



Before Hearing Examiner  
Gary N. McLean

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**BEFORE THE HEARING EXAMINER  
FOR THE CITY OF CLE ELUM**

Regarding the **Application for Planned  
Mixed Use Development** approval, Site and  
Design Review, and a Critical Areas permit,  
for a regional Search & Rescue Facility and  
Emergency Operations Center (EOC) on a  
vacant 5-acre site zoned Planned Mixed Use  
near the municipal airport in the City of Cle  
Elum, submitted by  
**KITTITAS COUNTY PUBLIC WORKS,**  
Applicant

**File Nos. SEPA-2024-003  
PMU-2024-002  
CA-2024-001  
SDR-2024-002**

**FINDINGS OF FACT,  
CONCLUSIONS AND  
RECOMMENDATION**

**I. SUMMARY OF RECOMMENDATION.**

The applicant's Project satisfies all applicable approval criteria and merits approval.

**II. RECORD.**

Exhibits entered into evidence as part of the record, and an audio recording of the public hearing held for this matter are maintained by the City of Cle Elum, and may be examined or reviewed by contacting the City Clerk's Office.

*Hearing Testimony:* Only City Planning Consultant, Colleda Monick, and the applicant's designated representative, Cameron Curtis, County Engineer, asked to present testimony under oath during the public hearing. During the open record public hearing conducted by the Hearing Examiner in the City Council chambers on August 7, 2024, no one submitted written comments or provided personal testimony opposing or questioning the consolidated applications addressed in this Recommendation.

**FINDINGS OF FACT, CONCLUSIONS AND  
RECOMMENDATION RE: APPLICATION FOR  
PLANNED MIXED USE DEVELOPMENT  
APPROVAL FOR PROPOSED REGIONAL SEARCH  
& RESCUE FACILITY AND EOC – FILE NO. PMU-  
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1           **Exhibits:** The City’s Planning Consultant, Ms. Monick, generated proposed findings,  
2 conclusions, and a recommendation of approval, shared with the Hearing Examiner in the week before  
3 the public hearing, referenced in this Recommendation as the Staff Report. The Staff Report and the  
4 following Exhibits were all accepted into the Record in their entirety without modification:

5           **Exhibit I: Applicant Submittals**

- 6           • Application, SDR
- 7           • Narrative
- 8           • SEPA Checklist
- 9           • Critical Areas
- 10          • Aquatic Resources Summary and Maps
- 11          • Site Plans
- 12          • Site Plan \_Wetland Exhibit

13          **Exhibit II: Notices**

- 14          • Notice of Application and Environmental Review
- 15          • MDNS
- 16          • Notice of Public Hearing
- 17          • Newspaper Post
- 18          • Posting of site
- 19          • Mailing Notices

20          **Exhibit III: Comments**

- 21          • Department of Ecology, 6-24-24
- 22          • Colville Tribes, 6-25-24
- 23          • Washington State Department of Fish and Wildlife, 6-25-24
- 24          • Washington State Department of Health, 7-09-24

25           The Examiner visited the road network and vicinity of the proposed search and rescue facility  
26 and emergency operations center, and the adjacent airport facility, on the day of the hearing, and is  
fully advised on matters at issue herein, including without limitation adjacent developments and land  
uses, applicable law, application materials, and relevant comprehensive plan provisions.

**III. FINDINGS OF FACT.**

          Based upon the record, the undersigned Examiner issues the following Findings of Fact.

***Application, Site Location, Description of Project.***

1.       Beginning in April of this year, the Kittitas County Public Works Department submitted a set  
of application materials for land use and environmental reviews required by the City for a proposed  
regional “Search and Rescue” (SAR) facility and “Emergency Operations Center” (EOC) to be  
located near the municipal airport in the east part of the City of Cle Elum. (*Staff Report, page 1; Ex.*  
*1, application materials*). On or about June 7, 2024, the application materials were deemed complete

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1 for purposes of vesting and proceeding with review and an open record public hearing required by  
2 City codes. *(Staff Report, page 2).*

3 2. The project site is about 5-acres of vacant property, all within the City’s Planned Mixed Use  
4 zoning district, in the northwest corner of Airport Road and the access road leading north to the  
5 municipal airport facility. *(Staff Report, page 2; Site visit; Aerial maps).*

6 3. The proposed Search and Rescue facility and EOC will typically have daily operations with  
7 just 1-2 employees on-site, with up to 40 people on-site for short periods of time during active search  
8 and rescue activities and/or training events. The project will be constructed over two phases with the  
9 first phase being clearing and grading, the installation of storm drainage systems, septic system, and  
10 well installation. The second phase will include construction of buildings and parking lots. *(Staff  
11 Report, page 2).*

12 ***Jurisdiction, consolidated applications, applicable law.***

13 4. In this matter, the Hearing Examiner has jurisdiction to conduct an open record public hearing  
14 on the Planned Mixed Use Development application at issue and is directed to issue a written  
15 recommendation for consideration and final action by the Cle Elum City Council. *(See Cle Elum  
16 Municipal Code (CEMC) 14.30.040, Permit Classification Table, listing Planned Mixed Use  
17 Development approval as a Type 4 matter that is subject to a public hearing before the City’s Hearing  
18 Examiner with a final decision by the City Council; and CEMC 14.30.080, Procedures for Type 4  
19 reviews).*

20 5. The pending matter includes concurrent applications for Site and Design Review under  
21 CEMC 14.30.130, Critical Areas review under CEMC Chapter 18.01, and SEPA review under CEMC  
22 14.40. *(Staff Report, page 1, re: summary of processing).* Standing alone, some of these applications  
23 would otherwise be subject to review and approval by Staff or the Hearing Examiner as Type 2 or  
24 Type 3 matters; but the City’s code requires consolidation of related development permit applications  
25 into a single matter, with the highest level of review – in this case, Type 4 review – applied to the  
26 consolidated applications and a final decision made by the highest-level decision maker, the City  
Council. *(See CEMC 14.30.020.B).*

18 ***SEPA review; MDNS mitigation measures.***

19 6. There is no dispute that the applicant’s proposed development requires environmental review  
20 under City and State SEPA codes and regulations. None of the requested approvals can be granted  
21 until the SEPA review is complete.

22 7. Following review of the SEPA Checklist, application materials and other relevant  
23 environmental information, the City issued its SEPA threshold determination for this proposal on July  
24 8, 2024 – a Mitigated Determination of Non-Significance (MDNS) included in the record as part of  
25 Exhibit II. The MDNS is a Type 2 decision that could have been appealed to the City’s Hearing  
26 Examiner. *(Ex. I, application materials, including SEPA Checklist; Ex. II, notice materials, including  
SEPA MDNS; Staff Report, page 2; Table at CEMC 14.30.040, listing “SEPA Determination (public*

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notice required) " as a Type 2 matter with the Hearing Examiner as the "Appellate Body").

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8. No individual, agency, entity, or other party submitted an appeal of the City's SEPA threshold determination, so the SEPA MDNS stands unrebutted for purposes of issuing this Recommendation. SEPA review is deemed complete, so decisions on the development approvals requested by the applicant can now move forward. Any subsequent attempt to appeal, collaterally attack or modify the MDNS should be rejected by the City Council and any reviewing court with jurisdiction over the matter, because parties failed to exhaust available appeal remedies provided in the City's municipal code. See *Wenatchee Sportsmen Ass'n v. Chelan County*, 141 Wn.2d 169, 182, 4 P.3d 123 (2000), and *Habitat Watch v. Skagit County*, 155 Wn.2d 397, 410-11, 120 P.3d 56 (2005).

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***Burden of proof.***

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9. The applicant bears the burden of proof to establish by a preponderance of the evidence that the requested project permit is consistent with state law, city codes and standards. (*Cle Elum Hearing Examiner Rules of Procedure, Sec. 3.9*).

***Public notices.***

10. The Staff Report confirms that public notices were posted, published, and mailed to property owners in the surrounding area, but no one submitted written comments opposing this project or offering any evidence that would serve as a basis to deny the applicant's request. (*Staff Report, page 2; Ex. II, notice and confirmation materials*).

***Public Hearing.***

11. As noted above, only City Planning Consultant, Colleda Monick, and the applicant's designated representative, Cameron Curtis, County Engineer, asked to present testimony under oath during the public hearing. During the open record public hearing conducted by the Hearing Examiner in the City Council chambers on August 7, 2024, no one submitted written comments or provided personal testimony opposing or questioning the consolidated applications addressed in this Recommendation.

***The project, as conditioned, satisfies approval criteria and merits approval.***

12. The Staff Report's analysis of the consolidated applications stands unrebutted. The County's proposed Planned Mixed Use Development, as conditioned, is fully consistent with City codes and applicable goals and policies provided in the City's Comprehensive Plan. (*Staff Report, pages 8-12*).

13. Consistent with CEMC 17.45.090 – and based on the Staff Report, credible testimony provided by Staff and applicant witnesses, and materials included in the record – the Examiner finds and concludes that the County's proposed Regional Search and Rescue Facility and EOC project substantially complies with relevant provisions of the City's Comprehensive Plan (*see Staff Report, Sec. III.F, on pages 8-9*) and the purposes and objectives of applicable City codes, including without limitation CEMC 17.45.010 and .020 [provisions specifically applicable to projects in the Planned

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1 Mixed Use (PMU) zoning district, and requiring Planned Mixed Use approval for all proposed  
developments in the PMU zone]. (See Staff Report, pages 9-12).

2 14. Consistent with CEMC 17.45.090.B – and based upon un rebutted evidence in the record,  
3 including the Staff Report, the SEPA MDNS, and the application materials – the Examiner finds and  
4 concludes that the proposed project will advance the achievement of the purposes of the PMU district  
as well as the following objectives (code language appears as regular text, findings in italics below):

5 a. To preserve or create open space for the enjoyment of the residents of the city,  
employees of businesses located within the city and the general public; *The search and rescue*  
6 *facility will be strategically positioned to preserve significant open space for public*  
*enjoyment and maintain the aesthetic quality of the area around the airport.*

7 b. To create attractive, pedestrian-oriented neighborhoods with a range of housing  
8 types, densities, costs and ownership patterns; *The facility's integration into the community*  
*plan supports connectivity, ensuring that emergency services are readily accessible to nearby*  
9 *neighborhoods and Upper County Residents.*

10 c. To provide access to employment opportunities and goods and services in close  
11 proximity to residential uses; *The facility will create jobs and contribute to the local*  
*economy, providing employment opportunities close to residential areas and enhancing the*  
12 *community's economic diversity.*

13 d. To provide a balanced mix and range of land uses within and adjacent to the  
development that minimize the necessity for the use of automobiles on a daily basis; *The new*  
14 *facility's proximity to the airport and other mixed-use developments reduces the need for*  
*long-distance travel and allows for alternative modes of transportation including aircraft.*

15 e. To use the highest quality architectural design and a harmonious use of building  
16 materials; *The architectural design will be of high quality, using materials and styles that are*  
*consistent with the rural, small-town, mountain character of Cle Elum, ensuring visual*  
17 *harmony and community acceptance.*

18 f. To provide a variety of street sizes and designs, including narrow streets designed  
19 principally for the convenience of pedestrians as well as streets of greater width designed  
primarily for vehicular traffic; *The development will include appropriate access routes*  
20 *designed for vehicles, enhancing connectivity while maintaining safety standards.*

21 g. To provide commons, greens, parks or civic buildings or spaces as places for social  
22 activity and assembly for the neighborhood and community; *The facility provides services in*  
*closer proximity to residents that was previously located farther away providing shorter*  
*response times.*

23 h. To provide clustered development to preserve open space within the corporate limits  
24 of the city while still achieving an appropriate overall density for the city; *The placement of*

1           the facility supports clustered development principles, preserving surrounding open spaces  
2           while achieving necessary density and functionality.

3           i.        To maintain Old Town as the principal retail center for the City of Cle Elum. *The*  
4           *facility's operations will not compete with retail functions but will support the overall*  
5           *economic health of Cle Elum by enhancing safety and services, indirectly benefiting all local*  
6           *businesses.*

7           15.     The Staff Report confirms that utilities, water supply, and septic disposal issues are  
8           adequately addressed in the project design and application materials. Water supply and septic system  
9           elements of the project must comply with all applicable City, County, and state codes, including  
10          without limitation health regulations and those managing water rights in the region. *(Staff Report,*  
11          *page 13; Conditions of Approval).*

12          16.     The stormwater management elements of the project have been designed and conditioned to  
13          satisfy requirements and recommendations included in the Eastern Washington Stormwater Manual.  
14          Sheet flow of stormwater runoff for dispersal and infiltration into roadside areas is included in the  
15          design, so there will be no discharge of untreated stormwater to surface waters in the area. The  
16          applicant is required to implement best management practices (BMPs) to control runoff, prevent  
17          erosion, and protect water quality. *(Staff Report, pages 11 and 13).*

18          17.     Subject to compliance with mitigation measures imposed under the SEPA MDNS issued for  
19          this project and other conditions of approval included in this Recommendation to the City Council,  
20          the applicant's Project should not result in any adverse environmental impacts.

21          18.     To satisfy review requirements mandated by City codes for projects with potential impacts  
22          on Critical Areas, the applicant commissioned a wetland delineation report, prepared by Jacobs on  
23          August 20 and 27, 2023. Wetlands were delineated using methods described in the *Regional*  
24          *Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys,*  
25          *and Coast Region (Version 2.0).* The wetland delineation report identified a Category III wetland on-  
26          site, requiring a 60-foot buffer. As noted in the MDNS and the Staff Report, the initial site plans  
27          submitted on April 26, 2024 showed encroachment into the required wetland buffer and did not meet  
28          the standards of CEMC 18.01.070. So, on May 29, 2024, the applicant submitted an updated  
29          mitigation plan showing a proposed new planting area around the retention pond. The updated  
30          proposal includes 6,618 square-feet of new planting area which is a net increase of 1,871 square-feet  
31          over the area proposed to encroach into the wetland buffer. The applicant must submit an update to  
32          the wetland delineation demonstrating how the proposed new planting area meets the applicable  
33          standards for buffer averaging and/or compensatory mitigation. *(Staff Report, page 12; and MDNS*  
34          *Mitigation Measure No. 3; Conditions of Approval).*

35          19.     The Staff Report credibly summarizes how the applicant's Project has been designed or can  
36          be conditioned to satisfy all applicable approval criteria for Site and Design Review approval,  
37          including without limitation CEMC 14.30.140.C. *(Staff Report, pages 12-14).* As noted above: the  
38          County's Project complies with the goals and objectives of the Cle Elum Comprehensive Plan,  
39          applicable provisions of the Cle Elum Municipal Code, and the intent and purpose of the Planned

40          FINDINGS OF FACT, CONCLUSIONS AND  
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1 Mixed Use zoning district; subject to compliance with recommended Conditions and Mitigation  
2 measures, the applicant's proposal will have no adverse environmental impacts; and the physical  
3 location, size, and placement of the development on the site, along with the proposed uses within the  
4 project, have been carefully designed to avoid or minimize impacts to the wetland to the greatest  
5 extent possible. Additionally, the project is compatible with the character and intended development  
6 pattern of the surrounding properties. The project makes adequate provisions for water supply, storm  
7 drainage, sanitary sewage disposal, emergency services, and environmental protection to ensure that  
8 the proposed project would not be detrimental to public health, welfare, and safety. (*Staff Report,*  
9 *analysis on pages 12-13*).

10 20. The Staff Report, prepared by Ms. Monick, includes a number of specific findings and  
11 explanations that establish how the underlying applications, subject to conditions, satisfy provisions  
12 of applicable law and are consistent with the city's Comprehensive Plan, zoning, and development  
13 regulations. Except as modified in this Recommendation, all Findings contained in the Staff Report  
14 are incorporated herein by reference as Findings of the undersigned-hearing examiner.

15 21. Based evidence included in the record and all findings above, the Examiner finds and  
16 concludes that the County's Project, subject to compliance with all MDNS Mitigation Measures and  
17 Conditions of Approval included as part of this Recommendation, will not be detrimental to the public  
18 interest, health, safety, or general welfare, and merits approval.

19 22. The Project will improve emergency response, search and rescue response capabilities, and  
20 general public safety for the Upper Kittitas County area.

21 23. Any factual matters set forth in the foregoing or following sections of this Recommendation  
22 are hereby adopted by the Hearing Examiner as findings of fact and incorporated into this section as  
23 such.

#### 24 IV. CONCLUSIONS.

25 Based upon the record, and all Findings set forth above, the Examiner issues the following  
26 Conclusions:

1. The Hearing Examiner has jurisdiction to conduct an open record public hearing on the  
Planned Mixed Use Development application at issue and is directed to issue a written  
recommendation for consideration and final action by the Cle Elum City Council. (*See Cle Elum  
Municipal Code (CEMC) 14.30.040, Permit Classification Table, listing Planned Mixed Use  
Development approval as a Type 4 matter that is subject to a public hearing before the City's Hearing  
Examiner with a final decision by the City Council; and CEMC 14.30.080, Procedures for Type 4  
reviews*).

2. The applicant met its burden to demonstrate that the requested Project approval conforms to,  
and in fact implements objectives of, the City's Comprehensive Plan. *Findings; Staff Report.*

3. The Project is consistent with the purpose and intent of the PMU zoning district where it is

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1 located, and the proposed Site Design, as conditioned, meets applicable city code requirements,  
2 including without limitation CEMC 17.45, 18.01, 14.40, and 14.30.140.

3 4. The SEPA MDNS issued for this project was not appealed, so it stands as issued for purposes  
4 of issuing this Recommendation. Consistent with relevant Washington caselaw requiring exhaustion  
5 of available remedies, the City Council and any reviewing court with jurisdiction over this matter  
6 should reject any attempt to challenge, collaterally attack, or modify the MDNS.

7 5. Based on the record, the applicant demonstrated that its consolidated applications for PMU  
8 development review, Critical Areas review, and Site Design review, all merit approval, subject to  
9 compliance with the SEPA MDNS mitigation measures and Conditions included in this  
10 Recommendation.

11 6. Approval of this PMU development will not and does not constitute, nor does it imply any  
12 expectation of, approval of any permit or subsequent reviews that may be required for building,  
13 grading, or other regulated activities on the Project site.

14 7. Any finding or other statement contained in this Recommendation that is deemed to be a  
15 Conclusion is hereby adopted as such and incorporated by reference.

## 16 VI. RECOMMENDATION.

17 Based upon the preceding Findings and Conclusions, the Hearing Examiner recommends that  
18 the County's consolidated applications – specifically a Planned Mixed Use Development application  
19 assigned File No. PMU-2024-002; a Critical Areas review application assigned File No. CA-2024-  
20 001; and a Site and Design Review application assigned File No. SDR-2024-002 – should be  
21 **APPROVED**, subject to compliance with all SEPA Mitigation Measures imposed by the  
22 unchallenged MDNS and Conditions of Approval that are attached to this Recommendation and  
23 incorporated herein by this reference.

24 ISSUED this 29<sup>th</sup> Day of August, 2024



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26 Gary N. McLean  
Hearing Examiner



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**CONDITIONS OF APPROVAL**

for  
**REGIONAL SEARCH & RESCUE FACILITY AND  
EMERGENCY OPERATIONS CENTER PROJECT**

**LOCATION:** The northwest corner of Airport Road and the access road leading north to the municipal airport, in the City of Cle Elum’s Planned Mixed Use zoning district.

**APPLICANT/PERMITTEE:** Kittitas County Public Works

**APPLICATIONS:** FILE NOS. SEPA-2024-003; PMU-2024-002; CA-2024-001; and SDR-2024-002

1. The City Council’s approval of the above-referenced applications, collectively referenced as a “Permit”, authorizes the Permittee’s development of its Regional Search & Rescue Facility and Emergency Operations Center (“Project”) in the City of Cle Elum, as described in the application materials and Staff Report for this matter, subject to modifications needed to comply with these Conditions of Approval.

2. The Permittee shall obtain any associated permit, license, or approval required by the city and any state, federal, or other regulatory body with jurisdiction over aspects of the Project authorized by this Permit; any conditions of other regulatory agency permits, licenses, or approvals shall be considered conditions of approval for this Permit. Approval of this Permit will not and does not constitute, nor does it imply any expectation of, approval of any permit or subsequent reviews that may be required for building, grading, or other regulated activities on the project site.

3. The Permittee shall comply with all professional report conclusions and recommendations (expressly including, without limitation, BMPs) submitted in connection with this Project review and any associated approvals issued by the City for this Project, as approved, referenced, relied upon, and/or modified by the City.

4. The Mitigation Measures imposed by the unchallenged SEPA MDNS issued for this Project on or about July 8, 2024, as modified below, are included as Conditions of Approval for this consolidated PMU Development, Critical Areas review, and Site and Design Review approval:

A. Before withdrawing or using any water, the Permittee must submit a *Request of Determination of Water Budget Neutrality* or an *Application for a new Water Right Permit*, depending on the size of the final project, to the Washington State Department of Ecology, for its review and approval.

B. Before commencement of any ground disturbing work on the Project site, the Permittee shall prepare an Inadvertent Discovery Plan (IDP) in accord with Washington Department of Archaeology and Historic Preservation (DAHP) regulations and guidance, subject to review and

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approval by the City. The approved IDP shall be placed in the City's project file for this matter, and the Permittee must maintain a copy of the approved IDP on site during all ground disturbance work at the Project site. In the event historic or cultural resources are discovered during construction work of any kind, all protocols, mandatory contacts with state and tribal entities, and protective measures (if any) included in the IDP shall be implemented and satisfied by the Permittee and its contractors.

C. Where buffer reductions are requested, the wetland delineation shall be updated to show how the proposed minimization measures meet the requirements of CEMC 18.01.070.

5. All stormwater must be retained onsite consistent with the City's Construction Standards and 2019 Stormwater Management Manual for Eastern Washington. A stormwater drainage plan and report, prepared by a licensed engineer and registered in the state of Washington, shall be submitted for City review and approval.

6. The type, capacities, location and layout of a private sewage disposal system shall comply with applicable regulations, including without limitation those issued by the Washington State Department of Health and the Kittitas County sanitarian.

7. Improvements to the Airport access road shall meet minimum fire code standards, subject to review and approval by the City.

8. Site and Design Review approval is valid for 5 (five) years after the effective date and shall lapse at that time unless a building permit or other associated permits, as determined by the city, has been issued. The city, at its sole discretion, may extend the site and design approval if it finds that the conditions and facts on which the approval is based have not significantly changed. (See CEMC 14.30.140.D).

*\* End of Conditions.*