

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

In the Matter of the Application of)	No. BP06-00175
)	
Denis R. Bryant)	Harbor Breeze Preliminary Plat and
Sylvan Way LLC)	Residential Cluster Development
)	
For Approval of a Preliminary Plat and)	FINDINGS, CONCLUSIONS,
<u>Residential Cluster Development</u>)	AND DECISION

SUMMARY

The request for a preliminary plat and residential cluster development to subdivide 2.28 acres into 17 single-family residential lots, on property located on the south side of Sylvan Way approximately 200 feet west of Monticola Drive, is **APPROVED**. Conditions of approval are necessary to mitigate project impacts.

SUMMARY OF RECORD

Request:

Denis Bryan, for Sylvan Way LLC, requests approval of a preliminary plat and residential cluster development to subdivide 2.28 acres into 17 lots, including open space tracts and a mixture of detached single-family residential lots and attached single-family residential lots. The development would be on the south side of Sylvan Way approximately 200 feet west of Monticola Drive, in Bremerton, Washington.

Hearing Date:

The City of Bremerton Hearing Examiner held an open record hearing on the matter on March 5, 2009.

Testimony:

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

Nicole Ward, City Planner
Mark Kuhlman, Team 4 Engineering, PE, for Applicant

Exhibits:

The following exhibits were admitted into the record:

1. Aerial Photograph of Site, received by City October 10, 2006
2. Preliminary Subdivision Application, received October 10, 2006
3. Preliminary Residential Cluster Development Application, received October 10, 2006
4. Conditional Water and Sewer Availability Letter, dated October 9, 2006
5. SEPA Checklist, received October 10, 2006
6. Trip Generation Calculation, dated August 10, 2006

7. Determination of Incompleteness, dated November 20, 2006
8. Applicant Response Letter, Project Narrative, and Neighborhood Compatibility Study, dated February 26, 2007
9. Determination of Completeness, dated March 23, 2007
10. Notice of Application and SEPA Determination, with affidavits of notice, dated April 2, 2007
11. Comment Letter from Larry and Erma Riepl, dated April 2, 2007
12. Comment Letter from Victor Brewer, dated April 3, 2007
13. Comment Letter from Corliss Johnson, dated April 3, 2007
14. Comment Letter from Dept. of Natural Resources, dated April 4, 2007
15. Applicant Modification request, dated April 5, 2007
16. Easement Clarification Request from Nicole Ward to Mark Kuhlman, dated April 27, 2007
17. Revised Geotechnical Report, prepared by Alkai Consultants LLC, dated May 2, 2007
18. Easement Agreement, signed December 11, 2007
19. Preliminary Drainage Report, prepared by Team 4 Engineering, dated November 4, 2008
20. Evaluation of Rain Garden Infiltration Letter, from EnviroSound Consulting to Hall Fergusson, dated July 29, 2008 (received by City November 18, 2008)
21. Revised Plat Map with Erosion Control, Grading, Stormwater, Sewer, and Water Plans, received by City January 14, 2009
22. Email from Ron Cleaver to Nicole Ward, sent January 16, 2009, regarding fencing
23. Determination of Nonsignificance, issued January 20, 2009, with affidavit of notice
24. Addendum Letter to Revised Geotechnical Engineering Report, dated January 30, 2009
25. Notice of Public Hearing with affidavits of notice
26. Staff Analysis, Conclusion and Decision, prepared for March 5, 2009 hearing
27. Letter from Larry D. Riepl, received by City February 18, 2009
28. Letter from Karen K. Anderson, received by City February 18, 2009

The Hearing Examiner enters the following Findings and Conclusions based upon the testimony and exhibits admitted at the open record hearing:

FINDINGS

1. Denis Bryan, for Sylvan Way LLC, (Applicant) requests approval of a preliminary plat and residential cluster development (RCD) to subdivide 2.28 acres into 17 lots, including open space tracts and a mixture of detached single-family residential lots and attached single-family residential lots. The development would be located on the south side of Sylvan Way approximately 200 feet west of Monticola Drive, in Bremerton, Washington.¹ *Exhibit 2; Exhibit 3; Exhibit 26, Staff Report, page 1.*

¹ The property is identified by parcel number 022401-3-005-2004. *Exhibit 2; Exhibit 3.* A legal description is provided in the preliminary plat and residential cluster development applications, and in the staff report. *Exhibit 2; Exhibit 3; Exhibit 26, Staff Report, page 1.*

2. The City of Bremerton (City) determined that the preliminary plat and RCD applications were complete on March 23, 2007. On April 2, 2007, the City provided notice of the application by posting notice on-site; publishing notice in *The Kitsap Sun*; and mailing notice to owners of property within 300 feet of the subject property and interested parties. The City provided notice of the open record hearing associated with the applications by mailing notice to owners of property within 300 feet of the subject property and interested parties on February 13, 2009; and publishing notice in *The Kitsap Sun* on February 16, 2009. Nicole Ward, City Planner, testified that notice of the hearing was posted on-site. *Exhibit 7; Exhibit 9; Exhibit 10; Exhibit 25; Testimony of Ms. Ward.*
3. The City acted as the lead agency in reviewing the proposal for environmental impacts, pursuant to the State Environmental Policy Act (SEPA). The City reviewed the SEPA Environmental Checklist prepared by the Applicant and other material on file. The City determined that the proposal would not have a probable significant adverse environmental impact and issued a Determination of Nonsignificance (DNS) on January 20, 2009. There was no additional comment period, as the DNS was issued using the optional DNS process provided in Washington Administrative Code (WAC) 197-11-355. No appeals of the DNS were received. *Exhibit 23; Exhibit 26, Staff Report, page 1.*
4. The property subject to the plat and RCD applications is zoned Low Density Residential R-10, as is surrounding property to the north, east, and west. Property to the south is not zoned by the City. Property to the north features a church and vacant land with an approved preliminary plat. Property to the west contains vacant property with an approved preliminary plat. Property to the east features condominiums; property to the south features single family residential development. The property is designated Low Density Residential (R-10) by the City of Bremerton Comprehensive Plan. *Exhibit 2; Exhibit 3; Exhibit 26, Staff Report, page 1.*
5. Several of the City's Comprehensive Plan goals and policies are relevant to this application. Land Use goals and policies promote neighborhood interaction, walkable communities, and flexible growth. Housing Element goals and policies promote the production of a variety of housing types and densities, cohesive neighborhoods, and social interaction.² *Exhibit 26, Staff Report, pages 2 – 3.*
6. The intent of the R-10 zone is to accommodate single-family housing by infilling at a range of lot sizes consistent with urban growth patterns. Some attached single-family housing may be appropriate when responding to sensitive areas or with innovative design. *Bremerton Municipal Code (BMC) 20.60.010.*
7. The intent of the residential cluster development (RCD) is to accommodate urban densities of the underlying district while allowing residential development to utilize less

² The City identified the following Comprehensive Plan goals and policies as particularly relevant to this application: Land Use Goals LU1, LU3, LU4, and LU20, and Policies LU1K, LU3E, and LU4C; and Housing Goals H3, H6, H7, and H8, and Policies H3C and H6A. *Exhibit 26, Staff Report, pages 2 and 3.*

land area. The purpose of the RCD is to preserve open space, allow for innovative design and reduce impacts to sensitive environmental areas. *BMC 20.58.060(a)*. Approval of a RCD constitutes an overlay to the underlying zone. Through the RCD, modifications to the setbacks, height, lot area, building coverage and development coverage may be granted. *BMC 20.58.060(e)(1)*.³

8. The minimum and maximum density requirements of the underlying zone apply to the RCD.⁴ *BMC 20.58.060(f)(1)(i)*. Single family dwelling units are allowed in the R-10 zone at a density of five to 10 dwelling units per acre. *BMC 20.60.065*. With the proposed development of 17 dwelling units on the 2.28 acre-site, the density would be 7.5 dwelling units per acre.⁵ *Exhibit 8; Exhibit 26, Staff Report, page 3*.
9. The preliminary plat map depicts 14 of the proposed 17 lots as containing attached single family dwellings. The Applicant requested additional flexibility from the City to provide the Applicant with the ability to construct either single family detached or attached homes on any of the proposed lots. The City noted that the only difference in zoning code requirements between attached and detached dwelling units is the side yard setbacks. The Applicant stated that if detached units are constructed, the required five-foot wide side yard setbacks would be implemented. *Exhibit 15; Exhibit 21; Exhibit 26, Staff Report, page 3*.
10. The proposed development would include lots that range in size from 3,278 square feet to 6,668 square feet, consistent with the minimum 3,000-square foot lot size requirement for RCDs. *BMC 20.58.060(f)*. The development standards for R-10 lots require a minimum lot width of 30 feet and minimum setbacks of 15 feet for front yards, five feet for side yards, and 15 feet for rear yards. *BMC 20.60.060(a)(1)*. The maximum building height in the R-10 zone is 35 feet. *BMC 20.60.060(a)(2)*. All proposed lots measure greater 30 feet in width. Reductions to setbacks may be allowed for a residential cluster development, as long as the proposed development complies with the setbacks of the underlying zone along the outer perimeter of the property. *BMC 20.58.060(e)(1), (f)(3)*. The proposed development would feature setbacks consistent with the R-10 standards, with the exception of reduced side yard parking space setbacks on the lots featuring

³ City Ordinance 5036 revised BMC 20.58.060 in April 2008. The application was received October 10, 2006, and was determined to be complete on March 23, 2007; thus the application is vested to the previous code version. *Exhibit 26, Staff Report, page 3*.

⁴ "For the purposes of calculating allowable densities within this code, density shall be measured on a "net" basis, whereby unusable areas such as rights-of-way and lands in public or shared ownership shall be deducted from the overall area in the calculation." *BMC 20.42.040*. BMC 20.58.060(f)(1)(i) provides that for residential cluster development, unbuildable environmentally sensitive areas shall be included in the area for calculating density; however, the right-of-way assumption shall be deducted from the total area of the environmentally sensitive area.

⁵ According to the revised project narrative and the preliminary plat maps, the net developable area on-site is 1.70 acres. With the proposed development of 17 dwelling units, the net density would be 10 dwelling units per net developable acre. *Exhibit 8*.

attached units. Compliance with building height requirements would be determined at the time of building permit application. *Exhibit 15; Exhibit 21; Exhibit 26, Staff Report, pages 3 – 4.*

11. Sylvan Way runs east/west across the property's northern boundary. The Applicant would construct a new private road to provide internal plat access. The private road would run generally north/south, curving to the east at the southern end of the proposed development, providing a potential future connection to the existing Narrows Condominiums roadway to the east. *Exhibit 21; Exhibit 26, Staff Report, page 2.*
12. Microtrans calculated the new vehicle trips generated by the proposed development, based on the Institute of Transportation Engineers (ITE), 7th Edition, 2003. Microtrans determined that the proposed 17 dwelling units would generate 17 new PM peak hour trips, with a total of 163 new daily trips.⁶ The City Engineer determined that traffic volume to be generated by the proposed development would not be significant, and thus no off-site traffic mitigation is required. The Applicant would construct street improvements along the property frontage with Sylvan Way. The new private road would feature a 20-foot wide roadway, curb and gutter, and a five-foot wide sidewalk along the west side. Street lighting would be installed prior to final plat approval. There would be no parking along the new private road. The Applicant would provide a 10-stall parking area on-site. Ms. Ward testified that the parking area could also serve as a turnaround for emergency vehicles. *Exhibit 6; Exhibit 21; Exhibit 26, Staff Report, pages 6 – 7, 10; Testimony of Ms. Ward.*
13. Ms. Ward testified that there are no schools within walking distance of the proposed plat. She testified that students would walk to the school bus stop. She noted that a proposed City condition requires that the Applicant coordinate with the Bremerton School District and Kitsap Transit regarding the siting of bus stops. *Exhibit 26, Staff Report, pages 10, 12; Testimony of Ms. Ward.*
14. The proposed plat would feature 4,996 square feet of active open space and 12,391 square feet of passive open space. Open Space Tracts A and B would be located in the northern portion of the property. Open Space Tract D would be located at the southern end of the property. In addition to the open space tracts, the Applicant would plant street trees in compliance with City landscaping requirements. Street trees would be planted prior to final plat approval. A final open space plan would be included with the final plat. *Exhibit 21; Exhibit 26, Staff Report, pages 4 – 5, 11.*
15. The property contains slopes of greater than 40 percent with a vertical relief greater than 10 feet, classified as high geologic hazard areas. *BMC 20.14.620(a); Exhibit 21; Exhibit 17; Exhibit 26, Staff Report, page 5.* Areas of high geologic hazard typically receive 50-

⁶ The Staff Report states that Microtrans estimated the total new daily vehicle trips to be approximately 203. *Exhibit 26, page 6.*

foot wide setbacks from the top and toe of the slope, with 25-foot wide native vegetated buffer. *BMC 20.14.630(a)*. City code allows for reduction of the standard buffer width if a geotechnical or geological report demonstrates that modified or reduced buffers, through design and engineering solutions, will provide protection to the proposed development and adjacent properties equal to that of the standard buffer. *BMC 20.14.630(c)*.

16. Alkai Consultants, LLC prepared a revised Geotechnical Engineering Report on behalf of the Applicant, dated May 2, 2007. The report identifies two high geologic hazard areas on-site: at the road cut adjacent to Sylvan Way, in the northern portion of the property; and in the southwest corner of the property. Adjacent properties to the south and west also contain high geologic hazard areas. The report concludes that there is low potential for instability on the site, and recommends elimination of both the 50-foot wide setback and the 25-foot wide vegetated buffer, with the exception of the slope along the road cut. The report recommends that an impervious surface buffer of 25 feet or the distance to rock, which is less, be used for the slope along the road cut. In addition, the report recommends that the slopes be replanted as soon as practical following completion of grading. The proposed plat has been revised since the Alkai report was prepared so that there is now an open space tract adjacent to the road cut slope, rather than the three residential lots initially proposed. *Exhibit 17, pages 1, 5; Exhibit 21.*
17. Team 4 Engineering prepared a Preliminary Storm Drainage Report on behalf of the Applicant, dated November 4, 2008. The property connects to two drainage basins, with a portion of the site draining into a roadside ditch flowing along Sylvan Way, to the north, and the remainder flowing overland to the southwest. Mark Kuhlman, Team 4 Engineering, testified for the Applicant that the proposed plat would include low impact development (LID) techniques to ensure that most, and hopefully all, stormwater would be handled on-site with infiltration and bio-retention. Portions of the new private road would be constructed with pervious pavement to allow for infiltration of surface water. Each individual driveway would also feature pervious surfaces, with infiltration pits located beneath the driveways. In addition to the pervious pavement, the Applicant would install rain gardens to facilitate surface water infiltration. EnviroSound Consulting evaluated the feasibility of the proposed rain gardens. EnviroSound determined that the rain gardens may be installed, provided that they are placed entirely beyond the 25-foot wide slope setbacks. Furthermore, the rain gardens must be designed to ensure that there is no increase of runoff over the existing steep slopes. *Exhibit 19; Exhibit 20; Testimony of Mr. Kuhlman.*
18. The City would provide water and sewer service to the proposed plat. Utility service would be provided through an easement across the adjacent property to the west. Because the proposed plat includes only one entrance and features steep slopes, the City proposed conditions of plat approval requiring a sprinkler system in all proposed residences. *Exhibit 4; Exhibit 18; Exhibit 26, Staff Report, page 7.*

19. The City received several written comments regarding the proposed plat and RCD. Larry and Erma Riepl wrote letters dated April 2, 2007, and February 14, 2009, requesting that the proposed development include improvements to Sylvan Way, construction of a fence along the boundary between the Narrows Condominiums and the new plat, and street lighting. The Riepls also expressed concern that wildlife would be displaced with the proposed development. Victor L. Brewer sent a letter to the City, dated April 3, 2007. Mr. Brewer expressed concern that the plat included a proposal to connect to utilities through an easement on the Narrows Condominiums property. Mr. Brewer stated that no such easement exists. Corliss Johnson sent a letter to the City, dated April 3, 2007. Ms. Johnson expressed concern that the proposed development would disturb wildlife and impact her view. The Department of Natural Resource (DNR) sent a letter to the City, dated April 4, 2007, stating that a forest practice application may be needed. Karen K. Anderson sent a letter to the City, dated February 15, 2009, expressing concern that proposed developments are destroying wooded areas and displacing wildlife. Ms. Anderson also expressed concern that the increased vehicle and pedestrian traffic from the proposed development would create safety hazards along Sylvan Way. Ms. Anderson requested that the shoulders of Sylvan Way be improved and that a fence be constructed between the proposed plat and the Narrows Condominiums property. *Exhibit 11; Exhibit 12; Exhibit 13; Exhibit 14; Exhibit 27; Exhibit 28.*
20. Ms. Ward testified that a utility easement through the Narrows Condominiums property is not necessary as the Applicant has obtained an easement through property to the west. Mr. Kuhlman testified that even if the property to the west is not developed, the Harbor Breeze plat and RCD can still go forward. Ms. Ward testified that the City cannot require a fence between the proposed plat and the Narrows Condominiums property. However, Mr. Kuhlman testified that the Applicant would provide a fence as a private matter. In response to concerns regarding wildlife and loss of views, Ms. Ward testified that the proposed development complies with City code, which does not require protection of views. There were no endangered species or species listed as locally important identified on the subject property. *Exhibit 18; Exhibit 22; Exhibit 26, page 8; Testimony of Ms. Ward; Testimony of Mr. Kuhlman.*
21. The proposed plat and RCD would be constructed in a single phase. The City recommended approval of the proposed plat and RCD with conditions of approval. *Exhibit 2; Exhibit 3; Exhibit 8; Exhibit 26, Staff Report, page 11.*

CONCLUSIONS

Jurisdiction

Pursuant to Sections 2.13.070, 2.13.080 and 20.02.040 of the Bremerton Municipal Code (BMC), the Hearing Examiner has jurisdiction to hold an open record on a preliminary plat application and Residential Cluster Development and to approve, approve with conditions, or deny the application. *BMC 2.13.110, .080; BMC 20.02.040.*

Criteria for Review

Preliminary Plat

The Hearing Examiner may approve a preliminary plat pursuant to the following criteria:

- (a) The subdivision is in conformance with the Comprehensive Plan, Shoreline Master Program, and any other City-adopted plans;
- (b) Provisions have been made for water, storm drainage, erosion control and sanitary sewage disposal for the subdivision that are consistent with current standards and plans as adopted in City code or ordinance;
- (c) Provisions have been made for roads, utilities, street lighting, street trees and other improvements that are consistent with the zoning code and Engineering Standards;
- (d) Provisions have been made for dedications, easements and reservations;
- (e) The design, shape and orientation of the proposed lots are appropriate to the proposed use. In addition to meeting the minimum lot size density requirement, each residential lot must provide a building envelope. Therefore, corner lots, lots with easements, or lots with environmental constraints may have to be larger than other lots in the subdivision;
- (f) The subdivision complies with the relevant requirements of the zoning code and all other relevant local regulations;
- (g) Appropriate provisions are made to address all impacts identified by any special reports that have been prepared;
- (h) Appropriate provisions for maintenance and monitoring of privately owned common facilities have been made;
- (i) Appropriate provisions, in accordance with RCW 58.17.110, are made for:
 - (1) The public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys or other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds 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
 - (2) The public use and interest will be served by the platting of such subdivision and dedication.

BMC 20.12.100.

Residential Cluster Development

The Hearing Examiner may grant a RCD only if it is found that:

- (1) The location, design, and uses are consistent with the goals and policies of the Comprehensive Plan, the Shoreline Master Program (when applicable), the City's development codes and other City plans and ordinances;
- (2) The residential development integrates with its surroundings and is designed to harmonize with existing or proposed development in the neighborhood;
- (3) The traffic generated by the development can be accommodated safely and within acceptable levels of service for affected streets;
- (4) All development will adequately be served by existing or planned facilities and services; and
- (5) The development makes adequate and appropriate provision for the preservation of the environment, both natural and manmade, and the conservation of energy.

Findings, Conclusions, and Decision

City of Bremerton Hearing Examiner

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Conclusions Based on Findings

1. **With conditions, the proposed plat would comply with the approval criteria provided in BMC 20.12.100.** The proposed plat would create a new pedestrian-friendly community with open space and a variety of housing designs, consistent with the City Comprehensive Plan. The City reviewed the proposal for compliance with the State Environmental Policy Act (SEPA) and determined that the proposal would not result in probable significant adverse environmental impacts. The City issued a Determination of Nonsignificance (DNS) on January 20, 2009. The proposed plat would comply with the R-10 zoning district minimum lot size, lot width, and density standards, as modified by the residential cluster development provisions. *Findings 1 – 10.*

The Applicant would address surface water run-off through the use of low impact development (LID) techniques, including pervious pavement and rain gardens. Conditions of approval are necessary to ensure that a storm drainage maintenance agreement is provided prior to final plat approval. The property contains high geologic hazard areas, which would be left generally undisturbed in open space tracts. Conditions of approval are necessary to ensure that clearing and grading within the steep slope areas is limited to the period between May 1 and October 1, unless a revised Geotechnical report is submitted; and that a Notice to Title and Hold Harmless Agreement shall be recorded prior to issuance of building permits for any lots within 50 feet of a geologically hazardous area. The City of Bremerton would provide water and sewer service to the proposed plat. *Findings 15 – 18.*

The Applicant would construct improvements, including street lighting, along the Sylvan Way street frontage and would construct a new private road. Conditions of approval are necessary to ensure that the Applicant plant street trees along Sylvan Way and the new private road; that a street maintenance agreement is approved prior to final plat approval; that “No Parking” signs are provided along the new private road; and that all frontage improvements and the private road are constructed prior to final plat approval. The Applicant would provide a sidewalk along the new private road and the Sylvan Way street frontage for students and pedestrians to access school bus stops and potential future transit bus stops. Conditions of approval are necessary to ensure that the Applicant coordinates location of bus stops with Kitsap Transit and the Bremerton School District. *Findings 11 – 13.*

2. **With conditions, the proposed plat would comply with the approval criteria provided in RCW 58.17.110.** The proposed plat would include three open space tracts, totaling approximately 17,387 square feet. The tracts would feature both active and passive open space areas. The Applicant would utilize low impact development techniques, including pervious pavement and rain gardens, to address surface water run-off and drainage. All students would be bused to school. The Applicant would coordinate with the School District and Kitsap Transit to determine the best location for school bus stops. The Applicant would construct sidewalks to provide safe walking

conditions for students and other pedestrians. The City provided adequate notice of the preliminary plat and RCD applications and associated open record hearing. The City received several written comments regarding the proposal. The Applicant responded to the comments. The City determined that the proposed plat and RCD would not have a probable significant adverse environmental impact. *Findings 1, 11 – 20.*

3. **With conditions the proposal is consistent with the approval criteria for a Residential Cluster Development provided in BMC 20.58.060(g).** The proposed plat would create a new pedestrian-friendly community with open space and a variety of housing designs, consistent with the City Comprehensive Plan. The City reviewed the proposal for compliance with the State Environmental Policy Act (SEPA) and determined that the proposal would not result in probable significant adverse environmental impacts. The City issued a Determination of Nonsignificance (DNS) on January 20, 2009. *Findings 1 – 5.*

The proposed plat and RCD is designed to integrate with its surroundings and harmonize with existing and proposed development. The property would be developed with a density of 7.5 dwelling units per acres, consistent with the minimum density requirement of seven dwelling units per acre. The Applicant has agreed to construct a fence along the property boundary with the Narrows Condominiums. *Findings 6 – 10, 20.*

Development of the proposed plat and RCD would result in a total of 163 new daily vehicles trips per day, and 17 new P.M. peak hour trips. No mitigation of traffic impacts is necessary. The Applicant would construct improvements to Sylvan Way, along the property's street frontage. Conditions of approval are necessary to ensure that the frontage improvements are installed prior to final plat approval, and that the Applicant coordinate location of bus stops with Kitsap Transit and the Bremerton School District. *Findings 11 – 13.*

The City issued a Conditional Water and Sewer Letter on October 9, 2006. The property would connect to the utilities through a utility easement across property to the west. *Findings 18, 20.*

The property contains high geologic hazard areas, which would be left generally undisturbed in open space tracts. Conditions of approval are necessary to ensure that clearing and grading within the steep slope areas is limited to the period between May 1 and October 1, unless a revised Geotechnical report is submitted; and that a Notice to Title and Hold Harmless Agreement shall be recorded prior to issuance of building permits for any lots within 50 feet of a geologically hazardous area. The proposed plat would include three open space tracts, totaling approximately 17,387 square feet. The tracts would feature both active and passive open space areas. The Applicant would utilize low impact development techniques, including pervious pavement and rain gardens, to address surface water run-off and drainage. Conditions of approval are necessary to ensure that the Applicant submits a final open space plan with monitoring, maintenance, and guarantees. *Findings 15 – 18.*

DECISION

Based upon the preceding Findings and Conclusions, the request for a preliminary plat and a Residential Cluster Development to subdivide 2.28 acres into 17 lots on property located on the south side of Sylvan Way, approximately 200 feet west of Monticola Drive is **APPROVED**, subject to the following conditions:⁷

1. Street trees are required at a rate of 1 tree per every 25 lineal feet. Trees are required along Sylvan Way and on both sides of the private road tract. These trees shall be planted prior to Final Plat Approval.
2. Clearing and grading within the steep slope areas shall be limited to the period of time between May 1 and October 1 unless a revised Geotechnical Report is submitted which includes an erosion and sedimentation control plan that specifically and realistically identifies methods of erosion control for wet weather conditions.
3. Prior to the issuance of a building permit for any lots within 50' of a geologically hazardous area a Notice to Title & Hold Harmless Agreement shall be recorded at the Kitsap County Auditors Office. This requirement shall be noted on the Final Plat.
4. A Final Open Space Plan with monitoring, maintenance and guarantees is required with the Final Plat submittal.
5. A separate Storm Drainage Maintenance Agreement is required prior to Final Plat approval.
6. Final "construction ready" plans are required for review and approval prior to issuance of any construction permits. Public water and sanitary sewer mains are required and shall be installed or an approved surety deposit or bond provided prior to Final Plat approval.
7. A Street Maintenance Agreement shall be submitted for review and approval prior to Final Plat approval. This agreement shall be recorded at the Kitsap County Auditor's office and the Auditors File Number shall be referenced on the Final Plat.
8. Frontage Improvements are required along Sylvan Way and the interior private road tract pursuant to BMC 11.12.110. All frontage improvements shall be installed or an approved surety deposit or bond shall be provided prior to Final Plat Approval.
9. The Private Road Tract shall include "No Parking" signs in the designated Fire Apparatus turn-around area and shall meet Fire Department sizing and design requirements.
10. All units shall provide a fire sprinkler system; this requirement shall be recorded on the face of the Final Plat.

⁷ This decision includes conditions required to reduce project impacts as well as conditions required to meet City Code standards.

11. Prior to any site development the applicant shall coordinate with the Department of Natural Resources and obtain either a Forest Practice Permit, or a letter stating that no permit is required.
12. The developer shall coordinate with Kitsap Transit and Bremerton School District for the siting of sidewalks, bus stop and bus sheds prior to Final Plat Approval.
13. A Final Plat meeting applicable development standards and conditions shall be submitted to the City for approval within five years of the date of Preliminary Plat approval.
14. A detailed engineered street lighting design shall be provided for review and approval prior to issuance of a construction permit. Public street lighting shall be installed or an approved surety bond or deposit provided prior to Final Plat approval.

Decided this 19th day of March 2009.


THEODORE PAUL HUNTER
Hearing Examiner