

August 17, 2018

**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](mailto:hearingexaminer@kingcounty.gov)  
[www.kingcounty.gov/independent/hearing-examiner](http://www.kingcounty.gov/independent/hearing-examiner)

**ORDER OF REMAND**

SUBJECT: Department of Permitting and Environmental Review file no. **LUT4170003**  
Proposed ordinance no.: **2018-0295**

**RACE TRACK LLC**  
Interim Use Permit

Location: 31001 144th Avenue SE, Kent

Applicant: Jason Fiorito  
*represented by* **Donald Marcy**  
524 Second Avenue Suite 500  
Seattle, WA 98104  
Telephone: (206) 587-0700  
Email: [dmarcy@cairncross.com](mailto:dmarcy@cairncross.com)

King County: Department of Permitting and Environmental Review  
*represented by* **Ty Peterson**  
35030 SE Douglas Street Suite 210  
Snoqualmie, WA 98065  
Telephone: (206) 477-0449  
Email: [ty.peterson@kingcounty.gov](mailto:ty.peterson@kingcounty.gov)

KCC 21A.55.105.X provides that an interim use permit shall include an approved site plan addressing the items enumerated in KCC 21A.55.105.X.1; an approved grading plan in compliance with chapter 16.82 KCC; an approved drainage plan in compliance with the Surface Water Design Manual, and a restoration plan complying with KCC 21A.55.105.X.4. DPER has not approved a site plan, grading plan, drainage plan, or restoration plan. The Hearing Examiner cannot render a decision on the interim use permit without these required plans. However, as discussed at the August 16, 2018 hearing, the requirement for an approved drainage plan is somewhat problematic. The drainage plan will depend on the final grades established following excavation, assuming that the interim use permit is ultimately approved. Consequently, the

drainage plan required for the Hearing Examiner to be able to render a decision on the interim use permit must address those aspects of the Surface Water Design Manual that apply to the excavation. The Interim Use Permit, if ultimately approved, will require a drainage plan for the final elevations and proposed uses.

DPER has recommended that the interim use permit be conditioned upon the preparation of a Sound Control Plan. *See*, Exhibit 2, recommended Condition 5. As discussed at the August 16 hearing, the Hearing Examiner has concluded that it is inappropriate to defer preparation of the Sound Control Plan.

Pursuant to Hearing Examiner Rules of Procedure and Mediation (HER) XV.C, LUT4170003 is **REMANDED** to DPER to:

1. Require and approve:
  - A. A site plan addressing the items enumerated in KCC 21A.55.105.X.1;
  - B. A Drainage Plan addressing those aspects of the Surface Water Manual that apply to the proposed excavation;
  - C. A restoration plan complying with KCC 21A.55.105.X.4; and
  - D. A Sound Control Plan.

2. Require and be ready to approve:

A grading plan in compliance with chapter 16.82 KCC. The Hearing Examiner uses the phrase “be ready to approve” to acknowledge that approval of a grading permit typically requires the posting of a bond and that it is inappropriate to require a bond at this stage in the process.

Following DPER’s review and action on these plans, the Hearing Examiner will reopen the hearing in this matter.

In making its recommendation, DPER applied the Special Use Permit criteria found in KCC 21A.44.050. The Applicant contends that these criteria do not apply. DPER, the Applicant, and Soos Creek Area Response may submit a brief to the Hearing Examiner addressing the appropriate criteria for review of the interim use permit **one week prior to the date of the reopened hearing**.

DATED August 17, 2018.



---

Alison Moss  
Hearing Examiner pro tem

AM/ed

August 17, 2018

**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](mailto:hearingexaminer@kingcounty.gov)  
[www.kingcounty.gov/independent/hearing-examiner](http://www.kingcounty.gov/independent/hearing-examiner)

**CERTIFICATE OF SERVICE**

SUBJECT: Department of Permitting and Environmental Review file no. **LUT4170003**  
Proposed ordinance no.: **2018-0295**

**RACE TRACK LLC**  
Interim Use Permit

I, Elizabeth Dop, certify under penalty of perjury under the laws of the State of Washington that I transmitted the **ORDER OF REMAND** 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.
- caused to be 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 August 17, 2018.



---

Elizabeth Dop  
Legislative Secretary

**Biggerstaff, Brad**

**Bottheim, Steve**

Department of Permitting and Environmental Review

**Carlson, Joanne**

Department of Permitting and Environmental Review

**Casey, Laura**

Department of Permitting and Environmental Review

**Department of Permitting and Environmental Review**

**Elkins, Andrea**

Hardcopy

**Fiorito, Jason**

Race Track LLC

Hardcopy

**Goll, Shirley**

Department of Permitting and Environmental Review

**Huling, Don**

Hardcopy

**Jackson, M J**

Hardcopy

**Jacob Crawford, Lisa Daniels**

Hardcopy

**Johnston, Geraldine**

Hardcopy

**Marcy, Donald**

Cairncross & Hempelmann

Hardcopy

**Neighbours, Bryan**

Hardcopy

**Peterson, Ty**

Department of Permitting and Environmental Review

**Smith, Aaron**

Law Office of Aaron M Smith

Hardcopy

**Worden, Linda**

Hardcopy