SULTAN CITY COUNCIL
AGENDA ITEM COVER SHEET

ITEM NO: **C-3 and C-4**

DATE: May 27, 2010

SUBJECT: Removal of Chapter 16.10, Planned Unit Development (PUD)
Adoption of Chapter 16.14, Lot Averaging Code

CONTACT PERSON: Robert Martin, Community Development Director

ISSUE:
Consent Agenda Item C-3: Have Second Reading and adoption of Ordinance 1077-10, an Ordinance repealing Sultan Municipal Code (SMC) Chapter 16.10, Planned Unit Development **(Attachment A)**.

Consent Agenda Item C-4.: Have Second Reading and adoption of Ordinance 1079-10, an Ordinance adopting new SMC Chapter 16.14, Lot Averaging **(Attachment B)**.

PLANNING BOARD RECOMMENDATION:
Remove Chapter 16.10, Planned Unit Development, from the City of Sultan Municipal Code. Adopt new Chapter 16.14, Lot Averaging.

STAFF RECOMMENDATION:
Staff recommends that the Council accept the recommendation of the Planning Board and adopt Ordinance 1077-10, an Ordinance Repealing SMC Chapter 16.10, Planned Unit Development, thereby removing the Planned Unit Development process as an alternative to Standard Subdivision Processes otherwise provided in the Municipal Code.

Staff recommends that the Council, by separate Action, accept the recommendation of the Planning Board and adopt Ordinance 1079-10 an ordinance creating new SMC Chapter 16.14, Lot Averaging.

SUMMARY:
PUD
The Sultan landscape is very difficult to develop due to the extreme prevalence of Wetlands and Steep Slopes. The Development Community needs a "safety valve" to allow for the constraints presented by this landscape.

The Planned Unit Development (PUD) Code is intended to promote creative and flexible Development Standards in residential subdivision development. PUD became the method for almost all development proposals in Sultan over the last 10 years.

Planned Unit Development procedures, particularly as presented in SMC Title 16.10, are very complex and have not been administered or implemented well in the Community. The confusion created by PUD as an "Overlay Zone", the difficult procedural requirements of the PUD process, the multiple appeals generated over PUD Applications, and the actual results on the landscape were all addressed and found to be unnecessary and inappropriate difficulties with the PUD Code. After studying the existing Code, other potential Code provisions, and

constructing a draft of a replacement PUD Code, the Board concluded that the system was inherently difficult and unnecessarily complex for the Sultan Community.

For these and other related reasons, the Board recommended Repeal of the PUD Code in its entirety.

Lot Averaging

Prior to removal of these provisions, both the Planning Board and the City Council wanted a replacement Code that would accomplish recognition of the Critical Areas constraints presented by the Sultan landscape while not allowing the errors and abuses that were prevalent in implementation of the PUD Code.

As described in the time line below, the Planning Board came to the understanding that 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.

The appropriate Code concept to accommodate the challenges presented by the physical features of the landscape is Lot Averaging. This allows credit to the Developer for land that is not developable due to Critical Areas Standards. Credit is provided in the form of a calculated reduction in the minimum lot size so that the development can make up for some or all of the area excluded by Critical Areas issues. Other than the lot size credit, the Lot Averaging System requires Developers to conform to the normal Subdivision Development Standards.

The Planning Board has determined that the PUD Code should be removed from the SMC, but wanted coincident adoption of Code provisions that address the issue of Critical Areas exclusions. This pair of Ordinances accomplishes that direction.

BACKGROUND:

December 2009, City Council adopts Budget Goals for Community Development Department that include revision of Title 16, Unified Development Code.

December 2010, City Council adopts Budget Goals for Community Development Department that includes Goal 2. a. i.: Revision of Title 16, Unified Development Code; Planned Unit Development.

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. The confusion created by PUD as an "Overlay Zone", the difficult procedural requirements of the PUD process, the multiple appeals generated over PUD Applications and the actual results on the landscape were all addressed as difficulties with the PUD Code.

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 began a more detailed review of draft language.

At the October 6, 2009 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, 2009 Meeting the Board reviewed a Staff draft of a revised PUD 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.

At its March 16, 2010 Meeting, the Board determined by consensus to 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 repeal of SMC Chapter 16.10, PUD, and adoption of SMC Chapter 16.14, Lot Averaging. There was no public testimony delivered at the Hearing. The Board voted unanimously to recommend repeal of Chapter 16.10 and adoption of Chapter 16.14.

At its April 22, 2010 Meeting, the Council agenda included a discussion item on the topic of PUD and Lot Averaging. Council directed Staff to return with Ordinances appropriate to carry out repeal of the PUD Code and adoption of the Lot Averaging Provisions.

During this discussion time the Council raised questions about the Lot Averaging Code. These questions are addressed in the Discussion Section below.

At its May 13, 2010 Meeting, the Council conducted first reading of Ordinance 1077-10, and Ordinance 1079-10.

DISCUSSION:
At its meeting of April 22, 2010, the Council reviewed a Discussion Item presenting the concept of Lot Averaging. At that time the Council raised several questions about Lot Averaging. These questions are presented and answered as follows:

Q 1: Please explain the concept of excluding 10% of the Critical Areas from the credit calculation.

A 1: The Board determined that Developers need to be fully informed and aware of the land that they are purchasing for development and that the purchase transaction should account for the developable/undevelopable ratio of the property. To allow Lot Reduction Credits for all Critical Areas on the development parcel was felt to be placing too much of the responsibility for addressing Critical Area issues on the public side of the relationship. After considerations of various options, it was determined to exclude an amount of Critical Areas from the credit equation that is equal to 10% of the total parcel. This amount can be adjusted by changing the (CA-10) factor in the calculation model.

Please note that the draft Code included in the Council's discussion packet for the April 22, 2010 meeting was not the Board's Final Draft. The language included in, is the Board's final draft after the Board's Public Hearing held on April 6, 2010. The Final Draft recommended to the Council by the Planning Board is included in proposed Ordinance 1079-10 **(Attachment B).** The only change of any substance is at Section 16.14.020 C.2. The previous draft required the development parcel to contain 20% Critical Areas to qualify for Lot Averaging and excluded 10% of those Critical Areas from the Credit Calculation. The Final Draft simplifies this approach by not accepting applications for Lot Averaging unless the development parcel contains more than 10% Critical Areas. This first 10% is excluded from the Credit Calculation if the parcel qualifies for Lot Averaging Procedures.

Q 2: What economic impacts can be expected from this proposal?

A 2: Developers will be required to adhere to normal Subdivision Development Standards. This may increase development costs compared to some of the development patterns that were negotiated with Developers under the PUD system. The simplicity of the Lot Averaging Program can be expected to reduce the cost of appeals for the City. It will provide Developers with much faster project approval, a cost savings that is universally requested by the Development Community.

Q 3: Will this allow development to be compressed into a small corner of a large parcel?

A 3: If the development parcel contains an extreme amount of Undevelopable Critical Areas, then the number of lots allowed in the development would be reduced and, the lot size increased, until all lots are at least 75% of the minimum allowed in the Zone.

There is, therefore, a limit to the amount of density increase that is available, lots cannot be compressed into ever smaller portions of a development parcel.

- The smallest lot able to be created in the High Density Zone, would be 3,750 sq.ft. (5,000 required without Lot Averaging).

- The smallest lot in the Moderate Density Zone would be 5,400 sq.ft. (7,200 required without Lot Averaging).
- The smallest lot in the Low/Moderate Density Zone would be 8,167 sq.ft. (10,890 required without Lot Averaging).

Attachment C presents a graphic showing how the provisions of the proposed Chapter 16.14, Lot Averaging, address a hypothetical 80-acre parcel, resulting in a net developable area and a maximum number of available lots.

Q 4: How can the City track if a Developer is trying to move parcel boundaries around so that the parcel proposed for development can qualify for Lot Averaging?

A 4: This is prohibited by the proposed language (16.14.020 C. 2. and C. 3.). When a development is proposed, the parcel must be shown on survey maps accompanied by legal descriptions and title tracking. If a parcel has recently experienced boundary changes, this will show up immediately on one or more of these background information sources. The Staff will disallow application for Lot Averaging if this is found to be the case. This determination is appealable to the Hearing Examiner.

Q 5: What is the impact to Affordable Housing?

A 5: Some Developers may assert that compliance with the Development Standards called for in the Subdivision Code and the Engineering Standards Document will increase costs when compared with development that avoided those standards by applying under the PUD Code. This may be the case and it may not. What can be said is that housing in sub-standard developments does not serve the Community or the residents who purchase the properties. If the City has Development Standards that are not necessary, it is fully appropriate to adjust the codes so that they call for appropriate standards. It is not appropriate to negotiate standards away on an ad-hoc basis for each Development Application as was the practice under the PUD Code.

PLANNING BOARD RECOMMENDATION:

Remove Chapter 16.10, Planned Unit Development, from the City of Sultan Municipal Code. Adopt new Chapter 16.14, Lot Averaging.

STAFF RECOMMENDATION:

Staff recommends that the Council accept the recommendation of the Planning Board and adopt Ordinance 1077-10, an ordinance repealing SMC Chapter 16.10, Planned Unit Development, thereby removing the Planned Unit Development process as an alternative to standard subdivision processes otherwise provided in the Municipal Code.

Staff recommends that the Council, by separate action, accept the recommendation of the Planning Board and adopt Ordinance 1079-10, and ordinance creating new SMC Chapter 16.14, Lot Averaging.

ATTACHMENTS:

Attachment A:	Ordinance 1077-10, an Ordinance repealing Sultan Municipal Code (SMC) Chapter 16.10, Planned Unit Development.
Attachment B:	Ordinance 1079-10, an Ordinance adopting new SMC Chapter 16.14, Lot Averaging.
Attachment C:	Graphic of parcel subject to Lot Averaging Provision

CITY OF SULTAN
WASHINGTON

ORDINANCE NO. 1077-10

AN ORDINANCE OF THE CITY OF SULTAN, WASHINGTON, REPEALING SULTAN MUNICIPAL CODE CHAPTER 16.10, PLANNED UNIT DEVELOPMENT; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City Council adopted Ordinance 793-02, creating the Planned Unit Development procedure, as codified in Sultan Municipal Code Chapter 16.10; and

WHEREAS, the Planning Board conducted a Public Hearing on the proposed Repeal of Chapter 16.10 as required by SMC 16.134.050, and received no public testimony at the Hearing ;

WHEREAS, the Planning Board made findings in support of Repeal of Chapter 16.10 and recommended said repeal to the Council without further Public Hearing as provided by SMC Chapter 16.134.050 J.;

WHEREAS, the City Council, upon consideration of the recommendation from the Sultan Planning Board has found that the Planned Unit Development Code resulted in land development processes that were time consuming, subject to repeated legal challenges, confused the public and developers as to what the City's Development Standards required and often resulted in developments that did not meet minimum Development Standards for Residential Development;

NOW, THEREFORE, it is ordained by the City Council of the City of Sultan, Washington as follows:

Section 1. Chapter 16.10, Planned Unit Development, is hereby Repealed .

Section 2. Severability. If any Section, sentence, clause, phrase, or other portion or provision of this Ordinance or its application to any person or project is, for any reason, declared invalid, illegal or unconstitutional in whole or in part by any court or agency of competent jurisdiction, the balance of this Ordinance shall be unaffected and shall remain in full force and effect.

Section 3. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of plublication.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE _____day of _____, 2010.

CITY OF SULTAN

_____
CAROLYN ESLICK, Mayor

ATTEST/AUTHENTICATED:

By_____
LAURA KOENIG, City Clerk

Approved as to form:

By_____
Margaret King, City Attorney

Date of Publication:
Effective Date:

CITY OF SULTAN
WASHINGTON

ORDINANCE NO. 1079-10

AN ORDINANCE OF THE CITY OF SULTAN, WASHINGTON, CREATING NEW SULTAN MUNICIPAL CODE CHAPTER 16.14, LOT AVERAGING; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, on May 13, 2010, the City Council adopted Ordinance 1077-10, repealing Sultan Municipal Code (SMC) Chapter 16.10, Planned Unit Development (PUD); and

WHEREAS, the Sultan Planning Board has recommended to the City Council that a repeal of the PUD provisions be accompanied by adoption of Code Provisions that recognize and provide flexibility in development of land that is encumbered by extensive Critical Areas as addressed by Standards in SMC 16.80; and

WHEREAS, the Planning Board recommended to the City Council that the appropriate mechanism to accomplish the objective of development on parcels encumbered by extensive Critical Areas is Lot Averaging; and

WHEREAS, the Planning Board addressed the issue of Lot Averaging at its Meetings of November 10, 2009, December 10, 2009, January 5, 2010, February 16, 2010, March 2, 2010, and March 16, 2010; and

WHEREAS, On April 6, 2010 the Planning Board held a Public Hearing at its regularly scheduled meeting to hear testimony regarding the adoption of a Lot Averaging provision in SMC Title 16 as required by SMC Chapter 16.134.050, and received no public testimony at the Hearing; and

WHEREAS, the Planning Board made findings in support of adopting a new Chapter 16.14, entitled "Lot Averaging" and recommended adoption of the new Chapter 16.14 to the City Council without further Public Hearing as provided by SMC Chapter 16.134.050 (J); and

WHEREAS, the City Council, after consideration of the recommendation from the Sultan Planning Board, has found that the Lot Averaging provisions of proposed new SMC Chapter 16.14 provide an efficient and effective means to recognize the constraints presented to Developers by the prevalence of undevelopable Critical Areas in Sultan and that said provisions provide for certainty and timely response to Development Applications and also provide the Community with clear understanding of the Development Conditions placed on Developers of Residential Subdivisions; and

WHEREAS, it is found to be in the best interest of the Development Community, current residents, and future purchasers of residential properties, that the provisions of the new Chapter 16.14 be adopted to be utilized in review of future subdivision applications in the City of Sultan;

NOW, THEREFORE, the City Council of the City of Sultan, Washington do ordain as follows:

Section 1. A new Chapter 16.14, entitled Lot Averaging, is hereby adopted and added to the Sultan Municipal Code to read as follows:

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 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 to contain more than 10% 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. Such documentation must be provided in the form of a Critical Areas Study approved by the City Community Development Director to be in conformance with the Standards of SMC 16.80 (Critical Areas Regulations); and,
   2. The property proposed for development shall not be a parcel that has been configured, by short plats, boundary line adjustments and the like, in a way that artificially creates a parcel with more than 10% of its total area in 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 through manipulation of boundaries to achieve a greater than 10% proportion of undevelopable Critical Areas. 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 (maximum reduction of 25% from required minimum lot size in the applicable Zone).

D. No single-family lot shall be reduced in width to less than 40-feet (regardless of lot depth).

E. No single-family lot shall be reduced in depth to less than 70-feet (regardless of lot width).

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;
   1. Public Right-of-Way;
   2. Private roads, private primary access easement;
   3. Minor portion (panhandle) of panhandle lots; and
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 the Sultan Municipal Code that allow density credits for set-asides of Critical Areas or environmentally sensitive areas.
I. This Chapter 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 application for Lot Averaging shall use this example set of calculations with the numbers that are descriptive of the 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 (Specified by Plat Design) to be dedicated from within the TLA
(SDF)	Storm water Detention Facilities
(TCA)	Total Critical Areas
(CAE-10)	Critical Areas Exclusion of 10% applicable to all projects
(CALA)	Critical Areas Allowed for Lot Averaging
(GDA)	Gross Developable Area
(PDA)	Potential Developable Area
(MLS)	Minimum Lot Size required in applicable zone for single-family residence
(MPL)	Maximum number of Potential Lots
(NDA)	Net Developable Area
(NMLS)	Net Minimum Lot Size

2. Calculation of excluded Wetlands and allowable Wetlands is as follows:
   (TLA) = 80-acres
   (CAE-10) = (TLA) x 10% = 8-acres excluded from calculation
   (TCA)= 20-acres
   (CALA) = (TCA) – (CAE-10) = 12-acres

3. Calculation of Net Developable Area is as follows:
   (GDA) = (TLA) – (CAE-10) = 72 acres
   (ROW) = 20 acres
   (SDF) = 1.2 acres
   (PDA) = (GDA) – ((ROW) + (SDF)) = 50.8 acres

4. Calculation of actual lots is as follows:
   (PDA) = 50.8-acres
   (MLS)= 5,000 sq.ft.
   (MPL) = (NDA) ÷ (MLS) = 442-lots
   (CALA) = 12-acres
   (NDA) = (PDA) – (CALA) = 38.8-acres
   (NMLS) = (NDA) ÷ (MPL) = 3,823 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 Maximum Potential Lots (MPL) 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 resulting from the calculation 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 specifically 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.

Section 2. Severability. If any Section, sentence, clause, phrase, or other portion or provision of this Ordinance or its application to any person or project is, for any reason, declared invalid, illegal or unconstitutional in whole or in part by any court or agency of competent jurisdiction, the balance of this Ordinance shall be unaffected and shall remain in full force and effect.

Section 3. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of plublication.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE _____day of _____, 2010.

CITY OF SULTAN

_____
CAROLYN ESLICK, Mayor

ATTEST/AUTHENTICATED:

By_____
LAURA KOENIG, City Clerk

Approved as to form:

By_____
Margaret King, City Attorney

Date of Publication:
Effective Date: