

ORDINANCE NO. 4924

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

WHEREAS, on October 11, 2021 the City received an application (P21-132) from property owner Justin Bergener (Parcel 652733) and Harper 20th Ave LLC (Parcel 712733), represented by Matt Stalder (Agent), requesting a rezone of two parcels located at 2307 and 2249 N Airport Rd, Parcel ID Numbers 652733 and 712733; and

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

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

WHEREAS, the SEPA official for the City issued a Mitigated Determination of Non-Significance (MDNS), on April 19, 2023; and

WHEREAS, the Hearing Examiner held a duly noticed open record hearing on July 10, 2023, received evidence and heard testimony regarding the proposed rezone; and

WHEREAS, the Hearing Examiner on July 12, 2023, issued Recommended Findings of Fact, Conclusions of Law, Decision and Conditions of Approval for the rezone request from R-S and R-M to R-H. Due to an ownership error in the July 12, 2023 Recommended Findings of Fact, Conclusions of Law, Decision and Conditions of Approval, the Hearings Examiner reissued the recommendation on August 17, 2023, correcting the stated owners from the original recommendation; and

WHEREAS, the Ellensburg City Council held a closed record hearing on September 18, 2023 and at the conclusion of the hearing approved a motion to adopt the Hearing Examiner's Recommended Findings of Fact, Conclusions of Law, Decision and Conditions of Approval dated August 17, 2023, to approve the applicant's request to rezone the subject property from R-S and R-M to R-H, and conduct first reading of Ordinance 4924;

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

Section 1. The City Council adopts the findings of fact and conclusions based thereon, made and entered by the Hearing Examiner in support of the recommendation to the City Council

for approval with regard to the rezone for the hereinafter described property located on N Airport Rd, with Parcel ID Number 652733 and 712733 as set forth in the Hearing Examiner's "Recommended Findings of Fact, Conclusions of Law, Decision and Conditions of Approval," dated August 17, 2023 attached as Exhibit A.

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

PARCEL ID NUMBER 652733 - ACRES 2.34, CD. 8737; SEC. 26, TWP. 18, RGE. 18 SE1/4 SE1/4 TAX NO. 14

Section 3. Title 15 of the Ellensburg City Code is hereby amended by changing the city's zoning map as adopted in ECC 15.300.020 for the following described area from a split zoned parcel consisting of Residential Medium (R-M) and Residential High (R-H) to a single zone of Residential High (R-H):

PARCEL ID NUMBER 712733 - ACRES 0.83; CD.#8734; PTN SE1/4 (LOT 1, B37/P227); SEC 26, TWP 18, RGE 18

Section 4. That the official zoning map of the City of Ellensburg, as well as the Geographic Information System (GIS) data shall be amended to incorporate the land use classifications herein provided.

Section 5. Except as modified herein, each and every provision of the City Land Development Code, Title 15, as amended, shall remain in full force and effect.

Section 6. Severability. If any portion of this ordinance is declared invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance.

Section 7. Corrections. Upon the approval of the City Attorney, the City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 8. Effective Date. This ordinance shall take effect and be in full force five (5) days after passage, approval and publication as required by law.

The foregoing ordinance was passed and adopted at a regular meeting of the City Council on the 16th day of October 2023.



Nancy J. Ellingsen
Mayor

Attest:

Beth Leader
City Clerk

Approved as to form:

S. J. [Signature]
City Attorney

Publish: 10-19-2023

I, Beth Leader, City Clerk of said City, do hereby certify that Ordinance No. 4924 is a true and correct copy of said Ordinance of like number as the same was passed by said Council, that Ordinance No. 4924 was published as required by law.

Beth Leader
Beth Leader

Exhibit A

August 17, 2023 Hearings Examiner Recommended Findings of Fact, Conclusions of Law, Decision and Conditions of Approval

**CITY OF ELLENSBURG
LAND USE HEARING EXAMINER**

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

THIS MATTER having come on for hearing in front of the City of Ellensburg Hearing Examiner on July 10, 2023, the Hearing Examiner having taken evidence hereby submits the following Recommended Findings of Fact, Conclusions of Law, and Decision and Conditions of Approval as follows:

I. RECOMMENDED FINDINGS OF FACT

1. The applicants seek to rezone the subject properties from Residential Suburban (R-S) and Residential Medium (R-M) to Residential High (R-H) for the purpose of developing a multifamily multiple building complex. A State Environmental Policy Action (SEPA) Determination of Mitigated Non-Significance (MDNS) was issued for the parcels on April 19, 2023 for the site specific rezone.
2. The applicants and the property owners are Harper 29th LLC (Parcel No. 712733) and Justin Bergener (Parcel No. 652733).
3. The parcels are located on the east side of Airport Road at the intersection with Idaho Street, in Ellensburg. Kittitas County Assessor's Parcel ID# 652733 and 712733 and addressed as 2307 and 2249 N. Airport Road.
4. Parcel No. 652733 is in the Residential-Suburban zone and is currently developed with a single-family dwelling that is proposed to be demolished. Parcel No. 712733 is a split zoned parcel. About ¼ of the parcel is already zoned Residential-High with the remaining 1/3 of the parcel in the Residential-Medium zone. The proposal would be to develop the site with two multistory multifamily buildings. The properties are bordered by Residential-Suburban zoning to the north and west and Residential-High zoning to the south. The properties are bordered to the east by an unincorporated island with a future land use designation of Urban Neighborhood.
5. The site topography is relatively flat. Parcel No. 712733 currently contains a multifamily development established in 2020. Parcel No. 652733 contains a single-family dwelling which will be demolished according to the plans submitted.
6. The zoning of the surrounding properties is further described below:

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

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

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

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

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

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

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

14.1.4. The proposed rezone to a particular zoning district shall be consistent with the development standards in the Land Development Code for the zoning district.

15. Analysis of Criteria for a Site-Specific Rezone. The applicant submitted an application with a narrative addressing the rezone criteria found in ECC 15.250.060(C). The applicant seeks Residential High (R-H) zoning in order to construct a 73-unit apartment complex. The information submitted by the applicant is followed by the Hearing Examiner's analysis. All are recommended findings of the Hearing Examiner.

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

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

15.1.2 In 2011, the City of Ellensburg adopted Ordinance 4598 which created a split zone on parcel (712733). Rezoning this property to Residential-High (R-H) would eliminate this split zoned parcel which is in the interest of the City. Parcel 652733 is zoned Residential Suburban and borders parcel 712733 along its southern boundary line. The City of Ellensburg's has experienced a housing shortage since the last zoning map update, particularly missing middle housing which often requires higher density to accomplish. The site-specific rezone request for Residential High (R-H) zoning is consistent with the Urban Neighborhood land use designation.

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

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

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

15.3 The proposed rezone is consistent with the Comprehensive Plan.

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

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

- 18.3 Exhibit C - Future Land Use Map
- 18.4 Exhibit D - Affidavit of Mailing
- 18.5 Exhibit E - Affidavit of Publication
- 18.6 Exhibit F - Affidavit of Posting
- 18.7 EXHIBIT G - SIGNED MDNS
- 18.8 Exhibit H - Application
- 18.9 Exhibit I - Narrative
- 18.10 Exhibit J - SEPA Comments
- 18.11 Exhibit K - Applicant Project Site Plan
- 18.12 Exhibit L - Returned Mailers
- 18.13 Exhibit M - Staff Report

19. Appearing and testifying was Matt Stalder. Mr. Stalder testified that he was the agent for the property owners/applicants and that he had authority to testify on their behalf. Mr. Stalder agreed with all representations in the staff report and that the proposed Condition of Approval was acceptable.

20. No member of the public appeared at the hearing.

21. The proposal is appropriate in design, character and appearance with the goals and policies for the land use designation in which the proposed use is located.

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

II. RECOMMENDED CONCLUSIONS OF LAW

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

III. RECOMMENDED DECISION

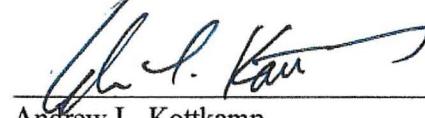
The Hearing Examiner found the proposal to be consistent with the criteria outlined in 15.250.060 pertaining to rezones. The Hearing Examiner recommends approval of the rezone request, from Residential Suburban (R-S) and Residential Medium (R-M) to Residential High (R-H) for the purpose of developing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

IV. RECOMMENDED CONDITION OF APPROVAL

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

Dated this 17th day of August, 2023.

CITY OF ELLENSBURG HEARING EXAMINER



Andrew L. Kottkamp