

SULTAN CITY COUNCIL

AGENDA ITEM COVER SHEET

ITEM NO: A-2 Sultan Sportsmen Club Community Center Closed Record Hearing and Approval of Resolution Number 07-23

DATE: September 13, 2007

SUBJECT: **CLOSED RECORD HEARING**
Hearing Examiner Recommendation: Sultan Sportsmen Club Conditional Use Permit to construct and operate a Community Center (CUP06-001).

CONTACT PERSON: Rick Cisar, 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 Hearing on July 31, 2007 to consider a request from the Sultan Sportsmen's Club for a Conditional Use Permit to construct and operate a Community Center at 401 First Street (west side of First Street opposite the end of Cedar Street). 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 Examiner **RECOMMENDS** approval of the Conditional Use Permit to construct and operate a community center subject to 3 Conditions on page 13 of 13 (Attachment 1).

Hearing Examiner:

Does the application meet applicable criteria for approval of the Request for a Conditional Use Permit (Attachment 2 Hearing Examiner on page 10, Conclusion 6)? The proposed Community Center meets or can be easily conditioned to meet all applicable criteria for CUP approval; the requested CUP should be issued.

Citizens:

Two citizens testified during the hearing. No one spoke against the Club's proposal per se. The two citizens who raised issues with the proposal Josie Fallgatter and Janet Peterson, both stated that the City needs a facility like the Club's proposal; neither had any objections to the site development plans. Both questioned the placement of the storm water detention facility/trout pond in the floodplain and expressed concerns about noise. Ms. Peterson is also concerned

about traffic. Ms. Fallgatter also raised certain essentially legal issues about the completeness procedures for the application.

The Hearing Examiner's response to Ms. Fallgatter question on the completeness issue reads as follows:

INTRODUCTION

Sultan Sportsmen Club (the Club), P.O. Box 637, Sultan, Washington 98294, seeks Conditional Use Permit (CUP) approval to construct and operate a community center. The Club filed the Master Land Use Application on July 19, 2006. (Exhibit 1A) The Sultan Department of Community Development (DCD) failed to provide the Club with a "completeness" determination within 28 days of the date the application was filed. (Exhibit 1, p. 3, ¶ 2) Therefore, the Club's application was complete by default as of August 16, 2006, the 28th day after the application was filed.

Josie Fallgatter (Fallgatter) alleges that the Club's application was not complete until much later. Fallgatter questions whether the application was complete before the Central Puget Sound Growth Management Hearings Board (CPSGMHB) invalidated Sultan's Transportation Improvement Plan (TIP) in February, 2007.

Section 36.70B.070 RCW establishes "completeness" procedures for project permit applications with which all local jurisdictions subject to the Growth Management Act must comply:

- (1) Within twenty-eight days after receiving a project permit application, a local government planning pursuant to [the growth Management Act (GMA)] shall mail or provide in person a written determination to the applicant, stating either:
 - (a) That the application is complete; or
 - (b) That the application is incomplete and what is necessary to make the application complete.
- ...
- (2) A project permit application is complete for purposes of this section when it meets the procedural submission requirements of the local government and is sufficient for continued processing even though additional information may be required or project modifications may be undertaken subsequently. The determination of completeness shall not preclude the local government from requesting additional information or studies either at the time of the notice of completeness or subsequently if new information is required or substantial changes in the proposed action occur.
- ...
- (4) (a) An application shall be deemed complete under this section if the local government does not provide a written determination to the applicant that the application is incomplete as provided in subsection (1)(b) of this section. ...

Sultan is subject to the GMA. Therefore, if Sultan fails to respond within 28 days of the filing of a project permit application, that application is complete for processing and vesting purposes as of the 28th day, regardless of whether it contains all information required by any "procedural submission requirements of the local government". Fallgatter's questions regarding when the application was actually complete are, thus, moot in this case: State law prevails as a matter of law.

FISCAL IMPACT:

None Applicant has paid all processing and review fees.

ALTERNATIVES:

City Council in consideration of the Hearing Examiner's Recommendation for this Conditional Use Application may:

1. Affirm the Recommendation of the Hearing Examiner; or
2. Modify the Recommendation of the Hearing Examiner; or
3. Remand the proposal back to the Hearing Examiner for further consideration.

RECOMMENDATION ACTIONS AND MOTIONS:

Motion to Close the Closed Record Hearing and thereafter consider Acceptance of the Hearing Examiner Report and Approval of the Sultan Sportsmen Club Conditional Use Permit to construct and operate a Community Center under Action item A-2 Adoption of Resolution Number 07-23.

ATTACHMENTS:

1. Hearing Examiner's Recommendation dated August 7, 2007
2. Conditional Use Criteria Section 21.04.050
3. Staff Report dated July 6, 2007
4. Resolution No. 07-23
5. Site Plan

COUNCIL ACTION:

DATE:

**BEFORE the HEARING EXAMINER of the
CITY of SULTAN**

RECOMMENDATION

FILE NUMBER: CUP06-001

APPLICANT: Sultan Sportsmen Club

TYPE OF CASE: Conditional Use Permit to construct and operate a community center

STAFF RECOMMENDATION: Approve subject to conditions

SUMMARY OF RECOMMENDATION: APPROVE subject to conditions (revised)

DATE OF RECOMMENDATION: August 7, 2007

INTRODUCTION

Sultan Sportsmen Club (the Club), P.O. Box 637,¹ Sultan, Washington 98294, seeks Conditional Use Permit (CUP) approval to construct and operate a community center. The Club filed the Master Land Use Application on July 19, 2006. (Exhibit 1A²) The Sultan Department of Community Development (DCD) failed to provide the Club with a "completeness" determination within 28 days of the date the application was filed. (Exhibit 1, p. 3, ¶ 2) Therefore, the Club's application was complete by default as of August 16, 2006, the 28th day after the application was filed.³

¹ The Staff report (Exhibit 1) contains a different mailing address for the Club. The P.O. Box number used here is listed as the Club's address in five separate places on the Master Land Use Application. (Exhibit 1A) The number listed in the Staff Report is found on Exhibit 1B as the mailing address for the Club's president, C. H. Rowe. (Exhibit 1B) The Club, not Rowe, is the official applicant. Therefore, since the Club obviously has an official mailing address, that address will be used.

² Exhibit citations are provided for the reader's benefit and indicate: 1) The source of a quote or specific fact; and/or 2) The major document(s) upon which a stated fact is based. While the Examiner considers all relevant documents in the record, typically only major documents are cited. The Examiner's Recommendation is based upon all documents in the record.

³ Josie Fallgatter (Fallgatter) alleges that the Club's application was not complete until much later. Fallgatter questions whether the application was complete before the Central Puget Sound Growth Management Hearings Board (CPSGMHB) invalidated Sultan's Transportation Improvement Plan (TIP) in February, 2007.

Section 36.70B.070 RCW establishes "completeness" procedures for project permit applications with which all local jurisdictions subject to the Growth Management Act must comply:

(Footnote continued on next page.)

Attachment 1

The subject property is located at 401 First Street, on the west side of First Street opposite the end of Cedar Street.⁴

The Sultan Hearing Examiner (Examiner) viewed the subject property on July 31, 2007.

The Examiner held an open record hearing on July 31, 2007. DCD gave notice of the hearing as required by the Sultan Municipal Code (SMC). (Exhibits 1L and 1M)

The following exhibits were entered into the hearing record during the hearing:

- Exhibit 1: Departmental Staff Report with Attachments 1.A – 1.M
- Exhibit 2: Building elevations (Exhibits 2A and 2B)

The action taken herein and the requirements, limitations and/or conditions recommended for imposition by this recommendation are, to the best of the Examiner's knowledge or belief, only such as are lawful and within the authority of the Examiner to take and recommend pursuant to applicable law and policy.

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- (1) Within twenty-eight days after receiving a project permit application, a local government planning pursuant to [the growth Management Act (GMA)] shall mail or provide in person a written determination to the applicant, stating either:
 - (a) That the application is complete; or
 - (b) That the application is incomplete and what is necessary to make the application complete.
 - ...
 - (2) A project permit application is complete for purposes of this section when it meets the procedural submission requirements of the local government and is sufficient for continued processing even though additional information may be required or project modifications may be undertaken subsequently. The determination of completeness shall not preclude the local government from requesting additional information or studies either at the time of the notice of completeness or subsequently if new information is required or substantial changes in the proposed action occur.
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 - (4) (a) An application shall be deemed complete under this section if the local government does not provide a written determination to the applicant that the application is incomplete as provided in subsection (1)(b) of this section. ...

Sultan is subject to the GMA. Therefore, if Sultan fails to respond within 28 days of the filing of a project permit application, that application is complete for processing and vesting purposes as of the 28th day, regardless of whether it contains all information required by any "procedural submission requirements of the local government". Fallgatter's questions regarding when the application was actually complete are, thus, moot in this case: State law prevails as a matter of law.

⁴ The "Site" arrow on the Vicinity Map portion of Exhibit 1B is substantially in error: It should point to the west side of First Street opposite the end of Cedar Street.

ISSUES

Does the application meet applicable criteria for CUP approval?

No one spoke against the Club's proposal *per se*. The two citizens who raised issues with the proposal (Fallgatter and Janet Peterson (Peterson)) both stated that the City needs a facility like the Club's proposal; neither had any objects to the site development plans. Both questioned the placement of the storm water detention facility/trout pond in the floodplain and expressed concerns about noise; Fallgatter also raised certain essentially legal issues; Peterson is also concerned about traffic.

FINDINGS OF FACT

1. The Club proposes to establish a community center on the subject 3.76 acre property. The property is zoned Moderate Density (MD). (Exhibit 1⁵) Community centers are a listed conditional use in the MD zone. [SMC 16.12.020(D)(12)(b)] A "community center" is "a place, structure, area, or other facility used for and providing social, fraternal, religious, and/or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community." [SMC 16.150.030(25)] Community centers in the MD zone must: be located on a lot containing at least 20,000 square feet (SF) with a width and depth of at least 100 feet; maintain at least a 25 foot front and rear setback and a 15 foot side setback; not exceed a building height of 30 feet; and not exceed 25% lot coverage. [SMC 16.12.020(C), Table]
2. The subject property is an "L" shaped tract containing 3.76 acres. The property has 200 feet of frontage on the west side of First Street and a maximum depth of 560 feet. (Exhibit 1B) The subject property exceeds MD zone minimum area and dimension requirements for use as a community center.

The site is bordered on its north and south by residential properties. Residential properties also characterize the east side of First Street in this area. The area to the west is undeveloped and wooded. (Exhibits 1, 1F, and 1G and testimony)

3. The City rebuilt much of First Street in or around 2005. Some of the excess materials from that project were used as fill on the subject property. Approximately the eastern 260 feet of the site (the

⁵ Most exhibit citations within the Staff Report, Exhibit 1, suffer from a repetitive scrivener's error: The cited reference is not the intended reference. The only correct citations within the report are the first one (on page 2) and the last one (on page 8). The list of Exhibits on page 9 of the Staff Report is correct. A reader of the Staff Report should refer to that list for the correct citation for any document mentioned in the Report's text.

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“toe” of the “L”) was filled to a depth of about six feet, bringing that portion of the property up to grade with reconstructed First Street.⁶ (Exhibits 1, 1B, 1F, and 1G and testimony) Utility stubs were installed to serve the subject property during the reconstruction of First Street. (Testimony)

4. The entirety of the property is within the designated special flood hazard area of the Sultan River. The Sultan River is located approximately 1,400 feet west of the west property line. The Base Flood Elevation across the property ranges from 116.7 to 117 feet. No portion of the site is within the designated floodway. (Exhibits 1, 1F, and 1G and testimony) The elevation of the filled portion of the property is about 116 feet. (Exhibit 1B)
5. The club proposes to build a 108' x 48' single-story building with a 24' x 12.5' entry and 24' x 23.5' *porte-cochere* centered on the south face of the building. The building and *porte-cochere* will have a 4:12 pitch, standing seam, gable roof. The walls will have a vertical design element over a cultured stone base. Overall building height will be less than 22 feet. The floor elevation will be 118 feet. (Exhibits 1B and 2)

The building is proposed to be located 35 feet from the east (front) property line, approximately 30 feet from the north and 85 feet from the south (side) property lines, and over 400 feet from the west (rear) property line. (Exhibit 1B)

Eighty parking spaces will be located south and west of the building on the remainder of the presently filled area.⁷ Sixty parking stalls are required. One centrally located driveway will be provided. (The site was provided with two curb cuts during the First Street reconstruction. Both will be replaced with curb and gutter.) (Exhibits 1 and 1B)

The City is able to provide both water and sewer service to the community center. (Exhibit 1E) Stubs for those utilities were installed when First Street was reconstructed; tearing up the new street will not be necessary. (Testimony)

6. The Club has prepared a preliminary landscape plan which depicts plantings around the building, in the planter islands within the parking area, along the First Street frontage, along the north and south property lines where the site has been filled, and along the western edge of the fill. The plan depicts the area between the building and the north property line and a 15 foot wide strip along the south

⁶ Peterson questions the efficacy of the arrangements between the Club and the City regarding the First Street project fill dirt. The nature of the arrangements that were reached for use of the fill dirt are totally beyond the scope of the Examiner's and Council's jurisdiction in this CUP proceeding and will not be addressed.

⁷ The site plan (Exhibit 1B) indicates that 79 parking spaces will be provided. The Staff Report says there will be 80. The Staff Report is correct: The site plan apparently failed to count the handicapped parking stall immediately west of the building.

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edge of the filled area as landscape buffer areas, each to be planted with one row of trees supplemented by shrubs and groundcover. (Exhibit 1C)

Subsection 16.56.030(B)(3) SMC contains special landscape buffer requirements for nonresidential uses in the LMD, MD, and HD zones. If such a use is to be located "immediately adjacent to an existing nonresidential use, no landscaped buffer will be required along the common property line". In all other cases, a buffer not less than 15 feet wide planted with at least three, staggered rows of plantings which will achieve a height of at least six feet at maturity is required.

The special buffer planting requirement applies since the subject property is bordered on its north and south by single-family residences. Both the north and south buffer widths meet or exceed the code requirement. The depicted plantings do not meet the requirement. (Exhibit 1)

7. The Club proposes to build a combination trout pond/stormwater detention facility on the unfilled portion of the site. The 1.2 acre pond will be created by excavating to a depth of about 96 feet and building a perimeter berm to an elevation of 110 feet (\pm 6 feet below Base Flood Elevation). The pond's side slopes will be generally 3:1, but a 10:1 safety shelf around the entirety of the pond will be provided at a standing water depth of about two feet. The concept is to provide "live storage" (a trout pond) with a depth of about 11 feet and the ability to store an additional two feet of storm runoff before overflow. The design storage capacity exceeds the requirements of the 2005 Washington State Department of Ecology Stormwater Management Manual. (Exhibits 1B and 1F)
8. The Club will use the building for its monthly meetings (typically attended by under 20 members) and will make it available for rental by individuals or groups for receptions, weddings, parties, etc. The Club's annual children's fishing derby (a 50 year tradition for the Club) will be held on-site once the pond is established. (Testimony)
9. The Club contracted for a professionally prepared traffic impact study. In order to present a worst-case scenario, the consultant based its trip generation figures on the maximum anticipated capacity of the building (240 persons) rather than on the Club's membership (about 50 persons) and used national average figures for lodges/fraternal organizations to estimate the number of trips that will be generated. (Exhibit 1D, pp. 1 and 2) Based on present membership, the Club would be expected to generate 14.5 average daily trips (ADT) with one of those trips in the A.M. peak-hour and two in the P.M. peak hour. Based on 240 members, those figures would rise to 780 ADT, 2 A.M. peak-hour, and 7 P.M. peak-hour trips. (Exhibit 1D, p.2) Most trips would be associated with special events held on-site. Such events have no predictable frequency or pattern: It depends upon how many persons/groups want to rent the facility and at what times.

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10. This proposal is arguably subject to Design Review Board (DRB) review under Chapter 2.20 SMC.⁸ The DRB considered the proposal at two of its meetings. (Testimony) The DRB approved the current design proposal, without conditions, at its April 26, 2007, meeting. (Exhibit 1K)
11. Several Comprehensive Plan policies are relevant to the proposal. DCD finds the Club's plan consistent with those policies. (Exhibit 1, pp. 4 and 5) Compliance with Comprehensive Plan policies was not challenged by any hearing participant. The Examiner finds compliance with applicable policies.
12. Fallgatter and Peterson are concerned that groups using the community center might become raucous and disturb the neighborhood, an especially important concern to Peterson who lives two lots away from the site. (Testimony)

Sultan has three separate regulations which address the types of noise of concern to Fallgatter and Peterson. Chapter 8.04 SMC, Nuisances, declares "All loud, discordant and unnecessary noises or vibrations of any kind between the hours of 10:00 p.m. and 8:00 a.m." to be a nuisance. [SMC 8.04.050(I)] Chapter 8.04 SMC provides for abatement and criminal penalties. [SMC 8.04.060 - .140]

Chapter 8.10 SMC, Public Disturbance Noise, declares a number of noises to be a public disturbance, including loud music "which unreasonably interferes with the peace, comfort and repose of owners or occupants of nearby property" [SMC 8.10.010(D)], music or social gatherings "which

⁸ As the Examiner has noted in prior Recommendations, the SMC contains an apparent conflict between Chapters 21.04 and 2.20 SMC. Chapter 21.04 SMC, "Conditional Use Permits," was adopted by Ordinance No. 690-98, effective August 10, 1998. Section 21.04.050(C) requires "building and site design as approved by the design review committee" for all CUP applications. Chapter 2.20 SMC, "Design Review Board and Process," was adopted by Ordinance No. 727-00, effective March 22, 2000, as a replacement for former Ordinance No. 686-98. Section 2.20.060 SMC establishes the DRB's scope of authority: "The design review board shall review all development in urban center (UC), highway-oriented development (HOD), economic development (ED) zoning districts, multifamily developments and neighborhood commercial developments in residential zones." Ordinance No. 727-00 contains a "Repealer" section: "Any and all other ordinances or parts of ordinances of the City of Sultan inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency." Since Ordinance No. 727-00 is more recent than Ordinance No. 690-98, any provisions in the latter which are inconsistent with the provisions of the former have been repealed.

Section 21.04.050(C) SMC is partly inconsistent with SMC 2.20.060: It purports to require DRB review of any CUP anywhere in the City. Section 2.20.060 SMC does not authorize DRB review of developments in residential zones with but two exceptions: multifamily and neighborhood commercial developments.

Since the subject property is zoned MD, a residential zone, DRB authority exists only if one considers the community center a "neighborhood commercial development." While it is not, strictly speaking, such a development, it is definitely a nonresidential use.

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unreasonably interferes with the peace, comfort and repose of owners or occupants of neighboring residential properties" [SMC 8.10.010(G)], and shouting on public streets between 11:00 p.m. and 7:00 a.m. [SMC 8.10.010(J)]. (Noise from a licensed "special event" is exempt from this restriction so long as it operates within the limits of its permit. [SMC 8.10.020(E)]) Civil and criminal penalties are available for violation of Chapter 8.10 SMC. [SMC 8.10.030 – 070]

A permit, issued by the City Council (Council), is required before any organization or group has a function with "dancing or live music". [SMC 5.12.020] The Council has discretion to exempt a group from the special permit requirement. [SMC 5.12.030(B) and (C)]

13. Sultan's State Environmental Policy Act (SEPA) Responsible Official issued a threshold Determination of Nonsignificance (DNS) for the proposed community center on August 14, 2006. (Exhibit 1H) No appeal was filed in response to issuance of the DNS. (Testimony)
14. DCD recommends approval of the requested CUP subject to seven conditions. (Exhibit 1, p. 8) The Club has no objection to any of the recommended conditions. (Testimony)
15. Any Conclusion deemed to be a Finding of Fact is hereby adopted as such.

PRINCIPLES OF LAW

Authority

CUPs require a pre-decision open record hearing following which the hearing body forwards a recommendation to the Sultan City Council (Council) for final action. [SMC 16.120.050 and 21.04.030] The Examiner is charged with the responsibility and authority to conduct the required open record hearing. [SMC 16.120.050]

Review Criteria

The review criteria for CUPs are set forth at SMC 21.04.050:

- A. The proposed conditional use will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity of the proposed conditional use or in the district in which the subject property is situated;
- B. The proposed conditional use shall meet or exceed the performance standards that are required in the district it will occupy;
- C. The proposed conditional use shall be compatible generally with the surrounding land uses in terms of traffic and pedestrian circulation, building and site design as approved by the Design Review Committee;
- D. The proposed conditional use shall be consistent with the goals and policies of the Comprehensive Land Use Policy Plan;

E. All measures have been taken to minimize possible adverse impacts, which the proposed use may have on the area in which it is located.

The Local Project Review Act [Chapter 36.70B RCW] establishes a mandatory “consistency” review for “project permits”, a term defined by the Act to include “building permits, subdivisions, binding site plans, planned unit developments, conditional uses, shoreline substantial development permits, site plan review, permits or approvals required by critical area ordinances, site-specific rezones authorized by a comprehensive plan or subarea plan”. [RCW 36.70B.020(4)]

(1) Fundamental land use planning choices made in adopted comprehensive plans and development regulations shall serve as the foundation for project review. The review of a proposed project’s consistency with applicable development regulations or, in the absence of applicable regulations the adopted comprehensive plan, under RCW 36.70B.040 shall incorporate the determinations under this section.

(2) During project review, a local government or any subsequent reviewing body shall determine whether the items listed in this subsection are defined in the development regulations applicable to the proposed project or, in the absence of applicable regulations the adopted comprehensive plan. At a minimum, such applicable regulations or plans shall be determinative of the:

- (a) Type of land use permitted at the site, including uses that may be allowed under certain circumstances, such as planned unit developments and conditional and special uses, if the criteria for their approval have been satisfied;
- (b) Density of residential development in urban growth areas; and
- (c) Availability and adequacy of public facilities identified in the comprehensive plan, if the plan or development regulations provide for funding of these facilities as required by [the Growth Management Act].

[RCW 36.70B.030]

Vested Rights

The vested rights doctrine applies to CUP applications:

Washington does adhere to the minority rule that a landowner obtains a vested right to develop land when he or she makes a timely and complete building permit application that complies with the applicable zoning and building ordinances in effect on the date of the application. Our vested rights rule also has been applied to building permits, conditional use permits, a grading permit, and a [shoreline management] substantial development permit.

[*Norco Construction v. King County*, 97 Wn.2d 680, 684, 649 P.2d 103 (1982), citations omitted] Therefore, this CUP application is vested to the regulations as they existed on August 16, 2006.⁹

Standard of Review

The standard of review is preponderance of the evidence. The applicant has the burden of proof.

Scope of Consideration

The Examiner has considered: all of the evidence and testimony; applicable adopted laws, ordinances, plans, and policies; and the pleadings, positions, and arguments of the parties of record.

CONCLUSIONS

1. The proposed community center meets CUP Criterion (A). The site is ample for the intended use. The building is to be situated farther from the property lines than required by the SMC. The one driveway will minimize turning movement conflicts along First Street. Proper landscaping as required by code will esthetically screen the building from the adjacent residences (neither of whose occupants participated in the hearing). The Club's normal monthly meetings will have but minimal impact on the area due to the small size of the membership. No evidence suggests that the facility will be used for large gatherings so frequently as to potentially create a conflict with the surrounding residential uses. Adopted noise and nuisance regulations will control that potential problem. Driver actions when departing from a party simply cannot be regulated through the CUP process; the Examiner is unwilling to assume that most drivers who attend a function at the community center will be rude, insensitive, and/or unsafe.
2. The proposed community center can be conditioned to meet CUP Criterion (B). As presently drawn, the landscape plan does not meet minimum code requirements: It fails to depict three staggered rows of plantings along the north and south property lines. DCD's Staff Report identifies only the north property line as a problem area. However, the buffer exemption applies only where the adjacent use is "nonresidential". The code refers to the use of the adjacent property, not to the use of the closest building on the adjacent property or to the distance of that use from the common property line. In this case, both the lot to the north and the lot to the south contain a single-family residence. Therefore, under the clear language of the code, they are residential lots and the three-row buffer requirement applies.

The site plan has the requisite 15 foot buffer area within which the landscaping is to be planted. Therefore, the site plan need not be changed. The final landscape plan must simply propose three

⁹ CPSGMHB actions are prospective and do affect vested applications. [RCW 36.70A.302(2)] Therefore, the CPSGMHB's February, 2007, invalidation of the TIP has no effect on the Club's vested CUP application.

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staggered rows of appropriate vegetation within those areas. That change can easily be accommodated through a condition.

The proposed plan otherwise complies with applicable regulations.

3. The proposed community center meets CUP Criterion (C). Traffic will be sporadic and difficult to average in any meaningful way. Because of its sporadic nature, the Examiner concludes that traffic impacts will likely be less than those of a similarly sized church, as the latter has regularly scheduled meetings/services/functions which attract a significant portion of its membership.

The DRB has approved the proposed plans, if DRB approval is even necessary.

4. The proposed community center meets CUP Criterion (D). All evidence indicates that the proposal will further those Comprehensive Plan policies which are reasonably relevant to the proposed use.
5. The proposed community center meets CUP Criterion (E). Some concern was expressed about the location of the stormwater detention/trout pond within the Sultan River floodplain. (The site is not within the floodway, that portion of the floodplain where stringent regulations apply to bar or minimize flood flow restrictions of any type; the site is within the fringe area.) The pond will be completely inundated during a Base Flood (The so-called "100 year flood"), so it would have but negligible displacement effects during such an event. Many parts of the City are located within the floodplain fringe. The mere reality of such a location is not an automatic disqualification. The proposed stormwater detention/trout pond will have to receive a floodplain permit or clearance before its construction. If for some reason it cannot be built as proposed, then it would have to be altered to comply with floodplain regulations. If for some reason it could not be built at all where proposed (a condition which the Examiner believes to be highly unlikely), then the project simply could not go forward without significant site plan revision, a situation which would trigger the need for a revised CUP, which in turn would require an additional hearing. The public interest is sufficiently protected by existing floodplain regulations and CUP requirements.
6. The proposed community center meets or can be easily conditioned to meet all applicable criteria for CUP approval; the requested CUP should issue.
7. The proposal passes the "consistency" test: a community center is allowed in the MD zone upon issuance of a CUP, density is not a consideration in a nonresidential use, and utility services are available.
8. The recommended conditions of approval as set forth in Exhibit 1 are reasonable, supported by the evidence, and capable of accomplishment with the following exceptions:

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- A. A CUP embodies the concept of approval of a specific development proposal. A CUP evaluation is based upon the specific development plans submitted by the applicant. It is appropriate, therefore, that the conditions of approval clearly identify the plans which are being approved. The DCD recommendation as drafted does not do so. Exhibit 1B is the proposed site development plan and supporting plans, Exhibit 1C is the proposed landscape plan (which will require some minor correction to comply with the SMC), and Exhibit 2 is the proposed building elevations. Those are the plans which the DRB reviewed; those plans should be cited as the approved CUP plans. Reference to those exhibits will be incorporated into a new condition.
 - B. Recommended Condition B.c must be revised so as to not violate an adopted regulation. The dollar amount of traffic impact mitigation fees should not be specified in a CUP condition. Traffic impact fees "shall be determined and paid to the designated city of Sultan official at the time of issuance of a building permit for the development." [SMC 16.112.020(B)] Therefore, the amount of the fee is based on the fee schedule in effect when building permit applications are filed, not the fee schedule now in effect.
 - C. Recommended Condition B.e must specifically identify the changes which are needed to the landscape plan.
 - D. Recommended Condition B.f is unnecessary from a legal perspective: Every permittee must comply with all applicable, adopted municipal regulations whether or not a CUP lists those requirements. The only harm which can arise from listing one specific mandatory regulation as a special CUP condition is to instill the erroneous impression that the permittee need not comply with any other municipal regulations. Such a misunderstanding cannot happen in this case given the explanation in this Conclusion. Therefore, since noise is a concern to some area residents, mentioning those regulations which will apply may provide some comfort. If that is to be the case, then both Chapters 8.04 and 8.10 SMC should be cited, not just Chapter 8.10 SMC.
 - E. A few minor, non-substantive structure, grammar, and/or punctuation revisions to the Recommended Conditions will improve parallel construction, clarity, and flow within the conditions. Such changes will be incorporated.
9. Any Finding of Fact deemed to be a Conclusion is hereby adopted as such.

RECOMMENDATION

Based upon the preceding Findings of Fact and Conclusions, the testimony and evidence submitted at the open record hearing, and the Examiner's site view, the Examiner **RECOMMENDS APPROVAL** of a Conditional Use Permit to construct and operate a community center **SUBJECT TO THE ATTACHED CONDITIONS.**

Recommendation issued August 7, 2007.

\\s\ John E. Galt (Signed original in official file)

John E. Galt,
Hearing Examiner

NOTICE OF RIGHT OF RECONSIDERATION

This Recommendation, dated August 7, 2007, is subject to the right of reconsideration pursuant to SMC 2.26.120(D). Reconsideration may be requested by the applicant, a party of record, or the City. Reconsideration requests must be filed in writing with the City Clerk/Treasurer not later than 5:00 p.m., local time, on August 17, 2007 (which is the tenth calendar day after the date of mailing of this Decision). Any reconsideration request shall specify the error of law or fact, procedural error, or new evidence which could not have been reasonably available at the time of the hearing conducted by the Examiner which forms the basis of the request. Any reconsideration request shall also specify the relief requested. See SMC 2.26.120(D) and 16.120.110 for additional information and requirements regarding reconsideration.

NOTICE OF COUNCIL CONSIDERATION

This Recommendation becomes final as of the eleventh calendar day after the date of mailing of the Recommendation unless reconsideration is timely requested. If reconsideration is timely requested, the Examiner's order granting or denying reconsideration becomes the Examiner's final recommendation. The Examiner's final recommendation will be considered by the Sultan City Council in accordance with the procedures of SMC 2.26.120(D) and Title 16 SMC. Please contact the Department of Community Development for information regarding the scheduling of Council consideration of this Recommendation. Please have the applicant's name and City file number available when you contact the city.

The following statement is provided pursuant to RCW 36.70B.130: "Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation."

HEARING EXAMINER RECOMMENDATION

RE: CUP06-001 (Sultan Sportsmen Club)

August 7, 2007.

Page 13 of 13

CONDITIONS OF APPROVAL

CUP06-001

Sultan Sportsmen Club

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. Exhibits 1B, 1C, and 2 are the approved Conditional Use Permit development plans; PROVIDED, that Exhibit 1C, the landscape plan, shall be revised to be in compliance with SMC 16.56.030: The landscape areas north of the building and south of the parking lot shall include three staggered rows of vegetation composed of plants which will achieve a height of at least six feet at maturity.
2. The permittee 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 permittee is responsible for obtaining any necessary State and Federal permits/approvals required for completion of the project.
3. Prior to Building Permit Issuance and commencement of construction:
 - A. The permittee 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.
 - 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. Traffic mitigation fees shall be determined and paid as required by Chapter 16.112 SMC.
 - D. All surface water runoff from impervious surfaces shall be infiltrated, conveyed to an approved detention facility, or otherwise treated to protect water quality.
 - E. The permittee is reminded that Chapters 8.04 and 8.10 SMC regulate noise and public nuisances.

21.04.050

notification requirements. Denial of conditional use permit applications is not appealable. All conditional use permits are subject to design review procedures. (Ord. 690-98)

21.04.050 Criteria.

The following criteria shall apply in granting a conditional use permit:

A. The proposed conditional use will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity of the proposed conditional use or in the district in which the subject property is situated;

B. The proposed conditional use shall meet or exceed the performance standards that are required in the district it will occupy;

C. The proposed conditional use shall be compatible generally with the surrounding land uses in terms of traffic and pedestrian circulation, building and site design as approved by the design review committee;

D. The proposed conditional use shall be consistent with the goals and policies of the comprehensive land use policy plan;

E. All measures have been taken to minimize the possible adverse impacts, which the proposed use may have on the area in which it is located. (Ord. 690-98)

21.04.052 Additional criteria for single-family detached dwelling (clustered).

The following additional criteria apply to allow single-family detached dwelling(s) (clustered):

A. The density on the property may not be greater than but should match the density for single-family detached dwellings;

B. Where urban density goals are to be achieved, but critical areas can be adequately protected, dimensional requirements for lot size, lot width, front and rear yard setbacks may be decreased by no more than 20 percent;

C. As a result of the design of the subdivision, a minimum of 20 percent of the net land area of continuous, publicly accessible open space such as stream or wetland and associated buffers, a ravine, bluff or other unique topographic feature, or conservation area is preserved;

D. As a result of the dwellings and any subdivision, the availability of housing to all economic segments of the population is increased, and housing density variety is preserved throughout the community. (Ord. 780-02 § 16)

21.04.054 Additional criteria for duplexes or two-family dwellings.

The following additional criteria apply to allow duplexes or two-family dwellings:

A. Only one other duplex or multifamily use may exist within 300 feet of the proposed use and there must be at least a 100-foot separation (building to building) between the uses.

B. The proposed dwelling has been designed to be harmonious with the neighborhood and is constructed to provide the appearance of a single-family unit by, for example, altering the location of the front doors and windows; garages and access to garages; parking; landscaping and fencing; utilities and mailbox locations; building heights consistent with surrounding properties; exterior colors and materials; and differing setbacks, all of which are confirmed by a site plan. (Ord. 780-02 § 17)

21.04.060 Expiration and renewal.

A conditional use permit shall automatically expire one year after a notice of decision approving the permit is issued unless a building permit conforming to plans for which the CUP was granted is obtained within that period of time. A conditional use permit shall automatically expire unless substantial construction of the proposed development is completed within two years from the date a notice of decision approving the permit is issued. The planning commission or city council, on appeal, may authorize longer periods for a conditional use permit if appropriate for the project. The planning commission or city council, on appeal, may grant a single renewal of the conditional use permit if the party seeking the renewal can demonstrate extraordinary circumstances or conditions not known or foreseeable at the time the original application for a conditional use permit was granted, which would not warrant such a renewal. No public hearing is required for a renewal of a conditional use permit. (Ord. 690-98)

21.04.070 Revocation of permit.

A. The planning commission may revoke or modify a conditional use permit. Such revocation or modification shall be made on any one or more of the following grounds:

1. That the approval was obtained by deception, fraud, or other intentional and misleading representations;

2. That the use for which such approval was granted has been abandoned;

City of Sultan
STAFF REPORT AND RECOMMENDATION
TO THE HEARING EXAMINER
July 6, 2007

Approval of an Application for a Conditional Use Permit
401 First Street, Sultan WA
File Number No. CUP06-001

<u>Section</u>		<u>Page</u>
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I. APPLICATION INFORMATION AND PROCESS

A. Request: The applicant requests approval of Conditional Use Permit (CUP) 06-001 for the development of a 5,300 SF Community Center. The subject property is located on 3.76 acres. The address is 401 First Street, Sultan WA.

B. <u>Owner/Applicant:</u>	<u>Owner:</u> Sultan Sportsmen Club CH Rowe (President) P.O. Box 750 Sultan, WA 98294	<u>Applicant:</u> Sultan Sportsmen Club CH Rowe (President) P.O. Box 750 Sultan, WA 98294
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C. <u>Contact:</u>	CH Rowe P.O. Box 750 Sultan, WA 98294
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D. <u>Engineer/Surveyor:</u>	<u>Engineer</u> Place Consultants 321 N. Lewis St. / P.O. Box 298 Monroe, WA 98272	<u>Surveyor</u> Harmsen & Associates, Inc. 16778 – 146 th St. SE, Suite 104 Monroe, WA 98272
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E. <u>Wetland Biologists:</u>	N/A
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Attachment 3

- F. City Planners:
- | | |
|-----------------------------------|------------------------------|
| Rick Cisar | Jason Moore |
| Director of Community Development | Consultant to City of Sultan |
| 319 Main Street, Suite 200 | 319 Main Street, Suite 200 |
| PO Box 1199 | PO Box 1199 |
| Sultan, WA 98294 | Sultan, WA 98294 |
- G. Parcel Number: 28083100402100
- H. Application History: The Master Land Use Application for a conditional use permit was received on July 19, 2006 (see **Exhibit A**). City staff declared the application complete on July 19, 2006.
- I. Zoning: The site is zoned Moderate Density. Per SMC 16.12.020(12) the proposed use is allowed as a conditional use. Refer to section IV on page five for additional detail.
- J. Procedures for Conditional Use Permit Approval: Per SMC 21.04.030 "...The Hearing Examiner will review applications for conditional use permits and the recommendations will be passed to the city council for final action. The Hearing Examiner may recommend to the city council denial, approval, or approval with conditions. Conditional use applicants must adhere to all applicable public notification requirements. Denial of conditional use permit applications is not appealable. All conditional use permits are subject to design review procedures...."
- K. Location: The subject property is approximately 3.76 acres located on the west side of 1st Street, adjacent to Cedar Street. The address is 401 1st Street, Sultan WA 98272.
- L. Existing Site and Surrounding Land Uses: The site measures approximately 370 feet by 560 feet. The parcel is mostly flat, and contains slopes of less than 10 percent. 1st Street borders the site to the east. Single-family residences are currently built out along the eastern side of 1st street. Single-family residences border the site to the north and south. Vacant land is located to the west. The site is currently undeveloped. Existing onsite vegetation is primarily made up of grasses. The City of Sultan previously filled the eastern half of the property in conjunction with improvements made to 1st Street in 2005. The entirety of the property is within the special flood hazard area designation, and is located approximately 1,600 feet east of the Sultan River. No portion of the site is within a floodway.
- M. 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 #311 |
- N. Related Permits and Reviews: Development of the site will require driveway improvements, utility, right-of-way, and building permits. Design review required for application approval per SMC 2.20.060 & SMC 21.04.030. The Design Review board has met with the applicant on April 26, 2007. The Design Review Board approved the project at the April 26, 2007 meeting.

Completeness: Completeness determination is required for any application to determine vesting and permit processing time. Thus a completeness determination must be made for all projects. Completeness is determined by finding if all of the required submittal materials have been submitted to the City. The city of Sultan does not have completeness checklists to determine completeness of a project. The particular code sections related to any particular applications contain lists of information required for project review. The information found in the code is not necessarily the information needed for an application to be complete.

In the subject case the planning consultant initially determined the application was incomplete, as some review items were not found on the site plan. However, upon further review, the city found the application was complete as the requisite site plan was submitted. A revised notice was sent to the applicant notifying them of a positive completeness determination. Furthermore, the applicant was notified of the deficiencies in the application.

Furthermore, RCW 36.70B.070 requires a completeness determination within 28 days of the initial application. As the City did not respond to the applicant within the requisite time period, the application must be found complete by default.

II. CONDITIONAL USE PERMIT FINDINGS

A. 21.04.050 Criteria (for approval of a conditional use permit)

The following criteria shall apply in granting a conditional use permit:

"A. The proposed conditional use will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity of the proposed conditional use or in the district in which the subject property is situated;

B. The proposed conditional use shall meet or exceed the performance standards that are required in the district it will occupy;

C. The proposed conditional use shall be compatible generally with the surrounding land uses in terms of traffic and pedestrian circulation, building and site design as approved by the design review committee;

D. The proposed conditional use shall be consistent with the goals and policies of the comprehensive land use policy plan;

E. All measures have been taken to minimize the possible adverse impacts, which the proposed use may have on the area in which it is located. (Ord. 690-98)"

B. Applicant's response to the required criteria:

1. The applicant did not submit written findings, but has shown compliance with the submitted materials (civil plan set, landscape plan, SEPA, and traffic report).
2. Tree and shrub plantings are proposed on the east, south, and west property lines, as well as around the new proposed building. Tree plantings are also shown north of the proposed building along the property line. These planting are intended to provide a buffer for neighboring properties.
3. The traffic report prepared by Gibson Traffic Consultants states that two additional AM peak-hour trips, and seven PM peak-hour trips will be added to the existing condition, so the development will not impact any key intersection during the AM or PM peak-hours. (see **Exhibit D**).
4. Ample parking will be provided for the proposed development. A total of 80 parking stalls are proposed, which includes one handicap parking stall. 60 parking stalls are required (see page 6 for additional detail).

5. One new access is proposed. A 5' sidewalk exists along the eastern boundary of the project site. The building has been approved by the Design Review Board (see **Exhibit K**).

C. Staff Comments (FACTS)

1. As shown on the applicant's landscape site plan, tree and shrub plantings are proposed on the east, south, and west property lines, as well as around the new proposed building. Tree plantings are also shown north of the proposed building along the property line. These plantings shall provide a buffer for neighboring properties, and will minimize the asctetic impacts created by the proposed development. The project has been shown to meet the Performance standards listed under SMC 16.56.030.
2. There will be one new driveway constructed along the eastern property boundary, taking access from 1st Street. The traffic report prepared by Gibson Traffic Consultants states that two additional AM peak-hour trips, and seven PM peak-hour trips will be added to the existing condition, so the development will not impact any key intersection during the AM or PM peak-hours (see **Exhibit D**).
3. The applicant has submitted a civil site plan by Place Consultants (see **EXHIBIT B**) and a landscape plan by Victory Landscape Company, Inc. (see **EXHIBIT C**). Staff has determined that the civil site plan meets the applicable requirements of SMC 16.12.020, 16.56, and 21.04.
4. The applicant has proposed 80 parking stalls where 60 parking stalls are required (SMC 16.60.140).
5. The landscape plan submitted meets the applicable requirements of SMC 16.104. Landscape buffers are proposed along the property boundaries in order to mitigate for impacts to the surrounding properties. However, insufficient landscape buffer is proposed per SMC 16.56.030 to buffer the subject site from the neighboring site to the north. A condition should be added requiring two additional rows of plantings in order to insure compliance with this code section.
6. Setbacks and lot dimensions satisfy the standards set for the Moderate Density zone.
7. The building has been approved by the Design Review Board (see **Exhibit K**). An existing 5' sidewalk located along the eastern boundary of the project site shall provide adequate pedestrian circulation.
8. Staff considers the proposed land use to be compatible with surrounding uses. The compatibility of buildings and site design shall be ultimately determined by the design review board, which met with the applicant and his consultants on April 26, 2007. The Design Review Board approved the project at the April 26, 2007 meeting.
9. Possible noise which may be created as a result of the proposed development shall be controlled by SMC 8.10 (Public Disturbance Noise).

2.4 Land Use:

Create an effective land use management process: the proposed project is compatible with the surrounding properties, and meets the conditional use requirements.

2.5 Economics:

Develop a sound fiscal base: This new commercial businesses will offer additional opportunities to Sultan residents and will add to the City’s tax base.

Increase local economic opportunities: The proposed community center will provide additional space for special events and gathering, which in turn will provide new services to the City of Sultan.

2.8 Design Resources:

Buffer Corridors: Landscape buffers are proposed along the project boundaries in order to screen adjacent properties from the development.

2.9 Park and Recreational Facilities:

Develop Quality Recreational Facilities: The proposed development is an indoor community center, which will provide additional space for special events and gathering.

page 9
item F

- 10. With consideration given to items ~~one through five~~^{A-E} above, staff believes that the applicant has taken appropriate measures to minimize adverse impacts to the area in which the site is located. Staff determines that the proposed development meets the requirements of “Ord. 690-98.” SMC 21.040.050 A-E

III. DESIGN REVIEW REQUIREMENTS

The design review board shall review this project based on the following: SMC 21.04.030 states “All conditional use permits are subject to design review procedures.” Additionally, SMC 2.20.060 states “The design review board shall review all development in urban center (UC), highway-oriented development (HOD), economic development (ED) zoning districts, multifamily developments and neighborhood commercial developments in residential zones.” The Design Review Board met with the applicant on April 26, 2007, at which time the Design Review Board approved the project (see Exhibit K).

IV. LAND USE & ZONING

- A. Zoning: The site is zoned Moderate Density. Per SMC 16.12.020(12) the proposed use of a Community Center is allowed as a conditional use.
- B. Comprehensive Plan Designation: Moderate Density.
- C. Dimensional Requirements: The proposed development does appear to meet all requirements set forth in SMC 16.12.020. Specifically, the site design meets all of the restrictions, development and performance standards as required by SMC 16.12.040(D). All other requirements of the aforementioned chapter are also met by the applicant’s proposal.
- D. Off-Street Parking Requirements: Per the requirements of SMC 16.60.140, the minimum number of required off-street parking spaces for Public and Institutional Facilities; Places of Assembly is 1 space per 4 seats (fixed seating). The applicant proposes to construct 80 off street parking spaces (60 off-street spaces are required by code with a maximum occupancy of 240 people).

- E. Recreation and Open Space: The applicant is not required to pay any impact fees for impacts to parks. SMC 16.72.010 pertains to housing developments only. No open space or recreational facilities are required for this proposal.
- F. Landscaping: The landscape plan submitted by the applicant proposes a landscape design that exceeds the minimum requirements of SMC 16.104. Applicable location requirements set by SMC 16.104 Article IV are also met by the proposals.

V. WATER, SEWER AND STORMWATER MANAGEMENT

- A. Water Availability: City of Sultan Public Works staff has determined that the public water system "is capable of and will supply water to" the subject parcel (see **Exhibit E**). Improvements to the existing water system, to be performed by the developer or owner of the property, may be necessary to provide water service to the site.
- B. Sanitary Sewer Availability: City of Sultan Public Works staff has determined that the public sewer system "is capable of and will supply sewer service to" the subject parcel (see **Exhibit E**). Improvements to the existing sewer system, to be performed by the developer or owner of the property, may be necessary to provide sewer service to the site.
- C. Storm water Management: The applicant has submitted a preliminary storm drainage analysis and design that proposes to manage on-site storm water runoff through the use of a bioswale and retention/detention pond. Prior to the issuance of a building permit, City engineering staff will review the storm drainage plan (see **Exhibit F**).

VI. TRAFFIC AND CIRCULATION

The applicant proposes to use access off of 1st Street. Traffic impact fees to offset impacts generated by the development are required to be paid by the applicant prior to building permit issuance as a condition of approval. Refer to the Trip Generation and Mitigation Assessment prepared by Gibson Traffic Consultants (see **Exhibit D**).

VII. CRITICAL AREAS

The project site is 1,400 feet east of the Sultan River, and is within the 100-year floodplain as shown on FIRM Map Number 53061C1402 E. The proposed building site and parking area was filled in 2005 as a part of the City of Sultan's 1st Street improvement project. As a result, the proposed building site elevations are now above the Base Flood Elevation. Please refer to the Storm Drainage Analysis prepared by Place Consultants (**Exhibit F**).

VIII. OTHER ISSUES

- A. School Impacts: Commercial projects are exempt from school impact fees per SMC 16.116.040
- B. Park & Recreation Impacts: Commercial projects are exempt from parks and recreation impact fees per SMC 16.112.030.

IX. SEPA

The applicant submitted a SEPA checklist for this project on July 19, 2006 (see **Exhibit G**). Following a review of the checklist and additional information on file with the City of Sultan, staff issued a threshold determination (Determination of Nonsignificance) on August 14, 2006, in accordance with WAC 197-11-340 (see **Exhibit H**). The comment period expired on August 28, 2006. No comments were received. The appeal period expired on September 11, 2006. No appeals were received.

X. PUBLIC NOTICE

A. As required by SMC 21.04.030, the applicant has fulfilled all applicable public notification requirements to date. Notice of Public Hearing was mailed on July 06, 2007. Notice of application was mailed and posted as follows:

Mailed Notice: The applicant provided an *Affidavit of Mailing* to the City of Sultan for both the Notice of Application and Notice of SEPA Determination. It is indicated in the affidavit that Notices of Application and Notices of SEPA Determination were mailed to property owners within 500-feet of the proposed project site on March 30, 2007. Refer to (see **Exhibit I**).

Posted Notice: An *Affidavit of Installation of Markers & Posting of Public Information Sign(s)* was submitted by the applicant, stating that two "Proposed Land Use Action" signs and two "Notice of Applications" signs were posted on March 30, 2007 as required by SMC 21.04.030 (see **Exhibit J**).

XI. CONCLUSION

Staff concludes that this conditional use permit meets the criteria for approval with conditions (see section XII below) in accordance with SMC 21.04.50.

- A. The proposed development of one structure, landscape plan, civil site plan and minor projected traffic impacts do not appear to "be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity" of the site. Staff determines that the proposed development meets the requirements of this section.
- B. The project as proposed does not meet one performance standard and is silent as to compliance with another. First is SMC 16.53.030 requiring three rows of plantings to create a landscape buffer. This landscape buffer is missing on the north side of the project. Second, the project is silent as to project noise and hours such noise will be produced. Compliance with SMC 8.10 is required. Both of these insufficiencies can be made up for through the proposed conditions.
- C. Staff determined that the impacts of the proposed development on surrounding land uses are not significant. Staff considers the proposed land use to be compatible with surrounding uses. The compatibility of building and site design shall be ultimately determined by the design review board, who met with the client and his consultants on April 26, 2007. The Design Review Board approved the project at the April 26, 2007 meeting. Staff determines that the proposed development meets the requirements of this section.
- D. The applicant's proposal reflects the Comprehensive Plan goals that pertain to the proposed development. Staff determines that the applicant's proposal meets the applicable standards set by

the Sultan Municipal Code. The proposed development will serve the public use and interest by developing land consistent with the goals and policies of the Comprehensive Plan.

- E. Staff believes that the applicant has taken appropriate measures to minimize adverse impacts to the area in which the site is located. Staff determines that the proposed development meets the requirements of this section.

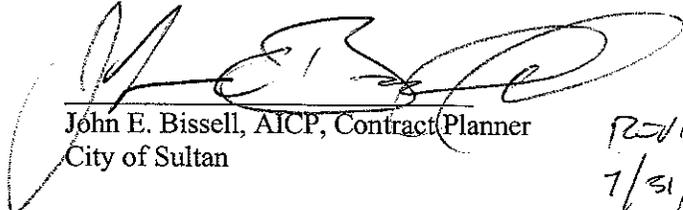
XII. STAFF RECOMMENDATION

Staff recommends that the Hearing Examiner recommend to the City Council **APPROVAL WITH CONDITIONS** this Conditional Use Permit with conditions listed below:

This conditional use 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:

- A. 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.
- B. Prior to Building Permit Issuance and commencement of construction:
- a. The applicant 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.
 - 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. Traffic Mitigation fees in the amount of \$13,226.40 shall be paid prior to the issuance of any building permits as required in SMC 16.112 (see **Exhibit D**).
 - d. All surface water runoff from impervious surfaces shall be infiltrated, conveyed to an approved detention facility, or otherwise treated to protect water quality.
 - e. The landscape plan shall be modified to comply with SMC 16.56.030
 - f. The noise and hours of operation shall be limited by SMC 8.10.

July 13, 2007


John E. Bissell, AICP, Contract Planner
City of Sultan

REVISD
7/31/07

XIII. LIST OF EXHIBITS

- A. *Master Land Use Application*, Prepared by Sultan Sportsman Club, Inc., July 19, 2006
- B. *Civil Plans*, Prepared by Place Consultants, dated July 13, 2007 Sheets C1A thru C5A
- C. *Landscape Plans*, Prepared by Victory Landscape Company, dated April 15, 2006
- D. *Trip Generation and Mitigation Assessment*. Prepared by Gibson Traffic Consultants, April 19, 2007
- E. *Water & Sewer Availability for 401 – 1st Street*, Prepared by City of Sultan, dated July 12, 2007
- F. *Storm Drainage Analysis*. Prepared by Place Consultants, January 8, 2007
- G. *SEPA Checklist*. Submitted by C.H. Rowe, July 19, 2006
- H. *Environmental DNS*. Issued by City of Sultan, August 14, 2006
- I. *Affidavit of Mailing*. Prepared by The City of Sultan, March 30, 2007
- J. *Affidavit of Installation of Markers and Posting of Public Information Sign(s)*. March 30, 2007
- K. *Design Review Board Recommendation*, April 26, 2007
- L. *Affidavit of Mailing*, Prepared by The City of Sultan, July 17, 2007 Public Hearing, dated July 6, 2007
- M. *Affidavit of Mailing*, Prepared by The City of Sultan, July 31, 2007 Revised Public Hearing, dated July 13, 2007

CITY OF SULTAN
Sultan, Washington

RESOLUTION NO. 07-23

**A RESOLUTION OF THE CITY OF SULTAN APPROVING THE
SULTAN SPORTSMEN CLUB CONDITIONAL USE PERMIT TO CONSTRUCT
AND OPERATE A COMMUNITY CENTER
CITY OF SULTAN FILE NUMBER NO. CUP06-001**

WHEREAS, Sultan Sportsmen Club submitted an Application to the City of Sultan on July 19, 2006 for Approval of a Condition Use Permit (CUP) to construct and operate a community center; and

WHEREAS, the project was deemed complete on August 16, 2006 the 28th day after the application was filed; and

WHEREAS, the Responsible Official for the City issued a Determination of Non-Significance (DNS) for the proposal on August 14, 2006 and no appeals to that Threshold Determination were received by the City; and

WHEREAS, The Planning Staff, on July 6, 2007 issued a Staff Report and recommendation of approval with conditions for the Sultan Sportsmen Club Community Center proposal; and

WHEREAS, The Design Review Board conducted a meetings on June 1, 2006 and again on April 26, 2007 to review the Sportsmen Club Conditional Use Application and recommend approved the project: and

WHEREAS, the Hearing Examiner conducted and Open Record Public Hearing on the proposal on July 31, 2007; and

WHEREAS, the Hearing Examiner on August 7, 2007 based upon Findings of Fact and Conclusions, the testimony and evidence submitted at the open record hearing and the Examiner's site view, issued a recommendation to approve the Conditional Use Permit to construct and operate a community center subject to 3 conditions; and

WHEREAS, the City Council at a regular meeting held on September 13, 2007 accepted the Hearings Examiner's report and recommendation, including the Findings of Fact and Conclusions, and Approved the Conditional Use Application Number CUP06-001 with the 3-Conditions recommend by the Hearing Examiner; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SULTAN, WASHINGTON AS FOLLOWS:

Section 1. The City Council finds that the Sultan Sportsmen Club Conditional Use Permit has been completed in accordance with the provisions of SMC Chapter 21.120.050 and Chapter 21.04.030.

Section 2. The Hearing Examiner on August 7, 2007 recommended approval of Conditional Use Permit, CUP06-001 to construct and operate a community center subject to three conditions.

Section 3. The Applicant, Sultan Sportsmen Club finds the conditions of approval for their Conditional Use Permit File Number Cup06-001 acceptable and did not request reconsideration of the Hearings Examiner's recommendation.

Section 4. The Conditional Use Permit for the Sultan Sportsmen Club, CUP06-001 is **Approved.**

PASSED by the City Council and **APPROVED** by the Mayor this _____ day of _____, 2004.

CITY OF SULTAN

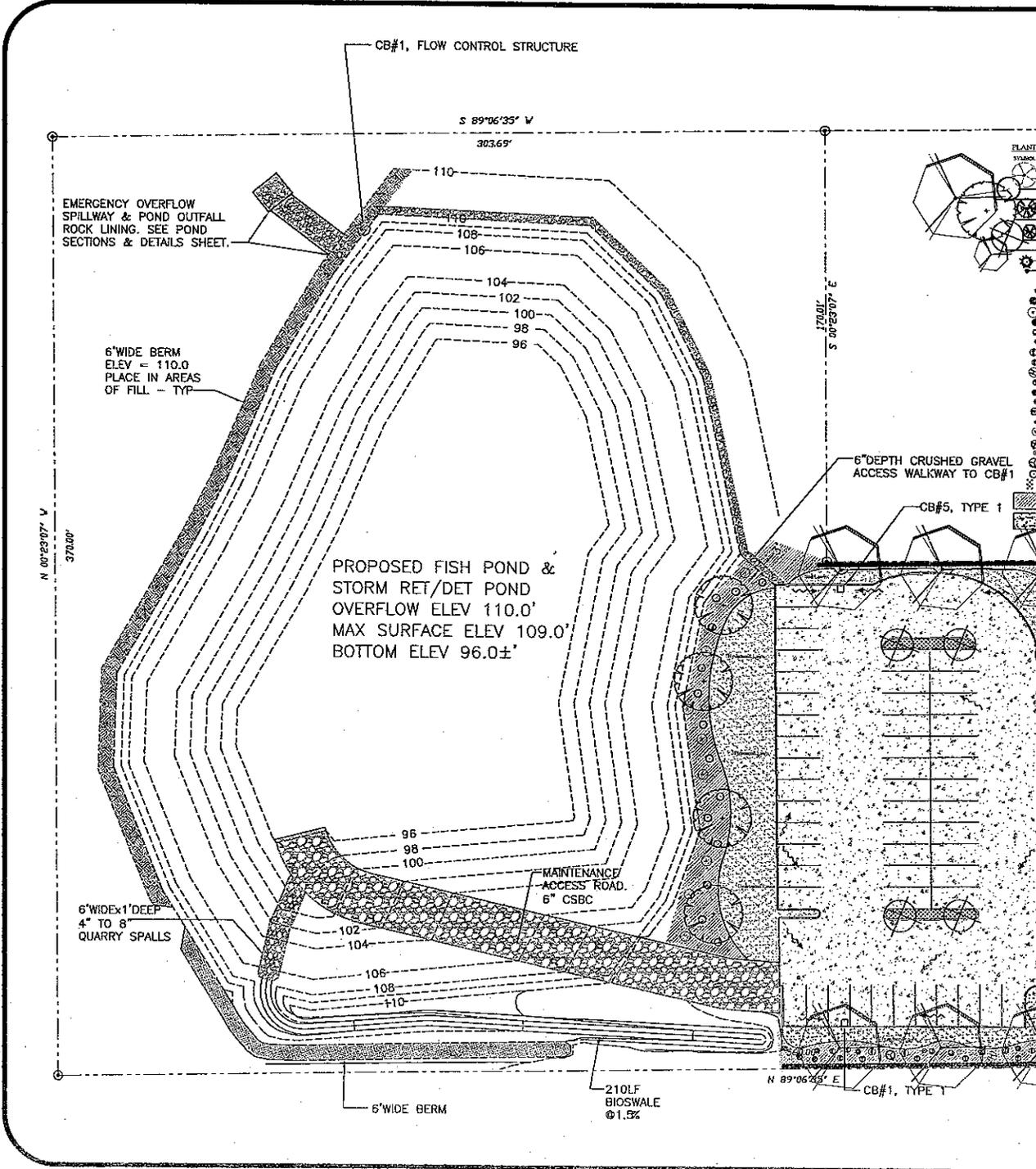
By _____
Ben Tolson, MAYOR

Attest:

By _____
LAURA KOENIG, CITY CLERK

Approved as to form:

By _____
THOM GRAAFSTRA, CITY ATTORNEY



CB#1, FLOW CONTROL STRUCTURE

S 89°06'35" W
303.65'

EMERGENCY OVERFLOW
SPILLWAY & POND OUTFALL
ROCK LINING. SEE POND
SECTIONS & DETAILS SHEET.

6' WIDE BERM
ELEV = 110.0
PLACE IN AREAS
OF FILL - TYP

2,402.20' S
170.21'

6" DEPTH CRUSHED GRAVEL
ACCESS WALKWAY TO CB#1

CB#5, TYPE 1

PROPOSED FISH POND &
STORM RET/DET POND
OVERFLOW ELEV 110.0'
MAX SURFACE ELEV 109.0'
BOTTOM ELEV 96.0±'

N 00°23'47" V
370.00'

6' WIDE X 1' DEEP
4" TO 8"
QUARRY SPALLS

MAINTENANCE
ACCESS ROAD,
6" CSBC

6' WIDE BERM

210LF
BIOSWALE
@ 1.5%

N 89°06'35" E
CB#1, TYPE 1

PLAN
TABLE