

SULTAN CITY COUNCIL

AGENDA ITEM COVER SHEET

ITEM NO: PH-1

DATE: August 14, 2008

SUBJECT: Closed Record Public Hearing:
Grandview, Inc. (Anderson Farm) PUD
Recommendation from Hearing Examiner

CONTACT PERSON: Robert C. Martin, Community Development Director

D. Wright

ISSUE:

Conduct a Closed Record Hearing on Grandview, Inc. (Anderson Farm) Planned Unit Development Subdivision as provided by SMC 16.10.090 C. (Attachment A).

(Attachments were provided in paper form at the July 24, 2008 meeting with the request that they be carried over to this meeting. Additional paper copies of the attachments are not provided with this Agenda Cover).

STAFF RECOMMENDATION:

Conduct the Closed Record Hearing.

SUMMARY:

To comply with SMC 16.10.080 C. it is necessary to conduct a Closed Record Hearing to review and to accept, modify, or reject the Hearing Examiner Recommendation. The Council decision is final, and may only be appealed to superior court under provisions of RCW Chapter 36.70C.

Testimony at a Closed Record Hearing is limited to Staff, the applicant, any filed appellants, and questions from the Council.

Council is charged with reviewing the record of the proceeding and taking brief testimony from Staff, and the applicant. There were no filed appellants in response to the Hearing Examiner's denial recommendation, so there are no appellants from which to take testimony. The general public is welcome to observe the hearing, but may not testify.

EXECUTIVE SUMMARY:

This item was on the July 24th Council agenda. It was deferred to the August 14th meeting to provide notice that was omitted prior to the July 24th scheduled Hearing. This Staff Report and attachments are unchanged in all substantive aspects from the July 24th report. Indexing of the references to the attachments are changed only for the purpose of providing more direct access to the existing record.

City Staff determine that the Anderson Farm Planned Unit Development did not meet significant requirements of the applicable codes and development standards. A report recommending denial was prepared for the Public Hearing conducted by the Hearing Examiner on May 6, 2008. The Hearing Examiner agreed with many of the Staff findings, and rejected some of them. The Hearing Examiner has recommended that the City Council deny the application.

HEARING EXAMINER SUMMARY (Attachment C, Pages 51 & 52)

1. "The proposal does not meet most of the review criteria for approval as a preliminary subdivision." "The question then is whether Anderson Farm should be returned for correction or simply denied. This proposal is so far from acceptable that the Examiner recommends that it be denied".

2. The areas of deficiency listed by the Hearing Examiner are:

- a. Open Space
- b. Drainage ways
- c. Streets and roads
- d. Alleys
- e. Other public ways
- f. Transit stops
- g. Potable water supply
- h. Sanitary wastes
- i. Parks and recreation
- j. Playgrounds
- k. Schools and schoolgrounds
- l. Safe walking conditions
- m. Utility consistency

HEARING EXAMINER RECOMMENDATION (Attachment C, Page 53)

"Based upon the preceding Findings of Fact and Conclusions of Law, the testimony and evidence submitted at the open record hearing, and the Examiner's site view, the Examiner **RECOMMENDS DENIAL** of the proposed preliminary subdivision and planned unit development of *Anderson Farm*." May 16, 2008 (emphasis in original).

RECOMMENDATION:

Staff recommends that the Council uphold the Hearing Examiner's recommendation to deny the application for Anderson Farm Subdivision and Planned Unit Development. (The "Action" section of the agenda includes a draft ordinance for final decision on this application).

BACKGROUND:

September 15, 2005: Grandview Inc., the applicant, submitted an application for a Plat and Planned Unit Development (PUD) proposing 35-single-family lots.

October 11, 2005: A letter determining completeness of the application was sent by the city.

May 4, 2006: A revision of the application was received reducing the number of proposed lots to 26.

August 23, 2006 and June 16, 2006: The City requested additional materials from the applicant.

January 26, 2007: Additional modifications to the plat design were submitted by the applicant.

October 16, 2007: Mitigated Determination of Nonsignificance (MDNS) issued by the city.

November 13, 2007: Applicant appealed the MDNS.

February 28, 2008: The City prepared a response to the MDNS Appeal for the Hearing Examiner.

May 5, 2008: City Staff prepared a Report and Recommendation to the Hearing Examiner on the Plat and PUD. This report included 22 attachments. The report recommended denial of the application based on environmental and development standards (Attachment B).

May 6, 2008: The Hearing Examiner conducted a hearing on Anderson Farm.

May 16, 2008: The Hearing Examiner wrote a recommendation of Denial and forwarded it to the City Council for consideration in a closed record hearing as provided by Sultan Municipal Code (SMC) 16.10.090 C (Attachment C).

DISCUSSION:

1. The entire file of this proceeding is available for review at City Hall.
2. The record that was reviewed by the Hearing Examiner is attached to the report provided to Council on July 24, 2008 as "Attachment B". "Attachment B" contains the application, traffic, soil, and environmental studies submitted by the applicant, City Staff reports, and responses to submitted materials, appeals filed by the applicant, and State Environmental Policy determination. The index to "Attachment B" is provided behind the cover sheet for that attachment, and is titled Exhibits: Anderson Farm Preliminary PUD and Subdivision (FPPUD05-003). This index lists Exhibits S-1 through S-22. Where necessary, the "S- _ " designation will be used to direct the reader to areas under discussion.
3. The applicant proposed a Subdivision Plat and PUD of 35 lots in first submittal on September 13, 2005 (Exhibit S-3) located on approximately 6.47 acres bordering the

west side of Sultan Basin Road in the vicinity of 135th St. SE. (see Attachment B, Pages 130 and 131).

The property is in the Medium Density Residential (MD) zone

- See Attachment B, pages; 4, 5, 6, for area details.
- See Attachment B, pages; 27 through 157 for original application and supporting studies filed by applicant.
- See Attachment B, pages; 166 through 226 for revised proposal submitted by applicant on May 4, 2006.
 - n. The applicant revised the application to 26 lots in second submittal on May 4, 2006.
- (See Attachment B, pages; 166 through 226 and Attachment B, pages 291 through 295).

Following are Staff findings from the Staff Report to the Hearing Examiner (Attachment B).

"Attachment D" is a table summarizing key topics that were addressed at the addressed in the Staff Report and at the Hearing Examiner Hearing.

4. The application was complete and met the criteria that validated the application for a PUD and was a valid use in the MD zone with appropriate densities, (see Attachment B, pages 4 through 8).
5. The application did not meet the minimum lot size requirements of the MD zone, and that the reduced lot sizes proposed under the PUD standards were not properly compensated for in the provision of a variety of housing types and recreational amenities (see Attachment B, pages 8, 9).
6. The proposal could be conditioned to meet the lot width standards of the zone and the PUD requirements (see Attachment B, page 9).
7. The proposal did not meet the front yard setback requirement in that it indicated 15-foot front yard setbacks on all lots and that the code requires 20-foot front yards. (see Attachment B, pages 9, 10).
8. The proposal met the requirements for side yard setbacks (see Attachment B, page 10).
9. The proposal could be conditioned to comply with the rear yard setback requirements (see Attachment B, page 10).
10. The proposal met the Comprehensive Plan Policies and Objectives for the Moderate Density Residential district (see Attachment B, page 10).
11. The proposal did not meet the code standards for open space and perimeter landscaping and fencing (see Attachment B, pages 11, 12).

12. Requirements of SMC 16.76 regarding vegetation protection could not be assessed based on the application submitted (see Attachment B, page 12).
13. The proposal did not meet the standards for the number and variety of trees planted in the development (see Attachment B, page 12).
14. The proposal did not meet the standards for reduction of wetland buffers under the innovative design provisions of SMC 16.80.100 (see Attachment B, pages 12, 13).
15. The proposal met the requirements for verification of water availability (see Attachment B, page 14, and 43).
16. The proposal met the requirements for verification of sewer service availability (see Attachment B, pages 14, 44).
17. The proposal did not meet the stormwater management requirements of SMC 16.92.010 (see Attachment B, pages 14, 15). (See also Attachment B, pages 166 through 225).
18. The proposal did not meet standards for pedestrian and vehicular lot access and design of on-site streets. Street width, parking, and separation of pedestrians from vehicles were cited as specific failures. Reduced right-of-way and reduced street width were proposed that were similar to private road standards. The proposed street cross-section was not supported by the city engineer (see Attachment B, pages 15, and 161).
19. The proposal generally meets the standards for development of 135th St. SE as an off-site street, but additional geotechnical work needed to be done to determine the amounts of base and asphalt needed in the specific area (see Attachment B, page 16).
20. The proposal does not meet the standards for road development where a proposed subdivision road is partly on and partly off of the developer's land. The proposal was to reduce to one-half of a fully developed street and use that until adjacent property developed. (see Attachment B, pages 16, 17).
21. The proposal generally meets the standards for development of Sultan Basin Road as an off-site street, but additional geotechnical work needed to be done to determine the amounts of base and asphalt needed in the specific area and the addition of turn lane, sidewalk, and plantings (see Attachment B, page 17).
22. The proposal meets the requirements for traffic impact mitigation through payment of the appropriate impact fees at the time of issuance of building permits for the lots (see Attachment B, page 17).
23. The proposal meets the requirements for school impact mitigation through payment of the appropriate impact fees at the time of issuance of building permits for the lots (see Attachment B, page 17).

24. The proposal meets the requirements for park and recreation impact mitigation through payment of the appropriate impact fees at the time of issuance of building permits for the lots (see Attachment B, page 18).
25. The proposal does not meet the requirements for fire hydrant placement (see Attachment B, page 18).
26. The proposal does not lower the level of service (LOS) for roads, police, and parks and recreation either due to low impacts or mitigations and facility improvements. It is necessary to extend the water and sewer availability certificates. The proposal can readily be conditioned to meet all concurrency requirements (see Attachment B, pages 18, 19, 20).

Following are State Environmental Policy Act (SEPA) issues

27. The applicant submitted an updated SEPA Checklist on September 15, 2005 (see Attachment B, page 20, and 169 through 178).
28. The City issued a Mitigated Determination of Nonsignificance (MDNS) on October 16, 2007 (see Attachment B, page 20, 302, 303, 304).

The MDNS was based on information in Attachment B, pages 52 through 99, Attachment B, pages 100 through 131, Attachment B, pages 169 through 178, Attachment B, pages 179 through 224, Attachment B, pages 270 through 291, and Attachment B, pages 292 through 295.

29. The SEPA MDNS contained seven mitigating measures (see Attachment B, pages 20 and 21).
30. The applicant filed an appeal of the MDNS on November 13, 2007. This appeal challenged mitigating measures related to: wetlands and buffers, public safety and roads, development design and densities, linkage of concurrency issues to police services, and timing of issuance of the MDNS by the City (see Attachment B, pages 305 through 312).
31. The City challenged the validity of the appeal based on the fact that the applicant did not submit the filing fee by the deadline even though the written appeal was filed in a timely manner (see Attachment B, page 21, Attachment B, page 314).
32. The City responded to the SEPA appeal (see Attachment B, pages 22, 23, Attachment B, pages 29, 30, Attachment B, pages 314, and 315 through 318).

The following are from the Hearing Examiner Report and Recommendation included Here as "Attachment C"

33. The City's challenge to the untimely filing of the SEPA Appeal based on late submission of the filing fee was dismissed (See Attachment C, pages 5 & 6).

34. The proposal does not meet the location criteria for PUD's as provided in SMC 16.10.110 (see Attachment C, pages 13 to 16).
35. The proposal does not meet the lot size criteria for PUD's as provided in SMC 16.10.120(B)(2) (see Attachment C, pages 16 to 18).
36. The proposal does not meet the lot width criteria for PUD's as provided in SMC 16.10.120(B)(2) (see Attachment C, pages 18 to 19).
37. The proposal does not meet the front yard setback criteria for PUD's as provided in SMC 16.10.120(B)(1)(f) (see Attachment C, pages 19 & 20).
38. The proposal meets the side yard setback criteria for PUD's and qualifies for a reduction from 10 feet to 5 feet as provided in SMC 16.10.120(B)(1)(a) (see Attachment C, pages 20 & 21).
39. The proposal meets the rear yard setback criteria for PUD's and qualifies certain reductions with specific conditions for fencing and plat notation as provided in SMC 16.10.120(B)(1)(a) (see Attachment C, pages 21 & 22).
40. The proposal does not meet the recreation criteria for PUD's as provided in SMC 16.72 (see Attachment C, pages 22 to 24).
41. The proposal does not meet the open space criteria for PUD's as provided in SMC 16.10.140 (see Attachment C, pages 24 to 28).
42. The proposal meets the vegetation inventory criteria for PUD's and is in conformance with SMC 16.76 (see Attachment C, page 28).
43. The proposal does not meet the landscape plan criteria for PUD's as provided in SMC 16.104.090(A)(1) (see Attachment C, pages 28 to 31).
44. The proposal does not meet the wetland buffer and innovative development design criteria for PUD's as provided in SMC 16.80.080(B)(3), (D)(2), and (D)(1), and SMC 16.80.080(B) & (D), and SMC 16.80.100 (see Attachment C, pages 31 to 37).
45. The Hearing Examiner did not review or rule on water and sewer availability.
46. The proposal does not meet the stormwater plan criteria as provided in the Department of Ecology Stormwater Management Manual for the Puget Sound Basin as adopted by SMC 16.92.010(D) (see Attachment C, pages 38 to 39).
47. The proposal does not meet the internal street criteria for PUD's as provided in SMC 16.28.230(B) (see Attachment C, pages 39 to 44).
48. The proposal generally meets the off-site street development standards for 135th St. SE, and can be appropriately conditioned and corrected to meet the applicable standards. (see Attachment C, pages 45 to 47).

49. The proposal generally meets the off-site street development standards for Sultan Basin Road and can be appropriately conditioned and corrected to meet the applicable standards (see Attachment C, page 47).
50. The proposal is not required to designate location of fire hydrants on preliminary plans and does not violate SMC 16.10 or 16.28 (see Attachment C, page 47 & 48).
51. The City cannot issue a Certificate of Concurrency for the proposal. The proposal cannot be approved without a Certificate of Concurrency. (see Attachment C, pages 48 to 51).
52. The proposal does not provide a written narrative analyzing compliance with the Comprehensive Plan as provided in SMC 16.10.070(C)(3) (see Attachment C, page 51).
53. The proposal is not required to provide a written narrative analyzing municipal service economic impact as provided in SMC 16.10.070(C)(10) (see Attachment C, page 51).

ATTACHMENTS:

Attachment A: SMC 16.10.090 C.

Attachment B: Staff Report for Hearing Examiner Hearing including Application and supporting materials

Attachment C: Hearing Examiner Recommendation

Attachment D: Table of Hearing Examiner Topics