

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

Regarding an application by Holt Distressed Property Fund) **FINAL ORDER**
for approval of a preliminary plat to divide 32.41-acres into)
97 lots in the R7 zone in the northeast corner of the NE Grace) **SUB: 01-15**
Avenue/NE 10th Street intersection in the City of Battle Ground) **(Creekside Heights)**

A. SUMMARY

1. The applicant, Holt Distressed Property Fund, requests approval to divide the 32.41-acre site into residential lots and tracts for parks/open space, utilities, and private roads. The site is located in the northeast corner of the intersection of NE Grace Avenue and NE 10th Street. The legal description of the property is Tax Assessor Parcels: 228967-000, 229025-000, 229027-000, 229028-000, and 229029-000 (the “site”).

a. The site and abutting properties to the southeast, and properties abutting the southwest and northwest corners of the site, are zoned R7 (Residential, 7 units per acre maximum density). Properties to the west and southwest are zoned R12 (Residential, 12 units per acre maximum density). Properties to the east and northeast are zoned R5 (Residential, 5 units per acre maximum density). Properties to the north are zoned R1-5 (Clark County Residential, 5,000 square foot minimum lot size). The site is currently vacant and forested.

b. The applicant proposed two options for subdivision of the site. Proposed Option A, which complies with current Department of Ecology (“DOE”) regulations, would divide the site into 80 single-family lots and a large stormwater tract. Proposed Option B would divide the site into 97 single-family lots and a smaller stormwater tract. Option B anticipates a proposed change in DOE stormwater regulations that would allow the smaller stormwater facility. All proposed lots for both development options comply with the dimensional requirements of the R7 zone.

c. 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 E (Option A) or Tract J (Option B) for treatment and detention. The applicant will discharge treated stormwater to the City’s storm sewer system at less than predevelopment rates.

d. The applicant will construct a half-width street improvement for the sections of NE 10th Street and NE Grace Avenue abutting the site. The applicant will construct new public roads through the site from NE 10th Street and NE Grace Avenue. The applicant will extend stub streets to the north and east boundaries of the site to allow for further extension and cross circulation when abutting properties are further developed. The applicant will also modify the offsite intersection of NE Grace Avenue and E. Main Street to an all-way stop. The applicant further proposed to provide an eastbound left turn lane at this intersection, subject to City Council approval. The applicant will also provide

an eastbound right turn lane on SW Eaton Boulevard at SW 10th Street, subject to WSDOT approval.

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 May 7, 2015 as modified by Exhibit 16 (the "Modified Staff Report"). The applicant accepted those findings and conditions, as modified at the hearing, without exceptions. Five persons testified in opposition and with questions and concerns about the application. Disputed issues or concerns in the case include the following:

- a. Whether traffic generated by the proposed development will exceed the capacity of area streets or otherwise create a hazard;
- b. Whether the applicant can be required to provide off-site road improvements;
- c. Whether the proposed wetland impacts are consistent with the Code;
- d. Whether, and to what extent, the applicant is required to provide access to adjacent properties;
- e. Whether the development will result in a significant increase in trespass, vandalism and other offenses; and
- f. The compatibility of the proposed development with the surrounding area generally.

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 May 13, 2015. 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 Modified Staff Report.

a. He noted that the applicant proposed two alternative designs for the subdivision, Options A and B. Option A includes 80 lots and a large stormwater tract, consistent with current DOE regulations. Option B, with 97 lots and a smaller stormwater tract, is dependent on DOE's approval of a proposed rule change. The applicant is requesting conditional approval of both options, which will allow the development to proceed with whichever plat design complies with DOE's decision.

i. Current DOE regulations require stormwater facilities designed based on the Western Washington stormwater model. The DOE is considering adoption of a Clark County stormwater model, which is based on the actual rainfall amounts observed in Clark County. The Clark County model assumes less rainfall, and therefore requires smaller stormwater facilities, than the Western Washington stormwater model.

ii. Proposed condition A.3 requires the applicant submit a final hydrology report and stormwater facility design that meets the requirements of BGMC 18.250 and DOE criteria.

b. The proposed development will impact roughly 0.5-acres of wetlands on the site. The applicant will mitigate the wetland impacts by purchasing credits at an offsite wetland bank. The applicant proposed to develop a park in the northwest corner of the site and a trail along the south edge of the wetlands in proposed Tracts A & C of Option A (Tracts E & I of Option B).

c. He requested the examiner adopt certain changes to the Staff Report as set out in Exhibit 16, the Modified Staff Report.

i. The Staff Report concluded that the design standards of section 17.106.040.C.3 of the Battle Ground Municipal Code (the "BGMC") are inapplicable because the applicant did not propose any alleys. However BGMC Table 12.116.040.E requires that alleys serve any lots with less than 60 feet of frontage. Therefore BGMC 17.106.040.C.3 may apply. The Modified Staff Report corrects this finding. Condition of approval B.5.1 requires compliance with BGMC 17.106.040.

ii. Condition D.9 should be modified to require planting of two Oregon White Oak trees for every one oak tree removed.

d. He agreed with the additional changes to the conditions proposed by the applicant in Exhibits 18 and 19.

e. He opined that this development is unlikely to increase vandalism problems at the Crystal Springs Park. There are no direct road connections between this site and the Crystal Springs development. The applicant will create a smaller park on this site.

3. Attorney Randy Printz appeared on behalf of the applicant and summarized the proposed development.

a. He noted that the DOE is near a final decision regarding adoption of a Clark County stormwater model. He requested the examiner add a condition of approval allowing the applicant to develop Option B if the DOE adopts the Clark County model, Option A if the DOE retains the current regulation, and other alternative designs if DOE adopts regulations allowing stormwater facilities that are smaller than are smaller than current regulations require but larger than the facility proposed in Option B. He proposed language for such a condition in Exhibit 19.

b. He noted that the applicant proposed to change the intersection of NE Grace Avenue and E. Main Street to an all-way stop. This will improve the Level Of Service ("LOS") at this intersection from F to D. The applicant also proposed to stripe an eastbound left turn lane at this intersection, which will improve the LOS to B. However striping of an eastbound left turn lane will eliminate some existing on-street parking spaces, which will require City Council approval. He requested the examiner modify condition 4 to require the applicant create an all-way stop controlled intersection and only require a left turn lane if approved by the City Council.

c. He noted that the intersection of SW Eaton Boulevard and SW 10th Street is subject to WSDOT jurisdiction. Therefore he requested the examiner modify condition B.3 to require an eastbound left turn lane at this intersection if approved by WSDOT.

d. He requested the examiner modify condition B.10 to require the applicant submit a park design plan rather than a park design site plan, in order to avoid confusion with the City's site plan requirements.

e. The proposed development will generate additional traffic on area streets. However the traffic study demonstrates that all intersections affected by this development will operate at acceptable levels of service, if the applicant implements certain mitigation measures. The accident rate at all affected intersections is well below the required action level of one accident per million entering vehicles.

f. The applicant's wetland biologists and staff for the Corps of engineers have reviewed the site and identified the boundaries of the wetlands. Wetlands are defined by the presence of specific soils, hydrology and vegetation. The applicant will retain the majority of the wetlands on the site. The proposed development will impact roughly 0.5-acres of wetlands. The applicant will mitigate those impacts by purchasing credits at the Remy Farm wetland bank.

4. Gary Johnson testified that the City approved a 27-lot preliminary plat of his property east of the site. Exhibit 20. His plat design was dependent for access on the previously approved Tuxedo Junction subdivision on this site, which was never constructed. This development will provide access to the 18 lots in the southern portion of his property, but it will not provide access to the 9 lots in the northern portion of his property, which are separated by a wetland.

5. Betsy Kenworthy testified on behalf of herself, her husband Bruce Kenworthy and her neighbor Helen Fordyce.

a. She noted that the City denied a prior subdivision proposal on this site due to inadequate sewer capacity. She questioned what changed to allow this development.

b. She noted that there are significant wetlands on this site and surrounding properties.

c. Traffic noise and volume is increasing in the area, especially heavy truck traffic. Many drivers exceed the posted speed limit. She questioned whether the City plans to extend Onsdorff Boulevard.

d. The existing streets in the area are inadequate to safely accommodate bicycle and pedestrian traffic. The shoulders are narrow or non-existent and pavement patches create hazards for bikes.

6. Don Phillips questioned the applicant's wetland analysis. There is a significant amount of water on the site. He testified that there have been numerous accidents in the area over the years. Heavy trucks and trailers from the recently approved Yacolt Quarry use the roads in the area. The additional traffic generated by this development will contribute to the existing hazard.

7. Cindy Crumpacker argued that the four-way stop at the intersection of NE Grace Avenue and E. Main Street will cause traffic to back up on E. Main Street, which will impact the existing businesses on this street. Removal of the existing parking spaces to accommodate a left turn lane will also impact these businesses. Vandalism is a problem in this area under existing conditions. The Crystal Springs development is fencing its private park and installing a locked gate to prevent unauthorized access. The proposed development will bring additional people to the area, which will exacerbate this problem.

8. City associate civil engineer Marit Ernst testified that the City considered the approved plat on Mr. Johnson's property. The City required the applicant relocate proposed 13th Street to align with the approved street connection on Mr. Johnson's property. The applicant cannot provide access to the northern portion of Mr. Johnson's property, due to the intervening wetlands. The applicant will be required to construct bike lanes and sidewalks along the sections of NE Grace Avenue and NE 10th Street abutting the site. She encouraged residents to contact the City's Public Works Department to report hazardous conditions on roads in the area.

9. Assistant city engineer Mark Hecceg testified that the City denied a proposed plat for the Tuxedo Junction development on this site, because the applicant for that project proposed to connect to sewer lines located south of the site. The City approved a revised development that proposed to connect to sewers to the west. The sewer lines west of the site have always had sufficient capacity to serve development on this site. The City's transportation plan calls for the extension of NW Onsdorff Boulevard to NE Grace Avenue when intervening properties redevelop.

10. Maureen Barrett testified that existing traffic volumes make it difficult to access NE 10th Street at NE 12th Avenue. The additional traffic generated by this development will exacerbate that problem. She questioned whether this intersection can be signalized.

11. The examiner closed the record at the end of the public hearing and announced his intention to approve the application subject to the conditions of approval in the Modified 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 Modified Staff Report, as further 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 Modified 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 herein. The examiner adopts the affirmative findings in the Modified Staff Report, as modified, as his own, except to the extent they are inconsistent with the following findings.

3. The proposed development will generate additional traffic on area streets, with associated increases in congestion and other impacts. Those impacts will be perceptible to area residents. However, as mitigated, the additional traffic will not exceed the capacity of streets nor create a hazard, based on the applicant's traffic impact study. All affected intersections will operate at LOS D or better, consistent with BGMC 12.120.060.A(1). There is no substantial evidence to the contrary.

a. Neighbors testified that the traffic from the development will exacerbate existing congestion problems and hazards. Neighbors' observations of existing traffic is substantial evidence. But their opinions that the traffic from the proposed development will exceed the capacity of area streets or make the streets unsafe is not supported by substantial evidence, because they are not experts in such matters. The examiner finds that the expert testimony by the applicant's traffic engineer is more persuasive than neighbors' testimony about the impact of traffic from the proposed development on area streets. A licensed professional engineer prepared the traffic study based on actual traffic volumes, including heavy truck traffic from the Yacolt quarry. Traffic counts were performed at all affected intersections. Future traffic volumes and trip distribution were estimated using accepted methods of calculation based on the type and amount of development proposed. The rate of reported accidents at affected intersections has not exceeded action levels. Traffic signal and turn lane warrants are not met at affected intersections. Although neighbors disputed the accuracy and findings of the traffic study and argued that the traffic from the development will exacerbate existing hazards, they failed to provide any substantial evidence to contradict the traffic study. Their

unsupported opinions do not have enough probative value to rebut the expert testimony of the applicant's traffic engineer.

b. Neighbors testified about congestion issues and delays at the intersection of NW 10th Street and NW 12th Avenue. However this intersection is projected to operate at LOS B or better with the additional traffic generated by this development. Traffic signals are not warranted at this intersection. The applicant cannot install traffic signals unless signal warrants are met.

c. The examiner finds that the proposed development will not significantly exacerbate existing speeding and reckless driving problems in the area. Reasonably prudent drivers will observe the posted speed limit and if necessary, further reduce their speed to accommodate changing road conditions. Unfortunately not all drivers are prudent. However there is no evidence that the development proposed in this application will contribute a disproportionate share of imprudent drivers. The examiner encourages area residents to contact the City to request additional enforcement if speeding and other traffic problems continue.

d. Additional traffic generated by the proposed development will cause an incremental increase in traffic noise. However traffic noise on public roads is expressly exempt from state noise regulations. See WAC 173.60.050(4)(a). Increased traffic noise associated with increased traffic can be expected on NE Grace Avenue and NE 10th Street, which are both designated rural major collector streets that are designed and intended to collect traffic from neighborhoods and local streets. Increased traffic noise is only one of the many consequences of living in an urban area. The residential development proposed in this application will not generate a significant increase in heavy truck traffic once construction is completed.

4. There is significant congestion at the intersection of NE Grace Avenue and E Main Street under existing conditions. The southbound and westbound approaches to this intersection are projected to operate at LOS F in 2020, with or without the additional traffic generated by this development. This congestion may also impact businesses on E Main Street. The applicant proposed to convert this intersection to all-way stop controlled intersection, which will improve the LOS to D or better. The applicant also proposed to install an eastbound left turn lane on E Main Street, which will further improve the intersection to LOS B. Construction of a left turn lane will eliminate some of the existing on-street parking on E Main Street west of NE Grace Avenue, which may affect the adjacent businesses. However, if a left turn lane is not installed, eastbound vehicle queues are projected to extend up to 375 feet from the intersection, which will also impact adjacent businesses. The City Council must approve the removal of parking along Main Street. The City Council will consider the potential impacts and determine how to best balance the loss of parking and increased vehicle queues.

5. There is no dispute that there is a need for additional sidewalks and bicycle lanes on streets in the area. The applicant will construct sidewalks and bicycle lanes along the site's Grace Avenue and 10th Street frontages. However the applicant cannot be required to construct offsite sidewalks along the remainder of these streets. The need for

sidewalks and other improvements is one that exists generally along streets in the area, and is a need to which all adjoining properties contribute, not just the development proposed in this case. The City cannot require this applicant to bear the cost of additional improvements, because the costs would exceed the roughly proportional impact of the proposed development. There is no substantial evidence in the record that additional improvements are necessary to remedy a hazard caused or exacerbated by the proposed development. Sidewalks and bicycle lanes in the area will connect over time as additional development occurs.

6. Concerns were expressed about hazardous pavement conditions on area streets, i.e., pavement patches creating hazards for bicycle traffic. The examiner understands those concerns, but these are existing problems that the applicant cannot be required to remedy. The examiner encourages residents to contact the City Public Works Department regarding any such potential hazards they observe.

7. Opponents of the application question the accuracy of the applicants' wetland delineation. The delineation was performed by a professional wetland scientist, based on on-site inspections of the vegetation, soils and hydrology of the site as required by BGMC 18.270.040.D. The applicant's wetland scientist also analyzed the functions and values of the on-site wetlands as required by BGMC 18.270.040.E. The Corps of Engineers reviewed and confirmed the applicant's delineation. Exhibit 17. There is no substantial evidence in the record to contradict this determination.

8. The proposed development will impact a small portion of the isolated Category III wetlands on this site. The applicant will retain and protect the remaining wetlands on the site. Such impacts are allowed by the Code, provided the applicant mitigates the impacts. BGMC 18.270.110.D. The applicant proposed to mitigate the wetland impacts on this site by purchasing credits at the Remy Farm Consolidated Mitigation Site, a "wetland bank" located in the same watershed as the site.

9. The proposed development will provide access to the southern portion of Mr. Johnson's plat. The applicant will extend proposed NE 13th Street to the east boundary of the site aligned with the proposed east-west roadway in the the central portion of Mr. Johnson's plat. The applicant cannot provide access to the lots in the northern portion Mr. Johnson's plat without impacting the Type II wetlands on this site. Mr. Johnson may be able to revise his plat to provide access to these lots by extending a roadway across the wetlands on his property.

10. The proposed development will attract additional people to the immediate area, which may increase the amount of trespass, litter, vandalism, and other illegal activities. However the examiner finds that there is no substantial evidence in the record that the future residents of this development are any more or less likely to engage in nuisance or illegal activities than other people. Residents of the proposed development are unlikely to have any impacts on the Crystal Springs Park, because there is no direct road connection between this site and this private park. The applicant will create a park on this site, which will serve some of the recreational needs of the residents.

11. Members of the public testified that the City should deny the application to “respect the wishes of the community.” Such testimony misunderstands the law. The best way to protect all of the public is to enforce the laws consistently. To give special consideration to a limited class of people violates the due process rights of all. The applicants are entitled to equal protection of the law. The examiner is obligated to apply the plain meaning of the law when it is not ambiguous. Citizen input is relevant and important in determining whether and how the application complies with the applicable approval criteria. Existing residents often have unique knowledge due to their experience living in the area. However the Code does not require community approval of the application. This is not a popularity contest. The examiner must approve the application if it does or can comply with the law.

D. CONCLUSION

Based on the above findings and discussion, the examiner concludes that SUB: 01-15 (Creekside 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: 01-15 (Creekside Heights Subdivision), subject to the following conditions of approval:

Conditions of Approval

A. Prior to Engineering Plan Approval:

1. Submit for review and approval by staff, final engineering plans prepared and stamped by a registered engineer in the state of Washington pertaining to transportation, sewer, water, grading, erosion control, stormwater, driveways, street lighting, and landscaping.
2. Submit final engineering plans:
 - a. Showing full width improvements to NE 12th Avenue (both sections), NE 11th Place, NE 11th Avenue, NE 11th Street, NE 12th Street, NE 13th Street and NE 14th Way per Local "A" standards, including sidewalk, planter strip, curb & gutter, and asphalt.
 - b. Showing adequate half-street improvements, based on pavement testing, for NE Grace Avenue, a Minor Arterial. Half-street improvements shall include sidewalk, planter strip, curb and gutter, and asphalt and any necessary right-of-way dedications.

- c. Showing adequate half-street improvements based on pavement testing, for NE 10th Street, a Minor Arterial, which may be built to a Modified Minor Arterial standards. Half-street improvements shall include sidewalk, planter strip, curb and gutter, and asphalt and any necessary right-of-way dedications.
- d. Showing Lots 15-18, 35-42, 45-52, 55-61 and 68-71 of Plat Option A or lots 32-35, 52-59, 62-69, 72-78 and 85-88 of Plat Option B with more than 60-feet of frontage or served by an alley.
- e. Showing street names as listed in the final order.
- f. Showing temporary fire apparatus turnarounds.
- g. Showing the 8-foot asphalt/concrete pedestrian pathway in a 15-foot easement.
- h. Containing a combined landscaping and driveway plan which also includes landscaping of the 20-foot landscaped parkways along NE Grace Avenue and NE 10th Street.
- i. Showing sight distance triangles.
- j. Containing a signing and striping plan.
- k. Containing a street lighting plan.
- l. Showing private street signs at intersections of public and private streets. Signs shall meet the requirements of the current MUTCD.
- m. Showing traffic calming devices on all public streets.
- n. Showing Tracts "B" and "F" of Plat Option A or Tracts "A", "B", "C", "D" and "M" of Plat Option "B" meeting the applicable private street requirements in BGMC 12.116.140 based on the number of lots/units being served.
- o. Showing driveways that meet the requirements of BGMC 12.116.243
- p. Showing 8-inch minimum diameter, size to be determined by applicant's engineer, water lines looped throughout the subdivision, extending to the extreme property lines, and connecting to existing water mains in NE 10th Street and NE 12th Street and the proposed 12-inch main in NE Grace Avenue.
- q. Showing a 12-inch water line in NE Grace Avenue, between NE 10th Street and the future extension of NE Onsdorff Boulevard.
- r. Showing each residential lot having its own individual water service.

- s. Showing S5-3 (15-inch) gravity sewer line from eastern property line in NE 10th Street through the subdivision and north in NE Grace Avenue to the future connection of NE Onsdorff Boulevard.
 - t. Showing S5-2 (18-inch) gravity sewer line from the intersection of NE Grace Avenue & the future connection of NE Onsdorff to the existing pipe currently identified as S5-1.
 - u. Showing S5-1 gravity sewer increased in size from 15-inches to 18-inches.
 - v. Showing Trunk 5 gravity sewer line in Onsdorff Boulevard from NW 4th Avenue to N Parkway Avenue increased in size from 15-inches to 18-inches.
 - w. Showing 8-inch minimum diameter sewer lines throughout the rest of the development;
 - x. . If the General Sewer Plan is updated, the applicant will be able to install the line sizes listed in the new plan.
 - y. Showing each residential lot having its own sanitary lateral.
 - z. Showing fire hydrants meeting spacing requirement throughout the subdivision and along the frontage of NE Grace Avenue and NE 10th Street.
 - aa. Showing traffic mitigation at the intersection of NE Grace Avenue and E. Main Street and SW Eaton Boulevard and SW 10th Avenue.
 - bb. Showing a stormwater facility that meets the requirements of BGMC 18.250.
 - cc. Showing a 6-foot high black vinyl fence around the perimeter of the stormwater facility.
 - dd. Showing grading and erosion control in conformance with applicable city standards and standard construction details.
3. Submit a hydrology report that addresses all requirements found in BGMC 18.250 and meets the approved Department of Ecology criteria. In the event that the Department of Ecology (“DOE”) amends the hydraulic model provided for in its Western Washington Storm Water Manual (its “Manual”) in such a manner that Option B would comply with such amended Manual, the applicant may develop Option B in lieu of Option A. In the event the DOE amends its Manual in such a manner that more lots than provided for in Option A would be allowed (due to the amended storm water provision requiring smaller storm ponds than would b required under current provisions), but fewer lots than provided for in Option B, then the applicant may submit a Type 1 Post Decision Review application to the City for a revised preliminary plat that allows a number of lots less than 97 and

which complies with the then adopted DOE storm water requirements for this area.

4. Submit a construction cost estimate for required public improvements for review and approval by the City Engineering Department.
5. Following the City Engineer's acceptance and approval of the construction cost estimate, pay the required engineering plan review and construction inspection fee which is two (2) percent of the estimated costs of construction. If no public improvements are constructed, the fee will be generated by time spent by staff to review plans.
6. All trail construction in the project shall be designed and comply with the 18.260.090.A.2.a-c and apply Best Management Practices as noted in Section C. of 18.260.090.

B. Prior to Final Plat Approval:

1. Construct all required public improvements and gain engineering acceptance or provide appropriate bonding.
2. Remove vegetation from sight distance triangle access intersections onto NE Grace Avenue and NE 10th Street.
3. Provide eastbound right turn lane on SW Eaton Boulevard and SW 10th Avenue, if approved by WSDOT.
4. Provide an all-way stop at NE Grace Avenue and E. Main Street with eastbound left turn lane. Provide, however, the applicant shall not be required to construct the left turn lane if the City Council does not approve the turn lane.
5. Submit a final plat:
 - a. That shows easements for public utilities not located in the right-of-way.
 - b. Showing a 15-foot easement for the pedestrian path.
 - c. With the following note: "No fences are allowed in the sight distance triangle."
 - d. With the following note: "All utilities are to be located outside of the sidewalk section and to be underground where possible."
 - e. 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."

- f. With a note describing the maintenance responsibilities of each lot owner for the private streets.
 - g. That shows where any control monuments have been placed.
 - h. Provide right-of-way dedication along NE Grace Avenue and NE 10th Street to back of proposed sidewalk.
 - i. That shows the dedication of any public roads or alleys.
 - j. That shows the temporary fire apparatus turnaround easements and states “The fire apparatus turnarounds are temporary and will revert to the lot owner when the fire access requirements are met by future development.”
 - k. Add the note: “All new structures shall conform to the setbacks and building heights of the R7 zoning district.”
 - l. Add the note: “All houses shall conform to the neighborhood design standards as listed in BGMC 17.106.040.”
 - m. Add the note: Building permits and all impact fees will be required for each structure to be built. Impact fees will be calculated and shall be paid at the time of permit issuance.
 - n. Add the note: 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.
 - o. Add a note requiring wetland buffer demarcation to comply with 18.270.050.
6. Submit a private maintenance agreement for private streets.
 7. Submit a two-year stormwater maintenance contract for review and/or approval.
 8. Proposed dedication of parks, trails, or open space are at the discretion of the City.
 9. Parkway buffers to be the responsibility of the subdivision for ownership and maintenance of the parkway buffers. Submit a copy of the Home Owners Association (HOA) provisions or an agreement that specifies responsibility of the parkway buffer.
 10. Submit a plan showing compliance with the park design requirements in BGMC 17.128.040.2. The park shall be designed in coordination with the City. This may include, but not be limited to, irrigated lawns, pedestrian paths, play space, picnic tables and seating areas, play equipment, pedestrian scale lighting along pathways.

At minimum, 1 acre of usable parks and trails shall be accessible to the public. If not dedicated, a public access easement shall be established for the park and trail.

11. Wetlands and buffer areas over 5,000 square feet shall be included in critical area tracts.
12. All buffer reductions/averaging shall comply with the applicable sections of BGMC 18.270.070 and 18.270.080.

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 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 and PDF formats.

D. Prior to any Ground Disturbance:

1. Conduct further archeology work under a permit from Department of Archeology and Historic Preservation per RCW 27.53.
2. If merchantable timber will be removed/harvested as part of the proposal, then a Forest Practices Application (FPA) will be needed (RCW 76.09 and WAC 222). The FPA will need to meet the requirements of the Forest Practices Act and its rules.
3. Coordinate with the State Department of Ecology and Army Corps of Engineers to determine the extent of wetlands and appropriate permitting, as it relates to mitigating impacts.
4. Comply with the Wetland Delineation and Assessment and Wetland Mitigation prepared by Ecological Land Services, or as modified.

5. All buffer reductions/averaging shall comply with the applicable sections of BGMC 18.270.070 and 18.270.080.
6. All wetland mitigation to occur shall be based on the type and ratios recommend per code.
7. Prior to ground disturbance for the installation of the off-site sewer, comply with all applicable Critical Area Regulations, SEPA, and supporting mitigation plans as necessary.
8. All trail construction in the project shall comply with the 18.260.090.A.2.a-c and apply Best Management Practices as noted in Section C. of 18.260.090.
9. For each Oregon White Oak tree removed two Oregon White Oaks, a minimum of two inches DBH, shall be planted on-site or off-site but within one mile of the city urban growth boundary.

E. Prior to Construction:

1. Receive signed and approved engineering plans from the City of Battle Ground.
2. Submit a certificate of liability meeting the requirements of BGMC 12.118.120..
3. Erect and conduct erosion control measures consistent with the approved Erosion Control Plan and City of Battle Ground erosion control standards.
4. 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.
5. 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.

F. 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.

G. Prior to Building Permit Occupancy:

1. Install permanent physical demarcation that complies with BGMC 18.270.050 between abutting houses or public areas, and wetland and habitat buffers.
2. The private road listed as “Tract D” and “Tract M” shall be posted “No Parking-Fire Lane” on both sides. The private roads listed as “Tract A”, “Tract B”, and

“Tract C” shall be posted “No Parking- Fire Lane” on one side. Signs shall be designed in accordance with appendix D of the IFC.

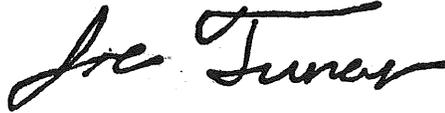
H. Prior To Receiving Credits:

1. Submit a written request for water main credit to the Planning Director including documentation of the actual construction costs reflecting the increased costs to complete the oversized water line, after such time that the improvement is built and has been accepted by the City.
2. Submit an engineering analysis of the size of water lines necessary to serve the site.

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 22nd day of May 2015.



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

