

Larry Stauffer
2661 Lower Peoh Point Road
Cle Elum, WA 98922
Stauffer@Lynden.com



To: City of Cle Elum
Attention: Planning Department

July 25, 2023

RE: Preliminary Subdivision Application, Sun Communities, 47 Degrees North

This Comment Letter has been prepared in response to the Preliminary Plat (Subdivision) Application submitted by Sun Communities related to the proposed 47 Degrees North Development.

Sun Communities withdrew its prior application partially as a result of the City's indicated reluctance to accept a binding site plan for its "Park" within the PMU district. Sun's attempt to create a binding site plan associated with their manufactured home park was an attempt to sidestep the one house per legal lot requirement of Cle Elum's code. Because that plan failed, they are now back with a plan to create a subdivision. Sun is playing fast and loose with reality. They are painfully trying to contort this "Park" into a subdivision simply to find some loop-hole to get it approved. However, Cle Elum's subdivision code was not written to accommodate hundreds of adjacent lots, with private roads and utilities, under the ownership of and management of a single park developer, intending to provide rental space for the placement of removable housing units, owned by a combination of individuals and the Park developer.

There is such a thing as a manufactured housing subdivision. However, by definition, it is a subdivision in which fee simple lots are developed and sold to individuals for the placement of privately-owned manufactured housing. The lots are not rented to others by a common owner.

RCW 59.20.030(13) "Mobile home park subdivision" or "manufactured housing subdivision" means real property, whether it is called a subdivision, condominium, or planned unit development, consisting of common areas and two or more lots held for placement of mobile homes, manufactured homes, or park models in which there is private ownership of the individual lots and common, undivided ownership of the common areas by owners of the individual lots;

Sun should not be allowed to develop a manufactured housing subdivision for three primary reasons:

- 1) The City of Cle Elum zoning does not authorize manufactured housing subdivisions;
- 2) Sun's stated intention is not to make the individual lots available for private ownership; and
- 3) The development standards detailed in CEMC 16.12A.060 of the Subdivision code are in direct conflict with Sun's proposal. The size and frontage of the proposed housing blocks are non-conforming and the code states that all streets, curbs, gutters, sidewalks, and utilities will be built to city standards and will be publicly owned.

A) Planned Mixed Use District (PMU) Regulations

i. CEMC 17.45.010, PMU, Purposes and objectives.

- a. Sec.A.3. To encourage building design that is in keeping with the climate and the traditional rural, small town, mountain character of the Cle Elum Area;
- b. Sec.A.5. To ensure that all development gives adequate consideration to and provides mitigation for the impacts it creates with respect to transportation, public utilities, open space, recreation and public facilities....
- c. Sec. B; Each proposal for development within the PMU district shall conform to the Cle Elum Comprehensive Plan, any applicable subarea plan and applicable annexation and/or development agreements.....
- d. Sec.B.2. To create attractive, pedestrian-oriented neighborhoods with a range of housing types, densities, costs and ownership patterns

The afore mentioned purposes and objectives stand in stark contrast to the proposal submitted by Sun Communities.

ii. CEMC 17.45.050, PMU, Uses Permitted

- a. Section A. All principally and conditionally permitted uses in this title may be allowed in the PMU district... Permitted uses include
 - i. R-Residential District; and
 - ii. RM- Multiple Family Residential District
- b. 17.16, R-Residential District; 17.16.010 Outright Permitted uses; Sec. 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.
- c. 17.20, RM Multiple Family Residential District; 17.20.010 Permitted uses; Sec. A. Single-family dwellings, multiple-unit dwellings and townhouses.

Single-family dwellings are allowed within the PMU District because they are allowed in both the Residential District and the Multiple Family District. However, the code clearly and unambiguously states that each single-family dwelling must be placed on a single tax parcel, ***"One single-family dwelling per legal lot of record (including manufactured homes)"***.

Sun was attempting to side-step Cle Elum Municipal Code by suggesting that it should be allowed to utilize a binding site plan in lieu of a formal subdivision because, under RCW 58.17.035, binding site plans are authorized for use when land is divided for the purpose of commercial leasing as provided for in RCW 58.17.040(5). However, RCW 58.17.035 merely allows a city to adopt "by ordinance" procedures for the divisions of land by use of a binding site plan. Cle Elum has chosen, "by ordinance" to allow for binding site plans to be used only in specific commercially and industrial zoned areas as allowed in RCW 58.17.040 (4), but chose not to allow for the divisions of property for lease as provided for in RCW 58.17.040(5).

In Sun's previous application Sun wanted to avoid applying for a formal subdivision because their plan was unlikely to qualify and the Cle Elum subdivision requirements conflicted significantly with their plan. However, they are now out of options and have to include a subdivision in the proposal.

B) Mobile/Manufactured Housing Parks Not allowed

The City of Cle Elum zoning ordinance does not authorize "mobile home parks" or manufactured home parks" in any zoning district. Neither land use is listed as a permitted or conditional use in any district. In the absence of specific authorization, the use is prohibited within the City.

RCW 35.63.161(1) states *After June 10, 2004, a city may designate a new manufactured housing community as a nonconforming use, but may not order the removal or phased elimination of an existing manufactured housing community because of its status as a nonconforming use.* This provision is consistent with the current Cle Elum zoning ordinance which recognizes that preexisting mobile home parks shall retain a status of nonconforming uses. It is also consistent with the current prohibition on new mobile home parks and manufactured housing communities since the City has not elected to designate such land uses as nonconforming use.

The reference to 'nonconforming use' is relevant. The courts have consistently recognized that "...nonconforming uses are uniformly disfavored..." and "...limit the effectiveness of land-use-controls, imperil the success of community plans and injure property values." *Rhod-A-Zalea & 35th Inc. v. Snohomish County*, 136 Wn.2d 1, 8, 959 P.2d 1024 (1998).

RCW 59.20.030(14) *"Mobile home park," "manufactured housing community," or "manufactured/mobile home community" means any real property which is rented or held out for rent to others for the placement of two or more mobile homes, manufactured homes, or park models for the primary purpose of production of income.....*

The City of Cle Elum's written Decision Criteria associated with the approval of all Preliminary Subdivision Applications are clearly stated. Sun's proposal is in conflict with most of the City's requirements:

- 1) **The preliminary plat is in the public interest.** *It is not, and approximately 2,300 letters recently submitted to the City in response to the Major Modification document the public's concerns.*
- 2) **The subject preliminary plat is consistent with the comprehensive plan.** *It is not, as identified in my letter of June 21, 2023.*
- 3) **The preliminary plat shall conform to the applicable requirements of the zoning district in which it is located including but not limited to requirements for area, dimensions, use and density.** *It does not, as stated herein and within my letter of June 21, 2023.*
- 4) **The preliminary plat conforms or can conform to adopted standards for the construction of all public facilities including streets, sidewalks, stormwater control, sewer systems, water systems and streetlighting.** *It does not, as stated within my letter of June 21, 2023.*

- 5) **The proposed preliminary plat will not cause the level of service of public facilities or services to drop below established limits.** *The Kittitas county Sherriff, the Hospital Districts, and other service providers have expressed significant concern related to the anticipated decrease in levels of service. Most public entities, including the Kittitas county commissioners and the public works director, and private citizens have identified specific concerns relating to increased traffic and the lack of mitigation relating thereto.*
- 6) **The proposed preliminary plat is consistent with any other applicable city regulations, and development or other agreements specific to the subject property.** *It does not, as stated herein and within my letter of June 21, 2023.*
- 7) **The proposed subdivision meets all of the development standards listed in CEMC 16.12A.060.** *It does not, as stated herein and within my letter of June 21, 2023.*

The comments stated herein as my response to Sun's Preliminary Subdivision Application should be considered in combination with my comments submitted on June 21, 2023 relating to the proposed Major Modification to the project overall.

Sincerely



Larry Stauffer

8/10/23



To whom it may concern:

Once again I write in protest of the 47 degree North project. I am surprised that this development has progressed as far as it has without more public input. It seems to me that there has been a dereliction of duty on the part of the Cle Elum city council and the mayor's office in allowing conditional approval of this development to proceed as far as it has without real consideration of the magnitude of the impact that this will have on the community and its residents. It is my understanding, that those in government have the duty to be the "fiduciary" trustees of the interests the current residents of the community, not perspective future residents, developers, or those with large financial interests.

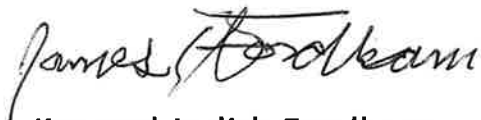
As it stands today, our civic, health care, retail, transportation, and utilities infrastructure and staff are at and beyond capacity. In terms of health care, police, fire protection, and transportation our communities are already at risk. Likely hundreds of millions of dollars will have to be invested to bring our community up to standard to handle the requirements of the population increase being proposed by 47 North. This increased population will be mostly leaseholders that will not be paying property taxes. Is this going to mean that the current property owners of the county are going to have to pay for the infrastructure improvements required to service the population increase proposed by the developers?

What of the rural ambiance and small town character of our area? With the building of malls and increased retail space surely the rural, small town atmosphere of Cle Elum and the area will be lost. And for what?

The very least that can be said of the 47 North development is that it was ill considered with very little consideration for its effect on the residents of the area much less the effect on our quality of life. Our property tax burden, already too high will likely be greatly increased.

My hope is that 47 North can be stopped, or at least greatly reduced in size and scope.

Respectfully:

A handwritten signature in cursive script that reads "James Fordham".

Jim and Judith Fordham

A handwritten signature in cursive script that reads "Judith J. Fordham".

P.O. Box 194
SOUTH CLE Elum, WA 98943

MEYER, FLUEGGE & TENNEY, P.S.

ROBERT C. TENNEY
MARK D. WATSON*
JEROME R. AIKEN*
JOHN A. MAXWELL, JR.
PETER M. RITCHIE**

ATTORNEYS & COUNSELORS
230 SOUTH SECOND STREET, SUITE 101
P.O. BOX 22680
YAKIMA, WASHINGTON 98907-2680

JAMES C. CARMODY
JACOB A. LARA
ROBERT S. URLOCKER
PARDIES ROOHANI
HARLEY MONTOYA

*Also admitted in Oregon

**Also admitted in Oregon & Virginia

carmody@mftlaw.com

August 21, 2023

Via Email

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



Re: *Sun Communities/North 47 Degrees - Combined Notice of Preliminary Plat Application for the Bullfrog Flats UGA Master Site Plan and Development Agreement, Including SEPA Threshold Determination and Notice of Adoption of Environmental Documents*

Dear Sir/Madam:

We represent Kittitas County Public Hospital District No. 1 and Kittitas County Public Hospital District No. 2 (collectively "Kittitas County Hospital Districts"). We provide these comments with respect to *Combined Notice of Preliminary Plat Application for the Bullfrog UGA Master Site Plan and Development Agreement, Including SEPA Threshold Determination and Notice of Adoption of Environmental Documents* ("Preliminary Plat Application") issued July 20, 2023.¹ The *Preliminary Plat Application* was for a 527-lot single-family residential subdivision.

These comments will supplement and incorporate our earlier comments provided with respect to *Sun Communities Application for Major Modification of Bullfrog Flats UGA Master Site Plan and Development Agreement*. This comment will also supplement and incorporate prior communications, correspondence, meetings and information provided by Kittitas County Hospital District to the City and/or Sun Communities with respect to prior and/or current land use applications, environmental review, and otherwise relating to Sun Communities' major modification to Bullfrog Flats UGA Master Site Plan and Development Agreement.

¹ On April 18, 2023, the City determined that the preliminary plat application and the boundary line adjustment application were not complete or ready for processing. Sun Communities subsequently provided additional information with regard to the preliminary plat application and the City issued a Completeness Determination on July 14, 2023. The application is being considered under the consolidated application process as a Type 4 application. Sun Communities withdrew the boundary line adjustment application and no further action is being taken on that matter as a part of the consolidated review process.

A. Overview of Sun Communities Major Modification Application.

Sun Communities² submitted a Major Modification Application comprised of four separate components: (1) a Planned Mixed Use Final Plan” application governed by CEMC Ch. 17.45; (2) a Boundary Line Adjustment application governed by CEMC Ch. 16.40; (3) a Preliminary Subdivision application governed by CEMC Ch. 16.12A; and (4) an Amended and Restated Development Agreement. The consolidated land use applications were to be processed jointly through a “Type 4” review under CEMC 14.30.080.³

Sun Communities acknowledged that the approved land use application was for “...a single-and multi-family residential community and a business park.” *Project Narrative – 1*. The new proposal was characterized as follows:

However, for those portions of the UGA Property that remain privately owned (as legally described in Sun’s Major Modification Application, the “Property”), Sun is seeking to modify the Approved Plan as necessary to develop the Project. The Project [is] based on the conceptual foundations of the Approved Plan. To the maximum extent possible, Sun crafted the Project to align with the beneficial aspects of the Approved Plan while updating it to reflect a new vision for the development and use of the Property.

Kittitas County Hospital Districts take exception to this characterization. Sun Communities is abandoning the entire “...single-and multi-family residential community and business park...” and replacing it with a privately owned destination recreational vehicle resort and new commercial retail center. There is not a single component of the original plan retained in the new plan. These new concepts were specifically rejected through the original planning process. The current proposal is not a modification of the prior plan but a new and different subarea plan.

² Sun Communities submitted the land use application on behalf of Sun 47 North, LLC, a Michigan limited liability company. The application was filed on March 22, 2023. The application included *Narrative Description Accompanying Sun Communities’ Application for a Major Modification to Existing Development Approvals for Bullfrog Flats UGA*. (“*Project Narrative*”). Sun Communities also submitted supplemental materials with respect to the *Preliminary Plat Application*. In comments provided by Kittitas County Hospital Districts, reference may be made to SUB 23-3 Ex 3A (Master Plan); SUB 23-2 Ex 3B (Development Standards); SUB 23-3 Ex 5B (Preliminary Plat Plans); and SUB 23-3 Ex 7A (Proposed Conditions).

³ See CEMC 14.30.040 (listing “Planned Mixed-Use Development, Approval, and Major Modification” as a Type 4 Review). Sun Communities further requested that the proposed Amended and Restated Development Agreement also be processed as a “Type 4 approval pursuant to the mandate of CEMC 14.30.040.” Despite the contemplated consolidated review, Sun Communities has unilaterally bifurcated both the land use and environmental review process. Environmental Review under the State Environmental Policy Act (SEPA) preceded submission of land use application without specific project and process documents. City improperly proceeded with environmental review and Kittitas County Hospital Districts have registered objections to the process and procedures followed with respect to this consolidated land use application.

Sun Communities proposed destination resort community presents a fundamental land use change with significant financial and service impacts to Kittitas County Hospital Districts. The conversion of a traditional single-and multi-family residential area (with associated business park) to a privately owned resort community “fundamentally changed revenue sources and service requirements for emergency medical care and responses.” Tax revenues available through Emergency Medical Service (EMS) levies will be significantly reduced while service calls are expected to significantly increase because of the new transient and active resort environment. The application for preliminary plat proposes significant reduction in road and access standards coupled with long and narrow cul-de-sac service areas. Each of these changes will present obstacles to the prompt and efficient response to emergencies for not only emergency medical providers but also police and fire responses. This is not a hypothetical concern – it is real and it will have significant impacts on the remainder of the community.

B. Scope of Supplemental Comment Regarding Application for Preliminary Plat.

Despite the intent to conduct consolidated review, the application review process has become bifurcated because of incomplete applications and other unclear process determinations. The result has been a disjointed process that began with a prior incomplete and ultimately withdrawn land use application; interlocutory environmental review based on the withdrawn application; restart of environmental review and issuance of SEPA Addendum without an actual land use application; and finally a separate notice and comment on a portion of the current land use application.

We incorporate all of our prior comments in the context of the current process.

The Boundary Line Adjustment has been withdrawn. The current notice includes only “...a preliminary plat application for a 527-lot single-family residential subdivision”⁴ The *Preliminary Plat Application* does not include the commercial center, multi-residential or affordable housing components.

An integral consideration in the context of the proposed subdivision is the method and manner of land and home ownership. The *Project Narrative* includes the following description of the “Single-Family Community”:

Sun is proposing the development of 527 units of market-rate, single-family manufactured homes. The precise location of the Single-Family Community is depicted on Sheet C004 of the Site Plan Set and is generally described as the east/central area of the Property. Residents will access the Single-Family Community primarily from SR-903, but a

⁴ Kittitas County Hospital District specifically incorporate their comments set forth in response to the initial Notice of Application as filed on June 26, 2023. Also incorporated are the supplemental letters and materials provided in conjunction with the earlier written comments as well as information provided through meetings and correspondence with the City of Cle Elum.

secondary entry will be located off Bullfrog Road west of the City's proposed recreation center that will be located on Kittitas County Tax Parcel No. 11850.

Homes in the Single-Family Community will be purchased by residents and will be placed on individual lots owned by Sun and leased to the homeowner. Sun's application for preliminary subdivision will divide the Single-Family Community tract depicted on Sheet C004 of the Site Plan Set into individual, leasable lots. The lots will be no smaller than 5000 square feet, with a minimum width of forty (40) feet and a minimum depth of seventy-five (75) feet, and shall otherwise be in the general locations and configurations depicted on Sheet C006 of the Site Plan Set.

Finally, the Single-Family Community will be served by a centrally located amenity center for the residents' exclusive use and enjoyment (the "Amenity Center"). The Amenity Center will include a clubhouse intended for use by residents as private gathering space for events and parties, in addition to a sales office, indoor workout facility, and bathrooms. Sun is proposing development of a pool, patio, sports courts, playground, and dog park for the Amenity Center.

*Project Narrative at 6.*⁵ Sun Communities elaborated on the private development concept as follows:

The Single-Family Community will offer private ownership of manufactured homes cited on lots rented from Sun. Each home will be located on a legal lot of record owned by Sun. The Single-Family Community will include several resort-style amenities, such as a clubhouse with meeting place and workout facilities, a pool and patio deck, sports courts, a dog park, playground, and a trail network, all of which will be owned, maintained and managed by Sun and will be made available for the use and enjoyment of the residents of the Single-Family Community.

Project Narrative at 4. While lots will be created, they will never be owned by homeowners. The bifurcation of land and separate home ownership will have a direct and adverse impact on property

⁵ The *Project Narrative* description is inconsistent with proposed development standards – SUB 23-3 Ex 3B Development Standards at page 12. Sun Communities actually proposes a minimum lot size of 4500 square feet, with minimum width of forty-five (45) feet and a minimum depth of one hundred (100) feet.

valuation and assessment. Washington Department of Revenue, *Property Tax Assessment of Nobile and Manufactured Homes* (July 2021).⁶

The preliminary plat area will be on privately owned land owned solely by Sun Communities and will be served by a private road interior network. It is a manufactured home park in all respects. The property will not be open to the public and access may be limited or controlled by the developer. Homeowners will never own the land on which manufactured units will be placed.

As a final beginning point, manufactured home parks are not an allowed land use in the City of Cle Elum. The preliminary plat is a structure to circumvent otherwise prohibited land uses. Substance should prevail over form.

C. Environment Review Fails to Adequately, Completely and Accurately Disclose, Assess and Mitigate Adverse Impacts of the Development on Kittitas County Hospital Districts.

Kittitas County Hospital Districts have previously provided detailed comment and data in the context of environmental review regarding impacts and revenue considerations related to the proposed land use development. Sun Communities proposed development concept severs land ownership from home ownership. This severance will have direct and adverse impact on property values and assessments which is the primary funding source for Kittitas County Hospital Districts. In fact, both the City and Sun Communities have ignored any detailed evaluation of impacts to revenue sources that are critical to provision of emergency medical response services to the community.

Sun Communities has provided no factual data or analysis of anticipated fee title land values, manufactured home assessed values, occupancy rates, or other substantive or empirical data or analysis bearing on assessed land values. Sun Communities sole condition related to impacts on Kittitas County Hospital Districts is as follows:

83. Developers shall comply with the requirements of that certain mitigation plan attached hereto as Exhibit C (the

⁶ If a manufactured home is affixed to land that is owned by the homeowner, the homeowner may apply to the Department of Revenue to have the title to the manufactured home eliminated. RCW 65.20.040. Upon approval of an application for title elimination, the county real property records shall be amended so that the manufactured home is then treated as real property as if it were a site-built structure. RCW 65.20.050. This results in the land and manufactured home being assessed based upon the integrated real property valuation. "Some county assessors refer to manufactured homes as personal property for tracking purposes, especially in the case of manufactured homes located in manufactured home parks where the space is leased and the land is owned by someone else." WSDOR *Property Tax Assessment of Mobile and Manufactured Homes* (July 2021). WSDOR makes the following observation:

Manufactured homes are best valued when compared to other manufactured homes that have sold. *However, a manufactured home where the owner also owns the land is less comparable to a manufactured home on a leased space in a manufactured home park.*

Id. (Italics added). The bifurcation of land and home value will most likely result in a decrease in the aggregate value of a parcel under which title elimination has been approved for the property and improvements.

“Hospital District Impact Mitigation Plan”). Developer and the City agree that the Hospital District Impact Mitigation Plan approximately mitigates for those impacts to the Hospital District identified by the FSEIS and the Addendum thereto an equitably apportioned Developer’s financial responsibility for those impacts.

SUB 23-3 Exhibit 7A Condition 83. There is no Exhibit C. The *SEPA Addendum* is further based upon the following flawed analytic foundation:

For purposes of analysis, it was generally assumed that staffing needs would increase *in direct proportion with population increases* using current ratios of staff-to-population.

SEPA Addendum 3.7.2. Impacts on both service and finances is not a lineal function of population increases. See Olander letter dated June 22, 2023. Kittitas County Hospital Districts also disagree with the RV Proxy Population as well as assumed staffing levels based on 2020 data.

As previously discussed, Kittitas County Hospital Districts derive revenue from two primary sources: (1) tax revenue from statutorily authorized levies; and (2) patient and service fees. Tax revenues and levy proceeds cover over 50% of the District’s operating costs.⁷ The proposed change from traditional single-family residential ownership to a manufactured home park will directly and adversely impact tax revenues.

The severance of fee title interest from homeownership will significantly depress assessed values for property and manufactured home improvements within the manufactured home park. Kittitas County Hospital Districts estimates the reduction to the combined hospital and EMS levy from 2023 to 2030 due to the reduced value of these single-family homes as proposed by Sun Communities is \$3,680,325.00. The loss will be even greater for the severed ownership structure. And there will be no corresponding reduction in service requirements. The effect is that other property owners within the community will be forced to subsidize emergency medical services for the resort community or there will be a significant deterioration in the level of service available to the community as a whole.

⁷ See letter from Scott Olander, Chief Financial Officer for Kittitas County Hospital Districts. Olander’s comments were supported by specific and substantive disclosures with respect to revenues and resources available to the district. Each year, the District responds to approximately 1600 calls. The number of calls will dramatically increase in a rapid fashion with the Sun Communities Development. Based upon District statics, only half of the calls will result in income to the District because there is payment only for “transports”. As a result of these short falls, low levy proceeds are needed to fund an increasing percentage of EMG operations because net revenue from operations does not keep pace with expense increases. Tax levy revenues are fixed by law based on assessed property valuations. EMS levies are subject to the 1% annual levy lid limit (sometimes known as the 101% limit) under RCW 84.55.010.

D. Compliance With Subdivision Development Standards (CEMC 16.12A.060).

Kittitas County Hospital Districts primary concerns regarding the proposed preliminary plat application relate to privatization of the resort community and reduction or elimination of road and development standards. Sun Communities states that "...[t]he preliminary subdivision of the Single-Family Residential Parcel will comply with all development standards as described in CEMC 16.12A.060(A)-(B), ..." *Project Narrative at 68*. This statement is incorrect. The fact is that the preliminary plat application does not comply with applicable development standards for preliminary plats. Sun Communities proposes private streets utilizing noncompliant road sections, no sidewalks, cul-de-sacs, and unauthorized grades.

1. Preliminary plat proposal for "private streets" is contrary to subdivision standards (CEMC 16.12A.060(c)) and 2002 Development Agreement. Sun Communities proposes that all internal roads for the residential subdivision shall be "private roads" rather than "public roads". This proposal is in direct conflict with CEMC 16.12A.060(C)'s which requires that "...all subdivisions *shall be served by public streets.*" Sun Communities acknowledges this conflict.

Sun will not comply with CEMC 16.12A.060(C)'s requirement that the subdivided property be served by public streets (because streets within the Project are designed to be privately owned and maintained), but the remaining standards CEMC 16.12A.060(C) will be complied *except to the extent that those standards diverge from the proposed Development Standards.*

Narrative Description – 68. CEMC 16.12A.060(a)(10) further provides that "...[a]ll lots *shall abut* on a dedicated and improved public street...." None of the lots within the preliminary plat comply with this requirement.

City made a policy decision that subdivisions were to be served by public streets. The purpose of the subdivision ordinance is set forth as follows:

The purpose of this chapter is to promote the realization of the City's comprehensive plan, *to provide reasonable requirements for public streets, community facilities and other public areas; to provide for the health, safety and general welfare of the residents of the City; and to establish development standards and uniform procedures for plats, subdivisions, resubdivisions and dedications of land.*

CEMC 16.04.010. (Italics added). The public health and safety considerations specifically assure consistent standards for provision of emergency services over roadways that allow efficient and timely emergency responses. Reduction or elimination of consistent community development standards will adversely impact response times and abilities to address emergencies by emergency service providers.

A subdivision development standard can only be changed through a variance application. CEMC 16.12A.060(A)(9). Sun Communities has not submitted an application for a variance from subdivision development standards. Sun Communities cannot meet the standards for a variance as set forth in CEMC 17.85.040 which provides, as follows:

The review authority may grant a variance *only in those cases* where findings are made that all of the following conditions and criteria are met:

- A. *There are unusual, exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other property in the same vicinity or district. Such conditions may include topography, unique natural conditions, surroundings and size or unusual shape of the lot.*
- B. *The unusual circumstances or conditions and the strict application of this title cause the loss of a substantial property right possessed by the owners of other properties in the same vicinity or district.*
- C. *The granting of a variance to remedy the hardship will not be detrimental to the public welfare or injurious to properties in the vicinity or district in which the property is located and the variance will be in general keeping with the purpose and intent of this title.*
- D. *The variance approved will be for the least amount that will make possible the legal use of the land, building or structure and will not provide a special privilege inconsistent with the limitations upon use of other properties in the vicinity or use district.*
- E. *The variance will not adversely affect the realization of the comprehensive plan.*
- F. *The need for the variance was not caused by the actions of the applicant or property owner.*

CEMC 17.85.040. Sun Communities provides no application or factual foundation for grant of a variance with respect to requirement for public roads within the proposed subdivision.

Sun Communities also ignores the *2002 Development Agreement* which established specific conditions and road development standards within the authorized residential communities. The applicable 2002 “Development Standards” were set forth in *Attachment 2 – Condition 16*, which provides, in pertinent part at follows:

16. *In general all streets and alleys in the UGA shall be public.* No gates, walls or other access restrictions on these public streets and alleys shall be permitted, provided that nothing in this Condition shall be interpreted to prohibit construction of a complex of residential units on a single legal lot, such as an apartment complex, with private drives, parking, circulation, recreational facilities, or other amenities available only to the residents of that particular residential development and provided further that, the City may approve some private streets or access restrictions it deems appropriate for senior residential housing that do not interfere with the overall subarea plan objective to create a single, integrated community.

(Italics added). The 2002 Development Agreement design objectives for the UGA roadway system center were premised upon safety, *fire and emergency vehicle access*, traffic circulation, bicycle and pedestrian circulation, and provisions for snow storage and removal. *2002 Development Agreement Attachment 2 (Development Standards) – Section 3 (Roads and Non-Motorized Facilities) – page 7*. Sun Communities has neither identified or established a factual or legal basis for private roads and a closed community.

2. Sun Communities Preliminary Plat Application does not Comply With Subdivision Development Standards Set Forth in CEMC 16.12A.060(C). CEMC sets forth specific development standards with the instruction that “[a]ll subdivisions shall conform to ...” the design requirements set forth in the subdivision ordinance. In addition to ignoring the requirement for public roadways, the preliminary plat application violates a number of additional specific development standards applicable to all subdivisions.

(a) Sun Communities proposed preliminary plat fails to comply with roadway and right-of-way width requirements. CEMC 16.12A.060(C)(9) sets forth specific standards with regard to right-of-way width, sidewalks, curb and gutters, design speed, and cul-de-sacs. The applicable design requirements are as follows:

Design Requirement	Arterial	Access (Cul-de-sacs)	Local Residential Access (Cul-de- sacs)	Alley
Pavement width [§]	52'	36'	32'	16'
Right-of-way width	80'	60'	58'	20'
Travel lanes	2, 12' travel 1, 12' median or turn lane [§]	2, 10' travel	2, 10' travel	2, 8' travel
Parking lane width [§]	8' both sides	8' both sides	6' both sides	None
Sidewalks [§]	7' both sides, 12' in commercial areas	6' both sides, 12' in commercial areas	6' both sides	None
Curb and gutter	Yes	Yes	Yes	None
Bike lane	Optional, unless specified in comprehensive plan	None	None	None
Design speed	35	25	20	20
Cul-de-sac length		400' max.	400' max.	
Cul-de-sac right-of-way radius		50'	50'	
Cul-de-sac paved radius		45'	45'	

Sun Communities' proposed plat does not meet right-of-way standards. The proposed roadways do not comply with subdivision requirements for right-of-way width for "local residential access." (58 feet) sidewalks (6 feet both sides); curb and gutter; and cul-de-sac length. Sun Communities' preliminary plat fails to meet applicable standards.

Sun Communities identifies "Access Easement" locations within the *Preliminary Plat Drawings*. SUB 23-3 Exhibit 5B. Easement widths are as follows:

Access Width	Road Segment
• 27' Access	Road A (from Bullfrog Road) Roads A1, A2, A3, A4, and A5. Road B
• 28.5 Access	Road A6
• 30.0' Access	Road A1 (Portion)

SUB 23-3 EX. 5B. None of the private easements meet right-of-way standards. Sun Communities does not propose curb, gutter or sidewalks for any streets.

(b) **Sun Communities proposed preliminary plat does not meet secondary access requirements of CEMC 16.12A.060(A)(12).** Sun Communities provides a single access point (Road F) to Lots 1-57. *Preliminary Plat pp. 14 of 32.* CEMC 16.12A.060(A)(12) specifically requires as follows:

12. *Secondary access required.* Subdivisions containing 40 or more lots shall contain at least two ingress-egress routes which are interconnected. Subdivisions containing fewer than 40 lots shall be subject to review of the egress routes. When determined necessary by the city public works director more than one egress route shall be required.

Sun Communities access to Lots 1-57 over a single road (Road F) does not meet secondary access requirements. The preliminary plat also fails to meet International Fire Code (IFC) Section D102.1, D103.4, D107, and D107.2.

(c) **Sun Communities preliminary plat violates cul-de-sac standards set forth in CEMC 16.12A.060(C)(2).** Subdivision ordinance development standards prohibits any cul-de-sac in excess of 400 feet in length. CEMC 16.12A.060(C)(2) provides as follows:

2. *Cul-de-sacs.* Dead end streets or cul-de-sacs are not permitted unless terrain and parcel conditions result in greater impacts than connected streets. Where permitted, dead end streets shall be constructed with a turn around located within the right-of-way or in a temporary easement. *In no case shall a cul-de-sac exceed 400 feet in length. Cul-de-sacs shall be located within a minimum right-of-way radius of 50 feet and shall have a minimum paved radius of forty-five feet;"*

Both ends of Road F exceed the maximum 400 feet in length limitation. No dimensions are provided for cul-de-sac turnaround areas or design. Failure to meet these standards adversely impacts emergency services.

(d) **Sun Communities proposed street grades exceed development standards.** Sun Communities proposes development standards that allow grades of up to twelve percent (12%). SUB 23-3 Exhibit 3B. That grade exceeds applicable subdivision development standards.

5. Street grades shall conform in general to the natural terrain *and shall not be less than one-half of one percent and generally not greater than 11 percent.* Short sections of steeper grades are permitted or approved by the city engineers will not result in hazardous traffic conditions.

CEMC 16.12A.060(C)(5). The proposed Development Standard of 12% maximum grade exceed subdivision ordinance standards.

(e) **Vehicular access to single-family residential lots is limited to alley access.** Sun Communities provides access to single-family residential lots only from private roadways. CEMC 16.12A.060(C)(11) requires, however, as follows:

11. Vehicular access to single-family residential lots *shall be limited to the alley* unless otherwise approved through an alternative access plan as part of an approved subdivision by the city;

Sun Communities has not provided a specific proposal with respect to alternative access plan that specifically identifies the purpose and scope of off-site parking.

3. Sun Communities Proposed Preliminary Plat Does Not Comply With Residential Zoning Requirements of CEMC Ch. 17.16. City of Cle Elum has established development standards for residential districts. CEMC Ch. 17.16 R-Residential District. Sun Communities preliminary plat proposal is inconsistent with site area, lot coverage and set-back standards applicable to single-family residential districts.

- CEMC 17.16.070 establishes a minimum lot size of 5,000 square feet per unit for one-family dwellings. Sun Communities has proposed minimum lot site area of 4,500 square feet per unit for one-family dwellings.
- CEMC 17.16.090 establishes a maximum lot area coverage of 40% of the lot area. CEMC 17.16.090. Sun Communities has proposed a maximum lot coverage of 45% of the lot area. The proposed subdivision also exceeds the permitted average density for single-family residences within a PMU District. CEMC 17.45.060(B)(8) (“average density for single-family to be four dwelling units per acre....”).

4. Sun Communities development structure prohibits individual lot ownership. The preliminary plat is proposed to meet the requirement of CEMC 17.16.010(A) which allows only “one single-family dwelling per legal lot of record (including manufactured homes)”. As the City will recall, this was an impediment and problem with the first application submitted by Sun Communities. The developer is now playing a shell game in order to bridge two conflicting ordinance provisions.

Sun Communities has coupled the preliminary plat application as a development component within the Planned Mixed Use District (PMU) provisions of CEMC Ch. 17.45. The development standards set forth in CEMC 17.45.060(B) “...apply to all development proposals within the PMU District unless an adopted subarea plan or annexation implementation agreement specifies different standards,” CEMC 17.45.060(B). Included in the specific and mandatory development standards within the PMU District is the following:

1. All property in *one ownership* shall be included in a PMU application;

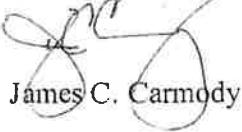
4. *The tract or tracts of land included in a proposed mixed use final plan in a PMU District must be in one ownership or control, or be the subject of a joint application by the owners of all property included;*

CEMC 17.45.060(B)(1) and (4). Sun Communities holds a single ownership of all lots to be created by the preliminary plat. The effect is to create a manufactured home park. Manufactured home parks are not allowed in the community.

CONCLUSION

Kittitas County Hospital Districts appreciate the opportunity to comment upon the proposed preliminary plat application. These comments are not all inclusive and Kittitas County Hospital Districts reserve the right to provide further additional comment and testimony with respect to the land use application and environmental review processes.

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



James C. Carmody

cc: Client

Virgil Amick

From: Colleda Monick
Sent: Monday, August 21, 2023 2:56 PM
To: Virgil Amick
Subject: FW: Sun 47 North

Please be sure to log this as a comment.

Thanks,
Colleda Monick



From: Bill Hutton <huttonb03@gmail.com>
Sent: Tuesday, August 1, 2023 11:38 AM
To: Planning <planning@cleelum.gov>
Subject: Sun 47 North

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Relating to the above listed subject; I am totally against the approval of this project.

Our existing infrastructure is already strained past its capabilities, especially during summer months and tourist season. Police cannot at times keep up with calls for service, especially on weekends. At this time, one incident in the Salmon LA Sac area pulls resources out of our communities leaving our cities poorly protected.

To add approximately 30% population in a short period of time would strain these services further...it taking much longer to upgrade services than to add population.

We, as a family, already shop in Ellensburg for groceries as Safeway in Cle Elum is far too busy, dirty, and more expensive.

Bottom line and to the point...I vote no.

Please pay attention to what your constituents are saying

Respectfully,

Bill Hutton

PLEASE STOP



47° NORTH

IT WILL BE
DEVESTATING IN
EVERY WAY.

DO THE RIGHT THING
FOR THIS SPECIAL
PLACE WE CALL HOME

PLEASE JUST SAY NO

Virgil Amick

From: Paul Miller <millerjpam@hotmail.com>
Sent: Monday, August 21, 2023 4:51 PM
To: Planning
Subject: Sun 47 North



[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

To City of Cle Elum Planning Official:

My wife and I are writing to express our strong opposition to the N 47th Latitude project by Sun Communities Inc. This project would create a massive residential and recreation development on the former Bullfrog UGA site, which is currently zoned for rural residential and agricultural uses. I believe that this project would have significant negative impacts on the environment, the surrounding community, and the character of Cle Elum.

First, the project would destroy the natural beauty and ecological value of the site, which is home to diverse wildlife and vegetation. The project would clear-cut over 300 acres of forest, fill in wetlands, and alter natural drainage patterns of the area. The project would also generate substantial greenhouse gas emissions, water consumption, and waste production, which would contribute to climate change and pollution. The project's claim of being carbon natural by 2035 and net zero by 2045 is vague and unsubstantiated, and does not justify the irreversible damage that would be done to the environment.

Second, the project would disrupt the existing community and infringe on the rights of the neighboring property owners. The project would also introduce over 2,000 new residents and visitors to the area, creating traffic congestion, noise, light pollution, and safety hazards. Utilization of manufactured housing is contrary to City Code and thus does not benefit the local companies. The project would not provide any meaningful benefits for existing residents, such as schools, or parks. The project would also not provide the city of sufficient tax revenue to cover the additional costs this project would bring.

Third, the project would undermine the identity and heritage of Cle Elum as a historic and authentic mountain town. The project would create a generic and artificial resort that does not reflect or respect the culture, history, or values of Cle Elum. The project would also compete with and detract from the existing businesses and attractions in Cle Elum, such as downtown shops, restaurants, museums, and festivals. The project would not enhance or complement the tourism industry in Cle Elum, but rather degrade it. The project would also strain existing city, medical, police and fire services.

For these reasons, I urge you to reject the N 47th Latitude project and uphold the vision and goals of Cle Elum as a sustainable, livable, and unique community.

Thank you for your consideration and service.

Paul and Mary Miller
61 Carbide Ct,
Cle Elum, WA

Virgil Amick



From: thomas uren <tom.uren11@gmail.com>
Sent: Monday, August 21, 2023 1:08 PM
To: Planning
Cc: Jay McGowan; John Glondo; Ken Ratliff; Beth Williams; Siw Bay-Hansen; Steven Harper; Matthew Lundh; Sarah Lackey
Subject: 47 Degree North Preliminary Plat Application - Public Comment

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Thank you for the opportunity to provide comments on the 47 Degrees North Preliminary Plat Subdivision Application.

Comments on Code - Conflicts with city code (CMC)

Preliminary Plats and Subdivisions are regulated by Cle Elum Municipal Code Title 16 - Subdivisions (specifically CMC 16.12A). A review of Sun's proposal shows that it is in conflict with numerous provisions of the city's code and will require a number of important amendments or variances in order to be approved. Just a few examples:

- CMC 16.12A.060.A.10 requires that all lots abut a public street. Sun's proposal is all private roads, and no lots abut a public street for access.
- CMC 16.12A.060.D clearly in plain language requires that all streets, sewer, water and utilities in a subdivision be built by the developer to city standards and dedicated to and owned by the city. Sun proposes that all of the roads and utilities be private, owned and operated by Sun Communities.
- CMC 16.12A.060.C.1-12 lays out the requirements and standards for streets in a new subdivision. Based on Sun's application, none of the internal plat roads appear to meet City standards. Sun's proposal is substandard in regard to ROW width, pavement width, requirement for curb, gutter and sidewalks, etc.
- CMC 16.12A.060.E-I lays out the detailed process the developer must go through for the city to accept finished roads and utilities for ownership and allow issuance of building permits and occupancy. Sun proposes to eliminate all of these steps.
- CMC 16.12A.050 requires that the Subdivision make appropriate provisions for public health, safety and welfare, and that there be no drop in level of service for public services below established limits.
 - Sun has not made adequate provision for public health, safety and welfare and there WILL be a drop in level of service for critical public services if the Subdivision is approved as proposed. Sun proposes to pay "cost shares" and proceed with their development with no concurrency requirement. Sun's proposed payment amounts are wholly inadequate to pay for required infrastructure (see my previous comments on the Master Site Plan), but even assuming that fair payment amounts could be negotiated it is not possible for the city, county, state or UKC service

providers to expand physical infrastructure or service systems at a pace to keep up with Sun's development plan. Without demonstrably fair payments and a strict concurrency plan, Level of Service will drop, negatively affecting the health, safety and welfare of the public. On this basis alone the Subdivision as currently proposed cannot be approved.

- CMC16.12A.050 requires that the proposed subdivision be consistent with the City's comprehensive plan and with the underlying PMU zoning. Numerous previous comments on the Master Site Plan and Development Agreement detail the many inconsistencies between Sun's proposal and the City's comp plan and zoning. On this basis the Subdivision as currently proposed cannot be approved.

I respectfully request that the City's staff report include a complete review of consistency with CMC Title 16, what code changes are required to allow the proposal to be approved, or the interpretations that are made to determine that CMC complies. To the extent the proposal fails to meet any requirements of CMC the subdivision should be rejected.

Comments on Manufactured Home Communities as a unique land use in CMC

There is no reference to MH "parks" in the CMC. A MH park is a unique land use (individually owned structures on leased land, private roads and utilities) which requires unique specific code provisions. Virtually every jurisdiction in WA state that allows MH Communities has separate codes that regulate and administer them, but not Cle Elum. Because Sun is proposing this unique use, which is not specifically provided for in CMC, the project should have proceeded by first submitting and securing approval for a comprehensive plan amendment, followed by changes to the city's zoning and development codes to allow MH home parks, followed by an application for entitlement/construction permits. Instead, Sun chooses to submit directly for entitlement and construction permits using stretched or inappropriate "interpretations" of the current CMC. And so, Sun finds itself in conflict with various parts of the CMC which do not allow it to be approved.

But it goes deeper than that. CMC Titles 16 and 17 are just the tip of the iceberg. There are many other sections/provisions of the city code (all 18 Titles) that have evolved over time to administer and regulate the addition of new subdivisions, residences, and citizens. Animals. business licenses, taxes, public peace, public utilities, etc. etc. Sun proposes to operate 47 Degrees North as sole proprietor calling all the shots of this giant "city within a city". What other conflicts will arise between Sun's desired operating goals and City code? Surely there will be many, the devil will be in the details. How will these inevitable conflicts be resolved in the coming years if the project is approved? Surely any future City code enforcement that conflicts with Sun's business and profit goals will result in legal action or the threat of legal action. The project will be a probable continuing liability for the city in perpetuity.

I respectfully suggest that the city require that Sun specify EXACTLY how they intend to operate the community, in writing, and the city should require a comprehensive review of how this operating plan complies with CMC, and/or what changes to code may be required to protect the city's interests.

Long Range Considerations

Sun proposes a 527 lot subdivision which will create permanent legal building lots. Sun proposes to hold all the lots in their ownership and lease them to individual manufactured homeowners. But nothing in CMC, or in the proposed development agreement, would prohibit Sun, or its successors, from selling the land under the homes at some future time when that's advantageous for Sun's business operations. The 47 Degree North community will be a business asset of Sun Communities, no more no less, one of many hundreds of its assets in three countries. Sun will surely manage this Cle Elum asset to maximize revenue, and this means it's virtually certain that a sale of the land under this community will occur sometime during its life cycle, 15, 20, 30 years down the road.

By using the city's subdivision process (instead of creating a separate Manufactured home Park zone) the possibility is opened of Sun selling lots to homeowners (instead of a sale of the entire community to another community operator), essentially turning it back into a normal city subdivision. While this may seem like a potentially positive outcome, this "transformed subdivision" would have nonstandard, or even substandard, roads and utilities (see point 1 above) and it would have heavily depreciated manufactured homes with very, very low tax obligations meaning an insufficient source of city revenue to correct deficiencies that the community operator leaves the city to inherit. The rest of the city would then be stuck with a mess that they would need to subsidize.

I respectfully suggest that the city have legal counsel do a comprehensive review of all "what ifs" of using the subdivision process, so it completely understands the total sum of potential liabilities if it approves this project. I also respectfully suggest that the city not look at this project through the rose-colored glasses of the developer's marketing team, but rather look at it from the realistic perspective of all the things that could go wrong, understand all of the potential liabilities (that the developer would be happy for the city to accept) and protect itself and future Cle Elum citizens.

This concludes my comments on this project. Thank you for the opportunity to comment.

--
Tom Uren
103 N E Street

PO Box 908
Roslyn WA 98941
206-947-2566



KITTITAS COUNTY DEPARTMENT OF PUBLIC WORKS

Mark R. Cook, PE Director

August 18, 2023

City of Cle Elum
Mr. Greg Dohm, Mr. Richard Weinman, Mr. Ben Annen
Mr. Rob Omans, City Manager
119 West First Street
Cle Elum, WA



Respectfully City of Cle Elum Representatives and Mr. Omans:

Kittitas County has reviewed the environmental documents for the major modification request to the Bullfrog UGA Master Site Plan submitted by Sun Communities (47 Degrees North). Specifically, the traffic impacts associated with the preliminary plat application now before the City for consideration. Our review of the City's Transportation Element of your comprehensive plan does not appear to align with proposed developer mitigations represented in the Development Agreement and SEIS.

We understand that for the City to accept a mitigation strategy for traffic impacts based on anything other than allocation of transportation capacity - first to already approved land uses, then to Sun Communities - requires supporting policy statement(s) in the City's Transportation Element of the City's comprehensive plan (WAC 365-196-840). Evaluating your Transportation Element - we see no such policy statement. The process of affording capacity on a "first come first served basis", as advanced in the SEIS and Development Agreement, appears inconsistent with the City's Transportation Element of your comprehensive plan. We urge the City to amend your Transportation Element adopting the policy of "first come first served" as proposed in the SEIS and Development Agreement proposed by Sun Communities. This will eliminate the apparent conflict and reduce the probability of successful Land Use Process Appeal by appellant(s).

It is probable that by accepting the proposed "first come first served" allocation of existing City transportation capacity as is currently proposed in the SEIS and Development Agreement, the City may be significantly understating the pro-rata contribution necessary by the applicant - maintaining adopted City levels of service. Said another way, the city is likely subsidizing developer traffic impacts.

Sincerely,

Mark R. Cook
Director

C: Kittitas County Board of County Commissioners
Joshua Fredrickson, PE, County Engineer