City of Cle Elum
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CITY HEIGHTS PHASE 1 PRELIMINARY PLAT
UPDATED GRADING, EXCAVATION, AND LAND FILLING PERMIT

Permission is hereby granted in accordance with the provisions of CEMC 15.30, as modified by the City Heights Development Agreement, this 3rd day of March 2022, to:

City Heights for grading, excavation, and land filling activities necessary to implement the Phase 1 Preliminary Plat as approved by the Cle Elum City Council on July 21, 2021, in accordance with the Clearing, Grading, and Infrastructure Plans (Phase 1 Engineering Plans), dated November 15, 2021, approved by the City on March 3, 2022, and as subsequently modified in accordance with the letter issued by the City approving these plans dated March 3, 2022. The approved grading, excavation, and land filling activities may commence following verification by the City that all preliminary conditions have been met and a written authorization to proceed has been issued by the City.

Project Location: *As depicted on the approved Phase 1 Clearing, Grading, and Infrastructure Plans*

This permit has been issued subject to compliance with the following provisions:

1. *All grading, excavation, and fill activities shall comply with the provisions of the Cle Elum Municipal Code Chapter 15.30, as modified by the City Heights Development Agreement and the approved Phase 1 Clearing, Grading, and Infrastructure Plans.*

2. *The Project Sponsor shall be responsible for compliance with all Conditions of Approval in the City Heights Development Agreement and the Phase 1 Decision and Conditions as Approved in Settlement of Applicants Appeal dated July21, 2021.*

3. *All activities under this permit shall be limited to 7:00 AM to 8:00 PM Monday through Saturday.*

4. *All activities shall be conducted in accordance with Industrial Fire Precaution Levels as determined by the Washington State Department of Natural Resources (DNR). This shall include but is not limited to compliance with the DNR Handbook on Forest Fire Protection published October 2018, and as may subsequently be amended. Note: This includes limiting land clearing activities to 8 am to 1 pm during Industrial Fire Protection Level 3 and suspension of all activities during Level 4.*

5. *All trucks and equipment in excess of 10,000 pounds gross vehicle weight, or 40 feet in length, shall utilize the designated Alliance Road haul route.*

6. *All existing streets and roads shall remain open and provide unobstructed access to emergency vehicles and property owners with rights to use this road for access, provided that:*

    a. *The Project Sponsor shall provide safety measures such as flaggers when activities are being conducted in proximity to this road.*

    b. *If the temporary closure or obstruction of this road is required, the Project Sponsor shall contact the City in advance to provide sufficient opportunity to review and approve proposed notification and emergency access plans.*

7. *The grading, excavation, and land filling activities shall be strictly limited to those areas and activities identified in the approved Phase 1 Clearing, Grading, and Infrastructure Plans, provided that no activities are authorized outside the boundaries of the approved Phase 1 Preliminary Plat.*

8. *In accordance with the provisions of the City Heights Development Agreement:*

    a. *No vegetation shall be removed from slopes with a grade in excess of thirty five percent (35%) unless, upon recommendation of the Ridge Entities licensed geotech engineer, the City Engineer determines vegetation removal is necessary to complete road, trail or utility corridors and appropriate measures are undertaken to ensure slope stability.*

    b. *On slopes exceeding thirty five percent (35%), no clearing or grading shall occur within 25 feet from the top of any slope, unless, upon recommendation of a geotechnical report from the Ridge Entities licensed geotechnical engineer demonstrating that such work wil1 not adversely affect slope stability, the City Engineer determines that such work wil1 not adversely affect slope stability.*

    c. *On slopes exceeding thirty five percent (35%) earthmoving or clearing activities would only be allowed by the City Engineer after review of recommendations therefor by the Ridge Entities' licensed geotechnical engineer.*

9. *A protective zone shall be established and maintained around Tract CC, the Number 7 Mine opening, and all remnant foundations pending a determination by the Washington State Department of Archaeology and Historic Preservation on the eligibility of these features for inclusion on the State or National Historic Register. No activities shall occur within this protective zone until authorized in writing by the City.*

10. *Critical areas and their buffers, Red Rock Park, Tract CC, the vegetative buffers along Sixth Street, and protective zones required under this permit shall be clearly identified with survey flagging, lathe, or orange construction fencing, at all times.*

11. *No disturbance shall occur within any critical area or buffer, vegetative buffer, or a protective zone, except as provided in this document and in the Phase 1 Decision and Conditions as Approved in Settlement of Applicants Appeal dated July21, 2021.*

    a. *Prior to the start of construction in any area where wetlands have been delineated, or streams identified the Project Sponsor shall flag the boundaries of the wetland/stream and the associated buffer and install silt fencing for the purpose of alerting contractors to the "no disturbance" requirements for such areas.*

    b. *No activities shall occur within these areas until authorized in writing by the City.*

12. *It shall be the responsibility of the Project Sponsor to obtain any local, state, or federal permits or approvals that may be required in conjunction with these Grading, Excavation, and Land Filling activities. The Project Sponsor shall promptly notify the City if:*

    a. *A permit or approval from a state or federal agency includes provisions that are not consistent with the Phase 1 Clearing, Grading, and Infrastructure Plans approved by the City.*

    b. *A state or federal agency denies a permit or withholds approval for the Phase 1 construction activities proposed for critical areas and their buffers.*

    c. *A state or federal agency issues a Stop Work Order, a Notice of Violation, and the like for activities in or near critical areas and their buffers.*

    d. *It is understood by the parties, that if a state or federal agency approval is not consistent with this City permit, that this permit may be suspended, modified, or rescinded by the City pending a resolution of this potential conflict. This may include but is not limited to the modification of the Phase 1 Clearing, Grading, and Infrastructure Plans approved by the City.*

13. *In the event of a potential conflict between this permit and any other local, state, or federal standard, requirement, permit, or approval, or uncertainty regarding the appropriate actions to be taken to remain in compliance, the Project Sponsor shall stop all questionable activities and immediately contact the City and seek clarification.*

14. *Nothing in this permit shall relieve the Project Sponsor from any remediation that may be required for unauthorized construction related activities that may have occurred in critical areas and their buffers in conjunction with a Forest Practices Act Permit(s) previously issued by the Department of Natural Resources or related permits issued by the City.*

15. *Prior to initiating any clearing, excavation, or land filling activities authorized under this permit, the Project Sponsor shall identify any areas where trees were previously removed in violation of the City Heights Development Agreement and shall submit proposed remedial or compensatory mitigation measures for City review and approval.*

16. *It shall be the ongoing responsibility of the Project Sponsor to monitor and maintain all erosion, sediment, stormwater, and dust control measures that have been installed and to make such modifications to Best Management Practices (BMPs) as may be necessary to remain in compliance with local, state, and federal requirements, at all times.*

    a. *The Project Sponsor shall submit for City review and approval a written Dust Control Plan that identifies the specific measures to be utilized for suppressing fugitive dust.*

    b. *The City may periodically inspect the site and may require additional erosion, sediment, stormwater, dust control measures and/or BMPs, especially as seasonal weather changes occur.*

17. *It is understood by the parties that these Grading, Excavation, and Land Filling activities are being voluntarily undertaken by the Project Sponsor at their risk and expense.*

    a. *All subsequent development activities proposed for the project will be judged on its merits and the approval of this grade, excavation, and fill permit does not obligate the City to approve future development activities or preclude the requirement of further site improvements.*

    b. *Any activities initiated by the Project Sponsor in violation of the City Heights Development Agreement, or the Phase 1 Decision and Conditions as Approved in Settlement of Applicants Appeal dated July21, 2021 shall be subject to enforcement actions.*

18. *Upon signatures of the parties, this permit shall be in effect commencing on April 1, 2022, and expiring on October 2, 2022, provided that:*

    a. *No clearing, excavation, or land filling activities authorized through this permit shall be initiated prior to the issuance of a written authorization to proceed by the City.*

    b. *The failure to be in compliance with the conditions of approval at all times may result in the suspension or termination of this permit, code enforcement actions including but not limited to the issuance of a Stop Work Order, and/or non-compliance actions in accordance with the provisions of the City Heights Development Agreement.*

    c. *The Project Sponsor shall reimburse the City for all costs incurred in conjunction with the processing, issuance, monitoring, inspection, and enforcement of this permit.*

    d. *The Project Sponsor may submit proposed modifications to this permit for City review and approval.*

    e. *The City may issue one additional six-month extension of this permit as authorized in CEMC 15.30.090.*

19. *Written authorization to proceed shall be issued by the City upon verification that the following provisions have been met:*

    a. *Contact information has been provided for the representatives of the Project Sponsor designated with the responsibility for ensuring that all activities are in compliance with the conditions of this permit at all times.*

    b. *Contact information has been provided for the representatives of the Project Sponsor designated to maintain the erosion, sediment, stormwater, and dust control measures and the markings installed to identify areas not to be disturbed.*

    c. *Documentation of coverage under the Construction Stormwater General Permit from the Washington State Department of Ecology has been provided.*

    d. *The Project Sponsor has provided the City with sufficient documentation to reasonably determine that all permits and approvals required by state and federal agencies have been obtained.*

    e. *The Project Sponsor has submitted for City review and approval review a Dust Control Plan.*

    f. *Critical areas and their buffers, parks, the vegetative buffers along Sixth Street, and protective zones required under this permit have been clearly identified with survey flagging, lathe, or orange construction fencing and have been inspected and accepted by the City.*

    g. *The Project Sponsor has inspected and subsequently repaired, replaced, and/or installed new BMPs to control stormwater runoff, erosion, and sedimentation in accordance with the provisions of the approved Clearing, Grading, and Infrastructure Plans.*

    h. *Representatives of the Project Sponsor and his contractors have successfully participated in an on-site pre-construction meeting with the City.*

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Project Sponsor/Authorized Representative **Date**

_____

City of Cle Elum **Date**