CITY COUNCIL AGENDA BILL

City of Black Diamond
Post Office Box 599
Black Diamond, WA 98010

ITEM INFORMATION

SUBJECT:	**Agenda Date: April 7, 2016**	**AB16-027**
Resolution authorizing the Mayor to execute the City's written final plat approval for the Diamond Ridge subdivision	Mayor Carol Benson	
	City Administrator	
	City Attorney Carol Morris	
	City Clerk – Brenda L. Martinez	
	Com Dev/Nat Res – Barbara Kincaid	X
	Finance – May Miller	
	MDRT/Ec Dev – Andy Williamson	
Cost Impact (see also Fiscal Note): none	Police – Chief Kiblinger	
Fund Source: -- n/a	Public Works – Seth Boettcher	X
Timeline: n/a	Court – Stephanie Metcalf	

Agenda Placement: ☒ Mayor ☒ Two Councilmembers ☐ Committee Chair ☐ City Administrator

Attachments: Proposed Resolution; Staff Report; Hearing Examiner Report; CC&Rs; Performance Bond; Plat Map

SUMMARY STATEMENT:

The Diamond Ridge Subdivision is a 10-lot plat that received Preliminary Approval in 2011. The Diamond Ridge Preliminary Plat is located at 32355 5th Ave in the R4 Single Family Residential zone district. The owners, Shake and Bake, LLC, have completed the preliminary plat requirements and are now requesting final plat approval. Staff has worked with the applicants to ensure the Preliminary Plat approval requirements have been met. Staffs written findings and a recommendation for approval are documented in a staff report for City Council review. Based on the staff report, if the Council determines that the final plat conforms to all terms of the preliminary plat approval and that adequate bonds have been posted, then by Resolution, it shall accept staff's written findings and authorize the Mayor to execute final plat approval by entering the city's written approval on the face of the plat.

FISCAL NOTE (Finance Department): No fiscal impact

COUNCIL COMMITTEE REVIEW AND RECOMMENDATION:

RECOMMENDED ACTION: **MOTION to accept as first reading and adopt Resolution No. 16-? *(Clerk to assign number at time of adoption)*, approving the final plat for the Diamond Ridge Subdivision (PLN 15-0044); setting forth supportive findings and fixing a time when the final plat shall become effective.**

RECORD OF COUNCIL ACTION

Meeting Date	*Action*	*Vote*
April 7, 2016		

RESOLUTION NO. 16-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON GRANTING FINAL PLAT APPROVAL TO THE DIAMOND RIDGE SUBDIVISION, 5TH AVENUE AND PARK STREET; APPLICATION PLN15-0044

WHEREAS, in 2011, an application was submitted to the City for a preliminary plat to divide 2.85 acres of property located at 5th Avenue and Park Street, in Black Diamond, Washington, into ten lots, located in the R4 Single Family Residential zone district; and

WHEREAS, on November 23, 2011, the Hearing Examiner held a hearing on the preliminary plat, and on December 11, 2011, the Hearing Examiner granted preliminary plat approval, subject to thirteen (13) conditions; and

WHEREAS, Shake n Bake, LLC, a Washington limited liability corporation, subsequently acquired the property in the preliminary plat; and

WHEREAS, Shake n Bake submitted an application for final plat approval of the plat, named Diamond Ridge, in accordance with Black Diamond Municipal Code (BDMC) Chapter 17.20 on January 6, 2016; and

WHEREAS, after receipt of the application, the City staff performed the necessary inspections, and the City staff determined that the applicant has completed and/or submitted appropriate financial guarantees for all required improvements, all as set forth in the attached Staff Report; and

WHEREAS, the applicant has submitted for review and approval by the City Council a final plat map contained in Exhibit A, attached hereto and incorporated herein by this reference as if set forth in full; and

WHEREAS, the final plat application has been reviewed by relevant City departments; and

WHEREAS, the City of Black Diamond staff has determined that all conditions of the preliminary plat have either been met or bonded for and has recommended that final plat be granted subject to the terms and conditions of those bonds; and

WHEREAS, the final plat application was forwarded to the City Council for action during the regular meeting of April 7, 2016;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. Findings. The Black Diamond City Council makes the following findings with regard to the Diamond Village final plat:

A. Public Works Director. Pursuant to BDMC Section 17.20.060, the Public Works Director has recommended approval of the final plat because:

(1) it meets the standards established by state law (chapter 58.17 RCW), the City's subdivision regulations (Chapter 17.20), the City's zoning, the preliminary plat conditions of approval and the City's development standards relating to the final plat drawings and subdivision improvements;

(2) it bears the certificates and statements of approval required by chapter 17.20 BDMC;

(3) the current title insurance report furnished by the applicant/property owner confirms the title of the land in the proposed plat is vested in the name of the owners whose signatures appear on the plat's certificate; and

(4) the facilities and improvements required to be provided by the applicant/property owner have either been completed, or the applicant/property owner has provided a bond in an amount and with sureties commensurate with improvements remaining to be completed, securing to the City the construction and installation of the improvements and that all survey monument lot corners are in place and visible.

B. Compliance with Conditions of Hearing Examiner's Decision and applicable law. Both the Public Works Director and the Community Development Director have determined that the final plat conforms to the conditions of preliminary plat approval, subject to the bond. In addition, the Community Development Director has determined that the final plat is in conformance with any applicable zoning ordinance or other land use controls which may exist, pursuant to RCW 58.17.195.

C. City Council. Pursuant to BDMC Section 17.20.060, and consistent with the attached Staff Report, the City Council has determined that:

1. With the bond that has been posted, the final plat for the subdivision known as "Diamond Village" conforms to all the terms and conditions of the preliminary plat approval granted by the City of Black Diamond Hearing Examiner, approved December 1, 2011.

2. The final plat meets the requirements of the state laws and the Black Diamond Municipal Code that was in effect at the time of Preliminary Plat application.

3. All required plat improvements have either been constructed in compliance with approved plans or have been financially secured with the bond, as specified by the Public Works Director.

4. The final plat has been processed and reviewed in material compliance with all applicable state and local procedural requirements.

5. The final plat is in conformance with all applicable zoning and other land use controls.

6. The final plat is supported by all applicable owner, staff and agency approvals, attestations, certifications and/or recommendations as required by state and local regulations.

Section 2. Final Plat Approval. Based upon the above findings, the City Council of Black Diamond hereby **APPROVES** the final plat of the Diamond Ridge subdivision (PLN15-044) and authorizes and directs staff and the Mayor to inscribe and execute the Council's written approval on the face of the plat. The original of the final plat shall be filed for record by the City with the King County Department of Records and Elections. One reproducible copy shall be furnished to the City Public Works Department. One paper copy shall be filed with the County assessor.

Section 3. Severability. If any section, sentence, clause or phrase of this resolution should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this resolution.

Section 4. Effective Date. This resolution shall be in full force and effect five (5) days from and after its passage and approval and publication as required by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS _____ DAY OF ___, 2016.

CITY OF BLACK DIAMOND:

_____

Carol Benson, Mayor

Attest:

_____

Brenda L. Martinez, City Clerk

CITY OF BLACK DIAMOND STAFF REPORT ON DIAMOND RIDGE SUBDIVISION FINAL PLAT (File Number PLN15-0044)

Date:	March 29, 2016
Name of Subdivision:	Diamond Ridge Subdivision
Number of Lots:	Ten (10)
Location:	32322 5th Ave, Black Diamond, WA within the NE ¼ of Section 14, Township 21 North, Range 6 East, Willamette Meridian, King County, WA
Parcel Numbers:	1421069167, 1421069168 and 1421069169
Zoning:	R4, Single Family Residential
Comprehensive Plan:	Low Density Residential
Land Owner(s):	Shake n Bake, LLC
Name of Applicant (s):	Laura Petkov

Preliminary Plat Approval: The Black Diamond Hearing Examiner granted preliminary approval subject to thirteen (13) conditions on December 1, 2011

Final Plat Application: Application received on October 5, 2015
Response to Applicant requesting information on October 14, 2015
Application deemed complete on January 6, 2016

I. SUMMARY OF REQUEST

The request by Shake and Bake, LLC is to subdivide 2.85 acres of land into 10 single family residential lots ranging from 9,605 to 20,666 square feet in size with two set aside tracts for (1) stormwater and (2) access and utilities. Access is provided off of 5th Ave and constructed as a private road. The project also includes off-site street and utility improvements necessary to serve the plat. The property is located at located at 32322 5th Ave, Black Diamond within the NE ¼ of Section 14, Township 21 North, Range 6 East, Willamette Meridian, King County, WA. The underlying zone district is R4, Single Family Residential and the standards in the Black Diamond Municipal Code regulate the land uses for this property.

II. PRCOCESS

The applicant is required to receive preliminary plat approval prior to submittal and approval of a final plat. The Diamond Ridge subdivision preliminary plat application received preliminary plat approval from the Black Diamond Hearing Examiner on December 1, 2011 subject to thirteen (13) conditions. The City received final plat submittal on October 5, 2015. The final plat was reviewed by staff for conformance with preliminary plat approval conditions and all applicable laws and regulations. In this report, City staff is submitting written findings and a recommendation to the City Council for final plat approval.

Based on staff's report, City Council determines that the final plat conforms to terms of the preliminary plat and applicable laws and regulations and enters written findings to that effect to authorize the mayor to execute the city's written approval on the face of the plat (RCW 58.17.170). Final plat approval is a Type 6-City Council Decision (BDMC 18.08.030). The code defines Type 6 decisions as, quasi-judicial or other decisions, not necessarily requiring the filing of a project permit application that are made by the city council following a recommendation by staff (BDMC 18.08.090). Noticing requirements for final plat approval for Type 6 decisions include posting the affected property and placing a notice on the City's webpage (BDMC 18.08.125). A notice was placed on the City's webpage on March 30, 2016 and the property was posted on March 22, 2016.

III. PROJECT ANALYSIS

The proposed subdivision is determined by the staff to meet the criteria established in the Black Diamond zoning and subdivision ordinances, the Black Diamond Comprehensive Plan and to be compliant with all requirements and conditions of preliminary plat approval. The legal requirements as well as the hearing examiner's conditions are set forth below, together with staff's recommended findings on each.

RCW 58.17.170: "When the legislative body of the city, town or county finds that the subdivision proposed for final plat approval conforms to all terms of the preliminary plat approval, and that said subdivision meets the requirements of [chapter 58.17 RCW], other applicable state laws and any local ordinances which were in effect at the time of preliminary plat approval, it shall suitably inscribe and execute its written approval on the face of the plat."

A. Conformance with the City of Black Diamond Zoning Ordinance (BDMC Chapter 18).

The zoning designation of the properties is R4 Single Family Residential which allows single family detached structures on individual lots per BDMC 18.30.020.A.1. The minimum lot area required is 9,600 square feet per BDMC 18.30.040.A.1.a. The maximum density is 4 dwelling units per acre per BDMC 18.30.040.A.2.a. The minimum lot width is 60 feet and depth is 80 feet per BDMC 18.30.040.A.3&4. Noticing requirements include posting the affected property and placing a notice on the City's webpage per BDMC 18.08.125.

Compliance statement: Staff finds the proposed subdivision satisfies all of the aforementioned zoning and land use criteria. The 2.85 acre subject property is being subdivided into 10 Single Family Residential lots. Lot sizes range from 9.605-20,666 square feet. All lots conform to minimum dimensional standards and meet required setbacks. Noticing requirements have been met. The gross density of the subdivision is 3.51 dwelling units per acre (du/ac) and net density is 4.31 du/ac. Maximum density in the R4 zone is 4 du/ac (BDMC 18.30.040.A.2.a). The Zoning Code does not indicate whether gross or net density is to be used. However, the Comprehensive Plan establishes a maximum density based on dwelling units per gross acre (page 5-14). The plat density is less than the allowable maximum density for the R4 zone.

B. Conformance with the City of Black Diamond Subdivision Ordinance (BDMC Chapter 17) and Hearing Examiners' conditions of approval.

The applicant submitted a preliminary plat application in conformance with BDMC 17.12, File Number PLN11-0003. A SEPA Mitigated Determination of Nonsignificance (MDNS) was issued on April 15, 2011, File Number PLN11-0004. The Preliminary Plat was approved on December 1, 2011 by the City of Black Diamond Hearing Examiner with thirteen (13) conditions of approval. The applicant submitted a final plat application in conformance with BDMC 17.20, File Number PLN15-0044. The City's standards procedures for public notifications were met pursuant to BDMC Chapter 18.08.

Compliance statement: Staff finds the proposed subdivision conforms to the City's subdivision regulation.

C. Compliance with Hearing Examiner's conditions of approval.

Hearing Examiner Condition No. 1: "The applicant shall follow the recommendations of the Geotechnical Report prepared by Terra Associates (dated November 23, 2009) as deemed appropriate by the Public Works Director pursuant to the City's Engineering Design and Construction Standards."

The applicant did apply the recommendations of the Geotechnical Report prepared by Terra Associates, dated November 23, 2009 as deemed appropriate by the Public Works Director pursuant to the City's Engineering Design & Construction Standards as follows.

a. Appropriate erosion and sediment controls were addressed in civil drawings, permitting and ongoing through construction. The site is permitted through the Department of Ecology NPDES program.

b. Public Works verified that soils for road construction were excavated to unyielding level.

c. A structural engineer was required to design the storm pond wall.

d. Stormwater management has been achieved through professional engineering, civil design and construction of the approved stormwater system that provides detention and release according to the City's adopted stormwater regulations. .

e. Civil plans provided for free and positive surface water drainage by routing off-site water around home sites with a drainage swale at the south plat boundary to control general runoff. All other runoff is piped through the storm water facility.

f. Roadway pavement construction exceeds 2" of asphalt over 4" of gravel as recommended in the Geotechnical Report.

Hearing Examiner condition No. 2: "The applicant shall reconstruct and widen 5th Ave. to a City asphalt design structure section of 24 feet to meet the City standard for 5th Ave. from the project site to the intersection with Baker Street. Pursuant to Finding of Ex. 8, 22' rather than 24' shall be required."

The applicant did reconstruct and widen 5th Avenue to 22' from the project site to the intersection with Baker Street.

a. The road was regraded with base added to provide a structurally sound 22'wide road section from the project site to Baker. An additional 2" lift of asphalt, utility lid adjustments, and driveway connections remain to be completed and has been bonded for. The bond requires this additional work be installed on or before August 30, 2016 unless an extension is granted by the City.

Hearing Examiner condition No. 3: "Both the stormwater (Tract Y) and private road utilities (Tract X) tracts shall be private."

The final plat map shows stormwater tract (Tract Y) and the road/utilities tract (Tract X) as private.

Hearing Examiner condition No. 4: "Prior to final plat approval, the applicant shall submit Covenants, Conditions and Restrictions (CCR's) for staff review and approval. These CCRs shall provide for establishment of a Homeowners' Association to ensure adequate funding for maintenance and eventual replacement of the private street and maintenance of the stormwater facility."

The applicant did submit Covenants, Conditions, and Restrictions (CC&Rs) for staff review and approval. These CC&Rs provide for establishment of a Homeowners' Association that ensures adequate funding for maintenance and eventual replacement of the private street and maintenance of the stormwater facility.

"Hearing Examiner condition No. 5: "Complete civil drawings of the on and off-site roadway and utility improvements, including all improvements required by the City's stormwater regulations, shall be submitted for review and approval prior to issuance of construction permit

for required plat improvements. All of the supporting infrastructure must be constructed, functional, and substantially complete and guarantee bonds provided before application can be made for final plat. Prior to final plat approval the City staff shall also have the Applicant demonstrate to its satisfaction, if not already done so, that the City's stormwater facilities to which the Applicant's stormwater system will connect is adequate to handle any increased flows generated by the proposal. The City shall require the applicant to mitigate any deficiencies."

The applicant did submit complete civil drawings of on and off-site roadway and utility improvements, including all improvements required by the City's stormwater regulations, for review and approval prior to issuance of a construction permit for required plat improvements.

Supporting infrastructure has been constructed so that it is functional and substantially complete. A Private Project Development Performance bond has been provided to the City to financially guarantee the completion of all remaining required improvements as allowed under BDMC Chapter 17.20.050.

a. Off-site and on-site sets of civil drawings of the roadway and utility improvements were submitted, reviewed, approved, and permitted by the Public Works Director.

b. Streets are paved and applicant has bonded for the final lift of asphalt which will occur as weather permits.

c. Sewer mains and sewer stubs to each lot have been installed, tested and are acceptable for use.

d. Water mains providing service to the plat have been looped, tested, purified, tested for purity, connected to the public water system and are available for public water service to each lot.

e. A fire hydrant has been installed to provide fire protection for the homes within the plat.

f. The stormwater collection system has been installed and is available for single family home connection and the off-site storm water that passes through the plat has been routed around home sites.

g. The applicant will need to reconstruct a swale to ensure that offsite stormwater flows are adequately routed through the plat. This item is covered in the performance bond.

The applicant has demonstrated to the satisfaction of the City that the stormwater facilities to which the applicant's stormwater system will connect is adequate to handle any increased flows generated by the proposal. No downstream conveyance issues were identified and the stormwater retention pond will reduce the peak winter storm runoff from the predeveloped condition as required under the City's adopted stormwater regulations. The applicant is required to provide the City with a Maintenance and Operations Bond to ensure successful operation of improvements for two years after final approval.

Hearing Examiner's Condition No. 6: "A correct characterization of the existing drainage discharge to 32328 – 5th Ave shall be shown on future drawings related to this project.

The Applicant provided a correct characterization of the existing drainage discharge to 32328 5th Avenue on the plan sheets.

a. The development design routes all but a very small catchment area away from the adjacent property located at 32328 5th Avenue.

b. Improvements to the storm drainage connections to the onsite storm pond are required. This work is covered in the performance bond.

Hearing Examiner's Condition No. 7: "All easements shall be shown on the final plat."

All easements are shown on the final plat. These easements have been prepared to the City's satisfaction and are shown appropriately and referenced on the plat map.

Hearing Examiner's Condition No. 8: "The private road turnaround shall be marked as a fire lane with signage as required in Appendix D of the 2009 ed. IFC."

Specific signage requirements and installation locations have been relayed to the applicant and work is covered under the performance bond.

Hearing Examiner's Condition No. 9: "Grade of the private road shall not exceed 15%."

The grade of the private road does not exceed 15%.

Hearing Examiner's Condition No. 10: "At the time of building permit, homes shall have required fire flow available of shall have a fire sprinkler system installed to allow for a reduction in required fire flow."

All home sites have required fire flow available. The applicant installed a new water main loop and extensions including residential water service and fire hydrant protection to provide adequate public water service.

Hearing Examiner's condition No. 11: "During the civil design phase, the applicant shall submit a professionally prepared planting plan for review and approval by the City, including location, species, and size of 15 new trees to be planted. Per BDMC 19.30.070.C, replacement trees shall meet the following criteria: 2. New trees shall meet or exceed current American Nursery and Landscape Association or equivalent organization's standards for nursery stock; 3. New trees shall be planted in locations appropriate to the species' growth habit and horticultural requirements; 4. New trees must be located away from areas where damage is likely; 5. Deciduous replacement trees shall be a minimum of three inches in caliper (dbh), evergreen

trees must be a minimum of twelve feet in height; and 6. Trees shall be watered as necessary to ensure survival and growth during their first two growing seasons after planting.

The applicant did submit a professionally prepared planting plan which was approved by the City during the civil design phase. The location, species and size of plantings are in conformance with the City's Tree Preservation Ordinance, BDMC 19.30. Landscaping and tree planting is covered under the performance bond. .

Hearing Examiner's condition No. 12: "Tree removal associated with home construction on individual lots within the plat shall be reviewed at the time of building permit application and subject to the tree preservation code in effect at that time."

Tree removal associated with home construction on individual lots within the plat will be reviewed at the time of building permit application subject to the tree preservation code in effect at that time. A tree removal permit will be required pursuant to BDMC 19.30.060.

Hearing Examiner's condition No 13: "A lot line adjustment (LLA) application shall be submitted to the City for review and approval for property to be deeded from tax parcel no. 1421069167 to tax parcel no. 1421069053. The LLA must be approved and recorded prior to final plat application.

A Lot Line Adjustment (LLA) was approved on December 3, 2015 (PLN15-0043). It has been recorded with the King County recorder's office pursuant to BDMC 17.36.060. The recording number is appropriately referenced on the final plat map.

Compliance statement: staff finds the proposed subdivision complies with all of the Hearing Examiner's conditions of approval.

C. Conformance with the Comprehensive Plan

The Comprehensive Plan designation of the properties is Low Density Residential (LDR). Section 5.6.3 of the Black Diamond Comprehensive Plan (June 2009) contains the following residential policies:

- *Policy LU-16: Encourage a variety of housing types, providing housing for all income levels and all family sizes.*

- *Policy LU-17: New housing should be compatible with the existing development pattern and the small-town atmosphere – a mix of small and large lots, size and scale.*
- *Policy LU-18: Require residential development patterns to allow for efficient provision of public services and utilities.*

Compliance statement: staff finds proposed subdivision is in conformance with the Comprehensive Plan. The development proposes 10 single family residential lots ranging in size

form 9.605-20,666 square feet which are compatible with the existing development pattern. Density in the LDR designation allows for 4 dwelling units per gross acre. The subdivision results in 3.51 dwelling units per gross acre.

D. Conformance with the City of Black Diamond Engineering Requirements.
The City's Public Works Director has reviewed the civil design, construction drawings and final plat application with the purpose to promote the public health, safety and welfare in accordance with the standards established by the state and the City to provide and promote safe, convenient vehicle and pedestrian access on public and private streets, to facilitate the adequate provision of public water and sewer service and for the proper handling of stormwater.

a. Street and Access: the public and private streets have been adequately improved and bonded for to provide safe and convenient access and travel for pedestrians and vehicles.

b. Sewage disposal: The sewer main extensions and the existing City collection system with the regional conveyance and treatment capacity through King County Wastewater Treatment Division will provide adequate public sewerage service. This project meets concurrency with the requirements of the sanitary sewer serving the subdivision.

c. Water service and fire flow: The new water main loop, water main extensions and fire hydrant protection provide adequate potable water and fire flow and are therefore concurrent with the requirements of the fire district and public water serving the subdivision.

d. Stormwater: The applicant has provided stormwater detention and stormwater quality treatment and safely routed offsite stormwater drainage to downstream conveyances to provide adequate stormwater quality and quantity discharge with adequate conveyance infrastructure.

e. Survey: The final plat is a true and accurate map that correctly shows certifications, dedications, easements, plat provisions, lot boundaries and dimensions consistent with the RCW 58.09, RCW 58.17, and the City's subdivision ordinance (BDMC Title 17).

Compliance statement: The Public Works Director finds the utilities and transportation systems have sufficient capacity to serve this subdivision. Further, the Diamond Ridge Final Plat meets state and City standards in promoting the public health, safety and welfare.

IV. Staff Recommendation:

Based on the information and materials provided in the staff report, the City of Black Diamond staff has determined that the final plat meets all of the applicable requirements for final plat approval. The applicant has substantially completed required improvements and submitted a bond for final completion of all outstanding improvements to be completed on or before August 30, 2016. Therefore, the City staff recommends the City Council adopt the findings in this report and **APPROVE** the Diamond Ridge Subdivision Final Plat, File No. PLN15-0043, subject to the completion of all items listed in the performance bond, to be performed on or before August 30, 2016.

March 29, 2016
Diamond Ridge Subdivision Staff Report
City File Number PLN15-0044

Submitted on April 7, 2016 by:

Barbara Kincaid Community Development Director	Seth Boettcher Public Works Director

ATTACHMENTS TO THE REPORT:
Diamond Ridge Preliminary Plat (PLN11-0003) Findings, Conclusions, and Decision
Application
Plat map
CC&Rs
Private Project Development Performance Bond

Cc: case file
Applicant

COMMUNITY DEVELOP.
DEC 05 2011
RECEIVED

BEFORE THE HEARING EXAMINER FOR THE CITY OF BLACK DIAMOND

Phil Olbrechts, Hearing Examiner

RE: Diamond Ridge Preliminary Plat PLN11-0003	**FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATION**

INTRODUCTION

The Applicant requests approval of a preliminary plat to subdivide 2.85 acres into 10 single family lots. The preliminary plat is approved subject to conditions.

ORAL TESTIMONY

Stacey Borland, associate planner for the City of Black Diamond, summarized the proposal. In response to questions from the Examiner, she clarified that only one of the proposed lots is already developed and that the home depicted along 5th Avenue is not part of the plat. She noted that all conditions recommended by the fire department other than mitigation fees had been incorporated into the staff recommended conditions of approval and that the fire department had found that as conditioned the proposal adequately addresses fire safety issues.

Steve Boettcher, Public Works Director, testified that 5th Avenue is currently fifteen feet wide and that the Applicant will widen 5th Avenue all the way to Baker Street.

Kelly Kahne, applicant, testified that he enjoyed working with Black Diamond staff, that he has worked with staff in other jurisdictions and that Black Diamond staff was the best.

Karen Watling, neighbor to the south, testified that she thought it was a great project but she had concerns about Baker Street. She noted that Baker Street goes past 5th on to St. Barbara's church, that Baker is also narrow as it goes to the church and that it needs to be widened there as well. She feels that Baker Street east of the project should be widened all the way to Lawson.

Steve Boettcher noted that the section of Baker referred to by Ms. Watling is south and east of the project. The primary access route would be to get to SR 169 and south on 5th. There would only be a small amount of traffic going to or coming from the road section mentioned by Ms. Watling. He didn't find any improvements necessary for such a small amount of traffic.

Mr. Kahne noted that any traffic on the road section identified by Ms. Watling would come from the church, not his project.

Ms. Watling noted that the intersection of SR 169 and Baker is very narrow and treacherous (overgrown trees) and cars cut the corner to access Baker from SR 169. Depending on the time of day, some residents go all the way down 5th avenue, turn right on Lawson and then turn on SR 169. The intersection isn't always used.

EXHIBITS

All exhibits identified at page 10 of the November 4, 2011 staff report were admitted into the record during the hearing. The following additional exhibits were also admitted during the hearing:

Ex. 16: Aerial photograph of project site.
Ex. 17: November 8, 2011 letter from Janice Ranton

FINDINGS OF FACT

Procedural:

1. Applicant. Kahne Holdings, Inc.

2. Hearing. The Hearing Examiner conducted a hearing on the application at 5:30 p.m. at the Black Diamond City Council Meeting Chambers on November 14, 2011. The record was left open for staff to provide its position on conflicting City regulations governing appeal of the Examiner's decision. Staff responded by email on November 23, 2011 and the record was closed on that date.

Substantive:

3. Site/Proposal Description. The Applicant proposes to subdivide a 2.85 acres into ten lots, in the R4 Single Family Residential zone district. Proposed single family lots range from 9,605-20,666 square feet in size. Two tracts are proposed: 1) stormwater; and 2) access and utilities. Access is proposed to be provided off of 5th Ave and internal access will be constructed as a private road (identified as Tract X on the preliminary plat map, Ex. 1). The project includes off-site street and utility improvements in order to serve the plat and associated site preparation and grading. An existing single family residence and shop will remain on site.

4. Characteristics of the Area. The area is developed with single family housing at a density similar to that proposed.

5. Adverse Impacts. No significant adverse impacts are associated with the proposal. The project has undergone SEPA review and was issued a mitigated determination of nonsignificance. There are no critical areas on site except for potentially a mine hazard area. A geotechnical report submitted by the Applicant conducted a detailed investigation of coal mine maps and concluded that "*no mining took place beneath or immediately adjacent to the site. We did not identify any subsurface mine workings that would impact the development of the site.*" Ex. 9, 11/23/09 letter from Terra Associates, Inc. The removal of trees is mitigated under the

City's tree preservation regulations, Chapter 19.30 BCMC, which regulates tree removal at both the preliminary plat and the building permit stages of development. Infrastructure impacts are addressed separately in Finding of Fact No. 6 below. In regards to infrastructure impacts, a couple neighbors expressed concerns about existing deficiencies in roads and drainage. It is important to note that the City cannot legally require the Applicant to fix existing infrastructure deficiencies. The City can only make the Applicant fix problems that it creates. As discussed below, the project as proposed and conditioned mitigates all impacts generated by the project.

6. Adequacy of Infrastructure and Public Services. The staff report states that all utilities have the capacity to serve the proposal and there is no evidence presented to the contrary. As mitigated by staff, adequate infrastructure will serve development as follows:

- Drainage: In a couple letters, Janice Ranton expressed concern about stormwater impacts, questioning whether existing stormwater lines along 5th Avenue could handle increased flows and asserting that water running off the property causes chuckholes, apparently on 5th Avenue and Baker Street. *See* Ex. 5 and 17. As discussed below, the project as conditioned in conjunction with the City's stormwater regulations will ensure that the proposal will not increase off-site flows onto adjoining properties and that off-site drainage facilities are adequate to handle any increased flows caused by the project.

  As previously noted, the City is tasked with ensuring that the project doesn't exacerbate stormwater impacts. The City cannot require that the Applicant correct existing deficiencies. The City's regulations will ensure that the project will not create any increase in off-site flows to adjoining properties, including City streets. BDMC 14.04.020(A) adopts the 2005 Edition of the Department of Ecology's Stormwater Management Manual for Western Washington. The conditions of approval for this proposal require the Applicant to complete or bond all stormwater improvements required by the Manual prior to final plat approval. The Manual requires both no net increase in off-site stormwater run-off and also requires the preservation of off-site natural drainage systems. The technical report, Ex. 9, contains a preliminary analysis of stormwater generated by the introduction of impervious surfaces. The technical report proposes an on-site detention system and piping. Staff concluded in the staff report that the proposed drainage tract is large enough to accommodate the detention facilities necessary to comply with the Manuals stormwater requirements. In sum, the Manual mandates a stormwater system that will not increase adverse off-site drainage impacts.

  As to the adequacy of off-site stormwater facilities, the technical report states that the City's conveyance system will be extended up 5th Avenue to connect to the subdivisions stormwater system. The technical report concludes that the proposal "will not create a significant impact to the downstream system". The technical report does not provide any information as to how this conclusion was reached by the Applicant's consultant. Staff has probably already done so, but to be certain the conditions of approval will require that staff verify with the Applicant that the basis for this conclusion is sound and that the Applicant correct any deficiencies.

As to drainage issues in general, the staff report notes that the Public Works Director found that the proposed subdivision with properly designed storm water facilities should be able to adequately mitigate the risks of flood or inundation conditions on or off-site. The expertise of the Public Works Director prevails on this issue and it is found that the proposal as conditioned that stormwater facilities required of the project will adequately mitigate the risks of flood or inundation conditions on or off the site.

• Transportation: Transportation was a concern cited by both Ms. Ranton and Ms. Watling. There is no question that 5th Avenue has existing deficiencies. As asserted by Ms. Ranton in her letters, it is too narrow and not wide enough for two cars to pass each other. This was confirmed by the Examiner's site visit as he disclosed during the hearing. Mr. Boettcher testified that 5th Avenue is only fifteen feet wide. The conditions of approval, as recommended by staff, include a requirement that the Applicant widen 5th Avenue to 22 feet from the project access point to Baker Street. Mr. Boettcher testified that this would be sufficiently wide to accommodate vehicles passing in opposite directions. As determined by Mr. Boettcher in his deviation approval, Ex. 8, the 22 foot width is sufficient to accommodate the traffic generated by the project and provide for safe fire access. As noted in Ex. 8, fire access standards only require a minimum of 20 feet and the City has adopted roadway standards less than 20 feet for some parts of the City. No evidence was presented that the 22 feet width would be insufficient to handle traffic generated by the proposal and no public concerns were raised by the sufficiency of this mitigation. Given these circumstances and the expertise of Mr. Boettcher as a public works director, the road widening of 5th Avenue required from the proposal to Baker Street is found adequate to mitigate the increased traffic generated by the project.

Ms. Watling testified that Baker Street from Fifth Avenue to Lawson Street was also too narrow and that "depending on the time of day" residents of the project area travel this route to SR 169 to avoid the intersection of SR 169 and Baker when it is subject to a large number of turning movements. Mr. Boettcher testified that the traffic generated by the project along the route identified by Ms. Watling was too insignificant to justify any road improvements in that area because almost all traffic would access SR 169 through the intersection of Baker Street and SR 169. The government has the burden of proof in establishing both that a project creates a need for mitigation and that the required mitigation is proportional to that need. *See Burton v. Clark County*, 91 Wn. App. 505, 516-17 (1998) (government has the burden of proof in establishing nexus/proportionality for development exactions). In this case there is no traffic study or any expert opinion that supports a finding that the proposal necessitates the widening of the street section identified by Ms. Watling. In fact, Mr. Boettcher's expert opinion concludes the opposite, that no widening is needed. Mr. Boettcher's opinion prevails under these circumstances and it is determined that the no widening is necessary to provide adequate access.

Ms. Ranton may also have raised issues with the adequacy of Baker between 5th and SR 169 and/or Lawson Street. In Ex. 17, Ms. Ranton notes that *"[p]eople will*

enter 5th Ave off of Lawson St. and Baker St. These roads are not wide enough for two cars to pass now." From this statement is unclear what roads Ms. Ranton finds too narrow. It probably isn't all the streets she mentions, since Lawson Street, as seen from the Examiner's site visit, is divided into two lanes of traffic and easily accommodates traffic in both directions. Ms. Ranton's comment is the only evidence in the record suggesting that there may be a problem with Baker Street between SR 169 and 5th Avenue. The Examiner's site visit confirms that Fifth Avenue is not wide enough for two way traffic between Baker Street and Lawson Street. However, Mr. Boettcher concluded that most project traffic would exit the project to SR 169 through its intersection with Baker Street and he also concluded that no widening of Baker Street should be required of the Applicant for Baker Street. Given Mr. Boettcher's expertise and the burden on the City to establish the need for any improvements, it is found that the improvements required for the project provide for adequate access based upon the premise that most project traffic will access SR 169 through its intersection with Baker Street.

• Parks and Open Space: The project provides for adequate parks and open space to the extent that can reasonably be required for a project of this scale. No park mitigation is directly required by City regulations and no open space has been required for the project beyond the stormwater Tract Y. As with road improvements, the City can only require parks and open space if it can prove by a preponderance of evidence that the open space is necessitated by the project. *See, Isla Verde Intern. Holdings, Inc. v. Camas*, 99 Wn. App. 127 (1999). The adequacy of parks and open space will be assessed with this standard of proof in mind.

The Black Diamond Comprehensive Plan provides some of the evidentiary foundation required by cases such as *Isla Verde* to assess and mitigate park needs. The Comprehensive Plan adopts level of service standards for parks and open space and Section 8.5.4 of the Plan notes that the City does not meet those standards. Section 8.5.4 specifically identifies a deficiency in neighborhood parks in the vicinity of SR 169. The Comprehensive Plan acknowledges that its capital facilities plan will not remedy the deficiency in neighborhood parks and that "*[t]he City will need to ensure neighborhood parks and trails are developed concurrently as new residential development occurs to meet the established LOS standards.*" This Plan puts the City in a good position to require park mitigation from the Applicant, but the staff report only notes that no park mitigation is required for the project. However, from a practical standpoint the project is too small for the City to require any meaningful mitigation for a neighborhood park. As noted in the *Burton* case, any mitigation required by the City would have to be proportional to the impacts of the development. Under this limitation, the City could not require the Applicant to provide for an entire neighborhood park. The City could also probably not require any mitigation fees, because those fees would have to be expended within five years of collection under RCW 82.02.020 and it is unlikely that there will be enough other development in the vicinity to collect enough fees to purchase and/or improve a neighborhood park to serve the development. Given that due process constraints limit a review of adequacy to what can reasonably be required

of the Applicant, it must be found that the proposal makes adequate provision for parks.

As to open space, Table 8-3 of the Comprehensive Plan adopts a level of service standard of 10% of the City's land area. The comprehensive plan concludes in Section 8.5.4 that this standard will be satisfied, apparently through the development of the Lawson Hills and Villages master plan developments, *see* Comprehensive Plan, p. 8-17. Evidently, the Comprehensive Plan assesses open space needs on a City-wide basis and no City policies or regulations assign any need for or require any open space of any specific subdivision proposal. Given these circumstances, the proposal is found to adequately address open space.

• Water: Water infrastructure is adequate. The Public Works Director found that the general plan and layout for the water system connection and extension will provide adequate pressure, looping, fire flow and proper extension of service across the developed property and meets City standards. With the connections and water main layout proposed, more than 1000 gallons per minute (gpm) will be provided to the fire hydrants in the plat.

• Sewer: The proposal adequately addresses sewer infrastructure/service. The Public Works Director found that the proposed general plan and layout for sewer service to the proposed subdivision is adequate.

• Schools: The proposal adequately addresses the additional demand it places upon schools. As noted in the staff report, the Enumclaw School District (which presumably serves the project site) was provided notice of the SEPA MDNS for the proposal and did not submit any comment or appeal. The Comprehensive Plan notes that elementary school facilities are over capacity and that there is no room for expansion. However, there is nothing in the record to support the imposition of mitigation fees or off-site exactions for reasons similar to those identified in the parks analysis above. With these constraints it must be found that there are adequate school facilities to serve the proposal.

• Sidewalks to and from School. The proposal adequately provides for safe walking conditions to and from school. The staff report does not indicate if students actually would walk to and from school from the project site, but it's analysis implies that is the case. The proposed subdivision will contain a 22' wide private access road with turnaround. The width is enough to accommodate vehicles and pedestrians safely. The applicant will also be improving the existing substandard 5th Ave to mitigate the impact of the additional use and traffic on 5th Ave. Although sidewalks are not proposed for either roadway, these measures will improve walking conditions for students who walk to and from school. Both 5th Avenue and Baker Street are very low traffic and low speed streets providing reasonable safe walking for pedestrians. Once a pedestrian reaches 3rd Ave (SR-169), sidewalks are available and there are marked crosswalks which provide safe crossing to the school.

• Fire Protection: The proposal adequately provides for fire protection. King County Fire District 44 serves the project site. The Fire District has reviewed the proposal and recommended several conditions, all of which have been incorporated into the project approval except for fire mitigation fees. In Ex. 11 the Fire District requests voluntary mitigation fees amounting to $1,783.13 per dwelling unit. There is no documentation or other evidence in the record to support these fees. As correctly noted by the Fire District, they are requesting "voluntary" mitigation fees, a reference to fees authorized by RCW 82.02.020. However, RCW 82.02.020 requires that these "voluntary" mitigation fees "are reasonably necessary as a direct result of the proposed development". The burden to prove that a condition (including mitigation fees) is reasonably necessary as a direct result of a proposed development is on the governmental entity imposing the requirement. *Citizens' Alliance for Property Rights v. Sims*, 145 Wash. App. 649, 656 (2008). The Fire District has only provided the amount of mitigation fee it is requesting without any documentation showing what the fee will be used for or how it was formulated. The Fire District has provided no information as to how this fee is reasonably necessary to mitigate the impacts of the development. The District has not met its burden of proof in justifying the fee and it cannot be imposed as a condition of approval.

CONCLUSIONS OF LAW

Procedural:

1. Authority of Hearing Examiner: BDMC 18.08.030 provides that preliminary plat applications are classified as Type 3 applications. BDMC 18.08.060 provides that the Hearing Examiner shall make final decisions on preliminary plat applications after holding an open record hearing.

Substantive:

2. Zoning Designation: R4, Single Family Residential

3. Review Criteria and Application. BDMC 17.15.020 governs the criteria for preliminary plat approval. Those criteria are quoted in italics below and applied to the application under corresponding Conclusions of Law.

BDMC 17.15.020(A)(1): ***The proposed subdivision meets all city zoning regulations and is consistent with the city's comprehensive plan maps and policies, and with the Black Diamond design standards and guidelines where applicable;***

4. The zoning designation of the properties is R4 Single Family Residential which allows single family detached structures on individual lots per Black Diamond Municipal Code (BDMC) 18.30.020.A.1. The minimum lot area required is 9600 square feet per BDMC 18.30.040.A.1.a.

The maximum density is 4 dwelling units per acre per BDMC 18.30.040.A.2.a. The minimum lot width is 60 feet and depth is 80 feet per BDMC 18.30.040.A.3 & 4. The proposed subdivision satisfies all the aforementioned zoning criteria.

The Comprehensive Plan designation of the properties is Low Density Residential. Section 5.6.3 of the Black Diamond Comprehensive Plan (June 2009) contains the following residential policies:

> Policy LU-16: *Encourage a variety of housing types, providing housing for all income levels and all family sizes.*
>
> Policy LU-17: *New housing should be compatible with the existing development pattern and the small-town atmosphere—a mix of small and large lots, size and scale.*
>
> Policy LU-18: *Require residential development patterns to allow for efficient provision of public services and utilities.*

The development proposal contains a range of lot sizes (9,605-20,666 square feet) which are compatible with the existing development pattern. The proposal involves development of a site which already contains a single family dwelling and is surrounded by developed properties, which allows for the efficient provision of public services and utilities.

The City of Black Diamond Design Guidelines apply to the following areas: MPD Framework Design Standards & Guidelines, Residential Uses in the Historic Village Core, Multi-Family Development, Business Park / Industrial Areas, Commercial Zones, and The Historic Town Center. There are no design standards and guidelines that apply to this proposed subdivision.

BDMC 17.15.020(A)(2): ***The proposed subdivision results in a net density that is equal to or less than the allowable maximum density established by the zoning regulations, and is greater than or equal to any applicable minimum density requirement;***

5. Sheet 1 of the preliminary plat (Exhibit 1a) contains a section entitled "Gross and Net Density Calculations" which denotes a gross density of 3.51 dwelling units per acre (du/ac) and a net density of 4.31 du/ac for the project. The maximum density is 4 dwelling units per acre per BDMC 18.30.040.A.2.a. There is no minimum density requirement in BDMC 18.30.040. The Zoning Code does not indicate whether density is to be measured by gross or net acres. However, the Comprehensive Plan establishes the maximum density for Low Density Residential areas based upon dwelling units per gross acre, not net acre (page 5-14). Therefore, the plat density is less than the allowable maximum density for the R4 zone.

BDMC 17.15.020(A)(3): ***The public use and interest is served by the establishment of the subdivision and dedication. In considering this criteria, it shall be determined if appropriate provisions are made for all relevant matters, including, but not limited to, the public health, safety and general welfare, open spaces, storm drainage ways, streets, alleys, other public ways, water supplies, sanitary wastes, parks, playgrounds, sites for schools and school grounds;***

6. As determined in Finding of Fact No. 6, the subdivision provides for adequate infrastructure as contemplated in the standard quoted above. As is evident in Finding of Fact No. 6, there is somewhat of a conflict between judicial and statutory requirements that place the burden of proof on the City to support conditions of approval, while placing the burden on the Applicant to establish that adequate infrastructure supports the proposal. There are instances, such as for schools, where it can be argued that facilities are not adequate but at the same time the record does not support any mitigation that is legally defensible. Denial of an application under these circumstances would appear to be the correct response, but if projects are routinely denied for failing to mitigate impacts that they cannot be reasonably required to mitigate, the City would be faced with a potential takings challenge for creating a permanent de facto development moratorium. *Tahoe-Sierra Pres. Council v. Tahoe Reg'l Planning Agency,* 535 US 302 (2002). Due process and takings considerations dictate that adequacy be evaluated in a flexible manner when assessing adequacy in this context.

In this case there are legitimate issues over the adequacy of schools and parks and to a more limited extent roads and fire facilities. However, the project is of a very modest scale and only adds to infrastructure demand at a minor, incremental level. Further, beyond the master plan developments currently under consideration by the City there is no plethora of development that would lead to any immediate concerns over cumulative impacts. With these factors in mind it appropriate to conclude that the proposal provides for adequate infrastructure as require by the criterion quoted above. Further, since the Findings of Fact also determine that there are no adverse impacts associated with the proposal, it is concluded that the public use and interest is served by the establishment of the subdivision that appropriate provisions are made for all relevant matters, including, but not limited to, the public health, safety and general welfare.

BDMC 17.15.020(A)(4): ***The physical characteristics of the proposed subdivision site, as conditioned, do not increase the risk of flood or inundation conditions on- or off-site;***

7. As determined in Finding of Fact No. 6, the physical characteristics of the proposed subdivision site, as conditioned, do not increase the risk of flood or inundation conditions on- or off-site.

BDMC 17.15.020(A)(5): ***Applicable city development standards are met or exceeded*;**

8. The proposed subdivision has been reviewed by staff for consistency with applicable portions of Title 17 (Divisions of Land), Title 18 (Zoning), and Title 19 (Environment). With the exception of the deviation described below, all other development standards are met or exceeded.

The Applicant submitted a construction deviation request for a road variance from the city standard of 24 feet of asphalt with thickened edge to 20 feet of asphalt with thickened edge on both 5th Ave and the internal access road for the plat. The Public Works Director approved the construction deviation (Exhibit 8) on August 30, 2011, for a 22' roadway on 5th Ave and the access road for the plat (Tract X).

BDMC 17.15.020(A)(6): ***All environmental impacts have been addressed consistent with the public health, safety and welfare and city goals and policies;***

9. A SEPA Mitigated Determination of Non-significance (Exhibit 6) was issued by the City on April 15, 2011 and all SEPA mitigation measures have been incorporated into the conditions of approval. Further, as found in Findings of Fact No. 5 and No. 6, there are no significant adverse impacts associated with the proposal.

BDMC 17.15.020(A)(7): ***Concurrency exists for all utilities and transportation system improvements prior to occupancy of any structures;***

10. The Applicant is required to construct utilities and access and connect to the City's systems prior to occupancy of any structures. All of the City's utilities have sufficient capacity to serve this subdivision and are in good standing with state regulatory agencies.

BDMC 17.15.020(A)(8): ***If the proposal is in an approved MPD, the proposed subdivision shall be consistent with the approved MPD, the MPD conditions of approval, the MPD design standards, and the MPD development agreement;***

11. The proposal is not in an approved Master Planned Development.

BDMC 17.15.020(A)(9): ***There shall be connectivity of motorized and nonmotorized transportation routes, open spaces and wildlife corridors with existing or proposed routes or corridors on adjacent properties;***

12. The proposal is surrounded by single family residential development and a church. Given the developed nature of surrounding properties, there is not an opportunity to connect to open space and there are no designated wildlife corridors in the area. The proposed subdivision will connect to the City's street system via a private road. There are no nonmotorized transportation routes in the immediate area available for connection.

BDMC 17.15.020(A)(10): ***The use of cul-de-sacs and other dead-end streets shall be minimized to the fullest extent possible;***

13. Surrounding development did not leave adequate public access connection rights of ways to allow for road or trail looping to the subject property. A cul-de-sac is appropriate for the local surrounding conditions. The proposed streetscape will fit with the existing neighborhood and improve it without stark differences to the surroundings.

BDMC 17.15.020(A)(11): ***Appropriate provision has been made for the dedication of land to any public body, and provision of public improvements has been made as necessary to serve the subdivision. This shall include appropriate provision for payment of any impact fees imposed in accordance with the provisions of RCW 82.02.050 through 82.02.090, and applicable city codes and regulations. Dedications shall clearly be shown on the final plat;***

14. Two tracts are proposed, one for stormwater (Tract Y) and the other for access and utilities (Tract X). As proposed, both of these tracts will be kept private and there is no need to make them public (which would trigger maintenance responsibility for the City). Proposed water easements are shown on the proposed plat drawing in Lots 5, 9 and 10. All easements will be required to be shown on the final plat. The City has not adopted impact fees at this time.

BDMC 17.15.020(A)(12): ***The streetscape and public open space amenities shall be compatible with any adjacent project that has been developed or approved for development as an MPD;***

15. No adjacent properties have been developed or are approved for development as an MPD.

BDMC 17.15.020(A)(13): ***The proposed subdivision provides safe walking conditions for students who walk to and from school; and***

16. As determined in Finding of Fact No. 6, the proposal provides for safe walking conditions to and from school.

BDMC 17.15.020(A)(14). ***The proposed subdivision provides for tree preservation consistent with the provisions of chapter 19.30.***

17. The conditions of approval require compliance with Chapter 19.30 BDMC.

DECISION

The proposed subdivision is approved with the conditions identified below. Revisions to the conditions recommended by staff are identified in underline/strikeout for ease of reference:

1. The applicant shall follow the recommendations of the Geotechnical Report prepared by Terra Associates (dated November 23, 2009) as deemed appropriate by the Public Works Director pursuant to the City's Engineering Design & Construction Standards.

2. The applicant shall reconstruct and widen 5th Ave to a City asphalt design structure section of 24 feet to meet the City standard for 5th Ave from the project site to the intersection with Baker Street. Pursuant to Finding of Ex. 8, 22' rather than 24' shall be required.

3. Both the stormwater (Tract Y) and private road/utilities (Tract X) tracts shall be private.

4. Prior to final plat approval, the applicant shall submit Covenants, Conditions and Restrictions (CCRs) for staff review and approval. These CCRs shall provide for establishment of a Homeowners' Association to ensure adequate funding for maintenance and eventual replacement of the private street and maintenance of the stormwater facility.

5. Complete civil drawings of the on and off-site roadway and utility improvements, including all improvements required by the City's stormwater regulations, shall be submitted for review and approval prior to issuance of construction permit for required plat improvements. All of the supporting infrastructure must be constructed, functional, substantially complete, and guarantee bonds provided before application can be made for final plat. Prior to final plat approval City staff shall also have the Applicant demonstrate to its satisfaction, if not already done so, that the City stormwater facilities to which the Applicant's stormwater system will connect is adequate to handle any increased flows generated by the proposal. The City shall require the Applicant to mitigate any deficiencies.

6. A correct characterization of the existing drainage discharge to 32328 5th Ave shall be shown on future drawings related to this project.

7. All easements shall be shown on the final plat.

8. The private road turnaround shall be marked as a fire lane with signage as required in Appendix D of the 2009 ed. IFC

9. Grade of the private road shall not exceed 15%.

10. At the time of building permit, homes shall have required fire flow available or shall have a fire sprinkler system installed to allow for a reduction in required fire flow.

11. During the civil design phase, the applicant shall submit a professionally prepared planting plan for review and approval by the City, including location, species, and size of 15 new trees to be planted. Per BDMC 19.30.070.C, replacement trees shall meet the following criteria: 2. New trees shall meet or exceed current American Nursery and Landscape Association or equivalent organization's standards for nursery stock; 3. New trees shall be planted in locations appropriate to the species' growth habit and horticultural requirements; 4. New trees must be located away from areas where damage is likely; 5. Deciduous replacement trees shall be a minimum of three inches in caliper (dbh), evergreen trees must be a minimum of twelve feet in height; and 6. Trees shall be watered as necessary to ensure survival and growth during their first two growing seasons after planting.

12. Tree removal associated with home construction on individual lots within the plat shall be reviewed at the time of building permit application and subject to the tree preservation code in effect at that time.

13. A Lot Line Adjustment (LLA) application shall be submitted to the City for review and approval for property to be deeded from tax parcel no. 1421069167 to tax parcel no. 1421069053. The LLA must be approved and recorded prior to final plat application.

Dated this 1st day of December, 2011.

Phil Olbrechts
Hearing Examiner
City of Black Diamond

Appeal Right and Valuation Notices

This land use decision is final and subject to appeal to superior court as governed by Chapter 36.70C RCW. Appeal deadlines are short and procedures strictly construed. Anyone wishing to file a judicial appeal of this decision should consult with an attorney to ensure that all procedural requirements are satisfied.

Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.

RETURN TO:

STOKES LAWRENCE
Attention: Sean K. Griffee
1420 Fifth Avenue, Suite 3000
Seattle, Washington 989101-2393

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR DIAMOND RIDGE

Reference No(s). of related documents:	
Declarant:	**PETKOV DEVELOPMENT SERVICES, INC.**
Abbreviated Legal Description:	**Complete legal description is on Exhibit A to this document.**
Assessor's Tax Parcel ID No(s).:	

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, FOR DIAMOND RIDGE ("Declaration") is made this ____ day of _____, 2015, by Petkov Development Services, Inc., a Washington corporation, as the owner of approximately 2.85 acres of real property situated in King County, State of Washington, as such property is more particularly described in ***Exhibit A***, attached hereto and incorporated herein by this reference.

ARTICLE 1
BACKGROUND AND PURPOSE

1.1 Declarant desires to develop the Diamond Ridge Plat ("*Diamond Ridge*") as a residential community on the Subject Property. Declarant also desires to establish certain covenants, conditions, restrictions, and easements designed to preserve and enhance the Subject Property's present and future value, amenities, and opportunities;

1.2 Declarant desires that the establishment of such covenants, in the process of subdividing the Subject Property, ensures each Lot is responsible for the maintenance of the private road and the private stormwater treatment and conveyance system.

1.3 This Declaration establishes for the private ownership of lots and the buildings constructed thereon, and for the establishment of the "Diamond Ridge Owners' Association" (the

"*Association*"), which will be authorized and obligated to enforce the covenants, conditions and restrictions set forth in this Declaration. Once established, the Association will be delegated and assigned the duties and powers of administering and enforcing these covenants, conditions and restrictions, and collecting and disbursing the assessments and charges hereinafter created; and

1.4 The Diamond Ridge Plat (On-Site Improvements) recorded at Auditor's File No. _____ in the records of King County, Washington, configured the Subject Property into ten (10) lots that are numbered consecutively and two Tracts referred to as "*Tract X*" and "*Tract Y*".

ARTICLE 2
DECLARATION

2.1 Declarant hereby covenants, agrees, and declares that all of the Subject Property, as defined herein, and the buildings and structures hereafter constructed thereon are and will be, held, sold, and conveyed subject to and burdened by the following covenants, conditions, restrictions, and easements, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of Diamond Ridge for the benefit of the Owners thereof, their heirs, successors, grantees, and assigns. All provisions of this Declaration shall be binding upon all parties having or acquiring any right, title, or interest in the Subject Property or any part thereof, and shall inure to the benefit of the Owners thereof and to the benefit of the Association and are intended to be and shall in all respects be regarded as covenants running with the land.

2.2 Once the Association is established, Declarant delegates and assigns to the Association the powers of (a) maintaining, administering and enforcing the covenants, conditions and restrictions set forth in this Declaration, and (b) collecting and disbursing the assessments and charges provided for in this Declaration.

ARTICLE 3
DEFINITIONS

3.1 **"Association"** means the Diamond Ridge Homeowners Association, a Washington nonprofit corporation, its successors and assigns.

3.2 **"Association Action"** means a written corporate action of the Association in the form of either a bylaw or resolution duly passed by either the Board or the Owners.

3.3 **"Board"** means the board of directors of the Association.

3.4 **"Common Areas"** means all easements and Tracts and any improvements thereon that are owned or maintained by the Association, for the benefit of the Lot Owners, and subjected to this Declaration by an appropriate recording. As of the date of this Declaration, the Common Areas consist of: storm water facilities consisting of drains, pipelines, ditches, and a detention pond, and an access road commonly known as SE Olympic Lane.

3.5 **"Common Expenses"** means the costs incurred by the Association to exercise any of the powers provided for in Chapter 64.38 RCW and this Declaration.

3.6 **"Declarant"** means Petkov Development Services, Inc., a Washington corporation and its respective successors and assigns. Nothing contained herein shall be deemed or construed by the Association or by any third person, to create the relationship of principal and agent, or a partnership, or a joint venture, or any association between or among any of the signatories hereto.

3.7 **"Declaration"** means this instrument, as the same may be supplemented or amended from time to time.

3.8 **"Development Period"** means that period of time beginning on the date of this Declaration and ending on the receipt by the Association of written notice from Declarant in which Declarant elects to terminate the Development Period; provided that, if not terminated sooner, the Development Period shall terminate one (1) year after the date on which Declarant has conveyed all Lots to Owners other than Declarant.

3.9 **"Development Rights"** means those rights of Declarant reserved in Section 4.2, Article 11, and elsewhere in this Declaration. Declarant may exercise any and all Development Rights at any time during the Development Period in Declarant's sole discretion.

3.10 **"Governing Documents"** means and refer to this Declaration and the Articles of Incorporation, Bylaws and rules and regulations of the Association as any of the foregoing may be amended from time to time.

3.11 **"Lot"** means any legally segmented and alienable portion of the Subject Property created through subdivision or any other legal process for dividing land and subjected to this Declaration by an appropriate recording, with the exception of dedicated rights of way and Tracts designated on the Plat.

3.12 **"Map"** or **"Plat"** means and refer to The Diamond Ridge Plat (On-Site Improvements) recorded at Auditor's File No. _____ in the records of King County, Washington.

3.13 **"Mortgage"** means any recorded mortgage or deed of trust encumbering one or more of the Lots. **"First Mortgage"** shall mean and refer to a Mortgage with priority over the other Mortgages. **"Mortgagee"** shall mean and refer to the holder or beneficiary of any Mortgage and shall not be limited to Institutional Mortgagees. As used herein, the term **"Institutional Mortgagee"** or **"Institutional Holder"** shall include banks, trust companies, insurance companies, mortgage companies, mortgage insurance companies, savings and loan associations, trusts, mutual savings banks, credit unions, pension funds, Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, all corporations, and any agency of department of the United States Government or of any state or municipal government.

3.14 **"Owner"** means the record owner (whether one or more persons or entities) of a fee interest in any Lot, including the Declarant but excluding Mortgagees or other persons or entities having such interest merely as security for the performance of any obligation. Purchasers or

assignees under recorded real estate contracts shall be deemed Owners as against their respective sellers or assignors.

3.15 **"Subject Property"** means that certain real property which is legally described on **Exhibit A** attached hereto, and such additions thereto as may hereafter be brought within the terms and conditions hereof by an appropriate recording,

3.16 **"Reserve Account"** shall have the meaning set forth in Section 5.12 of this Declaration.

3.17 **"Reserve Component"** means a Common Area for which the cost of maintenance, repair, or replacement is infrequent, significant, and impractical to include in an annual budget.

3.18 **"Reserve Study Professional"** means an independent person who is suitably qualified by knowledge, skill, experience, training, or education to prepare a reserve study in accordance with Ch. 64.38 RCW.

3.20 **"Single Family"** means a single household that includes not more than four (4) adults who are legally unrelated.

3.21 **"Structure"** means any building, fence, wall, driveway, walkway, patio, garage, storage shed, carport, mailboxes, basketball hoop, play equipment, climbing apparatus, swimming pool, rockery, dog run or the like.

3.22 **"Tract"** means any legally segmented and alienable portion of the Subject Properly created through subdivision or any other legal process for dividing land and subjected to this Declaration by an appropriate recording, with the exception of Lots and dedicated rights of way.

ARTICLE 4
THE DIAMOND RIDGE HOMEOWNERS ASSOCIATION

4.1 **Description of Association.** The Association is a nonprofit corporation organized and existing under the laws of the State of Washington charged with the duties and vested with the powers prescribed by law and set forth in the Governing Documents, as they may be amended from time to time; provided, however, that no Governing Documents of the Association other than this Declaration shall for any reason be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration. The Association shall have a perpetual existence and may not be dissolved for forty years after the date upon which this Declaration is recorded. Upon dissolution or final winding up of the Association entity under the laws of the State of Washington, all of its assets remaining after payment to creditors will be distributed or sold, and the sales proceeds distributed, to the members of the Association entity in accordance with the Articles, Bylaws, and provisions of Chapter 24.03, RCW. The Owners are responsible for ensuring that the Association continues to be a functioning legal entity.

4.2 **Association Board.** In addition to any other Development Rights set forth in this Declaration, until termination of the Development Period, the Declarant hereby reserves for

itself, its successors or assigns, all of the rights, powers and functions of the Association, or the Board thereof, which shall be exercised and/or performed solely by the Declarant. Upon termination of the Development Period, a Board shall be elected from among the Owners, as provided in the Bylaws to manage the Association. The Board shall elect officers of the Association from among the Board members, which shall include a president who shall preside over the meetings of the Board and meetings of the Association.

4.3 **Votes Appurtenant to Lots.** Every Owner shall be a member of the Association and, except as provided in Section 4.4, shall be entitled to cast one (1) vote in the Association for each Lot owned. A vote shall be appurtenant to and held and owned in the same manner as the beneficial fee interest in the Lot to which it relates. A vote shall not be separated from ownership of the Lot to which it relates; provided, however, that when more than one entity holds the beneficial fee interest in any Lot, the vote therefore shall be cast as the Owners among themselves determine, but, except as provided in Section 4.4, in no event shall more than one vote be cast with respect to any Lot; and if the several Owners of a Lot are unable to agree as to the casting of their vote, such vote shall not be counted. If a Lot is further subdivided as provided in Section 7.1 hereof, the Owner of each additional Lot created shall be entitled to one vote in the Association for each Lot owned.

4.4 **Initial Number of Votes.** During the Development Period, each Lot owned by Declarant shall be entitled to fifteen (15) votes in the Association and each Lot owned by an Owner other than Declarant shall be entitled to one (1) vote. Upon expiration of the Development Period, the total number of votes in the Association shall be equal to the number of Lots subject to this Declaration and each Lot shall be entitled to one (1) vote.

4.5 **Owner's Compliance.** By acceptance of a deed to a Lot, recording of a real estate contract conveying title to a Lot, or any other means of acquisition of an ownership interest, the Owner thereof covenants and agrees, on behalf of himself and his heirs, successors, and assigns, to observe and comply with the terms of the Plat, this Declaration, the Governing Documents of the Association, and all rules and regulations duly promulgated pursuant to Association Action.

4.6 **Bylaws, Rules and Regulations.** The Board on behalf of the Association shall have the power to adopt, modify, and amend rules and regulations governing the use of the Subject Property, provided that such rules and regulations shall not be inconsistent with this Declaration. The rules and regulations shall apply uniformly to all Owners, except as specifically provided herein. The Board shall have the power to enforce the rules and regulations on behalf of the Association and may prescribe penalties for the violation of such rules and regulations, including but not limited to fines for noncompliance. Any such rules and regulations shall become effective thirty (30) days after promulgation and shall be mailed to all Owners prior to their effective date. A copy of the rules and regulations then in force shall be retained by the secretary of the Association. The Declarant, on behalf of the Board, may adopt the initial Bylaws and rules and regulations of the Association.

4.7 **Implied Rights.** The Association may exercise any right or privilege given to it expressly by this Declaration or the Bylaws or which may be reasonably implied from, or reasonably necessary to effectuate, any such right or privilege.

4.8 **Association Property.** The Association, through action of its Board, may acquire, hold and dispose of tangible and intangible personal property and real property.

ARTICLE 5
ASSOCIATION BUDGET, ASSESSMENTS, AND LIENS

5.1 **Owner's Covenants to Pay Assessments**. By acquisition of any ownership interest in a Lot, the Owner thereof covenants and agrees thereby, on behalf of himself and his heirs, successors, and assigns, to pay the Association, in advance, all general and special assessments levied as provided herein. Notwithstanding the foregoing, the Declarant shall not be obligated to pay any assessments.

5.2 **Association Budget**. The Association shall prepare, or cause the preparation of, an operating and maintenance budget for the Association at least annually, in accordance with generally accepted accounting principles. The initial operating and maintenance budget shall include all of the activities and replacement reserves set forth in the Attached ***Exhibit A***. The activities and replacement reserves set forth in Exhibit A represent the minimum allowable activities and replacement set-asides for reserves that may be budgeted by the Association (the "*Minimum Allowable Reserves*"), and such Minimum Allowable Reserves may not be reduced by the Association in future operating budgets. The Association shall set forth all sums required by the Association, as estimated by the Association, to meet its annual costs and expenses, including, but not limited to, all management and administration costs, operating and maintenance expenses of the Common Areas, and services furnished to or in connection with the Common Areas, including the amount of all taxes and assessments levied against, and the cost of liability, property and other insurance on, the Common Areas, and including charges for any services furnished by or to the Association; the cost of utilities and other services; and the cost of funding all reserves including the Minimum Allowable Reserves set forth in Exhibit A, as established by the Association. The funds required to meet the Association's annual expenses shall be raised from a general assessment against each Owner as provided hereafter. After adoption of the operating budget, the Association may revise the operating budget at any time and from time to time, in accordance with the procedures set forth in Section 5.2(a) below, as it deems necessary or advisable in order to take into account and defray additional costs and expenses of the Association.

(a) ***Adoption of Budget***. Within thirty (30) days after adoption by the Board of any proposed regular or special budget of the Association, the Board shall set a date for a meeting of the Owners to consider ratification of the budget not less than fourteen (14) nor more than sixty (60) days after mailing of the summary. Unless at that meeting the Owners to which a majority of the votes in the Association are allocated reject the budget, in person or by proxy, the budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected or the required notice is not given, the periodic budget last ratified by the Owners shall be continued until such time as the Owners ratify a subsequent budget proposed by the Board.

(b) ***Budget Summary***. As part of the summary of the budget provided to all Owners, the Board shall disclose to the Owners:

(i) The current amount of regular assessments budgeted for contribution to the Reserve Account (defined below), the recommended contribution rate from the Reserve Study, and the funding plan upon which the recommended contribution rate is based;

(ii) If additional regular or special assessments are scheduled to be imposed, the date the assessments are due, the amount of the assessments per each Owner per month or year, and the purpose of the assessments;

(iii) Based upon the most recent Reserve Study and other information, whether currently projected Reserve Account balances will be sufficient at the end of each year to meet the Association's obligation for major maintenance, repair, or replacement of Reserve Components during the next thirty (30) years;

(iv) If Reserve Account balances are not projected to be sufficient, what additional assessments may be necessary to ensure that sufficient Reserve Account funds will be available each year during the next thirty (30) years, the approximate dates assessments may be due, and the amount of the assessments per Owner per month or year;

(v) The estimated amount recommended in the Reserve Account at the end of the current fiscal year based on the most recent Reserve Study, the projected Reserve Account cash balance at the end of the current fiscal year, and the percent funded at the date of the latest Reserve Study;

(vi) The estimated amount recommended in the Reserve Account based upon the most recent Reserve Study at the end of each of the next five (5) budget years, the projected Reserve Account cash balance in each of those years, and the projected percent funded for each of those years; and (vii) If the funding plan approved by the Association is implemented, projected Reserve Account cash balance in each of the next five (5) budget years and the percent funded for each of those years.

5.3 **Levy of General Assessment**. In order to meet the costs and expenses projected in its operating budget, the Association shall by Association Action determine and levy in advance on every Lot a general assessment. The amount of each Lot's general assessment shall be the amount of the Association's operating budget divided by the sum of the number of Lots. The Association shall make reasonable efforts to determine the amount of the general assessment payable by each Owner for an assessment period at least thirty (30) days in advance of the beginning of such period and shall at that time prepare a roster of the Owners and the general assessment allocated to each, which shall be open to inspection by any Owner upon reasonable notice to the Association. Notice of the general assessment shall thereupon be sent to each Owner; provided, however, that notification to an Owner of the amount of an assessment shall not be necessary to the validity thereof. The omission by the Association, before the expiration of any assessment period, to fix the amount of the general assessment for that or the next period, shall not be deemed a waiver or modification in any respect of the provisions of this Article or a release by any Owner from the obligation to pay the general assessment, or any installment thereof, for that or any subsequent assessment period, but the general assessment fixed for the preceding period shall continue until a new assessment is fixed. Upon any revision by the Association of the operating budget during the

assessment period for which such budget was prepared, the Association shall, if necessary, revise the general assessment levied against Lots and give notice to each Owner.

5.4 **Payment of General Assessment**. Upon Association Action, installments of general assessments may be collected on a monthly, quarterly, semi-annual, or annual basis, as determined by the Board. Unless the Board otherwise provides, one-twelfth of the General Assessment shall be due in advance on the first day of each calendar month. Any Owner may prepay one or more installments on any assessment levied by the Association without penalty.

5.5 **Nondiscriminatory Assessment.** Except as otherwise specifically provided herein, no assessment shall be made at any time which may unreasonably discriminate against any particular Owner or group of Owners in favor of other Owners. However, a special assessment may be made against a particular Owner and Owner's Lot by a two-thirds (2/3) majority vote of the Board if, after notice from the Association of failure to maintain such Lot in a condition comparable to the other Lots has been given, the Association elects to expend funds to bring such Owner's Lot up to such comparable standard.

5.6 **Commencement of Assessments.** Liability of an Owner for assessments shall commence on the date upon which any instrument of transfer to such Owner becomes operative (such as the date of a deed or the date of a recorded real estate contract for the sale of any Lot) or, if earlier, the commencement date of Owner's occupancy of such Lot. The Declarant, its successors and assigns shall not be liable for any assessments with respect to any Lot.

Upon the initial closing on any Lot from Declarant, the buyer thereof shall pay a one-time assessment in the amount of Five Hundred Dollars ($500.00) to be used to fund the Association's operation and maintenance fund (the "*Initial Assessment*"). A portion of the Initial Assessment equal to at least one month's Minimum Allowable Reserves shall be deposited into the Reserve Account, as defined in Section 5.12. The Initial Assessment shall be in addition to any assessment established by the Association, and shall be paid by all buyers, including builders.

5.7 **Certificates of Assessment Payment**. Upon request, the Board shall furnish written certificates certifying the extent to which assessment payments on a specified Lot are paid and current to the date stated therein. A reasonable charge may be made by the Association for the issuance of such certificate.

5.8 **Special Assessments.** In addition to the general assessments authorized by this Article, the Association may, by Association Action, levy a special assessment or assessments at any time, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, inordinate repair, or replacement of a capital improvement located upon or forming a part of the Common Areas, including necessary fixtures and personal property related thereto, or for such other purpose as the Association may consider appropriate, including maintenance of a Lot as provided in Section 5.5. The due dates of any special assessment payments shall be fixed by the Association Action authorizing such special assessment.

5.9 **Effect of Nonpayment of Assessment**. If any assessment payment is not made in full within thirty (30) days after it was first due and payable, the unpaid amounts shall constitute a lien against the Lot assessed and shall bear interest from such due date at a rate set by the Board in

its rules and regulations which shall not exceed the highest rate then permitted by law. By acceptance of a deed to a Lot, recording of a real estate contract therefore, or any other means of acquisition of an ownership interest, and whether or not it shall be so expressed in any such deed or other instrument, each Owner shall be deemed to grant thereby to the Association, its agents and employees, and to Declarant during the Development Period, the right and power to bring all actions against such Owner personally for the collection of such assessments as a debt, and to enforce the liens created by this Declaration in favor of the Association by foreclosure of the continuing liens in the same form of action as is then provided for the foreclosure of a mortgage on real property. The liens provided for in this Declaration shall be for the benefit of the Association, and shall arise in accordance with the terms of this Declaration without the necessity of any further action by the Association. The Association shall have the power to bid at any lien foreclosure sale and to acquire, hold, lease, mortgage, and convey the Lot foreclosed against.

5.10 **Duration of Lien**. Any lien arising pursuant to Section 5.9 shall be a continuing lien in the amount stated in the assessment from the time of the assessment, but expiring pro rata as the assessment payments are made, and shall also be the personal obligation of the person or entity who is the Owner of the Lot at the time of the assessment. The personal obligation to pay a prior assessment shall not pass to successors in interest unless expressly assumed by them; provided, however, that in the case of a sale or contract for the sale of any Lot which is charged with the payment of an assessment, the person or entity who is the Owner immediately prior to the date of such sale shall be personally liable for the amounts of the monthly installments due prior to said date, and the new Owner shall be personally liable for monthly installments becoming due on or after such date. The foregoing limitation on the duration of the personal obligation of an Owner to pay assessments shall not, however, affect the validity or duration of the continuing lien for unpaid assessments against the respective Lot.

5.11 **Suspension for Nonpayment of Assessment**. If an Owner shall be in arrears in the payment of any assessment due, or shall otherwise be in default of the performance of any terms of the Governing Documents of the Association for a period of thirty (30) days, said Owner's voting rights shall without the necessity of any further action by the Association, be suspended (except as against foreclosing secured parties) and shall remain suspended until all payments, including interest thereon, are brought current and any other default is remedied. No Owner is relieved of liability for assessments by nonuse of the Common Areas or by abandonment of a Lot.

5.12 **Reserve Account for Repair or Replacement**. As a Common Expense, the Association may establish and maintain a reserve fund for major maintenance, repair or replacement of the Common Areas and any improvements thereon ("Reserve Account"). Such Reserve Account shall be deposited with a banking institution, and in the name of the Association. The Reserve Account shall be expended only for the purpose of affecting the major maintenance, repair or replacement of the Common Areas and any improvements and thereon, and to any sidewalks, roads, drainage facilities developed as a part of Diamond Ridge, equipment replacement, and for operating contingencies of a nonrecurring nature. The Board is responsible for administering the Reserve Account. The Association may establish such other reserves for such other purposes as it may from time to time consider to be necessary or appropriate. The proportional interest of any Owner in any such reserves shall be considered an appurtenance of his Lot and shall not be separately withdrawn, assigned, or transferred from the Lot to which it appertains.

Withdrawals from Reserve Account. In addition to withdrawals for the purposes set forth in Section 5.12 above, the Association may withdraw funds from the Reserve Account to pay for unforeseen or unbudgeted costs that are unrelated to maintenance, repair, or replacement of Reserve Components. The Board shall record any such withdrawal in the Association's minute books, cause notice of any such withdrawal to be hand delivered or sent prepaid by first-class U.S. mail to the mailing address of each Owner, and adopt a repayment schedule not to exceed twenty-four (24) months unless the Board determines that repayment within twenty-four (24) months would impose an unreasonable burden on the Owners. Payment for major maintenance, repair, or replacement of the Reserve Components out of cycle with the Reserve Study projections or not included in the Reserve Study may be made from the Reserve Account without meeting the notification or repayment requirements under this Section 5.12(a).

5.13 **Reserve Studies.** The provisions of this Section 5.13 are intended to summarize the requirements for reserve studies as provided in RCW 64.38.065-.090, and in the event of any conflict with the provisions herein, the statutory provisions shall control. Unless the Board determines that doing so would impose an unreasonable hardship, the Board shall, cause the Association to prepare an initial reserve study (a "Reserve Study") based upon a visual site inspection conducted by a Reserve Study Professional. The Reserve Study shall comply with the requirements of RCW 64.38.070, and shall be updated annually unless doing so would impose an unreasonable hardship. At least every three (3) years, an updated Reserve Study must be prepared and based upon a visual site inspection conducted by a Reserve Study Professional.

5.14 **Limitations on Liability related to Reserve Account and Reserve Studies.** Monetary damages or any other liability may not be awarded against or imposed upon the Association, its officers, the Board, or those persons who may have provided advice or assistance to the Association, its officers, or the Board, for failure to: (a) establish a Reserve Account; (b) have a current Reserve Study prepared or updated in accordance with the requirements of Chapter 64.38 RCW and this Declaration; or (c) make the required disclosures in accordance with Section 5.2(b) and Chapter 64.38 RCW.

5.15 **Failure to Comply Does Not Relieve Owners.** An Owner's duty to pay for Common Expenses is not excused, and a budget ratified by the Owners is not invalidated, because of the Association's failure to comply with the Reserve Study or Reserve Account requirements.

5.16 **Certain Areas Exempt.** The Tracts and all portions of Diamond Ridge dedicated to and accepted by a public authority shall be exempt from assessments by the Association.

ARTICLE 6
SUBORDINATION OF LIENS

6.1 **Intent of Provisions**. The provisions of this Article 6 apply for the benefit of each Mortgagee who lends money for purposes of construction or to secure the payment of the purchase price of a Lot.

6.2 **Mortgagee's Nonliability**. The holder of a Mortgage shall not, by reason of its security interest only, be liable for the payment of any assessment or charge, nor for the observance

or performance of any covenant or restriction, excepting only those enforceable by equitable relief and not requiring the payment of money, and except as hereafter provided.

6.3 **Mortgagee's Rights During Foreclosure**. During foreclosure of a Mortgage, including any period of redemption, the holder of the Mortgage may exercise any or all of the rights and privileges of the Owner of the encumbered Lot, including but not limited to the right to vote in the Association to the exclusion of the Owner's exercise of such rights and privileges.

6.4 **Mortgagee as Owner**. At such time as a Mortgagee shall become the record Owner of the Lot previously encumbered by the Mortgage, the Mortgagee shall be subject to all of the terms and conditions of this Declaration, including the obligation to pay for all assessments and charges in the same manner as any Owner.

6.5 **Survival of Assessment Obligation**. After the foreclosure of a security interest in a Lot, any unpaid assessments shall continue to exist and remain as a personal obligation of the Owner against whom the same was levied, and the Association shall use reasonable efforts to collect the same from such Owner.

6.6 **Subordination of Assessment Liens**. The liens for assessments provided for in this Declaration shall be subordinate to the lien of any first Mortgage or other security interest placed upon a Lot as a construction loan security interest or as a purchase price security interest, and the Association will, upon demand, execute a written subordination document to confirm such priority. The sale or transfer of any Lot or of any interest therein shall not affect the liens provided for in this Declaration except as otherwise specifically provided for herein, and in the case of a transfer of a Lot for purposes of realizing a security interest, liens shall arise against the Lot for any assessment payments coming due after the date of completion of foreclosure.

ARTICLE 7
USE COVENANTS, CONDITIONS AND RESTRICTIONS

7.1 **Authorized Uses**. Diamond Ridge shall be used solely for residential purposes and related facilities normally incidental to a residential community. After the Development Period no Lot shall be further subdivided, except as permitted in this Declaration without prior approval conferred by Association Action.

7.2 **Leasing Restrictions**. No residence on any Lot may be leased or rented by any party for a period of fewer than thirty (30) days, nor shall less than the whole of any Lot be leased or rented. Each lease or rental agreement shall be in writing and shall by its terms provide that it is subject in all respects to the provisions of the Governing Documents. Any failure by a lessee to comply with the terms of the Governing Documents shall be a default under the lease, whether or not it is so expressed therein. Other than the foregoing, there is no restriction on the right of any Owner to lease his Lot or residence.

7.3 **Animals**. No animals or livestock of any kind shall be raised, bred, or kept in Diamond Ridge except as specifically provided herein. Domesticated dogs, cats, or other conventional household pets may be kept if they are not kept, bred, or maintained for any commercial purposes, and all animals must be in compliance with applicable codes and regulations.

"Other conventional household pets" shall include only traditionally domesticated pets and shall not include any exotic pets such as large or potentially dangerous reptiles, potentially harmful insects, bees, large birds, wild animals, and animals not normally domesticated, all of which are strictly prohibited in Diamond Ridge. No more than five (5) chickens may be kept on a Lot. Roosters are strictly prohibited on all Lots. No domestic pet may be kept if its presence or actions constitute a public or private nuisance. Pets shall be registered, licensed, and inoculated from time to time as required by law. When not confined to the Owner's Lot, pets within Diamond Ridge shall be leashed and accompanied by a person responsible for cleaning up any animal waste. No pets shall be tethered to any rope, cord, chain, etc., while outdoors on a Lot within Diamond Ridge for longer than two hours at a time. Horses are not permitted within Diamond Ridge. Any other non-domestic pets must obtain written approval by the Board.

7.4 **Commercial Uses**. No commercial enterprise, including itinerant vendors, shall be permitted on any Lot; provided, however, that the Association may, by adopting rules and regulations, permit specified home occupations to be conducted if allowed by law and if such occupation will not, in the reasonable judgment of the Association, cause traffic congestion or other disruption of Diamond Ridge community; and provided further that no signs or advertising devices of any character shall be permitted.

7.5 **Unsightly Conditions**. No unsightly conditions shall be permitted to exist on any Lot. Unsightly conditions shall include, without limitation; improperly maintained landscaping; the keeping of publicly visible disabled vehicles of any kind whatsoever; litter, trash, junk or other debris; inappropriate, broken or damaged furniture or plants; non-decorative gear, equipment, cans, bottles, ladders, trash barrels and other such items; and no awnings, air conditioning units, heat pumps or other projections shall be placed on the exterior walls of any housing unit unless prior written approval shall have been obtained from the Board. This Section 7.5 shall not apply to Lots owned by Declarant during the Development Period.

7.6 **Garbage**. All trash shall be placed in sanitary containers that are screened so as not to be visible from adjoining structures or streets or roadways, except on designated trash collection days. No Lot or any portion thereof shall be used as a dumping ground for trash or rubbish of any kind. Yard rakings, dirt and debris resulting from landscaping work or construction shall not be dumped onto adjoining lots or streets or roadways.

7.7 **Utilities Underground**. Except for hoses and the like which are reasonably necessary in connection with normal lawn maintenance, no water pipe, sewer pipe, gas pipe, drainage pipe, telephone, power, or television cable, or similar transmission line shall be installed or maintained above the surface of the ground.

7.8 **Signs**.

(a) ***Rights of Declarant***. So long as Declarant owns any property subject to this Declaration or which may become subject to this Declaration in accordance with Article 11, Declarant may maintain and carry on upon portions of the Common Area or upon any Lot owned by Declarant or authorized builders such facilities and activities as, in the sole opinion of Declarant, may be reasonably required, convenient, or incidental to the construction or sale of Lots, including, but not limited to, business offices, signs, model units, and sales offices.

(b) ***Restrictions on Owners***. Entrance, street, traffic control and safety signs, wetland buffer and such promotional signs as may be maintained by Declarant or the Association are permitted, No signage may be displayed in windows or be posted on the Subject Property, except: holiday signs, decorations, and lights or political signs may be neatly displayed during seasonal time lines only on Lots. Signs may not exceed dimensions of eighteen (18) inches by twenty-four (24) inches. Signs, decorations, and lights may be installed thirty (30) days prior to the holiday and must be removed within fourteen (14) days after the holiday.

(i) ***Political Signs.*** Political Campaign signage shall be permitted on Lots, with the following restrictions: (a) one Political Sign (defined below), (b) of not more than five (5) square feet placed on a Lot, (c) a maximum height of four (4) feet if posted in the ground, (d) of professional quality and design (e) not obstructing line of sight nor any traffic or traffic signals and signage. For the purposes of this Section 7.8(b)(i), the term "Political Sign" means a sign which advocates for one particular candidate, political party or ballot measure, which is placed no sooner than thirty (30) days before the date of a regular or special election on a Lot. Political Signs must be removed within three (3) days following the election. No signs can be placed in or upon Common Areas.

(ii) ***For Sale Signs***. One professionally printed real estate "For Sale," "For Sale by Owner," or "For Rent" sign may be posted upon a Lot for a residential sale following industry standards for sign size, with a realtor T-Bar, and appropriate attached flyer box. Approved signage for units located without street frontage may be posted on the streetscape nearest the unit. Other types of "For Sale by Owner" or "For Lease/Rent" yard or window signs are prohibited. Owners shall comply with industry standards. Owners are responsible for repairs or damage to the lawn or irrigation system related to any sign installation. Open house sandwich boards and directional locator signs may only be used on the day of the open house for the duration of that day's showing. Realtors may display brochures in the attached flyer boxes. One sign, not to exceed nine (9) inches by twenty-four (24) inches, may be staked in the front of or placed in the window of the home for sale or rent. Garage sale and estate sale signage is prohibited except for community-wide garage sale events sponsored by the events staff. Garage sales are only permitted during the community-wide events.

7.9 **No Obstruction of Easements**. No structure, planting, or other material shall be placed or permitted to remain upon the Subject Property which may damage or interfere with any easement or the installation or maintenance of utilities, or which may unreasonably change, obstruct, or retard direction or flow of any drainage channels. No decorative planting, structure or fence may be maintained within an easement area.

7.10 **Antennas and Clotheslines**. No external aerial antenna, free-standing antenna towers, satellite reception dishes of any kind or clotheslines shall be permitted in Diamond Ridge; provided, however, satellite dishes of less than twenty-four (24) inches in diameter are permitted provided the Board approves the location of same. Satellite dishes greater than twenty-four (24) inches in diameter may be allowed through written consent of the Board.

7.11 **Owners' Maintenance Responsibilities**. The maintenance, upkeep, and repair of individual Lots and homes shall be the sole responsibility of the individual Owners thereof, and in no way shall it be the responsibility of the Association, its agents, officers or directors. Owners

shall maintain their Lots and homes in good repair and in a clean, sightly, and sanitary condition at all times. Without limitation as to the foregoing, each Owner shall be obligated to keep his Lot and home in a clean, sightly and sanitary condition and maintain the landscaping on his Lot in a healthy and attractive state and in a manner comparable to that on the other Lots in Diamond Ridge. No storage of firewood shall be permitted in front yards. After thirty (30) days' written notice to an Owner from the Association of such Owner's failure to so maintain his home or Lot, and after approval by a two-thirds (2/3) majority vote by the Board, the Association shall have the right, through its agents and employees, to enter upon any Lot which has been found to violate the foregoing standards in order to restore the home or Lot to such standards. The cost of such work shall be a special assessment on such Owner and his Lot only.

7.12 **Weapons**. No firearms of any kind or nature, including rifles, handguns, bows, slingshots, BB guns, slings, traps, or any other like weapon, shall be used or discharged within Diamond Ridge except by authorized governmental officials.

7.13 **Nuisances Prohibited**. No noxious or offensive activity shall be conducted in any portion of Diamond Ridge, nor shall anything be done or maintained therein in derogation or violation of the laws of the State of Washington or any other applicable governmental entity. Nothing shall be done or maintained on any portion of Diamond Ridge which may be or become an annoyance or nuisance to the neighborhood or detract from the value of the Diamond Ridge community. The Association shall determine by Association Action whether any given use of a Lot unreasonably interferes with the rights of the other Owners to the use and enjoyment of their respective Lots or of the Common Areas, and such determination shall be final and conclusive.

7.14 **Preservation of Landscaping**. No party subject to the terms of this Declaration or his/her/their agents, employees or guests shall destroy or otherwise materially adversely impact landscaping on Common Areas and/or dedicated Tracts, or as otherwise governed by applicable laws, codes and regulations.

7.15 **Recreational or Commercial Vehicles.** No recreational or commercial vehicles (semi-cab or trailer, motor home, trailer, boat, dune buggy, motorcycle, race car, or similar vehicle) shall be stored in a driveway, front yard, or along the street adjacent to the Subject Property lot. No car parts, appliances, or immobilized or immobile vehicles shall be placed or stored on any portion of the Subject Property.

7.16 **Temporary Structures**. No Structure or improvement of a temporary character, including without limitation a trailer, tent, shack, garage, barn, or other outbuilding shall be installed, placed or used on any Lot as a dwelling or residence, either temporarily or permanently.

7.17 **Fences**. Installation of any fence requires the prior written consent of the Board. No Lot shall contain a fence or other structure, excluding reasonable mailbox structures, within twenty (20) feet of any roadway or Tract. No wall hedge, living wall, or other mass planting of vegetation over three (3) feet in height, shall be permitted within twenty (20) feet of any roadway or shared access Tract.

7.18 **Lot Size Restriction**. No Lot or portion of a Lot in the Plat shall be divided and sold or resold or ownership changed or transferred, whereby the ownership of any portion of Diamond Ridge shall be less than the area required for the use district in which located.

7.19 **Window Coverings**. No newspapers, bed sheets or other makeshift window coverings shall be visible from the exterior of the residence.

7.20 **Damage**. Any damage to streets, Plat improvements, entry structures, fences, landscaping, mailboxes, lights and lighting standards by Lot Owners, their children, contractors, agents, visitors, friends, relatives or service personnel shall be repaired and restored to like new condition by such Owner within twelve (12) days from the occurrence of such damage. After thirty (30) days' written notice to an Owner from the Association of such Owner's failure to so repair, and after approval by a two-thirds (2/3) majority vote by the Board, the Association shall have the right, through its agents and employees, make such repairs on behalf of such Owner. The cost of such work shall be a special assessment on such Owner and his Lot only.

ARTICLE 8
INSURANCE; CASUALTY LOSSES; CONDEMNATION

8.1 **Insurance Coverage**. The Association may maintain insurance as the Association deems advisable; provided, that notwithstanding any other provisions herein, the Association shall continuously maintain in effect casualty, flood, and liability insurance and a fidelity bond meeting the insurance and fidelity bond requirements for similar projects established by Federal National Mortgage Association, Governmental National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Housing Authority, and Veterans Administration, so long as any of them is a Mortgagee or Owner, except to the extent such coverage is not available or has been waived in writing by such agencies.

8.2 **Condemnation**. In the event any part of the Common Areas is made the subject matter of any condemnation or eminent domain proceeding, or is otherwise sought to be acquired by any condemning authority, the Association shall give prompt notice of any such proceeding or proposed acquisition to the Owners and to the holders of all First Mortgages who have requested from the Association notification of any such proceeding or proposed acquisition. All compensation, damages, or other proceeds therefrom, shall be payable to the Association.

ARTICLE 9
ENFORCEMENT

9.1 **Right to Enforce**. The Association, Declarant, or any Owner shall have the right to enforce, by any appropriate proceeding at law or in equity, all covenants, conditions, restrictions, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration.

9.2 **Remedies Cumulative**. Remedies provided by this Declaration are in addition to, cumulative with, and are not in lieu of, other remedies provided by law. There shall be, and there is hereby created, a conclusive presumption that any breach or attempted breach of the covenants, conditions, and restrictions herein cannot be adequately remedied by an action at law or exclusively by recovery of damages.

9.3 **Covenants Running with the Land**. The covenants, conditions, restrictions, liens, easements, enjoyment rights, and other provisions contained herein are intended to and shall run with the land and shall be binding upon all persons purchasing, leasing, subleasing, or otherwise occupying any portion of the Subject Property, their heirs, executors, administrators, successors, grantees, and assigns. All instruments granting or conveying any interest in any Lot shall be subject to this Declaration.

ARTICLE 10
AMENDMENT AND REVOCATION

10.1 **Amendment by Declarant or Association**. Declarant may, on its sole signature, and as attorney-in-fact for all Owners with irrevocable power, during the Development Period, amend this Declaration. This Declaration may also be amended at any time by an instrument executed by the Association for and on behalf of the Owners, provided, however, that such amendments shall have received the prior approval of a vote of the Owners having sixty percent (60%) of the total outstanding votes in the Association; and provided, further, that no such amendment shall be valid during the Development Period without the prior written consent of the Declarant. Notwithstanding any of the foregoing, the prior written approval of fifty-one percent (51%) of all Mortgagees who have requested from the Association notification of amendments shall be required for any material amendment to the Declaration or the Association's Bylaws of any of the following: voting rights; assessments, assessment liens, and subordination of such liens; reserves for maintenance, repair, and replacement of Common Areas; insurance or fidelity bonds; responsibility for maintenance and repair; reallocation of interest in the Common Areas; leasing of Lots other than as set forth herein; imposition of any restrictions on the right of an Owner to sell or transfer his Lot; a decision by the Association to establish self-management when professional management had been required previously by an eligible Mortgagee; any action to terminate the legal status of the Association after substantial destruction or condemnation occurs; or any provisions which are for the express benefit of Mortgagees or eligible insurers or guarantors of First Mortgages.

10.2 **Effective Date**. Amendments shall take effect only upon recording in the official real property records of King County, Washington.

ARTICLE 11
PHASED DEVELOPMENT; DEVELOPMENT RIGHTS

11.1 **Subsequent Development**. Declarant reserves as a Development Right for itself, its successors or assigns, the right, in one or more phases, to subject additional properties to this Declaration, to withdraw undeveloped property from it, to complete improvements on the Lots, and to designate portions of the Subject Property subject to future development as Common Areas. Declarant shall be the initial owner of all Lots in all phases. Improvements in all phases shall be consistent with one another in quality of construction. Declarant shall adopt amendments to this Declaration and the Plat (or record subsequent plats) on Declarant's signature alone as necessary in Declarant's sole discretion in exercising Declarant's reserved Development Rights. Each Lot Owner appoints the Declarant as his or her attorney-in-fact to adopt and file amendments to this Declaration necessary to add or subtract such properties, or to designate portions of the Subject Property subject to future development as Common Areas, If the Declarant elects to subject

additional property to this Declaration, Declarant shall grant to the Lot Owners of such additional properties (and Declarant, if applicable) all of the rights and benefits to which Members of the Association are entitled. Upon the addition of Lots and Common Areas, the Board shall establish a new budget suitable to the expanded number of Lots and Common Areas, and shall thereafter impose monthly assessments based on that revised budget.

11.2 **Consent to Adding or Subtracting Properties**. Declarant reserves as a Development Right the right to subject additional properties to this Declaration at any time prior to termination of the Development Period. Declarant may also withdraw any undeveloped properties from this Declaration at any time prior to termination of the Development Period. Each Lot Owner appoints the Declarant as his or her attorney-in-fact to adopt and file amendments to this Declaration necessary to add or subtract such properties, or to designate portions of the Subject Property subject to future development as Common Areas. The Lot Owners shall be benefitted by any Common Areas the Declarant elects to add or designate to Diamond Ridge, either through Association ownership and control of said Common Areas or by easements of use and enjoyment in favor of said Lot Owners on said Common Areas. The Lot Owners of any property added by Declaration to Diamond Ridge shall have an easement for use and enjoyment of the existing Common Areas and shall have all the obligations to pay the cost of maintaining the Common Areas as provided herein. The Declarant shall also have as a Development Right the right to extend existing easements and may create new easements over the Lots still within Declarant's control so as to provide access to and service additional properties and future development within the Subject Property. Neither the Association nor any Lot Owners shall have any right in any additional property nor shall this Declaration have any effect on such additional property until it is subjected to this Declaration by adoption of an amendment to this Declaration specifically describing such additional property. The rights reserved by Declarant in this Section shall be exercised by Declarant at Declarant's sole discretion.

11.3 **No Requirement to Include Additional Properties**. Nothing contained in this Declaration shall be construed to require the Declarant to subject additional properties to this Declaration.

ARTICLE 12
GENERAL PROVISIONS

12.1 **Taxes**. Each Owner shall pay without abatement, deduction, or offset, all real and personal property taxes, general and special assessments, including local improvement assessments, and other charges of every description levied on or assessed against his Lot, or personal property located on or in the Lot. The Association shall likewise pay without abatement, deduction, or offset, all of the foregoing taxes, assessments, and charges levied or assessed against the Common Areas.

12.2 **Non-Waiver**. No waiver of any breach of this Declaration or failure to enforce any covenant of this Declaration shall constitute a waiver of any other breach, whether of the same or any other covenant, condition, or restriction.

12.3 **Attorneys' Fees**. In the event of a suit or action to enforce any provision of this Declaration or to collect any money due hereunder or to foreclose a lien, the unsuccessful party in

such suit or action shall pay to the prevailing party all costs and expenses, including title reports, and all attorney's fees that the prevailing party has incurred in connection with the suit or action, in such amounts as the court may deem to be reasonable therein, and also including all costs, expenses, and attorneys' fees incurred in connection with any appeal from the decision of a trial court or any intermediate appellate court.

12.4 **No Abandonment of Obligation**. No Owner, through his non-use of any Common Area, or by abandonment of his Lot, may avoid or diminish the burdens or obligations imposed by this Declaration.

12.5 **Captions**. The captions of the various articles, sections and paragraphs of this Declaration are for convenience of use and reference only and do not define, limit, augment, or describe the scope, content or intent of this Declaration or any parts of this Declaration.

12.6 **Severability**. Invalidation of any one of these covenants, conditions, restrictions, easements, or provisions by judgment or court order shall in no way affect any other of the same, all of which shall remain in full force and effect.

12.7 **Notices**. All notices, demands, or other communications ("Notices") permitted or required to be given by this Declaration shall be in writing and, if mailed postage prepaid by certified or registered mail, return receipt requested, shall be deemed given three days after the date of mailing thereof, or on the date of actual receipt, if sooner; otherwise, Notices shall be deemed given on the date of actual receipt. Notice to any Owner may be given at any Lot owned by such Owner; provided, however, that an Owner may from time to time by Notice to the Association designate such other place or places or individuals for the receipt of future Notices. If there is more than one Owner of a Lot, Notice to any one such Owner shall be sufficient. The address of Declarant and of the Association shall be given to each Owner at or before the time he becomes an Owner. If the address of Declarant or the Association shall be changed, Notice shall be given to all Owners.

12.8 **Indemnification**. The Association shall indemnify every officer and director authorized to act on behalf of the Association by the Board or by this Declaration against any and all expenses, including counsel fees, reasonably incurred by, or imposed upon, any officer and director in connection with any action, suit or proceeding if approved by the then Board to which he or she may be a party by reason of being or having been an officer and director. The officers and directors shall not be liable for any mistakes of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers and directors may also be members of the Association), and the Association shall indemnify and forever hold each officer and director free and harmless against any and all liability to others on account of any such contract or commitment. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation.

12.9 **Applicable Law**. This Declaration shall be construed in all respects under the laws of the State of Washington.

EXECUTED on this ____ day of _____, 2015.

DECLARANT:

PETKOV DEVELOPMENT SERVICES, INC.

By: _____
Laura Petkov, President

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this ____ day of _____, 2015, before me personally appeared **LAURA PETKOV**, to me known to be the President of **PETKOV DEVELOPMENT SERVICES, INC.**, who executed the within foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that she was authorized to execute said instrument.

WITNESS my hand and official seal hereto affixed the day and year first above written.

_____
Printed Name: _____
NOTARY PUBLIC in and for the State of Washington,
Residing at _____
My commission expires: _____

EXHIBIT A

Legal Description of Subject Property

Lots 1 through 10 and Tracts X and Y of the Diamond Ridge Plat Recorded on _____, 2015 at King County Auditor's File No. _____.

CITY OF BLACK DIAMOND
PRIVATE PROJECT DEVELOPMENT
PERFORMANCE BOND

City Project EN #: _____
Surety Bond #: 0195119
DATE POSTED: _____
PROJECT COMPLETION DATE: _____

RE: Subdivision/Plat/Name: Diamond Ridge
Owner/Developer/Contractor: Shake N Bake, LLC
Project Address: Black Diamond, WA

KNOW ALL PERSONS BY THESE PRESENTS: That we, Shake N Bake, LLC (hereinafter called the "Principal"), and Berkley Insurance Company a corporation organized under the laws of the State of Delaware, and authorized to transact surety business in the State of Washington (hereinafter called the "Surety"), are held and firmly bound unto the City of Black Diamond, Washington, in the sum of *Fifty Two Thousand One ($ 52,168.50), lawful money of the United States of America, for the payment of which sum we and each of us bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, by these presents. THE CONDITIONS of the above obligation are such that:
*Hundred Sixty Eight and 50/100

WHEREAS, the above named Principal has entered into a certain agreement with the City, or has been granted approval by the City, for various improvements, within the City;

WHEREAS, the agreement or the approval granted by the City requires that certain improvements be made in connection with construction of the project; and that such improvements be constructed in full compliance with City standards, and the plans and specifications submitted with the project, as required by the City; and

WHEREAS, the agreement or the approval granted by the City requires that the improvements are to be made or constructed within a certain period of time, unless an extension is granted in writing by the City; and

NOW, THEREFORE, it is understood and agreed that this obligation shall continue in effect until released in writing by the City of Black Diamond, but only after the Principal has performed and satisfied the following conditions:

A. Conditions.

1. The improvements to be constructed by the Principal include, satisfactory completion of the outstanding items that remain to be completed as listed in the attached list dated January 24th, 2016 attached to this performance bond as required by Diamond Ridge preliminary plat conditions, City Construction standards and the approved improvement plan by permit PW12-0004.

2. The Principal must construct the improvements to conform to the design, location, materials and other specifications for the indicated site improvements, as required by the City in the above-referenced City file. In addition, the Principal must construct the improvements according to the applicable ordinances and standards of the City and/or state statutes, as the same now exist or are hereafter amended.

3. The Principal must have completed all improvements required by the above-referenced conditions, plans and City file before August 30th, 2016 unless an extension is granted by the City. _____

4. The Principal must have paid all sums owing to laborers, contractors, mechanics, subcontractors, materialman and suppliers or others as a result of such work for which a lien against any City property has arisen or may arise.

5. The Principal must obtain acceptance by the City of the work completed, all on or before thirty (30) days after the completion date set forth in paragraph 3 above.

B. Default.

1. If the Principal defaults and does not perform the above conditions within the time specified, then the Surety shall, within twenty (20) days of demand of the City, make a written commitment to the City that it will either:

   a). remedy the default itself with reasonable diligence pursuant to a time schedule acceptable to the City; or

   b). tender to the City within an additional ten (10) days the amount necessary, as determined by the City, for the City to remedy the default, up to the total bond amount.

   Upon completion of the Surety's duties under either of the options above, the Surety shall then have fulfilled its obligations under this bond. If the Surety elects to fulfill its obligation pursuant to the requirements of subsection B(1)(b), the City shall notify the Surety of the actual cost of the remedy, upon completion of the remedy. The City shall return, without interest, any overpayment made by the Surety, and the Surety shall pay to the City any actual costs, which exceeded the City's estimate, limited to the bond amount.

2. In the event the Principal fails to complete all of the above referenced improvements within the time period specified by the City, then the City, its employees and agents shall have the right at the City's sole election to enter onto said property described above for the purpose of completing the improvements. This provision shall not be construed as creating an obligation on the part of the City or its representatives to complete such improvements.

C. Corrections. Any corrections required by the City shall be commenced within seven (7) days of notification by the City and completed within thirty (30) days of the date of notification. If the work is not performed in a timely manner, the City shall have the right,

without recourse to legal action, to take such action under this bond as described in Section B above.

D. Extensions and Changes. No change, extension of time, alteration or addition to the work to be performed by the Principal shall affect the obligation of the Principal or Surety on this bond, unless the City specifically agrees, in writing, to such alteration, addition, extension or change. The surety waives notice of any such change, extension, alteration or addition thereunder.

E. Enforcement. It is specifically agreed by and between the parties that in the event any legal action must be taken to enforce the provisions of this bond or to collect said bond, the prevailing party shall be entitled to collect its costs and reasonable attorney fees as a part of the reasonable costs of securing the obligation hereunder. In the event of settlement or resolution of these issues prior to the filing of any suit, the actual costs incurred by the City, including reasonable attorney fees, shall be considered a part of the obligation hereunder secured. Said costs and reasonable legal fees shall be recoverable by the prevailing party, not only from the proceeds of this bond, but also over and above said bond as a part of any recovery (including recovery on the bond) in any judicial proceeding. The Surety hereby agrees that this Agreement shall be governed by the laws of the State of Washington. Venue of any litigation arising out of this Agreement shall be in Pierce County Superior Court.

F. Bond Expiration. This bond shall remain in full force and effect until the obligations secured hereby have been fully performed and a bond guaranteeing maintenance of all improvements for a period of twenty-four (24) months from acceptance has been submitted to the City in an amount to be determined by the City Engineer, in a form suitable to the City and until released in writing by the City.

DATED this 3 day of February, 2016.

SURETY COMPANY **(Signature must be notarized)**	DEVELOPER/OWNER **(Signature must be notarized)**
By: Karen C. Swanson	By
Its Attorney-in-Fact	Its Member
Print Name: Karen C. Swanson	Print Name: Jalen Johansen
Business Name: Berkley Insurance Company	Business Name: Shake N Bake, LLC
Business Address: 412 Mount Kemble Avenue	Business Address: 28215 112th St. E
City/State/Zip Code: Morristown, NJ 07960	City/State/Zip Code: Buckley, WA 98321
Telephone Number: (206)223-5842	Telephone Number: (360)829-6493

CITY OF BLACK DIAMOND

By: _____ Date: _____
Its: _____

The City of Black Diamond
24302 Roberts Drive
P.O. Box 599
Black Diamond, WA 98010

APPROVED AS TO FORM:

_____
Office of the City Attorney

CHECK FOR ATTACHED NOTARY SIGNATURE

____ Individual (Form P-1)
____ Corporation (Form P-2)

FORM P-1 / NOTARY BLOCK
(Use For Individual/Sole Proprietor Only)

STATE OF WASHINGTON)
) ss.
COUNTY OF)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: 2/4/16

Rachael Hernandez
(print or type name)
NOTARY PUBLIC in and for the
State of Washington, residing
at: Buckley WA
My Commission expires: 1/9/17

RACHAEL HERNANDEZ
COMMISSION EXPIRES
NOTARY
PUBLIC
JAN. 09, 2017
STATE OF WASHINGTON

FORM P-2 / NOTARY BLOCK - (Use For Partnership or Corporation Only)

STATE OF WASHINGTON)
) ss.
COUNTY OF)

I certify that I know or have satisfactory evidence that Jalen Johansen is the person who appeared before me, and said person acknowledged as the Member of Shake N Bake that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: 2/4/17

Rachael Hernandez
(print or type name)

RACHAEL HERNANDEZ
COMMISSION EXPIRES
NOTARY
PUBLIC
JAN. 09, 2017
STATE OF WASHINGTON

NOTARY PUBLIC in and for the State of Washington, residing
at: Buckley WA
My Commission expires: 1/9/17

(For Surety Company)
STATE OF WASHINGTON)
) ss.
COUNTY OF Pierce)

I certify that I know or have satisfactory evidence that Karen C. Swanson is the person who appeared before me, and said person acknowledged as the Attorney-in-Fact of Berkley Insurance Company that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: February 3, 2016

Julie R. Truitt
(print or type name)

JULIE R. TRUITT
COMMISSION EXPIRES
NOTARY
PUBLIC
STATE OF WASHINGTON

NOTARY PUBLIC in and for the State of Washington, residing
at: Gig Harbor
My Commission expires: 2/16/2016

No. BI-12200

POWER OF ATTORNEY
BERKLEY INSURANCE COMPANY
WILMINGTON, DELAWARE

NOTICE: The warning found elsewhere in this Power of Attorney affects the validity thereof. Please review carefully.

KNOW ALL MEN BY THESE PRESENTS, that BERKLEY INSURANCE COMPANY (the "Company"), a corporation duly organized and existing under the laws of the State of Delaware, having its principal office in Greenwich, CT, has made, constituted and appointed, and does by these presents make, constitute and appoint: ***Karen C. Swanson; Julie R. Truitt; Brent E. Heilesen; Christopher Kinyon; Jamie Diemer; Carley Espiritu; Peter J. Comfort; Jennifer L. Snyder; or Annelies M. Richie of Propel Insurance of Tacoma, WA*** its true and lawful Attorney-in-Fact, to sign its name as surety only as delineated below and to execute, seal, acknowledge and deliver any and all bonds and undertakings, with the exception of Financial Guaranty Insurance, providing that no single obligation shall exceed **Fifty Million and 00/100 U.S. Dollars (U.S.$50,000,000.00)**, to the same extent as if such bonds had been duly executed and acknowledged by the regularly elected officers of the Company at its principal office in their own proper persons.

This Power of Attorney shall be construed and enforced in accordance with, and governed by, the laws of the State of Delaware, without giving effect to the principles of conflicts of laws thereof. This Power of Attorney is granted pursuant to the following resolutions which were duly and validly adopted at a meeting of the Board of Directors of the Company held on January 25, 2010:

RESOLVED, that, with respect to the Surety business written by Berkley Surety Group, the Chairman of the Board, Chief Executive Officer, President or any Vice President of the Company, in conjunction with the Secretary or any Assistant Secretary are hereby authorized to execute powers of attorney authorizing and qualifying the attorney-in-fact named therein to execute bonds, undertakings, recognizances, or other suretyship obligations on behalf of the Company, and to affix the corporate seal of the Company to powers of attorney executed pursuant hereto; and said officers may remove any such attorney-in-fact and revoke any power of attorney previously granted; and further

RESOLVED, that such power of attorney limits the acts of those named therein to the bonds, undertakings, recognizances, or other suretyship obligations specifically named therein, and they have no authority to bind the Company except in the manner and to the extent therein stated; and further

RESOLVED, that such power of attorney revokes all previous powers issued on behalf of the attorney-in-fact named; and further

RESOLVED, that the signature of any authorized officer and the seal of the Company may be affixed by facsimile to any power of attorney or certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligation of the Company; and such signature and seal when so used shall have the same force and effect as though manually affixed. The Company may continue to use for the purposes herein stated the facsimile signature of any person or persons who shall have been such officer or officers of the Company, notwithstanding the fact that they may have ceased to be such at the time when such instruments shall be issued.

IN WITNESS WHEREOF, the Company has caused these presents to be signed and attested by its appropriate officers and its corporate seal hereunto affixed this 26th day of October, 2015.

Attest: Berkley Insurance Company

(Seal) By _____ By _____

Ira S. Lederman
Senior Vice President & Secretary

Jeffrey M. Hafter
Senior Vice President

WARNING: THIS POWER INVALID IF NOT PRINTED ON BLUE "BERKLEY" SECURITY PAPER.

STATE OF CONNECTICUT)
) ss:
COUNTY OF FAIRFIELD)

Sworn to before me, a Notary Public in the State of Connecticut, this 26th day of October, 2015, by Ira S. Lederman and Jeffrey M. Hafter who are sworn to me to be the Senior Vice President and Secretary, and the Senior Vice President, respectively, of Berkley Insurance Company.

MARIA C. RUNDBAKEN
NOTARY PUBLIC
MY COMMISSION EXPIRES
APRIL 30, 2019

Notary Public, State of Connecticut

CERTIFICATE

I, the undersigned, Assistant Secretary of BERKLEY INSURANCE COMPANY, DO HEREBY CERTIFY that the foregoing is a true, correct and complete copy of the original Power of Attorney; that said Power of Attorney has not been revoked or rescinded and that the authority of the Attorney-in-Fact set forth therein, who executed the bond or undertaking to which this Power of Attorney is attached, is in full force and effect as of this date.

Given under my hand and seal of the Company, this 3 day of February, 2016.

(Seal)

Andrew M. Tuma

WARNING – Any unauthorized reproduction or alteration of this document is prohibited. This power of attorney is void unless seals are readable and the certification seal at the bottom is embossed. The background imprint, warning and confirmation (on reverse) must be in blue ink.

Exhibit A to Diamond Ridge Subdivision Resolution

DIAMOND RIDGE PLAT

PLN15-0044

CITY OF BLACK DIAMOND,

WASHINGTON

DEDICATION

KNOW ALL PEOPLE BY THESE PRESENTS THAT WE, THE UNDERSIGNED OWNERS OF INTEREST IN THE LAND HEREBY SUBDIVIDED, HEREBY DECLARE THIS PLAT TO BE THE GRAPHIC REPRESENTATION OF THE SUBDIVISION MADE HEREBY, AND DO HEREBY DEDICATE TO THE USE OF THE PUBLIC FOREVER ALL STREETS AND AVENUES NOT SHOWN AS PRIVATE HEREON AND DEDICATE THE USE THEREOF FOR ALL PUBLIC PURPOSES NOT INCONSISTENT WITH THE USE THEREOF FOR PUBLIC HIGHWAY PURPOSES, AND ALSO THE RIGHT TO MAKE ALL NECESSARY SLOPES FOR CUTS AND FILLS UPON THE LOTS SHOWN THEREON IN THE ORIGINAL REASONABLE GRADING OF SAID STREETS AND AVENUES, AND FURTHER DEDICATE TO THE USE OF THE PUBLIC ALL THE EASEMENTS AND TRACTS SHOWN ON THIS PLAT FOR ALL THE PUBLIC PURPOSES AS INDICATED THEREON, INCLUDING BUT NOT LIMITED TO PARKS, OPEN SPACE, UTILITIES AND DRAINAGE UNLESS SUCH EASEMENTS OR TRACTS ARE SPECIFICALLY IDENTIFIED ON THIS PLAT AS BEING DEDICATED OR CONVEYED TO A PERSON OR ENTITY OTHER THAN THE PUBLIC, IN WHICH CASE WE DO HEREBY DEDICATE SUCH STREETS, EASEMENTS, OR TRACTS TO THE PERSON OR ENTITY IDENTIFIED AND FOR THE PURPOSE STATED.

FOLLOWING THE ORIGINAL AND REASONABLE GRADING OF THE ROADS AND RIGHT-OF-WAY SHOWN HEREON, NO DRAINAGE WATERS ON ANY LOT OR LOTS SHALL BE DIVERTED OR BLOCKED FROM THEIR NATURAL COURSE SO AS TO DISCHARGE UPON ANY PUBLIC RIGHTS-OF-WAY OR TO HAMPER PROPER DRAINAGE. ANY ENCLOSING OF DRAINAGE WATERS IN CULVERTS OR DRAINS OR REROUTING THEREON ACROSS ANY LOTS, AS MAY BE UNDERTAKEN BY OR FOR THE OWNER OF ANY LOT, SHALL BE DONE BY AND AT THE EXPENSE OF SUCH OWNER. ALL ROOF DRAINS, FOOTING DRAINS, AND AREA LOT DRAINS SHALL BE CONNECTED TO THE STORM DRAINAGE SYSTEM.

FURTHER, THE UNDERSIGNED OWNERS DO HEREBY RELINQUISH THAT PORTION OF THE INGRESS, EGRESS AND UTILITIES EASEMENT LYING WITHIN LOTS 2, 3 AND 4, OF CITY OF BLACK DIAMOND SHORT PLAT NO. 004-06-82, RECORDED MAY 31, 1984, IN VOLUME 40, PAGE 114 OF SURVEYS, UNDER RECORDING NO. 8405319003, RECORDS OF KING COUNTY, WASHINGTON.

FURTHER, THE UNDERSIGNED OWNERS OF THE LAND HEREBY SUBDIVIDED, WAIVE FOR THEMSELVES, THEIR HEIRS AND ASSIGNS AND ANY PERSON OR ENTITY DERIVING TITLE FROM THE UNDERSIGNED, ANY AND ALL CLAIMS FOR DAMAGES AGAINST THE CITY OF BLACK DIAMOND. FUTHER THE UNDERSIGNED OWNERS OF THE LAND HEREBY SUBDIVIDED, AGREE FOR THEMSELVES, THEIR HEIRS AND ASSIGNS TO INDEMNIFY AND HOLD THE CITY OF BLACK DIAMOND, ITS SUCCESSORS AND ASSIGNS WHICH MAY BE OCCASIONED BY THE ESTABLISHMENT, CONSTRUCTION, OR MAINTENANCE OF ROADS AND/OR DRAINAGE SYSTEMS WITHIN THIS SUBDIVISION OTHER THAN CLAIMS RESULTING FROM INADEQUATE MAINTENANCE BY THE CITY OF BLACK DIAMOND, ITS SUCCESSORS AND ASSIGNS, HARMLESS FROM ANY DAMAGE, INCLUDING ANY COSTS OF DEFENSE, CLAIMED BY PERSONS WITHIN OR WITHOUT THIS SUBDIVISION TO HAVE BEEN CAUSED BY ALTERATIONS OF THE GROUND SURFACE, VEGETATION, DRAINAGE, OR SURFACE OR SUBSURFACE WATER FLOWS WITHIN THIS SUBDIVISION OR BY ESTABLISHMENT, CONSTRUCTION OR MAINTENANCE OF THE ROADS WITHIN THIS SUBDIVISION. PROVIDED, THIS WAIVER AND INDEMNIFICATION SHALL NOT BE CONSTRUED AS RELEASING THE CITY OF BLACK DIAMOND, ITS SUCCESSORS OR ASSIGNS, FROM LIABILITY FOR DAMAGES, INCLUDING THE COST OF DEFENSE, RESULTING IN WHOLE OR IN PART FROM THE NEGLIGENCE OF THE CITY OF BLACK DIAMOND, ITS SUCCESSORS OR ASSIGNS.

THIS SUBDIVISION, DEDICATION, WAIVER OF CLAIMS AND AGREEMENT TO HOLD HARMLESS IS MADE WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF SAID OWNERS.

IN WITNESS WHEREOF WE SET OUR HANDS AND SEALS.

COMPANY PRESIDENT - SHAKE N BAKE, LLC DATE

RECORDER'S CERTIFICATE

FILED FOR RECORD THIS _____ DAY OF _____,

20__ AT ____ M IN BOOK _____ OF SURVEYS, PAGE

_____, UNDER RECORDING NO. _____

AT THE REQUEST OF GEODIMENSIONS INC.

MANAGER SUPT. OF RECORDS

VICINITY MAP

NOT TO SCALE

ACKNOWLEDGEMENT

STATE OF WASHINGTON
COUNTY OF KING

I CERTIFY THAT I KNOW OR HAVE SATISFACTORY EVIDENCE THAT _____
SIGNED THIS INSTRUMENT, ON OATH STATED THAT (HE/SHE) WAS AUTHORIZED TO EXECUTE THE INSTRUMENT AND ACKNOWLEDGED IT AS THE PRESIDENT OF SHAKE N BAKE, LLC, TO BE THE FREE AND VOLUNTARY ACT OF SUCH PARTY FOR THE USES AND PURPOSES MENTIONED IN THE INSTRUMENT.

PRINTED NAME _____

SIGNATURE OF NOTARY PUBLIC _____

DATED _____

MY APPOINTMENT EXPIRES _____

GENERAL NOTES

1. ALL TITLE INFORMATION SHOWN ON THIS MAP HAS BEEN EXTRACTED FROM OLD REPUBLIC TITLE, LTD. ALTA COMMITMENT, ORDER NO. 5207128662, DATED FEBRUARY 4, 2016, OLD REPUBLIC TITLE LTD., ALTA COMMITMENT, ORDER NO. 5207128663, DATED JANUARY 28, 2016 AND OLD REPUBLIC TITLE LTD., ALTA COMMITMENT, ORDER NO. 5207128654, DATED JANUARY 28, 2016. IN PREPARING THIS MAP, GEODIMENSIONS, INC. HAS CONDUCTED NO INDEPENDENT TITLE SEARCH NOR IS GEODIMENSIONS, INC. AWARE OF ANY TITLE ISSUES AFFECTING THE SURVEYED PROPERTY OTHER THAN THOSE SHOWN ON THE MAP AND DISCLOSED BY THE REFERENCED TITLE REPORTS. GEODIMENSIONS, INC. HAS RELIED WHOLLY ON OLD REPUBLIC TITLE , LTD. REPRESENTATIONS OF THE TITLE'S CONDITION TO PREPARE THIS SURVEY AND GEODIMENSIONS, INC. QUALIFIES THE MAP'S ACCURACY AND COMPLETENESS TO THAT EXTENT.
2. THE INFORMATION ON THIS MAP REPRESENTS THE RESULTS OF A SURVEY MADE IN APRIL 2015 AND CAN ONLY BE CONSIDERED AS INDICATING THE GENERAL CONDITIONS EXISTING AT THAT TIME.
3. ALL MONUMENTS AND PROPERTY CORNER MARKERS WERE LOCATED IN APRIL, 2015 UNLESS OTHERWISE NOTED.

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THE PLAT OF DIAMOND RIDGE IS BASED UPON AN ACTUAL SURVEY AND SUBDIVISION OF SECTION 14, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M., AS REQUIRED BY STATE STATUTES; THAT THE DISTANCES, COURSES AND ANGLES ARE SHOWN THEREON CORRECTLY, THAT THE MONUMENTS SHALL BE SET AND LOT AND BLOCK CORNERS SHALL BE STAKED CORRECTLY ON THE GROUND, THAT I FULLY COMPLIED WITH PROVISIONS OF THE STATE AND LOCAL STATUTES AND REGULATIONS GOVERNING PLATTING.

3/28/16

PROFESSIONAL LAND SURVEYOR CERTIFICATE NO.: 46876

PUBLIC WORKS DIRECTOR

THE PUBLIC WORKS DIRECTOR FOR THE CITY OF BLACK DIAMOND HAS APPROVED THE SURVEY DATA, THE LAYOUT OF THE STREETS, ALLEYS AND OTHER RIGHTS OF WAYS, DESIGN OF BRIDGES, SEWAGE AND WATER SYSTEM AND OTHER STRUCTURES.

EXAMINED AND APPROVED THIS ____ DAY OF _____, 2016 A.D.

PUBLIC WORKS DIRECTOR

COMMUNITY DEVELOPMENT DIRECTOR

EXAMINED AND APPROVED THIS ____ DAY OF _____, 2016 A.D.

COMMUNITY DEVELOPMENT DIRECTOR

COUNCIL APPROVAL

EXAMINED AND APPROVED THIS ____ DAY OF _____, 2016 A.D.

MAYOR, CITY OF BLACK DIAMOND

FIRE CHIEF APPROVAL

EXAMINED AND APPROVED THIS ____ DAY OF _____, 2016 A.D.

CITY OF BLACK DIAMOND FIRE CHIEF

TREASURER CERTIFICATE

I HEREBY CERTIFY THAT ALL PROPERTY TAXES ARE PAID, THAT THERE ARE NO DELINQUENT SPECIAL ASSESSMENTS CERTIFIED TO THIS OFFICE FOR COLLECTION AND THAT ALL SPECIAL ASSESSMENTS CERTIFIED TO THIS OFFICE FOR COLLECTION ON ANY OF THE PROPERTY HEREIN CONTAINED, DEDICATED AS STREETS, ALLEYS OR FOR OTHER PUBLIC USE, ARE PAID IN FULL.

EXAMINED AND APPROVED THIS ____ DAY OF _____, 2016 A.D.

TREASURER

DEPUTY

DEPARTMENT OF ASSESSMENTS

EXAMINED AND APPROVED THIS ____ DAY OF _____, 2016 A.D.

KING COUNTY ASSESSOR

DEPUTY KING COUNTY ASSESSOR

CITY OF BLACK DIAMOND RECEIVED MAR 29 2016 PLANNING DEPT.

JOB NO. 150515 | PAGE. 1 OF 4

DIAMOND RIDGE PLAT
32322 5TH AVENUE
BLACK DIAMOND, WA. 98010

MARK A. BORYS STATE OF WASHINGTON 46876 REGISTERED PROFESSIONAL LAND SURVEYOR 3/28/16

GeoDimensions
16801 Main Street, Suite 103, Bellevue, WA 98004
phone: 425-558-0042 support@geodimensions.net
www.geodimensions.net

DIAMOND RIDGE PLAT

PLN15-0044

CITY OF BLACK DIAMOND,

WASHINGTON

RECORDING NO. - VOL./PAGE

PORTION OF

NW 1/4 AND NE 1/4, OF THE NE 1/4 OF SEC. 14, T. 21 N., R. 6 E., W.M.

ORIGINAL LEGAL DESCRIPTIONS

PARCEL B:

THE LAND REFERRED TO IS SITUATED IN THE COUNTY OF KING, CITY OF BLACK DIAMOND, STATE OF WASHINGTON, AND IS DESCRIBED AS FOLLOWS:

LOT 2, SHORT PLAT NO. 004-06-82, RECORDED UNDER RECORDING NO. 8405319003, RECORDS OF KING COUNTY, WASHINGTON;

EXCEPT THE NORTH 13 FEET OF THE WEST 125 FEET OF THE FOLLOWING DESCRIBED PROPERTY:
BEGINNING 998.32 FEET SOUTH AND 989.6 FEET WEST OF THE NORTHEAST CORNER OF SAID SECTION;
THENCE NORTH 88°22 WEST 618.6 FEET TO POINT 20 FEET EAST OF CENTERLINE OF BRUCE BRANCH OF PACIFIC COAST RAILROAD;
THENCE NORTH 1°38' EAST 70 FEET;
THENCE EASTERLY 618.6 FEET;
THENCE SOUTHERLY 70 FEET TO THE POINT OF BEGINNING;
EXCEPT THE WEST 125 FEET OF THE NORTH 54 FEET THEREOF.

(ALSO KNOWN AS PARCEL B, BOUNDARY LINE ADJUSTMENT NO. PLN15-0043, RECORDED UNDER RECORDING NO. 20160119000003)

SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON.

LOT 3:

LOT 3, SHORT PLAT NO. 004-06-82, RECORDED UNDER RECORDING NO. 8405319003, RECORDS OF KING COUNTY, WASHINGTON.

SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON

LOT 4:

LOT 4, SHORT PLAT NO. 004-06-82, RECORDED UNDER RECORDING NO. 8405319003, RECORDS OF KING COUNTY, WASHINGTON.

SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON

MATTERS OF TITLE

1. COVENANTS, CONDITIONS AND RESTRICTIONS, BUT OMITTING ANY COVENANTS OR RESTRICTIONS IF ANY, BASED UPON RACE, COLOR, RELIGION, SEX, HAND CAP, FAMILIAL STATUS, OR NATIONAL ORIGIN UNLESS AND ONLY TO THE EXTENT THAT SAID COVENANT (A) IS EXEMPT UNDER TITLE 42, SECTION 3607 OF THE UNITED STATES CODE OR (B) RELATES TO HANDICAP BUT DOES NOT DISCRIMINATE AGAINST HANDICAPPED PERSONS, AS PROVIDED IN AN INSTRUMENT,
RECORDED : MAY 23, 1927 IN OFFICIAL RECORDS UNDER RECORDING NUMBER 2354207
(NOTHING TO PLOT)

2. TERMS AND PROVISIONS AS CONTAINED IN AN INSTRUMENT,
ENTITLED : DEED
EXECUTED BY : PACIFIC COAST COAL COMPANY
RECORDED : FEBRUARY 11, 1928 IN OFFICIAL RECORDS UNDER RECORDING NUMBER 2441558
WHICH, AMONG OTHER THINGS, PROVIDES: RESERVATION OF OIL, COAL, GAS AND MINERALS AND/OR MINERAL RIGHTS OF ANY NATURE, AND RIGHT OF ENTRY TO EXPLORE SAME. NO EXAMINATION HAS BEEN MADE AS TO THE PRESENT OWNERSHIP OR ENCUMBRANCES OF THE
RESERVED MINERAL ESTATE. (NOTHING TO PLOT)

3. TERMS AND PROVISIONS AS CONTAINED IN AN INSTRUMENT,
ENTITLED : DEED
EXECUTED BY : PACIFIC COAST COAL COMPANY
RECORDED : MARCH 12, 1929 IN OFFICIAL RECORDS UNDER RECORDING NUMBER 2537395
WHICH, AMONG OTHER THINGS, PROVIDES: RESERVATION OF OIL, COAL, GAS AND MINERALS AND/OR MINERAL RIGHTS OF ANY NATURE, AND RIGHT OF ENTRY TO EXPLORE SAME.
(NOTHING TO PLOT)

4. TERMS AND PROVISIONS AS CONTAINED IN AN INSTRUMENT,
ENTITLED : CITY OF BLACK DIAMOND SHORT PLAT NO. 004-06-82
RECORDED : MAY 31, 1984 IN OFFICIAL RECORDS UNDER RECORDING NUMBER
8405319003 (SHOWN HEREON)

5. TERMS AND PROVISIONS AS CONTAINED IN AN INSTRUMENT,
ENTITLED : ACCESS AND UTILITY MAINTENANCE AGREEMENT
RECORDED : FEBRUARY 5, 2013 IN OFFICIAL RECORDS UNDER RECORDING NUMBER
20130205001763 (SHOWN HEREON)

6. AN EASEMENT AFFECTING THAT PORTION OF SAID LAND AND FOR THE PURPOSES STATED HEREIN AND INCIDENTAL PURPOSES AS PROVIDED IN THE FOLLOWING
INSTRUMENT : EASEMENT
GRANTED TO : PUGET SOUND ENERGY, INC.
FOR : ALL STREETS, ROAD RIGHTS-OF-WAY AND ACCESS TRACTS (BOTH PRIVATE AND PUBLIC) AS NOW OR HEREAFTER DESIGNED, PLATTED, AND/OR CONSTRUCTED WITHIN THE REAL PROPERTY AS DESCRIBED ABOVE. (AT SUCH TIME AS THE STREETS, ROAD RIGHTS-OF-WAY AND ACCESS TRACTS ARE DEDICATED TO THE PUBLIC, SAID STREETS, ROAD RIGHTS-OF-WAY AND ACCESS TRACTS WILL NO LONGER BE SUBJECT TO THIS EASEMENT.)
DATED : JULY 24, 2015
RECORDED : JULY 30, 2015 IN OFFICIAL RECORDS UNDER RECORDING NUMBER
20150730000558
AFFECTS : A STRIP OF LAND 10 FEET IN WIDTH ACROSS ALL LOTS AND TRACTS LOCATED WITHIN THE REAL PROPERTY AS DESCRIBED ABOVE BEING PARALLEL TO AND COINCIDENT WITH THE BOUNDARIES OF ALL PUBLIC AND PRIVATE STREETS AND ROAD RIGHTS-OF-WAY; AND THE NORTH 10 FEET OF LOTS 6 AND 7 OF THIS PLAT. (SHOWN HEREON)

7. TERMS AND PROVISIONS AS CONTAINED IN AN INSTRUMENT,
ENTITLED : BOUNDARY LINE ADJUSTMENT NO. PLN15-0043
RECORDED : JANUARY 19, 2016 IN OFFICIAL RECORDS UNDER RECORDING NUMBER 20160119000003
(NO ADDITIONAL PLOTTABLE INFORMATION)

CITY OF BLACK DIAMOND RECEIVED MAR 29 2016 PLANNING DEPT.

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DIAMOND RIDGE PLAT
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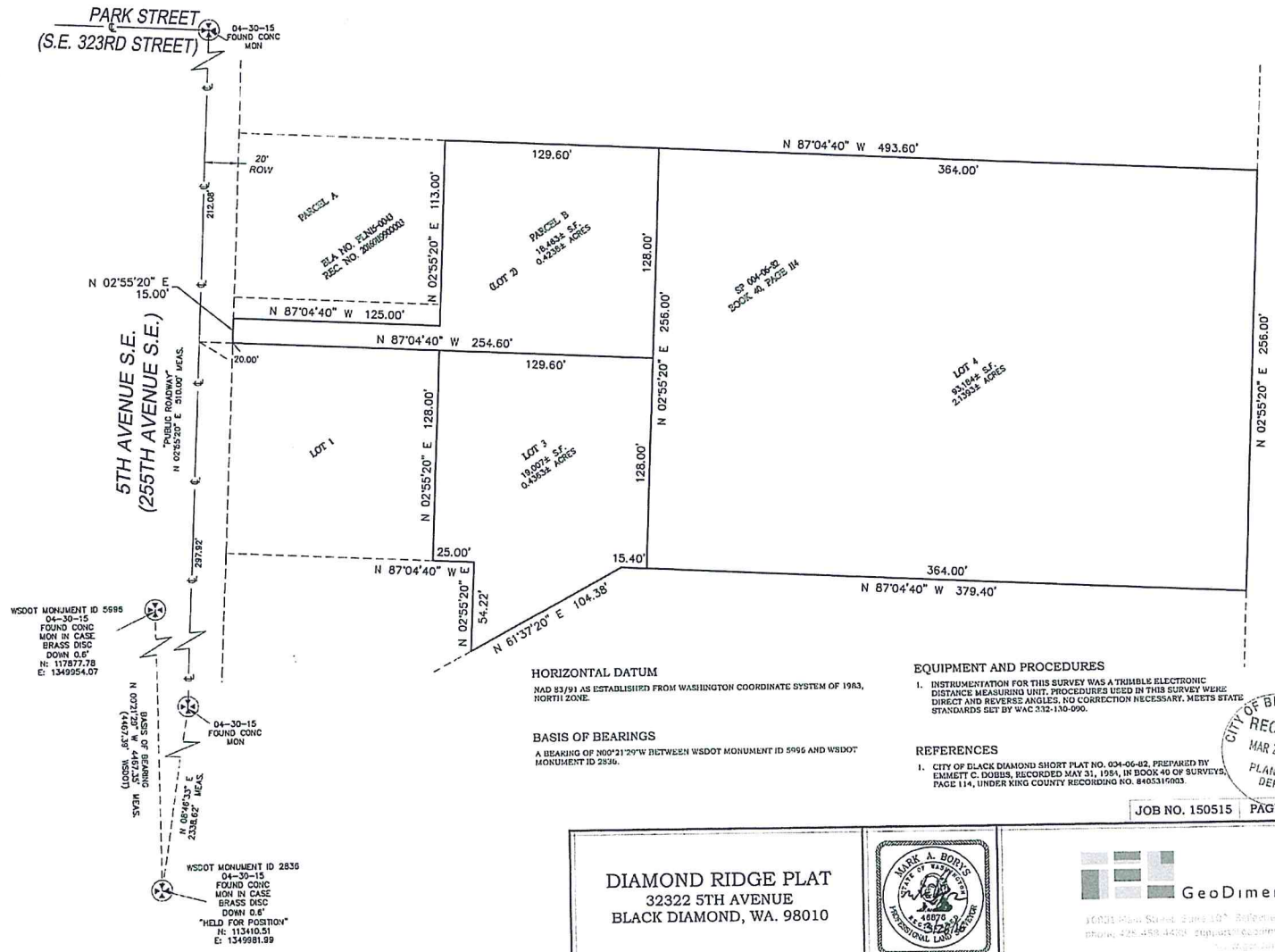
MARK A. DORYS STATE OF WASHINGTON 46876 REGISTERED PROFESSIONAL LAND SURVEYOR 3/28/16

GeoDimensions

DIAMOND RIDGE PLAT
PLN15-0044
CITY OF BLACK DIAMOND,
WASHINGTON

RECORDING NO.	VOL./PAGE
PORTION OF NW 1/4 AND NE 1/4, OF THE NE 1/4 OF SEC. 14, T. 21 N., R. 6 E., W.M.	

ORIGINAL LOT LAYOUT



HORIZONTAL DATUM

NAD 83/91 AS ESTABLISHED FROM WASHINGTON COORDINATE SYSTEM OF 1983, NORTH ZONE.

BASIS OF BEARINGS

A BEARING OF N00°21'29"W BETWEEN WSDOT MONUMENT ID 5996 AND WSDOT MONUMENT ID 2836.

EQUIPMENT AND PROCEDURES

1. INSTRUMENTATION FOR THIS SURVEY WAS A TRIMBLE ELECTRONIC DISTANCE MEASURING UNIT. PROCEDURES USED IN THIS SURVEY WERE DIRECT AND REVERSE ANGLES. NO CORRECTION NECESSARY. MEETS STATE STANDARDS SET BY WAC 332-130-090.

REFERENCES

1. CITY OF BLACK DIAMOND SHORT PLAT NO. 034-06-82, PREPARED BY EMMETT C. DOBBS, RECORDED MAY 31, 1984, IN BOOK 40 OF SURVEYS, PAGE 114, UNDER KING COUNTY RECORDING NO. 8405310003.

CITY OF BLACK DIAMOND
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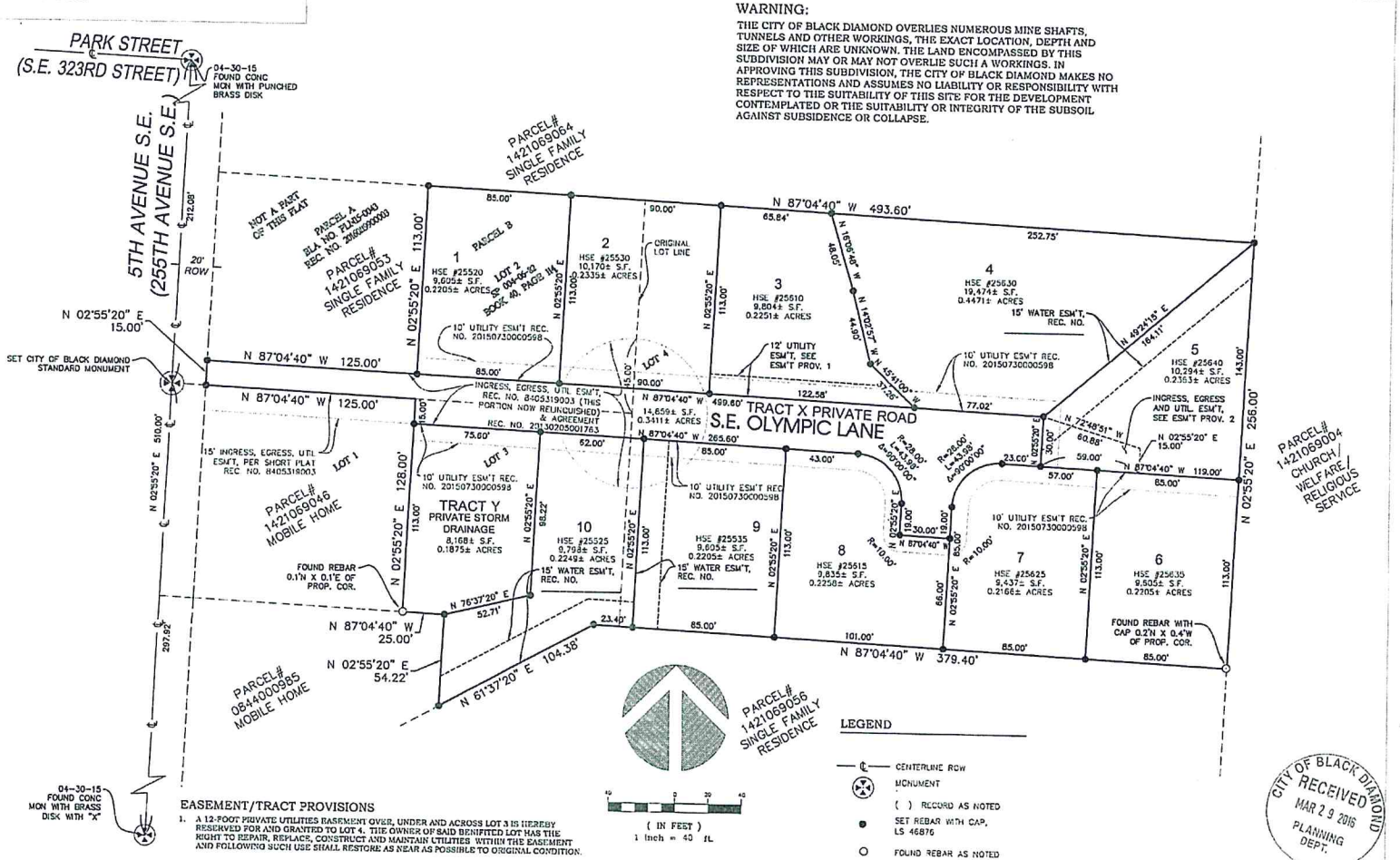
WARNING:
THE CITY OF BLACK DIAMOND OVERLIES NUMEROUS MINE SHAFTS, TUNNELS AND OTHER WORKINGS, THE EXACT LOCATION, DEPTH AND SIZE OF WHICH ARE UNKNOWN. THE LAND ENCOMPASSED BY THIS SUBDIVISION MAY OR MAY NOT OVERLIE SUCH A WORKINGS. IN APPROVING THIS SUBDIVISION, THE CITY OF BLACK DIAMOND MAKES NO REPRESENTATIONS AND ASSUMES NO LIABILITY OR RESPONSIBILITY WITH RESPECT TO THE SUITABILITY OF THIS SITE FOR THE DEVELOPMENT CONTEMPLATED OR THE SUITABILITY OR INTEGRITY OF THE SUBSOIL AGAINST SUBSIDENCE OR COLLAPSE.



EASEMENT/TRACT PROVISIONS

1. A 12-FOOT PRIVATE UTILITIES EASEMENT OVER, UNDER AND ACROSS LOT 3 IS HEREBY RESERVED FOR AND GRANTED TO LOT 4. THE OWNER OF SAID BENIFITED LOT HAS THE RIGHT TO REPAIR, REPLACE, CONSTRUCT AND MAINTAIN UTILITIES WITHIN THE EASEMENT AND FOLLOWING SUCH USE SHALL RESTORE AS NEAR AS POSSIBLE TO ORIGINAL CONDITION.
2. A PRIVATE INGRESS, EGRESS AND UTILITIES EASEMENT OVER AND ACROSS LOT 5 IS HEREBY RESERVED FOR AND GRANTED TO LOTS 6 AND 7. THE OWNERS OF SAID BENIFITED LOTS HAVE THE RIGHT TO REPAIR, REPLACE, CONSTRUCT AND MAINTAIN A DRIVEWAY AND UTILITIES WITHIN THE EASEMENT AND FOLLOWING SUCH USE SHALL RESTORE AS NEAR AS POSSIBLE TO ORIGINAL CONDITION.
3. OWNERS OF LOTS 1-10 SHALL HAVE EQUAL OWNERSHIP OF TRACTS X AND Y.
4. EACH LOT IS RESPONSIBLE FOR THE MAINTENANCE OF THE PRIVATE ROAD AND PRIVATE STORM WATER TREATMENT AND CONVEYANCE SYSTEM.
5. THE DIAMOND RIDGE OWNERS' ASSOCIATION SHALL PAY WITHOUT ABATEMENT, DEDUCTION, OR OFFSET, ALL OF THE FOREGOING TAXES, ASSESSMENTS, AND CHARGES LEVIED OR ASSESSED AGAINST THE COMMON AREAS.

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