

**City of Cle Elum, Washington  
City Heights Planned Mixed Use Development  
Phase 1 Preliminary Plat Application  
SEPA Compliance Determination and Consistency Review**

**Decision and Conditions as Approved in Settlement of  
Applicant's Appeal**

Settlement Agreement Approval Signatures:

CITY OF CLE ELUM

  
BY: Mayor Jay McGowan

CITY HEIGHTS HOLDINGS, LLC

By: Trailside Group, LLC, its Manager

  
BY: Sean Northrop, its Manager

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## **I. Introduction**

### **A. Project Description**

In November of 2011, the Cle Elum City Council approved a Master Site Plan, an Annexation and Development Agreement, and a Planned Action Ordinance for City Heights, a planned mixed-use development that includes the development of up to 962 dwelling units on 358 acres in the City of Cle Elum generally located north of Sixth Street. Until recently, no actions have been taken to implement this approved Master Site Plan.

The City has now received the first application to implement the approved Master Site Plan, a proposed subdivision that would create 68 residential lots on 33-acres within City Heights Development Pods B7 and C, which are generally located north of the intersection of Sixth Street and Steiner Street. (See attached map). This Phase 1 application also includes proposed improvements to Summit View Drive, Stafford Street, the construction of several local streets and alleys, the construction of trails and a park, the installation of water, sewer, and stormwater improvements, and private amenities for the residents of the subdivision.

### **B. Required Permits and Approvals**

The proposed Phase 1 subdivision is subject to preliminary and final plat approval by the City in accordance with the applicable provisions of the Cle Elum Municipal Code Title 17 and Appendix Q to the City Heights Development Agreement. In addition, project specific permits will be required for all infrastructure improvements, such as the construction or relocation of roads or trails, or the construction of stormwater management facilities. A City Clearing and Grading Permit(s) will be required. Local, and potentially state and federal permits or approvals will be required for any construction activities such as infrastructure improvements proposed in designated environmentally sensitive areas and their buffers, such as streams, wetlands, and steep slopes. A Forest Practices permit from the Washington State Department of Natural Resources will be required. Following final plat approval, City building permits must be obtained prior to constructing any dwellings or buildings.

### **C. Environmental Review**

A final environmental impact statement (FEIS) for the proposed City Heights Master Site Plan was issued by the City in 2010. The Cle Elum City Council subsequently approved Ordinance 1353 on November 11, 2011, which designated City Heights as a Planned Action in accordance with the provisions of the Washington State Environmental Policy Act. As a result, this Phase 1 application shall be reviewed to determine if it is within the scope of the FEIS and Planned Action Ordinance and whether additional environmental review is required or not.

#### **D. Application Review Process**

The City had determined that the Phase 1 subdivision application should be processed as a Type IV application in accordance with the provisions of CEMC 17.45.110 and CEMC 17.100, as modified by the Appendix Q to the City Heights Development Agreement. This would include the distribution of a written Notice of Application and an opportunity for the public and public agencies to submit written comments. The City Development Review Team would then evaluate the Phase 1 application for consistency with the City Heights EIS, the City Heights Development Agreement including the vested development standards, and the conditions of Master Site Plan approval. Upon completion of this consistency review, the City was planning on issuing a written Determination of Consistency and scheduling a public hearing to be conducted by the City Planning Commission. A staff report that includes the consistency determination and recommended conditions of approval, if applicable, would have been made available for public review at least 14 days prior to this hearing. Upon completion of the public hearing, the Planning Commission would have made a recommendation to the City Council on the Phase 1 subdivision application. The City Council would then have reviewed the recommendation from the Planning Commission, along with the record that was developed during the review process and taken action on the preliminary plat application.

The Applicant however asserted that the original City Council approval of the Master Site Plan and Development Agreement eliminated the need for a public hearing on the Phase 1 application, and that the preliminary plat application was only subject to administrative review and approval as a Type 2 permit. The City and the Applicant were unable to resolve their fundamental disagreement regarding the interpretation of the Development Agreement and the dispute was referred to a professional arbitrator for a hearing. The Arbitrator ruled in favor of the Project Sponsor and as a result, the City revised the process for reviewing the Phase 1 preliminary plat application and has limited its review to an administrative determination of consistency, and no public hearing will be conducted prior to the approval of this preliminary plat, as would typically be the case. The Development Agreement does however provide for a 15-day period to file an appeal of the Consistency Determination with the City Council.

#### **II. Phase 1 Application**

The City determined on September 2, 2020, that the Phase 1 Preliminary Application was complete and ready for processing. Since that time, the Applicant has submitted revised application materials to address issues identified by the City Development Review Team during the Consistency Review.

**A.** The Complete Phase 1 Application as updated, includes the following documents:

1. City Heights Phase 1 Preliminary Subdivision Application 06-16-20.
2. City Heights Phase 1 Second Submittal Letter 07-31-20.
3. City Heights Phase 1 Third Submittal Letter 08-21-20.
4. City Heights Phase 1 SEPA Checklist 07-29-20.
5. City Heights Phase 1 Compliance Narrative 07-30-20.
6. City Heights Phase 1 Consistency Review Checklist 07-13-20.
7. City Heights Phase 1 Preliminary Plat Map 01-06-21.
8. City Heights Phase 1 Civil Drawings 01-05-21.
9. City Heights Phase 1 Phasing Plan Narrative 08-21-20.
10. City Heights Phase 1 Water and Sewer Service Memo 07-30-20.
11. City Heights Phase 1 Preliminary Storm Drainage Report 07-29-20.
12. City Heights Phase 1 Geotechnical Report 06-09-20.
13. City Heights Phase 1 Critical Areas Report 07-28-20.
14. City Heights Phase 1 Wetlands Wildlife Habitat Report 06-16-20.
15. City Heights Phase 1 Cost Recovery Agreement 06-19-20.
16. City Heights Phase 1 Updated Application Transmittal 03-15-21.
17. City Heights Phase 1 Grading and Infrastructure Plans 03-15-21.
18. City Heights Phase 1 Grading and Fill Application 03-12-21.
19. City Heights Phase 1 Grading and Fill Description 03-12-21.
20. City Heights Phase 1 Geotechnical Assessment 06-09-20.
21. City Heights Phase 1 Geotechnical Plan Review 03-12-21.
22. City Heights Phase 1 Storm Drainage Report 03-12-21.
23. City Heights Phase 1 Revised Critical Areas Report 03-11-21.
24. City Heights Phase 1 Buffer Restoration Plan 10-26-20.
25. City Heights Phase 1 Transportation Assessment 03-08-21.

### **III. SEPA Compliance Determination**

#### **A. Introduction**

On September 2, 2020, the City of Cle Elum determined that the Preliminary Plat Application submitted to implement Phase 1 of the City Heights Planned Mixed Use Development was complete and ready for processing. As a result, this application is now undergoing City review in accordance with the provisions of the City Heights Development Agreement Appendix Q, as interpreted through binding arbitration. Appendix Q addresses both the process for determining if the Phase 1 application is consistent with the State Environmental Policy Act (SEPA) and the City Heights Planned Action Ordinance, as well as the process for determining if the Phase 1 application complies with the City Heights Master Site Plan and Development Agreement.

Step 1 in the review for compliance with the State Environmental Policy Act (SEPA) requires that the City determine if the Phase 1 application materials are consistent with

criteria for a planned action implementing project and within the scope of the City Heights EIS and Planned Action Ordinance. If it is, then the existing City Heights EIS shall be utilized, and no further SEPA threshold determination is required. If the Phase I application is determined to exceed the Planned Action, then the City shall prepare a threshold determination, taking into account the existing City Heights EIS and the governing development standards applicable to the City Heights Project. The City may request additional information and studies and shall issue a Determination of Non-Significance (DNS), a Mitigated Determination of Non-Significance (MDNS), or if certain conditions persist a Determination of Significance which shall require the preparation of a supplement to the City Heights EIS.

**B. SEPA Compliance for Implementing Approvals**

The review criteria used to determine whether a project application meets the criteria of a planned action is identified in Section 4 of Cle Elum Ordinance No. 1353 (City Heights Planned Action Ordinance). These criteria and the basis for determining that the Phase I application is in compliance, are identified below.

<b>City Heights Planned Action Ordinance Section 4. Planned Action Criteria</b>	<b>Compliance Determination</b>
The SEPA official or designee shall designate and process a project application as a City Heights planned action only if the project meets all of the following conditions:	
(a) The subject property is within the approximately 358-acre site legally described on Appendix A to Ordinance 1353 and as shown on the approved Master Site Plan.	The proposed Phase I preliminary plat consists of Development Area C and Development Pod B-7 on the approved City Heights Master Site Plan. The proposed plat would complete the development of these areas as specified in the City Heights Development Agreement.
(b) The proposed use and density are within the scope of those uses and densities analyzed in the FEIS.	The proposed plat contains 68 residential lots, roads, alleys, trails, a park, recreational uses, and associated infrastructure that that are consistent with the types and density of land uses contemplated in the City Heights FEIS.
(c) The project implements, and the proposed use and density are within the scope of the Development Agreement and the Master Site Plan.	The proposal is consistent with the uses and densities contemplated in the Development Agreement and Master Site Plan

<p>(d) The probable significant adverse impacts of the project have been adequately addressed in the City Heights FEIS.</p>	<p>The Phase I preliminary plat provisionally satisfies this criteria. The Mitigating Measures contained in the City Heights FEIS, as supplemented by the conditions of preliminary plat approval, and the conditions of minor modification approval, approved</p>
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	<p>phasing plans, additional voluntary measures incorporated into the Phase 1 design, and additional actions that will be to be taken prior to final plat approval, will collectively adequately address probable significant project-specific adverse impacts associated with the Proposed Phase 1 plat if they are implemented.</p>
<p>(e) The project is not an essential public facility as defined under RCW 36.70A.200(c).</p>	<p>The proposed preliminary plat is not an essential public facility.</p>

**C. SEPA Compliance Determination**

The City has completed its review of the Phase 1 application materials and, based on the review of applicable criteria above, has determined that it will be within the scope of the City Heights EIS and Planned Action Ordinance, provided that mitigation measures are implemented, as listed below for the approved Phase 1 Preliminary Plat, specifically Preliminary Plat Condition Nos. 3, 4, 15, 18, 29, 30, 31, 41, and 54.

**D. Next Steps**

Based on implementation of the conditions and supplemental analyses set forth in subsection C, it is determined that the Phase 1 Plat will be consistent with the City Heights EIS and will meet the criteria for a Planned Action implementing project in accordance with the provisions of City of Cle Elum Ordinance No. 1353. As a result, no Threshold Determination is required in conjunction with the review of the Phase 1 plat application. Please note that this determination only applies to the Proposed Phase 1 development and shall not apply to applications submitted to implement subsequent phases of the City Heights project. These subsequent applications will be evaluated on their merits and a Threshold Determination shall be issued for each subsequent phase.

**IV. Consistency Review**

**A. Overview**

The Proposed Phase 1 Preliminary Plat application is subject to administrative review by the City in accordance with the provisions of Appendix Q to the Development Agreement, as interpreted by the Arbitrator. In reviewing the application materials, the designated City Planner, in consultation with the Mayor, City staff, and consultants to the City shall consider



the following :

1. Whether the proposed action is within the scope and intent of the Master Site Plan.
2. Whether the proposed action is of a similar size and scale and does not present appreciably different environmental effects from those identified in the City Heights EIS.
3. Whether the proposed action reduces overall acreage identified as dedicated public areas, open space or buffering areas.
4. Whether the proposed action materially and significantly changes the balance of uses approved as part of the Master Site Plan.
5. Whether for proposed action can be completed consistent with the Development Standards set forth in this Agreement.

Immediately upon rendering a decision, the City Planner shall mail and publish the Consistency Determination and the determination is final unless appealed to the City Council.

#### **B. City Heights EIS Mitigation Measures**

A summary of the Mitigation Measures identified in the City Heights EIS is included as Exhibit CC to this document. The Phase 1 preliminary plat application and all subsequent applications must comply with these measures.

#### **C. Development Agreement Conditions of Approval**

The City Heights Development Agreement includes approximately 115 conditions of Approval that are contained in Appendices A-P to the Development Agreement. These conditions of approval are incorporated by reference and can be found in Exhibit BB to this document. The Phase 1 preliminary plat application and all subsequent application must comply with these measures unless modified or replaced in accordance with the provisions of the City Heights Development Agreement.

#### **D. Vested Development Standards**

The City Heights Development Agreement provides in paragraph 8.1 that:

*To the extent this Agreement does not establish Development Standards covering a certain subject, element or condition, then City Heights shall be governed by the city*

*codes and standards in effect on the Vesting Date, with any ambiguity construed in furtherance of the policies and goals set forth in Section 3.2*

A copy of the Cle Elum Municipal Code Chapters 12-18 in effect on November 8, 2011 is incorporated by reference and can be found in Exhibit DD to this document. should be noted however, that in accordance with the provisions of the City Heights Development Agreement paragraph 8.2.1 that all subsequent construction activities that require a building permit shall comply with the International Building Code, International Fire Code, and other construction and mechanical codes as adopted and implemented by the City and in effect at the time the application is submitted.

#### **E. Applicant Elections**

Appendix R to the City Heights Development Agreement authorizes the Project Sponsor to include as a part of any application for a preliminary plat, or a proposed revision to an approved preliminary plat, certain pre-approved matters including:

- 1.1.1 Designations or changes in residential density or layout so long as the change falls within the density range approved for that Development Area under Exhibit 3 and Appendix A and other relevant portions of this Agreement.*
- 1.1.2 Designations or changes in the square footage or layout of retail/commercial uses so long as the modification falls within the range of square footage/acreage approved for the Development Areas on Exhibit 3 and Appendix A and other relevant portions of the Agreement.*
- 1.1.3 Designations or changes in lot size, lot configuration and road layout resulting from changes in the density or intensity under Paragraphs 1.1.1 or 1.1.2 above.*
- 1.1.4 Reallocation of Type of Product per Development Area so long as the maximum densities are unchanged and the Type of Product remains proposed for development within the Development Areas on Exhibit 3 and Appendix A and other relevant portions of the Agreement.*
- 1.1.5 Designation or modification in alignment, location or layout of roads within City Heights, provided that the four Points of Access set forth in Appendix I do not change, and provided that the extent of connectivity of the roads is not materially reduced.*
- 1.1.6 Revision (amendment) of an approved preliminary or final plat, provided that such revision/amendment is consistent with the Conditions of Approval and*

*the Master Site Plan.*

*1.1.7 Other elections or modifications requested by the applicant, which are within the pre-approved ranges or provisions of this Agreement and the Exhibits or which the City Planning Director determines provide functional equivalence or are minor in nature. Such election or modification may include a proposed or revised phasing plan for a Development Area or for the Project.*

The City Heights Development Agreement further provides that the City must verify that proposed Applicant Elections meet these criteria and does not have the authority to deny an Applicant Election that meets these criteria. Proposed Applicant Elections that do not meet these criteria shall be processed as a Minor of Major Modification in accordance with the provisions of Appendix R to the City Heights Development Agreement.

The City has accepted the Project Sponsors proposal to modify the access requirements including the inclusion of alleys and the orientation of residential lots to front on open space tracts as Applicant Elections. Two other proposed revisions to the approved Master Site Plan and Development Agreement were found to not meet the criteria for consideration as Applicant Elections in the Phase 1 Preliminary Plat application. The proposed relocation of Summit View Drive through Area C does not qualify as an Applicant Election as it conflicts with at least two specific conditions of approval in the City Heights Development Agreement. In addition, the proposed siting of a privately owned, mixed use building, open to the public in Area C, also does not qualify as an Applicant Election. These proposed relocations are addressed as a Minor Modification in the next section.

The City will continue to review and document Applicant Elections as the Phase 1 plat application continues through the review and final approval process.

## **F. Proposed Minor Modifications**

The proposed Phase 1 development consists of 29.19 acres located within Development Area C and Development Pod B-7, and includes:

- 68 single-family residential lots.
- Approximately 7.5 acres for inclusion in Park #3/Red Rock Open Space Area.
- Privately-owned recreation facilities.
- Public trails.
- Public and private open space.

- Critical areas and buffers.
- The construction of a new on-site collector road in accordance with standards specified in the Development Agreement.
- The construction of five new internal roads constructed in accordance with standards specified in the Development Agreement.
- The extension of an existing City street to access the site constructed in accordance with City half-street standards.
- Improvements to an existing road constructed in accordance with standards specified in the Development Agreement.
- Improvements to the Stafford Street corridor to access the site in accordance with standards specified in the Development Agreement.
- New private alleys constructed to City standards.
- Infrastructure improvements including the extension of City water and sewer services and storm water improvements.

Within the Phase 1 preliminary plat application, there are at least two features that require City approval as a Minor Modification in accordance with the provisions of Appendix R to the City Heights Development Agreement:

1. The proposed relocation of Summit View Drive through City Heights moving it to the east so that it connects with the intersection of W Sixth Street and Reed Streets.
2. The proposed reconfiguration of the boundaries of Park #3 Red Rock Open Space to align with the new location of Summit View Drive and to design and construct a privately owned, mixed-use facility, open to the public in an area that includes some property that was within the original park boundary.

#### Relocation of Summit View Drive

The Project Sponsor has proposed to relocate Summit View Drive, the collector road that serves as the primary access to the proposed Phase 1 development. This road is depicted on the approved Master Site Plan as following the current alignment for the privately owned Summit View Road along the western boundary of the Red Rock Open Space and Development Area C and intersecting W Sixth Street in between Steiner and Reed Streets. This proposed realignment is consistent with the following provision in Appendix I to the

City Heights Development Agreement:

**10. Summit View Drive Single Access Goal.** *The Ridge Entities agree that, if legally permissible, they will provide for a single access from the intersection of Sixth Street and Reed Street or from the intersection of Sixth Street and Steiner Street through City Heights to connect to Summit View Drive.*

Accordingly, City Heights has submitted a revised site plan that relocates Summit View Drive to the east so that it intersects with Sixth Street at the intersection with Reed Street. The proposed relocation of this road corridor could be considered an Applicant Election in accordance with the provisions of the City Heights Development Agreement Appendix R Amendment; Modification of Development Standards and Conditions of Approval, which includes the following provisions:

**1.1 Authorized Elections and Modifications.** *The Ridge Entities shall have the right to elect to include as part of any application for (or to modify any pending or approved) preliminary plat, revisions to approved preliminary plats prior to final plat recording, short plats, site development permits or other Implementing Approvals the following pre-approved matters ("Authorized Elections"):*

**1.1.5** *Designation or modification in alignment, location or layout of roads within City Heights, provided that the four Points of Access set forth in Appendix I do not change, and provided that the extent of connectivity of the roads is not materially reduced.*

**1.2 Review Procedures.** *The City Planning Director shall verify the applicant's elections or modifications under Paragraph 1.1 and to verify no other City-regulated feature has been significantly affected by the modification. The City Planning Director shall not have discretion to deny an Authorized Election.*

It appears that the extent of the connectivity of Summit View Drive would not be materially reduced at its new location, but there is an unresolved question as to whether the required SR 903 access point set forth in Appendix I can reasonably be constructed. In addition, the proposed relocation of Summit View Drive would result in impacts and disturbance that conflicts with other conditions of approval in the City Heights Development Agreement, including but not limited to the following found in Appendix G Earth, Soils, and Critical Areas:

**1.** *No development, earthmoving activity, or deposit of spoils or drainage shall occur on the Red Rock Park delineated on the Master Site Plan, except as specifically authorized by the City for purposes of improving slope stability or enhancing the recreational aspects of the Red Rock Park.*



*2. No disturbance shall occur within any area designated as a wetland and associated buffer on map attached to this Agreement as Exhibit 5 unless approved by the appropriate legislative body. Prior to the start of construction in any area where wetlands have been delineated on Exhibit 5, the Ridge Entities shall flag wetland boundaries and install silt fencing for the purpose of alerting contractors to the "no disturbance" requirements for such areas. Buffer averaging shall be allowed.*

Since the proposed Realignment of Summit View Drive conflicts with these conditions of the Development Agreement, the proposed relocation does not qualify as an Applicant Election, and therefore must be considered as a Minor or Major Modification in accordance with the provisions of Appendix R to the City Heights Development Agreement. The criteria for Minor Modifications are identified in paragraph 2 of Appendix R and in general terms include revisions that do not constitute a major change in the project concept. Proposed revisions that do not meet the criteria for consideration as a Minor Modification are considered to constitute a Major Modification and are subject to processing in accordance with paragraph 3 of Appendix R. Minor Modifications may be approved administratively by the City Planner in accordance with the following provisions from Appendix R:

*2.2.7 Modifications to Conditions of Approval set forth in this Agreement which (a) are authorized in a particular Condition of Approval, or (b) if the Condition of Approval does not discuss authorized modifications, then modifications which meet the Type II approval standard set forth below.*

*2.3 Minor Modification Approval Procedures. The City Planning Director may approve, approve with conditions, or deny the requested Minor Modification based upon the proposed modification's consistency with one or more of the Flexibility Objectives set forth in the Agreement. Minor Modifications shall be reviewed and decided as a Type II process under CEMC 17.100.040, and no separate variance procedures or other revision procedures, including no variances under the sensitive area regulations, zoning or road portions of the City Code, shall apply. Notwithstanding the foregoing, the City Planning Director may circulate the requested modification to appropriate City departments and officials for review and comment. The City Planning Director may impose reasonable conditions as part of the approval of a Minor Modification. The modification if approved may be in writing or incorporated through appropriate revisions or notations on the approved preliminary plat, final plat or engineering drawings, binding site plan, or other appropriate document. The City shall maintain a cumulative list of all approved Minor Modifications.*

Accordingly, the request from the Project Sponsor to relocate the Summit View Road



corridor so that it aligns with the W Sixth Street and Reed Street intersection it is hereby determined to be a Minor Modification and is approved, subject to the following conditions for the Phase 1 Preliminary Plat: Condition Nos. 3, 4, 15, 19, 20, 23, 24, 25, 26, 27 and 54. If the Project Sponsor is unable to obtain the required permits and approvals for the realignment of Summit View Drive, and/or is otherwise unable to comply with the following conditions of approval, then this provisional approval shall be rescinded and a revised preliminary plat map that complies with the provisions of the Development Agreement and Planned Action Ordinance will need to be submitted for City review and approval.

Private Recreation Amenity (Tract K) within Park #3 Red Rock Open Space

In conjunction with the proposed realignment of Summit View Drive, the Project Sponsor has also requested to reconfigure the boundaries of Park #3 Red Rock Open Space. In doing so, the Project Sponsor has proposed to design and construct a privately owned amenity on a tract of land that includes lands that were identified as part of the “Park #3 Red Rock Open Space” on Exhibits 3 and 7 to the Development Agreement. The Project Sponsor has described this amenity as a mixed- use building that would be open to the public and would include some attributes of the community center authorized by the Development Agreement, as well as some of the authorized commercial building space. While the Development Agreement authorizes the construction of a community center in any designated Development Area and commercial development in certain Development Areas, neither are authorized within the Red Rock Open Space, which is to be left in its natural state with some improvements added. As a result, the proposed reconfiguration of the boundaries and the inclusion of a privately owned recreation amenity within the Red Rock Park Open Space Area also requires a modification of the approved Master Site Plan and Development Agreement.

The City recognizes that an argument can be made that this proposed modification does not qualify as a Minor Modification, as it could be viewed as representing a major change in the project concept as embodied in the Development Agreement, and therefore should be considered as a major modification. However, the City finds that with the adoption of reasonable conditions of approval, that this modification can meet the criteria for a Minor Modification (Development Agreement Appendix R Section 2). On this basis the City has determined that this requested modification is a Minor Modification in accordance with the provisions of Exhibit R to the Development Agreement and is approved subject to compliance with the Phase 1 Preliminary Plat Condition Nos. 21, 24, 28 and 29.

### **G. Proposed Major Modifications**

No major modifications of been identified in the proposed Phase 1 development activities. The City remains concerned about the practical ability of the Project Sponsor to provide the fourth point of access to SR 903, as required by the Development Agreement and EIS. The inability to meet this requirement would require a request for a Major Modification to the Development Agreement and/or could constitute a violation of the Development Agreement. However, the City looks forward to continuing discussions with the Project Sponsor regarding these concerns and the submittal of plans to meet or modify this requirement.

### **H. New/Modified Conditions to Avoid Serious Threats to Public Health and Safety**

The City Heights Development Agreement Paragraph 8.2 Vesting of Development Standards and Mitigation provides that the City shall not modify or impose new or additional Conditions of Approval except to:

1. Avoid a serious threat to public health or safety; or
2. Prevent a violation of applicable state or federal laws or regulations.

During the review of the Phase 1 application, the City Development Review Team has identified two aspects of the proposed project that may require the modification or the addition of a condition of approval to avoid a serious threat to public health or safety. The first involves the presence of mining hazards within the boundaries of City Heights. These hazards were noted in the EIS and specific mitigating measures were established. While no specific mitigating measures were identified for Development Areas B and C which is where the Phase 1 Development is proposed, the EIS does require surface inspections to confirm the absence of coal mine spoils. Furthermore, there are references to mining features on or near the surface that were not clearly identified in the Phase 1 application materials. The presence of these features have been confirmed by long-time residents of the community. As a result, the City will require further research by the Project Sponsor and the identification of mining features on the face of the final plat along with compliance with such remedial measures as may be required. In addition, if a mining feature or hazard is identified during construction, then immediate action shall be taken to secure the site and the Project Sponsor shall promptly notify the City. The Project Sponsor shall then prepare, in consultation with qualified professionals, proposed measures for City review and approval to address any threat to public health and safety that these hazard(s) may present.

The EIS also included mitigating measures to address the sub-standard condition of Stafford Street as one of four primary points of access to the site. This includes a requirement that the corner of W Fifth and Stafford Streets be improved by the Project Sponsor. The EIS did

not address however the sub-standard design and condition of the Stafford Street corridor between W Sixth and W Fifth Streets nor from approximately W Fourth to W Second Streets. There are also steep slopes in this road corridor that exceed City standards that may preclude access to the site by emergency responders and school buses. In addition, the seasonal weight restrictions on this corridor will limit access to the Phase 1 Development during winter months. It is also reasonable to anticipate that the unsafe conditions along the Stafford Street corridor will be exacerbated over time, as it appears that the fourth point of access required by the EIS cannot be built, and as traffic is concentrated in this corridor.

In addition to providing safe all-season access to the Phase 1 site, the construction of improvements to the Stafford Street corridor from W Sixth Street to W Second Street consistent with the design of Summit View Drive within Phase 1 will benefit the proposed development in several ways. As a result, there is reason to anticipate the Project Sponsor will be proposing voluntary measures to improve the Stafford Street corridor. In the absence of such voluntary measure, the City may impose additional mitigating measures prior to final plat approval to ensure safe all-season access to and from the site, regardless of whether the fourth required access point can and will be built.

**I. New/Modified Conditions to Prevent Violation of State or Federal Law**

No new conditions of approval or modifications of existing conditions of approval necessary to prevent violations of state or federal law in accordance with the provisions of the City Heights Development Agreement Paragraph 8.2 Vesting of Development Standards and Mitigation have been identified at this time. It is important to note however, that subsequent construction activities proposed for critical areas and their buffers, including but not limited to wetlands, may be subject to state and/or federal requirements, and as a result new or modified conditions of approval on subsequent project specific development activities may be identified. It should also be noted that a Forest Practices Permit will be required before any trees are removed from the site. The City is the SEPA Lead Agency for this development activity and the permit will be issued by the Washington State Department of Natural Resources (DNR). This will require close coordination between the City and DNR and the Forest Practices Permit may be subject to new or modified conditions of approval.

**J. Phasing Adjustments**

The City Heights Development Agreement Paragraph 7 provides that City Heights:

*may proceed with development of the Property according to whatever phasing or parcel development plan the Ridge Entities (nee City Heights) deem appropriate, provided that: (a) any phase of development includes a complete Development Pod, (b) prior to final plat approval of any plat of or within a Development Pod, a*

*Collector Road sufficient to access the Development Pod from outside of the Project has been completed or adequate financial assurances given therefore; and  
(c) prior to final plat approval of a Development Pod or Development Area, the off-site utility infrastructure improvements necessary to serve the Development Pod or Development Area at issue have been completed or adequate financial assurances given therefore in accordance with applicable CEMC provisions for sureties and financial assurances. Mitigation and satisfaction of Conditions of Approval may be phased or apportioned in a manner consistent with the proposed development phasing, provided that such phasing is reasonably practicable and will not result in a threat to public health and safety. No certificate of occupancy may be issued for any structure until all final plat conditions necessary to protect the public health, including specifically those pertaining to sewer, potable water, and stormwater, have been satisfied. The foregoing notwithstanding, a certificate of occupancy may be issued where sewer, water, and stormwater improvements have been completed but certain road improvements or other conditions have not been satisfied, as long as bonding or adequate assurance of the performance of such conditions has been provided.*

During the Consistency Review process, the City has emphasized in discussions with the Applicant, that all required improvements must be designed and constructed to “stand alone” and function safely, in accordance with City standards, independent of any subsequent phases of development. As a result, the City will include a notation on the face of the preliminary plat that City approval of the required infrastructure shall be contingent upon satisfaction of this phasing provision.

In addition, City Heights has proposed to develop Red Rock Park, which is in Development Area C, in phases. This appears to be consistent with Appendix N Parks and Recreation, which specifically provides that there are no time limits on the completion of this park. However, this proposed phasing arguably does not comply with the provision that any phase of development include a complete development pod. Assuming the execution of a voluntary agreement to defer the dedication of any parks and trails to the City, no further phasing measures or apportionments to address the phased construction of parks and trails is required. The City also encourages to the Project Sponsor to propose a voluntary agreement that provides for the dedication of Park #3 and all trails within City Heights to a public agency that serves the north county region or for the assignment of maintenance and operation responsibilities to a homeowner’s association or other third party.

There is one additional matter that pertains to the phased implementation of the City Heights Master Site plan that must be addressed. There are several conditions of approval that establish a cumulative standard that must be met at build-out, but do not prescribe a minimum contribution for each phase. For instance, both Appendix B Development



Standards and Appendix H Wildlife and Habitat to the City Heights Development Agreement require that 125 acres, which is 35% of the total acreage of City Heights, be set aside as open space, natural areas, parks, recreation areas, village greens, commons or public assembly areas, or otherwise undeveloped space. The proposed Phase 1 development appears to make a significant contribution toward meeting this standard. The City will monitor the contributions proposed in subsequent phases to make sure that this obligation can be reasonably satisfied.

In the City Heights Development Agreement, Paragraph 6.8 Affordable Housing establishes a requirement that at least 12 residential units distributed among at least two Development Pods be initially sold or rented as low-income housing and 12 additional residential units as moderate-income housing. Since the proposed Phase 1 development provides for 68 of the 962 residential units authorized in City Heights (7%), a proportional distribution of this requirement, would result in the designation of one dwelling unit in Phase 1 as low-income housing, and one dwelling unit as moderate-income housing. While this should be relatively easy to accomplish, the City, in recognition of the Flexibility Objectives established for the City Heights Development Agreement, will accept a financial guarantee or other measures to reasonably ensure that these requirements will be met.

## **V. Phase 1 Preliminary Plat Approval**

### **Phase 1 Preliminary Plat Approval**

The City Heights Phase 1 Preliminary Plat Application, including the two Minor Modifications requested by the Project Sponsor, is hereby determined to be consistent with the City Heights Master Site Plan, the City Heights Planned Action Ordinance, the City Heights Development Agreement, and the Development Standards under which this project is vested. As a result, the Phase 1 Preliminary Plat Application is approved, subject to compliance with the following provisions:

1. All construction and development activities shall comply with:
  - a. The approved Phase 1 Preliminary Plat Map (See Exhibit AA to this document for reference).
  - b. The mitigating measures of the City Heights EIS (See Exhibit BB to this document for reference).
  - c. The City Heights Annexation and Development Agreement including Appendices A-R (See Exhibit CC to this document for reference).

- d. The provisions of the Cle Elum Municipal Code in effect on November 11, 2011 (see Appendix DD for reference) including, specifically Titles 12 through 18, except to the extent such Development Regulations are inconsistent with, or modified by, the Development Agreement or the Master Site Plan.
2. In the event any condition or requirement imposed by this decision for Phase 1 is determined to be inconsistent with the Development Agreement, the terms of the Development Agreement will control, and the Development Agreement provisions will be interpreted and applied as stated in Section 12.4.1 “Interpretation”.
  3. No construction activities of any kind shall be initiated within the boundaries of the Phase 1 preliminary plat map (Exhibit AA) without expressed written authorization to proceed from the City. This shall include, but is not limited to:
    - a. Clearing, grading, fill, and excavation.
    - b. Site preparation.
    - c. Construction or relocation of streets and alleys, including paving and repaving.
    - d. Construction of water, sewer, or stormwater facilities.
    - e. Construction or relocation of trails.
    - f. Construction in or near critical areas and their buffers.
    - g. Construction or placement of buildings, structures, or temporary shelters.
    - h. Other construction activities as determined by the City.
  4. Prior to initiating any construction activity associated with the implementation of the City Heights Phase 1 Preliminary Plat, the Applicant shall obtain the required City permits and approvals. This may include, but is not limited to:
    - a. City clearing and grading permit.
    - b. City critical areas permits and authorizations.
    - c. National Pollutant Discharge and Elimination System (NPDES) permit from the Washington State Department of Ecology.



- d. Hydraulic Project Approval (HPA) from the Washington Department of Fish and Wildlife.
  - e. Right-of-Way (ROW) use or construction permit.
  - f. Infrastructure construction approval (streets, water, sewer, storm water, etc.).
  - g. Documentation of compliance with the standards of the Washington Model Toxics Control Act, if applicable.
5. The City may include with permits and written authorizations, such measures as may be necessary to protect the public health and safety, enforce compliance with local, state, and federal laws, confirm compliance with the City Heights Development Agreement, and to ensure compliance with the terms and conditions of the Phase I preliminary plat approval. This may include, but is not limited to:
- a. Participation in a pre-construction conference.
  - b. Installation and maintenance of temporary erosion and dust control measures.
  - c. Financial guarantees, and/or performance bonds.
6. Land development and exterior construction activities shall be limited to 7 AM to 8 PM Monday thru Saturday.
7. The areas designated for development in the Phase I Preliminary Plat Map in Exhibit AA to this document shall constitute the full development of Development Pod B-7 and Development Area C, and no further plats or development plans shall be submitted for these areas, except as authorized in this document.
8. No proposed lot, as depicted on the preliminary plat map, may be leased, or sold, or building constructed, prior to final plat approval, provided that:
- a. One sales/marketing/information center not to exceed 5,000 square feet may be placed within Phase 1, subject to the issuance of a Temporary Use authorization by the City in accordance with the provisions of the City Heights Development Agreement Appendix B.
  - b. Up to twelve detached model homes and up to four attached buildings for attached product, each of which are utilized for sales and marketing purposes may be placed within Phase 1, subject to the issuance of a Temporary Use authorization by the City

in accordance with the provisions of the City Heights Development Agreement Appendix B.

- c. This shall not preclude the sale of existing parcels in accordance with the provisions of the City Heights Development Agreement.
9. No construction activity of any kind may be initiated within City Heights outside of the approved Phase 1 Plat prior to the approval of subsequent plat applications, provided that:
- a. Preliminary or final approval of subsequent plats may be contingent upon final approval of the Phase 1 Plat or the posting of financial guarantees sufficient to ensure completion of the required improvements and/or restoration of the site.
  - b. Forest Practices that do not violate the City Heights Development Agreement and EIS may be initiated outside of the Phase 1 Preliminary Plat as approved by the Washington State Department of Natural Resources.
  - c. The City may authorize the construction of required infrastructure improvements outside of the boundaries of the Phase 1 preliminary plat.
10. The Phase 1 plat consists of portions of parcels 493935, 95632, and 956734. The preliminary approval of the Phase 1 plat does not authorize any development activities on the portions of these parcels outside of the plat, unless specifically authorized in this agreement.
- a. Prior to final approval of the Phase 1 plat the Project Sponsor shall submit for City review and approval a boundary line adjustment or other means of establishing the portions of these parcels outside of the Phase 1 plat as separate parcels or tracts.
11. Modifications to the approved Phase 1 preliminary plat may be submitted for City review and approval in accordance with the provisions of Appendix R to the City Heights Development Agreement and CEMC 17.100, provided that:
- a. Authorized elections shall be processed as a Type I application.
  - b. Minor modifications shall be processed as a Type II application.
  - c. Major modifications shall be processed as a Type IV application.

12. The Phase 1 Preliminary Plat may be implemented in three divisions and the application for final plat approval for each division may be submitted for City review and approval separately, provided that:
  - a. Each division must demonstrate compliance with the Conditions of Phase 1 preliminary plat approval.
  - b. All required infrastructure necessary to serve that division, as determined by the City, shall have been designed and constructed, and shall have been accepted by the City, or sufficient financial guarantees, as determined by the City shall be in place.
  - c. All infrastructure improvements have been designed and constructed to stand alone and operate in accordance with applicable standards without further improvements in subsequent phases.
  - d. The City may defer required dedications until the completion of all divisions to implement Phase 1 have been completed. Given the uncertainty of the timing of subsequent phases of development, proposed dedications may be further deferred until such time that the City determines, in its sole discretion, that it can reasonably assume maintenance responsibilities without the completion of related improvements or without interference by subsequent construction activities.
  
13. The permitted uses and all terms and conditions applicable to public and private tracts shall be identified on the face of the final plat, provided that:
  - a. The Project Sponsor shall submit a draft copy of all documents that create or assign responsibilities to a homeowner's association to the City Attorney for review prior to final plat approval, or by mutual agreement of the parties, prior to the issuance of the first Certificate of Occupancy.
  - b. The City may require measures such as covenants or other legal instruments to ensure that the homeowner association(s) perform their obligations to maintain private tracts in perpetuity.
  - c. The Project Sponsor shall be responsible for maintaining all tracts that may be dedicated to the City or another public agency until such time that the dedication occurs, and that no unauthorized uses occur, nor any use that may cause degradation of these areas.
  
14. Permitted land uses in the Phase 1 plat include:

- a. Up to a total of 68 dwelling units on individual lots, provided that eight of these units may be duplexes.
  - b. A public park (Park #3) designed in accordance with the provisions of Appendix N to the City Heights Development Agreement and the provisions in this document.
  - c. Trails designed and constructed in accordance with the provisions of Appendix N to the City Heights Development Agreement and the provisions in this document.
  - d. A private amenity in the area depicted on the approved Preliminary Plat Map in Exhibit AA subject to compliance with conditions of approval as a minor modification. The Project Sponsor has described this amenity as a mixed-use building that would be open to the public and would include some attributes of the community center authorized by the Development Agreement, as well as some of the authorized commercial building space.
15. No development, construction, clearing, grading, fill, excavation, or disturbances of any kind shall occur in streams, wetlands, steep slopes, or any other critical area or their buffers without a critical area permit(s) from the City of Cle Elum, any associated permits and approvals from the City such as a clearing and grading permit or road construction authorization, and any permits or approvals that may be required from state or federal agencies with jurisdiction, including the Washington State Department of Fish and Wildlife.
- a. The required steps in review of City permits and approvals shall include, but is not limited to:
    - (1) The submission of a detailed Critical Areas Report and Mitigation Plan(s) with the design plans for the proposed improvement, such as the relocation of Summit View Drive. This plan shall be prepared in accordance with the provisions of CEMC Chapter 18.01 in effect in November 2011, including the referenced Department of Ecology guidelines, and shall include such measures as may be necessary to avoid, minimize, and mitigate potential adverse impacts to wetlands, streams, and associated buffers.
    - (2) City staff review and approval of the Critical Areas Mitigation Plan.
    - (3) Documentation of compliance with applicable state or federal regulations or project-specific mitigation requirements, including but not limited to, required review and permitting of any proposed crossing, construction activities or buffer intrusion of on-site streams by the Washington Department of Fisheries and Wildlife.

- (4) Participation in an onsite pre-construction conference conducted by the City that includes the Project Sponsor/Applicant, contractors, and representatives of natural resource agencies with jurisdiction to review conditions of project approval.
  - (5) Written authorization from the City to proceed with construction activities.
- b. If the Project Sponsor is unable to obtain the required permits and approvals for proposed improvements, such as the relocation of Summit View Drive, the preliminary plat map will need to be revised to comply with the provisions of the Development Agreement and Planned Action Ordinance.
  - c. Wetland and stream buffer averaging may be approved by the City provided that natural open spaces within the original boundaries of Red Rock Park shall not be proposed to offset reductions of the required buffers.
  - d. Compensatory mitigation may be proposed to ensure that there is no net loss of wetland or habitat function and value.
  - e. The Project Sponsor shall provide documentation that all required City, state, and federal permits and approvals have been obtained.
  - f. Additional environmental review may be required for any construction activities determined by the City to be outside of the scope or inconsistent with the City Heights EIS.
  - g. No development activity that disturbs a wetland or wetland buffer may be initiated without City Council approval, unless otherwise agreed to in writing by the City and the Project Sponsor.
  - h. The City may require the Project Sponsor to install and maintain measures to protect critical areas within the boundaries of the City Heights Master Site Plan from direct and indirect adverse impacts during Phase 1 construction activities.
  - i. The City may require as a condition of final Phase 1 plat approval, that the Project Sponsor take additional measures to protect critical areas within the boundaries of the City Heights Master Site Plan from direct and indirect adverse impacts that may be attributable project phasing, or the use of City Heights facilities such as trails. This may include installation of split rail fences, gates, and/or signage.

- j. All critical areas and required buffers shall be placed in Open Space tracts or easements on the final plat.
16. Prior to any clearing of vegetation, the Project Sponsor shall obtain City approval of a Landscaping Plan prepared in accordance with the provisions of the vested standards set forth in CEMC 17.64 as modified by the City Heights Development Agreement, including but not limited to Appendix B, and this document, provided that:
17. Trees with a diameter in excess of thirty (30) inches, measured four feet above grade, in any open space or planned public area, shall not be removed prior to creation of a vegetation management and revegetation and planting plan completed by a certified arborist or forester approved by the City (Development Agreement Appendix B).
18. This Project Sponsor shall include documentation including photographs as needed that confirms that the natural buffers identified in the Phase 1 preliminary plat along the project's southern boundary provide mitigation for visual impacts consistent with the measures assumed in the City Heights EIS.
19. No disturbances of any kind shall occur in streams, wetlands, steep slopes, or any other critical area or their buffers without a critical area permit(s) from the City of Cle Elum, any associated permits and approvals from the City such as a clearing and grading permit or road construction authorization, and any permits or approvals that may be required from state or federal agencies with jurisdiction, including the Washington State Department of Fish and Wildlife. This shall include, but is not limited to:
- a. City staff review and approval of the proposed Critical Areas Mitigation Plan.
  - b. Documentation of compliance with applicable state or federal regulations or project-specific mitigation requirements, including but not limited to, required review and permitting of any proposed crossing, construction activities or buffer impacts of on-site streams by the Washington Department of Fisheries and Wildlife.
  - c. Participation in an onsite pre-construction conference conducted by the City that includes the Project Sponsor/Applicant, contractors, and representatives of natural resource agencies with jurisdiction to review conditions of project approval.
  - d. Written authorization from the City to proceed with construction activities.
  - e. If the Project Sponsor is unable to obtain the required permits and approvals for proposed improvements, such as the relocation of Summit View Drive, the preliminary plat map will need to be revised to comply with the provisions of the



Development Agreement and Planned Action Ordinance.

20. The Project Sponsor may proceed with forestry activities authorized by the Washington State Department of Natural Resources (DNR), provided that:
- a. The Project Sponsor shall obtain a Clearing and Grading Permit from the City prior to the removal of any stumps.
  - b. No clearing, grading, or construction activities shall occur in critical areas or their buffers, or adversely affect these areas, without written authorization pursuant to a critical area permit issued by the City, and/or prior to any required permitting by federal or state agencies.
  - c. The removal of trees shall comply with the applicable provisions of City Heights Development Agreement, as determined by the City. This shall include, but is not limited to:
    - (1) *Trees with a diameter in excess of thirty (30) inches, measured four feet above grade, in any open space or planned public area, shall not be removed prior to creation of a vegetation management and revegetation and planting plan completed by a certified arborist (Appendix B).*
    - (2) *Landscaping for City Heights shall be consistent with the standards set forth in CEMC 17.64, with the following modifications and clarifications:
      - 9.1 *The definition of "significant trees" set forth in CEMC 17.64.040 pertains only to trees within wetlands, fish and wildlife conservation areas, frequently flooded areas, and geologically hazards areas. Such trees may be removed from these areas where such removal is mitigated through relocation or revegetation pursuant to a critical area mitigation plan consistent with applicable law (Appendix B).**
    - (3) *No development, earthmoving activity, or deposit of spoils or drainage shall occur on the Red Rock Park delineated on the Master Site Plan, except as specifically authorized by the City for purposes of improving slope stability or enhancing the recreational aspects of the Red Rock Park (Appendix G).*
    - (4) *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 (Appendix G).*

21. It is recognized by the parties that there shall be no net loss in the size or function of Park #3 the Red Rock Open Space as depicted on the approved Master Site Plan (Exhibits 3 and 7 of the City Heights Development Agreement).
  - a. Subsequent phases of implementation shall address this condition and may be conditioned or denied if adequate provisions have not been made.
22. It is the intent of the parties to prepare and present for City Council approval a Memorandum of Understanding that addresses the development and maintenance of parks and trails within the Phase 1 plat. In the absence of an approved Memorandum of Understanding the following conditions [REDACTED] shall apply.
23. Property within the boundaries of the Phase 1 preliminary plat to be included in the required Red Rock Open Space (Park #3) shall be placed in a privately owned Open Space Tract for future dedication to the City or other public agency, provided that in the interim period prior to dedication:
  - a. Critical areas and their buffers and other areas not suitable for recreational uses are identified and protected through signage and through such measures as the strategic placement of fencing or placement in separate tracts subject to conservation easements.
  - b. The property owner shall not encourage or permit unauthorized recreational uses to occur within critical areas or their buffers.
  - c. The Project Sponsor may upon completion of the park improvements within Park #3, elect to open the park to the public for authorized recreational uses and maintain the park at his sole expense, until the dedication process has been completed.
24. The dedication of the Red Rock Open Space (Park #3) to the City or other public agency shall occur only upon the completion of the following:
  - a. The Project Sponsor has submitted plans, subject to review and at the City's sole and reasonable approval, of the additional land to be left in a natural state sufficient to achieve the standard of no net loss of area or function of Park #3 the Red Rock Open Space.
  - b. All the property for inclusion in Park #3, as depicted on Exhibits 3 and 7 to the Development Agreement or as otherwise approved by the City, have been placed in open space tracts suitable for dedication to the City or another public agency.
  - c. A conceptual Park Master Plan to guide the development and use for Park #3 in its

entirety in accordance with the provisions of Appendix N has been collaboratively prepared and approved by the Project Sponsor and the City This plan shall identify natural open space areas, the nature and general location of proposed improvements, and trail corridors.

- c. All required improvements to Park #3 in its entirety have been constructed by the Project Sponsor and accepted by the City.
  - d. All plats necessary for build-out of Development Areas B, C, and D1-D4 have received final approval from the City.
25. Property within the boundaries of the Phase 1 preliminary plat to be developed as trails and dedicated to the City shall be placed in a privately owned Open Space Tracts for future dedication to the City or other public agency, provided that in the interim period prior to dedication:
- a. Critical areas and their buffers and other areas not suitable for recreational uses are identified and protected through signage and through such measures as the strategic placement of fencing.
  - b. The property owner shall not encourage or permit unauthorized recreational uses to occur within critical areas or their buffers.
  - c. The Project Sponsor may, upon competition of the improvements to a trail(s), elect to open the trail(s) to the public for authorized recreational uses and maintain the trail(s) at his sole expense, until the dedication process has been completed.
26. The dedication of trails to the City or other public agency may occur only upon the completion of the following tasks:
- a. All the property intended for the development of public trails in the Phase 1 plat , have been placed in open space tracts or easements suitable for dedication to the City or another public agency.
  - b. A Trail Plan to guide the development and use of these trails in accordance with the provisions of Appendix N has been collaboratively prepared and approved by the Project Sponsor and the City.
  - c. All required improvements have been constructed by the Project Sponsor and accepted by the City.

- d. All plats necessary for build-out of Development Areas AB, C, and D1-D4 have received final approval from the City.
  - e. Park #3 the Red Rock Open Space is ready for dedication to the City.
27. The parties agree to work in a collaborative manner to explore the feasibility of developing, operating, and maintaining Park #3 and all trails as a County regional recreational facility and the like.
- a. The City encourages the Project Sponsor to submit a voluntary agreement that includes provisions for a Homeowners Association or other third party to own, operate, and maintain public parks and trails.
28. The parties acknowledge that the Project Sponsor is authorized to design and construct a privately owned amenity within Tract K The Project Sponsor has described this amenity as a mixed- use building that would be open to the public and would include some attributes of the community center authorized by the Development Agreement, as well as some of the authorized commercial building space.
- a. Tracts I, J, and K shall be depicted on the final plat as a privately owned and maintained tracts associated with the development of the private amenity proposed for Phase 1.
29. The Project Sponsor shall create an open space tract encompassing the main remnant foundation known as the Wash House (not including ancillary remnants), totaling approximately 0.4 acres in size ("Wash House Tract") substantially in conformance with the attached Exhibit F. At the time of Phase I Final Plat approval the Project Sponsor shall dedicate the tract to the City to create a Memorial Park, accessed from Sixth Street, related to the coal mining history of the Cle Elum area. All rights and responsibilities of owning this tract shall transfer to the City and the Project Sponsor and City Heights Holdings LLC shall have no further responsibilities for its future. The following additional conditions apply:
- a. Upon Phase I final plat approval, the City shall be responsible for any administration of the property and any coordination and compliance with State Agencies, rules, and regulations.
  - b. No new feature of this Memorial Park shall be taller than 12 feet within 15 horizontal feet of any border with the City Heights project. Any improvements to the park shall include visual screening of any such improvements for the properties to the north, east and west of the park parcel.

- c. In the event park improvements are proposed the City of Cle Elum shall coordinate with the Project Sponsor on the park design to ensure the improvements are of a size and scale that are compatible with the surrounding residential development.
  - d. This transfer of the Wash House Open Space Tract shall be in lieu of the dedication and development of Park #2 as depicted on Exhibit 7 Parks and Trail Plan and as discussed in Appendix N Parks and Recreation.
  - f. The addition of this Memorial Park in lieu of Park 2 is deemed approved, and no further approval shall be required, including but not limited to, a minor or major modification for this or other plat applications.
30. All authorized construction activities shall include documentation from a geotechnical engineer that the area is suitable for the proposed development and complies with the provisions of Appendix F to the Development Agreement (Coal Mine Hazards) and the applicable provisions of the City Heights EIS.
- a. The Project Sponsor shall provide additional information identifying the location of any known or potential mine hazards, mine shafts, or associated features such as mine entrances or foundations. In addition, the Project Sponsor shall provide documentation from a geo-technical engineer identifying the proposed measures necessary to avoid, remediate, or mitigate such hazards or features.
  - b. The location of any coal mine hazards, coal mine shafts and associated features within the boundaries of the Phase I preliminary plat shall be identified on the face of the final Phase 1 Plat along with a reference to relevant mitigation measures identified in the City Heights EIS and related technical studies for the plat.
31. If unknown coal mine hazards are identified during subsequent construction activities, all work in the immediate vicinity shall be suspended and the site secured, pending consultation with the City and the preparation of appropriate plans and measures necessary to protect the public health and safety in accordance with the provisions of the City Heights EIS and Development Agreement.
32. Prior to final plat approval, the Project Sponsor shall submit for City review and approval a water system design plan to serve the proposed Phase 1 Development. These plans shall be prepared and implemented in compliance with the applicable City standards, the provisions of Appendix E to the City Heights Development Agreement, and this document.
33. Prior to final plat approval, the Project Sponsor shall submit for City review and approval a wastewater system design plan to serve the proposed Phase 1 Development. These plans



shall be prepared and implemented in compliance with the applicable City standards, the provisions of Appendix D to the City Heights Development Agreement, and this document.

34. Prior to final plat approval, the Project Sponsor shall submit for City review and approval detailed street plans plan to serve the proposed Phase 1 Development. These plans shall be prepared and implemented in compliance with the applicable City standards, the provisions of the City Heights Development Agreement, and this document, provided that:
  - a. This shall include, but is not limited to, documentation that all streets and alleys have been designed in compliance with the provisions of the City Heights Development Agreement and the International Fire Code as adopted by the City.
  - b. Road grades within City Heights may be up to twelve percent (12%) for segments less than one thousand (1,000) feet, where City Heights provides certification from a professional engineer that such grade is reasonably necessary given terrain or other site constraints.
  - c. All alleys shall be placed in private tracts and shall be maintained by a homeowner's association or similar third-party entity in perpetuity.
35. W Sixth Street, starting at the intersection with Reed Street/Summit View Drive and continuing east to the Phase 1 project boundary, shall be designed, and improved by the Project Sponsor, subject to City review and approval, provided that:
  - a. This segment shall be designed and constructed to provide 26' of pavement inclusive of two 11' travel lanes, thickened edge curb, and asphalt shoulder.
  - b. Provisions for a 5' asphalt pedestrian path along one side of this road segment shall be provided within the proposed right-of-way or within a public easement along this road segment.
  - b. The City may grant a variance(s) to the design standards due to topography.
  - c. The street shall be placed in a tract for dedication to the City.
  - d. The existing dirt road and access easement to the City-owned water reservoir to the east of Phase 1 properties may be vacated upon dedication of the improved W Sixth Street to the City. The existing utility easement will need to be retained.



- e. It is the intent of the City to grant an easement for the use of City-owned property at the end of the proposed Street E for purposes of providing a turnaround for emergency vehicles.
  - f. The Project Sponsor shall respond to comments provided by the Washington State Department of Ecology on April 26<sup>th</sup>, 2021, regarding potential water features in the vicinity of this area.
36. The Project Sponsor and the City agree that the primary access to the Phase 1 Preliminary Plat, and the Phase 2 Preliminary Plat shall be the Stafford Street Corridor. This shall include improvements to Reed Street starting at the intersection with W Sixth Street, then onto W Fifth Street, and then Stafford Street to the intersection with W Second Street. This shall include improvements to the corner of Stafford Street north of Fourth Street, in accordance with the provisions of the City Heights Development Agreement Appendix I and City standards in accordance with the following provisions:
- a. The road base, depth of pavement, and the width of the paved area shall be consistent with the standards for the construction of Summit View Drive as a collector road, unless otherwise approved by the City.
  - b. The improvements shall be designed and constructed to accommodate entering and exiting grades not to exceed 11%.
  - c. At the City's election, replacement of a City water main.
  - d. Pedestrian improvements may be excluded where topography or right-of-way limitations do not reasonably permit their inclusion.
  - d. Guardrails, striping, and other safety measures shall be designed consistent with City standards.
  - e. Drainage towards a collection system such as pipes, ditch, or bio-filtration swales.
  - f. Design features shall reasonably accommodate City snowplowing.
  - g. The Project Sponsor shall be responsible for the acquisition of such additional property as may be necessary to design and construct these improvements in accordance with the provisions of the City Heights Development Agreement.
37. The City has submitted a CDBG grant application dated June 2, 2021, that includes a financial contribution from the Project Sponsor. If this project is selected for full CDBG

funding, then the City shall be responsible for the design and construction of the improvements identified in Condition #36 improvements no later than October 31, 2022, subject to the availability of funds, provided that:

- a. This project does not include any improvements to Reed Street south of Sixth Street. As a result, seasonal weight restrictions and access limitations shall apply to this segment.
- b. This completion date may be reasonably extended due to unforeseen circumstances.

38. In the event that the City is not awarded CDBG funding in 2021, then the Project Sponsor shall design and construct improvements to Stafford Street as specified in #36 above no later than October 31, 2022, provided that:

- a. The Project Sponsor may request, and the City shall not unreasonably deny, the extension of the completion date due to unforeseen circumstances.
- b. The City shall be responsible for the costs associated with the design and construction of the replacement of the water main in the Stafford Street Corridor, provided that construction drawings shall be provided by the City no later December 1, 2021.
- c. The Project Sponsor may collect a latecomer fee for each ERU from benefitting property owners.

39. In the event that topography or right-of-way limitations preclude the construction of Stafford Street improvements in compliance with the provisions of the International Fire Code as modified by the City, the Project Sponsor may submit plans for City review and approval for the construction of a Collector Road from Summit View to Montgomery Street.

40. The Project Sponsor may propose to construct the Montgomery connection road in phases provided that:

- a. The final road shall comply with the standards in the City Heights Development Agreement including provisions of the International Fire Code as modified by the City.
- b. Until the later of October 31, 2022, or the 70<sup>th</sup> certificate of occupancy issued for City Heights, the road surface may be gravel surfacing capable of supporting fire apparatus vehicles.

41. The designated haul route to and from the Phase 1 plat shall be the Alliance Road Corridor, unless otherwise approved by the City. This haul route shall be used for the movement of all construction equipment and machinery, hauling building materials and supplies, and all forestry activities.
  - a. Neither Park Street, Steiner Street, Reed Street, Stafford Street, Billings Street, Oakes Street, W Sixth, nor W Fifth Street shall be used as a haul route unless specifically approved and authorized in writing by the City.
  - b. Prior to the use of Alliance Road, the Project Sponsor shall obtain the required permits and approvals from Kittitas County.
  
42. Prior to final plat approval, the Project Sponsor shall submit for City review and approval a stormwater plan designed in accordance with the provisions of the 2004 Stormwater Design Manual for Eastern Washington prepared by the Washington State Department of Ecology (DOE) and as adopted by the City, consistent with the provisions of Appendix C to the City Heights Development Agreement, and this document, provided that:
  - a. The Project Sponsor will supplement the Phase I Stormwater Drainage Report, dated March 12, 2021, to address possible alteration of wetland hydrology from the proposed development activities. The report supplement should address the findings in Section 3.4 of the City Heights Draft EIS and demonstrate that the system as designed has considered and addressed wetland hydrology.
  - b. Prior to the issuance of the first permit for stormwater infrastructure the Project Sponsor shall pay to the City a one-time payment of \$20,000 for improving stormwater improvements in the City (Development Agreement Appendix C Section 6).
  
43. As required by the Development Agreement, prior to the issuance of the first permit for the construction of infrastructure, as determined by the City, the Project Sponsor shall make the following payments to the City. Infrastructure construction may include water, sewer, or stormwater improvements, as well as the construction or relocation of streets, alleys or trails, and any site preparation, clearing, grading, fill, or excavation work associated with these activities.
  - a. \$125,000 for police and law enforcement operation and equipment impacts (Development Agreement Appendix J Section 3).
  - b. \$100,000 for fire and emergency medical operation and equipment (Development Agreement Appendix K Section 3).

- c. \$140,000 for public works equipment (Development Agreement Appendix M Paragraph 1).
  - d. \$20,000 for the purchase of municipal court equipment (Development Agreement Appendix P Section 1).
44. Prior to the first anniversary of the \$140,000 payment for public works operations and equipment (Development Agreement Appendix M Public Works Paragraph 1) in the preceding paragraph, the Project Sponsor shall:
- a. Make one payment of \$65,000 for public works operations and equipment (Development Agreement Appendix M Public Works Paragraph 2).
45. Prior to the final approval of the Phase 1 plat, provisions shall be made for at least one residential dwelling unit for sale or lease as low-income housing and one residential dwelling unit for sale or lease as moderate-income housing, provided that:
- a. The Project Sponsor may submit for City review and approval a financial guarantee or other measures that ensures that the condition of approval requiring that provision of affordable housing as set forth in paragraph 6.8 of the Development Agreement will be met prior to the expiration or termination of the City Heights Annexation and Development Agreement.
46. Upon discovery of any human remains, artifacts, or evidence of potential archaeological, historical, or cultural resources all construction activities or uses authorized shall be suspended pending authorization to proceed from the City, and/or the Washington State Department of Archaeology and Historic Preservation, in accordance with the provisions of state and federal law, including, but not limited to RCWs 68.50.645, 27.44.055, and 68.60.055.
- a. If ground disturbing activities encounter human skeletal remains during construction, then all activity shall cease that may cause further disturbance to those remains. The area of the find will be secured and protected from further disturbance until the Washington State Department of Archaeology and Historic Preservation (DAHP) provides notice to proceed. The finding of human skeletal remains shall be reported to the Cle Elum Police Department and the Kittitas County Coroner in the most expeditious manner possible. The remains will not be touched, moved, or further disturbed. The County Coroner will assume jurisdiction over the human skeletal remains and decide of whether those remains are forensic or non-forensic. If the County Coroner determines the remains are non-forensic, then they will report that finding to the Department of Archaeology and Historic Preservation who will then take jurisdiction over the remains. The DAHP will notify any appropriate cemeteries

and all affected tribes of the find. The State Physical Anthropologist will make a determination of whether the remains are Indian or Non-Indian and report that finding to any appropriate cemeteries and the Confederated Tribes and Bands of the Yakama Nation, the Confederated Tribes of the Colville Reservation, and the Snoqualmie Tribe. The DAHP will then handle all consultation with the affected parties as to the future preservation, excavation, and disposition of the remains.

- b. If ground disturbing activities encounter artifacts, or evidence of potential archaeological, historical, or cultural resources during construction, then all activity shall cease that may cause further disturbance to those items. The Project Sponsor shall immediately contact the Cle Elum Planning Department to determine how best to secure the site and to consult with the Confederated Tribes and Bands of the Yakama Nation, the Confederated Tribes of the Colville Reservation, the Snoqualmie Tribe, and the DAHP.
47. A complete application for the Phase 1 final plat approval including all divisions, shall be submitted to the City within five years of the date of this preliminary plat approval, provided that:
- a. The Project Sponsor may submit a request to the City for one five-year extension of this deadline for submitting the final plat application. This request must be submitted prior to the deadline for submitting the final plat application. Absent a showing of bad faith, the City shall automatically grant one five-year extension if the request for such an extension is timely submitted to the City. Any additional extensions shall be discretionary.
48. The final plat map shall include:
- a. Identification and documentation of required parking in accordance with the provisions of Appendix B to the Development Agreement.
  - b. All easements to be retained, modified, or extinguished, and all proposed easements.
  - c. The identification of proposed areas and the associated acreage that may qualify for consideration as satisfying the Open Space requirements of Appendix H to the Development Agreement, subject to confirmation and approval by the City:
    - (1) Open space.
    - (2) Natural areas.
    - (3) Parks.



- (4) Recreation areas.
- (5) Village greens.
- (6) Commons.
- (7) Public assembly areas.

46. Final plat approval shall be contingent upon:

- a. A determination by the City that:
  - (1) All conditions of preliminary plat approval have been met.
  - (2) The final plat complies with the provisions of the City Heights Development Agreement.
  - (3) The final plat complies with the provisions of the EIS Mitigation Measures (See Exhibit CC).
- b. Arrangements have been made for required monitoring and required future inspections, if applicable.
- c. Payment to the City of all cost recovery invoices, application fees, and any outstanding fees or charges.
- d. Posting of such financial guarantees and performance bonds as may be required by the City to ensure that final plat approval is obtained prior to the expiration or termination of the City Heights Development Agreement and that all conditions of final plat approval are met.

47. Upon issuance of the first building permit for the first ERU within City Heights, the Project Sponsor shall pay to the City:

- a. A one-time payment of \$150,000 related to police and law enforcement operations and equipment impacts (Development Agreement Appendix J Section 4).

48. Upon issuance of the first building permit for the first ERU within City Heights, the Project Sponsor shall pay to the Cle Elum – Roslyn School District:

- a. A one-time payment of \$75,000 related to facility and equipment impacts (Development Agreement Appendix O Schools Paragraph 1).

- b. A one-time payment of \$150,000 related to school bus impacts (Development Agreement Appendix O Schools Paragraph 2).
  - c. Upon the first anniversary of the preceding \$75,000 payment (Development Agreement Appendix O Schools 1), another one-time payment of \$75,000 shall be made related to facility and equipment impacts (Development Agreement Appendix O Schools Paragraph 3).
49. At the time of issuance of a building permit for each ERU, each Applicant shall pay to the City:
- a. \$250 per ERU stormwater fee for the sole purpose of improving stormwater facilities (Development Agreement Appendix C Section 7).
  - b. \$750 per ERU to offset impacts on City streets resulting from the development of City Heights (Development Agreement Appendix I Section 9).
  - c. \$400 per ERU for City Police and Law Enforcement operations and equipment needs (Development Agreement Appendix J Section 5).
  - d. \$250 per ERU for City Fire and Emergency Medical Services operations and equipment needs (Development Agreement Appendix K Section 4).
  - e. \$200 per ERU for City administrative operations and equipment needs (Development Agreement Appendix L).
  - f. \$375 per ERU for City Public Works operations and equipment needs (Development Agreement Appendix M Section 4).
  - g. \$100 per ERU for the operational needs of the Cle Elum - Roslyn Municipal Court (Development Agreement Appendix P Section 2).
50. At the time of issuance of a building permit for each ERU, the Applicant shall also pay to the City \$2,250 per ERU to offset impacts to facilities of the Cle Elum Roslyn School District. Such payments shall be collected by the City and distributed to the School District in accordance with the provisions of Appendix O to the Cle Elum Roslyn School District (Development Agreement Appendix O Schools Paragraph 6).
51. Upon issuance of a building permit for the 100<sup>th</sup> ERU within City Heights, the Project Sponsor shall donate to the School District up to three (3) acres of land, or such amount of land the fair market value of which does not exceed One Hundred Fifty Thousand

Dollars (\$150,000), whichever is less (Development Agreement Appendix O School Paragraph 5).

52. Upon the School District's provision to the Ridge Entities of an affidavit supported by verifiable data indicating at least 100 students attending the School District reside in City Heights, the Ridge Entities shall pay directly to the School District a one-time payment of \$150,000 related to school bus impacts (Development Agreement Appendix O Schools Paragraph 4).
53. Prior to the issuance of the building permit for the 301<sup>st</sup> ERU the Project Sponsor shall make a one-time payment of \$75,000 for public works operations and equipment (Development Agreement Appendix M Section 3).
54. In the absence of a Memorandum of Understanding, the Project Sponsor shall submit with the applications to implement each subsequent phase of the City Heights Master Site Plan (Phase 2, 3, 4 etc.) a report prepared by a qualified professional, as determined by the City. The report shall evaluate and confirm that there is adequate capacity within the three existing access points identified in the City Heights EIS to serve the proposed phase of development without causing an unacceptable Level of Service or creating a threat to public health and safety that cannot be mitigated through the design of the required road improvements.
55. Nothing in this document shall preclude the Project Sponsor and the City from approving a Memorandum of Understanding further clarifying or revising these conditions.

## VI. Next Steps

### A. Appeals

In accordance with the provisions of the City Heights Development Agreement Appendix Q appeals of this Consistency Determination and Phase 1 Preliminary Plat approval must be filed with the Cle Elum City Council within 15 days of the publication of a Notice of Decision. **Statements of appeal of this decision must be submitted to the City Clerk no later than May 28, 2021, and shall include:**

1. The name, mailing address, and contact information of the petitioner(s).
2. The name, mailing address, and contact information of the petitioner's attorney, if any.
3. A separate and concise statement of each alleged error in the Consistency Determination.

4. A statement of the facts and evidence on which each alleged error is based.
5. A statement and description of the type and extent of relief requested.
6. Payment of the land use decision appeal fee as required by the City Fee Schedule (\$550).

Please note that due to COVID-19 public health and safety restrictions that the Cle Elum City Hall is closed and may not reopen during the appeal period. As result, please contact Cle Elum City Clerk Kathi Swanson at (509) 674-2262 x103 or [kswanson@cleelum.gov](mailto:kswanson@cleelum.gov) to confirm the process for submitting the appeal documents.

On May 27, 2021, City Heights filed an appeal of the initial Phase I approval decision issued by the City. This document represents the negotiated revised Conditions of Approval which shall supersede all previous approvals. This document likewise represents, as indicated by the signatures of both parties, the resolution City Heights' appeal of the Phase I approval.

## **B. Final Plat Approval**

The Applicant has proposed that the Phase 1 Plat consist of three divisions. The Applicant may apply for final plat approval of each division separately, provided that the City may condition the final approval of a division, to ensure the timely and satisfactory completion of all conditions of approval. Each division must demonstrate compliance with the applicable conditions of approval and that:

1. All required infrastructure necessary to serve that division, as determined by the City, shall have been designed and constructed, and shall have been accepted by the City or sufficient financial guarantees as determined by the City shall be in place.
2. All infrastructure improvements have been designed and constructed to stand alone and operate in accordance with applicable standards without further improvements in subsequent phases.
3. The City may, at its sole discretion, defer required dedications until the completion of all divisions to implement Phase 1 have been completed, or as otherwise provided in the conditions of preliminary plat approval.

## **C. Subsequent Phases**

The Applicant may submit applications to implement subsequent phases of the City Heights Planned Mixed Use Development at any time, in accordance with the provisions of the City Heights Master Site Plan, the City Heights Planned Action Ordinance, the City Heights Development Agreement, and the City Development Standards under which this project is

vested provided that:

1. The applications shall also address any applicable conditions of approval of previous phases.
2. There are no outstanding compliance or performance issues.
3. All required cost recovery payments have been made and there are no outstanding balances or payments in dispute.

## VII. Exhibits

### Exhibit AA: Preliminary Plat Map

*{To be inserted upon approval}*

### Exhibit BB: City Heights EIS Summary of Mitigation Measures

The Environmental Impact Statement prepared for the City Heights Mixed-Use Development includes the following Mitigation Measures. Please note that Alternative 1 corresponds with the approved Master Site Plan. Alternative 2 is similar to Alternative 1 but includes fewer dwelling units. References to Alternatives 3 and 4 have been deleted as they referred to Alternatives that are no longer relevant as all properties subject to the City Heights Master Site Plan and Development Agreement have been annexed into the City of Cle Elum.

#### ***Chapter 3.1 Earth***

##### ***3.1.1 Topography***

*Mitigation Measures Included in the Development Proposal.*

*Additional geotechnical investigations will be performed in proposed Development Area A to determine best construction practices as they relate to the coal waste pile. Engineering solutions could involve measures to either strengthen the soil or to transmit structural loads to the underlying native soil. Driven piles are a typical solution for supporting residential structures located on weak soil. Ground improvement options could include a preload surcharge, where excess fill would be placed on proposed building areas to compress and densify the soil over time, producing a stronger, less compressible subgrade. Ground improvement, over-excavation or a combination of these methods would likely be required to provide a stable subgrade for the construction of roads and utilities through the area where the coal waste pile is located. Specific geotechnical recommendations for pavements*



and utilities will be developed in the design phase if development is proposed within Area A.

The applicant proposes to maximize use of on-site sources of fill material to minimize the number of haul trips to/from the site. The proposal also includes using excess excavated material and stockpiled soils to reclaim on-site borrow areas. Under Alternative 1 or 2, construction haul routes and plans will be submitted to the City of Cle Elum Public Works Director for approval prior to the start of construction activity.

As development proceeds, if it is determined that blasting will be needed in localized areas, a detailed blast specification would be prepared by a Project Engineer to integrate the findings and recommendations of the Geotechnical Evaluation (Aspect Consulting, October 2009) and the Coal Mine Hazards Risk Assessment (Subterra, Inc., October 2009), and to outline blasting objectives and activities for the project. The blasting contractor would then prepare a site-specific blast plan that identifies all details and procedures for blasting on-site.

Soil and rock slopes created by blasting (if any) shall be maintained according to the recommendations of the Geotechnical Engineer. Slope inclinations may have to be modified by the blasting contractor if localized sloughing or rockfalls occur. In order to minimize the potential for erosion from areas where blasting is performed, erosion control measures would be installed as soon as practicable, surface water would be diverted away from blast areas, and slopes would be inspected daily until stabilized.

Consistent with conditions of the property owner's easement to Puget Sound Energy (Kittitas County Auditor, April 14, 1986), no blasting shall be done within 300 feet of the electrical transmission line corridors through the site without PSE's written consent, and PSE shall not unreasonably withhold this consent.

*Other Possible Mitigation Measures.* Coordinated planning could minimize impacts to topography. Coordinated planning during construction could include consolidating the location of construction access roads, borrow areas, and construction staging areas. Coordinated planning for developed conditions could include consolidating the location of roadways, utility corridors and stormwater management facilities, and sizing infrastructure sufficiently to support future phases of development. In areas that would require substantial modifications to topography such as the coal waste pile at the west end of the site, areas on or adjacent to steep slopes in the waste rock pile, and slopes greater than 40 percent, development proposals should be reviewed by a Geotechnical Engineer on a site-specific basis at the time of the actual site development proposal.

### 3.1.2 Geology and Soils

*Mitigation Measures Included in the Development Proposal. Design of structures to be built within the project would comply with applicable seismic design codes.*

*Other Possible Mitigation Measures. If additional geotechnical investigations to be conducted during the design phase discover abandoned mine hazards that were not previously identified, additional geotechnical investigation of these features may be warranted.*

### 3.1.3 Erosion

*Mitigation Measures Included in the Development Proposal. Elements of the proposed City Heights development would eliminate or minimize erosion from existing unstable soil areas of the site. The proposal includes re-grading the Stream C gully concurrent with site improvements in proposed Development Area D1, constructing a coordinated stormwater management system, and eliminating, regrading and/or paving unimproved dirt roads. Proposed stormwater management measures to avoid or minimize erosion and sedimentation (described in Draft EIS Section 3.18.3) would also minimize potential adverse effects to topography and soils.*

*Other Possible Mitigation Measures. The Development Agreement could specify larger setbacks from drainage courses through the site as these areas are susceptible to debris flow hazards. Balmers Canyon (identified as Stream A in this analysis) and Deer Creek (identified as Stream B) were observed to have the greatest potential for debris flows. Channel stabilization measures are recommended for the Stream C and Stream D drainage courses. Design of these measures would require further study (Aspect Consulting, October 2009).*

### 3.1.4 Coal Mine Hazard Areas

*Mitigation Measures Included in the Development Proposal. The applicant proposes to implement mitigation measures for the six different categories of Coal Mine Hazard Areas (CMHAs) identified in the Coal Mine Hazards Risk Assessment (SubTerra, Inc., October 2009), as follows:*

*Coal Mine Hazard Areas (CMHAs) 1 and 2: Drill and grout remnant voids beneath the site and seal air shafts and adit/decline/incline portals. If grouting or some similar method of fill is applied in conjunction with additional proof-drilling and stability analyses, Area K2 at the east end of the site would be developable under the criteria for CMHA 2.*

*Coal Mine Hazard Areas (CMHAs) 3, 4 and 5: Clean up abandoned mine structures.*

*Additional development criteria and mitigation for construction in CMHAs 1 through 4*

include:

- *Building designs shall accommodate standard requirements for construction in abandoned mine areas including, at a minimum, the use of rigid foundations (conventional reinforced concrete spread footings) supporting a flexible superstructure (metal or wood frame).*
- *Concrete slab-on-grade construction should use rebar rather than wire mesh for added strength.*
- *There would be no brick or rock construction in CMHAs 1 through 4, other than for fireplaces, nonstructural facades, or landscape features.*
- *Any additional abandoned mine lands work and/or studies shall meet, at a minimum, the requirements and King County guidance outlined in Attachment A to the Coal Mine Hazards Risk Assessment (SubTerra, Inc., October 2009).*

*Coal Mine Hazard Area (CMHA) 6: Completely or partially remove coal waste (spoil) material from the proposed development area to the satisfaction of the qualified Geotechnical/Civil Engineer. Guidance on coal mine spoil pile hazard mitigation is provided in King County guidelines attached to the Coal Mine Hazards Risk Assessment (SubTerra, Inc., October 2009).*

*Other Recommended Mitigation Measures. Qualified Geotechnical/Civil Engineering consultant services could be retained to develop and implement closure designs for abandoned mine features in Sections 25, 26, and 27 (Township 20 N., Range 15 E, WM, Kittitas County, WA). This task would involve liaison with the U.S. Department of the Interior, Office of Surface Mining.*

### 3.1.5 Hazardous Substances Investigation

*Mitigation Measures Included in the Development Proposal. The applicant proposes to comply with the recommendations of the Geotechnical consultant with regard to handling, disposal, compaction, and/or capping (as necessary) coal waste deposits on the site. A common approach for addressing soils that present only a direct-contact risk is to cap these areas with clean soils to prevent contact. This would be consistent with both the Washington State Model Toxics Control Act (MTCA) (Chapter 70.105D Revised Code of Washington (RCW), and Chapter 173.340 Washington Administrative Code) remediation requirements and coal mine waste reclamation practices. Alternatively, this material may be excavated and disposed off-site as a non-hazardous waste at a Subtitle D landfill (Aspect Consulting, November 2009).*

*Measures to address potential future settlement in areas where coal waste rock would remain on the site will be addressed by additional geotechnical evaluation and engineering design at the time of actual site development applications for proposed Development Areas A and D2.*

*Other Recommended Mitigation Measures. No additional mitigation measures for potentially hazardous substances have been identified.*

### **Chapter 3.2 Air Quality**

*Mitigation Measures Included in the Development Proposal. The project proponent (Northland Resources) has committed to prohibit residential wood-burning devices for space heating or aesthetics, and outdoor burning through Covenants, Conditions & Restrictions (CC&Rs) to be enforced by the Homeowners Association. The City will further enforce these restrictions through plat conditions and/or building permit conditions. These commitments will preclude the discharge of potentially significant sources of fine particulates and other pollutants to the air with Alternative 1 or 2. It is not known at the time of this writing whether there will be any additional features incorporated into the proposed development to minimize potential greenhouse gas emissions. The analysis identifies no need to mitigate traffic-related emissions for purposes of maintaining good air quality, based on acceptable Level of Service operating conditions at signalized intersections within the study area.*

#### *Other Recommended Mitigation Measures Construction-Related Emissions*

*Although significant air quality impacts related to construction are not anticipated, the potential for temporary, local degradation of air quality from construction activities could be minimized by development and implementation of a plan for minimizing dust and other emissions by applying best management practices. The Associated General Contractors of Washington's Guide to Handling Fugitive Dust from Construction Projects provides practical examples of suggested best management practices necessary to comply with air quality regulations involved in the construction process. The following is a list of possible mitigation measures specified in the guide that could be implemented to reduce potential temporary air quality impacts during construction of the project.*

- *Use only equipment and trucks that are maintained in optimal operational condition.*
- *Require all off-road equipment to be retrofitted with emission reduction equipment (that is, require participation in program similar to the Puget Sound region Diesel Solutions Program by project sponsors and contractors).*
- *Use biodiesel or other lower emission fuels for vehicles and equipment.*



- *Encourage trip-reduction strategies for construction workers (to the extent practical).*
- *Stage construction to minimize overall transportation system congestion and delays to reduce regional emissions of pollutants during construction.*
- *Implement restrictions on construction truck idling (for example, limit idling to a maximum of 5 minutes).*
- *Locate construction staging zones where diesel emissions will not be noticeable to the public or be near sensitive populations such as the elderly and the young.*
- *Spray exposed soil with water or other suppressant to reduce emissions of PM10 and deposition of particulate matter.*
- *Pave or use gravel on staging areas and roads that would be exposed for long periods.*
- *Cover all trucks transporting materials, wet materials in trucks, or provide adequate freeboard (space from the top of the material to the top of the truck bed), to reduce PM10 emissions and deposition during transport.*
- *Provide wheel washers to remove particulate matter that would otherwise be carried off-site by vehicles to decrease deposition of particulate matter on area roadways.*
- *Remove particulate matter deposited on paved, public roads, sidewalks and bicycle and pedestrian paths to reduce mud and dust; sweep and wash streets frequently to reduce emissions.*
- *Cover dirt, gravel and debris piles as needed to reduce dust and wind-blown debris.*
- *Route and schedule construction trucks to reduce delays to traffic during peak travel times to reduce air quality impacts caused by a reduction in traffic speeds.*

#### Greenhouse Gas Emissions

*No GHG-reducing mitigation measures have been included in the proposed project. Although there are no specific requirements to do so, some factors could be included into the proposed development to reduce CO2e emissions over the life of the project. Options include applying Built Green or LEED®-certified/Energy Star standards to the development, and/or the incorporation of Low Impact Development (LID) methods to reduce potential impacts on water resources and promote water conservation. Such LID*



*measures would also potentially reduce GHG emissions due to water use and the level of necessary storm water control.*

*Other measures that would reduce GHG emissions on the local level include any steps that would alter those aspects of the project that contribute to emissions due to construction of the development, energy use by the people who live there, or the need to drive. While the global impacts of GHG emissions cannot be solved on the local level by the measures suggested here, reducing GHGs on the local level does contribute to the reduction goal of the Washington State Legislature to reduce GHG emissions in our State. Each of these measures is addressed further below.*

*Construction materials that reduce GHG emissions use renewable resources, composites, and/or materials made from recyclables (e.g., farmed wood and wood/plastic composites from recycled plastic and wood), and de-emphasize use of non-renewal resources (e.g., old-growth or exotic lumber, virgin metals, or more than essential quantities of concrete). Because renewable and recycled materials use less resources and require a fraction of the energy necessary to produce virgin materials, associated GHG emissions are substantially lower.*

*End-use energy consumption in residences is a primary contributor to overall GHG emissions. Such energy use is a function of multiple factors, many of which could be positively affected during development of the project. For example, site layout/design that maximizes exposure to the sun in the winter and takes advantage of natural ventilation can reduce winter heating needs and the need for summertime forced-air ventilation. Using construction techniques and materials that exceed building code requirements can reduce long-term energy use. Employing innovative heating technologies such as heat pumps, hot-water radiant floors, and ultra-high efficiency furnaces also would reduce energy consumption compared with standard space-heating systems. Similarly, technologies to provide or supplement water heating (e.g., on-demand and/or solar-assisted heating instead of continuously heated, large tank reservoirs) also would reduce the overall energy footprint of the development. And any steps that reduce energy use would reduce any related GHG emissions. Implementing a high LEED®, Built Green, or other low-impact/high-efficiency building standard would help conserve resources and reduce GHG emissions compared with conventional development techniques.*

### **Chapter 3.3 Water Resources**

#### **Water Supply Effects**

*Mitigation Measures Included in the Development Proposal. The City Heights proposal includes two options for a “water budget neutral” approach to the provision of water supply to Alternative 1 or 2 of the development. These are described below under*

*Applicable Regulations.* Proposed development under Alternatives 1 or 2 would incorporate low-flow faucets, toilets and similar fixtures to minimize domestic water supply requirements.

*Other Possible Mitigation Measures for Water Supply Effects.* Under any alternative, the developer could be encouraged to include in the Covenants, Conditions & Restrictions (CC&Rs) of the development a preference for xerophytic landscaping, i.e., plantings that would require minimal irrigation in the arid climate of Upper Kittitas County.

#### Sewage Disposal Effects

*Mitigation Measures Included in the Development Proposal.* No mitigation measures for groundwater quantity or quality would be required for a wastewater collection and treatment option to serve Alternative 1 or 2 (i.e., a Public System Option, or MBR System Option).

*Other Possible Mitigation Measures for Sewage Disposal Effects.* No additional mitigation recommendations were identified for potential groundwater effects due to the sewage collection, treatment and disposal options being considered for the project.

#### Stormwater Effects

*Mitigation Measures Included in the Development Proposal.* Construction contractors would be required to comply with applicable State and local regulations and permit requirements (described below) to mitigate potential construction-related impacts to groundwater quantity or quality.

*Potential impacts to groundwater quantity due to reduced recharge in the developed condition of the site would be offset in part or in whole by the following features of the Planned Mixed-Use development:*

- *The open space proposal under Alternative 1 or 2 would retain approximately 43 to 45 percent in a condition where the natural process of groundwater recharge would continue to occur.*
- *To the extent that parks and residential landscaping are irrigated, this would locally increase groundwater recharge.*
- *The on-site stormwater infiltration proposal would increase groundwater recharge due to the increased volume of runoff from the developed condition of the site.*

*Other Possible Mitigation Measures for Stormwater Effects.* If stormwater or dewatering water is infiltrated rather than discharged to surface water, stormwater pre-treatment

*BMPs (such as gravel filter berms and sediment ponds) could be used to reduce the potential for construction-related impacts to groundwater quality.*

*Potential impacts to groundwater quantity from construction dewatering could be minimized by limiting dewatering to summer months when groundwater levels would be lower or not present, or infiltrating dewatering water back to the shallow groundwater system.*

### **Chapter 3.4 Wetland and Streams**

#### **3.4.1 Wetlands**

*Mitigation Measures Included in the Development Proposal. Construction contractors will be required to comply with all applicable permit conditions to avoid inadvertent clearing or compaction within wetlands and their associated buffers. Prior to the start of construction in areas where delineated wetlands occur, wetland boundaries will be flagged and silt fencing will be installed to alert contractors to the “no disturbance” requirement for these areas.*

*Best Management Practices to be implemented during construction, and water quality treatment facilities in the developed-condition stormwater management system, would minimize or avoid water quality impacts to wetlands. These measures would potentially improve water quality discharges over existing conditions, as removal of the off-road vehicle use would reduce the amount of untreated sediment-laden runoff that currently flows into creeks and enters wetlands.*

*Direct impacts to wetlands (i.e., fill at road crossings) will be mitigated at required ratios per City or County Code (depending on the alternative selected for implementation) through wetland creation, likely by expanding the edge of impacted wetlands outside the area of fill. Potential impacts to wetland buffers will be mitigated through buffer averaging as allowed by Code. Buffer averaging allows reduction of a buffer in one area as long as an equal area is added to (or preserved in) the buffer in another location. Under buffer averaging, the actual area of the buffer remains the same as the standard full width buffer.*

*In compliance with Ecology’s Stormwater Management Manual for Eastern Washington (SWMMEW), potential impacts to wetland hydrology would be minimized or avoided by the proposed stormwater management system that would re-direct treated water back toward wetlands that received stream hydrology prior to development.*

*Other Recommended Mitigation Measures. The increased human presence in close proximity to onsite wetlands could potentially be mitigated by fencing to discourage intrusion. Lights and noise generating uses could be located away from wetlands to*

*minimize impacts from glare and sound.*

*Groundwater wells should be located in areas where hydrologic analysis reveals the least likelihood of impact to base flows or the hydrology of wetlands. The impairment analysis performed to determine the potential effects of groundwater wells on other users in the basin also evaluates potential effects on shallow groundwater hydrology that sustains existing wetlands in the basin.*

### 3.4.2 Streams

*Mitigation Measures Included in the Development Proposal. Potential impacts to streams will be avoided or mitigated through the installation and operation of a stormwater management system on the site – both during construction and in the developed-condition of the project – in accordance with the Washington Department of Ecology 2004 Stormwater Manual for Eastern Washington. The proposed system is described in Draft EIS Section 3.18.3.*

*Construction contractors will be required to comply with all applicable permit conditions for the protection of stream beds, stream banks, and stream water quality.*

*Other Recommended Mitigation Measures. Groundwater wells should be located in areas where hydrologic analysis reveals the least likelihood of impact to base flows or the hydrology of streams.*

## **Chapter 3.5 Wildlife and Habitat**

### 3.5.1 Habitat Conditions on the Site

*Mitigation Measures Included in the Development Proposal. Landscaping to be introduced on the site and restoration plantings would be specified to include native vegetation to the extent practicable. This would partially compensate for the loss of existing wildlife habitat with implementation of any conceptual land use alternative. Target species should include plants particularly beneficial as food sources for wildlife such as chokecherry, serviceberry, and native roses (*Rosa pisocarpa*; *R. nutka*; and *R. gymnocarpa*). Potentially invasive, exotic vegetation would not be allowed in site landscaping (to be enforced through the Covenants, Conditions, and Restrictions of the development), including but not limited to English ivy (*Hedera helix*), Scott's broom (*Cytisus scoparius*), Japanese knotweed (*Polygonum cuspidatum*), baby's breath (*Gypsophila paniculata*), or any other species on the Kittitas County Noxious Weed List.*

*Other Recommended Mitigation Measures. The landscaping proposal could be used to augment vegetation in open space areas to be retained, and in stream and wetland buffers*



in order to improve habitat that would be preserved on the site in these areas. Proposed, required, and other possible mitigation measures for noise and water quality described in Draft EIS Sections 3.9 and 3.18.3 would also be of benefit to fish and wildlife habitat conditions on the site.

### 3.5.2 Wildlife Species Use of the Site

*Mitigation Measures Included in the Development Proposal.* It will not be possible to fully mitigate wildlife impacts under any build alternative. Species that use the site will either use the remaining linked habitat areas (wetlands, streams, buffers, and open space corridors), or they will relocate to the north into the large, forested area that includes more than 1,000,000 acres of commercial forest and wilderness area. The proposal to retain open space corridors on the site and connection through the development to off-site habitat areas would partially off-set habitat fragmentation that would result from site development. This would retain shelter and sources of food for small mammals and birds but could have the undesirable effect of also maintaining corridors for large mammals and predators to move through the site.

*Covenants, Conditions and Restrictions (CC&Rs) to be enforced by the Homeowner's Association with Alternative 12* would be used to inform residents of wildlife in the area and how to minimize sources of conflict. For example, garbage storage areas can be required to include animal-exclusion features, and a pet leash law could help minimize predation by domestic pets on small mammals and birds on the property, as well as to control these pets to minimize their availability as prey for large native predators. Certain types of landscaping could be discouraged to prevent conflicts with wildlife, such as grassed lawns, fruit trees, and berry bushes.

*Other Recommended Mitigation Measures.* The landscaping proposal could be used to augment vegetation in open space areas to be retained, and in stream and wetland buffers in order to improve habitat that would be preserved on the site in these areas. Proposed, required, and other possible mitigation measures for noise and water quality described in Draft EIS Sections 3.9 and 3.18.3 would also be of benefit to fish and wildlife habitat conditions on the site.

### 3.5.2 Wildlife Species Use of the Site

*Mitigation Measures Included in the Development Proposal.* It will not be possible to fully mitigate wildlife impacts under any build alternative. Species that use the site will either use the remaining linked habitat areas (wetlands, streams, buffers, and open space corridors), or they will relocate to the north into the large, forested area that includes more than 1,000,000 acres of commercial forest and wilderness area. The proposal to retain open space corridors on the site and connection through the development to off-site habitat



areas would partially off-set habitat fragmentation that would result from site development. This would retain shelter and sources of food for small mammals and birds but could have the undesirable effect of also maintaining corridors for large mammals and predators to move through the site.

*Covenants, Conditions and Restrictions (CC&Rs) to be enforced by the Homeowner's Association with Alternative 1 or 2 would be used to inform residents of wildlife in the area and how to minimize sources of conflict. For example, garbage storage areas can be required to include animal-exclusion features, and a pet leash law could help minimize predation by domestic pets on small mammals and birds on the property, as well as to control these pets to minimize their availability as prey for large native predators. Certain types of landscaping could be discouraged to prevent conflicts with wildlife, such as grassed lawns, fruit trees, and berry bushes.*

*Other Recommended Mitigation Measures. Normal construction activities should be limited to daytime hours to prevent possible disturbance of wildlife within adjacent, undeveloped landscapes. If special circumstances would require nocturnal work with bright, artificial lighting, shields should be provided to prevent fixed lighting from shining into non-construction areas.*

*To partially compensate for the loss of wildlife habitat due to clearing and grading activities, a variety of habitat features including such things as nest boxes could be placed within undeveloped open space areas to be preserved. Targeted species would include most cavity-nesting birds (such as swallows, chickadees, wrens, bluebirds, and woodpeckers), and bats.*

*The applicant and City decision makers should consider a fence along the north City Heights boundary sufficient to deter the movement of deer, elk, bear and cougar from the expansive forested area to the north through the City Heights development and potentially into the existing residential neighborhood and downtown area below (see Figure 3.5-3). Constructing the fence with a 45-degree angle at the east and west ends, and at locations where the fence is intercepted by roadways and powerline corridors would help keep wildlife movements directed away from entering the development.*

*Effective fences to deter elk, deer and cougar generally exceed 10 feet in height, and therefore may not be desirable in a residential development. Educating residents about large predators would be the most effective way to minimize the potential for conflicts. Small children and pets should not be left unattended in open areas, particularly at dusk. Shrubs and landscaping should be pruned several feet off the ground to eliminate hiding spaces, residents should be educated about not feeding cats and dogs outside and not to leave these pets outside from dusk to dawn. Garbage cans with tight-fitting lids should be used to prevent small animals such as skunks, raccoons, and coyotes (prey for cougars)*

from being attracted to the area. The Washington Department of Fish and Wildlife (WDFW) discourages creating situations that would result in conflicts between wildlife and resident human populations that would require commitment of resources and/or enforcement actions by WDFW personnel (WDFW July 15, 2009).

Consideration could also be given to installing fences along riparian corridors to help limit conflicts with wildlife in these areas of the site. These barriers could be designed to allow small wildlife to still pass through the fences.

Measures to avoid conflicts with bears include using garbage cans with tight-fitting lids (or specially designed bear-proof garbage cans) and setting out the cans only on the morning when the solid waste collection service is scheduled to occur. Bird feeders that allow residue to build up on the ground between March and November should be removed. Orchard fruit should be harvested regularly from any fruit trees, and no fruit should be left to rot on the ground. Pets should be fed inside; barbecue grills should be cleaned after each use; and outdoor refrigerators or freezers should be kept inside garages or not at all. Consideration should be given to installing bear-proof fencing around fruit trees and garbage storage areas.

### **Chapter 3.6 Energy and Natural Resources**

*Mitigation Measures Included in the Development Proposal.* Homes and commercial buildings to be constructed within the City Heights development will comply with the most current energy conservation measures specified in applicable codes. The City of Cle Elum Building Code would apply to Alternative 1 or 2. The applicant will also encourage builders to include provisions for the use of solar energy as this technology advances, such as roofing materials with solar power generation capabilities.

*Other Possible Mitigation Measures.* To the extent that builders may choose to construct "built green" homes within the City Heights development, this method of construction could improve energy efficiency through well-designed heating, cooling, ventilation, and hot-water systems; building envelopes; lighting and appliances. Energy-efficient homes may have the added benefit of being more desirable to some purchasers and maintaining better value in a region where there is a high priority for energy conservation. Representative "built green" measures may include:

- Install locally- or regionally produced materials.
- Use rapidly-renewable building materials, such as products made from plants harvested within a 10- year lifecycle or shorter (if available).
- Use "engineered wood" structural products; e.g., laminated veneer lumber (LVL),

wood I-beams and I-joists, and wood roof and floor trusses (if available). Engineered lumber manufacturers use fast growing, small-diameter trees efficiently.

- *Install materials with longer lifecycles (if available).*
- *Use recycled plastic lumber or plastic/wood composite lumber (if available) as a durable alternative to solid wood for non-structural exterior applications such as fences, benches, decking, retaining walls, and landscape borders.*
- *Use fiber-cement composite siding materials, with wood fiber reclaimed from wood processing waste or small diameter fast-growing trees (if available). They are resource-efficient, durable and low maintenance, and offer a good fire rating compared to wood or metal siding.*
- *Use exterior siding, flooring material, windows and trim that are third-party certified sustainably harvested wood (if available).*
- *Install recycled-content products such as roofing material and carpet pad (if available).*
- *Post a jobsite recycling plan and recycle scrap building materials to the maximum extent practicable: lumber, wall board, concrete, cardboard, ceiling tiles, paints and packaging.*

*Energy efficiency measures in construction could include practices such as advanced framing/extra insulation, installation of high-efficiency household appliances, and air sealing (advanced caulking). Builders could be encouraged to implement practices such as the following:*

- *Advanced framing is a technique used by builders to help reduce construction costs and increase energy savings. On average, advanced framing uses 30 percent less lumber. Advanced caulking is an element of the airtight drywall approach (ADA) for framed structures. Caulk or gasket drywall is installed on exterior walls at the top and bottom plates, windows and door frames, and on interior walls at intersections with exterior ceilings, and at electrical, plumbing or mechanical penetrations in the drywall.*
- *Seal ducts with mastic and insulate to R-11.*
- *Use solar design to control heat gain, light, water heating and generating electricity. Good solar design allows winter sun to reach a 'thermal mass,' such as a tiled floor, which holds the heat and radiates into the living space. Good solar design also keeps*

*the same sun from overheating the living space in Summer months through properly sized window overhangs and strategically placed deciduous trees in landscaping.*

- *Use heat-recovery systems to capture heat from exhaust air or from drain water.*
- *Install sealed combustion heating and hot water equipment.*
- *In higher-density development areas of the site, construct detached garages, no garages, or garages air-sealed from the residence.*
- *Provide for comfortable space temperatures with added insulation in the attic, floor, and walls, and high-performance windows.*
- *Weatherize homes by sealing leaks and insulating attics, floors, and walls.*
- *Use minimum R-26 for overall wall insulation.*
- *Use 75 percent minimum Energy Star light fixtures.*

*Additional energy conservation measures that could be implemented at the discretion of builders and homeowners may include the following:*

- *Install energy-efficient appliances. Select appliances that have "Energy Guide" or "Energy Star" labels to ensure that they meet energy-efficient criteria.*
- *Minimize hot water usage by installing efficient front-loading washing machines, fixing leaks, and lowering the temperature of the hot water tank.*
- *Locate the water heater within the heated space of the home, and within 20 pipe feet of the highest use.*
- *Insulate all hot water pipes and install cold inlet heat traps on hot water heater.*
- *Select gas appliances over electrical appliances for clothes driers and stove tops.*
- *Centrally-locate the heating/cooling system to minimize the size of the distribution system.*
- *Install heat systems with separate zones for sleeping and living areas.*
- *Install programmable thermostats to manage changing comfort needs during daytime and nighttime hours.*

- *Select high-efficiency heat pumps instead of electric heat.*
- *Install a heat-recovery ventilator.*
- *Select Energy Star heating and cooling equipment, no air conditioners.*
- *Install lighting dimmer switches, photocells, timers, and/or motion detectors to operate lights.*

### **Chapter 3.7 Relationship of the Proposal to Plans, Policies, and Regulations**

*No "Mitigation Measures Included in the Development Proposal" or Other Recommended Mitigation Measures were identified.*

### **Chapter 3.8 Land Use**

*Mitigation Measures Inherent in the Development Proposal. While no adverse impacts requiring mitigation were identified in this section, several of the purpose and objective statements for the City Heights project (listed below) indicate an intent to integrate the project with the existing community consistent with the City's Comprehensive Planland use goals, and with the purpose and objectives of the City's Planned Mixed-Use district (discussed in Draft EIS Section 3.7.2):*

- *Provide an interconnecting trail system to enhance the ability of the public to travel east and west through the Cle Elum area on trails through open space rather than on roads shared with vehicles.*
- *Provide connections to existing developed areas within the City for residents to enjoy the public amenities provided within the development, and to facilitate access to the services provided in the commercial core.*
- *Invigorate the downtown commercial area by increasing the population within the service area.*
- *Provide neighborhood commercial uses that would not compete with downtown core businesses.*

*Other Recommended Mitigation Measures. No additional mitigation measures for potential land use impacts had been identified at the time of this writing.*

### **Chapter 3.9 Noise**

*Mitigation Measures Included in the Development Proposal. The proposal includes*



*maintaining an existing natural buffer in an area 20 to 80 feet wide along most of the south boundary of the site. In addition to visual screening, this buffer may help dampen noise generated within the project.*

*A detailed blast specification would be prepared, as needed, by a Project Engineer to integrate the findings and recommendations of the Geotechnical Report (Aspect Consulting 2009) and the Coal Mine Hazards Risk Assessment (Subterra 2009), and to outline blasting objectives and activities. A Blasting Contractor would prepare a site-specific blast plan, as needed, that identifies all details and procedures for blasting on-site.*

*Other Recommended Mitigation Measures. Noise reduction occurs with increasing distance from the source; as a result of atmospheric absorption, structural or topographic obstructions; and/or as a result of absorption for soft intervening ground. Several of the Other Recommended Mitigation Measures for Air Quality listed in Draft EIS Section 3.2 would also be effective at minimizing temporary construction noise impacts on adjoining properties. To the extent that these practices are implemented by construction contractors like using only equipment and trucks that are maintained in good operational condition, limiting the idling of construction equipment and vehicles to a maximum of 15 minutes, and locating construction equipment and staging areas as far away from people as practicable – construction noise impacts to sensitive receivers could also be minimized.*

*The City could consider specifying construction access routes to the site that would minimize noise, vibration, and dust impacts along roadways that are presently used predominantly for access to residential neighborhoods.*

*If unusual circumstances require occasional nighttime construction activities, the contractor could be required to notify adjoining property owners in advance.*

### **Chapter 3.10 Population**

*No "Mitigation Measures Included in the Development Proposal" identified.*

*Other Possible Mitigation Measures. Contractors could be encouraged to hire construction workers who reside within daily commuting distance of the project to minimize the increase in a temporary population of construction workers (and associated demand for temporary housing) within the community.*

### **Chapter 3.11 Housing**

*No "Mitigation Measures Included in the Development Proposal" identified.*

*Possible Mitigating Measures. Contractors could be encouraged to hire construction*

workers who reside within daily commuting distance of the project to minimize the demand for temporary housing in the area. If this is not practical, the City could request construction contractors to estimate their work force requirements and to investigate local temporary housing opportunities at the start of each phase of construction. Construction contractors could ask the workers they hire to indicate what arrangements they propose to make for temporary housing in the area while they are under contract to work on the project.

While no adverse impacts requiring mitigation were identified in this section for the developed condition of the project, the anticipated result of the City Heights development would be a mix of housing types, styles, densities and values in order to provide housing that is affordable to people of various income levels. Both the rate and character of development over the 6- to 12-year build-out of the project will be influenced by market factors unknown at this time. The City or County (depending on the alternative selected) will, however, maintain development approval authority over the project throughout the construction period.

The City of Cle Elum does not presently have an adopted definition of what constitutes "affordable housing," as this varies based on the median income of an area. It is presumed that housing that is affordable requires expenditure of less than 30 percent of a household's gross income for the mortgage payment, taxes, insurance, and utilities. A definition of affordable housing and the amount to be provided within City Heights will be an element of the negotiated Development Agreement between the project proponent and the City of Cle Elum.

### **Chapter 3.12 Light and Glare**

*Mitigation Measures Included in the Development Proposal.* The City Heights conceptual land use plans do not yet describe a lighting proposal. These would be evaluated during review of site-specific development proposals. The applicant proposes to minimize the amount of glare, light trespass and sky glow generated by lighting from residential neighborhoods, commercial areas, vehicular and pedestrian corridors through a combination of measures. Representative measures may include:

- *State-of-the-art lighting system components and controls used for maximum efficiency and effect.*
- *Light fixture shielding systems to emit light down to areas intended to be illuminated, and not into surrounding areas of the community.*
- *Use of lighting design principles that focus on appropriate selection of fixtures, levels of lighting, and mounting heights to limit "light spillage" off-site.*

- *Appropriate selection of painted or treated surfaces for standards and fixtures to minimize the amount of reflected light glare generated.*
- *Preserving a perimeter buffer of existing vegetation to the extent practicable and restoring cleared areas with landscape plantings to provide visual screening where needed.*

*Other Recommended Mitigation Measures. The following list provides additional guidelines that could be followed for the design and implementation of lighting standards that would minimize impacts of light and glare on residents of the City Heights development and other area residents.*

- *Street lighting provided for vehicular and pedestrian circulation should meet standards equal to or greater than those typically required by the City of Cle Elum.*
- *Lighting for building exteriors, parking lots, and all vehicular and pedestrian circulation should be designed with sensitivity to surrounding and/or adjacent neighborhoods.*
- *Street lighting standards should not exceed a maximum height, to minimize light spillage and light trespass (e.g., light standards in residential areas should not exceed 35 feet in height).*
- *Streetlight bulbs should be selected for longevity to minimize maintenance requirements and replacement expense. Current technology examples include light-emitting diode (LED) or compact fluorescent (CFL).*
- *Walkway and trail lighting should have a maximum height of 15 feet; use of bollard or ground lighting could be an alternative to lighting on poles.*
- *No up-lighting of environmental features or building facades should be allowed.*
- *Landscape features such as street trees could be incorporated in neighborhood streetscapes to diffuse light and glare.*

*If construction is limited to daytime hours, this would also have the secondary effect of limiting nighttime illumination on the site during project development.*

### **Chapter 3.13 Aesthetics**

*Mitigation Measures Included in the Development Proposal. The proposal under conceptual land use Alternatives 1 or 2 includes preserving an existing natural buffer 20 to 80 feet wide along much of the south boundary of the site. Only single-family detached*

homes are proposed along this boundary, for the most compatibility in use and scale with established neighborhoods at the base of the slope.

*Covenants, Conditions, and Restrictions (CC&Rs) and development standards for the project will include requirements to assure that the proposed development will blend with the natural environment to the extent practicable. These measures will include such things as architectural standards for building character, exterior materials and colors; lighting, restoration plantings and screening requirements; and road standards that include provisions for landscaping and pedestrians.*

*Project CC&Rs would impose measures for the maintenance and upkeep of parks (To the extent that some parks and public amenities within the development are accepted by the City as public areas, the City would maintain these areas.) and common areas, as well as measures that would minimize the visual impacts of construction, upgrades or repairs within the development. The CC&Rs, to be implemented and enforced by the Homeowner's Association, would therefore help to preserve aesthetically pleasing conditions within the development.*

*Other Recommended Mitigation Measures. No mitigation measures for the aesthetics of the development beyond those proposed or required have been identified.*

### **Chapter 3.14 Parks, Recreation and Open Space**

*Mitigation Measures Included in the Development Proposal. The objectives of the City Heights proposal include several priorities for retaining a significant amount of open space on the site, both to preserve unique features of the property, and to provide recreational opportunities for residents of the project and the community as a whole. Trail corridors to be identified in an early phase of site planning are envisioned to connect parks, open spaces and public amenities both on-site and off-site so that people can flow through the development and have different experiences in different locations. The degree of improvements and amenities in these spaces will be a function of the resources available from the conceptual land use alternative selected for implementation, as described above. Improvements to be made will be specified in the Development Agreement to be negotiated between the City and the project proponent. Some parks and trails within the development may be dedicated to the City also to be negotiated through the Development Agreement.*

*In the event that temporary disruptions to use of the Coal Mines Trail would occur during construction of a west access to serve the City Heights development under Alternative 1 or 2 the developer would work with the City to publish and post advance notice to trail users.*

*Other Recommended Mitigation Measures. Trail corridors within the development may be made available for recreational enthusiasts and stakeholders to cooperate and participate*



*in making improvements, such hiking and biking associations, and local groups such as the Cle Elum Improvement District or the Kittitas County Parks and Recreation District. To the extent that grant funds or other resources are available, trail improvements through the site connecting with the Coal Mines Trail, Flagpole Park, and Centennial Park could be implemented sooner.*

*Approximately 3 miles of the possible route of the Cle Elum Skyline Trail is shown through the City Heights property (Figure 3.14-2). As possible mitigation for the tracks, trails and connections requirement to serve the projected year-2025 population of the City as a whole, consideration could be given to dedicating this land or entering into a public use agreement to complete this link of the trail.*

### **Chapter 3.15 Historic and Cultural Resources**

*Mitigation Measures Included in the Development Proposal. If at any time during project development human or unknown bones are uncovered, or deeply buried cultural deposits are encountered, work would be stopped in this area of the site and a professional archaeologist would be contacted to evaluate these findings.*

*Other Recommended Mitigation Measures. The cultural resources consultant (RLR) recommends, for consideration by City of Cle Elum decision makers, that construction disturbance in Areas A and D2 of the City Heights site be avoided until such time as a potential historic mining district can be documented and recorded (if requested by the Washington State Department of Archaeology and Historic Preservation). The City Heights site does not encompass the entire historical mining district; rather, it lies between two areas of mining activity that occurred further up the slope and beneath downtown Cle Elum.*

### **Chapter 3.16 Transportation**

*Mitigation Measures Included in the Development Proposal. Haul routes for construction traffic will be addressed with the Public Works Director prior to the initiation of any construction activity. Provisions will be made in the Development Agreement to be negotiated between the City and the project proponent for restoration of road surfaces damaged by construction traffic (if any).*

*Alternative 1 – Preferred. New internal roadways and intersections at access points would be constructed to City of Cle Elum standards, or standards negotiated as part of the Development Agreement with the City (see Draft EIS Section 2.9.4.3). Internal roadways would be designed to meet Fire Marshal requirements, emergency access requirements and access for school buses. Snow storage would also be designed into Alternative 1. Proportionate-share mitigation for project impacts to the transportation system would be*



*negotiated as an element of the Development Agreement between the City and the project proponent. (The City Heights proportionate share would be calculated by dividing project traffic volumes by the sum of project traffic plus background traffic volumes.) The proposal includes reconstructing the substandard curve east of the Summit View/W Sixth Street intersection to improve sight distance and roadway width.*

*Alternative 2 – Reduced Residential Density. Similar to Alternative 1, new internal roadways and intersections at access points to serve Alternative 2 would be constructed to City of Cle Elum standards or as negotiated in a Development Agreement with the City. Transportation system mitigation would also be a negotiated element of the Development Agreement.*

*Other Recommended Mitigation Measures. Proportionate-share roadway, intersection, and traffic signal improvements to be required of the City Heights project, and the relative timing for these improvements, will be negotiated between the City (or County, depending on the alternative selected) and the project proponent during the Development Agreement process. Off-site improvements identified by the project traffic consultant to mitigate the PM peak hour trips and level of service impacts of the City Heights project are identified in this section to facilitate those negotiations.*

*Alternative 1 – Preferred. The project proponent should contribute to future round-abouts or traffic signals at four intersections if and when such improvements are warranted (e.g., an intersection must meet minimum volume thresholds before a traffic signal is installed). These intersections would operate at poor levels of service in the future without the City Heights development and have been identified as needed improvements in the City of Cle Elum Draft Transportation Plan (May 2009). The intersections are:*

- W Cemetery Road/W 1st Street. PM peak hour traffic generated by Alternative 1 of the City Heights project would represent about 10 percent of total traffic through this intersection in the year 2022.*
- Oakes Avenue/W Second Street. PM peak hour traffic generated by Alternative 1 of the City Heights project would represent about 30 percent of total traffic through this intersection in the year 2022.*
- N Stafford Avenue/W Second Street (SR 903). PM peak hour traffic generated by Alternative 1 of the City Heights project would represent about 29 percent of total traffic through this intersection in the year 2022.*
- E 1st Street /Columbia Avenue. PM peak hour traffic generated by Alternative 1 of the City Heights project would represent about 20 percent of total traffic through this intersection in the year 2022.*

*Alternative 2 – Reduced Residential Density. The same off-site improvements as those identified to mitigate the impacts of Alternative 1 would be needed to achieve acceptable levels of service at study area intersections with full build-out and occupancy of Alternative 2. However, the proportionate share of the improvements would be less, except at the intersection of Oakes Avenue/W Second Street where the project share could increase up to 50 percent.*

### **Chapter 3.17 Public Services**

#### **3.17.1 Cost of Public Works and Public Services in General**

*Mitigation Measures Inherent in the Development Proposal. The City Heights site is within the City of Cle Elum Urban Growth Area, adjacent to the north boundary of the existing incorporated area (see Figure 3.8-1 in Draft EIS Section 3.8). The proposal under Alternative 1 or 2 would implement the basic tenets of the Washington State Growth Management Act, the goals of which are to implement “smart growth.” Among these principles are to minimize the cost and optimize the efficiency of providing public services by constructing urban development within or adjacent to areas where urban services are currently available or could logically be extended.*

*The Fiscal Analysis prepared for the City Heights proposal (Property Counselors 2010) estimates that annual tax revenues generated by the project would generate a net surplus in revenue to the City or County compared to the operational requirements of Alternative 1 or 2 (see Tables 3.19-11 and 3.19-13 in Draft EIS Section 3.19 and the preceding discussion). Estimated annual tax revenues generated for the Transportation element of the City’s operating budget are projected to be sufficient to fund two additional Public Works staff positions.*

*The Development Agreement to be negotiated between the City and the project proponent if Alternative 1 or 2 is selected for implementation will address project costs for these and other general government services to assure that the development would pay for the cost of services it requires.*

*Other Possible Mitigation Measures: Potential Beneficial Consequences of Growth within the Community. In addition to the direct revenue and expense impacts a development project can have on a community, there are many indirect benefits associated with economic development. The existing population base of 1,835 people within the City of Cle Elum has limitations in terms of the number and types of businesses and service providers it can attract and support, as well as limitations on what the tax base of a resident population this size can support in the way of community projects. While approximately doubling the size of the existing population with development of City Heights would place*

*increased demands on City services, greater economies of scale can, and often do, lead to an enhanced lifestyle in a community and improved City services for all residents. A few examples follow:*

- Projects such as stormwater system enhancements that benefit the entire community would be more easily funded if spread across the tax base of a larger population.*
- Community projects such as a new swimming pool or development and maintenance of existing parks would also more easily funded if these costs are spread across a larger population. In many cases, a small community cannot afford to pay for such facilities but once a certain population level is reached, these facilities become more feasible.*
- A larger population base attracts more businesses to locate in an area and also provides a larger customer base to support existing businesses. More diversity in local businesses could provide more responsiveness to the needs of the community. A larger resident population could attract a larger variety of restaurants and retail shops, thereby improving local services for everyone in the community.*
- A larger resident population would also be more capable of supporting philanthropic enterprises (like Life Support and others) through the availability of additional volunteers and additional funding.*
- Tax revenues generated by a larger resident population would also be better able to prevent a cutback in government services during difficult economic times.*

*City decision makers may take into consideration potential indirect economic benefits of this nature during their deliberations on the request for annexation, rezone, and Development Agreement to implement the City Heights project. While difficult to quantify, the consequences of growth in a community are broader in scope than just the municipal revenue and expenditure analysis presented in the Fiscal Analysis (summarized in Draft EIS Section 3.19).*

### *3.17.2 Fire Protection Services*

*Mitigation Measures Included in the Development Proposal. The Fiscal Analysis of the proposed development (Property Counselors 2010) shows that tax revenues generated by the development would generate a net surplus in revenue compared to the operational requirements of Alternative 1 or 2 (see Table 3.19-11 in Draft EIS Section 3.19 and the preceding discussion). Estimated annual revenues that would be allocated to Fire and Emergency Services would fund the cost of 20 additional volunteer members of the Cle Elum Fire Department and a portion of the cost of the salary of a full-time Fire Chief.*

*The Development Agreement to be negotiated between the City and the project proponent will establish the terms of the project's proportionate-share cost of capital and operating expenditures for Fire and Emergency Services.*

*Roads within the development will be designed to support the weight, turning radius, and slope requirements of heavy fire suppression apparatus and tenders. Responsibility for maintaining clear roadways for emergency vehicle access will be determined during the development approval process when it is determined whether roads within the project will become public rights-of-way (City or County, depending on the alternative selected), or whether they will remain private and therefore the responsibility of the Homeowners Association. See the Public Service and Emergency Vehicle Access proposal described in Draft EIS Section 3.16.*

*Under Alternative 2 Montgomery Avenue would be used for emergency vehicle access only. The east/west Collector Road across the City Heights site (described in Draft EIS Section 2.9.4.3) would be gated at Montgomery Avenue with keyed access for emergency vehicles only.*

*The developer (and subsequently the Homeowners Association) will be responsible for installing signage, identifying the location of fire department connections, and providing current, up-to-date maps to emergency service providers to indicate access routes and various locations within the development to facilitate error-free access to requested locations.*

*Other Recommended Mitigation Measures. Firewise procedures should be implemented to minimize the potential for structural and wildland fires within and adjacent to the development. Construction site clean-up on a daily basis should be mandatory through the use of dumpsters or other means of removing construction debris and rags from the site.*

### 3.17.3 Emergency Medical Aid Services

*Mitigation Measures Included in the Development Proposal. The Development Agreement to be negotiated between the City and the project proponent if Alternative 1 or 2 is selected would address the project's proportionate-share cost responsibilities for emergency medical aid services provided by Upper Kittitas County Medic One and Hospital District 2.*

*The proposed internal road system, road standards that would support the weight and turning radius of emergency vehicles, road maintenance including snow removal during winter months, signage and maps to be provided to public service agencies to facilitate error-free access to the development would be beneficial to emergency medical response teams. See the description of Mitigating Features Included in the Development Proposal in*



Section 3.17.2 above.

*Other Recommended Mitigation Measures.* No additional mitigation measures were identified.

#### 3.17.4 Police Protection and Law Enforcement Services

*Mitigation Measures Included in the Development Proposal.* The Fiscal Analysis of the proposed development (Property Counselors 2010) shows that tax revenues generated by City Heights would result in a net surplus in revenue compared to the operational requirements of Alternative 1 or 2 (see Table 3.19-11 in Draft EIS Section 3.19 and the preceding discussion). Estimated annual revenues that would be allocated to the City's Law and Justice budget would fund the cost of four full-time-equivalent officers (salary, benefits and equipment) and approximately \$105,000 per year for jail and dispatch costs. These revenues would also approximately double the City's budget for Municipal Court services and would enable increasing the Municipal Judge staffing level to 0.6 FTE.

The Fiscal Analysis shows that annual tax revenues generated by Alternative 3A would be sufficient to fund 3.4 additional fully-equipped officers with the Kittitas County Sheriff's Department (see Table 3.19-13 in Draft EIS Section 3.19 and the discussion that follows).

The proposed internal road system: road standards that would support the weight, turning radius and slope requirements of emergency vehicles; road maintenance including snow removal during winter months; maps and signage that would facilitate error-free access would be beneficial to the provision of law enforcement services as well as fire protection and emergency medical aid. See the description of Mitigating Features Included in the Development Proposal in Section 3.17.2 above.

*Other Recommended Mitigation Measures.* The developer and/or Homeowners Association could consider employing a security firm as a short-term alternative to law enforcement during construction. Other deterrents could include sufficient lighting of the area, the ability to lock/close off areas after work hours, and the use of publicized surveillance cameras. Additional measures could include providing educational awareness to all applicable workers regarding securing/locking up locations, tools, and equipment (personal communication with Chief Scott Ferguson, July 29, 2009).

The Kittitas County Sheriff's Department encourages planners responsible for formulating conditions of project approval to acquire a security survey and security plan for the development, and to apply best management practices such as Crime Prevention through Environmental Design (CPTED) during the site planning process. CPTED principles include minimizing visual obstacles, maintaining visual surveillance corridors, avoiding places of concealment, installing street lighting, providing and maintaining good access.



*The City or County could ask contractors to impose a condition on construction workers that if they are arrested and charged with a crime in the local area, they will be fired. Enforcing this condition of employment could be a deterrent to subsequent potential offenders.*

*Until such time as the City or County adopt animal control regulations, animal control measures could be addressed in the Covenants, Conditions and Restrictions (CC&Rs) of the City Heights development to be enforced by the Homeowners Association.*

### 3.17.5 Schools

*Mitigation Measures Included in the Development Proposal. Internal roadways, particularly the Main Access Roads and Collector Roads described in Draft EIS Section 2.9.4.3, would be designed to accommodate Cle Elum School District buses with student bus stops at appropriate locations. Because of low forecast traffic volumes on roadways internal to the City Heights development, it is expected that bus pullouts would not be needed since it would be safer to have the buses stop in-lane and hold all approaching and following traffic while students embark or disembark the bus. (Concurrence received from the Cle Elum-Roslyn School District in the form of personal communication with Brian Twardoski, Director of Finance, Operations, and Athletics, March 3, 2010.) Cul- de-sac turn-arounds designed for fire equipment would also accommodate the turn-around needs of school buses. Accommodations for school bus access would be the same with any action alternative, since the Cle Elum-Roslyn School District would serve the City Heights site regardless of the City or County jurisdiction in which the site is developed.*

*If areas under construction have the potential to temporarily affect school bus routes within the project, the developer would be responsible for implementing measures to assure safe and reliable passage for school buses.*

*Other Recommended Mitigation Measures. No additional mitigation measures for schools were identified.*

## **Chapter 3.18 Utilities**

### 3.18.1 Water Service

*Mitigation Measures Included in the Development Proposal. It is typical that as development occurs within local communities, developers are responsible for the initial capital investment costs of infrastructure improvements to mitigate their impacts as part of project approval conditions. It is anticipated that an agreement will be created between the City of Cle Elum and the project proponent to indicate that the costs of improvements*

*required within the City's water system to serve Alternative 1 or 2 of City Heights and all on-site improvements required to supply water to City Heights will be paid by the project proponent and not directly by the City of Cle Elum. Payment could take the form of direct payment by the project proponent, through some form of City-sponsored financing such as a Local Improvement District sponsored by Cle Elum (completely paid for by the project proponent, not with City funds), or through grant money secured by the City of Cle Elum (with the costs of application and procurement funded by the project proponent and not the City).*

*The proposed development under Alternative 1 or 2 would incorporate low-flow faucets, toilets, and other similar fixtures to minimize domestic water supply requirements. Water meters would be installed at each building, or at another connection point using water and pipe/meter sizes to be determined on the basis of domestic flow volumes and fire flow needs. Increased operating and maintenance costs accrued by the City would be recovered through utility rates paid by the actual users of the water system.*

*All reasonable efforts will be made to locate new water reservoirs with minimal visual impacts.*

*Best management practices would be implemented during the construction of utilities to minimize noise, dust, and erosion potential (see Section 3.18.3, below).*

*Other Recommended Mitigation Measures. Construction contractors should be required to notify existing water system customers well in advance of temporary interruptions to service (if any) during construction of connections to the City's existing water distribution system. For any of the four conceptual land use alternatives, the project's Covenants, Conditions and Restrictions (CC&Rs) could require homeowners to install only drought-tolerant (i.e., xeric) landscaping to minimize irrigation requirements.*

### 3.18.2 Sewer Service

*Mitigation Measures Included in the Development Proposal.*

*Public System. Mitigation measures for the wastewater collection and treatment requirements of Alternative 1 or 2 would be approximately the same. The Upper Kittitas County Regional Wastewater Treatment Facilities Project Agreement, Development Agreement and Service Agreement, as amended (the Service Agreement), guides the construction, use and operation of the Cle Elum wastewater collection and treatment system. In accordance with the Service Agreement, a Capital Recovery Charge is currently charged by the City of Cle Elum to all new ERUs utilizing the existing system. These funds are remitted to Suncadia. As noted above, the City of Cle Elum does not have any existing wastewater system capacity to allocate to the needs of the City Heights project; therefore, it is presently unclear how the project could be served by the City's wastewater collection*

system. Any costs associated with allocating existing capacity in the wastewater collection and treatment system to the City Heights project would be imposed through the Development Agreement, requiring the project proponent to reimburse costs as lots were developed and connected to the City's infrastructure.

If the Borrow Option, Purchase Option, or Infiltration/Inflow Option for the collection system were selected, existing capacity would be rented or purchased, and the compensation would be negotiated between the parties.

In the event that collection and treatment system capacity could not be secured on a permanent basis under the Purchase Option or the Infiltration/Inflow Option, then the developer would be responsible for the initial capital investment costs of infrastructure improvements required to serve City Heights as an element of project approval conditions. It is anticipated that an agreement will be created between the City of Cle Elum and the City Heights Planned Mixed-Use development providing that the costs of improvements required within the City of Cle Elum sewer system to serve City Heights and all on-site improvements required to supply service to the project would be paid for by the project proponent and not directly by the City of Cle Elum. Payment could take the form of direct payment by the project proponent, through some form of City-sponsored financing such as a Local Improvement District (completely paid for by the project proponent, not with City funds), or through grant money secured by the City of Cle Elum (with the costs of application and procurement funded by the project proponent, not the City). Under no circumstance would costs to provide sewer service to the City Heights development be borne directly by the City of Cle Elum or existing sewer service customers.

Increased operating and maintenance costs accrued by the City would be recovered by utility rates paid by the actual City Heights users of the wastewater collection and treatment system.

*MBR System.* A MBR system could be implemented to serve Alternative 1 or 2. Proper design and operation of a MBR plant would produce reclaimed water that would meet Class A water quality standards for possible seasonal reuse on-site for landscape irrigation, and for discharge to the Yakima River (subject to obtaining all required permits and approvals for a new outfall to the river).

*Other Recommended Mitigation Measures.* Construction contractors should be required to notify existing sewer system users well in advance of temporary interruptions to service (if any) during construction of the City Heights connections to the Cle Elum sewer trunk line.

Because the existing wastewater collection and treatment system was sized for project-specific growth known at the time the Facilities Plan was prepared, any new development could potentially require significant system upgrades and improvements. It is possible that

*the Sewer Parties may want to consider a different treatment process at the plant to upgrade the technology from the Sequencing Batch Reactor (SBR) process. Newer processes could improve efficiency, capacity, and the level of treatment while simultaneously reducing maintenance costs.*

### 3.18.3 Stormwater Management

*Mitigation Measures Included in the Development Proposal. The City Heights proposal would comply with the requirements of Ecology's 2004 Stormwater Management Manual for Eastern Washington (SWMMEW) to mitigate the potential impacts of surface water runoff described above. Temporary erosion/sedimentation control (ESC) facilities would be installed during construction. ESC measures would minimize soil erosion once the natural vegetative cover has been removed and would minimize the occurrence of sediment from those same areas migrating into water bodies such as streams. Permanent stormwater management facilities would be created concurrent with residential and commercial development on the site, and technologies associated with sustainable designs would be implemented. Possible treatment methods to accomplish this goal are described below.*

*Based on the proposed design criteria and mitigation measures for stormwater management, it is anticipated that the City Heights project would not adversely affect the existing water quality of Crystal Creek during construction or in the completed condition of the development.*

*Flow control and channel stabilization measures will be implemented throughout the project site in compliance with Ecology's 2004 SWMMEW standards, especially near existing critical areas such as wetlands and streams (such as Stream D), to minimize both existing conditions of erosion and sediment transport and conditions that have the potential to be made worse as a result of site development. Representative Best Management Practices are listed below:*

- *BMP C102: Buffer Zones*
- *BMP C120: Temporary and Permanent Seeding*
- *BMP C122: Nets and Blankets*
- *BMP C124: Sodding*
- *BMP C200: Interceptor Dike and Swales*
- *BMP C202: Channel Lining*

- *BMP C207: Check Dams*
- *BMP C209: Outlet Protection*
- *BMP C234: Vegetated Strip*
- *BMP C235: Straw Wattles*
- *BMP F6.10: Detention Ponds*
- *BMP F6.21: Infiltration Ponds*
- *BMP F6.42: Full Dispersion*
- *BMP T5.10: Infiltration Ponds*
- *BMP T5.40: Biofiltration Swales*
- *BMP T5.50: Vegetated Filter Strip*

*Given that seasonal flooding occurs in the Crystal Creek basin and in seasonal streams that flow through the City Heights site under existing conditions, mitigation measures may be selected from the following strategies to address the increased volume of stormwater and increased peak flows that would occur as a result of the City Heights Planned Mixed-Use development:*

- *Reduce the quantity of stormwater to be discharged.*
- *Implement full or basic dispersion for each phase of development based on the King County 2009 Surface Water Design Manual in order to reduce, treat and/or slow down post-development runoff.*
- *Where possible, infiltrate stormwater in an area where recharge does not report directly to basins that have flooding problems.*
- *Store stormwater during the wet season for use during the dry season and/or until the timing of recharge will have a minimal impact on these basins.*
- *Improve and/or maintain the capacity of the City's stormwater conveyance infrastructure so that it can handle increased flows without an increase in flooding.*



- *Develop on-site snow removal policies that will allow snow runoff to be properly detained and not by-pass the stormwater management system.*

*It is anticipated that some form of low impact development approach to stormwater management may be used depending on the conceptual land use alternative selected for implementation. Low impact development methods differ from traditional development in that they are applied at a smaller scale and are designed to more closely mimic pre-development hydrology by managing stormwater closer to its source in small drainage areas, rather than creating large stormwater facilities for entire drainage basins. Stormwater management facilities within the City Heights development would be owned and maintained by the Homeowners' Association (HOA) after construction is complete and lots are legally platted. Prior to that time, the property owner/developer would be responsible for maintenance of these facilities. Each stormwater management facility would need to be periodically observed and maintained to ensure design performance. The HOA would need to create a procedure for this observation and maintenance.*

*Other Recommended Mitigation Measures. Site development options that retain natural land cover, minimize impervious surfaces, and maximize infiltration of stormwater should be used as to the extent practicable on the City Heights project site.*

*Other possible mitigation measures, not under the control of the project proponent, include: Regional cooperation to design and construct improvements to existing drainage conveyance facilities in terms of replacement, upgrade, repair and/or maintenance located downstream of the project site, including but not limited to City of Cle Elum stormwater conveyance infrastructure.*

- *Formulation of City-wide snow removal policies that will allow snow runoff to be properly detained and not by-pass the stormwater system.*
- *The City of Cle Elum could, in the future, provide a comprehensive stormwater management plan in order to construct, operate and maintain a regional stormwater management facility. No such plan currently exists.*

#### 3.18.4 Electrical Service

*Mitigation Measures Included in the Development Proposal. The City Heights developer will coordinate with PSE and BPA concerning the construction, operation, and maintenance of roads, utilities, and/or trail improvements within the easements granted to PSE and BPA for the overhead electrical transmission lines that pass through the property.*

*It is the preference of the project proponent to have natural gas service installed throughout the development to serve all homes and neighborhood commercial uses, provided that it is cost-effective to do so.*

*The developer will encourage builders to incorporate "built green" features and additional energy conservation measures to the extent practicable.*

*Other Recommended Mitigation Measures. It would be helpful to Kittitas County PUD (if selected as the electrical service provider) for some property to be set aside or zoned for an electrical substation or electrical switchyard within the Cle Elum service area.*

### 3.18.5 Natural Gas Service

*Mitigation Measures Included in the Development Proposal. PSE would construct the natural gas system within dedicated rights-of-way using one of its authorized contractors to perform this work. The contractor would be required to work with the City of Cle Elum and/or Kittitas County (depending on the alternative selected for implementation) to provide traffic control measures during work within road rights-of-way adjacent to operational roadways.*

*Other Recommended Mitigation Measures. Measures that could be taken to minimize natural gas demand generally coincide with measures that would increase building envelope insulation and therefore heat loss. Homeowners, commercial property owners and tenants could be encouraged through the Covenants, Conditions and Restrictions (CC&Rs) of the development to utilize energy-efficient practices.*

### 3.18.6 Telecommunications Service

*Mitigation Measures Included in the Development Proposal. In order to minimize potential construction conflicts, the developer will contact the selected telecommunications service provider as early as possible following development approvals to initiate engineering design of the system and establish the construction schedule. If Qwest is selected, they usually require a minimum of 60 days to complete a design and release the necessary work orders to their construction department once they have received the plat drawings and power company designs and enter into a Provisioning Agreement for Housing Developments.*

*Other Recommended Mitigation Measures. Telecommunications design, construction and operation is a routine service for which no additional mitigation measures will be required, other than those specified in the contractual agreement between the developer and the service provider.*

### 3.18.7 Solid Waste Collection Service

*Mitigation Measures Included in the Development Proposal. The project developer and/or*

*City would notify Waste Management of Ellensburg at the time each new phase of development is proposed within City Heights, in order to coordinate the provision of services that may be required during construction, and to give the company advance notice of the forthcoming increase in the number of customers to be served.*

*As an alternative to burning land-clearing debris (biomass), the proposal includes grinding wood waste and stumps on-site to create woodchips for use in temporary site stabilization and permanent landscaping. Excess material may also be hauled off-site.*

*Other Recommended Mitigation Measures. Telecommunications design, construction and operation is a routine service for which no additional mitigation measures will be required, other than those specified in the contractual agreement between the developer and the service provider.*

### **3.19 Fiscal Analysis**

*No "Mitigation Measures Included in the Development Proposal" identified.*

#### **Exhibit CC: City Heights Development Agreement including Appendices A-R**

Please click on the following link (press Ctrl and Enter) to view the City Heights Annexation and Development Agreement.

*Link: <https://spaces.hightail.com/space/ul4H5dg8Wm>*

#### **Exhibit DD: City Heights Vested Development Standards**

The City Heights Project is subject to the provisions of the Cle Elum Municipal Code in effect on November 11, 2011, except as modified by the City Heights Development Agreement. Please click on the following link (press Ctrl and Enter) to view the Municipal Code in effect on November 23, 2010, which for general reference purposes is a close approximation of the regulations under which City Heights is vested. For a more specific reference, please refer to the City website or contact the Cle Elum City Clerk.

*Link: <https://spaces.hightail.com/space/qoL0nDfJW4>*

**Exhibit EE: "Wash House" Tract Conceptual Drawing**