

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

In the Matter of the Application of)	NO. BP04-00412
)	
Mark Sweeney)	Sylvan Plat
)	
For approval of a Preliminary Plat)	FINDINGS, CONCLUSIONS, AND
)	RECOMMENDATION
_____)	

SUMMARY OF REQUEST AND RECOMMENDATION

Mark Sweeney (Applicant) requests approval of a preliminary plat to divide a 1.39 acre parcel located at the northeast intersection of Rickey Road and Sylvan Way into 11 building lots and three tracts (for roads and a storm water retention facility).¹

The Hearing Examiner recommends that the request be **APPROVED**, subject to conditions.

CRITERIA FOR REVIEW

Bremerton Municipal Code (BMC) Chapter 21.02.855 contains the City of Bremerton's requirements for processing a preliminary plat application. This chapter requires that the Hearing Examiner hold an open record hearing on the matter and make a written recommendation to the City Council based on the record developed at the hearing. The City Council then makes the final decision following a closed record hearing.

The City of Bremerton has not adopted a subdivision ordinance. Therefore, the requirements set forth in the Revised Code of Washington (RCW) §58.17 govern the Hearing Examiner's recommendation and the City Council's decision. According to RCW §58.17.110, before a preliminary plat can be approved, it must be determined in written findings that the public interest will be served by the subdivision. Specifically, it must be determined that the preliminary plat makes provisions "for the public health, safety, and welfare, for open spaces, drainage ways, streets or roads, alleys, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools, and sidewalks for safe walking conditions".

1 The parcel's legal description is "Parcel A: That portion of the east ½, west ½, southeast ¼, northeast ¼, southwest ¼ of Section 2, Township 24 North, Range 1 East, Willamette Meridian. Except the North 240 feet as measured along the east and west sides of said subdivision and except the south 30 feet deeded to the City of Bremerton for Sylvan Way by instrument recorded under Auditor's file no. 825424 and except that portion described in instrument recorded under Auditor's file no. 814143. The Tax Assessor Account Numbers is 022401-3-061-2005. *Exhibit 1, page 1; Exhibit 1, Attachment d, page 1.*

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The Hearing Examiner's recommendation and the City's decision must also be consistent with the City of Bremerton's Comprehensive Plan (See BMC §21.02.040). The following provisions of the Comprehensive Plan apply to the current application:

PLANNING GOALS

Goal # 1 Urban Growth: Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.

Supporting Policy (3): Accommodate new development with care so that Bremerton will continue to be a well-balanced "most livable city."

Goal # 2 Reduce Sprawl: Reduce the inappropriate conversion of undeveloped land into sprawling, low-density development.

Supporting Policy (5): Promote the concept of development clustering to conserve energy, save land, lower public costs, reduce sprawl, and provide open space.

Goal # 4 Housing: Encourage the availability of affordable housing to all economic segments of the population of this state, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock.

Supporting Policy (3): Provide continuing opportunities for a range of housing types and densities that will accommodate the lifestyles and economic levels of present and future residents.

HOUSING ELEMENT

Goal D (2) New Housing Development: Provide a variety of housing types and densities to meet changing needs of Bremerton residents.

Supporting Policy (3): Stimulate the production of new housing for all income, age, family type and ethnic groups.

Goal D (4) Livable Neighborhoods: Build strong, livable neighborhoods where the American Dream of home ownership is possible for a majority of Bremerton Residents.

Supporting Policy (5): Promote safe, attractive, livable neighborhoods that will attract homeowners.

Supporting Policy (6): Increase opportunities for home ownership within the City. Promote expanded home ownership opportunities for low and moderate income households.

SUMMARY OF RECORD AND HEARING

An open record public hearing was held before the Hearing Examiner of the City of Bremerton on February 28, 2005. The record is developed at the open record public hearing. The Hearing Examiner makes a written recommendation regarding the proposed preliminary plat to the City Council based solely on the record presented at the hearing.

The following individuals submitted testimony under oath at the hearing:

1. Robert Grumbach, City of Bremerton Planner
2. Ron Cleaver, Jr., representative of Applicant

The following exhibits were admitted to the official record at the hearing:

Exhibit 1	Staff Report dated February 28, 2005.
Attachment A:	PUD Application dated November 9, 2004
Attachment B:	SEPA Determination dated February 9, 2005
Attachment C:	Comprehensive Plan Designation Map
Attachment D:	Easement Document
Attachment E:	Public Works Letter dated January 28, 2005
Attachment F:	Water and Sewer Availability Letter dated January 22, 2004
Attachment G:	Preliminary Storm Water Report dated August 26, 2004
Attachment H:	City and State Agency Comments
Attachment I:	Affidavit of Notice dated February 9, 2005
Attachment J:	Site Plan

Exhibit 2 Slides of Power Point presentation given by Robert Grumbach

Exhibit 3 Map showing parks and schools in vicinity

FINDINGS

Based on the record outlined above, the Hearing Examiner enters the following Findings and Conclusions regarding the proposed preliminary plat:

1. The Applicant requests approval of a preliminary plat to divide a 1.39 acre parcel located at the northeast intersection of Rickey Road and Sylvan Way in Bremerton, Washington into 11 building lots and three tracts for roads and a storm water retention facility. Tract A will contain an access road and utilities. Tract B will contain an access road and utilities. Tract C will contain the storm water retention facility. *Exhibit 1, page 1; Exhibit 1, Attachment A; Exhibit 1, Attachment B, page 15; Exhibit 1, Attachment J.*
2. The preliminary plat application was received on November 9, 2004. The application was determined complete on December 7, 2004. As of December 7, the subject property was zoned residential low-density (DR). The intent of DR zoning is to maintain neighborhoods of predominantly single and two unit structures. The zone allows a density of eight dwelling units per acre, a minimum single-family dwelling unit lot size of 4,000 square feet, and a maximum lot size of 6,000 square feet. The density for the proposed project is 7.9 dwelling units per acre. The lot sizes range

from 4,000 square feet to 4,853 square feet, and comply with the requirements for single-family dwellings in this zone. *Exhibit 1, pages 2-3, 11; Exhibit 1, Attachment I; Testimony of Mr. Grumbach.*

3. Following the determination of a complete preliminary plat application, the Bremerton City Council adopted an updated Comprehensive Plan. The updated comprehensive plan designated the subject property as "Low Density Residential" (LDR). The new zoning designation to implement the comprehensive plan will be R-10. The updated zone increases the minimum lot size from 4,000 square feet for single-family dwellings to about 4,300 square feet. Some of the lots in the proposed project will not comply with the new R-10 zone but, pursuant to RCW 58.17.170, the application vests to the zoning standards in effect on December 7, 2004. *Exhibit 1, page 2; Exhibit 1, Attachment J.*
4. Surrounding areas to the north, west, and east are zoned "Residential Low-Density" (DR). The surrounding area to the south is zoned "Residential Low-Density" (SR-3). Duplex residences are to the north and west, and single-family residences are to the south and east of the proposed project. *Exhibit 1, page 2; Exhibit 1, Attachment B, page 13.*
5. The definition of "lot" in BMC §21.02.070 requires a minimum of 20 feet of frontage on either a public or private street. A minimum lot width of 40 feet is also required. All proposed lots comply with these requirements. *Exhibit 1, page 5, Exhibit 1, Attachment A.*
6. BMC §21.02.700(a)(1) requires non-residential structures to have landscaping or a combination of landscaping and fencing to provide a year-round sight barrier to sights that abut any SF or DR zoning district. Additionally, one tree per 25 lineal feet of street frontage is also required. The storm water retention facility located on Tract C is considered a non-residential structure and must comply with these requirements. No landscaping is currently shown on the preliminary plan. *Exhibit 1, page 6; Exhibit 1, Attachment A.*
7. The site is currently undeveloped. The land is mostly flat, with a slope ranging from two to eleven percent. Alder, maple, fir, and cedar trees, along with other grasses and shrubs, cover the site. No critical areas were identified on the site. There are no threatened or endangered species known to be on or near the site. Songbirds currently live on the site. *Exhibit 1, pages 2, 6; Exhibit 1, Attachment B, pages 9-10, 11, 14.*
8. The City of Bremerton does not require an open space set aside for this project. *Exhibit 1, Attachment A.*
9. Access to the site will be provided through a 50 foot public right of way that will extend north from Sylvan Way. A dedication of approximately 8,277 square feet, or

a 20 foot wide strip, in addition to the existing 40 foot access easement, will be required to create the right of way. The right of way will be developed to the standards of a Local Access Two Way Street and will include sidewalks on both sides. The City Engineer will require the future development of an eight foot wide parking strip along the west side of the street, but will not require a bike lane. Lots 1 through 4 will access the right of way through Private Road Tract A and Lots 6 through 11 will have access through Private Road Tract B. Sidewalks will extend through Private Road Tracts A and B. *Exhibit 1, pages 6-7; Exhibit 1, Attachment A; Exhibit 1, Attachment B, page 18. Exhibit 1, Attachment J.*

10. Signs are required to identify the new right of way. All street signs are required to meet City standards as provided in the City of Bremerton's Engineer Standards 3251 through 3300. The installation of the signs will be conditions of final plat approval. *Exhibit 1, page 8.*
11. Frontage improvements, including sidewalks, associated storm drainage and conduit runs for future street lights, are required along Sylvan Way. The installation of these improvements will be conditions of final plat approval. *Exhibit 1, page 8.*
12. A fire hydrant is required to be within 250 feet of the proposed preliminary plat per Appendix C of the International Fire Code for residential development pursuant to BMC §18.02.060. The installation of the fire hydrants will be a condition of final plat approval. *Exhibit 1, page 8; Exhibit 1, Attachment J; BMC §18.02.060.*
13. The City Engineer evaluated the proposal for traffic impacts and determined that a traffic study is not required pursuant to BMC §11.12.060. The proposed development is anticipated to generate an increase of 5.43 Weekday PM Peak Vehicle Trips per hour. This is an increase of 40.4 Weekday Average Vehicle Trips per day. This is not a significant impact and it will not affect the free flowing traffic of the existing level of service on Sylvan Way. The area is served by Kitsap Transit; Route 25 makes a regular stop at Rickey Road and Sylvan Way. *Exhibit 1, page 11; Exhibit 1, Attachment B, page 17; Exhibit 1, Attachment H, page 1.*
14. The City of Bremerton's Public Works & Utilities Engineering Division issued a letter of conditional water and sewer availability to the project on January 22, 2004. Water and sewer service was approved conditional upon conformance to the City's Comprehensive Land Use Plan and zoning ordinance. Water service is conditionally available within the easement to the east of the proposed plat. Sewer service is conditionally available in the easement to the west of the proposed plat. *Exhibit 1, Attachment F; Exhibit 1, page 11.*
15. A storm water retention facility will be located on Tract C. This facility will include a shallow detention vault that will retain storm water and release it at allowable runoff rates. An oil and water separator and a wet vault will be used for quality enhancement

of all storm water collected from the developed basin. *Exhibit 1, Attachment B, pages 9-10.*

16. Blueberry Park is the nearest park to the proposed plat. It is located approximately 900 feet to the southeast of the subject parcel. The nearest school is Armin Jahr Elementary School. It is located approximately 1,200 feet to the southeast of the proposed plat. The School District did not comment on this application. *Exhibit 3.*
17. Pursuant to the State Environmental Policy Act (SEPA), the application was reviewed for possible environmental impacts. The City of Bremerton Department of Community Development was designated lead agency and the Responsible Official concluded that the project would have no probable significant environmental impact. A Determination of Nonsignificance was issued on February 9, 2005, and became final on February 24, 2005. No public comments were received regarding the proposed preliminary plat. *Exhibit 1, page 11; Exhibit 1, Attachment B, page 1.*
18. The Notice of Application was published in *The Sun* and posted on the property on December 13, 2004. Notices were mailed to state and local agencies, and property owners within 300 feet of the site. The notice of public hearing was published in *The Sun* and posted on the property on February 9, 2005. Notice of the hearing was mailed to property owners within 300 feet of the site. *Exhibit 1, page 11; Exhibit 1, Attachment I; Testimony of Mr. Grumbach.*

Conclusions Based on Findings

1. **With conditions of approval, appropriate provision would be made for the public health, safety, welfare, and all other requirements of RCW §58.17.110.** Storm water runoff from new roads will be treated in a storm water retention facility located on Tract C. Water and sewer service is available to the proposed project. There is a transit stop located near the proposed development. A set-aside for open space is not required for this project. Adequate emergency access will be provided by the new right-of-way. Sidewalks will be installed throughout the proposed project to provide safe walking conditions. *Findings of Fact 1-18.*
2. **With conditions of approval, the public use and interest will be served by approval of the preliminary plat.** Roads, storm drainage, and public utilities connections will provide the necessary infrastructure for the 11 new single-family residential lots. *Findings of Fact 9, 11, 12, 14, 15.*
3. **The proposed preliminary plat complies with the City of Bremerton's Comprehensive Plan.** The smaller lot sizes will provide more affordable housing for the City of Bremerton. The proposed project reduces sprawl by locating new residential development where public services are already available. The proposed development will be a safe and attractive community, close to parks and schools. *Findings of Fact 1, 2, 3, 4, 16.*

RECOMMENDATION

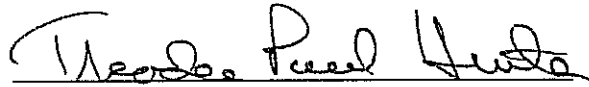
Upon consideration of the Findings and Conclusions, the Hearing Examiner recommends **APPROVAL** of the request for the Preliminary Plat to divide a 1.39 acre parcel located at the northeast intersection of Rickey Road and Sylvan Way in Bremerton, Washington into 11 building lots and three tracts for roads and a storm water retention facility, subject to the following conditions:

1. The access easement located adjacent to the west property line shall be developed to the City's Local Access Two Way street standards. The property owner shall be responsible for improvements that meet the City's standards per the letter from City of Bremerton Public Works dated January 28, 2005. Improvements shall be installed or bonded for prior to final plat approval.
2. A 20 foot wide dedication of public right of way is required per the submitted site plan received by the City of Bremerton November 9, 2004. The dedication shall be included on the face of the final plat and the City Engineer must approve the language for the dedication.
3. Road Tracts A & B shall be developed to the City's Shared Driveway Access street standards. Improvements shall be installed or bonded for prior to final plat approval.
4. The final plat shall contain language regarding shared ownership and maintenance responsibilities for Private Road Tracts A & B.
5. The final plat shall contain language that no on-street parking shall be allowed on Road Tracts A & B.
6. Frontage improvements, including sidewalks, associated storm drainage and conduit runs for future street lighting, are required to be installed or bonded for prior to final plat approval. All improvements shall meet City Engineering standards set forth in BMC Title 15.
7. The Public Works conditions set forth in the Water and Sewer Availability letter dated January 22, 2004 shall be included as conditions for approving the final plat. The water main extension shall be installed or bonded for prior to final plat approval.
8. A final storm drainage and grading plan shall be submitted to the Public Works Department that meets the City Engineer's approval. All storm drainage systems shall be installed or bonded for prior to final plat approval.

9. Street identification signs are required per the City Engineering Standards 3251 through 3300. The street signs shall be installed or bonded for prior to final plat approval.
10. A fire hydrant meeting City standards is required. The fire hydrant shall be installed or bonded for prior to final plat approval. If the fire hydrant is bonded for, the hydrant must be installed and operational prior to any construction above building foundations.
11. The storm drainage facilities located on Tract C shall be landscaped according to BMC §21.02.700(a)(1). A landscaping plan that is acceptable to the City must be submitted prior to final plat approval. The landscaping shall be installed or bonded for prior to final plat approval.
12. The final plat shall contain language regarding shared ownership and maintenance responsibilities for the storm drainage facilities and the associated landscaping.
13. Addresses for the individual lots shall be obtained from the Public Works Department and shall be indicated on the final plat.
14. A survey of the proposed final subdivision and preparation of the plat shall be made by or under the supervision of a Washington State registered land surveyor who shall certify on the plat that it is a true and correct representation of the lands actually surveyed. Two copies of the lot closures shall be submitted with the application for final approval of the plat.
15. For the right of way dedication: a waiver of all claims for damages against any government authority, which may be occasioned to the adjacent land by the established construction, drainage, and maintenance of said road shall be included on the final plat.
16. A final plat meeting applicable development standards and conditions shall be submitted to the Department of Community Development for approval within five years of the date of preliminary plat approval.
17. Two copies of the plat certificate shall be submitted with the application of final approval of the plat.
18. Six copies of the plat (not mylar) shall be submitted to the Department of Community Development for final compliance review.
19. The subdivision shall be vested for five years following final plat approval in the allowed uses and development standards for Low-Density Residential (DR) zoning, which were in effect November 9, 2004.

20. A copy of the recorded plat shall be provided to the Department of Community Development after it is recorded with the Kitsap County Auditor before building permits will be issued.

Recommended this 4th day of March 2004.



Theodore Paul Hunter
Hearing Examiner of the City of Bremerton