

**BEFORE THE HEARING EXAMINER
FOR THE CITY OF BREMERTON**

In the Matter of the Application of)	NO. BP05-00191 (Highland View)
Property Maintenance Corporation)	FINDINGS, CONCLUSIONS, AND
For Approval of a Preliminary Plat.)	DECISION (AMENDED) ¹
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SUMMARY OF RECOMMENDATION

The Hearing Examiner decides that the request for approval of a preliminary plat to subdivide 3.39 acres of land into 27 single-family residential lots should be **GRANTED**, with conditions.

SUMMARY OF RECORD

Request:

Property Maintenance Corporation (Applicant) requested approval of a preliminary plat to subdivide 3.39 acres of land into 27 single-family residential lots. The subject property is located on the east side of 3rd Avenue, south of Union Avenue and north Sunn Fjord Lane, in Bremerton, Washington.

Hearing Date:

The Hearing Examiner for the City of Bremerton held an open record hearing on the application on May 22, 2006.

Testimony:

The following individuals presented testimony under oath at the open record hearing:

JoAnn Vidinhar, Planner, City of Bremerton
Paul Warner, Property Maintenance Construction, Inc., for Applicant
Nels Rosendehl, P.E., JB Engineering Consultants, for Applicant

Exhibits:

The following exhibits were admitted into the record at the open record hearing:

- A. Staff Report dated May 22, 2006, with the following attachments:
1. Preliminary Planned Unit Development Application filed October 20, 2005
 2. Environmental Checklist filed October 20, 2005
 3. Preliminary Drainage Report by J.B. Engineering, dated July 12, 2005
 4. Plat Certificate No. 32089222 from Pacific Northwest Title, dated October 18, 2005
 5. Letter from JoAnn Vidinhar to Nels Rosendehl dated November 1, 2005

¹ A recommendation on this application was issued earlier by the Hearing Examiner. It was later determined that the Examiner has jurisdiction to make the final decision on the application. This document merely amends recommendation language to that of a final decision.

6. Preliminary Plat Application filed November 10, 2005
7. Site Plan, Utilities Plan, and Notes & Details submitted November 10, 2005
8. Landscape Plan submitted October 20, 2005
9. Letter from JoAnn Vidinhar to Nels Rosendehl dated November 18, 2005
10. Limited Geological Assessment by Alkai Consultants, LLC, dated May 15, 2005
11. Notice of Application and SEPA Determination issued April 5, 2006, with letter from JoAnn Vidinhar to Paul Warner dated April 5, 2006, cover letter for Notice of Application dated April 5, 2006, Affidavit of Mailing, mailing list, Affidavit of Posting, Notice of Land Use and SEPA Application, and Affidavit of Publication
12. Revised Limited Geological Assessment dated March 6, 2006
13. JB Engineering Memo dated April 3, 2006 (re: cut and fill quantities)
14. Determination of Completeness dated April 5, 2006
15. Utility Easement Agreement dated July 9, 1917
16. Determination of Nonsignificance issued May 3, 2006
17. Letter to JoAnn Vidinhar to DOE dated May 3, 2006
18. Notice of Public Hearing, with Affidavit of Posting, Affidavit of Mailing, Mailing List, and Affidavit of Publication
19. Revised Site Plan submitted May 15, 2006

Upon consideration of the testimony and exhibits admitted at the open record hearing, the Hearing Examiner enters the following Findings, Conclusions and Decision:

FINDINGS

1. The Applicant requested approval of a preliminary plat to subdivide 3.39 acres of land into 27 single-family residential lots. The subject property is located on the east side of 3rd Avenue, south of Union Avenue and north Sunn Fjord Lane, in Bremerton, Washington. *Exhibit A, Staff Report, pages 1-2; Exhibit A, Attachments 6 and 19.*
2. The Applicant filed the preliminary plat application on November 10, 2005, and the City of Bremerton determined the application to be complete on April 5, 2006. Although the City amended its zoning code effective December 13, 2005, the City reviewed the application according to the ordinances in place prior to December 13, 2005 based on prior agreement with the Applicant. *Exhibit A, Staff Report, page 7; Exhibit A, Attachments 6 and 14; Testimony of Ms. Vidinhar.*
3. The City of Bremerton Comprehensive Plan designation of the subject property is Medium-Density Residential. The Comprehensive Plan contains goals and policies to promote neighborhoods which foster interaction among residents, to provide a variety of housing types and densities, to increase the opportunities for home ownership, and to promote safe, attractive, livable neighborhoods. *Exhibit A, Staff Report, pages 3-4; Comprehensive Plan Policy LUIK, Goal H3, Policy H6A, and Goal H7.*
4. The subject property is zoned Residential Medium-Density (MF). Single-family dwelling units are allowed in the MF zone at a density of eight to eighteen dwelling units per acre. The gross density of the plat would be eight dwelling units per acre ($27 \div 3.39 = 7.96$). The net density of the plat, based on useable site area (2.5 acres, after deducting private

streets), would be 10.8 dwelling units per acre ($27 \div 2.5 = 10.8$). The density of the plat would comply with MF standards. *Exhibit A, Staff Report, page 4.*

5. Lot standards applicable to development in the MF zone include a minimum lot area of 3,000 square feet and a minimum lot width of 30 feet. The proposed lots would satisfy these standards. *Exhibit A, Staff Report, page 4; Exhibit A, Attachment 19; BMC 21.02.130, Figure 130.*
6. The subject property is encumbered by unused City of Bremerton utility easements along its western, northern, and eastern boundaries. The Applicant's Revised Site Plan (Exhibit A, Attachment 19) depicts that portions of the building envelopes for Lots 1, 27, 19, 18, 17, and 16 would be located within the western and northern easements. Due to the width of the easements and the relatively small size of the lots, some of these building envelopes could not be relocated within the proposed lot boundaries. The City is considering vacating the easements but has not yet made a final decision. The City recommended that the easements be vacated prior to final plat submittal. *Exhibit A, Staff Report, page 5; Exhibit A, Attachments 4, 15, and 19; Testimony of Ms. Vidinhar.*
7. The eastern portion of the subject property is situated on a northwest descending slope, with a horizontal to vertical ratio of 2:1. In the northeastern portion of the site, the inclination of the slope is approximately 30 percent. The maximum height of the slope is 15 feet. The majority of the subject property has been cleared of vegetation. The Applicant's geologist evaluated the site and concluded that there is no visible evidence of slope failure or erosion, that the site is in an area that is mapped as stable, that the potential for large scale sliding as a result of the proposed development is low, and that the potential for liquefaction during a seismic event is low. The Applicant's geologist provided several recommendations for storm drainage and erosion control, which have been incorporated into the recommended conditions of preliminary plat approval. *Exhibit A, Attachment 12; Exhibit A, Staff Report, pages 5 and 8; Testimony of Ms. Vidinhar.*
8. The Applicant proposes to connect the proposed development to the City's water and sewer utilities. In order to establish utility service, the Applicant would be required to install water and sanitary sewer mains in accordance with City of Bremerton Utility Development Standards. *Exhibit A, Staff Report, page 6.*
9. The Applicant proposes to treat storm water runoff with a "StormCeptor" system, and discharge the treated runoff directly into Sinclair Inlet. The City submitted that the proposed facilities might not provide sufficient flow control and water quality treatment to comply with City engineering standards, and that treatment measures in addition to the StormCeptor would be required. The City Engineer would review detailed storm water plans for compliance with City standards prior to final plat approval. *Exhibit A, Staff Report, page 6; Exhibit A, Attachments 3 and 7 (Utilities Plan).*
10. Access to the plat would be from 3rd Street. Each of the lots within the plat would be accessed from a new internal street constructed in accordance with City standards. The

street would include sidewalks. *Exhibit A, Attachment 19; Exhibit A, Staff Report, pages 5 and 6.*

11. Section 21.02.700(b) of the BMC exempts single-family residential development from the landscaping standards of the City. *Exhibit A, Staff Report, page 4.* The Applicant submitted a Landscape Plan (Exhibit A, Attachment 8) depicting trees along the internal roads and shrubs along the perimeter of the plat. *Exhibit A, Attachment 8.*
12. Pursuant to the State Environmental Policy Act (SEPA), the City of Bremerton acted as lead agency for review of environmental impacts caused by the proposal. Upon review of a completed Environmental Checklist (Exhibit A, Attachment 2) and other information on file with the City, the Responsible Official determined that the proposal would not have a probable significant adverse impact on the environment and issued a Determination of Nonsignificance on May 3, 2006. *Exhibit A, Attachment 16.*
13. Notice of the open record hearing was posted on site on May 8, 2006, mailed to properties within 300 feet of the site on May 3, 2006, and published in *Kitsap Sun* on May 6, 2006. *Exhibit A, Staff Report, page 7; Exhibit A, Attachment 18.* There was no public comment on the application, and no comment from local or state agencies. *Exhibit A, Staff Report, page 7.*

CONCLUSIONS

Jurisdiction

Pursuant to Sections 2.13.070, 2.13.080 and 20.02.040 of the Bremerton Municipal Code (BMC), the Hearing Examiner of the City of Bremerton has jurisdiction to hold open record pre-decision hearing on preliminary plat applications and make a final decision on the application. The decision may be to approve, approve with conditions, or deny the application.

Criteria for Review

The criteria for approval of a preliminary plat are found in Chapter 58.17 of the Revised Code of Washington.² Pursuant to RCW 58.17.110(2), a preliminary plat application may not be approved unless:

- (a) appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and schoolgrounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and
- (b) the public use and interest will be served by the platting of such subdivision and dedication.

² As of the date of this application, the City had not enacted a subdivision ordinance. *Exhibit A, Staff Report, page 4.*

Conclusions Based on Findings

1. **With conditions, appropriate provision will be made for the public health, safety and general welfare and for all other relevant facts.** The primary public health and safety issue raised by the plat application is slope stability. However, a licensed geologist evaluated the site and determined that the on-site slopes are stable, and that the potential for landslide as a result of the proposed development is low. The geologist's recommendations on storm drainage and erosion control will ensure downstream water quality protection and slope stability during and after construction. The details of the storm drainage system will be addressed prior to final plat approval. At this time water quality treatment for runoff from the developed site is proposed through a StormCeptor system. Adequate street access will be provided to each of the lots. Potable water and sanitary sewer service will be provided to each of the lots. The conditions of approval will ensure that the required infrastructure is completed and utility availability is confirmed prior to final plat approval. Sidewalks will be provided within the development. Neither the school district nor any other agency commented on the application. The City reviewed the project under the State Environmental Policy Act and issued a Determination of Nonsignificance. *Findings Nos. 7-13.*
2. **With conditions, the public use and interest will be served.** The public use and interest will be served by the project's compliance with MF zoning standards and its consistency with the Comprehensive Plan. In order to ensure that each of the lots created by this subdivision is a buildable lot, the easements encumbering the northern and western plat boundaries must be vacated. *Findings Nos. 1-6.*

DECISION

Based upon the preceding Findings and Conclusions, the Hearing Examiner determines that it is appropriate to approve the preliminary plat request to subdivide 3.39 acres of land into 27 single-family residential lots, as depicted on the Revised Site Plan (Exhibit A, Attachment 19), subject to the following conditions:

1. Development of the site shall comply with Section 15.04.042 of the Bremerton Municipal Code (BMC), and with the recommendations of the Revised Limited Geological Assessment dated March 6, 2006 (Exhibit A, Attachment 12). The recommendations contained in the Revised Limited Geological Assessment are as follows:
 - A. If the site work is conducted during wet weather, the contractor shall filter runoff as needed to prevent the siltation of down slope areas or the stream.
 - B. In order to minimize erosion, the building sites shall not be stripped of vegetation and left unvegetated for an extended period of time without erosion protection, such as silt fencing. During periods of heavy rainfall, ditches shall be used to divert water from stripped areas, and visqueen shall be used to cover slopes and soil stockpiles. Disturbed areas shall be protected with material such as straw and revegetated with lawn grass, at a minimum, as soon as possible after earthwork is complete.
 - C. To preclude the possible build-up of ground water or storm runoff in the soils adjacent to the structure, a four-inch-diameter, perforated, rigid pipe shall be placed, perforations down, around the outside of the building foundation at the

footing subgrade elevation. The drainage system shall be bedded in drainage sand and gravel, and shall be designed to carry any accumulated water away from the structure to an appropriate discharge area. Roof drainage shall not be connected to the footing drains, but may use the same outfall piping if connected far enough from the buildings that roof water does not back up to the footing drains.

2. All frontage improvements shall comply with BMC 11.12.110. Detailed street improvement plans shall be submitted and approved by the City Engineer prior to final subdivision approval.
3. Pursuant to BMC 15.04, storm water quantity and quality mitigation shall be required, to ensure no increase in rate of flow and no decrease in water quality. Detailed storm water drainage plans shall be submitted and approved by the City Engineer prior to final subdivision approval.
4. Certificates of water and sewer availability shall be obtained prior to final subdivision approval.
5. All water and wastewater services shall satisfy the standards of the BMC and the City of Bremerton Utility Development Standards. The Applicant shall submit and obtain City Engineer approval of detailed utility plans prior to final subdivision approval.
6. Street lighting shall be provided consistent with BMC 11.12.200. The Applicant shall submit and obtain City Engineer approval of a detailed street lighting plan prior to final subdivision approval.
7. The Applicant shall obtain addresses from the Public Works Department, and show the addresses on the final plat.
8. The existing utility easements encumbering the northern and western plat boundaries shall be vacated prior to submittal of the final plat.
9. A final plat that satisfies the applicable development standards and the conditions of this decision shall be submitted to the City for approval within five years of the date of preliminary plat approval.

Decided this 2nd day of June 2006.

DRISCOLL & HUNTER
Hearing Examiners for the City of Bremerton

By:


Theodore Paul Hunter

**HIGHLAND VIEW
Preliminary Subdivision
Case Number BP05-00191
APPENDIX LIST**

ITEM NO.	DOC. TYPE/SUBJECT	DATED
1	Application for Preliminary Planned Unit Development	October 20, 2005
2	Environmental Checklist	October 20, 2005
3	Preliminary Drainage Report	July 12, 2005
4	Pacific Northwest Title Plat Certificate	October 20, 2005
5	Letter from Department of Community Development	November 1, 2005
6	Application for Preliminary Plat Subdivision	November 10, 2005
7	Site Plan	November 10, 2005
8	Landscape Plan and Vicinity Map	November 10, 2005
9	Letter from Department of Community Development	November 18, 2005
10	Alkai Consultants, LLC Limited Geological Assessment	Not dated
11	Notice of Application and SEPA Determination with Notice and Affidavit of Mailing, Posting and Publications	April 5, 2006
12	Alkai Consultants, LLC Revised Geological Assessment	March 6, 2006
13	JB Engineering Memo, grading amounts	April 3, 2006
14	Determination of Completeness	April 5, 2006
15	Utility Easement Agreement	April 28, 2006
16	SEPA Threshold Determination	May 3, 2006
17	Notice to Department of Ecology of SEPA Threshold Determination	May 3, 2006
18	Notice of Public Hearing with Affidavits of Posting, Mailing and Publication	May 3, 2006
19	Revised Site Plan	May 15, 2006

Record as of May 15, 2006

*Zircon Lane
talk to Nicole*

