

February 15, 2022

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

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REPORT AND DECISION

SUBJECT: Department of Local Services file no. **PLAT200002**
Proposed ordinance no.: **2021-0453**

STAR LAKE HEIGHTS
Preliminary Plat Application

Location:  Auburn

Applicant: Copper Ridge, LLC
represented by **Evan Mann**
PO Box 73790
Puyallup, WA 98373
Telephone: (253) 820-7835
Email: evan@soundbuilthomes.com

Applicant: CORE Design
represented by **Ben Madeo**
12100 NE 195th Street Suite 300
Bothell, WA 98011
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King County: Department of Local Services
represented by **Tracy Cui**
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Snoqualmie, WA 98065
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SUMMARY OF RECOMMENDATIONS/DECISION:

Department’s Preliminary Recommendation:	Approve with Conditions
Department’s Final Recommendation:	Approve with Conditions
Examiner’s Decision:	Approve with Conditions

EXAMINER PROCEEDINGS:

Hearing Opened:	1/28/2022
Hearing Closed:	2/2/2022

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:	July 20, 2020
Applicant:	Copper Ridge, LLC, Attn. Evan Mann
Engineer:	Core Design, Inc.
STR:	NW-34-22-4
Location:	3930 S. 277th Place, Auburn, WA 98001 Parcels 7967600140 and 7967600160
Zoning:	R-6
Comprehensive Plan:	UM (Urban Residential Medium, 4-12 du/acre)
Acreage:	4.28 acres
Number of Lots:	25
Density:	5.84 du/acre
Average Lot Size:	4,502 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

2. Hearing. An open record public hearing was held January 28, 2022. Due to the COVID-19 response, the hearing was conducted remotely, with the Department of Local Services (Permitting), the Applicant, and members of the public calling in. At the hearing, Permitting, through Ms. Cui, summarized the proposal. The Applicant provided further detail. Several citizens testified. Comments at the hearing and in written comment

addressed a range of concerns, including the pedestrian route to the elementary school, parking, drainage, notice, and a variety of technical/engineering concerns.¹

Access information was provided to allow the parties to join via either a video link or telephone call-in. There were no reported technical difficulties during the call or afterwards that could have interfered with participation. However, in case any anyone who wished to comment had difficulty calling in, the record was kept open through February 2. Additional comments were received.

3. Permitting Administrative Review/Written Comment. During SEPA review and throughout the review process, public comments from neighboring property owners were received. Comments included concerns on site access, school bus route, traffic, parking, density, and stormwater facilities. The Applicant provided responses.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 Code requirements on notice were complied with. Notice was documented through hearing testimony and by exhibit.⁵
5. SEPA. State Environmental Policy Act, Ch. 43.21C RCW review was completed through a Determination of Non-Significance, which was not appealed.⁶
6. Surrounding Land Uses. The site is surrounded by single-family homes and right-of-way, with Star Lake further to the west.
 - North: S Star Lake Road, with single-family development opposite and R-6 zoning.
 - West: S Star Lake Road, with single-family lots opposite and R-6 zoning.
 - South: Unopened, unmaintained County right-of-way with single family lots opposite and R-4 zoning.
 - East: Unopened, unmaintained County right-of-way with single-family development opposite and R-6 zoning.
7. Topography. The site is relatively flat, but with moderate to steep slopes on the west portion of the south parcel and the west and northern portions of the north parcel. Contour mapping depicts these level changes, and a Geotechnical Report was prepared with recommendations.⁷ Permitting agreed with Geotechnical Report recommendations to reduce the code-standard 50-foot buffer from the steep slopes to 10 feet and to

¹ Exhibits R1-R4 (Applicant Responses to Public Comment) and A1-10 (Public Comment). Following the hearing, the Examiner completed a site visit. As is standard practice, there was no party contact and the site was not entered.

² Exhibits D8-D15, and D34-D35.

³ Exhibit D1 (Staff Report), pp. 3-4.

⁴ Exhibit D1 (Staff Report), p. 3.

⁵ Testimony, Ms. Cui and Mr. Mann; Exhibit D32. Public notice occurred throughout the review process. *See e.g.*, Exhibits D1 (Staff Report), p. 3, section C.

⁶ Exhibit D6 (DNS); Exhibit D1 (Staff Report), pp. 3-4.

⁷ Exhibit D2 (Survey Plan), Sheet C1.02; Exhibit D17 (Geotechnical Report).

deregulate a portion of the steep slopes that are less than 20 feet high at the southeast end of the steep slope hazard area. With the additional code required 15-foot building setback, the total setback is 25 feet from the steep slopes. The technical analysis and staff review support these measures.

8. Density. Base density allowed is 26 (4.28 x 6).⁸ At 25 units, the project complies. The project must also meet minimum density requirements, which it does. This calculation is based on net buildable area.⁹ Net acreage is multiplied by the code’s minimum density factor¹⁰ (3.64 x 6 x 85% = 19).¹¹
9. Schools. Valhalla Elementary School, Totem Lake Middle School, and Thomas Jefferson High School, all within Federal Way School District #210, will serve the project. To address the plat’s school impacts, impact fees are being paid.¹² The 2022 School Impact Fees are \$1,845 per detached single-family dwelling unit. 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 identified no concerns with this approach, which meets code requirements and is outlined in the conditions.

The Applicant documented adequate school access and safe walking conditions. The bus stop for the middle and high schools is at the 46th Avenue S/S Star Lake Road intersection, with a half-mile walking distance. The elementary school is within walking distance. Paved sidewalks within the site, coupled with existing pedestrian infrastructure, provide for adequate school access.¹⁴ School concerns are addressed consistent with Ch. 21A.28 KCC.

There was comment on the walking route to the elementary school. The route is a well-lit, ADA-compliant sidewalk that extends from the doorstep of all plat homes. The route is less than a quarter mile. It is viewable from plat homes. The trail request made in public comment, though shorter at about 600 feet, is for an unlit path with no “eyes on the street” and presents privacy and security concerns for homes backing the route.¹⁵ For these reasons, several neighbors opposed to this latter approach. The route the Applicant proposed complies with requirements and provides safe walking conditions.

10. Drainage/Stormwater. The project must comply with the 2016 King County Surface Water Design Manual. A Level 1 downstream analysis was prepared.¹⁶ No downstream nuisances such as erosion, sedimentation, or flooding were found. Tract B contains a

⁸ KCC 21A.12.030; Exhibit D1 (Staff Report), p. 6.

⁹ KCC 21A.12.030, .060.

¹⁰ KCC 21A.12.030.

¹¹ Exhibit D21; Exhibit D1, p. 6.

¹² KCC 27.44.010.

¹³ Exhibit D1 (Staff Report), p. 8; Condition 15.

¹⁴ Exhibit D1 (Staff Report), pp. 8-9; Exhibit D26 (Safe Walk Route Plan).

¹⁵ See Exhibit A1 and Testimony, Mr. Madeo.

¹⁶ Exhibit D24 (Preliminary Technical Information Report); Exhibit D23 (Drainage Adjustment Approval).

stormwater vault to release mitigated flows directly to an existing catch basin and drainage conveyance system at Star Lake Road. Flow control and water quality treatments will be provided consistent with requirements.

Public comments raised concerns on storm water runoff discharge. The project is meeting the peak flows and durations (flow discharge frequency) for a forested condition and will not increase flows to the Star Lake Outlet. The peak flow in the developed conditions will be about equal to the existing conditions. The project will discharge to the catch basin on Star Lake Road’s south side and will not disturb the outlet of Star Lake.¹⁷ In addition to analysis in the record, hearing testimony from the project’s stormwater engineer detailed stormwater facility design, which included avoiding the shoreline by directing stormwater to the north. The facility is at the best location on the site, at the bottom of the steep slopes where it can drain the full site.¹⁸

11. Transportation Improvements and Plat Access. Plat access is via existing S 277th Place, which will be extended west with a new suburban access road, providing access to 21 lots. As explained in hearing testimony, this is the safest and most efficient access point. The improvement will be constructed as a 24-foot-wide travelled way with a concrete curb, gutter, five-foot sidewalks on both sides of the roadway, and cul-de-sac with a 40-foot radius. Two 20-foot-wide private access tracts (Tracts A and E) will intersect with this road to serve four lots, along with access to the stormwater tract. The existing S 277th Place travelled way for the first 250 feet west of 42nd Avenue S will be improved to a travelled way width of 24-feet.¹⁹
12. Parking. The plat provides two car garages and a minimum of two parking spaces on each driveway. On-street parking will be available on one side of the proposed Urban Subaccess road per KCC 14.06.020.K, with “No Parking” signs on one side of the road. The approach addresses plat impacts and complies with the KCC.
13. Cul-De-Sac. The Applicant obtained a variance (VARR21-0008) to the 2016 King County Road Design and Construction Standards for length of cul-de-sac (S 277th Place).²⁰ Street improvement design was detailed in testimony from a traffic expert (Mr. Heath), on the plat sheets (Exhibit D2), and in the Staff Report (Exhibit D1).
14. Traffic. A traffic impact analysis was prepared.²¹ About 236 net new weekday trips, with 19 AM and 25 PM peak hour trips will be generated. This includes trips by residents and service trips (mail delivery, garbage pick-up, school bus). The surrounding street system has adequate capacity, meeting Chs. 14.70 and 14.80 KCC concurrency requirements.

¹⁷ Exhibit A3. *See also* Testimony, Mr. Mann, Ms. Murata, and Condition 9.

¹⁸ Testimony, Ms. Murata.

¹⁹ Exhibit D1 (Staff Report), pp. 7-8; Exhibit D2 (Plat); Testimony, Mr. Mann and Mr. Heath.

²⁰ Exhibit D22.

²¹ Exhibits D25 (TIA) and D12 (Addendum addressing AM peak period). As the plat does not generate 30 peak hour trips, this analysis would not have been required. Testimony, Mr. Heath.

15. Sewage, Water/Fire. Sewage and water supply systems, including fire flow, are available to serve the project.²²
16. Parks and Open Space. The nearest public park is Bingaman Pond Natural Area, about two miles to the southwest. In the R-6 zone, a project with over four units, and at an eight unit per acre or less density, must provide 390 square feet of recreation space per unit, or 9,750 square feet.²³ Alternatively a fee-in-lieu may be paid. The Department of Natural Resources and Parks has preliminarily agreed to accept a fee-in-lieu request. The analysis the Applicant provided addresses these requirements.²⁴ With the outlined approach, which includes an on-site tot lot, park impacts are adequately addressed and the outlined mitigation is tailored to be proportionate to project impacts on park resources.²⁵
17. Critical Areas. Except for a Category II Critical Aquifer Recharge Area (which does not trigger additional restrictions for this project), there are no critical areas on site. No wetlands/streams or critical habitat are within the site and no off-site wetland/streams project buffers onto the site.²⁶
18. Shoreline. The new lots are outside the shoreline jurisdiction, so additional shoreline conditions are not required. There is also no direct legal connection from the site to Star Lake, which has a Shoreline Residential designation. The shoreline area that extends into the site overlaps with the steep slopes and buffers where no new development is proposed.
19. Tree Retention. Significant tree retention requirements (KCC 16.82.156) can be met. A significant tree retention/replacement plan is required with the detailed engineering plans.²⁷
20. 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.
21. Staff Report/Conditions. Except as modified herein, the Staff Report is incorporated by reference (Exhibit D1). The Staff Report includes recommended conditions, which the Applicant did not object to and which should be included to support Decision findings and ensure KCC requirements are met.

²² Exhibit D2 (Staff Report), p. 9; Exhibit D29 (Certificate of Sewer Availability); Exhibit D30 (Certificate of Water Availability). King County Fire Flow Standards can be met; before final plat recording the water service facilities will be reviewed and approved to confirm same. South King Fire & Rescue District can serve the project. Exhibit D28. Testimony, Ms. Cui and Mr. Mann. *See also* Conditions 7 and 8.

²³ KCC 21A.14.180(A); Exhibit D1 (Staff Report), p. 9.

²⁴ Exhibit D1 (Staff Report), p. 9; Exhibit D27 (Code Compliance Analysis and Fee-in-Lieu Estimate).

²⁵ *See also* Testimony, Ms. Cui and Mr. Mann, and Condition 16.

²⁶ Exhibit D1 (Staff Report), pp. 4-5; Exhibit D18.

²⁷ Exhibit D1 (Staff Report), p. 5; Exhibit 2 (Plat Sheets), Sheet L1.01 and L1.02).

CONCLUSIONS:

1. The proposed subdivision, as conditioned below, would conform to land use controls. The R-6 zone specifically permits the proposed type of development and density. 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, including platting criteria at KCC 20.22.180.
2. If approved subject to the conditions below, the proposed subdivision will make appropriate provisions for the topical items RCW 58.17.110 enumerates, and will serve the public health, safety and welfare, and the public use and interest.
3. The conditions for final plat approval are reasonable requirements and in the public interest. With these conditions, and the urban services and infrastructure supporting the project, the plat will serve the public health, safety, and welfare, and the public use and interest. The plat should be approved with conditions.

DECISION:

1. The preliminary plat Star Lake Heights is approved subject to these conditions:
2. The plat configuration shall be developed in substantial conformance with the development plan set received on August 26, 2021 (Exhibit 2).
3. Compliance with all platting provisions of KCC Title 19A.
4. 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.
5. The plat shall comply with the density requirements of the R-6 zone classification. All lots shall meet the minimum dimensional requirements of the R-6 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.
6. All construction and upgrading of public and private roads shall be done in accordance with the 2016 King County Road Design and Construction Standards (KCRDCS) established and adopted by Ordinance 18420, as amended.
7. The existing temporary cul-de-sac at the end of S 277th Place shall be removed.
8. 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. Any future residences are required to be sprinklered unless otherwise approved by the King County Fire Marshal or designee.

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 KCRDCS.
10. 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 pursuant to Section 5.1.3. The water quality facilities shall be designed in accordance with KCSWDM chapter 6.

- 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.

- H. Retaining walls that are over 4 feet in height measured from the bottom of the footing to the top of the wall shall be designed by a licensed structural engineer.
11. The proposed subdivision shall comply with the 2016 KCRDCS, including the following requirements:
- A. The extension of S 277th Place to the west shall be constructed at a minimum to the urban subaccess standard.
 - B. The existing S 277th Place, for approximately the first 250 feet west of S 42nd Street, shall be widened at a minimum to the urban subaccess travelled way width standard.
 - C. Private access tracts (PAT) and Joint use driveway tracts (JUD), if any, shall be improved to the PAT and/or JUD standard pursuant to sections 2.09 and 3.01 of the 2016 KCRDCS.
 - D. Comply with road variance VARR21-0008.
 - E. Modifications to the above road conditions may be considered according to the variance provisions in 2016 KCRDCS section 1.13.
12. Shorelines: The western portion of this site is within Residential Shoreline Environment. The area within shoreline jurisdiction is excluded from the lot development and has been placed entirely within the Critical Areas Tract that protects the steep slopes and buffers on this property. No alterations are proposed within shoreline jurisdiction.
13. 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. Critical Area Tract (KCC 21A.24.180). The regulated steep slope area and associated 10-foot 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 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.
- B. A minimum building setback line of 15 feet shall be required from all edges of the buffer (KCC 21A.24.200).
- C. A final arborist report shall be submitted by the applicant during the engineering review that verifies and quantifies the number of any hazard trees to be removed from critical areas and the required mitigation, if any.
- D. Permanent survey marking, wildlife passable fencing, and critical area signs shall be installed at the edge of the critical area tract prior to final plat approval (KCC 21A.24.160).
- E. 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.
- F. 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 and buffer conveys to the public a beneficial interest in the land within the tract 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 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.

14. The engineering plan approval shall include a special inspection requirement for the geotechnical engineer to observe site grading, cut slope excavation, subgrade preparation, fill compaction and fill slope grading, and rockery or retaining wall construction for compliance with the recommendations contained in the geotechnical engineering report by Terra Associates, Inc., dated April 10, 2020, and revised May 28, 2020 (Exhibit 17).
15. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
16. 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.
17. 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.
 - C. In accordance with KCC 21A.14.185, the developer may choose to pay a fee-in-lieu of providing the on-site recreation space. The Department of Parks and Natural Resources has agreed to accept the fee-in-lieu payment. To obtain final plat approval, the developer shall provide payment of an amount agreed upon by the Department of Natural Resources and Parks, based on an estimate of the market value of the required recreation land area after development.
18. 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).
19. 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 plat recording. At the time of inspection, if the trees are found to be installed in accordance with 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.
20. 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.
21. Prior to the issuance of any final engineering approval or the initiation of grading, filling, or clearing:
- A. Sample the soil and analyze for arsenic and lead following the 2019 Tacoma Smelter Plume Guidance. The soil sampling results shall be sent to Ecology for review.
 - B. If lead or arsenic are found at concentrations above the Model Toxics Control Act (MTCA) cleanup levels (Chapter 173-340 WAC); the owners, potential buyers, construction workers, and others shall be notified of their occurrence. The current MTCA cleanup level for arsenic is 20 parts per million (ppm) and lead is 250 ppm.
 - C. If lead, arsenic and/or other contaminants are found at concentrations above MTCA cleanup levels, the applicant shall:
 - i. Develop soil remediation plan and enter into the Voluntary Cleanup Program with Ecology. For more information on the Voluntary Cleanup

Program, visit Ecology website at: <https://ecology.wa.gov/Spills-Cleanup/Contamination-cleanup/Cleanup-process/Cleanup-options/Voluntary-cleanup-program>.

- ii. Obtain an opinion letter from Ecology stating that the proposed soil remediation plan will likely result in no further action under MTCA. The applicant shall provide to the local permitting agency the opinion letter from Ecology.
 - iii. Prior to finalizing site development permits, provide to the local land use permitting agency “No Further Action” determination from Ecology indicating that the remediation plans were successfully implemented under MTCA.
- D. If soils are found to be contaminated with arsenic, lead, or other contaminants, extra precautions shall be taken to avoid escaping dust, soil erosion, and water pollution during grading and site construction. Site design shall include protective measures to isolate or remove contaminated soils from public spaces, yards, and children’s play areas. Contaminated soils generated during site construction shall be managed and disposed of in accordance with state and local regulations, including the Solid Waste Handling Standards regulation (Chapter 173-350 WAC). For information about soil disposal contact the local health department in the jurisdiction where soils will be placed.

DATED February 15, 2022.



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 11, 2022*, 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 *March 11, 2022*, the Examiner's decision becomes final.

If both a timely and sufficient appeal statement and filing fee are filed by *March 11, 2022*, the Examiner will notify all parties and interested persons and provide information about “next steps.”

MINUTES OF THE JANUARY 28, 2022, HEARING ON PRELIMINARY PLAT APPLICATION STAR LAKE HEIGHTS, DEPARTMENT OF LOCAL SERVICES FILE NO. PLAT200002, PROPOSED ORDINANCE NO. 2021-0453

Susan Drummond was the Hearing Examiner. Participating in the hearing were Mark Baughman, Tracy Cui, Gregory Heath, Sharon Kiyohara, Ben Madeo, Evan Mann, James McCartney, Bill Meleney, Keith Mullen, and Sheri Murata.

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

Exhibit no. D1	Preliminary department report, transmitted to the Examiner on January 14, 2022
Exhibit no. D2	Preliminary Plan Set, dated August 26, 2021
Exhibit no. D3	Land use permit application, dated July 20, 2020
Exhibit no. D4	Letter of Complete Application dated August 17, 2020
Exhibit no. D5	Notice of Application dated August 31, 2020
Exhibit no. D6	SEPA determination of non-significance, issued December 20, 2021
Exhibit no. D7	SEPA Checklist received on November 25, 2020
Exhibit no. D8	1st Round Public Comments
Exhibit no. D9	Applicant's Response to 1st Round Public Comments, received on November 25, 2020
Exhibit no. D10	2nd Round Public Comments
Exhibit no. D11	Applicant's Response to 2nd Round Public Comments, received on March 1, 2021
Exhibit no. D12	Traffic Impact Analysis Addendum, received on March 17, 2021
Exhibit no. D13	3rd Round Public Comments
Exhibit no. D14	Staff Response to Comments from K. Mullen and B. Tonseth
Exhibit no. D15	4th Round Public Comments

Exhibit no. D16	Comments from Ecology, received on December 21, 2021
Exhibit no. D17	Geotechnical Report, received on March 1, 2021
Exhibit no. D18	Critical Areas Designation Report, received on November 25, 2020
Exhibit no. D19	Critical Areas Designation Letters, received on July 20, 2020
Exhibit no. D20	Arborist Report, received on July 20, 2020
Exhibit no. D21	Density Calculation Worksheet, received on July 20, 2020
Exhibit no. D22	VARR21-0008 Approval, dated November 9, 2021
Exhibit no. D23	VARD21-0002 Approval, received on March 1, 2021
Exhibit no. D24	Preliminary Technical Information Report, received on July 12, 2021
Exhibit no. D25	Traffic Impact Analysis, received on November 25, 2020
Exhibit no. D26	Safe Walk Route Plan, received on August 26, 2021
Exhibit no. D27	Recreation Space Fee in Lieu Acceptance, Code Compliance, and Fee Estimate
Exhibit no. D28	Fire District Receipt, received on July 20, 2020
Exhibit no. D29	Certificate of Sewer Availability, received on July 12, 2021
Exhibit no. D30	Certificate of Water Availability, received on July 12, 2021
Exhibit no. D31	Letter from Federal School District, dated August 10, 2021
Exhibit no. D32	Notice of SEPA Threshold Determination and Public Hearing, dated December 20, 2021
Exhibit no. D33	Assessors Map, received on July 20, 2020
Exhibit no. D34	Comments from K. Mullen, received on January 8, 2022
Exhibit no. D35	Comments from K. Mullen, received on January 9, 2022

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

Exhibit no. A1.	Response to Exhibit R4 from Evan Mann, received on January 31, 2022
Exhibit no. A2.	Response to Exhibit R6 from Evan Mann, received February 2, 2022
Exhibit no. A3.	Response to Exhibit R7 from Sheri Murata, received February 2, 2022
Exhibit no. A4.	Response to Exhibit R7, ordinance associated with the ROW Vacation, and the agreement that the neighbors have with the Helgeland Estate, from Evan Mann, received February 2, 2022

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

Exhibit no. R1.	Comments from K. Mullen, received on January 21, 2022
Exhibit no. R2.	Photograph of cars/traffic from K. Mullen, received on January 21, 2022
Exhibit no. R3.	Photograph of bus/traffic from K. Mullen, received on January 21, 2022
Exhibit no. R4.	Comments from Mark and Karen Baughman, received January 31, 2022
Exhibit no. R5.	Comments from Rosey and Ryan Dowd, received February 1, 2022
Exhibit no. R6.	Comments from Ted Knieriem and Patti Petruska, received February 2, 2022
Exhibit no. R7.	Comments and photographs from K. Mullen, received February 2, 2022
Exhibit no. R8.	Comments from James McCartney, received February 2, 2022
Exhibit no. R9.	Comments from William Meleney, received February 2, 2022 Comments from K. Mullen in response to Exhibit A1 and Exhibit R5, received February 2, 2022

February 15, 2022

**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. **PLAT200002**
Proposed ordinance no.: **2021-0453**

STAR LAKE HEIGHTS
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 15, 2022.



Jessica Oscoy
Office Manager

Archuleta, Wally
Department of Local Services

Barber, Eva
Washington State Department of Ecology
Hardcopy

Baughman, Mark
Hardcopy

Beer, Stephen
Hardcopy

Burke, Rebecca
Department of Local Services

Copper Ridge, LLC

CORE Design

Crook, Tommy
Hardcopy

Cui, Tracy
Department of Local Services

Dowd, Rosemary/Ryan
Hardcopy

Eichelsdoerfer, Robert
Department of Local Services

Fitts, Kevin
Department of Local Services

Gao, Clara
Department of Local Services

Garipey, Daniel
Department of Local Services

Hammerli, Laurie
Department of Local Services

Heath, Gregory
Heath & Associates Inc

Hermansen, Lafe
CORE Design
Hardcopy

Kirk, Nathan
Hardcopy

Kiyohara, Sharon/Robert
Hardcopy

Klein, Pasha
Department of Local Services

Madeo, Ben
CORE Design
Hardcopy

Mann, Evan
Copper Ridge, LLC
Hardcopy

Marx, Kurt
Department of Local Services

McCartney, James
Hardcopy

McLean, Sally
Hardcopy

McManus, Aileen
Department of Transportation

Meleney, Bill
Hardcopy

Mullen, Keith
Hardcopy

Murata, Sheri
CORE Design
Hardcopy

Murphy, Ashley

Neil, Brad
Hardcopy

Nguyen, Anhyan
Hardcopy

Patti Petruska, Ted Knieriem
Hardcopy

Pedroza, Melani
Metropolitan King County Council

Scheffler, Ryan
Department of Local Services

Sung, Huey-yi
Department of Local Services

Thomas, Jen
Hardcopy

Tonseth, Brandon
Hardcopy

Wolfe, Daniel
Hardcopy