

February 1, 2023

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

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REVISED REPORT AND DECISION

SUBJECT: Department of Local Services file no. **PLAT200003**
Proposed ordinance no.: **2022-0443**

FALL CITY II
Preliminary Plat Application

Location: 4135 332nd Avenue SE, Fall City

Applicant: Slalom 13 Investments, LLC (Attn: Cory Brandt)
represented by **Robert Fitzmaurice**
15 Lake Bellevue Drive South
Bellevue, WA 98005
Telephone: (425) 869-1300
Email: robert@taylordev.com

King County: Department of Local Services
represented by **Brian Lee**
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SUMMARY OF RECOMMENDATIONS/DECISION:

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

EXAMINER PROCEEDINGS:

| | |
|-----------------|-----------|
| Hearing Opened: | 1/19/2023 |
| Hearing Closed: | 1/19/2023 |
| Record Closed | 1/19/2023 |

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the Hearing Examiner's Office.

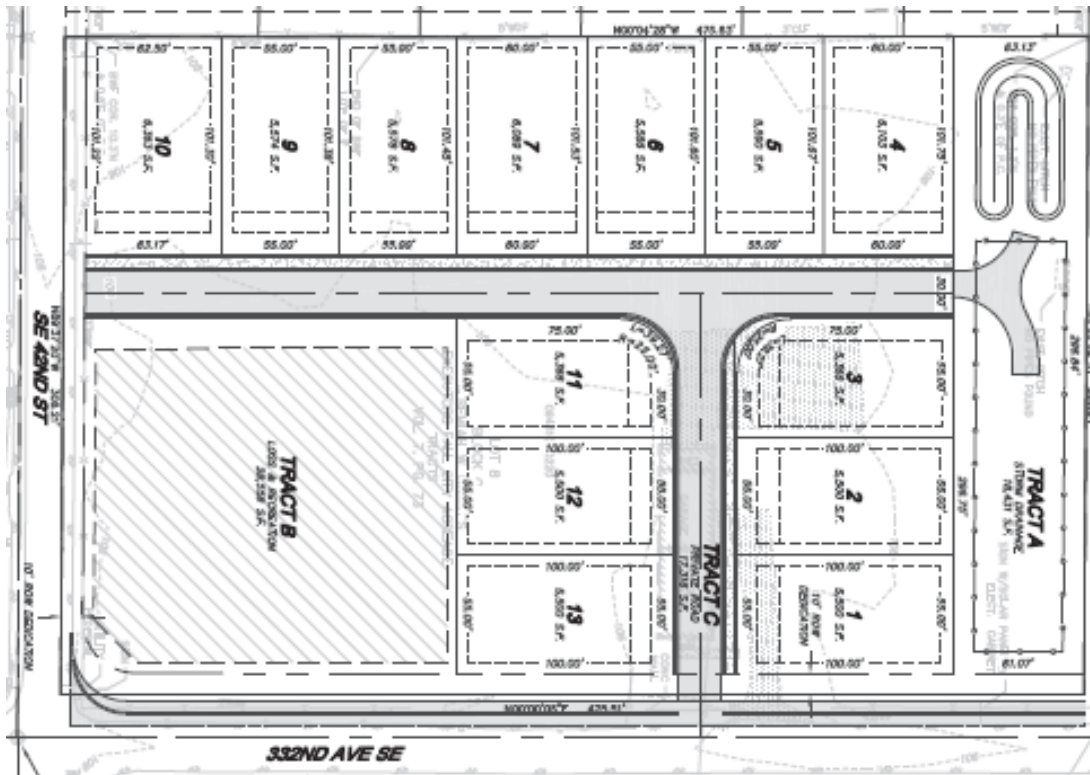
FINDINGS:

1. Except as modified herein, the facts set forth in the Department of Local Services, Permitting Division (Permitting or DLS) report (Staff Report) to the Examiner and the County testimony are found to be correct and are incorporated herein by reference. The Staff Report is generally thorough; many of the findings below are taken directly from it. Ex. D1.
2. The November 17, 2022, Notice of Remote Hearing established January 17, 2023, as the deadline by which members of the public could submit written statements. As the Notice did not specify that written statements must be submitted by close of business, the Examiner accepted comments received by midnight January 17. She did not admit numerous comments received after midnight January 17.
3. In order to approve the proposed subdivision, the Examiner must make findings that appropriate provisions are made for the public health, safety and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school. KCC 20.22.180.A; RCW 58.17.110(1).

Overview

4. Slalom 13 Investments, LLC (Applicant) proposes a subdivision of approximately 3.34 acres, zoned R-4 (four units per acre, Rural Town) into 13 lots for the future development of single-family dwellings with associated roadways, utilities, stormwater facility, and recreation space/Large On-Site Sewage System (LOSS) (Project or proposed subdivision). The Project, known as Fall City II, includes separate tracts for the stormwater facility (Tract A), recreation space/LOSS (Tract B), and the private access road (Tract C). The Project is located at 4135 332nd Ave. SE, Fall City, WA 98024 (Property).
5. At the hearing in this matter, the Applicant was represented by Maher Joudi, a Washington State Professional Engineer and president of D. R. Strong, LLC. Ex. A9 – 001.

6. The basic layout (rotated 90 degrees clockwise for fit and maximum size) is essentially:



7. Access to the site will be via a new 30-foot-wide private road that will connect directly to 332nd Ave SE to the east and SE 42nd Street to the south. The new access includes a 20-foot roadway, curb and gutter, and a 5-foot sidewalk along one side, all within the 30-foot right-of-way. Exs. D1 – 002, D2. Together with its preliminary plat application, the Applicant submitted a Road Standards Variance Request (VARR21-0013) to allow a 20-foot-wide private minor access road with no sidewalks, internal to the site. The King County Road Engineer denied the variance on December 9, 2021; the Applicant submitted a revised request that eliminated individual driveways to 332nd Ave. SE and reflected a 30-foot-wide private minor access road with sidewalks on one side. The King County Road Engineer approved the revised request on April 14, 2022. Exs. D1 – 003, D1 – 005, D1 – 006, D11, D12, D13; testimony of Maher Joudi.
8. As a result of the road standards variance approval, the Applicant made changes to lot layout and road configurations. Permitting determined that the changes were significant and issued a Revised Notice of Application on June 2, 2022. A second comment period was provided from June 2, 2022, through June 27, 2022. Exs. D1 – 003, D5.
9. Fall City Elementary School sits directly across 332nd Ave. SE to the east, a developed 12-lot, single-family subdivision abuts the Property to the west, and existing single-family developments abut the Property to the north and south. These properties are all zoned R-4. Exs. D1 – 004 – 005, D22 – 001.

10. The base density in the R-4 is zone is four dwelling units per acre. Pursuant to KCC 21A.12.030, the subject site would support up to 13 dwelling units (3.34 acres x 4 = 13.36). Four dwelling units per acre is also the maximum density for the R-4 zone within the Rural Town of Fall City.¹ Exs. D1 – 005, D14; KCC 21 A.12.030.B.22.a.
11. The Applicant is proposing lots ranging in size from 5,366 square feet up to 6,363 square feet, with an average size of 5,662 square feet. Ex. D1 – 005.

Public Comments/Concerns

12. During its review, Permitting received comments from the community expressing concerns relating to pedestrian safety, particularly on 332nd Ave. SE and SE 42nd Street, the road variance request (there appears to have been a concern that it might have applied to one of the exterior roads), increased vehicular traffic, and recreational use of the stormwater tract. A representative from the Snoqualmie Indian Tribe Department of Archaeology and Historic Preservation also submitted a request that an archeological review be performed and that the Tribe have the opportunity to be present during any ground disturbance at the site. Copies of the comment letters were shared with pertinent County staff and the Applicant. Exs. D1 – 003, D8, A4.
13. Community members submitted additional comments for the hearing in this matter as well as testimony expressing concerns about compatibility with the rural character of Fall City, the timing of the Transportation Impact Analysis (TIA) (dated August 2022)², the impact of sporting events at the elementary school, traffic calming, neighborhood connections, accessibility and visibility for emergency service vehicles, visitor parking, possible road blockages by construction vehicles, water availability, sewage disposal and the suitability of the area for a LOSS, impervious surfaces, school capacity, the effect of street lighting on the rural area and nocturnal animals, the effect of headlights on residents on the south side of SE 42nd Street, and requests that the Applicant contribute to the west side trail, the Route 202 corridor improvement project and feasibility, and siting and creation of a Fall City Community Center. Exs. P1 – P29; testimony of Rachel Shepard, Carrie Lee Gannon, Angela Donaldson, Duane Blanchard, Cory Huskinson, Megan Brocco, Cindy Parks, Collene Elliott, Clair Parker, Michael Street.
14. The Fall City Community Association submitted a lengthy list of questions about numerous design issues, including planting, irrigation, water sources and wells, street lighting, dust, aesthetics, transportation, recreation, public services and utilities. Many of

¹ The Staff Report erroneously suggests that the Applicant could have proposed use of Residential Density Initiatives or Transfer of Development Rights. These incentives are not available within the Rural Town of Fall City. The Examiner also notes that the Applicant's density calculation worksheet provides a calculation of the minimum density required. The minimum density requirement does not apply within the Rural Town of Fall City. Exs. D1 – 005, D14 – 003; KCC 21A.12.030.B.22.a, KCC 21A.12.030.B.23.

² The TIA was originally prepared January 2020 and updated in August 2022 to address comments received from the County in April 2022. As noted in Finding 30, All Traffic Data conducted traffic counts from 7-9 AM and 4-6 PM in November 2021 when the schools were in session. Ex. D16 – 006; testimony of Spencer Haynie

the written and oral comments expressed frustration that the King County Code, and the R-4 zoning regulations in particular, do not adequately implement the Rural Element of the Growth Management Act (GMA), Chapter 36.70A RCW, or the King County Comprehensive Plan (KCCP), particularly policies R–301 and R–302.³ Exs. P1 – P29; testimony of Rachel Shepard, Carrie Lee Gannon, Angela Donaldson, Duane Blanchard, Cory Huskinson, Megan Brocco, Cindy Parks, Collene Elliott, Clair Parker, Michael Street.

15. The Examiner commends the presentation of members of the public and, in particular, the Fall City Community Association’s PowerPoint presentation contained in exhibit P28. It reflects a great deal of thought, passion for the community and its character, and research. However, its essential argument is that the County has failed to comply with the GMA. As concluded below, that is an issue which must be brought to the Metropolitan King County Council and perhaps to the Growth Management Hearings Board, not to the Examiner.

State Environmental Policy Act (SEPA)

16. Pursuant to SEPA, Chapter 43.21C RCW, the responsible official issued a Determination of Non-significance (DNS) for the proposed subdivision on August 24, 2022. This determination was based on the review of the environmental checklist, Critical Area, Drainage, and Transportation studies and other documents on file, resulting in the conclusion that the requirements for environmental mitigation have been adequately addressed in the development regulations and comprehensive plans adopted under the GMA, and in other applicable local, state, or federal laws or rules, as provided by RCW 43.21C.240 and WAC 197-11-158. The DNS expressly noted that the responsible official considered mitigation measures which Permitting or the Applicant will implement as part of the proposal and that Project must comply with Title 21A KCC, the International Fire and Building Code, King County Road, Design and Construction Standards, Surface Water Design Manual, and grading and critical areas regulations. Exs. D6, D7; KCC 20.44.080.D.
17. The DNS was not appealed. Testimony of Brian Lee.

Cultural Resources

18. The Applicant commissioned a Cultural Resources Assessment from Environmental Science Associates (ESA). The assessment consisted of background research and an archaeological survey of the entire site utilizing both surface and subsurface methods. No recorded cultural resources are known to be within the project area. However, Fall City is known to have been a major village location for Snoqualmie peoples, and is an area of concern for the Snoqualmie Indian Tribe. Based on background research, ESA

³ Exhibit P28-023 does note that KCC 21A.12.030.B.22.a and KCC 21A.12.030.B.23 contain density provisions specific to the R-4 zone in the Rural Town of Fall City: the maximum density is four dwelling units per acre and there is no minimum density.

considered the project area to have a high probability for containing precontact archaeological sites and a moderate probability of containing historic period archaeological sites. Ex. A1.

19. ESA identified no archaeological sites, isolates, or potential cultural indicators (such as concentrations of ash, charcoal, shell, heat-affected soils, or fire-modified rock) during the survey. No landforms with a higher probability of containing cultural resources were identified, and no high probability deposits, such as buried surfaces, were noted. Therefore, ESA recommended that no further cultural resources work be conducted, but did recommend that an Inadvertent Discovery Plan (IDP) be put in place during construction. Ex. A1.
20. The Washington Department of Archaeology and Historic Preservation concurred with the result and recommendations in the Cultural Resources Assessment and also recommended a standard IDP be followed during all ground disturbing activities. The Examiner has added a condition requiring an IDP. Exs. A1, A2; Condition 17.
21. The Applicant has indicated that it is willing to work with the Snoqualmie Indian Tribe to reach an agreement providing an opportunity for the Tribe to be present during any ground disturbing activities and that the agreement would need to address safety, indemnification, insurance, site access and specific activities the Tribe intends to undertake. The Tribe indicated its understanding and acceptance of these needs. Exs. A10, A11, A12 – 001.

Critical Areas

22. Wetland/Stream: The Applicant submitted a wetland and stream reconnaissance report dated December 8, 2021, by Altmann Oliver Associates (AOA). This assessment included an evaluation of the site for wetlands and streams on- and off-site based on site visits in August 2014 and November 2021. The AOA assessment concluded there are no on-site or off-site wetlands, streams or buffers. Exs. D1 – 004, D24.
23. Mapped Critical Areas: The Critical Areas Folio does not identify any mapped critical areas as being present on this site. The Snoqualmie River is located approximately 0.23 miles north/northeast of the site. The Raging River is located approximately 0.52 miles southeast of the site. Ex. D1 – 004.
24. Wildlife:
 - A. AOA prepared a Wildlife Habitat Assessment Report dated December 28, 2022. It indicates that, while the Washington Department of Fish and Wildlife Priority Habitats and Species database (PHS) indicates a Township-wide potential for the gray wolf in the vicinity of the site, the site does not provide habitat for the gray wolf and this data base does not indicate the presence of any data points for any individual WDFW priority species, nor were any identified during the field investigation. In addition, no active breeding sites for species listed in KCC

21A.24.382.B through .J or any other habitat for species of local importance in King County were identified during the site review. Exs. D1 – 004, D25.

- B. Megan Brocco, a long time Fall City resident, noted that wide variety of wildlife have been observed in the area, including black bears, cougar, bobcat, coyote, owls, bald eagles, red tailed hawks, raccoons, opossum, and ring-tailed pheasants, and bees and that wildlife crosses the Project site to reach the Snoqualmie River. Ex. P29; Testimony of Megan Brocco.
 - C. The County’s regulations for protecting wildlife habitat conservation areas are found in KCC 21A.24.382 through 21A.24.388. The protected habitat conservation areas include such things as bald eagle nests, active breeding sites, and wildlife habitat corridors designated in the KCCP. None of the identified habitat conservation areas has been documented as present on site; nor has the KCCP designated a wildlife habitat network at the Project site.
25. Critical Aquifer Recharge Areas: Critical Aquifer Recharge Areas will be protected through Condition 9.G, which requires the provision of appropriate measures to protect groundwater as required by the KCSWDM. Testimony of Maher Joudi; Condition 9.G.

Parking

- 26. Each home will have a two-car garage and a 20-foot-deep driveway to accommodate parking. Testimony of Maher Joudi.
- 27. The grading plans will designate a construction parking and staging area on site. Testimony of Maher Joudi.

Transportation

- 28. The eastern frontage road, 332nd Ave. SE is classified as a rural collector arterial. The 2016 King County Road, Design and Construction Standards (KCRDCS) require a 60-foot minimum right-of-way for a rural collector arterial or 30-feet on either side of the right-of-way centerline. The existing half of the right-of-way fronting the project is 20-foot wide, requiring dedication of an additional 10-feet. The Applicant is proposing a 10-foot of right-of-way dedication. Per the road classification, frontage improvements must include lane widening, extending the shoulder, and installing a ditch. The Applicant proposed a 6-foot-wide shoulder with an extruded curb which would separate pedestrians on the shoulder from vehicles within the travel lane. Dan Gariepy, a civil engineer with King County, clarified the proposed extruded curb will need detailed engineering review and may not ultimately be approved. In addition, two other residential subdivisions with frontage on 332nd Ave. SE (Stevens 21 and Hazel 16) are required to construct half-street frontage improvements including a six-foot paved shoulder. Exs. D1 – 006, D2 – 004, D16 – 005; testimony of Maher Joudi and Dan

Gariepy; Conditions 6, 10.

29. The frontage road on the south of the project, SE 42nd Street, is classified as a rural subcollector. The KCRDCS require a 60-foot minimum right-of-way for a rural subcollector or 30-feet on either side of the right-of-way centerline. The existing half of the right-of-way fronting the project is 20-feet wide and requires an additional 10-feet of dedication. The Applicant is proposing a 10-foot of right-of-way dedication. Per the road classification, frontage improvements must include lane widening, extending the shoulder and installing a ditch. Condition 8 below notes that compliance with the King County Fire Marshal's requirements may result in wider roadway sections than are called for in the 2016 KCRDCS. Ex. D1 – 006; Conditions 6, 8, 10.
30. Transportation Engineering NorthWest (TENW) performed a Level 1 traffic impact analysis (TIA) to evaluate the cumulative impacts of the seven residential plats within what is referred to as the Fall City Assemblage.⁴ All seven of the developments are located south of SR 202 (Redmond Fall City Road SE) between 324th Ave. SE and 332nd Ave. SE. All Traffic Data conducted traffic counts from 7-9 AM and 4-6 PM in November 2021 when the schools were in session. The TIA used a 2% forecasted growth in the vicinity to the year 2025. The Fall City II development is anticipated to generate approximately 154 new average daily trips with approximately 12 new AM peak-hour trips and approximately 15 new PM peak-hour trips. This calculation includes service vehicles (e.g., mail delivery, garbage pick-up) which may serve this proposed subdivision as well as work trips, shopping trips, etc. Exs. D1 – 006, D1 – 007, D16 – 015; testimony of Spencer Haynie
31. The TIA evaluated Level of Service (LOS) for the AM and PM peak hours, for existing, future without the seven developments and future with the seven developments, for two off-site intersections (SE Redmond Fall City Rd./324th Ave. SE and SE Redmond Fall City Rd./332th Ave. SE). The study concludes that the intersections will operate at level-of-service C or better with minimal queuing with the build-out of the seven developments (including the Fall City II subdivision). LOS C is an acceptable LOS. Exs.D1 – 007, D16.
32. The proposed subdivision is located within the Snoqualmie Valley travel shed that currently passes the King County concurrency standard, indicating that transportation improvements or strategies will be in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six years, as required by RCW 36.70A.070(6). Ex. D1 – 007.

Stormwater

⁴ Arlington Court (17 single-family houses); Mount Si (16 single-family houses); Cha Cha 15 (15 single-family houses); Cedar 23 (23 single-family houses); Stevens 21(21 single-family houses); Fall City II (13 single-family houses); Hazel 16 (16 single-family houses). They are depicted on Ex. D16 – 008.

33. The Property is in the Snoqualmie River Drainage Basin in the Snoqualmie River Watershed Inventory Area #7 (WRIA #7). It is subject to Conservation Flow Control and Basic Water Quality requirements of the 2016 King County Surface Water Design Manual (KCSWDM). D. R. Strong prepared a Level 1 downstream analysis for the proposed subdivision pursuant to KCSWDM Core Requirement #2. No downstream nuisances such as erosion, sedimentation, under capacity or flooding were found. The project is not anticipated to create new downstream problems. Final plat approval will require full compliance with the drainage provisions in Chapter 9.04 KCC and the KCSWDM. Exs. D1 – 006, D15; Condition 9.
34. The preliminary project drawings propose a bioswale facility for Water Quality Treatment followed by an infiltration facility for Flow Control. The two facilities combined will meet Conservation Flow Control and Basic Water Quality requirements in accordance with KCSWDM. Exs. D1 – 006, D15.

Schools and safe walking routes

35. Students residing within the Project will be served by Snoqualmie Valley #410 school district at Fall City Elementary School, Chief Kanim Middle School, and Mount Si High School. Students are expected to walk to the elementary and middle schools and be bused to the high school. Exs. D1 – 007, D17.
36. Fall City Elementary School is located directly across 332nd Ave. SE, just east of the proposed subdivision, requiring a short walk south utilizing the newly provided 6-foot shoulder along 332nd Ave. SE, then crossing east at its intersection with SE 42nd Street. This intersection has a two-way stop currently. The posted speed limit on 332nd Ave. SE is 25 mph. Crosswalks exist on south and east legs of the intersection of 332nd Ave. SE and SE 42nd Street. Ex. D1 – 007, D2 – 001, D16 – 010, D17, P2 – 001.
37. Chief Kanim Middle School is also located within a short distance, ¼ mile west of the proposed development. Students attending Kanim will walk south along the new internal access road sidewalk until reaching SE 42nd Street, then traverse west along the existing widened shoulder until reaching the school's main entrance. Ex. D1 – 007, D17, P2 – 001.⁵
38. The nearest bus stop for students attending Mount Si High School is located less than ¼ mile south at the intersection of 332nd Ave. SE and SE 44th Place. Students will traverse south along 332nd Ave. SE on paved shoulders for a block and a half, then cross over to

⁵ The School Walkway Analysis, exhibit D17, was prepared prior to the redesign of the plat providing access to SE 42nd Street as well as 332nd Ave. SE. Hence, it shows middle school students walking south on 332nd Ave. SE rather than the internal plat road. Testimony of Maher Joudi in response to an inquiry from the Examiner.

SE 44th Place to the bus stop. Ex. D1 – 007, D17.⁶

39. The Applicant is willing to install crosswalks on the north and west legs of the intersection of 332nd Ave. SE and SE 42nd Street, subject to County review and approval. The Examiner has added a condition requiring the Applicant to seek approval of these crosswalks. Testimony of Maher Joudi and Huey–yi Sung; Condition 10.G.
40. It should be noted that this area of King County is classified as rural, and as documented in the KCRDCS, land developments in rural areas (including rural towns) shall provide shoulder type road improvements on external roads (as opposed to sidewalk improvements). Ex. D16 – 004.
41. The School District did not provide comment. Ex. D1 – 003; testimony of Brian Lee.
42. The Applicant will be required to pay a school impact fee, the current amount of which is \$16,203 per single family dwelling unit. Ex. D1 – 007; KCC 27.44.010; Condition 12.

Recreation

43. Multiple recreational facilities exist within 0.65 miles of travel distance from the proposed subdivision. The Fall City Park includes amenities such as a baseball diamond, oval track, picnic tables, and a walking path to and along the Snoqualmie River. In addition, assuming that use of Tract B for recreational purposes is approved, the proposed plat will provide a 28,558 square feet on-site recreation space situated within Tract B, significantly exceeding the code-required amount of 5,070 square feet for on-site recreation space. If recreation improvements are not permitted over the drainfield area, the recreation space and improvements will have to be relocated. This may result in the reconfiguration and/or loss of lots and/or recreation area. Ex. D1 – 007; testimony of Cindy Parks; Condition 13.D.
44. A detailed improvement plan for the recreation tract with equipment, landscaping, surfacing, etc. is required for submittal, review, and approval by Permitting prior to engineering plan approval. Ex. D1 – 007 – 008; Condition 13.

Fire Protection

45. The Fall City Water District has issued a Certificate of Water Availability which indicates that water service will be available to the site pending construction of improvements (distribution system) and subject to a Developer Extension Agreement. Prior to final recording of the plat, the water service facilities must be reviewed and approved pursuant to King County Fire Flow Standards.

⁶ The School Walkway Analysis, exhibit D17, was prepared prior to the redesign of the plat providing access to SE 42nd Street as well as 332nd Ave. SE. Hence, it shows middle school students walking south on 332nd Ave. SE rather than the internal plat road. Testimony of Maher Joudi in response to an inquiry from the Examiner.

46. A Fire District Receipt has been provided, demonstrating the proposal subdivision will be served by King County Fire Protection District. Condition 7 below requires that the Applicant obtain the approval of King County Deputy Fire Marshal for the adequacy of the fire hydrant, water main, and fire flow standards of KCC Chapter 17.08. Any future residences are required to be served by sprinklers unless otherwise approved by the King County Fire Marshal or their designee the Exs. D1 – 008, D18, D19; Condition 7.

Sewage Disposal

47. The Applicant proposes to serve the subject subdivision with a Large On-Site Sewage System (LOSS) which will be owned and maintained by a homeowners association or other organization satisfactory to Permitting. The Washington Department of Health (DOH) issued a Notice to Proceed to Soil Inspection on August 31, 2020, indicating approval of the conceptual LOSS septic design. Final approval from DOH is required prior to recording of the final plat the Exs. D1 – 008, D20; Conditions 9, 14, 16.

Water Supply

48. The Applicant proposes to serve the subject subdivision with a public water supply and distribution system managed by Fall City Water District. A Certificate of Water Availability, received on July 9, 2020, indicates the water district's capability to serve the proposed subdivision. Exs. D1 – 008, D18.
49. Any Finding of Fact which should more properly be considered a Conclusion of Law is hereby adopted as a Conclusion of Law.

CONCLUSIONS:

1. Any Conclusion of Law which should more properly be considered a Finding of Fact is hereby adopted as a Finding of Fact.
2. The purpose of Chapter 365-196 WAC is to provide criteria to assist counties and cities in adopting comprehensive plans that satisfy the GMA requirements and development regulations that implement those plans. WAC 365-196-020, 365-196-030(4). Development regulations do *not* include decisions on project permit applications such the proposed subdivision. WAC 365-196-200(8), RCW 36.70B.020(4). WAC 365-196-425 in particular guides the development of the rural element of a comprehensive plan. Again, it does not apply directly to individual projects such as the subject plat.
3. Further, during Project review, applicable development regulations are determinative of the type of land use permitted at the site. RCW 36.70B.030(2)(a). It is true that, in the absence of applicable development regulations, the local government may consider appropriate elements of the comprehensive plan adopted under the GMA to determine the type of land use, level of development and characteristics of the development, among other things. RCW 36.70B.030(1), 36.70B.040(1). However, that is not the case here. The

Metropolitan King County Council has adopted specific density requirements for the Fall City Rural Town and has chosen not to adopt other regulations many of those submitting written or oral comments would prefer. Finally, even assuming there were an inconsistency between the zoning and the KCCP, a specific zoning ordinance prevails over an inconsistent comprehensive plan. *Citizens for Mount Vernon V. City of Mount Vernon*, 133 Wn. 2d 861, 873, 947 2nd 1208 (1997).

4. The Examiner has no authority to require the Applicant to contribute to the west side trail, the Route 202 corridor improvement project and feasibility, or siting and creation of a Fall City Community Center.
5. While the construction of the Project will undoubtedly displace wildlife currently using the site, the Examiner has no authority under the King County Code to condition the Project for wildlife protection.
6. 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 zoning regulations for the Rural Town of Fall City.
7. 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.
8. The conditions for final plat approval set forth below are reasonable requirements and in the public interest.

DECISION:

1. The preliminary plat Fall City II, is approved subject to the following conditions of approval.
2. The plat configuration shall be developed in substantial conformance with the revised preliminary drawings received on February 25, 2022 (Exhibit D2).
3. Compliance with all platting provisions of Title 19A of the King County Code (KCC).
4. 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.
5. The plat shall comply with the density requirements of the R-4 zone classification for the Rural Town of Fall City. All lots shall meet the minimum dimensional requirements of the R-4 zone classification or 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 DLS – Permitting in accordance with KCC 19A.12.030.

Any/all plat boundary discrepancies shall be resolved to the satisfaction of DLS – Permitting prior to the submittal of the engineering plans. 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. Note this may result in the reconfiguration and/or loss of lot(s).

6. All construction and upgrading of public and private roads shall be done in accordance with the 2016 King County Road Design and Construction Standards (KCRDCS) established and adopted by Ordinance 18420, as amended, and approved road variance VARR21-0013.
7. The applicant must obtain the approval of the King County Deputy Fire Marshal for the adequacy of the fire hydrant, water main, and fire flow standards of KCC Chapter 17.08. Any future residences are required to be sprinklered unless otherwise approved by the King County Fire Marshal or designee.
8. Compliance with the requirements of approval from the King County Fire Marshal may require wider roadway sections than are called for in the 2016 KCRDCS.
9. Final plat approval shall require full compliance with the drainage provisions set forth in Chapter 9.04 KCC. 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 Chapter 9.04 KCC and the 2016 KCSWDM must also be satisfied during engineering and final review.
 - A. Drainage plans and analysis shall comply with the KCSWDM and applicable updates adopted by DLS – Permitting. Approval of the drainage and roadway plans is required prior to any construction.
 - B. Current standard plan notes and ESC notes, as established by DLS – Permitting 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 # (DLS – Permitting-issued plan record number to be inserted in space provided) on file with DLS - Permitting and/or the King County Road Services Division. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the

systems shall be constructed at the time of the building permit and shall comply with plans on file.

- D. The site is within the mapped Conservation Flow Control and Basic Water Quality Areas. A full drainage review is required demonstrating compliance with all nine (9) core requirements and all five (5) special requirements of the KCSWDM. Level 2 Flow Control is required for the on-site basin.
 - E. The Flow Control and Water Quality Facilities shall meet the design requirements of the KCSWDM. The Facilities shall be shown on the final engineering plans and documented in the Technical Information Report (TIR) to demonstrate compliance with the KCSWDM.
 - F. To implement the required Best Management Practices (BMPs), the final engineering plans and TIR shall clearly demonstrate compliance with all applicable design standards. The requirements for BMPs are outlined in the 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 BMPs for site development.

The required BMPs shall also be shown on the individual residential building permit applications upon submittal of the permits. The individual building permit applications shall also include the required covenants, easements, notes and other details to implement the BMP design.
 - G. The project is located within a Critical Aquifer Recharge Area and must provide the appropriate measures to protect groundwater as per KCSWDM. These measures may include lining Water Quality and Flow Control Facilities as specified in KCSWDM.
 - H. Retaining walls that are over 4 feet in height measured from the bottom of the footing to the top of the wall shall be designed by a licensed structural engineer.
10. The proposed subdivision shall comply with the 2016 KCRDCS, including the following requirements:
- A. 332nd Avenue SE shall be constructed at a minimum to the rural collector arterial standard per KCRDCS Section 2.02 and Figure 2-001.
 - B. SE 42nd Street shall be constructed at a minimum to the rural subcollector standard per KCRDCS Section 2.02 and Figure 2-001.
 - C. The new interior roads (within Tract C) shall be constructed at a minimum to the urban minor access standard per KCRDCS Section 2.03 and Figure 2-002, except as provided by road variance VARR21-0013.

- D. Private access tracts (PAT) and Joint use driveway tracts (JUD), if any, shall be improved to the PAT and/or JUD standard pursuant to sections 2.09 and 3.01 of the 2016 KCRDCS.
 - E. Comply with road variance VARR21-0013.
 - F. Modifications to the above road conditions may be considered according to the variance provisions in Section 1.13 of the 2016 KCRDCS.
 - G. Following occupancy of all homes within the plat, the Applicant shall seek approval from King County of crosswalks on the north and west legs of the intersection of 332nd Ave. SE and SE 42nd Street and shall install the crosswalks within 3 months of approval, if granted.
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. Lots within this subdivision are subject to Chapter 21A.43 KCC, 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.
13. Suitable recreation space shall be provided consistent with the requirements of KCC 21A.14.180 and KCC 21A.14.190 (i.e., sport court[s], children's play equipment, picnic table[s], benches, etc.)
- A. A detailed recreation space plan (i.e. area calculations, dimensions, landscape specifications, equipment specifications, etc.) shall be submitted for review and approval by DLS - Permitting concurrent with the submittal of the engineering plans.
 - B. Recreation Tract(s) shall be fenced where adjacent to right-of-way and/or private roadway(s) to alleviate potential conflicts between users of recreation tract and vehicles. Fencing shall be a minimum split rail with landscaping and/or vinyl chain link and shown on the detailed recreation plan.
 - C. A performance bond for recreation space improvements shall be posted prior to recording of the plat.
 - D. As recreation space is proposed over the drainfield area (Tract B), the Applicant shall obtain comments and/or approval(s) of the improvements (i.e. play equipment, benches, landscaping, etc.) prior to engineering plan approval. If recreation improvements are not permitted over the drainfield area, the recreation

space and improvements shall be relocated. This may result in the reconfiguration and/or loss of lots.

14. A homeowners' association or other workable organization satisfactory to DLS, shall be established and shall provide for the ownership and continued maintenance of the community drainfield, recreation facilities, and private road(s).
15. Street trees shall be provided as necessary, pursuant to KCRDCS 5.03 and KCC 21A.16.050.
16. Final Health approval shall be obtained from the Washington State Department of Health for the community drainage field prior to final recording.
17. If any employee, contractor, subcontractor, etc. believes a cultural resource and/or human remains have been uncovered at any point in the construction of the project, all work in the area must stop and the location be secured (see Chapter 27.44 RCW). The appropriate Tribes, agencies and authorities (e.g. Snoqualmie Indian Tribe, archaeological consultant, Washington State Department of Archaeology and Historic Preservation, King County Historic Preservation, King County Medical Examiner, King County Sheriff) must be consulted. Work may not resume until all agencies involved have reviewed, made final determinations and approved resumption of work.
18. The subdivision shall conform to Chapter 16.82 KCC relating to grading on private property.
19. Development of the subject property may require registration with the Washington State Department of Licensing, Real Estate Division.
20. Preliminary approval of this application does not limit the applicant's responsibility to obtain any required permit or license from the State or other regulatory body. This may include, but is not limited to the following:
 - A. Forest Practice Permit from the Washington State Department of Natural Resources.
 - B. National Pollutant Discharge Elimination System Permit from the Washington State Department of Ecology.
 - C. Water Quality Modification Permit from the Washington State Department of Ecology.
 - D. Water Quality Certification (401) Permit from U.S. Army Corps of Engineers.

DATED February 1, 2023



Alison Moss, Hearing Examiner pro tem

NOTICE OF RIGHT TO APPEAL

A person appeals this Examiner decision by following the steps described in KCC 20.22.230, including filing with the Clerk of the Council a sufficient appeal statement and a \$250 appeal fee (check payable to the King County FBOD). Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal. KCC 20.22.230 also requires that the appellant provide copies of the appeal statement to the Examiner and to any named parties listed on the front page of the Examiner’s decision.

Prior to the close of business (4:30 p.m.) on *February 27, 2023* an electronic copy of the appeal statement must be sent to Clerk.Council@kingcounty.gov and a paper copy of the appeal statement must be delivered to the Clerk of the Council's Office, Room 1200, King County Courthouse, 516 Third Avenue, Seattle, Washington 98104. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. If the Office of the Clerk is not officially open on the specified closing date, delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

Unless both a timely and sufficient appeal statement and filing fee are filed by *February 27, 2023*, the Examiner’s decision becomes final.

If both a timely and sufficient appeal statement and filing fee are filed by *February 27, 2023*, the Examiner will notify all parties and interested persons and provide information about “next steps.”

MINUTES OF THE JANUARY 19, 2023, HEARING ON PRELIMINARY PLAT APPLICATION FALL CITY II, DEPARTMENT OF LOCAL SERVICES FILE NO. PLAT200003, PROPOSED ORDINANCE NO. 2022-0443

Alison Moss was the Hearing Examiner in this matter. Participating in the hearing were Duane Blanchard, Megan Brocco, Angela Donaldson, Collene Elliott, Carrie Lee Gannon, Daniel Garipey, Spencer Haynie, Cory Huskinson, Maher Joudi, Brian Lee, Clair Parker, Cindy Parks, Jason Refsland, David Schoenmakers, Rachel Shepard, Michael Street, and Huey-yi Sung.

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

| | |
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| Exhibit no. D1 | Preliminary department report, transmitted to the Examiner on January 4, 2023 |
|----------------|---|

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|-----------------|--|
| Exhibit no. D2 | Revised preliminary plan set, dated February 22, 2022 |
| Exhibit no. D3 | Land use permit application, dated October 2, 2020 |
| Exhibit no. D4 | Notice of application, dated January 14, 2021 |
| Exhibit no. D5 | Revised notice of application, dated June 2, 2022 |
| Exhibit no. D6 | Revised State Environmental Policy Act (SEPA) checklist, dated February 25, 2022 |
| Exhibit no. D7 | SEPA determination of non-significance, issued August 24, 2022 |
| Exhibit no. D8 | Public Comments |
| Exhibit no. D9 | Geotechnical Report, dated December 11, 2019 |
| Exhibit no. D10 | Survey map, dated March 10, 2020 |
| Exhibit no. D11 | Road variance request, dated August 4, 2021 |
| Exhibit no. D12 | Road variance decision – denial, dated December 9, 2021 |
| Exhibit no. D13 | Road variance decision- approval, dated April 24, 2021 |
| Exhibit no. D14 | Density calculation worksheet, dated November 21, 2019 |
| Exhibit no. D15 | Revised Technical Information Report, dated February 25, 2022 |
| Exhibit no. D16 | Traffic Impact Analysis, dated August 2, 2022 |
| Exhibit no. D17 | School Walkway Analysis, dated June 5, 2020 |
| Exhibit no. D18 | Certificate of Water Availability, dated July 9, 2020 |
| Exhibit no. D19 | Fire District receipt, dated September 2, 2020 |
| Exhibit no. D20 | Septic System Notice to Proceed, dated August 31, 2020 |
| Exhibit no. D21 | Notice of Public Hearing, dated December 15, 2022 |
| Exhibit no. D22 | Assessors Map |
| Exhibit no. D23 | Revised Land Use Application, dated December 22, 2022 |
| Exhibit no. D24 | Wetland and Stream Reconnaissance Report, dated December 8, 2021 |
| Exhibit no. D25 | Wildlife Habitat Assessment Report, dated December 28, 2022 |
| Exhibit no. D26 | Power Point Summary, submitted January 19, 2023 |
| Exhibit no. D27 | Email on critical aquifer recharge areas, submitted January 19, 2023 |

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

| | |
|------------------|---|
| Exhibit no. A1. | Cultural Resources Assessment, dated October 7, 2021 |
| Exhibit no. A2. | DAHP Archaeology Concurrence letter, dated October 11, 2021 |
| Exhibit no. A3. | Preliminary Landscape-Recreation Plan Set, dated June 6, 2022 |
| Exhibit no. A4. | Additional public comments, dated January and February 2021 |
| Exhibit no. A5. | Slalom 13 Investment, LLC Title Report, dated December 21, 2022 |
| Exhibit no. A6. | Certificate and Transfer Applicant Status, dated December 9, 2022 |
| Exhibit no. A7. | Applicant Status, Permit Transfer, dated December 21, 2022 |
| Exhibit no. A8. | Permit Application; Applicant Affidavit, dated December 21, 2022 |
| Exhibit no. A9. | Expert witness list, summary, and resumes |
| Exhibit no. A10. | Email, Snoqualmie Indian Tribe, dated January 12, 2023 |
| Exhibit no. A11. | Rebuttal of Recommendation P.4., dated January 12, 2023 |
| Exhibit no. A12. | Email, Snoqualmie Indian Tribe, submitted January 19, 2023 |

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

- Exhibit no. P1. Public comment and questions, from Angela Donaldson, dated December 20, 2022
- Exhibit no. P2. Public comment, from Suzanne Glennon, dated January 11, 2023
- Exhibit no. P3. Public comment, from Scott Venn, dated January 12, 2023
- Exhibit no. P4. Public comment, from Karen Fielder, dated January 13, 2023
- Exhibit no. P5. Public comment, from Angela Donaldson, dated January 13, 2023
- Exhibit no. P6. Public comment, from Rick Stamm, dated January 13, 2023\
- Exhibit no. P7. Public comment, from Janice Cannon-Kyte, dated January 15, 2023
- Exhibit no. P8. Public comment, from Mike Suelze, dated January 15, 2023
- Exhibit no. P9. Public comment, from Carol Killingsworth, dated January 16, 2023
- Exhibit no. P10. Public comment, from Teresa Kluver, dated January 16, 2023
- Exhibit no. P11. Public comment, from Russell Cowin, dated January 16, 2023
- Exhibit no. P12. Public comment, from Janet McIntosh, dated the January 16, 2023
- Exhibit no. P13. Public comment, from Cindy Parks, dated January 16, 2023
- Exhibit no. P14. Public comment, from Kevin Little, dated January 16, 2023
- Exhibit no. P15. Public comment, from Celina Travis, dated January 16, 2023
- Exhibit no. P16. Public comment, from Jay Bluher, dated January 17, 2023
- Exhibit no. P17. Public comment, from Mel and Mary Butler, dated January 17, 2023
- Exhibit no. P18. Drone video, submitted by Mike Suelze, submitted January 17, 2023
- Exhibit no. P19. Public comment, from Carrie Schroeder, submitted January 17, 2023
- Exhibit no. P20. Public comment, from Deborah and Robert Arenth, submitted January 17, 2023
- Exhibit no. P21. Public comment, from Dwight and Rebecca Miller, submitted January 17, 2023
- Exhibit no. P22. Public comment, from Rachel Shepard, submitted January 17, 2023
- Exhibit no. P23. Public comment, from Susan Street, submitted January 17, 2023
- Exhibit no. P24. Public comment, from William Swan, submitted January 17, 2023
- Exhibit no. P25. Public comment, from Mike Halim, submitted January 17, 2023
- Exhibit no. P26. Public comment, from Jeanine Pruitt, submitted January 17, 2023
- Exhibit no. P27. Public comment, from Ashley Glennon, submitted January 17, 2023
- Exhibit no. P28. Power Point presentation, from Rachel Shepard, submitted January 19, 2023
- Exhibit no. P29. Public comment, from Megan Brocco, submitted January 17, 2023⁷
- ~~Exhibit no. P30. Public comment, from Danielle Miller, submitted January 18, 2023~~
- ~~Exhibit no. P31. Public comment, from David Meyer, submitted January 18, 2023~~
- ~~Exhibit no. P32. Photographs, from Angela Donaldson, submitted January 19, 2023~~
- ~~Exhibit no. P33. Public comment, from Victoria Engbarth, submitted January 19, 2023~~
- ~~Exhibit no. P34. Public comment, from David and Emily Schoenmakers, submitted January 25, 2023~~

⁷ We originally excluded Exhibit P29 based on the belief that it had been submitted after midnight on January 17. Upon further investigation, we have determined that we received the email shortly before midnight and that the process of converting the email to a PDF changed the date stamp to “January 18.” We have confirmed that the same error did not occur for Exhibits P30-P34 and that they were submitted after midnight.

February 1, 2023

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

King County Courthouse
516 Third Avenue Room 1200
Seattle, Washington 98104
Telephone (206) 477-0860
hearingexaminer@kingcounty.gov
www.kingcounty.gov/independent/hearing-examiner

CERTIFICATE OF SERVICE

SUBJECT: Department of Local Services file no. **PLAT200003**
Proposed ordinance no.: **2022-0443**

FALL CITY II
Preliminary Plat Application

I, Jessica Oscoy, certify under penalty of perjury under the laws of the State of Washington that I transmitted the **REVISED REPORT AND DECISION** to those listed on the attached page as follows:

- EMAILED to all County staff listed as parties/interested persons and parties with e-mail addresses on record.
- placed with the United States Postal Service, with sufficient postage, as FIRST CLASS MAIL in an envelope addressed to the non-County employee parties/interested persons to addresses on record.

DATED February 1, 2023.



Jessica Oscoy
Office Manager

Angrisano, Robert

Arenth, Deborah/Robert

Blanchard, Duane

Bluher, Jay

Brandt, Cory
Slalom Construction LLC
Hardcopy

Brocco, Megan

Butler, Mary/Mel

Cannon-Kyle, Janice
Hardcopy

Cowin, Russell
Hardcopy

Dobkins, Doug
Department of Local Services

Donaldson, Angela/Jeff
Hardcopy

Draw, Basel
DR Strong Consulting Engineers Inc
Hardcopy

Eichelsdoerfer, Robert
Department of Local Services

Eisenhour, Jeffrey
DR Strong Consulting Engineers Inc
Hardcopy

Elliott, Collene

Engbarth, Victoria

Escobar, Lisa

Fielder, Karen

Fitzmaurice, Robert
Taylor Development
Hardcopy

Fox, Ryan
DR Strong Consulting Engineers Inc
Hardcopy

Gannon, Carrie Lee

Gariepy, Daniel
Department of Local Services

Glennon, Ashley
Hardcopy

Glennon, Suzanne
Hardcopy

Halim, Mike

Haynie, Spencer
Transportation Engineering NorthWest
Hardcopy

Huskinson, Lena/Cory

Iverson, Amy

Jensen, David
Jensen Engineering Inc
Hardcopy

Joudi, Maher
DR Strong Consulting Engineers Inc
Hardcopy

Killingsworth, Carol

Kluver, Teresa
Hardcopy

Lee, Brian
Department of Local Services

Little, Kevin

McIntosh, Janet

Meyer, David

Miller, Danielle

Miller, Rebecca/Dwight
Hardcopy

Morgan, Kassandra

Osbekoff, Adam
Snoqualmie Tribe Enviro and Natural Resources Dept

Ostrander, Tom
Hardcopy

Parker, Clair

Parks, Cindy
Hardcopy

Pedroza, Melani
Metropolitan King County Council

Pruitt, Jeanine
Hardcopy

Refisland, Jason

Rowe, Mark

Department of Local Services

Samantha, Samantha

Sampson, Emily

Scheffler, Ryan

Department of Local Services

Schoenmakers, David

Schroeder, Carrie

Hardcopy

Shepard, Rachel

Stamm, Rick

Hardcopy

Steinke, Bill

Street, Michael

Street, Susan

Suelzle, Mike

Sung, Huey-yi

Department of Local Services

Swan, William

Travis, Celina

Venn, Scott