

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

In the Matter of the Application of)	NO. BP06-00040
)	
)	
Triway Enterprises)	West Hills Preliminary Plat and
Olympic Powers Group, LLC)	Residential Cluster Development
)	
For Approval of a Preliminary Plat and)	FINDINGS, CONCLUSIONS,
<u>Residential Cluster Development</u>)	AND DECISION

SUMMARY

The request for approval of a preliminary plat and a 202.57 acre residential cluster development (RCD) is **GRANTED**, subject to conditions.

SUMMARY OF RECORD

Request:

Triway Enterprises and Olympic Powers Group, LLC (Applicants) request approval of a preliminary plat and RCD to subdivide 202.57 acres of land into 629 lots, including attached single family (townhomes) lots, conventional detached single family lots, and open space. The development would be located on the west side of 3rd Avenue West, south of Werner Road, and north of Sand Dollar Road in Bremerton, adjacent to the City's Pendergast Park.

Hearing Date:

The Hearing Examiner for the City of Bremerton held an open record hearing on the matter on July 24, 2006.

Testimony:

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

1. Jeff Pantier, for Applicants
2. Joann Vidinhar, City Planner
3. Michael Meecham

Exhibits:

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

- A. Department of Community Development Staff Report, with the following Attachments:
 1. Application for residential cluster development, received March 14, 2006
 2. Application for preliminary plat, received March 14, 2006
 3. Olympic Property Group letter, dated March 14, 2006
 4. Project Narrative, dated March 14, 2006
 5. Environmental Checklist, dated March 14, 2006

that the applications were complete on March 30, 2006.³ *Exhibit A, Staff Report, pp. 1, 16; Attachment 1; Attachment 2; Attachments 15a and 15b.*

2. The subject property consists of undeveloped land - containing 17 wetlands and 16 streams - and lies in a second growth mixed coniferous-deciduous forest containing several gravel logging roads. Some of the property was logged in 1992 while other portions may have been logged in the last 5 years.⁴ According to the environmental checklist, portions of the site are considered moderate to steep slopes. In 1996, Geo Engineers prepared a Geotechnical report for the area which concluded that the site slopes to the east-southeast.⁵ Geo Engineers determined that steep slopes exist on the ravine banks and east facing hillsides in the center of the site.⁶ *Exhibit A, Staff Report, pp. 3 and 7; Attachment 2; Attachment 4; Attachment 5; Attachment 12; Attachment 12b; Attachment 17.*
3. Signs of wildlife were identified on site and in close vicinity to the property.⁷ In its comments on the project's State Environmental Policy Act (SEPA) documents, the Washington Department of Fish and Wildlife (WDFW) stated that its staff observed signs of black bear on the subject property. WDFW also stated that the site is near the City of Bremerton Watershed, which contains a high-density of black bear. WDFW also reported that cougars have been observed in the watershed that "may travel through the new development to search for prey or to establish territories during the spring." Evidence of

³ Prior to December 2005, BMC Chapter 21.02 regulated zoning. The City passed Ord. 4950 § 1 (effective December 13, 2005) which recodified Title 20 of the Bremerton Municipal Code entitled "Subdivisions" as Title 20, "Land Use," consisting of three parts: Division I entitled "Permitting," consisting of Chapters 20.02 and 20.04; Division II entitled "Land Development," consisting of Chapters 20.10 through 20.18; and Division III entitled "Zoning," consisting of Chapters 20.40 through 20.98. The applications for this preliminary plat and RCD were received on March 14, 2006. *Exhibit A, Attachment 1; Attachment 2.*

⁴ The Staff Report states that portions of the property have been logged in the last 5 years. The application for preliminary plat subdivision states that the property has not been logged in the past six years and not since 1992. *Exhibit A, Staff Report, p. 3; Attachment 2, p. 2.*

⁵ The Geo Engineers subsurface investigation for the proposed West Hills development, dated December 9, 1996, is located in *Exhibit A, Attachment 17.*

⁶ At the time of the 1996 Geo Engineers report, the City classified slopes from 25 to 40% as moderate slopes and slopes greater than 40% as steep slopes. *BMC 21.22.100(4)*. The current Bremerton Municipal Code classifies areas with slopes greater than 40 percent with more than ten feet of vertical relief or areas with slopes greater than 30 percent with certain soil or groundwater characteristics as areas of high geologic hazard. Areas of moderate geologic hazard are slopes of 30 percent or greater with more than feet of vertical relief or slopes of 15-30% with certain soil or groundwater characteristics. *BMC 20.14.620 (effective March 28, 2006 by Ord. 4965 §7(part))*. The applications for this project were received on March 14, 2006. *Exhibit A, Staff Report, p. 15.*

⁷ The Staff Report states that signs of dangerous wildlife have been found on site. The Applicants environmental checklist fails to identify any birds or animals on the site or known to be on or near the site other than birds and deer. *Exhibit A, Staff Report, p. 3; Attachment 5, p. 7.*

6. Kitsap Transit letter, dated April 18, 2006
7. Conditional Water and Sewer Availability letter, dated May 4, 2006
8. Department of Fish and Wildlife letter, dated May 17, 2006
9. Suquamish Tribe letter dated May 18, 2006
10. Mitigated Determination of Nonsignificance, dated June 6, 2006
11. Revised Traffic Impact Analysis, JTE, dated June 20, 2006; West Hills Traffic Impact Analysis, JTE, dated March 10, 2006.
- 11a. Response Letter to its Revised Traffic Impact Analysis from JTE, dated July 12, 2006
12. EnCo Wetland Delineation Report Addendum #1, dated June 21, 2006
- 12a. (Reduced size) Wetland Exhibit of West Hills, dated June 23, 2006
- 12b. Wetland Exhibit of West Hills, dated June 23, 2006
13. EnCo Proposed Buffer Width Modifications, dated July 5, 2006
14. Wetland Buffer Modification table, dated July 5, 2006
15. Letter from Sabrena Orr (Hatton Godat Pantier), dated July 5, 2006, enclosing revised preliminary plat layouts
- 15a. Sheet 1 (preliminary lay-out); Sheet 2 (existing easements); Sheet 3 (existing slopes and proposed wetland buffer averaging); dated July 5, 2006
- 15b. Sheet 4 (building footprint lay-out, dated July 5, 2006
16. Notice of Public Hearing with Affidavit of mailing and publication, dated July 6, 2006
17. Preliminary Drainage and Erosion Control Report, Hatton Godat Pantier, dated March 13, 2006, with Subsurface Investigation, Geo Engineers, dated December 9, 1996.

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. Triway Enterprises and Olympic Powers Group, LLC (Applicants) request approval of a preliminary plat and residential cluster development (RCD) to subdivide 202.57 acres of land into a 629-lot subdivision consisting of a mixture of attached single family (townhomes) and conventional detached single family lots.¹ The proposal includes 91 acres of active and passive open space. The development would be located on the west side of 3rd Avenue West, south of Werner Road, and north of Sand Dollar Road in Bremerton, adjacent to the City's Pendergast Park.² The City of Bremerton determined

¹ The RCD application referred to 610 lots, the preliminary plat subdivision application referred to 615 lots and the notice of public hearing stated 626 lots. At the hearing, Mr. Pantier, the Applicants' representative, testified that 629 lots is the correct number. *Exhibit A, Attachment 1; Attachment 2. Testimony of Mr. Painter.*

² Parcel numbers for this site are: 212401-3-007-2009 and 292401-1-018-2002. It is within portions of Sections 21, 28 and 29, Township 24 North, Range 1 East, W.M. *Exhibit 1, Attachment 5, p. 3 (environmental checklist).* The legal description for the subject property is provided in Exhibit A, Staff Report, p. 2 and Exhibit 15a, Sheet 2 of 4.

black bear scat, claw-markings on a Douglas fir snag, and black bear footprints were also found during an EnCo Environmental Corporation site visit on May 11, 2006. The mitigated determination of nonsignificance (MDNS) issued by the City noted an indication of dangerous wildlife on site and in close vicinity of the property. *Exhibit A, Staff Report, pp. 3 and 8; Attachment 5, p. 10; Attachment 8, p. 2; Attachment 10, p. 2; Attachment 12, p. 3.*

4. The subject property has a Low Density Residential (LDR) comprehensive plan designation and is zoned Residential Low-density (R-10), allowing 5-10 dwelling units per acre. The subject property contains geologically hazardous areas, wetland and stream critical area designations. The land to the northwest is a mixture of residential and industrial type businesses zoned industrial. To the northeast are single and multi-family residential housing within Kitsap County jurisdiction zoned Urban Low. To the east is the City's Pendergast Park and land zoned Low Density Residential (R-10). To the southeast are undeveloped utility lands zoned City Utility Lands. To the south are single and multi-family residential housing within Kitsap County zoned Urban Reserve. *Exhibit A, Staff Report, pp. 1 and 3.*
5. The Bremerton City Council approved the West Hills preliminary planned unit development and preliminary plat by Resolution No. 2599 on May 14, 1997. The approved planned unit development included 203 acres for a residential mixed-use development of approximately 450 units. The City then entered into a development agreement with Olympic Property Group concerning the property. The residential portion of the property is now subject to a purchase and sale agreement with Triway Enterprises LLC. According to the Applicants' environmental checklist, the project consists of five (5) phases, starting in fall of 2006 and ending in spring of 2011. *Exhibit A, Staff Report, p. 4; Attachment 1; Attachment 2; Attachment 5, p. 2.*
6. The Washington Department of Fish and Wildlife (WDFG) submitted a letter, dated May 17, 2006, noting that Wetland "B" does not contain suitable habitat for Western Pond turtles, a listed state endangered species, or evidence of a Great blue heron rookery onsite. WDFG also suggested that it may necessary to verify some of the wetlands and determine if correct wetland buffers have been applied. *Exhibit A, Attachment 8.* The Suquamish Tribe submitted a letter to the City dated May 18, 2006, noting that the proposed project is within the usual and accustomed fishing areas of the Suquamish Tribe. The Tribe expressed concerns about the proper classification of wetlands and requested that an archaeologist prepare a site cultural resource assessment. *Exhibit A, Attachment 9.* In response, the applicants' consultant, EnCo, updated the wetland and stream classifications and prepared a wetland delineation report addendum #1, dated June 21, 2006 (*Exhibit A, Attachment 12*); a wetland exhibit map of West Hills (*Exhibit A, Attachment 12a*); and proposed buffer width modifications, dated July 5, 2006. *Exhibit A, Attachment 13; Attachment 14.*

7. The proposal includes 91 acres of active and passive open space. An open space plan is required, including maintenance responsibilities and guarantees. *Exhibit A, Staff Report, p. 7; Attachment 3 (Narrative Summary), p. 1; Attachment 15b.*
8. The following schools serve the proposed development: Westhills Elementary School, Mountain View Middle School, and Bremerton High School. As part of the traffic impact analysis, the Bremerton School District transportation staff indicated that student bus service would be provided to the above schools. The Bremerton School District filed no other comment on the application. The applicant would be required to work with the school district and Kitsap Transit to provide for public transit and school bus stops. *Exhibit A, Staff Report, p. 15; Attachment 5 (Letter from Doug Johnson, Kitsap Transit, dated April 17, 2006); Attachment 11, p. 6.*
9. Jeff Pantier (for the Applicants) testified that the application process began in early 2005. He confirmed that the public notice for the hearing described 626 lots, rather than the 629 lots requested. He submitted a preliminary drainage and erosion control report as part of the Staff Report which was admitted as Exhibit A, Attachment 17. He requested that the Staff Report be changed on page ten to reference that the sanitary sewer would be connected to the adjacent industrial park. He testified that additional traffic analysis has been provided to the City as called for by the Staff Report on page twelve. In response to concerns from the WDFG and Suquamish Tribe, wetland categories in an EnCo Wetland Delineation Report addendum have been revised and now reflect the status of associated streams as supporting fish. *Exhibit 1, Attachment 12. Testimony of Pantier.*
10. JoAnn Vidinhar, City Planner, testified on behalf of the City that the City Public Works staff had reviewed the applications, and that the proposed conditions would be necessary to meet stormwater, traffic and wastewater requirements. She testified that the school district had been given notice of the application but had provided no comments. Safe walking will be available with modifications to transit stops. Kitsap transit will reroute transit to this subdivision. She testified that the proposed applications, with conditions, were consistent with the comprehensive plan and the residential cluster development criteria. *Testimony of Vidinhar.*
11. Michael Meecham testified on behalf of the City that any traffic impacts would be mitigated by conditions that were required at the time of environmental review. He noted that the development would be allowed to hook into the sewer system that presently exists on the adjacent industrial property. He testified that water meters could be installed at the main road, and not at individual homes, but that that determination should be made at the time of installation of water lines. *Testimony of Meecham.*
12. The City's 2004 Comprehensive Plan contains the following goals applicable to subdivisions:

Land Use Element

Goal LU1 "Identify and enhance distinctive neighborhoods, communities, and Centers throughout the city."

Policy LU1K "Promote neighborhoods which foster interaction among residents, contribute to well-being of citizenry, and create and sustain a sense of community and personal safety."

Goal LU3 "Create an environment that will promote growth."

Policy LU3E "Provide development incentives and flexibility within the Zoning Code to encourage desirable design elements with flexibilities within the Zoning Code provisions for all new development and redevelopment."

Housing Element

Goal H3 "Provide a variety of housing types and densities to meet changing needs of Bremerton residents."

Policy H3C "Stimulate the production of new housing for all incomes, ages, and family types."

Goal H6 "Build strong, cohesive neighborhoods with a majority of Bremerton households owning their own homes."

Policy H6A "Increase the opportunities for home ownership within the City of Bremerton."

Goal H7 "Promote safe, attractive, livable neighborhoods that will attract homeowners."

The proposed applications support these goals and policies. Desirable design elements with flexibility would be used to preserve on site wetlands and buffers. The proposed applications will promote a safe, attractive and livable neighborhood, and increase opportunities for home ownership with the City of Bremerton. *Exhibit A, Staff Report, pp. 3-4; Attachment 1; Attachment 2; Attachment 4; Attachment 12a; Attachment 15a, and Attachment 15b.*

13. The City of Bremerton has not adopted a subdivision ordinance. The City relies on the requirements set forth in RCW 58.17. The City relies on RCW 58.17 and BCC 20.02.40 to review a subdivision application. *Exhibit A, Staff Report, p. 4.*
14. Approval of an RCD application constitutes an overlay to the underlying zone. The purpose of a RCD is to accommodate urban densities of the underlying zoning district while allowing residential development to utilize less land area, to preserve open space, to allow for innovative design and reduce impacts to sensitive environmental areas. The underlying zoning district is residential low-density (R-10) as set out in BMC Chapter 20.60. *Exhibit A, Staff Report, pp. 1 and 5. BMC 20.58.060(a).*
15. The City code contains requirements for low density residential zones. *BMC Chapter 20.60.* The intent of the (R-10) zoning district 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. Residential development at higher densities is encouraged at the edge of designated centers. BMC 20.60.060 establishes development standards for a

maximum structure height of 35' and a minimum lot width of 30' and other development standards for the R-10 zone, including: building coverage, zero lot line development, detached structures, garage door setbacks, and lot area for parks and schools. Exceptions may be granted through an approved RCD. The perimeter lot line setback requires a 15' minimum rear yard setback. The proposal complies with these standards. *Exhibit A, Staff Report, pp. 5-6; Attachment 15a; Attachment 15b. BMC 20.58.060(f)(3); BMC 20.60.060(a). BMC 20.60.010.*

16. The property must meet the criteria for an underutilized urban fringe area under BMC 20.58.068⁸: a density minimum of 7 dwelling units per acre and a maximum of 10 dwelling units per acre. The proposed project would be 7 dwelling units per acre. *Exhibit A, Staff Report, p 5. BMC 20.58.068.*
17. The RCD scope of approval includes:

- (1) Approval of a RCD constitutes an overlay to the underlying zone and allows modifications to development standards.
- (2) Approval of a RCD constitutes a limitation on the design to only those designs and standards specifically included. . . .

BMC 20.58.060(e).

18. The RCD development standards include:

(1) Lot Requirements.

(i) Density. The minimum and maximum density of the underlying zone shall apply. Within the low density residential (R-10) zone the density shall be determined pursuant to the provisions in BMC 20.60.065, 20.60.066, and 20.60.068. For the purposes of the RCD, unbuildable environmentally sensitive areas as defined in BMC 20.14.280 shall be included in the area for calculating density. A right-of-way assumption shall be deducted from the total area of the environmentally sensitive area. The assumed right-of-way deduction is a percentage of the total environmentally critical area equal to the percentage of the developable site devoted to rights-of way.

(ii) Minimum Lot Size. The minimum lot area is:

(A) Three thousand (3,000) square feet within the low density residential (R-10) zone. Reductions to the lot size may be allowed if an environmentally sensitive area is located on the property and the reduction is the minimum necessary to comply with the minimum density requirements set forth in subsection (f)(1)(i) of this section.

(B) Zero (0) within other zones.

BMC 20.58.060(f).

The proposed RCD application meets these development standards. The R-10 zone for underutilized urban fringe areas requires a minimum-density of 7 dwelling units per acre.

⁸ Properties greater than 50 acres in size within the City limits and having adjacent properties (within 300') greater than 8,712 square feet are identified as being underutilized urban fringe areas. *BMC 20.60.068.*

The proposal for 629 lots meets the minimum density required. The proposal includes lot sizes from 3,300 square feet for townhomes and 4,5000 square feet for conventional single family residences. *Exhibit A, Staff Report p. 6; Attachment 15a.*

- (2) Height. The maximum building height of the underlying zone may be increased, provided the height of buildings are compatible with the scale of the surrounding neighborhood, do not adversely affect existing scenic views, and ensure a reasonable balance of light and shadow on adjacent properties. Increased setbacks and location of structures may be used to ensure compatibility.

The proposed application meets this standard. The maximum building height has not been increased from that allowed under the underlying zone. *Exhibit A, Attachment 15b.*

- (3) Other Standards. Exceptions may be granted to the underlying zone development standards such as setbacks, lot area, building coverage, and development coverage as prescribed in subsection (e)(1) of this section.
- (4) Perimeter Setbacks. Structures shall comply with the setbacks of the underlying zone along the outer perimeter lot lines of the site.

The proposed application includes reduced development standards and the use of townhomes to accommodate the density requirement of the underlying zone. The perimeter lot line setbacks will be met. *Exhibit A, Staff Report, p. 6; Attachment 15b.*

- (5) Circulation.
 - (i) All streets within the development and rights-of-way shall be designed and constructed in accordance with the City street standards pursuant to BMC Title 11. Private streets shall be located on road tracts at least twenty (20) feet wide.
 - (ii) Provisions shall be made for a functional pedestrian circulation system that assures the safe movement of pedestrians both on the site and between nearby properties and activities.
 - (iii) All streets and parking areas shall contribute to the overall aesthetic design of the project while minimizing traffic congestion and the amount of impervious surface area.
 - (iv) The provision for adequate parking, loading, access and circulation facilities within the RCD shall be those contained in the parking requirements as set forth in Chapter 20.48 BMC. The Director may modify these standards to best meet needs and objectives of the project, provided parking will not spill over into nearby neighborhoods.

The proposed application includes public streets and private road tracts greater than twenty feet wide. The proposed application provides for sidewalks and a trail to adjoining Pendergast Park. The City Engineer reviewed the application in compliance with BMC Title 11, Street and Right-of-ways. BMC 20.48.060(h) requires two off-street parking spaces per single-family residence. The residential cluster development plan contains a 2 car garage for each lot. The proposed application meets these Code requirements. *Exhibit A, Staff Report, p. 6; Attachment 15b.*

- (6) Screening. All utility facilities, loading areas, trash containers, and outdoor storage areas shall be screened from surrounding properties. Solid fences, walls, and blank walls of buildings shall be softened through the use of trees and/or other landscaping materials if their impact cannot be minimized through architectural design or orientation.

This requirement is for community type uses. If such uses are proposed during the development stage, screening from surrounding properties will be required. *Exhibit A, Staff Report, p. 7.*

(7) Open Space.

(i) Open Space Designation. The remaining land not developed for a use shall be dedicated as open space. Open space areas shall be located on a separate tract or tracts and shall be developed for recreational uses or set aside to preserve environmentally sensitive areas. Open space shall not include land for streets, driveways, parking or other infrastructure improvements.

(ii) Development. Facilities and other improvements that enhance recreational use may be located in an open space. A single residential detached dwelling may be allowed within an open space tract if the open space contains an environmentally sensitive area and development complies with all other requirements.

(iii) Open Space Plan. An open space plan is required to identify all improvements, environmentally sensitive areas, significant trees pursuant to Chapter 20.50 BMC and other vegetation to be preserved. A management plan outlining maintenance responsibility shall be included as part of the plan.

(iv) Guarantee. A legal instrument approved by the City and recorded with the County Auditor, which shall include a notice on the title referencing the legal instrument, is required. The legal instrument may include, but is not limited to, the following guarantees:

- (A) Retention of the open space per the open space plan prescribed in subsection (f)(7)(iii) of this section;
- (B) Provision of permanent maintenance of the open space and commonly owned facilities;
- (C) Grants to or reservations for the use of property owners of all open space and commonly owned facilities within the development;
- (D) Conveyances to property owner associations or corporations.

The proposed application includes 91 acres of active and passive open space. An Open Space Plan would be required for maintenance responsibilities and guarantees prior to final plat approval. *Exhibit A, Staff Report, p. 7; Attachment 15b.*

19. The purpose of Chapter 20.14 BMC is to protect the public health, safety, and welfare by establishing provisions to classify, protect, and preserve Bremerton's critical areas; by providing standards to manage development in association with these areas; and by designating some of these areas as environmentally sensitive in accordance with SEPA.⁹ A December 9, 1996 geotechnical report prepared by Geo Engineers identified steep slopes that would be considered landslide hazard areas under BMC 20.14.620. As designed, the proposal would not adversely impact the slopes on site or on adjacent property. EnCo prepared a wildlife and wetland report, dated March 12, 2006 (not submitted as an exhibit). According to the Staff Report, this wetland report identified 17

⁹ The staff report (at 7) references the City's Critical Lands Ordinance (Chapter 21.22 BMC) which was re-codified effective December 13, 2005 as Chapter 20.14 (Critical Areas). This decision uses the new Chapter 20.14 citations. *Exhibit A, Staff Report, p. 7.*

wetlands and streams.¹⁰ The proposed application has been designed to avoid the on-site wetlands. Wetland and stream buffer modifications are required due to the physical characteristics of the site and increasing buffer areas for wildlife and/or fish usage.¹¹ BMC 20.14.330 allows for wetland buffer modifications. EnCo prepared a buffer width modification analysis, dated July 5, 2006. EnCo also prepared a wetland buffer modification table documenting a net gain of 1976 square feet of wetland and stream buffer. The proposed application is consistent with the City of Bremerton's critical areas ordinance requirements. *Exhibit A, Staff Report, pp. 7 and 8; Attachment 12; Attachment 12a; Attachment 13; Attachment 14; Attachment 15a; Attachment 17. BMC.20.14.330.*

20. The City code contains requirements for landscaping. However, BMC 20.50.030 exempts single family residential development from landscaping requirements. *Exhibit A, Staff Report, p. 7. BMC 20.50.030.*
21. The City code requires storm water quantity and quality mitigation. *Chapter 15.04 BMC.* Hatton Godat Pantier prepared a preliminary drainage and erosion control report, dated March 13, 2006. This report identified 14 onsite subbasins (A-N). The majority of the site drains to a wetland with an outlet flowing to Wright Creek. Stormwater subbasins E, F, and I will utilize conventional detention ponds to store lot and roadway-generated stormwater and release the stormwater to the adjacent wetland buffer. Stormwater in subbasins J, G, H, M, and N will be collected and treated in wetponds and then conveyed to an adjacent storm pond on the industrial park to the east. Stormwater in subbasins A-D and L would be collected and treated in wetponds before being conveyed to an adjacent wetland pothole to the east. Subbasin K would not require detention because of an adjacent wetland pothole. The stormwater system was designed in accordance with the 1992 Department of Ecology's Stormwater Management Manual for the Puget Sound Basin.¹² *Exhibit A, Staff Report, p. 8; Attachment 17, pp. 4, 8. Chapter 15.04 BMC.*
22. The City code requires water and wastewater service. Under BMC 15.02 and 15.03, City water and wastewater service is conditionally available to new developments. According to the City's Public Works & Utilities engineering division, water service is conditionally available to the proposed residential development through the existing 650 and 440 water pressure zones. The proposed development must be served from both of these zones and

¹⁰ EnCo's June 21, 2006 Wetland Delineation Report Addendum #1 identifies 17 wetlands and 16 streams in Tables 1 and 2. *Exhibit A, Attachment 12, pp. 3-7.*

¹¹ Current stream buffer requirements are found at BMC 20.14.730(d). According to EnCo's June 21, 2006 Wetland Delineation Report Addendum #1, stream buffer widths were obtained from the project's vested edition of the City of Bremerton Critical Land Ordinance, Ordinance 4476, 7/13/94. *Exhibit A, Attachment 12, p. 5, table 1 note 3.*

¹² The Hatton Godat Pantier drainage and erosion control report states that the stormwater system was designed to meet the requirements of the City of Shelton. Presumably the consultant meant the City of Bremerton. *Exhibit A, Attachment 17, p. 4.*

from a reduced 650 zone to be looped through the site between the 650 and 440 zones. Two City owned and maintained pressure reducing valves, four points of connection to the existing water system and three separate 12-inch distribution mains extended to the far south property line of this development, will serve the development, one for each of the three zones. Wastewater service is conditionally available; the sanitary sewer for this project must be connected to the existing sewer system in the adjacent industrial park. The City of Bremerton's Public Works and Utilities issued a Conditional Water and Sewer Availability Letter on May 4, 2006. The Applicants will be required to meet all conditions of the water and sewer availability letter. *Exhibit A, Staff Report, pp. 9-11. BMC 15.02 and 15.03.*

23. A detailed street lighting plan must be submitted and approved by the City Engineer to comply with street lighting requirements under BMC 11.12.130 and 11.12.200. All private streets must meet the City of Bremerton Engineering Standards per BMC Title 11. A curb, gutter, and sidewalk would be required as shown on the July 5, 2006 Preliminary Plat drawing. Internal streets would connect to Union Avenue. *Exhibit A, Staff Report, pp. 11, 15; Attachment 15a. BMC 11.12.110(b).*
24. All proposed development must meet the City of Bremerton's Fire Code, *BMC Chapter 18.02*, and noise ordinance, *BMC Chapter 6.32*. Homes would be installed with fire sprinkler systems, *BMC Title 18*, and the buildings would meet International Building Codes for energy conservation. *Exhibit A, Staff Report, p. 14.*
25. Jake Traffic Engineering, Inc. (JTE) prepared a West Hills traffic impact analysis (TIA), dated March 10, 2006.¹³ JTE submitted a revised TIA dated June 20, 2006 and a response letter dated July 12, 2006. The TIA was performed using a proposal of 523 single family dwelling units and 108 townhouse units.¹⁴ According to the West Hills Residential Plat Revised Traffic Impact Analysis dated June 20, 2006, the proposed project would generate 584 PM peak hour trips. *Exhibit A, Attachment 11, p. 8.* The analysis concluded that the project would not cause a significant adverse affect on the operation of the study intersections. *Id. p. 16.* However, transportation improvement mitigation was identified in this analysis, including: a traffic signal at SR-3 and Werner Road; improvements at the W. Werner Road/Union Avenue South intersection; improvements at the Pendergast Park Road/Union Avenue South intersection; installation of onsite traffic signage; and a southbound to westbound right turn pocket at the main site access street into the plat from the adjacent commercial plat. *Id. at 16-17.* The City Engineer reviewed the TIA. The City incorporated mitigation required to reduce adverse environmental impacts as conditions attached to the MDNS (see Finding 26). *Exhibit A, Staff Report, pp. 11-12; Attachment 11, pp. 8, 16-17.*

¹³ The West Hills Traffic Impact Analysis, dated March 10, 2006 is the second half of Exhibit A, Attachment 11.

¹⁴ The Preliminary Lay-Out (Sheet 1 of 4) shows 104 Townhouse units and 525 single-family detached units. *Exhibit 15a.*

26. The City was designated as lead agency for review of environmental impacts caused by the requested preliminary plat and RCD. The City received the Applicants' environmental checklist on March 14, 2006. The City considered the environmental checklist, the requirements of City ordinances, and comments received. The City issued a MDNS on July 6, 2006. The MDNS contained a number of conditions, including: requiring development to be consistent with the Geotechnical Report; conditions related to grading and clearing; requirements for a wetland mitigation and monitoring plan; inclusion of a notice of dangerous wildlife in the Conditions, Covenants and Restrictions for the project; requiring internal streets to be consistent with the June 23, 2006 "Preliminary Plat of West Hills"; requiring construction of improvements to intersection of Werner Road and Union Ave and a traffic control signal at the intersection of SR3 and Werner Road; requiring the applicant to pay a fair share of future improvements on the Werner Road corridor; requiring intersection improvements at the intersection of the Pendergast Park access road at Union Avenue and to improve Pendergast Park access road; and requiring fire sprinkler systems for all structures within the project. No appeals were filed. *Exhibit A, Attachment 5; Attachment 10; Attachment 11.*
27. The City provided notice of the public hearing as required by BMC 20.02.110. The Notice of Public Hearing stated that the preliminary plat and residential cluster development was for 626 lots rather than for the applicants requested 629 lots. Public notice was sufficient to appraise the public the project's scope. *Exhibit A, Attachment 16. Testimony of Pantier. Testimony of Vidinhar.*

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.*

Criteria for Review – Preliminary Plat

The criteria for approval of a Preliminary Plat are found in Chapter 58.17 of the Revised Code of Washington.¹⁵ 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

¹⁵ As of the date of this application, the City had not enacted a subdivision ordinance. *Exhibit A, Staff Report , p. 4.*

- (b) The public use and interest will be served by the platting of such subdivision and dedication.

RCW 58.17.110(2).

Criteria for Review - RCD

The decision-making authority 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.

BMC 20.58.060(g).

Conclusions Based on Findings

1. **With conditions, the proposed application is consistent with RCW 58.17.110(2).**

A. **With conditions, the project would make appropriate provisions for public health, safety and general welfare.** The project would provide the required open space, including a trail to adjoining Pendergast Park. No wetland areas would be filled and wetland and stream buffers would be modified to create a net gain of 1976 square feet of buffers. Dangerous wildlife is present on site and in close vicinity. Conditions, Covenants and Restrictions for the project should be required to include notice of the presence of dangerous wildlife on site and in close vicinity. Conditions are required to ensure that all runoff from new impervious surfaces would be collected, treated, and discharged consistent with City standards. Lot and roadway generated stormwater would be stored in detention ponds, or collected and treated in wetponds. All internal streets would connect to Union Avenue and would be provided with street lighting and sidewalks. Internal streets would connect to Union Avenue and Kitsap Transit would provide bus service to the proposed development. No nearby school within walking distance was identified. School bus service would be provided. Traffic impacts identified in the MDNS would be mitigated by MDNS conditions. The City has issued a Conditional Sewer and Water Availability Letter. Conditions of approval would ensure that potable water main and sewer hookups to each lot would occur. *Findings 1-11, 13-16, 19, 21-26.*

B. With conditions, the public use and interest will be served by the platting of the proposed subdivision. The project would develop land consistent with the City of Bremerton's Comprehensive Plan in an underutilized urban fringe area. The proposed lots would be consistent with the dimensional and other development standards of the Bremerton Municipal Code. Conditions of approval would ensure compliance with the critical areas, geologically hazardous areas and wetland/buffer standards. The proposed project would provide 91 acres of passive and active open space. With conditions, the project would not have negative impacts on Wright Creek. The project was reviewed for compliance with SEPA and a MDNS was issued. *Findings 1-7, 9-10, 12-26.*

2. **With conditions the proposal is consistent with the provisions of BMC 20.58.060(g) for Residential Cluster Development (including the requirements for Low Density Residential zones).**

A. With conditions, the location, design, and uses are consistent with the goals and policies of the Comprehensive Plan, the City development code and other City plans and ordinances. With conditions, the proposal will be consistent with the goals and policies of the Comprehensive Plan, the City development codes (R-10 development standards with allowed modifications through the RCD and the RCD development standards), Critical Areas Ordinance, Street and Road standards, Water and Wastewater and Stormwater requirements. Conditions of approval are necessary to ensure that the private roads will be developed consistent with Title 11 of the BMC; that water and wastewater services are developed consistent with Chapter 15.03; that wetland and stream buffer mitigation and monitoring will be consistent with the buffer modification monitoring plan required prior to final plat approval; and that stormwater drainage will be consistent with the recommendations in the geotechnical report (Exhibit A, Attachment 17). *Findings 1-27.*

B. The residential development integrates with its surroundings and is designed to harmonize with existing or proposed development in the neighborhood. BMC 20.60.068 requires density for underutilized urban fringe areas at a minimum of seven dwelling units per acre and a maximum of 10 dwelling units per acre. The project is proposed at seven dwelling units per acre. Therefore, the proposal for seven dwelling units per acre is compatible with the surrounding neighborhood and designed to be harmonious with existing or proposed development. *Findings 1, 4, 15, 16, 18.*

C. The traffic generated by the development can be accommodated safely and within acceptable Levels of Service for affected streets. The Applicants' consultant prepared a Traffic Impact Analysis, which was reviewed by the City Engineer. While the TIA determined that the proposed application would not cause a significant adverse affect on the operation of the study intersections, the City has required mitigation through the MDNS process. *Findings 1, 9, 11, 25, 26.*

D. With conditions, the development will adequately be served by existing or planned facilities and services. e City of Bremerton issued a Conditional Water and

Sewer Letter on May 4, 2006. Conditions of approval are necessary to ensure that the City's water and sewer requirements in the City's letter are met. Kitsap Transit would provide public transit and bus stops to serve the development and the Bremerton School District would provide school bus stops for students. *Finding 1, 8, 22.*

E. **With conditions, the development makes adequate and appropriate provision for the preservation of the environment, both natural and man-made, and the conservation of energy.** The proposal has been designed to provide adequate provisions for environmental preservation and energy conservation. The proposed project will avoid filling in wetlands. Stream and wetlands buffers have been modified to create a net gain of 1976 square feet of buffers. Conditions of approval are necessary to ensure that stream and wetland buffers are provided. Conditions, Covenants and Restrictions for the project would be required to include notice of the presence of dangerous wildlife on-site and in close vicinity. The proposed project would provide 91 acres of active and passive open space. A trail within the development would be provided to adjoining Pendergast Park. The proposed houses would meet state energy codes. Conditions of approval are necessary to ensure that a final Open Space Plan will be provided. *Findings 1-4, 6-9, 21, 22, 24, 26.*

DECISION

Based upon the preceding Findings and Conclusions, the request for approval of a preliminary plat and a Residential Cluster Development (RCD) to subdivide 202.57 acres into 629 lots, including attached single family (townhomes) lots, conventional detached single family lots, and 91 acres of active and passive open space is **GRANTED**, subject to the following conditions:¹⁶

1. Approval of the Residential Cluster Development constitutes an overlay to the underlying zone and allows modification to development standards.
2. Approval of the Residential Cluster Development is limited to only those designs and standards specifically indicated in the application.
3. The Development Agreement shall be amended to eliminate the residential portion of the agreement prior to Final Plat approval.
4. All perimeter lots setbacks shall meet BMC 20.60.060(1).
5. Screening from surrounding properties for community utility, trash and outdoor storage facilities shall be provided per BMC 20.58.060(f)(6).
6. A Final Open Space Plan with monitoring, maintenance and guarantees are required with the Final Plat submittal.

¹⁶ This decision includes conditions required to reduce project impacts as well as conditions required to meet City Code standards.

7. Development shall comply with Geotechnical Report prepared by Geo Engineers, as follows:
 - a. All authorized clearing shall be limited to the minimum necessary to accomplish construction. Clearing, grading or filling of this site shall be limited to the period between May 1 and October 1. All said site disturbances shall be marked in the field for inspection and approved by the applicant's geotechnical engineer and city building inspectors prior to alteration of site. The face of the cut and fill on slopes shall be prepared and maintained to control against erosion.
 - b. Graded areas should be shaped to avoid directing runoff onto cut or fill slopes, natural slopes or other erosion-sensitive areas. Tight lines should be used to direct storm or other surface water across slope areas.
 - c. A minimum 25' setback is required from the edge of the moderate slope with a minimum 50' setback from the crest or toe of the steep sloped areas.
8. A Buffer Modification Monitoring and Contingency Plan is required prior to Final Plat approval. Monitoring is required at least once per year for three years, with a copy of the report submitted to the Department of Community Development on an annual basis.
9. The Conditions, Covenants and Restrictions (CC&R) for this development shall include language that notify future property owners regarding dangerous wildlife presence and provide cautionary measures for proper management of garbage, food, and safe use of pesticides. A copy of the CC&R shall be provided with the Final Plat submittal.
10. The stormwater quantity and quality shall comply with BMC 15.04. Temporary erosion and sediment control Best Management Practices shall be enacted on all building sites.
11. Development must comply with the conditions of the Sewer and Water Availability letter, as follows:
 - a. Connect at the existing 12-inch ductile iron distribution main located near the west most northwest property corner and proposed Lot 490's east property line, a 12-inch ductile iron main.
 - b. Extend the 12-inch ductile iron main from the north line, south in Road AA approximately 200 feet to the intersection of Road Z; then east in Road Z, approximately 220 feet to the intersection of Roads Z & U, then southerly in Road U approximately, 300 feet to the intersection of Roads W & U, then extend along Road W approximately, 350 feet to the intersection of Roads A & W, then extend along Road A approximately, 250 feet to a point in Road A located between proposed Lots 449 & 450, extend from said point in Road A approximately, 230 feet south in a 20 foot water easement to the south property line of proposed development, for future south extension of the 650 zone S.

- c. Install a Pressure Reducing Valve (PRV) within Road A Right-of-Way south of the 12-inch main intersection approximately between proposed lots 448 & 449 to reduce the 650 zone.
- d. Connect to existing 8-inch ductile iron main located at the north most northwest property corner of the proposed development. Then extend to the east side of proposed lot 362 or the south side of lot 370, in a 20-foot water easement.
- e. Install a PRV and intertie for the reduced 650 and 440 zones approximately between proposed Lots 45 & 388 within the proposed Road B Right-of-Way west of the proposed park.
- f. Connect at the 12-inch provided by Olympic Property Group at the east property line and main access into the residential development.
- g. Extend a 12-inch ductile iron main east to Road B. Then extend the 12-inch south to the intersection with Road C. Then extend southerly to the south property line of this development between proposed Lots 296 & 297 with the 12-inch for future extension.
- h. Fire flow requirements will be in accordance with the International Fire Code.
- i. Waterlines within the development will be looped. No dead-end waterlines are permitted; except on a case by case basis at dead-end roads shown on the plat where meters shall be placed at primary roads.
- j. Minimum waterline diameter will be 8".
- k. Fire hydrant spacing and location shall be in accordance with the City of Bremerton Utility Development Standards, International Fire Code and approved by the Bremerton Fire Marshal.
- l. Utility Development Standards mains to be extended to the far property lines to provide the ability for future expansion of the utility into the currently undeveloped UGA. These mains are required to be adequate in size to meet the potential demands and shall be located in the most likely place for future extension and accessibility for service.
- m. Pursuant to BMC 15.02.070 there will be a need for private PRV's on private individual residences with service pressures over 80 psi.
- n. Minimum main size shall be 8-inch. Larger main sizes where required will be provided as necessary to meet the minimum requirements of the City of Bremerton Utility Development Standards.

- o. All sanitary sewer system improvements as well as individual wastewater services shall meet the City of Bremerton Utility Development Standards..
 - p. Private Individual Grinder Pumps must meet City of Bremerton Residential Grinder Pump Standards.
 - q. Each building lot or structure is required to be served by a single private sewer lateral.
12. All water and sewer improvements and connections shall be in accordance with the City of Bremerton Utility Development and Construction Standards, APWA/DOT Specifications, AWWA Standards, and Title 15 of the BMC.
 13. Development must comply with BMC 11.12.130 and 11.12.200 and provide street lighting. A detailed street lighting plan is required to be submitted and approved by the City Engineer prior to Final Plat approval.
 14. Development shall comply with BMC Title 11.12, City Street Standards, including curb, gutter, and sidewalks.
 15. Development shall comply with traffic mitigation to include:
 - a. Internal streets shall be designed and constructed in general accordance with the “Preliminary Plat of West Hills”, dated July 5, 2006. Street widths shall be as shown on the plat. Specific alignment, grade, cross section, and other design details shall be subject to approval by the City Engineer as part of construction plan approval.
 - b. Prior to issuance of any building permits beyond the scope of Phase 1, the applicant shall construct “interim” improvements to the intersection of Werner Road at Union Avenue in accordance with the TIA, to consist of providing a dual left turn from westbound Werner Road to southbound Union Avenue, including pavement widening, channelization, shoulders/sidewalks, drainage, signal modification and illumination.
 - c. Prior to issuance of any building permits beyond the scope of Phase 1, the applicant shall construct an interim traffic control signal at the intersection of the SR 3 southbound on-ramp with Werner Road in accordance with the TIA, including any necessary right-of-way, pavement widening, channelization, shoulders/sidewalks, drainage, signal modification, and illumination.
 - d. The applicant shall enter into an agreement with the City of Bremerton to pay a fair share contribution to future city-sponsored improvements on the Werner Road corridor as follows:
 - Twenty (20%) percent of the city-approved cost estimate of “ultimate” improvements to the intersection of Werner Road at Union Avenue to provide Level of Service “D” or better in 2015, including right-of-way, pavement

widening, channelization, sidewalks, illumination, drainage, and signal modification. The applicant shall be credited the cost of the interim intersection improvements at Werner Road and Union Avenue against the fair share contribution to the ultimate improvements.

- Fifteen (15%) percent of the city-approved cost estimate of installing a permanent traffic signal at the intersection of Werner Road with the southbound SR 3 off-ramp to provide Level of Service “D” or better in 2015, including right-of-way, pavement widening, channelization, shoulders/sidewalks, drainage, signal modification and illumination. The applicant shall be credited the cost of the interim signal against the fair share contribution to the permanent signal.
- The applicant shall provide additional traffic analyses to determine the lane configuration of the Werner Road corridor at the intersections of Union Avenue, Auto Center Way, and the SR 3 off-ramp necessary to provide Level of Service “D” or better in 2015.

e. Prior to issuance of any building permits beyond the scope of Phase 1, provide intersection improvements at the intersection of the Pendergast Park access road at Union Avenue, to consist of an eastbound to northbound left turn pocket. The applicant shall coordinate these improvements with the improvements planned at this intersection by the developer of the West Hills commercial phase.

f. Prior to issuance of any building permits beyond the scope of Phase 1, improve the Pendergast Park access road including curb and gutter, sidewalk, drainage, and illumination to current City of Bremerton standards. The applicant shall coordinate these improvements with the improvements planned by the developer of the West Hills commercial phase.

g. Fire sprinkler systems are required for every structure built within the project development in all phases, currently planned and future phases. These fire sprinkler systems, if necessary as determined by an approved fire sprinkler designer, may be required to utilize fire pumps which will require a back up power supply. Fire sprinkler systems are to be reviewed, inspected and tested.

16. A hydraulic permit is required from Washington State Fish and Wildlife prior to stream crossings.
17. The applicant is responsible to comply with all Federal and State laws pertaining to Archaeological and Historical Preservations, including RCW 27.44 and 27.53.
18. The Washington State Department of Natural Resources (DNR) requires approval of a Forest Practice IV- General application prior to clearing the site. A copy of DNR’s approval of the Forest Practice applicant shall be submitted to the City before beginning work to clear the site.

19. The applicant is required to coordinate bus stops and shelter locations with Kitsap Transit and Bremerton School District. The Final Plat shall include locations of bus stops and shelters.
20. 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.

Decided this 8th day of August 2006.

DRISCOLL & HUNTER
Hearing Examiners for the City of Bremerton

By:


Theodore Paul Hunter