

**BEFORE THE HEARING EXAMINER
FOR THE CITY OF CLE ELUM**

In the Matter of the applications for the
Bullfrog Flats UGA filed by,

BULLFROG FLATS LLC,

Applicant.

File Nos. PMU-2024-002
BLA-2024-004
SUB-2024-001, -002, -003

FINDINGS, CONCLUSIONS AND
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I. SUMMARY OF RECOMMENDATION.

The applicant has met its burden of proof to demonstrate that a preponderance of the evidence supports approval of the pending development applications. Accordingly, and for reasons explained in this document, the Hearing Examiner respectfully recommends that the City Council approve the applications subject to appropriate conditions of approval.

II. APPLICATION DETAILS.

Application File Numbers: PMU-2024-002 *[Omnibus file number assigned by Staff for the applicant's Planned Mixed-Use Development Proposal, including various Master Plat updates, minor modifications to the development agreement, and associated changes to implement its current Project]*

BLA-2024-004 *[Boundary Line Adjustment, to establish boundaries consistent with the Master Plat, aka Master Site Plan]*

SUB-2024-001, -002, -003 *[Preliminary Plats for Phases S-1, J, and S-2 respectively]*

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Applicant: Bullfrog Flats LLC¹
18300 Redmond Way, Suite 120
Redmond, WA 98052

Location: The project site is in the City of Cle Elum, generally bounded by I-90, Bullfrog Road, SR-903, the City Cemetery, and the Washington State Horse Park

Parcel Numbers: 953154 [953172, 953166], 953155 [953167], 953156 [953168], 953157 [953169], 953158, 953159, 953160, 953161 [953170], 953162 [953171], 953164 [953173], 953165 [953174], 955367 [955368], 794235 [18705], 11075 [18710], 11076 [18709], 11924, 11925, 11113, 544235, 11916, 12034, 11078 [18704], 18707, 953163²

III. BACKGROUND, SUMMARY OF APPLICATIONS, AND APPLICABLE LAW.

The pending collection of applications are for purposes of implementing the Bullfrog Flats Development Project (“Project”), a phased, mixed-use development located in the western part of Cle Elum, between Bullfrog Road and SR 903. The applicant, Bullfrog Flats LLC, seeks to develop the property under terms of the 2002 Bullfrog Flats UGA Master Site Plan and Development Agreement approved by the City of Cle Elum in 2002. (*Staff Report, page 1; Exs. C-9 through C-14, the “2002 Development Agreement”, with attachments, conditions of approval, and 2017 Amendment*). For purposes of this Recommendation, and throughout the public hearing record for these combined applications, the terms “Master Plat” and “Master Site Plan” mean the same thing.

Jurisdiction, consolidated applications.

There is no dispute that the entire Project site is zoned Planned Mixed Use (“PMU”), and is governed by applicable standards and conditions set forth in the existing 2002 Development Agreement. So, in this matter, the Hearing Examiner has jurisdiction to conduct an open record public hearing on the Planned Mixed Use Development project applications at issue and is directed to issue a written recommendation for consideration and final action by

¹ Benjamin Paulis, CEO of Blue Fern Development, testified that he is buying the property from its current owner. Mr. Paulis is listed on the WA SoS Corporations website as Governor of Bullfrog Flats LLC, the entity identified as the applicant in this matter.

² There are 24 unique parcels in total. Among these, 13 parcels have additional parcel numbers assigned to them because a portion of the land within those parcels is classified under the Current Use Open Space tax program. As a result, the total number of parcel numbers increases to 38. The list of parcels includes all 24 parcels, with brackets identifying those parcels that have additional parcel numbers due to the Current Use Open Space tax classification.

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the Cle Elum City Council. *(See Cle Elum Municipal Code (CEMC) 14.30.040, Permit Classification Table, listing Planned Mixed Use Development approval as a Type 4 matter that is subject to a public hearing before the City's Hearing Examiner with a final decision by the City Council; and CEMC 14.30.080, Procedures for Type 4 reviews).*

The Project submittal includes concurrent applications for a boundary line adjustment approval and preliminary plat approvals, among other things. Standing alone, some of these applications could otherwise be subject to review and approval by Staff or the Hearing Examiner as Type 2 or Type 3 matters; but the City's code requires consolidation of related development permit applications into a single matter, with the highest level of review – in this case, Type 4 review – applied to the consolidated applications and a final decision made by the highest-level decision maker, the City Council. *(See CEMC 14.30.020.B).*

The Bullfrog Flats Project applications include the following requests for approval:

1. A Boundary Line Adjustment to establish parcels and phase boundaries for the master site plan, which will serve as the Master Plat that identifies the development parcels for the entire property. Approval criteria for a Boundary Line Adjustment are provided in CEMC 16.40.040.
2. Preliminary plat applications for the first three phases: S-1 (103 single-family units), S-2 (130 single-family units), and J (164 zero-lot line townhouse units), for a total of 397 units. Approval criteria for preliminary plat applications are found in CEMC 16.12A.050.
3. Five minor modifications to certain conditions and development standards in the 2002 Development Agreement, including increased lot coverage, adjusted impervious surface limits, relaxed garage door restrictions, replacement of an originally-proposed artificial lake feature and clubhouse on a portion of the site with a public park instead, and private ownership and maintenance of pocket parks by the homeowners' association. Modifications to the 2002 Development Agreement must meet criteria provided in Sec. 6.4.1 of such Agreement.
4. Request to extend the 2002 Development Agreement's term by 10 years, through 2037. Instead of one 10-year extension, Staff generated a Proposed Second Amendment to the 2002 Development Agreement with specific criteria that must be satisfied by the applicant in order to obtain approval of two extensions in five-year increments. *(See Ex. C-06);* and
5. Request to transfer the outstanding rights and obligations from the 2002 Development Agreement from Sun 47 North, LLC (the former applicant whose application is on hold pending approval of the Bullfrog Flats' application) to Bullfrog Flats LLC.

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Under relevant provisions of the Cle Elum Municipal Code addressed in other parts of this Recommendation, the Hearing Examiner is authorized to review and make a recommendation on the boundary line agreement master plat revision request, the request for five minor modifications to the existing Development Agreement, the three preliminary plat applications (Phases/parcels S-1, S-2 and J), and the request to extend the term of the 2002 Development Agreement by 10 years. There is no dispute that City codes do not direct the Hearing Examiner to review or make a recommendation on item 5 listed above, the request to transfer the 2002 Development Agreement obligations from Sun 47 North, LLC to Bullfrog Flats. The City Council holds full discretion and authority to make a decision on such transfer, without input from the Examiner.

IV. RECORD.

Exhibits entered into evidence as part of the record, as well as a recording of the public hearing, are maintained by the City.

Exhibits.

EXHIBIT LIST			
Ex. #	Bates #	Date	Document Title
A. City Staff Report and SEPA Addendum			
C-01		01/15/2025 (Revised 01/28/2025)	Staff Report
C-02		01/15/2025 (Revised 01/28/2025)	Staff Report, Att. A – 2002 Conditions of Approval compliance table
C-03		01/15/2025 (Revised 01/28/2025)	Staff Report, Att. B – Master list of conditions
C-04		01/15/2025	Staff Report, Att. C – Draft Traffic Mitigation Agreement
C-05		01/15/2025	Staff Report, Att. D – Draft Water Mitigation Agreement
C-06		01/15/2025 (Revised 01/28/2025)	Staff Report, Att. E – Draft Second Amendment to Development Agreement
C-07		01/15/2025	Staff Report, Att. F – Draft First Amendment to Recreational Parcel Agreement
C-08.1		01/15/2025	2025 Bullfrog Flats Proposal EIS Addendum
C-08.2		01/15/2025	2025 Bullfrog Flats Proposal EIS Addendum Appendices
B. 2002 Development Agreement			

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C-09	0000001-000027	10/30/2002	2002 Development Agreement By and Between The City of Cle Elum, Trendwest Investments, Inc., and Trendwest Properties, Inc. Relating to the Development of Real Property Located Within the Cle Elum Urban Growth Area, Commonly known as The Bullfrog UGA
C-10	000028-000036		2002 Development Agreement, Att. A – Description of Trendwest UGA Property
C-11	000037-000300		2002 Development Agreement, Att. B – 2002 Conditions of Approval
C-12	000301-000307		2002 Development Agreement, Att. C – 2002 City of Cle Elum, Town of South Cle Elum Water Supply System Improvements Project Permits And Approval Required
C-13	000308-000314		2002 Development Agreement, Att. D – 2002 City of Cle Elum Regional Wastewater Facilities Project Permits and Approvals Required
C-14	000315-000319	03/28/2017	2017 First Amendment to 2002 Development Agreement
C. 2024 Application Submittals			
<i>Supporting Project Documents</i>			
C-15	000320-000385	11/18/2024	Bullfrog Flats Development Project Narrative (Revised 11-18-24)
C-16	000386-000387	08/13/2024	Application to Extend Development Agreement
C-17	000388-000406	10/17/2024	Application to Transfer Development Agreement
C-18	000407-000505	08/13/2024	2020 Wetlands, Plants, and Animals, and Fisheries Assessment DSEIS
C-19	000506-000508	08/13/2024	Raedeke Updated Wetlands Buffers
C-20	000509-000744	08/13/2024	2020 47° North Master Site Plan Seis Technical Report Geology, Groundwater, And Soils
C-21	000745-001057	09/03/2024	Preliminary Master Drainage Plan for Bullfrog Flats
<i>Master Plat</i>			
C-22	001058-001072	11/18/2024	Bullfrog Flats Master Plat Plans (Revised 11-18-24)
C-23	001073-001076	11/18/2024	Rendered Site Plan (Revised 11-18-24)
<i>Boundary Line Adjustment (BLA)</i>			
C-24	001077-001080	08/13/2024	Boundary Line Adjustment Application

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C-25	001081-001105	11/18/2024	Record of Survey, Boundary Line Adjustment (Revised 11-18-24)
C-26	001106-001117	08/13/2024	Boundary Line Adjustment ALTA Survey
<i>Phase S-1 Preliminary Plat</i>			
C-27	001118-001123	08/13/2024	Phase S-1 Preliminary Subdivision Application
C-28	001124-001132	11/18/2024	Phase S-1 Preliminary Plat (Revised 11-18-24)
C-29	001133-001188	11/18/2024	Bullfrog Flats - Phase S-1 Site Construction Plans (Revised 11-18-24)
C-30	001189-001272	11/18/2024	Phase S-1 Preliminary Storm Drainage Report (Revised 11-18-24)
<i>Phase S-2 Preliminary Plat</i>			
C-31	001273-001276	09/23/2024	Phase S-2 Preliminary Subdivision Application
C-32	001277-001284	11/18/2024	Phase S-2 Preliminary Plat (Revised 11-18-24)
C-33	001285-001337	11/18/2024	Bullfrog Flats - Phase S-2 Site Construction Plans (Revised 11-18-24)
C-34	001338-001411	11/18/2024	Phase S-2 Storm Drainage Report (Revised 11-18-24)
<i>Phase J Preliminary Plat</i>			
C-35	001412-001415	09/23/2024	Phase J Preliminary Subdivision Application
C-36	001416-001425	11/25/2024	Preliminary Plat J Bullfrog Flats (Revised 11-25-24)
C-37	001426-001484	11/25/2024	Bullfrog Flats - Phase J Site Construction Plans (Revised 11-25-24)
C-38	001485-001520	11/25/2024	Phase J Preliminary Storm Drainage Report (Revised 11-25-24)
D. Other Applicant Submittals			
C-39	001521-001522	12/16/2024	2024 Bullfrog Flats Minor Modification Request
E. Public Notice			
C-40	001523-001525	10/03/2024	2024 Bullfrog Flats Development Combined Notice of Applications for Boundary Line Adjustment, Master Plat and Preliminary Plats Phase S-1, S-2 And J
C-41	001526-001528	10/03/2024	Mailing List for Notice of Application
C-42	001529-001530	12/20/2024	Notice to Agencies re: Transfer of Development Agreement

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C-43	001531	12/20/2024	Mailing List for Notice of Agencies re: Transfer of Development Agreement
C-44	001532	01/09/2025*	Notice of Public Hearing
C-45	001533	01/09/2025*	Notice of SEPA EIS Addendum Availability and Adoption
F. Public Comments and Communications			
C-46	001534	11/04/2024	Comment From Washington State Horse Park Authority (WSHPA)
C-47	001535	11/04/2024	Comment From Washington State Department of Transportation (WSDOT)
C-48	001536-001543	11/04/2024	Comments From Washington Department of Fish and Wildlife (WDFW)
C-49	001544	10/31/2024	Comment 1 From Kittitas County Department of Public Works
C-50	001545-001546	12/05/2024	Comment 2 From Kittitas County Department of Public Works
C-51	001547-001549	10/15/2024	Comment From The Confederate Tribes of The Colville Reservation
C-52	001550-001551	11/04/2024	Comment From City Heights Holdings, LLC
C-53	001552	11/04/2024	Comment From Jennifer E. Rogers
C-54	001553	11/27/2024	Comment 1 From Kathy Wyborski
C-55	001554-001555	11/16/2024	Comment 2 From Kathy Wyborski
C-56	001556-001557	12/09/2024	Correspondence From Noah Oliver, Yakama Nation
G. Other Processing Documents			
C-57	001558-001563	07/17/2024	2024 Bullfrog UGA Master Site Plan / Preliminary Plat Pre-application Meetings Summary and Analysis
C-58	001564-001566	09/12/2024*	Correspondence re: Application of CEMC Ch. 14.30
C-59	001567-001568	08/29/2024	Bullfrog Flats Development - Notice of Incomplete Application
C-60	001569-001570	09/19/2024	Bullfrog Flats Development - Notice of Complete Application
C-61	001571-001574	10/23/2024	Request for Additional Information
C-62	001575	08/21/2024	2024 Zone 3 Standby Storage Memorandum of Understanding Between City of Cle Elum and Suncadia Water Company, LLC
H. SEPA Documents			
C-63	001576-002677	03/23/2001	2002 UGA DEIS

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C-64	002678-004222	03/18/2002	2002 Final Environmental Impact Statement for Cle Elum Bullfrog UGA
C-65	004223-004671	09/18/2020	2020 Draft Supplemental Environmental Impact Statement for The 47° North Proposed Master Site Plan Amendment
C-66	004672-005532	04/16/2021	2021 Final Supplemental Environmental Impact Statement for the 47° North Proposed Master Site Plan Amendment
C-67	005533-007089	03/09/2023	2023 Supplemental Environmental Impact Statement Addendum for Revised 47° North Major Site Plan Amendment Proposal
I. Historical Agreements related to 2002 DA			
C-68	007090-007118	10/06/2008	Agreement Regarding Suncadia Property Donation for Washington State Horse Park
C-69	007119-007150	12/04/2000	Cooperative Agreement Between WDFW, Yakama Nation, and Trendwest
C-70	007151-007172	12/04/2006 (reviewed 01/16/2007)*	Conservation Easement – Bullfrog UGA Managed Open Space
C-71	007173-007201	08/31/2004 reviewed (09/02/2004)*	Conservation Easement – Cle Elum River Corridor
C-72	007202-007210	01/08/2021	Recreational Parcel Agreement
J. Vested Codes			
C-73	007211-007236	09/27/2005	Ord. 1235
K. Additional Documents			
C-74	007237-007243		Preliminary Plat Address Spreadsheet
C-75	007244	01/17/2025	Bullfrog Flats – Revised Phase J Site Plan (Revised 01-17-25)
C-76	007245-007269	01/27/2025	Bullfrog Flats – Revised Record of Survey, Boundary Line Adjustment (Revised 01-27-25)
C-77	007270-007279		Additional Public Comments
C-78	007280-007282	01/28/2025	Staff Memorandum Re: Revisions to Staff Report and Attachments
C-79	007283-007327	01/28/2025	Staff Memorandum, Att. A – Redlines to Staff Report
C-80	007328-007363	01/28/2025	Staff Memorandum, Att. B – Redlines to 2002 Conditions of Approval compliance table
C-81	007364-007396	01/28/2025	Staff Memorandum, Att. C – Redlines to Master list of conditions

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C-82	007397-007404	01/28/2025	Staff Memorandum, Att. D – Redlines to Draft Second Amendment to Development Agreement
C-83	007405-007420	01/28/2025 - 02/05/2025	Additional Public Comments, 01.28.25 – 02.05.25, including comments from Kathy Wyborski, Brandy Smart/Department of Energy, Stephen P. Nugent/Washington State Department of Transportation, and William F. Peare.
C-84	007421-007423	01/28/2025	City Staff Hearing Presentation slides
C-85	007424-007446	01/28/2025	Applicant Hearing Presentation slides
C-86	007447-007458	02/05/2025	Post-Hearing Staff Memorandum
C-87		02/03/2025	Washington Department of Fish and Wildlife Public Comment, including notes used during public hearing, copy of prior written comment submitted to city, and post-hearing email from DFW staff dated Feb. 3, 2025, with attachments.
C-88		07/01/2024	Sun Communities’ letter requesting “HOLD” on their 2020 application for a very different type of development on the same site, dated July 1, 2024, also included as part of Ex. C-86, the City’s post-hearing Staff Memo. [NOTE: the applicant’s hearing presentation slides describe the Sun Communities’ application as a “major modification to put in manufactured homes and RV parking”. See Ex. C-85, at .pdf page CITY 007429]
C-89		2002	Existing Master Plat / aka Master Site Plan, approved as part of 2002 Development Agreement, also included as part of City’s hearing presentation slides, Ex. C-84, and referenced, though not readily accessible online, in Ex. C-11, the Conditions of Approval to the 2002 Development Agreement, on .pdf pages CITY000078-000081.

Hearing Testimony:

The City and applicant teams were represented by counsel throughout the hearing process. Clara Park, and Andrew Lewis, from Van Ness Feldman, LLP, were present in the hearing room and represented City staff and consultants who generated the Staff Report and oversaw preparation of voluminous review documents included in the record. Ms. Park served as the City’s primary hearing representative, coordinating testimony and responses to comments from the City team. The City Attorney, Alexandra Kenyon, appeared via the online

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platform. Attorneys Brandon Gibben and Duana Kolouskova were present in the hearing room and represented the applicant team, with Mr. Gibben generally serving as the applicant's primary representative, coordinating testimony and responses from applicant witnesses.

The following individuals presented testimony under oath at the duly noticed public hearing for the pending applications held on January 30, 2025. Most witnesses for the City and the applicant appeared in person at the designated hearing room, where the Examiner was present with dozens of people filling almost all of the hearing room seats. Staff coordinated an online hearing platform, so a larger audience could observe the hearing from remote locations and speak if they chose during the public comment portion of the hearing, or to provide responses to questions.

FOR THE CITY OF CLE ELUM:

Coleta Monick, Senior Planner, HLA Engineering and Land Surveying, served as the City's Planning consultant and designated planner who coordinated preparation of the Staff Report for the pending applications. Ms. Monick testified on behalf of the City and discussed the historical overview of the property and project since the 2002 Development Agreement, the permits and minor modifications, mitigation, public comments, and other issues related to the applications. Ms. Monick confirmed that traffic reviews, a fiscal analysis, studies regarding utilities and infrastructure, and other issues addressed in the Staff Report, all establish that the pending applications satisfy applicable approval criteria, subject to appropriate conditions; she also noted that the potential bankruptcy issue facing the City should not affect this project, as the applicant is required to provide associated improvements that will keep the level of service standards above thresholds set by the city. In sum, she noted that the Staff Report recommends approval of the pending the applications.

FOR THE APPLICANT, BULLFROG FLATS:

Holli Heavrin, the applicant's Project Engineer, Principal/Senior Project Manager with the CORE Design firm. Ms. Heavrin is a civil engineer and testified on behalf of Bullfrog Flats, providing more specific detail on the applications and the project, with informative slides showing project highlights, and addressing questions and comments submitted during the review process, now included as Ex. C-85.

GENERAL PUBLIC:

1. Kathy Wyborski, in-person, expressed concerns about environmental issues, including trees, soil, climate change, how recent fires in Los Angeles elevate her concerns, asked to stop development on the site until a reassessment of environmental reviews can occur;

2. Larry Stoffer, in-person, spoke twice, testified that while he vigorously opposed the Sun 47 North project, he is in full support of approving the Bullfrog Flats applications. He commended the applicant, "Blue Fern", for reaching out and listening to members of the community, called the project 'the best that we can hope for' or something to that effect; asked questions about affordable housing, how city might meet financial commitments, if bankruptcy occurs;

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1 3. Claire Nichols, testified on behalf of the Upper Kittitas County Community Recreation
2 Center Alliance. She discussed the history of the recreation center and the desire to
3 collaborate with the applicant on access. Submitted one written comment via email dated
4 January 23, 2025, withdrawn by follow-up email dated Jan. 28th, included as part of Ex.
5 C-83;

6 4. Sheri Marusa, in-person, read a letter of support from William F. Peare, asking that the
7 applications be approved; and, on her own behalf, she expressed support for the project.
8 Mr. Peare's letter is now included in the record as part of Ex. C-83;

9 5. Jennie Graham, in-person, expressed general concerns that companies may not be
10 insuring the area, after fires in LA; and general concerns about affordability;

11 6. Karl Ohlemann, in-person, expressed concerns that affordable housing should be within
12 reach of workers, hopes that the affordable housing parts of the larger project can move
13 up sooner rather than later;

14 7. Scott Downes, appeared online, testified on behalf of the Washington Department of
15 Fish and Wildlife, expressing concerns about how the project might impact priority
16 habitat, wildlife movement through the site, requested changes to the layout, asked that a
17 wildlife corridor be established; requested conditions to minimize trash and wildlife
18 interaction, suggesting bear proof garbage containers, training from future residents, other
19 measures. Mr. Downes read from a prepared statement that he submitted into the record,
20 now included as *Exhibit C-86*;

21 8. Patricia Griswold, in-person, testified about her experience seeing wildlife and riding
22 horses on the property and surrounding area.

23 **RESPONSES TO PUBLIC COMMENTS:**

24 Ben Annen, P.E., Vice President, HLA Engineering and Land Surveying. Mr. Annen
25 testified on behalf of the City and confirmed that utility rates do not vest and that the
project would be subject to the current utility rates.

Richard Weinmann, City's SEPA Responsible Official. Mr. Weinmann addressed some
of the SEPA and environmental issues raised during public comment.

Ben Paulus, the applicant, as CEO of Bullfrog Flats LLC. Mr. Paulus discussed the project
generally, and how the applicant hopes to purchase the entire property and move forward
with development as soon as possible, consistent with the 2002 Development Agreement.

Counsel for the City and the applicant, Ms. Park and Mr. Gibben, provided helpful
follow-up information and highlighted parts of the record that address comments raised during
the hearing and questions posed by the Examiner.

Given the size of the record and the level of public interest in this Project, the Examiner
sought to read every exhibit with attention and a fair mind. The Examiner conducted site visits
before the public hearing, and again afterwards, to observe physical site conditions, adjacent

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1 developments, the surrounding road network, and properties in or near the development site.
2 The Examiner gave specific attention to reviewing all evidence, testimony and comments
3 pertaining to the areas of greatest public concern, insofar as they related to decision criteria
4 within the Examiner's jurisdiction. Having completed such review and mindful of the legal
standards involved and scope of the Examiner's jurisdiction, this Recommendation is now in
order.

5 **V. ISSUES PRESENTED.**

6 1. Whether the applicant has demonstrated by a preponderance of the evidence
7 that the Master Plat Boundary Line Adjustment is consistent with the 2002 Development
Agreement and other applicable criteria, including without limitation CEMC 16.40.040? **Yes.**

8 2. Whether the applicant has demonstrated by a preponderance of the evidence
9 that the three Preliminary Plat applications meet the approval criteria under CEMC
16.12A.050? **Yes.**

10 3. Whether the applicant has demonstrated by a preponderance of the evidence
11 that the five Minor Modifications meet the criteria set forth in Section 6.4.1 of the 2002
Development Agreement? **Yes.**

12 4. Whether the applicant has demonstrated by a preponderance of the evidence
13 that the 2002 Development Agreement term should be extended by an additional 10 years to
14 October 30, 2037, provided that certain criteria in the Draft Second Amendment to 2002
Development Agreement are met? **Yes.**

15 **VI. FINDINGS OF FACT.**

16
17 Based on the entire Record, the undersigned Examiner issues the following Findings
18 of Fact. Any statements contained in previous or following sections of this Recommendation
19 that are deemed to be Findings of Fact are hereby adopted as such and incorporated by
20 reference. Captions are used for the convenience of readers looking for particular topics but
should not be read or construed to modify or diminish the meaning of any finding wherever
located in this document.

21 ***Project Overview***

22 1. The Bullfrog Flats UGA Development Agreement (the "2002 Development
23 Agreement", *Ex. C-09*) was originally approved in October of 2002 and comprised 1,100 acres
24 to be subdivided into 1,334 residential dwellings (in phases), a business park, and land set
25 aside for various public uses. Since that time, portions of the Development Agreement have
been executed, with the construction of utility infrastructure including a power substation and
water treatment plant, dedication of land to the Cle Elum/Roslyn School District and City of

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Cle Elum, and recording of a subdivision in the proposed Business Park under permit number SUB-2007-001. The remaining parcels, 918.90 acres, are the subject of the pending applications submitted by Bullfrog Flats LLC, as addressed in this Recommendation. (*Ex. C-15, Applicant's Project Narrative, on page 000323; Exs. C-09-C-14, Development Agreement materials*).

2. Several years ago, Sun Communities, the current owner of the property, submitted application materials requesting *major modifications* to the 2002 Development Agreement, as part of its plan to “put in manufactured homes and RV parking” on the site. (*See Ex. C-85, the applicant's hearing presentation slides at .pdf page 007429*). That application is now on hold, and the current project applicant, Bullfrog Flats LLC, has plans to purchase the entire project area and develop the site with residential and other development that is consistent with the original Development Agreement, without need for any major modifications. (*Ex. C-88, Request for Hold letter; Staff Report, pages 34-35, Conclusions; Testimony of Ms. Monnick; Testimony of Ms. Heavrin; Testimony of Mr. Paulis; Exs. C-15-C-38, Application submittals from the current applicant, Bullfrog Flats LLC*).

3. In 2024, Bullfrog Flats LLC submitted a collection of application materials to achieve its phased, mixed-use development proposal, covering about 1,074-acres of land, all specifically intended to implement the 2002 Development Agreement without need for any major modifications. The Development Agreement already authorizes the development of 1,334 residential units across various phases and reserving land for affordable housing, a business park for commercial uses, open spaces, and public amenities. (*Staff Report, Application Materials*).

4. The Staff Report provides a credible and un rebutted overview of the Bullfrog Flats property, its history, the 2002 Development Agreement, and the current applications. (*Ex. C-01, Staff Report, Facts Section at pp. 4-20*)

5. Bullfrog Flats applied for a boundary line adjustment for purposes of updating the master site plan for the property, five minor modifications to the 2002 Development Agreement, a request to extend the 2002 Development Agreement by 10 years, and the first three preliminary subdivisions for residential development. (*Application Submittals, Exhibits C-15 through C-39*).

6. The applications for this project were deemed complete on September 19, 2024. (*Notice of Complete Application, Exhibit C-60*).

7. Primary access will be provided by three new connections to Bullfrog Road, two that are proposed for construction with the first three preliminary plats. In addition, the UGA will be served in the future by connections to SR 903 at Bala and a connection to Douglas Munro Boulevard. (*Project site plans, including Ex. C-23*).

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8. The first three phases, Preliminary Plats S-1, S-2, and J, are part of an overall project that is proposed to be developed over an approximate 10-to-15-year period for the residential component (and a 30-year period for the entire proposal that includes 1,334 single family and multifamily housing units, 950,000 square-feet of business park uses, extensive open space including parks, trails and recreational facilities). A site for cemetery expansion has been set aside for purchase by the City during the term of the 2002 Development Agreement, if the City chooses to do so. An additional site for affordable housing is set aside for construction of a minimum of 50 housing units affordable to households earning less than 60 percent of the medium income for Kittitas County. These 50 affordable housing units are not included in the 1,334 residential unit limit.

9. A slide presented by the applicant team during the public hearing provides an overview of the Project, illustrating key features, and how the Project is consistent with the 2002 Master Site Plan, a copy of which is republished below for the reader's convenience:

Bullfrog Flats

Performance standards.

Approved Master Site Plan 2002



(Screenshot from Ex. C-85, page 007425).

SEPA Review; SEPA FEIS Addendum

10. The unrebutted Staff Report credibly explains that consistent with state and city SEPA requirements, the City prepared an EIS in 2002 to consider a range of development alternatives for the Bullfrog Flats UGA and to identify significant impacts and mitigation measures. The EIS supported the City's decision making and action approving the Bullfrog Flats UGA

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1 master site plan and Development Agreement. The 2002 Development Agreement
2 incorporates 120 conditions of approval designed to mitigate the potential impacts of the UGA
3 project. The adequacy of the 2002 EIS was not appealed. (*Staff Report, pages 4-5 and 32-33;*
4 *Draft EIS, Exhibit C-63; Final EIS, Exhibit C-64*).

5 11. As discussed elsewhere in this Recommendation, in 2020, a prior applicant and the
6 current property owner, Sun 47 North (aka “Sun Communities”), proposed a Major
7 Modification to the 2002 Development Agreement, so the City prepared a Supplemental EIS
8 in 2020-2021, and an SEIS Addendum in 2023. (*Exhibit C-65, Supplemental EIS; Ex. C-67,*
9 *SEIS Addendum*).

10 12. The 2021 SEIS and 2023 Addendum both contain updated impact analyses of the
11 approved 2002 Master Site Plan (aka FEIS Alternative 5, or “Master Plat”), and are directly
12 relevant to the current Bullfrog Flats applications, mostly because the current applications
13 now propose development that is generally consistent with the 2002 Development Agreement.
14 (*Staff Report, page 5*). There is no dispute that the environmental review for the Sun 47 North
15 project analyzed an “alternative 5,” which is the same development that was approved under
16 the 2002 Development Agreement, serves as the roadmap for the current Bullfrog Flats
17 applications.

18 13. In 2024, Bullfrog Flats submitted its applications to develop the project that was
19 approved in the 2002 Development Agreement – without any requests for Major
20 Modifications. The City prepared an Addendum to the 2002 FEIS that updated information
21 about transportation impacts and mitigation measures, and an updated analysis of fiscal
22 impacts to reflect current conditions and the current proposal. (*Staff Report at p. 5*).

23 14. To help determine the appropriate SEPA action for the proposed 2024 Bullfrog Flats
24 Project, the City’s Designated SEPA Responsible Official, Richard Weinmann, reviewed the
25 following documents: the SEPA Rules (WAC 197-11), the 2002 Development Agreement
provisions relating to SEPA review (Section 6.5), the 2002 UGA EIS, the 2021 SEIS, the 2023
SEIS Addendum, proposed changes to the project relative to the 2002 approval, and new
updated analyses that evaluated transportation and fiscal impacts, and other elements of the
environment that could be affected by changes to the proposal or changes in background
conditions. (*Staff Report, page 33*).

15 15. Based on this review, the SEPA Responsible Official determined that the existing
16 environmental documents for prior proposals for the project site provide a body of
17 environmental information that is directly relevant to the present proposal and can be adopted
18 in whole or part for purposes of SEPA compliance. Proposed changes to the original proposal
19 are limited and minor in scope. Based on review of the existing and updated environmental
20 information, the SEPA Responsible Official concluded as follows: the proposal is covered by
21 the range of alternatives evaluated in the 2002 UGA EIS, that proposed changes to the
22 proposal and changes to background conditions would not result in significant environmental

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1 impacts that are new or significantly different in type or degree relative to impacts of the
2 proposal that are identified and mitigated in the prior environmental documents. Some
3 mitigation measures should be modified, however, to better reflect current conditions. (*Staff
Report, on page 33*).

4 16. Accordingly, the Responsible Official determined that an Addendum to the 2002 EIS,
5 and adoption of prior relevant SEPA documents, would be appropriate pursuant to WAC 197-
6 11-600(4), and would meet the City's needs for SEPA compliance. A combined notice of
adoption and notice of availability was published on January 15, 2025. (*Staff Report, pages
32-33; Exs. C-08.1 and C-08.2, 2025 Bullfrog Flats EIS Addendum, and Appendices*).

7 17. A preponderance of evidence in the record supports a finding that the City satisfied
8 applicable SEPA review requirements through the SEPA Addendum and updated mitigation
9 measures.

10 ***Critical Areas, Wildlife Considerations.***

11 18. Staff's Post-Hearing Memo, *Ex. C-86*, correctly notes that the Project does not vest
12 to the City's Critical Areas codes, found in Chapter 18.01 of the Cle Elum Municipal Code.
(*Ex. C-86, at page 007452*).

13 19. Critical areas codes and various pollution control regulations are not subject to vesting.
14 Among others, stormwater regulations and are also not subject to vesting, as they are not local
15 land use control ordinances. *Snohomish County, et al., v. Pollution Control Hearings Board*,
16 187 Wn.2d 346, 386 P.2d 1064 (2016). As stated in *Snohomish County, et al.*, an applicant
"does not have a legitimate expectation that pollution control measures will be frozen in time
to outdated or ineffective measures." *Id.* at 373.

17 20. The EIS Addendum found that no new impacts to wildlife would be anticipated under
18 the City's current Critical Areas Ordinance, now codified in CEMC Ch. 18.01.

19 21. Technical reports prepared to support the Addendum noted that the City's Firewise
20 Ordinance may require additional modifications to vegetation communities in the study area
21 which has the potential to affect wildlife movement through the site. The vegetation
22 management standards in the Firewise Ordinance are specific to proposed development and
23 determining what additional impacts to vegetation communities, and potentially wildlife,
24 could occur would require analysis of a specific development plan. (*Ex. 08.2, 2025 Bullfrog
Flats Proposal EIS Addendum Appendices at .pdf page 18, Sept. 2023 updated technical
memorandum from Raedeke Associates, Inc., analyzing potential Critical Areas impacts of
the Sun Communities' (47 North) proposal, applying the City's most updated (2023) Critical
Areas Protection and Firewise Ordinances, specifically Cle Elum Municipal Code Chapter
25 18.01 re: Critical Areas Protection and Cle Elum Ordinance No. 1646 re: Firewise
development considerations*).

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22. CEMC 18.01.010, which explains the Purpose of the City’s Critical Areas regulations found in Ch. 18.01 CEMC, reads in part as follows: *“The purpose of this chapter is to protect the functions and values of critical areas, and to protect the public health, safety, and welfare of the citizens of Cle Elum. Additionally, this chapter is intended to protect public and private property and natural ecosystems found within city limits. The city of Cle Elum shall regulate all uses, activities and developments within, adjacent to, or likely to affect, one or more critical areas, consistent with the **best available science** and the provisions herein. [...]”* [emphasis added by Examiner].

23. Based on a preponderance of evidence included in the record now before the Examiner, none of the pending development project plans require additional analysis or conditions, other than those added or modified by this Recommendation.

24. However, moving forward, the applicant team City staff should be mindful that specific development plans for future project applications needed to implement the overall Master Plan, i.e. future applications for additional preliminary plat approvals and the like, should include information from qualified professionals to demonstrate that plat designs ensure no net loss of fish and wildlife habitat, and that aspects of future projects with potential impacts on critical areas include design features or conditions that are consistent with best available science at the time of such applications. (See CEMC 18.01.010, discussed above in previous finding).

Public Hearing

25. The hybrid (i.e. in-person and online attendance accommodated) open record public hearing took place on January 30, 2025 at 6:00 p.m. Friday morning at 9:00 a.m. was also reserved in case the hearing did not finish, or in case members of the public were not able to attend and participate at the Thursday hearing. The hearing was completed on January 30 and the City was not contacted by any members of the public who were only available to testify on Friday. Proper notice was given for the open record hearing. (See Notice of Public Hearing, Exhibit C-44).

26. A summary of the public comments, testimony, and exhibits included in the Record are discussed above in Section IV and incorporated by this reference.

27. Most of the public comments were addressed by City staff and the applicant at the public hearing. The Examiner held the record open to February 5, 2025, for the City to provide supplemental information to address the public’s concern about the Sun 47 North application and WDFW’s public testimony and comment letter. (See WDFW Public Comment, now included in the record as Exhibit C-87).

28. The City submitted a Post-Hearing Staff Memorandum on February 5, 2025, that addressed the Sun 47 North application that was placed on pause, and WDFW’s comment

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about human-wildlife interactions, the Biodiversity Area and Corridor (“BAC”), and related wildlife issues. *(See Exhibit C-86, Post-Hearing Staff Memorandum).*

29. In their Post-Hearing Memo, Staff recommended a condition to the Master Plat where upon approval of Bullfrog Flats’ application and related engineering and clearing/grading permits, the applicant will coordinate with Sun 47 North to withdraw its application for a major modification. This condition should adequately satisfy the public’s concerns about the Sun 47 North project, specifically that it should be promptly withdrawn once and for all. *(See new Condition of Approval No. 128).*

30. In response to WDFW concerns, Staff also recommended a new condition to the Master Plat that will address human-wildlife interaction. The Examiner finds and concludes that a preponderance of evidence in the record, and controlling legal authority (including without limitation language in the City’s Critical Areas Code), supports an additional condition of approval noting the need for future development applications to ensure project elements related to human/wildlife interactions are based upon best available science. *(See new Condition of Approval No. 129, that reads as follows:*

129. Human/Wildlife Interaction.

A. To help minimize human/wildlife conflicts, the CC&Rs for the project will address such issues and may, where appropriate, require use of the following techniques: use of bear-proof garbage receptacles or a requirement to store garbage receptacles in a secure enclosure, clear signing of natural areas, informational signage about the risks associated with living near natural areas, well-marked common road crossings, well-marked speed limits, and environmental education (e.g., brochures and handouts) and outreach.

B. Consistent with CEMC 18.01.010, the parties shall ensure that conditions and Project elements related to human/wildlife interactions in the Project are based upon best available science.

31. The City’s Post-Hearing Memorandum identifies and credibly summarizes the extensive land dedicated to open space that is governed by the Cooperative Agreement and related conservation easements for the Trendwest Properties (i.e., this property and Suncadia) which is intended to satisfy the state’s “no net loss” policy for protecting fish and wildlife habitat. *(See Cooperative Agreement, Exhibit C-69).*

32. The Post-Hearing Memorandum also addresses the extensive environmental review going back to 2002 and identifies the applicant’s site plan that preserves open space through the powerline corridor and other forested and open space areas that connect through a culvert crossing to Suncadia to the north, and to the Washington State Horse Park to the south. *(See Ex. C-86, Post-Hearing Memorandum, Attachment B).* It appears Staff believes that the applicant’s site plan preserves significant open space and adequately addresses WDFW’s concerns about a Biodiversity Area and Corridor. This record is absent a preponderance of

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evidence to rebut environmental information included in this record, establishing that the pending applications include design features or can be conditioned to satisfy applicable state and local regulations addressing wildlife habitat issues.

33. In any event, to address WDFW's concerns about ongoing coordination between the applicant, WDFW, and the parties to Cooperative Agreement, Staff recommends a new condition of approval for the Master Plat that directs the parties to meet and discuss the conditions and agreements contained in the Cooperative Agreement. This condition has been added as Condition of Approval No. 130.

34. In sum, the purpose of the Cooperative Agreement and related agreements is to support a land management policy of "no net loss" of productive fish and wildlife habitat, in conjunction with WDFW and the Yakama Nation. These agreements remain valid and binding, are incorporated into the recommended Conditions of Approval for this Project (*see C-03 at 9-10*) and ensure that the original conservation and enhancement goals continue to be implemented. (*See Conditions of Approval, including without limitation Nos. 26-32, 45-48, and 49-55; and Ex. C-86, Post-Hearing Staff Memo, Summary of project features and conditions to mitigate or compensate for wildlife habitat impacts, on page 6, marked as .pdf page .007452*).

The applicant's Boundary Line Adjustment (Master Plat) request meets approval criteria.

35. The applicant's boundary line adjustment ("BLA") application reorganizes existing parcels to establish distinct phase boundaries. The BLA aligns parcel configuration with the phased development approach anticipated in the Master Site Plan approved in the 2002 Development Agreement, optimizing land use, buffer requirements and infrastructure placement.

36. The Master Plat is the approval instrument that embodies the master site plan and sets the groundwork for the phased development, detailing infrastructure plans, access roads, utilities, and stormwater management for all project phases. The Master Plat establishes compliance with the densities, lot standards, and other conditions outlined in the 2002 Development Agreement, maintaining the approved unit counts and land use distribution.

37. The 2002 Development Agreement includes 120 Conditions of Approval that govern the project. The City recommended updating the original 120 Conditions of Approval to acknowledge that certain conditions have been satisfied and to update certain mitigation measures identified in the FEIS Addendum. These updated Conditions of Approval follow this Recommendation. (*See Staff Report, pages 22, and 35-38; Attachment B to the Staff Report, Exhibit C-03; and new Master Plat Conditions of Approval Nos. 121-130*).

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38. The Master Plat BLA and proposed lot reconfiguration does not create any additional or substandard size parcels. Thus, the BLA request satisfies the review criteria provided in CEMC 16.40.040 and merits approval. (*Staff Report, page 22*).

39. The Master Plat BLA identifies future phase development that is generally consistent with the 2002 master site plan that was approved as part of the 2002 Development Agreement. As explained in the un rebutted Staff Report, the Master Plat BLA also satisfies the other criteria for master plat approval in the 2002 Development Agreement. (*Staff Report, page 22*). The Staff Report identifies additional Master Plat conditions to address, among other things, updated conditions and mitigation. These conditions have been added as Conditions of Approval Nos. 121 through 127. *Staff Report at pp. 35-38*. For reasons discussed in other parts of this Recommendation, and in the Post-Hearing Staff Memorandum, the Examiner has also added additional Conditions, all of which are supported by a preponderance of evidence in the record, ensure that the intent and purposes of the Development Agreement are fully implemented, and are capable of being accomplished.

Preliminary Plat applications for Phases S-1, S-2, and J, meet applicable approval criteria.

40. As explained in the Staff Report and application materials, Phase S-1 is comprised of 103 single family lots with associated roads, utility infrastructure and open spaces. Phase S-1 includes 18.62 acres and is designed at a proposed density of 5.53 dwelling units per acre (DU/AC). Phase S-1 proposes the following standards: lots ranging in size from 3,917 to 10,235 square feet; a 60% lot coverage maximum (subject to minor modification request); 35-foot maximum building height; 4 parking stalls for each dwelling unit; 20-foot front and rear setbacks; and 5-foot side setbacks.

41. Phase S-2 is comprised of 130 single family lots with associated roads, utility infrastructure and open spaces. Phase S-2 includes 27.50 acres and is designed at a proposed density of 4.73 DU/AC. Phase S-2 proposes the following standards: lots ranging in size from 4,762 to 9,943 square feet; a 60% lot coverage maximum (subject to minor modification request); 35-foot maximum building height; 4 parking stalls for each dwelling unit; 20-foot front and rear setbacks; and 5-foot side setbacks.

42. Phase J is comprised of 164 zero lot line townhouse dwellings on individual lots with associated roads, utility infrastructure and open spaces. Phase J includes 19.81 acres and is designed at a proposed density of 8.28 DU/AC. Phase J proposes the following standards: typical building footprints of 5,000 to 7,600 square feet (for buildings that contain more than one residential unit), a maximum lot coverage of 75% (subject to minor modifications), a maximum building height of 35 feet across three stories, two parking stalls per unit, 15-foot front and rear setbacks, 5-foot side setbacks for the end units that do not have a zero lot line, and a minimum 10-foot spacing between buildings.

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43. These three preliminary plats propose development that is consistent with the 2002 Development Agreement and development standards, subject to the minor modifications proposed in the applicant's Project submittals. CEMC 16.12A.050 identifies the approval criteria for preliminary plats. An un rebutted preponderance of evidence in this record establishes that the first three preliminary plats for parcels S-1, S-2, and J each satisfy applicable approval criteria, subject to appropriate conditions of approval. (See Staff Report, Ex. C-01, discussion and findings at pp. 22-25). The Staff Report includes proposed conditions of approval for the pending Preliminary Plat applications. These conditions have been added to this Recommendation as Preliminary Plat Conditions of Approval 1 through 24. (Staff Report at pp. 38-42).

Minor Modification requests all satisfy approval criteria provided in the Development Agreement.

44. Consistent with Sec. 6.4.1 of the 2002 Development Agreement, the applicant proposes five minor modifications to such Agreement, specifically: (a) increase maximum residential lot coverage to 60%; (b) increase impervious surface limits to 70% for residential lots; (c) relax front façade width requirements for the garage door; (d) replace the man-made lake and clubhouse with a public park; and (e) allow private ownership and maintenance of pocket parks by a homeowners' association.

45. Section 6.3 of the 2002 Development Agreement acknowledged that minor modifications to the agreement were likely to occur and provided for flexibility in future development for a variety of reasons.

46. For the reasons set forth in the un rebutted Staff Report, the applicant's proposed minor modifications all satisfy applicable approval criteria, including without limitation those found in sections 6.4.1.1 through 6.4.1.8 of the 2002 Development Agreement. (Ex. C-01, Staff Report at pp. 25-32).

Request to extend term of Development Agreement.

47. The 2002 Development Agreement is currently written to expire on October 30, 2027. The applicant requests that the 2002 Development Agreement term be extended by 10 years to October 30, 2037. (Application to Extend Development Agreement, Exhibit C-16).

48. For credible and sound public policy reasons discussed in the un rebutted Staff Report, Staff recommends approving two 5-year extensions, provided that certain benchmarks are met to ensure timely development of the project. (Ex. C-01, on pages 21-22). The benchmarks are reflected in the Draft Second Amendment to the 2002 Development Agreement, included in the record as Exhibit C-06.

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49. The proposed Amendment encourages and incentivizes the applicant to timely advance the Bullfrog UGA development, with target numbers of residential units to be advanced before any extension will be granted, among other things. (*Staff Report, on page 21*).

50. Some of the conditions include applying for a minimum of 1,000 residential units before expiration of the first 5-year term (October 30, 2032), and timely development of the affordable housing parcel, and the public neighborhood park.

51. A preponderance of evidence in the record supports approval of Staff's proposed amendment to the Development Agreement, under which the applicant may obtain two 5-year extensions of the Agreement, if specific benchmarks are first achieved.

The Applications, as Conditioned, Satisfy Applicable Approval Criteria.

52. Except as modified in this Recommendation, all Findings, and statements of fact contained in the Staff Report (revised January 28, 2025), are incorporated as Findings of Fact of the Hearing Examiner, supporting this Recommendation to approve the pending applications.

53. Based on a preponderance of evidence in the record and all findings provided above, the Examiner respectfully recommends that the City Council approve the pending Bullfrog Flats' applications.

VII. CONCLUSIONS OF LAW.

Based upon the record, and all Findings of Fact provided above, the Hearing Examiner issues the following Conclusions of law.

1. The Hearing Examiner has jurisdiction to conduct an open record public hearing on the applications and to issue a recommendation to Cle Elum City Council. *See* Cle Elum Municipal Code ("CEMC") 14.30.080 (Procedures for Type 4 review). CEMC 14.30.040; Permit Classification Table, listing Development Agreement and Preliminary Subdivisions as a Type 4 matter that is subject to an open record public hearing before the City's Hearing Examiner who makes a recommendation to City Council, the final decision maker.

2. The applicant met its burden to demonstrate that the permit applications conform to and implement the objectives of the City's Comprehensive Plan as vested under the 2002 Development Agreement. *See* Findings; Staff Report.

3. The applicant met its burden to demonstrate that the permit applications are consistent with 2002 Development Agreement, the City's Comprehensive Plan (as vested), and the CEMC (as vested). *Id.*

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1 4. SEPA compliance for the applications has been achieved.

2 5. Based on the record, the applicant demonstrated that the applications merit approval,
3 subject to the Conditions of Approval for the Master Plat and Preliminary Plats.

4 6. Any Finding of Fact or other statement in this Recommendation that is deemed to be
5 a Conclusion of Law is hereby adopted and incorporated by reference.

6 **VIII. RECOMMENDATION.**

7 Based upon all Findings of Fact, Conclusions of Law, evidence presented during the
8 course of the open record hearing, including without limitation the exhibits and testimony
9 referenced above, and the Hearing Examiner's site visits, the Hearing Examiner respectfully
10 recommends that Cle Elum City Council **approve** the consolidated Bullfrog Flats'
11 applications, subject to the attached Conditions of Approval.

12 Recommendation issued: March 3, 2025

13 

14 Gary N. McLean
15 Hearing Examiner for the City of Cle Elum
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MASTER PLAT CONDITIONS OF APPROVAL

(Adopted from Staff Report (pp. 35-38), and
Attachment B – List of Master Plat Conditions)

LAND USES GENERALLY

1. Land uses shall be the types, densities and amounts (or within the ranges) as shown on the Approved Master Site Plan (Attachment 1) and the following Land Use Summary Table. The maximum number of residential units shall not exceed 1334 plus the 50 Affordable Housing units described in Condition 19, although the number of residential units within each parcel may vary within the ranges indicated. Single family development on Parcels P- 1, P-2, P- 3, P-4, S-1 and S-2 shall have a total minimum average density of 4 dwelling units per net acre. The average density for multifamily residential development in Parcels B, J, and M shall be a minimum of 8 dwelling units per net acre. While the number of residential units and commercial square footage may vary within the range indicated, the residential minimum densities shall be maintained for the project as a whole and the overall master planned development shall maintain approximately a 60 percent to 40 percent split between single family and multifamily residential development as a means of protecting the overall mix of uses proposed in this development. The total number of single family or multi-family units may vary plus or minus 10 percent from the numbers shown in the Land Use Summary Table, provided the total number of residential units shall not exceed the maximum as specified in this Condition.

LAND USE SUMMARY

RESIDENTIAL USES	AREA (Acres)	QUANTITY ³ PROPOSED
Single Family Residential	167.5	810 units
Multi Family Residential	61	524 units
Low Income Housing	7.5	50 ⁴
Subtotal	228.5 (21.3%)	1334 units
NON-RESIDENTIAL USES:		
Public Park & Recreational Amenities	16	
Recreation Expansion (not inclusive of neighborhood pocket parks)	8	

³ The actual number of individual residential unit types may vary + or – 10 percent, provided the total number of residential units may not exceed the maximum 1334 permitted without amendment.

⁴ The 50 low-income housing units are described in Condition 19 and do not count towards the developer limit of 1,334.

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RECEIVED

By vamick at 3:17pm, March 3, 2025

1	Subtotal	24 (2.2%)	
2	OTHER USES		
3	Community Recreation Center	12	
4	School Expansion	38	
5	Cemetery Expansion	10	
6	Business Park	75	950,000 SF
7	Water Treatment Plant	12	
8	Reserve	112	
9	Subtotal	259 (29%)	
10	OPEN SPACE		
11	Undeveloped Open Space		
12	Buffers /	242 /	
13	Steep Slope Areas	197.4	
14	Wetland Buffers	5.5	
15	Powerline ROW	29	
16	Residential Buffers	76	
17	Subtotal	549.9 (51.1%)	
18	TOTAL	1,074 (100%)	1,334 units
19			+ 50 low income

Note: All required dedications of land listed as "other uses", except for the cemetery expansion site, have been transferred to the appropriate agency/service provider. The total site area that would be developed pursuant to the master plat equals approximately 918 acres if the acreage of the completed dedications is deducted. Differences in acreage from the 2002 Development Agreement reflect rounding, survey decisions, and overlap of some categories.

2. Location of uses shall generally be as shown on Attachment 1, provided that the application can propose some adjustment to the exact boundaries with the Master Plat application as defined in the Development Agreement and provided further that modifications may be reviewed and processed consistent with the requirements of the Development Agreement for major and minor modifications.

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1 **DEVELOPMENT STANDARDS**

2 3. For all complete land use applications submitted by October 30, 2027, except as
3 expressly provided for in the approved Development Standards for the Cle Elum UGA Trendwest
4 Master Site Plan dated May 2002, attached to these Conditions of Approval as Attachment 2, the
5 UGA development shall be subject to all other requirements of CEMC Titles 15, 16, 17 and 18 in
6 effect on the date of approval of the Development Agreement, as provided in Section 1.2 of the
7 Development Agreement.

8 All land use applications submitted on or after October 31, 2027 shall be subject to
9 the applicable standards as set forth in Sections 3.6-3.8 of the Development Agreement, as amended
10 by the Second Amendment.

11 4. The Development Standards in Attachment 2 shall govern all aspects of
12 development in the UGA addressed in those standards for all complete land use applications
13 submitted by October 30, 2027. All land use applications submitted on or after October 31, 2027
14 shall be subject to the applicable standards as set forth in Sections 3.6-3.8 of the Development
15 Agreement, as amended by the Second Amendment.

16 5. With regard to the business park, at the time of road design, Developer shall identify
17 the proposed access points into the business park. At that time, Developer shall also change the
18 continuous left turn lane shown on standard detail R-8 to a median strip with left turn pockets at the
19 identified access points to the business park, or an alternative design approved by the City.

20 6. Developer shall provide an internal buffer between residential and business park
21 parcels sufficient to provide a 75 percent screen after 5 years of growth, including supplemental
22 vegetation, if needed, to accomplish the screening.

23 7. **[Completed]** With regard to public uses included in the Master Site Plan (the school
24 expansion, the water treatment plant, and the community center), use limitations will be in
25 accordance with Condition 1, above. The maximum lot coverage for those uses shall be 35 percent
26 (buildings and structures). A minimum of 20 percent of the sites of those uses shall be landscaped.
27 Structures on the sites of those uses shall be set back 10 feet from property lines generally, 50 feet
28 from property lines abutting SR 903, and 100 feet from property lines along Bullfrog Road.
29 Structures in those use areas shall be limited to 35 feet in height

30 8. **[Not Applicable]** Developer shall retain responsibility for water quality and noxious
31 weed management in proposed lake.

32 9. Developer shall submit the proposed CC&R's to the City Attorney at least 60 days
33 prior to such recording, to review for the purpose of ensuring consistency between the proposed
34 CC&R's and these Conditions of Approval and to review for matters that may affect public
35 ownership or public interests. The CC&R's shall not be recorded until they have been reviewed by
36 the City Attorney, which review shall be completed within 30 days of submittal. Any objections
37 based on inconsistency with these Conditions of Approval or any conflict with public ownership or

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public interest on the site shall be resolved pursuant to the Dispute Resolution provisions in Section 11.18 of this Development Agreement, as amended by the Second Amendment.

10. Bonding. The Development Standards, Attachment 2, address the options and requirements for bonding final plat improvements.

11. The Site and Design Review process described in CEMC 14.30.140 shall be used to assess compliance of individual development proposals that are subject to Site and Design Review with the terms and Conditions of this Master Site Plan Approval.

PHASING

12. The UGA may be developed in phases, provided:

A. Each phase shall have all infrastructure and other on-site and/or off-site mitigation in place at the time of certificate of occupancy or final inspection if the use does not require a certificate of occupancy (or earlier) sufficient to provide access, utilities and public facilities and services consistent with the LOS standards identified in these Conditions or consistent with the LOS standards identified pursuant to Sections 3.6-3.8 of the Agreement, as amended by the Second Amendment.

B. Phased infrastructure shall be designed and constructed to meet City engineering requirements for dead end streets and looped water lines.

C. No final plats except for the Master Plat, as defined in Section 5 of the Development Agreement, shall be approved without Department of Ecology water rights transfer decisions, and no building permits shall be granted without proof of water availability consistent with the requirements of RCW 19.27.097. While Developer may elect to transfer its water rights to the City in phases, consistent with UGA demand during buildout, no amount of residential or business park construction shall be authorized by this Master Site Plan Approval for which Developer has not obtained sufficient water rights transfer approvals from the Department of Ecology and the Kittitas County Conservancy Board. If Developer does not transfer water rights to the City sufficient to handle the expected water use for the entire development approved by these Conditions at the time of final Master Plat Approval, then the City may, at its option, impose reasonable additional phasing conditions on the final Master Plat Approval that the City can demonstrate are appropriate to ensure logical progression of the UGA development based on projected costs to maintain public infrastructure over the long term, should the UGA development not be completed.

D. Any mitigation measures identified as necessary in the monitoring required by these Conditions of Approval or by any monitoring or mitigation agreements entered into with Bullfrog Flats LLC shall be the responsibility of Bullfrog Flats LLC, as the master developer, unless the City has adequate assurances that any such additional mitigation is attributed to and can be adequately provided by an individual future plat for a future phase or subphase, or as provided in the Transfers of Obligation section of the Development Agreement.

E. The Business Park may be developed in phases, provided a minimum of 37.5 acres shall be identified in the first phase and an additional 37.5 acres shall be reserved for subsequent

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development unless or until Developer demonstrates there is insufficient market demand for this subsequent phase and obtains a modification under the Development Agreement.

To extend the term of the Development Agreement to October 30, 2037, a complete land use or construction permit application for at least one building in the Business Park portion of the project, or in the alternative, a complete application for a major modification to the Business Park portion of the project requesting changes in land use restrictions for future development of that portion of the project, must be submitted by October 30, 2032.

F. Each phase of development shall make provision for maintaining the average minimum residential densities, and each plat application shall include an overall density analysis that identifies the density of the proposed plat, a listing of the density and acreage of elements already platted or constructed and a discussion of the density requirements for future development that would be required to maintain the average minimum residential density.

RESIDENTIAL USES

13. As shown on Attachment 1, residential uses shall be permitted in Parcels B, J, M, P-1 through P-4, S-1, and S- 2.

14. Uses permitted in these parcels shall be all of those uses permitted in the zones indicated in the following table, with the exceptions noted:

Parcel	Permitted Uses	Conditional Uses (Requires CUP pursuant to CEMC 17.80)	Code References
P-1 P-2 P-3 P-4 S-1 S-2	<ul style="list-style-type: none">Single-Family DwellingAccessory BuildingsAccessory Dwelling UnitsAdult Family Home & Group HomeHome OccupationFamily Day Care <p><i>All as defined by CEMC 17.08 & as permitted by CEMC 17.16.010.</i></p> <ul style="list-style-type: none">Parks and Playgrounds <p><i>Subject to Site & Design review as permitted in CEMC 17.16.020.</i></p>	<ul style="list-style-type: none">Bed and BreakfastGuesthouse <p><i>When accessory to the permanent residence of the operator, as permitted by CEMC 17.16.030</i></p>	CEMC 17.16
B J M	<ul style="list-style-type: none">Multiple Unit DwellingsTownhousesParks and PlaygroundsAccessory buildings <p><i>As defined by CEMC 17.08 and permitted by CEMC 17.20.010</i></p>	None	CEMC 17.20

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By vamick at 3:17pm, March 3, 2025

15. Lot and other development standards for the individual residential uses are specified in Attachment 2. If a specific standard is not listed in that attachment, the standards of Chapter 17.16 Residential District shall apply to single family development in Parcels P-1, P-2, P-3, P-4, S-1 and S-2, and the standards of Chapter 17.20 Multi-family District shall apply to development on Parcels B, J and M. In addition, if not otherwise specified in Attachment 2, the relevant standards of Chapter 17.04 General Provisions, 17.56 Off street parking and loading, 17.64 Landscaping, and 17.76 Site and design review shall apply.

All land use applications submitted on or after October 31, 2027 shall be subject to the applicable standards as set forth in Sections 3.6-3.8 of the Development Agreement, as amended by the Second Amendment.

16. In general, all streets and alleys in the UGA shall be public. No gates, walls or other access restrictions on these public streets and alleys shall be permitted, provided that nothing in this Condition shall be interpreted to prohibit the construction of a complex of residential units on a single legal lot, such as an apartment complex, with private drives, parking, circulation, recreational facilities or other amenities available only to the residents of that particular residential development and provided that the City may approve some private streets or access restrictions it deems appropriate for senior residential housing that do not interfere with the overall subarea plan objective to create a single, integrated community, provided, however, private drives, parking, circulation, recreational facilities or other amenities available only to the residences of a recreational complex are allowed. Emergency service providers including the Kittitas County Sheriff's Office, the Cle Elum-Roslyn-So. Cle Elum Police Department, the City of Cle Elum Public Works Director, ambulance service providers and the Office of the City Clerk shall be provided with access to the gates or security devised through uniform key pad access, lock box, master key or other similar method to allow rapid access through the device.

BUSINESS/OFFICE PARK USES

17. As shown on Attachment 1, commercial and light industrial uses shall be permitted in the area identified as Business Park. Commercial and light industrial uses shall be limited to a maximum of 950,000 gross square feet on approximately 75 acres, and shall be limited to the uses permitted in CEMC 17.34 BP zone and CEMC 17.36 I zone, provided that the uses listed in CEMC 17.45.050 (B) and (C) shall not be permitted. A maximum of 100 temporary RV sites shall be permitted in a portion of the Business Park parcel, subject to the requirements in Condition 23.

18. The Development Standards in Attachment 2 shall govern all aspects of development in the UGA addressed in those standards for all complete land use applications submitted by October 30, 2027.

All land use applications submitted on or after October 31, 2027 shall be subject to the applicable standards as set forth in Sections 3.6-3.8 of the Development Agreement, as amended by the Second Amendment.

AFFORDABLE HOUSING MITIGATION

19. Developer shall convey to the City of Cle Elum or other public or non-profit entity approved by the City, 7.5 useable acres to develop a minimum of 50 for sale and/or for rent units of housing that are affordable to households earning less than 60 percent of the median income for

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Kittitas County. These 50 housing units shall not count towards the 1334 unit cap in the UGA approval. As an alternative to conveyance of acreage, developer may choose to develop and construct the affordable housing units consistent with the requirements of Condition 19. Compliance with this condition, and with Section 1.3.3 of the Development Agreement, as amended by the Second Amendment, are conditions precedent to the developer receiving an extension of the Development Agreement's term to October 30, 2032 and an extension to October 30, 2037.

A. Acreage shall all be useable for housing construction (not steep slopes, wetlands, etc.), and City shall approve the feasibility of the location for constructing the minimum number of units before this Condition is deemed satisfied.

B. Preferably the total 7.5 acres should be in more than a single parcel, to help disperse the affordable housing units.

C. Developer shall also be responsible for construction of access, water and sewer, consistent with the Development Standards, up to the parcel boundary(ies), as with every other parcel in the Master Plat.

D. If the property is conveyed to the City, the City will issue an RFQ/RFP for potential owner/developers of the affordable housing, soliciting proposals from entities such as the Kittitas County Action Council, Habitat for Humanity, Northwest Housing and others. Trendwest at its option, can participate in the selection process.

E. As set forth in Section 1.3.3 of the Development Agreement, as amended by the Second Amendment Developer shall convey the acreage for affordable housing to the City or other public or non-profit entity approved by the City as provided in Condition 19, or in the alternative, shall commit to developing and constructing the affordable housing units consistent with the requirements of Condition 19, by October 30, 2027.

F. If Developer chooses to convey the acreage for affordable housing to the City or other public or non-profit entity approved by the City, other than the access, water and sewer obligations noted above, Developer shall not be responsible for delivery of water rights or payment of any other mitigation measures for these low income housing units, including, but not limited to, utility connection charges, traffic mitigation, school mitigation fees, parks fees, etc. If Developer chooses to develop and construct the affordable housing units, Developer shall be responsible for delivery of water rights or payment of any other mitigation measures for these low income housing units, including, but not limited to, utility connection charges, traffic mitigation, school mitigation fees, parks fees, etc.

20. A minimum of 150 residential dwelling units in the UGA, not including the 50 units that are the subject of Condition 19, shall remain rental units and a covenant shall be recorded on the property to ensure this Condition for 20 years.

21. **[Not Applicable]** Developer shall periodically monitor and report to the City and the County the existing supply of affordable housing in Upper Kittitas County and shall use reasonable best efforts consistent with the following to help ensure a continuous supply of housing in the area that is priced affordable to those earning the wages paid at the MountainStar Resort.

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1 A. **[Not Applicable]** In conjunction with County requirements for the MPR approval,
2 Developer shall annually inventory the available housing, the rents and sales prices in Upper Kittitas
3 County and compare that supply, those rents and sales prices with the rents and sales prices that are
4 deemed affordable to families or individuals earning the wage levels being paid at the MountainStar
Resort, using HUD guidelines for affordability for a period of 10 years from the date of the Master
Site Plan Approval.

5 B. **[Not Applicable]** If the annual inventory described in Condition 21A reflects a
6 deficit in housing supply or price necessary to house MountainStar Resort employees, Developer
7 shall participate in reasonable advocacy efforts at the State and local levels to attempt to secure
funding or other programs to support and subsidize affordable housing in the Upper County area.

8 C. Developer shall encourage its contractors and employees to participate in volunteer
activities that support affordable housing programs such as sweat equity housing programs.

9 D. Developer may include UGA housing product of a size and quality of finish similar
10 to existing housing stock in Cle Elum, South Cle Elum and Roslyn, to help ensure market pricing
comparable to existing housing stock.

11 22. Developer shall actively recruit and hire from and contract with the existing local
labor pool to minimize in-migration employment and associated housing impacts.

12 23. Temporary Recreational Vehicle park

13 A. Trendwest may construct a maximum of 100 Recreational Vehicle sites in the
14 Business Park Parcel to house temporary construction workers from the MPR and UGA, provided
15 that these sites shall be connected to public water and sewer consistent with health department
16 requirements, and shall have all-weather access and pads. The RV park may not be located in any
17 portion of the required open space or buffers, and shall be designed with a minimum 75 percent
visual screen from views from SR 903, the existing and proposed cemetery, and the adjacent
residential area in Parcel B 5 years after planting. Additional development standards for this
temporary RV park are contained in Attachment 2. The precise location of this facility shall be
reviewed and approved by the City as part of the subsequent development permits pursuant to the
procedures for Site and Design Review in CEMC 17.76.

18 B. This temporary RV park use shall be removed after 10 years, unless it is
19 subsequently reviewed and approved for permanent use as part of a future Master Site Plan
20 Amendment, pursuant to the requirements of the Planned Mixed Use Ordinance.

21 C. The number of RV sites constructed will count against the 1334 maximum
22 residential unit count until the sites are removed and replaced with permanent residential units
23 elsewhere in the UGA, or unless the RV park is later permitted as part of fully reviewed and
approved Master Site Plan Amendment.

24 D. Prior to construction, Developer shall submit to the City for review and approval a
25 set of RV park management standards that addresses ongoing maintenance and operations
obligations.

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1 **HORSE PARK RESERVE PARCEL**

2 24. **[Completed]** The Reserve Parcel as shown on Attachment 1 is hereby identified as a
3 "potential" site for construction of a Washington State Horse Park equestrian events facility.
4 However, nothing in this approval shall constitute final approval to construct and operate the facility
at this location unless and until a complete application is filed for such facility on this parcel, until
the City has completed additional environmental review pursuant to SEPA for such application, and
until all impacts from such use have been adequately identified and mitigated.

5 25. **[Completed]** Unless and until the Parcel is approved for construction of the
6 Washington State Horse Park Equestrian facility, the parcel shall remain in open space and shall not
7 be developed for any other use, other than trails or stormwater facilities such as water quality
treatment and detention/infiltration ponds consistent with Conditions 49-58, without first requiring
8 an amendment to the PMU approval, pursuant to the procedures required by CEMC 17.45. Until that
time, this area should be made available for public use, with reasonable use restrictions or limitations
9 necessary to protect public health, safety or the environment, and shall be managed for such by
Developer.

10 **BUFFER AND OPEN SPACE**

11 26. The Cle Elum River Corridor, shown on Attachment 1 shall be set aside in a
12 combination of permanent Natural Open Space and Managed Open Space, consistent with the
requirements, use limitations and management requirements described in the Cooperative Agreement
13 between Trendwest, the Yakama Nation and the Washington Department of Fish and Wildlife
(WDFW) dated December 4, 2000, ("Cooperative Agreement").

14 A. Natural Open Space shall be that area located within the Cle Elum River geomorphic
15 floodplain of the UGA. Motorized vehicles, building structures, vegetative disturbances, domestic
animal use, and human use will be subject to appropriate prohibitions and limitations as identified in
16 the Cooperative Agreement. The additional Cle Elum River Corridor Open Space shown on
Attachment 1 that is located outside of, and adjacent to, the geomorphic floodplain shall be
17 considered Managed Open Space and may be more intensely managed or changed by selective
logging, thinning or vegetation removal to establish better habitat conditions conducive to selected
18 species and to establish more useable area for recreational purposes. Though no residential
development will occur in this open space, limitations on structures, motorized vehicles, domestic
19 animal use, and human use will be less restrictive than in the Natural Open Space.

20 B. While the City is not a party to the Cooperative Agreement, by this Condition the
City shall be given the opportunity to review and comment on all of the implementation measures in
21 those agreements that affect the Cle Elum River corridor within the UGA or affect land uses within
the UGA, and any changes from the requirements of those agreements that are proposed by the
22 parties to those agreements that affect the Cle Elum River corridor within the UGA or affect land
uses within the UGA shall not be applied if inconsistent with these Conditions of Approval unless
23 and until the City specifically approves such changes.

24 27. I-90 Buffer requirement

25

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1 A. The project shall provide a minimum of a 150-foot buffer adjacent to and outside of
2 the existing I-90 right-of-way. Developer agrees to place this buffer in a separate tract to qualify for
3 open space tax classification pursuant to State law as part of the preliminary plat approval(s) for the
4 Master Plat that includes the parcels adjacent to I-90. The required buffer shall contain sufficient
5 vegetation to accomplish an approximately 75 percent visual screen of uses from views from I-90
6 within 5 years after planting. Additional vegetation may be required to meet this standard. Developer
7 or the homeowners association for the UGA shall own and be responsible for any maintenance of
8 these required buffers.

9 B. As a condition of final plat approval for the parcel(s) that includes this buffer, the
10 owner shall record a conservation easement over this required buffer area, consistent with the
11 requirements of this Condition. The conservation easement shall also provide for perpetual
12 management for wildfire concerns, consistent with the requirements for perimeter buffer open space
13 and the land stewardship plan prepared for perimeter buffer open spaces in the Cooperative
14 Agreement. The language of the easement shall be reviewed and approved by the City prior to
15 recording.

16 28. Bullfrog Road Buffer

17 A. The project shall include a minimum of 100-foot buffer outside of and adjacent to
18 the existing Bullfrog Road Right-of-Way, provided that if additional right-of-way is required for the
19 improvements to the Bullfrog Road/SR 903 intersection, the 100-foot buffer shall be measured after
20 acquisition of any such additional right-of-way at that location. This buffer shall be designed to
21 protect the existing generally wooded character of the Bullfrog Road entrance to the City, and
22 enhanced plantings may be required in some areas to protect this character, provided that the buffer
23 need not provide a total visual screen of the proposed UGA development from Bullfrog Road.
24 Developer agrees to place this buffer in a separate tract, to qualify for open space tax classification
25 pursuant to State law, as part of the preliminary plat approval(s) for the Master Plat that includes the
26 parcel(s) adjacent to Bullfrog Road. Developer or the homeowners association for the UGA shall
27 own and be responsible for any maintenance of these required buffers.

28 B. As a condition of final plat approval for the parcel(s) that includes this buffer, the
29 owner shall record a conservation easement over this required buffer area, consistent with the
30 requirements of this Condition. The conservation easement shall also provide for perpetual
31 management for wildfire concerns, consistent with the requirements for perimeter buffer open space
32 and the land stewardship plan prepared for perimeter buffer open spaces in the Cooperative
33 Agreement. The language of the easement shall be reviewed and approved by the City prior to
34 recording.

35 29. SR 903 Buffer

36 A. The project shall include a minimum of a 50-foot buffer outside of and adjacent to
37 the existing SR 903 right-of-way, provided that if additional right-of-way is required for the
38 improvements to the Bullfrog Road/SR 903 intersection, the 50-foot buffer shall be measured after
39 acquisition of any such additional right-of-way at that location. This buffer shall be designed to
40 protect the existing generally wooded character of the SR 903 entrance to the City, similar to that
41 currently existing adjacent to the School District property. Enhanced plantings may be required in
42 some areas to protect this character, provided that the buffer need not provide a total visual screen of

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the proposed UGA development from SR-903. Developer agrees to place this buffer in a separate tract to qualify for open space tax classification pursuant to State law, as part of the preliminary plat approval(s) for the Master Plat that includes the parcel(s) adjacent to SR 903. Developer or the homeowners association for the UGA shall own and be responsible for any maintenance of these required buffers.

B. As a condition of final plat approval for the parcel(s) that includes this buffer, the owner shall record a conservation easement over this required buffer area, consistent with the requirements of this Condition. The conservation easement shall also provide for perpetual management for wildfire concerns, consistent with the requirements for perimeter buffer open space and the land stewardship plan prepared for perimeter buffer open spaces in the Cooperative Agreement. The language of the easement shall be reviewed and approved by the City prior to recording.

30. All areas shown as open space on Attachment 1 shall be subject to the use limitations and management requirements of the Cooperative Agreement.

31. Internal buffers between land uses, other than the buffers addressed in Conditions 26-30, have been addressed in Condition 6.

BULLFROG / I-90 INTERCHANGE

32. The portion of the property located in the NE quadrant of the Bullfrog Road/I-90 interchange shall be kept in undeveloped open space uses consistent with the purposes identified for setting aside these open space areas in the Cooperative Agreement. Developer may seek City approval pursuant to CEMC 17.76 for an interpretive center at this location, provided that additional environmental review of any such center shall first be required, and an interpretive center may only be permitted at this location if the proposed center will not interfere with the objective of this natural open space area as defined in Section C(3)(c)(2)(D) of the Cooperative Agreement; and the interpretive center is designed to avoid or mitigate any significant or material harm to or interference with salmon passage, spawning, or rearing in the Cle Elum River.

33. Developer shall further support reasonable efforts of the City of Cle Elum and the Town of South Cle Elum to restrict future commercial or industrial development of the other quadrants of this interchange.

RESTRICTION / LIMITATION ON RETAIL USES WITHIN THE UGA

34. The only retail uses that are permitted within the UGA are those small-scale retail uses that are sized and operate to serve the convenience needs of the UGA residents and business park employees. Such uses may include things like deli or other small predominately take-out food service, small convenience grocery or mini-market, dry cleaners, shoe repair, copier or mailing services and shall not include any freeway-oriented uses such as gas stations, hotels or motels. To ensure that the retail uses are sized and located to appropriately serve the site and not a broader clientele, the retail uses shall be limited to 10 percent of the total floor area within the business park at the time retail is being proposed and no individual retail use shall contain greater than 5,000 square feet of floor area devoted to display area, seating area or other portion of the facility that is open to the public and shall not be located with a primary orientation to SR 903 or Bullfrog Road.

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SIGNAGE

35. The placement of signs within the UGA shall be regulated by the sign code section of the Development Standards, Attachment 2. Placement of signs for the Business Park shall be as specified in the Business Park sections of the Attachment. Placement of signs in all other areas shall be those sign regulations specified for the Residential District.

36. Each entrance to the UGA may be permitted one monument type sign for the purposes of marking the entrance to the development. Signs shall be no greater than 6 feet in height and shall contain no more than 20 square feet of sign area devoted to text. Signs shall include a statement that the development is within the City of Cle Elum such as "Development Name – at Cle Elum." Signs may be lighted, provided the lighting is limited in intensity and mounted from the top of the sign down or otherwise meets the established lighting standards of Condition 37.

LIGHTING

37. All lighting for development within the UGA shall meet the E-1 requirements of the Dark Skies Association Handbook's E-1 criteria, as further defined in Attachment 2. Roadway lighting shall meet the requirements of the Illuminating Engineering Society and Washington State Department of Transportation Lighting Criteria, also as further defined in Attachment 2.

PARKS AND TRAILS

38. Pursuant to the Recreational Parcel Agreement dated January 8, 2021, Bullfrog Flats or its successor-in-interest shall make certain monetary contributions for recreational facilities. Under the agreement, so long as the obligations under the agreement are satisfied, the City shall forbear from taking any legal action related to Condition 38 of the 2002 Development Agreement. In the event that Bullfrog Flats or its successor-in-interest fail to satisfy any obligations under the Recreational Parcel Agreement, the City reserves all rights and remedies related to the original Condition 38 of the 2002 Development Agreement.

The City acknowledges that the only monetary obligation remaining is the Third Monetary Obligation set forth in paragraph 4 of the Recreation Parcel Agreement.

A. [Replaced by Condition 38]

B. [Replaced by Condition 38]

C. [Replaced by Condition 38]

i. [Replaced by Condition 38]

ii. [Replaced by Condition 38]

iii. [Replaced by Condition 38]

iv. [Replaced by Condition 38]

v. [Replaced by Condition 38]

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vi. [Replaced by Condition 38]

vii. [Replaced by Condition 38]

viii. [Replaced by Condition 38]

39. Developer shall construct pocket/mini parks with a size range of .25-to-.5-acre each that meet a total standard of .5 acres per 1,000 population in the UGA. Based on an estimated population of 3,120 from the approved 1,334 units on the Developer's property in the UGA, Developer shall construct a minimum of 1.56 acres of mini-parks. These parks shall be privately owned, maintained, and managed. These parks shall be located in the residential development parcels at the time of preliminary plat approval for the particular parcel, shall be landscaped and developed consistent with the standards in Attachment 2 and shall include tot-lot play equipment and benches. No parking or restroom facilities are required.

40. Developer shall construct a public neighborhood park and public recreational amenities as shown on the approved Master Plat. The specific design and amenities for the neighborhood park shall be determined with input from City staff.

A. A minimum of 6-10 parking spaces, which may be located on street if the Road Standards for the street adjacent to this park can accommodate parking.

B. [Not Applicable] A public trail adjacent to the lake.

C. [Not Applicable] A minimum of 1 acre of grassy area for sitting, picnics, and passive recreation adjacent to the lake that shall be conveyed to the City as a City mini-park.

D. [Not Applicable] This neighborhood center park may include a private neighborhood community center funded and operated by Developer or the homeowners' association for the benefit of UGA residents only. The lake may be private, with all maintenance responsibility on Developer or the homeowner's association.

E. The neighborhood park shall be designed so that the public areas, features, and access are integrated in the overall design so that it appears open and not isolated, private, or exclusive. The park design shall be reviewed and approved by the City pursuant to the procedures for Site and Design Review in CEMC 14.30.

41. Developer shall support the City's efforts to obtain any necessary right-of-way or easement and to construct an off-site connection from the UGA property trails to the existing Coal Mines Trail, generally as indicated on the Master Site Plan. In addition, once the City has obtained the necessary right-of-way or easement, Developer shall pay the City the cost of materials to construct the trail connection, in an amount not to exceed \$25,000. The City shall be responsible for the equipment and labor to construct the connection.

42. Developer shall construct within the UGA property a combination of soft-surface and hard-surface trails or other pedestrian circulation such as sidewalks that will provide uninterrupted bicycle and pedestrian routes connecting the residential areas, the business park, the

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1 adjacent MPR site, the community center site, the school, and the City of Cle Elum, generally along
2 the routes shown on Attachment 4 (Trail and Pedestrian Circulation Plan). Each preliminary plat
3 approval shall include the trails and circulation routes that are shown within the particular parcel
4 boundary. Where indicated, equestrian trails shall be separated from pedestrian and bicycle trails. As
5 part of the first phase Master Plat Approval, Developer shall submit for City review and approval a
6 trail construction phasing plan showing how the trail network will be constructed, consistent with
7 proposed phasing of the individual parcel development. The trail construction phasing plan shall
8 provide for reasonable circulation throughout the site and for connection to existing, adjacent off-site
9 links as part of the first phase of development and avoid construction of isolated, dead-end trail links
10 during individual parcel development. Developer shall also demonstrate appropriate permission, if
11 required, to use the power line right-of-way for trails, or shall provide an alternative alignment for
12 this trail corridor.

13
14 43. Trails shall be constructed consistent with the standards in Attachment 2. The right-
15 of-way shall be either in the form of a dedication or easement granted to the City. Appropriate
16 measures shall be taken to prevent trail erosion.

17 44. All of the public parks and recreation facilities described in Conditions 38-43 above
18 shall be owned and operated by either the City of Cle Elum and/or, in the case of the Community
19 Center facility, by the Non-profit Community Center organization. The facilities shall be dedicated to
20 the City upon completion of the construction, as a condition of the appropriate final plat approval.
21 Each mini-park shall be constructed at the time the particular residential parcel in which it is located
22 is developed.

23 **FISH AND WILDLIFE**

24 45. Developer shall comply with all of the requirements for fish and wildlife mitigation
25 contained in the Cooperative Agreement that apply to the UGA property.

46. Cleared areas of the site that are going to be put into landscaping should be re-
vegetated with native plants, especially trees and shrubs that provide cover, nesting, and forage
habitat for birds and small mammals and, wherever reasonably feasible, plant material removed from
the UGA site should be reused elsewhere within the UGA development. Re-vegetating disturbed
soils with native species should occur immediately after construction and final grading to reduce soil
erosion and colonization by non-native species. Snags, brush piles, and downed trees should
generally be left in buffer and open space areas to provide wildlife habitat in these areas consistent
with wildfire management concerns.

47. In consultation with the MountainStar Conservation Trust, the City may enforce use
and access restrictions consistent with the requirements in the Cooperative Agreement in designated
areas, especially within the Cle Elum River open space, for such period and for such circumstances
as determined reasonably necessary to minimize disturbance to fish and wildlife during mating and
breeding seasons.

48. Developer shall comply with federal and State laws applicable to threatened or
endangered species.

EARTH AND STORM WATER

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49. All construction and development activity within the UGA shall comply with the current Washington Department of Ecology Stormwater Management Manual for Eastern Washington.

50. Prior to, or as part of the approval, of the Master Plat as described in the Development Agreement, Developer shall obtain City approval of a Master Drainage Plan that conforms to the following:

A. The Master Drainage Plan shall meet the requirements for a stormwater site plan pursuant to the DOE Manual, including the requirements for a Permanent Stormwater Control Plan and a Construction Stormwater Pollution Prevention Plan; provided, that the Master Drainage Plan need not include the design of specific drainage facilities within implementing or subsidiary plats with the Master Plat; provided further that approval of a Construction Stormwater Pollution Prevention Plan for any implementing or subsidiary plat need not be obtained until the implementing or subsidiary plat is approved. As used herein, "implementing or subsidiary plat" means an area of the UGA that is proposed for future subdivision into individual lots and in which no construction will occur until approval of such a subdivision.

B. Without limiting the requirements of the DOE Manual, the Master Drainage Plan submittal shall include the following:

i. The amount of impervious surface proposed within the UGA as a whole and broken down by individual development area and/or subsidiary plat;

ii. The volume of runoff projected from the UGA as a whole and broken down by individual development area and/or subsidiary plat;

iii. Conceptual explanation of how stormwater from the UGA as a whole and from each individual development area and/or subsidiary plat will be handled;

iv. Description of phasing of construction of drainage facilities within the UGA as compared with timing of construction of improvements both outside of and inside subsidiary plats;

v. Designs for drainage facilities that will not be located within subsidiary plats;

vi. Explanation showing that facilities referenced in Condition 50B(v) above will be adequately sized to accommodate the stormwater that they ultimately will need to accommodate; and

vii. Explanation of proposed ownership of drainage facilities.

C. Development within stormwater management zone A shall provide water quality treatment prior to infiltration, as described in Appendix A to the Final EIS.

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51. Prior to approval of each implementing or subsidiary plat, Developer shall obtain City approval of the method of handling stormwater from the plat and the design of facilities within the plat to handle stormwater from the plat. Prior to approval of each implementing or subsidiary plat, Developer shall provide a stormwater site plan pursuant to the DOE Manual that addresses any requirements of the DOE Manual for a stormwater site plan for the development of the plat that were not addressed in the Master Drainage Plan.

52. Prior to construction, Developer shall submit for review and approval a temporary erosion and sedimentation control plan consistent with the previous Condition and the Development Standards, Attachment 2, and shall satisfy all Department of Ecology NPDES permit requirements. Clearing and Grading permit applications shall address limitations on the timing and exposure of soil to address erosion concerns, consistent with the Department of Ecology NPDES permit for construction storm water and the current Washington Department of Ecology Stormwater Management Manual for Eastern Washington. This information shall be reviewed and approved by the City prior to commencement of any clearing or grading activity that disturbs the soil.

53. Monitoring the progress of the proposed stormwater program, as described in the Master Drainage Plan, and the performance of the installed runoff control measures shall be required.

A. The following information shall be submitted by the City and on an annual basis:

i. A sequence of development (proposed subsidiary plats) for the upcoming year, a description of the storm drainage facilities needed to serve that development, and how those storm drainage facilities comply with and meet the requirements of the Master Drainage Plan.

ii. A description of the storm drainage facilities installed during the previous year, and how those storm drainage facilities comply with and meet the requirements of the Master Drainage Plan.

iii. A description of any deviations from the Master Drainage Plan proposed in the upcoming year.

iv. A listing of best management practices employed during the previous year for both construction and post-construction development activity. Include an assessment of the appropriateness of the implemented best management practices.

v. Maintenance activities performed during the preceding year on private stormwater treatment and runoff control facilities.

B. In addition to the monitoring information to be provided in 53(A) above, the City shall be allowed to monitor the use and effectiveness of construction and post-construction stormwater control best management practices through the City's building permit, plan review, and development approval processes. Deviations from the Master Drainage Plan, or ineffective best management practices, will be reported to the developer. Best management practices deemed by the City to be ineffective shall not be used in the future and the Master Drainage Plan shall be revised accordingly to address storm drainage issues related to the balance of the development.

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54. Any storm water infiltration facilities shall be sited so as to not increase the potential for landslides in any steep slope or landslide hazard area, and the construction drawings submitted for such facilities shall include sufficient information to determine that this Condition can be met.

55. Unless the City determines reasonably necessary to complete road, trail and/or utility corridors, and then only if appropriate measures are taken to ensure slope stability, no vegetation shall be removed from slopes in excess of 25 percent. Hazard trees may be addressed by City ordinance, and Developer shall be required to comply with any hazard tree ordinance now in effect or adopted by the City in the future that is necessary to protect the public health, safety, and welfare. The Applicable Law and vesting provisions of the Development Agreement shall not bar adoption and application of a new hazard tree ordinance. Further, all clearing and grading shall be set back a minimum of 25 feet from the top of the slope, or a greater distance if the City Engineer determines a greater distance is necessary to protect slope stability. The City Engineer may permit clearing and grading to the top of slope if a geotechnical report demonstrates that such work will not adversely affect slope stability.

56. Unless the City determines reasonably necessary to complete road, trail and/or utility corridors, and then only if appropriate measures are taken to ensure slope stability, no fill, topsoil or debris shall be deposited on slopes in excess of 25 percent with a vertical height greater than 5 feet or within 25 feet of the top of the slope, as described in the previous Condition regarding clearing and grading limits.

57. All public storm water facilities shall be conveyed to City upon conveyance of the other infrastructure improvements in the particular parcel, including a warranty and/or maintenance bond as described in the Development Standards, Attachment 2.

58. No construction on the UGA property shall use gravel or other construction materials from the floodplain of the Cle Elum River.

AIR

59. All construction shall follow DOE regulations for particulate emissions, including application of Best Available Control Technology, including, but not limited to, spraying disturbed areas with water when necessary to minimize dust, providing truck tire washing areas prior to exiting the construction site, and providing cover, wetting or adequate freeboard for all dump truck loads. Dust control shall be maintained after construction hours and on weekends and holidays. A designated contact person and phone number shall be provided to the City for after hour dust control issues for each phase of the project. These and similar BACT Conditions shall be included on all construction permit approvals issued by the City or the County for construction within the UGA.

60. No wood-burning stoves shall be permitted within the UGA. Gas fireplaces and stoves are permitted.

61. Land-clearing debris shall be disposed of consistent with the priorities for such disposal established in any applicable provisions of the Kittitas County Solid Waste Management Plan, including the Trendwest MPR and UGA amendment(s).

WATER SUPPLY

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62. Water Supply shall be provided for each phase or sub-phase of UGA development as described in Condition 12, above. While Developer may elect to transfer its water rights to the City in phases, consistent with UGA demand during buildout, no amount of UGA development shall be authorized by this Master Site Plan Approval for which Developer has not obtained sufficient water rights transfer approvals from the Department of Ecology and the Kittitas County Conservancy Board.

63. All development within the UGA shall include low-flow fixtures consistent with State building code requirements, limitations on landscaping and other water-conservation measures consistent with requirements in the City of Cle Elum's water comprehensive plan, as may be amended for the City as a whole in the future, and any additional requirements described in Attachment 2. The Applicable Law and vesting provisions of the Development Agreement shall not bar adoption and application of new water conservation measures for the City as a whole.

64. Developer shall pay its share of the costs to construct the water intakes, the treatment facility and the transmission lines, and reservoirs as provided for in the Water Supply System Project Development Agreement dated June 19, 2001.

65. Consistent with the requirements of the Agreement Regarding Water Supply for the Bullfrog Flats UGA dated June 19, 2001, Developer shall transfer water rights to the City of Cle Elum sufficient to provide the required service and mitigation for all residential uses within the UGA, with the exception of the low-income housing units described in Condition 19, above. The City shall be responsible to provide (or ensure from others) sufficient water supply for the school expansion, the community center, the business park, the cemetery, and the low income housing units described in Condition 19.

66. Drought year mitigation shall be as provided in the Agreement Regarding Water Supply noted above.

67. Developer shall otherwise comply with all of the requirements imposed by the Department of Ecology and the Kittitas County Water Conservancy Board in its decision regarding water rights transfers, and failure to comply with any of those requirements may be cause for the City to deny one or more phases of UGA development approvals, unless and until such requirements have been met.

68. Developer, or the Parcel Developers, or an individual building permit applicant, as applicable, shall be responsible for all fees and hookup charges described in the Water Supply System Project Development Agreement dated June 19, 2001, and the Development Agreements and Supply Agreements relating to interim and regional sewer facilities.

69. Compliance with the to be executed Agreement for Mitigation and Monitoring of Water Impacts Associated with the Bullfrog UGA Development shall satisfy Developer's obligation to mitigate impacts on the City's Water Supply System for the Bullfrog UGA development as approved in the 2002 Development Agreement.

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70. Distribution of system sizing and operating pressures for the final water system layout shall be determined prior to design and shall be reviewed and approved by the City of Cle Elum for compliance with applicable fire protection safety standards.

71. **[Completed]** Developer shall revise application Figure B.7.2. to reflect that: the Yakima River transmission line will be installed along the east edge of the Trendwest and City property to Ranger Station Road; the treated water mains exit the water filtration building on the west side; the upper UGA pressure zone is pressure zone 3, not 1.

72. **[Completed]** Developer shall revise application Figure B.7.1. to indicate a gravity sewer line from the water treatment plant.

NOISE

73. Construction hours within the UGA shall be limited to 7:00 AM to 7:00 PM, Monday through Saturday. Sunday construction shall be on an emergency basis only and shall be approved by the City. Equipment servicing and maintenance times will be unrestricted. The City may review and approve case-by-case exceptions to this Condition if justified to comply with DNR industrial restrictions.

74. All construction equipment shall have adequate mufflers, intake silencers, and engine closures to minimize construction equipment noise.

75. Any stationary equipment that generates noise shall be located away from sensitive receivers, including residential uses, the school property, the cemetery and open space areas.

76. Roof equipment in the business park may require noise baffling, if necessary, to meet State noise standards. This Condition will be reviewed and any baffling requirements imposed as part of the building permit review for the business park buildings.

CEMETERY

77. Developer shall set aside approximately 10 acres, as shown on the Conceptual Site Plan, for the City to acquire for cemetery expansion, at a fair market value using comparables and appraisals that are reasonable considering the proposed cemetery use, as distinguished from residential or business park use. The uses on this parcel shall be limited to cemetery uses. This land shall be reserved for City acquisition throughout the duration of the Development Agreement and these Conditions of Approval.

78. That portion of the business park property adjacent to the existing City cemetery property shall provide a minimum 50-foot buffer on the business park parcel to buffer the existing cemetery from the business park activity. Developer shall supplement existing buffer plantings in this area with additional plant material where appropriate to accomplish a 75 percent screen of the business park development from the existing cemetery within 5 years after planting. This buffer shall be placed in a separate tract as part of the plat or binding site plan for this portion of the business park, and Developer shall record a conservation easement, or other appropriate plat restrictions, on this buffer area to ensure the buffer functions in perpetuity. This buffer area may not be included in any lots or required building setback requirements for this portion of the business park development.

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For that portion of the business park adjacent to the cemetery expansion area, the business park shall not be required to provide any buffer. The buffer shall instead be provided on the cemetery expansion parcel and shall be the responsibility of the City. The cemetery parcel appraisal described in Condition 77 should reflect this City buffer requirement.

SCHOOLS

79. **[Completed]** Developer shall dedicate approximately 25-30 useable acres to the Cle Elum-Roslyn School District for the purposes of school expansion and associated uses, consistent with the requirements of the School District Mitigation Agreement. This parcel shall be limited to school uses.

CULTURAL RESOURCES

80. Developer shall not take any measures that encourage access or discovery of significant cultural resources sites within the Cle Elum River open space area or the Horse Park Reserve Tract. Only grading or construction activity consistent with the provisions of the Cooperative Agreement shall be permitted in this open space area.

81. Consistent with City code requirements, the City will give the Yakama Nation notice and opportunity to comment on all proposed preliminary plats or binding site plans, or building or grading permits that can be issued without a plat or binding site plan on all lands within the cultural resource areas identified in the report titled A Land Use History of the Proposed MountainStar Resort: *The Results of a Cultural Resource Survey Along the Lower Cle Elum River* (Griffin & Churchill 1998) for the purposes of identifying any reasons to modify the proposal to protect known, significant cultural resources. If the Yakama Nation provides substantial evidence that the area proposed for grading and development is an area identified as a potential significant cultural resource area, then the City may require additional probing, assessment, and potential mitigation measures prior to issuing the construction or development approval.

82. Developer shall comply with all applicable requirements of RCW 27.44 and RCW 27.53 regarding cultural and historic resources, including involvement of the State Office for Historic Preservation, when appropriate, including but not limited to, the requirement to immediately stop construction and notify the City and the State Office of Historic Preservation if any artifacts are uncovered during construction. Developer shall hire an archaeologist to instruct contractors and subcontractors working on the site on how to identify potential cultural resources during construction and what steps to take if potential resources are discovered.

TRANSPORTATION

83. Developer shall be responsible for all costs associated with the construction of all on-site transportation facilities and all access points to the UGA property from Bullfrog Road, SR 903 and West First Street and Ranger Station Road and shall dedicate completed facilities to the City of Cle Elum upon final plat approval, or upon completion if the improvements are subject to the bonding provisions of Condition 10 and the Development Standards, Attachment 2. In case of the West First Street and Ranger Station Road connection, the City shall use such measures as are reasonably necessary to acquire any additional right-of-way needed for this access. To the maximum extent possible, each parcel preliminary plat shall identify those on-site improvements that are required for development of each parcel and those parcel improvement obligations shall be the responsibility of each parcel developer. Developer shall remain responsible for construction of those

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on-site transportation improvements that are necessary to provide access to the individual parcels. Attachment 2, Development Standards govern design and construction of the on-site vehicular and pedestrian transportation facilities. Additionally, the phasing and scheduling of individual plats will be conducted to ensure the development of a cohesive and integrated transportation network in order to prevent any transportation discontinuities. The extension of the arterial network onto Ranger Station Road will include a transitional design in recognition of their differing road cross sections.

84. As shown on Attachment 1, no direct access from the UGA property to I-90 shall be permitted. In addition, access to SR 903 and to Bullfrog Road shall be limited to 3 access points on Bullfrog Road and one access point on SR 903 in the approximate locations shown in Attachment 1. The precise locations of these access points shall be determined as part of the Master Plat Approval described in Section 5 of the Development Agreement, after consultation with Kittitas County Public Works and WSDOT to address any design issues related to their improvements and their rights of way.

85. Compliance with the to be executed Agreement for Mitigation and Monitoring of Transportation Impacts Associated with the Bullfrog UGA Development shall satisfy Developer's obligation to mitigate transportation impacts for the Bullfrog UGA development as approved in the 2002 Development Agreement.

A. [Replaced by Condition 85]

B. [Replaced by Condition 85]

C. [Replaced by Condition 85]

D. [Replaced by Condition 85]

E. [Replaced by Condition 85]

F. [Replaced by Condition 85]

G. [Replaced by Condition 85]

86. [Replaced by Condition 85]

A. [Replaced by Condition 85]

B. [Replaced by Condition 85]

C. [Replaced by Condition 85]

D. [Replaced by Condition 85]

E. [Replaced by Condition 85]

87. [Replaced by Condition 85]

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1 88. [Replaced by Condition 85]

2 89. [Replaced by Condition 85]

3 A. [Replaced by Condition 85]

4 i. [Replaced by Condition 85]

5 ii. [Replaced by Condition 85]

6 B. [Replaced by Condition 85]

7
8 90. Construction Trucks shall be routed, to maximum extent possible, on temporary
9 construction routes within the UGA or MPR site, rather than relying on public roads outside of the
10 project boundary. If necessary to protect the public health, safety, and welfare, the City may impose
11 reasonable additional truck route requirements, applicable to the City as a whole.

12 91. [Not Applicable] If UGA development proceeds without MPR development and,
13 therefore, the City and County are unable to obtain proportionate shares for off-site improvements
14 from the MPR development, then Developer and the City agree to renegotiate appropriate off-site
15 mitigation measures and proportionate shares without MPR development. Any dispute arising out of
16 such re-negotiations shall be subject to the Mediation and Arbitration Agreement, dated December 7,
17 1999, Attachment 3.

18 92. [Replaced by Condition 85]

19 A. [Replaced by Condition 85]

20 B. [Replaced by Condition 85]

21 C. [Replaced by Condition 85]

22 D. [Replaced by Condition 85]

23 E. [Replaced by Condition 85]

24 F. [Replaced by Condition 85]

25 93. The Business Park developer shall submit with the first plat or binding site plan for
the business park, a Transportation Demand Management plan ("TDM") to mitigate a portion of the
impacts from the proposed business park development, including carpooling incentives,
consideration of the feasibility of a shuttle service, bike racks and on-site facilities that encourage
employees to walk, run or bike to work, and other measures reasonably designed to reduce the
reliance on single occupancy vehicles to get to work. Such TDM efforts may be coordinated with
similar efforts on the MPR. This TDM shall be reviewed and approved by the City as part of the first

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business park plat or binding site plan and where applicable, should be included in the terms of any sales or leases of business park property.

94. Developer agrees to participate with the City and the School District in petitioning WSDOT to reduce the speed limit on SR 903 adjacent to the school property as needed to address potential safety concerns. Developer also agrees to work with the City through the monitoring program to collect information on the I-90 Bullfrog Westbound On Ramp and present this information to WSDOT as necessary to support revisions to the weigh station exit/on ramp configuration.

GOVERNMENT FACILITIES AND SERVICES AND FISCAL IMPACTS MITIGATION

95. Developer shall be responsible for the following costs associated with the government facilities and services. The costs shall be accounted for pursuant to the shortfall accounting methodology described in Condition 98 below. Where appropriate and available, the City will first consider and pursue acquisition of used or surplus equipment, if such equipment reasonably can meet the City's needs and specifications and if future replacement of such used or surplus equipment is not expected to occur until after City revenues are more than adequate to accommodate that future replacement. The MFSEP mitigation measures are, generally, as follows;

A. Development review and inspection costs shall be fully recovered as a processing cost, separate from shortfall mitigation, except to the extent shortfall surpluses may be applied to future processing costs after termination as described in Condition 98(H).

B. For all complete land use applications submitted by October 30, 2027, Law Enforcement Mitigation shall include in fiscal shortfall accounting the costs for the personnel and equipment necessary to maintain a level of service standard of 2 officers per 1,000 population, with the expected phase-in of new officers and associated equipment approximately as described below. The City may hire the additional officer sufficiently in advance of the threshold indicated so that all training is complete by the threshold point:

- i. First new officer when construction has commenced on a total of 15 percent of the residential units;
- ii. The second new officer when construction has commenced on 30 percent of the residential units;
- iii. The third new officer when construction has commenced on 45 percent of the residential units;
- iv. The fourth new officer when construction has commenced on 60 percent of the residential units;
- v. The fifth new officer when construction has commenced on 75 percent of the residential units;
- vi. Officer training, firearms and other officer equipment/accessories as each new officer is hired;

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- vii. 1 patrol car for each 2 new officers, starting with the first hire;
- viii. 1 4WD vehicle for each 2 new officers, starting with the second hire; and;
- ix. Vehicle equipment for each vehicle purchased.

All land use applications submitted on or after October 31, 2027 shall be subject to the applicable standards as set forth in Sections 3.6-3.8 of the Development Agreement, as amended by the Second Amendment.

C. For all complete land use applications submitted by October 30, 2027, Fire Protection Mitigation shall include in fiscal shortfall accounting the following costs for personnel equipment and facilities at the thresholds indicated:

i. **[Not Applicable]** The cost to repay \$600,000 in general obligation bonds issued by the City to use with matching grant funds to remodel the main fire/ambulance station.

ii. **[Not Applicable]** One-half of the funding for a full-time fire chief starting in the year construction commences.

iii. Developer will provide one (1) fully trained firefighter at the following increments of development: the commencement of construction, when construction commences on any residential units in excess of 33 percent of development, and when construction commences on any residential units in excess of 60 percent of development. Provided that the City's fire chief may determine, at his/her sole discretion, that the developer may substitute 2 new fully trained volunteer firefighters available to respond to calls and meet the city's level of service response time. Response times will be monitored by the City to verify the level of service.

iv. Developer intends to commence construction activities in 2025 and has submitted clearing and grading permit applications to the City. The updated fiscal analysis shows that the project is not expected to generate revenues until 2026, reflecting a lag in revenues from property taxes and sales and use taxes from new construction. To mitigate this expected lag in revenue, and to address Developer's obligation to provide one fully trained firefighter at the commencement of construction, Developer shall make a one-time payment of \$100,000 to the City for the cost of a fully trained firefighter (based on the assumptions regarding annual salary, benefits, training, equipment, and other overhead costs set forth in the updated fiscal analysis). This payment shall be made within 30 days after the City's final decision on the Master Plat and associated applications and the expiration of applicable appeal periods, or if an appeal is filed, upon satisfactory resolution or conclusion of the appeal as shall be mutually determined by the City and Developer.

v. Developer acknowledges that it may be necessary to provide firefighters in advance of the trigger points identified if necessary to ensure completion of the required training by those trigger points.

vi. The costs associated with the training, firefighter clothing, and equipment for each volunteer or full-time firefighter will be addressed through revenues generated by the

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project if sufficient revenues are available, or pursuant to the shortfall provision included in the conditions of approval if a deficit occurs.

vii. \$20,000 toward the price of tactical tender when construction commences.

viii. Developer will either make arrangement for the City to share the Fire District No. 7 fire tender included in the MPR mitigation, or provide funding through the shortfall account for a fire tender, when construction commences.

All land use applications submitted on or after October 31, 2027 shall be subject to the applicable standards as set forth in Sections 3.6-3.8 of the Development Agreement, as amended by the Second Amendment.

D. For all complete land use applications submitted by October 30, 2027, Public Works mitigation shall include in the fiscal shortfall accounting the costs for the following personnel equipment, and facilities at the appropriate thresholds indicated:

i. A street sweeper in the first season when street sweeping is required after the City has assumed maintenance responsibility for street sweeping in the UGA.

ii. A snow plow (road grader with wing) in the first winter when the City has assumed responsibility for snow removal on roads in the UGA.

iii. A front-end loader in the first winter when the City has assumed responsibility for snow removal on roads in the UGA.

iv. A dump truck/sander with blade in the first winter when the City has assumed responsibility for snow removal on roads in the UGA.

v. The fiscal shortfall accounting shall also include the cost of appropriate equipment to handle snow removal on the pedestrian/bike trail located in the public right of way adjacent to the arterials in the first winter when the City has assumed responsibility for snow removal on these pedestrian trails in the UGA.

vi. A mower in the first season when the City has assumed maintenance responsibility for park areas or landscaped areas in the UGA.

vii. One full time public works staff person in the first year the City has assumed any maintenance responsibilities for the streets and/or the parks within the UGA.

viii. A four bay lean-to storage facility to be constructed at the water treatment plant site at the time the City acquires any of the public works equipment listed above.

All land use applications submitted on or after October 31, 2027 shall be subject to the applicable standards as set forth in Sections 3.6-3.8 of the Development Agreement, as amended by the Second Amendment.

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1 E. **[Completed]** Funding for the City Administrator and City Planner position shall be
continued as part of the overall shortfall accounting and mitigation described in Condition 98.

2 F. Funding for an appropriate share of the general government personnel, equipment,
3 and/or facilities based on the UGA's proportionate share of the City population as described in the
FEIS fiscal appendix.

4 96. Developer or the Parcel Developer shall pay all City costs, including reasonable staff
5 and consultant fees associated with the City's review and processing of implementing development
6 permits such as plats, binding site plans and that portion of building and grading permit reviews that
7 relate to assessing consistency with Master Site Plan Approval Conditions pursuant to the provisions
8 of the "Agreement for Payment of Professional/Staff/Consultant Services" executed June 28, 2024
9 and the Restated and Amended Agreement for Payment of Professional, Staff and Consultant
10 Services dated August 27, 2002, a copy of which is attached as Attachment 6 ("Processing Costs").
Building Code reviews shall be covered by the standard building permit fee. In addition, Developer
shall be responsible for all reasonable staff and consultant costs to prepare and implement any
implementing agreements or programs identified in the Conditions of Approval, such as the
monitoring program(s).

11 97. Capital and Operation and Maintenance costs associated with water and sewer
12 utilities are or will be covered under separate agreements.

13 98. An updated fiscal analysis for the Bullfrog Flats Project is included in the 2025 EIS
14 Addendum. It concludes that the proposed development will result in an annual and cumulative fiscal
15 surplus to the City of Cle Elum during the study period. In recognition of the uncertainty in
16 forecasting long-term fiscal impacts, however, the assumptions used in this analysis should be
17 monitored, reviewed, and updated (including but not limited to assumptions regarding capital
18 equipment, vehicles, facility upgrades, and other improvements) at the following intervals: (1)
19 following final City action on the Bullfrog Flats application for Master Plat approval and the
20 expiration of any applicable appeal periods; (2) following completion and occupancy of Phases S-1,
21 S-2, and J (approximately 1/3 of total units); (3) at completion of the subsequent approximate 1/3 of
22 planned units; and (4) 1 year following completion of the development. The City may, at its
discretion, also require additional or alternative monitoring in conjunction with any extension of the
Development Agreement (through October 30, 2037 or beyond) or in conjunction with any major
modification to the Bullfrog UGA development approved in the 2002 Development Agreement.
Monitoring, and/or an optional mitigation agreement, shall also address potential impacts to
KITTCOM. This monitoring program may be performed by City staff and/or a financial consultant
hired by the City, and costs shall be the responsibility of the applicant. The financial consultant or
city staff will determine accounting procedures, necessary forms and other details of the monitoring
program. The revenue analysis will monitor the relevant taxes considered in the fiscal analysis, and
the cost analysis will consider applicable level of service standards.

23 In addition, to ensure that any unanticipated or transitory fiscal deficits are
24 identified and mitigated, the applicant shall be required to compensate the City for any shortfall of
25 revenues received relative to costs incurred by the City directly related to this project. In the event
that any of the analyses performed under the monitoring program identifies a fiscal shortfall, prior to
issuing any additional permits or approvals for any development within the UGA, the City and the

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applicant shall enter into an agreement that will address the applicant's obligations to make fiscal shortfall payments.

A. [Replaced by Condition 98]

B. [Replaced by Condition 98]

C. [Replaced by Condition 98]

D. [Replaced by Condition 98]

E. [Replaced by Condition 98]

i. [Replaced by Condition 98]

ii. [Replaced by Condition 98]

iii. [Replaced by Condition 98]

iv. [Replaced by Condition 98]

v. [Replaced by Condition 98]

vi. [Replaced by Condition 98]

vii. [Replaced by Condition 98]

viii. [Replaced by Condition 98]

ix. [Replaced by Condition 98]

x. [Replaced by Condition 98]

F. [Replaced by Condition 98]

i. [Replaced by Condition 98]

ii. [Replaced by Condition 98]

iii. [Replaced by Condition 98]

iv. [Replaced by Condition 98]

v. [Replaced by Condition 98]

vi. [Replaced by Condition 98]

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vii. [Replaced by Condition 98]

viii. [Replaced by Condition 98]

ix. [Replaced by Condition 98]

x. [Replaced by Condition 98]

xi. [Replaced by Condition 98]

xii. [Replaced by Condition 98]

xiii. [Replaced by Condition 98]

G. [Replaced by Condition 98]

i. [Replaced by Condition 98]

ii. [Replaced by Condition 98]

H. [Replaced by Condition 98]

I. [Replaced by Condition 98]

J. [Replaced by Condition 98]

K. [Replaced by Condition 98]

99. [Completed] The Developer and the School District shall enter into a School District Mitigation Agreement substantially in the form described in Attachment 9 prior to the first residential final plat. Trendwest shall provide the City an annual statement of compliance with the School Mitigation Agreement between Trendwest and the School District, with a copy to the School District. Failure of the School District to object within thirty days after the date of receipt of the statement shall be deemed sufficient reason for the City to rely on the Statement of Compliance for subsequent permit reviews.

100. [Completed] The Developer and the Hospital District shall enter into a Hospital District Mitigation Agreement substantially in the form described in Attachment 10 prior to the first residential final plat.

101. [Replaced by Condition 98]

102. The City and the Developer acknowledge that grants or other sources of public funding should be applied first to the City share of public facility or service obligation and then, if there is any excess beyond the City share, to Developer's share.

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1 The Agreement for Mitigation and Monitoring of Transportation Impacts Associated
2 with the Bullfrog UGA Development and the Agreement for Mitigation and Monitoring of Water
3 Impacts Associated with the Bullfrog UGA Development contain separate provisions regarding
4 grants and other sources of public funding that apply to those agreements; Condition Nos. 102-103
5 do not apply to those agreements.

6 103. The City agrees to take steps required to establish reasonable and legally defensible
7 means to obtain pro-rata shares for public facilities and services from other new development or
8 regional users who benefit from the facility or service expansion, provided nothing in this Condition
9 should be construed to obligate the City to establish such a measure without complying with all
10 constitutional and statutory requirements for consideration of such mechanisms and only if the City
11 then determines, in its sole discretion, that establishment of the reimbursement mechanism and the
12 associated costs are consistent with those requirements.

13 **BUILDING PERMITS AND FIRE SAFETY CONSTRUCTION**

14 104. Building permit applications shall be subject to the building codes in effect on the
15 date of the complete building permit application.

16 105. Washington Department of Natural Resources Industrial Precautions shall apply to
17 all equipment and clearing and grading activities within the UGA until hydrants are operational.

18 106. The land stewardship plan required by the Cooperative Agreement, including a plan
19 for control of noxious weeds, shall apply to construction within the UGA.

20 107. Land Clearing debris shall be disposed of consistent with current standards and
21 conditions.

22 108. Any emergency vehicle access other than the public rights-of-way shall be
23 coordinated with the City of Cle Elum and Kittitas County Fire Marshall.

24 109. Prior to the first preliminary plat or building permit application for residential
25 construction, the development standards shall be supplemented to include recommendations or
requirements for vegetative clearance, defensible space and structural designs and materials
consistent with the Recommendations for Fire Safety and Prevention of Forest and Range Land in
Kittitas County Including Rural, Commercial, and Private Development (updated March 1999). All
construction, including single-family residential construction, shall meet the requirements of the
Uniform Fire Code, including the option of sprinklering single-family construction if reduced fire
flow is provided. Road Standards shall be as provided in the Development Standards, Attachment 2.

26 **UTILITIES**

27 110. Consistent with the Transfer of Obligations provisions of the Development
28 Agreement, Developer or the individual parcel developer, whichever is applicable, shall be
29 responsible for all of the costs to construct all water, sewer and stormwater facilities on site, in the
30 general facility locations shown in Attachments 11, 12 and 13. Said utilities shall be constructed
31 consistent with these Conditions, the City's current Construction Standards, the 2002 Development

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Standards (Attachment 2), and the Site Engineering Technical Report attached as Appendix E to the FEIS. The Staff Report describes the priority of which standards apply to the applicable construction.

111. Water Supply and Treatment Mitigation Measures are covered in the separate water agreements identified in Conditions 64 and 65 and in the Agreement for Mitigation and Monitoring of Water Impacts Associated with the Bullfrog UGA Development.

112. **[Completed]** Wastewater Treatment Mitigation Measures are covered in the Interim Wastewater Treatment Facility Project Development Agreement between Cle Elum, South Cle Elum and Trendwest, dated 7/26/00, and will be further addressed in a future Regional Wastewater Treatment Agreement(s) as necessary to provide adequate treatment capacity for UGA development.

113. Developer shall coordinate with private utility providers to provide for electricity, natural gas and telecommunications. All service lines shall be installed underground. Any utility providers within the public right-of-way in the UGA property shall be subject to the terms of any applicable City utility franchise agreement now or hereafter executed by the City.

114. **[Completed]** Developer shall contribute its pro-rata share to the costs to construct improvements to the solid waste transfer station, consistent with the requirements described in the Kittitas County Solid Waste Management Plan Amendment for the Trendwest MPR and UGA dated November 2000.

[Ongoing] Developer shall further handle all construction debris, shall separate recyclable materials and shall otherwise handle all of its solid waste and household hazardous waste consistent with the requirements for such handling in the Kittitas County Solid Waste Management Plan. The same requirements shall apply to development of the business park parcel, based on its pro-rata share.

115. Issuance of Certificates of Sewer Availability for the MPR and UGA combined shall be based initially on the capacity available to Developer pursuant to the terms of the Interim Wastewater Treatment Facilities Project Development Agreement dated July 26, 2000. Once the City and Developer have executed an agreement for wastewater treatment service provided by the Regional Wastewater Treatment facility, issuance of Certificates of Sewer Availability shall be governed by the provisions of that agreement.

GENERAL PROVISIONS

116. Definitions

A. "Developer" shall mean Bullfrog Flats LLC, as owner and developer of the real property described in Attachment 14, together with their successors and assigns to all or any portion of the UGA property, provided that nothing in this definition shall be construed to alter any of the requirements for transfers of obligations as described in the Development Agreement for the UGA Property.

B. Plural shall include the singular and vice-versa.

C. Masculine shall include the feminine and vice-versa.

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1 D. UGA Property shall mean the real property described in the legal description
attached to these Conditions as Attachment 14.

2 E. "Master Plat" shall refer to the initial subdivision of Developer ownership into the
3 individual development parcels generally as shown on Attachment 1, as required by the
Development Agreement.

4 117. **[Completed]** The terms of the Preannexation Agreement dated July 26, 2000 have
5 been satisfied upon annexation of the UGA Property and with imposition of these Conditions of
6 Approval and the associated Development Agreement, provided that, if Developer does not proceed
7 with development of the UGA and elects to terminate the Master Site Plan Approval and the
8 Development Agreement, Trendwest shall be obligated to reimburse the City for all its expenses
reasonably incurred in an effort to restore the City to its pre-Trendwest fiscal condition, as described
in the Section 10.6 of the Development Agreement, or in separate infrastructure agreements.

9 118. For purposes of these Conditions, any Condition that references review and approval
10 by the City, without specifying which entity in the City, shall mean review and approval by the same
11 City entity that is responsible by City ordinance for the associated permit or decision that triggered
the review. If there is no associated permit or decision triggering the Condition, then review and
approval by the City shall mean review and recommendation by the City staff with decision by the
City Council.

12 119. These Conditions shall be interpreted, to the maximum extent feasible to be
13 consistent with the terms of the Development Agreement between the City of Cle Elum and
14 Trendwest, dated August 27, 2002, as amended by the Second Amendment, and with the terms of the
City's final decision on Bullfrog Flats' applications, File Nos. PMU-2024-002, BLA-2024-004,
15 SUB-2024-001, -002, and -003.

16 120. **[Not Applicable]** This Master Site Plan Approval is based on the maximum size
17 MPR as defined in the RIDGE Settlement Agreement. If, for any reason, Developer applies for
18 preliminary plats or construction permits for development in excess of the limits established in the
19 RIDGE Settlement Agreement or contrary to any of the Trendwest obligations identified in Section 1
20 of the RIDGE Settlement Agreement that could have different cumulative impacts from those
21 identified in the FEIS, then no new development or construction permits shall be issued in the UGA
site unless and until the City has determined whether additional SEPA review and/or mitigation
measures are required to address unanticipated cumulative impacts of the increased size or revised
MPR and the City has completed any necessary review and imposed any necessary mitigation
measures.

22 121. The Bullfrog UGA development shall comply with all conditions of the 2002
23 Development Agreement, as amended by the Proposed Amendment and any other amendments
24 allowed under the 2002 Development Agreement and made as part of the City's final decision on the
applications. The complete list of conditions is set forth in Attachment B of the City's Staff Report,
Exhibit C-03.

25 122. The approvals granted herein shall be subject to all federal, state, and local laws,
regulations, and ordinances as applicable pursuant to the 2002 Development Agreement, as amended.

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1 Compliance with such law, regulations, and ordinances is a condition precedent to the approvals
2 granted, and compliance is a continuing requirement of such approvals. By accepting the approvals,
3 the applicant represents that the development will comply with such laws, regulations, and
4 ordinances. If, during the term of the approvals granted, the development and activities permitted do
5 not comply with such laws, regulations, and ordinances, the applicant shall promptly bring such
6 development or activities into compliance.

7
8 123. Prior to final plat approval for Phases S-1, S-2, and J, and as a condition of the
9 Master Plat, the City and Bullfrog Flats shall enter into the Agreement for Mitigation and Monitoring
10 of Transportation Impacts Associated with the Bullfrog UGA Development, on substantially the
11 same terms as set forth in Attachment C to the Staff Report, Exhibit C-04, and Bullfrog Flats shall
12 make the Intersection Mitigation Measures account payments required by that Agreement.

13
14 124. Prior to final plat approval for Phases S-1, S-2, and J, and as a condition of the
15 Master Plat, the City and Bullfrog Flats shall enter into the Agreement for Mitigation and Monitoring
16 of Water Impacts Associated with the Bullfrog UGA Development (“Water System Mitigation
17 Agreement”), on substantially the same terms as set forth in Attachment D to the Staff Report,
18 Exhibit C-05, and Bullfrog Flats shall make the payments required by that Agreement. If the City
19 determines that any of the water improvements described in the Water System Mitigation Agreement
20 are triggered before the Water System Mitigation Agreement has been executed, then the City shall
21 have the right to pause its review of any pending applications for the Bullfrog UGA development
22 until the Water System Mitigation Agreement has been executed.

23 125. Conditions regarding Cultural Resources:

24 A. Condition regarding Memorandum of Understanding with Yakama Nation: The
25 Applicant has committed to pursue a Memorandum of Understanding (MOU) with
the Yakama Nation regarding the protection of Cultural Resources on the project
site. The Cultural Resources analyses in the SEIS and the Addendum do not identify
any direct impacts to resources located on the project site. In addition, the defined
open space corridor adjacent to the Yakima River is subject to a pre-existing formal
agreement that protects cultural and environmental resources within the defined
open space. Notwithstanding these conclusions, the Applicant understands and
appreciates that the Yakama Nation defines “cultural resources” more broadly than
archaeological artifacts, and that this definition encompasses the larger context of
historical activities and environmental conditions, including effects on soils, water,
fish and wildlife. The Applicant, therefore, agrees to pursue execution of an MOU
with the Yakama Nation that will address the potential for monitoring construction
activity proximate to culturally sensitive areas of the site, protocols to ensure
ongoing protection of the site’s environmental resources, and any other issues of
mutual concern to the parties.

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1 B. Onsite monitoring conducted by or under the direct supervision of a professional
2 archaeologist or cultural resources specialist shall take place during all ground
3 disturbing activities that require a grading permit under CEMC Ch. 15.30, including
4 clearing, grubbing, grading, construction excavations, and installation of any public
5 improvements not constructed by the City, with potential to intersect Holocene
6 deposits, which were observed up to 8.5 ft. below ground surface. The City's
7 cultural resource consultant shall develop a plan as soon as reasonably practicable
8 that will limit monitoring to areas of the site that meet the following additional
9 criteria:

- 10 i. areas identified by DAHP's predictive model as having a "high" or "very
11 high" probability for cultural resources; and
- 12 ii. areas of the site that were not surveyed and tested using geotechnical
13 borings and/or shovel probing as part of the updated investigations
14 presented in the 2020/2021 Supplemental EIS and 2023 Addendum.

15 Areas not subject to monitoring will nevertheless require preparation of a plan and
16 appropriate protocols for the inadvertent discovery of cultural resources.

17 The cultural resource consultant will determine the appropriate number of monitors
18 for each type and phase of proposed development in consultation with the applicant.
19 The applicant may select the professional archaeologist or cultural resources
20 specialist to conduct the monitoring.

21 If the applicant wishes to commence ground disturbing activities before the City's
22 cultural resource consultant has developed a plan, as an interim measure pending
23 development of the plan, the applicant shall provide monitoring for all areas where
24 ground disturbing activities occur.

25 126. Conditions regarding Critical Areas:

A. Geologic Hazards. The project site contains geologic hazards that are regulated by
the City's critical area ordinance. All development within the Master Plat shall
comply with the City's current critical area ordinance, set forth in CEMC 18.01.070
E or as may be amended in the future.

B. Wetland Buffers. The project contains wetlands that are regulated by the City's
critical areas ordinance, including the establishment and protection of wetland
buffers. All development within the Master Plat shall comply with the City's current
critical areas ordinance, set forth in CEMC 18.01.070 A or as may be amended in the
future. No impacts to wetlands or wetland buffers from the proposed project have

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1 been identified. Buffer averaging may be proposed to address unanticipated buffer
2 impacts pursuant to applicable code provisions.

3 127. Conditions Regarding Public Services Mitigation

4 A. Law Enforcement Mitigation. For all complete land use applications submitted by
5 October 30, 2027, mitigation and levels of service shall be as provided in the
6 original, unamended 2002 Development Agreement. All land use applications
7 submitted on or after October 31, 2027 shall be subject to the applicable standards as
8 set forth in Sections 3.6-3.8 of the Development Agreement, including but not
9 limited to current level of service standards, as amended by the Second Amendment.

10 B. Fire Department Mitigation. For all complete land use applications submitted by
11 October 30, 2027, mitigation and levels of service shall be as provided in the
12 original, unamended 2002 Development Agreement. All land use applications
13 submitted on or after October 31, 2027 shall be subject to the applicable standards as
14 set forth in Sections 3.6-3.8 of the Development Agreement, including but not
15 limited to current level of service standards, as amended by the Second Amendment.

16 C. Developer intends to commence construction activities in 2025 and has submitted
17 clearing and grading permit applications to the City. The updated fiscal analysis
18 shows that the project is not expected to generate revenues until 2026, reflecting a
19 lag in revenues from property taxes and sales and use taxes from new construction.
20 To mitigate this expected lag in revenue, and to address Developer's obligation to
21 provide one fully trained firefighter at the commencement of construction,
22 Developer shall make a one-time payment of \$100,000 to the City for the cost of a
23 fully trained firefighter (based on the assumptions regarding annual salary, benefits,
24 training, equipment, and other overhead costs set forth in the updated fiscal
25 analysis). This payment shall be made within 30 days after the City's final decision
26 on the Master Plat and associated applications and the expiration of applicable
27 appeal periods, or if an appeal is filed, upon satisfactory resolution or conclusion of
28 the appeal as shall be mutually determined by the City and Developer.

29 D. Public Works Mitigation. 2002 condition of approval No. 95d identifies public
30 works equipment and facilities that will be needed to maintain public roads, paths
31 and trails included in the master plat. The costs of this equipment have not been
32 identified and is not within the scope of the present fiscal analysis. Staff's
33 recommended condition relating to fiscal monitoring and shortfall, set forth in
34 Condition No. 98 in Attachment B to the Staff Report, Exhibit C-03, includes
35 provision for determining and mitigating the costs of public works equipment if and

to the extent that such costs are not covered by the net fiscal surplus associated with and attributable to the Bullfrog Flats project.

128. Upon approval of Bullfrog Flats' preliminary plat applications for Phases S-1, S-2, and J and the related engineering and clearing/grading permits that are required to begin construction of the development, and the expiration of any appeal periods, Bullfrog Flats will coordinate with Sun 47th North, LLC to have Sun 47 North's application for a major modification formally withdrawn.

129. Human/Wildlife Interaction.

A. To help minimize human/wildlife conflicts, the CC&Rs for the project will address such issues and may, where appropriate, require use of the following techniques: use of bear-proof garbage receptacles or a requirement to store garbage receptacles in a secure enclosure, clear signing of natural areas, informational signage about the risks associated with living near natural areas, well-marked common road crossings, well-marked speed limits, and environmental education (e.g., brochures and handouts) and outreach.

B. Consistent with CEMC 18.01.010⁵, the parties shall ensure that conditions and Project elements related to human/wildlife interactions in the Project are based upon best available science.

130. The parties to the Cooperative Agreement, which includes Bullfrog Flats as successor-in interest to Trendwest, WDFW, the Yakama Nation, Suncadia and the Kittitas Conservation Trust, will meet to discuss the conditions and agreements contained in the Cooperative Agreement.

⁵ CEMC 18.01.010, re: Purpose of City's Critical Areas regulations found in Ch. 18.01 CEMC, reads in part as follows: "*The purpose of this chapter is to protect the functions and values of critical areas, and to protect the public health, safety, and welfare of the citizens of Cle Elum. Additionally, this chapter is intended to protect public and private property and natural ecosystems found within city limits. The city of Cle Elum shall regulate all uses, activities and developments within, adjacent to, or likely to affect, one or more critical areas, consistent with the best available science and the provisions herein.* [...]." [emphasis added by Examiner].

1 **PRELIMINARY PLAT CONDITIONS OF APPROVAL**
2 **FOR PHASES S-1, S-2, AND J**

3 Adopted from Staff Report (pp. 38-42)

4 1. All Final Plat submittals shall include a note on the face of the plat which identifies
5 the purpose of all identified Tracts, including ownership information, such as an HOA, if applicable.
6 Tracts identified for access, stormwater or utility purposes shall be labeled “unbuildable”. Consider
7 flag lots or easements where tracts are proposed for access to one or more lots.

8 2. All Final Plat submittals shall include a lighting plan, consistent with the requirements
9 in the City’s lighting standards and Attachment 2 to the 2002 Development Agreement’s Conditions
10 of Approval.

11 3. Prior to approval of the final plat, all required improvements shall be constructed or
12 financially secured according to the standards and requirements of CEMC 16.30 and the 2002
13 Development Agreement, including but not limited to the following:

- 14 i. All lots shall be served with public water and public sewer from the City of Cle
15 Elum. Prior to final plat approval, written verification must be submitted to the
16 City indicating that all sewer and water extensions have been completed and
17 inspected or financially secured.
18 ii. All frontage improvements, including roadway, curb, gutter, sidewalks on both
19 sides of the streets, and streetlights shall be completed or bonded for.
20 iii. Civil engineering plans for public improvements shall be approved and a
21 Clearing and Grading permit issued by the City prior to construction or bonding
22 of public improvements.
23 iv. All construction of public improvements shall be inspected by the City of Cle
24 Elum or its authorized agent, at the developer’s expense.
25 v. The developer shall be responsible for scheduling and paying for all material
 and compaction testing for public improvements.
 vi. Record drawings shall be prepared by the Developer’s Engineer and delivered to
 the City.

 4. Requirements and options for bonding for final plat improvements will be determined
 as part of final plat review for Phases S-1, S-2, and J as set forth in Condition 10 of the Development
 Agreement.

 5. As a condition of final plat approval, the Applicant shall convey water rights to the
 city, sufficient to meet water supply requirements for the number of residential units in Phase J, S-1

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and S-2, as follows, based on 1 ERU equaling 209 gallons per day (0.234 acre feet) average annual demand and 0.7 gallons per minute (0.0019 cubic feet per second, cfs) peak hour demand:

- i. J: 164 dwelling units equals 164 ERUs; 38.4 acre feet Qa and 0.3116 cfs Qi
- ii. S-1: 103 dwelling units equals 103 ERUs; 24.1 acre feet Qa and 0.1957 cfs Qi
- iii. S-2: 130 dwelling units equals 130 ERUs; 30.4 acre feet Qa and 0.2470 cfs Qi

6. Fire Access Mitigation. The Applicant's clearing and grading permit applications for Phases S-1, S-2, and J shall incorporate an additional fire access route utilizing the existing powerline/utility corridor and the existing connection to SR 903. This access route shall not be required to meet all of the requirements of the 2021 International Fire Code, Appendix D; however, as part of the City's review of the clearing and grading permit applications, the City's fire chief may require the applicant to make improvements to this access route, including but not limited to grading and filling potholes, to ensure that the route can accommodate emergency vehicle access. Any improvements required by the fire chief shall be made before the Applicant may commence any other clearing and grading activities.

Before commencing construction of any buildings requiring a building permit, the Applicant shall provide a fire apparatus access road, approved by the City's fire chief, that connects either to SR 903 or to Douglas Munro Blvd.. The fire apparatus access road shall meet the requirements of the 2021 International Fire Code, Appendix D. Gravel or other approved driving surfaces may be used, so long as the surface is capable of supporting the imposed load of fire apparatus weighing up to 75,000 pounds, consistent with the USDOT FHWA's Gravel Road Maintenance and Design Manual.

7. Geologic Hazards. The project site contains geologic hazards that are regulated by the City's critical area regulations (CEMC 18.01.070 E). The project will trigger the requirements for preparation of a Geologic Hazards Geotechnical Report and will be conditioned pursuant to recommendations of the Geotechnical consultant, and consistent with the City Code, the International Building Code and Ecology's Stormwater Management Manual for Eastern Washington.

8. For lot 49 in Phase S-1, and lots 29, 30, 56, 57, 60, and 61 in Phase S-2, the impervious surface coverage limit is increased to 80%.

9. All flag lots are permitted to provide a five-foot side yard setback for portions of the flag lot that could be considered as a front property line but do not abut the right-of-way, as illustrated in Figure 1 (Depiction of 5' Flag Setback) of the City's Staff Report.

10. Right-of-way shall be dedicated as displayed on the preliminary plats for phases S-1, S-2, and J.

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11. A 10-foot wide utility easement shall be dedicated on the frontage of each lot that abuts a public right of way.

12. Minimum 15-foot wide utility easements shall be provided over public utilities not located in the right of way and shall have compacted gravel surfacing material to provide public works access.

13. Current 2024 City Construction Standards apply, except for the 2002 Construction Standards that the City and applicant have agreed will apply. The following is a non-exhaustive list of the 2002 Construction Standards that will apply: 1) Roadway Sections; 2) allowable length of cul-de-sacs (1,000 linear feet); 3) Dead-end water main length; 4) Water valve spacing; 5) Pavement Sections; 6) Storm Drainage Pipe material.

- a. Plan and profile views will be on separate sheets to help accommodate curved streets throughout the development. They are required to be on the same sheets by 2024 City of Cle Elum Standards, pages 2-3 and 2-4.
- b. We are proposing 8" dead end watermain that exceed the 2024 City of Cle Elum Standard limit of 300' (page 4-1). Our proposed dead-end lengths are approx. 500, and 650' which are in accordance with the 2002 Development Agreement's 1,500' maximum (page 124 of the Conditions of Approval).
- c. We are using the 2002 Development Agreement's maximum spacing for water valves of 1,200' (page 124 of the Conditions of Approval). The 2024 City of Cle Elum Standard is 750' maximum (page 4-2).
- d. We are proposing cul-de-sacs that exceed the 2024 City of Cle Elum Standard limit of 400' (page 7-1). Our proposed cul-de-sac lengths are 450' and 600' which are in accordance with the 2002 Development Agreement's 600' maximum (page 45 of the Conditions of Approval).
- e. Storm pipe crossings over potable water mains will use C900 pressure rated PVC for the stormwater pipe. 2024 City of Cle Elum Standards page 3-19 requires a pressure rated pipe casing around the watermain, extending 10 feet each side of the crossing in this scenario.
- f. Roadway sections shall follow the standards set forth in the development agreement rather than those within the 2024 City of Cle Elum standard details ST-1 through ST-4

14. Fire apparatus access roads shall be posted with permanent "No Parking – Fire Lane" signs complying with the IFC.

15. Construction of the Spine Road adjacent to the full extent of each phase is required prior to final plat approval for each phase.

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1 16. All three phases propose utilities outside of the right of way, while not explicitly
2 showing utility easements. Utilities shall be placed in the right of way and shall meet utility separation
3 standards , and if they are not located in the right of way, utility easements shall be placed over the
4 utilities.

5 17. The second connection to the existing Zone 3 water main shall occur prior to final plat
6 approval, for redundancy to serve the 397 dwelling units.

7 18. Utility connection charges, including any and all capital reimbursement charges, as
8 set forth in the Cle Elum Municipal Code, shall be paid to the City at the time of building permit
9 issuance. Connection charges do not vest and shall be paid at the current rate at the time of building
10 permit issuance.

11 19. All utilities, including water and sewer, must be connected and functioning prior to
12 approval of any occupancy permits.

13 20. Road names must be approved by KITTCOM prior to final plat approval.

14 21. Upon discovery of any human remains, artifacts, or evidence of potential
15 archaeological, historical, or cultural resources all construction activities or uses authorized shall be
16 suspended pending authorization to proceed from the City, and/or the Washington State Department
17 of Archaeology and Historic Preservation, in accordance with the provisions of state and federal law,
18 including, but not limited to RCWs 68.50.645, 27.44.055, and 68.60.055.

- 19 i. If ground disturbing activities encounter human skeletal remains during
20 construction, then all activity shall cease that may cause further disturbance to
21 those remains. The area of the find will be secured and protected from further
22 disturbance until the Washington State Department of Archaeology and Historic
23 Preservation (DAHP) provides notice to proceed. The finding of human skeletal
24 remains shall be reported to the Cle Elum Police Department and the Kittitas
25 County Coroner in the most expeditious manner possible. The remains will not be
touched, moved, or further disturbed. The County Coroner will assume
jurisdiction over the human skeletal remains and decide whether those remains
are forensic or non-forensic. If the County Coroner determines the remains are
non-forensic, then they will report that finding to the Department of Archaeology
and Historic Preservation who will then take jurisdiction over the remains. The
DAHP will notify any appropriate cemeteries and all affected tribes of the find.
The State Physical Anthropologist will make a determination of whether the
remains are Indian or Non-Indian and report that finding to any appropriate

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cemeteries and the Confederated Tribes and Bands of the Yakama Nation, the Confederated Tribes of the Colville Reservation, and the Snoqualmie Tribe. The DAHP will then handle all consultation with the affected parties as to the future preservation, excavation, and disposition of the remains.

- ii. If ground disturbing activities encounter artifacts, or evidence of potential archaeological, historical, or cultural resources during construction, then all activity shall cease that may cause further disturbance to those items. The Project Sponsor shall immediately contact the Cle Elum Planning Department to determine how best to secure the site and to consult with the Confederated Tribes and Bands of the Yakama Nation, the Confederated Tribes of the Colville Reservation, the Snoqualmie Tribe, and the DAHP.

22. The final plats for phases S-1, S-2, and J shall include all required information in CEMC 16.30.020.

23. In accordance with CEMC 16.30.040, the final plats for phases S-1, S-2, and J shall be submitted to the city within 5 years of the date of preliminary plat approval.

24. All addresses shall be clearly shown on the face of the Final Plat (RCW 58.17.280). Additionally, a note shown on the face of the Final Plat stating: "The addresses shown on this plat are accurate as of the date of recording, but may be subject to change". The City of Cle Elum Public Works Department is responsible for the confirmation or reassignment of addresses at the time of building permit issuance. The following address shall be utilized for the created lots, see Exhibit C-74.

****End of Conditions.***

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