

CITY COUNCIL AGENDA

October 16, 2023



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https://us02web.zoom.us/webinar/register/WN_qC0qG44pR4O64Hrn8rUvug

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AMERICANS WITH DISABILITIES ACT

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COUNCIL MEETING

GUIDELINES FOR PUBLIC PARTICIPATION

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, October 16, 2023
7:00 PM - Regular Meeting**

Pledge of Allegiance

1. Call to Order and Roll Call

2. Proclamations (Public Comment Opportunity)

2.A National Disability Employment Awareness Month October 2023 - Advancing Access and Equity 6

3. Awards and Recognitions

3.A APWA Chapter Heroes Award presented to Ellensburg Water Division, Public Works & Utilities

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 October 2, 2023 Regular meeting 7

5.B Approve Minutes of October 2, 2023 Study Session 12

5.C Acknowledge Minutes of Boards & Commissions 13

5.D Approve October 16, 2023 Voucher Listing 23

6. Petitions, Protests, and Communications

7. Citizen Comment on Non-agenda Issues

8. Business Requiring Public Hearings

8.A Resolution 2023-25 to Surplus City-owned Lands and Authorize City Manager to Sign Land Exchange Agreement and Accept Easement from the US Bureau of Reclamation (Public Comment Opportunity) 24

8.B	Public Hearing to Consider Title 15 Land Development Code Amendments and First Reading of Ordinance 4929 (Public Comment Opportunity)	55
9.	Introduction and Adoption of Ordinances and Resolutions	
9.A	Resolution 2023-26, Multifamily Housing Limited Property Tax Exemption Agreement with Patricia Place, LLC for Patricia Place I, 212 West 5th Avenue (Public Comment Opportunity)	96
9.B	Ordinance 4928 (1st reading) - Natural Gas rate adjustment to comply with WA State's Carbon Reduction and Greenhouse Gas Emissions, Cap and Invest program (Public Comment Opportunity)	106
9.C	First Reading of Ordinance 4930 to Amend Title 4.14A Streeteries, Parklets, and Sidewalk Cafes (Public Comment Opportunity)	119
9.D	Second Reading of Ordinance 4924 for Rezone Application P21-132 (Public Comment Opportunity)	128
9.E	Second Reading and Adoption of Ordinance 4927 for creation of LEOFF 1 Disability Board (Public Comment Opportunity)	143
10.	Unfinished Business	
11.	New Business	
2.	Miscellaneous	
12.A	Manager's Report (No Public Comment)	148
12.B	Councilmembers' Reports (No Public Comment)	
13.	Executive Session	
13.A	Per RCW 42.30.140(4)(a), To review collective bargaining sessions with employee organizations, including contract negotiations, grievance meetings, and discussions relating to the interpretation or application of a labor agreement; or (b) that portion of a meeting during which the governing body is planning or adopting the strategy or position to be taken by the governing body during the course of any collective bargaining, professional negotiations, or grievance or mediation proceedings, or reviewing the proposals made in the negotiations or proceedings while in progress.	
14.	Adjournment	



City of Ellensburg

PROCLAMATION

National Disability Employment Awareness Month
October 2023
Advancing Access and Equity

Whereas, National Disability Employment Awareness Month is observed annually and sponsored by the U.S. Department of Labor through its Office of Disability Employment Policy; and

Whereas, the U.S. Department of Labor's Office of Disability Employment Policy chose a theme of "Advancing Access and Equity" for October's [National Disability Employment Awareness Month 2023](#); and

Whereas, this theme recognizes and celebrates the passage of the Rehabilitation Act a half-century ago, the first federal legislation to address access and equity for people with disabilities; and

Whereas, we recognize that people with a disability are of all racial, ethnic, educational, social, and economic backgrounds, and all are valued members of our community; and

Whereas, workplaces that welcome the talents of all people, including people with disabilities, are a critical part of Ellensburg's efforts to build an inclusive community with a strong economy; and

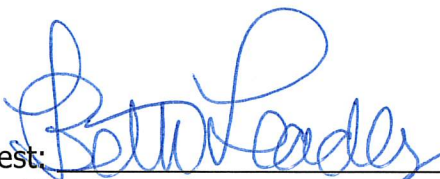
Whereas, people with disabilities are an irreplaceable resource, and we cannot morally or financially afford to lose the contributions that people with disabilities bring to the workplace and to mainstream community life; and

Whereas, the Ellensburg City Council encourages employers to expand accommodations for their current and future employees and ensure all Ellensburg residents can realize their potential in the workforce.

Now, Therefore, I, Nancy Lillquist, Mayor of the City of Ellensburg, on behalf of the City Council, do hereby proclaim October 2023 as National Disability Employment Awareness Month.

Signed this 16nd day of October, 2023.

Attest:
City Clerk

A blue ink signature of Beth Lander, the City Clerk, written over a horizontal line.A blue ink signature of Nancy Lillquist, the Mayor, written over a horizontal line.

Nancy Lillquist, Mayor



CITY OF ELLENSBURG

Minutes of City Council, Regular Meeting

Date of Meeting

October 2, 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 American Legion Member, Scott Heaverlo

1. Call to Order and Roll Call

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

Absent: Sarah Beauchamp

Councilmember Elliott moved to Approve an excused absence for Councilmember Beauchamp. **Motion Approved 6-0**

Others present in person: City Attorney Weiner, City Clerk Leader, Engineering Manager Mayo, Gas Engineer Yusi, Community Development Director Carlson, Planning Manager Johnston, Arts & Economic Development Manager Vandenberg, Adult Activity Center Coordinator Clavette, Finance Director Pascoe, Parks & Recreation Director Case and approximately 30 members of the public

Mayor Lillquist read a statement condemning recent harassment against a candidate for office.

2. Proclamations

2.A Public Natural Gas and Power Week

2.B Hispanic Latinx Heritage Month Proclamation
Monica Castelan read the proclamation in Spanish and English

3. Awards and Recognitions

4. Approval of Agenda

Councilmember Elliott moved to Approve the Agenda as presented. **Motion Approved 6-0**

5. Consent Agenda

5.A Approve Minutes of September 18, 2023 Regular Meeting

- 5.B Approve Minutes of September 18, 2023 Study Session
- 5.C Acknowledge Minutes of Boards and Commissions
- 5.D Accept the resignation of Sawyer Stearns from the Public Transit Advisory Committee and accept the resignation of Andrea Sledge from the Library Board and Environmental Commission.
- 5.E Agreement for Professional Services for the Engineering and Design of the Mountain View and Bull/Willow Signalization Design
- 5.F Project Acceptance - Bid Call 2022-11, Middle Reach Reecer Creek Flood Hazard Reduction and Floodplain Restoration Project
- 5.G Approve Voucher Listing for October 2, 2023

Councilmember Elliott moved to Approve the Consent Agenda as presented. **Motion Approved 6-0**

6. Petitions, Protests, and Communications

- 6.A Board and Commission Appointments (Public Comment Opportunity)
Phil Backlund introduced himself.

Councilmember Elliott moved to approve the appointment of Phil Backlund to the Diversity, Equity & Inclusion Commission. **Motion Approved 6-0**

- 6.B Public Transit Advisory Committee (PTAC) Appointment of Central Washington University (CWU) member. (Public Comment Opportunity)

Councilmember Elliott moved to approve the appointment of Charles Johnson to the Public Transit Advisory Committee. **Motion Approved 6-0**

7. Citizen Comment on Non-agenda Issues

The Mayor relayed information regarding the October 18th open house to discuss Reed Park Master Plan options.

- Angela Lang read a statement regarding the Reed Park Master Plan and parking at Craig's Hill
- Nicole Paxton spoke regarding the American Legion and a discussion with city staff regarding parking options
- Scott Heaverlo, spoke regarding fire lane requirements by the American Legion
- Natasha Norwood, spoke regarding requested changes to the Memorial pool women's locker and restroom/shower areas
- Trish Agnew spoke regarding the use of the American Legion
- Teresa Plue spoke regarding Reed Park and an issue at the Memorial pool
- Pat Kelleher spoke regarding pedestrian safety at Reed Park

- Trish Agnew completed her comments on the use of the American Legion
- Angela Lang responded to a previous comment made regarding Craig's Hill parking

8. Business Requiring Public Hearings

- 8.A Public Hearing (Legislative) - 2024 Proposed Revenue Sources Including Property Tax (Public Comment Opportunity)
The Mayor opened the public hearing. Jerica Pascoe, Finance Director, presented information in the staff report.

With no questions or comments from the public and minimal questions from Council, the Mayor closed the public hearing. No action was taken.

- 8.B Public Hearing (Legislative) to Consider 2023 Annual Comprehensive Plan Amendments and Conduct First Reading of Ordinance 4926 (Public Comment Opportunity)
The Mayor opened the public hearing. Jeremy Johnston, Planning Manager, presented information in the staff report and reviewed each of the proposals submitted.

Randy Jensen, docket proposal 23-04 applicant and owner of the Vantage Hwy properties, spoke regarding use of the property. Exhibits provided by Mr. Jensen were entered into the record as Exhibit "J."

Council asked questions of staff. With no further questions, the Mayor closed the public hearing.

Councilmember David Miller moved to Approve docket items 23-01, 23-02 and 23-03. **Motion Approved 6-0**

Councilmember Elliott moved to Refer docket item 23-04 back to the Planning Commission for evaluation of proper zoning and land use classification for the 2023 cycle. **Motion Approved 6-0**

Councilmember Elliott moved to Approve docket item 23-05. **Motion Approved 6-0**

Councilmember Goodloe moved to request staff provide amended ordinance language before second reading that reflects return of docket item 23-04 to the Planning Commission instead of disapproval. **Motion Approved 6-0**

Councilmember Elliott moved to conduct first reading of Ordinance 4926. **Motion Approved 6-0**

9. Introduction and Adoption of Ordinances and Resolutions

- 9.A Second Reading of Ordinance 4925- Dissolution of the Senior Citizen Advisory Commission (Public Comment Opportunity)

Katelyn Clavette, Adult Activity Center Coordinator, presented information in the staff report.

Councilmember Elliott moved to conduct second reading and adoption of Ordinance 4925. **Motion Approved 6-0**

9.B First Reading of Ordinance 4927 for creation of LEOFF 1 Disability Board (Public Comment Opportunity)

Beth Leader, City Clerk, presented information in the staff report. Council asked questions of staff.

Councilmember Elliott moved to conduct first reading of Ordinance 4927. **Motion Approved 6-0**

10. Unfinished Business

11. New Business

11.A Request to update Council Rules and Procedures to remove requirement to provide an address for public comment (Public Comment Opportunity)

Nicole Klauss, Public Information Officer, presented information in the staff report. Councilmembers agreed on the importance of whether speakers are city residents or not.

Council consensus was to refer back to staff to remove address requirements, except during public hearings and include a statement of residency for speakers.

12. Miscellaneous

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

Terry Weiner, Assistant City Manager/City Attorney, presented the report.

Councilmember Elliott will be providing assistance to KITTCOM during their transition to a new director and needs to step down from the board.

Councilmember Winn volunteered to serve on the KITTCOM board.

Councilmember Elliott moved to Authorize the Mayor's signature on the Letter of support for Cle Elum Ridge Large Landscape Project. **Motion Approved 6-0**

Council took no action on the letter of support for the Valley Play Museum grant application.

12.B Councilmembers' Reports (No Public Comment)

- Councilmember Elliott providing assistance to KITTCOM
- Councilmember Goodloe explained the World Cafe event is postponed until January 2024, attended a Council of Governments meeting, and the Homelessness & Affordable Housing Committee

-
- Councilmember David Miller attended Coffee with Council, Council grant funding sub-committee meeting, Central Transit finance meeting and attended a meeting at Open Table
 - Councilmember Monica Miller attended Coffee with Council
 - Councilmember Winn attended the Law & Justice Council. He requested staff provide a cost analysis of changes to the Memorial Pool changing rooms
 - Mayor Lillquist attended the Yakima Basin Fish & Wildlife Recovery Board meeting, Kittitas County Economic Development Strategic Plan implementation workshop, Kittitas County Commissioners Town Hall meeting, audit exit interview with the State Auditor's office, Bite of the Burg event, County LEOFF 1 Disability Board meeting and stated the City webpage will be updated soon with additional options for Reed Park

13. Executive Session

14. Adjournment

Meeting adjourned at 9:20 pm

Mayor

ATTEST:

City Clerk



CITY OF ELLENSBURG

Minutes of City Council, Study Session

Date of Meeting

October 2, 2023

Time of Meeting

6:00 PM

Place of Meeting

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

Study Session (No Public Comment)

Present: Rich Elliott, Nancy Goodloe, Nancy Lillquist, David Miller, Monica Miller, Adam Winn

Councilmember Beauchamp absent

Others present in person: City Attorney Weiner, City Clerk Leader, Arts & Economic Development Manager Vandenberg, Engineering Manager Mayo

- A Regulation of Banners and Flags in City Right-of-Way
Terry Weiner, City Attorney, reviewed information in a presentation. Council asked questions of staff.

Adjournment

Meeting adjourned at 6:39 pm

Mayor

ATTEST:

City Clerk



CITY OF ELLENSBURG

Minutes of Affordable Housing Commission, Regular Meeting

Date of Meeting

September 6, 2023

Time of Meeting

4:30 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

Commissioner Bedsaul called the meeting to order at 4:32 pm.

Present: Sarah Bedsaul, Sarah Beauchamp (arrived at 4:33 pm), Kim Funston, Dan Witkowski, John Perrie, Courtney Garzone

Absent: Jordan Ruhle

Also Present; Dan Carlson-CDS Director, Terry Weiner-City Attorney, Heidi Behrends Cerniwey-City Manager, Jeremy Johnston-Planning Manager, Kathy Boots-Planning Technician

Also Present: Matt Stalder (arrived at 4:42 pm)

2. Approval of Agenda

Commissioner Perrie motioned to approve the agenda. Motion passed 6-0

3. Approval of Minutes

Commissioner Funston motioned to approve the minutes from the August 2, 2023, AHC Meeting. Motion passed 6-0.

4. New Business

a. 1 st & Pine Stalder Affordable Housing Project -Staff is seeking a recommendation if the project should move forward for Council consideration.

Staff member Johnston gave the Commission a summary of this project for the last two years. In February, a letter was sent from the City to Mr. Stalder requesting more information. Additional information was not provided. Mr. Weiner stated the applicant had failed the contract milestones and agreement which included the proposal and award letter. The applicant failed to ask for an extension. The project has changed substantially since the contract agreement. Commissioner Perrie motioned to recommend to the City Council the Stalder project be ended. The applicant spoke to the Commission. Commissioners needed to vote on a motion to open up the property to the public for RFP's, or a motion to create a new agreement and award letter to Stalder. Members of the Commission stated the project has changed in the percentage of affordable housing units, funding, fire access, and design. After discussion, the Commission agreed the land should be opened back up to the public to submit RFP's for use as affordable housing and Mr. Stalder may reapply if he obtains the required

documents. Perrie motioned to move to City Council to reopen the RFP process for the 1st & Pine property for Affordable Housing Proposals and cancel the Stalder agreement. Motion passed 6-0.

5. Unfinished Business

a. Affordable Housing Action Plan Implementation - Discuss proposed affordable housing draft regulations.

Staff member Johnston reviewed proposed draft regulation changes to the Land Development Code. Townhome code changes such as the orientation and landscaping requirements could help with more townhomes being built if the requirements were similar to a single family home. Other possible changes could be reducing rear setbacks in certain zones such as R-M and R-H, encouraging the building of tiny homes, and garages contributing to the required parking spots. Another idea was having entry into different housing types similar to a single family residence and reducing duplex parking requirements. Johnston will make a spread sheet for the next meeting comparing housing types to single family residence so that Commissioners can see the difference.

6. Citizen Comment

None

7. Staff Update/Discussion Items

None

8. Commission Representative Update

Nothing new to report

9. Adjournment

Adjournment at 5:32 pm



CITY OF ELLENSBURG

Date of Meeting

Time of Meeting

Place of Meeting

Minutes of Lodging Tax Advisory Committee, Regular Meeting

September 6, 2023

2:00 PM

In Person and Remotely

1. Call to Order and Roll Call

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

Also present: Cyndi LaChappelle-Mathis, Executive Assistant, Matt Anderson, Director of Tourism

2. Approval of Minutes

Steve Townsend moved to approve the August 2, 2023 minutes as presented. **Motion approved 4-0.**

3. New Business

Presentation on Consolidated Lodging Tax Application Scoring. Matt Anderson reviewed the process for reviewing and scoring applications and answered questions relating to the process. It was asked when the City's scores are due to the County. Application deadline is 9/22/2023. The County will have a meeting on 9/12/2023 to confirm deadlines, but as of right now, the municipality results are due to BOCC on October 30 or 31, 2023 with the CLTAC meeting for oral presentations scheduled for December 1, 2023. Cyndi will confirm dates.

4. Unfinished Business

4.A. Tourism Report

Matt reviewed analytics and provided ads which will run to promote *Exploring* events in Ellensburg.

4.B. Revenues and Expenses

Information acknowledged and discussed. Cyndi shared that the amount that the City of Ellensburg will contribute to the CLTAC awards this year is \$87,753.25.

5. Citizen Comment None.

6. Adjournment

With no further business, the meeting adjourned at 2:42 pm.

The next meeting is scheduled for October 4, 2023.

Cyndi LaChappelle-Mathis

Drafted: 9/6/2023

Approved: 10/4/2023



**Parks & Recreation Advisory Commission
Meeting Minutes – June 14, 2023**

DATE OF MEETING: June 14, 2023
MEMBERS PRESENT: Nikki Pollock, Frana Milan, Nick Zentner, Ali Brown
OTHERS PRESENT: Parks & Recreation Director Case, two members of the public
LOCATION: Meeting was held in the City Council Conference Room and Remotely

CALL TO ORDER – Meeting called to order at 5:30pm

MEETING MINUTES – Meeting minutes from the May 10, 2023 meeting were approved as submitted.

NEW BUSINESS – Poetry Pole & Wind Phone Installation at Wippel Park – Keely Murphy Pickerel –

Ms. Pickerel presented to the Commission the idea of placing a poetry pole and wind phone at Wippel Park. The poetry pole is a place for the community to leave their poems, there will be thumbtacks provided at the site. Ms. Pickerel offered to construct the pole and archive the poetry that is left there. The concept behind the wind phone is that it's a rotary phone that people can use to make calls to people they can no longer get in touch with, this could mean people who have passed away, you've lost contact with, or that someone you want to share something with without actually sharing it. The first windphone was believed to be located in Japan and they are now located throughout the world. Ms. Pickerel offered to provide phone and build the stand that it will sit on.

A motion and a second was made to support the installation of the poetry pole and the wind phone, all in favor.

Park Partnership Review – Staff went over the park partnership program and review process with the Commission.

OLD BUSINESS – Rotary Park Master Plan Update – The City is currently in the process of updating the Rotary Park master plan, Bruce Dees & Associates (BDA), a landscape architect is performing the update. BDA was also responsible for the original park design, which was completed in 2002, an update to the original plan in 2012. The Commission reviewed three draft plans which were developed after a stakeholder meeting that consisted of current and potential Rotary Park user groups. Comments that the commission had related to the plan which staff will share with the landscape architect include:

- Compatibility between the installation of field turf and cross-country skiing
- Questions about the proposed railroad and ongoing maintenance and need
- How large the proposed splash pad would be
- How are we going to manage stormwater
- An excessive amount of parking which creates long walks to the fields from the parking areas
- A few members liked the orientation of the fieldhouse in 'Concept B'
- A desire to keep a lot of separation between the splash pad and playground from the parking lot

COMMISSION MEMBER REPORTS/OTHER BUSINESS

Commission Chair Brown talked about the improvements taking place at Wippel Park and how wonderful the park was coming along.

STAFF REPORTS – 1. The development of Unity Park has encountered multiple setbacks resulting in the delay in getting the project out to bid. 2. Concerts in the Park will start July 20th at North Alder Street Park. 4. Update on the sale of the Ellensburg Racquet & Recreation Center.

Meeting adjourned at 7pm.



CITY OF ELLENSBURG

Minutes of Planning Commission, Regular Meeting

Date of Meeting

August 10, 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

Commissioner Padjen called the meeting to order at 5:46 p.m.

Present In-Person: Ed Harrel, ~~Sathy Rajendran~~, Delano Palmer, Sigrid Davison, Fred Padjen, George Bottcher, Geraldine O'Mahoney

Present-Via Zoom: Rich Elliott

Absent: Sathy Rajendran (excused)

2. Approval of Agenda

Commissioner Bottcher motioned to approve the agenda. Motion passed 6-0

3. Approval of Minutes

a. Commissioner Delano motioned to Approve Minutes of June 8, 2023, Planning Commission Meeting

b. Commissioner Harrell motioned to Approve Minutes of July 13, 2023, Planning Commission Meeting

4. New Business

a. Inclusionary Zoning Research Review

Staff member Johnston explained research he has done regarding managing and maintenance of a mandate of providing affordable housing. There would need to be a staff member that is funded for an extensive period of time to monitor compliance with 30-year contracts, deeds, resale, etc. Johnston showed how on the Ellensburg map zones and overlays can be looked at to help determine where it makes sense to increase affordable housing. The Affordable Housing Commission will be presented with draft regulations to look for red flags. The draft regulations will then be brought to the Planning Commission to identify obstacles. Allowing smaller lots would increase the possibilities for owners to build affordable housing. Working with Kittitas County on the interlocal agreement in the Urban Growth Area will benefit the community. Current wait lists for section 8 housing are massive.

b. Zoning for Special Housing Types and Emergency Shelters

Even though House bill 1220 does not apply to the City of Ellensburg, the City is changing

zoning development code to add a code that would allow emergency shelters and emergency housing in more zones. There will be design standards that would be required. Transitional housing progressing into permanent supportive housing was discussed. Staff will create a resolution/ordinance for next month to review. Conditional Use Permits may be required but allowed in more zones.

5. Unfinished Business

None

6. Citizen Comment

None

7. Staff Update/Discussion Items

Staff member Johnston will draft regulations for the next meeting to review. This will help with another step towards completion of objective 1. Johnston stated one proposed map amendment to the Comprehensive Plan will be presented to City Council. There will be a clearer version of the future land use map designations for the public to understand. SEPA has been started.

A climate elements section will be added to the Comprehensive Plan, and brought before the commission to approve and then be forwarded to City Council. The section may be presented at the second meeting in September.

8. Commission Representative Update

The Commission Representative was not present at the end of the meeting

9. Adjournment

Adjournment at 6:58 p.m.



CITY OF ELLENSBURG

Minutes of Planning Commission, Regular Meeting

Date of Meeting

September 14, 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

Chair Padjen called the meeting to order at 5:45 p.m.

Roll Call Present In-Person: Ed Harrel, Fred Padjen, Sathy Rajendran, Sigrid Davison

Absent: Geraldine O'Mahony (excused), Delano Palmer (excused), George Bottcher

Also Present In-Person: Jeremy Johnston, Community Development Planning Manager, Shannon Johnson, Senior Planner, Dan Carlson, Community Development Director, Kelle Vandenberg, Economic Development Director, and Rosemary Meyer, member of the public.

Also, Present Via Zoom: Matthew Sweeney, Agent for DNR Jensen Rentals LLC, Randy, and Dan Jensen.

2. Approval of Agenda

3. Approval of Minutes

Minutes tabled until the next meeting

4. New Business

Appearance of Fairness reviewed. Johnston provided background information. Five proposed amendments to the Comprehensive Plan were submitted. The City Council approved a motion to docket the five amendments on July 17, 2023.

Proposal 23-01 is to update the 6-year capital improvements plan as referenced in Chapter 6 of the Comprehensive Plan. The agenda includes the 6-year budgets for parks and recreation, public works, and utility services. Staff presented the staff report. Staff recommend approval. Public comment opened for docket item 23-01. No public comments. Public comment closed. Padjen voiced concerns regarding Gas Utility extension budget items in relation to the Climate Change Act. Commissioner Harrell moved that the Planning Commission recommend to Council approval of docketed item 23-01. Motion passed 3-1.

Proposal 23-02 was submitted by Mayor Lillquist and the Community Development

Department. This amendment would create a Future Land Use/Zoning conversion table within the City of Ellensburg's Comprehensive Plan Land Use section to provide transparency, clarity, and guidance for zoning options within each land use category. Staff recommend approval. Public comment opened. No public comment. Public comment closed. Commissioner Harrel moved that the Planning Commission recommend to Council approval of docketed item 23-02. Motion passed 4-0.

Proposal 23-03 submitted by a citizen to eliminate a Future Minor Collector roadway that impacts his property on Dolarway Road. The property owner referenced the map exhibits within the agenda packet. Johnston discussed this proposal with Public Works staff, and it was determined that removal of this roadway would not negatively impact the Future Transportation Plan for the City of Ellensburg. Staff recommend approval. Public comment opened. No public comment. Public comment closed. Commissioner Rajendran moved that the Planning Commission recommend to Council approval of docketed item 23-03. Motion passed 4-0.

Proposal 23-04 submitted by a citizen requested a map revision to change the Future Land Use designation of four parcels located on Vantage Highway to Heavy Industrial. The parcels listed in the application (181933, 171933, 025236, & 191933) are currently zoned Commercial Highway within a Community Mixed Use land use designation. Several properties to the north and south of the subject parcels are currently residential in use or undeveloped, and located within County jurisdiction or are unincorporated lands within the urban growth area. Staff believes that the proposal would create a pocket of Heavy Industrial surrounded by several incompatible current and future uses. Staff recommend denial. Public comment opened. Sweeney, an agent for DNR Jensen Rentals and Jensen property owners spoke. Sweeney gave background and the businesses owned by the Jensen's. Owners feel the best use of their property is Heavy Industrial and see a need for more of this land use. They don't agree with the staff's Heavy Industrial pocket creation analysis. Johnston stated that more industrial zoning could be beneficial but doesn't believe that the proposed area would be consistent with the general development patterns of the immediate area. Public comment closed. Commissioners deliberated. Commissioners voiced concerns of the inconsistencies of the proposed map amendment. Commissioner Harrel moved that the Planning Commission recommend denial of docketed item 23-04 to City Council. Motion passed 4-0.

Proposal 23-05 submitted by CenterFuse requested updates to the Economic Chapter of the Comprehensive Plan. Johnston summarized the background information. It was submitted in 2021, continued to the 2022 cycle, and due to staffing and workload issues, the item was again continued to the 2023 cycle. The current proposal addresses grammatical issues, general updates, adds a Covid-19 Impact section, expands the Arts & Culture and Business Development sections, and updates Demographic and Household Income Data. Kelle Vandenberg elaborated on the proposal and noted that some adjustments may be needed prior to City Council review after she has reviewed the goals to verify equal access fair equity. Public comment opened. No public comment. Public comment closed. Commissioner Harrel moved that the Planning Commission recommend to Council approval of docketed item 23-05 with the possibility of included adjustments to address equity issues as proposed by Economic Development Director Vandenberg. Motion passed 4-0.

5. Unfinished Business

None

6. Citizen Comment

None

7. Staff Update/Discussion Items

Special Meeting scheduled for September 28, 2023.

Commissioner Davison and Commissioner O'Mahoney may not be able to attend.

There will be no regular meeting scheduled in October.

8. Commission Representative Update

None

9. Adjournment

Meeting adjourned at 6:36 p.m.

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.

Kew Mew

AUDITING OFFICER

10/11/23

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 **16th DAY OF OCTOBER 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	163502	TO	163689	\$ 1,359,875.93
EFT #'s	6480	TO	6501	\$ 1,015,685.02
Treasure Cash				Total Amounts
EFT #'S	191		225	\$ 699,447.63
Payroll Fund				Total Amounts
Check #'s	96106	TO	62112	\$ 11,974.87
Direct Deposits	75474	TO	75722	\$ 454,705.08

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

ATTEST: _____
CITY CLERK



Meeting Date: October 16, 2023
City of Ellensburg
City Council Agenda Report

Agenda Subject: Resolution 2023-25 to Surplus City-owned Lands and Authorize City Manager to Sign Land Exchange Agreement and Accept Easement from the US Bureau of Reclamation (Public Comment Opportunity)

Submitted by: Ryan Lyyski, Public Works & Utilities Director

Department: Public Works & Utilities

Suggested Motion/Action:

- 1) Following the public hearing, move to adopt Resolution No. 2023-25 declaring certain City-owned Properties, as listed in the Resolution, surplus to the City's needs.
- 2) Move to approve authorizing the City Manager to sign the Quitclaim Deed to the United States of America and accept the Quitclaim Deed from the United States of America for the Schaake Habitat Improvement Project, as well as accept Grant of Easement for the Wastewater Treatment Plant Outfall Pipeline and Pipeline Access Road.

Background/Summary:

The Bureau of Reclamation (Reclamation) purchased the Schaake property because of the high potential for habitat improvement for steelhead and salmonid habitat, and to place additional riparian land into public ownership with increased public benefit. Reclamation is cooperating with the City to implement the Schaake Habitat Improvement Project (Project) a portion of which affects City-owned property at the City's Wastewater Treatment Facility (WWTF). Council previously approved a Memorandum of Understanding (MOU) for the Project with Twin City Foods (TCF) and Reclamation.

The approximately 285-acre Schaake property was purchased in 2003 under the authority of the Yakima River Basin Water Enhancement Project (YRBWEP), which was enacted to protect, mitigate, and enhance fish and wildlife through improved water management; improved instream flows; improved water quality; protection, creation and enhancement of wetlands; and by other appropriate means of habitat improvement. The Schaake property is located along the Yakima River, southeast of Ellensburg, WA and is named for the former owner of the property. The Schaake Reach of the Yakima River lies south of Umptanum Road. The property historically supported a slaughterhouse and stockyards that have now been removed. At the time of acquisition, approximately 80 acres of the property was leased to Twin City Foods (TCF) for the application of their food processing wastewater onto grass hay.

Reclamation worked with a diverse group of stakeholders including the City of Ellensburg, Kittitas County, Washington Department of Fish and Wildlife, Twin City Foods, local irrigators, National Marine Fisheries, NOAA Fisheries, US Fish and Wildlife Service, Army Corps of Engineers, local landowners, Washington State Department of Ecology and other

entities to implement the Project. Since purchasing the Schaaake property, Reclamation has completed extensive evaluation and modeling, and has published numerous studies on the site and the Project. In 2019 the final project design and Phase 1 construction were completed. Phase 2 of Project construction began in July 2020, with completion anticipated in 2021. Remaining work includes constructing side-channels that will cross City-owned property and trigger the need for Reclamation to construct a concrete culvert across one side channel facilitating access for the City's WWTF Outfall. Access by the City for potential repair and maintenance of the outfall pipe and road is ensured through the attached Grant of Easement from Reclamation.

Reclamation is also working with the City and other stakeholders to enhance and develop a Yakima River Trail once the project is complete. A portion of this trail system is planned to go through Reclamation's Schaaake property. Reclamation, TCF and the City entered into an MOU for the exchange of properties affected by the Project in 2018.

Previous Council Action:

Council authorized MOU Amendment #3 at their December 19, 2022 meeting which extended the completion date to December 31, 2023.

Analysis:

A portion of the project impacts City-owned property at the WWTF. The City's primary concern is ensuring the discharge pipe from the WWTF into the Yakima River remains protected as a result of this project. Also, Twin City Foods operates the irrigation spray system on the City-owned fields adjacent to the WWTF. Discussions with Reclamation have therefore included elements which should minimize potential impacts to Twin City Foods' operations which could occur if any of the spray field operations were lost or impacted as a result of the project. As a result, Reclamation proposed the land exchange include additional property north of the City's WWTF where TCF spray operations could occur.

To facilitate the land exchange and provide a pathway to complete construction of the Project, Reclamation, the City and TCF worked collaboratively on drafting the previous agreements and the property exchange documents being presented with this report. Notice of this hearing was published in the city's official newspaper and mailed to all nearby property owners as required by law.

Financial Impact:

No measurable impact. The exchange is for similar parcel areas.

Budget Adjustment: No

Attachments:

1. Resolution 2023-25 - Surplus for BOR Property Exchange
2. Schaaake Quitclaim Deed from City to US Bureau of Reclamation
3. Schaaake Quitclaim Deed from US Bureau of Reclamation to City of Ellensburg
4. Easement - US Bureau of Reclamation to City of Ellensburg re WTTF Outfall Pipe Access

RESOLUTION NO. 2023-25

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELLENSBURG to declare certain City-owned property as surplus to City of Ellensburg's needs for the purpose of completing a land exchange with the United States Bureau of Reclamation.

WHEREAS, the United States Bureau of Reclamation ("BOR") has been working on the "Schaake Habitat Improvement Project" promoting habitat on and adjacent to the Yakima River since 2003; and

WHEREAS, the City of Ellensburg ("the City") through its Sewer Division owns property around the Wastewater Treatment Facility adjacent to the Yakima River located off of Berry Road; and

WHEREAS, it has been determined by the parties that a land exchange of parcels of roughly equal size and value would promote and enable the needs of the Schaake Habitat Improvement Project as well as protect the City's interests; and

WHEREAS, the BOR and City agreed to an Opinion of Approximately Equal Value of Land to Be Exchanged regarding the Schaake Habitat Improvement Project in April 2019; and

WHEREAS, the City Manager has determined that the disposal of real property declared surplus in this Resolution would realize greater benefit to the City through consideration other than a cash sale; and

WHEREAS, to accomplish the land exchange with BOR, the City must surplus four tracts of land identified by Kittitas County Assessor's Office as Parcels No. 258733 (Tract 1), 228733 (Tract 2), 028733 (Tract 3) and 598733 (Tract 4) as legally described in Exhibit A, attached hereto and incorporated herein; and

WHEREAS, Ellensburg City Code 2.06.220 authorizes the City to surplus said property as well as perform a land exchange under certain conditions;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Ellensburg, Washington, as follows:

Section 1. The real property identified by Kittitas County Assessor's Office as Parcels No. 258733 (Tract 1), 228733 (Tract 2), 028733 (Tract 3) and 598733 (Tract 4) as legally described in in Exhibit A is hereby declared surplus to the City of Ellensburg's need and is no longer required for providing municipal services.

Section 2. The City Council finds that proposed land exchange referenced above has more value or benefit to the City than any other bid or offer that might be considered and is therefore in the best interests of the City.

Section 3. Disposition of the property shall be through an exchange of land between the United States Bureau of Reclamation and the City of Ellensburg upon such terms and conditions as the parties may agree upon. The Mayor and/or City Manager are authorized to execute any and all documents required to complete the property exchange.

ADOPTED by the City Council of the City of Ellensburg this 16th day of October, 2023.

Mayor

Attest:

City Clerk

EXHIBIT A

LEGAL DESCRIPTIONS

Parcel No. 258733

TRACT 1:

That portion of the East Half of the Northwest Quarter of Section 14, Township 17 North, Range 18 East, W.M., Kittitas County, Washington, which lies Easterly and Northeasterly of the Yakima River and Southwesterly of the Tjossem Ditch right of way.

EXCEPT:

Lot 21 of that certain survey as recorded July 25, 2002 in Book 27 of Surveys at pages 148 and 149, under Auditor's File No. 200207250001, records of Kittitas County, Washington.

Parcel No. 228733

TRACT 2:

That portion of the Northwest Quarter of the Northeast Quarter of Section 14, Township 17 North, Range 18 East, W.M., Kittitas County, Washington, which lies Southwesterly of the Tjossem Ditch and Southeasterly of the Southeastern boundary of Lot 21 of that certain survey recorded July 25, 2002 in Book 27 of Surveys at pages 148 and 149, under Auditor's File No. 200207250001, records of Kittitas County, Washington, and being more particularly described as follows:

Commencing at the East quarter corner of said Section 14, being a 1" iron pipe; thence North 89°44'42" West along the South line of said Northeast Quarter of Section 14, a distance of 490.29 feet;

Thence North 52°10'37" West, a distance of 668.32 feet;

thence North 25°05'37" West a distance of 370.40 feet;

Thence North 45°09'37" West a distance of 190.60 feet to the centerline of Tjossem Ditch;

Thence continuing along said ditch centerline, the following courses:

North 55°31'46" West a distance of 23.80 feet, more or less, to the West line of the Southeast Quarter of the Northeast Quarter of Section 14;

North 55°31'46" West a distance of 18.00 feet;

North 83°33'53" West a distance of 159.19 feet;

South 87°06'58" West a distance of 70.55 feet;

North 77°06'13" West a distance of 158.62 feet;

North 83°20'59" West a distance of 101.53 feet;

North 70°57'04" West a distance of 48.90 feet;

North 15°31'57" West a distance of 61.14 feet;

North 22°50'14" West a distance of 93.41 feet;

Thence North 12°46'50" West a distance of 86.29 feet, more or less to the South line of the Northwest Quarter of the Northeast Quarter of said Section 14 and the Point of Beginning;

Thence continuing along the centerline of said Tjossem Ditch, the following courses:

North 04°38'15" West a distance of 121.16 feet;
North 10°03'30" West a distance of 90.32 feet;
North 11°41'59" East a distance of 88.17 feet;
North 02°29'54" West a distance of 71.65 feet;
North 08°20'35" West a distance of 76.48 feet;
North 13°16'16" West a distance of 149.41 feet;

Thence North 27°21'08" West a distance of 58.74 feet to the South line of Lot 13 of said survey, from which point a found 5/8" rebar & cap marked "LS 180925 Nelson" bears North 82°45'57" East a distance of 34.41 feet;
Thence South 82°54'12" West along said South line, a distance of 25.64 feet to the Southwest corner thereof;
Thence North 21°10'12" West along the Southwest line of said Lot 13, a distance of 60.32 feet;
Thence continuing along said line, North 56°51'13" West a distance of 105.03 feet; thence North 64°39'53"

West a distance of 171.96 feet to the Northeast corner of Lot 21 of said survey;

Thence South 34°24'16" West along the Southeasterly line thereof, a distance of 444.35 feet more or less to the West line of said Northwest Quarter of the Northeast Quarter of Section 14;
Thence South 0°54'33" East along said line, a distance of 455.75 feet to the South line of said Northwest Quarter of the Northeast Quarter;
Thence South 89°45'10" East along said South line, a distance of 617.63 feet to the Point of Beginning.

Parcel No. 028733

TRACT 3:

That portion of the South Half of the Northeast Quarter of Section 14, Township 17 North, Range 18 East, W.M., Kittitas County, Washington, which lies Southwesterly of Tjossem Ditch and Northeasterly of the Yakima River, and being more particularly described as follows:

Commencing at the East Quarter corner of said Section 14, being a 1" iron pipe;
thence North 89°44'42" West along the South line of said Northeast Quarter of Section 14, a distance of 490.29 feet to the Point of Beginning;
Thence leaving said South line, North 52°10'37" West, a distance of 668.32 feet; thence North 25°05'37" West a distance of 370.40 feet;
Thence North 45°09'37" West a distance of 190.60 feet to the centerline of Tjossem Ditch;
Thence continuing along said ditch centerline, the following courses:

North 55°31'46" West a distance of 23.80 feet, more or less, to the West line of the Southeast Quarter of the Northeast Quarter of Section 14;
North 55°31'46" West a distance of 18.00 feet;
North 83°33'53" West a distance of 159.19 feet;

South 87°06'58" West a distance of 70.55 feet;
North 77°06'13" West a distance of 158.62 feet;
North 83°20'59" West a distance of 101.53 feet;
North 70°57'04" West a distance of 48.90 feet;
North 15°31'57" West a distance of 61.14 feet;
North 22°50'14" West a distance of 93.41 feet;

Thence North 12°46'50" West a distance of 86.29 feet, more or less to the South line of the Northwest Quarter of the Northeast Quarter of said Section 14;
thence North 89°45'10" West along said South line, a distance of 617.63 feet to the West line of the Southwest Quarter of the Northeast Quarter of said Section 14;
Thence South 0°54'33" West along said West line, a distance of 1098.33 feet to the Northerly line of ordinary high water of the Yakima River;
Thence South 73°49'57" East along said ordinary high water line, a distance of 5.72 feet;
Thence continuing along said line, North 65°50'49" East a distance of 44.44 feet;
thence South 56°52'04" West a distance of 53.95 feet;
Thence South 67°42'03" East a distance of 46.48 feet;
thence South 68°57'34" East a distance of 240.52 feet;
thence South 62°22'42" East a distance of 137.64 feet;
Thence South 71°51'26" East a distance of 137.68 feet to said South line of the Northeast quarter of Section 14;

Thence leaving said ordinary high water line, South 89°44'42" East along said South Quarter section line, a distance of 696.41 feet to the East line of the Southwest Quarter of said Northeast Quarter;
Thence North 01°39'07" West along said East line, a distance of 54.57 feet; thence leaving said East line, South 75°00'00" East a distance of 214.29 feet to a point on said South line of the Northeast Quarter which lies North 89°44'42" West a distance of 1099.00 feet from the Southeast corner thereof;
Thence South 89°44'42" East along said South line, a distance of 608.71 feet to the Point of Beginning.

EXCEPT that portion of the Southeast Quarter of the Northeast Quarter of Section 14 which is described as follows:

A tract of land bounded by a line beginning at a point on the South boundary line of said quarter of quarter section which is 1099.0 feet West of the Southeast corner of said quarter of quarter section and running thence North 75°00' West, 213.0 feet, more or less, to the West boundary line of said quarter of quarter section; thence South along said boundary line to the Southwest corner of said quarter of quarter section; and thence East on the South boundary of said quarter of quarter section to the point of beginning.

Parcel No. 598733

TRACT 4:

That portion of the Northeast Quarter of the Southeast Quarter of Section 14, Township 17 North, Range 18 East, W.M., in the County of Kittitas, State of Washington, described as follows:

A tract of land bounded by a line beginning at the Northeast corner of said Northeast Quarter of the Southeast Quarter and running thence West on the North boundary line thereof 1099 feet; thence South 57° East, 913 feet; thence South 32°36' East, 618 feet to the East boundary line of said Northeast Quarter of the Southeast Quarter, thence North 1018 feet to the Point of Beginning.

As depicted on the attached map made part hereof by this reference.

[Remainder of Page intentionally left blank]

Return to:
Bureau of Reclamation
Attn: Leah Hendrix
1917 Marsh Road
Yakima, WA 98901

Contract No. 21-07-13-L1387
Tax Parcels 258733, 228733, 028733, and 598733
Portions of Sec 14, Township 17N Range 18E, WM.
Kittitas County, WA

QUITCLAIM DEED

CITY OF ELLENSBURG, a municipal corporation in the State of Washington,
GRANTOR, and **THE UNITED STATES OF AMERICA and its assigns**, hereinafter referred to
as the United States, GRANTEE,

WITNESS, THAT:

WHEREAS, the City of Ellensburg and the United States, through the Bureau of
Reclamation, have entered into the Schaaake Habitat Restoration Land Exchange Agreement,
Contract Number 20-13-07-L1387 on July 7, 2020; and,

WHEREAS, the City of Ellensburg and the United States desire to exchange properties of
approximate equal value.

NOW, THEREFORE, know all persons by these presents, that the City of Ellensburg, for
and in the mutual interest of the City of Ellensburg and the United States, does hereby remise,
release, and forever quitclaim unto the United States, its successors and assigns forever, all its
right, title, and interest in and to the property situated in the County of Kittitas, State of
Washington, to wit:

TRACT 1:

**That portion of the East Half of the Northwest Quarter of Section 14, Township 17 North,
Range 18 East, W.M., Kittitas County, Washington, which lies Easterly and Northeasterly of
the Yakima River and Southwesterly of the Tjossem Ditch right of way.**

EXCEPT:

**Lot 21 of that certain survey as recorded July 25, 2002 in Book 27 of Surveys at pages 148
and 149, under Auditor's File No. 200207250001, records of Kittitas County, Washington.**

TRACT 2:

That portion of the Northwest Quarter of the Northeast Quarter of Section 14, Township 17 North, Range 18 East, W.M., Kittitas County, Washington, which lies Southwesterly of the Tjossem Ditch and Southeasterly of the Southeastern boundary of Lot 21 of that certain survey recorded July 25, 2002 in Book 27 of Surveys at pages 148 and 149, under Auditor's File No. 200207250001, records of Kittitas County, Washington, and being more particularly described as follows:

Commencing at the East quarter corner of said Section 14, being a 1" iron pipe; thence North 89°44'42" West along the South line of said Northeast Quarter of Section 14, a distance of 490.29 feet;

Thence North 52°10'37" West, a distance of 668.32 feet; thence

North 25°05'37" West a distance of 370.40 feet;

Thence North 45°09'37" West a distance of 190.60 feet to the centerline of Tjossem Ditch;

Thence continuing along said ditch centerline, the following courses:

North 55°31'46" West a distance of 23.80 feet, more or less, to the West line of the Southeast Quarter of the Northeast Quarter of Section 14; North 55°31'46" West a distance of 18.00 feet;

North 83°33'53" West a distance of 159.19 feet;

South 87°06'58" West a distance of 70.55 feet;

North 77°06'13" West a distance of 158.62 feet;

North 83°20'59" West a distance of 101.53 feet;

North 70°57'04" West a distance of 48.90 feet;

North 15°31'57" West a distance of 61.14 feet;

North 22°50'14" West a distance of 93.41 feet;

Thence North 12°46'50" West a distance of 86.29 feet, more or less to the South line of the Northwest Quarter of the Northeast Quarter of said Section 14 and the Point of Beginning; Thence continuing along the centerline of said Tjossem Ditch, the following courses:

North 04°38'15" West a distance of 121.16 feet;

North 10°03'30 West a distance of 90.32 feet;

North 11°41'59" East a distance of 88.17 feet;

North 02°29'54" West a distance of 71.65 feet;

North 08°20'35" West a distance of 76.48 feet;

North 13°16'16" West a distance of 149.41 feet;

Thence North 27°21'08" West a distance of 58.74 feet to the South line of Lot 13 of said survey, from which point a found 5/8" rebar & cap marked "LS 180925 Nelson" bears North 82°45'57" East a distance of 34.41 feet;

Thence South 82°54'12" West along said South line, a distance of 25.64 feet to the Southwest corner thereof;

Thence North 21°10'12" West along the Southwest line of said Lot 13, a distance of 60.32 feet;

Thence continuing along said line, North 56°51'13" West a distance of 105.03 feet; thence North 64°39'53"

West a distance of 171.96 feet to the Northeast corner of Lot 21 of said survey;

Thence South 34°24'16" West along the Southeasterly line thereof, a distance of 444.35 feet more or less to the West line of said Northwest Quarter of the Northeast Quarter of Section 14;

Thence South 0°54'33" East along said line, a distance of 455.75 feet to the South line of said Northwest Quarter of the Northeast Quarter;

Thence South 89°45'10" East along said South line, a distance of 617.63 feet to the Point of Beginning.

TRACT 3:

That portion of the South Half of the Northeast Quarter of Section 14, Township 17 North, Range 18 East, W.M., Kittitas County, Washington, which lies Southwesterly of Tjossem Ditch and Northeasterly of the Yakima River, and being more particularly described as follows:

Commencing at the East Quarter corner of said Section 14, being a 1" iron pipe; thence North 89°44'42" West along the South line of said Northeast Quarter of Section 14, a distance of 490.29 feet to the Point of Beginning;

Thence leaving said South line, North 52°10'37" West, a distance of 668.32 feet; thence North 25°05'37" West a distance of 370.40 feet;

Thence North 45°09'37" West a distance of 190.60 feet to the centerline of Tjossem Ditch;

Thence continuing along said ditch centerline, the following courses:

North 55°31'46" West a distance of 23.80 feet, more or less, to the West line of the Southeast Quarter of the Northeast Quarter of Section 14; North 55°31'46" West a distance of 18.00 feet;

North 83°33'53" West a distance of 159.19 feet;

South 87°06'58" West a distance of 70.55 feet;

North 77°06'13" West a distance of 158.62 feet;

North 83°20'59" West a distance of 101.53 feet;

North 70°57'04" West a distance of 48.90 feet;

North 15°31'57" West a distance of 61.14 feet;

North 22°50'14" West a distance of 93.41 feet;

Thence North 12°46'50" West a distance of 86.29 feet, more or less to the South line of the Northwest Quarter of the Northeast Quarter of said Section 14;

thence North 89°45'10" West along said South line, a distance of 617.63 feet to the West line of the Southwest Quarter of the Northeast Quarter of said Section 14;

Thence South 0°54'33" West along said West line, a distance of 1098.33 feet to the Northerly line of ordinary high water of the Yakima River;

Thence South 73°49'57" East along said ordinary high water line, a distance of 5.72 feet;

Thence continuing along said line, North 65°50'49" East a distance of 44.44 feet;

thence South 56°52'04" West a distance of 53.95 feet;

Thence South 67°42'03" East a distance of 46.48 feet; thence

South 68°57'34" East a distance of 240.52 feet; thence South

62°22'42" East a distance of 137.64 feet;

Thence South 71°51'26" East a distance of 137.68 feet to said South line of the Northeast quarter of Section 14;

Thence leaving said ordinary high water line, South 89°44'42" East along said South Quarter section line, a distance of 696.41 feet to the East line of the Southwest Quarter of said Northeast Quarter;

Thence North 01°39'07" West along said East line, a distance of 54.57 feet; thence leaving said East line, South 75°00'00" East a distance of 214.29 feet to a point on said South line of the Northeast Quarter which lies North 89°44'42" West a distance of 1099.00 feet from the Southeast corner thereof;

Thence South 89°44'42" East along said South line, a distance of 608.71 feet to the Point of Beginning.

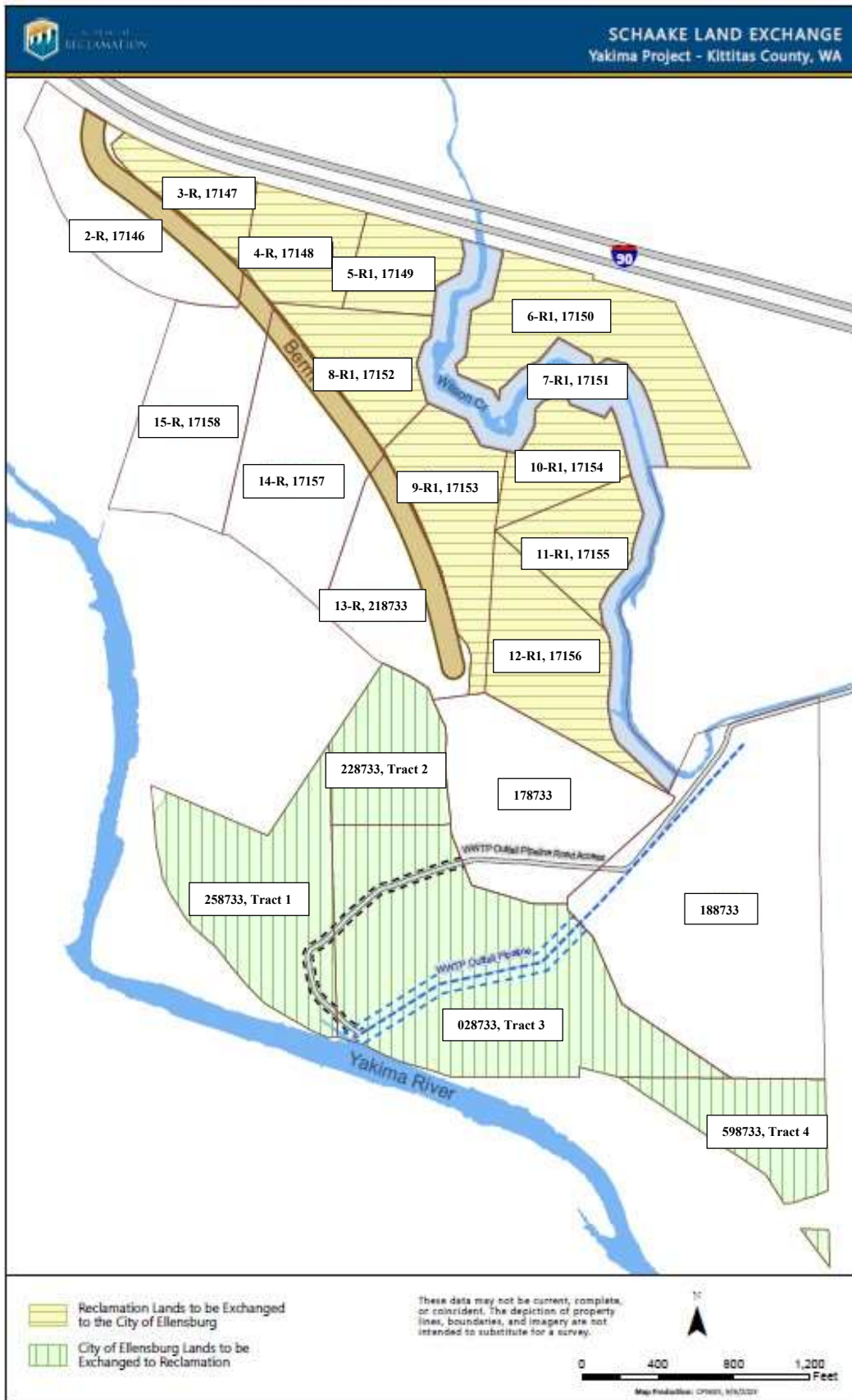
EXCEPT that portion of the Southeast Quarter of the Northeast Quarter of Section 14 which is described as follows:

A tract of land bounded by a line beginning at a point on the South boundary line of said quarter of quarter section which is 1099.0 feet West of the Southeast corner of said quarter of quarter section and running thence North 75°00' West, 213.0 feet, more or less, to the West boundary line of said quarter of quarter section; thence South along said boundary line to the Southwest corner of said quarter of quarter section; and thence East on the South boundary of said quarter of quarter section to the point of beginning.

TRACT 4:

That portion of the Northeast Quarter of the Southeast Quarter of Section 14, Township 17 North, Range 18 East, W.M., in the County of Kittitas, State of Washington, described as follows:

A tract of land bounded by a line beginning at the Northeast corner of said Northeast Quarter of the Southeast Quarter and running thence West on the North boundary line thereof 1099 feet; thence South 57° East, 913 feet; thence South 32°36' East, 618 feet to the East boundary line of said Northeast Quarter of the Southeast Quarter, thence North 1018 feet to the Point of Beginning.



Return to:
US Bureau of Reclamation
Attn: Leah Hendrix
1917 Marsh Road
Yakima, WA 98901

Contract No. 21-07-13-L1388
Ptns of Tax Parcels 17147, 17148, 17149, 17150, 17152, 17153, 17154, 17155, 17156
Portion of Sec 11 & 14, Township 17 N, Range 18 E, WM.
Kittitas County, Washington

**UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
Yakima River Basin Water Enhancement Project, Washington**

QUITCLAIM DEED

THE UNITED STATES OF AMERICA (Grantor), hereinafter referred to as the United States, pursuant to the Act of June 17, 1902 (32 Stat. 388; 43 U.S.C. §391), and acts amendatory thereof and supplementary thereto, collectively referred to as the Federal Reclamation Laws, and the Yakima River Basin Water Enhancement Project Act, of October 31, 1994, acting by and through the Department of the Interior, Bureau of Reclamation, **GRANTOR**, and **City of Ellensburg**, a municipal corporation in the State of Washington, **GRANTEE**,

WITNESS, THAT:

WHEREAS, the United States acquired certain lands by warranty deed from Schaake North, LLC, dated August 6, 2003, general warranty deed, recorded within Kittitas County Auditor's Office on August 7, 2003, recording number 200308070013, for habitat restoration, in connection with the Yakima River Basin Water Enhancement Project; and,

WHEREAS, the United States, through the Bureau of Reclamation, have entered into the Schaake Habitat Restoration Land Exchange Agreement, Contract Number 20-13-07-L1387, with the City of Ellensburg on July 7, 2020; and,

WHEREAS, the United States and the City of Ellensburg desire to exchange properties of approximate equal value.

NOW, THEREFORE, know all persons by these presents, that the United States, within the provisions of the Act of June 17, 1902 (32 Stat. 388; 43 U.S.C. §391), Section 14 of the Reclamation Project Act of 1939 (53 Stat. 1187, 43 U.S.C. §485), Title XII of P.L. 103-434, the Yakima River Basin Water Enhancement Project Act, of October 31, 1994, as amended and

authority redelegated thereunder, for and in the mutual interest of the United States, and the City of Ellensburg, does hereby remise, release, and forever quitclaim unto the City of Ellensburg, its successors and assigns forever, all of the right, title, and interest in and to the property situated in the County of Kittitas, State of Washington, to wit:

Lots 5-R1, 6-R1, 8-R1, 9-R1, 10-R1, 11-R1, and 12-R1 of Survey filed December 12, 2022, Book 45 of Surveys, pages 70 through 72, Auditor's File No. 202212060015, portion of Sections 11 and 14, Township 17 North, Range 18 East, W.M., County of Kittitas, State of Washington.

AND

Lots 3-R and 4-R of Survey filed February 18, 2021, Book 43 of Surveys, pages 138 through 143, Auditor's File No. 202102180060, portion of Sections 11 and 14, Township 17 North, Range 18 East, W.M., County of Kittitas, State of Washington.

As depicted on the attached map made part hereof by this reference.

EXCEPT: Adjudicated water rights associated with property, Certificate Number S4-841383-J current purpose is Instream Flow Trust Water.

SUBJECT TO:

The Reservation of a right-of-way for ditches and canals constructed or to be constructed by the authority of the United States, this reservation being of the same character and scope as that created with respect to certain public lands by the Act of August 30, 1890, (26 Stat. 391) as amended.

The reservation of rights-of-way of record or in use for canals, ditches, flumes, pipelines, drains, railroads, highways, over and across said premises.

The rights, if any, that were reserved in the original patent on this tract.

It is the intent that these reservations inure to the benefit of the United States, its successors and assigns, and will be binding on the Grantee, its successors and assigns.

At the request of the City of Ellensburg, Reclamation will process crossing agreement requests over Wilson Creek (Lor 7-R1) consistent with applicable Reclamation statutes, regulations, and policies.

NOTICE IS HEREBY GIVEN that:

(a) Acting pursuant to the requirements of 40 CFR 373, on November 19, 2020, the United States performed a hazardous waste survey on the subject lands. The land is being quitclaimed to the Grantee in the same condition as existed on the date of said survey and which is more

particularly described in the survey. No remediation by the United States on behalf of the Grantee has been made or will be made because none is necessary.

THE INFORMATION CONTAINED IN THIS NOTICE IS REQUIRED UNDER AUTHORITY OF REGULATIONS PROMULGATED UNDER SECTION 120(h) OF THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA OR "SUPERFUND"), 42 U.S.C. SECTION 9620(h).

The United States has conducted a search of files at the Bureau of Reclamation, Yakima Field Office, Yakima, Washington, to identify available information with respect to hazardous substances that were stored for one year or more, known to have been released, or disposed of at the property. That search of available information produced no information on hazardous substances so stored, released or disposed.

(b) The Grantee accepts the premises and appurtenances "as is".

(c) CERCLA Environmental Covenants and Stipulations:

1. To the extent the United States is determined responsible, the United States warrants that any response action or corrective action found to be necessary after the date of the transfer shall be conducted by the United States.

2. The Grantee grants the United States access to the property in any case in which a response action or corrective action is found to be necessary by the United States after such date at such property, or such access is necessary to carry out a response action or corrective action on adjoining property.

IN WITNESS WHEREOF, the United States of America has executed this document the

_____ day of _____, 2023.

UNITED STATES of AMERICA
Department of the Interior

By: _____
Chad Stuart
Yakima Field Office Manager
Bureau of Reclamation
1917 Marsh Road
Yakima WA 98901

ACCEPTANCE AND RELEASE:

The foregoing conveyance is hereby accepted by the City of Ellensburg. The City of Ellensburg further agrees, by this acceptance, to the sufficiency of the conveyance and to comply with the terms and covenants of the within and foregoing Quitclaim Deed. The City of Ellensburg further agrees by this acceptance to assume and be bound by all the obligations, conditions, covenants, and agreements therein contained.

CITY OF ELLENSBURG

By: _____
Heidi Behrends Cerniwey, City Manager

ACKNOWLEDGMENT

STATE OF WASHINGTON)

)ss

COUNTY OF YAKIMA)

On the ____ day of _____, 2023, personally appeared before me, the undersigned Notary, **Chad Stuart**, known to me to be the official of THE UNITED STATES of AMERICA, that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of the United States, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the day and year first above written.

Notary Public for the State of Washington

(SEAL)

Residing at: _____

My Commission expires: _____

ACKNOWLEDGEMENT

STATE OF WASHINGTON)

)ss

COUNTY OF KITTITAS)

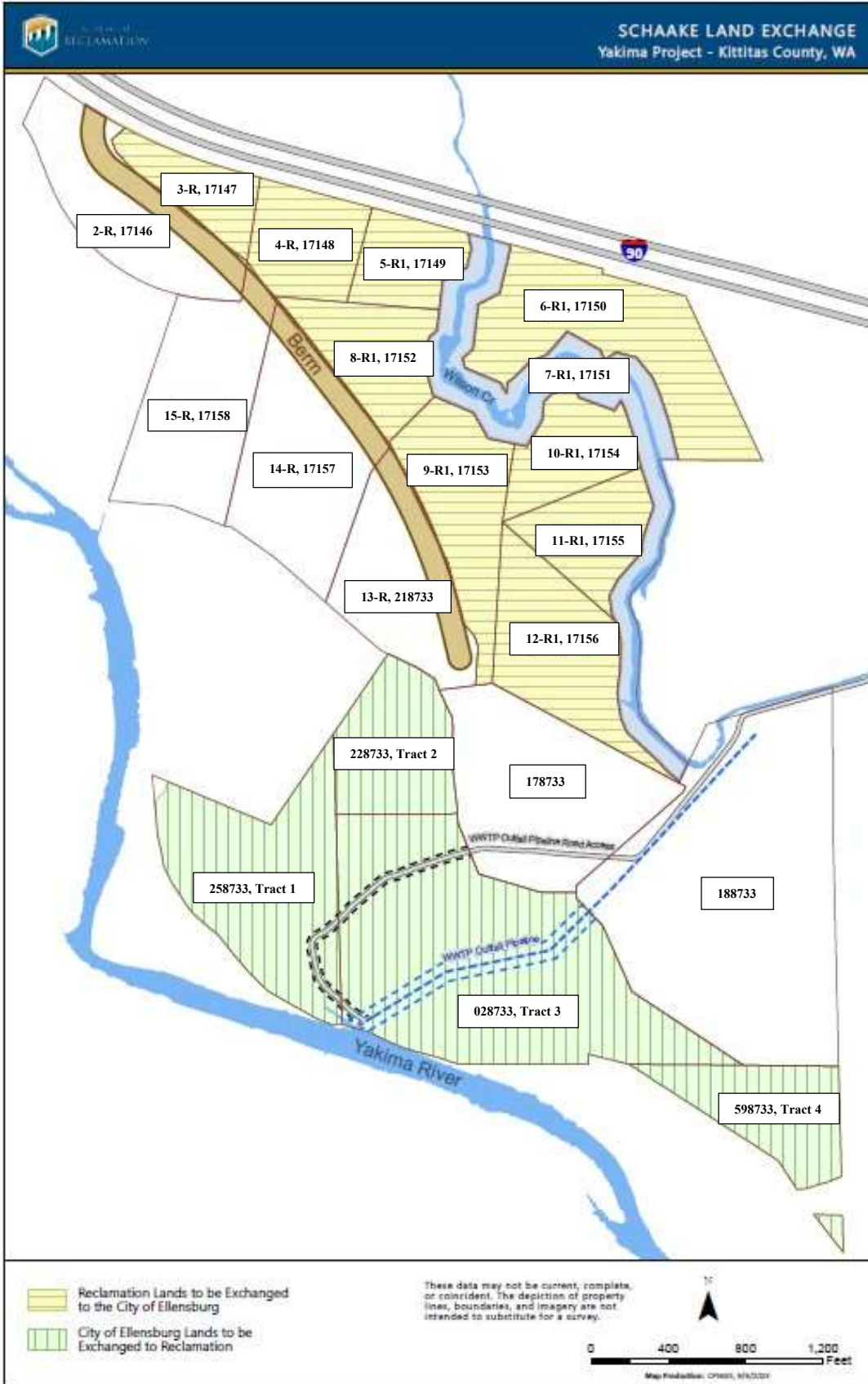
On the ____ day of _____, 2023, personally appeared before me, the undersigned Notary, **Heidi Behrends Cerniwey**, City Manager, Manager for the City of Ellensburg, a local governmental entity, known to me to be the individual that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute said instrument for the corporation.

Notary Public for the State of Washington

(SEAL)

Residing at: _____

My Commission Expires: _____



Return to:
Leah Hendrix
U.S. Bureau of Reclamation
1917 Marsh Road
Yakima, WA 98901

NW ¼ Sec 14, T17N, R18E W.M.
Kittitas County, Washington
APN 028733, 258733
Contract No. 23-07-13-L1417

**UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
Yakima Project, Washington**

GRANT OF EASEMENT

THIS EASEMENT FOR WASTEWATER TREATMENT PLANT OUTFALL PIPELINE AND PIPELINE ACCESS ROAD, is made this the ____ day of _____, 2023, pursuant to the Act of Congress of June 17, 1902 (32 Stat. 388), Section 10 of the Act of August 4, 1939 (53 Stat. 1187), and acts amendatory thereof or supplementary thereto, including Title XII of P.L. 103-434, the YAKIMA RIVER BASIN WATER ENHANCEMENT PROJECT ACT (YRBWEP), of October 31, 1994, as amended, all of which Acts are commonly known and referred to as the Federal Reclamation Laws and provisions of 43 CFR 429; between the Grantor, **the UNITED STATES OF AMERICA**, hereinafter referred to as the **United States**, acting by and through the Department of the Interior, Bureau of Reclamation, hereinafter referred to as **Reclamation**, and **THE CITY OF ELLENSBURG**, State of Washington, hereinafter referred to as the **City**.

WITNESSETH, THAT:

WHEREAS, the City of Ellensburg and the United States, through the Bureau of Reclamation, have entered into the Schaake Habitat Restoration Land Exchange Agreement, Contract Number 20-13-07-L1387 on July 7, 2020, and Reclamation acquired Assessor Parcel Numbers 028733 and 258733 by Quit Claim Deed dated _____, 2023, recording number _____; and

WHEREAS, Reclamation agreed to grant an easement for the existing Wastewater Treatment Plant Outfall Pipeline and the access road to it; and,

WHEREAS, the use of the land for the purposes described herein, under the terms and conditions hereof, will not be inconsistent with requirements of YRBWEP and Reclamation;

NOW, THEREFORE, in consideration of the mutual covenants and stipulations hereinafter stated, the parties hereto do mutually agree as follows:

1. **USE**. The United States hereby grants to the City, subject to the terms and conditions of this Contract,

a. **EASEMENT FOR WASTEWATER TREATMENT OUTFALL PIPELINE** -- an easement upon, over, and across land owned in fee by the United States, for the purpose of operating and maintaining an existing wastewater treatment outfall pipeline located within Assessor Tax Parcel No. 028733, described as follows:

A 100-FOOT WIDE OUTFALL PIPE EASEMENT, BEING A PORTION OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 14, TOWNSHIP 17 NORTH, RANGE 18 EAST, W.M., KITTITAS COUNTY, WASHINGTON, WHICH LIES SOUTHWESTERLY OF THE CENTERLINE OF TJOSSEM DITCH AND NORTHEASTERLY OF THE YAKIMA RIVER, AND LYING 50.00 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 14, BEING A 1" IRON PIPE;
THENCE NORTH 56°12'20" WEST A DISTANCE OF 1559.17 FEET TO A POINT ON THE CENTERLINE OF TJOSSEM DITCH AND THE **POINT OF BEGINNING**;
THENCE SOUTH 45°01'13" WEST ALONG THE CENTERLINE OF A 42" DIAMETER OUTFALL PIPE, A DISTANCE OF 354.10 FEET;
THENCE CONTINUING ALONG SAID OUTFALL PIPE, SOUTH 78°18'06" WEST A DISTANCE OF 549.79 FEET;
THENCE SOUTH 58°33'31" WEST A DISTANCE OF 528.46 FEET, MORE OR LESS, TO THE NORTHEASTERLY BANK OF THE YAKIMA RIVER, AND THE TERMINUS OF THE HEREIN DESCRIBED CENTERLINE;

THE SIDE LINES OF SAID 100.00 FOOT WIDE PIPE EASEMENT TO BE EXTENDED OR SHORTENED TO MEET AT ANGLE POINTS AND TO TERMINATE AT THE SAID SOUTHWESTERLY RIGHT OF WAY OF TJOSSEM DITCH AND THE NORTHEASTERLY BANK OF SAID YAKIMA RIVER.

As depicted on attached Exhibit A - containing 143,682 square feet or 3.3 ACRES, more or less;

b. **EASEMENT FOR ACCESS OVER ROAD TO ACCESS WASTEWATER OUTFALL PIPELINE** -- an easement upon, over, and across an existing road on land owned in fee by the United States, for the purpose of accessing the existing wastewater treatment outfall pipeline located within Assessor Tax Parcel No. 028733 and 285733, described as follows:

A 50-FOOT WIDE ACCESS EASEMENT, BEING A PORTION OF THE FOLLOWING DESCRIBED PARCELS:

THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 14, TOWNSHIP 17 NORTH, RANGE 18 EAST, W.M., KITTITAS COUNTY, WASHINGTON, WHICH LIES SOUTHWESTERLY OF THE CENTERLINE OF TJOSSEM DITCH AND NORTHEASTERLY OF THE YAKIMA RIVER.

AND

THAT PORTION OF THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION 14, TOWNSHIP 17 NORTH, RANGE 18 EAST, W.M., KITTITAS COUNTY, WASHINGTON, WHICH LIES EASTERLY AND NORTHEASTERLY OF THE YAKIMA RIVER AND SOUTHWESTERLY OF THE CENTERLINE OF TJOSSEM DITCH;

EXCEPT LOT 21 OF THAT CERTAIN SURVEY AS RECORDED UNDER AUDITOR'S FILE NO. 200207250001, RECORDS OF KITTITAS COUNTY, WASHINGTON.

SAID EASEMENT LYING 25.00 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 14, BEING A 1" IRON PIPE;

THENCE NORTH 59°55'13" WEST A DISTANCE OF 2251.97 FEET TO A POINT ON THE CENTERLINE OF TJOSSEM DITCH AND THE **POINT OF BEGINNING**;

THENCE SOUTH 79°11'15" WEST ALONG THE CENTERLINE OF AN EXISTING GRAVEL ACCESS ROAD, A DISTANCE OF 98.77 FEET;

THENCE CONTINUING ALONG SAID ROAD CENTERLINE, SOUTH 71°16'00" WEST A DISTANCE OF 346.28 FEET TO THE BEGINNING OF A 200.00 FOOT RADIUS TANGENT CURVE TO THE LEFT;

THENCE ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 22°11'45", A DISTANCE OF 77.48 FEET;

THENCE SOUTH 49°04'15" WEST A DISTANCE OF 137.73 FEET;

THENCE SOUTH 46°43'00" WEST A DISTANCE OF 105.48 FEET, MORE OR LESS, TO THE WEST LINE OF SAID SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 14;

THENCE CONTINUING SOUTH 46°43'00" WEST A DISTANCE OF 33.61 FEET;

THENCE SOUTH 51°45'56" WEST A DISTANCE OF 158.91 FEET TO THE BEGINNING OF A 60.00 FOOT RADIUS TANGENT CURVE TO THE LEFT;

THENCE ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 86°07'29", A DISTANCE OF 90.19 FEET TO THE BEGINNING OF A 140.00 FOOT RADIUS TANGENT CURVE TO THE RIGHT;

THENCE ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 29°55'54", A DISTANCE OF 73.14 FEET TO THE BEGINNING OF A 165.00 FOOT RADIUS TANGENT CURVE TO THE LEFT;
THENCE ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 52°03'43", A DISTANCE OF 149.93 FEET;
THENCE SOUTH 56°29'22" EAST A DISTANCE OF 25.18 FEET;
THENCE SOUTH 44°45'18" EAST A DISTANCE OF 71.83 FEET MORE OR LESS, TO THE EAST LINE OF THE SE QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 14;
THENCE CONTINUING SOUTH 44°45'18" EAST A DISTANCE OF 49.43 FEET;
THENCE SOUTH 55°37'39" EAST A DISTANCE OF 38.34 FEET TO THE TERMINUS OF THE HEREIN DESCRIBED CENTERLINE;

THE SIDE LINES OF SAID 50.00-FOOT WIDE ACCESS EASEMENT TO BE EXTENDED OR SHORTENED TO MEET AT ANGLE POINTS AND TO TERMINATE AT THE SAID CENTERLINE OF TJOSSEM DITCH.

As depicted on Exhibit B 72, 805 square feet or 1.7 acres, more or less.

2. **WAIVER OF FEES.** In compliance with Federal regulations as set forth in 43 CFR Part 429.26(a)(4) and (7), a request has been made and approved to waive the \$100.00 application fee, all administrative costs, and use fees associated with this easement agreement.

3. **SUBLEASES AND ASSIGNMENTS.** No assignment or transfer of these easements or the City's rights hereunder or any part or interest therein shall be valid without written authorization from Reclamation. The form of assignment or transfer to be used shall be approved by Reclamation.

4. **LAND USE STIPULATION.** There is reserved to the United States, their successors and assigns, the prior right to use any of the lands herein described to construct, operate, and maintain all structures and facilities, including, but not limited to canals, wasteways, laterals, ditches, roadways, electrical transmission lines, communication structures generally, substations, switchyards, power plants, fish screens, fish ladders and other appurtenant irrigation and power structures and facilities, without any payment made by the United States, or their successors for such rights.

5. **UNRESTRICTED ACCESS.** The United States reserves the right of its officers, agents, and employees at all times to have unrestricted access and ingress to, passage over, and egress from all of said lands, to make investigations of all kinds, dig test pits and drill test holes, and to survey for and construct reclamation and irrigation works and other structures incident to Federal Reclamation Projects, or for any purpose whatsoever. Reclamation will make every reasonable effort to keep damages to a minimum.

6. **HOLD HARMLESS.** The City hereby agrees to indemnify the United States for, and hold the United States and all of its representatives harmless from, all damages resulting from suits,

actions, or claims of any character brought on account of any injury to any person or property arising out of any act, omission, neglect, or misconduct in the manner or method of performing any construction, care, operation, maintenance, supervision, examination, inspection, or other activities of the City under this Contract.

7. **PROTECTION OF UNITED STATES INTERESTS.** The City shall use said premises for the purposes stated herein and agree that in the use of said premises it shall conduct its operations and maintain its facilities in a good and workmanlike manner; and, shall ensure compliance with all Federal, State, and local laws and Regulations, Executive Orders, and Reclamation Policies and Directives and Standards.

8. **WAIVER OF LIABILITY.** The City agrees that the United States, their successors and assigns, shall not be liable for any damage to the City Outfall Pipeline or Access Road, including loss of service, which may result from the construction, operation, or maintenance by Reclamation, upon United States lands, Project waters, or Project facilities, including, but not limited to damage to the City Outfall Pipeline or Access Road that may occur as the result of seepage, floodage, or erosion from works constructed by the United States.

9. **ADDITIONAL STIPULATIONS.** Upon the expiration, termination, revocation, or the City's abandonment of this easement, if all use fee charges and damage claims due Reclamation have been paid, the beneficiary shall remove all structures, equipment, or other improvements made by it from the premises at no cost to the United States. Upon failure to remove any such improvements within sixty (60) days of expiration, termination, revocation, or abandonment of this easement, any remaining improvements shall, at the option of the United States, be removed or become the property of the United States. The beneficiary shall pay all expenses of the United States, or its assigns, related to removal of such improvements.

10. **HAZARDOUS MATERIALS.** The City agrees to perform this Contract in accordance with the following hazardous material requirements:

a. The City may not allow contamination or pollution of United States lands, Project waters or Project facilities for which the City has the responsibility for care, operation, and maintenance and shall take reasonable precautions to prevent such contamination or pollution by third parties. Substances causing contamination or pollution include but are not limited to hazardous materials, thermal pollution, refuse, garbage, sewage effluent, industrial waste, petroleum products, mine tailings, mineral salts, misused pesticides, pesticide containers, or any other pollutants.

b. The City shall comply with all applicable United States, State, and local laws and regulations, and Reclamation Policies and Directives and Standards, existing or hereafter enacted or promulgated, concerning any hazardous material that will be used, produced, transported, stored, or disposed of on or in United States lands, Project waters or Project facilities.

c. "Hazardous material" means any substance, pollutant, or contaminant listed as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as

amended, 42 U.S.C. § 9601, et seq., and the regulations promulgated pursuant to that Act.

d. Upon discovery of any event which may or does result in contamination or pollution of United States lands, Project waters, or Project facilities, the City shall initiate any necessary emergency measures to protect health, safety and the environment and shall report such discovery and full details of the actions taken to Reclamation's Environmental Protection Specialist located in the Columbia-Cascades Area Office. Reporting may be within a reasonable time period. A reasonable time period means; within twenty-four (24) hours of the time of discovery if it is an emergency, or by the first working day if it is a non-emergency. An emergency is any situation that requires immediate action to reduce or avoid endangering public health and safety or the environment.

e. Violation of any of the provisions of this Article, as determined by Reclamation's Environmental Protection Specialist, may constitute grounds for termination of this Contract. Such violations require immediate corrective action by the City and shall make the City liable for the cost of full and complete remediation and/or restoration of any United States resources or facilities that are adversely affected as a result of the violation.

f. The City agrees to include the provisions contained in paragraphs (a) through (e) of this Article in any subcontract or third-party contract it may enter into pursuant to this Contract.

g. The City agrees to contact Reclamation's Environmental Protection Specialist to obtain any additional information needed to comply with the provisions of this Article.

11. **DISCOVERY OF CULTURAL RESOURCES.** The City shall immediately provide an oral notification to Reclamation's Archaeologist of the discovery of any and all antiquities or other objects of archaeological, cultural, historic, or scientific interest on United States lands. The City shall follow up with a written report of their finding(s) to Reclamation's Archaeologist, located in the Columbia-Cascades Area Office, within forty-eight (48) hours. Objects under consideration include, but are not limited to, historic or prehistoric ruins, human remains, funerary objects, and artifacts discovered as a result of activities under this Contract. The City shall immediately cease the activity in the area of the discovery, make a reasonable effort to protect such discovery, and wait for written approval from Reclamation's Archaeologist before resuming the activity. Protective and mitigative measures specified by Reclamation's Archaeologist shall be the responsibility of the City.

12. **TERMINATION.**

Upon discontinuance by the City of the use of the lands and outfall facilities for a period of twelve (12) consecutive months in which case the premises shall be restored by the City in accordance with applicable Clean Water Act standards and this easement shall be terminated.

13. **NOTICES.** All written notices required or desired to be given under this Contract shall be in writing and may be delivered by personal delivery; via recognized delivery services such as

United Parcel Service (UPS) or Federal Express (FED EX) or by deposit in the United States Mail, postage prepaid, as certified mail, return receipt requested, and addressed as follows:

United States of America
Bureau of Reclamation
Yakima Field Office
1917 Marsh Road
Yakima, WA 98901-2058
509-573-8120

City of Ellensburg
Director Public Works and Utilities Dept.
501 N. Anderson Street
Ellensburg WA 98926
509-962-7230

Any notice delivered by personal delivery shall be deemed received by the addressee upon actual delivery. The addresses to which notices are to be delivered may be changed by giving fifteen (15) days notice of such change in accordance with this paragraph. This paragraph shall apply where notice is required under this Contract, and no specific requirements are set forth. Where this Contract provides for a specific notice in a different manner, the more specific requirements shall prevail.

14. **RIGHTS OF THIRD PARTIES.** The permission granted by this Contract are nonexclusive and are subject to all existing valid rights previously acquired by third parties, which include any person or private or public entity not a party to this Contract. It is also the responsibility of the City for determining what utilities are located within the access area and for notifying said utility owners of the City's use.

15. **COVENANT AGAINST CONTINGENT FEES.** The City warrants that no person(s) or agency(s) have been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agencies maintained by the City for the purpose of securing business. For breach or violation of this warranty, the United States shall have the right to annul this Contract without liability or in its discretion to require the City to pay, in addition to the Contract price or consideration, the full amount of such commission, percentage, brokerage or contingent fee.

16. **OFFICIALS NOT TO BENEFIT.** No Member of Congress shall be admitted to any share or part of any contract or agreement made, entered into, or accepted by or on behalf of the United States, or to any benefit to arise thereupon.

17. **SEVERABILITY.** Each provision of this Contract shall be interpreted in such a manner as to be valid under applicable law, but if any provision of this Contract shall be deemed or determined by competent authority to be invalid or prohibited hereunder, such provision shall be ineffective and void only to the extent of such invalidity or prohibition, but shall not be deemed ineffective or invalid as to the remainder of such provision or any other remaining provisions, or of this Contract as a whole.

ACKNOWLEDGMENT

STATE OF WASHINGTON)
):ss
COUNTY OF YAKIMA)

On this day personally appeared before me, the undersigned Notary, _____, known to me to be the official of **THE UNITED STATES of AMERICA**, that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of the United States, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

WITNESS my hand and official seal on this _____ day of _____, 2023.

(SEAL)

Notary Public in and for the
State of Washington
Residing at:_____
My commission expires:_____

EXHIBIT A

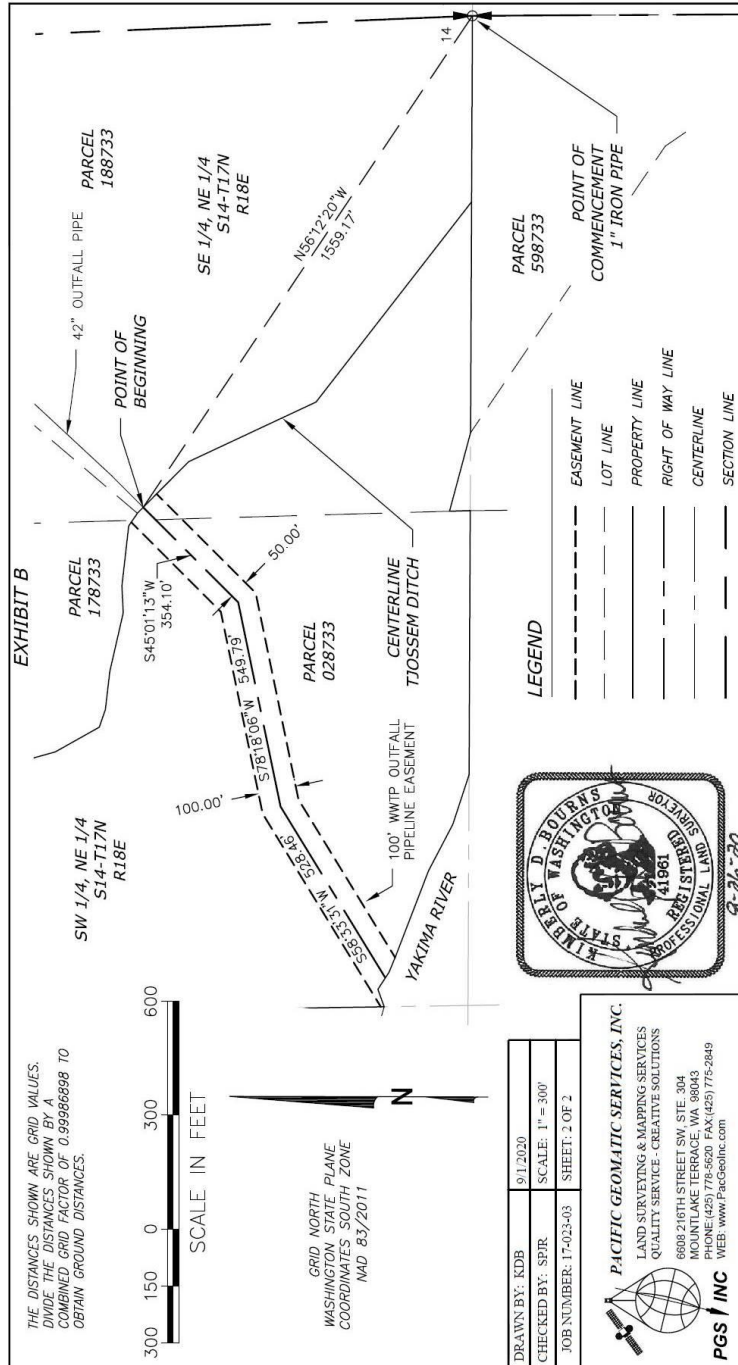
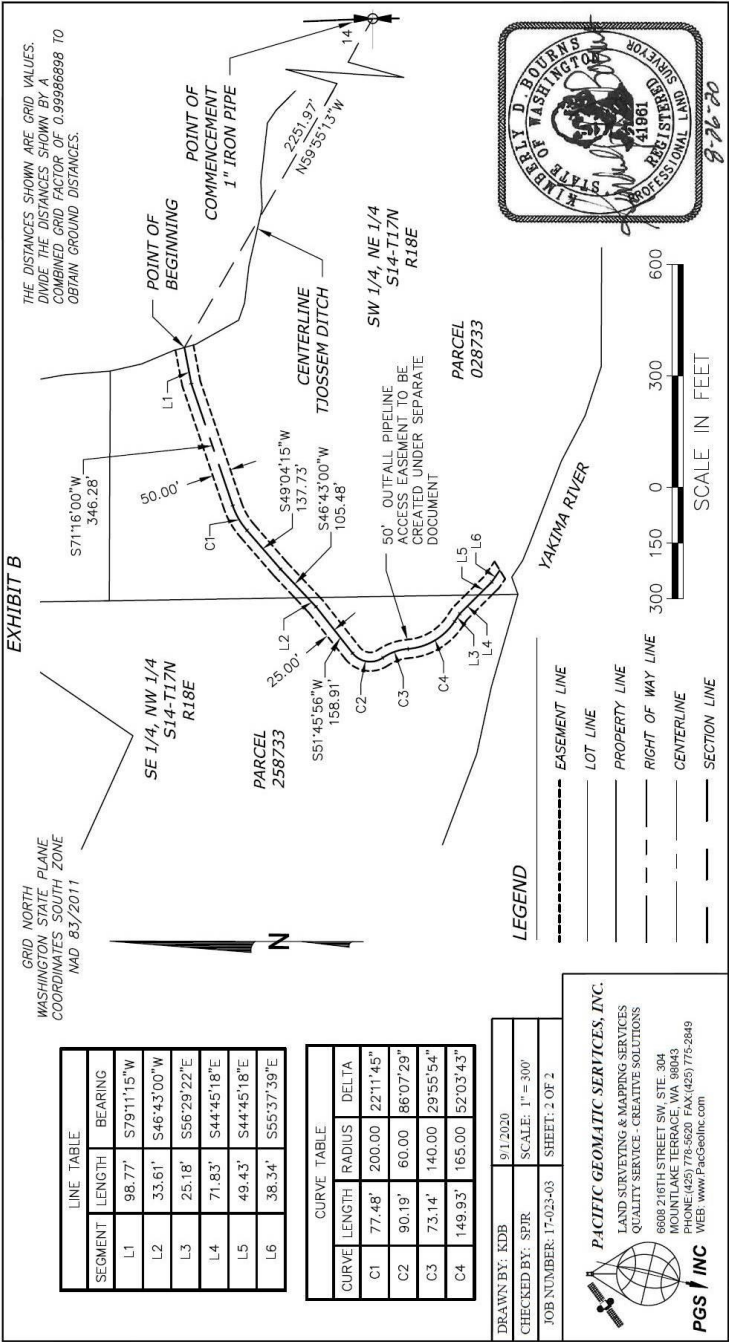


EXHIBIT B





Meeting Date: October 16, 2023
City of Ellensburg
City Council Agenda Report

Agenda Subject: Public Hearing to Consider Title 15 Land Development Code Amendments and First Reading of Ordinance 4929 (Public Comment Opportunity)

Submitted by: Jeremy Johnston, Planning Manager

Department: Community Development

Suggested Motion/Action:

Following the public hearing, move to:

1. Issue a determination on each proposed Land Development Code item; and
2. Conduct first reading of Ordinance 4929.

Background/Summary:

The proposed ordinance will update various code sections within Title 15 of the Ellensburg City Code (ECC). The proposals can include amendments submitted by community members, staff, and elected officials.

In 2013, the City adopted a new land development code which revised the standards and guidelines for new development in the City. Oftentimes, the impact of the development regulations are not fully understood until planning staff has an actual development application against which to review the regulations.

The City of Ellensburg is initiating a land development code amendment cycle pursuant to ECC15.250.100. Amendments to the Land Development Code require a Type V process which includes a recommendation from the Planning Commission to the City Council on the proposed amendments. The amendments originally included four community member proposed items and five items proposed by staff and city officials. Five of these items are being presented to Council in this public hearing.

Previous Council Action:

None

Analysis:

The procedures for processing a land development code amendment are outlined in ECC 15.250.100. The Type V review process must be followed, which requires a public hearing before the Planning Commission, who then forward a recommendation to City Council for their review during a separate public hearing. Land development code amendments that are approved by Council are made official through the adoption of an ordinance.

WASHINGTON STATE DEPARTMENT OF COMMERCE REVIEW AND SEPA REVIEW

The City issued a SEPA Determination of Non-Significance and forwarded the proposals to the Washington State Department of Commerce on August 29, 2023 (Exhibits A and B). No comments were submitted during the SEPA comments period. The 60-day notice to Commerce will be completed on October 28, 2023.

PROPOSED REVISIONS

Nine amendments were prepared for consideration by the Planning Commission. Item 23-01 was remanded to staff. Item 23-04 regarding sidewalk cafes is being considered separately. Staff is conducting further review of items 23-06 and 23-08 prior to bringing those to Council for consideration. A summary of the remaining items for Council consideration at this hearing are as follows:

Item 23-02 – This item was submitted by Steve Willard proposing an amendment to Title 15.260.120(e) – *Short subdivision plat – Review procedures and criteria*. The proposed amendment would replace the one-year expiration schedule for preliminary short plats with a five-year expiration schedule. This amendment would provide consistency with RCW 58.17.140(3)(a).

The Planning Commission recommended approval of amendment 23-02 as presented to create consistency with State subdivision regulations.

Item 23-03 – This item was submitted by Susan Savage proposing an amendment to the permitted use table in Title 15.310.040 – *Special Uses*.

The proposed amendment would add “indoor recreation” as a permitted use in the Residential Office (R-O) zone with a conditional use permit. The Residential Office zone is a mixed use zone, “intended to serve as a transition zone separating more intense uses from single-family residential districts.”

Indoor recreation is defined as, “a commercial recreational land use conducted entirely within a building, including, but not limited to, athletic and health clubs, pool or billiard halls, skating rinks, swimming pools, and tennis courts.”

Staff believes that the indoor recreation use can be consistent with the R-O zone because that zone is intended to be a transitional zone that provides for nonresidential uses that are compatible in scale and character with residential uses (ECC 15.300.060(B)), and impacts would be mitigated through a conditional use permit process.

The Planning Commission recommended approval of amendment 23-03 as presented.

Item 23-05 – This item was submitted by Community Development staff proposing code cleanup amendments to various sections within Title 15 to eliminate conflicts and ensure development regulations are consistent and clear.

The purpose of this item is to address recognized deficiencies and inconsistencies in existing

land development code sections to improve the function.

The proposed updates include revisions to sections; 15.310.040, 15.220.040 and 15.220.050, 15.540.020(D), ECC 15.220.110 and 15.250.035, 15.550.040(K)(1), and 15.220.030. ECC 15.310.040 would be amended to fix a development condition numbering error. ECC 15.220.040 and 15.220.050 would be amended to include annexation notice requirements in public notice sections. ECC 15.540.020 would be amended to provide specific private driveway widths based on lot widths. ECC 15.220.110 would be recodified as 15.250.035 to move site development expiration timelines to be near other site development review criteria. ECC 15.550.040 would be amended to remove a reference to a zone that doesn't exist anymore. ECC 15.220.030 would be amended to remove the Type I reference for written determination of completeness to be consistent with Table 15.210.040(B).

The Planning Commission recommended approval of amendment 23-05 as presented.

Item 23-07 - Community Development Staff seeks an amendment to the Comprehensive Plan annual docket amendment timelines established in ECC 15.250.090. Many unsuccessful attempts to meet this schedule in past years demonstrate a need for revisions. Staff is proposing this amendment to allow for a more realistic review window for docket amendments proposals. Additionally, this amendment would remove the unnecessary rigid timelines for several steps in the process, while maintaining a requirement to complete the process within the year of each docket cycle.

The proposal will update the submittal date for proposed amendments from June 30th of each year to March 31st of each year and eliminate the January 1st date that initiates the current amendment submittal cycle. As a result, staff, public officials, and the public would have a full 12-month window to submit docket items (March 31 – March 31) instead of the current restriction of 6 months (January 1 – June 30th). By initiating the process earlier in the year and allowing for a larger submittal window, proposed docket items can undergo a more thorough review and consideration window from staff and the public.

The current process timelines established in ECC 15.250.090(D) leave little time for review. Under the current regulations, staff must accept docket item submittals until June 30th of each year and issue a SEPA determination related to these items by the second Friday in August. This leaves approximately 45 days to perform a SEPA review on each item, issue a threshold determination, and prepare the items for submittal to the Department of Commerce for their 60-day notice. As there is no limit to the number of docket proposals allowed each year, there is the potential to create a scenario where staff cannot perform their due diligence in the 45-day window before a SEPA determination and notice to Commerce is required.

Additionally, the current regulations establish specific timelines for the required Planning Commission recommendation hearing (September) and the subsequent City Council Hearing (first regular meeting in October). This proposed amendment would eliminate these specific timelines and simply establish a requirement that the docket cycle be completed prior to December 31st of each year. This change would allow flexibility in timing that can accommodate varied workloads, heavy docket cycles, and ensure that staff have adequate time to prepare, review, and provide more thorough and informed recommendations to the

Planning Commission and City Council. This flexibility would also allow more time for the Planning Commission and City Council to review proposals as needed without unnecessary timeline restrictions limiting review windows.

The Planning Commission recommended approval of amendment 23-07 as presented.

Item 23-09 – This amendment is being proposed to create a departure option for pre-existing roadways developed under previous standards to allow continuity in streetscape designs for new roadways intended to connect to these pre-existing roadways.

On April 4, 2022, City Council conducted a study session to review this item. This item would amend the local access street design standards in ECC 15.410.040. Currently, when existing curbs and sidewalks exist on both abutting ends of a proposed project, the applicant can petition for a departure from streetscape requirements to allow for continuation of the existing roadway section across the proposed development. However, when curbs and sidewalks exist on only one abutting end of a proposed project, no departure option currently exists. This amendment would allow the applicant to petition for a departure that, if granted, would allow for continuation of the existing roadway section into future phases of a development. Departure requests would need to meet the departure standards as outlined in ECC 15.210.060. Additionally, the limitation on 20-foot streets would be updated to comply with the International Fire Code.

The Planning Commission recommended approval of amendment 23-09 as presented. Staff agrees with the Planning Commission's recommendations.

Financial Impact:

None at this time

Budget Adjustment: No

Attachments:

1. Exhibit A - CC Notice of Public Hearing 10.16.23
2. Exhibit B - Notice to Commerce
3. Exhibit C - P23-097 LDC SEPA DNS
4. Exhibit D - P23-097 Notice of SEPA Action
5. Ordinance 4929 First Reading



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BILLING DATE:	ACCOUNT NO:
09/26/23	50080

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

AD #	DESCRIPTION	START	STOP	TIMES	AMOUNT
428155	NOTICE OF A PUBLIC H	09/28/23	09/28/23	2	\$94.25

Payments:

Date	Method	Card Type	Last 4 Digits	Check	Amount
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Discount: **\$0.00**
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Gross: **\$94.25**
Paid Amount: **\$0.00**

Amount Due: **\$94.25**

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**NOTICE OF A PUBLIC HEARING
CITY OF ELLENSBURG
2023 LAND DEVELOPMENT CODE AMENDMENTS**

NOTICE IS HEREBY GIVEN that the City of Ellensburg City Council will hold a closed record public hearing on Monday, October 16, 2023 at 7:00 p.m. to consider proposed 2023 Land Development Code Amendments.

Materials Available for Review: The proposed amendments and related documents may be examined by the public by visiting the **City of Ellensburg Community Development Department webpage** at <https://ci.ellensburg.wa.us/658/SEPA-State-Environmental-Policy-Act>.

Written Comments from interested persons will be accepted by USPS Mail or email to johnstonj@ellensburgwa.gov up until 5:00 p.m. on October 16, 2023

Mailing Address: Community Development Dept., 501 N. Anderson St., Ellensburg, WA 98926.

Staff contact: Jeremy Johnston, Community Development Planning Manager

NOTICE IS FURTHER GIVEN that all persons interested in this matter may participate in the hybrid meeting by contacting Staff no later than 4:00 pm on **Monday, October 16, 2023**. An email link, or phone number will be provided which will allow for electronic participation in the public hearing.

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.

PUBLISH: Daily Record: September 28, 2023/LEGAL #: 428155



THANK YOU

We have received your amendment submission. Please allow 1-3 business days for review. Please keep the Submittal ID as your receipt and for any future questions. We will also send an email receipt to all contacts listed in the submittal.

Submittal ID: 2023-S-6393

Submittal Date Time: 08/29/2023

Submittal Information

Jurisdiction	City of Ellensburg
Submittal Type	60-day Notice of Intent to Adopt Amendment
Amendment Type	Development Regulation Amendment

Amendment Information

Brief Description

This is the City's 2023 Land Development Code amendment process includes nine proposals. Four of these proposals were citizen initiated and the remainder have been proposed by staff and elected officials. The proposed revisions are included in detail in Attachment A

☐ Yes, this is a part of the 10-year periodic update schedule, required under RCW 36.70A.130.

Anticipated/Proposed Date of Adoption 11/20/2023

Categories

Submittal Category
Development Regulations

Attachments

Attachment Type	File Name	Upload Date
Development Regulation Amendment - Draft	Attachment A.pdf	08/29/2023 07:16 AM

Contact Information

Prefix	Mr.
First Name	Jeremy
Last Name	Johnston
Title	Planning Manager
Work	(509) 962-7232

Cell
Email johnstonj@ci.ellensburg.wa.us

☐ Yes, I would like to be contacted for Technical Assistance.

Certification

■ I certify that I am authorized to submit this Amendment for the Jurisdiction identified in this Submittal and all information provided is true and accurate to the best of my knowledge.

Full Name Jeremy Johnston
Email johnstonj@ci.ellensburg.wa.us



STATE OF WASHINGTON
DEPARTMENT OF COMMERCE
1011 Plum Street SE • PO Box 42525 • Olympia, Washington 98504-2525 • (360) 725-4000
www.commerce.wa.gov

08/29/2023

Mr. Jeremy Johnston
Planning Manager
City of Ellensburg
501 N Anderson Street
Ellensburg, WA 98926

Sent Via Electronic Mail

Re: City of Ellensburg--2023-S-6393--60-day Notice of Intent to Adopt Amendment

Dear Mr. Johnston:

Thank you for sending the Washington State Department of Commerce (Commerce) the 60-day Notice of Intent to Adopt Amendment as required under [RCW 36.70A.106](#). We received your submittal with the following description.

This is the City's 2023 Land Development Code amendment process includes nine proposals. Four of these proposals were citizen initiated and the remainder have been proposed by staff and elected officials. The proposed revisions are included in detail in Attachment A

We received your submittal on 08/29/2023 and processed it with the Submittal ID 2023-S-6393. Please keep this letter as documentation that you have met this procedural requirement. Your 60-day notice period ends on 10/28/2023.

We have forwarded a copy of this notice to other state agencies for comment.

Please remember to submit the final adopted amendment to Commerce within ten days of adoption.

If you have any questions, please contact Growth Management Services at reviewteam@commerce.wa.gov, or call Deanah Watson, (509) 290-4754.

Sincerely,

Review Team
Growth Management Services



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

**State Environmental Policy Act (SEPA)
PRELIMINARY DETERMINATION OF NON-SIGNIFICANCE (DNS)**

Proponent: City of Ellensburg Community Development Department

Date: August 29, 2023

Location: Ellensburg City Limits and the Urban Growth Area

Description: This SEPA Checklist is a part of the City of Ellensburg's Land Development Code amendment process. The City is proposing nine amendments to the Land Development Code. A complete listing and description of the proposed amendments can be found in the SEPA Checklist and Attachment A.

Lead Agency: City of Ellensburg

File #: P23-097

The lead agency for this proposal has determined that the proposed adoption of this action plan, will 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.

This Preliminary Determination of Non-Significance (DNS) is issued under WAC 197-11-340(2); The lead agency will not act on this proposal for 21 days from the date of issuance. The lead agency will not act on this proposal for 21 days from the date below. Agencies, tribes, and the public are encouraged to review and comment on the proposal. If you have any comments on the proposed project and/or the SEPA Checklist, please submit them to our department by mail or email by **5:00 pm on Wednesday, September 20, 2023.**

Questions and comments may be submitted by 5:00 p.m. on Wednesday, September 20, 2023 to: Jeremy Johnston, Planning Manager- City of Ellensburg. johnstonj@ci.ellensburg.wa.us, 509-962-7232.

Responsible Official: Jeremy Johnston
Title: Community Development Planning Manager
Address: City of Ellensburg
Community Development Dept.
501 N. Anderson St.
Ellensburg WA 98926
Phone: (509) 962-7232 Fax: (509) 925-8655



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Ph. (509) 204-8236 **Fax:** (907) 452-5054

BILLING DATE:	ACCOUNT NO:
08/28/23	50080

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

AD #	DESCRIPTION	START	STOP	TIMES	AMOUNT
415877	NOTICE OF SEPA ACTIO	08/29/23	08/29/23	2	\$169.25

Payments:

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

Gross: **\$169.25**
 Paid Amount: **\$0.00**

Amount Due: **\$169.25**

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NOTICE OF SEPA ACTION**City of Ellensburg 2023 Land Development Code
Amendments SEPA Environmental Review
DETERMINATION OF NON-SIGNIFICANCE (DNS)**

Notice is hereby given that the City of Ellensburg has issued a Determination of Non-Significance for the proposed 2023 Land Development Code Amendments.

Date of application: August 29, 2023
Comments due date: September 20, 2023

Project Description: Case # P23-097; A non-project SEPA Environmental Checklist submitted by Jeremy Johnston, City of Ellensburg. This SEPA Checklist review is a part of the City of Ellensburg's land development code amendment process. The City is proposing nine amendments to the Land Development Code. A complete listing and description of the proposed amendments can be found in the SEPA Checklist and Attachment A.

Project Location: Ellensburg city limits and the Urban Growth Area

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/658/SEPA-State-Environmental-Policy-Act>. Documents available include the SEPA Checklist, Attachment A.

Written Comments: The public is encouraged to review and comment on the proposed project. **Written comments must be received via email, or postmarked, by 5:00 pm on Wednesday, September 20, 2023.**

Mailing Address: Community Development Dept., 501 N. Anderson St., Ellensburg, WA 98926

Staff contact: Jeremy Johnston, Planning Manager.
 Email: johnstonj@ci.ellensburg.wa.us

Environmental Review (SEPA): The lead agency for this proposal has determined that the proposed adoption of the listed amendments will 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.

This Preliminary Determination of Non-Significance (DNS) is issued under WAC 197-11-340(2); The lead agency will not act on this proposal for 21 days from the date of issuance. Agencies, tribes, and the public are encouraged to review and comment on the proposal. If you have any comments on the proposed project and/or the SEPA Checklist, please submit them to our department by mail or email by 5:00 pm on Wednesday, September 20, 2023.

PUBLISH: Daily Record: August 29, 2023 / LEGAL #: 415877

ORDINANCE NO. 4929

AN ORDINANCE RELATING TO THE CITY OF ELLENSBURG LAND DEVELOPMENT CODE, TITLE 15; AMENDING CHAPTER 15.260 “SUBDIVISIONS”; AMENDING CHAPTER 15.310 “PERMITTED USES”; AMENDING CHAPTER 15.220 “PERMIT REVIEW PROCEDURES”, AMENDING CHAPTER 15.540 “HOUSNG TYPE STANDARDS”, AMENDING CHAPTER 15.250 “REVIEW AND DECISION CRITERIA FOR CERTAN PERMITS”, AMENDING CHAPTER 15.550 “OFF-STREET PARKING”, AMENDING CHAPTER 15.210 “PERMIT REVIEW PROCESS TYPES”, AMENDING CHAPTER 15.340 “INDEX OF SUPPLEMENTAL USE CRITERIA”, AND AMENDING CHAPTER 15.410 “STREETSCAPE DESIGN”.

WHEREAS, the current Ellensburg Comprehensive Plan was initially adopted on December 18, 2017, and last updated through an annual docket cycle on February 21, 2023, and the Comprehensive Plan Zoning Map was last updated by annexation approvals on August 7, 2023; and

WHEREAS, following adoption of the Comprehensive Plan update in December 2017, City of Ellensburg staff worked to evaluate the City’s development regulations and zoning districts to ensure consistency with the requirements of Chapter 36.70A RCW and the City of Ellensburg Comprehensive Plan; and

WHEREAS, multiple requests to amend Title 15 of the Ellensburg City Code (“ECC”), the Land Development Code, have been received by Community Development; and

WHEREAS, a staff review of Title 15 of the ECC, the Land Development Code, has identified additional code sections that need to be updated to provide clarity and consistency; and

WHEREAS, proposed amendments to the Ellensburg City Code were issued a State Environmental Policy Act (“SEPA”) Determination of Non-Significance on August 29, 2023; and

WHEREAS, pursuant to RCW 36.70A.106, notice of the City’s intent to amend the Land Development Code was sent to the Washington State Department of Commerce on August 29, 2023; and

WHEREAS, the required Washington State Department of Commerce 60-day notice period concludes on October 28, 2023; and

WHEREAS, the proposed Land Development Code amendments were reviewed by the Planning Commission in a public hearing on September 28, 2023, and based on testimony and other evidence received at said hearing, the Planning Commission recommended City Council adoption of the amendments included herein; and

WHEREAS, the City Council held a duly noticed public hearing on the matter of adopting the proposed 2023 Land Development Code amendments at a regular meeting on October 16,

2023, and approved the proposed amendments;

NOW, THEREFORE, the City Council of the city of Ellensburg, Washington, do hereby ordain as follows:

Section 1. The recitals set forth above are hereby adopted as the findings of the City Council and are by this reference incorporated herein as if set forth in their entirety.

Section 2. Section 15.260.120 of the Ellensburg City Code, as last amended by Ordinance 4807, is hereby amended to read as follows:

15.260.120 Short subdivision plat (sometimes referred to as short plats) – Review procedures and criteria.

A. Procedures. Short subdivisions are divisions that create nine or fewer lots and are sometimes referred to as short plats. Short subdivision applications are subject to the Type II review process as set forth in Chapter 15.210 ECC, with exceptions provided herein.

B. Application Contents. Applications for a preliminary short subdivision shall contain all of the items required for a preliminary subdivision in ECC 15.260.060(B) except as follows: no SEPA checklist is required unless the proposed short subdivision is determined to not be exempt from SEPA review.

C. Referral to City Departments and Other Agencies for Comments. The community development department shall distribute one copy of the preliminary short subdivision application to the public works department and utilities department, building department, fire marshal, and any public agency that may be affected by the proposed preliminary subdivision.

Whenever the property proposed to be subdivided is located within one-half mile of the corporate limits of the unincorporated county, a copy of the proposed preliminary short subdivision application shall be distributed to the respective jurisdiction.

Comments may be submitted for 14 calendar days after the date of issuance of the notice of application.

D. Decision Criteria. The director may approve, approve with conditions, or deny a short subdivision application based on conformance with the following decision criteria:

1. Conformance with applicable provisions of the LDC, including the building setback and intensity standards in Chapter 15.320 ECC, the streetscape design standards in Chapter 15.410 ECC, the subdivision design standards in Chapter 15.420 ECC, the project design standards in Division V, the public works development standards, and applicable critical areas standards set forth in Division VI;

2. Integration of Specific Provisions. Short subdivisions shall integrate appropriate provisions for the public health, safety and general welfare and for such open spaces, drainage ways, streets

or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, natural gas mains and services, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who walk to and from school;

3. Public Interest. The public's interest shall be served by the short subdivision and dedication.

E. Time Frame for Approval. The administrator shall make a decision on approval or denial of a preliminary short subdivision application within 60 calendar days of the determination that the application is complete. An approved preliminary short subdivision application is valid for ~~one~~ five years from date of approval. Failure to submit the final short subdivision application within that ~~one-five~~-year time frame will result in a lapse of the preliminary short subdivision approval. [Ord. 4807 § 34, 2018; Ord. 4804 §§ 1, 3, 2018; Ord. 4656 § 1 (Exh. O2), 2013.]

Section 3. Table 15.310.040 of the Ellensburg City Code, as last amended by Ordinance 4887, is hereby amended to read as follows:

15.310.040 Use Table

Table 15.310.040. Residential-based uses.

Use	R-S	R-L	R-M	R-H	R-O	C-N	C-H	C-C	C-C II	I-L	NC- MU	RC- MU	I-H	P-R	MHP
RESIDENTIAL, GENERAL															
Dwelling, single-family* (ECC 15.540.020)	P	P	P		P										P
Dwelling, cottage* (ECC 15.540.050)	P	P	P		P									A ⁶	
Dwelling, duplex* (ECC 15.540.030)	P ²	P ²	P		P			P ⁷	P ⁷					A ⁶	
Dwelling, townhouse* (ECC 15.540.060)	P ²	P ²	P	P	P	P ³		P ⁷	P ⁷		P	P		A ⁶	
Dwelling, multifamily* (Division V of this title)	P ^{1.5}	P ^{1.5}	P	P	P	P ³	C	P ⁷	P ⁷		P	P		A ⁶	
Dwelling, live-work*	P ⁴	P ⁴	P ⁴	P ⁴	P ⁴	P		P ⁷	P ⁷		P	P			
Manufactured home park* (ECC 15.340.040)	C	C	C	P	C									A ⁶	P
GROUP RESIDENCES															
Boarding houses, lodging houses		C	P	P	C			P ⁷	P ⁷		P	P		A ⁶	
Adult family home*	P	P	P	P	P	P		P ⁷	P ⁷		P	P		A ⁶	
Community residential facility*			C	C	C	C		P ⁷	P ⁷		P	P		P/ A ⁶	
Senior citizen assisted housing*			P	P	P	P		P ⁷	P ⁷		P	P		A ⁶	
RESIDENTIAL ACCESSORY USES															
Accessory dwelling unit* (ECC 15.540.040)	P	P	P	P	P			P ⁷	P ⁷						

Table 15.310.040. Residential-based uses.

Use	R-S	R-L	R-M	R-H	R-O	C-N	C-H	C-C	C-C II	I-L	NC- MU	RC- MU	I-H	P-R	MHP
Home occupations* (ECC 15.340.020)	P	P	P	P	P	P	P	P ⁷	P ⁷	P	P	P	P	P ⁶	P
Yard sale use	A ⁸	A ⁸	A ⁸	A ⁸	A ⁸	A ⁸	A ⁸	A ⁸	A ⁸	A ⁸	A ⁸	A ⁸	A ⁸	A ⁸	A ⁸
TEMPORARY LODGING															
Bed and breakfast (ECC 15.340.010)	P	P	P	P	P			P ⁷	P ⁷		P	P			

Development conditions:

1. Subject use may be permitted subject to density bonus incentives set forth in Table 15.320.030 and Chapter 15.330 ECC.
2. Duplexes and townhomes are permitted in the R-L and R-S zones on infill lots (preexisting legal lots of record as of December 31, 2021) notwithstanding the maximum density limits in Table 15.320.030. For lots recorded after this date, duplexes and townhomes are permitted in the R-L and R-S zones but must meet the density requirements of ECC 15.320.030.
3. Residential uses are permitted in the C-N zone provided nonresidential uses occupy the ground floor of all buildings fronting on the street. For example, residential uses could be on upper levels of buildings fronting on the street or, for deep lots, subject residential uses may occupy any buildings away from the street and behind the buildings that front onto the street.
4. Nonresidential uses may be permitted within live-work dwellings subject to the permitted uses in the underlying zoning district.
5. Multifamily dwelling units shall not be located adjacent to existing single-family dwellings, except where such uses were approved on an individual plat.
6. All uses permitted in the P-R zone must be either outright permitted and operated as a public use or must be an accessory use to the primary public use (see ECC 15.310.050).
7. Except for lobbies or similar entrances, all permitted residential uses in the C-C and C-C II zones are prohibited within 30 feet of the sidewalk on the ground floor of properties fronting on storefront streets per ECC 15.510.050(E).
8. Yard sales are permitted as an accessory use to a dwelling; provided, that the following conditions are met:
 - a. Only two yard/garage sales per dwelling unit not exceeding three consecutive days in duration are allowed per year;
 - b. The occupant or tenant of the dwelling unit shall supervise and be responsible for the yard/garage sale activities including ensuring that there is no impediment to the passage of traffic on public roads and sidewalks adjacent to the sale;
 - c. No goods are to be displayed in public rights-of-way without first obtaining a right-of-way use permit from the public works and utilities department; and
 - d. Signs advertising the sale shall not be attached to any public structure, sign, sign or utility pole or traffic control devices and shall be removed within 24 hours of the sale completion.

Table 15.310.040. Nonresidential uses.

Use	R-S	R-L	R-M	R-H	R-O	C-N	C-H	C-C	C-C II	NC-MU	RC-MU	I-L	I-H	P-R
RETAIL														
Auto sales, new and used							P	P ²	P		P			
Automobile fueling						P	P	P	P		P	P		
Automobile, electric vehicle battery charging station	P ¹	P ¹	P ¹	P ¹	P ¹	P	P	P	P	P	P	P	P	P
Farmers' markets*						P		P	P	P	P			
Fruit stands*	P	P	P	P	P									
Heavy retail (ECC 15.130.080)							P	P ²	P		P	P	P	
Nurseries and greenhouses	P						P	P	P	P	P	P	P	
Restaurants	P	P	P	P	P	P	P	P	P	P	P	P		A ⁶
Bars and brewpubs*						P	P	P	P	P	P	P		A ⁶
Coffee house, espresso bar	P ⁵	P ⁵	P	P	P	P	P	P	P	P	P	P		A ⁶
Retail, small scale (<2,000 sf floor area)	P ⁵	P ⁵	P	P	P	P	P	P	P	P	P			A ⁶
Retail, medium scale (2,000 – 20,000 sf floor area)						P	P	P	P	P	P			A ⁶
Retail, large scale (20,001 – 60,000 sf floor area)						P ³	P	P	P	P	P			
Retail, very large scale (60,001 – 100,000 sf floor area)							P	C	C		P			
Retail, super scale (>100,001 sf floor area)							C				C			
Regional retail commercial projects* (subject to the requirements in Chapter 15.390 ECC)	P ⁸	P ⁸	P ⁸	P ⁸	P ⁸	P ⁸	P ⁸			P ⁸	P ⁸	P ⁸		
Marijuana retailer*						P ⁹	P ⁹	P ⁹	P ⁹	P ⁹	P ⁹			
PERSONAL AND GENERAL SERVICE														
Day care I facilities*	P	P	P	P	P	P	P	P	P	P	P	P		A ⁶
Day care II facilities*	C	C	C	C	P	P	P	P	P	P	P			A ⁶
Heavy services (see Heavy retail and services definition in ECC 15.130.080)*							P	P ²	P		P	P	P	
Hotels/motels*							P	P	P	P	P			
Hospitals*	C	C	C		P			C	P		C			A ⁶
Offices, medical*					P	P	P	P	P	P	P			P/A ⁶

Table 15.310.040. Nonresidential uses.

Use	R-S	R-L	R-M	R-H	R-O	C-N	C-H	C-C	C-C II	NC-MU	RC-MU	I-L	I-H	P-R
Kennels*							P		P			P		
Nursing homes*	C	C	C	P	P			P	P					P/A ⁶
Marijuana cooperative*	P ¹⁰	P ¹⁰	P ¹⁰	P ¹⁰	P ¹⁰	P ¹⁰	P ¹⁰	P ¹⁰	P ¹⁰	P ¹⁰	P ¹⁰	P ¹⁰	P ¹⁰	P ¹⁰
Personal service establishments*	P ⁵	P ⁵	P	P	P	P	P	P	P	P	P			A ⁶
Laundromats and dry cleaners			P	P	P	P	P	P	P	P	P	P		
Places of assembly*	C	C	C	C	P	P	P	P	P	C	C	C		A ⁶
Radio station (commercial)		C					P			P	P	C	C	A ⁶
Veterinary clinic					C	C	P	P	P	P	P	C		
BUSINESS SERVICE														
Conference center*							P	P	P	P	P			A ⁶
Offices, business or professional*, small scale (<2,000 sf floor area)	P ⁵	P ⁵			P	P	P	P	P	P	P	P ⁴		P/A ⁶
Offices, business or professional*, medium scale (2,000 – 20,000 sf floor area)	P ⁵	P ⁵					P	P	P	P	P	P		P/A ⁶
Offices, business or professional*, large scale (20,001 – 60,000 sf floor area)							P	P	P	P	P	P		P/A ⁶
Miniwarehouse facility*			C									C	C	
INDUSTRIAL														
Light manufacturing*							P	P ²	P ²	P ²	P ²	P	P	
Light industry (ECC 15.130.120)								P ^{2,7}	P ^{2,7}	P ^{2,7}	P ^{2,7}	P	P	
Hazardous waste treatment (off-site) (see definition of “off-site” in ECC 15.130.150)												C	C	
Hazardous waste treatment (on-site) (see definition of “on-site” in ECC 15.130.150)							C	C	C			C	C	A ⁶
Heavy industry (ECC 15.130.080)													C	
Marijuana processor*												P ²	P ²	
Marijuana producer*												P ²	P ²	
Tow vehicle storage area*												P	P	
Vehicle wrecking yard*													C	

Development conditions:

1. Vehicle battery charging stations are permissible for the primary use of residents and their guests in all residential zones. Battery charging station clusters are permitted for multifamily uses located in the R-M and R-H zones.
2. Use must be enclosed entirely within a building.
3. Grocery stores shall be the only retail uses permitted with more than 20,000 square feet of gross floor area.
4. Except for office uses that are accessory to a permitted use, office uses may be permitted through the purchase of transferable development rights, subject to the adoption of a TDR program by the city.
5. Subject nonresidential uses may be permitted in the R-S and R-L zones if the planned uses are at least 1,200 feet from an existing C-N zone or commercial use.
6. All uses permitted in the P-R zone must be either outright permitted and operated as a primary public use or must be an accessory use to that primary public use. See ECC 15.310.050.
7. Includes light industrial activities that result in the production of goods placed for on-site retail sale. Special restrictions:
 - a. No power tools or equipment are allowed which by their decibel, frequency, and/or other feature of their operation would negatively impact the surrounding area by reason of decibel levels, light (see Chapter 15.580 ECC for standards), dust or other physical effect; and
 - b. Production or manufacturing activity shall not occur between the hours of 10:00 p.m. and 6:00 a.m.
8. Regional retail is administered as an overlay zone pursuant to Chapters 15.390 and 15.390A ECC, and only permitted within the designated boundaries identified in Figure 15.390.040(A), the south interchange area, and Figure 15.390.040(B), the west interchange area. Permitted uses and use restrictions within a regional retail commercial project are described in ECC 15.390.030. Design criteria for regional retail is governed by Chapter 15.390A ECC.
9. All marijuana retail, production and processing facilities are subject to the requirements of Chapter 15.370 ECC.
10. All marijuana cooperatives are subject to the requirements of ECC 15.370.030, Chapter 314-55 WAC and Chapter 69.51A RCW.

Table 15.310.040. Special uses.

Use	R-S	R-L	R-M	R-H	R-O	C-N	C-H	C-C	C-C II	NC-MU	RC-MU	I-L	I-H	P-R
PARK, OPEN SPACE AND RECREATIONAL														
Cemeteries, columbarium or mausoleums	P	P												
Golf course	P													P ¹¹
Golf driving range (not associated with a golf course)	C						C							P ¹¹
Recreation – outdoor (commercial)*							P			P	P	C		A

Table 15.310.040. Special uses.

Use	R-S	R-L	R-M	R-H	R-O	C-N	C-H	C-C	C-C II	NC-MU	RC-MU	I-L	I-H	P-R
Recreation – indoor (commercial)*					<u>C</u>		P	P	P	P	P	C		A
Recreation – small-scale indoor studios (commercial)*	P	P	P	P	P	P	P	P	P	P	P	C		
Recreational vehicle parks (ECC 15.340.050)							P							
Parks, playgrounds (public or private)	P ¹	P ¹	P ¹	P ¹	P ¹	P ¹	P ¹	P ¹	P ¹	P ¹	P ¹	P ¹		P
CULTURAL AND ENTERTAINMENT														
Adult entertainment establishment*							P ²							
Art, performing arts, and recording studios	C	C	C	C	P	P	P	P	P	P	P	P		P/A ⁷
Museums	C ¹²	C ¹²	C ¹²	C ¹²	P	P	P	P	P	P	P	P		P/A ⁷
Theaters					P	P	P	P	P	P	P	C		
EDUCATIONAL														
Schools	C	C	C	C	C		C	C	C					P ⁵
GOVERNMENTAL														
Court							P	P	P					P
Fire facility							P				P	P		P
Police facility						P ³	P	P ³	P		P	P		P
Public agency or utility office*						P	P	P	P	P	P	P	P	P/A
Public agency or utility yard	P ⁴	P ⁴	P ⁴	P ⁴	P ⁴	P	P	C ⁴	P			P	P	P/A
Utility facility* ⁸	P	P	P		P	P	P	P	P			P	P	P
Fairgrounds														P
Public transportation passenger terminals							P	P	P		P	P	P	P
RESOURCE														
Gardening or fruit raising (accessory use or noncommercial)	P	P	P	P	P	P	P	P	P	P	P	P	P	P/A ⁷
Agriculture*	P ⁹													
Small wind energy systems (ECC 15.340.060)	P ¹⁰	P ¹⁰	P ¹⁰	P ¹⁰	P ¹⁰	P ¹⁰	P ¹⁰	P ¹⁰	P ¹⁰	P ¹⁰	P ¹⁰	P ¹⁰	P ¹⁰	P ¹⁰ /A ⁷
REGIONAL														
Airport														PC ⁶

Development conditions:

1. Lighting for structures and fields shall be directed away from residential areas through the use of exterior full cut-off shields or through optics within the fixture.

2. Adult entertainment is regulated pursuant to Chapter 6.72 ECC. Zoning locational standards within the C-H zone for adult entertainment establishments are:

All such establishments must be at least 1,000 feet from any residential zone, parks, schools, historic district, any dwelling, freeway, highway, interstate, or major arterial (see map on file in the city clerk's office).

3. Limited to "storefront" police offices. Such offices shall not have:

- a. Holding cells;
- b. Suspect interview rooms (except in the C-N zone); or
- c. Long-term storage of stolen properties.

4. Public agency or utility yard conditions:

- a. Utility yards are only on sites with utility district offices; or
- b. Public agency yards are limited to material storage, vehicle maintenance, and equipment storage for road maintenance, facility maintenance, and parks facilities.

5. Excluding private or nonprofit commercial schools, for which the principal course work is business, vocational, or technical.

6. A conditional use permit is required for the following uses:

- a. Facilities to sell, service and store airplanes, service airport patrons, and those ordinarily incidental and essential to operation of a municipal airport; and
- b. Airport landing areas.

7. All uses permitted in the P-R zone must be either outright permitted and operated as a public use or must be an accessory use to the primary public use; see ECC 15.310.050. Subject uses must be managed by a public agency.

8. Wireless communication facilities, including wireless communication support towers and antenna arrays, are subject to the provisions of ECC 15.340.070 and Chapter 15.395 ECC.

9. Agriculture uses are permitted in the subject zone provided the following conditions are met:

- a. The raising of swine, poultry or goats shall be restricted to youth educational projects or limited household consumption occurring on the same lot, or lots of record;
- b. No nuisances, such as noise, odor, air pollution, wastes, vibration, traffic or physical hazards, shall result therefrom; and
- c. Fencing and housing adequate to certain livestock shall be provided where livestock are kept, and all livestock shall be kept and maintained in accordance with applicable laws and regulations.

10. Small wind energy systems on properties listed in the Ellensburg landmarks register are subject to landmarks and design commission certificate of appropriateness.

11. Subject use shall be permitted only if it is a public facility.

12. Museums within the R-S, R-L, R-M and R-H zoning districts are permissible within existing buildings, or if for new construction only if the building is 2,000 square feet or less, and for both options through approval of a conditional use permit. [Ord. 4887 § 22, 2022; Ord. 4807 § 44, 2018; Ord. 4804 § 3, 2018; Ord. 4769 § 13, 2017; Ord. 4728 § 4, 2016; Ord. 4724 § 4, 2016; Ord. 4696 § 3, 2015; Ord. 4669 § 3, 2014; Ord. 4656 § 1 (Exh. O2), 2013.]

Section 4. Section 15.220.040 of the Ellensburg City Code, as last amended by Ordinance 4807, is hereby amended to read as follows:

15.220.040 Public notice of application.

A. Issue Notice. Within 14 calendar days of the determination of completeness, the city shall issue a notice of application for all Type II, III, and IV projects. Notice of any SEPA pre-threshold determination comment opportunities available pursuant to Chapter 15.270 ECC or critical area determination comment opportunities pursuant to Division VI shall be combined with the notice of application.

B. Notice Contents. The notice of application shall include the following information:

1. The dates of application, determination of completeness, and the date of the notice of application;

2. The name and address of the applicant or the applicant's designated agent;

3. The location and description of the project;

4. The requested actions and any required studies, if known;

5. The date, time, and place of any predecision public meeting or open record hearing, if one has been scheduled;

6. Identification of any environmental or critical area documents related to the project, if any, and where they are located for review;

7. A statement of the limits of the public comment period. With the exception of short subdivisions which have a 14-calendar-day comment period, the comment period for all applications subject to review under this section is 21 calendar days beginning on the day following the date of notice of application;

8. A statement of the right of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights;

9. The name and phone number and email address of the city staff contact for the application;

10. Identification of the known development regulations that will be used in determining consistency of the project with the comprehensive plan; and

11. Any other information that the city determines to be appropriate.

C. Public Notification. The notice of application shall be made available to the public, through the following methods:

1. Mail. For site-specific proposals requiring a Type II (except signs), Type III or Type IV review process, the department shall mail notice to owners of real property located within 300 feet of the subject property and to any agencies with jurisdiction;

2. Post Site. The applicant for site-specific proposals requiring a Type III or IV review process and/or requiring SEPA review pursuant to Chapter 15.270 ECC, shall post a notice board on the site at the applicant's expense within five calendar days after the date of issuance of the determination of complete application per the requirements set forth in ECC 15.220.050 and 15.270.120. Type V Annexation proposals shall be posted as required in Ch. 35A.14 RCW and verified by an affidavit of publication; and

3. Newspaper. For Type II permits (except signs), site-specific proposals requiring a Type III or Type IV review process, and for non-site-specific proposals requiring a Type V review process, the department shall also publish a notice of the application in the newspaper of general circulation for the general area in which the proposal is located. This notice shall include the project location and description, the type of permit(s) required, comment period dates, staff contact information, and the location where the complete application may be reviewed.

D. Public Comments. The department must receive all comments received on the notice of application by 5:00 p.m. on the last day of the comment period. Comments may be mailed, emailed, faxed, or personally delivered. [Ord. 4807 § 21, 2018; Ord. 4656 § 1 (Exh. O2), 2013.]

Section 5. Section 15.220.050 of the Ellensburg City Code, as last amended by Ordinance 4807, is hereby amended to read as follows:

15.220.050 Notice board requirements.

Posted notice for a proposal as required in ECC 15.220.040(C)(2) shall consist of one or more notice boards posted at the applicant's expense by the applicant within five calendar days following the department's issuance of a determination of completeness as follows:

A. Notice Board. The department shall provide the applicant with a reduced paper copy of the required notice which the applicant shall be responsible for enlarging to a six-square-foot (two feet tall by three feet wide) waterproof sign for posting;

B. Number of Boards. A single notice board shall be posted for a project. This notice board may also be used for the posting of the notice of decision and notice of hearing. Additional notice boards may be required by the department when:

1. The site does not abut a public road;
2. A large site abuts more than one public road; or
3. The department determines that additional notice boards are necessary to provide adequate public notice;
4. Type V Annexation by petition proposals shall be posted in three public places within the territory proposed for annexation, and shall specify the time and place of hearing and invite interested persons to appear and voice approval or disapproval of the annexation pursuant to RCW 35.13.140.

C. Location of the Notice Board. The notice board shall be located:

1. At the midpoint of the site's street frontage or as otherwise directed by the department for maximum visibility;
2. Five feet inside the street property line except when the board is structurally attached to an existing building; provided, that no notice board shall be placed more than five feet from the street property without approval of the department;
3. So that the top of the notice board is between seven to nine feet above grade; and
4. Where it is completely visible and readable from the facing property line of the site;

D. Notice boards shall be:

1. Maintained in good condition by the applicant during the notice period through the time of the final city decision on the proposal, including the expiration of any applicable appeal periods and, for decisions that are appealed, through the time of the final resolution of any appeal. Failure to properly maintain the notice board in good condition and in the proper location as specified above may result in the director making a determination that there is a need to provide additional time for public notice;
2. In place at least 21 calendar days prior to the date of any required hearing for a Type III or IV project, or at least 14 calendar days following the department's issuance of a determination of completeness for any Type II project;
3. Removed within 14 calendar days after the final decision has been made on the project and all applicable appeal periods have passed; and

4. Removal of the notice board prior to the required time above may be cause for discontinuance of city review until the notice board is replaced and remains in place for the specified time period; and

E. An affidavit of posting shall be submitted to the department by the applicant within seven days following the department's determination of completeness to allow continued processing of the application by the department. [Ord. 4807 § 22, 2018; Ord. 4656 § 1 (Exh. O2), 2013.]

Section 6. Section 15.540.020 of the Ellensburg City Code, as last amended by Ordinance 4807, is hereby amended to read as follows:

15.540.020 Single-family design standards

A. Purpose.

1. To enhance the character of the street;
2. To maintain “eyes on the street” for safety to pedestrians and to create a more welcoming and interesting streetscape;
3. To deemphasize garages and driveways as major visual elements along the street; and
4. To provide usable yard space for residents.

B. Entries and Facade Transparency.

1. Clear and obvious pedestrian access between the sidewalk and the building entry is required for new dwelling units (the driveway may be used to help meet this requirement);
2. All new houses shall provide a covered entry with a minimum size of three feet by three feet. Covered entries may project up to six feet into the front yard per Chapter 15.320 ECC; and
3. At least eight percent of the facade (all vertical surfaces facing the street) shall include transparent windows or doors.

C. Garage Placement and Design.

1. Where lots abut an alley, the garage or off-street parking area is encouraged to take access from the alley;
2. The garage doors shall occupy no more than 50 percent of the ground-level facade facing the street. Departure: garage doors may exceed this limit up to a maximum of 65 percent of the ground level facade facing the street provided at least two of the following design details are utilized. For front-loaded lots where the garage faces the street and the garage is even with

the facade of the house or less than five feet behind the front facade of the house, at least one of the following design details shall be utilized:

- a. A decorative trellis over the entire garage;
 - b. A window or windows are placed above the garage on a second story or attic space under roofline;
 - c. A balcony that extends out over the garage and includes columns;
 - d. Utilizing all single vehicle car doors as an alternative to wider garage doors suitable for two-car garages;
 - e. Decorative windows on the garage door;
 - f. Decorative details on the garage door. Standard squares on a garage door will not qualify as a decorative detail;
 - g. A garage door color (other than white) that matches or complements the color of the house; and/or
 - h. Other design techniques that meet the intent, as determined by the director; and
3. The minimum garage setback is at least 22 feet from the sidewalk edge.

D. Driveway Standards. Where a new driveway off of a public street is permitted, the following standards apply:

1. No more than one driveway per dwelling unit;
2. ~~Driveways for individual lots 40 feet or wider may be up to 24 feet in width; and~~
Private driveways shall not exceed the following widths:

Width of Lot		Width of Driveway
Less than 16 feet		8 feet
16 to 30 feet		50% of Lot Width
30 to 50 feet		20 feet
Over 50 feet		25 feet

3. ~~Driveways for individual lots less than 40 feet wide may be up to 12 feet in width.~~
Tandem parking configurations may be used to accommodate two-car garages for single-family and duplex structures pursuant to ECC 15.550.040(A).

The width of properties with nonparallel side lot lines shall be determined at the plane of the garage door when determining conformance with the standards above.

Also see Section 3, Street Standards, of the city's public works development standards for additional driveway standards.

E. Minimum Usable Open Space. All new single-family residences shall provide a contiguous open space equivalent to 10 percent of the lot size (excluding area within an adjacent alley or public right-of-way). Such open space shall not be located within the front yard. The required open space shall feature a minimum dimension of 15 feet on all sides. For example, a 6,000-square-foot lot would require a contiguous open space of at least 600 square feet, or 20 feet by 30 feet in area. Driveways shall not count in the calculations for usable open space. Single-family additions shall not create or increase any nonconformity with this standard.

F. Energy Efficiency. Single-family dwellings and accessory buildings are encouraged to meet the energy efficiency guidelines set forth in ECC 15.530.070. [Ord. 4807 § 58, 2018; Ord. 4656 § 1 (Exh. O2), 2013.]

Section 7. Section 15.220.110 of the Ellensburg City Code, as last amended by Ordinance 4656, is hereby recodified as a new Section 15.250.035 and amended as follows:

15.250.035 Permit expiration timelines for clearing, grading and fill, and site development permits, Type I and Type II.

A site development permit may be issued pursuant to ECC 15.250.020 approving land clearing, grading, fill, and/or infrastructure improvements required in conjunction with the development of a site. The expiration limitations of this permit are as follows:

A. Site Development Permit – Permit Expiration. Site development permits shall become invalid unless start of construction authorized by such permit is commenced within 180 calendar days after its issuance, or if the start of construction authorized by such permit is suspended or abandoned for a period of 180 calendar days after the time construction is commenced. Site development permits associated with subdivision applications shall expire when the preliminary subdivision approval has expired as set forth by RCW 58.17.140.

B. Site Development Permit – Permit Extension. The director is authorized to grant a single 180-calendar-day extension when the applicant requests an extension in writing at least 60 days before the expiration of the site development permit. Extensions may be granted for those permits issued in conjunction with a preliminary subdivision approval that has been extended as provided in RCW 58.17.140 but shall expire when the preliminary subdivision approval has expired as set forth in RCW 58.17.140. Denial of extension requests shall be appealable to city council as an open record appeal. [Ord. 4656 § 1 (Exh. O2), 2013.]

Section 8. Section 15.550.040 of the Ellensburg City Code, as last amended by Ordinance 4887, is hereby amended to read as follows:

15.550.040 Computation of required off-street parking spaces

A. Spaces Required. Except as modified in subsections below, off-street parking areas shall contain at a minimum the number of parking spaces as stipulated in the following table. Off-street parking ratios expressed as number of spaces per square feet means the usable or net square footage of floor area, exclusive of nonpublic areas. Nonpublic areas include but are not limited to building maintenance areas, storage areas, closets or restrooms. If the formula for determining the number of off-street parking spaces results in a fraction, the number of off-street parking spaces shall be rounded to the nearest whole number with fractions of 0.50 or greater rounding up and fractions below 0.50 rounding down.

Table 15.550.040(A). Computation of required off-street parking spaces.

Category of Land Use¹	Minimum Parking Spaces Required
RESIDENTIAL/LODGING	
Dwelling, single-family	2.0 per dwelling unit; for structures containing more than 4 bedrooms, 1 additional space for each bedroom in excess of 4 shall be provided. NOTE: Tandem parking to accommodate 2-car garages is permitted for single-family units.
Accessory dwelling unit	None required
Apartment:	
Duplex	2.0 per dwelling unit; for structures containing more than 4 bedrooms, 1 additional space for each bedroom in excess of 4 shall be provided. NOTE: Tandem parking to accommodate 2-car garages is permitted for duplex dwelling units.
Townhouse	2.0 per dwelling unit; for structures containing more than 4 bedrooms, 1 additional space for each bedroom in excess of 4 shall be provided
Studio units	1.2 per dwelling unit
Studio and 1-bedroom units in C-C zone outside of the downtown historic district	0.7 per dwelling unit
1-bedroom units	1.5 per dwelling unit
2-bedroom residential units and larger in C-C zone outside of the downtown historic district	0.7 per bedroom
2-bedroom units or larger	1.0 per bedroom
Cottage housing	1.5 per dwelling unit
Senior housing	1.0 per dwelling unit (this may be reduced based on the characteristics of the use)
Adult family home	2.0 per dwelling unit; for structures containing more than 4 bedrooms, 1 additional space for each bedroom in excess of 4 shall be provided. NOTE: Tandem parking to accommodate 2-car garages is permitted.
Senior citizen assisted housing	1.0 per 2 dwelling or sleeping units

**Table 15.550.040(A). Computation of required
off-street parking spaces.**

Category of Land Use¹	Minimum Parking Spaces Required
Community residential facilities	1.0 per 2 bedrooms
Boarding houses, lodging houses	1.0 per bedroom
Hotel/motels (where restaurants and conference facilities are included, see standards for applicable use)	1.0 per guest room
Bed and breakfast guesthouse	1.0 per guest room, plus 2.0 per facility
GENERAL RETAIL AND SERVICE	
Offices, banks, medical clinics, supermarkets, retail shops, department stores, or similar uses	1.0 per 300 square feet of gross floor area
General retail or service use with drive-in facility	Same parking for retail and service as provided herein, plus sufficient off-street drive-through stacking area to accommodate 3 vehicles without negatively impacting other required parking areas, ingress and egress into such parking areas, or traffic on public streets
Day care facility	1.0 per employee plus 1.0 temporary loading parking per each 8 full-day equivalent children
FOOD AND BEVERAGE	
Restaurant, taverns, or similar uses where patrons sit down for service	1.0 per 200 square feet of gross floor area for sit-down facilities with a minimum number of 5 spaces required
Drive-in restaurant	Same parking as restaurant plus sufficient off-street drive-through stacking area to accommodate 6 vehicles without negatively impacting other required parking areas, ingress and egress into such parking areas, or traffic on public streets
Drive-in coffee stand	2.0 per facility plus sufficient off-street drive-through stacking area to accommodate 6 vehicles without negatively impacting other required parking areas, ingress and egress into such parking areas, or traffic on public streets
PLACES OF ASSEMBLY	
Churches, funeral homes, mortuaries, clubs, lodges, museums, auditoriums, theaters, conference facilities, public or commercial recreational facilities, or similar uses	0.25 per person of maximum occupancy as established by the fire marshal with a minimum of 5 spaces required
INDUSTRIAL AND LAND CONSUMPTIVE USES	
Wholesale trade, warehousing (including miniwarehouse facilities), processing and manufacturing facilities, heavy equipment repair, lumber yard, car sales, or similar land consumptive but low traffic generation uses	1.0 per 1,500 square feet of gross floor area for structures up to 20,000 square feet in gross size with a minimum of 5 spaces required OR 1.0 per 2,000 square feet of gross floor area for structures greater than 20,000 square feet in gross size. NOTE: For vehicle sales lots, the sales area is not considered to be a parking facility and does not

**Table 15.550.040(A). Computation of required
off-street parking spaces.**

Category of Land Use¹	Minimum Parking Spaces Required
	have to comply with the requirements of this chapter. However, all required parking must be designed and reserved for customer parking only.
PUBLIC AND QUASI-PUBLIC USES	
Hospital	1.5 per each 5 beds with a minimum of 5 spaces required
Elementary and junior high schools	1.0 per classroom, plus 1 per 50 students
High schools, college or university, trade school, or business school	1.0 per classroom, plus 1 per 10 students
Governmental office	1.0 per 350 square feet of gross floor area

Notes:

A. In those situations where a particular use is not specifically mentioned in this table, the requirements for off-street parking shall be determined by the director and in accordance with the most comparable use listed.

B. Uses in the C-C Zone. There are no off-street parking requirements for any uses in the C-C zone, except residential uses located outside of the downtown historic district shall provide at least 0.7 parking spaces per bedroom (studio apartments shall be considered a one-bedroom apartment).

C. Shell Building Permit Applications. When the city has received a shell building permit application, off-street parking requirements shall be based on the possible tenant improvements or uses authorized by the zone designation and compatible with the limitations of the shell permit. When the range of possible uses results in different parking requirements, the director shall establish the amount of parking based on a likely range of uses.

For example, an applicant submits a permit for a 5,000-square-foot shell building in the C-H zone. The zone allows for a range of retail, personal, and general service retail uses. Most permitted uses in this zone fall in the category of general retail and service uses in Table 15.550.040(A) which requires one space per 300 square feet of gross floor area. Restaurants require more parking (one space per 200 square feet of gross floor area). While the director might find it unreasonable to require parking for the “worst case scenario” in terms of possible use types, he or she will typically choose a requirement that falls between the possible use scenarios. In this case, the odds are that most possible uses fall in the general retail and service use category with a lower parking requirement, though a slightly higher parking requirement would make sense given the possibility of a use such as a restaurant, which requires greater parking. Thus, a compromise standard, requiring a minimum of one space per 275 square feet of gross floor area, would be reasonable in this instance.

D. Other Provisions of Code. Where other provisions of this code stipulate reduced minimum parking requirements, those provisions shall apply.

E. Bicycle Parking. Multifamily and nonresidential developments shall provide for bicycle parking per the standards below:

1. Amount of Bicycle Parking.

Table 15.550.040(B). Computation of required off-street bicycle parking spaces.

Category of Land Use	Minimum Parking Spaces Required
Single-family dwelling	None
Multifamily dwelling	0.5 space per dwelling unit (units with private garages are exempt)
Hotel/motels	1.0 per 20 guest rooms
Offices, banks, medical clinics, supermarkets, retail shops, department stores, or similar uses	1.0 per 5,000 square feet of gross floor area for up to 50,000 square feet, then 1.0 per 10,000 square feet beyond 50,000
Restaurant, taverns, or similar uses where patrons sit down for service	1.0 per 800 square feet of gross floor area
All other uses	1.0 per 5 required vehicle parking spaces

2. Parking Location and Design – Nonresidential Uses. Bicycle facilities for patrons shall be located within 100 feet of the building entrance and located in safe, visible areas that do not impede pedestrian or vehicle traffic flow. Proper lighting of area is required per Chapter 15.580 ECC.

3. Parking Location and Design – Residential Uses. Bicycle facilities for residents shall be located within 100 feet of all building or individual unit entrances and located on the ground level in safe, visible areas that do not impede pedestrian or vehicle traffic flow. Proper lighting of area is required per Chapter 15.580 ECC.

4. Bicycle parking hardware shall be installed according to its manufacturer’s instructions, allowing adequate clearance for bicycles and their riders.

5. Projects in the C-C zone may contribute to a bicycle parking fund (subject to establishment by the city) maintained by the city in lieu of required parking set forth in Table 15.550.040(B). Calculation of the required fund contributions will be based on the cost to purchase, install, and maintain bicycle parking and associated improvements. The cost will be adjusted annually by the city. The fund will be used by the city to provide bicycle parking in the C-C zone and in other locations within the city.

F. Primary Use. The minimum number of parking spaces shall be computed based on the primary uses on the property, except as stated in subsection (G) of this section that addresses accessory uses. When there are two or more separate primary uses on a property, the required off-street parking for the property is the sum of the required parking for the individual primary uses.

G. Accessory Use. When more than 20 percent of the gross floor area on a property is in an accessory use, the required off-street parking shall be calculated separately for the accessory use and for the primary use and then added together for the total required off-street parking. When 20 percent or less of the gross floor area on a property is in an accessory use, the required off-street parking shall be calculated on the gross floor area of the building as if it were all under the primary use.

Examples:

1. A 40,000-square-foot building containing a 30,000-square-foot warehouse space (75 percent of total) and a 10,000-square-foot accessory office space (25 percent of total). The minimum parking requirement would be calculated separately for the office use and the warehouse use and then added together.

2. The same 40,000-square-foot building containing a 35,000-square-foot warehouse space (88 percent of total) and a 5,000-square-foot accessory office space (12 percent of total). The required parking would be based solely on the gross floor area of the building as if it were all the primary use (40,000 square feet).

H. On-Street Parking. On-street parking immediately adjacent to the property may be counted towards the parking requirement for nonresidential uses.

I. Off-Site Parking. Off-site parking is not permitted for residential uses outside of the C-C zone, except for guest parking provisions associated with local access streets per ECC 15.410.040(B)(2). For nonresidential uses, a maximum of 25 percent of the required off-street parking for a building or use may be located on a separate lot of record. Specifically:

1. The location of the off-site parking shall be within 600 feet of any property line of the property for which the off-site parking is provided;

2. Off-site parking facilities are subject to applicable design provisions in this division, including site orientation standards in Chapter 15.510 ECC, site planning and design elements in Chapter 15.520 ECC, and landscaping standards in Chapter 15.570 ECC;

3. There shall be sidewalks or paved pedestrian paths between the off-site parking site and the use for which the off-site parking is provided;

4. There shall be adequate lighting to provide safe walking between the off-site parking and the use for which the off-site parking is provided;

5. The owner of the off-site parking property shall execute a covenant in a form acceptable to the city attorney that shall clearly:

- a. Identify the legal description of the property that is to benefit from the off-site parking lot and the legal description of the off-site property that is to be encumbered in whole or in part by the covenant;

- b. Specify the terms and conditions of such encumbrance; and

- c. Clearly state that the terms of the covenant cannot be modified or revoked without the written consent of the city council;

- d. The covenant shall be recorded with the Kittitas County auditor's office to run as a deed restriction on both the benefited and encumbered properties as long as the business requiring these off-street parking spaces is in operation. A copy of the recorded covenant shall be provided to the community development department.

J. All required off-street parking must have direct and unobstructed access to ingress and egress from a public street, and stacked or tandem parking shall not be counted toward meeting the required off-street

parking requirements in any zoning district except for single-family residential structures and duplex dwelling units as per Table 15.550.040(A).

K. Setback Areas.

1. Required off-street parking spaces are not allowed to extend within any required setback area or required open space area in the R-L, R-M, R-O, and R-H zoning districts, ~~or in the front setback area in the C-T zoning district.~~ Single-family residences located in any of the R-L, R-M, R-O, and R-H zoning districts are allowed to locate the minimum required two off-street parking spaces within the setback areas or required open space area. Any additional parking spaces must be located outside of the required open space and setback areas.

2. At locations where single-family residential parking is permitted within setback or required open space, provisions shall be made to prevent this parking from encroaching upon adjacent sidewalks. For the purposes of this requirement there shall be a minimum of 22 feet between adjacent structures and sidewalks to allow for parking clearance when required parking for single family residential development is sited on the required building setback(s) or open space.

L. Garages. Required off-street parking that is provided in garages or carports shall be credited toward the required off-street parking spaces except that no stacked or tandem parking that blocks off those garages or carport parking spaces from direct or unobstructed access to ingress or egress to a public street shall be credited toward the required parking spaces except for single-family residential structures and duplex structures as set forth in Table 15.550.040(A).

M. Handicapped Parking. Off-street parking and access for the physically handicapped shall be provided in accordance with the Uniform Building Code.

N. Fire Lane Standards. Fire lanes may be required by the fire codes and by Kittitas Valley fire and rescue within off-street parking facilities. Such fire lanes, including dimensions, width, location, etc., shall be installed as required by the fire code or Kittitas Valley fire and rescue and shall remain in effect throughout the life of the parking facility.

O. Changes in use to a different land use category shall provide the minimum off-street parking for the new general land use category. [Ord. 4887 § 33, 2022; Ord. 4810 § 2, 2018; Ord. 4807 § 59, 2018; Ord. 4656 § 1 (Exh. O2), 2013.]

Section 9. Section 15.220.030 of the Ellensburg City Code, as last amended by Ordinance 4807, is hereby amended to read as follows:

15.220.030 Determination of completeness.

A. Written Determination. Within 28 calendar days after receiving an application for a Type I, II, III or IV decision, the director shall provide to the applicant a written determination that the application is complete, or that the application is incomplete and what is necessary to make the application complete. If the director does not provide a written determination within the 28 calendar days, the application shall be deemed complete as of the end of the twenty-eighth calendar day.

B. Additional Information Request and Timeline.

1. If the additional information requested by the director is not fully submitted within 90 calendar days from the date it was requested, the application shall be considered withdrawn and any unspent filing fees, as determined by the director, shall be returned to the applicant. The applicant may submit a written request for up to a 90-day extension of this deadline. The director may grant a single extension if there is a demonstration that the applicant is actively working on obtaining the requested information, and such extension is in the interests of the city.

2. Within 14 calendar days after receiving any additional information needed to make the application complete, the director shall provide to the applicant a written determination that the application is complete, or that the application is incomplete and what is necessary to make the application complete.

C. Criteria. A permit application is complete for the purposes of this section when it meets the submittal requirements established by the director in ECC 15.220.020, even though additional information may be required or subsequent project modifications may occur. The determination of completeness shall not preclude the director from requesting additional information or studies either at the time of the determination of completeness or later, if new information is required to complete review of the application or substantial changes in the permit application are proposed. [Ord. 4807 § 20, 2018; Ord. 4656 § 1 (Exh. O2), 2013.]

Section 10. Section 15.250.090 of the Ellensburg City Code, as last amended by Ordinance 4807, is hereby amended to read as follows:

15.250.090 Comprehensive Plan Amendments

A. Purpose. A comprehensive plan amendment or review is a mechanism by which the city may modify the text or map of the comprehensive plan in accordance with the provisions of the Growth Management Act, in order to respond to changing circumstances or needs of the city, and to review the comprehensive plan on a regular basis.

B. Initiation of Text and Map Amendments.

1. The city's comprehensive plan shall be subject to continuing evaluation and review by the city. Any amendment or revision to the comprehensive plan shall conform to Chapter 36.70 RCW.

2. Comprehensive plan amendments may be initiated by citizens, by the planning commission or other boards and commissions of the city, city staff, city council, or any other interested persons including applicants, hearing examiners and staff of other agencies. The proposed amendments or revisions to the comprehensive plan shall be docketed and considered by the city no more frequently than once every year except that amendments may be considered more frequently under the following circumstances:

a. The initial adoption of a subarea plan. Subarea plans adopted under this section must clarify, supplement, or implement jurisdiction-wide comprehensive plan policies, and may only

be adopted if the cumulative impacts of the proposed plan are addressed by appropriate environmental review under Chapter 43.21C RCW;

b. The development of an initial subarea plan for economic development located outside of the 100-year floodplain in a county that has completed a state-funded pilot project that is based on watershed characterization and local habitat assessment;

c. The adoption or amendment of a shoreline master program under the procedures set forth in Chapter 90.58 RCW;

d. The amendment of the capital facilities element of a comprehensive plan that occurs concurrently with the adoption or amendment of a county or city budget; or

e. The adoption of comprehensive plan amendments necessary to enact a planned action under RCW 43.21C.440; provided, that amendments are considered in accordance with the public participation program established by the county or city under RCW 36.70A.130(2)(a) and all persons who have requested notice of a comprehensive plan update are given notice of the amendments and an opportunity to comment.

3. All docketed amendment proposals shall be considered by the city concurrently so the cumulative effect of the various proposals can be ascertained. However, the city may adopt amendments or revisions to its comprehensive plan that conform with Chapter 36.70 RCW after appropriate public participation whenever an emergency exists or to resolve an appeal of a comprehensive plan filed with the growth management hearings board or with a court.

C. Periodic Review of Comprehensive Plan and Development Regulations. The Growth Management Act requires the city to periodically conduct a thorough review of its comprehensive plan and regulations to bring them up to date with any relevant changes in the Growth Management Act and to respond to changes in land use and population growth. Consistent with the schedule in RCW 36.70A.130, the city shall periodically review and, if necessary, revise and adopt its comprehensive plan and development regulations every eight years.

D. Procedures. Comprehensive plan amendments are subject to the Type V review process with the following variations:

1. A complete application for a comprehensive plan amendment shall be made on the comprehensive plan amendment form provided by the Ellensburg community development department. Additional supporting materials, such as photographs, statistics, etc., shall be included with the application;

2. The city will accept applications for comprehensive plan amendments from April 1st to March 31st of the following year ~~between January 1st and June 30th of every year~~. The start of that acceptance period shall be advertised in accordance with the city's noticing requirements;

3. In the city council's second regular meeting in July, the city council shall review the proposed amendments timely submitted for consideration to be docketed for review that year. Each

proposed amendment shall be accompanied by the amendment application materials and a staff discussion of the proposed amendment with a recommendation on whether or not the proposed amendment is an appropriate amendment subject and is ready for consideration to be docketed for review that year;

4. ~~Within 15 calendar days of the docketing date, t~~The proposed amendments chosen to be docketed by city council shall then be transmitted to the SEPA responsible official for SEPA review ~~and to the planning commission for review at a public hearing,~~ and a 60-day notice of intent to adopt comprehensive plan or development regulation amendments shall be sent to the Washington State Department of Commerce. The city council may also request other city boards or agencies or other governmental entities to provide comments and recommendations on proposed comprehensive plan amendments. The comments and recommendations must be submitted to the city by the date of the planning commission's hearing unless the city grants an extension of time. Letters of support or objection to a proposed comprehensive plan amendment may be filed by any interested party. The letters must be filed by the date of the city council public hearing unless an extension of time is granted;

5. The SEPA responsible official shall issue a notice of the SEPA threshold decision on the docketed amendments ~~on or before the second Friday in August;~~

6. The planning commission shall schedule and hold a public hearing on the docketed amendments and shall then make a recommendation to city council ~~prior to council's first regular meeting in October.~~ The planning commission shall make one of four decisions in considering comprehensive plan text and map amendments:

- a. Approval in the form submitted for public hearing;
- b. Approval with changes;
- c. Approval in part; or
- d. Disapproval;

7. A public hearing to consider the docketed amendments shall be scheduled for city council's ~~first regular meeting in October~~ following the Planning Commission hearing. Any appeal of the SEPA threshold determination shall also be heard at that public hearing;

8. The city council, after a recommendation from staff and the planning commission, and after holding a public hearing, shall make one of the following decisions:

- a. Approval in accordance with the findings and recommendations submitted by the planning commission;
- b. Approval with modifications;

- c. Refer all or part of the plan text or map amendment proposal back to the planning commission;
- d. Refer all or part of the plan text or map amendment proposal to the following year's annual amendment process; or
- e. Disapprove.

If the city council's decision is to refer the amendment request back to the planning commission, the council must specify which matters it wishes reconsidered by the planning commission. The final form and content of the comprehensive plan is determined by the city council; and

9. The annual docket cycle shall be completed by December 31st of the docket year. The comprehensive plan together with any and all amendments shall be provided to the city clerk to be placed in a permanent file and made available for public inspection. The city shall also transmit a complete and accurate copy of its comprehensive plan amendments to the Washington State Department of Commerce within 10 days of adoption in accordance with state law. [Ord. 4807 § 29, 2018; Ord. 4656 § 1 (Exh. O2), 2013.]

Section 11. Section 15.410.040 of the Ellensburg City Code, as last amended by Ordinance 4804, is hereby amended to read as follows:

15.410.040 Local access street design

A. Purpose. Provide safe and attractive local access streets that provide access to property.

B. Implementation. Street section connections to existing curbs/sidewalks shall be as follows:

1. When curbs/sidewalks exist on one abutting end of proposed project, the new development shall transition from existing location to the new street section as provided by current code requirements. The project applicant may petition the public works and utilities director for a departure from the code streetscape improvements. This departure, if granted, would allow for the continuation of the existing roadway section into future phases of a development. The applicant must define the boundaries of the development proposed for exclusion from the new streetscape requirements and comply with the departure criteria of ECC 15.210.060.

2. When existing curbs/sidewalks exist on both abutting ends of a proposed project (infill), or along the frontage of the proposed project, the project applicant may petition the public works and utilities director for a departure from the code streetscape requirements. This departure, if granted, would allow for the continuation of the existing roadway section across the proposed development. As a condition of departure, the applicant shall be required to dedicate necessary rights-of-way to construct improvements and execute a deferral agreement to participate in a future project to construct said improvement(s) in accordance with ECC 4.06.060.

C. Design. There are three optional designs for local access streets, including 20-foot, 24-foot, and 30-foot-wide streets, to allow flexibility for subdivision design while accommodating

functional access needs and community design goals. Travel lanes are shared auto and bicycle lanes. Planting strips with street trees and sidewalks are included on both sides of the street. See Section 3, Street Standards, of the city's public works development standards for detailed standards.

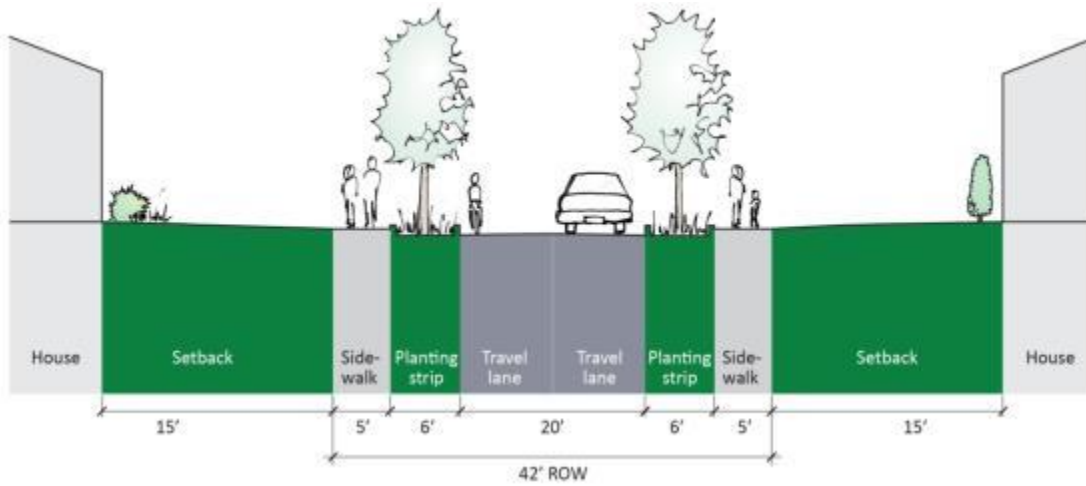
1. Continuity. The designs shall be consistent on individual blocks. An exception is for a hybrid design. An example would be a 20-foot street that integrates parking pockets on one side of the street.

2. Limitation for 20-Foot Streets. The 20-foot street is intended to be used only in special cases where there is available guest parking on nearby streets or additional off-street parking is provided within walking distance of homes. All dwelling units shall be within 500 feet (measured along sidewalks or other internal pathways) of available on-street or off-street guest parking equal to one space per dwelling unit, minimum. Developments may integrate parallel parking bulb-outs (see Figure 15.410.040) along these streets, provided the bulb-outs take up no more than 50 percent of the planting strip length. Use of this street type shall only be permitted when in compliance with the International Fire Code. The 20-foot wide travel lane will be required to be increased to 26 feet when block length exceeds fire code limitations as determined by the city's fire marshal.

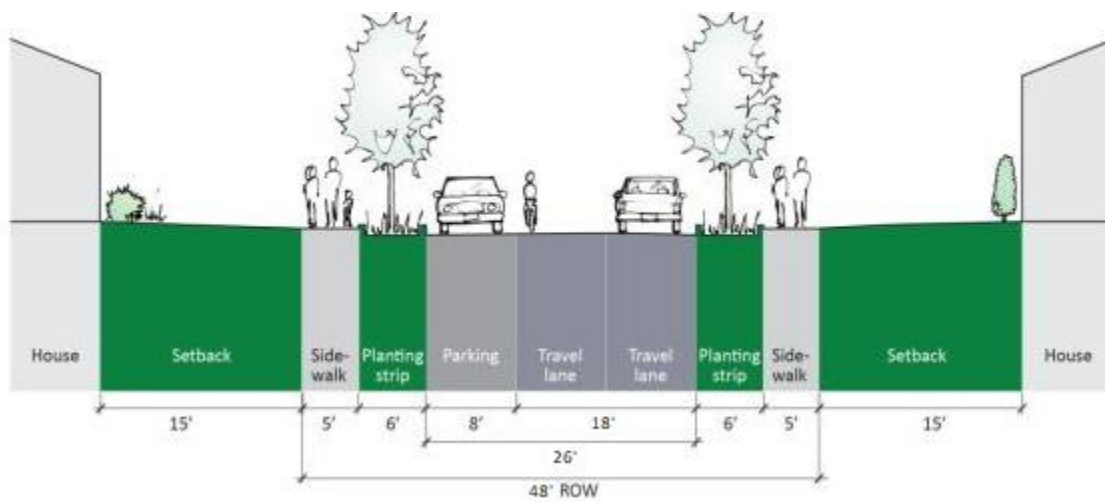


Figure 15.410.040. Example of a local access street with integrated parallel parking bulb-outs.

20' Wide Street



26' Wide Street



30' Wide Street

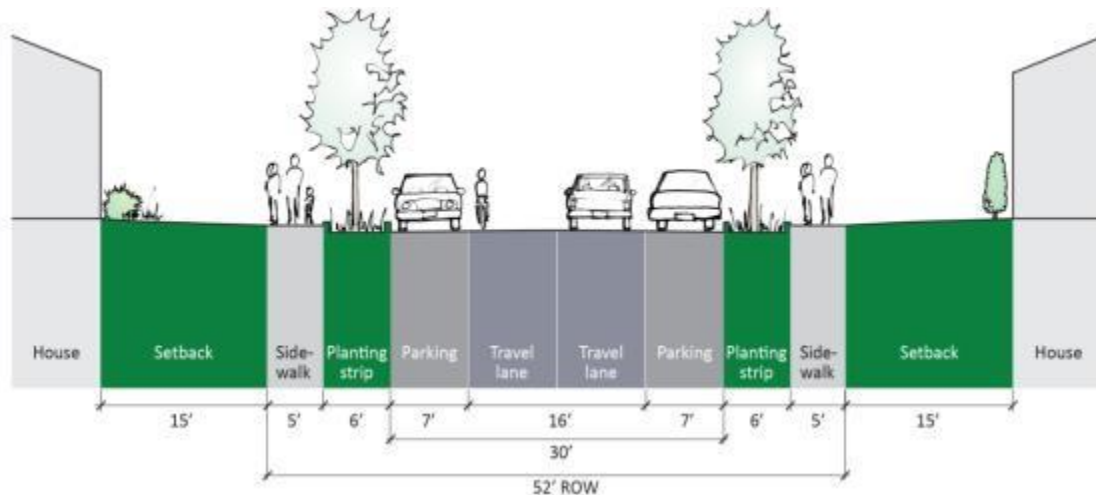


Figure 15.410.040. Cross-sections for local access street design options (with standard dimensions).

[Ord. 4804 § 4, 2018; Ord. 4656 § 1 (Exh. O2), 2013.]

Section 12. 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 13. 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 errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 14. 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 6th day of November 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. 4929 is a true and correct copy of said Ordinance of like number as the same was passed by said Council, and that Ordinance No. 4929 was published as required by law.

BETH LEADER



Meeting Date: October 16, 2023
City of Ellensburg
City Council Agenda Report

Agenda Subject: Resolution 2023-26, Multifamily Housing Limited Property Tax Exemption Agreement with Patricia Place, LLC for Patricia Place I, 212 West 5th Avenue (Public Comment Opportunity)

Submitted by: Dan Carlson, Community Development Director

Department: Community Development

Suggested Motion/Action:

Move to adopt Resolution 2023-26 and authorize the City Manager to sign the Agreement with Patricia Place, LLC.

Background/Summary:

Crytly Enterprises, Inc., submitted an application in 2014 to the Community Development Department to receive the Multifamily Housing Tax Exemption (MFTE) for the development known as Patricia Place I, located at 212 West 5th Avenue. The project includes 39 rental apartment units that were constructed in 2014 and received a Certificate of Occupancy from the City on September 23, 2014. Ellensburg City Code (ECC) 2.30.060(B) requires the applicant for a MFTE to enter into a contract with the City, subject to approval by resolution of the City Council, regarding the terms and conditions of the project. However, due to an oversight by City staff in 2014, no agreement was prepared or signed by the applicant to receive the tax exemption, nor was such an agreement presented to City Council for approval. If approved, the attached Multifamily Housing Limited Property Tax Exemption Agreement and resolution would correct this oversight.

The City did issue a Final Certificate of Tax Exemption on November 14, 2014. The MFTE allows for the value of the new housing construction to be exempt from ad valorem property taxation for a period of twelve successive years, beginning January 1st of the year immediately following the calendar year of issuance of the certificate. The tax exemption does not include the value of the land or any non-housing related improvements.

Consistent with the planning goals of the Growth Management Act (GMA), the State of Washington has provided various means of promoting affordable housing, including multifamily housing, in urban centers. One such incentive is provided through offering tax exemptions for multifamily developments in urban centers that meet the specific criteria outlined in RCW 84.14. The purpose statement in RCW 84.14.007 reads as follows:

...It is further the purpose of this chapter to stimulate the construction of new multifamily housing and the rehabilitation of existing vacant and underutilized buildings for multifamily housing in urban centers having insufficient housing opportunities that will increase and improve residential opportunities, including affordable housing opportunities, within these urban centers. To achieve these purposes, this chapter provides for special valuations in

residentially deficient urban centers for eligible improvements associated with multiunit housing, which includes affordable housing. It is an additional purpose of this chapter to allow unincorporated areas of rural counties that are within urban growth areas to stimulate housing opportunities and for certain counties to stimulate housing opportunities near college campuses to promote dense, transit-oriented, walkable college communities.

The City has enacted ECC Chapter 2.30 Multifamily Housing Tax Incentives in response to the exemption opportunity allowed for by the State. Multifamily projects that provide at least 20 percent of the units as affordable housing units are eligible for a 12-year exemption. Multifamily projects that do not include an affordable housing component are eligible for the exemption for a lesser period of 8 years. The Central Commercial (C-C) Zone has been designated by Council as the “Residential Targeted Area” within the City of Ellensburg. Since the adoption of the MFTE ordinance, several multifamily projects have received the multifamily housing tax exemption.

Previous Council Action:

None

Analysis:

In 2014, Crytly Enterprises Inc. submitted an application to receive the 12-year tax exemption for the 39-unit apartment complex located at 212 West 5th Avenue. The current owner is Patricia Place, LLC, a successor in interest to Crytly Enterprises, Inc., the former owner of the subject property.

The eligibility requirements and procedures for approving a MFTE project are described in Chapter 2.30 ECC. The project has been found to meet the eligibility requirements of ECC 2.30.060, and the next step is to enter into a contract with the City, subject to a resolution by City Council, pursuant to ECC 2.30.060(B). This will correct the staff oversight in not getting an MFTE contract approved in 2014 and allow the owner to continue receiving the tax exemption. Staff has confirmed that the development still meets the eligibility requirements for the 12-year exemption.

Financial Impact:

The exemption of the property tax will delay the increase in property tax associated with this development collected by the County over a 12-year period that began on January 1, 2015.

Budget Adjustment: No

Attachments:

1. Resolution 2023-26 Patricia Place I (212 W. 5th Avenue) Multifamily Tax Exemption
2. Patricia Place I Multifamily Housing Limited Property Tax Exemption Agreement

RESOLUTION NO. 2023-26

A RESOLUTION of the City Council of the City of Ellensburg approving an agreement with Patricia Place, LLC for property tax exemption.

WHEREAS, the City of Ellensburg desires to stimulate new construction of multifamily housing in the downtown, in order to encourage increased residential opportunities within the central commercial zone, to stimulate new construction or rehabilitation of existing vacant and underutilized buildings for multifamily housing in the central commercial zone to increase and improve housing opportunities, and to reduce development pressure on single-family residential neighborhoods; and

WHEREAS, the City is interested in promoting new housing in the downtown area of the City of Ellensburg; and

WHEREAS, the City has, pursuant to authority granted to by Chapter 84.14 RCW, designated the Central Commercial zoned area of the city as a Residential Target Area for the provision of limited property tax exemptions for new multifamily residential housing; and

WHEREAS, the City has, as set forth at Chapter 2.30 of the Ellensburg City Code (“ECC”), enacted a program whereby property owners may qualify for a Final Certificate of Tax Exemption which certifies to the Kittitas County Assessor and Treasurer that the Applicant is eligible to receive a limited property tax exemption; and

WHEREAS, the original Applicant, Crytly Enterprises Inc. (“Applicant”), applied in April 2014 to receive a limited property tax exemption for constructing units of new multifamily residential housing, to be known as “Patricia Place I,” within the Central Commercial zoning district, which is a Designated Residential Target Area identified in ECC 2.30.020; and

WHEREAS, the Applicant submitted to the City a complete application for the City’s limited tax exemption program outlining the development of new multifamily residential housing being constructed on property addressed as 212 West 5th Avenue, Ellensburg, WA, Parcel ID # 646933, and more particularly described as Lots 1 & 2, Block 9, Original Town of Ellensburg Addition (“Property”); and

WHEREAS, the City determined that the improvements to the Property will, if completed as proposed, satisfy the requirements for a Final Certificate of Tax Exemption, and issued a “Final Certificate of Tax Exemption” on November 14, 2014, which was filed with the Kittitas County Auditor, and the property has been in a tax-exempt status since that time; and

WHEREAS, as a result of oversight by City staff, no agreement was prepared or signed by the applicant to receive the tax exemption nor was such an agreement presented to City Council for approval, all of which is required by Chapter 2.30 of the Ellensburg City Code;

NOW THEREFORE, the City Council for the City of Ellensburg do resolve as follows:

Section. 1. The Multifamily Housing Limited Property Tax Exemption Agreement attached hereto as Exhibit A between Patricia Place, LLC and the City of Ellensburg, a Washington Municipal Corporation, is approved, and all actions taken in conformance with the Agreement prior to the effective date of this Resolution are hereby approved and ratified.

Section 2. The City Manager of the City of Ellensburg or her designee is authorized to execute the attached Exhibit A.

ADOPTED by the City Council of the City of Ellensburg on 16th day of October, 2023.

Nancy Lillquist, Mayor

ATTEST:

Beth Leader, City Clerk

EXHIBIT A

MULTIFAMILY HOUSING LIMITED PROPERTY TAX EXEMPTION AGREEMENT

THIS AGREEMENT is entered into this _____ day of October, 2023, by and between PATRICIA PLACE, LLC, a Washington Limited Liability Corporation (hereinafter referred to as “Applicant”) as successor in interest to Crytly Enterprises Inc., former owner of the property which is the subject of this Agreement, and the CITY OF ELLENSBURG, a Washington municipal corporation (hereinafter referred to as “City”).

WITNESSETH:

WHEREAS, the City desires to stimulate new construction of multifamily housing in the downtown, in order to encourage increased residential opportunities within the central commercial zone, to stimulate new construction or rehabilitation of existing vacant and underutilized buildings for multifamily housing in the central commercial zone to increase and improve housing opportunities, and to reduce development pressure on single-family residential neighborhoods; and

WHEREAS, the City is interested in promoting new housing in the downtown area of the City of Ellensburg; and

WHEREAS, the City has, pursuant to authority granted to by Chapter 84.14 RCW, designated the Central Commercial zoned area of the city as a Residential Target Area for the provision of limited property tax exemptions for new multifamily residential housing; and

WHEREAS, the City has, as set forth at Chapter 2.30 of the Ellensburg City Code (“ECC”), enacted a program whereby property owners may qualify for a Final Certificate of Tax Exemption which certifies to the Kittitas County Assessor and Treasurer that the Applicant is eligible to receive a limited property tax exemption; and

WHEREAS, the original Applicant, Crytly Enterprises Inc. (“Applicant”), applied in April 2014 to receive a limited property tax exemption for constructing units of new multifamily residential housing, to be known as “Patricia Place I,” within the Central Commercial zoning district, which is a Designated Residential Target Area identified in ECC 2.30.020; and

WHEREAS, the Applicant submitted to the City a complete application for the City’s limited tax exemption program outlining the development of new multifamily residential housing being constructed on property addressed as 212 West 5th Avenue, Ellensburg, WA, Parcel ID # 646933, and more particularly described as Lots 1 & 2, Block 9, Original Town of Ellensburg Addition (“Property”); and

WHEREAS, the City determined that the improvements to the Property will, if completed as proposed, satisfy the requirements for a Final Certificate of Tax Exemption, and issued a

“Final Certificate of Tax Exemption” on November 14, 2014, which was filed with the Kittitas County Auditor, and the property has been in a tax-exempt status since that time; and

WHEREAS, as a result of oversight by City staff, no agreement was prepared or signed by the applicant to receive the tax exemption nor was such an agreement presented to City Council for approval, all of which is required by Chapter 2.30 of the Ellensburg City Code;

NOW THEREFORE, the City and Applicant mutually agree as follows:

1. The Applicant has constructed on the Property multifamily residential housing units as described in the approved site plans, floor plans, and elevations on file with the City and issued a Certificate of Occupancy on _____.
2. The Applicant represents the Property has satisfied, and will continue to satisfy, any eligibility conditions contained in Chapter 2.30 ECC for the duration of the tax exemption.
3. The Applicant requested an _____ EIGHT or a TWELVE X year (check one) limited property tax exemption. (If a twelve-year exemption, the Applicant has committed and will continue to commit to renting or selling at least twenty percent (20%) of the multifamily housing units constructed on the site as housing units affordable for low or moderate-income households as defined by ECC 2.30.015).
4. The City has previously filed a Final Certificate of Tax Exemption with the Kittitas County Treasurer and Assessor for the Property.
5. The Applicant agrees that for a period of twelve years, they will file a notarized declaration with the Director indicating the following:
 - (a) A statement identifying the total number of occupied and vacant multifamily units receiving a property tax exemption;
 - (b) A certification that the property continues to be in compliance with this Agreement, Chapter 2.30 ECC, and Chapter 84.14 RCW;
 - (c) A description of any subsequent improvements or changes to the property constructed after the issuance of the certificate of tax exemption;
 - (d) The total monthly rent for each unit; and
 - (e) Documentation of the income of each renter household at the time of initial occupancy.
6. The applicant agrees to maintain the property including all improvements in compliance with all applicable City codes and requirements.
7. The Applicant agrees to maintain records supporting all information provided to the City and to make those records and the multifamily units available for inspection by the City. Failure to submit the annual declaration identified in Paragraph 5 or to maintain adequate records may result in the tax exemption being canceled.

8. If the Applicant converts to another use any of the new multifamily residential housing units constructed under this Agreement, the Applicant shall notify the Kittitas County Assessor and Treasurer and the Director within 60 days of such change in use.
9. The Applicant agrees to notify the Director promptly of any transfer of the Applicant's ownership interest in the site or in the improvements made to the site under this Agreement.
10. The City reserves the right to cancel the Final Certificate of Tax Exemption should the Applicant, its successors and assigns, fail to comply with any of the terms and conditions of this Agreement. Cancellation of the Final Certificate of Tax Exemption may subject the Applicant to potential tax liability as further described in Chapter 84.14 RCW. No modifications of this Agreement shall be made unless mutually agreed upon by the parties in writing.
11. In the event that any term or clause of this Agreement conflicts with applicable law, such conflict shall not affect other terms of this Agreement which can be given effect without the conflicting term or clause, and to this end, the terms of this Agreement are declared to be severable.
12. Applicant agrees that this Agreement is subject to the Ellensburg MultiFamily Housing Tax Exemption set forth in Chapter 2.30 of the Ellensburg City Code.
13. All actions taken by the parties prior to approval of this Agreement by the Ellensburg City Council are hereby ratified.

CITY OF ELLENSBURG

PATRICIA PLACE LLC

Heidi Behrends Cerniwey, City Manager

Tyler Glahn, Managing Partner

Date: _____

Date: _____

Approved as to form:

Terry Weiner, City Attorney

STATE OF WASHINGTON)
) ss.
County of Kittitas)

On this day personally appeared before me, the undersigned Notary Public, in and for the State of Washington, duly commissioned and sworn, TYLER GLAHN, Authorized Signatory for PATRICIA PLACE LLC, who executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said property, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

Dated this _____ day of _____, 2023.

Printed Name:

Notary Public in and for the State of Washington, residing at _____.

My Commission Expires:

STATE OF WASHINGTON)
) ss.
County of Kittitas)

On this day personally appeared before me, the undersigned Notary Public, in and for the State of Washington, duly commissioned and sworn, Heidi Behrends Cerniwey, the City Manager of the CITY OF ELLENSBURG, a Washington municipal corporation, which executed the within and foregoing instrument, and acknowledge the said instrument to be the free and voluntary act and deed of said city, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument.

Dated this _____ day of _____, 2023.

Printed Name:

Notary Public in and for the State of Washington, residing at _____.

My Commission Expires:



Meeting Date: October 16, 2023
City of Ellensburg
City Council Agenda Report

Agenda Subject: Ordinance 4928 (1st reading) - Natural Gas rate adjustment to comply with WA State's Carbon Reduction and Greenhouse Gas Emissions, Cap and Invest program (Public Comment Opportunity)

Submitted by: Buddy Stanavich , Power & Gas Manager

Department: Public Works & Utilities

Suggested Motion/Action:

Move to conduct first reading of Ordinance 4928 adopting the rate adjustments necessary to comply with the State's Carbon Reduction and Greenhouse Gas Emissions, Cap and Invest program, and approve necessary budget adjustments.

Background/Summary:

In 2021, the Washington State Legislature passed a Greenhouse Gas Emissions Cap and Invest Program (Cap and Invest Program) otherwise known as the Climate Commitment Act (CCA) as prescribed in Chapter 70A.65 Revised Code of Washington (RCW) and administered by the State Department of Ecology. The CCA establishes a comprehensive, market-based program to reduce carbon pollution and achieve the greenhouse gas limits set in state law. The CCA went into effect January 2023, and Ecology has so far held four auctions this year in which the gas utility participated in the purchase/sale of greenhouse gas/carbon allowances.

To ensure the City of Ellensburg maintains compliance with the CCA and new rules adopted by the State Department of Ecology, FCS Group was retained to complete an analysis and update the Natural Gas Rate model to determine the necessary adjustment to natural gas rates in order to recover the costs from the implementation of the Washington State Cap and Invest Program.

The City of Ellensburg operates a small municipally owned natural gas utility. Staff have kept the utility in compliance with this new law. The City utility is a small "not-for-profit" utility and maintaining adequate cash reserves and cash flow while making significant cash investments in carbon allowances requires rate adjustments.

The City has been successful in acquiring current (2023) allowances and advance (2026) allowances.

The Utility Advisory Committee considered rate proposals at their July 20, 2023 meeting. However, upon further legal review, staff believe it is necessary to create Legacy and Non-Legacy rate classes (defined below), as well as lessen the impact on low-income customers.

The logistics involved in the addition of these new rate classes while the City's new utility billing system implementation is underway has presented challenges. To mitigate, staff propose the rate adjustments take effect on January 1, 2024.

Previous Council Action:

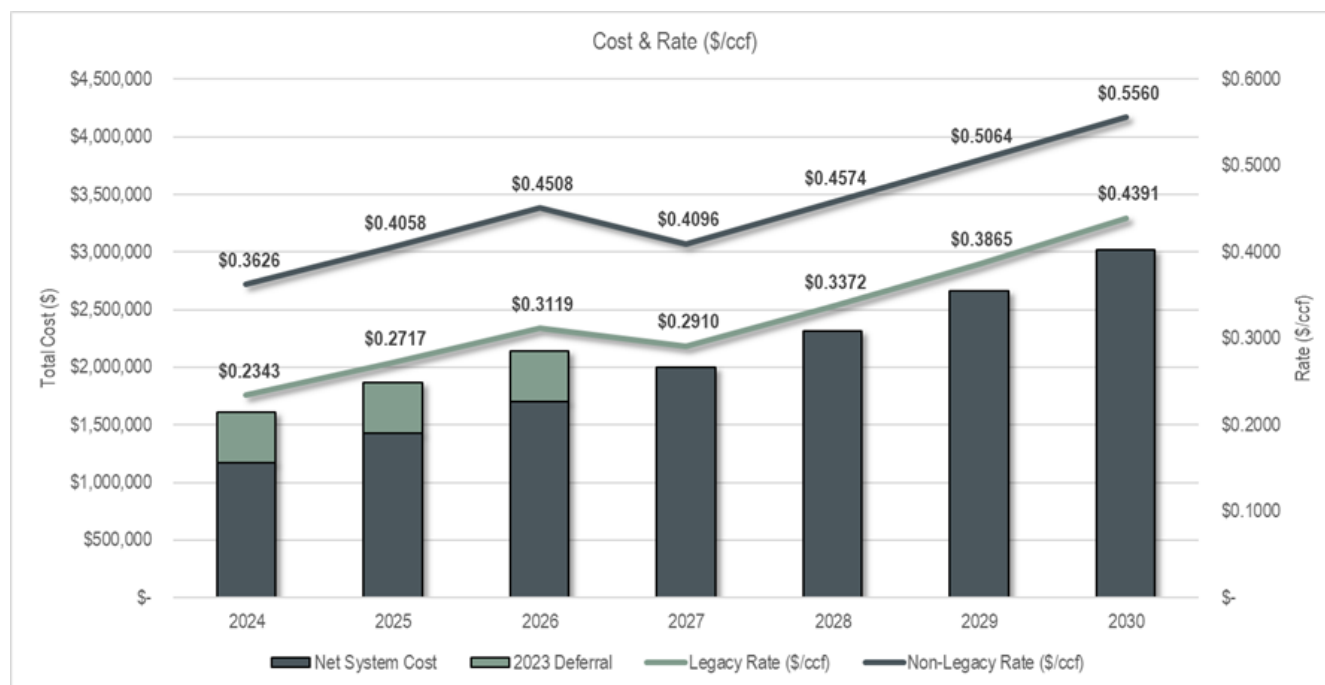
Council passed Ordinance 4913 - Cap & Invest Carbon Purchase Authority to comply with the laws, rules, and regulations pertaining to chapters 173-446 WAC and 70A.65 RCW.

At the July 20, 2023, Utility Advisory Committee (UAC) meeting, the FCS Group presented their analysis and the recommended natural gas rate increase necessary to recover the costs associated with the purchase of greenhouse gas/carbon allowances.

Analysis:

Rate Recommendation effective January 1, 2024:

- *Set rates annually based on anticipated auction needs and costs.*
- *Rates are effective in January of each year.*
- *Legacy rate applies to those locations with service established prior to July 25, 2021.*
- *Legacy rates include a credit from a portion of the sale of no-cost allowances.*
- *Low-Income Senior Citizen/Low-Income Disabled Citizen and non-profit customers (meeting the City's current definition) are exempt from the Greenhouse Gas Emissions, Cap and Invest program rate adjustment. By city code, those rates are published separately on the City's website.*



Residential Bill Impacts

Monthly Bill	Existing		Proposed - Legacy Customers							
	2023	2024	2025	2026	2027	2028	2029	2030		
Customer Charge	\$ 18.44	\$ 18.44	\$ 19.50	\$ 20.14	\$ 20.74	\$ 21.36	\$ 22.00	\$ 22.66	\$ 23.34	
Distribution Charge										
Consumption Charge	67.91	67.91	71.83	74.16	76.39	78.68	81.04	83.47	85.97	
Purchase Gas Cost Adjustment	66.00	66.00	66.00	66.00	66.00	66.00	66.00	66.00	66.00	
CCA Compliance Adjustment	-	-	25.78	29.89	34.30	32.01	37.09	42.52	48.31	
Total	\$ 152.36	\$ 152.36	\$ 183.11	\$ 190.18	\$ 197.43	\$ 198.05	\$ 206.13	\$ 214.65	\$ 223.62	
\$ Cumulative Monthly Change		-	30.76	37.83	45.08	45.70	53.78	62.29	71.27	

Monthly Bill	Existing		Proposed - Non-Legacy Customers							
		2023	2024	2025	2026	2027	2028	2029	2030	
Customer Charge	\$ 18.44	\$ 18.44	\$ 19.50	\$ 20.14	\$ 20.74	\$ 21.36	\$ 22.00	\$ 22.66	\$ 23.34	
Distribution Charge										
Consumption Charge	67.91	67.91	71.83	74.16	76.39	78.68	81.04	83.47	85.97	
Purchase Gas Cost Adjustment	66.00	66.00	66.00	66.00	66.00	66.00	66.00	66.00	66.00	
CCA Compliance Adjustment	-	-	39.88	44.64	49.58	45.05	50.32	55.70	61.16	
Total	\$ 152.36	\$ 152.36	\$ 197.22	\$ 204.94	\$ 212.71	\$ 211.09	\$ 219.36	\$ 227.83	\$ 236.48	
\$ Cumulative Monthly Change		-	44.86	52.58	60.36	58.74	67.00	75.48	84.12	

Notes: Bill based on a residential customer using 110 ccf in a 30 day month

2024 & 2025 customer charge and consumption charge based on adopted rates

Purchase gas cost adjustment varies by month. Amount shown is for illustrative purposes only

Split distribution charge for presentation purposes only. Actual charge is the sum of the three components

Commercial Bill Impacts

Monthly Bill	Existing	Proposed - Legacy Customers								
		2023	2024	2025	2026	2027	2028	2029	2030	
Customer Charge	\$ 18.39	\$ 18.39	\$ 19.54	\$ 20.27	\$ 20.88	\$ 21.51	\$ 22.15	\$ 22.82	\$ 23.50	
Distribution Charge										
Consumption Charge	89.32	89.32	94.91	98.47	101.42	104.47	107.60	110.83	114.15	
Purchase Gas Cost Adjustment	162.00	162.00	162.00	162.00	162.00	162.00	162.00	162.00	162.00	
CCA Compliance Adjustment	-	-	63.27	73.36	84.20	78.57	91.04	104.36	118.57	
Total	\$ 269.71	\$ 269.71	\$ 339.72	\$ 354.10	\$ 368.50	\$ 366.55	\$ 382.79	\$ 400.00	\$ 418.22	
\$ Cumulative Monthly Change		-	70.01	84.39	98.80	96.84	113.08	130.29	148.51	

Monthly Bill	Existing	Proposed - Non-Legacy Customers								
		2023	2024	2025	2026	2027	2028	2029	2030	
Customer Charge	\$ 18.39	\$ 18.39	\$ 19.54	\$ 20.27	\$ 20.88	\$ 21.51	\$ 22.15	\$ 22.82	\$ 23.50	
Distribution Charge										
Consumption Charge	89.32	89.32	94.91	98.47	101.42	104.47	107.60	110.83	114.15	
Purchase Gas Cost Adjustment	162.00	162.00	162.00	162.00	162.00	162.00	162.00	162.00	162.00	
CCA Compliance Adjustment	-	-	97.89	109.57	121.71	110.58	123.51	136.72	150.12	
Total	\$ 269.71	\$ 269.71	\$ 374.34	\$ 390.31	\$ 406.01	\$ 398.55	\$ 415.26	\$ 432.36	\$ 449.77	
\$ Cumulative Monthly Change		-	104.63	120.60	136.30	128.85	145.55	162.65	180.07	

Notes: Bill based on an average commercial customer using 270 ccf in a 30 day month & under 275 cu ft meter

2024 & 2025 customer charge and consumption charge based on adopted rates

Purchase gas cost adjustment varies by month. Amount shown is for illustrative purposes only

Split distribution charge for presentation purposes only. Actual charge is the sum of the three components

Financial Impact:

Forecasted 2023 CCA compliance expenses are estimated to be \$2,000,000. The 2023 deferred cost recovery is phased-in from 2024 through 2026. The January 2024 rate impact includes 2023 and estimated 2024 forecasted costs. This rate study continues to work to enhance financial outlooks extending out several years as a tool to better manage the financial needs of the Natural Gas utility.

Budget Adjustment: Yes

Attachments:

1. Ordinance 4928 - Gas Utility Rates - 10.16.23

ORDINANCE NO. 4928

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELLENSBURG, WASHINGTON, RELATING TO GAS UTILITY RATES AND AMENDING SECTION 9.91.200 OF THE ELLENSBURG CITY CODE.

WHEREAS, in 2021, the Washington Legislature passed Senate Bill 5126, the Climate Commitment Act (“CCA”), codified at RCW 70A.65.200; and

WHEREAS, the CCA establishes a cap-and-invest, market-based program (“Cap and Invest Program”) to reduce carbon pollution and achieve the greenhouse gas limits set in state law, which applies to both private and public utilities, including the City of Ellensburg’s electric and natural gas utilities; and

WHEREAS, the Cap and Invest Program sets a limit on overall carbon emissions in the state and requires energy utilities to obtain allowances equal to their covered greenhouse gas emissions; and

WHEREAS, allowances can be purchased through quarterly auctions hosted by the Washington State Department of Ecology, or bought and sold on a secondary market; and

WHEREAS, the City of Ellensburg’s forecasted 2023 expenses from the purchase of greenhouse gas/carbon allowances are estimated to be \$2,000,000; and

WHEREAS, the City of Ellensburg will receive No-Cost Allowances from the Department of Ecology and is required to consign a portion for sale at auction; and

WHEREAS, the CCA imposes restrictions on how the City of Ellensburg may use the revenue generated from the sale of no cost allowances; and

WHEREAS, the City of Ellensburg must establish legacy and non-legacy rate classes to implement the Greenhouse Gas (GHG) Emissions Cap and Invest adjustment; and

WHEREAS, the City of Ellensburg’s electric and natural gas utilities are enterprise accounts that operate as non-profit consumer-owned utilities that must recover costs through rates charged to their customers, the ratepayers;

NOW, THEREFORE, the City Council of the City of Ellensburg, Washington do hereby ordain as follows:

Section 1. Section 9.91.200 of the Ellensburg City Code, as last amended by Section 2 of Ordinance 4897, is hereby amended to read as follows:

9.91.200 Gas utility rate schedules.

A. Residential G-100.

1. Availability. This rate schedule is available within the service area of the gas utility to single-family dwellings and multiple-family dwellings through a separate meter for each living unit. This rate schedule is not available for gas resale purposes, or where any part of the use is for purposes other than above stated.
2. Character of Service. Service shall be through a single meter at a single point of delivery. Multiple meters used for delivery to the same customer shall not be combined for billing purposes.
3. Rate. The rate shall be composed of a consumption charge plus a daily customer charge computed as follows for each meter servicing the premises:

Effective ~~1/1/2023~~ 1/1/2024

Legacy Customers (service locations established on or before 7/25/2021):

Effective Date	1/1/2022	<u>1/1/2023</u>	1/1/2024	1/1/2025
Consumption Charge:	All Ccf at \$0.5794 per Ccf plus the purchased gas cost adjustment	All Ccf at <u>\$0.6174</u> per Ccf plus the purchased gas cost adjustment	All Ccf at <u>\$0.6530</u> per Ccf plus the purchased gas cost adjustment <u>Plus \$0.2343 per Ccf, GHG Emissions Cap and Invest adjustment</u> <u>Plus, purchased gas cost adjustment per Ccf</u>	All Ccf at <u>\$0.6742</u> per Ccf plus the purchased gas cost adjustment <u>Plus \$0.2717 per Ccf, GHG Emissions Cap and Invest adjustment</u> <u>Plus, purchased gas cost adjustment per Ccf</u>
Customer Charge:	\$0.5769 per day	\$0.6147 per day	\$0.6501 per day	\$0.6712 per day

Non-Legacy Customers (service locations established after 7/25/2021):

Effective Date	1/1/2022	1/1/2023	1/1/2024	1/1/2025
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Consumption Charge:	All Ccf at \$0.5794 per Ccf plus the purchased gas cost adjustment	All Ccf at \$0.6174 per Ccf plus the purchased gas cost adjustment	All Ccf at \$0.6530 per Ccf plus the purchased gas cost adjustment	All Ccf at \$0.6742 per Ccf plus the purchased gas cost adjustment
			<u>Plus \$0.3626 per Ccf, GHG Emissions Cap and Invest adjustment</u>	<u>Plus \$0.4058 per Ccf, GHG Emissions Cap and Invest adjustment</u>
			<u>Plus, purchased gas cost adjustment per Ccf</u>	<u>Plus, purchased gas cost adjustment per Ccf</u>
Customer Charge:	\$0.5769 per day	\$0.6147 per day	\$0.6501 per day	\$0.6712 per day

B. Low-Income Senior Citizen/Low-Income Disabled Citizen G-130.

1. Availability. This rate is available for residential service to individuals who meet the definition of low-income senior citizen or low-income disabled citizen, who do not reside in federally subsidized housing and who agree to participate in energy conservation programs that are available at no charge. The rates established by this section will be published by the public works and utilities department on the city's website, and be made available from the city's finance department.

Failure to participate in an available energy conservation program after receipt of a utility discount shall constitute a basis for denial by the city of continued participation in the utility discount program until such conservation measures are installed. The customer may submit a written request, on a form provided by the city, identifying the reasons they should be exempt from participation in available conservation programs, which request is subject to approval or denial by the public works and utilities director.

2. Character of Service. Service shall be through a single meter at a single point of delivery. Multiple meters used for delivery to the same customer shall not be combined for billing purposes.

C. Commercial and Industrial G-200.

1. Availability. This rate schedule is available to commercial, small volume industrial and municipal customers for all purposes except for resale. Commercial and small

industrial users shall either possess a current city business license or present proof of engaging in commercial or industrial activity.

2. Character of Service. Service shall be through a single meter at a single point of delivery. Multiple meters used for delivery to the same customer shall not be combined for billing purposes.

D. Rate. The rate shall be composed of a consumption charge plus a daily customer charge based on meter size and computed as follows for each meter servicing the premises:

Legacy Customers (service locations established on or before 7/25/2021):

Effective Date	1/1/2022	1/1/2023	1/1/2024	1/1/2025
Consumption Charge:	All Ccf at \$0.3113 per Ccf plus the purchased gas cost adjustment	All Ccf at \$0.3308-per Ccf plus the purchased gas cost adjustment	All Ccf at \$0.3515 per Ccf <u>plus the purchased gas cost adjustment</u>	All Ccf at \$0.3647 per Ccf <u>plus the purchased gas cost adjustment</u>
			<u>Plus \$0.2343 per Ccf, GHG Emissions Cap and Invest adjustment</u>	<u>Plus \$0.2717 per Ccf, GHG Emissions Cap and Invest adjustment</u>
			<u>Plus, purchased gas cost adjustment per Ccf</u>	<u>Plus, purchased gas cost adjustment per Ccf</u>

Non-Legacy Customers (service locations established after 7/25/2021):

Effective Date	1/1/2022	1/1/2023	1/1/2024	1/1/2025
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Consumption Charge:	All Ccf at \$0.3113 per Ccf plus the purchased gas cost adjustment	All Ccf at \$0.3308 per Ccf plus the purchased gas cost adjustment	All Ccf at \$0.3515 per Ccf	All Ccf at \$0.3647 per Ccf
			<u>Plus \$0.3626 per Ccf, GHG Emissions Cap and Invest adjustment</u>	<u>Plus \$0.4058 per Ccf, GHG Emissions Cap and Invest adjustment</u>
			<u>Plus, purchased gas cost adjustment per Ccf</u>	<u>Plus, purchased gas cost adjustment per Ccf</u>

Customer Charge:	275 cu. ft. and less	\$0.5769 per day	\$0.6130 per day	\$0.6513 per day	\$0.6757 per day
	415/425 cu. ft.	\$0.6914 per day	\$0.7346 per day	\$0.7805 per day	\$0.8098 per day
	750/800 cu. ft.	\$1.3820 per day	\$1.4684 per day	\$1.5602 per day	\$1.6188 per day
	1,000 cu. ft. and higher	\$2.7658 per day	\$2.9387 per day	\$3.1224 per day	\$3.2396 per day

E. Interruptible Industrial G-220.

1. Availability. Service of natural gas by the city is available to industrial customers whose requirements are estimated to exceed 100,000 therms per year and who have adequate standby facilities which are alternately fueled to accept curtailment of their natural gas supply under this schedule. The city will provide natural gas under this schedule; provided, that:

- a. Adequate gas volumes for such service are available;
- b. Adequate capacity exists in the city's distribution system; and

c. The customer has executed a long-term interruptible natural gas service agreement with the city for service under this schedule.

2. Character of Service. This service applies to customers who would otherwise use propane and who have installed standby capacity to use propane in equipment listed in their service agreement. All service rendered under this rate is to be supplied at one point of delivery and single metered and billed.

Service rendered under this schedule shall be subject to curtailment by the city when in the city manager's or his designee's sole judgment such curtailment is necessary or such interruption or curtailment has been requested of the city by its supplier(s). Service under this schedule shall have a lower priority than service under any other gas utility rate schedule offered by the city including schedule G-300. The city shall not be liable in damages for or on account of any curtailment of service.

3. Rate. The rates under this rate schedule will be covered by individual contract between the city and the customer.

4. Restrictions. In no event shall the city sell natural gas to the customer at a price less than the city's wholesale price plus any taxes based on gross revenues.

F. Institutional Service G-300.

1. Availability. This rate schedule is available to institutional natural gas customers whose requirements are estimated to exceed 900,000 therms per year and who have adequate standby facilities to accept curtailment of their natural gas supply under this schedule. The city will provide natural gas under this schedule; provided, that the customer has executed a long-term natural gas service agreement with the city for service under this schedule.

2. Character of Service. Service shall be through a single meter at a single point of delivery. Service is subject to interruption or curtailment at such times when, in the public works and utilities director's judgment, such interruption or curtailment is necessary to preserve the integrity of the city's system or the city has been requested to interrupt or curtail load by its supplier(s). The public works and utilities director shall consult with the city manager prior to any interruption or curtailment if circumstances allow. The city shall not be liable for damages for, or on account of, any curtailment of service. The customer may also choose to interrupt or curtail service as provided for in the service agreement.

3. Rate. The rates under this rate schedule will be covered by individual contract between the city and the customer.

G. Municipal G-400.

1. Availability. This rate schedule is available to the city for use at all municipal buildings.
2. Character of Service. Service shall be through a single meter at a single point of delivery.
3. Rate. The rate shall be composed of a consumption charge plus a daily customer charge computed as follows for each meter servicing the premises:

Legacy Customers (service locations established on or before 7/25/2021):

Effective Date	1/1/2022	1/1/2023	1/1/2024	1/1/2025
Consumption Charge:	All Ccf at \$0.2701 per Ccf plus the purchased gas cost adjustment	All Ccf at <u>\$0.2870</u> per Ccf plus the purchased gas cost adjustment	All Ccf at <u>\$0.3049</u> per Ccf plus the purchased gas cost adjustment <u>Plus \$0.2343</u> per Ccf, <u>GHG Emissions Cap and Invest adjustment</u>	All Ccf at <u>\$0.3163</u> per Ccf plus the purchased gas cost adjustment <u>Plus \$0.2717</u> per Ccf, <u>GHG Emissions Cap and Invest adjustment</u>
			<u>Plus,</u> <u>purchased gas cost adjustment</u> per Ccf	<u>Plus,</u> <u>purchased gas cost adjustment</u> per Ccf

Non-Legacy Customers (service locations established after 7/25/2021):

Effective Date	1/1/2022	1/1/2023	1/1/2024	1/1/2025
Consumption Charge:	All Ccf at \$0.2701 per Ccf plus the purchased gas cost adjustment	All Ccf at \$0.2870 per Ccf plus the	All Ccf at \$0.3049 per Ccf plus the	All Ccf at \$0.3163 per Ccf plus the

			purchased gas cost adjustment	purchased gas cost adjustment	purchased gas cost adjustment
				<u>Plus \$0.3626</u> <u>per Ccf, GHG</u> <u>Emissions</u> <u>Cap and</u> <u>Invest</u> <u>adjustment</u>	<u>Plus \$0.4058</u> <u>per Ccf, GHG</u> <u>Emissions</u> <u>Cap and</u> <u>Invest</u> <u>adjustment</u>
				<u>Plus,</u> <u>purchased gas</u> <u>cost</u> <u>adjustment</u> per Ccf	<u>Plus,</u> <u>purchased gas</u> <u>cost</u> <u>adjustment</u> per Ccf
Customer Charge:	275 cu. ft. and less	\$0.5769 per day	\$0.6130 per day	\$0.6513 per day	\$0.6757 per day
	415/425 cu. ft.	\$0.9394 per day	\$0.9981 per day	\$1.0605 per day	\$1.1003 per day
	750/800 cu. ft.	\$1.8774 per day	\$1.9947 per day	\$2.1194 per day	\$2.1990 per day
	1,000 cu. ft. and higher	\$3.7562 per day	\$3.9910 per day	\$4.2405 per day	\$4.3997 per day

H. Nonprofit Agency Serving the Disadvantaged G-700.

1. Availability. This rate schedule is available to nonprofit agencies serving the disadvantaged. The rates established by this section will be published by the public works and utilities department on the city's website, and be made available from the city's finance department.
2. Character of Service. Service shall be through a single meter at a single point of delivery. Multiple meters used for delivery to the same customer shall not be combined

for billing purposes. [Ord. 4897 § 2, 2022; Ord. 4844 § 7, 2019; Ord. 4817 § 1, 2018; Ord. 4804 § 2, 2018; Ord. 4684 § 8, 2014; Ord. 4639 § 3, 2013; Ord. 4555 § 8, 2009; Ord. 4503 § 2, 2007.]

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 November, 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. 4928 is a true and correct copy of said Ordinance of like number as the same was passed by said Council, and that Ordinance No. 4928 was published as required by law.

BETH LEADER



Meeting Date: October 16, 2023
City of Ellensburg
City Council Agenda Report

Agenda Subject: First Reading of Ordinance 4930 to Amend Title 4.14A
Streateries, Parklets, and Sidewalk Cafes (Public Comment
Opportunity)

Submitted by: Jeremy Johnston, Planning Manager

Department: Community Development

Suggested Motion/Action:
Conduct first reading of Ordinance 4930

Background/Summary:

The City of Ellensburg received an application from a citizen to amend Title 4.14A.070 to allow flexibility in sidewalk café standards to allow for additional seating when site conditions allow. This proposal would allow additional seating options for sidewalk cafes that can still accommodate site line and minimum passage spacing standards due to wider sidewalks.

Additionally, City staff recognized a need for minor revisions to Title 4.14A.030 and Title 4.14A.020. Title 4.14A.030 is inconsistent with building code requirements because it exempts certain structures from building permit requirements that are not, in fact, exempt per the International Building Code (IBC). The definition of "Director" in ECC 4.14A.020 currently does not allow the director to designate staff to review and approve applications processed under ECC Chapter 4.14A. The specific revisions are described below.

Previous Council Action:

First reading of Ordinance 4912 at the September 18, 2023, City Council meeting.

Analysis:

Item 1 – This amendment would update Title 4.14A Streateries, Parklets, and Sidewalk Cafes and ECC 4.14A.020. Staff proposes that the definition of "Director" in ECC 4.14A.020 be updated to include the director's designee. This change would allow the director to designate staff to review and approve applications processed under Chapter 4.14A.

Item 2 – This amendment is proposed by Community Development staff to address an inconsistency between ECC 4.14A.030(D)(2) and the International Building Code (IBC). ECC 4.14A.030(D)(2) exempts any structure 200 square feet or less or not enclosed on two or more walls from a building permit. However, ECC 4.14A.050(B) requires that streateries meet applicable statutes for building safety, etc. The City has adopted the IBC (ECC 3.01), and Sections 101.2 and 105 of the IBC require building permits for these structures. The proposed amendment would delete the last sentence of ECC 4.14A.030(D)(2) to correct this inconsistency.

Item 3 – This amendment was submitted by Stephanie Ritter proposing an amendment to ECC 4.14A.070(c)(3) and (4)- Sidewalk café permit.

The applicant proposes adding an option for more tables and seating for sidewalk cafes that can accommodate this additional seating and tables while maintaining the minimum sidewalk passage area established in ECC 4.14A.070(c)(1). This option would require changes to ECC 4.14A.070(c)(3) and ECC 4.14A.070(c)(4) as indicated below. The proposal will maintain standards for minimum passage space and the visual requirement that all outdoor seating be observable from the interior of the building.

Staff has reviewed the proposal and finds it to be consistent with the intent of Chapter 4.14A ECC. The proposal utilizes most of the standards established for sidewalk cafés but allows flexibility for those businesses that abut a wider sidewalk and can accommodate more outdoor seating while maintaining safety and sidewalk access standards.

Financial Impact:

None

Budget Adjustment: No

Attachments:

1. Ordinance 4930-Streateries

ORDINANCE NO. 4930

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELLENSBURG, WASHINGTON, RELATING TO CHAPTER 4.14A “STREATERIES, PARKLETS, AND SIDEWALK CAFES” AND AMENDING SECTIONS 4.14A.020, 4.14A.030, AND 4.14A.070 OF THE ELLENSBURG CITY CODE.

WHEREAS, the Ellensburg City Council adopted Ordinance No. 4912 which created a new Ellensburg City Code Chapter entitled “4.14A Streateries, Parklets, and Sidewalk Cafes” on March 20, 2023; and

WHEREAS, staff has discovered some amendments that need to be made to this Chapter for efficient implementation and consistency with the International Building Code; and

WHEREAS, a citizen-initiated amendment to ECC 4.14A.070 was submitted on July, 11, 2023; and

WHEREAS, the proposed amendments to the Ellensburg City Code were issued a State Environmental Policy Act (“SEPA”) Determination of Non-Significance on August 29, 2023; and

WHEREAS, the proposed amendments were reviewed by the Planning Commission in a duly noticed public hearing on September 28, 2023, and recommended for approval by the City Council consideration; and

WHEREAS, the City Council held a duly noticed public hearing on the matter of adopting the proposed amendments to Title 4.14A at a regular meeting on October 16, 2023, and approved the proposed amendments;

NOW, THEREFORE, the City Council of the city of Ellensburg, Washington, do hereby ordain as follows:

Section 1. Section 4.14A.020 of the Ellensburg City Code, as last amended by Ordinance 4912, is hereby amended to read as follows:

4.14A.020 Definitions

In this chapter, the following definitions shall apply:

“Applicant” means any person who seeks a right-of-way use permit from the city under this chapter.

“City” means the city of Ellensburg.

“Director” means the community development director of the city of Ellensburg or their designee, unless otherwise specified.

“Parklet” means the use of the public right-of-way designed to be used as a gathering space which is free and open to the public.

“Permit” means a permit issued by the community development department pursuant to this chapter.

“Right-of-way” means land acquired or dedicated for use as a public road, street, alley, and/or sidewalk, regardless of whether such land has been opened or improved for such use.

“Sidewalk cafe” means tables, seating, and other amenities such as umbrellas, landscaping or fencing adjacent to a lawfully operating business establishment in or on the public sidewalk, maintained by the owner of such establishment for the use of patrons of the business.

“Streatory” means the use of the public right-of-way, typically in a vehicle parking space, that has been designed to allow for food and beverage services.

“Traffic” means circulation or movement of vehicles, bicycles, and pedestrians. [Ord. 4912 § 2, 2023.]

Section 2. Section 4.14A.030 of the Ellensburg City Code, as last amended by Ordinance 4912, is hereby amended to read as follows:

4.14A.030 Right-of-way permits – Applications.

A. Permit Required. A right-of-way permit is required to use any portion of city right-of-way for streateries or parklets. Sidewalk cafe permits are issued separately pursuant to ECC 4.14A.070. This chapter does not include right-of-way construction permits required under Chapter 4.06 ECC.

B. Application – Permit. A completed “application for right-of-way (streatory/parklet) permit” must be submitted for any use of the right-of-way for streateries or parklets. Permits are issued for a maximum of one year. Once permitted, a permittee may apply for a new permit as set forth in subsection (D)(8) of this section. Permits shall not be renewed automatically. If there are more applicants for a city block than parking spaces permitted by this chapter, the permit(s) shall be selected based on when the application(s) was deemed complete by the director.

C. Complete Application. A permit application is deemed complete for the purposes of this section when it meets the submittal requirements of this chapter even though additional information may be required or subsequent permit modifications may occur. The determination of completeness shall not preclude the director from requesting additional information either at

the time of the determination of completeness or later if new information is required to complete review of the application or substantial changes in the permit application are proposed.

D. The application shall comply with the following requirements:

1. Payment of a \$50.00 nonrefundable application fee required for the administrative costs associated with the permit request process.
2. Submission of a narrative describing the proposed design of the streaterly or parklet, with a clear dimensional sketch including the width and height, and description of the location within the public right-of-way proposed for use. The boundary description shall also include the square footage of the request. ~~Any temporary structure greater than 200 square feet or enclosed on two or more walls requires a building permit.~~
3. Submission of a list of construction materials and colors (with color names and cutsheets).
4. The requested permit period (if less than one year).
5. No more than four parking stalls per block (including both sides) shall be used for any combination of streateries and parklets.
6. An application for a streaterly permit shall be submitted to the community development department. City review of an application will be completed within 30 days of receipt of a complete application and include review by other city departments and the fire marshal, as appropriate. The director may extend the review period when reasonably necessary because additional information is required from the applicant or to allow time to consider comments received per subsection (D)(7) of this section. The director may issue the streaterly permit with any conditions necessary that are consistent with the requirements of this chapter, or any other local or state law.
7. An application for a streaterly permit shall be published on the city's website and appropriate social media sites and provide notice to the public of an opportunity to comment on the application for a period of 10 days from posting of the application. Public comment shall be limited to the issue of whether the proposed streaterly meets the design criteria in ECC 4.14A.040. The director may, but is not required to, consider public comments when deciding whether to issue the streaterly permit and/or any conditions on the permit.
8. A streaterly or parklet permit application may be submitted no earlier than September 1st for use of the streaterly or parklet the following year (or portion thereof). Permits are valid for one year beginning January 1st each year.

9. Any streatory or parklet permitted under temporary regulations as of March 31, 2023, must be removed to allow for downtown street slurry work planned for mid-2023. Thereafter, the temporary permittee must comply with the design requirements of this chapter by submitting to the director the information required in subsections (D)(2) and (3) of this section. The director will notify the temporary permittee of their approval of the design or any required changes within 30 days of receipt of the information. [Ord. 4912 § 2, 2023.]

Section 3. Section 4.14A.070 of the Ellensburg City Code, as last amended by Ordinance 4912, is hereby amended to read as follows:

4.14A.070 Sidewalk cafe permit.

Sidewalk cafes are subject to the following requirements:

A. Permit Required. A sidewalk cafe permit (“sidewalk use permit”) is required for use of a limited portion of city sidewalk area for the service of food and beverage (“sidewalk service area”) as an extension of the applicant’s business fronting directly upon said sidewalk. The sidewalk use permit allows for the placement of tables and chairs only, and related barriers when required in conjunction with the service of alcoholic beverages.

B. Application Required. A completed “sidewalk use permit” application must be submitted for any business use as a sidewalk service area as an extension of the applicant’s business fronting directly upon said sidewalk area. Application can only be made by the owner of such business.

1. Clear dimensional plans that depict the proposed location of all tables, chairs, and barriers (when required), as well as the location of all present fixed and movable objects located in or upon the affected sidewalk area shall be submitted with the application. The plans shall include specific measurements of all distances between the various tables, chairs, barriers, objects, curb and adjacent building or property line.

2. City review of an application will be completed within 30 days of receipt of a complete application and include review by other city departments and the fire marshal, as appropriate. The director may extend the review period when reasonably necessary because additional information is required from the applicant and may issue the sidewalk use permit with any conditions necessary that are consistent with the requirements of this chapter, or any other local or state law.

C. General Provisions.

1. Placement of tables, chairs, and any barriers must allow for a minimum of five linear feet of unobstructed passage for passersby between any table, chair or barrier and the outside edge of the sidewalk, and between any table, chair or barrier and any other object located in or upon the sidewalk.
2. Table Size Limitations. Tables may be circular, square, or rectangular only, and no side or diametrical dimension of such a table shall exceed 32 inches in length.
3. The maximum number of chairs authorized for use under this permit shall not exceed ~~twice the number of~~ four per tables ~~placed for use under this permit, and~~ must all be visible from inside the permittee's business.
4. There shall be a maximum of one table ~~and two chairs~~ for each 10 linear feet of the permittee's business fronting directly upon the sidewalk. If the business has a sidewalk frontage depth that would allow additional seating, and the seating can still be seen from the inside of the business and allows for a minimum of five linear feet required in 4.14A.070.C.1, the business is allowed additional tables.
5. All tables, chairs and barriers placed on the sidewalk under this permit must be directly visible from the interior of the business.
6. The allowed hours of use of the sidewalk service area shall be 7:00 a.m. to 10:00 p.m.
7. The placement, use and removal of all tables, chairs and barriers authorized by this permit shall be at no cost to the city.
8. A sidewalk cafe must be ADA-accessible. A wheelchair user must be able to access at least one seat at a table, unless the business has other dining that is ADA-compliant and available for customer use.
9. The permittee, and permittee's officers and employees, shall comply with all applicable local, state, and federal laws, ordinances and regulations.

D. Additional Provisions When Alcoholic Beverages Are Served in a Sidewalk Cafe Area. The permittee's use of the sidewalk cafe area identified may include the service of alcoholic beverages if the following additional provisions are satisfied:

1. The sidewalk cafe area shall have a perimeter barrier during all hours of use, and the barrier shall be at least 42 inches in height. The barrier shall consist of a physical structure, such as a folding metal gate or moveable fence, that bars movement between two areas. Barriers may not be affixed to the sidewalk, nor may the sidewalk be disturbed in any way.

2. Service of alcoholic beverages and use of the sidewalk service area must be in accordance with all applicable provisions of RCW Title 66 (“Alcoholic Beverage Control”) and WAC Title 314 (“Liquor and Cannabis Board”).

E. Fees. The fee for a sidewalk cafe is based on the number of tables placed on the city sidewalk. The annual fee shall be \$25.00 for each table authorized for use and the amount payable by the city for the leasehold excise tax assessed for the permit, due and payable at the time of issuance of the permit. There shall be no proration or refund of fees for only a portion of a year, regardless of the reason the use is for less than a full year.

F. Revocation and Removal.

1. A sidewalk cafe permit is nonassignable, revocable and may be terminated, revoked or suspended at the sole discretion of the city upon 30 days’ written notice. No vested rights shall accrue to the applicant hereunder.

2. Except in cases of emergency, in which case no prior notice need be given to revoke or suspend the use herein permitted, the city will give permit holder 30 days’ advance notice of the effective date of the termination, revocation or suspension of this permit.

3. Permittees are required to remove its property from the city’s sidewalk upon city termination, revocation or suspension of this permit. Permittee shall be liable for all costs of removal and storage incurred by city, and any unclaimed property will be deemed abandoned in accordance with applicable state law.

4. In the event the city suspends, revokes or terminates this permit, requiring removal of the permittee’s property, permittee shall not be entitled to any compensation.

G. The provisions of ECC 4.14A.090, 4.14A.100 and 4.14A.110 shall apply to sidewalk cafes. [Ord. 4912 §§ 1, 2, 2023; Ord. 4574 § 1, 2010. Formerly 4.14.170.]

Section 4. 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 5. Corrections. Upon the approval of the City Attorney, the City Clerk and codifiers of this ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 6. 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 6th day of November 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. 4930 is a true and correct copy of said Ordinance of like number as the same was passed by said Council, and that Ordinance No. 4930 was published as required by law.

BETH LEADER



Meeting Date: October 16, 2023
City of Ellensburg
City Council Agenda Report

Agenda Subject: Second Reading of Ordinance 4924 for Rezone Application P21-132 (Public Comment Opportunity)
Submitted by: Jeremy Johnston, Planning Manager
Department: Community Development

Suggested Motion/Action:

Move to conduct second reading and adoption of Ordinance 4924, approving rezone application P21-132.

Background/Summary:

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.

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 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 High.

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 an ownership error 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 A to ordinance).

Previous Council Action:

On September 18, 2023 City Council approved application P21-132 and conducted the first reading of Ordinance 4924, to rezone parcels 652733 and 712733 to a Residential High (R-H) zoning designation.

Analysis:

1. 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 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.

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.

Financial Impact:

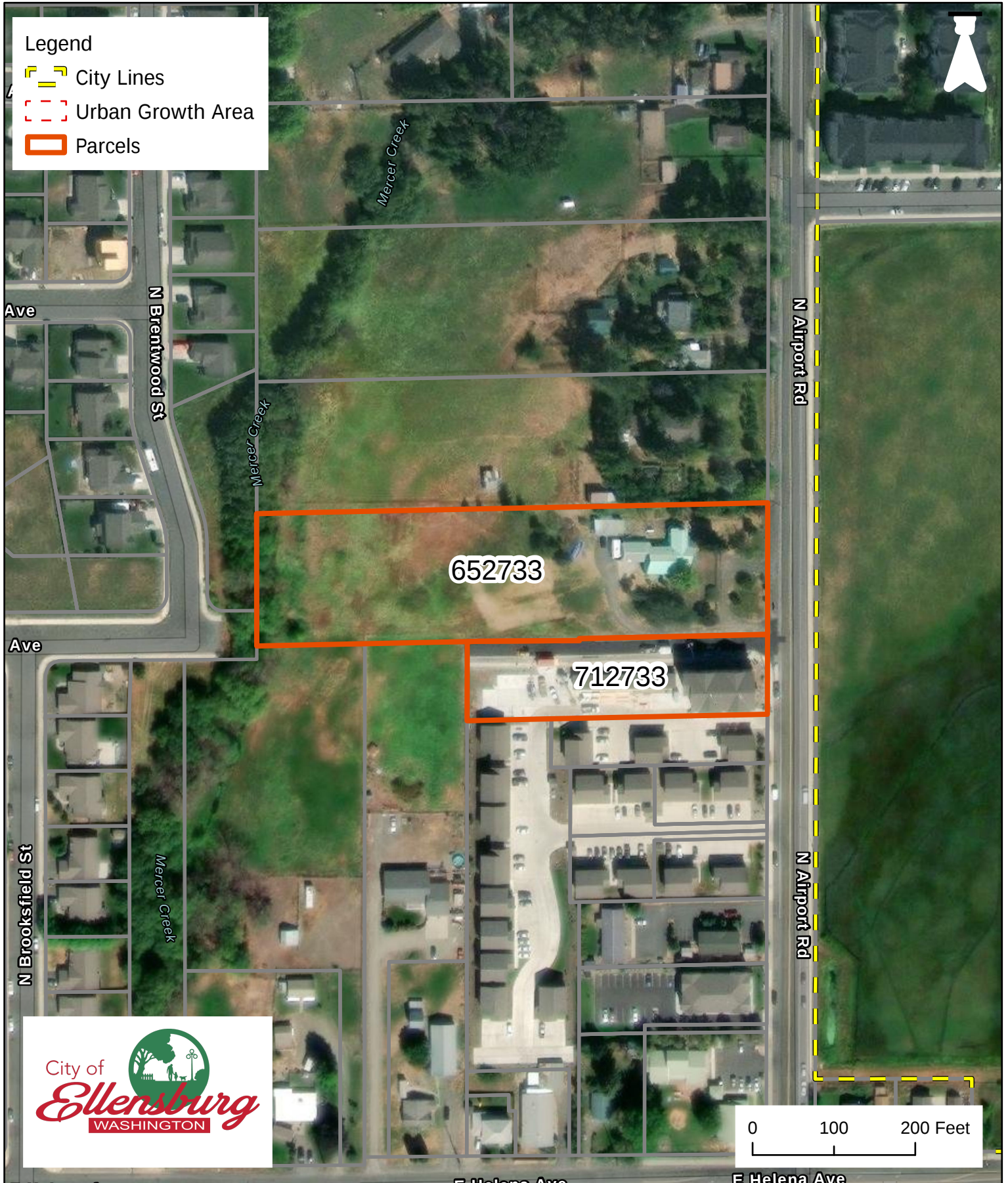
None

Budget Adjustment: No

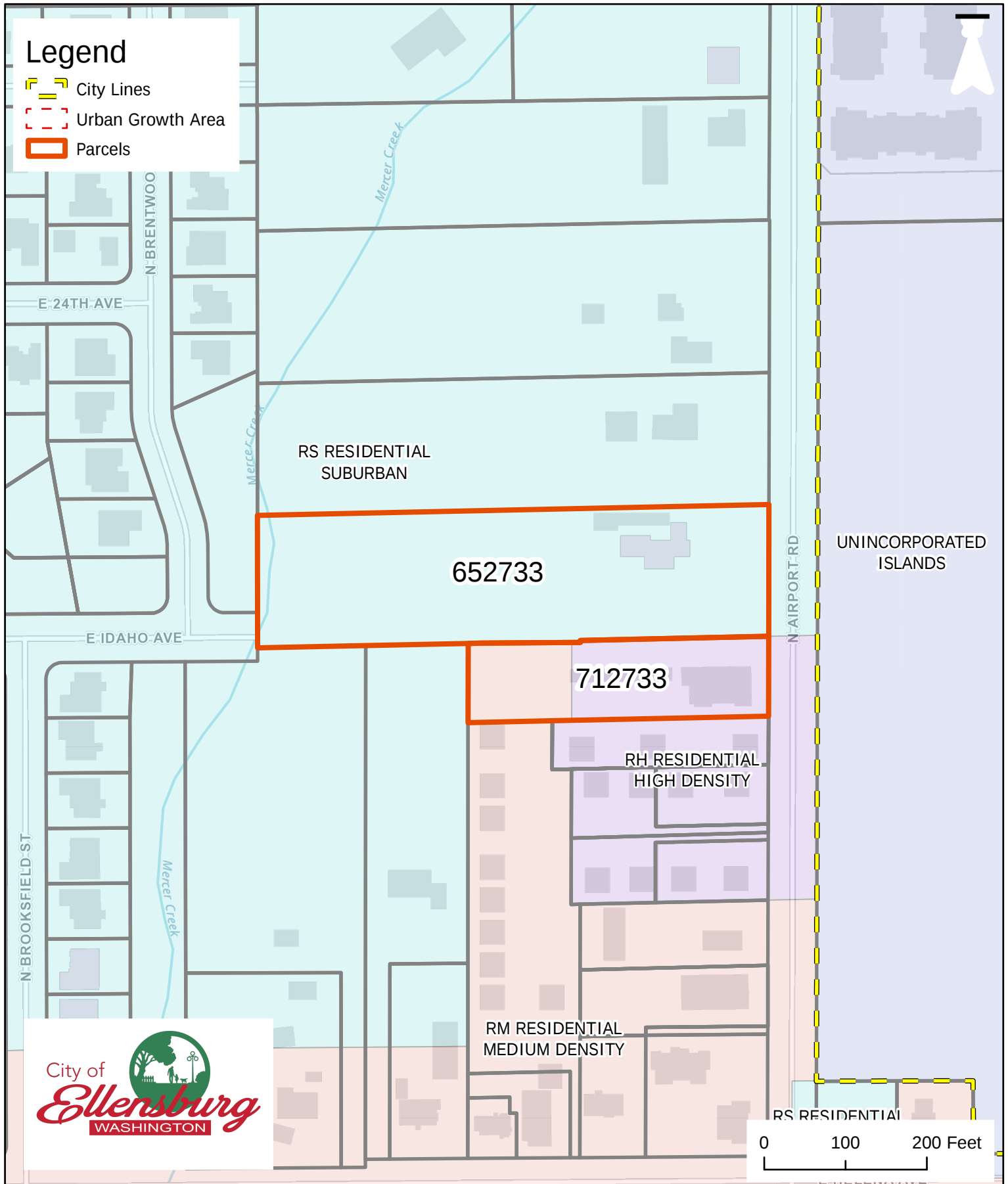
Attachments:

1. Exhibit A - Location Map
2. Exhibit B - Zoning Map
3. Exhibit C Future land Use Map
4. Ord 4924 2nd Reading

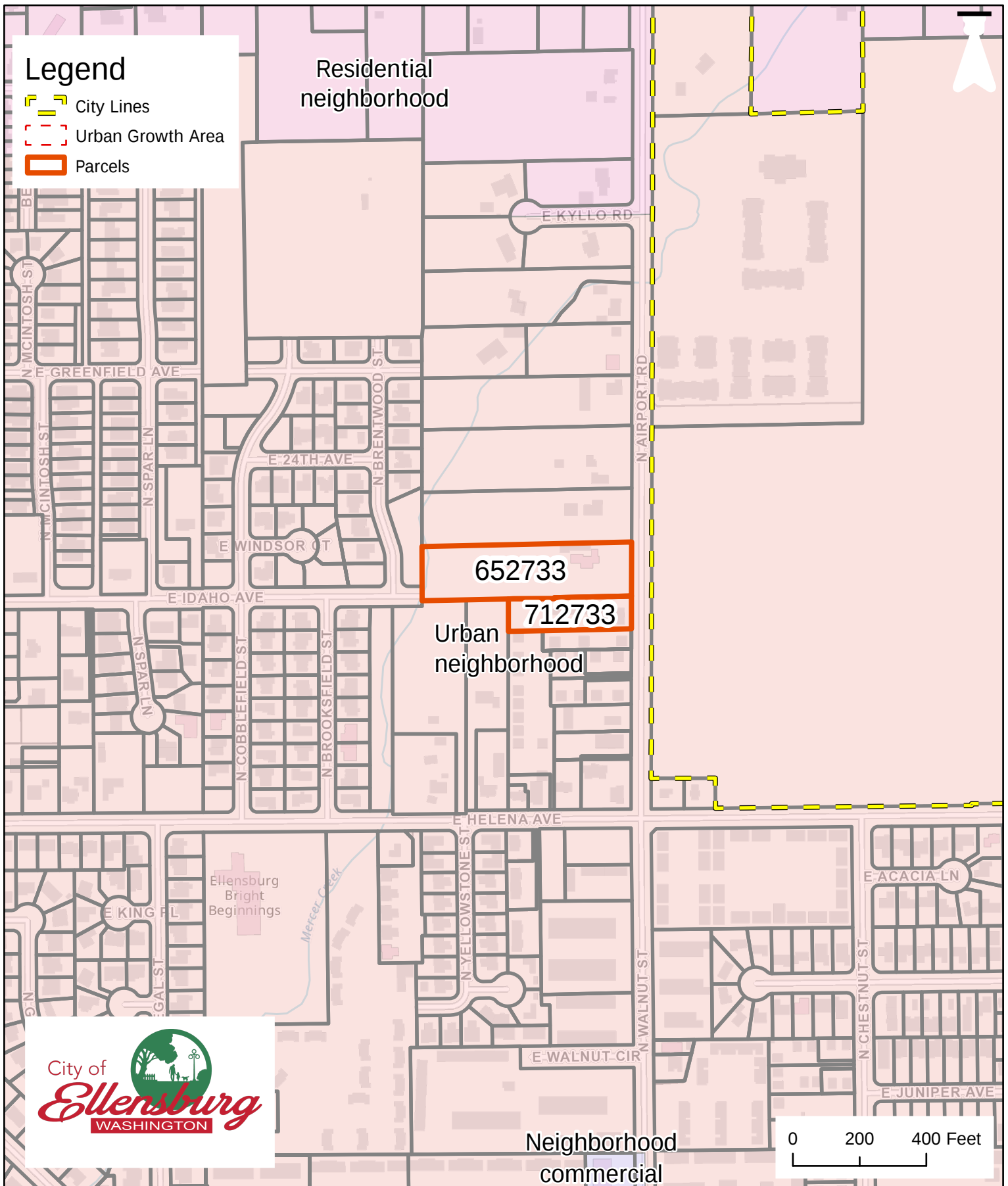
Parcel Location



Current Zoning Map



Future Land Use Map



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, to approve the applicant's request to rezone the subject property from R-S and R-M to R-H, and conduct first reading of Ordinance 4924;

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 16th 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. 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

**CITY OF ELLENSBURG
LAND USE HEARING EXAMINER**

IN THE MATTER OF	)	CORRECTED RECOMMENDED
	)	FINDINGS OF FACT,
	)	CONCLUSIONS OF LAW,
P 21-132	)	DECISION AND CONDITIONS
Stalder	)	OF APPROVAL

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.

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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;

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Stalder
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- 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



Meeting Date: October 16, 2023
City of Ellensburg
City Council Agenda Report

Agenda Subject: Second Reading and Adoption of Ordinance 4927 for creation of LEOFF 1 Disability Board (Public Comment Opportunity)
Submitted by: Beth Leader
Department: City Clerk

Suggested Motion/Action:

Move to conduct second reading and adoption of Ordinance 4927

Background/Summary:

Per RCW 41.26.110, cities with a population greater than 20,000 that have employed police and fire employees between 1970 and 1977, are required to establish a disability board to review medical claims. The City currently receives medical claims for Law Enforcement Officers and Fire Fighters (LEOFF) 1 retirees from Kittitas County, which are reviewed by their LEOFF 1 Disability Board. The three retired public service members on the County LEOFF 1 Disability Board are retired city employees and it's anticipated they would be willing to serve on the city board as well.

If approved, City staff will proceed with contacting Kittitas County regarding the creation of the City board and schedule a date to take over the processing of city LEOFF 1 retiree claims. A letter with a board and commission application will also be sent to retirees notifying them of the new process and contact information with the City.

Previous Council Action:

First reading of the ordinance was conducted at the October 2, 2023 meeting.

Analysis:

The ordinance presented has been formatted to be consistent with other city commissions and has been reviewed for conformance with City and State law by the City Attorney. Ordinance language has also been updated in Section 1.90.010(B){2} to reflect membership requirements consistent with the RCW.

Financial Impact:

If adopted, the tasks anticipated by the ordinance will be addressed by existing personnel. No immediate fiscal impact is anticipated. Any future increases identified by the newly formed commission will be considered during the Council's normal budget or supplemental budget process.

Budget Adjustment: No

Attachments:

1. Ordinance 4927 - Creation of LEOFF 1 Disability Board

ORDINANCE NO. 4927

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELLENSBURG, WASHINGTON, RELATING TO CREATION OF A CITY DISABILITY BOARD FOR LEOFF PLAN 1 RETIREMENT SYSTEM MEMBERS WITH JURISDICTION OVER POLICE OFFICERS AND FIREFIGHTERS OF THE CITY OF ELLENSBURG PURSUANT TO RCW 41.26.110 AND ADDING A NEW CHAPTER “1.90 LEOFF 1 DISABILITY BOARD” TO THE ELLENSBURG CITY CODE.

WHEREAS, Washington law requires cities with a population of twenty thousand or more which have employed uniformed police and/or fire employees between 1970 and October 1, 1977 (referred to as LEOFF 1 members) to establish a disability board to consider disability retirement and medical claims; and

WHEREAS, pursuant to RCW 43.62.030 , the State Office of Financial Management (OFM) in June 2022 determined the City's population is greater than twenty thousand thereby requiring the City to establish a LEOFF 1 Disability Board.

NOW, THEREFORE, the City Council of the City of Ellensburg, State of Washington, does ordain as follows:

Section 1. A new chapter entitled “1.90 LEOFF 1 Disability Board” is hereby added to the Ellensburg Municipal Code to read as follows:

**Chapter 1.90
LEOFF 1 DISABILITY BOARD**

Sections

1.90.010	Establishment – membership
1.90.020	Terms – vacancies
1.90.030	Duties and powers
1.90.040	Officers, quorum and meetings
1.90.050	Compensation – expenses

1.90.010 Establishment—membership.

A. Pursuant to RCW 41.26.110, the Ellensburg LEOFF 1 Disability Board (the “Disability Board”) is established.

B. The Disability Board shall be composed of the following five members:

1. Two members of the City Council who shall be appointed by the mayor,
2. One firefighter and one law enforcement officer. The firefighter and law enforcement officer are to be elected to their positions. The electors of such members shall be limited to commissioned law enforcement officers who are employed by or retired from the City

and who are themselves subject to the jurisdiction of the Disability Board. The pool of electable candidates for membership on the Disability Board shall consist of all commissioned officers currently employed by or retired from the City or as otherwise specified in RCW 41.26.110(b).

3. One at-large member, who shall be a city resident and is appointed by a majority vote of the other members.

1.90.020 Terms —vacancies.

All members appointed or elected pursuant to this section shall serve a two-year term, with the exception of the law enforcement member and one City Councilmember who, on the first term, shall only serve a one-year term. All terms shall expire on the 31st day of December of the last year for which the term is made, provided each member shall hold office until a successor is appointed or elected. Any member who ceases to have the qualifications provided in this section shall be deemed to have forfeited his or her office. The city manager or designee is delegated the authority to require elections pursuant to this section be held in a timely manner and in accordance with state law.

1.90.030 Duties and powers.

The Disability Board shall perform all functions, exercise all powers and make such determinations as specified in Chapter 41.26 RCW, and Chapters 415-104 and 415-105 of the Washington Administrative Code, as currently enacted or hereafter amended. The Disability Board may adopt reasonable rules and regulations consistent with state law to carry out its authority and to govern the manner and form of filing, presentations, and hearings before the Disability Board.

1.90.040 Officers, quorum and meetings.

A. The members of the Disability Board shall at the first meeting of the year, or the first meeting after appointments have occurred if the Disability Board desires, select from among their members a Chairperson and Chairperson Pro Tem, and such other officers as may be necessary, who shall serve in that capacity for a one-year term. The presence of three members of the Disability Board shall be required to constitute a quorum for the transaction of business. The Disability Board shall meet regularly at a scheduled time and place established by the Disability Board. Regular meetings may be canceled if there is no business pending before the Disability Board.

B. The city manager, at his/her discretion, shall designate a city employee to provide administrative support to the Disability Board.

1.90.050 Compensation — expenses.

Members of the Disability Board shall serve without compensation for their service, but members shall be reimbursed for all expenses incidental to such service in the manner and amount as authorized by law.

Section 2. Corrections. The City Clerk and codifiers of this ordinance are authorized to make necessary corrections to this ordinance including but not limited to the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 3. Ratification. Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

Section 4. Severability. The provisions of this ordinance are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of the ordinance, or the validity of its application to other persons or circumstances.

Section 5. Effective Date. This ordinance shall become effective thirty (30) days after passage, approval and publication as provided by law.

The foregoing ordinance was passed and adopted at a regular meeting of the City Council on the 16th 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. 4927 is a true and correct copy of said Ordinance of like number as the same was passed by said Council, and that Ordinance No. 4927 was published as required by law.

BETH LEADER



MANAGER'S REPORT

DATE: October 16, 2023

To: Ellensburg City Council

FROM: Heidi Behrends Cerniwey, City Manager

1. City and IOOF to Apply for CHIP Grant for Affordable Housing Project

Affordable housing is one of the City's priorities in the adopted 2023-2028 City Council strategic vision. The Independent Order of Oddfellows (IOOF) Lodge #20 has requested the City's preliminary support and sponsorship of a Washington State Department of Commerce Connecting Housing to Infrastructure Program (CHIP) grant to support infrastructure construction costs for a 20-30 unit affordable housing project, "Oddfellows Lodge #20 Housing Project", to be located north of Brick Road and west of Pfenning Road in the City limits of Ellensburg. The City has a similar partnership with Habitat for Humanity of King/Kittitas County for a CHIP grant for utility construction at the Stuart Meadows affordable housing project. If awarded by Commerce, the City would be the grant recipient and establish a subrecipient agreement with the Oddfellows organization which would require City Council approval. The Office of Rural and Farmworker Housing (ORFH), development consultant for IOOF, is working with City staff to draft the grant application. The grant application is due October 31, 2023, with award notices expected before the end of 2023.

2. Second Reading of Comprehensive Plan Docket Ordinance on November 20

Ordinance 4926, which was given first reading by the City Council at their October 2, 2023 meeting, will not return for second reading until the Comprehensive Plan Docket item #23-04 is reviewed by the Planning Commission at their November 9, 2023 meeting.