

October 10, 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 Saturday, October 8, 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

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Objections to the Parties of Record statements made to the City Council on Saturday, October 8, 2011, are found in the table below.

Date	Party of Record	Objection
10/8/2011	Kristen Bryant	<p>The objection is to a reference made in Ms. Bryant's presentation to a wetland restoration impact fee and specific wetland restoration costs. YarrowBay is not aware of this information in the record before the Hearing Examiner.</p> <p>YarrowBay also reserves the right to object to certain materials and/or photos referenced during Ms. Bryant's presentation after we have had an opportunity to review her submitted written materials.</p>
10/8/2011	Brian Derdowski	<p>YarrowBay's objections are to arguments made in Mr. Derdowski's presentation regarding: (1) other MPD observations, i.e., Redmond Ridge and a certain federal court case; Snoqualmie Ridge and a certain annexation agreement and viewshed protection; and Grand Ridge and failure of infiltration, as well as the assertions of the views of himself and others about those projects; (2) argument that MPDs have a history of unintended consequences; (3) assertions that developers' changed State law regarding winter grading; and (4) ADUs being intended only for 1 du/acre development.</p> <p>YarrowBay is not aware of this information in the record before the Hearing Examiner.</p>

Date	Party of Record	Objection
10/8/2011	Erika Morgan	<p>The objection is to references made during Ms. Morgan's presentation to: (1) a personal wetland walk with Dr. Sarah Cooke; (2) statements allegedly made by Dr. Cooke during this certain wetland walk; (3) reference to a list of observations "A-T"; (4) a certain conversation with Aaron Nix; (5) argument regarding a certain Washington Supreme Court case; (6) argument regarding documents in the King County archives and final annexation agreements; (7) argument that YarrowBay's experts have lied to her; and (8) argument that YarrowBay has not spent time, effort, or money to understand Black Diamond.</p> <p>YarrowBay is not aware of this information in the record before the Hearing Examiner.</p>
10/8/2011	Joe May	<p>The objection is to references made during Mr. May's presentation to a City of Renton precedent for a ten-year term development agreement.</p> <p>YarrowBay is not aware of this information in the record before the Hearing Examiner.</p>

Date	Party of Record	Objection
10/8/2011	Cindy Wheeler	<p>YarrowBay objects to the following arguments/statements made by Ms. Wheeler during her presentation to City Council: (1) references to Councilmember Boston's LSCC membership in 2009; (2) argument regarding the City Attorney's addition of pages to the MPD Permit Ordinances; and (3) argument regarding Chapter 13 of the MPD Applications.</p> <p>YarrowBay is not aware of this information in the record before the Hearing Examiner.</p> <p>YarrowBay also reserves the right to object to certain materials referenced during Ms. Wheeler's presentation to City Council after we have had an opportunity to review her submitted written materials.</p>
10/8/2011	Judith Carrier	<p>The objection is to references made during Ms. Carrier's presentation to: (1) two letters – one dated 2009 from C. Lund to L. Smith, and one dated June 15, 2011 from C. Lund to S. Pilcher; (2) argument regarding timing of second outlet for The Villages MPD; (3) argument regarding a tour by Dr. Cooke of Issaquah Highlands and certain statements made during that tour; and (4) certain statements regarding whether the final MPD Permit Ordinances were in fact approved by the City Council.</p> <p>YarrowBay is not aware of this information in the record before the Hearing Examiner.</p> <p>YarrowBay also reserves the right to object to certain materials referenced during Ms. Carrier's presentation to City Council after we have had an opportunity to review her submitted written materials.</p>

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Thank you for your attention to these matters.

Very truly yours,

A handwritten signature in black ink, appearing to read "Megan Nelson". The signature is fluid and cursive, with the first name being more prominent.

Megan Nelson
Director of Legal Affairs

cc: Nancy Bainbridge Rogers, Legal Counsel to YarrowBay
