

**SULTAN CITY COUNCIL
AGENDA ITEM COVER SHEET**

ITEM NO: A-1
Resolution No. 07-01A
Vodnick Lane Planned Unit Development Hearing

DATE: February 22, 2007

SUBJECT: Resolution No. 07-01A Accepting the Hearings Examiner Recommendation and Approving the Brickyard Properties, LLC Preliminary Planned Unit Development (PUD) Subdivision Application for a 2- lot Planned Unit Development (Vodnick Lane) on the conditions set out by the Hearing Examiner, Except Condition 17 for Police Level of Service.

CONTACT PERSON: Rick Cisar, Director of Community Development

SUMMARY: The City Council on February 8, 2007 conducted a Public Appeal Meeting and Closed Record Hearing to consider the Hearing Examiner's November 9, 2006 Recommendation for the Preliminary Planned Unit Development Subdivision (Vodnick Lane) File Number RAFPPUD05-004.

The City Council, in consideration of the Vodnick Lane Hearing Record and Exhibits, written comments received and the testimony provided at the Public Appeal Meeting and the Closed Record Hearing accepted the Recommendation on the Hearing Examiner with:

1. Conditions 1 through 16 and 18 through 25 as Recommended by the Hearing Examiner; and
2. A new Condition 17 to read as follows:" The Applicant offers to execute a Developer Agreement to pay Applicant's incremental share for a Police Officer which is consistent with Resolutions Numbers 06-06, 06-07, 06-09A, and 06-11A previously approved by the City Council.

The City Council during their discussions of this request noted the conclusion of the Hearing Examiner differs from that reached by the Hearing Examiner in the Twin Rivers Ranch Estates where transit users will have to walk along SR 2 to reach the transit stop. The Hearing Examiner explained that additional evidence was present in the Twin Rivers Ranch Estates record of poor walking conditons along SR2. He noted that this additional evidence supports a different conclusion.

No evidence of the poor walking conditions is present in the Hearing Examiner's Record of the Vodnick Lanes Planned Unit Development or the Timber Ridge Planned Unit Development which was approved in 2005.

**ALTERNATIVES:
& ACTIONS:**

The City Council, in considering Resolution No. 07-1A for the Vodnick Lane Development has the option to:

- (1) Approve Resolution N0.07-1A Accepting the Hearing Examiner's Recommendation with:
 - 1Conditions 1 through 16 and 18 through 25 as Recommended by the Hearing Examiner;
 - A new Condition 17 to read as follows:" The Applicant offers to execute a Developer Agreement to pay Applicant's incremental share for a Police Officer which is consistent with Resolutions Numbers 06-06, 06-07, 06-09A, and 06-11A previously approved by the City Council.
- (2) Deny Resolution N0. 07-01A; or
- (3) Direct Staff to prepare a resolution with new set of and Recommendations as determined by the City Council.

**ANALYSIS OF
ALTERNATIVES:**

1. Alternative 1 would Approve the project and accepted the recommendation on the Hearing Examiner with:

- 1.Conditions 1 through 16 and 18 through 25 as Recommended by the Hearing Examiner;
2. A new Condition 17 to read as follows:" The Applicant offers to execute a Developer Agreement to pay Applicant's incremental share for a Police Officer which is consistent with Resolutions Numbers 06-06, 06-07, 06-09A, and 06-11A previously approved by the City Council.

2.Alternative 2 would deny the project.

3.Alternative 3 could Approve or Deny the Project with the City Council establishing their own set of Findings and Conclusions and Recommendations.

FISCAL IMPACT:

Preparation and processing the Resolution.

**STAFF
RECOMMENDATION**

In consideration of City Council's previous actions, Approve Resolution 07- 01 A under Action Item A-1 which provides for the Approval of the Preliminary Planned Unit Development Subdivision (Vodnick Lane) with Conditions 1 through 16 and 18 through 25 as Recommended by the Hearing Examiner and a new Condition 17 to read as follows:" The Applicant offers to execute a Developer Agreement to pay Applicant's incremental share for a Police Officer consistent with Resolutions Numbers 06-06, 06-07, 06-09A, and 06-11A.

COUNCIL ACTION:

DATE:

- Attachments: 1. Resolution Number 07-01A

**CITY OF SULTAN
Sultan, Washington**

RESOLUTION NO. 07-01 A

A RESOLUTION OF THE CITY OF SULTAN ACCEPTING THE HEARING EXAMINER'S RECOMMENDATION AS REVISED IN THIS RESOLUTION AND APPROVING THE BRICKYARD PROPERTIES, LLC PRELIMINARY PUD SUBDIVISION APPLICATION FOR A 23 LOT PLANNED UNIT DEVELOPMENT (VODNICK LANE) ON THE CONDITIONS SET OUT BY THE HEARING EXAMINER, EXCEPT CONDITION 17

WHEREAS Brickyard Properties, LLC filed an application for approval of Vodnick Lane, a 23 lot Planned Unit Development (PUD) subdivision for single family development;

WHEREAS an open record hearing occurred before the City's Hearing Examiner on November 9, 2006 on a resubmitted application, the City Hearing Examiner issued a Recommendation dated November 17, 2006, and the applicant by letter dated December 5, 2006 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 February 8, 2007;

WHEREAS the City Council has determined based upon the law and the facts to accept the Hearing Examiner's findings of fact in part, to accept the Hearing Examiner's Conclusions of Law in part, to accept the Hearing Examiner's Conditions of Approval in part, and to accept as revised herein the Hearing Examiner's recommendation and approve the application;

NOW, THEREFORE:

A. The City Council accepts the Recommendation of the Hearing Examiner dated November 17, 2006, as further revised by this Resolution and approves the Planned Unit Development (PUD) subdivision for single-family development for 23 lots for Vodnick Lane on the conditions set out in the Recommendation, except Condition 17, which is revised herein.

B. Commencing at page 2 of the Hearing Examiner's Recommendation the Examiner made 29 Findings of Fact. The Council adopts the Hearing Examiner's Findings of Fact. Based upon the evidence in the record and judicial notice the Council makes the following additional Finding of Fact:

Applicant offered at the open record hearing a developer agreement to pay the developer's pro rata share for one year of the cost of a police officer to mitigate the impacts of this development. Thereafter, the revenues from real estate taxes on the increased value of the property will be available to the City's general fund.

C. Beginning at page 16 of the Hearing Examiner's Recommendation are 30 Conclusions of Law. The Council adopts Conclusions of Law 1-14, 28, 29, except 29 -d, and 30. The Council rejects Conclusions of Law 15-27 and 29-d and makes the following Conclusions of Law and Conditions:

1. 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.
2. The Council takes notice of the recommendations in the Prothman Report accepted by the Council and 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 now established or as subsequently revised.
3. 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 incremental share for a police officer for one year.
4. Based upon the foregoing, this proposed development is deemed concurrent for police. The Conditions of Approval should include Condition 15 as proposed by the Director of Community Development and not as required by the hearing examiner.

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

Approved as to form:

By _____
Thom Graafstra, City Attorney