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September 7, 2021

Via Email

City of Cle Elum
Attn: Planning Department/47 Degrees North
119 West First Street
Cle Elum, WA 98922
planning@cleelum.gov

Re: 47 Degrees North – Written Comments

Dear Planning Department:

We provide the following comments on behalf of Kittitas County Unincorporated Area Council, a Washington nonprofit corporation. (“KCUAC”).¹ Comments are provided pursuant to the *Notice of Application for Major Modification of Bullfrog UGA Master Site Plan and Development Agreement* dated August 12, 2021. These comments supplement and are in addition to individual comments provided by members of KCUAC.

Our comments are based on documents and materials found on-line at the City’s Planning link. There are many relevant documents that are not available for reference or review. The provision of full comments is impaired by the fact that Sun Communities has made only a “partial submittal” and the available administrative record on the City’s website is incomplete and fails to include all documents relevant to the Bullfrog UGA Master Site Plan. These comments are provided upon Applicant’s partial submittal. KCUAC reserves the right to provide supplemental comments as additional submissions are made and other relevant materials become available for public review.

Overview of Proposed Major Modification of Master Site Plan and Development Agreement.

Sun Communities has submitted a partial and incomplete application for amendment of the Bullfrog UGA Master Site Plan (“Master Site Plan”) and *Development Agreement by and between the City of Cle Elum, Trendwest Investments, Inc. and Trendwest Properties, Inc. Relating to the Development of Real Property Located Within the Cle Elum Urban Growth Area, Commonly Known as the Bullfrog UGA* dated October

¹ KCUAC is a nonprofit corporation comprised of residents and organizations directly impacted by the 47 Degrees land use proposal. There are currently 571 commenting parties. Representative members include Larry and Dana Stauffer, Tom Uren and Randy Spink.

30, 2002 (“*Development Agreement*”).² The land use application has been characterized by City Staff as a Major Modification of the Master Site Plan and Development Agreement.³ The project proposal includes the following:

- **Program.** Sun Communities proposes a program for development of three primary components: A Recreational Vehicle resort with a maximum of 700 units/sites; a manufactured home residential community on unplotted lots on a single parcel of property; and a 6.0-acre Adventure Center that would be open to residents and guests of the development, as well as to the general public for a fee. The entire development is under the direct ownership and control of the developer or its successors and assigns. The current 75-acre business park set aside will be reduced to 26-acres and retained by New Suncadia.
- **Manufactured Home Park.** The manufactured home park is proposed to include three (3) main categories of housing: single-family, multi-family, and affordable housing. The single-family residential units would be manufactured or modular housing located on “unplotted lots” on approximately 106.3 acres.⁴ Multi-family residential is proposed on 23.8 acres (180 units) and affordable house on an identified 7.5 acre parcel (50 units). An “Amenity Center” is located in the central portion of the manufactured home park on 6.3 acres.
- **Recreational Vehicle Park.** Sun Communities proposes a Recreational Vehicle resort with a maximum of 700 unit sites located across approximately 279 acres.⁵

² Sun Communities transmittal memorandum states that the submission subject to comment is a “...partial submittal to the Major Modification to the Master Plan for 47° North. The specific limitation was summarized as follows:

Please consider this a *partial submittal* to the Major Modification to the Master Plan for 47° North. The Conditions of Approval, Additional Development Standards, and supporting documents will follow in the coming weeks. Hard copies of the site plans are being mailed to the City office for review.

Sun Communities’ transmittal includes a two-page narrative together with a revised site plan (11 sheets). The administrative record also includes pre-application meeting summaries and materials related to the Final Supplemental Environmental Impact Statement (“SEIS”). A “draft” set of “conditions of approval” was subsequently provided on or about July 19, 2021. Our comments are limited to the “partial submittal” materials with reservation of rights to provide further comment with respect to subsequently submitted documents.

³ A Supplemental Environmental Impact Statement (SEIS) has been prepared and issued by the City with respect to the proposed Major Modification to the approved Bullfrog UGA Master Site Plan and Development Agreement.

⁴ Sun Communities submitted site plan documents entitled “Master Plan Update for 47 Degrees North RV Resort & Residences”. The proposed Site Plan is set forth on Sheet No. C 100.

⁵ Sun Communities narrative is inconsistent with the proposed site plan. The site plan provides for the following “Non-Residential Uses”: Recreational Vehicle (RV) sites – 53.7 acres; Recreational Vehicle (RV) amenities – 29.6 acres; and Glamping/Amenities – 50.5 acres. The Site Plan proposes 661 units/sites for such “non-residential uses”. The RV Resort would provide traditional pull-through and back-in RV sites together with “glamping” sites with resort/type amenities. Sun Communities lists passive and active recreation amenities that would be integrated throughout the resort including a mix of parks, playgrounds, trails, sport courts, dog parks, indoor and outdoor exercise facilities, and outdoor gathering space. Amenity buildings would also be constructed and available to park visitors. The RV Park is privately owned and not subject to public use.

- **Adventure Center.** Sun Communities proposes a 6.0-acre adventure center that would be open to residents and guests of the development. Public access is available through payment of a fee. The Adventure Center "...could include amenities such as the following: miniature golf course, outdoor laser tag, a ropes challenge course, water recreation, a registration building, and parking."
- **Trails and Parks.** Sun Community proposes a 6-mile long network of trails and sidewalks that would be provided throughout the development site. The trails and parks would be located within the development and owned and maintained by Sun Communities. Sun Communities proposal does not allow public use of the trials and parks within the proposed development.
- **Business Park/Commercial Uses.** Sun Communities proposes a reduction in the Business Parks from 75-acres to 26.6 acres. There is also a proposed change in use from light industrial, research and development, warehousing, offices and limited retail to grocery store, retail, restaurant and medical offices. The conversion of the business park is to provide specific support services for the resort rather than job creating development for the community.
- **Development Ownership.** The entire resort development will be under common ownership through Sun Communities and/or their successors and assigns. The submitted Narrative states that "...[a]ll roads, utilities, and infrastructure constructed in the development would be owned and maintained by Sun Communities."

This proposal is a single integrated development owned by a single developer. The proposal is the antithesis of the vision that Cle Elum will be a single integrated community in keeping with its traditional rural, small town and mountain character. And the impact of the proposed subarea amendment will have profound impacts on the region including impacts to the City of Roslyn, Town of South Cle Elum and Kittitas County. SEPA requires that extra-jurisdictional effects be addressed and mitigated, when possible. *Cathcart-Maltby-Clearview Community Council v. Snohomish County*, 96 Wn.2d 201, 209, 634 P.2d 853 (1981); *Save a Valuable Environment (SAVE) v. City of Bothell*, 89 Wn.2d 862, 576 P.2d 401 (1978).

Background Documents Applicable to Proposed Major Modification of Master Site Plan.

City of Cle Elum specifically considered and ultimately approved the Bullfrog Flats UGA property as an integral component of the City's Urban Growth Area (UGA) and designated the property as Urban for future city long-term growth. The designation of Bullfrog Flats as a component of the UGA together with subsequent annexation established areas and densities sufficient to permit the urban growth that was projected for the City of Cle Elum for the succeeding 20-year period. All planning was within the context of a Pre-Annexation Agreement dated July 26, 2000. The planning process included environmental review (2002 Environmental Impact Statement), Master Site Plan and Development Agreement. The

planning area included approximately 1,100 acres generally bounded by I-90, Bullfrog Road, SR 903, the City Cemetery, and the Washington State Horse Park. Any proposal for a Planned Mixed Use development must be consistent with the planning documents. CEMC 17.45.010(B) (“Each proposal for development within the PMU district shall conform to...applicable annexation and development agreements...”).

In 2002, the City created the PMU Planned Mixed Use zoning district (CEMC Ch. 17.45) which allowed for the planned development of the substantial subarea. Bullfrog Flats UGA Subarea plan was developed with the property ultimately annexed to the City and subject to a Master Site Plan and associated development agreement dated October 30, 2002.⁶ The approved mixed use development provided for 1,334 residential units (810 single-family units and 524 multi-family units); a 7.5 acre site for affordable housing; a 75-acre area for development of a business park use (light industrial, research and development, warehousing, offices and limited retail); provision of 524 acres of open space; development of pocket parks, ponds/lakes and a trail system; a 10 acre cemetery expansion; and 220 acres reserved for school, utility, and recreational (horse park) uses. City of Cle Elum agreed to annex the property based on the agreement “...to permit construction of the proposed Trendwest UGA Development, including all of the land uses and intensities described in this Agreement and the Conditions of Approval.” *Development Agreement § 2.1*. The annexation and development authorizations were also subject to an agreement between Trendwest (now New Suncadia), the Yakama Nation and Washington State Department of Fish and Wildlife (WDFW) dated December 4, 2000. Development of Bullfrog Flats UGA languished while development of surrounding area exploded. The extraordinary growth placed added pressures on public entities. It also placed economic pressures on home ownership and permanent housing options.

The Development Agreement provides specific directions with respect to “Minor Modifications” but provides little guidance with respect to any change other than a Minor Modification. The only guidance is the following:

6.4.2 Any proposed modification of the Conditions of Approval but does not meet the criteria for a Minor Modification, as described in Subsection 6.4.1 above, shall be a Major Modification, and shall require an amendment to the Conditions of Approval, including all of the public notice, comment and hearing requirements specified in the PMU Zoning.”

Development agreement 6.4.2. A “modification” is defined as “...the making of a limited change in something.” Merriam Webster Dictionary (2021). Amendment of a final master plan is subject to CEMC 17.45.150 which provides that “...[a]ll provisions of this chapter shall apply to applications for amendment of an approved final plan.” An application for mixed use approval must contain all items set forth in CEMC 17.45.080 and is subject to a Type IV processes under CEMC Ch. 17.100.

⁶ Trendwest Properties, Inc. and Trendwest Investments, Inc. entered into a development agreement regarding the development of real property located within the “Bullfrog UGA”. At the time of the development agreement, the property had not been annexed to the City but was within the existing Urban Growth Area (UGA) as established under the Growth Management Act (GMA).

Comments on Application

KCUAC provide the following comments with respect to the application.

1. ***Comment on Process – Incomplete Application.*** Sun Communities acknowledges that its application is only a “partial submittal” and critical documents will follow at a later time.

Please consider this a *partial submittal* to the Major Modification to the Master Plan for 47° North. *The Conditions of Approval, Additional Development Standards, and supporting documents will follow in the coming weeks. Hard copies of the site plans are being mailed to the City office for review.*

The application does not include (a) final proposed conditions of approval; (b) proposed amendment or new development agreement; c) rezone or conditional use permit applications, or (d) additional “supporting documents”.

In addition, the Master Plan Application fails to include a complete site plan and other submission requirements as set forth in CEMC 17.45.080. Deficiencies include failure to submit existing site plans; proposed design standards; restrictive covenants and/or design and architectural guidelines; and identification of comprehensive plan policies and applicable agreements.

The application is incomplete for processing and issuance of a notice of application is premature at this time. CEMC 17.100.060 and .110; and RCW 36.70B.070 and .110. The request for and provision of public comment on an application should be undertaken only when the application is complete and all available documents are available to the public, commenting agencies and interested parties.

2. ***Comment on process – Application is not a modification of the Bullfrog UGA Master Site Plan but rather a proposal for rezone to establish a new subarea plan and Planned Mixed Use development.***

In 2002, Cle Elum City Council approved annexation of property within the Bullfrog UGA Subarea. The annexation and associated land use approvals designated the property as Planned Mixed Use and provided for a range of housing types and opportunities together with an integrated and supportive area for commercial development. The vision contemplated provision of necessary permanent housing to support growth projections with development “...in keeping with the climate and the traditional rural, small town, mountain character of the Cle Elum area”.

Sun Communities is proposing to terminate the Bullfrog UGA Master Site Plan and substitute a 809-acre destination recreational vehicle resort under single owner control and operation. Sun Communities is a publicly traded company that develops, owns, and operates over 380

RV resorts and residential communities in the United States and Canada. The proposed RV resort and manufactured home community is promoted as consistent with many other of its privately owned resort facilities.

The proposal is to replace the integrated development plan with a destination tourist resort comprised of two (2) primary components: (1) a “recreational vehicle park” or “RV park” subject to CEMC Ch. 17.51; and (2) a developer owned manufactured home park. All ownership of the land would be retained by Sun Communities in perpetuity based on community membership and individual rental arrangements. The proposed land use is fundamentally different than the vision guiding development under the current plan and certainly not “...in keeping with the climate and the traditional rural, small town, mountain character of the Clem Elum area”. The proposal also includes a substantial reduction in that portion of the subarea committed to commercial use and development.

It is well established in this state that a request for a planned unit development is treated as a request for a rezone. *Johnson v. City of Mount Vernon*, 37 Wn. App. 214, 218, 679 P.2d 405 (1984); *Lutz v. Longview*, 83 Wn.2d 566, 568-69, 520 P.2d 1374 (1974) (“it is inescapable that application of the PUD to this tract constituted an act of rezoning.”); and *Schofield v. Spokane County*, 96 Wn. App. 581, 588, 980 P.2d 277 (1999) (“since Mr. Schofield is requesting a PUD, rezone law applies.”). The application seeks to reclassify use within the Bullfrog UGA with such land use process treated as a rezone. The application must be considered under the process, standards and criteria set forth in CEMC Ch. 17.120 (Amendments and Reclassifications).

Second, the application is not a “modification” of the existing Bullfrog Flats UGA Master Site Plan. There is no part of the existing plan that remains after the purported “modification.” It is totally eliminated. The application presents a new and distinct subarea plan which terminates all prior planned development of approximately 809 acres of the property. The proposal must be evaluated as an independent application under CEMC Ch. 17.45 (PMU Planned Mixed Use District).

Third, it is incongruous to carry forward provisions of a development agreement established for a fundamentally different land use proposal. The analysis, planning concepts, impact assessment and applicable mitigation measures and development conditions relative to the existing Bullfrog Flats UGA Master Site Plan simply have no relevance to the current proposal for a master planned recreational vehicle resort development.

3. *Comment on Application – Application proposes land uses not allowed within PMU Planned Mixed Use District and specifically rejected in the adopted subarea plan.*

(a) *Manufactured Home Parks are not allowed in the PMU Planned Mixed Use district.* Cle Elum zoning ordinance sets forth uses permitted within the PMU Planned Mixed Use district). CEMC 17.45.050(A) sets forth all principally and conditionally permitted uses

that are allowed within the PMU zoning district and provides as follows:

All principally and conditionally permitted uses *in this title may be allowed in the PMU district* pursuant to an approved final plan provided that retail and service uses shall be limited to those convenience retail and service uses that are sized and designed to serve the residents or employees of the PMU zone and provided further specific uses permitted only in industrial districts pursuant to CEMC 17.24, and indicated in subsection B, which shall be prohibited in the PMU district, unless a special finding has been made as described in subsection B of this section.

If the proposed land use is not principally or conditionally permitted under the zoning ordinance (CEMC Title 17), the land use may not be included as a component of a Planned Mixed Use District.

Sun Community proposes a residential community component of the development which is described as follows:

The residential community component of the development would include 3 main categories of housing: single-family, multi-family, and affordable housing. *The single-family residential units would be manufactured or modular housing on approximately 5,000 to 7,000-sq. ft. unplotted lots with a net density of between 5-6 du/acre. Multi-family housing would consist of single story and/or multi-story units. The single-story units would be positioned with three units on an 8,000-sq. ft. lot, where each of the three units would be available individually. Multi-story units would consist of multiple apartments ranging in size from 1-3 bedroom units, and a structure 2-3 stories in height.*

The use proposal is for a traditional manufactured/mobile home park. All single-family residences are to be placed on “unplotted lots” under ownership and management of the developer. All roads, utilities and amenities within the manufactured home park are owned and maintained by the developer. Parks and trails are available only to residents and guests within the resort development.

Cle Elum zoning ordinance does not recognize or authorize manufactured/mobile home parks as a permitted use in any zoning district. In fact, the zoning ordinance requires that there be no more than one single-family residential structure per lot. CEMC 17.16.010(A) specifically provides as follows:

A. One single-family dwelling *per legal lot of record (including*

manufactured homes) and duplexes with not more than one duplex per street frontage per block;

The placement of manufactured homes is limited to one single-family dwelling per legal lot of record. Sun Communities proposes 673 manufactured homes on a single parcel.

Stick built and manufactured homes are treated the same under the zoning ordinance. RCW 35A.21.312 provides that "...a code city may not adopt an ordinance that has the effect, directly or indirectly, of discriminating against consumers' choices in the placement or use of a home in such a manner that is not equally applicable to all homes." Manufactured homes and traditional stick built homes must be treated in an equal manner and the unambiguous ordinance limits placement of single-family residences to a single legal parcel of record. There is no authority under the zoning ordinance to develop a residential community that allows construction of multiple single-family residences on a single legal parcel of record. The clear and unambiguous language of the zoning ordinance may not be modified through variance or other available procedure.⁷

(b) Recreational vehicle parks were specifically rejected as a consistent land use in the Bullfrog Flats UGA Master Site Plan approvals. The second component of Sun Communities land use application is a proposal to develop a recreational vehicle park together with associated camping facilities.⁸ The adopted Pre-Annexation Agreement stated that "...[i]t is the objective of the City of Cle Elum to be a single, integrated community, including areas to be annexed to the City." *Pre-Annexation Agreement Section 3.3*. The objective statement goes on to provide:

The primary principles that comprise the City of Cle Elum's *single community concept* include uniform minimum development and maintenance standards throughout the City including, but not limited to, road standards and snowplowing standards; *open, ungated neighborhoods that allow unrestricted public traffic on roads and pedestrian circulation systems*; maintaining parks,

⁷ "Variances may be granted to all numerical standards of this title with the exception of lot size and density." CEMC 17.85.020. The applicable zoning standard is not a "numerical standard" subject to variation. It is also clear that a variance would not be available because there are no unusual, exceptional or extraordinary circumstances or conditions applying to the property that do not generally apply to other property in the same vicinity or district. CEMC 17.85.040.

⁸ Recreational vehicles, recreational vehicle parks and camping are subject to provisions set forth in CEMC Ch. 17.51.

"Recreational vehicle park" or "RV park" is defined as follows:

"Recreational vehicle park," or "RV park" means a tract or parcel of land upon which two or more recreational vehicle sites are located, principally used for occupancy by predominantly RV's as temporary living quarters for recreation or vacation purposes with a maximum allowable stay per vehicle of 180 days; or is conditioned within the conditional use permit, annexation agreement and/or development agreement as appropriate.

CEMC 17.51.010. Any proposed RV park must satisfy the requirements of both a conditional use permit under CEMC Chapter 17.80 and site and design review under CEMC Chapter 17.76.

recreational facilities and open spaces to meet City standards that are sited in locations accessible to and are open to the public for the use and benefit of all citizens equally, whether such recreational opportunities are created by the City and/or through developer mitigation.

The *Pre-Annexation Agreement* further limits the scope of “private recreational facilities.”

Trendwest may provide for private recreational facilities for UGA homeowners and tenants beyond those required to meet city standards, and may include some security measures deemed appropriate by the City for any senior residential housing constructed in the Trendwest UGA Property.

In the present case, the “private recreational facilities” are not for the benefit of “UGA homeowners and tenants” but for the benefit of the private developer and short term recreational vehicle and camping parties.

The proposed integrated RV park and associated manufactured home community are the antithesis of the contemplated single community concept that form the foundation for municipal annexation. The entire development is under private ownership with access controls and public use limitations. Any development proposal must substantially comply with “...the Cle Elum comprehensive plan, the policies and applicable subarea plan, *the requirements of any applicable annexation implementation agreement* and the purposes and objectives of ...” CEMC Chapter 17.45.

Permanent recreational vehicle parks were specifically rejected as a use component within the Bullfrog UGA.

- Permanent or long-term RV park was specifically rejected in the Development Agreement. *Development Agreement* ¶23. Trendwest was authorized to construct a maximum of 100 Recreational Vehicle sites in the Business Park Parcel to house temporary construction workers from the MPR and UGA. The temporary RV park use was to be removed after ten years. No provision was made allowing a permanent RV Park. The current proposal is not a “modification” of the existing plan but rather a new plan.
- *Pre-Annexation Agreement* ¶3.3 identify the objective of the City of Cle Elum to be a single, integrated community. The development concept was to provide “...ungated neighborhoods that allow unrestricted public traffic on roads and pedestrian circulation systems.” Sun Communities proposes a single gated resort development under single ownership.

- Land uses were identified in the City's June 23, 1998 Bull Frog Urban Growth Area document dated June 23, 1998 (commonly referred to as the "Green Book"). That planning document identified RV park under Alternative 2, which was rejected in subsequent planning and subarea documents.
- The clear intent reflected in all applicable documents was that RV Parks were not an allowed use in the Bullfrog UGA.

4. ***Comment on process – proposed uses must be evaluated under applicable standards and requirements set forth in the zoning ordinance.*** It is axiomatic that the current application must be processed and evaluated in accordance with applicable annexation agreements, development agreements and zoning ordinance provisions. Those considerations include the following:

- Pre-Annexation Agreement contemplates and required ungated neighborhoods that allow unrestricted public traffic on roads and pedestrian circulation systems; parks, recreational facilities and open spaces open to the public for use and benefit of all citizens; and commitment of single-family and multiple-family residential development design to contribute to the communities long-term obligation to provide permanent housing alternatives for the 20-year GMA planning period. The *Pre-Annexation Agreement* must be amended in order to convert the land use to a private resort community and not a series of traditional neighborhoods and mixed uses contemplated in the context of annexation.
- Cle Elum Municipal Code does not authorize "manufactured/mobile home parks". CEMC 17.16.010(A) limits single-family dwellings to one dwelling unit per legal lot of record.
- The adoption or amendment of a planned unit development is a rezone which must satisfy both ordinance and common law rezone requirements.
- A proposed "Recreational Vehicle Park" must comply with requirements of CEMC Ch. 17.51, including conditional use permit. The development of an RV Park is allowed only upon the issuance of a conditional use permit in accordance with CEMC Chapter 17.80 and CEMC Section 17.100.140. CEMC 17.51.010(E). The development of an RV Park is also subject to site and design review, applicable design standards and compliance with applicable ordinance provisions. The land use review process must also include a conditional use permit application.

5. ***Comments on Development Agreement (DA).*** Sun Communities has not proposed either a new or amended development agreement for the proposed resort development.
- ***A new or proposed development agreement should be included as an element of the application and reviewed concurrently with the application.*** An “applicable development agreement” is required as part of a planned mixed use application. CEMC 17.45.080(C)(13). The proposed development agreement shall include conditions, development standards, review processes for implementation, vesting and other applicable considerations allowed in development agreements. RCW 36.70B.170. The processing and review of a proposed development agreement shall be in compliance with CEMC 17.140.040. The current land use application should be placed on hold until the proposed development agreement is submitted and subject to municipal department, interested agency and public review and comment.
 - ***CEMC 17.140.020(B) requires that the City consider for inclusion in the development agreement the county, special service districts, school districts, utilities, and other impacted third-party beneficiaries for inclusion in the development agreement.*** The proposed destination resort facility will have direct impact on extra-jurisdictional entities including Kittitas County, City of Roslyn, Town of South Cle Elum and state facilities. Each of the extra-jurisdictional entities will be directly and adversely impacted by the destination resort development and are appropriate parties to the development agreement. This consideration is particularly true with respect to the Upper Kittitas County which is an area where service is provided through a network of interlocal agreements.
6. ***Comments on Application – Adverse Impacts.*** The land use application proposes or suggests significant and unsupportable changes in the current land use planning. The following comments represent areas of concern but are not intended to be all inclusive. KCUAC reserves the right to supplement these comments based on a complete record developed through the hearing process.
- ***Amendment reduces established open space.*** The current Master Site Plan provides for 524-acres of open space. Sun Communities proposes to reduce open space to 477-acres but provides no substantive support for such reduction in open space. There should be no reduction in the established open space requirements for the development.
 - ***Amendment improperly reduces business park/commercial areas.*** The adopted Master Site Plan provides 75-acres for business park/commercial. The existing business park authorization contemplates approximately 950,000 square feet for uses permitted in CEMC Ch. 17.34 (Business Park District) and CEMC Ch. 17.36 (Industrial District). Inclusion of these districts was for employment and job creation opportunities.

The proposed amendment reduces the commercial use to 150,000 square feet and converts permitted uses supportive only of the destination RV Resort. It is acknowledged that there will be "...fewer new permanent employees at full buildout due to smaller commercial space on adjacent property." The change is inconsistent with balanced community development and guidelines set forth in the Cle Elum Comprehensive Plan.

- ***Reduction in residential housing is contrary to public welfare and best interests.*** The current Master Site Plan provides for 1,334 residential units (810 single-family units and 524 multi-family units). Sun Communities proposes a reduction in residential usage to 707 residential units (527 single-family units and 180 multi-family units). Applicant acknowledges that the RV Park is a "non-residential" use. The modification eliminates 627 dwelling units and converts the remaining dwellings to rental or resort occupancies.

The proposal is inconsistent with the goals, policies and objectives of the comprehensive plan as well as applicable zoning ordinance provisions. The contemplated use shifts permanent residential housing to "second/vacation homes" and short-term rentals. No meaningful data is provided regarding contemplated mix in home use occupancies. The reduction in permanent residential housing increase demands for urban growth and permanent housing options within other municipal areas or associated Urban Growth Area (UGA).

Development Agreement intended housing to provide options to residents of the City of Cle Elum. The permitted residential uses were those uses set forth in CEMC Ch. 17.16 (R-Residential District) and CEMC Ch. 17.20 (RM Multiple Family Residential District). *Development Agreement* ¶¶13-16. The purpose of the residential districts is stated as follows:

The purpose of the residential district is to create and maintain stable and attractive residential neighborhoods, while providing diversity in housing types and maintaining affordable housing. Residential zones should also protect sensitive natural areas, provide for the efficient use of land and public services, and provide appropriate vehicular and pedestrian access.

CEMC 17.16.005.

- ***Development Agreement* ¶16** states that there shall be "...[n]o gates, walls or other access restrictions on these public streets and alleys" The residential component of the Bullfrog Flats UGA was to provide additional land for meeting the GMA 20-year growth projections on an integrated single community basis. The proposed new subarea plan directly contravenes long-term growth planning for the community.

- *Amendment would have adverse impact on job creation and employment.* SEIS Alternative Five projected 2,025 local construction jobs over full buildout. SEIS Alternative Six reduces employment to 607 local construction jobs. Under SEIS Alternative Five, development of the business park would increase permanent employment by 1,900 new employees at full buildout. SEIS Alternative Six (including future commercial development) would result in approximately 400 new permanent employees at full buildout. The proposal is contrary to the public interest.

7. *Comment on fiscal impacts: Sun Communities proposal presents adverse economic and physical impacts to the municipality.* Sun Communities submitted a three-page “Narrative” for the proposed subarea plan amendment together with a “Working Draft Conditions of Approval.” It is suggested that Sun Communities would contribute on a *proportionate* basis to adverse impacts to transportation system improvements and public facilities. Contributions are only to City of Cle Elum and fail to account for direct impacts to City of Roslyn, Town of South Cle Elum and Kittitas County. The *Development Agreement* specifically states as follows:

Because the City has adopted a policy that existing city residents, taxpayers, and rate payers should not bear any additional financial burden to expand facilities and services necessary to serve new development, it is appropriate to require Trendwest and its proposed UGA Development to bear those costs.

The costs include both on-site and off-site impacts including those to transportation and municipal services. Assessment of costs associated with such impacts should extend to state and local facilities and services including Kittitas County, City of Roslyn and City of Cle Elum.

We provide the following additional comments:

- Sun Communities fails to address fiscal impacts on municipal and public services in its “draft” conditions. The draft conditions include the following:

100. *City of Cle Elum* – include any mitigation required here. Sun is reviewing the fiscal assumptions in the SEIS to better understand City revenue and expenses. Will propose something here at a later date.

This document was submitted July 19, 2021. FSEIS provided fiscal mitigation measures by taxing authority – entity to address findings for SEIS Alternative 6, including (47° North) and (the commercial property). The environmental review failed to consider fiscal impacts to extra-jurisdictional entities such as City of Roslyn, Town of South Cle Elum and Kittitas County.

- We adopt comments provided by KCUAC member Tom Uren regarding fiscal impacts related to transportation, public services capital facilities, water and sewer utilities and landscaping and visual impacts.
- KCUAC also adopts comments submitted by City of Roslyn by letter dated July 27, 2021. The comment specifically relates to transportation impacts and levels of service applicable to Cle Elum – Roslyn school district, City of Roslyn police service; impacts on Hospital District No. 2 (Ellensburg and Cle Elum); Kittcom; and Kittitas County solid waste. Each of these public services and facilities are provided on an annual basis which directly and adversely impacts City of Roslyn.
- Sun Communities is obligated to “...[e]nsure that ... public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards.” RCW 36.70A.020. A local jurisdiction shall “...prohibit development approval if the development causes the level of service on a locally owned transportation facility to decline below the standards adopted...” RCW 36.70A.070(6). Sun Communities seeks to avoid concurrency obligations with respect to transportation impacts by proposing only a proportionate financial contribution. *Draft Conditions 93 – 98.*
- SEIS states that the proposal will result in “...small fiscal short falls in early years while the SEIS Alternative 6 Residential and RV Resort would generate fiscal shortfalls post buildout.” The proposal would require the near doubling of upper county public services (police, fire, hospital, etc.). The FSEIS fiscal analysis included only operational costs but did not include capital costs. Also excluded were fiscal impacts to jurisdictions outside the City of Cle Elum. The developer should be required to fund or construct any capital facilities required by its development. In the alternative, development should wait until concurrent facilities are available to serve the development.
- The SEIS studies show that sixteen upper county intersections and associated roadways will be at failing levels of service at buildout of the project. Sun Communities is not proposing to actually build or expand any road or intersections outside of the Bullfrog Flats site, but instead proposes to pay a “fee in lieu of” at the start of its project and be allowed to build and occupy its project irrespective of when road improvements are constructed for the impacted facilities.
- Sun Communities proposal would result in a near doubling of the population of Cle Elum/Roslyn at full occupancy. The direct impacts will be upon all public facilities and services including police, fire, medical, hospital/clinic service, emergency and school systems. The fiscal studies in the SEIS show that tax revenues collected from Bullfrog Flats after development will be less, in some case less than half, of what would

be collected from the same land if developed under the current approved land use. Collected tax revenue would not be enough to offset increased costs for public services.

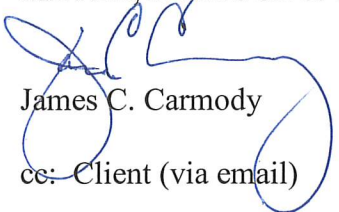
Requests to the City of Cle Elum.

We request that the City of Cle Elum take the following steps at this point in the application process:

1. Require submission of a complete land use application in accordance with CEMC 17.45.080 including proposed development agreement, existing site plan, proposed conditions of approval and necessary permit applications (conditional use and rezone).
2. City determine if proposed planned mixed use application will be processed and considered with an associated development agreement or such reviews and processes will be bifurcated. KCUAC requests that the processes be bifurcated.
3. City suspend processing of the current land use application until review processes are clarified and a complete application is submitted that allows for governmental entity, agency, department and public review and comment.
4. City review and identify all required permits and processes for review of the proposed land use application including standards and procedures for rezone, conditional use permit and comprehensive plan amendment, if necessary.
 - City issue an interpretation with respect to processing of the PMU application as a “major modification” or new planned mix use application. Master Site Plan and whether such application and process will consider a new or amended development agreement.
 - Condition the project so that infrastructure (roads and all public facilities) are constructed concurrent with project development so that there will be no deterioration in concurrency standards applicable to transportation systems and public facilities. The condition should provide in a manner consistent with a concurrency agreement, phasing plan allowing development to proceed only when infrastructure elements are fully funded/constructed, regardless of the entity or agency construction such improvements.
5. City review and deny the current application because it proposes land uses not authorized in the PMU Planned Mixed Use District, such use being a proposed manufactured home park with multiple residences on a single parcel.
6. City reopen the FSEIS be reopened to include an assessment and evaluation of extra-jurisdictional impacts to Kittitas County, City of Roslyn and the Town of South Cle Elum in accordance with WAC 197-11-060(4)(b).

We appreciate your consideration of our comments with respect to the land use proposal.

Very truly yours,
MEYER, FLUEGGE & TENNEY, P.S.



James C. Carmody

cc: Client (via email)