

March 12, 2008

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

400 Yesler Way, Room 404
Seattle, Washington 98104
Telephone (206) 296-4660
Facsimile (206) 296-1654
Email: hearex@metrokc.gov

REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **L05P0028**
Proposed Ordinance No. **2008-0044**

MADELINE MEADOWS

Preliminary Plat Application and Transfer of Density Credits

Location: 27835 – 32nd Place South

Applicant: **John Tamburelli**
646 Southwest 134th Street
Seattle, Washington 98146
Telephone: (425) 228-5959

King County: Department of Development and Environmental Services (DDES)
represented by **Chad Tibbits**
900 Oakesdale Avenue Southwest
Renton, Washington 98055
Telephone: (206) 296-7194
Facsimile: (206) 296-7051

SUMMARY OF RECOMMENDATIONS/DECISION:

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)

EXAMINER PROCEEDINGS:

Hearing Opened:	March 6, 2008
Hearing Closed:	March 6, 2008

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 AND TOPICS ADDRESSED:

Traffic safety, safe walking conditions, transfer of development credits, construction impacts.

SUMMARY:

A subdivision of 12 lots in the urban area, including the transfer of four development credits, is approved subject to conditions.

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

FINDINGS:**1. General Information:**

Developer:	John Tamburelli Yun Property LLC 646 SW 134 th Street Seattle, WA 98146 425-228-5959
Engineer:	Duncanson Company, Inc. 145 SW 155 th Street, Suite 102 Seattle, WA 98166 206-244-4141
STR:	34-22-04
Location:	37835 32 nd Place South
Zoning:	R-4
Acreage:	2.02 acres
Number of Lots:	12
Density:	Approximately 6 units per acre
Lot Size:	Approximately 3,400 to 7,140 square feet in size
Proposed Use:	Single Family Detached Dwellings
Sewage Disposal:	Lakehaven Utility District
Water Supply:	Highline Water District
Fire District:	King County Fire District No. 39
School District:	Federal Way School District

Complete Application Date: December 20, 2005

2. Except as modified herein, the facts set forth in the King County Land Use Services Division's (LUSD) preliminary report to the King County Hearing Examiner for the March 6, 2008 public hearing are found to be correct and are incorporated herein by this reference. The LUSD staff recommends approval of the application, subject to conditions.
3. The current access to the subject property is by way of a private road (32nd Place South) from South Star Lake Road to the north boundary of the property. In addition, South 279th Street is

developed as a sub-collector to the west boundary of the subject property. South 279th Street connects with 31st Place South/30th Place South, which provide a sub-collector route to South Star Lake Road at the 30th Place South/Star Lake Road intersection. This sub-collector route will be the primary access for the subject development to and from the west.

On the east boundary of the subject property, 32nd Place South will be developed initially as a half street, and ultimately as a 48 foot wide public right-of-way to connect with South 280th Street. South 280th Street will provide access from the subject property to and from the east, connecting with 37th Avenue South, which also connects to Star Lake Road.

32nd Place South will be barricaded north of its new intersection with South 279th Street, so that traffic to and from the proposed development will not utilize 32nd Place South as a direct access to and from South Star Lake Road. The barricade will be located south of the existing temporary cul-de-sac (gravel turnaround) that is the south terminus of 32nd Place South as presently developed.

The road connections to be developed as part of this proposed subdivision, with the future anticipated development on the east side of 32nd Place South adjacent to this property, will improve neighborhood traffic circulation and will reduce traffic on South Star Lake Road between 30th Place South and 37th Avenue South. This reduction in traffic on South Star Lake Road will be within an area of narrow shoulders and impaired visibility and will improve neighborhood traffic safety.

4. The proposed development will be served by sidewalks, shoulders and a dedicated pathway that will provide safe walking conditions for students walking to and from the elementary school, middle school and high school that will serve this development.
5. The maximum density permitted in the R-4 zone classification is six dwelling units per acre. This density depends upon the acquisition of transferable density credits, which the applicant has acquired. Proof of the acquisition of sufficient density credits to develop the subject property at the maximum density is a standard condition of final plat approval. All sites located in the urban area of unincorporated King County that are zoned R-4 through R-48 are eligible to be receiving sites for transferable density credits. The adequacy of facilities and services to support the maximum density is determined during the process of applying the appropriate zone classification to the property.
6. The current condition of the private street that provides direct access to and from the subject property from South Star Lake Road, 32nd Place South, is very poor. Construction traffic to and from the subject property will exacerbate that condition. Although the subject property has the legal right to utilize 32nd Place South for access, the final engineering plans should provide an access plan which addresses the impact to 32nd Place South by providing for alternative routing of construction traffic, as feasible, and repair and maintenance of the roadway to mitigate any impacts to safety of all users of 32nd Place South, and impact to the access to all other properties that it serves.

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, drainage ways, streets, other public ways, transit stops, potable water supply, sanitary waste, parks and recreation, 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 and proportionate requirements necessary to mitigate the impacts of the development upon the environment.
4. The dedications of land or easements within and adjacent to the proposed plat, as required for final plat approval or as shown on the proposed revised preliminary plat submitted by the Applicant on October 26, 2007, are reasonable and necessary as a direct result of the development of this proposed plat, and are proportionate to the impacts of the development.
5. The transfer of development credits to achieve the density of six dwelling units per acre, allowing for the development of 12 residential building lots on the subject property, is authorized by Chapter 21A.37 of the King County Code.
6. Due to the current deteriorated condition of 32nd Place South, which provides the sole current access to the subject property and six existing homes north of the subject property, engineering plans should address construction access in a way that limits the impacts to the safety and access of all persons and properties served by 32nd Place South.

DECISION:

The transfer of four density credits to the subject property is approved, subject to the conditions for final plat approval.

The Proposed subdivision, as revised and received October 26, 2007, is granted preliminary approval, subject to the following conditions of final plat approval:

1. Compliance with all platting provisions of Title 19A of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication that includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the base density and minimum density requirements of the R-4 zone classification. All lots shall meet the minimum dimensional requirements of the R-4 zone classification or shall be shown on the face of the approved preliminary plat, whichever is larger, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environment Services.

Any/all plat boundary discrepancy shall be resolved to the satisfaction of DDES prior to the submittal of the final plat documents. As used in this condition, "discrepancy" is a boundary hiatus, an overlapping boundary or a physical appurtenance which indicates an encroachment, lines of possession or a conflict of title.

The applicant shall provide the TDR Certificate with the submittal of the engineering plans and final plat. If the TDR Certificate cannot be obtained, the applicant shall redesign the number of lots based upon the allowable density. This will result in the reconfiguration and loss of lots.

4. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS).
5. 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.
6. The drainage facilities shall meet the requirements of the 2005 King County Surface Water Design Manual (KCSWDM). The site is subject to the Conservation flow control and Basic water quality requirements of the 2005 KCSWDM.
7. A drainage adjustment (L06V0091) is approved for this site. All conditions of approval for this adjustment shall be met prior to approval of the engineering plans.
8. To implement the required Best Management Practices (BMP's) for treatment of storm water, the final engineering plans and technical information report (TIR) shall clearly demonstrate compliance with all applicable design standards. The requirements for best management practices are outlined in Chapter 5 of the 2005 KCSWDM. The design engineer shall address the applicable requirements on the final engineering plans and provide all necessary documents for implementation. The final recorded plat shall include all required covenants, easements, notes, and other details to implement the required BMP's for site development.
9. The proposed subdivision shall comply with the 1993 King County Road Standards (KCRS) including the following requirements:
 - a. South 279th Street shall be improved at a minimum to the urban sub-collector street standard.
 - b. FRONTAGE: The frontage along 32nd Pl S (west side) shall be improved at a minimum to a 14 foot wide driving lane and curb/gutter /sidewalk. The east side of 32nd Pl S shall be improved with a minimum 11 ft driving lane. Adequate R/W shall be dedicated and deeded for this improvement. Note that letters of intent have been received to deed the R/W.

The frontage along 32nd Pl S adjoining Lot 1 shall only be improved (as above) to include the curb return and sidewalk length from the S 279th Street improvement. A type III barricade with a swing-arm gate with appropriate locking mechanism and keys provided to the local emergency responders shall be installed north of the 32nd Place South improvement, and south of the existing gravel turnaround. It is the intent that the existing gravel turnaround be retained north of the barricade. Direct access from Madeline Meadows to South Star Lake Road shall be restricted until such time as 32nd Place South to Star Lake Road is dedicated and accepted as a public street.
 - c. Modifications to the above road conditions may be considered according to the variance provisions in Section 1.08 of the KCRS.
10. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
11. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by

the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at the final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.

12. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (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. The proposed subdivision shall comply with the Critical Areas Code as outlined in K.C.C. 21A.24. Permanent survey marking, and signs as specified in K.C.C. 21A.24.160 shall also be addressed prior to final plat approval. Temporary marking of critical areas and their buffers (e.g., with bright orange construction fencing) shall be placed on the site and shall remain in place until all construction activities are completed.
14. The following note shall be shown on the final engineering plan and recorded plat:

**RESTRICTIONS FOR CRITICAL AREA TRACTS AND CRITICAL
AREAS AND BUFFERS**

Dedication of a critical area tract/critical area and buffer conveys to the public a beneficial interest in the land within the tract/critical area and buffer. This interest includes the preservation of native vegetation for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, and protection of plant and animal habitat. The critical area tract/critical area and buffer imposes upon all present and future owners and occupiers of the land subject to the tract/critical area and buffer the obligation, enforceable on behalf of the public by King County, to leave undisturbed all trees and other vegetation within the tract/critical area and buffer. The vegetation within the tract/critical area and buffer may not be cut, pruned, covered by fill, removed or damaged without approval in writing from the King County Department of Development and Environmental Services or its successor agency, unless otherwise provided by law.

The common boundary between the tract/critical area and buffer and the area of development activity must be marked or otherwise flagged to the satisfaction of King County prior to any clearing, grading, building construction or other development activity on a lot subject to the critical area tract/critical area and buffer. The required marking or flagging shall remain in place until all development proposal activities in the vicinity of the sensitive area are completed.

No building foundations are allowed beyond the required 15-foot building setback line, unless otherwise provided by law.

15. Suitable recreation space shall be provided consistent with the requirements of K.C.C. 21A.14.180 and K.C.C. 21A. 14.190 (i.e., sport court[s], children's play equipment, picnic table[s], benches, etc.).

- a. A detailed recreation space plan (i.e., location, area calculations, dimensions, landscape specs, equipment specs, etc.) shall be submitted for review and approval by DDES and King County Parks prior to or concurrent with the submittal of engineering plans.
 - b. A performance bond for recreation space improvements shall be posted prior to recording of the plat.
16. 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 and critical area tracts.
17. Street trees shall be provided as follows (per KCRS 5.03 and K.C.C. 21A.16.050):
 - a. Trees shall be planted at a rate of one tree for every 40 feet of frontage along all roads. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
 - b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County Department of Transportation determines that trees should not be located in the street right-of-way.
 - c. If King County determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
 - d. The trees shall be owned and maintained by the abutting lot owners *or* the homeowners association or other workable organization unless the county has adopted a maintenance program. Ownership and maintenance shall be noted on the face of the final recorded plat.
 - e. The species of trees shall be approved by DDES if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.
 - f. The applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval.
 - g. The applicant shall contact Metro Service Planning at (206) 684-1622 to determine if South 280th Street or 31st Place South is on a bus route. If South 280th Street or 31st Place South 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.

- 18 A landscape inspection fee shall also be submitted prior to plat recording. The inspection fee is subject to change based on the current county fees.
19. The following have been established by SEPA as necessary requirements to mitigate the adverse environmental impacts of this development. The applicants shall demonstrate compliance with these items prior to final approval.
1. In order to mitigate the significant adverse impact (14.80.030B and PUT10-3-3(PR) §6.2.2.2) that the proposed development will have at the intersection of Star Lake Road/Military Road:
 - a. The Applicant shall reshape Military Road to provide a center merge/refuge lane as necessary to be used to receive left turning vehicles from Star Lake Road. This shall include reconstruction of the existing roadway shoulders in, at least, their current width (KCRS 1.03B, KCRS 3.07B), together with all necessary channelization and illumination in accordance with the 1993 King County Road Standards.
 - b. The Applicant shall widen Star Lake Road to provide a 100 ft. left turn lane on the Star Lake Road approach. This shall include reconstruction of the existing roadway shoulders in, at least, their current width (KCRS 1.03B, KCRS 3.07B), together with all necessary channelization and illumination in accordance with the 1993 King County Road Standards.

Plans for these improvements shall be submitted to the King County DOT Traffic Engineering Section for review and approval.

20. To implement K.C.C. 21A.38.230 which applies to the site, a detailed tree retention plan shall be submitted with the engineering plans for the subject plat. The tree retention plan (and engineering plans) shall be consistent with the requirements of K.C.C. 21A.38.230, as well as the conceptual tree retention plan (dated _____). No clearing of the subject property is permitted until the final tree retention plan is approved by LUSD. Flagging and temporary fencing of trees to be retained shall be provided, consistent with K.C.C. 21A.38.230.B.4. The placement of impervious surfaces, fill material, excavation work, or the storage of construction materials is prohibited within the fenced areas around preserved trees, except for grading work permitted pursuant to K.C.C. 21A.38.230.B.4.d.(2).
21. A note shall be placed on the final plat indicating that the trees shown to be retained on the tree retention plan shall be maintained by the future owners of the proposed lots, consistent with K.C.C. 21A.38.230.B.6. (Note that the tree retention plan shall be included as part of the final engineering plans for the subject plat.)

ORDERED this 12th day of March, 2008.

James N. O'Connor
King County Hearing Examiner *pro tem*

NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) ***on or before March 26, 2008***. 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 April 2, 2008***. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

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

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

MINUTES OF THE MARCH 6, 2008, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L05P0028.

Jim O'Connor was the Hearing Examiner in this matter. Participating in the hearing were Chad Tibbits, Bruce Whittaker, and Kristen Langley, representing the Department; Harold Duncanson representing the Applicant, and Gabe Immordino, Greg Karalus, Carol Gregg, Kim Barntley, and Mary Holden.

The following Exhibits were offered and entered into the record:

- | | |
|--------------------|---|
| Exhibit No. 1 | Department of Development and Environmental Services file no. L05P0023 |
| Exhibit No. 2 | Department of Development and Environmental Services Preliminary Report, dated March 6, 2008 |
| Exhibit No. 3 | Application for Land Use Permits received December 20, 2005 |
| Exhibit No. 4 | SEPA checklist received December 20, 2005 |
| Exhibit No. 5 | SEPA Determination of Non-Significance issued January 18, 2008 |
| Exhibit No. 6 | Affidavit of Posting indicating a posting date of February 10, 2006; received by DDES on February 21, 2006 |
| Exhibit No. 7 | Preliminary plat map received October 26, 2007 |
| Exhibit No. 8 | Revised Level I Downstream Analysis dated December 18, 2006 |
| Exhibit No. 9 | King County Surface Water Design Manual Adjustment file no. L06V0091 issued November 30, 2006 |
| Exhibit No. 10 | Site Observations for parcel no. 3444049226 dated December 19, 2005 |
| Exhibit No. 11 | Conceptual Road, Drainage, Grading, and Utility Plan dated December 20, 2005 |
| Exhibit No. 12 | Conceptual Recreation Space Plan dated December 20, 2005 |
| Exhibit No. 13 | Density Credit Transfer Agreement |
| Exhibit No. 14 | Revised Traffic Impact Analysis dated August 11, 2008 |
| Exhibit No. 15 | Geotechnical Engineering Study dated November 10, 2005 |
| Exhibit No. 16 | Revision to condition 9b of DDES' Preliminary Staff Report |
| Exhibit No. 17 a-f | Photographs of South Star Lake Road intersections with 32nd Place South and 37th Place South, submitted by Greg Karalus |

- Exhibit No. 18 Revision to the second paragraph of condition 9b regarding the barricade on S 32nd
Place South
- Exhibit No. 19 a-b Photographs of proposed subdivision depicting condition of road and numerous
parked vehicles

JNOC:vsm
L05P0028 RPT