



RESIDENTS COALITION of Chelan County

February 14, 2023

Lilith Vespier, Director
Department of Community Development
PO Box 287
Leavenworth, WA 98826

Comments on MDNS for Alpenglow Development Proposal MS (LUS) 2022-045

Dear Lilith,

We have reviewed the MDNS very carefully and come to the conclusion that it is both premature and superficial. Much information on the potential impacts of this project is still unknown. Several important studies such as the revised TIA still need to be done and at least one of the agency comment letters requires additional studies (e.g., letter from the state Department of Ecology).

WAC 197-11-030 Section 2(g) requires the lead agency to: *Identify, evaluate, and require or implement, where required by the act and these rules, reasonable alternatives that would mitigate adverse effects of proposed actions on the environment.*

WAC 197-11-060 4(c) requires that: *Agencies shall carefully consider the range of probable impacts, including short-term and long-term effects. Impacts shall include those that are likely to arise or exist over the lifetime of a proposal or, depending on the particular proposal, longer.*

These standards cannot be met without all studies of potential impacts being completed. Further, the City should commit to a phased review of the project as allowed by WAC 197-11-060(5) with the second environmental review to be done when plans are available for Phases 6,7 & 8. It is inappropriate to analyze and address potential impacts in a Development Agreement without an environmental review being done and made available to the public for review.

Our detailed comments on each section of the MDNS follow.

Project Description:

- The “three open space “park” tracts” are actually open wetlands. While wetlands can be used for limited low-impact recreation purposes, they are not parks. This description does not accurately depict the open spaces nor the mitigation that will be required to maintain these wetlands.
- “*providing land to the north for a potential future road*”. The 20’ wide land area being dedicated for this “future road” is not wide enough for a road, which according to current City road codes is 50’. The City Engineer noted this in their comments on the original ODNS, asking: Is the 30-foot right of way dedicated along the north side of the property sufficient?

- Any future road in this location will require City's acquisition of additional land surrounding this 20'. The description does not accurately depict a future road, nor the mitigation that will be necessary to build a 50' wide future road there. Land to the north of this 20' is already owned by 4 homes. Land to the south of this 20' is being developed into lots for the Alpenglow development. Mitigation of this impact should include the applicant dedicating the entire 50' for a roadway if it is expected to be a roadway in the future.
- "Future development may be regulated, in part, by a Development Agreement." There are significant unknowns surrounding the Developer Agreement, not only in the initial draft given by the applicant, but in the modifications already recognized as needed by the City. These unknowns also make potential mitigations also unknown. Without knowing the complete content of this Development Agreement, there is no way to determine whether all project impacts have been mitigated.

1. Earth. The land being developed contains verified critical areas. Therefore, a critical area mitigation plan should be done prior to finalization of the MDNS.

2. Air. No comment.

3. Water. The MDNS recognizes that two different wetland reports were completed for this development by Grette Associates. The land being developed does contain wetland critical areas and the applicant should be required to update the wetland reports and to address the concerns raised by the Department of Ecology (DOE). Areas near this development have previously been identified by the U.S. Army Corps of Engineers as jurisdictional (Waters of the State and Waters of the U.S.) and as tributary to the Wenatchee River. DOE noted that Additional Wetland Determination forms may be necessary to confirm the presence or absence of waters of the state that were not identified in the Wetland Re-Assessment dated June 7, 2021. Mitigation measures should be identified to preserve the water flowing from this development through these jurisdictional waters to the Wenatchee River.

Impacts to water on this site must be identified now and appropriate mitigation required. The MDNS contains too many "mays" and "should", language that does not meet the requirements of SEPA which requires the lead agency to determine if this project has a probable significant adverse impact on the environment and to require adequate mitigation.

The DNS released on December 7, 2022 contains this language: *"Due to soil type, a hydrogeological investigation addressing possible impacts to the critical aquifer recharge area (CARA) site, including groundwater investigation, in compliance with LMC 16.08, Article III is required."* What happened to this requirement?

According to the Grette Associate reports, this property has high levels of groundwater, in some places just a foot below the surface at different times of the year. Groundwater and surface water flow is greatly impacted by impervious surfaces as well as excavation and construction below groundlevel. LMC16.08.340 Aquifer recharge area detailed study requirements, subsection C specifies that: *A level two hydrogeologic evaluation meeting the criteria of subsection (E) of this section shall be required for any of the following proposed activities including 1. Activities that result in five percent or more impervious site area; 2. Activities that divert, alter, or reduce the flow of surface or groundwaters, or otherwise reduce the recharging of the aquifer; and 8. Land division,*

including subdivisions, short subdivisions, planned developments, binding site plans and related developments. This MDNS does not specifically mention a Critical Area Recharge Analysis as required by LMC 16.08.340. This evaluation should be required, completed and appropriate mitigation included in the MDNS.

4. Plants. The land contains critical areas which the applicant has mowed to the ground, leaving short, dried stubble during summer months. Mitigation for plants in the critical areas should include minimal disturbance and no harsh mowing.

5. Animals. The applicant should be required to complete the amphibian study as requested by the Department of Ecology prior to finalization of the MDNS. Mitigation measures to protect and preserve this habitat for amphibians need to be identified. In addition, the wetlands are home to red-wing blackbirds and grey heron during the spring and summer months. In the past the applicant has mowed down areas up to and into the ponds, eliminating the habitat for these birds. Specific mitigation needs to be in place to protect the wetland pond habitat and to prevent mowing and severe vegetation removal from occurring.

In addition, the documentation of stormwater flows should be completed before the MDNS is finalized.

6. Energy and Natural Resources. This development will require the burying of an electric service line in an area with significant groundwater issues. Multiple reports show groundwater as high as a foot below the surface. Mitigation measures to address this should be identified.

7. Environmental Health. No comment.

8. Land and Shoreline Use. Areas near this development have previously been identified by the U.S. Army Corps of Engineers as jurisdictional (Waters of the State and Waters of the U.S.) and as tributary to the Wenatchee River. Mitigations should be identified to preserve the impact on water flowing from this development through these jurisdictional waters to the Wenatchee River.

9. Housing. While it is noted that this development will provide market rate housing for the community, the identified needs in our area are for workforce, low-income and senior housing. These needs are stated in both the Housing Action Plan and the Leavenworth Comprehensive Plan. The MDNS suggests that affordable housing **may** be addressed in the Development Agreement. The actual required mitigation should be stated in the MDNS and then incorporated in the Development Agreement. If there is no provision for affordable housing in this phase of the project, offsetting impact fees must be dedicated to an appropriate agency or organization as mitigation.

10. Aesthetics. No comment.

11. Light and glare. No comment.

12. Recreation. The developer is proposing a dedication of the wetland and wetland buffer as mitigation for its impact on recreation. According to wetland codes, such areas can only be used for passive recreation. The suggested mitigation of park facilities or services that might be considered through the development agreement is too vague. The applicant should be asked to develop a specific plan for these areas and to contribute construction and maintenance fees for a set number

of years as mitigation. The plan should include, but not be limited to, fencing and protecting the wetland ponds, and providing a trail for public use that does not impact the wetlands.

Furthermore, comments on the initial DNS from the city-contracted Engineer noted previous discussions on this development included continuation of the asphalt path on Ski Hill Drive along the western side of the property from the existing path north of Pine Street to Village View Drive. The path should be constructed for recreational use as part of this project and additional R/W dedicated as needed as part of mitigation plan.

13. Historical/Cultural Preservation. No comment.

14. Transportation. The MDNS notes that the applicant shall update the TIA to meet the request of the City Public Works Director, City Engineer and Washington Department of Transportation. The City Engineer was very specific about mitigation measures that needed to be done and issues with the TIA that needed to be rectified. The Engineer's notes were not included in this MDNS, creating ambiguity and difficulty for the public to comment directly on these issues.

The updates to the TIA requested by the City Engineer should be completed, made public, and additional opportunity for public comment provided through the MDNS process. The updated TIA should consider the cumulative impacts of this project and the Leavenworth Meadows project so that appropriate mitigation for each project can be specified.

In addition, this MDNS does not include current information related to the recent City decision to create a roundabout at Pine Street and the Chumstick Highway. Mitigation measures for traffic from this development should include requiring the applicant to pay for a portion of the roundabout as his development will bring significant traffic flow to this intersection.

15. Public Services. No comment.

16. Utilities. This MDNS only notes a single broad mitigation: *The applicant shall work with Public Works Director, Chelan County Public Utility District, and City Engineer to ensure all adopted levels of service are met with this development.* Comments submitted by the City Engineer were very specific about mitigation measures for water, stormwater and sewer mitigation. Those mitigation measures should have been included in this MDNS.

Regarding water service: According to the most current City Water Plan (dated February 2017), significant changes to the City's water system are going to be needed in order to adequately serve the development's location in Zone 2 with water and fireflow, yet no mitigation is expected from this applicant to address the impacts his development will have on the community's water service.

Regarding sewer, the draft Developer's agreement states: "The City has raised questions regarding the availability of sewer connections for new development in the City", yet "In order to ensure the Development has sufficient sewer connections to complete all proposed Phases of the Development, the Developer has agreed to dedicate the open space property referenced in Recital D within the Development to the City to use as a City park, along with other dedications to meet City utility needs, so long as the Developer is guaranteed sufficient connections to the City sewer system for the period of time in which it takes to complete the Development." It is inappropriate to include proposed mitigation in the Development Agreement without it first being disclosed in the MDNS. Furthermore,

the dedication of open space is mitigation for environmental and recreational impacts and should not be “double-counted” as mitigation for impacts to the sewer system.

The 2017 Wastewater and Sewer Facilities Plan identified a projected population of 2,924 for the Leavenworth City Limits and UGA in 2040 and recognized that as of that 2017 Plan, the City had reached 78% capacity for wastewater. The 2022 population for Leavenworth cited by the MSRC is 2,515. This development, coupled with the neighboring Leavenworth Meadows and increasing infill within the City will put the City’s wastewater management at capacity much sooner than 2040. The MDNS must specifically disclose the design capacity of the sewer system including the treatment plant and assess whether there is capacity to provide service to this project as well as the others in process. Mitigation should include impacts fees to provide for future expansion of facilities.

Required Environmental Documents p.5: The Critical Aquifer Recharge Area investigation (CARA) is missing from the MDNS section for Required Environmental Documents.

P. 6 Mitigation of Environmental Impacts: The MDNS includes a blanket statement that the city will also regulate impacts through compliance with the Comprehensive Plan and other ordinances and regulations. This statement does not meet the standards required in WAC 197-11-158 SEPA/GMA project review—Reliance on existing plans, laws, and regulations.

This section of the WAC states (in part):

(1) In reviewing the environmental impacts of a project and making a threshold determination, a GMA county/city may, at its option, determine that the requirements for environmental analysis, protection, and mitigation measures in the GMA county/city's development regulations and comprehensive plan adopted under chapter 36.70A RCW, and in other applicable local, state, or federal laws or rules, provide adequate analysis of and mitigation for some or all of the specific adverse environmental impacts of the project.

(2) In making the determination under subsection (1) of this section, the GMA county/city shall:

(a) Review the environmental checklist and other information about the project;

(b) Identify the specific probable adverse environmental impacts of the project and determine whether the impacts have been:

(i) Identified in the comprehensive plan, subarea plan, or applicable development regulations through the planning and environmental review process under chapter 36.70A RCW or this chapter, or in other local, state, or federal rules or laws; and

(ii) Adequately addressed in the comprehensive plan, subarea plan, applicable development regulations, or other local, state, or federal rules or laws by:

(a) Avoiding or otherwise mitigating the impacts; or

(b) The legislative body of the GMA county/city designating as acceptable the impacts associated with certain levels of service, land use designations, development standards, or other land use planning required or allowed by chapter 36.70A RCW;

(c) Base or condition approval of the project on compliance with the requirements or mitigation measures in the comprehensive plan, subarea plan, applicable development regulations, or other local, state, or federal rules or laws;

In order to use this section of the WAC to address mitigation, the City must be specific in stating which impacts they believe are already identified and addressed in the Comprehensive Plan or other development regulations.

In summary, we request that the City withdraw the MDNS to complete the required studies and then reissue their SEPA determination for public review and comment.

Sincerely,

The Board of Directors
Residents Coalition of Chelan County (RC3)

Gro Buer, Michael Cochran, Bob Fallon, Dorothy Johnston, Lauri Malmquist, Julie McCoy,
Brian Patterson, Kirvil Skinnarland, Steve Stroud, Paula Strozyk, Pat Thirlby