



**BEFORE the HEARING EXAMINER for the  
CITY of SAMMAMISH**

**DECISION <sup>1</sup>**

FILE NUMBER: PLN2012-00011

APPLICANT: Laurel Hill Partners, LLC  
14410 Bel-Red Road  
Bellevue, WA 98007

TYPE OF CASE: Preliminary subdivision (*Laurel Hill, Division IV*)

STAFF RECOMMENDATION: Approve subject to conditions

EXAMINER DECISION: GRANT subject to conditions

DATE OF DECISION: November 2, 2012

**INTRODUCTION <sup>2</sup>**

Laurel Hill Partners, LLC (Laurel Hill) seeks preliminary approval of *Laurel Hill, Division IV (Laurel Hill IV)*, a 17 lot single-family residential subdivision of a 4.4 acre site zoned R-4.

Laurel Hill filed a Base Land Use Application on March 16, 2012. (Exhibit 1 <sup>3</sup>) The Sammamish Department of Community Development (the Department) deemed the application to be complete when filed. (Testimony)

The subject property is located on the south side of SE 32<sup>nd</sup> Street between 225<sup>th</sup> and 226<sup>th</sup> Avenues SE.

<sup>1</sup> This Decision memorializes and expands upon an oral decision rendered on the record at the close of the November 1, 2012, open record hearing.

<sup>2</sup> Any statement in this section deemed to be either a Finding of Fact or a Conclusion of Law is hereby adopted as such.

<sup>3</sup> Exhibit citations are provided for the reader's benefit and indicate: 1) The source of a quote or specific fact; and/or 2) The major document(s) upon which a stated fact is based. While the Examiner considers all relevant documents in the record, typically only major documents are cited. The Examiner's Decision is based upon all documents in the record.

The Sammamish Hearing Examiner (Examiner) viewed the subject property on November 1, 2012.

The Examiner held an open record hearing on November 1, 2012. The Department gave notice of the hearing as required by the Sammamish Municipal Code (SMC). (Exhibit 8a)

Subsection 20.05.100(1) SMC requires that decisions on preliminary subdivision applications be issued within 120 net review days after the application is found to be complete. The Department testified that without a hearing recess to review departmental records, no statement could be made as to compliance with the decision issuance requirement. The SMC provides two potential remedies for an untimely decision: A time extension mutually agreed upon by the City and the applicant [SMC 20.05.100(2)] or a letter from the Department explaining why the deadline was not met [SMC 20.05.100(3)]. Laurel Hill agreed to extend the deadline. (Testimony)

The following exhibits were entered into the hearing record during the hearing:

- Exhibits 1 - 18: As listed on the Pre-filed Exhibit List prepared by the Department
- Exhibit 19: Letter report from TraffEx, October 1, 2012

The action taken herein and the requirements, limitations and/or conditions imposed by this decision are, to the best of the Examiner's knowledge or belief, only such as are lawful and within the authority of the Examiner to take pursuant to applicable law and policy.

## **ISSUES**

Does the application meet the criteria for preliminary subdivision approval as established within the SMC?

No testimony or evidence was entered into the record by the general public either in support of or in opposition to the application.

## **FINDINGS OF FACT**

1. The subject 4.4 acres is a rectangular parcel located on the south side of SE 32<sup>nd</sup> Street between 225<sup>th</sup> and 226<sup>th</sup> Avenues SE. The subject property slopes moderately towards the south. The north half of the site is dominated by open pasture; the remainder is dominated by a mixed-species forest. One single-family residence is located amidst the trees on the southern portion of the site. (Exhibits 2 – 6 and 14)
2. No environmentally sensitive areas exist on or in close proximity to the subject property. (Exhibits 3 and 18)

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3. The subject property is zoned R-4 and is surrounded by similarly zoned properties. (Exhibits 15 and 18) The maximum allowed yield under the R-4 zoning is 17 dwelling units. (Calculated by the Examiner)
4. Laurel Hill proposes to divide the subject property into 17 lots for single-family residential development. The lots will be served by upgrades to the three public streets which abut the site. Proposed lot sizes range from approximately 7,100 to 8,600 square feet (SF). A recreation tract (Tract A) encompasses approximately the southern 39,000 SF of the site. (Exhibit 2)

Storm water runoff will be collected and transported to an off-site storm water detention facility which presently serves *Laurel Hill Divisions II and III*. (Exhibits 2 and 6a) Laurel Hill has begun expansion of that facility to handle the additional flows under authority of City-issued permits. (Testimony)

5. The Department's Staff Report (Exhibit 18) provides a detailed exposition of facts related to all criteria for preliminary subdivision approval. Laurel Hill concurred in full (with two clarifications discussed below) in the Findings, Conclusions, and Recommended Conditions set forth in that report. (Testimony) The record contains no challenge to the content of that report. Therefore, the Findings and Conclusions/Analysis within the Staff Report are incorporated herein as if set forth in full with the following clarification and addition:
  - A. Finding 19, p. 3. Laurel Hill requested vacation of nine feet of right-of-way along the east side of 225<sup>th</sup> Avenue SE. The Department of Public Works recommended to the City Council that it vacate only eight feet of right-of-way. The City Council will hold its second reading of the right-of-way vacation ordinance on November 6, 2012. Laurel Hill anticipates approval of an eight foot right-of-way vacation. (Testimony)
  - B. Finding 23, p. 4. Laurel Hill has already entered into Developer Extension Agreements with the affected water and sewer district, and made required financial deposits to guarantee service to *Laurel Hill IV*. Laurel Hill has submitted to the water and sewer district engineering plans for required system facilities. (Testimony)
6. Any Conclusion of Law deemed to be a Finding of Fact is hereby adopted as such.

## LEGAL FRAMEWORK <sup>4</sup>

The Examiner is legally required to decide this case within the framework created by the following principles:

### Authority

A preliminary subdivision is a Type 3 land use application. [SMC 20.05.020, Exhibit A] A Type 3 land use application requires an open record hearing before the Examiner. The Examiner makes a final decision on the application which is subject to the right of reconsideration and appeal to Superior Court. [SMC 20.05.020, 20.10.240, 20.10.250, and 20.10.260]

The Examiner's decision may be to grant or deny the application or appeal, or the examiner may grant the application or appeal with such conditions, modifications, and restrictions as the Examiner finds necessary to make the application or appeal compatible with the environment and carry out applicable state laws and regulations, including Chapter 43.21C RCW and the regulations, policies, objectives, and goals of the interim comprehensive plan or neighborhood plans, the development code, the subdivision code, and other official laws, policies and objectives of the City of Sammamish.

[SMC 20.10.070(2)]

### Review Criteria

Section 20.10.200 SMC sets forth requirements applicable to all Examiner Decisions:

When the examiner renders a decision . . . , he or she shall make and enter findings of fact and conclusions from the record that support the decision, said findings and conclusions shall set forth and demonstrate the manner in which the decision . . . is consistent with, carries out, and helps implement applicable state laws and regulations and the regulations, policies, objectives, and goals of the interim comprehensive plan, the development code, and other official laws, policies, and objectives of the City of Sammamish, and that the recommendation or decision will not be unreasonably incompatible with or detrimental to affected properties and the general public.

Additional review criteria for preliminary subdivisions are set forth at SMC 20.10.220:

When the examiner makes a decision regarding an application for a proposed preliminary plat, the decision shall include additional findings as to whether:

(1) Appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other

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<sup>4</sup> Any statement in this section deemed to be either a Finding of Fact or a Conclusion of Law is hereby adopted as such.

planning features that assure safe walking conditions for students who only walk to and from school; and

(2) The public use and interest will be served by the platting of such subdivision and dedication.

#### Vested Rights

Sammamish has enacted a vested rights provision.

Applications for Type 1, 2, 3 and 4 land use decisions, except those that seek variance from or exception to land use regulations and substantive and procedural SEPA decisions shall be considered under the zoning and other land use control ordinances in effect on the date a complete application is filed meeting all the requirements of this chapter. The department's issuance of a notice of complete application as provided in this chapter, or the failure of the department to provide such a notice as provided in this chapter, shall cause an application to be conclusively deemed to be vested as provided herein.

[SMC 20.05.070(1)] Therefore, this application is vested to the development regulations as they existed on March 16, 2012.

#### Standard of Review

The standard of review is preponderance of the evidence. The applicant has the burden of proof.

#### Scope of Consideration

The Examiner has considered: all of the evidence and testimony; applicable adopted laws, ordinances, plans, and policies; and the pleadings, positions, and arguments of the parties of record.

### **CONCLUSIONS OF LAW**

1. Extensive, detailed conclusions regarding conformance with the criteria for approval are unnecessary since *Laurel Hill IV* is an uncontested case.
2. Based upon all the evidence in the record, the Examiner concludes that *Laurel Hill IV* meets the considerations within SMC 20.10.200. All evidence demonstrates compliance with Comprehensive Plan policies and zoning code, subdivision code, and Environmentally Sensitive Areas regulations.
3. Given all the evidence in the record, the Examiner concludes that *Laurel Hill IV* complies with the review criteria of SMC 20.10.220. The proposed subdivision allows development at the density expected under the Comprehensive Plan, does not thwart future development of surrounding properties, makes appropriate provision for all items listed in that code section, and will serve the public use and interest.

4. The recommended conditions of approval as set forth in Exhibit 18 are reasonable, supported by the evidence, and capable of accomplishment with the following changes:
  - A. Recommended Condition 3 will be moved to become the first condition and will be slightly modified. It is appropriate that it be the first condition as it specifically identifies that which is being given preliminary plat approval. It will be modified to indicate that Exhibit 2 represents not only the approved preliminary plat but also supporting plans (such as tree retention, drainage, clearing and grading, etc.). Finally, a sentence will be added to remind the reader that preliminary plats may be revised if certain procedures are followed as spelled out in the SMC.
  - B. A very pertinent question was asked during the 2009 *Cornerstone* (PLN2007-00066) hearing: Since water and sewer commitment certificates are by their own terms valid for only one year (See Exhibits 11 and 12.) and since an approved preliminary plat is valid for seven years, what assurance is there that adequate water and sewer service will be available if the plat is developed and recorded after the current certificates expire? <sup>5</sup>

The fact pattern here is different in a significant way than in *Cornerstone*: Here the applicant has a binding commitment for service by virtue of having already executed a Developer Extension Agreement and paid fees to guarantee capacity availability. The preliminary subdivision conditions which the Examiner used to respond to the question in *Cornerstone* are unnecessary here.
  - C. A few minor, non-substantive structure, grammar, and/or punctuation revisions to Recommended Conditions 1 - 11, 13 - 15, 17, 19 - 21 and 24 - 29 will improve parallel construction, clarity, and flow within the conditions. Such changes will be made.
5. Any Finding of Fact deemed to be a Conclusion of Law is hereby adopted as such.

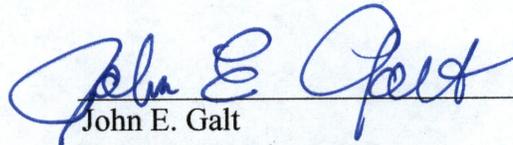
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<sup>5</sup> This is a paraphrasing of the question, updated to reflect current preliminary subdivision approval time limits.

## DECISION

Based upon the preceding Findings of Fact and Conclusions of Law, and the testimony and evidence submitted at the open record hearing, the Examiner **GRANTS** preliminary subdivision approval for *Laurel Hill, Division IV* **SUBJECT TO THE ATTACHED CONDITIONS.**

Decision issued November 2, 2012.

  
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John E. Galt  
Hearing Examiner

## HEARING PARTICIPANTS <sup>6</sup>

Mike Miller  
Tawni Dalziel

Mona Davis

## NOTICE of RIGHT of RECONSIDERATION

This Decision is final subject to the right of any party of record to file with the Examiner (in care of the City of Sammamish, ATTN: Lita Hachey, 801 228<sup>th</sup> Avenue SE, Sammamish, WA 98075) a written request for reconsideration within 10 calendar days following the issuance of this Decision in accordance with the procedures of SMC 20.10.260 and Hearing Examiner Rule of Procedure 504. Any request for reconsideration shall specify the error which forms the basis of the request. See SMC 20.10.260 and Hearing Examiner Rule of Procedure 504 for additional information and requirements regarding reconsideration.

A request for reconsideration is not a prerequisite to judicial review of this Decision, nor does filing a request for reconsideration stay the time limit for commencing judicial review. [SMC 20.10.260(3)]

## NOTICE of RIGHT of JUDICIAL REVIEW

This Decision is final and conclusive subject to the right of review in Superior Court in accordance with the procedures of Chapter 36.70C RCW, the Land Use Petition Act. See Chapter 36.70C RCW and SMC 20.10.250 for additional information and requirements regarding judicial review.

<sup>6</sup> The official Parties of Record register is maintained by the City's Hearing Clerk.

The following statement is provided pursuant to RCW 36.70B.130: "Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation."

**CONDITIONS OF APPROVAL**  
*Laurel Hill, Division IV*  
**PLN2012-00011**

This Preliminary Subdivision is subject to compliance with all applicable provisions, requirements, and standards of the Sammamish Municipal Code, standards adopted pursuant thereto, the Specific Design Requirements as set forth in hearing Exhibit 17, and the following special conditions:

**General Conditions:**

1. Exhibit 2 is the approved preliminary plat (and supporting plans). Revisions to approved preliminary subdivisions are subject to the provisions of SMC 19A.12.040.
2. Pursuant to RCW 58.17.170 the Plator shall comply with all county, state, and federal rules and regulations in effect on March 16, 2012, the vesting date of the subject application. However, if the legislative body finds that a change in conditions creates a serious threat to the public health or safety in the subdivision, future development may be subject to updated construction codes, including but not limited to the International Building Code and the International Fire Code, as amended.
3. Pursuant to Chapter 19A.12 SMC, preliminary plat approval shall be null and void if any condition is not satisfied and the final plat is not recorded within the approval period of eighty-four (84) months; provided the Plator may file for an extension as permitted by code.
4. For the purpose of ensuring compliance with all conditions of approval and the standard requirements of the SMC, the Plator shall provide financial guarantees in conformance with Chapter 27A SMC and PWS Section 10.050(K). All improvements required pursuant to the PWS, SMC, or other applicable regulations must be installed and approved, or bonded, as specified for plats in Chapter 19A.16 SMC.
5. Proposed street improvements and public right-of-way dedication shall conform to the provisions of the approved variation to the Public Works Standards. (Exhibit 7)

**Prior to Final Construction Approval:**

6. SE 32<sup>nd</sup> Street is classified as a local road with 60 feet of existing right-of-way. Half-street frontage improvements pursuant to PWS 15.110 and consistent with PWS Table 1, Figure 01-05, and City Ordinance 2005-191 for a local road are required on SE 32<sup>nd</sup> Street. Half-street asphalt grind and overlay may be required with construction permit. No further dedication is needed.

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7. SE 32<sup>nd</sup> Street contains traffic circles located at its intersection with both 225<sup>th</sup> Avenue SE and 226<sup>th</sup> Avenue SE. Frontage improvements along SE 32<sup>nd</sup> Street or the traffic circles may require modifications to provide for effective traffic calming on SE 32<sup>nd</sup> Street.
8. 225<sup>th</sup> Avenue SE is classified as a local road with 60 feet of existing right-of-way. If the petition for vacation of a portion of that right-of-way is approved by the City Council, the City Engineer has approved the following variation to the local street standard:

Half-street frontage improvements on 225<sup>th</sup> Avenue SE shall include 14 feet of pavement from the new right-of-way centerline, 6-inch vertical curb, 5 foot planter width, and 5 foot sidewalk with 0.5 feet of right-of-way on the back side of the sidewalk. No parking signs will be required on the east side of 225<sup>th</sup> Avenue SE.

If the right-of-way vacation is not approved by the City Council, the City Engineer may modify the required street cross-section during final engineering.

9. Road tapers on 225<sup>th</sup> Avenue SE and 226<sup>th</sup> Avenue SE shall be designed pursuant to AASHTO standards and reviewed during final engineering.
10. 226<sup>th</sup> Avenue SE is classified as a local road and half-street frontage improvements are required. Transitions between pavement widths shall be provided with tapers meeting AASHTO standards. 226<sup>th</sup> Avenue SE shall have 28 feet of pavement, 5 foot planter strip, and 5 foot sidewalk from the 226<sup>th</sup> Avenue SE/SE 32<sup>nd</sup> Street intersection to the approximate midpoint of proposed Lot 5. From that point to the temporary hammerhead turnaround, pavement width shall be a minimum of 20 feet with 5 foot planter and 5 foot sidewalk.

For that portion of roadway south of approximately the midpoint of Lot 5, the City prefers to maintain a straight alignment for 226<sup>th</sup> Avenue SE maintaining the location established by the existing curb located at the SE corner of the 226<sup>th</sup> Avenue SE/SE 32<sup>nd</sup> Street intersection. This would be accomplished by having a portion of the half-street improvement constructed on the parcels directly east of the proposed *Laurel Hill IV* development.

Accordingly, the Platlor shall work with adjacent property owners to the east to provide a public easement for 226<sup>th</sup> Avenue SE, if feasible. Alternately, the City Engineer has approved a variation to the frontage dedication. The frontage improvements may be constructed using a combined 25 foot right-of-way dedication and 6 foot public access easement. Under this scenario, the required sidewalk would be placed in the public access easement with planter, curb, and 20 feet of pavement placed in the dedicated right-of-way. NO PARKING signs shall be provided consistent with the Fire Marshall requirements for access. The final layout of 226<sup>th</sup> Avenue SE shall be approved during final engineering.

11. A temporary hammerhead turnaround shall be provided on 226<sup>th</sup> Avenue SE consistent with the 2009 International Fire Code and approved by the Fire Marshal. A temporary public easement encompassing the turnaround shall be recorded and released with the extension of 226<sup>th</sup> Avenue SE.

12. A public access and utility easement shall be placed over the stormwater and sanitary sewer facilities located in Tract A. Adequate separation of utilities shall be provided and reviewed during final engineering. Public Works approval may result in modification of the plat layout.

**Conditions to appear on the face of the final plat:**

13. Unless otherwise approved by Public Works, 25 feet of right-of-way dedication along the plat frontage with 226<sup>th</sup> Avenue SE is required to be shown on the final plat map with the sidewalk within a public easement. Building setbacks shall apply from the back of sidewalk. Language indicating dedication is required on the face of the final plat.
14. *“Metal products such as galvanized steel, copper, or zinc shall not be used in all building roofs, flashing, gutters, or downspouts unless they are treated to prevent metal leaching and sealed such that contact with storm water is prevented.”*
15. Unless otherwise directed by Public Works, the following note shall appear on the face of the final plat: *“All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways that are not directed to an approved low-impact development facility shall be connected to the permanent storm drain system as shown on the approved plat Clear and Grade permit on file with the City of Sammamish. The connection to the storm system shall be through a perforated stub-out pursuant to the 2009 King County Surface Water Design Manual.”* The approved site development permit shall be submitted with the application for any building permit. All connections of the drains shall be constructed and approved prior to final building inspection approval.
16. If plat construction approves the installation of infiltration or dispersion trenches, the following note shall be required: *“For all lots which contain or are adjacent to infiltration or dispersion trenches/facilities, lots shall be graded such that the flow path is directed away from the building foundation.”*
17. *“No lot or portion of a lot shall be subdivided and sold, or resold, or its ownership changed or transferred in violation of applicable city, county, state, or federal standards, rules, regulations or laws.”*
18. The Plator shall comply with RCW 58.17.280, providing the appropriate *“addressing note”* with address ranges being on the final plat.
19. *“Maintenance of all landscape strips along 225<sup>th</sup> Avenue SE, SE 32<sup>nd</sup> Street, and 226<sup>th</sup> Avenue SE separating the sidewalk from the roadway shall be the responsibility of the Homeowners Association. Under no circumstances shall the City bear any maintenance responsibilities for landscaping strips, planter islands, or planted medians created by the plat.”*
20. *“All landscaped areas of the plat and individual lots shall include a minimum of 8-inches of composted soil amendment.”*

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21. *“Maintenance of illumination along all local and private roads shall be the responsibility of the Homeowners Association or jointly shared by the owners of the development.”*
22. Covenant and easement language pertaining to individual lots and tracts with flow control BMPs shall be shown on the face of the final plat. Public Works shall approve the specific language prior to final plat.
23. *“Flow control best management practices for each single-family residential building permit shall be in accordance to the approved site development permit drainage plans.”*
24. Trees retained pursuant to SMC 21A.35.210 shall be identified on the face of the final plat for retention. Trees shall be tagged in the field and referenced on the face of the final plat with the applicable tag number. Trees retained as part of the preliminary plat shall be subject to the replacement requirements of SMC 21A.35.240 in the event that a tree must be removed following final plat approval.
25. *“Trees identified on the face of this plat have been retained pursuant to the provisions of SMC 21A.35.210. Retained trees are subject to the tree protection standards of SMC 21A.35.230. Removal of these trees is prohibited unless the tree is removed to prevent imminent danger or hazard to persons or property, subject to a clearing and grading permit approved by the City of Sammamish. Trees removed subject to this provision shall be replaced in compliance with SMC 21A.35.240.”*
26. The Plator shall include a note regarding the payment of traffic impact fees in accordance with Chapter 14A.15 SMC. Specific language related to the payment of the traffic impact fees shall be reviewed and approved by the City prior to final plat approval.
27. *“The proposed subdivision is subject to school impact fees for the Issaquah School District, consistent with Chapter 21A.105 SMC. At the time of building permit, the applicant shall pay one half of the required school impact fee, together with an administrative fee.”*
28. *“The proposed subdivision is subject to parks impact fees, consistent with Chapter 14A.20 SMC, which shall be paid at the time of building permit issuance together with an administrative fee.”*
29. *“Pursuant to City of Sammamish Ordinance No. O2002-112, a surface water system development charge shall be paid at the time of building permit issuance for each new residential dwelling unit.”*