

SULTAN CITY COUNCIL

AGENDA ITEM COVER SHEET

ITEM NUMBER: CLOSED RECORD HEARING and Action Item A-1

DATE: October 18, 2007

SUBJECT: **CLOSED RECORD HEARING**
Hearing Examiner Recommendation Conditional Use
Permit to construct a Duplex within the Moderate
Density Zone at 818 - 5th Drive, Sultan, WA.

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 September 11, 2007 and considered a request to construct a duplex at 818 - 5th Drive, Sultan, WA File Number CUP07-001. 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 a Conditional Use Permit to construct a duplex at 818 - 5th Drive subject to the **6 Conditions on Page 10** of the attached Recommendation.

Hearing Examiner Conclusions:

Does the application meet applicable criteria for CUP approval? Examiner on page 7, Conclusion 2, DCD's analysis, previously incorporated by reference, demonstrates convincingly the Connwill's application complies with all the applicable criteria and should therefore be approved.

Citizens Comments:

One citizen who testified during the Hearing (Rench an adjacent property owner to the south) requested the proposed sidewalk on the private road easement be relocated to the west side. This changed was agreed to by the Applicant and supported by City Staff.

FISCAL IMPACT:

None at this time.

RECOMMENDATION ACTIONS AND MOTIONS:

1. Motion to close the Closed Record Hearing and thereafter consider Acceptance of Hearing Examiner Report and Approval of Conditional Use Permit (CUP07-001) to construct a duplex at 818 - 5th Drive, Sultan, WA under Action Item Number 1 Resolution 07-26.
2. Motion to adopt Resolution 07-26 approving Conditional Use Permit (CUP07-001) to construct a duplex at 818 - 5th Drive.

COUNCIL ACTION:

DATE:

ATTACHMENTS:

1. Hearing Examiner's Recommendation, dated September 14, 2007
2. Staff Report, dated August 27, 2007
3. Site Plan, dated April 17, 2007
4. Resolution No. 07-26

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

RECOMMENDATION

FILE NUMBER: CUP07-001

APPLICANT: Connwill Management, LLC

TYPE OF CASE: Conditional Use Permit for a duplex in the Moderate Density Residential Zone

STAFF RECOMMENDATION: Approve subject to conditions

SUMMARY OF RECOMMENDATION: APPROVE subject to conditions (revised)

DATE OF RECOMMENDATION: September 14, 2007

INTRODUCTION

Connwill Management, LLC (Connwill), 15620 Highway 99, Suite 16, Lynnwood, Washington 98087, seeks Conditional Use Permit (CUP) approval for a duplex in the Moderate Density (MD) Residential Zone. Connwill filed the Master Land Use Application on April 20, 2007. (Exhibit 1C¹) The Sultan Department of Community Development (DCD) deemed the application complete when filed. (Exhibit 1, p. 3)

The subject property is located at 818 5th Drive.

The Sultan Hearing Examiner (Examiner) viewed the subject property on September 11, 2007.

The Examiner held an open record hearing on September 11, 2007. DCD gave notice of the hearing as required by the Sultan Municipal Code (SMC). (Exhibit 2)

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

Exhibit 1: Departmental Staff Report with Attachments 1.A – 1.F

¹ 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.

Attachment 1

HEARING EXAMINER RECOMMENDATION

RE: CUP07-001 (Connwill Management, LLC)

September 14, 2007

Page 2 of 10

- Exhibit 2: Public notice documentation
- Exhibit 3: Building elevations, isometrics, and floor plans (7 sheets)
- Exhibit 4: Dore/Rench/Connwill Boundary Line Adjustment (BLA)

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.

FINDINGS OF FACT

1. Connwill proposes to construct a duplex residence essentially in the center of a 21,006 square foot (SF) parcel (0.48 acre parcel) zoned MD and situated at the north end of 5th Drive, north of High Avenue. (Exhibits 1, 1A, 3, and 4) Duplex residences are a conditional use in the MD zone. [SMC 16.12.020(D)(1)]
2. Connwill purchased the bulk of the property in or around July, 2006. The property contained a mobile home prior to Connwill's purchase; a condition of the purchase was that the mobile home be removed before purchase. Most of the mobile home was removed; a debris pile was left. (Testimony)

Subsequent to its purchase of the bulk of the property, Connwill facilitated a Boundary Line Adjustment (BLA) among itself, the owner of the abutting property to the west (Dore), and the owner of the abutting property to the south (Rench). The BLA shifted westerly the west lines of the Connwill and Rench properties and moved a 30 foot wide access easement commensurately west so as to align with the 5th Drive right-of-way to the south. The BLA was recorded on December 22, 2006. (Exhibit 4)

3. The site generally measures 155 feet by 136 feet in its widest area. The site is flat. Roughly the northern half of the site is depressed about two feet lower than the remainder of the property.² (Exhibit 1B) Other than the debris pile, the site is vacant; in addition, the on-site sewage disposal system associated with the former mobile home has been decommissioned. The site contains no regulated critical areas. The proposed development area is devoid of any significant vegetation. (Exhibit 1 and testimony)

The site is located within but near the outer edge of Flood Zone A of the Sultan River, according to Flood Insurance Rate Maps. The base flood elevation for the site is not presently known, but DCD

² It is likely that this lower area is part of a former oxbow of the Sultan River, although the record does not contain any evidence to support that hypothesis.

HEARING EXAMINER RECOMMENDATION

RE: CUP07-001 (Connwill Management, LLC)

September 14, 2007

Page 3 of 10

does not believe it to be significantly higher than present grade. The site did not flood during the Winter 2006-2007 flood. The base flood elevation will have to be determined before a building permit is issued; the dwelling will have to be floodproofed in accordance with local and federal regulatory requirements. (Exhibit 1 and testimony)

4. Connwill proposes to construct a duplex exhibiting "Northwest Traditional" design features and a multiple gable roof line. Each unit will have three bedrooms and a two-car garage. At its closest, the structure will be some 38 feet from the nearest property line. (Exhibits 1, 1B, and 3)
5. Connwill proposes to widen and pave the existing private road leading from the end of 5th Drive to the site and to provide a paved driveway, with turnaround, on site.³ Connwill also proposes to construct a sidewalk along the west edge of the extended street/private road to connect with the existing sidewalk further south on that side of 5th Drive.⁴ (Exhibit 1B and testimony)
6. Connwill will extend City water and sewer lines to serve the duplex. The City has issued water and sewer availability commitments.⁵ (Exhibits 1D and 1D.1)
7. DCD's Staff Report and Recommendation contains a very thorough, detailed, item-by-item evaluation of application compliance with all applicable review criteria. (Exhibit 1, pp. 1 – 10) The record contains no challenge to that analysis. Therefore, in the interest of economy, the Examiner incorporates the analysis within the Staff Report by reference as if set forth in full with the following exceptions:

Sections V.c, VI.b, and VI.c, relating to traffic impact mitigation, school impact mitigation, and park impact mitigation fees, respectively, state that those fees will be assessed "for 1 new dwelling unit, as there was previously a residence on this site." Impact mitigation fees are assessed and collected at the time of building permit issuance pursuant to Chapters 16.112 and 16.116 SMC. No special condition is required; none will be imposed. However, the Examiner would be remiss to not note that

³ Exhibit 1B indicates that the driveway will be 22 feet wide in front of the garages. However, Exhibit 3 indicates that each of the garage doors will be 16 feet wide and that they will be separated by about four feet. Thus, the driveway will have to be 36 feet wide in front of the building to serve both garages. The Examiner concludes that the depiction on Exhibit 1B is a "scrivener's error."

⁴ Exhibit 1B depicts the sidewalk on the east side of the extended street/private road. The Examiner concludes that this, too, is a "scrivener's error" based upon Connwill's testimony. Further, it makes more sense for the sidewalk to be on the west side of the street/private road as that is where the sidewalk is further south.

⁵ Rench asked whether their residence would be required to connect to the new sewer line (which will pass their house). (Testimony) Section 13.08.020 SMC requires that any new plumbing fixtures installed must connect to the City sewer system if within 120 feet of a sewer line. No other provision of the SMC addresses this issue. It would thus appear that the answer to Rench's question depends upon whether the Renschs install any new plumbing fixtures: If they do, SMC 13.08.020 will require that they connect to the sewer; if they don't, it doesn't.

HEARING EXAMINER RECOMMENDATION

RE: CUP07-001 (Connwill Management, LLC)

September 14, 2007

Page 4 of 10

the only exemption available under Chapters 16.112 and 16.116 SMC which would conceivably justify elimination of mitigation fees for one of the dwelling units is that for "replacement of a residential structure on a site within 12 months of the demolition or removal of the prior residence." [SMC 16.112.070(A) and SMC 16.116.040(A)(2)] The code must be applied as it is written, not as some may wish it had been written. The mobile home was demolished well more than one year ago. Therefore, no mitigation fee exemption will be available: Mitigation fees will have to be assessed and collected for two dwelling units, not just one.

8. The proposal is exempt from the State Environmental Policy Act (SEPA) threshold determination process. (Exhibit 1) Therefore, the application is also exempt from the concurrency requirements of Chapter 16.108 SMC. [SMC 16.108.020]
9. DCD recommends approval of the requested CUP subject to six special conditions: Recommended Conditions 1, 2, 4, 31, 32, and 46. ⁶ (Exhibit 1 and testimony) Connwill has no objection to any of the recommended conditions. (Testimony)
10. This proposal is not subject to Design Review Board (DRB) review under Chapter 2.20 SMC. ⁷ (Exhibit 1, p. 8)

⁶ The written Staff Report and Recommendation contains 47 Recommended Conditions, not six. (Exhibit 1, pp. 10 – 15) Most of the 47 re-state minimum requirements of adopted code and/or standards. The Staff Report was prepared for DCD by a consultant whose style is to list such items as conditions. (Testimony) Historically, Sultan has not followed that style: Sultan has listed only special, project-unique items as conditions of approval; the preamble to the list of conditions makes clear that all provisions of adopted code and standards apply, whether listed or not. The Examiner offered DCD the opportunity to declare that it wished to adopt the consultant's style for this and all future applications. Staff declined and instead worked with the consultant to eliminate all but the unique conditions from the recommendation.

⁷ 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." [Emphasis added] 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. A duplex, by definition, is not a multifamily development. [SMC 16.150.040(27) and (28)]

(Footnote continued on next page.)

11. 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

HEARING EXAMINER RECOMMENDATION

RE: CUP07-001 (Connwill Management, LLC)

September 14, 2007

Page 6 of 10

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 April 20, 2007.

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

1-5

HEARING EXAMINER RECOMMENDATION

RE: CUP07-001 (Connwill Management, LLC)

September 14, 2007

Page 7 of 10

1. Extensive, detailed conclusions regarding conformance with the criteria for approval are unnecessary since this is an uncontested case.
2. DCD's analysis, previously incorporated by reference, demonstrates convincingly that Connwill's application complies with all applicable criteria and should, therefore, be approved.

The Staff Report states that design requirements will be addressed at building permit review time. (Exhibit 1, p. 9) That statement is only partly true. Building and site design compatibility with the surrounding area is a CUP review criterion. [SMC 21.04.050(C), quoted above] Building design is, therefore, a consideration during the CUP process. The design represented by Exhibit 3 is typical of many residences in the surrounding area. The proposed design, coupled with the generous setbacks, assures that the duplex will be compatible with its surroundings.

3. The six remaining recommended conditions of approval as set forth in Exhibit 1 are reasonable, supported by the evidence, and capable of accomplishment with the following exceptions:
 - A. Recommended Condition 1. This condition essentially reminds the permittee that it is responsible to comply with all applicable regulations and permit requirements of each level of government. While such a reminder is beneficial, it need not be set forth as if it were a special condition. The Examiner typically places such a reminder in a preamble to the actual conditions. That practice will be followed.
 - B. As stated above, 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 constitutes the site plan which has been reviewed and which should be approved. However, the sidewalk depiction is on the wrong side of the private road and the driveway width in front of the garages is inadequate. Exhibit 3 depicts the building plans. Reference to those exhibits, subject to appropriate corrections and subject to the right to make minor changes during the construction plan review process, will be made a new condition.
 - C. A few minor, non-substantive structure, grammar, and/or punctuation revisions to Recommended Conditions 32 and 46 will improve parallel construction, clarity, and flow within the conditions. Such changes will be made.

One of those changes will be to replace the word "applicant" in Recommended Condition 46 with the word "permittee." Once the CUP is issued, the permit runs with the land, regardless of ownership changes. If the word "applicant" is used, some might try to argue that it refers

HEARING EXAMINER RECOMMENDATION

RE: CUP07-001 (Connwill Management, LLC)

September 14, 2007

Page 8 of 10

back to the original applicant for the CUP. To avoid that possible confusion, the Examiner prefers to use the word "permittee" (sometimes "developer"; sometimes "plattor" when conditioning a subdivision approval) to refer to the party utilizing the permit and who is obligated to comply with the conditions.

4. 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 for a duplex in the Moderate Density Residential Zone **SUBJECT TO THE ATTACHED CONDITIONS.**

Recommendation issued September 14, 2007.

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

John E. Galt,
Hearing Examiner

NOTICE OF RIGHT OF RECONSIDERATION

This Recommendation, dated September 14, 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 September 24, 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

HEARING EXAMINER RECOMMENDATION

RE: CUP07-001 (Connwill Management, LLC)

September 14, 2007

Page 9 of 10

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."

**CONDITIONS OF APPROVAL
CUP07-001
CONNWILL MANAGEMENT, LLC**

This Conditional Use Permit is subject to compliance with all applicable provisions, requirements, and standards of the Sultan Municipal Code and standards adopted pursuant thereto. The permittee is responsible to obtain all necessary State and Federal permits and approvals required for completion of the project. In addition, development shall comply with the following special conditions:

1. Exhibits 1B and 3 are the approved site and building design plans; PROVIDED, that the sidewalk shall be on the west side of the private road, not the east, and that the driveway in front of the building shall be wide enough to provide full access to all stalls within the garages. Any discrepancy between the approved plans and applicable laws, codes, regulations, policies, and ordinances shall be resolved in favor of the latter. The Director of Community Development may review and approve minor revisions to approved Conditional Use Permit plans as an administrative action. Minor revisions shall be defined as those which do not increase the intensity of the use (addition of typical accessory uses or functions), expand the floor area of the proposal building(s), or significantly alter the approved site plan. Determinations of amendment type (major/minor) shall be the sole discretion of the Director and are not appealable. Decisions concerning amendments of a minor nature are not appealable.
2. All improvements shall be constructed in accordance with the approved engineering plans, landscaping plans, and site plan. Prior to occupancy, all site improvements, including streets, sidewalks, frontage improvements, drainage improvements, landscaping, and other common area improvements shall be installed, inspected and approved by the City of Sultan.
3. Private street and stormwater maintenance agreements shall be prepared for review and approval by the City and recorded prior to final occupancy.
4. If, during review of the grading permit or during construction, over 350 cubic yards of grading is expected to occur, this project shall stop all activity while SEPA review is conducted for the entire project.
5. The subject property is located with Flood Zone A, according to the Flood Insurance Rate Maps. This project shall comply with all requirements of Chapter 17.08 SMC; the building permit shall comply with these standards, as required by the Building Official.
6. The permittee and contractor shall attend a pre-construction meeting with City staff to discuss expectations and limitations of the project permit before starting the project.

**City of Sultan
Staff Report and Recommendation
To the Hearing Examiner
August 27, 2007**

**Connwill Duplex CUP
File Number CUP07-001**

Section	Page #'s
I. Application Information and Process	1
II. Land Use and Zoning	3
III. Critical Areas	4
IV. Water, Sewer, and Stormwater Management	5
V. Traffic and Circulation	5
VI. Other Issues	6
VII. SEPA	6
VIII. Conditional Use Permit	7
IX. Public Notice	9
X. Conclusion	9
XI. Staff Recommendation	10
EXHIBITS:	16

I. Application Information and Process

a. Request

The Applicant requests approval of a Conditional Use Permit to construct a duplex within the Moderate Density (MD) Residential Zone. Development will include grading, access improvements, landscaping, and private road improvements. The subject property is located at 818 5th Drive on a .48 acre parcel.

b. Applicant and Owner

Connwill Management, LLC
15620 Highway 99 Suite 16
Lynnwood, WA 98087
Phone: 425-742-6251
Attn: Gabriel Graumann

c. Engineer/Surveyor

Harmsen & Associates, Inc.
16778 146th Street SE, Suite 104
Monroe, WA 98272
Phone: 360-794-7811

d. Wetland Biologist
None required

e. Parcel Numbers
28083200314700

f. Project Description
The proposed project is a Conditional Use Permit to allow construction of a duplex within the Moderate Density Zone. A previous Boundary Line Adjustment created the current parcel configuration. The subject property is .48 acres and has no critical areas. The site is currently vacant; previous there was a mobile home that has been removed. The on-site septic system associated with the mobile home has been decommissioned. The project will include construction of a 2-unit residential duplex, as well as site grading, access improvements, landscaping improvements and improvements to the private road that accesses this site.

g. Location
The site address is 818 5th Drive, which is located north of High Street. The site is located in the southwest portion of Section 32, Township 28 N, Range 8 E, W.M., in the City of Sultan, Snohomish County, Washington.

j. Existing Site and Surrounding Land Uses
The site generally measures 155 feet by 136 feet in its widest area. The site is flat, with a slight slope downward towards the southwest, with an average slope of 1%. There are no existing structures. A mobile home has previously been removed; in addition the associated septic system has been decommissioned. The site contains no wetlands or streams.

The surrounding existing land uses/designations include:

To the north: Sultan High School / Low/Moderate Density Development
To the south: Single-family residences / Moderate Density Development
To the west: Single-family residences / Moderate Density Development
To the east: Single-family residences / Moderate Density Development

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

l. Related Permits and Reviews
Development of the site will require building, grading, driveway, fence, stormwater and utility permits, in addition to Conditional Use Permit approval. Permits by other agencies may also be required.

m. Application History

The Application for a Conditional Use Permit was filed with the City of Sultan on April 20, 2007. The project was deemed complete on that date.

A Public Hearing Notice was issued on August 30, 2007 in accordance with SMC 2.26.110 and SMC 16.124.010.

II. Land Use and Zoning

a. Zoning

The site is zoned Moderate Density Residential (MD). Duplexes in the MD zone are subject to the zoning requirements contained in SMC 16.12.020. Duplexes are a Conditional use within the MD zone.

b. Density

Gross density is proposed to be approximately 4.2 dwelling units per acre (2 homes over .48 acres).

c. Lot Size and Coverage

This project is subject to the following dimensional requirements within SMC 16.12.020.

Regulation	Required	Submitted
Lot size	Minimum: 10,000 sf No maximum required	21,006 sf
Density	Maximum: 8 units/acre No minimum required	4.2 units/acre
Setbacks	Front: 20' Rear: 20' Side: 10'	42' 41' West side: 63' East side: 38'
Lot Coverage	Maximum: 40%	Building footprint: 3,100 sf Coverage: 14.7%
Building Height	Maximum: 30'	29'

g. Comprehensive Plan Designation

The site is designated "Moderate Density Residential" by the City of Sultan 2004 Comprehensive Plan. The proposed use of the site as a duplex, at a density of approximately 4.1 dwelling units per acre, is consistent with the Comprehensive Plan.

h. Off-Street Parking Requirements

The minimum number of required off-street parking spaces is determined by the table in SMC 16.60.140. Duplexes are required to provide two (2) off-street parking spaces per dwelling unit. For 2 units, this project requires a minimum of 4 off-street parking spaces. The Applicant states that off-street parking spaces will be provided with two (2) 2-car garages, plus spaces in the driveway.

i. Recreation and Open Space

SMC 16.72.020 exempts developments of less than 10 units from providing recreation. A 2-unit duplex is exempt from this section of the code.

j. Vegetation Protection

SMC 16.76.020 exempts duplexes from the requirements for native vegetation protection. In addition, this property was cleared for the previous single-family use and this section of the code does not apply.

Under SMC 16.76.040, the Applicant is required to provide water conservation concepts on-site. A condition has been added to provide a landscaping plan that demonstrates compliance with this section of the code, including re-establishment of native plant communities, limiting the amount of lawn, using shade trees to protect lower story plants, retaining stormwater on-site, using pervious paving material, or other methods of conserving water on-site.

k. Landscaping

Under SMC 16.104.090, a minimum of 11 trees comprised of at least 2 species are required to be planted on-site as part of this project. A landscaping plan is required to be submitted showing compliance with this section of the code. A condition to this effect has been added. A performance and maintenance surety will be required to be secured as well. The performance surety is required prior to permit issuance, and the maintenance surety is required prior to final occupancy.

III. Critical Areas

Within the City of Sultan, critical areas are subject to regulations of SMC 16.80.

a. Wetlands

There are no wetlands on-site.

b. Streams

There are no streams on-site.

c. Geologic Hazards

There are no slopes in excess of 25% or erosion hazards on-site.

d. Habitat Management

There are no endangered or threatened species on-site.

IV. Water, Sewer, and Stormwater Management

a. Water Availability

According to SMC 16.10.070(C)(8), as stated in RCW 19.27.097, new developments must show evidence of adequate water availability. The City of Sultan Public Works Department issued a letter, dated June 6, 2007, stating water is available to the site.

b. Sanitary Sewer Availability

According to SMC 16.10.070(C) (7) new developments must show evidence of sewer availability. The City of Sultan Public Works Department issued a letter, dated June 6, 2007, stating sanitary sewer is available to the site.

c. Stormwater Management

Per SMC 16.92.010, the City of Sultan adopts the most recent Department of Ecology Stormwater Management Manual for the Puget Sound basin. The Applicant proposes to infiltrate all stormwater on-site. A Final Stormwater Report and Plan will be submitted to the City and approved prior to permit issuance.

V. Traffic and Circulation

a. Public Road

This property accesses 5th Drive, a local access street, off of a private road. Currently, 5th Drive is paved with two (2) travel lanes and a sidewalk on one side. No improvements to 5th Drive are proposed or required.

b. Private Road

Per the Sultan Design Standards and Specifications, private roads are required to serve a maximum of 4 lots, have a 30 foot easement width, have two (2) 12-foot travel lanes, and have a one (1) 5-foot sidewalk.

The private road accessing the subject property will be required to install the sidewalk and full travel lanes as part of this project. Final civil plans will be required to be submitted that meets the standards for a private road.

c. Traffic Impacts

This project is required to pay traffic impact fees in accordance with SMC 16.112.020 for 1 new unit, as there was previously a residence on this site. The fee will be paid prior to building permit issuance.

VI. Other Issues

a. Utilities

All utilities are available at the site to serve the development. The Applicant will install the required services for each lot prior to final occupancy.

b. School Impacts

Sultan High School is located directly north of this site. Sultan Elementary and Middle and High schools are located less than 1 mile from the site.

This project is required to pay School Impact Fees in accordance with SMC 16.116 for 1 new dwelling unit, as there was previously a residence on this site. The fee will be paid prior to building permit issuance.

c. Park and Recreation Impacts

This project is required to pay Park and Recreation Impact Fees in accordance with SMC 16.112 for 1 new dwelling unit, as there was previously a residence on this site. The fee will be paid prior to building permit issuance.

d. Fire Hydrants

Hydrants and hydrant spacing shall be in conformance with the City of Sultan 2004 Water and Sewer Engineering Standards per the City's Engineer Recommendations. If a fire hydrant is required, it shall be installed, inspected and approved by the Fire Marshall prior to occupancy of any structure.

e. Concurrency Requirements

Under SMC 16.108.020, any project exempt from SEPA is exempt from the Concurrency requirements under this Chapter of the Code. As this project is exempt from SEPA, it is also exempt from SMC 16.108.

f. Flood Damage Protection

This property is within the Flood Zone A according to the Flood Insurance Rate Map (FIRM). The building permit submittal will be required to demonstrate compliance with SMC 17.08. A condition to this effect has been added.

VII. SEPA

Under SMC 17.04.080 and WAC 197-11-800, this project is exempt from SEPA review.

The grading quantities are expected to be under the SEPA threshold of 350 cubic yards. However, if the grading permit application shows that there is over 350 cubic yards of grading with this project, SEPA review will be required at that time.

VIII. Conditional Use Permit

In order to approve a Conditional Use Permit, the application must comply with the following criteria, per SMC 21.04.050.

Criteria	Analysis	Meets Criteria?
1. Not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity.	<ul style="list-style-type: none"> • The project application and submittals has been routed to other agencies and departments for their review and comments. No responses were received that stated that the CUP would have an adverse impact to the public, including street, drainage and other public systems. • This project is providing an on-site infiltration stormwater drainage system. • All utilities will be provided to this site as part of this project. • This project will be required to pay impact fees for traffic, recreation and schools, in order to offset any impacts to these public services. • Improvements will be made as part of this project to the private access road, including widening the private road to the full standard (two 12-foot travel lanes) and installing a 5-foot sidewalk for pedestrian access. • Landscaping will be installed in order to provide aesthetic value and water conservation concepts. • All required setbacks and other dimension requirements will be met by this project. • There is no impact to critical areas as part of this project. 	YES
2. Meet or exceed the performance standards of the district.	<ul style="list-style-type: none"> • The subject property is located within the Moderate Density (MD) zone, which is regulated under SMC 16.12.020. • As shown in Section IIc of this Staff Report, all of the performance standards for the MD zone have been met. 	YES

<p>3. 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.</p>	<ul style="list-style-type: none"> • Per SMC 2.20.060, multifamily projects are required to go through the design review board. Multi-family dwelling units are defined as three (3) or more units. A duplex is therefore not required to go through the formal design review process. • Under SMC 21.04.054, design standards are listed for duplexes that this project is required to comply with. The Applicant has demonstrated that the setbacks, landscaping and building height meet the requirements of the code. • A condition has been added that at the time of building permit submittal, the design requirements for the structure shall be met. • The Applicant is proposing to construct a 5-foot sidewalk on the private road and to bring the private road up to the full standards of a 24-foot wide pavement section. • The Applicant has demonstrated that there is adequate ingress and egress by proposing to construct a minimum 20-foot wide driveway. • The Applicant has demonstrated adequate maneuvering room by providing a turnaround on the site for emergency vehicles. • The Applicant will be required to pay Traffic Impact Fees for 1 new dwelling unit, in order to mitigate any traffic impacts from the project. 	<p>YES</p>
<p>4. Consistent with the goals and policies of the comprehensive land use policy plan.</p>	<ul style="list-style-type: none"> • This project is subject to the 2004 Comprehensive Plan. • The Comprehensive Plan designates this area as a Moderate Density Development. • The goals and policies within the 2004 Comprehensive Plan that apply to this project include LU 2 – Suitable areas, and LU 3 – Serviceable areas. 	<p>YES</p>
<p>5. Minimize the possible adverse impacts.</p>	<ul style="list-style-type: none"> • As shown under the above criteria, all possible adverse impacts have been minimized, by providing improvements to the street, drainage, utility, nonmotorized network, and landscaping. 	<p>YES</p>

In addition to these criteria, there are additional criteria for duplexes and two-family dwellings under SMC 21.04.054.

Criteria	Analysis	Meets Criteria?
1. Only one other duplex or multi-family use within 300 feet; 100 feet of separation.	<ul style="list-style-type: none"> • A review of the Snohomish County Assessors data shows that there is one parcel within 300 feet of the project site with a multi-family use. • While the multifamily project site is located approximately 295 feet from the subject property, the proposed building on the subject property and the existing building will be <i>at least</i> another fifty (50) feet away to accommodate the minimum setback requirements, providing more than the minimum separation required of 300 feet. This information is provided in map form in an Exhibit. 	YES
2. Building design is harmonious with single-family neighborhood	<ul style="list-style-type: none"> • The site plan shows compliance with a portion of this section of the code. Setbacks are consistent with surrounding properties, the building height is no higher than the maximum allowed by the code, and landscaping has is proposed to screen the duplex from surrounding properties. • The design requirements for the structure itself will be enforced at the time of building permit submittal. A condition has been added to enforce this provision of the code. 	YES

IX. Public Notice

As required by the City's Subdivision and Public Hearing Regulations (SMC 16.28.300 and SMC 16.124.010), Notice of the Preliminary Plat and PUD Application has been posted, published and mailed. Notice of Public Hearing was posted, mailed and published August 30, 2007.

X. Conclusion

Revised Code of Washington 36.70B.040 - Determination of Consistency, requires that a proposed project shall be reviewed for consistency with a local government's development regulations during project review by consideration of:

1. Type of land use;
2. The level of development, such as units per acre or other measures of density;
3. Infrastructure, including public facilities and services needed to serve the development; and

4. The characteristics of the development, such as development standards.

Based on the above analysis, and with the proposed conditions listed below, staff finds that the Connwill Duplex CUP has met the requirements of the City of Sultan Design Standards and Specifications, 2004 Comprehensive Plan, and Sultan Municipal Code.

XI. Staff Recommendation

Staff recommends that the Hearing Examiner recommend to the City Council **APPROVAL WITH CONDITIONS** of the Connwill Duplex Cup with the conditions listed below:

Final Occupancy

1. The Applicant 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 City's Design Standards and Specifications, the Stormwater Management Manual, the Uniform Building Code, and the Uniform Fire Code, as adopted by the City. The Applicant is responsible for obtaining all necessary State and Federal permits and approvals required for completion of the project.
2. All improvements shall be constructed in accordance with the approved engineering plans, landscaping plans, and site plan. Prior to occupancy, all site improvements, including streets, sidewalks, frontage improvements, drainage improvements, landscaping, and other common area improvements shall be installed, inspected and approved by the City of Sultan.

Road & Storm Drainage

3. Final engineering drawings depicting the private road improvements and drainage design shall be submitted to the City Engineer for final review and approval prior to issuance of any permits. The street and drainage improvements shall be designed in accordance with the City's Design Standards and Specifications. Minor modifications of the plans submitted may be approved by the City Engineer if the modifications do not change the Findings of Fact or the Conditions of Approval.
4. Private street and stormwater maintenance agreements shall be prepared for review and approval by the City and recorded prior to final occupancy.
5. Prior to permit issuance, the following revisions to the civil plans shall be made:
 - a. Call out the required signs (street signs, stops signs), preliminary mailbox locations, bus stops and signs, school stops and signs, street lighting and fire hydrants.
 - b. Call out any rockeries or retaining walls. A separate permit is required for any wall over four (4) feet in height or that carries a surcharge. Any wall requiring a permit must also have a soils report per the City's Design Standards, and be designed by a professional engineer licensed in the State of Washington. A black chain link fence is required on top of any wall over four (4) feet in height. Permits for the walls shall be submitted, reviewed and approved prior to permit issuance.

- c. Show the driveway locations on the road and grading plan. A separate driveway permit is required with the building permit per the Design Standards and Specifications.
 - d. Provide a plan and paving detail for the proposed private road improvements, in accordance with the adopted Design Standards and Specifications. Two (2) 12-foot travel lanes and one (1) 5-foot sidewalk are required to be constructed. The paving detail shall comply with the City's Design Standards and Specifications.
 - e. The plans shall demonstrate that the requirements of SMC 16.60.120(E) for entrance, exit and maneuvering room have been met.
6. Prior to construction, the Applicant shall prepare a final Construction Stormwater Pollution Prevention Plan (SWPPP) for approval by the City Engineer and the Department of Ecology. The Applicant shall provide a copy of the Department of Ecology, Construction Stormwater General Permit, issued for this project prior to issuance of City permits.
 7. Site development shall follow all recommendations of the final stormwater report.
 8. The stormwater detention design and stormwater discharge shall utilize the Best Management Practices of the adopted Department of Ecology Stormwater Management Manual for the Puget Sound Basin and the current Department of Ecology National Pollutant Discharge Elimination System (NPDES).
 9. All construction equipment, building materials and debris shall be stored on the applicant's property, out of the public right-of-way. In no case shall the access to any private or public property be blocked or impinged upon without prior consent from the affected property owners and the City of Sultan.
 10. If at anytime during clearing, grading and construction the streets are not kept clean and clear, all work will stop until the streets are cleaned and maintained in a manner acceptable to the City Engineer.
 11. A traffic control plan shall be prepared by the applicant and approved by the City Engineer prior to issuance of any permits. The plan shall describe temporary traffic controls in accordance with the Design Standards and Specifications and the US Department of Transportation document "Manual on Uniform Control Devices".

Clearing & Grading

12. Final engineering drawings depicting the grading plan shall be submitted to the City Engineer for final review and approval prior to issuance of any permits. The grading plan shall be designed in accordance with the City's Design Standards and Specifications. Minor modifications of the plans submitted may be approved by the City Engineer if the modifications do not change the Findings of Fact or the Conditions of Approval.
13. The significant trees to be retained shall be clearly delineated in the field. Barrier fencing or siltation fencing shall be installed before any site disturbance. The City shall approve the location and placing of the fencing in the field prior to site disturbance.
14. The clearing limits of the approved Site Plan shall be clearly delineated in the field. Where such limits are in proximity to property boundaries, barrier fencing or siltation fencing shall

be installed before site disturbance in accordance with the approved Temporary Erosion and Soil Control Plan.

15. All clearing and grading activities, including the installation of utilities, storm drainage, ATB, curb, and gutters, shall be installed during the construction season between April 1 and October 1. Construction during the winter season (October 2 – March 31) will require special written permission from the City Engineer. In the case of prolonged bad weather, the City Engineer may amend the start and end date of the construction season as necessary.
16. During construction, in those areas where soil is disturbed, current and best management practices must be used to control erosion. Upon installation of any and all utility lines, the area of construction shall be restored to its natural, pre-existing condition.
17. Soils, which are to be re-used around the site, shall be stored in a manner to minimize the risk of erosion and sedimentation. Protective measures may include, but are not limited to, covering with plastic sheeting, use of low stockpiles in flat areas, or the use of filter fabric fence and/or staked hay bales.

Fire

18. All requirements of the adopted Uniform Fire Code shall be adhered to during construction and completed before occupancy of any structure.
19. One (1) blue, square (Type II) raised grade or permanent marker shall be installed in the roadway to indicate each fire hydrant location. It shall be placed directly across from the hydrant location, off set one (1) foot from the roadway center toward the hydrant.
20. An access route, for fire fighting apparatus, must be provided at the start of construction. Minimum access route requirements include a 20' width, 13'6" vertical height clearance, and the ability to support a load up to 68,000 pounds.
21. Fire hydrants are to be located in accordance with the Uniform Fire Code as adopted by the City and meet the Fire Department standards with regards to distances from structures.
22. Any structure setback from the public way or on private roads shall have their addresses posted as to be visible on the public way, or posted at the intersection of the driveway, or private road, and the public way off of which they are addressed.
23. Existing and proposed fire hydrant locations shall be designated and shown on the approved engineering plans.
24. The Applicant shall demonstrate sufficient water flow from the proposed fire hydrants for review and approval by the City Engineer and Fire District prior to the issuance of permits.

Utilities

25. All water service improvements shall be installed prior to final occupancy and required easements shall be provided, in accordance with the City of Sultan standards. Construction and materials shall conform to the City of Sultan 2004 Water and Sewer Engineering Standards.
26. All waste water improvements shall be installed prior to final plat approval and required easements shall be provided, in accordance with City of Sultan standards. Construction

and materials shall conform to the City of Sultan 2004 Water and Sewer Engineering Standards.

27. The cost of any work, new or upgrade, to the existing electric system and facilities that is required to connect the project to the Snohomish County PUD electric system shall be in accordance with applicable Snohomish County PUD policies.
28. All utilities shall be placed underground unless otherwise approved by the City Engineer.
29. The applicant shall relocate any utilities affected by the construction of the subdivision improvements at no cost to the City of Sultan.
30. Puget Sound Energy is the natural gas provider in this area. To initiate new service orders, contact Puget Sound Energy at 1-888-Call-PSE (225-5773) at least four (4) months prior to the required service date. Any relocation of existing gas facilities for this development will be at the developer's sole expense, and require 90 days minimum notice.

Environmental

31. If, during review of the grading permit or during construction, over 350 cubic yards of grading is expected to occur, this project shall stop all activity while SEPA review is conducted for the entire project.
32. The subject property is located with Flood Zone A, according to the Flood Insurance Rate Maps. This project shall comply with all requirements of SMC 17.08; the building permit shall comply with these standards, as required by the Building Official.

Landscaping and Recreation

33. A landscaping plan for the on-site landscaping and water conservation concepts shall be submitted, reviewed and approved prior to issuance of permits, in accordance with SMC 16.76 and SMC 16.104. The landscaping shall be installed in accordance with the approved landscaping plan. Minor modifications of the landscaping plans submitted may be approved by the Community Development Director if the modifications do not change the Findings of Fact or the Conditions of Approval.
34. All landscaping shall be maintained in healthy growing condition. A final landscape inspection will be performed at the end of the two (2)-year period and any dead, dying or diseased plant material shall be replaced.
35. A minimum of eleven (11) trees are required to be planted on-site, with a minimum two (2) different species. The species of trees is subject to the approval of the Community Development Director.

Fees

36. The Applicant shall maintain the landscaping, drainage facilities, private streets and other common areas within the site for a two (2) year period following acceptance of installation by the City of Sultan. Such maintenance shall be secured with a surety filed with the City. Subsequent to the two (2) year period, maintenance responsibility shall be passed to the property owner. A maintenance agreement shall be recorded with the Snohomish County Auditor if the property is divided into separate parcels.

37. All work performed within City right-of-way shall require a performance surety in the amount of 125% of estimated construction cost. The surety shall be submitted to and approved by the City of Sultan and executed before issuance of any permits.
38. The applicant shall pay recreation facility impact mitigation fees or other forms of negotiated impact mitigation directly to the City of Sultan in accordance with SMC 16.112.030 or similar requirements associated with the Growth Management Act. Payment of the recreation facility impact mitigation shall be made to the City prior to permit issuance. The total fee or mitigation amount shall be based on the mitigation fee established in SMC 16.112.030 in effect at the time of fee payment. The fee is due at the time of permit issuance.
39. The applicant shall pay school impact mitigation fees or other forms of negotiated impact mitigation directly to the City of Sultan in accordance with SMC 16.116 or similar requirements associated with the Growth Management Act. Payment of the school impact mitigation shall be made to the City of Sultan prior to permit issuance. The amount of the fee due shall be based on the fee schedule in effect at the time of permit application. The fee is due at the time of permit issuance.
40. The applicant shall pay traffic impact mitigation fees or other forms of negotiated impact mitigation directly to the City of Sultan in accordance with SMC 16.112.040 or similar requirements associated with the Growth Management Act. Payment of the traffic impact mitigation shall be made to the City prior to permit issuance. The total fee or mitigation amount shall be based on the mitigation fee established in SMC 16.112.040 in effect at the time of fee payment. The fee is due at the time of permit issuance.
41. The applicant shall be required to provide a fee to the Community Development Department for the amount established by the City's most recent fee schedule for plan review and inspection costs.

Other

42. At the time of building permit submittal, the Applicant shall demonstrate compliance with the design requirements of SMC 21.04.054(B), subject to the approval of the Community Development Director. The design of the structure shall be harmonious with the neighborhood and 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; making building heights consistent with surrounding properties; exterior colors and materials.
43. All contractors and subcontractors working on the project described herein shall obtain a business license from the City prior to initiation of any site work.
44. All fences shall require a separate permit subject to the requirements of SMC 15.08.
45. Construction noise is not allowed between the hours of ten (10) p.m. to seven (7) a.m. on weekdays, and ten (10) p.m. to nine (9) a.m. on weekends.
46. The applicant and contractor shall attend a pre-construction meeting with City staff to discuss expectations and limitations of the project permit before starting the project.
47. The location of any signs on approved plans is for illustrative purposes only. Pursuant to SMC Title 22, a sign permit must be obtained for the placement of any non-exempt

signage. Application for that sign permit shall include an approved site plan specifying the location of all signs.

City of Sultan

Rick Cisar
Director of Community Development

Date

EXHIBITS:

- A. Location Map
- B. Site Plan, submitted August 3, 2007
- C. Application & Project Narrative
- D. Water and Sewer Availability Letters, dated June 6, 2007
- E. Map Showing Parcels and Uses Within 300 feet of Subject Property

UNIT A

PROPOSED DUPLEX

OUTBUILDINGS

SINGLE
FAMILY
RESIDENCE

DORE RESIDENCE
APN 28083200307900

136.14'

EXISTING GRAVEL

EXISTING
WATER MAIN

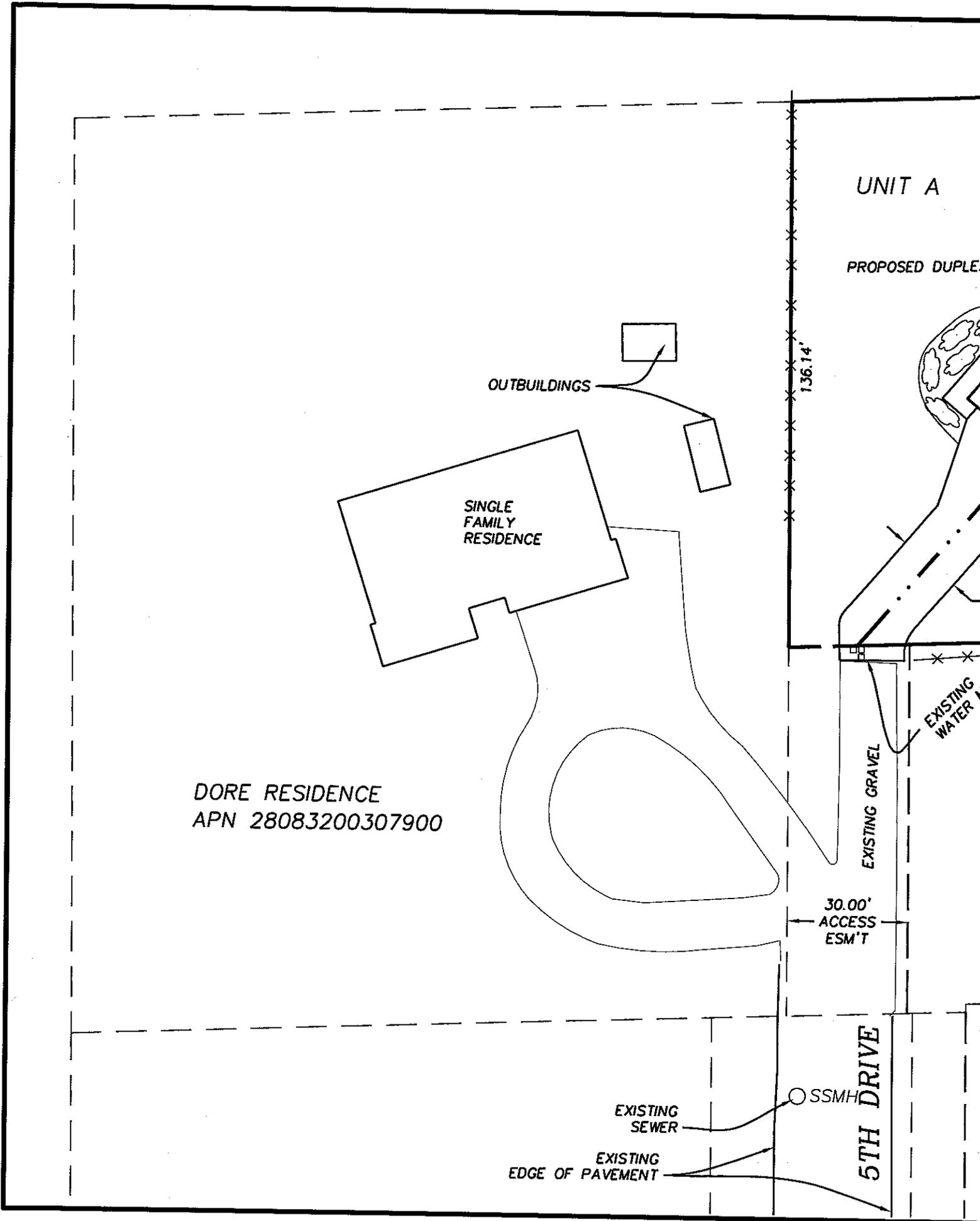
30.00'
ACCESS
ESM'T

EXISTING
SEWER

SSMH

EXISTING
EDGE OF PAVEMENT

5TH DRIVE



**CITY OF SULTAN
Sultan, Washington**

RESOLUTION NO. 07-26

**A RESOLUTION OF THE CITY OF SULTAN APPROVING THE
CONNWILL MANAGEMENT, LLC CONDITIONAL USE PERMIT TO
CONSTRUCT A DUPLEX AT 818 - 5TH DRIVE CITY OF SULTAN
FILE NUMBER NO. CUP07-001**

WHEREAS, Connwill Management, LLC submitted an Application to the City of Sultan on April 20, 2007 for Approval of a Condition Use Permit (CUP) to construct a duplex at 818 - 5th Drive; and

WHEREAS, The Planning Staff (DCD), on August 27, 2007 issued a Staff Report and recommendation of approval with conditions for the duplex proposal; and

WHEREAS, the Hearing Examiner conducted and Open Record Public Hearing on the proposal on September 11, 2007; and

WHEREAS, the Hearing Examiner on September 14, 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 a duplex at 818 5th Drive subject to 6 conditions; and

WHEREAS, the City Council at a regular meeting held on October 18, 2007 accepted the Hearings Examiner's report and recommendation, including the Findings of Fact and Conclusions, and Approved the Conditional Use Application Number CUP07-001 with the 6-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 Conwill Management, LLC Conditional Use Permit has been completed in accordance with the provisions of SMC Chapter 21.04.050 and Chapter 21.04.054.
- Section 2** The Hearing Examiner on September 14, 2007 recommended approval of Conditional Use Permit, CUP07-001 to construct a duplex to six conditions.
- Section 3** The Applicant, Connwill Management, LLC finds the conditions of approval for their Conditional Use Permit File Number CUP07-001 acceptable and did not request reconsideration of the Hearings Examiner's recommendation.
- Section 4** The Conditional Use Permit for Conwill Management, LLC, CUP071-001 is **Approved.**

PASSED by the City Council and **APPROVED** by the Mayor this _____ day of _____, 2007.

CITY OF SULTAN

By _____
Ben Tolson, MAYOR

Attest:

By _____
LAURA KOENIG, CITY CLERK

Approved as to form:

By _____
THOM GRAAFSTRA, CITY ATTORNEY