

October 6, 2011

Ms. Brenda Martinez, City Clerk
City of Black Diamond
24301 Roberts Drive
PO Box 599
Black Diamond, WA 98010

Re: Extra Record Objections Brought by the Applicants for the Villages and Lawson
Hills Development Agreements

Dear Ms. Martinez:

Pursuant to amended Exhibit A of Black Diamond Resolution No. 11-766 dated September 29, 2011, please find the Applicants' objections to various Parties of Record statements made to the City Council on October 5, 2011, that we believe to be outside the evidentiary record created by Hearing Examiner in this matter.

The Black Diamond Municipal Code prohibits parties of record in closed record hearings from basing their testimony upon anything other than the factual record established by the City's Hearing Examiner. Under the City's Zoning Code, development agreements are Type 4 – Quasi-Judicial actions. See BDMC 18.08.030. Per BDMC 18.08.070, Type 4 decisions are made by the City Council following a closed record hearing based on a recommendation from the hearing examiner. In a closed record hearing, "testimony is limited to discussion about the recommendation from the hearing examiner" and "[a]ll argument and discussion must be based on the factual record developed at the hearing examiner hearing." BDMC 18.08.070(A)(2).

[see table of objections on next page]

EXHIBIT

0-4

Objections to the Parties of Record statements made to the City Council on October 5, 2011, are found in the table below.

Date	Party of Record	Objection
10/5/2011	Robert Rothschilds	<p>The objection is to a reference made in Mr. Rothschilds' presentation to the City of Sammamish's stormwater regulations and to the discussion that was also provided regarding a 15-citizen tour of Issaquah Highlands' wetlands.</p> <p>The City of Sammamish Code issues were discussed and rebuttal information provided during last year's MPD proceedings. YarrowBay is not aware of any this information in the record before the Hearing Examiner regarding the Development Agreements.</p>
10/5/2011	Melanie Gauthier	<p>The objection is to Ms. Gauthier's stated intent to submit an updated City of Chelan fee schedule dated 9/1/2011 to the City Council for its review. Exhibit 42 consists of a City of Chelan fee schedule dated March 1, 2011 that Ms. Gauthier previously submitted to the Hearing Examiner.</p> <p>Because the record before the Hearing Examiner closed on Monday, August 30, 2011, a City of Chelan fee schedule updated on September 1, 2011 cannot by definition be part of the record.</p> <p>YarrowBay also objects to a reference made in Ms. Gauthier's presentation to Bell, California.</p> <p>YarrowBay is not aware of any information in the record before the Hearing Examiner regarding Bell, California.</p>

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Date	Party of Record	Objection
10/5/2011	Courtney Feeney	The objection is to references made during Ms. Feeney's presentation to Chapter 11 bankruptcy filings, Cascadia Project LLC, a certain FBI report, Home Street Bank, an article by the Puget Sound Business Journal, and illegal practices allegedly utilized by some parties in the housing industry. YarrowBay is not aware of this information in the record before the Hearing Examiner.

Thank you for your attention to these matters.

Very truly yours,



Megan Nelson
Director of Legal Affairs

cc: Nancy Bainbridge Rogers, Legal Counsel to YarrowBay

