

ORDINANCE NO. 1352

AN ORDINANCE OF THE CITY COUNCIL OF CLE ELUM
DESIGNATING CITY HEIGHTS AS A PLANNED ACTION
UNDER THE STATE ENVIRONMENTAL POLICY ACT (RCW
43.21C.031/WAC 197-11-168)

WHEREAS, On June 11, 2009, Northland Resources, LLC, as authorized agent for property owners Cooper Pass, LLC; Highmark Resources, LLC; and Green Canyon, LLC (collectively, "the Ridge Entities") formally submitted an application to the City of Cle Elum for a Development Agreement ("DA") that would authorize a planned mixed-use (PMU) development of approximately 358 acres of real property legally described on Exhibit A attached hereto, through approval of a Development Agreement, master site plan, and mixed use approval (such project hereinafter being referred to as "City Heights Project" or "Project").

WHEREAS, on June 18, 2009, the City issued a combined Notice of Application, Determination of Significance ("DS") and Request for Comments on Scope of EIS for City Heights, and a concomitant 28-acre rezone. The City disseminated the Notice by mailing it to all adjacent property owners within 300 feet of the Project Area boundary as well as to all agencies with jurisdiction; posted it at the City's website at <http://www.cityofcleelum.com/documents/large-land-projects/city-heights/City%20Heights%20Combined%20Notice.pdf>; published it in the Northern Kittitas County Tribune on June 18 and June 25, 2009; and posted it on-site, at the Cle Elum City Hall, the Cle Elum Library, the Cle Elum Fire Station, and the United States Post Office, Cle Elum branch.

WHEREAS, in response to the Request for Scoping Comments, the City received multiple comment letters that informed the City on various areas of emphasis for the EIS.

WHEREAS, although not statutorily required, the City conducted a Public Open House Scoping Meeting on July 8, 2009, at which the City provided information and received public comments on the proposed action.

WHEREAS, a Draft Environmental Impact Statement (DEIS) dated April 23, 2010 was prepared for the City Heights Project. The DEIS evaluated all mandatory elements of the environment under WAC 197-11-444, including earth; air quality; water resources; wetlands and streams; wildlife and habitat; energy and natural resources; project relationship to plans and policies; land use; noise; population; housing; light and glare; aesthetics; parks and recreation; historic and natural resources; transportation; public services; utilities; and fiscal analysis.

WHEREAS, based on the scoping comments received from the public and affected agencies and at the request of City staff based on WAC 197-11-444, key environmental issues in the EIS were accompanied by the following technical

reports: Abandoned Mine Lands (coal mine hazard areas risk assessment); Archaeological Review and Inventory; Fiscal Analysis (effect on general government service and public service providers); Grading, Drainage and Utilities (water, sewer, and storm water management); Phase I Environmental Site Assessment and Geotechnical Investigation; Preliminary Geology and Geotechnical Investigation; and Wetlands and Wildlife Habitat.

WHEREAS, the City provided broad public notice of the issuance of the DEIS document, in compliance with applicable law.

WHEREAS, the City provided an expanded comment period of 45 days, rather than the minimum 30 days required by SEPA regulations. The City also made the DEIS available on CD for public ease of review.

WHEREAS, although not statutorily required, the City conducted a Public Open House on May 13, 2010 to provide DEIS information and to receive public comments on it.

WHEREAS, the DEIS underwent significant revisions in response to the public comments received and upon review by City staff.

WHEREAS, an FEIS for City Heights was issued by the City in November 2010. Responses to the DEIS comments appear in Section 2 of the FEIS. Changes to the text of the FEIS appear in Section 3. The FEIS was published, mailed, and posted in accordance with applicable law.

WHEREAS, the adequacy of the EIS for City Heights was not appealed and environmental review of the Project is now complete and final.

WHEREAS, on November 8, 2011, the City Council enacted Ordinance No. _____, authorizing the City Heights Project.

WHEREAS, on November 8, 2011, the City Council enacted Ordinance No. _____ annexing that portion of City Heights then lying outside of the municipal boundaries of the City of Cle Elum.

WHEREAS, RCW 43.21C.031, and WAC 197-11-164 through -172 provide for the establishment of "Planned Actions" and authorize the expediting of environmental review for projects that implement a planned action where an environmental impact statement has been prepared and other criteria satisfied.

WHEREAS, on July 7, 2011, the Cle Elum Planning Commission conducted an open record public hearing to receive testimony on the content of the draft Development Agreement that sets forth the City actions and SEPA review necessary to implement the planned action provisions contained herein.

WHEREAS, on September 13, 2011, the Cle Elum City Council conducted a duly noticed closed record public hearing to received and review the Findings, Conclusions and Recommendation of the Cle Elum Planning Commission to approve the Development Agreement and master site plan as a designated planned action.

WHEREAS, at the continued closed record public hearing on September 20, the Cle Elum City Council examined the specific provisions regarding City actions, including SEPA review, of steps to implement the Development Agreement and master site plan as a designated planned action authorized under RCW 43.21C.031 and WAC 197-11-164 through -172.

WHEREAS, development of City Heights, consistent with the FEIS provided in support thereof, will satisfy the criteria for designation of City Heights as a Planned Action pursuant to RCW 43.21C.031, and WAC 197-11-164 through 172;

NOW, THEREFORE, the City Council of the City of Cle Elum does hereby ordain and designate the City Heights as a planned action under RCW 43.21CD.031, WAC 197-11-164 and 197-11-168, and declare that the processes set forth below shall be applicable to all subsequent and implementing projects associated with City Heights.

Section 1. Purpose. The purposes of this ordinance are to establish City Heights as a planned action, and to set forth procedures for expediting the land use permit and environmental review process for development actions within City Heights that are within the scope of the existing environmental analysis that has been completed for City Heights.

Section 2. Findings.

(a) City Heights is a master planned development, and phased project, and City Staff has conducted a thorough environmental review of the City Heights Project through an environmental impact statement, analyzing the impacts of the Development Agreement, master site plan, and mixed use approval on the elements of the environment set forth in WAC 197-11-444.

(b) The City Heights FEIS, together with the mitigation measures contained in the Development Agreement, are adequate to mitigate the significant adverse environmental impacts of project specific actions within City Heights that are contemplated in and consistent with the City Heights FEIS and the Development Agreement.

(c) The expedited permit review procedures set forth in this ordinance will benefit the public and protect the environment;

Section 3. Planned Action Review Process

Upon receipt of a complete project permit application for development within the real property legally described on Exhibit A and shown on Exhibit B, the SEPA official or designee shall review the project permit application and determine whether it meets the criteria for a planned action under applicable law.

Notice of the SEPA official's determination shall be provided in writing to the applicant. If the project meets the requirements for a planned action, no threshold determination under SEPA shall be required.

Applications designated as a planned action for City Heights shall not require further procedural review under SEPA. Projects within City Heights that do not qualify as a planned action may use or incorporate relevant elements of the environmental review analysis from the City Heights FEIS to assist in meeting SEPA requirements, and the scope of SEPA review shall be limited to those issues and environmental impacts not previously addressed in the FEIS.

Section 4. Planned Action Criteria.


The SEPA official or designee shall designate and process a project application as a City Heights planned action pursuant to RCW 43.21C.031 only if the project meets all of the following conditions:

- (a) The subject property is within the approximately 358 acre site legally described on Exhibit A and shown on Exhibit B, attached hereto.
- (b) The proposed use and density are within the scope of those uses and densities analyzed in the FEIS;
- (c) The project implements, and the proposed use and density are within the scope of, the Development Agreement and the Master Site Plan;
- (d) The probable significant adverse impacts of the project have been adequately addressed in the City Heights FEIS;
- (e) The project is not an essential public facility as defined under RCW 36.70A.200(c)

Section 5. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance or its application to any person or situation should be held to be invalid or unconstitutional for any reason by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this ordinance or its application to any other person or situation.


Section 6. Effective Date; Expiration. This ordinance or a summary thereof shall be published in the official newspaper of the City, and shall take effect and be in full force five days after passage and publication as provided by law. The planned action designation is intended to be applicable until the expiration of the Development Agreement, or until all development contemplated within the allowable development and densities of Appendix A to the development agreement has been completed, whichever occurs sooner.

PASSED by the City Council of the City of Cle Elum, Washington, at a regular meeting thereof, held this 8 day of Nov, 2011.



Charles J. Glondo, Mayor

Approved as to form:



Erin Anderson, City Land Use Counsel

Attestation:



Toni Fields, City Clerk

Exhibit A
Legal Description of City Heights Property

LOT 15 OF THAT CERTAIN SURVEY RECORDED IN BOOK 28 OF SURVEYS AT PAGES 177 AND 178, UNDER AUDITOR'S FILE NUMBER 200302030013; LOTS A-I, A-2 AND A3 OF THAT CERTAIN SURVEY RECORDED IN BOOK 10 OF PLATS AT PAGES 222 AND 223, UNDER AUDITOR'S FILE NUMBER 200706060020; LOTS B-1 AND B-2 OF THAT CERTAIN SURVEY RECORDED IN BOOK H OF SHORT PLATS AT PAGES 187 AND 188, UNDER AUDITOR'S FILE NUMBER 200601260040; A PORTION OF LOT 11-C OF THAT CERTAIN SURVEY RECORDED IN BOOK 31 OF SURVEYS AT PAGES 136 AND 137, UNDER AUDITOR'S FILE NUMBER 200507280018; LOTS C-1, C-2 AND C-3 OF THAT CERTAIN SURVEY RECORDED IN BOOK 10 OF PLATS AT PAGES 206 AND 207, UNDER AUDITOR'S FILE NUMBER 200704060001, RECORDS OF KITTITAS COUNTY, STATE OF WASHINGTON WHICH IS BOUNDED BY A LINE DESCRIBED AS FOLLOWS:
BEGINNING AT THE NORTHWESTERLY CORNER OF LOT 15 OF SAID SURVEY WHICH IS THE TRUE POINT OF BEGINNING OF SAID LINE; THENCE NORTH 70°33'50" EAST, 265.95 FEET; THENCE NORTH 88°25'37" EAST, 39.10 FEET; THENCE NORTH 88°25'37" EAST, 480.20 FEET; THENCE NORTH 39°30'18" WEST, 51.97 FEET; THENCE SOUTH 88°42'02" EAST, 55.45 FEET; THENCE CONTINUING ALONG SAID BEARING, 2123.80 FEET; THENCE SOUTH 88°38'40" EAST, 2650.73 FEET; THENCE SOUTH 89°27'57" EAST, 1696.72 FEET; THENCE CONTINUING ALONG SAID BEARING, 960.22 FEET; THENCE SOUTH 88°38'56" EAST, 72.95 FEET; THENCE SOUTH 01 °21 '04" WEST, 29.66 FEET TO THE POINT OF CURVATURE TO THE LEFT HAVING A RADIUS OF 100.00 FEET (RADIUS BEARING SOUTH 01 °21 '04" WEST), A LENGTH OF 159.34 FEET, THROUGH A CENTRAL ANGLE OF 91°17'39"; THENCE SOUTH 00°03'25" WEST, 147.26 FEET TO THE POINT OF CURVATURE TO THE LEFT HAVING A RADIUS OF 100.00

FEET (RADIUS BEARING SOUTH 89°56'35" EAST), A LENGTH OF 107.54 FEET,
 THROUGH A CENTRAL ANGLE OF 61°36'54"; THENCE SOUTH 61°33'29" EAST,
 283.39
 FEET; THENCE SOUTH 38°45'20" EAST, 804.11 FEET; THENCE SOUTH 73°18'17"
 EAST,
 569.17 FEET; THENCE SOUTH 00°25'27" WEST, 40.64 FEET; THENCE SOUTH
 00°25'27"
 WEST, 23.23 FEET; THENCE SOUTH 73°18'17" EAST, 788.37 FEET; THENCE
 NORTH
 00°47'37" EAST, 497.30 FEET; THENCE SOUTH 89°26'24" EAST, 2214.93 FEET;
 THENCE
 SOUTH 31 °14'36" EAST, 810.33 FEET; THENCE SOUTH 56°56'11" WEST, 74.55
 FEET TO
 THE POINT OF CURVATURE OF THE LEFT HAVING A RADIUS OF 99.05 FEET
 (RADIUS BEARING SOUTH 33°03'49" EAST), A LENGTH OF 159.14 FEET,
 THROUGH A
 CENTRAL ANGLE OF 92°03'42"; THENCE NORTH 86°48'10" WEST, 660.31 FEET;
 THENCE SOUTH 00°37'10" WEST, 530.06 FEET; THENCE NORTH 57°56'11"
 WEST,
 196.85 FEET; THENCE NORTH 50°06'55" WEST, 161.08 FEET TO THE POINT OF
 CURVATURE TO THE LEFT HAVING A RADIUS OF 50.42 FEET (RADIUS
 BEARING
 SOUTH 39°53 '05" WEST), A LENGTH OF 102.10 FEET, THROUGH A CENTRAL
 ANGLE
 OF 116°01 '38"; THENCE SOUTH 13°51 '27" WEST, 186.64 FEET TO THE POINT
 OF
 CURVATURE TO THE RIGHT HAVING A RADIUS OF 74.00 FEET (RADIUS
 BEARING
 NORTH 76°08'33" WEST), A LENGTH OF 89.26 FEET, THROUGH A CENTRAL
 ANGLE
 OF 69°06'54"; THENCE SOUTH 82°58'21" WEST, 326.41 FEET; THENCE SOUTH
 78°10'46" WEST, 228.39 FEET TO THE POINT OF CURVATURE TO THE LEFT
 HAVING
 A RADIUS OF 108.93 FEET (RADIUS BEARING SOUTH 11 °49' 14" EAST), A
 LENGTH OF
 102.18 FEET, THROUGH A CENTRAL ANGLE OF 53°44'43"; THENCE NORTH
 89°12'00"
 WEST, 236.35 FEET; THENCE NORTH 89°01 '06" WEST, 835.04 FEET; THENCE
 NORTH
 00°58'54" EAST, 659.24 FEET; THENCE NORTH 89°01 '06" WEST, 859.49 FEET;
 THENCE
 SOUTH 01 °37'14" WEST, 280.25 FEET; THENCE NORTH 89°01 '44" WEST, 153.66
 FEET;
 THENCE SOUTH 00°58'16" WEST, 139.48 FEET; THENCE NORTH 89°01 '08"
 WEST,
 274.97 FEET; THENCE SOUTH 00°58'52" WEST, 160.00 FEET; THENCE NORTH

86°50'06" WEST, 446.37 FEET; THENCE SOUTH 02°50'31" WEST, 96.55 FEET;
THENCE
NORTH 89°01'06" WEST, 49.72 FEET; THENCE NORTH 00°03'25" EAST, 1314.63
FEET;
THENCE NORTH 89°27'57" WEST, 217.05 FEET; THENCE SOUTH 01°37'14"
WEST, 14.17
FEET; THENCE NORTH 89°27'57" WEST, 2432.25 FEET; THENCE NORTH
00°15'29"
WEST, 24.09 FEET; THENCE NORTH 88°50'40" WEST, 206.96; THENCE NORTH
14°27'03" EAST, 590.45 FEET; THENCE NORTH 88°45'34" WEST, 399.57 FEET;
THENCE
SOUTH 01 °14'26" WEST, 575.22 FEET; THENCE NORTH 88°50'40" WEST, 1046.44
FEET;
THENCE NORTH 12°05'29" WEST, 205.47 FEET; THENCE NORTH 88°50'41"
WEST,
738.92 FEET; THENCE SOUTH 01°09'19" WEST, 83.72 FEET; THENCE NORTH
79°42'25"
WEST, 369.15 FEET; THENCE NORTH 79°42'25" WEST, 280.72 FEET; THENCE
NORTH
53°22'30" WEST, 340.47 FEET; THENCE NORTH 78°56'35" WEST, 275.86 FEET;
THENCE
NORTH 60°34'20" WEST, 240.49 FEET; THENCE NORTH 48°41 '30" WEST, 185.31
FEET;
THENCE NORTH 16°51 '48" WEST, 233.52 FEET; THENCE NORTH 88°41 '57"
WEST, 70.91
FEET; THENCE SOUTH 00°30'48" WEST, 464.30 FEET; THENCE NORTH 75°41
'50"
WEST, 611.82 FEET TO THE POINT OF CURVATURE TO THE RIGHT HAVING A
RADIUS OF 1860.08 FEET (RADIUS BEARING NORTH 14°18'10" EAST), A
LENGTH OF
779.04 FEET, THROUGH A CENTRAL ANGLE OF 23°59' 48"; THENCE NORTH 51
°42'02"
WEST, 28.75 FEET; THENCE NORTH 51 °42'28" WEST, 365.15 FEET TO THE
TRUE
POINT OF BEGINNING AND TERMINUS OF SAID LINE.
SITUATED IN SECTIONS 25, 26, 27 AND 28, TOWNSHIP 20 NORTH, RANGE 15
EAST,
W.M., KITTITAS COUNTY, STATE OF WASHINGTON.
CONTAINING 330.36 ACRES MORE OR LESS

TOGETHER WITH
BLOCK 7, REED'S SECOND ADDITION TO CLE ELUM, IN THE COUNTY OF
KITTITAS, STATE OF WASHINGTON, AS PER PLAT THEREOF RECORDED IN
BOOK 2 OF PLATS, PAGE 36, RECORDS OF SAID COUNTY; EXCEPT THAT
PORTION OF SAID BLOCK 7 LYING WITHIN PARCELS A AND B OF THAT
CERTAIN SURVEY RECORDED IN BOOK 27 OF SURVEYS, PAGE 62, UNDER
AUDITOR'S FILE NO. 200201100024.

AND

A PORTION OF LOT 11-C OF THAT CERTAIN SURVEY RECORDED IN BOOK 31 OF SURVEYS AT PAGES 136 AND 137, UNDER AUDITOR'S FILE NUMBER

200507280018; RECORDS OF KITTITAS COUNTY, STATE OF WASHINGTON WHICH IS BOUNDED BY A LINE DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWESTERLY CORNER OF LOT 11-C OF SAID SURVEY WHICH IS THE TRUE POINT OF BEGINNING OF SAID LINE; THENCE SOUTH 89°27'57" EAST, 2649.68 FEET; THENCE SOUTH 00°03'25" WEST, 651.55 FEET; THENCE NORTH 89°08'59" WEST, 1323.17 FEET; THENCE NORTH 00°06'00" WEST, 514.88 FEET; THENCE NORTH 89°15'19" WEST, 1324.55 FEET; THENCE NORTH 00°15'29" WEST, 124.52 FEET TO THE TRUE POINT OF BEGINNING AND TERMINUS OF SAID LINE.

SITUATED IN SECTIONS 26 & 27, TOWNSHIP 20 NORTH, RANGE 15 EAST, W.M., KITTITAS COUNTY, STATE OF WASHINGTON.

CONTAINING 28.01 ACRES MORE OR LESS.

The City Heights project site is located along the northern edge of the existing developed area of the City of Cle Elum. The parcels that are the subject of the Development Agreement Application are situated in Sections 25, 26, and 27 of Township 20N, Range 15E, Willamette Meridian, Kittitas County, Washington. A portion of two of the parcels (Tax Parcel 493935 and Tax Parcel 19165) are already within the City of Cle Elum. Properties within the proposed action area correspond with the following tax parcel and map numbers:

Tax Parcel Numbers	Map Numbers	Approximate Acreage
952904	20-15-25064-0001	20.66
952905	20-15-25064-0002	16.76
952906	20-15-25064-0003	21.45
952903	20-15-25064-0004	3.24
12528 that portion of Columbia St	20-15-25032-0002	0.25
19165	20-15-26057-0003	89.26
952818	20-15-26061-0001	20.00
952819	20-15-26061-0002	20.00
952820	20-15-26061-0003	20.00
952183	20-15-26060-0001	12.04
952184	20-15-26060-0002	12.00
493935 (Reeds Addition)	20-15-27051-0701	5.15
083835	20-15-27010-0001	70.18
593835	20-15-27020-0001	25.73
943835 (Must be sold with above)	20-15-27020-0007	21.52

Exhibit B
Diagram of City Heights Area

EXHIBIT B

