

**SULTAN CITY COUNCIL
AGENDA ITEM COVER SHEET**

ITEM NO: Discussion D 1

DATE: April 22, 2010

SUBJECT: Lot Size Averaging, Proposed Code Amendment

CONTACT PERSON: Robert Martin, Community Development Director

ISSUE: Discussion of Lot Size Averaging code as replacement for Planned Unit Development code provisions in Sultan Municipal Code (SMC) Title 16.

STAFF RECOMMENDATION:

Staff recommends that the Council review this report and “**Attachment A**” and ask any questions that would be helpful to develop understanding of Lot Averaging prior to receiving the Planning Board’s recommendation at a later meeting.

BACKGROUND:

At the August 18, 2009 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 15th meeting, the Board began a more detailed review of draft language.

At the October 6th meeting, the Board engaged in an extensive discussion of the intent and implementation of the draft PUD provisions. This discussion explored the types of development that could be approved under the staff draft and the long-term implications for the community of the various options.

At the November 10th meeting the Board reviewed revised code and discussed implementation procedures for the community. It was decided that the latitudes in a properly constructed PUD code would be too difficult for the city to administer and that a lot averaging code would accomplish the same result with greatly less difficulty. The board moved to stop work on the code and recommend to Council that Chapter 16.10 PUD be replaced by a lot averaging provision.

At its December 10, 2009 meeting, the Council, by consensus, accepted the Board’s recommendation and directed that the Board undertake procedures to remove the PUD provisions from the code and replace them with a lot averaging provision.

At its January 5, 2010 meeting, the Board received the Council’s direction and began study of options for addressing removal of the PUD provisions and was given resources to begin study of Lot Averaging. It was agreed that the PUD code needs to be deleted and replaced by a Lot Averaging program. Staff was directed to proceed with that approach.

At its February 16, 2010 meeting, the Board began review of the concept of Lot Averaging as a more effective replacement for the complex PUD code. Variations from other jurisdictions were reviewed and a general direction on construction of a Lot Averaging Code was given to staff.

At its March 2, 2010 meeting, the Board reviewed the Staff Draft of a Lot Averaging Code and gave feedback for revision.

At its March 16, 2010 meeting, the Board reviewed language revisions and detailed calculations for implementation of a Lot Averaging code. The draft Lot Averaging code was adjusted to provide for exclusion of the first 10% of undevelopable critical areas from the calculation and to set the maximum reduction in lot size at 25% of that required in the applicable zone. and set a public hearing on removal of the PUD provisions and adoption of Lot Averaging provisions.

At its April 6, 2010 meeting, the Board held a public hearing on removal of the PUD provisions from Title 16, and replacement of those provisions with a greatly simplified system of Lot Size Averaging. The recommendation of the Board will be presented to the Council at its April 22nd regular meeting.

DISCUSSION:

What is Lot Averaging?

Lot averaging is a relatively straight-forward mechanism to accommodate the type of land that most developers will be dealing with in the Sultan area. Land that is comprised of restricted/isolated developable land within a matrix of wetlands and other critical areas is a ready-made situation for lot averaging.

In concept, Lot Size Averaging is a process that allows developers to reduce the required minimum lot size by a certain amount (recommended maximum of 25% reduction in this case) when the property has a significant amount of undevelopable property due to wetlands, steep slopes, and other critical area exclusions.

Why Have Lot Averaging?

The City of Sultan has an assigned population target that it needs to accommodate on land within its City Limits and Urban Growth Area. The land available for development in the City Limits and Urban Growth Area is encumbered by a very high percentage of steep slopes and wetlands that cannot be developed.

Lot Size Averaging, when properly codified and administered, benefits the Developer in that a portion of the individual lots that are eliminated by the extensive critical areas are restored to the development, providing better economic return on the high cost of developing the property. It benefits the City in that the City has a better chance of meeting its population target within the existing City Limits and Urban Growth area. This contains sprawl into resource lands and reduces cost by allowing development where facilities already exist.

How Does It Work?

The entire property, 80 acres for example, is measured to determine what percentage is developable and what percentage is in critical areas excluded from development. Along with other factors, these numbers are put into an equation that determines the number of lots that would be allowed on the property if it did not have any critical areas, and the number of lots that are allowed when none of the critical areas are developed. The difference between these numbers is then used to determine an allowed percentage of reduction in the minimum lot size otherwise required for the particular development.

Where are we in the Process?

The Planning Board has worked on this issue since August, 2009. The Board and the Council have both agreed that the Planned Unit Development (PUD) Chapter 16.10 needs to be repealed. The Board has determined that the PUD Chapter should be replaced with a Lot Averaging provision. The Board held a public hearing on the repeal of PUD, SMC 16.10 and the adoption of Lot Averaging, SMC 16.14 on April 6, 2009. Their recommendation on this code amendment package is expected to be transmitted to the Council at the April 22, 2010 meeting.

More Details:

At its March 16, 2010 meeting the Board reviewed options for calculating the allowances for reduced minimum lot size, the percentage of critical area exclusion permitted, and the minimum lot dimensions. **Attachment A** provides a copy of the Planning Board Draft of the Lot Averaging Code 16.14 that was the subject of the Board's public hearing on April 6, 2010. This is included only for the purpose of Council study and background preparation. It is not the draft that has been forwarded by the Board to the Council.

This draft includes the following provisions adjusted by the Board prior to going to public hearing:

1. Lots should be reduced no more than 25% from the minimum required in the applicable zone.
2. The first 10% of undevelopable critical areas should be excluded from the calculation.
3. If a development property has less than 10% undevelopable critical areas, it does not qualify for the Lot Averaging program.
4. Minimum lot width should be 40 feet, minimum lot depth should be 70 feet.

STAFF RECOMMENDATION:

Staff recommends that the Council review this report and "**Attachment A**" and ask any questions that would be helpful to develop understanding of Lot Averaging prior to receiving the Planning Board's recommendation at a later meeting.

ATTACHMENT:

Attachment A: Planning Board draft of proposed Lot Averaging Chapter 16.14.

Chapter 16.14 LOT AVERAGING

Sections:

- 16.14.010 Purpose of Lot Averaging Provisions
- 16.14.020 Applicability of Lot Averaging
- 16.14.030 Limitations on Implementation of Lot Averaging
- 16.14.040 Lot Averaging Calculation
- 16.14.050 Development Standards in Lot Averaging Subdivisions

16.14.010 Purpose of Lot Averaging Provisions

- A. Much of the land designated by the Sultan Comprehensive Plan for residential development is not developable because of extensive wetlands and steep slopes that are protected by critical area regulations. Exclusion of these critical areas results in a net developable area that allows considerably fewer residential units than would be allowed if the entire property could be developed at standard zoning densities.
- B. Previously the City accommodated this circumstance by using the Planned Unit Development (PUD) process. The City finds that that the PUD process was not an appropriate regulatory tool to provide necessary critical areas protection and the residential development that resulted from PUD development did not achieve desirable results.
- C. The City finds that Lot Averaging is an appropriate regulatory approach to protect critical areas.
- D. Lot Averaging is an approach to subdividing land that allows a parcel to be divided such that some or all of the resulting lots are smaller than the minimum lot size required in the applicable zone to accommodate the presence of extensive wetlands and critical areas.
- E. Lot Averaging cannot result in a parcel being divided into a greater number of lots than would result from subdivision at the normal minimum lot size required in the applicable zone. The total number of lots in a subdivision implementing lot averaging cannot exceed the maximum number of lots allowed on the subject property by the applicable zone.
- F. Lot Averaging does not assure that the number of lots available to a developer on a particular parcel will be the same as the number available if the property were not encumbered by critical area exclusions. It is provided as a mechanism to achieve full compliance with all critical area regulations while allowing a “safety valve” to allow development densities to get closer to the allowed zoned density on properties that have significant critical areas exclusions.

16.14.020 Applicability of Lot Averaging

- A. Lot Averaging provisions of this Chapter apply to and may be used by developers of land who are dividing land in conformance with the provisions of SMC Chapter 16.28, and who meet the provisions set out in Subsections B and C of this Section.
- B. Lot Averaging provisions of this Chapter apply to and may be used by developers of land in the following zones:

1. Low/Moderate Density; LMD: (16.12.010)
 2. Moderate Density; MD: (16.12.020)
 3. High Density; HD: (16.12.030)
- C. Lot Averaging may be utilized, at the option of the developer, in the following circumstances:
1. The property proposed for development is documented, by scientists qualified to address the particular environmental conditions involved, to contain not less than 20% of its total land area in critical areas that must be excluded from development under provisions of the City of Sultan Critical Areas Regulations (SMC 16.80) and any other applicable environmental codes.
 2. The property proposed for development shall not be a portion of the parcel to be short platted or subdivided that is configured in a way that artificially creates a 20% or greater portion of critical areas so that the development can qualify for Lot Averaging.
 3. The community development director will make an administrative determination that disallows application for Lot Averaging in cases where the community development director makes findings that the proposed development boundary has been artificially manipulated to create a development that purports to qualify for Lot Averaging. This administrative determination will be appealable to the Hearing Examiner under provisions of SMC 2.26 and other applicable provisions.

16.14.030 Limitations on Implementation of Lot Averaging

- A. Lot Averaging only applies to creation of lots for detached single family residences created under SMC 16.28.
- B. Lot Averaging shall not be used to create lots for duplexes or multi-family dwellings as defined by SMC 16.150.040.
- C. No single family lot shall be reduced to less than 75% of the minimum single family lot size required in the applicable zone.
- D. No single family lot shall be reduced in width to less than 40 feet
- E. No single family lot shall be reduced in depth to less than 70
- F. All of the following are to be subtracted from the net square footage of a lot for the purpose of determining the area of a lot proposed for lot averaging;
 4. Public Right-of-way
 5. Private roads, private primary access easement
 6. Minor portion (panhandle) of panhandle lots
 7. Front (between dwelling and street or easement access) portion of a tapered or triangular-shaped lot that is less than 40 feet in width.
- G. The area of easements other than that of the primary access (public right-of-way or private easement) shall not be subtracted from the net square footage of a lot.
- H. This section shall not be implemented in conjunction with any provisions of this code that allow density credits for set-asides of critical areas or environmentally sensitive areas.
- I. This section shall not be applied to properties of less than 2 acres.
- J. Subdivisions utilizing lot averaging shall not receive preliminary or final approval as phased developments unless each phase meets the lot averaging standards for the Total Land Area included in that phase.

16.14.040 Lot Averaging Calculation

A. The following calculation shall be used to determine the maximum number of lots available on a given short plat or subdivision. The example provided is based on an 80-acre parcel with 20 acres of wetlands. The following calculations are to be used with the measurements and parameters that accurately represent the property proposed for development with lot averaging.

1. A development applying for lot averaging shall use this example set of calculations with the numbers that are descriptive of their parcel proposed for development. The following factors are used in the calculation of the maximum number of lots. Terms and abbreviations in this section are defined as given the meaning provided to them as factors and results of the equations as provided below.

(TLA) Total Land Area of subject development property

(ROW) Public R-O-W or Private Access Easement

(SDF) Storm water Detention Facilities

(TW) Total Wetlands

(WE-10) Wetland Exclusion of 10% applicable to all projects

(WALA) Wetlands Allowed for Lot Averaging

(GDA) Gross Developable Area

(NDA) Net Developable Area

(MLS) Minimum Lot Size required in applicable zone

(MPL) Maximum number of Potential Lots

(NNDA) Net Net Developable Area

(NPL) Net number of Potential Lots

(NNPL) Net Net number of Potential Lots

(NMLS) Net Minimum Lot Size

2. Calculation of excluded wetlands and allowable wetlands is as follows:

$$TLA = 80 \text{ acres}$$

$$WE-10 = TLA \times 10\% = 8 \text{ acres excluded from calculation}$$

$$TW = 20 \text{ acres}$$

$$WALA = TW - WE-10 = 12 \text{ acres}$$

3. Calculation of net developable area is as follows:

$$GDA = TLA - WE-10 = 72 \text{ acres}$$

$$ROW = 20$$

$$SDF = 1.2 \text{ acres}$$

$$NDA = GDA - (ROW + SDF) = 50.8 \text{ acres}$$

4. Calculation of actual lots is as follows:

$$NDA = 50.8$$

$$MLS = 5,000 \text{ sq.ft.}$$

$$MPL = NDA \div MLS = 442 \text{ lots}$$

$$WALA = 12 \text{ acres}$$

$$NNDA = NDA - WALA = 38.8 \text{ acres}$$

$$NMLS = NNDA \div MPL = 3,823 \text{ sq.ft. per lot}$$

B. The Lot Averaging calculation determines the maximum number of lots available. No development is guaranteed the maximum number of lots available by this calculation. The actual number of lots shall

not exceed but may be fewer than the Net Lots Available (NLA) due to circumstances of the particular property. Properties with extensive critical area exclusions will not be able to achieve the density provided by the allowed minimum lot size in the applicable zone as the lot size required to meet the density allowed in the applicable zone would be smaller than the maximum 25% reduction provided by this Chapter.

16.14.050 Development Standards in Lot Averaging Subdivisions

- A. Park facilities required for subdivisions by the Sultan Municipal Code in general, and specifically SMC Chapter 16.72, are required in subdivisions without regard to their implementation of Lot Averaging standards of this Chapter.
- B. Road standards required for development of subdivisions by the Sultan Municipal Code in general, and specifically SMC Chapter 16.28.230, are required in developments without regard to their implementation of Lot Averaging standards of this Chapter.
- C. All standard utility requirements for subdivisions by the Sultan Municipal Code in general and SMC Chapter 16.28 are required in developments without regard to their implementation of Lot Averaging standards of this Chapter.
- D. All standards for lot layout, setbacks, access, easements, and any other development standard for individual lots required for subdivisions by the Sultan Municipal Code in general, and specifically SMC Chapter 16.28, are required in developments without regard to their implementation of Lot Averaging standards of this Chapter.
- E. Modification of specific development standards as provided by SMC Chapter 16.28.240 may be applied for and reviewed by the Hearing Examiner, but the fact that the development is proposing to implement Lot Averaging may not be used as a criteria or defense for proposing the modification.
- F. The Hearing Examiner shall not modify the results of the calculations of this Chapter as described above, and shall not modify the minimum lot size reduction authorized by this Chapter below the standard of a 25% reduction (75% of the required lot size) provided in 16.14.030 C. above.