

May 27, 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

REPORT AND DECISION

SUBJECT: Department of Local Services file no. **PLAT200004**
Proposed ordinance no. **2022-0111**

WOODRUFF
Preliminary Plat Application

Location: [REDACTED] Renton

Applicant: Harbour Homes
represented by **Jordan Todhunter and Jamie Waltier**
[REDACTED]
Seattle, WA 98103
Telephone: [REDACTED]
Email: [REDACTED]

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

FINDINGS:

1. **Overview.** The Woodruff preliminary plat contemplates subdividing an approximately 5.39-acre area in unincorporated King County, near Renton, into 40 homesites. The Department of Local Services (Local Services) reviewed the application and recommends approval, subject to conditions. We held a public hearing, allowed post-hearing submittals, and now approve the application, subject to some additional conditions.

2. **Hearing Process.** We conducted an open record public hearing on April 21, 2022, via Zoom, with a telephone call-in option. Various Local Services and Applicant representatives, along with members of the public, participated. There were no reported technical difficulties during the hearing or afterwards. However, we later discovered a substantive problem.
3. In preparing for a plat hearing, we review various exhibits on items like density, drainage, traffic, roads, critical areas, school walkways, etc. Yet we especially focus on submitted public comments. Not every plat has them, but when they do those comments often prompt us to ask better questions at a hearing. Local Services typically compiles such comments into a dedicated exhibit we thoroughly review before the hearing. Here we did not receive a public comment exhibit, even after our staff inquired about it.
4. At our hearings, we typically let members of the public not only offer testimony (standard) but also ask questions of a Local Services or Applicant witness testifying on a particular topic (a public participation-expanding practice we believe is unique to us). We did that at our April 21 hearing, receiving public testimony and getting some solid public questions. We then closed the record, still unaware Local Services had earlier received written public comments.
5. The following day, we learned that Local Services had received such comments. We thus re-opened the record, obtained those comments, allowed time for new comments, and requested that the Applicant and Local Services respond. Exs. D21-D22, P1-P4. Local Services responded, but the Applicant did not. We re-closed the record on May 13.
6. **Basic Layout.** The Applicant proposes 40 homesites, along with a wetland tract in the northwest (“Tract A”) and a storm drainage tract in the southeast (“Tract B”).



7. **State Environmental Policy Act (SEPA).** The Applicant prepared an environmental checklist in July 2021. Ex. D4. After reviewing that and a variety of later studies and other materials, in February 2022 Local Services issued a determination of nonsignificance (DNS). Ex. D5. The DNS was not appealed.
8. **Density.** The county’s transferrable development rights (TDR) program permanently protects rural, resource, and urban separator lands that provide a public benefit. The program achieves these benefits by essentially allowing the sale of residential density to eligible receiving sites (typically to a subdivision in a more urban area looking to add homesites). KCC 21A.37.010.
9. Here, the Applicant seeks to add, via purchasing TDRs, eight lots to what otherwise would be a 32-lot subdivision. However, before any such additional lots may be approved, a “subarea study” must comprehensively analyze the additional impact of those additional development rights. KCC 21A.37.030.C.2.
10. The subarea study here (exhibit D10) is thorough and convincing.¹ It starts by explaining the TDR program and what a subarea study is meant to accomplish. It drills down into how the authors established the boundaries of the subarea, then details residential development patterns. It places the current proposal in the context of other local TDR locations, explains the protective benefits to the natural environment from the transfer, and analyzes public services and public benefits.²
11. Local Services analyzed the current proposal in light of that study and concluded that the proposed eight TDRs are appropriate here. Ex. D2 at H.1. We agree.
12. **Roads.** Vehicles will reach Woodruff by turning off 140th Ave. SE (a principal arterial) onto SE 183 St., before that road bends north to become 137th Pl. SE and enter Woodruff’s southern border. The Applicant contemplates joining this development to another, smaller preliminary plat currently under review (via a southerly extension of 136th Ave. SE and “Road B”). If that plat (Shepard, PLAT21-0003) does not come to fruition and Woodruff is developed as a standalone, lots 22 and 13 will be lost to a loop road.
13. Along Woodruff’s western border is a 15-foot strip owned by residents of the next subdivision over. This limits east-west road connection and the width of the right-of-way. The Applicant requested a variance to build 136th Ave. SE, with the normal 22-foot urban minor access road width required for a plat of this scope, but to *not* construct the otherwise-required sidewalk on the west (strip) side of the road. The County Road

¹ In a recent County preliminary plat decision, a *pro tem* examiner criticized that subarea study as not explaining how that study area was defined or how consistency was evaluated, and for addressing topics in only a conclusory manner. She found that that applicant’s submittal did not fulfill the subarea study requirement and was insufficient to justify any additional homesites for that plat. In doing so, she pointed to the subarea study in Woodruff as a counter-example of a well-prepared subarea study. We agree.

² In anything the argument could be made that there was no need to look south beyond SE 196th, but the authors studied all the way down to SE 208th St. Ex. D10 at 005.

Engineer approved this via a variance. Ex. D22 at 005-09. Woodruff will not touch the 15-foot strip.

14. Another commentator questioned Woodruff constructing “Road C” to Woodruff’s northeast border. It was an interesting approach, as normally abutting property owners *demand* a proposed development build an access road to the edge of the commenter’s property, to facilitating their own future development. Still, no traffic will actually drive onto the northerly property until that owner decides to develop. Road C will, for the foreseeable future, dead end at the Woodruff boundary, with a Road Standards-compliant terminus.
15. **Traffic.** Additional, plat-generated traffic is always a topic we focus on and existing neighbors typically express concern over. The threshold inquiry (in determining access and whether an applicant must make offsite road improvements, such as lane-widening or traffic light installation) is whether the additional traffic generated by a plat will create 30 site-generated, “peak hour” trips. KCC 14.80.030.A.1. By using standard methodology for expected average trips per day (from homeowners, deliveries, visitors, etc.) we know that Woodruff will add an expected 40 peak hour trips per day to the 140th Ave. SE/SE 183 St. intersection.
16. In then calculating the impact of those Woodruff-added trips on that intersection and determining whether the plat would deteriorate, below a critical threshold, the level of service, one must look at the “with Woodruff” and “without Woodruff” conditions. However, measuring this is a little more difficult here, given the pandemic-driven traffic reductions.
17. Measuring traffic at 140th Ave. SE and SE 183 St. today, during a pandemic, would provide a snapshot *understating* normal-world traffic conditions. Here, the work-around required using actual pre-Covid travel counts at the nearby 140th Ave. SE/SE 181st St. intersection, and then adding in Fairwood Pointe traffic and applying a 2%-per-year growth rate, to perform the analysis for 140th Ave. SE/SE 183 St.
18. The results showed that the level of service (which measures things like interruptions, delay time, comfort, convenience, and safety) would remain at level “C,” with the project adding an estimated 1.4-second delay for peak hour traffic at that intersection. Ex. 2 at I, Ex. D15. That is well within the pertinent requirements. And the 140th Ave. SE/SE 183 St. intersection meets the required entering and stopping sight distances.
19. None of that is to minimize concerns about additional traffic through Fairwood Pointe and onto 140th Ave. SE.
20. One level, Woodruff is not some unexpected twist. When the examiner approved Fairwood Pointe’s preliminary plat in 2017 (presumably over the objection of neighborhood commenters upset by the disruption Fairwood Pointe itself would create), she explicitly adopted a proposal that included a road extension to the north boundary to provide for future neighborhood circulation as those northerly parcels developed over time. Looking at the Fairwood Pointe’s plat map approved in 2017, the 137th Pl. SE

extension to what is now Woodruff was labeled “Road C.” And, true to form, that is where we are today. We get, however, that inevitability does not necessarily alleviate the stress from neighborhood changes.³

21. Looking forward, one envisions that when the Shepard property to Woodruff’s south, or property to Woodruff’s north, develops eventually, it will be the Woodruff’s residents’ turn to chime in against those developments and the additional traffic they will bring. Yet if those proposals also meet the voluminous and detailed County road/traffic requirements in place at that time (along with all the other plat requirements), those future applicants will also be entitled to approval of their projects, even if development diminishes some of the sense of well-being the then-current residents are experiencing.
22. Again, we in no way minimize the disruption additional development always brings. Sadly, it reflects how land use progresses in an urbanizing area. The Applicant has shown, for purposes of preliminary plat approval, that it meets the road and traffic-related standards currently in place. We cannot add in additional requirements or restrictions.
23. **Critical Areas**. The site has an approximately quarter-acre, fairly degraded Category IV depressional wetland in the northwest corner, with the buffer consisting primarily of mowed grass. *See* Ex. D12 at 004, 013, 014. The wetland has permanently flooded, seasonally flooded, and saturated areas. Ex. D12 at 057. We probed two wetland-related issues at hearing, and there were other, wetland-related public comments.
24. KCC 21A.24.325.C.6 allows, under certain circumstances, a reduction in the regulatory buffer for degraded wetlands with low habitat scores. The Applicant seeks to reduce the 50-foot buffer to 40 feet. While originally proposing purchasing off-site credits (exhibits D13 at 003), at hearing Local Services noted that there is “ample room” for on-site mitigation, such as replanting the wetland self with higher-quality vegetation and implementing best management practices to avoid high impacts in the first place. (KCC 21A.24.125 and .133.A prioritize impact avoidance over on-site mitigation, and on-site mitigation over off-site mitigation.) The buffer reduction seems warranted.
25. At the western edge of that buffer (be it 40 feet or 50 feet) is an easement depicted as a 15-foot ingress/egress easement. If there is indeed a legal easement, wetland plantings may not be permitted there. That is concerning, for it may reduce the effective buffer still further. However, there appears sufficient opportunity to add in additional wildlife habitat features/enhancements to compensate for that apparent restriction. This seems sufficient for the preliminary plat approval stage, with the details nailed down during final engineering.
26. At our hearing, and in comments received post-hearing, neighbors expressed concerns related to increased wetland ponding observed since the Applicant started clearing the

³ There was one comment that was based on a misunderstanding; it assumed the Fairwood Pointe homeowners would be on the hook to maintain SE 183 St. and 137th Pl. SE in the face of added Woodruff traffic. Ex. P4. Thankfully, SE 183 St. and 137th Pl. SE are *public* roads, meaning they will be maintained at public, not private, expense.

site. Local Services explained that, as part of final engineering review, it will ensure that wetland hydrology matches pre-development conditions, since additional water could kill less water-loving plants. And Local Services will treat the public comments as a formal drainage complaint, which triggers additional review.

27. **Drainage.** The majority of the site currently drains towards the east property line, with the southwest corner draining southwest (towards Shepard). Ex. D18 at 003. The Applicant requested changing the natural discharge from the southwest corner of Woodruff, as well as taking in discharge from the Shepard plat currently in the works, and tightlining it to a large catch basin at the southeast corner of Woodruff. The trade-off for this accommodation is that, while the Applicant would normally need to construct Level 2 flow-control facilities, the Applicant will instead construct more rigorous Level 3 facilities.

Today is a preliminary plat approval. The Applicant will need to create significantly more analysis to show that it is fully compliant with the 1115-page surface water design manual. But for preliminary plat purposes, we conclude that Woodruff has made appropriate provisions for drainage.

28. **School Walkway.** One of our points of emphasis is always safe walking conditions for students to and from school (and to and from the school bus stop). The route the Applicant proposes seems fairly safe—it goes along the to-be-constructed plat sidewalks, along the SE 183rd St. sidewalk, and then down the sidewalk along the near side of the busy principal arterial 140th Ave. SE (meaning children are walking next to a high-speed road, but not having to cross it) to the elementary school entrance. The elementary school entrance is also the currently-slated site for middle and high school bus pickups, though the school district may add a stop. Ex. D17.
29. Unlike something like drainage, traffic, or critical areas—where there are set and detailed criteria for an applicant to meet and an examiner to consider—there is no fixed definition of “safe.” Thus, we have more flexibility. And the proposed route is somewhat circuitous; rather than dropping straight down along 137th Pl. SE to the back of the elementary school buildings, walkers have to travel several blocks east, then back west from the entrance to the actual school. In addition to forcing kids along a busy, principal arterial with lots of emissions (albeit with code-compliant sidewalks), the increased distance also makes it more likely that parents will drive their kids, increasing traffic and thus safety concerns.
30. In previous plat hearings, an applicant has been reticent to expend extra funds to create a direct school-to-plat walkway, relying instead on a longer public sidewalk system. However, when we pushed the Applicant at hearing on this topic—i.e., why not add a path dropping straight down SE 137th St. to the rear of the school?—we were heartened to learn that the Applicant *had* been pushing the school district to allow a direct walking route to the northwest corner of the school property. However, the district rebuffed those entreaties, with the school focused on the safety advantages of a single site access (on SE 140th Ave.). And the Applicant noted that they had received similar responses

from other school districts in equivalent situations, with a district not wanting to take on the risks that can stem from a second access point.

31. Obviously, a shorter, direct route avoiding a major arterial would be superior on several levels (including, one would think, for the developer, who could promote that shorter, more pleasant, less traffic-y walking route as an amenity for would-be home purchasers). But ultimately, if that is not the direction the school district is willing to go, there is nothing we can do to force it. We will add a condition (22, below) leaving this as an option, should the district come around, but the currently-proposed school walkway route is adequate, if sub-optimal.
32. **Landscape buffers and privacy.** Commentators mentioned a loss of privacy. The code requires applicants to provide (or at least retain) landscape buffers between different types of uses and zones, say apartments versus single-family homes. It does not require such buffers between like uses and zones. The Applicant here is seeking to site single-family residences in the midst of pre-existing single-family residence and in the same zone as the surrounding property. There is thus no landscape buffering requirement to apply here. We do not discount a loss of privacy, but that is not a criteria an applicant is responsible for maintaining/creating, or something Local Services or we can order an applicant to provide, in contravention of the applicable development standards.
33. **Tree retention.** Several commentators mentioned tree retention. The code requires retention of significant trees (with “significant” meaning healthy trees over a certain diameter); however, the pertinent code also allows off-site replacement and even off-site planting. KCC 16.82.156. So, the controlling code is not an iron-clad guarantee of anything, but it is the law. The Applicant will need to submit, along with other engineering plans, a detailed tree retention replacement plan. And Local Services will need to review it for consistency with the code. (This requirement was already included as a recommended condition; we repeat it below at 14.)
34. **Water pressure.** One comment that stood out and seemed in a different category was a Fairwood Pointe resident’s statements that when they moved in, the water pressure in the community was below living standards, and they had to vigorously pursue a remedy from the Harbour Homes—the same applicant as for Woodruff—to achieve livable water pressure via installing a booster pump. Ex. P4. Her concern was that servicing the additional 40 Woodruff homes off the same water main line would create more water pressure issues. That is troubling.
35. Now, there might be an explanation or distinction here. And in our April 25 order we specifically requested that the Applicant (as well as Local Services), address public comments by our May 13 response deadline. However, only Local Services did. The Applicant elected not to refute, explain, or even respond to any public comments. Thus, we treat her comment as the best evidence in the record, and we find there is a demonstrated water pressure problem in the vicinity.

36. Local Services did respond, noting that the Soos Creek Water and Sewer District had certified that water was available and that the District could supply the requisite gallons per minute. However, Fairwood Pointe itself could not have been approved without a similar certificate of water availability. And yet the best evidence in our record (the only evidence in the record) is that that availability certificate proved insufficient for Fairwood Pointe homeowners until they badgered the Applicant to provide better. Woodruff home purchasers should not have to do the same.
37. Thus, we add a condition that Local Services require additional water pressure guarantees (23, below) from the Applicant before final plat approval.

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 R-6 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.

DECISION:

1. We approve the Woodruff preliminary plat, subject to the following conditions. Except for items 22 and 23, we have made only cosmetic revisions to the conditions contained in Local Services' staff report.
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.
 - A. The plat shall comply with the base density and minimum density requirements of the R-6 zone classification. All lots shall be the larger of the minimum dimensional requirements of the R-6 zone classification or those shown on the face of the approved preliminary plat, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Permitting Division.
 - B. Any/all plat boundary discrepancy shall be resolved to the satisfaction of the Permitting Division prior to the submittal of the final plat documents. As used in

this condition, “discrepancy” is a boundary hiatus, an overlapping boundary or a physical appurtenance which indicates an encroachment, lines of possession or a conflict of title.

- C. The Applicant shall provide the TDR certificate with the submittal of the engineering plans and the final plat. 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.
4. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Design and Construction Standards established and adopted by Ordinance No. 18420, as amended (2016 KCRDCS) & VARR21-0011.
 5. The Applicant must obtain the approval of the King County Fire Protection Engineer for the adequacy of the fire hydrant, water main, and fire flow standards KCC chapter 17.08. Any future residences are required to be sprinklered unless otherwise approved by the King County Fire Marshal or designee.
 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 2016 KCSWDM and applicable updates adopted by King County. Permitting Division approval of the drainage and roadway plans is required prior to any construction.
 - B. Current standard plan notes and ESC notes, as established by Permitting Division, 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 # Permitting Division issued plan record number to be inserted in space provided on file with the Permitting Division and/or the Road Services Division. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that area

designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with the plans on file.”

- D. The drainage facilities shall meet the requirements of the 2016 King County Surface Water Design Manual (KCSWDM). The site is subject to the Conservation Flow Control and Basic Water Quality Requirements of the 2016 SWDM.
- E. The drainage adjustment (VARD21-0004) conditions shall be met, including but not limited to Level 3 Flow Control facilities.
- F. To implement the required Best Management Practices (BMPs), the final engineering plans and TIR shall clearly demonstrate compliance with all applicable design standards. The requirements for best management practices are outlined in the KCSWDM. The design engineer shall address the applicable requirements on the final engineering plans and provide all necessary documents for implementation. The final recorded plat shall include all required covenants, easements, notes, and other details to implement the required BMPs for site development.

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

- 7. The proposed subdivision shall comply with the 2016 King County Road Design and Construction Standards (KCRDCS) including the following requirements:
 - A. The new interior roads shall be constructed at a minimum to the urban subaccess standard.
 - B. 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.
 - C. Building permits for lots 22 and 13 will be unavailable until a loop road is completed on King County parcel number 343059110 in accordance with the KCRDCS.
 - D. Comply with road variance VARR21-0011.
 - E. Modifications to the above road conditions may be considered according to the variance provisions of Section 1.13 of the 2016 KCRDCS.

8. Compliance with the requirements of approval from the King County Fire Marshal may require wider roadway sections than are called for in the 2016 King County Road Standards.
9. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
10. Lots within this subdivision are subject to 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.
11. Undivided interest, homeowners' association, or other workable organization shall be established to the satisfaction of the Permitting Division which provides for the ownership and continued maintenance of the recreation tract(s). An easement shall be provided to King County over the recreation tract for access and maintenance of the storm water facilities or as needed by the KCSWDM.
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., location, area calculations, dimensions, landscape specs, equipment specs, etc.) shall be submitted for review and approval by the Permitting Division and King County Parks prior to or concurrent with the submittal of engineering plans. With the development of the final detailed plan, the Applicant should include further evaluation and revision(s) to improve the visibility of the recreation tract and improvements, from roads and sidewalks and enhance the safety associated with future improvements and users. This may result in revisions or modifications to the adjacent lot layout and/or access to recreation facilities/tract. The plans must include additional recreation facilities per KCC 21A.14.180.E, fencing and landscaping along the road perimeter (R/W), if any, to alleviate potential conflicts between users of recreation tract and vehicles.
 - B. A performance bond for recreation space improvements shall be posted prior to recording of the plat.
13. Street trees shall be provided as follows (per KCRDCS Section 5.03 and KCC 21A.16.050):

- A. Trees shall be planted at a rate of one tree for every 40 feet of frontage along all roads. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
 - B. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009-5-013 of the 2016 KCRDCS, unless King County Road Service 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 engineering plans and final recorded plat.
 - E. The species of trees shall be approved by the Permitting Division if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.
 - F. The Applicant shall submit a street tree plan and bond quantity sheet for review and approval by the Permitting Division prior to engineering plan approval.
 - G. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond and held for one year. After one year, the maintenance bond may be released after Permitting Division has completed a second inspection and determined that the trees have been kept healthy and thriving.
14. To implement KCC 16.82.156, which applies to the site, a detailed significant tree retention plan shall be submitted with the engineering plans for the subject plat. The tree retention plan (and engineering plans) shall be consistent with the requirements of KCC 16.82.156. No clearing of the subject property is permitted until the final tree retention plan is approved by the Permitting Division. Flagging and temporary fencing of trees to be retained shall be provided. The placement of impervious surfaces, fill material,

excavation work, or the storage of construction materials is prohibited within the fenced areas around preserved trees, except for grading work permitted.

A note shall be placed on the final plat indicating that the trees shown to be retained on the tree retention plan shall be maintained by the future owners of the proposed lots and HOA. (Note that the tree retention plan shall be included as part of the final engineering plans for the subject plat.)

15. Preliminary plat review has identified the following specific requirements which apply to this project. All other applicable requirements from KCC chapter k21A.24 shall also be addressed by the Applicant.
 - A. Wetlands and aquatic areas on site shall be protected from future clearing, grading, and construction with adjacent upland buffers. The buffer for Category IV wetland (Tract A) is 50 feet wide but has been reduced to 40 feet.
 - B. Impacts to the 40-foot buffer due to the road improvements, including sidewalks, is permitted subject to mitigation. The degraded wetland and remaining buffer will be enhanced with native tree and shrub species.
16. Plantings are not permitted in the existing easement located in the wetland buffer (western portion Tract A). The Applicant shall determine if the existing easement depicted as a 15-foot ingress/egress easement and mutual maintenance agreement is a legal easement and to be retained. If this easement is to be retained, the mitigation plan shall be revised to remove plantings from the easement and substitute additional wildlife habitat features in the buffer, which may include rock piles, brush piles and large woody debris.

A final mitigation plan, including plantings, shall be submitted for review and approval, by Permitting Critical Areas, prior to engineering plan approval. A mitigation financial guarantee is required prior to approval of the engineering plans.

- A. 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.
- B. 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.
- C. 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.

- D. Prior to final approval of construction activities on the site, the boundary between the critical area tract(s) and adjacent land shall be identified with a split rail fence. Permanent critical areas signs shall be attached to the fence. Fence and sign specifications shall be shown on the final engineering plans and shall be installed every 50 feet or as deemed appropriate by Permitting Division critical area staff at the time of engineering plan review.
17. Wetland hydrology must be protected following construction of this development. The Applicant shall provide an evaluation of the hydrology for the on-site wetland to show that it will be protected following development consistent with 2016 KCSWDM, Reference 5, Guidesheet 3B. This shall be submitted with the detailed engineering plans for review and approval by the Permitting Division.
- A. During engineering review, the detailed plan set shall be routed to Permitting Division Critical Areas staff to determine if the above conditions have been met.
 - B. 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.

The common boundary between the tract/critical area and buffer and the area of development activity must be marked or otherwise

flagged to the satisfaction of King County prior to any clearing, grading, building construction or other development activity on a lot subject to the critical area tract/critical area and buffer. The required marking or flagging shall remain in place until all development proposal activities in the vicinity of the critical area are completed.

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

18. Undivided interest, homeowners' association or other workable organization shall be established to the satisfaction of the Permitting Division which provides for the ownership and continued maintenance of the critical area tract(s). Notes shall be shown on the engineering plans and final plat.
19. The subdivision shall conform to KCC chapter 16.82 relating to grading on private property.
20. Development of the subject property may require registration with the Washington State Department of Licensing, Real Estate Division.
21. 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 (Section 401) Permit from U.S. Army Corps of Engineers.
22. The current school walkway plan—using the public sidewalk along 137th Pl. SE, SE 183rd St., and SE 140th Ave.—is sufficient, if suboptimal. The Applicant is encouraged to pursue, and (if the school district agrees) authorized to install a more direct walking route that avoids SE 140th Ave.
23. Prior to final plat approval, the Applicant shall provide additional guarantees, beyond a mere Soos Creek Water and Sewer District certificate, to ensure that Woodruff and Fairwood Pointe homeowners actually have sufficient water pressure.

DATED May 27, 2022.



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 20, 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 *June 20, 2022*, the Examiner’s decision becomes final.

If both a timely and sufficient appeal statement and filing fee are filed by *June 20, 2022*, the Examiner will notify all parties and interested persons and provide information about “next steps.”

MINUTES OF THE APRIL 21, 2022, HEARING ON PRELIMINARY PLAT APPLICATION WOODRUFF, DEPARTMENT OF LOCAL SERVICES FILE NO. PLAT200004, PROPOSED ORDINANCE NO. 2022-0111

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Kim Claussen, Robert Eichelsdoerfer, Dan Gariepy, Josh Hansen, Peshha Klein, Yoshio Piediscalzi, Lynn Robilla, and David Toyer.

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

Exhibit no. D1	Department of Local Services file no. PLAT200004 (main file)
Exhibit no. D2	Preliminary department report, transmitted to the Examiner on April 4, 2022
Exhibit no. D3	Land use permit application, dated November 9, 2020
Exhibit no. D4	SEPA checklist, dated July 20, 2021
Exhibit no. D5	SEPA determination of non-significance, issued February 14, 2022
Exhibit no. D6	Affidavit of posting notice of plat application, posted on January 12, 2021, and Notice of recommendation and hearing, posted on March 21, 2022
Exhibit no. D7	Preliminary plat maps, dated July 29, 2021
Exhibit no. D8	Land use and zoning maps, dated March 28, 2022
Exhibit no. D9	TDR letter of availability, dated July 22, 2021
Exhibit no. D10	TDR study by Toyer Strategic Advisors
Exhibit no. D11	Woodruff/Shephard neighborhood plan, dated July 20, 2021
Exhibit no. D12	Wetland and Fish and Wildlife Habitat Report by Soundview Consultants, dated October 2020
Exhibit no. D13	Conceptual Mitigation Plan by Soundview Consultants, dated October 2020, revised July 2021
Exhibit no. D14	Geotechnical Report by Earth Solutions NW, dated June 5, 2020
Exhibit no. D15	Traffic Report by TraffEx, dated October 15, 2020 and July 3, 2021
Exhibit no. D16	Road variance
Exhibit no. D17	School Walkway Report by DR Strong Consulting Engineers, dated October 20, 2020
Exhibit no. D18	TIR by DR Strong Consulting Engineers, dated October 20, 2020, revised July 20, 2021
Exhibit no. D19	Drainage adjustment application and decision VARD21-0004
Exhibit no. D20	Soos Creek Water and Sewer Availability, dated April 30, 2020
Exhibit no. D21	Public Comments, entered May 13, 2022
Exhibit no. D22	Response to Examiner's Order, entered May 13, 2022

The following exhibits were offered and entered into the hearing record by the Public on May 13, 2022:

Exhibit no. P1.	Email from Tim McCullough with photographs and one video
Exhibit no. P2.	Email from Tim McCullough with photographs
Exhibit no. P3.	Email from John Lam with photographs
Exhibit no. P4.	Email from Lisa Metz

May 27, 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. **PLAT200004**
Proposed ordinance no. **2022-0111**

WOODRUFF

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 27, 2022.



Jessica Oscoy
Office Manager

Brown, Jennifer

Hardcopy

Casey, Laura

Claussen, Kimberly

Department of Local Services

Eichelsdoerfer, Robert

Department of Local Services

Gariepy, Daniel

Department of Local Services

Hansen, Josh

Harbour Homes

Holsworth, Jason

Houje, Ann

Hardcopy

Hughes, Tracy/Matt

Hardcopy

Hunsaker, Don/Cailin

Hardcopy

Joudi, Maher

DR Strong Consulting Engineers Inc

Karen Orozco, Lisa Metz

Hardcopy

Kim, Jina

Prosecuting Attorney's Office

Klein, Pasha

Department of Local Services

Lam, John

McCullough/Robillard, Thomas/Lynn

Hardcopy

Minasyan, Vahe

Hardcopy

Murphy, Michael

Department of Natural Resources and Parks

Panebaker, Jeff

Pedroza, Melani

Metropolitan King County Council

Piediscalzi, Yoshio

DR Strong Consulting Engineers Inc

Hardcopy

Prince, Susan

Scheffler, Ryan

Department of Local Services

Todhunter, Jordan

Harbour Homes

Hardcopy

Toyer, David

Toyer Strategic Advisors

Hardcopy

Waltier, Jamie

Harbour Homes

Hardcopy

Woodruff, Donald

Hardcopy