

September 1, 2020

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

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REPORT AND DECISION

SUBJECT: Department of Local Services file no. **PLAT190001**
Proposed ordinance no.: **2020-0228**

MULLEN

Preliminary Plat Application

Location: [REDACTED] Auburn

Applicant: D.R. Horton, c/o Katherine Orni
represented by **Nancy Rogers**
Cairncross & Hempelmann PS
524 Second Avenue, Suite 500
Seattle, WA 98104
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King County: Department of Local Services
represented by **Tracy Cui**
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SUMMARY OF RECOMMENDATIONS/DECISION:

Department's Preliminary Recommendation:
Department's Final Recommendation:
Examiner's Decision:

Approve with Conditions
Approve with Conditions
Approve with Conditions

EXAMINER PROCEEDINGS:

Hearing Opened: 8/18/2020
Hearing Record Closed: 8/20/2020

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the Hearing Examiner’s Office.

FINDINGS:

1. General Information:

Application Completeness Date:	February 15, 2019
Applicant:	D.R. Horton, c/o Katherine Orni
Engineer:	Core Design, Inc., Preston J. Longoni, P.E.
STR:	SW 34-22-4
Location:	3221 S. 282 nd Street, Auburn, WA 98001
Zoning:	R-4
Comprehensive Plan:	UM (Urban Residential Medium, 4-12 du/acre)
Acreage:	3.2 Acres (139,246 square feet)
Number of Lots:	18
Density:	5.6 dwelling units per acre
Average Lot Size:	5,134 square feet
Proposed Use:	Single Family Residences
Sewage Disposal:	Lakehaven Water & Sewer District
Water Supply:	Highline Water District
Fire District:	South King Fire & Rescue
School District:	Federal Way #210

1. Hearing. An open record public hearing was held August 18, 2020. Due to the COVID-19 response, the hearing was conducted remotely, with the Examiner, the King County Department of Local Services, Permitting Division (“Permitting”), the Applicant, and members of the public calling in. Access information was provided to the public to allow citizens to join via either a video link or telephone call-in. There were no reported technical difficulties during the call or afterwards. However, in case any citizens who wished to comment had difficulty calling in, the record was kept open through August 20. During this period, the Applicant provided an updated water certificate (Exhibit A1) and supplemental information on traffic impacts (Exhibit A2). The latter was provided at Examiner request, to further address public comment received at the hearing. No additional written comment from the public was received.¹

At the hearing, Permitting, through Ms. Cui, summarized the proposal. The Applicant, through its counsel, Ms. Rogers, provided further detail. Neighbors Ms. Roach and Ms. Mullen testified. Their comment focused primarily on traffic impacts, including vehicle

¹ Written public comment was received before the hearing. See Exhibit D9.

speeds and traffic routing, but also included other questions, including queries on setbacks and fencing. The Applicant and Permitting responded to these questions. Concerns raised are further addressed below.

2. Public Comment. Ms. Roach lives north of the development, off of 34th Ave. S. She raised concerns about additional traffic coming down her street. The new project traffic would be coupled with past development. Her preference is that the area along 282nd, between 34th and 37th Ave. S, be widened and traffic diverted down 37th Ave. S. This would avoid all traffic coming down 34th. At minimum, speed bumps down 34th, between 280th and 282nd, should be installed. Ideally, there would also be a roundabout at the 38th/282nd intersection.

Ms. Mullen is a neighbor, and also a sibling of the individual selling property to the developer. She described the site as beautiful, like the park below. When DR Horton built to the north on 282nd, she had opposed that. That development has resulted in cars racing up and down 34th and 282nd and revving their engines. Cars are also parked along the streets (34th and 280th) as the lots are too small to park all vehicles. People from the development to the north and south walk their dogs, going through her neighborhood and down by the ranch, as there is not enough room in those developments to walk. People from the ranch and across the street on 282nd stop folks and tell them the road is private, so do not drive on it. Development will further impact this area, which is secluded and beautiful. Five houses will be against the back of her property. She wanted to know if the developer will be building a sound-proof or cement wall, up to eight feet for privacy. She has dogs, and with five homes, there will be barking. She also had questions on project distance from the back of her property and whether there would be a sidewalk on 282nd on the south side, just north of her property.

The Applicant addressed the questions raised. On construction traffic, the Applicant must secure a right of way use and haul route permit. This will include a traffic control plan, which will control construction traffic routing. On fencing the site's east side (on the shared boundary with Ms. Mullen), the Applicant will build a fence along that property line. It will be a standard cedar fence similar to other projects. There were questions about home setbacks. The Exhibit D3 plat sheets depict home locations in relation to property lines, along with tree protection fencing (*see* Sheet PO5). Frontage improvements are shown at Exhibit D3 (*see* Sheet PO3), with improvements tapering off to the east into the existing roadway. The noise would be that from a standard residential development; KCC chapter 12.86 contains the County's noise limit requirements.

Mr. Eichelsdoerfer addressed traffic concerns. The County has a neighborhood safety program, which allows for meeting with neighbors to discuss traffic calming measures. He provided contact information for the program (Supervising Engineer, Mr. Brown (206) 477-3647). Traffic to the project is coming down 34th Ave S.; 37th Ave S. would be another viable route, except the section along 282nd between 34th and 37th is a private road. It is confusing to sort what is private or public, but based on his research, including assessor map review, that three block section of roadway is private. The County does not encourage traffic cut through on a private road.

As for roundabout installation, the County has criteria for determining need. From a proportionality standpoint, it would be difficult to require one for this project. He did request a collision report for 34th Ave S. for the last five years. Between 280th and 282nd there has been one collision; that was with a parked car. So, it would not be defined as a high accident location, which is one consideration in determining whether to install a roundabout. But the question could be broached with Mr. Brown. Mr. Eichelsdoerfer was not able to answer whether one could be funded and constructed. As for speed bumps, the area is not considered high volume, though volumes may seem high for those living there. But, if concerns remain, the Department could be contacted, and traffic hoses installed to count traffic to further address volume/safety concerns.

3. SEPA. State Environmental Policy Act, Ch. 43.21C RCW review was completed through a Determination of Non-Significance, which was not appealed.²
4. Review Process, Generally. Besides internal County review, notice to state and local agencies and several tribes was provided.³ This was coupled with Subdivision Technical Committee review and on-site examination.⁴ No concerns on compliance with KCC notice or procedural review requirements were raised.
5. Density. The maximum density allowed is 19 (3.2 x 6).⁵ At 18, the project complies. It also complies with the minimum density requirement of nine. This calculation is based on net buildable area.⁶ Net acreage (2.75 acres) is multiplied with the code's minimum density factor,⁷ resulting in 9 (2.75 x 4 x .85%). The base density authorized is 13 dwelling units (3.2 acres x 4). To obtain five additional units, the Applicant is securing Transfer of Development Rights, or TDR, per KCC chapter 21A.37.⁸
6. Agency/Tribe Comment. Comments received have been addressed. The Puyallup Tribe requested a cultural resource and archaeological survey, which was prepared. Nothing was found and the project is conditioned with an Inadvertent Discovery Plan requirement.⁹ The King County Department of Natural Resources also commented on historical resources. The existing residence was found not eligible for listing on national, local, or state registers for historic places.¹⁰ The Department of Ecology raised a question on Tacoma Smelter heavy metal contamination. The Applicant completed further review and Ecology confirmed soil remediation is not needed.¹¹
7. Schools. Valhalla Elementary, Totem Middle School, and Thomas Jefferson High School, all within Federal Way School District #210, will serve the project. To address school

² Exhibit D7 (DNS); Exhibit D2 (Staff Report), pp. 3-4.

³ Exhibit D2 (Staff Report), pp. 3-4.

⁴ Exhibit D2 (Staff Report), p. 3.

⁵ KCC 21A.12.030.

⁶ KCC 21A.12.030, .060.

⁷ KCC 21A.12.030.

⁸ Exhibit D21; Exhibit D2, pp. 8-9.

⁹ Exhibit D2 (Staff Report), p. 4; Exhibits D15-D17.

¹⁰ Exhibit D2 (Staff Report), p. 4; Exhibits D15 and D18.

¹¹ Exhibit D2 (Staff Report), p. 4; Exhibits D11-14.

impacts, impact fees are being paid.¹² 2020 School Impact Fees are \$5,035 per detached single-family dwelling unit. One unit will receive an impact fee credit for the existing residence. Half the impact fees due for the plat will be assessed and collected immediately before recording, using the fee schedule in effect when the plat receives final approval. The balance will be allocated evenly to the plat dwelling units and collected before building permit issuance.¹³ The Applicant has documented adequate school access and walking conditions, with bus stops for the three schools all within .65 miles and safely accessible.¹⁴

8. Topography. A Geotechnical Engineering Report was prepared, finding no slope instability or geotechnical conditions precluding development as proposed.¹⁵
9. Drainage. The project must comply with the 2016 King County Surface Water Design Manual, including project compliance with the nine core requirements and the five special requirements. The project will discharge mitigated stormwater runoff from a proposed vault towards the wetland. Changes to wetland hydrology are not expected.¹⁶
10. Critical Areas. A Critical Areas Study was prepared, which identified a 100-foot buffer for an off-site Category II wetland border by I-5 on the west. The buffer extends onto the western-most parcel, as shown on plat maps.¹⁷ The wetland is bordered by I-5 on the west. The buffer is shown on the plat maps. No threatened, endangered or otherwise protected wildlife are mapped by County GIS or WDFW as being on-site.¹⁸
11. Traffic. Plat Road A off of 282nd will provides direct access for 13 of 18 lots, including access to the recreation and stormwater tract. Road A will have a 28-foot traveled right-of-way, with rolled concrete, gutter, five-foot sidewalks on both sides, and a cul-de-sac with a 40-foot radius. Two twenty-foot wide private access tracts (Tracts C and D) intersect with Road A to serve five of the 18 lots not abutting Road A.

S. 282nd is an urban subaccess road, so must be 40 feet wide, or 20 feet on either side of the right-of-way centerline. The existing right-of-way varies in width along project frontage, so right-of-way dedication varying from zero feet at the west end to 7.6 feet at the east end is required. Frontage improvements include 12 feet of paving, vertical curb, gutter, and a five-foot sidewalk.

The project generates 13 trips during the AM peak hour and 18 during the PM peak hour. Given the limited increase, the local street system has ample capacity.¹⁹ Congestion, safety, and traffic volumes do not warrant requiring a roundabout as a development condition. If vehicles are not adhering to required traffic speeds, King County has a department which addresses traffic calming strategies. Speed bumps are disfavored due to maintenance and

¹² KCC 27.44.010.

¹³ Exhibit D2 (Staff Report), p. 9; Condition 11.

¹⁴ Exhibit D2 (Staff Report), p. 9; Exhibits D24 and D25.

¹⁵ Exhibit D2 (Staff Report), p. 4; Exhibit D19.

¹⁶ Exhibit D2 (Staff Report), p. 7; Exhibit 22 (Technical Information Report).

¹⁷ Exhibit D2 (Staff Report), p. 5; Exhibit D20 (Critical Areas Study); Exhibit D3.

¹⁸ Exhibit D2 (Staff Report), pp. 5-6.

¹⁹ Exhibit A2.

emergency vehicle access concerns, but if needed, there are other mechanisms to slow traffic.²⁰ Though citizens identified legitimate concerns about impacts from the increased development, the project is mitigating its traffic impacts consistent with code.

12. Sewage, Water/Fire. Sewage and water supply systems, including fire flow, are available to serve the project.²¹
13. Parks and Open Space. The nearest public park is Bingaman Pond Natural Area, .15 mile to the southeast, used primarily for walking and nature observation. In the R-4 zone, at an eight unit per acre or fewer density, the project must provide 390 square feet of recreation space per unit, or 7,020 square feet.²² The Applicant is providing 12,933 square feet through an open space area over the stormwater vault in Tract A. The area will be improved with a tot lot and recreation facility per KCC 21A.14.180.²³
14. Urban Infrastructure. Required urban infrastructure will be provided. The improvements described at the hearing and in application materials mitigate project impacts, meet code requirements, and provide for adequate ingress and egress.
15. Except as this Decision modifies it, the Staff Report²⁴ is factually supported and is incorporated by reference. The Staff Report includes recommended conditions, which should be included to support Decision findings and ensure KCC requirements are met.

CONCLUSIONS:

1. The proposed subdivision, as conditioned below, would conform to land use controls. The proposed type of development and overall density are specifically permitted under the R-4 zone.
2. If approved subject to the conditions below, the proposed subdivision will make appropriate provisions for the topical items enumerated within RCW 58.17.110, and will serve the public health, safety and welfare, and the public use and interest.
3. The conditions for final plat approval set forth below are reasonable requirements and in the public interest.
4. The County's platting criteria have been met. The proposed subdivision, as conditioned below, and as reflected in the plat mapping, would conform to land use controls. The use, density, and scale of the project are permitted. 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.

²⁰ Exhibit A2.

²¹ Exhibit D2 (Staff Report), p. 10; Exhibit D26 (South King Fire and Rescue District to serve the project); Exhibit 28 (Certificate of Water Availability) and A1 (updated water certificate); Exhibit D27 (Certificate of Sewer Availability).

²² KCC 21A.14.180(A).

²³ Exhibit D3 (Plat Sheets), Sheet PO7.

²⁴ Exhibit D2.

5. 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.

The below conditions for final plat approval are reasonable and serve the public interest.

DECISION:

The preliminary plat is approved subject to these conditions:

1. The plat configuration shall be developed in substantial conformance with the development plan set dated February 26, 2020 (Exhibit 3).
2. Compliance with all platting provisions of KCC Title 19A.
3. 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.
4. The plat shall comply with the density requirements of the R-4 zone classification. All lots shall meet the minimum dimensional requirements of the R-4 zone classification or 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 the discretion of DLS – Permitting in accordance with KCC 19A.12.030.
5. All construction and upgrading of public and private roads shall be done in accordance with the 2016 KCRDCS established and adopted by Ordinance 18420, as amended.
6. The applicant must obtain the approval of the King County Deputy Fire Marshal for the adequacy of the fire hydrant, water main, and fire flow standards of KCC chapter 17.08.
 - A. Any future residences are required to be equipped with fire sprinklers per NFPA 13D. KCC Title 17 requires that a fire hydrant supplying at least 1,000 gpm be located within 350 feet vehicular travel distance of the building envelope of each lot.
 - B. To qualify for removal of the fire sprinkler requirement, the driving surface of the fire apparatus access has to be a minimum of 20-feet wide, 28-feet in width if parking is permitted on one side of the roadway, and at least 36-feet in width if parking is permitted on both sides.

The sprinkler requirement may be removed at the time of building permit submittal and review by the Deputy Fire Marshal for fire access. Fire access shall meet the following requirements:

- A. 20-foot wide unobstructed permanent all-weather driving surface with 25-ton (52,000 lbs.) loading capacity.

- B. All portions of the exterior walls of residential structures (at grade) must be within 150 feet (as a person would walk via an approved route around the building) from an approved fire apparatus access road/fire lane.
 - C. Maximum grade of 15-percent at all locations.
 - D. Vertical clearance of 13 feet 6 inches.
 - E. Minimum of 20-foot inside turning radius and 40-foot outside turning radius at all bends and turns. A fire apparatus access road/fire lane or driveway over 150 feet long is required to have an approved hammer head turn-around configuration. In some cases, a circular 80-foot diameter turn-around may be acceptable.
7. Final plat approval shall require full compliance with the drainage provisions set forth in KCC chapter 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 chapter 9.04 and the 2016 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 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 pursuant to requirements of the KCSWDM.
 - E. The site is within the mapped Conservation Flow Control and Basic Water Quality Areas. A full drainage review is required demonstrating compliance

with all nine (9) core requirements and all five (5) special requirements of the 2016 KCSWDM. Level 2 Flow Control is required for the on-site basin.

- 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 TIR shall clearly demonstrate compliance with all applicable design standards. The requirements for BMPs are outlined in Section 1.2.9 of the 2016 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 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.
8. The proposed subdivision shall comply with the 2016 KCRDCS, including the following requirements:
- A. The proposed frontage improvements of S 282nd Street shall be improved at a minimum to the urban subaccess street standards with concrete curb, gutter, and sidewalk on the project side.
 - B. Road A shall be constructed at a minimum to the urban subaccess street standards with curb, gutter, and sidewalks on both sides.
 - C. The private access tracts (Tract C and D) shall be designed and constructed per Section 2.09 of the KCRDCS.
 - D. Prior to final plat recording, KCRDCS roadway improvements shall be provided to serve the 18 new lots.
 - E. Modifications to the above road conditions may be considered according to the variance provisions in Section 1.13 of the KCRDCS.
9. Critical Areas: The proposed subdivision shall comply with the Critical Areas Code as outlined in KCC chapter 21A.24 at the time of application. 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 chapter 21A.24 shall also be addressed by the applicant.

- A. Wetland Category and Buffers (KCC 21A.24.325): There is a Category II (Wetland A) wetland located west of the westernmost subject parcel. KCC requires a standard buffer of 100 feet for Category II wetlands within the Urban Growth Area with habitat scores less than 20, measured from the wetland edge.
- B. Critical Area Tract (KCC 21A.24.180). The wetland and wetland buffer shall be placed in a critical area tract to be shown on the engineering plans and final plat. The critical area tract shall be held in an undivided interest by each owner of a building lot within the development, either with this ownership interest passing with the ownership of the lot or held by an incorporated homeowner's association or other legal entity that ensures the ownership, maintenance and protection of the tract.
- C. A minimum building setback line of 15 feet shall be required from all edges of the buffer (KCC 21A.24.200).
- D. Buffer averaging of a standard wetland buffer is allowed for wetland buffers pursuant to KCC 21A.24.325(C), provided the applicable mitigation measures under this section of code are met. A final critical area buffer averaging plan shall be submitted during the engineering review of this plat that includes details on how each of the mitigation measures is met.
- E. A final arborist report shall be submitted by the applicant during the engineering review that verifies and quantifies the number of trees to be removed from critical areas and the required mitigation, if any.
- F. Permanent survey marking, wildlife passable fencing, and critical area signs shall be installed at the edge of the critical area tracts prior to final plat approval (KCC 21A.24.160).
- G. 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 near the critical areas are completed. Additional erosion and sedimentation control measures may also be required pursuant to the KCSWDM and Clearing and Grading regulations.
- H. The following note shall be shown on the final engineering plan and recorded plat:

RESTRICTIONS FOR CRITICAL AREA TRACT AND CRITICAL
AREAS AND BUFFERS

Dedication of a critical area tract/wetland and buffer conveys to the public a beneficial interest in the land within the tract/wetland 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/wetland 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 near the critical areas are completed.

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

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 KCC 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. One unit will receive impact fee credit for the one existing residence on the site.
12. 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.

13. A homeowners' association or other workable organization satisfactory to DLS–Permitting shall be established and shall provide for the ownership and continued maintenance of the recreation, open space and/or critical area tract(s).
14. Street trees shall be provided as follows pursuant to 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 homeowner's 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 has 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 (if required), or if engineering plans are not required, at the time of the required pre-construction meeting.
 - 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.
15. Due to the fact that the project is located on a site with cultural and historical significance to the Puyallup Tribe, prior to site development approval the applicant shall submit an Inadvertent Discovery Plan (Exhibit 17).
16. TDR (KCC chapter 21A.37): Prior to final plat recording, the applicant shall provide TDR credits (certificates) of a receiving site development proposal which includes the use of development rights, the receiving site applicant shall deliver the TDR certificate issued in the applicant's name for the number of development rights being used and the TDR extinguishment document to the County. If the TDR certificate cannot be obtained, the applicant shall redesign the number of lots based upon the allowable density. This will result in the reconfiguration and loss of lots.

DATED September 1, 2020.



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 *September 25, 2020*, 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 25, 2020*, the Examiner's decision becomes final.

If both a timely and sufficient appeal statement and filing fee are filed by *September 25, 2020*, the Examiner will notify all parties and interested persons and provide information about "next steps."

**MINUTES OF THE AUGUST 18, 2020, HEARING ON THE APPEAL OF MULLEN,
DEPARTMENT OF LOCAL SERVICES FILE NO. PLAT190001**

Susan Drummond was the Hearing Examiner in this matter. Participating in the hearing were Tracy Cui, Robert Eichelsdoerfer, Tricia Mullen, Kelly Roach, and Nancy Rogers. A verbatim recording of the hearing is available in the Hearing Examiner's Office.

The following exhibits were offered and entered into the record by the Department:

- Exhibit D1. Department of Local Services, Permitting Division File PLAT190001
- Exhibit D2. Staff Report
- Exhibit D3. Preliminary Plan Set, dated February 26, 2020
- Exhibit D4. Base Land Use Application, filed on January 18, 2019
- Exhibit D5. Letter of Complete Application, dated March 25, 2019
- Exhibit D6. Notice of Application, dated April 15, 2019
- Exhibit D7. SEPA Threshold Determination of Nonsignificance, dated July 17, 2020
- Exhibit D8. SEPA Checklist, updated February 28, 2020
- Exhibit D9. Public Comments
- Exhibit D10. Responses to Public Comments
- Exhibit D11. Limited Phase II Subsurface Investigation Report, dated July 5, 2019
- Exhibit D12. DOE Comment Letter, dated December 2, 2019
- Exhibit D13. Updated Limited Phase II Subsurface Investigation Report, dated February 4, 2020
- Exhibit D14. DOE Comment Letter, dated February 10, 2020
- Exhibit D15. Cultural Resource Inventory Report, dated July 2019
- Exhibit D16. Letter from Department of Archaeology and Historic Preservation, dated October 18, 2019
- Exhibit D17. Email from Puyallup Tribe, dated November 27, 2019
- Exhibit D18. Historic Property Report, dated July 23, 2019
- Exhibit D19. Geotechnical Report, dated July 31, 2018
- Exhibit D20. Critical Areas Study, dated February 27, 2020
- Exhibit D21. Density Calculation Worksheet, dated February 27, 2020
- Exhibit D22. Preliminary Technical Information Report, dated February 26, 2020
- Exhibit D23. TDR Purchase Letter of Intent, dated January 25, 2019
- Exhibit D24. Request for School Information Form, dated November 18, 2019
- Exhibit D25. Safe Walk Route Plan, dated November 21, 2019
- Exhibit D26. Fire District Receipt, dated January 11, 2019
- Exhibit D27. Certificate of Sewer Availability, dated December 10, 2018
- Exhibit D28. Certificate of Water Availability, dated December 12, 2018

The following exhibits were offered and entered into the record by the Applicant:

- Exhibit A1. Updated Certificate of Sewer Availability, dated August 11, 2020
- Exhibit A2. Transpo Report, dated August 20, 2020

September 1, 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
www.kingcounty.gov/independent/hearing-examiner

CERTIFICATE OF SERVICE

SUBJECT: Department of Local Services file no. **PLAT190001**
Proposed ordinance no.: **2020-0228**

MULLEN

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 September 1, 2020.



Jessica Oscoy
Office Manager

Allen, Josh
Hardcopy

Andrada, Adam
Hardcopy

Claussen, Kimberly
Department of Local Services

Cui, Tracy
Department of Local Services

Eichelsdoerfer, Robert
Department of Local Services

Kroe, Colleen
Department of Local Services

LeClair, Kevin
Department of Local Services

Longoni, Preston
CORE Design
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Meins, Mike
Department of Local Services

Mullen, Tricia
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Murphy, Michael
Department of Natural Resources and Parks

Nishikawa, Tracy
Wash State Department of Ecology
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Orni, Katherine
D.R. Horton
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Pedroza, Melani
Metropolitan King County Council

Phillippsborn, Kathleen
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Pontarolo, John

Roach, Family
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Rogers, Nancy
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Solorio, Lindsey
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Weller, Kristina
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Wright, Galen
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