

March 18, 2010

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

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REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **L08P0006**
Proposed Ordinance No. **2010-0077**

BHEND SUBDIVISION
Preliminary Plat Application

Location: 32511 SE Redmond-Fall City Road

Applicant: David Bhend
represented by Jaeger Engineering
9419 S 204th Place
Kent, Washington 98031
Telephone: (253) 850-0934
Facsimile: (253) 850-0155

King County: Department of Development and Environmental Services (DDES)
represented by Kim Claussen
900 Oakesdale Avenue SW
Renton, Washington 98055
Telephone: (206) 296-7167
Facsimile: (206) 296-7051

SUMMARY OF RECOMMENDATIONS/DECISION:

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

EXAMINER PROCEEDINGS:

Hearing Opened:	March 4, 2010
Hearing Closed:	March 4, 2010

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:**

Owner/Developer: David Bhend
PO Box 537
Fall City, Washington 98024

Engineer: Jim Jaeger
Jaeger Consulting Engineers
9419 S 204th Place
Kent, Washington 98031

STR: 15-24-07

Location: The site is located on the south side of SE Redmond-Fall City Road (SR 202) at 32511 SE Redmond-Fall City Road, Fall City

Zoning: R-4

Acreage: 4.85 acres

Number of Lots: 10

Density: Approximately 2.06 units per acre

Lot Size: Approximately 14,343-18,806 square feet in size

Proposed Use: Single family detached dwellings

Sewage Disposal: Individual on-site septic

Water Supply: Fall City Water District

Fire District: King County Fire District No. 27

School District: Snoqualmie Valley School District No. 410

Application Completeness Date: October 15, 2008

2. Except as modified herein, the facts set forth in the DDES reports to the Examiner and the DDES and King County Department of Transportation (KCDOT) testimony are found to be correct and are incorporated herein by reference.
3. The subject property lies in the western portions of the unincorporated Fall City town area, on the south side of SE Redmond-Fall City Road (aka State Highway SR-202) just east of 324th Avenue SE. Zoned R-4, it is a rectangular 4.85-acre parcel with the shorter dimension of 314 feet on the north and south sides (thus also the amount of frontage on SR-202). The surroundings are developed with low density semi-rural/suburban single-family residences, larger farm and pasture lands, and Chief Kanim Middle School to the east of the southern half of the site. A single-family residence and several outbuildings are developed in the northern part of the site; the southern part of the site is developed with two residential structures and several outbuildings.
4. The site terrain is very gradual, generally to the northwest. The property was primarily low pasture with cultivated landscaping around the residences. No critical areas such as wetlands, streams, steep slopes, etc. are identified on the site or within close proximity.
5. Applicant David Bhend proposes subdivision of the property into ten lots for detached single-family residential development and a separate tract for recreation and drainage facilities. Lot

access would be provided primarily by the extension of a north-south public road extending southerly from SR-202 and terminating in an offset cul-de-sac bulb in the southern portion of the site. (The main access road would be improved with a half-street improvement, still allowing for two-way vehicle travel, pending future dedication and improvement of the counterpart half-width to the west.) A second short cul-de-sac street, again with an offset bulb, would extend easterly from the main access road and terminate in the east central portion of the site.

6. Jurisdiction over the fronting public road, SR-202, is under the Washington State Department of Transportation (WSDOT), from which an access permit must be obtained prior to engineering and construction plans approval. Application has been made and there are informal indications that there are no impediments to permit issuance.
7. The site lies in the Snoqualmie River drainage basin. Surface water runoff generated by the improved roads and driveway drainage (and possibly roof drainage) would be routed via catch basins to an infiltration pond roughly in the center of the site. It is expected that the vast majority (and usually all) of the site development drainage will infiltrate directly into the ground onsite, given the property's high permeability soils. Overflow provisions are made with overflow piping to the SR-202 drainage ditch system, which also will permit additional infiltration and from which there is also the additional accommodation of drainage by an existing drainage depression which could be utilized for further infiltration. The onsite infiltration pond will be constructed with very shallow inside banks for safety reasons; it is contemplated that the pond will rarely be holding open water. Drainage facilities must be installed in conformity with Conservation flow control and Basic water quality standards of the 2005 King County Surface Water Design Manual (KCSWDM); the preponderance of the evidence in the record indicates that such standards can be met. No downstream drainage problems are evident that require additional mitigation under the KCSWDM.
8. The preponderance of the evidence in the record, as clarified in testimony at hearing, shows that safe walking conditions for resident schoolchildren are sufficiently in place on the offsite routes to the projected school bus stop on the nearby 324th Avenue SE (reached by pedestrian facilities on the south side of SR-202 and then on the east side of 324th Avenue SE). The internal road improvements will provide safe walking conditions within the development.
9. Sufficient traffic impact mitigation is provided by the standard reviews under Title 14 KCC and imposition of Mitigation Payment System (MPS) fees in the recommended conditions.
10. Urban water supply service is certified as available to the development by the Fall City Water District. Sewage disposal will be provided by the installation of onsite disposal such as septic systems and drainfields. In the Fall City rural town area, onsite disposal is the preferred method of wastewater treatment.¹

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-4 zone in the Fall City area.

¹ Minimum density provisions of the subject R-4 zone are waived in the Fall City area as a result. Recommended Condition 3 is revised accordingly.

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.
4. The dedications of land or easements within and adjacent to the proposed plat, as shown on the revised preliminary plat submitted on November 5, 2009, or as required for final plat approval, are reasonable and necessary as a direct result of the development of this proposed plat, and are proportionate to the impacts of the development.

DECISION:

The preliminary plat of the *Bhend* subdivision, as revised and received November 5, 2009, is approved subject to the following conditions of 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 applicable density requirements of the R-4 zone classification. All lots shall meet the minimum dimensional requirements of the R-4 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.

Any/all plat boundary discrepancy shall be resolved to the satisfaction of DDES 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.

4. 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. 15753, as amended (2007 KCRS).
5. The applicant shall obtain documentation by the King County Fire Protection Engineer certifying compliance with the hydrant location and fire flow standards of Chapter 17.08 KCC.
6. The applicant shall obtain final approval from the King County Health Department, prior to final recording.
7. The drainage facilities shall meet the requirements of the 2005 King County Surface Water Design Manual (KCSWDM). The applicant is proposing onsite stormwater infiltration per the 2005 KCSWDM.
8. To implement the required Best Management Practices (BMP's) for treatment of stormwater, the final engineering plans and technical information report (TIR) shall clearly demonstrate compliance with all applicable design standards. The requirements for best management practices are outlined in Chapter 5 of the 2005 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 BMP's for site development.

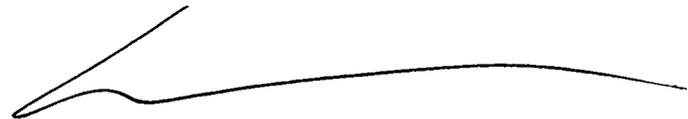
9. The following road improvements are required to be constructed according to the 2007 King County Road Design and Construction Standards (KCRD&CS):
 - a. 325th Place SE shall be designed as an urban half-street improvement.
 - b. SE 41st Street shall be designed as an urban minor access street.
 - c. The applicant shall provide copies of the WDSOT access permit for the connection to SE Redmond-Fall City Road prior to engineering plan approval.
 - d. Modifications to the above road conditions may be considered according to the variance provisions in Section 1.12 of the KCRD&CS.
10. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
11. 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.
12. 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 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.
13. (Deleted)
14. 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 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.
15. 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.

An easement shall be provided to King County for maintenance of the drainage facility.

16. Street trees shall be provided as follows (per KCRS 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 of the 1993 KCRS, 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 SR-202 is on a bus route. If so, 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.

ORDERED March 18, 2010.



Peter T. Donahue
King County Hearing Examiner

NOTICE OF RIGHT TO APPEAL

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 April 1, 2010*. If a notice of appeal is filed, the original and six 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 April 8, 2010*. 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 Third 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 14 calendar days of the date of this report, or if a written appeal statement and argument are not filed within 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 MARCH 4, 2010, PUBLIC HEARING ON THE BHEND SUBDIVISION PRELIMINARY PLAT APPLICATION, DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L08P0006.

Peter T. Donahue was the Hearing Examiner in this matter. Participating in the hearing were Kim Claussen and Bruce Whittaker, representing the Department and James Jaeger representing the Applicant.

The following Exhibits were offered and entered into the record:

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|----------------|---|
| Exhibit No. 1 | DDES file no. L08P0006 |
| Exhibit No. 2 | DDES Preliminary Report dated March 4, 2010 |
| Exhibit No. 3 | Application for Land Use Permits received October 15, 2008 |
| Exhibit No. 4 | State Environmental Policy Act (SEPA) checklist received October 15, 2008 |
| Exhibit No. 5 | SEPA Determination of Non-Significance issued January 28, 2010 |
| Exhibit No. 6 | Affidavit of Posting indicating a posting date of November 26, 2008 |
| Exhibit No. 7 | Revised preliminary plat map received November 5, 2009 |
| Exhibit No. 8 | King County Assessor Map NW 15-24-07 printed October 15, 2008 |
| Exhibit No. 9 | Revised conceptual drainage plan received November 5, 2009 |
| Exhibit No. 10 | Preliminary Drainage Calculations and Level I Drainage Analysis prepared by Jaeger Engineering and dated September 18, 2008 |
| Exhibit No. 11 | Sight distance certification prepared by Jaeger Engineering dated June 22, 2009 |
| Exhibit No. 12 | Infiltration testing and ground water mounding summary prepared by Associated Earth Sciences, Inc. dated August 4, 2009 |
| Exhibit No. 13 | School walking routes description |