

February 12, 2000

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

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REPORT AND DECISION ON APPLICATION FOR PRELIMINARY PLAT APPROVAL

SUBJECT: Department of Development and Environmental Services File No. **L99P0002**
Proposed Ordinance No. **2001-0015**

SKYWAY PLACE
Preliminary Plat Application

Location: North side of South 128th Street, between
Beacon Avenue South and 69th Avenue South

Owner/
Applicants: King Lee and Kai Wong, *represented by*
De-En Lang, Subdivision Management, Inc.
16031 – 119th Place NE
Bothell, WA 98011
Telephone: 425-488-1111

King County: Department of Development and Environmental Services
Land Use Services Division, *represented by*
Greg Borba, Current Planning Section
900 Oakesdale Avenue Southwest
Renton, Washington 98055-1219
Telephone: (206) 296-7118
Facsimile: (206) 296-6613

SUMMARY OF DECISION:

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

PRELIMINARY MATTERS:

Complete application date: May 5, 1999

EXAMINER PROCEEDINGS:

Hearing Opened: February 8, 2001
 Hearing Closed: February 8, 2001

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.

ISSUES/TOPICS ADDRESSED:

- drainage
- traffic

SUMMARY:

Grants preliminary approval to a proposed subdivision of 1.21 acres into ten single-family residential building lots.

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

FINDINGS:

1. **General Information:**

| | |
|-------------------|--|
| Owner/Developer: | King Lee and Kai Wong 948 South Doris Street Seattle, WA 98108 (206) 763-6161 |
| Engineer: | De-En Lang, Subdivision Management, Inc, 16031 – 119 th Place N. E. Bothell, WA 98011 (425) 488-1111 |
| Location: | North side of South 128 th Street, between Beacon Avenue South and 69 th Avenue South |
| STR: | 11-23-04 |
| Zoning: | R-8 SO |
| Acreage: | 1.21 acres |
| Number of Lots: | 10 |
| Density: | 8 du/acre |
| Typical Lot Size: | Approximately 3200 square feet |
| Proposed Use: | Single-family Residential |
| Sewage Disposal: | Skyway Water and Sewer |
| Water Supply: | Skyway Water and Sewer |

| | |
|----------------------------|----------------------------------|
| Fire District: | King County Fire District No. 20 |
| School District: | Renton School District |
| Complete Application Date: | May 5, 1999 |

2. **Proposal.** King Lee and Kai Wong (hereinafter, the “Applicant”), represented by De-En Lang of Subdivision Management, Inc., proposes to subdivide 1.21 residentially classified acres into ten single-family residential building lots. The proposed development density is 8 dwelling units per acre, consistent with the R-8 zoning classification. Proposed lot sizes will range from 3150 to 5780 square feet. The Applicant proposes to retain an existing single-family residence, to be located on proposed lot No. 8. The proposed development fronts on, and will obtain access from South 128th Street.

3. **State Environmental Policy Act.** On December 15, 2000 the Department of Development and Environmental Services (“DDES” or the “Department”) issued a threshold determination of non-significance (DNS) for the proposed development. That is, the Department on that date published its determination that an environmental impact statement would not be required because the Department concluded that the proposal would not cause probable significant adverse impacts upon the environment. That conclusion was based upon the Department’s review of the Applicant’s environmental checklist and numerous other relevant environmental documents. No agency, tribe, person or other entity appealed that determination. The environmental review record is incorporated in this hearing record.

4. **Department Recommendation.** The Department recommends granting preliminary approval to the proposed subdivision, subject to the 17 recommended conditions of final plat approval stated on pages 5 through 9 of the Department’s preliminary report to the Hearing Examiner (Exhibit No. 2), with the exception of a minor revision to proposed condition 7E on page 6 of that report.

 Recommended condition No. 7E requires the Applicant to demonstrate that the conveyance system has adequate capacity to accommodate the discharge of storm water from the proposed detention vault sufficient to prevent potential flooding of adjacent property or roads. Condition 7E, as stated in the Department’s preliminary report, identifies the existing drainage culvert beneath South 128th Street. The Department now amends that recommended condition to *include also the culvert beneath Beacon Avenue.*

5. **Applicant’s Response.** The Applicant accepts the Department’s final recommendation as described in Finding No. 4, preceding.

6. **Neighborhood Concerns.** Through correspondence to the Applicant or appearance at the public hearing, neighboring property owners express concerns regarding the following:
 - A. **Sewer Service.** A neighboring property owner has expressed concern regarding the adequacy of sewerage service. Exhibit No. 14, certificate of sewer availability, issued by the Skyway Sewer and Water District, provides assurance that adequate sewer capacity exists to serve the proposed development consistent with the district’s comprehensive plan as approved by King County.

 - B. **Drainage.** A neighboring property owner has indicated to the Applicant a desire to “tightline” stormwater drainage from the proposed development through a portion of his property. The Department and the Applicant agree that the area of concern is a wetland, subject to King County Sensitive Areas regulations. The Department,

basing its recommendations on the King County Surface Water Drainage Manual, sees no need to require the suggested tightline drainage. The Department, of course, cannot recommend requiring the Applicant to make offsite improvements when there is no policy, regulation or law upon which to base that requirement. The Applicant is neutral—that is, takes no position—regarding the requested drainage tightline across the wetland. However, the Applicant strongly suggests that the property owner who wants the tightline should be the party who obtains the necessary permits. The Department and Applicant agree that obtaining permits to trench a drainage culvert through a wetland would be a dubious undertaking with a very low probability of success.

- C. **Traffic.** The proposed subdivision will obtain access to public right-of-way along South 128th Street. The nearest principal arterial is Beacon Avenue South. Traffic from the proposed development will obtain access to Beacon Avenue South via South 127th Place, which functions as a ‘neighborhood collector’ street. Translated to real terms, the neighborhood collector function means that, according to testimony, approximately 3,000 vehicles per day pass through South 127th Place. This volume of traffic—relatively high for a single-family residential neighborhood—occurs due to the intensity of multifamily development in the surrounding area. Neighboring property owners have complained to King County Department of Transportation (KCDOT), resulting in the installation of speed bumps. The speed bumps have indeed successfully reduced the speeds along South 127th Place, but have not affected the traffic volume.

Now comes proposed Skyway Place, a small in-fill subdivision of ten lots. The Applicant/developer cannot be required to solve a problem that the applicant/developer did not create. Further, the impact of Skyway Place on the traffic flow will be proportionally slight. Approximately 300 of the daily vehicle trips along South 127th Place may be expected to be “peak period” trips. Further, using rules of thumb established by the Institute of Traffic Engineering, Skyway Place may be expected to contribute an additional 10 *peak period* vehicle trips per day—an increase of approximately one-third of 1%.

A short-term solution to the South 127th Place problem does not appear to be readily available. South 128th Street right-of-way extending westward toward Beacon Avenue South has been vacated and developed. Likewise, alternate routes to Beacon Avenue South appear either circuitous or unobtainable.

7. **Departmental Report Adopted.** The Department’s preliminary report to the Examiner (Exhibit No. 2) is accurate and is therefore adopted and incorporated into this Examiner’s Report and Decision. Copies of the Department’s report will accompany any copies of this Report and Decision that are provided to members of the Metropolitan King County Council.

CONCLUSIONS:

1. If approved subject to the conditions recommended below, the proposed subdivision will comply with the goals and objectives of the King County Comprehensive Plan, Subdivision and Zoning Codes, and other official land use controls and policies of King County.

2. If approved subject to the conditions recommended below, this proposed subdivision will make appropriate provision for the public health, safety and general welfare and for open spaces, for drainage ways, streets, other public ways, transit stops, potable water supply, sanitary wastes, parks and recreations, playgrounds, schools and school grounds, and safe walking conditions for students who only walk to school; and it will serve the public use and interest.
3. The conditions for final plat approval recommended below are in the public interest and are reasonable requirements to mitigate the impacts of this development upon the environment.
4. The dedications of land or easements within and adjacent to the proposed plat, as recommended by the conditions for final plat approval or as shown on the proposed preliminary plat submitted by the applicant, are reasonable and necessary as a direct result of the development of this proposed plat.

DECISION:

The proposed plat of Skyway Place, as described by the Applicant's preliminary plat drawing (Exhibit No. 7) is GRANTED PRELIMINARY APPROVAL; *subject* to the following conditions of final plat approval:

1. Compliance with all platting provisions of Title 19 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 as 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 Environmental Services.
4. The applicant shall comply with P-suffix condition WH-P4. A homeowner's association or other workable organization shall be established to the satisfaction of DDES which provides transit and ridesharing information and a free one-month, one or two zone transit pass to all original new homeowners of the plat at the time of occupancy.
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 for the adequacy of the fire hydrant, water main, and fire flow 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 one control standard unless a more restrictive standard is required by DDES based upon further review of downstream drainage conditions. 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 existing drainage system along and beneath South 128th Street and Beacon Avenue South includes 12-inch conveyance pipes which may have limited capacity for storm water. During final engineering review the applicant shall demonstrate that the conveyance system has adequate capacity to accommodate the discharge of storm water from the proposed detention vault and prevent potential flooding of adjacent property or roads.
8. The proposed subdivision shall comply with the 1993 King County Road Standards (KCRS) including the following requirements:
- A. During preliminary review the applicant submitted two road variance applications regarding cul-de-sac diameter and intersection spacing (File Nos. L00V0069, L00V0012). The variance applications were approved by the King County Road Engineer and shall be implemented for the final road improvements.
 - B. 67th Place South shall be improved as an urban minor access street. As shown on the preliminary plat, public right-of-way shall be extended to the western property line. A temporary cul-de-sac bulb shall be provided

near the street terminus, or as a design option, the applicant may locate the widened bulb on the adjacent tax lot if a public road easement is acquired from the offsite property owner.

- C. As shown on the preliminary plat, the existing sight distance to the east on South 128th Street is less than the required 490- feet per King County Road Standards. The applicant shall specify on the engineering plans the requirements for tree pruning to achieve the required standard.
 - D. South 128th Street shall be improved along the frontage of the plat as an urban neighborhood collector street. The existing road pavement along the frontage contains numerous cracks and signs of deterioration which may be caused by unstable soil conditions and standing water. As specified in KCRS 4.02, soil testing shall be performed to determine the appropriate pavement design for road improvements. South 128th Street shall also be overlaid with new pavement as specified in KCRS 4.01F.
 - E. The Tract serving lots 6 and 7 shall be improved as a private joint use driveway, which serves 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 an 18 foot paved surface and a minimum tract width of 20 feet. Drainage control shall include a curb or thickened edge on one side.
 - F. Street trees shall be included in the design of all road improvements, and shall comply with Section 5.03 of the KCRS.
 - G. South 128th Street is designated a neighborhood collector street, which may require designs for bus zones and turnouts. As specified in KCRS 2.16, the designer shall contact Metro and the local school district to determine specific requirements.
 - H. Modifications to the above road conditions may be considered by King County pursuant to the variance procedures in KCRS 1.08.
9. Tract A shall be owned by residents within the plat via a homeowners association or other acceptable organization approved by DDES. If desired by the applicant, this portion of the site may be deeded to an adjacent property owner. Prior to or concurrent with final plat recording, any existing access easements serving the Skyway Place plat shall be relinquished.
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 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 (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to 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. The proposed subdivision shall comply with the Sensitive Areas Code as outlined in KCC 21A.24. The total area of the on-site wetland is less than 2500 square feet is non-regulated and may be altered without mitigation.
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. An overall conceptual recreation space plan shall be submitted for review and approval by DDES, with the submittal of the engineering plans. This plan shall include location, area calculations, dimensions, and general improvements. The approved engineering plans shall be consistent with the overall conceptual plan.
 - B. A detailed recreation space plan (i.e., landscape specs, equipment specs, etc.) consistent with the overall conceptual plan, as detailed in item a., shall be submitted for review and approval by DDES and King County Parks prior to or concurrent with the submittal of the final plat documents.
 - C. 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 space .
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 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 684-1622 to determine if South 128th Street is on a bus route. If South 128th Street 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.
 - I. 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.
17. In order to provide safe walking conditions for school children, prior to final engineering plan approval, the applicant shall coordinate with DDES and the King County Department of Transportation for striping the existing paved right-of-way on the north side of South 128th Street, from the east boundary of the plat to 69th Avenue South.

ORDERED this 12th day of February, 2001.

R. S. Titus, Deputy
King County Hearing Examiner

TRANSMITTED this 12th day of February, 2001, to the following parties and interested persons:

- | | | |
|--------------------|---------------------|-----------------|
| Jacqueline Adams | Linda Matlock | Kim Claussen |
| Glen Carroll | Eleanor Moon | Peter Dye |
| Marsilo DiGiovanni | New Home Trends | Nick Gillen |
| Roger Dorstad | Mr/Ms Dallas Parman | Kristen Langley |

| | | |
|-------------------|------------------------|-----------------|
| Mark Fitzgerald | Sea-KC Health Dept | Aileen McManus |
| King Lee/Kai Wong | Dorothy Steed | Carol Rogers |
| De-En Lang | Tri-County Land Srvyng | Steven Townsend |
| Angie Lorbeski | Greg Borba | Larry West |

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 \$125.00 (check payable to King County Office of Finance) *on or before February 26, 2001*. 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 March 5, 2001*. 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 403, King County Court-house, 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 FEBRUARY 8, 2001, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L99P0002 – SKYWAY PLACE:

R. S. Titus was the Hearing Examiner in this matter. Participating in the hearing were Greg Borba, Peter Dye, De-en Lang, King Lee, Glen Carroll and Angie Lorbeski.

The following exhibits were offered and entered into the record:

- Exhibit No. 1 DDES file No. L99P0002
- Exhibit No. 2 Preliminary Report to the Hearing Examiner, mailed 1/25/01
- Exhibit No. 3 Subdivision Application, received 2/3/99
- Exhibit No. 4 Environmental Checklist, received 2/3/99
- Exhibit No. 5 Determination of Nonsignificance, dated 12/15/00
- Exhibit No. 6 Affidavit of Posting indicating the posting date 5/13/99
- Exhibit No. 7 Revised plat map, received 2/14/00
- Exhibit No. 8 Land Use Map, Kroll Page 316E and adjacent composite maps
- Exhibit No. 9 King County Assessor Maps (4)
- Exhibit No. 10 Level 1 Downstream Analysis by Ostergaard-Robinson, received 2/14/00
- Exhibit No. 11 Wetland Evaluation by the Watershed Company, dated 12/7/99
- Exhibit No. 12 King County road variance approval letter, dated 9/14/00
- Exhibit No. 13 Letter, dated 2/1/01, from William Hegger to Ostergaard-Robinson
- Exhibit No. 14 Sewer availability certificate
- Exhibit No. 15 Water availability certificate

RST:vam

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