

February 13, 2020

**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](mailto:hearingexaminer@kingcounty.gov)  
[www.kingcounty.gov/independent/hearing-examiner](http://www.kingcounty.gov/independent/hearing-examiner)

**REPORT AND DECISION**

SUBJECT: Department of Local Services file no. **PLAT180002**  
Proposed ordinance no.: **2019-0482**

**HAWTHORNE CREST**  
Preliminary Plat Application

Location: 13426 SE 180th Street, Renton

Applicant: MainVue WA LLC  
*represented by* **Nicole De Leon**  
524 Second Avenue Suite 500  
Seattle, WA 98104  
Telephone: (206) 587-0700  
Email: [ndeleon@cairncross.com](mailto:ndeleon@cairncross.com)

King County: Department of Local Services  
*represented by* **Kimberly Claussen**  
35030 SE Douglas Street Suite 210  
Snoqualmie, WA 98065  
Telephone: (206) 477-0329  
Email: [kimberly.claussen@kingcounty.gov](mailto:kimberly.claussen@kingcounty.gov)

**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: January 7, 2020  
Hearing Closed (Record Open Through): February 7, 2020

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 27, 2018
Application Deemed Complete:	April 24, 2018
Applicant:	MainVue WA LLC 1110 112 <sup>th</sup> Avenue NE, Suite 202 Bellevue, WA 98004
Engineer:	Barghausen Consulting Engineers 18215 72 <sup>nd</sup> Avenue S. Kent, WA 98032
STR:	34-23-05
Location:	13426 SE 180 <sup>th</sup> Street Parcel Nos. 342305-9029 and -9164
Postal City:	Renton
Zoning:	R-6
Acreage:	7.09
Number of Lots:	43
Density:	Approximately 6 units per acre
Average Lot Size:	Approximately 5,050 square feet
Proposed Use:	Detached single-family dwellings
Sewage Disposal:	Soos Creek Water & Sewer District
Water Supply:	Soos Creek Water & Sewer District
Fire District:	King County Fire District No. 40
School District:	Kent School District

2. Hearing.

- A. The hearing was held on January 7, 2020. The Department of Local Services, Permitting Division ("Permitting"), through Ms. Claussen, highlighted key project aspects. The Applicant's attorney, Ms. De Leon, provided further detail and confirmed the Applicant did not object to the Staff Report's proposed conditions. Mr. Talkington, the project engineer, briefly described the approach to site development and design, touching on access, grading, and drainage.

Tract A is set aside for drainage and recreation, with plat access from SE 180th Street at the intersection with 135th Place SE, and a second access 250 feet west. The road network is looped within the plat, with stubbed roads allowing for connections with future development. Project frontage will be upgraded consistent with the Neighborhood Collector standard, with curb, gutter, planter strip, and sidewalk improvements. To provide a 28-foot pavement width, there will be an additional road widening on SE 180th's south side.

- B. Several neighbors testified, raising questions and concerns. Below is a summary.
- i. Mr. McLaughlin lives adjacent to the project on SE 180<sup>th</sup>. He voiced concerns about visibility along SE 180th due to its steep grade and traffic speeds, and conflicts between vehicles and pedestrians. He wanted to know if the grade would be flattened or the road widened. He was also concerned about construction start times, construction noise, and dust and debris entering neighboring properties.
  - ii. Ms. Sojak also lives adjacent to the project and was concerned about drainage. There is a pond at the corner of the project site fed by streams. She has had run-off onto her property, and had to put in an interceptor line to avoid having standing water in her barn. She was also concerned with traffic safety. Going north on 140th and turning left onto SE 180th is extremely dangerous, and intersection wait times can be lengthy.
  - iii. Mr. Sojak raised concerns about sight distance along SE 180th given its grade. On project egress, he wanted to know if it will go south on the west side through an older development, and asked about congestion on SE 180th and 140th. He reiterated Ms. Sojak's drainage concerns, and the impacts on their property.
  - iv. Mr. Woodruff, a neighbor, asked about why the south side of SE 180th is being widened; why not widen the north side? This seems like the wrong side. SE 180th now is very narrow, and with two other developments recently built coupled with this one, and Wayne's Place at the corner of 140th, this will exacerbate traffic issues. There is difficulty getting onto 140th now, and this will be exacerbated by the additional homes; he was concerned about ingress/egress from SE 180th onto 140th.

- v. Mr. Kelly, who lives adjacent to the project on SE 180th, had submitted previous comment. He had procedural questions related to how his concerns would be addressed.

3. Applicant Response to Public Comments.

- A. Construction Times. The Applicant confirmed construction timing restrictions are in place, with Permitting, through Ms. Claussen, confirming that through County Code 12.86.520, the County requires different construction hours depending on the equipment used. Generally, the outer hours of work are 7 AM - 10 PM,<sup>1</sup> but those hours constrict depending on the work being performed.
- B. Fencing. The Applicant confirmed there will be construction fencing. Once construction is complete, it does not have to install fencing between similar uses. However, it will install a six-foot wood fence along the east, north, and west boundaries. (In post-hearing comment, adjacent neighbors indicated a preference for utilizing trees/landscaping.)
- C. Drainage/Pond. Mr. and Ms. Sojak own property along the plat's west side. There is an existing pond on their property. Mr. Talkington stated that all stormwater the project generates will be collected and routed to onsite detention facilities and discharged to conveyance systems (one to the south, and one to the southeast). Existing conditions will be improved, with runoff to the pond reduced.
- D. 2006 Project/Drainage Concerns. Some concerns were raised in written comment (Mr. Kelly) about an increase in runoff and traffic safety issues resulting from a 2006 development. However, with this project Mr. Kelly's property will not experience an increase in runoff. With the 2006 road widening, the crown of the roadway was relocated to create additional surface area, which increased runoff. With project improvements, the road area will not be increased to the north. The downstream drainage path does not flow through his property, but through an existing conveyance ditch on the south.
- E. Mr. Kelly/King County Discussions. Mr. Kelly and King County are discussing a fence proposal; the plat does not impact the area under discussion.
- F. Mr. Kelly/Survey and Property Corners. Mr. Kelly had requested and the Applicant stated that it agreed to replace any disturbed property corners and establish via survey his property line adjacent to SE 180th Street. At Examiner request, the Applicant agreed to submit proposed condition language to address this concern. (Mr. Kelly, in later comment, asked that the condition not be added; the Applicant did not object.)

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<sup>1</sup> On weekends, 9 AM – 8 PM.

- G. Sight Distance. The Applicant evaluated sight distance, and found that SE 180th complies with County requirements regarding the plat, so topography along SE 180th will not be altered. Public Works reviewed this assessment and concurred.
- H. Road Widening to the South. The Applicant is improving the road and will widen it to the south. The road is being widened in that direction because there is no room to widen it within the right-of-way on the other side. The work has to be done to the south, to expand into the existing shoulder. With this work, there will be an additional six feet of pavement and ultimately 28 feet of paved roadway.
- I. Congestion/Traffic Direction. Mr. Jones, the project's traffic engineer who prepared the traffic impact analysis, testified for the Applicant.<sup>2</sup> The analysis assumed all project traffic would be oriented to and from the east, due primarily to an existing barricade the County installed on 134th Ave. SE, just south of SE 180th. The purpose is not to prevent traffic from this corridor from traveling south, but to prevent the neighborhoods to the south from going up to SE 180th and then over to 140th. If open, there is a small likelihood that project traffic may use 134th to head south. There is a much higher likelihood that existing traffic to the south will make its way north, increasing traffic overall.
- J. Naming Conventions. Mr. Jones clarified that on the site plan, at Sheet 1 of Exhibit 7, there are two public access points onto SE 180th. The easterly one is 135th Place SE; the westerly is Road A. In the traffic impact analysis, the naming conventions were changed (site access A is now 135th Place SE; site access B is now Road A).
- K. 140th/180th Intersection, Delays. This intersection is stop sign controlled. The traffic impact analysis considered this project, along with pipeline projects, to forecast future volumes (pp. 4 and 6). With the project, this intersection will operate at LOS C in the AM peak hour, with an average of 19 seconds of delay; and at LOS D during the PM peak hour, with 32 seconds of delay. Existing LOS is documented on p. 4 (LOS B during the AM peak hour; LOS D during the PM peak hour). The project will increase delay by two seconds in the morning and afternoon. Given the small increase, the County does not require improvements.
- L. 140th/180th Intersection, Collision History. The traffic impact analysis addresses collision history (p. 3). Looking back three years, no collisions were reported (January 2014-December 2016). Additional data through November 2019 was obtained. There were no accidents during this period. When taken together, there were no reported collisions over a six-year period. By meeting King County LOS standards, and without added safety concerns to address, the County does not require additional mitigation.
- M. SE 180th, Speeding. Mr. Kelly raised traffic safety concerns about speeding along SE 180th in front of his home. The traffic engineer collected speed data on SE

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<sup>2</sup> Exhibit 20 (Resume); Exhibit 11 (traffic impact analysis).

180th Street, 350 feet east of 135th Place SE over a 7-day period, with speeds from over 2,000 vehicles recorded. In the eastbound direction (downhill) the average speed was 24 MPH. In the opposite direction (uphill) the average speed was 22 MPH. It was likely lower due to grades, on-street parking, and other factors. The speed limit is 25 MPH. Given this data, along with the improvements, in his view calming measures such as speed bumps are not warranted.

- N. Pedestrian Safety. There will be sidewalks along the project frontage, which will enhance safety. Today, pedestrians walk on the shoulder; in future on the north and south sides of SE 180th there will be curb, gutters, landscaping, and sidewalks. From a volume standpoint, there is not a lot of traffic at SE 180th and 135th Place SE (details were provided on the extremely limited traffic even in the AM and PM peak hours).
4. Record. Given citizens' wish to provide additional input, the Examiner kept the record open through January 13, 2020. On Applicant request at the hearing the Examiner ruled that if the Applicant needed to address issues raised during the expanded comment period, it could do so by informal written request. The Applicant made that request and the Examiner granted it, given the extensive new details and information provided after the hearing, establishing a January 17 deadline. The Applicant's responses, which were submitted in response to the comments raised, are admitted.
  5. Late Submittals. On January 20, 24, and 27, Mr. Kelly submitted comments along with a photograph. While the new comments are not admitted for this preliminary plat decision, as they were submitted after established deadlines, the comments were also directed to Permitting for consideration.
  6. Post-Hearing Comment. Detailed public comment was submitted, with additional detail on drainage, transportation/pedestrian safety<sup>3</sup>, and other issues including new questions related to whether a gully will be filled, retaining wall placement, and perimeter fencing. The Applicant provided responses including correspondence from its traffic and construction engineers.<sup>4</sup> These topics are further addressed below.
  7. Re-Opening of Record/Retaining Wall. A question was raised in post-hearing comment on retaining wall use:

On the South East side of Hawthorne development there is a large deep gully behind proposed lots 42, 41, 40. My question, are those areas going to be filled in? If so, what is going to be separating the gully and the new development? Will there be a retaining wall separating the two properties bridging that gully? My concern is that after living in our home for over

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<sup>3</sup> A document referred to as a "traffic report" was submitted. Exhibit 23. While reviewed as comment, it is marked as draft and the author is not disclosed, so it was not viewed as having been prepared by a professional traffic engineer, or someone qualified as an expert in the area.

<sup>4</sup> Exhibit 24.

25 years with a view of trees, are we now going to be looking at a massive 20-25 foot high concrete wall out our living room window?<sup>5</sup>

The Applicant, through its engineer, Barghausen Consulting Engineers, Inc., responded:

The gully will be filled in on Hawthorne Crest and a modular block retaining wall will be installed on the property line. King County Code limits the height of the retaining wall to 6 feet within the building setback. Additional retaining walls outside of the setback area will be utilized to raise the rear yard up approximately 18 feet above existing grade at the lowest point of the gully. The combined height of these walls will vary from 0-18 feet. A solid wood fence will be installed on top of the retaining wall. These improvements comply with King County Code. King County Code does not require landscape buffering between like zones and uses. The properties immediately to the east of Hawthorne Crest consist of single-family residences zoned R-6, consistent with Hawthorne Crest, therefore landscape buffers are not required.<sup>6</sup>

When the Examiner reviewed the response, she was not clear on which adjacent properties would be affected by the retaining walls, and to what degree. The geotechnical report had not detailed retaining wall number and height, and aesthetic impacts had not been addressed. The Examiner re-opened the hearing record to address these questions, setting a February 7 deadline for responses.<sup>7</sup> Two additional comments were received, one from Mr. Kelly, and another from the Applicant's engineer, Mr. Talkington. Both comments were admitted.

8. SEPA. State Environmental Policy Act, Ch. 43.21C RCW review was completed through a Determination of Non-Significance, which was not appealed.<sup>8</sup>
9. Notice. Besides internal County review, notice to various state and local agencies was provided.<sup>9</sup> This was coupled with Subdivision Technical Committee review and on-site examination.<sup>10</sup> No concerns on compliance with KCC notice or procedural review requirements were raised. County notice requirements were complied with.
10. Fencing. An adjacent property owner expressed a preference for utilizing trees rather than perimeter fencing, to better address aesthetic and maintenance concerns. The Applicant had stated in comment responses that fencing maintenance would be a home owner responsibility. Allowing flexibility for the Applicant to utilize landscape buffering in lieu of fencing when finalizing the plat is reasonable.

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<sup>5</sup> Exhibit 21.

<sup>6</sup> Exhibit 24.

<sup>7</sup> HE Rule XVI(B)(1); Order Re-Opening Hearing Record (February 3, 2020).

<sup>8</sup> Exhibit 2 (Staff Report), p. 2.

<sup>9</sup> Exhibit 2 (Staff Report), p. 2.

<sup>10</sup> Exhibit 2 (Staff Report), pp. 1-2.

11. Retaining Wall. The Applicant's engineer explained the retaining wall, relevant elevations, and visual impacts.

Jeffery McLaughlin's property [an adjacent neighbor] is located behind lots 38-40 of the proposed Hawthorne Crest preliminary plat. The gully that Mr. McLaughlin has referred to is in the vicinity of lots 40 and 41, and runs along the southwest corner of his property. Mr. McLaughlin's house is located on the northern portion of his property. Based on aerial LIDAR topo information, his house is at an approximate elevation of 535 feet, which is the same approximate elevation of the proposed adjacent lots. There is some existing vegetation along the western property line of Mr. McLaughlin's property.

The proposed development includes crossing the gully with a road and filling the lot areas within the limits of the Hawthorne Crest project. As a result, retaining walls will be utilized along the eastern boundary in the vicinity of lots 40 and 41. There is approximately 18 feet of elevation difference from the bottom of the gully elevation to the rear yards of lots 40 and 41. King County Code limits the height of retaining walls within building setbacks to a maximum height of 6 feet. KCC 21A.12.170.F.1. The building setback along the eastern property line is 5 feet. A series of retaining walls will be utilized along the eastern boundary. The first retaining wall is located within the building setback of the eastern boundary. It will be limited to 6 feet in height. The second retaining wall will be setback 5 feet from the property line and outside the eastern property line building setback. As this wall will span across the future side yard lot lines and within the building setbacks of those lot lines, the wall will be limited to 6 feet in height. The third wall will be setback 5 feet from the second wall and will be limited to 4 feet in height as to allow for a 6-foot solid wood fence to be installed at the top of the wall. The terraces in between the walls will be planted with drought tolerant, low growing shrubs and/or vines. This planting is voluntary and is not required by King County Code.

Enclosed is an updated grading plan showing the retaining walls at the rear yards of lots 40 and 41. This exhibit also includes a rendering of the walls with plantings and a solid wood fence. Given that Mr. McLaughlin's home is the same approximate elevation of the proposed adjacent Hawthorne Crest lots, the view from his home will be primarily of the adjacent Hawthorne Crest homes and a solid wood fence. Depending on the angle of view, the terraced walls with plantings may also be visible.<sup>11</sup>

12. Drainage. The Applicant's engineers prepared stormwater flow analysis documenting the plat's impacts on stormwater flows, and found:

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<sup>11</sup> Exhibit 26.

[P]redeveloped flow from the future Hawthorne Crest development are already directed toward the drainage corridor and flow controls for the future development will be implemented such that continuing flows will not be significantly increased. On this basis, and given our observations and review of geologic conditions, it is our opinion natural processes related to flows along the drainage channel will not be significantly accelerated as a result of the future Hawthorne Crest drainage.<sup>12</sup>

The Applicant's stormwater analysis was peer reviewed by County engineers and several modifications required, including submission of a Level 3 downstream analysis and a demonstration that "drainage facilities will not create a significant adverse impact to downstream properties or drainage systems...."<sup>13</sup>

This review is conceptual. As addressed at the hearing, the analysis was prepared by qualified professionals and peer reviewed to confirm stormwater will be adequately managed so flows to all downstream properties are not increased with the project, and in some cases will be reduced. Final grading and engineering plans will be completed after preliminary plat approval, and will be reviewed for consistency with stormwater requirements.

Conditions 5-7 detail the engineering standards which must be met. The conditions are explicit that if stormwater management requirements cannot be met, this next level of engineering review could result in a reduced number of lots. In response to public comment from Mr. Kelly on impacts to his property from the off-site SE 180th Street improvements, the Applicant's engineer provided detail confirming the improvements:

[W]ill not result in an increase of runoff flow onto Mr. Kelly's property. The highpoint of SE 180th Street is approximately 25 feet east of the Hawthorne Crest Plat eastern boundary. The plat frontage improvements consist of road widening on the north side of SE 180th Street, but these improvements will not result in runoff draining to Mr. Kelly's property due to the location of the highpoint preventing this drainage path.

With respect to off-site improvements, the existing location of the crown of SE 180th Street will not be altered by the widening of SE 180th Street adjacent to Mr. Kelly's property. The proposed improvements to widen SE 180th Street will increase the road along the southern portion of the road only and not result in a relocation of the crown of the road. Please refer to Sheet 3 of 5 of the preliminary plans, Exhibit 7, and note the offsite widening is shown as the shaded area on the south side of the road. Cross section A-A on the left side of Sheet 3 shows the widening only on the south side of the road and that the existing crown is not to be

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<sup>12</sup> Exhibit 13B (stormwater engineering analysis).

<sup>13</sup> Exhibit 1 (Permitting File, BHC Consultants, July 20, 2018 Memo), p. 3.

disturbed. Please note that this section is drawn as if looking uphill to the west and not to the east as the plan view shows.<sup>14</sup>

Professional engineers have reviewed and peer reviewed the project for compliance with County drainage requirements. However, given the detailed attention to drainage raised in public comment, a condition should be added requiring that, during engineering review for the final plat, it be confirmed that the concerns identified during preliminary plat review have been addressed per requirements, and are consistent with Applicant representations made in its preliminary plat submittals.

13. Transportation Impact Analysis. Citizen transportation concerns focused on congestion and safety. Comment addressed whether the traffic analysis included other projects, including the Wayne's Place project; whether the 140/180th intersection delays were accurately estimated; whether the vehicle speed recordings were taken at a location which accurately reflects area conditions; and pedestrian safety. Applicant responses from its transportation engineer, which supplemented the original traffic impact analysis, addressed these concerns.

- A. The traffic impact analysis calculated increased traffic volumes by using an average annual growth rate "and adding project traffic from five development projects, including Wayne's Place Apartments."<sup>15</sup> This approach was detailed in the traffic impact analysis, Exhibit 11.

Future without-project weekday traffic volumes at 140th Avenue SE / SE 180th Street were estimated by increasing existing volumes annually by 6 percent and 1 percent during the AM and PM peak hour, respectively. In addition, project trips from pipeline projects (Addison Park, Fairwood Assemblage, Fairwood Memory Care, Wayne's Place Apartments, and Wesley Homes at Molasses Creek) were also assigned to the study intersection. This is a reasonable approach in forecasting future volumes in that AM and PM peak hour traffic volumes at the nearby intersection of SE Petrovitsky Road / 140th Avenue SE increased by about 6 percent per year and 0.2 percent per year, respectively, between 2015 and 2017.<sup>16</sup>

This analysis was prepared by a qualified professional, is explained, and is consistent with expert witness testimony at the hearing.

- B. The speed limit along SE 180th in this area is 25 miles per hour. Residents, including Mr. Kelly, raised concerns about speeders exceeding this limit, going 40 or more miles per hour. In response, at the hearing the Applicant shared the speed data it had compiled in completing a sight distance evaluation. "This

<sup>14</sup> Exhibit 24 (Applicant's Response Comment), Barghausen Consulting Engineers), pp. 3-4.

<sup>15</sup> Exhibit 24 (Applicant Comment Responses), Transpo Group correspondence, p. 1.

<sup>16</sup> Exhibit 11 (Traffic Impact Analysis), p. 3.

information was not shared to suggest average directional speeds along SE 180th Street are uniformly 22 to 24 mph."<sup>17</sup> However, it does document that along plat frontage there is not a significant speeding issue. The Examiner asked about the need for speed bumps at the hearing, and the Applicant's traffic engineer stated they are not needed proximate to the project. The traffic engineer, Mr. Jones, further explained the speed data.

Existing speeds were recorded as part of the sight distance evaluation described in the Hawthorne Crest TIA dated February 2, 2018. The location of the data collection equipment was selected because no more than 350 feet of entering sight distance exists east of the proposed extension of 135th Place SE due to existing vertical curvature of SE 180th Street. Therefore, this location is the point at which a vehicle entering SE 180th Street from 135th Place SE and looking east can first see a westbound vehicle on SE 180th Street. This location was not selected because of the existing grade, width or other characteristics of this roadway. It's worth noting that speeds were recorded over a one-week period and none of the 2,125 vehicles recorded traveled over 35 mph.<sup>18</sup>

However, given the safety concerns of Mr. Kelly, who lives adjacent to the plat, the Applicant proposed adding a condition on striping to delineate and separate the two travel lanes of east and westbound traffic. "This would provide greater separation between Mr. Kelly's property and vehicles traveling on SE 180th Street as well as provide more pavement width on the north side of the roadway for pedestrians and on-street parking."<sup>19</sup> As the proposed condition would help address the concerns raised, it should be incorporated.

- C. Following questions raised in written comment on delays at the 180th/140th intersection, the traffic engineer further explained the analysis on intersection delay.

[P]roject traffic would increase traffic volumes on 140th Avenue SE north and south of SE 180th Street by 16 vehicles during the AM peak hour and by 22 vehicles or less during the PM peak hour. On average, this is an additional vehicle every 3 to 4 minutes, is not a significant increase, and is generally within the existing day-to-day variability in peak hour volumes on 140th Avenue SE. Since no collisions were reported at SE 180th Street/140th Avenue SE between January 2014 and November 2019, an approximate 6-year period, it is unlikely these small

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<sup>17</sup> Exhibit 24 (Applicant Comment Responses), Transpo Group correspondence, p. 2.

<sup>18</sup> Exhibit 24 (Applicant Comment Responses), Transpo Group correspondence, p. 2.

<sup>19</sup> Exhibit 24 (Applicant Comment Responses), Transpo Group correspondence, p. 3.

increases in traffic would make future traffic conditions unsafe or significantly impact traffic safety at this intersection.<sup>20</sup>

The engineer also explained that the estimated vehicle delays represent an average, so some motorists "would experience more delay than the average but" KCC intersection operations standards "are based on average (not maximum) vehicle delay during a one-hour period."<sup>21</sup> The analysis compiled followed the KCC and was prepared by a qualified professional. While an average will never describe everyone's experience, that is the policy approach taken in the code, to ensure adequate system functioning in most circumstances. The analysis prepared follows code.

14. Critical Areas. Qualified professionals identified no wetlands, streams, or associated buffers on site.<sup>22</sup> Erosion hazard, landslide hazard drainage area, and steep slope hazard areas are present. The steep slopes identified on-site are less than ten feet in vertical relief and therefore do not meet the definition of a regulated steep slope. Site elevation change is estimated at 15-20 feet, but beyond the north property line, "site grades descend approximately 115 feet to several residential subdivisions below."<sup>23</sup> The Applicant confirmed that, consistent with geotechnical report recommendations, for the off-site steep slope to the north, a ten-foot buffer from the top of the slope is coupled with a 15-foot building setback.<sup>24</sup>
15. Fencing. The Applicant has committed to fencing three sides of the site, while immediately adjacent neighbors to the east expressed a preference for "privacy screening," through vegetation due to both aesthetics and maintenance concerns. As either approach can address privacy and aesthetic objectives, there should be flexibility in the conditions, allowing for either approach.
16. Wildlife. No threatened, endangered or otherwise protected wildlife are mapped by County GIS or WDFW as on site.<sup>25</sup>
17. Utilities/Fire. Sewage and water supply systems are available to serve the project.<sup>26</sup> Before final plat approval, "the water service facilities must be reviewed and approved per King County Fire Flow Standards. The future residences will require sprinklers, unless otherwise approved by the King County Fire Marshal."<sup>27</sup>
18. Schools/Walking Conditions. To address school impacts, impact fees are being paid, with adequate school access and walking conditions documented, including through placement of sidewalks.<sup>28</sup> Students would be assigned to Carriage Crest Elementary

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<sup>20</sup> Exhibit 24 (Applicant Comment Responses), Transpo Group correspondence, p. 3.

<sup>21</sup> Exhibit 24 (Applicant Comment Responses), Transpo Group correspondence, p. 2.

<sup>22</sup> Exhibit 2 (Staff Report), pg. 2

<sup>23</sup> Exhibit 13 (Geotechnical Report), p. 2.

<sup>24</sup> For detail, *see* Exhibit 13 (Geotechnical Report), pg. 8.

<sup>25</sup> Exhibit 2 (Staff Report), p. 3.

<sup>26</sup> Exhibit 2 (Staff Report), p. 8; Exhibit 1 (Permitting File, containing Certificates of Sewer and Water Availability).

<sup>27</sup> Exhibit 2 (Staff Report), p. 8; Exhibit 1 (Permitting File, DPER Zoning Review, July 20, 2017), p. 2.

<sup>28</sup> Exhibit 2 (Staff Report), p. 7; Exhibit 12.

School, Northwood Middle School, and Kentridge High School. Busing would not be provided for the elementary school, but would be for the middle and high schools, with the nearest bus stop at the elementary school. Safe walking conditions will be present between the plat and elementary school, "as frontage improvements will include new sidewalk on the north side of SE 180th Street and sidewalk exists on the south side of SE 180th Street, east side of 134th Avenue SE, and north side of SE 184th Street."<sup>29</sup>

19. Recreation/Landscaping. With approximately 21,725 square feet of recreation space, the project is providing more than the 390 square feet per unit required, which is 16,770 square feet.<sup>30</sup> Regarding on-site vegetation, the Applicant will follow KCC requirements for vegetation retention and landscape plan preparation and review.<sup>31</sup>

Modular block retaining walls in the site's southeast area, coupled with fencing, will be installed. The KCC provides for landscaping as a softening feature. "Type III landscaping is a 'see-through screen' that functions as a partial visual separator to soften the appearance of parking areas and building elevations. This landscaping is typically found along street frontage or between apartment developments."<sup>32</sup> While the adjacent uses here are both residential, with the extensive retaining walls replacing the existing trees, this does present an aesthetic impact which necessitates a visual buffer. This ensures concrete massing, without attention to design and neighboring property compatibility, is avoided.

The SEPA Checklist states that, "A substantial forested buffer will exist between the proposed plat of Hawthorne Crest and the developed subdivision to the north," and landscaping will be provided to address aesthetic impacts.<sup>33</sup> The Checklist did not disclose specifics on the retaining wall(s) which will be placed on the southeast portion of the project site. However, consistent with the SEPA representations, and to address visual impacts, a condition should require that retaining walls be screened and effectively modulated with landscaping. The Applicant has agreed to provide same.

20. Infrastructure. Required urban infrastructure will be provided, including utilities and roads. The improvements described at the hearing and in the application materials mitigate project impacts, meet code requirements, and provide for adequate ingress and egress. Transportation infrastructure is described above through public testimony, written comment, and responses. SE 180th Street Project frontage, "will be a 32-foot wide curb to curb roadway with curb, gutter and sidewalk on both sides of the roadway which will comply with the KCRDCS for an urban neighborhood collector."<sup>34</sup> Improvements being made are adequate to serve the plat.
21. Densities. Densities are prescribed by code, with the Applicant having to comply with both minimum and maximum requirements. Minimum requirements are based on net

<sup>29</sup> Exhibit 11 (Traffic Impact Analysis), p. 7.

<sup>30</sup> See Exhibit 2 (Staff Report), pp. 7-8; KCC 21A.14.180(A).

<sup>31</sup> See e.g., Ch. 21A.16 KCC.

<sup>32</sup> KCC 21A.16.040(C).

<sup>33</sup> Exhibit 4 (SEPA Checklist), p. 15.

<sup>34</sup> Exhibit 2 (Staff Report), p. 6.

acreage; maximum on gross. At 43 residences, the project meets the R-6 zone density requirements.<sup>35</sup>

22. Staff Report/Conditions. Except as modified by this Decision, the Staff Report<sup>36</sup> is incorporated by reference. The Staff Report includes recommended conditions, which should be included to support Decision findings and ensure KCC requirements are met. In response to public comment, the Applicant proposed additional pavement striping to address safety concerns. This condition should be added. And, as addressed above, retaining wall screening vegetation should be required, and the Applicant should document that citizen concerns on stormwater management have been addressed consistent with KCC requirements and the representations it made during preliminary plat review.

### **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.<sup>37</sup>
2. With the conditions, these criteria are 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 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 Hawthorne Crest preliminary plat is approved subject to these conditions:

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<sup>35</sup> Exhibit 2 (Staff Report), p. 4, providing calculations.

<sup>36</sup> Exhibit 2 (Staff Report).

<sup>37</sup> KCC 20.22.180.

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.
  - A. The plat shall comply with the base density and minimum density requirements of the R-6 zone classification. All lots shall be the larger of the minimum dimensional requirements of the R-6 zone classification or those shown on the face of the approved preliminary plat, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Permitting Division.
  - B. Any/all plat boundary discrepancy shall be resolved to the satisfaction of the Permitting Division prior to the submittal of the final plat documents. As used in this condition, "discrepancy" is a boundary hiatus, an overlapping boundary or a physical appurtenance which indicates an encroachment, lines of possession or a conflict of title.
  - C. The current site plan depicts encroachments along the west boundary and southeast corner of the site. Resolution of encroachment(s) and/or construction easement(s), to the satisfaction of the Permitting Division, is required prior to or concurrent with engineering plan submittal.
3. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Design and Construction Standards established and adopted by Ordinance No. 18420, as amended (2016 KCRDCS).
4. 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.
5. 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 K.C.C. 9.04 and the Surface Water Design Manual (SWDM) must also be satisfied during engineering and final review.
  - A. Drainage plans and analysis shall comply with the 2016 King County Surface Water Design Manual and applicable updates adopted by King County. Permitting Division approval of the drainage and roadway plans is required prior to any construction.
  - B. Current standard plan notes and ESC notes, as established by Permitting Division 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 #\_\_\_\_\_ on file with the Permitting Division and/or the 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."
6. The drainage facilities shall meet the requirements of the 2016 King County Surface Water Design Manual (KCSWDM). The site is subject to the Conservation Flow Control and Basic Water Quality Requirements of the 2016 KCSWDM.
- A. The detention vault in the east basin will shall be sized using as the pre-developed condition the historic site condition of only the east sub-basin. The post developed condition will be based on both the developed conditions of the northwest and east basins. Refer to drainage adjustment VARD18-007 which includes routing post- developed stormwater runoff from the Northwest Basin to the East Basin.
- B. The detention facilities shall meet the design requirements in Section 5.1 of 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 KCSWDM Section 5.1.1.
- C. The storm drainage conveyance system along the public roadways shall be designed per requirements of the KCSWDM.
7. To implement the required Best Management Practices (BMPs) for treatment of storm water, the final engineering plans and TIR shall clearly demonstrate compliance with all applicable design standards. The requirements for best management practices are outlined in Section 1.2.9 of the KCSWDM. 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 BMP's for site development. The required BMP's 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.
8. The proposed subdivision shall comply with the 2016 King County Road Design and Construction Standards (KCRDCS) including the following requirements:

- A. Frontage - SE 180th Street shall be improved at a minimum to the urban neighborhood collector street standard. Eleven (11) feet of additional right-of-way shall be provided along the north side of SE 180th Street.
  - B. Roads A, B, and 135th Place SE shall be improved at a minimum to the urban subaccess street standard.
  - C. Off-site - SE 180th Street shall be widened approximately 6 feet for a total paved width of 28 feet. Widening shall occur along the south side of SE 180th Street from the development's eastern property line (approximate STA 107+00) to approximately 50 feet west of the retaining wall for the Molasses Creek undercrossing (STA 115+50). Due to the Molasses Creek retaining wall, the SE 180th Street cross-section from STA 115+50 to STA 116+50 will transition from 28 feet of pavement to 26 feet of pavement from STA 115+50 to STA 115+90 and then stay at 26 feet for the last 60 feet of SE 180th Street off-site roadway improvements.
  - D. Joint Use Driveway (JUD) tracts, if any, shall be improved to the joint use driveway standard per Section 3.01 of the 2016 KCRDCS. Notes regarding ownership and maintenance of the joint use driveways shall be shown on the final plat.
  - E. No direct access driveways shall be allowed to SE 180th Street. Notes to this effect shall be shown on the engineering plans and final plat.
  - F. Comply with road variance VARR18-0008.
  - G. Modifications to the above road conditions may be considered according to the variance provisions in Section 1.13 of the 2016 KCRDCS.
9. Compliance with the requirements of approval from the King County Fire Marshal may require wider roadway sections than are called for in the 2016 King County Road Standards.
  10. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
  11. Lots within this subdivision are subject to King County Code Chapter 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.

12. The final plat shall show the building setback line from the off-site steep slope buffer (north line of the proposed plat). The following note shall be recorded to describe the restrictions:

KCC 21A.24.200 building setbacks - Unless otherwise provided, an applicant shall set buildings and other structures back a distance of fifteen feet from the edges of all critical area buffers or from the edges of all critical areas if no buffers are required. The following are allowed in the building setback area: A Landscaping; B. Uncovered decks; C. Building overhangs if the overhangs do not extend more than eighteen inches in to the setback area; D. Impervious ground surfaces, such as driveways and patios, but the improvements are required to meet any special drainage provisions specified in public rules adopted for the various critical areas; E. Utility services connections as long as the excavation for installation avoids impacts to the buffer; and F. Minor encroachments if adequate protection of the buffer will be maintained.
13. A homeowners' association or other workable organization shall be established to the satisfaction of the Permitting Division which provides for the ownership and continued maintenance of the recreation tract(s). An easement shall be provided to King County over the recreation tracts for access and maintenance of the storm water facilities or as needed by the KCSWDM.
14. 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., location, area calculations, dimensions, landscape specs, equipment specs, etc.) shall be submitted for review and approval by the Permitting Division and King County Parks prior to or concurrent with the submittal of engineering plans. The plans must include additional recreation facilities per KCC 21A.14.180E, fencing and landscaping along the road perimeter to alleviate potential conflicts between users of recreation tract and vehicles.
  - B. A performance bond for recreation space improvements shall be posted prior to recording of the plat.
15. 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 Drawing No. 5-009 of the 2016 KCRDCS, unless King County Road

Services 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 the Permitting Division if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.
  - F. The applicant shall submit a street tree plan and bond quantity sheet for review and approval by the Permitting Division prior to engineering plan approval.
  - G. The applicant shall contact Metro Transit Planning at (206) 553-3000 to determine if SE 180<sup>0th</sup> Street is on a bus route. If so, the street tree plan shall also be reviewed by Metro.
  - H. 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 or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after the Permitting Division has completed a second inspection and determined that the trees have been kept healthy and thriving
16. To implement KCC 16.82.156, which applies to the site, a detailed significant tree retention plan shall be submitted with the engineering plans for the subject plat. The tree retention plan (and engineering plans) shall be consistent with the requirements of KCC 16.82.156. No clearing of the subject property is permitted until the final tree retention plan is approved by the Permitting Division. Flagging and temporary fencing of trees to be retained shall be provided. The placement of impervious surfaces, fill material, excavation work, or the storage of construction materials is prohibited within the fenced areas around preserved trees, except for grading work permitted. A note shall be placed on the final plat indicating that the trees shown to be retained on the tree retention plan shall be maintained by the future owners of the proposed lots and HOA. (Note that the tree retention plan shall be included as part of the final engineering plans for the subject plat.)

17. Subject to approval from King County Department of Transportation, Road Services Division, the Applicant shall arrange for the installation of pavement striping and/or markers on SE 180th Street in the vicinity of and adjacent to the property at 13618 SE 180th Street to delineate a 10-foot wide eastbound travel lane, 10-foot wide westbound travel lane, 6-foot wide paved shoulder on the north side of the roadway, and 2-foot wide paved shoulder on the south side of the roadway.
18. Retaining wall installation proximate to lots 40 and 41 shall be installed consistent with Applicant representations in engineering comment submitted February 7, 2020. Engineering drawings of same shall be available for adjacent property owner review before final plat approval. Permitting may require additional landscaping to improve aesthetics and screen the retaining walls from adjacent properties, consistent with KCC Type III landscaping, KCC 21A.16.040.
19. The Applicant may utilize landscaping in lieu of fencing (the six foot wood fence on the north, west, and east sides) for all or a portion of the perimeter fencing, following consultation with adjacent neighbors on the appropriate level of screening, and subject to Permitting approval.
20. During final plat review, the Applicant shall document that the stormwater management concerns identified in written comment during preliminary plat review have been addressed consistent with KCC requirements and with Applicant representations made during preliminary plat review.

DATED February 13, 2020.



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Susan Drummond  
King County 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 *March 9, 2020*, an electronic copy of the appeal statement must be sent to [Clerk.Council@kingcounty.gov](mailto: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 *March 9, 2020*, the Examiner’s decision becomes final.

If both a timely and sufficient appeal statement and filing fee are filed by *March 9, 2020*, the Examiner will notify all parties and interested persons and provide information about “next steps.”

**MINUTES OF THE JANUARY 7, 2020, HEARING ON PLAT APPLICATION  
HAWTHORNE CREST, DEPARTMENT OF LOCAL SERVICES FILE NO.  
PLAT180002, PROPOSED ORDINANCE NO. 2019-0482**

Susan Drummond was the Hearing Examiner in this matter. Participating in the hearing were Kim Claussen, Nicole DeLeon, Barry Talkington, Tim Kelly, Jeff McLaughlin, Maud and Clem Sojak, Donald Woodruff, and Kevin Jones.

The following exhibits were offered and entered into the hearing record on January 7, 2020:

- |                |  |
|----------------|--|
| Exhibit no. 1  | Department of Local Services file no. PLAT180002                                 |
| Exhibit no. 2  | Preliminary department report, transmitted to the Examiner on December 19, 2019  |
| Exhibit no. 3  | Land use permit application, dated March 27, 2018                                |
| Exhibit no. 4  | Revised State Environmental Policy Act (SEPA) checklist, dated October 11, 2018  |
| Exhibit no. 5  | SEPA determination of non-significance, dated May 10, 2019                       |
| Exhibit no. 6  |  |
|                | A. Affidavit of NOA posting notice, posted on May 1, 2018                        |
|                | B. Affidavit of SEPA posting notice, posted on May 6, 2018                       |
|                | C. Affidavit of NOH posting notice, posted on May 6, 2018                        |
| Exhibit no. 7  |  |
|                | A. Revised plan set, dated September 28, 2019                                    |
|                | B. Encroach/BLA plan set, dated October 24, 2019                                 |
| Exhibit no. 8  | Assessors Map (NW 34-23-05)  |
| Exhibit no. 9  | Revised Preliminary TIR by BCE, dated October 9, 2018                            |
| Exhibit no. 10 | Wetland/stream recon report by Wetland Resources, dated November 17, 2017        |
| Exhibit no. 11 | Traffic study by Transpo, dated February 2, 2018                                 |
| Exhibit no. 12 | Safe walk map by Barghausen, dated March 27, 2018                                |
| Exhibit no. 13 |  |
|                | A. Geotechnical reports by Earth Solutions NW, dated December 12, 2017           |
|                | B. Geotechnical reports (flow path) by Earth Solutions NW, dated October 5, 2018 |
| Exhibit no. 14 | Tree assessment (VARR 18-0008) by WA Forestry Consultants, dated August 28, 2018 |
| Exhibit no. 15 | Road variance approval letter, dated July 19, 2018                               |
| Exhibit no. 16 | Drainage Adjustment (VARD180007)   |
| Exhibit no. 17 | E-mail from Scott Smith, dated June 3, 2019                                      |
| Exhibit no. 18 | E-mail comment from Tim Kelly, dated January 6, 2020                             |
| Exhibit no. 19 | Resume for Barry Talkington, Principal Engineer, submitted January 7, 2020       |
| Exhibit no. 20 | Resume for Kevin Jones, Principal Engineer, submitted January 7, 2020            |

The following exhibits were offered and entered into the hearing record on February 7, 2020:

- Exhibit no. 21           Comment, from Jeff and Cathy McLaughlin, dated January 8, 2020
- Exhibit no. 22           Comment, from Permitting with Attachments, dated January 8, 2020
- Exhibit no. 23           Comment, from Tim Kelly with Attachments, dated, January 9, 2020
- Exhibit no. 24           Comment, from Applicant with Attachments, dated January 17, 2020
- Exhibit no. 25           Comment, from Tim Kelly, dated February 7, 2020
- Exhibit no. 26           Comment, from Applicant's Engineer, dated February 7, 2020

SD/jo

February 13, 2020

**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](mailto:hearingexaminer@kingcounty.gov)  
[www.kingcounty.gov/independent/hearing-examiner](http://www.kingcounty.gov/independent/hearing-examiner)

**CERTIFICATE OF SERVICE**

SUBJECT: Department of Local Services file no. **PLAT180002**  
Proposed ordinance no.: 2019-0482

**HAWTHORNE CREST**  
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 February 13, 2020.



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Jessica Oscoy  
Legislative Secretary

**Barghausen, Thomas**  
Barghausen Consulting Engineers  
Hardcopy

**Talkington, Barry**  
Barghausen Consulting Engineers  
Hardcopy

**Bottheim, Steve**  
Department of Local Services

**Woodruff, Donald**  
Hardcopy

**Casey, Laura**  
Department of Local Services

**Cavell, Lisa**  
MainVue WA LLC  
Hardcopy

**Claussen, Kimberly**  
Department of Local Services

**De Leon, Nicole**  
Cairncross & Hempelmann  
Hardcopy

**Di Donato, Don**  
Hardcopy

**Eichelsdoerfer, Robert**  
Department of Local Services

**Jones, Kevin**  
Transpo Group  
Hardcopy

**Kelly, Tim**  
Hardcopy

**Krier, Jeffrey**  
Hardcopy

**McLaughlin, Jeff**  
Hardcopy

**Pedroza, Melani**  
Metropolitan King County Council

**Reedy, Todd**  
Hardcopy

**Rowe, Mark**  
Department of Local Services

**Simmons, Pat**  
Department of Local Services

**Smith, Scott-DLSP**  
Department of Local Services

**Sojak, Maud and Clem**  
Hardcopy

**Talich, Carla**  
BHC Consultants  
Hardcopy