

March 5, 2001

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

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REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **L98P0035**
Proposed Ordinance No. 2001-0004

STONECREEK
(aka Stonebridge)
Preliminary Plat Application

Location: Northwest of the intersection of Enchanted Parkway South (SR-161)
and both South 376th Place and South 377th Street

Applicant/
Owner: Lexicon, Inc., Karl Schmiedeskamp, Jr.
Represented by **Ron Guest**
ESM Consulting Engineers
11822 N Creek Pkwy N #106
Bothell, WA 98011

King County: Department of Development and Environmental Services
Land Use Services Division, *represented by*
Fereshteh Dehkordi, Current Planning
900 Oakesdale Avenue Southwest
Renton, Washington 98055-1219
Telephone: (206) 296-7173
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SUMMARY OF 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:	February 6, 2001
Hearing Closed:	February 6, 2001

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

ISSUES/TOPICS ADDRESSED:

- Wetlands
- Transportation concurrency
- Traffic
- King County Road Standards
- Earned density
- Transit/transportation
- Street trees

SUMMARY:

Grants preliminary approval to a subdivision of approximately 10 acres into 41 residential building lots.

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

FINDINGS:

1. General Information:

Owner/Developer:	Lexicon, Inc. Karl Schmeideskamp P. O. Box 623 Woodinville, WA 98072
Engineer:	ESM Consulting Engineers 11822 N Creek Parkway North #106 Bothell, WA 98011
Location:	Northwest of the intersection of Enchanted Parkway South (SR-161) and both South 376 th Place and South 377 th Street
STR:	33-21-04
Zoning:	R-4
Acreage:	10 acres
Number of Lots:	41
Density:	4 du/acre
Typical Lot Size:	Typical 6,000 square feet
Proposed Use:	Residential
Sewage Disposal:	Lakehaven Water and Sewer District
Water Supply:	Lakehaven Water and Sewer District
Fire District:	Federal Way Fire District
School District:	Federal Way School District and Fife School District
Complete Application Date:	October 1, 1998
Name of Proposal:	In many of the review documents, this application is referred to as “Stonebridge.” On public record, the Applicant declares the intention to continue referring to this development as Stonecreek through the remainder of the preliminary and final plat review.

2. **Proposal.**

Based upon Exhibit No. 7, preliminary plat drawing, the Applicant proposes 41 single-family residential lots within a 10-acre parcel. With a typical lot size of 6,000 square feet, the proposed density is four dwelling units per acre—consistent with the R-4 zoning classification that applies. The proposed plat would obtain access to Enchanted Parkway South (SR 161) via existing streets within the abutting subdivision of Kingsgrove. From this circumstance arises the most significant issue of this review.

3. **State Environmental Policy Act**

On December 11, 2000, the Department issued a “mitigated” threshold determination of non-significance. That is, the Department issued its determination that environmental impact statement would not be required *provided* that certain mitigation measures were achieved. The mitigating measures require the payment of a “fair share” contribution (\$10,000) toward the construction of a temporary signal at the SR 161/Military Road South intersection; or provision of a financial guarantee that the signal will be constructed within 12 months following final engineering plan approval of the Stonecreek subdivision.

4. **Department Recommendation.**

The Department recommends granting preliminary approval to the proposed plat of Stonecreek, subject to the 21 conditions of final plat approval stated on pages 7 through 9 of the Department’s preliminary report dated February 6, 2001 (Exhibit No. 2); *subject* to the following changes:

A. **Density; Transit Availability Bonus.**

Recommended Condition No. 4 as stated in the Department’s preliminary report (Exhibit No. 2), required the Applicant to revise the site plan (Exhibit No. 7) to show only 39 lots instead of 41 lots unless the Applicant can show that the transit availability density bonus authorized by KCC 21A.34.040.F.4(C) can be satisfied prior to final approval. Since publication of that recommendation, however, the Applicant has provided materials to the Department which convince the Department that this requirement is now satisfied. Neighboring property owners disagree. For that reason, the issued is explored further in Finding No. 8, below.

B. **Pedestrian Access To Bus.**

The Department agrees that a walkway should be installed to connect proposed 27th Place South (an internal circulatory street proposed to be located within the plat of Stonecreek) to Enchanted Parkway South. There is some disagreement regarding the most appropriate location for that walkway, which is reviewed in Finding No. 7, below.

C. **Off-Site Access.**

Recommended Condition No. 13, as stated on page 8 of the Department’s preliminary report, requires the proposed plat to obtain off-site access via a full-width, dedicated and improved road that has been accepted by King County for maintenance. The Department agrees, however, that full compliance with this recommendation is achieved by the Applicant’s proposed site plan. For that reason, the Department suggests that recommended Condition No. 13 be deleted from the final decision on this proposed preliminary plat.

D. Wetland Mitigation.

In its recommended Condition No. 16.I, the Department notes that accomplishment of the Applicant's proposed mitigation plan will require acquisition of some additional land. Due to that aspect of the Applicant's proposal, the Department now adds to Condition No. 16.I an additional requirement which states, "A lot line adjustment shall be finalized prior to plat recording."

In its "General Information" summary, the Department indicated that the proposed subdivision of Stonecreek would be served only by Federal Way school district. However, the Department's complete report includes in Section J at page 5 a review of Department discussions with both the Federal Way School District and the Fife School District. The complete record shows that the Department was fully cognizant that portions of the proposed plat would be served by different school districts and that this circumstance affected the Department's responsibility to investigate school related matters within the Department's jurisdiction, such as enrollment capacity, school enrollment impact fees, and access.

5. Applicant's Response.

The Applicant accepts the Department's final recommendation as described in Finding No. 4, above, but disagrees with the Department's analysis regarding the Applicant's Certificate of Transportation Concurrency. The Department believes, based on conversation with King County Department of Transportation staff, that the Applicant is authorized a total of 41 lots from a transportation concurrency certification standpoint (40 "new" lots plus one existing lot). However, the Applicant argues that it should be recognized as having qualified for 42 lots (again, from a transportation concurrency certification standpoint) because it added a 40-lot certificate to an earlier 2-lot concurrency certification. This issue appears to be moot, however, because the Applicant proposes only 41 lots. See Exhibit No. 7, Applicant's revised preliminary drawing.

The Applicant favors co-locating the pedestrian walkway with an already proposed shared driveway tract, an issue that is addressed further in Finding No. 7, below.

6. Off-site access.

The internal street system within the proposed plat of Stonecreek will stub to the northerly bordering property, classified R-4, thereby providing for future northerly extension of neighborhood circulation. To the south, proposed 26th Drive South will connect with the existing 26th Avenue South within the southerly abutting plat divisions of Kingsgrove. Future Stonecreek residents will obtain access to Enchanted Parkway South SR (161) via 26th Avenue South and South 377th Street. 377th Street, located within the previously platted Kingsgrove subdivisions. Several Kingsgrove residents have expressed opposition to this plan. They would prefer that Stonecreek would obtain access directly to Enchanted Parkway South while concurrently severing any connection with Kingsgrove. The following findings are relevant:

- A. John Felshaw and Gary Fentress, representing the Kingsgrove Homeowner's Association, proposes that South 377th Street access to Enchanted Parkway South be closed. In that way, upon construction completion, Kingsgrove traffic would pass though Stoncreek instead of visa-versa. Noting that the Washington State Department of Transportation (WSDOT) discourages additional (unnecessary) access intersections, the HOA argues that their alternative would not be an additional access. Rather it would be *alternative* access intersection. The HOA

also argues that traffic back-ups along Enchanted Parkway South (southbound) can sometimes be so severe that they interfere with the South 377th/SR 161 access intersection. The hearing record contains over 100 letters from Kingsgrove residents expressing concern regarding the perceived traffic impact upon public streets.

- B. Some Kingsgrove properties abut wetlands associated with East Hylebos Creek. This, they argue, limits their usage of their back yards, thereby forcing children to play on 26th Avenue and 27th Place South.
- C. A Kingsgrove HOA representative indicates that he was advised by John Collins of WSDOT that replacing the 377th intersection with a more northerly intersection “would be an improvement”. Mr. Collins, testifying in the hearing, indicates that WSDOT “would not object” to switching the access as proposed by the Kingsgrove Homeowners, but that WSDOT has no authority to force it. Mr. Collins also notes that the HOA proposal would increase the development cost to the Applicant. Responding to that viewpoint, an HOA representative suggests that WSDOT relinquish its \$10,000 traffic impact mitigation fee described in Finding No. 3, above, thereby enabling a transfer of that expenditure to the HOA’s alternative.
- D. The Applicant agrees to seek WSDOT approval of temporary direct access to Enchanted Parkway for construction purposes. Such measure would obviously benefit Kingsgrove residents by saving them the temporary inconvenience associated with construction traffic.
- E. The Applicant observes that, regardless of whether access to Enchanted Parkway is obtained via (existing) South 377th Street in Kingsgrove, or via (proposed) South 375th Place in Stonecreek, 26th Drive/26th Avenue/27th Place South will remain a neighborhood collector corridor. Thus, while increasing development costs, homeowners along that route would see no net benefit. Homeowners along South 377th Street, which connects 26th/27th with Enchanted Parkway South, would of course see some reduced traffic. However, the South 377th residents, having lost direct access to Enchanted Parkway, would contribute to increased traffic along the 26th/27th corridor.
- F. The 26th/27th corridor serves as a “Neighborhood collector” pursuant to King County Road Standards (KCRS). It is 38 feet wide and has sidewalks on both sides. Developed under standards which preceded the current 1993 KCRS, 26/27th South is six feet wider than current design standard requires.

Neighborhood collectors are designed to handle 1000 to 3,000 vehicle trips per day. Eileen McManus, King County DOT senior engineer, testifies that the combined existing and projected new daily vehicle trips per day will be “well within” the neighborhood collector—approximately 1,981 vehicle trips per day.

- G. The “subcollector” KCRS standard applies to South 377th Street. It is 30 feet wide, although the current KCRS standard requires only a 28-foot width. It is designed to accommodate approximately 100 PM peak-hour trips. With completion of Stonecreek, the design volume could be slightly exceeded. However, WSDOT plans to limit 377th Street access to SR 161 to “right turn

only” as a part of overall improvements to that street. Further, expected future development of the residentially classified northerly abutting and nearby properties also suggests that southward traffic volumes will one day be diminished by alternative northerly access routes.

- H. The \$10,000 mitigation fee to be paid by the Stonecreek developer to WSDOT is required by the SEPA MDNS as described in Finding No. 3, above. At this stage of the review process that mitigation requirement/condition cannot be removed. The SEPA appeal period expired prior to the hearing on this matter. Consequently, the option of switching that payment to South 377th Street closure is not an available option. Further, the \$10,000 mitigation payment, a partial contribution to a temporary intersection signalization, is based upon probable project impacts upon a street and intersection (SR 161 and the SR 161/Military Road South intersection) that are designated “high accident corridors” (HAC). WSDOT has determined that Stonecreek will have a “significant adverse environmental impact upon this intersection.”

7. **Pedestrian Walkway.**

KCRS Section 2.08.C states:

The engineer or reviewing agency may require an off-street walk or an emergency vehicle access to connect a cul-de-sac at its terminus with other streets, parks, schools, bus stops or other pedestrian traffic generators, if the need exists.

DDES, though not including a recommendation to this effect in its preliminary report, agrees that a pedestrian walkway connector from proposed 27th Place South (within Stonecreek) to Enchanted Parkway South is warranted. Compliance with KCRS Section 2.08.C becomes all the more important when considered in light of DDES’s recommendation to allow a transit availability density bonus (discussed further in Finding No. 8, below).

To serve the most homes most conveniently, the walkway would be located in the vicinity of proposed lots no. 18 and 17. However, the KCRS standard cited above requires the walkway to be located at the cul-de-sac terminus (in this case, in the vicinity of proposed lot nos. 9 through 12, a location preferred by the Applicant).

The Applicant suggests combining an existing access tract to proposed lots nos. 10 and 11 with a pedestrian walkway easement or tract extending eastward to Enchanted Walkway South. Such a design solution, although efficient, could create confusion and dispute between neighborhood pedestrians and the owners of that access tract (presumably, lot owners 10 and 11). In response to that concern, the hearing record suggests that the Department and Applicant agree that the access/walkway tract could be *owned* by the homeowner’s association with a “mere” access easement overlying to the benefit of proposed lots 10 and 11. Even then, confusion could arise regarding conflicting pedestrian and vehicle usage of that tract, depending upon the physical construction method, materials and appearance of the walkway.

8. **Density Bonus.**

In its preliminary report (Exhibit No. 2) the Department opposed granting a “transit availability density bonus” to the Applicant unless compliance with KCC 21A.34.040.F could be shown. Such compliance would authorize 4 additional lots above the 39 lots otherwise allowed. The Applicant is proposing 2 additional lots above that base density. Considering the net developable

area of this property and the R-4 zoning classification, 39 lots would be allowed in the absence of the transit availability bonus. Forty-two lots are proposed. KCC 21A.34.040.F lists *public benefits*¹ eligible to earn density incentives. KCC 21A.34.040.F.4.c provides a 10% increase above the base density of the zone for:

Developments located within one-quarter mile of transit routes served on at least a half-hourly basis during the peak hours and hourly during the daytime non-peak hours.

Exhibit No. 18, submitted by the Applicant, contains bus schedules and calculations which indicate that this project qualifies for the density bonus except that the peak period averages 31 minutes, not 30 minutes between bus trips. A significant portion of the testimony regarding this issue concerns whether King County has the discretion to accept a 31-minute average in lieu of a 30-minute average. The Department expects the peak period bus trip average to improve due to expected improvements to SR 161 and the general practice of transit agencies to increase the number of trips as population within a given area increases. Thus, compliance with the average 30 minute standard, perhaps even within the buildout period of this development, appears to be a good bet. In weighing the acceptability of a transit service related density bonus in this case, it should be remembered that the Applicant seeks only one-half of the authorized density increase— 2 building lots instead of 4.

Adding a single additional peak period bus would bring the average to below 25 minutes between peak period trips. According to the Applicant, Pierce Transit intends to do just that.

9. Department Report Adopted.

Except as noted above, the facts and analysis contained in the Land Use Services Division Preliminary Report dated February 6, 2001 are correct and are incorporated here by reference. A copy of the Land Use Services Division report will be attached to those copies of the examiner's report which are submitted to the King County Council.

10. Any portion of any of the following conclusions that may be construed as a finding is incorporated here by this reference.

CONCLUSIONS:

1. Any portion of any of the above findings that may be construed as a conclusion is incorporated here by this reference.
2. There is no law or policy by which the Applicant may be compelled to move the proposed access to another location. That is, there is no law or policy which requires the Applicant to substitute a new access street for the existing South 377th St. access to SR 161.

Further, the Applicant's \$10,000 transportation impact mitigation payment cannot be transferred to such a project for two reasons. First, the \$10,000 impact payment goes to WSDOT, not King County. There is no mechanism for such an interagency transfer from WSDOT. Second, the \$10,000 mitigation payment is required as SEPA-based impact mitigation to a high accident corridor (HAC) which cannot now be excused. The expert traffic engineering testimony of record indicates that neither the 26th/27th corridor nor South 377th Street will be adversely affected in a manner that unacceptably exceeds King County Road Standards (KCRS). For these

¹ Adopted by Metropolitan King County Council in 1993; Ordinance 10870.

reasons the Department's recommendation and the Applicant's proposal are accepted and given preliminary approval in the decision which follows below.

3. The Applicant's preferred public walkway tract location is also preferred by the KCRS. In this case, however, a more northerly location would obviously serve more people more conveniently. Nonetheless, the decision which follows below will not interfere with the KCRS. The Applicant, KCDOT and DDES are encouraged to seek an agreement which accommodates a more northerly walkway location. However, the location suggested in the hearing – co-located with the access tract serving proposed lots 10 and 11—though less preferable, will be acceptable.

More importantly, the location and design/construction of the walkway must be accomplished in a manner that promotes pedestrian safety and assures public accessibility. Consequently, the decision which follows below (condition No. 4) requires that the walkway tract be owned by the home owners association and, further, that it be designed/constructed in a manner that clearly physically distinguishes it from any vehicular access tract.

4. The Applicant is seeking only two transit related density bonus lots not the possible four lots. The average 31 minute peak period timing of bus trips certainly justifies that modest density increase. Further, improvements to SR 161 and increasing population in the vicinity both promise to generate more frequent trips. For these reasons, the Applicant's request for a transit related density increase pursuant to KCC 21A.34.040.F.4.c will be approved.
5. 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.
6. If approved subject to the conditions recommended below, this proposed subdivision will make appropriate provision for the public health, safety and general welfare and for open spaces, for drainage ways, streets, other public ways, transit stops, potable water supply, sanitary wastes, parks and recreations, playgrounds, schools and school grounds, and safe walking conditions for students who only walk to school; and it will serve the public use and interest.
7. The conditions for final plat approval recommended below are in the public interest and are reasonable requirements to mitigate the impacts of this development upon the environment.
8. The dedications of land or easements within and adjacent to the proposed plat, as recommended by the conditions for final plat approval or as shown on the proposed preliminary plat submitted by the Applicant, are reasonable and necessary as a direct result of the development of this proposed plat.

DECISION:

The proposed plat of Stonecreek, DDES file no. L98P0035, as shown in the Applicant's revised preliminary plat drawing, Exhibit No. 7, dated April 6, 2000, is GRANTED PRELIMINARY APPROVAL; *subject* to the following conditions of final plat approval:

1. Compliance with all platting provisions of Title 19 of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication that includes the language set forth in King County Council Motion No. 5952.

3. The plat shall comply with the 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 as shown on the face of the approved preliminary plat, whichever is larger, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services.
4. Pursuant to KCC 21A.34.040.F.4.c, the Applicant qualifies for 2 additional lots above the base density allowed, thereby qualifying for 41 lots (consistent with the Applicant's preliminary plat drawing (Exhibit No. 7)). In order to retain this transit related density bonus/incentive, the Applicant shall provide a pedestrian walkway connecting proposed 27th Place South and Enchanted Parkway South right-of-way.
 - A. Land Use Services Division shall determine the appropriate walkway location depending upon comments from Pierce Transit and depending on whether KCDOT Road Services Division allows variance from KCRS Section 2.08.C
 - B. The walkway, and sufficient area to contain it consistent with KCRS standards, shall be in a tract owned by the Stonecreek Homeowner's Association. See also Condition No. 13.D, below.
 - C. If the access tract for proposed lot nos. 10 and 11 are co-located, the pedestrian walkway shall be clearly demarcated and physically separated from the vehicular driveway. This may be accomplished by establishing a paved sidewalk, raised curb, or other means acceptable to the review engineer.
5. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS).
6. The Applicant must obtain the approval of the King County Fire Protection Engineer for the adequacy of the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code.
7. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. Preliminary review has identified the following conditions of approval which represent portions of the drainage requirements. All other applicable requirements in KCC 9.04 and the Surface Water Design Manual (SWDM) must also be satisfied during engineering and final review.
 - A. Drainage plans and analysis shall comply with the 1998 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 King County 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 plans on file."

- D. A Surface Water Design Manual Adjustment KC File No. L99V0017 has been approved for this project. All conditions of approval for this adjustment shall be reflected on the engineering plans. The adjustment requires Level 2 Flow Control Methodology as well as downstream improvements per the 1998 King County Surface Water Design Manual (KCSWDM).
8. The proposed subdivision shall comply with the 1993 King County Road Standards (KCRS) including the following requirements:
- A. 26th Drive South shall be improved to the urban subcollector standard. Offsite right-of-way for 26th Drive South(southwest corner of the site) shall be acquired and the necessary documents submitted with the engineering plans.
- B. 27th Place South, S 374th Place, and S 375th Place shall be improved to the urban sub-access standard.
- C. Tracts D, E and F shall be improved as private access tracts per Section 2.09 of the KCRS.
- D. Modifications to the above road conditions may be considered according to the variance provisions in Section 1.08 of the KCRS.
9. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
10. The Applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The Applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
11. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.

12. There shall be no direct vehicular access to or from Enchanted Park Highway (SR 161) from those lots which abut it. A note to this effect shall appear on the engineering plans and final plat.
13.
 - A. Lots 29-31 shall have undivided ownership of Tract D and be responsible for its maintenance.
 - B. Lots 6 and 7 shall have undivided ownership of Tract E and be responsible for its maintenance.
 - C. Lots 10 and 11 shall have undivided ownership of Tract F and be responsible for its maintenance, unless lots 10 and 11 are granted an access easement over a homeowner's association owned tract as permitted by condition 4.
 - D. A note shall be placed on the engineering plans and final plat identifying tract ownership and maintenance responsibility, consistent with condition 4, above. The tract providing pedestrian access shall be owned and maintained by the homeowner's association and shall be placed on the engineering plans and final plat.
14. Any planter island within any cul-de-sac turnaround shall be maintained by the abutting lot owners or homeowners association. This requirement shall be stated on the face of the final plat.
15. Preliminary plat review has identified the following specific requirements which apply to this project. All other applicable requirements from KCC 21A.24 shall also be addressed by the Applicant.
 - A. The Class 2 wetland shall have a 50-foot buffer of undisturbed vegetation as measured from the wetland edge. A 15-foot BSBL shall be established from the edge of buffer and/or the sensitive areas tract(s).
 - B. Impacts to this wetland maybe allowed per KCC 21A.24.330(N) provided the following are met, 1) no alternative access is practical, 2) all crossings minimize impacts to the wetland and provide mitigation for unavoidable impacts, 3) crossings do not change the overall hydrology, 4) crossings do not diminish the flood storage capacity of the wetland, and 5) crossings are constructed during summer low flow.
 - C. A final mitigation plan shall be submitted and reviewed by a King County DDES Senior Ecologist during the final engineering review phase for the proposed impacts to the wetland. The final plan shall specifically address King County Code requirements under 21A.24.340(C, D, E, F, and H).
 - D. Sensitive area tracts shall be used to delineated and protect sensitive areas and buffers in development proposals for subdivisions and shall be recorded on all documents of title of record for all affected lots.
 - E. Prior to commencing construction activities on the site, the Applicant shall mark sensitive areas tracts in a highly visible manner, and these areas must remain so marked until all development proposal activities in the vicinity of the sensitive areas are completed.

- F. Prior to final approval of construction activities on the site, the boundary between the sensitive area tracts and adjacent land shall be identified using permanent signs. Sign specifications shall be shown on approved plans; and
- G. Prior to final recording and or during final engineering review, the plan set shall be routed to the sensitive areas group for review and approval.
- H. A split rail or similar fence approved by DDES shall be constructed along the edge of the sensitive Area Tract prior to final plat approval. Fencing details, construction and location shall be shown on the engineering plans for DDES review and approval.
- I. The purchase of additional land for the wetland mitigation area shall be completed at the time of the engineering plan review. The wetland mitigation area shall become part of the sensitive area tract (Tract B). A lot line adjustment shall be finalized prior to plat recording.
- J. The following note shall be shown on the final engineering plan 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.

17. 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. An overall conceptual recreation space plan shall be submitted for review and approval by DDES, with the submittal of the engineering plans. This plan shall include location, area calculations, dimensions, and general improvements. The approved engineering plans shall be consistent with the overall conceptual plan.
 - B. A detailed recreation space plan (i.e., landscape specs, equipment specs, etc.) consistent with the overall conceptual plan, as detailed in item a., shall be submitted for review and approval by DDES and King County Parks prior to or concurrent with the submittal of the final plat documents.
 - C. A performance bond for recreation space improvements shall be posted prior to recording of the plat.
18. 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, open space and/or sensitive area tract(s).
19. Street trees shall be provided per KCRS 5.03 and KCC 21A.16.050 along SR 161 as follow unless determined otherwise by WSDOT:
 - A. Trees shall be planted at a rate of one tree for every 40 feet of frontage along SR 161. 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.
 1. 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.
 2. 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.
 3. 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.

4. The Applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval.
 5. The Applicant shall contact Pierce Transit Service Planning at 1-800 562-8109 to determine if SR 161 is on a bus route. If SR 161 is a bus route, the street tree plan shall also be reviewed by Metro.
 6. 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.
 7. 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.
20. A 6-foot tall fence shall be constructed along the east boundary of lots 11 through 23.
21. 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.

Washington State Department of Transportation (WSDOT) has identified a HAC (High Accident Corridor) between milepost 32.55 and 33.4 along SR 161. This corridor begins east of 28th Avenue South and includes the intersection of Military Road South. The developer of Enchanted Meadows subdivision is required to construct a temporary signal at this intersection.

Stonecreek will contribute traffic to the intersection of SR 161/Military Road South. Because this portion of SR 161 is within the HAC, WSDOT had determined that Stonecreek will have a significant adverse environmental impact on this intersection. The Applicant has proposed a fair share payment into construction of the temporary signal at \$10,000. Therefore the following mitigation is recommended:

- A. The Applicant shall, in conjunction with the developer of Enchanted Meadows, construct a signal at the intersection of SR 161/Military Road South. Prior to engineering plan approval, the Applicant for Stonecreek shall either:
 1. Provide documentation of a legal agreement between the developers of Stonecreek and Enchanted Meadows subdivisions. The legal agreement shall include a fair share contribution from Stonecreek to Enchanted Meadows to construct a temporary signal or

2. Provide a financial guarantee that the signal will be constructed within 12 months of final engineering plan approval of the Stonecreek subdivision.

ORDERED this 5th day of March, 2001.

R. S. Titus, Deputy
King County Hearing Examiner

TRANSMITTED this 5th day of March, 2001, to the following parties and interested persons:

David Beech	Suzanne Kinkaid	Kevin and Jean McGinnity
Debra Braulik	John/Janis Lewis	Eleanor Moon
Chris Carrel	Jeffery/Karen Markwith	Moreno Family
Debbie Chapman	Linda Matlock	Kirk W. Morris
Linda Corrlis	John/Connie McCrossin	Dan/Michelle Neuman
Alan B. Dahl	Glenn/Allison McEachron	New Home Trends
Chuck/Mona Dermorat	Steve/Laurie McGhee	Mike/Diane Norman
Lawrence R. Dodson	Jerry/Debbie Nuckolls	Brent/Maxine Johnson
Vandana/Sushil Doedhar	M. Green/M. Ochoa	Victor Jarosz
Roger Dorstad	Steve/Barb Ohlde	Julie/Ed Wenick
John/Julianne Felshaw	Arnold and Grits Olsoe	Tom/Marianne West
Gary Frentress	Rick Peterson	Arlo J. Gardner
Greg/Heidi Ruther	Nancy M. Gardner	Christi Sacha
Kathy and Rick Garrity	Karl Schmiedeskamp	Kim Claussen
Susan and Robert Gendron	Sea-KC Health Dept	Fereshteh Dehkordi
G. Greese	C. Session	Curt Foster
Ron Guest	Richard/Melinda Shaw	Nick Gillen
Bruce Harpan	Paige Solsberry	Kristen Langley
Cheryl K. Hearst	Kenneth Stenerson	Aileen McManus
Rebeckah/Rick Henderson	Ronald/Viveca Tarrant	Carol Rogers
Chris Hesse	Lori Thompson	Steven C. Townsend
Terry Hollingsworth	WSDOT	Larry West
Donald Howard	Leonard R. Welter	Bruce Whittaker
		Greg Borba

NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) *on or before March 19, 2001*. 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 March 26, 2001*. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

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

MINUTES OF THE FEBRUARY 6, 2001, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L98P0035 – STONECREEK:

R. S. Titus was the Hearing Examiner in this matter. Participating in the hearing were Ron Guest, John Felshaw, Gary Fentress, Debra Braulick, Fereshteh Dehkordi, Nick Gillen, Aileen McManus, John Collins.

The following exhibits were offered and entered into the record:

- Exhibit No. 1 DDES File No. L98P0035
- Exhibit No. 2 DDES preliminary report dated February 6, 2001
- Exhibit No. 3 Application dated September 3, 1998
- Exhibit No. 4 Environmental Checklist dated August 12, 2000
- Exhibit No. 5 Mitigated Determination of Non-significance dated December 11, 2000
- Exhibit No. 6 Affidavit of posting indicating October 11, 1998 as date of posting and October 13, 1998 as the date the affidavit was received by the DDES
- Exhibit No. 7 Revised Site Plan dated April 6, 2000
- Exhibit No. 8 Assessors Maps, all quarter sections of 33-21-04
- Exhibit No. 9 Land Use Map, Kroll page 752 E & W
- Exhibit No. 10 Level 1 Storm Drainage Analysis dated August 1, 1998 and revised November 30, 1998
- Exhibit No. 11 Level 2 Downstream Drainage Analysis by Triad Associates dated August 10, 1999
- Exhibit No. 12 Sensitive Areas Report by Talasaea Consultants dated August 14, 1998
- Exhibit No. 13 Traffic Impact Analysis by TPE Inc. received September 3, 1998
- Exhibit No. 14 Revised Traffic Analysis (response to Agency comments) received September 25, 2000
- Exhibit No. 15 Certificate of Transportation Concurrency dated September 29, 1998
- Exhibit No. 16 E-mail from Rebecca Campeau KCDOT to Ron Guest dated September 13, 2000
- Exhibit No. 17 Letter from Ron Carvalho WSDOT dated July 26, 2000 re. disposal of property to Stonecreek

- Exhibit No. 18 Fax from Ron Guest to Fereshteh Dehkordi dated January 30, 2001 re: bus schedule
- Exhibit No. 19 WSDOT letter to F. Dehkordi dated December 1, 2000 re: plat access road/Enchanted Parkway
- Exhibit No. 20 Letter, from McGinnity, Felshaw and Fentress to DDES
- Exhibit No. 21 Wetland Mitigation plan
- Exhibit No. 22 Letter from neighbors in area of proposed development
- Exhibit No. 23 Statement of Debra Braulick, read into hearing record

RST:vam/cp

\\L98P0035 rpt