

April 4, 2022

**EXHIBIT 20**

City of Sultan Hearing Examiner  
John Galt

**Re: Public Hearing - Hearing Examiner re: City of Sultan Wastewater Treatment Plant Upgrade File Numbers:**

<b>21-000363</b>	<b>Shoreline Conditional Use Permit</b>
<b>21-000364</b>	<b>Floodplain Development Permit</b>
<b>21-000365</b>	<b>New Commercial Building Permit</b>

Dear Mr. Galt,

The proposed City of Sultan Wastewater Treatment Facility (WWTF) Upgrade and proposed Shoreline Conditional Use Permit; Floodplain Development Permit and New Commercial Building Permit must be **denied** because it does not comply with the adopted City of Sultan Comprehensive Plan.

Per the notice of application issued by the city:

This project is rated a Level III application per the Sultan Municipal Code (SMC) Chapters 19.06, 19.08 and 19.26. Level III development projects receive authorization by the Director when it is determined by the Hearing Examiner that the proposed project complies with the provisions of the code and the comprehensive plan.<sup>1</sup>

The referenced code sections mandates criteria the hearing examiner is required to draw from and reference in support of his decision. SMC 19.08.080. Among other things, to be approved this proposal must conform to the “goals, policies, criteria and plans set forth in the city of Sultan comprehensive plan” and the “Sultan general sewer plan.” *Id.* The criteria to be used by the hearing examiner in considering an application for a conditional use permit also require the applicant to show that the “proposed conditional use shall be consistent with the goals and policies of the comprehensive land use policy plan.” SMC 16.24.050A.2.

Specifically, the funding for the proposal does not comply with, or implement, the six year capital improvement program (6-Yr CIP) within the capital facilities element (CFP) of the comprehensive plan adopted by the City Council with Ordinance No. 1359-21.<sup>2</sup>

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- 1 For the Hearing Examiner’s convenience copies of the documents referenced in this letter are provided on the USB flash drive submitted with this letter. Unless noted otherwise, these documents were all downloaded from the City website. The NOA WWTF – 12.23.2021 is **Exhibit 1**.
  - 2 City of Sultan Ordinance No. 1359-21 Comprehensive Pan – Chapter 9 Update 11.18.2021 SIGNED is provided on the USB flash drive as **Exhibit 2**.

## THE WWTP PROPOSAL CANNOT COMPLY WITH EXISTING COMPREHENSIVE PLAN

The Growth Management Act requires that comprehensive plans “be an internally consistent document and all elements shall be consistent with the future land use map.” RCW 36.70A.070. One of the mandatory elements is a capital facilities plan consisting of:

(a) An inventory of existing capital facilities owned by public entities, showing the locations and capacities of the capital facilities; (b) a forecast of the future needs for such capital facilities; (c) the proposed locations and capacities of expanded or new capital facilities; **(d) at least a six-year plan that will finance such capital facilities within projected funding capacities and clearly identifies sources of public money for such purposes**; and (e) a requirement to reassess the land use element if probable funding falls short of meeting existing needs and to ensure that the land use element, capital facilities plan element, and financing plan within the capital facilities plan element are coordinated and consistent. Park and recreation facilities shall be included in the capital facilities plan element.

RCW 36.70A.070(3), emphasis added.

### 1. The Updated Capital Facilities Element Does Not Have a 6-Year Capital Improvement Program

On November 18, 2021, the City adopted a Ord. No. 1359-21 “Adopting the Revised Chapter 9 the Comprehensive Plan (Capital Facilities).” Ex. 2, page 1. The first page of the City's newly adopted CFP explains the process by which specific project authorization occurs:

It’s important to note that the CFP outlines a financial strategy. The CFP does not prescribe specific courses of action, nor does it authorize individual projects. ***Such authorization occurs when a project is included in the city’s six year Capital Improvement Program (CIP) and through the city’s annual budget process.*** The strategy is flexible and seeks to identify how all of the project needs that are “on the table” can be funded in an orderly, long-term fashion.

Ex. 2, located at page 4 of 100, emphasis added.

The revised CFP discusses the existing facilities *Id.*, pages 29 – 34. This section of the CFP contains three different maps depicting the existing system. *Id.*, pages 32, 33. Incidentally, none of those maps show sewer line extensions serving the 258 SkyRidge Estates development, so the accuracy of the new update is questionable. Even though the newly adopted CFP discusses system improvements that will be necessary to meet future 2036 needs and identifies specific capital projects, CFP does not contain a 6-Yr CIP, or any sort of funding analysis. *Id.*

### 2. The City Chose to Remove Proposed Capital Funding Portions From Capital Facilities Element Including the 6-Year Capital Improvement Programs for Water, Sewer and Transportation

Before the city council adopted the new CFP, the planning board was presented a draft capital facilities element to consider.<sup>3</sup> The draft CFE contained a Capital Facilities Funding Plan, including for the water and sewer systems. Exhibit 3, pages 45 – 72 of 72. In sections 9.11.3 Sewer System Funding Plan and 9.11.4 Water System Funding Plan, the draft CFE specifically references updated water and sewer plans developed by RH2 Engineering and Katy Isaksen & Associates. *Id.*, page 51.

For unknown reasons, the city chose not to adopt the RH2 Engineering and Katy Isaksen & Associates Sewer System Funding Plan and Water System Funding Plan. The draft CFP also contained a 2022-2027 Transportation Improvement Plan (6-Yr TIP) *Id.*, page 61. Inexplicably, the city also chose to remove the 6-Yr TIP.

Consequently, the Chapter 9 Capital Facilities Element, as adopted, is devoid of a 2022-2027 Transportation Improvement Plan, a 2022-2027 Water System Capital Improvement Plan, and a 2022-2027 Wastewater System Capital Improvement Plan.

### 3. The City Never Adopted the New Water and Sewer Plans and Chose Instead to Continue Relying on the 2006 General Sewer Plan

On June 12, 2018, the City of Sultan Published a DNS and SEPA Checklist for an amendment to the comprehensive plan chapter 9.<sup>4</sup> The DNS described the proposal as a City initiated “amendment through (sic) the Capital Facilities Chapter to update language in the Chapter ***and to adopt updates to the water systems plan and sewer general facilities plan appendixes.***” Exhibit 4, page 364. The SEPA Checklist essentially repeats that statement. *Id.*, pages 368, 369. emphasis added. In response to the Checklist direction to list any necessary “governmental approvals or permits,” it indicated a public hearings was tentatively scheduled before the Planning Board, and that first and second readings of the adopting ordinance in front of the City Council was tentatively scheduled. *Id.*, page 369. Finally, the DOE approved Sewer Plan has an appendix for public review and city adoption of the plan. *Id.*, page 1091 (APPENDIX U PUBLIC REVIEW AND CITY ADOPTION). It is blank.

The city apparently never followed through on that DNS and SEPA Checklist, meaning ***the water systems plan and sewer general facilities plans were never adopted.***

On September 30, 2021 City Planner Andy Galuska signed the environmental checklist for the Chapter 9 Capital Facilities Update recently adopted by the city council.<sup>5</sup> It states: “***Updates are necessary due to the adoption of updated water and sewer plans*** as well as an update to the

3 A copy of Draft 2021 Update Chapter 9 Capital Facilities 7.22.21 is provided on the USB flash drive as **Exhibit 3.**

4 A copy of DOE approved Final General Sewer Plan w- Appendices is provided on the USB flash drive as **Exhibit 4.** The DNS and SEPA Checklist are located in the appendices of that document, at page 362-82 of 1092 (Appendix F). A link to this DOE approved Final GSP, is available at: <https://ci.sultan.wa.us/166/Planning-Department>.

5 A copy of SEPA – 2021 Comp Plan Update – Chapter 9 10.04.2021 is provided on the USB flash drive as **Exhibit 5.**

transportation element". *Id.*, page 3. That claim is patently false because no ordinance or resolution has ever been passed to adopt the RH2 Engineering and Katy Isaksen & Associates water or the sewer plans.

Similarly, Ord. No. 1359-21 falsely stated the new Water and Sewer Plans had been adopted:

WHEREAS, the City of **Sultan adopted a new Water Plan** which provides future planning for its water system; and

WHEREAS, the City of **Sultan adopted a new Sewer Plan** which provides future planning for its sewer system;

Exhibit 2, page 1, emphasis added. The use of the past tense language "adopted" in reference to the Water and Sewer Plans indicates an action had already been taken to adopt the new plans. *Crown W. Realty, LLC v. Pollution Control Hearings Bd.*, 7 Wn. App. 2D 710, 738, 435 P.3d 288 (2019) ("A legislative body's use of a verb tense holds significance in construing statutes.").

However, there is no evidence that any water or sewer plans have been adopted between 2018 and 2022.<sup>6</sup> Because no action has been taken to replace or update the existing 2006 General Water and Sewer Plans they remain in effect, however outdated. At least this seems to be the City's current position.

#### 4. The Newly Updated Capital Facilities Element Posted to the City's Website Resurrected Six-Year and 20-Year Funding Sections of the 2011 Comprehensive Plan

On January 27, 2022 the city council held a public hearing on the Wastewater Treatment Plant Upgrades.<sup>7</sup> I provided written comments on the WWTP upgrade alternatives for the hearing.<sup>8</sup> I pointed out that the Ord. 1359-21, passed by the city council in November of 2021 appeared to have resulted in omission of crucial portions of the mandatory capital facilities element. Specifically, I stated that it appeared the city council adopted a CFP that had omitted mandatory provisions, which by their omission, had left the city without the "statutory tools to finance capital projects." Exhibit 7, page 50. I also stated that the newly updated CFP, with conflicting and confusing information, makes funding capital projects "a procedural impossibility." *Id.*, pages 50, 51. Finally, I suggested the City review the CIP recently adopted by the City of Burlington and compare it with the planning documents adopted by Sultan. *Id.*, page 51.<sup>9</sup>

<sup>6</sup> The City of Sultan website has a page containing links to adopted ordinances by year of adoption. The web address is: <https://ci.sultan.wa.us/198/Ordinances>.

<sup>7</sup> A copy of 01.27.2021 CM Packet FINAL is provided on the USB flash drive as **Exhibit 6**. Agenda Bill 22-02 Public Hearing #1 re: Wastewater Treatment Plant Upgrades is located at pages 44 - 56 of 506. A copy of PH2 AB22-02 WWTP upgrades Public Hearing Packet is provided on the USB flash drive as **Exhibit 6A**. The Public Hearing Packet may contain substantially the same material as AB 22-02.

<sup>8</sup> A copy of 1) 02.24. 2021 CM Packet FINAL is provided on the USB flash drive as **Exhibit 7**. The minutes of the 1/27/2021 Public Hearing are located at pages 46 - 53 of 117. My comments are included at 50 - 52.

<sup>9</sup> I provided a link to the City of Burlington Capital Improvement Plan. A copy that document is provided on the USB flash drive as **Exhibit 8A**.

Sultan's Public Works Director, Nate Morgan, responded to my comments on March 11, 2021.<sup>10</sup> Mr. Morgan stated:

After looking in to this matter more, **ordinance 1359-21 did not fully replace chapter 9** it was adopting revisions to the current chapter 9. **The ordinance does not say anything about removing or revoking the other sections of the chapter that were not included in the redline version**, there for (sic) all the other section (sic) are still in the chapter. We have updated chapter 9 on the city's web site to now include the adopted changes from ordnance 1359-21.

Exhibit 8, page 1. Mr. Morgan also provided a link to the "newly updated capital facilities element."<sup>11</sup> If Mr. Morgan's alternative explanation regarding the newly updated CFP is correct, the result of the city's decision to reject the draft updates reviewed by the planning board was to reaffirm the six-year and 20-year funding sections from the 2011 Chapter 9, Comprehensive Plan and it's 2011 General Capital Facilities Goals and Policies.<sup>12</sup>

To be clear, according to Mr. Morgan, everything beyond table Table 9-13 of the newly updated CFE is verbatim from the city's 2011 capital facilities element, adopted November 10, 2011 (Ordinance 1113-11). As a result, the newly adopted CFP reaffirmed adoption of the funding plan and policies of the General Sewer Plan (GSP) developed by FCS Group. Exhibit 9 page 52. And, sections 9.11.3 Sewer System Funding Plan and 9.11.4 Water System Funding Plan authored by the FCS Group remain valid and in effect (**not** the RH2 Engineering and Katy Isaksen & Associates). Exhibit 9, pages 52 – 72.

Not only was the GSP adopted by reference in Comprehensive Plan 2011-15, Sultan adopted it by means of Ordinance-1115-11.<sup>13</sup>

Taking additional action to adopt the GSP is consistent with state law:

Whenever the legislative body of any city or town, shall deem it advisable that such city or town shall purchase, acquire or construct any public utility mentioned in RCW 35.67.020, or make any additions, betterments, or alterations thereto, or extensions thereof, such legislative body shall provide therefor by ordinance, which shall specify and adopt the system or plan proposed, and declare the estimated cost thereof as near as may be.

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10 A copy of the email exchange regarding my comments is provided on the USB flash drive as **Exhibit 8** (Email Morgan RE Comments for tonight's public hearing and council meeting).

11 A copy of the version of the 2021 Update Chapter 9 Capital Facilities (Clean), as obtained from the City of Sultan website, per Mr. Morgan's email, is provided on the USB flash drive as **Exhibit 9**. A link for this version is available at: <https://ci.sultan.wa.us/166/Planning-Department>.

12 A copy of the Sultan Comprehensive Plan 2011-15 is provided on the USB flash drive as **Exhibit 10**. Chapter 9: Capital Facilities Element is located at pages 216 – 323 of 889.

13 A copy of Ordinance 1115-11 – General Sewer Plan (GSP) is provided on the USB flash drive as **Exhibit 11**.

RCW 35.67.030. *The GSP has never been repealed or replaced.*

The Hearing Examiner must base his decision upon whether the proposed City of Sultan Wastewater Treatment Facility (WWTF) and the attending Upgrade Shoreline Conditional Use Permit; Floodplain Development Permit and New Commercial Building Permit comply with the provisions of the Comprehensive Plan, including the GSP, as actually adopted in 2006, and incorporated by reference into the 2011 Comprehensive Plan, and reaffirmed in the 2021, not as it could have been adopted between 2018 and 2021.

There is no basis in the newly adopted capital facilities element for this proposal. The newly adopted CFP contains a six-year capital improvement program. Exhibit 9, page 54 – 56 (Table 9-22 Sewer System Capital Projects over 20-year Planning Horizon).<sup>14</sup> The newly adopted CFP, the 6-Yr CIP does not include any WWTP project/upgrades for any of the individual years 2022 through 2027. The newly adopted CFP currently appears to only designate funding for capital improvement projects in years 2011 through 2016. Therefore, the proposed WWTP upgrade does not meet the newly adopted CFP's specified criteria for authorization.

#### 5. The Effect of Sultan's Planning Choices is Continued Planning for Two Different Urban Growth Areas and Two Different Population Growth Allocations

The end result of having a newly updated capital facilities element that still contains the six and twenty year planning sections from the 2011 Comprehensive Plan, Chapter 9 – Capital Facilities is two-fold. First, as shown above, the newly updated CFP, with conflicting CIP information, including funding and timelines, makes implementation futile.

Second, it results in a capital funding plan which is specifically designed to provide public facilities and services necessary to support a population growth allocation for the Sultan UGA as it existed prior to July 2, 2015.<sup>15</sup> During its 2015 comprehensive plan update cycle, Snohomish County removed 380 acres in the Trout Farm Road area. Exhibit 12, pages 2, 8. On July 25, 2019, the city adopted Ordinance No. 1308-19 "Amending Chapter 3 and 4 of the Comprehensive Plan," to be consistent with Snohomish County's designated UGA and population allocations for Sultan.<sup>16</sup> Ord. 1308-19 pastes the reduced population growth allocation for the city of 8,393 people and the reduced UGA into the Chapter 3: Land Use. Exhibit 13 page 11 (section 3.8). However, the land use assumptions for the plan remains those from 2011. Compare for example, Exhibit 13, page 9 – 15, and Exhibit 10, page 4 (UGA includes Trout Farm Road), page 19 (section 2.2 Vision), page 76 (Wetlands Map) page 78 (Aquifer Recharge Map), page 79 (Flood Hazards Map) p. 80 (Steep Slopes Map), page 81 (City of Sultan Future Land Use and

<sup>14</sup> The newly adopted version appears to contain corrupted data on page 55. Table 9-22 is located in the 2011 Comprehensive Plan. Exhibit 10, pages 266 – 269.

<sup>15</sup> Amended Ordinance No. 14-134 (Snohomish County) is provided on the USB flash drive as **Exhibit 12**.

<sup>16</sup> Ordinance No. 1308-19 Comprehensive Plan Future Housing Numbers Update is provided on the USB flash drive as **Exhibit 13**. This document is available at: <https://ci.sultan.wa.us/198/Ordinances>.

Critical Areas Map), page 82 (Land Status as of Fall 2007 w/ Critical Areas Map). It specifically refers to Appendix B to the 2011 Comprehensive Plan. *Id.* page 14 (section 3.9). Appendix B shows that the land use assumptions are based on the now long-gone UGA and a 2025 population allocation of 11,119 people. Exhibit 10 at 356 – 373.

RCW 36.70A.070(3)(d) requires Sultan to adopt "at least a six-year plan that will finance such capital facilities within projected funding capacities and clearly identifies sources of public money for such purposes." Sultan has no such plan. For unknown reasons, the six-year plan Sultan adopted just four months ago, applied to years 2011- 2016. Without a required six-year plan that will fund current and future years, the proposed WWTP cannot be funded in compliance with the provisions of the currently adopted comprehensive plan.

The city credits an unadopted "General Sewer Plan" as the source for projecting needed improvements and their associated costs. Exhibit 6A, page 13. That Six-Year Capital Improvements – Sewer is not what the City adopted and cannot be the basis of the Hearing Examiner's decision. It is irrelevant whether the Department of Ecology has given its approval for that plan. The only plans that are relevant to the Hearing Examiner's determination are those plans that have been adopted by Sultan's legislative body by ordinance. RCW 35.67.030.

#### 5. The WWTP Proposal Does Not Conform to Comprehensive Plan Goals, Policies and Programs

The newly adopted CFP directs the City to review the Sewer System Capital Projects identified in Table 9-22 "at least annually and reprioritize as necessary to match budget, growth, flows and other City conditions/priorities." Exhibit 9, page 53, 54. Because they failed to do so this proposal is inconsistent with the reassessment strategy of the Comprehensive Plan. *Id.*, page 91 - 92. The newly adopted CFP states:

***An important part of the financial strategy is to monitor its implementation and make adjustments in the comprehensive plan and the capital facilities element as may be needed*** consistent with the strategic approach described above. The Growth Management Act requires that provisions should be made to reassess Plan elements periodically in light of the evolving capital facilities plan. This is to determine if probable funding for capital facilities is insufficient to meet existing needs.

*Id.* It further states:

The financial strategy is based on development directly financing for 50% of the total cost of the identified projects. Developer fees in the form of impact fees and system development charges will contribute as much as 30% more, for a total developer contribution of up to 80% of the total.

*Id.*

In fact, it is questionable whether probable funding is insufficient to meet existing needs, including to fund this proposed project. The City recently approved a nearly \$200,000 contract with a consultant to perform water and sewer system modeling to determine whether previous assumptions are correct.<sup>17</sup> Exhibit 6, page 112. AB 22-01 reflects city staff's lack of faith that "the assumptions made during past concurrency reviews are correct and holding true." Exhibit 15, page 224.

The lack of adequate planning for this proposal does not conform with the following goals, policies and programs:

- **CF 1 GOAL: ADEQUATE PUBLIC FACILITIES - *Ensure that public facility plans adequately address existing service deficiencies and future needs.***
- CF 1.1 Capital Improvements – Include all projects intended to enhance the current level of service in the community along with projects that are necessary for new development into an integrated program of capital improvements.
- CF 1.1.3 In addition to the level of service based on roadway capacity as specified in the Transportation element, the following improvements are considered "locally established minimum standards" for streets (as identified the Transportation element):
  - projects that are needed to improve streets to City standards,
  - projects necessary to provide urban level access with adopted City street standards to new development, and
  - ***projects required to provide adequate traffic circulation between neighborhoods and commercial/industrial centers.***
- CF 1.1.4. "Available at the time of development" means the facilities are in place or that a financial commitment is in place to complete the improvements or strategies within six years from the time of development.
- CF 1.5 Concurrency - Establish and implement strategies to address facility and service needs that are consistent with the land use and transportation elements, existing facility plans, and are financially feasible.
- CF 1.5.1 Plan for needed public and private capital facilities based on adopted level-of-service standards and forecasted growth consistent with the Land Use Element of the Comprehensive Plan.
- CF 1.5.2 Monitor deficiencies in public facilities serving existing development based on adopted level-of- service standards and the means and timing by which those deficiencies will be corrected within available funding.
- CF 1.5.7 ***Require a feasible plan to meet adopted level of service standards for all facilities needed for development prior to annexation of, or the extension of any City service to properties within the UGA.*** Such plan shall include measures to ensure that levels of service will not be reduced below locally established minimum standards to existing City residents in order to serve the annexed or unincorporated area.

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<sup>17</sup> A copy of 01.13.2021 CM Packet FINAL is provided on the USB flash drive as **Exhibit 14**. AB 22-01 provides for Task Order #1 with Parametrix is located at pages 223 – 232.

- UT 1 GOAL: WASTEWATER SERVICE *Operate the city's wastewater treatment plant and collection system to serve the city's allocated population and employment growth targets consistent with Vision 2040 and the Growth Management Act.* (MPP: PS-2).
- UT 1.2 Sewer System - Plan for sewer treatment plant and collection line capacities to meet the needs of Sultan residents and properties within the Urban Growth Area (UGA).
- UT 1.3 Plan Consistency - Maintain an updated comprehensive sewer system plan that is coordinated with the Land Use Element so that new development is located where sufficient sewer system capacity exists or can be efficiently and logically extended.
- UT 1.10 Sewer financial policy - Follow a financial strategy for accomplishing timely and effective sewer improvements.
- UT 1.10.1 Monthly sewer service charges or rates should be sufficient to support sewer maintenance, operations, administrative, capital and debt service expenses.
- UT 1.10.2 Facilities charges or system development charges should be sufficient to capture the historic value of the existing sewer system so that property owners connecting to the sewer system bear their equitable share of the cost of the system.
- UT 1.10.3 Sewer rates, facilities charges and reserves should be the primary sources of revenue for capital improvements.
- CF 2 GOAL: UPDATE SIX-YEAR CAPITAL IMPROVEMENT PROGRAM Update the annual six-year capital improvement program, adjusting it for project progress and other changes that may affect the implementation schedule of the projects on the previous program. Add those projects that appear most feasible to the six year program.
- CF-2.1 Keeping the Capital Improvement Plan Current - Timely review capital facilities plans on a regular basis to ensure that the plans provide for appropriate levels of infrastructure development.
- CF-2.3 Plan Coordination - Maintain a coordinated capital facilities program and fiscal strategy that support the implementation of the comprehensive plan elements including land use, transportation, public services, and other infrastructure services. Re-examine the phasing sequence envisioned between land use, infrastructure, and other comprehensive plan elements in the event city revenues and fiscal strategies are not able to fund the plan's growth requirements.

Exhibit 9, pages 94 – 110.

#### 6. Specific Comments Regarding the Details of the Permit Applications Cannot be Made Because the City Did Not Post the Information on the City Website

The Notice of Application was dated December 17, 2021, and states it was posted on the City websites on December 23, 2021. Exhibit 1, page 2. It stated the required studies for the project, which include a Geo Technical Report, Stormwater Report, Targeted Drainage Report and Traffic Impact Analysis are posted to the City's website. *Id.* **This information is false.**<sup>18</sup> The permit applications for File Nos. 21-000363, 21-000364 and 21-000365 are not available either.

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<sup>18</sup> A list of the information available on the referenced website is provided on the USB flash drive as **Exhibit 15**.

Restrictions imposed during the pandemic left me with no means to follow the City's planning activities other than by relying on the City website. Although many of those restrictions have recently been lifted, I still rely on being able to access information through the City website. Unfortunately, the City does not seem to keep its website up to date. The DOE approved GSP was not posted to the City's website until about March 10, 2021.

Without access to the relevant documents, I cannot specifically comment on the Sultan Wastewater Treatment Facility (WWTF) Upgrade and proposed Shoreline Conditional Use Permit Floodplain Development Permit and New Commercial Building Permit applications, but trust the Hearing Examiner to review the projects for compliance with the rest of the provisions of SMC 19.08.080 not referenced above; and with the following provision of the Sultan Municipal Code:

- SMC 13.08.030 – whether sewer rates and sewer service connections charges have been established and assessed to fund this project.
- SMC 16.20.035 – compliance with REMA requirements
- SMC 16.24.050A.3 – 5. – compatibility with surrounding land uses in terms of traffic and pedestrian circulation, consistency with goal and policies of the comprehensive plan, all measures have been taken to mitigate possible adverse impacts.
- SMC 16.24.050B3 – 5. Imposition of conditions to minimize public safety hazards or traffic.
- 19.30.050 Required infrastructure improvements
- SMC 16.72 – whether impact fees have properly been assess and/or expended on this proposal

And for conformance with the policies and programs identified in other portions of the Comprehensive Plan, not referenced above:

- LU 1.3, LU 1.3.1 , LU 1.3.5
- LU 7.5, LU 7.5.1
- LU 9.1, LU 9.1.3 , LU 9.1.5
- EN 1.2, EN 1.2.2 , EN 1.2.4 , En 1.5
- EN 5.1 EN 5.1.1 , EN 5.2, En 5.4 EN 5.4.1
- P.K 2.4, PK 2.4.1 , PK 2.2.3
- TR 1.1, TR 1.1.4 , TR-1.3, TR 1.3.1 , TR 1.4, TR 1.4.7
- TR 2.4, TR 2.4.1 , TR 2.4.2 ,
- TR 3.2
- TR 4.1

Exhibit 10, pages 42 – 213.

These code and comprehensive plan policies and programs suggest that the applicant should be required to make street frontage improvements along US 2 and Albion Street (the internal road between the project site and the adjacent park), in order to connect with or help complete the

non-motorized trail/sidewalk system. The Comprehensive Plan calls for a “multipurpose trail to provide non-motorized safety and connectivity as part of US-2 RDP” Exhibit the page 190-91 (NM-5 US-2 Route Corridor Trail). In light of the City’s fairly recent expenditure of approximately \$4,500,000 to build a pedestrian bridge across the Sultan River, it seems logical to impose a condition on this project to continue those safety improvements.

Without have specific application materials available, it is also difficult to determine whether the applicant should be required to provide additional landscaping and whether compensatory storage in a location on the other side of the Sultan River is adequate.

In conclusion, these permits must be denied because the City has chosen to proceed with this proposal while simultaneously choosing to eliminate the funding plans to enable the project to proceed. Please deny the WWTP update application and instruct the city to correct the numerous GMA planning and funding deficiencies they created with the adoption of ordinance Ord. 1359-21.

Sincerely,

Ron Kraut  
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encl: USB thumb drive