

May 11, 2021

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

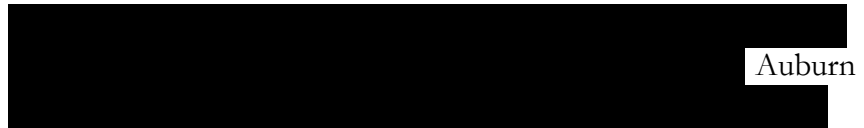
King County Courthouse
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Seattle, Washington 98104
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www.kingcounty.gov/independent/hearing-examiner

REPORT AND DECISION

SUBJECT: Department of Local Services file no. **PLAT160001**
Proposed ordinance no.: **2021-0088**

THE RESERVE AT WASHINGTON NATIONAL
Preliminary Plat Application

Location:



Applicant: Lisa Inc.
represented by **Mike Schuh**
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Puyallup, WA 98372
Telephone: (253) 833-3705
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King County: Department of Local Services
represented by **Kimberly Claussen**
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Snoqualmie, WA 98065
Telephone: (206) 477-0329
Email: kimberly.claussen@kingcounty.gov

This preliminary plat application proposes subdividing 166.3 acres of RA-5 zoned property (adjacent to the Washington National Golf Course) into 33 lots for single-family detached dwellings. The Department of Local Services (DLS) recommends approval, subject to conditions. We approve the application, subject to modified conditions.

FINDINGS:

1. Hearing Process. We conducted an open record public hearing on April 23, 2021, via Zoom, with a telephone call-in option. Various DLS and Applicant representatives, along with members of the public, participated. There were no reported technical difficulties during the hearing or afterwards. We left the record open for the Applicant to address items we and the neighbors raised at hearing. The Applicant furnished this on April 27, and we closed the record that day. 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.
2. Baseline. Except as modified herein, we find correct the facts set forth in DLS’s staff report (exhibit 1) and the DLS hearing testimony, and we incorporate them by reference.
3. Site characteristics. The property sits in STR 15-21-05 and is comprised of parcels 202577-0630, -0640, -0650, and -0660. There are no streams, wetlands, or critical habitats on site, but development will need to stay clear from the steep slopes at the northern edge of the property, where the property drops towards Big Soos Creek.¹ Within the larger property, the defining characteristic is that the property was largely graded to provide gravel for SeaTac’s third runway; this created pockets and sloping and multiple drainage basins.
4. State Environmental Policy Act (SEPA). The Applicant prepared an environmental checklist in 2016. Ex. D2. After reviewing that and a variety of later studies and other materials, on March 11, 2021, DLS issued a determination of nonsignificance (DNS). Ex. D4. The DNS was not appealed, nor did DLS receive any comments on it.
5. Density and lot pattern. The 166.3-acre site will be developed into 33 lots covering a total of 91.02 acres. Lots 29–33 are large parcels averaging 11.48 acres. Ex. D1 at 011. Lots 1–28 average 1.20 acres. Ex. D17. To meet clustered development requirements, those 28 lots are arranged in groups of no more than eight (lots 1–8, lots 9–12/21–24, lots 13–20, and lots 25–28), separated from each other by the requisite 120 feet of open space. The proposal also meets the other clustering requirements of KCC 21A.14.040.B, along with the general RA-5 density requirements. Ex. D1 at 011.
6. Sewage. Lots will be served by a community on-site sewage system, drainfield, and backup drainfield. Unlike the scenario where each lot has its own, entirely self-contained sewage system—a scenario reviewed by the local health department—community sewage systems are reviewed by the State’s health department. The State’s initial take here was that the Applicant’s conceptual design appears viable. Ex. D10. The State will need to provide actual approval prior to final plat recording.
7. Drainage. Because the development area exceeds 50 acres and is in a critical aquifer recharge area, the project requires Large Project Drainage review and a Master Drainage

¹ The fifty-foot regulatory buffer from the top of those steep slopes may be reduced via DLS approving a qualifying geotechnical study, prior to engineering plan approval. *See* condition 11.a, below.

- Plan. As noted above, the site’s multiple pockets have created multiple drainage basins, meaning a centralized drainage facility would have been problematic. Ex. D7 at 012–015. Under the proposal, there will essentially be 18 separate sets of drainage improvements. The site will fully infiltrate stormwater runoff.
8. The site is in an area mapped as subject to the conservation flow control and basic water quality requirements. Normally, this would entail drilling wells and monitoring groundwater to show whether meeting basic water quality standards is sufficient, or whether enhanced treatment is necessary.
 9. However, DLS explained at hearing that the Muckleshoot had expressed concern that drilling deep monitoring wells could, by themselves, change subsurface hydrology and impact the aquifer. In addition, the Muckleshoot requested that the Applicant treat its stormwater using enhanced methods, to prevent impacts to Soos Creek’s groundwater resources. Ex. D11 at 001.
 10. The Applicant is proposing to provide enhanced basic water quality treatment via vegetated bio-swales upstream of the infiltration trenches to be installed on either side of the proposed roadways, and prior to the flows entering basic sand filter vaults. Testimony & Ex. D7 at 027.
 11. In a sense, the Applicant will *assume* testing would show a need for enhanced basic water quality treatment (necessitating preventative measures for groundwater protection), without actually undertaking groundwater quality monitoring to determine whether enhanced treatment would actually have been legally required.
 12. Condition 6.G, below, provides the Applicant with the *option* to opt out of basic water quality treatment (with its required groundwater quality monitoring) and instead to proceed with enhanced treatment. We considered amending the condition to make enhanced treatment a *requirement*, but ultimately conclude we do not have sufficient grounds to make that mandatory. The Applicant will very likely go the enhanced-treatment-in-lieu-of-groundwater-quality-monitoring route—if nothing else, the Technical Information Report proposed and analyzes “Enhanced Basic” water quality treatment (exhibit D7 at 007, 027), and presumably it would be disadvantageous to return to square one and redesign for basic-with-monitoring, but we are not altering the proposed condition to make the enhanced option mandatory.
 13. Roads and Traffic. Lots 1–27 will access directly from a private loop road, built to rural sub-access standards, off SE Diamond Drive (Diamond) at approximately 138th Place SE. A short segment then heads by lot 28 and ends in a bulb at lot 29. From the bulb, the developer will construct driveway drops, from which the builders of lots 30–33 will install private driveways. Ex. D1 at 11.
 14. The focus of the neighbors at hearing was a request to route construction traffic east along Diamond to 148th Way SE, instead of west to 138th and through their neighborhood. The constructed portion of Diamond ends east of the subject property;

the portion of Diamond approaching 148th is heavily overgrown and has been blocked off at 148th to prevent vandalism.

15. The Applicant agreed to consider the neighbors' request, and we held the record open. In its post-hearing filings, the Applicant proposed language that would send plat infrastructure construction (but not individual house construction) traffic via 148th, with a legal caveat, given that the Applicant's legal right to use the easterly portion of Diamond for construction equipment may not be iron-clad and could be challenged. Ex. D14.
16. The Applicant's proposal is neighborly and appreciated. It also makes sense to limit 148th access to the infrastructure phase. Prior to plat approval, the Applicant must create an emergency access route east along Diamond to 148th Way S. Ex. D1 at 005 (first line). Presumably this will entail something like constructing a gate which emergency responders can access, something the Applicant may need to install prior to final plat approval.² Once the streets, drainage, frontage, community septic, and other infrastructure improvements are constructed and the Applicant meets the other requirements for (and then obtains) final plat approval, the lots will be individually marketable. There is no necessary timeline for when (or if) each lot will have a home constructed, nor by whom. Requiring non-emergency access on the easterly portion of Diamond beyond the infrastructure improvement phase could potentially leave that route open to the public in perpetuity. And finally, as with enhanced water quality, ultimately, we do not have sufficient grounds to enter a finding making mandatory anything beyond what the Applicant is committing to do.
17. The site passes traffic concurrency, and the relevant intersections will continue to operate at level-of-service "A." The 33 daily p.m. peak hour trips the built-out subdivision will generate are below the threshold for requiring mitigation on County roads. Ex. D8.
18. Schools. Students will be bussed to elementary, middle and high schools. One of our primary concerns for any subdivision is safe, school-related walking access for children. The original submittal contained a small-scale map without sufficient detail. Ex. D8 at 032. We kept the record open, and the Applicant provided detailed information demonstrating safe walking access from the plat to the assigned bus stops. Ex. D18.

² Bonding sufficient to ensure the infrastructure will be built out can be a route to obtaining final plat approval prior to completing all plat development, but that raises its own complications.

CONCLUSIONS:

1. The proposed subdivision, as conditioned below, would conform to applicable land use controls. In particular, the proposed type of development and overall density are specifically permitted under the RA-5 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 KCC 20.22.180, 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.

DECISION:

We APPROVE the Reserve at Washington National preliminary plat, subject to the following conditions.

1. Compliance with all platting provisions of Title 19A of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication that includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the base density requirements of the RA-5 zone classification, as well as the rural lot clustering requirements of KCC 21A.14.040. All lots shall be the larger of the minimal dimensional requirements of the RA-5 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.

Any/all plat boundary discrepancy shall be resolved to the satisfaction of Permitting Division, DLS 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.

4. All construction and upgrading of public and private roads shall be done in accordance with the 2007 King County Road Design and Construction Standards established and adopted by Ordinance No. 15753, as amended (KCRDCS).
5. The Applicant must obtain the approval of the King County Fire Marshal for the adequacy of the fire department access gate, fire hydrant locations, water main, and fire flow of the International Fire Code as amended by KCC chapter and in accordance with King County Public Rules.

6. 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 King County Surface Water Design Manual (KCSWDM) must also be satisfied during engineering and final review.
 - A. Drainage plans and analysis shall comply with the KCSWDM and applicable updates adopted by 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 (i.e. ditches, bio-swales) along the public roadways shall be designed pursuant to KCSWDM requirements.
 - E. A Large Project Drainage Review is required for 50 acres or more of development activities within a critical aquifer recharge area, as defined in KCC chapter 21A.06. A master drainage plan (MDP) is required per KCSWDM to demonstrate compliance with all nine (9) core requirements and all five (5) special requirements.
 - F. The site is mapped in Conservation Flow Control Area and a Level 2 Flow Control is required for the on-site basin.
 - G. The site is mapped in Basic Water Quality Area. The project has the option to opt to Enhanced Basic Water Quality Treatment as a

preventative measure to protect groundwater, in lieu of the required groundwater quality monitoring pre- and post- development.

- H. The roadside storm drainage easement for the stormwater infrastructure and facilities, if proposed, shall be recorded prior to recording the final plat. Access to the easement from the adjacent private lots is prohibited and landscaping around the easement is required.
- I. To implement the required Best Management Practices (BMPs) for treating storm water, the final engineering plans and report shall clearly demonstrate compliance with all applicable design standards. The requirements for BMPs are outlined in KCSWDM section 1.2.9. The design engineer shall address the applicable requirements on the final engineering plans and provide all necessary documents for implementation. The final recorded plat shall include all required covenants, easements, notes, and other details to implement the required BMPs for site development.

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

- 7. The proposed subdivision shall comply with the 2007 King County Road Design and Construction Standards (KCRDCS) and 2016 King County Surface Water Design Manual, including the following requirements:
 - A. Internal roads (Road A and B) and half street improvements to SE Diamond Drive, shall be improved, at a minimum, to the rural subaccess street standard. Notes regarding ownership and maintenance of the private sub access street shall be shown on the engineering plans and final plat.
 - B. Private Access Tracts (PAT) and Joint Use Driveway Tracts (JUD), if any, shall be improved to the PAT and/or JUD standard per KCRDCS section 2.09 and 3.01.
 - C. Emergency access shall be provided via SE Diamond Dr. to 148th Way SE.
 - D. Modifications to the above road conditions may be considered according to the variance provisions in KCRDCS section 1.13.
 - E. During site development and construction of the plat infrastructure, construction traffic shall be directed to the northeast along the private road easement

connecting to 148th Way SE. This limitation will not apply during home construction and will not apply if there is a challenge to the Applicant's right to use the easement for construction purposes.

8. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
9. 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.
10. The proposed subdivision shall comply with the Critical Areas code, as outlined in KCC chapter 21A.24. Permanent survey markings and signs, as specified in KCC 21A.24.160, shall also be addressed prior to final approval. Temporary marking of critical areas and their buffers (e.g. with bright orange construction fencing) shall be placed on the site and shall remain in place until all construction activities are complete.
11. Preliminary plat review has identified the following specific requirements which apply to this project. All other applicable requirements from KCC chapter 21A.24 shall also be addressed by the Applicant:
 - A. Determine the top, toe, and slides of 40% slopes by field survey. Provide a 50-foot buffer for these slopes. The buffer may be reduced with the submittal of a satisfactory soils report, subject to review and approval by a Permitting Division geologist, prior to engineering plan approval.
 - B. Critical area tract(s) shall be used to delineate and protect critical areas and buffers in development proposals for subdivisions and shall be recorded on all documents of title of record for all affected lots.
 - C. A 15-foot building set back line (BSBL) shall be established from the edge of buffer and/or the critical area tract(s) and shown on all affected lots.
 - D. Prior to commencing construction activities on the site, the Applicant shall temporarily mark critical area tract(s) in a highly visible manner, and these areas must remain so marked until all development proposal activities in the vicinity of the critical areas are completed.
 - E. Prior to final approval of construction activities on the site, the boundary between the critical area tract(s) and adjacent land shall be identified using permanent signs. Sign specifications shall be shown on the final engineering plans

and shall be installed every 100 feet or as deemed appropriate by Permitting Division critical area staff at the time of engineering plan review.

- F. During engineering review, the plan set shall be routed to Permitting Division Critical Areas staff (geologist) to determine if the conditions and requirements have been met.
- G. The following note shall be shown on the final engineering plan and recorded plat:

**RESTRICTIONS FOR CRITICAL AREA TRACTS
AND CRITICAL AREAS AND BUFFERS**

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

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

- 12. A fifty-foot Type II landscape screen, as defined by KCC 21A.16.040 and required by KCC 21A.14.040.B.5 (rural lot clustering), shall be provided.
 - A. A detailed landscape plan (including landscape specs, quantities, bond Quantity worksheet, etc., etc.) associated with the fifty-foot landscape buffer (KCC 21A.14.040.B5) shall be submitted for review and approval by Permitting Division prior to or concurrent with the submittal of engineering plans. Preservation of existing healthy vegetation may be used to augment new plantings.

- B. A performance bond for landscape improvements shall be posted prior to recording of the plat.
13. Undivided ownership, a homeowners' association, or other workable organization shall be established to the satisfaction of Permitting Division which provides for the ownership and continued maintenance of the private road tract(s), open space tract(s), landscape tract(s) and critical area tract(s).
 14. Final State Health approval for the large on-site septic (LOSS) shall be submitted to the Permitting Division prior to or concurrent with the final recording documents.

Other Considerations:

15. The subdivision shall conform to KCC chapter 16.82 relating to grading on private property.
16. Development of the subject property may require registration with the Washington State Department of Licensing, Real Estate Division.
17. Preliminary approval of this application does not limit the Applicant's responsibility to obtain any required permit or license from the State or other regulatory body. This may include, but is not limited to the following:
 - A. Forest Practice Permit from the Washington State Department of Natural Resources.
 - B. National Pollutant Discharge Elimination System (NPDES) Permit from WSDOE.
 - C. Water Quality Modification Permit from WSDOE.
 - D. Water Quality Certification (401) Permit from U.S. Army Corps of Engineers.

DATED May 11, 2021.



David Spohr
King County Hearing Examiner

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 *June 4, 2021*, 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 *June 4, 2021*, the Examiner’s decision becomes final.

If both a timely and sufficient appeal statement and filing fee are filed by *June 4, 2021*, the Examiner will notify all parties and interested persons and provide information about “next steps.”

**MINUTES OF THE APRIL 23, 2021, HEARING ON PRELIMINARY PLAT
APPLICATION THE RESERVE AT WASHINGTON NATIONAL, DEPARTMENT
OF LOCAL SERVICES FILE NO. PLAT160001,
PROPOSED ORDINANCE NO. 2021-0088**

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Jody Armstrong, Kimberly Claussen, Craig Deaver, Robert Eichelsdoerfer, Jerry Hopp, Patricia Larson, Blount LeGrande, William Lynn, Mike Schuh, and Huey-Yi Sung.

The following exhibits were offered by DLS and entered into the hearing record on April 23, 2021:

| | |
|-----------------|--|
| Exhibit no. D1 | Preliminary DLS report, transmitted to the Examiner on April 14, 2021 |
| Exhibit no. D2 | Land use permit application, submitted May 19, 2016 |
| Exhibit no. D3 | State Environmental Policy Act (SEPA) checklist, received May 16, 2016 |
| Exhibit no. D4 | SEPA determination of non-significance, dated March 11, 2021 |
| Exhibit no. D5 | <ul style="list-style-type: none"> A. Affidavit of posting notice of plat application, posted on July 19, 2016 B. SEPA threshold determination, posted on March 10, 2021 |
| Exhibit no. D6 | Revised Plan Set (sheets 1-11), dated July 24, 2020 |
| Exhibit no. D7 | Revised Master Drainage Plan, approved December 23, 2020 |
| Exhibit no. D8 | Revised Traffic Impact Analysis including school walkway conditions, by Heath and Assoc., dated April 25, 2019 |
| Exhibit no. D9 | Water Availability Covington Water, dated January 4, 2016 |
| Exhibit no. D10 | WA State Health large on-site sewer, dated January 22, 2016 |
| Exhibit no. D11 | Emails from Muckleshoot |
| Exhibit no. D12 | Revised permitting division recommendation 7a, dated April 14, 2021 |
| Exhibit no. D13 | Letter from HOA dated August 18, 2016, submitted April 23, 2021 |

The following exhibits were offered by the Applicant on April 27, 2021, and entered into the hearing record:

| | |
|-----------------|---|
| Exhibit no. D14 | Email on additional exhibits from Craig Deaver |
| Exhibit no. D15 | Revised permitting division recommendation 7a (CES edits) |
| Exhibit no. D16 | Diamond Ridge Estates Alterations |
| Exhibit no. D17 | Average Lot Area Calcs |
| Exhibit no. D18 | School Walkway Analysis |

May 11, 2021

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

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CERTIFICATE OF SERVICE

SUBJECT: Department of Local Services file no. **PLAT160001**
Proposed ordinance no.: **2021-0088**

THE RESERVE AT WASHINGTON NATIONAL
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 May 11, 2021.



Jessica Oscoy
Office Manager

Armstrong, Jody
Hardcopy

Sung, Huey-yi
Department of Local Services

Casey, Laura
Department of Local Services

Clark, Dave
Hardcopy

Claussen, Kimberly
Department of Local Services

Deaver, Craig
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Eichelsdoerfer, Robert
Department of Local Services

Estep, Blair
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Hopp, Jerry

Larson, Patricia
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Lee, SeungJu
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LeGrande, Blount

Liang, Qing

Lisa Inc

Lynn, William
Gordon Thomas Honeywell
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McBride, Diane
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Meins, Mike
Department of Local Services

Miles, Walt
Lisa Inc

Pedroza, Melani
Metropolitan King County Council

Sandin, Randy
Department of Local Services

Schuh - Lisa Inc, Mike
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Smith, Scott-DLSP
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