

ORDINANCE NO. 4945

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 HIGH (R-H).

WHEREAS, on April 22, 2024 the City received an application (P24-035) from Matt Stalder, agent for property owners Dan Shissler and Martha Kurts, requesting a rezone of a parcel located at 2319 N. Airport Rd, Parcel ID Number 572733 ("application"); and

WHEREAS, the application proposed to rezone the parcels from Residential Suburban (R-S) 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 Determination of Non-Significance (DNS), on July 2, 2024; and

WHEREAS, the Hearing Examiner held a duly noticed open record hearing on August 14, 2024, received evidence and heard testimony regarding the proposed rezone; and

WHEREAS, the Hearing Examiner on August 16, 2024, issued Recommended Findings of Fact, Conclusions of Law, Decision and Conditions of Approval for the rezone request from R-S to R-H; and

WHEREAS, the Ellensburg City Council held a duly noticed closed record hearing on October 7, 2024 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 Condition of Approval, and to approve the applicant's request to rezone the subject property from R-S and to R-H;

WHEREAS, the Ellensburg City Council conducted the second reading of Ordinance 4946, on October 21, 2024, approving rezone of parcel #572733 from Residential Suburban to Residential High.

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 2319 N. Airport Road, with Parcel ID Number 572733, as set forth in the Hearing Examiner's "Recommended Findings of Fact, Conclusions of Law, Decision and Conditions of Approval," dated August 16, 2024, 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):

ACRES .53, CD. 8735-E; SEC 26; TWP 18; RGE 18; PTN SE1/4 SE1/4 (PARCEL A, B22/P248)

**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.

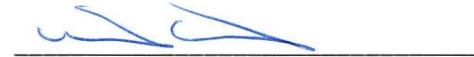
**Section 4.** Except as modified herein, each and every provision of the City Land Development Code, Title 15, as amended, shall remain in full force and effect.

**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 21<sup>st</sup> day of October, 2024.

  
\_\_\_\_\_  
Mayor

Attest:

Beth Leader  
City Clerk

Approved as to form:

City Attorney

Publish: 10-24-24

I, Beth Leader, City Clerk of said City, do hereby certify that Ordinance No. 4945 is a true and correct copy of said Ordinance of like number as the same was passed by said Council, that Ordinance No. 4945 was published as required by law.

Beth Leader  
Beth Leader

## Exhibit A

### CITY OF ELLENSBURG LAND USE HEARING EXAMINER

IN THE MATTER OF	)	RECOMMENDED FINDINGS OF
	)	FACT, RECOMMENDED
P24-035	)	CONCLUSIONS OF LAW,
Stalder Rezone Request	)	RECOMMENDED DECISION AND
	)	RECOMMENDED CONDITION OF
	)	APPROVAL

THIS MATTER having come on for hearing in front of the City of Ellensburg Hearing Examiner on August 14, 2024, the Hearing Examiner having taken evidence hereby submits the following Recommended Findings of Fact, Recommended Conclusions of Law, Recommended Decision and Recommended Condition of Approval as follows:

#### I. RECOMMENDED FINDINGS OF FACT

1. Applicant: Matt Stalder, agent for property owner.
2. Requested Action: The applicant seeks to rezone the subject property from Residential Suburban (R-S) to Residential High (R-H) for the purpose of developing a multifamily building complex. A State Environmental Policy Action (SEPA) Determination of Non-Significance (DNS) was issued for the subject parcel on July 2, 2024, for the site-specific rezone and proposed apartment structure. A project action is not part of this application.
3. Location: The parcel is located on the west side of Airport Road north of the intersection with Helena Ave, in Ellensburg; Kittitas County Assessor's Parcel ID# 572733 addressed as 2319 N. Airport Road. (Exhibit A).
4. Site History: Parcel ID # 572733 is in the Residential-Suburban zone, and is a currently vacant parcel, as the single-family residence burned down in 2022 according to documents submitted. The applicant is proposing to develop the site with one multistory multifamily building. The property is bordered by Residential-Suburban zoning to the north, west, and south. The property is bordered to the east by an unincorporated island with a future land use designation of Urban Neighborhood.
5. Site Characteristics: The site topography is relatively flat, and currently vacant of structures. Mercer Creek runs north to south along the west parcel boundary.
6. Surrounding Properties: A zoning map of the surrounding properties is attached as Exhibit B. The zoning of the surrounding properties is further described below.
  - 6.1. North: The properties to the north are zoned Residential Suburban and consist of single-family dwellings on properties ranging in size from 0.54 and 1.88 acres.
  - 6.2. South: The properties to the south are zoned Residential-Suburban, Residential-Medium and Residential-High and consist of single-family dwellings and multifamily dwellings.
  - 6.3. East: The properties to the east are within an unincorporated island, and consist of undeveloped land and multiple multi-story, multifamily dwellings.

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

6.5. Access: Access to the property is from Airport Rd, an existing minor arterial.

7. 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.

8. Comprehensive Plan Designations: A map of the comprehensive plan future land use designations was admitted into the record as Exhibit C. The parcel is 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.

9. Public Comments: Community Development originally issued a joint SEPA, Rezone, and hearing notification of application on May 21, 2024, initiating a 21-day comment period which was to conclude on June 12, 2024. (Exhibit D) Due to unmet noticing requirements with the combined SEPA and Rezone notice, the initial public comment period was cancelled, and the notification of application was reissued on June 4, initiating a 21-day comment period which concluded on June 26, 2024. (Comment Period Noticing- Exhibits E, G, I) The City of Ellensburg Public Works Department initially submitted comments on June 3, 2024, stating that future development applications will require consistency with Public Works development standards, and that a Traffic Impact Analysis would be required. The Washington State Department of Ecology submitted comments on June 24, 2024, regarding water quality requirements. (Exhibit K) The applicant reviewed both comments, and responded via email on June 28, 2024 that they have no questions or comments.

10. Notice of the rescheduled open record public hearing (Hearing Notices- Exhibits F, H, J) was published in the legal section of the Daily Record on July 23, 2024, and the site was posted with a land use action signs on July 23, 2024. (Exhibit J) On July 19, 2024 a notice of the rezone was mailed to property owners within 300 feet of the proposed site (Exhibit F). No written public comments were received.

11. The applicant submitted the required SEPA checklist for review, which was processed as follows:

11.1.	SEPA Checklist Submitted:	04/22/24
11.2.	Determination of Completeness:	05/15/24
11.3.	Notice to Property owners:	#1- 05/21/24 #2- 06/04/24
11.4.	SEPA Threshold Determination	07/2/24

12. Community Development received multiple agency comments during the comment period. The full comment letters are provided in Exhibit K of the review materials. Community Development reviewed the comments and received and the applicants' responses and drafted conditions to mitigate environmental impacts.

13. A SEPA Determination of Non-Significance (DNS) was issued on July 2, 2024 (Exhibit M), for the non-project site specific rezone. No appeals were filed.

14. Ellensburg City Code Requirements for Site-Specific Rezone

14.1. Per Ellensburg City Code, site-specific rezone applications are subject to the Type IV review process, and the Hearings Examiner provides a recommendation to City Council after holding an open record public hearing. The Hearings Examiner must find that the application is in compliance with the decision criteria in ECC 15.250.060.

14.2. 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:

- 14.2.1. Conditions have changed since the imposition of the zoning classification on the property;
- 14.2.2. The proposed rezone bears a substantial relationship to the public health, safety, morals, and general welfare;
- 14.2.3. The proposed rezone is consistent with the comprehensive plan;
- 14.2.4. 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

15.1. The applicant has submitted an application (Exhibit N) with a narrative (Exhibit O) addressing the rezone criteria found in ECC 15.250.060(C). The applicant seeks Residential High (R-H) zoning in order to construct a 60-unit apartment complex. The information submitted by the applicant is followed by Hearing Examiner Findings.

- 15.1.1. Conditions have changed since the imposition of the zoning classification on the property.
- 15.1.2. Applicant narrative: 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.
- 15.1.3. Hearing Examiner Finding: Parcel 572733 is zoned Residential Suburban, and borders parcel 582733 along its southern boundary line. Parcel 652733 is located two parcels south of the subject parcel, and in 2023, was rezoned from Residential Suburban (R-S) to Residential High (R-H), to help meet the increased housing demand in this area of the City. 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, as well as recent growth.

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

- 15.2.1. Applicant narrative: The rezone is critical to the area 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 the increased density allowed with the rezone, the project will add a larger number of units within an area of increasing density and thus reducing urban sprawl expansion. There will also be infrastructure upgrades as a requirement of development benefiting pedestrians and the public and a wetland study to protect area wildlife.
- 15.2.2. Hearing Examiner Finding: The rezone of parcel 572733 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. Applicant narrative: 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. Hearing Examiner Finding: 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) (EXHIBIT C).
- 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. Applicant narrative: 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. Parcels nearby to the south are zoned RH with a mid-rise apartment building on and one and a large scale multifamily development being planned on the other so rezoning the parcel in question would create consistency in the neighborhood.
  - 15.4.2. Hearing Examiner Finding: 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) (EXHIBIT C).
16. 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.
17. In addition, the Hearing Examiner finds the request for Residential High (R-H) zoning to be in keeping with the following goals, policies and programs of the current Comprehensive Plan:
  - 17.1. Goal LU-1, "Encourage development that creates a variety of housing, shopping, entertainment, recreation, gathering spaces, employment, and services that are accessible to neighborhoods."
  - 17.2. Policy B, "Integrate new development with consideration to design and scale that complements existing neighborhoods and provides effective transitions between different uses and intensities."
18. 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:
  - 18.1. Areas designated blended residential neighborhood, urban neighborhood, or community mixed-use in the comprehensive plan;
  - 18.2. Areas characterized by multifamily buildings;
  - 18.3. Areas adjacent to commercial zoned property;
  - 18.4. Areas located along corridors served by transit.
19. The applicant seeks Residential High Density (R-H) zoning to be able to construct a multifamily complex. Adjacent parcels to the south and west already contain multifamily structures. The applicant will be responsible for meeting all development standards under the Land Development Code.
20. An open record public hearing was held, after legal notice, on August 14, 2024.

21. Appearing and testifying on behalf of the Applicant was Matthew Stalder. Mr. Stalder testified that he was an agent authorized to appear and speak on behalf of the property owner and Applicant. Mr. Stalder stated that he agreed with the representations set forth within the staff report and had no objection to the proposed Condition of Approval.
22. Testifying from the public was Steve Mandelas. Mr. Mandelas owns property immediately adjacent and to the north of the subject property. Mr. Mandelas did not provide any testimony regarding whether the proposed rezone met the criteria set forth within the Ellensburg Municipal Code. However, he did have concerns about future development of the property, including traffic impacts and landscaping that would shield his property from the more intense density proposed by the applicant.
23. The following exhibits were admitted into the record:
  - 23.1. Ex. A. Location Map
  - 23.2. Ex. B. Current Zoning Map
  - 23.3. Ex. C. Comprehensive Plan Future Land Use Designation Map
  - 23.4. Ex. D. Affidavit of Mailing and Buffer Map- Original Public Comment Period
  - 23.5. Ex. E. Affidavit of Mailing and Buffer Map- Reissued Public Comment Period
  - 23.6. Ex. F. Affidavit of Mailing and Buffer Map- Rescheduled Hearing
  - 23.7. Ex. G. Affidavit of Publication- Reissued Public Comment Period
  - 23.8. Ex. H. Affidavit of Publication- Rescheduled Hearing
  - 23.9. Ex. I. Land Use Action Sign and Affidavit of Posting- Reissued Public Comment Period
  - 23.10. Ex. J. Land Use Action Sign and Affidavit of Posting- Rescheduled Hearing
  - 23.11. Ex. K. SEPA Comments
  - 23.12. Ex. L. Returned Mailers
  - 23.13. Ex. M. SEPA DNS
  - 23.14. Ex. N. Rezone Application
  - 23.15. Ex. O. Rezone Application Narrative
  - 23.16. Ex. P. Applicant Project Site Plans
  - 23.17. Ex. Q. Staff Report

24. The City of Ellensburg Hearing Examiner considered all evidence within the record in rendering this decision.
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 the authority to render this recommended decision.
2. The requested rezone meets all the criteria set forth within Ellensburg City Code 15.250.060.
3. 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 Recommended Conclusions of Law, P24-035 the Hearing Examiner hereby recommends that this Rezone Request be **APPROVED** subject to the following Recommended Condition of Approval.

### 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, associated land use determinations, and other regulatory documents.

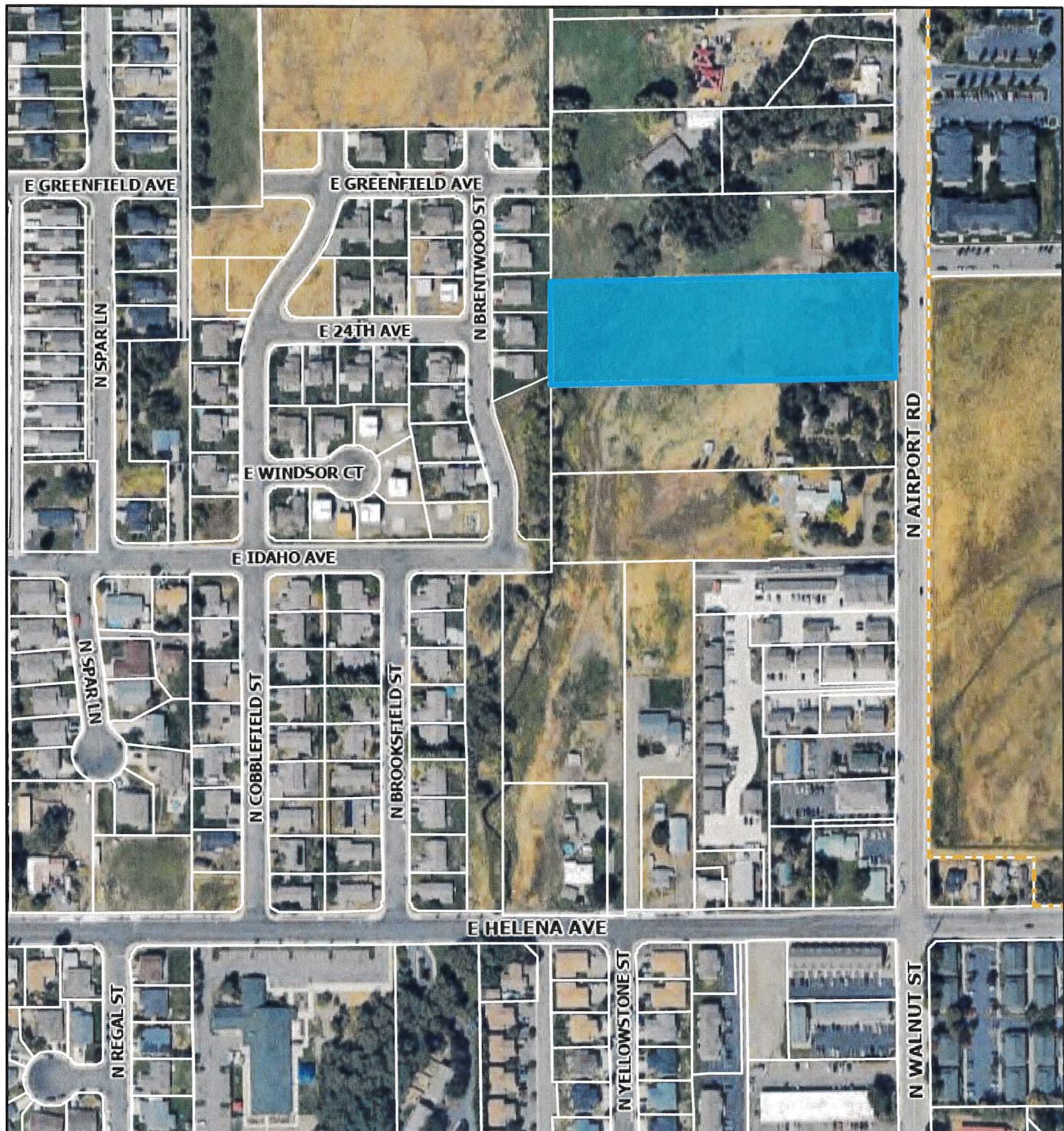
Dated this 16 day of August, 2024

CITY OF ELLENSBURG HEARING EXAMINER



Andrew L. Kottkamp

# Location Map



8/8/2024, 12:49:27 PM

1:4,514

0 0.03 0.05 0.1 mi  
0 0.04 0.08 0.16 km

County Parcels  
City Parcels  
City Limits

Owner Address  
Site Address

Roads

Road

Alley

Major Arterial Google Maps