SULTAN CITY COUNCIL

AGENDA ITEM COVER SHEET

ITEM NO: Twin River Ranch Estates
Appeal & Public Meeting and Closed Record Hearing

DATE: February 8, 2007

SUBJECT: APPEAL/CLOSED RECORD HEARING
Hearing Examiner Recommendation to Deny the Preliminary Planned Unit Development Subdivision and Shoreline Management Act Substantial Development Permit for the Twin Rivers Ranch Estates File Number No. RAFPPUD05-006 and SMP06-001 (Appeal Request, Hearing Examiner Recommendation, Staff Report, and Plat Map attached).

CONTACT PERSON: Rick Cisar, Director of Community Developement

SUMMARY: The Hearing Examiner held a Consolidated Open Record Hearing on November 30, 2006 for (1) the Preliminary Planned Unit Development Subdivision (Twin Rivers Ranch Estates) File Number RAFPPUD05-006 and (2) a Shoreline Management Act Substantial Development Permit for the subdivision File Number SMP06-001. Based on the Findings of Fact, Principles of Law, Discusson and Conclusions, the testimony and evidence submitted at the Hearing, the Hearing Examiner's site visit, the Hearing Examiner RECOMMENDS DENIAL of the Twin Rivers Ranch Estates Planned Unit Development, that the Twin Rivers Ranch Estates preliminary subdivision be RETURNED TO THE APPLICANT FOR MODIFICATION as necessary to meet approval criteria and to demonstrate compliance with Chapter 16.108 SMC, Concurrency Management System, regarding police services and parks and recreation, and the Substantial Development Permit (SDP) be DENIED WITHOUT PREJUDICE.

The Hearing Examiner report includes the following conclusion number 2 on page 25 which support his recommendation.

In summary, Twin Rivers Ranch Estates still does not meet a fair reading of two of the PUD locational criteria, fails to meet the PUD usable open space requirement, and fails to meet two SCSMP Regulations for Recreational uses and three Public Access Element policies. Therefore, the PUD and SDP cannot be approved. Without the PUD, the preliminary subdivision cannot be approved. But a subdivision which did not rely upon the PUD provisions could be approved. And such a subdivision could be designed to comply with SCSMP requirements for approval of a SDP. Further, a condition could be crafted to

assure compliance with the requirements of the Concurrency Management System. Therefore, outright denial of those elements of the application other than the PUD would be inappropriate.

This conclusion identifies the following issues;

Issue 1. Two locational criteria for PUD's are not met. Conclusions 4 -8, pages 26 -42.

One of the PUD-SF locational criteria under challenge in this application is that relating to transit facilitation. [SMC 16.10.110(B)(2)(d)] The location criteria of SMC 16.10.110(B)(2) are designed (for the most part) to help limit the places within the City which are eligible for PUD's. Had the Council intended that PUD's could be located anywhere in the City, it would not have enacted restrictive location criteria. Those criteria must be given meaning. [1]

This same issue arose during the Skoglund Estates case. The Examiner's Recommendation in that case includes the following Conclusions:

18. The locational criteria of SMC 16.10.110 are mandatory: A PUD which does not meet all criteria applicable to its type of PUD can not be approved.

19. Compliance with the transit facilitation criterion of SMC 16.10.110(B)(2)(d) is mandatory for single-family residential PUD's. Skoglund Estates is a single-family residential PUD proposal.

20. The transit facilitation criterion of SMC 16.10.110(B)(2)(d) is subjective in nature. It does not establish a measurable "bright line" for what constitutes "sufficient proximity" to "facilitate transit access".

21. What is "sufficient proximity" to "facilitate transit access"? Skoglund Estates is at least 1.5 miles from the nearest transit line (using existing and/or proposed streets and pedestrian paths – not as the crow flies). Is that "sufficient proximity"?

Two aspects of transit access must be considered. First is pedestrian access to a transit stop. Common sense dictates that Americans will not walk 1.5 miles through the rain to reach a bus stop – not if they have any other choice. A PUD located 1.5 miles from the nearest transit line does not have "sufficient proximity" to "facilitate transit access" for pedestrians.

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1 Locational criterion (B)(2)(f) offers an instructive contrast. It was expressly written so as to not limit potential PUD sites: So long as a site has access to public services equal to that of a standard development, the criterion is met. The language of Subsection (B)(2)(f) clearly demonstrates a difference of intent on the part of the Council. It wrote that criterion to be non-limiting while all the others in Subsection (B)(2) are intended to limit.

The second aspect is vehicular travel to a park-and-ride location. If the standard is read to include this aspect, it becomes totally meaningless and would not provide locational discrimination for any site in Sultan: One can drive from anywhere in Sultan to a transit park-and-ride lot. Thus, every site in Sultan would meet the criterion. But if the Council intended that every site in Sultan would be eligible for a single-family PUD, why would it even establish the criterion? One must conclude that the Council did not intend for every site in Sultan to be eligible for a single-family PUD and that this criterion was established to filter out unacceptable sites.

22. A site which is 1.5 miles from the nearest transit line does not have "sufficient proximity" to "facilitate transit access" and does not meet the criterion of SMC 16.10.110(B)(2)(d). No PUD approval may be granted for such a site. [2]

Summary

23. The Skoglund Estates site does not meet the mandatory locational criterion of SMC 16.10.110(B)(2)(d). No condition can be imposed which would alleviate the problem: The site can not be physically moved closer to the transit facilities; O'Brien is in no position to direct Community Transit to establish a bus line on Sultan Basin Road. Therefore, Skoglund Estates may not be approved as a single-family PUD; that portion of the application must be denied.

5. The Council disagreed with the portion of the Examiner's Skoglund Estates Recommendation quoted above. Basically, the Council concluded that being located one mile from the nearest transit route or park and ride lot met the code criterion even where no pedestrian walkway or sidewalk existed between the development site and the transit facilities. (Official notice, Resolution No. 06-09A)

Unfortunately, the Council's Skoglund Estates Resolution offers little explanatory rationale for its decision. (See Conclusion 14, ¶ 2, below.) And the distance it cites is incorrect. Therefore, the Skoglund Estates Resolution cannot easily be applied to other applications, nor is it legally binding in any event.

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2 (This footnote was in the *Skoglund Estates* Recommendation and is simply repeated here to make the quote complete.) This is the third PUD application considered since the Council adopted new PUD standards and procedures in 2002. The first was *Stratford Place* (PUD04-001, Recommendation issued February 1, 2005). The nearest transit route to *Stratford Place* was on High Street, approximately 200 feet from the site. Such close proximity unquestionably met the transit facilitation criterion.

The second was *Timber Ridge Estates* (FPPUD04-002, Recommendation Revised after Reconsideration issued May 23, 2005), approved by the Council in mid-2005 (Resolution No. 05-17). *Timber Ridge* is located on the east side of Sultan Basin Road approximately one-quarter mile north of SR 2. Although the transit facilitation criterion was not an issue in that application, the Examiner would have concluded that one-quarter mile was close enough to meet the criterion.

6. In a Recommendation dated November 17, 2006, the Examiner considered the Council's Skoglund Estates decision when considering the remanded Vodnick Lane application, RAFPPUD05-004, a single family residential PUD subdivision located less than three-fifths of a mile north of SR 2 on the Sultan Basin Road. The Examiner concluded as follows:

The location of Vodnick Lane presents a somewhat similar set of circumstances to the Skoglund Estates site, but with a few important differences. Vodnick Lane is about three-fifths of a mile from the nearest transit stop, rather than over a mile. The walking route to that transit stop will be along the now-under-construction pedestrian pathway along the shoulder of Sultan Basin Road. This pedestrian path is a major changed circumstance since the first hearing. The Examiner is willing to concede that a site located three-fifths of a mile from a transit stop, connected to the transit stop by a pedestrian pathway, minimally meets the "sufficient proximity" to "facilitate transit access" test. Vodnick Lane now meets the criterion of SMC 16.10.110(B)(2)(d).

(Vodnick Lane Recommendation, November 17, 2006, Conclusion 7)

7. The location of Twin Rivers Ranch Estates presents a slightly different set of circumstances than either the Skoglund Estates or Vodnick Lane sites. Twin Rivers Ranch Estates is probably about one-half mile from the nearest transit stop. Were distance alone the determining factor, the site would meet the criterion given the Council's interpretation. However, the walking route to that transit stop is along the presently unimproved shoulder of an industrial road of substandard width and condition after which one must cross a bridge on SR 2 which lacks pedestrian facilities. Twin Rivers Ranch Estates does not "facilitate transit access" and does not meet the criterion of SMC 16.10.110(B)(2)(d) given current conditions.

Ramirez's offer to construct a five foot wide paved pathway along Foundry Road will provide a safe access from the subdivision to Cemetery Road. The route from that point on along SR 2 to the transit stop lacks safe walking conditions. Without a safe means of accessing the transit facilities, one simply cannot conclude that the proposed PUD facilitates transit usage. To so conclude would be tantamount to encouraging people to walk along SR 2, which the evidence in this hearing record shows to be an unsafe practice.

The Examiner recognizes that this conclusion differs from that reached by the Examiner in the remanded Vodnick Lane where transit users will also have to walk along SR 2 to reach the transit stop. More evidence of the poor walking conditions along SR 2 exists in the present record: No pedestrian path exists along SR 2. (Exhibit 53 and testimony) That additional evidence supports a different conclusion. If it were to be argued that the Examiner should have taken

official notice in Vodnick Lane of the obvious poor walking conditions along SR 2, then the Examiner admits to not having done so and concludes that he is not compelled to make the same error again.

8. The other PUD locational criterion under challenge in this case is compliance with SMC 16.10.110(B)(2)(c). The location criteria of SMC 16.10.110(B)(2) are designed (for the most part) to help limit the places within the City which are which are eligible for PUD's. Had the Council intended that PUD's could be located anywhere in the City, it would not have enacted restrictive location criteria. Those criteria must be given meaning.[3]

The criterion in SMC 16.10.110(B)(2)(c) contains three key elements. First, a site must be able to connect to a pedestrian and bicycle system. Second, that system must be in existence when the evaluation is performed; a proposed or potential system will not meet the "existing" restriction of the criterion. Third, the connection must be to a "circulation system," a term which is undefined in the code. DCD's Director testified during open record hearing that even an unimproved street shoulder would meet the criterion. Were that in fact the case, the criterion would be meaningless: Every site with any public street access connects to at least an unimproved shoulder. Thus, every site in the City would meet the criterion, rendering the criterion useless. The Council included the criterion to limit potential PUD sites; that purpose must be preserved in any interpretation of the criterion. The idea that an unimproved shoulder would qualify as a pedestrian and bicycle circulation system stretches the meaning of "system" beyond the breaking point.

Twin Rivers Ranch Estates does not meet the Subsection (B)(2)(c) criterion. Its sidewalks, even with the offered paved pathway along Foundry Road, will provide no direct connection to any sidewalks or established bicycle system. No PUD approval may be granted for such a site.

Issue 2. The PUD fails to meet the usable open space requirements. Conclusion 9. page 30: The usable open space does not meet the areal requirement of SMC16.10.140: 49,929 SF is less than 55,923 SF. The proposal cannot be approved until the usable open space has been increased to meet the PUD standard.

Issue 3. The development fails to meet two Shore line Management Progam regulations for Recreational uses and three Public Acecess Element Policies. Conclusion 18 (last paragraph) page 43.

Most of the regulations pertaining to roads simply are not applicable as they refer to road construction projects *per se*, not to streets within a subdivision. The

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[3] See Footnote 21, above.

location of the parking for the public shoreline access parcels does not comply with General Regulations 10 and 11: The record contains no evidence that the parking area is to be landscaped; the "path" from the parking area to the shoreline would not be particularly safe or convenient. A visitor to the proposed public park would park his/her vehicle along Skywall Drive, walk across Skywall Drive, walk along the sidewalk of the internal plat street for some 260 feet, and then along a 10 foot wide path between Proposed Lots 18 and 19 to reach Tract 998. This is not a good plan; it offers too many opportunities for park visitors to disturb the tranquility of the Twin Rivers Ranch Estates residents. This problem is not so much Ramirez's as it is a problem with the MDNS. To develop a decent public park along the shoreline of the Skykomish River, a sufficiently sized parking area would be required within or immediately adjacent to the park land. Yet to do so here would require Ramirez to drop at least two if not more of the proposed lots. One can easily imagine that the economics of the project would begin to fail at that point. Unfortunately, the MDNS mitigation measure requires a public park along the shoreline, the MDNS was not appealed, and the mitigation measure is now binding on all participants in this proceeding. That binding SEPA requirement, however, does not eliminate the need for safe and effective parking fro the required park. The proposal meets all Roads regulations except as noted above.

Conclusion 20 page 33:

The fourth review step requires consistency with the applicable Shoreline Use Element Policies. [SCSMP, p. C-3] The Shoreline Use Element Policies are contained in Section D of the SCSMP. They cover a wide range of topics. Many of the 66 policies contained in that Section simply don't apply to this type of development. However, compliance with three of the Public Access Element Policies is dubious. The design, size, and location of this proposed public access does not seem to properly reflect Policies 1 (protect private rights of adjacent owners), 3 (assure public safety in the design of public access), and 5 (the type of access should be appropriate to its location). The MDNS requirement that Tracts 997, 998, and 999 be dedicated to the City as park land has not been followed up with any planning as to how to properly develop that land for safe, effective park use.

Issue 4. The development fails to meet the concurrency LOS for Police Services. Conclusons 32 -37 pages 37-43.

32. The present LOS for police services is far below the standard established within the 2004 Comprehensive Plan. Additional residential development within the City will only serve to further lower the LOS.

33. DCD erred in concluding that Twin Rivers Ranch Estates meets the concurrency standard for police services.

34. The Police Services Agreement simply does not guarantee that the police services LOS will meet the established standard when the development occurs – or even six years later. The concept underlying the offered agreement suffers from several shortcomings. First, even if fully funded all at once, the Police Services Agreement would fund only 16% of the cost of one police officer for one year. The City cannot hire 16% of a person. Even if it could, the LOS would still be woefully below the established standard – and would fall back again after the one year of funding ended.

Second, the Police Services Agreement calls for the funds to be paid as each building permit is issued. Based on the proposed 21 new dwelling units and the total offered mitigation of $23,506.00, the City would receive $1,119.33 each time a residential building permit was issued for Twin Rivers Ranch Estates. Such a small stream of cash would not allow even 16% of a police officer to be hired.

Even if all the offered funds were paid at one time, it would take slightly more than six Twin Rivers Ranch Estates-sized developments to fund just one police officer (16% x 6 = 96%), and that one officer would not raise the police services LOS to the established standard. In fact, it would take 24 Twin Rivers Ranch Estates-sized subdivisions, all developed at essentially the same time, to raise the LOS to the established standard. But that simple equation (1 officer funded by the fees from 6 subdivisions yields 4 officers after 24 subdivisions) fails to account for the fact that those 24 Twin Rivers Ranch Estates-sized subdivisions would themselves raise the City's population by some 1,490 people (2.7 persons per household, the number stated in the Police Services Agreement), thus lowering the LOS again. In fact, all a program such as offered by Ramirez does is hold the LOS at its current level as new houses are added to the community – and then only if development occurs fast enough that the payments for fractional officers can be combined to actually hire a police officer.

This concept simply is not what the SMC requires. The Council may certainly change the SMC requirement if it wishes. But in the meantime, the code is what controls – and even if the code were changed today, that change would not apply to any subdivision application filed in a complete fashion before the change became effective.

Furthermore, such incremental funding arguably would run afoul of the RCW 82.02.090 prohibition against collecting impact fees for police services. If Chapter 16.108 SMC is read as the Examiner believes it has to be, no such conflict would exist as the chapter would not be charging an impact fee.

35. The City has no "strategy in place" to increase police staffing. The electorate defeated its latest proposed strategy. The discussion in Conclusion 5 of

Resolution Nos. 06-06 and 06-07 and Conclusion 4 of resolution No. 06-09A regarding possible additional taxes that could or might be adopted to raise revenue is a strategy, but it is not in place. However, that Council discussion (that additional tax revenues coupled with developer funds could raise the LOS to meet the standard) could be converted into a condition which could read as follows:

Prior to approval of the Final plat, a combination of developer agreements and public funds, including additional tax adoptions (such as a utility tax on cable television service, an increased real estate excise tax, and a B & O tax), other funding sources (such as potential developer loans to advance the receipt of payment of needed funds), and monies contributed by the proposed development for its impacts on the LOS, shall put in place the required public services for police concurrent with the development impacts, and provide appropriate strategies for the six years from the time of development to achieve the necessary police LOS as now established or as subsequently revised.

Such a condition would meet the requirement of SMC 16.108.060(C).

36. Approval could also be conditioned such that the police services LOS in existence at the time of final building permit inspections had to be met before approval for occupancy could be granted. Such a condition would meet the requirement of SMC 16.108.060(B).

37. Under the present circumstances, the best Concurrency solution would be to impose an "either - or" condition: Require compliance with a condition as suggested in Conclusion 35, above, or compliance with a condition as suggested in Conclusion 36, above.

APPLICANT APPEAL:

Mr. Christopher J. Knapp, Anderson Hunter Law Firm P.S., on behalf of the applicant, Mr. Dan Ramirez on January 5, 2007 submitted an Appeal Request to the Hearing Examiner's Recommendation of December 27, 2006. As noted in the Appeal, the applicant believes the Hearing Examiner erred in concluding that the site does not meet the manatory locational criterion of SMC 16.10.110(B)2) (c) or (d), and that the site does not meet the usable open space requirements of SMC 16.10.140. The Hearing Examiner further erred in concluding that the the application fails to meet the Snohomish County Shoreline Management Permit (SCSMP) Regulations for Recreational Uses and and three Public Access Element Policies. Further, with regard to police services, the Hearing Examiner failed to follow the Council's prior direction on acceptance of mitigation under a Police Services Agreement that was approved as part of the Skoglund Estates Planned Unit Development (PUD) (Resolution Number 06-09A).

The purpose of the Appeal is to insure the applicant preserve their rights. The timely filing of the appeal shall stay the effective date of the Hearing Examiner's decision until such time as the appeal is ajudicated by the Council or withdrawn.

ALTERNATIVES: & ACTIONS:

The City Council, in considering the Twin River Ranch Estates Development and Appeal Request, has the option to:

(1) Approve the Hearing Examiner's Recommendation, or

(2) Approve the project with the Applicant's Appeal Request to adopt the Hearing Examiner's finding and conclusions that support approval of the project, reverse the Hearing Examiner's decision to the extent that it calls for denial or remand of the project, and approve the Planned Unit Development (PUD) and Substantial Development Permit SDP Applications (last paragraph on page 2 of Appeal); or

(3) Approve the request based on the Council's own set of Findings and Conclusions; or

(4) Deny the request based on the Council's own set of Findings and Conclusions.

To assist the City Council in their evaluation of this project and the Recommendations, Staff has attached the following:

(a) The November 20, 2006 Staff Report that provides a project overview and site plan.
(b) The Hearing Examiner's December 27, 2006 Recommendation.
(c) The Applicant Appeal Request dated January 4, 2007.
(d) Resolution Number. 06-09A Approving the Skoglund Estates PUD.
(e) Comments received from Parties of Record who received notice of the Filing of the Appeal .

ANALYSIS ALTERNATIVES:

1. Alternative 1, would Approve the Hearing Examiner's Recommendation that the Twin Rivers Ranch Estates Planned Unit Development be Denied, that the Twin Rivers Ranch Estates preliminary subdivision be RETURNED TO THE APPLICANT FOR MODIFICATION as necessary to meet approval criteria and to demonstrate compliance with Chapter 16.108 SMC, Concurrency Management System, regarding police services and parks and recreation, and the Substantial Development Permit be DENIED WITHOUT PREJUDICE.

2. Alternative 2 would reject the Recommendation of the Hearing Examiner, and accept some the Hearing Examiner findings of fact and conclusion of law, makes other differing findings of fact and conclusions of law, grants

application for PUD Plat Approval and Shorelines Substantial Development Approval.

3. Alternative 3 would Approve the Project with the City Council establishing their own set of findings and conclusions based on the Hearing Examiner's Public Hearing Record and the City's Council's Appeal Hearing Record. A motion by City Council directing the City Attorney and Staff to prepare a Resolution Approving the Project with the City Council set of finding and conclusions would be necessary for this alternative.

4. Alternative 4 would Deny the Project with the City Council establishing their own set of findings and conclusions based on the Hearing Examiner's Public Hearing Record and the City's Council's Appeal Hearing Record. A motion by City Council directing the City Attorney and Staff to prepared a Resolution Approving the Project with the City Council set of finding and conclusions would be necessary for this alternative.

Consistent with past practices, staff has prepared two Resolutions Numbered 07-02 A and B for Alternatives 1 and 2.

(A) Resolution Number 07-02 A supports the Hearing Examiner's Recommendation for DENIAL of the Twin Rivers Ranch Estates Planned Unit Development, that the Twin Rivers Ranch Estates Preliminary Subdivision be RETURNED TO THE APPLICANT FOR MODIFICATION as necessary to meet approval criteria and to demonstrate compliance with Chapter 16.108 SMC, Concurrency Management System, regarding police services and parks and recreation, and the Substantial Development Permit be DENIED WITHOUT PREJUDICE; or

(B) Resolution Number 07-02 B would reject the Recommendation of the Hearing Examiner, accepts some the Hearing Eaminer findings of fact and conclusion of law, makes other differing findings of fact and conclusions of law, grants application for PUD Plat Approval and Shorelines Substantial Development approval.

These Resolutions can be considered by the City Council under the Action Item section of the Agenda.

FISCAL IMPACT: Processing of the Appeal Request and the potential revenues to fund an incremental share (16%) of Police Officer Position for one year.

STAFF RECOMMENDATION In consideration of City Council's review of the Twin River Ranch Estates Hearing Record and Exhibits, written comments received and the testimony provided at the Closed Record Hearing and Public Appeal Meeting consider the following actions:

(1) Approve the Hearing Examiner's Recommendation, or

(2) Approve the project with the Applicant's Appeal Request to adopt the Examine's finding and conclusions that support approval of the project, reverse the Examiner's decision to the extent that it calls for denial or remand of the project, and approve the Planned Unit Development (PUD) and Substantial Development Permit SDP applications (last paragraph on page 2 of Appeal); or

(3) Approve the request based on the Council's own set of Findings and Conclusions; or

(4) Deny the request based on the Council's own set of Findings and Conclusions.

COUNCIL ACTION:

DATE:

ATTACHMENTS:
1. November 20, 2006 Staff Report and Recommendations
2. December 27, 2006 Hearing Examiner Recommendation
3. January 4, 2007 Applicants Appeal of Hearing Examiners Decision
4. Resolution Numbers 06-09A (Skoglund Estates PUD)
5. Comments received from Parties of Record on the Appeal Request:
   - Ron Kraut letter dated January 31. 2007 received February 1, 2007.
   - Christopher J Knapp, Applicant's Brief dated January 30, 2007 received January 31, 2007.
   - Josie Fallgatter letter dated February 1,2006 received February 1, 2007.
   - E-mail from Heydricks dated February 1, 2007 received February 1,2007

Note: Accepts recommendation of hearing examiner, denies application, and returns application to applicant for modification.

CITY OF SULTAN
Sultan, Washington

RESOLUTION NO. 07-02A

A RESOLUTION OF THE CITY OF SULTAN ACCEPTING THE HEARING EXAMINER'S RECOMMENDATION AND DENYING THE DAN RAMIREZ PLANNED UNIT DEVELOPMENT AND SUBDIVISION APPLLICATION FOR A 22 LOT PLANNED UNIT DEVELOPMENT (TWIN RIVERS RANCH ESTATES) AND RETURNING THE APPLICATION TO THE APPLICANT FOR REVISION AND DENYING THE APPLICANT'S SUBSTANTIAL DEVELOPMENT PERMIT WITHOUT PREJUDICE

WHEREAS Dan Ramirez filed an application for approval of Twin Rivers Ranch Estate, a 22 lot Planned Unit Development (PUD) subdivision for single family development;

WHEREAS Dan Ramirez also sought the issuance of a Substantial Development Permit under the Shorelines Management Act and the City's shorelines regulations;

WHEREAS an open record hearing occurred before the City's Hearing Examiner on December 14, 2006 on a resubmitted application, the City Hearing Examiner issued a Recommendation dated December 27, 2006, and the applicant by letter of Christopher J. Knapp, attorney, dated January 4, 2007 appealed the Recommendation and requested a closed record hearing;

WHEREAS the application came before the City Council for a closed record hearing and appeal by the applicant on the "Recommendation" on _____. 2007;

WHEREAS the City Council has determined based upon a review of the open record hearing to accept the Hearing Examiner's Findings of Fact and Conclusions of Law;

NOW, THEREFORE:

A. The City Council accepts the Recommendation of the Hearing Examiner dated December 27, 2006, including the Findings of Fact and Conclusions of Law therein.

B. The Twin Rivers Ranch Estates Planned Unit Development is hereby denied and the application is hereby returned to the applicant for modification to meet approval criteria and to demonstrate compliance with the City's concurrency requirements. The Twin Rivers Ranch Estates Substantial Development Permit is hereby denied without prejudice.

PASSED BY THE Sultan City Council and **APPROVED** by the Mayor this _____ day of _____ 2007.

CITY OF SULTAN

By_____
Ben Tolson, Mayor

Attest:

By_____
Laura Koenig, City Clerk

By_____
Council Member Flower

By_____
Council Member Champeaux

By_____
Council Member Blair

By_____
Council Member Slawson

By_____
Council Member Boyd

By_____
Council Member Seehuus

By_____
Council Member Wiediger

2

Note: Rejects recommendation of hearing examiner, accepts some hearing examiner findings of fact and conclusions of law, makes other differing findings of fact and conclusions of law, grants application for PUD plat approval and shorelines substantial development approval.

CITY OF SULTAN
Sultan, Washington

RESOLUTION NO. 07-02B

A RESOLUTION OF THE CITY OF SULTAN REJECTING THE HEARING EXAMINER'S RECOMMENDATION, MAKING DIFFERING FINDINGS OF FACT AND CONCLUSIONS OF LAW AND ACCEPTING THE DAN RAMIREZ PLANNED UNIT DEVELOPMENT AND SUBDIVISION APPLLICATION FOR A 22 LOT PLANNED UNIT DEVELOPMENT (TWIN RIVERS RANCH ESTATES) AND GRANTING THE APPLICANT'S SUBSTANTIAL DEVELOPMENT PERMIT

WHEREAS Dan Ramirez filed an application for approval of Twin Rivers Ranch Estates, a 22 lot Planned Unit Development (PUD) subdivision for single family development;

WHEREAS Dan Ramirez also sought the issuance of a Substantial Development Permit under the Shorelines Management Act and the City's shorelines regulations;

WHEREAS an open record hearing occurred before the City's Hearing Examiner on December 14, 2006 on a resubmitted application, the City Hearing Examiner issued a Recommendation dated December 27, 2006, and the applicant by letter of Christopher J. Knapp, attorney, dated January 4, 2007 appealed the Recommendation and requested a closed record hearing;

WHEREAS the application came before the City Council for a closed record hearing and appeal by the applicant on the "Recommendation" on _____. 2007;

WHEREAS the City Council has determined based upon a review of the open record hearing to accept certain of the Hearing Examiner's Findings of Fact and Conclusions of Law and to reject other of the Hearing Examiner's Findings of Fact and Conclusions of Law and to make its own Findings of Fact and Conclusions of Law;

NOW, THEREFORE:

A. The City Council rejects the Recommendation of the Hearing Examiner dated December 27, 2006.

B. The City Council hereby makes and enters its own Findings of Fact and Conclusions of Law as follows:

1. Findings of Fact. The City Council adopts the Hearing Examiner's Findings of Fact 1-8, 10-12, 14-16, 18-20, 25, 27-29,31-34 and makes it own substitute Findings of Fact as follows:

Substitute Finding of Fact 9: Access to the industrial area north of the BNSF tracks and to the subject property and the Twin Rivers subdivision south of the BNSF tracks is via Cascade View Drive-Cemetery Road and Foundry Drive. The first named road is a two lane roach which runs roughly parallel with and south of SR 2 from the old Sultan Basin Road/SR 2 intersection easterly for about one-half mile. Foundry Drive is 60 foot right of way, approximately ¼ mile long and its improvements area about 17 feet wide. It serves the industrial area north of the BNSF tracks, crosses those tracks at a substandard grade crossing, and intersects Skywall Drive immediately south of the BNSF right of way. The pavement runs along the west edge of the right of way at the BNSF crossing. Neither road currently has sidewalks or improved pedestrian facilities. There are pedestrian facilities on the SR 2 Bridge.

The City's Sultan Basin Road project has shifted the Sultan Basin Road intersection several hundred feet to the east. Cascade View Drive as it intersects SR 2 is now right turn in/right turn out. Motorists exiting via Cascade View Drive and wishing to head west bound must go east, and make a later u-turn. Another option is to take Cemetery Road, and turn left onto SR 2 at an unsignalized intersection. Phase III of the Sultan Basin Road realignment will provide a signalized intersection with Cemetery Road.

Substitute Finding of Fact 13: Section16.10.140 establishes open space requirements for PUDs in the amount of 20 percent of the gross land area of the site. Usable open space shall meet a minimum of 15 percent of the 20 percent requirement or 55,923 SF for the Twin River Ranch Estate PUD. Conservation open space maybe included as useable open space as provided for in Section16.10.140 A. (3) if the area being conserved would benefit the surrounding property owners or the community as a whole. Tract 999 identified as Conservation Open space on the site plan is a special natural sensitive area and shoreline of statewide interest. The tract is being conserved and dedicated to the City and therefore benefits the community as a whole. Tract 999 is considered useable open space and therefore the development meets the minimum 15% open space requirements for PUD's.

Substitute Finding of Fact 17: Section 16.10.110 SMC establishes certain locational criteria for residential PUDs. On criterium is location on arterial if the PUD is

ten acres or for 40 units. That is inapplicable here. Another criterium, of a minimum size of 2 acres is satisfied by this application. Another criterium is location "such that it can be connected to an existing off-site pedestrian and bicycle circulation system to facilitate non-motor vehicle access to the PUD." A final criterium requires that transit is available in sufficient proximity to the site to facilitate transit access

The applicant has proposed paving a 5' wide trail from Skywall Drive, across the upgraded railroad crossing, along the east edge of Foundry Drive to Cascade View Drive. This will connect to the City's Phase III improvements. These improvements, combined with the existing pedestrian passage on the SR 2 bridge, connectivity to an existing off-stie pedestrian and bicycle circulation system and render the site, being approximately a half mile away, of sufficient proximity to facilitate transit access.

Substitute Findings of Fact 21-24 and 26: The City's existing level of service for police is below the adopted LOS in the comprehensive plan. The LOS failure for police, however, was not caused by this proposed development, and further reduction in the LOS caused by this proposed development is modest by comparison to the existing deficiency.

The Council takes notice of the recommendation in the Prothman Report accepted by the Council in Ordinance 900-06. The City has adopted a utility tax applicable to its municipal utilities and a utility tax on cable television service. Other funding sources include potential developer loans to advance the receipt of payment of needed funds, and monies contributed by proposed development for their impacts on the LOS. The proposed development also will increase the assessed value of the property, bringing more real property tax revenues to the City. A combination of developer agreements and public funds will put in place the required public services for police concurrent with development impacts, and provide appropriate strategies for the six years from the time of development to achieve the necessary police LOS as not established or as subsequently revised.

The Council takes notice of the Applicant's offer at the open record hearing to deliver to the City a Developer Agreement to pay Applicant's increment share for a police officer for one year.

Based upon the foregoing, this proposed development is deemed concurrent for police.

Substitute Finding of Fact 30: The City's current LOS for Parks is 42.6 acres of parks, recreation and open space facilities per 1000 population. The City's July 1, 2006 population is estimated at 4,440, and based upon facilities then inventoried the LOS was 44.6 acres per 1000 population. Additional development already improved will both lower the existing LOS put provide through impact fees and increased taxation through increased valuation funds to acquire parks in the City.

2. Conclusions of Law. The City Council adopts the Hearing Examiner's Conclusions of Law 1,3-6, 10-13,15-17, 19, 21-23, 38 and makes its own Conclusions of Law as follows:

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Substitute Conclusion of Law 2: As subsequent conclusions will establish, Twin Rivers Ranch Estates satisfies the location criteria for a PUD, satisfies the open space requirements for a PUD, and satisfies the City's shorelines regulations and should receive preliminary PUD plat approval and issuance of a shorelines substantial development permit.

Substitute Conclusions of Law 7-9: Twin Rivers Ranch Estates is about one-half mile from the nearest transit stop. Though the walking route is currently improved, the applicant proposes improvements prior to final plat acceptance as set out in the Council's findings. These improvements, together with the existing pedestrian crossing on the SR 2 bridge, and the proximity of the site meet the criterion of SMC 16.10.110(B)(2)(d).

As to connection to a pedestrian and bicycle system, the improvements proposed to be completed prior to final plat acceptance as set out in the Council's findings will provide the required connection.

Substitute Conclusion of Law 14: The Hearing Examiner should give reasonable deference to findings and evaluations made by the Director of Community Development. The DCD found the application to satisfy the criteria of the City's Master Shoreline Program.

Substitute Conclusion of Law 18: The application complies with the use regulations contained in Section F of the SCSMP. No over-water fill construction if involved. Neither flood control nor shoreline protection measures are required. No lot will be within the flood plain of the base regulatory flood. Utility lines will be underground and public water and sewer services will be used. No lot will be within 25 feet of the OHWM. The proposed open space takes maximum advantage of the site's shorelines location. Given the nature of the site, it provides suitable parking and a means of access that is safe and convenient.

Substitute Conclusion of Law 20: The proposed park and access protect the rights of adjacent lot owners, provide reasonable public safety, and provide access that is appropriate to the location.

Substitute Conclusions of Law 24-37: Based upon the findings of fact contained in this Resolution, the application is concurrent for both police and parks.

C. The Twin Rivers Ranch Estates Planned Unit Development is hereby approved for a 22 lot planned unit development and subdivision on the conditions as recommended by staff, and as set out in **ATTACHMENT A** to this Resolution. The Twin Rivers Ranch Estates Substantial Development Permit is hereby granted.

PASSED BY THE Sultan City Council and **APPROVED** by the Mayor this _____ day of _____ 2007.

CITY OF SULTAN

By_____
Ben Tolson, Mayor

Attest:

By_____
Laura Koenig, City Clerk

By_____
Council Member Flower

By_____
Council Member Champeaux

By_____
Council Member Blair

By_____
Council Member Slawson

By_____
Council Member Boyd

By_____
Council Member Seehuus

By_____
Council Member Wiediger

City of Sultan
Staff Report and Recommendation
To the Hearing Examiner
November 20, 2006

Twin River Ranch Estates Remanded/Amended Preliminary PUD and Plat File Number RAFPPUD-05-006 and Shoreline Management Substantial Development Permit File Number SMP-06-001

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I. Application Information and Process

a. Request: The Applicant requests Approval to create 22-single-family detached lots on approximately an 8.57 acre site as a PUD Single-Family (PUD-SF) Overlay. The project is located in the City of Sultan's Low/Moderate Density Residential (LMD) Zone. The site is located south of the BNSF RR and Skywall Drive Right-of-Ways and north of the Skykomish River in the City of Sultan in Snohomish County Washington. The proposed average lot size of this development is 5665 SF with the smallest lot at 5,083.

b. Applicant

Dan Ramirez
P.O. Box 623
Sultan, WA 98294

c. Planner /Engineer

David P Gipson and Jim McDaniel, PLS
Harmsen & Associates
P.O. Box 516
Monroe, WA 98272

d. City Planner

Rick Cisar
Director of Community Development
City of Sultan
319 Main Street
Sultan, WA 98294

e. Parcel Numbers

270804-002-036-00
270804-002-034-00
270804-002-035-00
270804-002-012-00

f. Project Description: This project is being proposed as a Preliminary PUD and Plat for a detached single-family development called Twin Rivers Ranch Estates. This development will include one existing single-family residence and associated structures zoned as Low/Moderate Density Residential. The existing residence will remain and the associated structures will be demolished/removed.

The proposed development contains four separate parcels. The main access for the site will be from Foundry Drive to Skywall Drive onto a new roadway within the Plat. The Developer plans to improve the railroad crossing for Foundry Road to reduce the abrupt grades on either side of the railroad tracks. The City has received a $20,000.00 grant from the Grade Crossing Protection Grant program through the Utilities and Transportation Commission to assist in improving the crossing. Skywall Drive will be upgraded with new paving, curb, gutter and sidewalk along the south side and parking spaces on the north side to accommodate park users. Skywall Drive will not be extended westerly to connect to Dyer Road as part of this proposal. There will be approximately 440-feet of new public road and a cul-de-sac constructed within the development. The Applicant is requesting that the road right-of-way within the Plat be reduced to 50 feet due to its short length and because it will not be extended beyond the Plat. The reduction of the right-of-way width is supported and recommended by the Community Development Director and City Engineer. The Fire Protection District #5 Fire Chief has found the road configuration acceptable.

This project is projected to begin in the spring 2007 and be completed by fall of 2007. Construction will proceed as a single phase development. Home construction on the single family lots is expected to commence in winter 2007 to summer, 2008. The project is described further in the Application materials and site plan.

g. Location : The site is located at 210 Foundry Road, along the south side of Skywall Drive, south of Foundry Road within the Northwest ¼ of Section 4, Township 27 North, Range 8 East, W.M. in the City of Sultan, Snohomish County, Washington. The Skykomish River borders the site on the south.

h. Existing Site and Surrounding Land Uses: The site currently contains one single-family home and associated accessory buildings (a detached garage and detached outbuildings) on the eastern portion of the property. All of the existing accessory structures will be removed as part of this proposal. The site is relatively flat with a slope into the swale on the east side of the property.

The river frontage along the south property line and the swale along the east property line are considered environmentally sensitive, which are outlined in the *Critical Areas Study, Habitat Management Plan and Mitigation Plan* prepared by Wetland Resources, Inc, dated November 2005. In order to protect these areas, they are being placed within either a "Conservation Open Space" (Tract 999) or "Usable Open Space" (Tract 998) and protected from development. Access to the tracts and Skykomish River are provided by a ten foot wide easement from the internal street.

The site is currently zoned as Low/Moderate Density Residential (LMD). The surrounding area to the east is an older residential plat, on the west is a residential subdivision and to the north is industrial development (Romac Industries on the north side of the railroad property). The area to the north is zoned Economic Development (ED) and the properties to the east and west, are zoned Moderate Density (MD).

i. Utilities, Fire, and School Districts
Water Source: City of Sultan
Sewer Service: City of Sultan
Fire District: Snohomish County Fire Protection District No. 5
School District: Sultan School District No. 311

j. Related Permits and Reviews: Development of the site will require building, grading, fill, storm water, water, sewer, power telephone, and demolition permits, in addition to Shorelines, PUD and Plat Approval. Permits by other Agencies may also be required.

k. Procedure for PUD Approval: The City's Regulations for Planned Unit Developments (PUD), Chapter 16.10 of the Sultan Municipal Code (SMC), requires that PUD Approval be processed pursuant to Chapter 16.120 SMC, with review done by the City Planner, with input from the City Engineer, Public Works Director, and the Building Official. In accordance with SMC 16.10.080, PUD's are reviewed by the Hearing Examiner with a Recommendation to City Council. After receipt of the Hearing Examiner's Recommendation, the City Council will hold a Closed Record Hearing and make the Final Decision, in accordance with SMC 16.10.090.

Following Council Preliminary PUD Approval, the Applicant is required to file an Application for Final PUD Approval within 12-months in accordance with SMC 16.10.150 and 160.

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l. Procedure for Plat Approval: The City's Subdivision Regulations, Chapter 16.20 SMC, provide the standards and process for Preliminary Plat Review. In accordance with SMC 16.28.330, the Hearing Examiner shall hold a Public Hearing, make written findings and make a Recommendation to the City Council. The City Council may approve, disapprove or return the proposed subdivision for modification at a Closed Record Hearing following the Hearing Examiner's Recommendation, in accordance with SMC 16.28.340. Council Approval of a Preliminary Plat is valid for up to five (5) years in accordance with SMC 16.28.340.

m. Procedure for Shoreline Management Master Program Approval: The City adopted Snohomish County's Shoreline Master Program (SMP) by Ordinance 630 on July 11, 1995. The SMP on file with the City is dated September 1974 and Amended August 1984. Section C, page C-3 illustrates the "Substantial Development Permit Evaluation Process." SMC Chapter 16.120 provides the standards and process for Shoreline Substantial Development Permit Approval. In accordance with SMC Chapter 2.26 the Hearing Examiner shall hold a Public Hearing, make written findings and make a Recommendation to the City Council. The City Council may either approve, disapprove or return the proposed permit for modification at a Closed Record Hearing following the Hearing Examiner's Recommendation.

n. Review Criteria: The review criteria for preliminary plats are set forth within SMC 16.28.330(A):

A. The Hearing Examiner shall … consider and review the proposed plat with regard to:
1. Its conformance to the general purposes of the Comprehensive Plan and Planning Standards and Specifications as adopted by the laws of the State of Washington and the City of Sultan;
2. Whether appropriate provisions are made for: drainage ways, streets, alleys, other public ways, water supplies and sanitary wastes, transit stops, parks and recreation, playgrounds, schools and schoolgrounds;
3. The physical characteristics of the subdivision site and may disapprove because of flood, inundation or swamp conditions. It may require construction of protective improvements as a Condition of Approval; and
4. All other relevant facts to determine whether the public use and interest will be served by the … subdivision.

"The [PUD] District is an alternative to conventional land use regulations, combining use, density and site plan considerations into a single process." [SMC 16.10.010(A)] The PUD is an "overlay zone", applied "only after a site-specific and project-specific review." [SMC 16.10.020 and .010(A), respectively]

The SMC provides for both Retail Center PUDs and several types of Residential PUDs. [SMC 16.10.030] The general review criteria for PUDs are set forth at SMC 16.10.090(B):

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The Hearing Examiner Recommendation shall include, at a minimum, findings and conclusions regarding the Preliminary PUD's compliance with the criteria for location and Approval for the particular type of Preliminary PUD listed in SMC 16.10.100 (retail PUDs), SMC 16.10.110 (residential PUDs). A Preliminary PUD shall be Recommended for Approval if, together with reasonable modifications or conditions, the project is determined to comply with the requirements of these Sections. A Preliminary PUD shall be Recommended for Denial if, even with reasonable modifications or conditions, the project is determined to not comply with the requirements of these Sections.

o. Application History: The Application for Preliminary PUD was received by the City on October 7, 2005. The Application was deemed complete on December 28, 2005.The Hearing Examiner prepared a Recommendation on June 19, 2006 recommending denial of the Planned Unit Development: Return preliminary subdivision to the applicant. The applicant on August 30, 2006 requested the city Council to remand the application back to the Hearing Examiner. The city council on September 14, 2006 passed Resolution 06-14 remanding the application to the Hearing Examiner and allowing the application to address the issues raised by the Hearing Examiner. The remanded/amended application was filed with city on September 29, 2006. The application was deem complete on October 27, 2006.

The Application for a Shoreline Substantial Development permit was filed with the City on September 14, 2006. The Notice of Application for the Shoreline Management Substantial Development permit was published on September 21 and September 28, 2006 with a final comment date of October 30, 2006. The application and supporting text and map were sent to the Tulalip Tribes, State Department of Fish and Wildlife, Army corps of Engineers, and Snohomish County on September 20, 2006.

II. Land Use and Zoning

a. Zoning

The site is zoned as Low/Moderate Density Residential (LMD). Single-family detached homes in the LMD zone are subject to the following zoning requirements per SMC 16.12.020:

Use	Max. Units per Acre	Min. Area	Min. Width	Min. Depth	Min. Front Setback	Min. Side Setback	Min. Rear Setback	Max. Bldg. Hgt.	Max. Lot Coverage
Single-Family Detached Dwellings	4.0	10,890 sq. ft.	80 ft	80 ft	20 ft	20 ft. total Min. 10 ft each side	20 ft	30 ft	35%

Density

Density is proposed to be approximately two and one-half (2.57) dwelling units per acre (22 homes over 8.56 acres). The allowable density is 4-dwelling units per acre or 32-units.

Lot Size and Coverage

The Applicant proposes lot sizes that range from 5,005 SF to 8,452 SF with an average lot size of about 5,805 SF and lot coverage of 35% (P1 of plan set dated 3/13/06). Based on the site plan, the Applicant appears to propose a minimum lot widths ranging from 61-feet of 20-feet (at front property line). All of the proposed lots meet the 80-foot lot depth requirement.

In accordance with SMC 16.10.120(B) (2), "The Hearing Examiner, for the purpose of promoting an integrated project that provides a variety of housing types and additional amenities, may recommend reductions in the area of individual lots and increases in the lot coverage with in a PUD from the required lot area and coverage for the zoning district; provided, and such modifications shall be compensated by open space areas elsewhere in the PUD."

Front Yard Setbacks

The Applicant proposes twenty (20) foot front yard setbacks.

Side Yard Setbacks

The Applicant proposes side yard setbacks of five (5) feet. Per SMC 16.10.120(B)(1)(a), side yards may be reduced to a zero lot line, so long as a five (5) foot minimum is maintained between dwelling units.

Rear Yard Setbacks:

According the site plan, the Applicant proposes ten (10) foot rear yard setbacks. Per SMC 16.10.120(B) (1) (d), the minimum rear yard requirement is intended to provide privacy for the outdoor area behind the dwelling unit. Where physical elements such as fences, screens, or open space are provided, rear yard setbacks may be reduced to 10-feet.

The existing water line easement is shown on the plan that crossed through Lots 15 thru 21. The existing waterline and easement will be abandoned and relocated to connect to a new water line in the new street serving the Development as shown on the preliminary sewer, water and utility plans.

SMC 16.10.110(B) (3) (b) requires setbacks to be comparable/compatible to existing development or zoning of adjacent properties. Lots 17 thru 22 and Lot 1 are adjacent to Economic Development (ED) Zoning to the north, across Skywall Drive. Due to the separation created by the intervening right-of-way and rail road, the proposed front yard setbacks of 20-feet appear adequate.

Lots 14, 15, and 22 are adjacent to a Moderate Density Residential (MD) Zone to the east and west. The *Table of Dimensional and Density Requirements* (SMC 16.12.020) requires rear yard setbacks of 20-feet for the MD Zone. The rear yard setback for Lots 14, 15 and 22 should be a minimum of twenty feet in order to meet this Code Requirement. However, a reduction of the rear yards to 10-feet as provided for in SMC16.10.120 (B) (1) (a) may be considered by the Applicant. However, lot 22 should be adjusted to provide a least a 10 foot rear yard for the existing residence. The remaining lots are internally located within the PUD and are not adjacent to off-site properties with different zoning requirements.

b. Comprehensive Plan Designation
The site is designated "Residential Low/Moderate Density" by the City of Sultan Comprehensive Plan. The proposed use of the site as single family residential at a density of approximately two and one-half (2.5) dwelling units per acre is consistent with the Comprehensive Plan.

c. Shorelines Designation
The site is in the Suburban Environment category and meets the elements of that category: Statement of Intent, Designation Criteria and Management Policies.

d. Off-Street Parking Requirements
The minimum number of required off-street parking spaces shall be determined by the Table in SMC 16.60.130. Single family dwelling units in the LMD zone are required to provide 2 parking spaces per dwelling unit. At 22-units, this project requires 44-parking spaces.

The SEPA Checklist submitted October 7, 2005, states that the project will provide at least two on-site spaces per dwelling unit. Proper signage will be needed to clearly indicate where parking is restricted. In additional 13 parking spaces are also provided along the north side of Skywall Drive for user of the proposed park.

e. Recreation and Open Space
All PUDs are required to provide Open Space in the amount of 20% of the gross land area of the site, per SMC 16.10.140. A minimum of 15% of the gross area must be "useable open space." The percentage of gross area counted toward the open space requirement is limited for "buffer open space" (2%) "constrained open space" (2%) and "unusable detention open space" (5%).

The amended Application states that 50.2% of the gross area will be open space (approximately 4 out of 8.5 total acres), and that the project will include 49,929 SF usable open space (approximately one acre) in the form of a trail (with picnic tables) along the southern edge of the site and a tot lot located between Lots 14 and 15. The Tot lot, trail and picnic tables and grills on Tract 998 meets the requirements of SMC 16.72.050.

SMC 16.10.140(A) (4), states that buffer open space may contain usable open space. "Usable open space" is defined as "areas...for development as active and passive recreation..." Therefore, it is understood that buffer areas may be counted toward usable open space if they include improvements to support active or passive recreation. The applicant has identified the remaining open space as "Conservation Open Space", which equals approximately 67,811 square feet.

III. Wetlands, Streams, Steep Slopes, and Shorelines

Within the City of Sultan, wetlands are subject to regulations per SMC 16.80.030. The Preliminary Site Plan submitted to the City shows that there are no wetlands on-site. This is confirmed in the *Critical Area Study, Habitat Management Plan and Mitigation Plan*, prepared by Wetland Resources, Inc. dated November 30, 2005.

a. Streams

Sultan's standard stream buffer widths are listed in chapter SMC 16.80.040. The Skykomish River is classified as a Type 1 Stream and is considered a "Shoreline of Statewide Significance". The required buffer for a Type 1 Stream is 100-foot wide, as measured from the Ordinary High Water Mark (OHWM). Pursuant to Snohomish County Code (SCC) requirements (as adopted by the City of Sultan) the area 200-feet landward from the OHWM of the Skykomish River is designated as "shoreline." A portion of the Development will occur within the 200-foot shoreline designation area and the 300-foot Riparian Management Zone (RMZ). Within this 200-foot area, portions of 7-new single-family residences are proposed (Lots 15-21 are shown with the building footprint for each structure encroaching into the required setback/buffer area). The Applicant's Wetland Ecologist has determined that a Shoreline Substantial Development Permit is necessary for these lots because the proposed improvements will exceed $2,500 (pursuant to SCC Chapter 30.44). A letter from the Applicant's Representative (letter to City dated February 24, 2006 from Jim McDaniel, PLS), requests that the public access improvement project should be exempt from this requirement because the approval being requested is for the public access improvements only and that (SSC) 30.44.110 provides for and exemption of $5000.00.
The applicant, based on the Hearing Examiner June 19, 2006 recommendation submitted a Shoreline Management Substantial Development Permit application File Number SMP06-001 on September 14, 2006.

b. Stream Mitigation

As presented in the *Mitigation Plan*, the Applicant is proposing to offset the identified impacts by implementing the Recommendations outlined in the Plan. In summary, the Applicant's proposal includes the following critical area impacts and mitigation pursuant to SMC 16.80.070 and SCC 30.44:

- No significant trees within shall be removed.
- The Applicant shall plant additional conifer trees within the outer 20-feet of the 150-foot Fish and Wildlife Habitat Conservation Area (FWHCA), resulting in a total of 10,600 square feet of buffer area to be planted.

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- The Applicant proposes to mitigate the 2,400 square feet of buffer impacts by dedicating equal area of additional buffer along the 150-foot FWHCA.

- Maintenance, a three-year monitoring period, and a Performance bond recommendation of $2,500.00.

The Applicant proposes clustering the residential lots and preserves significant physical features. The Wetland Ecologist concludes that although the Applicant is proposing to construct several single-family homes and associated infrastructure in proximity to a salmonid bearing stream and a pedestrian trail within the 150-foot FWHCA, the Development is not likely to adversely affect threatened salmonids or their habitats. This is because no significant trees will be removed, minor vegetation impacts within the FWHCA will be mitigated, and all storm water runoff within the 300-foot Riparian Management Zone will be infiltrated.

The City's Wetlands Ecologist, Patricia Bunting, concurs with the Mitigation Plan prepared by Wetland Resources, Inc. and notes the addition of NGPA signage along the top of the slope as indicated on the plan.

The Applicant's Geotechnical Engineer concludes that from a geotechnical standpoint, the site is compatible with the Planned Development.

c. Shorelines

Within the City, shorelines permits are subject to SMC 16.96.010. The Application for a Shoreline Management Substantial Development permit was submitted by the Applicant on September 14, 2006. The application and plans were submitted to the Tulalip Tribes, State Department of Fish and Wildlife, Army Corps of Engineers, and Snohomish County. No comments were received by from these reviewing agencies by the end of the comment period ending on October 30, 2006. Two comment letters were received from the public: One from Gerry Gibson dated October 30, 2006 and an e-mail from the Stan & Judy Heydrick dated October 30, 2006. City's Staff evaluation of the Permit Application concluded the permit is consistent with the Master Shoreline Program and compiles with Use Regulations for Suburban Environment, Environment Management Polices, is consistent with Shoreline Use Element Policies and the Use activity Policies and Consistent with Natural Systems considerations.

The City's Wetlands Ecologist, Patricia Bunting, conducted a Shoreline Management Review of the project and recommends an appropriate shoreline area designation should be postulated based on the designation criteria contained in the Shoreline Master Program. Regulations including dimensional standards should be confirmed based on the policies and regulations contained in the Residential Development Section of the Master Program.

IV. Water, Sewer, and Stormwater Management

a. Water Availability

According to SMC 16.10.070(8) new developments must show evidence of adequate water availability as stated in RCW 19.27.097. The City of Sultan Public Works Department has issued a letter stating water availability to the site on August 9, 2006. This letter states that the developer/owner may need to build improvements to the City's water system in order to provide water to the site.

b. Sanitary Sewer Availability

According to SMC 16.10.070(7) new Developments must show evidence of Sewer Availability. The City of Sultan Public Works Department has issued a letter stating Sewer Availability to the site on August 9, 2006. This letter states that the Developer/Owner of the site may need to build improvements to the City's sewer system in order to provide sewer service to the site.

c. Storm Water Management

Per SMC 16.92.010, the City of Sultan adopts the most recent Department of Ecology Stormwater Management Manual for the Puget Sound basin. According to the *Preliminary Strom Drainage Analysis* prepared for this project by Harmsen & Associates, Inc., the Applicant proposes to construct a biofiltration swale located adjacent to the existing drainage swale on the easterly portion of the Plat. All storm water from the development will be collected and conveyed to the biofiltration swale. The *Report* states that the proposed design of the stormwater management facility was prepared using the requirements of the Washington State Department of Ecology *Storm Water Management Manual for Western Washington*, August, 2001.

The Environmental Checklist prepared for this project states that filter fabric will be placed, prior to construction, down slope of all graded areas to intercept runoff during construction. During construction, a temporary infiltration pond will be used to collect and infiltrate surface runoff. A stabilized construction entrance will minimize the tracking of sediment on to the public roadways, and ground cover may be placed on all exposed surfaces. The Owner/Contractor will adhere to all environmental codes relating to construction of this project.

The City Engineer is requiring the dedication of the Drainage Tract 997 to maintain and improved storm drainage in the area and north of BNSF railroad tracks.

V. Traffic and Circulation

A. Lot Access

Access to the 22-single-family detached residential units will be primarily from an internal plat road off of Skywall Drive and Foundry Drive, a collector street. The site plan shows proposed Lots 1 thru 8 having direct access off of Skywall Drive. The location of the internal roadway has been redesign to eliminate the offset as shown the initial application. A

letter dated November 16, 2006, from the Geri Reinhart the City's Transportation consultant regarding the redesigned intersection is attached.

B. Street Standards

Skywall Drive

For local access streets, the Sultan Design Standards require a 60-foot right of way, two 12-foot travel lanes; parking on sides, 5-foot sidewalks on both sides with 3-foot planter strips and street trees planted one tree per 20-lineal feet.

The site plan shows that frontage roadway improvements on Skywall Drive include utility extensions, road widening, vertical curb and gutter, sidewalk and street trees. The cross section provided in the map set (P4) shows two 12-foot travel lanes, 6-foot parking on one side, and a 3-foot landscape strip and 5-foot sidewalk on the south side. This proposed road section is consistent with the City's Design Standards. To insure the safety of pedestrian accessing the new trial system a pedestrian crosswalk shall be painted on Skywall Drive from the sidewalk to pedestrian crosswalk on the proposed railroad crossing.

In accordance with SMC 16.10.120(B) (4), Street Design Standards may be modified for PUDs as Approved by the City Planner and City Engineer.

On-site streets

Sultan Design Standards require a 60-foot right-of-way, two travel lanes, parking on both sides; five-foot sidewalks on both sides and street trees planted one tree per 20 lineal feet for Local Access streets. SMC 16.12.120(B) (4) (a) provides for deviation of the street standards. This section states that *"standards of design and construction for roadways within residential PUDs may be modified as is deemed appropriate by the Planning Director and City Engineer with the concurrence of the City Council, following a recommendation by the Hearing Examiner."* For the one on-site street, the applicant proposes a 50-foot right-of-way, two 12-foot travel lanes, two 6-foot parking zones, vertical curb and 5-foot sidewalk on each side and a 1.5 foot wide planning strip on each side behind the sidewalk.

In accordance with SMC 16.10.120(B) (4), Street Design Standards may be modified for PUDs as Approved by the City Planner and City Engineer. The modification as proposed by the Applicant is recommended by the Director of Community Development and City Engineer.

The Landscaping Plan (refer to page L1.0 of the Preliminary Site Plan) shows a number of street trees to be planted along both Skywall Drive and the internal Plat street 325 Street S.E. Per Sultan Design Standards, residential street trees are required to be planted on the street edge of Local Access streets. The plan as proposed is consistent with City Design standards. It should also be noted that in addition to the landscape plan, the applicant is required to plant addition conifers in the first 20 feet of the 150-foot long Fish and Wildlife Habitat Conservation Area (FWHCA).

a. Access Analysis:

The City's Traffic Consultant, Geri Reinart, P.E. reviewed the revised Design Proposal for this project.

1. The revised site plan has redesigned the plat such that a much smaller off-set would exist between Foundry Road and the site access. The current offset scales about 30 feet between the centerline of the new street and the existing centerline of the paved, travel lanes along Foundry Road. (Note: Foundry Road does not appear to be centered within the ROW, per our discussion.) The Applicant's Consultant has indicated that the applicant will be paving a 5-foot wide trail along the east side of Foundry Road, and that the railroad crossing will be widened. Per our discussion, you have indicated that this widening (and re-location of the crossing arm) would be to the east, and that the approach grades would also be improved. All of these measures will greatly enhance and improve the current (and future) geometric conditions of this intersection. According to the Applicant's letter, it appears that there will be a "slight offset" to the intersection in order to accommodate the sewer connection. No street construction drawings have been submitted at this time, so I can't determine how slight the offset is, however, I would recommend that the Foundry Road widening/improvement plans strive for just a half-lane off-set through the intersection, if at all possible, subject to Staff engineering plan review. This may require some additional widening on the east side of Foundry Road at the intersection that would then taper back into the existing alignment in order to meet this recommendation.

2. GTC had recommended that the intersection be revised to an all-way stop controlled intersection in order to alleviate the sight distance deficiency and unconventional control. As noted in my original comments I would not recommend all-way stop control for an intersection with limited traffic volumes, except under unusual conditions. The revisions that have been proposed to the railroad crossing will change the grade of the crossing approaches, which should provide improved sight distance. The highest volume leg of the intersection will continue to be the north leg, followed by the east, (future) south, and west legs, with the north and south legs having the highest combined volumes. As such, my inclination is to assign the right-of-way to the north/south movements at this time, with the east and west legs required to stop. I would also like to avoid having to stop southbound traffic due to the closeness to the railroad crossing/limited queuing space, and the fact that it essentially functions as a collector/arterial. Pending future grades and final street construction, we may need to re-assess the actual field conditions to review the operation of the street offset and to determine whether adequate sight distance is available for the stop controlled movements, and consider at that time whether to modify the intersection to an all-way stop.

b. Non-motorized Access

SMC 16.10.110 states that a PUD-SF must be located to connect to existing off-site pedestrian and bicycle circulation system to facilitate non-motorized access. The Applicant proposes to provide road improvements to Skywall Drive including the installation of a sidewalk. In addition to the pedestrian crosswalk on the rail road crossing and cross walk on Skywall Drive the applicant will provide a 5-foot wide paved trail along the east side of

Foundry Drive to Cascade View Drive. This trail will connect to the south leg of the future SR2 Sultan Basin road realignment project. The Applicant is also providing pedestrian access to the Skykomish River from the internal street.

c. Traffic Impacts
According to SMC 16.112.020, the Owner/Developer is required to pay impact fees and offset impacts to the City's street system. According the SEPA Checklist submitted on October 7, 2005, the new development will generate approximately 200.97 average daily trips with 16 AM peak-hour trips and 21 PM peak-hour trips. Other miscellaneous traffic impact fees concerning the realignment improvement for SR-2/Sultan Basin Road and the signal improvement project at the intersection of SR-2 and 5th Street are addressed on pages 6 of the *Traffic Analysis Report.* The construction of the SR-2 and 5th Street Signal is complete and therefore no Traffic Impact Fee is applicable.

d. Transit
The transit service and a WSDOT Park and Ride Lot is located on the south side of Highway 2, one block west of its intersection with Cascade View Drive, about one-half mile from the development. Access to the Park and Ride Lot is available to the development for both pedestrian and vehicles. The City Council has requested the Hearing Examiner to consider their previous action and interpretations with regards to "Location criteria for Transit as provide for in their Decision on the Skoglund Estates Preliminary Plat and Planned Unit Development.

VI. Other Issues

a. Utilities
All utilities are available at the site to serve the Development. The Applicant proposes on-site utilities to be placed underground.

b. School Impacts
Sultan Elementary, Middle and High schools are located approximately 1.9 miles away from the site. Per SMC 16.116.030(A) and (B), the City shall collect School Impact Fees *"from any Applicant seeking land use permit approval and/or a building permit from the City for any residential development activity within the City limits."* School Impact Fees shall be paid to the City in accordance with Chapter 16.116 SMC.

c. Park and Recreation Impacts
Per SMC 16.112, the Developer is required to pay Impact Fees to offset the project's impact on the City's Recreation Facilities. Park and Recreation Impact Fees shall be paid to the City prior in accordance with Chapter 16.112 SMC. In addition the developer shall dedicate to the City the 10 wide public pedestrian access easement between lots 18 and 19 and Tract 998 for passive Shoreline and Open Space Purposes.

d. Concurrency Requirements
SMC section 16.12.010 states that property owners must meet the concurrency provisions of the Comprehensive Plan as required in RCW 36.70A.70. This ensures that adequate public

facilities are available and will be able to support the development's impact. Facilities subject to this review are:

- Roadways
- Potable Water
- Wastewater
- Police Protection
- Parks and Recreation

The Applicant has submitted an Application to the City of Sultan for a Certificate of Concurrency for the PUD. This Certificate states that this proposed development will not impact the Level of Service below that of the adopted Comprehensive Plan for the City of Sultan. The City has reviewed the Application and Developer Agreement to Establish Concurrency Police and issued a Certificate of Concurrency. The City Council has requested the Hearing Examiner to consider their previous actions and interpretations with regards to Police Level of Service (LOS).

e. Fire Hydrants
A number of fire hydrants are proposed throughout the PUD. The locations of the fire hydrants are shown on page P-3 of the Preliminary Site Plan.

f. Notice of Application: The City received one 1 comment letter to the notice of the Remanded Amended Application dated November 9, 2006 from Gerry Gipson.

g. Housing
The Applicant has provided conceptual examples of single family detached housing proposed for the subdivision as shown on Exhibit 2.

h. Landscaping
The Applicant has submitted a Landscape plan Drawing L1.0, which illustrates the development of the Tot Lot, Tract 998, and a street tree planting plan, and fencing along the north side of Tract 997. Drawing L1.1.provides for a Typical Landscaping Plan around the individual units.

VII. SEPA

SEPA, under RCW 43.21C requires Governmental Agencies to consider the environmental impacts of a proposal before making decisions. A DNS was issued for the proposal on April 7, 2006. No appeals were received by the City. The SEPA official has reviewed the Remanded /Amended application and determined there will be no new significant adverse environmental impacts and therefore no further SEPA documentation is required.

VIII. Public Notices

As required by the City's Subdivision and Public Hearing Regulations (SMC 16.28.070 and SMC 16.124.010) Notice of the combined Preliminary Plat and PUD Application was posted, published and mailed. Notice of Public Hearing was posted, mailed, and published on November 17, 2006. Additional notices were mailed to individuals who provided written

comments to the Notice of Application. Notice of the Application for Shoreline Management Substantial Development Permit was posted on and published on September 21, 2006 and September 28th 2006 with the comment period ending on October, 2006. Notice of the combined Shoreline Public Hearing was posted, mailed and published on November 17, 2006.

IX. Conclusion

Staff concludes that the proposed Twin River Ranch Estates PUD and Shoreline Management Substantial Development Permit application, with the Conditions in Section X below, meets the criteria for Preliminary Plats in accordance with SMC 16.28.330(A), for Preliminary Single Family Residential PUD's in accordance with SMC 16.10.110(B) and the Shoreline Management Program SMC 16.96.010.

a. The Proposed Preliminary PUD and Plat is found to be in conformance with the general purposes of the Comprehensive Plan and planning standards and specifications as adopted by the Laws of the State of Washington and the City of Sultan.

b. The proposed Preliminary PUD and Plat makes appropriate provisions for public health, safety, and general welfare, and for open spaces, drainage ways, streets, public access to the Skykomish River, other public ways, water supply and sanitary wastes, transit, parks and recreation, playgrounds, schools and school grounds. Street improvements, trails, open space, drainage, and school access should be developed in compliance with the Conditions listed below.

c. The Shoreline Substantial Development Permit Application is found to be consistent with the Master Shoreline Program and substantially compiles with Use regulations for Suburban Environment, Environment Management Polices, and is consistent with Shoreline Use Element Policies and the Use activity Policies and Consistent with Natural Systems considerations.

d. The Shoreline Substantial Development Permit is consistent the City's 2004 Comprehensive Plans Goals of the Section 2.3 Shoreline Management in particular Goals 2, 3, 4, 8,10 and 11 and Section 2.9 Park and Recreation facilities Goals 11, 4, 6 and 7.

e. The proposed modifications to the development standards, as conditioned herein, are consistent with the provisions of SMC 16.10.120.

f. The location of the Preliminary PUD and Plat is consistent with the location criteria of SMC 16.10.110(B)(2), including:
   - Being greater than 2 acres
   - Located on an arterial street such that transportation facilities can provide direct access to the development
   - Located so that it can connect to the off-site pedestrian and bicycle circulation system.
   - Transit is available in sufficient proximity to the site to facilitate transit access to the PUD
   - Located in relation to utilities such that the development will not result in higher public costs.

- Located so that the PUD will have access to schools, parks and open space.

g. The design of the Preliminary PUD and Plat, as conditioned herein, takes into account the relationship of the site to the surrounding areas. Conditions listed below are essential to ensure that the street frontages and perimeter of the site are designed in a manner compatible with the surrounding neighborhood.

h. The physical characteristics of the site have been reviewed. Conditions are recommended to ensure that the new structures and improvements are built in compliance with the regulations of the Sultan Municipal Code.

i. The proposed Preliminary PUD, Plat and Shorelines Application will serve the public use and interest by developing land consistent with the goals and policies of the Comprehensive Plan and Shorelines Management Master Program, be compatible with adjacent land uses, and by providing an extension of public roads, utilities and services.

X. Staff Recommendation

Staff recommends that the Hearing Examiner recommend to the City Council APPROVAL WITH CONDITIONS of the Twin Rivers Ranch Estates Preliminary PUD, Plat, and Shoreline Management Substantial
Development Permit with the Conditions listed below:

Preliminary Plat and General PUD Design–

1. The general configuration, lot shapes and sizes, setbacks, site density, and areas of open space shall be as indicated on Plans are subject to these Conditions of Approval. Revisions to approved Preliminary Planned Unit Developments are regulated by SMC 16.10.160(D) and (E); revisions to approved preliminary subdivisions are regulated by SMC 16.28.360. The final PUD Map shall be recorded as an amendment to the underlying zoning following Final PUD Approval.

2. In accordance with SMC 16.28.340, the Applicant shall prepare a Developer Agreement subject to Approval of the City. The Agreement shall specify the requirements for construction of all infrastructure improvements, including plan submittals, inspections, bonding, private improvements, right-of-way improvements and facilities associated with the PUD, including improvements to all common areas. Site construction drawings shall be designed consistent with the Conditions of Approval. Site work shall not begin until City Approval of the site Development Agreement.

3. The Rear yard setback shown on the Preliminary Plat Map shall be corrected for lot 22 as follows:
   - Lot 22 shall have a rear yard setback of twenty-five (20) feet (SMC 16.12.101 or if reduced to ten (10) feet as provided for in SMC 16.10120 B. (1) (a) and (d) the applicant shall provide fences or landscape screening screens, or open space prior to final inspection of the homes. The revised set backs or screening requirements shall

be shown on the site and landscape plans. The open space, Tract 997, located adjacent to lot 22 would support a rear yard reduction to ten (10) feet.

4. The Applicant shall establish a Homeowners' Association to assume responsibility for maintenance of common areas. The Homeowners' Association shall be recorded with the plat. The wording and conditions of the Homeowners' Association shall be subject to City approval prior to Final Plat.

5. The Applicant/Developer shall maintain the landscaping, open space improvements, drainage facilities and other common areas within the site for a two-year period following installation. Such maintenance shall be secured with a Performance Bond filed with the City. Subsequent to the two-year period, maintenance responsibility shall be passed to the Homeowners Association.

Parking –

6. Public park parking, located on the north side of Skywall Drive, shall be clearly marked and/or signed. One space shall be developed and designated as Handicap Parking.

Open Space –

7. The Applicant shall developed Tract 998 as shown on Drawing L1. Tracts 998 and shall be dedicated to City as a passive park in order to provide public access to the Skykomish River and maintain the Parks and Recreation Level of Service of .0426 acres per capita.

Streams, and Steep Slopes –

8. Stream impacts shall be mitigated in accordance with the Critical Area Study, Habitat Management Plan, and Mitigation Plan, as amended. The Mitigation Plan shall be corrected as Recommended by the City's Consultant (letter from Graham-Bunting Associates dated January 24, 2004) and be revised to include the City's Consultant Recommended Conditions. The Applicant shall maintain and monitor stream buffer mitigation for a five-year period following installation. Such mitigation shall be secured with a Performance Bond filed with the City.

9. The Applicant shall install a spilt rail fence along the rear Lots 15 to 21 adjacent to Tract 998.

Water –

10. The Developer/Owner is responsible for any necessary improvements to the City's water system in order to provide adequate water to the site. The Developer/Owner shall be required to relocate and extend on-site water lines to as shown on drawing P-3, preliminary sewer, water and storm drainage plan.

Sewer –

11. The Developer/Owner is responsible for any necessary extension and improvements to the City's sewer system in order to provide sewer service to the site.

Surface Water Management –

12. During grading and construction activities, the developer shall retain and manage on-site surface and storm water within the site per the recommendations of the *Preliminary Storm Drainage Analysis* dated October 2005 prepared by Harmsen & Associates, Inc., and the Construction Stormwater Pollution Prevention Plan prepared in accordance with the Department of Ecology Stormwater Management Manual 2005.

13. The Developer shall inspect weekly, maintain and repair all temporary and permanent erosion and sediment control BMPs to assure continued performance throughout the subdivision construction period. During the wet weather construction period, the access road and on-site utilities shall be phased to minimize open soil exposure.

14. The temporary storm water management facilities shall be constructed before any significant amount of site grading commences.

15. The Applicant shall construct a four (4) foot high black chain link fence across the back of Lots 1, 9, 21, 22 and across the south side of Skywall drive adjacent to Tract 997.

Transportation -

16. The Skywall and Foundry Drive intersection shall be constructed to incorporate the recommendation of the City's Traffic Consultant and be regulated as controlled intersection.

17. The Applicant shall be responsible for the plans and improvements to BNSF Railroad crossing. The City will assist the Applicant in the permitting process with the BNSF;. and

18. The City will administer the $20,000 in Grant funds received for the project to assist in the improvements to the crossing.

19. A painted crosswalk shall be completed by the Applicant in conjunction with the improvements associated with Skywall/Foundry Drive intersection and BN Railroad crossing improvements.

20. Street trees shall generally be provided along the entire site frontage of Skywall Drive and the internal roadway in accordance with the recommendations of the Director of Community Development.

21. The applicant shall construct a 5 foot wide paved trail from Skywall Drive to Cascade View Drive.

22. Final Street design, including paving, sidewalks, frontage improvements, trail, parking, and emergency access must be approved by the City Engineer prior to construction.

23. A Street Lighting Plan shall be required on Skywall Drive and all on-site streets. Prior to site development, the Applicant shall submit a detailed lighting plan that depicts

continuous street illumination throughout the PUD to City Staff for their review and approval. SMC 16.10.120(B) (4) (a).

Other –

24. In order to maintain an acceptable Level of Service for Police the Applicant shall provide a Development Agreement to guarantee the LOS for Police Services.

25. The Development, due to the completion of the Hwy 2 and 5th Street traffic signal is not obligated to provide Traffic Impact fees for the project as identified in the traffic Study prepared for the project.

26. The Applicant shall provide a statement on the Final Plat acknowledging that the Twin Rivers Ranch Estates PUD and Subdivision is located south of an approved Industrial Area and consequently the residents may be subjected to noise and vibrations from the activities carried on within the Park.

27. All utilities shall be placed underground.

28 The Applicant shall demonstrate sufficient water flow from the proposed fire hydrants for review and approval by the City Engineer and Fire District prior to the issuance of Occupancy Permits.

29. Prior to construction, the Applicant shall prepare an erosion control plan subject to review and approval by the City Engineer.

30. During construction, the Developer shall ensure that trucks are cleaned before leaving the site. The Applicant shall provide street cleaning of Skywall Drive during site clearing, grading and filling and shall promptly clean up any dirt, mud or other material deposited on public streets and shall be responsible for cleaning storm drains in public streets that are impacted by the construction.

31. All site improvements, including streets, sidewalks, bicycle lanes, trails, frontage improvements, drainage improvements, open space landscaping and improvements, and other common area improvements shall be completed prior to Final Plat, with the exception of the final lift of paving of streets. Alternatively, the City may approve a financial bond or assurance for items not completed prior to Final Plat. All site improvements, not including individual homes, must be installed prior to final inspection of the first home.

32. The existing accessory structures shall be moved, demolished, or otherwise modified so that they are in compliance with the Sultan Municipal Code prior to the issuance of plat Engineering Permits.

33. The Applicant/Developer shall pay Traffic, Recreation, and School Impact Fees and their administrative processing costs in accordance with Chapters 16.112 and 16.116 SMC.

34. The Applicant/Developer shall obtain all necessary permits and approvals from Local, State and Federal Agencies necessary to complete the development. and associated improvements.

Rick Cisar, Director of Community Development

11-20-06
Dated

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Continuation of Exhibit Numbers for November 30th Public Hearing

EXHIBIT 21 – Hearing Examiners Recommendation dated June 19, 2006

EXHIBIT 22 – David Gipson's letter requesting the City Remand the Application back to the Hearing Examiner. This letter is not dated but stamped with the date August 30, 2006.

EXHIBIT 23 – City Council Agenda Cover A-5 dated September 14, 2006 Closed Record Hearing/Remand

EXHIBIT 24 – Resolution 06-14 Remand Twin Rivers Ranch Estates to Hearing Examiner

EXHIBIT 25 – Shorelines Application dated September 14, 2006

EXHIBIT 26 – Shorelines Letter of Completeness dated September 15, 2006

EXHIBIT 27– Affidavit of Postings – Shorelines Permit

EXHIBIT 28 – Affidavit of Mailing – Shorelines Permit

EXHIBIT 29 – September 29, 2006 – Modification of PUD Application, (plus Attachments:29.1 thru 29.7).

EXHIBIT 30 Letter of Completeness dated October 20, 2006

EXHIBIT 31 – Affidavit of Posting – Notice of Application (copies will be at Hearing)

EXHIBIT 32 – Affidavit of Mailing 0 Notice of Application (copies will be at Hearing)

EXHIBIT 33 – Gerry Gibson's Letter dated October 30, 2006 – Shorelines Permit

EXHIBIT 34 – Heydrick's Letter sent via e-mail dated October 30, 2006

EXHIBIT 35 – Gerry Gibson's Letter dated November 9, 2006 – Notice of Application Comments

EXHIBIT 36 – Geralyn Reinart, Traffic Consultant Comments dated November 16, 2006

EXHIBIT 37 – Pat Bunting, 3rd Party Review of Shorelines Management

EXHIBIT 38 – Letter from Jon Stack City Engineer regarding Drainage Tract 997

EXHIBIT 39 – Certificate of Concurrency, dated November 17, 2006

PreviousAttachments:

EXHIBIT 1 – Staff Report w/attachments:

1.1 Master Land Use Application
1.2 Legal Description
1.3 Project Narrative
1.4 Plat Certificate
1.5 Preliminary Storm Drainage Analysis
1.6 Wetland Delineation
1.7 Traffic Report
1.8 Geotechnical Engineering Evaluation
1.9 SEPA Checklist
1.10 Letters of Water & Sewer Availability
1.11 Application for Certificate of Concurrency
1.12 Pre-Application Meeting Summary
1.13 Letter of Agreement to Pay Mitigation Fees
1.14 Copy of FIRM
1.15 Plat Name Reservation Certificate

EXHIBIT 2 – Building Elevations & Designs

EXHIBIT 3 – Re-submittal Documents dated March 10, 2006 from Harmsen & Associates, Inc.

EXHIBIT 4 – Affidavit of Mailing – Application dated January 7, 2006

EXHIBIT 5 – DNS dated June 7, 2006

EXHIBIT 6 – AFFIDAVIT OF Mailing Public Hearing Notice dated May 8, 2006

EXHIBIT 7 – Graham Bunting Third Party Review dated January 9, 2006

EXHIBIT 8 – Geri Reinart Review of Traffic Analysis dated November 28, 2005

EXHIBIT 9 – Certificate of Concurrency from the City of Sultan dated May 11, 2006

EXHIBIT 10 – Memo to Mayor, Council, & Staff from Donna Murphy regarding the Foundry Drive Railroad Crossing Grant Application dated January 17, 2006

EXHIBIT 11 Assorted Comment Letters to City Staff & Staff Response regarding Application of Twin Rivers Ranch Estates

EXHIBIT 12 – Memo to Mayor & Council from Rick Cisar regarding Petition from Dyer & Skywall Neighborhoods

EXHIBIT 13 – Letter from Loretta Storm dated May 18, 2006

EXHIBIT 14 – Preliminary Plat Map dated 3-13-06 with City Revisions

EXHIBIT 15 – Park/Open Space Contactor's Agreement

EXHIBIT 16 – Police Contractor's Agreement

EXHIBIT 17 – Transit Map for Twin Rivers Ranch Estates

EXHIBIT 18 – Site Photo's – 14 pictures

EXHIBIT 19 – Sultan Park Inventory

EXHIBIT 20 – Heydrick Submittal