

August 18, 2004

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

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Seattle, Washington 98104
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REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **L03P0028**
Proposed Ordinance No. **2004-0324**

ANDALUSIA

Preliminary Plat Application

Location: North of Northeast 200th Place, on the west side of 130th Avenue
Northeast, adjoining the Woodinville City limits

Applicant: Harbour Homes, Inc.
represented by **Luay Joudeh**
D. R. Strong Consulting Engineers, Inc.
10604 NE 38th Pl. #101
Kirkland, WA 98033
Telephone: (425) 827-3063
Facsimile: (425) 827-2423

King County: Department of Development and Environmental Services
represented by **Kim Claussen** and **Pete Dye**
900 Oakesdale Avenue Southwest
Renton, Washington 98055-1219
Telephone: (206) 296-7167 and 296-7185
Facsimile: (206) 296-7051

SUMMARY OF DECISION/RECOMMENDATION:

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

EXAMINER PROCEEDINGS:

Hearing Opened:	August 17, 2004
Hearing Closed:	August 17, 2004

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 office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Developer: Harbour Homes
906 SE Everett Mall Way, #400
Everett, WA 98209
425-355-6244

Engineer: D.R. Strong Consulting Engineers, Inc.
10604 N.E. 38th Place, Suite 101
Kirkland, WA 98033-7903
425-827-3063

STR: 4-26-5

Location: The site is located north of NE 200th Place, on the west side of 130th Avenue Northeast (19925 and 19929 130th Avenue Northeast, Woodinville), adjoining the Woodinville City limits.

Zoning: R-8
Acreage: 3.78 acres
Number of Lots: 26 lots
Density: Approximately 6.8 units per acre
Lot Size: Range from approximately 4,000 to 6,000 square feet
Proposed Use: Single-family detached residences
Sewage Disposal: Woodinville
Water Supply: Woodinville
Fire District: Fire District #36
School District: Northshore

Complete Application Date: December 8, 2003

- 2. Except as modified herein, the facts set forth in the King County Land Use Services Division’s preliminary report to the King County Hearing Examiner for the August 17, 2004, public hearing are found to be correct and are incorporated herein by reference. The LUSD staff recommends approval of the application, subject to conditions.
- 3. Harbour Homes has submitted a preliminary plat application to subdivide 3.78 acres into 26 lots for single-family residential development. The property is located in the unincorporated area

lying east of Bothell and west of Woodinville, just south of the Snohomish County line. Because the right-of-way adjacent to the plat on the east for 130th Avenue Northeast lies within Woodinville, plat frontage improvements and access requirements will be primarily determined by the City. In order to avoid exacerbating downstream conveyance problems the Applicant will provide Level 2 flow control for the R/D facility planned for tract A in the property's southeast corner.

4. A small unregulated wetland measuring less than 500 square feet also is located near the southeast corner of the plat. This wetland is currently fed by overflow from the drainage ditch along the west side of 130th Avenue Northeast. At one point a DDES wetland scientist questioned whether the channel between the roadside ditch and the wetland should be regarded as a Class 3 stream. According to the Applicant's wetland consultant this overflow channel only came into existence after the development of Stonebrook Meadows in 2002 when the roadside ditch was constructed. Based on this information DDES concluded that the overflow drainage channel was not a regulated stream. This appears to be the correct determination in light of the definition contained at KCC 21A.06.1240, which regulates streams if they demonstrate a "defined channel or bed." An overflow route dating from 2002 would not have been in existence long enough to qualify as a defined feature within the meaning of the regulatory term.
5. Students from the Andalusia development will walk south along 130th Avenue Northeast to the elementary school located at the intersection of 130th Avenue Northeast and Northeast 195th Street as well as to the high school around the corner to the east on Northeast 195th Street. The record indicates that while constructed sidewalks exist on the east side of 130th Avenue Northeast, the western side of this arterial roadway has neither sidewalks nor, in many places, even a discernible shoulder for pedestrian use. The Applicant has agreed to either install a crosswalk across 130th Avenue Northeast for access to the constructed pedestrian facilities on the east side of the roadway or to make improvements on the west side shoulder south to the elementary school. A condition to such effect has been added to the decision.

CONCLUSIONS:

1. If approved subject to the conditions imposed below, the proposed subdivision makes appropriate provision for the public health, safety and welfare; serves the public use and interest; and meets the requirements of RCW 58.17.110.
2. The conditions of approval imposed herein, including dedications and easements, will provide improvements that promote legitimate public purposes, are necessary to serve the subdivision and are proportional to its impacts; are required to make the proposed plat reasonably compatible with the environment; and will carry out applicable state laws and regulations and the laws, policies and objectives of King County.

DECISION:

The preliminary plat application for Andalusia, as revised and received on April 27, 2004, is APPROVED, subject to the following conditions of final plat approval:

1. Compliance with all platting provisions of Title 19A of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication that includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the base density and minimum density requirements of the R-8 zone classification. All lots shall meet the minimum dimensional requirements of the R-8 zone classification or shall be shown on the face of the approved preliminary plat, whichever is larger, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environment Services.

All plat boundary discrepancies shall be resolved to the satisfaction of DDES prior to the submittal of the final plat documents. As defined by RCW 58.17.255, a "discrepancy" refers to a boundary hiatus, an overlapping boundary, or a physical appurtenance which indicates an encroachment, lines of possession or a conflict of title.

4. The Applicant must obtain final approval from the King County Health Department and/or DOE to abandon the well located off-site to the south. If the well cannot be abandoned, the well radius shall be shown on the final plat, and lots or tracts reconfigured as necessary.
5. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS).
6. The Applicant must obtain the approval of the King County Fire Protection Engineer certifying the adequacy of the fire hydrant, water main, and fire flow to meet the standards of Chapter 17.08 of the King County Code.
7. Final plat 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 plat. Preliminary review has identified the following conditions of approval, which represent portions of the drainage requirements. All other applicable requirements in KCC 9.04 and the Surface Water Design Manual (SWDM) must also be satisfied during engineering and final review.
 - a. Drainage plans and analysis shall comply with the 1998 King County Surface Water Design Manual. DDES approval of the drainage and roadway plans is required prior to any construction.
 - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review shall be shown on the engineering plans.
 - c. The following note shall be shown on the final recorded plat:

"All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings #_____ on

file with DDES and/or the Department of Transportation. 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 the plans on file."

- d. Storm water facilities shall be designed using the KCRTS level 2 flow control standard. Water quality facilities shall also be provided using the basic water quality protection menu. The size of the proposed drainage tracts may have to increase to accommodate the required detention storage volumes and water quality facilities. All runoff control facilities shall be located in a separate tract and dedicated to King County unless portions of the drainage tract are used for recreation space in accordance with KCC 21A.14.180.
 - e. The western portion of the site may receive storm water runoff from upstream drainage basins. During preparation of the final drainage plans, the Applicant shall evaluate the requirements for off-site bypass as outlined in the drainage manual on page 1-36 and provide any required conveyance systems or drainage facilities.
 - f. During preliminary review, the Applicant submitted an application for drainage adjustment to divert flows within onsite subbasins and convey storm water to one facility located with Tract A. The adjustment application was approved by DDES as outlined in the decision letter dated July 15, 2004 (See Variance File L04V0028). The conditions for the drainage adjustment shall be satisfied during design and review of the project engineering plans.
8. The proposed subdivision shall comply with the 1993 King County Road Standards (KCRS) including the following requirements:
- a. The onsite roadways shown on the plat map as NE 200th Place and 129th Ave. NE shall be improved as urban subaccess streets.
 - b. Tracts C and D shall be improved as private joint use driveways serving a maximum of two lots. The serving lots shall have undivided ownership of the tract and be responsible for its maintenance. As specified in KCRS 3.01C, improvements shall include at minimum an 18-foot paved surface and a tract width of 20 feet. Drainage control shall include a curb or thickened edge on one side. During final engineering review, the entrance to the JUD Tracts may be revised to provide a standard curb drop rather than curb returns with property line radius.
 - c. 130th Avenue NE shall be improved to urban arterial standards along the plat frontage in accordance with City of Woodinville standards. Prior to construction of roadway and/or traffic improvements, the Applicant shall obtain the necessary permits from the City of Woodinville including any requirements for dedication of additional right-of-way along 130th Avenue NE. The Applicant shall provide King County with copies of the Woodinville permit approvals and the final engineering plans shall provide notes indicating the applicable design and construction requirements.

- d. Street trees shall be included in the design of all road improvements, and shall comply with Section 5.03 of the KCRS.
 - e. Street illumination shall be provided at intersections with arterials in accordance with KCRS 5.03.
 - f. Modifications to the above road conditions may be considered by King County pursuant to the variance procedures in KCRS 1.08.
9. King County Code 16.82.150D requires seasonal limitations for construction within the Northshore Community Planning Area. During the period October 1 through March 31, clearing and grading is not allowed unless certain provisions are complied with as outlined in the code. The Applicant's engineering plans shall demonstrate compliance with the applicable code requirements and provide notes referencing the seasonal limitations set forth in KCC 16.82.150D.
 10. As shown on the preliminary plat, the Applicant proposes to abandon two easements located along the north and south property lines. The easements shall be abandoned by the Applicant prior to or concurrent with final plat recording.
 11. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
 12. The Applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The Applicant has the option to either: (1) pay the MPS fee at the final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
 13. Lots within this subdivision are subject to King County Code 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.
 14. There shall be no direct vehicular access to or from 130th Avenue NE or NE 199th St. from abutting lots. A note to this effect shall appear on the engineering plans and the final plat.
 15. Lots 17 & 18 shall have undivided ownership of Tract C and be responsible for its maintenance. Lots 23 & 24 shall have undivided ownership of Tract D and be responsible for its maintenance. Tracts C & D shall be 20 feet wide and improved with an 18-foot-wide, paved surface and controlled drainage. A note to this effect shall be placed on the engineering plans and final plat.

16. Suitable recreation space shall be provided consistent with the requirements of K.C.C. 21A.14.180 and K.C.C. 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 DDES and King County Parks prior to or concurrent with the submittal of engineering plans.
 - b. A performance bond for recreation space improvements shall be posted prior to recording of the plat.
17. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation tract.
18. Street trees shall be provided as follows (per KCRS 5.03 and K.C.C. 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 of the 1993 King County Road Standards, unless King County Department of Transportation 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 plat.
 - e. The species of trees shall be approved by DDES 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 DDES prior to engineering plan approval.
 - g. The Applicant shall contact Metro Service Planning at (206) 684-1622 to determine if 130th Avenue NE is on a bus route. If 130th Ave NE is a bus route, the street tree plan shall also be reviewed by Metro.
 - h. 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 DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.

A landscape inspection fee shall also be submitted prior to plat recording. The inspection fee is subject to change based on the current county fees.

- 19. To implement K.C.C. 21A.38.230 which applies to the site, a detailed 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 K.C.C. 21A.38.230. No clearing of the subject property is permitted until the final tree retention plan is approved by LUSD. Flagging and temporary fencing of trees to be retained shall be provided, consistent with K.C.C. 21A.38.230.B.4. 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 pursuant to K.C.C. 21A.38.230.B.4.d.(2).

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, consistent with K.C.C. 21A.38.230.B.6. (Note that the tree retention plan shall be included as part of the final engineering plans for the subject plat.)

- 20. The Applicant has volunteered to provide photos of the structures on-site to the City of Bothell. Documentation and photos shall be provided to the City prior to demolition of any structures.
- 21. The Applicant shall provide safe pedestrian facilities for children who walk south to school along 130th Avenue Northeast. As determined by the City of Woodinville, the Applicant shall either construct a crosswalk across 130th Avenue Northeast at the plat entrance or provide shoulder improvements where needed along the western side of 130th Avenue Northeast south to Northeast 195th Street.

ORDERED this 18th day of August, 2004.

Stafford L. Smith
King County Hearing Examiner

TRANSMITTED this 18th day of August, 2004, to the parties and interested persons of record:

David Brubaker
11929 - 130th Ave NE
Woodinville WA 98072

DR Strong Consulting Eng.
Luay Joudeh
10604 NE 38th Pl #101
Kirkland WA 98033-7903

Mary Hannigan & Rex Carlton
20120 - 130th Ave NE
Woodinville WA 98072-8779

Harbour Homes, Inc.
 Jamie Waltier
 906 SE Ev. Mall Way, #400
 Everett WA 98208

Seattle KC Health Dept.
 E. Dist. Environ. Health
 14350 SE Eastgate Way
 Bellevue WA 98007

Jeffrey Smith
 12959 NE 201st St.
 Woodinville WA 98072-5704

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 6506 - 80th St. E.
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Carol Rogers
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Steve Townsend
 DDES/LUSD
 Land Use Inspections
 MS OAK-DE-0100

Larry West
 DDES/LUSD
 Geo Review
 MS OAK-DE-0100

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) ***on or before September 1, 2004***. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council ***on or before September 8, 2004***. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3rd Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE AUGUST 17, 2004, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L03P0028.

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing were Kim Claussen and Pete Dye, representing the Department; and Luay R. Joudeh, representing the Applicant; and Jeffrey Smith.

The following Exhibits were offered and entered into the record:

- Exhibit No. 1 DDES File No. L03P0028
- Exhibit No. 2 DDES Preliminary Report dated August 17, 2004
- Exhibit No. 3 Application received November 10, 2003
- Exhibit No. 4 Environmental Checklist received November 10, 2003
- Exhibit No. 5 Determination of Non-significance dated July 16, 2004
- Exhibit No. 6 Affidavit of Posting indicating a posting date of December 29, 2003 and receipt by DDES on January 2, 2004
- Exhibit No. 7 Assessors map – NE 4-26-05
- Exhibit No. 8 Conceptual Drainage Plan by D.R. Strong received November 10, 2003
- Exhibit No. 9 Revised Level 1 Downstream Analysis by D.R. Strong received April 27, 2004
- Exhibit No. 10 Traffic Study by Gibson Traffic Consultants dated April 21, 2004
- Exhibit No. 11 Wetland Study by Habitat Technologies dated August 26, 2003
- Exhibit No. 12 Letters from the City of Woodinville dated April 6, 2004 and December 24, 2003
- Exhibit No. 13 City of Woodinville Deviation approval dated January 13, 2004
- Exhibit No. 14 Letter from the City of Bothell to Kim Claussen dated December 30, 2003
- Exhibit No. 15 L04V0028 – SWDM Adjustment dated July 15, 2004
- Exhibit No. 16 Plat Map Received April 27, 2004 (Revision)
- Exhibit No. 17 School Walkway Map by D.R. Strong, received April 27, 2004
- Exhibit No. 18 Photographs (3, color) & field check print dated December 8, 2003
- Exhibit No. 19 New condition pertaining to a crosswalk

SLS:ms
L03P0028 RPT