M E M O R A N D U M

DATE: September 2, 1998

FROM: R. S. Titus, Deputy King County Hearing Examiner

SUBJECT: Department of Development and Environmental Services File No. **L97P0018**
Proposed Ordinance No. **98-442**
CAMBRIA DIVISION II, Preliminary Plat Application

Location: Lying approximately 200 feet north of the intersection of 229th Place Southeast and Southeast 47th Court

Applicant: Chateau Development, Inc., *represented by* **Robert Johns**
Reed McClure, 701 Fifth Avenue #3600, Seattle, WA 98164

Department: Dept. of Development and Environmental Services, *represented by* **Lanny Henoch**, Site Plan Review
900 Oakesdale Avenue SW, Renton, WA 98055-1219

REGARDING: Conclusion No. 1, Level Open Space

This memorandum is provided to assist with interpretation of conclusion no. 1, page 7, of the Examiner's SECOND Report and Decision n the case indicated above.

In the second paragraph of conclusion no. 1 it is stated that " . . . an Applicant should not be required to provide a level recreational area where no level ground exists." I am concerned that this sentence may be misconstrued or stretched beyond the meaning appropriate to the case of Cambria Division II. *Of course* cut and fill will be commonly required to achieve appropriate recreation or play areas. The Cambria Division II Report and Decision is not intended to suggest otherwise.

However, there sometimes comes a case – such as Cambria Division II – when the overall site topography is so dramatic or steep that there is no reasonable location for recreation/play; and, that *major* grading and terracing would be required. The effort then becomes counter-productive (and arguably unsafe). This Applicant has shown Cambria Division II to be one of those cases.

The Cambria Division II Report and Decision does not purport to establish a particular topographic or circumstantial standard which other cases might rely upon. However, it is clear that – *whatever the standard of reasonableness might be* – it has been exceeded here.

A copy of this interpretive memorandum will be attached to each copy of the Examiner's SECOND Report and Decision (dated August 28, 1998) that is provided to the Metropolitan King County Council, and will be attached to the master file copy maintained by the Office of the Hearing Examiner.

This clarification does not change any appeal dates related to this matter.

August 28, 1998

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KING COUNTY, WASHINGTON
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SECOND
REPORT AND DECISION ON APPLICATION FOR PRELIMINARY PLAT APPROVAL

SUBJECT: Department of Development and Environmental Services File No. **L97P0018**
Proposed Ordinance No. **98-442**

CAMBRIA DIVISION II
Preliminary Plat Application

Location: Lying approximately 200 feet north of the intersection of 229th Place Southeast and Southeast 47th Court

Applicant: Chateau Development, Inc., *represented by* **Robert Johns**, Attorney At Law
Reed McClure, 701 Fifth Avenue #3600, Seattle, WA 98164

Department: Dept. of Development and Environmental Services, *represented by*
Lanny Henoch, Site Plan Review, 900 Oakesdale Avenue SW, Renton, WA 98055-1219

SUMMARY OF DECISION:

Department's Preliminary Recommendation:	Grant preliminary approval, subject to conditions
Department's Final Recommendation:	Grant preliminary approval, subject to conditions (modified)
Examiner's First Decision:	Grant preliminary approval, subject to conditions (modified)
Examiner's Second Decision:	Grant preliminary approval, subject to conditions (modified)

PRELIMINARY MATTERS:

Application submitted:	May 5, 1997
Complete application date:	May 5, 1997

EXAMINER PROCEEDINGS:

Hearing Opened:	June 11, 1998
Administratively Continued:	With consent of parties
Hearing Closed:	June 25, 1998
Hearing Appealed:	July 28, 1998
Hearing Re-Opened; Hearing Closed:	August 25, 1998

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 ADDRESSED:

- Access Routes
- Density (subdivisions)
- Downstream Impacts
- Easements (private)
- Minimum Density
- Notice of Hearing
- Open Space
- Recreation Areas
- Road Capacity
- Road Design
- Road Improvements
- Road Standards
- Sidewalks
- Water Quality
- Wetlands
- Traffic Safety
- Traffic Impacts

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

FINDINGS:

1. **General Information**.

Owner/Developer:	Chateau Development, Inc. 846 – 108th Avenue NE (#202), Bellevue, WA 98004
Engineer:	Pacific Engineering Design, Inc., 130 Andover Park East, #300, Seattle, WA 98188
Location:	Lying approximately 200 feet north of the intersection of 229th Place SE & SE 47th Court
STR:	15-24-06
Zoning:	R-6-P
Acreage:	7.78
Number of Lots:	29
Density:	3.9 dwelling units per acre
Typical Lot Size:	Ranges from approximately 5,150 to 12,500 square feet
Proposed Use:	Detached single-family residences
Sewage Disposal:	Sammamish Plateau Water and Sewer District
Water Supply:	Sammamish Plateau Water and Sewer District
Fire District:	#10
School District:	Issaquah #411
Complete Application Date:	May 5, 1997

2. **Department Report Adopted**. Except as modified herein, the facts set forth in the King County Land Use Services Division's preliminary report to the King County Hearing Examiner for the June 11, and June 25, 1998 public hearings are found to be correct and are incorporated herein by reference. The LUSD staff recommends approval of the application subject to conditions.

3. **Proposal**. Chateau Development, Inc. (the "Applicant"), represented by Robert Johns, proposes to develop a 7.78 acre Sammamish Plateau parcel, classified R-6-P, into 29 single-family residential building lots. The proposed lot sizes range from approximately 5,150 to 12,500 square feet, achieving a density of 3.9 dwelling units per acre.

4. **Review**. The proposed plat of Cambria Division II abuts another proposed plat, Highland Creek Estates III. The two development proposals have followed generally parallel review tracks through DDES. In the case of traffic, a joint traffic study was prepared by consultants to the Applicants at the request of DDES. Further, the public hearings on these two proposals have been conducted concurrently, with the hearing record of each incorporated into the hearing record of the other. Thus, although each of these developments is the subject of a separate Examiner's report, higher review of the Examiner's decision on either application will require consideration of the hearing records of both development proposals.

   Following issuance of the Examiner's first Report and Decision on this matter, July 7, 1998, Steve Parmelee, et al, appealed. In order to assure proper Metropolitan King County Council review of that appeal, proposed ordinance no. 98-442 was introduced. The Examiner then re-opened the public hearing on Cambria Division II and concurrently opened the hearing on proposed ordinance no. 98-442. The hearing record on Cambria Division II is now incorporated in the hearing record on proposed ordinance no. 98-442.

5. **SEPA**. The Department issued its mitigated threshold determination of nonsignificance (MDNS) for the Highland Creek Estates Division III on April 21, 1998. On April 28, 1998, the Department issued the same determination, containing the same mitigating measures, for Cambria Division II. The MDNS for both proposed plats address phosphorus controls to protect downstream Sammamish Basin waters; and, both developments are required to mitigate traffic impacts at the Issaquah Pine Lake Road intersections with Southeast 48th Street and Southeast 42nd Street. These required mitigating measures are described more completely on pages 2 and three of the Department's reports on Highland Creek Estates Division III and Cambria Division II. No person, agency or tribe appealed the threshold determination for either project.

A neighboring property owner objects to the notice provided for these threshold determinations. He was out-of-town when the April 21, 1998 notice was issued; then received no notice of a re-issuance of that same determination. Regarding this complaint, KCC 20.20.060 is instructive. Paragraph G.6 of that section indicates that first class mail notification shall "be considered supplementary to posted notice and be deemed satisfactory despite the failure of one or more owners to receive mailed notice . . ."

6. **Department Recommendation**. The Department recommends granting preliminary approval both to Highland Creek Estates Division III and to Cambria Division II, subject to a variety of conditions of final plat approval that are designed to assure environmental compatibility and consistency with King County planning policies. In the case of Cambria, the Department recommends requiring the twenty conditions of final plat approval that are stated on pages 11 through 16 of the Department's June 11, 1998 report and recommendation to the Hearing Examiner; subject to the following changes:

A. **Driveway Stopping Sight Distance**. The existing vertical curve on Southeast 48th Street at 231st Avenue Southeast will require some improvement to assure a stopping sight distance which is consistent with the King County Road Standards (KCRS) for a neighborhood collector road. Cambria exhibit no. 27 proposes a clarification to this condition which will apply to both Cambria Division II and Highland Creek Estates Division III. This amendment seeks merely to clarify that the stopping sight distance standards will be applied to the public street in front of the driveways.

B. **Easement Disposition**. As contained in its preliminary Cambria report, recommended condition no. 18 would require a twenty-foot-wide access/utility easement (crossing the western margin of proposed lot nos. 5 through 14) to be placed in a separate tract. In response to the Applicant's request, the Department's final recommendation provides for that tract being vacated as an alternative to being set aside in a separate tract.

C. **Density and Lot Configuration**. Recommended condition no. 3 on both the Highland and Cambria Departmental reports contains standard conditional language which seeks to protect both the density standards of the zone classification and the integrity of preliminary plat approval. After considerable public discussion among the Department, the Applicant, and the Examiner, the Department agreed to modify recommended condition no. 3 as indicated here:

The plat shall comply with the base density and minimum density requirements of the R-6 zone classification. All lots shall meet the minimum dimensional requirements of the R-6 zoning classification ((~~or~~)) and shall be generally 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.

D. **King County Road Standards (KCRS) Compliance**. Recommended condition no. 8, as applied to both Cambria Division II and Highland Creek Estates Division III, contains several conditions intended to assure implementation of King County Road Standards. In response to the adequacy of street design concerns expressed by the neighborhood property owners who participated in the public hearing, the Department adds additional recommended condition no. 8 requirements directed toward evaluating the efficacy of "calming devices" and requiring an additional sidewalk along the west side of 229th Place Southeast extending through Cambria Division I. Those recommended changes are included in this Examiner's report as recommended nos. 8.F and 8.G for Highland Creek Estates Division III; 8.E and 8.F for Cambria Division II.

7. **Applicant's Position**. The Cambria Division II Applicant agrees with the Department's final recommendation as indicated in finding no. 6, above; except that the Applicant wants recommended condition no. 16 amended in such a way as to allow greater flexibility for paying a fee-in-lieu of recreation space. The Highland Creek Estates Division III Applicant takes the same position. See finding no. 9, below, regarding **Recreation Space**.

8. **Public Participation**. Several neighboring property owners presented their views regarding both Cambria Division II and Highland Creek Estates Division III.

A. **Traffic On 229th Place Southeast**. Neighboring property owners located south of the proposed development, along 229th Place Southeast, express concern regarding increased traffic likely to be generated by Highland Creek Estates Division III and Cambria Division II. Some apparently were not aware that, when street right-of-way boundary lines "stub" to a plat boundary, it is a sure-fire indication that the street will be extended further someday. (Streets which are planned not to extend further typically are terminated with a permanent cul-de-sac "turnaround.") Since development of existing homesites along 229th Place Southeast, children of homeowners have used the street for play. Now, the property owners fear for the safety of children who have become habituated to lower levels of traffic on 229th.

In addition, these same neighbors express concern regarding the adequacy of 229th Place Southeast improvements as measured by King County Road Standards. The Department of Development and Environmental Services has agreed with these neighbors to the extent that the Department is recommending the addition of a second sidewalk on 229th as well as an engineering evaluation regarding the efficacy of "calming devices" along that street. The Applicant does not object to either added recommendation.

The Department advises that that initial increase in traffic along 229th Place Southeast will diminish over the long term as the neighborhood continues to develop—thereby providing additional linkages among the various plats in this vicinity. When build-out of the area approaches completion, traffic will be more evenly distributed among the various subdivisions. Meanwhile, however, traffic along 229th Place Southeast will approach, but not exceed, design capacity.

B. **Density**. Those properties that are already developed as single-family residential neighborhoods in this vicinity are developed at R-4 zoning density. However, Cambria Division II and Highland Creek Estates Division III are classified R-6, and therefore are required by County regulations to develop at a higher density. The Highland Creek Estates Division III Applicant indicated that, in his many years of land development experience, he has never encountered a property more difficult to develop at required density. This difficulty results from the combined demands on the property for recreational space, steep slopes preservation, and drainage retention, in addition to providing single-family residential lots of sufficient number to satisfy County density requirements. Some neighboring property owners, however, object to the relatively higher density required by the R-6 classification which has been applied to the Highland Creek Estates and Cambria properties by the East Sammamish Community Plan and implementing area zoning.

C. **Downstream Phosphorus Standards**. An interested person, affiliated with Washington Environmental Council, challenged the adequacy of phosphorus controls and the absence of a project phosphorus monitoring requirement. King County has adopted a Sammamish Basin goal of reducing aggregate phosphorus discharges to Lake Sammamish by 50%. However, the County Basin Plan does not require site-by-site, project-by-project monitoring. Rather, the Basin Plan calls for monitoring to be conducted by the County (not individual applicants) for the over-all Basin goal.

9. **Recreation Space**. The Department wants the Applicant to provide recreational open-space within each project. Both developers oppose this requirement, although the Highland application may partially satisfy it. The Applicants cite the Council's decision on Sky Meadows regarding this very issue. The Applicants also cite the steep topography of both properties, noting that any recreational area provided on either of these sites would necessarily be terraced. The Department sees no problem with terraced recreation areas. However, the Applicants challenge the safety and utility of terraced recreation areas. In addition, the Applicants cite the stiff competition for land area within each proposed plat, a competition among various County purposes (expressed by policy and regulation) regarding steep slopes protection, drainage retention and phosphorus control (which requires larger detention facilities), recreation space and minimum density requirements. Even if the Highland Creek Estates Division III site were to offer its best view properties for recreational space, terracing would still be necessary to achieve the County recreational space standards.

In the re-opened hearing, the Department indicated its disagreement with the Examiner's conclusion that recreation facilities are available within a "reasonable distance" from the subject property. In the first hearing, the parties compared this application to the "Sky Meadows" application (located in the Skyway neighborhood). In the re-opened hearing, the Department

again made that comparison, observing that in the case of Cambria Division II the distance to the nearest recreational facility is two miles---significantly further than in the Sky Meadows case. Also, in the case of Cambria II, young children would have to cross an arterial to reach the nearest recreational facility---a situation which did not apply to the Sky Meadows project. In addition, the Department notes, typical school district regulations require busing of students from such distances.

Neither the Applicant nor the Appellant responded to this additional information and argument presented by the Department.

10. **Re-opened Hearing**. During the re-opened August 25, 1998 public hearing, the following issues and topics were addressed:

A. **Recreation Area Requirement**. See finding no. 9, preceding.

B. **Motion To Postpone**. There are other project proposals on the East Lake Sammamish Plateau that involve disputed adequacy of "traffic concurrency" modeling and analysis. Heretofore, that dispute had not been raised in this review. Appellants in this matter, Parmelee et al, moved to postpone the final Hearing Examiner review of Cambria Division II until the Examiner's results on the other pending cases are known. Those cases have been subjected to numerous continuances and postponements.

This Examiner denied the motion, for these reasons: a) The Appellants and makers of the motion (upon whom the burden of proof rests) have not shown that the information contained in the other cases would be either material or relevant to the instant case; and, b) Even if it were material and relevant, the Appellants have not shown that the information could be obtained within the thirty-day time limit that KCC 20.24.098 allows the Examiner to postpone proceedings. (Proceedings may be postponed further, but only with agreement of all parties. In this case, the Applicant indicated unwillingness to agree to any further postponement.

CONCLUSIONS:

1. Both the Applicant and the Department have submitted a variety of similarities and differences, respectively, comparing the Council's appeal decision on Sky Meadows to this case. In the Sky Meadows case, the Council reversed the Examiner's decision to require actual recreation space rather than mere fee-in-lieu compensation. In this case, the Department has convinced me that the alternative appropriate recreation facilities are *not* available within a "reasonable distance." The facts and arguments brought forward in the re-opened hearing by the Department, unrebutted by the Applicant, are compelling. The "reasonable distance" standard is not achieved here.

However, just as in the Sky Meadows case, Cambria Division II has promised a linkage to a nearby trail network which should benefit the Applicant in this review. This development (Cambria Division II) is encumbered with pervasive undulating and rolling topography which renders exceedingly difficult the achievement of County recreation space design standards. The Department suggestion to cut into the slopes to provide rock wall or bulkhead supported terraces would be neither safe nor reasonable from an economic/engineering standpoint. Thus, even though I agree with the Department regarding the Applicant's failure to demonstrate "reasonable distance" to the nearest other recreation facility, I cannot agree with the Department that the highest priced view property on the site should be terraced to provide unsafe and uneconomical

recreation surfaces. For that reason, the Applicant should be provided opportunity to make a payment of fee-in-lieu of recreational open space. In a nutshell, an Applicant should not be required to provide a level recreational area where no level ground exists.

2. As noted by the Department and by the Applicant, the Sammamish Basin Water Quality Plan calls for monitoring to be conducted by the County, not by individual developers. No person has identified any regulation or policy which would authorize the Examiner to unilaterally impose a monitoring requirement on private property developers in this Basin.

3. The traffic concerns of the neighborhood are serious and legitimate. For that reason, recommended conditions 8.A through 8.F, 9.A, 9.B, 11 and 20 should be adopted and rigorously implemented.

4. The wetland conditions of final plat approval contained in recommended condition no. 15.B are consistent with, and implement, King County sensitive areas code requirements.

5. Based upon the whole record, and according substantial weight to the determination of environmental significance made by the Land Use Services Division, it is concluded that approval of this subdivision as recommended below would not constitute a major action significantly affecting the quality of the environment. All evidence of environmental impact relating to the proposed action and reasonable alternatives to the proposed action have been included in the review and consideration of this action.

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

7. 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 drainage ways, streets, other public ways, water supply, and sanitary wastes; and it will serve the public use and interest.

8. The conditions recommended in the Land Use Services Division's Preliminary Report as amended below are in the public interest and are reasonable requirements.

DECISION:

APPROVE the preliminary plat of Cambria Division II subject to the following conditions of final approval:

l. 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 which includes the language set forth in King County Council Motion No. 5952.

3. The plat shall combine with the base density and minimum density requirements of the R-6 zone classification. All lots shall meet the minimum dimensional requirements of the R-6 zoning classification <u>and</u> shall be <u>generally</u> as shown on the face of the approved preliminary plat,

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.

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.

6. The applicant must obtain the approval of the King County Fire Protection Engineer, regarding the adequacy of the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code.

7. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. Preliminary review has identified the following conditions of approval which represent portions of the drainage requirements. All other applicable requirements in KCC 9.04 and the Surface Water Design Manual (SWDM) must also be satisfied during the engineering and final plat review.

A. Drainage plans and analysis shall comply with the 1990 King County Surface Water Design Manual and applicable updates adopted by King County. 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.

Storm water runoff control shall be provided using detention design standards contained within the East Lake Sammamish Basin Plan. The stream protection standard (BW2) applies to this project which limits post development flow rates up through the 100-year storm. Specific design criteria contained within the Basin Plan shall be used for final design of the drainage plans. The proposal to utilize an existing drainage facility within Tract D requires a re-design of the storm water pond to comply with detention standards in the Basin Plan. Prior to approval of the engineering

plans, the applicant must obtain approval for a special use permit from King County to allow construction within Tract D. Since portions of Tract D have been designated as a wetland, proposed construction must be approved by an LUSD senior ecologist.

E. Special Requirement No. 5 - Special Water Quality Controls.

Water quality requirements in the Drainage Manual will be satisfied by compliance with the SEPA mitigation conditions applied to this project. These conditions provide for three design options to limit the release of phosphorus concentrations. As noted in the SEPA determination, the conditions are in lieu of Drainage Manual biofiltration requirements.

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

A. Two-Thirtieth Avenue Southeast shall be improved as an urban subcollector extending southerly from the existing terminus in Highland Creek Estates Division II to the existing road terminus within Cambria. Off-site right-of-way through the Highland Creek Estates Division III property shall be deeded to King County prior to recording, unless Highland Creek Division III and Cambria Division II are recorded concurrently. The engineering plans for the subject plat shall also be designed to comply with approved Road Variance L97V0099, regarding vertical and horizontal road alignment.

B. Road A shall be improved as urban subaccess street.

C. To implement KCRS 5.03, street trees shall be included in the design of all road improvements.

D. Modifications to the above road conditions may be considered by King County, pursuant to the variance procedures in KCRS 1.08.

E. During review of the final engineering plans, the King County Traffic Division shall evaluate the proposed road designs and determine if traffic calming devices are required for the roadways.

F. A sidewalk shall be provided on the west side of 229th Place Southeast extending through Cambria Division I.

9. Off-site road improvements on SE 48th Street shall be provided to improve sight distance and provide better walking conditions for pedestrians. The following improvements shall be included on the final engineering plans:

A. The existing southern shoulder on SE 48th St. shall be improved where necessary to provide an 8-foot-wide shoulder. Gravel surfacing shall be utilized. The required improvements shall be placed within the existing road right-of-way, and shall extend east from 229th Pl. SE to and the Issaquah-Pine Lake Rd. Based on field evaluation of the existing shoulder and potential design constraints, DDES may reduce portions of the shoulder width below eight feet. The existing

sidewalk on the east side of 229th Place SE, adjacent to Cambria, shall also be extended with a curb radii to provide a pedestrian connection to the shoulders on SE 48th St.

B. Two existing driveways located east of 231st Avenue Southeast shall be re-located or the curvature of Southeast 48th Street modified as necessary to achieve stopping sight distance in front of these driveways consistent with King County Road Standards (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 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 KCC 21A.43 and Ordinance 12532 which imposed impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.

13. The following note shall be shown on the final engineering plans and recorded plat:

RESTRICTIONS FOR SENSITIVE AREA TRACTS AND SENSITIVE AREAS AND BUFFERS

Dedication of a sensitive area tract/sensitive area and buffer conveys to the public a beneficial interest in the land within the tract/sensitive 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 sensitive area tract/sensitive area and buffer imposes upon all present and future owners and occupiers of the land subject to the tract/sensitive 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/sensitive area and buffer. The vegetation within the tract/sensitive 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/sensitive 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 sensitive area tract/sensitive 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.

14. The proposed subdivision shall comply with KCC 21A.24. Permanent survey marking, and signs as specified in KCC 21A.24.160 shall be addressed prior to final plat approval. Temporary marking of sensitive 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.

15. Preliminary plat review has identified the following issues which apply to this project. All other applicable requirements for sensitive areas shall also be addressed by the applicant.

A. The subject property is an erosion hazard area, as defined by King County. Therefore, the requirements found in KCC 21A.24.220 concerning erosion hazard areas shall be met, including seasonal restrictions on clearing and grading activities. The time limits during which clearing and grading of the site is permitted shall be clearly shown on the engineering plans. The temporary erosion control plan required by KCC 21A.24.220B shall be reviewed and approved by an LUSD geologist, prior to final engineering plan approval.

B. A Class 3 wetland is located on-site in the vicinity of Lot 1, Lot 2, 228th Pl. SE and Tract C. (This wetland extends off-site as well into Tract D of the plat of Cambria, where stormwater facilities are proposed to serve the subject plat.) The following requirements apply to this wetland:

i. A 25-foot-wide buffer shall be provided where this wetland crosses Lot 1, Lot 2 and Tract C. The wetland and buffer on Lot 1, Lot 2 and Tract C shall be placed in a sensitive area tract (SAT). This will likely involve the elimination of Lot 1, and the modification of Lot 2 and Tract C.

ii. The proposed road crossing of the wetland is permitted, subject to the requirements of KCC 21A.24.330N. A wetland mitigation plan shall be submitted to address the impacts of the crossing. Approval of the plan by an LUSD wetland ecologist is required, and LUSD may require bonding to assure the installation and survival of required plantings.

iii. Wetland buffer averaging may be used as part of the development of the subject plat, subject to the requirements of KCC 21A.24.320B. Approval of a buffering averaging plan by LUSD is required.

iv. With regard to the proposed modifications to the R/D facilities of Tract D of Cambria, ancillary stormwater facilities such as a biofiltration swale or gravel access road may be placed in required wetland buffers, subject to the provisions of KCC 21A.24.330H4 and the approval of LUSD.

16. Suitable recreation space, if provided, shall be consistent with the requirements of KCC 21A.14.180 and 21A.14.190. A recreation space improvement plan shall be reviewed and approved by LUSD and the King County Parks Division prior to engineering plan approval. Finish grades within the recreation space, if any, shall not exceed 5%; however, minor exceptions

may be permitted by LUSD. The Applicant may pay a fee-in-lieu of actual recreation space pursuant to KCC 21A.14.185 with respect to the difference in the amount of on-site recreation required under KCC 21A.14.180 and the amount of actual on-site recreation space developed.

17. A homeowners' association or other workable organization shall be established to the satisfaction of LUSD which provides for the ownership and continued maintenance of the sensitive area tracts, recreation tracts and open space areas.

18. A 20-foot-wide access/utility easement crosses the eastern margin of Lots 5 – 14. This easement shall be placed within a separate tract. The tract may be owned by the homeowners association or conveyed to another party. As an alternative, in lieu of placing this easement in a tract, it may be vacated before final recording.

The following conditions have been established under SEPA authority as necessary to mitigate the adverse environmental impacts of this development. The applicant shall demonstrate compliance with these items prior to final approval.

19. Runoff from impervious surfaces subject to vehicle use or storage &/or transfer of chemicals, petroleum products or wastes must be treated to remove 50 percent of the annual average total phosphorus concentration before discharge to Lake Sammamish or it's tributaries (either natural or engineered). This goal may be met by treating the water quality flow (defined below) with one of the following three on-site treatment options. The design of the facilities shall be approved by King County Water and Land Resource Division (WLRD). Other options that provide an equivalent level of pollutant removal are also acceptable, but must be approved by WLRD.

Option 1: A large wet-pond having a dead storage volume of at least 4.5 times the runoff from the mean annual storm. The mean annual storm is determined by dividing the annual rainfall (in inches) by the number of storms in a typical year. In the Lake Sammamish area, the mean annual storm ranges from about 0.47 to 0.56 inches.

Option 2: A large sand filter treating 95% of the annual average runoff volume as computed by the KCRTS time series. If a detention facility does not precede the sand filter, a pre-settling pond or vault must be provided prior to the sand filter. The pre-settling pond must be sized to hold a volume of 0.75 times the runoff from the mean annual storm.

Option 3: A two-facility treatment train, with the first facility sized to treat the water quality flow (see below), and the second facility a sand filter sized to treat the flow from the first facility, or 90 percent of the annual average runoff volume as computed by the KCRTS time series.

The water quality flow is defined by one of the following:

- The flow generated by 64 percent of the 2-year 24-hour precipitation (SBUH model),
- The flow generated by 60 percent of the developed 2-year peak flow rate (KCRTS model), or
- The flow associated with 95 percent of the annual average runoff volume in the KCRTS time series (typically restricted to sand filter sizing).

This condition is in lieu of the biofilitration required under Core Requirement #3 in the King County Surface Water Design Manual

20. The proposed project will have a significant adverse impact on the following intersections if not mitigated:

- Issaquah Pine Lake Road/SE 48th Street
- Issaquah Pine Lake Road/SE 42nd Street

To mitigate the impact on Issaquah Pine Lake Road/SE 48th Street the applicant shall either:

A Individually construct or proportionally share the construction of a north bound left turn lane on Issaquah Pine Lake Rd at SE 48th St. and a north bound acceleration lane for vehicles turning east to north on Issaquah-Pine Lake Rd.

or

B. Await final plat approval until King County CIP Project #200291 to widen Issaquah-Pine Lake Rd from Issaquah Fall City Rd. to 238th Way SE is within 12 months of construction.

To mitigate the impact on Issaquah Pine Lake Road/SE 42nd Street the applicant shall either:

A. Individually construct or proportionally share the construction of a northbound merge/refuge lane on Issaquah Pine Lake Rd at SE 42nd St. for eastbound to northbound left turning vehicles

or

B. Await final plat approval until the development of Boulder Creek Apartments has an approved permit which includes a public road connecting SE 44th St. to Issaquah Pine Lake Road at the SE Klahanie Blvd. signal.

ORDERED this 28th day of August, 1998.

_____

R. S. Titus, Deputy
King County Hearing Examiner

TRANSMITTED this 28th day of August, 1998 to the parties and interested persons shown on the attached list.

NOTICE OF RIGHT TO APPEAL

The pending appeal filed by Steve Parmelee and others, remains intact and valid. An appeal hearing before the Metropolitan King County Council will be scheduled as soon the appeal period described below has expired. Any other aggrieved party, not included in the Steve Parmelee et al appeal may appeal this Examiner's decision by following the instructions which follow here.

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 September 11, 1998**. 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 September 18, 1998**. 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 JUNE 11, JUNE 25, AND AUGUST 25, 1998 PUBLIC HEARINGS ON KING COUNTY DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L97P0018 – CAMBRIA DIVISION II:

R. S. Titus was hearing examiner in this matter. Participating in the hearing were Joseph Buys, Beth Clark, Tom Harman, Jim Hess, Robert Johns, Jeff King, Steve Parmelee, Tim Lee, Debra Montgomery, Randy Pfluger, Jim McBride, Nancy Ryan, Liz Tickman, Larry Toedtli, Garrett Upper, Thomas Klemens, Laura Casey/DDES, Steve Bottheim/ DDES, Dick Etherington/KCDOT, Aileen McManus/KCDOT, Lanny Henoch/DDES and Peter Dye/DDES.

On June 11, 1998, the following exhibits were offered and entered into the hearing record:

CAMBRIA DIVISION II/L97P0018:

Exhibit No. 1	Department of Development and Environmental Services, Land Use Services Division file no. L97P0018-Cambria Division II
Exhibit No. 2	Department of Development and Environmental Services, Land Use Services Division file no. L97P0018-Cambria Division II staff report prepared for the June 11, 1998 public hearing
Exhibit No. 3	Applicant's application, dated received May 5, 1997
Exhibit No. 4	Environmental checklist, dated received May 5, 1997
Exhibit No. 5	SEPA mitigated determination of nonsignificance, issued April 21, 1998
Exhibit No. 6	SEPA mitigated determination of nonsignificance withdrawal/re-issuance, issued April 28, 1998
Exhibit No. 7	Affidavit of posting for the notice of recommendation and hearing, received June 4, 1998
Exhibit No. 8	Proposed preliminary plat map, received May 5, 1997
Exhibit No. 9	Revised preliminary plat map, received June 5, 1998
Exhibit No. 10	Land use map – Kroll maps 578 east and west
Exhibit No. 11	King County assessor map for the SE ¼ of 15-24-06
Exhibit No. 12	Traffic impact analysis prepared by the Transpo Group, dated November 7, 1997
Exhibit No. 13	Wetland report, prepared by B-twelve Associates, Inc., dated April 29, 1997
Exhibit No. 14	Wetland report, dated May 14, 1998, prepared by B-twelve Associates, Inc., with four attached maps
Exhibit No. 15	Letter, dated May 8, 1998, from Ronald J. Paananen/County Road Engineer, re: road variance application no. L97V0099, and attached May 8, 1998 memorandum containing findings and conclusions
Exhibit No. 16	Letter, dated June 5, 1996, from Jesse Krail/County Road Engineer, re: road variance application no. L95V0010
Exhibit No. 17	Letter, dated March 14, 1997, from George Wannamaker/Acting Managing Engineer, re: road variance application no. L95V0010
Exhibit No. 18	Letter, dated June 5, 1998, from Kathleen Buys/Cambria resident, to King County Hearing Examiner
Exhibit No. 19	Letter, dated June 8, 1998, from James McBride, et al, to DDES
Exhibit No. 20	Letter, dated June 10, 1998, from Victoria Trigg, to KC Hearing Examiner
Exhibit No. 21	Letter, dated June 11, 1998, entered by Nancy Ryan in support of her verbal testimony
Exhibit No. 22	Map, composed of combined Cambria exhibit no 8 and Highland Creek exhibit no 7, sections colored with marker
Exhibit No. 23	7 pages of photos showing streets presently existing in Cambria development which are expected to be impacted by additional developments

On June 25, 1998, the following exhibits were offered and entered into the hearing record:

CAMBRIA DIVISION II/L97P0018:

Exhibit No. 24	Pre-application plat map of Westview on the Highlands
Exhibit No. 25	Letter, dated June 25, 1998, from Upland Homeowners Association, to Hearing Examiner
Exhibit No. 26A	Sky Meadows hearing examiner report and recommendation dated July 15, 1996, with cover letter from Reed McClure, dated June 17, 1998
Exhibit No. 26B	Sky Meadows summary of issues from hearing examiner report dated July 15, 1996
Exhibit No. 26C	Ordinance No. 12451 approving the preliminary plat of Sky Meadows

Exhibit No. 27	DDES modifications to Condition #10B/Highland Creek staff report, and Condition #18/Cambria staff report
Exhibit No. 28	Additions to Condition 8 (both reports)
Exhibit No. 29	Letter, dated June 25, 1998, from Steven Parmelee, to the Hearing Examiner
Exhibit No. 30	Letter, dated June 25, 1998, from Jefferey King, to the Hearing Examiner
Exhibit No. 31	Notes from testimony: Aileen McManus, KCDOT, Traffic Engineering Division
Exhibit No. 32	Highland Creek Estates Division III—L97P0023, exhibit nos. 1 through 18, listed below, incorporated herein by reference

On June 11, 1998, the following exhibits were offered and entered into the hearing record:

HIGHLAND CREEK ESTATES DIVISION III/L97P0023:

Exhibit No. 1	Department of Development and Environmental Services, Land Use Services Division file no. L97P0023-Highland Creek Estates Division III
Exhibit No. 2	Department of Development and Environmental Services, Land Use Services Division file no. L97P0023-Highland Creek Division III staff report prepared for the June 11, 1998 public hearing
Exhibit No. 3	Applicant's application, dated received May 27, 1997 and May 29, 1997
Exhibit No. 4	Environmental checklist, dated received May 27, 1997
Exhibit No. 5	SEPA mitigated determination of nonsignificance, issued April 21, 1998
Exhibit No. 6	Affidavit of posting for the notice of recommendation and hearing, dated received June 4, 1998
Exhibit No. 7	Revised preliminary plat map, received March 30, 1998
Exhibit No. 8	Revised preliminary plat map, received June 5, 1998
Exhibit No. 9	Letter, dated June 4, 1998, from James H. Hess (accompanied exhibit no. 8)
Exhibit No. 10	Land use map – Kroll map 578 east and west
Exhibit No. 11	King County assessor map for SW ¼ of 15-24-06
Exhibit No. 12	Traffic impact analysis prepared by Transpo Group, dated November 11, 1997
Exhibit No. 13	Habitat study, prepared by Terra Associates, Inc., dated April 23, 1997
Exhibit No. 14	Geotechnical report, prepared by Terra Associates, Inc., dated March 13, 1997
Exhibit No. 15	Language to revise condition nos. 8, 10 and 23
Exhibit No. 16	Language to revise condition no. 20

On June 25, 1998, the following exhibits were offered and entered into the hearing record:

HIGHLAND CREEK ESTATES DIVISION III/L97P0023:

Exhibit No. 17	Page 2, preliminary plat application map for Highland Creek Estates Division III
Exhibit No. 18	Highland Creek Estates Division III area map, highlighted to show parks available within surrounding area
Exhibit No. 19	Cambria Division II—L97P0018, exhibit nos. 1 through 31, listed above, incorporated herein by reference

On August 25, 1998, the following exhibits were offered and entered into the hearing record:

CAMBRIA DIVISION II/L97P0018:

Exhibit No. 33	Article entitled "County Traffic Decision At Core Of Appeal" from Issaquah Press, Volume 98, No. 35, Wednesday, August 19, 1998
Exhibit No. 34	Replacement Certificate Of Concurrency #00189 dated September 27, 1995
Exhibit No. 35	Application for Transportation Certificate Of Concurrency received March 4, 1998
Exhibit No. 36	Application for Transportation Certificate Of Concurrency received August 18, 1995

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