

June 3, 2014

**CITY OF BAINBRIDGE ISLAND, WASHINGTON
HEARING EXAMINER**

REPORT AND DECISION

Project: PVT Estates Subdivision

File number: SUB18273

Applicant: PVT Estates, LLC
10209 Bridgeport Way SW, Suite C-1
Lakewood, WA. 98499

Request: Preliminary long lot subdivision approval to create 17 single-family lots and open space tracts on approximately 7.11 acres in accordance with the City's open space flexible lot design subdivision provisions.

Location: The project site is located north of Wing Point Way NE, between Ferncliff Avenue and Azalea Avenue, at 1120 Wing Point Way.

Environmental Review: The project is subject to State Environmental Policy Act (SEPA) review as provided in Washington Administrative Code (WAC 197-11-800). A Mitigated Determination of Non-Significance was issued on May 2, 2014. The 14-day appeal period ended on May 16, 2014.

FINDINGS OF FACT

A. Site Characteristics

- I. Tax Assessor Information:
- A. Tax Lot Numbers: 262502-1-023-2006
 - B. Owners of Record: PVT Estates
 - C. Lot Size: *7.11 acres or 309,906 square feet
 - D. Land Use: Residential

*Lot size according to the Assessor is 6.78 acres. The applicant submitted a survey that showed the current lot size at 7.2 acres or 313,983 square feet. The applicant intends to apply for and record a boundary line adjustment as a separate application before applying for final subdivision

approval. The difference between the existing lot size and the proposed lot size is approximately 4,000 square feet. The calculations in this report are based on the adjusted lot size. The difference in square footage between pre- and post-boundary line adjustment does not alter the analysis (Exhibit 25).

2. Terrain: The site is located along a north-south trending ridge line with a slight slope down to the west. A steeper slope lies to the east down to a stream that runs through the eastern portion of the site. The stream has steep slopes on either side with 10% to 40% grades and elevation changes from 20 to 30 feet.
3. Soils: Soil mapping indicates that the site has several different soils, including Dystric Xeronthents, Harstine gravelly sandy loam, Kapowsin gravelly loam (Soil Survey of Kitsap County Area, Washington; U.S. Department of Agriculture, Soil Conservation Service, 1977).
4. Existing Site Development: The far western portion of the site has an access driveway that connects to Wing Point Way and a single family home (built 1939) that has received a permit for demolition, after review from the City's Historic Preservation Commission (HPC).
5. Proposed Access: The site will continue to be accessed from Wing Point Way NE. A new street will be created through the site to serve the newly created lots.
6. Public Services and Utilities: The property is serviced by City of Bainbridge Island Water and Sewer.
7. Zoning/Comprehensive Plan Designation: The subject property is zoned as R-2.9, 15,000 square feet per unit. The Comprehensive Plan Designation is Semi-Urban Residential, 2.9-3.5 units per acre.
8. Surrounding Zoning/Comprehensive Plan Designation:
 - A. North: R-2.9, SUR 2.9-3.5 units per acre
 - B. South: R-4.3, SFR 4.3-6 units per acre
 - C. East: R-2.9, SUR 2.9 – 3.5 units per acre
 - D. West: R-2.9, SUR 2.9 – 3.5 units per acre
9. Surrounding Uses:
 - A. North: Wing Point Golf Course.
 - B. South: Single-family residences.
 - C. East: Cleared land, commonly known as Wing Point Patio Homes, approved for an eleven, detached-unit, multi-family project on 3.92 acres.
 - D. West: Single-family residences in subdivisions known as Tiffany Meadows and Wing Point Estates.

B. Procedural History

10. A pre-application conference was held October 25, 2012. The preliminary subdivision application was deemed complete May 8, 2013, and a Notice of Application was issued May 17, 2013. A public participation meeting was held on July 11, 2013. Revisions to the site plan and associated documents were submitted on August 20, 2013, December 11, 2013, and April 15, 2014. The public hearing on the plat application was held on May 22, 2014, with the record left open to receive an agreement as to revised plat conditions between the applicant and an adjacent property owner, Malcolm Mead, plus additional staff comments. Final comments were received on May 27, 2014.

11. In addition to Mr. Mead, public comments were received from other neighbors regarding the proposed development. Commenters expressed concerns about preservation of existing trees on the

property, stormwater management, plat density, protection of critical areas, utility infrastructure, buffer requirements, traffic, access location and visibility, and construction impacts.

12. Regarding agency review, The Fire Marshal (Exhibits 12 & 18) provided a comment and requested that an approved fire hydrant be located on Wing Point Way near the entrance to the subdivision and that it be spaced in accordance with BIMC 13.10.060. An approved fire apparatus turnaround shall be provided (Condition 42). The Kitsap County Health District (Exhibits 8 & 19) provided a short plat approval sheet for the water and sewer. The Health District also commented that the existing well needs to be decommissioned prior to final plat approval. The City's Public Works Operations and Maintenance (O & M) issued a Binding Commitment Limited Reservation for Sewer and Water on March 29, 2013, and a comment letter on February 12, 2014. The February 12, 2014 comment letter imposed three requirements: 1) Because this property is in the water system low zone with the pressure-reducing valve at the intersection of Ferncliff and Wing Point Way set at 35 psi, the applicant will be required to confirm that it can meet 32 psi at the water meter and fire flow at 20 psi and 1,000 gpm. 2) The sewer from the project shall be connected on Wing Point Way using a saddle manhole. Each side sewer line shall include a cleanout at the edge of the right of way and additional cleanouts within five feet of each house. 3) The storm drainage pipe on Wing Point Way will need to be inspected and reviewed to determine that it has adequate capacity to receive stormwater discharged from this project.

C. Regulatory Compliance

Comprehensive Plan Goals and Policies

13. On pages 12 through 15 the Department of Planning and Community Development staff report provides a thorough and complete discussion of the City Comprehensive Plan policies bearing upon review of the PVT Estates application. These include policies for open space, trails and residential development. The staff report Comprehensive Plan discussion is adopted herein by reference.

Land Use Code Requirements

14. *Critical Areas*

a. BIMC 16.20.130.C. 2: Development Standards:

The site contains a non-fish bearing perennial (Np) stream in a ravine. Streams within a ravine are required maintain either the buffer width assigned to the stream type (50 feet) or a buffer width which extends 25 feet beyond the top of the ravine, whichever is greater. The City received a topographic survey on December 18, 2012, that identified both the top of the ravine slope and stream channel width. The habitat buffer edge is depicted as lying 25 feet from the top of the ravine. An additional 25 feet of buffer will be provided for protection of the steep slopes, resulting in a total buffer width of 50 feet from the top of the ravine.

b. BIMC 16.20.130.C. 8: Land Divisions and Land Use Permits:

1. *The open area of lakes, streams and tidal lands shall not be permitted for use in*

calculating minimum lot area. The stream and its buffer are excluded from lot area calculations and will be placed in a separate open space tract.

2. *Land division approvals shall be conditioned so that all required buffers are designated as an easement or covenant encumbering the buffer. Such easement or covenant shall be recorded together with the land division and represented on the final plat, short plat or binding site plan.* The final plat will include a recorded easement or covenant for the stream and its buffer (Condition 23).
 3. *In order to avoid the creation of a nonconforming lots, each new lot shall contain at least one building site that meets the requirements of this chapter, including buffer requirements for habitat conservation areas. Each lot must have access and a sewage disposal system location that are suitable for development which do not adversely impact fish and wildlife conservation area.* Each lot will be serviced by City sewer and water and contain a building site outside the stream and its buffer.
 4. *After preliminary approval and prior to final land division approval, the director may require that the common boundary between a required buffer and the adjacent lands be identified using permanent signs. In lieu of signs, alternative methods of buffer identification may be approved when such methods are determined by the director to provide adequate protection to the aquatic buffer.* As part of the plat utility permit, the applicant will provide and maintain approved signage along the stream and its buffer (Condition 23).
- c. BIMC 16.20.130.C.10, Trails and Trail Related Facilities, allows construction of public and private trails and trail-related facilities, such as benches, interpretive centers and viewing platforms, in fish and wildlife conservation areas or their buffers. The Open Space Management Plan includes trails and trail-related facilities as permitted uses and applicable development standards will be incorporated into the final plan (Condition 21).
 - d. BIMC 16.20.150.E, Development Standards, requires a buffer equal to the height of the slope or 50 feet, whichever is greater, to be established from the edge of any landslide hazard area. The site contains a landslide hazard area with some slopes greater than 40% in inclination but not greater than 50 feet in height. The 50-foot slope buffer requirement therefore applies. No development is proposed within steep slope buffers except trails, as permitted by the Open Space Management Plan and BIMC 16.20.150.F.

15. Zoning Standards

- a. Consistent with BIMC 18.09.020, R-2.9 Permitted Use Table, the proposed lots will accommodate single-family dwelling units, a permitted use in the R-2.9 zone.
- b. Although the flex lot design requirement is imposed by the subdivision regulations, the flex lot dimensional standards themselves appear within the zoning code at 18.12.020-1. For a property served by a public sewer system, 5,000 square feet is the applicable minimum lot area. The maximum number of lots permitted is calculated by dividing the total lot area of the

property by the minimum lot area for standard lots in the zone district. Here the base density is one unit per 15,000 square feet; within a gross area of 309,906 square feet (taking into account a future boundary line adjustment) this generates a base density of 20 units. All lots will need to be a minimum of 50 feet wide and are subject to a plat maximum building limitation coverage of 25%. On a property of 309,906 square feet, total lot coverage may not exceed 77,476 square feet, with 63,775 square feet proposed here.

c. BIMC 18.15.010 governs landscaping, screening, and the tree protection and retention requirements. Perimeter landscaping is generally required for multi-family development, non-residential uses, and in the Winslow Town Center Mixed Use and the High School Road Districts. But staff has concluded that perimeter landscaping requirements do not apply to an open space flex lot single-family subdivision in the R-2.9 zoning district that does not also abut a park or a conservation land buffer. In a subdivision where mature trees and shrubs of a forested nature are located adjacent to a collector (Wing Point Way), however, Table 18.15.010-5 mandates that a 50-foot vegetated roadside buffer shall be retained. The applicant had originally proposed to locate stormwater facilities in this buffer but has revised its plans to provide the full 50-foot buffer along Wing Point Way, the maintenance of which will be included in the Open Space Management Plan. Finally, because this is a residential subdivision, the tree unit retention requirements BIMC 18.15.010.G do not apply.

16. Residents of the Tiffany Meadows plat adjacent to the site argued strongly for the imposition of a 10 to 15 foot natural vegetation buffer along the plat's western boundary to separate and screen their somewhat larger lots. The wooded site features large evergreens in this area that they would like to see retained. In addition, Dr. Olaf Ribiero, a tree specialist, testified as to the ecological benefits of tree retention generally. While the City's ordinance provisions governing perimeter buffers are not exactly a model of clarity and consistency, staff's interpretation appears to be the correct one. The subdivision regulations authorize two modes of lot clustering, a mandatory "flex lot" version utilized for open space preservation exclusively and a broader optional one that looks to designing for "the efficient use of land by reducing disturbed areas, impervious surfaces, utility extensions and roadways, while providing for the protection of valued open space features" (BIMC 17.28.020(5)). While there is almost no intelligible real-world distinction between the two types of clustering, the regulatory differences are fairly dramatic. Subdivisions that fall within the mandatory open space category are exempt from meeting any perimeter buffer requirements, while the optional version is subject to the 25 foot filtered screen mandate of BIMC 18.15.010.D(3)(a). Thus in the present instance where there has been no SEPA appeal, no code authority remains available to impose a perimeter landscaping requirement along this open space flex lot plat's western boundary.

Other Impacts and Regulatory Issues

17. Wing Point Way is a narrow road with no sidewalks and minimal shoulders that experiences gradient variations. Concern was expressed by area residents about the effects of more traffic on Wing Point Way resulting from the addition of the proposed 17 single-family residences. The applicant submitted a Level One Traffic Impact Analysis (Exhibit 16) for the project that has been reviewed by an outside third party. The project will increase traffic, but it will not drop Wing Point Way below an acceptable level of service.

18. The issues of importance along Wing Point Way are related to safety more than to traffic volumes. East of the proposed plat entry road the collector descends toward and then crosses the ravine that is partially contained in the plat's open space tract. The TIA measured the entering sight distances from the plat entry road both east and west along Wing Point Way and concluded that the 280 feet required by the AASHTO guidelines for a 25 mph design speed would be met for both directions. While the grade to the east is in the 15% range, the TIA diagram shows the ground as having no humps that would block driver vision.

19. The need for pedestrian improvements along Wing Point Way has long been acknowledged by the City's non-motorized transportation planning process, and Capital Project 161 designed to address this need is working its way slowly but surely through the civic deliberation maze. It appears to be currently in the design stage. PVT Estates is being conditioned to provide a ten-foot right-of-way dedication along its Wing Point Way frontage and contribute to the capital project funds for sidewalk, bicycle lane and sidewalk ramp construction.

20. At the public hearing neighborhood resident Christine Larsen raised a question about the parking, storage and staging of contractors' vehicles and equipment during plat construction in the context of there currently being inadequate shoulder space along Wing Point Way for safe parking. This problem could be further complicated if plat construction overlapped with the Wing Point Way capital project. The public health and safety mandate that construction parking and staging not be allowed to occur along Wing Point Way or on nearby residential streets. A condition will be added to the plat approval requiring implementation of a plan for onsite construction parking and staging.

21. Malcolm Mead, the owner of property lying directly west of the site along Wing Point Way, has an existing residential driveway that exits immediately adjacent to the proposed plat entry road's intersection with Wing Point Way. The notion that the two contiguous access points would ever be able to coexist harmoniously as shown on the preliminary plat drawings was probably never taken seriously by either the applicant or Mr. Mead, but an actual settlement of their differences did not occur until midway through the public hearing. One benefit of the delay was that during the period leading up to settlement Mr. Mead's attorneys and consultants provided a detailed critique of the plat's preliminary technical documents that also identified some other areas requiring correction. The modified conditions arising out of the settlement agreement authorize Mr. Mead to re-route his driveway through Tract C to connect with the internal plat road, consolidating the two to provide a single access at Wing Point Way. With some minor additions, staff has agreed to the settlement conditions.

22. After buying a house in May, 2013, on Wing Point Way east of and downslope from the PVT Estates site, Jamie Beletz and his wife Melody Curtiss began to hear stories in the neighborhood regarding possible chemical pollution on the PVT site allegedly resulting from a prior owner's operation of a boiler treatment chemical resale business on the property. The concern focused on potential leakage from barrels containing chemicals. Mr Beletz contacted the county Health District, which in turn consulted with the state Department of Ecology. In June Kane Environmental Inc. performed a limited site assessment for polluted soils in the vicinity of the old site residence. Test pits produced trace amounts of arsenic, lead and chromium and an unregulated volatile organic compound. After reviewing the assessment Ecology recommended no further action be taken as to site investigation or clean-up.

23. At the hearing Mr. Beletz and Ms Curtiss continued to express concern about potential toxic

pollution issues, but other than repeating the truism that “water runs downhill” had no specific factual information to offer. A review of the preliminary drainage plan suggests that no potentially contaminated flows will be directed toward the Beletz property. The area around the existing old house will become the site of the Tract B stormwater pond, and the roadway plus the two lots north of Tract B will drain directly to the pond, then discharge to the Wing Point Way roadside ditch which flows east to the ravine. The Beletz property appears to be uphill from both the roadside ditch and ravine discharge point. As a further precaution, a condition will be added to require that any soils excavated from the stormwater pond should be disposed offsite.

Subdivision Design Standards

24. BIMC 17.12.020 requires all single-family subdivisions within the City to be designed in accordance with the flexible lot design requirements. In addition to the dimensional standards set out in Title 18, these include an elaborate exercise for reviewing the proposed open space under BIMC17.12.030. Of the eight possible open space objectives listed under subsection A(1), PVT Estates rings the bell on four: conservation and enhancement of natural or scenic resources via the protection of the stream and geologically hazardous buffers; protection of a stream; preservation of visual qualities along Wing Point Way by providing a 50 foot roadside buffer; and enhancement of recreational activities by providing a small pocket park within the development. Staff has also dutifully concluded that the PVT Estates open space design meets the configuration requirements of subsection A(2), comprises a high-priority amenity (subsection A(3)), exceeds minimum areal requirements (subsection A(4)), and will meet the applicable ownership (subsection A(6)), use (subsection A(7)), signage (subsection A(8)) and management plan (subsection A(9)) standards.

25. BIMC 17.12.040 states the General Residential Subdivision Standards that the preliminary plat must meet. These include the various design standards discussed above, plus meeting road, circulation and infrastructure requirements. As documented above and within the staff report, the general standards contained in BIMC 17.12.040 will be met by the PVT Estates preliminary plat application.

CONCLUSIONS

1. The Hearing Examiner has jurisdiction over this proceeding and is authorized under City ordinances to make a final decision on the PVT Estates preliminary subdivision application. Public hearing notice requirements have been met.
2. As documented with the findings stated above, the plat application for PVT Estates meets the decisional criteria stated at BIMC 2.16.125.H for preliminary approval of a long subdivision. It complies with the applicable land use and subdivision development standards of BIMC Titles 17 and 18, and, as conditioned, makes appropriate provisions for the public health, safety and general welfare and for the public use and interest, including all items listed in RCW 58.17.110. The proposed development will be consistent with the City's comprehensive plan.
3. The preliminary long subdivision was prepared in conformity with the requirements of the flexible lot design process. The open space set aside will ensure the long term protection of the stream, slope and buffer critical areas while providing adequate space for residential development at the density allowed by the zoning.

4. The City Engineer's recommendation for preliminary approval contains determinations that the City's decisional criteria for drainage, streets and pedestrian ways, road standards and utilities can be met, and such determinations are supported by substantial evidence within the record.

DECISION

The preliminary subdivision application for PVT Estates (file no. SUB18273) is APPROVED, subject to the following conditions of final plat approval:

SEPA CONDITIONS: (Please note there is no condition 6; this is not a typo.)

1. A Storm Water Pollution Prevention Plan (SWPPP) for the proposed development shall be provided for City review and approval in accordance with BIMC 15.20. The plans must be approved, the improvements constructed (or a construction bond provided if applicable), and an acceptable final inspection obtained prior to final subdivision application. The design submittal shall incorporate all proposed subdivision improvements including complete civil plans, grading and erosion control plans, roadway plan and profile, storm drainage facilities and drainage report, and shall be prepared by a professional engineer currently licensed in the State of Washington.
2. The SWPPP and all civil design shall meet the geotechnical recommendations. Confirmation of Geotechnical Engineer review and approval of the proposed locations of the dispersion trenches is required with the Plat Utility Permit. Note that dispersion trenches should not be located in the steep slope buffer area.
3. The site is greater than one acre in size, therefore prior to construction activities, the applicant shall apply for a Construction Stormwater General Permit (NPDES) through the Washington State Department of Ecology.
4. A Temporary Erosion and Sediment Control Plan will be needed for construction of both plat infrastructure and the individual lot development. The final plat shall contain a note for future property owners of this requirement.
5. The limits of clearing and grading shall be clearly marked in the field and inspected by the City of Bainbridge Island prior to beginning any clearing or grading on site. The terminus of the steep slope buffer shall be clearly marked.
7. No construction activities, storage of materials or vehicles, or soil stockpiling shall take place within the stream and steep slope buffers or within any designated open space.
8. On-site mobile fueling from temporary tanks is prohibited unless the applicant provides and is granted approval for a Permit and Best Management Plan that addresses proposed location, duration, containment, training, vandalism and cleanup. (Reference 1. Uniform Fire Code 7904.5.4.2.7 and 2. Department of Ecology, Stormwater Management Manual, August 2001, see Volume IV "Source Control BMPs for Mobile Fueling of Vehicles and Heavy Equipment".) (Chapter 173-304 WAC)

9. The contractor is required to stop work and immediately notify the Department of Planning and Community Development and the Washington State Office of Archaeology and Historic Preservation if any historical or archaeological artifacts are uncovered during excavation or construction.

10. The applicant shall notify the Department of Ecology and the City of Bainbridge Island of any indication of contamination found during excavation.

11. To mitigate impacts on air quality during earth moving activities, contractors should conform to Puget Sound Air Pollution Control Agency Regulations which insure that reasonable precautions are taken to avoid dust emissions.

12. To mitigate potential impacts on air quality, cleared vegetation shall be removed from the site, processed by chipper or processed using other methods of disposal that does not require burning.

13. To mitigate potential off-site glare, any street lighting within the subdivision shall be hooded, shielded and have a maximum height of 15 feet above grade.

14. To mitigate impacts to area residences, construction activities shall only occur between the hours of 7:00 a.m. and 6:00 p.m. Monday through Saturday. A noise variance shall be required for any deviation from these time limitations.

15. To ensure appropriate recreational opportunities for the residents of the lots, a play structure and seating area shall be provided in the proposed "park area". A park site plan shall be reviewed and approved as part of the plat utility permit.

16. Any non-exempt tree harvesting shall require the appropriate Forest Practices Permit from the Department of Natural Resources.

PROJECT CONDITIONS

17. Development shall conform generally to the preliminary plat map set dated April 8, 2014 (exhibit 26), except as modified by the conditions of this preliminary approval. The following table indicating the required setbacks and lot coverage shall be recorded on the face of the final plat.

	Minimum
Building to Building	10 feet
Building to exterior subdivision boundary	15 feet
Building to internal street	15 feet
Building to Trail or Open Space	Minimum 10 feet
Building to Roadways	50 feet from Wing Point Way
Maximum Lot Coverage per Lot	4,301 square feet

18. The following note, as proposed by the applicant, shall be recorded on the face of the plat: "No building or structure shall be allowed within the western ten feet of lots 3, 4, 5, 6 & 7, except such buildings, structures or encroachments as are allowed within the rear setback in BIMC 18.12.050,

as amended. Owners of Lots 3 – 7 should include trees, shrubs or other landscaping within the western ten (10) feet to provide a visual buffer between their lots and the adjoining property”.

19. The final plat submittal shall include street names, the location of any traffic regulatory signs and approved mailbox locations from the United States Postal Service. The applicant is responsible for street names signs in accordance with the Manual on Uniform Traffic Control Devices and City requirements.

20. A note on the face of the final plat shall specify that Tracts A, D and E are dedicated in perpetuity to open space uses and no portions thereof shall be converted to residential lots nor re-employed in a future project application to obtain further open space or density credits. An approved Open Space Management Plan shall be recorded with the final plat that indicates the maintenance (including requirements of BIMC 18.15.010.J) and allowed uses (including reference to BIMC 16.20.130.C.10) within each of the open space tracts.

21. Open space easements or covenants shall be recorded together with the land division and represented on the final plat and title, including specific reference to the stream and geologically hazardous areas. All critical areas and their buffers shall be placed within Tract A, but additional required setbacks may be included in buildable lots.

22. Prior to final plat approval, the applicant shall install signage (along Tract B) and fencing (abutting Tract A) along the appropriate open space boundaries. In accordance with BIMC 17.28.020. 37, the signs shall be a minimum of 64 square inches and made of metal, hard plastic or engraved wood. In accordance with BIMC 17.28.020.030, low impact fencing includes two-or-three tier split rail not exceeding five feet in height, four inch by four inch wooden posts with two or three strands of cable in between, or other fencing with similar visual, barrier, and access characteristics as determined by the Director. Along lots 10, 11, 12, 14 & 15, the signs shall be placed at approximate 50 foot intervals to the satisfaction of the Director of Planning and Community Development.

23. Prior to final plat submittal, all lot corners shall be staked with three-quarter inch galvanized iron pipe and locator stakes, or other approved method. All property corners and right-of-way centerlines shall be monumented, including the center of the cul-de-sac. A survey of the property must be completed and submitted with the final plat application.

24. The open space areas for the stream and the geologically hazardous areas are to remain protected and free of structures; except for those allowed uses indicated in the approved open space management plan. Any removal of vegetation from any of the open space areas require prior approval from the planning department and shall be reviewed through a clearing a permit. Any proposed clearing in Open Space Tract A requires a minimum of a geotechnical engineer report and a certified arborist report.

25. The face of the plat and the provisions of the Open Space Management Plan specific to the roadside buffer open space shall include the following information: All significant trees and tree stands located shall be maintained for the life of the project. All plant material in Tract B shall be managed by pruning so that plant growth does not conflict with public utilities, restrict pedestrian or vehicular access, or create a traffic hazard.

26. The applicant has four years from the date of approval from the City's Public Work's Department to complete their public utilities permit for water and sewer, which requires an extension of the water and sewer mains onto the property. If the development of these improvements takes longer than four years, then the applicant shall coordinate with the City for water and sewer availability. In the event that water and sewer are not available in four years, and revisions are necessary, a revised or new subdivision application is required that demonstrates compliance with all water, septic and municipal Code requirements.

27. In accordance with the requests of the City's Public Works Operations and Maintenance division, the applicant shall meet the psi requirements for the water meter & fire flow, shall connect to the sewer and include a cleanout at the edge of the right of way and inspect and if necessary improve the storm drainage pipe on Wing Point Way to ensure it will adequately discharge stormwater from the project.

28. Prior to applying for final plat approval, the applicant shall have recorded an approved boundary line adjustment that reflects the proposed boundary line adjustment indicated on the preliminary plat map.

29. A plat certificate shall be provided with the final plat application.

30. The applicant shall provide a declaration of covenant prior to final occupancy that guarantees that the storm water system will be properly maintained. If maintained by the City, the covenant shall include language that allows the City to inspect and/or maintain the system to ensure it is properly performing.

31. School impact fees may be required. If school impact fees are in effect at the time of submittal for the final plat, the applicant shall pay one half of the impact fees for the 17 single family units. The remaining half of the fees shall be paid at the time of building permit issuance for the single-family units.

If the fees are in effect at the time of building permit submittal rather than subdivision submittal, then each applicant applying for a single family residential building permit shall pay the full impact fee prior to building permit issuance. The pertinent condition shall be provided on the face of the plat.

32. If stormwater facilities are maintained by the City, an easement to COBI for access and/or maintenance shall be required prior to submittal of the final subdivision.

33. An Operation and Maintenance Plan and Declaration of Covenant for private constructed stormwater facilities shall be required with final plat submittal. The approved language for the Declaration of Covenant is found in BIMC 15.21 Exhibit A.

34. The 10 foot right of way dedication on Wing Point Way NE shall be recorded with the final subdivision.

35. The applicant shall decommission the well prior to applying for the final plat.

36. The proposed roadway shall be public and be built to COBI Design Standards. Dedication of this internal roadway right of way shall be recorded with the final subdivision. The applicant shall construct an access between the internal roadway and the Malcolm Mead property to the west through Tract C at a location to be approved by Mead and the City Development Engineer. Vegetation removal on Tract C shall be limited to that necessary for creating the driveway connection, as determined by the City Development Engineer. The Mead driveway exit to Wing Point Way shall be closed at the time the internal plat roadway is opened for vehicle use.

On the face of the final plat Tract C shall be dedicated, without warranty, to Mead as a non-developable tract that is not a legal building lot. The City may require a boundary line adjustment process to merge Tract C into the Mead property if all requirements of the Bainbridge Island Municipal Code can be met. A note on the final plat shall specify that the area in Tract C, whether or not it becomes part of the Mead lot, shall remain as either a natural vegetation buffer or as a landscaped area, with no fences, buildings or other improvements allowed except for the driveway access to the Mead home. Provided that, Mead may place a fence meeting the recorded CC&R's of the PVT Estates Plat along the common boundary between Tract C and Lot 1 of PVT Estates.

37. The applicant shall complete and submit an estimate of sidewalk, bicycle lane and sidewalk ramps as shown along Wing Point Way NE frontage on Preliminary Utility Plan, submitted December 11, 2013. Upon concurrence of the estimate with the City, the funds shall be paid to the City for planned improvements along Wing Point Way that are currently under design.

38. Prior to final subdivision submittal, the applicant shall provide for review and approval by the City a plan and profile for water and sewer connections.

39. Prior to final subdivision submittal sewer (including side sewers) and water lines, including meters to each property, shall be installed or an assurance device shall be provided.

40. To the satisfaction of the Fire Marshal, the applicant shall provide a fire hydrant along Wing Point Way and the appropriate fire apparatus turn around prior to final or through an assurance device.

41. A right of way permit shall be required prior to any work within the right of way.

42. Public and private improvements, facilities, and infrastructure on and off the site that are required for the subdivision shall be completed, have final inspection and approval prior to final subdivision submittal. Approval of public facilities will be shown by a formal letter of acceptance from the City Engineer. A surety device acceptable to the City may be used (in lieu of physical completion) to secure and provide for the completion of necessary facilities which are not considered by the City to be life, health, or safety related items. Any such surety device shall be in place prior to final plat submittal, shall enumerate in detail the items being assured and shall require that all such items be completed and approved by the City within one year of the date of final plat approval. While lots created by the recording of the final plat may be sold, no occupancy of any structure will be allowed until the required improvements are formally accepted by the City. Additionally, a prominent note on the face of the Final plat drawing shall state: "The lots created

by this plat are subject to conditions of an assurance device for the completion of certain necessary facilities. Building permits may not be issued or occupancy granted until such necessary facilities are completed and approved by the City of Bainbridge Island. All purchasers shall satisfy themselves as to the status of completion of the necessary facilities." This note shall be listed on the face of the final plat.

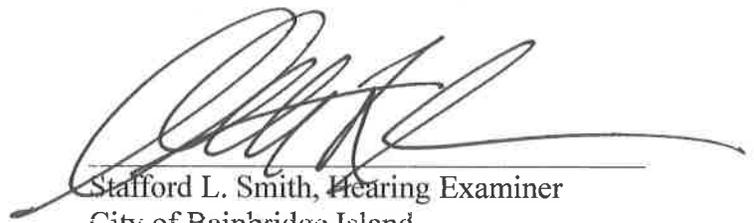
43. All storm water facilities shall comply with the 2005 Department of Ecology Stormwater Manual. Soils excavated for construction of the Tract B stormwater pond shall be disposed offsite. A minimum two-year maintenance bond period for the roadway and stormwater facilities is required. The maintenance period will begin after final construction acceptance of the subdivision, and shall run for a minimum period of two years. Regular maintenance of the roadway and stormwater system is required during this period; documentation of maintenance shall be provided to the City on an annual basis, unless maintained by the City. Wording to this effect shall be listed on the plat and in the plat covenants.

44. Prior to any construction activities on individual lots, the applicant shall obtain the appropriate permits from the City, including but not limited to building, clearing, and/or grading permit. This note shall be listed on the face of the final plat.

45. The following conditions shall be recorded on the face of the plat: 5, 7, 17, 25, 31, 42, 43, 44.

46. To provide for the public health and safety, all vehicles and equipment associated with site preparation and construction shall be parked, stored and staged onsite and not on Wing Point Way or other neighborhood streets. A plan for onsite parking, storage and staging during the construction process shall be submitted to and approved by the City Engineer prior to any site clearing or grading.

ORDERED June 3, 2014.



Stafford L. Smith, Hearing Examiner
City of Bainbridge Island

The Hearing Examiner is authorized to make the City of Bainbridge Island's final decision on a preliminary subdivision application. A party with standing may seek judicial review of this decision by filing a timely suit in Kitsap County Superior Court under the Land Use Petition Act.

The exhibit list prepared by the Clerk of the Hearing Examiner's Office is attached.

EXHIBIT LIST

**PVT Estates Subdivision
SUB18273**

Staff Contact:
Heather Beckmann
Associate Planner

Public Hearing: May 22, 2014
Location: City Hall

Hearing Examiner: Stafford L. Smith

NO.	DOCUMENT DESCRIPTION	DATE
1	Application – with the following attachments: A. Vicinity Map B. Environmental (SEPA) Checklist C. Geotechnical Report by Development Engineering, PLLC D. Non-Wetland Determination Report E. Pine Terrace Preliminary Plat Stormwater Site Plan F. Site Plans	03/06/2013 (Dated)
2	Water/Sewer Availability Request and COBI Response dated 03/29/2013	03/07/2013 (Received)
3	Bainbridge Island Fire Department Memo	03/15/2013 (Dated)
4	Fox Estates Open Space Management Plan and PWE Tree Retention Report Proposal	04/08/2013 (Received)
5	PWE Letter re Phasing Plan	04/01/2013
6	Bainbridge Island Fire Department Memo (Addressing 4/8/13 Revision)	04/23/2013 (Received)
7	Geotechnical Report by Development Engineering, PLLC – <u>Revised</u>	04/22/2013 (Revised)
8	Health District Emailed Comment	04/23/2013 (Dated)
9	Certificate of Posting	05/16/2013 (Dated)
10	Affidavit of Publication	05/17/2013 (Dated)
11	Notice of Application/SEPA Comment Period	05/17/2013 (Dated)
12	Bainbridge Island Fire Department Memo (Addressing 5/2/13 Revision)	05/20/2013 (Dated)
13	Public Comment	05/2013 to 02/2014 (Dated)
14	Development Engineer Project Review	09/27/2013 (Dated)
15	Site Plans – <u>Revised</u>	12/11/2013 (Revised)

EXHIBIT LIST

**PVT Estates Subdivision
SUB18273**

Staff Contact:
Heather Beckmann
Associate Planner

Public Hearing: May 22, 2014
Location: City Hall

Hearing Examiner: Stafford L. Smith

NO.	DOCUMENT DESCRIPTION	DATE
16	Level One Traffic Impact Analysis – Fox Estates Preliminary Plat	12/11/2013 (Received)
17	PWE Letter re Traffic Analysis and Sewer Connection	12/11/2013 (Received)
18	Bainbridge Island Fire Department Memo (Addressing 12/11/13 Revision)	12/13/2013 (Dated)
19	Health District Emailed Comment	01/10/2014 (Dated)
20	COBI Public Works Operations and Maintenance Review Comments	02/12/2014 (Dated)
21	Department of Ecology Recommendation	02/18/2014 (Dated)
22	Traffic Study Concurrency Email	02/25/2014 (Dated)
23	Development Engineer Project Review (Updated)	02/26/2014 (Dated)
24	Certificate of Concurrency	02/26/2014 (Received)
25	Exhibit for Boundary Line Adjustment	04/08/2014 (Dated)
26	Fox Estates Preliminary Plat	04/08/2014 (Dated)
27	PWE Letter re Completeness Review Response	04/08/2014 (Dated)
28	Fox Estates Preliminary Plat Stormwater Site Plan	04/08/2014 (Dated)
29	Development Engineering PLLC Letter re Geotechnical Review	04/09/2014 (Dated)
30	Notice of Public Hearing (with Certificate of Distribution, Affidavit of Publication and Affidavit of Posting Signs)	05/2/2014 (Published)
31	Public Participation Meeting of 8/21/13 – Questions and Answers	05/16/2014 (Submitted)
32	VSI Law Group Letter – Response to Mr. Mead’s SEPA Comments on PVT Estates Subdivision	07/09/2013 (Dated)

EXHIBIT LIST

**PVT Estates Subdivision
SUB18273**

Staff Contact:
Heather Beckmann
Associate Planner

Public Hearing: May 22, 2014
Location: City Hall

Hearing Examiner: Stafford L. Smith

NO.	DOCUMENT DESCRIPTION	DATE
33	KANE Limited Phase II Environmental Site Assessment	06/05/2013 (Dated)
34	Van Ness Feldman LLP Letter o/b/ Malcolm Mead	02/25/2014 (Dated)
35	Project Report	05/14/2014 (Dated)
36	Public Comment (submitted in lieu of attendance at the 05/22/2014 public hearing)	05/19/2014 (Dated)