



CITY OF BLACK DIAMOND

JOINT STAFF REPORT DEVELOPMENT AGREEMENTS FOR THE VILLAGES MASTER PLANNED DEVELOPMENT FILE NOs.: PLN10-0020/11-0013 LAWSON HILLS MASTER PLANNED DEVELOPMENT FILE NOs.: PLN10-0021/11-0014

I. INTRODUCTION

On September 20, 2010, the Black Diamond City Council approved Master Planned Development Permits (“MPD Permits”) for (a) “The Villages,” a planned mixed-use development of 1,196 acres, featuring 4,800 residential units, 775,000 sq. ft. of office, retail and light industrial uses, school sites and both passive and active open space. (See Ordinance No. 10-946, Attachment 4) and (b) “Lawson Hills” a planned mix-use development of 371 acres, featuring 1,250 residential units, 390,000 sq. ft. of office, retail and light industrial uses, one school site and both passive and active open space. (See Ordinance No. 10-947, Attachment 5).

Pursuant to BDMC 18.98.090, the conditions of the MPD Permit approvals must be incorporated into a Development Agreement between the City and the property owners. The Development Agreement must be binding on all MPD property owners and their successors, and requires that the property owners develop the subject property only in accordance with the terms of the MPD approval. The Development Agreement must be signed by the Mayor and all property owners and lien holders within the MPD boundary, and recorded, before the City may approve any implementing permits or approvals (preliminary plat, design review, building permit, etc.) for development of the land subject to the approved MPD Permits. The proposed Development Agreements have been negotiated between City staff and the MPD property owners (BD Village Partners and BD Lawson Partners) in order to satisfy this code requirement.

II. GENERAL INFORMATION

Property Owners: BD Village Partners LP, BD Lawson Partners, LP
10220 NE Points Drive, Suite 120
Kirkland, WA 98033

Parcel Numbers: **The Villages:** 1121069006, 9109, 1521069005, 9088, 9096, 9097, 9098, 9099, 9100, 9101, 9102, 9103, 9104,

9105, 9106, 9108, 9109, 2221069004, 9035, 9036, 9037, 9038, 9042, 9044, 9045, 9046, 9047, 9052, 9053, 2721069056, 2221069039, 9040, 9041, 9043, 9048, 9049, 9050, 9051, 2321069001, 9003, 9046, 9047, 9048, 9049, 9050, 9051, 9052, 9053, 9054, 9057, and 9058.

Lawson Hills: 0221069024, 9028, 9029, 9030, 0321069076, 1121069044, 1421069001, 9002, 9063, 9186, 1321069007, 9008, 9009, 9010, 9011, 9014, 9021, 9022, 9023, 9024, 9029, 9033, 9034, 9036, 9037, 9038, 9040, 9046, 9047, 9048, 9053, 9054, 9057, 9063, 9066, 9067, 1221069011 and 9012.

(See Attachment 2, which provides a visual representation of the boundaries for both projects).

Legal Basis:

Development Agreements are authorized under RCW 36.70B.170 and BDMC 18.66. Pursuant to BDMC 18.08, a Development Agreement is processed as a Type 4 Quasi-judicial application (Hearing Examiner conducts an open record hearing and forwards a recommendation to the City Council; City Council then conducts a closed record hearing and takes final action on the development agreement).

SEPA Action:

A Determination of Significance and Adoption of the prior Final Environmental Impact Statement (FEIS) for The Villages Master Planned Development (dated December 11, 2009) was issued on June 3, 2011.

A Determination of Significance and Adoption of the prior FEIS for the Lawson Hills Master Planned Development (also dated December 11, 2009) was issued on June 3, 2011.

III. WHAT IS A DEVELOPMENT AGREEMENT? The Municipal Research and Services Center’s website offers the following general discussion of a development agreement: “A development agreement is a contract between a local jurisdiction and a person who has ownership or control of property within that jurisdiction. The purpose of the agreement is to specify the standards and conditions that will govern development of the property. The development agreement provides assurances to the developer that he/she may proceed to develop the project subject to the rules and regulations in effect at the time of approval – the development will not be subject to subsequent changes in regulations. (In Washington, a project is subject to the regulations in effect at the time of subdivision or building permit application. However, a development agreement may include additional development standards that will govern property development for the duration of the agreement).

Development agreements should also benefit the local jurisdiction. The city or county may include conditions (mitigation measures) that must be met to assure that a project at a specific location does not have unacceptable impacts on neighboring properties or community infrastructure. The agreement may clarify how the project will be phased, the

required timing of public improvements, the developer's contribution toward funding system-wide community improvements, and other conditions. The agreement can also facilitate enforcement of requirements, since it is a contract that details obligations of the developer and local jurisdiction.

.....These agreements are voluntary, but once made, they are binding on the parties and their successors. Development standards may include permitted uses, densities, impact fees, and mitigation measures. Local jurisdictions must hold a public hearing prior to approving a development agreement and may only impose impact fees, dedications, mitigation measures, and standards as authorized by other laws.”

Under the Black Diamond Municipal Code, Section 18.98.090, the purpose of a development agreement for a Master Planned Development Permit is somewhat more narrow. The purpose is to ensure that the conditions of MPD Permit approval are incorporated into a recorded agreement that is binding upon all MPD property owners and their successors, and that requires that development of the MPD property occur only in accordance with the approved MPD Permit conditions.

Some conditions of MPD Permit approval required preparation of supplemental information. These include:

Villages Condition 11/Lawson Hills Condition 10: “The City shall create, at the expense of the Applicant, a new traffic demand model for this project. . . .” With the assistance of Parametrix, this model is being created.

Villages Condition 33(a)/Lawson Hills Condition 29: The City shall commission a study, at the Applicant's expense, on how to limit MPD traffic from using Green Valley Road, and which shall include an assessment of the use of traffic calming devices within the existing, improved right-of-way.” With the assistance of Parametrix, this study has been completed.

Villages Condition 81/Lawson Hills Condition 85: “Prior to approval of the Development Agreement, the Applicant shall identify to the City the estimated maximum annual volume of total phosphorus (Tp) that will be discharged in runoff from the MPD site and that will comply with the TMDL established by the State Department of Ecology for Lake Sawyer.” The Applicant has provided the information required by this condition to the City.

IV. DEVELOPMENT AGREEMENT PROCESS

As noted in Section II above, both Washington State law and the Black Diamond Municipal Code allow the City to enter into a development agreement with a property owner. In the case of an approved Master Planned Development, a development agreement is required as a pre-condition of the City approving any implementing projects or approvals, such as subdivisions (BDMC 18.98.090).

In addition to the requirements that a development agreement for an MPD Permit incorporate the conditions of MPD Permit approval and require that all development occur only in accordance with the terms of MPD Permit approval, a basic consensus between the two parties to a development agreement (property owner and the City) is needed before proceeding to public hearing. In this instance, the property owners

submitted initial proposals on September 10, 2010 (Villages) and September 13, 2010 (Lawson Hills), which initiated the process of discussions and negotiations with staff. Revised agreements dated December 30, 2010 (version 2) were submitted on January 5, 2011, after which further discussions and negotiations occurred. Third versions of the two development agreements were submitted on April 15, 2011 and have served as the basis for final discussions and negotiations, with the end result being the fourth revised versions now presented to the Examiner.

Throughout the negotiation/discussion process with the proponents, staff has used outside consultants for assistance. RH2 Engineers, which has served as adjunct staff to the City of Issaquah in its review and implementation of Issaquah Highlands and Talus (two large master planned communities) has provided assistance primarily in the areas of engineering and utilities. Henderson and Young, a nationally-recognized firm in the area of impact/mitigation fees and municipal fiscal issues, has provided assistance in those areas. And, the City has continued to use the services of Parametrix (primary authors of the FEIS documents) in the area of transportation issues and traffic mitigation.

The property owner also submitted new development agreement applications on March 18, 2011, which were identical to the December 30, 2010 proposals received on the initial applications. A letter from Yarrow Bay Holdings, dated June 9, 2011 (Attachment 10) states their reason for doing so. As noted above, revised versions of the development agreements (version 3) were subsequently submitted on April 15, 2011 and posted to the City's website for public review and comment. The versions now before the Examiner should be considered as the final draft for all applications (PLN10-0020 and PLN11-0013 for The Villages, and PLN10-0021 and PLN11-0014 for Lawson Hills).

Since BDMC 18.08 classifies a development agreement as a Type 4 Quasi-judicial process, after the original drafts were submitted, staff provided initial Notices of Application on October 5, 2010, per standard procedures. The public was asked to respond with any comments by November 5, 2010, although it was noted that comments would be considered throughout the review process. Comments were provided from approximately 10 individuals, groups or agencies. Over the months, staff has had several meetings with individual citizens, with staff representatives of the Muckleshoot Indian Tribe, plus one group, which identified itself as a Citizens' Technical Team. Although staff urged the inclusion of representatives of the property owners in these discussions with the Tribe and Technical Team, both groups refused to meet if the property owners or their representatives were to be present and, as a result, the property owners' representatives were excluded from these meetings.

After receipt of the second development agreement applications in March 2011, new Notices of Application were provided on April 22, 2011, with a public comment period extending until May 23, 2011.

Electronic copies of both the September and December versions of the draft Development Agreements were available on the City's website shortly after their receipt, with written copies available at the Community Development Department. As noted, the April versions of the agreements have also been available for public review on the City's website and at the Department's service counter since their receipt by the City.

The Hearing Examiner conducted a Pre-Hearing Conference on May 23, 2011 to discuss procedural and scheduling issues for the upcoming public hearings on the Development Agreements. The Hearing Examiner indicated that he will be issuing a prehearing order specifying procedures and deadlines applicable to all participants in the Development Agreement public hearings. As of the date of this Staff Report, the Hearing Examiner's prehearing order had not been received by the City.

In order to facilitate public understanding of the proposed Development Agreements, staff is planning to host an open house activity one to two weeks prior to the beginning of the Hearing Examiner open record hearing.

V. PUBLIC NOTICE

As noted in Section IV, staff has provided public notice during this process consistent with the requirements of BDMC 18.08 for a Type 4 Quasi-judicial process. This included:

- A. Notices of Application dated October 5, 2010 and April 22, 2011: published in the official City newspaper; posted to City's website; existing on-site Public Notice Boards modified; plus, mailed notice to approx. 1600 individuals. The initial drafts of the Development Agreements were posted to the City's website, as were all subsequent drafts, including those currently under consideration.
- B. Notice of Open House Event: posted on City's website; notice emailed to individuals on City Clerk's Council distribution list (note: this was an additional event intended to provide public notice and information about the Development Agreements and related MPD Permits, and was not required by any City code).
- C. Notice of Public Hearing: published on June 10, 2011 in the official City newspaper; posted to City's website on the same day; posted on Notice Boards on the same day; mailed to approx. 1600 individuals, which includes all participants from the MPD public hearing process.

VI. MAJOR FEATURES OF THE DEVELOPMENT AGREEMENTS

Pursuant to BDMC 18.98.090, the Development Agreements' function is to govern implementing development permits or approvals (preliminary plat, design review, building permit, etc.) within the approved "The Villages" and "Lawson Hills" Master Planned Developments, to ensure that the property owners "develop the subject property only in accordance with the terms of the MPD approval." As such, the Development Agreements address a wide variety of conditions and topical areas. Attachment 4 to this Staff Report is a Compliance Matrix that identifies specific MPD Permit conditions that called for information to be included in the Development Agreements, along with an identification of where this required information may be found in the Development Agreements. In addition, this section of the staff report highlights the major features in the Development Agreements' various chapters.

The Development Agreements for the two MPDs are almost identical in content and are thus analyzed together in this report. Where there are unique issues of significance pertinent to only one of the two agreements, they are highlighted in this joint staff report.

- A. Sections 1 and 2 contain the project goals, objectives and description.

- B. Section 3 addresses prior agreements that affect the project sites, such as the Black Diamond Urban Growth Area Agreement (BDUGAA), the Black Diamond Area Open Space Agreement, etc. These Development Agreements fulfill and implement these prior agreements.
- C. Section 4 refers to an MPD Site Plan (Exhibit A), which provides conceptual lot layouts for development within the various land use categories that were depicted on Figure 3.1 approved as part of the MPD Permits. Allowed land uses within various “development parcels” are re-stated, as are density ranges for those parcels. In addition, for The Villages, Section 4.9 provides greater detail regarding how the use of Transfer of Development Rights (TDRs) will be used intermittently through the duration of the project.
- D. Section 5 addresses the bulk, parking, landscape and sign standards that are consistent with City code and that will apply within the MPDs. Lot sizes will be a minimum of 2200 sq. ft. for detached single family residential development; there are no minimum lot sizes for other types of development. Section 5 also provides that MPD development may include unique layouts such as zero-lot line development; “Z” lots; and courtyard homes (see Section 5.2.6). This will provide for a variety of housing types to meet differing needs and price ranges, as required by the City’s MPD Design Guidelines and Villages MPD Permit Condition No. 129/Lawson Hills MPD Permit Condition No. 134.
- E. Street standards are addressed in Section 6. Rather than providing detailed cross-sections for a hierarchy of street classifications, a “menu” of street components is provided. The exact amount of each component to be used for a given street will depend upon its planned function in the project and the amount of traffic it is expected to carry, based upon trip generation numbers contained within the Agreement (see Section 6.2). This method will provide for greater flexibility over time and will best ensure streets are properly designed for the usage forecast by traffic engineering analyses. Specific streets that will include bike lanes are depicted on Figure 6.3.
- F. One of the most significant highlights with utilities (Section 7) is the announced intention of the property owners to ensure no net increase of pH (phosphorous) discharge to the Lake Sawyer drainage basin (Section 7.4.3). The property owners’ commitment in this regard exceeds the standard established by the City Council and set forth within the conditions of MPD approval (Villages Condition of Approval #81/Lawson Hills Condition of Approval #85).
- G. Section 8 addresses sensitive areas and notes that the boundaries of all such areas as depicted on the constraints maps are “fixed” for the duration of the project. This provides certainty to the public, the City and the property owners as build-out occurs over time.
- H. Per Villages Condition of Approval No. 91/Lawson Hills Condition of Approval No. 93, Section 9 contains standards for the provision of various parks and recreation facilities within the project. The potential of the City receiving payment in lieu of constructing facilities is noted within Table 9-5. However, it will be within the City’s sole discretion whether to receive payment in lieu of facilities.
- I. The concept of Expansion Parcels, portrayed in the MPD application, is addressed in Section 10 and depicted in Exhibit S. Since these parcels were not part of the initial MPD Permit approval, further processing will be in order to bring Expansion Parcels within either MPD. The Agreement recognizes

that, as long as the total unit count/commercial square footage cap for the projects are not exceeded, additional environmental analysis for the Expansion Parcels may be limited in scope.

- J. Section 11 adds definition to the street and utility improvements that are needed to serve the development, identifying which projects will occur during a particular phase and the financing for those projects. Off-site street improvements to occur within the cities of Covington and Maple Valley have been separately negotiated by the property owners and those two jurisdictions and specific agreements concerning those off-site improvements are included as Development Agreement Exhibits R and Q, respectively.
- K. The development review process for implementing projects is addressed in Section 12. In order to maintain overall control of project design, the Master Developer will establish a Design Review Committee (DRC), which must approve all applications before they are submitted to the City for review. For example, the DRC will be responsible for ensuring individual home designs are consistent with the design standards contained within Exhibits H and I; the City will not accept building permit applications unless accompanied by proof of DRC approval. The City will also independently review all applications for compliance with the MPD Permit conditions, the Development Agreement, the MPD Framework Design Guidelines and other applicable codes and standards.
- L. In January 2011, the Black Diamond City Council approved the Comprehensive Schools Mitigation Agreement between Yarrow Bay Holdings, the Enumclaw School District and the City. This agreement describes how school sites and schools to serve the project will be provided over time. That document is referenced in Section 13.
- M. Subsection 13.4 includes provisions for fire mitigation, including provisions for the Master Developer constructing one satellite fire station. Fire mitigation fees will be used to fund capital improvements (credits will be granted for any improvements funded by the Master Developer). The amount of the mitigation fee as set forth in the Agreement may change in the future should the City adopt a city-wide fire impact fee as authorized by State law.
- N. Section 13.6 details the methodology for conducting the required periodic fiscal impact analyses to ensure the MPD is at a minimum, revenue neutral to the City, whether through tax revenues, supplemental funding and/or expense reduction.
- O. Section 13.7 addresses noise attenuation strategies, consistent with Villages Condition of Approval No. 44/Lawson Hills Condition of Approval No. 42. Section 13.8 references the required Green Valley Road Traffic Calming Strategies report that has been prepared as required by MPD Condition of Approval No. 33.
- P. Section 13.9 addresses how the project will mitigate impacts to General Government Facilities such as City Hall; Municipal Court; Public Works; and Police. A mitigation fee is established that will remain in effect until such time the City may establish a city-wide mitigation fee.
- Q. Section 14 defines terms that are specific to the Development Agreements or that otherwise are not defined within Black Diamond Municipal Code.
- R. Section 15 contains general provisions and notes the numerous exhibits that support the Development Agreements.

VII. OTHER AREAS OF NOTE

- A. **Role of the Designated Official.** The Agreements contain certain references to the “Designated Official’s” authority to approve limited, minor deviations or alternative designs, consistent with existing processes allowed under the City’s code. This will allow the projects to adapt to changing circumstances, market conditions or improved methods of construction, providing flexibility during the years of project build-out. It is intended that for the purpose of land use/planning type of issues, the City Community Development Director will serve as the Designated Official. For engineering related issues, the Executive Director of Engineering Services will serve as Designated Official.
- B. **Master Developer.** The Development Agreements provide for a “Master Developer,” which will be responsible for overall coordination of the project development from the private side. Having a Master Developer ensures the City of having an identified responsible party for any issues of compliance with implementation of the projects, who in turn is responsible for securing compliance of individual developers within the MPDs. The Master Developer is also responsible for established a Design Review Committee, which must approve all development proposals as being consistent with the Design Guidelines (Exhibits “H” and “I” to each Agreement), before projects are submitted to the City for its independent review.
- C. **Section 4.7.3: ADUs.** Both Development Agreements include a maximum number of Accessory Dwelling Units (ADUs) that may be authorized within each project. Although the Black Diamond Zoning Code allows ADUs citywide, on any lot; however, it does not include ADUs as dwelling units for the purpose of computing density (e.g., a single family home with an ADU is not considered to be a duplex, nor does the Code require a greater than minimum lot size to accommodate an ADU). Nevertheless, the property owner’s traffic mitigation agreement with the City of Maple Valley (Exhibit Q) established an overall limit of 450 ADUs for both projects. The proponent has elected to allocate these with 350 ADUs being potentially permitted in The Villages and 100 ADUs within Lawson Hills.
- D. **Section 5.2.6: Alternate lot configurations.** Both MPDs anticipate having a variety of housing types, including auto courts, zero-lot line development, “Z lots” and cottage housing. A visual representation of these various configurations is shown in Section 5.2.6. The extent of use of these types of housing configurations is not known at this time. The intent of allowing these alternatives is to encourage innovative design and the flexibility to provide a variety of housing types and prices.
- E. **Section 7.1.9: CFCs will not be collected.** Typically, individual developers are required to pay CFCs (capital facility charges) as a condition of connecting to the City’s water and sanitary sewer systems. However, the Master Developers will be constructing substantial infrastructure to serve their projects, including off-site extensions – in other words, building entirely new, large portions of the City’s systems in areas not currently served. As this section of the Development Agreements notes, were the City to impose CFCs, it is possible the City would actually owe the Master Developers credits in excess of the amount of funds it would collect. Therefore, staff and the property owners have agreed that CFCs will not be collected.
- F. **Section 7.2.4: Water Capacity.** Through the Water Supply Facilities Funding Agreement (WSFFA), the proponents have previously purchased the rights to

sufficient water to serve both MPDs. Due to this, and in recognition that both projects will extend water to each of the sites and extend water through those properties, neither project will be assessed general facility charges. Also, in the event the projects do not use all of the water capacity which were purchased through the WSFFA, the City shall have first right to repurchase the water.

- G. Section 7.3: King County responsibility for sewer.** Although the City of Black Diamond operates its own sanitary sewer collection system, its contract with King County assigns to the County the responsibility for accepting sewage flows from the City and sending those flows on to regional treatment facilities. This will require the construction by King County of a storage facility to accommodate peak sewage flows. The location of this facility is still under discussion between the City and King County.
- H. Section 11.3.B: Basis for ERU calculation.** Section 11.3.B of both Agreements makes reference to a total of 10,500 ERUs (equivalent residential units; this includes both residential and non-residential uses) The attached memorandum for RH2 Engineers dated June 9, 2011, (Attachment 11) explains how the 10,500 ERU figure was calculated. This figure is used for determining the amount of proportionate share of other developments within the city limits (outside the MPDs) in contributing to the cost of regional facilities.
- I. Section 12.8.13: Work Hours.** Construction noise was a concern voiced by many individuals during the MPD approval process and was specifically addressed in the City Council's MPD Permit conditions of approval. The Development Agreement imposes even greater restrictions on allowable construction hours, as the property owners have agreed to limit those to a greater extent than in otherwise provided by Black Diamond Municipal Code (BDMC 8.12.040.C). Construction activities on Sundays will only be allowed if approved by the future Noise Review Committee (which will include citizen members) and in general, construction must cease one hour earlier in the day on weekdays and Saturday than is allowed elsewhere within the city.
- J. Section 13.4: Fire Mitigation.** This section of the Agreements specifies a mitigation fee of \$1,783.13 per dwelling unit and \$2.29/sq. ft. for non-residential construction that will be paid until whatever time the City may adopt a City-wide fire impact fee. This figure was developed after an analysis prepared for the City by Henderson and Young.

The Master Developer may also elect to build a fire station and receive a credit against existing or future fire mitigation or fire impact fees. This could result in the construction of a new fire station that will serve both the MPDs and other areas of Black Diamond sooner than would otherwise be possible. The Fire Chief of King County Fire District #44 (the District serves as the City's Fire Department under contract) has confirmed the District's support of the proposed means of fire impact mitigation (see Attachment 12).
- K. Section 13.6: Fiscal Impact Analysis.** This section outlines the methodology that will be used to conduct fiscal impact analyses over the duration of the build-out period. As a result of discussions between staff and the proponents, including consideration of the analysis prepared for the City by Henderson and Young, these sections have changed significantly since the initial Development Agreement applications were received. The methodology outlined in this section will provide for thorough evaluation of the projects' fiscal impacts as required by the MPD Permits' conditions of approval and by City code.
- L. Section 13.7: Review committees.** The ordinances approving the two MPDs provided for the establishment of three committees: Green Valley Road Review,

Noise Review and Water Quality Review. These will provide the opportunity for citizen involvement in these particular issue areas as the projects develop over time. At this time, none of these committees have been formed (although a Green Valley Road traffic calming study has been completed by Parametrix).

- M. Exhibit F: Traffic Monitoring.** MPD conditions of approval require periodic traffic modeling to occur, based upon a new transportation demand model that provides an appropriate level of detail for the regional transportation network. The model is to be validated and calibrated once a combined total of 850 dwelling units have been issued for the two projects. The City has commissioned Parametrix to create this new model, which, at the time of writing this report, is approximately 80% complete.
- N. Exhibits H & I: Design Standards.** These two exhibits contain design standards that will apply throughout the projects (Exhibit "I" contains standards that are specific to High Density Residential Development only). The primary responsibility for ensuring compliance with these standards rests with the Master Developer for each project. Proof of Design Review Committee approval must accompany an application submitted to City staff for review. Staff will conduct its own review to ensure these guidelines are being followed.
- O. Exhibit N: Funding Agreement.** The City and Yarrow Bay are entering the final year of a 5-year funding agreement established in 2007. The Funding Agreements contained in Exhibit N will replace the current agreement. They provide for the establishment of a "Master Development Review Team" (MDRT) that will be primarily responsible for working on implementing projects in the MPDs. The core City staff team is intended to be augmented with outside consultants as necessary, in order to address unique issues and respond to anticipated work flow. The Agreements also provide the proponents with the ability to "wind down" existing staff on the current funding agreement in the event of adverse economic conditions.
- P. LHDA Section 9.1: Open Space.** A unique feature of the Lawson Hills Development Agreement is found within this section. Condition No. 145 of the Lawson Hills MPD Permit required that an additional 14.8 acres of open space be provided in the MPD's Site Plan, or that the Development Agreement contain a plan for providing the acreage. During the MPD Permit process, the property owner redesignated two planned development parcels as open space, reducing the additional required acreage to 9.3 acres. Section 9.1 of the Development Agreement contains the plan to provide the additional 9.3 acres through the provision of school playfields, trails and neighborhood parks provided as part of implementing development projects but that are not currently depicted on the Site Plan maps.

VI. DECISION CRITERIA

Development Agreements are authorized under State law (RCW 36.70B.170 and BDMC 18.66 and 18.98.090). BDMC 18.66 code essentially tracks State law and notes the items that can be addressed within a development agreement. BDMC 18.66.020.B provides a non-exhaustive list of development standards that may be modified through a development agreement. The proposed Development Agreements address each of the items found in this list.

In addition, BDMC 18.98.090 requires the approval of a development agreement before any implementing projects may be approved within an MPD. BDMC 18.98.090 requires

that the conditions of an MPD Permit approval shall be incorporated into the development agreement, that the development agreement bind the MPD property owners and their successors and be recorded, and that the development agreement require that the property owners develop the subject property only in accordance with the terms of the MPD approval.

Attached to this staff report is a “Compliance Matrix” (Attachment 6), which outlines the manner in which all applicable MPD Permit conditions of approval have been addressed and satisfied in these Development Agreements. In addition, the Development Agreements provide that they constitute and shall be recorded as a covenant running with the land, benefiting and burdening the MPD Project Sites, and that they are binding upon and inure to the benefit of the property owners and their the successors and assigns. Finally, the Development Agreements provide that the MPD property may be developed only in accordance with the terms of MPD Permit approval.

VII. STAFF RECOMMENDATION

Staff recommends the Hearing Examiner forward the proposed Development Agreements to the City Council with recommendations of approval.

VIII. ATTACHMENTS

1. [The Villages Development Agreement](#) dated June 2011, plus accompanying [Exhibits A-T](#)
2. [Lawson Hills Development Agreement](#) dated June 2011, plus accompanying [Exhibits A-T](#)
3. Aerial depicting MPD properties in relation to remainder of city – ([The Villages](#)) ([Lawson Hills](#))
4. [Ordinance No. 10-946](#), which approved “TheVillages” Master Planned Development
5. [Ordinance No. 10-947](#), which approved the “Lawson Hills” Master Planned Development
6. Compliance Matrix – ([The Villages](#)) ([Lawson Hills](#))
7. Notice of Application dated October 5, 2010 [#7-12 Combined](#)
8. Notice of Application dated April 22, 2011 [#7-12 Combined](#)
9. Public Hearing Notice [#7-12 Combined](#)
10. Letter from Yarrow Bay Holdings, dated June X, 2011 [#7-12 Combined](#)
11. Memorandum from RH2 Engineers dated June 9, 2011 [#7-12 Combined](#)
12. Letter from King County Fire District No. 44, dated June 9, 2011 [#7-12 Combined](#)
13. [Comment letters received](#) from the public and agencies

Staff reserves the right to supplement the record of the case to respond to matters and information raised subsequent to the writing of this report.