

1
2 **BEFORE THE HEARING EXAMINER FOR THE CITY OF BELLEVUE**
3

4 In the Matter of)
5)
6 **VUEMONT SOUTH DIVISION II**) **FILE NO: 12-132099-LL**
7)
8 Application by Lisa Cavell, Henley USA)
9 for Preliminary Plat Approval for the) **FINDINGS OF FACT,**
10 Subdivision of 4.85 Acres into 26 Lots for) **CONCLUSIONS OF LAW**
11 Single Family Residences, located at) **AND DECISION**
12 4634 164th Ave. SE)
13)

12 **SUMMARY**

14 **1. Decision.** The application is **APPROVED**, subject to conditions.

15 **2. Proposal.** Lisa Cavell, Henley USA, seeks approval of a Preliminary Plat to divide
16 4.85 acres in the Lakemont vicinity into 26 lots for single family residences, one storm drainage
17 tract, a recreation tract, access tracts, and a tract for an existing cell tower located in the
18 northwest corner of the property. The proposed subdivision is addressed as 4634 164th Avenue
19 SE. The proposed lot sizes range from approximately 4,600 square feet to 7,700 square feet.
20 The development was designed under King County R-6 zoning and the proposed density is
21 approximately 5.3 units per acre. The site at present is largely open pasture with one residence
22 and several outbuildings.

23 The property is within a developed residential area, bordered by 164th Avenue SE along
24 its western edge and Cougar Ridge Elementary School to the east. When the proposed plat is
25 developed, access will be from the south on 165th Avenue SE which currently dead ends at the
26 site boundary.

27 **3. Procedure.** The application was filed with King County on March 8, 2012, and
28 Notice of the Application was given by King County on April 6, 2012. The application vested to
29 the King County Code provisions was in effect on the date of filing. Effective June 1, 2012, the
30 site was annexed to the City of Bellevue. On December 3, 2012, King County issued a

4/15/2013

1 Preliminary Staff Report to the City of Bellevue. Pursuant to provisions of an interlocal
2 agreement for review of pending applications in annexation areas, the County recommended that
3 the plat be approved.

4 A Determination of Non-Significance (DNS) under the State Environmental Policy Act
5 (SEPA) was issued by Bellevue on February 21, 2013. On the same date Bellevue issued its
6 Staff Report. The DNS was not appealed.

7 Notice of the hearing was properly given by Bellevue and the hearing was held on March
8 28, 2013, in Bellevue City Hall. Drew Folsom, Assistant Planner presented for the City, with
9 Ray Godinez, Traffic Review Engineer, testifying regarding traffic impacts. The applicant was
10 represented by Randall Wilson, Attorney at Law. Testimony for the applicant was provided by
11 George Newman and Thomas Barghausen of Barghausen Consulting Engineers. Two members
12 of the public made comments.

13 Several written comments were included in the file. Eight exhibits, including the City's
14 official file, were admitted.

15 **FINDINGS OF FACT**

16 1. Henley USA (Lisa Cavell) seeks approval of a preliminary plat for Vuemont South
17 Division II. The proposed plat lies immediately to the north of Vuemont South Division I which
18 has already been developed.

19 2. This is an infill project. The subject property is located at 4634 164th Avenue SE, the
20 western edge is bordered by 164th Avenue SE. Cougar Ridge Elementary school is located to
21 the east. To the north, west and south are existing residential developments.

22 3. The property was annexed from King County effective June 1, 2012. The application
23 is vested to King County regulations in effect on March 8, 2012, when the completed application
24 was filed. The development was designed under King County R-6 zoning. The Bellevue zoning
25 is R-5.

26 4. The site currently consists largely of pasture with trees on the perimeter. There is an
27 existing single family residence with several outbuildings. An cell tower is located in the
28 northwest corner of the property. The site is relatively flat, but drainage is to the southeast with
29 flows migrating to an off-site wetland.
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4/15/2013

1 5. The proposal is to create 26 residential lots, ranging in size from 4,600 square feet to
2 7,700 square feet. The proposed density is 5.3 units per acre.

3 6. Access to the completed plat will be provided by extending 165th Avenue SE which
4 now dead-ends at the boundary of the subject property. 165th Avenue SE is a public right-of-
5 way created with the prior development to the south. The extended 165th Avenue SE will be
6 dedicated as public roadway, entering the subject site from the south and then curving to the west
7 with its termination in a culdesac within the property.

8 7. The proposed plat contains a number of tracts. Tract A at the southeast corner will
9 accommodate the drainage facility. Tract B, bordering Tract A on the west, will be a recreation
10 (park) area. Tracts C, D and E will be accessways for the eight lots not served by the public
11 road. Tract F will contain the existing cell tower.

12 8. Public comments on the proposal focused on traffic and drainage. The proposal was
13 reviewed under King County's transportation standards and determined to meet the requirements
14 of the County's Transportation Code. Testimony showed that the new traffic generated by the
15 development will not reach the threshold at which a traffic study is required under Bellevue's
16 regulations.

17 9. Sidewalks within the plat will connect to existing sidewalks developed in Vuemont
18 South I. Provision has been made for students to walk to the elementary school to the
19 immediate east via sidewalks and a public trail. Bellevue is requiring a vertical curb instead of a
20 rolled curb as an added safety measure.

21 10. The bus stop for older students is off-site. Adequate provision is made for pedestrian
22 access to this bus stop. Risks created by traffic congestion related to student drop-off there are
23 managed by the relevant school district -- here the Issaquah School District. The City's position
24 is that requests for additional signs at student crossings and other safety measures associated with
25 the bus stop should be addressed to the School District.

26 11. Concerns were expressed about construction traffic through the adjoining residential
27 neighborhood to the south. The applicant's consultant testified that construction traffic will
28 access the property from 164th Avenue SE for as long as possible. This will eliminate most
29 construction-related trips through the residential neighborhood during the plat infrastructure
30 development process. However, once houses go in, the use of 164th will probably be eliminated.

4/15/2013

1 The consultant noted that traffic on 165th Avenue SE is light, that the roadways are level, and
2 that because of the street configuration speeds are generally slow.

3 12. The proposed storm water system will consolidate all flows from the site and
4 conduct them to a wet/detention pond in the southeast corner, upstream of the existing wetland.
5 The release rate for the detention facility to the wetland will be based on predevelopment
6 conditions. Estimates are that the off-site flow rate will very slightly decrease.

7 13. The plat will be served by all appropriate utilities and public services. The public
8 facilities involved have adequate capacity to accommodate the impacts of the development.

9 14. In its review, the City of Bellevue essentially concurred with the recommendations
10 of King County. King County recommended the issuance of a DNS under SEPA and the City
11 did so. King County prepared a preliminary staff report, dated December 3, 2012, which was
12 forwarded to the City for consideration. The report detailed the physical conditions of the site
13 and, among other things, noted the following:

- 14 a. The off-site wetland is on a developed site within a Native Growth Protection
15 Easement. The relevant buffer was established by the previous platting for
16 Vuemont South I. No additional buffer is needed on Vuemont South Division II
17 and therefore the latter may be approved without critical areas conditions.
- 18 b. The lot pattern and density comply with King County Code 21A (Zoning).
- 19 c. The proposed provisions for drainage will meet relevant standards and likely
20 eliminate nuisance flooding into the backyards of adjacent residents.
- 21 d. Transportation concurrency requirements are met.
- 22 e. School access through direct walkways and safe pedestrian access to the school
23 bus stop will be provided.
- 24 f. The proposed Tract B will provide approximately 50% of the parks and
25 recreation space that is required. A few in lieu will be paid for the remainder.
- 26 g. Fire protection and public water supply from the City of Bellevue are
27 available. Sewage disposal will be provided by a public sewer system managed
28 by Bellevue.

29 15. King County's Staff Report recommended approval of the preliminary plat with a
30 list of 18 detailed conditions. Bellevue's Staff Report also recommended approval, adopting by

4/15/2013

1 reference all of the conditions of approval contained within the King County report, and adding
2 two additional conditions.

3 16. The Staff Reports of both Bellevue and King County, including the conditions of
4 approval, are by this reference incorporated herein as though fully set forth. The Examiner has
5 amended conditions and added conditions. The Examiner finds that the conditions as described
6 below are reasonable and that, with such conditions, the proposed plat makes appropriate
7 provisions for the public health, safety and general welfare, and for open spaces, recreation,
8 schools and relevant items of infrastructure.

9 17. Any conclusion herein which may be deemed a finding is hereby adopted as such.

10 **CONCLUSIONS OF LAW**

11 1. The Hearing Examiner has jurisdiction over the subject matter of this proceeding.
12 Under the Land Use Code, a preliminary plat is a Process I decision. Appeals are heard and
13 decided by the City Council. The procedure is similar to King County Type III decisions.
14

15 2. The requirements of SEPA have been met.

16 3. Under the statutory vesting provisions of RCW 58.17.033, the subdivision must be
17 considered under the land use ordinances in effect on the land at the time the completed
18 application was received. The instant application was therefore considered under the legal
19 regime effective in King County on March 8, 2012.

20 4. The drainage adjustment granted by King County by letter dated November 14, 2012,
21 is hereby ratified.

22 5. The proposed plat, as conditioned is consistent with RCW 58.17.110 and the
23 applicable implementing provisions of the King County Code. The public use and interest is
24 served by the platting of the subdivision.

25 6. Any finding herein which may be deemed a conclusion is hereby adopted as such.

26 **CONDITIONS**

27 1. The project shall be carried out in accordance with the submitted plans and related
28 materials, except as the same may be modified by these conditions.

29 2. As amended by Conditions 3 -5 below, the applicant shall comply with the
30 recommended conditions (1 through 18) contained in the Preliminary Report to the City of
Bellevue, issued by the King County Department of Permitting and Environmental Services on
4/15/2013

1 December 2, 3012. The substance of these conditions shall not be changed, but any
2 administrative approvals required thereby shall be obtained from the appropriate City of
3 Bellevue officials.

4 3. Condition 11(a) shall be changed to read: Road "A" shall be improved to contain a
5 paved width of 28 feet with vertical curb to comply with City of Bellevue Transportation design
6 standards for residential streets per Design Manual drawing DEV-9 (Typical Public Street).

7 4. To the extent amended Condition 11(a) above eliminates street trees, Condition 17
8 shall not apply.

9 5. Impact fees shall be handled according to the agreement of the City and County.

10 6. The following additional conditions of approval are imposed:

11 a. Rainy season restrictions. Due to the proximity to a stream critical area, no
12 clearing and grading activity may occur during the rainy season, which is
13 defined as October 1 through April 30 without written authorization of the
14 Development Services Department. Should approval be granted for work during
15 the rainy season, increased erosion and sedimentation measures representing the
16 best available technology must be implemented prior to beginning or resuming
17 site work.

18 b. Noise control. Noise related to construction is exempt from the provisions of
19 BCC 9.18 between the hours of 7 a.m. and 6 p.m. Monday through Friday and
20 9 a.m. to 6 p.m. on Saturdays, except for Federal holidays and as further defined
21 by the Bellevue City Code. Noise emanating from construction is prohibited on
22 Sundays or legal holidays unless expanded hours of operation are specifically
23 authorized in advance. Requests for construction hour extension must be done in
24 advance with submittal of a construction noise expanded exempt hours permit.

25 c. Construction Access. As long as feasible, access of construction workers,
26 equipment and materials to the site shall be directly from 164th Avenue SE.

27 d. Signs. The City of Bellevue will cooperate with the Issaquah School District
28 with respect to placement in the public right-of-way of any signs intended for
29 the increased safety of students.
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4/15/2013

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DECISION

The Preliminary Plat for Vuemont South Division II is approved, subject to the conditions set forth above.

DONE, this 15th, day of April, 2013.



Wick Dufford, Hearing Examiner

NOTICE OF RIGHT TO APPEAL
(Pursuant to Resolution No. 5097)

RIGHT TO APPEAL-TIME LIMIT

A person who submitted written comments to the Director prior to the hearing, or submitted written comments or made oral comments during the hearing on this matter, may appeal the decision of the Hearing Examiner to the Bellevue City Council by filing a written appeal statement of the Findings of Fact or Conclusion being appealed, and paying any appeal fee, no later than 14 calendar days following the date that the decision was mailed. The appeal must be received by the City Clerk by **5:00 p.m. on April 29, 2013**.

TRANSCRIPT OF HEARING-PAYMENT OF COST

An appeal of the Hearing Examiner's decision requires the preparation of a transcript of the hearing before the Hearing Examiner. Therefore, the request for appeal must be accompanied by an initial deposit of \$100 per hearing hour. Should the actual cost be less the amount of the deposit, any credit due shall be reimbursed to the appellant. Should the cost for transcript preparation be more than the deposit, the appellant will be additionally charged.

WAIVER OF TRANSCRIPTION FEE

Upon request, the City Clerk will waive transcription fees upon submission by an appellant of the following documentation: a) an affidavit stating that the appellant's net financial worth does not exceed \$20,000; b) an affidavit stating that the appellant's annual income does not exceed \$5,200; c) a brief statement of the issues sought to be reviewed; d) a designation of those parts if the record the party thinks are necessary for review; e) a statement that review is sought in good faith.

The transcription fee waiver is available to individuals over eighteen (18) years of age and is not available to corporations, companies, partnerships, or any business, enterprise, community club or and social recreational organization.