

August 16, 2019

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND DECISION

SUBJECT: Department of Local Services File No. **PLAT18-0004**
Proposed Ordinance No.: **2019-0314**

EARLINGTON VILLAGE
Preliminary Plat Application

Location: South Langston Road and 76th Avenue South, Seattle

Applicant: Blue Fern Development, LLC
represented by **Jordan Salisbury**
11232 120th Avenue NE, Suite 204
Kirkland, WA 98033
Telephone: (425) 629-3854
Email: jordan@bluefern.com

King County: Department of Local Services
represented by **Kevin LeClair**
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Snoqualmie, WA 98065
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SUMMARY OF RECOMMENDATIONS/DECISION:

Department's Preliminary Recommendation:	Approve Subject to Conditions
Department's Final Recommendation:	Approve Subject to Conditions
Examiner's Decision:	Approve Subject to Conditions

EXAMINER PROCEEDINGS:

Hearing Opened: August 8, 2019
 Hearing Closed: August 12, 2019

The attached minutes identify public hearing participants and exhibits. A hearing recording is available in the Hearing Examiner's Office.

FINDINGS:

1. General Information:

Application Date:	March 14, 2018
Application Deemed Complete:	April 11, 2018
Applicant:	Blue Fern Development, LLC Jordan Salisbury 11232 120th Avenue NE, Suite 204 Kirkland, WA 98033
Engineer:	ESM Consulting Engineers, LLC Peter D. Gonzales, PE 33400 8th Avenue S., Suite 205 Federal Way, WA 98003
STR:	13-23-04
Location:	Between S. 129th Street and S. Langston Road, adjacent to the west of 76th Ave. S. in the Skyway area. Parcel Nos. 739040-0080, 0100, and 0082.
Postal City:	Seattle
Zoning:	R-6-P
Acreage:	7.55
Number of Lots:	68
Density:	9.0 dwelling units per acre
Average Lot Size:	3,015 square feet
Proposed Use:	Single Family and Townhome Dwellings
Sewage Disposal:	Skyway Water and Sewer District
Water Supply:	Skyway Water and Sewer District
Fire District:	King County Fire Protection District No. 20
School District:	Renton School District No. 403

2. Hearing. At the hearing, the Department of Local Services, Permitting Division ("Permitting"), summarized the proposal through Mr. LeClair. The Applicant, through Mr. Gonzales, provided further detail. Several neighbors testified. Questions raised included concerns over impacts to residents on the west; construction impacts; density, including density credit utilization; traffic impacts, including safe walking conditions and LOS (level of service) impacts; potential pesticide contamination from an earlier greenhouse use; sewer line location; future lot rental versus ownership; and site hydrology/drainage impacts.
3. Record. The record was kept open for two working days to allow for added detail. Two comments were received. One was from the Applicant, addressing an Examiner request for additional detail on the interface between the project's west side and existing residences. The second was supplemental comment from Ms. Brewster, addressing site hydrology and construction impacts on tree health.¹
4. SEPA. State Environmental Policy Act, Ch. 43.21C RCW review was completed through a Determination of Non-Significance, which was not appealed.² Comments were received, reviewed, and project revisions made in response.³
5. Review Process, Generally. In addition to internal County review, notice to various state and local agencies and several tribes was provided.⁴ This was coupled with Subdivision Technical Committee review and on-site examination.⁵ No concerns on compliance with KCC notice or procedural review requirements were raised.
6. West Side Interface with Residences. Five lots are proposed for location adjacent to the plat's west boundary. Tract E is also adjacent, with no improvements proposed along its western edge. A minimum five-foot setback applies,⁶ but depending on engineering review, homes may be set further back. A six-foot wood fence will be installed along the west property line. To the east of the fence, a slope of 0-30% running for up to 12 feet is anticipated. Low maintenance landscaping will be planted on the slope to stabilize the soils and prevent erosion. A retaining wall will also be constructed, with final height and location determined during engineering and construction plan review. Its height is anticipated to range from 2-13 feet, but will be below the common site range of existing residences. With the sloping topography, the lowest floor of the new homes will not be visible from the adjacent lots to the west and the fence will screen most of the second floor. The top portion of the roofs may be visible over the fence.⁷
7. Density. To exceed the 45 lot base density (7.55 x 6), and achieve 68 (7.55 x 9), the Applicant has proposed using (1) Energy Conservation Residential Density Incentives for seven added units; (2) Proximity to Transit Residential Density Incentives for five

¹ The supplemental comment is coupled with the written comment she submitted with her testimony. Exhibit 19(b).

² Exhibit 2 (Staff Report), pg. 2.

³ Exhibit 2 (Staff Report), pg. 2.

⁴ Exhibit 2 (Staff Report), pgs. 2-3.

⁵ Exhibit 2 (Staff Report), pg. 2.

⁶ Testimony, Mr. Gonzales; KCC 21A.12.030(A), *see also* § (B)(3), for townhomes.

⁷ *See* Exhibit 22(a), provided by the Applicant after the hearing at Examiner request.

added units; and (3) Transfer of Development Rights for 11 added units.⁸ This is a KCC authorized approach for achieving urban residential density maximums. Public comments raised density concerns, but if KCC requirements are met, the basic policy decision on allowable density is made at the code level.⁹ Meeting these requirements is an approval condition. If KCC compliance is not achieved, the densities exceeding the base amount are not authorized.¹⁰

8. Hydrology/Soils/Steep Slopes. A Level 1 downstream drainage analysis was prepared, with the drainage facilities described in the Staff Report and technical analysis.¹¹ The site drains through a conveyance system to an unnamed stream which links to Lake Washington about two miles away. Upstream, there is little stormwater run-on from the property to the west or three adjacent public roads. The planned stormwater network will collect site runoff and convey it to a detention facility for controlled release.¹² The plat has been designed to meet 2016 King County Surface Water Design Manual standards, with compliance confirmed during engineering review. The project engineer summarized subsequent review processes. He also addressed engineering familiarity and expertise with working with the type of soils on site. These issues were further detailed in technical analysis, including through the Geotechnical Report, Terra Associates, Inc., March 2, 2018, which assessed soil type, described the borings taken, and evaluated slopes in relation to the construction proposed.¹³

To address erosion hazards, the report recommends specific best management practices, including limiting grading and clearing to the relatively dry months and standard procedures for managing runoff during construction.¹⁴ Three steep slopes are on site. Two will be removed with grading, but a third will remain at the northwest corner, necessitating building setbacks, which were incorporated into the site plan.¹⁵ If report recommendations are followed, the analysis concluded that "development of the site as proposed will not increase the potential for slope [in]stability on-site or on adjacent properties..."¹⁶ Similarly, regarding the soils analysis more generally, the report concluded that "soil conditions observed at the site will be suitable for support of the proposed development provided the recommendations present in this report are incorporated into project design and construction."¹⁷

⁸ KCC 21A.12.030(A) and (B)(1); KCC 21A.34.040(D) and (F)(4)(a) and (c); Ch. 21A.37 KCC.

⁹ Policy choices, guided by the State's Growth Management Act, Ch. 36.70A RCW, are made in determining how to accommodate population growth. Increased density changes the nature of an area. How projects are designed and street grids laid out influences whether the change is positive or negative, or both. Mitigation can be tailored to address specific project impacts, but the basic density call is made through legislative review processes.

¹⁰ The Applicant noted that individual home ownership is anticipated, although rentals could occur.

¹¹ Exhibit 2 (Staff Report), pgs. 7-8; Exhibit 9.

¹² Exhibit 2 (Staff Report), pgs. 7-8.

¹³ The report was submitted with the permitting file (Exhibit 1) and is identified in the proposed conditions. *See also* Exhibit 9 (Technical Analysis), which incorporates the report at § 6 and Appendix C.

¹⁴ Exhibit 1 (Geotechnical Report), pgs. 4-5.

¹⁵ Exhibit 1 (Geotechnical Report), pg. 6.

¹⁶ Exhibit 1 (Geotechnical Report), pg. 6.

¹⁷ Exhibit 1 (Geotechnical Report), cover letter.

Given the geotechnical concerns raised, including on-site soils and hydrology, a condition should be added to clarify that project construction must be consistent with application materials, including technical analysis submitted. This would include the Geotechnical Report recommendations.

9. Tract E (Steep Slopes Tract). Most of the steep slope area (which is less than one acre) is within Tract E, to provide the area added protection. Tract E will be commonly held by each lot owner in the plat, or by the homeowners' association or other entity charged with its maintenance and protection. The Tract will be identified with signage and notice of its status provided in the recorded plat. These measures, which are further detailed in Condition 8(a-e), meet KCC requirements, which specify the measures taken to protect this type of area, and which may be subject to enforcement if not adhered to.
10. Critical Areas. Qualified professionals identified no wetlands, streams, or priority habitat on site.¹⁸ No threatened, endangered or otherwise protected wildlife are mapped by County GIS or WDFW as being on-site.¹⁹
11. Traffic. In response to citizen questions on the traffic impact analysis identifying failing intersections, the Applicant clarified that erroneous information had been submitted. The Examiner requested that Permitting forward the analysis to the Examiner, along with the corrections. As Mr. Gonzales testified, the corrected analysis indicates that concurrency requirements will be met and the studied intersections will operate at LOS C or better.²⁰

Citizen comment raised concerns over congestion/access issues associated with construction, which has been an issue in the area. To address these issues, Mr. Gonzales stated that the Applicant would obtain right-of-way use permits and coordinate with the County to ensure emergency and local access remains available during construction.

Frontage improvements and internal road design were addressed in the Staff Report and detailed on plat maps.²¹ The project includes frontage improvements on three sides (S. 129th Street, 76th Ave. S., and S. Langston Road). S. Langston Road improvements include lane widening, a bike lane, curb, gutter, and a 6.5-foot wide sidewalk. 76th Ave. S. improvements include lane widening, curb, gutter, and a five-foot wide sidewalk. S. 129th improvements include constructing a concrete vertical curb, gutter, and five-foot sidewalk. The primary internal access roads (Roads A & B), include rolled curb and five-foot sidewalks on both sides. Private Access Tracts A-D provide limited internal access, each serving no more than six lots.

12. Former Nursery Use. A nursery once occupied the site, and soils may have been contaminated with pesticides. The Applicant explained that in the late 1990s the Army Corps of Engineers had cleaned up the site. The State Department of Ecology was

¹⁸ Exhibit 2 (Staff Report), pg. 3

¹⁹ Exhibit 2 (Staff Report), pg. 3.

²⁰ Exhibits 20(a) and 20(b).

²¹ Exhibit 2 (Staff Report), pgs. 6-7; Exhibit 8 (Revised Preliminary Plat Maps); Testimony, Applicant and Permitting.

contacted during project review, and did not raise concerns or request additional mitigation.²² State laws, including the Model Toxics Control Act, Ch. 70.105D, provide further protection.²³

13. Sewage, Water/Fire. Sewage and water supply systems, including fire flow, are available to serve the project.²⁴ Mr. Gonzales provided details in the sewer extension at the hearing, confirming that the Applicant would be working with Skyway Water and Sewer District on the approximately 800-foot extension from the S. Langston Road/S. 130th St. intersection.
14. Schools. To address school impacts, impact fees are being paid, with adequate school access and walking conditions documented, including through placement of sidewalks on the three sides of the plat with street frontage.²⁵
15. Recreation/Landscaping. With 24,696 square feet of recreation space, the project is providing more than double the 170 square feet per unit required, which is 11,560 square feet.²⁶ Regarding on-site vegetation, the Applicant will follow KCC requirements for vegetation retention and landscape plan preparation and review.²⁷ Concerns were raised on impacts to trees located off site, but proximate to the west property line, and the potential for root damage during grading and construction. While the Applicant indicated grading and vegetation retention code requirements will be followed, a condition addressing the concern is reasonable.
16. Urban Infrastructure. Required urban infrastructure will be provided. The improvements described at the hearing and in the application, materials mitigate project impacts, meet code requirements, and provide for adequate ingress and egress.
17. Except as modified by this Decision, the Staff Report²⁸ is incorporated by reference. The Staff Report includes recommended conditions, which should be included to support Decision findings and ensure KCC requirements are met. A condition should be added clarifying that the project shall be built consistent with application materials, including the technical analysis supporting the application. The condition would apply to the latest iterations, as application materials were revised throughout the review process. Many of these materials are conceptual, as further review and analysis is required by the KCC, so will be further refined as the review process continues. A condition should also be added to confirm care will be taken to minimize impacts to neighboring tree health.

²² Exhibit 2 (Staff Report), pg. 2.

²³ See also, implementing regulations at Ch. 173-340 WAC.

²⁴ Exhibits 13-15 (certificates of water and sewer availability; fire flow was found to be sufficient); Exhibit 2 (Staff Report), pg. 10; Testimony, Mr. LeClair.

²⁵ Exhibit 2 (Staff Report), pg. 9; Exhibit 11; Testimony, Mr. LeClair. A walkway inventory was prepared and included within Exhibit 1 (School Walkways Inventory, March 14, 2018).

²⁶ See Exhibit 2 (Staff Report), pgs. 9-10; KCC 21A.14.180(A)(3).

²⁷ See e.g., Ch. 21A.16 KCC.

²⁸ Exhibit 2.

CONCLUSIONS:

1. The Examiner may only approve a preliminary plat if:
 - A. Appropriate provisions are made for the public health, safety and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and
 - B. The public use and interest will be served by platting the subdivision and dedication.²⁹
2. These criteria have been met. The proposed subdivision, as conditioned below, and as reflected in the revised site plan, would conform to land use controls. The use, density, and scale of the project are permitted in the R-6-P zone. Impacts to schools and recreation are addressed, and the project is supported with adequate landscaping, infrastructure, public water/sewer, street improvements (including sidewalks and parking), and other mitigation, to ensure the project meets KCC requirements.
3. If approved subject to the below conditions, the subdivision adequately addresses the issues identified in RCW 58.17.110 and KCC 20.22.180, and will serve the public health, safety and welfare, and the public use and interest.
4. The below conditions for final plat approval are reasonable and serve the public interest.

DECISION:

The Earlington Village Preliminary Plat is approved subject to these conditions:

1. Compliance with all platting provisions of Title 19A of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication that includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the density requirements of the R-6-P zone classifications. All lots shall meet the minimum dimensional requirements of the R-6-P zone classification or shall be as shown on the face of the approved preliminary plat, whichever is larger, except that minor revisions to the plat which do not result in substantial changes may be approved at Permitting's discretion in accordance with KCC 19A.12.030.

²⁹ KCC 20.22.180.

4. All construction and upgrading of public and private roads shall be done in accordance with the 2016 KCRDCS (King County Road Design and Construction Standards) established and adopted by Ordinance 18420, as amended.
5. The applicant must obtain the approval of the King County Fire Protection Engineer for the adequacy of the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code.
6. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. Preliminary review has identified the following conditions of approval which represent portions of the drainage requirements. All other applicable requirements in KCC 9.04 and the 2016 King County Surface Water Design Manual (KCSWDM) must also be satisfied during engineering and final review.
 - A. Drainage plans and analysis shall comply with the KCSWDM and applicable updates adopted by King County. DLS - Permitting approval of the drainage and roadway plans is required prior to any construction.
 - B. Current standard plan notes and ESC notes, as established by DLS - PERMITTING Engineering Review, shall be shown on the engineering plans.
 - C. The following note shall be shown on the final recorded plat:

All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # (DLS – Permitting-issued plan record number to be inserted in space provided) on file with DLS - Permitting and/or the King County Road Services Division. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file.
 - D. The storm drainage conveyance system along the public roadways shall be designed per requirements of the KCSWDM.
 - E. The site is within the mapped Conservation Flow Control and Basic Water Quality Areas. Level 2 Flow Control is required for the on-site basin. Enhanced Basic Water Quality menu shall be applied due to the density of 8 or more single family units per acre. Enhanced Basic WQ treatment can be waived or reduced if the area-specific exceptions in Section 1.2.8.1 are met.

- F. The detention facilities shall meet the design requirements in Section 5.1 of the KCSWDM. Access roads are required to the access panel, the control structure, and at least one access point per cell, and shall be designed per Section 5.1.1.
- G. To implement the required Best Management Practices (BMPs) for treatment of storm water, the final engineering plans and technical information report (TIR) shall clearly demonstrate compliance with all applicable design standards. The requirements for best management practices are outlined in Section 1.2.9. The design engineer shall address the applicable requirements on the final engineering plans and provide all necessary documents for implementation. The final recorded plat shall include all required covenants, easements, notes, and other details to implement the required BMPs for site development.

The required BMPs shall also be shown on the individual residential building permit applications upon submittal of the permits. The individual building permit applications shall also include the required covenants, easements, notes and other details to implement the BMP design.

- 7. The proposed subdivision shall comply with the 2016 KCRDCS, including the following requirements:
 - A. **SOUTH LANGSTON ROAD STREET FRONTAGE:** Provide frontage improvements consistent with an Urban Collector Arterial along South Langston Road adjacent to the property. Dedicate 12' of right of way to accommodate this road section. The improvements shall include saw cutting the existing pavement edge on the north side of South Langston Road. Then placement of asphalt as needed to provide 22' of pavement, including a 5' bike lane, from the centerline. Then construction of concrete vertical curb, gutter, and sidewalk. The sidewalk shall be at a minimum 6.5' wide per Section 3.02 of the KCRDCS. The pavement widening shall meet the overlay provisions of Section 4.03 of the KCRDCS. This road section shall be provided along the entire south boundary of the site.
 - B. The intersection of Road A and South Langston Road shall be designed to restrict vehicular turning movements to right-in/right-out/left-in only as approved per road variance VARR18-0034. The geometry design for the intersection shall include the necessary channelization, illumination and signage improvements to facilitate the restricted movements.
 - C. **76TH AVENUE SOUTH FRONTAGE:** Provide frontage improvements consistent with an Urban Neighborhood Collector Road. Dedicate 28' of right of way to accommodate this road section where there is not already 60' available. The improvements shall include saw cutting the existing pavement edge on the west side of 76th Ave S. Then placement of asphalt as needed to provide 16-18' of pavement, including a 5' bike lane, from the centerline. Then construction of concrete vertical curb, gutter, and sidewalk. The sidewalk shall be at a minimum

5' wide per Section 3.02 of the KCRDCS. The pavement widening shall meet the overlay provisions of Section 4.03 of the KCRDCS. This road section shall be provided along the entire east boundary of the site.

- D. **SOUTH 129TH STREET FRONTAGE:** Provide frontage improvements consistent with an Urban Sub-Access Road. The improvements shall include saw cutting the existing pavement edge on the south side of S. 129th Street. Then placement of asphalt as needed to provide 12' of pavement from the centerline. Then construction of concrete vertical curb, gutter, and sidewalk. The sidewalk shall be at a minimum 5' wide per Section 3.02 of the KCRDCS. The pavement widening shall meet the overlay provisions of Section 4.03 of the KCRDCS. The driveway curb cut shall be designed per Section 3.01 of the KCRDCS. This road section shall be provided along approximately 340 linear feet starting at the intersection of S. 129th Street and 76th Ave. S. The remaining frontage is to be developed with a wedge curb to limit the grading required in steep slope areas.
- E. **ROADS A & B URBAN SUB-ACCESS ROAD:** Provide improvements and right of way for Roads A & B to be constructed to an Urban Sub-Access roadway. This includes dedication of 40' wide rights of way through the site. Within the newly dedicated right of way these roads will include a 24' paved travel-way with rolled curb and 5' wide sidewalks on both sides.
- F. **TRACT A-D PRIVATE ACCESS TRACTS:** Provide improvement necessary for Tracts A-D to function as a Private Access Tracts per Section 2.09(B) of the KCRDCS.
- G. Prior to final plat recording, roadway improvements shall be provided to serve the 68 new lots.

Modifications to the above road conditions may be considered according to the variance provisions in Section 1.13 of the KCRDCS.

- 8. **Critical Areas:** The proposed subdivision shall comply with the Critical Areas Code as outlined in KCC 21A.24. Impacts to critical areas shall be avoided where possible, and compensatory mitigation is required for approved adverse impacts. Preliminary plat review has identified the following specific requirements that apply to this project. All other applicable requirements from KCC 21A.24 shall also be addressed by the applicant.
 - A. **Steep Slope Hazard Areas and Buffers (KCC 21A.24.310):** There are slopes in the northwest corner of the site that qualify as Steep Slopes per King County Code. As recommended in the Geotechnical Report prepared by Terra Associates, Inc. dated March 2, 2018 the steep slopes will have both a buffer and a setback. The steep slopes will have a buffer of 10' from the top and toe with an additional 15' building setback for a cumulative setback of 25'. The steep slopes section of the site is less than one acre in size and as such does not require a separate Critical Area Tract per KCC 21A.24.180.A.2. However, most of the

steep slope area is situated in Tract E to provide additional protection of the slopes. Tract E shall be held in an undivided interest by each owner of a building lot within the development, with this ownership interest passing with the ownership of the lot, or shall be held by an incorporated homeowners' association or other legal entity that ensures the ownership, maintenance and protection of the tract.

- B. Permanent survey marking and signs shall be installed prior to final plat approval (KCC 21A.24.160).
- C. Prior to any clearing and grading on the site, the tract/critical area and buffer and the area of development activity must be marked or otherwise flagged to the satisfaction of King County. The required marking or flagging shall remain in place until all development proposal activities in the vicinity of the critical area are completed. Additional erosion and sedimentation control measures may also be required per the King County Surface Water Design Manual and Clearing and Grading regulations.
- D. The following note shall be shown on the final engineering plan and recorded plat:

RESTRICTIONS FOR CRITICAL AREA TRACTS AND CRITICAL AREAS AND BUFFERS

Dedication of a critical area tract/critical area and buffer conveys to the public a beneficial interest in the land within the tract/critical area and buffer. This interest includes the preservation of native vegetation for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, and protection of plant and animal habitat. The critical area tract/critical area and buffer imposes upon all present and future owners and occupiers of the land subject to the tract/critical area and buffer the obligation, enforceable on behalf of the public by King County, to leave undisturbed all trees and other vegetation within the tract/critical area and buffer. The vegetation within the tract/critical area and buffer may not be cut, pruned, covered by fill, removed or damaged without approval in writing from the King County Department of Local Services – Permitting Division or its successor agency, unless otherwise provided by law.

The common boundary between the tract/critical area and buffer and the area of development activity must be marked or otherwise flagged to the satisfaction of King County prior to any clearing, grading, building construction or other development activity on a lot subject to the critical area tract/critical area and buffer. The

required marking or flagging shall remain in place until all development proposal activities in the vicinity of the critical area are completed.

No building foundations are allowed beyond the required 15-foot building setback line, unless otherwise provided by law.

9. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
10. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to the recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
11. Suitable recreation space shall be provided, consistent with the requirements of KCC 21A.14.180 and KCC 21A.14.190 (i.e., sport court[s], children's play equipment, picnic table[s], benches, etc.).
 - A. A detailed recreation space plan (i.e. area calculations, dimensions, landscape specifications, equipment specifications, etc.) shall be submitted for review and approval by DLS - PERMITTING concurrent with the submittal of the engineering plan.
 - B. A performance bond for recreation space improvements shall be posted prior to recording of the plat.
12. A homeowner's association or other workable organization shall be established to the satisfaction of DLS - PERMITTING which provides for the ownership and continued maintenance of the recreation, open space and/or critical area tract(s).
13. Street trees shall be provided as follows (per KCRDCS 5.03 and KCC 21A.16.050):
 - A. Trees shall be planted at a rate of one tree for every 40 feet of frontage along all roads. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
 - B. Trees shall be located within the street right-of-way and planted in accordance with Section 5.03 and Drawings 5-009 through 5-013 of the KCRDCS, unless the King County Department of Local Services, Roads Division determines that trees should not be located in the street right-of-way.
 - C. If King County determines that the required street trees should not be located

within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.

- D. The trees shall be owned and maintained by the abutting lot owners *or* the homeowners' association or other workable organization unless the County has adopted a maintenance program. Ownership and maintenance shall be noted on the face of the final recorded plat.
 - E. The species of trees shall be approved by DLS - PERMITTING if located within the right-of-way, and shall comply with KCRDCS 5.03L, M, and N. They shall not include species the County determines have the potential to disrupt utilities or impact roadway improvements. All tree planting in the right-of-way shall include the installation of an approved root barrier adjacent to walks and curbs for each tree, unless otherwise approved by the County Road Engineer.
 - F. The applicant shall submit a street tree plan and bond quantity worksheet for review and approval by DLS - PERMITTING prior to engineering plan approval.
 - G. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted and held for one year. After one year, the maintenance bond may be released after DLS - PERMITTING has completed a second inspection and determined that the trees have been kept healthy and thriving.
 - H. A landscape inspection fee shall also be submitted prior to plat recording. The inspection fee is subject to change based on the current County fees.
- 14. The plat shall be consistent with application materials, including supporting technical analysis.
 - 15. Project grading activity and landscaping shall be designed to minimize harm to trees proximate to the west property line.

DATED August 16, 2019.



Susan Drummond
Hearing Examiner pro tem

NOTICE OF RIGHT TO APPEAL

A person appeals this Examiner decision by following the steps described in KCC 20.22.230, including filing with the Clerk of the Council a sufficient appeal statement and a \$250 appeal fee (check payable to the King County FBOD). Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal. KCC 20.22.230 also requires that the appellant provide copies of the appeal statement to the Examiner and to any named parties listed on the front page of the Examiner's decision.

Prior to the close of business (4:30 p.m.) on *September 9, 2019*, an electronic copy of the appeal statement must be sent to Clerk.Council@kingcounty.gov and a paper copy of the appeal statement must be delivered to the Clerk of the Council's Office, Room 1200, King County Courthouse, 516 Third Avenue, Seattle, Washington 98104. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. If the Office of the Clerk is not officially open on the specified closing date, delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

Unless both a timely and sufficient appeal statement and filing fee are filed by *September 9, 2019*, the Examiner's decision becomes final.

If both a timely and sufficient appeal statement and filing fee are filed by *September 9, 2019*, the Examiner will notify all parties and interested persons and provide information about "next steps."

**MINUTES OF THE AUGUST 8, 2019, HEARING ON PRELIMINARY PLAT
APPLICATION EARLINGTON VILLAGE, DEPARTMENT OF LOCAL SERVICES
FILE NO. PLAT18-0004, PROPOSED ORDINANCE NO. 2019-0314**

Susan Drummond was the Hearing Examiner. Participating in the hearing were Kevin LeClair, Peter Gonzales, Duana Koloušková (legal argument), John Henrickson, Peter Nelson, Diane Gaylord, Dinah Danby, and Diane Brewster. These exhibits were admitted:

- | | |
|----------------|--|
| Exhibit no. 1 | Department of Local Services File No. PLAT18-0004 |
| Exhibit no. 2 | Preliminary department report, transmitted to the Examiner on July 25, 2019 |
| Exhibit no. 3 | Land use permit application, received March 14, 2018 |
| Exhibit no. 4 | Revised State Environmental Policy Act (SEPA) checklist, submitted September 4, 2018 |
| Exhibit no. 5 | SEPA determination of non-significance, issued July 8, 2019 |
| Exhibit no. 6 | Affidavit of posting notice of plat application, posted on April 25, 2018 |
| Exhibit no. 7 | Notice of application, mailed on April 25, 2018 |
| Exhibit no. 8 | Revised Preliminary plat map, dated July 1, 2019 |
| Exhibit no. 9 | Revised Technical Information Report and Level 1 Downstream Analysis Report, received September 4, 2018 |
| Exhibit no. 10 | Subdivision Density and Dimension Calculations Worksheet, received March 14, 2018 |
| Exhibit no. 11 | Renton School District #403 school transportation information, dated September 4, 2018 |
| Exhibit no. 12 | ALTA Commitment for Title Insurance, received March 14, 2018 |
| Exhibit no. 13 | Certificate of Water Availability by Skyway Water and Sewer District, received March 14, 2018 |
| Exhibit no. 14 | Certificate of Sewer Availability by Skyway Water and Sewer District, received March 14, 2018 |
| Exhibit no. 15 | Fire District Receipt, received March 14, 2018 |
| Exhibit no. 16 | King County Road Standards Variance Approval, dated May 6, 2019 |
| Exhibit no. 17 | Residential Density Analysis from Blue Fern, received September 4, 2018 |
| Exhibit no. 18 | A. Email, public comment, from James Dahlens, received August 5, 2019
B. Email, public comment, from Phil Varney, received August 7, 2019 |
| Exhibit no. 19 | A. Public comment, from Pete Nelson, submitted August 8, 2019
B. Public comment, from Diane Brewster, submitted August 8, 2019 |
| Exhibit no. 20 | A. Traffic Impact Analysis, received August 8, 2019
B. Traffic Impact Analysis, revised page 9, received August 8, 2019 |
| Exhibit no. 21 | Report and Decision, for Tuscany Ridge June 2005, received August 8, 2019 |
| Exhibit no. 22 | A. Applicant correspondence, submitted August 12, 2019
B. Public comment, from Diane Brewster, submitted August 12, 2019 |

SD/jo

August 16, 2019

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

King County Courthouse
516 Third Avenue Room 1200
Seattle, Washington 98104
Telephone (206) 477-0860
hearingexaminer@kingcounty.gov
www.kingcounty.gov/independent/hearing-examiner

CERTIFICATE OF SERVICE

SUBJECT: Department of Local Services File No. **PLAT18-0004**
Proposed Ordinance No.: **2019-0314**

EARLINGTON VILLAGE
Preliminary Plat Application

I, Jessica Oscoy, certify under penalty of perjury under the laws of the State of Washington that I transmitted the **REPORT AND DECISION** to those listed on the attached page as follows:

- EMAILED to all County staff listed as parties/interested persons and parties with e-mail addresses on record.
- placed with the United States Postal Service, with sufficient postage, as FIRST CLASS MAIL in an envelope addressed to the non-County employee parties/interested persons to addresses on record.

DATED August 16, 2019.



Jessica Oscoy
Legislative Secretary

Brewster, Diane

Touchstone Eco Services
Hardcopy

Carlson, Joanne

Department of Local Services

Dahlen, James

Hardcopy

Danby, Dinah

Hardcopy

Eichelsdoerfer, Robert

Department of Local Services

Gaylord, Brendan-Diane

Hardcopy

Gentry, Lowell

Hardcopy

Goll, Shirley

Department of Local Services

Gonzales, Pete

ESM Consulting Engineers LLC
Hardcopy

Graves, John

Blue Fern Development LLC
Hardcopy

Henrickson, John

Hardcopy

Hicks, Eric

King County Fire District 20
Hardcopy

Johnson, Keith

Hardcopy

Kroe, Colleen

Department of Local Services

LeClair, Kevin

Department of Local Services

Mann, Evan

Blue Fern Development LLC
Hardcopy

Nagorski, Savanna

ESM Consulting Engineers LLC
Hardcopy

Nelson, Pete

Hardcopy

Nelson, Pete

Treehouse Point
Hardcopy

Peter, Nelson

Salisbury, Jordan