



City of Sultan

Planning Department

March 19, 2002

Mr. Jim McDaniels P.L.S.
Harmsen & Associates, Inc.
17614 W. Main
P.O. Box 516
Monroe, WA 98272-0516

RECEIVED

MAR 21 2002
GARY W. BRANDSTETTER
Attorney at Law

Subject: Willow Run and your letter of February 6, 2002
Replat of Tract 999 and Lot 108

Dear Mr. McDaniels:

The City of Sultan, effective this date; has withdrawn its determination of February 11, 2002 regarding the above subject matter. However, at the same time, the City is reissuing its determination of February 11, 2002 on the above subject matter, also effective today March 19, 2002.

This is an Administrative Determination of the City's Land Use Regulation Code. It is subject to timely appeal to the Hearing Examiner in accordance with SMC 2.26.090 D. Any appeal must be brought in the time frame and in the manner specified by SMC 16.120.100.

In July 2000, the final revised Plat for Willow Run was recorded. The Plat as then recorded establishes a Tract 999 as a "Park" and sets out a "Lot 108" which is a single-family lot.

Under SMC 16.28.420 certain information is required in a final plat. Among the required information, Subsection (O) states:

- (O) Accurate outlines and designations of any areas to be dedicated or reserved for public use or to be committed for the common use of all property owners with the purpose of dedication, reservation and commitment to be clearly set forth on the plat document.

SMC 16.28.460 then provides that a final plat shall be "governed by the terms of approval of the final plat".

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In the development process encroachments into required streams and wetlands buffers have occurred. The City thus has required your principal to proceed with the preparation of a wetland mitigation plat in accordance with SMC 16.80.070.

The plans submitted show the use of Tract 999 for mitigation and a corresponding use of Lot 108 for Park. Parks are not permitted uses in streams, wetlands, and their buffers. SMC 16.80.080. It is the City's determination that these changes are substantive, and the City has no discretion, but must require a "replat" of the affected tracts. The replat must reflect that Tract 999 is open space and Lot 108 must be revised to Park, and the attributes for common use must be clearly set forth.

You assert that because the City approved the plat with the current designations that somehow the City cannot require the developer to "replat" the affected tracts under SMC 16.28.470. Based upon the facts as understood, any change at this time is necessitated by the developer's activities in streams, wetlands, and buffers. Accordingly, it is the City's determination that this is no defense to a "replat" of the affected tracts.

You last assert that because of Tract 999 is now in common ownership of the homeowners, it will be very difficult to secure signatures to allow a "replat" to occur. The City is aware of considerable public interest in this development. Be that interest and your principal's difficulties what they are, it is the City's determination that this is no defense to a "replat" of the affected tracts.

Finally you inquire whether the developer may simply record the Critical Area Site Plan in lieu of doing a replat. It is the City's determination that, while you client is welcome to record the Plan, it is no substitute for a replat, and the developer must proceed with a replat of the affected tracts.

Sincerely,



Rick Cisar
Planning Director

Cc: C.H. Rowe, Mayor
Thomas Graafstra, Attorney
Gary Brandstetter, Attorney

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