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

Regarding an application by Heidi and Curt Massie for approval of a preliminary plat to divide 16.5-acres into 45 lots in the R7 zone south of the intersection of SE 22nd Avenue and SE 12th Street in the City of Battle Ground	))))	**FINAL ORDER** **SUB: 03-15** **(Eastbrook Park)**

A. SUMMARY

1. The applicants, Heidi and Curt Massie, request approval to divide the 16.5-acre site into 45 residential lots and open space tracts for wetlands/open space and stormwater facilities. The site is located south of the SE 22nd Avenue/SE 12th Street intersection, west of the extension of SE 20th Avenue. The legal description of the property is Tax Assessor Parcels: 191916-000, 191964-000, and 191965-000 (the "site").

a. The site and abutting properties to the north and east, are zoned R7 (Residential, 7 units per acre maximum density). Properties to the west and south are zoned ML (Light Industrial). The site is currently developed with a single-family residence, on Parcel 191965-000. The applicant proposed to retain this residence on proposed Lot 37. There are two streams with associated wetlands that flow through the site from north to south, before merging into an east-west alignment along the south boundary of the site of the site. The applicant will preserve the majority of the wetlands and associated buffers in proposed open space tracts. The applicant will mitigate impacts to the wetlands and buffers caused by the proposed development.

b. The applicants propose to divide the site into 45 lots in two phases. The applicant will preserve the streams and wetlands in separate tracts. 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 applicants will collect storm water from impervious areas on the site and convey it to one of two storm water facilities in proposed Tract A for treatment and detention. The applicants will discharge treated stormwater to the on-site wetlands at less then predevelopment rates.

d. The applicants will provide access to the site by constructing an offsite section of SE 20th Street from SE 17th Street south of the site. The applicant will construct half-width frontage improvements for SE 20th Street along the west boundary of the site. The applicant will construct new public roads through the site from SE 20th Avenue with 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 applicants will also construct a north-south aligned pedestrian trail within the wetland buffer of the western stream on the site.

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

3. City of Battle Ground Hearing Examiner Joe Turner (the "examiner") conducted a public hearing to receive testimony and evidence about the application. City staff recommended the examiner approve the preliminary plat subject to conditions. See the Staff Report to the Hearing Examiner dated May 4, 2016 (the "Staff Report") as modified at the hearing. The applicants 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 May 11, 2016. 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.

a. He noted that the construction of the offsite section of SE 20th Street is likely to impact existing wetlands. The applicant should be required to delineate those offsite wetlands and mitigate for any impacts. Construction of the on-site roads and a portion of proposed Lot 11 will impact wetlands on the site. The applicant will be required to mitigate all wetland impacts by creating or enhancing wetlands on the site or by purchasing credits at a wetland mitigation bank.

b. He requested the examiner adopt the following amendments to the findings in the Staff Report:

i. The last two sentences of Finding 15.105.090 on p. 8 should be deleted. The applicant is no longer proposing alley access to Lots 1 and 2.

ii. Finding 16.125.110 on p. 9 should be modified to read, "The flag lots proposed on Lots 1 and 2 are acceptable and are conditioned with a shared driveway easement."

iii. Condition 2 under Finding 18.270.080 on p. 15 should be modified to read, "Submit a buffer averaging proposal that complies with 18.270.080, which includes showing that no buffer is reduced by ~~more~~ less than 75% of its standard.

c. He noted that the proposed preliminary plat assumes a boundary line adjustment along the east boundary of the site. He requested the examiner add a condition of approval requiring the applicant record the boundary line adjustment prior to final plat approval.

d. The applicant will need to acquire land from the owner of the adjacent property west of the site to construct a portion of the proposed offsite extension of SE 20th Avenue. He requested the examiner add a condition of approval to that effect.

3. Planner Ed Greer appeared on behalf of the applicants. He accepted the findings and conditions in the Staff Report, as modified at the hearing, without objections.

4. 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 applicants accepted those findings and conditions, as modified, without exceptions.

2. The examiner concludes that the affirmative findings in the Staff Report show that the proposed preliminary plat does or can comply with the applicable standards of the BGMC and the Revised Code of Washington, provided that the applicants 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 SUB: 03-15 (Eastbrook Park 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: 03-15 (Eastbrook Park Subdivision), subject to the following conditions of approval:

Conditions of Approval

A. Prior to Engineering Plan Approval:

1. Submit final engineering plans, for review and approval by staff, pertaining to transportation, sewer, water, grading, erosion control, stormwater, driveways, street lighting, and landscaping prepared and stamped by a registered engineer in the state of Washington:

a. Showing full width improvements to SE 13th Street, SE 14th Street, SE 15th Street, SE 21st Avenue and SE 22nd Avenue per Local "A" standards, including sidewalk, planter strip, curb & gutter, and asphalt.

b. Showing adequate half-street improvements for SE 20th Avenue, a Major Collector, including a continuous sidewalk, planter strip, curb and gutter, and asphalt and any necessary right-of-way dedications.

c. Showing Lots 1 and 2 served by a shared driveway access easement.

d. Showing street names as listed in the final order.

e. Showing temporary fire apparatus turnarounds.

f. Showing the pedestrian pathway in a 12-foot pedestrian easement.

g. Containing a combined landscaping and driveway plan.

h. Showing sight distance triangles.

i. Containing a signing and striping plan.

j. Containing a street lighting plan.

k. Showing traffic calming devices on all public streets.

l. Showing driveways that meet the requirements of BGMC 12.116.243

m. Showing 8-inch minimum diameter water lines looped throughout the subdivision, extending to the extreme property lines, and connecting to existing water mains in SE 17th Street.

n. Showing each residential lot having its own individual water service.

o. Showing an 8-inch gravity sewer line throughout the subdivision and connecting in SE 17th Street.

p. Showing private grinder pumps serving the parcels to the east of the proposed pedestrian trail.

q. Showing each residential lot having its own sanitary lateral.

r. Showing fire hydrants meeting spacing requirement throughout the subdivision and along the frontage of SE 20th Avenue.

s. Showing traffic mitigation at the intersection of SE Grace Avenue and SE Rasmussen Boulevard.

t. Showing traffic mitigation at SW Eaton Boulevard & SW 10th Avenue (SR 503), SW Eaton Boulevard & SW 20th Avenue and NW 10th Avenue (SR 503) & NW Onsdorff Boulevard or indicating that mitigation fees will be paid in lieu of the improvements.

u. Showing a stormwater facility which meets the requirements of BGMC 18.250.

v. Showing the stormwater facilities in separate tracts.

w. Showing a 6-foot high black vinyl fence around the perimeter of the stormwater facility.

x. Showing grading and erosion control in conformance with applicable city standards and standard construction details.

2. Submit a hydrology report that addresses all requirements found in BGMC 18.250 and meets the approved Department of Ecology criteria.

3. Submit a construction cost estimate for required public improvements for review and approval by the City Engineering Department.

4. 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.

5. Acquire title to a portion of the adjacent property west of the site (the Gustafson property) needed for construction of the offsite section of SE 20th Street.

B. <u>Prior to Final Plat Approval</u>:

1. Construct all required public improvements and gain engineering acceptance or provide appropriate bonding.

2. Construct the mitigation measures for the failing intersection of SR 503 & SW Eaton Boulevard or pay the mitigation fee of $21,466.62.

3. Construct the mitigation measures for the failing intersection of SW 20th Avenue & SW Eaton Boulevard or pay the mitigation fee of $13,748.40.

4. Construct the mitigation measures for the failing intersection of for NW 10th Avenue (SR 503) & NW Onsdorff Boulevard or pay the mitigation fees of $4,576.23

5. Construct traffic mitigation at the intersection of SE Grace Avenue and SE Rasmussen Boulevard.

6. Provide a recorded easement for the temporary turnarounds located on the eastern end of SE 13th and 14th Street with language stating that the turnaround is temporary and once the public streets are extended will revert back to the owner.

7. Submit a final plat:

   a. That shows easements for public utilities not located in the right-of-way.

   b. Showing a 12-foot perpetual pedestrian access easement for the pedestrian path.

   c. Showing a shared 20-foot access easement serving lots 1 and 2 and noting that the lots 1 and 2 shall be responsible for the maintenance of the shared driveway.

   d. Showing the stormwater facilities in separate tracts.

   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. That shows where any control monuments have been placed.

   h. That shows the dedication of any public roads or alleys.

   i. Add the note: "All new structures shall conform to the setbacks and building heights of the R7 zoning district."

   j. Add the note: "All houses shall conform to the neighborhood design standards as listed in BGMC 17.106.040."

   k. 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."

   l. 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."

   m. Add a note requiring wetland buffer demarcation to comply with 18.270.050.

n. The trail shall be overlaid with a public access easement and the developer shall establish a mechanism to assure perpetual care and maintenance of the trail.

8. Submit a two-year stormwater maintenance contract for review and/or approval.

9. Submit documentation, acceptable to City, demonstrating that the pedestrian path maintenance and liability responsibilities have been met.

10. Wetlands and buffer areas over 5,000 square feet shall be included in critical area tracts.

11. All buffer reductions/averaging shall comply with the applicable sections of BGMC 18.270.070 and 18.270.080.

12. Submit wetland mitigation plan that assures mitigation requirements of BGMC 18.260.120 and 18.260.130.

13. Modify or supplement the wetland delineation and mitigation plan to address any off-site infrastructural or utility improvements.

14. Coordinate with the State Department of Ecology for the proposed wetland impacts and final mitigation plan.

15. Per Ecology's comments, supplement or modify the wetland delineation according to the 2014 wetland rating system. Coordinate with Ecology on the review the wetland ratings per the 2014 wetland rating system and verify the wetland boundaries as flagged in the field.

16. Comply with water quality recommendations in Ecology's January 27, 2016 letter.

17. Record the proposed boundary line adjustment along the east boundary of the site.

C. <u>Prior to Engineering Acceptance</u>:

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. Provide recorded easements for the temporary turnarounds located on the eastern end of SE 13th and 14th Street with language stating that the turnaround is temporary and once the public streets are extended will revert back to the owner.

3. Submit letter shall be provided by the applicant showing that fire flow requirements per BGMC 15.105.180 and 15.105.190 can be met.

4. Submit to the City of Battle Ground a two-year/20-percent maintenance bond for all completed and accepted public improvements.

5. Submit complete sets of as-built drawings for all required public improvements for streets and roads, stormwater drainage and control, sanitary sewer and water services, as applicable prior to the issuance of the occupancy permit for review and approval by the Engineering Department. Upon acceptance by the Engineering Department, submit prior to the issuance of the occupancy permit, one (1) Mylar set, one (1) full size paper set, two (2) 11x17 paper sets of As-Built record drawings and one (1) 3.5-inch disk (s) or compact disc version of the as-built drawings in AutoCAD, PDF and TIF formats.

D. Prior to Construction:

1. Receive signed and approved engineering plans from the City of Battle Ground.
2. Submit a surety bond for right-of-way construction.
3. Submit a certificate of liability meeting the requirements of BGMC 12.118.120.
4. Erect and conduct erosion control measures consistent with the approved Erosion Control Plan and City of Battle Ground erosion control standards.
5. 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.
6. 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.
7. Provide a geotechnical report in accordance with IBC 1803.
8. 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.
9. Adhere to all recommendations of a final Wetland Delineation and Mitigation Plan.

E. Prior to Creation of Impervious Surface:

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

F. Prior to Building Permit Issuance:

1. All required fees, including Transportation, Park and School Impact fees shall be paid.

2. Fire hydrants shall be tested and approved and fire flow letter shall be submitted to the City showing the minimum fire flow has been attained.

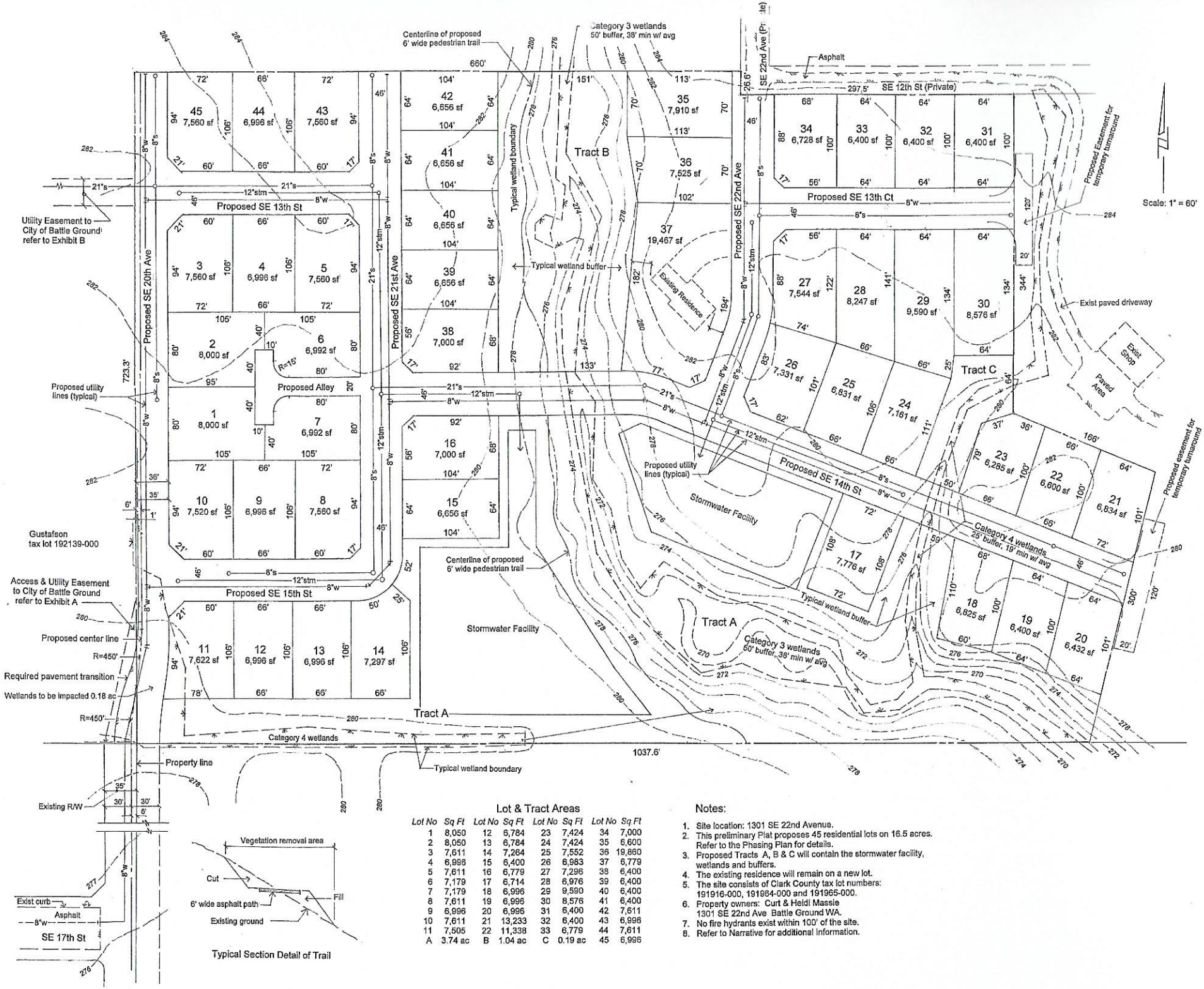
3. Per BGMC 18.270.050, permanent marking of all buffer areas shall occur. Such demarcation may consist of logs, a tree or hedge row, fencing made of wood only, or other prominent physical marking approved by the director. Additionally, a sign measuring no more than six square feet in area and no shorter than four feet and no higher than six feet in height shall be posted at approximately every one hundred feet, along the outer perimeter of the wetland buffers, or where practical.

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 13th day of May, 2016.

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



Lot & Tract Areas

Lot No	Sq Ft	Lot No	Sq Ft	Lot No	Sq Ft	Lot No	Sq Ft
1	8,050	12	6,784	23	7,424	34	7,000
2	8,050	13	6,784	24	7,424	35	6,600
3	7,611	14	7,264	25	7,552	36	19,860
4	6,996	15	6,400	26	6,983	37	6,779
5	7,611	16	6,779	27	7,296	38	6,400
6	7,179	17	6,714	28	6,976	39	6,400
7	7,179	18	6,996	29	9,590	40	6,400
8	7,611	19	6,996	30	8,576	41	6,400
9	6,996	20	6,996	31	6,400	42	7,611
10	7,611	21	13,233	32	6,400	43	6,996
11	7,505	22	11,338	33	6,779	44	7,611
A	3.74 ac	B	1.04 ac	C	0.19 ac	45	6,996

Notes:

1. Site location: 1301 SE 22nd Avenue.
2. This preliminary Plat proposes 45 residential lots on 16.5 acres. Refer to the Phasing Plan for details.
3. Proposed Tracts A, B & C will contain the stormwater facility, wetlands and buffers.
4. The existing residence will remain on a new lot.
5. The site consists of Clark County tax lot numbers: 191916-000, 191964-000 and 191965-000.
6. Property owners: Curt & Heidi Massie 1301 SE 22nd Ave Battle Ground WA.
7. No fire hydrants exist within 100' of the site.
8. Refer to Narrative for additional information.

Date: 12.3.15
Revised: 4.5.16

Prepared by:
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Eastbrook Park

A Residential Subdivision
City of Battle Ground

Preliminary Plat & Utility Plan