

December 15, 2000

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**
850 Union Bank of California Building
900 Fourth Avenue
Seattle, Washington 98164
Telephone (206) 296-4660
Facsimile (206) 296-1654

REPORT AND DECISION ON APPLICATION FOR PRELIMINARY PLAT

SUBJECT: Department of Development and Environmental Services File No. **L99P3015**
Proposed Ordinance No. **2000-0607**

HARRIS PLAT
Preliminary Plat Application

Location: 17520 – 88th Avenue Northeast and 17722 – 88th Avenue Northeast

Applicant: **Mark Lundberg**
19025 – 92nd Avenue West
Edmonds, WA 98020
Telephone: (206) 948-4022

King County: Department of Development and Environmental Services,
Land Use Services Division, Current Planning Section,
represented by **Gordon Thomson**
900 Oakesdale Avenue SW
Renton, WA 98055-1219
Telephone: (206) 296-7286
Facsimile: (206) 296-6729

SUMMARY OF RECOMMENDATIONS:

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

PRELIMINARY MATTERS:

Application or petition submitted:	December 1, 1999
Complete application:	December 29, 1999

EXAMINER PROCEEDINGS:

Hearing Opened: December 12, 2000
Hearing Closed: December 12, 2000

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:

- King County Road Standards
- Sight distance
- Drainage
- Stormwater retention/detention
- Safe walking conditions

SUMMARY:

Grants preliminary approval to a single-family residential subdivision of 5.94 acres into 32 lots.

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

FINDINGS:

1. **General Information.**

Owner:	R. D. & Timothy John Harris 17520 – 88 th Avenue NE Bothell, WA 98011
Developer:	Woodside Heights, LLC 19025 – 92 nd Avenue West Edmonds, WA 98020 Telephone: (206) 948-4022
Engineer:	Barghausen Consulting Engineers 18215 – 72 nd Avenue South Kent, WA 98032 Telephone: (425) 251-6222

Location:	The site lies east of 88 th Avenue NE at NE 178 th Street (extended)
STR:	7-26-5
Zoning:	R-6
Acreage:	5.94 acres
Number of Lots:	32
Density:	5.39 units per acre
Lot Size:	Ranges from approximately 5,000 to 7,830 square feet
Proposed Use:	Single-family detached dwellings
Sewage Disposal:	Northshore Utility District
Water Supply:	Northshore Utility District
Fire District:	Fire District #16
School District:	Northshore #417
Complete Application Date:	December 29, 1999

2. **Proposal.** R. D & T. J. Harris, in association with Woodside Heights, LLC (referred hereinafter as “Applicant”) propose to subdivide a 5.94 acre parcel into 32 single-family residential building lots. With lot sizes ranging from 5,000 to 7,830 square feet, the proposed density will be approximately 5.5 dwelling units per acre—within the density range authorized by the R-6 zoning classification.
3. **State Environmental Policy Act.** On October 27, 2000, the Department of Development and Environmental Services (“Department” or “DDES”) issued a threshold determination of non-significance regarding Harris Plat. That is, the Department issued its determination that, based on a review of the Applicant’s environmental checklist and numerous other relevant environmental documents, it had reached the conclusion that Harris Plat would not cause probable significant adverse impacts on the environment. Therefore, an Environmental Impact Statement would not be required prior to proceeding with the review process. No person, agency, tribe or other entity appealed that determination. The administrative environmental review record is incorporated in this public hearing review record.
4. **Department Recommendation.** The Department recommends granting preliminary approval to the proposed plat of Harris, subject to the 14 conditions of final plat approval stated on pages 6 through 9 of the Department’s Preliminary Report (Exhibit No. 2); *except* for the following changes and additions:
 - a. **Entering sight distance.** Recommended Condition No. 8.C, as contained in the Department’s Preliminary Report, requires a specific approach to address the entering sight distance problem at the Northeast 178th Street/92nd Avenue Northeast intersection. The Department agrees now to “soften” that language in order to assure maximum flexibility while addressing this problem during the engineering review phase (which follows preliminary plat approval). See Finding No. 6, below.

- b. **Safe walking conditions.** The Department agrees to add a new condition which would require the Applicant to establish a fog line stripe along one side of 178th Avenue Northeast extending eastward from Harris Plat to Northeast 92nd Street. The new condition would be added as Condition No. 8.H in the Examiner's Report. See Finding No. 7, below.
- 5. **Applicant's Response.** The Applicant accepts the recommended conditions of final plat approval as described in Finding No. 4, above.
- 6. **Entering Sight Distance.** Achieving an acceptable entering sight distance at the Northeast 178th Street/92nd Avenue Northeast intersection poses the thorniest issue in this review. King County Road Standards (KCRS) Section 2.05 and Table 2.1 require a 490 foot entering sight distance for vehicles entering 92nd/91st Avenue Northeast, a "neighborhood collector" street. Actual entering sight distance has not been measured, but, according to the Department, it is definitely less than 300 feet, perhaps only "a couple of hundred" feet.

As recommended in the Department's Preliminary Report, Condition No. 8.C would require channelization of egressing Northeast 178th Street traffic, forcing those vehicles to turn *right only*. The Department's KCDOT consulting engineer has recommended this device as a means of eliminating the most risky exits (left-turning) against the reduced sight distance. Some neighboring property owners have testified in opposition to that recommendation. The Applicant, while accepting the Department's recommendation, agrees with those neighboring property owners.

There are other possible (at least partial) solutions. For instance, tree removal at the intersection may (partially) improve entering sight distance. Trees within County right-of-way may be removed without complication. However, the removal of trees on private property would required special negotiation for sight distance easement or other similar agreement.

When vehicles exit Harris Plat westbound they will reach Bothell Way Northeast (SR 522) at a signaled intersection. When vehicles exit Harris Plat eastbound via 92nd Avenue Northeast they will encounter SR 522 without the benefit of signalization. Thus, it may be argued, that the "right turn only" control device described by Recommended Condition No. 8.C, would force an increased number of vehicles to the SR 522 intersection that lacks signalization. Thus, looking at the neighborhood-wide circulation, the conclusion could be drawn that the "right turn only" control device, while solving a problem at one intersection, increases a problem at another intersection. In addition, neighborhood hearing participants suggest that numerous drivers likely will circumvent the control device, turn left in violation of the control, and thereby increase the hazard at the 178th/92nd intersection.

- 7. **Safe Walking Conditions.** RCW 58.17.110 prohibits plat approval unless a finding can be made that safe walking conditions exist for those students who walk to school. In view of this requirement, DDES and its KCDOT consulting engineer determined that Northeast 178th Street is sufficiently wide, with sufficiently minimal traffic, to assure safe walking conditions. However, hearing testimony suggests that the street often fills with overflow parking from nearby Bothell Senior High School. This raises a new concern regarding the adequacy or safety of the

walking conditions for younger students who attend Canyon Park Junior High School or West Hill Elementary School. Consequently, the Department agrees to re-examine this concern during engineering review (following preliminary plat review) and to require walkway demarcation in a manner that assures safe walking conditions for students.

8. **Drainage.** The Tolt River Pipeline, owned by Seattle Public Utilities (SPU), divides the subject property along its northeast boundary from neighboring properties. SPU continues work to install a second pipeline within that corridor as this report and decision is written. Evidently, the construction activities have (hopefully temporarily) disrupted drainage patterns affecting property owners in the vicinity of the Northeast 178th Street intersection with the Tolt River Pipeline corridor. This area is typically characterized by high water table, even during the summer. The surficial topography and geology of the neighborhood therefore has little tolerance for altered or increased drainage flows. The Department correctly observes that this plat Applicant does not bear responsibility for solving a problem created by SPU. However, at engineering review, the Department will make sure that drainage in the vicinity is adequate to accommodate flows from this development consistent with the King County Surface Water Management Design Manual .
9. **Stormwater Retention/Detention.** Laura Thayer, a neighboring property owner, expresses concern that the stormwater retention/detention pond being located along the west boundary of Harris Plat will be a dangerous attractive nuisance for children. She notes that it is proposed to be located immediately adjacent to the Harris open space recreation area. The Department responds to Ms. Thayer's concern by noting that the King County Surface Water Management Design Manual provides for "shallow gradient" retention/detention pond slopes thereby assuring personal safety for persons who intrude upon them. These slopes, typically at least as shallow as 3:1, allow for some landscaping—a treatment which most neighborhoods seem to prefer to chain link fencing. The 3:1 slope is sufficiently slight to enable both children and adults opportunity to walk without slipping or falling in. Or, if they do fall in, to easily climb out. The "wet pond" portion of the drainage retention/detention facility will generally contain water approximately 1 foot to 1 ½ feet deep during dry season.
10. Except as noted above, the facts and analysis contained in the Land Use Services Division Preliminary Report dated December 12, 2000 are correct and are incorporated here by reference. A copy of the Land Use Services Division report will be attached to those copies of the examiner's report which are submitted to the King County Council.
11. Any portion of any of the following conclusions that may be construed as a finding is incorporated here by this reference.

CONCLUSIONS:

1. The revised version of Recommended Condition No. 8.C contained in the decision which follows below is intended to provide flexibility during the engineering review phase of Harris Plat sufficient to address the entering sight distance problem in a manner which provides flexibility to DDES/KCDOT during engineering review—and which provides the Applicant and

DDES/KCDOT opportunity to consider alternative approaches to the entering sight distance problem.

2. Some sort of demarcation of the acceptable walking area along Northeast 178th Street will increase the probability that this plat complies with the safe walking conditions requirement of RCW 58.17.110.
3. Neighboring property owners certainly should bring the drainage problems to the attention of the King County Surface Water Management Division and, more importantly, to Seattle Public Utilities. It will be incumbent upon the Applicant to coordinate with Seattle Public Utilities to assure proper conveyance of stormwater discharges from the subject property. However, neither of these circumstances requires a specific new condition of final plat approval for Harris Plat. The King County Surface Water Drainage Manual conditions that apply—as imposed by Condition No. 7, below—are numerous and sufficiently rigorous.
4. 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.
5. 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.
6. 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.
7. 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 Harris 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 minimum and base density requirements of the R-6 zone classification. All lots shall meet the minimum dimensional requirements of the R-6 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 must obtain final approval from the King County Health Department for removal of the existing septic system.
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 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 1998 KCSWDM. 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. Core Requirement No. 3: Runoff Control.

Control of storm water runoff shall be provided using the Level Two detention standard outlined in the KCSWDM. The size of the proposed drainage tract may have to increase to accommodate the required detention storage volume. The runoff control facilities shall be located in a separate tract and dedicated to King County unless portions of the drainage tract are used for required recreation space in accordance with KCC

21A.14.180. As specified in section 5.1.1 of the 1998 SWM Manual, roof drain storm water shall be infiltrated or dispersed within the lot area if the soil conditions are favorable.

e. Core Requirement No. 4: Conveyance Systems.

The Level One Downstream Analysis did not indicate any problems with the existing downstream system in terms of a conveyance restriction or flooding. However, Section 8.1 of the Level One Downstream Analysis did indicate the need, and it shall be required, to clean and daylight the pipe that transitions flow from the Tolt River pipeline swale to the roadside ditch along 91st Avenue NE. If others have provided roadside drainage conveyance improvements, superseding the need for this condition, then those conveyance improvements shall be demonstrated during engineering review.

f. Core Requirement No. 8: Water Quality.

The project is subject to the Basic water quality requirements of the 1998 KCSWDM.

g. Special Requirement No. 1: Other Adopted Area-Specific Requirements.

The proposed plat is located within the Northshore Community Planning Area which contains special P-Suffix conditions related to seasonal clearing restriction and tree retention. The applicable P-suffix requirements shall be addressed on the final engineering plans.

8. The proposed subdivision shall comply with the 1993 King County Road Standards (KCRS) including the following requirements:

- a. Road A (or the westward extension of NE 178th Street) shall be improved as an urban subaccess street. Road B shall be improved as an urban minor access street.
- b. There had been a question of ownership/rights concerning a 30-foot strip of land along the eastern boundary of the site. Although the owner (Harris) had always felt that the 30-foot strip of land was part of his property, there were indications that this strip of land had been encumbered through easement for purposes of a road and left unused. Quiet Title Decree #00-2-14323-1 SEA was obtained August 3, 2000 awarding quiet title to the Harris'. The northernmost 20-feet of this strip of land shall be dedicated as right-of-way for the full width extension of NE 178th Street to the west.
- c. Where the off-site road NE 178th Street intersects with 92nd Avenue NE, "left out" traffic movements shall be restricted with an appropriately designed island and signage. This condition may be modified or eliminated by King County Traffic Engineering staff if alternative measures are determined to be acceptable during engineering review.
- d. Tracts C, D, E & F shall be improved as private joint use driveways that serve 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.

- e. Street trees shall be included in the design of all road improvements, and shall comply with Section 5.03 of the KCRS.
 - f. There shall be no direct vehicular access to or from 88th Avenue NE from those lots that abut it. A note to this effect shall appear on the engineering plans and final plat.
 - g. Modifications to the above road conditions may be considered by King County pursuant to the variance procedures in KCRS 1.08.
 - h. Along the east boundary of Northeast 178th Street, extending eastward from the plat of Harris to 92nd Avenue Northeast, the Department may require (pursuant to engineering review), a fog line and/or buttons in order to assure appropriate demarcation of a safe walkway.
9. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
10. 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.
11. 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.
12. Suitable recreation space shall be provided consistent with the requirements of KCC 21A.14.180 and KCC 21A.14.190 (i.e., sport court, 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.
- 13. 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 and open space tracts.
- 14. 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 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.

- h. 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 this 15th day of December, 2000.

R. S. Titus, Deputy
King County Hearing Examiner

TRANSMITTED this 15th day of December, 2000, to the following parties and interested persons:

Roger Dorstad
R. D. Harris
Timothy Harris
Eileen Hiram
John Kenner
King County Envir Health Division
Darryl Knutson
Mark Lundberg
Linda Matlock
Mead Gilman and Associates
Eleanor Moon
New Home Trends
Joy Petterson
Helen Pisanen

Laura Thayer
L. Wait
Kurt Williams
Gary Wright
Mark Bergam
Greg Borba
Kim Claussen
Nick Gillen
Kristen Langley
Aileen McManus
Carol Rogers
Gordon Thomson
Steven C. Townsend
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 December 29, 2000.*** 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 January 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 Courthouse, 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 DECEMBER 12, 2000 PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L99P3015 – HARRIS PLAT:

R. S. Titus was the Hearing Examiner in this matter. Participating in the hearing and representing the Department was Gordon Thomson and Mark Bergam. Participating in the hearing and representing the Applicant was Mark Lundberg. Other participants in this hearing were Laura Thayer and Kurt Williams.

The following exhibits were offered and entered into the record:

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|----------------|--|
| Exhibit No. 1 | DDES File No. L99P3015 |
| Exhibit No. 2 | DDES Preliminary Report to the Hearing Examiner, dated December 12, 2000 |
| Exhibit No. 3 | Application, dated December 1, 1999 |
| Exhibit No. 4 | Environmental Checklist, dated November 30, 1999 |
| Exhibit No. 5 | Declaration of Non-significance (DNS), dated October 27, 2000 |
| Exhibit No. 6 | Affidavit of Posting indicating January 3, 2000 as date of posting and January 5, 2000 as the date the affidavit was received by DDES. |
| Exhibit No. 7 | Site Plan (preliminary plat drawing), dated December 1, 1999 |
| Exhibit No. 8 | Land Use Map (Kroll), page 407W |
| Exhibit No. 9 | Assessor Map NW 7-26-5 |
| Exhibit No. 10 | Level One Drainage Analysis, dated November 24, 1999 |
| Exhibit No. 11 | Photo series illustrating site access and local roads, taken March 17, 2000 |
| Exhibit No. 12 | Seattle Public Utilities letter, dated November 17, 2000 |
| Exhibit No. 13 | Letter to Seattle Public Utilities from Jim Sanders, dated December 7, 2000 |

RST:sje
Plats/L99P3015 RPT