

Re: Applicant comment for the record public hearing LP-22-00003 Haybrook Farm Phase 3

September 20, 2022

Dear Hearing Examiner

As applicant, I submit the following comments.

1. Application LP-22-00003 Haybrook Farm Phase 3 was deemed complete on June 24, 2022. Any vested rights under Washington law attach on the date of complete application.
2. Applicant asserts that the City of Ellensburg has no codes or ordinances as of the date of complete application to impose City of Ellensburg process, review, or development standards of the City of Ellensburg to this application. In support of that assertion, there is no historical evidence of the City of Ellensburg urban growth area, in or out of the airport overlay for lands in the UGA that are not requesting city utilities which require a pre annexation agreement (see city form for process of requesting city utilities attached) of the application of city process, review, or development standards. It has always been county process, review, and application of county codes. Nowhere in city code does it discuss at the date of the complete application an existing adopted code requirement to impose city process, review, or city code for development where city utilities are both unavailable, not requested, and infill is being accomplished under county code. Included are highlighted sections of the City of Ellensburg existing codes applicable to residential development: Chapter 15.110, Chapter 15.200, and Chapter 15.260. All codes deal with incorporated city boundaries. Nowhere in ordinance are city standards applied to unincorporated portions of the City of Ellensburg UGA or airport overlay where city utilities do not exist, development is by water & septic tank, county codes have applied for decades. Therefore, KCC 2.04.040 should not invoice to City of Ellensburg standards.

Respectfully Submitted



Matt Willard
Manager
Haybrook Land Holding LLC



Pre-Application Meeting Application Form

BF-04
FORM

Community Development Department
501 N. Anderson, Ellensburg, WA 98926 (509) 962-7239 (Building) (509) 962-7231 (Planning) permits@ci.ellensburg.wa.us

The purpose of a Pre-Application meeting is to provide the City with preliminary information regarding the development proposal and to provide the applicant with preliminary information about Land Use development requirements, Building Code requirements, Public Works & Energy Services requirements (i.e. roads, stormwater, sewer, water, gas, electric), environmental issues, procedural requirements, known community concerns, and other relevant matters prior to the filing of a formal application.

Pre-Application meetings provide preliminary information only and are not intended to result in final actions or commitments by either the City or the applicant.

PROJECT LOCATION:		OFFICIAL USE ONLY:	
Site Address:		Staff Person:	
Business Name:		Date Applied:	
Parcel Number:	_____	Pre-App #:	

PROPERTY OWNER:			
Name:		Day Phone:	
Mailing Address:			
E-mail:		Cell Phone:	
* APPLICANT:	<input type="checkbox"/> Owner	<input type="checkbox"/> Contractor	<input type="checkbox"/> Tenant <input type="checkbox"/> Other _____
Name:		Day Phone:	
Mailing Address:			
E-mail:		Cell Phone:	
CONTACT PERSON:	<input type="checkbox"/> Owner	<input type="checkbox"/> Contractor	<input type="checkbox"/> Tenant <input type="checkbox"/> Other _____
Name:		Day Phone:	
Mailing Address:			
E-mail:		Cell Phone:	
DESIGN PROFESSIONAL:	<input type="checkbox"/> Architect	<input type="checkbox"/> Engineer	<input type="checkbox"/> Other _____
Name:		Day Phone:	
Mailing Address:			
E-mail:		Cell Phone:	
CONTRACTOR:			
Name:		Day Phone:	
Mailing Address:			
E-mail:		Cell Phone:	

Pre-Application Meeting Submittal Checklist

Please Provide 6 Copies the Following Applicable Information

Please Note: The more information you provide in your pre-application submittal package, the more feedback you will receive from project reviewers to help you towards finalizing your application.

1. Conceptual Site Plan and Lot Configuration

- North arrow
- Scale (standard Engineering scale)
- Date drawn
- Existing parcels assembled
- Vicinity map
- Existing and/or proposed sewer and water lines
- Existing and/or proposed underground and overhead utilities
- Existing and/or proposed lot layout
- Existing and/or proposed lot sizes
- Proposed connection to existing road system
- General dimensions of lots, rights-of-way, easements, existing structures
- Existing elevation contours at intervals not greater than five feet (*Not required where site relief is less than five feet*)
- Indicate Critical Areas (i.e. streams, floodplains, wetlands, steep slopes, etc.)
- Flood Hazard Areas
- Any existing building locations and buildings proposed for demolition
- Proposed new internal roads with proposed road widths
- Conceptual drainage proposal showing collection, detention and discharge
- Proposed and/or existing parking
- Proposed and/or existing Landscaping

2. Building Plans

- Floor plans for any proposed buildings and/or structures
- Elevations for any proposed buildings and/or structures
- Identify occupancy classifications, occupancy loads and types of building construction
- If available, provide determination of "allowable" building areas based on occupancy classification and type(s) of construction and any calculated area and/or height increases.
- Identify if structure(s) will include sprinkler systems and/or fire alarm systems.

3. Site Description

A brief, written description of the site describing parcel conditions (*soils, drainage, topography, wetlands, streams, vegetation, surrounding land use, traffic patterns, if in the Historic District, nearest schools, bus stops, walkways and any other unique characteristics of the site*).

4. Project Description

Provide a brief, written description of the proposed development, change of use and/or changes to the existing structure. Please include what you see as key issues or specify questions that you have about the proposed project that you would like reviewers to respond to at the Pre-Application Meeting.

5. Pay a \$500.00 Filing Fee

The \$500 will be deducted from your permit cost when you apply (*You must apply for a permit within 1 year to have the \$500.00 put toward your permit*).

Your Pre Application Meeting Will Be Scheduled Within Three Weeks of Submitting Your Application

Chapter 15.110

PURPOSE/AUTHORITY/INTERPRETATION

Sections:

- 15.110.010 Title.**
- 15.110.020 Purpose.**
- 15.110.030 Authority.**
- 15.110.040 Severability.**
- 15.110.050 Scope.**
- 15.110.060 Roles and responsibilities.**
- 15.110.070 Relationship to other codes.**
- 15.110.090 Interpretation of terms.**

15.110.010 Title.

This title shall be known as the land development code for the city of Ellensburg, Washington, hereafter referred to as the LDC or the code. [Ord. 4656 § 1 (Exh. O2), 2013.]

15.110.020 Purpose.

The purpose of the LDC is to provide regulations by which the citizens of the city can guide the development of their community in a logical and orderly manner, maintain a quality environment and provide for the conservation, protection and enhancement of the public health, safety and general welfare. The LDC is not intended to create or otherwise establish or designate any particular class or group who will or should be specially protected or benefited by its terms. The LDC provides for the implementation of the goals and policies of the Ellensburg comprehensive plan through the adoption, administration and enforcement of zoning maps, regulations, procedures, and programs.

The LDC shall not be construed to relieve from or lessen the responsibility of any person, owning any land or building, constructing or modifying any structure or subdivision in the city, for damages to anyone injured or damaged either in person or property by any defect therein; nor shall the city or any agent thereof be held as assuming such liability by reason of any preliminary or final approval or by issuance of any permits or certificates authorized herein. [Ord. 4656 § 1 (Exh. O2), 2013.]

15.110.030 Authority.

The LDC is enacted under the authority granted to the [city](#) of Ellensburg by the Constitution of the State of Washington, the Optional Municipal Code (RCW Title [35A](#)), and other sections of the Revised Code of Washington. [Ord. 4656 § 1 (Exh. O2), 2013.]

15.110.040 Severability.

The provisions of the LDC are declared to be severable. If any provision of the LDC or any code or document adopted by reference herein is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining provisions of the LDC. If any provision of the LDC is adjudged invalid or unconstitutional as applied to a particular property, use, [building](#) or other [structure](#), the application of such portion of the LDC to other properties, uses, [buildings](#), or [structures](#) shall not be affected. [Ord. 4656 § 1 (Exh. O2), 2013.]

15.110.050 Scope.

A. Hereafter, no use shall be conducted, and no [building](#), structure and appurtenance shall be erected, relocated, remodeled, reconstructed, altered, demolished or enlarged unless in compliance with the provisions of the LDC, and then only after securing all [permits](#) and [approvals](#) required hereby. It shall be unlawful to build or use any [building](#) or [structure](#) or to use [premises](#) in the [city](#) for any purpose or use other than the uses listed as being permitted in the zone in which such [building](#), land, or [premises](#) is located.

B. [Creation](#) of or changes to [lot lines](#) shall conform to the use provisions, dimensional and other standards, and other applicable provisions of the LDC.

C. Nonproject [development](#) and land use actions, including but not limited to rezones, annexations, and the adoption of plans and programs, shall comply with applicable provisions of the LDC.

D. Any [building](#), structure or use lawfully existing at the time of passage of this title, although not in compliance herewith, may continue as provided in Chapter [15.240](#) ECC. [Ord. 4656 § 1 (Exh. O2), 2013.]

15.110.060 Roles and responsibilities.

A. The elected officials, appointed commissions, hearing examiner, and [city](#) staff share the roles and responsibilities for carrying out the provisions of the LDC.

Division II. [Permits](#), Legislative Actions and Procedures**Chapter 15.200
PURPOSE/ADMINISTRATION**

Sections:

15.200.010 Purpose.**15.200.020 Administration.****15.200.030 User guide.****15.200.010 Purpose.**

The purpose of this division is to establish standard procedures for land use [permit](#) applications, public notice, hearings and appeals in the [city](#). These procedures are designed to promote timely and informed public participation in discretionary land use decisions; eliminate redundancy in the application, [permit](#) review, hearing and appeal [processes](#); provide for uniformity in public notice procedures; minimize delay and expense; and result in [development approvals](#) that implement the policies of the [comprehensive plan](#). These procedures also provide for an integrated and consolidated land use [permit](#) and environmental review [process](#). [Ord. 4656 § 1 (Exh. O2), 2013.]

15.200.020 Administration.

The provisions of this division supersede all other procedural requirements that may exist in other sections of the [city](#) code. When interpreting and applying the standards of this LDC, its provisions shall be the minimum requirements. Where conflicts occur between provisions of this division and/or between this division and other [city](#) regulations, the more restrictive provisions shall apply. [Ord. 4656 § 1 (Exh. O2), 2013.]

15.200.030 User guide.

This chapter sets forth the procedural steps for each of the five [process](#) types used by the [city](#) of Ellensburg to review [project permit applications](#). Those [process](#) types are based on who makes the final decision, the amount of discretion exercised by the [decision-maker](#), the level of impact associated with the decision, the amount and type of input sought before making the decision, and the type of appeal opportunity available.

To identify the procedural steps for a specific [project permit application](#), the user should:

- A. **Permit.** First, determine the type of [permit](#) application that is required for the project by locating the particular type of project in the tables set forth in ECC [15.210.050](#). You may also contact the community [development department](#) to determine the type of application that is required.
- B. **Process.** Second, determine the [process](#) steps that are applicable to that type of application by referring to the table in ECC [15.210.040](#).
1. Table 15.210.040(A) identifies who the [decision-maker](#) is, which may be the [director](#), appointed [city](#) board or commission, the hearing examiner, or [city council](#), depending on the level of discretion to be exercised in the review and final decision [process](#) and the level of public input that is sought to assist in the final decision [process](#). To determine the [decision-maker](#) for a specific [permit](#) application within one of the [permit](#) types, please refer to the tables set forth in ECC [15.210.050](#);
 2. Table 15.210.040(B) identifies the procedures that will be followed in the review and final decision [process](#) for each type of [permit](#). Those address the predecision reviews, decision reviews, and appeals of decisions. The review may be administrative, or it may require a [public meeting](#) and/or public hearing. To determine the procedure that will be followed for a specific [permit](#) application within one of the types, please refer to the tables set forth in ECC [15.210.050](#);
 3. Table 15.210.040(C) identifies the notice requirements for each type of [permit](#) review [process](#). [Ord. 4656 § 1 (Exh. O2), 2013.]

The Ellensburg City Code is current through Ordinance 4888, passed May 16, 2022.

Disclaimer: The City Clerk's office has the official version of the Ellensburg City Code. Users should contact the City Clerk's office for ordinances passed subsequent to the ordinance cited above.

City Website: <https://www.ci.ellensburg.wa.us/>

City Telephone: (509) 925-8614

[Code Publishing Company](#)

Chapter 15.260 SUBDIVISIONS

Sections:

- 15.260.010 Citation of chapter.**
- 15.260.020 Purpose.**
- 15.260.030 Subdivision categories.**
- 15.260.040 Exemptions.**
- 15.260.050 Boundary line adjustment – Review procedures and criteria.**
- 15.260.060 Preliminary subdivision (long plat) – Review procedures and criteria.**
- 15.260.070 Preliminary subdivision – Required minimum improvement standards.**
- 15.260.080 Phasing of subdivision.**
- 15.260.090 Installation of improvements.**
- 15.260.100 Final subdivision application review procedures and criteria.**
- 15.260.110 Changes to approved preliminary and final subdivisions.**
- 15.260.120 Short subdivision plat (sometimes referred to as short plats) – Review procedures and criteria.**
- 15.260.130 Preliminary short subdivision – Required minimum improvement standards.**
- 15.260.140 Final short subdivision application review procedures and criteria.**
- 15.260.150 Short subdivision final plat – Certifications and filing.**
- 15.260.160 Short subdivision final approval – Prohibition on further division.**
- 15.260.170 Changes to approved preliminary and final short subdivisions.**
- 15.260.180 Binding site plan review procedures and criteria.**

15.260.010 Citation of chapter.

This chapter may be cited as the city of Ellensburg subdivision ordinance and shall supplement and implement the state regulations of plats, subdivisions and dedications. [Ord. 4656 § 1 (Exh. O2), 2013.]

15.260.020 Purpose.

Subdivision is a mechanism by which to divide land into lots, parcels, sites, units, plots, condominiums, tracts, or interests for the purpose of sale. The purpose of this title is to:

- A. Establish the authority and procedures for segregating land in Ellensburg.

- B. Define and regulate divisions of land that are exempt from the [short subdivision](#) or [subdivision](#) requirements.
- C. Ensure consistency with and implement the Ellensburg [comprehensive plan](#) as amended in accordance with the Washington State Growth Management Act, RCW [36.70A.120](#).
- D. Require uniform monumenting of land [subdivisions](#) and conveyance by accurate legal description.
- E. Protect and preserve the public health, safety and general welfare in accordance with the standards established by Ellensburg and the state of Washington.
- F. Ensure consistency with Chapter [58.17](#) RCW. [Ord. 4656 § 1 (Exh. O2), 2013.]

15.260.030 Subdivision categories.

- A. [Boundary Line Adjustment](#). A minor reorientation of a [lot line](#) between existing [lots](#) to correct an encroachment by a [structure](#) or [improvement](#) to more logically follow topography or other natural features, or for other good cause, which results in no more [lots](#) than existed before the [boundary line adjustment](#). A [boundary line adjustment](#) may also include an extinguishment of an existing [lot line](#) resulting in the merger of two or more [lots](#) into a single [lot](#) of record.
- B. [Short Subdivision](#). A [subdivision](#) of nine or fewer [lots](#).
- C. [Subdivision](#) (Sometimes Referred to as a [Long Plat](#)). A [subdivision](#) of 10 or more [lots](#).
- D. [Binding Site Plan](#). A land division for commercial, industrial, mixed use master planned [developments](#), and condominium ownership. [Ord. 4656 § 1 (Exh. O2), 2013.]

15.260.040 Exemptions.

Consistent with RCW [58.17.040](#), the [subdivision](#) and [short subdivision](#) provisions of this chapter shall not apply to:

- A. Divisions of lands for cemeteries and other burial plots while used for that purpose;
- B. Divisions of land made by testamentary provisions or laws of descent;
- C. Divisions of land into [lots](#) or tracts consistent with RCW [58.17.040](#)(7), for which a