

RESOLUTION NO. 2024-25

**A RESOLUTION OF THE CITY COUNCIL OF ELLENSBURG, WASHINGTON**  
relating to the preliminary plat approval of the Foster North Subdivision No. P22-059 of property located in Ellensburg, Washington.

WHEREAS, on January 24, 2023 Whipple Consulting Engineers Inc., agent for St James Group, LLC, property owner, filed a preliminary plat application (P22-059) for two-hundred sixty-five (265) lots to be developed on Kittitas County Assessor Parcel ID #'s 14599,14600,14602 & 851033 (80.34 total acres) located at W. Dry Creek Road, commonly referred to as the "Foster North Subdivision"; and

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

WHEREAS, on March 28, 2024 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 July 22, 2024 to consider the preliminary plat application for the Foster North Subdivision, as provided by Chapter 15.260 ECC, the Hearing Examiner received exhibits and testimony into evidence, and issued his July 31, 2024 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 3, 2024, regarding the preliminary plat application for the Foster North 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 polices 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 July 31, 2024 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 is located at W. Dry Creek Road, commonly referred to as the Foster North Subdivision, and legally described as follows:

Parcels 1, 2, 3, 4 and 6 of that certain Survey as recorded August 18, 1999, in Book 24 of Surveys, pages 112 through 114, under Auditor's File No. 199908180001, records of Kittitas County, Washington; being a portion of Section 27 and portion of Section 34, Township 18 North, Range 18 East, W.M., in the County of Kittitas, State of Washington; EXCEPT: That portion of Parcel 4, which is described as follows:

1. That portion of the Southeast Quarter of Section 27 and that portion of the Northeast Quarter of Section 34, both in Township 18 North, Range 18 East, W.M., Kittitas County, State of Washington, which is bounded by a line described as follows:

Beginning at the Northwest corner of Parcel 1 of that certain survey as recorded August 18, 1999 in Book 24 of Surveys, pages 112 through 114, under Auditor's File No. 199908180001, records of Kittitas County, Washington, said point being the intersection of the East right of way boundary of Reecer Creek (county) Road and the Southwesterly boundary of the former Chicago, Milwaukee, St. Paul and Pacific Railway Company right of way; thence South 00°27'40" East, along the East right of way boundary of Reecer Creek Road and the West boundary of Parcels 1, 2, 3 and 4 of said record of survey, 1,231.14 feet to the true point of beginning for said described line; thence continuing along the boundary of said Parcel 4 the following three courses; South 00°27'40" East, 323.18 feet; South 00°23'48" East, 28.80 feet; and South 64°52'21" East, 357.63 feet to an angle point on the boundary of said Parcel 4; thence North 24°57'12" East, 162.44 feet; thence North 00°40'09" East, 80.00 feet; thence North 89°19'51" West, 17.97 feet; thence North 00°27'40" West, 269.98 feet; thence North 89°47'26" West, 375.87 feet to the true point of beginning of said described line;

2. That portion of the Southeast Quarter of Section 27 and that portion of the Northeast Quarter of Section 34, both in Township 18 North, Range 18 East, W.M., Kittitas County, State of Washington, which is bounded by a line described as follows:

Beginning at the Northwest corner of Parcel 1 of that certain Survey as recorded August 18, 1999 in Book 24 of Surveys, pages 112 through 114, under Auditor's File No. 199908180001, records of Kittitas County, Washington, said point being the intersection of the East right of way boundary of Reecer Creek (county) Road and the Southwesterly boundary of the former Chicago, Milwaukee, St. Paul and Pacific Railroad Company right of way; thence South 00°27'40" East, along the East right of way boundary of Reecer Creek Road and the West boundary of Parcels 1, 2, 3 and 4 of said record of Survey, 1,554.32 feet; thence continuing along the boundary of said Parcel 4 the following two courses; South 00°23'48" East, 28.80 feet; and South 64°52'21" East, 357.63 feet to an angle point in the boundary of said Parcel 4 and the true point of beginning for said described line; thence North 24°57'12" East, 162.44 feet; thence North 00°40'09" East, 80.00 feet; thence North 89°19'51" West, 17.97 feet; thence North 00°27'40" West, 269.98 feet; thence South 89°47'26" East, 192.15 feet; thence South 00°27'40" East, 292.75 feet; thence South 24°57'12" West, 288.06 feet; thence North 64°56'48" West, 135.00 feet to the true point of beginning for said described line

**Section 3.** The preliminary plat of the Foster North Subdivision (P22-059) 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. The applicant will meet the requirements of the Public Works Department discussed in its memorandums dated August 15, 2022 and June 27, 2023. Improvements to Dry Creek Road may be deferred in accordance with ECC 4.06.060(D).
2. The applicant will meet the requirements of the Energy Services - Light Department discussed in its memorandum dated November 4, 2021.
3. The applicant will meet the requirements of the Energy Services — Gas Department discussed in its memorandum dated October 29, 2021.
4. The applicant will meet the requirements of the Fire Department for hydrants and access as per Fire Marshal's memorandums dated June 13, 2022 and August 11, 2022.
5. The applicant will meet the requirements of the SEPA Official's issuance of Mitigated Determination of Non-Significance (MDNS) (File # P22-057) dated March 28, 2024.
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. Prior to commencing any ground disturbing activities on the subject property, the owner shall secure State Parks' formal approval for the location and design of the Project access across the Palouse to Cascade Trail, as generally depicted on page 1 of the "Foster 2 Subdivision" Preliminary Plat (referred to here as the "Crossing"). This preliminary plat condition shall be deemed satisfied once the owner transmits final signed and/or recorded documentation demonstrating its rights to improve and use the Crossing in connection with the Project, as well as securing all required road access and utility easements on behalf of the City. In the event that State Parks does not approve the Crossing, then the owner shall be required to apply for and receive approval of a plat alteration per Ellensburg City Code Section 15.260.110(C) as a condition of final plat approval.
8. The City will support, if applicant applies for, a deferral of curb, gutter, sidewalk, storm drainage, illumination, and other related street improvements for that portion of the property as described hereinabove fronting on Old Reecer Creek Rd. as indicated on the "Foster 2 Subdivision" preliminary plat map, to such time as the road is formally vacated, a general street improvement project on Old Reecer Creek Rd. takes place or is ordered by the City Council. Deferral applications are made through the Public Works and Utilities Department.
9. Prior to commencing any ground disturbing activities on the subject property, the owner shall obtain any and all necessary approvals and permissions from the Bonneville Power Administration (BPA) to utilize property within the BPA easement to develop the proposed roadway and associated infrastructure as generally depicted on the "Foster 2 Subdivision" Preliminary Plat. In the event that BPA refuses to issue any needed approval for the proposed improvements, then the owner shall be required to apply for and receive approval of a plat alteration per Ellensburg City Code Section 15.260.110(C) as a condition of final plat approval.
10. All requirements of utility providers, City departments, and affected districts must be satisfied, as outlined in adopted City Codes and other regulatory documents.
11. The Applicant shall perform weed remediation on all lots covered by this Preliminary Plat within thirty (30) days of this Preliminary Plat Approval should that occur.
12. Additionally, all weeds and other noxious vegetation on the subject property shall be controlled on a timely basis until development occurs on the property and lots are sold. Regarding the open space tracts or storm water tracts, weed control shall be routinely performed by the property owner or homeowner's association, whichever applies.

13. 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."

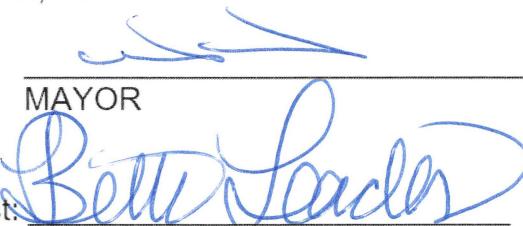
**Section 4.** The Ellensburg City Council makes the following conclusions of law:

- 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 the 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.

Adopted this 3<sup>rd</sup> day of September, 2024.

  
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MAYOR  
Attest:   
City Clerk