

**BEFORE THE LAND USE HEARING EXAMINER  
FOR THE CITY OF BATTLE GROUND, WASHINGTON**

Regarding an application by Mason Wolfe for approval of a preliminary plat to divide 11.69-acres into 39 lots in the R5 zone at 24617 NE 132<sup>nd</sup> Avenue in the City of Battle Ground ) **FINAL ORDER**  
)  
) **SUB: 02-16**  
) **(Parkway Heights)**

**A. SUMMARY**

1. The applicant, Mason Wolfe, requests approval to divide the 11.69-acre site into 39 residential lots and a stormwater tract. The site is located at 24617 NE 132<sup>nd</sup> Avenue; also known as Tax Assessor Parcel 226852-000 (the "site").

a. The site and abutting properties to the west and north and east, are zoned R5 (Residential, 5 units per acre maximum density). Properties to the east are zoned R3 (Residential, 3 units per acre maximum density). Properties to the south are outside the City limits and zoned Clark County R1-6 (Low Density Residential, 6,000 square foot minimum lot size). Properties abutting the northeast portion of the site are outside the City limits and zoned Clark County R-5 (Rural, 5-acre minimum lot size).

b. The applicant proposed to divide the site into 39 lots. A new single-family detached dwelling will be built on each of the proposed lots. The City of Battle Ground will provide domestic water and sanitary sewer service to the site. The applicant will collect storm water from impervious areas on the site and convey it to a storm water facility in proposed Tract A for treatment and detention. The applicant will discharge treated stormwater to the existing ditch in North Parkway Avenue at less than predevelopment rates.

d. The applicant will extend a new public street, proposed NE 28<sup>th</sup> Street, into the site from NE Parkway Avenue, which abuts the west boundary of the site. The applicant will extend stub streets to the north, south, and east boundaries of the site to provide for access to proposed lots and allow for further extension and cross circulation when abutting properties redevelop. In addition, the applicant will dedicate right-of-way and construct half-width frontage improvements along the site's NE Parkway Avenue frontage. The applicant will also construct a pedestrian trail around the proposed stormwater facility in the southwest corner of the site.

2. The City issued a Mitigated Determination of Nonsignificance ("MDNS") for the subdivision pursuant to the State Environmental Policy Act ("SEPA"). The SEPA determination was not appealed and is now final.

3. City of Battle Ground Hearing Examiner Joe Turner (the "examiner") conducted a public hearing to receive testimony and evidence about the application. City staff recommended the examiner approve the preliminary plat subject to conditions. See the Staff Report to the Hearing Examiner dated March 15, 2017 (the "Staff Report") as modified at the hearing. The applicant accepted those findings and conditions, as

modified, with certain exceptions. Two persons testified with questions and concerns about the application. The only issue in this case is whether, and to what extent, the applicant can be required to plan for and provide additional sanitary sewer capacity.

4. Based on the findings provided or incorporated herein, the examiner approves the preliminary plat subject to the conditions at the end of this final order.

## **B. HEARING AND RECORD HIGHLIGHTS**

1. The examiner received testimony at a public hearing about this application on March 22, 2017. All exhibits and records of testimony are filed at the City of Battle Ground. At the beginning of the hearing, the examiner described how the hearing would be conducted and how interested persons could participate. The examiner disclaimed any *ex parte* contacts, bias or conflicts of interest. The following is a summary by the examiner of selected testimony and evidence offered at the public hearing.

2. City planner Sam Crummett summarized the Staff Report.

3. Planner Ed Greer and attorney LeAnn Bremer appeared on behalf of the applicant.

a. Mr. Greer accepted the findings and conditions in the Staff Report, as modified at the hearing, with the exception of the conditions noted by Ms. Bremer.

b. Ms. Bremer noted that other developments in the area have also been required to complete a sewer capacity study for Gardner Pump Station Basin. Therefore, she requested the examiner modify condition A.4 to require the study, "unless completed by another development." Condition A.2.s should be modified to require upgrades to the listed sewer pipes "if needed based on the sewer capacity study." Any upgrades must be proportional to meet the needs of the development, unless specifically required to meet state law. Any upgrades in excess of the proportional impact of this development must be subject to impact fee credits. She requested the examiner modify condition C.2 to that effect.

4. Lance Kim argued the City should design and plan sewer systems to accommodate future growth.

5. Albert Christensen questioned whether he will be required to connect to public sewer if his existing septic system fails.

6. City engineer Mark Herceg testified that residential properties located within the City limits are required to connect to public sewers when an existing septic system fails, provided public sewer is available within 600 feet. This requirement would not apply to Mr. Christensen's property, which is located in unincorporated Clark County and subject to County Health District regulations. He agreed with the changes to the conditions of approval proposed by Ms. Bremer.

7. The examiner closed the record at the end of the hearing and announced his intention to approve the application subject to the conditions in the Staff Report, as modified at the hearing.

### **C. DISCUSSION**

1. City staff recommended approval of the application, based on the affirmative findings and subject to conditions of approval in the Staff Report, as modified at the hearing. The applicant accepted those findings and conditions, as modified, without exceptions.

2. The examiner concludes that the affirmative findings in the Staff Report show that the proposed preliminary plat does or can comply with the applicable standards of the BGMC and the Revised Code of Washington, provided that the applicant complies with recommended conditions of approval as modified at the hearing. The examiner adopts as his own the affirmative findings in the Staff Report, as modified.

3. The City is designing and planning its sewer systems to accommodate future growth. However, the City cannot constitutionally require this applicant to do that. The applicant is only required to mitigate issues created or exacerbated by this development. The need for sewer system upgrades is generated by all new development in the area, not just this project. The applicant is required to demonstrate that adequate sanitary sewer capacity is available to serve the proposed development. If capacity is not available, the applicant can be required to provide additional capacity. However, capacity improvements beyond the needs of this development (i.e. larger sewer pipes) are subject to system development credits.

### **D. CONCLUSION**

Based on the above findings and discussion, the examiner concludes that SUB: 02-16 (Parkway Heights Subdivision) should be approved, because it does or can comply with the applicable standards of the Battle Ground Municipal Code and the Revised Code of the State of Washington, subject to conditions of approval necessary to ensure the final plat and resulting development will comply with the Code.

### **E. DECISION**

Based on the findings, discussion, and conclusions provided or incorporated herein and the public record in this case, the examiner hereby approves SUB: 02-16 (Parkway Heights Subdivision), subject to the following conditions of approval:

#### **Conditions of Approval**

##### **A. Prior to Engineering Plan Approval:**

1. Submit final engineering plans, for review and approval by staff, pertaining to transportation, sewer, water, grading, erosion control, stormwater, driveways,

street lighting, and landscaping prepared and stamped by a registered engineer in the state of Washington.

2. Submit final engineering plans:
  - a. Showing full width improvements to NE 28<sup>th</sup> Street, NE 29<sup>th</sup> Street, NE 3<sup>rd</sup> Avenue and NE 4<sup>th</sup> Avenue to Local "A" standards, including sidewalk, planter strip, curb & gutter, and asphalt.
  - b. Showing adequate half-street improvements, based on pavement testing, for N Parkway Avenue, a Minor Arterial, including sidewalk, planter strip, curb and gutter and asphalt.
  - c. Showing adequate half-street improvements, based on pavement testing, for NE 249<sup>th</sup> Street, a Neighborhood Collector, including sidewalk, planter strip, curb and gutter and asphalt.
  - d. Showing adequate half-street improvements for NE 27<sup>th</sup> Street a Local "A", including sidewalk, planter strip, curb and gutter, asphalt and appropriate signing/stripping for no parking along southern side.
  - e. Showing additional 5-feet of ROW dedicated to the City for N Parkway Avenue.
  - f. Showing street names as listed in the final order.
  - g. Containing a combined landscaping and driveway plan.
  - h. Showing sight distance triangles.
  - i. Containing a signing and striping plan.
  - j. Containing a street lighting plan.
  - k. Showing traffic calming devices on all public streets.
  - l. Showing driveways that meet the requirements of BGMC 12.116.243
  - m. Showing traffic mitigation at SW Eaton Boulevard & SR 503 and SR 503 & NW Onsdorff Boulevard or indicating that mitigation fees will be paid in lieu of the improvements.
  - n. Showing an 8-inch water from N Parkway Avenue & NE 25<sup>th</sup> Street in N Parkway Avenue to development and in NE 249<sup>th</sup> Street extended to extreme property lines.
  - o. Showing water lines extending to extreme property lines.

- p. Showing each residential lot having its own individual water service
  - q. Providing documentation that the sewer system constructed with St. George Estates I has the capacity for the proposed development.
  - r. Showing an 8-inch gravity sewer line throughout the subdivision and extending to extreme property lines.
  - s. Showing upgrades to sewer pipes PR-8, PR-9, PR-10 and PR-11 if applicable per results of sewer capacity study.
  - t. Showing each residential lot having its own sanitary lateral.
  - u. Showing fire hydrants meeting spacing requirements throughout the subdivision.
  - v. Showing a stormwater facility that meets the requirements of BGMC 18.250.
  - w. Showing grading and erosion control in conformance with applicable city standards and standard construction details.
3. Provide a photometric plan done for all access points, intersections, frontage roads out to centerline, and any existing lights to ensure that proposed lights meet IES RP-8-00 standards.
  4. Provide results of sewer capacity study for Gardner Pump Station Basin, unless it has been provided by another party.
  5. Submit a hydrology report that addresses all requirements found in BGMC 18.250.
  6. Submit a SWPPP that meets the requirements of BGMC 18.250.050(B).
  7. Submit a construction cost estimate for required public and applicable private improvements for review and approval by the City Engineering Department
  8. Following the City Engineer's acceptance and approval of the construction cost estimate, pay the required engineering plan review and construction inspection fee that is two (2) percent of the estimated costs of construction minus the \$500.00 due at engineering plan submittal.

**B. Prior to Final Plat Approval:**

1. Construct all required public improvements and gain engineering acceptance or provide appropriate bonding.
2. Construct the mitigation measures for the failing intersection of SR 503 & SW

Eaton Boulevard or pay the mitigation fee of \$12,266.64.

3. Construct the mitigation measures for the failing intersection of SR 503 & NW Onsdorff Boulevard or pay the mitigation fees of \$50,338.53.
4. Submit a final plat:
  - a. That shows easements for public utilities not located in the right-of-way.
  - b. That shows where any control monuments have been placed.
  - c. That shows the dedication of any public roads or alleys.
  - d. That shows the dedication of land for the shared path along the eastern property.
  - e. A public easement shall be placed over the pedestrian trail.
  - f. With the following notes:
    - i. "No fences are allowed in the sight distance triangle."
    - ii. "All utilities are to be located outside of the sidewalk section and to be underground where possible."
    - iii. "All new structures shall conform to the setbacks and building heights of the R5 zoning district."
    - iv. "All houses shall conform to the neighborhood design standards as listed in BGMC 17.106.040."
    - v. Specifying the party/s responsible for long-term maintenance of stormwater facilities.
5. Submit documentation, acceptable to City, demonstrating that the pedestrian path maintenance and liability responsibilities have been met.
6. Submit a two-year stormwater maintenance contract for review and/or approval.
7. If LID improvements are incorporated into the project, provide appropriate stormwater covenants.

**C. Prior to Engineering Acceptance:**

1. Construct all public improvements, if applicable, and go on a walkthrough with City of Battle Ground Engineering Staff and correct any deficiencies as determined by City staff.

2. Constructing upgrades to pipes PR-8, PR-9, PR-10 and PR-11 if applicable per results of sewer capacity study. The applicant shall only be required to construct upgrades necessary to serve its project, unless additional upgrades are required pursuant to state law. Any upgrades constructed by the applicant in excess of what is needed to serve its project shall entitle the applicant to SDC credits up to the amounts allowed by the City code. In the event that the City and applicant disagree on whether or not there is capacity in the sewer system to serve the project, or whether state law requires upgrades in excess of the applicant's project, then either the City or the developer may request that the matter be referred to the hearing examiner to be heard at the next available hearing date.
3. Submit a letter showing that fire flow requirements per BGMC 15.105.180 and 15.105.190 can be met.
4. Submit to the City of Battle Ground a two-year/20-percent maintenance bond for all completed and accepted public improvements.
5. Submit to the City of Battle Ground a recorded Stormwater Facility Maintenance Agreement meeting requirements of BGMC 18.250.310(A)(1) for review and/or approval.
6. Submit complete sets of as-built drawings for all required public improvements for streets and roads, stormwater drainage and control, sanitary sewer and water services, as applicable prior to the issuance of the occupancy permit for review and approval by the Engineering Department. Upon acceptance by the Engineering Department, submit prior to the issuance of the occupancy permit, one (1) Mylar set, one (1) full size paper set, two (2) 11x17 paper sets of As-Built record drawings and one (1) 3.5-inch disk (s) or compact disc version of the as-built drawings in AutoCAD, PDF, and TIF formats.

**D. Prior to Construction:**

1. Receive signed and approved engineering plans from the City of Battle Ground.
2. Receive an approved ROW permit from the City of Battle Ground.
3. Submit a surety bond meeting the requirements of BGMC 12.118.110.
4. Submit a Certificate of Liability Insurance meeting the requirements of BGMC 12.118.120.
5. Erect and conduct erosion control measures consistent with the approved Erosion Control Plan and City of Battle Ground erosion control standards.
6. Submit evidence that an individual on-site has successfully completed formal training in erosion and sediment control by a recognized organization acceptable to the City.

7. Conduct a pre-construction conference with City engineering and planning staff. Contact the Planning Customer Service Clerk at (360) 342-5047 to schedule an appointment.
8. If any cultural resources are discovered in the course of undertaking the development activity, the State of Office of Historic Preservation and Archaeology and the City of Battle Ground Planning Department must be notified.
9. Comply with the recommendations in Ecology's February 8, 2017 letter.

**E. Prior to Creation of Impervious Surface:**

1. Except roofs, the stormwater treatment and control facilities shall be installed in accordance with the approved final engineered plans and in accordance with the City of Battle Ground stormwater regulations.

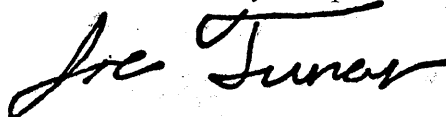
**F. Prior to Building Permit Issuance:**

1. All required fees, including Transportation, Park and School Impact fees shall be paid.
2. Fire hydrants shall be tested and approved and fire flow letter shall be submitted to the City showing the minimum fire flow has been attained.

**APPEAL**

This Final order may be appealed to the Washington Superior Court per RCW 36.70C within 21 calendar days after the issuance of the decision.

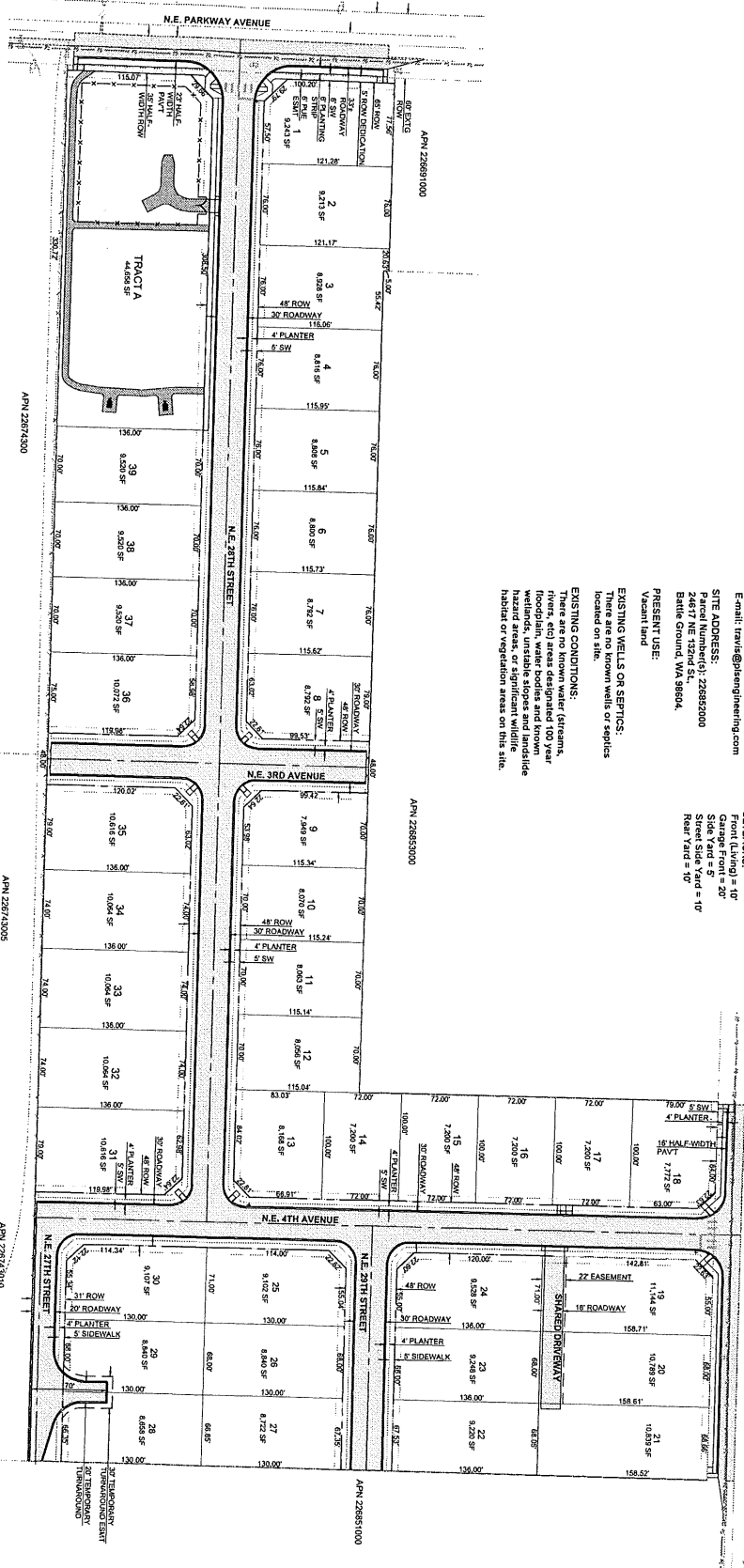
DATED this 10th day of April 2017.



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Joe Turner, AICP  
City of Battle Ground Land Use Hearing Examiner





**Applicant/Owner:**  
 KRP Properties  
 6715 NE 50th Street Suite 166  
 Vancouver, WA 98681  
 PH: (360) 507-8588  
 mason@krpproperties.com

**Project Engineer:**  
 PLS Engineering  
 2005 C Street  
 Vancouver, WA 98683  
 PH: (360) 544-6519  
 Fax: (360) 544-6518  
 Email: txasas@plsengineering.com

**SITE ADDRESS:**  
 Parcel Number(s): 226852000  
 8417 NE 132nd St.  
 Battle Ground, WA 98684

**PRESENT USE:**  
 Vacant Land

**EXISTING WELLS OR SEPTICS:**  
 There are no known wells or septic located on site.

**EXISTING CONDITIONS:**  
 There are no known water streams, rivers, and areas designated 100 year floodplain, water bodies and known hazard areas, or steep slopes and landslide hazard or vegetation areas on this site.

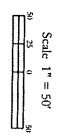
**ZONING:**  
 R-5 (Single-Family Residential District)

**EXISTING LOT SIZE:**  
 509,380 SQ. FT. (11.68 Ac)

**PROPOSED LOT AREAS:**  
 Minimum = 1,124 sq-ft  
 Maximum = 1,200 sq-ft  
 Average = 9,034 sq-ft

Tract A will serve as a park and storm facility.

**SETBACKS:**  
 Front (Living) = 10'  
 Side = 5'  
 Side Street = 20'  
 Street Side Yard = 10'  
 Rear Yard = 10'



**EXHIBIT**  
 #3



Revisions	

Preliminary Plat For  
**Parkway Heights**  
 A Site Located in Battle Ground, Washington

