part of its property; or any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer is appointed without the application or consent of Developer and the appointment continues undischarged or unstayed for 90 days; or Developer institutes or consents to any bankruptcy, insolvency, reorganization, arrangement, readjustment of debt, dissolution, custodianship, conservatorship, liquidation, rehabilitation or similar proceeding relating to it or any part of its property; or any similar proceeding is instituted without the consent of Developer and continues undismissed or unstayed for 90 days; or any judgment, writ, warrant of attachment or execution, or similar process is issued or levied against any property of Developer is not released, vacated or fully bonded within 90 days after its issue or levy; or

(p) There is a change in the ownership of Developer or the Site contrary to the provisions of Section 5.3 hereof; or

(q) Developer does not submit certificates of insurance, construction plans, drawings and related documents as required by this Agreement, in the manner and by the dates respectively provided in this Agreement therefor and such default or failure shall not be cured within 30 days after the date of written demand therefor by City; or

(r) Developer does not satisfy the Conditions Precedent by the time established therefor in the Schedule of Performance, subject to Section 8.2 extensions; or

(s) The completion of one or more of the Housing Units is not accomplished by the respective time(s) established therefor in the Schedule of Performance, subject to Section 8.2 extensions; or

(t) Developer is otherwise in default under this Agreement and has not cured or commenced to cure such default within the time period set forth in Section 7.1 herein (or has not diligently prosecuted such cure to completion).

From the date of the Notice of termination of this Agreement by City to Developer, this Agreement shall be deemed terminated and neither party shall have any further rights against the other under this Agreement, excepting that Developer shall immediately quitclaim to City all right, title and interest of Developer in the Site (including without limitation fee title and any beneficial interests under deeds of trust, promissory notes, and agreements in respect to the Site). The setting forth of events as grounds for termination shall not limit the ability of City to seek remedies in the event this Agreement has not been terminated. The termination of this Agreement shall not limit the rights of City to enforce the Regulatory Agreement or the City Deed.

8. MISCELLANEOUS.

8.1 Intentionally Deleted.

8.2 Enforced Delay; Extension of Times of Performance. In addition to specific provisions of this Agreement, performance by a party hereunder shall not be deemed to be in default, and all performance and other dates specified in this Agreement shall be extended, where delays or defaults are due to: war; insurrection; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics; litigation; unusually severe weather; acts or omissions of the other party; acts or failures to act of a public or governmental City or entity (other than City acting as required pursuant to this Agreement); or any other causes beyond the reasonable control or without the fault of the party claiming an extension of time to perform. Notwithstanding anything to the contrary in this Agreement, an extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the party claiming such extension is sent to the other parties within 30 days of the commencement of the cause. Any requests for extension shall be in writing. Times of performance under this Agreement may also be extended in writing by the mutual agreement of City and Developer.

Notwithstanding the foregoing portion of this section, with the prior written consent of the City Manager, Developer may obtain an extension of time to perform because of past, present, or future difficulty in obtaining suitable temporary, construction, or permanent financing for the acquisition, development or lease of Housing Units on the Site.

8.3 Nonliability of Officials and Employees of City. No member, official or employee of City shall be personally liable to Developer, or any successor in interest, in the event of any default or breach by City or for any amount which may become due to Developer or its successors, or on any obligations under the terms of this Agreement.

8.4 Obligations Unconditional and Independent. Notwithstanding the existence at any time of any obligation or liability of City to Developer, or any other claim by Developer against City, in connection with the Site or otherwise, Developer hereby waives any right it might otherwise have (a) to offset any such obligation, liability or claim against Developer's obligations under this Agreement (including without limitation the attachments hereto), or (b) to claim that the existence of any such outstanding obligation, liability or claim excuses the nonperformance by Developer of any of its obligations under the Project Documents.

8.5 Notices. Any notice to or demand upon the following parties shall be given by registered or certified mail, return receipt requested, or by express delivery service, as follows, or to such other address as is specified in writing by any of the following to the others:

If to Developer: Matthew Stadler
 Stadler Interests, Inc.
 501 W. 12th Avenue
 Ellensburg, WA 98926

If to City: City of Ellensburg
 501 North Anderson Street
 Ellensburg, Washington 92552
 Attention: City Manager

Addresses for notice may be changed from time to time by written notice to all other parties. All communications shall be effective when actually received; provided, however, that nonreceipt of any communication as the result of a change of address of which the sending party was not notified or as the result of a refusal to accept delivery shall be deemed receipt of such communication.

8.6 Survival of Representations and Warranties. All representations and warranties in the Project Documents shall survive the conveyance of the Site and have been or will be relied on by City notwithstanding any investigation made by City.

8.7 No Third Parties Benefited. This Agreement is made for the purpose of setting forth rights and obligations of Developer and City, and no other person shall have any rights hereunder or by reason hereof. There shall be no third-party beneficiaries of this Agreement.

8.8 Use of Consultants by City. City, at its sole cost, may engage consultants to assist City in connection with matters to be undertaken or reviewed under this Agreement, such as in connection with the calculation of allowable housing costs. Developer shall cooperate fully with any such consultants.

8.9 Binding Effect; Assignment of Obligations. This Agreement shall bind, and shall inure to the benefit of, Developer and City and their respective successors and assigns. Assignments or transfers of the Site and this Agreement shall be governed by Section 5.3 hereof. In connection with any assignment or transfer, Developer acknowledges that City relied upon Developer's particular expertise in entering this Agreement and continues to rely on such expertise to ensure the satisfactory completion of the Improvements and the qualification of eligible occupants of each Housing Unit in conformity with this Agreement.

8.10 Superiority of City Agreement. Developer agrees and acknowledges that any agreements between Developer and third parties, shall be subject and subordinate in all cases to this Agreement (including, without limitation, the Attachments hereto) and that in the event of conflict, this Agreement (including, without limitation, the Attachments hereto) shall control.

8.11 Prior Agreements; Amendments; Consents. This Agreement (together with the other Project Documents) contains the entire agreement between City and Developer with respect to the Site, and all prior negotiations, understandings and agreements with respect to such matters, including without limitation this Agreement, are superseded by this Agreement and such other Project Documents. No modification of any Project Document (including waivers of rights and conditions) shall be effective unless in writing and signed by the party against whom enforcement of such modification is sought, and then only in the specific instance and for the specific purpose given. This Agreement is executed in two duplicate originals, each of which is deemed to be an original. This Agreement includes pages 1 through 26 and Attachments 1 through 8 (which attachments are incorporated herein by reference), which constitutes the entire understanding and agreement of the parties.

This Agreement integrates all terms and conditions mentioned herein or incidental hereto and supersedes all negotiations or previous agreements between the parties or their predecessors in interest with respect to all or any part of the subject matter hereof.

All waivers of the provisions of this Agreement must be in writing by the appropriate authorities of City and Developer, and all amendments hereto must be in writing by the appropriate authorities of City and Developer; provided that after conveyance of the Site to Developer, only the consent of City shall be required.

8.12 Governing Law. All of the Project Documents shall be governed by, and construed and enforced in accordance with, the laws of the State of Washington. Developer irrevocably and unconditionally submits to the jurisdiction of the Superior Court of the State of Washington for the County of Kittitas or the United States District Court of the Central District of Washington, as City may deem appropriate, in connection with any legal action or proceeding arising out of or relating to this Agreement or the other Project Documents. Assuming proper service of process, Developer also waives any objection regarding personal or *in rem* jurisdiction or venue.

8.13 Attorney Fees. If either party places the enforcement of this Agreement, or any part thereof, in the hands of an attorney, or files suit upon the same, or seeks a judicial declaration of rights hereunder, the prevailing party shall recover its reasonable attorneys' fees, court costs, and collection agency charges. As used herein, "prevailing party" shall mean the party who substantially prevails in the matter at issue, including without limitation, a party who dismisses an action for recovery hereunder in exchange for payment of the sums allegedly due, performance of covenants allegedly breached or consideration substantially equal to the relief sought in the action.

8.14 Severability of Provisions. No provision of any Project Document that is held to be unenforceable or invalid shall affect the remaining provisions, and to this end all provisions of the Project Documents are hereby declared to be severable.

8.15 Headings. Article and section headings are included in the Project Documents for convenience of reference only and shall not be used in construing the Project Documents.

8.16 Conflicts. In the event of any conflict between the provisions of this Agreement and those of any other Project Document, this Agreement shall prevail; provided however that, with respect to any matter addressed in both such documents, the fact that one document provides for greater, lesser or different rights or obligations than the other shall not be deemed a conflict unless the applicable provisions are inconsistent and could not be simultaneously enforced or performed.

8.17 Time of the Essence. Time is of the essence of all of the Project Documents.

8.18 Conflict of Interest. No member, official or employee of City shall have any direct or indirect financial interest in this Agreement, nor participate in any decision relating to the Agreement which is prohibited by law.

8.19 Warranty against Payment of Consideration. Developer warrants that it has not paid or given, and will not pay or give, any third person any money or other consideration for obtaining this Agreement.

8.20 Real Estate Commissions. Each of City and Developer represents to the other party that it has not engaged the services of any finder or broker and that it is not liable for any real estate commissions, broker's fees, or finder's fees which may accrue by means of the acquisition of all or part of the Site, and agrees to hold harmless the other party from such commissions or fees as are alleged to be due from the party making such representations.

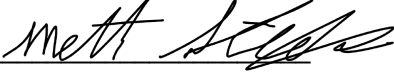
8.21 Counterparts. Any Project Document (including this Agreement) may be executed in counterparts, all of which, taken together, shall be deemed to be one and the same document.

[Remainder of page blank; signature page follows.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the dates hereinafter respectively set forth.

DEVELOPER:

STADLER INTERESTS, INC.,
a Washington corporation

By: 

Name: Matt Stalder

Title: Partner

Date: 7/20/22

CITY:

CITY OF ELLENSBURG,
a Washington municipal corporation

By: _____
City Manager

Date: _____

ATTACHMENT NO. 1

MAP



ATTACHMENT NO. 2

LEGAL DESCRIPTION

Lots 3 And 4 (Parcel 3A), Block 21, Ellensburg, in the County of Kittitas, State of Washington, as per plat thereof recorded in Book 1 of Plats, Page 1, Records of said County.

AND

Lot 5, Block 21, Ellensburg, in the County of Kittitas, State of Washington, as per plat thereof recorded in Book 1 of Plats, Page 1, Records of said County;

ATTACHMENT NO. 3

SCHEDULE OF PERFORMANCE

For the purposes of this Schedule of Performance, the “Date of the Affordable Housing Agreement” is _____, 2022. The City Manager may extend by not more than ninety (90) days (as all such extensions are aggregated) the time under this Schedule of Performance by which any obligation of Developer shall be performed.

1. Submittal of Agreement. Developer shall execute and submit the Agreement to the City Manager for City Council approval and execution. On or before August 1, 2022.
2. Submission of Evidence of Financing. Developer shall submit to City evidence of a Financing Plan financing for the Project and pro forma budget as set forth in Section 2.1.2(a) of the Agreement. As a Condition Precedent to the close of Escrow.
3. Satisfaction of Conditions Precedent. Developer shall satisfy the Conditions Precedent. Not later than ninety (90) days after the Date of the Affordable Housing Agreement.
4. Deposit of Documents into Escrow. City and Developer shall cause to be fully executed the final form of the City Deed, the Regulatory Agreement, and such other Project Documents necessary for the closing of Escrow. Not fewer than two (2) calendar days prior to close of Escrow.
5. Close of Escrow. Escrow shall close when all Conditions Precedent thereof have been waived or satisfied. Within five (5) calendar days of notification by City to Escrow Holder that all Conditions Precedent are satisfied and/or waived.
6. Commencement of Construction. The Developer shall commence construction of the Improvements which consists of 57 Units and related Improvements. Within one hundred and twenty (120) days after the Closing Date.
7. Completion of Construction. Developer shall complete construction of the Improvements. Within eighteen (18) months after the Closing Date.

ATTACHEMENT NO. 4

RESERVED

ATTACHMENT NO. 5

CERTIFICATE OF COMPLETION OF CONSTRUCTION

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

(Space Above for Recorder's Use Only)

9. CERTIFICATE OF COMPLETION OF CONSTRUCTION

This CERTIFICATE OF COMPLETION OF CONSTRUCTION (the "Certificate") is made by the CITY OF ELLENSBURG, a public body, corporate and politic (the "City"), in favor of Stadler Interests, Inc., a Washington corporation (the "Developer"), as of the date set forth below.

RECITALS

A. City, the City of Ellensburg (the "City") and the Developer have entered into that certain Affordable Housing Agreement (the "Agreement") concerning the redevelopment of certain real property situated in the City of Ellensburg, Washington, as more fully described in Exhibit "A" attached hereto and made a part hereof (the "Property").

B. As referenced in Section 4.14 of the Agreement, City is required to furnish the Developer or its successors with a Certificate of Completion of Construction upon completion of construction of the "Improvements" (as defined in Section 1.1 of the Agreement), which Certificate is

Attachment No. 5

required to be in such form as to permit it to be recorded in the Recorder's Office of Kittitas County. This Certificate is conclusive determination of satisfactory completion of the construction and development required by the Agreement.

C. City has conclusively determined that the construction of the Improvements has been satisfactorily completed.

NOW, THEREFORE, City hereby certifies as follows:

1. City does hereby certify that the construction of the Improvements required to be made to that portion of the Property described hereunder as the "Site", which Site constitutes a portion of the Property, have been fully and satisfactorily completed in conformance with the Agreement.

2. This Certificate shall not constitute evidence of compliance with or satisfaction of any obligation of Developer to any holder of a mortgage, or any insurer of a mortgage, securing money loaned to finance construction work on the Site, or any part thereof.

3. This Certificate shall not constitute evidence of Developer's compliance with those covenants in the Agreement that survive the issuance of this Certificate or Developer's compliance to construct Improvements other than those situated on the Site.

4. Nothing contained in this instrument shall modify in any other way any other provisions of the Agreement or documents recorded in connection therewith concerning the use of the Site.

IN WITNESS WHEREOF, City has executed this Certificate of Completion this _____ day of _____, 202_.

CITY OF ELLENSBURG,
a municipal corporation

By: _____

Name: _____

Its: City Manager

ACKNOWLEDGEMENTS

STATE OF WASHINGTON)
 :ss.
COUNTY OF KITTITAS)

I hereby certify that I know or have satisfactory evidence that _____ is the person who appeared before me and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument, and acknowledged it as the _____ of the City of Ellensburg, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this _____ day of _____, 2022.

Notary Public in and for the State of Washington
Printed Name: _____
Residing at: _____
My appointment expires: _____

Exhibit A

Legal Description

Lots 3 And 4 (Parcel 3A), Block 21, Ellensburg, in the County of Kittitas, State of Washington, as per plat thereof recorded in Book 1 of Plats, Page 1, Records of said County.

AND

Lot 5, Block 21, Ellensburg, in the County of Kittitas, State of Washington, as per plat thereof recorded in Book 1 of Plats, Page 1, Records of said County;

ATTACHMENT NO. 6

CITY DEED

After recording, return to:

City of Ellensburg
501 North Anderson Street
Ellensburg, Washington 92552
Attention: City Manager

STATUTORY WARRANTY DEED

Grantor: CITY OF ELLENSBURG,
a municipal corporation

Grantee: STADLER INTERESTS, INC.,
a Washington corporation

**Abbreviated Legal
Description:** _____
Complete legal description on Exhibit A.

Assessor's Tax Parcel ID#: 937033; 617033

CITY OF ELLENSBURG, a municipal corporation ("**Grantor**"), for the consideration of Ten and no/100 Dollars, and other valuable consideration, receipt of which is hereby acknowledged, conveys and warrants to **STADLER INTERESTS, INC.**, a Washington corporation ("**Grantee**"), the following described real estate, situate in Kittitas County, Washington:

See Exhibit A, attached hereto and incorporated herein by this reference;

SUBJECT TO the matters set forth in the public records.

[Remainder of page left intentionally blank; Signature and acknowledgment follows.]

Signature page to Statutory Warranty Deed

DATED this _____ day of _____, 2022.

GRANTOR:

CITY OF ELLENSBURG,
a Washington municipal corporation

By: _____
City Manager

ACKNOWLEDGEMENTS

STATE OF WASHINGTON)
 :ss.
COUNTY OF KITTITAS)

I hereby certify that I know or have satisfactory evidence that _____ is the person who appeared before me and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument, and acknowledged it as the _____ of the City of Ellensburg, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this _____ day of _____, 2022.

Notary Public in and for the State of Washington
Printed Name: _____
Residing at: _____
My appointment expires: _____

Exhibit A

Legal Description

Lots 3 And 4 (Parcel 3A), Block 21, Ellensburg, in the County of Kittitas, State of Washington, as per plat thereof recorded in Book 1 of Plats, Page 1, Records of said County.

AND

Lot 5, Block 21, Ellensburg, in the County of Kittitas, State of Washington, as per plat thereof recorded in Book 1 of Plats, Page 1, Records of said County;

ATTACHMENT NO. 7

AFFORDABLE HOUSING COVENANT

When Recorded Return To:

City of Ellensburg
501 North Anderson Street
Ellensburg, Washington 98926
Attention: City Manager

**AFFORDABLE HOUSING COVENANT
STADLER PROJECT**

GRANTOR: STADLER INTERESTS, INC.

GRANTEE: CITY OF ELLENSBURG, WASHINGTON

ABBREV. LEGAL DESCRIPTION: _____
Official legal description on Exhibit A attached

ASSESSOR'S TAX PARCEL NOS. 937033; 617033

REFERENCE NUMBERS: N/A

AFFORDABLE HOUSING COVENANT STADLER PROJECT

This Affordable Housing Covenant (“Covenant”) is made as of the ____ day of ____, 2022, by **STADLER INTERESTS, INC.**, a Washington corporation (“Grantor”) in favor of the **CITY OF ELLENSBURG**, a Washington municipal corporation (“City” or “Grantee”), and is part of the consideration for the surplus property transferred to Grantor by the City pursuant to RCW 39.33.015 and an Affordable Housing Agreement dated on or about the date hereof (the “Agreement”), for the construction of a multifamily development, on real property legally described on Exhibit A hereto (the “Property”).

WHEREAS, this Covenant will be filed and recorded in the official public land records of Kittitas County, Washington and shall constitute a restriction upon the use of the Property, subject to, and in accordance with, the terms of this Covenant for at least **fifty-one (51) years of affordability** ending on the later to occur of (i) the fifty-first (51st) anniversary of the Effective Date, as defined in the Agreement, or (ii) the fiftieth (50th) anniversary of the date the Certificate of Completion of Construction is issued to Grantor (the “Affordability Period”).

WHEREAS, the covenants contained herein are to be taken and construed as covenants running with the land and shall pass to and be binding upon the Grantor, its respective successors and assigns, heirs, or grantees and lessees of the Property, beginning on the date of initial residential occupancy after the construction of the improvements on the Property contemplated by the Agreement. Each and every contract, deed, mortgage or other instrument covering or conveying the Property, or any portion thereof, shall be conclusively held to have been executed, delivered and accepted subject to such covenants, regardless of whether such covenants are set forth in such contract, deed, mortgage or other instruments. Capitalized terms not defined herein shall have the meaning given in the Agreement.

NOW THEREFORE, it is hereby covenanted during the Affordability Period as follows:

Section 1. Set-Asides; Reporting. The Grantor hereby represents, covenants and agrees as follows:

(a) **Fifty-seven (57)** of the residential units in the Property shall be rented to tenants who meet the eligibility criteria consistent with RCW 39.33.015. Consistent with Washington State law, surplus property transferred for affordable housing is required to serve households with gross annual household incomes at the time of initial occupancy no higher than **eighty (80) percent of median income** in Kittitas County, Washington adjusted for family size (“AMI”) as published annually, effective July 1, by the U.S. Department of Housing and Urban Development (“HUD”), as HOME Income Limits. If HUD ceases to provide such determinations of median income, then median income shall mean such comparable figure for Kittitas County, Washington published or reported by a federal, state, or local agency as the City shall select.

(b) Rents payable by tenants may not exceed **Thirty (30) percent** of the maximum **eighty (80) percent AMI** tenant income for the unit, assuming occupancy of 1.5 persons per bedroom including a utility allowance (“Affordable Rent”). The amount of the utility allowance shall be as calculated annually by Grantor or at another level acceptable to the City. The foregoing provisions shall be subject to the provisions of the Agreement.

(c) Within 90 days after the end of each calendar year after the commencement of the Affordability Period, Grantor shall prepare and submit a certificate to the City, in a form acceptable to the City, certifying that it has complied in all respects with the requirements of this Covenant.

(d) Grantor shall keep any records and make any reports relating to compliance with this Covenant that the City may reasonably require. Grantor shall permit any duly authorized representative of the City to inspect, during regular business hours and upon reasonable notice, the Property, the residential units, and the books and records of Grantor pertaining to the incomes of the tenants who are residing or have resided in the Property.

Section 2. Covenants. The Grantor hereby represents, covenants and agrees as follows:

(a) Grantor shall use the Property to provide safe and sanitary housing, and shall comply with all Federal, State, and local housing codes, licensing requirements, and other requirements regarding the condition and the operation of the Property.

(b) Except as otherwise required or contemplated by this Covenant or allowed by applicable law for the purpose of providing low-income housing, Grantor will not discriminate in the provision of housing on the basis of race, creed, color, sex, national origin, religion, marital status, age, disability, the receipt of public assistance or housing assistance or any other characteristic protected from discrimination by applicable law.

Section 3. Covenants Run With the Land. Grantor hereby declares its express intent that the covenants, restrictions, charges and easements set forth herein shall be deemed covenants running with the land throughout the Affordability Period, and shall pass to and be binding upon the Grantor's successors in title including any purchaser, grantee or lessee of any portion of the Property and any other person or entity having any right, title or interest therein and upon the respective heirs, executors, administrators, devisees, successors and assigns of any purchaser, grantee or lessee (other than a resident) of any portion of the Property and any other person or entity having any right, title or interest therein. Each and every contract, deed or other instrument (other than residential resident leases) hereafter executed conveying the Property or any portion thereof or interest therein shall contain an express provision making such conveyance subject to the covenants, restrictions, charges and easements contained herein; provided, however, that any such contract, deed or other instrument shall conclusively be held to have been executed, delivered and accepted subject to such covenants, regardless of whether or not such covenants are set forth or incorporated by reference in such contract, deed or other instrument.

Section 4. Survival. This Covenant shall have priority over any deed of trust or mortgage recorded on the Property. The covenants herein are independent of and in addition to the covenants in the Affordable Housing Agreement between the Grantor and the City, any other covenants made for the benefit of the City. This Section shall not prohibit any mortgages, deeds of trust, regulatory agreements and covenants for the purposes of the future financing, nor prohibit any transfer upon foreclosure of a deed of trust or mortgage approved by the City, or in lieu of foreclosure thereof, or any subsequent transfer, but any transfer shall be subject to the terms of this Covenant.

Section 5. Default. If a violation of any of the foregoing covenants occurs, the City may, after thirty days' notice to Grantor, and if applicable, its successors and assigns, heirs, grantees, or

lessees of the Property, institute and prosecute any proceeding at law or in equity to abate, , prevent, or enjoin any such violation or to compel specific performance by Grantor of its obligations hereunder; provided that Grantor shall not be required by any provision herein to evict a residential tenant. No delay in enforcing the provisions hereof as to any breach or violation, shall impair, damage or waive the right of the City to enforce the provisions hereof or to obtain relief against or recover for the continuation or repetition of such breach or violations or any similar breach or violation hereof at any later time.

[Signatures on following page.]

IN WITNESS HEREOF, this Affordable Housing Covenant was executed as of the date set forth above.

STADLER INTEREST, INC.
a Washington corporation

By: _____
Name: _____
Title: _____

THE CITY OF ELLENSBURG, a Washington public corporation

By: _____
Name: _____
Title: _____

STATE OF WASHINGTON)
)ss.
COUNTY OF KITTITAS)

On this _____ day of _____, 2022, before me personally appeared _____, to me known to be the _____ of STADLER INTEREST, INC., that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said party for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument.

(Signature of Notary)

(Legibly Print or Stamp Name of Notary)
Notary public in and for the State of Washington, residing
at _____

STATE OF WASHINGTON)
)ss.
COUNTY OF KITTITAS)

On this _____ day of _____, 2022, before me personally appeared _____, to me known to be the _____ of the City of Ellensburg, that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said party for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument.

(Signature of Notary)

(Legibly Print or Stamp Name of Notary)
Notary public in and for the State of Washington, residing
at _____

EXHIBIT A

LEGAL DESCRIPTION

Lots 3 And 4 (Parcel 3A), Block 21, Ellensburg, in the County of Kittitas, State of Washington, as per plat thereof recorded in Book 1 of Plats, Page 1, Records of said County.

AND

Lot 5, Block 21, Ellensburg, in the County of Kittitas, State of Washington, as per plat thereof recorded in Book 1 of Plats, Page 1, Records of said County;

ATTACHEMENT NO. 8

AWARD LETTER



**501 North Anderson Street
Ellensburg, Washington 98926**
Telephone: (509) 962-7221 | Fax: (509) 962-7143

September 7, 2021

Matthew Stalder
Stalder Interests, Inc.
2000 Quartz Mountain Dr.
Ellensburg, WA 98926

RE: Stalder Interests, Inc. Award Letter for City of Ellensburg Affordable Housing Property Contribution

Dear Mr. Stalder:

Congratulations! Your application for the City owned surplus property located at the corner of 1st and Pine for development of Affordable Housing has been conditionally approved by Ellensburg City Council.

This award is conditional and is not a guarantee of property. This letter provides an overview of City conditions and some details you can expect in the contractual agreement. Upon issuance of this letter, the City will initiate contract negotiations to initiate transfer of ownership of the "Community Garden" property.

This letter does not cover all local requirements or all the terms that will be included in contract documents including legal rights and obligations.

Please read this letter carefully and return a signed copy of the Acknowledgement of Conditions at the bottom to the City of Ellensburg Community Development Department.

The City's reservation of property is based upon representations made in your applications. Changes to those representations must be reported as specified in the Conditions and approved by Community Development in writing. Unreported changes may result in a delay and/or a loss of City-owned property contribution. These requirements are designed to ensure productive communication between the applicant and the City regarding project status prior to property transfer.

CONDITIONS

The City of Ellensburg will initiate contract negotiations after receipt of the signed Acknowledgement of Conditions. The City requires that the contract stipulate:

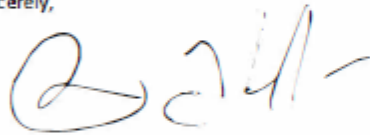
1. The contract term will be consistent with the development timeline in your application. Any extension of the timeline is subject to City approval.
2. The scope of work will be based on the applications submitted. However, in addition, and as was discussed by City Council with you at their June 7, 2021 meeting and your subsequent meetings with city staff, the design will incorporate a minimum of 6 fully accessible Type A ADA units and at least 6 additional ground floor units will be built to universal design standards Type B ADA units.

3. The proposal and contract must meet the requirements of the City of Ellensburg Affordable Housing Fund and RCW 39.33.015.
4. Applicant shall submit a written status report when changes to the project cause the proposal to differ from the application or previous status reports. Reports must explain any problems, or needed modifications, and propose a plan for addressing them.
5. The transfer of the City's property to Stalder Interests, Inc. for this project is subject to approval of your financing by the Department of Housing and Urban Development as well as approval of all contract documents by the Ellensburg City Council.

Please notify the Community Development Department as you reach each funding and other milestones or encounter challenges. The City anticipates reserving this award for the time period specified in your application. If you do not demonstrate the progress you proposed within two years of the date of this letter, or fail to meet any of the conditions herein, the City of Ellensburg reserves the right to withdraw this award.

Thank you for your commitment to make the City of Ellensburg more affordable for everyone in our community!

Sincerely,



Bruce Tabb, City of Ellensburg Mayor

Acknowledgement of Conditions

I acknowledge that I have read, understand and agree to the above conditions.

ORIGINAL SIGNATURE OF AUTHORIZED OFFICIAL

Signature:  Title: Partner

Name: Matt Stalder Date: 9/14/21

Organization: Stalder Interests Inc



Meeting Date: September 18, 2023
City of Ellensburg
City Council Agenda Report

Agenda Subject: Historic Preservation Grant Extension Request (Public Comment Opportunity)
Submitted by: Stacey Henderson, Sr. Planner
Department: Community Development

Suggested Motion/Action:

Move to approve Nicole Hilderman's one year grant extension request for her 2023 Historic Preservation Grant funding amount of \$4,000, to be utilized in 2024, and approve the necessary budget adjustments.

Background/Summary:

The applicant, Nicole Hilderman, was awarded 2023 City of Ellensburg Historic Preservation grant funding in the amount of \$4,000, for exterior brick masonry repair work at 109 E. 3rd. This building and project were deemed eligible to receive grant funding, as the proposed work is located within the Downtown National Register and Local Landmarks Historic Districts. Attachment 2 includes the applicant's original proposal and scope of work, which has not changed.

The applicant has requested a 1 year extension to complete the original scope of work in 2024, instead of 2023. Please see Attachment 1 for the applicant's extension request.

Previous Council Action:

October 18, 2022, the LDC recommended awarding \$4,000 of Historic Preservation Grant funding to Nicole Hilderman, for the proposed exterior brick masonry repair work located at 109 E. 3rd Ave. City Council approved this recommendation on November 21, 2022.

Analysis:

Per Resolution 2018-32, City grant funding can be extended one time, for one year, by the authorizing commission. If granted, this request would be considered the allowable one-time extension. The Landmarks and Design Commission reviewed this extension request at the September 6, 2023 meeting, and recommended approval of the extension request to City Council.

Financial Impact:

The same amount of funding set aside in 2023 would be moved to the 2024 calendar year.

Budget Adjustment: Yes

Attachments:

1. Attachment 1_Extension Request Email_8_17
2. Attachment 2_109 E 3rd

Attachment 1- Extension Request

Stacey Henderson

From: Darren Reid <DReid@CVB.bank>
Sent: Thursday, August 17, 2023 10:06 AM
To: Kathy Boots; Nicole Hilderman
Cc: Stacey Henderson; Steve Reid
Subject: [Ext] RE: 2023 Grant Updates Due-109 E 3rd

CAUTION - EXTERNAL EMAIL: The email below is from an external source. Please exercise caution before opening attachments, clicking links, fulfilling requests, or following guidance.

Kathy & Stacey,

We are formally requesting a 1 year extension on the grant funds for our brick project for the commercial property at 109 E 3rd Ave. in Ellensburg. The reason for the delay is as follows:

1. The business had several tenants (inherited from the previous owner) that vacated the building in 2022 and 2023. As such, our priority pivoted to internal renovations of spaces including renovations of what is now a therapist office, Buddy's Barkery (both completed), as well as current renovations on a commercial office space and a golf simulator.
2. Exterior building renovation for the brick work was going to ideally be completed in tandem with new solar awnings. We were working with EDA on grant funding for that, which isn't likely to come through until 2024. So it would be ideal to do both the brick and the awning renovations in 2024.

If you need anything further from us for the grant extension, please let me know. Thank you.

Darren

From: Kathy Boots <bootsk@ci.ellensburg.wa.us>
Sent: Monday, August 14, 2023 3:09 PM
To: Nicole Hilderman <nicolehilderman@gmail.com>
Cc: Darren Reid <DReid@CVB.bank>; Stacey Henderson <hendersons@ci.ellensburg.wa.us>
Subject: 2023 Grant Updates Due-109 E 3rd

WARNING: This email is from an EXTERNAL SOURCE. DO NOT open attachments or links from an unknown or suspicious origin.

Good Afternoon,

I wanted to reach out to you and let you know that we need an update on your project for the year. It is due by the end August.

I will keep my eyes open for your update.

Thank you,

Kathy Boots
Planning Technician

(509)962-7231

Bootsk@ellensburgwa.gov

501 N Anderson Street

Ellensburg, WA 98926



NOTICE: This electronic mail message and any files transmitted with it are intended exclusively for the individual or entity to which it is addressed. The message, together with any attachment, may contain confidential and/or privileged information. Any unauthorized review, use, printing, saving, copying, disclosure or distribution is strictly prohibited. If you have received this message in error, please immediately advise the sender by reply email and delete all copies.

City of Ellensburg Community Development Department
2023 Historic Preservation Grants Program
Project Description

Project Information (Attach additional sheets as needed)

Description of the project (please be as detailed as possible). A separate page may be attached to provide a more in-depth narrative:

Does this project involve a property listed on the Ellensburg Landmarks Register? If not, please specify if the subject property is proposed for nomination. If the property is not listed on the Ellensburg Landmarks Register, please describe how the project meets the goals of the grant program:

Contact Person

Name: Nicole Hilderman

Organization Representing: Brothertons, LLC

Contact Address: 109 E 3rd Ave

City/State/Zip: Ellensburg, WA 98926

Phone (two numbers preferred): 360-460-5933, 206-940-9024

E-mail: nicole.hilderman@gmail.com

Project Cost

Amount Requested from the City: \$ 7,000

Cash Amount from Applicant: \$ 7,864

"In-Kind" Amount from Applicant: \$ 0

Cash from other Sources: \$ 0

Please list other sources:

Total Project Cost: \$ 14,864

Return completed Application to:

Stacey Henderson, Senior Planner – Historic Preservation
City of Ellensburg Community Development Dept.
501 N. Anderson St.
Ellensburg, WA 98926

hendersons@ci.ellensburg.wa.us

Due Date: Wednesday, August 31, 2022

**City of Ellensburg Community Development Department
Historic Preservation Grants Program - Work Plan**

Steps	Responsible Party	Start Date	Completion Date
Rinse joints	Pioneer masonry	3/2023	3/2023
Mortar	Pioneer masonry	3/2023	3/2023
Detergent wash	Pioneer masonry	3/2023	3/2023

**City of Ellensburg Community Development Department
Historic Preservation Grants Program - Budget Plan**

1. Personnel				
Item	Total Cost	Applicant "In-Kind"	Applicant Cash	Requested Grant
Sub Total	\$	\$	\$	\$

2. Supplies/Equipment Materials				
	Total Cost	Applicant "In-Kind"	Applicant Cash	City's Cash Match
Sub Total	\$	\$	\$	\$

3. Professional Services				
Item	Total Cost	Applicant "In-Kind"	Applicant Cash	
Masonry	14,784	Ø	7,784	
Sub Total	\$	\$	\$	\$

Project Total	Total Cost	Applicant "In-Kind"	Applicant Cash	Requested Grant
14,784	14,784	Ø	7,784	7,000

Notification Process

Notice will be published in the Ellensburg Daily Record.

Notice will be mailed to previous applicants from the past five years.

Notice will run on the City's website (www.ci.ellensburg.wa.us).

Landmarks and Design Commission Purposes

Comprehensive Plan Goals/Policies/Programs

Create and maintain landmark registers

- Historic resource inventory
- Ellensburg landmarks register
- Review citizen nominations to ELR
- Submit nominations to WA & National Registers

HP-1 A1
HP-1 A1, HP-2 A7
HP-1 A1
HP-1 A1, A2

Review proposals to alter (including signage) or demolish landmarks

- Adopt standards to guide review & COA issuance
- Advise DCD on development proposals affecting historic resources
- Compile resources to assist in avoiding demolition
- Consider proposing a property maintenance ordinance

HP-1 A2, A4, HP-2 A8, HP-3 B1
HP-2 A6, A8
HP-1 A4, HP-2 A1, A4, A9, HP-4 A1
HP-1 A3

Create incentives for historic preservation

- Develop incentive programs for reuse and redevelopment
- Investigate funding sources for preservation & heritage tourism
- Review requests for special valuation of historic properties

HP-2 A1, A2, A3, HP-3 A1, HP-4 A1, A2
HP-2 A2, A3, HP-5 A1
HP-2 A2

Outreach and advice

- Advise Council on city activities affecting historic resources
- Advise Council generally on historic preservation & heritage tourism
- Establish relationships with nonprofits & other governments
- Provide info to historic property owners on maintenance & rehab.
- Conduct educational and interpretive programs

HP-2 A6, A9
HP-3 B3, HP-5 B1
HP-2 A5, HP-4 A1, HP-5 A1
HP-1, A5, B1, B2, HP-2 A8, HP-3 A2, B1
HP-1 A5, B2, B3, HP-2 A5

Stacey Henderson

From: Darren Reid <DReid@CVB.bank>
Sent: Tuesday, October 11, 2022 3:41 PM
To: Stacey Henderson; Nicole Hilderman
Subject: RE: [Ext] RE: Historic Preservation Grant- Review Meeting

CAUTION - EXTERNAL EMAIL: The email below is from an external source. Please exercise caution before opening attachments, clicking links, fulfilling requests, or following guidance.

With the brick we plan to:

1. Rout out mortar joints where the mortar is weak/loose/failing and fill in where needed
2. Spot tuck point the brick where needed
3. Reinforcing west elevation (where cracked) with about 8' of stainless steel bar into mortar joint to reinforce
4. Pressure clean all brick
5. Apply clear water repellent to all brick

Existing Condition Photographs provided by Applicant.















MANAGER'S REPORT

DATE: September 18, 2023

To: Ellensburg City Council

FROM: Heidi Behrends Cerniwey, City Manager

1. Waste Management 2023 Inflation Increase and Disposal Adjustment

Waste Management has notified the City that the 2023 inflation increase for the services is 8.408%. The increase is allowed in section 3.3.1 "Annual Rate Adjustment" of the Waste Management agreement with the City. The increase is based on the Consumer Price Index for the period for the 12-month period ending the December prior to the adjustment date (December 2022). The rate increase will be in effect beginning October 1, 2023.

2. Waste Management Fall Cleanup Days, September 30 to October 7

The Waste Management contract with the City of Ellensburg provides for a fall and spring waste disposal coupon program. Coupons are valid for each Waste Management customer (one per subscribing household) to self-haul to the County Transfer Station. Customers are required to show proof of residency. Coupons have been mailed out and are available at City Hall. Fall Cleanup is scheduled for September 30th through October 7th. Waste Management customers within the city limits who are unable to haul garbage to the transfer station because of disability may request curbside collection of extra garbage during Fall Cleanup Days by calling the City of Ellensburg at 509-962-7230.

3. Set Public Hearing for Surplus of City-Owned Property October 2, 2023

The City of Ellensburg has worked collaboratively with the United States Bureau of Reclamation (Bureau) for many years toward the completion of the Bureau's Schaake Habitat Project. The project is located on the left bank of the Yakima River adjacent to the City's Wastewater Treatment Facility. The final land exchange between the City and Bureau is now ready for final action. A public hearing has been scheduled for October 2, 2023 to consider surplus of City-Owned property that will be exchanged for lands owned by the Bureau of Reclamation.

4. Natural Gas Purchase

Staff is notifying City Council, as required by Chapter 9.80 of the ECC, of a recent natural gas purchase commitment to Shell Energy North America. The purchase commitment is for 48,000 MMBtus at \$2.73/MMBtu for September 2023 delivery. The total value of the contract purchase is \$131,040.

5. Implementation of County-wide Economic Development Strategic Plan

Signatures have been collected from twelve jurisdictions/organizations on a formal Letter of Mutual Partnership to Implement the County-wide Economic Development Strategic Plan (see attached). An implementation kick-off meeting has been scheduled for September 28, 2023, inviting key staff and economic development practitioners to establish working groups and norms for collaboration and continue the work that has already begun. The City's Arts & Economic Development Manager Kelle Vandenberg will serve as the primary convener and recordkeeper for the collective activities and progress.

LETTER OF MUTAL PARTNERSHIP
BETWEEN
KITTITAS COUNTY, CITIES, AND ORGANIZATIONS
TO IMPLEMENT STRATEGIES OF THE
KITTITAS COUNTY ECONOMIC DEVELOPMENT STRATEGIC PLAN

We, the undersigned, are committed to regional economic vitality within Kittitas County. We recognize that our communities have experienced pressures from growth and changing economic conditions and we must work together to address our top challenges: managing growth, improving housing affordability, diversifying the economy, and sustaining our natural resources. We believe that working collaboratively and as a united front will allow us to make the greatest impact. The Kittitas County Economic Development Strategic Plan, adopted in 2023, was developed with broad stakeholder input to address these challenges. We are committed to working together with our economic development organizations to implement strategies to achieve the goals set out in the Plan, including our participation in the formation of a working group, by separate agreement, with the goal of moving forward implementation of the Economic Development Strategic Plan.

PARTICIPATING KITTITAS COUNTIES, CITIES, AND ECONOMIC DEVELOPMENT ORGANIZATIONS:

Kittitas County, WA

CODY WRIGHT [Signature] 8/7/23
Printed Name Signature Date

City of Ellensburg, WA

Nancy N. Lilquist [Signature] 7/27/23
Printed Name Signature Date

City of Cle Elum, WA

Jay McGowan [Signature] 9-11-23
Printed Name Signature Date

City of Kittitas, WA

Richard Hink [Signature] 7/25/23
Printed Name Signature Date

City of Roslyn, WA

Printed Name

Signature

Date

City of South Cle Elum, WA

JAMES L DeVERE James L Dever 8/23/2023

Central Washington University (CWU)

A James Wohlpart A James Wohlpart 7/19/2023

CenterFuse (EBDA)

Garrett Poshusta

Garrett Poshusta

08/22/2023

Printed Name

Signature

Date

Kittitas County Chamber of Commerce

Amy McGuffin, CEO Amy McGuffin 7/26/23

Printed Name

Signature

Date

Ellensburg Downtown Association

Brenda DeLore Brenda DeLore 8/1/23

Printed Name

Signature

Date

Cle Elum Downtown Association

Jordan Peterson Jordan Peterson 8/16/2023

Printed Name

Signature

Date

Roslyn Downtown Association

Cheri Marusa

Cheri Marusa

9/1/23

Printed Name

Signature

Date