

Dr. Strangelove or: *How I learned to stop worrying about violating RCW 82.02.020 and love traffic mitigation*

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Traffic analysis?

**Don't we hire
engineers to do
this?**



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The Traffic Analysis Team

Traffic Engineer

City Engineer

City Planner

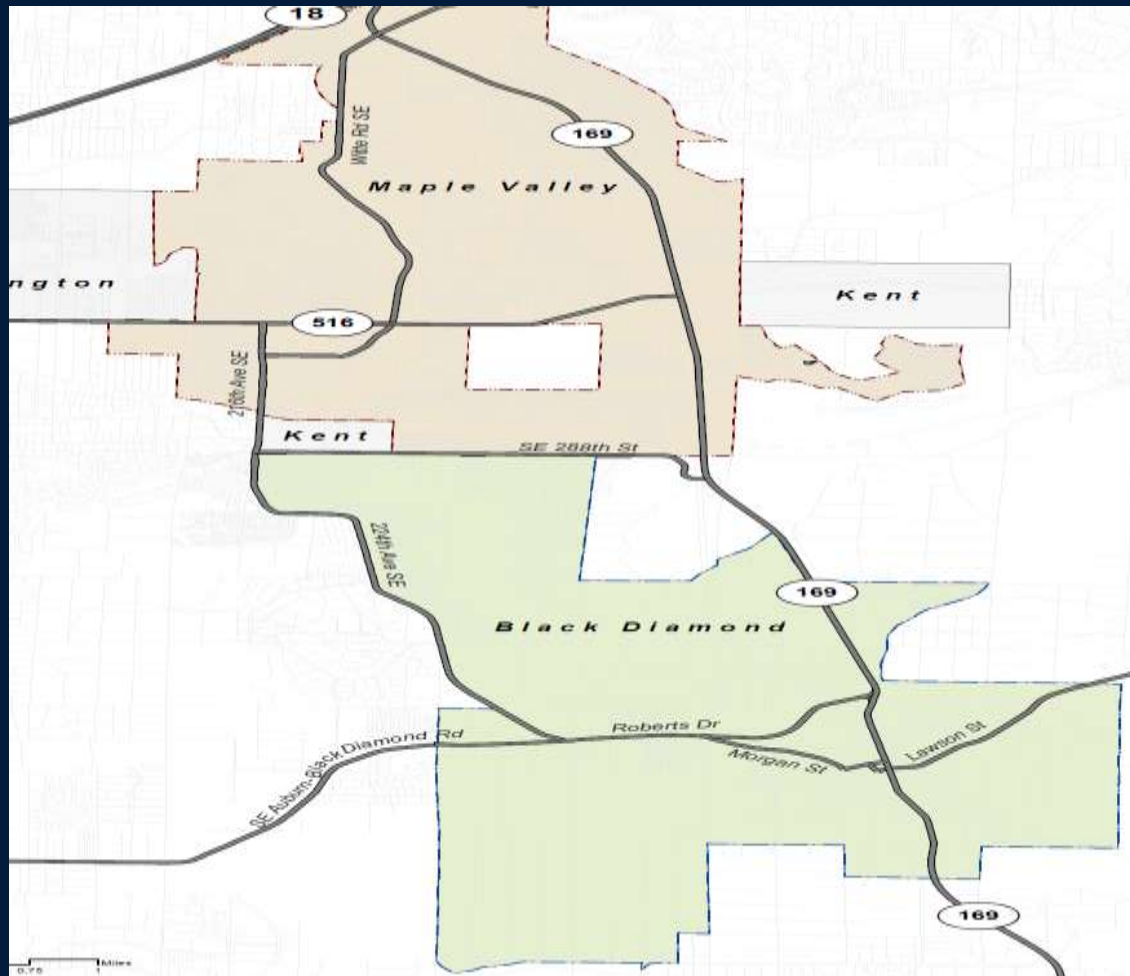
City Attorney



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Black Diamond MPDs



SR 169



Attorney's role?

Advise team members on the legal context

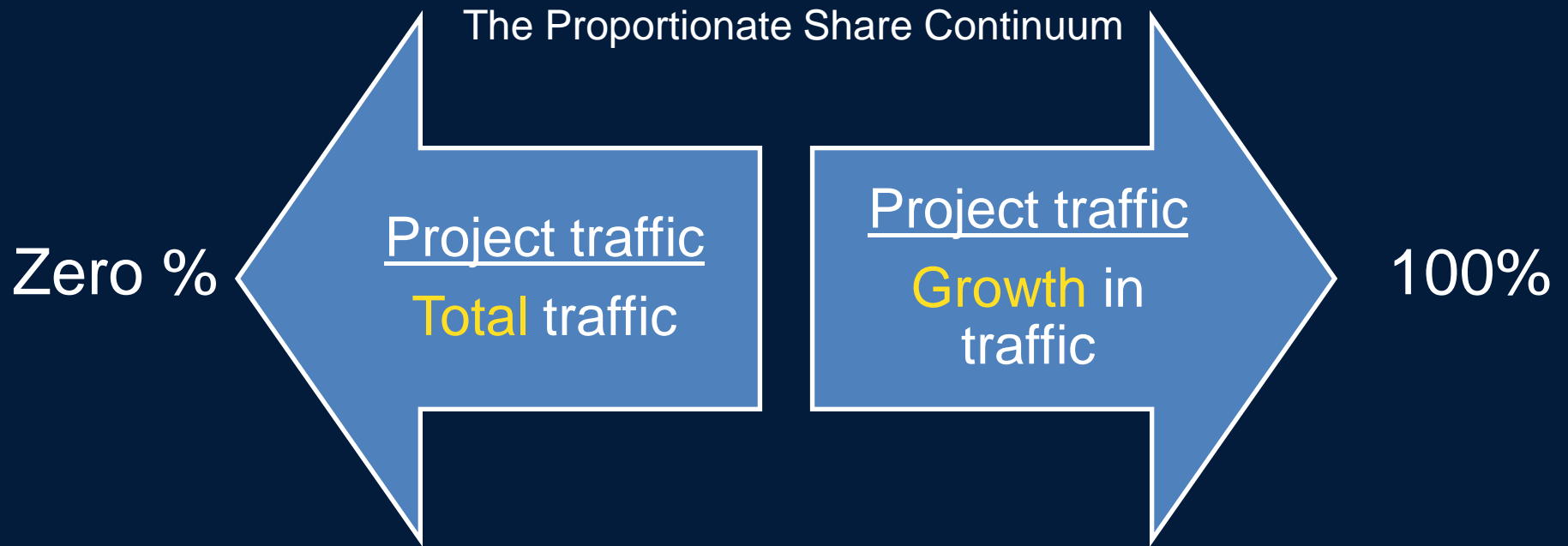
-- Get your attorney involved early-before you impose conditions or start talking about imposing conditions with the developer

Protect against inappropriate influence

Determine whether a particular condition is defensible

Build a record

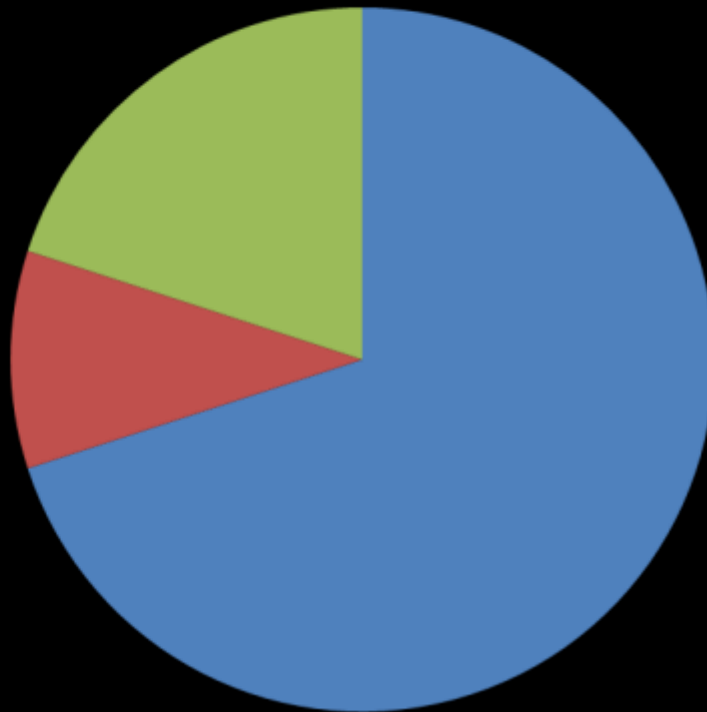
What's the developer's responsibility?



Percent of Total Traffic = PT (20) = 20%

**-----
ET (70) + BG (10) + PT (20)**

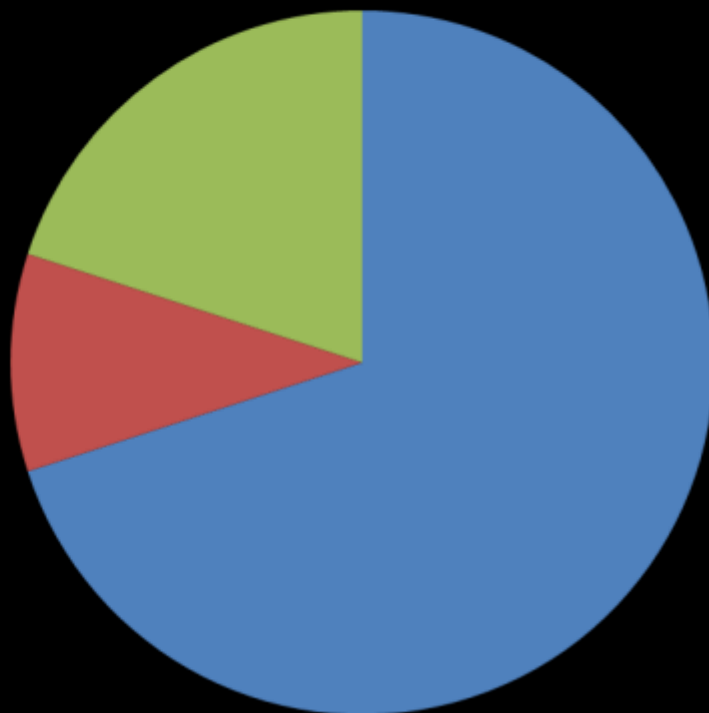
Percentage of Total Traffic



- Existing Traffic (ET) = 70%
- Background Growth (BG) = 10%
- Project Trips (PT) = 20%

$$\text{Percent of Traffic Growth} = \frac{\text{PT (20)}}{\text{BG (10) + PT (20)}} = 66.6\%$$

Percentage of Total Traffic



- Existing Traffic (ET) = 70%
- Background Growth (BG) = 10%
- Project Trips (PT) = 20%

Castle Homes v. City of Brier



Castle Homes v. City of Brier

Does this language prescribe how to calculate proportionate share?

mitigating the environmental impacts of a plat. RCW 82.02.020, a city must identify the development-specific impacts to be mitigated. A review of the record clearly points out that the fees being charged to mitigate traffic woes were being based on a cumulative impact of all the new subdivisions, not the specific impact of the Castle Crest II development. The City's adoption of the decision of the special

How much
traffic
analysis do
you need to
know?



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Enough to be able to make a record ...

Here's the evidence from developer's expert

charges on a proportional share basis. Castle Home's expert testified as to the limited amount of traffic impact from Castle Crest II as most of it would exit directly into Mountlake Terrace. At most, 25 percent of the traffic would enter the City's street system, with only 8 percent staying in the City for more than two blocks. When compared with the other new developments in the City, this amounted to a lesser amount than the other developments.^{FN8}



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Here's
what the
city's
expert
had to
say...

“bare bones” report. He went on to testify that the “proportional share” approach, as understood and used by the parties, was better suited to these development projects, because contributions would be received from the developer to correct the existing traffic problems in the City.^{FN9} Carr also admitted that this “proportional share” approach does not represent any traffic distribution analysis.



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Here's
what the
developer's
lawyer had
to say...

traffic engineering studies showed no traffic contribution.**1178 | Castle Homes contends that *Cobb* mandates an analysis of the directional distribution of

traffic impacting municipal streets in order for the government to prove that the mitigation fees are directly related to the development. In *Cobb*, overall assessment of the entire intersectional impacts was held to be illegal under [RCW 82.02.020](#).



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And
here's
the
court's
ruling...

full amount of the cost, albeit proportionally by the number of lots. This does not take into account the direct impact of each separate subdivision location and the differing street distribution impacts of each. As such the decision cannot stand.



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Trip Distribution

How do we know where the traffic is going?

Travel Demand Model

knowing vs. predicting



Traffic Models

How do
they work?



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The Law of Exactions



Nollan v. California Coastal Commission



Nexus

Dolan v. City of Tigard



Rough Proportionality

Burton v. Clark County

Vicinity Map

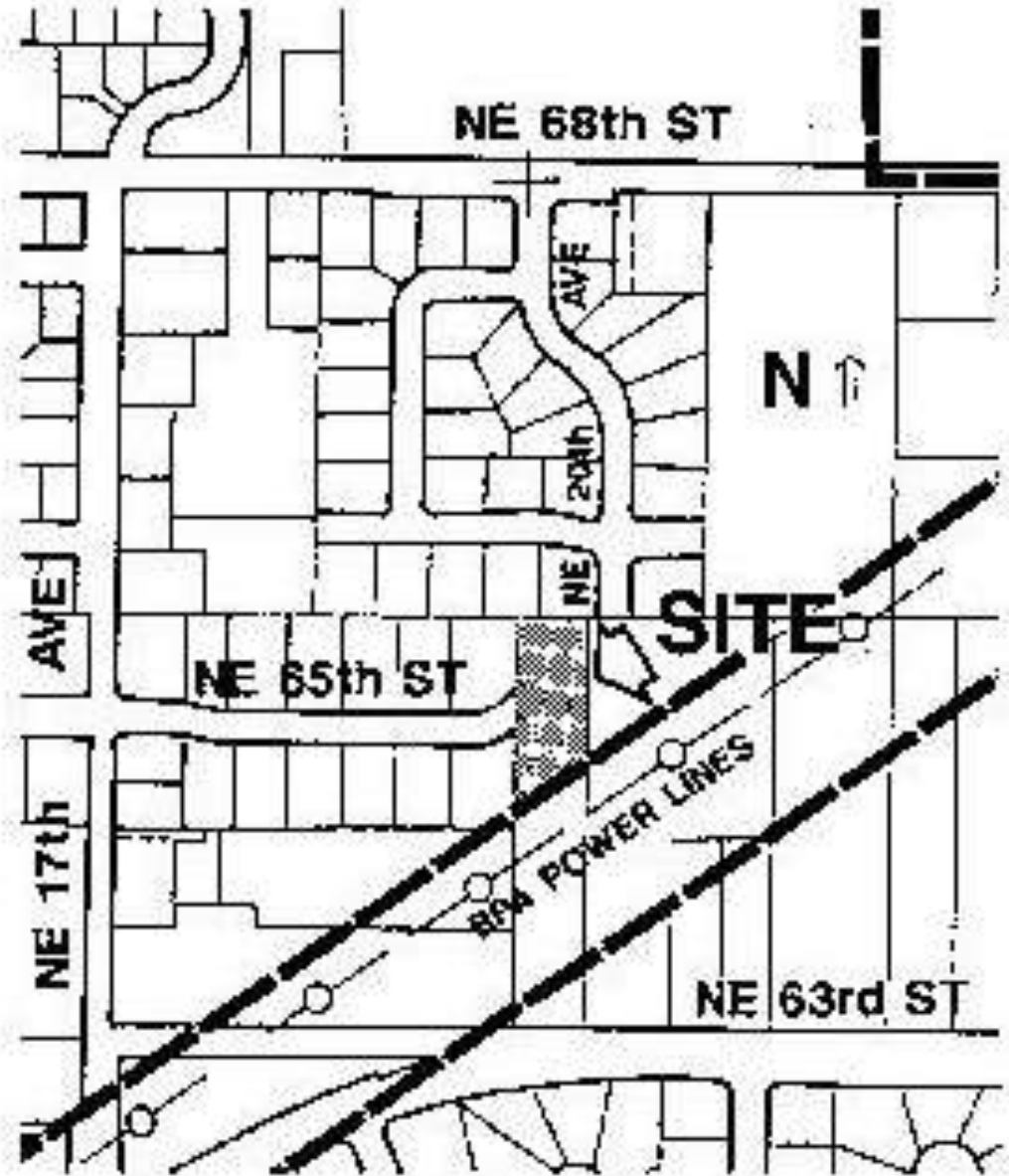


Figure 1

Burton v. Clark County

Developer's Proposed Lot Layout

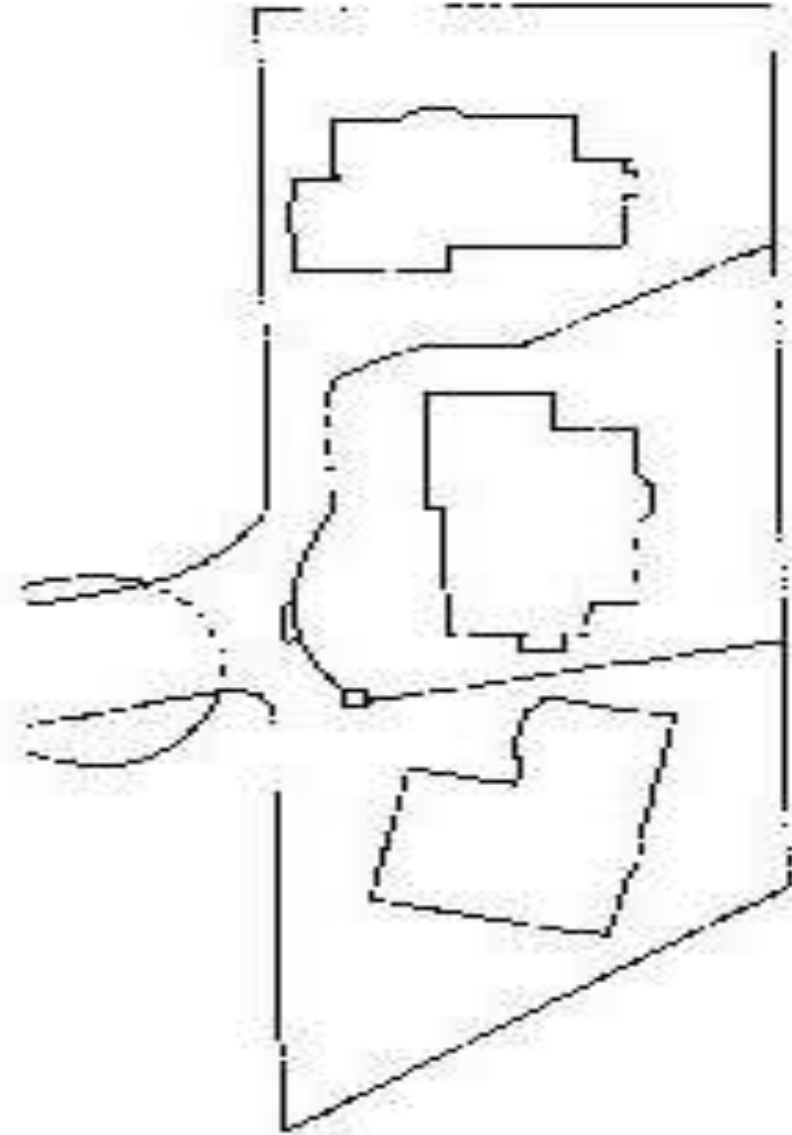


Figure 2

Burton v. Clark County

Condition of City's Approval

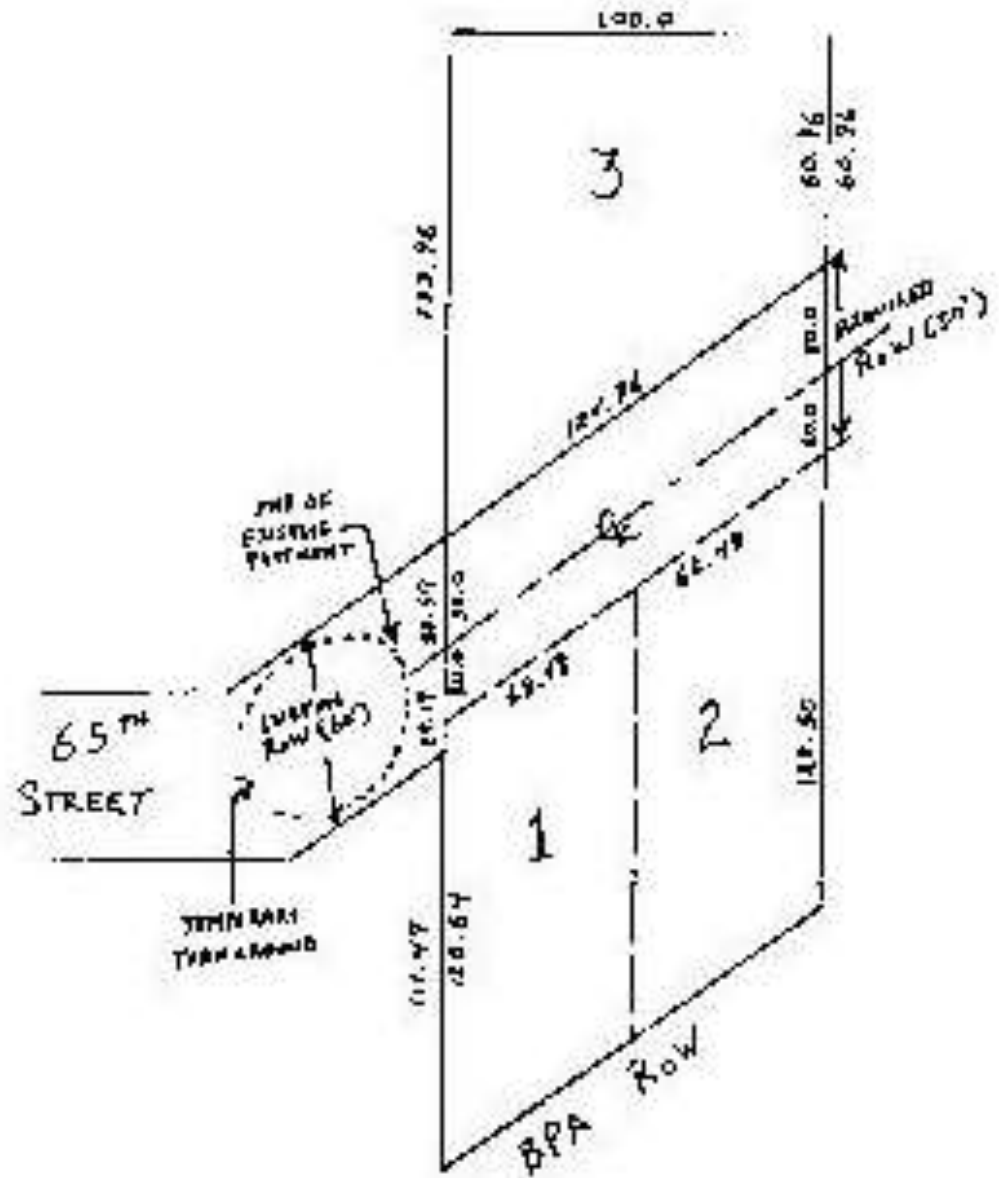


Figure 3

Federal Law Review

Government may not take private property without “just compensation”

– The Nollan-Dolan test sets forth what government must show:

- An essential nexus and rough proportionality
- *Burton v. Clark County* explains Nollan-Dolan using four “propositions”

State law

- SEPA, Ch. 43.21C RCW
 - RCW 82.02.020
- Subdivision law, Ch. 58.17 RCW
- GMA Impact fees

SEPA

Allows government to **condition** development in order to mitigate significant, adverse environmental impacts

– RCW 43.21C.060



RCW 82.02.020



RCW 82.02.020

- “No [government] shall require any payment as part of such a voluntary agreement which the county, city, town, or other municipal corporation cannot establish is reasonably necessary as a direct result of the proposed development or plat.”

“Voluntary” Agreement



“Like sands through the hourglass...”

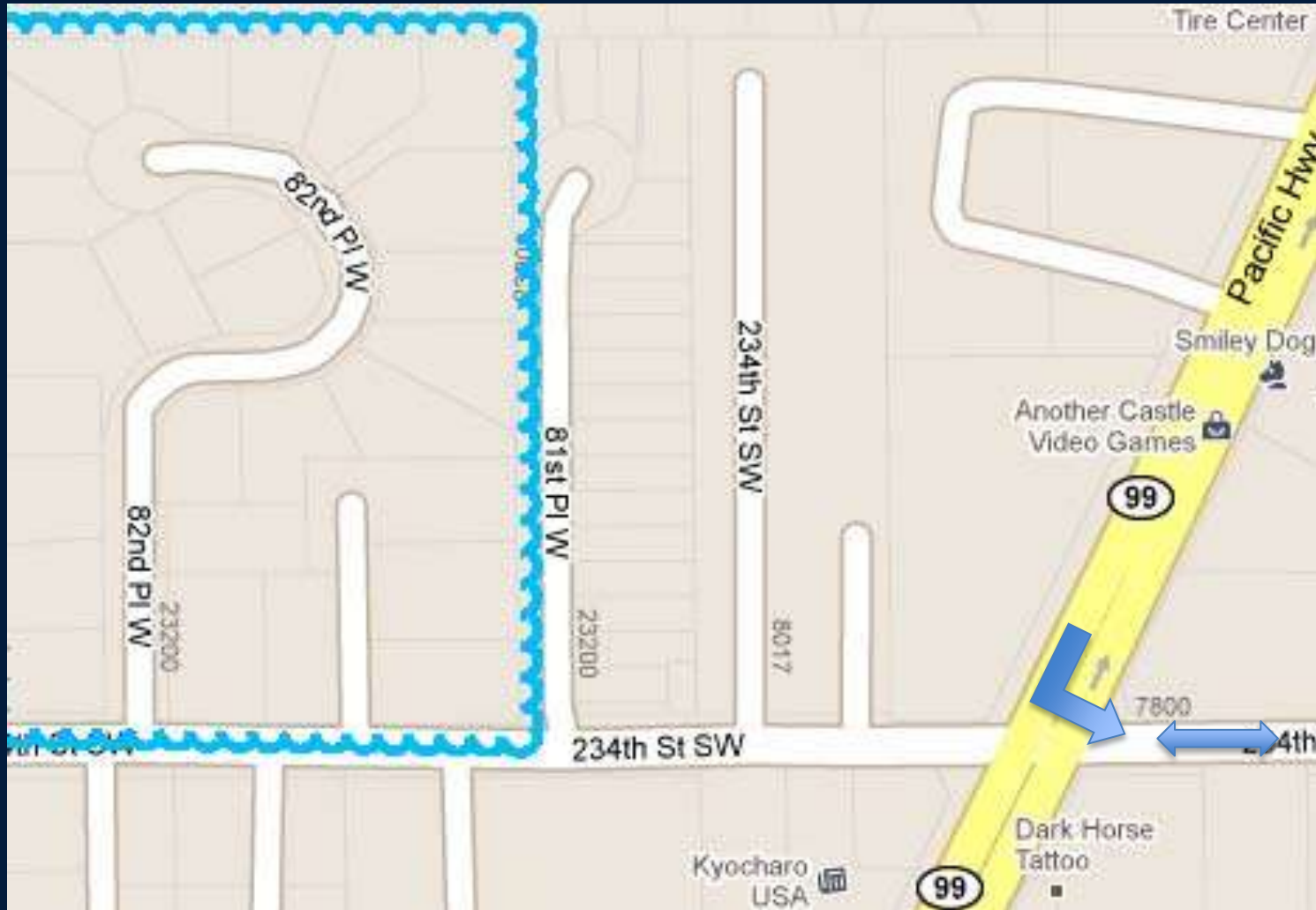
Mitigation fees
must be spent
in **five** years



More Washington case law



Cobb v. Snohomish County



Castle Homes



Castle Homes v. City of Brier





City of Federal Way v. Town & Country Real Estate LLC



Back to traffic modeling

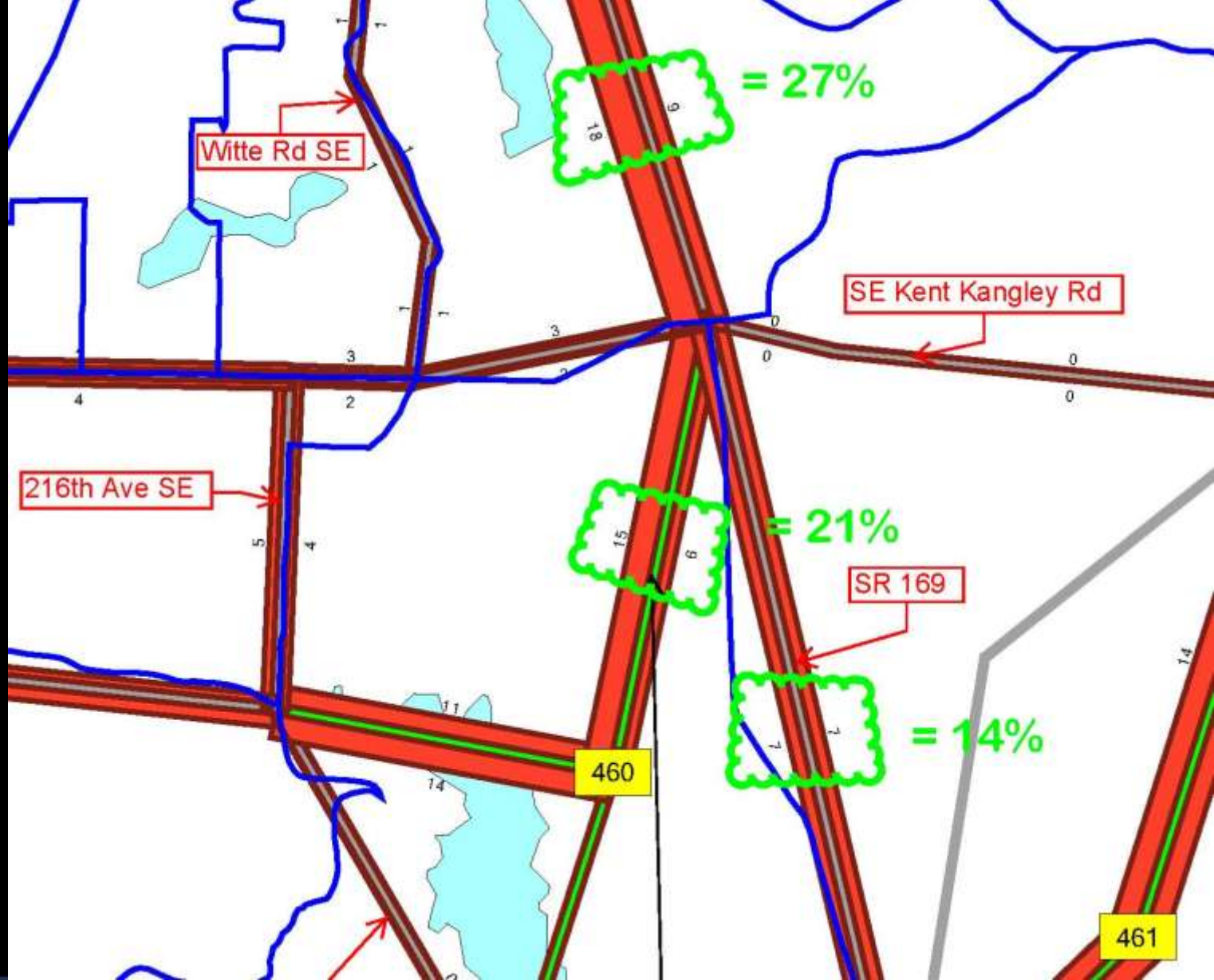
- How much do you need to know about traffic modeling?
- Why is it important to your City that you understand different methodologies for pro rata share calculations for traffic mitigations?

What does the model produce?



Reading
the model
outputs

PSRC model



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Traffic Analysis Zones

Why some trips
might not register...

a “coarse” zone



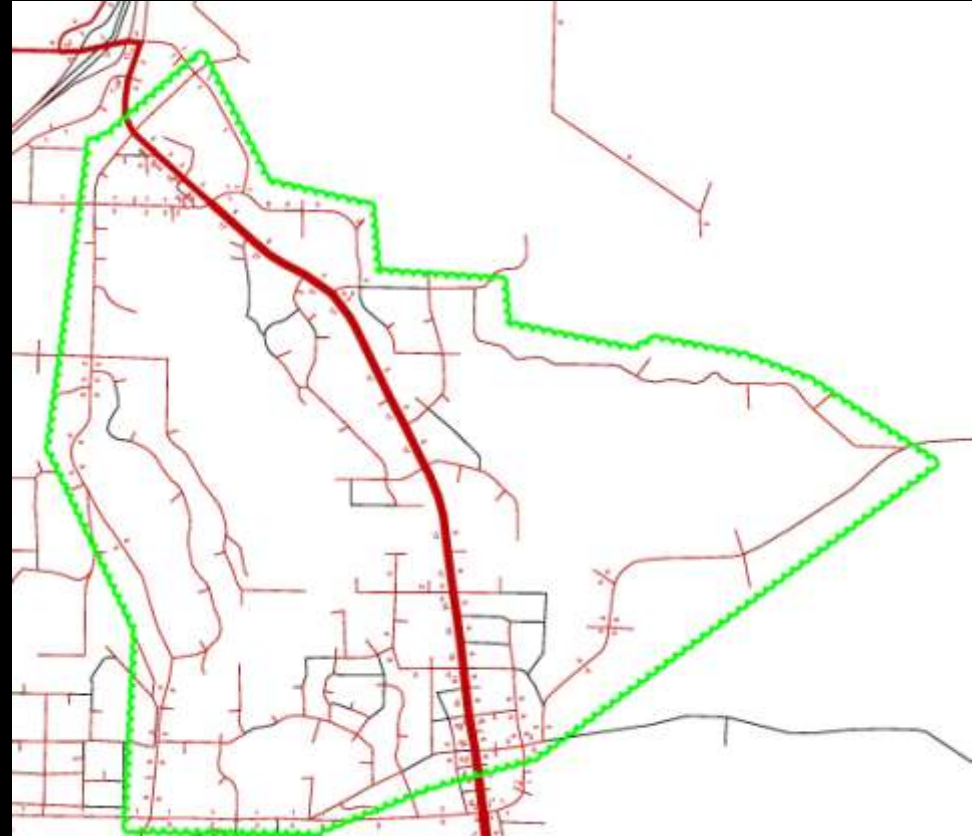
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Traffic Analysis Zones

Why it is important
to have your own
model...

a “fine” zone



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Coarse Zone Structure

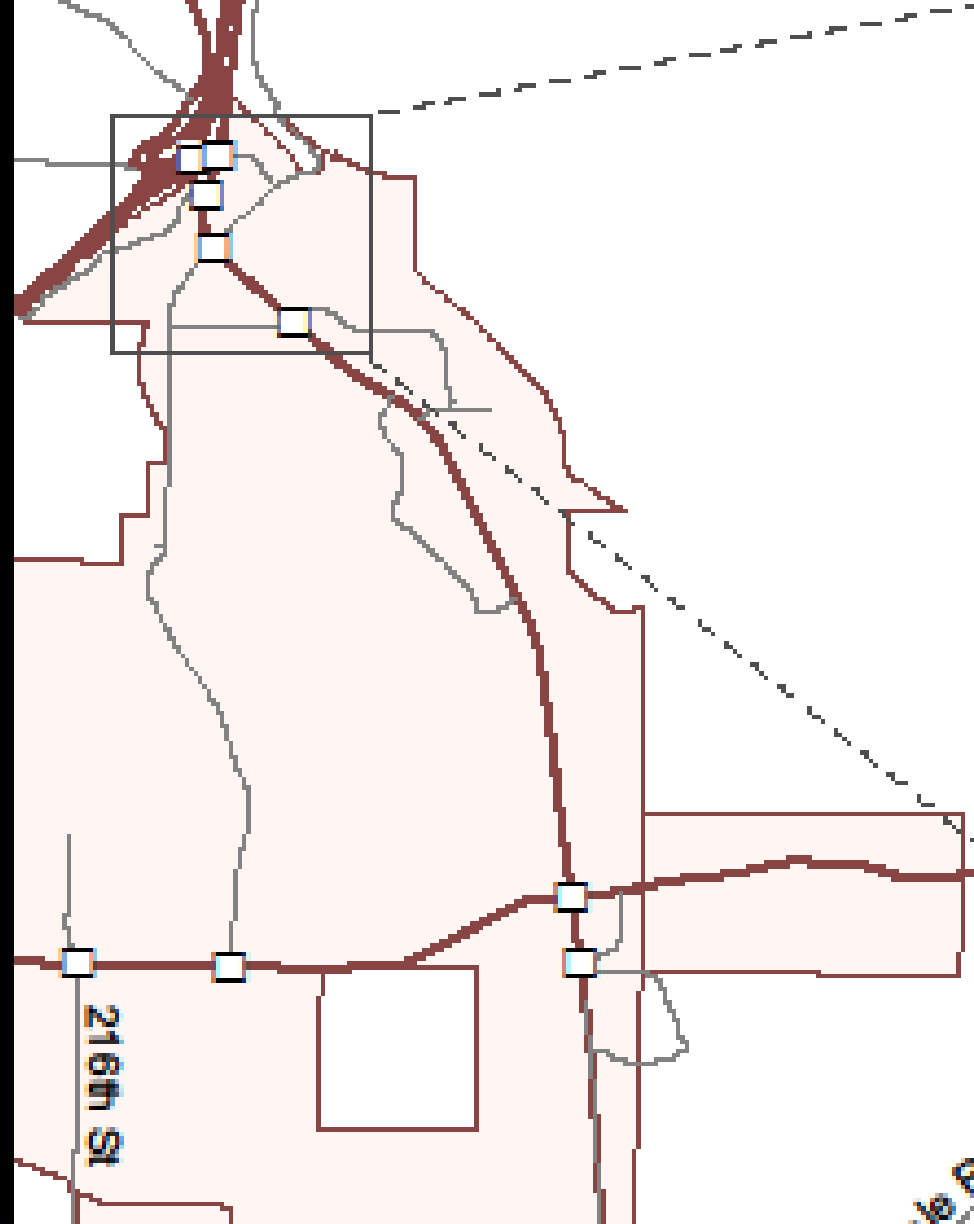


Fine Zone Structure



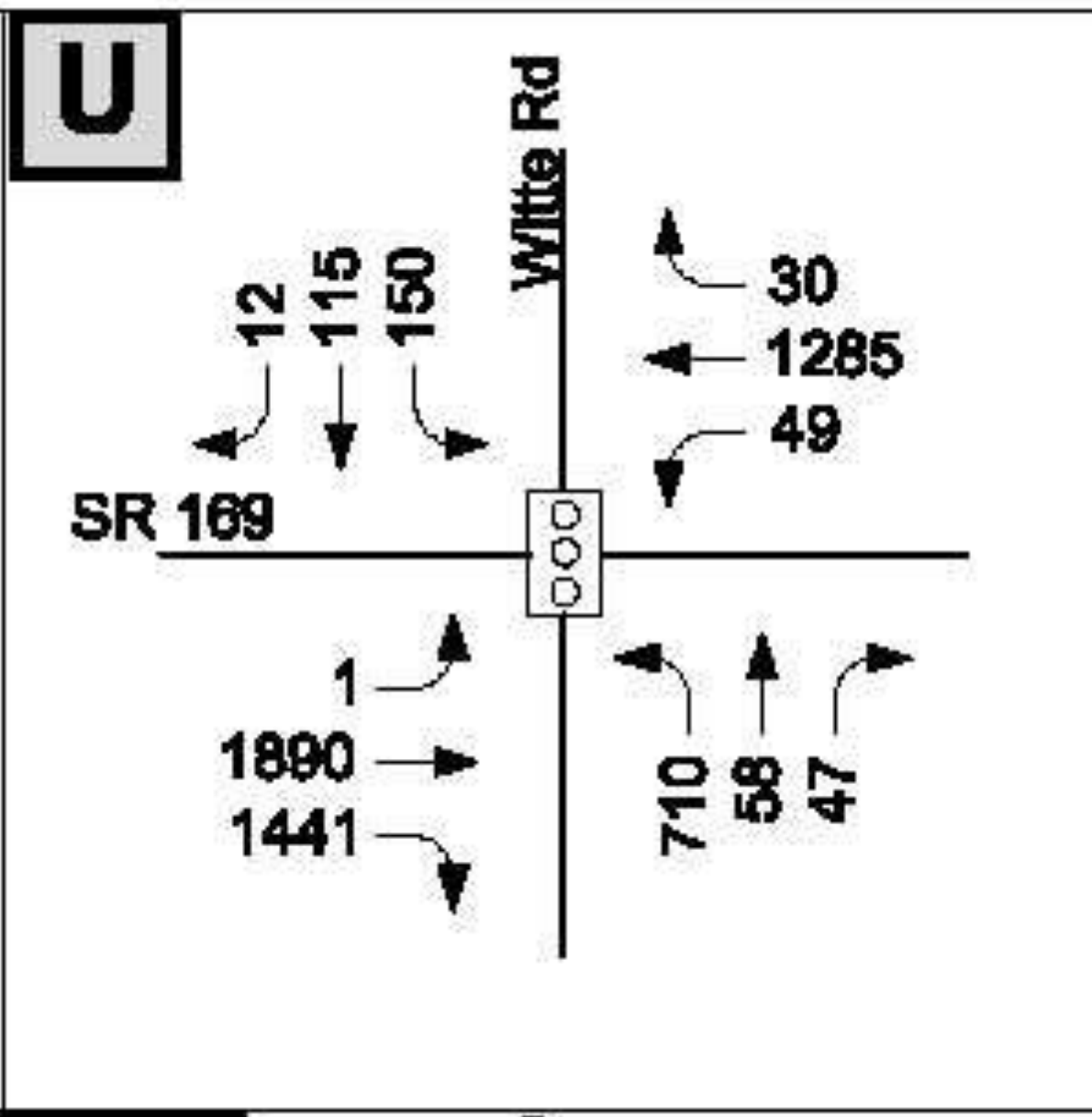
Study Area

Which intersections
are you analyzing?



Trip Assignment

How many cars at each intersection?



Level of Service: The ABCs of intersection delay...

LOS Rating	Average Delay for Signalized Intersections (seconds/vehicle)
A	0–10
B	> 10–20
C	> 20–35
D	> 35–55
E	> 55–80
F	> 80



Level of Service Table: Existing, Base, Base + Project, B + P + Mitigation

TABLE 1 Summary of LOS and Delay at Concurrency Intersections - The Villages and Lawson Hills Development Combined

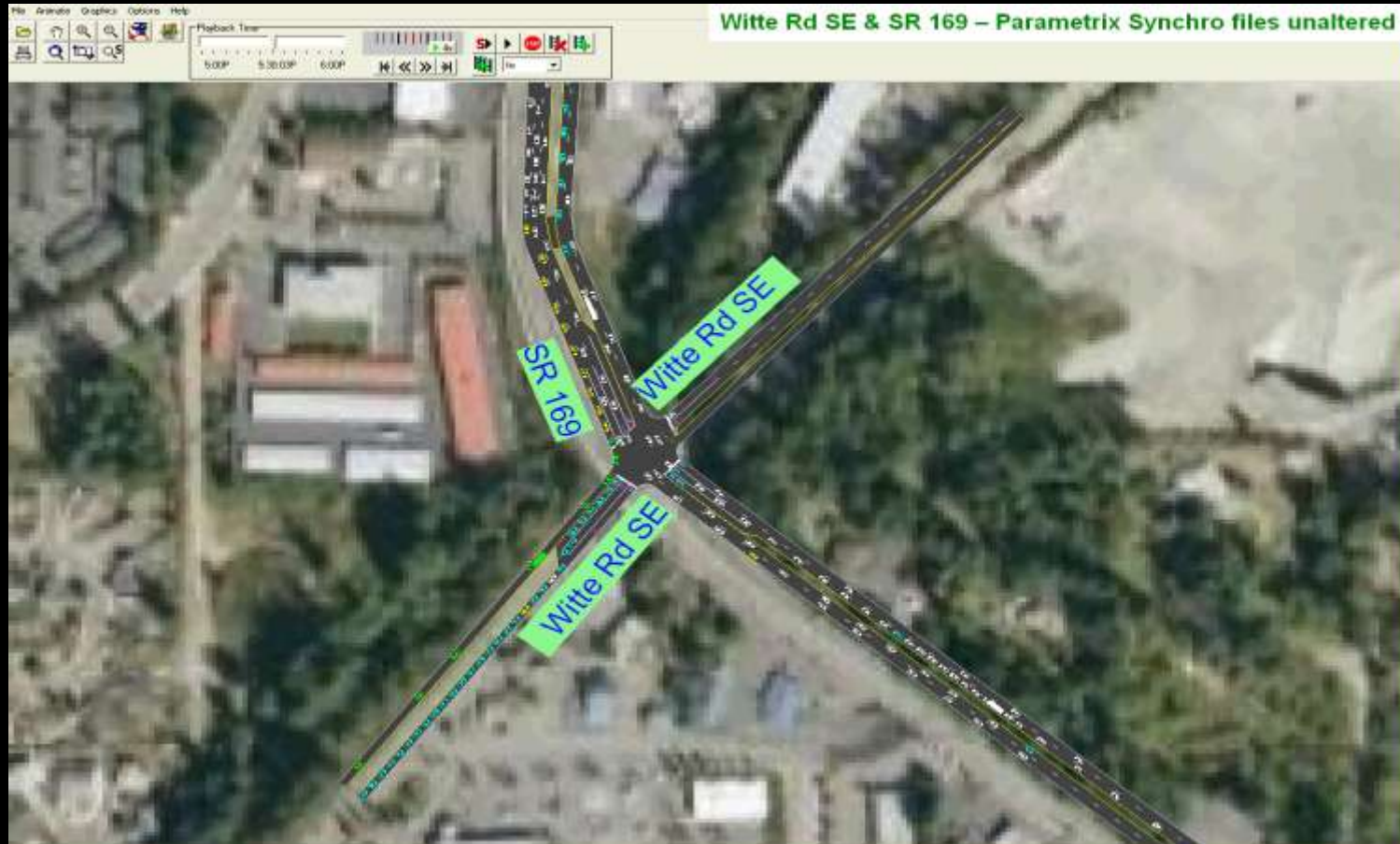
ID	Intersection	Existing Year (2007/2008)		2025 Base (Background Traffic)		2025 Base (Background Traffic) plus The Villages & Lawson Hills Developments		2025 Condition with Proposed Mitigations	
		LOS	Delay (sec)	LOS	Delay (sec)	LOS	Delay (sec)	LOS	Delay (sec)
1	SE 231st St & SR 169	C	29.2	C	33.8	D	48.0	D	48.5
2	SE Wax Rd & SR 169	E	69.6	C	33.7	F	121.8	C	34.1
3	Witte Rd SE & SR 169	E	78.5	D	47.3	F	123.4	C	32.7
4	SE 240th St & SR 169	C	28.3	C	33.2	F	143.8	D	53.6
5	SE 244th St & SR 169	D	33.4	A	9.0	B	14.5	B	14.5
6	SE 264th St & SR 169	A	3.8	B	10.4	C	32.9	C	32.9
7	SR 516 & SR 169	D	37.0	C	31.7	D	48.6	D	43.4
8	SE 276th St & SR 169	A	8.8	A	7.7	B	19.3	B	19.3
9	SE 280th St & SR 169	A	7.2	B	11.6	F	130.6	B	19.8
10	SR 516 & 228th Ave SE	A	7.0	A	6.9	A	7.1	A	7.1
11	SR 516 & Witte Rd SE	D	42.6	E	58.1	E	60.3	E	60.3
12	SR 516 & 216th Ave SE	B	14.0	C	20.8	C	24.1	C	24.1
13	SE 268th St & Witte Rd SE	C	16.8	D	25.7	D	28.9	D	28.8
14	SE 248th St & Witte Rd SE	F	511.8	-	1.46**	-	1.47**	-	1.47**
15	SE 240th St & Witte Rd SE	B	13.4	D	39.9	D	43.6	D	44.3
16	SE 271st St & SR169	-	-	D	38.0	F	134.6	D	39.6

** Maximum V/C Ratio for a Roundabout

SimTraffic Analysis

Limitations of LOS analysis

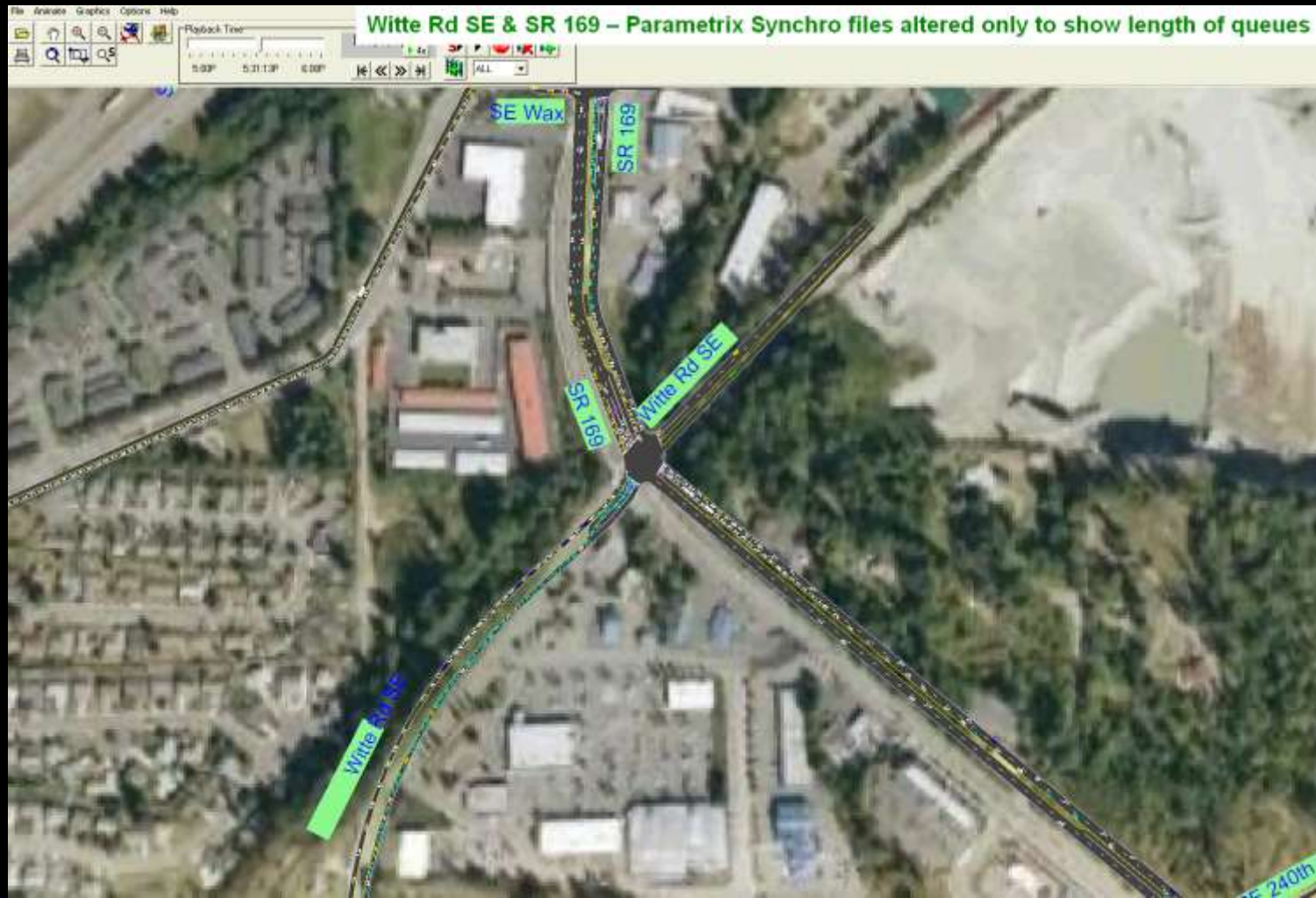
Can you
see the
difference
between
this...



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SimTraffic Analysis



Limitations
of LOS
analysis

...and this?



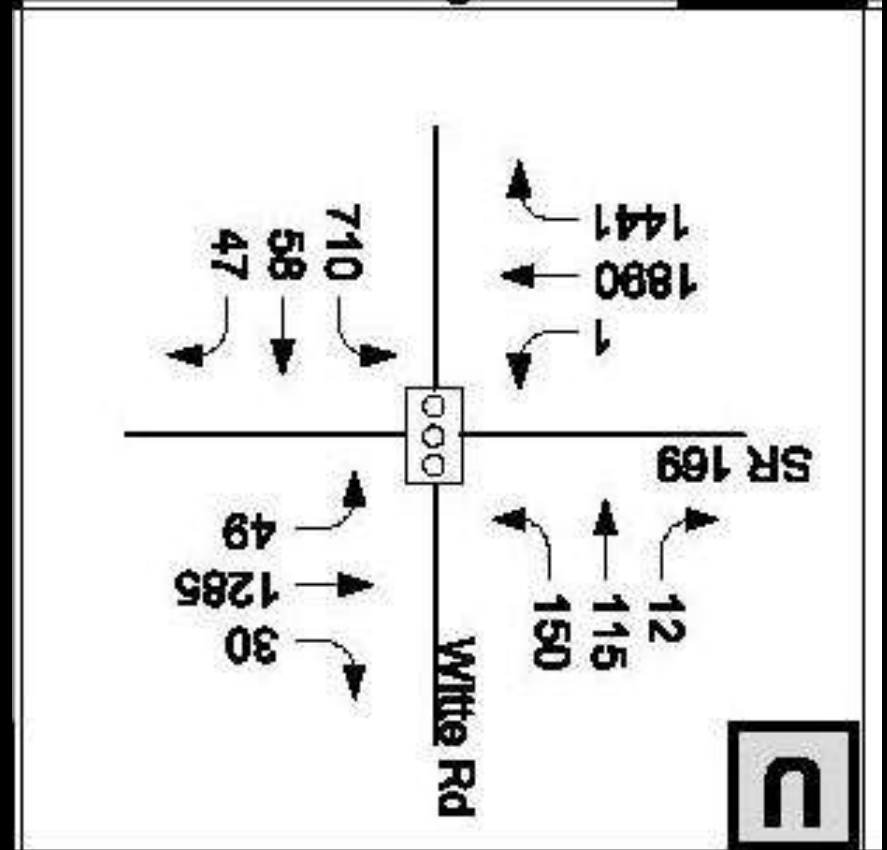
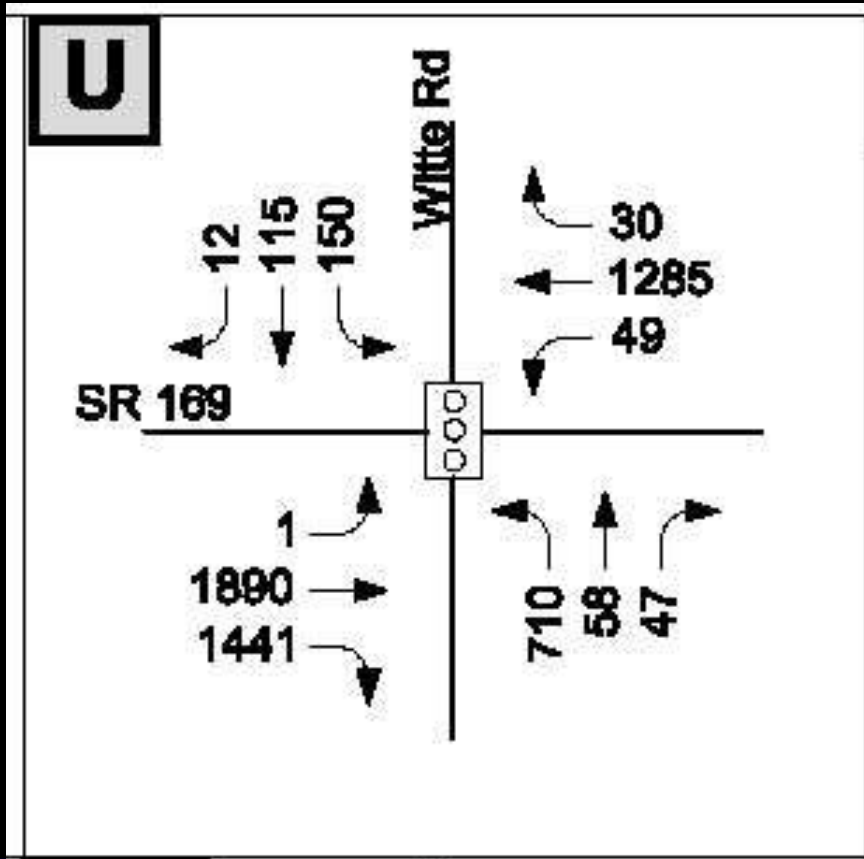
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PM peak hour

What about **morning** traffic?



Trip Generation

How much traffic?

ITE Manual

Internal Capture

Mode Split



Table 10. Cumulative Alternative 2 Net New AM and PM Peak Hour Trips

Proposed Land Use	Variable		ITE Code	AM Net New Trips			PM Net New Trips		
				Total	In	Out	Total	In	Out
North Triangle									
Retail	150	K ft ²	820	154	94	60	652	321	331
Business Park	200	K ft ²	770	278	235	43	265	53	212
Subtotal:				432	329	103	917	374	543
Lower/Upper Lawson									
Single Family Residential	930	DU	210	554	117	437	649	426	223
Multi Family Residential	320	DU	220	137	23	114	162	109	53
Retail (Upper Lawson)	25	K ft ²	820	37	22	15	139	68	71
Retail (Lower Lawson)	15	K ft ²	820	27	18	9	99	49	50
School	800	Students	520	222	122	100	84	41	43
Subtotal:				977	302	675	1,133	693	440
Subtotal Lawson:				1,409	631	778	2,050	1,067	983
Parcel B									
Shopping Center	40	K ft ²	820	70	44	26	268	132	136
Business Park	450	K ft ²	770	623	524	99	594	133	461
Subtotal:				693	568	125	862	265	597
Main Villages									
Single Family Residential	3,600	DU	210	2,160	478	1,682	2,469	1,572	897
Multi Family Residential	1,200	DU	220	509	89	420	633	416	217
Elementary School	1,500	Students	520	455	251	204	157	77	80
Middle School	550	Students	522	208	114	94	61	30	31
High School	1,200	Students	530	353	240	113	109	51	58
Shopping Center	285	K ft ²	820	205	126	79	918	458	460
Subtotal:				3,879	1,293	2,586	4,290	2,571	1,719
Subtotal Villages:				4,572	1,861	2,711	5,152	2,836	2,316
Subtotal Lawson:				1,409	631	778	2,050	1,067	983
CUMULATIVE TOTAL:				5,621	2,492	3,489	7,202	3,903	3,299

Trip Generation Table

Questions?



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