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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 18<sup>th</sup> Day of May, 2010.



Phil Olbrechts  
City of Black Diamond Hearing Examiner

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

3 **P. Greenhouse Gases**

4 **Findings of Fact:**

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

7 2. Vehicle emissions are a significant source of greenhouse gases. LH  
8 FEIS Appendix Q, "Air Quality", p. 1. The EIS estimates the volume of vehicle  
9 emissions by using the average number of vehicle miles per day in Washington State  
10 per person. LH FEIS, Appendix Q, "SEPA GHG Emissions Worksheet", p. 10. The  
11 SEPA Appellants argue that this state-wide average grossly understates the average  
12 mileage of MPD residents because the MPDs are far from employment and  
13 commercial centers. Bricklin Post Hearing Brief, p. 58-60. However, as noted by the  
14 Applicant, use of the state wide average is required by King County for assessment of  
15 green house gases in King County unincorporated areas. Applicant Closing Brief, p.  
16 77-78. It is also not necessarily intuitive that average daily trips for Black Diamond  
17 residents would be significantly higher than the state-wide average. Due to the long  
18 distance from commercial and employment centers, Black Diamond residents are  
19 probably more likely to carpool, take transit, telecommute, otherwise work from  
20 home or not work at all. The statewide average also includes all the other rural areas  
21 of the state, including Eastern Washington, where distances to commercial and  
22 employment centers exceed those of Black Diamond. The Appellants have presented  
23 no evidence of what average daily trips Black Diamond residents would take. Given  
24 the substantial weight to be given to the SEPA responsible official and the burden of  
25 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 3. In cross-examination of Steve Pilcher, the SEPA Appellants also  
4 asserted that the greenhouse gas analysis was not consistent with the peer review  
5 requirements of Parametrix. Tr., p. 3342-3344. Specifically Mr. Bricklin referenced  
6 a Parametrix statement that no alternative land use scenario was analyzed in the air  
7 quality analysis. The LH FEIS now does examine air quality impacts under the  
8 different FEIS alternatives. *See LH FEIS, p. 4-93 – 4-95, alternative 3.* The concerns  
9 of Parametrix in this regard have been adequately addressed.

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

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11 **Conclusions of Law:**

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

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21 **VII. CONCLUSION**

22 The Lawson Hills EIS is adequate. The City and the Applicant hired the best experts  
23 they could find and put a substantial investment into the analysis that comprises the  
24 EIS. It shows. The fact that the SEPA Appellants found so many problems with the  
25 EIS has more to do with Appellants' skill and diligence than the short-comings of the  
EIS. No document could survive unscathed the multi-pronged attack levied by the  
SEPA Appellants. The monumental work of the SEPA Appellants was not wasted in  
the least. Their efforts will result in substantial improvements to the MPDs by  
exposing areas that need further attention and mitigation. The SEPA Appellants have  
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