

City of Cle Elum
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CITY OF CLE ELUM
FINDINGS of FACT, CONCLUSIONS, & RECOMMENDATION
for
AN AMENDMENT TO THE BULLFROG FLATS DEVELOPMENT AGREEMENT

File Number: PMU-2026-001

APPLICANT:	Blue Fern
APPLICANT ADDRESS:	18300 Redmond Way, Suite 120, Redmond, WA 98052
PROPERTY OWNER:	Bullfrog Flats, LLC
PROPERTY OWNER ADDRESS:	18300 Redmond Way, Suite 120, Redmond, WA 98052
PROJECT 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 NUMBER(S):	964102, 12034, 964103, 964104, 964106, 964107, 964108, 955367
DATE OF REQUEST:	May 28, 2026
DATE OF COMPLETENESS:	June 1, 2026
DATE OF HEARING:	August 18, 2026
STAFF CONTACT:	Colleda Monick, Planning Consultant

I. DESCRIPTION OF REQUEST:

Bullfrog Flats LLC has submitted an application for a Major Amendment to the Bullfrog UGA Development Agreement to amend Conditions of Approval Nos. 14 and 15 seeking approval to locate marketing and sales facilities within residential neighborhoods, whereas such uses would otherwise be directed to commercial areas of the Bullfrog UGA. The amendment would establish standards for these uses and provide a framework for marketing and sales activities associated with the phased build out of the approximately 1,334 dwelling units authorized under the Development Agreement.

II. SUMMARY OF RECOMMENDATION:

The Administrative Official recommends approval, subject to the findings and recommended amendment language contained herein.

III. FACTS:

A. Processing

Pursuant to Section 6.5 of the Bullfrog UGA Development Agreement, amendments to the Development Agreement are processed as Major Modifications. The application is being processed as a Type IV application pursuant to CEMC Chapter 14.30, with a recommendation from the Hearing Examiner and final action by the City Council. Procedural

review is governed by current City regulations, while vested development standards and permitted uses are governed by the Bullfrog UGA Development Agreement and associated Conditions of Approval.

1. The application for amendment was submitted on May 27, 2026.
2. The application was deemed complete for processing on June 1, 2026.
3. Notice of Application was sent to the applicant, agencies with jurisdiction, adjoining property owners within 300 feet of the subject property, the Confederated Tribes and Bands of the Yakama Nation, Confederated Tribes of the Colville Reservation, and the Snoqualmie Tribe on June 11, 2026. The comment period ended on June 25, 2026, and comments were received from three (3) members of the public.
4. The subject property was posted with land use action signs on Bullfrog Road, SR 903 and Douglas Munro Way on June 11, 2026.
5. On July 30, 2026, a Notice of Public Hearing and Staff recommendation were made available for public review on the city's website.
6. A legal notice for the public hearing was published in the Northern Kittitas County Tribune on July 30, 2026.
7. An Open Record Public Hearing with the Hearing Examiner is scheduled for August 18, 2026.
8. Environmental Review: The Bullfrog UGA was previously analyzed through an Environmental Impact Statement (EIS) completed in conjunction with approval of the original Bullfrog UGA Development Agreement.

The proposed amendment does not authorize additional dwelling units, increase development density, expand the development footprint, or modify infrastructure requirements. The amendment merely clarifies and authorizes a use for marketing and sale of residential units within the residential area of a master development.

The SEPA Responsible Official reviewed the proposal and determined that additional environmental review is not required. The proposal does not constitute a substantial change to the approved development and does not create probable significant adverse environmental impacts beyond those previously evaluated.

B. Current Zoning and Land Use:

The subject properties are located within the Bullfrog UGA and are governed by the Bullfrog UGA Development Agreement and associated Conditions of Approval.

The affected areas are designated for residential development under the approved Master Plan and Bullfrog UGA Development Agreement. Residential development is currently underway within approved phases of the project.

C. Applicable Law:

This project is subject to the vesting provisions of the Bullfrog UGA Development Agreement. Pursuant to those provisions, the application was reviewed for consistency with the following:

- The goals and policies of the Cle Elum Comprehensive Plan and the zoning designation for the property effective as of the vesting date (October 30, 2002).
- The 120 Conditions of Approval contained in Attachment B to the Bullfrog UGA Development Agreement dated October 30, 2002.
- The Development Standards approved as Attachments to the Conditions of Approval, specifically Attachment 2 Development Standards, which also includes the May 2002 City of Cle Elum Construction Standards for the Private Construction of Public Facilities for Properties Subject to the Cle Elum UGA Master Site Plan.

D. Public Comments

During the public comment period, the City received comments from three (3) citizens. A summary of the comments and City responses is provided below.

1. On June 11, 2026, **Elizabeth M. Kurtz** provided written comments as summarized below:

Ms. Kurtz submitted written comments opposing the proposed amendment. Ms. Kurtz expressed concern that approval of the amendment could encourage challenges to the existing Development Agreement, potentially resulting in additional legal costs, delays, and risks to the City. She also stated that the request was not included in earlier discussions or public comment opportunities and expressed concern that any resulting tax increases or public expenditures should not be borne by local residents and taxpayers. Ms. Kurtz concluded that the timing of the proposed amendment is inappropriate.

Staff Response: The proposed amendment is limited in scope to a request to allow temporary marketing and sales facilities associated with the sale of residential units within the Bullfrog Flats development. If approved, the amendment would not modify the approved land use plan, increase the number of permitted dwelling units, expand development capacity, or alter the fiscal mitigation obligations established under the 2002 Development Agreement.

The commenter also notes that the request was not included in prior public discussions or comment periods. Because this request was submitted following approval of the existing Development Agreement and subsequent amendments, it is being processed as a separate application in accordance with the amendment procedures established in the Development Agreement and the City's vested development regulations. Notice of the application and public hearing has been provided as required, and interested persons have been afforded the opportunity to submit written comments and provide testimony before the Hearing Examiner and, ultimately, the City Council prior to any final decision.

The concerns regarding potential legal challenges, project delays, or future public expenditures are speculative in nature. Staff's review is limited to evaluating whether the requested amendment satisfies the applicable review criteria contained in the Development Agreement and the City's vested development regulations. Staff is not aware of any evidence demonstrating that approval of the requested amendment would affect the validity of the existing Development Agreement.

2. On June 12, 2026, **Stephen Malek** provided written comment as summarized below:

Mr. Malek submitted comments opposing the proposed amendment. Mr. Malek stated that the applicant has not demonstrated a need for separate marketing and sales facilities within residential areas and suggested that model homes could serve the same function. He cited examples of other residential developments that utilized model homes or later relocated sales functions to commercial areas. Mr. Malek requested that, if approved, the amendment include clear limitations regarding the number, location, size, duration, and removal of any marketing and sales facilities. He further stated that any separate sales facilities should be located within the future commercial portion of the development rather than within residential neighborhoods.

Staff Response: The proposed amendment does not require the use of separate sales facilities, but rather would authorize marketing and sales uses directly associated with the sale of residential units or other structures within the residential area of the Bullfrog UGA, including model homes, sales offices, customer parking, and related improvements.

Mr. Malek also requests greater specificity regarding the location, size, duration, and eventual removal of sales facilities. Staff agrees that marketing and sales uses should remain temporary in nature and directly related to the sale of residential units within the Bullfrog UGA. Accordingly, the proposed amendment includes limitations restricting such uses to residential marketing and sales activities and requiring temporary facilities to be removed upon completion of sales activity within the applicable phase, parcel, or planning area.

The amendment does not approve any specific building, location, or site plan. Any future development remains subject to applicable permitting, development standards, and review requirements.

3. On June 12 and 13, 2026, **Wes Goumaz** provided comments as summarized below:

Mr. Goumaz submitted comments regarding the design and operation of any marketing and sales facilities that may be authorized through the proposed amendment. Mr. Goumaz encouraged architectural designs, signage, and lighting

that are consistent with the area's natural setting, historic character, and western-themed aesthetic. He expressed concerns regarding visual impacts from excessive signage, digital displays, neon lighting, and sign clutter, and advocated for consistent design standards, limited lighting, and a "less is more" approach to marketing and wayfinding signage.

Staff Response: The proposed amendment does not approve any specific building, sign, lighting plan, or site design. Rather, it would authorize marketing and sales uses within residential areas of the Bullfrog UGA subject to the terms of the Development Agreement.

Any future marketing and sales facilities, signage, and associated site improvements would remain subject to the applicable Development Agreement provisions, Conditions of Approval, Development Standards, and any required subsequent development review and permitting processes. The specific design and placement of such improvements would be evaluated at the time detailed development proposals are submitted.

IV. Findings:

A. Development Agreement Amendment

The Bullfrog UGA Development Agreement and associated Conditions of Approval establish a comprehensive vested land use framework governing development of the project. The Conditions of Approval identify permitted uses and development standards applicable within the various planning areas of the development. While marketing and sales activities are commonly associated with the development and sale of residential communities, neither the Development Agreement nor the Conditions of Approval expressly identify marketing and sales facilities as a permitted use within residential zones. The applicant maintains that such uses are permitted as incidental to the vested residential entitlement authorized by the Development Agreement. The City processes this amendment to provide regulatory certainty and to avoid future interpretive disputes.

Because the Development Agreement functions as the vested regulatory framework governing the project and contains specific provisions regarding permitted uses, staff finds that adding marketing and sales facilities as an expressly authorized use provides greater regulatory certainty and avoids future disputes regarding interpretation of the Development Agreement. Accordingly, processing the request as a Major Amendment is appropriate and consistent with the modification procedures established within the Development Agreement.

The requested amendment would allow marketing and sales facilities directly associated with the sale and build out of residential units authorized under the Bullfrog UGA Development Agreement. Such facilities are commonly utilized within large-scale master planned residential communities to support the marketing, sale, and occupancy of approved residential development.

The proposed amendment does not authorize additional dwelling units, increase residential density, modify approved land use allocations, expand the approved

development footprint, alter approved circulation patterns, modify infrastructure requirements, or increase utility demands beyond those previously contemplated by the Development Agreement and associated environmental review. The amendment would facilitate implementation of the residential development already authorized by the Development Agreement rather than create new development rights.

Staff further finds that the proposed amendment is limited in scope and administrative in nature. Unlike amendments that modify development capacity, land use allocations, infrastructure obligations, or project phasing, the requested amendment is intended to clarify the permissibility and regulation of marketing and sales facilities associated with residential development already authorized under the Development Agreement. The amendment does not alter the fundamental development program established by the 2002 Development Agreement, as amended in 2017 and 2025.

Staff finds that marketing and sales facilities serving the approved residential development are accessory and incidental to implementation of the vested residential entitlements and are generally consistent with the purpose and intent of the Development Agreement.

The amendment language proposed by the applicant would benefit from greater clarity. Specifically, the phrase "marketing and sales use, including any reasonably necessary facilities and structures" could be interpreted to authorize a range of activities and improvements beyond those customarily associated with residential marketing and sales functions. As drafted, the proposed language does not clearly establish limitations regarding the scope of the use, duration of the activity, or the ultimate disposition of any facilities constructed for marketing and sales purposes.

Accordingly, staff recommends approval of modified amendment language that expressly limits the use to facilities directly related to the marketing and sale of residential units within the Bullfrog UGA, establishes standards governing the operation and duration of the use, and clarifies that approval of marketing and sales facilities does not create additional development rights beyond those already authorized under the Development Agreement.

Subject to the recommended modifications, staff finds that the proposed amendment is consistent with the purpose and intent of the Bullfrog UGA Development Agreement, provides additional clarity regarding permitted uses within residential zones, and will facilitate orderly implementation of the approved master planned community without materially altering the approved development.

B. Comprehensive Plan

The proposal supports orderly residential development within the Urban Growth Area and facilitates implementation of an approved master planned community.

The amendment does not create new commercial zoning entitlements or authorize unrelated business activities. The use remains subordinate and directly related to residential development authorized by the Development Agreement.

Staff finds the proposal consistent with the goals and policies of the Cle Elum Comprehensive Plan.

C. Determination of Consistency

The phrase "reasonably necessary facilities and structures" could be interpreted to authorize a range of activities and improvements beyond those typically associated with residential marketing and sales functions. Accordingly, staff recommends approval of modified language that expressly limits the use to model homes, sales offices, customer parking, and other customary activities directly related to the marketing and sale of residential units within the Bullfrog UGA. The recommended amendment also establishes limitations regarding duration, conversion of permanent facilities, and compliance with applicable development standards.

D. SEPA

The SEPA Responsible Official determined that no additional environmental review is required.

The amendment itself does not authorize construction of a specific facility or approve a specific site plan. Any future marketing and sales facility requiring separate permits or development approvals will be reviewed under the applicable provisions of the Development Agreement, municipal code, and SEPA regulations in effect at the time of application. The City will determine the appropriate level of environmental review based on the details of the future proposal.

V. CONCLUSIONS:

- A. The proposed amendment is consistent with the purpose and intent of the Bullfrog UGA Development Agreement.
- B. The proposed amendment does not increase development intensity or modify approved land use allocations.
- C. The proposed amendment is consistent with the Cle Elum Comprehensive Plan.
- D. The proposed amendment does not result in significant adverse environmental impacts beyond those previously evaluated.
- E. Approval of the amendment, as modified by staff, is appropriate.

VI. RECOMMENDATION:

The Administrative Official recommends approval of the proposed Major Amendment to the Bullfrog UGA Development Agreement, modifying Conditions of Approval Nos. 14 and 15 to include the following:

Marketing and sales of new residential units within the Bullfrog UGA is a permitted use in all Residential Zones through completion of new home sales within the UGA. Permitted activities and facilities include sales offices, model and demonstration homes, design studios, customer and visitor parking, and other facilities and activities customarily incidental to the marketing and sale of new residential units, whether conducted in a temporary or a permanent structure, subject to the following standards:

1. Marketing and sales facilities shall be limited to the marketing and sale of residential units located within the Bullfrog UGA and shall not be used for unrelated commercial activities. Activities customarily conducted in connection with the sale of new homes, including design selection, lender, title, and escrow coordination, and homeowner orientation, are not unrelated commercial activities for purposes of this Condition.
2. No more than one (1) sales office shall be permitted within any one residential plat (full phase; e.g., all of S-2, all of P-4). Model and demonstration homes may be used for marketing and sales activity, including tours and execution of purchase agreements, and shall not count toward the limits established in this Condition. This Condition does not limit the number of model or demonstration homes permitted within any phase.
3. The sales office and model home use is limited to residential marketing and sales activities and uses customarily incidental thereto. Contractor yards, construction staging areas, equipment or material storage, fleet parking, maintenance facilities, and other construction-related operational uses shall not be established as part of or in support of the sales use. This condition does not prohibit contractor yards, construction staging areas, or similar construction support activities that are separately authorized through applicable permit approvals.
4. Any temporary marketing and sales facility shall be removed or converted to permanent use upon completion of residential sales activity within the applicable plat phase.
5. Any permanent structure utilized for marketing and sales purposes shall be designed and constructed for an identified long-term use consistent with the Development Agreement and applicable zoning designation. At the time of permit application, the applicant shall identify the intended permanent use of the structure.
6. Any permanent structure utilized for marketing and sales purposes shall ultimately be converted to:
 - a. A dwelling unit permitted within the applicable residential zone;
 - b. A community building or other facility owned or managed by the homeowners' association; or
 - c. Another use specifically permitted within the applicable zoning designation and approved by the City.
7. Approval of marketing and sales facilities shall not increase the maximum number of dwelling units authorized by the Development Agreement, modify approved residential densities, or create additional development rights.
8. Sales facilities shall be subject to Site and Design Review and shall comply with the development standards applicable under the Development Agreement and Conditions of Approval, including Attachment 2 and Condition 15, together with the building and fire codes in effect at the time of permit application. Nothing in this Condition alters the vesting provisions of the Development Agreement.

9. Signage associated with the temporary sales and marketing facility shall be limited to that necessary to identify the temporary use and direct visitors to the facility. All signage shall comply with the applicable sign regulations contained in the vested 2002 Development Agreement and Development Standards. Any temporary freestanding, directional, wall, or window signage shall be removed upon termination of the temporary sales use or conversion of the building to a permitted residential use.
10. Upon the effective date of this amendment, marketing and sales facilities authorized by this Condition are permitted uses within Residential Zones and require no separate temporary use permit or additional land use approval beyond Site and Design Review and required construction permits.
11. Approval of this amendment is intended to provide regulatory certainty and does not constitute a determination that marketing and sales uses incidental to the residential development authorized by the Development Agreement were prohibited prior to its adoption. The positions of the applicant and the property owners regarding interpretation of the Development Agreement and Conditions of Approval as previously adopted are reserved.