

August 5, 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

FINAL ORDER

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 **Rachel Mazur and Milt Reimers**
Schwabe, Williamson & Wyatt, P.C.
1420 5th Avenue Suite 3400
Seattle, WA 98101
Telephone: (206) 407-1561
Email: RMazur@schwabe.com; mreimers@schwabe.com

King County: Department of Local Services
represented by **Kimberly Claussen**
35030 SE Douglas Street Suite 210
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Overview

On May 27, 2022, we approved the Woodruff preliminary plat, subject to an additional condition related to water pressure. The Applicant, Harbour Homes filed a timely motion for reconsideration. We received responses from the Department of Local Services (Local Services) and from a neighbor, along with Harbour Homes' reply. We find that additional guarantee Harbour Homes has proposed is sufficient to satisfy our condition, and we grant Harbour Homes' motion.

Background

We closed the Findings section of our May 27 approval with the following:

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 [Harbour Homes] (as well as Local Services), address public comments by our May 13 response deadline. However, only Local Services did. [Harbour Homes] 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 [Harbour Homes] 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 [Harbour Homes] before final plat approval.

Condition 23 read:

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.

On June 21, Harbour Homes filed a motion for reconsideration, asserting that our Condition 23 is vague and fails to establish an unambiguous standard for what additional guarantees are necessary, and that they had already provided those additional guarantees.

On June 22, we issued an order providing Local Services or any interested person until July 13 to respond, and allowing Harbour Homes until July 25 to reply to any responses.

On June 22, a neighbor responded, asserting both that the critical inquiry is psi at the homes themselves, not at the hydrant, and that residential water pressure below 30 psi is too low, and requesting that Harbour Homes be prepared to install booster pumps in the surrounding plats.

On July 13, Local Services responded that water availability is subject to compliance with the District's requirements, including the installation of an additional water main and subject to further reviews and approvals by the District and the King County Fire Marshal.

On July 25, Woodruff replied that the District's updated certificate of water availability satisfied and exceeded the requirements, and thus that Harbour Homes had already met Condition 23. In the event we find the Condition not yet satisfied, Harbour Homes offered an additional guarantee to install booster pumps for those homes in the Woodruff and Fairwood Pointe subdivisions experiencing water pressure less than 29 psi and who notify Harbour Homes within thirty (30) days of the last certificate of occupancy issued for a home in the Woodruff community.

Analysis

That the District had certified that sufficient water is available to Woodruff and that the District and Fire Marshal will conduct further reviews and make further approvals is helpful, but Fairwood Pointe would have had to obtain those same reviews and approvals. And yet the only evidence in our record was that such reviews and approvals proved insufficient to provide sufficient psi for at least some of the Fairwood Pointe homes. Nor does our record show a substantive distinction between the Woodruff and Fairwood Pointe developments that would make the problem less likely to occur for Woodruff homes. We do not find that Condition 23 is currently satisfied.

However, we find that Harbour Homes' booster pump guarantee to its two subdivisions, Fairwood Pointe and Woodruff, meets our Condition. We thus re-write Condition 23, below.

The neighbor who submitted the June 22 response lives in an earlier development on the opposite side of Woodruff from Fairwood Pointe. We do not minimize the June 22 concerns, but our condition 23 was limited to Fairwood Pointe and Woodruff. We have no authority here to extend that, or our modified condition, to other plats.

Conclusion

We GRANT Harbour Homes' alternative ground for reconsideration.

We MODIFY Finding 37 of our May 27 decision as follows:

Thus, we add a condition that Local Services require the additional water pressure guarantee(~~s (23, below) from the Applicant before final plat approval~~) described in Condition 23.

We REPLACE Condition 23 of that decision with the following:

Harbour Homes will install booster pumps for those homes in the Woodruff and Fairwood Pointe subdivisions experiencing water pressure less than 29 psi and who notify Harbour Homes within thirty (30) days of the last certificate of occupancy issued for a home in the Woodruff community.

DATED August 5, 2022.



David Spohr
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 *August 29, 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 *August 29, 2022*, the Examiner's decision becomes final.

If both a timely and sufficient appeal statement and filing fee are filed by *August 29, 2022*, the Examiner will notify all parties and interested persons and provide information about "next steps."

August 5, 2022

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CERTIFICATE OF SERVICE

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

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I, Jessica Oscoy, certify under penalty of perjury under the laws of the State of Washington that I transmitted the **FINAL ORDER** 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 August 5, 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

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Hughes, Tracy/Matt

Hardcopy

Hunsaker, Don/Cailin

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Joudi, Maher

DR Strong Consulting Engineers Inc

Karen Orozco, Lisa Metz

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Prosecuting Attorney's Office

Klein, Pasha

Department of Local Services

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Schwabe, Williamson & Wyatt

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McCullough/Robillard, Thomas/Lynn

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Murphy, Michael

Department of Natural Resources and Parks

Panebaker, Jeff

Pedroza, Melani

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Woodruff, Donald

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