

ORDINANCE NO. 1355

AN ORDINANCE OF THE CITY COUNCIL OF CLE ELUM
AUTHORIZING THE EXECUTION OF A DEVELOPMENT
AGREEMENT, AND GRANTING PLANNED MIXED USE
APPROVAL AND MASTER SITE PLAN APPROVAL FOR THE
DEVELOPMENT OF CITY HEIGHTS PURSUANT TO THE
DEVELOPMENT AGREEMENT

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 that would constitute Planned Mixed Use ("PMU") approval and authorize a Master Site Plan for approximately 358 acres, 330 of which are proposed for annexation to the City of Cle Elum, and 28 of which are already within Cle Elum's city limits ("Development Agreement" or "DA"); and

WHEREAS, on June 18, 2009, the City issued a combined Notice of Application, Determination of Significance ("DS") and Request for Comments on the Scope of the Environmental Impact Statement ("EIS") for a Development Agreement to implement the Master Site Plan, PMU approval pursuant thereto, and concomitant 28-acre rezone. Notice of the proposal was provided in accordance with applicable law; and

WHEREAS, a Draft Environmental Impact Statement ("DEIS") dated April 23, 2010, was prepared for the City Heights Project. The DEIS evaluated the elements of the environment required by the State Environmental Policy Act ("SEPA") and under WAC 197-11-444, along with the elements identified by the public during the scoping process. Notice of the DEIS was provided in accordance with applicable law; and

WHEREAS, a Final Environmental Impact Statement ("FEIS") was issued by the City in November, 2010. Section 2 of the FEIS contains responses to public comments on the DEIS. Section 3 of the FEIS identifies changes made to the text of the DEIS. The FEIS was published in the Department of Ecology's SEPA Register and a Notice of FEIS Availability was provided in accordance with applicable law; and

WHEREAS, the adequacy of the FEIS was not appealed and environmental review of the Project is now complete and final; and

WHEREAS, the application for Development Agreement has undergone review by City staff and department heads. Regular meetings of staff, department heads, and consultants occurred between early 2010 and late 2011, to consult with the City's capital facilities plans and to review and evaluate the draft DA; and

WHEREAS, the Cle Elum Planning Commission conducted two duly noticed study sessions, which were open to the public, on June 16, 2011 and June 30, 2011. The study sessions were preceded by a staff report and draft Development Agreement, which were made publicly available at Cle Elum City Hall on June 23, 2011. The study sessions involved a review of the Planning Commission review process as pertains to taking testimony at public hearings and deliberations on development agreements and rezones generally, and a discussion about the particular elements of the Development Agreement for the City Heights property; and

WHEREAS, the Cle Elum Planning Commission conducted a duly noticed open record public hearing on July 7, 2011, on the Development Agreement. The public in attendance at the hearing was given an opportunity to challenge conflict of interest and ex parte communications disclosures made at the hearing on grounds of appearance of fairness, or actual bias. No challenges were received from the public. Public testimony was offered at the July 7, 2011 hearing. No testimony in opposition to the Project was provided. The public record was closed after all persons present at the July 7, 2011 hearing and desiring to testify, had been afforded an opportunity; and

WHEREAS, substantive land use review, public hearings and SEPA review of pre-annexation land use designation and zoning of PMU have already been conducted by the City of Cle Elum for the 330 acres subject to the Development Agreement that are proposed for annexation to the City ;and

WHEREAS, the Cle Elum City Council conducted two public hearings on January 26, 2010, and March 9, 2010, and determined that such PMU comprehensive land use designation and zoning designation would become effective immediately upon annexation; and

WHEREAS, development agreements are authorized under CEMC 17.140 (consistent with RCW 36.70.170), which sets forth the provisions that must be included in the City Heights Development Agreement; and

WHEREAS, CEMC 17.45 sets forth the process and criteria for PMU approval of a Master Site Plan for development within the PMU District; and

WHEREAS, the City Heights properties, legally described in Exhibit A attached hereto, are located to the north of and adjacent to the City of Cle Elum. The parcels are all included in the City's UGA boundary, with the exception of two parcels which are already within the City limits; and

WHEREAS, the Development Agreement would constitute PMU approval, within which a mix of dwelling unit types and a limited amount of neighborhood commercial development could occur across various development areas, consistent with a Master Site Plan. The neighborhood commercial development would be designed so as not to compete or detract from the old downtown business district; and

WHEREAS, the Development Agreement includes project-specific development standards and Conditions of Approval developed under the City's SEPA substantive authority, including the framework within which future development and land use permit applications would be reviewed for a period of up to 25 years; and

WHEREAS, Appendices A through P of the Development Agreement set forth development standards that will apply to City Heights. To the extent that the standards reference existing codes, rules or regulations, those are appended to the Development Agreement at Exhibit S; and

WHEREAS, Appendix Q of the Development Agreement defines the method that will be applied to process and approve land use applications that implement the Project throughout its term; and

WHEREAS, Appendix R of the Development Agreement sets forth the means by which modifications proposed to the Project are evaluated; and

WHEREAS, the Development Agreement reflects a mutual commitment to the implementation of the Development Agreement without the fear of attempts to renegotiate the Agreement if, in the future, other development seeks a development agreement on terms different than those pertaining to City Heights; and

WHEREAS, Appendices C through P of the Development Agreement contain mitigation measures that address the Project's impacts on the built and natural environment; and

WHEREAS, the additional appendices included in the Development Agreement address the balance of the requirements of CEMC 17.140; and

WHEREAS, the Development Agreement was processed under City procedures for Type IV applications, as described in CEMC 17.100.100, CEMC 17.140, and in accordance with CEMC 17.45, to the extent regarding the approval of a Master Site Plan and PMU development; and

WHEREAS, the various elements of the Development Agreement address PMU zoning objectives for the City, and demonstrate satisfaction thereof; and

WHEREAS, the Development Agreement, Master Site Plan, and PMU approval associated therewith will establish that City Heights is a 358-acre Project that adequately provides for a variety of densities and housing stock and mixed uses, circulation that accommodates both pedestrians and vehicular traffic, provides for some on-site commercial opportunity and dedicates over one-third of its footprint to open spaces, generally in the form of a tiered system of trails available for varied recreational purposes, in furtherance of the objectives of the PMU zone; and

WHEREAS, the City of Cle Elum has complied with the notice, timing, public hearing, and other procedural and substantive requirements of CEMC 17.45 for a Master Site Plan and PMU approval; and

WHEREAS, the City of Cle Elum has complied with the notice, timing, public hearing, and other procedural and substantive requirements of CEMC 17.140 for entry into the Development Agreement attached hereto as Exhibit B; and

WHEREAS, the City of Cle Elum has complied with the notice, timing, public hearing, and other procedural requirements for SEPA review under the CEMC, WAC 197-11, RCW 43.21C, and as otherwise required by law; and

WHEREAS, the proposed City Heights Project, if developed in accordance with the Development Agreement, will comply with and further the objectives of a PMU District; and

WHEREAS, the Development Agreement, Master Site Plan, and PMU approval contemplated herein will be of no effect unless and until the City Council annexes that portion of City Heights lying outside of the City limits, but within the City's UGA; and

NOW, THEREFORE, the City Council of the City of Cle Elum does hereby ordain as follows:

Section 1. Development Agreement. The City Heights Annexation and Development Agreement between the City of Cle Elum, Washington, and Highmark Resources, LLC; Cooper Pass, LLC, and Green Canyon, LLC, together with Exhibits A through T of the Development Agreement, copies of which are attached hereto as Exhibit B and incorporated herein, is adopted, and authorized for execution.

Section 2. Planned Mixed Use Approval: Master Site Plan. PMU approval under CEMC 17.45, and approval of the Master Site Plan shown in Exhibit C, all performed pursuant to and consistent with the Development Agreement, shall become effective upon such date that the City completes the annexation of the real property which lies outside of current City limits and legally described in Exhibit A.

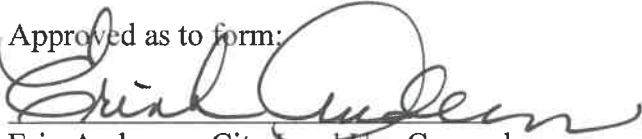
Section 3. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance or its application to any person or situation should be held to be invalid or unconstitutional for any reason by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this ordinance or its application to any other person or situation.

Section 4. Effective Date. This ordinance or a summary thereof shall be published in the official newspaper of the City of Cle Elum, and shall take effect and be in full force five days after passage and publication as provided by law.

PASSED by the City Council of the City of Cle Elum, Washington, at a regular meeting thereof, held this 8 day of November, 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 Property Subject to Development Agreement

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

[~~INSERT~~ LEGAL DESCRIPTION FOR PARCELS ALREADY WITHIN THE CITY]

at Sa



EXHIBIT 1
Part 2 of 2
LEGAL DESCRIPTION
FOR
PROPERTY ALREADY WITHIN CITY LIMITS

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
Development Agreement

Exhibit C
Master Site Plan

