



CITY OF BLACK DIAMOND

STAFF REPORT THE VILLAGES MASTER PLANNED DEVELOPMENT FILE NO.: PLN09-0017

I. INTRODUCTION

BD Village Partners is requesting approval of a Master Planned Development (MPD) pursuant to Black Diamond Municipal Code 18.98, for The Villages MPD. Proposed uses include low, medium and high density residential; retail, commercial, office; light industrial; educational, recreational and open space. The requested entitlement is for 4,800 dwelling units and 775,000 square feet of retail, offices and light industrial on 1,196 acres. If approved, the request will result in the rezoning of portions of the property from the current R6 Single Family Residential and CC Community Commercial zones to MPD.

The Villages project consists of two subareas, the Main Property and the North Property (also known as Parcel B). The "Main Property" is located primarily south of Auburn-Black Diamond Road at Lake Sawyer Road, extending approx. 2 miles south and eventually east to SR-169 along the southern city limits. A portion of the Main Property (aka Parcel C) is located on the north side of Auburn-Black Diamond Rd., west of Lake Sawyer Rd. The "North Property" (approx. 80 acres) is located to the west of SR 169, approximately two miles north of the Main Property and north of SE 312th Street (if extended). The North Property is south of and adjacent to the North Triangle property that is part of the proposed Lawson Hills MPD project. Specifically in the NW ¼ of Section 11, Township 21 North, Range 6 East, NW 15-21-6, SW 15-21-6, NE 15-21-6, SE 15-21-6, SW 15-21-6, NE 22-21-6, SW 22-21-6, NW 27-21-6, NW 23-21-6, SW 23-21-6, and NE 23-21-6 Willamette Meridian, King County, WA.

II. APPLICATION INFORMATION

Applicant: Colin Lund
BD Villages Partners, LP
10220 NE Points Drive, Suite 120
Kirkland, WA 98033

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

Parcel Numbers: 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.

III. LAND USE DESIGNATION

North Property (Parcel B):

Comprehensive Plan: Mixed Use with Master Planned Development Overlay

Zoning: Community Commercial (CC)

Land Use:

Site: Vacant, forested

North: Vacant, forested, Lawson Hills MPD “North Triangle” property

South: (from west to east) mining operation, vacant, forested

East: (from north to south) Diamond Glen subdivision, vacant, forested, Diamond Village commercial development, forested

West: Vacant, forested, mining operation

Main Property:

Comprehensive Plan: Mixed Use and Low Density Residential, with Master Planned Development Overlay

Zoning: Master Planned Development (MPD) and Single Family Residential (R6)

Land Use:

Site: Vacant, forested, meadow

North: (from west to east) church, vacant, forested, mining operation, residential development, vacant, forested

South: vacant, forested, residential development

East: Vacant, forested, residential development, Morganville, Historic Black Diamond, SR 169

West: residential development and vacant forested parcels within unincorporated King County

IV. OVERALL STAFF COMMENT:

On numerous occasions, the application uses mandatory terms such as “will” and “shall.” Staff does not agree with the applicant’s intent/desire in all instances those terms are used. Unless specifically noted in this report, the use of these prescriptive terms in the application is not supported by staff. More particularly, the applicant’s use of those mandatory terms does not bind the City in the future. The City will be bound only by the terms and conditions of the City Council’s decision on this application.

The proposed MPD application is a mix of a general land use concept for development combined with many requests for unique development standards. In many ways, the MPD proposal is similar to a “subarea plan” that many jurisdictions employ to provide greater definition to their comprehensive plans. Many of the proposed development standards vary from the development standards required elsewhere in the city. They appear to be intended to provide the applicant with maximum flexibility as this area is built out over a period of 15+ years. Staff’s concern is in finding the proper balance between the applicant’s desire for flexibility and the public’s need for certainty regarding the future development of a significant portion of the city.

Throughout the report, the reader will note that staff is deferring numerous issues for resolution in the pending Development Agreement. Doing so will provide staff and the applicant greater opportunity to bring far greater clarity and certainty to the conceptual and general areas addressed in the application and responded to in this staff report.

Importantly, as described in BDMC 18.98.050, execution of a Development Agreement is a requirement of development under a MPD permit. Under state law, a Development Agreement requires approval of the City Council at an open public meeting, and only after a public hearing is conducted on the Development Agreement. This process will provide the public with a full opportunity to review and comment on the Development Agreement

V. FINDINGS OF FACT

1. The applicant, BD Villages Partners, submitted an application on May 13, 2009 (Exhibits 1 & 2) for a Master Planned Development (MPD) for The Villages MPD. Proposed uses include low, medium and high density residential; retail, commercial, office; light industrial; educational, recreational and open space with a maximum of 4,800 dwelling units and 775,000 square feet of retail, offices and light industrial on 1,196 acres.
2. Overall, the applicant is seeking approval of an MPD permit, Development Agreement and Planned Action Ordinance. However, at this time, the applicant is seeking approval of only the MPD permit and will then focus on the Development Agreement and Planned Action Ordinance. This staff report and the public hearing are concerned with the MPD application only. A separate staff report will be prepared and public hearing held for the Development Agreement. State law requires that public notice and an opportunity to comment be provided whenever a Planned Action Ordinance is considered, but the City has not yet determined whether to proceed with a Planned Action Ordinance.
3. Final revisions to the original application were submitted on December 31, 2009. Unless as otherwise augmented or corrected in this staff report, the application materials are determined to adequately describe the proposal and applicable past agreements and actions.
4. The overall site density for 4,800 units on 1,196 acres is 4 dwelling units per acre (du/ac). Planned residential development is to consist of approximately 3,600 single family detached and 1,200 multi-family attached dwelling units on the approximately 551 acres of the site that will be developed with residential uses (approximately 8.7 du/ac). Proposed residential densities range from low (1-8 du/ac), to medium (7-12 du/ac) and high (13-30 du/ac).
5. The Main Property primarily has a Comprehensive Plan designation of Low Density Residential, which has a base density of 4-6 dwelling units du/gross ac. The northwest corner of the Main Property has a Comp Plan designation of

- Mixed Use which does not propose a base density. The MPD Overlay requires a minimum of 4 du/ac.
6. The Villages project consists of two subareas, the Main Property and the North Property (also known as Parcel B). The “Main Property” is located south of Auburn-Black Diamond Road and west of SR 169. The “North Property” is located on the west side of SR 169, approximately two miles north of the Main Property and north of SE 312th Street (if extended). The North Property is south of and adjacent to the North Triangle property that is part of the proposed Lawson Hills MPD project. Two components of the Main Property were annexed as part of the “West Annexation” in December 2005 and were zoned MPD at that time.
 7. The proposed development encompasses 50 parcels and one owner of record, BD Villages Partners, LP.
 8. City of Black Diamond Ordinance No. 08-885 (Exhibit 3) continued a long-standing moratorium on MPD and subdivision submittals, but included a provision to allow submittal of an MPD application, provided that it would not be vested as complete until after the City had adopted a new Comprehensive Plan, Zoning Code and other regulations and standards.
 9. Pursuant to Ordinance No. 08-885, the applicant was permitted to file an MPD application during the moratorium period, subject to the comprehensive plan, MPD and development regulations that are adopted by the City in order to lift the moratorium.
 10. Pursuant to Ordinance No. 08-885, the City deemed this MPD application complete for processing on July 6, 2009, since the Comprehensive Plan, Zoning Code, and MPD Code amendments were adopted on June 18, 2009, resulting in the moratorium being lifted on June 28, 2009 and all information required under the MPD code in order to be considered a complete application had been submitted.
 11. The required Notice of Application (Exhibit 4) was issued on July 20, 2009.
 12. In accordance with WAC 197-11-460, a Final Environmental Impact Statement (FEIS) for the proposed Master Planned Development (Exhibit 5) was issued on December 11, 2009. The FEIS is included by reference in this report.
 13. Three (3) appeals of the FEIS were subsequently filed on December 28, 2009. These appeals are being considered in conjunction with the MPD application.
 14. In conjunction with WAC 197-11-164, the applicant may be requesting Planned Action Ordinance adoption for the MPD to facilitate future project environmental review. At this time the applicant is seeking approval of the MPD permit only.
 15. Properties included within the portion of the project known as the South Annexation Area were incorporated into the city on December 28, 2009. This constitutes approximately 227 acres in the southeastern side of the project, which was zoned MPD upon annexation.
 16. If the MPD is approved, the North Property zoning designation of Community Commercial (CC) and one of the Main Property zoning designations, Single-Family Residential (R6), will be changed to Master Planned Development (MPD)
 17. All but a small portion of the southwest corner of the Main Property of the MPD is within the boundaries of the Enumclaw School District (the SW corner is within the Auburn School District). The City of Black Diamond adopted the Enumclaw School District Capital Facilities Plan (2009-2014) as a subelement of the City’s Comprehensive Plan via Ordinance No 09-908 on June 18, 2009. (The Auburn School District has not requested the City to adopt its Capital Facilities Plan).

18. City staff, the applicant and Enumclaw School District staff have negotiated a draft school mitigation agreement (as authorized by BDMC 18.98.080.A.14) (Exhibit 6) to address the district's needs for public schools to serve both The Villages MPD and the proposed Lawson Hills MPD on the east side of the city. The agreement has been made available to the public for review and final action will occur in conjunction with the City Council's consideration of the MPD. Staff understands that the draft agreement is satisfactory to the School District. The Hearing Examiner is not required to make a recommendation on the proposed schools agreement itself.
19. The project will require City review and approval of subsequent land division and site development permits including: preliminary and final plat, short plat, clearing and grading, binding site plan, building, fire, sign, demolition, business license, right-of-way use and civil plan review (for utilities and transportation infrastructure). Other permits may be required to be obtained from state and federal agencies including the Washington State Department of Ecology, Department of Fish & Wildlife, Department of Natural Resources, Department of Labor & Industries and U.S. Army Corps of Engineers.
20. Chapter 4 of the FEIS contains sections on "Earth" and "Plants and Animals" which accurately describe the topography and vegetation cover of the sites. Chapter 10 "Existing Conditions" of the MPD application also provides information and maps regarding the property, which also provides an accurate description of existing site conditions.
21. The Black Diamond Urban Growth Area Agreement (BDUGAA) (Exhibit 7) executed on December 31, 1996, applies to two portions of the Main property (portions of West Annexation area) and the southeastern portion of the Main Property (South Annexation area). The BDUGAA included a sequencing of annexing the City's Potential Annexation Area and, among other conditions, provided for a new east-west arterial referred to as the "Pipeline Road." The BDUGAA also laid the foundation for the dedication of open space as a part of those annexations. The Villages application does not include the eastern leg of the Pipeline Road. Staff will require construction of the full "Pipeline Road" link (from Lake Sawyer Road east to SR 169 where it intersects with a relocated Ravensdale Road) as an obligation of the BDUGAA and other agreements (i.e., the West Annexation Agreement. Because of these past agreements, the Pipeline Road was assumed to be constructed in the transportation analysis of the FEIS.
22. The Black Diamond Area Open Space Protection Agreement (BDAOSPA) (Exhibit 8) dated June 6, 2005, identifies land that qualifies as In-City open space in accordance with Section 7 of the BDUGAA and discusses open space requirements applied to the South Annexation area.
23. The Water Supply and Facilities Funding Agreement (WSFFA) (Exhibit 9) dated August 11, 2003, provides for water supply through major property owner upgrades of the Black Diamond water system, including upgrades to the city springs and delivery of city springwater to Black Diamond and the purchase of new water supply from the City of Tacoma with a requirement for reimbursement by credits on future capital facility charges.
24. Notice of the public hearing on the MPD application (Exhibit 10) was mailed to all property owners within 500 feet of the perimeter of the affected parcels and any person formally requesting notice or who participated in the EIS process on February 5, 2010. Approximately 1,850 notices were mailed.

25. Notice of the public hearing was advertised in the city's official newspaper, The Voice of the Valley, on February 2, 2010. Additional notice was provided in the Maple Valley/Covington Reporter; the Enumclaw Courier-Herald; and on the City's website.
26. Copies of the notice of public hearing were placed on seven notice boards located on site by the applicant on February 4, 2010.
27. Black Diamond Municipal Code (BDMC) Sections 18.08.030 and 18.08.070 list Master Planned Developments as a Type 4 Quasi-Judicial Decision. These decisions are made by the City Council following a closed record hearing based on a recommendation received from the Hearing Examiner. The Hearing Examiner conducts an open record hearing on the MPD application. There is no appeal of the Examiner's recommendation.
28. Pursuant to BDMC Section 18.98.060.A.5, the Hearing Examiner shall make a recommendation on the application for the City Council's consideration.

VI. APPLICABLE PLANS, CODES AND STANDARDS

1. BDMC Chapter 18.98, Master Planned Development
2. Master Planned Development Framework Design Standards and Guidelines
3. BDMC Chapter 18.76 Gateway Corridor Overlay District
4. BDMC Chapter 19.10 Sensitive Areas Ordinance
5. BDMC Chapter 19.30, Tree Preservation
6. City of Black Diamond Comprehensive Plan
7. City of Black Diamond Parks Recreation and Open Space Plan
8. City of Black Diamond Engineering Design and Construction Standards

VII. ANALYSIS

This section of the report analyzes the proposal in light of the various standards contained in adopted plans, codes and regulations.

BDMC Chapter 18.98 provides review criteria for Master Planned Developments:

18.98.010 Master planned development (MPD) permit - Purpose.

The purposes of the master planned development (MPD) permit process and standards set out in this chapter are to:

A. Establish a public review process for MPD applications;

Black Diamond Municipal Code (BDMC) section 18.98.060.A.4 details the public review process. For analysis on compliance with the individual components of this section, see later sections of this staff report. Findings of Facts 11 and 24-26 detail how public notice has been provided for this proposal. In addition, the FEIS document provides further information regarding the public participation process for that portion of the MPD process.

B. Establish a comprehensive review process for development projects occurring on parcels or combined parcels greater than eighty acres in size;

The project comprises 1,196 acres and is therefore subject to the MPD review process. The North Property (aka Parcel B), although approximately 80 acres in size (and thus potentially eligible to be an MPD unto itself), is considered part of the overall MPD. The MPD code allows a commercial area to be geographically separated from the residential component via Section 18.98.030.C (Contiguity).

C. Preserve passive open space and wildlife corridors in a coordinated manner while also preserving usable open space lands for the enjoyment of the city's residents;

The project proposes to preserve amounts of open space as detailed on page 3-21 of the MPD application. They include a mix of passive and usable areas comprised of sensitive areas such as wetlands and their associated buffers, trails, parks, and utilities such as stormwater ponds. Figure 3-1 of the MPD application shows a majority of the areas dedicated to open space as a coordinated network. The vast majority of open space will be maintained as sensitive areas (primarily wetlands and streams) and their required buffers.

D. Allow alternative, innovative forms of development and encourage imaginative site and building design and development layout with the intent of retaining significant features of the natural environment;

Chapter 3 of the MPD application requests residential and commercial development standards that allow for great flexibility in building design and development layout. In terms of residential development, this includes a variety of housing types at varying densities; alley-loaded lots; clustered residential centered on common greens; and live/work units. However, it is not clear to what degree the applicant intends to use these development forms, as the application indicates the majority of single family lots will be "front loaded," which is a typical suburban residential development pattern.

Live/work units are described on page 3-35 of the application materials, but their potential location is not depicted on the Land Use Plan map contained in the application. In researching other large master planned communities in the Puget Sound (such as Issaquah Highlands), staff has found the viability of live/work units to be limited. A proposed condition of approval is to require identification of specific areas where these can be permitted be done as part of the Development Agreement or through a future minor amendment to the MPD.

With the unavoidable exception of several road crossings, it appears that avoidance of sensitive areas was a factor in the overall layout of this project. The land use plan/constraints map overlay (Exhibit 11) shows the relationship between sensitive areas and proposed development parcels. The application materials indicate that the proposed Community Connector road and multiple parks are designed to enhance views of Mt. Rainier.

Staff supports the concept of innovative design to meet the master planned development purposes and objectives and expects to establish some of the street design features in the Development Agreement and other infrastructure design flexibility through the design deviation process already established within the Black Diamond Engineering Design and Construction Standards.

E. Allow flexibility in development standards and permitted uses;

Chapter 3 of the MPD application proposes residential and commercial development standards and uses that allow for flexibility in building design and development layout. The commercial component of the MPD would be located on the North Property (Parcel B) and in the northern portion of the Main Property. The eastern portion of Parcel B is proposed as a high density residential use. The remaining residential, schools, and parks components would occur on the Main Property. In some cases, these proposed

development standards differ from standards applicable in the remainder of the City and would therefore be unique to these MPD properties.

The project proposes three residential categories, MPD-L (1-8 du/ac), MPD-M (7-12 du/ac) and MPD-H (13-30 du/ac). (The minimum 1 unit per acre density proposed is not consistent with the BDUGAA, past pre-annexation agreements, or the City's Comprehensive Plan). A minimum density of 4 du/ac for residential properties will be a recommended condition of approval. Chapter 3 of the application requests the MPD "Master Developer" have the ability to propose to change the category of individual residential development parcels as shown on the Figure 3-1 Land Use Plan. The proposal includes the ability to adjust up or down one residential land use category through an administrative review process (this would not apply to the 18-30 du/acre category). This would not allow an increase in the overall unit cap of 1,250. The areas proposed for the highest residential densities (18-30 du/ac) have been depicted on the land use plan.

Staff finds that if the applicant requests to change the residential category of a development parcel internal to the project, then an administrative process would be appropriate. However, if a request is made to increase a residential category that abuts the perimeter of the MPD, it is recommended that require a public hearing process as a Major Amendment to the MPD. Additionally, staff is recommending that a limitation be established to allow reclassification of development parcels no more frequently than once per calendar year (consistent with the allowance for Comprehensive Plan amendments).

While the applicant has proposed a wide variety of project-specific development standards, there are several which staff does not support. Some of these areas are identified and discussed under the "Functionally Equivalent Standards" portion of this report.

Staff recommends that consideration of a majority of the land use development standards (table of allowed uses, setbacks, etc.) be deferred to the Development Agreement. This will provide the opportunity for further discussions with the applicant. There are several areas in which less stringent standards than required elsewhere in the city are being sought, some of which are requested in the functionally equivalent standards mentioned above. At this time, and until the applicant provides greater certainty and clarity to the actual development proposed for the site, staff does not find all of these requests to be justifiable. The amount of flexibility being requested in the proposed project at this time - while the overall plan is highly conceptual - does not result in a compelling reason to allow these different standards. There are numerous staff concerns, including uses proposed to be permitted in open space areas; a minimum 18' front yard setback to residential garages (20' required by MPD Design Guidelines and in standard zones); inadequate parking lot landscaping, resulting in less required landscaping than the city's nonresidential zones; excessive allowance for compact parking stalls (65% vs. 25% elsewhere in the city); and insufficient required parking for commercial/retail uses (a particular concern when Parcel B's location means it will be heavily oriented to automobile trips).

City staff recognizes the advantages of flexibility and provides a mechanism for exploring alternatives to the City's water, sewer, and storm water comprehensive plan concepts. Staff and the applicant can resolve the large, overarching design issues and

establishing some of the proposed functionally equivalent construction standards as part of the Development Agreement. In addition to the flexibility of establishing functionally equivalent standards as part of the Development Agreement, the Engineering Design and Construction Standards contain an administrative deviation process (section 1.3 of the standards) that does not require a showing of hardship. Any proposed deviation from standards must show comparable or superior design and quality; address safety and operations; cannot adversely affect maintenance and operation costs; will not adversely affect aesthetic appearance; and will not affect future development or redevelopment. Most of the requested functionally equivalent standards for streets and utilities can be addressed in the Development Agreement and through this administrative deviation process.

Therefore, given the lack of detail and supporting information, staff cannot either support blanket approval or deny the functionally equivalent standards related to utilities and transportation at this phase of the approval process.

F. Identify significant environmental impacts, and ensure appropriate mitigation;

A Determination of Significance and Request for Comments on the Scope of a proposed EIS was made on May 8, 2008. A Revised Determination of Significance and Request for Comments on the Scope was issued on October 17, 2008 due to an increase in the proposed unit count. A Draft EIS was issued on September 1, 2009 and The Villages Master Planned Development Final Environmental Impact Statement (Exhibit 5) was issued on December 11, 2009. The FEIS identifies impacts and proposes mitigation measures, the majority of which are proposed as conditions of approval. The method through which these FEIS mitigation measures are actually implemented “on the ground” is via conditions placed on this MPD land use application decision. As noted, the adequacy of the FEIS is being challenged via three separate appeals.

Even though an FEIS was issued for the Villages MPD project, and whether or not a Planned Action Ordinance is ultimately implemented, staff is recommending that all subsequent implementing city permits be subject to applicable SEPA requirements. At this time, given the conceptual nature of the proposal, staff is not supportive of a Planned Action Ordinance action.

The concept of Expansion Areas is proposed in Chapter 3 of the MPD application, with those areas depicted in Figure 3-5. Staff finds that the incorporation of these areas into the project would require future detailed review to ensure that all requirements, including required densities, amounts of open space and utility and transportation provisions are still capable of being met throughout the project. The Expansion Areas were not studied as part of the EIS process, so their site-specific environmental constraints have not been evaluated, nor the impact of their potential development on surrounding properties. It is unclear whether the inclusion of Expansion Areas would mean that other areas within the project boundary would not be developed. A recommended condition of approval is to require that the Expansion Area process be clarified in the Development Agreement.

G. Provide greater certainty about the character and timing of residential and commercial development and population growth within the city;

The project proposes a maximum of 4,800 units and 775,000 square feet of office and commercial uses to be built out in three phases over a period of approximately 15 years. (It should be noted that the application includes several uses which are typically

considered to be industrial uses under the definition of “office”). Chapter 9 of the MPD application indicates the initial development focus would begin south of Auburn-Black Diamond Road, followed later by development on the north side and the commercial area of the proposed Lawson Hills MPD (North Triangle). Development would progress outward from these areas, with the last area likely to be the southeastern portion of The Villages site.

Chapter 3 of the MPD application contains design concepts that illustrate the proposed character of development. Ch. 3 also describes a variety of housing types anticipated to be built and proposes development standards that would apply exclusively within the MPD. However, the level of detail of the MPD is basically equivalent to a “subarea” plan, as the proposal does not include typical subdivision or project layouts. The amount of flexibility requested in the proposed project and the conceptual level (rather than project level) of detail makes it difficult to determine what product type will be built where and when. In that regard, certainty about the character of residential development is not greater than otherwise provided through standard zone classifications.

Project specific design standards will ultimately be incorporated into the Development Agreement that could help ensure consistency in built products over time. These design guidelines must comply with the Master Planned Development Framework Design Standards and Guidelines adopted in June 2009.

In order to provide greater certainty about the character of residential and commercial development, staff is recommending that a target unit split (percentages of single family and multifamily) and commercial use split (commercial, office and industrial) be incorporated into the Development Agreement. Staff also recommends that all commercial/office uses (other than home occupations) shall only occur on lands so designated. (The proposed table of allowed uses indicates that limited commercial could occur in areas designated for residential use).

H. Provide environmentally sustainable development;

The MPD application discusses implementation of low impact development (LID) techniques, water conservation, clustering development and preserving open space. Staff finds that given the soils on the Main Property (as described in Ch. 4 of the FEIS) LID should have excellent potential. As a recommended condition of approval, mechanisms shall be identified to integrate LID into the overall design of the MPD for the benefit of these resources. The MPD should be required to comply with codes aimed at environmental protection such as the Sensitive Areas Ordinance and mitigation measures derived from the FEIS designed to prevent the project from having an adverse impact on the environment.

The project includes a number of design features (trails and bike lanes, inclusion of schools within walkable distances to residential areas) that will facilitate non-motorized travel within the Main Property. It is possible that some vehicle trips would be reduced especially given the proximity of commercial uses to the residential component of Parcel B and the Main Property’s Town Center. Given the distance between the remainder of the residential to the commercial on the Main Property it will be necessary for a majority of these individuals to make vehicle trips to meet most of their daily and weekly needs.

I. Provide needed services and facilities in an orderly, fiscally responsible manner;

Chapters 4-9 of the MPD application discuss transportation, parks, stormwater, sewer, water and the project phasing plan. The applicant has proposed several cost recovery mechanisms related to construction of improvements including local improvement districts, latecomer agreements and other financing mechanisms such as community facility districts (if authorized by proposed changes to State law). Ch. 9 of the MPD application describes these mechanisms and the timing of improvements in more detail. A traffic monitoring plan is mentioned on page 9-3. Staff is recommending that a proactive rather than reactionary transportation monitoring plan be established as part of the Development Agreement with a list of projects and trigger mechanisms acceptable to the City. This will ensure that needed traffic mitigation measures occur in conjunction with growth, rather than after a decline in level of service. With the proposed phasing plan of supporting regional infrastructure projects, along with various conditions contained herein, various additional studies are completed and responded to and with a satisfactory implementing Development Agreement, The Villages Master Planned Development can meet the requirement of providing services and facilities in an orderly fiscally responsible manner.

In summer 2009, the applicant (through Yarrow Bay Holdings) requested a study of the impact of the removal of the north south link across the Rock Creek wetland connecting Abrams Ave. and the South Connector within The Villages project, and also removing the Southeast Loop Connector in the Lawson Hills project. (Both of these transportation links are depicted in the Transportation Plan element of the Comprehensive Plan). The City hired the consulting firm of Parametrix to determine the impact of the reduced network connections (Exhibit 13) and found that in order to maintain the adopted level of service (LOS) standard, the following additional improvements would be required of this project:

- Two south bound lanes on SR-169 from SE 288th Street to 100 ft. south of the South Connector (this would be a shared responsibility of the two MPD proposals from 288th Street to a location 600 feet south of Roberts Drive).
- Two north bound lanes on SR-169 from 600 ft. south of Roberts Dr. to SE 288th Street. (Also a shared responsibility of both projects)
- Add an additional south bound lane on SR-169 from 600 feet south of Roberts Drive to the South Connector.
- An additional east bound left turn lane and an east bound right turn pocket will be needed at SR 169 and Roberts Drive. (if to be a signal controlled intersection)
- An additional north bound right turn pocket at SR 169 and Lawson Street.
- The south bound right at SR 169 and the South Connector will need to be converted to a south bound through/right lane.

Whereas the applicant has not shown these network connections as part of their proposal, staff recommends these additional street mitigation measures be required.

J. Promote economic development and job creation in the city;

The project has designated 67 acres for a maximum of 775,000 square feet of commercial/office/industrial use. Chapter 3 of the MPD application describes these in more detail. For clarification, the MPD application describes office uses as a broad

category including such things as general office, business support services, light manufacturing, wholesaling and mini-storage. It is unknown what the ultimate mix of uses may be. The Fiscal Analysis prepared for the project (Chapter 12 of the application) appears to be predicated upon retail and office uses only. Appendix J of the FEIS contains analysis on the amount of retail/office square footage to be developed along with employment projections.

In Table 3.4 of the application, uses are shown, including the proposed requirement of a conditional use permit for locating a high school within certain land use designations. Staff recommends that an updated fiscal analysis be required for any proposal to locate a high school within any lands designated on Figure 3-1 (Land Use Plan) for commercial/office/retail use.

The FEIS analysis estimated the number of jobs to be created to not be sufficient to meet the Comprehensive Plan's goal of 0.5 jobs per household. Their potential earning potential is also unknown. If a significant number of jobs is in the retail and service sector, housing affordability becomes a significant issue. Staff is recommending a condition of approval to require the applicant to provide housing at prices affordable to potential future employees to help provide opportunities for individuals to both work and live in the community.

Several of the uses included in the proposed definition of "office" are usually categorized as light industrial (such as wholesaling, distillery, research and technology) and are therefore referred to as such in this staff report. Staff's recommendation is that a distinct land use category be created to recognize these potential uses or alternatively, that the category be renamed to properly indicate the range of potential uses. Alternatively, the potential of these uses could be eliminated from the proposal. A recommended condition of approval is to require that areas intended to have light industrial uses be identified on the Land Use Map that is made part of the Development Agreement.

K. Create vibrant mixed-use neighborhoods, with a balance of housing, employment, civic and recreational opportunities;

The commercial component of the MPD would be located on the North Property (Parcel B) and in the northern portion of the Main Property. The eastern portion of Parcel B is proposed as a high density residential use. The remaining residential, schools, and parks components would occur on the Main Property.

Chapter 3 of the MPD application describes a variety of housing types including detached single family, duplex, triplex, quadplexes, townhouses, cottages, and stacked flats. With the exception of stacked flats, which are described as a possible housing type within the high density category, all other types could be built within areas designated for either low or medium density residential uses. However, the application also indicates that other than approximately 1,200 units of attached housing, the remaining homes will be "single family detached" (see Page 1-1). In addition, even constructing at the low end of the high density residential density range for all parcels so designated will nearly consume the 1,200 planned multifamily units. In light of this, the potential unit mix is difficult to determine.

The application includes schematic drawings of potential housing types and lot configurations (see Chapter 3). However, the distribution of these various modes of development is not defined. The applicant is also proposing the ability to change

designated development parcels from one density category to another, post-MPD and Development Agreement approval.

A variety of parks and trails are proposed within the main portion of the project. Other than four school sites (three elementary and one middle school), the land use plan does not identify other public or civic uses. The project narrative on Page 3-17 indicates that additional public and civic uses may be located within the project. The predominant character of the southern portion of the Main Property will be that of a large, yet unique, residential development

L. Promote and achieve the city's vision of incorporating and/or adapting the planning and design principles regarding mix of uses, compact form, coordinated open space, opportunities for casual socializing, accessible civic spaces, and sense of community; as well as such additional design principles as may be appropriate for a particular MPD, all as identified in the book Rural By Design by Randall Arendt and in the City's design standards;

The MPD application proposes residential and commercial type uses, with development located in clusters separated by sensitive areas and open space. Parks and schools are proposed to be located on site with a road and trail network to link the residential portions of the project. These will provide opportunities for interaction, socializing and a sense of community. Drifts of trees and natural areas are proposed along the main spine road through the project preserving a more rural type environment.

M. Implement the city's vision statement, comprehensive plan, and other applicable goals, policies and objectives set forth in the municipal code.

In June 2009, the City adopted an updated comprehensive plan, zoning code, design guidelines and engineering design and construction standards. Earlier in the year (February 2009), new Sensitive Areas regulations were adopted. The Comprehensive Plan includes the city's vision statement on page 1-2, which envisions "moderate growth", clustered residential development, the retention of open space and developing a system of connecting trails/bikeways. The proposed project is generally consistent with the vision statement.

Page 5-13 of the Comprehensive Plan (Land Use element) discusses the MPD Overlay plan designation. The proposal is consistent with that section of the Comprehensive Plan.

This staff report addresses the proposal's consistency (or lack thereof) with other provisions of the Black Diamond Municipal Code.

Comprehensive Plan Policy T-1 calls for connections to surrounding neighborhoods with roads and trails. The Engineering Design and Construction Standards section 3.2.02 D provides for no more than 300 homes on a single point of access before a second connection must be constructed. Based on the comprehensive plan and design standards, the Main Property south of the Auburn-Black Diamond Road will be required to connect all the way through to SR 169, regardless if the final phases are ever completed. There are several locations along the main spine road through the project where a parallel road will not be possible. Additionally, the FEIS traffic analysis assumed the spine road connection to SR 169. Therefore, as a condition of approval, staff recommends:

- No more than 150 residential units shall be permitted with a single point of access. 300 units may be allowed on an interim basis, provided that a secondary point of access is provided.
- The Development Agreement shall define a development parcel(s) beyond which no further development will be allowed without complete construction of the South Connector.

18.98.020 MPD permit - Public benefit objectives.

A specific objective of the MPD permit process and standards is to provide public benefits not typically available through conventional development. These public benefits shall include but are not limited to:

A. Preservation and enhancement of the physical characteristics (topography, drainage, vegetation, environmentally sensitive areas, etc.) of the site;

Chapter 1 of the MPD application discusses clearing and grading for the project. It is estimated that approximately 4,753,000 cubic yards of cut and 1,685,000 cubic yards of fill would be required for the Main Property. Fill is proposed to come from material excavated on site. For Parcel B the estimate is 81,000 cubic yards of cut and 81,000 cubic yards of fill would be necessary (a “balanced site”).

The applicant proposes to remove and export approximately 3,000,000 million cubic yards of soil, which is inconsistent with this objective. Specific areas where this might occur are not identified in the application materials, making it difficult to judge how the existing landforms will be impacted. If very much of the top layer of soil is removed in areas where there is a shallow glacial till dense restricting soil layer, the potential for implementation of Low Impact Development techniques will be adversely impacted.

Staff is recommending a condition to establish a goal to balance the cut and fill within the site. Staff recognizes that in order for urban development to occur, the natural undulations and occasional sharp pitches in the natural grade will need to be graded for street and urban living compatibility. Allowing initial site grading will provide better, more consistent utility depths and minimize retaining walls and steps to homes and other buildings. However, on a site of this size, site grading can be done without having to export 3,000,000 cubic yards of material.

Staff recommends that, before the approval of the first implementing plat or site development permit within a phase, the applicant must submit an overall grading plan that will balance the cut or fill so that the amount of cut or fill does not exceed the other by more than 20%. This will insure that unnecessary mining of material will not occur and reuse of existing materials will be maximized. Staff is also recommending that the applicant employ a majority of native species in the landscaping, another reason to retain native soils that are compatible with native species.

Given the proposed densities, it is anticipated that the development areas shown on the Figure 3-1 Land Use Plan will be cleared of all vegetation and graded to facilitate development. Other than where stormwater ponds, utilities and future active park sites may be proposed, open space areas will apparently remain untouched, except for trail construction.

With the unavoidable exception of several road crossings, it appears that avoidance of sensitive areas was a factor in the overall layout of this project. The land use

plan/constraints map overlay (Exhibit 11) shows the relationship between sensitive areas and proposed development parcels.

There are very limited opportunities for views of Mt. Rainier on The Villages main property. The school site in parcel F may have some views of Mt. Rainier if the areas to the south are cleared. There appears to be reasonable opportunities for views from Parcel B that will be further enhanced if the nearby tailing piles are removed in the future. These view opportunities should be explored and incorporated into the planning process as the project develops.

The applicant has requested a functionally equivalent standard in the form of an exemption from the Tree Preservation Ordinance (BDMC 19.30), which staff does not support. Any deviations from the Tree Preservation Ordinance should be considered through implementing projects on a case-by-case basis.

B. Protection of surface and groundwater quality both on-site and downstream, through the use of innovative, low-impact and regional stormwater management technologies;

The City adopted the 2005 Ecology manual in June 2009 and it will be applicable to this project until such time as the city may be required to adopt an updated stormwater manual by state mandate as a requirement of the City's Phase II Municipal Stormwater General Permit.

Chapter 6 of the MPD application describes the proposed stormwater management plan including incorporation of low impact development (LID) techniques. Staff finds that given the soils on the Main Property (as described in Ch. 4 of the FEIS) LID should have excellent potential. As a recommended condition of approval, mechanisms shall be identified to integrate LID into the overall design of the MPD for the benefit of these resources. A project-wide approach to stormwater management is proposed (rather than at an individual development parcel level), meeting the intent of regional stormwater management.

Staff supports the stormwater management plan as described in the application and recommends the following additional goals and conditions be included in Development Agreement:

- Provide a proactive, responsive temporary erosion and sediment control plan to prevent erosion and sediment transport and protect receiving waters during the construction phase.
- Construct a storm water system that does not burden the city with excessive maintenance costs; assist the city with maintenance of landscape features in storm water facilities.
- Include a tabular list of stormwater monitoring requirements. The list should include the term of the monitoring, the allowable deviation from design objectives or standards, and the action items necessary as a result of excess deviations.
- If roof runoff will be discharged directly to wetlands or streams for recharge and base-flow purposes, include restrictions on roof types (no galvanized, no copper) and roof treatments (no chemical moss killers, etc) to ensure that stormwater discharge is suitable for direct entry into wetlands and streams without treatment. These restrictions should be enforced during permitting and

- Staff recognizes that there are water quality and balance challenges that are addressed in the storm water management concept; staff also recognizes that storm water management is not an exact science and that shifts in the discharge points of storm water may be appropriate and benefit wetlands, lake, streams or groundwater environments. Therefore, staff recommends requiring the stormwater plan include the ability to adaptively manage detention and discharge rates and redirect stormwater overflows when environmental advantages become apparent.

A key element of the applicant's proposed storm water management plan is the large infiltration pond proposed west of the city limits on property also owned by the applicant. Staff agrees that this is the best location for the regional stormwater infiltration pond, as it presents an environmental advantage, with the ability to consolidate the infiltration of the excess runoff to a deep aquifer in one location at the most efficient collection location. However, since this site is not within the City's jurisdiction, staff is recommending as a condition of approval that the applicant be required to obtain all necessary permits from King County for both construction and the City's authority to perform maintenance, subject to prior approval by the City.

C. Conservation of water and other resources through innovative approaches to resource and energy management including measures such as wastewater reuse;

Chapter 8 of the MPD application describes the proposed water system for the MPD including details of the required water conservation plan. Additional conservation measures may be required in the Development Agreement as staff and the applicant establish design concepts. Additional conservation measures may be required in the Development Agreement as staff and the applicant establish design concepts.

D. Preservation and enhancement of open space and views of Mt. Rainier;

Chapter 3 of the MPD application contains details regarding open space. Pursuant to BDMC Sections 18.98.120.G, 18.98.140.F and G, there are amounts of open space required in prior agreements (BDUGAA and BDAOSPA) in addition to the amount required in the City's MPD regulations. The BDUGAA requires that 145 acres of open space as an offset for the West (63.3 ac) and South Annexation (81.7 ac) areas.

The remaining portions of the MPD not subject to prior agreements are required to provide 50% of the land area as open space (336.4 acres) in order to have varied lot dimensions, cluster housing and pursue additional density (see 18.98.140.G). Thus, the overall amount of open space required to be provided within the MPD is 481.4 acres. The Figure 3-1 Land Use plan shows that 505 acres of open space, parks and trails, wetlands and buffers are proposed, while page 1-4 states that a minimum of 481.4 ac will be provided.

The application materials indicate that the Community Connector Road and multiple parks are designed to enhance views of Mt. Rainier. There are very limited opportunities for views of Mt. Rainier on The Villages main property. The school site in parcel F may have some views of Mt. Rainier if the areas to the south are cleared. There appears to

be reasonable opportunities for views from Parcel B that will be further enhanced if the nearby tailing piles are removed in the future. Staff recommends that these view opportunities be explored and incorporated into the planning process.

It should be noted that the term “open space” as used in the application can include the following:

- Sensitive areas and their required buffers
- Developed parks and trails
- Forested areas
- Stormwater facilities or a water tank designed per City standards

E. Provision of employment uses to help meet the city's economic development objectives;

The project has designated 67 acres for a maximum of 775,000 square feet of commercial/office/industrial use. Chapter 3 of the MPD application describes these in more detail. The amount of jobs and tax revenues to be generated by this area will be dependent upon the mix of development that occurs. No specific uses are known at this point, but it is anticipated to be primarily retail, office and personal service uses. Appendix J of the FEIS contains analysis on the amount of retail/office square footage to be developed along with employment projections. As previously noted, it appears the number of jobs to be created will not be consistent with the goal of 0.5 jobs per household.

F. Improvement of the city's fiscal performance;

The project has designated 67 acres for a maximum of 775,000 square feet of commercial/office/industrial use. Chapter 12 of the MPD application states that at buildout this project would provide an annual city budget surplus of \$459,000 (tax revenues vs. municipal service costs), with an overall general fund balance of approximately \$8.1 million. According to the FEIS, (for Alternative 2 -- the applicant's proposal) the financial model indicates that revenues generated by the development would not be sufficient to balance the costs to provide services after the year 2020. Further, it states that the project would have an adverse financial impact on the City. At this time, without more specifics regarding the mix of nonresidential uses within the project, it is difficult to determine fiscal performance 10 years into the future. Staff recommends the applicant be required to prepare a new fiscal analysis after 5 years, when product mix and home values are better defined. At that time, additional project conditioning may be necessary.

Since no specific commercial/office/industrial uses for the project are known at this time, it is difficult to project with certainty whether the project will improve the city's fiscal performance. The fiscal analysis included with the application also assumes the need for the voters to approve public safety levies (see page 12-11), which may or may not occur. An “improvement” of the city's fiscal performance might be considered to avoid the need seek voter approved levies in the future.

On page 12-15 of the application, the applicant notes that “the city will commission new rate studies to accurately adjust revenue collection for the Special Funds such that all Special Fund expenditures will be fully funded to match the appropriate standards identified in the updated comprehensive plan.” While this statement could be true for the

water, sewer and stormwater utilities, street operation and maintenance is currently inadequately funded by the City's share of the gas tax, with the street maintenance function competing for general fund dollars for the balance of funding. Also, the applicant is proposing the use of higher risk pervious asphalt in some cases and higher landscape intensive improvements (such as rain gardens). In order to balance the impact of the added street maintenance and the proposed street standards with higher maintenance costs, the staff is recommending that all cul-de-sacs and auto courts serving 20 units or less, and all alleys be private and maintained by the Master Developer or future Homeowners Association(s).

G. Timely provision of all necessary facilities, infrastructure and public services, equal to or exceeding the more stringent of either existing or adopted levels of service, as the MPD develops; and

Chapters 4 and 6 through 9 of the application contain conceptual utility plans and a phasing plan which describes street and utility improvements. Details on the proposed timing of improvements are on page 9-3, including the proposed "trigger" for transportation improvements. Page 9-10 indicates the proposed "trigger" for park improvements.

The proposed phasing plan of supporting regional infrastructure projects, along with various conditions contained herein, and a satisfactory implementing Development Agreement will provide for the required facilities and infrastructure in time to meet the adopted levels of service. However, additional modeling, studies and monitoring may be necessary and could show that additional mitigation projects are needed and/or that the timing of projects may shift.

H. Development of a coordinated system of pedestrian oriented facilities including, but not limited to, trails and bike paths that provide accessibility throughout the MPD and provide opportunity for connectivity with the city as a whole.

Chapter 5 of the MPD application contains provisions for a trail network which would connect areas of the MPD and provide points at which future extensions to the rest of the City could be made by others or through public projects. At this time, the City is developing a Trails Plan, but it has yet to be adopted.

18.98.050 MPD permit - Required approvals.

A. MPD Permit Required. An approved MPD permit and Development Agreement shall be required for every MPD.

The applicant is seeking approval of an MPD permit and Development Agreement. However, at this time the applicant is seeking approval of only the MPD permit and will then focus on the Development Agreement. This staff report and the public hearing are concerned with the MPD application only. A separate staff report will be prepared and public hearing held for the Development Agreement.

B. Consolidated Review. [Remainder not listed here; refer to BDMC for complete code text.]

Overall, the applicant is seeking approval of an MPD permit, Development Agreement and a Planned Action Ordinance. However, at this time the applicant is seeking approval of only the MPD permit and will then focus on the Development Agreement and Planned Action Ordinance. A separate staff report will be prepared and public hearing held for the Development Agreement. State law requires that public notice and an opportunity to

comment be provided for the Planned Action Ordinance. At this time, given the general nature of the proposal, staff is not supportive of a Planned Action Ordinance action.

C. Implementing Development Applications. [Remainder not listed here; refer to BDMC for complete code text.]

The applicant is seeking approval of an MPD permit, Development Agreement and a Planned Action Ordinance. At this time the applicant is seeking approval of only the MPD permit and will then focus on the Development Agreement and Planned Action Ordinance. The applicant has not yet made application for any related implementing development approval such as a preliminary plat.

18.98.080 MPD permit approval - Conditions of approval.

A. An MPD permit shall not be approved unless it is found to meet the intent of the following criteria or that appropriate conditions are imposed so that the objectives of the criteria are met:

1. The project complies with all applicable adopted policies, standards and regulations. In the event of a conflict between the policies, standards or regulations, the most stringent shall apply unless modifications are authorized in this chapter and all requirements of section 18.98.130 have been met. In the case of a conflict between a specific standard set forth in this chapter and other adopted policies, standards or regulations, then the specific requirement of this chapter shall be deemed the most stringent.

In some cases, proposed development standards differ from standards applicable in the remainder of the city and would therefore be unique to these MPD properties. While the applicant has proposed a wide variety of development standards, there are several areas in which staff is opposed to the requested standards. The project is seeking “functionally equivalent standards” in areas where the applicant would like to deviate from adopted policies, standards and regulations. These will be analyzed under the appropriate section 18.98.130, below.

Comprehensive Plan Policy T-1 calls for connections to surrounding neighborhoods with roads and trails. The Engineering Design and Construction Standards section 3.2.02 D limits no more than 300 homes on a single point of access before a second connection must be constructed. Based on the comprehensive plan and design standards, the Main Property south of the Auburn Black Diamond Road will be required to connect all the way through to SR 169, regardless if the final phases are ever completed. There are several locations along the main spine road through the project where a parallel road will not be possible. Additionally, the FEIS modeled the traffic distribution with the spine road connection to SR 169. Therefore, as a condition of approval, staff recommends:

- No more than 150 residential units shall be permitted with a single point of access. 300 units may be allowed on an interim basis, provided that a location for a secondary point of access is identified.
- The Development Agreement shall define a development parcel(s) beyond which no further development will be allowed without complete construction of the South Connector.

2. Significant adverse environmental impacts are appropriately mitigated.

A Determination of Significance and Request for Comments on Scope of EIS was issued on May 8, 2008. A Revised Determination of Significance and Request for Comments on the Scope was issued on October 17, 2008 due to an increase in the proposed unit

count. The FEIS was issued on December 11, 2009. Chapter 6 of the FEIS identifies general mitigation measures for the proposal. The recommended MPD conditions of approval include a majority of the mitigation measures identified in the FEIS. Therefore, significant adverse environmental impacts can be appropriately mitigated.

3. The proposed project will have no adverse financial impact upon the city at each phase of development, as well as at full build-out. The fiscal analysis shall also include the operation and maintenance costs to the city for operating, maintaining and replacing public facilities required to be constructed as a condition of MPD approval or any implementing approvals related thereto. This shall include conditioning any approval so that the fiscal analysis is updated to show continued compliance with this criteria, in accordance with the following schedule: [Remainder not listed here; refer to BDMC for complete code text.]

Chapter 12 of the MPD application states that at buildout this project would provide an annual city budget surplus of \$459,000 (more revenues than municipal service costs), with an overall general fund balance of approximately \$8.1 million. According to the FEIS, (for Alternative 2) the financial model indicates that revenues generated by the development would not be sufficient to balance the costs to provide services after the year 2020. Further, it states that the project would have an adverse financial impact on the City. The MPD application indicates it is the intention of the developer to construct a fiscally responsible infrastructure plan. The applicant should be responsible for addressing any projected shortfall.

Staff is concerned about the time gap that will occur between when new residential structures are built and occupied and the when tax revenues sufficient to meet service demands will begin to accrue. It is anticipated that the maintenance burden of additional street lights, streets to sweep and catch basins to pump, will negatively impact city maintenance funds prior to the receipt of compensating tax revenues. Staff is recommending the Development Agreement include provisions for helping to bridge this gap, in order to ensure the City has the necessary staff and equipment to serve this area.

BDMC 18.98.080.A.3 includes a requirement for conditioning MPD approval to require additional fiscal analyses as the project develops over time. These should be included as a condition of approval.

On page 12-15 of the application, the applicant notes that “the city will commission new rate studies to accurately adjust revenue collection for the Special Funds such that all Special Fund expenditures will be fully funded to match the appropriate standards identified in the update comprehensive plan.” While this statement could be true for the water, sewer and stormwater utilities, street operation and maintenance is currently inadequately funded by the City’s share of the gas tax, with the street maintenance function competing for general fund dollars for the balance of funding. Also, the applicant is proposing the use of higher risk pervious asphalt in some cases and higher landscape intensive improvements (such as rain gardens). In order to balance the impact of the added street maintenance and the proposed street standards with higher maintenance costs, the staff is recommending that all cul-de-sacs and auto courts serving 20 units or less, and all alleys be private and maintained by the Master Developer or future Homeowners Association(s).

4. A phasing plan and timeline for the construction of improvements and the setting aside of open space so that: [Remainder not listed here; refer to BDMC for complete code text.]

Chapters 4-9 of the MPD application discuss transportation, parks, stormwater, sewer, water and the project phasing plan. Chapter 9 of the MPD application contains the phasing plan, which also projects which parcels will be developed and associated unit counts. Parks are to be built by phase also. Staff recommends that the above provisions (4.a and 4.b) be addressed in the Development Agreement.

Chapter 9 of the application states that “The facilities that serve the MPDs as well as development in areas outside of the MPD project boundaries will be a shared responsibility between the City and Master Developer, with the Master Developer contributing a proportionate share. “ Although staff recognizes that other benefiting parties may make use of roads and other infrastructure, it is unrealistic for the applicant to expect full cost recovery for every implementing project. Staff cannot guarantee cost recovery from benefiting non-contributing properties or cost recovery from the City. Absent these developments, there would not be a need to construct the improvements identified in this application. Many new vehicle trips coming from outside the City may make use of roads and intersection improvements funded by the developer, but the City has no ability to collect from the growth in background traffic. Staff recommends that exploration of various means of cost recovery only occur where the benefiting parcels can be clearly defined and the pro rata share of other parties is significant. The pro-rata shares and cost recovery can be included in the Development Agreement.

Staff recommends that decisions on what projects will be built by the developer, or the city with traffic impact fees, and what projects for which there will be credits or cost recovery be determined in the Development Agreement.

On page 9-3 of the application, the applicant proposes that final design must be approved and constructed, bonded or financially guaranteed prior to occupancy of any structure relying on the facility. Staff does not agree that home construction should be allowed prior to regional supporting infrastructure being constructed, with simply a financial guarantee. Staff does not recommend approval of the proposal’s request to amend the City’s surety requirement established in the Engineering Design and Construction Standards and municipal code.

The timing of the design and alignment of the Pipeline Road will need to be determined as part of the Development Agreement, as other parties in addition to the applicant must be involved and the roadway alignment will need to be resolved so that water and sewer alignments to The Villages will not be held up by these preliminary road design issues.

Staff recommends that before the first implementing project of any one phase is approved, a more detailed implementation schedule of the regional infrastructure projects supporting that phase shall be submitted for approval. The timing of the projects should be tied to the number of residential units and or square feet of commercial projects.

On Page 9-3 of the application, the applicant proposes to monitor traffic and then implement mitigation projects six months after a loss of level of service is identified. Staff finds this type of delay to be inappropriate and that mitigation projects should be in place prior to LOS failure. Staff is recommending the applicant be required to model the traffic

impact of a pending phase of development before the start of that phase to determine when a street or intersection is likely to drop below the adopted level of service. Transportation mitigation projects should then be implemented to prevent failure. Traffic mitigation projects may change or additional projects be added to address the traffic issues as they actually develop.

5. The project, at all phases and at build out, will not result in the lowering of established staffing levels of service including those related to public safety.

The 2009 Comprehensive Plan contains levels of service related to police and fire and emergency medical services. The fiscal analysis indicates that staffing levels should generally be allowed to increase in accordance with population growth. Currently, this area of the city has a minimal level of fire and EMS protection. Staff is recommending that the Development Agreement include specific provisions for mitigating fire service impacts to ensure protection concurrent with project buildout. The 2009 City of Black Diamond Comprehensive Plan should be made an appendix of the Development Agreement for reference purposes.

6. Throughout the project, a mix of housing types is provided that contributes to the affordable housing goals of the City.

Chapter 3 of the MPD application describes a variety of housing types including detached single family, duplex, triplex, quadplexes, townhouses, cottages, and stacked flats. The Fiscal Analysis (Chapter 12) makes some assumptions regarding housing costs for various potential housing types. However, there is nothing in the remainder of the application to indicate whether all these housing types will be built. As noted previously, there appears to be conflicting statements in the application concerning how much non-single family detached housing is being provided.

As previously noted, the commercial component of the project will most likely include retail, office and personal service uses. The MPD should provide housing opportunities for individuals anticipated to work at those jobs; this may require a greater mix of multifamily housing and/or the construction of housing types that can meet the affordability goals of the Comprehensive Plan.

The 2009 Comprehensive Plan notes on page 6-6, "Applying the county identified target for affordable housing to arrive at the City's goal for affordable housing, 17% or 1,071 housing units should be available to households with 50% to 80% of the median income (for 2015) and 1,260 housing units should be available to households with less than 50% of the median income". Staff recommends this should be used as a general guideline, which would require that 816 units (17%) be available to households with 50% to 80% of the median income (for 2015) and 912 (19%) units be available to households with less than 50% of the median income. Alternatively, a periodic analysis could be required to ensure that housing is being provided at prices that meet the earning potential of those jobs being created within the project. Doing so would not only meet the affordability goals of the Comprehensive Plan but also further the objective of creating a project where individuals can both work and live.

7. If the MPD proposal includes properties that are subject to the Black Diamond Urban Growth Area Agreement (December 1996), the proposal shall be consistent with the terms and conditions therein.

The Black Diamond Urban Growth Area Agreement (BDUGAA) (Exhibit 7) applies to two portions of the Main property (portions of West Annexation area) and the southeastern

portion of the Main Property (South Annexation area). The BDUGAA requires that 145 acres of open space as an offset for the West (63.3 ac) and South Annexation (81.7 ac) areas.

The BDUGAA requires that for the West and South Annexation areas a minimum average density of 4 dwelling units/acre be achieved with a base density of 2 du/ac with the remainder achieved through transfer of development rights (TDR).

As a recommended condition of approval and for the Villages MPD to be consistent with this agreement, the entire "Pipeline Road" link will need to be constructed.

8. If the MPD proposal includes properties that were annexed into the city by Ordinances 515 and 517, then the proposal must be consistent with the terms and conditions therein.

The MPD proposal includes properties annexed into the City by Ordinance 515 (Exhibit 12) and appears to be consistent with the terms and conditions therein.

9. The orientation of public building sites and parks preserves and enhances, where possible taking into consideration environmental concerns, views of Mt. Rainier and other views identified in the comprehensive plan. Major roads shall be designed to take advantage of the bearing lines for those views.

The application materials indicate that the Community Connector Road and multiple parks are designed to enhance views of Mt. Rainier. There are very limited opportunities for views of Mt. Rainier on The Villages main property. The school site in parcel F may have some views of Mt. Rainier if the areas to the south are cleared. There appears to be reasonable opportunities for views from Parcel B that will be further enhanced if the nearby tailing piles are removed in the future. Staff recommends that these view opportunities be explored and incorporated into the planning process.

10. The proposed MPD meets or exceeds all of the public benefit objectives of 18.98.020 and the MPD purposes of 18.98.010, B through M.

As detailed under the analysis above for Sections 18.98.010 and 18.98.020, as conditioned the proposed MPD satisfies these provisions.

11. If the MPD project is adjacent to property already developed, or being developed as an MPD, or adjacent to property which is within an MPD zone, then the project is designed so that there is connectivity of trails, open spaces and transportation corridors, the design of streetscape and public open space amenities are compatible and the project will result in the functional and visual appearance of one integrated project with the adjacent properties subject to an MPD permit or, if not yet permitted, within an MPD zone.

The North Property (Parcel B) and Main Property are not adjacent to property already developed as an MPD. The North Property is adjacent to property zoned MPD. This property is located to the north, zoned MPD and is the "North Triangle" portion of the proposed Lawson Hills MPD. A soft surface trail connection is shown between Parcel B and the North Triangle in Chapter 5 of the MPD application materials. Chapter 4 of the application shows the North Connector which will connect Parcel B and the North Triangle with SR 169. The proposed street standards for the two MPD applications are identical, ensuring consistency between the two projects.

The Main Property is also adjacent to property zoned MPD. These 160 acres are located between the proposed Community Connector road and the western city limits. Both hard and soft surface potential trail connections are shown between The Villages and these 160 acres in Chapter 5 of the MPD application materials. Chapter 4 of the application shows three potential future road connections between The Villages and these 160 acres. Any future development will be reviewed against the regulations in effect at that time regarding connectivity of trails, open spaces and transportation corridors, and the compatibility of streetscape design and public open space amenities.

12. As part of the phasing plan, show open space acreages that, upon buildout, protect and conserve the open spaces necessary for the MPD as a whole. Subsequent implementing approvals shall be reviewed against this phasing plan to determine its consistency with open space requirements.

In the MPD application materials, Figure 3-1 Land Use Plan shows the areas intended as open space. Chapter 5 also contains a figure on open space typologies at the MPD project scale. Specific development parcel open space consistency needs to be verified at the permitting stage.

As previously discussed, the portions of the MPD not subject to prior agreements are required to provide 50% open space (336.4 acres). The phasing of open space is not included within the MPD Application. Phasing of open space (which includes parks and is identified within the MPD application), once acreages have been finalized, should be defined and articulated for timing of final designation within the Development Agreement.

13. Lot dimensional and building standards shall be consistent with the MPD Design Guidelines.

Analysis of consistency with the Master Planned Development Framework Design Standards and Guidelines is discussed in a later section of this report. A recommended condition of approval is to require that this provision be enforced.

14. School sites shall be identified so that all school sites meet the walkable school standard set for in the comprehensive plan. [Remainder not listed here; refer to BDMC for complete code text.]

Figure 3-1, Land Use Plan, shows four proposed school sites on development parcels V21 (10 ac), V50 (10 ac), V57 (8.4 ac) and V58 (4.1 ac). Alternatively, as shown in Table 3.4 of the application, the applicant is requesting that any development parcel may be used for an institutional use (which could include a school site). Figure 3-2, School Proximity Exhibit, shows the areas of the project intended for residential use, with the exception of the proposed residential on Parcel B, are within 0.5-1.0 mile of the proposed school site. There is no specific walkable school standard in the 2009 City of Black Diamond Comprehensive Plan or the Enumclaw School District Capital Facilities Plan (2009-2014).

The FEIS contains information regarding the school needs generated by the project (Alternative 2). A recommended condition of approval is to require that a separate agreement entered into between the applicant, the City and the Enumclaw School District be incorporated into the MPD permit and Development Agreement by reference. A draft of that agreement already exists, and staff understands that it is acceptable to the School District.

City staff, the applicant and Enumclaw School District staff have negotiated a draft school mitigation agreement (Exhibit 6) to address the district's needs for public schools to serve both The Villages MPD and the proposed Lawson Hills MPD on the east side of the city. The agreement has been made available to the public for review, and final action will only occur in conjunction with the City Council's consideration of the MPD. For procedural clarification, the Hearing Examiner is not required to provide a recommendation on the agreement itself.

a. So long as to do so would not jeopardize the public health, safety, or welfare, the city may, as a condition of MPD permit approval, allow the applicant to voluntarily contribute money to the city in order to advance projects to meet the city's adopted concurrency or level of service standards, or to mitigate any identified adverse fiscal impact upon the city that is caused by the proposal.

Chapter 12 of the MPD application states that at buildout this project would provide an annual city budget surplus of \$459,000 (more revenues than municipal service costs), with an overall general fund balance of approximately \$8.1 million. Therefore, the applicant has not offered to contribute any funds to assist with ensuring level of service standards are met. However, as previously noted, staff believes there will be a need for interim funding to help "bridge the gap" between homes being built and occupied and the receipt of necessary tax revenues to support those service demands. This issue should be addressed within the Development Agreement.

18.98.090 MPD permit - Development Agreement.

The MPD conditions of approval shall be incorporated into a Development Agreement as authorized by RCW 36.70B.170. [Remainder not listed here; refer to BDMC for complete code text.]

The applicant requires approval of an MPD permit and Development Agreement. At this time the applicant is seeking approval of only the MPD permit and will then focus on the Development Agreement. As set forth in BDMC 18.98.050, a Development Agreement must be signed by the mayor and all property owners and lien holders within the MPD boundaries, and recorded, before the City may approve any subsequent implementing permits or approvals.

18.98.110 MPD standards - Design review required.

A. Design Standards. The MPD master plan and each subsequent implementing permit or approval request, including all proposed building permits, shall be consistent with the MPD design standards that are in effect at the time each application is determined to be complete

Analysis of the MPD master plan consistency with the Master Planned Development Framework Design Standards and Guidelines is discussed in a later section of this report. Any subsequent implementing permit or approval will be subject to the MPD design standards.

B. Design Review Process.

C. MPD Permit. The hearing examiner shall evaluate the overall MPD master plan for compliance with the MPD design standards, as part of the examiner's recommendation to the city council on the overall MPD permit.

Analysis of the MPD master plan consistency with Master Planned Development Framework Design Standards and Guidelines is discussed in a later section of this report.

- D. Implementing Permits or Approvals - Residential Subdivisions.,**
- E. Implementing Permits or Approvals - Short Subdivisions (Short Plats),.**
- F. Implementing Permits or Approvals - Residential Building Permits,**
- G. Implementing Permits or Approvals - Other Building Permits.,**
- H. Future Project Consistency.**

[Not listed here; refer to BDMC for complete code text.]

18.98.120 MPD standards - Permitted uses and densities.

A. MPDs shall include a mix of residential and nonresidential use. Residential uses shall include a variety of housing types and densities.

This has been previously discussed in this report.

B. The MPD shall include those uses shown or referenced for the applicable parcels or areas in the comprehensive plan, and may also provide neighborhood commercial uses, as defined in the comprehensive plan, sized and located to primarily serve the residential portion of the MPD.

The Comprehensive Plan designation for the North Property is Mixed Use with Master Planned Development Overlay and the Main Property has areas of Low Density Residential and Mixed Use with Master Planned Development Overlay.

The entire project is covered by the MPD Overlay. According to the Comprehensive Plan, “an MPD may include residential and commercial uses clustered around private and community open space, supported by adequate services and facilities”. The Mixed Use designation identifies a preferable location for mixed use development within an MPD, in specific areas where the anticipated larger commercial component can also serve the broader community. The potential of mixed uses is permissive, as opposed to being a requirement of development.

The Main Property has areas designated for Mixed Use and Low Density Residential uses according to the Comprehensive Plan. The application includes several parcels designated for high density residential uses in accordance with Section 18.98.120.F. Table 3.4 in the application materials lists neighborhood commercial as a permitted use in low, medium, and high density residential areas; however, it is not known if this will actually occur, as the application makes no other mention of it.

C. The MPD shall, within the MPD boundary, or elsewhere within the city, provide for sufficient properly zoned lands, and include sufficient incentives to encourage development as permit conditions, so that the employment targets set forth in the comprehensive plan for the number of proposed residential units within the MPD, will, with reasonable certainty, be met before full build-out of the residential portion of the MPD.

The Comprehensive Plan includes the City’s updated projection for 2,677 new jobs by the year 2025. Table 3-8 indicates a goal of attaining 0.5 jobs per household by the year 2025. Therefore, in order to meet this goal, the project should provide approximately 2,400 jobs. The Appendix J Fiscal Analysis of the FEIS contains an analysis of the amount of retail/office square footage to be developed along with employment projections of 1,365 employees. Therefore, it appears that the proposal is not compliant with this standard with regard to jobs provided within the MPD boundary. Staff acknowledges that these are projections and that exact numbers will not be known until the project develops, and that jobs may also be provided elsewhere within the city.

E. Property that is subject to a pre-annexation agreement, Development Agreement or annexation ordinance conditions relating to residential density will have as its base density the minimum density designated in such agreement or ordinance. All other property will have as its base density the minimum density designated in the comprehensive plan.

The Black Diamond Urban Growth Area Agreement (BDUGAA) (Exhibit 7) applies to two portions of the Main property (portions of West Annexation area) and the southeastern portion of the Main Property (South Annexation area). The BDUGAA requires that 145 acres of open space as an offset for the West (63.3 ac) and South Annexation (81.7 ac) areas. The BDUGAA requires that for the West and South Annexation areas a minimum average density of 4 dwelling units/acre be achieved with a base density of 2 du/ac with the remainder achieved through transfer of development rights (TDR).

The remaining portion of the Main Property primarily has a Comprehensive Plan designation of Low Density Residential, which has a base density of 4-6 dwelling units du/gross ac. The northwest corner of the Main Property has a Comp Plan designation of Mixed Use which does not propose a base density. The MPD Overlay requires a minimum of 4 du/ac.

Planned residential development is to consist of approximately 3,600 single family detached and 1,200 attached dwelling units on the approximately 551 acres of the site that will be developed with residential uses (approximately 8.7 du/ac). The minimum 1 unit per acre density allowance in the application is not consistent with the BDUGAA or the City's Comprehensive Plan. A minimum density of 4 du/ac must be achieved and will be a recommended condition of approval.

F. The council may authorize a residential density of up to 12 dwelling units per acre so long as all of the other criteria of this chapter are met, the applicant has elected to meet the open space requirements of section 18.98.140(G), or otherwise is providing the open space required by section 18.98.140(F), and the additional density is acquired by participation in the TDR program. [Remainder not listed here; refer to BDMC for complete code text.]

This provision establishes an overall density of 12 du/ac for the entire proposal, and does not set a maximum cap for specific parcels within the project boundaries. The areas proposed for medium density residential range from 7-12 du/ac and high density 13-30 du/ac (with certain areas dedicated to 18-30 units in accordance with the additional criteria below). The MPD is subject to the requirements of both sections 18.98.140(F) and 18.98.140(G) with analysis provided in a later section of the staff report. As detailed under the analysis above for Sections 18.98.010 and 18.98.020, as conditioned the proposed MPD satisfies these provisions

a. Areas proposed for development at more than 18 dwelling units per gross acre shall be identified on the MPD plan; and

Figure 3-1 Land Use Plan in the MPD application shows eight areas (development parcels V3, V4, V5, V6, V10, V13, V14 and V17) totaling approximately 35 acres intended for high density residential over 18 du/ac.

b. Identified sites shall be located within ¼ mile of shopping/commercial services or transit routes; and

The eight parcels would be located adjacent to proposed shopping/commercial services.

c. The maximum building height shall not exceed 45 feet; and
Table 3.8 Residential Development Standards in the MPD application shows 45 feet as a maximum height for high density residential development.

d. Design guidelines controlling architecture and site planning for projects exceeding 18 dwelling units per gross acre shall be included in the required Development Agreement for the MPD; and

Appendix E of the application contains the high density residential (18-30 du/ac) supplemental design standards and guidelines. Staff is recommending these guidelines become part of the Development Agreement. Analysis of the MPD master plan consistency with the Master Planned Development Framework Design Standards and Guidelines is discussed in a later section of this report.

e. Residential uses located above ground floor commercial/office uses in mixed use areas within a MPD are not subject to a maximum density, but area subject to the maximum building height, bulk/massing, and parking standards as defined in the design guidelines approved for the MPD. No more than two floors of residential uses above the ground floor shall be allowed.

Mixed use as described above is proposed in the application on parcels V11 and V12. A recommended condition should stipulate that no more than two floors of residential uses above ground floor commercial/office uses shall be allowed.

G. Unless the proposed MPD applicant has elected to meet the open space requirements of section 18.98.140(G), or is otherwise meeting the open space requirements of section 18.98.140(F), the following conditions will apply, cannot be varied in a Development Agreement, and shall preempt any other provision of the code that allows for a different standard:

a.-c. [Not listed here; refer to BDMC for complete code text.]

The MPD is subject to the requirements of both sections 18.98.140(F) and 18.98.140(G) with analysis provided in a later section of the staff report. Therefore, the above provisions (a-c) do not apply to this project.

18.98.130 MPD standards - Development standards.

A. Where a specific standard or requirement is specified in this chapter, then that standard or requirement shall apply. Where there is no specific standard or requirement and there is an applicable standard in another adopted city code, policy or regulation, then the MPD permit and related Development Agreement may allow development standards different from set forth in other chapters of the Black Diamond Municipal Code, if the proposed alternative standard:

1.-3. [Not listed here; refer to BDMC for complete code text.]

B. Any approved development standards that differ from those in the otherwise applicable code shall not require any further zoning reclassification, variances, or other city approvals apart from the MPD permit approval.

Chapter 13 of the MPD application lists the applicant's requests for "functionally equivalent standards". There are 19 separate requests that seek to deviate from adopted city codes and standards. Staff finds that many of the requests do not propose a "functionally equivalent" standard, but instead seek to vary or avoid compliance with otherwise applicable City codes and standards (for example, the tree preservation ordinance, landscaping code, and aspects of the Sensitive Areas Ordinance).

In the last two years, with the applicant's knowledge and at times over its objection, the City has adopted the following regulations: 1) new Sensitive Areas Ordinance; 2) Tree Preservation Ordinance; 3) Parks and Recreation Plan; 4) an updated comprehensive plan; 5) new zoning code, including the Gateway Overlay District; 6) new design guidelines; and 7) updated public works standards. The proposed "functionally equivalent" standards appear to reflect the applicant's effort to use the MPD code in order to implement its proposed different development standards. For most of the proposed "functionally equivalent" requests, staff finds that the "public benefit" test is not met. While the applicant is one member of the public, and at this conceptual level of MPD review, the applicant appears likely to be the only member of the public who could or would benefit. For example, there is not enough justification for the alternate parking standards, to apply anywhere besides within the Mixed Use Town Center. A majority of the residential component would be located at a considerable walking/biking distance from commercial uses and as a result it is unlikely that vehicle trips would be reduced. Staff finds that deviations from the City's Sensitive Areas Ordinance should be evaluated on a case by case basis with project specifics and in accordance with BDMC Section 19.10, which offers flexibility and a process for these deviations. Similarly, any deviation from the Tree Preservation Ordinance (BDMC 19.30) should be considered through implementing projects on a case-by-case basis, as there is not a compelling case to exempt this project from compliance.

Staff recognizes the advantages of flexibility and provides a mechanism for exploring alternatives to the City's water, sewer, and storm water comprehensive plan concepts. Staff and the applicant can resolve the large, overarching design issues and work to establish functionally equivalent construction standards as part of the Development Agreement. The Engineering Design and Construction Standards contain an administrative deviation process (section 1.3) that does not require a showing of hardship. Any proposed deviation from standards must show comparable or superior design and quality; address safety and operations; cannot adversely affect maintenance and operation costs; will not adversely affect aesthetic appearance; and will not affect future development or redevelopment. Most of the requested functionally equivalent standards for streets and utilities can be addressed in the Development Agreement and through this administrative deviation process.

Therefore, given the lack of detail and supporting information at this stage of the MPD review process, staff cannot support blanket approval of the suggested functionally equivalent standards related to utilities and transportation. There may be some standards for which overall approval can be granted through the Development Agreement (e.g., striped bike lanes vs. shared lanes).

Staff finds the following request is justified and should be approved in part:

4) 18.80.030-060; Parking—reduced parking standards for the Mixed Use Town Center only. It is common to have flexible parking standards within mixed use and "downtown" areas.

Staff finds the following requests do not need to be considered as "functionally equivalent standards" and can therefore be addressed through the Development Agreement process:

1) 18.100 Definitions—generally, staff does not consider this to be an area where "functional equivalency" is applicable. Staff supports adding only words that are not

already defined in City code, but does not find an advantage in proposed alternative definitions.

6) 18.76 Gateway Overlay District—grading, removal of invasive species, and installation of infrastructure within the public right of way is not subject to the overlay (per Section 18.76.020.B). Therefore, staff finds this request to be unnecessary.

14, 15 & part of 18) 18.38—Community Commercial (CC) Zone Standards and Allowed Uses; Parcel B will be rezoned to MPD if the MPD is approved

19) 18.30—R4 Zone Standards—None of the property associated with The Villages is currently zoned R4, nor will be zoned R4.

18.98.140 MPD standards - Open space requirements.

A. Open space is defined as wildlife habitat areas, perimeter buffers, environmentally sensitive areas and their buffers, and trail corridors. [Remainder not listed here; refer to BDMC for complete code text.]

The project proposes to preserve amounts of open space as detailed on page 3-10 of the MPD application. They include a mix of passive and active areas comprised of sensitive areas such as wetlands, associated buffers, trails, parks, forested areas and utilities such as stormwater ponds. Figure 3-1 of the MPD application shows a majority of the areas dedicated to open space as a coordinated network. The vast majority of open space will be maintained as sensitive areas and their buffers.

The use of sensitive areas and their associated buffers for development including trails, stormwater management, etc. is regulated by the City's sensitive areas ordinance, BDMC Chapter 19.10. Appropriate mitigation, if required, for impacts as well as other required measures would apply and will be evaluated on a case-by-case basis at the time of implementing project application.

Chapter 5 also contains a figure on open space typologies at the MPD project scale. Specific development parcel open space consistency would need to be verified at the permitting stage. Storm ponds should only be considered as open space if they are developed as an amenity for safe and pleasing public recreational use.

B. Natural open space shall be located and designed to form a coordinated open space network resulting in continuous greenbelt areas and buffers to minimize the visual impacts of development within the MPD, and provide connections to existing or planned open space networks, wildlife corridors, and trail corridors on adjacent properties and throughout the MPD.

Figure 3-1 of the application shows dedicated open space areas can serve as a coordinated network. As previously noted, the figure on page 5-5 depicts some areas as "natural open space" that are also proposed to include stormwater facilities. Staff is supportive of allowing stormwater facilities to be considered as open space if they are designed as an amenity. Other than trails and stormwater facilities designed as amenities, staff is recommending that areas shown as natural areas in the figure on Page 5-7 of the application be required to remain natural with the possibility for vegetation enhancement.

The applicant is seeking relief from the Tree Preservation ordinance. The project is proposing to maintain approximately 33.5% of onsite natural state open space (400+ acres). This does not meet the 40% non-disturbed open space requirement identified within BDMC section 19.30.070.

The intent of the Tree Preservation Ordinance was to help maintain a “rural by design” character, but allow for flexibility in cases where development would set aside a significant amount of open space as part of their development proposal. The Villages development sets aside approximately 33.5% of open space, mostly encompassed by wetlands and their buffers. A good portion of these areas do not contain stands of significant trees, but rather wetland plants and shrubs. Significant tree stands are reduced due to this physical characteristic of the set aside open space. The application proposes that other facilities including stormwater and trails could be located within the 400+ acres of natural open space, therefore reducing the percentage of existing trees even more. For these reasons, a reduction, as requested by the applicant, is not advised as it does not appear to be consistent with the City’s vision or code (BDMC 19.30).

It is unclear if tree retention is proposed on a project by project basis. Additional tree preservation within the proposed developed areas within the Master Planned Development is more consistent with the intent of the tree preservation ordinance, specifically, “Site design should integrate significant trees into required landscaping.”

The applicant should identify additional tree preservation stands on a project by project basis. This is more consistent with the intent of the tree preservation ordinance. The Development Agreement should include text that defines when and under what conditions a parcel may be logged for timber revenue, how that parcel must be secured to minimize the impacts on the community and how long the parcel may remain un-worked before it must be reforested.

The Development Agreement should include a narrative of the process and basis for removing selective hazard trees at the project perimeter. The intent of this section will be to leave the majority of the perimeter as designated passive open space, but to have it appear and function as native forest.

C. The open space shall be located and designed to minimize the adverse impacts on wildlife resources and achieve a high degree of compatibility with wildlife habitat areas where identified.

The MPD application appears to do this as open space is outlined by sensitive areas and their relevant buffers. Additionally, the Fish and Wildlife section in Chapter 4 of the FEIS contains information regarding the proposed project’s impacts. Mitigation measures related to fish and wildlife are recommended as conditions of approval.

D. The approved MPD permit and Development Agreement shall establish specific uses for open space within the approved MPD.

A recommended condition of approval is to require that areas shown as natural open space/areas in the figure on Page 5-7 of the application to remain natural, with the possibility for vegetation enhancement. No other land clearing shall be permitted besides trails and storm ponds. Chapters 3 and 5 of the MPD application, including tables 3.4 and page 5-6, describe proposed open space uses.

As much of the open space has been identified as sensitive areas and their associated buffers, minimal flexibility exists as it relates to uses within these areas. All activities shall be conducted in accordance with BDMC Chapter 19.10. The Development Agreement shall include a tabular list of the types of activities and the characteristics of passive open space and active open space so that future land applications can accurately track the type and character of open space that is provided. The

Development Agreement should include language that specifically defines when the various components of permitting and construction must be approved, completed or terminated (e.g., when must open space be dedicated, plats recorded, and utility improvements be accepted by the City).

E. The approved MPD permit and Development Agreement shall establish which open space shall be dedicated to the city, which shall be protected by conservation easements, and which shall be protected and maintained by other mechanisms. (Ord. 779 § 2 Exh. 1 (part), 2005)

Page 5-2 of the MPD application describes proposed ownership. Staff is recommending that specific details on which open space is to be dedicated to the city, protected by conservation easements or protected and maintained by other mechanisms be established as part of the Development Agreement.

Staff is concerned that public access to open space is maintained, as it is a significant component of the vision of the community. Closed parks and trail segments limit passive and active recreational opportunities to significant natural resources.

Homeowners Association (HOA) maintained facilities have shown to include both negative and positive outcomes. These issues include:

1. No maintenance or repair obligations for these facilities can be a significant cost savings to the City's budget.
2. Less ability to ensure that these facilities are maintained at appropriate levels. Experience has shown that it is difficult for cities to regulate adequate maintenance even if they are not in compliance with City standards.
3. Limited access to these facilities to the general public.

Staff and the applicant should negotiate language to be included within the Development Agreement that will allow for public access to parks and trails facilities. City ownership of major park and trail facilities may be preferred to ensure the availability of these facilities to the general public and consistency within code section 18.98.150. Staff recommends that this issue be resolved through the Development Agreement process.

F. An approved MPD shall contain the amount of open space required by any prior agreement.

As discussed previously, the MPD application appears to meet the standards as outlined in previous agreements as it pertains to open space.

G. If an applicant elects to provide fifty percent (50%) open space, then the applicant may be allowed to vary lot dimensions as authorized elsewhere in this chapter, cluster housing, and seek additional density as authorized in Section 18.98.120(F).

The application is seeking to vary lot dimensions, cluster housing and include high density residential housing (pursuant to Section 18.98.120.F). Therefore the portions of the MPD not subject to prior agreements are required to provide 50% open space (336.4 ac total). Page 3-21 of the MPD application indicates that the proposal is to have a minimum of 481.4 acres but will be providing 505 acres of open space. The MPD proposal satisfies this requirement.

18.98.150 MPD standards - On-site recreation and trail requirements.

A. An MPD shall provide on-site recreation areas and facilities sufficient to meet the needs of MPD residents, exceeding or at a minimum consistent with levels of service adopted by the city where applicable. This shall include providing for a coordinated system of trails and pedestrian linkages both within, and connecting to existing or planned regional or local trail systems outside of the MPD.

B. The MPD permit and Development Agreement shall establish the sizes, locations, and types of recreation facilities and trails to be built and also shall establish methods of ownership and maintenance. (Ord. 779 § 2 Exh. 1 (part), 2005)

Chapter 5 of the MPD application contains information regarding proposed recreation areas and facilities. The proposal meets the adopted levels of service with regard to parks.

Based on maps included with the application, it appears that a significant amount of trail systems will be located within the buffer areas and potentially within sensitive areas themselves. The use of sensitive areas and their associated buffers for development including trails and stormwater management requires appropriate mitigation and other requirements in accordance with BDMC Section 19.10. Staff recommends that a component of the Development Agreement include a unit trigger for when trails need to be constructed.

Staff has concerns with regard to the use of publicly owned property (namely, Lake Sawyer Regional Park), for the use by the applicant in meeting Recreational Facility Standards under the Parks, Recreation and Open Space Plan (adopted December 2008). The regional park site currently exists as raw, undeveloped land, meaning that significant financial resources, on the magnitude of \$4.5 million, have been estimated in the development of Phase I of the regional park.

Staff also has concerns regarding the proposed recreational facility payment figures proposed by the applicant (see Table 5.2 of the application) for fee in lieu of construction. These values do not appear to include the cost of land acquisition or the elevated costs for public construction projects if monies were to be dedicated to the City for their construction. If the fee in lieu concept is acceptable to the city, then staff recommends that as part of the Development Agreement negotiations, these values are re-evaluated to ensure appropriate levels of funding, include a mechanism to account for inflationary increases in construction costs, and potentially, the costs of maintaining these types of facilities in the future.

Additionally, staff is concerned that there is an adequate amount of property suitable for park development outside of the proposed project. Areas designated as “sending areas” within the transfer of development right program are considered sensitive and are limited in what can be constructed. More suitable, developable land will need to be acquired in order to accommodate recreation activities off-site. Other issues including access, parking and maintenance of these facilities need to be evaluated and are more appropriately addressed on a case by case basis. The proposal that the applicant/Master Developer has discretion of when to provide a lump sum payment in lieu of constructing recreational facilities is not supported by staff. To do so could place hardships on municipal resources to provide these types of facilities, if property reserves do not exist and the lump sum payment does not equate to adequate financial resources to construct the facility appropriately.

Dependant on the availability of land, the adequacy of funds to construct City-approved recreational facilities and an ability to maintain these facilities, staff recommends that the Development Agreement be required to include a provision that the City, not the applicant, will maintain discretion when and if a lump sum payment will be accepted in lieu of constructing off-site recreational facilities.

18.98.155 MPD standards – sensitive areas.

A. The requirements of the Sensitive Areas Ordinance (BDMC 19.10) shall be the minimum standards imposed for all sensitive areas.

The Sensitive Areas Ordinance (BDMC 19.10) includes mechanisms that provide flexibility with regard to altering building setbacks, alteration of geologically hazardous areas and the alteration of wetland, streams and their associated buffers. These mechanisms can include an exception process, mitigation, or even administrative approval, dependant on the issue for which an applicant is seeking relief.

At this time, staff does not recommend approval of deviations and/or functionally equivalent standards as they pertain to sensitive areas, due to lack of specific project information to the associated alterations and means for mitigation, if needed. Potential approvals need to be addressed on a case by case basis, with specific project details that are not included within the MPD application. Any and all alterations to sensitive areas should be processed through mechanisms established in BDMC 19.10.

Further, staff recommends that all houses that are sold in classified or declassified coal mine hazard areas be sold with a liability release from the homeowner to the City. The release must recognize that the City is not liable for actual or perceived damage or impact from the coal mine hazard area. The release form should be developed and included in the Development Agreement.

Staff also recommends that geologically hazardous areas should be designated as open space, with roads and utilities routed to avoid such areas. Where avoidance is impossible, the applicant should utilize the process in BDMC 19.10 (supplied with adequate information as defined in code) and the Engineering Design and Construction Standards to build roads and utilities through these areas.

Staff recommends that once the mapped boundaries of sensitive areas have been agreed to between the applicant and staff, the Development Agreement shall include text that identifies that these areas are fixed. If during construction it is discovered that the actual boundary is smaller or larger than what was mapped, the mapped boundary should prevail. The applicant should neither benefit nor be penalized by errors or changes in the sensitive area boundaries as the projects are developed.

B. All development, including road layout and construction, shall be designed, located and constructed to minimize impact of wildlife habitat and migration corridors. This shall include minimizing use of culverts in preference to open span crossings.

Regarding the proposed “Community Connector at Sensitive Areas” (Figure 4-4 in the MPD application) staff finds that impacts to sensitive areas and buffers should be mitigated, if necessary, in accordance with BDMC 19.10. Impacts are more appropriately addressed on a case by case basis; staff is not support the specific details of this proposed street section at this time.

18.98.160 MPD standards - Transfer of development rights.

A. All proposed transfers of development rights shall be consistent with the TDR program (Chapter 19.24). An MPD permit and Development Agreement shall establish the TDR requirements for a specific MPD. Maximum allowable MPD residential densities can only be achieved through participation in the city's TDR program as a receiving site. (Ord. 779 § 2 Exh. 1 (part), 2005)

The MPD application appears to be consistent with the City's transfer of development rights program. Specifics as it pertains to development right use and timing should be included within the Development Agreement.

B. Property that is subject to a pre-annexation agreement, Development Agreement or annexation ordinance conditions relating to residential density will have as its base density the density designated in such agreement or ordinance. All other property will have as its base density the minimum density designated in the comprehensive plan.

This has been previously discussed in this report.

18.98.170 MPD standards - Street standards.

A. Street standards shall be consistent with the MPD design guidelines, which may deviate from city-wide street standards in order to incorporate "low impact development" concepts such as narrower pavement cross-sections, enhanced pedestrian features, low impact stormwater facilities, and increased connectivity or streets and trails. Any increased operation and maintenance costs to the city associated therewith shall be incorporated into the fiscal analysis.

Functionally equivalent standards are expected be approved on a general level in the Development Agreement and specific deviations can be dealt with through the existing deviation process at the site development and design phase.

B. The street layout shall be designed to preserve and enhance views of Mt. Rainier or other views identified in the city's comprehensive plan to the extent possible without adversely impacting sensitive areas and their buffers.

The application materials indicate that the Community Connector Road and multiple parks are designed to enhance views of Mt. Rainier. There are very limited opportunities for views of Mt. Rainier on The Villages main property. The school site in parcel F may have some views of Mt. Rainier if the areas to the south are cleared. There appears to be reasonable opportunities for views from Parcel B that will be further enhanced if the nearby tailing piles are removed in the future. Staff recommends that these view opportunities be explored and incorporated into the planning process.

C. The approved street standards shall become part of the MPD permit approval, and shall apply to public and private streets in all subsequent implementing projects except when new or different standards are specifically determined by the city council to be necessary for public safety.

Staff recommends that implementing projects shall be designed to foster the development of a street grid system. Functionally equivalent standards are expected be approved on a general level in the Development Agreement and specific deviations will be dealt with through the existing deviation process at the site development and design phase.

18.98.180 MPD standards - Stormwater management standards.

A. The stormwater management system shall enhance the adopted standards that apply generally within the city, in order to implement the concepts in sections 18.98.010(C), (H), and (L), 18.98.020(B) and (C), and 18.98.180(C). The stormwater detention system shall be publicly owned. Provided, in non-residential areas, the use of private vaults and filters may be authorized where: 1) the transmission of the stormwater by gravity flow to a regional system is not possible and 2) there is imposed a maintenance/replacement condition that requires vault filters to be regularly inspected and maintained by the property owner.

The MPD application states that the 2005 Ecology manual is “expected to be adopted”. The City adopted this in June 2009 and it will be applicable to this project until such time as the city may be required to adopt an updated stormwater manual by state mandate as a requirement of the City’s Phase II Municipal Stormwater General Permit.

The proposal meets city standards and with the additional goals and conditions will provide several enhancements:

- Regional infiltration pond will provide a central low maintenance facility that could also provide multipurpose recreational opportunities.
- Regional infiltration pond will provide opportunities for storm water reuse which could further conserve potable water.
- Low impact development proposal with HOA maintenance will provide distributed infiltration that will be closer to natural stormwater flow regimes.

During construction, an NPDES permit for stormwater treatment and discharge will be required from the Department of Ecology. These permits are administered by Ecology and are separate from city permits. The City does not have a role in the NPDES process except to insure that any subsequent permits issued by the City do not conflict with the NPDES permit requirements. The City does have an obligation through the city illicit discharge, detection and elimination to prohibit polluted water from construction sites as well as oversight and inspection of the grading and construction. Staff recommends that the Development Agreement include language that will require developers and contractors to comply with any NPDES permits issued by the Department of Ecology. Although permit conditions imposed by NPDES permits are not administered by the City, staff reserves the right to enforce the conditions of the NPDES permit. Since the city has a high interest in protecting receiving waters under the city storm water permit, the developer should be required to cover the City’s cost of NPDES storm water permit oversight.

Staff objects to the developer taking the approval authority away from the City, as detailed on page 6-5 of the application. As the City is the approving authority and will ultimately own and be responsible for most of the proposed storm water facilities, staff does not concur with the terms “without preference”. Staff recommends that the City reserve the right to reject higher maintenance cost facilities when lower maintenance cost options may be available.

Staff recognizes that there are water quality and balance challenges that are addressed in the storm water management concept and also that storm water management is not an exact science and that shifts in the distribution of storm water may be appropriate and benefit wetlands, lake, streams or groundwater environments. Staff therefore recommends that the Development Agreement include language to allow for adaptive management of the distribution of stormwater when justified by technical analysis and

risk assessment, as long as the impacts to on-site and off-site environment are maintained or enhanced.

Over time, the City may be required to implement new storm water regulations as mandated by the Department of Ecology through the City's storm water discharge permit. Staff therefore recommends storm ponds for hydraulic sizing purposes vest phase by phase to the extent allowed by the City's storm water discharge permit and state law.

B. The stormwater management system shall apply to public and private stormwater management systems in all subsequent implementing projects within the MPD, except when new or different standards are specifically determined by the city council to be necessary for public health or safety, or as modified as authorized in section 18.98.195(B).

The City's storm water codes apply to both public and private improvements.

C. Opportunities to infiltrate stormwater to the benefit of the aquifer, including opportunities for reuse, shall be implemented as part of the stormwater management plan for the MPD.

The stormwater management plan proposed as part of The Villages takes advantage of the soil conditions in and around the project for infiltration. The stormwater management plan will incorporate distributed infiltration through Low Impact Development and a regional infiltration pond for the excess volume from the developed site. Opportunities for water reuse are preserved with the central collection of stormwater.

D. The use of small detention/retention ponds shall be discouraged in favor of the maximum use of regional ponds within the MPD, recognizing basin constraints. Ponds shall be designed with shallow slopes with native shrub and tree landscaping and integrated into the trail system or open space corridors whenever possible. Small ponds shall not be allowed unless designed as a public amenity and it is demonstrated that transmitting the stormwater to a regional pond within the MPD is not technically feasible.

A regional storm water system is proposed with sensitivity to existing wetlands and water balance within the basins. Staff recommends that stormwater ponds proposed to be included as "open space" should be required to be developed as a public amenity (i.e., safe, accessible, and aesthetically pleasing). As a recommended condition of approval, mechanisms should be identified to integrate LID into the overall design of the MPD for the benefit of these resources, provided that future Homeowners' Associations bear the increased cost of landscape maintenance.

18.98.190 MPD standards - Water and sewer standards.

A. An MPD shall be served with public water and sanitary sewer systems that:

- 1. Employ innovative water conservation measures including metering technologies, irrigation technologies, landscaping and soil amendment technologies, and reuse technologies to reduce and/or discourage the reliance upon potable water for nonpotable uses including outdoor watering.**

See B below in this section.

- 2. Are designed in such a way as to eliminate or at a minimum reduce to the greatest degree possible the reliance upon pumps, lift stations, and other**

mechanical devices and their associated costs to provide service to the MPD.

Staff recognizes that it may be impractical in the early stages of this project to construct the regional sewer pump station within the area identified within the application as the western expansion parcel. Staff therefore recommends acceptance of an interim sewer pump station provided that:

- Routing of the gravity sewer mains is consistent with the City's ultimate plan for routing sewage.
- No capital facility charge credit will be considered for interim improvements.

For the northern parcel, the application states there will be a point of connection in SR 169. Although that connection point will functionally work, staff recommends requiring the abandonment of the Diamond Glen sewer pump station and connection of the new sewer force main to the existing Diamond Glen sewer force main. Staff is opposed to continued installations of redundant interim sewer pump stations.

A pump station may be necessary to serve the easternmost portion of Parcel F. Alternatively, if the property to the north has developed or easements are obtained the eastern area of Parcel F can be served by gravity to the existing King County Jones Lake sewer pump station.

King County is in the predesign phase of an equalization sewer storage project to reduce the peak flow from the Black Diamond sewer service area. Currently, the City and King County have different concepts on where the storage facility should be located. When the final location is determined, the applicant may need to shift the sewer infrastructure project planning to deliver sewage from The Villages to a location up stream of the existing King County pump station G located just southwest of existing downtown Black Diamond.

Page 8-1 of the application states, "Since water use can vary significantly depending...projected water use per ERU will be determined at the preliminary plat, binding site plan or site plan approval stage and confirmed prior to Occupancy." This statement implies that the developer can establish their own capital facility charge rate based on projected water use within The Villages, an idea for which staff is not supportive. The City has always set capital facility charges and the water use per ERU by city wide studies and comprehensive planning based on historic water use patterns. Staff anticipates that water conservation efforts will, in time, affect the average household consumption and the water consumption per ERU may be reduced in the future as water use patterns change. Staff does not recommend treating the developer or future residents of The Villages differently than other customers or developers in the city.

The planned projects for water service to The Villages are consistent with the City's Water Comprehensive Plan. The City and developer may opt to investigate new alternatives to distribute water to The Villages that will meet fire flow requirements, maintain redundant looping of the water system and perhaps reduce the needed facilities without compromising the level of service. The water comprehensive plan may need to be updated if a new water distribution concept is found to be a viable option. Staff recommends that the applicant be required to cover the cost of a water comprehensive plan update, if needed, before the next scheduled update.

B. Each MPD shall develop and implement a water conservation plan to be approved as part of the Development Agreement that sets forth strategies for achieving water conservation at all phases of development and at full buildout, that results in water usage that is at least ten percent less the average water usage in the city for residential purposes at the time the MPD application is submitted. For example, if the average water usage is 200 gallons per equivalent residential unit per day, then the MPD shall implement a water conservation strategy that will result in water use that is 180 gallons per day or less per equivalent residential unit.

Staff finds the proposed water conservation plan to be acceptable, but recommends it be evaluated for its effectiveness in light of the City's available water resources after 500 to 500 units have been constructed. At that time, additional measures may be necessary.

Master Planned Development Framework Design Standards and Guidelines:

The Design Guidelines have greater relevancy and applicability at the stage of individual implementing projects, particularly since the applicant's proposal now is fairly general in nature. Therefore, staff comments will often note that it is not possible to determine compliance, or lack of compliance, until the actual project stage(s). However, the guidelines will remain applicable as further site planning occurs and specific projects are brought forth.

GENERAL PRINCIPLES AND SITE PLANNING

A. Environmentally Sustainable

Intent

To provide resource-efficient site design which includes consideration for saving trees, constructing on-site stormwater retention/infiltration features, and building orientation to maximize passive solar heating and cooling.

As previously noted, the applicant has requested a blanket exemption from the Tree Preservation Ordinance, which staff does not support. The application indicates a desire to use Low Impact Development techniques for treating and disposing of stormwater. Staff is recommending this be pursued (see comment on previous page). Since no specific lot layouts are included in the current proposal, compliance or noncompliance with solar orientation cannot be determined at this time.

Guidelines

1. Implement a construction waste management plan to reduce construction waste. Consider life-cycle environmental impacts of building materials.

Staff recommends the applicant be required to submit a construction waste management plan as part of the Development Agreement.

2. Incorporate energy saving techniques into all aspects of building's design and operation.

This will be evaluated at the time of individual building permit applications.

3. Maximize water conservation by maintaining or restoring pre-development hydrology with regard to temperature, rate, volume and duration of flow; use native species in landscaping; recycle water for on-site irrigation use.

See response to #1, above. Staff is recommending the use of native vegetation in street landscaping and in parks. Staff recommends that the Development Agreement be

required to include a water conservation plan with performance measurements; a general landscape plan; and a stormwater management plan.

4. Use measures that can mitigate the effects of potential indoor air quality contaminants through controlling the source, diluting the source, and capturing the source through filtration.

This will be addressed at the time of future building permit applications.

5. Reduce overall community impacts by providing connectivity from the project to the community; by incorporating best management practices for stormwater management; by creating useable public spaces such as plazas and parks; and by protecting important community-identified viewsheds and scenic areas.

A high east-west pedestrian demand is expected to develop along Auburn Black Diamond Road/Roberts Drive to and from The Villages and existing neighborhoods to the east. The existing Roberts Drive bridge over Rock Creek is unsafe for pedestrians. Staff recommends that a connecting sidewalk and safe pedestrian connection to the programmed sidewalk in the Morganville area should be required as a condition of approval. Construction timing should be specified in the Development Agreement.

6. Grading plans shall incorporate best management practices with phased grading to minimize surface disturbance and to maintain significant natural contours.

A grading plan has not been proposed at this time, so compliance or noncompliance with this guideline cannot be determined. However, this does not relieve the applicant from the need to comply with this provision in the future.

Chapter 1 of the MPD application indicates that the applicant proposes to remove and export approximately 3,000,000 million cubic yards of soil, which is inconsistent with this objective. Specific areas where this might occur are not identified in the application materials, making it difficult to judge how the existing landforms will be impacted. If very much of the top layer of soil is removed in areas where there is a shallow glacial till dense restricting area, the potential for implementation of Low Impact Development techniques will be adversely impacted.

Staff is recommending a condition establish a goal to balance the cut and fill within the site. Staff recognizes that in order for urban development to occur, the natural undulations and occasional sharp pitches in the natural grade will need to be graded for street and urban living compatibility. Allowing initial site grading will provide better, more consistent utility depths and minimize retaining walls and steps to homes and other buildings. However, on a site of this size, site grading can be done without having to export 3,000,000 cubic yards of material.

Staff recommends that, before the approval of the first implementing plat or site development permit within a phase, the applicant must submit an overall grading plan that will balance the cut or fill so that the amount of cut or fill does not exceed the other by more than 20%. This will insure that unnecessary mining of material will not occur and reuse of existing materials will be maximized. Staff is also recommending that the applicant employ a majority of native species in the landscaping, another reason to retain native soils that are compatible with native species.

B. Using Open Space as an Organizing Element

Intent

Guidelines

1.-2. [Not listed here; refer to Design Guidelines for complete text.]

Staff finds that the proposal meets the intent of these guidelines.

3. Stands of trees as an element of open space. Due to the propensity of severe wind events in the Black Diamond area, an MPD should incorporate the preservation of larger rather than smaller stands of native trees.

There are forested areas proposed for retention as open space (see Figure 10-1 and compare to the Land Use Plan (Figure 3-1). Staff is recommending a condition that will require a tree inventory prior to the development of implementing projects so that other opportunities to preserve trees may be realized.

C. Integrating Development with Open Spaces

Intent

Guidelines

1.3. [Not listed here; refer to Design Guidelines for complete text.]

Staff finds that the proposal meets the intent of these guidelines.

D. Ensuring Connectivity

Intent

Guidelines

1. [Not listed here; refer to Design Guidelines for complete text.]

A high east-west pedestrian demand is expected to develop along Auburn Black Diamond Road/Roberts Drive to and from The Villages and existing neighborhoods to the east. The existing Roberts Drive bridge over Rock Creek bridge is unsafe for pedestrians. Staff recommends that a connecting sidewalk and safe pedestrian connection to programmed sidewalk construction in the Morganville area should be required as a condition of approval. Construction timing should be specified in the Development Agreement.

2. Street Connectivity

a. The system of streets shall demonstrate a high degree of both vehicular and pedestrian connectivity, allowing residents and visitors multiple choices of movement. Isolated and dead-end pockets of development are not desired.

The proposal only depicts the basic “skeleton” of a future street system and descriptions of street types including cul-de-sacs, so compliance or noncompliance with this guideline cannot be determined at this time. This guideline will continue to apply as implementing projects are proposed. Also see previous discussion regarding the extension of the Community Connector to SR 169.

For clarification, on page 4-26 of the application, a connection point to Green Valley Road is referenced. It is assumed that this connection point reference was not changed from when earlier versions of the application included a connection to the Green Valley Road. The applicant has indicated they no longer plan a connection to Green Valley Road and such a connection is not depicted on the Land Use Plan.

b. Cul-de-sacs shall be avoided unless there are no other alternatives.

Compliance or noncompliance with this guideline cannot be determined at this time.

E. Mixing of Housing

Intent

To encourage a diversity of population and households within Black Diamond through a range of choices in housing types and price.

Guidelines

1. MPD's shall include various types of housing, such as:

a.-e. [Not listed here; refer to Design Guidelines for complete text.]

As noted previously in this report, it is not clear what the intended housing mix in the project will be. The Executive Summary states all non-multifamily housing will be "single family detached," yet the description of low and medium density residential areas indicates intent to comply with this policy. As previously noted, staff is recommending compliance with this guideline be required.

2. Each cluster of development shall include a variety of unit types and densities.

Unknown at this time, as that level of project details are not yet available. As noted, the application is unclear at this stage regarding the planned unit mix.

3. For Single Family developments, alley access to garages is desired. Direct driveway access to streets should only occur if there are no other alternatives.

Page 3-30 of the MPD application materials indicates that front loaded single-family homes will, "form the majority of the residential typology" within The Villages MPD. This is inconsistent with this guideline; staff recommends that generally, no more than 25% of housing be "front-loaded lots."

While alleys provide convenience and a clean streetscape, staff anticipates that the City will not be able to cover the additional cost of policing the alleys and maintaining double public street frontage. The City does not have the ability to charge a street utility fee as suggested on page 12-15 (City Special Funds) of the application. Staff recommends requiring that cul-de-sacs serving less than 20 lots, alleys and auto courts be privately owned and maintained.

4. Large apartment complexes and other repetitive housing types are discouraged. Apartments should replicate features found in Single Family Residential areas (i.e. garages associated with individual units, individual outdoor entries, internal driveway systems that resemble standard streets, etc.).

Other than the high density residential guidelines included as Appendix E to the application, the applicant has not submitted this level of detail. Compliance with this guideline can be required as a condition of the Development Agreement.

F. Creating Neighborhood Civic/Commercial Centers

Intent

To conveniently concentrate services and activities to serve multiple residential clusters.

The proposed Town Center and uses on Parcel B satisfies this provision. Although the proposed allowed uses in the various land use categories indicate the potential for small scale (neighborhood) commercial development occurring in the residential classifications, actual locations are not defined at this time. Staff recommends that commercial areas be identified on the Land Use Plan through a future amendment to the MPD. Proposed parks are located in areas which comply with this guideline.

Guidelines

1.-2. [Not listed here; refer to Design Guidelines for complete text.]

See response above.

3. Upper story housing above retail or commercial space is strongly encouraged within Civic/Commercial Centers.

Development parcels V11 and V12, with approximately 160 dwelling units, are proposed as a mixed use component of the Town Center.

G. Interface with Adjoining Development

Intent

To ensure a transition in development intensity at the perimeter of MPD projects.

Guidelines

1. Where individual lot residential development is located along the boundary of an MPD, lot sizes shall be no less than 75% the size of the abutting residential zone or 7200 sq. feet, whatever is less.

2. Multi-family and non-residential land uses should include a minimum 25 ft wide dense vegetative buffer when located along the boundary of an MPD.

3. When there is no intervening development proposed, a minimum 25 ft wide dense vegetative buffer should be provided between main entrance or access routes into an MPD and any adjoining residential development.

Compliance with these standards will be required at the time of implementing projects. In addition, staff finds that the minimum buffer along the eastern border of development parcel V13 should be 50 feet. Existing vegetation should be retained and augmented with native plantings. The minimum buffer along the western border of development parcels V1, V2, V10, V15 and V20 should be 50 feet. Existing vegetation should be retained and augmented, except for construction of the planned regional trail with native plantings.

CIRCULATION

A. Streets

Intent

To establish a safe, efficient and attractive street network that supports multiple choices of circulation, including walking, biking, transit and motor vehicles.

The new Pipeline Road, the South (Community) Connector and the North Connector through parcel B will provide new efficient transportation links that will avoid having to increase existing roads to 4 or 5 lanes. The network of trails and bike lanes will provide alternate means for local travel. The connection points to surrounding urban zoned properties will provide for future connectivity. Also see previous discussion regarding the extension of the Community Connector to SR 169.

1. Connectivity

a. The street layout shall create a network that promotes convenient and efficient traffic circulation and is well connected to other existing City streets.

See requirements above.

2. Design

a. The layout of streets should relate to a community-wide focal point.

The street design does provide for a neighborhood focal point at the elongated roundabout near The Villages center.

b. A consistent overall landscape theme should be utilized, with variations provided to indicate passage through areas of different use, densities, topography, etc.

Application includes a variety of street sections, which can be unified through a landscape theme that emphasizes the use of native plant species.

c. Limit the use of backyard fences or solid walls along arterial streets.

Compliance with this standard will be required at the time of implementing projects.

3. Reduced Pavement Widths

a. Pavement widths should be minimized to slow vehicular speeds and maintain an area friendly to pedestrians and non-motorized users.

The City street standards were just established in June of 2009 and were reduced in width to keep this goal in mind. The Villages proposed streets are very similar to the city standard streets but in some cases are wider. The design standards will be established through the Development Agreement and the design deviation process.

4. Low-Impact Design

a. Stormwater runoff should be reduced through “natural” techniques: flush curbs, bio-filtration swales, use of drought-tolerant vegetation within medians and planting strips, etc.

This has been previously discussed in this report.

5. Traffic calming methods should include:

- Roundabouts
- Traffic Circles
- Chicanes
- Corner bulbs

Two roundabouts are proposed along the Community Connector. Staff recommends that traffic calming measures be explored with each implementing development action, at the discretion of the Public Works Director.

6. Lanes and Alleys

a. Access to rear residential garages and commercial loading and service areas shall be available through lanes and alleys.

As noted, the application materials indicate that the majority of homes will be “front loaded lots,” which is inconsistent with this guideline.

In order to balance the impact of the added street maintenance and the proposed street standards with higher maintenance costs, staff is recommending that all cul-de-sacs and auto courts serving 20 units or less, and all alleys be private and maintained by the Master Developer or future Homeowners Association(s).

7.a-8.a [Not listed here; refer to Design Guidelines for complete text.]

Compliance with these standards will be required at the time of implementing projects.

The details of these design features will be resolved through the Development Agreement and the design deviation process. The City does not have adequate funds to

manage street landscaping. The staff is recommending that future Homeowners' Association(s) be required to maintain the street side landscaping.

9. On-Street Parking

a. Curbside parallel parking shall be included along residential streets. Parallel or angle parking should be included within non-residential areas.

The proposed street standards indicate that parallel parking will be available along residential streets.

B. Sidewalks

Intent

Guidelines

1.-3. [Not listed here; refer to Design Guidelines for complete text.]

The Villages proposal provides a good network of trails, sidewalks and bike lanes within the project itself. A safe sidewalk link is needed and will be required from The Villages to Morganville (current west Black Diamond) along the Auburn Black Diamond Road/Roberts Drive. The area of greatest concern is the narrow bridge over Rock Creek. Compliance with these standards will be required at the time of implementing projects.

C. Walkways and Trails

Intent

To provide safe, continuous pedestrian linkages throughout and sensitive to the project site, open to both the public and project residents.

The Villages proposal provides internal safe continuous pedestrian linkages with sidewalks and trails. With the one additional off-site sidewalk pedestrian link along Auburn Black Diamond Road/Roberts Drive, this guideline will be met.

Guidelines

1. Location

a. Walkways and trails shall be integrated with the overall open space network as well as provide access from individual properties. Trail routes shall lead to major community activity centers such as schools, parks and shopping areas.

Staff finds that the proposal meets the intent of this guideline.

2. Width

a. Not less than 8 feet wide to allow for multiple modes of use.

Both 8' wide hard and a 6' wide soft surface trail types are proposed within the project (see page 5-29 of the application). A 5' wide boardwalk trail section is also proposed for limited use. Staff finds that the proposal meets the intent of this guideline, with the exception of the soft-surface trail which is proposed to be 6' in width.

3. Materials

a.-b. [Not listed here; refer to Design Guidelines for complete text.]

Staff finds that the proposal meets the intent of this guideline.

SITE DESIGN

A. Cluster Development

Intent

To ensure that development is compatible with the small town character currently found within Black Diamond.

Guidelines

- 1. Larger groupings of development should be divided into smaller neighborhood clusters of approximately 50 dwelling units that are defined by open space.**

Additional measures will be necessary as components of implementing projects to break up larger parcels further than the proposed open space network does. Compliance with this standard will be required at the time of implementing projects.

- 2. Clustering**

Within projects, higher density residential development shall be designed to have a village-like configuration. This includes elements such as:

- a.-b. [Not listed here; refer to Design Guidelines for complete text.]**

Compliance with this standard will be required at the time of implementing projects.

B. Neighborhood Common Space

C. Landscaping & Planting Design

D. Stormwater Detention/Retention Ponds

Intent, Guidelines [Not listed here; refer to Design Guidelines for complete text.]

Compliance with these standards will be required at the time of implementing projects.

Storm ponds should only be considered as open space if they are developed as an amenity for safe and pleasing public recreational use. Since storm ponds developed in this manner will likely exceed the normal level of landscaping maintenance for a standard City-owned facility, staff recommends future Homeowner Association(s) be required to provide landscape maintenance of any storm pond that will be counted as open space.

BUILDING DESIGN

A. Residential Building Design

Intent

To ensure that new development complements and strengthens the character of Black Diamond and to allow for maximum flexibility in location, size and configuration of houses while ensuring that residential structures are in scale with lot sizes.

Staff is recommending that Homeowners Association(s) conditions, covenants and restrictions (CCRs) or the Architectural Review Committee be required to allow the use of green technologies such as solar panels.

Guidelines

- 1. Variety of Styles**

a. Provide a variety of building solutions through the mixing of one and two story building profiles. Limit the amount of replication of building styles within one block.

Compliance with this standard will be required at the time of implementing projects.

- 2. Setbacks of Houses to Create a Sociable Environment**

a. The front facades of houses should be setback between 5 and 15 feet from the back of the sidewalk. Vary front and side yard setbacks from house to house to provide interest and variety.

Staff finds that the proposal meets the intent of this guideline.

- 3. Setbacks of Garage to Reduce Visual Impact**

- a. **The preferred location for garages is at the rear of the lot, with vehicular access being provided from an alley. Garage doors should be within 10 ft of the alley.**
- b. **If alley access is not possible, then garages shall be setback at least 20 ft from back of the sidewalk. That distance can be reduced when garage doors do not face the street.**

The project proposes 18' front yard setbacks (see page 3-28 of the application), which is not consistent with the above standard. Staff is recommending this issue be deferred to the Development Agreement, together with other specific lot standards.

4.-5. [Not listed here; refer to Design Guidelines for complete text.]

Compliance with this standard will be required at the time of implementing projects.

6. Floor Area Ratio (FAR) (Building size to lot size)

- a. **FAR for detached residential development should not exceed 0.75;**
- b. **Attached forms of residential may be up to 1.0 FAR;**
- c. **Within Commercial/Civic Centers, residential development FAR may be as high as 2.5**

The applicant has indicated opposition to establishing any type of FAR standard. This issue can be resolved through the Development Agreement process, and implemented at the time of project applications.

7.-10. [Not listed here; refer to Design Guidelines for complete text.]

Compliance with these standards will be required at the time of implementing projects.

NON-RESIDENTIAL BUILDINGS SHALL BE SUBJECT TO APPLICABLE CITY OF BLACK DIAMOND DESIGN GUIDELINES.

Compliance with this standard will be required at the time of implementing projects.

OTHER ISSUES

The following analysis covers items not otherwise already addressed.

FIRE DEPARTMENT

The City of Black Diamond has adopted the 2006 version of the International Fire Code.

Access: All Fire Department access roads should be required to meet the International Fire Code, specifically Section 503 (Fire Department Access Roads) and Appendix D (Fire Department Access Roads). Generally this requires that all roads be at least 20 feet in unobstructed width with 13 feet 6 inches of unobstructed vertical clearance across the entire road surface. If fire hydrants are located on the Fire Department access road, then the roads must be at least 26 feet in width. The proposed street designs include some elements (e.g., "auto courts") that do not comply with this standard. Per the Fire Code, road grades should not exceed 10 percent. All portions of the first floor exterior walls of structures should be within 150 feet of approved fire apparatus access roads (especially with high density housing, multi-family and commercial occupancies).

More than one means of access and egress is required per the International Fire Code 2006 ed. Appendix D Section D107. Specifically D107.1 States: "Developments of one or two family dwellings where the number of dwelling units exceeds 30 shall be provided with separate and approved fire apparatus access roads and shall meet the requirements of Section D104.3."

Parks and Open Spaces: Separation of combustible structures and vegetation must be provided to prevent potential wildland fires from the east and south from spreading to structures. This separation will vary with types of structures and the natural vegetation and will be evaluated at the time of implementing project approval.

Access to Park/Open Space Trails: To allow for Fire Department access to medical emergencies and small fires involving natural vegetation within the open space and park trails, these trails to be wide enough to allow for passage of the Fire Department off road “Gator” and wheeled stretchers.

VIII. STAFF RECOMMENDATION

Staff recommends the requested Master Planned Development be approved, subject to the following conditions:

[Conditions are organized into categories; however the categories themselves are not meant to limit the applicability of the condition to the overall project.]

[GENERAL]

1. Approval of the MPD is limited to the terms and conditions set forth in the City Council’s written decision, and does not include approval of any other portion of the MPD set forth in the application.
2. After approval by the City Council at an open public meeting and after a public hearing as required by law, a Development Agreement shall be signed by the Mayor and all property owners and lien holders within the MPD boundaries, and recorded, before the City shall approve any subsequent implementing permits or approvals.
3. The Development Agreement shall specify which infrastructure projects the applicant will build; which projects the City will build; and for which projects the applicant will be eligible for either credits or cost recovery and by what mechanisms this shall occur.
4. The Development Agreement shall specifically describe when the various components of permitting and construction must be approved, completed or terminated (e.g., when must open space be dedicated, plats recorded, and utility improvements be accepted by the City).
5. The Development Agreement shall include language that defines and identifies a “Master Developer.” A single Master Developer shall be maintained through the life of the Development Agreement. The duties of the Master Developer shall include at least the following: a) function as a single point of contact for City billing purposes; b) function as a single authority for Development Agreement revisions and modifications; c) provide proof of approval of all permit applications (except building permits) by other parties prior to their submittal to the City; and d) assume responsibility for distributing Development Agreement entitlements and obligations and administering such.
6. The City shall have the ability but not the obligation to administratively approve off-site projects that would otherwise be compromised if they cannot be completed prior to approval and execution of the Development Agreement. In these instances, the applicant shall acknowledge in writing that the approval of any such applicable projects does not in any way obligate the City to incur obligations other than those specifically identified in the approved permits for the applicable project.

7. The applicant shall be responsible for addressing any projected city fiscal shortfall as a result of The Villages project. This shall include provisions for interim funding of necessary service and maintenance costs (staff and equipment) between the time of individual project entitlements and off-setting tax revenues.
8. The applicant shall submit a construction waste management plan for inclusion in the Development Agreement.
9. Homeowners Association(s) conditions, covenants and restrictions (CCRs) and/or the proposed Architectural Review Committee shall be required to allow the use of green technologies (such as solar panels) in all buildings.

[TRANSPORTATION]

10. Over the course of project build out, construct all new roadway alignments as depicted in the 2025 Transportation Element of the Comprehensive Plan, or functionally equivalent alignments as approved by the City and/or other jurisdictions, that are necessary to provide access to the project, circulation within the project and to maintain the City's level of service standards. [FEIS Mitigation Measure]
11. The intersections noted in the FEIS shall be monitored under a Transportation Monitoring Plan which shall be incorporated into the Development Agreement for the MPD, with each designated improvement being required at the time defined in the Monitoring Plan. [FEIS Mitigation Measure] The Monitoring Plan shall require that improvements be constructed with development in order to bring mitigation projects into service before the Level of Service is degraded below the City's standard.
12. Intersection improvements outside the City limits shall be mitigated through measures acceptable to the applicable agency. [FEIS Mitigation Measure] The developer shall enter into traffic mitigation agreements with impacted agencies outside the city that have projects under their jurisdiction in the list below as part of the Development Agreement. If those mitigation agreements include the construction of a project, those projects shall be added to the regional project list and included as part of the Development Agreement.
13. The responsibilities and pro-rata shares of the cumulative transportation mitigation projects shall be established in the two Development Agreements, which must cover the complete mitigation list and be consistent with one another. (Traffic impacts were studied based on the cumulative impacts of The Villages and the Lawson Hills MPDs. These various projects have a mutual benefit and need crossing over between them.)

Exhibit 6-1

Intersection Improvements

Study Intersection	Jurisdiction	Mitigation
SE 288th Street/216th Avenue SE	Black Diamond	Signalize. Add NBR turn pocket.
SE 288th Street/232nd Avenue SE	Black Diamond	Add NBR turn pocket and provide a refuge for NBL turning vehicles on EB approach.
SR 169/SE 288th Street	WSDOT	Signalize. Add NBL turn pocket. Add second SBT lane (SBTR).
SE Covington Sawyer Road/ 216th Avenue SE	Black Diamond	Add EBL, NBL and SBR turn pockets.
SE Auburn Black Diamond Road/ 218th Avenue SE	King County	Provide a refuge for NBL turning vehicles on EB approach.
SE Auburn Black Diamond Road/ Lake Sawyer Road SE	Black Diamond	Signalize. Add WBL turn pocket.

Exhibit 6-1

Intersection Improvements

Study Intersection	Jurisdiction	Mitigation
SE Auburn Black Diamond Road/ Morgan Street	Black Diamond	Roundabout.
SR 169/Roberts Drive	Black Diamond/WSDOT	Add second SBT and NBT lanes. Add SBL and NBL turn pockets.
SR 169/SE Black Diamond Ravensdale Road (Pipeline Road)	Black Diamond/WSDOT	Add second SBT and NBT lanes. Add SBL turn pocket.
SR 169/Baker Street	Black Diamond/WSDOT	Signalize.
SR 169/Lawson Road	Black Diamond/WSDOT	Signalize. Add SBL turn pocket.
SR 169/Jones Lake Road (SE Loop Connector)	Black Diamond/WSDOT	Signalize. Add WBL, NBL, and SBL turn pockets.
SR 169/SR 516	Maple Valley/WSDOT	Add second NBL turn pocket.
SR 169/SE 240th Street	Maple Valley/WSDOT	Add additional SBT lane on SR 169 from north of 231st Street to Witte Road. Add second NBT lane at SR 169/240th Street.
SR 169/Witte Road	Maple Valley/WSDOT	
SR 169/SE Wax Road	Maple Valley/WSDOT	
SR 169/SE 231st Street	Maple Valley/WSDOT	
SR 169/SR 18 EB Ramps	Maple Valley/WSDOT	
SR 516/SE Wax Road	Covington/WSDOT	Add second SBL, WBR, and NBL turn pockets.
SR 516/168th PI SE	Covington/WSDOT	Add NBL and EBR turn pockets.
SR 516/Covington Way SE	Covington/WSDOT	Optimize signal timings.
SE 272nd Street/160th Avenue SE	Covington/WSDOT	Signalize.
SE Kent Kangley Road/ Landsburg Road SE	Maple Valley/King County	Add SBL turn pocket and provide a refuge on WB approach for SBL turning vehicles.
SR 169/SE Green Valley Road	WSDOT	Signalize.
SE Auburn-Black Diamond Road/ SE Green Valley Road	King County	Provide a refuge on EB approach for NBL turning vehicles.
SR 169/North Connector	Black Diamond/WSDOT	Signalize. Add second SBT and NBT lane. Add EBL, EBR, SBR, and NBL turn pockets. End additional NBT lane 1,000 feet north of intersection.
Lake Sawyer Road/Pipeline Road	Black Diamond	Signalize. Add EBL, WBL, NBL, and SBR turn pockets.
SE Auburn Black Road/Annexation Road	Black Diamond	Signalize. Add EBL, EBR, WBL, NBL, and SBR turn pockets.
SR 169/South Connector	Black Diamond/WSDOT	Signalize. Add SBR and NBL turn pockets.

14. Given that the SE Connector and the south half of the North Connector are not included in The Villages proposal, these additional traffic mitigation projects shall be required and needed to maintain the City’s Level of Service.

- a. Two south bound lanes on SR-169 from SE 288th Street to 100 ft. south of the South Connector (this would be a shared responsibility of the two MPD proposals from 288th Street to a location 600 feet south of Roberts Drive).
- b. Two north bound lanes on SR-169 from 600 ft. south of Roberts Dr. to SE 288th Street. (Also a shared responsibility of both projects)

- c. Add an additional south bound lane on SR-169 from 600 feet south of Roberts Drive to the South Connector.
 - d. An additional east bound left turn lane and an east bound right turn pocket will be needed at SR 169 and Roberts Drive. (if to be a signal controlled intersection)
 - e. An additional north bound right turn pocket at SR 169 and Lawson Street.
 - f. The south bound right at SR 169 and the South Connector will need to be converted to a south bound through/right lane.
15. For each potential signal, first consider and present a conceptual design for a roundabout as the City's preferred method of intersection control. [FEIS Mitigation Measure]
 16. A proactive rather than reactionary transportation monitoring plan shall be established as part of the Development Agreement with a list of projects and trigger mechanisms acceptable to the City.
 17. Implementing projects shall be designed to foster the development of a street grid system throughout the project.
 18. In order to balance the impact of the added street maintenance and the proposed street standards with higher maintenance costs, all cul-de-sacs and auto courts serving 20 units or less, and all alleys shall be private and maintained by the applicant or future Homeowners' Association(s).
 19. The applicant or future Homeowners' Association(s) shall be required to maintain all street side landscaping.
 20. Traffic calming measures shall be explored with each implementing development action and implemented at the discretion of the Public Works Director.
 21. The applicant shall model the traffic impacts of a development phase before submitting land use applications for that phase, in order to determine at what point a street or intersection is likely to drop below the adopted level of service. Necessary transportation mitigation projects shall then be listed in the schedule to prevent failure. The applicant shall also monitor traffic levels midway through each phase to determine if the traffic generation assumptions and distribution patterns are developing as expected. Traffic mitigation projects may therefore change or additional projects be added to address traffic issues as they actually develop.
 22. Reserve a site within the commercial area on either the north or south side of Auburn-Black Diamond Road for a future park and ride lot. [FEIS Mitigation Measure]
 23. No more than 150 residential units shall be permitted with a single point of access. 300 units may be allowed on an interim basis, provided that a secondary point of access is provided.
 24. The Development Agreement shall define a development parcel(s) beyond which no further development will be allowed without complete construction of the South Connector.
 25. The applicant shall apply road design speed control and traffic calming measures so that inappropriate speeds are avoided on neighborhood streets.
 26. The timing of the design and alignment of the Pipeline Road shall be included as part of the Development Agreement.
 27. A connecting sidewalk and safe pedestrian connection to the programmed sidewalk in the Morganville area shall be required along Roberts Drive.

[NOISE]

28. Each implementing development shall include a plan for reducing short term construction noise by employing the best management practices such as minimizing construction noise with properly sized and maintained mufflers, engine intake

29. Stationary construction equipment shall be located distant from sensitive receiving properties whenever possible. Where this is infeasible, or where noise impacts would still be likely to occur, portable noise barriers shall be placed around the equipment (pumps, compressors, welding machines, etc.) with the opening directed away from the sensitive receiving property. [FEIS Mitigation Measure]
30. Ensure that all equipment required to use backup alarms utilizes ambient-sensing alarms that broadcast a warning sound loud enough to be heard over background noise, but without having to use a preset, maximum volume. Alternatively, use broadband backup alarms instead of typical pure tone alarms. [FEIS Mitigation Measure]
31. Require operators to lift, rather than drag materials wherever feasible. [FEIS Mitigation Measure]
32. Substitute hydraulic or electric models for impact tools such as jackhammers, rock drills and pavement breakers. [FEIS Mitigation Measure]
33. Electric pumps shall be specified whenever pumps are required. [FEIS Mitigation Measure]
34. The developer shall establish a noise control "hotline" to allow neighbors affected by noise to contact the City or the construction contractor to ask questions or to complain about particularly noisy activities. Failure to comply with the noise reduction program shall result in cessation of construction activities until a solution is found. [FEIS Mitigation Measure]
35. If pile driving becomes necessary, impact pile-driving shall be minimized in favor of less noisy pile installation methods. If impact pile driving is required, the potential for noise impacts shall be minimized by strict adherence to daytime only. [FEIS Mitigation Measure]
36. Work hours of operation shall be established and made part of the Development Agreement

[PUBLIC UTILITIES – WATER]

37. Upgrade Spring Supply source per the Water Services Future Funding Agreement (WSFFA). [FEIS Mitigation Measure]
38. Utilize the Tacoma Intertie, in addition to the Spring Supply per the WSFFA. [FEIS Mitigation Measure]
39. Construct an appropriately sized reservoir in 850 Zone or construct an 850 Zone loop back to the existing system in the vicinity of Railroad Avenue. [FEIS Mitigation Measure]
40. Construct a 750 Zone loop back to the existing system, or propose a functionally equivalent alternative as allowed in the MPD code. [FEIS Mitigation Measure]
41. Complete the 850 loop in the North Property and the 850 loop in Pipeline Road with a pressure reducing station to the 750 Zone water main within the North Property. [FEIS Mitigation Measure]
42. Construct needed water supply and storage improvements in accordance with the City's Comprehensive Plan and necessary to serve the proposed development. Alternatively, a functionally equivalent improvement to the facilities above may be approved with the MPD. [FEIS Mitigation Measure]
43. Should new water distribution alternatives be desired by the applicant that are not consistent with the recently adopted Water Comprehensive Plan, the applicant shall be responsible for the cost of updating the Plan if needed.

44. The Development Agreement shall include details about the responsibility for water conservation, the basis and methods for measuring conservation savings, and the impacts if savings targets are not achieved.
45. The proposed water conservation plan shall be evaluated for its effectiveness in light of the City's available water resources after the first 500 units have been constructed. At that time, additional measures may be required if goals are not being achieved.

[PUBLIC UTILITIES – SEWER]

46. King County will be constructing a sewer flow equalization storage reservoir in a location to serve the needs of the City. [FEIS Mitigation Measure]
47. Construct trunk lines Nos. 1 and 4. [FEIS Mitigation Measure]
48. Construct pump station 1 and force main 1 to equalization tank. [FEIS Mitigation Measure]
49. Collection of sewage as presented in City's Comprehensive Plan, consistent with King County sewage storage site selection, and as necessary to serve the proposed development. Alternatively, a functionally equivalent improvement to the facilities above may be approved with the MPD. [FEIS Mitigation Measure]
50. An interim sewer pump station is accepted, provided that:
 - a. Routing of the gravity sewer mains is consistent with the City's ultimate plan for routing sewage.
 - b. No capital facility charge credit will be considered for interim improvements.

[PUBLIC UTILITIES – STORMWATER AND WATER QUALITY]

51. Stormwater runoff that is collected from impervious surfaces shall be mitigated in accordance with the *2005 Stormwater Management Manual for Western Washington*, and stormwater designs shall include low impact development techniques wherever practical and feasible. [FEIS Mitigation Measure]
52. Preserve the volume of stormwater for the groundwater area tributary to Black Diamond Lake and associated wetlands. [FEIS Mitigation Measure]
53. Implement the stormwater program described in Appendix D to The Villages FEIS in order to match total runoff volume discharges via surface and subsurface conveyance routes to Horseshoe Lake. [FEIS Mitigation Measure]
54. Provide mitigation facilities within the project limits or provide an agreement with King County for long term City ownership and/or maintenance of off-site facilities not within City limits. [FEIS Mitigation Measure]
55. Native plants shall be primarily used as part of the planting palette within the MPD. Lawn planting shall be reduced wherever practical. [FEIS Mitigation Measure]
56. Where point discharges to streams must occur, design the outfall to minimize impacts to the stream channel and avoid areas of significant vegetation. [FEIS Mitigation Measure]
57. Construct stormwater treatment and storage improvements as presented in City's Comprehensive Plan and as necessary to serve the proposed development. Alternatively, a functionally equivalent improvement to the facilities above may be approved with the MPD. [FEIS Mitigation Measure]
58. Mechanisms shall be identified to integrate Low Impact Development technologies into the overall design of the MPD and incorporated into the Development Agreement. Future Homeowners' Associations shall bear any increased cost of landscape maintenance.

59. The Development Agreement shall include restrictions on roof types (no galvanized, copper, etc.) and roof treatments (no chemical moss killers, etc) to ensure that stormwater discharged from roof downspouts is suitable for direct entry into wetlands and streams without treatment. The applicant shall develop related public education materials that will be readily available to all homeowners and implement a process that can be enforced by future homeowners associations.
60. Stormwater facilities to be considered as part of required open space shall be designed as an amenity per the Public Works and Natural Resources Directors. If approved, future Homeowners Association(s) shall be required to provide landscape maintenance of these facilities.
61. The Development Agreement shall include language that binds future developers and contractors to a requirement to comply with any NPDES permits issued by the Washington State Department of Ecology and acknowledge that although permit conditions imposed by NPDES permits are not administered by the City, staff reserves the right to enforce the conditions of the NPDES permit. Since the city has a high interest in protecting receiving waters under the city storm water permit, the developer shall cover the city's cost of NPDES stormwater permit oversight.
62. Develop a proactive temporary erosion and sediment control plan to prevent erosion and sediment transport and provide a response plan to protect receiving waters during the construction phase.
63. Construct a storm water system that does not burden the city with excessive maintenance costs; assist the city with maintenance of landscape features in storm water facilities. The City shall have the right to reject higher cost of maintenance facilities when lower cost options may be available.
64. Include a tabular list of stormwater monitoring requirements. The list should include the term of the monitoring, the allowable deviation from design objectives or standards, and the action items necessary as a result of excess deviations.
65. The stormwater plan shall include the ability to adaptively manage detention and discharge rates and redirect stormwater overflows when environmental advantages become apparent.
66. The size of storm ponds for hydraulic purposes shall vest on a phase by phase basis to the extent allowed by the City's DOE discharge permit and state law.
67. The Development Agreement shall include language to allow deviations from the stormwater facilities listed in the FEIS when justified by a technical analysis and risk assessment.
68. The applicant shall obtain all necessary permits from King County for both construction and the City's ability to perform maintenance of the large regional storm pond proposed to the west of the project, subject to prior approval by the City.

[VISUAL AND AESTHETICS]

69. The Development Agreement shall include a narrative of the process and basis for selectively removing hazard trees at the project perimeter. The intent of this section will be to leave the majority of the perimeter as designated passive open space but to have it appear and function as native forest.
70. The Development Agreement shall define when and under what conditions a development parcel may be logged for timber revenue, how that parcel must be secured to minimize the impacts on the community and how long the parcel may remain undeveloped before it must be reforested.

[PUBLIC SERVICES – PARKS AND RECREATION]

71. If a school site is developed and the proponent proposes to build a joint-use facility, the proponent shall provide one or more youth/adult baseball/softball fields, soccer fields, tennis courts, or basketball courts in conjunction with the school site(s) or at an alternative location. [FEIS Mitigation Measure]
72. The park and recreation facilities to serve the new demand from the MPD could be set in the required Development Agreement, and may be constructed on- or off-site. [FEIS Mitigation Measure]
73. The cost of such facilities, including a proportionate share of facilities not fully warranted by the MPD buildout, could be provided by payment of fees. [FEIS Mitigation Measure]
74. As part of the Development Agreement, the fee-in-lieu values for park facilities shall be re-evaluated to ensure appropriate levels of funding and to include a mechanism to account for inflationary rises in construction costs and potentially, the costs of maintaining these types of facilities in the future. The City shall maintain discretion concerning when and if a lump sum payment will be accepted in lieu of constructing off-site recreational facilities
75. The contents of Table 5.2 of the MPD application (Recreation Facilities) shall be resolved in the Development Agreement.
76. Dependant on the availability of land, the adequacy of funds to construct City-approved recreational facilities and an ability to maintain these facilities, the City shall retain the sole discretion to determine when and if the applicant will be allowed to provide a lump sum payment in lieu of constructing off-site recreational facilities. This condition may be further defined within the Development Agreement.
77. The Development Agreement shall include language authorizing public access to parks and trails facilities.
78. The Development Agreement shall define when trails are required to be constructed.
79. The Development Agreement shall include a tabular list of the characteristics of passive open space and active open space and permitted activities thereon so that future land use applications can accurately track the type and character of open space that is provided.

[PUBLIC SERVICES – SCHOOLS]

80. A separate school mitigation agreement shall be entered into between the applicant, the City and the Enumclaw School District which provides adequate mitigation of impacts to school facilities and be incorporated into the MPD permit and Development Agreement by reference. [FEIS Mitigation Measure]
81. An updated fiscal analysis shall be required for any proposal to locate a high school within any lands designated on Figure 3-1 (Land Use Plan) for commercial/office/retail use.

[PUBLIC SERVICES – PUBLIC SAFETY]

82. The Development Agreement shall include specific provisions for providing both fire station sites and funding for future fire facilities and equipment to ensure protection concurrent with project buildout. [FEIS Mitigation Measure]
83. All Fire Department access roads must meet International Fire Code, specifically Section 503 Fire Department Access Roads and Appendix D Fire Department Access Roads.
84. Auto courts shall meet the requirements of the International Fire Code 2006 ed. Per IFC Section 503, specifically 503.2.1

85. Separation of combustible structures and vegetation shall be provided to prevent wildland fires from the east and south from spreading to buildings. This shall be determined at the time of implementing projects.

[EROSION HAZARDS]

86. Major earth moving and grading shall be limited to the “dry season,” between April and September, to avoid water quality impacts from erosion due to wet soils. [FEIS Mitigation Measure]
87. In cases where vegetation is an effective means of stabilizing stream banks, stream banks shall be protected from disturbance to reduce the adverse impacts to stream erosion. [FEIS Mitigation Measure]
88. Bridges or appropriately sized box culverts shall be used for roadway crossings of streams to allow peak-flow high-water events to pass unimpeded and to preserve some normal stream processes. [FEIS Mitigation Measure]
89. Design stormwater facilities to avoid discharging concentrated stormwater flows on moderate and steep slopes in order to avoid severe land erosion. [FEIS Mitigation Measure]
90. Utilize stormwater detention facilities that avoid increases in peak stream flows. [FEIS Mitigation Measure]
91. The Development Agreement shall identify an appropriate administrative fee to cover the costs of staff to deal with construction runoff discharges that exceed discharge permit limits. The developer shall provide standby storage of emergency erosion and sediment control materials; limit to the amount of property that may be disturbed in the winter months; and guaranteed time frames for the establishment of wet weather erosion and site protection measures.
92. Prior to approval of the first implementing plat or site development permit within a phase, the applicant shall submit an overall grading plan that will balance the cut or fill so that the amount of cut or fill does not exceed the other by more than 20%.

[LANDSLIDE HAZARDS]

93. Development of landslide hazard areas shall be avoided. Sufficient setbacks shall be required to assure or increase the safety of nearby uses, or where feasible grade out the landslide hazard area to eliminate the hazard in compliance with the city’s Sensitive Areas Ordinance BDMC 19.10. [FEIS Mitigation Measure]
94. Stormwater and groundwater shall be managed to avoid increases in overland flow or infiltration in areas of potential slope failure to avoid water-induced landslides. [FEIS Mitigation Measure]
95. Geologically hazardous areas shall be designated as open space and roads and utilities routed to avoid such areas. Where avoidance is impossible, utilize the process in the Sensitive Areas Ordinance (supplied with adequate information as defined in code) and Engineering Design and Construction Standards (ED&CS) to build roads and utilities through these areas.

[MINE HAZARDS]

96. Development within the moderate mine hazard area may require additional mitigation measures, which shall be evaluated with future implementing development proposals.
97. All proposed development within mine hazard areas shall occur in conformance with BDMC 19.10.
98. All houses that are sold in classified or declassified coal mine hazard areas shall require a liability release from the homeowner to the City. The release must

recognize that the City is not liable for actual or perceived damage or impact from the coal mine hazard area. The release form shall be developed and included in the Development Agreement.

[VEGETATION AND WETLANDS]

99. Structural measures such as silt fences and temporary sediment ponds shall be used to avoid discharging sediment into wetlands and other critical areas. [FEIS Mitigation Measure]
100. Implementing projects shall provide “on the ground” protection measures such as wetland buffers or root protection zones for significant trees. [FEIS Mitigation Measure]
101. New stormwater outfalls shall be located to avoid impacts to any stream and adjacent wetlands, riparian buffers, unstable slopes, significant trees, and instream habitat. Where all practical and feasible avoidance measures have been employed, provide mitigation in the form of outfall energy dissipaters and/or vegetation restoration and slope stabilization as necessary. [FEIS Mitigation Measure]
102. Any deviations from the Tree Preservation Ordinance (BDMC 19.30) shall only be considered through implementing projects on a case-by-case basis.
103. A tree inventory shall be required prior to the development of implementing projects so that other opportunities to preserve trees may be realized.
104. The Development Agreement shall include text that defines when and under what conditions a parcel may be logged for timber revenue, how that parcel must be secured to minimize the impacts on the community and how long the parcel may remain un-worked before it must be reforested.
105. The Development Agreement shall describe the process and basis for removing selective hazard trees at the project perimeter. The intent of this section will be to leave the majority of the perimeter as designated passive open space, but to have it appear and function as native forest.
106. The use of native vegetation in street landscaping and in parks shall be required.

[FISH AND WILDLIFE]

107. Wildlife forage preferences shall be of primary consideration in plant species selection for enhancement areas. [FEIS Mitigation Measure]
108. Mast-producing species (such as hazelnut) shall be used to mitigate for reduced food sources resulting from habitat reductions when designing landscape plans for development parcels adjoining wetland buffers, or for wetland buffer enhancement plantings. [FEIS Mitigation Measure]
109. Provide a 300-foot-wide wildlife corridor from the western edge of the Core Complex to the City’s western boundary. The corridor should be located within areas of contiguous open space that form a network. [FEIS Mitigation Measure]

[CLIMATE CHANGE]

110. Building design guidelines shall allow the use of solar, wind, and other renewable sources. [FEIS Mitigation Measure]
111. Should a large employer (100+ employees) or a group of similar employers locate in the commercial areas of the MPD, a Transportation Management Association shall be implemented to reduce vehicle trips. [FEIS Mitigation Measure]

[LAND USE]

112. Approval of the design concept and land use plan (Chapter 3) shall be limited to the plan map (Figure 3-1); description of categories (beginning on page 3-18); and

- target densities (Table 3.2), except as modified herein. All other specifics shall be resolved through the Development Agreement process.
113. The project shall provide a mix of housing types in conformance with the MPD Design Guidelines.
 114. Identification of specific areas where live/work units can be permitted shall be done as part of the Development Agreement or through an MPD minor amendment.
 115. A minimum density of 4 du/ac for residential properties shall be required for implementing projects.
 116. If the applicant requests to increase a residential category that abuts the perimeter of the MPD, it shall be processed as a Major Amendment to the MPD.
 117. The Development Agreement shall limit the frequency of proposed reclassification of development parcels to no more frequently than once per calendar year.
 118. The Expansion Area process shall be clarified in the Development Agreement.
 119. Project specific design standards shall be incorporated into the Development Agreement. These design guidelines must comply with the Master Planned Development Framework Design Standards and Guidelines.
 120. A unit split (percentages of single family and multifamily) and commercial use split (commercial, office and industrial) shall be incorporated into the Development Agreement.
 121. All commercial/office uses (other than home occupations and identified live/work areas) shall only occur on lands so designated. Additional commercial areas shall be identified on the Land Use Plan through a future amendment to the MPD.
 122. The project shall include housing priced to meet the needs of individuals who are employed within the commercial/retail/office area. As a general guideline, approximately 816 units (17%) shall be available to households with 50% to 80% of the median income and 912 (19%) units be available to households with less than 50% of the median income (as established at the time of implementing project construction). Alternatively, a periodic analysis shall be required to ensure that housing is being provided at prices that meet the earning potential of those jobs being created within the project. Exact specifications shall be included within the Development Agreement.
 123. Exact specifications for the housing described in paragraph 122 shall be included within the Development Agreement.
 124. A distinct land use category shall be created to recognize potential light industrial uses or the "office" category shall be renamed to properly indicate the range of potential uses. Areas intended to have light industrial type uses shall be identified on the Land Use Map that is made part of the Development Agreement.
 125. The high density residential (18-30 du/ac) supplemental design standards and guidelines (MPD application Appendix E) shall become part of the Development Agreement.
 126. No more than 25% of non-multifamily housing shall consist of "front-loaded lots."
 127. Homeowners Association conditions, covenants and restrictions (CCRs) or the Architectural Review Committee shall review, but shall not preclude, the use of green technologies such as solar panels.
 128. Front yard setbacks and other specific lot standards shall be determined as part of the Development Agreement.
 129. A FAR standard shall be established through the Development Agreement process.
 130. No more than two floors of residential uses above ground floor commercial/office uses shall be allowed.

[SENSITIVE AREAS/OPEN SPACE]

131. The use of sensitive areas including but not limited to wetlands, landslide and mine hazard areas and their associated buffers for development including trails, stormwater management, etc. shall be regulated by BDMC Chapter 19.10. Appropriate mitigation, if required, for impacts as well as other required measures shall be evaluated on a case-by-case basis at the time of implementing project application.
132. Areas shown as natural open space in the figure on Page 5-7 of the application are required to remain natural with the possibility for vegetation enhancement. No other land clearing shall be permitted besides trails and stormwater facilities.
133. The Development Agreement shall include a tabular list of the types of activities and the characteristics of passive open space and active open space so that future land applications can accurately track the type and character of open space that is provided.
134. The Development Agreement shall include language that specifically defines when the various components of permitting and construction must be approved, completed or terminated. For example; when must open space be dedicated, plats recorded, and utility improvements be accepted by the City.
135. Specific details on which open space shall be dedicated to the city, protected by conservation easements or protected and maintained by other mechanisms shall be established as part of the Development Agreement.
136. Once acreages have been finalized, phasing of open space (which includes parks and is identified within the MPD application) shall be defined and articulated for timing of final designation within the Development Agreement.
137. Once the mapped boundaries of sensitive areas have been agreed to, the Development Agreement shall include text that identifies that these areas are fixed. If during construction it is discovered that the actual boundary is smaller or larger than what was mapped, the mapped boundary shall prevail. The applicant shall neither benefit nor be penalized by errors or changes in the sensitive area boundaries as the projects are developed.

[ADMINISTRATION]

138. The proposed project shall have no adverse financial impact upon the city, as determined after each phase of development and at full build-out. The required fiscal analysis shall also include the costs to the city for operating, maintaining and replacing public facilities required to be constructed as a condition of MPD approval or any implementing approvals related thereto. The fiscal analysis shall be updated to show continued compliance with this criterion, in accordance with the following schedule:
 - a. Within five years, a new fiscal analysis shall be completed to determine the long-term fiscal impact to the City. If necessary, additional project conditions may be required.
 - b. Prior to commencing a new phase.
139. The Development Agreement shall include language that specifically defines when the various components of permitting and construction must be approved, completed or terminated. For example: when must open space be dedicated, plats recorded, and utility improvements be accepted by the City.
140. The Development Agreement shall document a collaborative design/review/permitting process that allows City staff to participate in the conceptual

141. The Development Agreement shall specifically identify which rights and entitlements are vested with each level of permitting, including but not limited to the MPD Application approval, the Development Agreement approval, and Utility Permit approvals.
142. Reclassification of development parcels shall occur no more frequently than once per calendar year.
143. Proposed reclassification of development parcels located at the project perimeter to a higher density shall only occur through a Major Amendment to the MPD.
144. A process for including lands identified as "Expansion Areas" in the application shall be defined in the Development Agreement.
145. The Development Agreement shall define the proposed phasing plan for the various matters (utility and street infrastructure, parks, transferred development rights, etc.) subject to phasing standards.
146. Prior to the approval of the first implementing project of a defined phase, a detailed implementation schedule of the regional projects supporting that phase shall be submitted to the City for approval. The timing of the projects shall be tied to the number of residential units and/or square feet of commercial projects.

IX. EXHIBITS

- | | |
|------------|---|
| Exhibit 1 | Master Application |
| Exhibit 2 | MPD Application Binder dated 12-31-09 |
| Exhibit 3 | City of Black Diamond Ordinance No. 08-885 |
| Exhibit 4 | Notice of Application |
| Exhibit 5 | The Villages Master Planned Development Final Environmental Impact Statement |
| Exhibit 6 | Draft School Mitigation Agreement |
| Exhibit 7 | Black Diamond Urban Growth Area Agreement |
| Exhibit 8 | Black Diamond Area Open Space Protection Agreement |
| Exhibit 9 | Water Supply and Facilities Funding Agreement |
| Exhibit 10 | Public Hearing Notice |
| Exhibit 11 | Land use plan/constraints map overlay |
| Exhibit 12 | City of Black Diamond Ordinance No. 515 |
| Exhibit 13 | Parametrix Alternative Roadway Analysis |
| Exhibit 14 | Letter from City of Covington dated July 30, 2009 |
| Exhibit 15 | Letter from Enumclaw School District dated July 31, 2009 |
| Exhibit 16 | E-mail communication from Bill & Vicki Harp dated August 3, 2009 |
| Exhibit 17 | Letter from City of Black Diamond to Bill & Vicki Harp dated August 14, 2009 |
| Exhibit 18 | E-mail communication from Cindy Proctor dated September 9, 2009 |
| Exhibit 19 | Letter from Lynn McArthur dated October 21, 2009 |
| Exhibit 20 | Letter from King County DDES dated November 19, 2009 |
| Exhibit 21 | E-mail communication from Greater Maple Valley Area Council dated January 11, 2010 |
| Exhibit 22 | Letter from WSDOT dated January 25, 2010 |
| Exhibit 23 | E-mail communication from Lorraine & William Seaman dated February 7, 2010 |
| Exhibit 24 | E-mail communication from City of Black Diamond to Lorraine & William Seaman dated February 8, 2010 |

Exhibit 25 Letter from King County DDES dated February 9, 2010

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.