



## SUPPLEMENTAL STAFF REPORT AND RECOMMENDATION

### Public Hearing for the Sultan Wastewater Treatment Plant Shoreline Conditional Use Permit and Floodplain

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**HEARING EXAMINER:** Mr. John Galt, City of Sultan Hearing Examiner  
**DATE:** March 28, 2022  
**FILE NUMBER(S):** 21-0000363/21-0000364  
**APPLICANT:** City of Sultan Public Works Department  
**PROJECT LOCATION:** 31020 124<sup>th</sup> St SE, Sultan WA  
**HEARING DATE:** April 4, 2022  
**STAFF CONTACT:** Andy Galuska, Community Development Director

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#### A. REPORT SUMMARY

The following report is provided as a recommendation to the Hearing Examiner for consideration of the requested Shoreline Conditional Use Permit and a Floodplain Development Permit. This staff report is intended to analyze how the proposed project complies with the applicable land use regulations including the Shoreline Conditional Use and Floodplain Development criteria.

#### PROJECT DESCRIPTION

The City of Sultan is proposing an upgrade to the existing Wastewater Treatment Plant that serves the entire city's wastewater systems. These upgrades are needed to increase the capacity of the system to meet the growth needs of the city and to provide redundancy to prevent unintentional release of untreated water in emergency situations. All work is proposed on the same property, but the improvements will increase the footprint of the existing facility.

A portion of the proposed facility is within 200' of the Sultan River which requires regulation under the City's adopted Shoreline Master Program (Exhibit 6). The facility is also within the 100-year floodplain and the outfall of the facility will be within the floodway (Exhibit 5).

The purpose of this hearing is to grant site plan approval for compliance with the Shoreline Master Program, Floodplain, and associate critical areas codes.

#### B. GENERAL INFORMATION

1. Applicant(s): City of Sultan (Attn: Nate Morgan, Public Works Director), 319 Main St, Sultan, WA 98294.
2. Owner(s): City of Sultan, 319 Main St, Sultan, WA 98294

3. Contact Person: Nate Morgan, Public Works Director, 319 Main St, Sultan, WA 98294.
4. General Location: The site is located on the north side of US2 between Marcus Street and Albion Street.
5. Site Address(s): 30403 US2, Sultan, WA 98294.
6. Description of Proposal: Construct needed upgrades to the existing wastewater treatment plant. The upgrades would increase the footprint of the facility and construct a new outfall in the Sultan River.
7. Critical Areas: The project is within 200 feet of the Sultan River which is a body of statewide significance. The project will have direct and indirect impacts to the Sultan River which are proposed to be mitigated.
8. Comprehensive Plan Land Use Designations, Zoning Designations and Existing Land Uses of the Project Site and Surrounding Area:

DIRECTION	LAND USE DESIGNATION	ZONING	EXISTING USE
Project Site	Public & Institutional Overlay Zone	Public & Institutional Overlay Zone	Wastewater Treatment Plant
North (County)	Public & Institutional Overlay Zone	Public & Institutional Overlay Zone	River/Park
South	US2/Riverway Commercial Farmland (County)	US2/AG-RCF (County)	Highway/Farm
East	Public & Institutional Overlay Zone	Public & Institutional Overlay Zone	Sportsman Park
West	Moderate Density Residential/Highway Oriented Commercial	Moderate Density/Highway Oriented Development	Single-Family Residences / Commercial Development

9. Public Utilities and Services Will Be Provided by:

<b>Water:</b>	City of Sultan	<b>Gas:</b>	Puget Sound Energy
<b>Sewer:</b>	City of Sultan	<b>Cable TV:</b>	Comcast
<b>Garbage:</b>	Republic Services	<b>Police:</b>	Snohomish County Sheriff

<b>Storm Water:</b>	On-Site	<b>Fire:</b>	Snohomish County #5
<b>Telephone:</b>	Verizon	<b>School:</b>	Sultan School District
<b>Electricity:</b>	Snohomish County PUD #1	<b>Hospital:</b>	Evergreen Health

**C. APPLICATION REVIEW PROCESS**

1. Regulatory Requirements for Review of Quasi-Judicial Actions:

The City’s adopted Shoreline Management Program states that the proposed project requires a Shoreline Conditional Use Permit (more detailed analysis of these requirements discussed below). A Shoreline Conditional Use Permit is required to be reviewed by the Hearing Examiner after a Public Hearing (Chapter 7, Section III, Subheading F).

Because the project will involve development within the regulated floodplain a floodplain development permit is also required. Because the issues related to floodplain development are so intertwined with shoreline development, we have chosen to combine this permit process with the Shoreline Conditional Use as allowed by SMC 16.06.020.B.2. We would ask the Hearing Examiner to consider both permits before a public hearing and issue a decision. Additional administrative permits will be required to complete development including building permits for the proposed structures and buildings as well as a grading permit for grading and civil development of the site. Conditions of this approval would be applied to all future administrative approvals.

2. Application Submittal and Completeness:

The Sultan Wastewater Treatment Plant Upgrade application was received by the City of Sultan on November 18, 2021. The application was deemed complete on December 13, 2021 in accordance with SMC section 19.26.050 (Exhibit 13).

3. Public Notification and Comments:

Public notice for the application was provided in accordance with the requirements of the SMC section 19.34.070. A Notice of Application was published, posted, and mailed on December 23, 2021 (Exhibit 9). A public comment period was provided from December 23, 2021 through 5:00 pm on January 6, 2022. Comments were received from Betsey Wheelock, Puget Sound Clean Air Agency (Exhibit 17), Mary Wicklund, PUD (Exhibit 18), and Judy Heydrick (Exhibit 16).

A Notice of Public Hearing was published, posted and mailed on March 21, 2022 in accordance with SMC section 19.34.080 (Exhibit 15). The date of the open record public hearing with the Hearing Examiner is April 4, 2022 at 1:00 PM. Public testimony may be provided during the public hearing pursuant to SMC 19.26 and 2.26.

4. Environmental Review:

A Determination of Non-Significance (DNS) was issued, published, posted and mailed on October 4, 2021 (Exhibit 12). The DNS provided a comment period ending at 5:00 PM on

October 23, 2021. No appeals regarding the SEPA threshold determination were received by the City during the specified appeal period.

**FINDINGS and CONCLUSIONS:**

**5. Bulk Requirements and Dimensional Standards:**

Per SMC Chapter 16.12 Permitted Uses-Table of Dimensional and Density Requirements and SMC section 16.12.080 Table of Dimensional and Density Requirements, the development shall comply with the following standards for the Moderate Density zone of 10 units per acre for single family residential.

<b>Excerpts of SMC 16.12.080 Table of Dimension and Density Requirements</b>	
<b>Bulk Requirement</b>	<b>Public Utility Facilities</b>
Minimum Lot Size	1 Acre
Minimum Lot Width	100 Feet
Minimum Lot Depth	100 Feet
Minimum Front Yard Setback	0 Feet
Minimum Side Yard Setback	0 Feet
Minimum Rear Yard Setback	25 Feet
Maximum Building Height	50 Feet
Maximum Lot Coverage	50 Percent

**D. Sultan critical areas regulations (Chapter 17.10 SMC);**

The project site is adjacent to the Sultan River which is the only critical area in the vicinity. As a shoreline of statewide significance, the Sultan River is designated as a Type S stream in SMC 17.10.100 which requires a buffer of 150' under SMC 17.10.150. Most of the work, including all of the new buildings and structures as part of the wastewater plant are outside of this buffer and the associate ten-foot setback. However, the sewer line replacement to serve the plant and the outfall replacement are within the buffer.

Replacement of the sewer lines is not expected to have any significant impact on the critical area. The lines are located within previously developed areas and are almost entirely underground. There will be a potential for temporary impacts during construction, but these risks are mitigated by typical best management practices for eliminating erosion and sediment during grading and installation. A condition to require best management practices for temporary erosion and sediment controls at all time during construction will mitigate these activities.

The existing outfall pipe is being removed and replaced with a larger diameter pipe that will be secured to the streambank under water. We do not anticipate that a larger pipe or the new location will result in any permanent increase in environmental impact. To avoid temporary impacts during construction the pipe will be installed by sinking the pipe from a vessel and being installed by divers without significant grading or dredging. This approach is the preferred method for avoiding impacts to the stream bed. All instream work will take place in the required fish window to minimize impacts to fish in the stream, especially migratory salmonids. Installation will impact some shoreline vegetation, but the applicant is proposing to replant the area effected as mitigation. This is a required condition of the Hydraulic Project Approval, but this mitigation would also address the impact concerns required under Chapter 17.10 SMC.

The in-water work will require Hydraulic Project Approval from the Department of Fish and Wildlife, an Aquatic Use Permit from the Department of Natural Resources, and a Section 404 permit from the Army Corps of Engineers. A Joint Aquatic Resources Permit Application has already been submitted to these agencies and a Hydraulic Project Approval has been issued by the Department of Fish and Wildlife (Exhibit 8). Approval of the project shall be conditioned on the requirement that no instream work shall be undertaken until the appropriate state and federal permits are issued and that the project shall comply with the permit conditions of these state and federal permits at all times.

Staff finds that the approach to construction has been carefully considered to mitigate the impact to the Sultan River as much as possible for both temporary and permanent impacts to the Sultan River. As conditioned, the project complies with the Critical Area regulations.

## **E. Shoreline Master Program**

A portion of the proposed development is within 200' of the Sultan River and is therefore subject to the requirements of the Shoreline Master Program. This area has the Urban Conservancy designation. A conditional use approval is required as the proposed use falls under the utilities use and according to the Development Standards and Specific Shoreline Development Regulations table in Chapter 5 of the SMP. The permit shall not be granted unless the hearing examiner finds that the proposed development is consistent with the provisions of the SMP, the Shoreline Management Act of 1971, and the rules and regulations adopted by the Department of Ecology thereunder.

### **1. Criteria for Granting Shoreline Conditional Use Permits**

a. That the proposed use will be consistent with the policies of RCW 90.58.020 and the policies of the Master Program;

The expansion of the wastewater treatment plant has been designed to be consistent with the policy goals of the adopted Shoreline Master Program. This meant reducing the water quality impact of the plant itself, as well as protecting the public access to the shoreline on the adjacent public park. The proposed improvements will have no impact on public access or use of the Sultan River shoreline.

b. That the proposed use will not interfere with the normal public use of public shorelines;

The proposed changes to the existing plat will not impact the publics ability to use the shoreline. There will be no change in the portion of the adjacent riverbank which can be accessed by the public as part of Sportsman Park. The new outfall is designed to not impact public use of the shoreline. There may be

temporary construction impacts that make part of the shoreline inaccessible but other areas of the riverbank will be always accessible within the park. Once construction is completed the park will operate exactly as prior to construction.

c. That the proposed use of the site and design of the project will be compatible with other permitted uses within the area and with goals and policies of the Comprehensive Plan;

The upgrades will not alter the existing use of the property. The changes will prevent wastewater overflows and will provide better processing of solids which will reduce the olfactory impact of adjacent properties. We do not expect that the improvements will increase the noise or amount of lighting on the adjacent residential properties. The city is always willing to work with adjacent residents to adjust practices as much as possible to reduce our impact on the community.

d. That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and

The proposed upgrade has been designed to minimize its impacts by locating improvements as far upland as is practical. The additional redundancy will reduce the chances of unintentional releases or spills which will protect water quality of the surrounding water bodies and better remove contaminants from the effluent which is eventually discharged to the Sultan River.

e. That the public interest will suffer no substantial detrimental effect.

Improvements being made to the plant will serve the public interest by increasing our capacity to treat wastewater and improve the water quality in the area. Additionally, the new design will significantly reduce the olfactory impact of biosolid handling, which is the cause of 100% of complaints we have received in the last two years related to smells that were attributable to the facility. We have not identified any possible detrimental effects that the improvements may pose to the public.

## **F. Floodplain Development**

The proposed development will include temporary grading and permanent improvements within the Special Flood Hazard area based on the Flood Insurance Rate Maps dated June 19, 2020 (Exhibit 5). The project has been designed to minimize the impact to the floodplain to the greatest extent possible, but due to the location of the existing plant and the nature of where a wastewater plant must be located a portion of the development will have an impact on the floodplain.

Most of the impacts will be temporary during construction. Construction shall be timed so that the major grading and construction will avoid the period of the year when flooding is likely. Due to the complexity of the project staff have been reviewing the project with assistance from the Department of Ecology to ensure the biological assessment of the project is thorough and appropriate. There will also be permanent impacts related to grading and construction of structures within the 100-year floodplain which are unavoidable. To offset the flood capacity lost by these structures the applicant has proposed increasing capacity by removing fill on the east side of the Sultan River in a city owned parcel used for open space. A flood capacity study has been submitted to staff that confirms the capacity added offsets any loss created by construction of the facility (Exhibit 10). Approval is conditioned on the requirement that the additional capacity be created before construction reduces flood capacity. The applicant has also demonstrated compliance with the provisions for flood hazard reduction (SMC 17.08.110). The applicable standards are discussed below:

- 1) New construction and substantial improvements, including those related to manufactured homes, shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

All of the proposed buildings and structures will be designed to remain anchored if flooded. The proposed design does not represent any risk of flotation, collapse, or lateral movement as a result of flood waters. In a flood event the proposed develop does not pose a danger of movement.

- 2) The storage or processing of materials that could be injurious to human, animal, or plant life if released due to damage from flooding is prohibited in special flood hazard areas.

No materials will be stored or processed onsite which represent a danger to humans, animals, or plant life if released. The primary method of sanitization effluent is ultraviolet light rather than chlorination so there is no need for significant stores of chemicals to operate the plant.

- 3) Storage of other material or equipment may be allowed if not subject to damage by floods and if firmly anchored to prevent flotation, or if readily removable from the area within the time available after flood warning.

The materials and equipment required for operation of the plant are designed so they will not be damaged by floodwater and are firmly anchored to prevent floatation.

- 4) Water wells shall be located on high ground that is not in the floodway.

No water wells exist onsite or are proposed.

- 5) All manufactured homes shall meet the anchoring standards of subsection (B)(4)(b)(ii) of this section.

Not applicable, no manufactured homes exist onsite or are proposed.

- 6) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage. See Technical Bulletin 2 (August 2008), Flood-Resistant Materials Requirements.

As a condition of approval, all construction and improvements shall comply with the flood resistant material requirements set out in the August 2008 Technical Bulletin 2.

- 7) New construction and substantial improvements shall be erected by methods and practices that minimize flood damage.

Substantial grading and construction will be timed to avoid the most likely periods for flooding. All of the proposed structures are designed to be fully resistant to flooding three feet above the established base flood elevation. The plant will be capable of operating in a 500-year flood event without damage.

- 8) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

The project is designed so that all electrical, heating, ventilation, plumbing, air conditioning and other services are designed to be three feet above the base flood elevation to protect them from floodwaters.

- 9) New or replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

The water system serving the facility will be designed to eliminate water into the public water system.

- 10) New or replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into them and discharges from them into floodwaters.

The plant is being specifically improved to prevent the unintentional discharge of untreated sewer effluent into the nearby waterways. The service lines leading into the plant are also designed to completely eliminate infiltration of floodwater.

- 11) On-site waste disposal systems (septic tanks) shall be located and constructed to avoid impairment to them or contamination from them during flooding.

No on-site waste disposal systems exist on site or are proposed.

- 12) Any alteration, repair, reconstruction or improvements to a structure that is in compliance with the provisions of this section shall meet the requirements of "new construction" as contained in this section.

- (A) In AE and A1-30 zones or other A zoned areas where the BFE has been determined or can be reasonably obtained: The lowest floor, including basement, shall be elevated two feet or more above the BFE, or elevated as required by ASCE 24, whichever is greater. Mechanical equipment and utilities shall be waterproofed or elevated at least two feet above the BFE, or as required by ASCE 24, whichever is greater.

The existing structure is in compliance with the provisions of the flood protection code when it was constructed. The areas altered or reconstructed, and new improvements are all being designed so that all habitable areas and mechanical equipment and utilities shall be waterproofed

or elevated at least three feet above the BFE or to the height of the 500 year floodplain as required by SMC 17.08.140. Initial review of the proposal confirms this is the case, but more detailed review under administrative review of the building and grading permits can confirm this is the case.

13) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited.

No fully enclosed areas are proposed within the special flood hazard area.

There are no proposed or existing fully enclosed areas below the lowest floors that are subject to flooding or in the special flood hazard area. All such proposed areas are three feet above the Base Flood Area.

14) Construction of new critical facilities shall be, to the extent possible, located outside the limits of the special flood hazard area (SFHA) (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet or more above the base flood elevation (100-year) at the site or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

Because treatment of wastewater is an essential function, the facility has been designed to meet the requirements of a critical facility. The entire plant has been designed to be three feet above the base flood elevation which was determined to be higher than the 500-year flood level. The access road to serve the facility is also designed to be passable at that flood level. The plant does not have a significant amount of any toxic substances. Any such substances that are kept on hand for cleaning or the like will be stored within buildings which are designed to be three feet above the base flood elevation.

## **CONCLUSIONS**

1. The proposed upgrade to the wastewater plant is necessary to meet the needs of growth and for the city to implement its growth management act policies.
2. In addition to increasing the capacity of the wastewater plant, the proposed improvement will improve redundancy to prevent unintentional release of untreated effluent and improve the quality of treated effluent released to the Sultan River.
3. The proposed upgrade complies with the adopted Flood Damage Prevention regulations contained in Chapter 17.08 SMC.
4. The proposed upgrade complies with the city's adopted Shoreline Master Program.
5. The proposed upgrade complies with the adopted critical area regulations of Chapter 17.10 SMC.

6. The proposed design for a wastewater treatment plant, as conditioned herein, will make appropriate provisions for public use and interest, health safety, and general welfare.
7. The Floodplain Development and Shoreline Conditional Use permits should be approved subject to the conditions listed below.

## B. STAFF RECOMMENDATION

Based on the Findings of Fact and Conclusions, staff recommends that the Hearing Examiner **APPROVE** the Sultan Wastewater Treatment Plant Application (project file numbers 21-0000363/21-0000364), subject to the following conditions of approval.

1. Exhibit 2 is the approved preliminary site plan for development of the upgraded wastewater treatment plant. Any discrepancies between the approved preliminary plat and the SMC shall be resolved in favor of the SMC. All improvements shall be constructed in accordance with Exhibit 2. Minor adjustments of the approved preliminary plans may be approved by the Planning Director if the modifications are substantially in compliance with the approved plans and do not present any possible additional impacts.
2. Final engineering drawings depicting plant buildings, structures, civil improvements, and grading shall be submitted to the City's Community Development Director for final review and approval prior to issuance of any administrative permits.
3. Where applicable and required by the City, the applicant shall implement the provisions and recommendations within the latest versions of any referenced reports, plans, or supporting documents made record as exhibits accompanying this Staff Analysis and Recommendation for the project or subsequent versions approved by the City.
4. No work shall begin in water until the applicable state and federal permits have been issued including, but not limited to, the Hydraulic Project Approval from the Department of Fish and Wildlife, the Aquatic Use Authorization from the Washington Department of Natural Resources, and the Section 404 permit from the Army Corps of Engineers. The conditions of these approvals shall be followed at all times.
5. The required flood capacity to be added on the east side of the Sultan River to offset the impacts of improvements shall be completed before the import or fill or construction of new structures on the west side of the Sultan River.
6. All construction and improvements shall comply with the flood resistant material requirements set out in the August 2008 Technical Bulletin 2.
7. All structures shall be constructed three feet above the base flood elevation. Prior to issuance of a Certificate of Occupancy an elevation certificate shall be issued by a licensed survey to attest to this fact.

## **CLEARING AND GRADING**

8. A comprehensive erosion and sedimentation control plan to ensure appropriate on-site and off-site water quality control shall be developed and implemented for all construction activities. The Best Management Practices outlined in the 2019 DOE Stormwater Management Manual for Western Washington shall be incorporated into the design. At a minimum, the plan shall include the following elements.
  - a. Exposed soils shall be stabilized and protected with straw, hydro-seeding or other appropriate materials to limit the extent and duration of exposure.
  - b. Disturbed areas shall be protected from stormwater runoff impacts through the use of silt fence. Other means of filtration of stormwater runoff and for limiting erosion/sedimentation such as check dams, and sediment traps may be required and are recommended.
  - c. Clearing and grading activities shall not be performed in the winter-wet season when soils are unstable unless determined suitable by the Public Works Director.

## **STORM DRAINAGE IMPROVEMENTS**

9. The stormwater system design and stormwater discharge shall utilize the Best Management Practices of the 2019 DOE Stormwater Management Manual for Western Washington.
10. Stormwater pollution prevention measures shall be employed per the approved Stormwater Pollution Prevention Plan and as necessary to ensure appropriate on-site and off-site water quality control. Site runoff during construction shall be handled and treated as to quantity and quality impacts by utilizing Best Management Practices, as defined in the 2019 DOE Stormwater Management Manual for Western Washington.
11. The developer shall obtain a General Construction Stormwater NPDES Permit from the Washington Department of Ecology (DOE) prior to beginning construction.