

**SULTAN CITY COUNCIL
AGENDA ITEM COVER SHEET**

ITEM NUMBER: A - 2

DATE: February 14, 2008

SUBJECT: Resolution No. 05-08 - Accepting the Hearing Examiner's Recommendation and Denying the Joshua Freed LLC Planned Unit Development; Remanding the Proposed Subdivision Application for a 16 Lot Planned Unit Development (Caleb Court) and Returning the Application to the Applicant for Modification

CONTACT PERSON: Reid Shockey, Shockey Brent Inc.

ISSUE:

The issue before the City Council is to authorize the Mayor to sign Resolution No. 05-08 accepting the Hearing Examiner's recommendation and denying the Joshua Freed LLC Planned Unit Development; Remanding the proposed subdivision application for a 16 Lot Planned Unit Development (Caleb Court) and returning the application to the applicant for modification.

STAFF RECOMMENDATION:

Authorize the Mayor to sign Resolution No. 05-08 accepting the Hearing Examiner's recommendation and denying the Joshua Freed LLC Planned Unit Development; Remanding the proposed subdivision application for a 16 Lot Planned Unit Development (Caleb Court) and returning the application to the applicant for modification.

SUMMARY:

The City Council conducted a Closed Record Hearing and Public Appeal Hearing to consider the Hearing Examiner's Recommendation dated November 13, 2007 for the Caleb Court Preliminary Planned Unit Development Subdivision and the Appeal from Freed LLC in accordance with SMC 2.26.150(C), (D), (E), and (F).

The Hearing Examiner recommended denial of the Planned Unit Development and returning for modification of the Preliminary Subdivision, based on three (3) issues of noncompliance. The Hearing Examiner recommendation included revised conditions of approval in case the Council did not concur with the reasons for denial of the Planned Unit Development.

The Hearing Examiner raised the following issues of noncompliance:

1. The proposed reduction in public right-of-way width for the new Road A, an extension of Salmon Run North, is not justified primarily because the design does not provide for a landscaped separation of vehicles and pedestrians; and does not provide for adequate off-street parking.
2. The Examiner found that the proposed cul de sac length of approximately 750 feet as measured along Salmon Run North was too far in excess of the current City standard of 300 feet.
3. The Caleb Court Preliminary PUD and Subdivision does not meet the requirements for police concurrency under the City's concurrency management system in SMC 16.108.

At the conclusion of the Closed Record and Public Appeal Hearing, the City Council considered two alternative resolutions:

- a. Resolution Number 08-03A, which accepted the Recommendation of the Hearing Examiner denying the PUD Application and returning the Preliminary Subdivision Application to the Applicant for modification; or
- b. Resolution 08-03B, which rejected the Recommendation of the Hearing Examiner, accepted the Hearing Examiner's finding of fact, some conclusions of law, making other differing conclusions of law, and granting approval of the Application subject to the Hearing Examiners revised conditions of approval

After considering the record, the City Council accepted the Recommendation of the Hearing Examiner dated November 13, 2007, including the Findings of Fact and Conclusions of Law, the City Council determined to deny the Caleb Court Planned Unit Development without prejudice and return the application to the applicant for modification to meet approval criteria.

The City Council directed staff to prepare a new resolution (Resolution No. 05-08) to set forth its findings as follows:

1. Public Right of Way Width - A more appropriate design meeting City design standards, and compatible with existing Salmon Run North Rd. would include:
 - A minimum fifty foot (50') right of way,
 - Thirty-two feet (32') of pavement between curbs
 - A sidewalk extension similar in design to that existing along Salmon Run North Rd.
 - Additional on-street guest parking spaces
2. Cul de Sac Length - A more appropriate road design would consider a future extension of Salmon Run North (proposed Road A) south to High Street. This would necessitate a dead-end street terminating at the southerly plat boundary.

The dead-end street would not constitute a permanent cul de sac as defined by SMC 16.150.030 (47).

The City agrees with the applicant's engineer that until the extension of the dead end street to High Street occurs, a cul de sac turnaround design allowing unimpeded turning movements is superior to a "hammerhead" or other configuration. The City is supportive of a "cul de sac" design solution with the right of way boundary coterminous with the southerly property boundary. This should be considered a short term street improvement, not a permanent cul de sac; therefore the length requirement for a cul de sac will not apply.

The Council takes official notice of the City's Design Standards that require that a sign be placed at the end of a dead-end street disclosing to the public and future property purchasers that eventual extension of Salmon Run North to High Street will occur.

3. Concurrency Standard for Police Service - The Council concurs with the Examiner's finding that the Staff erred in concluding that the application meets the concurrency standard for police services. The Examiner found that a Police Services Agreement to pay fees to meet police concurrency standards does not meet the requirements of Chapter 16.108 SMC.

The Examiner did find that conditions could be added to require that concurrency requirements be met prior to final plat approval or building permit issuance. The Council will require that the applicant enter into an agreement to meet the City's Police Concurrency requirement in effect at the time of first occupancy of units in Caleb Court.

FISCAL IMPACT:

The City will have expenses related to preparing Resolution 08-08, reviewing the modified application, conducting a new open and closed record hearing on the modified plat. These expenses will be passed through to the applicant as allowed by City code and the City's fee ordinance.

RECOMMENDED ACTION

Authorize the Mayor to sign Resolution No. 05-08 accepting the Hearing Examiner's recommendation and denying the Joshua Freed LLC Planned Unit Development; Remanding the proposed subdivision application for a 16 Lot Planned Unit Development (Caleb Court) and returning the application to the applicant for modification.

ATTACHMENT

Attachment 1 – Resolution 05-08

Attachment 2 - Map

CITY OF SULTAN
Sultan, Washington

RESOLUTION NO. 05-08

A RESOLUTION OF THE CITY OF SULTAN ACCEPTING THE HEARING EXAMINER'S RECOMMENDATION AND DENYING THE JOSHUA FREED LLC PLANNED UNIT DEVELOPMENT; REMANDING THE PROPOSED SUBDIVISION APPLICATION FOR A 16 LOT PLANNED UNIT DEVELOPMENT (CALEB COURT) AND RETURNING THE APPLICATION TO THE APPLICANT FOR MODIFICATION

WHEREAS Joshua Freed LLC (Applicant) filed an application for approval of Caleb Court, a 16-lot Planned Unit Development (PUD) subdivision for single family development;

WHEREAS an open record hearing was convened before the City's Hearing Examiner on October 9, 2007 on the application. Said hearing was continued to and concluded on November 1, 2007.

WHEREAS, the City Hearing Examiner issued a Recommendation dated November 13, 2007 for Denial of the PUD request without prejudice based on Findings and Conclusions affecting three elements of the applicant's plan;

WHEREAS, the applicant, on November 26, 2007 appealed the Recommendation and requested a closed record hearing;

WHEREAS the application came before the City Council for a closed record hearing and appeal by the applicant on the "Recommendation" on January 24, 2008;

WHEREAS the City Council has determined based upon a review of the open record hearing to accept the Hearing Examiner's Findings of Fact and Conclusions of Law.

NOW, THEREFORE:

A. The City Council accepts the Recommendation of the Hearing Examiner dated November 13, 2007, including the Findings of Fact and Conclusions of Law therein.

B. Specifically the City Council finds as follows:

1. The Examiner found that the proposed reduction in public right-of-way width for the new Road A, an extension of Salmon Run North, is not justified primarily because the design does not provide for a landscaped separation of vehicles and pedestrians; and does not provide for adequate off-street parking.

The Council believes that a more appropriate design meeting City design standards, and compatible with existing Salmon Run North Rd. would include:

- a minimum fifty foot (50') right of way,

- thirty-two feet (32') of pavement between curbs
 - a sidewalk extension similar in design to that existing along Salmon Run North Rd.
 - additional on-street guest parking spaces
2. The Examiner found that the proposed cul de sac length of approximately 750 feet as measured along Salmon Run North was too far in excess of the current City standard of 300 feet.

The Council believes that a more appropriate road design would consider a future extension of Salmon Run North (proposed Road A) south to High Street. This would necessitate a dead-end street terminating at the southerly plat boundary. Said dead-end street would not constitute a permanent cul de sac as defined by SMC 16.150.030 (47). The Council agrees with the applicant's engineer that until the extension of said dead end street to High Street occurs, a cul de sac turnaround design allowing unimpeded turning movements is superior to a "hammerhead" or other configuration. The Council is supportive of a "cul de sac" design solution with the right of way boundary coterminous with the southerly property boundary. This should be considered a short term street improvement, not a permanent cul de sac; therefore the length requirement for a cul de sac will not apply.

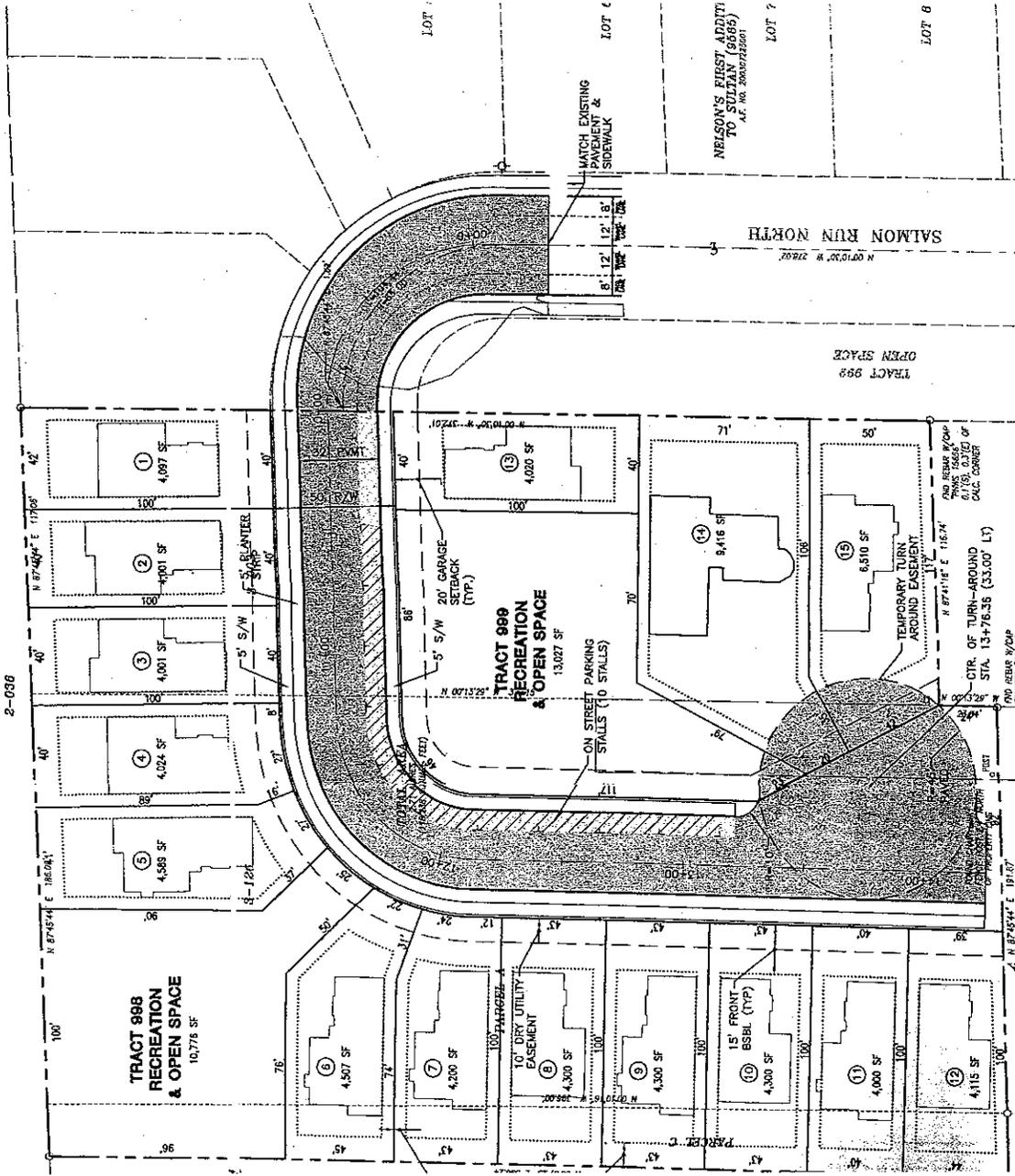
The Council takes official notice of the City's Design Standards that require that a sign be placed at the end of a dead-end street disclosing to the public and future property purchasers that eventual extension of Salmon Run North to High Street will occur.

3. The Examiner found that the Staff erred in concluding that the application meets the concurrency standard for police services. The Examiner found that a Police Services Agreement to pay fees to meet police concurrency standards does not meet the requirements of Chapter 16.108 SMC. The Examiner did find that conditions could be added to require that concurrency requirements be met prior to final plat approval or building permit issuance.

The Council concurs in the Examiner's finding and will require that the applicant enter into an agreement to meet the City's Police Concurrency requirement in effect at the time of first occupancy of units in Caleb Court.

C. The Caleb Court Planned Unit Development is hereby denied without prejudice and the application is hereby returned to the applicant for modification to meet approval criteria.

2-036



LOT 5

SHEET INDEX

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C3.1	4	ROAD PROFILES AND SECTIONS
C4.0	5	UTILITY PLAN



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CALEB COURT

TITLE SHEET

C1.0