

COUNCIL AGENDA

Monday, September 20, 2021



Ellensburg City Council meetings are broadcast on Charter/Spectrum Channel 191 and available to livestream on Ellensburg Community Television at ectv2.com or on YouTube at ECTV Ellensburg. Members of the public may attend City Council meetings either in person or by registering to attend remotely via video conference.

To attend the study session virtually register here:

https://us02web.zoom.us/webinar/register/WN_SfLPic7QSyiwrmcRD5RaCw

To attend the city council meeting virtually register here:

https://us02web.zoom.us/webinar/register/WN_2IRaU5vRQn6JzHUFZZ3gTA

Face coverings are currently required for persons attending City Council meetings in person per the Washington Governor's proclamation 20-25.17.

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](http://ECTV.Ellensburg). You may also attend by phone, only, and listen to the meeting by following the registration instructions under "Remote testimony during the meeting," below. Once you register, you will be sent a meeting invite 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: leaderb@ci.ellensburg.wa.us. 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: leaderb@ci.ellensburg.wa.us. 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. Register for the meeting at: https://us02web.zoom.us/webinar/register/WN_2IRaU5vRQn6JzHUFZZ3gTA . 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)

1. When recognized, approach the microphone provided on the right side of the room.
2. Please state your name, address, and whether you are representing only yourself or others.
3. Each speaker's comments are to be limited to 3 MINUTES.
4. Submit written comments to the City Clerk.
5. Speakers are cautioned not to make comments of a personal, impertinent or derogatory nature.
6. 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 make comments of a personal, impertinent or derogatory nature.
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). You may wish to concisely state your concern and request placement of your matter on a future agenda.

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 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:

- ◆ 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.
- ◆ Please state your name, address, and whether you are representing only yourself or others.
- ◆ Please limit your comments to 5 MINUTES.
- ◆ Submit written comments to the City Clerk.

AMERICANS WITH DISABILITIES ACT

The City of Ellensburg strives to make our services, programs, and activities readily accessible and usable by individuals with disabilities. Reasonable accommodations will be made upon request. Please furnish the ADA Coordinator with your request in sufficient time for the City to provide a reasonable accommodation. A Request for Accommodation form may be obtained on the first floor of City Hall or by calling the City of Ellensburg ADA Coordinator at 962-7222.

**CITY OF ELLENSBURG
COUNCIL AGENDA
Council Chambers
501 North Anderson Street
Ellensburg, WA 98926
And Remotely via Zoom
Monday, September 20, 2021
6:00 PM – Study Session
7:00 PM - Regular Meeting**

Study Session (no public comment will be accepted)

- | | |
|--|-----------|
| 1. Land Development Code / Zoning Amendments | 8 |
| 9.20.21 Council study session LDC amendments | |
| 2. ATVs and other wheeled devices on public roads | 32 |
| 3. Council Retreat Preparation | 38 |
-

Pledge of Allegiance

- | | |
|--|----|
| 1. Call to Order and Roll Call | |
| 2. Proclamations | |
| 2.A Public Natural Gas and Power Week Proclamation | 39 |
| Public Natural Gas & Power Week Proclamation | |
| 3. Awards and Recognitions | |
| 4. Approval of Agenda | |
| 5. Consent Agenda | |
| Items listed below have been distributed to Councilmembers in advance for study and will be enacted by one motion. If separate discussion is desired on an item, that item may be removed from the Consent Agenda and placed on the Regular Agenda at the request of a Councilmember or at the request of a member of the public with concurrence of a Councilmember. Requests to remove items should be made under Item 4 Approval of Agenda. | |
| 5.A Approve Minutes of September 7, 2021 Regular Meeting | 40 |
| 9-7-21 Regular Mtg Minutes | |
| 5.B Acknowledge Minutes of the Ellensburg Business Development Authority Board - August 11, 2021 | 45 |
| 8-11-21 EBDA Minutes | |

5.C	Acknowledge Minutes of the Lodging Tax Advisory Committee - August 4, 2021 LTAC Minutes 8-4-21	47
5.D	Acknowledge Minutes of the Parks and Recreation Commission - May 12 & July 14, 2021 5-12-21 Parks & Recreation Minutes 7-14-21 Parks & Recreation Minutes	48
5.E	Approve University Way Banner Request for CWU Homecoming 2021 - October 18-24, 2021 CWU Homecoming 2021 Banner Request	52
5.F	Purchase of new Backhoe Loader for Natural Gas Division. (Quote #R21-22) Ellensburg 310SL 2021	53
5.G	Landowner Agreement with the Recreation and Conservation Office for Yakima River Side Channel at Bull Canal Diversion Exhibit A Exhibit B 17-1179 Amend #1 AE Admin Limit Change 17-1179 Amend #2 Special Cond 17-1179 Amend #3 Scope Change - signed	60
5.H	Interlocal Cooperation Agreement Between Kittitas County and the City of Ellensburg for Economic Development Strategic Plan Services Interlocal - Kittitas Co - City Economic Development TIP Strategies (09-20-21) Exhibit A 2021-07-30 TIP Kittitas County WA proposal	117
5.I	Approve Voucher Listing for September 20, 2021 9-20-21 Voucher Listing	127

6. Petitions, Protests, and Communications

6.A	COVID-19 Update	
6.B	Board and Commission Appointments B and C Agenda Report Chart 9-20-21 Lilly Park Application	128
6.C	CenterFuse Semi-Annual Report 2021 Council Presentation Sept Final	132

7. Citizen Comment on Non-agenda Issues

8. Business Requiring Public Hearings

8.A Resolution to Approve Application for Preliminary Plat Approval (P21-039) Elliott Whipple Foster Plat Closed Record Hearing (quasi-judicial)	137
Foster Subdivision Preliminary Plat Resolution	
Exhibit 1 Corrected Hearing Examiners Findings of Fact, Conclusions of Law, and Decision Final Decision	
Exhibit 1.1 Vicinity Map	
Exhibit 1.2 Preliminary Plat Drawing	
Exhibit 1.3 Light Dept Comments	
Exhibit 1.4 Gas Dept Comments	
Exhibit 1.5 Public Works Comments	
Exhibit 1.6 Fire Marshall Comments	
Exhibit 1.7 Ellinger Comment Letter	
Exhibit 1.8 DeSoer Comment Letter	
Exhibit 1.9 Signed MDNS	
Exhibit 1.10 Affidavit of Publication	
Exhibit 1.11 Certificate of Mailing	
Exhibit 1.12 Affidavit of posting	
Exhibit 1.13 Agenda Report to Hearings Examiner	
Exhibit 1.14 Powerpoint Presentation	
Exhibit 1.15 Letter to Hearing Examiner	
Exhibit 2 Legal Notice Closed Hearing	
Exhibit 3 Proof of Sign Posting CC PH	

9. Introduction and Adoption of Ordinances and Resolutions

9.A Second Reading of Ordinance 4878 amending the Frequently Flooded Area regulations of Ellensburg City Code Chapter, Title 15 - Land Development Code	232
Ordinance 4878 - Frequently Flooded Areas Regulations Update	
9.B Resolution to Approve Final Plat Application for the French Subdivision (P21-073)	280
Exhibit 1 Vicinity Location	
Exhibit 2 Final Plat French Subdivision, Pages 1-2	
Exhibit 3 Application Cover Page	
Exhibit 4 July 19, 2021 memo from City of Ellensburg Energy Services	
Exhibit 5 July 19, 2021 comments from City of Ellensburg Public Works	
Exhibit 6 July 13, 2021 comments from KVFR Fire Marshal	
P21-073 French Plat Final Plat Resolution - Findings of Fact	

10. Unfinished Business

11. New Business

12. Miscellaneous

12.A Manager's Report	295
9-20-21 MANAGERS REPORT	

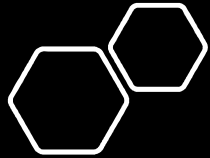
12.B Councilmembers' Reports

13. Executive Session

13.A Per RCW 42.30.140, to consider collective bargaining sessions with employee organizations, including contract negotiations, grievance meetings, and discussions relating to the interpretation or application of a labor agreement

13.B Per 42.30.110(1)(i), to discuss with legal counsel representing the agency matters relating to agency enforcement actions, or to discuss with legal counsel representing the agency litigation or potential litigation to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency.

14. Adjournment



Proposed Land Development Code Amendments

Kirsten Sackett, Community
Development Director

Ellensburg City Council Study Session
September 20, 2021



Background

Ellensburg Comprehensive Plan

- Seven-year Update adopted December 18, 2017 (modified January 19, 2021)
- 20-year plan articulating community vision and reflecting community values
- Addresses anticipated population and employment growth
- Goals, policies, and programs that provide basis for City's regulations and future decision-making



Development of proposed Land Development Code and zoning amendments to support Comprehensive Plan goals, policies, and programs

12 work sessions with
Ellensburg Planning
Commission

- August 2018 -
November 2019

2 discussion sessions
with Ellensburg City
Council

- April 1, 2019
- October 21, 2019

4 public workshops

- May 13, 2019
- May 21, 2019
- May 30, 2019
- July 9, 2019

95 responses to
online and paper
survey

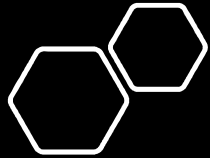
- Open from June –
July 2019



Proposed Amendments

- Amendments to references and language to ensure consistency throughout Ellensburg City Code
- Land Development Code
 - Definitions
 - Zones, maps, and designations
 - Permitted uses allowed in zoning districts
- Zoning district map





Definitions

- Amendments to existing definitions
 - Distinguish between different uses
 - Clarify types of activities included in different uses
- New definitions for clarity and to support other proposed amendments
 - Gateway corridor
 - Light manufacturing
 - Mixed-use
 - Museum
 - Recreation – small scale indoor commercial studio
- Elimination of definitions no longer needed based on other proposed amendments

Zones, maps, and designations

- Organization of chapter to reflect 4 categories of zoning districts:
 - Residential
 - Commercial and Industrial
 - Mixed use
 - Special districts



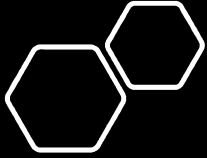
Residential zones and map designations

- Integrate additional housing types (accessory dwelling units, duplexes, townhomes, and cottage housing) into purpose statements for Residential-Suburban and Residential-Low zones
 - Consistent with proposed changes to permitted uses in R-S and R-L zones
 - Consistent with Comprehensive Plan goals to allow for and encourage more diverse housing types



Commercial and industrial zones

- Merge Commercial-Highway and Commercial-Tourist into one zoning district
 - Consistent with Comprehensive Plan
 - Consistent with development patterns and public feedback to allow for more flexibility within commercial zones
 - Include multifamily as a conditional use



Mixed use zones

- Reorganization to include all mixed use zones together
- General purpose statement for mixed use zones
- New mixed use zones
 - Neighborhood Center Mixed Use – smaller scale commercial and employment uses and medium density housing options.
 - Regional Center Mixed Use – larger scale and variety of commercial and employment uses and medium to high density housing options.



Permitted uses allowed in zoning districts



Residential based uses

- Residential-Suburban and Residential-Low Zones
 - Outright permit duplexes regardless of maximum density
 - Allow for manufactured home parks as a conditional use
- Commercial-Highway
 - Multifamily allowed as conditional use
- New mixed use zones
 - Residential based uses consistent with Central-Commercial zone
- Remove restriction that townhouses shall not be located adjacent to existing single-family dwellings



Nonresidential uses

- Residential-Suburban and Residential-Low
 - Allow small scale commercial uses such as: restaurants, coffee houses, small scale retail, personal service establishments, and small scale business and professional offices
- Residential-Office
 - Remove restrictions on existing permitted commercial uses regarding adjacency to street corners and within a mixed use building
 - Allow for laundromats and dry cleaners and small scale business or professional offices

Nonresidential uses

- Commercial-Highway
 - Merge Commercial-Tourist and Commercial-Highway into one zoning district
 - Wide variety and scale of nonresidential uses
- Industrial – Light and Heavy
 - Allow for public transportation passenger terminals
- Neighborhood Center Mixed Use
 - Allow for small to medium intensity commercial uses
- Regional Center Mixed Use
 - Allow for a range of commercial uses similar to Commercial-Highway zone



Nonresidential uses



- New uses to address goals of comprehensive plan and to provide clarity around ongoing issues
 - Light Manufacturing
 - Laundromats and dry cleaners
 - Automobile fueling
 - Separation of Restaurants, bars, and brewpubs into two separate uses
 - Recreation – small scale indoor studios
 - Theaters
- Elimination of uses to provide clarity around ongoing issues
 - Outlet center
 - General service establishments

Building setback and intensity standards

- Reorganization into Residential; Commercial and Industrial; and Mixed Use zones consistent with other chapters
- New mixed use zones
 - Neighborhood Center Mixed Use
 - Density minimums consistent with Residential-Medium zone
 - Other building setback and intensity standards consistent with Central-Commercial zone
 - Regional Center Mixed Use
 - Density minimums consistent with Residential-High zone
 - Other building setback and intensity standards consistent with Central-Commercial zone
- Central-Commercial
 - Raise maximum building height to from 45 feet to 60 feet
- Central-Commercial II
 - Reduce maximum building height from 70 feet to 60 feet

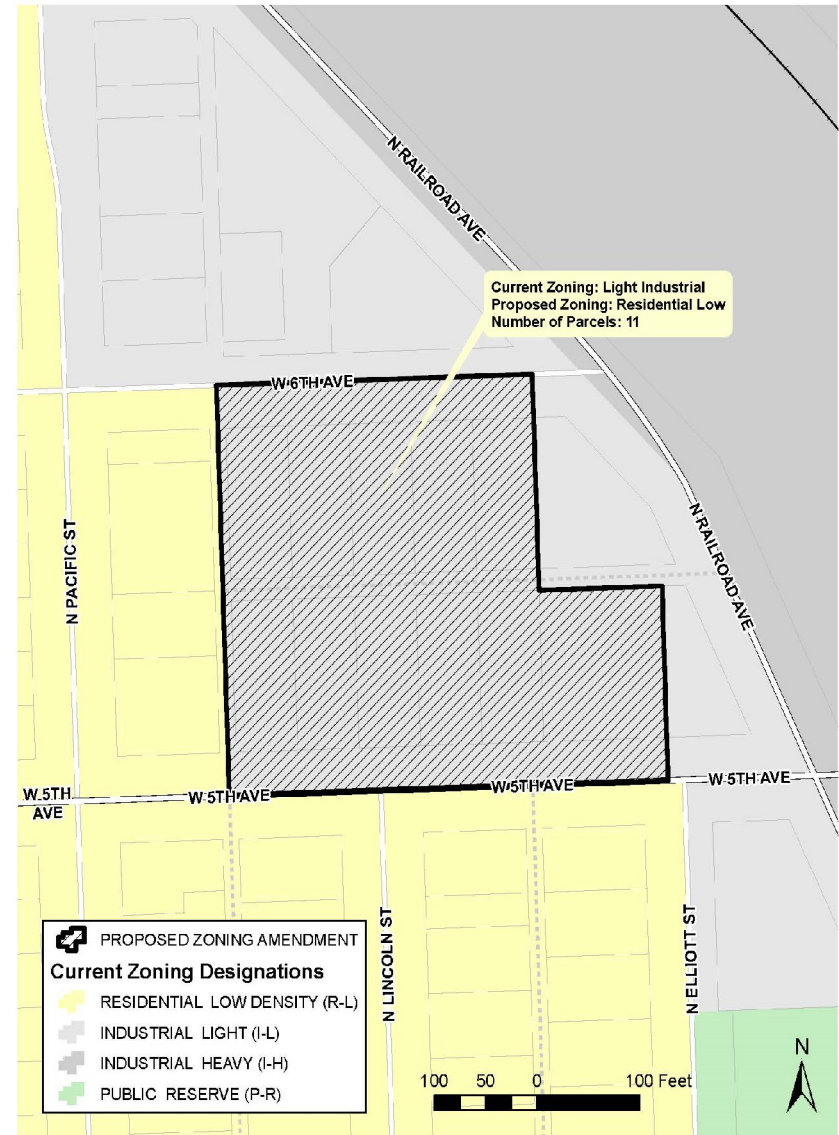


Zoning Maps



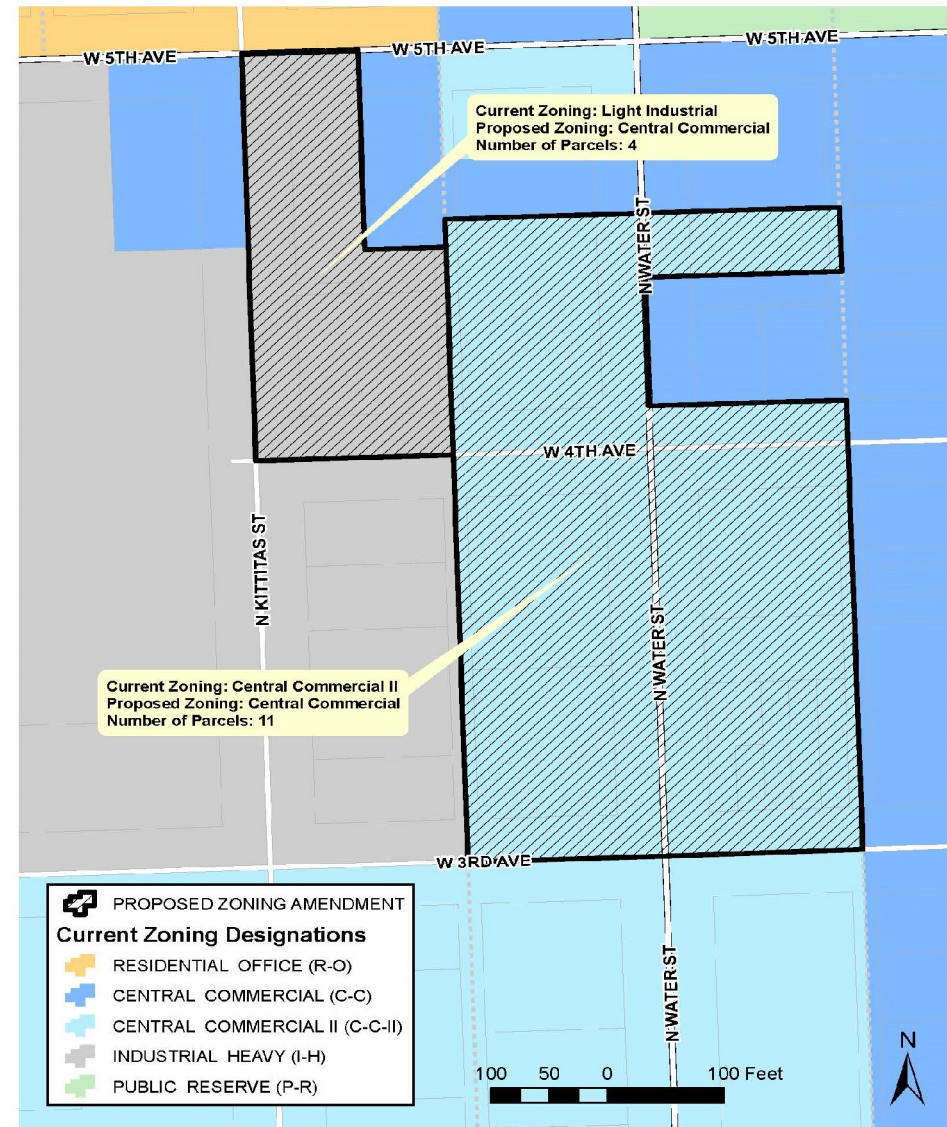
West Ellensburg

- Currently zoned Light Industrial
- Residential-Low zone proposed
- Implement Residential Neighborhood Comprehensive Plan designation
- Reflect current single family home developments



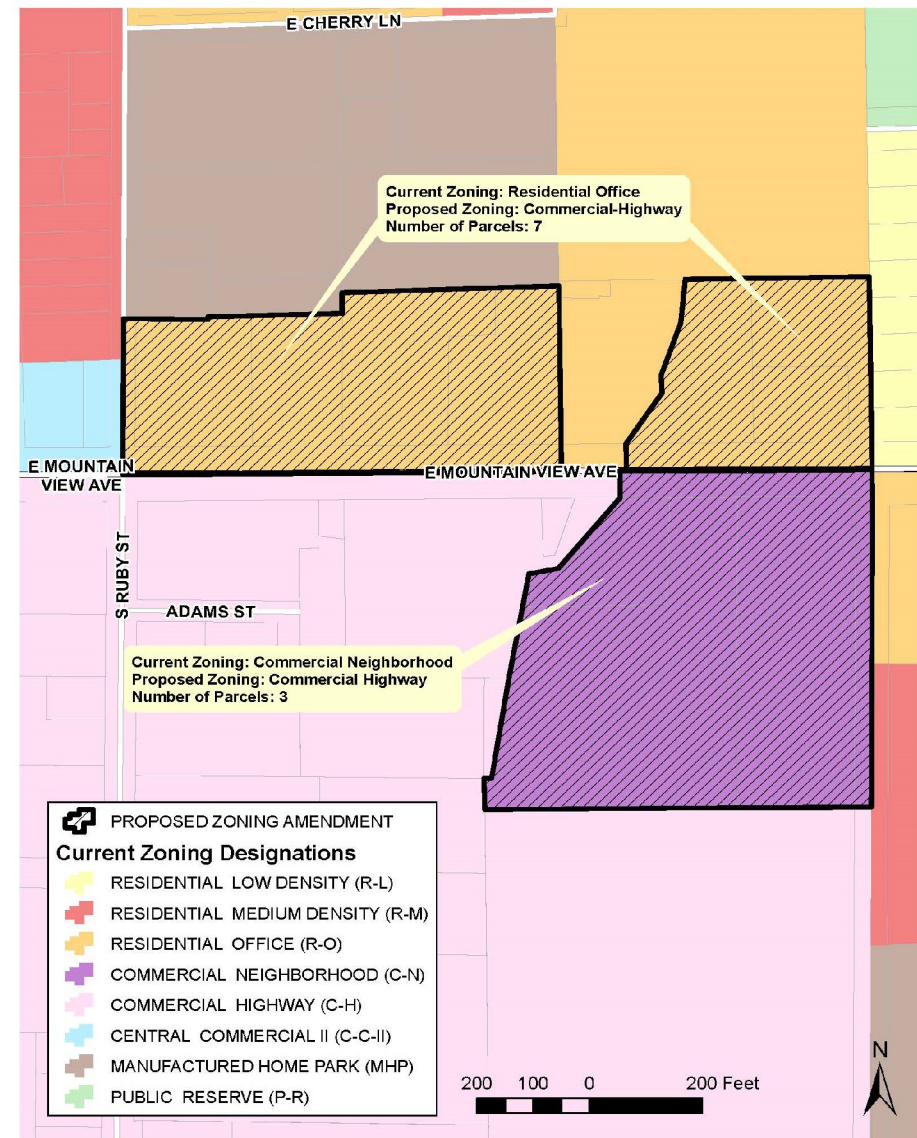
Downtown Ellensburg

- Currently zoned Light Industrial and Central-Commercial II
- Proposes Central-Commercial zone
- Implement Urban Center Comprehensive Plan designation
- Expand opportunities for multifamily and mixed use development through reduced parking requirements and expansion of MFTE program



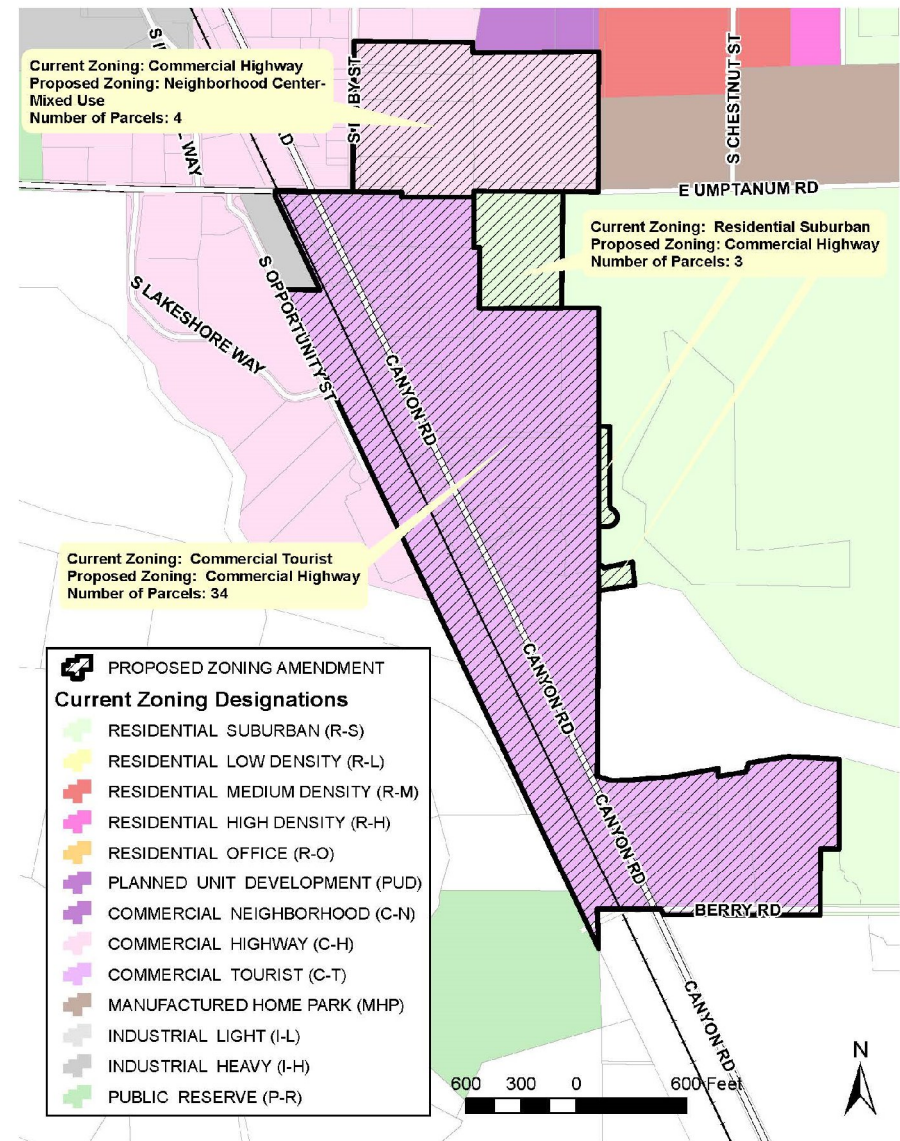
Mountain View Avenue

- Currently zoned Residential-Office and Commercial Neighborhood
- Propose Commercial-Highway zone
- Provide more flexibility of commercial uses that follow development patterns
- Implement comprehensive plan goals for variety of commercial uses accessible to neighborhoods



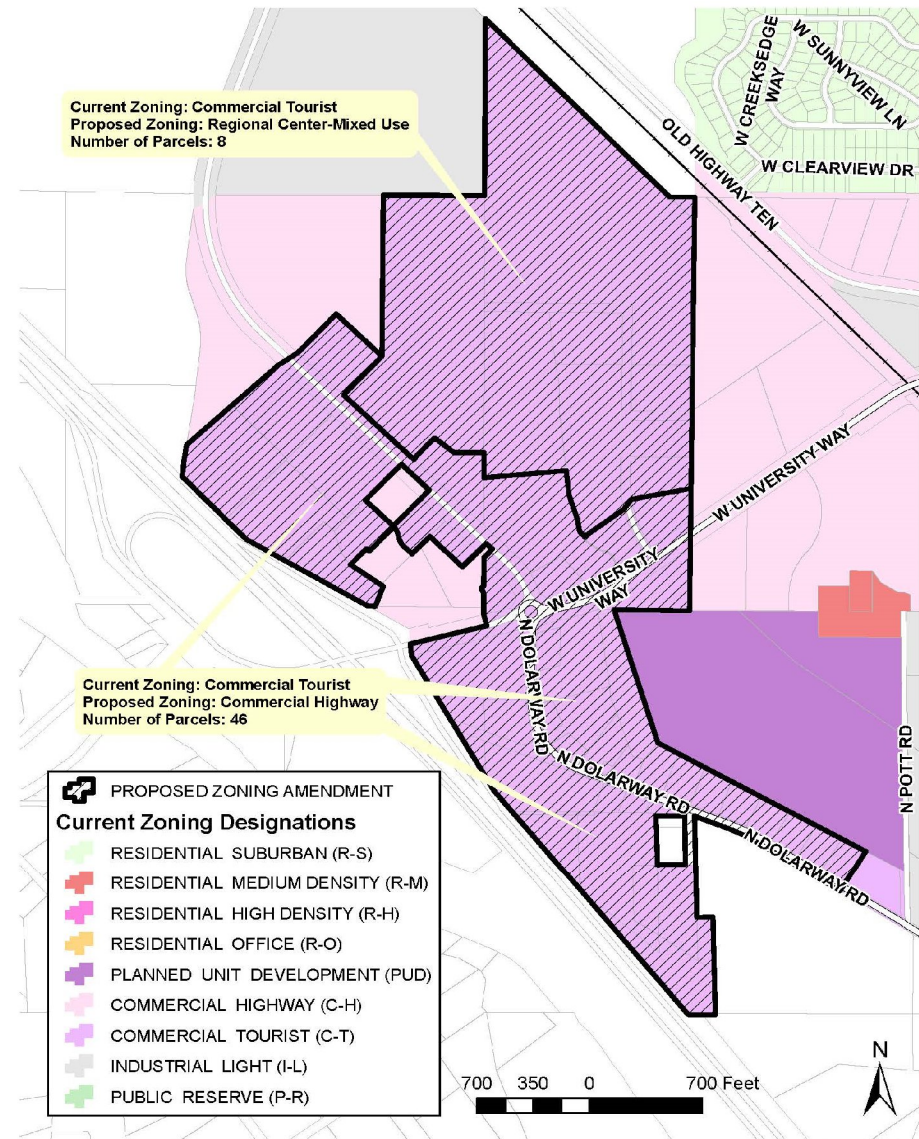
Canyon Road

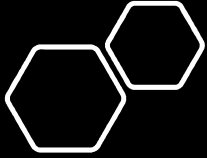
- Currently zoned Residential-Suburban, Commercial-Tourist, and Commercial-Highway
- Proposed Commercial-Highway and Neighborhood Center Mixed Use
- Implement the Community Mixed use comprehensive plan designations
- Implement comprehensive plan goals for compact, livable, and walkable mixed use centers



West interchange

- Currently zoned Commercial-Tourist,
- Propose Commercial-Highway and Regional Center Mixed Use
- Implement the Community Mixed use comprehensive plan designations
- Implement comprehensive plan goals for compact, livable, and walkable mixed use centers





Other related ordinances

- Sign Code amendments to reflect Land Development Code changes
 - Include new mixed use zoning districts
 - Elimination of Commercial-Highway zone
 - Maximum height for all signs – 35 feet
 - No off-premises signs allowed
- Site specific rezones to reflect zoning review for consistency with ownership, development patterns, planned future use, and comprehensive plan
 - 11 City owned parcels
 - 13 – 16 Privately owned parcels

Next steps



Initiate state environmental review



Submit to Department of Commerce for 60-day review



Public hearing with Planning Commission



Public hearing and consideration for Council adoption

Questions?



CITY COUNCIL AGENDA REPORT

City Council Meeting Date: September 20, 2021

Item Title/Agenda Subject: ATVs and other wheeled devices on public roads

Submitted by: Dan Hansberry Police

Recommended Action or Motion: Informational Report Only

Background/Summary:

This informational report is a summary of the current laws and regulations for the use of off-road vehicles, electronic assisted bicycles and motorized foot scooters within the city limits. In recent years each of these devices have become more and more popular as an alternate form of transportation and recreation.

There has been several changes over the past few years regarding the authority to operate off-road vehicles (also known as Wheeled All-Terrain Vehicles or ATVs) on public roads. The most relevant change in these laws for the City of Ellensburg is the ability for the City to adopt an ordinance to allow ATVs on city streets, with a few exceptions. At this time ATVs are not allowed on city streets but are allowed on adjoining county roads with some limitations.

Previous Council Action: None

Analysis:

Basic ATV regulations should the City adopt an ordinance authorizing the use of ATVs on city streets:

- ATVs can only be operated on roads where the speed limit for all types of vehicles is 35 mph or lower.
- ATVs can only be ridden within the city if the council formally approves the use on specific roads, and the list of approved roads must then be made accessible from

the main page of the city's website.

- ATV drivers must possess a driver's license and all riders must wear helmets
- ATV must be licensed through the Washington State DOL
- ATVs must have required equipment similar to that of street legal motorcycles
- ATVs must follow all laws and rules of the road as other vehicles

E-bikes, Motorized Foot Scooters and Electric Personal Assistive Mobility Devices (EPAMD) classifications and regulations.

Electronic assisted bicycles (e-bikes) and motorized foot scooters are becoming more and more popular within the city. The use of e-bikes and motorized foot scooters can be restricted in certain areas, similar to the restrictions on bicycles and other recreational wheeled devices (skateboards) to include downtown sidewalks, certain areas within city parks, etc. Chapters 8.48 and 8.50 of the Ellensburg City Code addresses these restrictions for bicycles, motorized foot scooters and other recreational wheels.

There are three classifications of e-bikes:

"Class 1 electric-assisted bicycle" means an e-bike in which the motor provides assistance only when the rider is pedaling and ceases to provide assistance when the bicycle reaches the speed of 20 mph.

"Class 2 electric-assisted bicycle" means an e-bike in which the motor may be used exclusively to propel the bicycle and is not capable of providing assistance when the bicycle reaches the speed of 20 mph.

"Class 3 electric-assisted bicycle" means an e-bike in which the motor provides assistance only when the rider is pedaling and ceases to provide assistance when the bicycle reaches the speed of 28 mph and is equipped with a speedometer.

Motorized Foot Scooter definition:

"Motorized foot scooter" means a device with two or three wheels that has handlebars, a floorboard that can be stood upon while riding, and is powered by an internal combustion engine or electric motor that has a maximum speed of no greater than twenty miles per hour on level ground.

EPAMD definition:

"Electric personal assistive mobility device" (EPAMD) means a self-balancing device with two wheels not in tandem, designed to transport only one person by an electric propulsion system with an average power of seven hundred fifty watts (one horsepower) having a maximum speed on a paved level surface, when powered solely by such a propulsion system while ridden by an operator weighing one hundred seventy pounds, of less than twenty miles per hour or a self-balancing device with one wheel designed to transport only one person by an electric propulsion system with an average power of two thousand watts (two and two-thirds horsepower) having a maximum speed on a paved level surface, when powered solely by such a propulsion system, of less than twenty miles per hour.

Restrictions on use

Local restrictions may limit the access of e-bikes, motorized foot scooters and EPAMDs within facilities, properties, and rights-of-way under the City's jurisdiction and control. Local regulation of the operation of class 1 or class 2 e-bikes upon a shared use path, designated for the use of bicycles that crosses jurisdictional boundaries of two or more local jurisdictions, must be consistent for the entire shared use path in order for the local regulation to be enforceable.

Except as otherwise authorized, an individual shall not operate an e-bike or motorized foot scooter on a trail that is specifically designated for nonmotorized use and that has a natural surface tread that is made by clearing and grading the native soil with no added surfacing materials.

Operation of a motorized foot scooter or class 3 e-bikes on a sidewalk is unlawful, unless there is no alternative to travel over a sidewalk as part of a bicycle or pedestrian path, or if authorized by local ordinance.

Public Safety

Public safety concerns with ATV usage on public roads has been a concern raised throughout the state when the legislatures first enacted rules and laws allowing such use. In preparation for a possible city ordinance related to the requirements of Chapter 46.09 RCW, I posted on the WASPC forum soliciting any information from agencies within jurisdictions that have already adopted the RCW. I asked for any collision information or public safety issues related to ATV

use on public roads.

I received feedback from the following agencies; Connell Polcie Department, Kitsap County Sheriff's Office, Pullman Police Department, Electric City Police Department and the Othello Police Department.

None of these agencies reported any correlation between ATV use on public roads and a rise in vehicle/pedestrian collisions within their jurisdictions, though many have only recently had the RCW adopted. One of the responding agencies was the Pullman Police Department. Their only ongoing concern was the repeated public education to their Washington State University students on the lawful and unlawful use of ATVs on public roads. This is due to the annual incoming freshman class population and newly transferred students.

Kittitas County is another jurisdiction that has been allowing the use of ATVs on approved public roads since 2014. They have not had any serious ATV related collisions on paved public roads. They receive a few driving complaints each year but don't have any ongoing issues with ATV use on approved roads.

I am not aware of any statewide collision data specifically related to ATV collisions on public roads, though I suspect that information is being gathered. As you know the reporting of such detailed statistics are often two to three years beyond the collection year. For example, the United States Consumer Product Safety Commission's 2020 report of ATV related deaths and injuries is based on 2018 data. This is an extensive report, however will be more focused on off-road recreational use of ATVs.

Based on my research I am unable to provide any objective

facts to support a public safety concern related to lawful ATV use on public roads, due in part to the relatively recent adoption of the law within similarly sized, and geographically located, jurisdictions. Strategic planning with our traffic safety program will be needed to lessen any concerns raised related to ATV use on public roads. This would include annual education and strict enforcement of the rules and laws governing ATV use on public roads.

The Ellensburg Police Department has had few to no complaints on the use of ATVs, e-bikes or motorized foot scooters. Officers have made a handful of contacts in recent years with individuals operating ATVs within the city under the impression that they were authorized to do so.

Financial Impact:

None



CITY COUNCIL AGENDA REPORT

City Council Meeting Date: September 20, 2021

Item Title/Agenda Subject: Council Retreat Preparation

Submitted by: Heidi Behrends Cerniwey City Manager Department

Recommended Action or Motion: This is a discussion item only.

Background/Summary: This is an opportunity to discuss any final information requests or concerns in advance of the upcoming Council Retreat.

Previous Council Action: A City Council Retreat is scheduled for Friday, September 24, 2021, at Central Washington University's Wellington Event Center, from 8:00 a.m. to 4:30 p.m.

Analysis: N/A

Financial Impact: None.



City of Ellensburg

PROCLAMATION

Public Natural Gas and Power Week

WHEREAS, the City's natural gas and electric utilities provide our homes and businesses with clean, reliable, efficient, and low-cost services, and as customers and owners of our utilities we have a direct say in utility policies, rates, and services; and

WHEREAS, the City's natural gas and electric utilities are a valuable city asset that contribute toward making our community a better place in which to live and work through energy efficiency, customer service, environmental stewardship, and economic development; and

WHEREAS, the City's natural gas and electric utilities are carried out in a transparent, dependable, trustworthy, and businesslike manner;

NOW THEREFORE, BE IT FURTHERMORE RESOLVED that the City Council of Ellensburg does hereby proclaim October 3-9, 2021, as "Public Natural Gas and Power Week" and expresses its appreciation for the volunteers serving on the Utility Advisory Committee and all City employees that contribute to the continuing success of the natural gas and electric utilities.

Signed this 20th day of September, 2021.

Mayor

Attest: _____
City Clerk



CITY OF ELLENSBURG

Date of Meeting

Time of Meeting

Place of Meeting

Minutes of City Council, Regular Meeting

September 7, 2021

7:00 PM

Council Chambers 501 North Anderson Street

Ellensburg, WA 98926

and remotely via zoom

Pledge of Allegiance

Councilmember Elliott led the Pledge of Allegiance

1. Call to Order and Roll Call

Roll Call Present: Tristen Lamb, Nancy Lillquist, David Miller, Mary Morgan, Bruce Tabb, Rich Elliott

Present remotely via Zoom: Nancy Goodloe

Others present in person: City Manager Behrends Cerniwey; City Attorney Weiner; City Clerk Leader and approximately five members of the public

Others present remotely via Zoom: Executive Assistant Gigstead; Police Chief Wade; Sr. Financial Analyst/Budget Officer Bassett; Assistant City Engineer Mattson; Community Development Director Sackett; Planning Manager Ayling; Library Director Camarillo; KITTCOM Director, George Long and four members of the public

2. Proclamations

2.A. Childhood Cancer Awareness Month Proclamation

Councilmember Lamb read the proclamation.

Councilmember Rich Elliott moved to Approve the Mayor to sign the proclamation.

Motion Approved 7-0.

2.B. 9-1-1 Day Proclamation

KITTCOM Director, George Long, read the proclamation.

Councilmember Rich Elliott moved to Approve the Mayor to sign the proclamation.

Motion Approved 7-0.

2.C. Constitution Day and Citizenship Day 2021 Proclamation

Teresa Plue read the proclamation.

Councilmember Rich Elliott moved to Approve the Mayor to sign the proclamation.

Motion Approved 7-0.

2.D. Hispanic Heritage Month Proclamation

Veronica Acevedo was present to read the proclamation in Spanish.

Councilmember Morgan read the proclamation in English.

Councilmember Mary Morgan moved to Approve the Mayor to sign the proclamation.

Motion Approved 7-0.

3. Awards and Recognitions

4. Approval of Agenda

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

5. Consent Agenda

5.A. Approve Minutes of August 16, 2021 Regular Meeting

5.B. Approve Minutes of August 16, 2021 Study Session

5.C. Acknowledge Minutes of the Diversity, Equity and Inclusion Committee - July 27, 2021

5.D. Acknowledge Minutes of the Diversity, Equity and Inclusion Committee - August 10, 2021

5.E. Acknowledge Minutes of the Ellensburg Business Development Authority Board - July 14, 2021

5.F. Acknowledge Minutes of the Utility Advisory Committee - July 15, 2021

5.G. Resolution 2021-27 - 201 W 10th Ave. – David and Emily Johnson street tree removal

5.H. Consideration of Approving the Service of Alcohol at the CASA Rocks - Cornhole Tournament

5.I. Dolarway (D1) Substation Design and Improvements Agreement for Professional Services

5.J. Pearl Street Promenade Analysis and Budget Adjustment

5.K. Multifamily Housing Limited Property Tax Exemption Final Certificate for Patricia Place Center

5.L. Approve Voucher Listing for September 7, 2021

Councilmember Mary Morgan moved to Approve Consent Agenda as presented. **Motion Approved 7-0.**

6. Petitions, Protests, and Communications

6.A. COVID-19 Update

Councilmember Lamb gave a report.

6.B. Ellensburg Police Department 2020 Crime Report

Ellensburg Police Chief, Ken Wade, reviewed the report. Council requested continued updates on any legislative changes concerning police reform.

6.C. Board and Commission Applications.

Lilly Park was present remotely. She introduced herself and spoke regarding her interest in serving on the Senior Citizen Advisory Commission.

7. Citizen Comment on Non-agenda Issues

There were no comments from the public.

8. Business Requiring Public Hearings

8.A. Public Hearing to Consider Annexation Request – parcels 916833, 708633, 698633 528633 located on the west side of Anderson Rd approximately 900 feet north of Umptanum Rd. (legislative) and first reading of an ordinance approving petition for annexation P21-066

The Mayor opened the public hearing. Planning Manager, Jamey Ayling, presented information in the staff report.

With no questions or comments from the public or Council, the Mayor closed the public hearing.

Councilmember Nancy Lillquist moved to Approve annexation request P21-066 for parcels 916833, 708633, 698633 & 528633 located on the west side of Anderson Rd approximately 900 feet north of Umptanum Rd.; and simultaneous adoption of Light Industrial zoning. **Motion Approved 7-0.**

Councilmember Nancy Lillquist moved to Approve conducting first reading of Ordinance 4877. **Motion Approved 7-0.**

8.B. Public Hearing (legislative) and First Reading of an Ordinance for proposed amendments to Ellensburg City Code pertaining to Frequently Flooded Areas Regulations in Title 15, the Land Development Code

The Mayor opened the public hearing. Community Development Director, Kirsten Sackett, presented information in the staff report and explained the changes in the proposed ordinance.

The City Attorney explained the ordinance would need to take effect as of September 24, 2021.

With no questions or comments from the public or Council, the Mayor closed the public hearing.

Councilmember Rich Elliott moved to Approve conducting first reading of Ordinance 4878. **Motion Approved 7-0.**

9. Introduction and Adoption of Ordinances and Resolutions

9.A. Second Reading of Ordinance 4875 - Amending the 2021/2022 Biennial Budget
Sr. Financial Analyst/Budget Officer, Keith Bassett, presented information in the staff report.

Councilmember David Miller moved to Approve second reading and adoption of Ordinance 4875 amending the 2021-2022 budget. **Motion Approved 7-0.**

9.B. Ordinance 4876 – Second Reading for Title 14, Traffic Impact Fees (TIF)
Revisions

Assistant City Engineer, Josh Mattson, presented information in the staff report.

Councilmember Mary Morgan moved to Approve second reading and adoption of Ordinance 4876 revising Title 14, Impact Fees. **Motion Approved 7-0.**

10. Unfinished Business

10.A. Affordable Housing Commission Recommendation on City Property Contribution for Affordable Housing.

Planning Manager, Jamey Ayling, presented information in the staff report.

Councilmember Rich Elliott moved to Approve Authorizing the Mayor's signature on the award letter to Stalder Interests and provide staff direction to initiate contract negotiations with Stalder Interests upon receipt of signed acknowledgement of conditions for option one as proposed. **Motion Approved 4-3.**

Councilmember Rich Elliott moved to Approve directing staff to proceed with preparing a resolution to surplus the two parcels needed for contribution to the Stalder Interests project for consideration by City Council at a future meeting. **Motion Approved 7-0.**

11. New Business

11.A. 2021/2022 Arts Commission Spending Plan

Library Director, Josephine Camarillo, presented information in the staff report.

Councilmember Mary Morgan moved to Approve the 2021/2022 Arts Commission Spending Plan as presented and approve the necessary budget adjustments. **Motion Approved 7-0.**

12. Miscellaneous

12.A. Manager's Report

The City Manager reviewed the report. Councilmembers Miller, Goodloe and Mayor Tabb will serve on the committee to review grant applications.

12.B. Councilmembers' Reports

- Councilmember Elliott spoke regarding the vaccination mandate and how it's affecting Kittitas Valley Fire and Rescue staff;
- Councilmember Goodloe attended the Law and Justice Council, Utility Advisory Committee, Mt. Stuart dedication ceremony and Overdose Awareness Day service;
- Councilmember Lillquist attended the Utility Advisory Committee, Mt. Stuart dedication ceremony and Overdose Awareness Day service;
- Councilmember Morgan spoke about a presentation regarding city email accounts to Lodging Tax Advisory Committee members;
- Mayor Tabb recognized the efforts of many to put on the fair and rodeo this year. He participated in Ask the Mayor at the Farmers Market, moderated a Town Hall meeting for Representative Schrier, and attended a meeting regarding the passenger rail service. He reminded Council of the study session scheduled for September 20, 2021.

13. Executive Session

14. Adjournment

Meeting adjourned at 9:28 pm

Mayor

ATTEST:

City Clerk



Centerfuse

Ellensburg Business Development Authority BOARD OF DIRECTORS MEETING MINUTES

Regular meeting held synchronously in-person and virtually
Wednesday, August 11, 2021
4:00-5:30 PM

Members in Attendance: James Jankowski, Chair; Linda Schactler, Vice Chair; Grant Clark, Treasurer; Garrett Poshusta, Secretary; John Perrie, Board Member; Jared Vallejo, Board Member; and Del Bankston, Board Member

Excused: Andreas Bohman, Board Member

Others present: Margaret Reich, Executive Director

1. Meeting Called To Order

Meeting was called to order at 4:01 PM

2. Approval of Agenda

Motion to approve the meeting's agenda by Linda Schactler, second by Grant Clark. Motion approved by unanimous vote.

3. Approval of Minutes

Motion to approve July 2021 regular meeting minutes by John Perrie, second by Del Bankston. Motion approved by unanimous vote.

4. Board Business

- a. The board discussed the board application process and assigned board members John Perrie and Del Bankston to work with staff to confirm/edit online application form. Once complete, all applicants will be asked to complete the online form in lieu of the general board application.

The board determined that the current residency requirements for board officers and members work; no changes.

- b. Financial Reports
Board Treasurer, Grant Clark, presented financial reports.

- c. Strategic Plan Implementation Update



Executive Director Margaret Reich presented matters for board consideration and questions to the board including CenterFuse's role in broadband, grant applications and the recommendation to the city to pursue Tax Increment Financing. The board also confirmed their interest in meeting with Ellensburg City Council on September 20th to deliver our second annual report.

d. Board priorities and resource allocations discussion

Board Chair Jankowski facilitated a discussion about focusing staff efforts and the board unanimously affirmed the intentional pursuit of business recruitment.

5. Items for Future Consideration

The board confirmed September 20th for a report to Ellensburg City Council, and for staff to write the updates to the comprehensive plan.

6. Adjournment – time 5:30 Motion to adjourn by Linda Schactler.

Drafted: 8/17/2021

Approved:



Submitted by: Margaret Reich

LODGING TAX ADVISORY COMMITTEE

August 4, 2021 (2:09 p.m. to 2:40 p.m.)

Members Present: Steve Townsend, Monica Miller, Marie Smith, Lacie Dawson, Jim Nale and Mary Morgan (2:10 p.m.)

Members Absent: Matt Anderson

Others Present: Laurie Gigstead, Executive Assistant, Madison Ford, Director of Tourism – Chamber of Commerce, and Nicole Klauss, Public Information Officer.

1. **Delegate Presiding Officer.** Moved and seconded (Smith/Nale) to delegate Steve Townsend as the presiding officer as the Chair and Vice Chair were not in attendance. Motion approved.

Call to Order. Steve Townsend called the meeting to order at 2:09 p.m.

2. **Minutes of the July 7, 2021 meeting.** Moved and seconded (Nale/Smith) to approve minutes as written. Motion approved.
3. **Correspondence and Public Comment Period.** None.
4. **Unfinished Business.**
 - A. **Budget/Financials Review.** Reviewed and acknowledged. Monica asked when the members would discuss the 13% contribution. Laurie advised that the 13% allocation is part of an interlocal agreement for the consolidated lodging tax process that was approved by the City Council.
 - B. **Tourism Report.** Madison reviewed the July data and discussed a recent survey of businesses regarding Sunday operations.
5. **New Business.**
 - A. **Discuss 2022 Consolidated Lodging Tax Process.** The members discussed this year's consolidated process. The Chamber will provide a scoring review at the October 6, 2021 meeting. Member scores need to be completed no later than October 25, 2021. City LTAC scores will be reviewed at the November 3, 2021 meeting that will begin at 1:00 p.m.

Moved and seconded (Nale /Morgan) to confirm the City of Ellensburg's thirteen percent (13%) allocation in the amount of \$45,842.75.

Next meeting will be **September 1, 2021 at 2:00 p.m.** in the Council Conference Room at City Hall.

With no further business, the meeting was adjourned at 2:40 p.m.

Respectfully submitted,
Laurie Gigstead
Recording Secretary

Drafted: 08/04/2021
Approved: 09/01/2021

**Parks & Recreation Advisory Commission
Meeting Minutes – May 12, 2021**

DATE OF MEETING: May 12, 2021
MEMBERS PRESENT: Laci Harrison, Dan Witkowski, Shari Smith, Fiona Corner
OTHERS PRESENT: One member of the public, Council Liaison Engle, Parks & Recreation Director Case
LOCATION: Meeting was held via Zoom

CALL TO ORDER – Commission Chair Harrison called the meeting to order at 5:30pm.

MEETING MINUTES - The meeting minutes from the March 10, 2021 meeting were approved as written. ***All in favor.***

OLD BUSINESS

Request from Ellensburg Youth Rugby Program– Bob Ford, Ellensburg Youth Rugby Program, provided the commission with a report on the success of the inaugural youth rugby program which consisted of over 100 kids ages 12-18. Mr. Ford requested support to continue with the development of rugby field at West Ellensburg Park by removing the existing baseball backstop fencing, dugouts, and turfing the infield dirt areas at the West Ellensburg Park baseball field. Follow up phases could include reconfiguring parking and new bathroom/concession/storage building. Repurposing existing park space into a higher better use was identified as a community priority in the park comprehensive plan update.

As previously mentioned, for the last five years all formal baseball activities have shifted to the two full sized baseball fields at Rotary Park, which are located immediately adjacent to West Ellensburg Park. Repurposing existing park space at West Ellensburg Park into a higher better use was identified as a community priority in the park comprehensive plan update. Staff will perform additional public outreach about the conversions of the baseball field into a multi-use space.

A motion was made and seconded to support removing the existing baseball backstop fencing, dugouts, and turfing the infield dirt areas if feedback from the public is supports the recommendation. ***All in favor.***

Project Updates

- **Downtown Park** – The City received permission to demo the drive thru bank structure. This work will take place sometime after June 15th in order to avoid impacts to the downtown while CWU is still in session. Next steps from a planning prospective is to hire a landscape architect to complete the master planning process. Upon completion of the plan staff will be able to move forward with identifying funding sources.

A recommendation was made to make sure in the outreach effort to engage law enforcement on the impact the bank building, if left, would have on policing efforts. Another request was vetting the fiscal impact of building a new restroom versus renovating the existing space into public restrooms, storage and possible box office/ticket window. The cost to build new may be less than renovating existing and It's important that the community understand that if this is the decision the City makes moving forward.

- **Park Comprehensive Plan Update** – City staff will be looking at the feasibility of updating the park plan in house without the assistance of consultant. Many of the items identified in the current park plan are still true and staff believes the new plan can be built large upon the existing plan.
- **Community Center** – staff has been contacted by members of the public who are putting together an organized effort to develop an indoor recreation space at Rotary Park patterned after a field house design. This idea is differs from a community recreation center in that it solely provides space for athletic courts, athletic activities, and indoor field space.
- **COVID & Recreation Programming and Facility Operations** – staff is putting together plans for summer recreation programming based on the most recent information from the Governors office, these plans include:
 - Stan Bassett Youth Center – summer camp/drop in program with local walk field trips planned. This program would be free to the community.
 - Kittitas Valley Memorial Pool & Fitness Center – implementing recreation swims back into the schedule, expanding the swim lesson program
 - Adult Activity Center – The Center is reopening the week of May 17th with minimally programming; no drop-in hours are planned, all participants must preregister for activities
 - Recreation Programming – events that are being planned include ‘Great American Campout’, expanded concerts in the park summer series, drive in movies, and the Gladiator Dash

COMMISSION MEMBER REPORTS

Commissioner Witkowski asked about some work that was done along the Irene Rinehart Riverfront Park levy, specifically why there was large rubber mats entangled in some of the root wads and the unevenness of the ground in that area as a result of the work that was performed.

STAFF REPORT – 1. Heidi Behrends Cerniwey, the new Ellensburg City Manager, will begin work Monday, May 17, 2021. 2. The summer operating status of the Ellensburg Racquet & Recreation Center is being reviewed. Hours will be contingent on community access to local tennis courts. The plan is to have the center open a few hours a week to accommodate racquetball play since there are no other racquetball options in the community. 3. At North Alder Street Park a bench was removed from the park but later recovered from the adjacent apartment complexes. Some turf at North Alder Street Park was damaged as a result of snow mold, hopefully the turf in time will recover. 4. To date McElroy Park has not been impacted by local flooding. 5. Two weeks ago staff participated virtually in the Washington Recreation and Park Association annual conference. Staff discussed a session on industry trends which included composting methods never seen before. 6. Ellensburg City Council officially named the downtown park ‘Unity Park’. Council liaison Engle complimented Commission Chair Harrison on her participation in the Council meeting and that her input was heavily weighted in their decision-making process.

ADJOURNMENT - The meeting was adjourned at 6:55pm.

**Parks & Recreation Advisory Commission
Meeting Minutes – July 14, 2021**

DATE OF MEETING: July 14, 2021
MEMBERS PRESENT: Laci Harrison, Dan Witkowski, Ali Brown, Fiona Corner
OTHERS PRESENT: Council Liaison Engle, Parks & Recreation Director Case
LOCATION: Meeting was held via Zoom

CALL TO ORDER – Commission Chair Harrison called the meeting to order at 5:30pm.

INTRODUCTION OF NEW COMMISSION MEMBER – Ali Brown introduced herself to the Commission.

MEETING MINUTES - The meeting minutes from the May 12, 2021 meeting were approved as written. *All in favor.*

NEW BUSINESS – Update of 6 Year Capital Improvement Schedule – City staff introduced the six-year capital improvement schedule to the Commission and explained that this was a document that is updated each year. The Commission requested that staff send out the itemized list of park improvements for each park that was identified in the Park, Recreation and Open Space Plan. The CIP is used to help prioritize capital improvement projects. At their August meeting the Commission will discuss and make recommendations to the 2022-2027 plan.

Project Updates

- **Downtown Park & Reed Park** – At their June 1st Council meeting the Council authorized additional funding for the development of the master plans for Unity Park and Reed Park. With the additional funding planning for these projects will begin later this summer.
- **Tennis Courts** – after much discussion the eight tennis courts at Central Washington University were opened to the public in mid-June which had been previously closed to non-CWU students and recreation center members. The temporary closure brought to light the importance of building public tennis courts, without the CWU courts there are no outdoor tennis courts in Ellensburg. City and Ellensburg School District staff have started the discussions about a partnership project to build 6 courts at Mt. View Park that would be utilized by the high school tennis program in the spring.
- **Park Partnership Program** – the city will be taking applications through August 31st, there is a little over \$15,000.00 available in the program. Staff will work Nicole Klauss, the City of Ellensburg Public Information Officer, about getting information out to the community about the program, highlighting previous projects that have received funding.
- **Summer Programming** – staff provided an update on summer programs.
 - The KVMP is no longer requiring preregistration.
 - The Stan Bassett Youth Center can have up to 20 kids per day, all participants must pre-register, with activities taking place at the center and around town.
 - The ERRC is open in the evening M-R and Saturday mornings.

- Summer concert series kicks off July 22nd at North Alder Street Park with concerts taking place every Thursday through August 26th.
- As of July 1st, park picnic shelters were available to reserve. Since the onset of COVID-19 the city has not taken shelter reservations.
- The Gladiator Dash will be offered Saturday, August 7th at Rotary Park. This event typically draws up to 300 participants.

COMMISSION MEMBER REPORTS

Harrison asked about the Skyhawks sports camp taking place at Veterans Memorial Park and why the campers weren't able to swim as a part of the camp.

Brown asked about commission members having designated parks. It was determined that it would be better to wait until at least two of the three open commission member positions were filled before designating parks to members.

Commissioner Witkowski about any past or future plans to provide recycling at the parks. Staff stated that years ago, through a partnership with Kittitas County Solid Waste there were large recycle containers placed at Rotary Park. Council member Engle spoke on the issue from her perspective as a member the Solid Waste Advisory Committee, stating that there are many challenges and issues associated with recycling and that it would be extremely difficult to implement a program in city park facilities.

STAFF REPORT – 1. Staff discussed some recent social media posts where someone using IRRP was concerned for their safety while using the trail. Parks & Recreation staff were in communication with the Ellensburg Police Department about the incidents and as a follow up extra bike patrols were implemented. **2.** For the first time in twenty years the overlook at Reed Park for an event at the Fairgrounds other than Fair & Rodeo. The County requested closure of the overlook for their July 4th concert. **3.** There will be an open Council position with the resignation of Stacey Bankston Engle, Commission members are encouraged to consider the opportunity to serve. **4.** Park staff will be removing approximately a dozen downtown trees over the course of the next couple weeks. The trees being removed are due to their condition. **5.** There is a new adult fastpitch women's fastpitch league playing at Rotary Park this summer consisting of teams from Ellensburg, Cle Elum and Yakima.

ADJOURNMENT - The meeting was adjourned at 7:10pm.

Central Washington University

University Way Banner Request Form

Please fill out form and return to Schedule@cwu.edu. The Scheduling Center will submit your form to the City.

Name of Event/Program: Homecoming 2021

Contact Person: Robbi Goninan Phone Number: 509.963.1684

Banner Hang Dates (Monday-Sunday): Monday October 18-Sunday October 24

- CWU Scheduling Center has reserved the banner dates.

Phone: 509-963-1321 or 509-963-1641, Email: schedule@cwu.edu

- This Banner is a **maximum of 30' x 52"** and a **minimum of 24' x 48"** with **3" turnback at the top and bottom of the banner that will allow steel cable to be strung through it. No grommets.**

- We recommend that wind flaps be cut into the banner to prevent wind damage



* Example of a correctly made banner.

Provide an Example of Your Banner in the Box Below (Please fill in writing and logos)

Homecoming Week (crimson banner with black letters)

Important Notes:

Banners affiliated with University business have priority. Therefore, banners from non-University groups requesting dates that conflict with a University banner may be rescheduled

If your banner does not meet manufacturing specifications, we will be unable to process your request and the banner will not be hung

The CWU Scheduling Center will not be held responsible for any weather-related damage that occurs to your banner

For more information please contact CWU Student Union Operations & Scheduling Center at 509-963-1321 or 509-963-1641.

City of Ellensburg approved by: _____ Date: _____

Disapproval/Reasons: _____



CITY COUNCIL AGENDA REPORT

City Council Meeting Date: September 20, 2021

Item Title/Agenda Subject: Purchase of new Backhoe Loader for Natural Gas Division.
(Quote #R21-22)

Submitted by: Mike Helgeson Public Works & Utilities

Recommended Action or Motion: Staff is recommending City Council award Quote #R21-22 to Pape Machinery for the purchase of a John Deere 310SL backhoe loader for use in the Natural Gas Division.

Background/Summary: The Case 580SM backhoe that is currently utilized in the Natural Gas Division was purchased in 2004. This backhoe has exceeded its expected useful life and is in need of replacement. Staff requested quotes from vendors who currently have contracts through the Sourcewell National Purchasing Contract (#032119). The City of Ellensburg is a member of both the Washington State Purchasing Cooperative and the Sourcewell Purchasing Group and may purchase off any contract they provide.

Quotes were solicited for the replacement of the existing Case 580SM backhoe loader currently utilized by the Natural Gas Division. Staff is recommending that City Council award Quote #R21-22 to Pape Machinery for the purchase of a John Deere 310SL backhoe loader.

Previous Council Action: City Council at its December 7, 2020 meeting, approved the purchase of a new backhoe loader for use in the Natural Gas Division through the adoption of the 2021/2022 biennial budget.

Analysis: The City received four (4) quotes and the results are as follows:

1. Pape Machinery (JD 310SL) (Sourcewell #032119-JDC)
\$118,463.13
2. NC Machinery (CAT 416) (Sourcewell #032119-CAT)
\$119,824.30
3. NC Machinery (CAT 420) (Sourcewell #032119-CAT)

\$129,855.59
4. Western Power (CASE 580) Non-responsive

All quotes include Washington State sales tax.

Financial Impact:

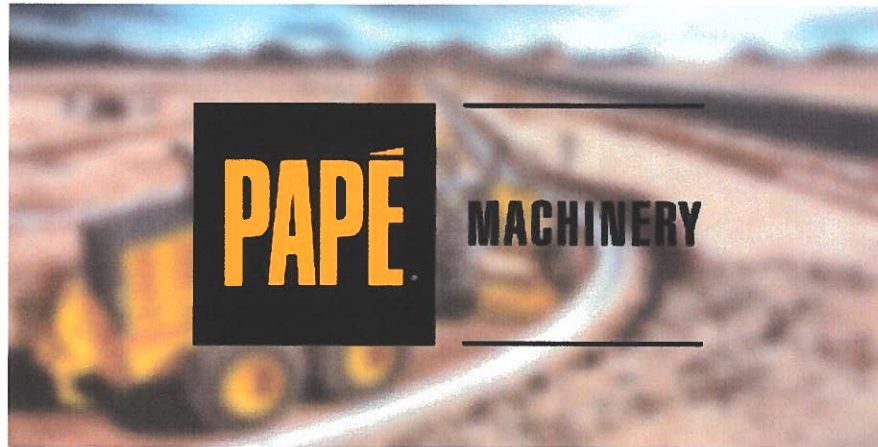
The City budgeted \$125,000 in the 2022 Shop Capital Outlay budget, for the purchase of a new backhoe loader for use in the Natural Gas Division. Delivery of this backhoe is not expected until January of 2022.

Attachments:

[Ellensburg 310SL 2021](#)

Quote Id: 25126624

Prepared For:
CITY OF ELLENSBURG



Prepared By: **BRIAN GAUDREAU**

Pape Machinery, Inc.
2209 Terrace Heights Rd
Yakima, WA 98901

Tel: 509-248-7910
Mobile Phone: 509-952-6261
Fax: 509-248-2711
Email: bgaudreau@papemachinery.com

Date: 25 August 2021

Offer Expires: 30 September 2021

Confidential

Quote Id: 25126624

25 August 2021

CITY OF ELLENSBURG
607 S INDUSTRIAL WAY
ELLENSBURG, WA 98926

This is priced using the Sourcewell program. Sourcewell contract number is 032119-JDC. Customer Sourcewell ID Number is 85466.

Sourcewell prices from the top down. Here is the breakdown.

LIST price of the 310SL per attached specs.....	\$187,656.00
LESS 46% Sourcewell discount.....	<\$ 86,321.76>
310SL NET price before additives.....	\$101,334.24
PLUS inbound factory freight.....	\$ 4000.00
Woods 36" HD1 profile bucket with bolt on edge, 11.8 cuft.....	\$ 1800.00
PDI, fuel, bumpers, strobe, AUX couplers.....	\$ 1750.00
Delivery to Ellesnburg shop.....	\$ 500.00
TOTAL, delivered and ready to work.....	\$109,384.24

I am providing the Woods bucket as the JD version is not HD and does not have a bolt on edge. The single thickness of steel does not hold up well in our soil conditions. Bucket will come with a main pin for use with the coupler. Included is a "Thumb Ready" hydraulic option. The valve and control, as well as the JD thumb mount are factory installed so a JD thumb (37") can be installed at a later time, if desired. To be clear, the thumb is NOT included in the price.

Please look this over and advise of any changes you wish to make.

Thank you!
B

BRIAN GAUDREAU
509-248-7910
Pape Machinery, Inc.

Quote Summary**Prepared For:**

CITY OF ELLENSBURG
607 S INDUSTRIAL WAY
701 S Industrial Way
ELLENSBURG, WA 98926

Prepared By:

BRIAN GAUDREAU
Pape Machinery, Inc.
2209 Terrace Heights Rd
Yakima, WA 98901
Phone: 509-248-7910
Mobile: 509-952-6261
bgaudreau@papemachinery.com

This sale is subject to Papé's Terms and Conditions of Sale effective on the date hereof, which are incorporated in full by this reference. The Terms and Conditions of Sale are available at www.pape.com/terms, and will also be sent by mail or e-mail to the purchaser upon request.

Quote Id: 25126624
Created On: 25 August 2021
Last Modified On: 27 August 2021
Expiration Date: 30 September 2021

Equipment Summary	Selling Price	Qty	Extended
JOHN DEERE 310SL BACKHOE LOADER	\$ 109,384.24 X	1 =	\$ 109,384.24
Equipment Total			\$ 109,384.24

Quote Summary

Equipment Total	\$ 109,384.24
SubTotal	\$ 109,384.24
Sales Tax - (8.30%)	\$ 9,078.89
Total	\$ 118,463.13
Down Payment	(0.00)
Rental Applied	(0.00)
Balance Due	\$ 118,463.13

Salesperson : X _____**Accepted By : X** _____

Selling Equipment

Quote Id: 25126624

Customer: CITY OF ELLENSBURG

JOHN DEERE 310SL BACKHOE LOADER

Hours:

Stock Number:

Code	Description	Qty
0A71T	310SL BACKHOE LOADER	1

Standard Options - Per Unit

170K	JDLINK™	1
1065	John Deere PowerTech™ EWL 4.5L (276 Cu. In.) Engine Meets Final Tier 4 and Stage IV Emissions	1
2035	Cab	1
2403	English Decals with Spanish Decals and Manuals Separate	1
3095	Mechanical Front Wheel Drive (MFWD) with Limited Slip Differential Autoshaft Transmission	1
4782	Michelin Radial - 500/70 R24 XMCL Rear & 340/80 R18 XMCL Front	1
5285	Pilot Controls, Two Lever, with Pattern Selection	1
5421	Multi-Brand Quick Coupler - 37 Inch Thumb Ready	1
5626	18" (457 mm) Wide, Heavy-Duty, 5.1 Cu. Ft. (0.14 Cu. M.) Capacity Bucket	1
6020	Extendible Dipperstick	1
6230	Auxiliary Hydraulic with One & Two Way Flow (Hammer & Thumb/Swinger)	1
7025	Two-Function Loader Hydraulics, Single Lever	1
7645	1.3 Cu. Yd. (1.0 Cu. M.) 92 in. (2.34 m) Wide Heavy Duty Long Lip Bucket with Bolt on Cutting Edge and Skid Plates	1
8485	1250 Lb. (567 kg) Front Counterweight	1
8685	Dual Maintenance Free Batteries With Disconnect and Jump Post	1
9080	Engine Coolant Heater	1
9116	LED Light Package	1
9120	Heavy-Duty Grille Frame	1
9140	Heavy-Duty Backhoe Bucket Cylinder	1
9210	Left Side Console Storage with Cup Holders	1
9505	Full MFWD Driveshaft Guard	1
9515	Diagnostic Oil Sampling Ports	1

Selling Equipment

Quote Id: 25126624**Customer:** CITY OF ELLENSBURG

9905	Strobe Light with Magnetic Mount	1
9917	Radio, Bosch Basic Package	1
9919	Sun Visor	1
9965	Seat, Cloth Air-Suspension	1
Dealer Attachments		
AT434236	Rubber Bumper for Grille Frame	1
36 CEX8T PO w/ BOCE	HD 36" smooth lip w/ bolt on edge	1



CITY COUNCIL AGENDA REPORT

City Council Meeting Date: September 20, 2021

Item Title/Agenda Subject: Landowner Agreement with the Recreation and Conservation Office for Yakima River Side Channel at Bull Canal Diversion

Submitted by: Brad Case Parks and Recreation

Recommended Action or Motion: Authorize the Mayor to sign the agreement with the Recreation and Conservation Office in substantially similar form, on behalf of the City of Ellensburg, for improvements at Irene Rinehart Riverfront Park.

Background/Summary: In 1998, the Washington State Department of Fish and Wildlife installed a channel-spanning weir across the Yakima River, adjacent to Irene Rinehart Riverfront Park, to direct flow into a .6 mile side channel. Out of this side channel, approximately 2,000' downstream from the intake, the Bull Ditch Canal Company diverts 45 cfs (cubic feet per second) into an irrigation pipe that serves their customers.

Each year in late August the side channel dewater, leaving the fish, who have swam out of the Yakima River into the side channel, stranded. In order to reduce fish mortality in the side channel, Mid Columbia Fisheries (MCF) applied for and received grant money through the Recreation and Conservation Office (RCO) Salmon Recovery program to replace the two existing gated culverts located at the entry of the side channel with a pedestrian bridge, which will improve conveyance and decrease sediment deposition. The project also includes regrading the accumulated material immediately downstream of the gated culverts to restore flow conveyance, and the construction of Beaver Dam Analogs (BDA) in the naturalized reach of the side channel to slow the dewatering process and increase rearing habitat availability. BDA's are small wooden structures designed to imitate beaver dams.

MCF has worked with the City to ensure that the proposed improvements does not negatively impact the park or our ability to perform maintenance. MCF is responsible for securing all of the project permit and approvals.

Previous Council Action: At their April 2, 2018 meeting, MCF went before Council with a power point presentation outlining scope of the project, however no formal action was taken by Council. Prior to going to Council, MCF presented the project to the Parks & Recreation Commission at their February 14, 2018.

Analysis: A condition of the project moving forward is for the City, as the landowner, to enter into a landowner agreement with the RCO. All projects funded through the RCO must enter into this agreement before work can begin.

The project is anticipated to take 1-2 weeks to complete and will be finished by November 15, 2021. The park will remain open to the public during project work with closures to the river trail and temporary closures of the park access road. Staff will notify the public through community outreach of the trail and road closures.

Financial Impact: There is no financial impact to the City, the project funding is coming from Mid Columbia Fisheries and grants from the RCO and United States Fish & Wildlife Service.

Attachments:

[Exhibit A](#)

[Exhibit B](#)

[17-1179 Amend #1 AE Admin Limit Change](#)

[17-1179 Amend #2 Special Cond](#)

[17-1179 Amend #3 Scope Change - signed](#)

Landowner Agreement

Yakima River Side Channel at Bull Canal Diversion

This Agreement dated and effective beginning the 20 day of September, 2021, is made and entered into by and between the Landowner and Grantee identified herein. The date of project completion is the date of final payment to the project sponsor (here Grantee), as defined in Section E of the Funding Board Project Agreement, Attachment B to this agreement. It is the responsibility of the Grantee to inform the landowner of this date.

Landowner Name (Landowner): City of Ellensburg
Street Address: 501 N. Anderson St.
City, State, Zip Code: Ellensburg, WA 98926

Salmon Recovery Funding Board Project Sponsor (Grantee):

Grantee Name: Mid-Columbia Fisheries Enhancement Group
Street Address: PO Box 2211
City, State, Zip Code: White Salmon, WA 98672

Purpose of Landowner Agreement

The purpose of this Agreement is to identify and confirm the terms, conditions and obligations agreed upon between the Grantee, who is undertaking a project (Project) funded by the Salmon Recovery Funding Board (SRFB), and the Landowner, who owns the property on which the Project will take place.

The Grantee and Landowner mutually agree to participate in conducting the salmon habitat improvement activities described below on lands owned by Landowner in the Upper Yakima Watershed (Water Resource Inventory Area 39), Kittitas County, State of Washington, Tax Parcel No. 478533, 558533, and 318133. The activities also are described in, and in accordance with, the Recreation and Conservation Office (RCO)'s Project Agreement No. 17-1179 dated 1/31/2018, into which this agreement, once signed by both parties, becomes incorporated herein. The project is also funded by grant F18AC00267 through the United States Fish and Wildlife Service.

The Grantee Agrees to:

1. Be responsible for the design and installation of the project, and the conduct and activities of its staff, agents, and representatives.
2. Provide the Landowner with a timeline of estimated dates of Project activities, including start and completion dates, and to keep the Landowner informed of progress.
3. Conduct the project-related activities described in the Project Description, Attachment A to this agreement.
4. Leave all remaining portions of the property in as near pre-project condition as reasonable, or as otherwise agreed upon in writing with Landowner.
5. Inform Landowner of project completion and the dates for this Agreement.
6. Hold harmless and indemnify the landowner from any liability associated from injuries or damages occurring to workers, Landowner's employees or members of the public from implementation of the project.
7. Identify the specific maintenance and/or monitoring activities that will be provided by grantee in Attachment A (Include frequency and duration) and document the same to the Landowner.

The Landowner Agrees to:

1. Provide reasonable property access to the Grantee to plan, implement, and complete the project, and to conduct the long-term maintenance and monitoring activities, as described in the Project Description attached to this agreement.
2. Provide the Grantee and RCO, or their employees, agents, representatives, contractors, or assignees, the right to enter the land, at reasonable times, and upon reasonable notice. Entry is solely for project implementation and management purposes, to inspect completed work and to monitor long-term success of the completed project. Except in case of emergency, reasonable notice shall be given at least 48 hours before entry.
3. Not intentionally compromise the integrity of the project;
4. Identify the specific maintenance and/or monitoring activities that will be provided by Landowner in Attachment A (Include frequency and duration).

The Project is located on public land, with non-motorized day use access open to all.

General Terms

The parties intend that all terms of this Agreement shall remain in effect for a period of ten years from the date of project completion, and the agreement shall be binding on all successors in interest during this time. The Landowner shall notify the Grantee of changes in ownership of the property on which the Project is located within thirty (30) days of transfer. In the event of such transfer of ownership, the Landowner shall provide a copy of this Agreement to the succeeding owner prior to such transfer. The Landowner's written notification to the Grantee will include the name of the new landowner. The Grantee then will contact the new landowner to determine whether or not the landowner agrees to continue the landowner's specific maintenance and monitoring responsibilities as described in Attachment A (if applicable), and to not intentionally compromise the integrity of the project. If the new landowner agrees, please provide a copy of the new landowner-signed statement to continue the landowner's monitoring and maintenance responsibilities as described in Attachment A.

To comply with Executive Order 05-05, Archaeological and Cultural Resources, Grantees may have to complete a cultural resources survey in response to any cultural resources concerns that might arise. Grantees will notify the landowner if a consultation is required. If required, consultations must be completed before construction begins.

This agreement may be terminated by the Grantee, if in its discretion, it determines that circumstances have rendered the Purpose of this agreement impractical to achieve. Termination also may be sought by either party by providing written notice to the other party. Such termination shall be effective only after authorized representatives of both parties have agreed in writing to such termination and RCO has been provided a thirty (30) day advance written notice of such termination. If, in the event the project is intentionally removed, destroyed, or otherwise compromised in function, or if successor Landowners do not agree to the terms of this Agreement, RCO reserves the right to seek remedy as described in the section titled "Long-term Obligations of the Projects and Sponsors" of the Funding Board Project Agreement and Washington Administrative Code 420-12-085, which requires the Grantee to provide a new restoration site to serve as replacement.

This Agreement does not authorize the Grantee or RCO to assume jurisdiction over, or any ownership interest in, the premises. The Landowner retains sole responsibility for taxes, assessments, damage claims, and controlling trespass. The Landowner also retains all benefits and enjoyment of the rights of ownership except as are specifically provided in this agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement.

Grantee

Date

Landowner

Date

Provide a copy of this Agreement, and any amendments to this Agreement, to the RCO:
Washington State Recreation and Conservation Office, PO Box 40917 Olympia, WA 98504-0917

Attachment A: Project Description and Maintenance Responsibilities

1. Written description of the project-related activities that will occur on Landowner's Property and the anticipated salmon or environmental quality benefits:

In 1998, WA Dept of Fish and Wildlife installed a channel-spanning weir to direct flow into a 0.6 mi. side channel at Yakima River Mile 153.5. From April 15 to late August, Bull Canal Company (BCC) diverts up to 45cfs into a pipe located 2,000 feet down the side channel. When managed flow in the Yakima River is lowered in late August, the side channel dewateres. Fish are stranded in the side channel and subject to increased predation.

To reduce fish mortality in the side channel and improve rearing habitat in and around the side channel, the Grantee, Mid-Columbia Fisheries Enhancement Group (MCF) proposes to:

- 1) Remove the two gated culverts in the side channel and replace with a bridge to improve conveyance and reduce sediment deposition,
- 2) regrade the accumulated material immediately up and downstream of the gated culverts to restore flow conveyance and reduce fish stranding, and
- 3) Construct Beaver Dam Analogs in the naturalized reach of the side channel, downstream of the Bull Canal Diversion, to slow the dewatering process and increase rearing habitat availability. Beaver Dam Analogs (BDAs) are small wooden structures designed to imitate beaver dams.

This project is intended to benefit juvenile spring Chinook, coho, and steelhead.

MCF has secured all necessary project permits and funding for the project, hired a licensed engineer to design and oversee construction, and hired a construction contractor for bridge installation. The following permits are secured:

- Washington Department of Fish and Wildlife Hydraulic Project Approval, permitted through the Streamlined Process for Fish Habitat Enhancement Projects, which exempts the project from local permits and fees;
- Clean Water Act Section 404 consistency with Nationwide Permit 27, determined by the US Army Corps of Engineers;
- Washington State 401 Water Quality Certification and Coastal Zone Management Act Consistency under Nationwide Permit #27, determined by Washington State Department of Ecology; and
- Determination of Non-significance under Washington State Environmental Policy Act, determined by the City of Ellensburg in File #18-072.

The project was advertised for competitive bids in May, 2021. Four bids were received, and the contract was awarded to the lowest responsive bidder, Belsaas and Smith Construction, Inc. The contract requires that laborers and equipment operators be paid Washington State Prevailing Wage or Federal Davis-Bacon wages, whichever is higher. The contractor will document this with certified payrolls.

MCF staff will install beaver dam analogs and will monitor the structures for consistency with project objectives. MCF staff will change or remove beaver dam analogs that are not functioning as desired, or that interfere with the City of Ellensburg's goals for the property.

2. Describe the maintenance and monitoring responsibilities of both the Landowner and Grantee for the term of this agreement.

Project maintenance is expected to be minimal but may require MCF staff to water new plants. MCF will also monitor the inlet of the side channel for blockages and consult with the City of Ellensburg on removal of accumulated gravel or wood.

At the end of construction activities, the new bridge will become the sole property and complete responsibility of the Landowner. There shall be no obligation to the Grantee and the funders (SRFB and USFWS) after the term of the Agreement has expired.

The City of Ellensburg will continue to manage and maintain Irene Rinehart Riverfront Park, including weed management.

Spatial Information Sharing: In accordance with the Privacy Act of 1974, permission must be obtained from the Landowner(s) before any personal information can be released. The only information that can be shared is payment information that is authorized by law. Therefore, Landowner(s) consent is requested to allow for sharing of spatial information about this project solely with conservation cooperators providing technical or financial assistance with the restoration, enhancement or management of fish and wildlife habitat. **The Landowner consents to having spatial information about this project shared with other conservation cooperators.**

Funding Board Project Agreement

Project Sponsor: Mid-Columbia Regional Fisheries Enhancement Group

Project Number: 17-1179R

Project Title: Yakima River Side Channel at Bull Canal Diversion

Approval Date: 1/31/2018

A. PARTIES OF THE AGREEMENT

This Funding Board Project Agreement (Agreement) is entered into between the State of Washington by and through the Salmon Recovery Funding Board (SRFB or funding board) and the Recreation and Conservation Office (RCO), P.O. Box 40917, Olympia, Washington 98504-0917 and Mid-Columbia Regional Fisheries Enhancement Group (Sponsor, and primary Sponsor), PO Box 2211, White Salmon, WA 98672, and shall be binding on the agents and all persons acting by or through the parties. The Sponsor's Data Universal Numbering System (DUNS) Number is 145199688.

All Sponsors are equally and independently subject to all the conditions of this Agreement except those conditions that expressly apply only to the primary Sponsor.

Per the Applicant Resolution/Authorizations submitted by all sponsors (and on file with the RCO), the identified Authorized Representative(s)/Agent(s) have full authority to legally bind the Sponsor(s) regarding all matters related to the project, including but not limited to, full authority to: (1) sign an application to the funding board for grant assistance, (2) enter into this project agreement on behalf of the Sponsor(s) (including indemnification and waiver of sovereign immunity as provided therein), (3) enter any amendments thereto on behalf of the Sponsors, and (4) make any decisions and submissions required with respect to the project. Agreements and amendments must be signed by the Authorized Representative of all sponsors.

If a Sponsor wishes to change its Authorized Representative/Agent as identified on the original signed Applicant Resolution/Authorization, the Sponsor has the obligation to provide to RCO in writing a new Applicant Resolution/Authorization signed by its governing body. Unless a new Applicant Resolution/Authorization has been provided, RCO will be entitled to rely upon the fact that the current Authorized Representative/Agent has the authority to bind the Sponsor to the Agreement (including any amendments thereto) and decisions related to implementation of the Agreement.

For the purposes of this Agreement, as well as for grant management purposes with RCO, only the primary Sponsor may act as a fiscal agent to obtain reimbursements (see Section 11. PROJECT REIMBURSEMENTS).

B. PURPOSE OF AGREEMENT

This Agreement sets out the terms and conditions by which a grant is made from the General Fund - Federal of the State of Washington. The grant is administered by the Recreation and Conservation Office (RCO) to the Sponsor for the project named above per the director's authority granted in RCW 79A.25.020.

C. DESCRIPTION OF PROJECT

In 1998, WA Dept of Fish and Wildlife installed a channel-spanning weir to direct flow into a 0.6 mi. side channel at Yakima River Mile 153.5. From April 15 to late August, Bull Canal Company (BCC) diverts up to 45cfs into a pipe located 2,000 feet down the side channel. When managed flow in the Yakima River is lowered in late August, the side channel dewater. Fish are stranded in the side channel and subject to increased predation. BCC can't meet its irrigation needs from the side channel, and instead pulls up to 30cfs from Wilson Creek. The withdrawal exacerbates high water temperatures and poor habitat conditions in Wilson Creek. To reduce fish mortality in the side channel, improve Wilson Creek late-season flow availability, and improve rearing habitat in and around the side channel, Mid-Columbia Fisheries Enhancement Group proposes to: 1) Remove the gated culverts in the side channel and replace with a bridge or culvert to improve conveyance and reduce sediment deposition, 2) regrade the accumulated material downstream of the gated culverts to restore flow conveyance and reduce fish stranding, 3) regrade a 200-ft length at the side channel outlet where a steep drop currently presents a partial barrier to juvenile fish, and 4) Construct wood structures on the left bank of the Yakima River to stabilize the bank and increase rearing habitat availability. This project is intended to benefit juvenile spring Chinook, coho, and steelhead.

D. PERIOD OF PERFORMANCE

The period of performance begins on January 19, 2018 (project start date) and ends on November 30, 2021 (project end date). No allowable cost incurred before or after this period is eligible for reimbursement unless specifically provided for by written amendment or addendum to this Agreement or specifically provided for by WAC Title 420; or SRFB policies published in RCO manuals as of the effective date of this agreement.

The Sponsor must request extensions of the period of performance at least 60 days before the project end date.

The Sponsor has obligations beyond this period of performance as described in Section F: Long-Term Obligations.

E. STANDARD TERMS AND CONDITIONS INCORPORATED

The Standard Terms and Conditions of the Project Agreement are hereby incorporated by reference as part of this Agreement.

F. LONG-TERM OBLIGATIONS

For this restoration project, the sponsor's on-going obligations shall be for a minimum of ten (10) years, or more as specific in the Landowner Agreement, after the final payment and shall survive the completion/termination of this Project Agreement unless otherwise identified in the Agreement or as approved by the funding board.

G. PROJECT FUNDING

The total grant award provided by the funding board for this project shall not exceed \$164,018.00. The funding board shall not pay any amount beyond that approved for grant funding of the project and within the funding board's percentage as identified below. The Sponsor shall be responsible for all total project costs that exceed this amount. The minimum matching share provided by the Sponsor shall be as indicated below:

	Percentage	Dollar Amount	Source of Funding
SRFB - Salmon Federal Projects	85.00%	\$164,018.00	Federal
Project Sponsor	15.00%	\$28,950.00	
Total Project Cost	100.00%	\$192,968.00	

H. FEDERAL FUND INFORMATION

If federal funding information is included in this section, this project is funded by, matched by, and/or funded in part by the following federal award, or subaward:

Federal Agency: US Dept of Commerce
Catalog of Federal Domestic Assistance Number and Name: 11.438 - PCSRF
Federal Award Identification Number: NA17NMF4380181
Federal Fiscal Year: 2017
Federal Award Date: 07/20/2017
Total Federal Award: \$18,236,000
Federal Award Project Description: FY2017 Pacific Coast Salmon Recovery - Pacific Salmon Treaty Program

Sponsor's Indirect Cost Rate: 0.00% of all costs for this agreement

This funding is not research and development (R&D).

If the Sponsor's total federal expenditures are \$750,000 or more during the Sponsor's fiscal-year, the Sponsor is required to have a federal single audit conducted for that year in compliance with 2 C.F.R. Part 200, Sub Part F Audit Requirements, Section 500 (2013). The Sponsor must provide a copy of the final audit report to RCO within nine months of the end of the Sponsor's fiscal year, unless a longer period is agreed to in advance by the federal agency identified in this section.

RCO may suspend all reimbursements if the Sponsor fails to timely provide a single federal audit; further the RCO reserves the right to suspend any and all RCO Agreement(s) with the Sponsor if such noncompliance is not promptly cured.

I. RIGHTS AND OBLIGATIONS INTERPRETED IN LIGHT OF RELATED DOCUMENTS

All rights and obligations of the parties under this Agreement are further specified in and shall be interpreted in light of the Sponsor's application and the project summary and eligible scope activities under which the Agreement has been approved as well as documents produced in the course of administering the Agreement, including the eligible scope activities, the milestones report, progress reports, and the final report. Provided, to the extent that information contained in such documents is irreconcilably in conflict with this Agreement, it shall not be used to vary the terms of the Agreement, unless those terms are shown to be subject to an unintended error or omission. This "Agreement" as used here and elsewhere in this document, unless otherwise specifically stated, has the meaning set forth in the definitions of the Standard Terms and Conditions.

J. AMENDMENTS TO AGREEMENT

Except as provided herein, no amendment (including without limitation, deletions) of any of the terms or conditions of this Agreement will be effective unless provided in writing signed by all parties. Extensions of the period of performance and minor scope adjustments consented to in writing (including email) by the Sponsor need only be signed by RCO's director or designee, unless otherwise provided for in another agreement a Sponsor has with the RCO. This exception does not apply to a federal government Sponsor or a Sponsor that requests and enters into a formal amendment for extensions or minor scope adjustments.

It is the responsibility of a Sponsor to ensure that any person who signs an amendment on its behalf is duly authorized to do so, and such signature shall be binding on the Sponsor if the representative/agent signing has been authorized to do so by Applicant Resolution/Authorization provided to the RCO and such Applicant Resolution/Authorization has not been withdrawn by the governing body in a subsequent resolution.

Any amendment to this Agreement, unless otherwise expressly stated, shall be deemed to include all current federal, state, and local government laws and rules, and funding board policies applicable and active and published in RCO manuals or on the RCO Website in effect as of the effective date of the amendment, without limitation to the subject matter of the amendment. Provided, any update in law, rule, policy or a manual that is incorporated as a result of an amendment shall apply only prospectively and shall not require that an act previously done in compliance with existing requirements be redone.

K. COMPLIANCE WITH APPLICABLE STATUTES, RULES, AND RCFB-SRFB POLICIES

This agreement is governed by, and the Sponsor shall comply with, all applicable state and federal laws and regulations, including any applicable 16 U.S.C. 3645 (d) (2), 2 C.F.R. Part 1327, RCW 77.85, WAC 420 and RCFB and/or SRFB policies published in RCO manuals or on the RCO Website as exist on the effective date of this Agreement and any amendments to this Agreement. Provided, any update in law, rule, policy or a manual that is incorporated as a result of an amendment shall apply only prospectively and shall not require that an act previously done in compliance with existing requirements be redone.

L. SPECIAL CONDITIONS

1. Archaeological and Cultural Resource Consultation, EO 05-05 Exemption due to Sect 106:

This project requires a federal Army Corps permit and so is subject to the National Historic Preservation Act, Section 106. It, therefore, appears to be exempt from Governor's Executive Order 05-05 Archaeological and Cultural Resources (EO 05-05) as described in Section 8 of this project agreement. In order for this project to be exempt from EO 05-05, the Section 106 Area of Potential Effect (APE) must include all ground-disturbing activities subject to this project agreement, including the restoration staging area. The sponsor is encouraged to work with the federal permitting agency to align the Section 106 APE with the scope of work subject to this project agreement. Attach a copy of the Army Corps permit approval letter to PRISM to confirm consultation is complete for ALL ground disturbing activities. If the APE does not include all ground-disturbing activities subject to this project agreement, promptly notify the RCO grant manager, as this will require RCO to initiate cultural resources consultation following EO 05-05 for those activities not included in the federal APE. Completion of this consultation and a Notice to Proceed from RCO will be required before these ground-disturbing activities can begin.

M. AGREEMENT CONTACTS

The parties will provide all written communications and notices under this Agreement to the mail address or the email address listed below if not both:

Project Contact

Name: Margaret Neuman
Title: Executive Director
Address: PO Box 2211
White Salmon, WA 98672
Email: fish@midcolumbiafisheries.org

RCO - SRFB

Kay Caromile
Natural Resources Building
PO Box 40917
Olympia, Washington 98504-0917
kay.caromile@rco.wa.gov

These addresses and contacts shall be effective until receipt by one party from the other of a written notice of any change. Decisions relating to the Agreement must be made by the Authorized Representative/Agent, who may or may not be the Project Contact for purposes of notices and communications.

N. ENTIRE AGREEMENT

This Agreement, with all amendments and attachments, constitutes the entire Agreement of the parties. No other understandings, oral or otherwise, regarding this Agreement shall exist or bind any of the parties.

O. EFFECTIVE DATE

This Agreement, for project 17-1179R, shall be subject to the written approval of the RCO's authorized representative and shall not be effective and binding until the date signed by both the Sponsor and the RCO, whichever is later (effective date). Reimbursements for eligible and allowable costs incurred within the period of performance identified in Section D: PERIOD OF PERFORMANCE are allowed only when this Agreement is fully executed and an original is received by RCO.

The Sponsor has read, fully understands, and agrees to be bound by all terms and conditions as set forth in this Agreement and the STANDARD TERMS AND CONDITIONS OF THE PROJECT AGREEMENT. The signators listed below represent and warrant their authority to bind the parties to this Agreement.

Mid-Columbia Regional Fisheries Enhancement Group

By: _____

Date: _____

Name: (printed) _____

Title: _____

State of Washington, Recreation Conservation Office

On behalf of the Salmon Recovery Funding Board (SRFB or funding board)

By: _____

Date: _____

Kaleen Cottingham
Director
Recreation and Conservation Office

Pre-approved as to form:

By:  _____

Date: October 6, 2017

Assistant Attorney General

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Standard Terms and Conditions of the Project Agreement

Project Sponsor: Mid-Columbia Regional Fisheries Enhancement Group
Project Title: Yakima River Side Channel at Bull Canal Diversion

Project Number: 17-1179R
Approval Date: 1/31/2018

SECTION 1. CITATIONS, HEADINGS AND DEFINITIONS

- A. Any citations referencing specific documents refer to the current version on the effective date of this Agreement or the effective date of any amendment thereto.
- B. Headings used in this Agreement are for reference purposes only and shall not be considered a substantive part of this Agreement.
- C. Definitions. As used throughout this Agreement, the following terms shall have the meaning set forth below:

acquisition project – A project that purchases or receives a donation of fee or less than fee interests in real property. These interests include, but are not limited to, conservation easements, access/trail easements, covenants, water rights, leases, and mineral rights.

Agreement or project agreement – The document entitled “Funding Board Project Agreement” accepted by all parties to the present transaction, including without limitation these Standard Terms and Conditions of the Project Agreement, all attachments, addendums, and amendments, and any intergovernmental agreements or other documents that are incorporated into the Funding Board Project Agreement subject to any limitations on their effect.

applicant – Any party that meets the qualifying standards, including deadlines, for submission of an application soliciting a grant of funds from the funding board.

application – The documents and other materials that an applicant submits to the RCO to support the applicant’s request for grant funds; this includes materials required for the “Application” in the RCO’s automated project information system, and other documents as noted on the application checklist including but not limited to legal opinions, maps, plans, evaluation presentations and scripts.

Authorized Representative/Agent – A Sponsor’s agent (employee, political appointee, elected person, etc.) authorized to be the signatory of this Agreement and any amendments requiring a Sponsor signature. This person has the signature authority to bind the Sponsor to this Agreement, grant, and project.

Boating Infrastructure Grant (BIG) – A program administered through the United States Fish and Wildlife Service.

C.F.R. – Code of Federal Regulations

contractor – An entity that receives a contract from a Sponsor related to performance of work or another obligation under this Agreement.

conversion – A conversion occurs 1) when facilities acquired, developed, renovated or restored within the project area are changed to a use other than that for which funds were approved, without obtaining prior written formal RCO or board approval, 2) when property interests are conveyed to a third party not otherwise eligible to receive grants in the program from which funding was approved without obtaining prior written formal RCO or board approval, or 3) when obligations to operate and maintain the funded property are not complied with after reasonable opportunity to cure.

development project – A project that results in the construction of, or work resulting in, new elements, including but not limited to structures, facilities, and/or materials to enhance outdoor recreation resources.

director – The chief executive officer of the Recreation and Conservation Office or that person's designee.

education project – A project that provides information, education, and outreach programs for the benefit of outdoor recreationists.

education and enforcement project – A project that provides information, education, and outreach programs; encourages responsible recreational behavior, and may provide law enforcement for the benefit of outdoor recreationists.

effective date – The date when the signatures of all parties to this agreement are present in the agreement.

enhancement project – 1) A project that brings a site back to its historic function as part of a natural ecosystem or that improves the ecological functionality of a site, or 2) a project that (i) supports hatchery reform to improve hatchery effectiveness to minimize impacts to wild fish populations, (ii) ensures compatibility between hatchery production and salmon recovery programs, or (iii) supports sustainable fisheries (WAC 420.04.010).

equipment – Tangible personal property (including information technology systems) having a useful service life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the Sponsor or \$5,000 (2 C.F.R. § 200.33 (2013)).

funding board or board – The board that authorized the funds in this Agreement, either the Recreation and Conservation Funding Board (RCFB) created under RCW 79A.25.110, or the Salmon Recovery Funding Board (SRFB) created under RCW 77.85.110.

grant program – The source of the grant funds received. May be an account in the state treasury, or a grant category within a larger grant program, or a federal source.

indirect cost – Costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved (2 C.F.R. § 200.56 (2013)).

long-term compliance period – The period of time after the project end date or end of the period of performance (depending on the project types and grant program). During this period, the Sponsor has continuing obligations under the Agreement. This period may have a nonspecific end date (in perpetuity) or an expressly specified number of years.

long-term obligations – Sponsor's obligations after the project end date, as specified in the Agreement and applicable regulations and policies.

landowner agreement – An agreement that is required between a Sponsor and landowner for projects located on land not owned, or otherwise controlled, by the Sponsor.

maintenance – A project that maintains existing areas and facilities through repairs and upkeep for the benefit of outdoor recreation or salmon recovery.

maintenance and operation – A project that maintains and operates existing areas and facilities through repairs, upkeep, and routine services for the benefit of outdoor recreationists.

match or matching share – The portion of the total project cost provided by the Sponsor.

milestone – An important event with a defined date to track an activity related to implementation of a funded project and monitor significant stages of project accomplishment.

monitoring project – Means a project that tracks the effectiveness of salmon recovery restoration actions, or provides data on salmon populations or their habitat conditions.

monitoring and research project – Means a project that tracks the effectiveness of salmon recovery restoration actions, or provides data on salmon populations or their habitat conditions.

Office – Means the Recreation and Conservation Office or RCO.

notice of grant – As required by RCO or another authority, a document that has been legally recorded in the county or counties where the project property is located that describes the grant funded project located on the property, the funding sources, and agencies responsible for awarding the grant.

pass-through entity – A non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program (2 C. F. R. § 200.74 (2013)). If this Agreement is a federal subaward, RCO is the pass-through entity.

period of performance – The period beginning on the project start date and ending on the project end date.

planning (RCFB projects only) – A project that results in one or more of the following: a study, a plan, construction plans and specifications, and permits to increase the availability of outdoor recreational resources.

planning (SRFB projects only) – A project that results in a study, assessment, project design, or inventory.

pre-agreement cost – A project cost incurred before the period of performance.

primary Sponsor – The Sponsor who is not a secondary Sponsor and who is specifically identified in the Agreement as the entity to which RCO grants funds to and authorizes and requires to administer the grant. This administration includes but is not limited to acting as the fiscal agent for the grant (e.g. requesting and accepting reimbursements, submitting reports). Primary Sponsor includes its officers, employees, agents and successors.

project – An undertaking that is, or may be, funded in whole or in part with funds administered by RCO on behalf of the funding board.

project area, RCFB – A geographic area that delineates a grant assisted site which is subject to project agreement requirements (WAC 286.04.010).

project area, SRFB – The area consistent with the geographic limits of the scope of work of the project and subject to project agreement requirements. For restoration projects, the project area must include the physical limits of the project's final site plans or final design plans. For acquisition projects, the project area must include the area described by the legal description of the properties acquired for or committed to the project (WAC 420.04.010).

project cost – The total allowable costs incurred under this Agreement and all required match share and voluntary committed matching share, including third-party contributions (2 C.F.R. § 200.83 (2013)).

project end date – The specific date identified in the Agreement on which the period of performance ends, as may be changed by amendment. This date is not the end date for any long-term obligations.

project start date – The specific date identified in the Agreement on which the period of performance starts.

research project – Means a project that studies salmon and the effectiveness of recovery restoration efforts on the population or habitat condition.

RCO – Recreation and Conservation Office – The state office that provides administrative support to the Recreation and Conservation Funding Board and Salmon Recovery Funding Board. RCO includes the director and staff, created by RCW 79A.25.110 and 79A.25.150 and charged with administering this Agreement by RCW 77.85.110 and 79A.25.240.

reimbursement – RCO's payment of funds from eligible and allowable costs that have already been paid by the Sponsor per the terms of the Agreement.

renovation project – A project intended to improve an existing site or structure in order to increase its useful service life beyond current expectations or functions. This does not include maintenance activities to maintain the facility for its originally expected useful service life.

restoration project – A project that brings a site back to its historic function as part of a natural ecosystem or improving the ecological functionality of a site.

restoration and enhancement project – A project that brings a site back to its historic function as part of a natural ecosystem or that improves the ecological functionality of a site or a larger ecosystem which improvement may include benefiting fish stocks.

RCFB – Recreation and Conservation Funding Board

RCW – Revised Code of Washington

Recreational Trails Program (RTP) – A Federal Highways Administration grant program.

secondary Sponsor – One of two or more Sponsors who is not a primary Sponsor. Only the primary Sponsor may be the fiscal agent for the project.

Sponsor – A Sponsor is an organization that is listed in and has signed this Agreement.

Sponsor Authorized Representative/Agent – A Sponsor's agent (employee, political appointee, elected person, etc.) authorized to be the signatory of this Agreement and any amendments requiring a Sponsor signature. This person has the signature authority to bind the Sponsor to this Agreement, grant, and project.

SRFB – Salmon Recovery Funding Board

subaward – Funds allocated to the RCO from another organization, for which RCO makes available to or assigns to another organization via this Agreement. Also, a subaward may be an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of any award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a federal or other program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract. Also see 2 C.F.R. § 200.92 (2013). For federal subawards, a subaward is for the purpose of carrying out a portion of a Federal award and creates a federal assistance relationship with the subrecipient (2 C.F.R. § 200.330 (2013)). If this Agreement is a federal subaward, the subaward amount is the grant program amount in Section G: Project Funding.

subrecipient – Subrecipient means an entity that receives a subaward. For non-federal entities receiving federal funds, a subrecipient is an entity that receives a subaward from a pass-through entity to carry out part of a federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency (2 C.F.R. § 200.93 (2013)). If this Agreement is a federal subaward, the Sponsor is the subrecipient.

useful service life – Period during which an asset or property is expected to be useable for the purpose it was acquired, developed, renovated, and/or restored per this Agreement.

WAC – Washington Administrative Code.

SECTION 2. PERFORMANCE BY THE SPONSOR

The Sponsor shall undertake the project as described in this Agreement, and in accordance with the Sponsor's proposed goals and objectives described in the application or documents submitted with the application, all as finally approved by the funding board. All submitted documents are incorporated by this reference as if fully set forth herein.

Timely completion of the project and submission of required documents, including progress and final reports, is important. Failure to meet critical milestones or complete the project, as set out in this Agreement, is a material breach of the Agreement.

SECTION 3. ASSIGNMENT

Neither this Agreement, nor any claim arising under this Agreement, shall be transferred or assigned by the Sponsor without prior written consent of the RCO.

SECTION 4. RESPONSIBILITY FOR PROJECT

While the funding board undertakes to assist the Sponsor with the project by providing a grant pursuant to this Agreement, the project itself remains the sole responsibility of the Sponsor. The funding board undertakes no responsibilities to the Sponsor, or to any third party, other than as is expressly set out in this Agreement. The responsibility for the implementation of the project is solely that of the Sponsor, as is the responsibility for any claim or suit of any nature by any third party related in any way to the project. When a project is Sponsored by more than one entity, any and all Sponsors are equally responsible for the project and all post-completion stewardship responsibilities and long-term obligations unless otherwise stated in this Agreement.

The RCO has no responsibility for reviewing, approving, overseeing or supervising design or construction of the project and leaves such review, approval, oversight and supervision exclusively to the Sponsor and others with expertise or authority. In this respect, the RCO will act only to confirm at a general, lay, and nontechnical level, solely for the purpose of compliance and payment and not for safety or suitability, that the project has apparently been completed as per the Agreement.

SECTION 5. INDEMNIFICATION

The Sponsor shall defend, indemnify, and hold the State and its officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the actual or alleged acts, errors, omissions or negligence in connection with this Agreement (including without limitation all work or activities thereunder), or the breach of any obligation under this Agreement by the Sponsor or the Sponsor's agents, employees, contractors, subcontractors, or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable.

Provided that nothing herein shall require a Sponsor to defend or indemnify the State against and hold harmless the State from claims, demands or suits based solely upon the negligence of the State, its employees and/or agents for whom the State is vicariously liable.

Provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the Sponsor or the Sponsor's agents, employees, contractors, subcontractors or vendors, of any tier, or any other persons for whom the Sponsor is legally liable, and (b) the State its employees and agents for whom it is vicariously liable, the indemnity obligation shall be valid and enforceable only to the extent of the Sponsor's negligence or the negligence of the Sponsor's agents, employees, contractors, subcontractors or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable.

This provision shall be included in any agreement between Sponsor and any contractors, subcontractor and vendor, of any tier.

The Sponsor shall also defend, indemnify, and hold the State and its officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions by the Sponsor or the Sponsor's agents, employees, contractors, subcontractors or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable, in performance of the work under this Agreement or arising out of any use in connection with the Agreement of methods, processes, designs, information or other items furnished or communicated to the State, its agents, officers and employees pursuant to the Agreement. Provided, this indemnity shall not apply to any alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions resulting from the State's, its agents', officers' and employees' failure to comply with specific written instructions regarding use provided to the State, its agents, officers and employees by the Sponsor, its agents, employees, contractors, subcontractors or vendors, of any tier, or any other persons for whom the Sponsor may be legally liable.

As part of its obligations provided above, the Sponsor specifically assumes potential liability for actions brought by the Sponsor's own employees or its agents against the State and, solely for the purpose of this indemnification and defense, the Sponsor specifically waives any immunity under the state industrial insurance law, RCW Title 51.

The funding board and RCO are included within the term State, as are all other agencies, departments, boards, councils, committees, divisions, bureaus, offices, societies, or other entities of state government.

SECTION 6. INDEPENDENT CAPACITY OF THE SPONSOR

The Sponsor and its employees or agents performing under this Agreement are not officers, employees or agents of the funding board or RCO. The Sponsor will not hold itself out as nor claim to be an officer, employee or agent of RCO, a funding board or of the state of Washington, nor will the Sponsor make any claim of right, privilege or benefit which would accrue to an employee under RCW 41.06 or Section 30B.

The Sponsor is responsible for withholding and/or paying employment taxes, insurance, or deductions of any kind required by federal, state, and/or local laws.

SECTION 7. CONFLICT OF INTEREST

Notwithstanding any determination by the Executive Ethics Board or other tribunal, RCO may, in its sole discretion, by written notice to the Sponsor terminate this Agreement if it is found after due notice and examination by RCO that there is a violation of the Ethics in Public Service Act, RCW 42.52; or any similar statute involving the Sponsor in the procurement of, or performance under, this Agreement.

In the event this Agreement is terminated as provided herein, RCO shall be entitled to pursue the same remedies against the Sponsor as it could pursue in the event of a breach of the Agreement by the Sponsor. The rights and remedies of RCO provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

SECTION 8. COMPLIANCE WITH APPLICABLE LAW

In implementing the Agreement, the Sponsor shall comply with all applicable federal, state, and local laws (including without limitation all applicable ordinances, codes, rules, and regulations). Such compliance includes, without any limitation as to other applicable laws, the following laws:

- A. Nondiscrimination Laws.** The Sponsor shall comply with all applicable federal, state, and local nondiscrimination laws and/or policies, including but not limited to: the Americans with Disabilities Act; Civil Rights Act; and the Age Discrimination Act. In the event of the Sponsor's noncompliance or refusal to comply with any nondiscrimination law or policy, the Agreement may be rescinded, cancelled, or terminated in whole or in part, and the Sponsor may be declared ineligible for further grant awards from the funding board. The Sponsor is responsible for any and all costs or liability arising from the Sponsor's failure to so comply with applicable law.
- B. Secular Use of Funds.** No funds awarded under this grant may be used to pay for any religious activities, worship, or instruction, or for lands and facilities for religious activities, worship, or instruction. Religious activities, worship, or instruction may be a minor use of the grant supported recreation and conservation land or facility.
- C. Wages and Job Safety.** The Sponsor agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington or other jurisdiction which affect wages and job safety. The Sponsor agrees when state prevailing wage laws (RCW 39.12) are applicable, to comply with such laws, to pay the prevailing rate of wage to all workers, laborers, or mechanics employed in the performance of any part of this contract, and to file a statement of intent to pay prevailing wage with the Washington State Department of Labor and Industries as required by RCW 39.12.040. The Sponsor also agrees to comply with the provisions of the rules and regulations of the Washington State Department of Labor and Industries.

- 1. Exception, Service Organizations of Trail and Environmental Projects (RCW 79A.35.130).** If allowed by state and federal law and rules, participants in conservation corps programs offered by a nonprofit organization affiliated with a national service organization established under the authority of the national and community service trust act of 1993, P.L. 103-82, are exempt from provisions related to rates of compensation while performing environmental and trail maintenance work provided: (1) The nonprofit organization must be registered as a nonprofit corporation pursuant to RCW 24.03; (2) The nonprofit organization's management and administrative headquarters must be located in Washington; (3) Participants in the program must spend at least fifteen percent of their time in the program on education and training activities; and (4) Participants in the program must receive a stipend or living allowance as authorized by federal or state law. Participants are exempt from provisions related to rates of compensation only for environmental and trail maintenance work conducted pursuant to the conservation corps program.

- D. Archaeological and Cultural Resources.** RCO facilitates the review of applicable projects for potential impacts to archaeological sites and state cultural resources. The Sponsor must assist RCO in compliance with Governor's Executive Order 05-05 or the National Historic Preservation Act before and after initiating ground-disturbing activity or construction, repair, installation, rehabilitation, renovation, or maintenance work on lands, natural resources, or structures. The funding board requires documented compliance with Executive Order 05-05 or Section 106 of the National Historic Preservation Act, whichever is applicable to the project. If a federal agency declines to consult, the Sponsor shall comply with the requirements of Executive Order 05-05. In the event that archaeological or historic materials are discovered during project activities, work in the location of discovery and immediate vicinity must stop instantly, the area must be secured, and notification must be provided to the following: concerned Tribes' cultural staff and cultural committees, RCO, and the State Department of Archaeology and Historic Preservation. If human remains are discovered during project activity, work in the location of discovery and immediate vicinity must stop instantly, the area must be secured, and notification provided to the concerned Tribe's cultural staff and cultural committee, RCO, State Department of Archaeology, the coroner and local law enforcement in the most expeditious manner possible according to RCW 68.50.

- E. Restrictions on Grant Use.** No part of any funds provided under this grant shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, or for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the U.S. Congress or any state legislature.

No part of any funds provided under this grant shall be used to pay the salary or expenses of any Sponsor, or agent acting for such Sponsor, related to any activity designed to influence legislation or appropriations pending before the U.S. Congress or any state legislature.

- F. Debarment and Certification.** By signing the Agreement with RCO, the Sponsor certifies that neither it nor its principals nor any other lower tier participant are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by Washington State Labor and Industries. Further, the Sponsor agrees not to enter into any arrangements or contracts related to this Agreement with any party that is on Washington State Department of Labor and Industries' "Debarred Contractor List."

SECTION 9. RECORDS

- A. Digital Records.** If requested by RCO, the Sponsor must provide a digital file(s) of the project property and funded project site in a format specified by the RCO.
- B. Maintenance.** The Sponsor shall maintain books, records, documents, data and other evidence relating to this Agreement and performance of the services described herein, including but not limited to accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement. Sponsor shall retain such records for a period of six years from the date RCO deems the project complete, as defined in Section 11: PROJECT REIMBURSEMENTS. If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.
- C. Access to Records and Data.** At no additional cost, the records relating to the Agreement, including materials generated under the Agreement, shall be subject at all reasonable times to inspection, review or audit by RCO, personnel duly authorized by RCO, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement. This includes access to all information that supports the costs submitted for payment under the grant and all findings, conclusions, and recommendations of the Sponsor's reports, including computer models and methodology for those models.
- D. Public Records.** Sponsor acknowledges that the funding board is subject to RCW 42.56 and that this Agreement and any records Sponsor submits or has submitted to the State shall be a public record as defined in RCW 42.56. RCO administers public records requests per WAC 286-06 and 420-04. Additionally, in compliance with RCW 77.85.130(8), Sponsor agrees to disclose any information in regards to expenditure of any funding received from the SRFB. By submitting any record to the State, Sponsor understands that the State may be requested to disclose or copy that record under the state public records law, currently codified at RCW 42.56. The Sponsor warrants that it possesses such legal rights as are necessary to permit the State to disclose and copy such document to respond to a request under state public records laws. The Sponsor hereby agrees to release the State from any claims arising out of allowing such review or copying pursuant to a public records act request, and to indemnify against any claims arising from allowing such review or copying and pay the reasonable cost of state's defense of such claims.

SECTION 10. PROJECT FUNDING

- A. Authority.** This Agreement is funded through a grant award from the recreation and conservation funding board per WAC 286 and/or the salmon recovery funding board per WAC 420. The director of RCO enters into this Agreement per delegated authority in RCW 79A.25.020 and 77.85.120.
- B. Additional Amounts.** The funding board shall not be obligated to pay any amount beyond the dollar amount as identified in this Agreement, unless an additional amount has been approved in advance by the funding board or director and incorporated by written amendment into this Agreement.
- C. Before the Agreement.** No expenditure made, or obligation incurred, by the Sponsor before the project start date shall be eligible for grant funds, in whole or in part, unless specifically provided for by funding board policy, such as a waiver of retroactivity or program specific eligible pre-Agreement costs. For reimbursements of such costs, this Agreement must be fully executed and an original received by RCO. The dollar amounts identified in this Agreement may be reduced as necessary to exclude any such expenditure from reimbursement.
- D. Requirements for Federal Subawards.** Pre-Agreement costs before the federal award date in Section H: FEDERAL FUND INFORMATION are ineligible unless approved by the federal award agency (2 C.F.R § 200.458 (2013)).
- E. After the Period of Performance.** No expenditure made, or obligation incurred, following the period of performance shall be eligible, in whole or in part, for grant funds hereunder. In addition to any remedy the funding board may have under this Agreement, the grant amounts identified in this Agreement shall be reduced to exclude any such expenditure from participation.

SECTION 11. PROJECT REIMBURSEMENTS

- A. Reimbursement Basis.** This Agreement is administered on a reimbursement basis per WAC 286-13 and/or 420-12. Only the primary Sponsor may request reimbursement for eligible and allowable costs incurred during the period of performance. The primary Sponsor may only request reimbursement after (1) this Agreement has been fully executed and (2) the Sponsor has remitted payment to its vendors. RCO will authorize disbursement of project funds only on a reimbursable basis at the percentage as defined in Section G: PROJECT FUNDING. Reimbursement shall not be approved for any expenditure not incurred by the Sponsor or for a donation used as part of its matching share. RCO does not reimburse for donations. All reimbursement requests must include proper documentation of expenditures as required by RCO.
- B. Reimbursement Request Frequency.** The primary Sponsor is required to submit a reimbursement request to RCO, at a minimum for each project at least once a year for reimbursable activities occurring between July 1 and June 30 or as identified in the milestones. Sponsors must refer to the most recently published/adopted RCO policies and procedures regarding reimbursement requirements.
- C. Compliance and Payment.** The obligation of RCO to pay any amount(s) under this Agreement is expressly conditioned on strict compliance with the terms of this Agreement and other agreements between RCO and the Sponsor.
- D. Retainage Held Until Project Complete.** RCO reserves the right to withhold disbursement of the total amount of the grant to the Sponsor until the project has been completed. A project is considered "complete" when:
 - 1. All approved or required activities outlined in the Agreement are done;
 - 2. On-site signs are in place (if applicable);
 - 3. A final project report is submitted to and accepted by RCO;
 - 4. Any other required documents and media are complete and submitted to RCO;

5. A final reimbursement request is submitted to RCO;
6. The completed project has been accepted by RCO;
7. Final amendments have been processed;
8. Fiscal transactions are complete, and
9. RCO has accepted a final boundary map, if requested by RCO, for which the Agreement terms will apply in the future.
10. Notice of Grant (if applicable) filed with the county lands records office and a stamped copy received by RCO

E. Requirements for Federal Subawards: Match. The Sponsor's matching share must comply with 2 C.F.R. § 200.306 (2013). Any shared costs or matching funds and all contributions, including cash and third party in-kind contributions, can be accepted as part of the Sponsor's matching share when such contributions meet all of the following criteria:

1. Are verifiable from the non-Federal entity's (Sponsor's) records;
2. Are not included as contributions for any other Federal award;
3. Are necessary and reasonable for accomplishment of project or program objectives;
4. Are allowable under 2 C.F.R. Part 200, Subpart E—Cost Principles (2013);
5. Are not paid by the Federal Government under another Federal award, except where the Federal statute authorizing a program specifically provides that Federal funds made available for such program can be applied to matching or cost sharing requirements of other Federal programs;
6. Are provided for in the approved budget when required by the Federal awarding agency identified in Section H: FEDERAL FUND INFORMATION of this Agreement; and
7. Conform to other provisions of 2 C.F.R. Part 200, Subpart D—Post Federal Award Requirements (2013), as applicable.

F. Requirements for Federal Subawards: Close out. Per 2 C.F.R § 200.343 (2013), the non-Federal entity (Sponsor) must:

1. Submit, no later than 90 calendar days after the end date of the period of performance, all financial, performance, and other reports as required by the terms and conditions of the Federal award. The Federal awarding agency or pass-through entity (RCO) may approve extensions when requested by the Sponsor.
2. Liquidate all obligations incurred under the Federal award not later than 90 calendar days after the end date of the period of performance as specified in the terms and conditions of the Federal award.
3. Refund any balances of unobligated cash that the Federal awarding agency or pass-through entity (RCO) paid in advance or paid and that are not authorized to be retained by the non-Federal entity (Sponsor) for use in other projects. See OMB Circular A-129 and see 2 C.F.R § 200.345 Collection of amounts due (2013), for requirements regarding unreturned amounts that become delinquent debts.

4. Account for any real and personal property acquired with Federal funds or received from the Federal Government in accordance with 2 C.F.R §§ 200.310 Insurance coverage through 200.316 Property trust relationship and 200.329 Reporting on real property (2013).

SECTION 12. ADVANCE PAYMENTS

Advance payments of or in anticipation of goods or services are not allowed unless approved by the RCO director and are consistent with legal requirements and Manual 8: Reimbursements. See WAC 420-12.

SECTION 13. RECOVERY OF PAYMENTS

- A. Recovery for Noncompliance.** In the event that the Sponsor fails to expend funds under this Agreement in accordance with state and federal laws, and/or the provisions of the Agreement, or meet its percentage of the project total, RCO reserves the right to recover grant award funds in the amount equivalent to the extent of noncompliance in addition to any other remedies available at law or in equity.
- B. Overpayment Payments.** The Sponsor shall reimburse RCO for any overpayment or erroneous payments made under the Agreement. Repayment by the Sponsor of such funds under this recovery provision shall occur within 30 days of demand by RCO. Interest shall accrue at the rate of twelve percent (12%) per annum from the time that payment becomes due and owing.
- C. Requirements for Federal Subawards.** RCO, acting as a pass-through entity, may impose any of the remedies as authorized in 2 C.F.R §§ 200.207 Specific conditions and/or 200.338 Remedies for noncompliance (2013).

SECTION 14. COVENANT AGAINST CONTINGENT FEES

The Sponsor warrants that no person or selling agent has been employed or retained to solicit or secure this Agreement on an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agents maintained by the Sponsor for the purpose of securing business. RCO shall have the right, in the event of breach of this clause by the Sponsor, to terminate this Agreement without liability or, in its discretion, to deduct from the Agreement grant amount or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.

SECTION 15. INCOME (AND FEES) AND USE OF INCOME

RCFB Projects. See WAC 286-13-110 for additional requirements for projects funded from the RCFB.

A. Income.

1. **Farm and Forest Account (Farmland and Forestland Preservation Grants).** Excepted from this section is income generated and fees paid on/for properties which received funds from the Farm and Forest Account (RCW 79A.15.130).
2. **Firearms and Archery Range Recreation Projects.** Excepted from this section are safety classes (firearm and/or hunter) for which a facility/range fee must not be charged (RCW 79A.25.210).
3. **Compatible source.** The source of any income generated in a funded project or project area must be compatible with the funding source and the Agreement and any policies adopted by the RCFB or SRFB.

- B. Use of Income.** Subject to any limitations contained in applicable state or federal law and applicable rules and policies, income or fees generated at a project work site (including entrance, utility corridor permit, cattle grazing, timber harvesting, farming, etc.) during or after the reimbursement period cited in the Agreement, must be used to offset:
1. The Sponsor's matching resources;
 2. The project's total cost;
 3. The expense of operation, maintenance, stewardship, monitoring, and/or repair of the facility or program assisted by the funding board grant;
 4. The expense of operation, maintenance, stewardship, monitoring, and/or repair of other similar units in the Sponsor's system;
 5. Capital expenses for similar acquisition and/or development and renovation; and/or
 6. Other purposes explicitly approved by RCO
- C. Fees.** User and/or other fees may be charged in connection with land acquired or facilities developed, maintained, renovated, or restored with funding board grants if the fees are consistent with the:
1. Grant program laws, rules, policies, and funding board policies;
 2. Value of any service(s) furnished;
 3. Value of any opportunities furnished; and
 4. Prevailing range of public fees in the state for the activity involved.
- D. Requirements for Federal Subawards.** Sponsors must also comply with 2 C.F.R. § 200.307 Program income (2013).

SECTION 16. PROCUREMENT REQUIREMENTS

- A. Procurement Requirements.** If the Sponsor has, or is required to have, a procurement process that follows applicable state and/or federal law or procurement rules and principles, it must be followed, documented, and retained. If no such process exists the Sponsor must follow these minimum procedures:
1. Publish a notice to the public requesting bids/proposals for the project;
 2. Specify in the notice the date for submittal of bids/proposals;
 3. Specify in the notice the general procedure and criteria for selection; and
 4. Sponsor must contract or hire from within its bid pool. If bids are unacceptable the process needs to be repeated until a suitable bid is selected.
 5. Comply with the same legal standards regarding unlawful discrimination based upon race, gender, ethnicity, sex, or sex-orientation that are applicable to state agencies in selecting a bidder or proposer.

Alternatively, Sponsor may choose a bid from a bidding cooperative if authorized to do so.

This procedure creates no rights for the benefit of third parties, including any proposers, and may not be enforced or subject to review of any kind or manner by any entity other than the RCO. Sponsors may be required to certify to the RCO that they have followed any applicable state and/or federal procedures or the above minimum procedure where state or federal procedures do not apply.

B. Requirements for Federal Subawards.

1. For all Federal subawards except RTP projects, non-Federal entities (Sponsors) must follow 2 C.F.R §§ 200.318 General procurement standards through 200.326 Contract Provisions (2013).
2. For RTP subawards, Sponsors follow such policies and procedures allowed by the State when procuring property and services under a Federal award (2 C.F.R § 1201.317 (2013)). State procurement policies are in subsection A of this section .

SECTION 17. TREATMENT OF EQUIPMENT AND ASSETS

Equipment shall be used and managed only for the purpose of this Agreement, unless otherwise provided herein or in published funding board policies, or approved by RCO in writing.

A. Discontinued Use. Equipment obtained under this Agreement shall remain in the possession of the Sponsor for the duration of the project, or RULES of applicable grant assisted program. When the Sponsor discontinues use of the equipment for the purpose for which it was funded, RCO may require the Sponsor to deliver the equipment to RCO, or to dispose of the equipment according to RCO published policies.

B. Loss or Damage. The Sponsor shall be responsible for any loss or damage to equipment.

C. Requirements for Federal Subawards. Except in the RTP, procedures for managing equipment (including replacement equipment), whether acquired in whole or in part under a Federal award or match for the award, until disposition takes place will, at a minimum, meet the following requirements (2 C.F.R § 200.313 (2013)):

1. Property records must be maintained that include a description of the property, a serial number or other identification number, the source of funding for the property (including the Federal Award Identification Number), who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the project costs for the Federal award under which the property was acquired, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.
2. A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.
3. A control system must be developed to ensure adequate safeguards to prevent loss , damage, or theft of the property. Any loss, damage, or theft must be investigated.
4. Adequate maintenance procedures must be developed to keep the property in good condition.
5. If the non-Federal entity is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.

D. Requirements for RTP Subawards.

1. The subrecipient (Sponsor) shall follow such policies and procedures prescribed by and allowed by the State, as well as federal law and federal rules issued by the Federal Highways Administration and 2 CFR 200.

2. Sponsor may be required to pay prevailing wage rates as required by the Davis Bacon Act as amended.

SECTION 18. RIGHT OF INSPECTION

The Sponsor shall provide right of access to the project to RCO, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, long-term obligations, compliance, and/or quality assurance under this Agreement.

If a landowner agreement or other form of control and tenure as described in Section 23.C: Control and Tenure has been executed, it will further stipulate and define the funding board and RCO's right to inspect and access lands acquired or developed with funding board assistance.

SECTION 19. STEWARDSHIP AND MONITORING

Sponsor agrees to perform monitoring and stewardship functions as stated in funding board policy, this Agreement, or as otherwise directed by RCO consistent with existing policies. Sponsor further agrees to utilize, where applicable and financially feasible, any monitoring protocols recommended by the funding board.

SECTION 20. PREFERENCES FOR RESIDENTS

Sponsors shall not express a preference for users of grant assisted projects on the basis of residence (including preferential reservation, membership, and/or permit systems) except that reasonable differences in admission and other fees may be maintained on the basis of residence. Fees for nonresidents must not exceed twice the fee imposed on residents. Where there is no fee for residents but a fee is charged to nonresidents, the nonresident fee shall not exceed the amount that would be imposed on residents at comparable state or local public facilities.

SECTION 21. ACKNOWLEDGMENT AND SIGNS

- A. Publications.** The Sponsor shall include language which acknowledges the funding contribution of the applicable grant program to this project in any release or other publication developed or modified for, or referring to, the project during the project period and in the future.
- B. Signs.**
 1. During the period of performance through the period of long-term obligation, the Sponsor shall post openly visible signs or other appropriate media at entrances and other locations on the project area that acknowledge the applicable grant program's funding contribution, unless exempted in funding board policy or waived by the director; and
 2. During the period of long-term obligation, the Sponsor shall post openly visible signs or other appropriate media at entrances and other locations to notify the public of the availability of the site for reasonable public access.
- C. Ceremonies.** The Sponsor shall notify RCO no later than two weeks before a dedication ceremony for this project. The Sponsor shall verbally acknowledge the applicable grant program's funding contribution at all dedication ceremonies.
- D. Federally Funded Projects.** When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing a project funded in whole or in part with federal money provided for in this grant, Sponsors shall clearly state:
 1. The fund source;
 2. The percentage of the total costs of the project that is financed with federal money;

3. The dollar amount of federal funds for the project; and
4. The percentage and dollar amount of the total costs of the project that is financed by nongovernmental sources.

SECTION 22. PROVISIONS FOR BOATING PROJECT GRANTS

If requested by RCO, or required per state or federal law or rule with respect to any project or project element that supports recreational boating, Sponsor shall manage the project or project element per federal rules to include 2 C.F.R. Part 200, and place a United States Coast Guard (or other federal agency) logo and funding program information at the project site.

SECTION 23. PROVISIONS APPLYING TO DEVELOPMENT, MAINTENANCE, RENOVATION, AND RESTORATION PROJECTS

The following provisions shall be in force only if the project described in this Agreement is for construction of land or facilities in a development, maintenance, renovation or restoration project:

- A. Operations and Maintenance.** Properties, structures, and facilities developed, maintained, or operated with the assistance of money granted by the board and within the project area shall be built, operated, and maintained according to applicable regulations, laws, building codes, and health and public safety standards to assure a reasonably safe condition and to prevent premature deterioration (WAC 286.13.130). It is the Sponsor's sole responsibility to ensure the same are operated and maintained in a safe and operable condition. The RCO does not conduct safety inspections or employ or train staff for that purpose.
- B. Document Review and Approval.** Prior to commencing construction or finalizing the design, the Sponsor agrees to submit one copy of all construction and restoration plans and specifications to RCO for review solely for compliance with the scope of work to be identified in the Agreement. RCO does not review for, and disclaims any responsibility to review for safety, suitability, engineering, compliance with code, or any matters other than the scope so identified. Although RCO staff may provide tentative guidance to a Sponsor on matters related to site accessibility by persons with a disability, it is the Sponsor's responsibility to confirm that all legal requirements for accessibility are met even if the RCO guidance would not meet such requirements.
 1. Change orders that impact the amount of funding or changes to the scope of the project as described to and approved by the funding board or RCO must receive prior written approval of the board or RCO.
- C. Control and Tenure.** The Sponsor must provide documentation that shows appropriate tenure (such as landowner agreement, long-term lease, easement, or fee simple ownership) for the land proposed for construction. The documentation must meet current RCO requirements identified in the appropriate grant program policy manual as of the effective date of this Agreement and determines the long-term compliance period unless otherwise approved by the board.
- D. Nondiscrimination.** Except where a nondiscrimination clause required by a federal funding agency is used, the Sponsor shall insert the following nondiscrimination clause in each contract for construction of this project:

"During the performance of this contract, the contractor agrees to comply with all federal and state nondiscrimination laws, regulations and policies."

- E. Use of Best Management Practices.** Sponsors are encouraged to use best management practices including those developed as part of the Washington State Aquatic Habitat Guidelines (AHG) Program. AHG documents include "Integrated Streambank Protection Guidelines", 2002; "Land Use Planning for Salmon, Steelhead and Trout: A land use planner's guide to salmonid habitat protection and recovery", 2009; "Protecting Nearshore Habitat and Functions in Puget Sound", 2010; "Stream Habitat Restoration Guidelines", 2012; "Water Crossing Design Guidelines", 2013; and "Marine Shoreline Design Guidelines", 2014. These documents, along with new and updated guidance documents, and other information are available on the AHG Web site. Sponsors are also encouraged to use best management practices developed by the Washington Invasive Species Council (WISC) described in "Reducing Accidental Introductions of Invasive Species" which is available on the WISC Web site.

SECTION 24. PROVISIONS APPLYING TO ACQUISITION PROJECTS

The following provisions shall be in force only if the project described in this Agreement is an acquisition project (including projects with any acquisition component):

- A. Evidence of Land Value.** Before disbursement of funds by RCO as provided under this Agreement, the Sponsor agrees to supply documentation acceptable to RCO that the cost of the property rights acquired has been established according to funding board policy.
- B. Evidence of Title.** The Sponsor agrees to provide documentation that shows the type of ownership interest for the property that has been acquired. This shall be done before any payment of financial assistance.
- C. Legal Description of Real Property Rights Acquired.** The legal description of the real property rights purchased with funding assistance provided through this Agreement (and protected by a recorded conveyance of rights to the State of Washington) shall be delivered to RCO before final payment.
- D. Conveyance of Rights to the State of Washington.** When real property rights (both fee simple and lesser interests) are acquired, the Sponsor agrees to execute an appropriate document conveying certain rights and responsibilities to RCO, on behalf of the State of Washington. These documents include a Deed of Right, Assignment of Rights, Easements and/or Leases as described below. The Sponsor agrees to use document language provided by RCO, to record the executed document in the County where the real property lies, and to provide a copy of the recorded document to RCO. The document required will vary depending on the funding board project type, the real property rights being acquired and whether or not those rights are being acquired in perpetuity.
- 1. Deed of Right.** The Deed of Right conveys to the people of the state of Washington the right to preserve, protect, access, and/or use the property for public purposes consistent with the funding source and project agreement. See WAC 286 or 420. Sponsors shall use this document when acquiring real property rights that include the underlying land. This document may also be applicable for those easements where the Sponsor has acquired a perpetual easement for public purposes.
 - 2. Assignment of Rights.** The Assignment of Rights document transfers certain rights to RCO and the state such as public access, access for compliance, and enforcement. Sponsors shall use this document when an easement or lease is being acquired under this Agreement. The Assignment of Rights requires the signature of the underlying landowner and must be incorporated by reference in the easement document.
 - 3. Easements and Leases.** The Sponsor may incorporate required language from the Deed of Right or Assignment of Rights directly into the easement or lease document, thereby eliminating the requirement for a separate document. Language will depend on the situation; Sponsor must obtain RCO approval on the draft language prior to executing the easement or lease.

E. Real Property Acquisition and Relocation Assistance.

- 1. Federal Acquisition Policies.** When federal funds are part of this Agreement, the Sponsor agrees to comply with the terms and conditions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 84 Stat. 1894 (1970)--Public Law 91-646, as amended, and applicable regulations and procedures of the federal agency implementing that Act.
- 2. State Acquisition Policies.** When state funds are part of this Agreement, the Sponsor agrees to comply with the terms and conditions of the Uniform Relocation Assistance and Real Property Acquisition Policy of the State of Washington, Chapter 8.26 RCW, and Chapter 468-100 WAC.
- 3. Housing and Relocation.** In the event that housing and relocation costs, as required by federal law set out in subsection (1) above and/or state law set out in subsection (2) above, are involved in the execution of this project, the Sponsor agrees to provide any housing and relocation assistance required.

F. Buildings and Structures. In general, grant funds are to be used for outdoor recreation, conservation, or salmon recovery. Sponsors agree to remove or demolish ineligible structures. Sponsor must consult with RCO regarding treatment of such structures and compliance with Section 8.D Archeological and Cultural Resources.

G. Hazardous Substances.

- 1. Certification.** The Sponsor shall inspect, investigate, and conduct an environmental audit of the proposed acquisition site for the presence of hazardous substances, as defined in RCW 70.105D.020(13), and certify:
 - a.** No hazardous substances were found on the site, or
 - b.** Any hazardous substances found have been treated and/or disposed of in compliance with applicable state and federal laws, and the site deemed "clean."
- 2. Responsibility.** Nothing in this provision alters the Sponsor's duties and liabilities regarding hazardous substances as set forth in RCW 70.105D.
- 3. Hold Harmless.** The Sponsor will defend, protect and hold harmless the State and any and all of its employees and/or agents, from and against any and all liability, cost (including but not limited to all costs of defense and attorneys' fees) and any and all loss of any nature from any and all claims or suits resulting from the presence of, or the release or threatened release of, hazardous substances on the property the Sponsor is acquiring, except to the extent, if any, that the State, its officers and agents caused or contributed to the release. The funding board and RCO are included within the term State, as are all other agencies, departments, boards, councils, committees, divisions, bureaus, offices, societies, or other entities of state government.

H. Requirements for Federal Subawards. The non-federal entity (Sponsor) must submit reports at least annually on the status of real property in which the federal government retains an interest, unless the federal interest in the real property extends 15 years or longer. In those instances where the federal interest attached is for a period of 15 years or more, the federal awarding agency or the pass-through entity (RCO), at its option, may require the Sponsor to report at various multi-year frequencies (e.g., every two years or every three years, not to exceed a five-year reporting period; or a federal awarding agency or RCO may require annual reporting for the first three years of a federal award and thereafter require reporting every five years) (2 C.F.R. § 200.329 (2013)).

SECTION 25. LONG-TERM OBLIGATIONS OF THE PROJECTS AND SPONSORS

- A. Long-Term Obligations of RCFB Projects.** Sponsor shall comply with WAC 286-13-160, 170, and 180.
- B. Long-Term Obligations of SRFB Projects.** Sponsor shall comply with WAC 420.
- C. Perpetuity.** For acquisition, development, and restoration projects, or a combination thereof, unless otherwise allowed by policy, program rules, or this Agreement, or approved in writing by RCO or the funding board, RCO requires that the project area continue to function as intended after the period of performance in perpetuity.
- D. Conversion.** The Sponsor shall not at any time convert any real property (including any interest therein) or facility acquired, developed, renovated, and/or restored pursuant to this Agreement, unless provided for in applicable statutes, rules, and policies. Conversion includes, but is not limited to, putting such property to uses other than those purposes for which funds were approved or transferring such property to another entity without prior approval via a written amendment to the Agreement. Also see WAC Title 286 or 420 and applicable policies. All real property or facilities acquired, developed, renovated, and/or restored with funding assistance shall remain in the same ownership and in public use/access status in perpetuity unless otherwise expressly provided in the Agreement or applicable policy or unless a transfer or change in use is approved by the funding board through an amendment. Failure to comply with these obligations is a conversion. Further, if the project is subject to operation and or maintenance obligations, the failure to comply with such obligations, without cure after a reasonable period as determined by the RCO, is a conversion. Determination of whether a conversion has occurred shall be based upon this Agreement, applicable law and RCFB/SRFB policies.

For acquisition projects that are expressly term limited in the Agreement, such as one involving a lease or a term-limited restoration, renovation or development project or easement, the restriction on conversion shall apply only for the length of the term, unless otherwise provided in this Agreement, by funding board policy, other RCO approved written documents, or required by applicable state or federal law.

When a conversion has been determined to have occurred, the Sponsor is required to remedy the conversion per established funding board policies, and the board or RCO may pursue such remedies as are allowed by law and board policies, and/or this Agreement.

SECTION 26. CONSTRUCTION, OPERATION, USE AND MAINTENANCE OF ASSISTED PROJECTS

The following provisions shall be in force only if the project described in this Agreement is an acquisition, development, maintenance, renovation, or restoration project:

- A. Property and facility operation and maintenance.** Sponsor must ensure that properties or facilities assisted with funding board funds, including undeveloped sites, are built, operated, used, and maintained:
 - 1. According to applicable federal, state, and local laws and regulations, including public health standards and building codes;
 - 2. In a reasonably safe condition for the project's intended use;
 - 3. Throughout its estimated useful service life so as to prevent undue deterioration;
 - 4. In compliance with all federal and state nondiscrimination laws, regulations and policies.
- B. Open to the public.** Unless otherwise specifically provided for in the Agreement of funding board policies, and in compliance with applicable statutes, rules, and funding board policies, facilities must be open and accessible to the general public, and must:

1. Be constructed, maintained, and operated to meet or exceed the minimum requirements of the most current guidelines or rules, local or state codes, Uniform Federal Accessibility Standards, guidelines, or rules, including but not limited to: the International Building Code, the Americans with Disabilities Act, and the Architectural Barriers Act, as amended and updated.
2. Appear attractive and inviting to the public except for brief installation, construction, or maintenance periods.
3. Be available for appropriate use by the general public at reasonable hours and times of the year, according to the type of area or facility, unless otherwise stated in RCO manuals, by a decision of the board, or by RCO in writing. Sponsor shall notify the public of the availability for use by posting and updating that information on its website and by maintaining at entrances and/or other locations openly visible signs with such information.

SECTION 27. RECORDED NOTICE OF GRANT

At the request of RCO, Sponsor shall record a notice of grant on the property and shall submit to the RCO a recorded and registry stamped copy of such notice. The purpose of the notice of grant is to ensure that the present and future use of the facility is and shall remain subject to the terms and conditions described in this Agreement. The notice of grant shall be in a format specified by RCO.

SECTION 28. PROVISIONS RELATED TO CORPORATE (INCLUDING NONPROFIT) SPONSORS

A corporate Sponsor, including any nonprofit Sponsor, shall:

- A. Maintain corporate status with the state, including registering with the Washington Secretary of State's office, throughout the Sponsor's obligation to the project as identified in the Agreement.
- B. Notify RCO before corporate dissolution at any time during the period of performance or long-term obligations. Within 30 days of dissolution the Sponsor shall name a qualified successor that will agree in writing to assume any on-going project responsibilities, and transfer all property and assets to the successor. A qualified successor is any party eligible to apply for funds in the subject grant program and capable of complying with the terms and conditions of this Agreement. RCO will process an amendment transferring the Sponsor's obligation to the qualified successor if requirements are met.
- C. Maintain sites or facilities open to the public and may not limit access to members.

SECTION 29. PROVISIONS FOR FEDERAL SUBAWARDS ONLY

The following provisions shall be in force only if the project described in this Agreement is funded with a federal subaward as identified in Section H: FEDERAL FUND Information:

- A. **Sub-Recipient** (Sponsor) must comply with the cost principles of 2 C.F.R. Part 200 Subpart E (2013). Unless otherwise indicated, the cost principles apply to the use of funds provided under this Agreement to include match and any in-kind matching donations. The applicability of the cost principles depends on the type of organization incurring the costs.
- B. **Binding Official.** Per 2 CFR 200.415, Sponsor certifies through its actions or those of authorized staff, at the time of a request for reimbursement, the following: "To the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812)."

C. Equal Employment Opportunity. Except as otherwise provided under 41 C.F.R. Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. § 60- 1.4(b), in accordance with Executive Order 11246, Equal Employment Opportunity (30 Fed. Reg. 12319, 12935, 3 C.F.R. Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, Amending Executive Order 11246 Relating to Equal Employment Opportunity, and implementing regulations at 41 C.F.R. Part 60 (Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor). See 2 C.F.R. Part 200, Appendix II, paragraph C.

- 1. Federally Assisted Construction Contract.** The regulation at 41 C.F.R. § 60-1.3 defines a “federally assisted construction contract” as any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.
- 2. Construction Work.** The regulation at 41 C.F.R. § 60-1.3 defines “construction work” as the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.

D. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-federal entities (Sponsors) must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3148) as supplemented by Department of Labor regulations (29 C.F.R. § 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”).

In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-federal entity (Sponsor) must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity (Sponsor) must report all suspected or reported violations to the federal awarding agency identified in Section H: Federal Fund Information.

The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U. S. C. 3145), as supplemented by Department of Labor regulations (29 C.F.R Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient (Sponsor) must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity (Sponsor) must report all suspected or reported violations to the Federal awarding agency identified in Section H: Federal Fund Information.

- E. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708).** Where applicable, all contracts awarded by the non-federal entity (Sponsor) in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week.

The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

- F. Rights to Inventions Made Under a Contract or Agreement.** If the Federal award meets the definition of "funding agreement" under 37 C.F.R § 401.2(a) and the recipient or subrecipient (Sponsor) wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient (Sponsor) must comply with the requirements of 37 C.F.R Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.
- G. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as Amended.** Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency identified in Section H: Federal Fund Information and the Regional Office of the Environmental Protection Agency (EPA).
- H. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).** By signing this Agreement, the Sponsor certifies (per the certification requirements of 31 U.S.C.) that none of the funds that the Sponsor has (directly or indirectly) received or will receive for this project from the United States or any agency thereof, have been used or shall be used to engage in the lobbying of the Federal Government or in litigation against the United States. Such lobbying includes any influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this project. Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award.

- I. Procurement of Recovered Materials.** A non-federal entity (Sponsor) that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- J. Required Insurance.** The non-federal entity (Sponsor) must, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired or improved with federal funds as provided to property owned by the non-federal entity. Federally-owned property need not be insured unless required by the terms and conditions of the Federal award (2 C.F.R § 200.310 (2013)).
- K. Debarment and Suspension (Executive Orders 12549 and 12689).** The Sponsor must not award a contract to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the Office of Management and Budget (OMB) guidelines at 2 C.F.R § 180 that implement Executive Orders 12549 (3 C.F.R part 1986 Comp., p. 189) and 12689 (3 C.F.R part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- L. Conflict of Interest.** Sponsor agrees to abide by the conflict of interest policy and requirements of the federal funding agency established pursuant to 2 C.F.R 200.

SECTION 30. PROVISIONS FOR BOATING INFRASTRUCTURE GRANTS

- A. Use of Sport Fish Restoration Logo.** Per 50 CFR 86 Sec 75 and 76, the user of the logo must indemnify and defend the United States and hold it harmless from any claims, suits, losses, and damages from; any allegedly unauthorized use of any patent, process, idea, method, or device by the user in connection with its use of the logo, or any other alleged action of the user; and any claims, suits, losses, and damages arising from alleged defects in the articles or services associated with the logo. No one may use any part of the logo in any other manner unless the United States Fish and Wildlife Service's Assistant Director for Wildlife and Sport Fish Restoration or Regional Director approves in writing.

SECTION 31. PROVISIONS FOR FIREARMS AND ARCHERY RANGE RECREATION PROJECTS ONLY

The following provisions shall be in force only if the project described in this Agreement is funded from the Firearms and Archery Range Recreation Account.

- A. Liability Insurance.** The Sponsor of a firearms or archery range recreation project shall procure an endorsement, or other addition, to liability insurance it carries, or shall procure a new policy of liability insurance, in a total coverage amount the Sponsor deems adequate to ensure it will have resources to pay successful claims of people who may be killed or injured, or suffer damage to property, while present at the range facility to which this grant is related, or by reason of being in the vicinity of that facility; provided that the coverage shall be at least one million dollars (\$1,000,000) for the death of, or injury to, each person.
- B. Insurance Endorsement.** The liability insurance policy, including any endorsement or addition, shall name Washington State, the funding board, and RCO as additional insured and shall be in a form approved by the funding board or director.

- C. Length of Insurance.** The policy, endorsement or other addition, or a similar liability insurance policy meeting the requirements of this section, shall be kept in force throughout the Sponsor's obligation to the project as identified in this Agreement in Section F. LONG-TERM OBLIGATIONS.
- D. Notice of Cancellation.** The policy, as modified by any endorsement or other addition, shall provide that the issuing company shall give written notice to RCO not less than thirty (30) calendar days in advance of any cancellation of the policy by the insurer, and within ten (10) calendar days following any termination of the policy by the Sponsor.
- E. Government Agencies.** The requirement of Subsection A through D above shall not apply if the Sponsor is a federal, state, or municipal government which has established a program of self-insurance or a policy of self-insurance with respect to claims arising from its facilities or activities generally, including such facilities as firearms or archery ranges, when the applicant declares and describes that program or policy as a part of its application to the funding board.
- F. Sole Duty of the Sponsor.** By this requirement, the funding board and RCO does not assume any duty to any individual person with respect to death, injury, or damage to property which that person may suffer while present at, or in the vicinity of, the facility to which this grant relates. Any such person, or any other person making claims based on such death, injury, or damage, must look to the Sponsor, or others, for any and all remedies that may be available by law.

SECTION 32. PROVISIONS FOR LAND AND WATER CONSERVATION FUND PROJECTS ONLY

If the project has been approved by the National Park Service, US Department of the Interior, for funding assistance from the federal Land and Water Conservation Fund (LWCF), the "LWCF Grant Agreement General Provisions" are made part of this Agreement and incorporated herein. The Sponsor shall abide by these LWCF General Provisions, in addition to this Agreement, as they now exist or are hereafter amended. Further, the Sponsor agrees to provide RCO with reports or documents needed to meet the requirements of the LWCF General Provisions.

SECTION 33. PROVISIONS FOR FARM AND FOREST ACCOUNT PROJECTS (FARMLAND AND FORESTLAND PRESERVATION PROJECTS ONLY)

The following sections will not apply to Farmland and Forestland Preservation Projects if covered separately in a recorded RCO approved Agricultural Conservation Easement, or Forest Conservation Easement (or other method):

- A.** Section 15 - Income and Income Use;
- B.** Section 19 - Stewardship and Monitoring;
- C.** Section 21 - Acknowledgement and Signs;
- D.** Section 24 -- Provisions Applying To Acquisition Projects, Sub-sections D, F, and G;
- E.** Section 25C -Perpetuity; and
- F.** Section 26 -- Construction, Operation, Use and Maintenance of Assisted Projects.

SECTION 34. PROVISIONS FOR SALMON RECOVERY FUNDING BOARD PROJECTS ONLY

For habitat restoration projects funded in part or whole with federal funds administered by the SRFB the Sponsor shall not commence with clearing of riparian trees or in-water work unless either the Sponsor has complied with 50 C.F.R. § 223.203 (b)(8) (2000), limit 8 or until an Endangered Species Act consultation is finalized in writing by the National Oceanic and Atmospheric Administration. Violation of this requirement may be grounds for terminating this Agreement. This section shall not be the basis for any enforcement responsibility by RCO.

SECTION 35. PROVISIONS FOR PUGET SOUND ACQUISITION AND RESTORATION PROJECTS ONLY

The following provisions shall be in force only if the project described in this Agreement is funded in part or wholly from the Puget Sound Acquisition and Restoration program.

The Sponsor agrees to the following terms and conditions:

- A. Cost Principles/Indirect Costs For State Agencies.** GRANT RECIPIENT agrees to comply with the cost principles of 2 CFR 200 Subpart E as appropriate to the award. In addition to the US Environmental Protection Agency's General Terms and Conditions "Indirect Cost Rate Agreements," if the recipient does not have a previously established indirect cost rate, it agrees to prepare and submit its indirect cost rate proposal in accordance with 2 CFR 200 Appendix VII.
- B. Credit and Acknowledgement.** In addition to Section 21: Acknowledgement and Signs, materials produced must display both the Environmental Protection Agency (EPA) and Puget Sound Partnership (PSP) logos and the following credit line: "This project has been funded wholly or in part by the United States Environmental Protection Agency. The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does mention of trade names or commercial products constitute endorsement or recommendation for use." This requirement is for the life of the product, whether during or after the Agreement period of performance.
- C. Hotel Motel Fire Safety Act.** Sponsor agrees to ensure that all conference, meeting, convention, or training space funded in whole or part with federal funds, complies with the federal Hotel and Motel Fire Safety Act (PL 101-391, as amended). Sponsors may search the Hotel-Motel National Master List @ <http://www.usfa.dhs.gov/applications/hotel> to see if a property is in compliance or to find other information about the Act.
- D. Drug Free Workplace Certification.** Sub-recipient (Sponsor) shall make an ongoing, good faith effort to maintain a drug-free workplace pursuant to the specific requirements set forth in 2 C.F.R. Part 1536 Subpart B. Additionally, in accordance with these regulations, the recipient organization shall identify all known workplaces under its federal awards, and keep this information on file during the performance of the award. Sponsors who are individuals must comply with the drug-free provisions set forth in 2 C.F.R. Part 1536 Subpart C. The consequences for violating this condition are detailed under 2 C.F.R. Part 1536 Subpart E.
- E. Management Fees.** Management fees or similar charges in excess of the direct costs and approved indirect rates are not allowable. The term "management fees or similar charges" refers to the expenses added to direct costs in order to accumulate and reserve funds for ongoing business expenses, unforeseen liabilities or for other similar costs that are not allowable. Management fees or similar charges may not be used to improve or expand the project funded under this Agreement, except for the extent authorized as a direct cost of carrying out the scope of work.
- F. Trafficking in Persons and Trafficking Victim Protection Act of 2000 (TVPA).** This provision applies only to a sub-recipient (Sponsor), and all sub-awardees of sub-recipient (Sponsor), if any. Sub-recipient (Sponsor) shall include the following statement in all sub-awards made to any private entity under this Agreement.

"You as the sub-recipient, your employees, sub-awardees under this award, and sub-awardees' employees may not engage in severe forms of trafficking in persons during the period of time that the award is in effect; procure a commercial sex act during the period of time that the award is in effect; or use forced labor in the performance of the award or sub-awards under this Award."

The sub-recipient (Sponsor), and all sub-awardees of sub-recipient (Sponsor) must inform RCO immediately of any information you receive from any source alleging a violation of this prohibition during the award term.

The federal agency funding this Agreement may unilaterally terminate, without penalty, the funding award if this prohibition is violated, Section 106 of the Trafficking Victims Protection Act of 2000, as amended.

- G. Lobbying.** The chief executive officer of this recipient agency (Sponsor) shall ensure that no grant funds awarded under this Agreement are used to engage in lobbying of the Federal Government or in litigation against the United States, unless authorized under existing law. The recipient (Sponsor) shall abide by its respective Cost Principles (OMB Circulars A-21, A-87, and A-122), which generally prohibits the use of federal grant funds for litigation against the United States, or for lobbying or other political activities.

The Sponsor agrees to comply with 40 C.F.R. Part 34, New Restrictions on Lobbying. Sponsor shall include the language of this provision in award documents for all sub-awards exceeding \$100,000, and require that sub-awardees submit certification and disclosure forms accordingly.

In accordance with the Byrd Anti-Lobbying Amendment, any Sponsor who makes a prohibited expenditure under 40 C.F.R. Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each expenditure.

All contracts awarded by Sponsor shall contain, when applicable, the anti-lobbying provisions as stipulated in the Appendix at 40 C.F.R. Part 30.

Pursuant to Section 18 of the Lobbying Disclosure Act, Sponsor affirms that it is not a non-profit organization described in Section 501(c)(4) of the Internal Revenue Code of 1986; or that it is a non-profit organization described in Section 501(c)(4) of the code but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act.

- H. Reimbursement Limitation.** If the Sponsor expends more than the amount of RCO funding in this Agreement in anticipation of receiving additional funds from the RCO, it does so at its own risk. RCO is not legally obligated to reimburse the Sponsor for costs incurred in excess of the RCO approved budget.
- I. Disadvantaged Business Enterprise Requirements.** The Sponsor agrees to comply with the requirements of EPA's Utilization of Small, Minority and Women's Business Enterprises in procurements made under this award.
- J. Minority and Women's Business Participation.** Sponsor agrees to solicit and recruit, to the maximum extent possible, certified minority owned (MBE) and women owned (WBE) businesses in purchases and contracts initiated after the effective date of this Agreement.

These goals are expressed as a percentage of the total dollars available for purchase or agreement and are as follows:

Purchased Goods 8% MBE 4% WBE

Purchased Services 10% MBE 4% WBE

Professional Services 10% MBE 4% WBE

Meeting these goals is voluntary and no agreement award or rejection shall be made based on achievement or non-achievement of the goals. Achievement of the goals is encouraged, however, and Sponsor and ALL prospective bidders or people submitting qualifications shall take the following affirmative steps in any procurement initiated after the effective date of this Agreement:

1. Include qualified minority and women's businesses on solicitation lists.
2. Assure that qualified minority and women's business are solicited whenever they are potential sources of services or supplies.

3. Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses.
4. Establish delivery schedules, where work requirements permit, which will encourage participation of qualified minority and women's businesses.
5. Use the services and assistance of the State Office of Minority and Women's Business Enterprises (OMWBE) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.

K. MBE/WBE Reporting. In accordance with the deviation from 40 C.F.R. §33.502, signed November 8, 2013, DBE reporting is limited to annual reports and only required for assistance agreements where one or more the following conditions are met:

1. There are any funds budgeted in the contractual/services, equipment or construction lines of the award;
2. \$3,000 or more is included for supplies; or
3. There are funds budgeted for subawards or loans in which the expected budget(s) meet the conditions as
4. Described in items (a) and (b).

When completing the form, recipients (Sponsors) should disregard the quarterly and semi-annual boxes in the reporting period Section 1B of the form. For annual submissions, the reports are due by October 30th of each year or 90 days after the end of the project period, whichever comes first.

The reporting requirement is based on planned procurements. Recipients (Sponsors) with funds budgeted for non-supply procurement and/or \$3,000 or more in supplies are required to report annually whether the planned procurements take place during the reporting period or not. If no procurements take place during the reporting period, the recipient should check the box in Section 5B when completing the form.

MBE/WBE reports should be sent to the DBE Coordinator in the Sponsor's region. Contact information can be found at <http://www.epa.gov/osbp/contactpage.htm>. The coordinators also can answer any questions.

Final MBE/WBE reports must be submitted within 90 days after the project period of the grant ends. To be in compliance with regulations, the Sponsor must submit a final MBE/WBE report. Non-compliance may impact future competitive grant proposals. The current EPA Form 5700-52A can be found at the EPA Office of Small Business Program's Home Page at http://www.epa.gov/osbp/dbe_reporting.htm.

L. Procurement involving an EPA Financial Assistance Agreement. Pursuant to 40 C.F.R. § 33.301, the Sponsor agrees to make the following six good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to require that sub-recipients (Sponsors), and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained:

1. Ensure Disadvantaged Business Enterprise (DBEs) are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government Sponsors, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.

2. Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
3. Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local Government Sponsors, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
4. Encourage contracting with a consortium of DBEs when an agreement is too large for one of these firms to handle individually.
5. Use the services and assistance of the Small Business Administration (SBA) and the Minority Business Development of the Department of Commerce.
6. If the Sponsor awards subcontracts, require the Sponsor to take the steps in paragraphs (a) through (e) of this section.

M. Lobbying & Litigation. By signing this Agreement, the Sponsor certifies that none of the funds received from this Agreement shall be used to engage in the lobbying of the Federal Government or in litigation against the United States unless authorized under existing law.

The chief executive officer of this Sponsor agency shall ensure that no grant funds awarded under this Agreement are used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law. The Sponsor shall abide by its respective Attachment in 2 C.F.R. Part 200, which prohibits the use of federal grant funds for litigation against the United States or for lobbying or other political activities.

For subawards exceeding \$100,000, EPA requires the following certification and disclosure forms:

1. Certification Regarding Lobbying, EPA Form 6600-06:
http://www.epa.gov/ogd/AppKit/form/Lobbying_sec.pdf
2. Disclosure of Lobbying Activities, SF LLL: http://www.epa.gov/ogd/AppKit/form/sfillin_sec.pdf
3. Legal expenses required in the administration of Federal programs are allowable. Legal expenses for prosecution of claims against the Federal Government are unallowable.

N. Payment to Consultants. EPA participation in the salary rate (excluding overhead) paid to individual consultants retained by recipients (Sponsors) or by a recipients' (Sponsor's) contractors or subcontractors shall be limited to the maximum daily rate for Level IV of the Executive Schedule (formerly GS-18), to be adjusted annually. This limit applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. This rate does not include transportation and subsistence costs for travel performed (the recipient will pay these in accordance with his/her normal travel reimbursement practices).

Subagreements with firms for services that are awarded using the procurement requirements in 40 C.F.R. Parts 30 or 31, are not affected by this limitation unless the terms of the contract provide the recipient (Sponsor) with responsibility for the selection, direction and control of the individual who will be providing services under the contract at an hourly or daily rate of compensation. See 40 C.F.R. § 30.27(b) or 40 C.F.R. § 31.369(j), as applicable, for additional information.

As of January 1, 2014, the limit is \$602.24 per day \$75.28 per hour.

- O. Peer Review.** Where appropriate, prior to finalizing any significant technical products the Principal Investigator (PI) of this project must solicit advice, review, and feedback from a technical review or advisory group consisting of relevant subject matter specialists. A record of comments and a brief description of how respective comments are addressed by the PI will be provided to the Project Monitor prior to releasing any final reports or products resulting from the funded study.
- P. International Travel (Including Canada).** All International Travel must be approved by the US Environmental Protection Agency's Office of International and Tribal Affairs (OITA) BEFORE travel occurs. Even a brief trip to a foreign country, for example to attend a conference, requires OITA approval. Please contact your Partnership Project manager as soon as possible if travel is planned out of the country, including Canada and/or Mexico, so that they can submit a request to the EPA Project Officer if they approve of such travel.
- Q. Unliquidated Obligations (ULO).** Sub-recipients, and all sub-awardees of Sub-Recipients, if any, should manage their agreement and subaward funding in ways that reduce the length of time that federal funds obligated and committed to subaward projects are unspent (not yet drawn down through disbursements to sub-recipients and sub-awardees).

SECTION 36. ORDER OF PRECEDENCE

This Agreement is entered into, pursuant to, and under the authority granted by applicable federal and state laws. The provisions of the Agreement shall be construed to conform to those laws. In the event of a direct and irreconcilable conflict between the terms of this Agreement and any applicable statute, rule, or policy or procedure, the conflict shall be resolved by giving precedence in the following order:

1. Federal law and binding executive orders;
2. Code of federal regulations;
3. Terms and conditions of a grant award to the state from the federal government;
4. Federal grant program policies and procedures adopted by a federal agency that are required to be applied by federal law;
5. State law (constitution, statute);
6. Washington Administrative Code;
7. Funding board or RCO policies.

SECTION 37. LIMITATION OF AUTHORITY

Only RCO's Director or RCO's delegate by writing (delegation to be made prior to action) shall have the authority to alter, amend, modify, or waive any clause or condition of this Agreement; provided that any such alteration, amendment, modification, or waiver of any clause or condition of this Agreement is not effective or binding unless made as a written amendment to this Agreement and signed by the RCO Director or delegate.

SECTION 38. WAIVER OF DEFAULT

Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of the Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Agreement unless stated to be such in writing, signed by the director, or the director's designee, and attached as an amendment to the original Agreement.

SECTION 39. APPLICATION REPRESENTATIONS – MISREPRESENTATIONS OR INACCURACY OR BREACH

The funding board and RCO rely on the Sponsor's application in making its determinations as to eligibility for , selection for, and scope of, funding grants. Any misrepresentation, error or inaccuracy in any part of the application may be deemed a breach of this Agreement.

SECTION 40. SPECIFIC PERFORMANCE

The funding board and RCO may enforce this Agreement by the remedy of specific performance , which usually will mean completion of the project as described in this Agreement and/or enforcement of long-term obligations. However, the remedy of specific performance shall not be the sole or exclusive remedy available to RCO. No remedy available to the funding board or RCO shall be deemed exclusive. The funding board or RCO may elect to exercise any, a combination of, or all of the remedies available to it under this Agreement, or under any provision of law, common law, or equity, including but not limited to seeking full or partial repayment of the grant amount paid and damages.

SECTION 41. TERMINATION AND SUSPENSION

The funding board and RCO will require strict compliance by the Sponsor with all the terms of this Agreement including, but not limited to, the requirements of the applicable statutes, rules and all funding board and RCO policies, and with the representations of the Sponsor in its application for a grant as finally approved by the funding board. For federal awards, notification of termination will comply with 2 C.F.R. § 200.340.

A. For Cause.

1. The funding board or the director may suspend or terminate the obligation to provide funding to the Sponsor under this Agreement:
 - a. If the Sponsor breaches any of the Sponsor's obligations under this Agreement;
 - b. If the Sponsor fails to make progress satisfactory to the funding board or director toward completion of the project by the completion date set out in this Agreement. Included in progress is adherence to milestones and other defined deadlines; or
 - c. If the primary and secondary Sponsor(s) cannot mutually agree on the process and actions needed to implement the project;
2. Prior to termination, the RCO or the funding board shall notify the Sponsor in writing of the opportunity to cure. If corrective action is not taken within 30 days or such other time period that the director or board approves in writing, the Agreement may be terminated. In the event of termination, the Sponsor shall be liable for damages or other relief as authorized by law and/or this Agreement.
3. RCO reserves the right to suspend all or part of the Agreement, withhold further payments, or prohibit the Sponsor from incurring additional obligations of funds during the investigation of any alleged breach and pending corrective action by the Sponsor, or a decision by the RCO to terminate the Contract.

B. For Convenience. Except as otherwise provided in this Agreement, RCO may, by ten (10) days written notice, beginning on the second day after the mailing, terminate this Agreement, in whole or in part when it is in the best interest of the state. If this Agreement is so terminated, RCO shall be liable only for payment required under the terms of this Agreement prior to the effective date of termination . A claimed termination for cause shall be deemed to be a "Termination for Convenience" if it is determined that:

1. The Sponsor was not in default; or
2. Failure to perform was outside Sponsor's control, fault or negligence.

C. Rights of Remedies of the RCO.

1. The rights and remedies of RCO provided in this Agreement are not exclusive and are in addition to any other rights and remedies provided by law.
2. In the event this Agreement is terminated by the funding board or director, after any portion of the grant amount has been paid to the Sponsor under this Agreement, the funding board or director may require that any amount paid be repaid to RCO for redeposit into the account from which the funds were derived. However, any repayment shall be limited to the extent it would be inequitable and represent a manifest injustice in circumstances where the project will fulfill its fundamental purpose for substantially the entire period of performance and of long-term obligation.

D. Non Availability of Funds. The obligation of the RCO to make payments is contingent on the availability of state and federal funds through legislative appropriation and state allotment. If amounts sufficient to fund the grant made under this Agreement are not appropriated to RCO for expenditure for this Agreement in any biennial fiscal period, RCO shall not be obligated to pay any remaining unpaid portion of this grant unless and until the necessary action by the Legislature or the Office of Financial Management occurs. If RCO participation is suspended under this section for a continuous period of one year, RCO's obligation to provide any future funding under this Agreement shall terminate. Termination of the Agreement under this section is not subject to appeal by the Sponsor.

1. **Suspension:** The obligation of the RCO to manage contract terms and make payments is contingent upon the state appropriating state and federal funding each biennium. In the event the state is unable to appropriate such funds by the first day of each new biennium RCO reserves the right to suspend the Agreement, with ten (10) days written notice, until such time funds are appropriated. Suspension will mean all work related to the contract must cease until such time funds are obligated to RCO and the RCO provides notice to continue work.

SECTION 42. DISPUTE HEARING

Except as may otherwise be provided in this Agreement, when a dispute arises between the Sponsor and the funding board, which cannot be resolved, either party may request a dispute hearing according to the process set out in this section. Either party's request for a dispute hearing must be in writing and clearly state:

- A. The disputed issues;
- B. The relative positions of the parties;
- C. The Sponsor's name, address, project title, and the assigned project number.

In order for this section to apply to the resolution of any specific dispute or disputes, the other party must agree in writing that the procedure under this section shall be used to resolve those specific issues. The dispute shall be heard by a panel of three persons consisting of one person chosen by the Sponsor, one person chosen by the director, and a third person chosen by the two persons initially appointed. If a third person cannot be agreed on, the third person shall be chosen by the funding board's chair.

Any hearing under this section shall be informal, with the specific processes to be determined by the disputes panel according to the nature and complexity of the issues involved. The process may be solely based on written material if the parties so agree. The disputes panel shall be governed by the provisions of this Agreement in deciding the disputes.

The parties shall be bound by the decision of the disputes panel, unless the remedy directed by that panel shall be without the authority of either or both parties to perform, as necessary, or is otherwise unlawful.

Request for a disputes hearing under this section by either party shall be delivered or mailed to the other party. The request shall be delivered or mailed within thirty (30) days of the date the requesting party has received notice of the action or position of the other party which it wishes to dispute. The written agreement to use the process under this section for resolution of those issues shall be delivered or mailed by the receiving party to the requesting party within thirty (30) days of receipt by the receiving party of the request.

All costs associated with the implementation of this process shall be shared equally by the parties.

SECTION 43. ATTORNEYS' FEES

In the event of litigation or other action brought to enforce contract terms, each party agrees to bear its own attorney fees and costs.

SECTION 44. GOVERNING LAW/VENUE

This Agreement shall be construed and interpreted in accordance with the laws of the State of Washington . In the event of a lawsuit involving this Agreement, venue shall be in Thurston County Superior Court if legally proper; otherwise venue shall be in a county where the project is situated, if venue there is legally proper, and if not, in a county where venue is legally proper. The Sponsor, by execution of this Agreement acknowledges the jurisdiction of the courts of the State of Washington .

SECTION 45. PROVISIONS APPLICABLE ONLY IF FEDERALLY RECOGNIZED INDIAN TRIBE IS THE SPONSOR

In the cases where this Agreement is between the funding board (which includes the State of Washington for purposes of this Agreement) and a federally recognized Indian Tribe, the following terms and conditions apply, but only between those parties:

- A.** Notwithstanding the above venue provision, if the State of Washington intends to initiate legal action against a federally recognized Indian tribe relating to the performance, breach, or enforcement of this Agreement, it shall so notify the Tribe. If the Tribe believes that a good faith basis exists for subject matter jurisdiction of such an action in federal court, the Tribe shall so notify the State within five days of receipt of such notice and state the basis for such jurisdiction. If the Tribe so notifies the State, the State shall bring such action in federal court, otherwise the State may sue the Tribe in the Thurston County Superior Court, or such other superior court where venue is proper, if not proper in Thurston County. Interpretation of the Agreement shall be according to applicable State law, except to the extent preempted by federal law. In the event suit is brought in federal court and the federal court determines that it lacks subject matter jurisdiction to resolve the dispute between the State and Tribal Party, then the State may bring suit in Thurston County Superior Court or such other superior court where venue is proper, if not proper in Thurston County.
- B.** Any judicial award, determination, order, decree or other relief, whether in law or equity or otherwise, resulting from such actions under subsection A above, shall be binding and enforceable on the parties. Any money judgment or award against a Tribe, tribal officers, or employees, or the State of Washington, its agencies, or its officers and employees may exceed the amount of funding awarded under this Agreement.
- C.** As requested by RCO, the Tribe shall provide to RCO its governing requirements and procedures for entering into Agreement with RCO and waiving its sovereign immunity. In addition, the tribe shall provide to RCO all authorizations the Tribe requires to authorize the person (s) signing the Agreement on the Tribe's behalf to bind the Tribe and waive the Tribe's sovereign immunity as provided herein .

- D.** The Tribe hereby waives its sovereign immunity for suit in federal and state court for the limited purposes of allowing the State to bring and prosecute to completion such actions relating to the performance, breach, or enforcement of this Agreement as provided in subsection A above, and to bring actions to enforce any judgment arising from such actions. This waiver is not for the benefit of any third party and shall not be enforceable by any third party or by any assignee of the parties. In any enforcement action, the parties shall bear their own enforcement costs, including attorneys' fees.

For purposes of this provision, the State includes the funding board, the RCO, and any other state agencies as the term "agency" is broadly understood to include, but not be limited to, departments, commissions, boards, divisions, bureaus, committees, offices, councils, societies, etc.

SECTION 46. SEVERABILITY

The provisions of this Agreement are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Agreement.

Eligible Scope Activities

Project Sponsor: Mid-Columbia Regional Fisheries Enhancement Group
Project Title: Yakima River Side Channel at Bull Canal Diversion
Program: Salmon Federal Projects

Project Number: 17-1179
Project Type: Restoration
Approval: 1/31/2018

Restoration Metrics

Worksite #1, Irene Rinehart Riverfront Park

Targeted salmonid ESU/DPS (A.23):

Chinook Salmon-Middle Columbia River
spring-run ESU, Steelhead-Middle
Columbia River DPS

Targeted species (non-ESU species):

Bull Trout, Cutthroat, Rainbow
0.61

Miles of Stream and/or Shoreline Treated or Protected (C.0.b):

Project Identified In a Plan or Watershed Assessment (C.0.c):

Conley, A., J. Freudenthal, D. Lind, P.
Mees, and R. Visser. 2009. Yakima
Steelhead Recovery Plan, Extracted
from the 2005 Yakima Subbasin Salmon
Recovery Plan with Updates. Yakima
Basin Fish & Wildlife Recovery Board,
Yakima WA.

Type Of Monitoring (C.0.d.1):

Implementation Monitoring

Instream Flow Project

Miles Of Stream 'Protected' For Adequate Flow (C.3.b):

4.50

Change In Water Flow (C.3.c):

30.00

Maintaining adequate flow or reducing withdrawals (C.3.g.1)

Cfs (Cubic Feet Per Second) of water conserved per year (C.3.g.2):

30

Instream Habitat Project

Total Miles Of Instream Habitat Treated (C.4.b):

0.53

*Work to improve the connection occurs
along 0.11 miles of the Yakima River and
side channel, but the length of Yakima R
between the upstream and downstream
ends of the treated side channel is 0.53
miles.*

Channel reconfiguration and connectivity (C.4.c.1)

Type of change to channel configuration and connectivity (C.4.c.2):

Creation/Connection to Off-Channel
Habitat

Miles of Stream Treated for channel reconfiguration and connectivity
(C.4.c.3):

0.53

*Miles of Yakima River between inlet and
outlet of side channel*

Miles of Off-Channel Stream Created or Connected (C.4.c.4):

0.60

*Miles of side channel fully re-connected.
Note that fish already had access from
upstream, but not from downstream.*

Acres Of Channel/Off-Channel Connected Or Added (C.4.c.5):

1.1

*0.6 miles x 15' wide side channel = 1.09
acres*

Instream Pools Created/Added (C.4.c.6):

0

Streambank stabilization (C.4.e.1)

Miles of Streambank Stabilized (C.4.e.3):

0.06

Permits

Obtain permits

Architectural & Engineering

Architectural & Engineering (A&E)

Milestone Report By Project

Project Number: 17-1179 R
Project Name: Yakima River Side Channel at Bull Canal Diversion
Sponsor: Mid-Columbia RFEG
Project Manager: Kay Caromile

X	!	Milestone	Target Date	Comments/Description
		Project Start	01/19/2018	
	!	Applied for Permits	05/31/2018	
	!	Final Design to RCO	05/31/2018	
		Landowner Agreement to RCO	07/31/2018	
	!	Cultural Resources Complete	07/31/2018	Federal Nexus: Evidence of completion of Section 106 review is required. To be completed through Army Corps Permit. Attach Army Corps permit to PRISM to confirm cult res consultation complete for ALL ground disturbing activities.
	!	Annual Project Billing Due	07/31/2018	
	!	Progress Report Due	07/31/2018	
		Permits Complete	07/31/2018	
		Bid Awarded/Contractor Hired	07/31/2018	
		Restoration Started	09/01/2018	construction
		Restoration Started	10/15/2018	planting
		Restoration Complete	11/30/2018	planting and construction
		Funding Acknowl Sign Posted	01/31/2019	RCO has small metal signs available for use upon request
	!	Final Design to RCO	01/31/2019	As-built drawings or project documentation attached in PRISM, if constructed project differs from final design
	!	Progress Report Due	01/31/2019	
	!	Annual Project Billing Due	07/31/2019	
	!	Progress Report Due	07/31/2019	
	!	Progress Report Due	01/31/2020	
	!	Annual Project Billing Due	07/31/2020	
	!	Progress Report Due	07/31/2020	
	!	Progress Report Due	01/31/2021	
		RCO Final Inspection	07/31/2021	
	!	Annual Project Billing Due	07/31/2021	

Milestone Report By Project

	!	Progress Report Due	07/31/2021	
		Final Report Due	11/30/2021	
	!	Agreement End Date	11/30/2021	PROJECT CLOSING. All expenditures must be prior to this date
		Restoration Complete	11/30/2021	plant stewardship complete
		Final Billing Due	01/31/2022	

X = Milestone Complete

! = Critical Milestone

Amendment to Project Agreement

MD
3/20/19

Project Sponsor: Mid-Columbia RFEG

Project Number: 17-1179R

Project Title: Yakima River Side Channel at Bull Canal Diversi

Amendment Number: 1

Amendment Type:

A&E/Admin Limit Change

Amendment Description:

Increasing the A&E limit to the 30% limit (44,531) to accommodate additional design and stakeholder facilitation following construction bids that came in significantly above estimates. Note that a further A&E limit increase may be necessary once stakeholders meet mid-March to determine next steps.

Project Funding:

The total cost of the project for the purpose of this Agreement changes as follows:

	Old Amount		New Amount	
	Amount	%	Amount	%
RCO - SALMON ST PROJ	\$1.00	0.00%	\$1.00	0.00%
RCO - SALMON FED PROJ	\$164,017.00	85.00%	\$164,017.00	85.00%
Project Sponsor	\$28,950.00	15.00%	\$28,950.00	15.00%
Total Project Cost	\$192,968.00	100%	\$192,968.00	100%
Admin Limit	\$0.00	5.00%	\$0.00	5.00%
A&E Limit	\$26,280.00	15.77%	\$44,531.00	30.00%

Agreement Terms

In all other respects the Agreement, to which this is an Amendment, and attachments thereto, shall remain in full force and effect. In witness whereof the parties hereto have executed this Amendment.

State Of Washington
Recreation and Conservation Office

Mid-Columbia RFEG

BY: Kaleen Cottingham
Kaleen Cottingham

AGENCY: _____
BY: [Signature]

TITLE: Director

TITLE: PRESIDENT

DATE: 2-27-19

DATE: 3-5-19

Pre-approved as to form:

BY: /S/
Assistant Attorney General

RECEIVED

MAR 20 2019

Caromile, Kay (RCO)

From: Rebecca Wassell <becca@midcolumbiafisheries.org>
Sent: Tuesday, February 26, 2019 4:21 PM
To: Caromile, Kay (RCO); MARGARET NEUMAN
Subject: Request to increase A&E for #17-1179

Hi Kay,

I am writing to request that the A&E limit for the Yakima River Side Channel at Bull Canal Diversion be raised to 30% to reflect our anticipated project costs.

As you recall, MCF first proposed this project as an implementation project in 2015. At the suggestion of reviewers, we changed the proposal to design, and were funded for an alternatives analysis and design. Our consulting engineering firm, Herrera, LLC, completed preliminary design in the fall of 2017. The preliminary design report included an estimated cost of \$196,000 for construction, inclusive of contingency.

The award of 2017 SRFB grants was delayed due to the state budget. As soon as we had certainty that the funds would be contracted, we began work with Herrera to finalize the design and move to construction. In July of 2018, just prior to the advertisement of the project, Herrera revised their construction cost estimate to \$255,200. The apparent low bid came in at approximately \$343,000.

We rejected all bids and reconvened our project steering committee. The committee advised us to work to reduce project costs. Since July 1, Herrera has expended \$13,971.35 on the revision to plans and cost estimates. The revised cost estimate, with contingency, is \$339,000.

We have told Herrera to do no further work on the project, pending guidance from our steering committee, which is scheduled to meet on March 14. We expect the committee to advise us on whether to pursue the project as designed, or to consider another course. If the committee advises us to proceed, we will submit a second proposal to SRFB for the difference in project cost.

The unexpected pausing of the construction timeline and re-working of the project design have increased our administration and engineering costs over those that were estimated during the grant proposal process. In the grant proposal, we used Herrera's estimated \$15,000 for final design and our own \$11,280 in project management costs to calculate a total A&E cost of \$26,280. To date, we have expended \$30,354.62 in A&E, and have also documented \$4,685.65 in A&E match, for a total of \$36,190.80, which exceeds our A&E estimate by \$9,910.80.

The maximum A&E allowed in PRISM (30% of expected constructed costs) is \$44,531.05. Increasing the project's A&E to this amount will allow us to reconcile our current advance in a timely manner. It will also allow the project to report an additional \$9,490.78 in A&E over its grant period, which would allow for MCF to facilitate the steering committee meeting and coordinate with partners on project next steps. If the steering committee determines that the project needs a new approach, we will work with the lead entity and RCO to consider options for this grant, including the possibility of converting it to a final design grant and reducing the contracted amount.

Thank you for your consideration of our request,

Becca

Rebecca Wassell
Yakima Basin Program Director
Mid-Columbia Fisheries Enhancement Group
413 N. Main St., Ste K
Ellensburg, WA 98926
(509)281-1311
becca@midcolumbiafisheries.org

Natural Resources Building
P.O. Box 40917
Olympia, WA 98504-0917

1111 Washington St. S.E.
Olympia, WA 98501



(360) 902-3000
TTY: (800) 833-6388

E-mail: Info@rco.wa.gov
Web site: www.rco.wa.gov

STATE OF WASHINGTON
RECREATION AND CONSERVATION OFFICE

February 27, 2019

Glen Miller
Mid-Columbia RFEG
1823 Reservoir Loop
Selah, WA 98942

RE: Yakima River Side Channel at Bull Canal Diversion, RCO #17-1179R
Amendment # 1

Dear Glen Miller:

In response to your request to amend the above-referenced Project Agreement, we have reviewed the circumstances and pertinent RCWs, WACs, and program policies relating to your request. As a result, I am approving an amendment to the Yakima River Side Channel at Bull Canal Diversion project.

Enclosed are two original amendments to the Project Agreement. Please sign both amendments, retain one for your records, and return one original. If you have any questions, please call Kay Caromile at (360) 902-2639, or send an e-mail to kay.caromile@rco.wa.gov.

Sincerely,

Kay Caromile FOR

Kaleen Cottingham
Director

Enclosures

cc: Margaret Neuman



Amendment Special Conditions

Project Sponsor: Mid-Columbia RFEG

Project Number: 17-1179 R

Project Title: Yakima River Side Channel at Bull Canal Diversion

Amendment Number: 1

Special Conditions

1. Archaeological and Cultural Resource Consultation, EO 05-05 Exemption due to Sect 106:

This project requires a federal Army Corps permit and so is subject to the National Historic Preservation Act, Section 106. It, therefore, appears to be exempt from Governor's Executive Order 05-05 Archaeological and Cultural Resources (EO 05-05) as described in Section 8 of this project agreement. In order for this project to be exempt from EO 05-05, the Section 106 Area of Potential Effect (APE) must include all ground-disturbing activities subject to this project agreement, including the restoration staging area. The sponsor is encouraged to work with the federal permitting agency to align the Section 106 APE with the scope of work subject to this project agreement. Attach a copy of the Army Corps permit approval letter to PRISM to confirm consultation is complete for ALL ground disturbing activities. If the APE does not include all ground-disturbing activities subject to this project agreement, promptly notify the RCO grant manager, as this will require RCO to initiate cultural resources consultation following EO 05-05 for those activities not included in the federal APE. Completion of this consultation and a Notice to Proceed from RCO will be required before these ground-disturbing activities can begin.

Amendment to Project Agreement

Project Sponsor: Mid-Columbia RFEG

Project Number: 17-1179R

Project Title: Yakima River Side Channel at Bull Canal Diversi

Amendment Number: 2

Amendment Type:

Special Conditions Change

Amendment Description:

Add Special Condition to the project agreement to increase record retention to 9 years from project completion date in order to meet federal record retention requirements.

Agreement Terms

In all other respects the Agreement, to which this is an Amendment, and attachments thereto, shall remain in full force and effect. In witness whereof the parties hereto have executed this Amendment.

State Of Washington
Recreation and Conservation Office

Project Sponsor

BY: Kaleen Cottingham
Kaleen Cottingham

AGENCY: _____
BY: DL Miller

TITLE: Director

TITLE: ~~3-15 PRESIDENT~~

DATE: 3/9/2019

DATE: 3-15-19

Pre-approved as to form:
BY: /S/
Assistant Attorney General

RECEIVED

MAR 26 2019

WA STATE
RECREATION AND CONSERVATION OFFICE

Amendment Special Conditions

Project Sponsor: Mid-Columbia RFEG

Project Number: 17-1179 R

Project Title: Yakima River Side Channel at Bull Canal Diversion **Amendment Number:** 2

Special Conditions

1. Archaeological and Cultural Resource Consultation, EO 05-05 Exemption due to Sect 106:

This project requires a federal Army Corps permit and so is subject to the National Historic Preservation Act, Section 106. It, therefore, appears to be exempt from Governor's Executive Order 05-05 Archaeological and Cultural Resources (EO 05-05) as described in Section 8 of this project agreement. In order for this project to be exempt from EO 05-05, the Section 106 Area of Potential Effect (APE) must include all ground-disturbing activities subject to this project agreement, including the restoration staging area. The sponsor is encouraged to work with the federal permitting agency to align the Section 106 APE with the scope of work subject to this project agreement. Attach a copy of the Army Corps permit approval letter to PRISM to confirm consultation is complete for ALL ground disturbing activities. If the APE does not include all ground-disturbing activities subject to this project agreement, promptly notify the RCO grant manager, as this will require RCO to initiate cultural resources consultation following EO 05-05 for those activities not included in the federal APE. Completion of this consultation and a Notice to Proceed from RCO will be required before these ground-disturbing activities can begin.

In order to satisfy 15 CFR 24.42(b) & (c) For projects that contain Pacific Coast Salmon Recovery Funds or are used as match to Pacific Coast Salmon Recovery Funds the sponsor shall retain records for a period of nine years from the date RCO deems the project complete as defined in the PROJECT REIMBURSEMENTS Section.

Amendment to Project Agreement

Project Sponsor: Mid-Columbia RFEG
Project Title: Yakima River Side Channel at Bull Canal Diversion

Project Number: 17-1179R
Amendment Number: 3

Amendment Type:

Scope Change

Amendment Description:

The project scope is changed in order to reduce the project costs to afford construction with funding available. Specific changes include removing the instream flow and bank stabilization elements, and adding beaver dam analog construction. See Progress Report submitted May 5, 2021 for more information.

Agreement Terms

In all other respects the Agreement, to which this is an Amendment, and attachments thereto, shall remain in full force and effect. In witness whereof the parties hereto have executed this Amendment.

State Of Washington
Recreation and Conservation Office

Project Sponsor

BY:

For



Scott Robinson (Jun 25, 2021 12:13 PDT)

Megan Duffy

TITLE: Director

DATE: Jun 25, 2021

BY:

Pre-approved as to form:

/S/

Assistant Attorney General

AGENCY:

Glenn Miller

BY:



Glenn Miller (Jun 25, 2021 12:12 PDT)

TITLE:

President

DATE:

Jun 25, 2021

17-1179 Amendment #3 - Scope Change

Final Audit Report

2021-06-25

Created:	2021-06-25
By:	Kendall Barrameda (kendall.barrameda@rco.wa.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAiHct8OHOOrdMwTA2QI0I1o-re1LnkpowJ

"17-1179 Amendment #3 - Scope Change" History

 Document created by Kendall Barrameda (kendall.barrameda@rco.wa.gov)
2021-06-25 - 4:34:50 PM GMT- IP address: 198.238.202.220

 Document emailed to Glenn Miller (fishwa@aol.com) for signature
2021-06-25 - 4:35:54 PM GMT

 Email viewed by Glenn Miller (fishwa@aol.com)
2021-06-25 - 7:09:57 PM GMT- IP address: 69.147.90.126

 Document e-signed by Glenn Miller (fishwa@aol.com)
Signature Date: 2021-06-25 - 7:12:32 PM GMT - Time Source: server- IP address: 66.243.245.235

 Document emailed to Scott Robinson (scott.robinson@rco.wa.gov) for signature
2021-06-25 - 7:12:33 PM GMT

 Email viewed by Scott Robinson (scott.robinson@rco.wa.gov)
2021-06-25 - 7:12:53 PM GMT- IP address: 104.47.65.254

 Document e-signed by Scott Robinson (scott.robinson@rco.wa.gov)
Signature Date: 2021-06-25 - 7:13:00 PM GMT - Time Source: server- IP address: 198.238.202.220

 Agreement completed.
2021-06-25 - 7:13:00 PM GMT



CITY COUNCIL AGENDA REPORT

City Council Meeting Date: September 20, 2021

Item Title/Agenda Subject: Interlocal Cooperation Agreement Between Kittitas County and the City of Ellensburg for Economic Development Strategic Plan Services

Submitted by: Heidi Behrends Cerniwey City Manager Department

Recommended Action or Motion: Approve and authorize the Mayor to sign the Interlocal Cooperation Agreement with Kittitas County in substantially similar form and approve the necessary budget adjustments.

Background/Summary: In 2009, TIP Strategies prepared an Economic Development Strategic Plan for Kittitas County. Conditions, roles, and community resources have changed since that time. The City Council expressed interest in developing a strategy that included specific actions and roles to enhance and strengthen Ellensburg's economy. A regional partnership with Kittitas County was proposed to coordinate consultant services to develop a regional economic development strategic plan with specific actions for the City.

Previous Council Action: CenterFuse recommended sale of the City's Business Incubator Building at a City Council meeting on March 15, 2021. The property was surplus and sold for approximately \$710,000 in July 2021. Proceeds from the sale were directed to serve future economic development needs in the City. At Study Session held on June 28, 2021, the City Council discussed options for future investments and directed staff to develop an agreement with Kittitas County to contribute to the cost of an economic development strategic plan update that would provide regional and City-specific roles and actions for future economic investment. Up to \$75,000 in funding from the sale of the business incubator was authorized by Council to contribute to this planning project.

Analysis: An interlocal agreement is authorized by RCW 39.34 and allows for public agencies to cooperate on matters for mutual efficiency.

The City has no current economic development strategic plan.

The proposed economic development strategic plan scope of work includes recommendations and tools specific for the City.

Financial Impact:

The City Council authorized up to \$75,000.00 from the City's Economic Development Fund, established with revenues from sale of the Ellensburg Incubator Building earlier this year, for specified expenditures to create an Economic Development Strategic Plan for the City of Ellensburg and Kittitas County. This action requires a budget increase in the Economic Development Fund to pay for the expenditure.

Attachments:

[Interlocal - Kittitas Co - City Economic Development TIP Strategies \(09-20-21\)](#)
[Exhibit A 2021-07-30 TIP Kittitas County WA proposal](#)

INTERLOCAL COOPERATION AGREEMENT BETWEEN KITTITAS COUNTY AND THE CITY OF ELLENSBURG FOR ECONOMIC DEVELOPMENT STRATEGIC PLAN SERVICES

This INTERLOCAL AGREEMENT ("Agreement") is entered into on this ____ day of September, 2021 ("Effective Date"), by and between Kittitas County, a municipal corporation of the State of Washington, (hereinafter the "County"), and the City of Ellensburg, a municipal corporation of the State of Washington (hereinafter referred to as "City").

WHEREAS, the Interlocal Cooperation Act, chapter 39.34 RCW, allows public agencies to make the most efficient use of their powers by enabling them to cooperate with each other on the basis of mutual advantage to provide services and facilities that will best fit the needs of each community; and

WHEREAS, the City of Ellensburg allocated up to Seventy-Five Thousand Dollars and No Cents (\$75,000.00), from the City's economic development fund, established with revenues from sale of the Ellensburg Incubator Building, for specified expenditures to create an Economic Development Strategic Plan for the City of Ellensburg and Kittitas County; and

WHEREAS, the County of Kittitas and the City of Ellensburg, are desirous of collaborating to develop a coordinated and updated Economic Development Strategic Plan with local and regional entities; and

WHEREAS, TIP Strategies prepared an Economic Development Strategic Plan (Release 1.0) for the Kittitas County Economic Development Group in July 2009; and

WHEREAS, the above-named municipal corporations desire to enter into an Interlocal Agreement to facilitate the use of funds for consultant services to conduct Phase 1 and Phase 2 services to develop a comprehensive Economic Development Strategic Plan outlined in the attached Scope of Work;

NOW THEREFORE, IT IS AGREED AS FOLLOWS:

1. PURPOSE: To provide for the shared funding of consultant services between Kittitas County and City of Ellensburg for creation of a coordinated economic development strategic plan with implementation actions.

2. RESPONSIBILITIES: As the County seat and largest municipality, the City of Ellensburg shall contribute an amount not to exceed Seventy-Five Thousand Dollars and No Cents (\$75,000.00) as reimbursement for fifty percent (50%) of eligible expenditures outlined in the TIP Strategies Scope of Work ("SOW"), attached hereto as Exhibit A. The City's responsible portion shall exclude consultant expenses such as travel and lodging costs.

3. TERM OF AGREEMENT: The term of this Agreement shall be from the Effective Date through December 31, 2023, unless extended by mutual written agreement as provided in Section 9, below.

4. ADMINISTRATION: No new or separate legal or administrative entity is created to administer the provisions of this Agreement. This Agreement shall be administered by the Kittitas County Board of County Commissioners on behalf of the above-named parties.

5. PAYMENTS: The Kittitas County Auditor (“Auditor”) shall serve as the fiscal agent for purposes of this agreement, and shall administer payments under this agreement as follows:

a. On or before the 10th day of each month, the Auditor shall identify any eligible expenditures incurred by Kittitas County against the SOW in the prior month and submit an invoice for up to 50% of reimbursable costs under the Agreement to the City for their proportional allocation of the expenditures, excluding consultant expenses such as travel and lodging costs.

b. Copies of supporting documentation for all expenditures must be attached to each invoice/certification.

c. The proportional share for payment of eligible expenditures under this Agreement by each party, shall be as follows:

<u>Party</u>	<u>Proportional Commitment</u>	<u>Total Maximum Commitment Intent Funds</u>
Kittitas County:	50%	\$75,000.00, plus approved expenses
Ellensburg:	50%	\$75,000.00, excluding expenses
Total	100.00%	\$150,000.00, plus approved expenses

d. Unless another method of transmittal is required in this agreement or by the administrative requirements, all invoices, certifications, and backup documentation shall be transmitted between the parties by email to the fiscal contact for each entity.

e. The City of Ellensburg will remit payment to Kittitas County for invoice within 30 days of receipt.

f. Fiscal contacts are as follows:

Kittitas County Auditor’s Office	_____
City of Ellensburg	_____

6. TREATMENT OF ASSETS AND PROPERTY: No fixed assets or personal or real property will be jointly or cooperatively acquired, held, used, or disposed of pursuant to this Agreement.

7. INDEMNIFICATION: Each party agrees to be responsible and assume liability for its own wrongful and/or negligent acts or omissions or those of their officials, officers, agents, or employees to the fullest extent required by law. The parties do not assume responsibility to the any other party for the consequences of any act or omission of any person, firm or corporation not a party to this Agreement, and further agrees to save, indemnify, defend, and hold the other party harmless from any such liability.

8. ADDITION OF OTHER CITIES: The Parties may mutually agree to add other cities within Kittitas County to this Agreement to be included in the SOW. The Parties shall determine the appropriate payment required of additional cities. Such required payment may take into account additional costs, if any, if the SOW is amended to include the additional cities. Added cities shall execute a signature page incorporating all the terms of this Agreement.

9. TERMINATION: This Agreement may only be terminated by mutual written agreement of all parties executed in the same manner as this Agreement. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

10. CHANGES, MODIFICATIONS, AMENDMENTS, AND WAIVERS: This Agreement may be changed, modified, amended, or waived only by written agreement executed by the parties hereto. Waiver or breach of any term or condition of this Agreement shall not be considered a waiver of any prior or subsequent breach.

11. SEVERABILITY: In the event any term or condition of this Agreement or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications of this Agreement which can be given effect without the invalid term, condition, or application. To this end, the terms and conditions of this Agreement are declared severable.

12. ENTIRE AGREEMENT: This Agreement contains all the terms and conditions agreed upon by the parties. All items incorporated herein by this reference are attached. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

13. EXECUTION: Each party to this Agreement may bind itself with all other parties to this Agreement by signing a duplicate original of this Agreement and submitting such signed duplicate original for filing by the Kittitas County Auditor pursuant to Section thirteen (14). It is understood that such execution shall not require one original Agreement be signed by all parties to this Agreement, but that there will be several duplicate originals signed by each party to this Agreement. The purpose of this provision is to facilitate the signing of the Agreement and to avoid undue delay in the execution of the Agreement. This Agreement, however, shall be executed on behalf of each party by its authorized representative and pursuant to the appropriate motion, resolution or ordinance of each party. Each party to this Agreement shall be bound to it as of the date it is signed by that representative of the party.

14. FILING: Executed copies of this Agreement shall be filed as required by RCW 39.34.040 or listed by subject on the party's website.

DATED at Ellensburg, Washington, this _____ day of September, 2021.

BOARD OF KITTITAS COUNTY
COMMISSIONERS

BRETT WACHSMITH, Chair

LAURA OSIADACZ, Vice-Chair

CORY WRIGHT, Commissioner

ATTEST:

Julie Kjorsvik, Clerk of the Board

DATED this ____day of September, 2021.

CITY OF ELLENSBURG

By: _____
Bruce Tabb, Mayor

Attest: _____
Beth Leader, City Clerk

Approved as to form:

City Attorney



July 30, 2021

Cory Wright, Commissioner
Kittitas County District 1
Kittitas County Courthouse
205 W 5th Ave
Ellensburg, WA 98926

Bruce Tabb, Mayor
City of Ellensburg
501 N Anderson Street
Ellensburg, WA 98926

Heidi Behrends Cerniwey, City Manager
City of Ellensburg
501 N Anderson Street
Ellensburg, WA 98926

Dear Mr. Wright, Mr. Tabb, and Ms. Cerniwey:

TIP Strategies, Inc. is pleased to present this scope of work for developing a strategic plan to guide the future of economic development in Kittitas County, the City of Ellensburg, and participating municipalities. To provide maximum flexibility, we have divided the tasks into two phases, each of which is priced separately. However, the phases are intended to complement each other, and pricing assumes completion of both phases. We feel strongly that completion of full scope of work will result in the best product.

SCOPE OF WORK

The scope for this work includes the following:

PHASE 1. OUTREACH & ALIGNMENT

- 1.1. Project launch** | A virtual kickoff meeting will provide the opportunity to discuss objectives, define success factors, identify stakeholders, and review the team's expectations for the engagement.
- 1.2. Planning context** | The team will examine the policies, relationships, and organizational priorities that will influence the planning process. The results will be expanded in subsequent tasks and help shape our recommendations in Phase 2.
 - Policies. Reviewing background documents allows us to build on existing knowledge and to better understand current initiatives and programs that may be relevant to this work.
 - Relationships. A scan of the partner network will help define existing relationships in the county and the region and identify potential partnerships.
 - Priorities. Discussions with the appropriate staff will ensure our team has a full picture of the County's primary economic development activities and priorities.

- 1.3. Economic context** | Our analysts will prepare a targeted assessment of factors that define Kittitas County's overall competitiveness and are of greatest concern to economic decision makers. Our analysis will be tailored to meet project objectives and to take advantage of available data resources. The results will be delivered in an electronic format, with significant findings integrated into the Phase 1 deliverable.
- 1.4. Leadership workshop** | The consulting team will facilitate a workshop with local leaders and representatives of the community. We envision addressing the following objectives during this session:
- Trends & best practices. Provide an overview of relevant trends and disruptions, along with national best practice examples for supporting recovery and fostering resilient economies.
 - Common definition. Ensure local leaders have an agreed-upon definition of economic development that will drive the planning process.
 - Strategic direction. Facilitate a discussion of the desired future of Kittitas County and the City of Ellensburg, to include a preliminary vision for economic development and broad goals and objectives.
- 1.5. Stakeholder engagement** | Along with the leadership workshop, TIP will identify and engage a targeted set of partner organizations, stakeholder groups, and community leaders through roundtable discussions. In addition to providing meaningful information about relevant trends, barriers, and assets, engaging these entities and individuals will help communicate economic development priorities and build support for the outcome of the planning process. Where appropriate, confidential interviews can be conducted to solicit feedback on issues that may not surface in a collective setting.
- 1.6. Network analysis** | Building on the context gained in prior tasks, we will examine the economic development network in greater detail. This analysis will expand on the scan of the partners completed in Task 1.2 and will consider major programs, initiatives, and assets that influence economic prosperity in the region. Consideration will also be given to staffing and resource levels for key partners, as well as how major program objectives and goals align with the outcome of the leadership, staff, and stakeholder discussions. The results can be used to facilitate greater collaboration and coordination, identify resources that could be brought to bear on specific projects, and highlight potential gaps and redundancies.
- 1.7. Findings report** | TIP will prepare a summary of findings from Phase 1 that can be used to raise awareness of the role of economic development, illustrate Kittitas County's collective value proposition, and suggest opportunities that will drive local and regional growth for Kittitas County and, specifically, the City of Ellensburg.

PHASE 2. OPPORTUNITY & IMPLEMENTATION

- 2.1. Best practices** | Drawing on our team's extensive network, we will research national best practices that may be a fit for Kittitas County and the City of Ellensburg based on our work in Phase 1. The results of this task will help shape our recommendations and will be integrated into the final deliverable as appropriate.
- 2.2. Opportunity workshop** | TIP will facilitate an opportunity workshop designed to engage regional leaders in focused discussion of potential strategies. In addition, we will use this workshop to review findings from Phase 1, present relevant best practices, consider recommendations from the prior plan, and explore roles and responsibilities. The outcome of this task will be a set of prioritized strategies and focus areas, along with a collaborative framework for aligning available resources to accomplish them.
- 2.3. Strategic plan** | Using findings from prior work and phases and the experience of the consulting team, TIP will prepare a strategic plan. In addition to outlining specific goals and strategies, the plan will highlight relevant findings from the Phase 1 report. Together with the implementation matrix (see Task 2.4), the resulting document will provide specific recommendations and tools needed to implement a long-term economic strategy for Kittitas County, the City of Ellensburg, and participating municipalities.

2.4. Implementation matrix | TIP will prepare a matrix that accomplishes the following:

- Identifies responsible parties and potential partnership opportunities, locally and regionally
- Establishes timelines and sets priorities
- Includes budget estimates (where applicable) and identifies potential funding sources
- Defines meaningful and realistic performance metrics

2.5. Final presentation & workshop | Once the strategy is finalized, we will present the recommendations to the leadership. To build momentum for implementation, we will also facilitate an Implementation workshop focused on near-term tasks in conjunction with the final presentation. We have found this step capitalizes on the energy that is typically present at the rollout and helps to “jump start” the process.

2.6. Virtual implementation workshops | At three (3) months and six (6) months after plan completion, TIP will facilitate a virtual implementation workshop for county leadership focused on progress to date and next steps.

2.7. Year 1 Scorecard | At the one-year anniversary of plan completion, TIP will provide feedback on progress towards implementation of the plan. We anticipate this task would include the following:

- Working with community stakeholders to document the status of specific recommendations.
- Evaluating progress on the strategic plan, highlighting successes, and providing recommendations to adjust and refine the plan as needed.
- Updating performance indicators.
- Preparing and presenting a Year 1 evaluation and scorecard along with next steps.

COST

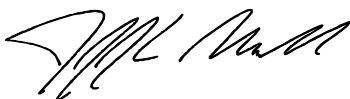
The proposed cost for conducting this work is \$75,000 per phase, for a total fee of \$150,000, plus expenses. Expenses are subject to approval and include travel and lodging costs associated with conducting the scope of work outlined above.

Our standard payment terms are 20 percent of the project cost upon contract signing, with the remainder payable in monthly installments based on the estimated length of the engagement. The final invoice is typically held until a draft of all deliverables has been submitted. However, alternate payment terms would be considered as part of the contract negotiation.

NOTE: TIP Strategies is committed to protecting the health of our clients, the communities they represent, and our team. Given varying rates of COVID-19 around the country and the range of social distancing policies in place, we anticipate a combination of virtual and in-person meetings for this work. Our team has extensive experience using easily accessible and user-friendly software for this purpose. The timing and number of any trips would be addressed as part of the project launch and would be revisited as necessary to conform with evolving public health guidelines. TIP Strategies is not responsible for situations resulting from forces outside our control, including public health emergencies connected with the COVID-19 pandemic, that restrict our ability to perform this work.

We look forward to assisting you with this important work.

Sincerely,



Jeff Marcell, Principal

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.


AUDITING OFFICER 9/13/21
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 **20TH DAY OF SEPTEMBER 2021**. 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	154504	TO	154648	\$ 460,068.61
EFT #'s	5034	TO	5052	\$ 1,237,057.94

Payroll Fund			Total Amounts	
Check #'s	95377	TO	95381	\$ 6,118.33
Direct Deposits	63445	TO	63667	\$ 426,536.28

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

ATTEST: _____
CITY CLERK



CITY COUNCIL AGENDA REPORT

City Council Meeting Date: September 20, 2021

Item Title/Agenda Subject: Board and Commission Appointments

Submitted by: Laurie Gigstead City Attorney Department

Recommended Action or Motion: Consider the appointment of Lilly Park to the Senior Citizens Advisory Commission.

Background/Summary: One person has recently applied to serve on the Senior Citizens Advisory Commission. As directed by Council, applications are presented to Council for consideration. The attached chart shows the current vacancies and applicants. A copy of the Application for Appointment is included with the agenda report.

Previous Council Action: Council conducted the introduction of Lilly Park at the September 7, 2021 Council meeting.

Analysis: There is currently one vacancy on the Senior Citizens Advisory Commission.

Financial Impact: N/A

Attachments:

[B and C Agenda Report Chart 9-20-21](#)
[Lilly Park Application](#)

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

Laurie Gigstead

From: noreply@civicplus.com
Sent: Tuesday, July 20, 2021 9:31 PM
To: Laurie Gigstead
Subject: [Ext] Online Form Submittal: Application for Appointment

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

Application for Appointment

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

Boards & Commissions Parks and Recreation Commission

Name of Applicant: Lilly Park

Address

Mailing Address (If
Different)

City Kittitas

State WA

Zip 98934

Email Address

Phone Number

Length of Residence in
Ellensburg Kittitas County: 25 + years

Do you live within the city
limits? No

If applying for the Sr.
Citizens' Advisory Board, are
you at least 55 years of
age? *Field not completed.*

Occupation Status and
Background: SW for State of Washington

Organization Affiliations: Ellensburg City Pool For 25 Years. :-)

Why are you seeking appointment?

During the Pandemic I began thinking of ways to improve the Ellensburg City Pool/ Facility. Losing access to the Pool Facility reminded me how important this recreation is to/for the City of Ellensburg!

Will you be able to attend meetings regularly if appointed?

Yes

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

Boards & Commissions

Affordable Housing Commission

Boards & Commissions

Senior Citizens Advisory Commission

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



CITY COUNCIL AGENDA REPORT

City Council Meeting Date: September 20, 2021

Item Title/Agenda Subject: CenterFuse Semi-Annual Report

Submitted by: Heidi Behrends Cerniwey City Manager Department

Recommended Action or Motion: This item is for information purposes only.

Background/Summary: Per the November 2020, Interlocal Agreement for Professional Services Between Ellensburg Business Development Authority (dba CenterFuse) and the City, CenterFuse will provide an update to the City Council a minimum of twice per year.

Previous Council Action: N/A

Analysis: This item is for information only.

Financial Impact: The City provides \$60,000 annually to CenterFuse for services.

Attachments:
[2021 Council Presentation Sept Final](#)

Report to Ellensburg City Council

September 20, 2021



1

Public Development Authority

- Authorized by RCW. 35.21.730 and Chapter 1.62.16 of Ellensburg City Code
- Volunteer board and part-time Executive Director



Mission: Strategically recruit businesses, and connect them to resources so they can start, grow, and prosper

Strategic Goal: Bring family-wage jobs to Ellensburg and grow the median family income

2

Our organizational history

Getting Started

Council ordinance to create EBDA 1993 under the name Phoenix Group/EDGKC. EBDA assumes incubator management in 1994 and hires a fulltime director in 1995. Secures CERB grant/loan to build the Airport building 1999.

1990's

Contract Services

Kittitas County Chamber assumes both property management and board support. City owns Incubator Building free and clear.

2000's

2010's

A New Chapter

Chamber contract ends 2017 and EBDA management is brought in house at the city. Bylaws and Charter are updated. EBDA owns Airport Building free and clear. City hires PT economic development manager, hosts Unwind event and rebrands as CenterFuse.

2020's

A brighter future

COVID-19 struck. New interlocal agreement signed and CenterFuse hired a PT Executive Director. Set tactical objectives for 2021, facilitated the sale of the Incubator Building and released a Broadband Feasibility Study in 2020.

3

Primary sources of organizational funding

Start-up

CenterFuse is just beginning to offer fee for service for select services and customers. This is a growth area and accounts for less than 5% of our annual revenue.

Fee for Service

Institutional support

City support has decreased over the years, and accounts for less than 30% of our revenue stream.

City of Ellensburg

Tenant Rents

Building Leases

The rental income from the Incubator Building was offset by staff time, maintenance and repairs. The rental income from the Airport Building nets around \$70,000 or just under 35% annually.

.09 Grant

Distressed grant funds

Kittitas County Distressed Grant funds have increased to \$72,000 and now account for over 35% of our revenue stream.

4

ECONOMIC DEVELOPMENT UPDATES:

“How’s the implementation of the tactical objectives going?”

ENHANCE CAPITAL RESOURCES

1. Assess Prospect Building
2. Assess Airport Building
3. Assess New Opportunities

SUPPORT GROWTH OF LOCAL BUSINESSES

1. Roadmap of city services
2. Maintain local relationships
3. Business needs, gap analysis

TELL ELLENSBURG’S STORY

1. Digital
2. Personal
3. Promotional

FUTURE FOCUSED BOARD, FISCAL SUSTAINABILITY

1. Talent acquisition
2. Link budget and work plan
3. Identify, apply for, secure external funding

RECRUIT BUSINESSES TO ELLENSBURG

1. Improve Infrastructure
2. Curate, connect with businesses
3. Ellensburg’s narrative

BE A PROPONENT FOR PUBLIC POLICY

1. Track, act on WA legislature bills
2. Comprehensive Plan Update
3. Know, meet with delegation

5

What is CenterFuse up to?



6

What is CenterFuse up to? Recruit Businesses to Ellensburg



Improve Infrastructure

Completed Ellensburg’s Broadband Feasibility Study Feb. 2021
Delivered presentations to City Council, County Commissioners, Public Works Board

This ignited:

- ✓ Kittitas County establishing the Broadband Action Team
- ✓ Kittitas County successful CERB grant application
- ✓ Kittitas Public Utility District successful CERB grant application
- ✓ City of Ellensburg speed test work with NoaNet <https://noanet.servicezones.net/kittitas> and Central Connect partnership
- ✓ Kittitas County/Charter NTIA grant application (WA/COE also)
- ✓ Numerous NDA’s with ISP’s and future projects under development

7

What is CenterFuse up to? Recruit Businesses to Ellensburg



Curate, connect with businesses

How it happens:

- Leads coming to CenterFuse from others
 - City of Ellensburg Pre-Applications / Referrals
 - Community Referrals
 - In progress: Associate Development Organization (ADO) from WA Commerce
- Business representatives reaching out to CenterFuse
 - Via website
 - Referrals from other developers
- CenterFuse exploring opportunities
 - Networking (e.g. Professional organizations: IEDC / WEDA)

8

What is CenterFuse up to? Recruit Businesses to Ellensburg



Curate, connect with businesses (continued)

What is happening:

- Developers and site selection consultants
- Interest in larger vacant land >15 acres
- Predominately light industrial, some hospitality
- Site selection mostly west and south interchange

New development process:

- Offer, feasibility = 9-12 months
- Finalize real estate transaction = 3 months
- Permits, SEPA, etc. = 12-18 months
- Construction/operational = 12-18 months

9

What is CenterFuse up to? Recruit Businesses to Ellensburg



Deepen the narrative about Ellensburg

What's happening:

- Big data - Kittitas County is providing - to help tell Ellensburg's story
- Marketing - initial conversations with Chamber

What's needed:

- Data processing, visualization
- Employment security data (e.g. wages)
- Reports: Labor, Cost of doing business, Cost of living, Educational attainment, Largest employers, etc.

10

What is CenterFuse up to? Support Growth of Local Businesses



City Services Roadmap

Businesses want to better understand how to navigate the city processes. CenterFuse is available to be an advisor as the city takes this on.

Sustain local partners

CenterFuse has regular contact with city and county elected officials, staff, Chamber and downtown associations.

Gap analysis for consumers

Upcoming: conduct a gap analysis of what services and products businesses offer and what consumers want and need.

Gap analysis for businesses

We have provided site location and placement for services for 3 local businesses going under expansion; more are in the cue. Upcoming: find out what businesses need to succeed.

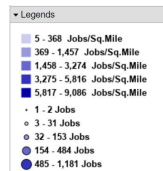
11

...and the day-to-day operations



12

Where are Ellensburg's jobs located?



Source: U.S. Census 2018

13

Are Ellensburg workers earning more?

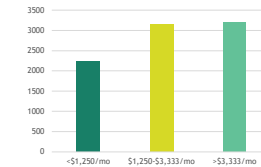
Yes, they are. Total jobs increased 20% and a shift occurred from lowest paying jobs to those paying higher.

Jobs by Earnings 2002



<\$1,250/mo	2919	40.7%
\$1,250-\$3,333/mo	2805	39.1%
>\$3,333/mo	1452	20.2%
Total All Jobs	7176	100.0%

Jobs by Earnings 2018



<\$1,250/mo	2243	26.1%
\$1,250-\$3,333/mo	3136	36.5%
>\$3,333/mo	3207	37.4%
Total All Jobs	8586	100.0%

Source: U.S. Census 2018

14

What's Next



Communicate

Share with business, community, and leaders the importance why Ellensburg is THE place to start, grow and thrive.



Find Funds

Continue to seek out external funding opportunities for CenterFuse, businesses, and the community to benefit economic development.



Act Strategically

Think, plan do, evaluate. Secure data to inform decisions and share Ellensburg's competitive position.



Expand Partnerships

Identify, build and sustain lasting partnerships that are mutually beneficial for Ellensburg today and in the future.

Thank you! Questions?



CenterFuse Board

James Jankowski, Chair
Linda Schactler, Vice Chair
Grant Clark, Treasurer
Garrett Poshusta, Secretary

Jared Vallejo, Member
John Perrie, Member
Del Bankston, Member
Andreas Bohman, Member

Margaret Reich, Executive Director

W. ellensburgcenterfuse.com | O. (509) 955-3880 | E. director@ellensburgcenterfuse.com

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CITY COUNCIL AGENDA REPORT

City Council Meeting Date: September 20, 2021

Item Title/Agenda Subject: Resolution to Approve Application for Preliminary Plat Approval (P21-039) Elliott Whipple – Foster Plat
Closed Record Hearing (quasi-judicial)

Submitted by: Jamey Ayling Community Development

Recommended Action or Motion: Following the hearing, adopt the attached Resolution approving the Preliminary Plat application of Foster Subdivision, submitted by Elliott Whipple, agent for property owner, Winegar Properties LLC, and incorporating the Hearing Examiner's September 9, 2021 Corrected Recommended Findings of Fact, Conclusion of Law, Decision and Conditions of Approval.

Background/Summary: The purpose of this closed record quasi-judicial hearing is for City Council to consider the application for a proposed preliminary plat subdivision, known as "Foster Plat", submitted by Elliott Whipple, agent for property owner, Winegar Properties LLC. This hearing is being held pursuant to the requirements of Chapter 15.260, Subdivision Procedures, of the Ellensburg City Code. A SEPA Mitigated Determination of Non-Significance (MDNS) was issued for this project on July 1, 2021.

The Hearing Examiner's September 9, 2021 Corrected Findings of Fact, Conclusions of Law, Decision and Conditions of Approval is attached to this report as Exhibit 1, and includes 15 total exhibits which are attached to this report as Exhibits 1.1 thru 1.15.

The applicant appeared at the hearing and testified in favor of the project, and agreed with the staff proposed conditions of approval as outlined in Exhibit 1.13, with the exception of recommended condition 1 requiring installation of curb gutter and sidewalk on the north side of Dry Creek road from the development to the school. Neighboring property owners provided written testimony (Exhibits 1.7 and 1.8) and also spoke to concerns about the existing irrigation system and

potential flooding.

BACKGROUND

This proposed preliminary plat is located on Kittitas County Assessor's Parcel ID# 396133, located on the north side of W. Dry Creek Road and south of the Palouse to Cascades Trail, in the City of Ellensburg, WA. A vicinity map and reduced scale preliminary drawing showing the location of the lots and other plat features are included as Exhibits 1.1 and 1.2.

The subject property is 42.13 acres in size and currently zoned Residential Suburban Density (R-S). This zoning allows for detached single-family dwellings as the predominate land use with a base maximum density of 6 dwelling units/acre. The applicant's proposal would create 141 separate residential lots, which is within the allowable maximum density. Lots will range in size from 4,886 to 13,368 square feet, intended for single-family homes. In addition to the 141 residential lots, there will be five undeveloped lots totaling 13.70 acres, "Tracts "A" "B" "C" "D" "E", where the established wetlands and associated buffers are located as described in the associated critical area report.

The plat will have lots that front onto public roadway which will need to be improved as part of this project. West Dry Creek Road, as well as all internal roads will be constructed by the applicant to meet the Land Development Code and Public Works Standards.

This particular plat is located within the required ½ mile radius to the nearest elementary school, which includes both Mount Stuart Elementary, and Ida Nason Aronica Elementary, which means the school district expects children in this area to walk to school. As an alternative safe walking route to school the developer shall install a connection to the Palouse to Cascades Trail and have children use the trail to safely walk to school. This will be required in order to provide a safe pedestrian route, and for concurrence with the City's non-motorized transportation plan. Shoulder widening and frontage improvements will be required on the north side of Dry Creek Road along the property frontage.

A recommendation had previously been made to extend these improvements from the project site to the existing sidewalks on 15th Avenue, however it was determined through discussions with the Public Works Department that the existing 60 foot right of way is not adequate to fit the improvements. The extension and construction of the street frontage improvements as discussed above, will begin to provide neighborhood connectivity, and to achieve goals and policies within the land use, housing, and transportation chapters of the Ellensburg Comprehensive Plan. Parks and open space requirements will be met through the payment of park impact fees.

Site Characteristics

North: The Palouse to Cascades Trail is located to the north, and land beyond the trail is vacant.

South: The land to the south is residential land within City limits.

East: Land to the east is the location of the newly constructed Ida Nason Elementary School and the Mount Stuart Elementary School replacement school.

West: The land to the west is residential, with a few existing residences on large lots.

Previous Council Action: N/A

Analysis: The Review Procedures and Criteria for the Preliminary Plat process are outlined in Chapter 15.260 of the Land Development Code. Pursuant to ECC 15.260.060(D), a public hearing was held before Hearing Examiner Andrew Kottkamp on August 10, 2021. Kottkamp's September 9, 2021 Corrected Recommended Findings of Fact, Conclusion of Law, and Decision and Conditions of Approval have been included within this report as Exhibit 1. The Hearing Examiner recommended that the Foster Preliminary Plat be approved with the nine conditions as depicted in Exhibit 1.

Pursuant to ECC 15.260.060(E)(1), the City Council shall, at the conclusion of the hearing, make its own decision supported by written findings of fact and conclusions of law and approve, approve with conditions, or disapprove the preliminary subdivision application.

Council is being requested to approve the preliminary plat

subdivision application by adopting the proposed Resolution, which incorporates the Hearing Examiner's Recommendations. Alternatively, prior to making a decision and pursuant to ECC 15.260.060(E)(2), Council may: 1) refer the preliminary subdivision application back to the hearing examiner for further consideration; 2) require the applicant to modify the preliminary subdivision application; or 3) require more information to be submitted by the applicant.

The decision criteria that City Council must consider are set forth in ECC 15.260.060(F) as follows:

1. The preliminary subdivision conforms to all applicable zoning standards of the city as set forth in the LDC, including the form 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, and the public works development standards;
2. All lots within the preliminary subdivision are provided with satisfactory access established consistent with the requirements of the public works development standards, ECC Title 4, public works construction, the streetscape design standards and subdivision design and block standards in Division IV, and the project design standards in Division V;
3. All lots within the preliminary subdivision are provided with adequate provisions for water supplies, sanitary wastewater facilities, and storm drainage and surface water facilities consistent with the requirements of the public works development standards and ECC Title 9, Utilities;
4. All lots within the preliminary subdivision are provided with adequate provisions for electric service, and for natural gas service if applicable, consistent with the requirements of the city's energy services department design standards and with ECC Title 9, Utilities;
5. The preliminary subdivision conforms to all applicable critical areas standards set forth in Division VI; and
6. The preliminary subdivision makes 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.

Staff agrees with the Hearing Examiner's conclusion that the proposed preliminary plat application meets the above requirements.

Financial Impact: None at this time.

Attachments:

Foster Subdivision Preliminary Plat Resolution

Exhibit 1 Corrected Hearing Examiners Findings of Fact, Conclusions of Law, and Decision
Final Decision

Exhibit 1.1 Vicinity Map

Exhibit 1.2 Preliminary Plat Drawing

Exhibit 1.3 Light Dept Comments

Exhibit 1.4 Gas Dept Comments

Exhibit 1.5 Public Works Comments

Exhibit 1.6 Fire Marshall Comments

Exhibit 1.7 Ellinger Comment Letter

Exhibit 1.8 DeSoer Comment Letter

Exhibit 1.9 Signed MDNS

Exhibit 1.10 Affidavit of Publication

Exhibit 1.11 Certificate of Mailing

Exhibit 1.12 Affidavit of posting

Exhibit 1.13 Agenda Report to Hearings Examiner

Exhibit 1.14 Powerpoint Presentation

Exhibit 1.15 Letter to Hearing Examiner

Exhibit 2 Legal Notice Closed Hearing

Exhibit 3 Proof of Sign Posting CC PH

RESOLUTION NO. 2021-____

A RESOLUTION OF THE CITY COUNCIL OF ELLENSBURG, WASHINGTON
relating to the preliminary plat approval of the Stuart Meadows Subdivision No. P21-039 of property located in Ellensburg, Washington.

WHEREAS, on March 25, 2021 Elliott Whipple, agent for property owner filed a preliminary plat application (P21-039) for one hundred forty one (141) lots to be developed on approximately 43.16 acres of property located on Dry Creek Road, commonly referred to as the “Foster Subdivision”; and

WHEREAS, the applicant also submitted an associated Washington State Environmental Policy Act (SEPA) checklist as part of the application; and

WHEREAS, on July 1, 2021 the City’s SEPA Responsible Official issued a Mitigated Determination of Non-Significance (MDNS) for the preliminary plat; and

WHEREAS, following a duly noticed open record public hearing held before the Hearing Examiner on August 10, 2021 to consider the preliminary plat application for the Foster Subdivision, as provided by Chapter 15.260 ECC, the Hearing Examiner received exhibits and testimony into evidence, and issued his September 9, 2021 Corrected Recommended Findings of Fact, Conclusions of Law, Decision and Conditions of Approval; and

WHEREAS, following a duly noticed closed record public hearing held during a regularly scheduled Ellensburg City Council Meeting on September 20, 2021, regarding the preliminary plat application for the Foster Subdivision application, the City Council approved the preliminary plat subject to certain conditions;

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

Section 1. The Ellensburg City Council makes the following findings of fact:

A. The proposed preliminary plat is in conformance with the goals and policies of the City of Ellensburg Comprehensive Plan, as amended, if developed in accordance with the conditions stated herein;

B. The proposed use and corresponding preliminary plat has been designated in accordance with the permitted uses and future land use designations within the Comprehensive Plan classification and standards for development set forth in the City’s Land Development Code if developed in accordance with the conditions stated herein;

C. Appropriate provisions have been made for public health, safety, and general welfare and for such other factors enumerated in RCW 58.17.110(2)(a) if the preliminary plat is developed subject to the conditions stated herein. Public facilities, such as roads, sewer and water and other public facilities are adequate to support the use and layout of the proposed preliminary plat if developed in accordance with the conditions stated herein;

D. The public use and interest will be served if the preliminary plat is developed in accordance with the conditions stated herein;

E. The proposal for the preliminary plat development conforms to the policies, standards and design principles specified in Chapter 15.260 of the Ellensburg City Code if developed in accordance with the conditions stated herein; and

F. The findings of fact and recommendations of the Hearing Examiner dated August 16, 2021 with modification to condition 1 are hereby adopted and incorporated herein as the findings of the Ellensburg City Council with respect to the preliminary plat.

G. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

Section 2. The preliminary plat involving property located at Dry Creek Road, commonly referred to as the Foster Subdivision, and legally described as follows:

PARCEL 1:

The Northeast Quarter of the Northeast Quarter of Section 34, Township 18 North, Range 18 East, W.M., in the County of Kittitas, State of Washington;

EXCEPT:

1. That portion of said premises which lies Northeasterly of the John Wayne Trail (former Chicago, Milwaukee, St. Paul & Pacific Railroad right of way);

2. A strip of land 100 feet in width extending over and across from the North side to the East side of said land, as conveyed to Chicago, Milwaukee and St. Paul Railway Company of Washington by deed recorded in Book 14 of Deeds, page 318, and as subsequently quieted in the State of Washington, in Final Judgment Quieting Title, as filed June 6, 1997, in the Superior Court of Washington for Kittitas County, under Cause No.88-2-00118-1;

AND

That portion of the Southeast Quarter of the Northeast Quarter of Section 34, Township 18 North, Range 18 East, W.M., in the County of Kittitas, State of Washington, which is described as follows:

A tract of land bounded by a line beginning at the Northeast corner of said Quarter of Quarter section and running thence South 00°59' East along the East boundary line thereof 183.6 feet; thence South 67°55' West 602.8 feet; thence South 52°31' West 279.6 feet to the North boundary line of the right of way of the county road; thence North 48°02' West along said boundary line 144.8 feet; thence North 37°15' East 602.8 feet to a point on the North boundary line of said Quarter of Quarter section which is 795.0 feet East of the Northwest corner thereof; and thence North 89°36' East along said North boundary line 620.1 feet to the point of beginning.

PARCEL 2:

Subdivision Guarantee Policy Number: 72156-47608011

A 60' (sixty foot) easement, also shown as "Easement LW", as described in Nonexclusive Easement Agreement recorded January 31, 2019 under Auditor's File No. 201901310034.

Section 3. The preliminary plat of the Foster Subdivision (P21-039) shall be developed in accordance with the following conditions of approval, which shall apply to the applicant, and the applicant's heirs, successors in interest and assigns:

1. Fulfillment of all City code required final plat design and construction requirements for on-site and off-site improvements prior to final plat approval.
2. The applicant will meet the requirements of the Public Works & Utilities Department discussed in its memorandum dated January 26, 2021, including the widening and installation of curb gutter and sidewalks on the project frontage of Dry Creek Road.
3. The applicant will meet the requirements of the Energy Services – Light Department discussed in its memorandum dated February 3, 2021.
4. The applicant will meet the requirements of the Energy Services – Gas Department discussed in its memorandum dated January 25, 2021.
5. The applicant will meet the requirements of the City of Ellensburg Fire Marshall discussed in his memorandum dated February 2, 2021.
6. The applicant will meet the requirements of the SEPA Official's issuance of Mitigated Determination of Non-Significance (MDNS) dated July 1, 2021.
7. If applicable, the applicant may be required to obtain an NPDES Construction Storm Water General Permit from the Washington State Department of Ecology, as well as all other permits (site grading permit, SWPPP, etc.) that may be required as a result of plat development. Subdivision and land development activities shall follow the requirements of the Ellensburg City Code, including the Design Standards.
8. All requirements of utility providers, City departments, and affected districts must be satisfied, as outlined in adopted City Codes and other regulatory documents.
9. The applicant will identify and locate all irrigation water delivery system components located on the applicants property, and easements shall be but in place protecting these water delivery systems for the benefit of the benefitted property receiving water from these systems. In the event these water delivery systems are relocated on the Applicant's property, the applicant shall provide easements protecting these relocated water delivery systems.

10. The applicant will develop, and or improve, adequate access to the neighboring elementary schools, specifically including an approach consisting of an all-weather surface connecting the plat to the Palouse to Cascades Trail.
11. No certificates of occupancy shall be issued prior to completion of required public improvements in a manner acceptable to the City in its sole discretion. Issuance of any certificate of occupancy prior to full completion of any of the required improvements shall not be deemed to be a waiver of this section, and such issuance shall not stop the City or impair its ability to demand full completion of required improvements prior to issuance of any further certificates of occupancy.

Section 4. The Ellensburg City Council makes the following conclusions of law:

A. As conditioned, the proposed use is consistent with the intent, purposes and regulations of the Ellensburg City Code and Comprehensive Plan.

B. As conditioned, the proposal does conform to the standards specified in Ellensburg City Code.

C. As conditioned, the use will comply with all required performance standards as specified in the Ellensburg City Code.

D. As conditioned, the proposed use will not be contrary to the intent or purposes and regulations of the Ellensburg City Code or the Comprehensive Plan.

E. As conditioned, this proposal does comply with Comprehensive Plan, the zoning code and other land use regulations, and SEPA.

F. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

Section 5. This resolution is the final decision of the City of Ellensburg upon this matter.

Section 6. Notice is hereby given that appeal of the land use decision shall be barred unless a petition requesting review is filed in the Superior Court of the State of Washington and properly served within twenty-one (21) days after passage of this resolution in accordance with Chapter 36.70C of the Revised Code of Washington.

Passed this 20th day of September, 2021.

MAYOR

Attest: _____
City Clerk

**CITY OF ELLENSBURG
LAND USE HEARING EXAMINER**

IN THE MATTER OF P 21-039 Foster Subdivision	)))))))	CORRECTED RECOMMENDED FINDINGS OF FACT, CONCLUSIONS OF LAW, DECISION AND CONDITIONS OF APPROVAL
---	---------------------------------	--

THIS MATTER having come on for hearing in front of the City of Ellensburg Hearing Examiner on August 10, 2021, 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. This proposed preliminary plat is located on Kittitas County Assessor's Parcel ID# 396133. The proposed Subdivision is located on the north side of W. Dry Creek Road and south of the Palouse to Cascades Trail, in the City of Ellensburg, WA. The Applicant is Kelly Foster.
2. The subject property is 42.13 acres in size and is currently zoned Residential Suburban Density (R-S).
3. Property zoned as Residential Suburban (R-S) allows for detached single-family dwellings as the predominate land use, with a base maximum density of 6 dwelling units/acre. The applicant's proposal would create 141 separate residential lots, which is well within the allowable maximum density. The project will be developed as residential lots ranging in size from approximately 4,886 square feet to 13,368 square feet. In addition to the 141 residential lots, there will be five undeveloped lots totaling 13.70 acres, "Tracts "A" "B" "C" "D" "E"", where the established wetlands and associated buffers are located as described in the associated critical area report.
4. The lots will have frontage onto public roadway which will need to be improved as part of this project. West Dry Creek Road, as well as all internal roads will be constructed by the applicant to meet the Land Development Code and Public Works Standards.
5. The Public Works Department works with the Ellensburg School District at the time of civil construction review of the plat to ensure that the goals of their "Guide for Planning and improving School Walk and Bike Routes" are implemented on projects within one mile of schools.
6. This particular plat is located within the required ½ mile radius for the nearest elementary school, which includes both Mount Stuart Elementary, and Ida Nason Aronica Elementary. This means that the school district expects children in this area to walk to school; therefore, shoulder widening and frontage improvements will be required on the north side of Dry Creek Road from the project site to the existing sidewalks on 15th Avenue. This will be required in order to provide a safe pedestrian route, and for concurrence with the City's non-motorized transportation plan. The Land Development Code requires these sidewalks to be separated from the curb. Existing power poles may need to be relocated to accommodate

these frontage improvements. The extension and construction of the street frontage improvements as discussed above, will begin to provide neighborhood connectivity, and to achieve goals and policies within the land use, housing, and transportation chapters of the Ellensburg Comprehensive Plan..

7. Specific to meeting open space and parks needs that will result from the new development, the applicant will be required to pay a park impact fee of \$1925 for each single family lot or structure, which will in turn be used to enhance the City of Ellensburg Parks system. .
8. Site Characteristics:
 - North: The land to the north is The Palouse to Cascades Trail and vacant land beyond the trail.
 - South: The land to the south is Residential Land within City limits
 - East: Land to the east is the location of the newly constructed Ida Nason Elementary School and the Mount Stuart Elementary School replacement school.
 - West: The land to the west is residential land with a few existing residences on large lots.
9. A SEPA checklist was submitted as a requirement of the preliminary plat process, and a SEPA Mitigated Determination of Non-Significance (MDNS) was issued on July 1, 2021.
10. Subsequent to the SEPA environmental review, public notice and distribution of the full preliminary plat application was undertaken. As a result of that effort, departmental comments for the application have been received from the following: the Ellensburg Fire Department, Ellensburg Public Works Department; and the Ellensburg Utility Services Gas and Light Departments.
11. Those comments received mirrored their previous SEPA environmental points regarding final design and construction of required facilities, and referred to the previous comments submitted for SEPA and/or the Pre-Application Reviews. As of the date of this decision, two public comments on the proposed subdivision have been received. The comments focus mainly on concerns with irrigation and storm water.
12. The requirements pertaining to preliminary plat approval are found within ECC Sections 15.260.060 through 15.260.090. Specifically, the decision criteria are found in ECC 15.260.060(F), which states the following:
 - 12.1 Decision Criteria. The city may approve, approve with conditions, or deny a preliminary subdivision application based on conformance with the following decision criteria:
 - 12.1.1. The preliminary subdivision conforms to all applicable zoning standards of the city as set forth in the LDC, including the form 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, and the public works development standards;
 - 12.1.2. All lots within the preliminary subdivision are provided with satisfactory access established consistent with the requirements of the public works development standards, ECC Title 4, public works construction, the streetscape design standards and subdivision design and block standards in Division IV, and the project design standards in Division V;

- 12.1.3. All lots within the preliminary subdivision are provided with adequate provisions for water supplies, sanitary wastewater facilities, and storm drainage and surface water facilities consistent with the requirements of the public works development standards and ECC Title 9, Utilities;
 - 12.1.4. All lots within the preliminary subdivision are provided with adequate provisions for electric service, and for natural gas service if applicable, consistent with the requirements of the city's energy services department design standards and with ECC Title 9, Utilities;
 - 12.1.5. The preliminary subdivision conforms to all applicable critical areas standards set forth in Division VI; and
 - 12.1.6. The preliminary subdivision makes 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.
13. The public agency comments relate to normal plat design and construction requirements that are routinely part of the final plat design and approval process. It is the full intention of the City to enforce and follow those final plat requirements.
 14. Prior to final plat approval, the applicant will need to update the signature blocks on the face of the final plat to read as follows: City Engineer, Community Development Director, Public Works & Utilities Director, Ellensburg Water Company, County Treasurer, County Auditor and the Mayor of Ellensburg.
 15. Construction of the subdivision and single-family units will be required to comply with all applicable standards outlined in the Ellensburg City Code design standards and guidelines.
 16. Construction of the subdivision and single-family units will be required to comply with all applicable standards outlined in the Ellensburg City Code design standards and guidelines.
 17. An open record public hearing after due legal notice was held August 10, 2021 via Zoom videoconference.
 18. The following exhibits were admitted into the record:
 - 18.1 Ex. 1: Vicinity Location Map;
 - 18.2 Ex. 2: Preliminary Plat of Foster Subdivision Plat;
 - 18.3 Ex. 3: February 3, 2021 memo from City of Ellensburg Energy Services Light Department;
 - 18.4 Ex. 4: January 25, 2021 memo from City of Ellensburg Energy Services Gas;
 - 18.5 Ex. 5: January 26, 2021 memo from City of Ellensburg Public Works Department;
 - 18.6 Ex. 6: February 2, 2021 memo from City of Ellensburg Fire Marshall;
 - 18.7 Ex. 7: August 4, 2021 comment letter from James Ellinger;
 - 18.8 Ex. 8: August 4, 2021 comment letter from Roxy DeSoer;
 - 18.9 Ex. 9: July 1, 2021 SEPA MDNS Determination;
 - 18.10 Ex. 10: Legal Notice of Public Hearing;
 - 18.11 Ex. 11: Area of Notification Map with 300-Foot Buffer Notification List;
 - 18.12 Ex. 12: Affidavit of posting; and
 - 18.13 Ex. 13: Staff Report;

- 18.14 Ex. 14 Applicant's Power Point presentation;
- 18.15 Ex. 15 Applicant's narrative.

- 19. Appearing and testifying on behalf of the applicant were Todd Whipple of Whipple Consulting Engineers, and attorney, Clayton Graham. Mr. Graham was not sworn in as a witness and did not provide any evidence. Mr. Whipple was sworn in as a witness. Mr. Whipple provided testimony consistent with exhibit 14, a Power Point presentation. Mr. Whipple corrected his presentation in that the average lot size is 6,026.05 acres. He indicated that while there was a 100 ft. wetland buffer, and that 9,997 sq.ft. of the buffer area would be impacted. He indicated that the wetland impact area would be mitigated through additional plantings. Additionally, Mr. Whipple indicated that irrigation water delivery systems travelling through the Applicant's property would be located and protected by easements. These easements would be in favor of benefitted property, which the Hearing Examiner identifies as property receiving the irrigation water traveling through the Applicant's property.
- 20. Testifying from the public were the following individuals:
 - 20.1 Erin Anderson. Ms. Anderson testified consistent with a letter admitted into the record as exhibit 7.
 - 20.2 James Ellinger. Mr. Ellinger testified that he was witness to test holes being dug on the Applicant's property the day of the hearing, but that none of those test holes were being dug near proposed detention pond A, which is located above his property.
 - 20.3 Kathy Williams. Ms. Williams testified that she agreed with the written comments of Mr. Ellinger and Ms. DeSoer.
- 21. The Hearing Examiner left the record open until 5:00 p.m. on August 12, 2021 for the City to submit additional materials from its file into the record.
- 22. The City did submit additional file materials into the record regarding the application, including the Critical Area report, County acceptance of Critical Area report, Departure Request and decision on Departure Request.
- 23. 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.
- 24. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities.
- 25. 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 Recommendation.
- 2. As conditioned, the proposed use is consistent with the intent, purposes and regulations of the City of Ellensburg Municipal Code and Comprehensive Plan.
- 3. As conditioned, the proposal will conform to the standards specified in City of Ellensburg.

4. As conditioned, the use will comply with all required performance standards as specified in City of Ellensburg Municipal Code.
5. As conditioned, the proposed use will not be contrary to the intent or purposes and regulations of either the City of Ellensburg Municipal Code or the Comprehensive Plan.
6. As conditioned, this proposal does comply with Comprehensive Plan, the Shoreline Master Program, the zoning code and other land use regulations, and SEPA.
7. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

III. RECOMMENDED DECISION

Based on the above Recommended Findings of Fact and Conclusions of Law, the Hearing Examiner is recommending to the Ellensburg City Council that they approve Application P21-039 Foster Preliminary Plat Subdivision, subject to the following Recommended Conditions of Approval.

IV. RECOMMENDED CONDITIONS OF APPROVAL

1. The applicant will meet the requirements of the Public Works Department discussed in its memorandum dated January 26, 2021, including the widening and installation of curb gutter and sidewalks on the project frontage of Dry Creek Road.
2. The applicant will meet the requirements of the Energy Services - Light Department discussed in its memorandum dated February 3, 2021.
3. The applicant will meet the requirements of the Energy Services – Gas Department discussed in its memorandum dated January 25, 2021.
4. The applicant will meet the requirements of the Fire Department for hydrants and access as per Fire Marshal's memorandum dated February 2, 2021.
5. The applicant will meet the requirements of the SEPA Official's issuance of Mitigated Determination of Non-Significance (MDNS) (File # P21-040) dated July 1, 2021.
6. The applicant may be required to obtain an NPDES Construction Storm Water General Permit from the Washington State Department of Ecology, as well as all other permits (site grading permit, SWPPP, etc.) that may be required as a result of plat development. Subdivision and land development activities shall follow the requirements of the Ellensburg City Code, including the Design Standards.
7. All requirements of utility providers, City departments, and affected districts must be satisfied, as outlined in adopted City Codes and other regulatory documents.
8. The Applicant shall identify and locate all irrigation water delivery system components located on the Applicant's property, and easements shall be put in place protecting these water delivery systems for the benefit of the benefitted property receiving water from these systems. In the event these water delivery systems are relocated on the Applicant's property, the Applicant shall provide easements protecting these relocated water delivery systems.

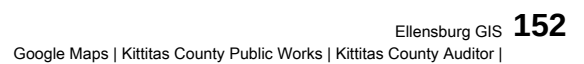
9. The Applicant shall be required to develop, and/or improve, adequate access to the neighboring elementary schools, specifically including an approach consisting of an all-weather surface connecting the plat to the Palouse to Cascades Trail.

Dated this 9 day of September, 2021.

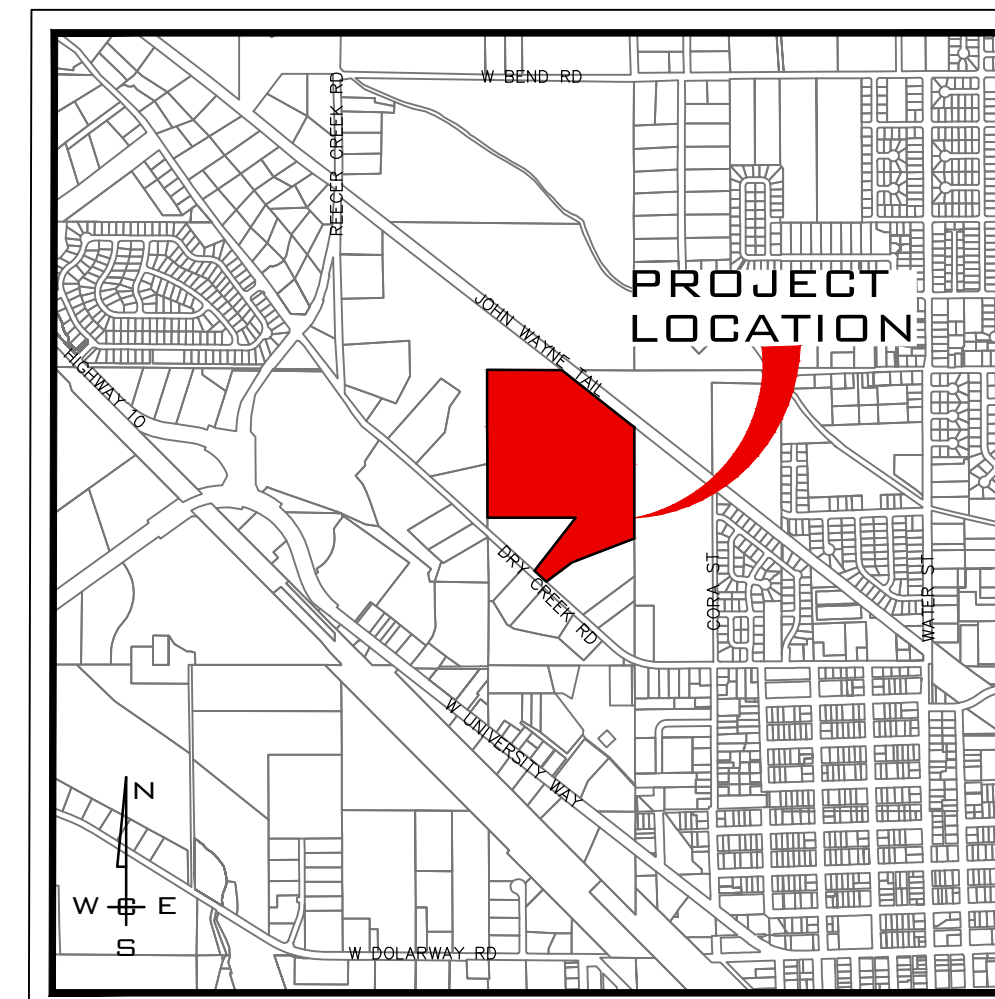
CITY OF ELLENSBURG HEARING EXAMINER



Andrew L. Kottkamp



PRELIMINARY PLAT
FOSTER SUBDIVISION
 LOCATED IN A PORTION OF
 NE 1/4, SEC. 34, T. 18 N., R. 18 E., W.M.
 SPOKANE COUNTY, WA



VICINITY MAP

SITE DATA		
PARCEL #	396133	
ZONE	R-S	
ALLOWED DENSITY	(6u/ac max)	
PROPOSED DENSITY* (u/ac)	141/33.49	4.21
* COE Zoning Code 15.320.050 (B-2) & (C)		
	SF	AC
PARCEL AREA	1,835,317.80	42.13
WETLAND AREA	79,165.00	1.82
WETLAND BUFFER AREA	297,218.00	6.82
GROSS DEVELOPABLE AREA*	1,458,934.80	33.49
RESIDENTIAL LOTS	141	
50' LOTS	96	
60' LOTS	46	
TRACTS	5	
RESIDENTIAL LOT AREA	846,518.40	19.43
TRACT AREA	596,561.44	13.70
ROW AREA	392,237.96	9.00
MINIMUM LOT AREA	4,886.30	0.11
MAXIMUM LOT AREA	13,368.33	0.31
AVFRAGF LOT AREA	4,563.76	0.10

CRITICAL AREAS

1. WETLAND_SOURCE: FIELD LOCATED SEE REPORT
2. FEMA FLOODPLAIN_FIRM PANEL 530095-0439-B - NO FLOODPLAIN PRESENT
3. ELLENSBURG CRITICAL AREA: NONE
4. KITTITAS COUNTY WETLAND

PUBLIC SERVICE MAP

NONE

SOILS DESCRIPTION

601-BRICKMILL GRAVELLY ASHY LOAM, 0 TO 2 PERCENT SLOPES
635-OPNISH ASHY LOAM, 0 TO 2 PERCENT SLOPES
720-NANUM ASHY SANDY CLAY LOAM, 0 TO 2 PERCENT SLOPES
791-MITTA ASHY SILT LOAM, DRAINED, 0 TO 2 PERCENT SLOPES

SURVEYOR

WHIPPLE CONSULTING ENGINEERS
21 S PINES ROAD
SPOKANE VALLEY, WA 99206
PHONE: 509-893-2617
CONTACT: DAVID COWELL, PLS

OWNER

KELLY FOSTER
PHONE: 206-605-2371
CONTACT: KELLY FOSTER

ENGINEERING

WHIPPLE CONSULTING ENGINEERS
21 S PINES ROAD
SPOKANE VALLEY, WA 99206
PHONE: 509-893-2617
CONTACT: TODD WHIPPLE, P.E.

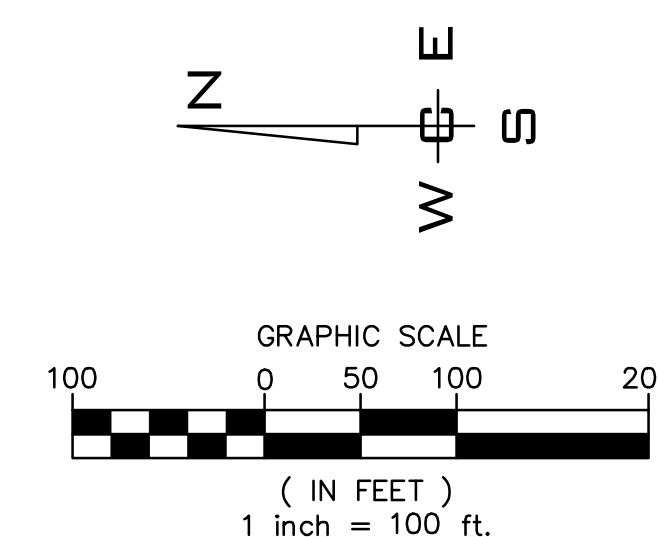
LEGAL DESCRIPTION

THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF
SECTION 34, TOWNSHIP 18 NORTH, RANGE 18 EAST, W.M., IN
THE COUNTY OF KITTITAS, STATE OF WASHINGTON;
EXCEPT:

1. THAT PORTION OF SAID PREMISES WHICH LIES NORTHEASTERLY OF THE JOHN WAYNE TRAIL (FORMER CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC RAILROAD RIGHT OF WAY);
2. A STRIP OF LAND 100 FEET IN WIDTH EXTENDING OVER AND ACROSS FROM THE NORTH SIDE TO THE EAST SIDE OF SAID LAND, AS CONVEYED BY CHICAGO, MILWAUKEE AND ST. PAUL RAILROAD COMPANY OF WASHINGTON TO THE WEST REGION IN BOOK 14 OF DEEDS, PAGE 318, AND AS SUBSEQUENTLY QUIETED IN THE STATE OF WASHINGTON, IN FINAL JUDGMENT QUIETING TITLE, AS FILED JUNE 6, 1997, IN THE SUPERIOR COURT OF WASHINGTON FOR KITTITAS COUNTY, UNDER CAUSE NO. 88-2-00118-1;

AND

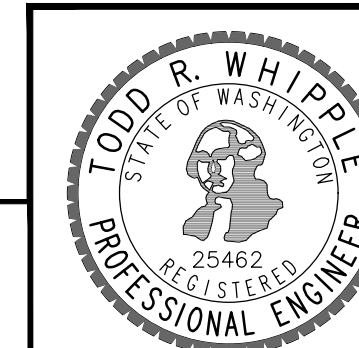
THAT PORTION OF THE SOUTHEAST QUARTER OF THE
NORTHEAST QUARTER OF SECTION 3, TOWNSHIP 38 NORTH,
RANGE 18 EAST, W.M., IN THE COUNTY OF KITITAS, STATE OF
WASHINGTON, WHICH IS DESCRIBED AS FOLLOWS: A TRACT OF
LAND BOUNDED BY A LINE BEGINNING AT THE NORTHEAST
CORNER OF SAID QUARTER OF QUARTER SECTION AND RUNNING
THENCE SOUTH 00°59' EAST ALONG THE EAST BOUNDARY LINE
THEREOF 183.6 FEET; THENCE SOUTH 67°55' WEST 602.8 FEET;
THENCE SOUTH 52°31' WEST 279.6 FEET TO THE NORTH
BOUNDARY LINE OF THE RIGHT OF WAY OF THE COUNTY ROAD;
THENCE NORTH 48°02' WEST ALONG SAID BOUNDARY LINE
144.8 FEET; THENCE NORTH 37°15' EAST 602.8 FEET TO A
POINT ON THE NORTH BOUNDARY LINE OF SAID QUARTER
OF QUARTER SECTION WHICH IS 795.0 FEET EAST OF THE
NORTHEAST CORNER THEREOF; AND THENCE NORTH 69°36'
EAST ALONG SAID NORTH BOUNDARY LINE 620.1 FEET TO THE
POINT OF BEGINNING.



OWNER SIGNATURE

DATE _____

PLANS
NOT APPROVED
BY AGENCY



SHEET
1 OF 5

JOB NUMBER
20-2788

**FOSTER SUB. PRELIMINARY ENGINEERING
PRELIMINARY PLAT
W. DRY CREEK ROAD
ELLENSBURG, WA, 98926**



WHIPPLE CONSULTING ENGINEERS
21 S. PINES ROAD
SPOKANE VALLEY, WA 99206
PH: 509-893-2617 FAX: 509-926-0222

PROJ #:	20-2788
DATE:	03/25/21
DRAWN:	TEW
REVIEWED:	TRW

SCALE:
HORIZONTAL: 1"=100'
VERTICAL: 1"=10'

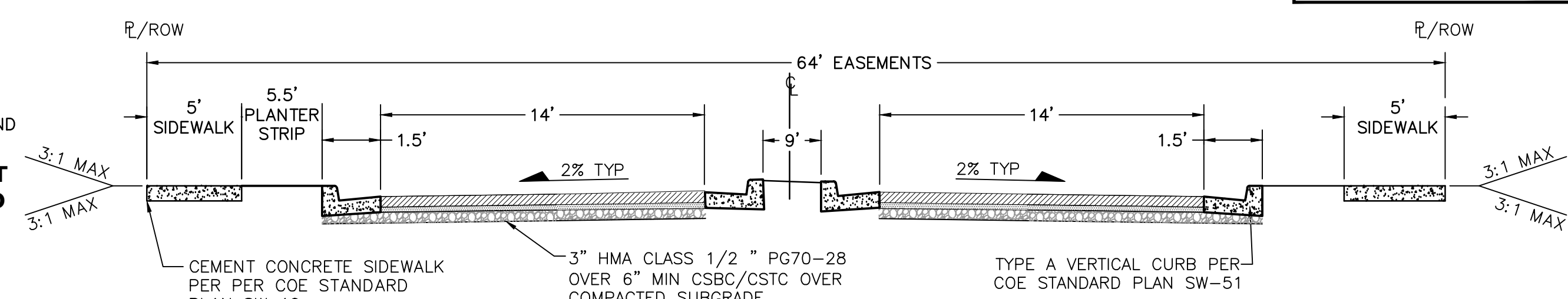
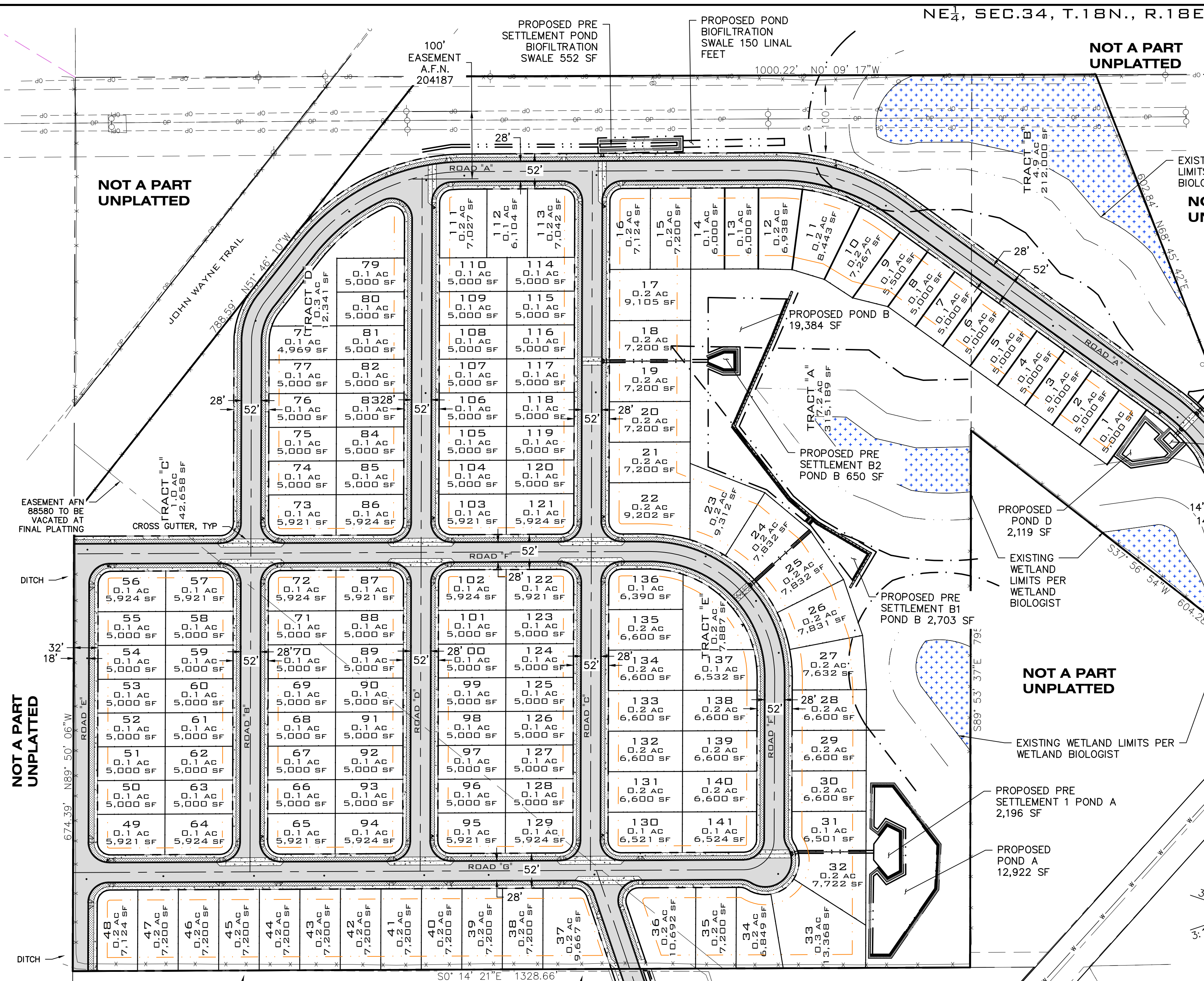
NO.	DATE	BY	REVISIONS
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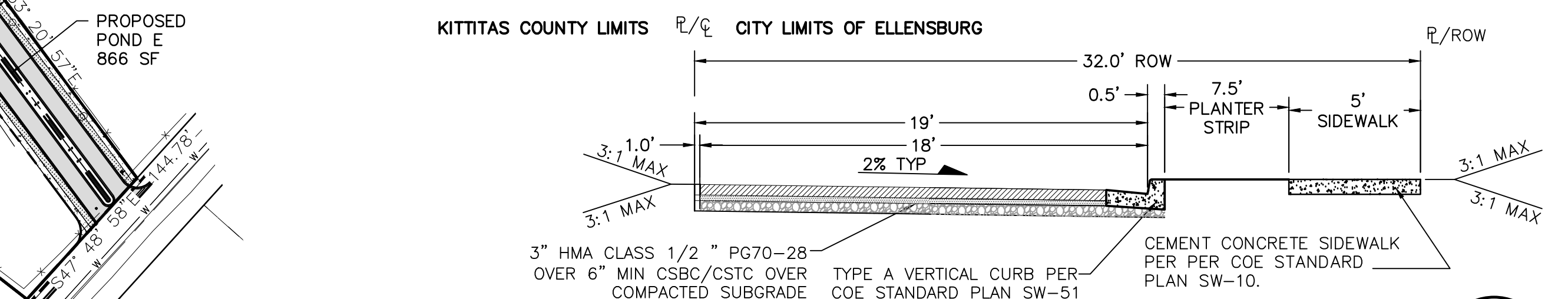
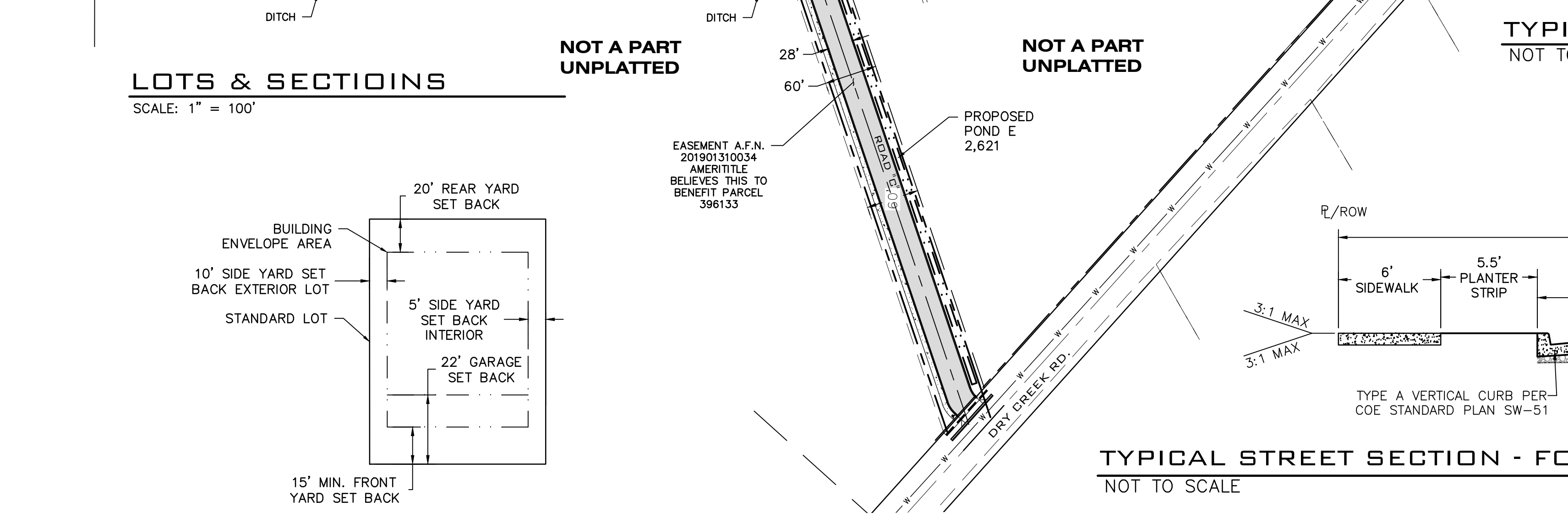
\\WCE_WORK\2020 WCE PROJECTS\2020-2788 FOSTER- ELLENSBURG DRY CREEK ROAD\DWG\2788-PPLA.TWG PLOT DATE:03/25/21

NE 1/4, SEC. 34, T. 18 N., R. 18 E., W. M.

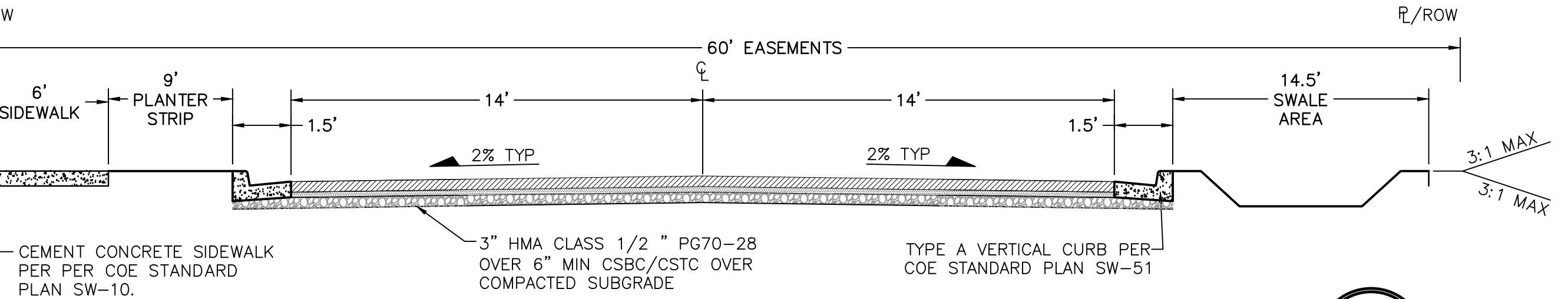
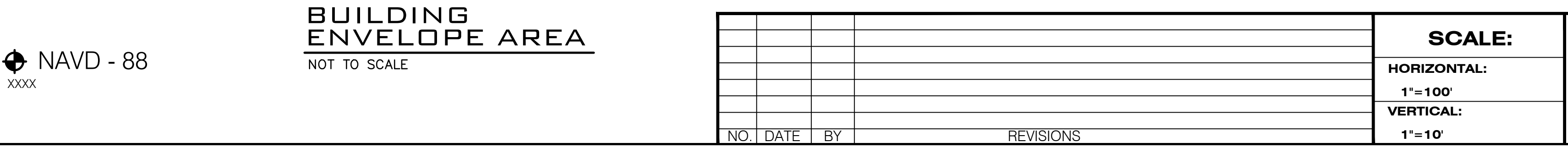
UNDERGROUND SERVICE ALERT
ONE-CALL NUMBER
811
CALL TWO BUSINESS DAYS
BEFORE YOU DIG



TYPICAL ROAD "A" BOULEVARD STREET SECTION (PRIVATE)
NOT TO SCALE

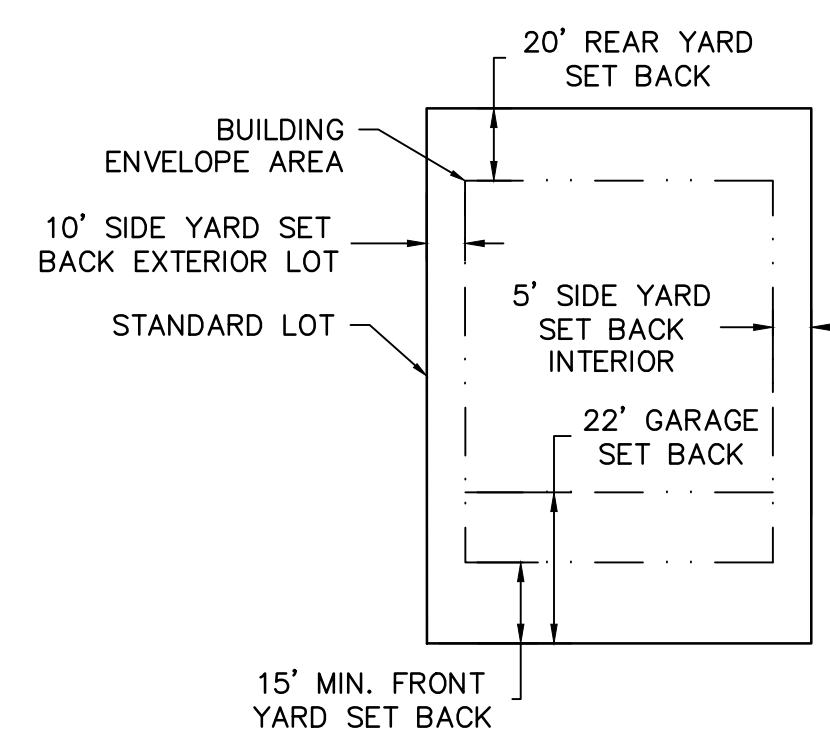


TYPICAL HALF STREET SECTION - STREET E
NOT TO SCALE

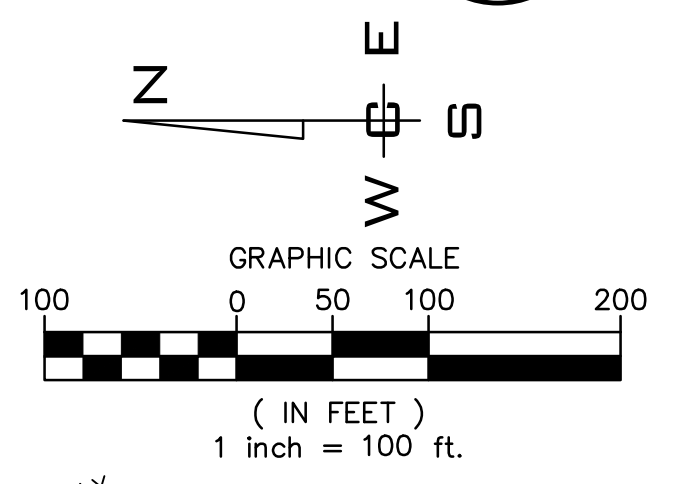


TYPICAL ROAD "C" 11+66 TO 18+58.95 ACCESS STREET SECTION (PRIVATE)
NOT TO SCALE

LOTS & SECTIONS
SCALE: 1" = 100'



BUILDING ENVELOPE AREA
NOT TO SCALE



NAVD - 88
XXXX

NO.	DATE	BY	REVISIONS

SCALE:	PROJ #: 20-2788	☒ CIVIL
HORIZONTAL:	DATE: 03/25/21	☐ STRUCTURAL
1" = 100'	DRAWN: TEW	☐ SURVEYING
VERTICAL:	REVIEWED: TRW	☐ TRAFFIC
1" = 10'		☐ PLANNING
		☐ LANDSCAPE
		☐ OTHER

WCE
WHIPPLE CONSULTING ENGINEERS
21 S. PINES ROAD
SPOKANE VALLEY, WA 99206
PH: 509-893-2617 FAX: 509-926-0227

FOSTER SUB. PRELIMINARY ENGINEERING
LOTS & SECTIONS
W. DRY CREEK ROAD
ELLENSBURG, WA, 98926

PLANS NOT APPROVED BY AGENCY

TODD R. WHIPPLE
STATE OF WASHINGTON
25462
REGISTERED
PROFESSIONAL ENGINEER

SHEET 2 OF 5
JOB NUMBER 20-2788

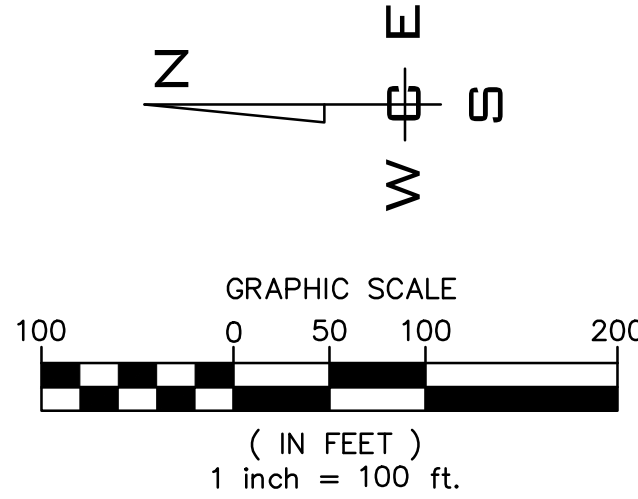


UNDERGROUND SERVICE ALERT
ONE-CALL NUMBER
811
CALL TWO BUSINESS DAYS
BEFORE YOU DIG

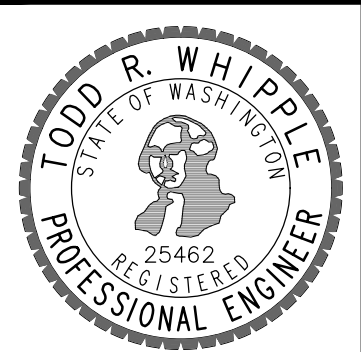
- WETLAND BOUNDARY
- WETLAND AREA
- WETLAND 100' BUFFER
- WETLAND BUFFER AREA
- WETLAND BUFFER IMPACT AREA
- MITIGATION AREA

WETLAND BUFFER IMPACT SUMMARY		
BUFFER AREA	AREA (SF)	ACRE (AC)
ONSITE	260,797	5.9800
IMPACT	36,421	0.8360
MITIGATION	108,225	2.4845

WETLAND EXHIBIT
SCALE: 1" = 100'



PLANS
NOT APPROVED
BY AGENCY



NAVD - 88
XXXX

NO.	DATE	BY	REVISIONS

SCALE:
HORIZONTAL:
1"=100'
VERTICAL:
N/A

PROJ #: 20-2788
DATE: 03/25/21
DRAWN: TEW
REVIEWED: TRW

- ☒ CIVIL
- ☐ STRUCTURAL
- ☐ SURVEYING
- ☐ TRAFFIC
- ☐ PLANNING
- ☐ LANDSCAPE
- ☐ OTHER

WCE
WHIPPLE CONSULTING ENGINEERS
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SPOKANE VALLEY, WA 99206
PH: 509-893-2617 FAX: 509-926-0227

FOSTER SUB. PRELIMINARY ENGINEERING
WETLAND EXHIBIT
W. DRY CREEK ROAD
ELLENSBURG, WA, 98926

SHEET
4 OF 5

JOB NUMBER
20-2788

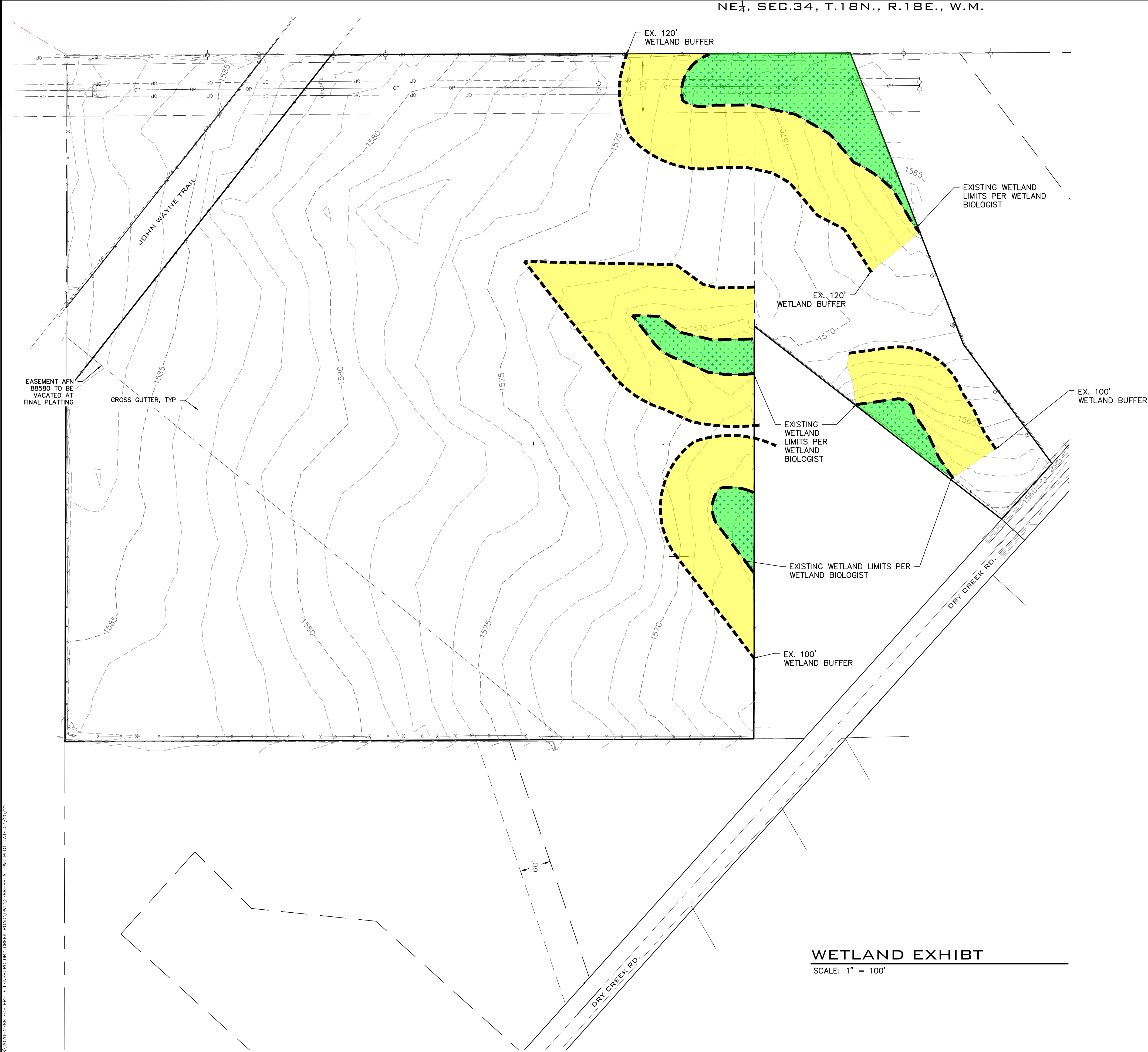
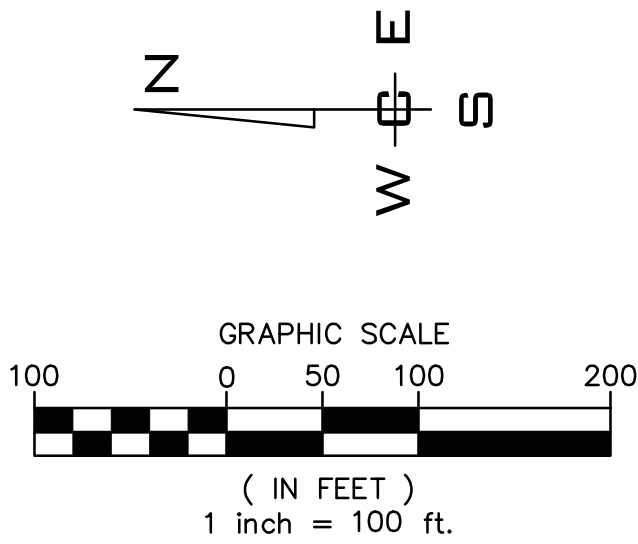
NE 1/4, SEC. 34, T. 18 N., R. 18 E., W.M.

UNDERGROUND SERVICE ALERT
ONE-CALL NUMBER
811
CALL TWO BUSINESS DAYS
BEFORE YOU DIG

- WETLAND BOUNDARY
- WETLAND AREA
- WETLAND 100' BUFFER
- WETLAND BUFFER AREA

WETLAND SUMMARY		
BUFFER AREA	AREA (SF)	ACRE (AC)
WETLAND AREA	79,165	1.8173
BUFFER AREA	297,218	6.8231

WETLAND EXHIBIT
SCALE: 1" = 100'



NAVD - 88
XXXX

NO.	DATE	BY	REVISIONS

SCALE:
HORIZONTAL:
1"=100'
VERTICAL:
N/A

PROJ #: 20-2788
DATE: 03/25/21
DRAWN: TEW
REVIEWED: TRW

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CIVIL
- STRUCTURAL
- SURVEYING
- TRAFFIC
- PLANNING
- LANDSCAPE
- OTHER

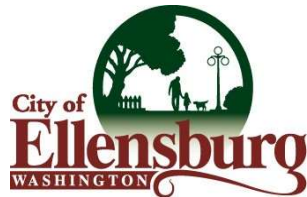
WCE
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SPOKANE VALLEY, WA 99206
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FOSTER SUB. PRELIMINARY ENGINEERING
WETLAND DELINEATION
W. DRY CREEK ROAD
ELLENSBURG, WA, 98926

PLANS
NOT APPROVED
BY AGENCY



SHEET
5 OF 5
JOB NUMBER
20-2788



CITY OF ELLENSBURG

Energy Services Department

501 North Anderson Street; Ellensburg, WA 98926

Ph: (509) 962-7124 Fax: (509) 925-8662

www.ci.ellensburg.wa.us

Memorandum

Date: February 3rd, 2021

To: Shannon Johnson, Office of Community Development

From: Tyler Goeden, Project Engineer

Re: P20-130 Dry Creek Long Plat Pre-Application

The following are the City of Ellensburg Electric Utility comments for the P20-130 Dry Creek Long Plat Pre-Application, located on the north side of Dry Creek Road, in between Cora St. & Reecer Creek Road.

Electric:

The City of Ellensburg Electric Utility has existing underground 3 phase high-voltage power available, approximately 1,000' to the SE of where 'Road A' intersects with Dry Creek Road, near the City Well, which will serve as the source of power for this project. The City will extend the underground 3 phase high-voltage system to the plat, at applicants expense, including crossing under the existing creek that crosses Dry Creek Road, near 1005 W. Dry Creek Road. City Electric facilities would need to be extended throughout the plat, and to all of the extents of the plat, including the ends of 'Road C', 'Road G', & 'Road F'.

The City Electric Utility must adhere to the different regulations of the National Electric Code (NEC), National Electric Safety Code (NESC), Washington Administrative Code (WAC), among others. These regulations include minimum clearances from our transformers to any combustible structure (10 feet), and clearances from our transformers to any non-combustible structure (3 feet). The City Electric Utility must have 24/7 full access to our electrical system for proper maintenance & operations from a street or alley. There are also minimum clearances we must maintain between our electrical facilities to other utilities, such as water, sewer, gas, & communications.

Locations for transformers and junction boxes will need to be determined where they are protected from vehicle traffic and where they will be in a utility easement, typically a 10 foot utility easement along the frontage of each lot throughout the plat. Communications generally install with the electric utility and may have similar considerations for space.

Meters must be accessible 24/7, and cannot be placed behind fences, in backyards, or other situations where City Light cannot safely and easily access the meters.

Street lights are not shown on the drawing and since these are public streets, they will need to be part of the civil plans submitted to Public Works and we will come up with a design to serve them as part of this plat. New street lighting will also be required at the frontages of the plat, where 'Road A' & 'Road C' intersects with Dry Creek Road.

Applicant will need to complete a Residential Plat Development Application, which is also available on the City Website,

<https://ci.ellensburg.wa.us/DocumentCenter/View/11298/Residential-Plat-Application> .

Puget Sound Energy currently has a 2 phase high-voltage power pole line along the south side of Dry Creek Road, with Telephone & TV on the PSE pole line, which could possibly serve as the source of Cable TV & Telephone for this plat. The applicant is recommended to contact Cable TV & Telephone for more information.

It appears that the applicant intends on staying outside of the 100' existing BPA power easement. If the applicant intends on performing any work in the BPA power easement, whether that be for staging equipment, or breaking ground in any way, the applicant is advised to contact BPA beforehand for approval of land-use.



Public Works & Utilities Department

Natural Gas Division

501 North Anderson Street; Ellensburg, WA 98926

Ph: (509) 962-7124 Fax: (509) 925-8662

www.ci.ellensburg.wa.us

Memorandum

Date: January 25, 2021

To: Shannon Johnson, Community Development

From: Darin Yusi, Gas Engineer *DY*

Re: W Dry Creek Long Plat – P20-130

The following are the Gas Division's comments on the proposed W Dry Creek Long Plat off Dry Creek Road.

Natural Gas:

There is a 4-inch main along the south side of Dry Creek Road where plat is being proposed. The proposed development would be required to tie into the 4-inch main, cross Dry Creek Road and extend the gas main throughout the development and provide service stubs to each lot. It is preferred that the main line be shown on the civil plans to help in planning (no details needed, just shown where it would go) and if home layouts are known it is also helpful to have the proposed service stub locations shown on the civil plans as well. A natural gas utility map is included with these comments.

A Public Works Right-of-Way permit will be required to cross Dry Creek Road. Please contact the Public Works Department for more information regarding the permit and requirements at 509-962-7230.

City gas crews will install gas main and service stubs in developer provided trenches. The applicant is to provide the trench, smooth sand bedding, and backfill at the specified depth and required utility separation as indicated on the details G-12 and G-13.

The applicant is not required to serve the homes with natural gas, but if the applicant is interested in serving the proposed lots with gas, please call the City Gas Division at 962-7124 for an application for service. The City Gas Division does offer rebates for New Construction that can be found on the City's website.

Remember to always call 811 (the One-Call Underground Utility Notification Center) prior to any excavation on private property or in the right-of-way.

For any further questions or clarifications regarding these comments or the proposed project, please call the City Gas Division at 509-962-7124.



CITY OF ELLENSBURG
NATURAL GAS DIVISION
UTILITY MAP REQUEST INFORMATION

PROJECT ADDRESS

W DRY CREEK ROAD

DATE

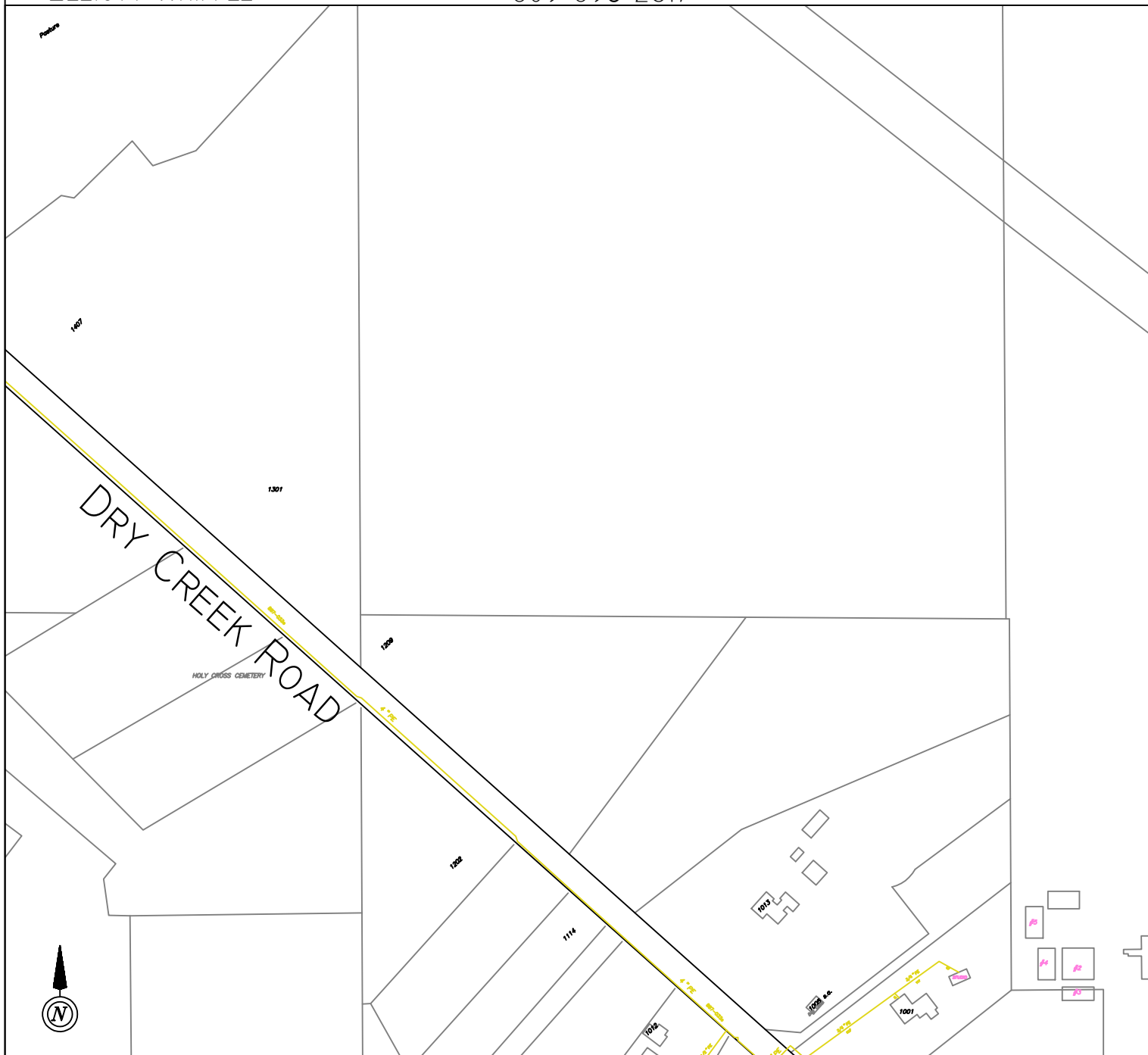
01/21/2021

CONTACT NAME

ELLIOTT WHIPPLE

WORK PHONE

509-893-2617



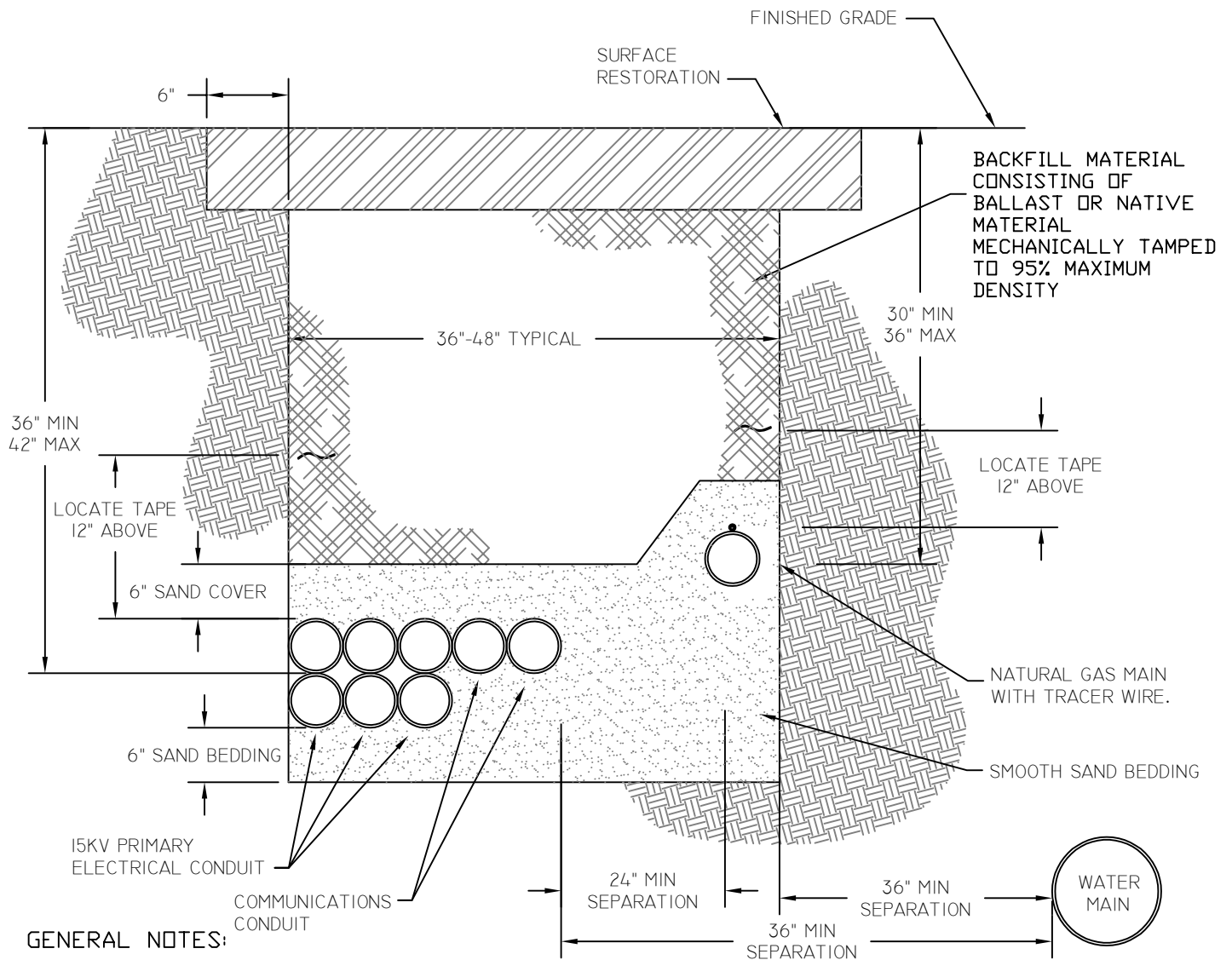
QUESTIONS: DARIN YUSI 509-962-7229

DISCLAIMER:

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



Know what's below.
Call before you dig.



GENERAL NOTES:

1) THE MINIMUM TRENCH DEPTH REQUIRED FOR 15KV PRIMARY ELECTRICAL CONDUIT IS 36", MAXIMUM OF 42". THE MINIMUM TRENCH DEPTH REQUIRED FOR GAS MAINS IS 30", MAXIMUM OF 36". TRENCH DEPTH MIN / MAX CAN CHANGE WITH PRIOR APPROVAL FROM ENERGY SERVICES

2) BACKFILL SHOULD NOT BE USED IF IT CONTAINS LARGE ROCK, PAVING MATERIALS, CINDERS, LARGE OR SHARPLY ANGULAR SUBSTANCE OR CORROSIVE MATERIALS WHICH CAN DAMAGE CONDUITS, CABLES, GAS PIPES OR OTHER SUBSTRUCTURES OR PREVENT ADEQUATE COMPACTION OF FILL OR CONTRIBUTE TO CORROSION OF CONDUITS, CABLES OR OTHER SUBSTRUCTURES.

3) ELECTRICAL CONDUIT AND GAS MAIN MAY BE IN JOINT TRENCH WITH WATER MAIN PROVIDED A MINIMUM SEPARATION OF 36" IS MAINTAINED. THE UTILITY MAY REQUIRE STAKING PRIOR TO BACKFILL TO MAINTAIN REQUIRED SEPARATION. NO UTILITY WILL BE JOINT TRENCH WITH SEWER OR PLACED OVER THE TOP OF THE GAS MAIN OR SERVICE LINE.

4) SMOOTH SAND BEDDING IS REQUIRED FOR GAS MAINS AND PRIMARY ELECTRICAL CONDUITS, 6-INCHES BELOW AND 6-INCHES ABOVE. MAINTENANCE SAND MAY NOT BE USED AS SAND BEDDING.

REVISED 11-25-15



CITY OF ELLENSBURG
STANDARD PLANS & DETAILS

DISTRIBUTION TRENCH REQUIREMENTS

PLAN NO.

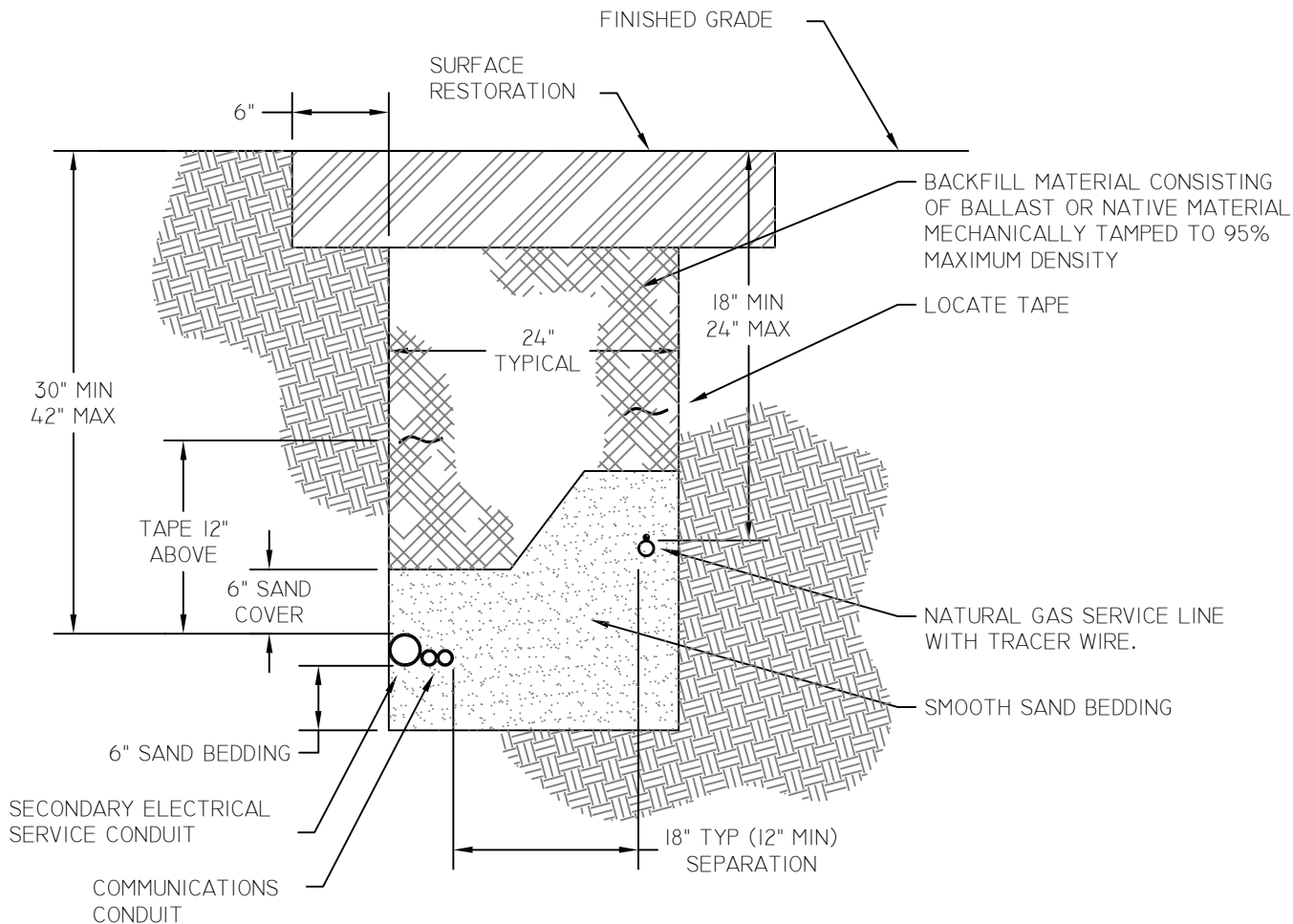
G-12

DRAWN BY: MIB

DATE: 07-19-01

UPDATED BY: JC

SCALE: NONE



GENERAL NOTES:

- 1) THE MINIMUM DEPTH OF TRENCH REQUIRED FOR NATURAL GAS SERVICE LINE IS 18" ON PROPERTY WITH A MINIMUM DEPTH OF 24" IN THE RIGHT OF WAY. THE MINIMUM DEPTH OF TRENCH FOR SECONDARY ELECTRICAL SERVICE CONDUIT IS 30", MAXIMUM OF 42". TRENCH DEPTH MIN / MAX CAN CHANGE WITH PRIOR APPROVAL FROM ENERGY SERVICES.
- 2) TRENCH SHOULD BE AS STRAIGHT AS POSSIBLE WITH NO MORE THAN (3) 90° BENDS. IN AREAS WHERE TRENCH CHANGES DIRECTION, CORNERS SHOULD BE ROUNDED TO ALLOW FOR SWEEPS. THE FLOOR OF THE TRENCH, SHOULD BE AS LEVEL AND FLAT AS PRACTICALLY POSSIBLE. THE SWEEP BELOW THE METER SHOULD BE DIRECTED TOWARD THE SOURCE OF THE SERVICE (TYPICALLY THE TRANSFORMER OR HANDBOX AT THE PROPERTY CORNER), NOT PERPENDICULAR TO THE BUILDING.
- 3) BACKFILL SHOULD NOT BE USED IF IT CONTAINS LARGE ROCK, PAVING MATERIALS, CINDERS, LARGE OR SHARPLY ANGULAR SUBSTANCE OR CORROSIVE MATERIALS WHICH CAN DAMAGE THE PIPELINE, CONDUITS, CABLES OR OTHER SUBSTRUCTURES AND / OR PREVENTS ADEQUATE COMPACTION OF FILL.
- 4) SERVICE LINES MAY BE IN A JOINT TRENCH PROVIDED A MINIMUM SEPARATION OF 12" IS MAINTAINED, WHILE 18" IS PREFERRED. UTILITY MAY REQUIRE STAKING PRIOR TO BACKFILL TO MAINTAIN REQUIRED SEPARATION AND ADEQUATE COVERAGE. NO UTILITY WILL BE PLACED OVER THE TOP OF THE GAS SERVICE LINE.
- 5) SMOOTH SAND BEDDING IS REQUIRED FOR GAS SERVICE LINES AND SECONDARY ELECTRICAL CONDUITS. MAINTENANCE SAND MAY NOT BE USED AS SAND BEDDING.
- 6) BACKFILLING MUST BE COMPLETED AT THE TIME THE GAS SERVICE LINE IS INSTALLED AND MADE LIVE. WIRE WILL NOT BE PULLED INTO CONDUITS UNTIL BACKFILL IS COMPLETED.

REVISED 08-06-13



CITY OF ELLENSBURG
STANDARD PLANS & DETAILS

SERVICE LINE
TRENCH REQUIREMENTS

PLAN NO.

G-13

DRAWN BY: SP

DATE: 07-19-01

UPDATED BY: HF

SCALE: NONE



CITY OF ELLENSBURG

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

Memorandum

Date: January 26, 2021
To: Shannon Johnson, Senior Planner
From: Craig Jones, Development Coordinator *CJ*
Through: Derek Mayo, City Engineer *DKM*
Re: Dry Creek Rd - Foster Plat – P20-130

The following are the Public Works Pre-App comments for the proposed Foster Plat on the north side of Dry Creek Rd in the 1100 blk.

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

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

Water:

The water main available to serve this development is a 24" Concrete main that runs in Dry Creek Road. The developer will need to build an 8" water main on all the proposed interior roads. Each lot will need a separate water service. The maximum number of lots that can be served by one water connection is 40 lots. As proposed an additional water connection will need to be made so the system is looped. See attached utility map.

Fire hydrant placement shall be per Fire Department requirements. Developer's engineer may be required to verify that fire flow capacity will meet the necessary requirements.

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

Sewer:

There is no sewer nearby to serve this project. The nearest sewer mains are in University Way, south of the site, and east of the site at 15th Ave and Cora St. The developer is encouraged to contact property owners between the project and University Way to explore the options of a gravity system. Otherwise a sewer lift station will need to be deigned along Dry Creek Rd. The developer will need to install 8" sewer mains on the interior roads and side sewer stubs to each lot. See attached utility map.

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

Roadway and access:

This project will trigger the requirement for half street improvements along the Dry Creek Road frontage and all the interior roads will need full street improvements. The future connection to Helena Ave will also need half street improvements with a minimum 20' wide roadway surface on the north side of the property. Helena Ave is classified as a collector street and will be a 64' right of way at full build out. Street improvements include concrete curb/gutter, sidewalks, street lighting, permanent signage, asphalt, asphalt markings, gravel base, storm drainage, and other items associated with minimum public improvements consistent with Public Works Development Standards. Dry Creek Road is on the Non-Motorized Transportation route and will need to include additional width to accommodate the future bike lane. Due to the fairly narrow existing roadway of Dry Creek Road, the City of Ellensburg should require shoulder widening on the north side of the roadway from the project site to the vicinity of the existing sidewalks on 15th Avenue, to provide a safe pedestrian route. Under the Land Development Code the sidewalks will need to be separated from the curb. Existing power poles may need to be relocated to accommodate these frontage improvements.

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

Storm water:

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

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

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

The following comments are from the City Stormwater Department;

1. If the site is an acre or greater the developer will need to make Notice of Intent (NOI) with Ecology and apply for a Stormwater General Construction Permit months in advance of

construction. <https://ecology.wa.gov/Regulations-Permits/Permits-certifications/Stormwater-general-permits/Construction-stormwater-permit>

2. The Ecology permit requires a Stormwater Pollution Prevention Plan (SWPPP) be submitted with the plan set and be reviewed by the City of Ellensburg Stormwater Utility along with a set of temporary sediment erosion control plans (TESC).

3. In addition, Ecology now requires an Operation and Maintenance (O&M) Plan be submitted to the City for review and retainage. The O&M Plan must address the long term maintenance of the stormwater facilities (swales) that will be constructed onsite to deal with the flow control and treatment requirements of Core Element 5&6 in the Eastern Washington Stormwater Management Manual.

Here is a link for additional information from Ecology;

<https://ecology.wa.gov/Regulations-Permits/Permits-certifications/Stormwater-general-permits/Construction-stormwater-permit/eCoverage-packet>

Other issues:

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

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

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

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

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

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

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

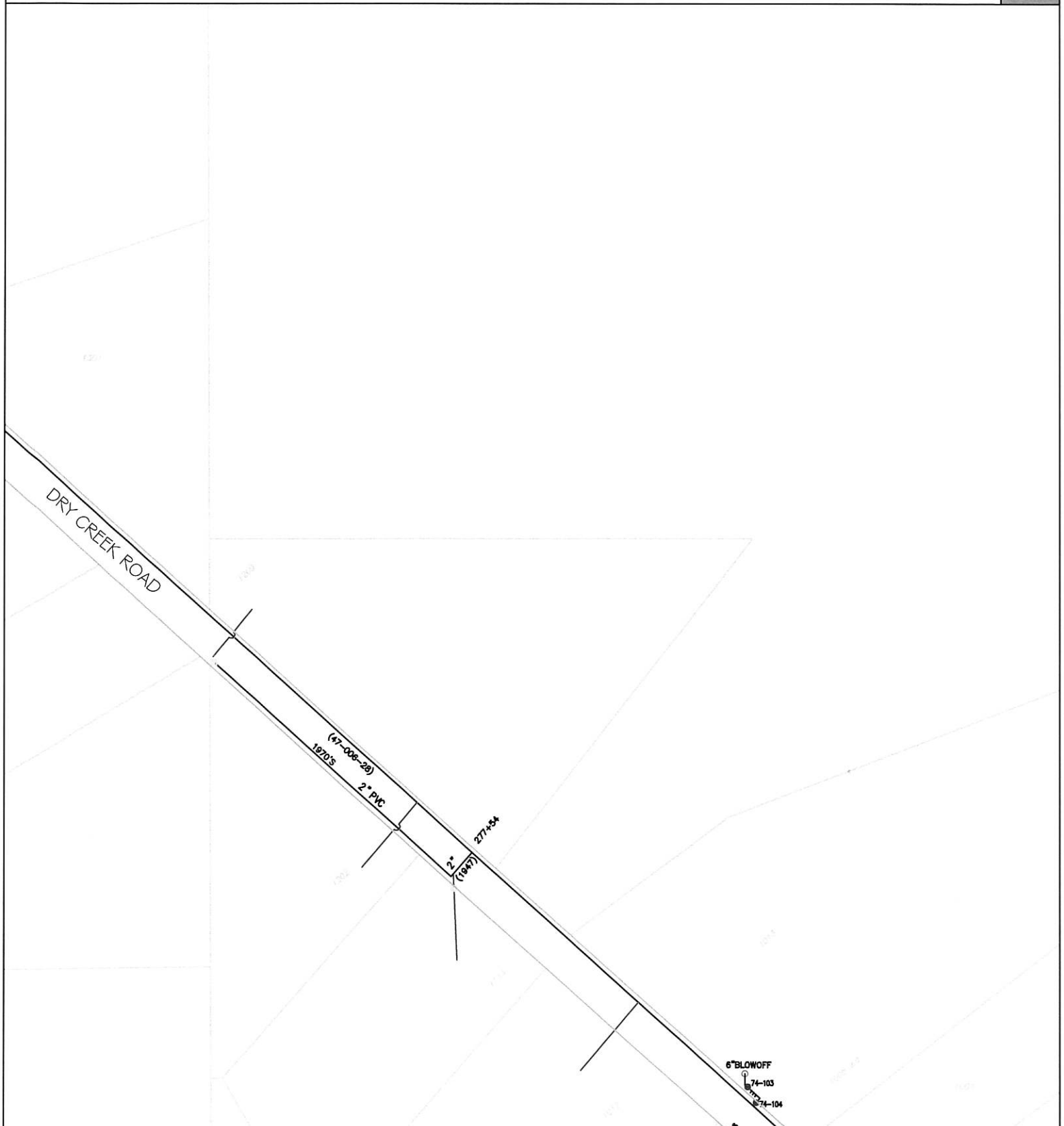
Road names will need to comply with the City's road name ordinance and will also go through a review process.

Cc File 20-091



CITY OF ELLENSBURG
PUBLIC WORKS DEPARTMENT
UTILITY MAP REQUEST INFORMATION

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DISCLAIMER:

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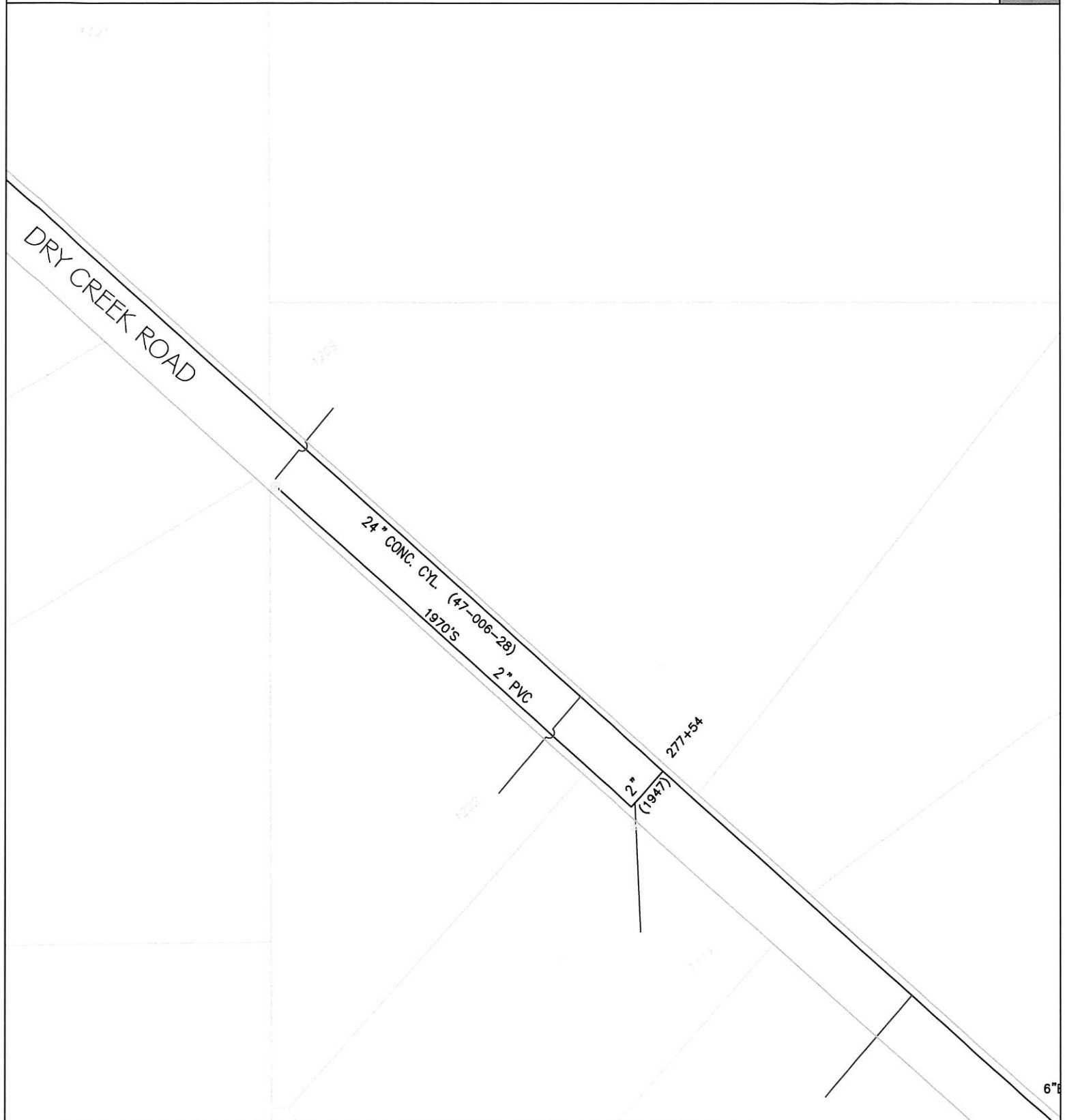


Know what's below **167**
Call before you



CITY OF ELLENSBURG
PUBLIC WORKS DEPARTMENT
UTILITY MAP REQUEST INFORMATION

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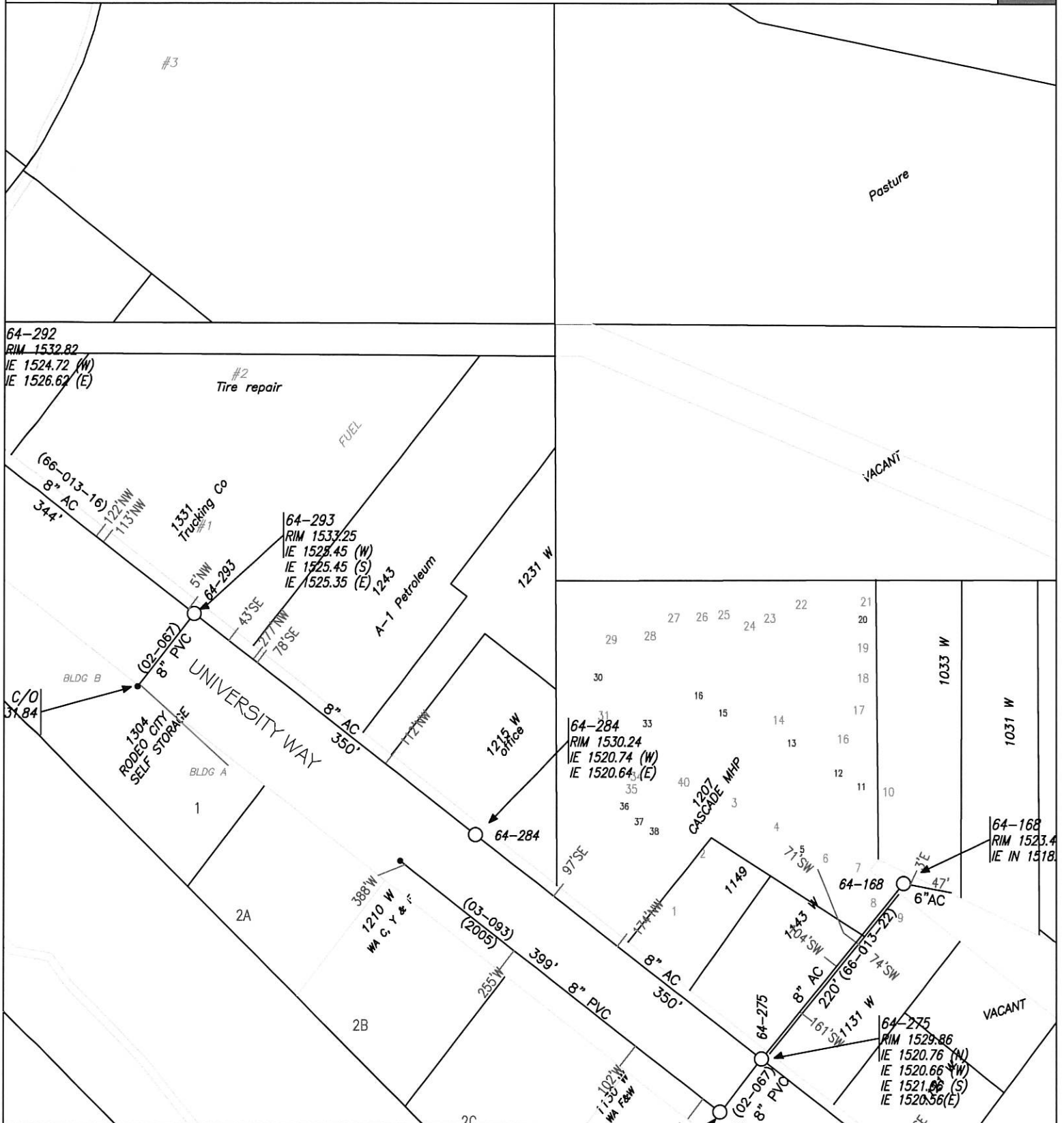
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CITY OF ELLENSBURG
PUBLIC WORKS DEPARTMENT
UTILITY MAP REQUEST INFORMATION

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Know what's below
Call before you dig 170



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

Fire Marshal Pre-application Comments

Project: W. Dry Creek Long Plat
Permit#: P20-130
Occupancy Type: R
Date: 02/02/2021

Comments:

- 1) Must meet current IFC and City of Ellensburg Code requirements at the time of construction for the occupancy classification and construction type. Will be required to meet current IFC and City of Ellensburg Code anytime there is a change in occupancy classification. The 2018 IFC is scheduled for implementation in February of 2021 with a grace period.
- 2) Standard Addressing per City Code requirements to include ADU units if applicable.
- 3) Fire dept. access and turnarounds per IFC Section 503 and Appendix D. Fire department access roads shall be a minimum of 20' wide, access roads shall be a minimum of 26' wide in the vicinity of fire hydrants or meet the City Street Standard if greater. It may be required to post "No Parking Signs" on one or both sides of the fire access road depending on width. Fire dept. access roads cannot exceed 150' in length without an approved turnaround per IFC Appendix D. Road surfaces must be rated for a minimum of 75,000 lbs. or City of Ellensburg street standard if it requires a higher rating.
- 4) Per IFC Appendix D107.1 two access roads are required based on the number of lots. D107.2 Remoteness, requires that the two access roads be a minimum of half of the maximum diagonal of the overall project area when measured in a straight line between

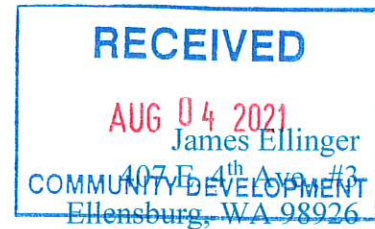
the two access roads. Preliminary review indicates that both of these requirements are met by the plans that were submitted at Pre-app.

- 5) Fire Hydrants quantities are based on proposed sq. ft. of buildings and per requirements of IFC Section 5, Appendix B and C. As currently designed the site would require additional hydrants. Hydrants are required every 400-600' on an approved route of travel. Specific locations have been marked on the provided civils for reference.
- 6) Fire flow requirements are 1500 gpm based on current square footage of buildings as drawn. The fire flow requirement can be reduced if the buildings are sprinklered.
- 7) Any phasing of the project would be required to meet IFC requirements for Fire Dept. access, turnarounds, and water supply.

Thank you,



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



August 4, 2021

Sent Via Hand Delivery and Electronic Mail: aylingj@ci.ellensburg.wa.us:

City of Ellensburg
Community Development Department
Attn: Jamey Ayling
501 N. Anderson St.
Ellensburg, WA 98925

Re: Case #P21-039 – Foster Subdivision

Dear Jamey,

I own the real property at 1209 Dry Creek Road, Ellensburg WA (Kittitas County Parcel #556133) that is immediately adjacent, on two sides, to the foregoing proposed Long Plat Subdivision (the "Winegar property" or the "Foster Subdivision"). Attached hereto is a map showing the proposed layout of the Foster Subdivision with my triangle-shaped property marked in yellow highlight.

I have several concerns about the proposed development's potential for impacts to my property. I ask the City to address these concerns in its Staff Report and request that the suggested ***conditions A through G, and I*** listed at the end of this letter also be recommended to the Hearing Examiner for inclusion as conditions of plat approval. If the Pre-Settlement 1 Pond A and Settlement Pond A are not relocated as requested below, I also ask that ***condition H*** below be added as a condition of approval of the Foster Subdivision.

Irrigation Water Rights

I hold senior water rights through the Ellensburg Water Company ("EWC"), which rights are appurtenant to the property at 1209 Dry Creek Road. The source of my water delivery is through the Winegar property. It is unlawful for an upstream property owner to impair or obstruct a downstream user's access to the full quantum of their water rights. I have historically accessed my water rights at the northeastern and highest point of the property, shown on the attached map as "A". At some point in the last 20 years, the Winegar property was leveled, and an irrigation main shown as "B" on the attached map was buried on the Winegar property, eliminating the natural flow of irrigation water over and across the Winegar property to point A.

Foreign materials frequently enter irrigation pipes and can clog or block the passage of water, particular smaller pipes,¹ requiring periodic clean-out maintenance. The Winegar irrigation

¹ I have removed branches, twigs, a dead skunk, a dead marmot, and other debris from the standpipe discussed further herein.

pipe runs along the eastern and southeastern-most boundaries of the Winegar property. As a result of the piping, two water gates known as “Navigators” were installed on the Winegar property shown on the map at point “C”. This allows for regulation of the flow so that I can close one of the Navigators and open the other one² to divert water northward through a smaller, 6” pipe on my property to a standpipe located at the highest point of the property (point A). Over time, the flow of irrigation water from the Navigators to the standpipe has diminished such that today, the volume and flow of water to my property are insufficient to fully fill the standpipe and allow delivery of water. I believe that there has been either damage to the buried irrigation pipe or it is clogged with organic matter (branches or possibly dead small animal carcasses) and foreign objects. To address these concerns and ensure that the future homeowners in the neighborhoods that will emerge from this subdivision do not adversely affect my ability to fully use my water, I propose that Conditions A through E below be included as conditions of approval for this plat.

I also have concerns about how the irrigation water enters the pipe at the northeastern end of the Winegar property. There is an open metal grate to the pipe, which allows plugging debris to flow into the pipe and also presents an opportunity for people to also put items in the water. As the property is developed into 141 homesites, this will become an attractive nuisance to children and their safety. Ideally, the pipe would be extended northward under the Washington State Parks trail that borders the Winegar property. This would establish some separation from the subdivision and the open pipe and minimize the opportunity for debris to enter the pipe system from the subdivision and reduce the danger of children falling into the irrigation ditch or interfering with the grate.

In summary regarding irrigation water, when I purchased the property the sale was conditioned on my obligation to not interrupt the adjacent and downstream water right holders’ water. I trust that this preliminary plat will similarly be conditioned as proposed by the City and additionally as proposed below to ensure access to my water rights and that there will be no interruption to the flow, volume or point of access thereto.

Stormwater

There is a driveway to and a residence on the western-most corner of my property as shown on the attached map as “D”. The water table at this location is extremely high, and at times the driveway to the house has flooded, particularly when rain events have coincided with the irrigation season (April to October). With the advent of a changing climate, it is unknown how future rain events will also change. This is generally an area of high-water table, as is evidenced by the Black Horse subdivision under development less than a mile to the northwest at the junction of Reecer Creek and Bender Roads. Development of that subdivision continues to be impeded by either groundwater or construction stormwater water issues on the site. I am seeking assurances that the Foster Subdivision does not encounter such problems.

Proposed “Pre-Settlement Pond 1 Pond A” (2,196 square feet) and “Settlement Pond A” (12,922 square feet) as shown on page one of the Preliminary Plat (the map attached hereto) would be located immediately north of and less than 100 feet away from the house and driveway. I have significant concerns about the pre-settlement and settlement ponds being placed at this location. I

² Security around and access to the Navigators must be assured to prevent homeowner or other interference with my ability to access my water.

am concerned that any inadvertent overflow from these ponds, or seepage therefrom, have the ability to flood my property including the home and driveway, as well as adversely impact the existing septic system and artificially create new wetlands.

My strong preference is that Pre-Settlement Pond 1 Pond A and Settlement Pond A be relocated to either the center of the proposed plat or to the north of the new access road located to the north of my driveway. This would establish further separation between my house and driveway and these ponds. If not, I specifically request that condition H below be added to the plat (in addition to conditions A-G and I). These conditions supplement or revise the conditions recommended in the January 26, 2021 Johnson-to-Jones memorandum.

RECOMMENDED CONDITIONS:

1. **WATER RIGHTS:** In addition to the “Other Issues” recommended condition #6 on page 3 of the January 26, 2021 memorandum from Craig Jones, Development Coordinator, to Shannon Johnson, Senior Planner (“Jones-to-Johnson Memo”) regarding this proposal, the following specific conditions are requested as conditions of approval for the Foster Subdivision plat:
 - A. Consistent with the policies of the EWC, a minimum 10-foot right of-way shall be preserved and shown on the face of the plat and on the title to each parcel through which the right-of-way and buried irrigation line travel, for the benefit of and access by the EWC and its owners in order to maintain, operate and repair said irrigation line.
 - B. Development of the Foster Subdivision shall result in no impairment to or unlawful appropriation of downstream water rights holders’ water, access to or use thereof. This includes any fencing that would prevent access to said right-of-way by the EWC or its users and no trees, shrubs, impervious surfaces, or structures shall be planted or built in said right-of-way.
 - C. Installation of any roads, houses, structures, or impervious surfaces within the Foster Subdivision shall not in any way crush, impede the flow of water through, or prevent access to said irrigation line for maintenance or repair.
 - D. Secure fencing and a gate capable of being locked shall be placed and maintained around the Navigators on the Winegar property with no impediments to the EWC or its owners’ ability to access the Navigators or place a lock on said gate.
 - E. Two 45-degree sweep-style clean-out devices (and access thereto by the EWC and its owners), said clean-out devices being designed to allow the EWC and its owners to clean out and otherwise maintain the buried irrigation line shall be constructed. Said devices shall be located as follows:
 - a. One within the right-of-way adjacent to the Navigators at point B on the attached map; and
 - b. One located half-way between points A and B on the attached map, said device to be fenced and gated with no impediments to the EWC or its owners’ ability to place a lock on said gate.

2. **STORMWATER:** In addition to the recommended stormwater conditions on pp. 2-3 of the January 26, 2021 Jones-to-Johnson Memo, the following specific conditions are requested to be placed as conditions of approval for the Foster Subdivision plat:

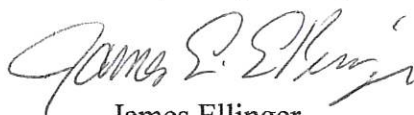
- F. No construction or post-construction stormwater shall be discharged or allowed to enter onto, into or under the adjacent property to the south (Kittitas County Parcel #556133), whether from the stormwater pre-settlement or settlements ponds or through discharge to the existing roadside ditches.
- G. The Operations and Maintenance (O&M) Plan to be submitted to the City for review and retainage shall include financial provisions for the long-term operation and maintenance of the stormwater facilities associated with the plat post-construction.
- H. Storm water condition 2 on page 2 of the Jones-to-Johnson memo shall be removed and replaced with the following: "The applicant shall use the current Stormwater Management Manual for Eastern Washington or approved equivalent for reference in design of stormwater treatment and flow control for post-construction requirements for new development and re-development. Treatment shall be designed to a level that is *more stringent than* for the first ½" of rainfall on the property and storm drainage detention on a 10-year storm event (1.2" of precipitation/24 hours) and retention facilities based on a 25-year storm event (1.6" of precipitation/24 hours). Specific issues related to stormwater will be reviewed at time of civil plan submittal.

3. **GENERAL:**

- I. The Proponent shall provide the owner of Kittitas County Parcel #556133, Attn: James Ellinger at the current mailing address at 407 E. 4th Ave., #3, Ellensburg WA 98926, a copy of all proposed civil plans for the Foster Subdivision at the same time as they are provided to the City for review.. Proof of mailing of said materials shall be submitted to the City concurrently with and as part of the Proponent's submittal of all proposed civil plans.

Thank you in advance for your consideration of the foregoing. If you have any questions, you may reach me directly at (509) 859-3113 or at the address listed above.

Very Truly Yours,



James Ellinger

Encl.

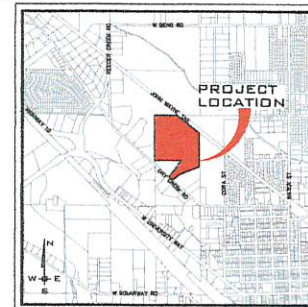
Cc: Erin Anderson, Esq., VanNess Feldman, LLP

Jon Morrow, City of Ellensburg Stormwater Manager – morrowj@ci.ellensburg.wa.us



PRELIMINARY PLAT FOSTER SUBDIVISION LOCATED IN A PORTION OF NE1/4, SEC. 34, T. 18 N., R. 18 E., W.M. SPOKANE COUNTY, WA

SITE DATA			
PARCEL #	396133		
ZONE	R-S		
ALLOWED DENSITY	(u/ao) max		
PROPOSED DENSITY	141/33.49	4.21	
* COE Zoning Code 15.320.050 (B-2) & (C)			
	SF	AC	
PARCEL AREA	1,835,317.00	42.13	
WETLAND AREA	79,165.00	1.82	
WETLAND BUFFER AREA	297,218.00	6.82	
GROSS DEVELOPABLE AREA*	1,458,934.00	33.49	
RESIDENTIAL LOTS	141		
50' LOTS	96		
60' LOTS	45		
TRACTS	5		
RESIDENTIAL LOT AREA	846,518.40	19.43	
TRACT AREA	598,561.44	13.70	
AREA	392,237.96	9.00	
MINIMUM LOT AREA	4,886.30	0.11	
MINIMUM LOT AREA	13,368.33	0.31	
AV. LOT AREA	4,563.76	0.10	



VICINITY MAP

CRITICAL AREAS

1. WETLAND SOURCE FIELD LOCATED SEE REPORT
2. FEMA FLOODPLAIN FIRM PANEL 53009-0439-B - NO FLOOD PLAIN PRESENT
3. ELLENSBURG CRITICAL AREA: NONE
4. KITTITAS COUNTY WETLAND

PUBLIC SERVICE MAP

NONE

SOILS DESCRIPTION

801-BRIDGEMAN GRANULY ASHY LOAM, 0 TO 2 PERCENT SLOPES
835-OPINISH ASHY LOAM, 0 TO 2 PERCENT SLOPES
720-NANUM ASHY SANDY CLAY LOAM, 0 TO 2 PERCENT SLOPES
791-MITTA ASHY SILT LOAM, DRAINED, 0 TO 2 PERCENT SLOPES

SURVEYOR
WHIPPLE CONSULTING ENGINEERS
21 S PINE ROAD
SPOKANE VALLEY, WA 99208
PHONE: 509-893-2617
CONTACT: DAVID CORWELL, PLS

ENGINEERING
WHIPPLE CONSULTING ENGINEERS
21 S PINE ROAD
SPOKANE VALLEY, WA 99208
PHONE: 509-893-2617
CONTACT: TODD WHIPPLE, P.E.

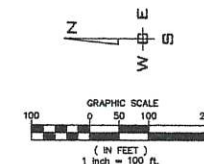
OWNER
KELLY FOSTER
PHONE: 206-605-2371
CONTACT: KELLY FOSTER

LEGAL DISCRIPTION

THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 18 NORTH, RANGE 18 EAST, WM, IN THE COUNTY OF KITTITAS, STATE OF WASHINGTON, (EXCEPT):

1. THAT PORTION OF SAID PROMISES WHICH LIES NORTHEASTERLY OF THE JOHN WAYNE TRAIL (FORMER CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC RAILROAD RIGHT OF WAY).
2. A STRIP OF LAND 100 FEET IN WIDTH EXTENDING OVER AND ACROSS FROM THE NORTH SIDE TO THE EAST SIDE OF SAID LAND, AS CONVEYED TO CHICAGO, MILWAUKEE AND ST. PAUL RAILWAY COMPANY OF WASHINGTON BY DEED RECORDED IN BOOK 14 OF DEEDS, PAGE 215, AND AS SUBSEQUENTLY QUIETED IN THE STATE OF WASHINGTON, IN FINAL ADJUDICATION, AS FILED JUNE 6, 1997, IN THE SUPERIOR COURT OF WASHINGTON FOR KITTITAS COUNTY, UNDER CAUSE NO. 98-2-00118-1;

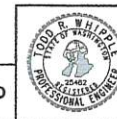
AND
THAT PORTION OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 18 NORTH, RANGE 18 EAST, WM, IN THE COUNTY OF KITTITAS, STATE OF WASHINGTON, WHICH IS DESCRIBED AS FOLLOWS: A TRACT OF LAND BOUNDED BY A LINE BEGINNING AT THE NORTHEAST CORNER OF SAID QUARTER OF SECTION AND RUNNING THENCE SOUTH 00°00' EAST ALONG THE EAST BOUNDARY LINE THEREOF 183.6 FEET, THENCE SOUTH 87°05' WEST 602.8 FEET, THENCE SOUTH 50°21' WEST 279.6 FEET TO THE NORTH BOUNDARY LINE OF THE RIGHT OF WAY OF THE COUNTY ROAD, THENCE NORTH 49°20' WEST ALONG SAID BOUNDARY LINE 144.8 FEET, THENCE NORTH 37°05' EAST 802.8 FEET TO A POINT ON THE NORTH BOUNDARY LINE OF SAID QUARTER OF SECTION WHICH IS 795.0 FEET EAST OF THE NORTHWEST CORNER THEREOF, AND THENCE NORTH 02°36' EAST ALONG SAID BOUNDARY LINE 620.1 FEET TO THE POINT OF BEGINNING.



OWNER SIGNATURE

DATE

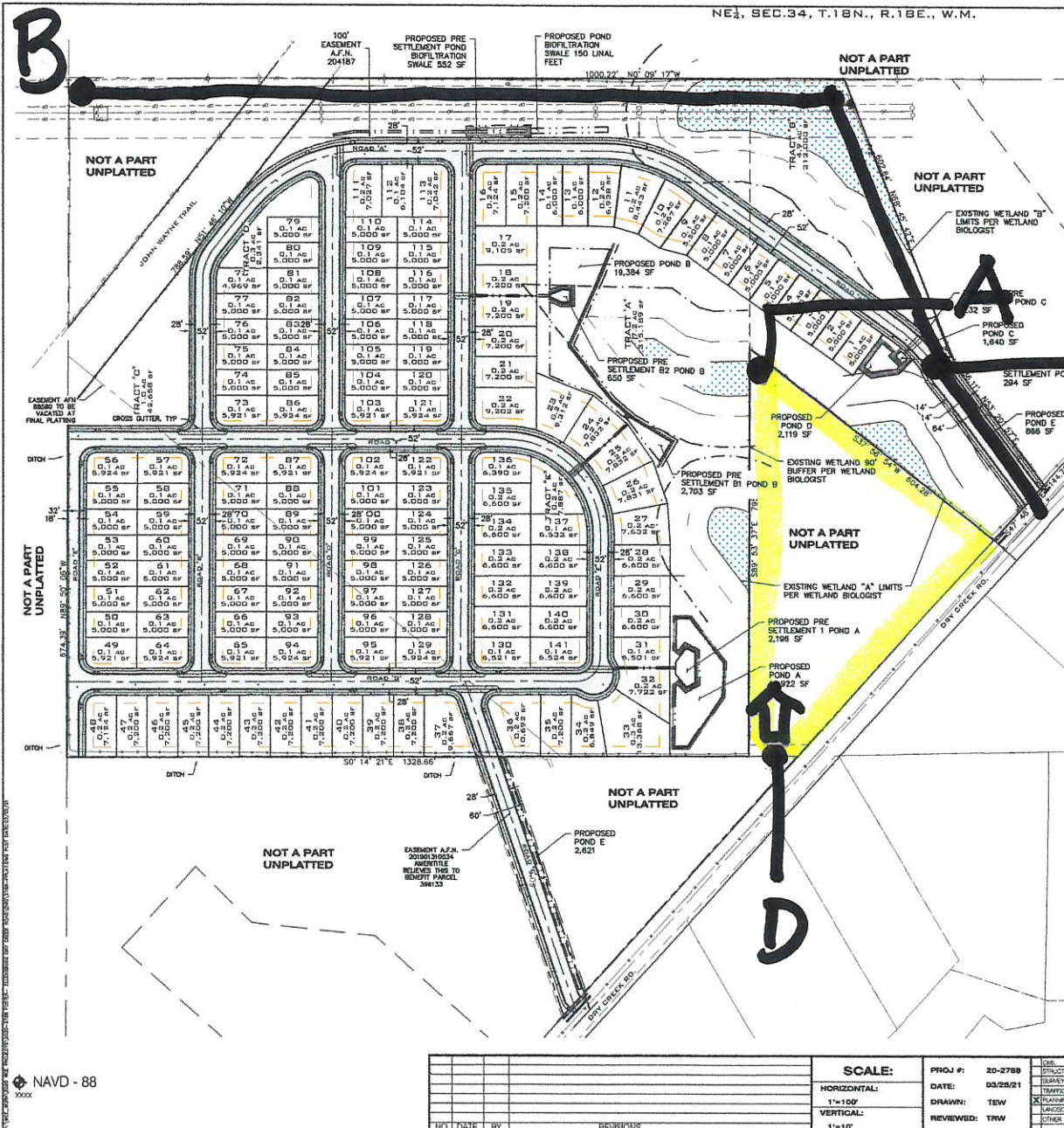
PLANS
NOT APPROVED
BY AGENCY



FOSTER SUB. PRELIMINARY ENGINEERING
PRELIMINARY PLAT
W. DRY CREEK ROAD
ELLENSBURG, WA, 98926

SHEET
1 OF 5
JOB NUMBER
20-2788

NE1/4, SEC.34, T.18N., R.18E., W.M.



NAVD - 88

SCALE:		PROJ #:	20-2788	DATE:	03/26/21
HORIZONTAL:	1"=100'	DRAWN:	TEW	REVIEWED:	TRW
VERTICAL:	1"=10'				
NO. DATE BY		REVISIONS			



August 4, 2021

Community Development Department
501 N Anderson
Ellensburg, WA 98926

RE: Hearing for Subdivision Application Case #P21-039

I am a property owner on Dry Creek Road located across the road from this proposed building site. June 1, 2021 I submitted a number of concerns from the SEPA. We still have several unanswered questions and concerns related to this project.

In the answers to the SEPA regarding Sewell Wetland Consulting, INC. document states "The Ellensburg Water Company has been consulted with the proposed application, and the requirements of any applicable easements shall be honored." I spoke to Larry Browne, Manager, Ellensburg Water Company and he told me he has had no contact from anyone from this project. This is a major concern. If Mr. Browne has not been consulted, there appears to be continued unawareness of the RCW requirements.

There is a buried pipe that carries irrigation water to 4 neighboring properties that are allowed to access the water. The buried pipe starts approximately 40' from the John Wayne Trail and continues along the site property line to approximately 10' from Dry Creek Road. As you follow the pipe from John Wayne Trail toward Dry Creek Road there is a set of control valves that allow water access for the Williams property and another for the Ellinger property across the field.

As you continue toward Dry Creek Road, approximately 40' from the end of the pipe are control valves one that allows for the pipe to be cleaned out and drained and another valve to service the two properties across Dry Creek Road to Richter and DeSoer properties. The clean out drain is piped across the field which appears to be under Road A. The water, when in use continues to the culvert under Dry Creek Road to service the additional two properties. The existing culvert seems to be in the middle of the proposed opening of Road A and will need to be moved.

It also appears by the map of Road A that the road will be covering the now buried irrigation line for at least 286'. The map does not allow for right of way for repair and maintenance of the irrigation line and or clean out line. Manholes would need to be installed for access and the control valves will need to remain for the conveyance of

water. The culvert under Dry Creek Road will need to be moved in line with the access point for the two properties on the other side of the road with a stand pipe installed. The right of way easement will need to be wide enough for large digging equipment to access the length of the pipe, John Wayne Trail to Dry Creek Road, for repair and maintenance, including right of way and access to the pipe that runs across the field and feeds the Ellinger property and the clean out drain pipe located at the valve approximately 40' from the end of the pipe which also runs across the field to the ditch at the west side of Road A entrance drive.

At this time there seems to be a leak in the main irrigation line that will need to be addressed as soon as possible as it is the responsibility of the property owner to provide conveyance of the water per RCW.

Please review in detail the attached RCW regarding the rights and responsibilities of irrigation water and conveyance. See attached copies of RCW 90.03.400, 90.03.410, 90.03.420 and 90.03.430.

The map shows "proposed settlement ponds and ponds" throughout the site. Settlement pond and pond C appear to be located on top of the irrigation line. The information provided does not state if the ponds are retention or detention ponds, or state how the ponds are going to function. These issues are also a concern.

The 4 neighboring properties will need to have an agreement that states that no other access to this water source is allowed in any way by residence of the proposed homes and/or property owners of the land. This agreement must include sign off by all property owners allowed to draw water from the irrigation line and the proposed site land owner with a written easement for unobstructed access, stating right of way access large enough for digging equipment. The agreement must be recorded with the city of Ellensburg and show access and path of irrigation lines on the property of the final plat.

Below is a list of possible solutions to some of the issues:

- 1) Fix the existing leak in the pipe.
- 2) Extend the pipe from the culvert under John Wayne Trail to the start of the existing pipe and the end of the pipe to a new pipe under Dry Creek Road.
- 3) Allow for right of way easement wide enough for larger equipment to access pipe the entire distance from John Wayne Trail to Dry Creek Road.
- 4) Move the pipe that crosses under Dry Creek Road in line with the existing to the access point where the two properties cross the road and install a stand pipe at that access point.
- 5) Provide pipe that will take the weight of traffic crossing Road A for the clean out area with maintenance access.

We are all concerned about the ground water disruption. After the experience from the

Mt Stuart School project and the on going problems with the Black Horse building site on, Reecer Creek Road and Bender Road. We are concerned this project will cause the same issues and not have a good outcome.

The neighboring property owners would be happy to meet regarding the conveyance of the irrigation water as each of us have some different needs that will need to be addressed.

Unrelated to the substantial water issues as stated in the SEPA questions, there is no solution to a sewer line from the property that could also effect properties on Dry Creek Road.

The traffic impact document was not available to review prior to the SEPA comment due date, however we have had a short time to review. We are concerned that the study was completed in February in the height of the pandemic when the University, the Public Schools and daily work traffic was greatly affected.

Thank you.

Roxy DeSoer
1012 W Dry Creek Road
Ellensburg WA 98926

RCW 90.03.400**Crimes against water code—Unauthorized use of water.**

(1)(a) The unauthorized use of water to which another person is entitled or the willful or negligent waste of water to the detriment of another, is a misdemeanor.

(b) For instances of the waste of water under this subsection, the department may alternatively follow the sequence of enforcement actions as provided in RCW 90.03.605.

(2) The possession or use of water without legal right shall be prima facie evidence of the guilt of the person using it.

(3) It is also a misdemeanor to use, store, or divert any water until after the issuance of permit to appropriate such water.

[2003 1st sp.s. c 15 § 2; 2003 c 53 § 418; 1917 c 117 § 40; RRS § 7392. Formerly RCW 90.32.010.]

RCW 90.03.410**Crimes against water code—Interference with works—Wrongful use of water—Property destruction—Penalty.**

(1) Any person or persons who shall willfully interfere with, or injure or destroy any dam, dike, headgate, weir, canal or reservoir, flume, or other structure or appliance for the diversion, carriage, storage, apportionment, or measurement of water for irrigation, reclamation, power, or other beneficial uses, or who shall willfully use or conduct water into or through his or her ditch, which has been lawfully denied him or her by the water master or other competent authority, or shall willfully injure or destroy any telegraph, telephone, or electric transmission line, or any other property owned, occupied, or controlled by any person, association, or corporation, or by the United States and used in connection with said beneficial use of water, shall be guilty of a misdemeanor or, if there is actual physical injury to or destruction of any real or personal property, of property destruction and shall incur the penalties set forth in *RCW 9.61.070.

(2) Any person or persons who shall willfully or unlawfully take or use water, or conduct the same into his or her ditch or to his or her land, or land occupied by him or her, and for such purpose shall cut, dig, break down, or open any headgate, bank, embankment, canal or reservoir, flume, or conduit, or interfere with, injure, or destroy any weir, measuring box, or other appliance for the apportionment and measurement of water, or unlawfully take or cause to run or pour out of such structure or appliance any water, shall be guilty of a misdemeanor or, if there is actual physical injury to or destruction of any real or personal property, of property destruction and shall incur the penalties set forth in *RCW 9.61.070.

(3) The use of water through such structure or structures, appliance or appliances hereinbefore named after its or their having been interfered with, injured or destroyed, shall be prima facie evidence of the guilt of the person using it.

[2013 c 23 § 598; 1971 ex.s. c 152 § 8; 1921 c 103 § 2; 1917 c 117 § 41; RRS § 7393. Formerly RCW 90.32.020.]

NOTES:

*Reviser's note: RCW 9.61.070 was repealed by 1975 1st ex.s. c 260 § 9A.92.010, effective July 1, 1976

RCW 90.03.420**Crimes against water code—Obstruction of right-of-way.**

Whenever any appropriator of water has the lawful right-of-way for the storage, diversion, or carriage of water, it shall be unlawful to place or maintain any obstruction that shall interfere with the use of the works, or prevent convenient access thereto or trespass thereon.

7/29/2021

RCW 90.03.430: Partnership ditches—Action for reimbursement for work done.

RCW 90.03.430**Partnership ditches—Action for reimbursement for work done.**

In all cases where irrigating ditches are owned by two or more persons and one or more of such persons shall fail or neglect to do his, her or their proportionate share of the work necessary for the proper maintenance and operation of such ditch or ditches or to construct suitable headgates or measuring devices at the points where water is diverted from the main ditch, such owner or owners desiring the performance of such work as is reasonably necessary to maintain the ditch, may, after having given ten days' written notice to such owner or owners who have failed to perform his, her or their proportionate share of such work, necessary for the operation and maintenance of said ditch or ditches, perform his, her or their share of such work, and recover therefor from such person or persons so failing to perform his, her or their share of such work in any court having jurisdiction of the matter the expense or value of such work or labor so performed: PROVIDED, That no improvement involving an expenditure in excess of one hundred dollars shall be made without the written approval of the department having first been obtained.

7/29/2021

RCW 90.03.440: Partnership ditches—Procedure for division of water between joint owners.

RCW 90.03.440**Partnership ditches—Procedure for division of water between joint owners.**

When two or more persons, joint owners in an irrigation ditch or reservoir, not incorporated, or their lessees, are unable to agree relative to the division or distribution of water received through their ditch or from their reservoir, and where there is no disagreement as to the ownership of said water, it shall be lawful for any such owner or owners, his or her or their lessee or lessees, or either of them, to apply to the department, in writing, setting forth such fact and giving such information as shall enable the department to estimate the probable expense of such service, asking the department to appoint some suitable person to take charge of such ditch or reservoir for the purpose of making a just division or distribution of the water from the same to the parties entitled to the use thereof. The department shall upon the receipt of such application notify the applicant of the probable expense of such division and upon receipt of certified check for said amount, the department shall appoint a suitable person to make such division. The person so appointed shall take exclusive charge of such ditch or reservoir for the purpose of dividing the water therefrom in accordance with the established rights of the diverters therefrom, and continue the said work until the necessity therefor shall cease to exist. The expense of such investigation and division shall be a charge upon all of the co-owners and the person advancing the payment to the department shall be entitled to recover in any court of competent jurisdiction from his or her co-owners their proportionate share of the expense.

[2013 c 23 § 599; 1987 c 109 § 97; 1919 c 71 § 4; RRS § 7396. Formerly RCW 90.28.130.]



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

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

Proponent: Whipple Consulting Engineers, Agent for Owner

Date: July 1, 2021

Description: A SEPA Environmental Checklist submitted by Whipple Consulting Engineers, agent for property owner, Winegar Properties, LLC. The checklist is for a proposed 141-lot long plat on an approximately 42-acre parcel for residential and single-family home construction. Lots will range in size from 5,000 sq. ft., to 13,368 sq. ft., and are located on parcel ID #396133. Also included in the plat are five proposed tracts, one for a park and the other four for storm water and critical area preservation. The zoning on the property is Residential Suburban (R-S).

Location: This proposed project is located North of Dry Creek Road and South of Palouse to Cascades Trail, Parcel ID # 396133. Access will be off of Dry Creek Road in two locations and multiple interior local access roads serving the lots within the development.

Lead Agency: City of Ellensburg

File #: P21-040

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

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

1. The applicant shall comply with all requirements outlined in the City of Ellensburg Public Works division memo, dated 4/15/2021, regarding roadway and access, water, sewer, stormwater and the TIA.
2. The applicant shall comply with all requirements outlined in the City of Ellensburg Fire Marshall division memo, dated 4/7/2021, regarding IFC and City of Ellensburg code requirements.
3. The applicant shall develop civil and building plans that address the stormwater requirements of both the City of Ellensburg and the State Department of Ecology. These shall address any potential for flooding as may be required by Ellensburg City Code Chapter 15.630. Such plans shall be approved by City Staff prior to construction.

4. The applicant shall comply with all requirements included in the Critical Area Determination, P21-057.
5. Per the request of the Department of Ecology, email dated 4/14/2021, the applicant shall provide a mitigation and monitoring plan for the wetland buffer sites prior to the development of the subdivision.
6. Per the request of the Yakama Nation, email dated 4/2/2021, the applicant shall complete a cultural resource survey of the property and send the completed report to all requesting parties for review and approval prior to project implementation.
7. In the event that previously unknown cultural resources or human remains are encountered during the implementation of the project, work in the vicinity of the discovery shall be halted and a professional archaeologist, the Washington State DAHP, and all affected tribes should be consulted before proceeding.
8. Requirements of all City Departments, the Fire District, all utility providers, and affected agencies must be satisfied, as outlined in adopted City Codes and other regulatory documents.
9. If the applicant wishes to add to, or change, the proposed scope of work included in this application, a new SEPA proposal and/or addendum will need to be submitted to address any changes.

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

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

Date: July 1, 2021 **Signature:** Kirsten Sackett

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

AFFIDAVIT OF PUBLICATION

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

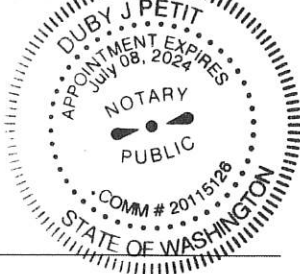
ELLENSBURG, CITY OF - CLERK
N/PUBLIC HEARING: P21-039

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

07/13/21

All dates inclusive and that such newspaper were regularly distributed to its subscribers during all of said period. That the full amount of the fee charged for the foregoing publication is the sum of \$160.60 the rate of \$8.80 per column inch for each insertion.

Subscribed to me this date 07/13/21



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

Signed Name

Duby J Petit

Exhibit 1.11

CONOVER, TERRY GENE & PAMELA GAY
1301 W DRY CREEK RD
ELLENSBURG, WA 98926-6501

FAITH BAPTIST CHURCH
180 WILDWIND LN
ELLENSBURG, WA 98926

ELLENSBURG SCHOOL DIST #401
1300 E 3RD AVE
ELLENSBURG, WA 98926-3576

ELLINGER, JAMES E
407 E 4TH AVE # 3
ELLENSBURG, WA 98926-4009

DRY CREEK ACRES LLC
C/O FITTERER, CONNIE
1671 DODGE RD
ELLENSBURG, WA 98926-9764

MCFADIN, GERAD
1202 W DRY CREEK
ELLENSBURG, WA 98926

DESOER, ROXY ANNE
1012 W DRY CREEK RD
ELLENSBURG, WA 98926-9403

STRYKER, GABRIELLE A MCBRIDE, PAUL
1407 DRY CREEK RD
ELLENSBURG, WA 98926-9439

WINEGAR PROPERTIES LLC
703 W HELENA AVE
ELLENSBURG, WA 98926-2023

WILLIAMS, MARK G. ETUX
1013 W DRY CREEK
ELLENSBURG, WA 98926

CATHOLIC CEMETERY
C/O ST ANDREWS PARISH
401 S WILLOW ST
ELLENSBURG, WA 98926-3564

RICHTER, JORDAN R
1114 W DRY CREEK RD
ELLENSBURG, WA 98926

P21-039

CERTIFICATE OF TRANSMITTAL

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

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

Date 7/12/21 Signed

Alina Uri

1. The first step is to identify the problem. In this case, the problem is that the system is not working properly.



COMMUNITY DEVELOPMENT DEPARTMENT

501 N. Anderson St., Ellensburg WA 98926

Land Use Permitting (509) 962-7231

Construction Permitting (509) 962-7239

Kirsten Sackett, Director

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

July 13, 2021

RE: Notice of Application and Open Record Public Hearing for Subdivision Application, Case # P21-039, submitted by Elliot Whipple, Agent for Property Owner

Dear Property Owner,

Notice is hereby given that the City of Ellensburg has received a Subdivision Permit Application for the following project that may be of interest to you. As a property owner within three hundred feet (300') of this proposal you are invited to comment on it.

Date of application: March 25, 2021

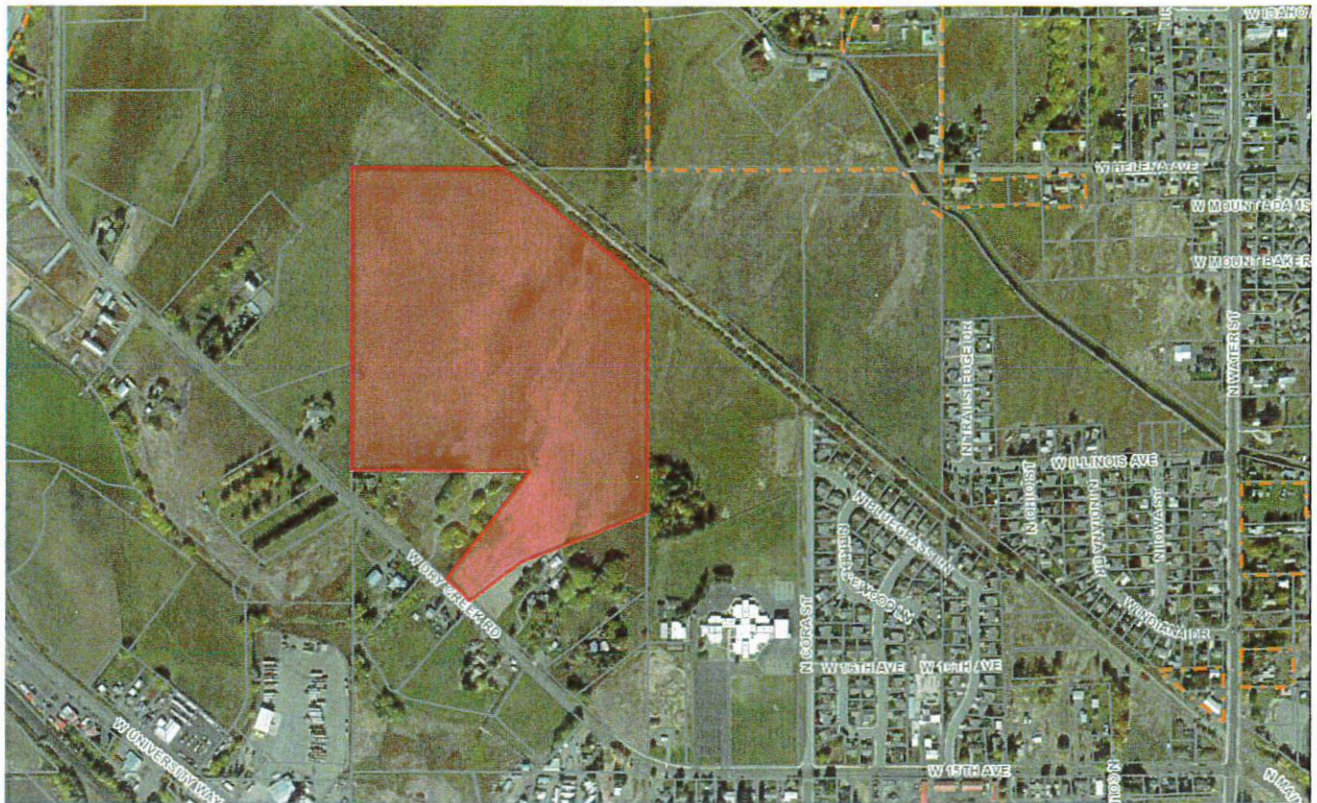
Date of notice of complete application: May 12, 2021

Comments due date: August 4, 2021

Project Applicant: Submitted by Elliot Whipple, Agent for Property Owner.

Project Description: Case # P21-039; a Preliminary Long Plat Subdivision. The proposed preliminary plat within the Residential Suburban (R-S) is a 141-Lot Long Plat intended for single family homes. Lots will range in size from 4,886 sq. ft. to 13,368 sq. ft., and are located on parcel ID# 396133 (as shown on the map below). Part of the proposal also includes a street length departure. A SEPA Mitigated Determination of Non-Significance (MDNS) was published in the Daily Record on July 6, 2021.

NOTICE IS HEREBY GIVEN that an **Open Record Public Hearing** has been scheduled before the Ellensburg Hearing Examiner for **Tuesday, August 10, 2021 at 2:00 pm** to consider Long Plat Subdivision Application, P21-039. The hearing will be held both remotely via Zoom and in Council Chambers for those wishing to attend in person. *In-person attendees that are not fully vaccinated will need to wear face coverings.



Project Location: The property is addressed as Dry Creek Road, Ellensburg, WA 98926. Kittitas County Assessor's ID# 396133, as seen in the map above.

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

Written Comments: The public is encouraged to review and comment on the proposed project. Comments must be submitted in writing by 5:00 pm on Wednesday, August 4, 2021 by either:

Mail delivery postmarked by the deadline, addressed to:

- 1) City of Ellensburg Community Development Department
501 N Anderson Street, Ellensburg, WA 98926 or
- 2) Via email by 5:00 pm on the deadline, to the staff contact listed below

NOTICE IS FURTHER GIVEN that all persons interested in this matter may participate in the Hybrid meeting by contacting Staff no later than 5:00 pm on Monday, August 9. An email link, text link, or phone number will be provided which will allow for electronic participation in the public hearing.

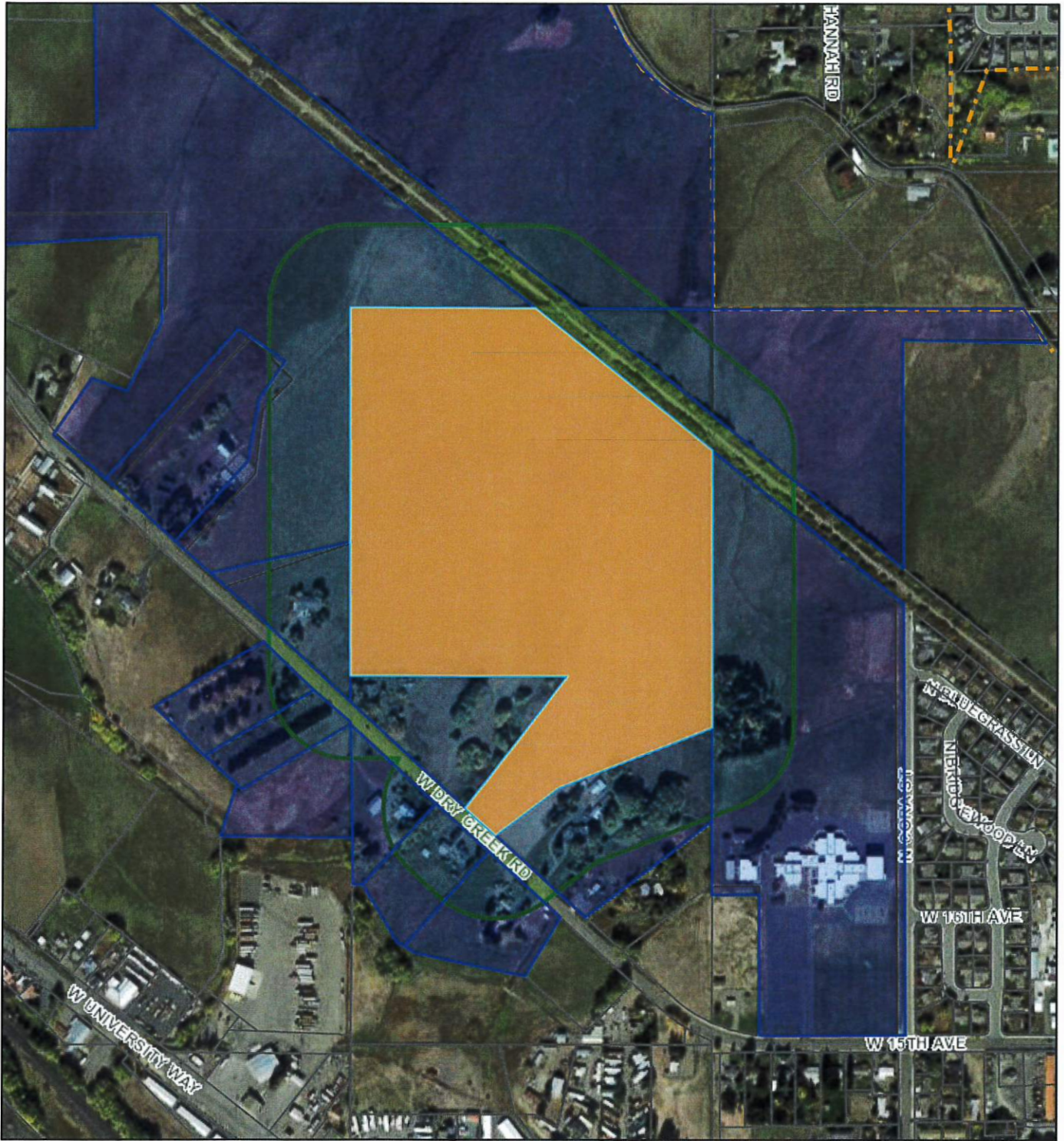
Staff contact: Jamey Ayling, Planning Manager. Email: aylingj@ci.ellensburg.wa.us

Sincerely,



Jamey Ayling
Planning Manager

eburg map



7/9/2021, 9:02:15 AM

 Urban Growth Area City Limits

1:9,028

A number line with two scales. The top scale is labeled in miles (mi) with major tick marks at 0, 0.05, 0.1, and 0.2. The bottom scale is labeled in kilometers (km) with major tick marks at 0, 0.07, 0.15, and 0.3. The number line shows that 0.1 miles is equivalent to 0.15 kilometers.

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Ellensburg GIS
Google Maps | Kittitas County Public Works | Kittitas County Auditor |


COMMUNITY DEVELOPMENT DEPARTMENT

501 N. Anderson St, Ellensburg WA 98926

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

Kirsten Sackett, Director

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

AFFIDAVIT OF POSTING

The Ellensburg City Code requires that all projects requiring Type IV Permit Review to have a notice sign posted at the site of the project. Per ECC 15.270.140, the following shall apply:

1. The posting of a weather-resistant sign or signs on the subject property, visible to members of the public who may be passing on nearby public rights-of-way and free from obstructions.
2. If the project abuts more than one public right-of-way (ROW), more than one sign will be required; one per ROW, as determined by the responsible official.
3. **The responsibility for the posting of the sign or signs shall be upon the project applicant or his or her agent.**
4. The sign matrix provided by Planning Dept. Staff, shall be made into a sign or signs at least two feet by three feet (2' x 3') in size.

DATE: July 13, 2021	PLANNER: Jamey Ayling – Planning Manager
PROJECT NAME AND SUMMARY: Type IV Preliminary Plat Review for the proposed 141 Lot Long Plat at Dry Creek Rd, Ellensburg WA 98926.	FILE NUMBER: P21-039

PLEASE COMPLETE THE FOLLOWING:

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

Signature

7/23, 20 21

Please return the above affidavit and photograph(s) of the posted notice sign board(s) to: Jamey Ayling, Planning Manager, 509-925-8653, via email: aylingj@ci.ellensburg.wa.us; Fax: 509-925-8655; or mail to: Community Development Dept., City Hall, 501 N. Anderson St., Ellensburg, WA 98926.

[illegible][illegible]



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

STAFF REPORT

DATE: August 10, 2021
TO: Andrew Kottkamp, Hearing Examiner
THRU: Kirsten Sackett, Community Development Director
FROM: Jamey Ayling, Planning Manager, Community Development
RE: P21-039 Foster Subdivision Preliminary Plat Public Hearing

Summary Statement: The purpose of this open record public hearing is to consider the proposed preliminary plat subdivision and any public or agency comments received by the City regarding the proposed Foster Subdivision. This hearing is being held pursuant to the requirement of Chapter 15.260, Subdivision Procedures, of the Ellensburg City Code (ECC). At the conclusion of this public hearing, it is expected that the Hearing Examiner will develop a recommended action on the proposed subdivision for City Council's consideration and action at a future closed record public hearing. Attached to and made a part of this report is the SEPA Threshold Determination for this subdivision proposal. Other exhibits document that all legal notices and mailings as required by the Ellensburg City Code for the preliminary plat application review processes have been fulfilled.

Citizen and agency comments on this proposed preliminary plat were due no later than 5:00 pm Wednesday, August 4, 2021. Notice was further given that all persons interested could appear and be heard at the public hearing.

Background

This proposed preliminary plat is located on Kittitas County Assessor's Parcel ID# 396133. The proposed Subdivision is located on the north side of W. Dry Creek Road and south of the Palouse to Cascades Trail, in the City of Ellensburg, WA. A vicinity map and reduced scale preliminary drawing showing the location of the lots and other plat features are included as **Exhibits 1 & 2**.

The subject property is 42.13 acres in size and is currently zoned Residential Suburban Density (R-S).

Property zoned as Residential Suburban (R-S) allows for detached single-family dwellings as the predominate land use, with a base maximum density of 6 dwelling units/acre. The applicant's proposal would create 141 separate residential lots, which is well within the allowable maximum density. The project will be developed as residential lots ranging in size from approximately 4,886 square feet to 13,368 square feet. In addition to the 141 residential lots, there will be five undeveloped lots totaling 13.70 acres, "Tracts "A" "B" "C" "D" "E"", where the established wetlands and associated buffers are located as described in the associated critical area report.

The lots will have frontage onto public roadway which will need to be improved as part of this project. West Dry Creek Road, as well as all internal roads will be constructed by the applicant to meet the Land Development Code and Public Works Standards.

The Public Works Department works with the Ellensburg School District at the time of civil construction review of the plat to ensure that the goals of their "Guide for Planning and improving School Walk and Bike Routes" are implemented on projects within one mile of schools.

This particular plat is located within the required ½ mile radius for the nearest elementary school, which includes both Mount Stuart Elementary, and Ida Nason Aronica Elementary. This means that the school district expects children in this area to walk to school; therefore, shoulder widening and frontage improvements will be required on the north side of Dry Creek Road from the project site to the existing sidewalks on 15th Avenue. This will be required in order to provide a safe pedestrian route, and for concurrence with the City's non-motorized transportation plan. The Land Development Code requires these sidewalks to be separated from the curb. Existing power poles may need to be relocated to accommodate these frontage improvements. The extension and construction of the street frontage improvements as discussed above, will begin to provide neighborhood connectivity, and to achieve goals and policies within the land use, housing, and transportation chapters of the Ellensburg Comprehensive Plan.

Specific to meeting open space and parks needs that will result from the new development, the applicant will be required to pay a park impact fee of \$1925 for each single family lot or structure, which will in turn be used to enhance the City of Ellensburg Parks system.

Site Characteristics

North: The land to the north is The Palouse to Cascades Trail and vacant land beyond the trail.

South: The land to the south is Residential Land within City limits

East: Land to the east is the location of the newly constructed Ida Nason Elementary School and the Mount Stuart Elementary School replacement school.

West: The land to the west is residential land with a few existing residences on large lots

SEPA Review

A SEPA checklist was submitted as a requirement of the preliminary plat process, and a SEPA Mitigated Determination of Non-Significance (MDNS) was issued on July 1, 2021 (**Exhibit 8**).

Preliminary Plat Review

Subsequent to the SEPA environmental review, public notice and distribution of the full preliminary plat application was undertaken. As a result of that effort, departmental comments for the application have been received from the following: the Ellensburg Fire Department, Ellensburg Public Works Department; and the Ellensburg Utility Services Gas and Light Departments (**Exhibits 3-6**).

Those comments received mirrored their previous SEPA environmental points regarding final design and construction of required facilities, and referred to the previous comments submitted for SEPA and/or the Pre-Application Reviews.

As of the date of this memo, two public comments on the proposed subdivision have been received. The comments focus mainly on concerns with irrigation and storm water. See **Exhibits 7 & 8**.

Analysis and Findings

The requirements pertaining to preliminary plat approval are found within ECC Sections 15.260.060 through 15.260.090. Specifically, the decision criteria are found in ECC 15.260.060(F), which states the following:

(F) Decision Criteria. The city may approve, approve with conditions, or deny a preliminary subdivision application based on conformance with the following decision criteria:

1. The preliminary subdivision conforms to all applicable zoning standards of the city as set forth in the LDC, including the form 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, and the public works development standards;
2. All lots within the preliminary subdivision are provided with satisfactory access established consistent with the requirements of the public works development standards, ECC Title 4, public works construction, the streetscape design standards and subdivision design and block standards in Division IV, and the project design standards in Division V;
3. All lots within the preliminary subdivision are provided with adequate provisions for water supplies, sanitary wastewater facilities, and storm drainage and surface water facilities consistent with the requirements of the public works development standards and ECC Title 9, Utilities;

4. All lots within the preliminary subdivision are provided with adequate provisions for electric service, and for natural gas service if applicable, consistent with the requirements of the city's energy services department design standards and with ECC Title 9, Utilities;
5. The preliminary subdivision conforms to all applicable critical areas standards set forth in Division VI; and
6. The preliminary subdivision makes 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.

The public agency comments relate to normal plat design and construction requirements that are routinely part of the final plat design and approval process. It is the full intention of the City to enforce and follow those final plat requirements.

Prior to final plat approval, the applicant will need to add signature blocks on the face of the final plat for the following: City Engineer, Community Development Director, Public Works & Utilities Director, Cascade Irrigation District, County Treasurer, County Auditor; & the Mayor of Ellensburg.

Construction of the subdivision and single-family units will be required to comply with all applicable standards outlined in the Ellensburg City Code design standards and guidelines.

Recommendation

Staff proposes the Hearing Examiner recommend approval of the Foster Subdivision preliminary plat application to City Council subject to the following conditions:

- a) The applicant will meet the requirements of the Public Works Department discussed in its memorandum dated January 26, 2021 including the widening and installation of curb gutter and sidewalks on the north side of Dry Creek Road from the project site to the existing sidewalks on 15th Avenue.
- b) The applicant will meet the requirements of the Energy Services - Light Department discussed in its memorandum dated February 3, 2021.
- c) The applicant will meet the requirements of the Energy Services – Gas Department discussed in its memorandum dated January 25, 2021.
- d) The applicant will meet the requirements of the Fire Department for hydrants and access as per Fire Marshal's memorandum dated February 2, 2021.

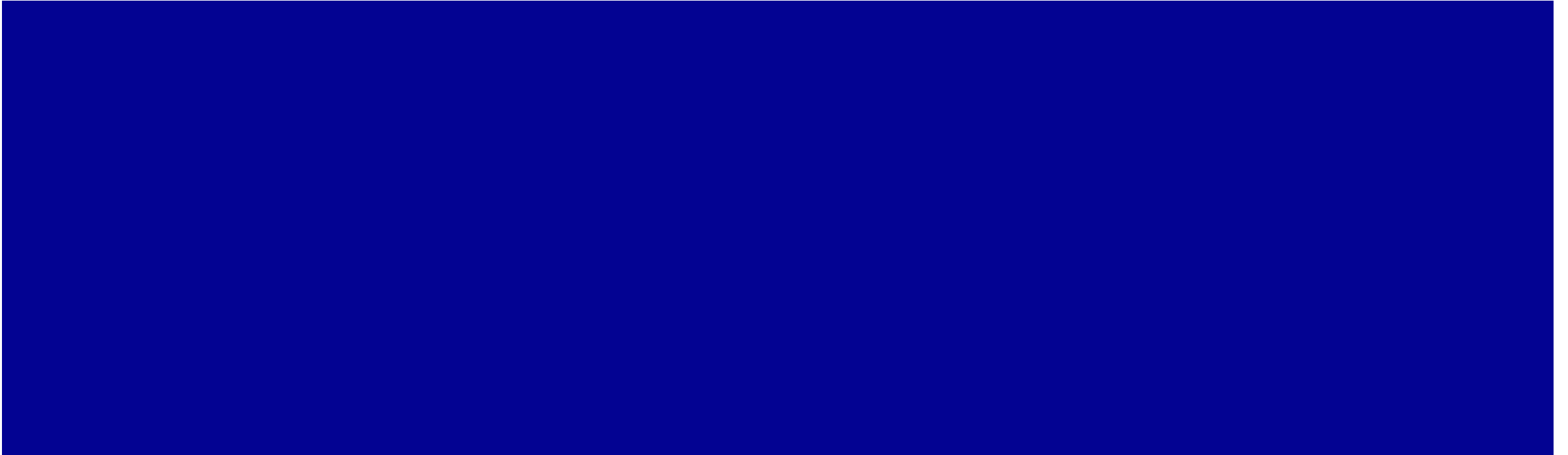
- e) The applicant will meet the requirements of the SEPA Official's issuance of Mitigated Determination of Non-Significance (MDNS) (File # P21-040) dated July 1, 2021.
- f) The applicant may be required to obtain an NPDES Construction Storm Water General Permit from the Washington State Department of Ecology, as well as all other permits (site grading permit, SWPPP, etc.) that may be required as a result of plat development. Subdivision and land development activities shall follow the requirements of the Ellensburg City Code, including the Design Standards.
- g) All requirements of utility providers, City departments, and affected districts must be satisfied, as outlined in adopted City Codes and other regulatory documents.

Exhibits:

- 1. Vicinity Location Map
- 2. Preliminary Plat of Foster Subdivision Plat
- 3. February 3, 2021 memo from City of Ellensburg Energy Services Light Department
- 4. January 25, 2021 memo from City of Ellensburg Energy Services Gas Department
- 5. January 26, 2021 memo from City of Ellensburg Public Works Department
- 6. February 2, 2021 memo from City of Ellensburg Fire Marshall
- 7. August 4, 2021 Comment letter from James Ellinger
- 8. August 4, 2021 Comment letter from Roxy DeSoer
- 9. July 1, 2021 SEPA MDNS Determination
- 10. Legal Notice of Public Hearing
- 11. Area of Notification Map with 300-Foot Buffer Notification List
- 12. Affidavit of posting

Public Hearing

P21-039 Foster Subdivision Preliminary Plat
August 10th, 2021



Project Overview



Project Area: 42.13 Acres

Number of Lots: 141

Proposed Density: 4.21 Units/Acre (Net)

Allowed Density: 6 Units/Acre

Meets Comprehensive Plan goals for development in the UGA

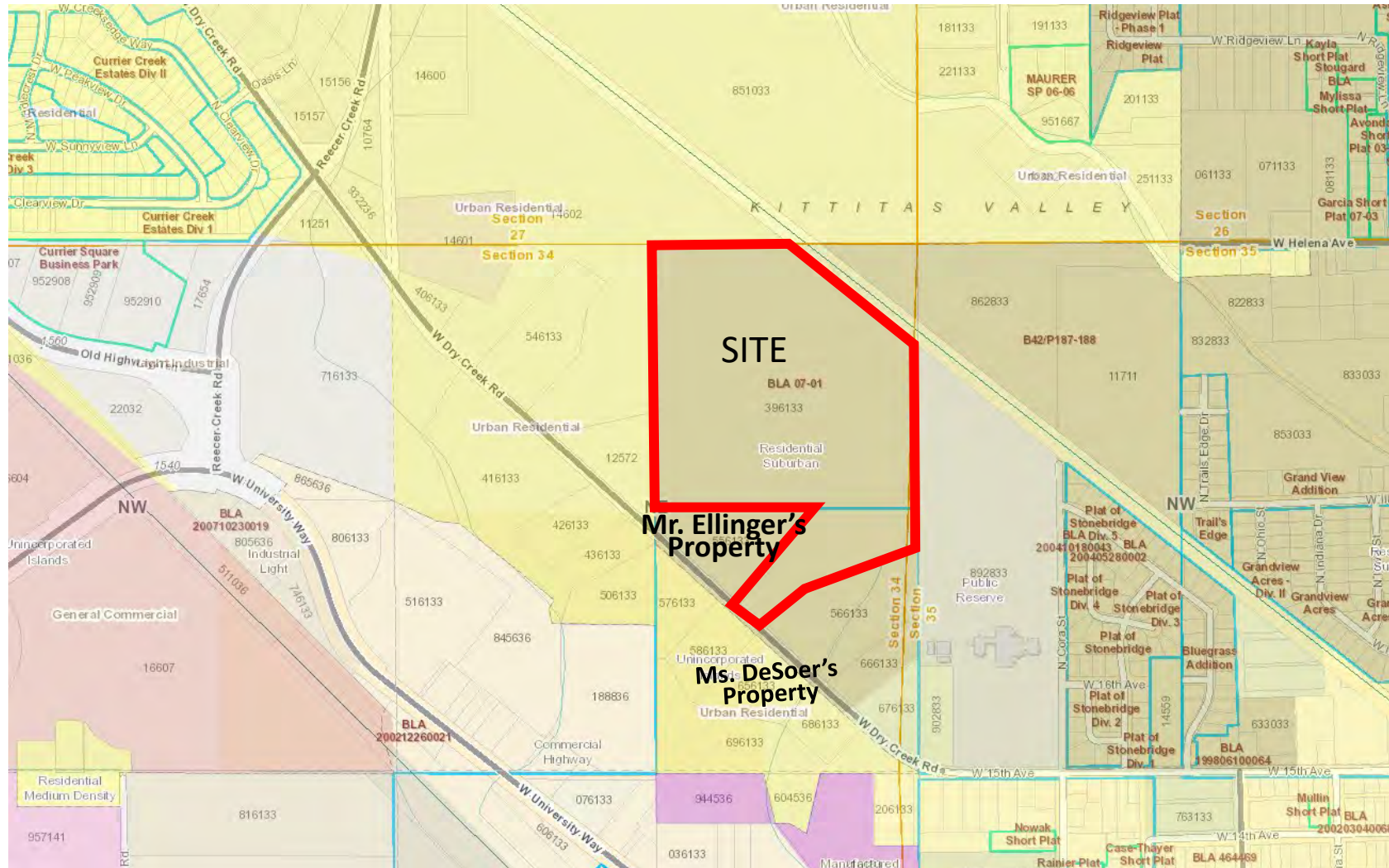
Presentation Outline

- A. Project Overview: Vicinity, Zoning, Comprehensive Plan
- B. Project Timeline
- C. Preliminary Plat and Wetland Exhibits
- D. Trip Generation and Traffic Impact Analysis
- E. Geotechnical Report
- F. Response to Public Comments
- G. Request for Approval

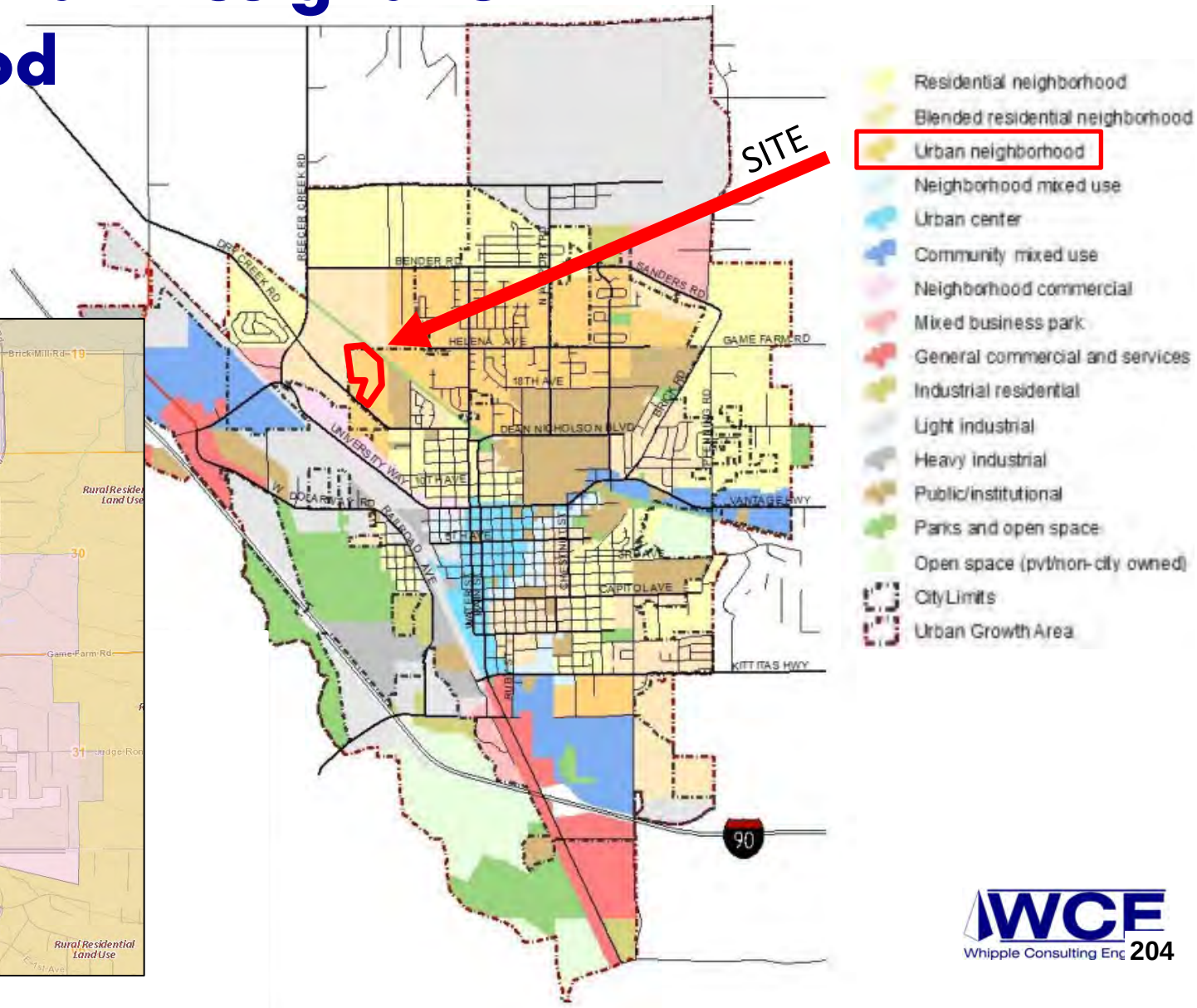
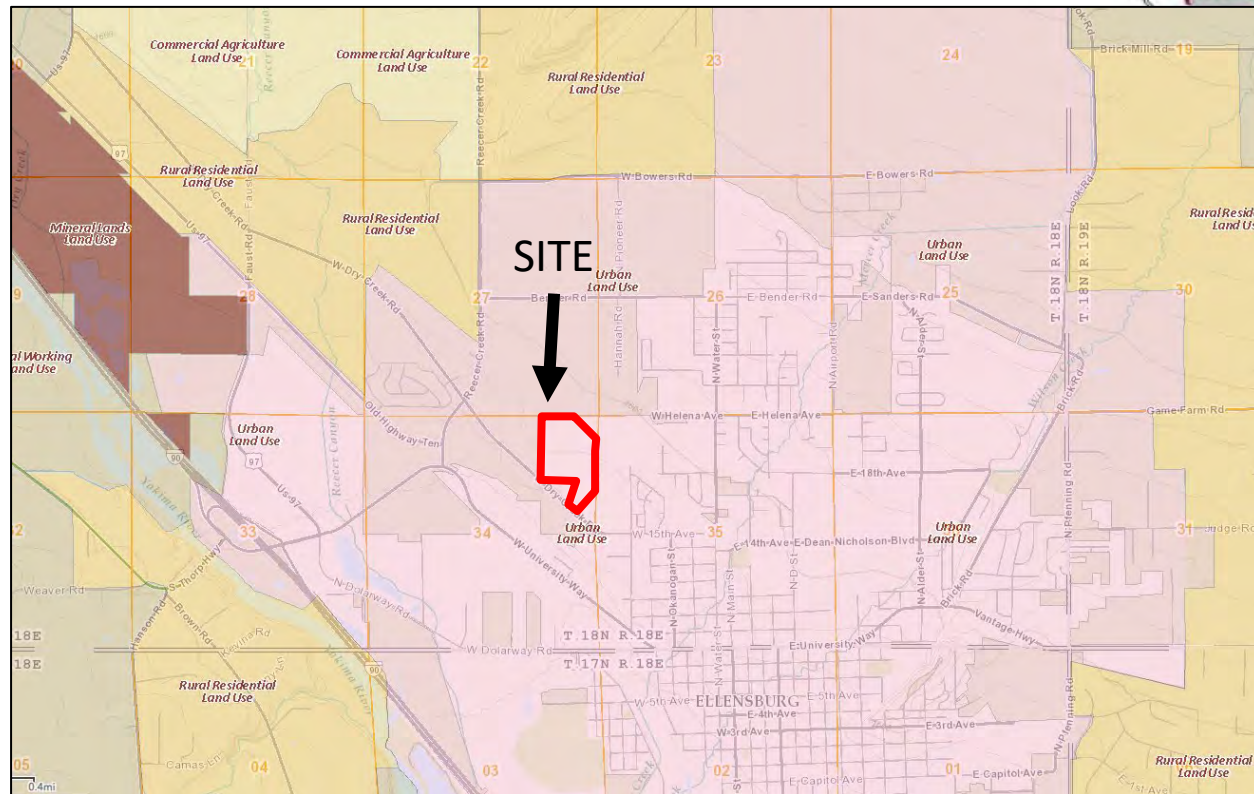
Site Vicinity



Current Zoning- Residential Suburban



Current Comprehensive Plan Designation- Urban Neighborhood



Site Data

Parcel #	396133
Site Area	42.13 Acres
Proposed # of Units	141
Allowed Density (Residential Suburban)	6 Units/Acre
Proposed Density	4.21 Units/Acre (Net); 3.35 Units/Acre (Gross)
Wetland Area	1.82 Acres
Wetland Buffer Area	6.82 Acres
Minimum Lot Size	4,886.30 SF
Maximum Lot Size	13,368.33 SF
Average Lot Size	4,563.76 SF

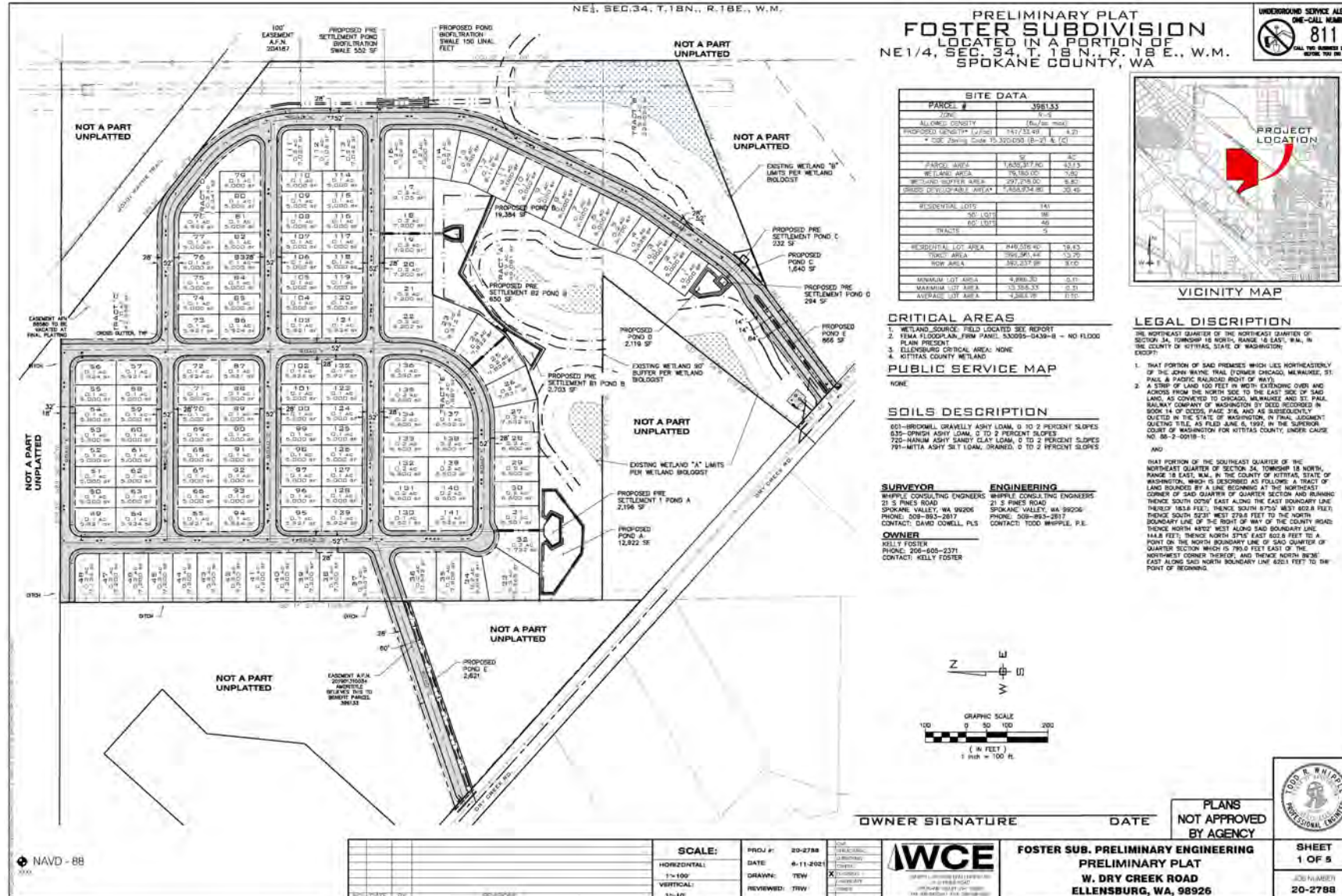
Timeline

December 2020	Pre-application Meeting
March 25, 2021	WCE Application Submittal
April 1, 2021	Determination of a Complete SEPA Application- P21-040/SEPA
April 16, 2021	Application Determined Incomplete- Requires Critical Area Form, Title Report, Copy of Deed, Covenants
April 20, 2021	Received TIA Comments Via Phone/Email
April 29, 2021	WCE Response to Determination of Incomplete Application Letter
April 30, 2021	WCE 2 nd Application Submittal
April 30, 2021	2 nd Submittal of Traffic Impact Analysis
May 11, 2021	Preliminary Mitigated Determination of Non-significance
May 2021	SEPA Sign Posted

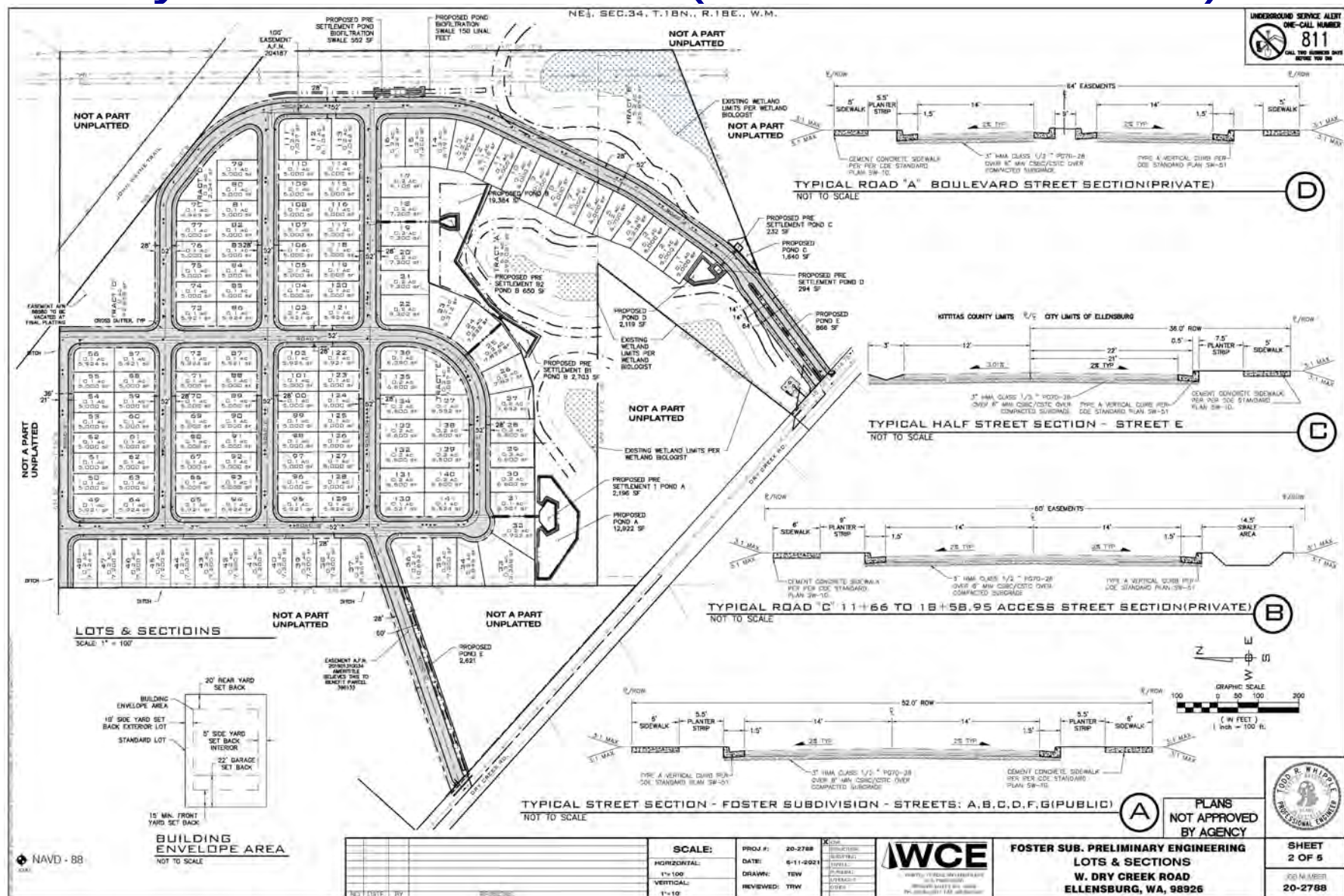
Timeline

June 2, 2021	Public Comment Period Ends- SEPA was not appealed 
June 9, 2021	TIA Accepted and Approved per Email
June 10, 2021	WCE Response to Comments Letter
June 11, 2021	WCE Resubmits Preliminary Plans- Wetland Buffer
July 1, 2021	Mitigated Determination of Non-Significance (MDNS)
July 6, 2021	Notice of Decision- Approval (Block Length Departure Request #P21-058)
July 15, 2021	Sign Posted- Notice of Public Hearing
July 16, 2021	Critical Area Determination- Report Acceptance
August 5, 2021	Staff Report
August 10, 2021	Public Hearing

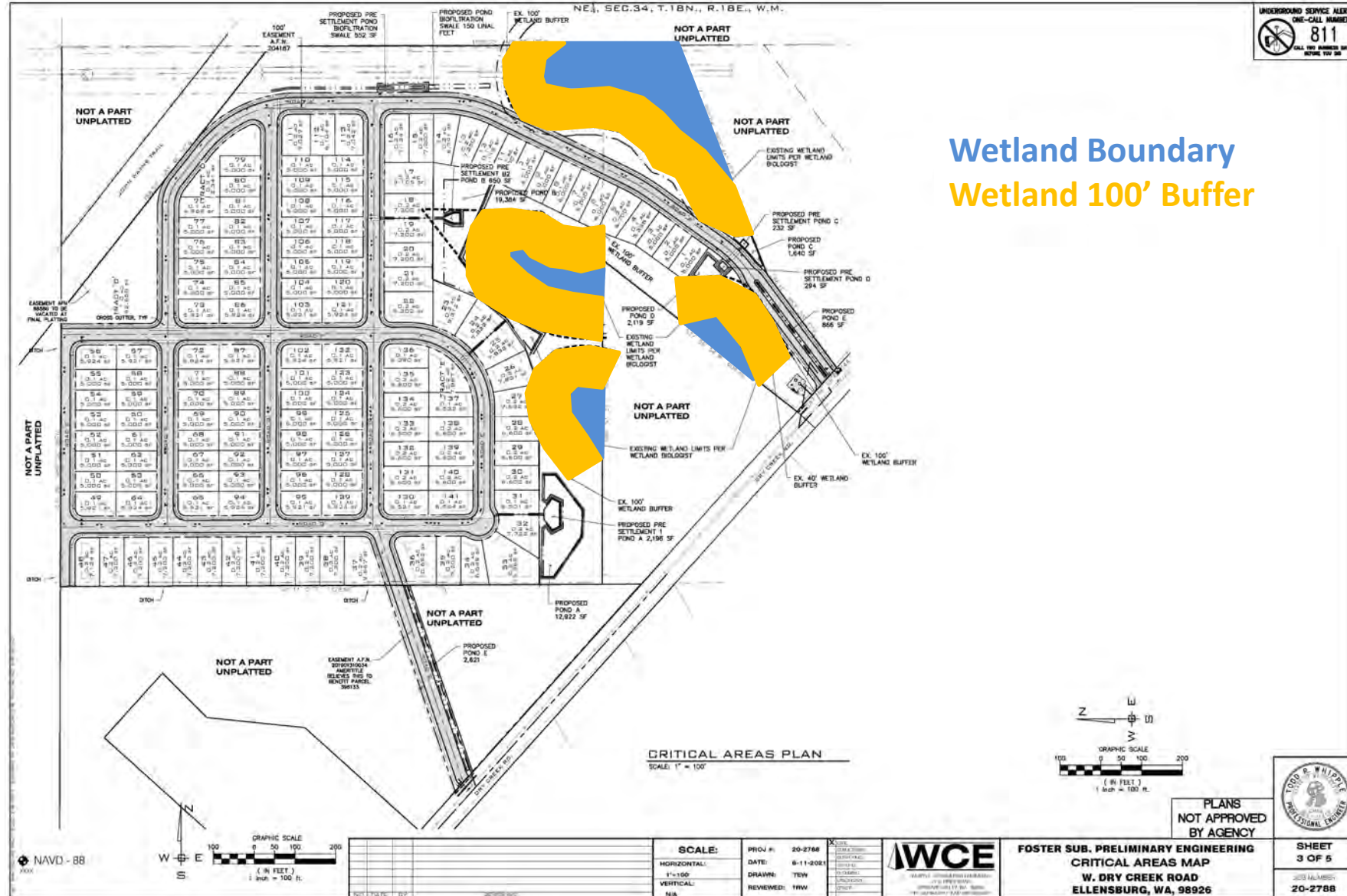
Preliminary Plat- Sheet 1 (June 11, 2021)



Preliminary Plat- Sheet 2 (June 11, 2021)



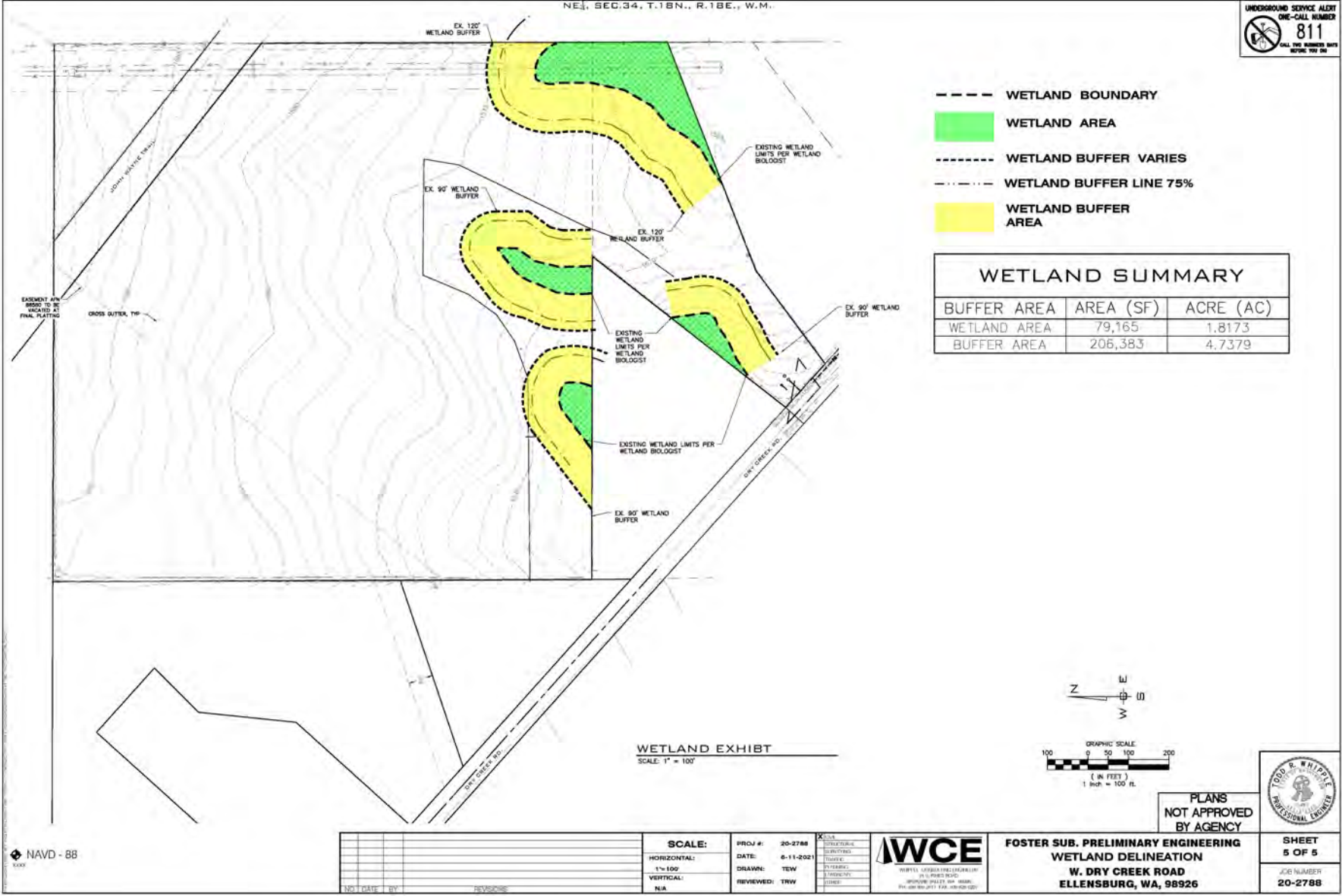
Preliminary Plat- Sheet 3 (June 11, 2021)



Preliminary Plat- Sheet 4 (June 11, 2021)



Preliminary Plat- Sheet 5 (June 11, 2021)



Trip Generation and Distribution

Table 2 - Trip Generation Rates for LUC 210 Single-Family Detached Housing

Dwelling Units	AM Peak Hour Trips			PM Peak Hour Trips		
	Vol. @ 0.74 Trips/Unit	Directional Distribution		Vol. @ 0.99 Trips/Unit	Directional Distribution	
		25% In	75% Out		63% In	37% Out
141	105	26	79	140	88	52
Average Daily Trip Ends (ADT)						
Dwelling Units	Rate	ADT				
141	9.44	1,332				

Note: AM & PM peak hour trips represent only those trips that occur over a one-hour (60 minute) period in the AM or PM. ADT represents total in/hour trips over a 24 hour period.

Year 2026 Levels of Service

WCE analyzed the following intersections in the Traffic Impact Analysis:

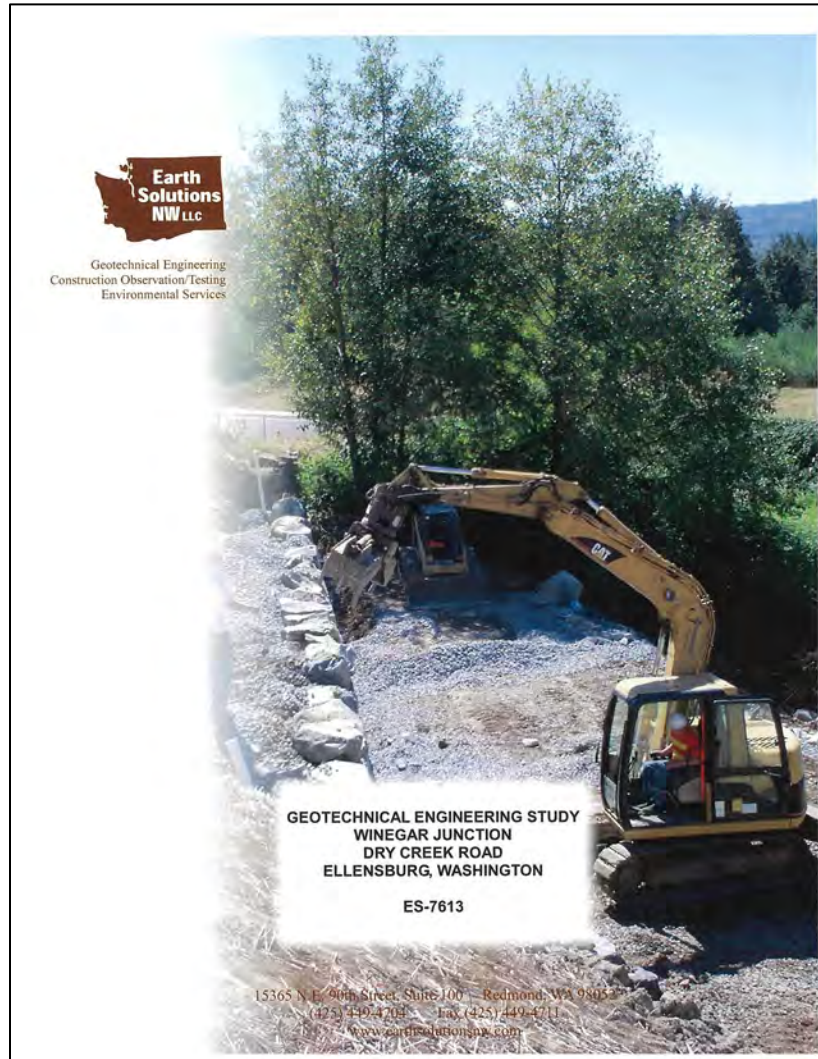
*Table 4- Year 2026 Levels of Service, with Background growth and Projects, **without** the Foster Subdivision Project Trips (Fig 8)*

INTERSECTION	(S)ignalized (U)nsignalized	PM Peak Hour	
		Delay (sec)	LOS
University Way & Dolarway Road	U	7.8	A
Reecer Creek Road & Dry Creek Road	U	18.8	C
Dry Creek/15 th Avenue & Cora Street	U	11.2	B
University Way & Wenas Street	U	15.1	C
University Way & Water Street	S	16.5	B
University Way & Main Street	S	20.7	C
14th Avenue/Dean Nicholson Boulevard & Wildcat Way	S	18.3	B
18th Avenue & Wildcat Way	U	9.8	A
18th Avenue & Walnut Street	S	17.0	B

*Table 5- Year 2026 Levels of Service, with Background growth and Projects, **with** the Foster Subdivision Project Trips (Fig 9)*

INTERSECTION	(S)ignalized (U)nsignalized	PM Peak Hour	
		Delay (sec)	LOS
University Way & Dolarway Road	U	7.9	A
Reecer Creek Road & Dry Creek Road	U	19.6	C
Dry Creek Road & West Access	U	9.1	A
Dry Creek Road & East Access	U	9.8	A
Dry Creek/15 th Avenue & Cora Street	U	12.3	B
University Way & Wenas Street	U	15.2	C
University Way & Water Street	S	16.7	B
University Way & Main Street	S	20.9	C
14th Avenue/Dean Nicholson Boulevard & Wildcat Way	S	18.5	B
18th Avenue & Wildcat Way	U	9.9	A
18th Avenue & Walnut Street	S	17.1	B

Geotechnical Report Submitted



Based on local geologic mapping and conditions observed during our fieldwork, the site is underlain primarily by medium dense to dense silty sand and poorly graded gravel sidestream alluvium deposits. Moderate to heavy groundwater seepage was observed at depths between two to six and one-half feet during our subsurface exploration, commonly observed within the gravel layer. Heavy groundwater seepage will likely be encountered within site excavations, and the contractor should be prepared for active dewatering in utility trenches and other deep excavations on site. Due to the relatively shallow depth to heavy groundwater seepage, permanently lowering grades at the subject site will likely require additional drainage design considerations.

Historic site use as pasture and agricultural farmland has repeatedly disturbed the near surface soils. The material exposed after initial topsoil stripping will likely not be suitable for direct structural support as is and will likely need to either be compacted in place or stripped and stockpiled for reuse as fill. After completing earthwork activities in accordance with recommendations in this report, the proposed residential structures can be supported on conventional spread and continuous foundations bearing on undisturbed competent native soil, recompacted native soil, or new structural fill placed directly on competent native soil.

Exhibits 7&8; Citizen Comments

Exhibit 7- Mr. James Ellinger

- Mr. Ellinger holds water rights and is downstream to the project site
- Has concern for an irrigation main buried on the project site
- Mr. Ellinger's driveway often floods

Exhibit 8- Ms. Roxy DeSoer

- Ms. DeSoer has similar concerns to Mr. Ellinger with water rights and the buried pipe
- Lists stormwater concerns
- States that the traffic study was completed during the pandemic

Exhibits 7&8; Citizen Comments

WCE Response:

- The City of Ellensburg and Ellensburg Water Company are the agencies of jurisdiction- The City's conditions will apply
- We will follow the Ellensburg Stormwater Manual and the Eastern Washington Stormwater Manual
- Water is a Common Enemy
 - Property owners must maintain the amount of stormwater flowing to downstream properties, while upstream properties have to retain any increases
- The irrigation pipe onsite will be maintained and upgraded throughout this property to guarantee the continual delivery of irrigation water

Staff Report: Conditions of Approval

We accept all conditions of approval and ask for approval, as per the staff report:

6. The preliminary subdivision makes 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.

We ask the hearing examiner not to include any lay-person or neighbor conditions as we believe that the City of Ellensburg conditions provide the appropriate levels of protection.

Staff Report: Conditions of Approval

Recommendation

Staff proposes the Hearing Examiner recommend approval of the Foster Subdivision preliminary plat application to City Council subject to the following conditions:

- ✓ a) The applicant will meet the requirements of the Public Works Department discussed in its memorandum dated January 26, 2021 including the widening and installation of curb gutter and sidewalks on the north side of Dry Creek Road from the project site to the existing sidewalks on 15th Avenue.
- ✓ b) The applicant will meet the requirements of the Energy Services - Light Department discussed in its memorandum dated February 3, 2021.
- ✓ c) The applicant will meet the requirements of the Energy Services – Gas Department discussed in its memorandum dated January 25, 2021.
- ✓ d) The applicant will meet the requirements of the Fire Department for hydrants and access as per Fire Marshal's memorandum dated February 2, 2021.
- ✓ e) The applicant will meet the requirements of the SEPA Official's issuance of Mitigated Determination of Non-Significance (MDNS) (File # P21-040) dated July 1, 2021.
- ✓ f) The applicant may be required to obtain an NPDES Construction Storm Water General Permit from the Washington State Department of Ecology, as well as all other permits (site grading permit, SWPPP, etc.) that may be required as a result of plat development. Subdivision and land development activities shall follow the requirements of the Ellensburg City Code, including the Design Standards.
- ✓ g) All requirements of utility providers, City departments, and affected districts must be satisfied, as outlined in adopted City Codes and other regulatory documents.

Questions?

Thank you. We would ask the Hearing Examiner to approve the Foster Subdivision.



WCE No. 20-2788

August 9, 2021

City of Ellensburg – Hearing Examiner
501 N Anderson
Ellensburg, WA 98926

Attn: Andrew Kottkamp, Hearing Examiner

Re: P21-039 Foster Subdivision Preliminary Plat Public Hearing

Dear Mr. Hearing Examiner

This letter is intended to provide the applicant's response to agency and public comment as well as provide supplemental information as it relates to the application number stated above. This letter addresses any public comments that we have been made aware of prior to the hearing. As stated within the Staff report the project proposes the development of 42.13 ac +/- into a 141-lot residential subdivision with 5 tracts for stormwater, open space, and utilities. The project is located on Dry Creek Road adjacent to Mt. Stuart Elementary School critical areas(wetlands).

Staff Report and recommendations of Foster Subdivision

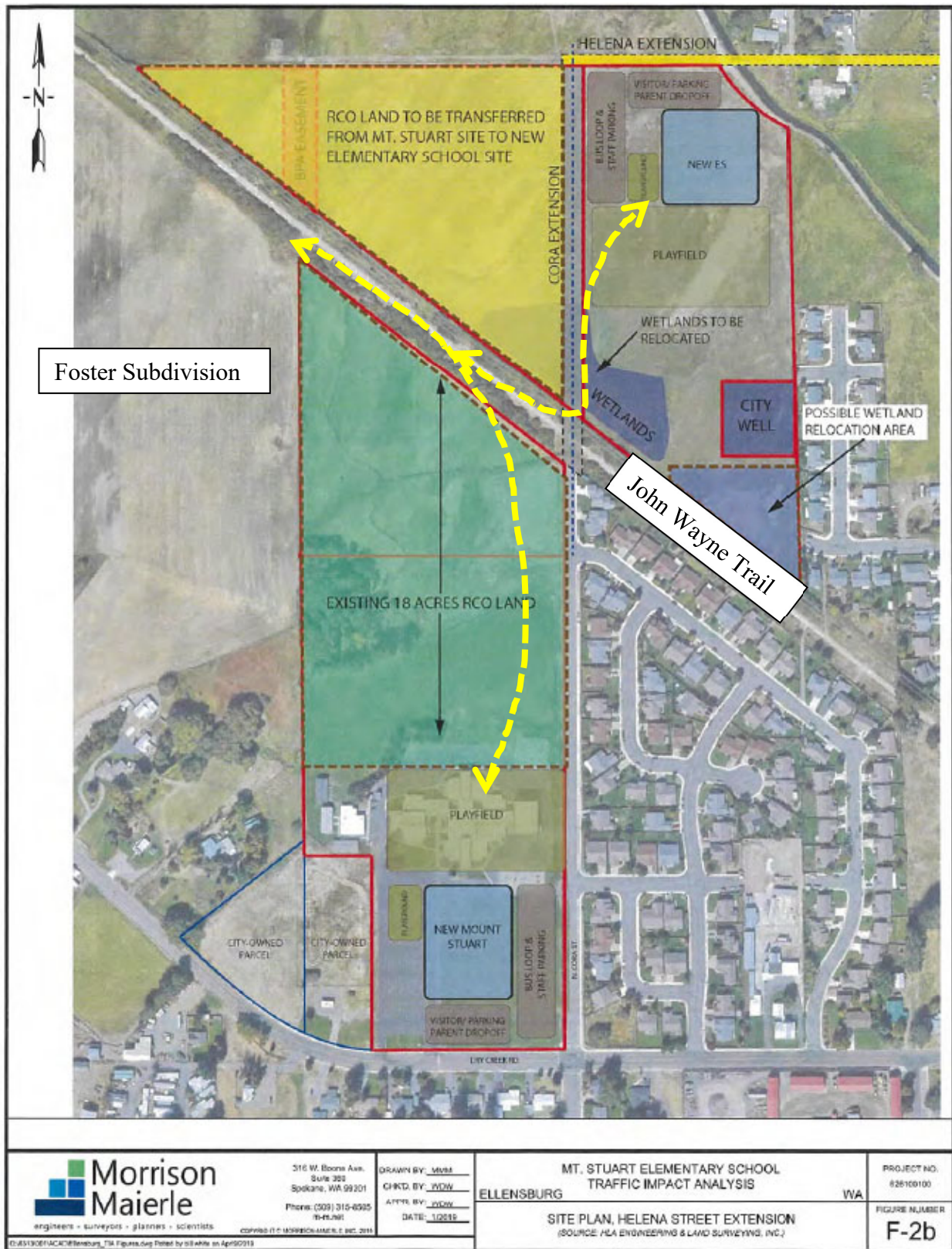
Planning Manager: Jamey Ayling

WCE has reviewed the Staff Report received August 5, 2021 and has found the report to be a thorough review of the project. WCE is in general agreement with the conditions presented within the staff report and requests approval of the staff recommendations; however, there are a number of items that need clarification and refinement within the staff report, including comments from agencies. Those items are provided here:

Safe Routes to School

On page 2 of the staff report there is a paragraph regarding the school district policy and the ability of school age children to walk to/from the school. This is also implied under recommendations Item a). Within the paragraph it is proposed that additional widening within the shoulder of Dry Creek Road be provided from the project frontage to the existing sidewalk along 15th Avenue. The paragraph then describes the Dry Creek frontage improvement, which is to be a separated sidewalk. We understand this requirement and will work with City staff during design to provide the necessary shoulder width.

It should be noted that the proposed condition does not mention the use of the John Wayne Trail. Which is a public use trail that currently traverses between the two elementary schools and provides for neighborhood non-motorized connectivity. As the majority of the lots are located at the northern end of the plat adjacent to the John Wayne Trail, it is anticipated to be utilized as the safer walk route. This route does not have vehicular traffic and provides a more direct route, as shown in the Morrison & Maierle (modified) site plan exhibit.



Parks

Also on Page 2 of the Staff report is a condition for the project to pay an impact fee for Parks and open space, at \$1,925 per lot. The timing of payment is not included within the condition. It is therefore assumed that the fee would be collected at the time of building permit for each individual lot.

Preliminary Plat Review

Public Sewer Connection

The connection of the subdivision to public sewer is a condition under recommendation item g). It was requested by public works within the January 26, 2021 Memo that the project reach out to property owners to the south of Dry Creek Road to secure a gravity sewer route through private property. While the project did reach out to adjacent property owners, there was no interest, at that time. Many times, this is more in opposition to a project than a pragmatic response to future development opportunities. We will continue to Reach out until such time that plan approval and construction are eminent.

Therefore, the sewer for the subdivision is proposed to gravity flow to Dry Creek Road. At Dry Creek road a lift station is proposed that will then pump the sewer through a 4-inch force main to the City Gravity system in 15th Avenue. It is anticipated that with continued growth in the area a gravity sewer line within Dry Creek Road will be developed, at such time the subdivision gravity system may then be connected, as a capped stub from the project manhole will be extended into Dry Creek Road, and the lift station can then be taken out of service.

Stormwater

The approved concept storm drainage report included within project file follows the Ellensburg Stormwater Manual and the Eastern Washington Stormwater Manual (EWSWM). Conceptually the rain from a storm event that falls onto the subdivision is proposed to sheetflow to the street gutter system. As stormwater is proposed to flow through the gutter system a flooded width analysis of the roadway is anticipated to be completed to ensure that a vehicular path of travel is maintained. From the street gutter stormwater is directed into the project ponds for treatment. Within the ponds the volume of the first ½ inch of stormwater is proposed to be detained within the pond until treated by means of infiltration through the treatment soil. Excess stormwater is proposed to be directed into the existing adjacent onsite wetlands at predevelopment levels, thus maintaining a water source for the existing wetlands.

It has been noted within the public comments that another subdivision within the area (Blackhorse) had difficulty with its stormwater and the effect of groundwater. WCE reviewed that design and participated in solutions. WCE concluded that because the project included stormwater pipes with long pipe runs within the project streets, the project ponds became too deep and could not overcome the offsite flows and high groundwater associated with the Ellensburg geomorphology and irrigation practices.

This project proposes to avoid those conditions by utilizing street gutters and cross gutters for conveyance, thereby avoiding the use of pipes, and thus keeping the ponds at a minimum depth

from the adjacent road surface. Per the geotechnical report the groundwater depth, when the land is fully irrigated, is known and will be a part of the design.

Wetlands

The project site includes onsite wetlands. The staff report included the wetland mitigation maps from the original submittal. These maps were updated and submitted to the City on June 11th 2021. The updated wetland mitigation maps are included in the City File and within the WCE presentation. As shown within the updated maps and within the Wetland Buffer Mitigation Plan report dated June 10, 2021, by Sewall Wetland Consulting, Inc., the project does propose improvements that would impact the wetland buffers but not the wetlands themselves. By providing additional buffer mitigation and plantings to supplement the wetlands, this impact is mitigated per the project wetland biologist.

Electricity

The project agrees to work with the City of Ellensburg Energy Services (light) department per the February 3rd 2021 letter to extend electrical service throughout the plat and maintain a 24/7 full access to equipment, as well as meet all city, state, and federal code requirements.

Gas

The project agrees to work with the City of Ellensburg Natural Gas Division to extend gas service throughout the plat.

Fire

The project has completed the requirements of the Fire Marshall through the preliminary plat process by maintaining fire access and hydrant locations per international Fire Code. As the project completes the street and water design drawings, the project will continue to meet the Fire Marshall's requirements.

Traffic

In the January 26, 2021 Memo from Public Works a Traffic Impact Analysis was requested to study nine (9) nearby intersections. The project completed a Traffic Impact Analysis dated April 29, 2021, that was approved by City Staff on June 9th 2021. No additional mitigation for traffic was required.

Irrigation Water

In the January 26, 2021 memo from Public works. The project is conditioned as follows: "Irrigation Water will need to comply with irrigation District requirements and be continued through the site to downstream users." The project has continually proposed to work with the Ellensburg water Company through the design process.

Recently WCE has been in contact with the Ellensburg Water Company and is preparing a concept plan at this time. We understand that there are four (4) properties that receive downstream irrigation water through the project site from the open channel ditch and lateral pipe(s) that go under the John Wayne Trail and connect into the Canal located at Helena Avenue.

The concept plan proposes an improvement to the existing pipe system by installing low profile manholes at key junctions with potable water quality gate valves and valve boxes to a paved surface. We understand that irrigation pipes typically include floating and other deleterious material (twigs, grass, skunk, etc.). The use of low-profile manholes with sumps allows for the installation of vertical tees with animal screening and the separation of floating material. When all valves are closed the manhole will be sized to hold irrigation water at the hydraulic grade line of the system without overflowing out of the locking lids placed upon each manhole. To be clear the locking lid manhole cover is a solid manhole cover with three (3) Allen wrench bolts. The locking lids allow for observation, maintenance and security.

SEPA

WCE wants to emphasize that the project SEPA was not appealed by the public, therefore any public comments are nonbinding and are viewed as such comments.

Public Comments

All known public comments from this notification period are addressed here. For clarity the original comment or a summary of the concern is provided, and a response is provided in bold.

Exhibit 7 James Ellinger – Letter to the City

Concerns of Stormwater Pond location relative to existing house (1209 Dry Creek Road)

Response: Pond A is located onsite at a distance of approximately 75 feet uphill from the existing house. The pond depth has not been finalized at this time but is anticipated to be nearly the same elevation as the ground surface of the existing house. Given the distance and the underdrain proposed, under the pond, it is not anticipated that groundwater will increase to impact the foundation of the existing house. Additionally, the overflow of the pond goes to the existing onsite wetland, (away from the house) that connects into the offsite wetland, where the depth of water is controlled by the culvert in Dry Creek Road, which is also lower than the house. Therefore, the requirement to not increase pre-develop flows would be met.

Concern of maintaining water right

Response: As previously noted the plat is conditioned: “Irrigation Water will need to comply with Irrigation District requirements and be continued through the site to downstream users” The irrigation system through the property that serves four adjacent properties was historically a system of open channels and culverts that extended from the canal at Helena Avenue, as shown in this photo from June 14th 2000. (Ellinger references noted)



Today the water irrigation system includes an open channel along the John Wayne Trail. Within this open channel is a grated opening into a pipe system, this pipe system is generally as Mr. Ellinger described.



As previously described the existing pipe system will be maintained and upgraded with low profile catch basin/manholes/valves.

Concern of existing onsite irrigation connection northeast corner

Response: Within the northeast corner of the site is an open channel with a grated inlet that allows for deleterious material to enter the system. With this project, the connection is proposed to be changed to limit the amount of material that can enter the system.

Recommended Conditions

Response: As the property is already conditioned to maintain the irrigation water by the Ellensburg Water Company and the City of Ellensburg and we have agreed to work with the irrigation company, we see these privately recommended conditions as moot. Additionally, as these recommended conditions were not recognized or included within the staff report and as James Ellinger is not an approving jurisdiction, it is inappropriate that construction drawings be conditioned based upon his approval, only that the project maintains service, and that the City and water company on the public's behalf approve the drawing and construction.

Exhibit 8 Roxy DeSoer – Letter to the City

Concern of project maintaining irrigation system

A. Contact with Ellensburg Water Company

Contact with Larry Browne by WCE has consisted of informational inquiries to date. Specific system design is reserved until approval by the Hearing Examiner.

B. Description of existing system

The description of the existing system has been included in the response to Mr. Ellinger.

C. Concern of proposed road over existing system

D. Concern that manholes will be needed, and valves maintained

E. Relocate existing culvert under Dry Creek from conflict of road intersection

F. Reasonable access for maintenance

G. Potential leak within existing pipe

(C -G) Specific system design is reserved until approval by the Hearing Examiner and is awaiting further investigation outside of irrigation season.

H. Legal Responsibility RCW

The developer is aware of the legal responsibility, hence the agreement with condition to maintain/improve irrigation system

I. Pond C located over irrigation line

J. Pond Function

(I - J) Specific system design is reserved until approval by the hearing examiner and is awaiting further investigation outside of irrigation season. Pond Function is per the EWSWM.

K. Deny access to irrigation water by the subdivision.
Existing water rights will be held in reserve.

L. Request meeting with stakeholders.
Once a design plan is complete and approved by Ellensburg Water Company a meeting with the stakeholders would be appropriate to discuss timing, connection, and to resolve concerns.

Concern of offsite school construction problems.
This concern was addressed in the June 10 2021 response letter to the City.

Concern of no Gravity sewer line in Dry Creek Road
This concern was addressed in the June 10 2021 response letter to the City, as well as described within this letter.

Concern of Traffic Impact analysis completed traffic counts during Covid pandemic.
As directed by the City of Ellensburg included within the TIA is an adjustment factor for COVID that raises the approach of the intersection to pre COVID levels. With the inclusion of this factor the City has approved the TIA.

If you have any questions or comments in regard to this letter, please feel free to contact us at (509) 893-2617.

Thank you



Todd R. Whipple, P.E.

TRW/bng

Cc: File
Sponsor

**NOTICE OF A CLOSED RECORD PUBLIC HEARING
SUBDIVISION REQUEST**

NOTICE IS HEREBY GIVEN that a closed record hearing before the Ellensburg City Council has been set for **Monday, September 20, 2021 at 7:00 pm**. This meeting will be held both in-person in the Council Chambers AND virtually via Zoom, to consider Application P21-039 submitted by Elliot Whipple, agent for property owner for a Preliminary Plat Subdivision. The proposed preliminary plat within the Residential Suburban (R-S) zone is a 141-Lot Long Plat intended for residential lots and single-family home construction. Lots will range in size from 5,000 sq. ft. to 13,368 sq. ft., and are located on parcel ID# 396133.

NOTICE IS FURTHER GIVEN that all persons interested in this matter may attend the Hybrid/REMOTE meeting by contacting Staff no later than 5:00 pm on Monday, September 20, 2021. An email link, text link, or phone number will be provided which will allow for electronic participation in the public hearing. * In-person attendees will need to wear face coverings. **Be advised that no new testimony will be considered by City Council, as the closed record hearing shall be limited to the record established in the open record hearing held by the Hearing Examiner.**

Project Location: The property is addressed as Dry Creek Road, Ellensburg, WA 98926. Kittitas County Assessor's Parcel Number: 396133.

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

Questions about this preliminary subdivision may be directed to Shannon Johnson in the Community Development Department, 501 N. Anderson St., or via email: johnsons@ci.ellensburg.wa.us

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

PUBLISH IN LEGAL: **Saturday, August 28, 2021**

Shannon Johnson

From: Rose Gomez Gomez <rose@fastlanesigns.net>
Sent: Thursday, August 26, 2021 1:02 PM
To: Austin Fuller; Shannon Johnson
Subject: [Ext] Re: P21-039 Foster Plat City Council PH Sign Template for Posting Please 2788
Importance: High

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

Hello Austin and Shannon,

We have installed the sign for the Foster Plat Map.

I am attaching a photo here. I did not see a PDF to fill out (the last 2 times we have installed signs over there, we have had to fill out a paper..

do we need to do that again this time, or is this email and photo sufficient?)

Thank you!

*Rose Gomez
Fast Lane Signs
Owner*

*509.925.SIGN
rose@fastlanesigns.net*





CITY COUNCIL AGENDA REPORT

City Council Meeting Date: September 20, 2021

Item Title/Agenda Subject: Second Reading of Ordinance 4878 amending the Frequently Flooded Area regulations of Ellensburg City Code Chapter, Title 15 – Land Development Code

Submitted by: Kirsten Sackett Community Development

Recommended Action or Motion: Conduct second reading and adoption of Ordinance 4878 and declare that an emergency exists necessitating that this Ordinance take effect on September 24, 2021.

Background/Summary: Ordinance 4878 will update the regulations pertaining to “Frequently Flooded Areas” as found in Division VI of the Land Development Code (LDC), Title 15 of the Ellensburg City Code (ECC), in order to stay in compliance with the Federal Emergency Management Agency (FEMA) requirements related to the adoption of new flood maps for Kittitas County.

After Kittitas County was identified by the State of Washington in 2010 as a priority for FEMA’s Risk MAP program, the necessary scoping work and meetings were held in order to update the floodplain maps in the county based on identified community needs. Following the public noticing and appeal periods that occurred throughout 2018 and 2019, FEMA issued a Letter of Final Base Flood Elevation (BFE) Determination (LFD) on March 24, 2021. The LFD stated that a new or updated Flood Insurance Rate Map (FIRM) and Flood Insurance Study (FIS) would become effective in six months, and also initiated a six-month compliance period set to end on September 24, 2021.

As a participating member in the National Flood Insurance Program (NFIP), it is necessary for the City of Ellensburg to adopt a compliant floodplain management ordinance by the effective date of the new flood maps, in order to remain as participant’s in good standing. This is important as it enables Ellensburg’s community members to receive reduced

insurance rates on flood insurance policies.

The amendments to the land development code include revisions and additions to definitions, and new guidance and clarity on procedural requirements and performance standards for development in the floodplain.

Previous Council Action:

On September 7, 2021 City Council held a public hearing to consider the proposed amendments to the frequently flooded area regulations, at the conclusion of which they approved the proposed amendments. This was immediately followed by Council approval of first reading of Ordinance 4878.

Prior to that, City Council discussed the necessity of updating the floodplain regulations during a study session held on August 16, 2021.

Analysis:

The procedures for processing a land development code amendment are outlined in ECC 15.250.100. In keeping with the Type V review process, the Planning Commission held a public hearing on September 1, 2021 to consider the proposed amendments. At the conclusion of the hearing they forwarded a recommendation of approval to City Council as the final decision-maker.

Both the Planning Commission and City Council found the proposed ordinance to be in keeping with the decision criteria in ECC 15.250.100(C), as the revised regulations are in accordance with the Comprehensive Plan, they will not adversely affect the public health, safety, or general welfare, and they are in the best interests of the citizens as they are intended to further protect the residents from the potential damage caused by floodwaters.

In compliance with Washington State requirements, the proposed amendments were also forwarded to the Department of Commerce on July 29, 2021 and Commerce granted expedited review on the proposed amendments on August 12, 2021. A SEPA DNS was issued by the City on September 3, 2021.

Financial Impact:

None

Attachments:

[Ordinance 4878 - Frequently Flooded Areas Regulations Update](#)

ORDINANCE NO. 4878

AN ORDINANCE RELATING TO THE CITY OF ELLENSBURG LAND DEVELOPMENT CODE, TITLE 15; AMENDING CHAPTER 15.130 “DEFINITIONS”; AMENDING CHAPTER 15.210 “PERMIT REVIEW PROCESS “TYPES”; AMENDING CHAPTER 15.250.050 “VARIANCES – TYPE III REVIEW PROCESS”; AMENDING CHAPTER 15.600 “GENERAL PROVISIONS”; AMENDING CHAPTER 15.610 “EXEMPTIONS AND EXCEPTIONS”; AND AMENDING CHAPTER 15.630 “FREQUENTLY FLOODED AREAS” OF THE ELLENSBURG CITY CODE.

WHEREAS, The Legislature of the State of Washington has delegated the responsibility to local communities to adopt floodplain management regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the State of Washington identified Kittitas County as a priority for the Federal Emergency Management Agency’s (FEMA) Risk MAP program, and following a February 24, 2010 Risk MAP Scoping Meeting attended by FEMA, State, and local stakeholders, a scope of work was developed to provide new multi-hazard risk assessment products and to update floodplain mapping based on community-identified needs; and

WHEREAS, following a February 4, 2018 Flood Risk Review, draft floodplain boundaries within Kittitas County were presented to FEMA, State, and Local stakeholders for review and comment; and

WHEREAS, FEMA representatives conducted three open house meetings in Kittitas County to share FEMA’s preliminary mapping results with property owners on August 6, 2018 in Thorp, August 7, 2018 in Ellensburg, and September 19, 2018 in Cle Elum; and

WHEREAS, an Appeal Period was provided from December 4, 2018 to March 3, 2019 for any affected landowner to provide comments and appeals; and

WHEREAS, following the appeal period, comments were provided that resulted in FEMA issuing a revised preliminary, which was released October 25, 2019; and

WHEREAS, following the resolution of comments, FEMA issued a Letter of Final Determination (LFD) to the City of Ellensburg on March 24, 2021, stating that a new or updated Flood Insurance Rate Map (FIRM) or Digital Flood Insurance Rate Map (DFIRM) will become effective in six months, and also notifying the City that each affected flood-prone community participating in the National Flood Insurance Program (NFIP) must adopt a compliant floodplain management ordinance by the maps’ effective date to retain status as participants in good standing; and

WHEREAS, the proposed amendments to Title 15 of the City of Ellensburg Code have been developed in accordance with FEMA LFD, and in compliance with the December 9, 2019

Washington State Model Flood Damage Prevention Ordinance, and with the requirements of Title 44 of the Code of Federal Regulations; and

WHEREAS, the proposed amendments to the Ellensburg City Code were issued a SEPA Determination of Non-Significance on September 3, 2021; 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; and

WHEREAS, the required Washington State Department of Commerce 30-day expedited review notice was complete on August 12, 2021; and

WHEREAS, the proposed ordinance was reviewed by the Planning Commission in a public hearing on September 2, 2021, and based on public testimony and other evidence received at said hearing, the Planning Commission recommended City Council adoption of the ordinance; and

WHEREAS, the City Council conducted a public hearing on September 7, 2021, where it received and considered public comments on the proposed changes;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ELLENSBURG, WASHINGTON, DO 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 15.130.010 A Definitions of the Ellensburg City Code as last amended by section 2 of Ordinance No. 4807, is hereby amended to add and revise the following definitions:

15.130.010 A definitions

"Alteration of watercourse" means any action that will change the location of the channel occupied by water within the banks of any portion of a riverine waterbody.

"Area of shallow flooding" means a designated zone AO, AH, AR/AO or AR/AH (or VO) on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow. Also referred to as the sheet flow area.

"Area of special flood hazard" means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Designation on Flood Insurance Rate Maps always includes the letters A, AO, AH, A1-30, AE, A99, AR or (V, VO, V1-30, VE). Definitions of each zone are established by the Federal Emergency Management Agency

(FEMA). “Special flood hazard area” is synonymous in meaning with the phrase “area of special flood hazard.”

“ASCE 24” means the most recently published version of ASCE 24, Flood Resistant Design and Construction, published by the American Society of Civil Engineers.

Section 3. Section 15.130.020 B Definitions of the Ellensburg City Code, as last amended by section 1 of Ordinance No. 4803, is hereby amended to add and revise the following definitions:

15.130.020 B definitions

“Base flood” means the flood having a one percent chance of being equaled or exceeded in any given year (also referred to as the 100-year flood). ~~Designated on Flood Insurance Rate Maps by the letters A or V.~~

“Base Flood Elevation (BFE)” means the elevation to which floodwater is anticipated to rise during the base flood.

“Building Code” means the currently effective versions the International Building Code and the International Residential Code adopted by the State of Washington Building Code Council.

Section 4. Section 15.130.050 E Definitions of the Ellensburg City Code, as last amended by section 1 of Ordinance No. 4803, is hereby amended to add the following definitions:

15.130.050 E definitions

“Elevated Building” means, for insurance purposes, a non-basement building that has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

“Elevation Certificate” means an administrative tool of the National Flood Insurance Program (NFIP) that can be used to provide elevation information, to determine the proper insurance premium rate, and to support a request for a Letter of Map Amendment (LOMA) or Letter of Map Revision based on fill (LOMR-F).

“Existing Manufactured Home Park or Subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by the community.

“Expansion to an Existing Manufactured Home Park or Subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Section 5. Section 15.130.060 F Definitions of the Ellensburg City Code, as last amended by section 1 of Ordinance No. 4803, is hereby amended to add and revise the following definitions:

15.130.020 F definitions

“Flood or Flooding” means: 1) a general and temporary condition of partial or complete inundation of normally dry land areas from: a) the overflow of inland or tidal waters. b) the unusual and rapid accumulation or runoff of surface waters from any source. c) mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (1)(b) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current. 2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (1)(a) of this definition. See Division VI.

“Flood elevation study” means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards. Also known as a Flood Insurance Study (FIS).

“Flood insurance rate maps” means the official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM). those maps which depict the various flood insurance rate zones of the 100-year floodplain which are determined by the Federal Emergency Management Agency. This term is interchangeable with “floodplain maps.” See Division VI.

“Flood insurance study (FIS)” means the official report provided by the Federal Insurance Administration that includes flood profiles, the flood insurance rate maps, and the water surface elevation of the base flood. See “Flood Elevation Study.”

“Floodplain or flood-prone area” means that area of land shown on the city’s flood insurance rate maps as being inundated by the waters of the 100-year flood. any land area susceptible to being inundated by water from any source. See “Flood or flooding.” See Division VI.

“Floodplain administrator” means the community official designated by title to administer and enforce the floodplain management regulations.

Floodplain management regulations” means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance and erosion control ordinance) and other application of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

“Flood proofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents. Flood proofed structures are those that have the structural integrity and design to be impervious to floodwater below the Base Flood Elevation.

“Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than ~~one foot~~ a designated height. Also referred to as “Regulatory Floodway.” See Division VI.

“Functionally dependent use” means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long-term storage or related manufacturing facilities.

Section 6. Section 15.130.080 H Definitions of the Ellensburg City Code, as last amended by section 7 Ordinance No. 4807, is hereby amended to add the following definitions:

15.130.080 H definitions

“Highest adjacent grade” means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

“Historic structure” for the purposes of administering floodplain regulations only means any structure that is:

- 1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- 2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- 3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- 4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a) By an approved state program as determined by the Secretary of the Interior, or

b) Directly by the Secretary of the Interior in states without approved programs.

Section 7. Section 15.130.120 L Definitions of the Ellensburg City Code, as last amended by section 1 of Ordinance No. 4803, is hereby amended to revise the following definition:

15.130.120 L definitions

“Lowest floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building’s lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Chapter 15.600 ECC (i.e. provided there are adequate flood ventilation openings).

Section 8. Section 15.130.130 M Definitions of the Ellensburg City Code, as last amended by section 9 Ordinance No. 4807, is hereby amended to add and revise the following definitions:

15.130.130 M definitions

“Manufactured home park or subdivision” means a lot, parcel (or contiguous parcels), or tract of land divided into two or more manufactured home lots for rent or sale, having as its principal use the rental of space for occupancy by two or more manufactured homes, including any accessory buildings, structures or uses customarily incidental thereto. See ECC 15.340.040 for manufactured home park provisions.

“Manufactured Home Park or Subdivision, New” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the new manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the community.

“Mean Sea Level” means, for purposes of the National Flood Insurance Program, the vertical datum to which Base Flood Elevations shown on a community’s Flood Insurance Rate Map are referenced.

Section 9. Section 15.130.140 N Definitions of the Ellensburg City Code, as last amended by section 1 of Ordinance No. 4656, is hereby amended to add the following definition:

15.130.140 N definitions

“New construction” means, for the purposes of determining flood insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial Flood Insurance Rate Map or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, “new construction” means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

Section 10. Section 15.130.180 R Definitions of the Ellensburg City Code, as last amended by section 1 of Ordinance No. 4803, is hereby amended to add and revise the following definitions:

15.130.180 R definitions

“Reasonably Safe from Flooding” means development that is designed and built to be safe from flooding based on consideration of current flood elevation studies, historical data, high water marks and other reliable data known to the community. In unnumbered A zones where flood elevation information is not available and cannot be obtained by practicable means, reasonably safe from flooding means that the lowest floor is at least two feet above the Highest Adjacent Grade.

“Recreational vehicle” is a vehicle built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed primarily for recreational camping, travel or seasonal use which has its own motive power or is mounted on or towed by another vehicle, including but not limited to:

1. Travel trailer;
2. Folding camping trailer;
3. Park trailer;
4. Truck camper;
5. Motor home; and
6. Multi-use vehicle.

Section 11. Section 15.130.190 S Definitions of the Ellensburg City Code, as last amended by section 11 of Ordinance No. 4807, is hereby amended to add and revise the following definitions:

15.130.190 S definitions

“Structure” means anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. It shall also include but not be limited to buildings, manufactured homes, walls, fences, billboards and poster panels. For the purposes of the floodplain district provisions only, as set forth in Division VI, the term “structure” shall be limited to mean a walled and roofed building including a gas or liquid storage tank that is principally aboveground, as well as a manufactured home. For the purposes of airport overlay zone regulations set forth in Chapter 15.350 ECC, “structure” means an object, including a mobile object, constructed or installed by man, including, but without limitation, buildings, towers, cranes, smokestacks, earth formations, and overhead transmission lines.

“Substantial improvement” means any ~~repair~~, reconstruction, rehabilitation, addition, alteration or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure ~~either: before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed.~~

~~1. Before the improvement or repair is started; or~~

~~2. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term can exclude: does not, however, include either:~~

a. Any project for improvement of a structure to correct pre-cited existing violations of state or local health, sanitary, or safety code specifications which have been previously identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

b. Any alteration of a “historic structure,” listed on the National Register of Historic Places or a State Inventory of Historic Places, provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”

Section 12. Section 15.130.220 V Definitions of the Ellensburg City Code, as last amended by section 13 of Ordinance No. 4807, is hereby amended to revise the following definition:

15.130.220 V definitions.

“Variance” means an authorized relaxation of the terms of this title where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the title would result in unnecessary and undue hardship. As used in this title, a variance is authorized only for height, area, and size of structure or size of yards and open spaces; establishment or expansion of a use

otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning division or district or adjoining zoning divisions or districts. See ECC 15.250.050. A variance also means a grant of relief by a community from the terms of a floodplain management regulation. See ECC 15.610.215.

Section 13. Section 15.130.230 W Definitions of the Ellensburg City Code, as last amended by section 14 of Ordinance No. 4807, is hereby amended to revise the following definitions:

15.130.230 W definitions.

“Water Dependent” means a structure for commerce or industry that cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.

“Water surface elevation” means the height, in relation to the vertical datum utilized in the applicable flood insurance study, of floods of various magnitudes and frequencies in the floodplains or coastal or riverine areas.

Section 14. Section 15.210.050(C) Review Process Type III of the Ellensburg City Code, as last amended by section 17 of Ordinance No. 4807, is hereby amended to read as follows:

C. Review Process Type III. Table 15.210.050(C) identifies the types of projects and permits that require a Type III review process. Any decision-making, procedural, or noticing variations from the Type III review process are described in the middle column. The right column identifies code sections applicable to the project/permit.

Table 15.210.050(C). Projects under Type III review process.

Where superscript numbers are included in a cell, please reference the applicable number under “Notes/conditions” below the table.

Type III Project	Decision-making, procedures or noticing variation from ECC 15.210.040	Relevant ECC chapter or section(s)
Binding site plan	City council decision	ECC 15.260.180
Conditional use permit	Planning commission decision after open record hearing; appeal closed record to city council	ECC 15.250.040

Table 15.210.050(C). Projects under Type III review process.

Where superscript numbers are included in a cell, please reference the applicable number under “Notes/conditions” below the table.

Type III Project	Decision-making, procedures or noticing variation from ECC 15.210.040	Relevant ECC chapter or section(s)
Extension requests for regional retail commercial master site plan projects	City council decision after open record public hearing	ECC 15.390.040(C)(3)
Variance (includes variance for critical areas regulations)	Hearing examiner decision after open record hearing; appeal closed record to city council	ECC 15.250.050
<u>Variance for critical area regulations</u>	<u>Hearing examiner decision after open record hearing; appeal closed record to city council</u>	<u>ECC 15.610.210 and ECC 15.610.215 (frequently flooded areas)</u>

Section 15. Section 15.250.050 Variances – Type III review process of the Ellensburg City Code, as last amended by section 28 of Ordinance No. 4807, is hereby amended to read as follows

A. Purpose. A variance is a mechanism by which the city may grant relief from the zoning provisions and standards of the LDC, where practical difficulty renders compliance with the LDC an unnecessary hardship.

B. Procedures. Variance permits are subject to the Type III review process as set forth in Chapter 15.210 ECC.

1. Administrative variances may be allowed for proposals that are within 10 percent of compliance of applicable dimensional standards, subject to the Type II review procedures set forth in Chapter 15.210 ECC.

2. Variance procedures and decision criteria for development within critical areas are set forth in ECC 15.610.210 and ECC 15.610.215.

C. Decision Criteria. The city may approve, approve with conditions, or deny variances. Granting of variances requires compliance with all of the following:

1. The variance is necessary because of the unique size, shape, topography, or location of the subject property;
2. The strict enforcement of the provisions of this title creates an unnecessary hardship to the property owner;
3. The subject property is deprived, by provisions of this title, of rights and privileges enjoyed by other properties in the vicinity and under an identical zone, however, the existence of similar nonconforming uses of neighboring lands, structures, or buildings in the same zone shall not be considered grounds for the issuance of a variance;
4. The need for the variance is not the result of deliberate actions of the applicant or property owner, including any past owner of the same property;
5. The variance is compatible with the comprehensive plan;
6. The variance does not create a health or safety hazard;
7. The granting of the variance will not be materially detrimental to the public welfare or injurious to:
 - a. The property or improvements in the vicinity, or
 - b. The zone in which the subject property is located;
8. The variance does not relieve an applicant from:
 - a. Any of the procedural or administrative provisions of this title, or
 - b. Any standard or provision that specifically states that no variance from such standard or provision is permitted, or
 - c. Use or building restrictions, or
 - d. Any provisions of the critical areas development standards except as provided in Division VI;
9. The variance from setback or height requirements does not infringe upon or interfere with easement or covenant rights or responsibilities;
10. The variance does not allow the establishment of a use that is not otherwise permitted in the zone in which the proposal is located; and

11. The variance is the minimum necessary to grant relief to the applicant. [Ord. 4807 § 28, 2018; Ord. 4656 § 1 (Exh. O2), 2013.]

Section 16. Section 15.600.010 of the Ellensburg City Code, as last amended by section 1 of Ordinance 4656, is hereby amended to read as follows:

15.600.010 Purpose

A. The purpose of this chapter is to designate and classify ecologically sensitive and hazardous areas and to protect these areas and their functions and values, while also allowing for reasonable use of private property.

B. This chapter is to implement the goals, policies, guidelines, and requirements of the Ellensburg comprehensive plan and the Growth Management Act.

C. The city finds that critical areas provide a variety of valuable and beneficial biological and physical functions that benefit the city and its residents, and/or may pose a threat to human safety or to public and private property. The beneficial functions and values provided by critical areas include, but are not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, conveyance and attenuation of floodwaters, ground water recharge and discharge, erosion control, protection from hazards, historical, archaeological, and aesthetic value protection, and recreation. These beneficial functions are not listed in order of priority.

D. Goals. By limiting development and alteration of critical areas, this chapter seeks to:

1. Protect human life and health;

~~1.2.~~ Protect members of the public and public resources and facilities from injury, loss of life, or property damage due to landslides and steep slope failures, erosion, seismic events, or flooding;

~~2.3.~~ Maintain healthy, functioning ecosystems through the protection of unique, fragile, and valuable elements of the environment, including ground and surface waters, wetlands, and fish and wildlife and their habitats, and to conserve the biodiversity of plant and animal species;

~~3.4.~~ Direct activities not dependent on critical areas resources to less ecologically sensitive sites and mitigate unavoidable impacts to critical areas by regulating alterations in and adjacent to critical areas;

4.5. Prevent cumulative adverse environmental impacts to water quality, wetlands, and fish and wildlife habitat, and the overall net loss of wetlands, frequently flooded areas, and habitat conservation areas;

6. Minimize expenditure of public money for costly flood control projects;

7. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

8. Minimize prolonged business interruptions;

9. Minimize damage to public facilities and utilities, such as water and gas mains; electric, telephone, and sewer lines; and streets and bridges located in flood hazard areas;

10. Help maintain a stable tax base by providing for the sound use and development of flood hazard areas so as to minimize blight areas caused by flooding;

11. Notify potential buyers that the property is in a Special Flood Hazard Area;

12. Notify those who occupy flood hazard areas that they assume responsibility for their actions; and

13. Participate in and maintain eligibility for flood insurance and disaster relief.

E. The regulations of this chapter are intended to protect critical areas in accordance with the Growth Management Act and through the application of the best available science, as determined according to WAC 365-195-900 through 365-195-925, and in consultation with state and federal agencies and other qualified professionals.

F. In order to accomplish its purposes of reducing flood losses, this chapter includes methods and provisions for:

1. Restricting or prohibiting development that is dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

2. Requiring that development vulnerable to floods be protected against flood damage at the time of initial construction;

3. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

4. Controlling filling, grading, dredging, and other development, which may increase flood damage; and

5. Preventing or regulating the construction of flood barriers that unnaturally divert floodwaters or may increase flood hazards in other areas.

~~FG.~~ This chapter is to be administered with flexibility and attention to site-specific characteristics. It is not the intent of this chapter to make a parcel of property unusable by denying its owner reasonable economic use of the property or to prevent the provision of public facilities and services necessary to support existing development and planned for by the community without decreasing current service levels below minimum standards.

~~GH.~~ The city's enactment or enforcement of this chapter shall not be construed for the benefit of any individual person or group of persons other than the general public. [Ord. 4656 § 1 (Exh. O2), 2013.]

Section 17. Chapter 15.610 of the Ellensburg City Code, is hereby amended to include a new section 15.610.215 specific to variances within frequently flooded areas, to read as follows:

**Chapter 15.610
APPLICABILITY, EXEMPTIONS AND EXCEPTIONS**

Sections:

- 15.610.010 Applicability.**
- 15.610.020 Exemptions.**
- 15.610.030 Allowed activities.**
- 15.610.040 Exception – Public agency and utility.**
- 15.610.050 Exception – Reasonable use.**
- 15.610.060 Critical area review requirements.**
- 15.610.070 Preapplication meeting.**
- 15.610.080 Public notice of initial determination.**
- 15.610.090 Critical area report – Requirements.**
- 15.610.100 Critical area report – Modifications to requirements.**
- 15.610.110 Mitigation requirements.**
- 15.610.120 Mitigation sequencing.**
- 15.610.130 Mitigation plan requirements.**
- 15.610.140 Innovative mitigation.**
- 15.610.150 Determination.**
- 15.610.160 Review criteria.**
- 15.610.170 Report acceptance.**
- 15.610.180 Report rejection.**
- 15.610.190 Completion of the critical area review.**
- 15.610.200 Appeals.**
- 15.610.210 Variances.**
- 15.610.215 Variances within frequently flooded areas.**
- 15.610.220 Unauthorized critical area alterations and enforcement.**
- 15.610.230 Critical area markers and signs.**
- 15.610.240 Notice on title.**
- 15.610.250 Critical area tracts.**

- 15.610.260 Bonds to ensure mitigation, maintenance, and monitoring.**
- 15.610.270 Critical area inspections.**
- 15.610.280 Enforcement and penalties.**

Section 18. Section 15.610.020 of the Ellensburg City Code, as last amended by section 5 of Ordinance 4803, is hereby amended to read as follows:

15.610.020 Exemptions

A. Critical area review application required. Certain development activities within critical areas may be exempt from critical area permitting. However, a critical area review application shall be submitted for all development in any identified critical area to determine exemption applicability. Pursuant to FEMA regulations, exemption for the activities described in (D)(2), (D)(3) and (D)(4) of this section is not applicable to development located within the floodplain.

~~A~~B. Exemption Request and Review Process. The proponent of the activity may submit a written request for exemption to the director that describes the activity and states the exemption listed in this section that applies. The director shall review the exemption request as a Type I permit review process as set forth in Chapters 15.210 and 15.220 ECC. If the exemption is approved, it shall be placed on file with the community development department and the proponent may continue through the review process for any underlying permit. If the exemption is denied, the proponent may continue in the critical area review process and shall be subject to the requirements of this chapter.

~~B~~C. Exempt Activities and Impacts to Critical Areas. All exempted activities shall use reasonable methods to avoid potential impacts to critical areas. To be exempt from this chapter does not give permission to degrade a critical area or ignore risk from natural hazards. Any incidental damage to, or alteration of, a critical area that is not a necessary outcome of the exempted activity shall be restored, rehabilitated, or replaced at the responsible party's sole expense.

~~C~~D. Exempt Activities. The following developments, activities, and associated uses shall be exempt from the provisions of this chapter; provided, that they are otherwise consistent with the provisions of other local, state, and federal laws and requirements:

1. Emergencies. Those activities necessary to prevent an immediate threat to public health, safety, or welfare, or which pose an immediate risk of damage to private property and which require remedial or preventative action in a time frame too short to allow for compliance with the requirements of this chapter. Emergency actions which create an impact to a critical area or its buffer shall use reasonable methods to address the emergency; in addition, they must have the least possible impact to the critical area or its buffer. The person or agency undertaking such action shall notify the city within one business day following commencement of the emergency activity. Within 30 days, the director shall determine if the action taken was within the scope of the emergency actions

allowed in this subsection. If the director determines that the action taken, or any part of the action taken, was beyond the scope of an allowed emergency action, then enforcement provisions of ECC 15.610.220, Unauthorized critical area alterations and enforcement, shall apply.

After the emergency, the person or agency undertaking the action shall fully fund and conduct necessary restoration and/or mitigation for any impacts to the critical area and buffers resulting from the emergency action in accordance with an approved critical area report and mitigation plan. The person or agency undertaking the action shall apply for review, and the alteration, critical area report, and mitigation plan shall be reviewed by the city in accordance with the review procedures contained herein. Restoration and/or mitigation activities must be initiated within one year of the date of the emergency, and completed in a timely manner; provided, however, the restoration, mitigation, planning and financial requirements set forth in this subsection shall not apply to public safety or volunteer emergency services providers who, in good faith, render emergency response services, and while in the course and scope of such services determine it necessary to damage, destroy or alter property falling under the jurisdiction of this chapter; provided further, this exception from responsibility shall not extend to the landowner or to any persons other than such public safety or volunteer emergency services providers;

2. Operation, Maintenance, or Repair. Operation, maintenance, or repair of existing structures, infrastructure, utilities, public or private roads, dikes, ditches, reservoirs, or other structures or facilities for irrigation purposes. Operation and maintenance includes vegetation management performed in accordance with best management practices that is part of ongoing maintenance of structures, infrastructure, or utilities; provided, that such management actions are part of regular and ongoing maintenance, do not expand further into the critical area, are not the result of an expansion of the structure or utility, and do not directly impact an endangered or threatened species. To qualify as an exemption, operation, maintenance, or repair activities must meet the following criteria:

- a. The activity does not require construction permits;
- b. The activity does not further alter or increase the impact to, or encroach further within, the critical area or buffer; and
- c. There is no increased risk to life or property as a result of the proposed operation, maintenance, or repair;

3. Passive Outdoor Activities. Recreation, education, and scientific research activities that do not degrade the critical area, including fishing, hiking, and bird watching. Trails must be constructed pursuant to ECC 15.610.030(C)(5), Public and Private Pedestrian Trails;

4. Flood Control. Operation, maintenance, and repair of ditches, reservoirs, and other structures or facilities which were created or developed as part of normal flood

control activities, except that this exemption does not extend to the permanent draining or permanent alteration of any regulated wetland; and

5. Other Similar Activity. Such activity that the director may determine is closely allied or similar to any activity on the exemption list. If such an activity does not impact the functions and values of any critical area or its buffers, it may also be determined to be exempt. [Ord. 4803 § 5, 2018; Ord. 4656 § 1 (Exh. O2), 2013.]

Section 19. Section 15.610.030 of the Ellensburg City Code, as last amended by section 5 of Ordinance 4803, is hereby amended to read as follows:

15.610.030 Allowed Activities

A. Certain activities as set forth below are allowed activities. The proponent of the allowed activity must submit a critical area review form as required by ECC 15.610.060. In making the decision whether a proposed activity is an allowed activity for purposes of this chapter, the director shall follow the permit review process set forth for Type I permit in Chapters 15.210 and 15.220 ECC.

AB. Activities allowed under this chapter shall have been reviewed and permitted or approved by the city or other agency with jurisdiction, but do not require submittal of a separate critical area report, unless such submittal was previously required for the underlying permit. The director may apply conditions to the underlying permit or approval to ensure that the allowed activity is consistent with the provisions of this chapter to protect critical areas.

BC. Required Use of Best Management Practices. All allowed activities shall be conducted using the best management practices pursuant to the city's public works development standards, that result in the least amount of impact to the critical areas. Best management practices shall be used for tree and vegetation protection, construction management, erosion and sedimentation control, water quality protection, and regulation of chemical applications. The city shall observe the use of best management practices to ensure that the activity does not result in degradation to the critical area. Any incidental damage to, or alteration of, a critical area shall be restored, rehabilitated, or replaced at the responsible party's expense.

CD. Allowed Activities. The following activities are allowed:

1. Permit Requests Subsequent to Previous Critical Area Review. Development permits and approvals that involve both discretionary land use approvals (such as subdivisions, rezones, or conditional use permits), and construction approvals (such as building permits) if all of the following conditions have been met:

- a. The provisions of this chapter have been previously addressed as part of another approval;
 - b. There have been no material changes in the potential impact to the critical area or buffer since the prior review;
 - c. There is no new information available that is applicable to any critical area review of the site or particular critical area;
 - d. The permit or approval has not expired or, if no expiration date, no more than five years has elapsed since the issuance of that permit or approval; and
 - e. Compliance with any standards or conditions placed upon the prior permit or approval has been achieved or secured.
2. **Modification to Existing Structures.** Structural modification of, addition to, demolition of or replacement of, an existing legally constructed structure (undertaken pursuant to an issued permit, if required) that does not further alter or increase the impact to the critical area or buffer and there is no increased risk to life or property as a result of the proposed modification or replacement; provided, that restoration of structures or demolition pursuant to an approved demolition permit must be initiated within one year of the date of such damage, as evidenced by the issuance of a valid building permit, and diligently pursued to completion. This subsection does not apply to modifications to existing structures located within a special flood hazard area. In such cases, the proposed modifications are subject to all requirements of Chapter 15.630 ECC, including but not limited to the requirements for substantial improvements;
3. **Activities within the Improved Right-of-Way.** Replacement, modification, installation, or construction of utility facilities, lines, pipes, mains, equipment, or appurtenances, not including substations, when such facilities are located within the improved portion of the public right-of-way or a city-authorized private roadway, except those activities that alter a wetland or watercourse, such as culverts or bridges, or result in the transport of sediment or increased stormwater; subject to the following:
- a. Critical area and/or buffer widths shall be increased, where possible, equal to the width of the right-of-way improvement, including disturbed areas; and
 - b. Retention and replanting of native vegetation shall occur wherever possible along the right-of-way improvement and resulting disturbance.
4. **Minor Utility Projects.** Utility projects which have minor or short-duration impacts to critical areas, as determined by the director in accordance with the criteria below:

- a. There is no practical alternative to the proposed activity with less impact on critical areas;
- b. The activity involves the placement of a utility pole, street signs, anchor, or vault or other small component of a utility facility;
- c. The activity does not significantly impact the function or values of a critical area(s);
- d. The activity or project is constructed with best management practices and additional restoration measures are provided; and
- e. The activity shall not result in the transport of sediment or increased stormwater.

5. **Public and Private Pedestrian Trails.** Public and private pedestrian trails, except in wetlands, fish and wildlife habitat conservation areas, or their buffers, subject to the following:

- a. The trail surface shall meet all other requirements including applicable standards set forth in the city's public works development standards;
- b. Critical area and/or buffer widths shall be increased, where possible, equal to the width of the trail corridor, including disturbed areas; and
- c. Trails proposed to be located in landslide or erosion hazard areas shall be constructed in a manner that does not increase the risk of landslide or erosion and in accordance with an approved geotechnical report.

6. **Select Vegetation Removal Activities.** The following vegetation removal activities; provided, that except for these activities no vegetation shall be removed from a critical area or its buffer without approval from the director:

- a. The removal of invasive and noxious weeds and vegetation with hand labor and light equipment;
- b. The removal of trees that are hazardous, posing a threat to public safety, or posing an imminent risk of damage to private property; provided, that:
 - i. The applicant submits a report from a certified arborist, registered landscape architect, or professional forester that documents the hazard and provides a replanting schedule for the replacement trees;
 - ii. Tree cutting shall be limited to pruning and crown thinning, unless otherwise justified by a qualified professional. Where pruning or crown thinning is not

sufficient to address the hazard, trees should be removed or converted to wildlife snags;

iii. All vegetation cut (tree stems, branches, etc.) may be left within the critical area or buffer unless removal is warranted due to the potential for disease, or pest transmittal to other healthy vegetation, or safety and health hazards;

iv. The landowner shall replace any trees that are removed with new trees at a ratio of two replacement trees for each tree removed (2:1) within one year in accordance with an approved restoration plan. Replacement trees may be planted at a different, nearby location if it can be determined that planting in the same location would create a new hazard or potentially damage the critical area. Replacement trees shall be species that are native and indigenous to the site and a minimum of one inch in diameter-at-breast height (dbh) for deciduous trees and a minimum of six feet in height for evergreen trees as measured from the top of the root ball;

v. Hazard trees determined to pose an imminent threat or danger to public health or safety, to public or private property, or of serious environmental degradation, may be removed or pruned by the landowner prior to receiving written approval from the city; provided, that within 14 days following such action, the landowner shall submit a restoration plan that demonstrates compliance with the provisions of this chapter;

c. Measures to control a fire or halt the spread of disease or damaging insects consistent with the state Forest Practices Act, Chapter 76.09 RCW; provided, that the removed vegetation shall be replaced in-kind or with similar native species within one year in accordance with an approved restoration plan; and

d. Unless otherwise provided, or as a necessary part of an approved alteration, removal of any vegetation or woody debris from a habitat conservation area or wetland shall be prohibited.

7. Vegetation Enhancement. Voluntary enhancement of a critical area or buffer by planting vegetation that will improve the health and function of the critical area;

8. Chemical Applications. The application of herbicides, pesticides, organic or mineral-derived fertilizers, or other hazardous substances, if necessary, as approved by the city; provided, that their use shall be restricted in accordance with Washington State Department of Fish and Wildlife Management Recommendations and the regulations of the Washington State Department of Agriculture, Washington State Department of Ecology, and the U.S. Environmental Protection Agency;

9. Minor Site Investigative Work. Work necessary for land use submittals, such as surveys, soil logs, percolation tests, archaeological shovel tests, and other related activities,

where such activities do not require construction of new roads or significant amounts of excavation. In every case, impacts to the critical area shall be minimized and disturbed areas shall be immediately restored; and

10. Navigational Aids and Boundary Markers. Construction or modification of navigational aids and boundary markers. [Ord. 4803 § 5, 2018.]

Section 20. Section 15.610.050 of the Ellensburg City Code, as last amended by section 5 of Ordinance 4803, is hereby amended to read as follows:

15.610.050 Exception- Reasonable Use.

A. If the application of this chapter would deny all reasonable economic use of the subject property, the city shall determine if compensation is an appropriate action, or the property owner may apply for an exception pursuant to this section. However, this section is not applicable to development in the floodplain. See ECC 15.610.215 for requirements and criteria for variances within frequently flooded areas.

B. Exception Request and Review Process (a Type II Permit Review Process). An application for a reasonable use exception shall be made to the city and shall include a critical area review form; and if necessary a critical area report (ECC 15.610.090 and 15.610.100), including mitigation plan (ECC 15.610.130); and any other related project documents, such as permit applications to other agencies, special studies, and environmental documents prepared pursuant to the State Environmental Policy Act (Chapter 43.21C RCW and WAC 197-11-158). The director shall process the exception request as a Type II permit review process as set forth in Chapters 15.210 and 15.220 ECC. As part of that review process the director shall prepare a decision based on review of the submitted information, a site inspection, and the proposal's ability to comply with reasonable use exception criteria in subsection (C) of this section.

C. Reasonable Use Review Criteria. Criteria for review and approval of reasonable use exceptions follow; one or more may apply:

1. The application of this chapter would deny all reasonable economic use of the property;
2. No other reasonable economic use of the property has less impact on the critical area;
3. The proposed impact to the critical area is the minimum necessary to allow for reasonable economic use of the property;
4. The inability of the applicant to derive reasonable economic use of the property is not the result of actions by the applicant after the effective date of the ordinance codified in this chapter, or its predecessor;

5. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;
6. The proposal will result in no net loss of critical area functions and values consistent with the best available science; and
7. The proposal is consistent with other applicable regulations and standards.

D. Burden of Proof. The burden of proof shall be on the applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made. [Ord. 4803 § 5, 2018; Ord. 4656 § 1 (Exh. O2), 2013. Formerly 15.610.040.]

Section 21. Section 15.610.210 of the Ellensburg City Code, as last amended by section 5 of Ordinance 4803, is hereby amended to read as follows:

15.610.210 Variances

A. The variance criteria set forth in this section are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this chapter would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.

Variances from the standards of this chapter may be authorized by the city in accordance with the procedures set forth in ECC 15.610.050 and Chapters 15.210 and 15.220 ECC. The hearing examiner shall review the request and make a written finding that the request meets or fails to meet the variance criteria. See ECC 15.610.215 for variance requirements specific to development within frequently flooded areas.

B. Variance Criteria. A variance may be granted only if the applicant demonstrates that the requested action conforms to all of the criteria set forth as follows:

1. Special conditions and circumstances exist that are peculiar to the land, the lot, or something inherent in the land, and that are not applicable to other lands in the same district;
2. The special conditions and circumstances do not result from the actions of the applicant;

3. A literal interpretation of the provisions of this chapter would deprive the applicant of all reasonable economic uses and privileges permitted to other properties in the vicinity and zone of the subject property under the terms of this chapter, and the variance requested is the minimum necessary to provide the applicant with such rights;
4. Granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings under similar circumstances;
5. The granting of the variance is consistent with the general purpose and intent of this chapter, and will not further degrade the functions or values of the associated critical areas or otherwise be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity of the subject property;
6. The decision to grant the variance includes the best available science and gives special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish habitat; and
7. The granting of the variance is consistent with the general purpose and intent of the city's comprehensive plan and adopted development regulations.

C. **Conditions May Be Required.** In granting any variance, the city may prescribe such conditions and safeguards as are necessary to secure adequate protection of critical areas from adverse impacts, and to ensure conformity with this chapter.

D. **Time Limit.** The city shall prescribe a time limit within which the action for which the variance is required shall be begun, completed, or both. Failure to begin or complete such action within the established time limit shall void the variance.

E. **Burden of Proof.** The burden of proof shall be on the applicant to bring forth evidence in support of the application and upon which any decision has to be made on the application. [Ord. 4803 § 5, 2018; Ord. 4656 § 1 (Exh. O2), 2013. Formerly 15.610.220.]

Section 22. Chapter 15.610 of the Ellensburg City Code, is hereby amended to include a new Chapter 15.610.215 to read as follows:

15.610.215 Variances within frequently flooded areas.

A. It is the duty of the city to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below the Base Flood Elevation are so serious that variances from the flood elevation or from other requirements in this chapter are quite rare. The long-term goal of preventing and reducing flood loss and damage can only be met if

variances are strictly limited. Therefore, the variance guidelines provided in this chapter are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.

Variances from the standards of this chapter may be authorized by the city in accordance with the procedures set forth in Chapters 15.210 and 15.220 ECC. The hearing examiner shall review the request and make a written finding that the request meets or fails to meet the variance criteria.

B. Requirements for Variances

1. Variances shall only be issued:

- a. Upon a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;
- b. For the repair, rehabilitation, or restoration of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure;
- c. Upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;
- d. Upon a showing of good and sufficient cause;
- e. Upon a determination that failure to grant the variance would result in exceptional hardship to the applicant;
- f. Upon a showing that the use cannot perform its intended purpose unless it is located or carried out in close proximity to water. This includes only facilities defined in ECC 15.130.060 in the definition of "Functionally Dependent Use."

2. Variances shall not be issued within any floodway if any increase in flood levels during the base flood discharge would result.

3. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the Base Flood Elevation (BFE), provided the procedures set forth in ECC 15.630 have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

C. Variance Criteria

In considering variance applications, the city shall consider all technical evaluations, all relevant factors, all standards specified in this chapter, and:

1. The danger that materials may be swept onto other lands to the injury of others;
2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity to the facility of a waterfront location, where applicable;
6. The availability of alternative locations for the proposed use, which are not subject to flooding or erosion damage;
7. The compatibility of the proposed use with existing and anticipated development;
8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9. The safety of access to the property in time of flood for ordinary and emergency vehicles;
10. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and
11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities, such as sewer, gas, electrical, water system, and streets and bridges.

D. Additional Requirements for the Issuance of a Variance

1. Any applicant to whom a variance is granted shall be given written notice over the signature of the director that:
 - a. The issuance of a variance to construct a structure below the BFE will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and
 - b. Such construction below the BFE increases risks to life and property.
2. The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance.

3. The Floodplain Administrator shall condition the variance as needed to ensure that the requirements and criteria of this chapter are met.
4. Variances as interpreted in the NFIP are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from flood elevations should be quite rare.

E. Time Limit. The city shall prescribe a time limit within which the action for which the variance is required shall be commenced, completed, or both. Failure to begin and/or complete such action within the established time limit shall terminate the variance.

F. Burden of Proof. The burden of proof shall be on the applicant to bring forth evidence in support of the variance application and upon which any decision has to be made on the application. [Ord. 4803 § 5, 2018; Ord. 4656 § 1 (Exh. O2), 2013. Formerly 15.610.220.]

Section 23. Chapter 15.630 of the Ellensburg City Code, is hereby amended to include a new section 15.630.015, specific to the designation and role of the Floodplain Administrator, to read as follows:

CHAPTER 15.630

FREQUENTLY FLOODED AREAS

Sections:

- 15.630.010 Designation of frequently flooded areas.**
- 15.630.015 Designation of the Floodplain Administrator**
- 15.630.020 Critical area report requirements – Frequently flooded areas.**
- 15.630.030 Warning and disclaimer of liability.**
- 15.630.040 Performance standards – General requirements.**
- 15.630.050 Performance standards – Specific uses.**
- 15.630.060 Performance standards – Areas of shallow flooding.**
- 15.630.070 Prohibited uses and activities.**

Section 24. Section 15.630.010 of the Ellensburg City Code, as last amended by section 1 of Ordinance 4656, is hereby amended to read as follows:

15.630.010 Designation of frequently flooded areas.

A. Frequently Flooded Areas. Frequently flooded areas shall include:

1. Areas Identified on the Flood Insurance Map(s). Those areas of special flood hazard within the incorporated city limits of Ellensburg identified as being within the 100-year floodplain by the Federal Insurance ~~Administration~~ Administrator in a scientific and engineering report entitled “The Flood Insurance Study (FIS) for Kittitas County, Washington and Incorporated Areas”, dated ~~November 5, 1980~~ September 24, 2021, and any revisions thereto, with accompanying ~~flood insurance rate maps~~ (FIRMs), and any revisions thereto, and floodway maps (FIRM Community Panel Number 530234 0001C; Community Panel Number 530234 0002C; Floodway Community Panel Number 530095 0552C; all maps effective May 5, 1981). The above study and maps are hereby adopted by reference and declared to be a part of this chapter. The ~~flood insurance study FIS and maps FIRMs~~ are on file with the Ellensburg community development department, located at 501 N. Anderson Street in Ellensburg, Washington. The best available information for flood hazard area identification as outlined in Section 15.630.010(D) shall be the basis for regulation until a new FIRM is issued that incorporates data utilized under Section 15.630.010(D).

B. Use of Additional Information. The director may use additional flood information that is more restrictive or detailed than that provided in the flood insurance study conducted by the Federal Emergency Management Agency (FEMA) to designate frequently flooded areas, including data on channel migration, historical data, high water marks, photographs of past flooding, location of restrictive floodways, maps showing future build-out conditions, maps that show riparian habitat areas, or similar information.

C. Compliance. All development within special flood hazard areas is subject to terms of this chapter and other applicable regulations.

~~C~~D. Flood Elevation Data. When base flood elevation data is not available (A and V zones designated under subsection (A) of this section), the director shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, county or other source, in order to administer this section.

~~D~~E. Designation Made by Director. The flood insurance maps are to be used as a guide for the city, project applicants and/or property owners and the public, and should be considered a minimum designation of frequently flooded areas. Because flood insurance maps may be continuously updated as areas are reexamined or new areas are identified, the best available information for flood hazard area identification shall be the basis for regulation.

~~E~~F. Supplemental Documentation. Any areas identified by the director in this section shall be supported by professional scientific information.

~~F~~G. Maintenance of Records. The director shall maintain for public inspection all records of floodplain hazards, certificates of floodproofing, and flood elevation data.

~~G~~H. Mapping. The location and extent of frequently flooded areas are shown on the critical area maps adopted with the ordinance codified in this chapter by the city. The following maps

and data are hereby adopted and are available from the city and/or the listed governmental agency: Federal Emergency Management Administration Flood Insurance Rate Maps; Community Panels: 530234 0001C; 530234 0002C; 530095 0439B; 530095 0552C; 530095 0443B; 530095 0556B; 530095 0554C. [Ord. 4656 § 1 (Exh. O2), 2013.]

I. Penalties for Noncompliance. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violations of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions), shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than One Thousand Dollars (\$1,000.00) or imprisoned for not more than ninety (90) days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

J. Abrogation and Greater Restrictions. This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another section of the city code, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

K. Interpretation. In the interpretation and application of this chapter, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and,
3. Deemed neither to limit nor repeal any other powers granted under state statutes.

Section 25. Chapter 15.630 of Ellensburg City Code, is hereby amended to include a new section 15.630.015 to read as follows:

15.630.015 Designation of the Floodplain Administrator; permit review.

A. The director is hereby appointed as the Floodplain Administrator to administer, implement, and enforce this chapter by granting or denying development permits in accordance with its provisions. The Floodplain Administrator may delegate authority to implement these provisions. The duties of the Floodplain Administrator shall include, but not be limited to:

B. Permit Review. Review all development permits to determine that:

1. The permit requirements of this chapter have been satisfied;

2. All other required state and federal permits have been obtained;
3. The site is reasonably safe from flooding;
4. The proposed development is not located in the floodway. If located in the floodway, assure the encroachment provisions of Section 15.630.070(B)(1) are met;
5. Notify FEMA when annexations occur in the Special Flood Hazard Area; and
6. Notify FEMA of changes to the base flood elevation within six months of when technical information of such changes becomes available. Such notification shall include technical or scientific information.

C. Information to be Obtained and Maintained

1. Where base flood elevation data is provided through the FIS, FIRM, or required as in Section 15.630.040(D), obtain and maintain a record of the actual (as-built) elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
2. For all new or substantially improved floodproofed nonresidential structures where base flood elevation data is provided through the FIS, FIRM, or as required in Section 15.630.040(D):
 - a. Obtain and maintain a record of the elevation (in relation to mean sea level) to which the structure was floodproofed.
 - b. Maintain the floodproofing certifications required in Section 15.630.020(C)(2).
3. Certification required by Section 15.630.070(B)(1)(floodway encroachments).
4. Records of all variance actions, including justification for their issuance.
5. Improvement and damage calculations.
6. Maintain for public inspection all records pertaining to the provisions of this chapter.

D. Whenever a watercourse is to be altered or relocated:

1. Notify adjacent communities and the Department of Ecology prior to such alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administrator through appropriate notification means; and

2. Assure that the flood carrying capacity of the altered or relocated portion of said watercourse is maintained.

E. Interpretation of FIRM Boundaries. Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (e.g. where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation. Such appeals shall be granted consistent with the standards of Section 60.6 of the Rules and Regulations of the NFIP (44 CFR 59-76).

Section 26. Section 15.630.020 of the Ellensburg City Code, as last amended by section 1 of Ordinance 4656, is hereby amended to read as follows:

15.630.020 Critical area report requirements – Frequently flooded areas.

A. Prepared by a Qualified Professional. A frequently flooded areas report shall be prepared for development within floodplains. Such report shall be required to be prepared by a qualified professional who is a hydrologist or engineer, and who is licensed in the state of Washington with experience in preparing flood hazard assessments.

B. Areas Addressed in Critical Area Report. The following areas shall be addressed in a critical area report for frequently flooded areas:

1. The location of the proposed activity;
2. All areas of a special flood hazard, as indicated on the flood insurance map(s) within 200 feet of the project area; and
3. All other flood areas indicated on the flood insurance map(s) within 200 feet of the project area.

C. Flood Hazard Assessment Required. A critical area report for a proposed activity within a frequently flooded area shall contain a flood hazard assessment including the following site- and proposal-related information at a minimum:

1. Site and Construction Plans. A copy of the site and construction plans for the development proposal showing:
 - a. Floodplain (100-year flood elevation); 10-year and 50-year flood elevations and floodway, if required by the director and, in addition, other critical areas, buffers, and shoreline areas;

- b. Proposed development, including the location of existing and proposed structures, fill, storage of materials, and drainage facilities, with dimensions indicating distances to the floodplain;
 - c. Extent and location of proposed clearing and grading activity; and
 - d. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
 - e. Elevation in relation to mean sea, ~~and the level to which any structure has been floodproofed~~;
2. Floodproofing Certificate. When floodproofing is proposed, a certification by a registered professional engineer or architect that the floodproofing methods meet the requirements of ECC 15.630.040(G), Floodproofing;
3. Watercourse Alteration. When watercourse alteration is proposed, the critical area report shall include:
- a. Extent of Watercourse Alteration. A description of and plan showing the extent to which a watercourse will be altered or relocated as a result of the proposal; and
 - b. Maintenance Program Required for Watercourse Alterations. A maintenance program that provides maintenance practices for the altered or relocated portion of the watercourse to ensure that the flood-carrying capacity is not diminished;
4. Information Regarding Other Critical Areas. Potential impacts to wetlands, fish and wildlife habitat and other critical areas shall be addressed in accordance with the applicable sections of this chapter. [Ord. 4656 § 1 (Exh. O2), 2013.]

Section 27. Section 15.630.030 of the Ellensburg City Code, as last amended by section 1 of Ordinance 4656, is hereby amended to read as follows:

15.630.030 Warning and disclaimer of liability

The degree of flood protection required by this chapter poses and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside frequently flooded areas or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city, any officer or employee thereof, or the Federal Insurance ~~Administration~~ Administrator, for any flood damage that results from reliance on this chapter or any administrative decision lawfully made hereunder. [Ord. 4656 § 1 (Exh. O2), 2013.]

Section 28. Section 15.630.040 of the Ellensburg City Code, as last amended by section 7 of Ordinance 4803, is hereby amended to read as follows:

15.630.040 Performance standards – General requirements

A. Permit(s) Required. The permit required by this section shall be incorporated into the basic underlying permits necessary for the project or activity to proceed within a frequently flooded area, e.g., building permit, short plat, public works permits, State Environmental Policy Act and city critical areas reviews, and similar permits and development reviews. Completion of and compliance with the necessary review processes and permits listed above shall satisfy the requirement of issuance of a development permit for any activity that would alter land or commence a new use within a frequently flooded area. The permit shall be for all structures including manufactured homes, as set forth in the “Definitions,” and for all development including fill and other activities, also set forth in Chapter 15.130 ECC, the “Definitions.”

B. All necessary permits shall be obtained. The director shall verify that all necessary permits have been obtained from those governmental agencies from which prior approval is required by federal, state, or local law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendment of 1972 and the Endangered Species Act of 1973.

C. Development proposals must not reduce the effective base flood storage volume of a floodplain. Grading or other activity that would reduce the effective storage volume must be mitigated by creating compensatory storage on the site. The compensatory storage must provide equivalent volume at equivalent elevations to that being displaced, be hydraulically connected to the source of the flooding, be provided in the same construction season, and occur on-site or off-site, if legal arrangements can be made to assure that the effective compensatory storage will be preserved over time.

D. Areas without Base Flood Elevation Data. Where base flood elevation data is not available (A and V zones designated under ECC 15.630.010(A)), and there is insufficient data available from federal, state, county, or other sources, the director shall determine the base flood elevation using historical data, high water marks, photographs of past flooding, and other available information. If there is insufficient data available for the director to make a determination of the base flood elevation, and standards requiring a base flood elevation cannot be implemented, the director shall require measures that assure the proposed structures will be reasonably safe from flooding. At a minimum, the base flood elevation shall be set at least two feet above the highest adjacent grade. The director shall have the authority to set an average base flood elevation if there are sufficient grade deficiencies in elevation around the development area.

E. AE Zones with Base Flood Elevations but No Floodways. In areas with BFEs (when a regulatory floodway has not been designated), no new construction, substantial improvements, or other development (including fill) shall be permitted within zones AE on the city’s FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with

all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the city.

EF. Construction Materials and Methods.

1. **Methods That Minimize Flood Damage.** All new construction and substantial improvements shall be constructed using flood-resistant materials and utility equipment, and with methods and practices that minimize flood damage.
2. **Structures Shall Be Located Outside the Floodplain.** All structures shall be located on the buildable portion of the site out of the floodplain unless there is no buildable site area out of the floodplain. For sites with no buildable area out of the floodplain, structures shall be placed on the highest land on the site, oriented parallel to the anticipated flow of water rather than perpendicular, and sited as far from the watercourse and other critical areas as possible. If the director finds any evidence of active hyporheic exchange on a site, the development shall be located to minimize disruption of such exchange.
3. **Utilities Shall Be Protected.** All utilities shall be located on the buildable portion of the site out of the floodplain unless there is no buildable site area out of the floodplain. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within their components during conditions of flooding. Water wells shall be located on high ground that is not in the floodway per WAC 173-10-171. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters. Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

FG. Elevation Certificate Required Following Construction. Following construction or substantial improvement of a structure within the floodplain where the base flood elevation is provided, the applicant shall be required to submit to the director an as-built elevation certificate from a licensed professional land surveyor that records the elevation of the lowest floor (including basement), and whether or not the structure contains a basement. The director shall obtain said as-built elevation certificate and maintain for public inspection said certificates in its official records.

GH. Floodproofing.

1. When a nonresidential structure is to be floodproofed, it shall be designed and constructed using methods that meet the following requirements:
 - a. **Watertight Structure.** The structure shall be watertight with walls substantially impermeable to the passage of water below one foot above the base flood level;

- b. Hydrostatic Resistance. Structural components shall be capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
- c. Certified by a Registered Professional Engineer or Architect. The structure shall be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans.

2. Floodproofing Certificate Required Following Construction. Following construction of the structure, the applicant shall obtain and provide to the director a floodproofing certificate from a registered professional engineer or architect that records the actual (as-built) elevation to which the structure was floodproofed.

3. Floodproofing Nonresidential Buildings. Applicants floodproofing nonresidential buildings shall be notified by the director that flood insurance premiums will be based on rates that are one foot below the floodproofed level (for example, a building floodproofed to the base flood level will be rated as one foot below).

HI. Anchoring.

1. Anchoring Required. All new construction and substantial improvements within the floodplain, including those related to manufactured homes, shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads including the effects of buoyancy.

2. Manufactured Homes Shall Be Anchored. All manufactured homes to be placed or substantially improved within the floodplain shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot or more above the base flood elevation and must be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

IJ. Fill and Grading. Fill and grading within the floodplain shall only occur after the review and approval by the city of the clearing, grading, and fill proposal. Such proposal shall require a determination from a licensed professional engineer that the fill or grading will not block side channels, inhibit channel migration, increase flood hazards to others, or be placed within a channel migration zone, whether or not the city delineated such zones as of the time of the application. [Ord. 4803 § 7, 2018; Ord. 4656 § 1 (Exh. O2), 2013.]

K. Storage of Materials and Equipment.

1. The storage or processing of materials that could be injurious to human, animal, or plant life if released due to damage from flooding is prohibited in special flood hazard areas.

2. Storage of other material or equipment may be allowed if not subject to damage by floods and if firmly anchored to prevent flotation, or if readily removable from the area within the time available after flood warning.

Section 29. Section 15.630.050 of the Ellensburg City Code, as last amended by section 1 of Ordinance 4656, is hereby amended to read as follows

15.630.050 Performance standards – Specific uses.

In all frequently flooded areas where base flood elevation data has been provided as set forth in Section 15.630.010(A) or Section 15.630.040(D), the following standards are required:

A. Residential Construction.

1. ~~Must be no lower than one foot above the base flood elevation. In AE or other A zoned areas where the BFE has been determined or can be reasonably obtained, New~~ construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated ~~to~~ one foot or more above the base flood elevation for the area; ~~and~~ Mechanical equipment and utilities shall be waterproofed or elevated at least one foot above the BFE.

2. ~~Areas below the lowest floor must meet requirements for crawlspaces as set forth hereinabove in this chapter.~~

2. New construction and substantial improvement of any residential structure in an AO zone shall meet the requirements in Section 15.630.060.

3. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs must meet or exceed the following minimum criteria:

a. Have a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.

b. The bottom of all openings shall be no higher than one foot above grade.

c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of floodwater.

d. A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry and exit of floodwaters.

Alternatively, a registered engineer or architect may design and certify engineered openings.

B. Manufactured Homes Must Be Elevated. All manufactured homes to be placed or substantially improved shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot or more above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

C. Recreational Vehicles. Recreational vehicles are required to either:

1. Be on the site for fewer than 180 consecutive days;
2. Be fully licensed and ready for highway use, on its wheels or jacking system, be attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or
3. Must obtain a development permit and meet the requirements of this section, including elevation and anchoring, for manufactured homes.

D. Nonresidential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet the requirements of subsection 1 or 2, below.

~~1.—Must be no lower than one foot above the base flood elevation. Construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to one foot above the base flood elevation for the area or, together with attendant utility and sanitary facilities, shall be floodproofed in accordance with ECC 15.630.040(G), Floodproofing. Unavoidable impacts to flooded areas (from fill) need to be mitigated; and~~

~~2.—Areas below the lowest floor must meet the requirements for crawlspaces set forth hereinabove in this chapter.~~

1. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet all of the following requirements:

a. In AE and A1-30 zones or other A zoned areas where the BFE has been determined or can be reasonably obtained, new construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall have the lowest floor,

including basement, elevated one foot or more above the BFE, or elevated as required by ASCE 24, whichever is greater. Mechanical equipment and utilities shall be waterproofed or elevated least one foot above the BFE, or as required by ASCE 24, whichever is greater.

b. If located in an AO zone, the structure shall meet the requirements in Section 15.630.060.

c. If located in an Unnumbered A zone for which a BFE is not available and cannot be reasonably obtained, the structure shall be reasonably safe from flooding, but in all cases the lowest floor shall be at least two feet above the Highest Adjacent Grade.

d. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

(i) Have a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.

(ii) The bottom of all openings shall be no higher than one foot above grade.

(iii) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

(iv) A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry and exit of floodwaters.

Alternatively, a registered engineer or architect may design and certify engineered openings.

2. If the requirements of subsection 1 are not met, then new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet all of the following requirements:

a. Be dry flood proofed so that below one foot or more above the base flood level the structure is watertight with walls substantially impermeable to the passage of water or dry flood proofed to the elevation required by ASCE 24, whichever is greater;

b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in Section 15.630.015(B)(2);

d. Nonresidential structures that are elevated, not flood proofed, must meet the same standards for space below the lowest floor as described in Section 15.630.050(A)(2);

(Applicants who are flood proofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the flood proofed level (e.g. a building flood proofed to the base flood level will be rated as one foot below). Flood proofing the building an additional foot will reduce insurance premiums.)

E. Utilities.

1. Shall be designed to minimize infiltration of floodwaters. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems.
2. Sanitary sewage systems. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.

F. Subdivision Proposals.

1. All subdivisions and short subdivisions shall:
 - a. Minimize flood damage. Subdivisions and short subdivisions shall be designed to minimize or eliminate flood damage to proposed structures; and public utilities and facilities that are installed as part of such subdivisions, such as sewer, gas, electrical, and water systems, shall be located and constructed to minimize flood damage. Subdivisions should be designed using natural features of the landscape, and should not incorporate flood protection changes;
 - b. Have adequate drainage. Subdivisions and short subdivisions shall have adequate natural surface water drainage in accordance with city's public works development standards to reduce exposure to flood hazards; and
 - c. Show flood areas on plat maps. Subdivisions and short subdivisions shall show the 100-year floodplain, floodway, and channel migration zone where designated by the city on the preliminary and final plat and short plat maps.

2. Detailed base flood elevation data shall be generated for subdivisions of at least 50 lots or five acres. Where detailed base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or five acres, whichever is the lesser.

G. Alteration of Watercourses.

1. Shall require the submission of a critical area report by the applicant and be in accordance with the habitat regulations set forth in ECC 15.650.020 and 15.650.030 et seq. Watercourse alterations shall only be allowed when no negative impacts occur to critical areas.

2. Shall not result in blockage. Watercourse alteration projects shall not result in blockage of side channels.

3. Notification Required. The city shall notify adjacent communities, the Washington State Department of Ecology, the Washington Department of Fish and Wildlife, and the Federal Insurance Administration of the proposed watercourse alteration at least 30 days prior to permit issuance.

4. Maintenance of Alterations. The applicant shall maintain the altered or relocated portion of the watercourse to ensure that the flood carrying capacity is not diminished. The applicant shall furnish the city with a surety bond for maintenance, which bond shall remain in effect for a period of five years after completion of the alterations and be in accordance with a maintenance program approved by the director for the alteration project. The bond shall be in an amount to be determined by the director as sufficient to ensure that the flood carrying capacity of the watercourse is not diminished and complies with the terms of the maintenance program. The surety and the form of the bond shall be subject to the approval of the city attorney.

H. Crawlspace. Crawlspace are commonly used as a method of elevating buildings to or above the base flood elevation or providing area for easier access to utilities and other building facilities. The following requirements apply to all crawlspace that have enclosed areas or floors below the base flood elevation:

1. The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effect of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the required opening standards set forth below in this section. If crawlspace construction is proposed for areas in which the flood velocities exceed five feet per second, the design must be reviewed and approved by a registered architect or engineer.

2. The crawlspace is an enclosed area below the base flood elevation, and as such, must have openings that equalize hydrostatic pressures by allowing for the automatic entry and exit of floodwaters. Openings or vents must meet the following criteria:

- a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
- b. The bottom of all openings shall be no higher than one foot above grade; and
- c. Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters.

3. All portions of the building below the base flood elevation must be constructed with materials resistant to flood damage. The recommended construction practice is to elevate the bottom of the joists and all insulation above the base flood elevation.

4. Any building utility systems within the crawlspace must be elevated above the base flood elevation or designed so that floodwaters cannot enter or accumulate within the system components. Duct work must either be placed above the base flood elevation or sealed from floodwaters.

5. In addition to the above requirements, the following specific provisions also apply to below grade crawlspaces:

- a. The interior grade of a crawlspace below the base flood elevation must not be more than two feet below the lowest adjacent exterior grade;
- b. The height of the below grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall, must not exceed four feet at any point;
- c. There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. Possible options include natural drainage through porous, well-drained soils or drainage systems such as perforated pipes, tiles, gravel or other means; and
- d. Below grade crawlspace construction in accordance with the requirements listed above will not be considered basements. [Ord. 4656 § 1 (Exh. O2), 2013.]

I. Enclosed Area Below the Lowest Floor. If buildings or manufactured homes are constructed or substantially improved with fully enclosed areas below the lowest floor, the areas shall be used solely for parking of vehicles, building access, or storage.

J. Appurtenant Structures (Detached Garages & Small Storage Structures) in A Zones (A, AE, AH, AO):

1. Appurtenant structures used solely for parking of vehicles or limited storage may be constructed such that the floor is below the BFE, provided the structure is designed and constructed in accordance with the following requirements:

a. Use of the appurtenant structure must be limited to parking of vehicles or limited storage;

b. The portions of the appurtenant structure located below the BFE must be built using flood resistant materials;

c. The appurtenant structure must be adequately anchored to prevent flotation, collapse, and lateral movement;

d. Any machinery or equipment servicing the appurtenant structure must be elevated or flood proofed to or above the BFE;

e. The appurtenant structure must comply with floodway encroachment provisions in Section 15.630.070(B)(1);

f. The appurtenant structure must be designed to allow for the automatic entry and exit of floodwaters in accordance with Section 15.630.050(A)(3);

g. The structure shall have low damage potential;

h. If the structure is converted to another use, it must be brought into full compliance with the standards governing such use; and

i. The structure shall not be used for human habitation.

2. Detached garages, storage structures, and other appurtenant structures not meeting the above standards must be constructed in accordance with all applicable standards in Section 15.630.050(A).

3. Upon completion of the structure, certification that the requirements of this section have been satisfied shall be provided to the Floodplain Administrator for verification.

Section 30. Section 15.630.070 of the Ellensburg City Code, as last amended by section 1 of Ordinance 4656, is hereby amended to read as follows

15.630.070 Prohibited uses and activities.

A. Critical Facilities. Construction of new critical facilities shall be permissible within frequently flooded areas if no feasible alternative site is available. Critical facilities constructed within frequently flooded areas shall have the lowest floor elevated three feet or more above the level of the base flood elevation (100-year flood) or to the height of the 500-year flood, whichever is higher. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

If not otherwise required by the city, locating of critical facilities within a frequently flooded area shall be subject to SEPA review and action.

B. Construction in Floodways. Located within areas of special flood hazard established in Section 15.630.010(A) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that can carry debris, and increase erosion potential, the following provisions apply:

1. New construction requires certification by a licensed professional engineer. Encroachments, including new construction, substantial improvements, fill, and other development, are prohibited within designated floodways unless certified by a registered professional engineer. Such certification shall demonstrate through hydrologic and hydraulic analyses, performed in accordance with standard engineering practice, that the proposed encroachment will not result in any increase in flood levels during the occurrence of the base flood discharge. Small projects that are solely to protect or create fish habitat and designed by a qualified professional may be allowed without certification if the director determines that the project will not obstruct flood flows. Fish protection projects shall be reviewed on behalf of the city by a qualified professional in the field of hydraulics.

2. Residential Construction and Reconstruction Prohibited. Construction and reconstruction of residential structures is prohibited within designated floodways, except for:

- a. Repairs, reconstruction, or improvements to a structure that do not increase the ground floor area; and

- b. Repairs, reconstruction or improvements to a structure, for which the cost does not exceed 50 percent of the market value of the structure either:

- i. Before the repair or reconstruction is started; or

- ii. If the structure has been damaged, and is being restored, before the damage occurred.

Improvement to a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official

and that are the minimum necessary to assure safe living conditions or to structures identified as historic places may be excluded from the calculation of the 50 percent.

3. Substantially Damaged Residences in Floodway

a. For all substantially damaged residential structures, other than farmhouses, located in a designated floodway, the Floodplain Administrator may make a written request that the Department of Ecology assess the risk of harm to life and property posed by the specific conditions of the floodway. Based on analysis of depth, velocity, flood-related erosion, channel migration, debris load potential, and flood warning capability, the Department of Ecology may exercise best professional judgment in recommending to the local permitting authority repair, replacement, or relocation of a substantially damaged structure consistent with WAC 173-158-076. The property owner shall be responsible for submitting to the local government and the Department of Ecology any information necessary to complete the assessment. Without a favorable recommendation from the department for the repair or replacement of a substantially damaged residential structure located in the regulatory floodway, no repair or replacement is allowed per WAC 173-158-070(1); and

b. Before the repair, replacement, or reconstruction is started, all requirements of the NFIP, the state requirements adopted pursuant to 86.16 RCW, and all applicable local regulations must be satisfied. In addition, the following conditions must be met:

- i) There is no potential safe building location for the replacement residential structure on the same property outside the regulatory floodway.
- ii) A replacement residential structure is a residential structure built as a substitute for a legally existing residential structure of equivalent use and size.
- iii) Repairs, reconstruction, or replacement of a residential structure shall not increase the total square footage of floodway encroachment.
- iv) The elevation of the lowest floor of the substantially damaged or replacement residential structure is a minimum of one foot higher than the BFE.
- v) New and replacement water supply systems are designed to eliminate or minimize infiltration of floodwater into the system.
- vi) New and replacement sanitary sewerage systems are designed and located to eliminate or minimize infiltration of floodwater into the system and discharge from the system into the floodwaters.
- vii) All other utilities and connections to public utilities are designed, constructed, and located to eliminate or minimize flood damage.

34. If the provisions of subsection (B)(1) of this section are satisfied, or construction is allowed pursuant to subsection (B)(2) or subsection (B)(3) of this section, all new construction and substantial improvements shall comply with all applicable requirements of ECC 15.630.040 and 15.630.050. [Ord. 4656 § 1 (Exh. O2), 2013.]

C. Livestock Sanctuary Areas. Elevated areas for the for the purpose of creating a flood sanctuary for livestock are allowed on farm units where livestock is allowed. Livestock flood sanctuaries shall be sized appropriately for the expected number of livestock and be elevated sufficiently to protect livestock. Proposals for livestock flood sanctuaries shall meet all procedural and substantive requirements of this chapter.

Section 31. 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 32. 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 33. Emergency and Effective Date. For the reasons set forth above, the City Council hereby finds and declares that an emergency exists necessitating that this Ordinance take effect on September 24, 2021 for the protection of the public health, public safety, public property, or public peace. Failure of the City implement the changes included in this ordinance by September 24, 2021 could also jeopardize the insurance rates paid by Ellensburg residents under the Federal National Flood Insurance Program.

The foregoing ordinance was passed and adopted at a regular meeting of the City Council on the 20th day of September, 2021.

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. 4878 is a true and correct copy of said Ordinance of like number as the same was passed by said Council, and that Ordinance No. 4878 was published as required by law.

BETH LEADER



CITY COUNCIL AGENDA REPORT

City Council Meeting Date: September 20, 2021

Item Title/Agenda Subject: Resolution to Approve Final Plat Application for the French Subdivision (P21-073)

Submitted by: Laura Wilson Community Development

Recommended Action or Motion:

1. Approve the French Subdivision as Final and authorize the Mayor to sign the final plat of French Subdivision.
2. Approve the Resolution in support of Council's approval of the final plat of the French Subdivision and authorize the Mayor to sign the mylars for the final plat.

Background/Summary: The City has received a final plat application (Exhibit 3) for the French Subdivision from Ginger Weiser of Encompass Engineering & Surveying, agent for CBP WA LLC., owner. The French Subdivision is located at 1201 Sanders Road in the City of Ellensburg (Exhibit 1). As proposed, the plat will create 12 single-family lots, ranging in size from 9,655 to 13,112 square feet (Exhibit 2). The largest lot, Lot 4, has an existing single-family residence. The property is zoned Residential Suburban-Density (R-S) and is identified as such on the face of the plat.

Previous Council Action: A closed record public hearing on the preliminary plat for the French Subdivision was held before the City Council on April 20, 2020. Based on the evidence and testimony presented at said public hearing, Council conditionally approved (as evidenced in the approved minutes of April 20, 2020) the preliminary plat, which was confirmed with the adoption of Council Resolution No. 2020-10 on April 20, 2020. Council approved the French Subdivision Preliminary Plat with the following conditions:

- a. Fulfillment of all city code required final plat design and construction requirements for on-site and off-site improvements prior to final plat approval.
- b. The applicant will meet the requirements of the Public Works Department discussed in its memorandums dated October 15, 2019, and January 7, 2020.
- c. The applicant will meet the requirements of the Energy

Services - Light Division discussed in its memorandum dated October 16, 2019.

- d. The applicant will meet the requirements of the Energy Services - Gas Division discussed in its memorandum dated October 16, 2019.
- e. The applicant will meet the requirements of the Fire Department for hydrants and access as per Fire marshal's email dated January 9, 2020.
- f. The applicant will meet the requirements off the SEPA Official's issuance of Mitigated Determination of Non-Significance (MDNS) dated February 7, 2020.
- g. If applicable, the applicant may be required to obtain an NPDES Construction Storm Water General Permit from the Washington State Department of Ecology, as well as all other permits (site grading permit, SWPPP, etc.) that may be required as a result of plat development. Subdivision and land development activities shall follow the requirements of the Ellensburg City Code, including the Design Standards.
- h. All requirements of utility providers, City departments, and affected districts must be satisfied, as outlined in adopted City Codes and other regulatory documents.
- i. No certificates of occupancy shall be issued prior to completion of required public improvements in a manner acceptable to the City in its sole discretion. Issuance of any certificate of occupancy prior to full completion of any of the required improvements shall not be deemed to be a waiver of this section, and such issuance shall not stop the City or impair its ability to demand full completion of required improvements prior to issuance of any further certificates of occupancy.

Analysis:

With the preliminary plat approval granted by City Council on April 20, 2020, the expiration date for finalizing the plat is April 20, 2025. The applicant submitted a final plat application on June 7, 2021 (Exhibit 3). At the time of final plat submittal, all required improvements had not been constructed or bonded for per ECC 15.260.090(A) (below). The application was placed on hold until the final plat submittal requirements, outlined in ECC 15.260.100(B), were completed. The requirements have since been met, and the final subdivision application is now subject for review by City Council.

ECC 15.260.090 Installation of Improvements states the following:

- A. An approved preliminary subdivision shall not be filed for record as a final subdivision until the applicant has constructed or bonded for all improvements required by the city in the final decision on the preliminary subdivision application.
- B. Timing and Inspection Fee. The applicant shall not begin installation of improvements in an approved preliminary subdivision application until the director and the city engineer have approved the improvement plans, the director and the applicant have agreed in writing on a time schedule for installation of the improvements, and the applicant has paid all inspection fees.
- C. Acceptance – Maintenance Bond. The director shall not accept the improvements for the City of Ellensburg until the improvements have been inspected and found satisfactory, and the applicant has posted a bond or surety to guarantee against defects of workmanship and materials for two years from the date of acceptance.

The requirements pertaining to final plat approval are found within ECC Sections 15.260.060 through 15.260.100.

Specifically, the decision criteria are found in 15.260.100(D), which states the following:

D. Decision Criteria. A final subdivision application shall be approved if the subdivision proposed for approval:

1. Conforms to all of the preliminary subdivision terms and conditions of approval; and

2. Meets all other applicable final subdivision requirements as set forth in Chapter 58.17 RCW, other applicable state laws, this chapter, and any other applicable city ordinances which were in effect at the time of preliminary subdivision approval.

3. Approval and Inscription. The city council shall make written findings of fact relating to its decision on the final subdivision application. If the decision is to approve the final subdivision application, a specific written finding of fact shall

also be made that:

a. Appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, natural gas mains and services, parks and recreation, playgrounds, schools and schoolgrounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and

b. The public use and interest will be served by the approval of such subdivision and dedication.

4. Upon approval of the final subdivision, the city council shall authorize the mayor to suitably inscribe and execute council's written approval on the face of the final subdivision plat drawing.

E. Effect of Final Subdivision Approval. Any lots in a final subdivision filed for record shall be a valid land use, notwithstanding any change in zoning laws, for a period of five years from the date of filing. A subdivision shall be governed by the terms of approval of the final subdivision, and the statutes, ordinances and regulations in effect at the time of approval under RCW 58.17.150(1) and (3) for a period of five years after final plat approval unless the city council finds that a change in conditions creates a serious threat to the public health or safety in the subdivision.

F. Time Frame for Approval. The final subdivision application, or portion thereof, shall be approved, disapproved, or returned to the applicant by the city within 30 calendar days of the determination that the application is complete.

G. Recording. The final subdivision plat, in the form specified in this chapter, shall be recorded by the director with the Kittitas County auditor within 10 working days after the appeal period has expired and shall be recorded in the presence of the applicant and with the cost of recording paid by the applicant. [Ord. 4807 § 33, 2018; Ord. 4804 § 2, 2018; Ord. 4656 § 1 (Exh. O2), 2013.]

On April 20, 2020, during the preliminary plat review process, the proposed subdivision was determined to be in conformance with the Land Development Code requirements pertaining to R-S zoning. During review of the final subdivision application, comments were received from three departments which have been included in this report as Exhibits 4, 5 and 6. Staff has since found the final subdivision application for the French Subdivision to be in conformance with the conditions of approval for the preliminary plat, as well as with all adopted City Codes and other requirements. As required, the civil plans for this plat have been approved by the Public Works Department and the remaining public improvements have been covered by a bond posted by the applicant.

The final plat of the French Subdivision is ready for City Council action. Staff has provided a resolution with this agenda report which incorporates the findings, conclusions and conditions of the original preliminary plat approval.

Financial Impact: None at this time.

Attachments:

[Exhibit 1 Vicinity Location](#)

[Exhibit 2 Final Plat French Subdivision, Pages 1-2](#)

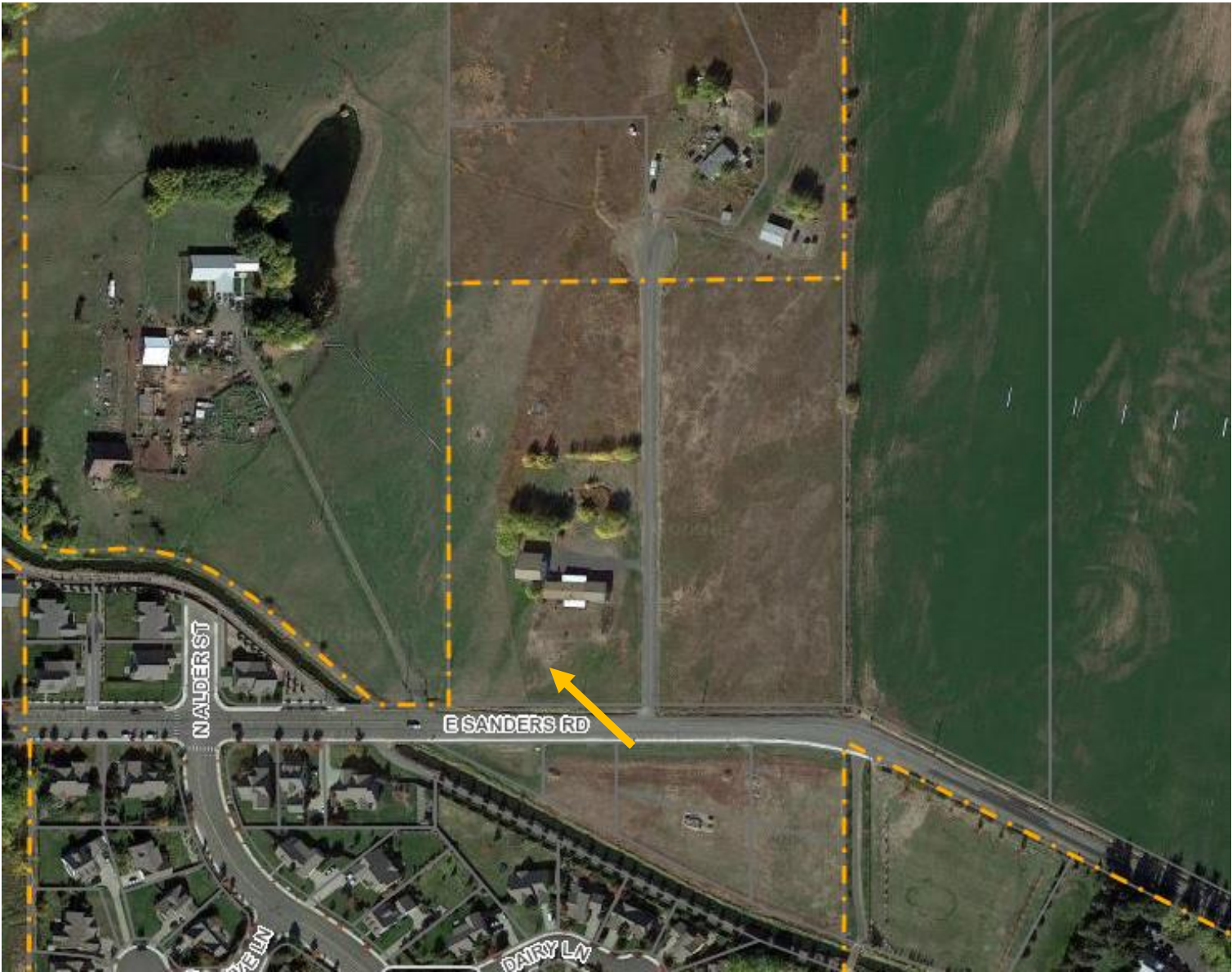
[Exhibit 3 Application Cover Page](#)

[Exhibit 4 July 19, 2021 memo from City of Ellensburg Energy Services](#)

[Exhibit 5 July 19, 2021 comments from City of Ellensburg Public Works](#)

[Exhibit 6 July 13, 2021 comments from KVFR Fire Marshal](#)

[P21-073 French Plat Final Plat Resolution - Findings of Fact](#)



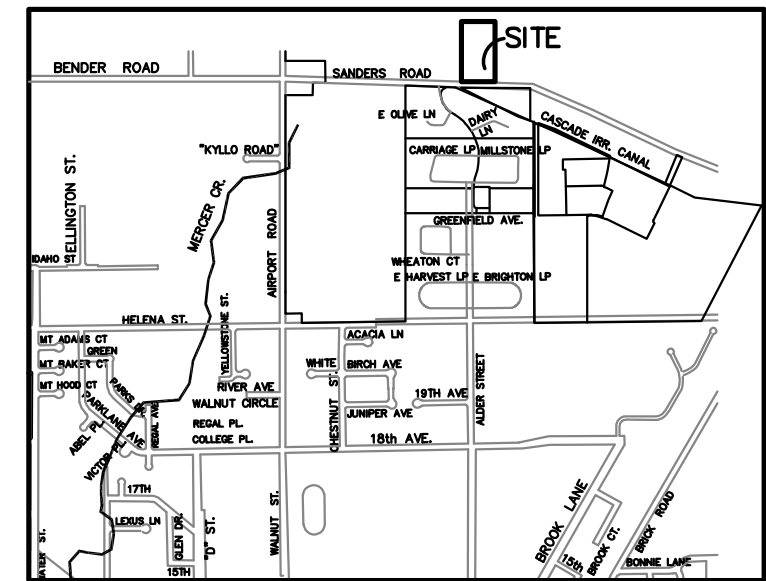
FRENCH PRELIMINARY PLAT VICINITY LOCATION MAP

RECEIVED

By Laura J Wilson at 4:14 pm, 8/13/21

Exhibit 2

FRENCH PLAT - PHASE 2
A PORTION OF THE WEST 1/2 OF SECTION 25,
TOWNSHIP 18 NORTH, RANGE 18 EAST, W.M.,
KITITAS COUNTY, WASHINGTON



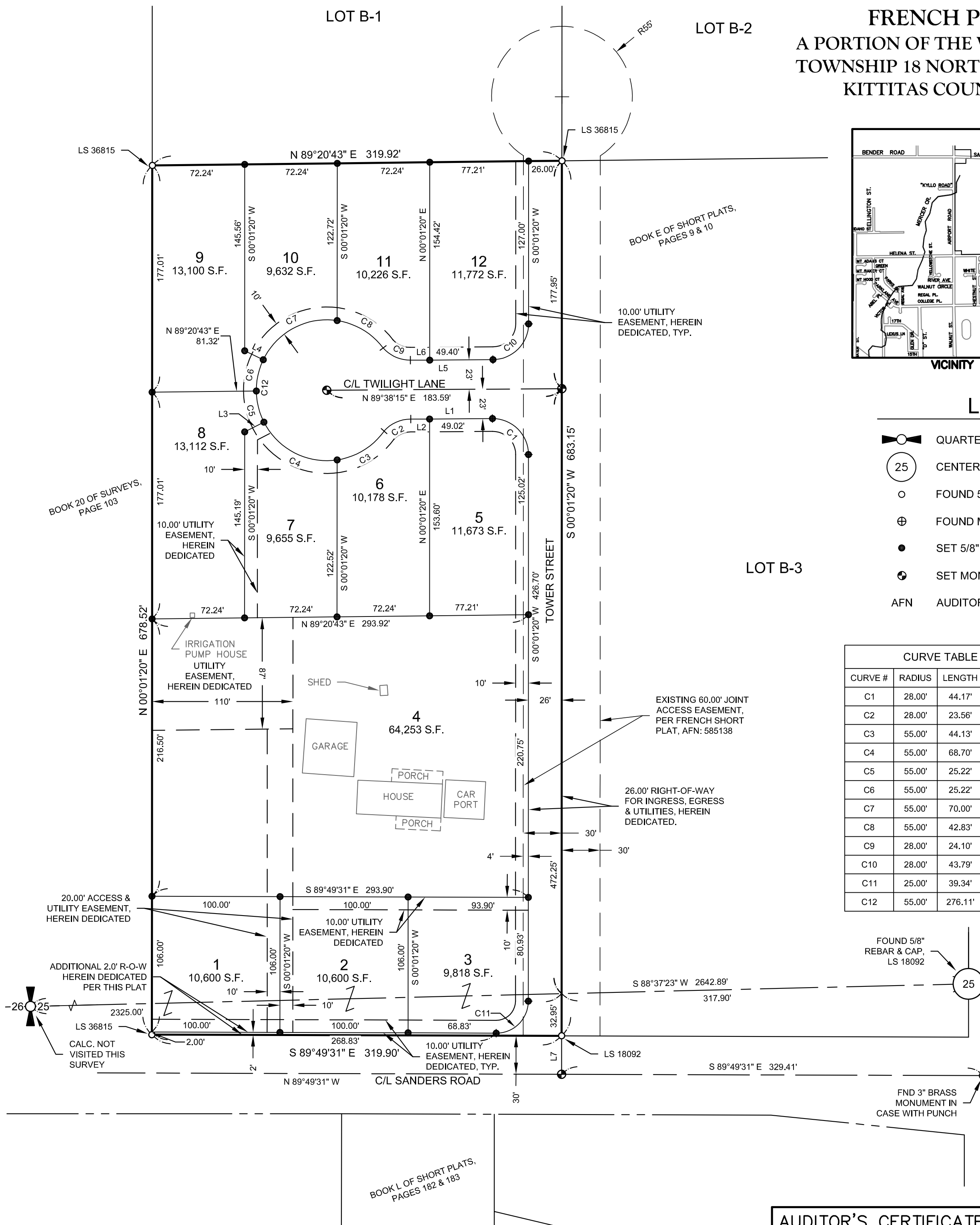
VICINITY MAP - N.T.S.

LEGEND

- QUARTER CORNER, AS NOTED
- CENTER OF SECTION, AS NOTED
- FOUND 5/8" IRON ROD & CAP, AS NOTED
- FOUND MONUMENT, AS NOTED
- SET 5/8" IRON ROD & CAP, LS 45503
- SET MONUMENT
- AFN AUDITOR'S FILE NUMBER

CURVE TABLE			
CURVE #	RADIUS	LENGTH	DELTA
C1	28.00'	44.17'	90°23'05"
C2	28.00'	23.56'	48°13'14"
C3	55.00'	44.13'	45°58'35"
C4	55.00'	68.70'	71°34'04"
C5	55.00'	25.22'	26°16'23"
C6	55.00'	25.22'	26°16'23"
C7	55.00'	70.00'	72°55'18"
C8	55.00'	42.83'	44°37'21"
C9	28.00'	24.10'	49°18'58"
C10	28.00'	43.79'	89°36'55"
C11	25.00'	39.34'	90°09'09"
C12	55.00'	276.11'	287°38'05"

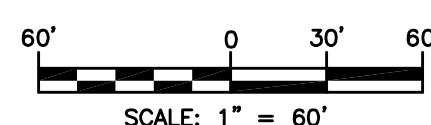
LINE TABLE		
LINE #	DIRECTION	DISTANCE
L1	N 89°38'15" E	63.76'
L2	N 89°38'15" E	14.74'
L3	S 63°04'19" W	16.89'
L4	N 64°22'54" W	16.06'
L5	N 89°38'15" E	64.45'
L6	N 89°38'15" E	15.05'
L7	S 0°01'20" W	30.00'



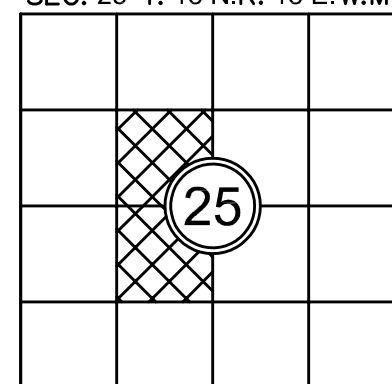
SURVEYOR'S CERTIFICATE

THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY
DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF THE SURVEY
RECORDING ACT AT THE REQUEST OF STEVE WILLARD
IN AUGUST 2021.

DUSTIN L. PIERCE
CERTIFICATE NO. 45503



INDEX LOCATION
SEC. 25 T. 18 N.R. 18 E.W.M.



AUDITOR'S CERTIFICATE

FILED FOR RECORD THIS ____ DAY OF ____ 20__ AT ____ M.
IN BOOK ____ OF ____ AT PAGE ____ AT THE REQUEST OF

DUSTIN L. PIERCE

JERALD V. PETTIT
County Auditor

Deputy County Auditor

Encompass
ENGINEERING & SURVEYING

Western Washington Division
165 NE Juniper Street, Suite 201 • Issaquah, WA 98027 • Phone: (425) 392-0250
Eastern Washington Division
407 Swiftwater Blvd. • Cle Elum, WA 98922 • Phone: (509) 674-7433

FRENCH PLAT - PHASE 2 P19-138

PREPARED FOR
STEVE WILLARD
A PORTION OF THE WEST 1/2 OF SECTION 25,
TOWNSHIP 18 NORTH, RANGE 18 EAST, W.M.
KITITAS COUNTY - WASHINGTON

DWN BY	DATE	JOB NO.
G.W./T.S.	8/2021	19080
CHKD BY	SCALE	SHEET
M.K.K./D.L.P.	1" = 60'	1 OF 2

PROPERTY OWNER:

KITTITAS COUNTY PARCEL AND (MAP NUMBER)

10879 (18-18-25053-0004)

PROPERTY INFORMATION:

DEDICATION

IN WITNESS WHEREOF, WE HAVE SET OUR HANDS THIS _____ DAY OF _____, A.D., 20____

ACKNOWLEDGEMENT

STATE OF _____)
) S.S.
COUNTY OF _____)

WITNESS MY HAND AND OFFICIAL SEAL HERETO AFFIXED THE DAY AND YEAR FIRST ABOVE WRITTEN.

SURVEY NOTES:

1. THIS SURVEY WAS PERFORMED USING A TRIMBLE R8 & R10 GNSS AND A TRIMBLE S7, 3" TOTAL STATION WITH RESULTING ACCURACY THAT MEETS OR EXCEEDS STANDARDS PER WAC 332-130-090.

2. THE PURPOSE OF THIS SURVEY IS TO ILLUSTRATE AND DELINEATE THE PARCEL, AS SHOWN HEREON, AND TO FACILITATE SATISFYING THE CONDITIONS FOR APPROVAL FOR AN APPLICATION FOR A PLAT SUBMITTED SEPARATELY TO THE CITY OF ELLENSBURG UNDER APPLICATION NO. P19-138.

3. FOR ADDITIONAL SURVEY INFORMATION SEE:

- BOOK E OF SHORT PLATS, PAGES 9 & 10, AFN: 585138

AND THE SURVEYS REFERENCED THEREON, ALL RECORDS OF KITTITAS COUNTY, STATE OF WASHINGTON.

4. THIS SURVEY DOES NOT PURPORT TO SHOW ALL EASEMENTS OF RECORD OR OTHERWISE.

PLAT NOTES:

1. A PORTION OF THIS PROPERTY IS LOCATED WITHIN THE AIRPORT OVERLAY ZONE IN WHICH A VARIETY OF AIRPORT AVIATION ACTIVITIES OCCUR. SUCH AIRPORT AVIATION ACTIVITIES MAY IMPACT THE USE OF YOUR PROPERTY. SEE PLAN FOR APPROXIMATE LOCATION OF THE AIRPORT OVERLAY ZONE.

2. AS LONG AS THE STORMWATER DETENTION AREA IS PRIVATELY OWNED, IT SHALL BE OPERATED AND MAINTAINED BY SANDER'S MILL, LLC UNTIL: (1) THE DECLARATION AND COVENANTS FOR THE FRENCH PLAT-PHASE 2 ARE RECORDED, AND (2) A HOMEOWNERS ORGANIZATION HAS BEEN ESTABLISHED WHICH SHALL BE LEGALLY RESPONSIBLE FOR THE OPERATION AND MAINTENANCE OF THE RETENTION AREA. IF SANDER'S MILL, LLC OR THE HOMEOWNERS ORGANIZATION FAIL TO FULFILL, IN WHOLE OR IN PART, THEIR RESPONSIBILITIES TO OPERATE AND MAINTAIN THE RETENTION AREA, THEN RESPONSIBILITY FOR THE OPERATION AND MAINTENANCE OF THE RETENTION AREA SHALL BECOME THE JOINT AND SEVERAL LEGAL OBLIGATION OF THE OWNERS OF LOTS 1 THROUGH 12, THEIR HEIRS, SUCCESSORS AND ASSIGNS. SAID OPERATION AND MAINTENANCE SHALL BE IN ACCORDANCE WITH THE DEPARTMENT OF ECOLOGY "BEST MANAGEMENT PRACTICES" MANUAL, INCLUDING ANY AMENDMENTS THERETO.

DEDICATION

IN WITNESS WHEREOF, WE HAVE SET OUR HANDS THIS ____ DAY OF _____, A.D., 20____

ACKNOWLEDGEMENT

STATE OF _____)
) S.S.
COUNTY OF _____)

WITNESS MY HAND AND OFFICIAL SEAL HERETO AFFIXED THE DAY AND YEAR FIRST ABOVE WRITTEN

NOTARY PUBLIC IN AND FOR THE STATE OF _____,
RESIDING AT _____
MY APPOINTMENT EXPIRES _____

APPROVALS

CITY ENGINEER

THIS SUBDIVISION MEETS ALL MINIMUM REQUIREMENTS
AND STANDARDS OF THE CITY OF ELLENSBURG
SUBDIVISION ORDINANCE. ALL PROCEDURES OF SAID
ORDINANCE HAVE BEEN COMPLIED WITH.

CITY ENGINEER _____ DATE _____

COMMUNITY DEVELOPMENT DEPT.

THIS SUBDIVISION MEETS ALL MINIMUM REQUIREMENTS AND STANDARDS OF THE CITY OF ELLENSBURG SUBDIVISION ORDINANCE. ALL PROCEDURES OF SAID ORDINANCE HAVE BEEN COMPLIED WITH.

COMMUNITY DEVELOPMENT DIRECTOR DATE

MAYOR

THIS SUBDIVISION MEETS ALL MINIMUM REQUIREMENTS AND STANDARDS OF THE CITY OF ELLENSBURG SUBDIVISION ORDINANCE. ALL PROCEDURES OF SAID ORDINANCE HAVE BEEN COMPLIED WITH.

MAYOR - CITY OF ELLENSBURG	DATE
----------------------------	------

CERTIFICATE OF KITTITAS COUNTY TREASURER

I HEREBY CERTIFY THAT ALL STATE AND COUNTY TAXES
HERETOFORE LEVIES AGAINST THE PLATTED PROPERTY
DESCRIBED HEREON ACCORDING TO THE BOOKS AND
RECORDS OF MY OFFICE, HAVE BEEN PAID AND
DISCHARGED. PARCEL NO: 10879 (18-18-25053-0004)

KITTITAS COUNTY TREASURER DATE

THIS SUBDIVISION MEETS ALL MINIMUM REQUIREMENTS
AND STANDARDS OF THE CITY OF ELLENSBURG
SUBDIVISION ORDINANCE. ALL PROCEDURES OF SAID
ORDINANCE HAVE BEEN COMPLIED WITH.

DIRECTOR _____ DATE _____

NOTICE: THE APPROVAL OF THIS PLAT IS NOT A GUARANTEE
THAT FUTURE PERMITS WILL BE GRANTED.



AUDITOR'S CERTIFICATE

FILED FOR RECORD THIS ____ DAY OF ____ 20__ AT ____ M.
IN BOOK ____ OF ____ AT PAGE ____ AT THE REQUEST OF ____

DUSTIN L. PIERCE

JERALD V. PETTIT
County Auditor

Deputy County Auditor

Encompass

ENGINEERING & SURVEYING

Western Washington Division
165 NE Juniper Street, Suite 201 • Issaquah, WA 98027 • Phone: (425) 392-0250

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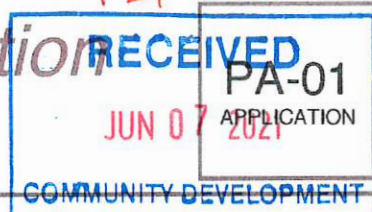
FRENCH PLAT - PHASE 2 P19-138

PREPARED FOR
STEVE WILLARD
A PORTION OF THE WEST 1/2 OF SECTION 25,
TOWNSHIP 18 NORTH, RANGE 18 EAST, W.M.
KITITAS COUNTY - WASHINGTON

DWN BY G.W./T.S.	DATE 6/2021	JOB NO. 19080
CHKD BY M.K.K./D.L.P.	SCALE N/A	SHEET 2 OF 2



Land Use Application Cover Sheet



Community Development Department

501 N. Anderson, Ellensburg, WA 98926

(509) 962-7239 (Building) permits@ci.ellensburg.wa.us (509) 962-7231 (Planning) comdev@ci.ellensburg.wa.us

INSTRUCTIONS – PLEASE READ FIRST AND ANSWER ALL QUESTIONS COMPLETELY.

If you have any questions about this form or the application process, please ask to speak with a planner. All necessary attachments and the filing fee are required upon submittal. Filing fees are not refundable. This application consists of two parts. PART I - GENERAL INFORMATION and PART II, project descriptions and site plan contain additional information specific to your proposal and all required information MUST be attached to this page to complete the application process.

PART I – GENERAL INFORMATION

1. Applicant's Information:	Name:	CBP WA LLC STEVE WILLARD						
	Mailing Address:	1312 SANDERS ROAD						
	City:	ELLensburg	St:	WA	Zip:	98926	Phone :	(206) 660 2738
	E-Mail:	willardis@gmail.com						
2. Applicant's Interest in Property:	Check One:	☒ Owner	☐ Agent	☐ Purchaser	☐ Other			
3. Property Owner's Information (If other than Applicant):	Name:	SAME AS ABOVE						
	Mailing Address:							
	City:		St:		Zip:		Phone :	()
	E-Mail:							
4. Subject Property's Assessor's Parcel Number(s):								
PARCEL 10879								
5. Legal Description of Property. (if lengthy, please attach it on a separate document)								
SAME AS ABOVE								
6. Property Address:								
1200 E SANDERS ROAD								
7. Property's Existing Zoning:								
☒ RS ☐ RL ☐ RM ☐ RH ☐ RO ☐ CN ☐ CH ☐ CT ☐ CC ☐ CCII ☐ MHP ☐ IL ☐ IH ☐ PR ☐ PUD								
8. Type Of Application: (Check All That Apply)								
☐ Final Plat Application			☐ Environmental Checklist (SEPA Review)			☒ FINAL LONG PLAT		
☐ Type (II) Review			☐ Landmarks COA			☐ Conditional Use Permit		
☐ Boundary Line Adjustment			☐ Landmarks Demolition			☐ Rezone		
☐ Short Plat Alteration			☐ Commercial Wireless Communication			☐ Shoreline		
☐ Preliminary Short Subdivision			☐ Appeal to HE / City Council			☐ Critical Areas Review		
☐ Preliminary Long Subdivision			☐ Code Interpretation			☐ Variance/Admin. Variance		
☐ Plat Vacation			☐ Regional Retail Master Plan			☐ Temporary Use Permit		
☐ Plat Alteration			☐ Design Review Departure			☐ Design Review Major/Minor		
☐ Master Plan P-R Use			☐ Comprehensive Plan Amendment			☐ Binding Site Plan		
☐ Annexation			☐ Development Code Amendment			☐ Essential Public Facility		
						☐ Site Development Permit		

9. PART II – PROJECT DESCRIPTION AND SITE PLAN (See attached page)

10. I certify that the information on this application and the required attachments are true and correct to the best of my knowledge.

CBP WA LLC STEVE WILLARD

Property Owner's Signature

Date

4/30/2021

Applicant's Signature

Date

FILE/APPLICATION(S)#

DATE FEE PAID:

RECEIVED BY:

AMOUNT PAID:

RECEIPT NO:

Letter of Transmittal

Encompass
ENGINEERING & SURVEYING



824-073

RECEIVED
JUN 07 2021
COMMUNITY DEVELOPMENT

Western Washington Division
165 NE Juniper St., Suite 201, Issaquah, WA 98027
Tel (425) 392-0250

Eastern Washington Division
407 Swiftwater Blvd., Cle Elum, WA 98922
Tel (509) 674-7433

To: CITY OF ELLENSBURG

Date: 6-7-2021

Job No. 19080

ELLENSBURG WA 98926

Attn: SHANNON JOHNSON

Re: FRENCH PLAT - PHASE 2 P19-138

WE ARE SENDING YOU

☐ Attached ☐ Under separate cover via overnight mail/regular mail the following items:

PRINTS	PLANS	SHOP DRAWINGS	COPY OF LETTER	CHANGE ORDER	SAMPLES	SPECIFICATIONS	SUBMITTAL

COPIES	DATE	NO.	DESCRIPTION
3		2	18X24 COPIES OF PLAT
1		1	SIGNED APPLICATION (LAND USE)
1		2	11X17 COPY OF PLAT
1		5	COMPLIANCE DOCUMENT
1		6	SUBDIVISION GUARANTEE

THESE ARE TRANSMITTED as checked below:

- ☒ For approval ☐ Approved as submitted ☐ Resubmit ____ copies for approval ☐ For signature
- For your use ☐ Approved as noted ☐ Submit ____ copies for distribution
- ☐ As requested ☐ Returned for corrections ☐ Return ____ corrected prints
- ☐ For review and comment _____
- ☐ FOR BIDS DUE _____ ☐ PRINTS RETURNED AFTER LOAN TO US

REMARKS:

Signature: George Jensen Title: SURVEY TECHNICIAN

Copy to: File



CITY OF ELLENSBURG

Energy Services Department

501 North Anderson Street; Ellensburg, WA 98926

Ph: (509) 962-7124 Fax: (509) 925-8662

www.ci.ellensburg.wa.us

Memorandum

Date: July 19th, 2021

To: Laura Wilson, Office of Community Development

From: Tyler Goeden, Project Engineer

Re: P21-073 French Plat Comments

The following are the City Light Comments for the P21-073 French Plat, located at 1201 E Sanders.

Electric:

As referenced in the previous pre-application meeting and comment letter for this plat on permit #P19-105, City Light has will require a 10 foot utility easement along the frontage of each lot throughout the plat, for the entirety of the extents of the plat. The other comments made in the pre-application for this plat on permit #P19-105 are still in effect as well.



CITY OF ELLENSBURG

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

Date: July 19, 2021

Re: French Subdivision Final Plat – P21-073

PUBLIC WORKS; July 19, 2021 - Applicant will need to post performance bond, revisions to plat drawings to reflect storm changes.



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

Fire Marshal Comments

Project: French Subdivision Final Plat
Permit#: P21-073
Date: 07/13/2021

Fire hydrants shall be installed per the submitted civil drawings. With one at the intersection of Sanders and tower and the other one at the entry of the cul-de-sac.

Joe Delvo
Fire Prevention Captain
Fire Investigator, IAAI-FIT
Kittitas Valley Fire & Rescue

RESOLUTION NO. 2021-__

A Resolution approving the Final Plat of the French Subdivision (P21-073).

WHEREAS, Ginger Weiser of Encompass Engineering & Surveying, agent for property owner CPB WA LLC (hereinafter "Owner"), has submitted an application (P21-073) for a final subdivision plat on Kittitas County Assessor's Parcel ID# 10879, a 5-acre tract of partially undeveloped property located at 1201 Sanders Road, in the City of Ellensburg, County of Kittitas, State of Washington (hereinafter the "Property"); and

WHEREAS, the Owner submitted to the Hearings Examiner a Preliminary Plat for the proposed French Subdivision for construction of residential dwellings on the above-referenced tract of land; and

WHEREAS, in accordance with Chapter 15.260 ECC, the Hearings Examiner held a public hearing on March 10, 2020, to review the proposed development, after which the Hearings Examiner forwarded a recommendation of approval with eight conditions to City Council, as evidenced in the adoption of the approved minutes; and

WHEREAS, the Owner submitted the Preliminary Plat to the City for review and consideration by Council at a duly advertised closed record public hearing held on April 20, 2020; and

WHEREAS, based on the evidence and testimony presented at said public hearing, City Council conditionally approved the subdivision of the property to allow further residential development of said property as evidenced in the approved minutes of the Council meeting of April 20, 2020 and the adoption of Council Resolution No. 2020-10 on April 20, 2020; and

WHEREAS, per RCW 58.17.140, as this preliminary plat was approved after January 1, 2015 and is not subject to the Shoreline Management Act, the applicant has five (5) years to file for final plat approval, or until August 17, 2025; and

WHEREAS, the Owner submitted the Final Plat to the City for review and consideration, and City of Ellensburg staff have found that the conditions of preliminary approval have been satisfied; and

WHEREAS, the applicant has submitted a bond to ensure that all required subdivision improvements will be installed in accordance with the approved improvements plans, and such bond has been approved by the City; and,

WHEREAS, the Final Plat application was reviewed by City Council in a public meeting held on September 20, 2021; and

WHEREAS, the City Council finds that the subdivision conforms to all terms of the City Council's preliminary plat approval, and that the subdivision meets all requirements

of chapter 58.17 RCW, other applicable state laws, and all local ordinances adopted under chapter 58.17 RCW that were in effect at the time of preliminary plat approval;

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

Section 1. The “Whereas” provisions set forth above are hereby incorporated in this Resolution as findings in support of the actions authorized in this Resolution.

Section 2. The City Council finds that the conditions of preliminary plat approval for the French Subdivision final plat have been met and the requirements for recording the final plat have been satisfied.

Section 3. The final plat for the French Subdivision is approved and the Mayor, Community Development Director, Public Works & Utilities Director, and City Engineer are hereby authorized to inscribe and execute this approval on the face of the plat, which will then be recorded with the Kittitas County Auditor’s Office.

ADOPTED by the City Council of Ellensburg this 20th day of September, 2021.

Bruce Tabb, Mayor

ATTEST:

Beth Leader, City Clerk



MANAGER'S REPORT

DATE: September 20, 2021

TO: Ellensburg City Council

FROM: Heidi Behrends Cerniwey, City Manager

1. Waste Management Fall Clean Up Days.

The Waste Management contract with the City of Ellensburg provides for a fall and spring waste disposal coupon program. Waste Management and staff have scheduled this fall's event for October 2 through October 9. The coupons are valid for each Waste Management customer (one per subscribing household) to self-haul to the County Transfer Station. Customers are required to show proof of residency. Coupons are currently being mailed out and are available at City Hall.

2. Request to Set Public Hearing – 2022 Revenue Sources.

Finance Department staff requests Council set a public hearing for the October 4, 2021 regular meeting. This public hearing is for the purpose of receiving public comment on the proposed 2022 revenue sources supporting the activities of the General Fund.

3. University Way and Reecer Creek Road Signalization Construction Notification.

Construction of the University Way and Reecer Creek Road Signalization project began Monday September 13, 2021. Award of the project construction contract to Colvico Inc. was approved at the June 7, 2021 regular Council meeting. The contractor has 55 working days to complete the project with a planned completion date of October 28, 2021 for the underground and surface restoration work and early 2022 for installation of the traffic signal system due to the long lead time for materials (signal poles, heads and controller cabinet).

The work will include roadway excavation, grading, drainage installation, concrete curb and gutter, concrete sidewalk, ADA compliant curb ramps, guardrail placement and adjustment, traffic signal installation, illumination system adjustments, pavement markings and permanent signing.

4. City Financial Statement and Federal Single Audit 2020.

The Office of the State Auditor (SAO) has completed the 2020 Financial Statements and Federal Single Audit reports for 2020. The City received the report on September 13, 2021, during the Exit Conference. The results include an unmodified opinion in accordance with our regulatory basis of accounting (cash basis). In addition, there were no significant deficiencies or material weaknesses identified during the review of internal controls. The City attributes the positive outcome to all of its departments, knowing each department strives to be current in their policies, processes, and procedures. The major Federal Programs selected in the audit of compliance included the Highway Planning and Construction Cluster along with the Coronavirus Relief Fund.

Audit reports are published on the State Auditors' Office (SAO) website. Financial Statement reports for January 1, 2020 through December 31, 2020 can be found on the City website. The Accountability Audit is slated to start this week.