



# CITY OF EDMONDS

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HEARING EXAMINER

MIKE COOPER  
MAYOR

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DEC 27 2011

PLANNING DEPT.

## BEFORE THE HEARING EXAMINER FOR THE CITY OF EDMONDS

Phil Olbrechts, Hearing Examiner

RE: Stonebridge Court  Preliminary Plat Alteration  P-2007-21; PRD-2007-20	<b>FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL DECISION</b>
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### INTRODUCTION

The Applicant requests alterations to an approved preliminary plat and associated planned residential development (“PRD”) in order to comply with a 2007 remand order from the Edmonds Hearing Examiner. The plat and PRD alterations are approved with conditions.

The plat/PRD was initially proposed in 2007 and conditionally approved by the Edmonds Hearing Examiner along with a concurrent order to remand the plat/PRD to provide for perimeter buffers that comply with PRD standards. PRD regulations required a perimeter buffer in exchange for the Applicant’s proposal to reduce setbacks required by the underlying zoning. In response to the remand order the Applicant chose to instead comply with setback requirements, thereby no longer having to provide for a perimeter buffer. The Applicant has further modified the plat/PRD by removing a request to waive lot coverage requirements as authorized by PRD regulations. The Applicant will reduce lot coverage from the originally proposed 55% to 31%, which is within the maximum 35% coverage authorized by the underlying zoning district. Other positive alterations have resulted from the reduction in lot coverage, include increased landscaping and tree retention. The overall adverse impacts of the project have been reduced by the alterations.

### ORAL TESTIMONY

#### Staff Testimony

Mike Clugston, Associate Planner at City of Edmonds, stated that this 10-lot subdivision PRD was initially started in 2007. At this time, the hearing examiner heard the staff comments and approved the 10-lot plat, but remanded the associated PRD. He stated the reason behind this remand was an issue with the perimeter buffer not aligning with ECDC 20.35.050. An application was made after the remand to

1 take the plat to completion with a new PRD plan and plat, and both were very similar  
2 to the original proposal. However, there was a new goal of making the PRD  
3 compliant with ECDC in the new proposal. The plat was altered in several small  
4 ways, he noted. Mr. Clugston stated that, in the new application, the Applicant has  
5 chosen to use the regularly required 25ft setback from the sides and 15ft setback from  
6 the rear, which means no perimeter buffer would be necessary.

7  
8 Mr. Clugston commented that after being submitted to the Architectural Design  
9 Review Board in November, the board recommended approval with some conditions  
10 (attachment f). Additionally, the board was happy to see additional retention of trees  
11 and the added landscaping, he noted.

12 Mr. Clugston testified that staff recommends the updated PRD and plat be approved  
13 by the hearing examiner with the conditions noted on pages 11 and 12 of the  
14 associated remand staff report.

15 Upon questioning by the hearing examiner, Mr. Clugston stated that the difference  
16 between the original and updated proposal is slight. The main difference is that the  
17 lots were not using the proper sized setbacks in order to avoid needing perimeter  
18 buffers, according to Mr. Clugston. Staff and the Architectural Review Board concur  
19 that the overall design (w/ smaller homes and impervious surfaces) is better than the  
20 previous 2007 one, he testified.

#### 21 **Applicant Testimony**

22 Jim Egge, representative for Phoenix Development, stated the staff has done a good  
23 job in summarizing the general issues at hand. Mr. Egge noted that Phoenix  
24 Development has substantially downsized homes in order to meet the adjustment in  
25 total lot coverage recommended by the hearing examiner in 2007. The average is 31  
percent lot coverage which is much lower than the recommended 55 percent by the  
previous hearing examiner, resulting in much more open lot space, according to Mr.  
Egge. He testified that this change added more open space to the back of the  
property. Mr. Egge stated that, by meeting the current setback standards applicable to  
a R-8 zone, more trees and better landscaping would be possible. In addition, by  
adding planter strips between the roadway and sidewalk in lieu of perimeter buffers  
(along with the setbacks), there would be more green space for the area, he said.  
Mr. Egge testified that in comparison to the original staff report from 2007, the  
current report has deleted some of the previous conditions, maintained others, and  
created some new ones. Mr. Egge stated that the seven new conditions in the 2011  
staff report are all acceptable to Phoenix Development.

However, he stated that the condition of all requirements from the 2007 report being  
met raises some issues. Recommended Condition 8 of the staff report includes the  
requirements that were made in the 2007 report. According to Mr. Egge, condition A  
(which discusses sewer and drain installation) of the 2007 report is being met by  
condition B (which requires all sewer and drain installation prior to building permit's

1 being issued) of the new staff report. Mr. Egge remarked that staff has agreed to removing this redundant condition.

2 Mr. Egge testified that original Condition C of the 2007 report (which required the  
3 submittal of a traffic-impact analysis prior to the issuance of a building permit) is also  
4 a point of concern. According to Mr. Egge, the SEPA MDNS, done during the initial  
5 plat approval, only required a payment of an 842 dollar per lot traffic payment fee.  
6 The Applicant requests that Condition C be eliminated because the plat was already  
7 approved in 2007, and the city found the previous study to be sufficient, he stated.  
8 He added that the Applicant is not adding lots so the SEPA findings should remain  
9 adequate.

10 Mr. Egge further noted attachment 8 of the staff report (which is the engineer  
11 requirements of the former plat) should be slightly modified. He asked that reference  
12 be made in attachment 8 to sub item 7 "planting strips" with reference to a  
13 memorandum from the engineering division written on October 20, 2011 (Exhibit 2).  
14 The memorandum notes the acceptance of the planter strips plan by the city,  
15 according to Mr. Egge.

16 The recommended deletions and minor wording adjustments outlined in the staff  
17 report are acceptable to the Applicant. Mr. Egge stated that there are no identified  
18 critical areas on the subject property.

19 The Examiner questioned using traffic data from 2007 to mitigate traffic impacts,  
20 especially if a final plat is not completed for several more years. He asked whether  
21 the Applicant believed that the plat alteration would re-commence the five year  
22 expiration period applicable to plats, or whether the commencement of the expiration  
23 period still related back to the 2007 approval. Mr. Egge stated it was the Applicant's  
24 understanding that the expiration period still commenced from the 2007 approval.  
25 Mr. Clugston concurred.

### 18 **Public Testimony**

19 Colleen McDonald (22028 77<sup>th</sup> Place West) stated she lives downstream from the  
20 storm-drain run-off exit connected to the Applicant's property. Ms. McDonald  
21 testified that she was present for the previous 2007 hearings and is content with many  
22 of the proposed improvements. She noted the inclusion of more trees and green  
23 spaces, along with smaller lot sizes are great improvements. However, she  
24 commented that she remains concerned that 20-30 foot trees will be knocked down  
25 and only replaced with 12 ft trees. She asserted that there does not seem to be any  
penalties in place if large, old-growth trees are accidentally knocked down during  
construction.

25 She further testified about her concern with the SEPA mitigation report and the  
stormwater run-off ditch planned (attachment J). She stated that this impact report  
claims there are no visible signs of eroding, but she contests that the current drainage

1 system goes through her backyard and she has seen the opposite. Currently,  
2 according to Ms. McDonald, there is a large amount of erosion due to the drainage  
3 system in the ditches that travel through her property. She stated the flow rate has  
4 increased substantially in the time since she has been there (5 years), and she fears  
5 further erosion from increased drainage. Ms. McDonald remarked that she is  
6 concerned with the size of the ditch and pipe that will be used and whether it will be  
7 big enough to protect her property from further damage. Additionally, she testified  
8 that the SEPA mitigation does not take into account some amphibian life forms that  
9 live in the area. She also voiced concern that the road-lane is not large enough for a  
10 fire truck to maneuver.

11 She concluded that she does not wish to lose anymore of her property to erosion, but  
12 she is not opposed to the development as long as her concerns are addressed.

13 Joe St. Laurent (218<sup>th</sup> St. SE), representing James Plout who owns the properties  
14 surrounding the proposed lots (east, west, and north-west), stated that the owner of  
15 the surrounding properties is concerned with damage to his trees during the  
16 construction process and increased flooding. Mr. St. Laurent noted that if there is not  
17 a large enough drainage pipe used there could be flooding onto 218<sup>th</sup> St causing  
18 problems for surrounding property owners. From September to April, the current  
19 drainage area is a stream because of the large amount of water, he noted. According  
20 to Mr. St. Laurent, the main concern is the protection of James Plout's properties that  
21 surround the proposed lots on three sides.

22 Alvin Rutledge stated that the city of Edmonds had meetings regarding public works  
23 (including drainage pipes) in the summer and both the Applicant and members of the  
24 public should have attended. They could have received funding from the city to deal  
25 with their current concerns if they had brought them to the city's attention. Mr.  
Rutledge also voiced concern over traffic on 220<sup>th</sup> St., which he believes has  
increased greatly since the time of the first application. He noted recent accidents in  
this area due to speeding and increased volume of traffic. Mr. Rutledge stated that he  
is not against the development, but he wishes to ensure public safety by using a  
current traffic study when creating mitigation plans. Upon questioning by the hearing  
examiner, Mr. Rutledge said he was unsure if the drainage system associated with the  
proposed lots was discussed at the previous city public works meetings.

### 21 **Staff Rebuttal**

22 Mike Clugston, Associate Planner at City of Edmonds, stated that, in regards to Ms.  
23 McDonald's street width concerns, the proposed street widths meet the code from  
24 2007. Moreover, he noted that a condition of approval had been added regarding  
25 street parking. The condition (page 11 of the staff report, condition 2) would require  
signs dictating "No Street Parking," in order to maintain the appropriate space needed  
for emergency vehicles, according to Mr. Clugston.

1 Upon questioning by the hearing examiner, Mr. Clugston testified he was not aware  
2 of any problems in this particular area with the city's drainage systems.

### 3 **Applicant Rebuttal**

4 Jim Egge stated that the street width proposed is 28ft and the typical fire code  
5 standard is 20ft. He remarked that the cul-de-sac also meets city turn-around  
6 requirements. Regarding the drainage system, Mr. Egge noted that a preliminary  
7 drainage analysis had been done in August 2011, but a final drainage analysis is still  
8 required. He stated that the city and civil engineer will ensure that the drainage  
9 system meets requirements and will protect against potential flooding. He added that  
10 an on-site retention vault is part of the current proposal.

### 11 **EXHIBITS**

- 12 Ex. 1: December 1, 2011 staff report with attachments A-N.  
13 Ex. 2: October 20, 2011 memorandum from Jeannie McConnell to Mike  
14 Clugston

### 15 **FINDINGS OF FACT**

#### 16 **Procedural:**

- 17 1. Applicant. The Applicant is Phoenix Development LLC.  
18 2. Hearing. The Hearing Examiner conducted a hearing on the application  
19 on December 8, 2011 at 3:00 p.m. at the Edmonds Public Safety Complex in the  
20 Council Chambers.

#### 21 **Substantive:**

- 22 3. Site/Proposal Description. The Applicant requests a preliminary plat  
23 alteration and planned residential development ("PRD") approval in order to comply  
24 with a remand order from the hearing examiner in PLN2007021. The plat/PRD was  
25 initially proposed in 2007 and conditionally approved by the Edmonds Hearing  
Examiner along with a concurrent order to remand the subdivision to provide for  
perimeter buffers that comply with planned residential development ("PRD")  
standards. PRD regulations required a perimeter buffer in exchange for the  
Applicant's proposal to reduce setbacks required by the underlying zoning. In the  
2007 decision the Examiner determined that the proposal did not comply with these  
buffer requirements. In response to the remand order the Applicant chose to revise  
the plat/PRD to comply with setback requirements, thereby no longer having to  
provide for a perimeter buffer. The Applicant has further modified the plat/PRD by  
removing the request to waive lot coverage requirements as authorized by PRD  
regulations and made other minor revisions. The Applicant will reduce lot coverage  
from the originally proposed 55% to 31%. The lot reduction is the only significant

1 revision to the 2007. Other positive changes have resulted from the reduction in lot  
2 coverage, include retaining additional trees and increasing the amount of landscaping.

3 As revised, the PRD/plat application is for preliminary approval of a 10 lot PRD/plat.  
4 The PRD/plat proposal is composed of two parcels totaling 79,943 square feet. The  
5 subject parcels are located at 7723 and 7807 220<sup>th</sup> Street SW. The site has generally  
6 uniform topography with a slope of about 6% to 10% which drains to a north-south  
7 running ditch that is located on the middle of the site. The site currently has two  
8 unoccupied homes, a carport and a shed.

9 The proposed site plan indicates that 9,123 sq. ft. of usable open space will be  
10 provided. Tract 997 is 392 sq. ft. at the northern end of the proposed cul-de-sac and  
11 will contain two benches. Tracts 998 and 999 are at the southern end of the site  
12 adjacent to 220th Street SW and are 4,367 sq. ft. and 4,364 sq. ft., respectively. Tract  
13 998 is proposed as the location of the stormwater vault and will contain a short  
14 walking path. A walking path and two benches will be located on Tract 999. All  
15 three tracts will be maintained by the proposed Homeowner's Association

16 The PRD application includes three requests for alternative development standards as  
17 follows:

18 Lot Size (ECDC 20.35.030.A.1.b). While the underlying RS-8 zone  
19 regularly requires a minimum 8,000 square foot lot size, the updated  
20 preliminary plat/PRD shows lot sizes ranging from a minimum of 5,611  
21 square feet up to 6,453 square feet (Attachment L). The proposed lot sizes  
22 are specifically proposed as follows, along with lot coverage:

	<b>Proposed Lot Area (sf)</b>	<b>Proposed Lot Coverage</b>
<b>Lot 1</b>	6,187	31.4%
<b>Lot 2</b>	5,727	30.4%
<b>Lot 3</b>	5,716	33.2%
<b>Lot 4</b>	6,453	30.8%
<b>Lot 5</b>	5,611	32.5%
<b>Lot 6</b>	5,669	30.7%
<b>Lot 7</b>	6,417	31.0%
<b>Lot 8</b>	5,713	31.2%
<b>Lot 9</b>	5,731	31.8%
<b>Lot 10</b>	6,187	31.4%

23 Lot Width (ECDC 20.35.030.A.1.c). While the underlying RS-8 zoning  
24 regularly requires a 70-foot lot width, the widths for the updated PRD lots  
25 vary from 55 to 68 feet.

1 Street and Utility Standards (ECDC 20.35.030.A.1.e). The updated design  
2 includes a 5' landscape strip between the curb and sidewalk adjacent to the  
3 proposed 78<sup>th</sup> Place West. Where the sidewalk extends outside of the public  
4 right-of-way, the Applicant is proposing a public walkway easement.

4 4. Characteristics of the Area. The proposed development is surrounded by  
5 single-family neighborhoods on the north and south sides of 220th Street SW, which  
6 is a busy collector street (Attachments 9 and 10 of Attachment F to the staff report,  
7 Ex. 1). Development transitions to multi-family and commercial toward 76th Avenue  
8 and Highway 99 to the east. Across 220th Street to the south lies a portion of  
9 unincorporated Snohomish County known as "Esperance."

8 5. Adverse Impacts. There are no significant adverse impacts created by the  
9 proposal. All adverse impacts of the project were found to be adequately mitigated in  
10 the 2007 approval of the plat/PRD and associated State Environmental Policy Act  
11 ("SEPA") review. The revised proposal only serves to further reduce the adverse  
12 impacts of the project by decreasing lot coverage and increasing landscaping and tree  
13 retention. A reference during public testimony was made that the site contains  
14 amphibians that should be protected, but there was insufficient information presented  
15 to establish that these species were subject to protection under the City's critical areas  
16 regulations not any evidence presented that additional investigation is warranted.  
17 Concerns were also raised about the adequacy of mitigation for tree removal and  
18 insufficiency of penalties for unauthorized removal. Penalties for unauthorized tree  
19 removal have been set and found adequate by the City Council in its adoption of  
20 ECDC 18.45.070, which sets a monetary fine of \$1,000 per tree with up to a three  
21 inch diameter and \$3,000 per trees with a larger diameter. City staff have found the  
22 replacement trees proposed by the Applicant to be adequate and there is no evidence  
23 in the record that supports a finding that larger replacement trees are necessary and/or  
24 could be reasonably required of the Applicant. Infrastructure issues as addressed  
25 below. No other adverse impacts are discernible from the record.

19 6. Adequacy of Infrastructure and Public Services. As conditioned by this decision,  
20 adequate infrastructure will serve development as follows:

21 • Drainage: A couple adjoining property owners expressed concern over drainage  
22 issues on their property, citing erosion caused by a drainage ditch/stream that will be  
23 used for the project and an increase in run-off since the project was reviewed in 2007.  
24 The decrease in impervious surface can result in a change of storm water impacts  
25 (presumably for the better), so a re-assessment of impacts is appropriate. The  
updated drainage analysis, Attachment J to the staff report, concludes that revisions to  
the project will not adversely affect adjoining property owners. However, it is  
unclear whether a current site visit was conducted or that increases in flows since  
2007 were considered. Staff shall verify whether project design adequately addresses  
the increase in flows asserted during public testimony and shall require further  
mitigation as necessary to ensure that there is no off-site flooding or erosion impacts

1 created by the project. All other storm water issues are adequately addressed by the  
2 City's storm water regulations.

3 • Transportation: There will be no change in the number of residences in the  
4 project, so there will be no material change in off-site traffic impacts. The Applicant  
5 and Staff agreed during the hearing that the five year time limit for filing a final plat  
6 application, as required by ECDC 20.75.100, commences from the date of the 2007  
7 preliminary plat approval, not the date any plat alteration is approved. Consequently,  
8 the use of a traffic study conducted in 2007 for this project would be no different than  
9 any other subdivision Applicant who has five years to complete preliminary plat  
10 improvements prior to final plat approval.

11 Related to this issue, during the hearing the Applicant requested revision to Condition  
12 C of the 2007 Examiner decision. Condition C will not be revised. Condition C  
13 requires the Applicant to submit a Traffic Impact Analysis ("TIA") that demonstrates  
14 that traffic impacts do not lower applicable level of service standards prior to the  
15 issuance of building permits. The Applicant asserted during the hearing that the  
16 SEPA MDNS already imposes a traffic mitigation fee to mitigate off-site traffic and  
17 that this issue could not be revisited. There are two problems with this position.  
18 First, the courts have ruled that a SEPA determination does not preclude the  
19 consideration of environmental impacts in an associated permit application if the  
20 criteria require that consideration. See *Quality Rock Products v. Thurston County*,  
21 139 Wn.2d 125 (2007). The adequacy of infrastructure, including traffic, is a key  
22 consideration in subdivision review and the Hearing Examiner had full authority to  
23 consider and require that off-site traffic impacts were fully mitigated. Second, the  
24 Applicant is arguing that the 2007 SEPA traffic analysis is sufficient while at the  
25 same time arguing that the additional TIA required by the Examiner for the 2007  
plat/PRD approval should not apply. The Examiner concluded that there was  
adequate traffic infrastructure because of a combination of the SEPA mitigation and  
his condition for the TIA. The Applicant isn't in a position to argue that the traffic  
conditions of approval that applied in 2007 are inviolate while at the same time  
arguing that others should be changed to its benefit. If there was a problem with  
Condition C a timely appeal should have challenged it after issuance of the 2007  
decision.

21 The interpretation of Condition C will be left to staff during implementation of this  
22 decision. To facilitate matters, the Examiner points the parties to Finding of Fact No.  
23 22 of the 2007 decision, where the Examiner notes that despite repeated requests for a  
24 TIA he was only given its first page. The 2007 Examiner found traffic mitigation to  
25 be adequate based upon the SEPA mitigation fee, but wanted confirmation through  
the full TIA report that the SEPA mitigation actually did maintain level of service  
standards. From this discussion it appears that the 2007 TIA should still satisfy  
Condition C.

• Parks and Open Space: In his conclusions regarding the adequacy of parks and  
open space the Examiner found in the 2007 decision that the project provided on-site

1 open space and recreational facilities to satisfy the adequacy requirements for both  
2 the PRD and the preliminary plat. As shall be discussed in the Conclusions of Law,  
3 there are only minor revisions to the amount of open space provided and the space  
4 still meets PRD open space standards. Tract 997 has been reduced in sized by 143  
5 square feet but the open space and open space amenities have not been altered in any  
6 material way and they are still adequate to meet the needs of the development.  
7 Conclusion Page 7 of the staff report also concludes that the facility is served by  
8 existing parks in the area.

9 • Water and Sewer: The 2007 conditions of approval, adopted into this decision,  
10 require the Applicant to demonstrate that the City has adequate water and sewer  
11 capacity.

12 • Fire Protection: Public testimony included a concern over the width of the  
13 internal streets, claiming that the internal road and cul de sac are not wide enough for  
14 fire access. As noted by the Applicant, the internal road complies with the fire access  
15 standards of the International Fire Code. As noted in the staff report in Section VII,  
16 Fire District No. 1 has also reviewed the proposal and recommended a condition,  
17 adopted by this decision, which requires restrictions on street parking on 78<sup>th</sup> Pl. SW  
18 in order to maintain emergency access. The need for these restrictions will be  
19 assessed during review of the civil plans. The Fire District did not express any other  
20 concerns with the revised proposal. There is nothing in the record to otherwise  
21 suggest any other deficiencies in fire protection services. The revised proposal  
22 provides for adequate fire protection.

23 • Schools and Sidewalks: The project is served by adequate schools and sidewalks  
24 to and from school and other public facilities as determined by Finding of Fact No. 19  
25 of the 2007 decision, adopted and incorporated by this reference as if set forth in full.

## CONCLUSIONS OF LAW

### **Procedural:**

1. Authority of Hearing Examiner. ECDC 20.01.003 provides the Hearing  
2 Examiner with the authority to hold a hearing and issue a final decision on  
3 preliminary PRD and preliminary subdivision applications, classifying them as Type  
4 III-B applications. ECDC 20.75.110(A) provides that any major changes to approved  
5 preliminary plats shall be reviewed in the same manner as the original application.  
6 ECDC 20.35.110 also requires review of major changes to PRD approvals in the  
7 same manner as the original application. The revisions proposed by the Applicant are  
8 deemed to be considered major changes that necessitate the Type III-B review.

### **Substantive:**

2. Zoning Designation. The subject property is zoned Single-Family  
Residential (RS-8).

1 3. SEPA Compliance and Notice. The City issued a Mitigated Determination  
2 of Non-Significance (MDNS) on July 3, 2007 (Attachment 6 of Attachment F). A  
3 SEPA Addendum for the revised project was issued October 4, 2011; the proposed  
4 revisions to the PRD were found not to create any new significant environmental  
5 impacts (Attachment 7 of Attachment F).

6 4. Review Criteria and Application. As noted in Conclusion of Law No. 1,  
7 the review of the proposed preliminary plat and PRD modifications must be  
8 processed in the same manner as the original applications, which is interpreted as  
9 subjecting the applications to the same review criteria. Chapter 20.35 ECDC governs  
10 the review criteria for PRDs and Chapter 20.75 ECDC governs the review criteria for  
11 subdivisions. Relevant criteria are quoted below and applied through corresponding  
12 conclusions of law.

13 **ECDC 20.35.030(A):** *Alternative development standards may be established through  
14 the PRD process. Such alternative standards shall be limited to the bulk standards  
15 specifically set forth in this chapter. Absent specific authorization the standard may  
16 not be waived or varied through the PRD process.*

17 1. *Bulk development standards which may be established are as follows:*

18 *b. Lot Size. Lot sizes may be reduced (“clustering”) to allow dwelling units  
19 to be shifted to the most suitable locations on residential PRD sites so long  
20 as the overall density of the project complies with the comprehensive plan  
21 and zoning ordinance.*

22 ...

23 *c. Lot width.*

24 ...

25 *e. Street and Utility Standards Alternative. Street standards may be  
established by the city engineer and alter utility standards established by the  
public works director so long as such alternatives provide the same or  
greater utility to the public system, safety and long-term maintenance costs  
as the standards established by ECDC Title 18.*

5. The Applicants are limiting their requested alternative development standards to lot size, lot width, and street and utility standards as described in Finding of Fact No. 3. All of these standards may be altered through the PRD process as authorized above.

**ECDC 20.35.040(A):** *Approval of a request to establish an alternative development standard using a PRD is based on the criteria listed in this section. In evaluating a PRD which proposes to modify the development standards of the underlying zone, the city shall consider and base its findings upon the ability of the proposal to satisfy all of the following criteria, if applicable.*

6. All of the criteria of ECDC 20.35.040 are satisfied as outlined below. The extensive landscaping, tree retention, limited impervious surface and perimeter

1 buffering that exceeds applicable standards in combination more than off-set the  
2 moderate alterations requested by the Applicant.

3 *A. The proposed PRDs shall be compatible with surrounding properties in the  
4 following respects:*

5 *1. Provide landscaping for projects seeking to cluster lots under ECDC  
6 20.35.030(A)(1)(b) through the design review process and greater buffering of  
7 buildings, parking and storage areas than would otherwise be provided through  
8 the subdivision process,*

9 *2. Providing safe and efficient site access, on-site circulation and off-street  
10 parking, and*

11 *3. Architectural design of buildings and harmonious use of materials as  
12 determined by the ADB in accordance with ECDC 20.35.060;*

13 6(a). The criteria quoted above are met by the project. Extensive  
14 landscaping is proposed for the project as shown in Attachment N to the staff report,  
15 including the addition of planter strips along both sides of the internal roadway that  
16 were not proposed in the 2007 application. Fencing on the perimeter of the project  
17 would provide more buffering than required by the subdivision process. The staff  
18 report notes that off-street parking standards are met and the conditions of approval  
19 require restrictive parking signs as determined necessary by staff to maintain  
20 emergency access along 78<sup>th</sup> Place West. The Architectural Design Board (“ADB”)  
21 has reviewed the updated project and determined it meets design review criteria as  
22 outlined in its recommendation, Attachment G to the staff report.

23 **ECDC 20.35.040(B):** *No setback from the exterior lot lines of the PRD may be  
24 reduced from that required by the underlying zoning unless a variance or subdivision  
25 modification is approved;*

6(b). All standard RS-8 exterior setbacks are proposed to be maintained  
(Attachment L to the staff report).

**ECDC 20.35.040(C):** *Minimize the visual impact of the planned development by  
reduced building volumes as compared with what is allowable under the current  
zoning or through landscape or other buffering techniques;*

6(c). The proposed utility lines will be buried consistent with ECDC  
18.05. The landscaping and open spaces will serve to reduce visual impacts  
(Attachment N to the staff report). Building volumes are less than the maximum  
allowed by the zone and are effectively broken up with design elements and details  
like porches, recessed garages, and the like (Attachments 13 and 17 of Attachment F  
to the staff report).

**ECDC 20.35.040(D):** *Preserve unique natural features or historic buildings or  
structures, if such exist on the site; and/or*

6(d). Unique features are limited on the site but eighteen existing  
healthy, mature trees are proposed to be retained as part of the PRD (Attachment N,  
Attachment 12 of Attachment F).

1 **ECDC 20.35.040(E):** *Reduction of impervious surfaces through the use of on-site or*  
2 *common parking facilities rather than street parking.*

3 6(e). The project proposes 31% lot coverage, which is less than the  
4 35% authorized under ECDC 16.20.030 for the RS-8 zone. Use of shared driveways  
5 is a partially attributable to reducing impervious surface (Attachment M to the staff  
6 report).

7 **ECDC 20.35.050:** *Because PRDs provide incentives to Applicants by allowing for*  
8 *flexibility from the bulk zoning requirements, a clear benefit should be realized by the*  
9 *public. To ensure that there will be a benefit to the public, a PRD must demonstrate*  
10 *that it meets the following decision criteria.*

11 7. As outlined in the conclusions of law below, the PRD provides for a clear  
12 public benefit by satisfying all applicable ECDC 20.35.050 criteria.

13 **ECDC 20.35.050(A): Design Criteria.** *The project must comply with the city's urban*  
14 *design guidelines set forth in subsection (A)(1) of this section and provide two or more*  
15 *of the results set forth in subsections (A)(2) through (A)(5) of this section:*

16 *1. Architectural design consistent with the city's urban design guidelines for*  
17 *multifamily projects or ECDC [20.35.060](#) for single-family projects for the design,*  
18 *placement, relationship and orientation of structures;*

19 *3. Minimize the use of impervious surfacing materials through the use of alternate*  
20 *materials or methods such as grasscrete or shared driveways;*

21 *4. Increase through the addition of usable open space or recreational facilities on-*  
22 *site above the minimum open space required by ECDC [20.35.060\(B\)\(6\)](#);*

23 7(a). The three criteria quoted above are met by the project. The ADB has  
24 reviewed the proposal for compliance with ECDC 20.35.060 for single family  
25 projects and has recommended the project be approved with conditions adopted by  
this decision (Attachment G). The proposal includes two shared driveways, one  
serving Lots 3 – 5 and another serving Lots 6 – 8 (Attachment M). The Applicant is  
proposing to provide 11.4% of the site as open space (9,123 sq. ft.) instead of the  
minimum of 10% (7,994 sq. ft.) (Attachment L).

**ECDC 20.35.050(B): Public Facilities.** *The PRD shall be served by adequate public*  
*facilities including streets, bicycle and pedestrian facilities, fire protection, water,*  
*stormwater control, sanitary sewer, and parks and recreation facilities.*

7(b). Adequate public facilities serve the project as determined in Finding  
of Fact No. 6.

**ECDC 20.35.050(C): C. Perimeter Design.** *The design of the perimeter buffer shall*  
*either:*

*1. Comply with the bulk zoning criteria applicable to zone by providing the same*  
*front, side and rear yard setbacks for all lots adjacent to the perimeter of the*  
*development; and/or*

1 7(c). The revised plat/PRD will comply with the regular RS-8 setbacks that  
2 apply to the zone by using the same front, side and rear yard setbacks for all lots. No  
3 additional perimeter buffer is therefore required (Attachment L).

4 **ECDC 20.35.050(D):** *Open Space and Recreation. Usable open space and*  
5 *recreation facilities shall be provided and effectively integrated into the overall*  
6 *development of a PRD and surrounding uses and consistent with ECDC*  
7 *20.35.060(B)(6). "Usable open space" means common space developed and*  
8 *perpetually maintained at the cost of the development. At least 10 percent of the gross*  
9 *lot area and not less than 500 square feet, whichever is greater, shall be set aside as*  
10 *a part of every PRD with five or more lots. Examples of usable open space include*  
11 *playgrounds, tot lots, garden space, passive recreational sites such as viewing*  
12 *platforms, patios or outdoor cooking and dining areas. Required landscape buffers*  
13 *and critical areas except for trails which comply with the critical areas ordinance*  
14 *shall not be counted toward satisfaction of the usable open space requirement.*

15 7(d). For a 79,943 sq. ft. planned residential development with more than  
16 five lots, at least 7,994 sq. ft. needs to be developed and maintained as usable open  
17 space. Tract 997 is 392 sq. ft. at the northern end of the proposed cul-de-sac and will  
18 contain two benches. Tracts 998 and 999 are at the southern end of the site adjacent  
19 to 220<sup>th</sup> Street SW and are 4,367 sq. ft. and 4,364 sq. ft., respectively. Tract 998 is  
20 proposed as the location of the stormwater vault and will contain a short walking  
21 path. A walking path and two benches will be located on Tract 999. All three tracts  
22 will be maintained by the proposed Homeowner's Association (Attachments L, N and  
23 I). All three tracts have amenities that qualify them as usable open space and their  
24 total combined area exceeds the 10 percent minimum of the standard quoted above.

25 **ECDC 20.50.060:** *Because PRDs may utilize alternative bulk development standards*  
26 *in residential zones, the following single-family design criteria are established to*  
27 *ensure that development of PRDs in single-family zones will maintain a single-family*  
28 *character. Although the criteria listed here are not necessarily consistent with every*  
29 *design characteristic of every single-family neighborhood in the city of Edmonds, the*  
30 *criteria have been developed to create a reasonable single-family residential setting.*  
31 *The intent behind these criteria is to ensure a high quality of design and construction*  
32 *for all buildings located in single-family neighborhoods where development*  
33 *standards may be modified through the PRD process.*

34 8. As noted previously, the ADB has reviewed and found the project to be  
35 consistent with applicable design criteria, including those required by ECDC  
36 20.50.060, with the addition of two conditions that have been adopted by this  
37 decision. Attachment G to the staff report. In its report to the ADB, staff also found  
38 the project to be consistent with the design standards of ECDC 20.50.060.  
39 Attachment F to the staff report.

40 **ECDC 20.75.085:** *The following criteria shall be used to review proposed*  
41 *subdivisions:*

1 9. The project satisfies all subdivision criteria as outlined in the conclusions of  
2 law below.

3 **ECDC 20.75.085(A): *Environmental.***

4 *1. Where environmental resources exist, such as trees, streams, ravines or wildlife*  
5 *habitats, the proposal shall be designed to minimize significant adverse impacts to*  
6 *the resources. Permanent restrictions may be imposed on the proposal to avoid*  
7 *impact.*

8 *2. The proposal shall be designed to minimize grading by using shared driveways*  
9 *and by relating street, house site and lot placement to the existing topography.*

10 *3. Where conditions exist which could be hazardous to the future residents of the*  
11 *land to be divided, or to nearby residents or property, such as flood plains, steep*  
12 *slopes or unstable soil or geologic conditions, a subdivision of the hazardous land*  
13 *shall be denied unless the condition can be permanently corrected, consistent with*  
14 *paragraphs A(1) and (2) of this section.*

15 *4. The proposal shall be designed to minimize off-site impacts on drainage, views*  
16 *and so forth.*

17 9(a). As determined in Finding of Fact No 5, as conditioned there are no  
18 significant adverse environmental impacts associated with the project. The site is  
19 fairly level so extensive grading will not be necessary. The proposal further  
20 minimizes grading by using two shared driveways (Attachment M). No hazardous  
21 conditions exist at the site (a critical areas 'waiver' was issued for the site in  
22 CRA20060091). An updated preliminary drainage plan was submitted with the  
23 revised plat/PRD (Attachment J). Drainage and stormwater will be addressed in detail  
24 with the required review and approval of civil improvement plans. All new  
25 impervious surfaces must be connected to an on-site detention system. A condition of  
approval has been added to address concerns raised by neighbors during the hearing.  
Views in this location are local. It does not appear that they will be negatively  
impacted by this proposal.

**ECDC 20.75.085(B): *Lot and Street Layout.***

*1. Lots shall be designed to contain a usable building area. If the building area*  
*would be difficult to develop, the lot shall be redesigned or eliminated, unless*  
*special conditions can be imposed on the approval which will ensure that the*  
*lot is developed properly.*

1           2. Lots shall not front on highways, arterials or collector streets unless there is  
2           no other feasible access. Special access provisions, such as shared driveways,  
3           turnarounds or frontage streets may be required to minimize traffic hazards.

4           3. Each lot shall meet the applicable dimensional requirements of the zoning  
5           ordinance.

6           4. Pedestrian walks or bicycle paths shall be provided to serve schools, parks,  
7           public facilities, shorelines and streams where street access is not adequate.

8           9(b). While each proposed lot must usually meet the dimensional  
9           requirements of the zoning ordinance in ECDC 16.20.030, the dimensional  
10          requirements in this case have been altered through the PRD process. As identified  
11          in the Findings of Fact, the project area is moderately flat with no critical areas, so  
12          the building areas identified in the plat maps are fully buildable and provide  
13          sufficient space to accommodate reasonably sized homes. The lots do not front on  
14          any highways, arterials or collector streets. As noted in Finding of Fact No. 6,  
15          which adopts Findings from the 2007 Examiner decision, there are sidewalks that  
16          provide pedestrian access to nearby schools and these sidewalks connect to  
17          adjoining sidewalks to provide pedestrian access to other public facilities.

18          **ECDC 20.75.085(C): Dedications.**

19           1. The city council may require dedication of land in the proposed subdivision  
20           for public use.

21           2. Only the city council may approve a dedication of park land to satisfy the  
22           requirements of ECDC [20.75.090](#). The council may request a review and written  
23           recommendation from the planning advisory board.

24           3. Any approval of a subdivision shall be conditioned on appropriate dedication  
25           of land for streets, including those on the official street map and the preliminary  
26           plat.

27          10. The City Engineer's Report (Attachment 8 of Exhibit A of Attachment B of the  
28          staff report) requires the dedication of 78<sup>th</sup> Pl. W. No other dedication of public land  
29          is required of the Applicant. As noted on Attachment L to the staff report, Open  
30          Space Tracts 998 and 999 will remain in the ownership of the homeowner's  
31          association. ECDC 20.75.085(C)(1) only expressly authorizes the City Council to  
32          require dedication of land for public use. The project is conditioned on staff  
33          consulting with the City Attorney to determine whether Council authorization is  
34          necessary for the dedication of the 78<sup>th</sup> Pl. W.

1 **ECDC 20.75.085(D): Improvements.**

2 *1. Improvements which may be required, but are not limited to, streets, curbs,*  
3 *pedestrian walks and bicycle paths, sidewalks, street landscaping, water lines,*  
4 *sewage systems, drainage systems and underground utilities.*

5 *2. The person or body approving a subdivision shall determine the improvements*  
6 *necessary to meet the purposes and requirements of this chapter, and the*  
7 *requirements of:*

8 *a. ECDC Title [18](#), Public Works Requirements;*

9 *b. Chapter [19.75](#), Fire Code, as to fire hydrants, water supply and access.*

10 *This determination shall be based on the recommendations of the community*  
11 *development director, the public works director, and the fire chief.*

12 11. The project has undergone extensive review by the community  
13 development director, the public works director (specifically engineering) and Fire  
14 District No. 1. A number of improvements have been recommended as a result of  
15 this review and they have been incorporated into the conditions of approval.

16 **ECDC 20.75.085(E): Flood Plain Management.** *All subdivision proposals shall*  
17 *comply with the criteria set forth in the Edmonds Community Development Code for*  
18 *flood plain management.*

19 12. This project is not in a FEMA-designated flood plain.

20 **DECISION**

21 All subdivision and PRD criteria are met and the revised PRD/Subdivision is  
22 approved, subject to the following conditions:

23 **The following new conditions are based on review of the updated Stonebridge**  
24 **Court plat/PRD:**

- 25
1. The Applicant shall work with the Parks and Recreation Department to determine appropriate street tree species for both 220th Street SW and the proposed 78th Place West. The selected species shall be shown on the construction documents submitted for review and approval of required civil subdivision improvements that are part of the associated plat (PLN20070021).
  2. Emergency access shall be maintained on proposed 78th Place SW. If on-street parking is anticipated, the stalls must be shown during the review of the civil construction drawings that go along with the associated plat.

1           Otherwise, signage must be provided indicating that no on-street parking is  
2 permitted on 78th Place SW.

- 3           3. As part of civil development, the existing driveway approaches on 220<sup>th</sup>  
4 Street SW shall be removed.
- 5           4. On the civil construction plans submitted for City review, a manhole for  
6 maintenance access shall be added along the "BYPASS SD LINE" as noted  
7 on the Preliminary Engineering Plan.
- 8           5. The 10' City drainage easement noted on the Preliminary Engineering Plan  
9 shall be kept free of obstructions to allow access.
- 10          6. As part of civil development, any existing water services to the subject lots  
11 shall be abandoned.
- 12          7. The 'Optional Tree Replanting Statement' on the face of the preliminary  
13 plat and engineering plan shall not apply (Attachments L and M) and shall  
14 be removed prior to submitting for final plat/PRD approval.
- 15          8. Staff shall verify whether the Applicant's updated drainage analysis has  
16 taken into consideration potential increases in drainage ditch flow rates as  
17 testified by Ms. McDonald and shall require further analysis and mitigation  
18 as necessary.
- 19          9. The five year preliminary plat expiration period set by ECDC 20.75.100  
20 commenced upon the approval of the 2007 application applies to this revised  
21 application and has not been "reset" by issuance of this decision.
- 22          10. City staff shall confer with the City Attorney to determine whether ECDC  
23 20.75.085(C)(1) requires Council approval of all subdivision dedications. If  
24 so, the dedications required of the plat shall be submitted to the City Council  
25 for approval.

16           **All of the existing conditions of the Hearing Examiner's September 11, 2007  
17 approval decision are proposed to be retained except as modified below:**

- 18           11. Condition "B". This condition could be updated for clarification: "Prior to  
19 final plat approval, the Applicant shall acquire approval from the Civil  
20 Engineering Division of civil construction drawings that demonstrate  
21 compliance with all City of Edmonds development standards; Edmonds  
22 utility purveyor standards and the Engineering Requirements identified in  
23 Attachment 8 of Exhibit A of Attachment B. The civil drawings shall  
24 include all PRD improvements including street and entry landscaping, sewer  
25 and water improvements, protected critical areas, fencing and signage. "  
The last two sentences of Condition A are stricken as redundant to revised  
Condition B.
- 12           12. Subsection 7 of Exhibit A of Attachment B is modified to provide that the  
proposed landscaping strip buffer for 78<sup>th</sup> Pl. W. shall be completed prior to  
recording. Specific design and construction standards will be reviewed and  
approved as part of the civil construction drawing review required in  
Condition 8 above.
- 13           13. Condition "D". This condition has been met by submission of Attachment J  
and can therefore be eliminated.

- 1 14. Condition "E". The ADB recommended approval of the updated  
2 landscaping and tree retention plans (Attachments 12 and 15 of Attachment  
3 F) and did not request any additional changes be made to the landscaping of  
4 the revised plat/PRD. This condition can be eliminated.
- 5 15. Condition "H". The Applicant submitted proposed covenants for  
6 Stonebridge Court as part of the remand materials (Attachment I). This  
7 condition can be eliminated.
- 8 16. Condition "I". The conditions of the initial ADB review from July 18, 2007  
9 no longer apply. This condition can be eliminated.
- 10 17. Condition "J". The Applicant has demonstrated compliance with ECDC  
11 20.35 through this remand. This condition can be eliminated.
- 12 18. Condition "O". The subconditions (a.i, a.ii) should be clarified as follows:  
13 "O.a. Construct all required improvements as approved and shown on the  
14 civil construction drawings; or" "O.b. Post a performance bond for all  
15 required improvements as approved and shown on the civil construction  
16 drawings as surety that the improvements will be constructed within a  
17 specified, City approved, amount of time. For a plat, this time period is  
18 typically 2 years."
- 19 19. Condition "P.b". The files referenced are incorrect. The condition should  
20 read: "Conditions of approval must be met and can be found in the final  
21 approval for the subdivision located in files P-2007-21 & PRD-2007-20."
- 22 20. Condition "P.c". The condition should be slightly clarified with the  
23 underlined language: "Include on the plat all required information,  
24 including owner's certification, hold harmless agreement, easement  
25 provisions, maintenance provisions, and staff approval blocks."
21. Condition "Q". This condition includes subconditions that applied to the  
original ADB approval issued in July 2007 but no longer apply given the  
ADB's recommendation on the updated plat/PRD. The updated condition  
could eliminate the subconditions and read: "Prior to submission of  
building permit applications, the Applicant shall ensure the building plans  
are consistent in type and style with those approved by the ADB on  
November 2, 2011 (Attachments 13 and 17 of Attachment F)."

Dated this 22<sup>nd</sup> day of December, 2011.



Phil A. Olbrechts  
Edmonds Hearing Examiner

### Appeal Right and Valuation Notices

1 A party of record may submit a written appeal of a Type III-B decision within 14 days of  
2 the date of issuance of the decision. The appeal will be heard at a closed record review  
before the City Council according to the requirements of ECDC Chapter 20.07.

3 Affected property owners may request a change in valuation for property tax purposes  
4 notwithstanding any program of revaluation.

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