

Ron Thiele, Superintendent

January 13, 2020

VIA EMAIL sboelens@yahoo.com

Sue Anne Boelens
President, Providence Point Umbrella Association
4135 A Providence Point Drive SE
Issaquah, WA 98029

Dear Sue Anne:

Enclosed for your review please find a proposed settlement document intended to address matters between the District and the Providence Point Umbrella Association related to our planned schools at the Providence Heights School Site. As I indicated to you in our email communications over the last several weeks, I needed to meet first with my Board of Directors to gain direction as to this matter. The intervening holidays and related vacations presented scheduling challenges. Thank you for your patience with our process.

The proposed settlement document incorporates the District's commitments with regard to development and use of the Site for the planned high school and elementary school. We appreciate and acknowledge the concerns expressed by the Providence Point Umbrella Association over the past several months of discussions with us. The District's commitments as documented in the proposed settlement agreement represent a compromise to address those concerns. We hope that you will receive our efforts in a manner that allows us all to move forward with continued cooperation and communication.

Importantly, the District does not intend that the settlement proposal attached to this letter be subject to any protections or confidentiality under the evidentiary rules for settlement discussions. Rather, we feel it important to share these specific commitments with our community given the taxpayer funding involved and our community's significant interest in this project.

Please let me know at your earliest convenience if the attached proposal is acceptable. We understand that the City of Issaquah will also likely want to review any proposed agreement.

Sincerely,



Ron Thiele
Superintendent, Issaquah School District

Attachment

Board of Directors

Harlan Gallinger • Marnie Maraldo • Anne Moore • Sydne Mullings • Suzanne Weaver

SETTLEMENT AGREEMENT

This Settlement Agreement (the "Agreement") is made effective this ____ day of _____, 2020, by and between the Providence Point Umbrella Association ("PPUA") and the Issaquah School District No. 411 (the "District") (collectively, PPUA and the District as the "Parties").

RECITALS

A. The District has acquired, through Possession and Use in that Eminent Domain matter under King County Superior Court No. 16-2-17078-1 SEA, property identified by King County Tax Parcel Identification Nos. 162406-9001, 162406-9029, and 162406-9031 (the "Providence Heights School Site" or the "Site").

B. The District plans for a future high school and future elementary school (the "Schools") to be located on the Providence Heights School Site.

C. The City of Issaquah (the "City") must amend its Comprehensive Plan and Zoning Map to redesignate and rezone the three parcels constituting the Providence Heights School Site to Community Facilities and Community Facilities - Facilities respectively (the "Redesignation and Rezone") to permit the location of a high school on the Providence Heights School Site.

D. PPUA represents seven separate condominium associations located on property adjacent to the Providence Heights School Site.

E. PPUA appealed the City's State Environmental Policy Act (SEPA) threshold Determination of Nonsignificance (DNS) issued for the Redesignation and Rezone (the "Nonproject SEPA Appeal") and has submitted written and oral testimony opposing the Redesignation and Rezone.

F. The City Council, following the close of the Nonproject SEPA Appeal hearing, denied the Nonproject SEPA Appeal and is considering final action on the Redesignation and Rezone.

G. The District, as the underlying property owner of the Providence Heights School Site, participated as a party to the Nonproject SEPA Appeal and has an interest in the Redesignation and Rezone and the development of the Site for the Schools.

H. If the City approves the Redesignation and Rezone, the District will proceed with project-specific approvals, including project-level SEPA review (the "Project SEPA") for development of the Site for the Schools.

I. The Parties have agreed to resolve all pending and anticipated disputes among themselves as to the Nonproject SEPA Appeal, the Redesignation and Rezone, and the Project SEPA, all as more fully set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual promises, covenants, and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. **Representations and Acknowledgments.** The Parties represent and acknowledge that each of the following is true, complete and accurate:

1.1 **True and Correct Recitals.** The above Recitals are true, correct, and accurate, and are hereby incorporated in this Agreement as if fully rewritten herein.

1.2 **Good Faith.** The Parties and their officers, attorneys, and agents have acted at all times in good faith in connection with their negotiations in connection with this Agreement. The execution and consummation of this Agreement by the Parties was and is their respective free and voluntary act and deed, without any misapprehension as to the effect thereof, and without any coercion, duress, overreaching, or any other misconduct by the Parties or any officer or agent of the Parties.

1.3 **Legal Counsel.** The Parties have had the benefit, or full opportunity to avail themselves, of legal counsel to inform and advise the Parties throughout their dealings in connection with the negotiation, execution, and delivery of this Agreement.

2. **Terms of Settlement.** The Parties hereby agree to the following terms of settlement:

2.1 **District Development Commitments.** The District shall comply with the following development commitments for its development of the Schools on the Providence Heights School Site:

2.2.1 **Buffers and Vegetation.**

2.2.1.1 The District shall maintain minimum buffers along those portion of the Providence Heights School Site bordering the PPUA properties as identified on the conceptual site plan dated 2019.12.10 attached hereto as Exhibit A and incorporated herein by this reference (the "Site Plan"), which buffers provide an average 60 foot buffer and exceed what would otherwise be required in the CF-F zone by a factor of 12 at the widest portions (excluding wetland buffer areas) to five times at the narrowest portions (buffers of seven feet are required under the CF-F zoning standards for side and rear buffers) and would exceed, in some areas significantly, the minimum buffers required under the Site's current SF-SL zone (side buffers of six feet and rear buffers of 20 feet are required under the SF-SL zoning standards).

2.2.1.2 The District shall ensure that the buffers are fully vegetated with site obscuring landscape screening in excess of the minimum requirements in the CF-F zone for both area and type. The Parties understand and acknowledge that the reference to vegetative buffers in this Section 2.2.1 does not require the District to retain all existing trees within such buffers but the District shall use good faith efforts to retain as many existing trees in those areas

as it deems feasible during construction of the Schools.

2.2.2 Stadium; Fields.

2.2.2.1 The District will configure the Providence Heights School Site so that any stadium is located centrally between the elementary and high school sites, as shown on the Site Plan. The stadium will face south towards 228th Avenue and away from the PPUA properties. The District will consider the feasibility of creating raised earth berms or barriers to surround the stadium facility as practically possible.

2.2.2.2 The District anticipates, based upon historic use patterns at similar District facilities, that approximately 90% of the activities at the stadium will end no later than 10:00 p.m., with such evening events (starting at or continuing past 7:00 p.m.) historically averaging 1-2 per week during the school calendar year.

2.2.2.3 The District shall, through its facility rental terms, (a) require community/third party user groups to complete activities at the Stadium no later than 9:00 p.m.; and (b) not permit community/third party user groups to use the District's public address system after 8:00 p.m. The facility rental terms shall include provisions that require any stadium lights used for community/third party use to be lowered to the extent necessary to allow for safe exit from the facility with all lights in the stadium extinguished no later than 9:15 p.m. Third party/community use would remain subject to the terms of any interlocal agreement between the City and the District for community use of playfields and the District's own regulations applicable to such use.

2.2.2.4 Assuming a stadium is constructed on the Site, the District will (a) not provide lights at the planned softball and baseball fields (the "Ball Fields") on the Site and (b) not have a practice field separate from the Stadium and the Ball Fields.

2.2.3 Commute/Trip Reduction Efforts. The District will promote bus ridership to the Schools as well as carpooling and rideshare programs, such as "Salmon Friendly Trips, for students and staff in an effort to reduce single occupancy vehicle traffic trips to the Site.

2.2.4 Onsite Queue. The District will design student drop off and pick up with on-campus queuing lanes as identified on the Site Plan in order to deter traffic back-ups on 228th Ave.

2.2.5 Communications Protocol. The District's administration will conduct quarterly meetings for Providence Point residents during planning and construction of the Schools to provide updates, answer questions, and review concerns with the residents. The District will require its contractor to implement protocols for outreach to surrounding neighbors and provide contact names/telephone numbers for the community to ask questions or share concerns regarding the construction of the Schools.

2.2.6 Fencing. The District will provide a fence around the School Site (to the 228th Avenue side) of size and material consistent with fences at other District schools and with the District's standard security protocols.

2.2.7 Construction Hours. The District shall comply with construction hour limitations as set forth in IMC Chapter 16.35.

2.3 PPUA Waiver and Release. PPUA hereby and forever releases, waives, and discharges all rights, challenges, appeals, and claims, including without limitation available administrative appeals and appeals to the to the Growth Management Hearings Board or any court, related to the Nonproject SEPA Appeal, the Redesignation and Rezone, and the Project SEPA (collectively, the “Claims”). This waiver and release of Claims is unconditional, immediate, and binding upon the Parties and their successors in interest, for all purposes in all proceedings hereafter.

3. Operative Effect. The terms of this Agreement, including without limitation the provisions of Section 2 herein, shall take effect only upon the City’s adoption as a part of the City’s 2019 Comprehensive Plan docket of the Redesignation and Rezone with such adoption redesignating and rezoning all three parcels constituting the Providence Heights Schools Site as Community Facilities and Community Facilities – Facilities respectively and without conditions. The City’s failure to approve such Redesignation and Rezone as described in this Section 3 shall result in the automatic termination of this Agreement with all provisions immediately becoming null and void.

4. No Admissions. The Parties to this Agreement understand, acknowledge and agree that the negotiation, execution and performance of this Agreement shall not constitute, or be construed as, an admission of any liability or infirmity of defense or claim whatsoever by any party hereto. This Agreement is a compromise of the unique circumstances presented herein and shall have no precedential value with respect to any other matter unrelated to the Claims as defined herein. This Agreement may not be used in any other legal proceeding, except as to the enforcement of this Agreement.

5. Third Party Beneficiary. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and the City of Issaquah shall be an express third-party beneficiary and may enforce the provisions hereof as if it were a party hereto. Without limiting the foregoing, the Parties agree that this Agreement shall not be amended or rescinded without the express consent of the City. Except as otherwise provided in this Section 5, no other person or entity will have any right hereunder.

6. Counterparts, Construction, and Severability. This Agreement may be executed in multiple counterparts, each of which shall contain an original, and all of which taken together shall constitute one and the same agreement; provided, however, that this Agreement shall be of no force or effect until signed by all parties hereto. This Agreement has been drafted by all parties hereto, and no provision shall be deemed to be construed against a particular party. In the event any provision of this Agreement is deemed to be invalid, such invalidity shall not affect the remaining provisions.

7. Jurisdiction and Venue. This Agreement shall be governed for all purposes by the laws of the State of Washington, and venue in King County Superior Court is hereby selected for all disputes arising out of the terms of this Agreement.

8. **Authority to Execute.** Each person who signs this Agreement represents and warrants that he or she has the right and authority to execute this Agreement on behalf of the Party for whom he or she signs. The Parties each represent and warrant that no consent of any person or entity who is not a party to this Agreement is necessary in order for this Agreement to be fully and completely binding on the Parties and their successors and assigns.

9. **Entire Agreement.** This Agreement and the Exhibit attached hereto represents the entire understanding of the Parties as to the subject matter hereof and supersedes any prior understandings or agreements between the Parties with respect to the subject matter hereof. There are no other representations, agreements, arrangements, or understandings, verbal or written, between or among the Parties that relate to the subject matter of this Agreement.

10. **Severability.** If any provision, or portion thereof, of this Agreement is deemed to be invalid under any applicable statute or rule of law, such invalidity will not affect the validity of the other provisions of this Agreement. The Parties will substitute the invalid provision with a valid provision that most closely approximates the intent of the invalid provision.

SIGNATURES FOLLOW

IN WITNESS WHEREOF, the Parties hereby acknowledge their agreement and consent to the terms and conditions set forth above through their respective signatures below.

ISSAQUAH SCHOOL DISTRICT No. 411

By: *Ron Thiele*

Printed Name: Ron Thiele

Title: Superintendent

Date: 1/13/2020

PROVIDENCE POINT UMBRELLA ASSOCIATION

By: _____

Printed Name: _____

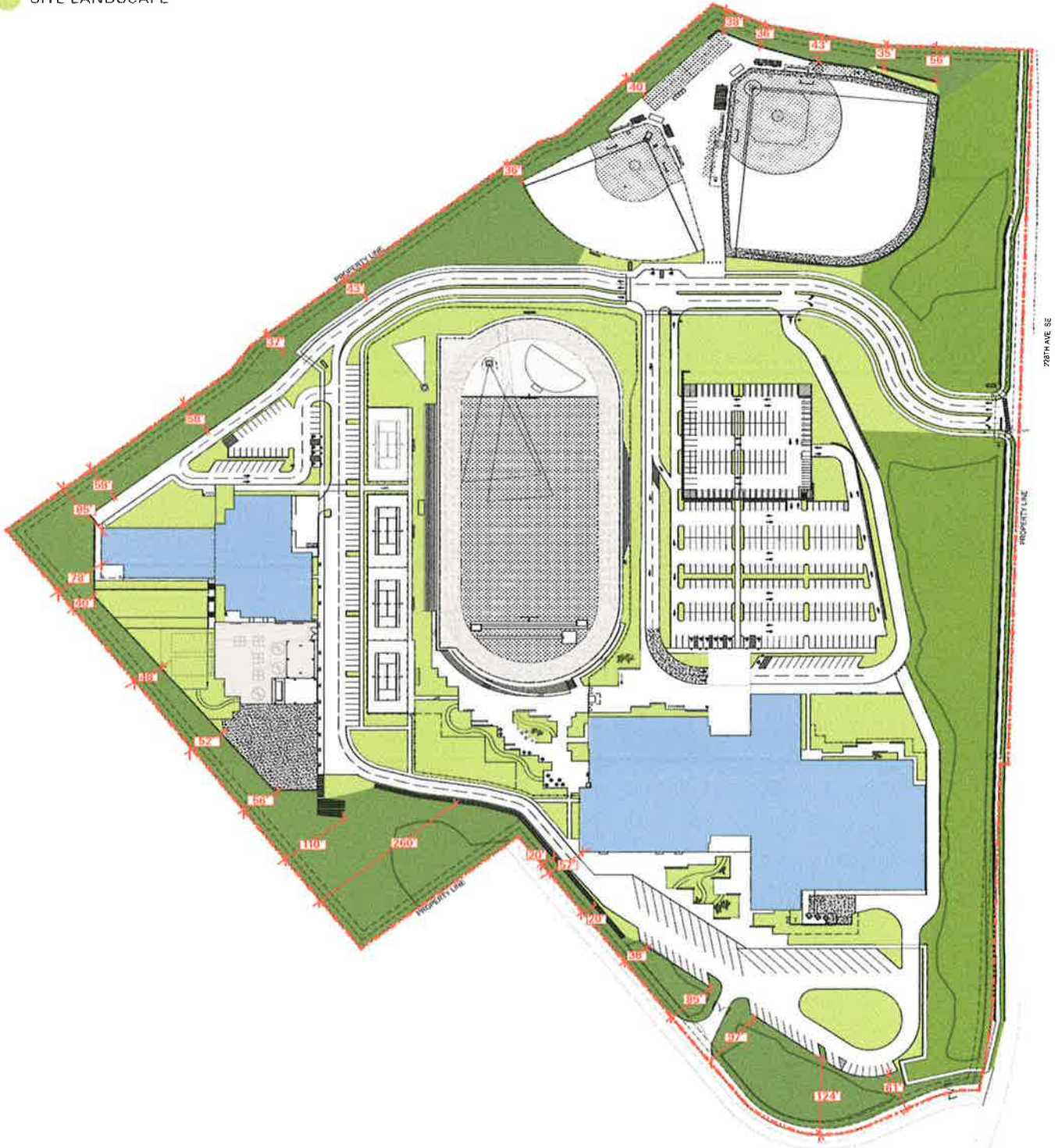
Title: _____

Date: _____

ISD HS #4 & ES #17 / CONCEPTUAL SITE PLAN

EXHIBIT A
CONCEPTUAL SITE PLAN

- NORTH, SOUTH AND WEST PROPERTY LINES:
AVG BUFFER WIDTH = 60.2'
- 228TH PROPERTY LINE:
AVG BUFFER WIDTH = 130'
- SITE LANDSCAPE



Conceptual Design; Not For Permit Review

12/10/2019 Conceptual plan for purposes of illustrating the District's proposal for minimum vegetated buffers in excess of CF-F zone requirements. Conceptual site plan is not code-compliant and not prepared for a project permit application. The size, location, orientation and other features of any buildings/improvements/access points located on the conceptual site plan may be modified prior to permit application.