

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

Regarding an application by Ginn Development,) **FINAL ORDER**
LLC for approval of a preliminary plat to divide)
19.93-acres into 23 lots east of SW 15th Avenue at) **SUB: 03-18**
SW 5th & 6th Streets, in the City of Battle Ground)(Battle Ground Village Subdivision)

A. SUMMARY

1. The applicant, Ginn Development, LLC, requests approval to divide the 19.93-acre site into 23 residential lots and two tracts, for wetlands/open space and stormwater facilities. The applicant also requests approval of a boundary line adjustment. The site is located east of SW 15th Avenue Street at SW 5th and 6th Streets. The legal description of the site is Tax Assessor Parcels 192367-000, 986041-541, and 91055-151 (the "site").

a. The site and properties to the west, across SW 15th Avenue, are zoned R-16 (Residential, 16 units per acre maximum density). Properties to the north and east are zoned RC (Regional Center). Properties to the south are zoned R-12 (Residential, 12 units per acre maximum density).

b. The site is currently vacant. Wetlands bisect the site from northeast to southwest. The applicant proposed to develop the upland area in the northwest corner of the site and retain the remainder of the site for wetlands and buffers. The applicant proposed to develop a new single-family detached dwelling on each of the proposed lots. All proposed lots comply with the dimensional requirements of the R-16 zone.

c. The applicant will construct half-width frontage improvements along the site's SW 15th Avenue frontage and extend a new dead-end private street, proposed SW 5th Street, into the site, terminating in a hammerhead turnaround near the eastern boundary of the site.

d. The City of Battle Ground will provide domestic water and sanitary sewer service to the site. The applicant will collect storm water from all impervious areas on the site and convey it to one of a proposed storm water facility in proposed Tract C in the southwest corner of the site for treatment and detention. The applicant will discharge treated stormwater to the on-site wetlands at less than predevelopment rates.

e. The applicant will provide six parking spaces in a parking court located at the eastern terminus of proposed SW 5th Street. The section of SW 5th Street on the site will provide additional on-street parking opportunities.

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 December 20, 2018, (the “Staff Report”) as amended by Exhibit 21. The applicant accepted those findings and conditions, as amended, without exceptions. Two persons testified orally and/or in writing with questions and concerns about the proposed development. Disputed issues or concerns in the case include the following:

- a. Whether the proposed development makes adequate provisions for parking; and
- b. Whether the proposed development will contribute to existing problems with speeding and cut-through traffic in the area.

4. Based on the findings provided or incorporated herein, the examiner approves the revised preliminary plat (Exhibit 20) 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 January 9, 2019. 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 assistant planner Emily Lutz summarized the Staff Report. She noted that this development is subject to the City’s recently adopted narrow lot standards, which require shared driveways and a minimum number of parking spaces. The applicant submitted a revised preliminary plat (Exhibit 20) to address Staff’s concerns with the dimensions of the proposed parking spaces.

3. City associate civil engineer Ryan Jeynes testified that the applicant is not required to provide cross-circulation streets on the site, because the length and width of the site does not exceed the 500-foot cross-street spacing requirement. He agreed with the changes proposed by the applicant in Exhibit 21.

4. Mike Andreotti and Seth Halling testified on behalf of the applicant.

a. Mr. Andreotti accepted the findings and conditions in the Staff Report with one exception. He requested the examiner modify the findings and condition A.2(k) as set out in Exhibit 21, to require the applicant to extend the water line in SW 15th Avenue to the same southern point as the existing street improvements constructed by the Hidden Meadows development west of the site.

b. Mr. Halling noted that SW 15th Avenue is a collector street that is intended to carry higher volumes of traffic and provide a connection between local streets within neighborhoods and the arterial street system. The proposed development will provide sufficient parking on the site to meet Code requirements. In addition, the

applicant will widen SW 15th Street, which will allow legal parking on both sides of this street.

5. Curtis Hesse, chair of the Hidden Meadows Homeowners Association, summarized his written testimony, Exhibits 16 and 17. He testified that there is an inadequate amount of parking available in the area under existing conditions. Many residents have multiple cars and park on the street. Some drivers park illegally, blocking driveways and travel lanes, and limiting emergency vehicle access. Speeding is also a significant problem in the area, as drivers use SW 6th Street and SW 15th Avenue as a cut-through route to Main Street. One-third of the vehicles on SW 20th Avenue are cut-through drivers. The City reduced the posted speed limit in this area to 20 mph, but drivers still go to fast. The speed limit should be reduced to 15 mph. There have been at least two accidents in the neighborhood, including a child struck by a car, but they were not reported. This development is likely to exacerbate these issues. More analysis of these issues should be required before this development is approved.

6. Elizabeth Layton agreed with Mr. Hesse about problems with speeding, cut-through traffic, and inadequate parking supply. Some homes with multiple cars are taking parking spaces in front of other homes.

7. The examiner closed the record at the end of the hearing and announced his intention to approve the application, subject to the findings and conditions in the Staff Report, as modified by Exhibit 21.

C. DISCUSSION

1. City staff recommended approval of the revised preliminary plat (Exhibit 20), based on the affirmative findings and subject to conditions of approval in the Staff Report, as modified by Exhibit 21. 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 revised preliminary plat (Exhibit 20) does or can comply with the applicable standards of the Battle Ground Municipal Code (the "BGMC") and the Revised Code of Washington, provided that the applicant complies with recommended conditions of approval as modified herein. The examiner adopts the affirmative findings in the Staff Report as his own, except to the extent they are inconsistent with the following findings.

3. The examiner understands and sympathizes with neighbors' concerns with cut-through traffic and illegal parking. However, this is an existing issue. Applicants are not required to remedy all existing and perceived deficiencies in the area. The Code requires an applicant to mitigate impacts a development causes or to which it contributes significantly. It would be inequitable to require an applicant to bear the full burden of improvements where the proposed development is only responsible for a portion of the problem.

a. The applicant will provide adequate parking opportunities on the site to accommodate the parking demand created by this development. This development will provide parking in garages and driveways on the proposed lots, on the private street and

parking court on the site, and along the site's SW 15th Avenue frontage. The development meets the minimum parking requirements of the Code. Therefore, the examiner has no authority to require the applicant to provide additional parking or otherwise alleviate existing parking concerns within the Hidden Meadows development.

b. This development will likely generate some additional traffic on SW 5th and 6th Streets, as these roads provide the most direct connection to the site from areas to the south and west. However, there is no evidence that this additional traffic will exceed the capacity of these streets or otherwise create a hazard. The examiner acknowledges that more traffic on area streets creates a proportionally higher risk for drivers, pedestrians and bicyclists. In response reasonably prudent people exercise more care personally and with family members. Those risks are consistent with the location of the site in the urban area where City plans call for the sort of development being proposed. Reasonably prudent drivers will observe the posted speed limit and if necessary, further reduce their speed to accommodate other road conditions. Unfortunately, not all drivers are prudent enough to observe posted speed limits and road conditions. However, there is no evidence that the development proposed in this application will contribute a disproportionate share of imprudent drivers. The examiner cannot find any applicable approval criteria in the BGMC or state law that would authorize denial of this application or the imposition of conditions of approval due to concerns about increased cut-through traffic.

c. The speeding and illegal parking issues noted by neighbors can only be addressed through increased enforcement. The examiner encourages residents to contact the police to request additional enforcement of traffic laws in this area.

D. CONCLUSION

Based on the above findings and discussion, the examiner concludes that the revised plat (Exhibit 20) of SUB: 03-18 (Battle Ground Village 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 the revised plat (Exhibit 20) of SUB: 03-18 (Battle Ground Village Subdivision), subject to the following conditions of approval:

Conditions of Approval

A. Prior to Engineering 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 adequate half-street improvements, based on pavement testing, for SW 15th Avenue, a “neighborhood Collector”, including sidewalk, planter strip, curb/gutter and asphalt.
 - b. Showing full width improvements to SW 5th Street, a private street, to “Local A” standards, including sidewalk, planter strip, curb & gutter and asphalt.
 - c. Containing a combined landscaping and driveway plan.
 - d. Showing sight distance and vision clearance triangles.
 - e. Containing a signing and striping plan.
 - f. Containing a street lighting plan having LED acorn units for SW 15th Avenue meeting IES RP-8-00 standards.
 - g. Showing traffic calming devices on all public streets.
 - h. Showing driveways that meet the requirements of BGMC 12.116.243
 - i. Showing traffic mitigation measures at SW Eaton Boulevard & SR 503, NW Onsdorff Boulevard & SR 503 and East Main Street & Grace Avenue or indicating that mitigation fees will be paid in lieu of the improvements.
 - j. Showing an 8-inch water throughout the subdivision and extended to extreme property lines.
 - k. Showing water line in SW 15th Avenue being extended to the same southern point as the Hidden Meadows improvements.
 - l. Showing each residential lot having its own individual water service
 - m. Showing water meter size.
 - n. Showing an 8-inch gravity sewer line throughout the subdivision and extending to extreme property lines.
 - o. Showing each residential lot having its own individual sanitary lateral.
 - p. Showing fire hydrants meeting spacing requirements throughout the subdivision.
 - q. Showing a stormwater facility that meets the requirements of BGMC 18.250.
 - r. Showing grading and erosion control in conformance with applicable city standards and standard construction details.
 - s. Identification of no parking signage or striping along south side of SW 5th Street between lots 1 and 9.
 - t. Identification of no parking signage or striping at the fire access turnaround and along the north side of SW 5th Street between lots 11 and 14.
3. Provide a revised traffic study that incorporates City of Battle Ground crash data.
4. Provide a photometric plan 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.
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.

9. The applicant shall revise the site plan to show applicable on-street parallel parking stalls to be 22' in length and no more than five stalls in each area. If the applicant cannot comply with the 5-stall standard with the revised site plan, then the applicant shall provide a written memo stating why this is not feasible.
10. The applicant shall work with the Army Corps of Engineers and the State Department of Ecology in finalizing the Wetland Delineation and Mitigation Plan.
11. Amend mitigation proposal by assuring no net loss in oak habitat protection pursuant to 18.280.030 and coordinate with Washington Department of Fish and Wildlife on a final mitigation plan.
12. Pursuant to 18.270.050, signage and fencing shall be installed prior to any land alteration and construction.

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 SW Eaton Boulevard & SR 503 (original mitigation) or pay the mitigation fee of \$7,666.65.
3. Construct the mitigation measures for the failing intersection of NW Onsdorff Boulevard & SR 503 or pay the mitigation fees of \$4,576.23.
4. Construct the mitigation measures for the failing intersection of East Main Street & Grace Avenue or pay the mitigation fees of \$1,721.77.
5. Submit a final plat:
 - a. That shows easements for public utilities not located in the right-of-way.
 - b. With the following note: "No fences are allowed in the sight distance triangle."
 - c. With the following note: "All utilities are to be located outside of the sidewalk section and to be underground where possible."
 - d. With the following note: "The City of Battle Ground has no responsibility to improve or maintain the private streets contained within, or private streets providing access to, the property designed in this development."
 - e. With a note describing the maintenance responsibilities of each lot owner for the private street.
 - f. With a note specifying the party/s responsible for long-term maintenance of stormwater facility.
 - g. That shows where any control monuments have been placed.
 - h. That shows the dedication of any public roads or alleys.
 - i. The final plat shall state that the homeowner's association shall maintain common parking areas.
 - j. Add a note whether the critical areas tracts are maintained and owned by either the developer or HOA.
6. Provide certification that private streets were built per BGMC 12.116.140.
7. Submit a private maintenance agreement for private streets.
8. Submit recorded sewer and water easements after being reviewed by City Engineering Staff.
9. Submit a two-year stormwater maintenance contract for review and/or approval.
10. If LID improvements are incorporated into the project, provide appropriate

stormwater covenants.

11. Evidence of wetland mitigation credits shall be provided to the City prior to final plat approval.
12. Submit Oregon White Oak planting and mitigation plan.

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. Submit a letter showing that fire flow requirements per BGMC 15.105.180 and 15.105.190 can be met.
3. Submit to the City of Battle Ground a two-year/20-percent maintenance bond for all completed and accepted public improvements.
4. Submit to the City of Battle Ground a recorded Stormwater Facility Covenant for review and/or approval.
5. Submit to the City of Battle Ground a signed Bill of Sale for sanitary sewer and water systems.
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, 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 of the Site:

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 Engineering Department, (360) 342-5070, to schedule an appointment.

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 Construction:

1. Acquire the required Building permits as outlined in Title 15 above.
2. Provide documentation that the required fire hydrant has been installed, tested, and approved in accordance with City of Battle Ground engineering standards.
3. Add a note on the final plat stating that all new structures shall conform to the setbacks and building heights of the R16 zoning district.

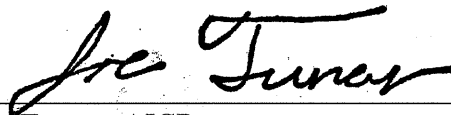
G. Prior to Certificate of Occupancy:

1. Complete all building permit requirements of the City of Battle Ground Building Division.

H. Other

1. 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.
2. Adhere to all recommendations in the final *Critical Areas Assessment and Mitigation Plan* agreed upon with Department of Ecology and Army Corps of Engineers.
3. Coordinate any water quality recommendations in reference to Ecology's December 5, 2018 letter.
4. Staff requests a name change due to an already existing BG Village.
5. A copy of the recorded boundary line adjustment shall be submitted to the City of Battle Ground Community Development Department within 30 calendar days of the recording date.
6. Applicant shall limit construction hour's per BGMC, which states construction activity for commercial development may occur from 7 am to 9 pm Monday through Friday, 8 am to 9 pm on weekends.
7. All future homes to comply with the requirements of BGMC 17.106.040 at building permit issuance.

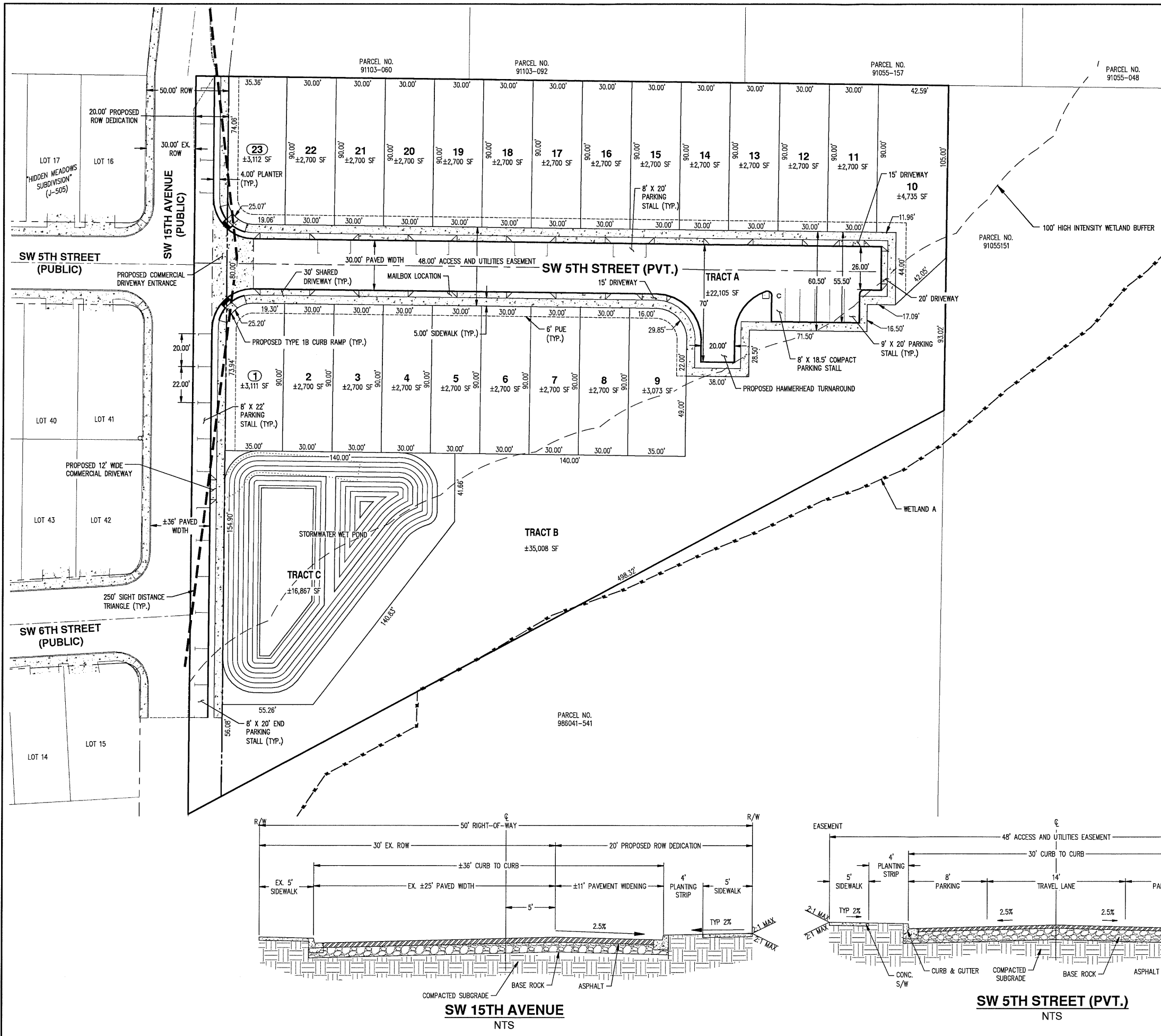
DATED this 22nd day of January 2019.



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

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.



GENERAL NOTES

1. THE PURPOSE OF THIS PRELIMINARY PLAT IS TO SHOW THE PROPOSED LOT DIMENSIONS FOR PLANNING PURPOSES ONLY. THIS IS NOT AN OFFICIAL PLAT AND IS NOT TO BE USED FOR SURVEY PURPOSES.
2. FRONTAGE IMPROVEMENTS ARE PROPOSED FOR SW 15TH AVE.
3. PROPOSED LANDSCAPING NOT SHOWN FOR CLARITY; FINAL LANDSCAPING PLAN WILL MEET CITY BATTLE GROUND CODE REQUIREMENTS. SEE P6.0 FOR LANDSCAPE PLAN.
4. PROPOSED LIGHTING NOT SHOWN FOR CLARITY; FINAL LIGHTING PLAN WILL MEET CITY OF BATTLE GROUND CODE REQUIREMENTS. SEE P7.0 FOR LIGHTING PLAN.
5. PARKING INCLUDES 23 ON-STREET PARKING STALLS AND 4 ON-SITE PARKING SPACES PER LOT.
6. REFER TO THIS SHEET FOR PROPOSED STREET SECTIONS.
7. NO STREETS SERVING THE SITE ARE IN EXCESS OF 15% GRADE.
8. ALL PROPOSED INTERNAL ROADS ARE TO BE PAVED WITH ASPHALT.
9. TRACT A IS A PRIVATE STREET TRACT, TRACT B IS A CRITICAL AREAS TRACT, AND TRACT C IS A STORMWATER FACILITY TRACT.
10. TRACTS A AND B TO BE PRIVATELY OWNED AND MAINTAINED.
11. TRACT C TO BE OWNED AND MAINTAINED BY THE CITY OF BATTLE GROUND.

R16 - SITE STATISTICS (PARCEL #192367-000)

GROSS AREA -	3.40 AC
ROW DEDICATION -	0.20 AC
PRIVATE ROAD -	0.51 AC
CRITICAL AREA TRACT -	0.80 AC
STORMWATER TRACT -	0.39 AC
NET AREA -	1.50 AC
MAXIMUM DENSITY (3.40 X 16) -	54 DU
MINIMUM DENSITY (1.50 X 8) -	12 DU
PROPOSED DENSITY -	23 DU

NOTE: AREAS REPRESENT BOUNDARY LINE ADJUSTMENT OF PARCEL #192367-000.

PARKING STATISTICS

TOTAL REQUIRED ON-STREET PARKING STALLS:	23
PROPOSED STANDARD PARKING STALLS (9' X 20'):	5
PROPOSED COMPACT PARKING STALLS (8' X 18.5'):	1
PROPOSED PARALLEL END PARKING STALLS (8' X 20'):	10
PROPOSED PARALLEL PARKING STALLS (8' X 22'):	7
TOTAL PROPOSED ON-STREET PARKING STALLS:	23
TOTAL REQUIRED ON-SITE PARKING SPACES:	2/LOT
PROPOSED GARAGE PARKING SPACES:	2/LOT
PROPOSED DRIVEWAY PARKING SPACES:	2/LOT
TOTAL PROPOSED ON-SITE PARKING SPACES:	4/LOT

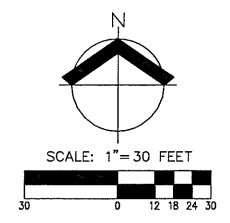
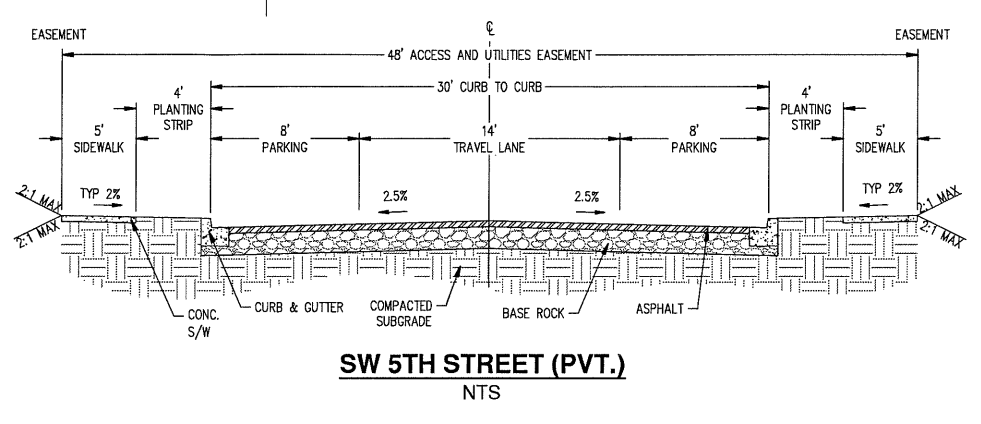
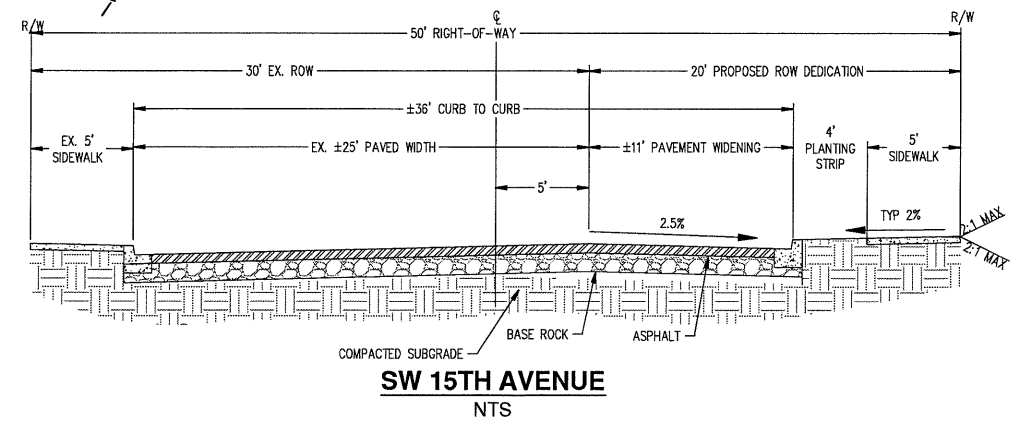
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ENGINEERING • SURVEYING • NATURAL RESOURCES
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**BG VILLAGE SUBDIVISION
CONSTRUCTION PLANS
BATTLE GROUND WASHINGTON**
NW 01R 503, 15N, R2E, W4E
PARCEL NO. 192367000

**PRELIMINARY
PLAT**

EXHIBIT # 20



DESIGNED BY: JRS
DRAWN BY: MRE
CHECKED BY: SMH
SCALE: AS NOTED
DATE: 1/07/2019

SECRET MICHIGAN
PROFESSIONAL ENGINEER
STATE OF MICHIGAN

REVISIONS

JOB NUMBER
4990

SHEET
P3.0