

SULTAN CITY COUNCIL

AGENDA ITEM COVER SHEET

ITEM NUMBER: Closed Record Hearing
Hammer PUD and ITEM A-4

DATE: August 23, 2007

SUBJECT: **CLOSED RECORD HEARING**
Consider Hearing Examiner Recommendation for
Approval of the Hammer Preliminary Planned Unit
Development Subdivision (Preliminary Map -
Attachment 3)

CONTACT PERSON: Rick C.  Director of Community Development

SUMMARY:

THIS IS A CLOSED RECORD HEARING. CITY COUNCIL'S DECISION IS BASED ON THE OPEN HEARING RECORD. NO NEW TESTIMONY OR INFORMATION IS PERMITTED.

The Hearing Examiner held an Open Record Remand Hearing on July 24, 2007 to consider the Hammer Preliminary Planned Unit Development File Number FPPUD05-002. The Staff Report (Attachment 2) was submitted and entered as Exhibit Number 1 in the Public Hearing. Based on the Findings of Fact, Principles of Law, Discussion, and Conclusions the testimony and evidence submitted at the Hearing, the Hearing Examiner's site visit, the Hearing Examiner **RECOMMENDS approval of the proposed Preliminary Subdivision and Planned Unit Development of the Hammer PUD subject to 35 Conditions on pages 44 through 48 of the attached Hearing Examiner's Recommendation.**

ISSUES:

Hearing Examiner:

Does the application meet applicable criteria for approval of the Preliminary Planned Unit Development Subdivision? (Hearing Examiner on page 27, Conclusion 2). In summary, Hammer PUD can be conditioned to meet all requirements for approval, including compliance with the Concurrency Management System.

DISCUSSION OF MAJOR ISSUES: ¹

The Hearing Examiner's 2006 Recommendation to Deny without prejudice/return the application was based upon five areas of concern: (1) Compliance with SMC 16.68.060 ² regarding steep slope treatment; (2) compliance with SMC 16.80.100 regarding Innovative Development Design requirements; (3) interior street network concerns; (4) Police concurrency; and (5) problems with a number of the Staff Recommended conditions. (Exhibit 12)

The Council's Remand was essentially open-ended: "the Council remands the application back to the Hearing Examiner so that the applicant can modify the application." (Exhibit 14, § 2) The Remand resolution contained a request: "The City Council request the Hearing Examiner to consider their previous action and interpretations with regards to Police Level of Service (LOS) as provide for in their decision on the Skoglund Estates preliminary plat and Planned Unit Development." (Exhibit 14, § 3, *sic*)

The Examiner's 2007 Remand hearing focused on the problems identified in 2006, although a few new issues arose. Since this Recommendation is for approval of the proposal, it is best that it contain all the Findings of Fact and Conclusions necessary to support that recommendation, thus repeating many from the 2006 Recommendation. As a convenience to the reader, this section is added to summarize the new information and recommendations associated with each of the major issues of concern.

OLD ISSUES:

Compliance with SMC 16.68.060 regarding steep slope treatment

Hammer has undertaken additional soils exploration and provided additional information. That additional material demonstrates compliance with applicable criteria.

Compliance with SMC 16.80.100 regarding Innovative Development Design requirements

¹ This entire section added on Remand.

² The City's critical areas regulations were substantially revised through Ordinance No. 918-06, enacted subsequent to the vesting date of the *Hammer PUD* and subsequent to the Examiner's 2006 hearing and Recommendation. Nothing in the 2007 DCD Staff Report acknowledges this basic fact. (Exhibit 29) Chapter 16.68 SMC was totally repealed; steep slope regulations were moved into Chapter 16.80 SMC. Chapter 16.80 SMC was totally restructured. The Innovative Development Design procedure exists no more. (The code section (SMC 16.80.100) still exists, but now contains the City's stream and wetland classification provisions.) Because of vesting considerations, the prior versions of the critical areas regulations must be used in the review of *Hammer PUD*. The current regulations have no applicability. Therefore, all citations to Chapters 16.68 and 16.80 SMC throughout this Recommendation are to the former version of those chapters as they existed on September 25, 2005.

Hammer has clarified that the Innovative Development Design applies only to the wetland buffer. Evidence now shows that the proposed treatment of the buffer/slope will enhance the buffer and that no state agency has jurisdiction over that aspect of the proposal. The proposal complies with approval criteria.

Interior street network concerns

Hammer has agreed to provide reasonable access across Tract D to the adjacent parcel. Access to Tract J was discussed extensively at hearing and is the subject to a special condition. Construction of the North Connector is also addressed in a condition. Street network concerns have now been adequately addressed.

Police concurrency

The applicant-Staff proposal still doesn't comply with the requirements of Chapter 16.108 SMC. but, as with all recent residential applications, the evidence allows for alternative conditions which will comply with the presently adopted code.

Problems with a number of the Staff-recommended conditions

Those problems have either been corrected by Staff or are resolved herein.

NEW ISSUES:

Traffic effects on the Sky Harbor subdivision

While the *Sky Harbor* residents' objection to access through their subdivision is understandable (They presently have short, dead-end, low volume streets which function as if they were cul-de-sacs.), the facts are that those streets were designed and built to serve the Hammer property and are capable of doing so. Their objection should not deter approval of *Hammer PUD*.

Future development of the north-south road

The concept of a north-south road through the commercial/industrial portion of the proposed subdivision complies with all applicable policies. Whether it should eventually be built up the hill and opened for general traffic use is a question which need not be resolved now.

Location of the bollards on the north-south road

Hammer disagrees with DCD's recommendation regarding temporary use of the north-south road. Given the testimony and evidence, the Examiner concludes that the road should be blocked off as recommended by DCD unless Hammer agrees to build it to full City standard as a commercial/industrial street. Then and only then should normal vehicular use of it be allowed as far north as Tract J.

BACKGROUND:

The City on November 10, 2006 received a letter from Mr. Steven Anderson, President of Group Four, Inc regarding the Hearing Examiner's June 15, 2006 Recommendation for the Hammer Planned Unit Development. The Hearing Examiner Recommended the Hammer PUD "be DENIED WITHOUT

PREJUDICE and RETURNED TO THE APPLICANT FOR MODIFICATION." A denial without prejudice is essentially an interim denial (albeit final unless subsequent action is taken). It is analogous to the "return to applicant for correction" option which is available for subdivisions applications. Remanding the Application back to the Hearing Examiner will allow the Applicant to provide the information the Hearing Examiner requested.

The City Council on November 11, 2006 remanded the Application back to the Hearing Examiner so that the Applicant could modify the application.

FISCAL IMPACT:

None. Applicant has paid all processing and review fees.

RECOMMENDATION:

Close the Closed Record Hearing and thereafter consider accepting the Hearing Examiner Report and Recommendation (Attachment 1) and Approval of Resolution 07-19 (Attachment 4).

RECOMMENDED MOTIONS:

Motion to adopt Resolution 07-19 approving the Preliminary Planned Unit Development Subdivision (Hammer PUD) with 35 conditions as Recommended by the Hearing Examiner under Action Item A-4.

COUNCIL ACTION:

DATE:

ATTACHMENTS:

1. Hearing Examiner's Recommendation dated August 2, 2007
2. Staff Report dated June 15, 2007
3. PUD Map dated August 16, 2007
4. Resolution No. 07-19