

**BEFORE THE HEARING EXAMINER
FOR CITY OF SNOQUALMIE**

In the Matter of the Application of) PCI 2017-0001/SEPA 2017-0003
) APP No. 22-0001
Snoqualmie Mill Ventures LLC)
)
for a Planned Commercial/Industrial)
(PCI) Plan to redevelop the 261-acre)
Snoqualmie Mill site north of downtown)
into three planning areas)
)
and)
)
In the Matter of the Appeal of)
Snoqualmie Community Action Network)
(SCAN))
)
of the December 9, 2021)
Snoqualmie Mill Planned Commercial/)
Industrial Plan Final Environmental)
Impact Statement issued by)
City of Snoqualmie)

**FINDINGS, CONCLUSIONS, AND
DECISIONS**

SUMMARY OF DECISIONS

Based on a review of the record as a whole, the level of environmental analysis in the EIS satisfies the rule of reason. The Appellant's case failed to show that the SEPA Responsible Official's determination of adequacy for the final environmental impact statement SEPA 2017-0003 prepared in review of planned commercial industrial plan application PCI 2017-0001 was clearly erroneous on any point. The Responsible Official's determination of EIS adequacy is **AFFIRMED**. Further, the record as a whole demonstrates compliance with the criteria for approval of the PCI Plan, in which the City's Hearing Examiner **RECOMMENDS APPROVAL** to the City Council.

SUMMARY OF RECORD

Request

Snoqualmie Mill Ventures LLC (Applicant) requested approval of a planned commercial/industrial plan (PCI Plan) to redevelop the 261-acre former Weyerhaeuser Company lumber mill site (mill site) located north of downtown Snoqualmie over a 10- to 15-year period. The proposed PCI Plan would divide the area into three distinct areas (planning areas) for purposes of planning and permitting; each planning area generally corresponds to a phase of development, and the amount and detail of information vary among the planning areas. A mix of residential, commercial, and industrial uses is proposed over the three phases.

The City of Snoqualmie Community Development Department (City or Department) assumed the role of lead agency for review of the PCI Plan for compliance with the requirements of the State Environmental Policy Act (SEPA). The SEPA Responsible Official issued an environmental threshold determination of significance (DS) with the agreement of the Applicant. Technical information subsequently provided by Applicant consultants was reviewed by City officials and City consultants performing third-party review, and was described in an April 27, 2020 draft environmental impact statement (DEIS). The City accepted and reviewed comments on the DEIS during an extended public comment period and subsequently published the final environmental impact statement (FEIS or EIS), which incorporates the DEIS, on December 9, 2021. The EIS was timely appealed by the Snoqualmie Community Action Network (SCAN or Appellant) (appeal no. APP22-0001).

Pursuant to SMC 19.04.235.C and SMC 14.30.080.G, the underlying Snoqualmie Mill PCI Plan (the proposal) and the SEPA appeal of the City's FEIS are required to be considered in a single, consolidated open record hearing.

Pursuant to Snoqualmie Municipal Code (SMC) 19.04.235.C, the City's Hearing Examiner must determine whether the EIS is adequate, and if yes, whether to recommend approval of the PCI Plan.

Procedural History

A virtual pre-hearing conference was held on February 11, 2022, at which all three parties were represented by counsel. Scheduling of the hearing and pre-hearing document exchange was discussed and agreed to during this conference. The City and Applicant submitted timely pre-hearing motions to dismiss/dismiss in part the FEIS appeal. The City's motion to dismiss for lack of standing was dismissed. The Applicant's motion to narrow the scope by dismissing certain alleged errors/portion of alleged errors was granted in part.

A virtual public hearing on the PCI Plan was convened on the evening of March 30, 2022. The City and Applicant submitted timely written post-hearing responses to the public comment received during the permit application hearing.

A virtual open-record hearing on the EIS was held as scheduled during the days of April 4, 5, 6, 7, and 8, 2022. All parties submitted timely post-hearing written legal argument in the appeal.

At the close of the hearing, the parties agreed to a June 24, 2022 decision issuance deadline.

During the end-of-hearing procedural conversation regarding the decision issuance deadline, one or more parties suggested submission of proposed findings and conclusions. Via post-hearing procedural email around the time of issuance of ruling on exhibit admission, the undersigned requested that the parties submit proposed findings and conclusions, and all parties agreed by email. Proposed findings and conclusions from the Appellant and joint proposed findings and conclusion from City and Applicant were timely submitted on June 1, 2022.

Issues on Appeal

The timely 14-page appeal letter was received by the City on December 22, 2021 containing an enumerated list of 12 categories of error, many of which multiple contained subparts, alleging the following paraphrased/ abbreviated errors.

- Inadequate information and analysis generally
- Failure to address all comments on the Draft EIS
- Inadequate review and mitigation of traffic impacts
- Failure to consider cumulative impacts of Phase 1 and the project as a whole
- Failure to adequately consider Phase 1 impacts to wildlife
- Failure to address light and glare
- Failure to address environmental health/site contamination/remediation concerns raised in public and agency comment
- Failure to disclose/analyze the results of the subsurface investigation
- Failure to address third party clean up actions in Planning Area 1
- Failure to address impacts to wetlands and stream bordering the haul route
- Failure to comport with the Comprehensive Plan
- Failure to adequately disclose and analyze infrastructure costs/resulting tax increases
- Failure to adequately analyze growth impacts to for the City
- Failure to analyze water demand and supply for the final project
- The FEIS inappropriately allows phased review and fails to analyze the impacts of the proposed action in Planning Areas 2 and 3
- Inappropriate reliance on the Post Annexation Implementation Plan, which does not provide accurate or adequate information about land use and utility systems and the Proposal's impacts to these
- The FEIS inadequately addresses the question of whether the housing would be affordable to those holding local jobs, or would instead result in residents who would commute out of the community to be able to afford the residences, increasing impacts to roads and traffic
- The FEIS inadequately addresses noise, calling construction noise “temporary” and fails to address noise from the amphitheater

The numbered issues raised are in the Appellant's appeal letter in the record at Exhibit S1.

Following pre-hearing motions by the City and the Applicant, some of the issues alleged in the appeal letter were dismissed prior to hearing as being outside the proper scope of an EIS appeal, including: alleged inconsistency with Comprehensive Plan, alleged inconsistency with the Growth Management Act and with development regulations, and alleged economic impacts. New issues were raised in the Appellant's pre-hearing briefing and declarations that were not identified in the appeal letter, which were expressly excluded from the scope by a verbal pre-hearing ruling, including: alleged impacts related to flooding, sewer adequacy, adequacy of proposed stormwater management, and the reasonableness of alternatives considered. Some remaining appeal issues were expressly and/or implicitly abandoned by the Appellant in their closing brief.

Within the scope of the remaining issues on appeal, the Appellant offered testimony and legal argument in their closing brief on the question of whether the EIS is adequate with respect to:

- Use of phased review
- Environmental health
- Wetlands
- Transportation
- Water supply
- Impacts to adjacent lands
- Impacts to wildlife
- Noise
- Aesthetics

Through the appeal proceedings, the Appellant alleged that the City did not obtain sufficient information regarding impacts in the above areas and that its reliance on phased review and other agency processes to provide specific information regarding certain impacts was improper. The Appellant also alleged, particularly with respect to environmental health and wetlands, that environmental data and other information relied upon was not sufficiently detailed. For relief, Appellant requested remand of the EIS for supplementation with the information they contend is missing and/or unreviewed.

Testimony

The following individuals provided testimony under oath in the March 30, 2022 open record public hearing on the PCI Plan application:

Permit Hearing witnesses

Jason Rogers, Interim Community Development Director
Bob Sterbank, City Attorney
Courtney Kaylor, Land Use Attorney for Applicant
Stephen Rimmer, Managing Member for Applicant
Keith Goldsmith, P.E., Goldsmith Engineering
Richard Weinman, Weinman Consulting, LLC, Applicant Representative
Sharlyn Lux
Carson Maestas
Jeff Groshell
Peggy Shepard
Cristie Coffing
Dawn Harper
Harold Erland
Wayne Russel
Richard Scheel on behalf of SCAN
Karen Yoshitomi, Executive Director of Japanese Cultural Center
Monica Lowney
Kenya Dillon

Robin Gray
Julie Lake
Larry Fischer
Anna Boranian

SEPA Appeal

At the April 4 through 8, 2022 virtual open record appeal hearing, the following individuals presented testimony under oath during the SEPA appeal portion of the proceedings:¹

Appellant SEPA witnesses

Pam Jenkins, P.E., Environmental Engineer
Lacy Linney, SCAN member
Harold Erland, Snoqualmie resident
Jae Hill, Principal Planner, King County Department of Local Services
Richard Jack, Water Quality Planner III, King County Department of Natural Resources and
Dr. Sarah Spear Cooke, Wetland Scientist
Gary Norris, P.E., P.T.O.E., Traffic Engineer
Brian Derdowski

Applicant SEPA witnesses

Chris Wright, B.S., Soil and Wetlands Scientist, Raedeke Associates, Inc.
Keith Goldsmith, P.E., Goldsmith Engineering
Richard Weinman, Weinman Consulting, LLC, Applicant Representative
Jeff Schramm, Principal, Transportation Engineering Northwest
Cliff Schmitt, Principal Hydrogeologist, Farallon Consulting

City SEPA witnesses

Michele Campbell, P.E., RH2
Mark Johnson, Environmental Science Associates / Interim SEPA Responsible Official
Chris Breiland, Principal, Fehr & Peers
Jason Rogers, Interim Community Development Director

Attorney Representation at hearing

For Appellant Snoqualmie Community Action Network:

Audrey Clungeon, Attorney, Bricklin & Newman LLP
David A. Bricklin, Attorney, Bricklin & Newman LLP
Alex Sidles, Attorney, Bricklin & Newman LLP

For Applicant Snoqualmie Mill Ventures LLC:

Courtney A. Kaylor, Attorney, McCullough Hill Leary, PS
David P. Carpman, Attorney, McCullough Hill Leary, PS

¹ For the sake of expediency, the undersigned agreed to accept testimony of witnesses called by the City and the Applicant in the appeal as applicable to both the SEPA appeal and the PCI Plan hearing.

For the City:

Bob Sterbank, City Attorney
Anna Astrakhan, Assistant City Attorney

Exhibits

The exhibits admitted in the record of these consolidated proceedings are listed at the end of the document in Appendix A.

Having fully reviewed the record developed through the consolidated open record hearing process, and having duly considered the proposed findings and conclusions from the parties, the undersigned finds that the statements of the evidence and law as forwarded in the joint proposal accurately reflect the record and applicable legal requirements, and the undersigned adopts the joint proposed findings and conclusions submitted by the City and Applicant addressing the PCI Plan and the SEPA appeal, as amended herein.²

FINDINGS

1. Snoqualmie Mill Ventures LLC (Applicant) requested approval of a planned commercial/industrial plan (PCI Plan) to redevelop the 261-acre former Weyerhaeuser Company lumber mill site (Mill Site) located north of downtown Snoqualmie over a 10- to 15-year period. The proposed PCI Plan would divide the Mill Site into three planning areas for purposes of permitting, with each planning area corresponding to a phase of development. More detailed information was provided regarding presently proposed development in Planning Area 1, while general conceptual information was provided for Planning Areas 2 and 3. At full build out, a mix of residential, commercial, and industrial uses is proposed over the three phases. *Exhibits 1, 1.A, and 1.B.*

Context of Mill Site and Surroundings

2. The mill site is the location of a massive lumber sawmill operation (Mill) that began in 1917 by the Snoqualmie Falls Lumber Company, which merged with the Weyerhaeuser Timber Company in 1948. To the immediate east of the current Mill Site boundary was the site of the original Town of Snoqualmie, which was developed with a hospital, school, post office, general store, barber shop, railroad depot, and a community center / YMCA, as well as 250 homes for Mill employees. *Richard Weinman Testimony; see historical photos in Exhibit R3, City Motion to Dismiss, pages 2-3; also Exhibit R3, Astrakhan Declaration, Exhibit A.*
3. In 1994, while Mill operations remained ongoing, the City adopted the Snoqualmie Vicinity Comprehensive Plan (SV Comprehensive Plan). At that time, the City's population was 1,565, and the City was just commencing the long-range planning for multiple large annexation areas, which included the areas that eventually became known as Snoqualmie Ridge I and II, the Snoqualmie Ridge Business Park, the Salish Lodge &

² The proposed Findings as adopted and modified are not intended to reflect a full recitation of all facts introduced at the consolidated hearing through testimony and documents; rather they are intended to identify and summarize the evidence that informs the conclusions of the Hearing Examiner.

Spa, Kimball Creek, Snoqualmie Hills, and the Mill Site. The 1994 SV Comprehensive Plan assigned land use designations for all of the potential annexation area, including designations of Planned Commercial / Industrial (PCI) and Planned Residential (PR) for the Mill Site. The master planned developments, particularly Snoqualmie Ridge I, provided an influx of infrastructure that was needed for the existing small city, as well as to serve new development. This infrastructure included a new wastewater plant, as well as water wells, a water treatment plant for treatment of iron and manganese, booster pump stations, and reservoirs. The master planned developments allowed the City to grow relatively quickly, to its current population of 14,478, while still preserving significant amounts of open space, critical areas, trees, and its small town feel. *Testimony of Richard Weinman and Jason Rogers; Exhibits 1 and R3, Astrakhan Declaration, Exhibit A.*

4. Weyerhaeuser operated the Mill until 2003, when the Mill ceased operations. Following the end of Mill operations, Weyerhaeuser sold a portion of its property to the Applicant, which commenced use of the site for a rally driving and training school, Ultimate Rally d/b/a Dirtfish Rally School, while also undertaking planning for redevelopment of the Mill Site. In 2015, SMV sold the portion of the Mill Site on which the hospital, community center and homes formerly stood to King County, which was acquiring property to facilitate construction of the Snoqualmie Valley Regional Trail link. *Richard Weinman Testimony; Exhibit R3, Astrakhan Declaration, Exhibit A.*
5. On October 24, 2011, the City and the Applicant entered into a Pre-Annexation Agreement concerning the Mill Site property. The Pre-Annexation Agreement provided that the City would not approve additional site development for the Mill Site until review of applicable Comprehensive Plan policies, approval of an Annexation Implementation Plan and, for any development in the PCI zone, approval of a PCI Plan. The City also adopted Ordinance 1086, which provided for zoning designations for the Mill Site parallel to the SV Comprehensive Plan designations - i.e., PCI and PR - that would become automatically effective immediately upon annexation of the property. In 2012, the property was annexed to the City. Upon annexation, the Mill Site was automatically designated for commercial and industrial uses by operation of the pre-annexation zoning ordinance, Ord. No. 1086. *Jason Rogers Testimony; Exhibits 1, 1.F, 1.G, and 1.H.*
6. In 2013, the City approved a new Comprehensive Plan entitled "Snoqualmie 2032," which in multiple places specifically provides for Mill Site redevelopment. The Mill site is designated as a Local Center for economic development (Ch. 3.F.3), as the Old Mill area for Community Character (Ch. 5.E.9), and as the Mill Site Planning Area for land use purposes (Ch. 7.E.3). Snoqualmie 2032 also adopted specific policies guiding the preparation of Annexation Implementation Plans (AIPs), including allowing deferral of preparation of an AIP until after annexation if a specific development proposal does not accompany annexation. In 2016, the City approved the Mill Site AIP. *Exhibit 1.* The Pre-Annexation Agreement, annexation, and AIP approvals are not at issue in the instant proceedings.

7. The Mill Site contains areas designated as geologic critical areas pursuant to the Snoqualmie Municipal Code, including erosion, landslide, steep slope, seismic, channel migration, and flood hazard areas. The entire site is within the 100-year floodplain of the Snoqualmie River. The western portion of the Mill Site contains both a channel migration zone and a portion of the floodway, critical aquifer recharge areas, and numerous wetlands. Significant portions of the Mill Site are within 200 feet of the ordinary high water marks of the Snoqualmie River and Borst Lake, which are waters of the state and thus within the jurisdiction of the City's Shoreline Master Program with Urban Conservancy and Urban Floodplain Shoreline Environments designations. Due to its historic industrial use, the overall Mill Site continues to contain contamination following more than a decade of localized cleanup activities. The Applicant has begun the process of preparing to remediate the Mill Site under the Washington State Model Toxics Control Act (MTCA) with the oversight of the Washington State Department of Ecology. in conjunction with development. Proceeds from the redevelopment of Planning Area 1, which was historically used for log storage and contains no known contamination, would fund complete clean up of the site under either a voluntary agreement or an agreed order. The Applicant's goal is to repurpose the Mill Site as a place where people continue to go to work for the next 100 years. *Exhibits 1, 5, C1, M14, and M15.*
8. Adjacent to the northwestern boundary of the City limits, the Mill Site is bounded by the City limits on the north, Borst Lake (also known as Mill Pond) on the south, Mill Pond Road on the west, and the hillside area owned by King County along 396th Drive SE on the east. The Snoqualmie River is within 200 feet of much of the west site boundary. Nearby uses include the City's wastewater treatment plant, a storage yard, and a gravel mining operation to the north. Snoqualmie Falls is approximately one-third of a mile northwest of the site, and downtown Snoqualmie is across the river to the southwest of the site. *Exhibits 1 and 1.B, Vicinity Map.*

PCI Plan Application and SEPA Review

9. In March 2017, the Applicant submitted an application for PCI Plan review. The PCI Plan involves the redevelopment of the Mill Site over a 10- to 15-year period, which at full buildout would include 1.83 million square feet of commercial, light industrial, warehouse, office, and mixed-residential uses as follows. Proposed to be developed first, 102-acre Planning Area 1 would contain 604,000 square feet of development including a mix of light industrial, commercial/retail, warehouse, and residential uses along a pedestrian-oriented main street. Located in the northwest corner of the Mill Site, Planning Area 1 is closest to currently developed areas of the City and to existing infrastructure. Large portions of it are free of wetlands and other sensitive areas. Non-residential uses in Planning Area 1 are proposed to focus on the production and storage of wine with supporting retail services such as tasting rooms and restaurants. Plans for Planning Areas 2 and 3 are still conceptual, with Planning Area 2 (northeast portion of the Mill Site) to be developed with warehouse and manufacturing uses and Planning Area 3 (central and southern portions of the Mill Site) with office uses. After full buildout of the Proposal, approximately two-thirds of the overall site (166 acres or 63%) would

remain undeveloped and be maintained for open space, landscaping, wetlands and streams, wildlife habitat, and flood storage. *See Exhibit 1.B, Sheet SP-4, .pdf page 154.* Only 37% of Planning Area 1 would be developed with buildings and other impervious surfaces. *Exhibits 1, 1.B (site plans beginning at .pdf page 151, Sheet SP1), C1 (see Exhibit 2.3-1, .pdf page 77 and Exhibit 2.3-11, .pdf page 98), and C6(A); Snoqualmie Municipal Code (SMC) 17.20.050(G).* For ease of reference, many of the most significant site plans and visual aids are gathered in the Applicant's hearing PowerPoint presentation. *Exhibit 5.*

10. The PCI Plan Proposal is premised on the Applicant's entering into a development agreement with the City, as authorized by Revised Code of Washington (RCW) 36.70B.170.³ The Mill Site development agreement would guide the process for overall site development, including: identifying vesting provisions and exemptions from vesting; documentation of mitigation requirements and development conditions that apply to the project; any deviations from Code provisions that are permitted; procedures for future review and revision of the PCI Plan; requirements for additional State Environmental Policy Act (SEPA) review for subsequent phases of development; the term of the agreement; and provisions for specific aspects of the site or development, such as retention of open space, protection and enhancement of wetlands and buffers, road facilities, stormwater, and utilities. Recommended conditions of PCI Plan approval would require a development agreement. *Exhibit 1; Jason Rogers Testimony.*
11. As part of the PCI Plan submittal, the Applicant submitted an environmental checklist. The City and the Applicant jointly agreed that an environmental impact statement (EIS) should be prepared, and on May 3, 2017 the City's SEPA Responsible Official issued a determination of significance (DS) and notice of scoping. The City received written comments on EIS scope, held a public scoping meeting on May 23, reviewed approximately 50 written and verbal comments received, and issued a scoping memorandum on December 18, 2017. *Testimony of Jason Rogers and Richard Weinman; Exhibits C3 and 1E/C4.*
12. The Draft Environmental Impact Statement on the PCI Plan was issued on April 27, 2020. The timeframe between application and issuance was extended with agreement of the Applicant, and was necessary based in part of the size and complexity of the Proposal and in part on delays related to the Covid-19 pandemic. The DEIS identified and analyzed probable, significant adverse environmental impacts of the proposed PCI Plan and potential mitigation measures for those impacts addressing the following areas of analysis: earth; noise; aesthetics/light and glare; air quality/greenhouse gases; land and shoreline use; parks and recreation; water resources; plans, policies, and regulations; transportation; plants and animals; population, housing, and employment; public services; environmental health; historic and cultural resources; utilities; and fiscal/economic

³ It is not a code-based requirement of a PCI Plan to enter into a development agreement; however, the City and the Applicant agree that it is the appropriate procedure to be followed in this case based on previous similar projects in the City. *Bob Sterbank Comments.*

impacts. Initial analyses comprising the Draft EIS were prepared by Richard Weinman of Weinman Consulting LLC, along with various subject matter experts. *Exhibits 1 and C2; Richard Weinman Testimony.*

13. With the Applicant's agreement, the City provided an extended public comment period for the Draft EIS, first extended to 45 days and then extended for an additional 40 days in response to public requests. A total of 125 written comment letters/emails were received, containing more than 1,000 individual comments, with some individuals and organizations submitting multiple comments. The City held a virtual public meeting during the comment period at which 21 people provided verbal comments, many of which echoed letters or emails from the same individuals. All comment letters and emails that were received from agencies, tribes, organizations, and individuals during the comment period are included in the final EIS. *Exhibits 1 and C1, FEIS Appendix A.*
14. The City's SEPA Responsible Official reviewed the initial submittals from the Applicant's consultant and subject matter experts and all public comment, and obtained third-party peer review by the City's on-call subject matter experts. Following this analysis, the City required the Applicant to provide additional analysis and revisions in various areas, including: stormwater, floodplain; SEPA procedures; various elements of the environment including earth/geological/water resources/plants and animals, environmental health, aesthetics, and noise; historic and cultural resources; transportation; and water and wastewater. Based on review of the additional information, City Interim SEPA Responsible Official Mark Johnson and Interim Community Development Director Jason Rogers determined that the FEIS contained a reasonably thorough discussion of the significant aspects of the probable environmental consequences of the proposed PCI Plan. Mr. Johnson and Mr. Rogers issued the FEIS on December 9, 2021. The FEIS is comprised of both the Draft EIS and the Final EIS documents. Notice of FEIS availability was published and directly provided to parties who had commented on the Draft EIS or expressed interest in the project, indicating an appeal deadline of December 23, 2021. *Testimony of Jason Rogers and Mark Johnson; Exhibits 1, C1, and C2.*
15. There was one change to the PCI Plan Proposal description between the Draft EIS and the Final EIS. The maximum height for three mixed-use buildings along proposed Mill Street was changed from 55 feet to 70 feet at the ridgeline. Note, this change corrected an error only in the Draft EIS project description; the aesthetics analysis in the Draft EIS addressed the 70-foot heights, including in the view simulations. *Exhibit 1.*

SEPA Appeal Findings

16. A citizen group called the Snoqualmie Community Action Network (SCAN) filed a timely appeal challenging the adequacy of the FEIS on December 22, 2021. *Exhibit S1.*
17. The conclusions in the DEIS and FEIS are summarized in the staff report prepared by Planning Staff for the PCI Plan application hearing in the record at Exhibit 1. Appellant

witnesses in the EIS appeal disputed certain conclusions regarding whether the SEPA analysis was adequate or based on sufficient information, which are discussed below, but either did not dispute or did not offer evidence that would contradict these documents' factual statements and descriptions regarding the Mill Site and surrounding environment or the elements of the Proposal. The undersigned adopts the factual statements contained in Findings of Fact 61 through 185 of the PC Plan staff report. *Exhibit 1*. The following findings address the issues on appeal that remain following the ruling on motions to dismiss.

Appellant SEPA Case

Environmental Health

18. The accuracy of the EIS's description of the history of the Mill Site, including prior uses and cleanup activities, was not disputed during the hearing. As stated in the EIS and summarized in witness testimony, the portion of the Mill Site now identified as Planning Area 1 was largely forested through the 1960s, with some portions used for worker housing, before it was cleared and used for log storage. Planning Area 2 contained storage of dimensional lumber, and Planning Area 3 contained the heart of the Weyerhaeuser Mill Operations. It is undisputed that hazardous substances were released in Planning Areas 2 and 3 and that contamination remains of the site despite several previous investigations and remediation efforts. All parties acknowledged the Washington State Department of Ecology's site hazard assessment formally issued for the Weyerhaeuser Mill Site Facility on August 24, 2021, which identified the Mill Site as Site ID 73953138 and Model Toxics Control Act Cleanup Site ID 10346. The site hazard assessment determined the Mill Site to be contaminated with petroleum hydrocarbons, PCBs, PAHs, and phenols, and assigned a site hazard ranking, or estimation of the potential threat to human health and/or the environment relative to all other Washington state sites assessed at the time, a rank of 1, where a 1 represents the highest relative risk and 5 the lowest. *Testimony of Pam Jenkins, Cliff Schmitt, and Richard Jack; Exhibits S4, S5, C1, and C2.*
19. On the issue of environmental health, the Appellant offered the expert testimony of Pam Jenkins PE, an environmental engineer with experience in hazardous waste site cleanups. Ms. Jenkins advanced two primary assertions. First, she described some of the known areas of prior release of contamination in Planning Areas 2 and 3 and stated that there is insufficient data to conclusively determine that all contamination has been removed, even where prior remediation occurred. She stated that it was important to have a full understanding of on-site contamination before beginning construction or remediation activities in order to prevent inadvertent exposures. Her testimony relied on the studies, reports, and other documentation of these activities cited in the EIS. Ms. Jenkins did not challenge the accuracy of any of these studies. Rather she contended they did not constitute a comprehensive investigation of site contamination, in part, because she believed the historical record and employee recollections upon which prior investigations were based could have been incomplete, and significantly, because she did not think there had been a sufficient distribution of physical testing locations throughout the Mill Site. In addition to the contaminants of concern identified by Ecology, based on her previous

experience with/knowledge of other mill site clean ups, Ms. Jenkins submitted that the site was likely also contaminated with dioxins and furans, which she contended were not mentioned in the EIS. *Pam Jenkins Testimony; Exhibits S4, S5, S6, S7, S10, S11, S12, S13, S15, S26, S28, S33, S36, S37, and S46.*

20. Ms. Jenkins described several areas located in Planning Areas 2 and 3 that she believed to be of concern. In Planning Area 2, these included the site of a former lumber strapping area and petroleum-fueled transformer, both of which resulted in releases of diesel and oil range hydrocarbons in the soil. Acknowledging that prior remediation has been performed in the area of these releases, Ms. Jenkins testified that she believed additional investigation would be required to conclude that no contamination remains. In Planning Area 3, Ms. Jenkins testified that a former plywood plant building that burned to the ground had been surrounded by three transformers, two of which contained polychlorinated biphenyls (PCBs) that had leaked into the ground. Ms. Jenkins testified that PCBs are highly toxic and persistent in the environment and that they can migrate in groundwater. Ms. Jenkins testified that the soil around one of these transformers had been tested and found not to contain PCBs above cleanup levels required by the federal Environmental Protection Agency (EPA); however, she stated that it was not clear whether current EPA levels had been used. She also testified that next to the other transformer, PCB-contaminated soil had not been removed because it had been determined that a clay layer would adequately protect groundwater. Ms. Jenkins stated that the excavated area had later been covered with a membrane and partially fenced and that it was not known whether these measures continued to provide adequate protection. *Pam Jenkins Testimony; Exhibits S1.A, S14, S26, S28, S33, S36, S37, and S46.*
21. Ms. Jenkins testified that a chipping and debarking area had been located in Planning Area 3, and that the operation of this equipment had resulted in contamination from petroleum hydrocarbons. Contaminated soil had previously been removed from this area on at least two occasions; some of the soil was transported to an offsite landfill, and some of it was treated in bio-cells and re-compacted into the ground on site. To the west of this area, Ms. Jenkins testified that there were deposits of boiler ash, which depending on the type of combustion used could contain unsafe levels of dioxins and furans. Ms. Jenkins stated that the boiler ash had not been discussed in the EIS, and thus that for these areas she did not believe there had been sufficient investigation into whether/how much contamination remained. Because of the known presence of contamination in Planning Areas 2 and 3 and unknowns about earlier cleanup activity, Ms. Jenkins contended that a comprehensive investigation must be conducted prior to development. She submitted that because such a comprehensive investigation had not been performed and considered through the EIS process, the FEIS was inadequate. *Pam Jenkins Testimony; Exhibits S12, S13, S32, S33, and S34.*
22. Ms. Jenkins' second primary assertion was that the EIS did not rely on sufficient information to conclude that Planning Area 1 contains no contamination above MTCA levels. Ms. Jenkins did not contend that industrial uses known to have resulted in contamination had been located in Planning Area 1; however, she testified that it was

possible that contamination could have been deposited if mill workers living in bunkhouses on the site had used fertilizer or pesticide to grow potatoes or had heated the bunkhouses with underground oil tanks. She identified other sources of possible contamination of Planning Area 1 as follows: she believed a railroad had run through the southern part of Planning Area 1; that Weyerhaeuser may have buried a transformer somewhere in the area; and that she believed wood waste had been used as fill in Planning Area 1, creating the potential for an explosion caused by methane released by decomposing wood. Ms. Jenkins acknowledged on cross-examination that she did not have specific evidence or knowledge that a railroad did in fact cross Planning Area 1, and did not have specific knowledge that transformers or underground heating oil tanks existed in any specific location in Planning Area 1. *Pam Jenkins Testimony.*

23. Ms. Jenkins testified that because the FEIS includes a summary of the Farallon Consulting supplemental investigation but does not include data sheets or lab results, she could not fully evaluate its conclusions. She submitted that the information included in the FEIS regarding potential contamination of Planning Area 1, and/or potential migration of contaminants from Planning Areas 2 and 3 into Planning Area 1, was insufficient to demonstrate that Planning Area 1 is suitable for development. She testified that the nine test pits drilled for the subsurface investigation were not sufficient in number or distribution to give an accurate picture of subsurface conditions due to the size of Planning Area 1, equating the sampling to nine pin holes in a king size blanket and to one test pit per 8.5 football fields of area. While acknowledging that she is not a licensed hydrogeologist, Ms. Jenkins testified based on her professional experience with other cleanups that, in her opinion, insufficient groundwater monitoring information had been collected to allow the City to have an informed understanding of how contaminants in any of the planning areas might travel underground, potentially carrying toxics from Planning Areas 2 and 3 to Planning Area 1, where they could be released during the proposed development, whether through air, soil, or groundwater movement. Another concern regarding lack of groundwater data was that large amounts of wood waste underlie the site, which could be in contact with the shallow aquifer. She testified that, as has been discovered in other mill site cleanups, wood waste in a wet environment can change the geochemistry at the intersection of soil and groundwater, leading to leachate. Ms. Jenkins testified that wood waste can lower pH and dissolved oxygen, producing a reducing condition that can chemically cause some metals to become dissolved in groundwater and then become mobile, impacting surface waters as well as aquifers, which was not addressed by Farallon. *Pam Jenkins Testimony.*
24. Also on the issue of environmental health, the Appellant offered the testimony of Richard Jack, who works as a water quality planner for the King County Department of Natural Resources and Parks. Mr. Jack testified as to his contribution to a comment letter submitted on the Proposal by the King County Department of Local Services (Exhibit S19). He submitted the professional opinion that investigation to date of Planning Areas 2 and 3 has not been adequate to demonstrate the full nature and extent of contamination, stating that the investigation into whether the soil has actually been cleaned up of contamination may have been sufficient for planning purposes, but was not sufficient for

decision-making purposes. Mr. Jack submitted there is a risk to future users of Planning Area 1 because that area is planned for development before, or in conjunction with, remediation activity on Planning Areas 2 and 3. He testified that he was concerned remediation work could disturb contamination and release it into the air or water, potentially affecting residents and workers in Planning Area 1. Mr. Jack also stated that he was concerned that the Applicant would develop Planning Area 1 without carrying out the remediation required for Planning Areas 2 and 3. *Richard Jack Testimony; Exhibits S19/M18.*

Critical Areas

25. Wetlands, streams, and man-made ditches regulated as critical areas were delineated by Raedeke Associates, Inc., based on reconnaissance completed during 2012 through 2017. The Wetlands, Wildlife, and Fisheries Assessment prepared by Raedeke Associates, Inc. is in the DEIS at Appendix C. The US Army Corps of Engineers (USACE) issued a jurisdictional determination on May 3, 2017 regarding the features that Raedeke identified, including 17 wetlands on the Mill Site and eight off-site wetlands with buffers that could extend onto the Mill Site. The DEIS also discusses wetlands and related features in the body of the document and throughout Appendix A, which is the Master Drainage Plan prepared Goldsmith Engineering. *Exhibits C1 and C2.*
26. On the issue of critical areas, Appellant offered the expert testimony of Dr. Sarah Spear Cooke, a wetland ecologist and soil scientist with experience in site investigations. She reviewed plan documents for the Proposal and submitted a comment letter on the DEIS. Dr. Cooke has not visited the property but testified regarding her view that the EIS had not been based on sufficient information to reach conclusions about critical areas on the Mill Site. Having reviewed all reports from 2012 forward, she submitted the opinion that the EIS is inadequate because it does not make all wetland rating sheets publicly available. Dr. Cooke contended that the USACE jurisdictional determination for the Mill Site (valid for five years) had expired and are outdated. She submitted that new delineation work was needed, because wetlands are not static features; they change over time. She submitted that the wetland buffers referenced in the EIS had been established using an outdated rating system and required updating. She objected generally to the use of phased review for the Proposal, testifying that critical areas in Planning Area 1 could not be examined in isolation from critical areas in Planning Areas 2 and 3. She characterized the Proposal's deferred review of impacts in Planning Areas 2 and 3 as improper "piecemealing." She testified that the EIS improperly isolated its analysis of on-site critical areas from off-site critical areas downstream, including Borst Lake and the Snoqualmie River. Dr. Cooke submitted that based on the locations of structures shown in the site plan, proposed development of Planning Areas 2 and 3 would require filling wetlands. *Dr. Sarah Spear Cooke Testimony; Exhibits C1, C2, S1.2, S4, S5, S6, S7, S10, S11, S12, S13, S18, S51, and M14.*
27. Dr. Cooke testified that the EIS does not contain sufficient pre-development hydrologic modeling of wetlands such that post-development monitoring could determine whether there are any impacts. In particular, she expressed concern that the wetlands and related

features on the Mill Site are in degraded condition due to legacy contamination and that contamination could be entering the wetlands through unknown hydrologic sources. She testified that the number of site soil samples taken, in conjunction with the lack of adequate groundwater monitoring information, meaning the EIS does not contain adequate information about groundwater and surface hydrology to determine whether impacts to wetlands, streams, and jurisdictional ditches could result from grading or excavation associated with the Proposal. She submitted that areas of fill posed at varying depths around the site – some that may be contaminated and some that may cup contamination - had been inadequately sampled to know whether their disturbance would cause release of contamination into surface or groundwaters. She stated that toxins are available to plant communities at deeper depths than two feet, and that not knowing how deep contamination may go on the site a large, glaring lack of data that prevents reasonably informed decision making. She expressed the concern that if grading is conducted and uncapped areas are subjected to stormwater flows or flood waters, the contamination could be distributed. Dr. Cooke submitted that the critical areas reports in the FEIS wrongly exclude Borst Lake from consideration, as it is known that Borst Lake receives hydrology from the site via ditches and sheetflows. She found flaw in the lack of discussion about how retained wetlands would be treated, whether predevelopment hydrology would be maintained, and whether monitoring would occur. This tied into her concern that inadequate information about groundwater is available, because monitoring needs to occur predevelopment and in the growing season in order to establish baseline conditions that allow the developer to track and address development impacts to demonstrate no net loss of functions and values. *Dr. Sarah Spear Cooke Testimony; Exhibits C1, C2, S1.B, S10, and S51.*

Transportation

28. The traffic analysis in the EIS was prepared by Transportation Engineering Northwest (TENW) and peer-reviewed by Fehr & Peers. The analysis establishes a study area that includes 23 intersections located in the vicinity of the Mill Site and expected to be impacted by traffic from the Proposal. TENW reviewed traffic count surveys conducted in January and February 2018 to determine existing levels of traffic at these intersections. It then used these traffic counts to develop future year traffic forecasts by adding in the effects of background growth, including pipeline projects, and by comparing conditions with and without traffic generated by the Proposal at both the Planning Area 1 and “full buildout” stages. Based on the difference between the with-Proposal and without-Proposal forecasts, TENW determined the predicted impacts to intersection level of service (LOS) throughout the study area. Proposal traffic was analyzed in terms of both trip generation, which means the number of vehicular trips a project would add to area roadways, and trip distribution, which considers how those vehicular trips would be distributed on area roadways - where they would come from, where they would go, and what routes they would take. The EIS also discusses the few nearby transit routes as well as pedestrian and bicycle connections to the Mill Site. *Exhibits C1 and C2.*
29. On the issue of transportation, the Appellant offered the expert testimony of Gary Norris, a traffic engineer and consultant who commented on the DEIS on behalf of the Appellant.

Mr. Norris testified that he believed the traffic analysis relied upon in the EIS did not utilize sufficiently reliable information or incorporate a sufficient level of detail to inform its conclusions. He testified that he believed a SEPA traffic analysis required examination of the “average worst case” scenario that could be caused by a proposal. He submitted the opinion that the traffic analysis was intended to “paint a rosier picture” of the Proposal’s traffic impacts than would actually occur. On cross-examination, Mr. Norris acknowledged that he did not collect his own seasonal traffic counts, perform his own pass-by or internal trip capture calculations, or perform other traffic analysis specific to the PCI Plan aside from one informal peak hour trip count he personally conducted on Mill Pond Road. Tracking his DEIS comment letter, his testimony included a list of reasons why he believed the transportation analysis relied upon by the EIS was inadequate. The Appellant’s closing brief pursued only six of the issues listed in Mr. Norris’s comment letter and testimony. *Gary Norris Testimony; Exhibits S1.4 and S16.*

30. First, Mr. Norris contended that it was improper for the EIS to rely on traffic counts conducted in 2018, two years before issuance of the DEIS, because industry standard practice is to rely on counts no more than one year old. He stated that the age of the traffic counts rendered them inaccurate and an improper basis for conclusions about future impacts because they do not reflect the 3% to 5% background growth that occurred in the intervening years. He testified that more current counts could show a level of service change at an affected intersection. Mr. Norris further asserted that the EIS should not have relied on traffic counts conducted in January and February, because traffic volumes at this time of year are not representative. He noted that the Snoqualmie Valley is a summer recreation destination and contended that peak traffic occurs in the recreation season. In support of this assertion, he cited his review of publicly available data from a Washington State Department of Transportation permanent traffic record (PTR) vehicle counter located to the south of the interchange of I-90 and SR-18, which indicated that daily traffic volumes in the summer months could be as much as 26% higher than daily traffic volumes in January and February. Mr. Norris submitted that in using data from after Christmas and before summer recreation, the Applicant’s traffic consultant had effectively underreported the existing traffic conditions, resulting in less projected impact from the Proposal’s additional traffic. As a side note, he contended that the Applicant’s traffic consultants failed to justify their use of the identified PM peak hour and argued that justification should have been provided in support of the peak hours used, stating they could easily have done a 24 hour count to verify the actual peak hours. As a frequent driver in the area, he submitted that it is possible that local traffic actually has a different PM peak that was used. Mr. Norris submitted that the FEIS did not address his comments on the DEIS concerning problems with the traffic counts. *Gary Norris Testimony; Exhibit S1.4.*
31. Second, Mr. Norris testified that the transportation analysis improperly analyzed the issue of “pass-by trips,” which is an aspect of trip generation. As defined by the Institute of Transportation Engineers Trip Generation Manual (ITE Manual), a pass-by trip occurs when a development causes a vehicle on an adjacent roadway to divert into the new development. A pass-by trip is a trip that is generated by the new development because

the development causes a vehicle to change its route; however, a pass-by trip is not a “net new trip” because the vehicle is already on the road. Mr. Norris testified that the transportation analysis in the EIS considers some trips to be pass-by trips even though they do not come from Mill Pond Road, which is the roadway adjacent to the Mill Site, and that this is error. *Gary Norris Testimony; Exhibit S1.4.*

32. Third, Mr. Norris testified that the transportation analysis improperly classified the uses proposed for the Planning Area 1 as a “shopping center” for purposes of calculating trip generation according to the ITE Manual. He testified that because the ITE Manual includes specific classifications for some of the uses contemplated for Planning Area 1, including restaurant and retail, the transportation analysis should have incorporated these uses instead. He also suggested that use of the shopping center classification was improper because the ITE Manual provides for the deduction of pass-by trips and internally captured trips (trips within a site) from the net new trips generated by a shopping center, but not for trips generated specifically by restaurant and retail. He submitted that identifying the development in Planning Area 1 as a shopping center improperly allowed application of a 34% trip reduction due to pass-by trips that would not in fact occur, resulting in lower projected trips than would in fact occur.⁴ *Gary Norris Testimony; Exhibit S1.4.*
33. Fourth, Mr. Norris testified that the transportation analysis should have analyzed the Proposal’s potential impact to LOS on weekends, rather than only on weekdays, stating that this was necessary to provide a full picture of traffic impacts, and also that it was error to fail to address seasonal traffic peaks resulting from recreational visitors to the Valley. Fifth, Mr. Norris testified that the transportation analysis should have included additional detail about pedestrian, bicycle, and transit impacts, including a specific calculation of the number of persons expected to use each of these modes of transportation and a discussion of how additional non-vehicle trips could be encouraged. He submitted that the 160 proposed multifamily units would necessarily house some residents that would rely on transit. Additionally, Proposal specific pedestrian traffic counts would have been supportive of the Applicant’s request for sidewalk modification. Generally, Mr. Norris asserted that the EIS analysis is “vehicle centric” and that contemporary traffic analysis must contain analysis of other modes of transportation. Sixth, Mr. Norris testified that the EIS should have included a construction mitigation plan explaining how truck traffic for construction would be routed and scheduled to avoid impacts to traffic and roads. *Gary Norris Testimony; Exhibit S1.4.*

⁴ Although not argued in the Appellant’s closing brief, Mr. Norris spent a considerable amount of time in his testimony challenging TENW’s use of trip projections from the ITE Manual rather than from the Puget Sound Regional Council’s Trip Based Travel Model. He contended that ITE trip counts are not verified for accuracy and that while they may be good for growth estimation, they are not fine tuned for local conditions as the PSRC trip counts are. He submitted that TENW’s reliance on ITE trip generation rates rather than those in the PSRC model resulted in inaccurate trip volumes. *Gary Norris Testimony.*

Water Supply, Population Projections, Wildlife, and Other issues

34. On the issue of water supply, Appellant offered the testimony of Jae Hill, Principal Planner for King County who serves as chair of the King County Utilities Technical Review Committee (UTRC). The EIS discusses the sources of water supply utilized by the City as well as the City's ongoing process of updating its water system plan to account for growth. The EIS indicates that sufficient water supply is available to support the development of Planning Area 1 and that new sources would need to be identified to support Planning Areas 2 and 3. Mr. Hill provided the water supply comments in the July 13, 2020 King County DEIS comment letter, in which he expressed concern that the need to identify new water sources for Planning Areas 2 and 3 could impact the approximately 100 residential connections that are located in unincorporated King County that are served by the City of Snoqualmie water system. Mr. Hill testified that the Snoqualmie basin is already oversubscribed and that the previously acceptable development strategy of "we will find water later" is no longer effective or adequate, as there is literally less and less water available. For any new source identified, the City would hold junior rights relative to those with more senior rights. Mr. Hill testified that it would be difficult to identify new water sources for Planning Areas 2 and 3 and that a menu of options for responding could be identified, but that the EIS did not do so in detail and did not respond to the concern he submitted about impacts to the 100 residential connections in unincorporated King County. On cross examination, Mr. Hill acknowledged that the City's water system plan update is a separate process from the instant development related EIS and that the Water Comprehensive Plan update process currently underway could identify water sources for Planning Areas 2 and 3. *Jae Hill Testimony; Exhibits S19/M18, C1, and C2.*

35. The Appellant offered the testimony of Lacy Linney, a resident of Fall City, Washington, and a board member of SCAN. Ms. Linney testified about her appreciation for the natural landscape of, as well as her personal history of outdoor recreation in, the Snoqualmie Valley. She stated that she believed lighting elements included in the Proposal would impact recreationalist and all wildlife in the vicinity, because it would be visible from the Snoqualmie River and Mt. Si. She stated that traffic noise in Fall City and elsewhere would increase because of construction for the Proposal, which could be exacerbated due to traffic diversions from upcoming construction elsewhere. She testified that the duration of the development phase of the project was stated as both 12 and 24 months in the EIS and that she believes it could be longer. Because traffic from the remediation portion of the Proposal was not included in noise projections, the true extent of noise impacts to residents, wildlife, and recreators was not assessed. Also, because timeframe for completing remediation under MTCA was provided, she opined that the timeline was unclear. As a local driver, she asserted that the traffic volumes anticipated cannot be adequately handled by the road network, especially in the summer, and that the Applicant should be required to place an emphasis on transit transportation as a means of reducing future congestion. She expressed concern that the costs of the final road improvements that would be needed to support the Proposal's traffic would fall to local taxpayers. Ms. Linney expressed the desire for the region to stay as it is and not grow to the extent proposed. *Lacy Linney Testimony.*

36. The Appellant offered the testimony of Harold Erland, a North Bend resident who was born in a hospital adjacent to the Mill Site. A wildlife biologist, Mr. Erland is part of a group that studies the population and home ranges of elk living in the Snoqualmie Valley. Mr. Erland's group has placed electronic GPS collars on approximately 68 elk and documented their movements on diagrams that show elk moving through the Mill Site and other portions of the Snoqualmie Valley. He testified that Raedeke Associates used his group's GPS coordinates in their site study. Mr. Erland testified that elk use the entire valley and that some have a home range that is close to the Mill Site, including along the Snoqualmie River and near Borst Lake. Although elk try to avoid people, Mr. Erland testified that elk move through developed areas, especially at night, and that occasionally they forage in residential yards and in open spaces associated with larger developments. In addition to elk, Mr. Erland testified that he has personally observed 41 species of birds on the Mill Site including raptors, owls, warblers, and waterfowl, and 20 species of mammals including muskrat, beaver, mink, and cougar. In his opinion, impacts to wildlife have been as well addressed as they can be if you're going to build a development like a big mall. Mr. Erland stated that wildlife would still use the portions of the site preserved as open space, and that it would not be difficult to facilitate this use by planting appropriate vegetation in the retained open spaces; however, he is concerned that if the PCI Plan development goes forward as proposed, the population of wildlife in the area would not be as numerous or diverse. To further mitigate the impacts the Proposal would have on wildlife, he suggested the Applicant could provide alternate habitat nearby by acquiring offsite mitigation areas. *Harold Erland Testimony.*

37. The Appellant offered the testimony of Brian Derdowski, a former member of the King County Council. Mr. Derdowski testified that he did not believe the Proposal would be compatible with its surroundings. He pointed to several statements in the EIS that he believed demonstrated a lack of consideration regarding compatibility; for example, he testified that a statement that the Proposal would exhibit a similar land use pattern to historic downtown Snoqualmie was inaccurate because of differences between the two areas. He testified that a statement that open space surrounding the site would provide for compatibility with adjacent uses failed to consider other elements of compatibility, such as traffic and pipeline projects in the area. Mr. Derdowski did not identify any specific pipeline projects he believed should have been analyzed, and he indicated that he did not know the current status of the buildout of Snoqualmie Ridge or whether other infill development would be possible. He asserted that in adding a Woodinville-like winery tourism district and the vehicle trips from 3,400 jobs, the Proposal would change the character of the Snoqualmie Valley, conflict with rural land uses (e.g., farming), and cause current residents to move away. Mr. Derdowski testified that the discussion of deviations allowed for wetland buffers did not adequately consider the potential for facilitating further deviations in the future and said that sometimes further analysis predicted in an environmental document does not occur. He opined that population projections in the EIS were not consistent with adopted growth targets. Generally, Mr. Derdowski opined that the FEIS relies on substantial future SEPA review to identify probable adverse impacts, but he submitted that the development agreement is the only time when additional SEPA review would occur. Because it is typical for development

agreements to authorize significant deviations from adopted development regulations, he submitted that the FEIS should set out performance standards for all future development under the proposal. He also opined that the EIS was deficient because it did not reflect changes that he believed would be needed to comply with the City's Shoreline Master Program (SMP). *Brian Derdowski Testimony*. The appeal letter did not raise SMP compliance issues and testimony on this point is excluded as being outside the scope of the appeal. *Exhibits S1 and R14*.

Applicant SEPA Case

Environmental Health

38. Addressing alleged errors in the FEIS analysis regarding environmental health, the Applicant offered the testimony of Cliff Schmitt of Farallon Consulting, a licensed geologist and hydrogeologist with 36 years of experience investigating contaminated sites and managing cleanups of contaminated sites. Mr. Schmitt participated in producing the Farallon reports included in the DEIS at Appendix D. Mr. Schmitt submitted the opinion that the studies and other historical information on which the EIS based its conclusions comprise a thorough record of where contamination is likely to be found. *See, e.g., Exhibit C2, page 244 et seq; Exhibit C2, Exhibit 3.5-1, .pdf page 247; Exhibit C2, Exhibit 3.5-2, .pdf pages 252-253.* Exhibit He also stated that because of the volume of contaminated soil removed through prior cleanup activities, the amount of remaining hazardous material may likely be low. Having reviewed the published list of Department of Ecology site hazard assessments, Mr. Schmitt noted that there are currently approximately 13,000 ranked sites, of which 350 have the rank of 1. *Cliff Schmitt Testimony; Exhibits C1, C2, and M3.*
39. Based on previous experience, Mr. Schmitt provided a detailed explanation of Washington State's Model Toxics Control Act (MTCA) and its application to the Proposal. Under MTCA, the Washington Department of Ecology (Ecology) identifies areas of contamination and requires that they be investigated and cleaned up. Because MTCA holds owners and operators of contaminated properties strictly liable for the costs of remediation, cleanup activities are often funded by planned redevelopments. The Applicant has planned for development in Planning Area 1 to fund cleanup in Planning Areas 2 and 3, which is a common practice. Based on his experience, he submitted that any remaining data gaps would be required to be satisfied in the agreed order, which will impose a timetable in which extensions of clean up deadlines are on the order of 30 to 90 days, not years or decades. *Cliff Schmitt Testimony; Exhibit M10.*
40. Mr. Schmitt testified that, in accordance with MTCA procedures, Ecology has prepared a site hazard assessment (SHA) for the former Weyerhaeuser property, including the Mill Site and Borst Lake, and assigned it a hazard ranking of 1. Ecology has identified the entire former Weyerhaeuser property as an area where remedial action is necessary. The next step in the MTCA process will be preparation of a formal remedial investigation and feasibility study (RI/FS) consistent with WAC 173-340-350 to confirm and supplement the information in the SHA. As explained by Mr. Schmitt, the remedial investigation determines the nature and extent of contamination, and the feasibility study identifies and

evaluates potential feasible remediation technologies to eliminate potential exposures. The RI/FS allows Ecology to review and approve a plan for remediation of the hazardous substance. *Cliff Schmitt Testimony; Exhibits S4 and S5.*

41. Mr. Schmitt testified that Farallon Consulting began working with Ecology on plans for MTCA remediation in 2018 and that the effort is currently paused because Ecology does not have sufficient staff to manage the project. He stated that Farallon has asked Ecology to confirm its conclusion that Planning Area 1 does not contain hazardous contamination above MTCA-established limits; if confirmed, this would result in the exclusion of Planning Area 1 from the site subject to remediation under MTCA and allow development to proceed pursuant to permits by the City. As explained by Mr. Schmitt, in conjunction with this request and in response to comments by Ecology on the DEIS, Farallon conducted its 2021 supplemental subsurface investigation to examine whether contamination could be migrating from Planning Areas 2 and 3 onto Planning Area 1. *Cliff Schmitt Testimony; Exhibit C1, Appendix B.*
42. In response to Ms. Jenkins' assertions that a comprehensive investigation of contamination is necessary, Mr. Schmitt testified that the RI/FS required by MTCA will constitute a comprehensive investigation sufficient to address unknowns about the Mill Site. He stated that Ecology is the agency with authority to determine whether current information about Planning Area 1 is sufficient to allow development to proceed and is also the agency that will determine what investigation and cleanup methods are required for Planning Areas 2 and 3. Before any ground disturbance or construction can take place in Planning Area 1, Ecology will consider the Applicant's evidence of historic uses, observations of current site conditions, and subsurface investigations and make a determination whether it agrees that Planning Area 1 contains no contamination. In making these determinations, Ecology will not be bound by property lines, the designation of the three planning areas, or the Applicant's and City's interpretation of the evidence about Planning Area 1. Rather, Ecology will define the boundaries of the area requiring remediation based on the evidence. If Ecology determines that additional data is needed regarding any of the planning areas, it will require Applicant to provide that data before redevelopment or remediation proceeds. Based on its MTCA authority, Ecology will not allow development to proceed that exposes human health or the environment to contamination. The potentially liable parties, including Applicant, will not be allowed to perform actions that foreclose reasonable alternatives for the cleanup action, such as building in areas with contamination above cleanup thresholds, and will be required to address potential exposure pathways that threaten human health or the environment. Mr. Schmitt also described environmental media management techniques that will be utilized under the MTCA process to prevent hazardous material from entering the air or water, and he stated that he had experience with these techniques being utilized effectively on previous cleanup sites. Mr. Schmitt was not at all concerned that the FEIS was issued before the RI/FS was completed and testified that it often happens that the EIS associated with development would come out before and separate from the MTCA clean up process. He testified that he has never had a MTCA clean up held up or influenced by a SEPA process. *Cliff Schmitt Testimony; Exhibits M10, M14, and M15.*

43. After issuance of the FEIS, an Ecology staff member responded to a SCAN member's email, stating (in part):

As you mentioned, Ecology did make comments on the draft EIS about several topics, including cleanup, water rights and stormwater management and impacts to wetlands. It was our intention to bring these topics to the attention of the City of Snoqualmie and start a conversation and planning for project permitting. Ecology is not planning on filing an appeal of the Final EIS. . . .

As you saw in the response to comments, the need for cleanup has been acknowledged and cleanup will be integrated as part of the redevelopment. This is a large and complicated site and we understand there are a lot of concerns around the redevelopment and maintaining protection of human health and the environment. To address these concerns, we will work with the developer and the city to ensure required cleanup actions are taken, and the project is permitted under our regulatory authority.

Exhibit M15.

44. Regarding the specific potential contamination sources Ms. Jenkins asserted could be found in Planning Area 1, Mr. Schmitt stated that had there been any potato-growing operations, they would likely have been quite small and that he had not seen evidence of buried transformers heating oil tanks. He testified that he had reviewed available records regarding railroads on the Mill Site and found no evidence that suggesting one in Planning Area 1, and that if there had been a railroad in or near the area, it would likely not have posed a risk contamination because, in a rural area, the railbed would not have been composed of industrial waste, as has been the case in urban areas. He testified that Planning Area 1 was not known to contain any wood waste fill, but rather wood debris that had been mixed in with the soil and not used for grading. In his review, he had not seen concentrations of wood debris that would raise concerns about exploding methane; however, Ecology would monitor the issue if needed. Regarding Mr. Jack's concern that there may be areas of creosote contamination in Planning Area 1, Mr. Schmitt testified that there is no historical record of creosote use in that area, unlike the known dip tanks/drip pads in Planning Area 3. He stated that treatment with creosote is a use with a large footprint in a lumber mill and he believes there would be available information had it been conducted there. Mr. Schmitt testified that in Planning Area 1, he knows of no evidence of releases of PCBs, petroleum hydrocarbons, heavy metals, dioxins/furans, or any other contaminant release. He noted that the subsurface study detected contaminants in Planning Area 1 at concentrations exceeding MTCA Method A cleanup levels, including high concentrations of arsenic and total petroleum hydrocarbons as gasoline-range organics (GRO), as diesel-range organics (DRO), and as oil-range organics (ORO) in the soil which are believed to be naturally occurring. *Cliff Schmitt Testimony; Exhibit C1, .pdf page 173.*

45. Regarding the topics of concern in Planning Areas 2 and 3 discussed by Ms. Jenkins, Mr. Schmitt testified that petroleum hydrocarbons, PCBs, and boiler ash are substances that can be successfully remediated through the MTCA process. He testified that petroleum

hydrocarbons could eventually degrade naturally if not cleaned up, but MTCA remediation would address them. He testified that PCBs, which are typically in a mineral oil like substance, do not tend to migrate more than 50 to 75 feet from the site of an initial release, depending on soil and groundwater conditions. *Cliff Schmitt Testimony.*

46. Addressing Mr. Jack's concern about the potential risk to workers and the public from undiscovered contamination encountered during development, Mr. Schmitt offered the following. Should the proposal receive the required approvals from Ecology and the City to proceed, workers on the site would be provided with an environmental media management plan, and receive safety training and/or refresher courses, and they would know how to respond to conditions or contamination encountered in the field. He submitted that people who do earth work for a living are generally acclimated to this because so many sites available for development are contaminated. For example, if workers discover an underground storage tank, the environmental media management plan would establish who to call, what sampling to perform, and how it is cleaned up. All site work would be conducted in accordance with specified best management, implemented through the grading permit process, that would address dust, stormwater runoff, erosion controls, and the like, all of which would act to lessen potential exposure for workers and the public. When soil is removed from property (as one example, the upper six inches of bark to be removed from Planning Area 1 that has been used for event parking), it would be required to be tested because receiving facilities require soil profiling. Similarly, if they have to pump and remove groundwater, they would need a permit and the water would have to be tested before it is removed and disposed of elsewhere. All such data would be reported to Ecology. *Cliff Schmitt Testimony.*
47. In response to Ms. Jenkins' opinion about the inadequacy of Farallon's 2021 subsurface investigation, Mr. Schmitt offered the following. The 2021 subsurface investigation specifically examined the issue of the potential for contaminants to migrate into Planning Area 1 from other portions of the Mill Site. He testified that Farallon chose the locations of the test pits based on where data suggesting such migration would be likely to occur. He submitted that the locations chosen were adequate to reach a conclusion on the migration issue but noted that Ecology would have the final say on the issue and would require additional data if it deemed more data necessary. Responding to Ms. Jenkins critique about the number of soil sample sites, Mr. Schmitt stated that he did not believe digging test pits throughout the entirety of Planning Area 1 would be useful, because it would not be appropriate to search for contamination without a reason to think it would be found in that specific location. He stated that doing so would constitute an inefficient use of resources that would undermine the overall investigation and remediation effort. Mr. Schmitt explained that he had provided a summary of the investigation's conclusions for inclusion in the FEIS because the information would add to the City's understanding of the Mill Site, but that it had been prepared for Ecology's use in the initial MTCA process and that he would provide all of the associated data, such as lab reports and test results, to Ecology as part of the MTCA process. Addressing her comment that without the lab results the adequacy of the subsurface investigation cannot be verified, Mr. Schmitt testified that in his professional experience providing analysis for SEPA reviews,

a summary is what is typically included in the EIS. The hundreds of pages of lab data would not be meaningful to most reviewers; it is not simple data. He testified that never in the course of preparing materials for an EIS has anyone come back to him after receiving his summary and asked for underlying data. Finally, while Farallon only did nine test pits, a previous consultant (Associated Earth Sciences Inc.) did 15 test pits, and Farallon had their data. *Exhibit C2, Appendix B; Cliff Schmitt Testimony.*

Critical Areas

48. In response to alleged errors concerning critical areas, the Applicant offered the testimony of Chris Wright and Keith Goldsmith. Mr. Wright is a professional geologist and hydrogeologist licensed in Washington State since 2002. He has 35 years professional experience with contaminant hydrogeology, including cleanup program management. Since 2012 Mr. Wright has been involved in identifying and delineating the wetlands, streams, and associated buffers and setbacks on the Mill Site that are regulated by the USACE and that are regulated as critical areas by the City of Snoqualmie. Mr. Goldsmith is the civil engineer for the Proposal and has been involved in numerous aspects of the Proposal, including preparing a hydrologic analysis of impacts to wetlands. *Testimony of Chris Wright and Keith Goldsmith; Exhibits M4 and M6.*
49. Mr. Goldsmith testified that he prepared a Master Drainage Plan that included hydrologic modeling for Planning Area 1 in accordance with the King County Surface Water Design Manual (KCSWDM). The KCSWDM requires developers to evaluate hydrology to local wetlands and provides a method and criteria for the required hydrologic modeling in KCSWDM Reference 5, Wetland Hydrology Protection Guidelines. These guidelines require that the Applicant model pre- and post-development conditions using a continuous model with specified inputs. Goldsmith Engineering performed modeling according to these requirements for the wetlands that would be affected by the development proposed in Planning Area 1, which include the Wetland 12 system and Wetland 28 in Planning Area 1. *See Exhibit C2, Appendix C, .pdf page 100 and .pdf pages 143-151.* Although development of Planning Area 1 would reduce the amount of precipitation that infiltrates on the Mill Site by installing impervious surface area, the hydrologic analysis performed by Goldsmith demonstrates that the Proposal would not have significant adverse impacts on wetland hydrology. The modeling shows wetland hydrology would be maintained through discharge of treated stormwater into wetland areas along the historic drainage routes. *See Exhibit C2, Appendix A, .pdf pages 91-92.* Mr. Goldsmith testified that hydrologic modeling was not required for Wetland 29 because its hydrology is dependent on Wetland 28, and because the modeling shows that Wetland 28 would have sufficient hydrology, Wetland 29 would too. Mr. Goldsmith testified that the KCSWDM does not require hydrologic modeling for wetlands in Planning Areas 2 and 3 because currently no development is proposed that would affect their hydrology. The KCSWDM would require that modeling when there is a specific proposal and before any development occurs in Planning Areas 2 and 3. *Keith Goldsmith Testimony; Exhibit C2, Appendices A and C.*

50. According to the Raedeke report, the existing wetland buffers throughout the site are severely degraded due to the historic mill use. Within Planning Area 1, the Proposal would impact approximately 4.16 acres of buffer for Wetlands 12 and 28. To mitigate these impacts, the Proposal would provide five acres of compensatory wetland buffer south of/adjacent to the Wetland 28 buffer. Additionally, in moving Mill Pond Road farther from the ordinary high water mark of the Snoqualmie River, road construction in Planning Area 1 would impact 8,100 square feet of Snoqualmie River buffer, for which 8,700 square feet of stream buffer mitigation is proposed. No direct impact to wetlands is proposed. Retained buffer areas would be planted with native species. *Exhibit C2, Appendix C, .pdf pages 101 and 104; see also Exhibit C6, Sheet CA-1, .pdf page 160.* The proposed wetland buffer averaging and mitigation plan requires City Council approval of a deviation from Code standards. Mr. Wright testified that because the Proposal would expand and improve wetland buffers throughout the Mill Site, connecting them with open space and habitat areas and adding new compensatory wetland buffer area, the Proposal would result in overall enhancement of critical area functions and values. He submitted the opinion that maintaining wetland buffers in strict adherence to standard requirements, rather than as with the proposed deviation, would result in a lower level of function than the Proposal because it would establish discontinuous buffer areas, which provide lower habitat functions. Also, standard buffers are not required to be enhanced. *Christopher Wright Testimony; Exhibit C2, Exhibit 3.3-19, .pdf page 188 for illustration of conceptual plans for buffer averaging; Exhibit 3.4-10, .pdf page 230 for buffer impacts and compensation; and Exhibit 3.4-10, .pdf page 231 for Planning Area 1 buffer enhancement and restoration.*

51. In response to Dr. Cooke's testimony, Mr. Wright and Mr. Goldsmith testified that additional analysis of potential impacts to critical areas from the Proposal is not necessary. They asserted that the EIS relies on adequate information, including the Raedeke and Goldsmith reports as well as a geotechnical report from AESI that discusses surface water hydrology, including the Snoqualmie River, Tokul Creek, and Borst Lake; streams and wetlands including hydrologic sources; and groundwater conditions. The list of studied/considered features is in Exhibit C2, Appendix C, .pdf page 106. Responding to Dr. Cooke's specific criticism on the point, Mr. Wright explained the Raedeke did not attempt to delineate Borst Lake because they did not have access to it. Both testified that there is no proposed draining, dredging, or fill of wetlands or streams from the Proposal and that some of Dr. Cooke's suggestions to the contrary may have been based on review of outdated plans. Mr. Goldsmith testified that there was no evidence that the Proposal would impact groundwater hydrology and that modeling performed in accordance with KCSWDM standards has demonstrated that surface water flows to the wetlands could be adequately maintained. Mr. Wright and Mr. Goldsmith testified that the proposed development of Planning Area 1 does not involve grading, fill, or other construction activities in wetlands and that wetland hydrology would be maintained at close to current levels. *Testimony of Chris Wright and Keith Goldsmith; see Exhibit C2,.pdf page 169 et seq, particularly Exhibit 3.3-6 and 3.3-7, .pdf pages 171-172; C2, Exhibit 3.4-4 .pdf page 203; and C2, Exhibit 3.4-11, .pdf page 233.*

52. Responding to Dr. Cooke's testimony regarding wetland ratings, Mr. Wright testified that Raedeke initially requested a jurisdictional determination from the Corps in 2013 and subsequently engaged in "extensive coordination" with the agency. The USACE issued its jurisdictional determination establishing the wetland boundaries for the entire Mill Site on May 3, 2017. *Exhibit C2, Appendix C, .pdf page 120.* In response to Dr. Cooke's testimony regarding its expiration, Mr. Wright testified that the jurisdictional determination was still valid at time of hearing, and that as of the hearing date, Raedeke Associates was in the process of collecting current data to support a request for extension of the jurisdictional determination.⁵ However, he clarified that there are no USACE jurisdictional wetlands in Planning Area 1 and that the jurisdictional determination would need to be in effect for development of Planning Areas 2 and 3. In response to Dr. Cooke's testimony that she didn't know whether the wetlands had been rated under the previous or current City code, Mr. Wright testified that Raedeke had rated the wetlands and established the wetland buffers using the City's current, updated methodology under the 2014 Department of Ecology Manual, and that following the original delineations, all wetlands had been revisited during site visits conducted with representatives from state and local agencies and the delineations had been field verified. Addressing Dr. Cooke's criticism that the data forms were not available, Mr. Wright indicated that some data forms are in Appendix C to the DEIS and that all of the wetland rating data forms were provided to USACE. *See Exhibit C2, Appendix C, .pdf pages 113-118; Chris Wright Testimony.*

53. Although the wetlands, streams, and other jurisdictional features on Planning Areas 2 and 3 have not been hydrologically modeled, they have been delineated, and the delineations have been approved by the USACE. *See Exhibit C2, Exhibit 3.4-4, .pdf page 203.* Currently no development of Planning Areas 2 and 3 is proposed, and without proposed development, no impacts to those wetlands and buffers have been analyzed. The EIS concludes that sufficient area exists in these planning areas to allow construction at the size contemplated for the Proposal without disturbing the jurisdictional wetlands, streams, buffers, or setbacks. *Exhibits C1 and C2; Testimony of Chris Wright and Keith Goldsmith.*

Transportation

54. In response to alleged errors concerning transportation, Applicant offered the testimony of transportation engineer Jeff Schramm, a transportation engineer with 27 years' experience who conducted the transportation analysis and prepared the discussion and response to comments in the EIS. Mr. Schramm identified the study area for impacts from the Proposal based on input received during the EIS scoping process, which included seeking input from King County and WSDOT. In accordance with adopted City standards, he focused his analysis on potential impacts to weekday peak-hour LOS affecting vehicle traffic. The study identified 23 affected intersections in addition to five site entrances and projected their future operations with and without the project, both at

⁵ No further information on the status of the Applicant's request for extension of the jurisdictional determination was available at time of hearing, nor invited to be/provided after close of the record.

the build out of Planning Area 1 only and at full build out of all three phases. Future projections included application of assumed background growth each year, pipeline projects (approved but not yet on the road network), and known transportation improvement projects of WSDOT and the City for horizon year 2023 for Planning Area 1 only and 2032 for full build out. Mr. Schramm's analysis indicated that while most intersections are projected to have some increase in delay, trips generated by fully built Planning Area 1 would not cause any study intersection to experience levels of service below City minimum standards. At full Proposal build out, he concluded that trips generated by fully built Planning Areas 2 and 3 would cause some intersections to fail level of service standards unless adequate mitigation was implemented. The EIS identifies traffic improvements that can serve as mitigation for these impacts as well as the points in time appropriate for future environmental analysis when the specific impacts and mitigating measures can be assessed. Of note, recommended condition 39 for PCI Plan approval requires future transportation analysis based on then-current information before construction, requiring updated data to address actual conditions at time of proposed construction. After receiving comments on the DEIS, Mr. Schramm reviewed additional information, which he testified confirmed his conclusions about the adequacy of the information he relied upon. *Jeff Schramm Testimony; Exhibits 1, C1, C2, C2 Appendix F, M3, and M16.*

55. In response to Mr. Norris's testimony regarding the age of the traffic counts, Mr. Schramm agreed that ideally traffic counts are closer in time, and within one year is typical on smaller projects; however, he testified that in his practice and experience larger projects often require the use of two year old traffic counts. In this case, he stated that the time that elapsed between collecting the counts and publication of the DEIS was a function of the size and complexity of the Proposal and the public PCI Plan process. Mr. Schramm submitted that the age of the traffic counts used did not impede the accuracy of his analysis because they accurately reflect the existing condition. He noted that background growth rates were applied for each year. *Jeff Schramm Testimony.*
56. In response to Mr. Norris's critique regarding the use of January and February traffic counts rather than summer, Mr. Schramm testified that he took this comment seriously. In responding to it, his team reviewed data from two other permanent traffic counters (PTRs) in the vicinity of the Proposal: one located on SR-202 to the northwest and one located on I-90. The review of PTR data collected continuously over years indicated seasonal variation that was much lower than the SR-18 PTR: closer to 5% on SR-202 and 10% on I-90.⁶ Mr. Schramm testified that numbers within 5-10% are reasonable to use because they are within the level of daily traffic fluctuations. These data confirmed to him that there was no need for additional traffic counts. Mr. Schramm explained that he believed the SR-202 PTR data was more relevant than the SR 18 counts cited by Mr. Norris because it is more representative of the type of traffic that would access the

⁶ Of note, the SR 18 PTR data cited by Mr. Norris showing a 26% seasonal fluctuation was from 2016. The PTR is on SR 18 within one mile of the I90 interchange. *Exhibit S1, .pdf page 41.*

Proposal. Also, he stated that the SR 18 PTR data was not necessarily applicable because it reflected daily traffic counts rather than peak hour traffic counts, and that peak hour traffic tends to vary less over the course of the year because peak hour traffic includes non-discretionary trips like commutes and the City's adopted standards focus on weekday peak-hour levels of service. Mr. Schramm submitted that Mr. Norris's suggestion that all counts used in the EIS should be increased by 26% is unfounded and not supported by the evidence. *Jeff Schramm Testimony; Exhibits C1 and C2.*

57. Addressing Mr. Norris's critique of the pass-by trips reflected in the EIS, Mr. Schramm testified that in order to provide an accurate picture of traffic impacts, standard traffic engineering practice considers both "net new trips" generated by a project as well as impacts to trips that are already in the area. He agreed that Mr. Norris had correctly cited the ITE Manual's definition of pass-by trips as trips coming from an adjacent roadway. He testified that his calculation of existing trips that would be affected by the Proposal included some trips that would meet the ITE Trip Generation Manual's technical definition of pass-by trips and some trips that would more specifically be categorized as "diverted trips," which are existing trips that divert from a roadway not directly adjacent to the Mill Site and therefore travel through an intersection as well as the Mill Site entrance point. Here, those trips came from SR 202, which carries a larger volume of traffic than Mill Pond Road and intersects with Mill Pond Road at a roundabout just to the northwest of the Mill Site. Mr. Schramm referred to all of these trips collectively as pass-by trips and accounted for them in the calculation of net new trips generated by Planning Area 1. Mr. Schramm testified that although both pass-by and diverted trips had been deducted from the net new trip total, they had not disappeared from his analysis as Mr. Norris suggested. The calculations of intersection LOS reflected the volume of diverted traffic that would travel through affected intersections, including the SR-202/Mill Pond Road roundabout and the access points for the Mill Site. This is shown by the inclusion of pass-by trips in the number of vehicles projected to be traveling through the roundabout (study intersection #16) in DEIS Figure 3.11-16 (see Exhibit C2, .pdf page 392). *Jeff Schramm Testimony; Exhibit C2, Appendix F.*
58. Regarding Mr. Norris's objection to the use of the shopping center land use category, Mr. Schramm testified that although some specific types of retail have been referenced in planning documents for the Proposal, the actual composition of uses and tenants in Planning Area 1 remains unknown. He submitted that in his experience, use of trip generation rates for a shopping center would capture the potential impacts from a variety of retail types better than arbitrary and possibly inaccurate specific designation(s). He testified that both pass by and internally captured trips had been appropriately calculated for these uses and that neither type of trip had been disregarded. *Jeff Schramm Testimony; Exhibit C2, Appendix F.*
59. In response to Mr. Norris's statement that weekend LOS should have been calculated, Mr. Schramm testified that the City's adopted traffic standards specifically require study of the weekday AM and PM peak hour LOS, and that these standards were the basis for the scope of his analysis. The DEIS includes Saturday as well as weekday trip generation

estimates; the estimates for daily Saturday trip generation exceed those for daily weekday trip generation by 12 trips out of more than 5,000. In addition, the number of truck trips on Saturday would be half the weekday number. *Jeff Schramm Testimony; Exhibit C2, Appendix F.*

60. On Mr. Norris's contention that it was error not to have analyzed alternative modes of transportation, Mr. Schramm testified that he did not calculate pedestrian, bicycle, or transit trip generation numbers because the suburban location of the Mill Site indicated that the vast majority of trips would be by vehicle. Mr. Schramm testified that if he had factored in trip generation numbers for these alternative transportation modes, it would have inaccurately reduced the number of vehicular trips predicted; to focus on vehicles only produces more conservative estimates of trip counts and impacts. Noting that the EIS considered pedestrian and bicycle needs, Mr. Schramm pointed out the sidewalks and pedestrian amenities included with the proposed realignment of Mill Pong Road near the entrance to Planning Area 1, and also called out planned enhancements to trails and trail connections around the Mill Site. *Jeff Schramm Testimony; Exhibit C2, Appendix F.*
61. In response to Mr. Norris's argument that the EIS should have included a construction management plan, Mr. Schramm testified that a construction management plan is a commonly used method to address construction impacts and can include elements such as scheduling truck trips and establishing a haul route. Mr. Schramm noted that the EIS recognizes the future need for a construction management plan but did not include because the plan cannot be developed until sufficiently detailed information is known about the project under consideration. Such plans are typically developed at the construction permit stage. He testified that a construction management plan could successfully be implemented for the Proposal during a later stage of permitting. *Jeff Schramm Testimony; Exhibits C1 and C2.*

Additional Issues

62. In response to alleged errors concerning land use, phasing, and other SEPA issues, the Applicant offered the testimony of Richard Weinman, the environmental consultant with 43 years of experience who managed the team of consultants that contributed analysis to the EIS. In response to Mr. Derdowski and other Appellant witnesses contending the use of phased review was error, Mr. Weinman testified that phased review is a method of providing additional information as part of the first stage of a master planning process, addressing portions of a site that have been planned at a conceptual level but not in detail. He submitted that phased review is appropriate because PCI Plan approval is a master planning process, which is the type of action for which phased review was intended, and because it is understood that there would be additional environmental review in the future as needed for specific development proposed on Planning Areas 2 and 3. In addition, the EIS includes consideration of the impacts of Planning Areas 2 and 3 that can be known, including impacts that are cumulative with impacts of Planning Area 1. The discussions of environmental health, critical areas, traffic, and water supply in the EIS all consider impacts from all three planning areas, at the level of detail that is appropriate based on currently known information. The discussion of environmental health acknowledges that

MTCA remediation is necessary for Planning Areas 2 and 3. The traffic and water supply sections acknowledge that additional infrastructure and water supply would be needed to support full buildout. Addressing the Appellant contention that the FEIS did not respond to all of the comments or topics raised in comment on the DEIS, Mr. Weinman submitted that there is no requirement that the City respond individually to each comment. *Richard Weinman Testimony; Exhibits C1, C2, and M1.*

63. Mr. Weinman submitted that the scope of discussion regarding land use compatibility must include the context of historic industrial uses and zoning of the Mill Site and the nature of adjacent uses, which include open space, mining, rural residential, urban reserve, and City utilities. He testified that if the Proposal is developed the intensity of uses on the Mill Site would be greater than current use but not greater than historic use when the Weyerhaeuser mill was in operation. He submitted that the question of impacts to the broader area is addressed in the analysis of views, parks, transportation, and public services. In response to Mr. Derdowski's testimony that the EIS did not adequately address the uses allowed on the site under the SMP, Mr. Weinman testified that the DEIS analysis included review of allowed uses and other shoreline considerations and determined that the Proposal was consistent with the SMP (see Section 3.7.5). He pointed out that the FEIS updated that analysis in Section 3.8 to account for changes to the SMP, and its conclusions did not change. *Exhibit C1, .pdf pages 180-181.* Addressing Mr. Derdowski's assertion that the EIS did not consider the question of growth inducement, Mr. Weinman testified that he believed the concern was speculative and based on the assumption that there would be legislatively adopted rezones allowing further development of the rural area surrounding the Mill Site. Mr. Weinman submitted that such speculation is not appropriate and that it is not improper for an EIS to be performed assuming the applicable zoning designations would be implemented. *Richard Weinman Testimony; Exhibits C1 and C2, .pdf pages 267-270.*

City Evidence

64. In response to alleged errors concerning phased review, land use impacts, and other general SEPA issues, the City offered the testimony of Mark Johnson of Environmental Science Associates. Mr. Johnson is an environmental consultant with over 30 years' experience conducting SEPA review. He was designated the SEPA Official for the Proposal after the departure of the City's prior Community Development Director, and he coordinated City reviewers and Applicant consultants in preparing the FEIS. Having listened to all appeal testimony, Mr. Johnson testified that his opinion that the EIS was adequately thorough had not changed. He submitted that SEPA does not require that every data gap be closed, only those for which adequate information about a significant impact is lacking, of which none have been demonstrated. He testified that SEPA does not require the inclusion of a specific response to every comment received on a DEIS. He testified that in his experience, analysis of land use compatibility considers potential changes in overall land use pattern - not a specific proposal's compliance with standards or the preference of any individual existing use. *Mark Johnson Testimony; Exhibit C14.*

65. Mr. Johnson testified that based on his experience conducting SEPA review, it is appropriate and typical to utilize phased review for large projects whose components vary in the amount of detail that is known. He stated that phased review utilized for the Mill Site EIS enabled the City to be better informed than if Planning Areas 2 and 3 had not been included in the EIS analysis at all. He stated that he believes the EIS appropriately discussed cumulative impacts; for example, the discussion in the wetlands analysis of water and soil issues and the discussion in the housing analysis regarding traffic. He testified that although Planning Area 1 could stand alone, the PCI plan procedures established by the City Code require consideration of the entire Mill Site in order to ensure that common elements such as utilities are adequately considered. *Mark Johnson Testimony; Exhibits C1 and C2.*

66. Mr. Johnson submitted that, based on his experience, the use of phased review is particularly appropriate for sites that involve a MTCA cleanup. Mr. Johnson described one very large project in Seattle, the Quadrant Lake Union project, that was similar to the Mill Site proposal. The Lake Union project entailed a phased redevelopment of a 19-acre former lumber mill in Seattle into over a million square feet of commercial space over the course of 10 years. Mr. Johnson testified that the cleanup and remediation required on the project was successfully completed in phases. During each phase, the developer would tear down a certain number of buildings, clean up the immediate area, put up a new building, and move on to the next phase of the project. Mr. Johnson explained that after the EIS for the Quadrant Lake Union Center was completed, each phase (building) went through a new SEPA review process, some of which were addenda, with a new determination made for each building. Because at the beginning of the multi-year project the developer did not know project details such as the configuration of buildings and the number of occupants for later phases, phased review enabled the City to more thoroughly evaluate potential project impacts at later stages, once additional details were known. The site was eventually fully cleaned up, and project was eventually fully developed. It is now occupied by a range of office buildings with successful tenants including Getty Images, Google, and Adobe. *Mark Johnson Testimony.*

67. The City also offered the testimony of Jason Rogers, its interim Community Development Director. Mr. Rogers testified that the Proposal analyzed in the EIS is a hybrid project-nonproject action. He stated the PCI Plan approval sought by the Applicant is a plan that would govern forthcoming actions and is therefore a nonproject action, but the level of detail proposed in the Planning Area 1 portion of the plan is closer to a project-level review. Mr. Rogers explained the history of development in Snoqualmie, including the nearby Snoqualmie Ridge I and II master-planned developments, which were developed based on SEPA review using a phased review approach. Mr. Rogers indicated that the master plan development review represented by the PCI Plan and the phased environmental review used in the Mill Site EIS are consistent with the City's review and approval of development over the past 20 years. *See Exhibits 1.I, 1.J, 1.K, and 1.L.* As stated in the FEIS,

[P]roviding some level of analysis for the entire site in this manner also enables the Draft EIS to evaluate cumulative impacts. Far from dividing the project into pieces to avoid analysis, which is the definition of piecemealing, the Draft EIS is addressing cumulative impacts of the overall project by providing current analysis of portions of the site that have not been planned in detail at a programmatic level.

Exhibit C1, .pdf page 122. In response to Mr. Derdowski's testimony that the Proposal was inconsistent with City growth targets, Mr. Rogers testified that new growth targets had been recommended by PSRC in June 2021, and that they had been adopted by King County Council and ratified by the Snoqualmie City Council. Mr. Rogers also confirmed that he was aware of the City's water system plan update process, and that he had worked with the City's outside water engineering consultant, Michele Campbell, to provide employment and population projections for the City's urban growth area to be included in water supply planning. *Jason Rogers Testimony; Exhibits C1, C29, C30, C31, and C32.*

68. In response to alleged errors concerning transportation, the City offered the testimony of Chris Breiland, a transportation engineer with 17 years of experience. Mr. Breiland is with Fehr & Peers, the firm tasked with conducting peer review of the EIS documentation provided by TENW. In reviewing the TENW transportation analysis, Fehr & Peers requested different and/or additional information as necessary to ensure the City's interests were adequately represented. Having reviewed the concerns expressed by Mr. Norris, Mr. Breiland testified that his review confirmed Mr. Schramm's position that the traffic analysis conducted was "conservative" in terms of erring on the side of over-estimating traffic volumes and impacts. His position was in part based on his experience with data from other large master planned development projects in the City, including Snoqualmie Ridge I and II, which data consistently showed traffic volumes below previously predicted levels. *Chris Breiland Testimony; Exhibit C13.*
69. Addressing Mr. Norris's criticism of the use of January and February traffic counts, Mr. Breiland testified that Mr. Schramm's approach was consistent with standard traffic engineering practice and that it was more important to take traffic counts on a mid-week day when school is in session than to focus on fluctuations over the course of the year. Mr. Breiland testified that conducting "worst case scenario" analysis for something like seasonal variation would not be consistent with standard practice or the public interest because it would tend to overestimate impacts and the traffic improvements (such as wider roads) needed to respond to them, which in themselves can lead to adverse environmental impacts. In response to Mr. Norris's assertion that the EIS should have analyzed LOS impacts for weekends as well as weekdays, Mr. Breiland testified that Fehr & Peers specifically analyzed whether there was a need for weekend LOS analysis and concluded that there was not. He testified that Fehr & Peers' experience indicates that weekend LOS analysis is only justified when there is a substantial difference between weekend and weekday traffic, particularly because weekend traffic is more evenly distributed throughout the day, rather than being concentrated in non-discretionary peak-hour trips commuting to work and school. In Snoqualmie, the difference between

weekend and weekday traffic was not large enough to require weekend-specific LOS analysis. In response to Mr. Norris's testimony that there should have been additional analysis of transit impacts, Mr. Breiland testified that the purpose of a transit analysis in an environmental statement is to see if the project would overload existing transit systems, and it is very unlikely that the Proposal would do so because of its location. There is only one bus route in the vicinity of the Site, and it is not served with sufficient frequency to attract ridership from potential Project residents from the proposed 160 residential units. He testified that although Fehr & Peers would have been concerned about a lack of specific transit impact analysis for a project in a dense downtown area, this kind of analysis was not needed for the Proposal. Mr. Breiland addressed and rebutted a number of statements in Mr. Norris's comment letter and testimony regarding the traffic modeling techniques employed in the EIS, specifically on use of the PRSC model, the selected background growth rate, etc.. *Chris Breiland Testimony*. Following Mr. Breiland's testimony, the Appellant did not pursue those arguments by Mr. Norris in its closing brief. *Exhibits R21 and R24*.

70. In response to alleged errors concerning water supply, the City offered the testimony of Michele Campbell, a director at RH2 Engineering, the firm tasked with updating the City's water system plan. Ms. Campbell is a licensed engineer with more than 20 years of experience who has conducted water system planning and prepared water system plans (WSPs) for numerous jurisdictions and utilities in the Pacific Northwest, including multiple cities in King County. On behalf of the City, she reviewed the DEIS analysis regarding water supply. She testified that under state statute, a water system plan is required to provide a 20 year analysis with projections for land use and population, water demand and supply, maintenance needs, system capacity, capital improvement plans, and financial capacity. She testified that the City's draft WSP update was submitted to reviewing agencies, including King County's UTRC, in 2021, and that as of the hearing, the City was awaiting feedback. Ms. Campbell stated that the EIS discussed the water system planning process, but the information contained in the 2021 draft WSP update had not been expressly included in the FEIS because the update was issued after the EIS. She submitted that a water system plan is "always a living document," that environmental review accounts for the ongoing planning process, that it is several hundred pages, and that it would not be reasonable to include the WSP within the EIS. *Michele Campbell Testimony; Exhibits C8, C9, C11, C24, C16, and C26*.
71. Ms. Campbell testified that she agreed with the EIS's conclusion that there is sufficient water supply for Planning Area 1 and that additional supply would be needed for Planning Areas 2 and 3. She testified that RH2's analysis indicated that current City water use is below projected levels by approximately 15% to 20%, meaning the City currently has more water supply available than had been projected. She submitted that this would allow for some additional capacity 10 and 20 years in the future. She also discussed options identified by the City for additional supply, including new City water rights for which the City has already applied. She testified that the Proposal has applied for LEED certification, which if achieved would require improvements in water use efficiency that would the demand of the Proposal when developed as compared to the

demand planned for based on the underlying zoning. She testified that the City has been awarded a Department of Ecology grant to utilize a pilot program for aquifer storage and recovery, which is a process of withdrawing water from a spring during the rainy season and injecting it into a wellfield during the dry season. *Michele Campbell Testimony; Exhibits C6, C6A, C8, and C25.*

72. Providing context for the subject of water supply, Ms. Campbell explained that City's water service area includes customers within City boundaries, customers in the City's UGA, and customers in non-UGA areas in unincorporated King County. Addressing Mr. Hill's testimony that the EIS had failed to account for potential population growth in unincorporated King County that would be affected by the need for water supply for the Proposal, Ms. Campbell testified that the draft WSP update accounts for additional water supply needed for residents of unincorporated King County, the population of which is not expected to grow in areas served by the City water system. She provided a July 2018 email exchange between RH2 and then King County Demographer Chandler Felt in which R2H requested population projections for the unincorporated King County portion of the City's water service area to inform the water system plan update. In his reply, Mr. Felt stated that "almost zero" residential population growth was projected in the non-UGA area outside of City limits. *Michele Campbell Testimony; Exhibits C8 and C27.*
73. At the request of Appellants, Ms. Campbell also testified on re-direct to provide testimony about the copies of the e-mails she had mentioned. During her testimony on re-direct, Ms. Campbell explained that, contrary to Mr. Hill's assertion, the 2021 WSP update analysis did include water supply for potential customer growth within the City's UGA. Ms. Campbell offered an e-mail from the former UTRC chair Steve Hirshey in which he suggested that, if the area was projected to be annexed into the City during the planning horizon for the water system plan, the City should estimate water demand based on expectations concerning how the City would zone potential annexation areas in the City's UGA for the portion of the City's water service area located within the UGA. Ms. Campbell testified that she followed Mr. Hirshey's suggestion and discussed the matter with City Planning Staff, including Jason Rogers, who provided her detailed population and employment projections for each of the City's separate potential annexation areas, based on what would be expected following annexation. She then used those projections in the WSP's overall water demand estimate, which are shown in Table 3-1 and Chart 3-1, and discussed in the paragraphs immediately below the chart on page 3-8, of the 2021 WSP update. *Exhibit C8, .pdf pages 68-71.* Based on the 2021 WSP's inclusion of water supply for projected annexation-related population growth in the City's UGA, Ms. Campbell disagreed with Mr. Hill's opinion that the City had not taken into account the potential water needs of residents of the unincorporated area. *Michele Campbell Testimony; Exhibits C8 and C28.*

PCI Plan Findings

74. Pursuant to SMC 7.20.050(A), the purpose of the planned commercial/industrial district is to provide for imaginative, well-designed, master-planned commercial/industrial development containing compatible and complementary uses, including mixed or single

retail, wholesale, service and professional businesses, second-story residential uses above such businesses, office and light industrial uses, on parcels of two or more acres, which: 1) Optimizes the efficiency of the use of land; 2) Is at a scale which serves to maintain existing small-town character; 3) Optimizes the opportunity for public amenities such as open space, parks and trails; 4) Promotes or encourages pedestrian and bicycle orientation and provides the opportunity for district-wide coordination and continuity of pedestrian and bicycle corridors; and 5) Gives due consideration to development which can reasonably be anticipated on adjacent or nearby lands, both with respect to common infrastructure requirements and compatibility of uses.

75. The PCI Plan application was originally submitted on March 22, 2017 and was determined to be complete on April 17, 2017. Following the issuance of the SEPA determination of significance, SEPA scoping notice, and EIS process, a revised PCI Plan application was submitted in January 2022. After further changes arose, the final, updated PCI Plan application was submitted on March 18, 2022. *Exhibits 1 and 1.B.* The differences between the January and March 2022 proposals are called out in the red lined document in the consolidated record provided by the Applicant. The revisions do not comprise changes to the Proposal that was reviewed in the DEIS, but rather provide more detail and explanation on some of the requested deviations based on refinements that occurred through the SEPA process. *Exhibits 4 and M17; Courtney Kaylor Comments.*
76. Notice of the PCI Plan application was mailed to a 1,250-foot radius (rather than the 500-foot radius required by Code), was published in the Seattle Times three times (at least one time is required by Code), and was otherwise provided as required in SMC Chapters 17.50 and 17.85. *Exhibits 1, 1.C, and 1.D; Jason Rogers Testimony.*
77. Planning Staff submitted a detailed staff report addressing the PCI Plan application and the City's procedures for processing the PCI Plan. *Exhibit 1.* Comments admitted through the open record hearing process (addressed in Findings 80 through 89 below) did not substantively dispute the factual descriptions of the Mill Site's history and characteristics, did not contest specific details of the Proposal's plans, and did not raise cognizable objections to the process used by the City as described in the staff report. The undersigned adopts Findings of Fact 9 through 12 from the staff report and incorporates them by reference herein. *Exhibits 1, 4, 5, 6, 7, and 8.*
78. The proposal is designed to include three categories of deviations from the development standards of the PCI zoning district. Such deviations are allowed pursuant to SMC 17.20.050.I upon City Council approval. In order to be approved, the record must support the conclusion that the requested deviations would advance the purpose of the PCI zone established in SMC 17.20.050(A). The proposed deviations are from the following standards.
 - SMC Chapter 12.16 - Street design standards roadway layout and lighting;

- SMC 17.55.020 - Requirement for conditional use permit for second-story dwelling units above nonresidential uses in PCI zone;
- SMC 17.55.020 - Requirement for conditional use permit for restaurants in PCI zone;
- SMC 17.55.020 - Requirement for conditional use permit for retail restaurants, specifically tasting rooms in PCI zone;
- SMC 17.55.020 - Allowing uses in the OS-2 zone that are not specifically listed as permitted uses in the Code;
- SMC 17.55.040 - Height limits; and SMC 19.12.170.I - Permitted uses and alterations in wetland buffers.

Exhibits 1 and 1.B. Planning Staff submitted that the deviations requested fall within the typical range of deviations approved for previous master plans approved in Snoqualmie.

Exhibits 1, 1.I, 1.J, 1.K, and 1.L. Aside from blanket objection to any discretionary relaxation of the strict requirements of adopted codes by some members of the public, public comment offered through the virtual hearing process did not substantively challenge the Applicant's assertion, and Planning Staff's agreement, that the materials submitted demonstrate compliance with the criteria for deviation approval. The requested deviations and supportive information in the application materials are detailed in the staff report. The undersigned adopts Findings of Fact 18 through 60 from the staff report and incorporates them by reference herein. *Exhibit 1.*

Public Comment

79. Following notice of application, notice of EIS scoping, publication of the DEIS and FEIS, and notice of public hearing on the PCI Plan application, the City received numerous comments from Snoqualmie residents, interested parties, and citizen groups. The content of the comments has been organized by topic in the findings that follow. Applicant and City responsive information is incorporated into each topic.

80. A portion of Planning Area 1 formerly contained bunkhouses used by Japanese mill employees. The PCI Plan proposes to develop a garden to help commemorate the Japanese community's experience. Several commenters emphasized a desire to commemorate the historical experience and contribution of the Japanese community to the Snoqualmie Mill, and to perform additional survey to identify and recover artifacts. Specifically, comment was submitted by the Executive Director of the Japanese Cultural & Community Center of Washington (JCCCW) requesting protection for what is believed to be a vast amount of important historical artifacts under Planning Area 1 that are relevant to human and civil rights. *Testimony of Cristie Coffing, Carson Maestas, Dawn Harp, Julie Lake, Connie So, and Karen Yoshitomi/JCCCW; Exhibits 1, 3, 10, C1 Appendix A, and C2.* The survey work performed for the EIS identified the general location of the Japanese Community site and performed initial survey and recovery work. The Applicant's archaeological consultant determined that resources are below the water table and would be destroyed by recovery. Further survey was not recommended so as to

avoid destroying any extant resources. The proposed grading plan would not disturb buried resources. Consistent with the EIS, Planning Staff recommended 10 conditions of PCI Plan approval addressing cultural resources, five directly addressing JCCCW's comment, including one requiring further consultation with the Department of Archaeology and Historic Preservation (DAHP) regarding the benefit of additional survey work and review of the final grading plan to ensure that buried resources would not be disturbed by development activity. Applicant representatives indicated that the Applicant has reached out to the JCCCW to engage in collaborative actions that could be undertaken to achieve this objective. The Staff Report includes a condition requiring the Applicant to continue this effort. An Applicant representative indicated that the Applicant would be interested in entering into a memorandum of understanding with the JCCCW regarding cultural assets within the Mill Site. *Exhibits 1, 10, 11, C1 Appendix A, and C2; Richard Weinman Testimony.*

81. One member of the public submitted that the Snoqualmie Mill site was a tribal burial ground, and that development of the Proposal did not adequately address the Snoqualmie Tribe's concerns. *Carson Maesta Testimony; Exhibits 3 and C1, Appendix A.* The FEIS includes a response the Snoqualmie Tribe's comment letter, addressing all 84 individual comments. The project is not visible from the Snoqualmie Falls Traditional Cultural Property (TCP). The City and the Applicant contended there is no documentation or other historic evidence indicating that the site was ever used as a burial ground by the Snoqualmie Tribe; ground burial was not the tribe's custom. *Exhibits 1, 7, 8, 10, 11, C1, and C2; Richard Weinman Testimony.* The Tribe did not appeal the EIS and did not comment at the PCI Plan public hearing.
82. Members of the public submitted the opinion that the PCI Plan is not appropriate for its "rural setting" and would be inconsistent with the City's "small town character." Factors mentioned in the comments include development scale, building height, visibility/impacts to views and lighting. A comment also asserted that land use compatibility was not analyzed correctly. Information relevant to this issue is discussed in Conclusion Based on Findings No. 15, below. *Testimony of Thyra Demetrick, Brian Derdowski, Kenneth McVeil, Amanda Rich, and Auyrel van Gamert; Exhibits 3, 9.a, and C1, Appendix A.* Applicant representatives contended that the City's character cannot be segregated from the historic industrial use of the subject property. The proposed commercial and industrial uses would be consistent with the zoning designations applied to the site at annexation and called for in the Comprehensive Plan. While the extent of proposed development is substantial (1.83 million square feet), the total footprint would leave 63% of the site in an enhanced vegetated/open space condition. The visual analysis conducted for the EIS included visual simulations that verify that the site would be screened from most public views and minimally visible from many off-site locations, that it would not be visible from Snoqualmie Falls, and views of important natural features including Mt. Si would be preserved. Extensive retained and additional vegetation and open spaces around the perimeter would screen adjacent rural areas from noise and lighting impacts. The noise analysis conducted for the EIS indicates that the rural areas to the north would not experience significant noise impacts. The Proposal would implement dark sky

standards, as required by recommended conditions. *Exhibits 10, 11, C1, and C2; Richard Weinman Testimony.*

83. Some members of the public asserted that City infrastructure is generally inadequate and that the proposal would result in infrastructure costs that would be borne by taxpayers. *Testimony of Greg Balmer, Amanda Rich, and Alina & Brian Yuhl; Exhibits 3 and C1, Appendix A.* Through the EIS process, infrastructure impacts attributable to the PCI Plan were identified, along with mitigation projects needed to mitigate the demands of the Proposal. The EIS recommends that the Proposal construct or otherwise contribute a proportional share of required improvements as mitigation for those impacts. Planning Staff has recommended conditions of PCI Plan approval that would require the Applicant to conduct the identified mitigations. A condition would also require the Applicant to pay the applicable general facilities charges, which incorporate a pro rata share of planned utility system projects needed to serve growth. The EIS contains a fiscal impact analysis (Draft EIS Section 3.16), which indicates the proposal would generate a net fiscal surplus to the City of approximately \$1.5 million per year, which would be used as determined by the City. *Exhibits 1, C1, and C2; Jason Rogers Testimony.*
84. The concern of additional population added to local schools that are over capacity was forwarded. *Hollan Read Testimony.* The majority of the development proposed would be commercial or industrial in nature and would not cause school impacts. The Draft EIS addressed school impacts in Sections 3.14 (Public Services) and 3.16 (Fiscal & Economic Impacts), determining that the PCI Plan's 160 multi-family units would generate 28 students, which is a small percentage of the 730 new students anticipated as a result of background growth by 2032. The Proposal would cause an incremental impact to overcrowding, which is a statewide problem. *Exhibits 1, 10, C1, and C2.*
85. Commenters expressed concern regarding stormwater runoff and resulting impacts to the river, to critical areas on- and off-site, and to aquifers from pollutants generated by development of the site, operation of the built site, and disturbance to legacy contamination. *Testimony of Dawn Harper, Monica Lowney, and Auryel van Gamert; Exhibits 3 and C1, Appendix A.* Of note, stormwater runoff from the site is currently uncontrolled. The stormwater system for the Proposal is designed to meet the requirements of the 2016 King County Surface Water Design Manual, which is the manual adopted by the City. All runoff from pollution generating surfaces would be captured and conveyed to facilities designed in compliance with the Manual. Some runoff would discharge directly to the Snoqualmie River after undergoing basic water quality treatment, while other portions of the runoff would be discharged to the buffers of on-site wetlands after undergoing enhanced water quality treatment in constructed stormwater wetlands. Development of the Proposal would be conducted consistent with MTCA under the oversight of Department of Ecology, which would prevent impacts to water resources from legacy contamination. Development in compliance with the adopted stormwater manual would prevent stormwater-born pollutants from entering the River. Ecology TMDL analysis of the Snoqualmie River has determined that elevated water temperatures primarily result from the lack of vegetation along the banks of the

River upstream rather than from stormwater discharge. Applicant representatives submitted that the Mill Site is minor in comparison to the factors creating upstream temperature concerns, and there is not much the Proposal could do to address existing issue. *Exhibits 1, 10, 11, C1, Section 3.4.2, and C2, Section 3.3 and Appendix A; Testimony of Richard Weinman and Keith Goldsmith.*

86. Members of the public expressed concern regarding impacts related to flooding. Commenters pointed to the requirement in the City's Comprehensive Plan and Pre-Annexation Agreement that the berms and additional fill placed in the floodplain by Weyerhaeuser be removed. *Testimony of Cristie Coffing, Harold Erland, Auyrel von Gamert, Jeff Groshell, and Wayne Russell; Exhibits 3 and C1, Appendix A.* The Proposal's grading plan is designed to ensure there is no reduction in flood storage capacity; on the contrary, compensatory storage is proposed through removal of prior unpermitted fill/berms in the floodplain, and thus flood storage capacity would be increased by the project. In preparing the master drainage plan materials, a zero rise analysis was performed that demonstrated through computer modeling that with the proposed grading and development plans, the Proposal would not result in an increase in the base flood elevation. The computer model used developed for work previously done for King County. As shown in the drainage and water resources analysis sections of the DEIS and FEIS, the proposed grading plan, would provide compensatory floodplain storage, would result in no increase in the base flood elevation and would provide a net increase in floodplain storage. *Keith Goldsmith Testimony; Exhibits 1, 1.B, 10, 11, C1, and C2, Appendix A (Appendix A).*
87. Some comment expressed concern over seismic risks of/to the Proposal and concern for the public accessing the site in the event of a major earthquake. *Testimony of Teresa Bechtold and Sharilyn Lux; Exhibit 3.* The Draft EIS discloses that the site and some adjacent off-site areas are subject to high seismic risk from liquefaction of soils and lateral spreading. The "earth" chapters of the DEIS and FEIS and technical analyses and the Staff Report identify measures to mitigate impacts. All earth work and construction in the Proposal would be required to be conducted in conformance with the 2015 International Building Code (as adopted in SMC 15.04A.010), and with applicable critical areas provisions relating to erosion hazards (SMC 19.12.100), landslide hazards (SMC 19.12.110), steep slope hazards (SMC 19.12.120), seismic hazards (SMC 19.12.130), and channel migration zones (SMC 19.12.140). These requirements are addressed in recommended conditions of approval 12 through 15. The Mill Pond Road realignment would be engineered to address seismic risks. *Exhibits 1, C1 Section 3.2.5, C2, Section 3.1, and C2, Appendix B.*
88. Questions were raised about the number and type of jobs the Proposal would bring to the City, whether they would be living wage jobs or require workers to commute from more affordable locations. *Julie Lake Testimony; Exhibits 3 and C1, Appendix A.* The questions of the number and types of jobs and job to housing ratio were addressed in the EIS. City Staff asserted that the number of jobs projected to be added by 2031 would be within the current Comprehensive Plan projections for the Mill Planning Area, and also

noted that the City is scheduled to begin a Comprehensive Plan update cycle in the coming year that may result in higher employment projections for future years beyond the current 2021 Comprehensive Plan planning horizon projections. *Exhibits 11 and C2, Sections 3.8 and 3.16.*

89. Due to the virtual nature of the PCI Plan hearing, and in an abundance of caution in order to facilitate public participation to the greatest extent consistent with code, written public comments were accepted on the PCI Plan application from any person through the close of the March 30, 2022 public comment period at the end of the hearing. In addition, a two-day post-hearing written public comment period was established for members of the public who were unable to participate in the virtual hearing due to technology or access barriers (lack of computer/phone, lack of internet connection, loss of power, etc.). This post-hearing written comment opportunity was announced on the record at hearing and was requested to be advertised on the City's website following close of the hearing. As clearly stated during the hearing, the written post-hearing comment period was intended only for persons who were unable to testify at the virtual public hearing due to technology or access limitations. Post-hearing comments were submitted by five individuals, of whom only one (Auryel van Gemert) indicated that the basis for post-hearing submittal was technology/access related. Both the City and the Applicant submitted post-hearing responses to hearing and post-hearing comment in which both parties requested that the post-hearing comments of those who did not indicate technology/access problems be excluded. This joint request is granted. One post-hearing comment is admitted at Exhibit 9.a, which is at least in part a duplicate of the comment at Exhibit 3.dd.
90. Because of the extended public comment opportunity, City Staff was afforded a chance to respond to timely written public comment received during and after the hearing, and Staff did so. Staff's responses on specific topics are included in Findings 80 through 88 above. *Exhibit 11.* Having considered all concerns raised in public comment, City Staff maintained the position that the submitted materials demonstrate compliance with the approval criteria for PCI Plan and recommended approval subject to conditions. The 50 recommended conditions require (in an appropriate level of detail): development in compliance with the approved site plans and limited to the number of units and commercial square feet proposed and reviewed; applicant development of design guidelines for approval City prior to application for any building permit that shall include performance standards for air quality, vibration, heat, glare, noise, and waste storage and disposal; standards for a unified lighting plan for all streets in the development including glare control features; a minimum 10-foot wide landscaped perimeter buffer; maximum heights of 70 feet to the ridgeline of the roof / 55 feet to the eave line for the three mixed-use/residential buildings and 55 feet to the ridgeline / 35 feet to the eave for all other buildings; submittal and City approval of a wetland mitigation and monitoring plan designed to ensure there would be no adverse impacts to wetland water quality; implementation of geotechnical measures to address seismic, erosion, and landslide hazards; measures addressing greenhouse gas emissions and protection of water quality, wildlife, vegetation, environmental health, cultural resources; measures addressing

aesthetics, light, glare, utilities, and transportation impacts; and Applicant contribution of a proportionate share of the costs of emergency response equipment to include a ladder truck to serve the taller buildings. *Exhibit 1; Jason Rogers Testimony.*

91. Applicant representatives were also invited to respond in writing to public comment offered in writing during the hearing and timely post-hearing written public comment, and they did so. The Applicant's substantive responses to the topics raised in public comment are incorporated into Findings 80 through 88 above. *Exhibit 10.* Applicant representatives submitted that, while commenters raised many issues of concern, all have been thoroughly addressed in the Draft EIS, Final EIS, and Planning Staff's report to the Examiner on the PCI Plan application. The Applicant submits that the Proposal would result in uses that are consistent with the historic industrial use of the site while bringing jobs, a modest amount of housing, and economic benefit to the City without undue impacts to community character and while preserving almost twice the minimum amount of required open space. Significantly, the Applicant asserts that the Proposal would fund clean up of the contamination left behind by the previous industrial activities on site, benefiting the community at large. These benefits would be provided without direct impact to any regulated critical area. Applicant representatives waived objection to the conditions recommended in the staff report and requested approval of the PCI Plan. *Exhibit 11; Testimony/Comments of Richard Weinman, Stephen Rimmer, Keith Goldsmith, and Courtney Kaylor.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner has jurisdiction to recommend approval or denial of the PCI Plan pursuant to SMC 17.50.130. The Hearing Examiner has jurisdiction to decide an appeal of a SEPA EIS pursuant to SMC 2.14.060 and SMC 19.04.235.

Criteria and Standards for Review

SEPA Appeal

Pursuant to SMC 19.04.235.E, in an SEPA appeal, the adequacy of the environmental document shall be accorded substantial weight and the Appellant carries the burden of proof in seeking to establish that the EIS is not adequate. In hearing such an appeal, the Hearing Examiner has authority to affirm, reverse, or modify the administrative decisions below, to remand cases to the appropriate department with directions for further proceedings, and to grant other appropriate relief in the circumstances.

The State Environmental Policy Act (RCW Chapter 43.21C) establishes the standards with which an EIS must comply. The SEPA regulations also require that the determination of the City's SEPA Responsible Official shall be accorded "substantial weight" in appeals. *RCW 43.21C.075(3)(d); RCW 43.21C.090; WAC 197-11- 680(3)(a)(iii).* The Washington Supreme Court has determined this requirement to accord substantial weight requires the application of the "clearly erroneous" standard of review. *Cougar Mt. Assocs. v. King County*, 111 Wn.2d 742,

747 (1988); *Norway Hill Pres. & Prot. Ass'n v. King Cnty. Council*, 87 Wn.2d 267, 275, 552 P.2d 674, 679 (1976).

The instant appeal presents a single legal question: whether the EIS is adequate. The EIS for the Proposal consists of the DEIS and FEIS together. *Exhibit C1*; see, e.g. *Victoria Tower P'ship v. City of Seattle*, 59 Wn. App. 592, 601, 800 P.2d 380, 385 (1990); *W. Main Associates v. City of Bellevue*, 49 Wn. App. 513, 521, 742 P.2d 1266, 1271 (1987). In reviewing the adequacy of the FEIS, the Examiner does “not rule on the wisdom of the proposed development but rather on whether the FEIS [gives] the City . . . sufficient information to make a reasoned decision.”

Concerned Taxpayers Opposed to Modified Mid-South Sequim Bypass, 90 Wn.App. 225, 362, 951 P.2d 812 (1998) (citations omitted). More specifically, the determination of EIS adequacy is governed by the “rule of reason.” *Cheney v. City of Mountlake Terrace*, 87 Wn.2d 338, 334, 552 P.2d 184, 189 (1976). The rule of reason is “‘in large part a broad, flexible cost-effectiveness standard.’” *Klickitat Cty. Citizens Against Imported Waste v. Klickitat Cty.*, 122 Wn.2d 619, 633, 860 P.2d 390, 398-99 (1993) (citing R. Settle, *The Washington State Environmental Policy Act: A Legal and Policy Analysis* § 14(a)(i) (4th ed.1993)). In an EIS appeal, “the issue is whether the [Proposal] is described in sufficient detail to allow for a reasonable evaluation of the proposal's impacts.” *Glasser v. City of Seattle*, 139 Wn. App. 728, 741-42, 162 P.3d 1134, 1140 (2007). Adequacy does not require an EIS to be “a compendium of every conceivable effect or alternative to a proposed project”; instead, it “is simply an aid to the decision-making process.” *Toandos Peninsula Ass'n v. Jefferson Cty.*, 32 Wn. App. 473, 483, 648 P.2d 448, 454 (1982). “[C]onclusory disagreement with the FEIS analysis does not render the FEIS deficient.”

Gebbers v. Okanogan Cty. Pub. Util. Dist. No. 1, 144 Wn. App. 371, 388-89, 183 P.3d 324, 332 (2008). An EIS need not include a “worst case” or even an “average worst case” analysis. *East King County Reclamation Co. v. Bjornsen*, 125 Wn.App. 432, 442 n. 9 (Div. II 2005), citing *Solid Waste Action Proponents (SWAP) v. Okanogan Cty.*, 66 Wn.App. 439, 447-48 (Div. III 1992).

“SEPA’s procedural provisions require the consideration of ‘environmental’ impacts . . . with attention to impacts that are likely,” as distinguished from “those that merely have a possibility of occurring, but are remote or speculative.” *City of Des Moines v. Puget Sound Reg'l Council*, 98 Wn. App. 23, 988 P.2d 27, 37 (1999) (quoting WAC 197-11-060(4)). “Impacts or alternatives which have insufficient causal relationship, likelihood, or reliability to influence decisionmakers are “remote” or “speculative” and may be excluded from an EIS.”” *Cascade Bicycle Club v. Puget Sound Reg'l Council*, 175 Wn. App. 494, 509, 306 P.3d 1031, 1038 (2013).

“The ‘rule of reason’ applies to claimed failures to respond to agency comments” as to other aspects of the EIS process. *Black Diamond*, 2014 WL 295838 at *13. “An agency shall consider and *may* respond to comments as the agency deems appropriate.” WAC 197-11-550(8) (*emphasis added*). To respond to comments, agencies may make factual corrections, supplement previous analysis, or “[e]xplain why the comments do not warrant further agency response” by providing reasons or citations to sources. WAC 197-11-560(1); see *Klickitat Cty.*, 122 Wn.2d at 636-37. Agencies may respond to comments individually or collectively or “use other reasonable means to indicate an appropriate response to comments.” WAC 197-11-560(3).

SEPA entitles decisionmakers to rely on subsequent processes and reviews for mitigation of impacts from a project – even if that means potential future impacts are not fully described in the EIS. *Cascade Bicycle Club v. Puget Sound Reg'l Council*, 175 Wn. App. 494, 515, 306 P.3d 1031, 1041 (2013) (agency appropriately “acknowledges that further actions may be necessary to reduce the environmental impacts it discusses and points to specific agencies that have such authority.”); WAC 197-11-660(e) (“Before requiring mitigation measures, agencies shall consider whether local, state, or federal requirements and enforcement would mitigate an identified significant impact.”); WAC 197-11-660(g) (“If, during project review, a GMA county/city determines that the requirements for environmental analysis, protection, and mitigation measures... in other applicable local, state or federal laws or rules, provide adequate analysis of and mitigation for the specific adverse environmental impacts of the project action under RCW 43.21C.240, the GMA county/city shall not impose additional mitigation under this chapter.”); WAC 197-11-768 (definition of mitigation includes “[m]onitoring the impact and taking appropriate corrective measures.”); *Chuckanut Conservancy v. Washington State Dep't of Nat. Res.*, 156 Wn. App. 274, 292, 232 P.3d 1154, 1162 (2010) (rejecting the argument that compliance with the existing regulatory framework does not guarantee an absence of significant impacts); *Glasser, supra*, 139 Wn. App. 742.

SEPA does not require the inclusion of all the information bearing on the decision-making process within the EIS document itself. SEPA “encourage[s] and facilitate[s]” incorporation by reference of prior or supplemental documentation to “avoid wasteful duplication of environmental analysis and reduce delay.” *Thornton Creek Legal Fund v. Seattle*, 113 Wn. App. 34, 50, 52 P.3d 522, 529 (2002); *see, e.g.*, *Klickitat Cty.*, 122 Wn.2d at 637-38 (EIS demonstrated adequate consideration of historic resources by incorporating a study that provided “a reasonably thorough discussion” of the issue and could therefore “substitute[] for an otherwise inadequate level of analysis”). Information is not required to be included expressly in an EIS at all as long it is clear that it was known and considered. *See, e.g.*, *Toandos*, 32 Wn. App. at 483 (EIS not inadequate for failure to reference comprehensive plan change because it was “apparent from the long history of the permit process that the decisionmaking official was well aware” of the effects on the proposal); *Concerned Taxpayers v. Dep't of Transp.*, 90 Wn. App. 225, 233, 951 P.2d 812, 816 (1998), (“failure to formally incorporate” a report in an EIS was harmless error because the report had been “circulated” and “considered”).

Phased review is “appropriate” under the rules when “[t]he sequence is from an environmental document on a specific proposal at an early stage (such as need and site selection) to a subsequent environmental document at a later stage (such as sensitive design impacts).” WAC 197-11-060(5)(c)(ii). The purpose of “phased review” of a proposal with multiple stages “is to enable agencies and the public to focus on issues ripe for decision and to exclude from consideration issues that are not yet ready.” *Org. to Pres. Agr. Lands (“OPAL”) v. Adams Cty.*, 128 Wn.2d 869, 879, 913 P.2d 793, 800 (1996). “Broader environmental documents may be followed by narrower documents, for example, that incorporate prior general discussion by reference and concentrate solely on the issues specific to that phase of the proposal.” WAC 197-11-055(2)(b). Phased review is “not appropriate” if it would “merely divide a larger system into exempted fragments or avoid discussion of cumulative impacts.” WAC 197-11-060(5)(d)(ii).

“Lead agencies shall determine the appropriate scope and level of detail of environmental review to coincide with meaningful points in their planning and decision-making processes.” WAC 197-11-060(5)(a). Agencies are instructed to prepare an EIS “at the earliest possible point in the planning and decision-making process, when the principal features of a proposal and its environmental impacts can be reasonably identified” and subjected to “some evaluation,” even if “future agency approvals or environmental review” will be required. WAC 197-11-055(2)(a)(i). Phased review constitutes adequate environmental review at the preliminary stages of a project when it has “identified potential impacts and provided a framework for further EIS preparation,” particularly for projects whose full impact is “extremely difficult to assess.” *OPAL*, 128 Wn.2d at 880 (citing *Cathcart-Maltby-Clearview Cnty. Council v. Snohomish Cty.*, 96 Wn.2d 201, 208-11, 634 P.2d 853, 859 (1981)). Similarly, an “early-stage EIS is particularly appropriate when decisionmakers will have an opportunity to demand greater detail at a later project stage.” *OPAL*, 128 Wn.2d at 880; *see also Toward Responsible Development v. City of Black Diamond*, No. 69418-9-I, 2014 WL 295838 at *5 (Ct. App. Jan. 27, 2014) (unreported) (“[P]hased review is appropriate. The approved deferred environmental review applies to those aspects of construction that can only be adequately analyzed after additional detail is known.”).

The Department of Ecology’s and the City’s SEPA Rules (WAC Chapter 197-11 and SMC Chapter 19.04) authorize the use of a more flexible standard of review for a non-project EIS. WAC 197-11-442; SMC 19.04.150 (adopting WAC 197-11-442 by reference). WAC 197-11-704(2)(a) defines a “project action” as “a decision on a specific project, such as a construction or management activity located in a defined geographic area.” “Project actions” “are limited to agency decisions to . . . [l]icense, fund, or undertake any activity that will directly modify the environment. . . .” WAC 197-11-704(2)(a). By contrast, “nonproject actions” include legislative actions as well as those broader types of project-related actions such as “[t]he adoption of any policy, plan, or program that will govern the development of a series of connected actions. . . .” WAC 197-11-704(2)(b). “Project” actions under SEPA are generally limited to proposals that directly modify the environment by moving dirt, while “nonproject” actions essentially include everything else. *Id.*; *see also Settle, The Washington State Environmental Policy Act: A Legal and Policy Analysis*, §14.01[3] at 14-62.5 (4th ed. 1993). Under WAC 197-11-442(1), “the lead agency shall have more flexibility in preparing EISs on nonproject proposals, because there is normally less detailed information available on their environmental impacts and on any subsequent project proposals.” “If the nonproject proposal concerns a specific geographic area, site specific analyses are not required, but may be included for areas of specific concern. The EIS should identify subsequent actions that would be undertaken by other agencies as a result of the nonproject proposal. . . .” WAC 197-11-442(3).

The phased environmental review process may not be used to collaterally attack the lead agency’s previous programmatic policy decisions. *Glasser v. City of Seattle*, 139 Wn.App. 728, 738-39, 162 P.3d 1134 (Div. I 2007). “Allowing opponents to use a project EIS to collaterally attack previous programmatic policy decisions would disrupt the finality of the decision and eliminate any benefits of phased review.” *Id.*

PCI Plan Approval

Pursuant to SMC 17.20.050(K), the decision process for PCI Plans shall be as set forth in Chapter 17.50 SMC, Planned Unit Development Permit regulations. The application process for PCI plan applications is established in SMC 17.50.090 and .130.⁷

Pursuant to SMC 17.20.050(K), the following criteria must be satisfied in order for approval of a PCI plan to be granted.

- B. In the planned commercial/industrial district, no land shall be used, subdivided, cleared, graded or filled and no building or structure shall be constructed, altered or enlarged on a parcel of two acres or larger except under the authority of an approved plan pursuant to this section; provided, an approval under this section shall not be required for road and utility corridors, or for temporary uses and structures for which no grading, clearing or building permit is required. The approved plan shall authorize development on land which is not to be further divided, and shall provide the basis and standards for processing of a binding site improvement plan or subdivision on land which is to be further divided for sale or lease of lots, parcels or pads.
- C. On parcels in the planned commercial/industrial district of less than two acres, permitted uses shall be as specified for the business-general (B-G) district.
- D. In the event two or more contiguous parcels in common ownership lie in whole or part in both the planned commercial/industrial district subject to the provisions of this section and the planned residential district subject to the requirements of Chapter 17.15 SMC, the owner may optionally elect to present one plan for all parcels, and the location of the residential and commercial/industrial uses thereon need not adhere strictly to the boundaries of each respective district so long as the minimum requirements for uses in each district respectively are met in the overall plan. Additional adjacent property with zoning designations other than PCI and PR may be included, provided they constitute no more than 15 percent of the total acreage of the proposal.
- E. The planned/commercial industrial district allows and encourages a mix of uses, both vertically and horizontally, but does not require such a mixture.
- F. Tracts included in a development proposal in a planned commercial/industrial district must be in one ownership or control, or be the subject of a joint application by owners of all of the property included.
- G. At least 35 percent of the total acreage for the development proposal must be dedicated to open space, natural areas, parks, or greens, commons, or public assembly areas; provided, for projects subject to the provisions of subsection D of this section, the common open space may be provided within the area subject to the plan as a whole.
- H. Proposed circulation, solid waste disposal and recycling, and water, sewer and stormwater management systems shall be designed in such a manner to allow adequate

⁷ SMA 17.50.090 calls for a Planning Commission public hearing, Planning Commission recommendation, and City Council decision. However, SMC 17.50.130 requires that in the event of an administrative appeal of a final EIS for a proposed planned unit development, the decision maker is the Hearing Examiner rather than the Planning Commission.

and efficient expansion to accommodate development which can reasonably be anticipated on adjacent or nearby lands.

- I. It is the intention of this section to encourage development proposals not constrained by fixed development standards, and toward that end, deviation from development standards of general applicability throughout the city may be authorized when the city council, with the advice of the planning commission, finds that such deviation would advance the purpose of the district as set forth in subsection A of this section, provided deviation shall not be allowed from development standards deemed necessary to protect health, safety or the environment. Any such deviations shall be included in the approved plan for the planned commercial/industrial development.
- J. The application shall include all of the materials required for a planned unit development pursuant to SMC 17.50.090(B), together with the following information, together with a list of all development standards of general applicability from which a deviation is proposed, and a statement of how such deviation will achieve the purpose set forth in subsection A of this section.
- K. The notice, hearing and decision process for applications for approval of a plan for development in the planned commercial/industrial district shall be as set forth in Chapter 17.50 SMC, Planned Unit Development Regulations.

Conclusions Based on Findings

SEPA Appeal

1. Consistent with SMC 2.14.100.C(4) and (5), SMC 2.14.100.E, and SMC 2.14.105.B, the scope of the instant appeal proceedings is limited to those issues stated in the appeal letter (Exhibit S1) that are sufficiently specific to apprise the parties of the factual basis upon which relief is sought. The undersigned previously ruled in response to the City's and Applicant's pre-hearing motions to dismiss that introductory statements in various portions of the appeal letter and attempting to cast a wide net through the use of phrases such as "include but are not limited to..." and "to name a few" are not adequate to serve as a basis for later identification of errors not specifically alleged in the appeal. *Record Document R14*. Issues raised at hearing that were outside the appeal letter cannot provide a basis for reversal of the EIS. These include the adequacy of analysis of stormwater, flooding, alternatives, compatibility, the validity of the AIP, comprehensive plan compliance, SMP compliance, and alleged economic and financial harms.
2. The undersigned previously dismissed the appeal letter's alleged error 2 concerning consistency with the Comprehensive Plan. In failing to present evidence on certain other errors alleged in its appeal letter, Appellant abandoned the issues stated in alleged errors 1h, 3b, 3c, 3d (as to safety and parking impacts), 3e, 3f, 3g, 3h, 3k, 3m, 3o, 3p, 3q, 4, 8, 9, 10, and 12. *Kittitas County v. Kittitas Cty. Conservation Coal*, 176 Wn. App. 38, 25, 308 P.3d 745 (2013) (unsubstantiated arguments are deemed abandoned on appeal); citing *Howell v. Spokane & Inland Empire Blood Bank*, 117 Wash.2d 619, 624, 818 P.2d 1056 (1991). This narrows the scope of issues to be decided in the instant SEPA appeal to the adequacy of analysis and/or responses to comments regarding environmental

impacts to environmental health, critical areas, transportation, water supply, land use, aesthetics, noise, and wildlife, with the use of phased review as an overarching legal issue.

3. Considering the undisputed testimony of Mark Johnson and Jason Rogers regarding the proper categorization of the Proposal with respect to varying levels of detail for Planning Area 1 versus Planning Areas 2 and 3, the undersigned is persuaded that the EIS is appropriately considered to be a hybrid project and non-project Proposal. Accordingly, it is properly analyzed under the more flexible standard set forth in WAC 197-11-442. *Toward Responsible Development (TRD) v. City of Black Diamond*, 179 Wn.App. 1012 (unpublished) 2014 WL 295838 at *5 (Div. I, 2014).
4. Considering the EIS and the record as a whole, the undersigned concludes that the EIS provides a sufficiently thorough discussion of the environmental impacts of the Proposal to satisfy the rule of reason. Overall, the Appellants' expert testimony forwarded perceived flaws in the level of analysis and study performed by the City. Unless the FEIS itself identifies a significant impact, SEPA requires an Appellant to meet the high burden of demonstrating the reasonable probability of the significant impact(s) they allege. This evidentiary standard is not met by the mere statement from an expert that they believe there will be significant impacts. Especially in light of the substantial weight required to be accorded to the SEPA Responsible Official's determination of adequacy, the Appellant did not introduce evidence sufficient to show the probability of any significant adverse impact that might result from the proposal that was not considered by the FEIS. This conclusion would be the same even if the EIS were not reviewed using the more flexible standard under WAC 197-11-442, because the City correctly utilized phased environmental review (further addressed in conclusion 5 below). The level of detail and discussion in the EIS for the different Planning Areas was appropriate given the amount of information currently available and reasonably expected to be provided for future phases.
5. On the issue of phased review, the evidence admitted supports the conclusion that the City correctly determined that phased review was appropriate for this stage of the Proposal. Washington courts have approved the use of phased environmental review for large, master-planned developments, where it is difficult to assess the full impact of a project at the outset. *Cathcart-Maltby-Clearview Community Council v. Snohomish County*, 96 Wn.2d 201, 208, 210, 634 P.2d 853 (1981); *see also Black Diamond* at *1, *5. Given that the proposed improvements for Planning Areas 2 and 3 are not yet available, phased environmental review is not only appropriate, is the only means of preparing an EIS "at the earliest possible point in the planning and decision-making process", and the information reviewed by the City was sufficient to allow the instant review to "allow some evaluation of [Planning Areas 2 and 3's] probable environmental impacts. WAC 197-11-055(2)(a)(i). Mr. Weinman and Mr. Johnson testified that phased review is regularly performed on large master plan projects. Each has personally overseen or played a lead role in a number of EISs involving phased review, and in Mr. Johnson's case, they included EISs that involved phased environmental cleanup under MTCA. The

City of Snoqualmie's two master planned communities – Snoqualmie Ridge I and Snoqualmie Ridge II – were developed using a master plan process that involved phased environmental review.

As of the instant proceedings, building uses, footprints, and locations for Planning Areas 2 and 3 are not known. Site design and building locations are likely to be influenced by the MTCA process, which will occur in the future subject to independent Ecology oversight. Therefore, the EIS considered only a conceptual plan for Planning Areas 2 and 3; however, many impacts expected from development of Planning Areas 2 and 3 were included in the EIS in review of the Proposal as a whole are discussed, as Applicant and City witnesses testified. Based on the complete record, the undersigned concludes that the EIS discussion of impacts associated with the development provides a reasonably thorough discussion of the significant aspects of the probable environmental consequences of approving the Proposal. The EIS explicitly notes that greater project detail would be provided for Planning Areas 2 and 3 over time, as it becomes available, and that supplemental environmental analysis and documentation will be conducted as appropriate. As described in witness testimony, the use of phased review has not resulted in the City disregarding impacts, such as those alleged by Appellants, in Planning Area 1 or cumulative impacts from full buildout. Rather, the record demonstrates that phased SEPA review of the Mill Site PCI Plan, anticipated to take place over 10 to 15 years in coordination with phased master planning, would ensure that all required analysis would occur when impacts can be reasonably identified and mitigated.

6. On the issue of environmental health impacts from legacy contamination, the record provides an adequately thorough discussion of the following facts: that some areas of contamination above MTCA cleanup levels are located in Planning Areas 2 and 3; that further investigation is needed to develop a complete understanding of these areas; and that this investigation will be required and directed by Ecology pursuant to MTCA prior to development of Planning Areas 2 and 3; that no such areas have been identified in Planning Area 1; that Ecology will review Farallon's conclusion that no such areas exist, and that Ecology will require additional investigation prior to development proceeding in Planning Area 1 if Ecology deems necessary. The Appellant does not dispute that this information will be obtained and reviewed by Ecology or that the MTCA process will result in the comprehensive investigation and remediation of the Mill Site. Considering the record as a whole, and applying the substantial deference owed the SEPA Official's determination, the undersigned is not persuaded based on the record that the EIS is inadequate simply because the further MTCA investigation that will be required by Ecology has not yet occurred.
 - a. Procedurally, the Appellant did not cite to, and the undersigned is not aware of, any legal authority that supports the Appellant contention that all information that will eventually be relied upon by Ecology regarding clean up of the site's legacy contamination must be contained in the EIS. SEPA encourages reliance on existing

laws and the actions of other agencies for mitigation. WAC 197-11-660(1)(e), (g)⁸; *Cascade Bicycle Club*, 175 Wn. App. at 515 (EIS “sufficiently addresses reasonable mitigation measures” where it “acknowledges that further actions may be necessary to reduce the environmental impacts it discusses and points to specific agencies that have such authority.”); *see also* WAC 197-11-442(3) (“EIS should identify subsequent actions that would be undertaken by other agencies as a result of the non-project proposal....”). The appeal contends that the City must possess all of this information in order to make its own determination, but SEPA does not require the City to be the sole decisionmaker on every impact – particularly where another agency possesses greater expertise and jurisdiction to require remediation.

Significantly, the Appellant did not identify any consequence that would be avoided by requiring the City to wait for a “comprehensive investigation” before issuing the EIS, nor any potential impact that the MTCA process will not address. Appellant and Applicant witnesses did not disagree regarding the facts in the documentation of prior activities and known contamination on Planning Areas 2 and 3. The Appellant did not dispute that development will not take place in those Areas before a full RI/FS process under MTCA occurs. The City did not clearly err in determining that the MTCA process would be sufficient to avoid or mitigate further impacts to environmental health from development of Planning Areas 2 and 3.

- b. Regarding Planning Area 1, the evidence did not establish a likelihood of unknown contamination or of environmental health impacts from development prior to remediation of Planning Areas 2 and 3. Ms. Jenkins’ assertions that additional hazardous material associated with railroads, gardening, buried equipment, buried tanks, or wood waste could be present on Planning Area 1 were expressly advanced as “possible” rather than likely. Absent evidence, even considering her experience with or knowledge of other mill site clean ups, her opinions on these matters are accurately characterized as speculative, and an EIS is not required to address speculative issues. Mr. Schmitt stated why he believed these potentially undiscovered sources of contamination and associated impacts were unlikely. He also addressed Mr. Jack’s concern about potential exposure to Planning Area 1 residents by describing the MTCA-required safety measures that would be required to be implemented to guard against such impacts. The difference of opinion between professionals is not sufficient to establish clear error by the City, particularly because it is undisputed that Ecology’s oversight of the full Mill Site (including Planning Area 1) will provide an additional safeguard and opportunity to require further review.
- c. Regarding Farallon’s subsurface investigation, the evidence does not establish that reliance on the investigation’s conclusions undermines the adequacy of the EIS. Appellant witnesses asserted that the investigation was insufficient to establish a lack

⁸ WAC 197-11-660(1)(g): If, during project review, a GMA county/city determines that the requirements for environmental analysis, protection, and mitigation measures in the GMA county/city’s development regulations or comprehensive plan adopted under chapter 36.70A RCW, or in other applicable local, state or federal laws or rules, provide adequate analysis of and mitigation for the specific adverse environmental impacts of the project action under RCW 43.21C.240, the GMA county/city shall not impose additional mitigation under this chapter.

of contamination on the entirety of Planning Area 1. As explained by Mr. Schmitt, the investigation was not intended to stand alone but instead to provide additional data in response to Ecology's question about migrating contamination. In response to Ms. Jenkins' testimony that a much larger number of test pits would be needed to reach a conclusion about the presence of contamination Planning Area 1, Mr. Schmitt stated that that would not be appropriate because of the known uses in this area, which made undiscovered contamination less likely. Mr. Schmitt also testified that the full record of data from the investigation would be made available to Ecology. Based on this record, the inclusion of the 2021 Farallon investigation in the EIS did not render the conclusions about environmental health clearly erroneous.

d. Regarding the Appellant contention that approving the PCI Plan at this juncture risks allowed the Applicant to "carve off" the profitable portion of the Mill Site and forego future cleanup, the evidence does not support a conclusion that this is a serious concern, nor that it renders the EIS inadequate. The undersigned credits the testimony of Mr. Johnson, based on his personal experience as a SEPA Responsible Official, that a large, former mill property can be successfully cleaned up and redeveloped in phases, utilizing phased environmental review. Notably, as Mr. Weinman testified, phased development of Planning Area 1 is intended to provide the funds necessary to pay for future cleanup of Planning Areas 2 and 3

7. On the issue of critical areas, the record demonstrates that the Proposal was specifically designed to avoid direct impacts to wetlands, streams, and jurisdictional ditches and that the development of Planning Area 1 would not result in adverse impacts to wetlands. Alleged error 1a, which states that the FEIS did not adequately respond to Dr. Cooke's comments regarding the DEIS, is the only remaining appeal issue specifically concerning critical areas.

a. Dr. Cooke's testimony is the only evidence cited in the Appellant's closing brief for a range of assertions about critical areas that Appellant claims demonstrate that the EIS is inadequate, and the Applicant's response brief addressed each of these points. The Appellant's reply brief defends only one of the assertions and does not provide any response to Applicant's arguments regarding the others. Although this suggests that Appellant has abandoned all but one of its arguments, the undersigned need not resolve that legal question because the evidence as a whole does not establish that the EIS analysis of critical areas is inadequate.

b. The sole issue addressed in Appellant's reply brief is the EIS's inclusion of a representative sample of wetland rating sheets rather than a full compendium, which Appellant suggests raises the question of whether wetlands were fully rated under the 2014 system. Mr. Wright directly responded to this argument, stating that he had used the 2014 rating system and that the underlying data sheets supporting his conclusions had been provided to the Corps. Mr. Wright's professional experience and history of analyzing wetlands on the Mill Site provides a sufficient basis for the City to accept his conclusions, particularly where the data supporting his analysis was

reviewed by the US Army Corps of Engineers, which agency with expertise issued a jurisdictional determination in May 2017. Under the rule of reason, the mere fact of expert disagreement is insufficient to demonstrate inadequacy. None of Appellant's alleged errors about critical areas go beyond asserting a desire for more information, which does not establish inadequacy under the rule of reason. *Gebbers v. Okanogan Cty. Pub. Util. Dist. No. 1*, 144 Wn. App. 371, 388–89, 183 P.3d 324, 332 (2008); *Toandos*, 32 Wn. App. 473, at 483. The City did not clearly err in finding that the EIS's inclusion of a sample of wetland rating sheets was adequate.

- c. Evidence regarding required investigation and remediation under the MTCA process, as discussed previously, establishes that development of the Proposal will include adequate mitigation for potential impacts from legacy contamination, including mitigation for any impacts to critical areas. The MTCA clean up process will include evaluation by Ecology of potential pathways for exposure and will require the use of media management techniques during construction to prevent migration of contamination. Dr. Cooke testified that critical areas may be degraded due to contamination in their current condition; however, that would not be an impact of the Proposal. Further, Dr. Cooke did not provide evidence supporting her assertions capable of resulting in different conclusions than those reached in the EIS, and such speculative issues do not have to be addressed for an EIS to be adequate.
- d. Dr. Cooke testified that she believed more detail regarding potential impacts from the Proposal to wetland hydrology in required for the EIS to be adequate. On questioning, she clarified that she did not know of any unanalyzed impact to wetland hydrology, but she believed more information was needed to rule out the possibility. Again, asserting the opinion that more information is needed is not sufficient to establish inadequacy under the rule of reason. The City did not clearly err in concluding that the abundant technical information provided by Mr. Wright, Mr. Goldsmith, and other technical consultants was sufficient to form conclusions about wetland boundaries and wetland hydrology. No direct impact to any wetland is proposed, and the appeal has not brought forth evidence that shows wetland health or hydrology will be disrupted.
- e. The appeal failed to provide evidence demonstrating any impact on the critical area features of Planning Areas 2 and 3 that would result from the proposed development of Planning Area 1. Dr. Cooke's opinion that the areas could be hydrologically connected does not constitute the required evidence. Mr. Goldsmith testified that in addition to determining that buildings sufficiently sized for the proposed uses in Planning Areas 2 and 3 could be constructed without direct impact to wetlands, those areas are currently occupied by significantly more impervious surface area than Planning Area 1, and thus development of Planning Areas is expected to result in less hydrologic impact due to less conversion of pervious to impervious surface. The EIS and witness testimony also affirmed that a specific hydrologic analysis will be performed when development is proposed in Planning Areas 2 and 3. Appellant's evidence did not establish clear error with respect to this approach.

- f. The USACE jurisdictional determination, which expired on May 3, 2022, did not identify any jurisdictional features in Planning Area 1. It had not expired when the DEIS and FEIS were issued, nor when the hearing in this matter occurred. Mr. Wright testified that the Applicant's current effort to obtain an extension from the Corps will include the requirement for the Applicant to update any information that the Corps deems necessary. Although she stated that the jurisdictional determination was out of date, Dr. Cooke did not identify any wetland delineation or rating, or other feature that she believed to be inaccurate in a way that would change the EIS analysis or that could not be addressed based on updated information in the future. The record submitted does not establish that the EIS is inadequate due to the age of the jurisdictional determination.
- 8. On the issue of transportation, the record as a whole supports the conclusion that the EIS adequately discusses transportation, including impacts from both Planning Area 1 and full buildout, and identifies the mitigating measures that are acknowledged to be necessary to mitigate future traffic impacts. The Appellant's transportation expert identified various additional details he believes the EIS should have included, but the appeal did not provide introduce evidence sufficient to show the probability of any significant adverse traffic impact that might result from the proposal that was not considered by the FEIS. Under the rule of reason, neither the mere fact of expert disagreement nor the assertion that more information should have been considered establish inadequacy. *Gebbers v. Okanogan Cty. Pub. Util. Dist. No. 1*, 144 Wn. App. 371, 388-89, 183 P.3d 324, 332 (2008); *Toandos*, 32 Wn. App. at 483.
 - a. The evidence did not establish that the use of traffic counts from January and February 2018 renders the EIS inadequate. Appellant's reply brief asserts that Mr. Schramm's statements about the appropriateness of using two-year-old traffic counts are conclusory, but the burden of establishing error is on the Appellant. Aside from the opinion of Mr. Norris that two year old traffic counts are unreliable, the Appellant offered only data collected in 2016 from one PTR on SR 18 in the region but not immediately serving the Mill Site, which under the rule of reason did not succeed in demonstrating that the counts were rendered inaccurate because of the year they were collected. Mr. Schramm's explanations as to why 2018 traffic counts were appropriate as a basis for comparative future projections of the impacts of this Proposal was sufficiently specific under the rule of reason. The same is true of Mr. Schramm's and Mr. Breiland's responses to Mr. Norris's testimony about the seasonal fluctuation in daily traffic volumes south of I-90. The City did not clearly err in accepting Mr. Schramm's and Mr. Breiland's analyses.
 - b. Evidence offered in support of the appeal failed to establish that Mr. Schramm's designation of Planning Area 1 as a shopping center for trip generation purposes, or his employment of pass by and internally captured trip calculations, rendered the EIS inadequate. Mr. Schramm explained why the manner in which he classified the uses in the Proposal, and in which he accounted for pass by, diverted, and internally captured trips, would provide a more accurate picture of the Proposal's traffic impacts

than would have been achieved by considering all of these trips to be net new trips. The Appellant's evidence established that the EIS did not precisely apply the ITE Manual's definition of pass by trips, but it did not counter Mr. Schramm's testimony regarding why the EIS more accurately reflects the trips and intersection impacts that will actually occur. The evidence shows there is a difference of opinion between two qualified transportation experts, and it establishes that the Appellant's expert believes more information would have shown a different level of impact, neither of which without evidence of probable, significant adverse impact satisfies the Appellant's burden of proof.

- c. The evidence did not establish that the Proposal's weekend traffic impacts would be higher than its weekday impacts and thus did not establish that a specific weekend LOS calculation was needed. Although Mr. Norris posited reasons why weekend traffic impacts could occur, the appeal did not provide evidence that countered Mr. Schramm's and Mr. Breiland's explanations as to why peak-hour impacts were likely to be lower on weekends. In light of this testimony and the City's adopted standard focusing on weekday peak-hour traffic, this did not demonstrate clear error.
- d. The evidence did not establish that the Proposal will cause significant impacts to transit, bicycles, or pedestrians. Although Mr. Norris testified that more detail would be helpful in promoting alternate modes of transportation and reducing auto dependence, Mr. Schramm and Mr. Breiland established why such analysis was not necessary to provide an accurate picture of transportation impacts from the Proposal, whose residents, employees, and visitors will primarily rely on motor vehicles. Including alternate mode trips could be expected to reduce the percentage of vehicle trips, and thus focusing on vehicles results in the more conservative analysis. The Appellant's desire for further discussion of policies to support alternative transportation modes does not constitute an unaddressed impact of the Proposal and is irrelevant to the question of EIS adequacy.
- e. The Appellant failed to demonstrate any reason why the EIS must include a full construction management plan. The City's analysis was consistent with the rule of reason because it does not ignore the possibility of construction impacts; instead, it acknowledges the need for mitigation and provides for development of a specific construction management plan once sufficiently accurate information is known about what the impacts are likely to be. The Appellant has not shown that waiting to develop the plan until more details are known about the Proposal will prevent the City from understanding or addressing any actual construction impacts, and provides no citation to authority or industry standard requiring the City to do so at time of EIS, and thus has failed to demonstrate inadequacy under the rule of reason.

9. On the issue of water supply, the record shows that sufficient supply exists to serve Planning Area 1, but that sufficient supply may not be available to serve Planning Areas 2 and 3. Recent analysis by the City's consultant, RH2, indicated that because recent City water usage has been lower than projected, the City has more available water supply

than expected. Depending on the details of proposed buildings in Planning Areas 2 and 3, the City may already have sufficient water to serve the entire PCI Plan. The evidence establishes that the SEPA Official and other City decisionmakers are aware of the water supply issue, which is considered in the context of the broader City water system plan update, and that options exist to provide sufficient supply that do not require the discovery of previously unidentified sources. Although unresolved questions remain, the evidence demonstrated that the City is aware of the issues and is employing the services of qualified experts to address them. Particularly in light of the non-project nature of SEPA consideration of Planning Areas 2 and 3, the EIS's discussion of water supply is consistent with the rule of reason.

- a. Appellant's closing brief argues that the FEIS response to comments erroneously fails to respond to the July 13, 2020 King County letter. The FEIS does not specifically reference the letter, but in discussing and incorporating the process of water system planning and updating that puts detailed information about water supply before City decisionmakers, the FEIS speaks to the concern in the King County letter. The evidence does not establish that the Proposal will have an adverse impact on unincorporated King County residents served by the City of Snoqualmie water system. These residents and other current users are currently served either by the existing City water system or have their own, permit-exempt wells. None of the water supply options discussed by the EIS and described by Ms. Campbell involve diverting water from existing connections to serve the Mill Site. Further, the concerns described in the letter regarding future users were discussed at length during the hearing. Michele Campbell's re-direct testimony demonstrated not only that water needs for potential annexations in the UGA were analyzed and taken into account in the 2021 WSP Update, but that King County officials had been specifically consulted on the question. Based on this work, Ms. Campbell demonstrated that the King County letter's concerns were "not well-founded," and therefore did not raise an impact which required a response. In light of Ms. Campbell's testimony, under the rule of reason, the EIS was not required to specifically respond to the County's comment letter on this point. Finally, the fact that the WSP Update documents are not included in the EIS document does not mean they are irrelevant to the adequacy of environmental analysis. *See Toandos Peninsula Ass'n v. Jefferson Cty.*, 32 Wn. App. 473, 483 (1982) (EIS not inadequate for failure to reference comprehensive plan change because it was "apparent from the long history of the permit process that the decisionmaking official was well aware" of the effects on the proposal); *Concerned Taxpayers v. Dep't of Transp.*, 90 Wn. App. 225, 233 (1998) ("Failure to formally incorporate" a report in an EIS was harmless error because the report had been "circulated" and "considered.").
- b. The Appellant's closing brief argues that the FEIS inappropriately disregarded impacts to water supply for future unincorporated King County residents on the grounds that growth is projected to be low. This claim is incorrect. Ms. Campbell testified that she followed the recommendation of the former King County UTRC chair, Steve Hirshey, and worked with City staff Jason Rogers to project

employment and population figures from future annexations of the portion of unincorporated King County that lies within the City's urban growth area and is projected to be annexed into the City by 2040. In her testimony, Ms. Campbell identified Figure 3-1, Table 3-1, Chart 3-1, and page 3-8 of the WSP Update where the potential annexation areas are identified, and the potential new employment and population projections are identified and discussed. As Ms. Campbell testified, she used these projections in analyzing potential future water demand in the WSP Update. In other words, the WSP's projected water needs include both water needs related to the Mill Site Planning Areas 2 and 3 *and* water needs from the potential new residents from annexation of the unincorporated UGA.

c. Appellants' Reply Brief claims that the City identified 1,000 potential new residents in the UGA but has not planned for their water service, or that the Mill Site will be served to the detriment of those new residents, are simply not well-founded or supported by evidence. The 2021 WSP Plan Update identifies strategies by which the City will meet its projected water needs, and Ms. Campbell's testimony to that effect on re-direct was not rebutted by Appellants. As noted above, the fact that the 2021 WSP Update was not included in the EIS itself does not render the EIS inadequate. *To andos Peninsula Ass 'n v. Jefferson Cty.*, 32 WN. App. 473, 483 (1982); *Concerned Taxpayers v. Dep't of Transp.*, 90 Wn. App. 225, 233 (1998); *Cascade Bicycle Club v. Puget Sound Reg'l Council*, 175 Wn. App. at 515.

10. On the issue of the EIS' adequacy in analyzing the PCI Plan's compatibility with adjacent land uses, the appeal letter (Exhibit S1) did not include a specific claim regarding this issue. Had it raised this claim, the evidence does not demonstrate that the SEPA Responsible Official's EIS adequacy determination was clearly erroneous. On the claim actually raised in the appeal letter - alleged Proposal inconsistency with adopted growth targets - the record submitted fails to establish that the Responsible Official's determination was clearly erroneous.

a. Consistent with the prehearing ruling (Exhibit R14), alleged errors not perfected in the notice of appeal are not included in the scope of this appeal. During the hearing, the undersigned permitted Mr. Derdowski's testimony on a range of topics to be admitted over objections, because it was often difficult to immediately discern whether the testimony was relevant to an issue within the scope. Throughout his testimony, Appellant counsel and witness were requested to stay within the scope and were instructed that testimony on topics outside the scope would not be considered or relied upon. The undersigned concludes that none of the errors alleged in the notice of appeal raises a challenge to the EIS analysis of PCI Plan compatibility with adjacent land uses. Therefore, the issue of adequacy of EIS analysis of compatibility with adjacent land uses is outside the scope of the appeal, and Mr. Derdowski's testimony on that issue is not considered. The only issue to which Mr. Derdowski testified that was raised in the appeal letter was alleged error 5, which argued that the Proposal is inconsistent with applicable growth targets under the Growth Management Act. However, compatibility with growth targets does not, by itself,

establish a significant adverse environmental impact. Instead, Appellants' position on this issue appears to be an attempt to use the EIS appeal proceeding to collaterally attack previous City programmatic policy decisions in the Comprehensive Plan, approval of the post-Annexation Implementation Plan, and elsewhere, to provide the framework for a PCI-planned redevelopment of the Mill Site. Consistent with the pre-hearing ruling on motions, "the scope of the appeal does not include a challenge to the AIP." In addition, such collateral attacks are improper. *Glasser*, 139 Wn.App. at 738-39. Finally, neither the Appellant nor Mr. Derdowski disputed evidence that King County has adopted and the City Council has ratified new growth targets, and that the Proposal is consistent with these. The record submitted does not establish clear error with regard to alleged error 5. *Exhibit C31 and C32*.

- b. Even if the other issues discussed by Mr. Derdowski were to be considered "within the scope," the undersigned respectfully concludes that they do not establish clear error. Mr. Johnson described how elements of the Proposal that could affect adjacent areas are discussed in the EIS. Mr. Derdowski's assertions that the County will change its zoning and that rural residents will move are speculative, and any rezoning process will itself be subject to SEPA review that can account for the planning-level impacts Mr. Derdowski alleges.
- c. Mr. Derdowski's testimony was offered by Appellants as expert testimony, but Appellants did not offer a resume or CV for Mr. Derdowski. While he testified at some length about his experience acting as an "adviser" to Appellants and other citizen group project opponents, and about his prior service as an elected County Council member, his testimony did not demonstrate the requisite level of knowledge, skill, experience, training, or education to qualify as expert opinion testimony under ER 702, even if the issue of compatibility with adjacent land uses had been timely raised in the appeal letter. His testimony also lacked sufficient personal knowledge and foundation to be admissible as fact testimony, as he acknowledged a lack of specific information concerning land uses within the City of Snoqualmie and adjacent areas, as opposed to within the City of North Bend.

11. On the issue of wildlife, evidence and argument offered by the Appellant fail to establish that a significant wildlife impact has gone undiscussed or that the EIS is otherwise inadequate on this element of the environment. Mr. Erland testified that development of the Proposal will cause elk to cease using some areas they currently use. Mr. Erland acknowledged that elk roam throughout the valley and that they will be able to use the open space preserved on the Mill Site. The EIS acknowledges that new buildings and paved areas may displace wildlife, and Appellant's evidence did not demonstrate that its discussion was inadequate.
12. On the issues of aesthetics and noise, the evidence does not establish that a significant impact has gone undiscussed or that the EIS is otherwise inadequate. Ms. Linney expressed general concern that light from the Proposal would alter its surroundings, that construction associated with the Proposal would increase noise levels, and that she was

uncertain about the construction timeline. The EIS acknowledged that some light from the Proposal will be visible at night and discusses that nighttime light and glare can be mitigated through the adoption of a master plan that includes design standards requiring measures to limit nighttime light pollution and exterior illumination that reduces off-site light pollution. The DEIS also states that construction noise is not considered significant because it is temporary and that construction for each planning area is anticipated to last approximately one year. Appellant's reply brief does not reference either of these issues or respond to the City's arguments. The evidence does not establish that the EIS is inadequate on the subjects of noise or aesthetics.

13. SEPA appeal evidence not cited and arguments not addressed in these findings and/or conclusions were found, with respect, not to be sufficiently relevant, credible, or persuasive and, under the rule of reason and in light of the substantial weight required to be accorded to the SEPA Responsible Official's determination, do not support reversal of the City's determination of EIS adequacy.

PCI Plan Application

14. The record demonstrates that the public notice requirements of SMC Chapters 17.50 and 17.85 have been satisfied.
15. The undersigned concludes that the Proposal is consistent with the requirements of SMC 17.20.050 for the reasons stated in the staff report's Conclusions of Law 3 through 11, which are adopted and incorporated herein by reference.
 - a. Regarding comments that submitted that the Proposal is inconsistent with SMC 17.20.050.I, which provides that the purpose of the PCI district is to provide for development "at a scale which serves to maintain existing small-town character," the undersigned concludes that the PCI Plan is consistent with the City of Snoqualmie's small-town character as defined by the Comprehensive Plan. The Comprehensive Plan defines the City's small town character as related to pedestrian scale and orientation, traditional design, identifiable neighborhoods and closeness to the natural environment (Community Character Element, 5-1). This character is also defined by views of the landscape, the City's history, and large areas of undeveloped forest and open space. Community Character policies specific to the Mill Site are identified and evaluated in the Draft EIS (page 3-174). The PCI Plan addresses and satisfies these elements: it would preserve view corridors to important natural features identified in the Comprehensive Plan (Mt. Si, Mill Pond); it would preserve buildings that reflect the City's industrial history; and it would preserve large areas of the site as undeveloped open space. While the Proposal would place new development adjacent to rural residential areas, it would employ vegetation, open space, and design features to buffer these areas from intrusive views, noise, and lighting.
 - b. To an extent, the concept of community character is subjective and based on individual perception. Some who commented simply view industrial development at the proposed scale as being inconsistent with their perceptions of small-town

character. Arguably, there is some tension between some perceptions of small-town character and industrial development. The Comprehensive Plan and PCI zoning resolve this tension by allowing the industrial and commercial development proposed on the Snoqualmie Mill site, provided that it can mitigate its impacts. Based on the record submitted, the Proposal would mitigate perceived impacts to community character through design and mitigation measures. Comments regarding small-town character questioned the visual compatibility of the Proposal with existing surroundings. The EIS visual analysis (Section 3.9) does not claim that development would be completely invisible. The submitted simulations verify that the site would be screened from most public views and minimally visible from many off-site locations. The Proposal would not be visible from Snoqualmie Falls. Development at the proposed scale would preserve views of important natural features, including Mt. Si. Retained vegetation and open space around the site perimeter would screen adjacent rural areas from noise and lighting. The noise analysis indicates that the adjacent rural areas to the north would not experience significant noise impacts, and no evidence competent to prove the contrary was submitted. The Applicant has committed to limit lighting by implementing dark sky standards, and the Staff Report imposes additional conditions to limit lighting. The PCI zone performance standards would also limit spill over impacts.

- c. The City's existing small-town character historically came into being side by side with industrial development on the Mill Site. The Proposal would develop commercial and industrial uses consistent with the zoning designations that were applied to the site upon annexation and that have been planned for in the Comprehensive Plan. The site itself has not been planned or zoned by the City to be rural, or to allow only small scale development, but rather to contain its impacts to adjacent rural lands and the elements of small town character. The Mill site is a distinct "neighborhood" designated in the Comprehensive Plan; it is also spatially distinct, physically separated by the Snoqualmie River and Mill Pond Road from the rest of the City. While the amount of development proposed by the PCI Plan is substantial (1.8 million square feet), the site is large (261 acres). The development - including all building footprints, roads, and other impervious surfaces - would be compact, preserving nearly two-thirds of the site as open space. This proposed development density is low relative to most industrial development.
- d. The Draft EIS discusses land use compatibility based on existing uses located adjacent to the site, and planned land uses defined in King County's and the City's relevant plans and zoning designations. Adjacent uses to the north of the PCI Plan site, in unincorporated King County, are low density rural residential, King County open space, and industrial (CalPortland gravel mine). Some portion of the open space will eventually contain a portion of the Snoqualmie Valley Trail (SVT). A portion of the trail would also be developed east of the PCI Plan site, on the hillside property which the Applicant sold to King County for this purpose and which is currently occupied by the DirtFish driving school. The precise alignment of the trail has not been determined. Planning Area 1 development would be separated from rural uses

to the north by a 35-acre open space area which is subject to a conservation easement, and by extensive existing vegetation bordering the PCI Plan site. The assertion that the proposed industrial/commercial uses, located within the City, are more intensive than adjacent rural uses located in the County and therefore “incompatible” is oversimplified and does not tell the whole story. Distance, vegetation, open space, visibility, design, noise and other emissions, operating characteristics, and relevant mitigation measures are the ultimate determinants of compatibility. The Draft EIS notes these factors and concludes correctly that significant incompatibilities would not occur. The uses and scale of development proposed are consistent with the PCI zoning. Accordingly, challenges to the uses and densities allowed on the site are in effect a retroactive challenge to the zoning. The time period for contesting the zoning has long since passed and it cannot be indirectly challenged through subsequent approvals such as this one.

16. The undersigned concurs with the statements in the Staff Report’s Conclusions of Law 12 through 25 regarding the requested deviations and proposed mitigating conditions. These conclusions are adopted and incorporated herein by reference.
17. The City takes the position that the PCI Plan Application must be evaluated for conformance with the Planned Unit Development regulations in SMC Chapter 17.50, including the application requirements in SMC 17.50.020, the general and specific standards in SMC 17.50.050 and .060, and the requirements for a report and recommendation from the Hearing Examiner as specified in SMC 17.50.090(E). The Applicant does not agree that these requirements must be met. The undersigned need not resolve this legal dispute because the Proposal is consistent with the Planned Unit Development criteria for the reasons stated in Conclusions of Law 26 through 71 of the Staff Report. These conclusions are adopted and incorporated herein by reference.
18. PCI Plan application evidence not cited and arguments not addressed in these findings and/or conclusions were found, with respect, not to be sufficiently relevant, credible, or persuasive and not to support denial of the application for PCI Plan approval.

DECISIONS

Based on the foregoing findings and conclusions, the Appellant has not met its burden of showing the EIS is inadequate under the rule of reason. The SEPA Responsible Official’s determination that the FEIS is adequate is **AFFIRMED**.

The record demonstrates compliance with the criteria for approval of the Planned Commercial/Industrial Plan and the undersigned therefore **RECOMMENDS PCI Plan APPROVAL** to the City Council subject to the conditions below.

Conditions Related to PCI Plan Approval Criteria

1. For all subsequent permit applications and approvals, the warehouses, offices, residential units, and other physical components of the planned commercial / industrial development

shall substantially conform to the details of development authorized by this PCI Plan approval, as determined by the Community Development Director. Substantial conformance shall be determined as set forth in SMC 17.30.150, and shall also be subject to the following limitations:

- a. The number of residential units shall not exceed 160;
- b. The total square footage of non-residential development in Planning Area 1 shall not exceed 470,000 square feet, including approximately 280,000 square feet of manufacturing/warehouse use, 120,000 square feet of light industrial use, and 70,000 square feet of retail/restaurant use, as described in Table 1 of this report; and
- c. The height of all structures, measured as provided in SMC 17.10.020(GG) and SMC 17.20.040, shall not exceed the limited specified in Condition No. 10, below.

2. In determining substantial conformance for the project, the Community Development Director shall also be guided by:
 - a. The PCI Plan application materials depicting the conceptual design dated March 18, 2022 (Exhibit B);
 - b. The criteria in SMC 17.80.050; and
 - c. The development and design guidelines required by Conditions Nos. 5, 6, 8, 9, and 10 below.
3. The determination of substantial conformance by the Community Development Director shall satisfy the requirements of Chapter 17.80 SMC, Design Review Board.
4. Lot Line Adjustment: A lot line adjustment will be processed in accordance with the PCI Plan to reconfigure the tax parcels to serve as the legal lots associated with future site development activity permits and/or commercial building permits. The lot line adjustment shall be applied for prior to application for building permits and shall be recorded prior to issuance of building permits.
5. To ensure that the project includes design features that were discussed in the project proposal and/or required as conditions of approval, the Applicant shall develop a set of design guidelines to the City for approval prior to application for any building permit. Recognizing that the design guidelines may be developed for each Planning Area in phases, no development should occur in areas where design guidelines have not been completed.
6. To ensure that the project creates a mixed-use development where all uses are compatible, the design guidelines shall incorporate performance standards for air quality, vibration, heat, glare, noise, and waste storage and disposal that provide protection for residential and other uses within the project equivalent to those in SMC 17.55.080. These standards may include separate provisions for restaurants and tasting rooms,

recognizing that a room within a wine-making facility may occasionally experience noise or other impacts from the facility in which it is located.

7. To increase the plantable area between the river and the proposed roundabout on Mill Pond Road, modify the plans to show the sidewalk ending on the north side of the roundabout.
8. The design guidelines shall include standards for a unified lighting plan for all streets in the development that has been reviewed by a qualified engineer, provides for visibility and safety, and specifies spacing, light intensity, and glare control features, to be approved by the Public Works Director, prior to approval of grading and paving permits for the project's street improvements.
9. To ensure the perimeter of the project is screened, include standards for perimeter planting in the design guidelines. These shall include evergreen screening of Backlot Industrial or Surface Parking from Mill Pond Road, the Planer building, Terrace Area, or other open space areas. The required screening shall include a minimum 10-foot wide evergreen planting area with screen planting to a minimum of 7 feet above grade, and evergreen and deciduous trees spaced no more than 15 feet on center.
10. The design guidelines shall specify the maximum height and minimum roof pitch applicable to each planning area. The three Mixed-Use/Residential buildings abutting Mill Street would be limited to a maximum height of 70 feet to the ridgeline of the roof and 55 feet to the eave line. All other buildings abutting Mill Street could be built to a maximum of 55 feet to the ridgeline and 35 feet to the eave line. Other buildings in Planning Area 1, and any new buildings in Planning Areas 2 and 3 could have flat or shed type roofs and would be limited to 55 feet maximum height including parapets or other rooftop appurtenances. The design guidelines shall also include specifications for allowable colors of roofs and wall areas above 40 feet. Materials other than glass above 40 feet should be muted or earth-tone colors. No mirrored or highly reflective glass should be permitted.
11. To ensure that reduced buffer widths in Planning Area 1 do not harm wetlands, concurrent with application for grading permits, submit a Wetland Mitigation and Monitoring Plan consistent with the PCI Plan and that includes measures to protect wetlands during construction and for the life of the project. The plan shall include measures to avoid using wetland buffers for construction staging. The mitigation plan shall include a determination by a qualified biologist that, as designed, the stormwater wetland adjacent to Wetland 12 would preserve or enhance wetland functions, that stormwater discharges would meet the requirements in Chapter 15.18 SMC, that stormwater discharges to the wetland's outer buffer would not negatively affect the hydroperiod of the wetland, and that there would be no adverse impacts on the water quality of the wetland. The mitigation plan shall include a monitoring plan to ensure that the wetlands and wetland buffers are developed and maintained per the plan, and a

method of ensuring that the costs of establishing and maintaining the buffers will be covered by the Applicant regardless of the success of the project.

SEPA-related Conditions

Mitigation Measures for Earth Resources

12. To mitigate settlement and risks from liquefaction and lateral spreading, the following geotechnical design elements shall be addressed in the future development planning and permitting process, including civil engineering plan review and issuance of building and clear and grade permits:

- Plan new site development in a way that does not increase loads on weak subsurface materials.
- Keep final site ground surface elevations at or below existing site grades, except for building pads, consistent with PCI Plan drawings.
- Require deep foundations or possibly deep ground improvement approaches for new structures, including buildings, substantial retaining walls, and similar structures with significant foundation loads.
- Support new floor slabs on deep foundations or areas of deep ground improvement.
- Require remedial preparation of the existing fill for new paving.
- Support new buried utilities, particularly those that are sensitive to grade changes such as gravity sewers, on a layer of new structural fill similar to that to be used below paving.

13. The following measures shall be implemented to mitigate the risks of erosion hazards:

- Develop a temporary erosion and sediment control (TESC) Plan for the project during the design phase, and submit it to the City for review and approval as part of civil engineering plan review and clear and grade permit review.
- Schedule or phase construction activity as much as possible to reduce the amount of earthwork activity that is performed during the winter months.
- Install TESC measures prior to any site activity or disturbance.
- Use filter fences as a perimeter sediment interception measure, as warranted, adjacent to wetlands, stream and river corridors, open space areas, and other sensitive areas located in or adjacent to construction zones to reduce the risk of sediment transport into these features.
- During the wetter months of the year, or when large storm events are predicted during the summer months, stabilize work areas so the site can receive the rainfall without excessive erosion or sediment transport. Establish temporary stormwater conveyance at the stabilized areas to route runoff to the approved discharge location.

- Control surface runoff and discharge during and following development. Under no circumstances should concentrated discharges be allowed to flow over the top of steep slopes.
- Restore soils that are to be reused on the site in such a manner as to reduce erosion from the stockpile (e.g., covering with plastic sheeting, the use of low stockpiles in flat areas, and the use of silt fences around pile perimeters).
- Direct all temporary or permanent devices used to collect surface runoff into tightlined systems or constructed ditch systems that discharge into approved stormwater control facilities, such as detention ponds or dispersion facilities.
- Revegetate disturbed areas as soon as possible after construction is complete. If it is outside of the growing season, cover the disturbed areas with mulch or plastic sheeting, as described in the TESC Plan.

14. To reduce potential landslide risks from development in the northeastern corner of the site and the wood/debris pile in Planning Area 3, the following measures shall be implemented, if development is proposed on areas identified in the EIS as steep slopes.

- Place no fill, topsoil, or other debris on steep slopes. Any fill planned for slopes steeper than 5H:1V (Horizontal:Vertical) elsewhere on the property shall be benched into the slope and placed as structural fill.
- Remove the soil storage pile at the north end of Planning Area 3.
- Grade all permanent cut slopes in the natural sediments to a maximum of 3H:1V. Cut slopes in fill soils shall be no steeper than 3H:1V unless approved by the geotechnical engineer. Where steeper gradients are required, an approved erosion protection structure or retaining structure shall be utilized. Rockeries shall not be used in association with unstable soil or non-reinforced, fill soils.

15. To mitigate the risks of seismic hazards, the following measures shall be implemented:

- **Earthquake-Induced Landslide Hazards:** Once a development concept has been formulated in greater detail, the geotechnical engineer shall review the site plans for any planned development near the toe of the steep slopes to determine if slope stability modeling is recommended.
- **SE Mill Pond Road:** Complete additional subsurface exploration and stability analyses along the bank of the Snoqualmie River and the shoreline of Mill Pond during the design process. Complete bathymetric surveys at both locations to determine the geometry of the underwater portion of the river bank and lake shoreline.
- **Slope Stability:** Evaluate and implement one or more of the following mitigation measures to address seismic stability associated with the Mill Pond Road realignment:

- Relocate the new alignment and roundabout with a setback sufficient so that a slope failure will not impact the road.
- Install structural elements along the roadway edge such as a continuous, large diameter drilled shaft wall (secant pile wall) to constrain the roadway prism from being undermined by a slope failure.
- Use ground improvement methods such as stone columns or deep soil mixing to strengthen weak native soils presumed to exist beneath the river bank and area adjacent area near the top of the bank.

Mitigation Measures for Air Quality and Greenhouse Gases (GHS)

16. To reduce potential air quality impacts from construction activities, the following mitigation measures shall be implemented:

- Use only equipment and trucks that are maintained in optimal operational condition.
- Require all off-road equipment to have emissions reduction equipment.
- Use carpooling or other trip-reduction strategies for construction workers.
- Implement restrictions on construction truck and other vehicle idling.
- Spray exposed soil with water or other suppressant to reduce emissions of and deposition of particulate matter (PM).
- Pave or use gravel on staging areas and roads that would be exposed for long periods.
- Cover all trucks transporting materials, wetting materials in trucks, or providing adequate freeboard (space from the top of the material to the top of the truck bed) to reduce PM emissions and deposition during transport.
- Provide wheel washers to remove particulate matter that would otherwise be carried off-site by vehicles in order to decrease deposition of particulate matter on area roadways.
- Cover dirt, gravel, and debris piles as needed to reduce dust and wind-blown debris.
- Stage construction to minimize overall transportation system congestion and delays to reduce regional emissions of pollutants during construction.

17. To reduce GHG and climate change impacts, in addition to compliance with requirements of Building and Energy Codes, buildings shall incorporate green building technologies, to be described in the updated design guidelines. As provided by the PCI Plan, all buildings shall be designed to achieve LEED Gold certification or better, to the greatest extent feasible. Documentation of LEED application shall be required with building permit applications.

Mitigation Measures for Water Resources

18. Construction work within existing functional wetland or stream buffer boundaries shall be limited to the dry season (avoiding November through February) where feasible.

19. Develop stormwater facilities consistent with the PCI Plan drawings and, to the extent feasible, implement the following mitigation measures to reduce potential impacts on water resources:

- Maintain consistency of existing drainage patterns following development.
- Maintain flows to surface water-dependent wetlands and streams to provide recharge to the shallow aquifer.
- Create additional recharge opportunities through the use of constructed stormwater wetlands as part of the runoff treatment system for the site.
- To ensure coordinated planning and operation of stormwater facilities, develop and provide an Operations and Maintenance (O&M) Manual to the City at the completion of each phase of development and at the completion of overall site development; the O&M Plan will summarize the operation and maintenance requirements of the stormwater system.

Mitigation Measures for Plants and Animals

20. The following mitigation measures shall be implemented to reduce potential impacts on plants and animals:

- Concurrent with development in Planning Areas 2 and 3, update the analysis of impacts on wildlife based on more detailed plans, and identify measures to minimize impacts and implement benefits to wildlife habitat.
- Implement compensatory mitigation measures for impacts on wildlife habitat, including the enhancement of existing wetland buffer vegetation within Planning Areas 2 and 3 by removing invasive species and the replanting of these areas with native trees, shrubs, and groundcovers.
- Landscaped developed open space areas with a variety of native plant species of value to wildlife, where feasible, given considerations of maintaining adequate sight distance for public safety and other applicable landscape standards.

Mitigation Measures for Environmental Health

21. The following mitigation measures shall be implemented to reduce potential impacts on environmental health:

- Prior to issuance of grading or construction permits in Planning Areas 2 and 3, establish procedures to remediate legacy site contamination, consistent with the Washington State Model Toxics Control Act (MTCA) and in coordination with Ecology.
- To mitigate the risk of a potential release associated with the storage and use of hazardous materials for the cleaning and sanitation of wine-making equipment, all wine-making processes shall occur within an enclosed building.

- To acknowledge that the project would elevate portions of the Snoqualmie Mill property above the base flood elevation (and therefore reduce the risk of the storage and use of hazardous substances within the floodplain), pursue a Letter of Map Amendment (LOMA) with FEMA to remove the relevant portions of the Snoqualmie Mill property from floodplain maps.
- Require all future tenants whose operations involve the use or storage of hazardous chemicals to prepare a Spill Prevention and Response Plan for their respective facilities, and to implement best management practices (BMPs) to ensure the proper use, handling, storage, and disposal of chemicals.

Mitigation Measures for Aesthetics, Light, and Glare

22. Update and submit design guidelines prior to applying for building permits for Planning Area 1. Because detailed plans for Planning Areas 2 and 3 will be developed later, it is recognized that the design guidelines for those areas may need to be amended. The guidelines shall be amended prior to applying for building permits in Planning Areas 2 and 3, to provide an equivalent level of detail as is provided for Planning Area 1.
23. Develop and integrate lighting standards into the design guidelines for the project that are based on IES Guidelines for general exterior lighting (RP-43) and street lighting (RP-8), establishing maximum illuminance values an appropriate color temperature range, and specifying International Dark-Sky Association-certified lighting fixtures.

Mitigation Measures for Cultural Resources

24. The Applicant shall engage in additional communication with the Snoqualmie Indian Tribe regarding the Snoqualmie Falls Traditional Cultural Property (TCP).
25. The Applicant shall consult with the Washington State Department of Archaeology and Historic Preservation (DAHP) to determine the need for additional survey work regarding the Japanese community site in Planning Area 1. Alternatively, based on detailed design plans for the parking area, an engineer could determine whether soil conditions and building design would impact below ground resources.
26. Prepare an Archaeological Unanticipated Discovery Plan (UDP), approved by the City of Snoqualmie and DAHP, in case archaeological resources and/or human remains are exposed during ground-disturbing activities and construction. All ground disturbance associated with the development of the PCI Plan will be subject to the UDP.
27. The Applicant shall continue to work with the Japanese Cultural and Community Center of Washington (JCCCW) regarding commemoration of the historical contribution of Japanese workers to the Snoqualmie Falls Lumber Company (SFLCo) and the local community.
28. If, in the future, a different project is planned to occur near site SF-CR#2 in Planning Area 1 (domestic debris associated with Japanese residents of the SFLCo's company

town) and subsurface disturbance will extend six (6) feet below the current grade, DAHP must be consulted regarding potential effects.

29. A professional archaeologist shall review the final grading plan to confirm that the depth of excavation in the vicinity of SF-CR#2 is consistent with the preliminary plan evaluated in the EIS.
30. In Planning Area 2, prior to any action that would cause an adverse effect to Crane Shed No. 3, Planing Mill-Crane Shed, or the Package Lumber Shed, the Applicant should complete Historic American Buildings Survey (HABS) documentation Level III and submit the same to the City.
31. During removal of subsurface portions of the Planer Building, Dry Kilns, Finished Lumber Shed, and Package Lumber Shed, a qualified architect or architectural historian meeting the standards of the Secretary of Interior's Professional Qualifications shall be present to evaluate the significance of any structure exposed.
32. In Planning Areas 2 and 3, prior to any action that would cause an adverse effect to the potential SFLCo historic district from demolition of eligible or contributing buildings or structures, the Applicant should complete Level II documentation as defined by DAHP.
33. Conduct archaeological surveys within Planning Areas 2 and 3, consisting of trench excavations and shovel probes, in the future when those planning areas are proposed for development.
34. The Applicant shall engage in additional consultation with DAHP regarding the boundaries of the potential historic district in Planning Area 3.

Mitigation Measures for Traffic and Transportation

35. Prepare a Construction Management Plan prior to beginning construction. Haul route agreements and truck routes shall be established in coordination with the City of Snoqualmie, WSDOT and, if/where applicable, King County. A traffic monitoring plan shall be developed to manage traffic levels at the site access locations and determine if traffic levels during construction are higher than evaluated for the project buildout. If so, the City may require additional measures to reduce construction traffic impacts as conditions of clear and grade and/or building permit approval.
36. Develop project-specific design guidelines requiring that building owners provide facilities (e.g., bike storage, showers) to encourage bicycle use.
37. Employers that are not subject to the Commute Trip Reduction Act shall implement programs that encourage transit use.

38. The Applicant, along with other developments such as Snoqualmie Hill West, shall contribute a pro rata share toward improvements at the side-street approaches at the intersection of Fisher Avenue SE, to achieve acceptable level of service (LOS).
39. At the time of development application for Planning Areas 2 and/or 3, update the transportation analysis to confirm current conditions and adopted City improvement plans, and to re-evaluate the need, design, and timing of project-specific mitigation requirements.
40. At the time of development application for Planning Areas 2 and/or 3, develop additional analysis for traffic from specific uses proposed, and work with the City to determine the appropriate proportionate share of the cost of the following identified improvements:
 - Replacement and expansion of the existing SR 202 bridge crossing the Snoqualmie River.
 - Widening of the intersection of the haul road with Mill Pond Road and construction of a new roundabout.
 - Widening of the single-lane roundabout intersection at Tokul Road SE / SR 202 / SE Mill Pond Road to allow two circulating lanes.
 - Widening of SR 202 at the Snoqualmie Parkway intersection to provide one additional through lane in each direction.
 - Installation of a roundabout at the SE 99th Street/Snoqualmie Parkway intersection to achieve acceptable LOS.
 - Providing an eastbound to westbound U-turn on Snoqualmie Parkway or at the Allman Avenue SE / Snoqualmie Parkway intersection (to the east of the unsignalized intersection of Orchard Avenue SE / Snoqualmie Parkway).
 - Providing a westbound to eastbound U-turn on Snoqualmie Parkway or at the Orchard Avenue SE / Snoqualmie Parkway intersection (to the west of the unsignalized intersection of Allman Avenue SE / Snoqualmie Parkway).
 - Adding turn lanes or an urban mini-roundabout at the intersection of Meadowbrook Way SE / Park St to achieve acceptable LOS.
 - Adding a full signal at the Fisher Avenue SE / Snoqualmie Parkway intersection (to replace the existing HAWK signal).
 - Adding a roundabout at the Meadowbrook Way SE / SE North Bend Way intersection.

Mitigation Measures for Utilities

41. The project development standards/design guidelines shall require the usage of water-conservation features to reduce water demand and ensure that development does not exceed system capacity.

42. Concurrent with submittal of civil engineering plans for Planning Area 1, submit a detailed wine production wastewater flow and loading analysis for review and approval by the City. The flow and loading analysis must document the anticipated number and sizes of wineries, estimated volume and BOD5 strength of winery wastewater generated, peak or maximum day and month discharges, pipe sizing, proposed equalization sizing, and other relevant information.
43. As directed by the City through any conditions of approval of the winery flow and loading analysis, design and build as part of Planning Area 1 wastewater conveyance improvements on-site equalization facility sufficient to attenuate peak winery-related wastewater flow and loading, and dedicate equalization facility to City.
44. Prior to issuance of building permits for winery-related uses, demonstrate that the project would implement the BMPs identified in Ecology's Winery General Permit, which include removal of solids, control of organic loads, maintenance of the waste management system, and improving water efficiency or, alternatively, pay a proportionate share of improvements to the Snoqualmie Water Reclamation Facility (SWRF) and operations and maintenance costs related to same, as necessary to treat winery wastewater in a manner equivalent to the Winery General Permit BMPs.
45. Prior to issuance of building permits, develop an Operation and Maintenance Manual that summarizes the stormwater system operation and maintenance requirements to ensure coordinated planning and operation of stormwater facilities. Provide the manual to the City at the completion of each phase of development and at the completion of the overall site.
46. Prior to issuance of building permits for Planning Area 1, re-confirm actual estimated water and wastewater demand for Planning Area 1, and obtain certificates of water and sewer availability. Confirm that the Phase 3 Water Reclamation Facility Improvement project is substantially complete prior to issuance of certificates of occupancy for wine production facilities.
47. Prior to issuance of building permits for Planning Areas 2 and 3, ensure that available water supply and wastewater treatment capacity are adequate to serve the new proposed development.
48. Pay an applicable sewer, stormwater and water connection charges as set forth in the Snoqualmie Municipal Code, including service installation charges, direct facilities charges, general facility charges ("GFCs") and latecomers fees, calculated in accordance with the then-applicable sewer, stormwater and water connection charges and paid at the times set forth in Chapters 13.04, 13.10 and 13.12 of the Snoqualmie Municipal Code, as it now exists or may subsequently be amended.
49. Construct the water system facilities specifically needed to provide water service or fire flow to the project and not included in the calculation of the water connection charges

required by Condition No. 48 and Chapter 13.12 SMC, as identified in Exhibit 1, Staff Report Finding of Fact #176. Alternatively, where improvements are needed by or will make service available to the City or other existing or future City utility customers, Applicant shall pay the proportionate share of the cost of construct of such improvements. The proportionate share amount, timing of payment, and credits (if any) for developer construction of City facilities, to be set forth in the Development Agreement.

Mitigation Measure for Public Services

50. Pay the proportionate share of the cost of a fire ladder truck sufficient to provide fire response to buildings higher than the PCI district height limit, with the proportionate share amount and timing of payment as determined in the Development Agreement.

DECIDED June 28, 2022.



Sharon A. Rice
City of Snoqualmie Hearing Examiner

Appendix A - Exhibits

Exhibits Admitted in the PCI Plan Application Hearing

Exhibit 1 Community Development Department Staff Report with following attachments:

- A. Application Submittal Requirements
- B. PCI Plan Application (including Site Plans), revised date March 2022
- C. Notice of Application and Public Hearing
- D. List of Property Owners within a 500-foot Radius of Project Boundaries
- E. Scoping Summary Memorandum, dated December 18, 2017
- F. Ordinance 1086
- G. Resolution 1115
- H. Ordinance 1098
- I. Resolution 420
- J. Resolution 427
- K. Snoqualmie Ridge I Development Standards (excerpt)
- L. Resolution 712
- M. Resolution 1461

Exhibit 2 Snoqualmie Mill PCI Plan, Final Environmental Impact Statement, December 2021, with attached appendices:

- A. Comments on the Draft Environmental Impact Statement
- B. Summary of Subsurface Investigation of Planning Area 1
- C. Transportation Date for Alternative Considered but not carried Forward

Exhibit 3 Post-Staff report pre-hearing public comment:

- a) Harold Erland PowerPoint presentation
- b) Eric Robinson, March 28, 2022
- c) Wayne Russel, March 29, 2022, with attachments:
 - 1. Staff Summary of Former Weyerhaeuser Mill site reported environmental activity and remediation, September 22, 2011
 - 2. Assessment of PCB contamination for Snoqualmie Falls Plywood Plant Fire Site
 - 3. Site Characterization, former Cashmere Mill Site, March 20, 2013
- d) James Scott Urquhart, March 30, 2022
- e) Thyra Demetrick, March 29, 2022

- f) Connie So letter, March 26, 2022
- g) Hollan Read, March 30, 2022
- h) Carson Maestas, March 30, 2022
- i) Nathan Kryger, March 30, 2022
- j) Jeff Groshell, March 30, 2022
- k) Snoqualmie Community Action Network, March 30, 2022 with 4 attachments:
 - 1. SCAN cover letter, March 30, 2022
 - 2. SCAN comments on/marked up Staff report recommended conditions of approval
 - 3. SCAN comments on/mark ups for rest of staff report
 - 4. SCAN memorandum to City Council
- l) Auryel van Gemert, March 30, 2022
- m) Alena & Brian Yuhl, March 30, 2022
- n) Anna Boranian, March 30, 2022
- o) Wayne A Russell, March 30, 2022 with attachments:
 - 1. [duplicate] Staff Summary of Former Weyerhaeuser Mill site reported environmental activity and remediation, September 22, 2011
 - 2. [duplicate] Assessment of PCB contamination for Snoqualmie Falls Plywood Plant Fire Site
 - 3. [duplicate] Site Characterization, former Cashmere Mill Site, March 20, 2013
 - 4. Wayne's GPS Elevation
 - 5. Photo
- p) Julie Lake, March 30, 2022
- q) Cristie Coffing, March 30, 2022
- r) Kenya Dillon, March 30, 2022
- s) Peggy Shepard, March 30, 2022
- t) JCCCW, March 30, 2022
- u) Greg Balmer, March 30, 2022
- v) Sharlyn Lux, March 30, 2022
- w) Kathryn Graham, March 30, 2022
- x) Morgan Siedel, March 30, 2022
- y) Amanda Ric, March 30, 2022

- z) Dawn and Mark Harper, March 30, 2022
- aa) Kenneth McNeill and Samantha Ghosn, March 30, 2022
- bb) Kris Natarajan, March 30, 2022
- cc) Monica Lowney, March 30, 2022
- dd) Auryel van Gemert, March 30, 2022
- ee) Julie Lake second comment, March 30, 2022
- ff) Mary Norton, March 30, 2022
- gg) Theresa Bechtold, March 30, 2022

Exhibit 4 Revised water and sewer plan, submitted by Applicant, March 30, 2022

Exhibit 5 Applicant PowerPoint presentation

Exhibit 6 City PowerPoint presentation

Exhibit 7 Cultural Resources Mitigation and Management Plan for Snoqualmie Falls Project, FERC No. 2493, February 26, 1996

Exhibit 8 Snoqualmie City Council meeting transcript excerpts from May 9, 2016, re: Salish Expansion Development Agreement

Exhibit 9 Post Hearing Comment

- a) Auryel van Gemert, March 30, 2022

Exhibit 10 Applicant responses to comments in Exhibits 3 and 9, dated April 5, 2022

Exhibit 11 City of Snoqualmie responses to comments in Exhibits 3 and 9, dated April 5, 2022

Exhibits Admitted in the Appeal

Appellant Snoqualmie Community Action Network (exhibits marked with the prefix "S")

- S1 Snoqualmie Community Action Network Appeal, dated received December 22, 2021, with attachments:
 - 1. Pam Jenkins PE comment letter
 - 2. Dr. Sarah Spear Cooke comment letter
 - 3. Snoqualmie 2032, page Land Use 7-13
 - 4. Gary Norris PE/PTOE comment letter
 - 5. Department of Ecology Site Hazard Assessment, Cleanup Site 10346, dated August 20, 2021 (various worksheets and figures, 46 pages)
- S2 [stricken, duplicate]
- S3 [stricken, duplicate]
- S4 DOE Site Hazard Assessment Weyerhaeuser Snoqualmie Mill, August 20, 2021 [duplicate of S1.5]

S5 DOE Site Hazzard Assessment Weyerhaeuser Snoqualmie Mill Rank notification letter, August 24, 2021

S6 DOE Cleanup Site Details, Weyerhaeuser Snoqualmie Mill, Site ID 2049, report generated July 3, 2020

S7 DOE Class II Inspection, February 1994

S8 [stricken]

S9 [stricken]

S10 Environmental Site Assessment - Current Conditions Report, Snoqualmie Mill Site, prepared for BrookWater Advisors/Snoqualmie Mill Ventures, by Associated Earth Sciences, Inc., March 16, 2015

S11 Level 1 Environmental Analysis, Weyerhaeuser Snoqualmie Mill Site, for Weyerhaeuser Real Estate Company, by Shannon & Wilson, Inc., December 1993

S12 Level II Environmental Site Assessment, Weyerhaeuser Company, for Weyerhaeuser Company, by Delta Environmental Consultants, Inc., June 25, 2004

S13 Level III Environmental Site Assessment, Weyerhaeuser Company, for Weyerhaeuser Company, by Delta Environmental Consultants, Inc., December 15, 2004

S14 Supplemental Environmental Site Assessment, July 19, 2005

S15 Pam Jenkins CV

S16 Gary Norris Resume

S17 [stricken]

S18 Sarah Cooke CV and SOQ

S19 Applicant-redacted version of S19, King County FEIS Comment Letter, Chan to Snoqualmie, dated December 22, 2021

S20 [stricken]

S21 Traffic Signal Justification Study, prepared by DN Traffic Consultants, Inc., June 25, 2018

S22 [stricken]

S23 [stricken]

S24 City of Snoqualmie Water System Plan, February 2013

S25 [stricken]

S26 Potential Hazardous Waste Site - Site Identification, June 8, 1990, EPA

S27 [stricken]

S28 Potential Hazardous Waste Site Disposition, 1991, EPA

S29 [stricken]

S30 [stricken]

S31 [stricken]

S32 Additional Assessment of PCB Contamination T-12 Area, Matthew Dalton, November 1994

S33 PCB Spill Cleanup Report for Weyerhaeuser Plywood Plant, by HDR Engineering, Inc., April 1990

S34 Assessment of PCB Contamination, by HDR Engineering, Inc., March 1989

S35 [stricken]

S36 Additional Investigation Report Snoqualmie Mill T-12 Site, HDR Engineering, Inc., December 1989

S37 Weyerhaeuser Snoqualmie PCB Assessment, from GeoEngineers to Eileen Heilman, August 22, 1991

S38 [stricken]

S39 [stricken]

S40 [stricken]

S41 [stricken]

S42 [stricken]

S43 [stricken]

S44 Norris to Lowney SCAN Response to FEIS, February 2022

S45 [stricken]

S46 Delta Environmental Consultant Supplemental Environmental Site Assessment, July 2011

S47 [stricken]

S48 [stricken, duplicate]

S49 [stricken, duplicate]

S50 [stricken, duplicate]

S51 Goldsmith Snoqualmie Mill Historical Fill

S52 [not admitted]

S53 [not admitted]

Applicant Snoqualmie Mill Ventures LLC (Exhibits marked with prefix "M")

M1 Resume of Richard Weinman

M2 Resume of Jeff Schramm

M3 Resume of Cliff Schmitt

- M4 Resume of Keith Goldsmith
- M5 [stricken]
- M6 Resume of Chris Wright
- M7 [stricken]
- M8 [stricken, duplicate]
- M9 [stricken, duplicate]
- M10 Washington's Formal Cleanup Process, Ecology Publication 19-09-166, dated Sept. 2019
- M11 [stricken, duplicate]
- M12 [stricken, duplicate]
- M13 [stricken]
- M14 Email thread between Monica Lowney and Kim Wooten regarding DOE Site Assessment of Snoqualmie Mill Site – DOH Involvement- City of Snoqualmie Final Environmental Impact Statement Release Next Month, dated April 30, 2021
- M15 Email thread between Lacy Linney and Meg Bommarito regarding Final Environmental Impact Statement: Snoqualmie Mill Site, dated December 17, 2021
- M16 Google Maps screenshot (offered during Jeff Schramm testimony)
- M17 Applicant redline of section V PCI Plan application showing changes between January 2022 (Exhibit C6) and March 18, 2022 (Exhibit C6(A)) PCI applications (offered during Mark Johnson Testimony)
- M18 Applicant's Redacted S19 [duplicate of S19 as admitted]

City of Snoqualmie Exhibits (marked with the prefix "C")

- C1 Final Environmental Impact Statement, issued December 9, 2022, including Appendices, Exhibits and other attachments thereto
- C2 Draft Environmental Impact Statement, issued April 27, 2020, including Appendices, Exhibits and other attachments thereto
- C3 Determination of Significance and Request for Comments on the Scope of Environmental Impact Statement for the Snoqualmie Mill Planned Commercial Industrial Master Plan, dated May 2, 2017
- C4 Memorandum dated December 18, 2017 from Community Development Director Mark Hofman to Richard Weinman, regarding Mill Site PCIP Environmental Impact Statement (EIS) - Scoping Summary Memorandum [duplicate of Exhibit 1.E]
- C5 [stricken]
- C6 Memorandum dated January 14, 2022 from Goldsmith's Trish Clements to Jason Rogers, transmitting Planned Commercial / Industrial Plan application and accompanying documents

C6(A) Transmittal Memorandum dated March 18, 2022 from Goldsmith's Trish Clements to Jason Rogers, along with attached revised Planned Commercial / Industrial Plan application and accompanying documents [duplicate of Exhibit 1.B]

- C7 [stricken]
- C8 Draft 2021 City of Snoqualmie Water System Plan
- C9 Letter from RH2's Michele Campbell to Richard Rodriguez, Regional Planner, Northwest Drinking Water Operations, Washington Department of Health, dated October 21, 2021
- C10 [stricken]
- C11 Letter from RH2's Michele Campbell to Jae Hill, Principal Planner, King County Utilities Technical Review Committee, dated December 10, 2021
- C12 [stricken]
- C13 Resume of Chris Breiland, PE for FEHR & PEERS
- C14 Curriculum Vitae of Mark Johnson, ESA
- C15 [stricken]
- C16 Resume of Michele Campbell, RH2
- C17 [stricken]
- C18 [stricken, duplicate]
- C19 [stricken]
- C20 [stricken]
- C21 [stricken, duplicate]
- C22 [stricken, duplicate]
- C23 [stricken]
- C24 UPS delivery confirmation, confirming delivery of Snoqualmie Water System Plan on December 13, 2021
- C25 R2H Graphs comparing City water use to projected demand
- C26 City of Snoqualmie Resolution 1593
- C27 Email from Chandler Felt, King County to Gregg Davidson, RH2 re: City of Snoqualmie Area Projections, dated July 25, 2018
- C28 Email from Steve Hirshey, King County to Todd Saxberg, City of Snoqualmie re: City of Snoqualmie pre-plan, dated August 31, 2018
- C29 Letter from King County Clerk of the Council Melani Pedroza to Snoqualmie Mayor Katherine Ross, dated April 7, 2022

C30 Letter from WSDOT Local Programs Director Jay Frye to Snoqualmie Parks & Public Works Director Michael Chambliss re: Snoqualmie Parkway Rehabilitation Project, dated March 31, 2022

C31 King County Resolution 19384

C32 City of Snoqualmie Resolution 1608

Record Documents

The following Pre- and Post-Hearing Procedural Documents also included in the record of these proceedings and when referred to in the findings are preceded with the prefix "R" for record document:

1. Order Setting Hearing and Pre-Hearing Schedule, issued February 14, 2022
2. Applicant's Motion for Partial Dismissal, dated February 18, 2022
3. City of Snoqualmie's Motion to Dismiss Appeal for Lack of Standing, dated February 18, 2022 and Declaration of Anna Astrakhan, dated February 18, 2022
4. Applicant's Joinder in City of Snoqualmie's Motion to Dismiss Appeal for Lack of Standing, dated February 22, 2022
5. Appellant SCAN'S Witness List, dated February 23, 2022
6. Appellant SCAN'S Exhibit List, dated February 23, 2022
7. Applicant's Initial Witness and Exhibit List, dated February 23, 2022
8. City of Snoqualmie's Initial Disclosure of Witnesses and Exhibits, dated February 23, 2022
9. Appellant's Response to City of Snoqualmie's Motion to Dismiss Appeal for Lack of Standing, dated February 25, 2022 with attached: Declaration of Anna Boranian, dated February 23, 2022; Declaration of Christie Coffing, dated February 23, 2022; Declaration of Wayne A. Russell, dated February 24, 2022; and Declaration of Richard K. Scheel, dated February 25, 2022
10. Appellant's Response to Applicant's Motion for Partial Dismissal, dated February 25, 2022
11. City of Snoqualmie's Joinder in Applicant's Motion for Partial Dismissal, dated February 25, 2022
12. Applicant's Reply in Support of its Motion for Partial Dismissal, dated March 2, 2022
13. City of Snoqualmie's Reply on Motion to Dismiss Appeal for Lack of Standing, dated March 2, 2022; Declaration of Bob C. Sterbank, dated March 2, 2022; Declaration of Brendon Eker, dated March 2, 2022; and Declaration of Service, dated March 2, 2022
14. Order Ruling on Pre-Hearing Motions, issued March 9, 2022
15. Appellant SCAN's Supplemental Witness and Exhibit List, dated March 18, 2022
16. Applicant's Rebuttal Witness and Exhibit List, dated March 18, 2022

17. (Appellant's) Pre-Hearing Brief of Snoqualmie Community Action Network, dated March 28, 2022
18. Applicant's Objection to Appellant's Supplemental Witness and Exhibit List and Motion to Exclude, dated March 28, 2022
19. Applicant's Prehearing Brief and Declaration of Service, dated March 28, 2022
20. City of Snoqualmie's Pre-Hearing Brief, dated March 28, 2022
21. Appellant Argument re: Exhibit admission, dated April 11, 2022
22. Applicant's response to Appellant Argument re: exhibits, dated April 12, 2022
23. City of Snoqualmie response to Appellant Argument re: exhibits and motion to strike testimony, dated April 12, 2022
24. Appellant Reply to responses re: exhibits, dated April 13, 2022
25. Post-Hearing Ruling on Exhibit admission, issued April 14, 2021
26. City and Applicant Joint Proposed Findings and Conclusions, dated June 1, 2022
27. Appellant Proposed Findings and Conclusions, dated June 1, 2022