

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 August 27, 2020(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 September 11, 2020. 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 Emily Lutz summarized the Staff Report.

a. She noted that the Washington State Department of Ecology (ECY) submitted written comments regarding the existing "farm pond" on the site (Exhibit 17). The applicant's wetland consultant responded to ECY's comment in Exhibit 18.

b. She noted that the pipeline easement on the site is owned by NW Pipeline, LLC, not NW Natural as stated in the Staff Report.

3. City engineer Ryan Jeynes testified that the applicant will construct a sanitary sewer pump station and force main or provide grinder pumps and force mains for individual lots. Either option is acceptable to the City. Either system must be adequately sized to serve future development on the parcel west of the site and the previously approved Shiloh Lane subdivision north of the site, with sanitary sewer lines extended to the boundaries of the site as necessary for connections to these developments.

a. He initially argued that the applicant should be required to extend half-street improvements for proposed SW 15th and 16th Avenues to the north boundary of the site to allow for further extension when the abutting properties redevelop. However, he then noted that the Shilo Lane development north of the site did not provide a street stub to accommodate the extension of this roadway. Therefore, the applicant should be required to dedicate right-of-way to the north boundary, but the road improvements as shown on the preliminary plat.

4. Engineer Fred Garmire appeared on behalf of the applicant, 2G Associates, Inc. He accepted the findings and conditions in the Staff Report, as modified at the hearing, without objections.

a. He argued that there is no need to extend SW 16th Avenue to the north boundary of the site. Wetlands and a natural gas pipeline easement north of the site limit the ability for further extension of this street north of the site. Future development on the property to the west of the site can extend an east-west street from SW 16th Avenue to provide opportunities for cross-circulation, as shown on the preliminary plat.

5. No one else testified at the online hearing. At the conclusion of the hearing the examiner held the record open for two weeks, subject to the following schedule:

a. For one week, for anyone to submit additional written testimony and evidence in this matter; and

b. For a second week, to allow the applicant to respond to any comments submitted during the first week of the open record period.

6. No new testimony or evidence was submitted during the first week of the open record period. Therefore, the examiner closed the record at 5:00 p.m. on September 18, 2020.

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 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.

D. CONCLUSION

Based on the above findings and discussion, the examiner concludes that PR 22-2020 (Quail Haven 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 22-2020 (Quail Haven 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 Eaton Boulevard, a Minor Arterial”, including sidewalk, planter strip, curb/gutter and asphalt.
 - b. Showing adequate half-street improvements, for SW 15th Avenue, a Neighborhood Collector, including sidewalk, planter strip, curb and gutter and asphalt extending to the north boundary of the site, or as otherwise approved by the City.
 - c. Showing adequate half-street improvements, for SW 16th Avenue, a Local A, including sidewalk, planter strip, curb and gutter and asphalt.
 - d. Showing full width improvements to SW 19th Street, a Local A, including sidewalk, planter strip, curb & gutter and asphalt.
 - e. Showing SE 18th Circle meeting the applicable private street requirements in BGMC 12.116.140 based on 3-4 lots/units.
 - f. Containing a combined landscaping and driveway plan.
 - g. Showing sight distance and vision clearance triangles.
 - h. Containing a signing and striping plan.
 - i. Containing a street lighting plan having LED decorative cobra type units for SW Eaton Boulevard and LED acorn units for the other streets.
 - j. Showing traffic calming devices on all public streets.
 - k. Showing driveways that meet the requirements of BGMC 12.116.243.
 - l. Showing traffic mitigation at SR 503 & NW Onsdorff Boulevard, SR 503 & SW Eaton Boulevard, and SW 20th Avenue & SW Eaton Boulevard or indicating that mitigation fees will be paid in lieu of the improvements.
 - m. Showing that the secondary traffic mitigation at SR 503 & SW Eaton Boulevard or meeting one of the other options in lieu of the improvements.
 - n. Showing either an 8-inch water line coming from SW Scotton Way/SW 15th Avenue or a 12-inch water line coming from SR 503 in SW Eaton Boulevard.
 - o. Showing a 12-inch water, along the frontage, in SW Eaton Boulevard.

- p. Showing water lines extending to extreme property lines.
 - q. Showing each residential lot having its own individual water service.
 - r. Showing sewer lines extending to extreme property lines.
 - s. Showing each lot having its own individual sanitary lateral.
 - t. Showing construction of a pump station and force main connecting to an existing manhole within Alder Pointe Apartments, or as otherwise approved by the City.
 - u. Showing fire hydrants meeting spacing requirements throughout the subdivision.
 - v. Containing a photometric plan for all access points, intersections, streets, frontage roads out to centerline, and any existing lights to ensure that proposed lights meet IES RP-8-00 standards.
 - w. Showing a stormwater facility that meets the requirements of BGMC 18.250.
 - x. Showing a six-foot high black vinyl fence around the perimeter of the stormwater facility.
 - y. Showing grading and erosion control in conformance with applicable city standards and standard construction details.
 - z. Clearly indicate the location of all required “No Parking-Fire Lane” signage.
 - aa. Submit plans that show the parking lot:
 - i. Has no more than 5 parking stalls in a single parking lot area or provide documentation stating that the site cannot accommodate this requirement.
 - ii. Showing a sidewalk connecting the parking lot to a sidewalk.
 - iii. Show parking stalls and on-street parking meeting dimensions listed in Table 17.133-3.
 - iv. Showing the parking lot meets design standards listed in 17.133.070.
 - bb. Submit a signage plan meeting the standards listed in 18.270.050.
 - cc. Provide a detailed stormwater facility plan that is in compliance with 18.270.070A. This applies to the section of the facility in the buffer. If trees are proposed to be taken down, we will need a tree removal plan that shows compliance with 18.270.070 A1 and A2.
3. Submit a hydrology report that addresses all requirements found in BGMC 18.250.
 4. Submit a SWPPP that meets Department of Ecology requirements.
 5. Submit a construction cost estimate for required public and applicable private improvements for review and approval by the City Engineering Department
 6. 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.

7. Submit an updated mitigation plan for review and approval.
 - a. Wetland:
 - i. Addressing the requirements listed in 18.260.130.
 - ii. Provide both indirect and direct impacts to Wetland A.
 - iii. Addressing the requirements listed in 18.270.100A 1-5. This should include a buffer averaging plan.
 - iv. The applicant shall gain any applicable approvals and permits from the Army Corps of Engineers and the State Department of Ecology in finalizing the Wetland Delineation and Mitigation Plan.
 - v. Submit evidence of purchased credits for SW 15th Avenue and other direct impacts if applicable.
 - b. Oregon White Oaks:
 - i. Provide a tree removal plan identifying which Oregon White Oaks are to be taken down.
 - ii. Provide a planting plan meeting 18.280.100. Two new Oregon White Oaks (at a minimum of two inches DBH) shall be planted on-site or within one mile of the city urban growth boundary for every one White Oak that is taken down.
 - iii. Assure no net loss per 18.280.030.
8. Obtain any necessary approvals and permits from NW Pipeline, LLC, see comment letter.

B. 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.

C. 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.

D. Prior to Engineering Acceptance:

1. Construct all required public improvements mentioned above in the findings, 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 from 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.

E. 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 \$21,466.62.
4. Construct the mitigation measures for the failing intersection of SW 20th Avenue & SW Eaton Boulevard or pay the mitigation fee of \$29,788.20.
5. Meet one of the options for the secondary mitigation measure at the intersection of SR 503 & SW Eaton Boulevard.
6. 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. Showing critical areas to be in a separate tract.
 - e. With the following note: “No fences are allowed in the sight distance triangle.”
 - f. With the following note: “All utilities are to be located outside of the sidewalk section and to be underground where possible.”
 - g. With the following note: “Parking lots are to be maintained by the homeowner’s association.
 - h. With the following note: “All new structures shall comply with the R12 zoning district.”
 - i. With the following note: “All future homes to comply with the design requirements of BGMC 17.106.040.”
 - j. With the following note: “Where houses are served by alleys, all garages and on-site parking shall be accessible from the alley and the facade of the house facing the public street shall be designed as the front of the house including, but not limited to, a primary building entrance consisting of inward swinging door(s), porches, windows and pathways to the public sidewalks.”
 - k. With the following note: “Critical areas tract shall be owned and maintained by either the HOA or developer.”
7. Submit a maintenance agreement for the parking lots to be reviewed and recorded with the plat.
 8. If LID improvements are incorporated into the project, provide appropriate stormwater covenants.
 9. Submit a signed Bill of Sale for sewer, stormwater, and water systems.
 10. Submit evidence of Oregon White Oak plantings.

F. Prior to Building Construction:

1. Acquire the required building permits as outlined in Title 15 above.
2. Provide documentation that the required fire hydrants have been installed, tested, and approved in accordance with City of Battle Ground engineering standards and section 15.105.100 of this Staff Report.
3. All new structures shall conform to setbacks, design, parking, and building height requirements of the R12 zoning district and BGMC’s residential chapter.
4. All houses served by alleys, shall be designed so that the front of the house including, but not limited to, a primary building entrance consisting of inward swinging door(s), porches, windows and pathways to the public sidewalks faces the public street.

G. Prior to Certificate of Occupancy:

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

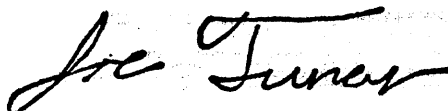
H. Other

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. The project is conditioned to coordinate with Ecology on any applicable reviews, permits, and approvals. The comment letter, which is an exhibit with this report, has numerous resources and contacts should the applicant have any additional questions.
3. Adhere to all recommendations in the final *Critical Areas Assessment and Mitigation Plan*.

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 25th day of September 2020.



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