

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

Regarding an application by Greer and Greer, Inc.	)	<b><u>FINAL ORDER</u></b>
for approval of a preliminary plat to divide	)	
five-acres into 25 lots in the R12 zone at 1520 SW	)	<b>PR 57-2019</b>
Eaton Boulevard in the City of Battle Ground	)	<b>(Shiloh Lane Subdivision)</b>

**A. SUMMARY**

1. The applicant, Greer and Greer, Inc., request approval to divide the five-acre site into 25 residential lots and an open space tract for wetlands/open space and stormwater facilities. The site is located at 1520 SW Eaton Boulevard; also known as Tax Assessor Parcel 192407-000 (the “site”).

a. The site and abutting properties to the north south, west and northeast, across SW 15<sup>th</sup> Avenue and SW Scotton Way, are zoned R12 (Residential, 12 units per acre maximum density). Properties to the east, across SW 15<sup>th</sup> Avenue, are zoned MU-R (Mixed Use Residential). Properties to the southeast, across SW 15<sup>th</sup> Avenue, are zoned RC (Regional Commercial)

b. An underground gas line easement bisects the southwest corner of the site. In addition, there are wetlands and Oregon white oak trees in the southwest corner of the site of the site. The applicant will preserve the gas line easement, oak trees, wetlands and associated buffers in proposed Tract A.

c. The site is currently developed with a single-family residence and associated accessory structures. The applicant will remove all of the existing structures and construct a new single-family detached dwelling on each of the proposed lots.

d. 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 on-site wetlands at less than predevelopment rates.

e. The applicant will dedicate right-of-way and construct half-width frontage improvements for the section of SW 15<sup>th</sup> Avenue abutting the east boundary of the site. The applicant will extend a new public street, proposed SW 16<sup>th</sup> Way, into the site from SW 15<sup>th</sup> Avenue. Proposed SW 16<sup>th</sup> Way will turn north as SW 15<sup>th</sup> Place, then intersect a new on-site east-west street, proposed SW 15<sup>th</sup> Way. The eastern portion of SW 15<sup>th</sup> Way will dead-end at the east boundary of the site. The applicant will extend the western portion of SW 15<sup>th</sup> Way to the west boundary of the site to allow for further extension and cross circulation when the abutting property redevelops.

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 October 24, 2019 (the "Staff Report") as modified at the hearing. The applicant accepted those findings and conditions, as modified, without exceptions. Other than public service providers and agencies, no one else testified orally or in writing.

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 November 12, 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 planner Sam Crummett summarized the Staff Report. He requested the examiner add a condition of approval requiring that the applicant coordinate with the Washington State Department of Archaeology and Historic Preservation (DAHP) for any necessary reviews or approvals.

3. City engineer Ryan Jaynes testified that it is feasible to modify the sewer pump station proposed for the Quail Haven subdivision to serve this development.

4. Engineer Ed Greer appeared on behalf of the applicant. He accepted the findings and conditions in the Staff Report, as modified at the hearing, without objections. He noted that the sewer pump station proposed for the Quail Haven subdivision has not been constructed. The pump station facility can be designed to accommodate additional sewage effluent from this development.

5. No one else appeared at the public hearing. 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 Battle Ground Municipal Code (the “BGMC”) and the Revised Code of Washington (the “RCW”), provided that the applicant comply 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.

#### **D. CONCLUSION**

Based on the above findings and discussion, the examiner concludes that PR 57-2019 (Shiloh Lane Subdivision Subdivision) should be approved, because it does or can comply with the applicable standards of the BGMC and the RCW, 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 PR 57-2019 (Shiloh Lane Subdivision 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, for SW 15<sup>th</sup> Avenue, “Neighborhood Collector”, including sidewalk, planter strip, curb/gutter and asphalt.
  - b. Showing full width improvements to SW 16<sup>th</sup> Way, SW 15<sup>th</sup> Place, and SW 15<sup>th</sup> Way (west of SW 15<sup>th</sup> Place) to “Local A” standards, including sidewalk, planter strip, curb & gutter, and asphalt.
  - c. Showing SW 15<sup>th</sup> Way (east of SW 15<sup>th</sup> Place) meeting the applicable private street requirements in BGMC 12.116.140 based on 5 or more lots/units.
  - d. Containing a combined landscaping and driveway plan.
  - e. Showing sight distance and vision clearance triangles.
  - f. Containing a signing and striping plan.

- g. Containing a street lighting plan having LED decorative acorn units.
  - h. Showing traffic calming devices on all public streets.
  - i. Showing driveways that meet the requirements of BGMC 12.116.243 and 12.116.246.
  - j. Showing traffic mitigation at SR 503 & NW Onsdorff Boulevard, SR 503 & SW Eaton Boulevard and SW 20<sup>th</sup> Avenue & SW Eaton Boulevard or indicating that mitigation fees will be paid in lieu of the improvements.
  - k. Showing water lines extending to extreme property lines.
  - l. Showing each residential lot having its own individual water service
  - m. Showing sewer lined extending to extreme property lines.
  - n. Showing each lot having its own individual sanitary lateral.
  - o. Showing fire hydrants meeting spacing requirements throughout the subdivision.
  - p. Showing a stormwater facility that meets the requirements of BGMC 18.250.
  - q. Showing grading and erosion control in conformance with applicable city standards and standard construction details.
3. Provide a photometric plan shall be 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. Submit a hydrology report that addresses all requirements found in BGMC 18.250.
  5. Submit a SWPPP that meets Department of Ecology requirements.
  6. Submit a construction cost estimate for required public and applicable private improvements for review and approval by the City Engineering Department
  7. 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.

**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 & NW Onsdorff Boulevard or pay the mitigation fees of \$4,576.23.
3. Construct the mitigation measures for the failing intersection of SR 503 & SW Eaton Boulevard or pay the mitigation fee of \$10,733.13
4. Construct the mitigation measures for the failing intersection of SW 20<sup>th</sup> Avenue & SW Eaton Boulevard or pay the mitigation fee of \$13,748.40.
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, including streetlights and signs, 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 streets.
  - f. With a note specifying the party/s responsible for long-term maintenance of stormwater facilities.
  - g. That shows where any control monuments have been placed.
  - h. That shows the dedication of any public roads or alleys.
  - i. With the following note: “All new structures shall conform to the setback and building heights of the R12 zoning district.”
  - j. With the following note: “All households shall conform to the neighborhood design standards as listed in BGMC 17.106.040.”
  - k. With the following note: “Building permits and impact fees will be calculated and shall be paid at the time of permit issuance.”
  - l. That shows the wetland delineation and signage meeting BGMC 18.270.050.
  - m. With the following note: “Wetland buffer demarcation shall comply with BGMC 18.270.050.”
  - n. That shows the wetland and buffer areas are in a critical areas tract.
  - o. With the following note: “The critical areas tract shall be owned and maintained by the HOA.”
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.
  8. Provide certification that private streets were built per BGMC 12.116.140.
  9. Submit a private maintenance agreement for private streets.
  10. Submit a signed Bill of Sale for sewer, stormwater, and water systems.
  11. Provide a copy of the site alteration and excavation permit prior to any land disturbance. The applicant is also required to gain any necessary approvals from DAHP.

12. Submit a wetland mitigation plan that assures mitigation requirements of BGMC 18.260.120 and 18.260.130. This plan shall demonstrate the stormwater facility meets the requirements in 18.270.070.
13. Submit a buffer-averaging proposal that complies with 18.270.080, which demonstrates that the buffer is not reduced by more than 75% of its standard.

**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 shall be provided by the applicant 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 Stormwater Facility Maintenance Agreement meeting requirements of BGMC 18.250.310(A)(1) for review and approval prior to recording.
5. 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 at (360) 342-5070 to schedule an appointment.

8. Signage and fencing around the wetland buffer must be installed prior to any land alteration or construction meeting the standards of BGMC 18.270.050.

**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 permits as outlined in Title 15 above.
2. Provide documentation that the required fire hydrants have been installed, tested, and approve in accordance with City of Battle Ground engineering standards.

**G. Prior to Certificate of Occupancy:**

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

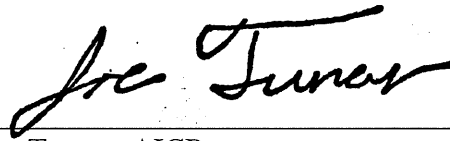
**H. Other**

1. Coordinate with the Washington State Department of Archaeology & Historic Preservation (DAHP) for any necessary reviews or approvals.
2. 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.
3. The applicant is required to obtain any necessary approvals from Williams NW Pipeline Company or any other applicable state agencies due to the natural gas pipeline in the property.
4. Applicant shall coordinate with the Department of Ecology on all items addressed in their comment letter dated October 9, 2019
5. Adhere to all recommendations in the final *Critical Areas Assessment and Mitigation Plan* agreed upon with the Department of Ecology.
6. Coordinate any air quality recommendations and demolition recommendations and receive applicable permits in reference to SWCAA's e-mail received October 1, 2019.
7. Applicant shall limit construction hours 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.

**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 15<sup>th</sup> day of November 2019.

A handwritten signature in black ink that reads "Joe Turner". The signature is written in a cursive style with a horizontal line extending from the end of the name.

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