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BEFORE THE CITY OF BLACK DIAMOND HEARING EXAMINER

IN RE: MASTER PLANNED
DEVELOPMENT APPLICATION
FOR LAWSON HILLS, PLN09-
0016

SEPA APPEAL NOS. PLN09-0039,
PLN09-0042, PLN 09-0043

**HEARING EXAMINER
DECISION – ERRATA**

The greenhouse gas section of the Lawson Hills FEIS adequacy decision erroneously refers to the Villages FEIS. The references in the attached pages have been changed to the Lawson Hills FEIS. Please replace the Lawson Hills pages with the corresponding pages that are attached.

DATED this 18th Day of May, 2010.



Phil Olbrechts
City of Black Diamond Hearing Examiner

the record to show that impacts upon parks and open space have been inadequately addressed.

P. Greenhouse Gases

Findings of Fact:

1. Page 13 of the Wheeler Statement of Appeal raises the issue of EIS adequacy on greenhouse gases.

2. Vehicle emissions are a significant source of greenhouse gases. LH FEIS Appendix Q, "Air Quality", p. 1. The EIS estimates the volume of vehicle emissions by using the average number of vehicle miles per day in Washington State per person. LH FEIS, Appendix Q, "SEPA GHG Emissions Worksheet", p. 10. The SEPA Appellants argue that this state-wide average grossly understates the average mileage of MPD residents because the MPDs are far from employment and commercial centers. Bricklin Post Hearing Brief, p. 58-60. However, as noted by the Applicant, use of the state wide average is required by King County for assessment of green house gases in King County unincorporated areas. Applicant Closing Brief, p. 77-78. It is also not necessarily intuitive that average daily trips for Black Diamond residents would be significantly higher than the state-wide average. Due to the long distance from commercial and employment centers, Black Diamond residents are probably more likely to carpool, take transit, telecommute, otherwise work from home or not work at all. The statewide average also includes all the other rural areas of the state, including Eastern Washington, where distances to commercial and employment centers exceed those of Black Diamond. The Appellants have presented no evidence of what average daily trips Black Diamond residents would take. Given the substantial weight to be given to the SEPA responsible official and the burden of proof on the Appellants, the record does not support the assertion that the state-wide vehicle mileage used in the greenhouse gas estimates is significantly less than the average mileage of future Black Diamond residents.

3. In cross-examination of Steve Pilcher, the SEPA Appellants also asserted that the greenhouse gas analysis was not consistent with the peer review requirements of Parametrix. Tr., p. 3342-3344. Specifically Mr. Bricklin referenced a Parametrix statement that no alternative land use scenario was analyzed in the air quality analysis. The LH FEIS now does examine air quality impacts under the different FEIS alternatives. *See LH FEIS, p. 4-93 – 4-95, alternative 3.* The concerns of Parametrix in this regard have been adequately addressed.

4. The SEPA appellants identify several mitigation measures they suggest should be required to reduce greenhouse emissions. *See, Wheeler Prehearing Ex. 19.* Many of these recommended measures are already identified in the LH FEIS, both in the text of the LH FEIS and the technical appendices. *See LH TV FEIS p. 6-14; Appendix Q, "Air Quality", p. 12-13.* The project design already incorporates

1 several elements that will help reduce greenhouse gases, such as an emphasis upon
2 mixed use; bicycle and pedestrian trails; low impact development and Built Green
3 and LEED certified/Energy Star homes. Appendix Q, "Air Quality", p. 12. As noted
4 in the LH FEIS technical discussion on greenhouse impacts, there is no standard for
5 greenhouse emissions associated with development projects and the extent to which a
6 single project affects climate change is unknown. Given this context, the mitigation
7 outlined in the LH FEIS and technical appendices for green house gases is reasonable
8 and adequate.

9 **Conclusions of Law:**

10 1. The LH FEIS contains a reasonably thorough discussion of greenhouse
11 gases, alternatives and mitigation. As noted in the Findings of Fact, the record does
12 not contain any evidence that the probable significant adverse impacts of the
13 Village's greenhouse gas emissions have not been adequately addressed, that
14 alternatives have not been adequately assessed or that reasonable mitigation measures
15 have not been proposed.

16 **VII. CONCLUSION**

17 The Lawson Hills EIS is adequate. The City and the Applicant hired the best experts
18 they could find and put a substantial investment into the analysis that comprises the
19 EIS. It shows. The fact that the SEPA Appellants found so many problems with the
20 EIS has more to do with Appellants' skill and diligence than the short-comings of the
21 EIS. No document could survive unscathed the multi-pronged attack levied by the
22 SEPA Appellants. The monumental work of the SEPA Appellants was not wasted in
23 the least. Their efforts will result in substantial improvements to the MPDs by
24 exposing areas that need further attention and mitigation. The SEPA Appellants have
25 done much to better their community through these appeals. They and everyone else
who participated in these appeals are to be congratulated for work well done.

DATED this 4th day of May, 2010.



Phil Olbrechts

City of Black Diamond Hearing Examiner