

ORDINANCE NO. 4908

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELLensburg, WASHINGTON, RELATING TO ZONING AND AMENDING TITLE 15 OF THE ELLensburg CITY CODE BY CHANGING THE ZONING CLASSIFICATION OF CERTAIN PROPERTY WITHIN THE CITY OF ELLensburg FROM RESIDENTIAL SUBURBAN (R-S) TO RESIDENTIAL MEDIUM (R-M).

WHEREAS, on June 28, 2022 the City received an application (P22-075) from Jason Smith, property owner, requesting a rezone of a parcel located at 703 E Helena Avenue, Parcel ID Number 126233 ("application"); and

WHEREAS, the application proposed to rezone the parcels from Residential Suburban (R-S) to Residential Medium (R-M); and

WHEREAS, pursuant to ECC Table 15.210.050(D), a Site-Specific Rezone Application is processed under a Type IV review, which requires a Hearing Examiner recommendation to City Council after an Open Record Hearing, with the final decision to be made by City Council after a Quasi-Judicial Closed Record Hearing; and

WHEREAS, the Hearing Examiner held a duly noticed open record hearing on November 15, 2022, received evidence and heard testimony regarding the proposed rezone; and

WHEREAS, the Hearing Examiner on November 16, 2022, issued Recommended Findings of Fact, Conclusions of Law, Decision and Conditions of Approval for the rezone request from R-S to R-M; and

WHEREAS, the Ellensburg City Council held a duly noticed closed record hearing on December 19, 2022 and at the conclusion of the hearing approved a motion to adopt the Hearing Examiner's Recommended Findings of Fact, Conclusions of Law, Decision and Conditions of Approval, and to approve the applicant's request to rezone the subject property from R-S to R-M;

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

Section 1. The City Council adopts the findings of fact and conclusions based thereon, made and entered by the Hearing Examiner in support of the recommendation to the City Council for approval with regard to the rezone for the hereinafter described property located at 703 E Helena Avenue, with Parcel ID Number 126233 as set forth in the Hearing Examiner's "Recommended Findings of Fact, Conclusions of Law, Decision and Conditions of Approval," dated November 16, 2022, attached hereto as Exhibit A.

Section 2. Title 15 of the Ellensburg City Code is hereby amended by changing the city's zoning map as adopted in ECC 15.300.020 for the following described area from Residential Suburban (R-S) to Residential Medium (R-M):

ACRES .21, CD. 8673; SEC. 25; TWP. 18; RGE. 18; SW1/4 SW1/4 TAX NO. 4 LESS THE S. 10'; .02@ RD.

Section 3. That the official zoning map of the City of Ellensburg, as well as the Geographic Information System (GIS) data shall be amended to incorporate the land use classifications herein provided.

Section 4. Except as modified herein, each and every provision of the City Land Development Code, Title 15, as amended, shall remain in full force and effect.

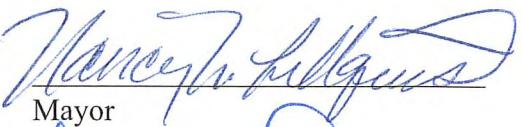
Section 5. Severability. If any portion of this ordinance is declared invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance.

Section 6. 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 7. Effective Date. This ordinance shall take effect and be in full force five (5) days after passage, approval and publication as required by law.

The foregoing ordinance was passed and adopted at a regular meeting of the City Council on the 3rd day of January, 2023.

Attest:



Nancy J. Higgins
Mayor



Betty Leahey
City Clerk

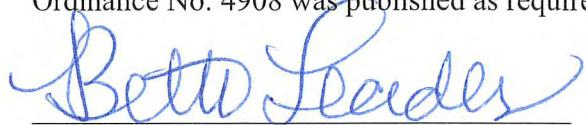
Approved as to form:



City Attorney

Publish: 1-5-2023

I, Beth Leader, City Clerk of said City, do hereby certify that Ordinance No. 4908 is a true and correct copy of said Ordinance of like number as the same was passed by said Council, that Ordinance No. 4908 was published as required by law.



Beth Leader

Exhibit "A"

CITY OF ELLensburg LAND USE HEARING EXAMINER

IN THE MATTER OF)	RECOMMENDED FINDINGS OF
P 22-075)	FACT, CONCLUSIONS OF LAW,
Smith)	DECISION AND CONDITIONS
		OF APPROVAL

THIS MATTER having come on for hearing in front of the City of Ellensburg Hearing Examiner on November 15, 2022, the Hearing Examiner having taken evidence hereby submits the following Recommended Findings of Fact, Conclusions of Law, and Decision and Conditions of Approval as follows:

I. RECOMMENDED FINDINGS OF FACT

1. The applicant seeks to rezone the subject property from Residential Suburban (R-S) to Residential Medium (R-M) for the purpose of developing multifamily housing. A State Environmental Policy Action (SEPA) determination is not required for this rezone as per WAC 197-11-800 (6.) (C).
2. The applicant and property owner is Jason Smith.
3. The parcel is located north of Helena Ave, and east of Airport Way, in Ellensburg. Kittitas County Assessor's Parcel ID is #126233 and it is addressed as 703 E Helena Avenue.
4. The parcel is currently developed with a single-family dwelling and garage that are proposed to be demolished. Currently, this parcel has zoning of Residential Suburban. The applicant is proposing to change the parcel to R-M zoning for compatibility with multifamily development. The proposal would be to develop the site with a 4-unit multifamily building. The property is bordered by Residential-Medium (R-M) density zoning to the east, south, and west and Public-Reserve (P-R) to the north. The parcel is similar in size to the R-M zoned lot directly to the East on the same street and approximately half the size of the various multi-family dwelling lots zoned R-M to the West along Airport Road.
5. In 1992, the parcel was annexed into the City of Ellensburg. At that time, the property was zoned Residential-Suburban (R-S).
6. The site topography is relatively flat and the site has been used as a single family dwelling.
7. The zoning of the surrounding properties is further described below:

North: The property to the north is zoned Public-Reserve (P-R) and consists of a vacant land owned by Central Washington University.

South: The properties to the south are zoned Residential Medium (R-M), and consist of various multi-family dwellings.

East: The property to the east (also owned by the applicant) is zoned Residential Medium (R-M), and consists of a single-family dwelling.

West: The properties to the west are zoned Residential Medium (R-M) and consist of various multi-family family dwellings.

8. Zoning and Development Standards, ECC Title 15: Ellensburg City Code (ECC) Table 15.310.040, Ellensburg City Code (ECC) Table 15.310.040, Residential-based Uses – indicates that while single-family, and cottage type dwellings are allowed in both R-M and R-S zones, duplex, townhouse, and multifamily type dwellings may be permitted in R-S zones subject to density bonuses and townhouses and multifamily dwellings shall not be located adjacent to existing single-family dwellings except where approved on an individual plat. In R-M zones duplex, townhouse, and multifamily type dwellings are permitted outright.
9. Comprehensive Plan Designations: This parcel is designated Urban Neighborhood which supports a wide range of housing types and allows for the development of transitional areas between lower density neighborhoods and higher density residential and commercial areas. The Urban Neighborhood designation accommodates a wide range of building types, from small-lot single dwellings to large-scale multistory, multi-dwelling developments. This designation is similar to the residential neighborhood designation of other properties zoned R-M across the street.
10. Access: Access to the property is from Helena Avenue
11. Subsequent to the rezone review, public notice and distribution of the site specific rezone request was undertaken.
12. Notice of the open record public hearing was published in the legal section of the Daily Record on October 20, 2022, and the site was posted with a land use action signs on October 29, 2022. On October 19, 2022 notice of the rezone was mailed to property owners within 300 feet of the proposed site. As of the date of this decision, no public comments have been received
13. The rezone and proposed future 4-unit multi-family dwelling unit project are exempt from SEPA review as per WAC 197-11-800 (6)(C). Subsequent to SEPA environmental review exemption, public notice and distribution of the full rezone application was undertaken. As a result of that effort, most departments have reserved their comments until the time of the required Pre-Application review. However, two comments were received from the Public Works Department and the Ellensburg Electric Utility (Light) Department.
14. Ellensburg City Code Requirements for Site-Specific Rezone: Per Ellensburg City Code, site-specific rezone applications are subject to the Type IV review process, and the Hearing Examiner provides a recommendation to City Council after holding an open record public hearing. To recommend approval, the Hearing Examiner must find that the application is in compliance with the decision criteria in ECC 15.250.060.
 - 14.1 The criteria for consideration of a site specific rezone are set forth in ECC 15.250.060(C). The applicant has the burden of establishing that all of the following criteria apply to the proposed rezone:
 - 14.1.1. Conditions have changed since the imposition of the zoning classification on the property;
 - 14.1.2. The proposed rezone bears a substantial relationship to the public health, safety, morals, and general welfare;
 - 14.1.3. The proposed rezone is consistent with the comprehensive plan;
 - 14.1.4. The proposed rezone to a particular zoning district shall be consistent with the development standards in the Land Development Code for the zoning district.
15. Analysis of Criteria for a Site-Specific Rezone. The applicant has submitted an application with a narrative addressing the rezone criteria found in ECC 15.250.060(C). The applicant

seeks Residential Medium (R-M) zoning in order to construct a 4-unit multifamily structure. The information submitted by the applicant is followed by the Hearing Examiner's analysis. All are recommended findings of the Hearing Examiner.

- 15.1 Conditions have changed since the imposition of the zoning classification on the property.
 - 15.1.1 The property located at 703 East Helena is currently Zone RS and conditions have changed since the property was originally zoned. This property is currently a spot zone that is surrounded entirely by property, located within the City limits that are zoned RM.
 - 15.1.2 In 1992, this property was annexed into the City of Ellensburg and although the neighboring property was annexed previously in 1989 with Residential-Medium zoning, this property was subsequently zoned as Residential-Suburban (R-S). At the time of annexation, the property was in use as a residence and the comprehensive plan land use designation was Blended Residential. The current comprehensive plan land use designation is Urban Residential. The site-specific rezone request is consistent with the Urban Residential land use designation.
- 15.2 The proposed rezone bears a substantial relationship to the public health, safety, morals, and general welfare.
 - 15.2.1 As a spot zone within the City limits, 703 East Helena with its current RS zoning is an inconsistent land-use that is out of alignment with the City of Ellensburg Comprehensive Plan and the current existing uses of adjacent property. Rezoning the property to RM eliminates this inconsistency and aligns with public health.
 - 15.2.2 The rezone to Residential Medium (R-M) will eliminate the isolated zoning of the existing parcel to provide additional contiguous higher density land for development of a multifamily housing development consisting of 4 units. The City has a responsibility under the Growth Management Act to make adequate provisions for existing and projected needs of all economic segments of the community. Based on both affordability and household size, the Ellensburg Comprehensive Plan identifies a need for more one- and two-bedroom dwellings in Ellensburg. The multifamily residential structure will conform with Ellensburg City Code and will meet the goal encouraging opportunities for infill as supported by the comp plan without increasing an unexpected demand on utilities and services. This will support the public health, safety, and general welfare of the community by reducing pressures on the low housing supply options.
- 15.3 The proposed rezone is consistent with the comprehensive plan.
 - 15.3.1 The proposed rezone of the property at 703 East Helena is consistent with the City of Ellensburg Comprehensive plan and underlying land use, transportation, and eliminates a spot zone in an area of multi-family development.
 - 15.3.2 The current Comprehensive Plan Designation for the parcel is Urban Neighborhood which is consistent with the rezone request to residential medium density (R-M) as depicted in the attached Comprehensive Plan Future Land Use Designation map (Exhibit 3). In the Comprehensive Plan the description of Urban Neighborhood indicates that it supports a wide range of housing types and allows for the development of transitional areas between lower density neighborhoods and higher density residential and

commercial areas. The Urban Neighborhood designation accommodates a wide range of building types, from small-lot single dwellings to large-scale multistory, multi-dwelling developments.

15.3.3 The Comprehensive Plan further indicates that in the Urban Neighborhood land use designation, implementing zoning districts for lower density housing are appropriate adjacent to existing single family residential areas characterized primarily by detached housing units and zero lot line projects. Implementing zoning districts that accommodate higher density housing types are more appropriate adjacent to parks and the University campus, along transit routes and principal and minor arterials, on local streets adjacent to commercial areas and served by transit routes, and near recreational activity centers, shopping centers, and entertainment areas.

15.3.4 The parcel for this proposed rezone is addressed along East Helena Avenue which is designated as a minor arterial. East Helena Avenue is served by transit from Water Street to Alder Street, making it appropriate for higher density types of housing.

15.3.5 In addition, the Hearing Examiner finds the request for R-M zoning to be in keeping with the following goals, policies and programs of the Comprehensive Plan:

- 15.3.5.1 Goal LU-1, "Encourage development that creates a variety of housing, shopping, entertainment, recreation, gathering spaces, employment, and services that are accessible to neighborhoods."
- 15.3.5.2 Policy B, "Integrate new development with consideration to design and scale that complements existing neighborhoods and provides effective transitions between different uses and intensities."
- 15.3.5.3 Goal LU-2, "Establish land use patterns that promote walking, biking, and using transit to access goods, services, education, employment and recreation."
- 15.3.5.4 Policy A, "Enhance the character, quality, and function of existing neighborhoods while accommodating anticipated growth."
- 15.3.5.5 Program 2, "Encourage compact form for urban development, particularly in newly developed areas and where infill is possible."
- 15.3.5.6 Goal H-1, "Preserve, protect, and strengthen the vitality and stability of existing neighborhoods."
- 15.3.5.7 Policy A, "Encourage development of an appropriate mix of housing choices through innovative land use and well-crafted regulations."
- 15.3.5.8 Program 2, "Encourage infill development on vacant and underused sites."
- 15.3.5.9 Goal H-2, "Allow and encourage a variety of housing types and densities to meet housing needs of all economic segments of the community."

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

15.4.1 The proposed rezone of the property at 703 East Helena from RS to RM is consistent with the development standards in the LDC for the RM Zone and eliminates an existing spot zone that is inconsistent with the surrounding property in the Zoning District.

15.4.2 The Hearing Examiner finds the rezone proposal consistent with the purpose and standards of Residential Medium (R-M) zoning as set forth in ECC 15.300.040(C).

15.5 The applicant seeks R-H Residential High density zoning to eliminate a split zone of the existing parcel and expand opportunities for multifamily development with a greater maximum building height than what is allowed in the R-M residential medium zone.

15.6 The Hearing Examiner finds the rezone proposal consistent with the purpose and standards of R-M zoning as set forth in ECC 15.300.040(C):

16. The R-M zone is intended to provide for a mixture of housing types in a walkable neighborhood setting. These purposes are accomplished by:

- 16.1. Allowing a variety of housing types including detached single-family dwellings, cottage housing, townhouses, and multifamily;
- 16.2. Providing standards and guidelines to help ensure that new infill development will be compatible in scale and character with existing development;
- 16.3. Providing standards and guidelines that reinforce and/or enhance the character and walkability of streets within the zone;
- 16.4. Providing standards and guidelines that promote the integration of usable open space for residential uses;
- 16.5. Providing a minimum density standard to avoid large scale low density sprawl;
- 16.6. Providing for an option for a modest floor area ratio bonus (see ECC 15.330.030) in exchange for:
 - 16.6.1 Energy efficient building and site design; or
 - 16.6.2 Purchase of transferable development rights (subject to the city adopting a TDR program) that help to preserve valuable resource lands outside the city; and
- 16.7. Use of this zone is appropriate for:
 - 16.7.1 Areas designated mixed residential in the comprehensive plan; and
 - 16.7.2 Areas characterized by a mix of single and multifamily buildings;
 - 16.7.3 Areas within one-half mile of Central Washington University;
 - 16.7.4 Areas located along designated arterial streets;
 - 16.7.5 Areas adjacent to commercial zoned property; or
 - 16.7.6 Areas located along corridors served by transit.

17. The applicant seeks Residential Medium (R-M) zoning for developing multifamily dwellings. The applicant would be responsible for meeting all development standards under the Land Development Code.

18. The Hearing Examiner finds the proposal to be consistent with the criteria outlined in 15.250.050 pertaining to rezones.

19. An open record public hearing was held on November 15, 2022.

20. The following exhibits were admitted into the record:

- 20.1 Ex. 1: Vicinity Location Map;
- 20.2 Ex. 2: Current Zoning Map;
- 20.3 Ex. 3: Comprehensive Plan Land Use Designation;
- 20.4 Ex. 4: Area of Notification Map with 300 foot Buffer Notification List
- 20.5 Ex. 5: Legal Notice of Open Record Public Hearing;
- 20.6 Ex. 6: Affidavit of Posting and Land Use Action Signs;

- 20.7 Ex. 7: November 2, 2022 memo from City of Ellensburg Utility Electric Department;
- 20.8 Ex. 8: November 4, 2022 memo from City of Ellensburg Public Works Department
- 20.9 Ex. 9: WAC 197-11-800 6. (C) SEPA Exemption Code Language
- 20.10 Ex. 10: Rezone Application;
- 20.11 Ex. 11: Rezone Application Narrative;
- 20.12 Ex. 12: Rezone Site Plan; and
- 20.13 Ex. 13: Staff Report

- 21. Appearng and testifying was Jason Smith, property owner and applicant. Mr. Smith testified that he agreed with all representations in the staff report and that the proposed Condition of Approval was acceptable.
- 22. No member of the public testified at the hearing.
- 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 recommended Decision.
- 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

The Hearing Examiner found the proposal to be consistent with the criteria outlined in 15.250.060 pertaining to rezones. The Hearing Examiner recommends approval of the rezone request, from Residential Suburban (R-S) to Residential Medium Density (R-M) zoning to the City Council pursuant to the Recommended Condition of Approval below.

IV. RECOMMENDED CONDITION OF APPROVAL

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

Dated this 16 day of November, 2022.

CITY OF ELLensburg HEARING EXAMINER



Andrew L. Kottkamp