



City of Sultan

DATE: July 3, 2006

To: Parties of Record

FROM: Rick Cisar, Director of Community Development

SUBJECT: Skoglund Estates File Number FPPUD05-005
Final Decision by City Council Resolution 06-09A
adopted by Sultan City Council on June 29, 2006

Attached is a copy of the Skoglund Estates Final Decision by City Council Resolution 06-09A. This Resolution was adopted by the Sultan City Council on June 29, 2006. It is a Final Decision. If you wish to Appeal this Decision, pursuant to RCW 36.70C.040, the Land Use Petition Act (LUPA), an Appeal of this matter must be filed in Snohomish County Superior Court within 21-days from the date of the Resolution.

**CITY OF SULTAN
Sultan, Washington**

RESOLUTION NO. 06-09A

**A RESOLUTION OF THE CITY OF SULTAN
REJECTING THE HEARING EXAMINER'S
RECOMMENDATION AND APPROVING THE
SKOGLUND ESTATES PRELIMINARY PLAT
AND PLANNED UNIT DEVELOPMENT AND
PRELIMINARY PLAT APPLICATION**

WHEREAS Sultan 144 LLC filed an application for approval of the Skoglund Estates Preliminary Plat and Planned Unit Development and Preliminary Plat Application;

WHEREAS an open record hearing occurred before the City's Hearing Examiner on April 25, 2006;

WHEREAS the Hearing Examiner made a recommendation dated May 2, 2006;

WHEREAS Sultan 144 LLC sought reconsideration of the Hearing Examiner's decision as it pertains to issues relating to concurrency;

WHEREAS the Hearing Examiner denied reconsideration on May 15, 2006;

WHEREAS Sultan City Staff by Memorandum dated May 18, 2006 advised the City Council that the Staff did not agree with the Hearing Examiner's interpretation of SMC 16.10.110(B)(2).(d.);

WHEREAS Applicant, Sultan 144 LLC, filed an Appeal of the Hearing Examiner's Decision Denying Motion for Reconsideration to the City Council dated May 25, 2006,

WHEREAS the application came before the City Council for a closed record hearing on June 15, 2006;

WHEREAS the City Council has determined based upon the law and the facts to accept the Hearing Examiner's findings of fact in part, to reject the Hearing Examiner's Conclusions of Law, and to reject the Hearing Examiner's recommendation and approve the application;

NOW, THEREFORE:

1. The City Council rejects the recommendation of the Hearing Examiner and approves the Preliminary Plat and Planned Unit Development of Skoglund Estates With Conditions as set out in the Staff Report dated April 17, 2006, pages 11-17, and as modified below.

2. Commencing at page 3 of the Hearing Examiner's Recommendation, the Hearing Examiner made 20 Findings of Fact. The Council adopts the Hearing Examiner's Findings of Fact 1-17. Finding of Fact 18 is rejected. Based upon the evidence in the record and judicial notice the Council makes the following additional Findings of Fact:

18. Community Transit routes 270, 271 and 271 service the Sultan Park & Ride on US 2 east of 10th Street approximately 1.0 mile from the site. Service is provided through the City and to and from Everett via Snohomish and Monroe. Development of the type herein will facilitate and increase the prospect of a direct route along Sultan Basin Road. The Council finds that the site is in sufficient proximity in light of these facts to be approved as a PUD.

19. Subsequent to the open record hearing in this matter on April 25, 2006, the City Council enacted Ordinance 922-06 annexing 35 acres adjoining the City's water treatment plant to the City and designating said property for public use, including public parks. This property is suitable for public park use, and should be counted in the land available as public park in the City. The addition of this acreage provides sufficient additional public park facilities in the City so that the City's level of service for parks is still met, notwithstanding this application.

20. Applicant offered at the open record hearing a developer agreement to pay the developer's pro rata share for one year of the cost of a police officer to mitigate the impacts of this development. Thereafter, the revenues from real estate taxes on the increased value of the property will be available to the City's general fund.

3. Beginning at page 13 of the Hearing Examiner's Recommendation are 25 Conclusions of Law. The Council rejects all 25 Conclusions of Law and makes the following Conclusions of Law and Conditions:

Conclusions of Law and Conditions:

1. The proposed Preliminary PUD and Plat is found to be in conformance with the general purposes of the Comprehensive Plan and Planning Standards and specifications as adopted by the laws of the State of Washington and the City of Sultan.

2. Based upon Finding of Fact 19 above, this proposed development does not lower the existing level of service for parks below the adopted LOS in the comprehensive plan.
3. The City's existing level of service for police is below the adopted LOS in the comprehensive plan. The LOS failure for police, however, was not caused by this proposed development, and further reduction in the LOS caused by this proposed development is modest by comparison to the existing deficiency.
4. The Council takes notice of the recommendations in the Prothman Report accepted by the Council and Ordinance 900-06. The City has adopted a utility tax applicable to its municipal utilities and has received recommendations for additional tax options, including a utility tax on cable television service, an increased real estate excise tax, and a B & O tax. Other funding sources include potential developer loans to advance the receipt of payment of needed funds, and monies contributed by proposed development for their impacts on the LOS. A combination of developer agreements and public funds will put in place the required public services for police concurrent with development impacts, and provide appropriate strategies for the six years from the time of development to achieve the necessary police LOS as now established or as subsequently revised.
5. The Council takes notice of the Applicant's offer at the open record hearing to deliver to the City a Developer Agreement to pay Applicant's incremental share for a police officer for one year.
6. Based upon the foregoing, this proposed development is deemed concurrent.
7. Based upon finding of fact 18, this application satisfies the locational requirements for a PUD.
8. The Council accepts Conditions 1 through 40 beginning at page 11 of the Staff Report, with the following modifications:
 - a. The word "shall" will replace the word "should" in Conditions 15, 17, and 19.
 - b. The word "shall will replace the word "may" in Condition 20.
 - c. Condition 30 is amended to include the word "frontage" between the words "subdivision" and "and".
 - d. Condition 35 is deleted.

PASSED BY THE Sultan City Council and **APPROVED** by the Mayor this 29th day of June, 2006.

CITY OF SULTAN

By _____
Ben Tolson, Mayor

Attest:

By _____
Laura Koenig, City Clerk

Approved as to Form:

Thomas Graafstra, City Attorney



CITY OF SULTAN
Sultan, Washington
RESOLUTION NO. 06-09A

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By Laura Koenig, City Clerk
Approved as to Form:
Thomas Graafstra, City Attorney
Published: July 6, 2006.