

**SULTAN CITY COUNCIL  
AGENDA ITEM COVER SHEET**

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**ITEM NO:** D-3  
**DATE:** December 10, 2009  
**SUBJECT:** Planned Unit Development Code Update  
**CONTACT PERSON:** Robert Martin, Community Development Director

**ISSUE:**  
Updating the Planned Unit Development provisions (SMC Chapter 16.10)

**PLANNING BOARD RECOMMENDATION:**

The Planning Board recommends to the Council the following:

- Work on the PUD code be halted
- Work completed to date on a revised Chapter 16.10 be held in reserve for future inclusion in the Municipal Code when true PUD development is a likely reality in the community.
- Replace the PUD code with a Lot Averaging code to accommodate the actual type of development that has occurred under the PUD code, with much less process, confusion, and conflict than has been characteristic of the PUD code.

**STAFF RECOMMENDATION:**

Staff is in full concurrence with the Planning Board recommendation. Staff is prepared to construct a Lot Averaging code and to proceed with the process to replace the PUD code.

**COUNCIL ACTION:**

This is a discussion item. No action is required at this time. If Council is prepared to do so, it can, by consensus, provide the Planning Board direction on further action.

**INTRODUCTION:**

The Planned Unit Development Chapter of the Unified Development Code has been the source of large-scale procedural and substantive confusion and conflict in the last several years. The Council, Planning Board, Hearing Examiner, staff, developers, and the community have all dealt with the difficulties presented by overlapping procedures and unclear development standards of this chapter.

Recently, some of the most basic procedural issues were addressed by moving all of the quasi-judicial review process to the Hearing Examiner. This is a meaningful but minimal step in the revision required to make this chapter into a serviceable component of the Sultan Municipal Code.

Action on the PUD code is on the Planning Board's Prioritized Work List. Work on this task began at the August 18, 2009 Board meeting.

**PLANNING BOARD HISTORY:**

At the August 18, 2009 regular meeting, the Planning Board reviewed a Staff report detailing the need for significant revision of the Planned Unit Development provisions of the Sultan Municipal

Code (SMC Chapter 16.10). The Board indicated that the need for significant modification was clear.

At its September 1, 2009 Meeting, the Board reviewed and discussed PUD Codes from Bothell, Mill Creek, Shelton, Tukwilla, and Walla Walla to become familiar with the construction of codes that provide for PUD as a type of development instead of an overlay zone.

At the September 15, 2009 meeting, the Board reviewed the first portion of a draft revision of the PUD code. This meeting continues the process of developing a draft for the Board's review.

At the October 6, 2009 meeting the Board indicated that a draft PUD Zone should be developed for review that addresses PUD's as Mixed-Use Developments that are conditioned to be innovative large-scale projects providing higher amenity and quality-of-life opportunities to residents and the Community at large.

At the October 20, 2009 meeting, the Board reviewed the third staff draft of the revisions to SMC Chapter 16.10. After lengthy discussion, the Board, by consensus, directed staff to forward a recommendation to the City Council that the effort to rewrite Chapter 16.10 should be discontinued and that the existing Chapter 16.10 be deleted from the code.

**DISCUSSION:**

The following is largely taken from a previous staff report worked on by the Planning Board. It is provided to give the Council an understanding of the information and concepts involved in the Board's work leading to the recommendation transmitted in this Agenda Cover Sheet.

This section will list topical problem statements concerning the PUD code, give a brief explanation of the issue, and propose one or more responses to resolve the problem.

**Problem Statement:** Does the PUD system provide a meaningful development option for Sultan?

**Explanation of Problem:** None of the developments that have happened in the community are actually PUD's. They are really standard subdivisions with lot averaging so that the developments can happen on land with large percentages of wetlands and other critical areas. For the recent round of developments to actually meet PUD standards, much more land would have been taken out of housing lots and devoted to developed open space and structural amenities. The PUD program has resulted in much delay and additional cost to the developers and the community for no real benefit.

**Response:**

Add a code provision to allow "lot averaging" as a simple stand-alone concept to streamline processing of subdivisions. Repeal the PUD code until such time in the future that the community is ready for actual negotiated development of Planned Unit Developments.

**Problem Statement:**

PUD's have not been properly applied in Sultan due both to administrative issues and due to the type of development that has been allowed to apply for PUD processing.

**Explanation of Problem:**

PUD systems are set up to enable flexibility resulting in mixed-use developments that provide the opportunity for "large scale projects that do not fit the typical zoning prototype." (Quoted from *21<sup>st</sup> Century Land Development Code*).

This means that PUD's are supposed to be a community within a community where commercial services, significant amenities, and various residential styles are provided in an overall planned approach that would not otherwise be permitted in the base zone.

None of the developments approved through the Sultan PUD process accomplish this level of development. PUD has been used to provide uniform standard housing on small lots with lot averaging due to large percentages of the property that is in wetlands and other critical areas.

Lot averaging is necessary in Sultan because we have so many wetlands scattered throughout otherwise developable land. The concept of averaging looks at the number of lots that would be allowed on the property if it were all developable at the minimum lot size required in the zone. It then credits the developer for some (not all) of those lots that cannot be created due to the critical area standards. That credit is realized through reductions in the minimum lot size. This is a mechanism that can be provided with much less procedural engagement than is involved in a true PUD development.

**Response:**

Include a lot averaging provision when reconstructing Title 16 in cases where the developer can demonstrate that their property is encumbered by critical areas in excess of a specified % of the total area. A well constructed and implemented lot averaging provision would have resulted in the same type of developments that Sultan has recently approved without all of the confusion generated by processing these standard subdivisions as if they were PUD's.

**Problem Statement:**

The PUD chapter contains language that incorrectly relies on the Comprehensive Plan Map for guidance in implementation of the PUD overlay zoning process.

**Explanation of Problem:**

Construction as a zone, as discussed above, is expanded into the Comprehensive Plan Map. An example of this is in the PUD Single Family zone at 16.10.110 B. 2. h. (See Attachment A at highlighted location). This extremely complex language allows multi-family dwellings in single-family PUD's in areas "identified for "scattered multifamily within a single-family" on the Comprehensive Plan map..." This phrase and the entirety of item h. have no correlation to anything in the Unified Development Code outside of the PUD chapter, and have no connection to anything discussed or mapped in the Comprehensive Plan. There is simply no meaning to this provision and many others like it throughout the PUD chapter.

**Response:**

The entire text of the PUD chapter needs to be reconstructed to truly interact with and become an operational part of the Sultan planning program.

**Problem Statement:**

Will Sultan actually have any PUD's and does it really need a PUD section in its code?

**Explanation of Problem:**

It is unlikely that Sultan will receive an application for a development that actually qualifies for or needs to be processed under PUD provisions.

Quoting again from the *21<sup>st</sup> Century Land Development Code*:

"A planned development releases the landowner from many of the restrictions of the underlying zoning districts as a trade-off for better design amenities, infrastructure provision, and mixed use. It also encourages more creative development patterns."

As discussed directly above, this has not been the result of the PUD process in Sultan. The subdivisions resulting from the PUD process look and act the same as any other subdivision that has gone through the standard subdivision process. PUD has generally been a mechanism to reduce certain development standards (lot size, road width). In certain cases, expanded park provisions have been meaningful, but the overall implementation of the PUD has resulted in no benefit to the community or the development that could not have been achieved with a much less involved process.

**Response:**

The Board needs to become conversant with the distinctions between PUD, subdivision, lot averaging, and related concepts. At that point, the Board can determine if the Sultan code needs a PUD program or if other systems can be put in place to meet the real needs of the community, developers, and the unique landscape upon which the community is based.

**Problem Statement:**

Density Increase (AKA: density bonus) is provided for in the Sultan PUD program. Given the typical landscape constraints discussed above, is density bonus a realistic component of the Sultan PUD program?

**Explanation of Problem:**

Density increase, or bonus, is a provision that gives the developer credit for providing extra amenities that are specified in the code. Density increase means that the number of units allowed by the code for the property is increased by a specified percentage. SMC 16.10.120 A. provides up to a 20% density increase for play areas, open space, pedestrian facilities in excess of the minimum required by the underlying zone.

The first problem presented by this concept comes from inconsistent administration. Density bonus is a meaningful provision if it truly results in services and amenities "in excess of the minimum required". Due to ineffective administration, a small play field or some other minimal amenity, often under the minimum requirement, can be accepted by the city as the basis for a density bonus. This is a problem that can be assisted by clear language and precise definitions of what is expected, but ultimate effectiveness still rests with the staff administering the program. This is not a reason to eliminate PUD provisions, but it is a reason to be very cautious about how the language is constructed and ever vigilant about how it is administered.

The second problem presented by density bonus is specific to Sultan's landscape. As discussed above, the main reason that PUD has played such an inordinately important role in recent subdivision applications is the high incidence of wetlands, steep slopes, and related critical areas. In a landscape where it is difficult, at best, to achieve even the base density provided for in the applicable zone, what role is played by the density bonus program? Most valid density increases are granted for devoting additional percentages of the available land to open space, recreational and other uses. Land put to those uses is not available for residential or commercial development, so the available units need to be placed on ever smaller percentages of the total property. At some point a threshold is crossed where the system simply breaks down.

**Response:**

Density Bonus is a meaningful concept if constructed to fit the local conditions, and it is administered effectively. There are probably some properties in the Sultan Urban Growth Area that could be developed in a way that the base density is met, minimum required amenities are provided, critical areas and buffers are avoided, lot averaging is properly employed, and there is still land available for additional amenities that qualify for a density bonus.

That being the case, it is highly important that the density bonus provisions be clear, specific, implementable within the realities of the landscape, and enforceable when the development occurs.

**SUMMARY:**

The current PUD code is not a functional development procedure. It has caused great confusion for everyone involved in land development in the community. All that it has really accomplished is to give developers a way to develop land that has large percentages of wetlands on it. This is accomplished by allowing lots to be smaller and clustered closer together so that the total number of lots developed can be close to the number that would be developed if the land didn't have a large percentage of wetlands and other critical areas on it.

Effective use of the net developable land (after exclusion of the critical area set-aside) is an important function of the code. This is accomplished in a much more straightforward way through the concept of Lot Averaging. Lot Averaging determines how many lots would be available without critical areas, and allows the development to provide as close to that number of lots on the net-developable land as possible. It does not require the developer to go through a series defenses and alternative development procedures to end up with the same final objective as Lot Averaging.