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BEFORE the HEARING EXAMINER for the  
CITY of SAMMAMISH

CITY OF SAMMAMISH

DECISION

FILE NUMBER: PSUB2015-00273

APPLICANT: GGM Investments, LLC  
9675 SE 36<sup>th</sup> Street, Suite 105  
Mercer Island, WA 98040

TYPE OF CASE: Preliminary subdivision (*Penny Lane South*)

STAFF RECOMMENDATION: Approve subject to conditions

EXAMINER DECISION: GRANT subject to conditions

DATE OF DECISION: November 21, 2016

INTRODUCTION <sup>1</sup>

GGM Investments, LLC (GGM) seeks preliminary approval of *Penny Lane South*, a 28-lot single-family residential subdivision of an 8.53 acre site which is zoned R-4.

GGM filed a Base Land Use Application on November 5, 2015. (Exhibit 1, p. 3 <sup>2</sup>) The Sammamish Department of Community Development (the Department) deemed the application to be complete when filed. (Exhibit 3)

The subject property is located ± 400 feet south of SE 24<sup>th</sup> Street between 239<sup>th</sup> and 242<sup>nd</sup> Avenues SE. (See Findings of Fact 2 and 4, below, for a more precise description of the property's location.)

The Sammamish Hearing Examiner (Examiner) viewed the subject property on November 14, 2016.

The Examiner held an open record hearing on November 14, 2016. The Department gave notice of the hearing as required by the Sammamish Municipal Code (SMC). (Exhibit 25)

Subsection 20.05.100(1) SMC requires that decisions on preliminary subdivisions be issued within 120 net review days after the application is found to be complete. The open record hearing was held on or about net

<sup>1</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>2</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.

review day 114. 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 written notice from the Department explaining why the deadline was not met [SMC 20.05.100(4)]. GGM chose to extend the deadline as necessary. (Testimony)

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

- Exhibit 1: Departmental Staff Report
- Exhibits 2 – 25: As enumerated in Exhibit 1 at pp. 22 and 23
- Exhibit 26: Annotated aerial photograph of area
- Exhibit 27: Staff-recommended conditions with changes noted
- Exhibit 28: Revised staff-recommended conditions
- Exhibit 29: General Standard Plan Notes
- Exhibit 30: Letter, TraffEx to GGM Investments, LLC, October 6, 2016
- Exhibit 31: E-mail, Chen to Harriman, November 9, 2016
- Exhibit 32: Vested-to version of SMC 21A.25.030
- Exhibit 33: Revision to p. 11, § III.A.3 of Staff Report (Exhibit 1)
- Exhibit 34: Zoning map of area: Excerpt from City zoning map

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.

### FINDINGS OF FACT

1. Neighborhood concerns about *Penny Lane South* predominantly fall into two topical areas: Traffic impact on neighborhood streets and storm water runoff control. (Exhibit 5; and testimony) The focus of this Decision, therefore, will be on those two topics.
2. The subject property is an assemblage of six parcels. The assemblage is located more or less in the center of the block formed by SE 24<sup>th</sup> Street on the north, SE 30<sup>th</sup> Street on the south, 239<sup>th</sup> Avenue SE-SE 28<sup>th</sup> Street-238<sup>th</sup> Avenue SE (239-28-238<sup>th</sup>) on the west, and 244<sup>th</sup> Avenue SE on the east. 239-28-238<sup>th</sup>, 241<sup>st</sup> Avenue SE, and 244<sup>th</sup> Avenue SE extend south to intersect SE 32<sup>nd</sup> Street. Three public rights-of-way provide access to the assemblage: 242<sup>nd</sup> Avenue SE, SE 28<sup>th</sup> Street, and 241<sup>st</sup> Avenue SE. (Exhibits 7; 26)
3. The following characteristics of the neighborhood street network are particularly relevant to the *Penny Lane South* preliminary subdivision application:

- A. SE 24<sup>th</sup> Street and SE 32<sup>nd</sup> Street are two-lane paved public streets with posted speed limits of 35 mph. SE 32<sup>nd</sup> Street is a designated minor arterial; SE 24<sup>th</sup> Street is a designated collector arterial. (Exhibit 17, p. 4<sup>3</sup>)
- B. 244<sup>th</sup> Avenue SE is also a two-lane paved public street with a posted speed limit of 35 mph. 244<sup>th</sup> Avenue SE is a designated minor arterial. (Exhibit 17, p. 4)
- C. 242<sup>nd</sup> Avenue SE is a dedicated 60-foot wide public right-of-way extending between SE 24<sup>th</sup> and SE 28<sup>th</sup> Streets. The 242<sup>nd</sup> Avenue SE right-of-way is officially unopened, although a privately maintained dirt road exists within it from SE 24<sup>th</sup> Street southerly to about 450 feet north of SE 28<sup>th</sup> Street.<sup>4</sup> (Exhibits 5, p. 30; 7, Sheet C2; 26; and testimony)
- D. 239-28-238<sup>th</sup> is a more or less two-lane, winding, hilly (especially on its 239<sup>th</sup> segment) street complex. The transition between its three components occurs at two sharp, right-angle turns. The segment of SE 28<sup>th</sup> Street which is part of the 239-28-238<sup>th</sup> complex does not connect with the segment of SE 28<sup>th</sup> Street which lies to the east. (Exhibits 5, pp. 14, 15, 27, 38 & 39, 49 – 51, 57 & 58, 79 – 81; and 99 & 100; 26; and testimony)
- E. SE 28<sup>th</sup> Street exists as two separate segments in the vicinity of *Penny Lane South*. The western segment connects 238<sup>th</sup> with 239<sup>th</sup> Avenues SE. It appears from the exhibits in the record that the right-of-way width for that segment is only 30 feet, all located on the north side of the theoretical centerline. The 30-foot wide right-of-way of that segment ends at the west edge of the subject property. The eastern segment is a 60 foot wide right-of-way extending from the 242<sup>nd</sup> Avenue SE right-of-way easterly to 244<sup>th</sup> Avenue SE. The pavement width in this segment is about 22 feet; it has 2- to 5-foot shoulders, but no sidewalks. There is no SE 28<sup>th</sup> Street right-of-way between the 242<sup>nd</sup> Avenue SE right-of-way and the west edge of the subject property. (Exhibits 7, Sheet C2; 17, p. 4; 26)
- F. 241<sup>st</sup> Avenue SE is a two-lane paved public street extending between the south line of the subject property (essentially what would be the centerline of the SE 28<sup>th</sup> Street right-of-way if such a right-of-way existed in that location) and SE 32<sup>nd</sup> Street. 241<sup>st</sup> Avenue SE currently exists as a dead-end street: It has no connection with the constructed segments of SE 28<sup>th</sup> Street to the west or to the east. Its paved travel surface is about 20 feet wide with 1- to 3-foot shoulders. It has no sidewalks. A private driveway extends north of the end of the right-of-way on the 241<sup>st</sup> Avenue SE alignment to serve a few residences in that area. (Exhibits 5, pp. 11, 24, and 25; 7, Sheet C2; 17, p. 4; 26)

<sup>3</sup> The exhibit refers to SE 24<sup>th</sup> Street simply as a “Collector.” The correct nomenclature according to the Interim Public Works Standards (PWS) is “Collector Arterial.” [PWS.15.050.A]

<sup>4</sup> Exhibit 17 erroneously states that 242<sup>nd</sup> Avenue NE is a “two lane street[] with unpaved shoulders and ditches”. (at p. 4) It is not a two-lane street; it is a private, one+ lane gravel/dirt road. (Exhibit 30)

4. Four of the parcels which comprise the subject property lie between the west side of the 242<sup>nd</sup> Avenue SE right-of-way and the northerly projection of the east side of 241<sup>st</sup> Avenue SE alignment, beginning about 400 feet south of SE 24<sup>th</sup> Street and extending south to the SE 28<sup>th</sup> Street alignment. The other two parcels border the west side of the 241<sup>st</sup> Avenue SE alignment, one north of the SE 28<sup>th</sup> Street alignment, the other south of the SE 28<sup>th</sup> Street alignment. (Exhibits 1, p. 5; 7, Sheet C2; 26)
5. The subject property presently contains six single-family residences and numerous accessory buildings. Most of the site is open grass and fields with 267 trees scattered around the property. No regulated environmentally sensitive areas exist on the subject property. The existing residences are served by on-site sewage disposal systems (OSS). (Exhibits 7, Sheet C2; 14; 15; 16)
6. The subject property sits astride the top of a broad ridge which generally slopes to the northeast and southwest in this area. The topographic break runs northwesterly from the 241st Avenue SE dead-end. The southwesterly 2.086 acres of the site slopes southwesterly; the remaining 6.444 acres slopes northeasterly. (Exhibit 18, Fig. 3 following p. 9) The low point of the subject property is its northeast corner at about elevation 425 feet; the elevation at the southwest corner of the subject property is about 455 feet; the elevation along the crest of the ridge is about 470 feet. (Exhibit 7, Sheet C2)
7. GGM proposes to subdivide the subject property into 28 lots for single-family residential development. All existing buildings/structures will be removed or demolished; the OSSs will be decommissioned. The current plans propose to construct a half-street<sup>5</sup> improvement within the 242<sup>nd</sup> Avenue SE right-of-way from SE 28<sup>th</sup> Street to the north end of the subject property, a half-street improvement within to-be-dedicated SE 28<sup>th</sup> Street right-of-way between just east of 242<sup>nd</sup> Avenue SE and 241<sup>st</sup> Avenue SE, a full width improvement within newly dedicated SE 28<sup>th</sup> Avenue right-of-way west of 241<sup>st</sup> Avenue SE terminating in a temporary cul-de-sac, a half-street improvement within new right-of-way dedicated for an extension of 241<sup>st</sup> Avenue SE extending approximately 500 feet north of SE 28<sup>th</sup> Street, and a new public street ("Road A") to connect the northerly end of the dedicated 241<sup>st</sup> Avenue SE right-of-way and 242<sup>nd</sup> Avenue SE. (Exhibit 7, Sheets C3 and C5) GGM proposes to construct a 5-foot wide, paved pedestrian path along the west side of 242<sup>nd</sup> Avenue SE from the north end of the subject property to SE 24<sup>th</sup> Street and apply "chip seal" to the existing privately maintained portion of 242<sup>nd</sup> Avenue SE between the north edge of the subject property and SE 24<sup>th</sup> Street. (Exhibit 7, Sheets C3 and C5, Section E)

Twenty-one of the proposed lots will be located north of SE 28<sup>th</sup> Street between 242<sup>nd</sup> and 241<sup>st</sup> Avenues SE; four of the proposed lots will be located on the north side of SE 28<sup>th</sup> Street west of 241<sup>st</sup> Avenue; and the remaining three lots will be located south of SE 28<sup>th</sup> Street west of 241<sup>st</sup> Avenue. Those latter three lots will be substantially larger than the other 25 lots. A tree retention tract (Tract A), a storm water control tract (Tract C), and a combination storm water/recreation tract (Tract B)

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<sup>5</sup> A "half-street" improvement consists of more than half of a standard street. A "half-street" improvement provides 20 feet of travel surface (two 10-foot lanes), with curb, gutter, 5-foot wide planter strip, and 5-foot wide sidewalk on one side of the street. (Exhibit 7, Sheet C5, Section D)

will be located at the north end of the subject property. A second tree retention tract (Tract D) will be located along the west edge of the subject property north of SE 28<sup>th</sup> Street. (Exhibit 7)

8. The subject property is designated on the City's adopted comprehensive plan R-4 and zoned R-4, residential development at a maximum density of four dwelling units per net acre. All nearby properties are similarly designated and zoned. (Exhibits 1, p. 5, § I.B & C; 34)
9. The maximum permissible lot yield under the subject property's R-4 zoning, calculated in accordance with procedures spelled out in the SMC, is 28. (Exhibit 6)
10. All proposed lots meet applicable zoning standards. (Exhibits 1; 7)
11. Storm water control facilities must be designed and constructed to meet the requirements of the 2009 King County Surface Water Design Manual (KCSWDM). (Exhibit 1, p. 8, § II.N)

Storm water runoff from all lots will be collected and transported to the storm water control facilities in Tracts B and C at the north end of the subject property. The system will be gravity flow: Since the north end of the site is some 30 feet lower than the south end, gravity flow is possible from the lots south of the topographic high point (Proposed Lots 22 – 28) by deep trenching the conveyance pipe(s). No storm water will be discharged to the southwest or west. (Exhibits 1; 7, Sheet C6; 18; and testimony)

Existing runoff from both the northerly and the southwesterly portions of the subject property eventually reaches Laughing Jacobs Creek. The City has approved a "drainage adjustment" to allow runoff that would normally flow off the site towards the southwest to be conveyed northerly to the detention and treatment systems in Tracts B and C and then discharged to the north. (Exhibits 1; 18; and testimony)

On-site treatment of runoff will provide Conservation Flow Control (Level 2) and Sensitive Lake Water Quality Treatment with additional requirements pursuant to the sphagnum bog menu. (Exhibits 1; 18; and testimony) Release rates from the detention facility are

required to 'match developed discharge durations to predeveloped durations for the range of predeveloped discharge rates from 50% of the two-year peak flow up to the full 50-year peak flow. [It must also] match developed peak discharge rates to predeveloped peak discharge rates for the 2 and the 10 year return periods.' (KCSWDM, Sec. 1.2).

(Exhibit 18, p. 13, § II.CR #3, ¶ 1) For the purposes of calculating required detention quantities, the portion of the site to be developed is assumed to currently be a "till forest." (Exhibit 18, p. 1, ¶ 4)

12. GGM's traffic consultant (TraffEx) predicts that *Penny Lane South* will generate 210 net new vehicular trips on an average weekday (AWDT).<sup>6</sup> (Exhibit 17, p. 3) It further predicts that 40% of those trips (84) will travel to and from the north via 242<sup>nd</sup> Avenue SE, 50% (105) will travel to and from the south via 241<sup>st</sup> Avenue SE, and 10% (21) will travel to and from the east via SE 28<sup>th</sup> Street. (Exhibit 17, Figure 3; absolute number calculated by Examiner from data in Exhibit 17) TraffEx counts/predicts existing/future-with-project AWDT is/will be 130<sup>7</sup>/320 (190 additional trips = 146% increase) to and from the north on 242<sup>nd</sup> Avenue SE, 200/340 (140 additional trips = 70% increase) to and from the south on 241<sup>st</sup> Avenue SE, and 140/160 (20 additional trips = 14% increase) to and from the east on SE 28<sup>th</sup> Street. (Exhibit 30, Figure 7; percentages calculated by Examiner) The volumes predicted for future-with-project reflect not only traffic generated by the residences in *Penny Lane South*, but also "reoriented neighborhood trips." (Exhibit 17, p. 7; and testimony) "Reoriented neighborhood trips" are not "cut-through" trips, but rather trips to and from the immediate neighborhood which TraffEx predicts will choose different routes in the future when SE 28<sup>th</sup> Street is connected to 241<sup>st</sup> and 242<sup>nd</sup> Avenues SE, thus providing routes to the north and south which are not currently available. (Testimony)

Of the 210 new AWDT generated by *Penny Lane South*, TraffEx predicts that 22 trips will occur during the P.M. peak hour with 6 trips on 242<sup>nd</sup> Avenue SE to and from the north, 9 trips on 241<sup>st</sup> Avenue SE to and from the south, and 2 trips on SE 28<sup>th</sup> Avenue to and from the east. (Exhibit 17, Figure 3)

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<sup>6</sup> Credit is given for the six existing residences: 28 lots in the plat – 6 existing residences = 22 new residences.

<sup>7</sup> The current AWDT of 130 for 242<sup>nd</sup> Avenue SE south of SE 24<sup>th</sup> Street seems irregular. The best evidence in the record indicates that 242<sup>nd</sup> Avenue SE presently serves only about eight or nine homes. (Exhibits 7, Sheet C2; 26) Since it is a dead-end, privately maintained dirt road, it carries no through traffic. TraffEx used trip generation rates of 9.52 AWDT per residence, 0.75 A.M. peak hour trips per residence, and 1.00 P.M. peak hour trips per residence to make its predictions of traffic to be generated by *Penny Lane South*. (Exhibit 17, p. 3) But TraffEx's reported "Existing Daily Volumes" for 242<sup>nd</sup> Avenue SE of 130 AWDT (Exhibit 17, Figure 7) would represent about 14 residences at 9.52 trip ends per residence. Using TraffEx's 9.52 AWDT rate, the eight or nine residences served by 242<sup>nd</sup> Avenue SE would be expected to generate between 76 and 86 AWDT – a little over half of what TraffEx reports.

The disparity in trip counts between the morning peak hour and the afternoon peak hour volumes on 242<sup>nd</sup> Avenue SE south of SE 24<sup>th</sup> Street is also troubling. According to TraffEx's traffic counting sub-consultant, 3 vehicles exited and none entered 242<sup>nd</sup> Avenue SE south of SE 24<sup>th</sup> Street during the A.M. peak hour on Tuesday, April 19, 2016, while 6 vehicles entered and 7 vehicles (13 total vehicles) exited 242<sup>nd</sup> Avenue SE south of SE 24<sup>th</sup> Street during the P.M. peak hour on that same date. (Exhibit 17, Technical Appendix, unnumbered pp. 5 & 6) Those count numbers do not match even closely the trip generation rates used by TraffEx in its predictions: 3 trips ÷ 0.75 trips per residence in the A.M. peak hour = 4 residences; 13 trips ÷ 1.00 trip per residence in the P.M. peak hour = 13 residences. Assuming that the sub-consultant made accurate counts, the Examiner believes, but admits there is no evidence in the record to confirm this belief, that the disparity may be mainly due to the very small size of the sample: Just eight or nine residences on a dirt, private, dead-end road.

It appears that TraffEx extrapolated AWDT from the counted P.M. peak hour trips. The Examiner believes that extrapolated number to be unreliable.

13. “Streets and highways are most effectively classified by their function, according to the character of the service they are intended to provide.” [PWS.15.050.A, ¶ 1] 242<sup>nd</sup> Avenue SE, 241<sup>st</sup> Avenue SE, and SE 28<sup>th</sup> Street are all classified as local streets. (Exhibit 1, p. 15, § III.B.1)

“The local street system consists of local access and minor access streets. [PWS.15.050.B.4] “Local feeder streets serve as primary access to the development from the adjacent street system. They distribute traffic from local or minor streets in residential neighborhoods and channel it to the arterial system. ... Typical ADT may range from about 400 to 1,500. Abutting residences are oriented away from the feeder.” [PWS.15.050.B.4.a] “[Minor access streets] are typically internal subdivision streets providing circulation within the subdivision or between subdivisions. ... Typical ADT may range from about 300 to 1,000.” [PWS.15.050.B.4.b]

14. Section PWS.15.100 requires developers to improve substandard streets from which a development will take access:

All new developments which obtain access from substandard public or private streets shall be required to construct all necessary street improvements to bring any street up to current City standards prior to final approval. Such improvements shall be made from the point of access to the closest intersection of a public street that meets current standards. Street improvements may include but are not limited to curb and gutter, sidewalk, street storm drainage, street lighting, traffic signal modification, relocation or installation, utility relocation, and street widening all per these standards.

15. Public Works issued a Certificate of Traffic Concurrency for *Penny Lane South* on October 20, 2015. (Exhibit 22) TraffEx predicts that all intersections through which 10 or more trips generated by *Penny Lane South* would pass during the P.M. peak hour will operate at acceptable levels of service. (Exhibit 17, p. 10, Table 2<sup>8</sup>)
16. The record contains evidence that appropriate provisions have been made for open space (Exhibits 1; 7); drainage (Exhibits 1; 7; 18); potable water supply (Exhibits 1; 7; 12); sanitary wastes (Exhibits 1; 7; 12. All OSSs will be decommissioned.); parks and recreation (Exhibits 1; 7); playgrounds (Exhibits 1; 7); schools and schoolgrounds (Exhibit 1); and safe walking conditions for children who walk to school (Exhibits 1; 7; 11: The path along the west side of 242<sup>nd</sup> Avenue SE between the site and SE 24<sup>th</sup> Street will lead to the current school bus stop on SE 24<sup>th</sup> Street.). The proposed design does not use alleys; other public ways are not required. The record contains no request for transit stops.

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<sup>8</sup> TraffEx predicts that less than 10 trips from *Penny Lane South* will pass through the 244<sup>th</sup> Avenue SE/SE 32<sup>nd</sup> Street intersection during the P.M. peak hour. Therefore, its LOS E condition has no bearing on *Penny Lane South* since 10 trips in the peak hour is the threshold for requiring mitigation under the SMC. (Testimony)

17. Sammamish first enacted tree retention/preservation regulations in or around 2005. [Ordinance No. O2005-175] Those regulations were contained in former SMC 21A.35.210 - .240. In 2014 the City enacted emergency, interim revisions to those code sections. The interim regulations were in effect from October 14, 2014 to October 14, 2015. [Ordinance Nos. O2014-375 and O2015-390] Those interim regulations were repealed and replaced by Chapter 21A.37 SMC, Development Standards – Trees, effective October 14, 2015. [Ordinance No. O2015-395]

The subject application is vested to the current tree regulations.

18. 191 viable significant trees were catalogued on the subject property, located primarily at the north end and southwest corner of the site. (Exhibits 7, Sheet C7; 15) Current tree retention regulations require that 50% of significant trees located in certain erosion hazard areas be retained regardless of zoning classification and/or 35% of significant trees outside of critical areas and their buffers be retained in a development on land zoned R-4. [SMC 21A.37.250(1)(a) & (c)] There are no regulated environmentally critical areas on the subject property. (Exhibit 14) Incentives are available for preservation of specific types of trees in specified circumstances. [SMC 21A.37.270(4)] GGM is required to preserve 67 trees, but proposes to retain only 62 significant trees. However, 15 of the retained trees are heritage trees and three are landmark trees, which increases the tree retention number to the equivalent of 76 retained trees or 39.9% retention when earned incentive credits are applied. 129 significant trees are proposed to be removed, triggering the replacement requirements of SMC 21A.37.280. 229 replacement trees are proposed to be planted throughout the site, primarily in Tracts A - D. (Exhibits 7, Sheets L-1 & L-2; 15; and testimony)
19. Sammamish's State Environmental Policy Act (SEPA) Responsible Official issued a threshold Determination of Nonsignificance (DNS) for *Penny Lane South* on October 3, 2016. (Exhibit 1, p. 1) The DNS was not appealed. (Testimony)
20. The Department's Staff Report (Exhibit 1) provides a detailed exposition of facts related to all criteria for preliminary subdivision approval. GGM concurred in full in the Findings and Conclusions set forth in that report except as noted below. (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 exceptions:
- A. Pages 1 and 3. The correct name of the applicant is GGM Investments, LLC, not GGM Investors. (Exhibits 2; 3; 7; *et al.*)
  - B. Page 7, § II.F. The lot coverage figure in this Finding does not reflect the code requirements to which *Penny Lane South* is vested. The correct lot coverage maximum is 55% for lots larger than 9,076 SF and 70% for lots less than 9,076 SF. (Exhibit 32; and testimony)
  - C. Page 9, § II.Z. This Finding mischaracterizes the Public Works request which it is attempting to summarize. The Finding states that there was a "Public Works Department requirement

that 241<sup>st</sup> Ave SE be extended to the north to connect with SE 24<sup>th</sup> Street.” In fact, in an August 11, 2016, memorandum Public Works requested that right-of-way for 241<sup>st</sup> Avenue SE be extended “throughout, and have no future connection to the north blocked by any permanent construction.” (Exhibit 19, August 11, 2016, Strasbourger Memorandum, p. 2, Comment 5) GGM’s counsel objected to the request to dedicate right-of-way for 241<sup>st</sup> Avenue SE “to the northern boundary of the plat” in a September 13, 2016, letter. (Exhibit 21) Public Works dropped its request later in September. (Exhibit 19, September 30, 2016, Strasbourger Memorandum, p. 1, Comment 6)

Therefore, the first sentence in § II.Z should read: “The applicant’s legal counsel objected to the Public Works Department requirement that 241<sup>st</sup> Avenue SE be extended to the north edge of the plat to provide for a future connection to SE 24<sup>th</sup> Street to the north.” The remainder of the section is accurate.

- D. Page 10, § III.A.1.c. The correct date of issuance of the SEPA DNS was October 3, 2016, not September 30, 2016. (Testimony)
  - E. Page 11, § III.A.3. The text in this section is an inadvertent duplication of the text in § III.A.2 immediately preceding. The correct text for this section is contained in Exhibit 33 which the Department presented during the hearing. (Testimony)
- 21. Public Works has advised GGM of the General Standard Plan Notes which will be applicable to development of *Penny Lane South*. (Exhibit 29)
  - 22. The Department recommends approval of *Penny Lane South* subject to Revised Recommended Conditions. (Exhibit 28<sup>9</sup>)
  - 23. GGM requested a change to Revised Recommended Conditions 3 and 4. As presented, those conditions require that there be 1.5 feet between the back of the sidewalk and the edge of the right-of-way for the improvements to SE 28<sup>th</sup> Street and 241<sup>st</sup> Avenue SE. (Exhibit 28, Revised Recommended Conditions 3 and 4) GGM argues that where, as in these two situations, half-street improvements are required along the edge of a development parcel, the 1.5 foot strip would require a greater off-set to the travel lane centerlines. GGM stated that Public Works has traditionally omitted the 1.5 foot strip in such situations. (Testimony)

Public Works did not respond to or comment on GGM’s request during the hearing.

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<sup>9</sup> The Department revised its Recommended Conditions between issuance of its Staff Report and the date of the hearing. The originally recommended conditions are contained in Exhibit 1 at pp. 19 – 22. Exhibit 27 is an annotated copy of those originally recommended conditions showing (in red) the disposition of each condition. Exhibit 28 is a “clean” copy of the Revised Recommended Conditions.

The submitted plans depict the 1.5 foot strip on the 241<sup>st</sup> Avenue SE cross section, but not on the SE 28<sup>th</sup> Street cross-section. (Exhibit 7, Sheet C5, Cross Sections C and B, respectively)

24. The *Penny Lane South* application has engendered substantial interest from residents who live in the immediate area surrounding the proposal. Neighborhood concern is nearly exclusively focused on two topics: Traffic impact and drainage. (Exhibit 5; and testimony) Those with traffic concerns live in three different areas around the subject property.

Residents along the 239-28-238 corridor. Those residents oppose opening SE 28<sup>th</sup> Street between 239<sup>th</sup> and 241<sup>st</sup> Avenues SE because of the narrow, hilly nature of the 239-28-238 corridor and the sharp right angle transition between SE 28<sup>th</sup> Street and 238<sup>th</sup> Avenue SE. (Exhibit 5, comments from Silverman (p. 14), Burge (p. 15), Collette (p. 99 & 100), Oldham (p. 27), Jepsky (pp. 32, 57, & 58), Rogers (pp. 38 & 39), Hallauer (pp. 49 – 51), Dreyfus (p. 52), Thomas (pp. 62 & 63), and Cornell (pp. 79 – 81)<sup>10</sup>; and testimony) GGM concurs in the concerns of those residents. (Testimony) The current proposal will not connect SE 28<sup>th</sup> Street between 239<sup>th</sup> and 241<sup>st</sup> Avenues SE. (Exhibit 7) Therefore, no project traffic will be able to access the 239-28-238 corridor.

Residents who live on 241<sup>st</sup> Avenue SE. Generally speaking, these residents do not want their street connected to SE 28<sup>th</sup> Street because they fear that traffic will be diverted from 244<sup>th</sup> Avenue SE to the 242<sup>nd</sup> Avenue SE-SE 28<sup>th</sup> Street-241<sup>st</sup> Avenue SE route between SE 24<sup>th</sup> and SE 32<sup>nd</sup> Streets. They want there to be no connection between SE 28<sup>th</sup> Street and 241<sup>st</sup> Avenue SE so there can be no “cut-through” traffic; they like their dead-end street. The absence of that connection would route all *Penny Lane South* traffic either north on 242<sup>nd</sup> Avenue SE or east on SE 28<sup>th</sup> Street. (Exhibit 5, comments from Roth (pp. 11 – 13, & 86) and Leibsohn (pp. 24, 25, & 82 – 84)) TraffEx does not believe the connection would generate much cut-through traffic as the route would be similar to the existing 239-28-238 route which does not experience much cut-through traffic. (Exhibit 30)

Residents along 242<sup>nd</sup> Avenue SE. The one family in this area which commented has no objection to the project so long as 242<sup>nd</sup> Avenue SE is improved to City standards all the way to SE 24<sup>th</sup> Street and their property is not harmed in the process. (Exhibit 5, comment from Goff (pp. 29 & 30))

The drainage concerns come from those whose property lies downslope from the southwest portion of the subject property. Some of them have already experienced localized lot flooding due to clearing by a previous owner of portions of that southwestern area. They seek assurances that storm water runoff will not be discharged towards the west and their properties. (Exhibit 5, comments from Rogers (pp. 38 & 39), Hallauer (pp. 49 – 51), Jepsky (pp. 57 & 58), Thomas (pp. 62 & 63), and Cornell (pp. 79 – 81); and testimony) As previously noted, storm water runoff from the southwest

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<sup>10</sup> A group of 239-28-238 corridor residents retained an attorney in late 2015 to write a letter to the City on their behalf. The letter expressed concerns about access to substandard streets, tree removal, storm water runoff, alleged conflict with old private covenants, and alleged impact on a Sammamish Plateau Water (formerly known as Sammamish Plateau Water and Sewer District) nearby water well. (Exhibit 5, pp. 2 – 10)

portion of the site will be collected and piped to the detention/treatment facilities in Tracts B and C at the north end of the project.

25. Any Conclusion of Law deemed to be a Finding of Fact is hereby adopted as such.

## LEGAL FRAMEWORK <sup>11</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:

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<sup>11</sup> Any statement in this section deemed to be either a Finding of Fact or a Conclusion of Law is hereby adopted as such.

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 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 November 5, 2015.

### Standard of Review

The standard of review is preponderance of the evidence. The applicant has the burden of proof. [City of Sammamish Hearing Examiner Rule of Procedure 316(a)]

### 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 the concerns raised are essentially limited to two topics: Traffic and drainage. This decision will address the concerns raised by the public first and then provide summary Conclusions of Law for unchallenged topics.

2. No response to the traffic concerns of those living along the 239-28-238 corridor is required as the proposal will not connect to that corridor and no traffic from the development will use that corridor.
3. “Cut-through” traffic is a major concern of those living along 241<sup>st</sup> Avenue SE. GGM submitted a cut-through analysis prepared by a professional traffic consultant; those opposing connections between the streets serving *Penny Lane South* presented only lay opinion. Expert-generated studies should generally be accorded greater weight than lay opinion absent clear bias, error, or fraud. In this case, none of those three defects apply to TraffEx’s work with the sole exceptions of the Examiner’s concern regarding the accuracy of the current ADT count on 242nd Avenue SE and the improper description of that privately maintained road.

A future 242<sup>nd</sup> Avenue SE-SE 28<sup>th</sup> Street-241<sup>st</sup> Avenue SE north-south route simply does not appear to hold any advantage over the current 244<sup>th</sup> Avenue SE north-south route. 244<sup>th</sup> Avenue SE is a designated arterial with a posted speed limit of 35 mph. (Exhibit 17, p. 4) There are no stops along it between SE 24<sup>th</sup> and 32<sup>nd</sup> Streets: The side streets are controlled by stop signs. (*Ibid.*) A future 242<sup>nd</sup> Avenue SE-SE 28<sup>th</sup> Street-241<sup>st</sup> Avenue SE north-south route would be a local street system, presumably with a 25 mph posted speed limit and partly constructed to only a half-street section. It would have at least one stop sign (at the 242<sup>nd</sup> Avenue SE/SE 28<sup>th</sup> Street intersection) and require at least two 90° turns. It simply will be a slower, more circuitous route which would have no time benefit over 244<sup>th</sup> Avenue SE.

The preponderance of the evidence and inferences reasonably made based upon that evidence supports a conclusion that a future 242<sup>nd</sup> Avenue SE-SE 28<sup>th</sup> Street-241<sup>st</sup> Avenue SE north-south route will not attract significant “cut-through” traffic.

4. 241<sup>st</sup> Avenue SE is a two-lane, approximately 20-foot wide, paved public street which runs in a straight line between SE 28<sup>th</sup> and SE 32<sup>nd</sup> Streets. (Exhibits 17, p. 4; 26) Its current AWDT is 200. It is not an arterial. (Exhibit 17, p. 4) 241<sup>st</sup> Avenue SE is not unlike many existing, non-arterial streets in the City. The anticipated maximum AWDT for a local access street is between 400 – 1,500. (Finding of Fact 13, above.) TraffEx predicts that *Penny Lane South* will result in a 140 vehicle increase in AWDT on 241<sup>st</sup> Avenue SE. (Exhibit 17, Figure 7) While an increase of 140 vehicles is an approximate 75% increase, the absolute increase results in a volume (340 AWDT) well below the anticipated maximum for a local street. The Examiner finds no reason to prevent 241<sup>st</sup> Avenue SE from being used as it was intended to be used: A through street in the neighborhood’s network of streets.
5. SE 28<sup>th</sup> Street is similar to 241<sup>st</sup> Avenue SE, albeit a shorter street. Like 241<sup>st</sup> Avenue SE, it is a two-lane, paved, non-arterial City street providing access to a designated arterial. Its AWDT with the project is predicted to be even lower than that of 241<sup>st</sup> Avenue SE: only 160 AWDT.<sup>12</sup> The

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<sup>12</sup> A pending nine-lot land division located near 244<sup>th</sup> Avenue SE between SE 30 and 32<sup>nd</sup> Streets was mentioned as a cause for traffic concern. It is unreasonable to believe that any traffic from those lots would use SE 28<sup>th</sup> Street except to visit friends living on that street.

Examiner finds no reason to prevent SE 28<sup>th</sup> Street from being used as it was intended to be used: A through street in the neighborhood's network of streets.

6. 242<sup>nd</sup> Avenue SE presents a vastly different situation. Although it is a dedicated public right-of-way, there is presently no publicly maintained street within that right-of-way. The dirt road that is currently in use is privately maintained by the few residents who have to use it. According to TraffEx's predictions, development of *Penny Lane South* will add 190 new trips to 242<sup>nd</sup> Avenue SE to and from SE 24<sup>th</sup> Street. That would be a tremendous burden to put on a privately maintained dirt road, even if a chip seal coat were applied to the road's surface. In addition, allowing it to be used by *Penny Lane South* traffic while remaining a private road would create a significant maintenance responsibility/cost-sharing mess.

242<sup>nd</sup> Avenue SE south of SE 24<sup>th</sup> Street is woefully substandard. The requirements of PWS.15.100 (See Finding of Fact 14, above.) are most definitely applicable to any use of 242<sup>nd</sup> Avenue SE by *Penny Lane South*. The current proposal does not comport with PWS.15.100 and would clearly not serve the public use and interest, nor would it make appropriate provisions for streets, nor would it serve the public safety and welfare.

Only two choices are apparent: Either provide a "half-street" improvement for 242<sup>nd</sup> Avenue SE between *Penny Lane South* and SE 24<sup>th</sup> Street or block off 242<sup>nd</sup> Avenue SE at the north end of the development so that no *Penny Lane South* traffic could use it. The problem with the latter option is that all of the traffic impact predictions in this hearing record presume that 40% of project traffic will use 242<sup>nd</sup> Avenue SE to and from SE 24<sup>th</sup> Street. The traffic impact analysis would have to be completely redone if a north route using 242<sup>nd</sup> Avenue SE were not available. In that case, the Examiner could not approve the proposal; it would have to be returned to GGM for correction. In order to approve *Penny Lane South*, the Examiner will amend Revised Recommended Condition 5 to require half-street improvements all the way to SE 24<sup>th</sup> Street. Such a requirement meets the "nexus and rough proportionality" requirements of RCW 82.02.020 and case law: 40% of *Penny Lane South's* traffic will travel over that street; a half-street improvement is the least that can be provided to comply with the PWS; a half-street improvement will provide a safe route for motorists from *Penny Lane South*.

7. The drainage concerns of residents living southwest of the subject property are quite understandable. On the face of it one wonders how land that slopes to the southwest can be drained to the north. But the testimony and evidence indicates that such is actually quite possible because the north end of the site is substantially lower than is the southwest corner and pipes can be buried deep beneath the ridge to convey collected water to the north. Compliance with the proposed preliminary drainage plan should provide the protection desired by the neighbors.
8. One commenter expressed concern over the loss of wildlife habitat due to development of the subject property. (Exhibit 5, p. 27 (Oldham comment)) Wildlife presently living on the portions of the site which will be converted into streets and house lots will, most likely, be lost. That loss is a direct

result of the legislative decision to urbanize this area. Urbanization is, generally speaking, incompatible with most wildlife species habitat, especially for animals such as deer, bear, coyote, etc. The legislative decision to designate and zone the area for urbanization amounts to a conscious choice of human habitat over wildlife habitat. That legislative choice is not debatable in the context of this (or any other quasi-judicial) application.

9. As for the concerns raised in Exhibit 5, pp. 2 – 10, which have not as yet been addressed, none require any special actions. Tree removal and replacement will be in accord with the current tree retention regulations. Although private covenants are not enforceable by the City, it should be noted that GGM has sized the three lots that are within the area subject to historical covenants (Proposed Lots 26 – 28) to comport with the size requirements of those covenants. And finally, Sammamish Plateau Water is aware of this application and submitted comments. (Exhibits 12; 19, last unnumbered page) Sammamish Plateau Water did not raise any concern about contamination of its well. The Examiner will not impose a condition where the water purveyor does express any concerns.
10. Section 20.10.200 SMC requires the Examiner to consider a number of items, including “the interim comprehensive plan”. The Examiner’s ability to use the comprehensive plan in project review is constrained by state law which states that the comprehensive plan is applicable only where specific development regulations have not been adopted: “The review of a proposed project’s consistency with applicable development regulations or, in the absence of applicable regulations the adopted comprehensive plan ....” [RCW 36.70B.030(1)]

The state Supreme Court addressed that provision in *Citizens v. Mount Vernon* [133 Wn.2d 861, 947 P.2d 1208 (1997), *reconsideration denied*] in which it ruled that “[RCW 36.70B.030(1)] suggests ... a comprehensive plan can be used to make a specific land use decision. Our cases hold otherwise.” [at 873]

Since a comprehensive plan is a guide and not a document designed for making specific land use decisions, conflicts surrounding the appropriate use are resolved in favor of the more specific regulations, usually zoning regulations. A specific zoning ordinance will prevail over an inconsistent comprehensive plan. If a comprehensive plan prohibits a particular use but the zoning code permits it, the use would be permitted. These rules require that conflicts between a general comprehensive plan and a specific zoning code be resolved in the zoning code’s favor.

[*Mount Vernon* at 873-74, citations omitted]

11. Based upon all the evidence in the record, the Examiner concludes that *Penny Lane South* meets the considerations within SMC 20.10.200. All evidence demonstrates compliance with Comprehensive Plan policies, to the extent they can be considered, and zoning code, subdivision code, and Environmentally Sensitive Areas regulations.

12. Given all the evidence in the record and considering the preceding Conclusions of Law, the Examiner concludes that *Penny Lane South* complies with the review criteria of SMC 20.10.220(1). The proposed subdivision allows development at the density expected under the Comprehensive Plan, does not thwart future development of surrounding properties, and makes appropriate provision for all items listed in that code section.
13. Given all the evidence in the record and considering the preceding Conclusions of Law, the Examiner concludes that *Penny Lane South* will serve the public use and interest and will thus comply with the review criteria of SMC 20.10.220(2).
14. The Revised Recommended Conditions of approval as set forth in Exhibit 28 are reasonable, supported by the evidence, and capable of accomplishment with the following changes:
  - A. Revised Recommended Condition 1. The concluding clause (beginning with “and”) is unnecessary: The conditions of approval are those specified by the Examiner.
  - B. Revised Recommended Conditions 3 and 4. The Examiner is frankly at somewhat of a loss as to what to do about GGM’s request that the 1.5 foot strip behind the sidewalks be omitted. Public Works said nothing about this request during the hearing, so the Examiner is left without any guidance from City staff.

In the Examiner’s experience with the City, subdivision conditions akin to Revised Recommended Conditions 3 and 4 usually conclude with a clause such as “and any variation from the standards approved by the City Engineer.” (See, e.g., PSUB2015-00264, *Cedar Hill*, Examiner Decision dated September 20, 2016, Condition 9.) Such a clause would be appropriate here. It is the Examiner’s understanding from Public Works testimony in prior hearings that PWS variations may be requested at virtually any point in the development process. If subsequent circumstances arise which, in the opinion of the City Engineer, warrant approval of a PWS Variation of some sort, the authority to consider and grant such a request should not be blocked by language in the subdivision decision. This is a technical issue which has very little bearing on whether the proposed subdivision should be approved.

- C. Revised Recommended Condition 5. As discussed above, the Examiner will modify this condition to require half-street improvements north to SE 24<sup>th</sup> Street and to remove the taper requirement. The only alternative to such a change would be return of the application to GGM for correction. In addition, the “variation” clause discussed above will be added to this condition.
- D. The face of the final plat should include a note regarding payment of school, park, and traffic impact fees. Revised Recommended Condition 2 advises the developer that such fees are payable in accordance with adopted code. But such an advisory to the developer is

insufficient given that current code provides a mechanism by which payment of all such fees may be deferred beyond final plat approval. Including a notice of such deferral on the face of the final plat provides proper disclosure to prospective purchasers of fees that may be required when buildings are constructed. The Examiner will add an appropriate note.

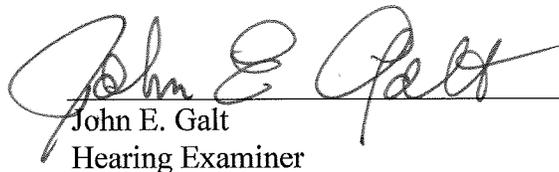
- E. Department Recommended Conditions in previous cases have included two conditions regarding tree retention that were to appear on the face of the final plat. (See, *e.g.*, *Inglewood Landing*, PSUB2015-00014, Conditions D.14 and D.15, hearing held October 25, 2016, Decision issued November 1, 2016.) Similar conditions are not included in the current Department recommendation. Staff agrees that an appropriately worded version<sup>13</sup> of each should appear on the face of the plat to provide disclosure to prospective owners of tree cutting restrictions. (Testimony) Those conditions will be added.
- F. A few minor, non-substantive structure, grammar, and/or punctuation revisions to Recommended Conditions 3 – 5 and 14 – 17 (*italicizing the text to comport with the section heading*) will improve parallel construction, clarity, and flow within the conditions. Such changes will be made.

15. Any Finding of Fact deemed to be a Conclusion of Law is hereby adopted as such.

### 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 *Penny Lane South* **SUBJECT TO THE ATTACHED CONDITIONS**.

Decision issued November 21, 2016.

  
John E. Galt  
Hearing Examiner

### HEARING PARTICIPANTS<sup>14</sup>

Maher Joudi

Ryan Harriman

<sup>13</sup> *Inglewood Landing* was vested to the interim tree retention regulations. Therefore, the wording would have to be slightly different for *Penny Lane South* which is vested to the current regulations.

<sup>14</sup> The official Parties of Record register is maintained by the City's Hearing Clerk.

David Jepsky  
Frank Thomas  
Greg Hallauer  
Diane Jepsky  
Brent Carson, unsworn counsel

Leland Rogers  
Tim Collette  
Jana Rogers  
Larry Hobbs  
Haim Strasbourger

### **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. [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.

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**  
***PENNY LANE SOUTH***  
**PSUB2015-00273**

This Preliminary Subdivision is subject to compliance with all applicable provisions, requirements, and standards of the Sammamish Municipal Code, standards adopted pursuant thereto, the General Standard Plan Notes as set forth in hearing Exhibit 29, and the following special conditions:

**General Conditions**

1. Exhibit 7 is the approved preliminary plat (and supporting plans), subject to revisions required by these conditions of approval. Revisions to approved preliminary subdivisions are subject to the provisions of SMC 19A.12.040.
2. The Plator or subsequent owner(s) shall comply with the payment of street impact fees, impact fees for park and recreational facilities, and school impact fees in accordance to SMC Chapters 14A.15, 14A.20, and 21A.105, respectively.

**Site Development Permit Special Conditions:**

3. SE 28th Street is classified as a local road with no existing right of way along the plat frontage. The local road right of way is 60 feet. Therefore, a right of way dedication is required for a 32-foot width along the project frontage. Half-street improvements are required consistent with local road standards, providing sufficient width of pavement for emergency vehicle access requirements, 6-inch wide curb, 5-foot wide planter strip, 5-foot sidewalk, and 1.5-foot area behind the sidewalk or consistent with any variation from the standards approved by the City Engineer.
4. 241st Avenue SE is classified as a local road with no right of way along the plat frontage. The local road right-of-way is 60 feet. Therefore, a right of way dedication is required for a 32-foot width along the project frontage of only half the street and a 60-foot width along the portion that is totally within the project. Half-street and full street improvements are respectively required consistent with local road standards, providing sufficient width of pavement for emergency vehicle access requirements, 6-inch wide curb, 5-foot planter strip, 5-foot sidewalk, and 1.5-foot area behind the sidewalk or consistent with any variation from the standards approved by the City Engineer.
5. 242nd Avenue SE is classified as a local road with a full 60-foot wide right of way along the plat frontage. The local road right of way is 60 feet. Half-street improvements are required consistent with local road standards, providing sufficient width of pavement for emergency vehicle access requirements, 6-inch wide curb, 5-foot wide planter strip, 5-foot sidewalk, and 1.5-foot area behind the sidewalk or consistent with any variation from the standards approved by the City Engineer. The half-street improvement shall extend northerly to the SE 24<sup>th</sup> Street intersection.

6. Road A is classified as a local road with no current right of way width. The local road right-of-way width is 60 feet. A right of way dedication is required for a 60-foot width along the full length of the road consistent with a local road standard.

**Prior to or Concurrent with Final Plat:**

7. Frontage on SE 28th Street shall be dedicated as public right-of-way. All work on SE 28th Street required by the Site Development Permit and/or right-of-way permits shall be completed.
8. Frontage on 241st Avenue SE shall be dedicated as public right-of-way. All work on 241st Avenue SE required by the Site Development Permit and/or right-of-way permits shall be completed.
9. Road A shall be dedicated as public right-of-way. All work on Road A required by the Site Development permit shall be completed.
10. Offsite improvements shall be fully constructed, including all work on 242nd Avenue SE required by the Site Development Permit and/or right-of-way permits shall be completed.
11. A public stormwater easement shall be provided for access, inspection, maintenance, repair, and replacement of the detention and water quality facilities within Tracts B and C.
12. At a minimum, all stormwater facilities shall be constructed and online and operational. This includes construction of road ATB, curb, gutter, stormwater conveyance system, bioswale, and infiltration pond. Final lift of asphalt may be bonded except as indicated.
13. Any offsite stormwater easements required by the stormwater design shall be recorded.

**Conditions to appear on the face of the final plat (*italicized words verbatim*):**

14. *“Maintenance of all landscape strips along the plat roads shall be the responsibility of the Homeowners Association or adjacent property owners. Under no circumstances shall the City bear any maintenance responsibilities for landscaping strips created by the plat.”*
15. *“Maintenance of landscaping outside the stormwater bioswale interior embankments and above the vault shall be the responsibility of the Homeowners Association.”*
16. *“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.”*
17. *“All building permits shall be subject to 2009 King County Surface Water Design Manual Appendix C to determine the best management practices for all surface water runoff. All connections of roof drains shall be constructed and approved prior to final building inspection approval.”*

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18. The platlor shall include a note regarding the payment of all street, park, and school impact fees consistent with the provisions of Chapters 14A.15, 14A. 20, 14A.25, and 21A.105 SMC as the same exist at the time the final plat is being approved. The note shall indicate whether fees have already been fully paid, partially paid, or deferred. Specific language shall be reviewed and approved by the City prior to final plat approval.
19. Trees retained in accordance with Chapter 21A.37 SMC 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.
20. *“Trees identified on the face of this plat have been retained pursuant to the provisions of Chapter 21A.37 SMC. Retained trees are subject to the tree protection standards of Chapter 21A.37 SMC. Removal of these trees is prohibited unless the tree is removed to prevent imminent danger or hazard to persons or property, and may be 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 Chapter 21A.37 SMC.”*

**Prior to City Acceptance of Improvements:**

21. Prior to acceptance into the Maintenance and Defect period, project close-out documents including, the final acceptance of the construction punch list, as-builts and final corrected Technical Information Report shall be submitted to Public Works for approval.