October 24, 2024

OFFICE OF THE HEARING EXAMINER
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REPORT AND DECISION

SUBJECT: Department of Local Services file no. **PLAT220006**

LANGSTON TOWNHOMES
Preliminary Plat Application

Location: 7239 S. Langston Road, Seattle

Applicant: Azure Northwest Land LLC (Attn: Toni Cavalli)
represented by **John Everett**
ESM Consulting Engineers LLC
[redacted]
Suite 205
Federal Way, WA 98003
Telephone: [redacted]
Email: [redacted]

King County: Department of Local Services
represented by **Chad Tibbits**
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Renton, WA 98057
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SUMMARY OF RECOMMENDATIONS/DECISION:

Department's Preliminary Recommendation:	Approve subject to conditions
Final Recommendation:	Approve subject to conditions
Examiner's Decision:	Approve subject to revised conditions

EXAMINER PROCEEDINGS:

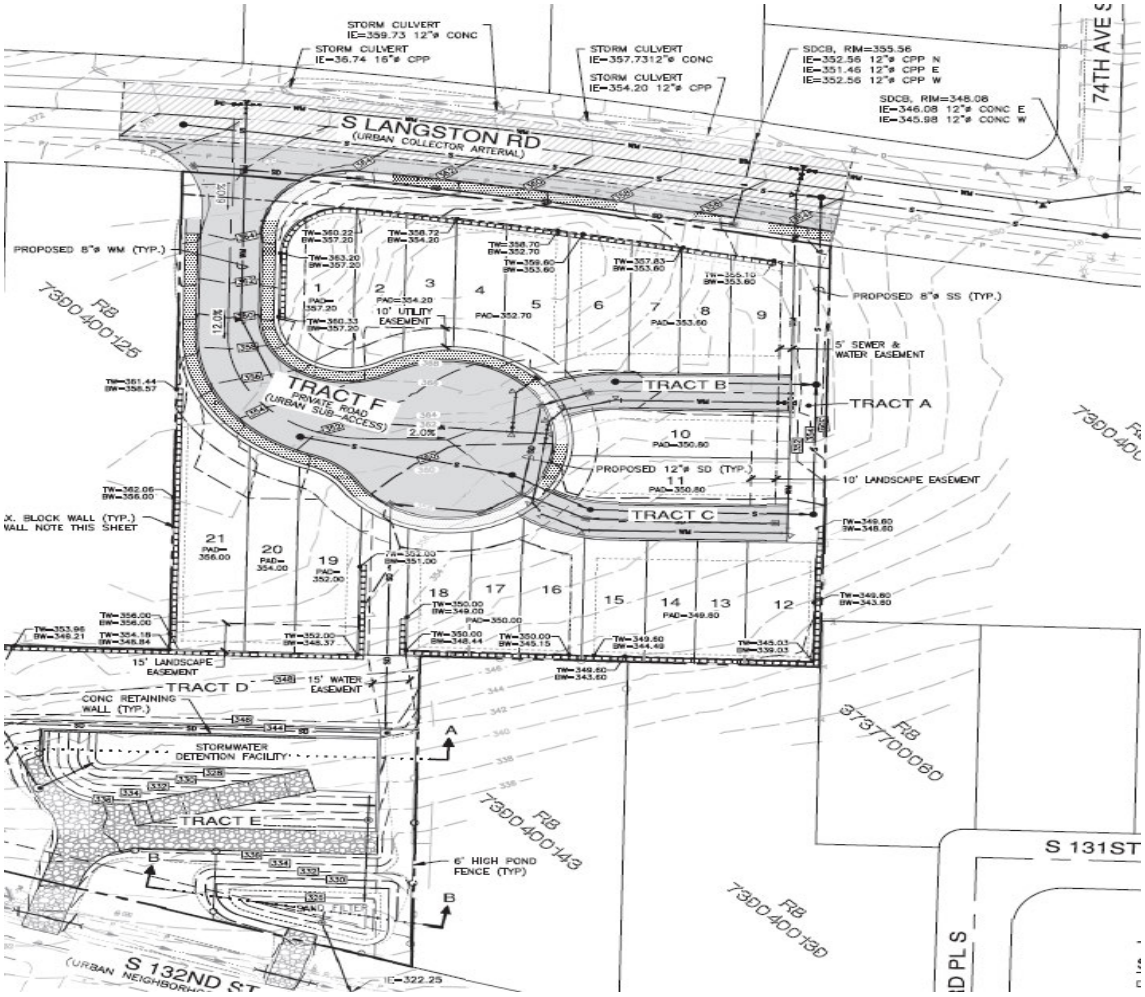
Hearing Opened:	10/16/2024
Hearing Closed:	10/16/2024
Record Closed:	10/16/2024 at 4:30 PM

FINDINGS:

1. 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. Except as modified herein, the facts set forth in the Department of Local Services, Permitting Division (Permitting) reports to the Examiner and Permitting testimony are found to be correct and are incorporated herein by reference.

Overview

This application concerns 2 parcels totaling approximately 2.0 acres located at 7239 S. Langston Road, Seattle, WA in the Skyway area of unincorporated King County (Property). Azure Northwest Land, LLC (Applicant), proposes to subdivide the Property into 21 lots for zero-lot-line townhouse single-family dwellings and separate tracts for stormwater facilities, on-site recreation, and private road. The townhomes are proposed to be located on the northern lot; the recreation area and aboveground stormwater facilities are proposed to be located on the southern lot. Lots range in size from approximately 0.03 acre (1,425 square feet) to 0.09 acre (3,827 square feet). All existing structures have been demolished with appropriate permits. Exs. D2 at 001, 003, D14 at 003; testimony of Chad Tibbits.



2. All lots within the proposed subdivision will be served by an urban subaccess private road designated as Tract F/73rd Place S. Nine lots will have access via two shared private access tracts (Tracts B and C) that connect to Tract F. Access to the proposed drainage facilities will be from S. 132nd Street via driveway sections. No lots will take access from S. 132nd Street. Ex. D2 at 005; Condition 6.B.

3. The proposed subdivision will utilize KCC 21A.12.030.B.3 to reduce the interior setbacks from 5 to 0 feet when there is a shared wall. Tibbits testimony.

4. The Property is zoned R-8 (8 dwelling units per acre). The King County Code (KCC) establishes minimum, base, and maximum densities for the R-8 zone. The calculated minimum density for the Property is 14 lots; the base density is 16 lots; the maximum density (requiring use of Transfer of Density Rights (TDR) or density incentives) is 24 lots. The Applicant proposes to utilize TDRs pursuant to chapter 21A.37 KCC to achieve the 5 lots exceeding the base density (i.e., to get from 16 to 21 lots). Exs. D2 at 001, 003, D8.

5. The City of Renton is located south and west of the proposed subdivision, and the City of Tukwila is located to the west. All properties adjacent to the proposed subdivision and south of S. Langston Road are zoned R-8 and developed with single-the family dwellings. Properties located north of S. Langston Road are zoned R-6 and developed with single-family dwellings. Properties located further southwest of the proposed subdivision and in closer proximity to Martin Luther King Jr. Way S. are zoned R-24 and developed with large multi-family buildings. Ex. D2 at 003; Tibbits testimony.

Public Comments

6. Permitting and the Examiner received comments expressing concern about the increased density, adequacy of on-site parking and parking along Langston Road, drainage, loss of mature trees, wildlife usage of the Property (owls, eagles, and red-tailed hawk) and asking questions about townhouses heights of the and provision of various utilities. The Applicant provided brief written responses to the comments submitted to Permitting and, at the Examiner's request, Permitting and the Applicant responded to questions from the public at the hearing. Exs. D10, P1; testimony of Jeannie Peck, David Lindquist, and Bill Strong.

SEPA

7. After reviewing the revised environmental checklist, revised plans, critical areas assessment, geotechnical report, school walkways analysis, and revised Technical Information Report, pursuant to the State Environmental Policy Act (SEPA), chapter 43.21C RCW, the responsible official of Permitting issued a threshold determination of non-significance (DNS) for the proposed subdivision on June 20, 2024. The DNS was not appealed. Exs. D2 at 002, D5; Tibbits testimony.

Critical Areas

8. *Wetlands/streams:* Habitat Technologies prepared a November 2, 2021, Critical Areas Assessment for the Applicant for parcel 7390400140 (totaling 1.4 acres), and a January 5, 2022, supplemental Assessment addressing parcel 7390400141 (totaling 0.56 acres). The site investigations identified no ecological critical areas (wetlands, drainage

corridor/aquatic areas, and critical fish and wildlife habitats) on or within 200 feet of either parcel. Exs. D2 at 003, D11.

9. *Geologically hazardous areas:* The geotechnical report by Terra Associates, Inc dated December 2, 2022, evaluated site conditions and concluded that, due to the soils present at the site and the ground inclination, the site qualifies as an erosion hazard area as defined by KCC 21A.06.415. Exs. D2 at 003, D12.

10. *Wildlife:* No threatened, endangered, or otherwise protected wildlife habitat is mapped on the County GIS system or Washington Department of Fish and Wildlife (WDFW) Priority Habitat and Species (PHS) website. The WDFW SalmonScape maps and the PHS map do not identify any priority fish and wildlife habitats or species on or within 215 feet of the Property. Ex. D2 at 003.

    A. Several individuals testified that they had observed use of the Property by owls, eagles, and red-tailed hawk as well as two red tailed hawk nests. Ex. D10 at 003; Peck and Lindquist testimony. (*Note*: the Northern Goshawk and Ferruginous Hawk are the only hawks listed in the June 2023 PHS list.)

    B. In response to an Examiner question, Joe Pursley, Environmental Scientist III, confirmed that the plat conditions should include a condition requiring a wildlife study 2 to 3 weeks prior to clearing and grading. He explained that the survey is required at this time as it more protective of species that a survey conducted years before site development. The Examiner has added Condition 11 requiring the pre-grading wildlife survey. Ex. D21; New Condition 11.

<u>TDRs</u>

11. KCC 21A.37.030.C.2 requires a "subarea study that includes a comprehensive analysis of the impacts of receiving development rights" for formal subdivisions in the urban unincorporated area. ESM Consulting Engineers, LLC (ESM) prepared the Langston Townhouses Transfer of Development Rights Subarea Study (Subarea Study) for the Applicant. Without citation, Permitting states: "The purpose of this review is to determine whether receiving TDRs in an area can fulfill the purpose of accommodating increased residential development density while having the least impacts on the natural environment and public services." Again without citation, ESM states: "The purpose of [its] report was limited to that of a comprehensive analysis of whether the subarea can fulfill the purpose of the TDR program and accommodate increased density from the proposed (and future subdivisions) with the least impacts to the natural environment and public services." Neither Permitting nor ESM explains the metric against which the impacts of TDR use is compared to determine whether they are "the least impacts." Neither Permitting nor ESM was able to address the Examiner's questions regarding the TDR Subarea Study Exs. D2 at 004, D9 at 020.

12. At the Examiner's request, Permitting submitted Department of Natural Resources & Parks' most current guidance for using TDRs in formal subdivisions (TDR Guidance). It also provided a "TDR Flow" outline, identifying the steps for approving TDR use. It would have been very helpful to the Examiner and to the public if Permitting had

provided this information in the Staff Report (submitted two weeks before the hearing) and testimony. Ex. D22.

13. Contrary to how Permitting and ESM use "least impacts," the TDR Guidance suggests that the subarea study "pick a word or phrase to summarize the findings of study, e. g. 'negligible,' 'minor impacts that can be mitigated,' etc." The TDR Guidance approach would have been much more helpful to the Examiner in reviewing the Subarea Study than the undefined reference to "least impacts." Ex. D22 at 003. Neither the Subarea Study nor the Staff Report identifies the proposed site from which the TDRs are proposed to be removed (Sending Site). In response to Examiner questioning, Michael Murphy, former TDR Program Manager, explained that Sending Site is the New Concept Homes sending site, a 39-acre property in Soos Creek. Exhibit D22 elaborates that the New Concept Homes sending site was protected in 2000 with a conservation easement. King County subsequently acquired the property in fee. The site is now part of King County's Soos Creek Trail and Park. This information should have been included in the Subarea Study and Staff Report.

14. The Subarea Study identified the boundaries of the study area (Martin L King Junior Way S./SW Sunset Boulevard to the south; 64th Ave. S. to the west; S. 11th Street to the north and 87th Ave. S./Stevens Ave. NW to the east). The boundaries purposefully exclude City of Seattle jurisdiction and industrially-zoned properties. Within these boundaries, ESM evaluated: zoning, general land use, development patterns, public services, transportation, transit, utilities, schools, emergency services, public health, parks, and open space. In addition, ESM reviewed applicable codes and policies, including King County Comprehensive Plan policies and Countywide Planning Policies. The analysis concluded that the area can accommodate an increase in density from TDRs with the "least impacts" on the natural environment and public services. Exs. D2 at 004, D9 at 003–05.

15. Permitting concluded that the Subarea Study provides the required comprehensive review and analysis of the impacts of receiving additional density through using TDRs for the proposed subdivision. Ex. D2 at 004.

16. It is tempting to remand this matter for an update of the Subarea Study to reflect the Sending Site and more fully follow the TDR Guidance. However, with the following reservations, corrections and observations, the Examiner finds that the Subarea Study satisfies KCC 21A.37.030.C.2:

    A. It generally a generic review of the benefits of the TDR program.
    B. It was conducted in late 2022 and assumed that the sending site would be in the rural area. Neither Permitting nor ESM explained why the Subarea Study was not updated once the *urban* Sending Site was secured.
    C. It is based on numerous unsubstantiated assumptions about behavior of rural versus urban residents. For example, it states that "developments in the urban area may be more responsive to education and outreach regarding water conservation." Further, it proclaims that "additional density in the subarea *will* help public health outcomes by encouraging more people to access and use nearby trails, parks and other active recreation opportunities." The Subarea Study

provides no references for these assumptions despite the TDR Guidance explicitly indicating that the applicant should provide data to support its analysis of impacts. Exs. D9 at 014, 019, D22 at 004.

D. It states that "urban developments are required to complete a Traffic Impact Analysis to identify their impact to local streets, intersections, etc." However, as explained in Finding 24, the traffic generated by the subject subdivision does *not* trigger the threshold for a Traffic Impact Analysis. It is inexplicable that Permitting did not correct this.

17. That Permitting deemed this application ready for hearing based on a subpar Subarea Study and incomplete Staff Report analysis of the TDR issue is disappointing because it is not the first time. In *Carnoustie Court—PLAT210001*, this Examiner pointed to the deficiencies in that subarea study—not explaining how that study area was defined or how consistency was evaluated, and for addressing topics in only a conclusory manner, among other items. As that subarea study, even as supplemented with hearing testimony, did not fulfill the minimum subarea study requirements, or justify any additional homesites for that plat, the Examiner remanded the application.

18. On remand in *Carnoustie Court—PLAT210001*, this Examiner pointed to remaining omissions and shortcomings, including assertions for which no evidence was supplied, like, "Developments within an urban water district are more likely to receive and be responsive to education and outreach regarding water conservation." Despite the Examiner explicitly calling out that unsupported assertion in *Carnoustie Court—PLAT210001*, Permitting essentially allowed a near identical "developments in the urban area may be more responsive to education and outreach regarding water conservation" to fly in today's application, without requiring the author to provide evidentiary support for such statements.

19. We hope TDRs do not replicate the phenomena the Examiner's Office encountered several years ago, when on multiple occasions Permitting deemed plat applications ready for hearing despite insufficient school and walking routes (or at least documentation of those routes), requiring an examiner to remand an application (or at least keep the record open) for more thorough school and walking route provision (or at least investigation). We expect Permitting to carefully review future subarea studies, ensure that each study fully satisfies the criteria and provides evidentiary support for its assertions, and where lacking, either require revisions from the applicant or (for minor matters) fill in the gaps in its Staff Report.

20. A TDR certificate which confirms the purchase of TDRs is required prior to or concurrent with the submittal of the detailed engineering plans and final subdivision. If the TDR certificate cannot be obtained, the Applicant will be required to redesign the subdivision based upon the allowable density. This will result in the reconfiguration and loss of lots. Ex. D2 at 005; Condition 2.C.

<u>Transportation and Parking</u>

21. As explained above, the internal access is proposed to be provided by Tract F/73rd Place S. It will be designed as an urban sub-access road including a 40-foot-wide right-of-way, 24-foot paved travel surface, rolled curb, gutter, and a 5-foot sidewalk on both sides of

the traveled way. Tract F terminates in a 50-foot radius cul-de-sac turnaround. No parking will be allowed on either side of the roadway or on the cul-de-sac. Ex D2 at 005, 006; Conditions 3 and 6.C.

22. S. Langston Road, classified as an Urban Collector Arterial, will be used to access all 21 lots via Tract F/73rd Place S. S. Langston Road is currently approximately 18 feet wide within a 60-foot-wide county road right-of- way. 2016 King County Road Design and Construction Standards (KCRDCS) Section 2.03(A) provides that the minimum right-of-way required for an urban collector arterial street is 84 feet, 42 feet on either side of the right-of-way centerline. A 12-foot right of way dedication will, therefore, be required along the proposed subdivision's frontage on S Langston Road. From the right-of-way centerline, the roadway will be improved to 22-foot traveled way, vertical curb and gutter, and a 5-foot concrete sidewalk along the entire north boundary of the Property. Exs. D2 at 005, 006, D7 at 005; Conditions 3 and 6.

23. According to the Institute of Transportation Engineers Trip Generation Manual 10th Edition, land use code 220 (multifamily housing), 21 townhouses will generate approximately 146 vehicle trips per day, 9 AM peak hour trips and 11 PM peak hour trips. This calculation includes service vehicles (i.e., mail delivery, garbage pick-up, school bus) which may currently serve this neighborhood, as well as work trips, shopping trips, etc. The traffic generated by the subject subdivision does not trigger the threshold for a Traffic Impact Analysis (TIA) and it falls below the threshold requiring mitigation on King County roads. Ex. D2 at 006.

24. The proposed subdivision is located within the West Hill travelshed which currently passes concurrency. Exs. D2 at 006, D13 at 001.

25. As currently designed, there is adequate sight distance for vehicles exiting Tract F/73rd Place S. onto S. Langston Road. Condition 6.E requires that the project demonstrate adequate sight distance is provided in accordance with sections 2.12 and 2.13 of the KCRDCS. Ex. D7 at 007; testimony of John Everett; Condition 6.E.

26. Two to three parking spaces will be provided for each townhome: one within the structure and one or two between the sidewalk and the townhome. Ex. D20; Everett testimony.

27. The Property is located within King County Metro's service area. There are two bus lines within the vicinity of the Property. Metro Transit's Route 106 is located approximately 0.5 miles north of the site at the S. 128th Street/Beacon Ave S. intersection. Metro Transit's Route 101 runs on Martin Luther King Jr. Way S., approximately 0.8 miles west of the site. Both transit options run 7 days a week, with service on at least a half-hour basis during peak commute times. Ex. D2 at 007–008.

Drainage

28. The proposed subdivision is in the Duwamish River Drainage Basin and Duwamish/Green River watershed (WRIA #9). The preliminary subdivision is vested to the 2021 King County Surface Water Design Manual (KCSWDM). ESM conducted a Level 1 Downstream Analysis in accordance with KCSWDM Core Requirement #2. The analysis is a qualitative survey used to identify and evaluate offsite flooding, erosion, and

water quality problems that may be created or aggravated by the proposed subdivision. Exs. D2 at 006, D14 at 003, 011.

29. Currently, stormwater runoff from the existing structures onsite generally sheet flows to the south through existing vegetation on the Property. There are no stormwater facilities. Any runoff that may leave the property is intercepted within the roadside ditch in the S. 132nd Street right-of-way. Exs. D2 at 006, D14 at 003; Everett testimony.

30. The downstream corridor is made up of private and public systems comprised of established culverts, drainage channels, and streams. There have been no relevant drainage or water quality complaints within the scope of the downstream analysis within the last 10 years. Based on a field inspection of the downstream drainage system, there was no evidence of erosion, sediment transport, or flooding issues. Limited potential for drainage or water quality issues caused by the proposed subdivision will be mitigated with appropriate flow control and water quality facilities. Exs. D2 at 006, D14 at 012.

31. The proposed subdivision is required to comply with the Conservation Flow Control (Level 2) standards and the Enhanced Basic Water Quality menu. Proposed stormwater runoff from the developed project site will be treated and detained in an above-ground sand filter and an above-ground detention pond in Tract E. The detained stormwater will control discharge via a storm pipe into the existing roadside ditch along S. 132nd Street to match the natural discharge of the Property. The system will be sized to convey the 25–year design storm event and to contain the 100-year design storm event. Exs. D2 at 006, D14 at 003 & 009.

32. King County will be responsible for maintenance of the stormwater facilities in Tract E. Ex. D10 at 008.

Schools and Walking Routes

33. Students residing within the proposed subdivision will be served by Campbell Hill Elementary School, Dimmitt Middle School, and Renton High School, all located within the Renton School District #403. Ex. D2 at 007.

34. The subdivision is within 1.1 mile of Campbell Hill Elementary, 0.9 miles of Dimmitt Middle, and 1.7 miles of Renton High. The School District indicates that students residing in the proposed development would have access to bus service for elementary, middle, and senior high schools. Students attending elementary school are anticipated to be picked up at the intersection of S. Langston Road and 74th Avenue S. Middle school students will be picked up at the intersection of 73rd Place S. and S. 132nd Street. And high school students will be picked up at the intersection of 76th Avenue S. and S. Langston Road. Exs. D2 at 007, D13 at 003.

35. The Applicant commissioned ESM to prepare a Safe School Walking Route analysis. Its analysis indicates that there are adequate sidewalks and paved shoulders (5-8 feet in width) to allow safe passage for students to walk to the designated school bus pick-up locations. Exs. D2 at 007, D13.

36. The KCC requires that an impact fee per lot be imposed to fund school system improvements to serve new development within this School District. Payment of this fee

in a manner consistent with chapter 21A.43 KCC is a condition of subdivision approval. The current fee is $2,161 per single-family dwelling unit (2024 School Impact Fee Ordinance). Ex. D2 at 007; Condition 8.

Parks and Recreation

37. The Staff Report indicates that the nearest public park is Skyway Park, located approximately half a mile north of the proposed subdivision. This Park includes open space and trails, tennis courts, basketball courts, baseball fields, play structures, parking, and restrooms. The TDR Subarea Study notes the presence of Cambridge Dog Park and Bryn Mawr Park as well. Exs. D2 at 007, D9 at 013.

38. Residential subdivisions of more than four units in the R-8 zone with a density of eight units or greater per acre must provide recreation space for leisure, play, *and* sport activities at a rate of 170 square feet per unit. Thus, the proposal is required to provide at least 3,570 square feet of on-site recreation space. The Applicant is proposing to provide a 8,115-square-foot, on-site recreation space (Tract D). The Staff Report states that this recreation space will be improved with a children's play structure, passive recreation area, and landscaping. However, the subdivision plans demonstrate that only 948 square feet, described as "children's play area" would provide an active play area. The remainder of the proposed recreation tract appears to play double duty as the location for the majority of the required replacement trees discussed in Findings 47-48. There is no opportunity for sports. Thus, the Examiner has revised Condition 9.A to require that at least 85 square feet per lot (half of the required recreation area) of play area suitable for sports or active recreation. Exs. D2 at 007, D7 at 008, D8 at 002; revised Condition 9.A; KCC 21A.14.180.A.3 (emphasis added).

39. A homeowners' association will be responsible for maintenance of Tract D. Ex. D10 at 008; Condition 10.

Fire Protection and Water Supply

40. King County Fire Protection District no. 20 has provided a Fire District Receipt demonstrating it will serve this proposal. Ex. D17.

41. The Applicant proposes to serve the proposed subdivision with a public water supply and distribution system managed by Skyway Water and Sewer District (District). A Certificate of *Water* Availability, dated June 11, 2024, indicates both the District's capability to serve the proposed development and that water is presently available to the site in sufficient quantity to satisfy King County Fire Flow Standards, subject to an extension of the water main to reach the Property and the execution of a Developer Extension Agreement. Prior to final recording of the subdivision, water service facilities must be reviewed and approved per King County Fire Flow Standards. Exs. D2 at 007, D15; Condition 4.

Sewage Disposal

42. The District's Certificate of *Sewer* Availability, dated June 11, 2024, indicates that the District is able to provide sewer service, subject to an extension of a sewer trunk or lateral to reach the Property and the execution of a Developer Extension Agreement. Ex. D16.

Tree Retention

43. The Applicant commissioned Washington Forestry Consultants, Inc. (WFCI) to prepare a Tree Protection Plan. WFCI evaluated coniferous trees 8 inches in diameter at breast height (DBH) and larger, and deciduous trees 12 inches DBH and larger and assessed their potential to be incorporated into the proposed subdivision. It documented 71 trees on site, with 36 classified as "significant" and 35 as unhealthy and/or undersized. It identified 5 off-site trees that should be protected with fencing to protect them from root damage during grading. Ex. D18.

44. For townhome development, KCC 16.82.156.A.3 requires that a minimum of 5% or 10/trees per acre (whichever is greater) of all healthy significant trees in the interior area be retained and 100% of healthy perimeter trees be retained. There are 27 healthy interior and 9 healthy perimeter significant trees on the Property. The Applicant does not intend to retain any of the healthy significant interior or perimeter trees. Consequently, it must replant 348–2-inch caliper or 174–3+ inch caliper native trees. Ex. D18 at 005.

45. The Applicant must submit a detailed significant tree retention plan with the engineering plans for the proposed subdivision. No clearing of the Property may be permitted until Permitting approves the final tree retention plan. 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 grading work permitted. Condition 12.

46. Any Finding of Fact which is more properly considered a Conclusion of Law is hereby adopted as a Conclusion of Law.

CONCLUSIONS:

1. Any Conclusion of Law which is more properly considered a Finding of Fact is hereby adopted as a Finding of Fact.

2. 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-8 zone.

3. 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.

4. The conditions for final plat approval set forth below are reasonable requirements and in the public interest.

DECISION:

The Langston Townhomes preliminary plat is approved subject to the following conditions of approval.

1. Compliance with all subdivision provisions of Title 19A of the King County Code.

2. All persons having an ownership interest in the subject property shall sign on the face of the final subdivision a dedication that includes the language set forth in King County Council Motion No. 5952.

    A. The subdivision shall comply with the base density and minimum density requirements of the R-8 zone classification. All lots shall be the larger of the minimum dimensional requirements of the R-8 zone classification or those shown on the face of the approved preliminary subdivision, except that minor revisions to the subdivision which do not result in substantial changes may be approved at the discretion of the Permitting Division.

    B. Any/all subdivision boundary discrepancy shall be resolved to the satisfaction of the Permitting Division prior to the submittal of the final subdivision 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 subdivision. If the TDR certificate cannot be obtained, the applicant shall redesign the number of lots based upon the base density allowed. This will result in the reconfiguration and loss of lots.

3. All construction and upgrading of public and private roads shall be done in accordance with the 2016 KCRDCS established and adopted by Ordinance 18420, as amended.

4. 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 of Chapter 17.08 of the King County Code.

    A. Any future residences are required to be sprinklered unless otherwise approved by the King County Fire Marshall or designee.

5. Final subdivision approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved subdivision. Preliminary review has identified the following conditions of approval which represent portions of the drainage requirements. All other applicable requirements in K.C.C. 9.04 and the 2021 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 2021 KCSWDM and applicable updates adopted by King County. 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 the Permitting Division's Engineering Review, shall be shown on the engineering plans.

C. The following note shall be shown on the final recorded subdivision

> 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-issued plan record number to be inserted in space provided) on file with 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 detention facilities shall meet the design requirements in Section 5.1 of the KCSWDM. Access roads are required to the access panel, the control structure, and at least one access point per cell, and shall be designed per Section 5.1.1.

E. The required Best Management Practices (BMP) 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.

F. Modifications to the above drainage conditions may be considered according to the adjustment process in Section 1.4 of the KCSWDM.

6. The proposed subdivision shall comply with the 2016 KCRDCS, including the following requirements:

A. SOUTH LANGSTON ROAD FRONTAGE IMPROVEMENTS: Provide frontage improvements consistent with the Urban Collector Arterial standards along South Langston Road adjacent to the frontage of the site. S. Per KCRDCS Section 2.03(A), the minimum right of way required for an urban collector arterial street is 84 feet, being 42 feet on either side of the right of way centerline. A 12' right of way dedication will therefore be required along the proposed development's frontage of S Langston Road. The roadway will be improved to 22' travel way, vertical curb and gutter, and a 5' concrete sidewalk from the right of way centerline. This road section will be provided along the entire north boundary of the site. The sidewalk shall be at a minimum 5 feet wide per Section 3.02 of the KCRDCS. The pavement widening shall meet the overlay provisions of Section 4.03 of the KCRDCS.

B. S 132ND ST FRONTAGE IMPROVEMENTS: Provide frontage improvements consistent with the additional level of use along the south frontage of this site. S. 132nd St will be used to access the public drainage facilities for this development, no lots will be accessing this roadway. Two driveway sections per Figure 3-003 will be provided to serve as access to the proposed drainage facilities.

C. TRACT F, 73rd Ave S, URBAN SUB-ACCESS ROAD: Tract F is to be improved as an Urban Sub-Access Road with a 40' wide right of way, 24' of paved travel surface, rolled curb, gutter, and 5' sidewalks on both sides of the travel way. The sidewalks shall extend to the frontage along South Langston Road. It also provides a King County Road Standard compliant cul-de-sac turnaround at the end of Tract F. No Parking will be allowed on either side of the roadway and in the cul-de-sac.

D. *Tracts B and C (Private Access Tract- PAT)* - Tracts B and C will provide access to 4 and 5 units respectively. Both Tracts are less than 150 feet long and no turnaround is required. Both Tracts will be maintained by a homeowners association or equivalent. Improvements include a 20' wide right-of-way with 18' paved surface for access per Section 2.09 (B) of the KCRDCS. An inverted road section will provide a flow path to direct drainage to a catch basin into the proposed drainage system.

E. The project shall demonstrate adequate sight distance is provided in accordance to Sections 2.12 and 2.13 of the KCRDCS. The required sight distance measurements must consider the grade of the roads where applicable when determining compliance with the KCRDCS.

F. Prior to final subdivision recording, KCRDCS roadway improvements shall be substantially complete, as determined by the Site Engineer Inspector, to serve the 21 new lots.

G. Modifications to the above road conditions may be considered according to the variance provisions in Section 1.12 of the KCRDCS.

7. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final subdivision recording.

8. Lots within this subdivision are subject to KCC 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 subdivision shall be assessed and collected immediately prior to the recording, using the fee schedules in effect when the subdivision receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the subdivision and shall be collected prior to building permit issuance.

9. 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 Permitting concurrent with the submittal of the engineering plan. It must demonstrate that at least 85 square feet/lot is suitable for sports or active recreation.

B. A performance bond for recreation space improvements shall be posted prior to recording of the subdivision.

10. A homeowners' association or other workable organization shall be established to the satisfaction of Permitting which provides for the ownership and continued maintenance of the recreation tract.

11. Two to three weeks prior to the installation of Best Management Practices (BMPs) for clearing and grading, a Wildlife Survey will be conducted to establish pre-clearing existing conditions and presence/absence of protected species. Any wildlife discovered that is local, state, or federally protected or protected under KCC 21A.24.382(B) through (J) and (K) will need to be protected during construction. This condition would apply during the nesting/breeding season of protected species.

12. Street trees shall be provided as follows (per 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 homeowners 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 subdivision.

E. The species of trees shall be approved by 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 Permitting prior to engineering plan approval.

G. The street trees must be installed and inspected, or a performance bond posted prior to recording of the subdivision. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the subdivision. If the trees are found to be installed per the approved plan at inspection, a maintenance bond must be posted and held for one year. The maintenance bond may be released after one year once 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 subdivision recording. The inspection fee is subject to change based on the current County fees.

13. 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 subdivision. 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 subdivision.)

Other Considerations:

14. The subdivision shall conform to K.C.C. 16.82 relating to grading on private property

15. Development of the subject property may require registration with the Washington State Department of Licensing, Real Estate Division.

16. Preliminary approval of this application does not limit the applicant's responsibility to obtain any required permit or license from the State or other regulatory body. This may include, but is not limited to the following:

A. Forest Practice Permit from the Washington State Department of Natural Resources.

B. National Pollutant Discharge Elimination System (NPDES) Permit from WSDOE.

C. Water Quality Modification Permit from WSDOE.

D. Water Quality Certification (401) Permit from U.S. Army Corps of Engineers.

DATED October 24, 2024.

Alison Moss
King County Hearing Examiner *pro tem*

NOTICE OF RIGHT TO APPEAL

King County Code 20.22.040 directs the Examiner to make the County's final decision for this type of case. This decision shall be final and conclusive unless proceedings for review of the decision are timely and properly commenced in superior court. Appeals are governed by the Land Use Petition Act, Chapter 36.70C RCW.

MINUTES OF THE OCTOBER 16, 2024, HEARING ON PRELIMINARY PLAT APPLICATION LANGSTON TOWNHOMES, DEPARTMENT OF LOCAL SERVICES FILE NO. PLAT220006

Alison Moss was the Hearing Examiner in this matter. Participating in the hearing were Nick Bratton, John Everett, David and Toni Lindquist, Michael Murphy, Jeannie Peck, Joseph Pursley, Bill Strong, and Chad Tibbits.

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

Exhibit no. D1	King County Assessor's Map dated 12.12.2022
Exhibit no. D2	KC Permitting Division Report and Recommendation dated 10.2.2024
Exhibit no. D3	
	A. Application 11.14.2022
	B. Applicant Status 11.14.2022
Exhibit no. D4	Environmental Checklist Revised dated 11.22.2023
Exhibit no. D5	
	A. SEPA Determination of Non-significance (DNS) issued 6.20.2024
	B. SEPA Notice of Decision dated 6.20.2024 (Mailed 6.17.2024)
Exhibit no. D6	
	A. Notice of Application (NOA) dated 3.15.2023 (Mailed 3.13.2023)
	B. Notice of Public Hearing dated 9.4.2024 (Mailed 9.4.2024)
Exhibit no. D7	Preliminary Subdivision Revised dated 11.22.2023
Exhibit no. D8	Residential Density Worksheet dated 11.11.2022
Exhibit no. D9	TDR Subarea Study 11.14.2022
Exhibit no. D10	
	A. Public Comments Banner 3.17.2023
	B. Public Comments Lindquist 4.5.2023
	C. Public Comments Sheldon DiVito 4.12.2023
	D. Applicant responses to public comments 8.2.2023

Exhibit no. D11
A. Critical Area Assessment dated 11.2.2021
B. Critical Areas Report Eco 1.5.2022
Exhibit no. D12 Geotechnical Report 12.12.2022
Exhibit no. D13
A. Transportation Certificate of Concurrency 12.12.2022
B. School Walkway Analysis Revised dated 11.20.2023
Exhibit no. D14 Technical Information Report (TIR) Revised dated 8.2.2023
Exhibit no. D15 Water Certificate 6.11.2024
Exhibit no. D16 Sewer Certificate 6.11.2024
Exhibit no. D17 Fire District Receipt
Exhibit no. D18 Arborist Report 10.14.2022
Exhibit no. D19 Title Report 11.16.2022
Exhibit no. D20 Parking and Driveway 3.07.2024
Exhibit no. D21 Wildlife condition, submitted October 16, 2024
Exhibit no. D22 TDR/Subarea Study, submitted October 16, 2024

The following exhibits were offered by the public and entered into the record.

Exhibit no. P1. Comment, from Janet Real, submitted October 4, 2024

October 24, 2024

OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON
Telephone (206) 477-0860
hearingexaminer@kingcounty.gov
www.kingcounty.gov/independent/hearing-examiner

CERTIFICATE OF SERVICE

SUBJECT: Department of Local Services file no. **PLAT220006**

LANGSTON TOWNHOMES
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, through Quadient-Impress, with sufficient postage, as FIRST CLASS MAIL in an envelope addressed to the non-County employee parties/interested persons to addresses on record.

DATED October 24, 2024.

Jessica Oscoy
Office Manager

Azure Northwest Land LLC

Banner, Cliff
Hardcopy

Barada, Minoru
Hardcopy

Bratton, Nick
Department of Local Services

Burke, Rebecca
Department of Local Services

Cavalli, Toni
Azure Northwest Land LLC
Hardcopy

Cui, Tracy
Department of Local Services

ESM Consulting Engineers LLC

Estate of Thomas D. Lewis
Hardcopy

Everett, John

Gentry, Lowell
Hardcopy

Lindquist, David
Hardcopy

Lindquist, Toni

Lissak, Eric
Department of Local Services

Meins, Mike
Department of Local Services

Murphy, Michael
Department of Natural Resources and Parks

Orr, Carol
ESM Consulting Engineers LLC

Peck, Jeannie

Pittsenbarger, Braydon
Department of Local Services

Pursley, Joseph
Department of Local Services

Real, Janet

Scheffler, Ryan
Department of Local Services

Sheldon-DiVito, Mary Jo

Smith, Scott-DLSP
Department of Local Services

Strong, Bill

Sung, Huey-yi
Department of Local Services

Tibbits, Chad
Department of Local Services

Williams, Chris

Ziegler, Peter
Hardcopy