

SULTAN CITY COUNCIL

AGENDA ITEM COVER SHEET

ITEM NUMBER: A-1

DATE: September 13, 2007

SUBJECT: Consideration of Resolution Number 07-22A and 07-22B approving the George 6-plex Townhouse Development

CONTACT PERSON: Rick Cisar, Director of Community Development 

ISSUE:

The issue before the City Council is to consider Resolution Numbers 07-22A and 07-22B approving the George 6-plex Townhouse Development. The two Resolutions provide for the following:

(1) Resolution Number 07-22A Approving the George 6-Plex Townhouse Development File Number No. CUP06-004 accepting the recommendation, for the development but with revised findings on Police Concurrency consistent with prior applications and applying commercial driveway standards to the project; or

(2) Resolution Number 07-22B Approving the George 6-Plex Townhouse Development File Number No. CUP06-004 accepting the recommendation of the Hearing Examiner for the development and approving the 6-plex development with conditions as proposed by the Hearing Examiner and applying commercial driveway standards to the development.

STAFF RECOMMENDATION:

In consideration of the information provided at the Closed Record/Public Hearing on August 23, 2007 adopt Resolution 07-22A or Resolution 07-22B.

SUMMARY:

City Council conducted a Closed Record/Public Appeal Hearing on the George 6-plex Townhouse Development on August 23, 2007 and deferred its decision on this matter until the September 13, 2007 Council Meeting. In addition, City Council directed City Staff to prepare two (2) Resolutions; one accepting the recommendation of the Hearing Examiner with revised findings on Police Concurrency, and a second Resolution accepting the recommendation of the Hearing Examiner on Police Concurrency.

1) Approval of Resolution 07-22A Approving the George 6-plex Townhouse Development File Number No. CUP06-004 accepting the recommendation for the development, but with revised findings on Police Concurrency consistent with prior applications and applying commercial driveway standards to the project;

This Resolution Approves the project subject to a condition that Police Concurrency be in place concurrent with the impacts of the development based on the Council's previous actions taken to address the Police Level of Service issue.

(2) Approval of Resolution 07-22B Approving the George 6-Plex Townhouse Development File Number No. CUP06-004 accepting the recommendation of the Hearing Examiner for the development and approving the 6-plex development with conditions as proposed by the Hearing Examiner and applying commercial driveway standards to the development.

This Resolution Approves the project subject to a condition that Police Concurrency be in place concurrent with the issuance of occupancy permits for the townhouse units.

BACKGROUND:

The Hearing Examiner conducted an Open Record Hearing on April 24, 2007 for the Ray E. and Belinda Kay George 6-plex Townhouse Development on High Avenue. The Hearing Examiner's Report and Recommendation dated May 4th, 2007, approved the project with 6 Conditions as described on pages 29 and 30 of the report as shown below:

This Conditional Use Permit is subject to compliance with all applicable provisions, requirements, and standards of the Sultan Municipal Code, standards adopted pursuant thereto, and the following special conditions:

1. *The Applicant/Developer shall adhere to all applicable codes, standards, and regulations in effect at the time of development, including but not limited to, the Sultan Municipal Code, the Stormwater Management Manual, the Uniform Building Code, and the Uniform Fire Code, as adopted by the City. The applicant is responsible for obtaining any necessary State and Federal permits/approvals required for completion of the project.*
2. *This Conditional Use Permit applies only to Parcel A as adjusted by the companion Boundary Line Adjustment.*
3. *Exhibits 2 – 4 constitute the approved site plans for this Conditional Use Permit. Minor revisions to approved Conditional Use Permit Site Plans may be approved administratively by DCD (Director of Community Development).*
4. ¹ *Prior to issuance of construction permits:*
 - A. *An ingress, egress, utilities, and landscaping easement must be approved by the City and recorded encumbering that portion of Parcel B used as access and landscaping as depicted on Exhibit 2. (Essentially the easterly 40 feet of Parcel B plus that area associated with the turnaround and it's landscaping.) The easement shall provide that the owner(s) of Parcel A are responsible for all construction, planting, maintenance, and*

¹ (Hearing Examiner's Footnote) Numbering error corrected June 18, 2007: This and subsequent conditions incremented by one.

replacement of the driveway, sidewalk, and landscaping within that easement. Further, the easement shall provide that the existing house and shed on Parcel A may remain within the easement, but that in the event of their destruction or removal, any and all new construction on Parcel B must occur outside of the easement in full compliance with then-applicable City codes, including setback requirements.

- B. The existing easement encumbering the westerly 40 feet of present Parcel B shall be extinguished.
 - C. If the existing shed on Parcel B is to remain, then the developer must demonstrate by clear and convincing evidence that the proposed access road can be safely constructed without causing damage to the existing structure. If the developer is unable to do so, then the existing shed must be removed or relocated.
 - D. The developer must show an additional hydrant on the construction plans, located in the general vicinity of the south side of the proposed parking/turnaround area.
 - E. The landscape plan shall be revised to provide not less than two species of trees.
5. Prior to Building Permit Issuance and commencement of construction:
- A. The developer shall demonstrate that the proposed use for that lot conforms to all requirements of the Sultan Municipal Code and other standards and specifications that apply. Additionally, the developer shall apply to the development of this site all recommendations presented in the geotechnical engineering evaluation prepared for this proposal. (Exhibit 1.N)
 - B. Construction Plans must be approved by the City of Sultan. The plans shall include, but not be limited to, storm drainage, potable water, sanitary sewer, roads, and other utilities to comply with the requirements of the Unified Development Code.
 - C. The neighboring properties shall be protected from erosion in accordance with the Department of Ecology Stormwater Management Manual for Puget Sound Basin. Erosion and sediment control devices shall be in place before construction commences.
6. (1) Prior to issuance of a certificate of occupancy and/or occupancy of the 6-plex, a combination of developer agreements and public funds, including additional tax adoptions (such as 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; or

(2) The alternative, the police services LOS in existence at the time of final building permit inspections shall be met before approval for occupancy is granted.

- 7. To ensure stormwater runoff does not negatively impact off-site properties, all surface water runoff from impervious surfaces shall be managed in accordance with the Puget Sound Stormwater Management Manual. All surface water runoff from impervious surfaces shall be infiltrated, conveyed to an approved detention facility, or otherwise treated to protect water quality.*

DISCUSSION OF ALTERNATIVE ACTIONS:

Approval of Resolution Number 07-22A:

City Council's previous action regarding the Police Level-of-Service has approved the revised finding found in Resolution Number 07-22A. These actions accepted the voluntary developer agreements providing for financial contributions to fund police officers on a prorate basis. To date the Council has approved six (6) Development Agreements for the Skoglund Estates, Steen Park, Cascade Breeze, AJ's Place, Vodnick Lane, and Twin River Ranch Estates. Three (3) new development applications currently under review, based on Council's previous actions, have submitted voluntary Developer Agreements. If the police level of service is changed prior to the certificate of occupancy, by action of the city council, the developer is under no obligation to make the agreed upon contribution to police services.

Approval of Resolution Number 07-22B

Only one development, Hammer Estates Planned Unit Development, did not file an appeal regarding the findings in Resolution Number 07-22B, which supports the recommendation of the Hearing Examiner requiring the Police Level-of-Service be met at the time of issuance of a certificate of occupancy. The developer, in this case, understands the Police Level-of-Service is under review and may be changed or eliminate prior to the occupancy of their first units which may occur in 2009.

In consideration of the two alternatives, Council should act consistently with previous actions and provide the George's with the same considerations. Therefore Council should consider approving Resolution Number 07-22A.

ALTERNATIVES:

1) Approval of Resolution 07-22A Approving the George 6-plex Townhouse Development File Number No. CUP06-004 accepting the recommendation for the development, but with revised findings on Police Concurrency consistent with prior applications and applying commercial driveway standards to the project; or

This Resolution Approves the project subject to a condition that Police Concurrency be in place concurrent with the impacts of the development based on the Council's previous actions approving voluntary agreements with developers to pay their

proportionate share of a police officer for one year to address the Police Level of Service issue.

(2) Approval of Resolution 07-22B Approving the George 6-Plex Townhouse Development File Number No. CUP06-004 accepting the recommendation of the Hearing Examiner for the development and approving the 6-plex development with conditions as proposed by the Hearing Examiner and applying commercial driveway standards to the development.

This Resolution Approves the project subject to a condition that Police Concurrency be in place concurrent with the issuance of occupancy permits for the townhouse units.

FISCAL IMPACT:

Processing of request.

RECOMMENDED MOTION:

Move to adopt Resolution Number 07-22A or 07-22B Approving the George 6-plex Townhouse Development.

ATTACHMENTS:

Attachment 1 Resolution Number 07-22A

Attachment 2 Resolution Number 07-22B

COUNCIL ACTION:

DATE:

Note: Accepts recommendation, for 6-plex but with revised findings on police concurrency consistent with the prior applications, commercial driveway standard

**CITY OF SULTAN
Sultan, Washington**

RESOLUTION NO. 07-22A

A RESOLUTION OF THE CITY OF SULTAN ACCEPTING THE HEARING EXAMINER'S RECOMMENDATION AS REVISED IN THIS RESOLUTION AND APPROVING THE GEORGE 6-PLEX BY APPROVING THE REQUESTED BOUNDARY LINE ADJUSTMENT, RULING THAT COMMERCIAL DRIVEWAY STANDARDS APPLY AND APPROVING A CONDITIONAL USE PERMIT ON PARCEL "A" ON THE CONDITIONS SET OUT BY THE HEARING EXAMINER, EXCEPT CONDITION 5

WHEREAS Ray E. and Belinda Kay George filed an application for approval of the George 6-plex, seeking boundary line approval, conditional use approval, and a decision concerning roadway standards on September 30, 2006;

WHEREAS an open record hearing occurred before the City's Hearing Examiner on April 24, 2007 with the hearing closing on May 1, 2007 and the City Hearing Examiner issued a Recommendation dated May 4, 2007, and the applicant by letter dated _____ appealed Condition 5 of 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 August 23, 2007, 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 May 4, 2007, as further revised by this Resolution and approves the Boundary Line Adjustment and Conditional Use Permit for the George 6-Plex on the conditions set out in the Recommendation, except Condition 5, which is revised herein, and requires the commercial driveway standards for a single family attached development apply to this project.

B. Commencing at page 3 of the Hearing Examiner's Recommendation the Examiner made 25 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 37 Conclusions of Law. The Council adopts Conclusions of Law 1-26. The Council rejects Conclusions of Law 17-37 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 5 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

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

Note: Accepts recommendation (Galt on concurrency), and approves for 6-plex conditions as proposed by Hearing Examiner applying commercial driveway standards.

**CITY OF SULTAN
Sultan, Washington**

RESOLUTION NO. 07-22B

A RESOLUTION OF THE CITY OF SULTAN ACCEPTING THE HEARING EXAMINER'S RECOMMENDATION AND APPROVING THE GEORGE 6-PLEX BY APPROVING THE REQUESTED BOUNDARY LINE ADJUSTMENT, RULING THAT COMMERCIAL DRIVEWAY STANDARDS APPLY AND APPROVING A CONDITIONAL USE PERMIT ON PARCEL "A" ON CONDITIONS AS STATED BY THE HEARING EXAMINER, INCLUDING THE HEARING EXAMINER'S CONDITION 5

WHEREAS Ray E. and Belinda Kay George filed an application for approval of the George 6-plex, seeking boundary line approval, conditional use approval and a decision concerning roadway standards on September 30, 2006;

WHEREAS an open record hearing occurred before the City's Hearing Examiner on April 24, 2007 with the hearing closing on May 1, 2007 and the City Hearing Examiner issued a Recommendation dated May 4, 2007, and the applicant by letter dated _____ appealed Condition 5 of 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 August 23, 2007;

WHEREAS the City Council has determined based upon the law and the facts to accept the Hearing Examiner's findings of fact and to accept the Hearing Examiner's Conclusions of Law and recommended conditions and to deny the appeal but to otherwise grant approval of the boundary line adjustment, the conditional use permit, and to determine that commercial driveway standards apply;

NOW, THEREFORE:

The City Council accepts the "Recommendation" of the Hearing Examiner dated May 4, 2007 and approves the Boundary Line Adjustment and Conditional Use Permit on the Conditions as modified by the Hearing Examiner in the Recommendation, and the Council further determines that the property and project are single family attached housing, and the commercial driveway standards apply.

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