



City of Cle Elum
ATTN: Planning Department - 47 Degrees North
119 W First Street
Cle Elum, WA 98922

June 15, 2023

To Whom It May Concern:

As President of the Association of Manufactured Home Owners (AMHO), I am concerned about the 527 manufactured home community that Sun Communities, Inc. is planning to develop within Cle Elum's jurisdiction, known as the: 47 Degrees North Project.

AMHO is the only statewide organization that represents the needs of manufactured home owners living in manufactured housing communities (MHCs). AMHO has been in existence since 2008 and has a track record of holding landlords and local governments accountable when it comes to protecting the rights of the most vulnerable home owners in Washington. AMHO has worked with several local jurisdictions over the years to improve the living conditions in MHCs, to encourage long term preservation of MHCs through local zoning ordinances and to ensure that low income families and seniors are able to age in place in their own homes, without fear of economic eviction – this unfortunately continues to be a work in progress, as in recent months we have seen rents dramatically increase. (Case in point – the home owners in one MHC saw their rent increase from \$350/month to \$1,000/month).

Home owners in MHCs are incredibly vulnerable and risk losing their largest asset (their home), if they can no longer afford to live in the MHC. Therefore, AMHO is asking that the City of Cle Elum give serious consideration to what it can do pro-actively to ensure the owners of these 527 homes (a significant number of families) have as many protections as possible, so that they can live peaceably in their own homes for as long as they choose.

Here are our requests (in no particular order):

1. The MHC is zoned as a manufactured housing community. This provides protection for the home owners as their homes only have value as long as the land under them remains as an MHC. Several jurisdictions including Walla Walla, College Place, Spokane, Bellingham, Tumwater, and others have enacted local MHC zoning ordinances over the years, so there are good ordinances to review and adopt.

2. Ensure that the landlord is required to maintain and upkeep the MHC according to applicable city code. If no code currently exists, then AMHO encourages the city to pass some health and safety inspection codes that would protect home owners should the landlord absolve themselves of such responsibility for common areas, roads in the community, as well as, infrastructure repair and maintenance over the long-term.

3. A rent formula, based on the CPI, be established to prevent rent gouging, and thus ensure that current home owners will not be economically evicted, thus exacerbating the affordable housing crisis that already exists.

4. Long-term leases should be required (at least 25 years). This gives home owners some security of tenure and should family circumstances force them to move out, then their home, with some years left on the rental agreement, may have more value when it comes to selling.

In addition, we also want to bring to your attention the Mobile/Manufactured Landlord Tenant Act (RCW 59.20) which provides some protections for manufactured home owners living in MHCs, including an opportunity to purchase the MHC should the landlord be willing to sell. This bill, along with longer notice (if the landlord wants to close the MHC) were hard won victories by AMHO and our allies during the 2023 legislative session.

Please do not hesitate to contact me at any time if you have further questions or comments.

Thank you.

Sincerely,

Anne Sadler, President
Association of Manufactured Home Owners (AMHO)
11453 Bayview Edison Road #10
Mount Vernon, WA 98273
www.wamho.org (website)
360-610-0358 (cell)

Virgil Amick

From: Connell,Valorie L (BPA) - TERR-PASCO <VLConnell@bpa.gov>
Sent: Wednesday, May 24, 2023 3:37 PM
To: Planning
Subject: 47 Degrees North BPA Review Comments
Attachments: 47 Degrees North - BPA ROW.pdf



[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Good afternoon,

It appears the new project 47 Degrees North impacts Bonneville Power Administration right-of-way (BPA).

An application for proposed use of BPA right-of-way would need to be filled out and submitted to BPA for review and approval prior to any activities taking place.

If you have any additional questions, please let me know.

Sincerely,

Val Connell
Realty Specialist | Real Property Field Services | (BPA) TERR-PASCO
Bonneville Power Administration
Office: 509-544-4746 | Cell:
VLConnell@bpa.gov

Helpful Links:
[Lands & Community \(bpa.gov\)](#)
[Landowner Safety - Bonneville Power Administration \(bpa.gov\)](#)



JohnsMonroe MitsunagaKoloušková

PLLC

Darrell S. Mitsunaga
Duana T. Koloušková
Vicki E. Orrico
Dean Williams
Patricia M. Army
Mary Joy Dingler

City of Cle Elum
Attention: Planning
Department/47 Degrees North
119 West First Street
Cle Elum, WA 98922
Via E-Mail: planning@cleelum.gov

June 22, 2023



Re: 47 Degrees North SEIS - PMU 2023-001.

To Whom It May Concern:

We represent City Heights Holdings LLC, developer of the City Heights project in Cle Elum, Washington. We hereby submit this comment letter to the 47° North SEPA Supplemental Environmental Impact Statement Addendum dated March 9, 2023.

The 47° North project is being developed concurrently with the City Heights project, and will involve many of the same issues related to utilities, infrastructure, transportation, and similar issues as the City Heights project. City Heights is greatly interested in collaborating with 47° North on any shared development considerations around utilities, infrastructure, transportation and the like.

While we have no comments on specific aspects of the 47° North project at this time, it is imperative, however, that the 47° North project not adversely effect the City Heights project. The City should take great care during the application process not to directly or indirectly impose 47° North project impacts on the City Heights project. The 47° North project should not be planned in a manner that relies on assumptions about the City Heights project without foundational agreements in place.

Sincerely,

A handwritten signature in black ink, appearing to read "Vicki Orrico".

Vicki E. Orrico

Direct Tel: (425) 467-9968
Email: orrico@jmmklaw.com

2023-06-22 Comment Letter 47 Degrees North SEIS



CITY OF ROSLYN

National Historic District and Preserve America Community

June 23, 2023

City of Cle Elum
119 W First Street
Cle Elum, WA 98922



Mayor McGowan,

The following comments are being provided from the Roslyn City Council regarding the application and SEPA Addendum related to 47 Degrees North within the jurisdiction of the City of Cle Elum. The City of Roslyn has concerns regarding both direct and indirect impacts as they relate to this pending application and request your consideration in your processing and review of the pending application upon submittal. Thank you in advance for your consideration and willingness to work together to create development within our upper county that facilitates preservation of our historical heritage, as well a reasonable balance that promotes economic development and growth in a manner that mitigates the impacts to our small but quickly growing community. We look forward to working together to provide the best possible outcome for this expected growth within our communities. We would request that is also please be passed along to your Council for their consideration as well.

Sewer Treatment Capacity

The City of Cle Elum owns and operates a regional sewage treatment plant (WWTF) which by agreement has reserved capacity for **Roslyn**/Ronald, Suncadia, So Cle Elum and Cle Elum. A four-party contract agreement defines the party's reserved allocation. 47 Degrees North would be served as part of Cle Elum's allocation. Per the agreement, Roslyn has reserved title to 21.27% of the total capacity of the treatment plant, or 0.766 MGD (assuming the WWTF achieves its design capacity of 3.6 MGD).

The City of Cle Elum's Environmental Documents for 47 Degrees North reported that:

- "City WWTP has adequate capacity to serve the project" – DSEIS, Page 1-14.

City of Roslyn
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clerk@ci.roslyn.wa.us

- “The City confirmed that the wastewater treatment demand is within the capacity of the City wastewater treatment plant, which was designed to accommodate the project.” – DSEIS, Page 3.14-17
- “The capacity of the regional WWTP is 3.6 million gpd.; the WWTP has adequate capacity to serve the SEIS Alternatives.” – DSEIS, Page 3.14-18
- Table 3.2 in the City’s Final Supplemental Environmental Impact Statement represents that the City has sufficient capacity in its allocated share of the treatment plant to serve 47 Degrees North – FSEIS, page 3-31
- “Similar to SEIS Alternative 6, wastewater capacity within the existing city facilities has been designed and specifically reserved to accommodate proposed development in the Cle Elum UGA” – SEPA Addendum Page 3.8-4 Utilities

Notwithstanding the statements above in the environmental documents, the most current independent analysis of the treatment plant capacity, that was provided to Roslyn¹ by Cle Elum in 2017, shows that Cle Elum (and to a lesser degree Suncadia) are trending to using significantly more of their allocated capacity than anticipated, creating a potential shortfall of 2,568 ERUs, or a 30% reduction in ERUs that can ultimately be connected to the plant. In other words, based on the latest independent data available to Roslyn, there is concern that Cle Elum may not have sufficient capacity in its allocation to serve 47 Degrees North without using capacity reserved for other parties.

This data, which indicates a potential serious shortfall in treatment capacity, was available prior to the EIS process but was not included in the EIS. Roslyn is concerned that if 47 Degrees North is approved without this issue being analyzed in detail and resolved, it could result in Cle Elum committing treatment capacity that it does not possess to a 3rd party developer, adversely affecting Roslyn’s rights and allocated capacity under the agreement.

Our request: Roslyn requests that the SEPA Addendum be revised to address WWTF capacity in detail, and that new studies be conducted to follow up on the 2017 HLA study and determine if sufficient capacity exists in the plant to serve 47 Degrees North, or not. We request no action on 47 Degrees North until this issue is resolved.

Police Service

By contract, the City of Roslyn is served by the City of Cle Elum’s Police Department (aka Cle Elum/Roslyn Police Department). Under the terms of the agreement Roslyn pays Cle Elum for cost of service yearly. In 2021 Cle Elum informed Roslyn that increasing cost of equipment and personnel required that charges for police service would increase approximately 20% per year for the years 2022 -2024, a very significant fiscal impact on the City of Roslyn’s general fund. With this recent experience of rapidly increasing law enforcement costs, Roslyn is very

¹ Harding Lawson Associates 2017 Regional Sanitary Sewer Capacity Analysis
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concerned with the potential impacts of 47 Degrees North on the cost of police services and how impacts will be funded and assigned.

The City of Cle Elum's Environmental Documents report that 47 Degrees North will require the Cle Elum/Roslyn Police Force to double in size (DSEIS Pages 1-12 and Pages 3.12-24, 25) and this will obviously significantly increase the cost/budget of the Cle Elum/Roslyn Police Department. The FSEIS and Addendum included fiscal analyses of increasing costs vs collected revenues on Cle Elum's general fund (the police force is funded from the general fund). While the analyses showed that the cost of police service would increase significantly over time as a result of buildout of 47 Degrees North, it did not disclose what the impacts on the City of Roslyn would be, either cost impacts or service level impacts. But what it did disclose is cause for significant concern.

The analyses show that in the long run after buildout, tax revenue from the RV Resort and Manufactured Home Community are not sufficient to cover the cost of police and fire service². And the analysis only included yearly operating costs, it did not include capital costs, although our current police station clearly cannot support a doubling of the police force.

The Environmental Documents suggested how shortfalls will be funded. DSEIS, Exhibit K states:

"should future mitigation become necessary—consistent with typical municipal budgeting practices, the City could impose new taxes or fees to balance its budget or seek to change levels of public services to meet available revenues, or a combination of both approaches."

Roslyn's concern is how reasonably anticipatable shortfalls and increased capital costs will be funded and costs apportioned. Will they be absorbed by the developer, by increased taxes in Cle Elum or by increased "fees" that include Roslyn. Currently Roslyn has severe fiscal constraints and it is imperative that we know how anticipated shortfalls will be funded.

Roslyn requests that the application and Addendum be revised to specifically address how potential funding shortfalls will be monitored and addressed and possible impacts on Roslyn. We request no action on 47 Degrees North until this issue is resolved.

Transportation Impacts

Roslyn is concerned with the size of 47 Degree North and its impact on all upper county traffic, but particularly traffic through Roslyn. 47 Degree North has the potential to almost double the population of UKC during peak summer periods yet the traffic analysis generally predicts relatively modest impacts and mitigations. Roslyn is very concerned that the traffic analysis did not model upper county traffic patterns correctly and subsequently understated impacts/mitigations.

Specifically:

· It's not clear that all full buildout traffic of already approved, but not yet completed, major developments in UKC Suncadia, City Heights, Ronald PUD/Hotel, etc.) was included in the

² The addition of a large new retail generates sufficient sales tax on paper but requires full buildout of the center to do so, which is highly speculative

traffic modeling. These projects have legal vested rights to be completed and add their traffic. If this traffic has not been included then congestion from adding 47 Degrees North would be understated, likely significantly.

It's not clear that the analysis included and made adjustments for large RV vehicles, many of which could be bus size. Typically transportation studies will estimate and include oversize vehicle trips because they significantly magnify congestion. Since the developer is proposing perhaps the largest RV resort in the western US, it's reasonable to assume oversize vehicle traffic will be significant, and should be included. We are particularly concerned with large RV vehicles traveling up valley and its impact on Roslyn's congestion and narrow historic streets.

- It is not clear what occupancy rate was used for the RV resort and Manufactured Home community during peak summer periods. We believe 100% occupancy should be assumed unless there is specific data or a developer commitment to limit occupancy. Also the trip generation rate used for the RV resort (0.27 trips/site), internalization rate (23%) and directional assumptions (50% in / 50% out) all seem very low for peak summer turnover periods. It's also not clear how many of the trips (especially oversize vehicle trips) were assigned to Roslyn. These factors could all significantly change predicted impacts on the Roslyn.

- Although the traffic analysis looked at peak summer weekend periods (which is UKC's peak) and noted that those periods had the worst congestion, it stated flatly that those periods could be ignored for mitigation because they were transient. Specifically... "Improvements to mitigate intersections anticipated to operate at non-compliant LOS during the Friday and Sunday summer PM peak hours were not identified because it is not standard traffic engineering practice to mitigate for traffic conditions that only occur for a few hours a week during the summer months." This approach is unreasonable and ignores UKC's unique traffic patterns and congestion periods. Congestion is congestion, whenever it occurs.

Essentially the traffic analysis defaults to a classic urban model where the highest congestion is weekday PM or AM commute to work (bedroom to employer), and all mitigation is built around that. But UKC patterns do not follow the classic urban model, rather peak traffic is driven by the summer recreation season and weekend visitors and this is very predictable. Ignoring congestion during weekend peak periods is not reflective of actual patterns in UKC and is not reasonable.

- The SEIS contained insufficient analysis or discussion of potential catastrophic wildfire escape routes and how congestion exacerbated by large RV's/47 Degrees North would affect that. This is a real concern to Roslyn and those farther up valley because of our recent near catastrophic experience with the Jolly mtn. fire.

- For Roslyn, traffic counts were not gathered during peak summer, but rather they were gathered in December 2019 and then adjusted by equation as a proxy for actual summer counts. This may be a standard engineering method for estimating missing data, but in this case it is suspect. We believe that summer peak weekend traffic through town may be 200% to 300% more than mid-winter traffic. This has a big impact on the results of the analysis and actual

summer peak counts should be performed. We note that additional traffic counts were conducted in early summer 2022 for select intersections, but Roslyn was not included in that count update.

· Currently the only transportation mitigation proposed for Roslyn is a new 4-way stop at Pennsylvania Ave and SR 903 (intersection 21). There was no analysis in the reports on how this 4-way stop would function, what the queue backups at each leg would be, estimated delays and discussion of how the city's downtown would function. Would peak summer queue backups on 903 or Pennsylvania Ave extend to adjacent intersections and block them?

We are very concerned that gridlock in downtown Roslyn during peak summer periods, and this concern is not unwarranted. Even the current traffic analysis, which there is reason to believe may understate impacts, shows that Level of Service in the city's downtown will drop to LOS F (gridlock).

We are concerned that the proposed 4-way stop may actually make the problem worse. We are concerned that congestion on 903 will create a significant bypass effect on our residential streets as drivers try to bypass downtown to get to their up valley destinations, creating safety problems. We are concerned that congestion in the downtown core will have a detrimental effect on our businesses as customers have difficulty accessing our businesses. Sales tax revenue is a small but important part of our general fund and it's important we maintain access to the businesses in our town. Ironically, it is conceivable that congestion in our downtown core could drive business from Roslyn to the new 47 Degree North commercial center.

In short, we believe impacts on Roslyn were not adequately analyzed and disclosed, and that the review of impacts on Roslyn was cursory and an afterthought.

Our Request: Roslyn requests that the SEPA Addendum be revised and the traffic study be updated to address our concerns and fully analyze impacts to our downtown. After the updated study is completed we would like to meet and discuss mitigations or changes to the project. We request the city take no action on 47 Degrees North until this issue is resolved.

47 Degrees North Retail

The new 47 Degrees North application now includes a 25 acre/150,000 sq. ft. retail center³. This proposed new retail center would dramatically increase the amount of retail acreage in Cle Elum and in relatively close proximity to Roslyn's downtown area. We have a small downtown core, relative to Cle Elum, but it's vital to our tax base and general fund budget. We have been looking to expand the retail opportunities in Roslyn's downtown, but even if we are successful it would never be big enough to really compete with Cle Elum's retail base. But the reverse is not true, the proposed 47 Degrees North retail center could have a significant effect on our downtown retail.

³ The current Bullfrog Flats approval prohibits retail on the Bull Frog Flats property.

Our Request: We note that there is no study in the SEPA Addendum of the impact that a large new retail center will have not only on Roslyn's downtown but also on Cle Elum's downtown and Safeway retail complex. This is a potentially huge unstudied fiscal impact. We request that the SEPA Addendum be revised to include a study of the impact of the new retail center on Roslyn and UKC's other existing retail areas. We request the city take no action on 47 Degrees North until this issue is resolved.

A handwritten signature in black ink, appearing to read "Brent Hals".

Brent Hals, Mayor
City of Roslyn



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Denise L. Stiffarm
denise.stiffarm@pacificallawgroup.com

June 23, 2023

Via email: planning@cleelum.gov

Attn: Planning Department/47 Degrees North
City of Cle Elum
119 West First Street
Cle Elum, WA 98922

RE: Comments re 47 Degrees North/Bullfrog UGA Mixed Use Development
(Project File No. PMU2023-001) – Notice of Application for Proposed
Modifications to the Bullfrog UGA Master Site Plan and Development
Agreement/SEIS Addendum

To Whom It May Concern:

Please accept the following Cle-Elum Roslyn School District (the “School District”) comments regarding the above-referenced project (the “Project”). The School District is currently in conversation with the Project applicant (the “Applicant”) related to the school mitigation needed to serve the Project and desires to continue those collaborative discussions. The District files these comments to identify school mitigation needs generally and related considerations for purposes of the Project record.

The Project will impact significantly the School District’s and, by extension, the community’s school facilities and operations. The School District’s service boundaries include the entirety of the planned 757 new homes (527 single-family dwelling units and 230 multi-family units) in the Project.¹ While the School District looks forward to serving the new families, it also must assure that the school system will be able to serve adequately these families without compromising service to existing School District community and residents. This concern is particularly relevant given that the elementary school population is currently over program capacity.

¹ We understand that the additional 627 recreational vehicle sites planned in the RV Resort within the Project would be restricted to temporary use/occupancy. However, given information in the SEIS Addendum (pps 2-11 through 2-12) indicating that seasonal passes would allow occupancy for up to nine months in a calendar year, the School District has some concern that the Project’s RV Resort may generate additional students to the School District. Importantly, the comments and information herein does not account for the potential of these additional students. The City should either ensure that adequate protections are in place to restrict further long-term residency in the RV resort to address school-age residents or revise the environmental analysis to account for the potential of additional students in the Project.

RCW 58.17.110 and Section 16.12A.050 of the City's Code make subdivision approval contingent on a finding that, among other things, "[a]ppropriate provisions are made for . . . schools and school grounds, . . . and other planning features that assure safe walking conditions for students who walk to and from school[.]" Furthermore, the State Environmental Policy Act (SEPA), Chapter 43.21C RCW, provides processes and procedures whereby major actions by state and local agencies, including, but not limited to, plat or PUD approval or the issuance of building permits, may be reviewed to determine the nature and extent of their impact on the environment. Impacts on public services, including schools, are environmental impacts.

The potential new families and students in the Project, on its own and using conservative estimates, translates to approximately 234 additional students at buildout of the 757 new homes. See *P. 3.7-4 of the Revised 47° North SEIS Addendum (March 9, 2023)*.² The Project only increases the already significant cumulative impacts of surrounding residential development in process in the School District. The District's contracted demographer estimates that the District's student population will increase by 448 students, or 48%, between 2022 actual enrollment and 2032, and that growth will occur at all grade levels. The projections consider existing student census as well as students projected from known residential development within the School District (including the Project). *SEIS Addendum, pps. 3.7-3 and 3.7-4*. The demographer uses estimated student generation rates, among other things (e.g., cohort progression), to project student generation from expected new development. A total of 0.40 K-12 students are expected from each new single family unit and, conservatively, a total of 0.10 K-12 students are expected from each new multi-family dwelling unit.³ *Id.*

The SEIS Addendum, like the FSEIS before it, recognizes generally the impacts to school facilities and operations but is unable to quantify those impacts. The review notes that projected student population will exceed existing School District facility capacity of 970 by 2024, and that new development "could exacerbate the need for new or expanded facilities." SEIS Addendum at 3.7-15. It also recognizes the Project's impact on school staffing and school transportation, causing a need for approximately 16 additional teachers and four to five new school buses. SEIS Addendum at 3.7-7. The District notes that, while the SEIS Addendum recognizes potential tax increases and public revenue sources, it does not specify the necessary additional support staff, operations costs, and ongoing transportation costs directly related to the Project's student generation. These costs will not be insignificant.

While the School District agrees with some of the suggested school mitigation at page F-35 in the SEIS Addendum (that is reimbursing the School District for system start-up costs related to the Project and contributing to the cost so needed school buses), the School District disagrees with the assumption in the SEIS Addendum that school capacity impacts from the

² Again, these figures assume that the Project's RV Resort will not generate students to the school system.

³ Importantly, the School District's demographer, in preparing the student generation rates, noted that the multi-family student generation rate is conservative given that precise bedroom counts are not known for the multi-family units proposed in the Development. See Exhibit A (also note that the demographer did not include the 50 affordable multi-family housing units planned in the Project when determining the anticipated student generation).

Project can be addressed with the Applicant's contribution "to the costs of portables." Portable facilities, which are by name and design intended to be temporary housing solutions, are not appropriate for the long-term housing needs of more than 234 new students in the school system. Furthermore, the School District's existing school sites and core building facilities will not support adding portables for multiple reasons (limited drain field and sewage, topography and slopes, existing over-taxed core facilities). Even if the existing school sites could add portables, the School District does not agree that portables are an acceptable long-term solution to serve the nearly 800 new homes and families that will join the community.⁴

The School District appreciates that the SEIS Addendum recognizes its planning for an eight to ten classroom Early Childhood Learning Center ("ELC") to provide additional classroom and core facilities for preschool, transitional kindergarten, Early Childhood and Assistance Program (E-Cap), and kindergarten. See Section 3.7.1 of the SEIS Addendum. However, the planned ELC facility, at the current planned capacity, would address existing School District capacity needs and would not accommodate the additional students anticipated from the Project. Additional capacity at the ELC would be required for that purpose, which, if constructed as a part of the ELC project, could alleviate existing capacity constraints at the elementary level and throughout the K-12 system.

Given the above, the School District urges the City of Cle Elum to consider the following when crafting conditions for the Project:

- Ensuring appropriate school capacity mitigation through the funding of permanent (not portable) capacity improvements needed to serve students expected from the Project;
- Consideration of unfunded costs related to increased school operation costs to serve the new students from the Project;
- Addressing costs related to the increase in school transportation needs (both vehicle costs and operations expenses); and
- As a part of the plat process, addressing the requirement for safe walking routes for students from the Project who either walk to school or access school bus transportation.

The School District is willing to provide the City and the Applicant with additional information to inform the conditions.

The School District looks forward to continued conversations with the Applicant and the City regarding the Project. Please include myself and the School District's Superintendent

⁴ The District acknowledges the transfer in 2003 from Trendwest, the Applicant's predecessor-in-interest, of a 35-acre parcel of land a project mitigation measure for future school needs. The District recently constructed a new transportation facility on a portion of this property. The configuration of the property and lack of access makes full utilization difficult.

Planning Department/47 Degrees North
June 23, 2023
Page 4

(belcherj@cersd.org) and Executive Director of Finance and Operations (greenhawe@cersd.org)
as parties of record.

Sincerely,

PACIFICA LAW GROUP LLP

A handwritten signature in black ink, appearing to read "D. Stiffarm", with a stylized flourish at the end.

Denise L. Stiffarm

cc: John Belcher, Cle Elum-Roslyn School District
Elizabeth Greenhaw, Cle Elum-Roslyn School District

EXHIBIT A
EDS STUDENT GENERATION RATES

Student Generation Rates

Projected Students from the Largest Developments							
Using Best Available Unit Counts							
Project (Largest Developments)				Estimates by Level			
		Units	SG Rate	Students	Elem @ 60%	MS @20%	HS @20%
City Heights*	SF	962	0.4	385	230.88	76.96	76.96
	MF	0	0.1	0			
Total				385			
		Units	SG Rate	Students			
47 Degrees N.*	SF	543	0.4	217	130.32	43.44	43.44
	MF	180	0.1	18			
Total				235			
<p>The City Heights development mentions some apartments, duplexes, and townhomes but we do not have any unit counts, so for now we have treated all the units as single-family. One and two bedroom apartment units are likely to produce the lowest rate, whereas duplexes and townhomes could produce rates that are comparable to single family, IF they have 3 bedrooms. Given the sheer number of units proposed we may see rates higher than 40 students per 100 for single-family homes. But the lower estimate of 40 per 100 units allows for the fact that we don't have more detailed unit plans at this time.</p>							
<p>47 Degrees North may include some 3+ bedroom apartments in the 180 unit count but we do not have any unit counts for those, so we have used the lower student generation rate for apartments.</p>							



CFRSD Trends and Projections

Virgil Amick

From: Connor Armi <connor.armi.hsy@colvilletribes.com>
Sent: Tuesday, May 2, 2023 9:19 AM
To: Virgil Amick
Cc: Guy Moura; Hanson, Sydney (DAHP); rob.whitlam@dahp.wa.gov
Subject: Re: Bullfrog UGA Modification NOA



[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Hello Virgil,

This consultation is in response to the Bullfrog UGA Modification NOA.

This will be an ongoing consultation throughout the various phases of this project as there are numerous areas of concern.

The proposed project lies within the traditional territory of the Wenatchi Tribe, 1 of the 12 constituent tribes of the Confederated Tribes of the Colville Reservation (CTCR), which is governed by the Colville Business Council (CBC). The CBC has delegated to the Tribal Historic Preservation Officer (THPO) the responsibility of representing the CTCR with regard to cultural resources management issues throughout the traditional territories of all of the constituent tribes under Resolution 1996-29. This area includes parts of eastern Washington, northeastern Oregon, the Palus territory in Idaho, and south-central British Columbia.

There are several known cultural resources of historic and pre-contact significance nearby, and this project area is considered Very High Risk for an inadvertent discovery according to the DAHP predictive model. The prior cultural resource surveys for the area are inadequate for the current proposed implementation. Previous surveys are also over a decade old and do not encompass the project APE. The previous surveys paid little to no attention to Traditional Cultural Properties or ethnobotanicals which are considered cultural properties.

Please be advised that documented Traditional Cultural Properties (TCPs) are located less than a mile from the proposed project areas.

TCPs are places important to the CTCR for the preservation and continuation of the community's traditional lifestyle. TCPs can be, but are not limited to, religious areas, sacred areas, resource gathering areas (plant, animal, fish, and mineral), places associated with stories and legends, archaeological and ethnographic sites, habitation sites, camp sites, pictograph and petroglyph locations, special use sites, trails, and places with Indian names.

For native people, natural resources are cultural resources. Traditional cultural plant resources are not only cherished for fiber, food, medicine, and building material, but are an intrinsic aspect of indigenous sovereignty; these plants link the people of the present to the people of the past.

The intensity of the proposed ground disturbing activity would likely completely destroy known and unknown cultural resources; as well as render inaccessible currently known resources for damage assessments and monitoring. Documentation during construction under an inadvertent discovery plan is costly as work must halt for full site documentation at each instance of an inadvertent discovery. There are known pre-contact human remains within the project APE.

A new cultural resource survey is requested which should include the pedestrian survey and subsurface testing. Survey should include a full ethnographic background for the project implementation area and include traditional cultural properties and an ethnobotanical survey. During project implementation, the CCT H/A recommends that there also be an inadvertent discovery plan or (IDP) in place to ensure compliance with all Section 106 and relevant cultural resource laws both federally and to the state of Washington. The cultural resource review should include systematic subsurface testing as the proposed project would irreparably alter the landscape, view shed, and other natural and geological attributes which provide the background and setting for other nearby Traditional Cultural Properties.

We will look for DAHP concurrence on this project.

Thank you for consulting with the Colville Confederated Tribes History and Archaeology Program.

Connor Armi | Archaeologist Senior MA, RPA

History/Archaeology Program

Confederated Tribes of the Colville Reservation

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connor.armi.hsy@colvilletribes.com

On Thu, Apr 27, 2023 at 11:04 AM Virgil Amick <vamick@cleelum.gov> wrote:

Please see attached NOA

Virgil Amick



Permit/Office Technician



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Central Region Office

1250 West Alder St., Union Gap, WA 98903-0009 • 509-575-2490



May 26, 2023

Virgil Amick
City of Cle Elum
119 West First Street
Cle Elum, WA 98922

RE: 202301946; PMU-2023-001

Dear Virgil Amick:

Thank you for the opportunity to comment on the Determination of Non Significance for the 47 Degrees North Project Notice of Addendum. We have reviewed the documents and have the following comments.

Water Resources

Dust Control from a Well

If you plan to use water for dust suppression at your project site, be sure that you have a legal right. In Washington State, prospective water users must obtain authorization from the Department of Ecology before diverting surface water or withdrawing ground water, with one exception. Ground water withdrawals of up to 5,000 gallons per day used for single or group domestic supply, up to 5,000 gallons per day used for industrial purposes, stock watering, and for the irrigation of up to one-half acre of non-commercial lawn and garden are exempt from the permitting process. Water use under the RCW 90.44.050 exemption establishes a water right that is subject to the same privileges, restrictions, laws and regulations as a water right permit or certificate obtained directly from Ecology. Temporary permits may be obtainable in a short time-period. The concern of Water Resources is for existing water rights. In some instances water may need to be obtained from a different area and hauled in or from an existing water right holder. If you have any questions or would like to respond to these Water Resources comments, please contact Christopher Kossik at (509) 379-1826 or email at christopher.kossik@ecy.wa.gov.

Sincerely,

Joy Espinoza, Central Region Director's Assistant for Lucila Cornejo
SEPA Coordinator
Central Regional Office
(509) 208-4590
crosepacoordinator@ecy.wa.gov



State of Washington
DEPARTMENT OF FISH AND WILDLIFE
South Central Region • Region 3 • 1701 South 24th Avenue, Yakima, WA 98902-5720
Telephone: (509) 575-2740 • Fax: (509) 575-2474

June 26, 2023

Planning Department
City of Cle Elum
119 West First Street
Cle Elum, WA 98922



SUBJECT: WDFW COMMENTS ON 47⁰ NORTH PMU 2023-001

Dear City of Cle Elum,

Thank you for the opportunity to comment on the updated plans for the *47⁰ North Project* (project). The Washington Department of Fish and Wildlife (WDFW) has specialized knowledge of the wildlife and critical areas which intersect the project area. These comments are in addition to our comments submitted in August 2021 (incorporated by reference). We remain very concerned about the acknowledged significant impacts to wildlife and wildlife connectivity that are still not sufficiently mitigated for in the proposed project. As the agency of expertise and as an agency party to the existing Cooperative Agreement for the Suncadia Master Planned Resort, we look forward to working together to address our concerns.

The proposed development will permanently and negatively impact wildlife and wildlife movement through this project area. The open space corridor between the developed area and Interstate 90 is too narrow and steep to provide a meaningful wildlife movement corridor. The open space habitat does not intersect with the existing wetlands or wetland buffer areas, virtually eliminating all wildlife use of these important wetland habitats. On top of the disconnected, narrow, and steep terrain, a developed trail network is proposed within the open space areas, further decreasing the likelihood of meaningful wildlife use. WDFW supports trail networks and public use of natural areas, but these recreational uses must be done with careful and thoughtful planning to avoid and minimize impacts to wildlife and their habitats. We stand as ready partners to collaborate on more compatible recreational uses throughout the development and especially for the roads, trails, trailhead parks, and open spaces.

The development as proposed will result in significant loss of mature forest. We strongly recommend that all trees, rootwads, and slash from clearing be used to enhance fish and wildlife habitat. This material can be used to enhance wildlife cover in the open space areas and/or donated to riverine habitat projects that will benefit native aquatic species. Given the significant impacts to fish and wildlife habitat conservation areas associated with the proposal, we believe donation of all the timber products should be a requirement in the development agreement to help mitigate the long-term impacts associated with this project.

WDFW is an advocate for the preservation of critical habitats through conservation easements. We believe a conservation easement should be required for the open space areas outside of the existing Cle Elum River Corridor to ensure the remaining habitat continues to provide habitat for wildlife in perpetuity. The trail networks shown and vague descriptions of allowed uses are not compatible with the protection of wildlife or habitat. A conservation easement can provide permanent protection of remaining habitat as well as opportunities for site specific educational opportunities and suitable recreational uses for the property, compatible with native wildlife needs. We have an existing and successful model for a conservation easement along the Cle Elum River Corridor and we believe this type of agreement offers better long-term protection of critical areas than simply designating an area as "open space" and offers residents of the new community opportunities to learn more about the species and habitats around them through outreach events.

We are concerned about the overall ability for wildlife to move through the proposed development as well as lack of proactive measures to reduce the potential for increased human-wildlife interactions as wildlife is displaced by this project. We are concerned the result will be increased interactions resulting in nuisance and/or dangerous encounters with wildlife for residents and users in the project area. Proactive measures to address these concerns should be included in the Development Agreement and/or the Land Stewardship Plan. At a minimum, bear proof garbage containers should be a requirement throughout the project area and educational outreach requirements about living near wildlife such as bears, cougars, elk, deer, raccoons, skunks, turkeys, and others.

We offer these concerns, recommendations, and requests for consideration to ensure the fish and wildlife habitat conservation areas on and adjacent to this property are protected consistent with the purpose of the Cle Elum Critical Areas Ordinance (Cle Elum Municipal Code 18.01.010), which is to "...protect critical areas and to channel development to less ecologically sensitive areas" and with the best available science (RCW 36.70A.172).

Our previous requests for meetings to review Land Stewardship Plans and the Cooperative Agreement have gone unmet to date, but we look forward to meeting with the proponents and the City to gain a shared understanding of existing agreements and move forward with plans to adequately mitigate impacts to Fish and Wildlife Habitat Conservation Areas, consistent with the City's purpose statement in the critical area ordinance. The project as proposed, with the significant impact to wildlife habitat and mobility, is not consistent with the purpose statement for the City's Critical Areas Ordinance or Best Available Science.

Sincerely,

A handwritten signature in cursive script that reads "Jennifer Nelson".

Jennifer Nelson
Fish and Wildlife Biologist
Jennifer.Nelson@dfw.wa.gov
(509) 961-6639

MEYER, FLUEGGE & TENNEY, P.S.

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OF COUNSEL

GARY E. LOFLAND



carmody@mftlaw.com

April 14, 2023

Via Email

City of Cle Elum
Attn: Gregg Dohrn
119 West First Street
Cle Elum, WA 98922
gdohrn@cleelum.gov

Re: Sun Communities, Inc. – Application for Major Modification to the Existing Development Approvals for the Bullfrog Flats UGA

Dear Mr. Dohrn:

We represent Kittitas County Public Health District No. 1 and Kittitas County Public Health District No. 2. ("Kittitas County Hospital Districts"). As you are aware, Kittitas County Hospital Districts will be directly and adversely impacted by Sun Community's proposed major modification of the Bullfrog Flats UGA Master Site Plan. We urge a cautious approach that must include a complete and independent study of project and land use change impacts on medical and emergency services provided by Kittitas County Hospital District. In the absence of such study, we believe that the application is not complete for processing.

Sun Communities has now submitted an application for (1) a major modification of the Bullfrog Flats UGA Master Site Plan approved by the City in 2003; (2) a boundary line adjustment/lot consolidation; (3) a preliminary subdivision for a new-family residential community; and (4) an amendment and restatement of the existing development agreement applicable to the sub-area. The evaluation, assessment and mitigation of impacts arising from or related to the application is complex, significant and material as it relates to medical and emergency services. While we participated in earlier stages of review, the scope and substance of comment was particularly challenging because of three factors: (1) the environmental review, assessment and evaluation took place without the benefit of a filed application (including specific project level disclosures and information); (2) incomplete understanding of project impacts on service funding and property tax levy impacts; and (3) the unique considerations of providing rural health in a depressed market.

We do not believe that the application is complete for processing as it relates to study and analysis of impacts to medical and emergency services. It simply does not include sufficient and complete information for meaningful review and comment as it relates to medical and emergency services. We have previously provided written comments and met with staff to address the impacts and informational

deficiencies in the context of environmental review.¹ We requested that an independent study be prepared to identify, evaluate and mitigate project specific impacts on medical and emergency services. The current review process has included studies and technical memoranda regarding noise, transportation, and a wide range of other impacts. Medical and emergency services are equally important and should be appropriately studied and analyzed in a comparable manner. The City has authority to require "...[s]uch other information or studies ..." as are deemed necessary to fully evaluate a proposal for a mixed use development. See CEMC 17.45.080(F). A complete application should include an independent study on impacts to medical and emergency services.

The application process contemplates the development and provision of information and studies sufficient to fully evaluate and assess impact on public services, including specifically impacts on Kittitas County Hospital Districts. The current record, as submitted, does not contain sufficient information, study and analysis. As it relates to medical and emergency services, there is no specific analysis regarding impacts to EMS levy funding for the districts; appropriate levels of service to assure quality care and emergency responses for the entire community; staffing and facility needs and requirements; depressed conditions and challenges in provision of health care services to the community; and an integrated review of development impacts to public facilities related to emergency services (e.g. transportation impacts and facilities). This information is necessary for any meaningful assessment of impacts from the proposed project.

Sun Communities has painted its application with a broad brush. It has made a range of generalized assumptions regarding the project: e.g. impacts to emergency services should be based on "population"; assumed occupancies within the recreational vehicle park will be fifty percent (50%); the absence of seasonal occupancy variations; no consideration of the unique impacts on staffing and services in a challenged economic region; transportation impacts on emergency responses; and matters related to phased development and project timing impacts to medical and emergency services. And perhaps most critically, impacts and changes in care and funding of emergency services resulting from the change in land use.

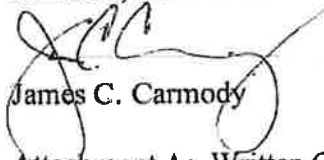
Our point is not to fully debate these issues, impacts and considerations. Our concern is for development of complete and independent study and analysis to lead to a fully informed final decision. The City should share this goal and purpose. It will be the community that suffers if meaningful review falls short. Sun Communities' application is not sufficient to allow for meaningful and critical assessment of this massive and unique project proposal.

¹ Kittitas County Hospital Districts provided written comment on November 7, 2022. *Attachment A*. That correspondence outlined specific concerns regarding the review process, sufficiency of information and lack of appropriate study of impacts on medical and emergency services. We specifically requested that a study by an independent consultant be prepared that evaluated, assessed and proposed mitigation alternatives to address project specific impacts on the Kittitas County Hospital Districts. We followed that letter with a meeting to address the issues. No study was prepared and a superficial response was included in the recently filed *Addendum* to the *Final Supplemental Environmental Impact Statement* issued April 16, 2021.

As always, we remain committed to a focused dialogue on these issues in order to assure effective and financially responsible provision of medical and emergency services to the community.

Very truly yours,

MEYER, FLUEGGE & TENNEY, P.S.

A handwritten signature in black ink, appearing to read 'James C. Carmody', is written over a circular stamp or seal.

James C. Carmody

Attachment A: Written Comment on November 7, 2022

ATTACHMENT A

MEYER, FLUEGGE & TENNEY, P.S.

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November 7, 2022

Via Email

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Richard Weinman
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Re: Sun Communities Supplemental Environmental Impact Statement

Dear Messrs. Dohrn and Weinman:

We represent Kittitas County Public Health District No. 1 and Kittitas County Public Health District No. 2. ("Kittitas Hospital Districts").¹ We are writing to express concerns and ask questions about the current environmental review and future processes related to an anticipated application to be filed. The land use proposal will have a significant adverse impacts on both Kittitas County Hospital Districts as well as the community they serve. As you are aware, Kittitas County Hospital Districts provide emergency medical services (EMS), primary and emergency medical care, and wide range of other medical and health care services and facilities to the community. We are facing challenging times as a community and as a service

¹ Each Public Hospital District is independently established and governed by five (5) elected Commissioners. Hospital District #2 extends to the top of Snoqualmie Pass at the King County line and includes the communities of Snoqualmie Pass, Easton, Ronald, Roslyn, Cle Elum and South Cle Elum. Hospital District #2 operated Medic One Ambulance Service which is housed in Cle Elum. Hospital District #1 leases the Family Medicine Clinic in Cle Elum from Hospital District #2 and employs the staff and providers in the clinic. Specialty Services are also provided from this location and include integrated behavioral health, treatment for opioid use disorder, physical therapy, dietary consults, orthopedics, obstetrics, gynecology, dermatology and podiatry. Hospital District #1 also operates an Urgent Care Clinic as well as a full service Critical Access Hospital, including an Emergency Department, in Ellensburg. Public Hospital Districts have provided detailed staffing, financial and related information through each of the review processes related to development within the Bullfrog Flats subarea.

provider. Our primary concern, as with all other service providers, is maintenance of necessary service levels and financially responsible management of services. Sun Community's anticipated land use proposal will place extraordinary burdens on all service providers.

Kittitas County Hospital Districts have been active participants for more than two decades in the planning and environmental evaluation for the Bullfrog Flats UGA subarea. The subarea has been planned primarily for permanent residential housing. Sun Communities is now proposing the conversion of the subarea to a single owner destination recreational vehicle park and resort.² The type of development coupled with massive size of the area will place extraordinary demands on the provision of emergency, medical and healthcare services to the community.

I apologize in advance for the length of this letter. We wanted, however, to outline with some detail our concerns, particularly as it relates to the process and the impacts on the districts. I would also add that the analysis of impacts to public service providers is complex particularly where an applicant introduces a massive land use proposal service a transient population.

Background and Current Status of Environmental Review Processes.

In 2002, Trendwest Resorts (now Suncadia) and the City of Cle Elum completed a final environmental impact statement (Final EIS) for the proposed master planned development in the Bullfrog Flat Urban Growth Area. The City subsequently adopted a subarea plan for the UGA, approved a master plan for the site, and at the request of Trendwest annexed the area. The City and Trendwest also entered into a development agreement, which contains 120 conditions of approval related to the specific land use plan for the area. That plan specifically rejected alternative proposals that included proposed RV parks and transient housing.

In 2019, Sun Communities Inc., a potential developer interested in the Bullfrog Flats UGA subarea, formulated a revised master site plan for the conversion of the Bullfrog Flats UGA subarea from primarily a residential district providing permanent housing to a single owner developed and operated regional RV resort. The City proceeded with a review of the *contemplated proposal* through two sequential tracts – a preliminary *SEPA process* managed by the City followed by a subsequent *land use review process* based on an actual land use application. This process was difficult for service providers because there was no specific and detailed application.

The City also determined that the contemplated development was a “major amendment” to the 2002 subarea plan. We disagree. It was not an amendment. It was a proposal for a dramatically different and inconsistent land use of the property. The concept of a significant “RV Park” component and development of the area was specifically rejected by the City and community in 2002. And now, Sun Community seeks to eliminate the approved plan with a concept that was specifically rejected in 2002.

² Sun Communities floated a similar proposal in 2019. That proposal generated an environmental review process that culminated with issuance of a Final Supplemental Environmental Impact Statement (FSIES). The review was not based on a filed land use application which became moot with Sun Community's subsequent filing and withdrawal of its land use application. The FSEIS was never subjected to the rigors of review in the context of the withdrawn proposal or reviewed for adequacy under either the administrative or judicial review processes.

The 2019-2021 process was initiated without a specific, formal proposal submitted by Sun Communities. It was acknowledged that "...detailed comparisons between the old and new proposals cannot be made with certainty." Service agencies and providers, including Kittitas County Hospital Districts participated in environmental review without development specificity. It was odd to compare two different land use concepts that were separated in time by nearly 20 years. Despite this uncertainty, the environmental review process proceeded with the issuance of both a Draft and Final SEIS.

Sun Communities subsequently submitted a land use application. The proposal replaced permanent housing uses with a mix of 627 RV sites, 180 multi-family units, and 527 single-family units (manufactured) which would be owned by a single party – the developer – and used for transient housing in the context of its resort business. Sun Communities withdrew its application on November 30, 2021.

Sun Communities has now advised the City that it has retooled its withdrawn proposal for development of the Bullfrog Flats UGA subarea. No application has been submitted. It appears that the City is again proceeding with a bifurcated review process.³ The City outlined on August 24, 2022, the steps it will follow in review of Sun Communities anticipated "...application or a Major Modification(s) to the Bullfrog UGA Development Agreement." We object to the contemplated process for reasons set forth in this letter.

Kittitas County Hospital Districts and other service providers have worked to conscientiously participate in the review process even though the details of the proposal have not been set forth in an application. This process has been frustrating, confusing and concerning to many of the providers. The contemplated use will have devastating impacts on Kittitas Valley Hospital District's service commitments, operating costs, tax revenues and staffing. More importantly, it will impact the members of this community. It is difficult and challenging to meet not only the current healthcare demands of the community let alone a massive new transient resort land use. We have provided information on each of these points to the review staff.

The staff has responded by thanking us for the information but stating as follows:

Please be aware, however, that we see limitations in our ability to use all the information you provided to analyze the Revised 47 Degree North Master Site Plan Amendment Proposal (Revised Proposal) with the same level of specificity as we did for the EIS alternatives in the Supplemental EIS (SEIS).

³ Kittitas County Hospital Districts participated in Pre-Application Conference between Sun Communities and the City on August 25, 2022. A self-serving and superficial pre-application narrative for the project was provided by Sun Communities. A hypothetical development was presented and stated that the transitory nature of the RV park will not "pull" on service providers in the same way as permanent residential housing. City representatives indicated that "...the final supplemental EIS addendum update is almost ready." How can there be a rational update without the engagement of service providers? We are concerned that the outcome of environmental review has been predetermined through negotiations between the developer and the City.

Our serious and legitimate concerns should not be measured against a SEIS prepared on a hypothetical basis for a withdrawn land use proposal. The information should be reviewed and considered in the context of 2022-2023 circumstances and not manipulated to fit in the context of a 20-year old EIS. Our request is reasonable, practical and consistent with applicable law.

Environmental Review Must Be Conducted in the Context of a Complete Application.

To begin, Sun Communities has not submitted a land use application for the contemplated "...application for a Major Modification(s) to the Bullfrog UGA Development Agreement." All that has been provided for public consumption was a superficial "Pre-Application Narrative". In those materials, Sun Communities proposes "...a more robust sweep of approvals – beyond the bare minimums of the mixed-use final plan – that will compose the Major Modification of the Original Land Use Approvals." Those application components include the following:

1. A "Mixed Use Final Plan Application" which includes (a) a Project Narrative (identification of each project component together with facts and details required under CEMC 17.45.080-.090); (b) a "Master Site Plan" including phasing, traffic circulation, water, stormwater, and sanitary sewer plan depictions; (c) new conditions of approval updated "...to reflect the realities of the Project ..."; and an "equivalency" chart identifying specific modifications to original subarea conditions; and (d) new development standards governing the development of all proposed uses, roads, water, sewer, stormwater, and signage, among others.
2. Applications for boundary line adjustment/lot consolidation.
3. A binding site plan application for Single-Family Residential community premised upon the associated boundary line adjustment/lot consolidation application.
4. A Restated Development Agreement specifically addressing phasing, vesting, procedures for implementing approvals, monitoring any mitigation measures imposed pursuant to new conditions, conflict resolution procedures, and other matters outside the scope of the other applications.

None of these applications or associated information and project details are available for review in the context of the *SEPA process*. Service providers have been asked to comment and provide information on impacts and mitigation based upon this superficial and unacceptable information base.⁴ Environmental

⁴ Kittitas County Hospital Districts work conscientiously to provide information on staffing and service levels, financial impacts and costs associated with the anticipated proposal, adverse impacts to levied revenues, and challenges in providing the necessary medical and healthcare services in the context of the community and other factors. The City environmental concluded as follows:

Please be aware, however, that we see limitations in our ability to use all of the information you provided to analyze the Revised 47 Degree North Master Site Plan Amendment Proposal (Revised Proposal) with the same level of specificity as we did for the EIS alternatives in the Supplemental EIS (SEIS).

This comment suggests that "process" is overriding substantive review of the actual impacts and circumstances facing

review must be based on information sufficient to evaluate the proposal's environmental impact. *Moss v. City of Bellingham*, 109 Wn. App. 6, 23, 31 P.3d 703 (2001). It is impossible to assess environmental impacts without a complete application. The contemplated applications require detailed and complete information for land use review. See, e.g. CEMC 17.45.080 (application for mixed use approval); CEMC 16.40.020 (application for boundary line adjustment); and CEMC Ch. 16.46 (binding site plans). The detailed information contained in an application is necessary particularly for a service provider such as Kittitas County Hospital Districts.

We disagree with the City's determination that the *SEPA process* may be bifurcated from the *land use review process*. Environmental review should begin with the submission of a "proposal" which means a land use application.⁵ SEPA is clear on its process and requirements. Timing of review of proposals is set forth in WAC 197-11-055(2), which provides, in part, as follows:

(2) **Timing of review of proposals.** The lead agency shall prepare its threshold determination and environmental impact statement (EIS), if required, at the earliest possible point in the planning and decision-making process, when the principal features of a proposal and its environmental impacts can be reasonably identified.

(a) *A proposal exists when an agency is presented with an application or has a goal and is actively preparing to make a decision on one or more alternative means of accomplishing that goal and the environmental effects can be meaningfully evaluated.*

A "proposal" is defined as follows:

A proposal includes both actions and regulatory decisions of agencies as well as any actions proposed by applicants. *A proposal exists at that stage in the development of an action when an agency is presented with an application, or has a goal and is actively preparing to make a decision on one or more alternative means of accomplishing that goal, and the environmental effects can be meaningfully evaluated.*

WAC 197-11-784. No application has been filed for the site specific land use proposal.

The timing and process for environmental review is also specified by applicable regulations. WAC 197-

Kittitas County Public Hospitals. An environmental review process should be designed to identify significant adverse impacts to service providers and provide an appropriate level of analysis, information and mitigation options so that the decisionmaker can make a fully informed land use decision. This is not occurring through the current process.

⁵ To the best of our knowledge, the City had not issued or published a determination of significance (DS) for the new proposal. In the 2019 SEPA process, the City commenced SEPA review with the issuance of a DS on October 8, 2019. The DS was emailed to agencies, tribes and individuals and the property was posted with notice. The current process has been informal but clearly contemplates only minor revisions to the 2021 Final SEIS.

11-406 sets forth EIS timing and states the following:

The lead agency shall commence preparation of the environmental impact as close as possible to the time the agency is developing *or is presented with a proposal*, so that preparation can be completed in time for the final statement to be included in appropriate recommendations or reports on the proposal. The statement shall be prepared early enough so that it can serve practically as an important contribution to the decision-making process *and will not be used to rationalize or justify decisions already made. ...*

(Italics added). Sun Communities has not submitted a “proposal”, i.e. an application.

We request that all environmental review be suspended until a complete application has been completed and filed with the City.

Supplementation of a 20-Year Old EIS is Neither Appropriate or Permitted With Respect to a New “Proposal”.

We also have two additional concerns about conducting environmental review through a supplemental EIS process; (a) supplementation of a 20-year old FEIS is inappropriate; and (b) revisions based on the 2021 Final SEIS is improper because of withdrawal of the underlying land use application.

In 2002, the City adopted a master plan for the Bullfrog Flats UGA which included a total of 1,334 housing units, and mix of single-family (810) and multi-family (524) units; and a 75-acre business park. The land use authorization was based upon an Environmental Impact Statement (EIS) dated March 18, 2002. The 2002 EIS considered five (5) alternatives. Three of the alternatives included development of a significant portion of the property as “RV Campground”. Those alternatives were rejected and the preferred alternative (Alternative 5) focused on community housing (single-family and multi-family) and business park.

Sun Communities is now proposing a fundamental change to the Bullfrog Flats UGA subarea plan. On August 24, 2022, the City disclosed the following “Preliminary Determination of Consistency”:

The City Development Review Team has *already determined* that the proposed modifications to the Bullfrog UGA Development Agreement will constitute to [sic] Major Modification *and a Supplemental Environmental Impact Statement (SEIS) has been prepared*. Additional preliminary determinations may be included with the Notice of Application, or if not, an explanation will be provided.

We disagree with the preliminary determination of consistency. The contemplated land use action will also require a legislative review process and amendment of the adopted Bullfrog Flats UGA subarea plan. The proposed amendment is not a modification of the adopted plan but rather a complete replacement of the existing plan.

Supplementation is not appropriate for a new land use proposal. WAC 197-11-600(3)(b) provides:

Where DNSs and EISs, preparation of new threshold determination or supplemental EIS is required if there are:

- (i) Substantial changes to a proposal so that the proposal is likely to have significant adverse environmental impacts (or lack of significant adverse impacts, if a DS is being withdrawn); or
- (ii) New information indicating a proposal's probable significant adverse environmental impacts.

Sun Communities is not proposing a change to an existing proposal – it is making a “new” proposal. From a practical point of view, the proposal to convert the entire subarea to a resort facility is antithetical to the adopted plan for single-family and multi-family residential use coupled with a business park. The review requires more than a simple update of SEIS Alternatives. It is incongruous to characterize the hypothetical proposal as simply a modification of the existing plan. It is the elimination of the existing plan and replacement with a fundamentally new and different plan. Supplementation is not the proper process for such significant land use action.

Second, it appears that the City intends to adopt and utilize the *2021 Final SEIS* as a basis for review of the anticipated land use application. The preparation of a SEIS is authorized where there are substantial changes to a proposal or new information indicating the proposals probable significant adverse environmental impacts. WAC 197-11-600(4)(d). There are no substantial changes to the 2021 proposal because there was no proposal. Sun Communities withdrew the application and the preliminary environmental review became moot and irrelevant.

The City has indicated that there are limitations on the use of current information in the context of the prior SEIS process. We have been advised that staff sees no clear way to directly compare or reconcile the prior and new staff categories; the new information is “...largely in a different form than we use in the SEIS; there is not a “...clear way to directly compare or reconcile the prior and new staff categories; and the population data that was provided presents methodological difficulties calculating staffing needs based on existing and forecast county-wide population. Each of these asserted impediments is based upon a moot and irrelevant environmental document.

As a final point, the prior SEIS process calculated impacts to service providers based upon population increases within the community. Anticipated population growth is irrelevant to an evaluation of service impacts generated by the introduction of a significant transitory population. A destination resort will generate thousands of visitors that are not accounted for in population growth statistics. And the uncontroverted fact is that Kittitas County Public Hospitals will need to meet and serve all medical and emergency service requirements for the transient population. That analysis becomes even more difficult when its recognized that the transitory population change will be seasonal in nature and require staffing and facilities to meet anticipated peak season populations and requirements.

Specific Concerns of Kittitas Valley Hospital Districts.

Kittitas County Hospital Districts are concerned about their ability to provide timely, effective and efficient emergency services and medical care to the community, including the transitory population created by Sun Communities contemplated proposal. There is no serious question that the proposed conversion of the Bullfrog Flats UGA subarea to a regional recreational vehicle resort will have significant *and different* fiscal and operational impacts on service providers.

In communications with the environmental review team, we have sought to provide all available information and data concerning services, staffing, revenue and facility impacts. We have provided the information to the best of our ability. The review staff, however, has advised that "...we see some limitations in our ability to use all the information you provided in earlier reviews; the Hospital District does not have an adopted level of service standard against which we can measure the project's impacts; different (and updated) information was provided with respect to staffing categories which makes comparison with prior iterations difficult and that existing deficiencies in future needs are difficult to analyze and evaluate. The summary regarding our comments was as follows:

In summary, we will document and use the information that you provided in your recent letter to the greatest extent possible. *However, given the methodology and cause-and-effect issues indicated above, it will difficult to derive the project-specific impacts of the Revised Proposal, which is the focus of the environmental analysis. Be assured we will do our best to present the information you provided.*

The impact analysis is complex but critical to a meaningful understanding of impacts and mitigation measures for service providers. The failure to undertake appropriate impact and mitigation analysis will literally have life and death consequences.

In order to better understand the required analysis, Kittitas County Hospital Districts reached out to experts to understand the technical review process and procedures for fiscal and environmental impact analysis. We were advised that the analysis includes extensive data discovery including additional population analysis (full-time v. seasonal); development and absorption schedules; and increased to assessed valuations. It also includes a detailed review of Kittitas County Hospital Districts financial records, service area and population, additional capital needs, funding strategy, and additional EMS and ambulance costs and revenues. It specifically requires analysis and an understanding of the transitory population, seasonality of impacts, land impacts of the proposed use on property tax and levy revenues. The consultants indicated that a complete and thorough environmental review of the fiscal and environmental impacts will take between six and nine months. And it will require a total budget of between \$55,000 and \$68,000. All other service providers are faced with similar challenges and expenses.

An adequate environmental review requires a "reasonably thorough discussion of the significant aspects of the probable environmental consequences." *Klickitat County Citizens Against Imported Waste v. Klickitat County*, 122 Wn.2d 619, 633, 860 P.2d 390 (1993). The EIS must present decisionmakers with a reasonably thorough discussion of the significant impacts of the probable environmental consequences of

the proposed action. *Citizens All. To Protect Our Wetlands v. City of Auburn*, 126 Wn.2d 356, 361-62, 894 P.2d 1300 (1995). Review of the fiscal impacts to Public Hospital Districts is not adequate without the underlying detailed analysis.

We are requesting that such independent analysis be undertaken at the expense of the developer. Sun Communities is proposing the dramatic change in the subarea plan and they should bear the responsibility for funding of an appropriate impact analysis on services provided by the Public Hospital Districts as well as other service providers.

Conclusion

We request that environmental review be conducted in the context of an actual land use application; that environmental review be undertaken through a new and current EIS process; that the fiscal and operational impacts to Kittitas County Hospital Districts, as well as other service providers, be undertaken in a disciplined and professional manner by independent consultants with costs paid by the project proponent; and that such be coordinated under the direction of the City in consultation with Kittitas County Public Hospital Districts and other service providers.

We appreciate your consideration of our requests in this very serious and impactful project proposal.

Very truly yours,
MEYER, FLUEGGE & TENNEY, P.S.



James C. Carmody

MEYER, FLUEGGE & TENNEY, P.S.

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June 26, 2023

Via Email & US Mail

City of Cle Elum

Attn: Planning Department/47 Degrees North

119 West First Street

Cle Elum, WA 98922

planning@cleelum.gov

Re: Sun Communities Application for Major Modification of
Bullfrog Flats UGA Master Site Plan and Development Agreement

Dear Sir/Madam:

We represent Kittitas County Unincorporated Area Council, a Washington nonprofit corporation. ("KCUAC"). We provide these comments in response to the combined *Notice of Application for Proposed Modifications, SEPA Determination of Significance (DS), Notice of Adoption of Existing Environmental Documents, the availability of an Addendum, and the Extension of the Public Comment Period*. ("Notice of Application"). These comments will supplement individual comments provided by KCUAC members and supporters.

Overview of Proposed Major Modification of Master Site Plan and Development Agreement.

Sun Communities¹ submitted three applications to the City on March 21, 2023, including:

1. *Proposed modifications to the approved Bullfrog UGA Master Site Plan and Development Agreement*² that includes:

¹ Sun Communities is a publicly traded company that develops, owns, and operates 380 RV resorts and residential communities in the United States and Canada.

² The Development Agreement, including Attachment B (Conditions of Approval) was adopted on October 30, 2002 as a component of the adoption of the Bullfrog Subarea Plan through Ordinance No. 1180. The City annexed the property on June 10, 2003 through Ordinance No. 1196. It was not until 2007, that the City incorporated the Development Agreement as a component of the annexation process. The Ordinance No. 1267 provided the following amendatory language:

"The date of approval of the Master Site Plan as contained in the October 30, 2002, Development Agreement is hereby affirmed and established to be June 10, 2003, concurrent with the date of annexation of the real property subject hereto." Sun Communities current argument is that the annexation "...had the effect of removing Attachment B from the 2002 DA. There is no basis in the legislative history that supports this argument.

- a. A reduction in the total number of residential dwelling units from 1,384 to 757 dwelling units.
 - b. The addition of a recreational resort with accommodation and amenities to serve up to 627 recreational vehicles, cottages, yurts, and the like.
 - c. The reduction of the size of the business park from 75 acres to 25 acres with use conversions to retail uses including a grocery store.
 - d. The set aside of approximately 10-acres for the expansion of the Cle Elum Cemetery.
 - e. Approximately six miles with trails developed and maintained by Sun Communities open for public use.
 - f. Neighborhood parks to be maintained by Sun Communities and open to the public.
 - g. The construction and maintenance of infrastructure by Sun Communities built to City standards, including new roads, private improvements, water and sewer system improvements, and storm water facilities.
 - h. Approximately 530-acres of Open Space, including a Managed Open Space Area and a River Corridor Open Space, subject to conservation easements.
 - i. A change in project phase in-with completion-of all construction by— 2031.
- 2. A preliminary plat application for 527-lot single-family residential subdivision; and
 - 3. A boundary line adjustment application to align the parcels owned by Sun Communities with their development plans.

The land use applications were submitted on a consolidated permit basis as required by CEMC 14.30.020(B) ("It is the goal of the City to consolidate the permit processing for projects or development activities that require two or more permits or approvals").

It has now been determined that the applications for preliminary plat and boundary line adjustment are incomplete and will not be a component of the current review process. KCUAC objects to the bifurcation of the permit review processes is contrary to adopted procedure – CEMC 14.30.020(B) – and is contrary to ordinance intent of "...integrating public hearings, establishing unified comment periods, and/or concurrent review." *Id.* The review standards for amendment of plan developments and preliminary plats each require a specific analysis and determination that "appropriate provisions" are made for roads, streets, water, wastewater, and a wide range of public services. There is no practical or legal basis for bifurcation of the review processes.

The original planning for the Bullfrog Flats Subarea involved consideration of five (5) development alternatives. The community and developers settled on a preferred alternative – Alternative 5. The long-term vision was for development of residential housing with a supporting business park providing employment opportunities. The original components were as follows:

1. 1334 housing units;
2. 810 single-family units;
3. 524 multi-family units;
4. No permanent recreational vehicle parks;³
5. 75-acre business park (950,000 sq. ft), minimum of 37.5, Commercial / Light Industrial – Limited Retail;
6. All streets and alleys to be public;
7. Phased build-out over 20-30 year organic build out;
8. Individual property ownership;
9. Development of a mix of housing uses throughout the property;
10. Mitigation, monitoring and fiscal neutrality; and
11. Maximum 100 temporary RV sites to house contractors during construction only.

Sun Communities refers to the subarea plan as the “Approved Plans” or “Approved Development”. The land use authorization was given in exchange for annexation:

By execution of the Agreement, Trendwest agrees to annex the Trendwest UGA Property to the City of Cle Elum, and, upon annexation, the City agrees to permit construction of the proposed Trendwest UGA Development, including all of the land uses and intensities described in the Agreement and the Conditions of Approval. The City’s approval shall be subject to all of the terms and conditions contained in Attachment B, including all of the attachments thereto.

Development Agreement § 2.1. The approval relates only to “...the land uses and intensities described in this Agreement...”

Sun Communities characterized its application as a “Major Modification” of the Master Site Plan and *Development Agreement*. The land use application proposes the following “Major Modifications” to the adopted land use plan:

1. Elimination of 661 single-family dwellings.
2. Elimination of 344 multi-family dwelling units.
3. Development of 527 manufactured homes on land leased from developer.
4. The development of a 662 unit Recreational Vehicle Park resort.

³ The approved development plan allowed 100 recreational vehicle parking for support of construction workers. The temporary conditional use expired in 10 years.

5. Elimination of the Business Park with replacement 25-acre commercial area with grocery store and retail.
6. Privately owned utilities and roads.
7. Private park closed to the City and the public.

This proposal is a single integrated development owned by a single developer. It replicated many of the Sun Communities' other RV Resorts and communities in the United States and Canada. It bears no resemblance, however, to the master plan set forth for the *Trendwest UGA Development*.

Sun Communities' proposal is the antithesis of the community's vision for this area. Sun Communities acknowledges that "...[t]he 2002 DA, however, does not comport with Sun's desired plan for development reflected in the Major Modification Application." Sun Communities' narrative VII.A. It then offered the following remarkable statement:

The 2002 DA, however, does not comport with Sun's desired plan for development reflected in the Major Modification Application. *Accordingly, if the City approves the Major Modification Application without a corresponding approval of an Amended Restated Development Agreement concurrent therewith, Sun will have the option of terminating the 2002 DA (as authorized under § 10.5.1 of the 2002 DA) and may proceed with development of this Project without a Development Agreement.*

Id. This interpretation is in direct conflict unambiguous language of the 2002 DA and the intent of the collective enabling ordinances and agreements. This is part of the reason that this application should not be considered as an amendment or modification of the *Development Agreement* but rather a new and independent application for both subarea planning under the comprehensive plan and a rezone from the prior land use authorizations.

The appropriate process is for amendment of the approved final plan under CEMC 17.45.150. If Sun Communities is correct that the *Development Agreement* terminated with the annexation, there is no legal basis to proceed under the modification provisions set forth in *Development Agreement § 6 (subsequent Development Approvals and CEPA Review)*.

Sun Communities has proposed a new and unrelated subarea plan with wide ranging impacts to both the City of Cle Elum and surrounding municipalities and public service providers. It will also fundamentally change the regional community. Land use review and SEPA require that extra-jurisdictional effects be addressed and mitigated, when possible. *Cathcart-Maltby-Clearview Community Council v. Snohomish County*, 96 Wn.2d 201, 209, 634 P.2d 853 (1981); *Save a Valuable Environment (SAVE) v. City of Bothell*, 89 Wn.2d 862, 576 P.2d 401 (1978). KCUAC and its members are concerned about both the regional planning, as well as municipal impacts. Land use planning within this unique region and the current application derives from integrated Trendwest master planned resort.

Background Documents Applicable to Proposed Major Modification of Master Site Plan.

City of Cle Elum annexed the Trendwest UGA Property with the specific contractual agreement to develop the property on the basis set forth in the suite of ordinances and agreements. The designation of Bullfrog Flats Subarea established areas and densities sufficient to permit the urban growth that was projected for the City of Cle Elum for the succeeding 20-year period. The vision was for residential (single-family and multi-family development with supporting employment based business park.

Planning began with a Pre-Annexation Agreement dated July 26, 2000. The planning process included environmental review (2002 Environmental Impact Statement), Master Site Plan, and Development Agreement. The planning area included approximately 1,100 acres generally bounded by I-90, Bullfrog Road, SR 903, the City Cemetery, and the Washington State Horse Park. Any proposal within a Planned Mixed Use designated zoning district must be consistent with the planning documents. CEMC 17.45.010(B) ("Each proposal for development within the PMU district shall conform to...applicable annexation and development agreements...").

Bullfrog Flats Subarea plan was developed with the property ultimately annexed to the City and subject to a Master Site Plan and associated development agreement dated October 30, 2002.⁴ The approved mixed use development provided for 1,334 residential units (810 single-family units and 524 multi-family units); a 7.5 acre site for affordable housing; a 75-acre area for development of a business park use (light industrial, research and development, warehousing, offices and limited retail); provision of 524 acres of open space; development of pocket parks, ponds/lakes and a trail system; a 10 acre cemetery expansion; and 220 acres reserved for school, utility, and recreational (horse park) uses. This plan was reaffirmed with the 2019 Update to the Comprehensive Plan.

City of Cle Elum annexed the property based on the agreement "...to permit construction of the proposed Trendwest UGA Development, including all of the land uses and intensities described in this Agreement and the Conditions of Approval." *Development Agreement* ¶ 2.1. The annexation and development authorizations were also subject to an agreement between Trendwest, the Yakama Nation and Washington State Department of Fish and Wildlife (WDFW) dated December 4, 2000.

Development of Bullfrog Flats Subarea languished for decades while development of surrounding areas exploded. The extraordinary growth placed additional pressures on housing, public services, and surrounding jurisdictions. KCUAC concerns and interest extend to both municipal as well as regional extra-jurisdictional impacts.

⁴ Trendwest Properties, Inc. and Trendwest Investments, Inc. entered into a development agreement regarding the development of real property located within the "Bullfrog UGA". At the time of the development agreement, the property had not been annexed to the City but was within the existing Urban Growth Area (UGA) as established under the Growth Management Act (GMA).

Sun Communities Land-use Application

Sun Communities characterizes its land-use application as a “Major Modification” to the Bullfrog Flats UGA Master Site Plan (the “MSP”) and the MSP’s Conditions of Approval (“the Conditions”) as approved by the City in 2003. The applicant also proposes an amendment and restatement of the 2002 *Development Agreement* as well as submissions of applications for preliminary plat and boundary line adjustment authorizations.

Sun Communities acknowledges that the process for amendments to an adopted Planned Mixed Use zoning district is uncertain and unclear under the applicable development regulations. It is stated:

While the PMU Ordinance does not explain the means or procedure to obtain a formal amendment of an approved land use entitlement likely Approved Plan, Sun’s position is that the most conservative and appropriate course of action is to proceed as if the Major Modification Application should be processed like an entirely new application as contemplated by § 6.4.2 of the 2002 DA. Accordingly, Sun proposes that the Major Modification Application be processed as a “Type 4 Review” under CEMC 14.30.080.

KCUAC agrees with this statement but views the application as a rezone from the existing “Planned Mixed Use” to a new and different “Planned Mixed Use”.

The *Development Agreement* provides specific directions with respect to “Minor Modifications” but provides little guidance with respect to any change other than a Minor Modification. *Development Agreement* ¶ 6. The only guidance is the following:

6.4.2 Any proposed modification from the Conditions of Approval that does not meet the criteria for a Minor Modification, as described in Subsection 6.4.1 above, shall be a Major Modification, and shall require an amendment to the Conditions of Approval, including all of the public notice, comment and hearing requirements specified in the PMU Zoning.

Development Agreement ¶ 6.4.2 A “modification” is defined as “...the making of a limited change in something.” Merriam Webster Dictionary (2021). Sun Communities is not proposing a “limited change to something” – it is proposing the total elimination of the adopted land use plan and the substitution of a massive new privately owned recreational vehicle park and resort community under the sole ownership of a publicly owned developer.

The minor and major modification provisions should be read in the context of the “Flexibility Objectives”. The scope of permissible “modifications” is set forth as follows:

The Parties agree that the Conditions of Approval, as will be incorporated into the PMU Zoning approval, provides the desired level of initial definition and certainty to the Trendwest

UGA Development, sufficient for both parties to make the level of commitment contained in this Agreement. *However, the Parties acknowledge that modifications to the Master Site Plan are likely to occur during the build out of the Trendwest UGA Property to achieve a number of mutually desirable flexibility objectives, including but not limited to: incorporating new information; responding to changing community and market needs; encouraging reasonably priced housing; responding to changes in technology or patterns of living and working; and encouraging modifications that provide comparable benefit or functional equivalents with no significant reduction of public benefits, environmental protection, or increased material costs to the Trendwest UGA Development (collectively, the "Flexibility Objectives").*

2002 Development Agreement ¶ 6.3.

The modification process contemplated modifications to the Conditions of Approval as it relates to the adopted Master Site Plan and "Trendwest UGA Development". It was neither intended nor authorized as a vehicle for a fundamental change in the adopted land use plan, designation and zoning.

Comments on Application

KCUAC provide the following comments with respect to the application.

- 1. ~~Comment on process~~ – Application is not a modification of the Bullfrog UGA Master Site Plan but rather a proposal for rezone to establish a new subarea plan and Planned Mixed Use development.**

In 2002, Cle Elum City Council approved annexation of property within the Bullfrog UGA Subarea. The annexation and associated land use approvals designated the property as Planned Mixed Use and provided for a range of housing types and opportunities together with an integrated and supportive area for commercial development. The vision contemplated provision of necessary permanent housing to support growth projections with development "...in keeping with the climate and the traditional rural, small town, mountain character of the Cle Elum area".

Sun Communities is proposing to terminate the Bullfrog UGA Master Site Plan and substitute a fundamentally different land use – a master planned resort. Growth Management Act defines "master plan resort" as follows:

A master planned resort means a self-contained and fully integrated planned unit development, in a setting of significant amenities, with primary focus on destination resort facilities consisting of short-term visitor accommodations associated with a range of

developed on-site indoor or outdoor recreational facilities. RCW 36.70A.360(1)⁵ A master planned resort is a separate and unique land use. Cle Elum zoning ordinance does not recognize or establish development standards for this land use.

Sun Communities is a publicly traded company that develops, owns, and operates over 380 RV resorts and residential communities in the United States and Canada. The proposed master planned resort is under single management and ownership; the reduced “housing” does not involve fee simple ownership but rather leased lots in perpetuity; public roads are converted to private ownership; and the community is, for the most part, excluded from the entire resort. The employment creating Business/Light Industrial Park is eliminated in order to introduce retail and commercial business in direct contravention of the established comprehensive plan policies. The proposed land use is fundamentally different than the vision guiding development under the current plan and certainly not “...in keeping with the climate and the traditional rural, small town, mountain character of the Cle Elum area”. No two proposals could be further apart in their goals and aspirations.⁶

It is well established in this state that a request for a planned unit development is treated as a request for a rezone. *Johnson v. City of Mount Vernon*, 37 Wn. App. 214, 218, 679 P.2d 405 (1984); *Lutz v. Longview*, 83 Wn.2d 566, 568-69, 520 P.2d 1374 (1974) (“it is inescapable that application of the PUD to this tract constituted an act of rezoning.”); *Kenart & Associates v. Skagit County*, 37 Wn.App. 295, 298, 680 P.2d 439 (1984); and *Schofield v. Spokane County*, 96 Wn. App. 581, 588, 980 P.2d 277 (1999) (since Mr. Schofield is requesting a PUD, rezone law applies.”). The application seeks to reclassify use within the Bullfrog UGA with such land use process treated as a rezone.

The application must be considered under the process, standards and criteria set forth in CEMC Ch. 17.120 (Amendments and Reclassifications). The applicable standards and criteria to be considered by the city council for a rezone request are as follows:

Such an amendment shall be granted only if the request is found to be consistent with the following:

1. The proposed rezone is consistent with the comprehensive plan.

⁵ While the Growth Management Act (GMA) addresses “master planned resort” in the context of development outside of established urban growth areas, the land use concept is both descriptive of and applicable to the land use proposal submitted by Sun Communities.

⁶ Sun Communities originally proposed a manufactured home park located on a single parcel of property. KCUAC provided comments with respect to the prior land use application and objected to the manufactured home park as a component of the development because (1) Cle Elum municipal code does not authorize “manufactured/mobile home parks; (2) development of single-family dwellings is limited to one dwelling unit per legal lot of record. CEMC 17.16.010(A). Sun Communities has attempted to circumvent these fundamental concepts contained within the applicable land use regulations through a process involving a preliminary plat creation of lots that will be retained under the single ownership authority of Sun Communities. The preliminary plat has now been withdrawn from the current application. Under any circumstance, however, the uncontroverted facts are that the underlying land ownership will be held by a single entity – Sun Communities.

2. The proposed rezone and subsequent development would be compatible with development in the vicinity.
3. The proposed rezone will not unduly burden the transportation system in the vicinity of the property with significant adverse impacts which cannot be mitigated.
4. Adequate public utilities and public facilities are available to serve subsequent development.
5. Circumstances have changed substantially since the establishment of the current zoning district to warrant the proposed rezone.
6. The proposed rezone will not adversely affect the health, safety and general welfare of the citizens of the city.

CEMC 17.120.030. Sun Communities has not addressed the rezone criteria.

As a final point, the application for a new planned mixed use development also requires an amendment to the Cle Elum Comprehensive Plan which was predicated solely upon the approved Trendwest UGA Development.

2. Comment on Application – Application proposes land uses not allowed within PMU Planned Mixed Use District and specifically rejected in the adopted subarea plan.

- (a) **Manufactured Home Parks are not allowed in the PMU Planned Mixed Use district.** Cle Elum zoning ordinance sets forth uses permitted within the PMU Planned Mixed Use district). CEMC 17.45.050(A) permits only principally and conditionally permitted uses within a proposed PMU zoning district and provides as follows:

All principally and conditionally permitted uses *in this title may be allowed in the PMU district* pursuant to an approved final plan provided that retail and service uses shall be limited to those convenience retail and service uses that are sized and designed to serve the residents or employees of the PMU zone and provided further specific uses permitted only in industrial districts pursuant to CEMC 17.24, and indicated in subsection B, which shall be prohibited in the PMU district, unless a special finding has been made as described in subsection B of this section.

If the proposed land use is not principally or conditionally permitted under the zoning ordinance (CEMC Title 17), the land use may not be included as a component of a Planned Mixed Use District.

Manufactured home parks are not allowed under the current zoning ordinance. Sun Communities is proposing development of a “manufactured housing community”. RCW 59.20.030(14).

“Mobile home park,” “manufactured housing community” or “manufactured/mobile home community” means any real property which is rented or held out to rent to others for the placement of two or more mobile homes, manufactured homes, or parked models for the primary purpose of production of income, except where such real property is rented or held out for rent for seasonal recreation purpose only and is not intended for year-round occupancy....

Id. Sun Communities acknowledges that lots within the resort development will be leased to individuals for placement of manufactured homes.⁷ This land use is not permitted, conditionally or otherwise, under the Cle Elum zoning ordinance.

As a final point, recreational vehicle parks are permitted only upon review and issuance of a conditional use permit. CEMC 17.51.010(E). Sun Communities has not submitted a conditional use permit as part of its land use application. A separate set of criteria are applicable to recreational vehicle parks as more particularly in CEMC 17.51.010(D).

(b) Recreational vehicle parks were specifically rejected as a permitted land use in the Bullfrog Flats UGA Master Site Plan approvals. The second component of Sun Communities land use application is a proposal to develop a recreational vehicle park together with associated camping facilities.⁸ The adopted Pre-Annexation Agreement stated that “...[i]t is the objective of the City of Cle Elum to be a single, integrated community, including areas to be annexed to the City.” *Pre-Annexation Agreement Section 3.3*. The objective statement goes on to provide:

The primary principles that comprise the City of Cle Elum’s *single community concept* include uniform minimum development and maintenance standards throughout the City including, but not limited to, road standards and snowplowing standards; *open, ungated neighborhoods that allow unrestricted public traffic on roads and pedestrian circulation systems*; maintaining parks, recreational facilities and open spaces to meet City standards that are sited in locations accessible to and are open to the public for the use

⁷ Sun Communities specifically contemplates development of the manufactured housing community in the context of its preliminary plat application and subdivision of property. While the Manufactured/Mobile Home Landlord – Tenant Act authorizes “manufactured housing subdivisions”, Sun Communities has not proposed such use as defined as applicable law. RCW 59.20.030(13).

⁸ Recreational vehicles, recreational vehicle parks and camping are subject to provisions set forth in CEMC Ch. 17.51. “Recreational vehicle park” or “RV park” is defined as follows:

“Recreational vehicle park,” or “RV park” means a tract or parcel of land upon which two or more recreational vehicle sites are located, principally used for occupancy by predominantly RV’s as temporary living quarters for recreation or vacation purposes with a maximum allowable stay per vehicle of 180 days; or is conditioned within the conditional use permit, annexation agreement and/or development agreement as appropriate.

CEMC 17.51.010. Any proposed RV park must satisfy the requirements of both a conditional use permit under CEMC Chapter 17.80 and site and design review under CEMC Chapter 17.76.

and benefit of all citizens equally, whether such recreational opportunities are created by the City and/or through developer mitigation.

The *Pre-Annexation Agreement* further limits the scope of “private recreational facilities.”

Trendwest may provide for private recreational facilities for UGA homeowners and tenants beyond those required to meet city standards and may include some security measures deemed appropriate by the City for any senior residential housing constructed in the Trendwest UGA Property.

In the present case, the “private recreational facilities” are not for the benefit of “UGA homeowners and tenants” but for the benefit of the private developer and short term recreational vehicle and camping parties.

The proposed integrated RV park and associated manufactured home community are the antithesis of the contemplated single community concept that form the foundation for municipal annexation. The entire development is under private ownership with access controls and public use limitations. Any development proposal must substantially comply with “...the Cle Elum comprehensive plan, the policies and applicable subarea plan, *the requirements of any applicable annexation implementation agreement* and the purposes and objectives of ...” CEMC Chapter 17.45.

Permanent recreational vehicle parks were specifically rejected as a use component within the Bullfrog UGA.

- Permanent or long-term RV park was specifically rejected in the Development Agreement. *Development Agreement* ¶ 23. Trendwest was authorized to construct a maximum of 100 Recreational Vehicle sites in the Business Park Parcel to house temporary construction workers from the MPR and UGA. The temporary RV park use was to be removed after ten years. No provision was made allowing a permanent RV Park. The current proposal is not a “modification” of the existing plan but rather a new plan.
- **Pre-Annexation Agreement ¶3.3 identify the objective of the City of Cle Elum to be a single, integrated community.** The development concept was to provide “...ungated neighborhoods that allow unrestricted public traffic on roads and pedestrian circulation systems.” Sun Communities proposes a single gated resort development under single ownership.
- Land uses were identified in the City’s June 23, 1998 Bull Frog Urban Growth Area document dated June 23, 1998 (commonly referred to as the “Green Book”). That planning document identified RV park under Alternative 2, which was rejected in subsequent planning and subarea documents.

- The clear intent reflected in all applicable documents was that RV Parks were not an allowed use in the Bullfrog UGA.

3. Comment on process – proposed uses must be evaluated under applicable standards and requirements set forth in the zoning ordinance. It is axiomatic that the current application must be processed and evaluated in accordance with applicable annexation agreements, development agreements and zoning ordinance provisions. Those considerations include the following:

- Pre-Annexation Agreement contemplates and required ungated neighborhoods that allow unrestricted public traffic on roads and pedestrian circulation systems; parks, recreational facilities and open spaces open to the public for use and benefit of all citizens; and commitment of single-family and multiple-family residential development design to contribute to the communities' long-term obligation to provide permanent housing alternatives for the 20-year GMA planning period. The *Pre-Annexation Agreement* must be amended in order to convert the land use to a private resort community and not a series of traditional neighborhoods and mixed uses contemplated in the context of annexation.
- Cle Elum Municipal Code does not authorize "manufactured/mobile home parks". CEMC 17.16.010(A). Sun Communities seeks to circumvent rules through a preliminary plat application coupled with retained ownership of all lots and real property.
- The adoption or amendment of a planned unit development is a rezone which must satisfy both ordinance and common law rezone requirements.
- A proposed "Recreational Vehicle Park" must comply with requirements of CEMC Ch. 17.51, including conditional use permit. The development of an RV Park is allowed only upon the issuance of a conditional use permit in accordance with CEMC Chapter 17.80 and CEMC Section 17.100.140. CEMC 17.51.010(E). The development of an RV Park is also subject to site and design review, applicable design standards and compliance with applicable ordinance provisions. The land use review process must also include a conditional use permit application.

4. Comments on Application – Adverse Impacts. The land use application proposes or suggests significant and unsupportable changes in the current land use planning. The following comments represent areas of concern but are not intended to be all inclusive. KCUAC reserves the right to supplement these comments based on a complete record developed through the hearing process.

- **Amendment improperly reduces business park/commercial areas.** The adopted Master Site Plan provides 75-acres for business park/commercial. The existing business park authorization contemplates approximately 950,000 square feet for uses permitted in

CEMC Ch. 17.34 (Business Park District) and CEMC Ch. 17.36 (Industrial District). Inclusion of these districts was for employment and job creation opportunities.

The *proposed* amendment eliminates the business park and substitutes a smaller 25-acre retail commercial including a grocery store. It is acknowledged that there will be "...fewer new permanent employees at full buildout due to smaller commercial space on adjacent property." The change is inconsistent with balanced community development and guidelines set forth in the Cle Elum Comprehensive Plan.

- **Reduction in residential housing is contrary to public welfare and best interests.** The current Master Site Plan provides for 1,334 residential units (810 single-family units and 524 multi-family units). Sun Communities proposes a reduction in residential usage to 707 residential units (527 single-family units and 180 multi-family units). The RV Park is a "non-residential" use. The modification eliminates 627 dwelling units and converts the remaining dwellings to rental or resort occupancies.

Development Agreement intended housing to provide options to residents of the City of Cle Elum. The permitted residential uses were those uses set forth in CEMC Ch. 17.16 (R-Residential District) and CEMC Ch. 17.20 (RM Multiple Family Residential District). *Development Agreement* ¶¶13-16. The purpose of the residential districts is stated as follows:

The purpose of the residential district is to create and maintain stable and attractive residential neighborhoods, while providing diversity in housing types and maintaining affordable housing. Residential zones should also protect sensitive natural areas, provide for the efficient use of land and public services, and provide appropriate vehicular and pedestrian access.

CEMC 17.16.005. Sun Communities seeks to substitute a master planned resort for community housing.

- ***Development Agreement* ¶16** states that there shall be "...[n]o gates, walls or other access restrictions on these public streets and alleys" The residential component of the Bullfrog Flats UGA was to provide additional land for meeting the GMA 20-year growth projections on an integrated single community basis. The proposed new subarea plan directly contravenes long-term growth planning for the community.
- **Amendment would have adverse impact on job creation and employment.** SEIS Alternative Five projected 2,025 local construction jobs over full buildout. SEIS Alternative Six reduces employment to 607 local construction jobs. Under SEIS Alternative Five, development of the business park would increase permanent employment by 1,900 new employees at full buildout. SEIS Alternative Six (including

future commercial development) would result in approximately 400 new permanent employees at full buildout. The proposal is contrary to the public interest.

5. Comment on fiscal impacts: Sun Communities proposal presents adverse economic and fiscal impacts to the municipality. The *Development Agreement* specifically states as follows:

Because the City has adopted a policy that existing city residents, taxpayers, and rate payers should not bear any additional financial burden to expand facilities and services necessary to serve new development, it is appropriate to require Trendwest and its proposed UGA Development to bear those costs.

The costs include both on-site and off-site impacts including those to transportation as well as municipal, regional, and public services. Assessment of costs associated with such impacts should extend to state and local facilities and services including Kittitas County, City of Roslyn, City of Cle Elum, and Kittitas County Hospital District Nos. 1 and 2. We support each of these public service providers.

- Sun Communities is obligated to "...[e]nsure that ... public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards." RCW 36.70A.020. See also RCW 58.17.110 and 17.45.090(20). A local jurisdiction shall "...prohibit development approval if the development causes the level of service on a locally owned transportation facility to decline below the standards adopted...." RCW 36.70A.070(6).
- SEIS states that the proposal will result in "...small fiscal short falls in early years while the SEIS Alternative 6 Residential and RV Resort would generate fiscal shortfalls post buildout." The proposal would require the near doubling of upper county public services (police, fire, hospital, etc.). The FSEIS fiscal analysis included only operational costs but did not include capital costs. Also excluded were fiscal impacts to jurisdictions outside the City of Cle Elum. The developer should be required to fund or construct any capital facilities required by its development. In the alternative, development should wait until concurrent facilities are available to serve the development.
- Sun Communities proposal would result in a near doubling of the population of Cle Elum/Roslyn at full occupancy. The direct impacts will be upon all public facilities and services including police, fire, medical, hospital/clinic service, emergency and school systems. The fiscal studies in the SEIS show that tax revenues collected from Bullfrog Flats after development will be less, in some case less than half, of what

would be collected from the same land if developed under the current approved land use. Collected tax revenue would not be enough to offset increased costs for public services.

Comments on Procedure.

KCUAC also has concerns regarding the procedures utilized to this point in review of the land use application.

1. Supplementation of 2002 FEIS through a hypothetical project for a withdrawn application is improper. Supplementation of a twenty-year-old Final Environmental Impact Statement (FEIS) based upon a materially different proposal is inappropriate and results in a strained and illogical environmental review. Sun Communities does not propose a “modification” of a previously approved planned development but rather submits a new application for a distinctly new and different land use. The developer recognized the following reality and procedural approach:

While the PMU Ordinance does not explain the means or procedures to obtain a formal amendment of an approved land use entitlement like the Approved Plan, Sun’s position is that the most conservative and appropriate course of action is to proceed as if the Major Modification Application should be processed like an entirely new application as contemplated by Section 6.4.2 of the 2002 DA.

KCUAC agrees. This is a new application and environmental review should proceed through a new and independent environmental review process. That process should include issuance of a Determination of Significance (DS), appropriate scoping procedures, and development of a Draft Environmental Impact Statement (DEIS). Sun Communities is attempting to shoehorn a fundamentally new and different planned development into a comparative, confused and complex undertaking to compare two fundamentally different development concepts.

A twenty-year-old residential planned development contemplating development and construction of 1334 single- and multi-family dwelling units bears no resemblance to a massive regional recreational resort proposed by a national developer. The current proposal abandons all original concepts of single-family development and ownership; introduces a 627 unit recreational resort and RV park; proposes development of a manufactured home park through leased land (as with typical mobile and manufactured home parks – which are not permitted under the zoning ordinance); and fundamentally restructures commercial business use that is inconsistent with zoning and comprehensive planning for the community.

2. City improperly adopted the 2021 Supplemental Environmental Impact Statement (SEIS) as the foundation for current environmental review. The City has provided notice that it intends to adopt a *Final SEIS* prepared by the City of Cle Elum for the prior withdrawal of the 47th North Proposed Master Site Plan Amendment (2020/2021). It was stated that “[t]he SEIS meets the City’s

environmental review needs and is adopted pursuant to WAC 197-11-630; the SEIS will accompany the project application to the decision-maker.” KCUAC objects to this procedural on several grounds.

To begin, the 2001 SEIS never became a final environmental document. The City prepared the 2001 SEIS prior to submission of a complete land use application. The environmental review process was based upon a hypothetical proposal that never became an actual land use authorization. While the unusual process proceeded to issuance of a *Final SEIS*, neither the public nor impacted agencies had an opportunity to challenge the adequacy of the FSEIS that was proposed for the land use application.

City of Cle Elum does not provide for an administrative review process for adequacy of an environmental impact statement. Any review of the adequacy must be consolidated with the appeal of the underlying governmental action. To say the least, it was woefully inadequate in its discussion and analysis of impacts including transportation, housing and importantly public services.

Regulatory Reform sought to integrate and combine environmental considerations with public decisions. Any appeal brought under SEPA was to be linked to a specific governmental action. The State Environmental Policy Act provides a basis for challenging whether governmental action is in compliance with the substantive and procedural provisions of RCW Chapter 43.21C. The State Environmental Policy Act is not intended to create a cause of action unrelated to a specific governmental action. RCW 43.21C.075(1) and (6)(c) (“judicial review under this chapter shall without exception be of the governmental action together with its accompanying environmental determinations.”). The 2001 FSEIS was prepared for a nonexistent “proposal” and did not constitute a final environmental document. The withdrawal of the land use application by definition involves the withdrawal of the associated environmental review process.

This is of particular significance in this case since the public, including KCUAC members, did not have an opportunity to challenge or question the facts or basis for the 2001 FSEIS. “Adoption” means an agency’s use of all or part of an existing environmental document to meet all or part of the agency’s responsibilities under SEPA to prepare an EIS or other environmental document. WAC 197-11-708. See also, *Thornton Creek Legal Defense Fund v. City of Seattle*, 113 Wn.App. 34, 50, 52 P.3d 522 (2002). There is no legal authority to adopt preliminary environmental documents prepared on a hypothetical basis for land use application that was ultimately withdrawn by the project proponent. The courts have recognized the following standard with respect to adoption of an existing document:

If an agency adopts an existing document, it must independently assess the sufficiency of the document, identify the document and state why it is being adopted, make the adopted document readily available, and circulate the statement of adoption.

Thornton Creek Legal Defense Fund, 113 Wn.App. at 50. Adoption is appropriate only if the prior documents adequately address environmental considerations.

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June 26, 2023

Via Email & US Mail

City of Cle Elum

Attn: Planning Department/47 Degrees North

119 West First Street

Cle Elum, WA 98922

planning@cleelum.gov

Re: Sun Communities Application for Major Modification of
Bullfrog Flats UGA Master Site Plan and Development Agreement

Dear Sir/Madam:

We represent Kittitas County Unincorporated Area Council, a Washington nonprofit corporation. ("KCUAC"). We provide these comments in response to the combined *Notice of Application for Proposed Modifications, SEPA Determination of Significance (DS), Notice of Adoption of Existing Environmental Documents, the availability of an Addendum, and the Extension of the Public Comment Period*. ("Notice of Application"). These comments will supplement individual comments provided by KCUAC members and supporters.

Overview of Proposed Major Modification of Master Site Plan and Development Agreement.

Sun Communities¹ submitted three applications to the City on March 21, 2023, including:

1. *Proposed modifications to the approved Bullfrog UGA Master Site Plan and Development Agreement*² that includes:

¹ Sun Communities is a publicly traded company that develops, owns, and operates 380 RV resorts and residential communities in the United States and Canada.

² The Development Agreement, including Attachment B (Conditions of Approval) was adopted on October 30, 2002 as a component of the adoption of the Bullfrog Subarea Plan through Ordinance No. 1180. The City annexed the property on June 10, 2003 through Ordinance No. 1196. It was not until 2007, that the City incorporated the Development Agreement as a compart of the annexation process. The Ordinance No. 1267 provided the following amendatory language:

"The date of approval of the Master Site Plan as contained in the October 30, 2002, Development Agreement is hereby affirmed and established to be June 10, 2003, concurrent with the date of annexation of the real property subject hereto."

Sun Communities current argument is that the annexation "...had the effect of removing Attachment B from the 2002 DA. There is no basis in the legislative history that supports this argument.

- a. A reduction in the total number of residential dwelling units from 1,384 to 757 dwelling units.
 - b. The addition of a recreational resort with accommodation and amenities to serve up to 627 recreational vehicles, cottages, yurts, and the like.
 - c. The reduction of the size of the business park from 75 acres to 25 acres with use conversions to retail uses including a grocery store.
 - d. The set aside of approximately 10-acres for the expansion of the Cle Elum Cemetery.
 - e. Approximately six miles with trails developed and maintained by Sun Communities open for public use.
 - f. Neighborhood parks to be maintained by Sun Communities and open to the public.
 - g. The construction and maintenance of infrastructure by Sun Communities built to City standards, including new roads, private improvements, water and sewer system improvements, and storm water facilities.
 - h. Approximately 530-acres of Open Space, including a Managed Open Space Area and a River Corridor Open Space, subject to conservation easements.
 - i. ~~A change in project phase in with completion of all construction by 2031.~~
- 2. A preliminary plat application for 527-lot single-family residential subdivision; and
 - 3. A boundary line adjustment application to align the parcels owned by Sun Communities with their development plans.

The land use applications were submitted on a consolidated permit basis as required by CEMC 14.30.020(B) ("It is the goal of the City to consolidate the permit processing for projects or development activities that require two or more permits or approvals").

It has now been determined that the applications for preliminary plat and boundary line adjustment are incomplete and will not be a component of the current review process. KCUAC objects to the bifurcation of the permit review processes is contrary to adopted procedure – CEMC 14.30.020(B) – and is contrary to ordinance intent of "...integrating public hearings, establishing unified comment periods, and/or concurrent review." *Id.* The review standards for amendment of plan developments and preliminary plats each require a specific analysis and determination that "appropriate provisions" are made for roads, streets, water, wastewater, and a wide range of public services. There is no practical or legal basis for bifurcation of the review processes.

The original planning for the Bullfrog Flats Subarea involved consideration of five (5) development alternatives. The community and developers settled on a preferred alternative – Alternative 5. The long-term vision was for development of residential housing with a supporting business park providing employment opportunities. The original components were as follows:

1. 1334 housing units;
2. 810 single-family units;
3. 524 multi-family units;
4. No permanent recreational vehicle parks;³
5. 75-acre business park (950,000 sq. ft), minimum of 37.5, Commercial / Light Industrial – Limited Retail;
6. All streets and alleys to be public;
7. Phased build-out over 20-30 year organic build out;
8. Individual property ownership;
9. Development of a mix of housing uses throughout the property;
10. Mitigation, monitoring and fiscal neutrality; and
11. Maximum 100 temporary RV sites to house contractors during construction only.

Sun Communities refers to the subarea plan as the “Approved Plans” or “Approved Development”. The land use authorization was given in exchange for annexation:

By execution of the Agreement, Trendwest agrees to annex the Trendwest UGA Property to the City of Cle Elum, and, upon annexation, the City agrees to permit construction of the proposed Trendwest UGA Development, including all of the land uses and intensities described in the Agreement and the Conditions of Approval. The City’s approval shall be subject to all of the terms and conditions contained in Attachment B, including all of the attachments thereto.

Development Agreement § 2.1. The approval relates only to “...the land uses and intensities described in this Agreement....”

Sun Communities characterized its application as a “Major Modification” of the Master Site Plan and *Development Agreement*. The land use application proposes the following “Major Modifications” to the adopted land use plan:

1. Elimination of 661 single-family dwellings.
2. Elimination of 344 multi-family dwelling units.
3. Development of 527 manufactured homes on land leased from developer.
4. The development of a 662 unit Recreational Vehicle Park resort.

³ The approved development plan allowed 100 recreational vehicle parking for support of construction workers. The temporary conditional use expired in 10 years.

5. Elimination of the Business Park with replacement 25-acre commercial area with grocery store and retail.
6. Privately owned utilities and roads.
7. Private park closed to the City and the public.

This proposal is a single integrated development owned by a single developer. It replicated many of the Sun Communities' other RV Resorts and communities in the United States and Canada. It bears no resemblance, however, to the master plan set forth for the *Trendwest UGA Development*.

Sun Communities' proposal is the antithesis of the community's vision for this area. Sun Communities acknowledges that "...[t]he 2002 DA, however, does not comport with Sun's desired plan for development reflected in the Major Modification Application." Sun Communities' narrative VII.A. It then offered the following remarkable statement:

The 2002 DA, however, does not comport with Sun's desired plan for development reflected in the Major Modification Application. *Accordingly, if the City approves the Major Modification Application without a corresponding approval of an Amended Restated Development Agreement concurrent therewith, Sun will have the option of terminating the 2002 DA (as authorized under § 10.5.1 of the 2002 DA) and may proceed with development of this Project without a Development Agreement.*

Id. This interpretation is in direct conflict unambiguous language of the 2002 DA and the intent of the collective enabling ordinances and agreements. This is part of the reason that this application should not be considered as an amendment or modification of the *Development Agreement* but rather a new and independent application for both subarea planning under the comprehensive plan and a rezone from the prior land use authorizations.

The appropriate process is for amendment of the approved final plan under CEMC 17.45.150. If Sun Communities is correct that the *Development Agreement* terminated with the annexation, there is no legal basis to proceed under the modification provisions set forth in *Development Agreement § 6 (subsequent Development Approvals and CEPA Review)*.

Sun Communities has proposed a new and unrelated subarea plan with wide ranging impacts to both the City of Cle Elum and surrounding municipalities and public service providers. It will also fundamentally change the regional community. Land use review and SEPA require that extra-jurisdictional effects be addressed and mitigated, when possible. *Cathcart-Maltby-Clearview Community Council v. Snohomish County*, 96 Wn.2d 201, 209, 634 P.2d 853 (1981); *Save a Valuable Environment (SAVE) v. City of Bothell*, 89 Wn.2d 862, 576 P.2d 401 (1978). KCUAC and its members are concerned about both the regional planning, as well as municipal impacts. Land use planning within this unique region and the current application derives from integrated Trendwest master planned resort.

Background Documents Applicable to Proposed Major Modification of Master Site Plan.

City of Cle Elum annexed the Trendwest UGA Property with the specific contractual agreement to develop the property on the basis set forth in the suite of ordinances and agreements. The designation of Bullfrog Flats Subarea established areas and densities sufficient to permit the urban growth that was projected for the City of Cle Elum for the succeeding 20-year period. The vision was for residential (single-family and multi-family development with supporting employment based business park.

Planning began with a Pre-Annexation Agreement dated July 26, 2000. The planning process included environmental review (2002 Environmental Impact Statement), Master Site Plan, and Development Agreement. The planning area included approximately 1,100 acres generally bounded by I-90, Bullfrog Road, SR 903, the City Cemetery, and the Washington State Horse Park. Any proposal within a Planned Mixed Use designated zoning district must be consistent with the planning documents. CEMC 17.45.010(B) ("Each proposal for development within the PMU district shall conform to...applicable annexation and development agreements...").

Bullfrog Flats Subarea plan was developed with the property ultimately annexed to the City and subject to a Master Site Plan and associated development agreement dated October 30, 2002.⁴ The approved mixed use development provided for 1,334 residential units (810 single-family units and 524 multi-family units); a 7.5 acre site for affordable housing; a 75-acre area for development of a business park use (light industrial, research and development, warehousing, offices and limited retail); provision of 524 acres of open space; development of pocket parks, ponds/lakes and a trail system; a 10 acre cemetery expansion; and 220 acres reserved for school, utility, and recreational (horse park) uses. This plan was reaffirmed with the 2019 Update to the Comprehensive Plan.

City of Cle Elum annexed the property based on the agreement "...to permit construction of the proposed Trendwest UGA Development, including all of the land uses and intensities described in this Agreement and the Conditions of Approval." *Development Agreement* ¶ 2.1. The annexation and development authorizations were also subject to an agreement between Trendwest, the Yakama Nation and Washington State Department of Fish and Wildlife (WDFW) dated December 4, 2000.

Development of Bullfrog Flats Subarea languished for decades while development of surrounding areas exploded. The extraordinary growth placed additional pressures on housing, public services, and surrounding jurisdictions. KCUAC concerns and interest extend to both municipal as well as regional extra-jurisdictional impacts.

⁴ Trendwest Properties, Inc. and Trendwest Investments, Inc. entered into a development agreement regarding the development of real property located within the "Bullfrog UGA". At the time of the development agreement, the property had not been annexed to the City but was within the existing Urban Growth Area (UGA) as established under the Growth Management Act (GMA).

Sun Communities Land-use Application

Sun Communities characterizes its land-use application as a “Major Modification” to the Bullfrog Flats UGA Master Site Plan (the “MSP”) and the MSP’s Conditions of Approval (“the Conditions”) as approved by the City in 2003. The applicant also proposes an amendment and restatement of the *2002 Development Agreement* as well as submissions of applications for preliminary plat and boundary line adjustment authorizations.

Sun Communities acknowledges that the process for amendments to an adopted Planned Mixed Use zoning district is uncertain and unclear under the applicable development regulations. It is stated:

While the PMU Ordinance does not explain the means or procedure to obtain a formal amendment of an approved land use entitlement likely Approved Plan, Sun’s position is that the most conservative and appropriate course of action is to proceed as if the Major Modification Application should be processed like an entirely new application as contemplated by § 6.4.2 of the 2002 DA. Accordingly, Sun proposes that the Major Modification Application be processed as a “Type 4 Review” under CEMC 14.30.080.

KCUAC agrees with this statement but views the application as a rezone from the existing “Planned Mixed Use” to a new and different “Planned Mixed Use”.

The *Development Agreement* provides specific directions with respect to “Minor Modifications” but provides little guidance with respect to any change other than a Minor Modification. *Development Agreement* ¶ 6. The only guidance is the following:

6.4.2 Any proposed modification from the Conditions of Approval that does not meet the criteria for a Minor Modification, as described in Subsection 6.4.1 above, shall be a Major Modification, and shall require an amendment to the Conditions of Approval, including all of the public notice, comment and hearing requirements specified in the PMU Zoning.

Development Agreement ¶ 6.4.2 A “modification” is defined as “...the making of a limited change in something.” Merriam Webster Dictionary (2021). Sun Communities is not proposing a “limited change to something” – it is proposing the total elimination of the adopted land use plan and the substitution of a massive new privately owned recreational vehicle park and resort community under the sole ownership of a publicly owned developer.

The minor and major modification provisions should be read in the context of the “Flexibility Objectives”. The scope of permissible “modifications” is set forth as follows:

The Parties agree that the Conditions of Approval, as will be incorporated into the PMU Zoning approval, provides the desired level of initial definition and certainty to the Trendwest

UGA Development, sufficient for both parties to make the level of commitment contained in this Agreement. *However, the Parties acknowledge that modifications to the Master Site Plan are likely to occur during the build out of the Trendwest UGA Property to achieve a number of mutually desirable flexibility objectives, including but not limited to: incorporating new information; responding to changing community and market needs; encouraging reasonably priced housing; responding to changes in technology or patterns of living and working; and encouraging modifications that provide comparable benefit or functional equivalents with no significant reduction of public benefits, environmental protection, or increased material costs to the Trendwest UGA Development (collectively, the "Flexibility Objectives").*

2002 Development Agreement ¶ 6.3.

The modification process contemplated modifications to the Conditions of Approval as it relates to the adopted Master Site Plan and "Trendwest UGA Development". It was neither intended nor authorized as a vehicle for a fundamental change in the adopted land use plan, designation and zoning.

Comments on Application

KCUAC provide the following comments with respect to the application.

- 1. Comment on process – Application is not a modification of the Bullfrog UGA Master Site Plan but rather a proposal for rezone to establish a new subarea plan and Planned Mixed Use development.**

In 2002, Cle Elum City Council approved annexation of property within the Bullfrog UGA Subarea. The annexation and associated land use approvals designated the property as Planned Mixed Use and provided for a range of housing types and opportunities together with an integrated and supportive area for commercial development. The vision contemplated provision of necessary permanent housing to support growth projections with development "...in keeping with the climate and the traditional rural, small town, mountain character of the Cle Elum area".

Sun Communities is proposing to terminate the Bullfrog UGA Master Site Plan and substitute a fundamentally different land use – a master planned resort. Growth Management Act defines "master plan resort" as follows:

A master planned resort means a self-contained and fully integrated planned unit development, in a setting of significant amenities, with primary focus on destination resort facilities consisting of short-term visitor accommodations associated with a range of

developed on-site indoor or outdoor recreational facilities. RCW 36.70A.360(1)⁵ A master planned resort is a separate and unique land use. Cle Elum zoning ordinance does not recognize or establish development standards for this land use.

Sun Communities is a publicly traded company that develops, owns, and operates over 380 RV resorts and residential communities in the United States and Canada. The proposed master planned resort is under single management and ownership; the reduced “housing” does not involve fee simple ownership but rather leased lots in perpetuity; public roads are converted to private ownership; and the community is, for the most part, excluded from the entire resort. The employment creating Business/Light Industrial Park is eliminated in order to introduce retail and commercial business in direct contravention of the established comprehensive plan policies. The proposed land use is fundamentally different than the vision guiding development under the current plan and certainly not “...in keeping with the climate and the traditional rural, small town, mountain character of the Cle Elum area”. No two proposals could be further apart in their goals and aspirations.⁶

It is well established in this state that a request for a planned unit development is treated as a request for a rezone. *Johnson v. City of Mount Vernon*, 37 Wn. App. 214, 218, 679 P.2d 405 (1984); *Lutz v. Longview*, 83 Wn.2d 566, 568-69, 520 P.2d 1374 (1974) (“it is inescapable that application of the PUD to this tract constituted an act of rezoning.”); *Kenart & Associates v. Skagit County*, 37 Wn.App. 295, 298, 680 P.2d 439 (1984); and *Schofield v. Spokane County*, 96 Wn. App. 581, 588, 980 P.2d 277 (1999). (since Mr. Schofield is requesting a PUD, rezone law applies.”). The application seeks to reclassify use within the Bullfrog UGA with such land use process treated as a rezone.

The application must be considered under the process, standards and criteria set forth in CEMC Ch. 17.120 (Amendments and Reclassifications). The applicable standards and criteria to be considered by the city council for a rezone request are as follows:

Such an amendment shall be granted only if the request is found to be consistent with the following:

1. The proposed rezone is consistent with the comprehensive plan.

⁵ While the Growth Management Act (GMA) addresses “master planned resort” in the context of development outside of established urban growth areas, the land use concept is both descriptive of and applicable to the land use proposal submitted by Sun Communities.

⁶ Sun Communities originally proposed a manufactured home park located on a single parcel of property. KCUAC provided comments with respect to the prior land use application and objected to the manufactured home park as a component of the development because (1) Cle Elum municipal code does not authorize “manufactured/mobile home parks; (2) development of single-family dwellings is limited to one dwelling unit per legal lot of record. CEMC 17.16.010(A). Sun Communities has attempted to circumvent these fundamental concepts contained within the applicable land use regulations through a process involving a preliminary plat creation of lots that will be retained under the single ownership authority of Sun Communities. The preliminary plat has now been withdrawn from the current application. Under any circumstance, however, the uncontroverted facts are that the underlying land ownership will be held by a single entity – Sun Communities.

2. The proposed rezone and subsequent development would be compatible with development in the vicinity.
3. The proposed rezone will not unduly burden the transportation system in the vicinity of the property with significant adverse impacts which cannot be mitigated.
4. Adequate public utilities and public facilities are available to serve subsequent development.
5. Circumstances have changed substantially since the establishment of the current zoning district to warrant the proposed rezone.
6. The proposed rezone will not adversely affect the health, safety and general welfare of the citizens of the city.

CEMC 17.120.030. Sun Communities has not addressed the rezone criteria.

As a final point, the application for a new planned mixed use development also requires an amendment to the Cle Elum Comprehensive Plan which was predicated solely upon the approved Trendwest UGA Development.

2. Comment on Application – Application proposes land uses not allowed within PMU Planned Mixed Use District and specifically rejected in the adopted subarea plan.

~~(a) Manufactured Home Parks are not allowed in the PMU Planned Mixed-Use district.~~ Cle Elum zoning ordinance sets forth uses permitted within the PMU Planned Mixed Use district). CEMC 17.45.050(A) permits only principally and conditionally permitted uses within a proposed PMU zoning district and provides as follows:

All principally and conditionally permitted uses *in this title may be allowed in the PMU district* pursuant to an approved final plan provided that retail and service uses shall be limited to those convenience retail and service uses that are sized and designed to serve the residents or employees of the PMU zone and provided further specific uses permitted only in industrial districts pursuant to CEMC 17.24, and indicated in subsection B, which shall be prohibited in the PMU district, unless a special finding has been made as described in subsection B of this section.

If the proposed land use is not principally or conditionally permitted under the zoning ordinance (CEMC Title 17), the land use may not be included as a component of a Planned Mixed Use District.

Manufactured home parks are not allowed under the current zoning ordinance. Sun Communities is proposing development of a “manufactured housing community”. RCW 59.20.030(14).

“Mobile home park,” “manufactured housing community” or “manufactured/mobile home community” means any real property which is rented or held out to rent to others for the placement of two or more mobile homes, manufactured homes, or parked models for the primary purpose of production of income, except where such real property is rented or held out for rent for seasonal recreation purpose only and is not intended for year-round occupancy....

Id. Sun Communities acknowledges that lots within the resort development will be leased to individuals for placement of manufactured homes.⁷ This land use is not permitted, conditionally or otherwise, under the Cle Elum zoning ordinance.

As a final point, recreational vehicle parks are permitted only upon review and issuance of a conditional use permit. CEMC 17.51.010(E). Sun Communities has not submitted a conditional use permit as part of its land use application. A separate set of criteria are applicable to recreational vehicle parks as more particularly in CEMC 17.51.010(D).

(b) Recreational vehicle parks were specifically rejected as a permitted land use in the Bullfrog Flats UGA Master Site Plan approvals. The second component of Sun Communities land use application is a proposal to develop a recreational vehicle park together with associated camping facilities.⁸ The adopted Pre-Annexation Agreement stated that “...[i]t is the objective of the City of Cle Elum to be a single, integrated community, including areas to be annexed to the City.” ~~Pre-Annexation Agreement~~ Section 3.3. The objective statement goes on to provide:

The primary principles that comprise the City of Cle Elum’s *single community concept* include uniform minimum development and maintenance standards throughout the City including, but not limited to, road standards and snowplowing standards; *open, ungated neighborhoods that allow unrestricted public traffic on roads and pedestrian circulation systems*; maintaining parks, recreational facilities and open spaces to meet City standards that are sited in locations accessible to and are open to the public for the use

⁷ Sun Communities specifically contemplates development of the manufactured housing community in the context of its preliminary plat application and subdivision of property. While the Manufactured/Mobile Home Landlord – Tenant Act authorizes “manufactured housing subdivisions”, Sun Communities has not proposed such use as defined as applicable law. RCW 59.20.030(13).

⁸ Recreational vehicles, recreational vehicle parks and camping are subject to provisions set forth in CEMC Ch. 17.51. “Recreational vehicle park” or “RV park” is defined as follows:

“Recreational vehicle park,” or “RV park” means a tract or parcel of land upon which two or more recreational vehicle sites are located, principally used for occupancy by predominantly RV’s as temporary living quarters for recreation or vacation purposes with a maximum allowable stay per vehicle of 180 days; or is conditioned within the conditional use permit, annexation agreement and/or development agreement as appropriate.

CEMC 17.51.010. Any proposed RV park must satisfy the requirements of both a conditional use permit under CEMC Chapter 17.80 and site and design review under CEMC Chapter 17.76.

and benefit of all citizens equally, whether such recreational opportunities are created by the City and/or through developer mitigation.

The *Pre-Annexation Agreement* further limits the scope of “private recreational facilities.”

Trendwest may provide for private recreational facilities for UGA homeowners and tenants beyond those required to meet city standards and may include some security measures deemed appropriate by the City for any senior residential housing constructed in the Trendwest UGA Property.

In the present case, the “private recreational facilities” are not for the benefit of “UGA homeowners and tenants” but for the benefit of the private developer and short term recreational vehicle and camping parties.

The proposed integrated RV park and associated manufactured home community are the antithesis of the contemplated single community concept that form the foundation for municipal annexation. The entire development is under private ownership with access controls and public use limitations. Any development proposal must substantially comply with “...the Cle Elum comprehensive plan, the policies and applicable subarea plan, *the requirements of any applicable annexation implementation agreement* and the purposes and objectives of ...” CEMC Chapter 17.45.

~~Permanent recreational vehicle parks were specifically rejected as a use component within the Bullfrog UGA.~~

- Permanent or long-term RV park was specifically rejected in the Development Agreement. *Development Agreement* ¶ 23. Trendwest was authorized to construct a maximum of 100 Recreational Vehicle sites in the Business Park Parcel to house temporary construction workers from the MPR and UGA. The temporary RV park use was to be removed after ten years. No provision was made allowing a permanent RV Park. The current proposal is not a “modification” of the existing plan but rather a new plan.
- **Pre-Annexation Agreement ¶3.3 identify the objective of the City of Cle Elum to be a single, integrated community.** The development concept was to provide “...ungated neighborhoods that allow unrestricted public traffic on roads and pedestrian circulation systems.” Sun Communities proposes a single gated resort development under single ownership.
- Land uses were identified in the City’s June 23, 1998 Bull Frog Urban Growth Area document dated June 23, 1998 (commonly referred to as the “Green Book”). That planning document identified RV park under Alternative 2, which was rejected in subsequent planning and subarea documents.

- The clear intent reflected in all applicable documents was that RV Parks were not an allowed use in the Bullfrog UGA.

3. Comment on process – proposed uses must be evaluated under applicable standards and requirements set forth in the zoning ordinance. It is axiomatic that the current application must be processed and evaluated in accordance with applicable annexation agreements, development agreements and zoning ordinance provisions. Those considerations include the following:

- Pre-Annexation Agreement contemplates and required ungated neighborhoods that allow unrestricted public traffic on roads and pedestrian circulation systems; parks, recreational facilities and open spaces open to the public for use and benefit of all citizens; and commitment of single-family and multiple-family residential development design to contribute to the communities' long-term obligation to provide permanent housing alternatives for the 20-year GMA planning period. The *Pre-Annexation Agreement* must be amended in order to convert the land use to a private resort community and not a series of traditional neighborhoods and mixed uses contemplated in the context of annexation.
- Cle Elum Municipal Code does not authorize "manufactured/mobile home parks". CEMC 17.16.010(A). Sun Communities seeks to circumvent rules through a preliminary plat application-coupled-with-retained-ownership-of-all-lots-and-real-property.
- The adoption or amendment of a planned unit development is a rezone which must satisfy both ordinance and common law rezone requirements.
- A proposed "Recreational Vehicle Park" must comply with requirements of CEMC Ch. 17.51, including conditional use permit. The development of an RV Park is allowed only upon the issuance of a conditional use permit in accordance with CEMC Chapter 17.80 and CEMC Section 17.100.140. CEMC 17.51.010(E). The development of an RV Park is also subject to site and design review, applicable design standards and compliance with applicable ordinance provisions. The land use review process must also include a conditional use permit application.

4. Comments on Application – Adverse Impacts. The land use application proposes or suggests significant and unsupportable changes in the current land use planning. The following comments represent areas of concern but are not intended to be all inclusive. KCUAC reserves the right to supplement these comments based on a complete record developed through the hearing process.

- **Amendment improperly reduces business park/commercial areas.** The adopted Master Site Plan provides 75-acres for business park/commercial. The existing business park authorization contemplates approximately 950,000 square feet for uses permitted in

CEMC Ch. 17.34 (Business Park District) and CEMC Ch. 17.36 (Industrial District). Inclusion of these districts was for employment and job creation opportunities.

The **proposed** amendment eliminates the business park and substitutes a smaller 25-acre retail commercial including a grocery store. It is acknowledged that there will be "...fewer new permanent employees at full buildout due to smaller commercial space on adjacent property." The change is inconsistent with balanced community development and guidelines set forth in the Cle Elum Comprehensive Plan.

- **Reduction in residential housing is contrary to public welfare and best interests.** The current Master Site Plan provides for 1,334 residential units (810 single-family units and 524 multi-family units). Sun Communities proposes a reduction in residential usage to 707 residential units (527 single-family units and 180 multi-family units). The RV Park is a "non-residential" use. The modification eliminates 627 dwelling units and converts the remaining dwellings to rental or resort occupancies.

Development Agreement intended housing to provide options to residents of the City of Cle Elum. The permitted residential uses were those uses set forth in CEMC Ch. 17.16 (R-Residential District) and CEMC Ch. 17.20 (RM Multiple Family Residential District). *Development Agreement ¶¶13-16*. The purpose of the residential districts is stated as follows:

The purpose of the residential district is to create and maintain stable and attractive residential neighborhoods, while providing diversity in housing types and maintaining affordable housing. Residential zones should also protect sensitive natural areas, provide for the efficient use of land and public services, and provide appropriate vehicular and pedestrian access.

CEMC 17.16.005. Sun Communities seeks to substitute a master planned resort for community housing.

- ***Development Agreement ¶16*** states that there shall be "...[n]o gates, walls or other access restrictions on these public streets and alleys" The residential component of the Bullfrog Flats UGA was to provide additional land for meeting the GMA 20-year growth projections on an integrated single community basis. The proposed new subarea plan directly contravenes long-term growth planning for the community.
- **Amendment would have adverse impact on job creation and employment.** SEIS Alternative Five projected 2,025 local construction jobs over full buildout. SEIS Alternative Six reduces employment to 607 local construction jobs. Under SEIS Alternative Five, development of the business park would increase permanent employment by 1,900 new employees at full buildout. SEIS Alternative Six (including

future commercial development) would result in approximately 400 new permanent employees at full buildout. The proposal is contrary to the public interest.

5. Comment on fiscal impacts: Sun Communities proposal presents adverse economic and fiscal impacts to the municipality. The *Development Agreement* specifically states as follows:

Because the City has adopted a policy that existing city residents, taxpayers, and rate payers should not bear any additional financial burden to expand facilities and services necessary to serve new development, it is appropriate to require Trendwest and its proposed UGA Development to bear those costs.

The costs include both on-site and off-site impacts including those to transportation as well as municipal, regional, and public services. Assessment of costs associated with such impacts should extend to state and local facilities and services including Kittitas County, City of Roslyn, City of Cle Elum, and Kittitas County Hospital District Nos. 1 and 2. We support each of these public service providers.

- Sun Communities is obligated to "...[e]nsure that ... public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards." RCW 36.70A.020. See also RCW 58.17.110 and 17.45.090(20). A local jurisdiction shall "...prohibit development approval if the development causes the level of service on a locally owned transportation facility to decline below the standards adopted...." RCW 36.70A.070(6).
- SEIS states that the proposal will result in "...small fiscal short falls in early years while the SEIS Alternative 6 Residential and RV Resort would generate fiscal shortfalls post buildout." The proposal would require the near doubling of upper county public services (police, fire, hospital, etc.). The FSEIS fiscal analysis included only operational costs but did not include capital costs. Also excluded were fiscal impacts to jurisdictions outside the City of Cle Elum. The developer should be required to fund or construct any capital facilities required by its development. In the alternative, development should wait until concurrent facilities are available to serve the development.
- Sun Communities proposal would result in a near doubling of the population of Cle Elum/Roslyn at full occupancy. The direct impacts will be upon all public facilities and services including police, fire, medical, hospital/clinic service, emergency and school systems. The fiscal studies in the SEIS show that tax revenues collected from Bullfrog Flats after development will be less, in some case less than half, of what

would be collected from the same land if developed under the current approved land use. Collected tax revenue would not be enough to offset increased costs for public services.

Comments on Procedure.

KCUAC also has concerns regarding the procedures utilized to this point in review of the land use application.

1. Supplementation of 2002 FEIS through a hypothetical project for a withdrawn application is improper. Supplementation of a twenty-year-old Final Environmental Impact Statement (FEIS) based upon a materially different proposal is inappropriate and results in a strained and illogical environmental review. Sun Communities does not propose a “modification” of a previously approved planned development but rather submits a new application for a distinctly new and different land use. The developer recognized the following reality and procedural approach:

While the PMU Ordinance does not explain the means or procedures to obtain a formal amendment of an approved land use entitlement like the Approved Plan, Sun’s position is that the most conservative and appropriate course of action is to proceed as if the Major Modification Application should be processed like an entirely new application as contemplated by Section 6.4.2 of the 2002 DA.

KCUAC agrees. This is a new application and environmental review should proceed through a new and independent environmental review process. That process should include issuance of a Determination of Significance (DS), appropriate scoping procedures, and development of a Draft Environmental Impact Statement (DEIS). Sun Communities is attempting to shoehorn a fundamentally new and different planned development into a comparative, confused and complex undertaking to compare two fundamentally different development concepts.

A twenty-year-old residential planned development contemplating development and construction of 1334 single-and multi-family dwelling units bears no resemblance to a massive regional recreational resort proposed by a national developer. The current proposal abandons all original concepts of single-family development and ownership; introduces a 627 unit recreational resort and RV park; proposes development of a manufactured home park through leased land (as with typical mobile and manufactured home parks – which are not permitted under the zoning ordinance); and fundamentally restructures commercial business use that is inconsistent with zoning and comprehensive planning for the community.

2. City improperly adopted the 2021 Supplemental Environmental Impact Statement (SEIS) as the foundation for current environmental review. The City has provided notice that it intends to adopt a *Final SEIS* prepared by the City of Cle Elum for the prior withdrawal of the 47° North Proposed Master Site Plan Amendment (2020/2021). It was stated that “[t]he SEIS meets the City’s

environmental review needs and is adopted pursuant to WAC 197-11-630; the SEIS will accompany the project application to the decision-maker.” KCUAC objects to this procedural on several grounds.

To begin, the 2001 SEIS never became a final environmental document. The City prepared the 2001 SEIS prior to submission of a complete land use application. The environmental review process was based upon a hypothetical proposal that never became an actual land use authorization. While the unusual process proceeded to issuance of a *Final SEIS*, neither the public nor impacted agencies had an opportunity to challenge the adequacy of the FSEIS that was proposed for the land use application.

City of Cle Elum does not provide for an administrative review process for adequacy of an environmental impact statement. Any review of the adequacy must be consolidated with the appeal of the underlying governmental action. To say the least, it was woefully inadequate in its discussion and analysis of impacts including transportation, housing and importantly public services.

Regulatory Reform sought to integrate and combine environmental considerations with public decisions. Any appeal brought under SEPA was to be linked to a specific governmental action. The State Environmental Policy Act provides a basis for challenging whether governmental action is in compliance with the substantive and procedural provisions of RCW Chapter 43.21C. The State Environmental Policy Act is not intended to create a cause of action unrelated to a specific governmental action. RCW 43.21C.075(1) and (6)(c) (“judicial review under this chapter shall without exception be of the governmental action together with its accompanying environmental determinations.”). The 2001 FSEIS was prepared for a nonexistent “proposal” and did not constitute a final environmental document. The withdrawal of the land use application by definition involves the withdrawal of the associated environmental review process.

This is of particular significance in this case since the public, including KCUAC members, did not have an opportunity to challenge or question the facts or basis for the 2001 FSEIS. “Adoption” means an agency’s use of all or part of an existing environmental document to meet all or part of the agency’s responsibilities under SEPA to prepare an EIS or other environmental document. WAC 197-11-708. See also, *Thornton Creek Legal Defense Fund v. City of Seattle*, 113 Wn.App. 34, 50, 52 P.3d 522 (2002). There is no legal authority to adopt preliminary environmental documents prepared on a hypothetical basis for land use application that was ultimately withdrawn by the project proponent. The courts have recognized the following standard with respect to adoption of an existing document:

If an agency adopts an existing document, it must independently assess the sufficiency of the document, identify the document and state why it is being adopted, make the adopted document readily available, and circulate the statement of adoption.

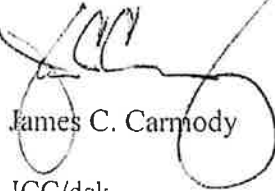
Thornton Creek Legal Defense Fund, 113 Wn.App. at 50. Adoption is appropriate only if the prior documents adequately address environmental considerations.

Lead agencies are authorized to use in whole or in part existing environmental documents for a new project or non-project action, if the documents adequately address environmental considerations set forth in RCW 43.21C.030. . . . The lead agency shall independently review the content of the existing documents and determine that the information and analysis to be used is relevant and adequate. RCW 43.21C.034. The 2021 FSEIS is not “adequate” because it was not subjected to final review and challenges that would occur through consolidated appellate practice. All public service providers, as well as the community, are now left with an uncertain and convoluted process to challenge the adequacy of the prior hypothetical environmental determination.

3. The City inappropriately utilized an “Addendum” for environmental review of the new land use application. The City has created a “house of cards” in environmental review. The adoption of an incomplete and hypothetical FSEIS is compounded by evaluation of the current proposal through an Addendum. “Addendum” means an environmental document used to provide additional information or analysis that does not substantially change the analysis of significant impacts and alternatives in the existing environmental document. Sun Communities has proposed major modifications to the original Bullfrog Flats Subarea plan. An agency must prepare an SEIS if there are “[s]ubstantial changes so that the proposal is likely to have significant adverse impacts,” or if there is “[n]ew information indicating the proposal’s probable significant adverse environmental impacts.” WAC 197-11-600(4)(d)(i) and (ii). The City failed to follow the prescribed procedure. WAC 197-11-706.

We appreciate your consideration of our comments. KCUAC reserves the right to supplement and provide additional comment through the land use and environmental review processes.

Very truly yours,



James C. Carnody

JCC/dsk

Encl.



KITTCOM (KITTITAS COUNTY 911)

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MAY 17, 2023



City of Cle Elum Planning
Mayor McGowan
Cle Elum City Council members
119 W 1st St
Cle Elum, WA 98922

Dear Mayor, City Council Members and Planning Division:

I am writing you today to express concern regarding the 47 Degree North Project. While it is clear there is a reduction in residential housing, the recreational housing has the potential to bring many visitors to the area. This has many positive impacts, however with an increase in visitors comes an increase in need for emergency services, as we are now serving a larger group than normal.

Dispatch services for City of Cle Elum Police, Fire and Hospital District 2 (Upper Medic 1) accounted for approximately 11% of the overall workload at KITTCOM from July 2021 – June 2022. These numbers do not account for any law enforcement response to the many areas of recreation surrounding Cle Elum, nor does it account for surrounding Fire District responses to those areas, for which we provide 9-1-1 emergency call answering and dispatch services for. As these agencies look to address their staffing and response needs to such growth, KITTCOM will be forced to do the same. KITTCOM will require more staffing to keep up with an anticipated increased call volume and need to assist other agencies. Technology is also a concern, as many people recreate into areas where radio communication is difficult.

Failure to address staffing and technological needs at KITTCOM with such a change in the upper county could have county wide consequences. Staff will be unable to answer the phone as quickly as they can now, which means the time it takes to dial 9-1-1 and have someone answer that call will increase county wide. It will also force us to reduce our service level to our user agencies county wide during times of high call volumes. It is also clear from the letter that the current company has intention of having a portion of work completed in the next five years, which means concerns need to be addressed immediately so that there is time to put proper staffing and technology in place.

I appreciate you each taking the time to consider the public's safety and the safety of your responders when considering the proposal.

George Long

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June 26, 2023

City of Cle Elum
Planning Department/47 Degrees North
119 West First Street
Cle Elum, WA 98922

Re: Sun Communities Application for Major Modification of Bullfrog Flats UGA Master Site Plan and Development Agreement

Dear Sir/Madam:

We represent Kittitas County Public Health District No. 1 and Kittitas County Public Health District No. 2 (collectively "Kittitas County Hospital Districts").¹ Kittitas County Hospital Districts have been active participants for more than two decades in the land use planning and environmental review processes for the Bullfrog Flats UGA Subarea. We provide these comments in response to the *Combined Notice of Application for Proposed Modifications, SEPA Determination of Significance (DS), Notice of Adoption of Existing Environmental Documents, the Availability of an Addendum, and the Extension of the Public Comment Period* ("Notice of Application"). This comment will supplement prior communications, correspondence, meetings and information provided by Kittitas County Hospital Districts with respect to environmental and land use review at Sun Communities' proposed modifications to the established Bullfrog Flats Subarea plans.²

¹ Each Public Hospital District is independently established and governed by five (5) elected Commissioners. Hospital District #2 extends to the top of Snoqualmie Pass at the King County line and includes the communities of Snoqualmie Pass, Easton, Ronald, Roslyn, Cle Elum and South Cle Elum. Hospital District #2 operates Medic One Ambulance Service which is housed in Cle Elum. Hospital District #1 leases the Family Medicine Clinic in Cle Elum from Hospital District #2 and employs the staff and providers in the clinic. Specialty Services are also provided from this location and include integrated behavioral health, treatment for opioid use disorder, physical therapy, dietary consults, orthopedics, obstetrics, gynecology, dermatology and podiatry. Hospital District #1 also operates an Urgent Care Clinic as well as a full service Critical Access Hospital, including an Emergency Department, in Ellensburg. Public Hospital Districts have provided detailed staffing, financial and related information through each of the review processes related to development within the Bullfrog Flats subarea.

² This letter will specifically supplement comments provided to City of Cle Elum by letter dated November 7, 2022.

Attachment A.

Sun Communities proposes to convert the Bullfrog Flats Subarea from a single- and multi-family development to a master planned recreational vehicle park and resort. The land use proposal eliminates the community's long-term (two decades) vision for single-family and multi-family residential and commercial development of the subarea. For two decades, the community and public service providers planned for the subarea as the primary vehicle to meet Growth Management Act (GMA) planning goals for projected growth. Sun Communities' proposal is not for the "modification" of the existing plan – it is an application for the elimination of the existing plan.

While Kittitas County Hospital Districts question the wisdom and basis for the change, the focus of these comments is on the incomplete and uninformed assessment of impacts on the provision of emergency medical and hospital services for the current and future community as a whole. The proposed land use change and development will change the timing and character of emergency medical service requirements, increase the level of service calls and demands, introduce seasonality into staffing and capital investment, and most importantly, result in devastating reductions in tax revenues and levels of service. The impacts are literally ignored under the repeated assumption "...that patient service fees could scale to meet additional costs beyond revenues provided by property tax revenues." This is a patently uninformed and irresponsible assumption that is contrary to any informed understanding of revenues, reimbursement mechanisms, costs and reasoned analysis.

Kittitas County Hospital Districts have conscientiously provided revenue and cost information, call and transport data, and explanations on funding of emergency medical and hospital services directly related to the proposal. We are frustrated at this point because of the lack of understanding or indifference to these public service impacts. Kittitas County Health District's primary, and perhaps only, focus is its continued effort to provide efficient, economic, and timely medical care to the area's severely underserved population.³ The honest feeling is that the City is more interested in facilitating the developer's profit interests than addressing impacts on service providers and the community. Our comments are provided in this context.

A. Overview of Proposed Land Use Change and Comparative Development Components.

Planning for the Bullfrog Flats Subarea began twenty-five (25) years ago through collaborative process including City of Cle Elum, Kittitas County, Trendwest, service providers (including Kittitas County Hospital Districts) and the community. The process culminated a long-term vision for the Bullfrog Flats Subarea (UGA). The vision was implemented through (i) the 1998 amendments to both the Kittitas County and City of Cle Elum Comprehensive Plans, (ii) the adoption of the Bull Frog Urban Growth

³ Kittitas County Health Districts provided both written comment as well as face-to-face discussions with the City, its staff and environmental team. We also engaged outside consultants to provide guidance and input with respect to the technical review process and procedures for fiscal and environmental analysis of impacts to Kittitas County Hospital Districts. That consultation advised that a proper analysis would include extensive data discovery including additional population analysis (full-time versus seasonal); development and absorption schedules; informed analysis of comparative impacts on tax revenues based upon changes in property development, ownership and use modifications, assessment of seasonal impacts related to a transient population, and other relevant matters. We requested City of Cle Elum to undertake an appropriate in depth environmental review of these impacts in our correspondence of November 7, 2022. It is apparent that the City simply ignored these comments and chose to proceed on a superficial and academically undisciplined assessment of such impacts.

Area Study (Green Book), (iii) the Final Environmental Impact Statement (2002 FEIS), (iv) adoption of the Bullfrog UGA Subarea Plan (October 8, 2002), (v) the execution of the Development Agreement (October 30, 2002), and (vi) annexation to the City in 2002. The vision was reaffirmed within the City's 2019 update of its Comprehensive Plan.

Through the planning process, the community considered five (5) development alternatives. The community and developer settled on a preferred alternative – Alternative 5. The long-term vision was for development of residential housing with a supporting business plan providing employment opportunities. Key components of the original Master Plan and Development Agreement included the following:

- (1) 1334 housing units;
- (2) 810 single-family units;
- (3) 524 multi-family units;
- (4) No permanent recreational vehicle parks;⁴
- (5) 75 acre business park (950,000 sq. ft), minimum of 37.5, Commercial/Light Industrial – Limited Retail;
- (6) All streets and alleys to be public;
- (7) Phased build-out over 20-30 year organic build out;
- (8) Individual property ownership;
- (9) Development of a mix of housing uses throughout the property;
- (10) Mitigation, monitoring and fiscal neutrality; and
- (11) Maximum 100 temporary RV sites to house contractors during construction only;

The established plan allowed service providers, such as Kittitas County Hospital Districts, to plan based upon defined uses and over an assumed 30-year buildout schedule. This was particularly significant to Kittitas County Hospital District because more than half of its operating revenues are derived from property tax levies based on assessed property values. Tax revenues based on assessed property values provide a sustaining revenue source correlated to service demands. This is critical during recent times where patient/service fee increases do not keep pace with ever increasing costs for emergency medical and hospital services. *Olander Letter Attachment A.*

Sun Communities has since purchased the property encompassing the Bullfrog Flats Subarea from Suncadia, the successor in interest to the original project sponsor, Trendwest. Sun Communities purchased the land subject to the adopted development plan, Development Agreement and associated

⁴ The approved development plan allowed 100 recreational vehicle parking for support of construction workers. The temporary conditional use expired in 10 years.

rights and obligations.⁵ Rather than proceed with the established development plan, Sun Communities is proposing a total abandonment of the original concepts and introduction of a new self-contained private recreational resort serving a transient population at the cost of the community. The components of Sun Communities' proposed Major Modification include the following:

- (1) Elimination of 661 single-family dwellings.
- (2) Elimination of 344 multi-family dwelling units.
- (3) Development of 527 manufactured homes on land leased from developer.
- (4) The development of a 662 unit Recreational Vehicle Park resort.
- (5) Elimination of the Business Park with replacement 25-acre commercial area with grocery store and retail.
- (6) Privately owned utilities and roads.
- (7) Private park closed to the City and the public.

Sun Communities proposal introduces a massive and new privately owned RV resort serving transient populations under the guise of a theoretical "modification" to the existing plan.

There should be no question that Sun Communities' proposed modification will increase service demands and result in negative impacts on property tax valuations, permanent levy revenues, facilities and staffing requirements, and provision of quality and timely delivery of emergency services to the community. Sun Communities and environmental review have literally ignored these impacts. Neither the applications nor *SEIS Addendum* contain any meaningful or substantive discussion of these impacts.

The 2002 *Final Environmental Impact Statement* ("2002 FEIS") required negotiation of a final mitigation agreement with Kittitas County Hospital Districts that included the following criteria:

⁵ Sun Communities initiated a potential project proposal in 2019. The City summarized the initial process proposals as follows:

Recently, New Suncadia informed the City that they had entered into an agreement to potentially sell approximately 825 acres of the site to Sun Communities, Inc., a publicly traded company that has developed over 380 manufactured housing communities and RV Parks in the United States and Canada. Sun Communities subsequently advised the City that they were exploring the feasibility of proposing amendments to the approved Master Plan that would keep the total number of dwelling units at 1,334, but would reduce the number of single-family residences to 484, reduce the number of multi-family dwelling units to 405, and would add RV Resort with 415 RV sites and 30 villas.

The City initiated environmental review without a filed land use application. A *Supplemental Environmental Impact Statement* was prepared and finalized prior to submission of the land use application. Sun Communities subsequently filed the land use application which was later withdrawn prior to any public hearing and decision-making processes.

- Hospital District No. 2 will track property tax revenues and patient fees attributable to MPR and UGA development, as well as service costs due to dispatch calls to combined Trendwest development.
- To the extent that property tax revenues and patient fees, combined with a contribution already made by Trendwest to Hospital District No. 2, do not cover the calculated cost to Trendwest development, Trendwest will make monthly mitigation payments to avoid fiscal shortfalls.
- Capital expenses, most likely ambulance purchases, will either be leased or purchased with bonds.
- Capital costs will be included as part of operating expenses calculated for Trendwest development and will be subject to the monthly mitigation arrangement.
- Appropriate space will be provided for Hospital District No. 2 and necessary capital equipment at the proposed emergency services center to be funded by Trendwest.

2002 FEIS 3.18 – 626. The same principles should apply to the new land use applications. Sun Communities has not proposed a mitigation agreement for consideration by Kittitas County Hospital Districts.

Kittitas County Hospital Districts identified these issues and concerns in both earlier correspondence and meetings with the City of Cle Elum. **Attachment B.** Hospital District representatives sought to identify and discuss the direct and adverse impacts on revenue sources (both tax and patient/service fees) resulting from the change in land use. We specifically addressed adverse impacts on property valuations and EMS and hospital levies, as well as the contemplated rapid build-out. It appears that all of those concerns fell upon deaf ears. To say this process has been frustrating is an understatement.

B. Comments on Adequacy of Facts and Analysis Regarding Significant Adverse Environmental Impacts to Kittitas County Hospital District.

The delivery of emergency medical and hospital services in a rural community is both challenging and complex.⁶ Sun Communities land use proposal complicates the analysis with an unknown and unfamiliar land use introducing a massive destination resort to serve transient tourist populations. The record contains literally no substantive information or data on the new land use concept. The impacts

⁶ Kittitas County Hospital Districts were involved in the initial land use and environmental review for the 2002 Bullfrog Subarea Plan and associated environmental review process. Today's world is far more complex. The *Final EIS* included specific assessments of impacts to Hospital District No. 2 with such analysis including a Fiscal Impact Analysis (Appendix D). The factual analysis utilized for the *Final EIS* is over twenty (20) years old and there have been significant fundamental changes in the method and manner for addressing revenues, costs, service obligations and associated considerations. That process included adoption of the *2002 Development Agreement*, including Attachment 10 which was a draft mitigation agreement with Kittitas County Hospital District No. 2. A complete copy of Attachment 10 is not available on the City website.

specifically include increases in emergency medical and hospital support demands, reduction in revenue and levy funds, increases in staffing and capital requirements, and an overall adverse impact on level of service to the community.

1. Overview of SEPA requirements and purposes.

The environmental review under the State Environmental Policy Act (SEPA) requires a complete and thorough factual assessment of impacts and associated mitigation alternatives. SEPA policy is to ensure through a detailed environmental impact statement (EIS) the full disclosure of environmental information so that it can be considered during decision-making. *Barrie v. Kitsap County*, 93 Wn.2d 843, 854, 613 P.2d 1148 (1980). The level of detail must be commensurate with the importance of the impact, with less important material summarized, consolidated, or referenced. WAC 197-11-402. SEPA "...is an attempt by the people to shape their future environment by deliberation, not default." *Wild Fish Conservancy v. Washington Department of Fish & Wildlife*, 198 Wn.2d 846, 873, 502 P.3d 359 (2022). In this community, the provision of emergency medical and hospital care should be an elevated priority. SEPA demands a "thoughtful decision-making process" where government agencies "conscientiously and systematically consider environmental values and consequences." *ASARCO Inc. v. Air Quality Coalition*, 92 Wn.2d 685, 700, 601 P.2d 501 (1979).

SEPA review of Sun Communities' project proposal has been wholly inadequate as it relates to adverse impacts of emergency medical and hospital services. "EIS adequacy refers to the legal sufficiency of the environmental data contained in the impact statement." *Klickitat County Citizens Against Imported Waste v. Klickitat County*, 122 Wn.2d 619, 633, 860 P.2d 390 (1993). To be adequate, the courts have applied a "rule of reason," which requires that the EIS provide a "reasonably thorough discussion of significant aspects of the probable environmental consequences" of the proposed action at issue in order to fully and completely inform decision-makers." *Heritage Baptist Church v. Central Puget Sound Growth Management Hearings Board*, 2 Wn. App. 737, 753, 413 P.3d 590 (2018).

As we have previously noted, provision of emergency medical services and associated hospital care is a complex and challenging assessment. Kittitas County Hospital Districts addressed the complexities and requested that the City undertake an independent evaluation of these impacts in order to fully and completely understand the significant adverse impacts and mitigation options related to the massive new projects proposed by Sun Communities. The City either ignored or rejected this request and has proceeded with a superficial, incomplete and, in many instances, an incorrect assessment of significant adverse environmental impacts.

2. Environmental review fails to adequately, completely and accurately disclose, assess and mitigate adverse impacts on revenue sources.

Sun Communities current proposal will have a direct and adverse impact on Kittitas County Hospital Districts tax revenue and tax base. Kittitas County Hospital Districts derive revenue from two primary sources: (1) tax revenue from statutorily authorized levies; and (2) patient and service fees. Tax

revenues and levy proceeds cover over 50% of the District's operating costs.⁷ Each year, the District responds to 1,600 calls. Only 800 of the 1,600 calls result in income to the District because there is payment only for "transports." Patient/service fees (i.e. net ambulance revenue) relative to operation costs over the past four (4) years is as follows:

2022	2021	2020	2019
37.49%	38.93%	40.14%	58.54%

As a result of these shortfalls, levy proceeds are needed to fund an increasing percentage of EMG operations because net revenue from operations is not keeping pace with expense increases. Tax levy revenues are fixed by law based on assessed property valuations. They do not fluctuate based on service requirements.

(a) Sun Communities project proposal results in a significant and substantial reduction in tax revenues. As noted above, more than 50% of the District's operating costs come from levy proceeds. Public hospital districts are authorized to offer ambulance and ambulance services. RCW 70.44.007. As a public hospital district, Kittitas County Hospital District No. 2 is authorized to provide EMS services and levy a property tax of up to \$0.50 per \$1,000 assessed value for emergency medical services through voter-approved levies. RCW 84.52.069. The revenues may be used only for the provision of emergency medical care or emergency medical services, including related personnel costs, training for such personnel, and related equipment, supplies, vehicles and structures needed for the provision of emergency medical care or emergency medical services. Kittitas County Hospital Districts have established permanent levies.

EMS levies are based on property valuation and subject to the 1% annual levy lid limit (sometimes known as the 101% limit) under RCW 84.55.010. This means that the levy amount – the total revenue generated by the EMS levy – may not increase more than 1% per year, *plus add-ons for new construction*, new annexations, increases in state assessed properties, and construction of certain renewable energy generating facilities. Since both Alternative 5 and Alternative 6 (and its variations) involve new construction, the construction of new units provides a partial off-set to new and added service costs and expenses.

The EMS levy rate is calculated based on the jurisdiction's total levy amount divided by its total assessed valuation.⁸ The adopted Development Agreement authorizes the development of a 1334 unit single-family and multi-family residential development including a 75-acre commercial area. The 2002 FEIS includes specific descriptions of single- and multi-family residences and structures. Sun

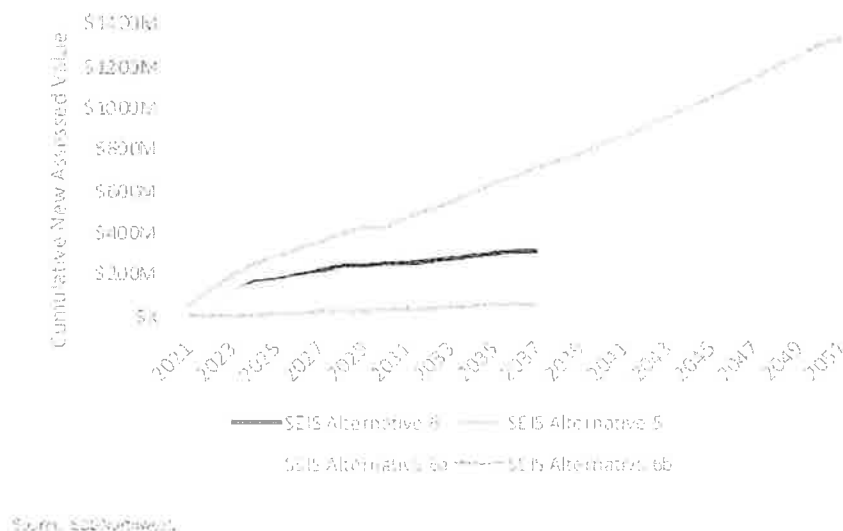
⁷ See letter from Scott Olander, Chief Financial Officer for Kittitas County Hospital Districts. Attachment A. Note that the 2019 net ambulance service revenue is disproportionately high because of retroactive GEMT cost report settlements. It should also be noted that the SEIS Addendum incorrectly stated that 59% of the District's funding in 2021 came from patient/service fees.

⁸ Because all property tax levy amounts may not be increased more than 1% each year (plus add-ons), if the jurisdiction's assessed valuation is increasing faster than the 1% cap, the levy rate will start to decrease. Kittitas County's levy rate has decreased because of increased assessed valuations.

Communities' new development concept (1) eliminates 661 residential units; (2) substitutes manufactured homes on leased land for traditional single-family housing construction of non-simple property; (3) removes 50 acres of commercial business park property; and (4) reduces the improvement value of 527 single-family residences to manufactured homes (approximately \$150,000). Each change reduces the property value with corresponding reduction in levy revenue. Nevertheless, it is anticipated that calls will increase.

Kittitas County Hospital Districts will see a massive reduction in revenue without a corresponding reduction in service requirements. The 2020 Economic and Fiscal report prepared by ECONorthwest for the SEIS included the following exhibit reflecting cumulative new construction assessed values for *FSEIS* Alternative 5 and *FSEIS* Alternative 6a, and Alternative 6b.

Exhibit 19. Cumulative New Construction Assessed Value, SEIS Alternative 5, SEIS Alternative 6, SEIS Alternative 6a (47° North), and SEIS Alternative 6b (the commercial parcel)



The graph clearly discloses the direct adverse revenue impact to Kittitas County Hospital Districts related to the change in land use proposed by Sun Communities. On a forward looking basis, the tax revenue reduction was summarized as follows:

Exhibit 27. Hospital District Cumulative Operating Levy Revenue Summary (2020\$ in thousands), SEIS Alternative 5, SEIS Alternative 6, SEIS Alternative 6a (47 * North), and SEIS Alternative 6b (the commercial parcel)

	2025	2031	2037	2051
SEIS Alternative 5				
Total Revenues	\$340	\$1,150	\$2,260	\$5,550
SEIS Alternative 6				
Total Revenues	\$200	\$690	\$1,220	--
SEIS Alternative 6a (47 * North)				
Total Revenues	\$200	\$620	\$1,070	--
SEIS Alternative 6b				
Total Revenues	\$10	\$60	\$150	--

Source: ECHvalley.org

Kittitas County Hospital District calculated the revenue loss on a highly conservative basis. The existing development plan contemplated single-family residential structures as depicted in the 2002 FEIS. Sun Communities has proposed to eliminate the proposed stick-built residences and replace them with manufactured home units. The tax assessment value difference between the two structure types is as follows:

The current median sales price for a single-family home in other Kittitas County on Quarter 1 of 2023 was \$701,000. Per the Sun Communities proposal the anticipated sales price for a single-family is \$225,000. The reduction to the combined hospital and EMS levy from 2023 to 2030 due to the reduced value of these single-family homes as proposed by Sun Communities is \$3,680,325. The levy shortfall assessed from traditionally built homes and the single-family homes that Sun Communities is proposing continues from 2031 and beyond. The property owners of other upper Kittitas County will be required to make up this difference.

Olander Letter, Attachment A. The *SEIS Addendum* does not substantively address this revenue reduction.

The preceding calculation is conservative. Sun Communities also proposes to replace 627 residential dwelling units with a 627-unit Recreational Vehicle (RV) park and resort. While property assessments will be less (i.e., there is no building or structural value), there will be no corresponding reduction in service requirements or projected "calls." Assuming that the residential structures had a value of \$500,000, the total valuation at buildout would be \$313,500,000. The annual revenue differential based on levy rates would be \$156,750.00. There will also be a significant revenue reduction associated with the conversion of the 75-acre business park to a 25-acre retail area. None of these impacts are identified, analyzed or mitigated in the *SEIS Addendum*.

(b) Reimbursement for “transport” services. Kittitas County Hospital Districts provided the City with a “call” and “transport” summary of emergency service calls responded to by Kittitas County Hospital Districts. Each year, the District responds to approximately 1,600 calls for emergency service. Only 800 of the 1,600 calls results in a transport.⁹ The “call” and “transport” numbers do not contain any calculations or assessments for land uses involving transient populations. And neither the *2001 SEIS* or *SEIS Addendum* contain any data on calls to transient populations.

Kittitas County Hospital District does not receive compensation on all “calls” received for emergency services. A response team is dispatched for all “calls” but compensation is received only if there is a “transport” following the call. Stated in another way, Kittitas County Hospital Districts do not receive compensation for responding to emergency service “calls”. Approximately 50% of the calls are not compensated. It does have an obligation, however, to respond to every “call” for emergency medical services.

Revenue for “transports” is set by Medicaid, Medicare and insurance companies. Kittitas County Hospital Districts have no authority to change Medicaid and Medicare rates. Service costs above those rates are not recoverable from the patient. Insurance covers a portion of the remaining “transports.” The reimbursement rate and deductibles are set by the insurance company. Similar reimbursement limitations exist with respect to insurance rates.

(c) Environmental review erroneously assumes that increased costs are covered by increased patient charges. One of the more troubling assumptions made by the City is that shortfalls in tax revenues can be covered by increases in patient/service fees. In its “Fiscal Assessment – Support for SEIS Addendum”, ECONorthwest makes the following unsubstantiated and erroneous assumption:

Reoccurring revenues received by Hospital District No. #2 include patient/service fees and property taxes. In 2021, patient service fees and other revenues accounted for about 59% of the District’s total revenues. *The analysis assumes that service fees would scale to meet additional costs beyond revenues provided by property tax revenues alone, as they have in the past. For example, if new hires are required to accommodate increased service needs, then revenues from service fees would theoretically increase too.*

*Fiscal Assessment at 13.*¹⁰ The assumption is incorrect.

First, patient/service fees and tax revenues are historically approximately equal. ECONorthwest is incorrect on the revenue split. *Olander Letter, Attachment A*. Of the total patient/service revenue,

⁹ It should be noted that the City utilized “call” and “transport” figures for years severely impacted by COVID-19. A more realistic current call rate is 1,600 “calls” per year with annual increases exceeding growth levels for the permanent population.

¹⁰ ECONorthwest prepared *47th Fiscal Assessment* dated February 23, 2023. (“Fiscal Assessment”).

approximately sixty-five percent (65%) of the patient/service calls are covered by strict insurance reimbursement rates and patients are not liable for uncovered costs in the provision of those services.

The District has limited ability to raise transport rates to cover expense increases because approximately 65% of the District's ambulance transport revenue comes from Medicare and Medicaid. Medicare and Medicaid will not pay more for transports when fees charged for transports when fees charged for transport increase.

Oland Letter, Attachment A.

The remaining 35% of patient/service fees have a very limited degree of authority to collect additional sums from the patient but such collections are also subject to ability to pay and other related considerations.

It is also apparent that the City does not have a complete understanding of costs, services, and challenges to rural ambulance agencies. Rural Policy Research Institute provided the following observations with respect to fee-for-service revenue in the context of rural ambulance agencies.

However, reliance on fee-for-service revenue can be particularly problematic for rural ambulance agencies. The primary costs incurred by a rural ambulance agency are related to maintaining emergency response readiness, but the primary revenue received by an ambulance agency is payment for patient transport. As with many rural emergency services, ambulance agencies have significant *standby costs*, that is, personnel and equipment costs necessary to maintain readiness to respond to emergencies at any time. Similarly, *fixed costs* like ambulance purchase and equipment, remain constant regardless of service volumes. Standby costs are a type of fixed costs, but particularly relevant in emergency situations where a capacity to respond must be immediately available. Unlike urban ambulance agencies that can spread standby and fixed costs over a high volume of ambulance runs, rural agencies experience proportionately greater standby and fixed costs per run than do their urban counterparts.

Rural Policy Research Institute *Characteristics and Challenges of Rural Ambulance Agencies – A Brief Review and Policy Considerations (January 2021)*. **Attachment C.** The considerations are even more relevant in the context of Sun Community's development of a destination recreational vehicle park and resort. The environmental review based impact consideration on a "proxy population" as opposed to evaluating impacts and costs including "standby costs" and "fixed costs."

From a practical and legal point of view, Kittitas County Hospital Districts have virtually no authority to recover excess costs over established reimbursement rates. The City is simply incorrect in

its assumption "...that service fees would scale to meet additional costs beyond revenues provided by property tax revenues alone,"

(d) Timing of Costs and Services. Environmental review of fiscal impacts on the provision of emergency medical and hospital services discloses long-term revenue short-falls. In 2002, the baseline analysis related to Alternative 5 lead to the following conclusion:

Regarding fiscal impacts for Hospital District No. 2, the District would receive increased revenue through property taxes and additional patient fees. The District would also have increased costs due to the need to pay for increased capital and operation/maintenance costs (personnel, facility expansions, ambulances, etc). *The net fiscal impact was negative year one through 10 of buildout, before revenues began to meet and exceed service costs. SEPA review is inadequate with regard to long-term fiscal impacts.*

ECONorthwest (September 9, 2020) at 21. The analysis recognized a negative fiscal impact through buildout. The *SEIS Addendum* contains no comparable analysis. It was recognized, however, that "...SEIS Alternative 5 generates more property tax revenue than SEIS Alternative 6." *Id.* at 39.

The 2023 Fiscal Assessment includes the following conclusory statements with respect to Kittitas County Hospital Districts:

The SEIS fiscal analysis estimated that SEIS Alternative 5 and Alternative 6 ... will generate more in service costs than property tax revenues by 2037. However, District revenues come primarily from user fees rather than property taxes, so property tax revenues alone provide an incomplete picture of fiscal conditions. *The SEIS noted that service fees have scaled to meet costs beyond property tax revenue in past years and that condition would likely continue in the future.*

2023 Fiscal Assessment at 17. This compounds the problem – net fiscal impacts are negative through build-out and after 2037. It is logical that negative fiscal impacts and shortfalls will continue over time where property values are depressed and fixed while costs continue to rise. Despite the acknowledged negative fiscal impacts, the City reaches the cavalier and unsubstantiated conclusion that service fees can be "...scaled to meet costs beyond property tax revenue...." There is absolutely no factual basis for this absurd conclusion.

It should be further noted that neither the *2002 FEIS* nor 2020/2021 SEIS evaluated fiscal impacts to Hospital District #1.

The 2020/2021 SEIS did not evaluate fiscal impacts to Hospital District #1 because the 47° N property is not within the District's taxing district.

Similarly, the 2002 Bullfrog Flats Master Site Plan EIS did not evaluate the fiscal impacts to the District.

2023 Fiscal Assessment at 18. This deficiency must be corrected.

(e) The City fails to understand the nature of the emergency services and associated levels of service. The 2020/2021 *Draft and Final SEIS* criticized public service purveyors for the lack of adopted quantitative level of service (LOS) standards and made general assumptions that service requirements would “...increase in direct proportion to population increases” *2020 DSEIS Section 3.12*. The assumptions included an artificial and unsubstantiated “proxy” population for the RV Park. The proxy population ignores seasonality, standby costs, and capital costs for service. This criticism also reflects a failure to completely review the environmental record and understand the nature and scope of emergency medical services provided by Kittitas County Hospital Districts.

To begin, the 2002 *FEIS* does include a “Level-of-Service” standard for fire protection and EMS response times. See 2002 *FEIS* 3.15-3. The baseline summary includes the following:

The Draft EIS estimates representative travel distances and times from the City of Cle Elum’s Fire Station and from Hospital District No. 2 to two UGA access points: along Bullfrog Road midway between I-90 and SR 903; and along SR 903 midway between Bullfrog Road and I-90. Travel time was estimated using an average speed of 45 mph, based on conversations with service providers and current speed limits on Bullfrog Road and SR 903. Actual travel times would vary from these estimates depending on factors such as where the incident is located and the amount of traffic congestion. Table 3.15-1 identifies representative travel times to the Cle Elum UGA.

The 2002 *FEIS* then provided the following response time standards.

Table 3.15-1: Representative Travel Times, Cle Elum UGA

Fire Station	Approximate Distance/Travel Time to Bullfrog Road Access Point (45 mph)	Approximate Distance/Travel Time to SR 903 Access Point (45 mph)
Cle Elum, Station No. 1	2.25 miles/3 minutes	1.0 miles/1.3 minutes
Hospital District No. 2	2.5 miles/3.3 minutes	0.7 miles/1 minute

Source: Hughes Associates, Inc. 1998.

The 2002 analysis focused on urban response times. This is a reasonable beginning point. Neither the *Final SEIS* nor *SEIS Addendum*, however, include any updated information or analysis with respect to response times within the identified geographic area.

Second, a population based level of service is incomplete and lacks a substantiated foundation.

As noted previously, Hospital District 1 has not adopted a level of service standard and using an unadopted standard based on a projection of future population would merely identify *a hypothetical need that is not attributable to the proposal*.

SEIS Addendum 3.7-2. While Hospital District #1 does not have an adopted level of service standard, it is incorrect that the need resulting from the project is “hypothetical” and can be ignored. Hospital and emergency service demands will increase with the massive infusion of a transient population. There is no basis to believe that the transient population will require less medical attention and care.

The environmental review process utilized a loose and incomplete population-based standard for services. The population-based standards are incomplete and insufficient with respect to provision of emergency medical and associated hospital services for five reasons: (1) Kittitas County Hospital District served a broad and diverse geographic area with disparate response times and service requirements; (2) the population based level of service is inconsistent with funding and cost recovery for emergency services; (3) the use of a “proxy population” for transient service is incomplete and unsubstantiated in fact; (4) standby and capital costs are not considered; and (5) staffing costs and expenses do not correlate to a lineal relationship with population.

Sun Communities has used a “hypothetical need” based upon a “proxy population” for the RV Park that represents a 50% increase in urban level emergency service calls. There is no factual basis for the assumed “proxy population.” There are no facts to support this assumption. The assumption also fails to consider seasonality. These level of service assessments should consider, as does transportation impact analysis, impacts associated with “peak hours” and peak seasons. Staffing and capital support must be designed to address peak hours and seasons. It should not be based on year average occupancy or assumptions. Emergency medical demands will rise and fall on the level of the transient population. And there is nothing that allows Kittitas County Hospital District to ignore service demands that are “above the average.” The *SEIS Addendum* is internally inconsistent with additional erroneous assumptions.¹¹

The environmental review also includes an incorrect assumption that staffing, costs, and expenses increase proportionately with population increases. The incremental impact is a more complex calculation than the lineal analysis.

Sun Communities makes an incorrect assumption that expenses to staff and operate an additional 24/7 ambulance increase gradually by one staff member at time. Each ambulance is staffed by a paramedic and EMT. It requires 8,760 paramedic hours (24 hrs. x 365 days) and 8,760 EMT hours

¹¹ The *SEIS Addendum* asserts that call volumes have been constant over the past 7 years with an average of 1410 calls per year. A breakdown of the distribution of calls for the most recent year (2022) indicated that approximately 30% of the calls to Hospital District No. 2 were for emergency medical service within the City of Cle Elum and the remaining 70% of the calls were for service locations outside of the City. *SEIS Addendum 3.7-3*.

(24 hrs. x. 365 days) or 8.4 FTEs (excluding vacation and holiday) to staff an additional ambulance. Total costs to staff an additional ambulance at median pay rates (excluding vacation, holidays, and overtime) for one 24/7 paramedic and one 24/7 EMTs is \$511,056. The cost of an ambulance adds another \$350,000 to this cost.

Olander Letter, Attachment A. There is no analysis included in the assessment of impacts generated by Sun Communities' proposal regarding a correlated evaluation of capital and staffing related to the increased service demands from the development.

Finally, the environmental review seems to ignore Kittitas County Hospital District No. 1. The *SEIS Addendum* specifically recognizes that the "Revised Proposal" will result in an increased demand for hospital and emergency medical services. *SEIS Addendum 3.7-9 and - 11.*

Kittitas Hospital District is expected to experience increased demand for hospital services from new residents under the Revised Proposal. ... The District anticipates that increased demand (as well as other growth in the County) would result in the need to provide additional building space at one of the existing facilities.

During operation, new residents and RV site visitor population would generate increased demand for emergency medical services (ambulance transports, etc.) and hospital services. ... *The incremental differences are not considered significant and impacts with either alternative would be less than for SEIS Alternative 5.* As discussed previously, the assumed RV proxy population and resulting impacts identified for the Revised Proposal and Alternative 6 likely double count and over estimate demand.

SEIS Addendum 3.7-9 and -11. There is no substantive support for the statement that impacts are less under Alternative 6 and Alternative 5. The City has undertaken no analysis of call rates and demands from large recreational resorts comprised of massive RV parks and managed short-term housing. Before these statements and conclusions can be reached, there should be at least a baseline analysis undertaken. Even with the unsubstantiated numbers, the City recognizes that approximately 425 calls have been historically provided within the City of Cle Elum and that the "...new residential units under the Revised Proposal would generate approximately 274 emergency service calls per year." *SEIS Addendum 3.7-11.* This is a 64.47% increase in calls that will be generated over a very short buildout time.

(f) Sun Communities fails to include a specific mitigation or proposed mitigation agreement with Kittitas County Hospital Districts. Sun Communities submitted a *Summary of Mitigation Measures & Significant Unavoidable Adverse Impacts* as an appendix to the *SEIS Addendum*.

(*SEIS Addendum Appendix F*). Included in the *SEIS Addendum* were proposed mitigation measures related to “Public Services.” The *SEIS Addendum* contains no substantive mitigation measures related to Kittitas County Hospital Districts.

The *SEIS Addendum* suggests mitigation in two forms: (1) a negotiated mitigation agreement, if feasible; and (2) post-approval monitoring with undefined mitigation measures. The applicable measures are as follows:

- Mitigation measures for each public service provider would include execution of a separate mitigation agreement, where feasible, and a program to monitor actual calls for service, actual revenues and expenses, for affected providers. The program would, to the maximum extent possible, strive to time expenditures to when revenues are available and strive to time capital expenditures to when the jurisdiction has sufficient capacity to issue bonds for the improvements and sufficient tax revenue to service the debt. The program would also rely on shortfall mitigation payments to address any identified fiscal impacts, where applicable.
- Monitoring would track the number of service calls to affected providers at reasonable intervals to allow comparisons of actual and estimated calls and impacts. Any mitigation requirements would be adjusted accordingly to reflect actual impacts. Outreach and coordination between the Applicant and affected service providers is underway and is anticipated to result in mitigation agreements that will address impacts that are attributable to the Revised Proposal. Executed agreements will be included in a new or updated Development Agreement, if available.

Sun Communities has neither proposed nor provided a mitigation agreement for consideration by Kittitas County Hospital Districts. The developer also added language that such separate mitigation agreements are required only “. . . where feasible.” No definition or standard is identified with respect to “feasibility” and the mitigation is arbitrary and meaningless.

The *SEIS Addendum* continues the requirement for monitoring of service calls to affected providers at reasonable intervals to allow comparisons of actual and estimated calls and impacts. The mitigation, however, is unclear and ambiguous in stating that “. . . [a]ny mitigation requirements would be adjusted accordingly to reflect actual impacts.” The 2020 47th N Fiscal and Economic SEIS Report provides the following comment with respect to a fiscal monitoring program.

A future mitigation agreement could consider a fiscal monitoring program to identify costs and revenues to the district over time. For example, the Hospital District could track property tax revenues and patient fees

attributed to SEIS Alternative 6a and, should revenues not cover costs of service (over a certain period of time), a periodic mitigation payment could be made to the Hospital District to avoid fiscal shortfalls.

This monitoring program and periodic mitigation payment was neither proposed by Sun Communities nor carried forward in the *SEIS Addendum*. The monitoring program and periodic mitigation payment addresses operating shortfalls but does not take into consideration standby costs and capital costs. Those additional costs need to be incorporated into the mitigation payment calculations and obligations. The calculation must also include consideration of the costs associated with adding an additional ambulance as noted above.

And as a final point, the *SEIS Addendum* provides the following statement with respect to “significant unavoidable adverse impacts.”

Development under the SEIS Alternatives and the Revised Proposal would generate additional demand for public services primarily as a result of new population and visitors to the site; *this increase in demand is unavoidable. Increased demand in itself, however, is not necessarily an adverse impact, if it is planned for and addressed. To the extent that resulting requirements for additional staff, equipment, and facilities are addressed through increased revenue to affected agencies, and through implementation of committed and recommended mitigation measures listed above, no significant impacts are expected.* Also, see the DSEIS, FSEIS, and SEIS Addendum Fiscal Analyses.

This reasoning is inapplicable to Kittitas County Hospital Districts. The impacts from the proposed development are direct, significant and adverse with respect to public services provided by Kittitas County Hospital Districts. The mitigation measures are antithetical to the purpose and requirements under SEPA as well as applicable development standards. This loose and incomplete language is simply opening Pandora’s box as it relates to the provision of public services.

C. Comments on Environmental and Land Use Review Procedural Processes.

Kittitas County Hospital Districts worked conscientiously to provide information and comments regarding the proposed project including impacts of service levels, revenue, and costs associated with the anticipated proposal, adverse impacts to levy and private pay revenues, and the structure of revenues and income. We also have expressed and continue to have concerns about the process and procedures employed for review and processing both the land use applications and associated environmental review.

1. Sun Communities’ land use proposal is not a “major modification” of the adopted development plan but rather a new and independent land use application. Sun Communities has proposed a new and different land use for the Bullfrog Flats Subarea. Despite the fact that the project

proposal introduces a new and different types of land use, the City has concluded that the proposal would constitute a “major amendment” to the approved master plan.

Based on the advice of the City Attorney, the Kenyon Disend law firm, the City informed Sun Communities that the potential revisions they have under review would constitute a “major amendment” to the approved Master Plan, as that term is defined in the Development Agreement. As a result, the proposed revisions will require submittal and review of a formal application to amend the approved Master Plan; the amendment will be subject to public review and comment, a public hearing and recommendation from the Planning Commission and action by the City Council. In addition, the City determined that a supplemental environmental impact statement (SEIS) will need to be prepared to update all aspects of the original (2002) Final EIS as necessary (FEIS), to assess the potential environmental impacts and required mitigation measures associated with the proposed amendments to the approved Master Plan.

City of Cle Elum – Background Information (October 8, 2019). Kittitas County Hospital Districts disagree with this conclusion.

As consideration for annexation of the Trendwest UGA Property, the City of Cle Elum agreed “. . . to permit construction of a proposed Trendwest UGA Development, including all of the land uses and intensities described in this [Development] Agreement and the Conditions of Approval.” *Development Agreement, Section 2.1.* The “Trendwest UGA Development” was a defined term and established the scope and uses authorized on the property. The modification provisions apply to “Conditions of Approval” with procedures set forth in *Development Agreement Section 6*. Sun Communities has requested a total elimination of the land use plan and substitution of a new “Planned Mixed Use” zoning district pursuant to CEMC Ch. 17.45. Permitted modifications must be consistent with the overall scope and intent of the Conditions of Approval and does not allow a substitution of uses that were not included in the original Conditions of Approval. See generally, *Development Agreement, Paragraph 6.4.*

Second, it is well established in this state that a request for a planned unit development is treated as a request for a re-zone. See, e.g. *Lutz v. Longview*, 83 Wn.2d 566, 568-69, 520 P.2d 1374 (1974); and *Schofield v. Spokane County*, 96 Wn. App. 581, 588, 980 P.2d 277 (1999). Sun Communities has failed to follow the re-zone procedures set forth in CEMS Ch. 17.45.

2. Supplementation of a twenty-year-old Final Environmental Impact Statement (FEIS) based upon a materially different proposal is inappropriate and does not heal to appropriate analysis. Sun Communities does not propose a “modification” of a previously approved planned development but rather submits a new application for a distinctly new and different land use. The developer recognized the following reality and procedural approach:

While the PMU Ordinance does not explain the means or procedures to obtain a formal amendment of an approved land use entitlement like the Approved Plan, Sun's position is that the most conservative *and appropriate course of action is to proceed as if the Major Modification Application should be processed like an entirely new application as contemplated by Section 6.4.2 of the 2002 DA.*

Kittitas County Hospital Districts agrees. This is a new application and environmental review should proceed through a new and independent environmental review process. That process should include issuance of a Determination of Significance (DS), appropriate scoping procedures, and development of a Draft Environmental Impact Statement (DEIS). Sun Communities is attempting to shoe horn a fundamentally new and different planned development into a comparative, confused and complex undertaking to compare two fundamentally different development concepts.

A twenty-year-old residential planned development contemplating development and construction of 1334 single-and multi-family dwelling units bears no resemblance to a massive regional recreational resort proposed by a national developer. The current proposal abandons all original concepts of single-family development and ownership; introduces a 627 unit recreational resort and RV park; proposes development of a manufactured home park through leased land (as with typical mobile and manufactured home parks – which are not permitted under the zoning ordinance); and fundamentally restructures commercial business use that is inconsistent with zoning and comprehensive planning for the community.

3. City improperly adopted 2021 Supplemental Environmental Impact Statement (SEIS) from a withdrawn land use process as the foundation for current environmental review. The City has provided notice that it intends to adopt a Final SEIS prepared by the City of Cle Elum for a hypothetical development that was subsequently set forth in *47° North Proposed Master Site Plan Amendment (2020/2021)*. Sun Communities withdrew the application before any final hearings and substantive land use processes. The City ignored the withdrawal and concluded that "...[t]he SEIS meets the City's environmental review needs and is adopted pursuant to WAC 197-11-630; the SEIS will accompany the project application to the decision-maker." Kittitas County Hospital Districts object to this procedural on several grounds.

To begin, the 2001 SEIS never became a final environmental document. The City prepared the 2001 SEIS prior to submission of a complete land use application. The environmental review process was based upon a hypothetical proposal that never became an actual land use authorization. While the unusual process proceeded to issuance of a Final SEIS, neither the public nor impacted agencies had an opportunity to challenge the adequacy of the FSEIS that was proposed for the land use application.

City of Cle Elum does not provide for an administrative review process for adequacy of an environmental impact statement. Any review of the adequacy must be consolidated with the appeal of the underlying governmental action. To say the least, it was woefully inadequate in its discussion and analysis of impacts on emergency medical and hospital services:

Because the major purpose of this chapter is to combine environmental considerations with public decisions, any appeal brought under this chapter shall be linked to a specific governmental action. The State Environmental Policy Act provides a basis for challenging whether governmental action is in compliance with the substantive and procedural provisions of this chapter. The State Environmental Policy Act is not intended to create a cause of action unrelated to a specific governmental action.

RCW 43.21C.075(1) and (6)(c) (“judicial review under this chapter shall without exception be of the governmental action together with its accompanying environmental determinations.”). The *2001 FSEIS* was prepared for a nonexistent “proposal” and did not constitute a final environmental document. The withdrawal of the land use application by definition involves the withdrawal of the associated environmental review process. This is of particular significance in this case since the public, including Kittitas County Health District’s, did not have an opportunity to challenge or question the facts or basis for the *2001 FSEIS*.

“Adoption” means an agency’s use of all or part of an existing environmental document to meet all or part of the agency’s responsibilities under SEPA to prepare an EIS or other environmental document. WAC 197-11-708. See also, *Thornton Creek Legal Defense Fund v. City of Seattle*, 113 Wn. App. 34, 50, 52 P.3d 522 (2002). There is no legal authority to adopt preliminary environmental documents prepared on a hypothetical basis for land use application that was ultimately withdrawn by the project proponent. The courts have recognized the following standard with respect to adoption of an existing document:

If an agency adopts an existing document, if must independently assess the sufficiency of the document, identify the document and state why it is being adopted, make the adopted document readily available, and circulate the statement of adoption.

Thornton Creek Legal Defense Fund, 113 Wn. App. at 50. Adoption is appropriate only if the prior documents adequately address environmental considerations.

Lead agencies are authorized to use in whole or in part existing environmental documents for a new project or non-project action, *if the documents adequately address environmental considerations set forth in RCW 43.21C.030*. . . . The lead agency shall independently review the content of the existing documents and determine that the information and analysis to be used is relevant and adequate.

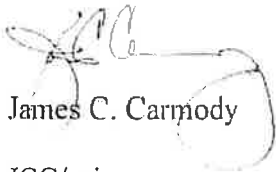
RCW 43.21C.034. The *2021 FSEIS* is not “adequate” because it was not subjected to final review and challenges that would occur through consolidated appellate practice. All public service providers, as

well as the community, are now left with an uncertain and convoluted process to challenge the adequacy of the prior hypothetical environmental determination.

4. The City inappropriately utilized an “Addendum” for environmental review of the new land use application. The City has created a “house of cards” in environmental review. The adoption of an incomplete and hypothetical *FSEIS* is compounded by evaluation of the current proposal through an Addendum. “Addendum” means an environmental document used to provide additional information or analysis that does not substantially change the analysis of significant impacts and alternatives in the existing environmental document. Sun Communities has proposed major modifications to the original Bullfrog Flats Subarea plan. An agency must prepared an *SEIS* if there are “[s]ubstantial changes so that the proposal is likely to have significant adverse impacts,” or if there is “[n]ew information indicating the proposal’s probable significant adverse environmental impacts.” WAC 197-11-600(4)(d)(i) and (ii). The City failed to follow the prescribed procedure. WAC 197-11-706.

We appreciate your consideration of our comments. The Kittitas County Hospital Districts reserve the right to supplement and provide additional comment through the land use and environmental review processes.

Very truly yours,



James C. Carmody

JCC/saj
Enclosures

ATTACHMENT A



June 22, 2023

James C. Carmody
Meyer, Fluegge & Tenny, P.S.
230 South Second Street
P. O. Box 22680
Yakima, WA 98907-680

Subject: Financial Impact of Proposed Sun Communities Development on District 2 Hospital and EMS Levy Proceeds

Dear Mr. Carmody,

Kittitas County Public Hospital District 2 has completed a financial projection of the levy shortfall to the District that will be created if the 47 Degrees North project proceeds under the assumptions as proposed in Sun Communities SEIS Addendum dated February 23, 2023. District 2 is dependent upon levy receipts to maintain operations. Levy proceeds cover over 50 % of the District's operating costs. Each year the District responds to approximately 1,600 calls for emergency service. Only 800 of the 1,600 calls answered by the District result in an ambulance transport that the District is able to bill for.

The current median sales price for a single family home in upper Kittitas County in Quarter 1 of 2023 was \$701,000. Per the Sun Communities proposal the anticipated sales price for a single family is \$225,000. The reduction to the combined hospital and EMS levy from 2023 to 2030 due to the reduced value of the single family homes as proposed by Sun Communities is \$3,680,325. The levy shortfall assessed from traditionally built homes and the single family homes that Sun Communities is proposing continues from 2031 and beyond. The property owners of other upper Kittitas County will be required to make up this difference.

In Sun Communities presentation they stated that in 2021 59% of the District's funding came from patient services and other revenue and that the percentage of operations funded from levy revenue was decreasing. This representation is not correct and in fact the opposite is true. Levy proceeds are needed to fund an increasing percentage of EMS operations because net revenue from operation are not keeping pace with expense increases. The following data shows the net ambulance service revenue relative to operating expenses.

2022	2021	2020	2019 **
37.49%	38.93%	40.14%	58.54%

** In 2019 there a number of retroactive GEMT cost report settlements for prior years which distorted the net ambulance service revenue to operation expenses percentage.

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The District has limited ability to raise transports rates to cover expense increases because approximately 65% of the District's ambulance transport revenue comes from Medicare and Medicaid. Medicare and Medicaid will not pay more for transports when fees charged for transport increase.

Sun Communities makes an incorrect assumption that expenses to staff and operate an additional 24/7 ambulance increase gradually by one staff member at a time. Each ambulance is staffed by a paramedic and EMT. It requires 8,760 paramedic hours (24 hrs X 365 days) and 8,760 EMT hours (24 hrs X 365 days) or 8.4 FTEs (excluding vacation and holiday) to staff an additional ambulance. Total cost to staff an additional ambulance at median pay rates (excluding vacation, holidays and over time) for one 27/7 paramedic and one 24/7 EMTs is \$511,056. The cost of an ambulance adds another to \$350,000 to this cost.

A thorough analysis of the proposed the Sun Communities development is required. The proposal Sun Communities presented shows a total lack of understanding of the impact to District 2 and should be redone.

Sincerely,

Scott Olander
Chief Financial Officer

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509.674.4057

ATTACHMENT B

MEIER, FLUEGGE & TENNEY, P.S.

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November 7, 2022

Via Email

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Re: Sun Communities Supplemental Environmental Impact Statement

Dear Messrs. Dohrn and Weinman:

We represent Kittitas County Public Health District No. 1 and Kittitas County Public Health District No. 2. ("Kittitas Hospital Districts").¹ We are writing to express concerns and ask questions about the current environmental review and future processes related to an anticipated application to be filed. The land use proposal will have a significant adverse impacts on both Kittitas County Hospital Districts as well as the community they serve. As you are aware, Kittitas County Hospital Districts provide emergency medical services (EMS), primary and emergency medical care, and wide range of other medical and health care services and facilities to the community. We are facing challenging times as a community and as a service

¹ Each Public Hospital District is independently established and governed by five (5) elected Commissioners. Hospital District #2 extends to the top of Snoqualmie Pass at the King County line and includes the communities of Snoqualmie Pass, Easton, Ronald, Roslyn, Cle Elum and South Cle Elum. Hospital District #2 operated Medic One Ambulance Service which is housed in Cle Elum. Hospital District #1 leases the Family Medicine Clinic in Cle Elum from Hospital District #2 and employs the staff and providers in the clinic. Specialty Services are also provided from this location and include integrated behavioral health, treatment for opioid use disorder, physical therapy, dietary consults, orthopedics, obstetrics, gynecology, dermatology and podiatry. Hospital District #1 also operates an Urgent Care Clinic as well as a full service Critical Access Hospital, including an Emergency Department, in Ellensburg. Public Hospital Districts have provided detailed staffing, financial and related information through each of the review processes related to development within the Bullfrog Flats subarea.

 **COPY**

provider. Our primary concern, as with all other service providers, is maintenance of necessary service levels and financially responsible management of services. Sun Community's anticipated land use proposal will place extraordinary burdens on all service providers.

Kittitas County Hospital Districts have been active participants for more than two decades in the planning and environmental evaluation for the Bullfrog Flats UGA subarea. The subarea has been planned primarily for permanent residential housing. Sun Communities is now proposing the conversion of the subarea to a single owner destination recreational vehicle park and resort.² The type of development coupled with massive size of the area will place extraordinary demands on the provision of emergency, medical and healthcare services to the community.

I apologize in advance for the length of this letter. We wanted, however, to outline with some detail our concerns, particularly as it relates to the process and the impacts on the districts. I would also add that the analysis of impacts to public service providers is complex particularly where an applicant introduces a massive land use proposal service a transient population.

Background and Current Status of Environmental Review Processes.

In 2002, Trendwest Resorts (now Suncadia) and the City of Cle Elum completed a final environmental impact statement (Final EIS) for the proposed master planned development in the Bullfrog Flat Urban Growth Area. The City subsequently adopted a subarea plan for the UGA, approved a master plan for the site, and at the request of Trendwest annexed the area. The City and Trendwest also entered into a development agreement, which contains 120 conditions of approval related to the specific land use plan for the area. That plan specifically rejected alternative proposals that included proposed RV parks and transient housing.

In 2019, Sun Communities Inc., a potential developer interested in the Bullfrog Flats UGA subarea, formulated a revised master site plan for the conversion of the Bullfrog Flats UGA subarea from primarily a residential district providing permanent housing to a single owner developed and operated regional RV resort. The City proceeded with a review of the *contemplated proposal* through two sequential tracts – a preliminary *SEPA process* managed by the City followed by a subsequent *land use review process* based on an actual land use application. This process was difficult for service providers because there was no specific and detailed application.

The City also determined that the contemplated development was a “major amendment” to the 2002 subarea plan. We disagree. It was not an amendment. It was a proposal for a dramatically different and inconsistent land use of the property. The concept of a significant “RV Park” component and development of the area was specifically rejected by the City and community in 2002. And now, Sun Community seeks to eliminate the approved plan with a concept that was specifically rejected in 2002.

² Sun Communities floated a similar proposal in 2019. That proposal generated an environmental review process that culminated with issuance of a Final Supplemental Environmental Impact Statement. (FSIES). The review was not based on a filed land use application which became moot with Sun Community's subsequent filing and withdrawal of its land use application. The FSEIS was never subjected to the rigors of review in the context of the withdrawn proposal or reviewed for adequacy under either the administrative or judicial review processes.

The 2019-2021 process was initiated without a specific, formal proposal submitted by Sun Communities. It was acknowledged that "...detailed comparisons between the old and new proposals cannot be made with certainty." Service agencies and providers, including Kittitas County Hospital Districts participated in environmental review without development specificity. It was odd to compare two different land use concepts that were separated in time by nearly 20 years. Despite this uncertainty, the environmental review process proceeded with the issuance of both a Draft and Final SEIS.

Sun Communities subsequently submitted a land use application. The proposal replaced permanent housing uses with a mix of 627 RV sites, 180 multi-family units, and 527 single-family units (manufactured) which would be owned by a single party – the developer – and used for transient housing in the context of its resort business. Sun Communities withdrew its application on November 30, 2021.

Sun Communities has now advised the City that it has retooled its withdrawn proposal for development of the Bullfrog Flats UGA subarea. No application has been submitted. It appears that the City is again proceeding with a bifurcated review process.³ The City outlined on August 24, 2022, the steps it will follow in review of Sun Communities anticipated "...application or a Major Modification(s) to the Bullfrog UGA Development Agreement." We object to the contemplated process for reasons set forth in this letter.

Kittitas County Hospital Districts and other service providers have worked to conscientiously participate in the review process even though the details of the proposal have not been set forth in an application. This process has been frustrating, confusing and concerning to many of the providers. The contemplated use will have devastating impacts on Kittitas Valley Hospital District's service commitments, operating costs, tax revenues and staffing. More importantly, it will impact the members of this community. It is difficult and challenging to meet not only the current healthcare demands of the community let alone a massive new transient resort land use. We have provided information on each of these points to the review staff.

The staff has responded by thanking us for the information but stating as follows:

Please be aware, however, that we see limitations in our ability to use all the information you provided to analyze the Revised 47 Degree North Master Site Plan Amendment Proposal (Revised Proposal) with the same level of specificity as we did for the EIS alternatives in the Supplemental EIS (SEIS).

³ Kittitas County Hospital Districts participated in Pre-Application Conference between Sun Communities and the City on August 25, 2022. A self-serving and superficial pre-application narrative for the project was provided by Sun Communities. A hypothetical development was presented and stated that the transitory nature of the RV park will not "pull" on service providers in the same way as permanent residential housing. City representatives indicated that "...the final supplemental EIS addendum update is almost ready." How can there be a rational update without the engagement of service providers? We are concerned that the outcome of environmental review has been predetermined through negotiations between the developer and the City.

Our serious and legitimate concerns should not be measured against a SEIS prepared on a hypothetical basis for a withdrawn land use proposal. The information should be reviewed and considered in the context of 2022-2023 circumstances and not manipulated to fit in the context of a 20-year old EIS. Our request is reasonable, practical and consistent with applicable law.

Environmental Review Must Be Conducted in the Context of a Complete Application.

To begin, Sun Communities has not submitted a land use application for the contemplated "...application for a Major Modification(s) to the Bullfrog UGA Development Agreement." All that has been provided for public consumption was a superficial "Pre-Application Narrative". In those materials, Sun Communities proposes "...a more robust sweep of approvals – beyond the bare minimums of the mixed-use final plan – that will compose the Major Modification of the Original Land Use Approvals." Those application components include the following:

1. A "Mixed Use Final Plan Application" which includes (a) a Project Narrative (identification of each project component together with facts and details required under CEMC 17.45.080-.090); (b) a "Master Site Plan" including phasing, traffic circulation, water, stormwater, and sanitary sewer plan depictions; (c) new conditions of approval updated "...to reflect the realities of the Project ..."; and an "equivalency" chart identifying specific modifications to original subarea conditions; and (d) new development standards governing the development of all proposed uses, roads, water, sewer, stormwater, and signage, among others.
2. Applications for boundary line adjustment/lot consolidation.
3. A binding site plan application for Single-Family Residential community premised upon the associated boundary line adjustment/lot consolidation application.
4. A Restated Development Agreement specifically addressing phasing, vesting, procedures for implementing approvals, monitoring any mitigation measures imposed pursuant to new conditions, conflict resolution procedures, and other matters outside the scope of the other applications.

None of these applications or associated information and project details are available for review in the context of the *SEPA* process. Service providers have been asked to comment and provide information on impacts and mitigation based upon this superficial and unacceptable information base.⁴ Environmental

⁴ Kittitas County Hospital Districts work conscientiously to provide information on staffing and service levels, financial impacts and costs associated with the anticipated proposal, adverse impacts to levied revenues, and challenges in providing the necessary medical and healthcare services in the context of the community and other factors. The City environmental concluded as follows:

Please be aware, however, that we see limitations *in our ability to use all of the information you provided to analyze the Revised 47 Degree North Master Site Plan Amendment Proposal (Revised Proposal)* with the same level of specificity as we did for the EIS alternatives in the Supplemental EIS (SEIS).

This comment suggests that "process" is overriding substantive review of the actual impacts and circumstances facing

review must be based on information sufficient to evaluate the proposal's environmental impact. *Moss v. City of Bellingham*, 109 Wn. App. 6, 23, 31 P.3d 703 (2001). It is impossible to assess environmental impacts without a complete application. The contemplated applications require detailed and complete information for land use review. See, e.g. CEMC 17.45.080 (application for mixed use approval); CEMC 16.40.020 (application for boundary line adjustment); and CEMC Ch. 16.46 (binding site plans). The detailed information contained in an application is necessary particularly for a service provider such as Kittitas County Hospital Districts.

We disagree with the City's determination that the *SEPA process* may be bifurcated from the *land use review process*. Environmental review should begin with the submission of a "proposal" which means a land use application.⁵ SEPA is clear on its process and requirements. Timing of review of proposals is set forth in WAC 197-11-055(2), which provides, in part, as follows:

(2) **Timing of review of proposals.** The lead agency shall prepare its threshold determination and environmental impact statement (EIS), if required, at the earliest possible point in the planning and decision-making process, when the principal features of a proposal and its environmental impacts can be reasonably identified.

(a) *A proposal exists when an agency is presented with an application or has a goal and is actively preparing to make a decision on one or more alternative means of accomplishing that goal and the environmental effects can be meaningfully evaluated.*

A "proposal" is defined as follows:

A proposal includes both actions and regulatory decisions of agencies as well as any actions proposed by applicants. *A proposal exists at that stage in the development of an action when an agency is presented with an application, or has a goal and is actively preparing to make a decision on one or more alternative means of accomplishing that goal, and the environmental effects can be meaningfully evaluated.*

WAC 197-11-784. No application has been filed for the site specific land use proposal.

The timing and process for environmental review is also specified by applicable regulations. WAC 197-

Kittitas County Public Hospitals. An environmental review process should be designed to identify significant adverse impacts to service providers and provide an appropriate level of analysis, information and mitigation options so that the decisionmaker can make a fully informed land use decision. This is not occurring through the current process.

⁵ To the best of our knowledge, the City had not issued or published a determination of significance (DS) for the new proposal. In the 2019 SEPA process, the City commenced SEPA review with the issuance of a DS on October 8, 2019. The DS was emailed to agencies, tribes and individuals and the property was posted with notice. The current process has been informal but clearly contemplates only minor revisions to the 2021 Final SEIS.

11-406 sets forth EIS timing and states the following:

The lead agency shall commence preparation of the environmental impact as close as possible to the time the agency is developing *or is presented with a proposal*, so that preparation can be completed in time for the final statement to be included in appropriate recommendations or reports on the proposal. The statement shall be prepared early enough so that it can serve practically as an important contribution to the decision-making process *and will not be used to rationalize or justify decisions already made. ...*

(Italics added). Sun Communities has not submitted a “proposal”, i.e. an application.

We request that all environmental review be suspended until a complete application has been completed and filed with the City.

Supplementation of a 20-Year Old EIS is Neither Appropriate or Permitted With Respect to a New “Proposal”.

We also have two additional concerns about conducting environmental review through a supplemental EIS process; (a) supplementation of a 20-year old FEIS is inappropriate; and (b) revisions based on the 2021 Final SEIS is improper because of withdrawal of the underlying land use application.

In 2002, the City adopted a master plan for the Bullfrog Flats UGA which included a total of 1,334 housing units, and mix of single-family (810) and multi-family (524) units; and a 75-acre business park. The land use authorization was based upon an Environmental Impact Statement (EIS) dated March 18, 2002. The 2002 EIS considered five (5) alternatives. Three of the alternatives included development of a significant portion of the property as “RV Campground”. Those alternatives were rejected and the preferred alternative (Alternative 5) focused on community housing (single-family and multi-family) and business park.

Sun Communities is now proposing a fundamental change to the Bullfrog Flats UGA subarea plan. On August 24, 2022, the City disclosed the following “Preliminary Determination of Consistency”:

The City Development Review Team has *already determined* that the proposed modifications to the Bullfrog UGA Development Agreement will constitute to [sic] Major Modification *and a Supplemental Environmental Impact Statement (SEIS) has been prepared*. Additional preliminary determinations may be included with the Notice of Application, or if not, an explanation will be provided.

We disagree with the preliminary determination of consistency. The contemplated land use action will also require a legislative review process and amendment of the adopted Bullfrog Flats UGA subarea plan. The proposed amendment is not a modification of the adopted plan but rather a complete replacement of the existing plan.

Supplementation is not appropriate for a new land use proposal. WAC 197-11-600(3)(b) provides:

Where DNSs and EISs, preparation of new threshold determination or supplemental EIS is required if there are:

- (i) Substantial changes *to a proposal* so that the proposal is likely to have significant adverse environmental impacts (or lack of significant adverse impacts, if a DS is being withdrawn); or
- (ii) New information indicating a proposal's probable significant adverse environmental impacts.

Sun Communities is not proposing a change to an existing proposal – it is making a “new” proposal. From a practical point of view, the proposal to convert the entire subarea to a resort facility is antithetical to the adopted plan for single-family and multi-family residential use coupled with a business park. The review requires more than a simple update of SEIS Alternatives. It is incongruous to characterize the hypothetical proposal as simply a modification of the existing plan. It is the elimination of the existing plan and replacement with a fundamentally new and different plan. Supplementation is not the proper process for such significant land use action.

Second, it appears that the City intends to adopt and utilize the *2021 Final SEIS* as a basis for review of the anticipated land use application. The preparation of a SEIS is authorized where there are substantial *changes to a proposal or new information* indicating the proposals probable significant adverse environmental impacts. WAC 197-11-600(4)(d). There are no substantial changes to the 2021 proposal because there was no proposal. Sun Communities withdrew the application and the preliminary environmental review became moot and irrelevant.

The City has indicated that there are limitations on the use of current information in the context of the prior SEIS process. We have been advised that staff sees no clear way to directly compare or reconcile the prior and new staff categories; the new information is “...largely in a different form than we use in the SEIS; there is not a “...clear way to directly compare or reconcile the prior and new staff categories; and the population data that was provided presents methodological difficulties calculating staffing needs based on existing and forecast county-wide population. Each of these asserted impediments is based upon a moot and irrelevant environmental document.

As a final point, the prior SEIS process calculated impacts to service providers based upon population increases within the community. Anticipated population growth is irrelevant to an evaluation of service impacts generated by the introduction of a significant transitory population. A destination resort will generate thousands of visitors that are not accounted for in population growth statistics. And the uncontroverted fact is that Kittitas County Public Hospitals will need to meet and serve all medical and emergency service requirements for the transient population. That analysis becomes even more difficult when its recognized that the transitory population change will be seasonal in nature and require staffing and facilities to meet anticipated peak season populations and requirements.

Specific Concerns of Kittitas Valley Hospital Districts.

Kittitas County Hospital Districts are concerned about their ability to provide timely, effective and efficient emergency services and medical care to the community, including the transitory population created by Sun Communities contemplated proposal. There is no serious question that the proposed conversion of the Bullfrog Flats UGA subarea to a regional recreational vehicle resort will have significant *and different* fiscal and operational impacts on service providers.

In communications with the environmental review team, we have sought to provide all available information and data concerning services, staffing, revenue and facility impacts. We have provided the information to the best of our ability. The review staff, however, has advised that "...we see some limitations in our ability to use all the information you provided in earlier reviews; the Hospital District does not have an adopted level of service standard against which we can measure the project's impacts; different (and updated) information was provided with respect to staffing categories which makes comparison with prior iterations difficult and that existing deficiencies in future needs are difficult to analyze and evaluate. The summary regarding our comments was as follows:

In summary, we will document and use the information that you provided in your recent letter to the greatest extent possible. *However, given the methodology and cause-and-effect issues indicated above, it will difficult to derive the project-specific impacts of the Revised Proposal, which is the focus of the environmental analysis. Be assured we will do our best to present the information you provided.*

The impact analysis is complex but critical to a meaningful understanding of impacts and mitigation measures for service providers. The failure to undertake appropriate impact and mitigation analysis will literally have life and death consequences.

In order to better understand the required analysis, Kittitas County Hospital Districts reached out to experts to understand the technical review process and procedures for fiscal and environmental impact analysis. We were advised that the analysis includes extensive data discovery including additional population analysis (full-time v. seasonal); development and absorption schedules; and increased to assessed valuations. It also includes a detailed review of Kittitas County Hospital Districts financial records, service area and population, additional capital needs, funding strategy, and additional EMS and ambulance costs and revenues. It specifically requires analysis and an understanding of the transitory population, seasonality of impacts, land impacts of the proposed use on property tax and levy revenues. The consultants indicated that a complete and thorough environmental review of the fiscal and environmental impacts will take between six and nine months. And it will require a total budget of between \$55,000 and \$68,000. All other service providers are faced with similar challenges and expenses.

An adequate environmental review requires a "reasonably thorough discussion of the significant aspects of the probable environmental consequences." *Klickitat County Citizens Against Imported Waste v. Klickitat County*, 122 Wn.2d 619, 633, 860 P.2d 390 (1993). The EIS must present decisionmakers with a reasonably thorough discussion of the significant impacts of the probable environmental consequences of

the proposed action. *Citizens All. To Protect Our Wetlands v. City of Auburn*, 126 Wn.2d 356, 361-62, 894 P.2d 1300 (1995). Review of the fiscal impacts to Public Hospital Districts is not adequate without the underlying detailed analysis.

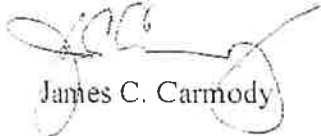
We are requesting that such independent analysis be undertaken at the expense of the developer. Sun Communities is proposing the dramatic change in the subarea plan and they should bear the responsibility for funding of an appropriate impact analysis on services provided by the Public Hospital Districts as well as other service providers.

Conclusion

We request that environmental review be conducted in the context of an actual land use application; that environmental review be undertaken through a new and current EIS process; that the fiscal and operational impacts to Kittitas County Hospital Districts, as well as other service providers, be undertaken in a disciplined and professional manner by independent consultants with costs paid by the project proponent; and that such be coordinated under the direction of the City in consultation with Kittitas County Public Hospital Districts and other service providers.

We appreciate your consideration of our requests in this very serious and impactful project proposal.

Very truly yours,
MEYER, FLUEGGE & TENNEY, P.S.



James C. Carmody

ATTACHMENT C

Characteristics and Challenges of Rural Ambulance Agencies – A Brief Review and Policy Considerations

*Prepared by the
RUPRI Health Panel -*

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January 2021



ACKNOWLEDGEMENTS

This report was supported through a cooperative agreement with the Federal Office of Rural Health Policy (FORHP), Health Resources and Services Administration (HRSA), US Department of Health and Human Services (HHS), under cooperative agreement/grant #U18RH30805. The information, conclusions and opinions expressed in this report are those of the authors and no endorsement by FORHP, HRSA, or HHS is intended or should be inferred. A special thanks to Sue Nardie for her careful editing.

Table of Contents

Key Findings	1
Introduction	1
Characteristics and Challenges	1
Policy Considerations	7
Conclusion	10
References	11

Key Findings

Rural ambulance agencies, a fundamental component of the rural emergency medical services (EMS) system, are challenged by the following issues:

- long distances and challenging terrain that prolong emergency response and transport times,
- insufficient payment by insurers to cover standby and fixed costs,
- a changing workforce that has historically relied on volunteers but increasingly must include paid personnel,
- a lack of regional EMS plans to coordinate services, and
- insufficient State and Federal policy coordination across oversight agencies.

Specific public policies to address rural ambulance agency challenges could include the following:

- Increase ambulance payment to adequately cover reasonable standby and fixed costs.
- Consider EMS an essential service, the same as firefighting and law enforcement.
- Collect rural ambulance agency workforce data to better understand workforce needs.
- Expand the scope and authority of the Federal Interagency Committee on EMS to address rural ambulance agency payment and workforce challenges.

Introduction

Every year, nearly 10 million rural Americans receive EMS care.* There are 23,272 ambulance agencies in the U.S.¹ and 73 percent of those agencies report serving rural areas.² Thus, rural Americans rely on EMS professionals to deliver life-saving emergency care every day. Rural Americans expect and deserve an EMS system that is ready and capable of caring for their emergency treatment and transportation needs. Although EMS is a multifaceted system of care, it is ambulance services, inclusive of emergency care and medical transportation, that comes to mind when most people think of EMS. Yet, many rural ambulance agencies that are fundamental to the EMS system are in jeopardy. Rural ambulance agencies are challenged to deliver timely and high-quality emergency services due to an often inadequate financing system and an increasing inability to rely on a volunteer workforce. This Rural Policy Research Institute Health Panel (RUPRI Panel) policy paper examines current rural ambulance agency characteristics and challenges, and identifies public policy considerations designed to stabilize rural ambulance agencies.

Characteristics and Challenges

The RUPRI Panel identifies five important rural ambulance service characteristics and challenges:

- 1. Rural geographies may prolong emergency response and transport times and are associated with worse patient outcomes.**

*Derived from total 2018 EMS run estimates (National Association of State EMS Officials. "2020 National Emergency Medical Services Assessment." www.nasemso.org) multiplied by the rural U.S. population percentage of 19 percent.

Large geographic ambulance coverage areas, occasionally challenging terrain and weather, and delayed vehicle crash or other emergency notifications lead to prolonged time between the emergency incident and patient arrival at the hospital. For conditions requiring rapid treatment, such as heart attack, stroke, sepsis, and severe trauma, delays in EMS activation and prolonged emergency-transport times (EMS personnel arrival on scene is twice as long in rural areas as in urban areas³) can result in increased death and disability. For example, 2002 research found that 30 percent of rural patients (compared to 8 percent of urban patients) fatally injured in a motor vehicle crash arrived at the hospital more than one hour post-crash.⁴ The first hour following severe trauma is considered the “golden hour,” the time during which severe-trauma victims are most likely to benefit from definitive medical care. Furthermore, when an ambulance crew is responding to a call, that crew and its equipment are not available for another, concurrent emergency. Distant emergency sites and transport destinations, and consequent prolonged transportation times, exacerbate ambulance and crew shortages. Now, nearly 20 years after the 2002 report, the implications of rural-urban emergency response and transport time disparities warrant updated EMS research.

Rural hospital closures further exacerbate rural EMS transport-time challenges. Since 2005, 176 rural hospitals have closed.⁵ For rural hospitals who were receiving emergency response patients or who were providing ambulance services, the mean transport time prior to a hospital closure was 14.2 minutes. The mean transport time increased to 25.1 minutes after hospital closure, a statistically significant increase of 10.9 minutes or 76.4 percent.⁶ Importantly, consideration of mean transport times does not adequately recognize those transport times that are significantly greater than the mean and consequently could negatively impact patient outcomes.

2. EMS financing and payments do not adequately cover standby and fixed costs and place ambulance agencies at financial risk.

Historically, ambulance agencies were strictly an emergency transportation system; little clinical emergency care was provided in the field. In fact, early emergency transport vehicles often served two functions, ambulance and hearse. But as the emergency triage and clinical treatment knowledge base developed, so too did the skills, expertise, equipment, and roles of emergency response personnel. Now, ambulance agencies have matured from *suppliers* of emergency transportation to *providers* of emergency health care. This distinction between supplier of transportation and provider of health care is important because ambulance payment systems remain rooted in transportation roles. Thus, ambulance transportation payments may not fully cover health care provider costs, such as necessary clinical training and medical equipment.

Ambulance agencies are typically supported by fee-for-service public and private insurance *payments* and other *funding* sources (i.e., tax revenue, charitable contributions, and grants). However, in much of rural America, population losses weaken fiscal and economic health, eroding tax revenue available to fund health care programs.⁷ Ambulance service payments for individual ambulance runs represent a mix of service-based and transportation-based revenues. The Centers for Medicare & Medicaid Services (CMS) employs the Ambulance Fee Schedule, and commercial payers tend to mirror CMS payment policies. The Bipartisan Budget Act of 2018 extended ambulance add-on payments until 2022 to include a 2.0 percent increase for transports originating in urban areas, a 3.0 percent increase for transports originating in rural areas, and a 22.6 percent increase for transports originating in areas that are within the lowest 25th percentile of all rural areas arrayed by population density (“super-rural bonus”

payments).⁸ Fee schedules currently do not pay for ambulance services that do not result in transportation to a hospital, for example, in cases where a patient refuses ambulance transport or the crew is called to simply lift a patient off the floor. In a 2018 analysis of 37 states, approximately 5 percent of EMS patient transports were from the scene to a destination other than an ED.⁹ These patient transports may not have been reimbursed.

Medicare makes fee-for-service payments to ambulance agencies based on a mix of clinical service and transportation-based charges. However, reliance on fee-for-service revenue can be particularly problematic for rural ambulance agencies. The primary costs incurred by a rural ambulance agency are related to maintaining emergency response readiness, but the primary revenue received by an ambulance service is payment for patient transport. As with many rural emergency services, ambulance agencies have significant *standby costs*, that is, personnel and equipment costs necessary to maintain readiness to respond to emergencies at any time. Similarly, *fixed costs* like ambulance purchase and equipment, remain constant regardless of service volumes. Standby costs are a type of fixed costs, but particularly relevant in emergency situations where capacity to respond must be immediately available. Unlike urban ambulance agencies that can spread standby and fixed costs over a high volume of ambulance runs, rural agencies experience proportionally greater standby and fixed costs per run than do their urban counterparts. While detailed cost data are not available, a 2015 U.S. Department of Health & Human Services (HHS) Report to Congress indicates that per-run ambulance costs decline with higher run volumes.¹⁰ Low-volume, rural EMS systems are typically unable to achieve such economies of scale.

With few exceptions in very remote areas where ambulance agencies are greater than 35 miles apart, Medicare does not pay for ambulance services based on cost, as most Critical Access Hospital (CAH) services are paid. CAH cost-based reimbursement was implemented to reduce the negative financial impact of low service volumes, but is unavailable for ambulance services operated by many CAHs. Thus, CAHs are disincentivized to maintain ambulance agencies and many CAHs have sold their ambulance departments. An ambulance fee-for-service payment system combined with CAH cost-based reimbursement thwart rural health service consolidation efforts that otherwise might more effectively deal with low service volumes. The Frontier Community Health Integration Program (FCHIP – a Center for Medicare & Medicaid Innovation demonstration that ended in 2019) allowed participant CAHs to be paid reasonable costs for ambulance services irrespective of other ambulance services located within a 35-mile drive of the CAH.¹¹ One FCHIP participant hospital realized a significant ambulance revenue increase during the model. Other FCHIP participants could not take advantage of the new payment because their ambulance agencies had already been sold.¹² Lessons from the FCHIP demonstration could help stabilize the critical service that financially distressed rural ambulance agencies offer.

Ambulance funding is distinct from run-based fee-for-service payments. Ambulance agencies may be partially funded by taxes (e.g., from ambulance districts, counties, and local governments). Rural ambulance agencies may try to offset financial shortfalls with direct charitable contributions or from agency-sponsored events (e.g., bake sales and pancake breakfasts); both are difficult and inconsistent revenue sources. Ambulance agencies may be integrated in a fire department (46 percent of ambulance agencies) or operate as a hospital department (43 percent of ambulance agencies),¹³ each receiving different payments and/or funding. These governance arrangements may be problematic in rural areas due to rural hospital financial distress and closures.^{14,15} Other ambulance agency funding may include public and private grants to support personnel training or equipment purchase.

In addition to inadequate payment and unpredictable funding, there is evidence that unbilled care costs and unpaid debt are higher for ambulance agencies than for other health care providers. In 2018, 10 percent of all national health expenditures were out-of-pocket;¹⁶ that is, insurers did not pay these costs and patients were personally responsible for paying them. In contrast, a 2016 report documented that 43 percent of EMS charges were considered private pay (or out-of-pocket) – over 4 times higher than the national out-of-pocket health care expenditure rate.¹⁷ The financial burden of unpaid out-of-pocket costs is likely compounded in rural ambulance agencies that do not have the administrative capacity to properly bill patients, or choose not to bill patients who are neighbors and friends.

As the clinical knowledge base of emergency care has expanded, so have ambulance personnel training needs and costs. In many cases, community expectations have forced rural ambulance agencies to upgrade their workforce from EMT-Basic to Paramedic. Higher salaries commensurate with added EMT certifications, competition for Paramedic staff, and additional training costs have all placed financial burden on small, low-volume ambulance agencies. Yet, personnel and training are relatively fixed costs (training needs vary by personnel, not by revenue-generating ambulance runs). Mandatory standby costs often preclude training investments, risking staff competency and patient health.

3. A mixed volunteer and paid workforce, and a limited number of personnel experience and training opportunities, jeopardizes rural ambulance agency staffing supply, stability, and clinical capability.

Over one million EMS professionals are licensed in the U.S.,¹⁸ and their scope of work is changing. As noted above, the clinical knowledge base of emergency care, and prehospital emergency care in particular, has expanded dramatically, resulting in differing levels of ambulance crew capabilities. The National Registry of Emergency Medical Technicians offers four EMS certifications – Emergency Medical Responder, Emergency Medical Technician, Advanced Emergency Medical Technician, and Paramedic – demonstrating the range of ambulance crew capabilities.¹⁹ These ambulance agency capabilities and certifications require continuing education, with costs beyond the means of many low-volume rural ambulance agencies, even though continuing education may be most important in the rural EMS setting, where fewer runs offer less opportunity for on-the-job training and experience.

Of particular concern are “high-risk, low-volume” clinical events (e.g., heart attacks and strokes) where clinical competence is of utmost importance. A low volume of high-risk clinical event experiences may contribute to diminishing critical care skills necessary to effectively treat critically ill patients. Therefore, with fewer high-risk clinical events from which to gain clinical experience, rural ambulance agency crews likely require more frequent training than their urban counterparts. Hence, continuing education opportunities are that much more important to maintain rural ambulance crew competence.

Rural ambulance agencies employ a pay status continuum that includes volunteers, paid volunteers (pay for run-time only), and full or part-time employees. EMT compensation is low compared to other health care and first responder personnel (see adjacent table).^{20,21,22,23} In 2003, National Registry of Emergency Medical Technicians data showed that volunteers make up the majority of the EMS in rural areas.²⁴ Yet, volunteerism is in decline.²⁵ Although compensation costs associated with volunteers may be lower, a volunteer workforce is less

2019 Compensation Comparison		
	Hourly Wage	Annual Salary
EMTs	\$16.50	\$34,320
Police Officers	\$30.47	\$63,380
Fire Fighters	\$23.85	\$49,620
LPNs	\$22.23	\$46,240

stable, increasing overall costs for recruitment and retention. Furthermore, ambulance crew training costs remain, and are likely more challenging to finance in low-volume rural ambulance agencies.

Due to demographic and economic factors, the potential rural ambulance crew workforce pool is shrinking. The rural population is both declining²⁶ and aging. The commuting distance traveled for employed rural workers (residing in noncore, not adjacent counties) increased 25 percent from 2007 to 2016, compounding the potential ambulance crew workforce reduction as volunteers must be physically present to be on-call.²⁷

Finally, the reality of the difficult nature of EMS work makes volunteering challenging for many rural community members. Ambulance crew mortality is three times higher than for the average worker, as is the risk of injury (e.g., bloodborne and airborne pathogens, patient violence, lifting injuries, and vehicle crashes).²⁸ Yet only 11 states monitor on-the-job EMS injuries.²⁹ Workplace injury risk may be particularly concerning for the rural ambulance agency volunteers because Workers' Compensation coverage for volunteers is highly variable.³⁰

4. Inadequate regional EMS planning leads to inefficiencies in EMS coverage across rural areas, resulting in either persistent shortages or inappropriate duplication of services.

In 1973, the EMS Systems Act created a grant program to develop regional EMS systems. About 300 EMS regions were established. However, the program was plagued by coordination problems between the Department of Health, Education, and Welfare and the Department of Transportation (DOT). By 1981, regional system development efforts ceased when the program was eliminated. Funding moved to a block grant program to the states. Although block grants were provided to states to develop EMS systems, funding was sharply cut, and over the following decades states pursued their own priorities, resulting in a diversity of approaches to EMS system development.³¹ However, some states have developed ambulance service areas. For example, Minnesota's Emergency Medical Services Regulatory Board assigns primary ambulance service areas in eight geographic regions.³² California has 33 local EMS systems that provide emergency medical services for California's 58 counties.³³ The degree of national ambulance agency shortage and service area overlap is unclear. However, due to rural ambulance service characteristics and challenges outlined herein, it is likely that rural ambulance agency shortages outweigh ambulance service area overlap.

The 2007 Institute of Medicine (IOM) report *Emergency Medical Services: At the Crossroads* called for a "coordinated, regionalized, accountable" system of emergency care.³⁴ However, instead of ambulance agency regionalization that ensured adequate access to ambulance services and reduced overlap of ambulance coverage areas, regional initiatives were developed for time-sensitive medical emergencies, such as heart attack, trauma, and stroke. Although critically important, these initiatives did not address the more global need for EMS system coordination and regionalization.

To distribute ambulance services more efficiently, dynamic load-responsive ambulance deployment uses ambulance run data to predict geography-based and time-based need for ambulance services.³⁵ Ambulances and crews are "staged" at locations predicted to need ambulance services, thus rationalizing ambulance distribution. Although the dynamic load-responsive ambulance deployment system has merit in many rural areas, it is less useful in frontier areas and other low population density rural areas where ambulance run volumes are low, transport distances are high, and ambulance and

crew availability is limited. Furthermore, dynamic load-responsive ambulance deployment generally occurs within an ambulance agency, not between ambulance agencies.

5. Fragmented Federal and State oversight and funding weaken policy focus on critical rural EMS challenges.

At both the Federal and State levels, jurisdiction for EMS oversight and funding is fragmented. This fragmentation has contributed to inadequate planning to appropriately allocate EMS resources, collect quality data to support improvement activities, and support EMS services most in need. Despite significant funding related to EMS, little Federal funding is designated for ambulance agency support, including rural ambulance agency support. For example, in 2002 and 2003, EMS providers received only 4 percent of the \$3.38 billion allocated by the Department of Homeland Security to enhance emergency preparedness.³⁶

Currently, the DOT, HHS, Department of Defense, Department of Homeland Security, Federal Aviation Administration (FAA), and Federal Communications Commission all have at least some jurisdiction over the EMS system.³⁷ Although HHS is responsible for Medicare and Medicaid payment and DOT is responsible for some emergency vehicle regulation, other Federal jurisdictions overlap. A consequence of this disorganization (among other issues) is that ambulance agencies are primarily regulated by the states. The National Highway Traffic and Safety Administration (NHTSA), within the DOT, has historically supported state-based EMS efforts. The Federal Interagency Committee on EMS includes representatives from multiple departments and is staffed by NHTSA. The committee meets twice yearly, but its last report to Congress was in 2013.³⁸

State EMS offices serve in an administrative role for EMS planning, coordination, and leadership responsibilities, and a regulatory role for EMS agencies and personnel.³⁹ State EMS offices receive funding from up to 19 Federal sources, varying by administration and congressional priorities.⁴⁰ State EMS office funding from the State is similarly fragmented, originating from up to 10 sources. Researchers note that State EMS office funding data “beg and yet defy interpretation.”⁴¹ Across the states, funding of from State general funds for State EMS offices declined 10 percent from 2014 to 2018.⁴² The fragmented approach to EMS regulation, oversight, financing, and other assistance lacks strategic focus and inadequately supports struggling rural ambulance agencies.

The Committee on the Future of Emergency Care in the United States Health System noted that a “true federal lead agency is required if its vision of a coordinated, regionalized, and accountable emergency care system is to be fully realized.”⁴³ In 1981, the Omnibus Budget Reconciliation Act (OBRA) eliminated the categorical federal funding to states established by the 1973 EMS Systems Act, and instead provided block grants to states. Since then, coordinated and regional EMS systems envisioned by the act’s authors and the committee have not been well-developed. Admittedly, the tasks of regionalizing rural ambulance service areas (to reduce shortages and duplications) and adequately funding rural ambulance agencies across the nation is challenging. However, this situation is particularly problematic for low-volume rural ambulance agencies where the challenges of large geographic services areas, inadequate payment to cover standby and fixed costs, and a significant volunteer workforce require appropriate allocation of Federal, State, and local resources to ensure reasonable access to EMS services for all Americans.

6. Air ambulance utilization is expanding faster, more costly, and more dangerous than ground ambulance transport.

Air ambulance agencies are a critical component of rural ambulance services, where long distances and transport times may require the rapidity of air transport. Furthermore, air ambulance services may be available when ground ambulances are not.

Between 2012 and 2017, the number of air ambulance helicopter bases in the U.S. increased 15 percent, and geographic coverage increased 23 percent. About 60 percent of the new helicopter and fixed wing aircraft bases are in rural areas.⁴⁴ In total, there are 1,411 air ambulances.⁴⁵

The Airline Deregulation Act of 1978 has prevented states from regulating air ambulance charges.⁴⁶ From 2008 to 2017, the average price of an air ambulance trip increased 144 percent (from \$11,414 in 2008 to \$27,894 in 2017) for helicopters and 166 percent (from \$15,684 in 2008 to \$41,674 in 2017) for fixed wing aircraft.⁴⁷ In 2017, 69 percent of air ambulance transports were out of the patient's insurance network, meaning that the patient was responsible for an additional charge (balanced bill).⁴⁸ A U.S. Government Accountability Office study found that almost all consumer complaints regarding air ambulance services involved balanced bills of over \$10,000.⁴⁹

Air ambulance crashes result in an average of 11 deaths per year.⁵⁰ In comparison, there are an average of 33 fatalities in ground ambulance crashes each year.⁵¹ However, the ground ambulance run numbers and miles traveled is greater than for air ambulances. Efforts are underway to address air ambulance costs and safety to ensure that rural Americans have access to air ambulance service. Part of that effort could be to increase ground ambulance availability and ambulance crew capability, making air ambulance care less necessary.

Policy Considerations

Payment

The National Academies of Medicine (formerly the Institute of Medicine [IOM]) have defined EMS as a *public good*. "A public good is commonly understood simply as a good, such as education or fire protection, that offers public benefits, which justify government support."⁵² Consequently, EMS may also be considered an *essential service*. A 2014 study examined the concept of *essential service* and found reference in State statutes that deem certain employees essential who must report to work under adverse conditions.⁵³ Essential service has been defined in terms of an employee's right to strike and further defined as a service to which every citizen should be guaranteed access. The American Ambulance Association suggests that contacting 911 and expecting an ambulance to arrive is an "essential health benefit."⁵⁴ In 2004, the IOM's publication, *Quality through Collaboration: The Future of Rural Health* listed EMS (and primary, dental, and mental health care) as essential health care services.⁵⁵ In 2006, Mueller and MacKinney listed emergency services (and primary care and public health) as services that should be local.⁵⁶ And the Patient Protection and Affordable Care Act of 2010 lists emergency service as an essential health benefit covered by qualified insurance plans.⁵⁷ Currently, 11 states include EMS as an essential service.⁵⁸ A review of four State statutes suggests some differences, but states commonly mandate that counties provide basic EMS services. Counties are given discretion when implementing EMS, and funding is dedicated to counties to meet EMS requirements.⁵⁹

To deliver its indispensable care, an essential service must be adequately funded. Yet even in states that identify EMS as a statute-defined essential service, payment is often insufficient to cover significant standby and fixed costs required to maintain a rural ambulance agency. The problem of underpayment is particularly acute in low-volume rural areas where fee-for-service revenue is low.

The Bipartisan Budget Act of 2018 requires HHS to collect cost, revenue, utilization, and other information determined appropriate by the Secretary from providers and suppliers of ground ambulance services starting January 1, 2020, and continuing through 2024. Ambulance agencies, including those located in rural and frontier areas, will report cost data to the Medicare Ground Ambulance Data Collection System.⁶⁰ The information will be forwarded to the Medicare Payment Advisory Commission, which will then report to Congress regarding the appropriateness of ground ambulance payment.

The RUPRI Panel recommends the following ambulance agency payment considerations:

- **Based on findings from the Medicare Ground Ambulance Data Collection System, CMS could consider adjusting rural ambulance payment to cover reasonable ambulance standby and fixed costs.**
- **CMS could consider adjusting the Ambulance Fee Schedule to reflect ambulance agencies more fully as health care *providers* than transportation *suppliers* by increasing base payments.**
- **CMS could consider continuing ambulance add-on payments beyond 2022 until the Ambulance Fee Schedule is adjusted to fully reflect reasonable standby and fixed costs.**
- **All states could consider designating EMS as an essential service and provide adequate funding to counties to ensure reasonable access to EMS services.**

Workforce

The EMS workforce is an essential component of the rural EMS system.⁶¹ Rural ambulance agencies disproportionately rely on volunteers or paid volunteers (payment for runs only) to staff ambulances and provide emergency services. A 2008 report suggested there are minimal quantifiable data about the ambulance agency workforce. Yet, “qualitative evidence suggests that retaining workers is a challenge, with poor management practices, low wages and benefits, lack of career ladders, and injuries and disability contributing to turnover.”⁶² The Occupational Safety and Health Administration (OSHA) regulations do not cover public sector employees, paid or otherwise.⁶³ Thus, ambulance and other EMS workers who are employees of a county or locality would not be protected under OSHA regulations. The 2014 *EMS Workforce Planning & Development – Guidelines for State Adoption* provides specific workforce guidelines for State EMS officers and recommendations for State EMS planners, State and Federal legislators and regulators, and other policy makers.⁶⁴

The RUPRI Panel recommends the following ambulance agency workforce considerations:

- **Acquire essential ambulance agency workforce and other data to better understand workforce needs and projections.**
- **Maintain a healthy ambulance agency workforce by applying Occupational Safety and Health Administration guidelines to public sector employees, ambulance service equipment, and workplace processes.**
- **Support ambulance agency volunteers by providing free continuing education programs, offering low-deductible State-employee health insurance plans, and extending Workers’ Compensation coverage.**

- **Develop Center for Medicare & Medicaid Innovation demonstrations that test new ambulance agency workforce models, such as community paramedicine programs not limited to paramedics and cross coverage between ambulance personnel and emergency department technicians.**

Distribution

With critical financial and workforce capacity challenges facing rural ambulance agencies, it is important to ensure the most efficient distribution of limited rural EMS capacity. The precarious status of some rural ambulance agencies may be, in part, exacerbated by maldistribution of ambulance services. As envisioned by the 1973 EMS System Act, coordination and regionalization of EMS is needed. The Medicare Rural Hospital Flexibility (Flex) Program (through its mandate to establish or expand the provision of rural EMS in communities with CAHs) and Flex Program coordinators may be appropriate vehicles to facilitate rural EMS planning.⁶⁵ In addition to a need for EMS coordination and regionalization, community-based EMS planning can help match EMS services to community need. The *Rural and Frontier EMS Agenda for the Future*, a report published by the National Rural Health Association in 2004, proposed the Informed Community Self-Determination model of community-engaged planning to help communities and local EMS agencies co-design EMS services that fit with local resources and capacities and that reflect community preferences.⁶⁶

The RUPRI Panel recommends the following ambulance agency distribution considerations:

- **Absent a Federal program such as was envisioned in the 1973 EMS System Act, State EMS agencies, EMS advocacy groups, and Flex Program coordinators could consider developing statewide, regional EMS plans to ensure access to, and sustainability of, rural EMS agencies.**
- **Flex Program EMS funding could be increased and separated from Flex Program quality improvement funding to specifically target EMS needs such as Informed Community Self-Determination initiatives support.**
- **Although participation in rural EMS regionalization efforts could be considered for all ambulance agencies receiving Federal payments, individual rural communities could have the opportunity to expand EMS beyond required services if supported by local resources.**

Jurisdiction

The NHTSA Office of EMS (within the DOT) has historically served as the informal lead Federal agency for EMS.⁶⁷ However, HHS provides ambulance service payment through Medicare and Medicaid. HHS (through Medicare) is also leading the Medicare Ground Ambulance Data Collection System, which will collect ambulance cost and quality data. States regulate ground ambulances. The FAA regulates air ambulances. And various Federal agencies (e.g., the Centers for Disease Control and Prevention and the Health Resources and Services Administration) support emergency care through focused grants. Yet proportionally few Federal funds for emergency care flow directly to EMS, despite the EMS roles of health care, public health, and public safety provider. The National Academies of Science noted that too often local EMS systems are not well integrated with any of these groups and therefore receive inadequate support from each of them. “EMS has a foot in many doors, but no clear home.”⁶⁸

The RUPRI Panel recommends the following ambulance agency jurisdiction considerations:

- **Congress could consider requiring yearly reports from the Federal Interagency Committee on EMS.**

- Congress could consider expanding the Federal Interagency Committee on EMS to include other departments with resources to support rural ambulance agencies, such as the departments of Agriculture, Labor, and Commerce.
- The Federal Interagency Committee on EMS could map resources available to specifically support rural ambulance agencies and disseminate that information to State EMS offices.
- The Federal Interagency Committee on EMS could offer specific recommendations to address rural ambulance workforce and payment challenges, and allocate resources to areas of greatest need.
- The Federal Interagency Committee on EMS could use data collected by the Medicare Ground Ambulance Data Collection System to design and recommend ambulance quality improvement strategies.

Conclusion

Most Americans would agree that EMS emergency care and transportation should be available in all jurisdictions, 24 hours a day, 365 days a year. But universal access to emergency care is in jeopardy in rural areas where people live, work, or recreate. Yet, only 11 states have codified EMS in State statute as an essential service. Factors that challenge sustained access to rural EMS include the following:

- Rural ambulance agency payments inadequately cover standby and fixed costs.
- A rural EMS volunteer workforce is no longer sustainable due to demographic, economic, and other factors.
- Underdeveloped regional EMS planning leads to inadequate rural EMS coverage and potential ambulance service area overlap.
- The presence of multiple Federal EMS jurisdictions weakens the focus on the needs of rural ambulance agencies.

This RUPRI Panel policy brief describes important rural ambulance agency characteristics and challenges and offers specific Federal policy considerations designed to help create the rural ambulance service that all rural Americans deserve.

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⁵⁹ Van Milligan et al. An Analysis of Prehospital Emergency Medical Services as an Essential Service and as a Public Good in Economic Theory. Page 12.

⁶⁰ Centers for Medicare & Medicaid Services. Medicare Ground Ambulance Data Collection System. Accessed March 4, 2020. <https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/AmbulanceFeeSchedule/Ground-Ambulance-Services-Data-Collection-System>

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⁶⁴ National Association of State Emergency Medical Services Officials (2013). EMS Workforce Planning & Development Guidelines for State Adoption. Accessed March 4, 2020. <https://nasemso.org/wp-content/uploads/EMS-Workforce-Guidelines-11Oct2013.pdf>

⁶⁵ U.S. Congress Title XVIII, §1820(g)(1) and (2) of the Social Security Act (42 U.S.C. 1395i-4(g)(1) and (2)).

⁶⁶ McGinnis K. Rural and Frontier EMS Agenda for the Future (2004). National Rural Health Association. Accessed March 4, 2020. Available at <https://www.ruralcenter.org>

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About the Authors

The RUPRI Health Panel is led by Keith J. Mueller, PhD. He can be contacted at (319) 384-3832, or by email keith-mueller@uiowa.edu.

Andrew F. Coburn, PhD, is research professor emeritus of public health and senior fellow in the Maine Rural Health Research Center, Muskie School of Public Service, University of Southern Maine. His rural research and publications focus on health financing and delivery system reform, insurance and health access, rural telehealth use, rural long term services and supports, and Medicaid policy. He is a member of the Medicare Rural Hospital Flexibility Monitoring Team Project in which he and his colleagues at USM and at the Universities of North Carolina-Chapel Hill and Minnesota are assisting states and Critical Access Hospitals around the country improve their financial, quality, and population health capacity and performance.

Alana D. Knudson, PhD, is a project area director in the Public Health Research Department at NORC at the University of Chicago and is based in NORC's Bethesda, Maryland office. She also serves as the co-director of the Walsh Center for Rural Health Analysis. Dr. Knudson's expertise includes rural health research, public health systems research, health services research, and evaluation projects.

Jennifer P. Lundblad, PhD, MBA, is president and CEO of Stratis Health, an independent nonprofit quality improvement organization based in Bloomington, Minnesota, that leads collaboration and innovation in healthcare quality and patient safety. Dr. Lundblad has an extensive background in leadership, organization development, and program management in both nonprofit and education settings.

A. Clinton MacKinney, MD, MS, is a clinical associate professor in the Department of Health Management and Policy, College of Public Health, University of Iowa. He is also a board-certified family physician. He is the deputy director of the RUPRI Center for Rural Health Policy Analysis.

Timothy D. McBride, PhD, is a professor at the Brown School, at Washington University in St. Louis. He also serves as one of the principal analysts in the RUPRI Center for Rural Health Policy Analysis, and serves in many state and federal roles, including serving as chair of the state of Missouri's MOHealthNET Oversight Committee, which oversees the state's Medicaid program.

Keith J. Mueller, PhD, is the Rural Health Panel chair. Dr. Mueller is the head of the Department of Health Management and Policy in the University of Iowa, College of Public Health, where he is also the Gerhard Hartman professor and the director of RUPRI and its Center for Rural Health Policy Analysis.

About the Rural Policy Research Institute

The Rural Policy Research Institute (RUPRI) provides unbiased analysis and information on the challenges, needs, and opportunities facing rural America. RUPRI's aim is to spur public dialogue and help policymakers understand the rural impacts of public policies and programs. RUPRI is housed within the College of Public Health at the University of Iowa. RUPRI's reach is national and international and is one of the world's preeminent sources of expertise and perspective on policies impacting rural places and people. Read more at www.rupri.org.



KITTITAS COUNTY DEPARTMENT OF PUBLIC WORKS

Mark R. Cook, PE Director

April 27, 2023

City of Cle Elum
c/o Ms. Colleda Monick
119 West First Street
Cle Elum, WA 98922



RE: SEIS Comments for Sun Communities
Proposed Major Modification to the Bull Frog Flats Master Plan

Dear Ms. Monick:

Thank you for the opportunity to comment on the SEIS prepared supporting Sun Communities proposed major modifications to the Bull Frog Flats master plan. Our comments appear below for your consideration.

Transportation Analysis Addendum, April 2021

1. We note throughout the document that “baseline” conditions are referenced but are not defined. This is important to understand as developer mitigation is driven by background traffic growth unless developer mitigation is based solely on “new” traffic impact. Approved Suncadia background traffic is not apparent in the TENW analysis. The county recently restarted a traffic counting program by Suncadia designed to inform of system capacity utilization. We need to understand how TENW has built Suncadia buildout scenarios into the buildout analysis for 47 degrees North – Major Modification 6. The County approved capacity allocation of its transportation network to Suncadia years ahead of the 47 degrees North proposal. We also desire to see where TENW has incorporated the approved City Heights traffic impact as the City’s approval and allocation of system capacity predates 47 degrees North. It is essential to understand background assignment when considering the appropriate mitigation strategy for 47 degrees North. It is likely that system capacity is already well allocated, and 47 degrees North will be required to bear the entire cost of future LOS breaks on the network.
2. We note with interest that Alternative 6 trip generation is based on occupancy assumptions vetted by applicant data from other locations in the country. It is difficult to understand how 50% occupancy translates to a viable business model. We note with interest that the fiscal analysis provided in Appendix E affirms subsidy by the city is required in 2025, as the proposal is not forecasting positive cash flow. Why hasn’t the applicant data been utilized when developing RV trip generation values? The previous SEIS states that Sun Communities owns and operates 136 RV resorts and 34 hybrid (manufactured home and RV) resorts across the country. We desire an explanation in the

analysis as to why ITE Trip Generation use codes that are used for RV trip generation when clearly the applicant has real traffic impact data based on their extensive operating experience.

3. We are concerned that the latest analysis provides no discussion about impacts to Salmon La Sac Road. The previous SEIS RV proposal is expected to send recreationalists north along Highway 903 to Salmon La Sac Road for public land access. The previous SEIS states that ten percent (10%) of the RV component is slated to go north. Where else can the RV component go? We desire a discussion from the applicant regarding RV impacts to Salmon La Sac Road and the rationale for assigning only ten percent (10%) of the RV traffic north onto Salmon La Sac Road.
4. TENW mis-identifies the County's LOS standards as being intersection based. Kittitas County utilizes LOS C for rural road segments and LOS D for urban road segments. It does not appear that Bullfrog Road has been annexed into the city, hence LOS C is appropriate for Bullfrog Road from the I-90 ramp termini to the roundabout at HWY 903. Our concern is the carrying capacity of our bridge crossing the Cle Elum River. Here again it is essential to understand how background traffic is being allocated in the revised analysis.
5. We continue voicing our concerns regarding impacts resulting from weekend traffic. Reviewing the raw data sheets, the Friday PM peak is 2 – 3 PM and the Sunday PM peak hour is 3 – 4 PM. Please verify that these peak hours are reflected in the analysis. Our previous request to amend the city's transportation element of the comprehensive plan has not been acted upon. We note that proposed 2023 comprehensive plan amendments do not address requiring mitigations for weekend traffic impacts. We do not expect the city will once again decline weekend mitigations for traffic impacts resulting from this current proposal.
6. Why are the amenity/adventure center use, community recreation center and affordable housing use omitted from trip generation?
7. We previously commented on the "RV" component without fully understanding the applicant's business model. Previously, we assumed truck and trailer configurations entering and leaving the development. We believe larger diesel-powered motor homes are the predominant RV utilizing the "RV" component of the land use proposal. We desire a better understanding of the turning movement delays associated with large diesel-powered motor homes versus truck and trailer configurations and their impacts on LOS evaluations. Until we are better educated, we cannot presume acceptable levels of service will exist at access locations to Bullfrog Road.

Appendix F: Summary of Mitigation Measures & Significant Unavoidable Adverse Impacts

8. Mitigations must assign Suncadia buildout projections and subsequent impacts on LOS evaluations along with those approved for City Heights. We also note that a major traffic

generating element (grocery store) is not slated until 2030 after numerous intersections are reflecting LOS at failure. Presumably, the city would have already contributed pro-rata share rehabilitating intersection LOS. This creates the potential for missed pro-rata contribution for the grocery component of the proposal. It is likely that we will advocate for Sun Communities to mitigate fully LOS breaks if in fact the network is already fully allocated.

9. The 2015 International Building Code is referenced for foundation setbacks – the current edition is likely no longer 2015.
10. We note with interest: “The transfer of water rights to the City is pending as of this writing”. What is the quantity of water being considered for transfer?
11. The referenced 100 feet of natural buffer will be maintained along the entirety of Bullfrog Road?
12. Kittitas County will evaluate proposed access locations along Bullfrog Road and make final determination as to suitability of access location during the civil engineering review process. The city may want to consider annexation of Bullfrog Road to control access spacing and location.
13. We request consultation with our County Solid Waste Department, regarding transfer station impacts, prior to development approval.
14. Will all or a portion of the surplus city revenue be dedicated to mitigating failed intersection LOS? If some unforeseen financial settlement impacts the city’s ability meeting its pro-rata share contribution to failed intersection LOS, how will LOS be maintained?
15. Increased call volume is a likely consequence of the proposed land use action. We request consultation with KITTCOM regarding emergency response impacts prior to development approval.

Sincerely,



Mark R. Cook, Director

C: Greg Dohrn, GR Dohrn and Associates
Ben Annen, HLA
Richard Weinman, SEPA Responsible Official
Rob Omans, City Manager
Kittitas County Board of County Commissioners
Josh Fredrickson, County Engineer



KITTITAS COUNTY DEPARTMENT OF PUBLIC WORKS

Mark R. Cook, PE Director

May 05, 2023



Mr. Rob Omans
City Manager
City of Cle Elum
119 West First Street
Cle Elum, WA 98922

RE: SEIS 47 Degrees North
Major Modification to the Master Plan

Dear Mr. Omans:

Recently, I provided the City of Cle Elum (City) comments on the proposed Major Modification to the Bull Frog Flats Master Plan SEIS. In that letter, I raised concerns on how the traffic impact analysis, conducted by TENW, is forecasting approved development background traffic. I received a technical memorandum from the County's traffic modeling consultant (Fehr and Peers) earlier this week confirming that the County's traffic model is using an average yearly forecast for Suncadia Resort development, as provided by the city's previous land use planner Ms. Lucy Temple. You may recall I allowed Sun Communities access to the County's traffic model and to Fehr and Peers assisting in the creation of the traffic impact analysis (TIA) supporting Sun's proposal. Regrettably, I was not informed of the decision allocating approved single family residential units from Suncadia into an "average" value for use in the TIA by TENW (approved background traffic development) supporting 47 Degrees North.

The use of the directed average value (63 lots per year) for Suncadia single family residential use generates 252 units from 2019 through 2022. The actual number of approved units is 707. The approved number of units results in a 281 percent increase for the forecast background traffic currently being used in TENW's traffic impact analysis supporting Sun Communities 47 Degrees North proposal. I regret this misstep as it has the potential to alter the impact forecast for level of service breaks at city intersections and along county road segments. I was unaware of the direction given by Ms. Temple to the modeling team. I regret my ignorance of Ms. Temple's direction and subsequent errors in traffic background forecasting as proposed by TENW.

Kittitas County respectfully requests the city require a re-evaluation of traffic impacts owing to significant under-counting of approved background traffic resulting from Suncadia Resort Development. The selected traffic mitigation model is dependent on understanding the level of service reserve capacity at County Road segments and at City intersections. We also request re-evaluation of how the model is allocating approved City background traffic (City Heights, and Cle Elum Pines) so that the traffic model utilized by TENW accurately addresses approved land use background traffic.

Sincerely,



Mark R. Cook, PE

Kittitas County Public Works Director

C: Greg Dohrn, GR Dohrn and Associates
Ben Annen, HLA
Richard Weinman, SEPA Responsible Official
Colleda Monick, HLA
Kittitas County Board of County Commissioners
Josh Fredrickson, Kittitas County Engineer

Attachment: Fehr and Peers Memorandum dated July 2, 2020, to Ben Annen, HLA

Memorandum

Date: July 2, 2020
To: Ben Annen, HLA
From: Daniel Dye & Simon Zhang, Fehr & Peers
Subject: **47° North (Bullfrog Flats) Traffic Forecasts**

SE19-0680.00

This memo documents the methodology used for traffic volume forecasting for the 47° North development in Cle Elum, Kittitas County, Washington. This forecasting utilizes a previous travel demand model developed and refined for other Kittitas County projects.

The intent of the traffic volume forecasting is to provide an update to the Supplemental Environmental Impact Statement for the 47° North (formerly Bullfrog Flats) development located to the west of Cle Elum. Land use information for Cle Elum and the surrounding areas were updated based on a workshop with City Staff on August 2nd, 2019. Additional updates to the growth rate for Suncadia and City Heights were incorporated in the model in spring 2020. Fehr & Peers calibrated and updated the travel model to forecast traffic volumes at study intersections.

Model Calibration

A Kittitas County Travel Demand Model was created by PTV in 2007 using Visum software. The model represents the weekday PM peak hour period and includes the entire county. Fehr & Peers updated the model in 2017 for the City of Ellensburg and Kittitas County Comprehensive Plan Updates. The model was also updated for use on the Upper Kittitas County Task Force project in 2019. The model has a 2017 base year and a forecast horizon year of 2035. For the 47° North project specifically, Fehr & Peers updated land use information and edited the roadway network to include all study intersections identified in the project scope. On August 2nd, 2019, Fehr & Peers facilitated a half-day workshop with City of Cle Elum and HLA staff to review the 2037 land use information for the study area, including housing for single family and multi-family, employment for retail, industrial, recreation, etc. Land use growth was reallocated to the appropriate analysis zones based on City input at this workshop. Additional information on the rate of housing development for Suncadia and City Heights was incorporated in the future year travel models in Spring 2020.



Results from the base year model were compared against 2019 weekday PM traffic counts provided by TENW for calibration. Parameters including speed limits, capacity and centroid connections were updated as necessary to ensure the model produces similar traffic patterns as existing condition.

Overall, the model overestimates the volumes on W 2nd Street and underestimates the volumes on W 1st Street. In order to calibrate the model, the capacity and speed limit of W 2nd Street roads were reduced so that more vehicles will use W 1st Street. This calibrated model was found to accurately reflect existing volumes and travel patterns. This calibrated model was used as the basis for future year models.

Background Growth

Fehr & Peers prepared traffic forecasts for the following buildout years:

- 2025 (Concurrency Horizon)
- 2031 (Interim Year)
- 2037 (Full Buildout)

2025 and 2031 land use inputs were interpolated based on model results from 2017 and updated 2037 scenarios, assuming a constant rate of development each year. Specific pipeline developments

- Overall land use growth in Cle Elum was based on Kittitas County growth estimates and was distributed per Cle Elum Staff direction, but single family home growth is considerably higher than included in the Kittitas County Comprehensive Plan due to pipeline growth in the Cle Elum area.
- For Suncadia, the rate of development was based on historical building permit data. An annual average of 63 single-family units were added to the Suncadia area to reflect historical levels of development.
- For City Heights, 48 single-family units are anticipated to be built annually.
- Cle Elum Pines was assigned an additional 80 single-family units over the planning horizon, or about 4.5 homes annually.

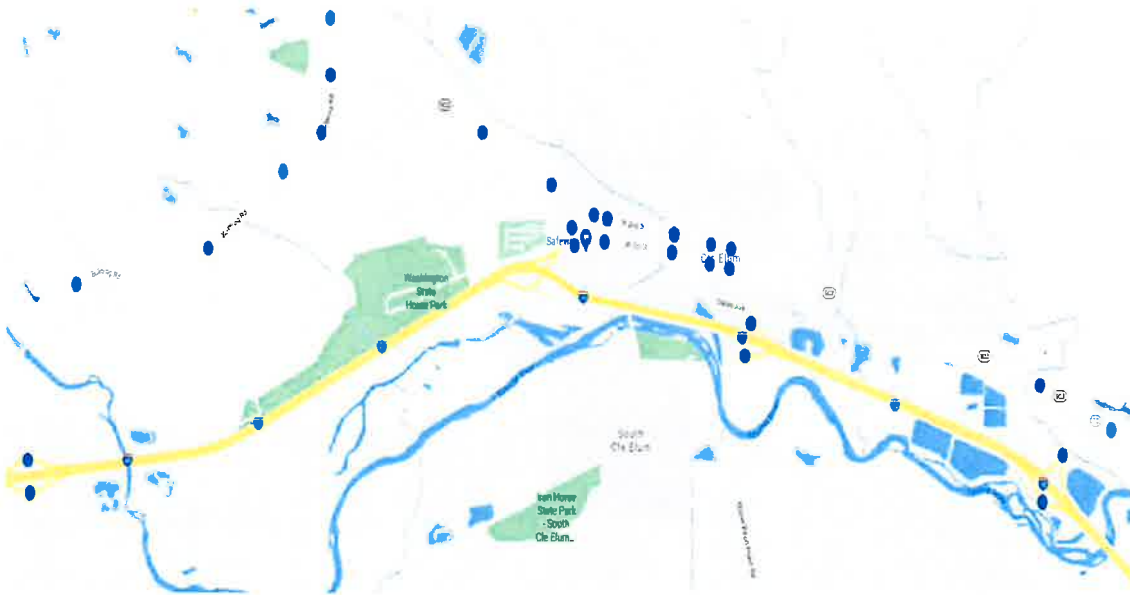
Total entering traffic volumes for the study intersection are expected to increase approximately 3-5% per year during the analysis horizon. This is driven by increased development throughout the Cle Elum and larger Kittitas County area.



Fehr & Peers provided intersection forecasts for 30 study intersections (see **Figure 1**) for the following time periods:

- Weekday PM peak hour
- Friday PM peak hour
- Sunday PM peak hour

Figure 1: Study Intersections



Fehr & Peers utilized the standard forecasting process of applying the difference method to forecast future turning movement volumes. The difference method applies modeled growth to existing actual turning movement counts to provide more certainty in forecasts than simply using model volumes without existing data. This method was used for forecasting weekday volumes. For Friday and Sunday volumes, a ratio of existing Friday or Sunday volumes to existing weekday volumes was used. This allows for use of the weekday PM travel model to forecast Friday and Sunday volumes using the existing traffic volume relationships between different days of the week.

Project Trip Modeling

Alternatives

Two project alternatives were modeled:

1. Alternative 5 represented the preferred alternative completed previously.
2. Alternative 6 is a new proposal created as part of this FEIS process.



Trip generation calculations were provided by TENW and checked for reasonableness by Fehr & Peers. Two additional 2037 model runs were executed to analyze trip distribution and trip assignments under each project alternative. Trip generation summaries and access assumptions for both alternatives are shown below in **Table 1** and **Table 2**. Friday trip generation is identical to weekday trip generation and is therefore omitted.

Table 1: Trip Generation Summary for Alternative 5

Scenario	Land Use Assumption	Weekday PM Peak Hour			Sunday Peak Hour		
		In	Out	Total	In	Out	Total
Year 2025	319 single family						
	469 multi family	351	252	603	297	283	580
	70,000 SF business park						
Year 2031	433 single family						
	524 multi family	449	388	837	366	347	713
	245,000 SF business park						
Year 2037	587 single family						
	524 multi family	570	554	1124	445	416	861
	490,000 SF business park						

Source: TENW, 2019



Table 2: Trip Generation Summary for Alternative 6

Scenario	Land Use Assumption	Weekday PM Peak Hour			Sunday Peak Hour		
		In	Out	Total	In	Out	Total
Year 2025	264 single family						
	180 multi family						
	627 RV sites	366	214	580	260	246	506
	8,500 SF retail						
	6,500 SF restaurant						
Year 2031	527 single family						
	180 multi family						
	627 RV sites	620	392	1,012	514	490	1,004
	45,000 SF grocery store						
	17,000 SF retail						
Year 2037	13,000 SF restaurant						
	527 single family						
	180 multi family						
	627 RV sites						
	45,000 SF grocery store	686	539	1,225	520	492	1,012
	25,000 SF retail						
	20,000 SF restaurant						
	60,000 SF medical office						

Source: TENW, 2019



Trip Distribution and Assignment

Figure 2 and **Figure 3** show the planned land use areas and access points for each alternative. The internal roadway network and project access points were added to the travel demand model. Trips were distributed out to the transportation network and study areas based on the travel demand model calculations along with professional engineering judgement. The engineering judgement was based on knowledge of the area, expected travel patterns for different land use types, and knowledge of the roadway network.

These distributions largely remain the same amongst each alternative, but there are differences between the alternatives due to changes in land use, year of buildout, and different travel patterns depending on the day of the week. For example, Alternative 5 included a business park which would have similar travel patterns to office land use, while Alternative 6 includes retail, restaurants, and a grocery store that have different travel patterns than an office. For Alternative 6, adjustments were made to the 2025 and 2031 buildout year trip distributions to account for the phased development of commercial property. Adjustments were also made to account for the recreational nature of travel in the Cle Elum area by adjusting distributions between days of the week.

The trip distributions are shown as an attachment to this document. Rounding in these figures may cause some numbers to appear not to add up exactly. The trip distributions vary between years and alternatives due to changes in land use and the phasing of different types of development. The distributions are included as follows:

1. Alt 5 Inbound-Represents the inbound weekday and Friday trip distribution for Alternative 5 across all years.
2. Alt 5 Outbound-Represents the outbound weekday and Friday trip distribution for Alternative 5 across all years.
3. Alt 6 Inbound-Represents the inbound weekday and Friday trip distribution for Alternative 6 only for 2037.
4. Alt 6 Outbound-Represents the outbound weekday and Friday trip distribution for Alternative 6 only for 2037.
5. 2025 Alt 6 Inbound-Represents the inbound weekday and Friday trip distribution for Alternative 6 only for 2025. The phasing of retail development changes trip distribution patterns across the study years.
6. 2025 Alt 6 Outbound-Represents the outbound weekday and Friday trip distribution for Alternative 6 only for 2025. The phasing of retail development changes trip distribution patterns across the study years.
7. 2031 Alt 6 Inbound-Represents the inbound weekday and Friday trip distribution for Alternative 6 only for 2031. The phasing of retail development changes trip distribution patterns across the study years.



8. 2031 Alt 6 Outbound-Represents the outbound weekday and Friday trip distribution for Alternative 6 only for 2031. The phasing of retail development changes trip distribution patterns across the study years.
9. Alt 5 Sunday-Represents the inbound and outbound trip distribution for Alternative 5 on Sunday. Because the Sunday scenario represents a midday condition, travel is expected to be balanced between inbound and outbound distributions.
10. Alt 6 Sunday-Represents the inbound and outbound trip distribution for Alternative 6 on Sunday. Because the Sunday scenario represents a midday condition, travel is expected to be balanced between inbound and outbound distributions.

Figure 2: 47° North Trip Access Assumptions for Alternative 5

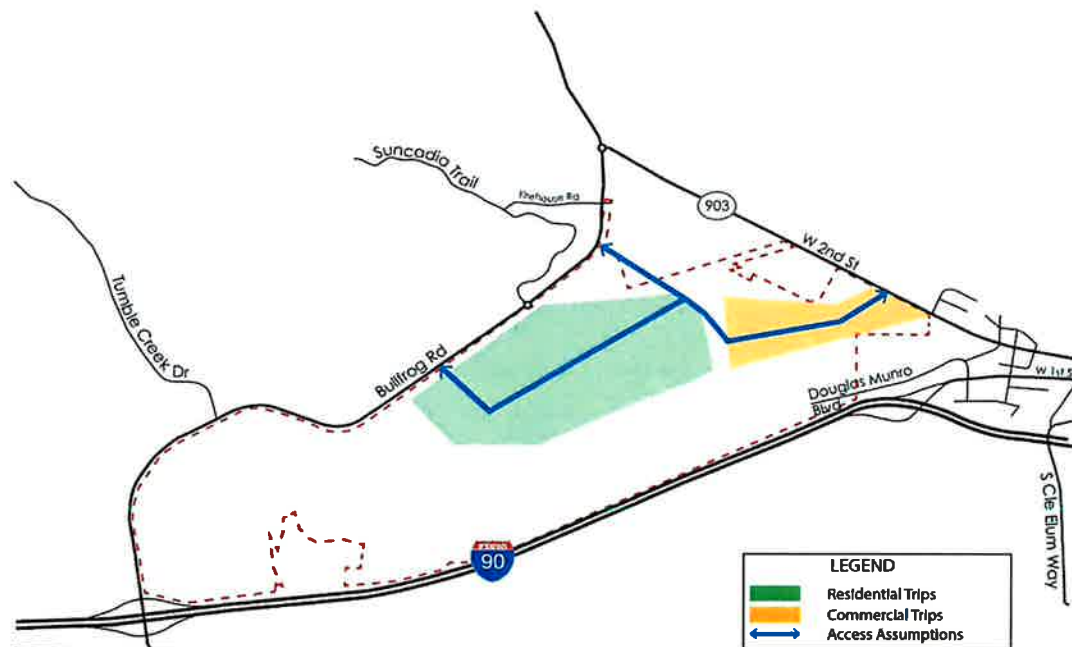
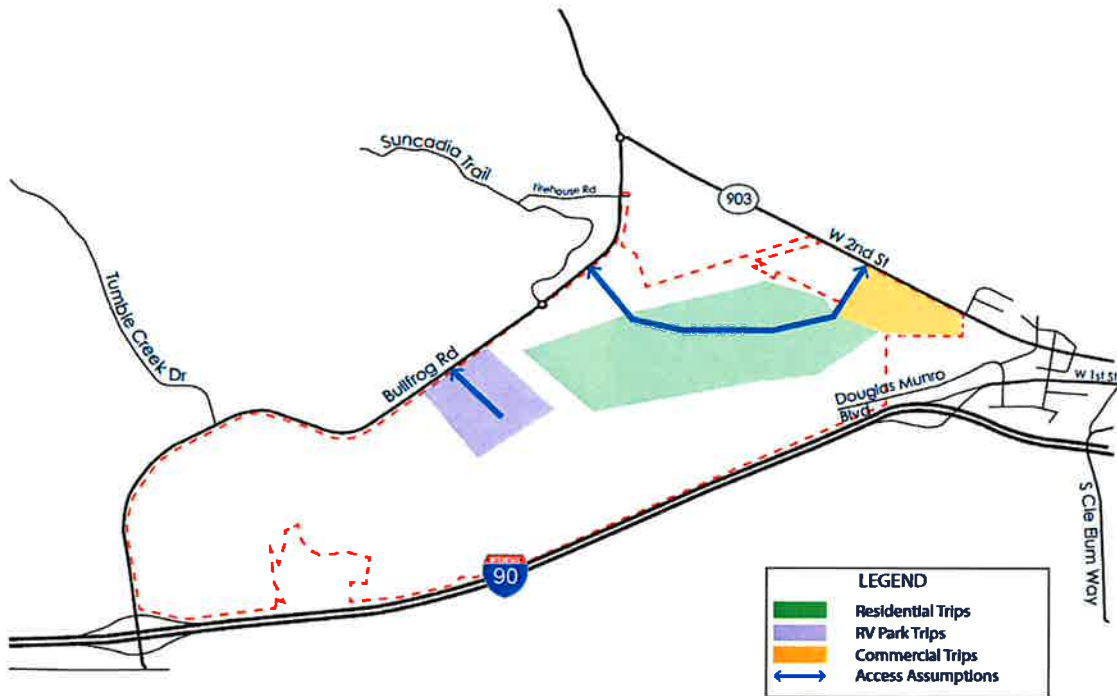
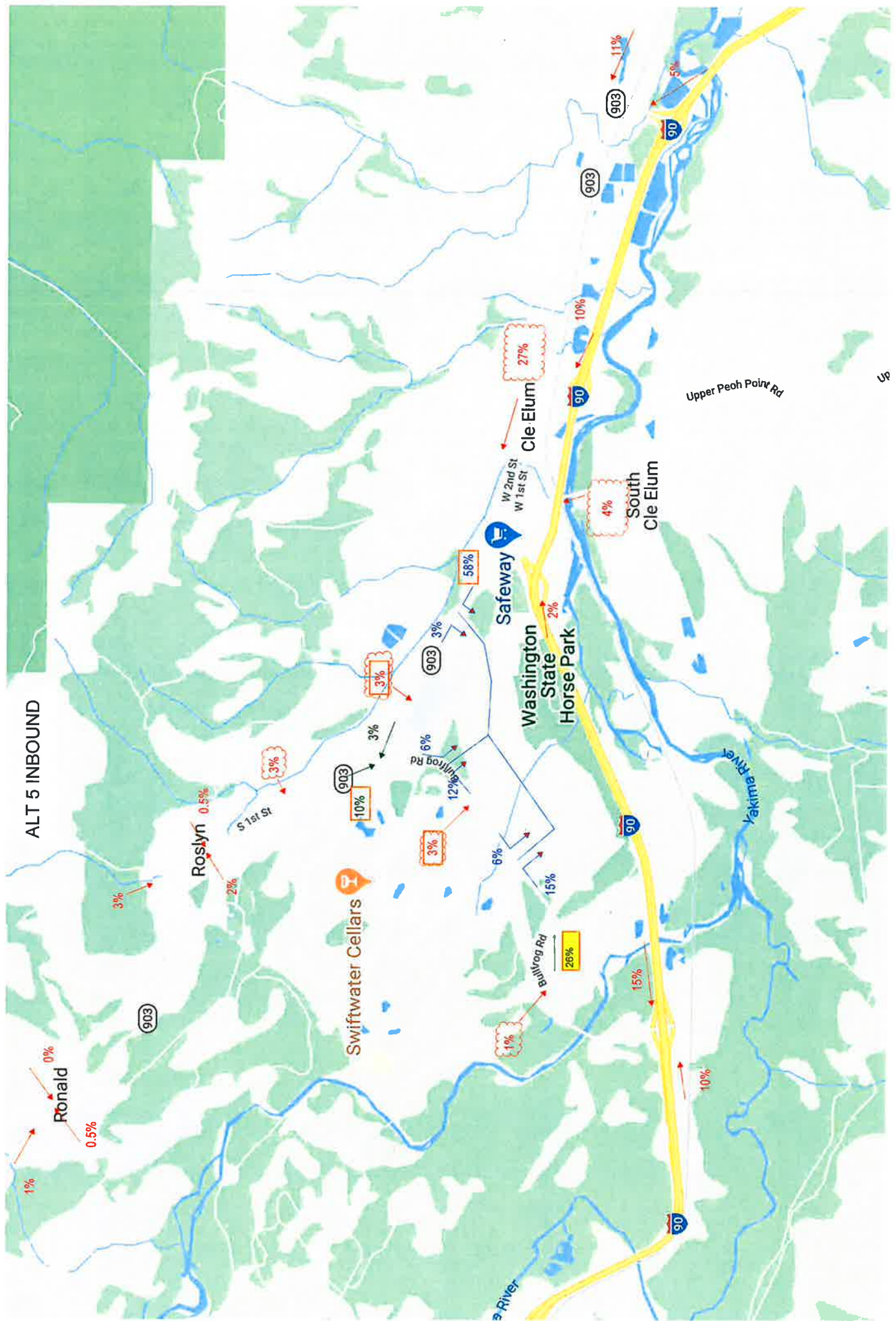


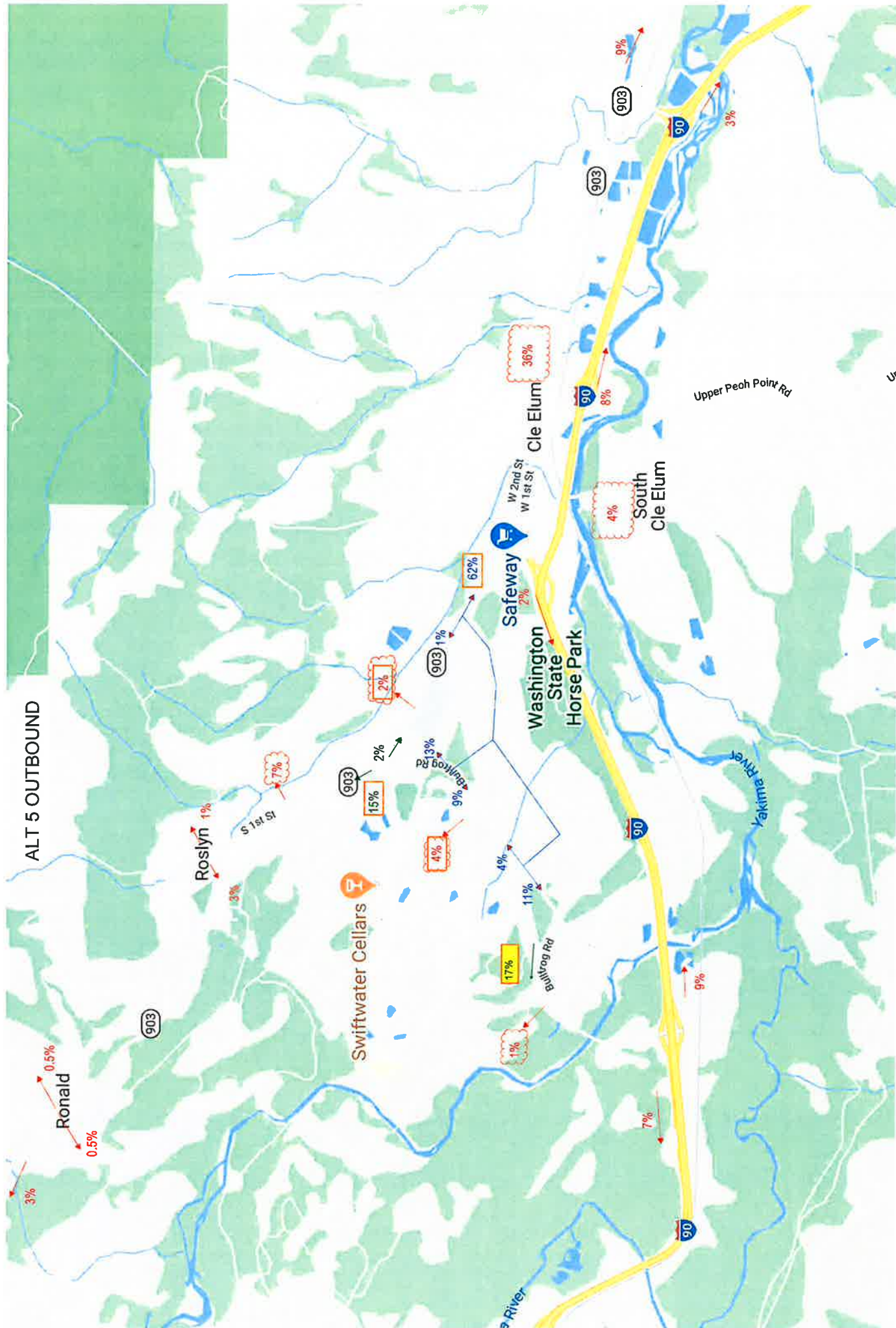


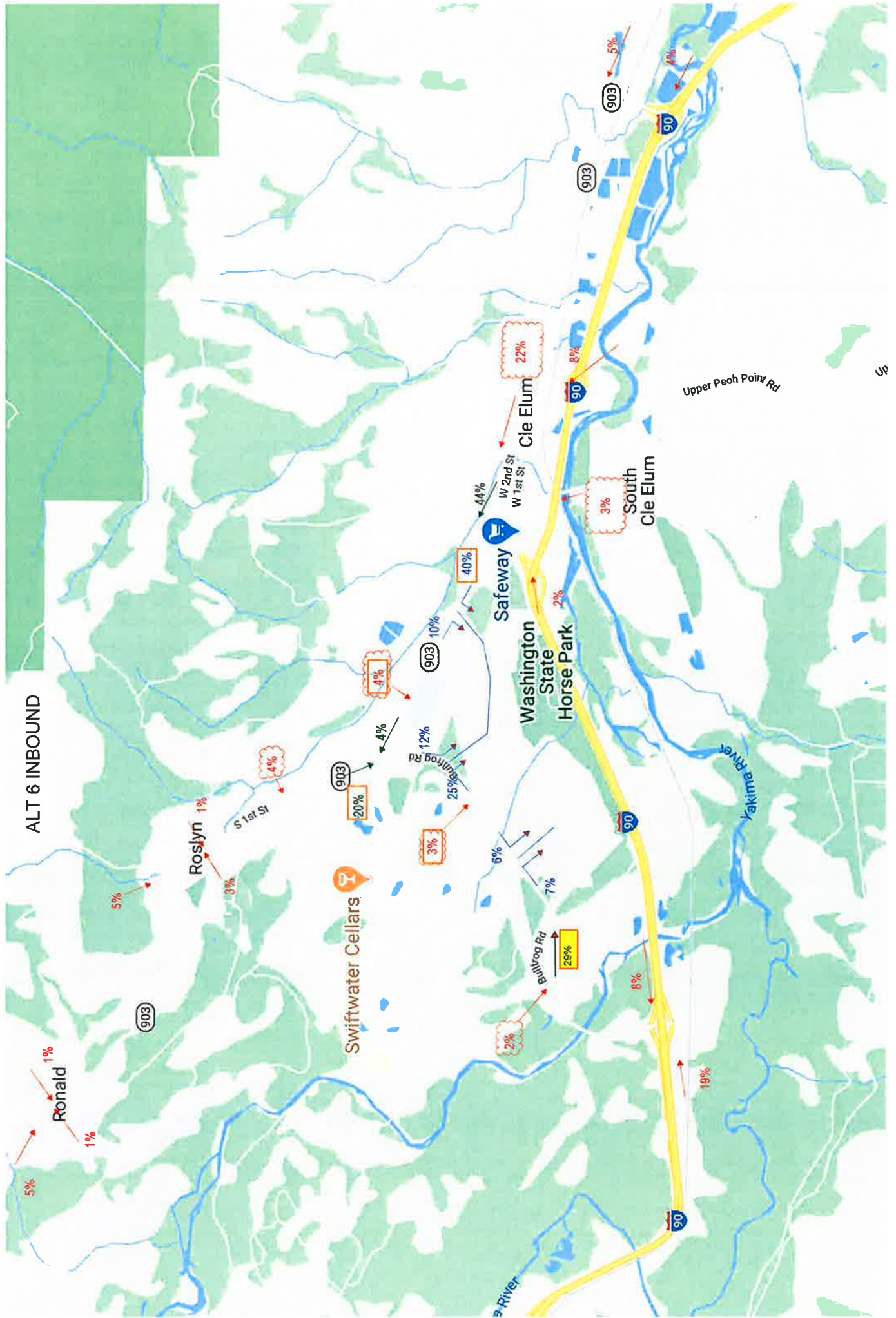
Figure 3: 47° North Trip Access Assumptions for Alternative 6

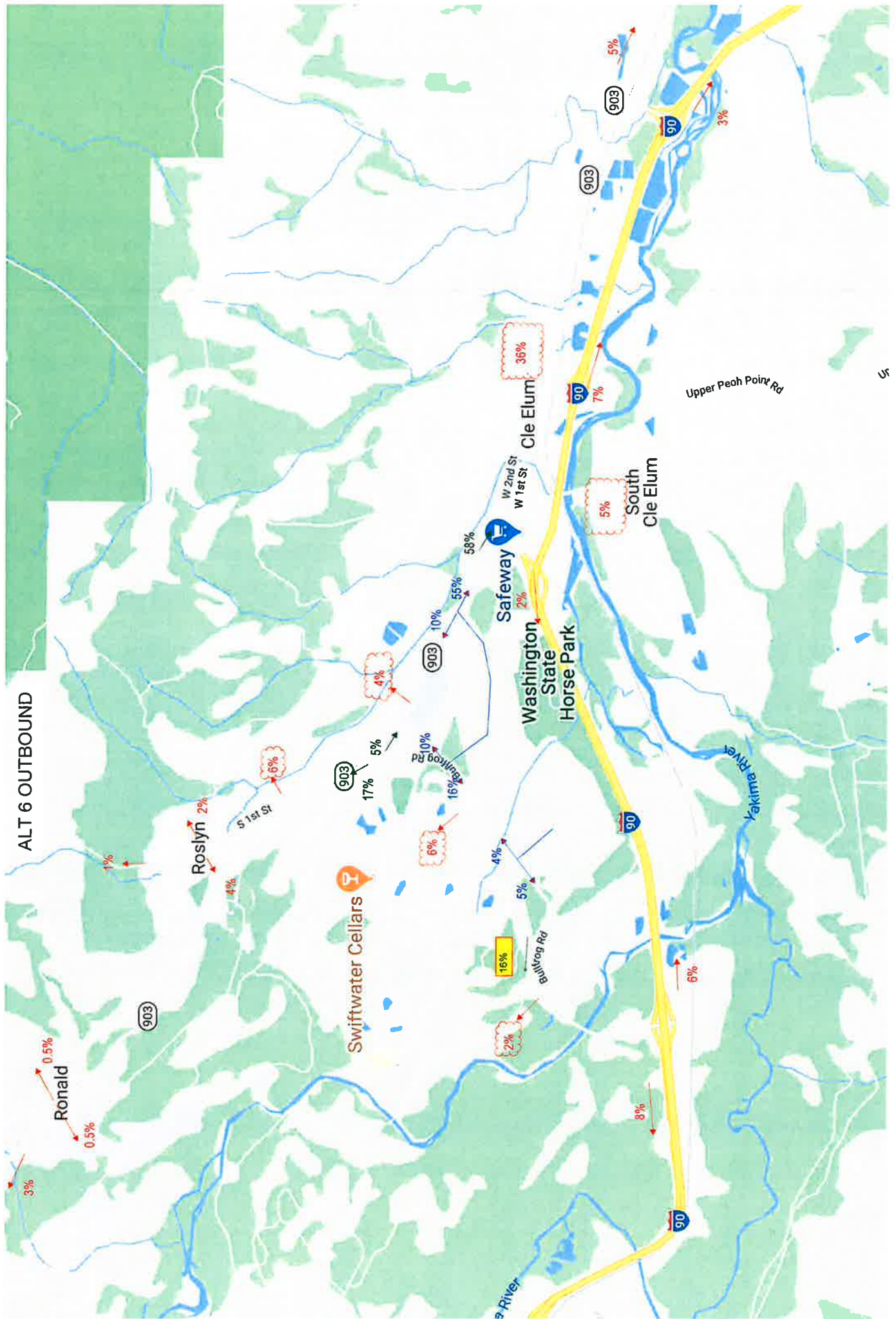


Once trip distribution calculations were completed and reviewed by TENW, project trips were assigned to each study intersection. These project trips were provided to TENW for each turning movement at each study intersection. These project trips can be added to the background traffic forecasts to analyze traffic operations with forecasted project trips.

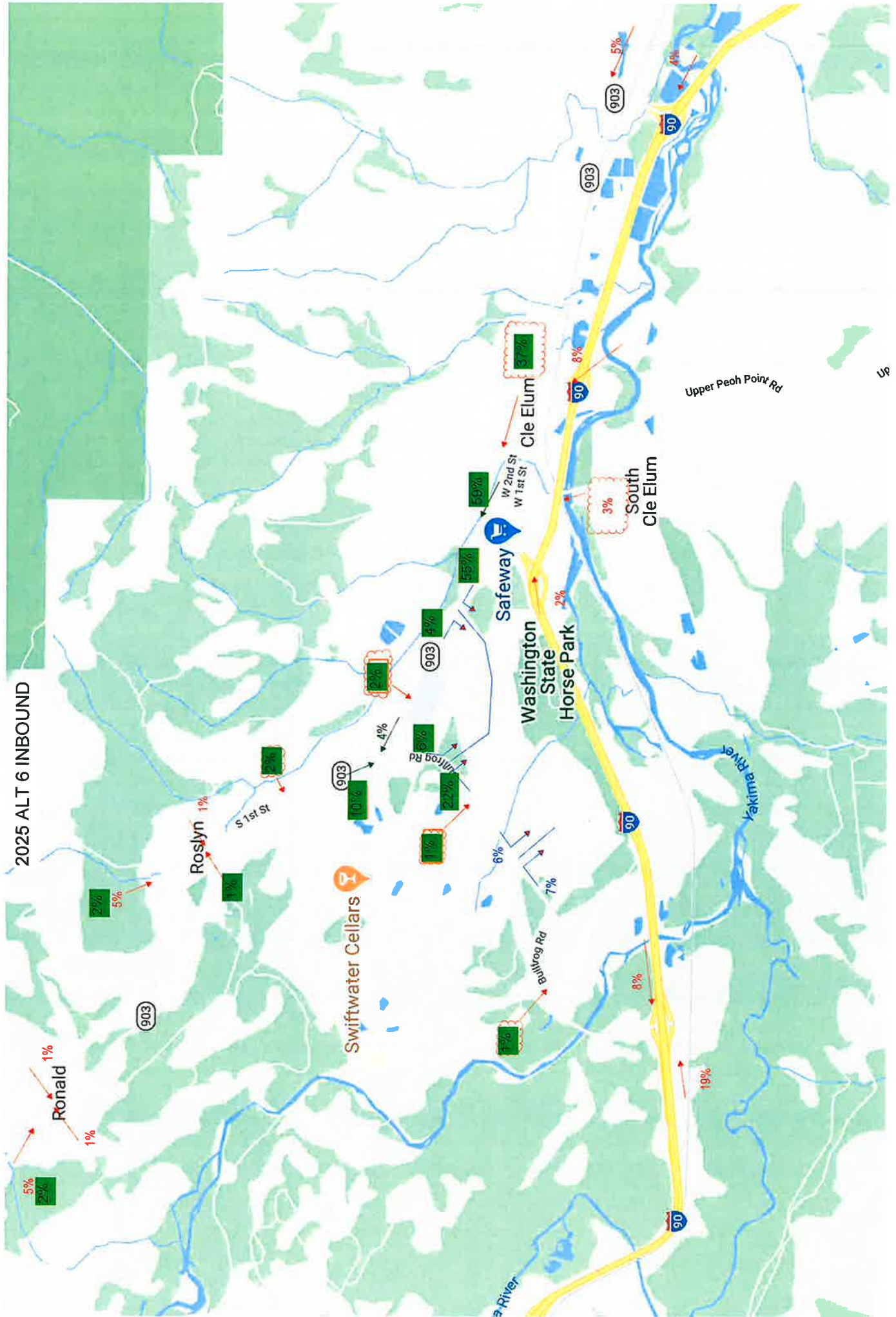




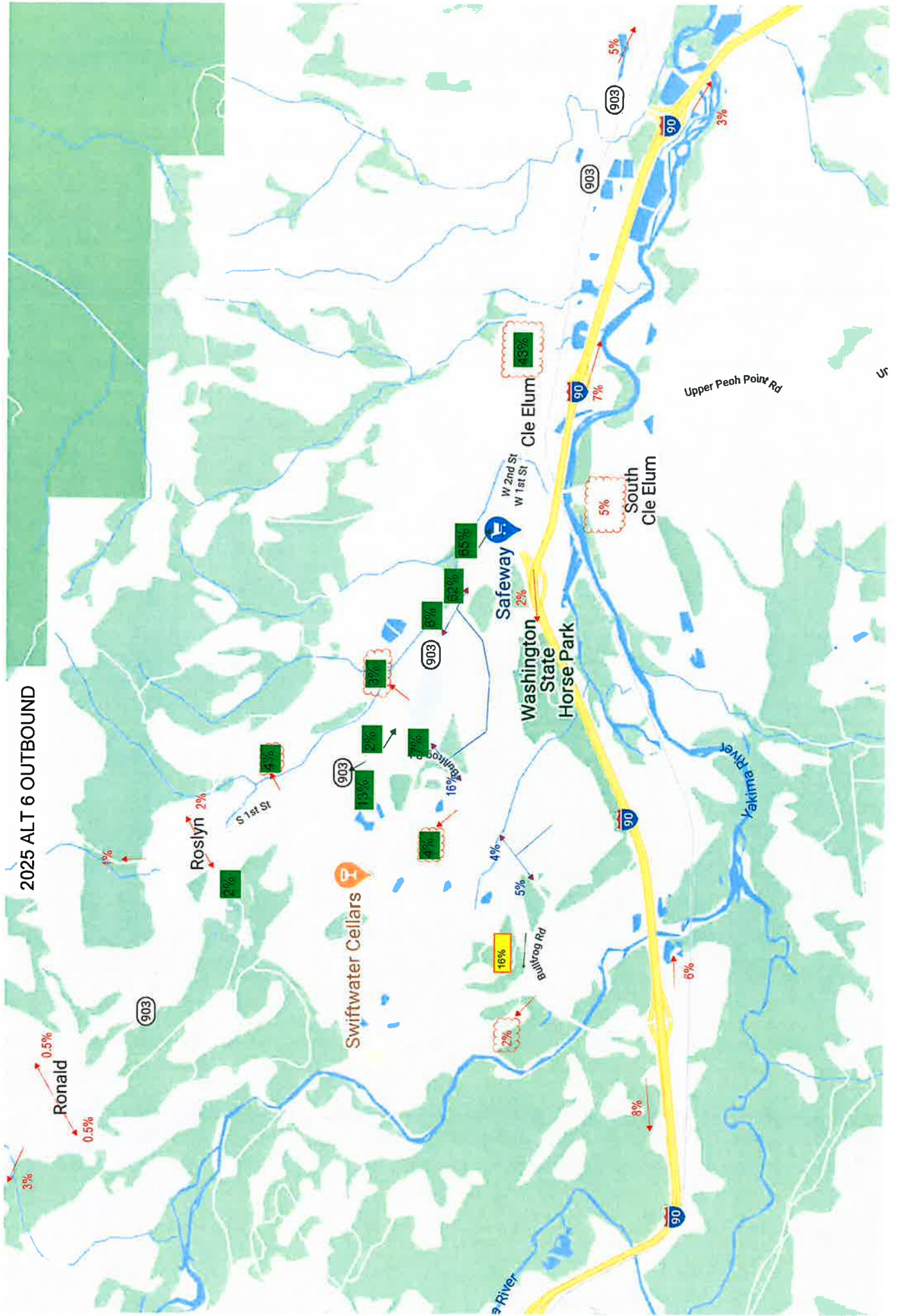


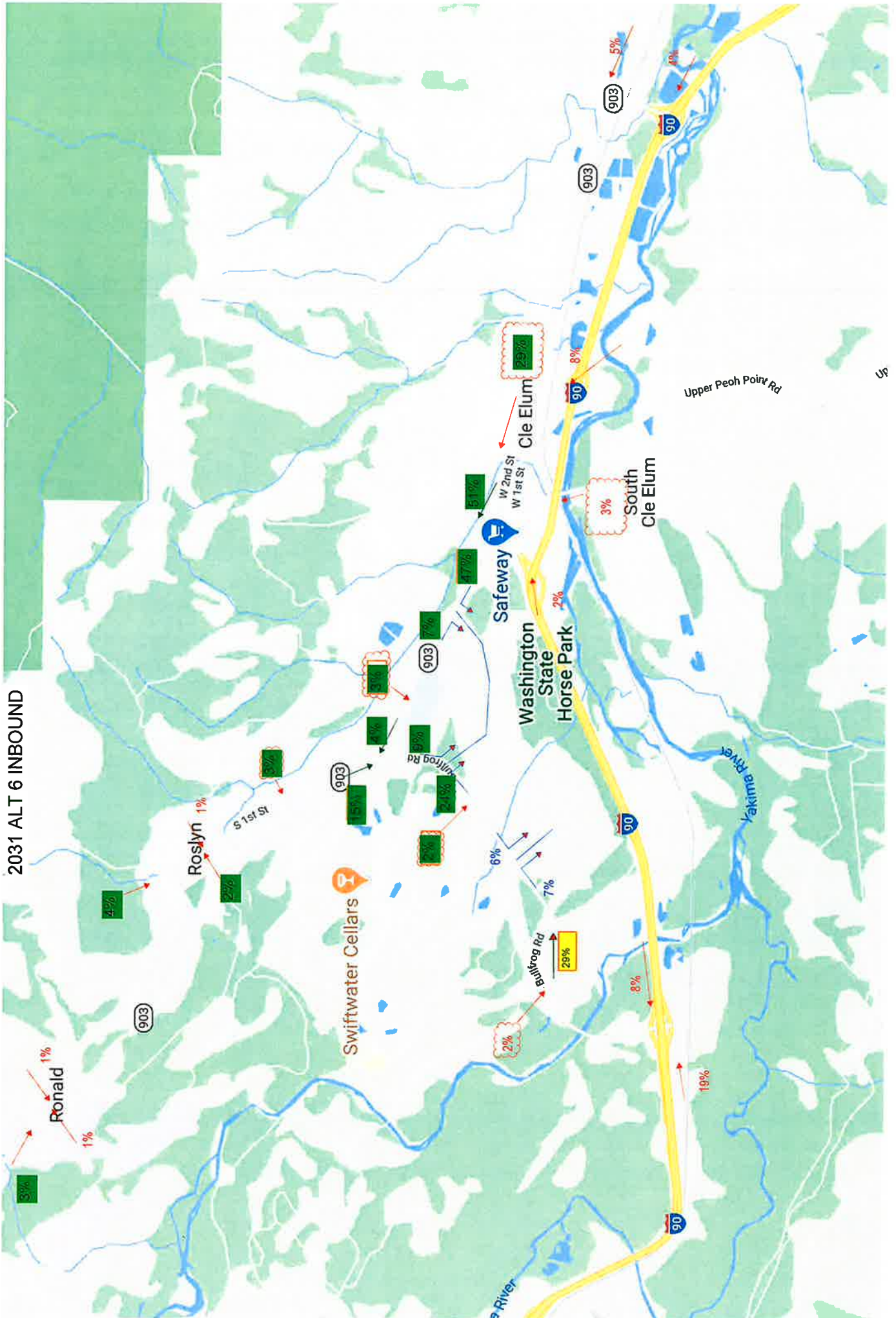


2025 ALT 6 INBOUND

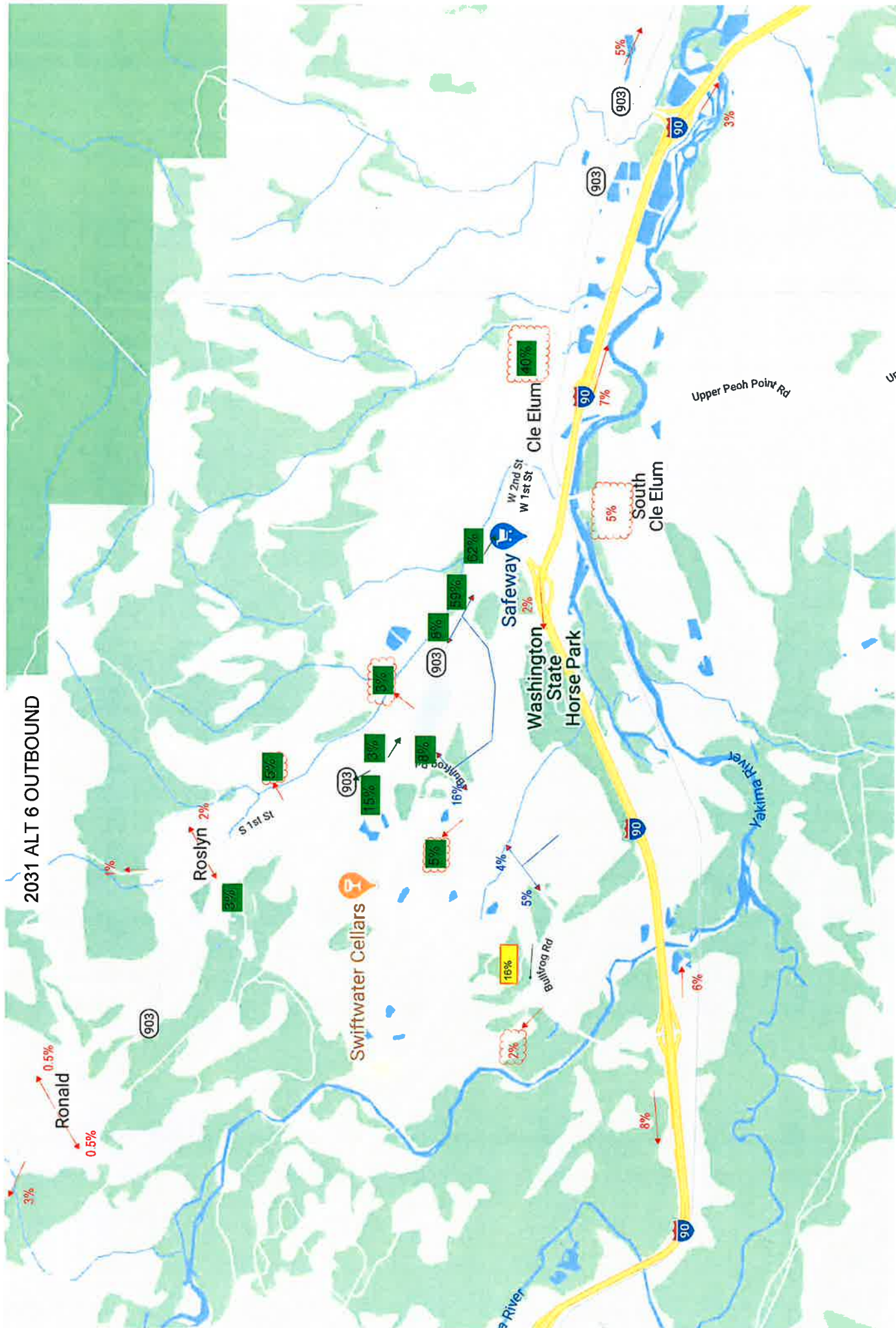


2025 ALT 6 OUTBOUND

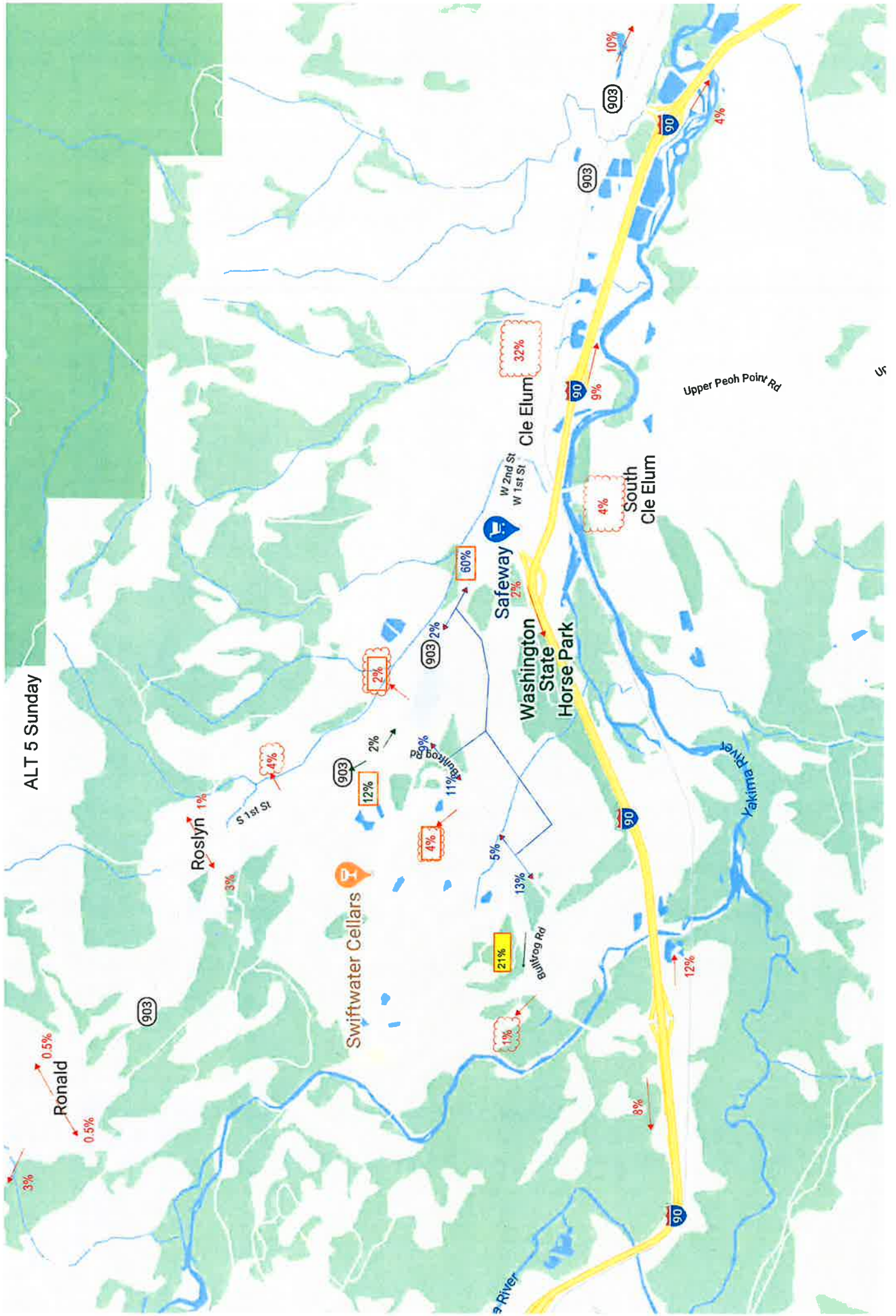


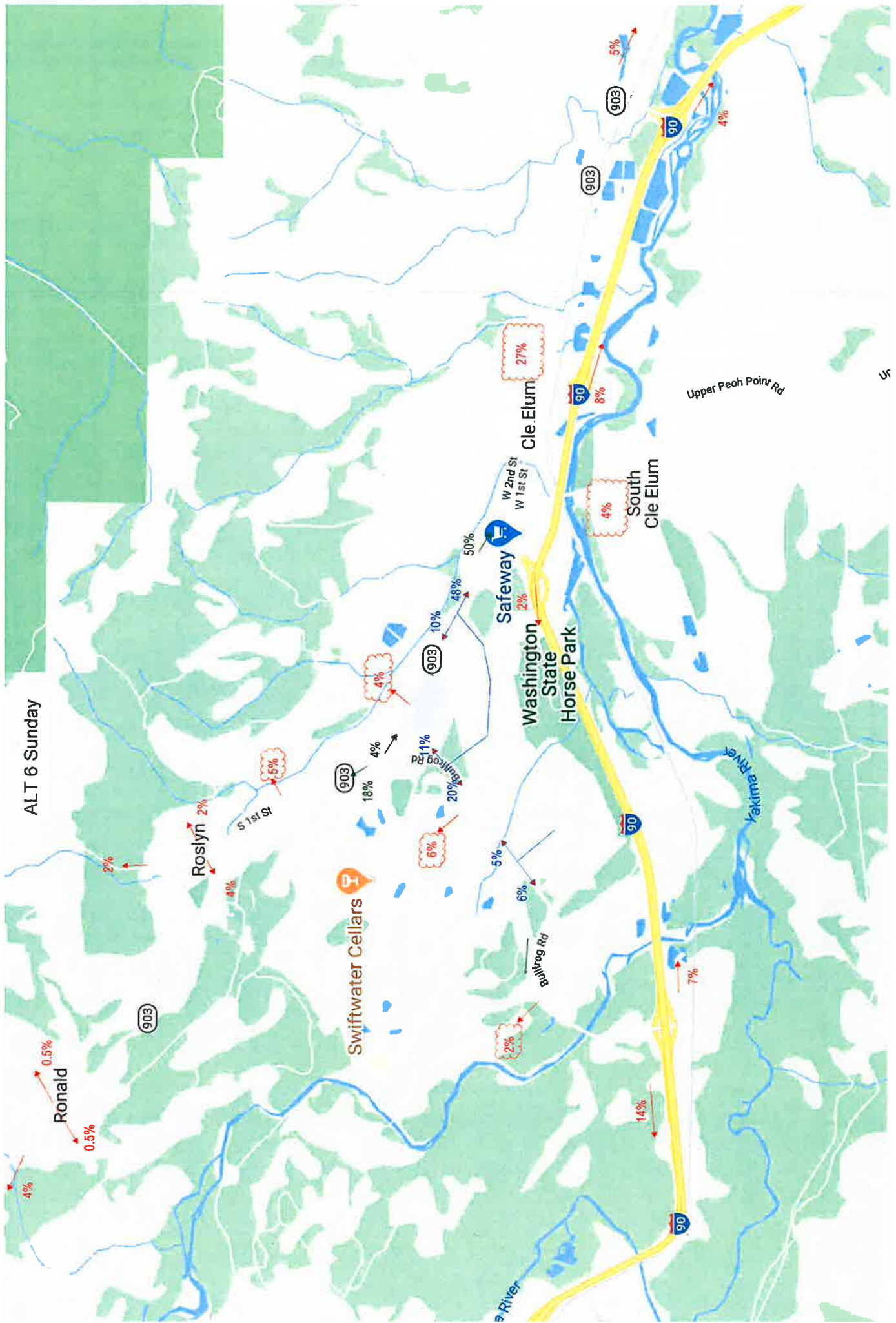


2031 ALT 6 OUTBOUND



ALT 5 Sunday







KITTITAS COUNTY

SHERIFF'S OFFICE

Clay Myers, Sheriff

6/26/2023

City of Cle Elum Planning Department
119 West First Street
Cle Elum, WA 98922



RE: 47 Degrees North

Planners and Officials of Cle Elum,

Thank you for the renewed opportunity to express our thoughts and concerns about the proposed 47 Degrees North development in the Bullfrog Flats area of Cle Elum.

Together with other members of Kittitas County government, we noted our concerns in August 2021, during the review period for proposed changes to the approved 2002 Master Site Plan. We have reviewed the application for an addendum to the revised site plan announced on April 27, 2023. Nothing in this proposed addendum substantially addresses or alters the issues that drive our concerns. Therefore, I'm taking this opportunity to express once again my belief that the proposed alterations to the approved 2002 Master Site Plan, with or without this addendum, would reduce public safety, public order, and quality of life for residents of Cle Elum and Kittitas County.

Our first and overriding concern is the significant shift to non-landed residences and recreational vehicles. We believe the current proposal will result in a large portion of 47 Degrees North being used by people who are not full-time residents, and not invested in Cle Elum or Kittitas County. The proposed ownership structure of 47 Degrees North will likely produce an influx of part-time residents and short-term renters who lack attachment and commitment to our community. Such usage patterns are historically associated with higher rates of nuisance, conflict, and crime. We understand and support the need for affordable housing in Cle Elum and the Upper County. That need, though, could be better addressed as a portion of a plan based on owner-occupied land: a plan less prone to produce a rootless and problematic population center.

The housing and usage density of the current proposal would absolutely impact traffic safety and our already burdened transportation infrastructure. The current proposal includes hundreds of manufactured homes and hundreds more RV slips. In the case of the RV slips most would certainly access 47 Degrees North via Bullfrog Road. It is also likely that many users of the proposed manufactured housing units will frequently access the development from I-90, and thus again via Bullfrog Road.

Bullfrog Road, an undivided two-lane county road, is already the exclusive access route to all Suncadia properties and the primary access route to a vast area of residential, business, and recreational property in and north of Roslyn. The periodic surges of traffic that occur on Bullfrog Road compound the potential impact of added traffic well beyond the simple number of vehicles involved. Because Bullfrog Road is a 'choke-point' on the route to many upstream residences and resources, traffic impacts to Bullfrog Road would negatively impact large numbers of residents and visitors.

The only proposed traffic controls or mitigations to accommodate this increased traffic load are stop signs. This is a profound under-control of a projected increase in traffic including hundreds of RV's, and



KITTITAS COUNTY

SHERIFF'S OFFICE

Clay Myers, Sheriff

would result in serious periodic congestion and a high risk of collisions. I would urge that any specific traffic control or mitigation measures from Kittitas County Public Works should be supported.

Another area of concern is the Cle Elum/Roslyn School District. Families that reside in 47 Degrees North will include children who will primarily attend public schools in the unincorporated county. The draft EIS for 47 Degrees North considers the traffic impacts of this added population; but an increased school population has other impacts, including impacts on law enforcement. The safety and security of these new Cle Elum/Roslyn district students will fall to the Sheriff's Office. Growth of the CERSD student body will increase not only the security measures necessary to safeguard students; it will increase the number of investigations that arise from student contacts and student disclosures. We cooperate regularly and effectively with CERSD in such investigations, and the Sheriff's Office has no higher priority than the well-being of youth and students. That well-being and those investigations, however, come at a cost, which may not have been factored into 47 Degrees North proposals.

A final area of concern is the increased usage of local outdoor recreational resources. Residents of Kittitas County love its opportunities to visit and recreate in its wild places, open lands, and waterways. We're sure users of 47 Degrees North would feel the same way. The Sheriff's Office plays a major role in law enforcement and public safety among outdoor recreators and users of public lands. We routinely work with state and federal agencies to address problems of access and parking and to investigate criminal complaints in outdoor spaces throughout the Upper County. The Sheriff's Office also bears statutory responsibility for locating and assisting lost and injured adventurers and works together with Kittitas County Search and Rescue on scores of missions every year. An increase in outdoor recreation would unfortunately result in more such crises.

There is no simple way to calculate the magnitude of the impacts of over a thousand new residences in the city of Cle Elum accessing their neighborhood via county roads, recreating in the county, and sending their children to our public schools. It is certain, however, that there will be an impact: and that the Sheriff's Office would be called on to shoulder a part of the public safety and emergency service needs of the new residents of 47 Degrees North, with costs in manpower and equipment. We believe the most important step to mitigate and manage these impacts is to reject elements of the proposal likely to increase part-time, short-term, and temporary residency.

We are confident that CEPD Chief Rich Albo has assessed the potential impacts of 47 Degrees North for public safety and criminal enforcement within the city of Cle Elum and has a plan to continue the excellent service of CEPD. We look forward to continuing our history of cooperation with CEPD and hope that Chief Albo's recommendations for mitigation and support are accommodated.

In closing, I again emphasize my opinion that a 47 Degrees North project combining remote, corporate land ownership and users who are not full-time, vested residents will result in attitudes and practices that are destructive of community and associated with higher rates of crime. I urge and hope for a return to a vision for 47 Degrees North that will avoid these outcomes.

Sincerely,


Clay Myers

307 W. Umptanum Rd • Ellensburg, Washington 98926

PHONE 509-962-7525 FAX 509-933-7599

<https://www.co.kittitas.wa.us/sheriff>

Virgil Amick

From: Smits, Brenda M (DOH) <brenda.smits@doh.wa.gov>
Sent: Tuesday, May 2, 2023 3:17 PM
To: Planning
Cc: Virgil Amick; Mau, Russell E (DOH); DOH EPH DW ERO ADMIN
Subject: FW: Bullfrog UGA Modification NOA
Attachments: Bullfrog UGA Modification NOA 04-27-23 Final.pdf



[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Thank you for forwarding the 47 Degrees North project NOA for the Bullfrog UGA modification. The SEIS addendum for the project identifies the water source as the City of Cle Elum. The city is currently working on a Water System Plan (WSP) update with DOH. The city must ensure that this development is included within its water service area and water rights place of use, and the WSP update should include this proposed development.

Please contact me if you have any questions,

Brenda

Brenda Smits

Regional Planner

Office of Drinking Water

Washington State Department of Health

Brenda.Smits@doh.wa.gov

509-329-2122 | www.doh.wa.gov



From: Virgil Amick <vamick@cleelum.gov>

Sent: Thursday, April 27, 2023 11:04 AM

Subject: Bullfrog UGA Modification NOA

External Email

Please see attached NOA



June 26, 2023

City of Cle Elum
Attn: Planning Department / 47 Degrees North
119 West First Street
Cle Elum, WA 98922

Via Email: planning@cleelum.gov

RE: Letter of Support for 47 Degrees North

Washington Business Properties Association ("WBPA") is a coalition of individuals, businesses and professional associations focused on commercial, residential, and retail real estate and property rights issues in Washington State. We are writing in strong support of Sun Communities' Project 47 North.

This well-planned project will provide critical economic development opportunities for the City of Cle Elum and bring needed housing options to the region. As you may be aware, Washington lags significantly in our housing production, **ranking last** for the ratio of housing units to number of existing households according to the state Department of Commerce. It is important that each jurisdiction does its part to reverse this negative trend.

We need to add over 1 million homes in the next 20 years to address our housing affordability crisis. According to Commerce, for each new household formed between 2012 and 2017, **Kittitas County** created just 0.6 units for those in need of housing. This proposed development by Sun Communities makes a significant step toward addressing state and regional housing needs.

It is important to set the record straight on three key issues considering substantial misinformation around this proposed development.

Economic Support for the City's Business Core

Supporting local businesses, particularly during challenging economic times, is critical. The proposed 47 Degrees North project will provide a much-needed boost to the local economy. Visitors to the community utilizing the 47 Degrees North RV resort will provide new customers and revenue to support local businesses and jobs.

Addressing the Housing Affordability Crisis

Washington state and Cle Elum desperately need workforce housing. Sun Communities is proposing to develop housing that is attainable for teachers, first responders, service industry employees and other essential workers that struggle to find suitable housing options locally. Often, their only choice is to seek housing out of the region. This significant development of single-and multi-family housing units is a





drastic improvement over the much larger previous plan that would have done little to provide workforce housing.

Needed Revenues and Infrastructure Investments

The proposed 47 Degrees North community will also make substantial improvements to area infrastructure that will improve local quality of life. The impact study clearly shows that 47 North will produce a \$13 million revenue surplus through 2037, while simultaneously doubling the level of police coverage in the city. Sun Communities has also proposed contributing \$4 million to local schools.

The nature of this community being self-managed will alleviate the burden on infrastructure of the City of Cle Elum. The 47 Degrees North community is responsible for providing municipal services such as landscaping, snow removal, utility billing and maintenance, road repair, etc. Since the new community will be taxed at the same rate as the rest of the community, the development is paying for services the town doesn't have to provide.

We know that with thoughtful planning, this exciting new community can be a substantial benefit to Cle Elum and we applaud your efforts. We stand ready to assist however necessary.

Thank you for considering these comments as you evaluate this application.

Sincerely,

A handwritten signature in black ink, appearing to read "Chet B.", with a long horizontal flourish extending to the right.

Chet Baldwin, CEO & Executive Director
Washington Business Properties Association





**Washington State
Department of Transportation**

South Central Region
2809 Rudkin Road
Union Gap, WA 98903-1648
509-577-1600 / FAX: 509-577-1603
TTY: 1-800-833-6388
www.wsdot.wa.gov

June 26, 2023

City of Cle Elum Planning Department
119 West First Street
Cle Elum, WA 98922

Attn: Virgil Amick, Permit Technician

Re: 47 Degrees North – Bullfrog UGA Master Site Plan modifications
I-90 Exit 80/SR 903/Bullfrog Road vicinity



WSDOT participated in the early scoping of the proposed project and was involved in reviewing and commenting on the Supplemental Environmental Impact Statement (SEIS). We appreciate the city and developer's efforts in further updating the transportation analysis to accurately evaluate the latest project alternatives. We have reviewed the SEIS addendum, updated transportation analysis (TIA), as well as the amended development agreement (DA) and have the following comments.

1. The subject property is in the vicinity of Interstate 90 (I-90) and State Route 903 (SR 903) and we anticipate the majority of vehicle trips generated by this proposal will utilize these facilities. I-90 is a fully controlled limited access facility, Highway of Statewide Significance (HSS), and a part of the Nation Highway System (NHS). SR 903 is a managed access, regionally significant highway (non-HSS) partially inside the corporate limits of the city of Cle Elum. It is to the benefit of the state, county, city, and project proponent to ensure these highways continue to operate within acceptable safety and operational thresholds.
2. The revised SEIS and amended development agreement primarily rely on proportionate share (pro-rata) contributions to mitigate the project's impacts to the affected transportation system. Pro-rata is a strategy which WSDOT encourages local agencies utilize to minimize mitigation costs required for any one development. It is often collected from multiple developments over time with the goal of funding an improvement prior to an operational need, while lessening the financial burden on any one entity. However, when a land use proposal is shown to solely cause a highway to fall below the established LOS threshold, WSDOT considers this to be a probable significant adverse impact to the state highway system. In these instances, the local agency must demonstrate the improvements necessary to mitigate probable significant impacts are fully-funded prior to development approval and implemented prior to occupancy. It is unclear in the development agreement which mitigation projects are fully-funded by the developer, city, county, or combination thereof.

The following is a list of effected intersections, partially or entirely within WSDOT's jurisdiction, including the department's expectations for mitigation. The development agreement must be revised to guarantee any probable significant adverse impacts to the state highway system are mitigated as stated above.

- **I-90 Exit 80 eastbound (EB) ramp terminal.** The revised proposal is shown to cause this intersection to fall below the established LOS threshold by 2031. Therefore, any necessary improvement(s) to preserve the LOS for all legs of the intersection must be implemented by 2031. It is important to note, WSDOT currently has a project funded to construct a weigh station along eastbound I-90 in the immediate vicinity of the Exit 80 interchange. Our plans are only preliminary, and no alternatives have been selected; however, this project will likely include modifications to the EB ramp terminal that will reduce the intersection's baseline LOS. We anticipate the proponent's mitigation for this intersection (if any) will be determined upon completion of the Intersection Control Evaluation (ICE). The ICE is discussed in further detail below.
- **I-90 Exit 80 westbound (WB) ramp terminal.** This intersection is shown to operate within the established threshold at full buildout of the revised proposal and is projected to fall to LOS F by 2037. We recommend the city assess a pro-rata contribution from the proponent for future improvements to this intersection.
- **SR 903/Denny Avenue intersection.** The revised proposal is shown to cause this intersection to fall below the established LOS threshold by 2025 with the SR 903 approaches continuing to operate at LOS A. According to our records, Denny Avenue is classified as a rural local access roadway and part of an internal road network that also connects to SR 903 at Bala Drive. In lieu of introducing additional delay to through traffic via roundabout or signalization, we support the recommendation to implement turn-restrictions with left-turning traffic being diverted to the SR 903/Bala Drive/Project Entrance intersection.
- **SR 903/Ranger Station Road intersection.** The revised proposal indicates this intersection will fall below the established LOS threshold due to background traffic growth with or without the proposed project. Similar to the above intersection, we support the recommended turn-restrictions at this location with full traffic movements between SR 903 and W. 1st Street being maintained 300' easterly at Pine Street.
- **SR 903/N. Pine Street intersection.** This intersection is shown to operate below the established LOS threshold by 2025 with the project-generated trips. Therefore, appropriate intersection improvements to preserve LOS must be implemented by 2025.
- **SR 903/N. Stafford Avenue intersection.** The revised proposal indicates this intersection will fall below the established LOS threshold due to background traffic growth with or without the proposed project. We acknowledge the city has an intersection improvement project planned at this location and support the city's recommendation to assess a pro-rata contribution from the proponent to ensure this project is completed prior to 2025.
- **SR 903 (W. 2nd Street)/N. Oakes Avenue intersection.** This intersection is shown to operate below the established LOS threshold by 2025 with the project trips. Intersection improvements to maintain an acceptable LOS must be implemented by 2025.

- **SR 903/E. Pennsylvania Avenue intersection.** This intersection is shown to operate below the established LOS threshold by 2031 with the project trips. Appropriate intersection improvements to preserve LOS must be implemented by 2031.
3. The revised SEIS recommends specific mitigation measures for intersections on I-90 and SR 903. Any intersection improvement alternative along a state highway must be identified in a WSDOT-approved Intersection Control Evaluation (ICE) report, as outlined in WSDOT Design Manual Chapter 1300. Previously, the proponent submitted a draft ICE to the department based upon traffic volumes and project phasing described in the final SEIS in 2021. The ICE must be revised to reflect the latest proposal and resubmitted to the department for review. While we do not anticipate significant changes to the SEIS's recommend mitigation measures, the ICE process may select intersection alternatives not included or substantially different than those outlined in the development agreement. For this reason, we recommend the city require the proponent obtain an approved ICE prior to finalizing the development agreement.
 4. We do not consider improvements to the SR 903/Bala Drive/Project Entrance intersection to be mitigation for development impacts, rather, the addition of the access connection requires certain improvements to not negatively affect the current function of the highway. In this location, SR 903 is a Class 4 managed access highway not within the corporate limits of the city of Cle Elum. According to our records, westerly of approximate milepost 2.7, WSDOT has full jurisdiction over SR 903 and is the permitting authority for access. It is our understanding the project entrance will be built as a private road; therefore, the property owner is required to apply for and obtain an Access Connection Permit from this office for the proposed use. Any improvements necessary to preserve the operational efficiency of the intersection will be required as a condition of the permit.
 5. The mitigation funding strategy in the development agreement incorporates "preliminary rough order of magnitude cost estimates. . ." from the 2021 FSEIS which do not consider any unique circumstances, contingencies, or inflation. We recommend the city have these estimates updated and further refined to reduce risk, avoid potential project delays, and more accurately reflect the proponent's true proportionate share.

We are not opposed to the proposed project. However, we recognize the rapid growth occurring in upper Kittitas County and encourage the proponent, city, and others to continue to collaborate with WSDOT to promote the effective use of developer contributions while conserving a safe and sustainable transportation system. If you have any questions regarding this letter, please contact Jacob Prilucik at (509) 577-1635.

Sincerely,



Paul Gonseth, P.E.
Region Planning Engineer

PG: jjp

cc: File