CITY OF BLACK DIAMOND

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MINOR AMENDMENT OF AN APPROVED PRELIMINARY PLAT

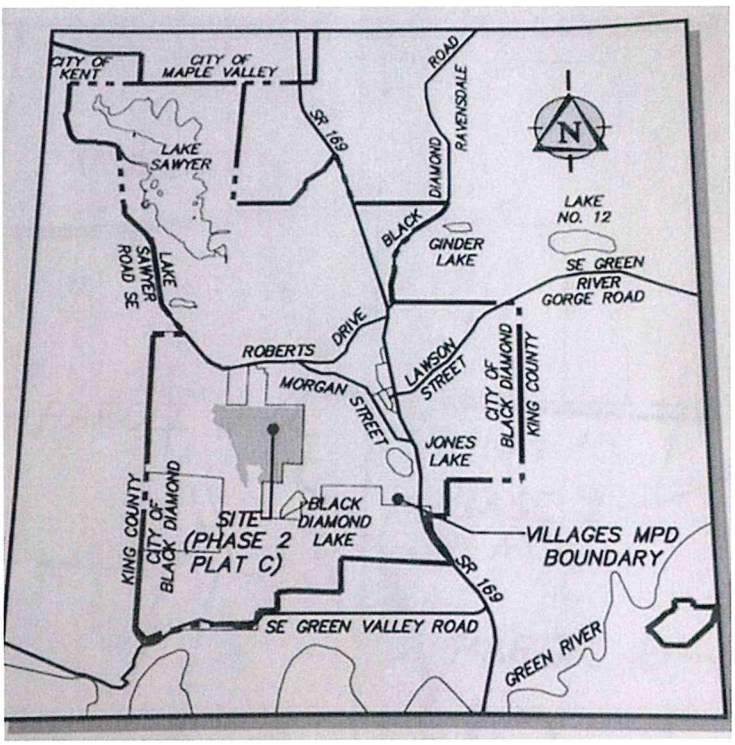
EVALUATION FORM & DECISION

A. ADMINISTRATIVE REPORT & DECISION

DECISION: ☒ **APPROVAL** ☐ **APPROVAL SUBJECT TO CONDITIONS** ☐ **DENIAL**

REPORT DATE:	June 13, 2016
Project Name:	Application to Alter the Villages MPD Preliminary Plat 2C
Owner/Applicant:	Brian Ross, Manager, CCD Black Diamond Partners LLC (Oakpointe) 10220 NE Points Drive, Kirkland, WA 98033
Contact:	Colin Lund, Director of Development, CCD Black Diamond Partners LLC (Oakpointe) 10220 NE Points Drive, Kirkland, WA 98033
File Number:	PLN16-0014
Project Summary:	Amend the layout of the Villages Master Planned Development (MPD) Preliminary Plat 2C ("Plat 2C"), PLN13-0027, approved on January 28, 2015, to eliminate certain alley loaded lots on Development Parcels "V28" and "V29".
Project Location:	South of Roberts Drive, generally within the SE ¼ and portions of the SW ¼ Section of Section 15, Township 21N, Range 6E.
Parcel Number(s):	1521069108, 1521069096, 2221069004
Site Area:	5,941,542 sf (136.40 acres)
Zoning:	Master Planned Development (MPD)
Comprehensive Plan:	Low Density Residential (LDR) with MPD overlay

Project Location Map:



B. EXHIBITS

Exhibit 1: Approved Villages MPD Preliminary Plat 2C PLN13-0027
Exhibit 2: Revised Plat Plan SheetCV3
Exhibit 3: Revised Plat Plan Sheet CV4
Exhibit 4: Hearing Examiner FOF, Conclusion, and Decision for Preliminary Plat 2C
Exhibit 5: Plat 2C MDNS PLN13-0028
Exhibit 6: Ordinance No. 10-946 Approving the Master Planned Development for the Villages
Exhibit 7: Ordinance No. 11-970 Approving the Villages Master Planned Development DA
Exhibit 8: BDMC 18.14.040 Exhibit E to the DA

C. SUMMARY OF REQUEST

1. The applicant is requesting a minor amendment to the layout of the 203-lot approved preliminary Phase 2 Plat C in the Villages MPD ("Plat 2C"). Preliminary Plat 2C was approved on

January 28, 2015, PLN13-0027. The revisions to the approved preliminary plat include the following:

a. Remove private alleys labeled Alley A, B, C and D to eliminate alley loaded lots.

b. Reconfigure internal Roads A, B and C and layout of tracts to provide access to all lots from Roads A, B and C.

c. Eliminate one lot, from 203 to 202 proposed lots.

d. Create new open space tract (916) 24,681 sq. ft. in size for centrally located Community Park.

e. Create new open space tracts (905, 913, 915 & 917) totaling 12,192 sq. ft. for Community Trail.

e. Eliminate open space tracts (911 & 909) totaling 25,147 sq. ft. designated as Common Green.

f. Increase area in parks and landscape tracts by 3,059 sq. ft.

f. Increase total open space area from 97.2 acres to 98.81 acres.

g. Reduce impervious surface by 28,562 sq. ft. from alley removal.

h. Increase average lot size from 4,574 to 4,802.

i. Move rear lot lines of tracts adjacent to wetland areas further away from Wetland TOS.

j. Reduce the amount of extraneous fill material required to balance the site by almost two-thirds.

D. FINDINGS OF FACT

1. Plat 2C is an implementing phase of the Villages MPD permit adopted on October 3, 2010 under Ordinance Number 10-946. The MPD Development Agreement (DA) was approved on December 11, 2011, Ordinance Number 11-970. Plat 2C must comply with the MPD permit conditions and the DA.

2. Preliminary Plat 2C (PLN13-0027), approved on January 28, 2015, contains 136.4-acres south of Roberts Drive with 40-acres of land used for 203 single family residential units on Development Parcels V28 & V29 and 95-acres dedicated to open space, wetlands, and wetland buffers.

3. The applicant is proposing to amend Plat 2C to remove 4 alleys, shown as alleys A, B, C and D on the approved plat, by revising the layout of tracts, private access roads and open space tracts effectively changing 58 single family alley loaded tracts into single family tracts served entirely by internal access roads, A, B, and C.

4. Pursuant to Black Diamond Municipal Code (BDMC) 18.98.100, an applicant can request amendments to any element or provision of an approved MPD (Master Planned Development) permit. Plat 2C is an implementing phase of the Villages MPD permit and is therefore an element of the MPD permit.

5. The applicant submitted an application requesting to alter the Villages MPD Plat 2C on March 11, 2016.

6. Pursuant to BDMC 18.98.100, plat amendments are deemed either minor or major as determined by the Community Development Director subject to appeal to the hearing examiner.

7. An amendment shall be considered minor if it meets all of the criteria found within BDMC 18.98.100 (A)-(H). Section E of this Evaluation and Decision form finds the proposal meets all of the criteria in BDMC 19.98.100 (A)-(H).

8. In accordance with Section 12.6 of the MPD Development Agreement (DA), minor amendments shall be approved administratively and processed as a Type 2 decision pursuant to BDMC 18.08.125. Type 2 decisions are Administrative and the director makes decisions based on standards and clearly defined criteria.

9. Type 2 decisions require public notice as set forth in BDMC 18.08.120. A Notice of Application was posted to the City's website on June 15, 2016 with a statement of the 14-day public comment period.

10. In accordance with Section 12.7 of the MPD DA, amendments to Implementing Approvals may be allowed and minor amendments shall be processed pursuant to BDMC 18.14.040.A (Exhibit "E" to the DA)[1].

[1] BDMC 18.14.040 was repealed and replaced by Ordinance 15-1053 on February 10, 2015. The DA was adopted on December 12, 2011 and is therefore vested to the repealed version of BDMC 18.14.040.

11. Pursuant to BDMC 18.14.040.A, an applicant many be granted a minor amendment to any of the conditions or requirements of a permit: (1) upon a showing of changed circumstances and a determination by the mayor, or her designee that (a) the requested amendments constitute a minor adjustment that can be sufficiently mitigated through new actions that may be required as part of the permit amendment approval, and (b) each of the proposed amended conditions is not otherwise prohibited under the municipal code and would not require additional environmental review under BDMC Title 19, and (2) the proposed amendments would not (a) increase gross building area by more than ten percent, (b) increase the number of dwelling units, (c) increase the total impervious surface area, (d) change the number of ingress or egress points, or (e) increase the area of site disturbance by more than ten percent. Section E of this Evaluation and Decision Form finds that a minor amendment may be granted for this proposal.

12. Pursuant to BDMC 17.20.090.B, an applicant may apply for an alteration to any subdivision or portion thereof, except as provided in RCW 58.17.040.6 and if the alteration is requested prior to final plat approval, the alteration may be approved by the community development director who shall have the authority to determine whether the proposed alteration constitutes a minor or major alteration based on the aforementioned standards and clearly defined criteria. Application PLN16-0014 to amend Plat 2C was requested prior to final plat approval. The community development director has determined the proposed amendment constitutes a minor alteration.

13. Conditions #142 of the Village MPD permit states that, "[d]etached single family dwelling units shall be predominately alley loaded, except where site conditions prevent alley loading or cause alleys to be impractical as determined by the city in his/her reasonable discretion." The hearing examiner's final decision and order for Plat 2C approval acknowledges that the single family residential tracts in Plat 2C are predominately front loaded. The proposal to remove the alleys will reduce impervious surface by 28,325 sq. ft., increase open space area by 70,131 sq. ft., and reduce the difference between cut to fill materials during construction by two-thirds thereby reducing the net volume of material movement in and out of the site. Denying removal of the alleys ignores the public benefit derived from reducing environmental impacts and increasing public open space in the form of Community Park and trails. It is reasonable to find that the alley loaded lots in this instance are impractical because the proposed plat alterations reduce environmental impacts and provide a greater public benefit.

14. Section 9.2, Parks and Open Space Plan, of the DA states that the actual location and boundaries of parks may vary (provided that the minimum Open Space requirement is met) and will be defined through the implementing Approvals and Projects. Based on this language, It is reasonable to allow for alterations to the location and boundaries of parks

during design and construction of a preliminary plat so long as the minimum Open Space requirement is met. The proposed amendment increases designated open space areas.

15. The proposed plat amendment maintains the minimum Open Space requirement, provides readily accessible open space and trails and connectivity to surrounding areas.

16. The proposed amendment provides access to all tracts, even those that were previously alley loaded, by shifting Internal Roads A, B, and C and changing the layout of tracts.

17. The proposed road layout continues to provide NW to SW access in and out of plat 2C with two routes for egress and ingress and follows the topography of the site and conforms to natural resource constraints of adjacent wetlands.

18. Land use for the plat remains single family residential consistent with the MPD permit, DA, zoning code, and Comprehensive Plan.

19. The proposed minimum and maximum residential lot sizes range from 3,593 to 7,885 which is compliant with the MPD permit, DA, zoning code, and Comprehensive Plan.

20. Sheet CV3 shows the overall net residential parcel density will be 6.44 Units/Acre which complies with the MPD permit, DA, zoning code, and Comprehensive Plan.

21. The proposed Minor Amendment does not require SEPA Review because there are no new impacts associated with the proposed amendment that were not evaluated under the original SEPA Determination, PLN13-0028, issued on June 17, 2014.

E. ANALYSIS

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

(*Staff comments shown in italics*)

<u>BDMC 18.98.100, Amendments to an approved MPD permit.</u>
An applicant may request an amendment to any element or provision of an approved MPD. All applications for amendments shall be deemed either "minor" or "major". An amendment application shall be deemed minor if it meets all of the following criteria:

A. Would not increase the total number of dwelling units in an MPD above the maximum number set forth in the approved MPD permit or reduce the number by more than ten percent;

The proposed amendment reduces the number of residential tracts for dwelling units in development parcels V28 and V29 from 203 to 202 tracts, a reduction of 1 tract. The maximum number of residential units set forth in the approved MPD permit and DA for the Villages is 4,800 units. The proposal does not increase or decrease the number of dwelling units in the MPD permit by more than ten percent. MPD condition of approval No. 131 requires separate calculations for each development parcel of an implementing phase. According to Table 4-1 of the DA, the approved range of residential units for development parcel V28 is 229-305 units per parcel and for V29, the range is 64-127. A section on Sheet CV3 of the amendment proposal entitled, Land Use Capacity Table, lists the single family units on development parcel V28 at 142 and V29 at 60 units. This same Land Use Capacity Table on the approved Plat 2C CV3 plan sheet shows the single family units for development parcel V28 at 140, far below a ten percent change and 63 units for V29 which represents a five percent increase in dwelling units on development parcel V29.

B. Would not increase the total floor area of nonresidential uses by more than ten percent;

This does not apply - Plat 2C does not contain nonresidential uses.

C. Would not decrease the minimum, or increase the maximum density for residential areas of the MPD beyond density ranges approved in the MPD permit;

The MPD permit and DA establish residential density ranges consistent with the Comprehensive Plan and zoning regulations. The minimum density is 4 dwelling units per acre and the maximum is 18 dwelling units per acre. Condition of approval No. 131 for the Villages MPD requires separate calculations for each development parcel of an implementing phase. Sheet CV3 of Plat 2C contains a section entitled, "Land Use Capacity Table" which denotes net residential parcel density for Plat 2C development parcels V28 and V29. The net residential density for development parcel V28 is 7.39 units per acre and V29 is 4.94 units per acre. Both are within the density ranges approved in the MPD permit.

D. Would not decrease the approved amount of open space or recreation space;

The proposed amendment increases the amount of open space or recreational space from 98.54 acres to 98.81 acres.

E. Would not increase any adverse environmental impact, provided that additional environmental review may be required to determine whether such change is likely to occur;

There are no new impacts associated with the proposed amendment that were not evaluated under the original SEPA Determination, PLN13-0028 issued on June 17, 2014. The proposed amendment does not increase any adverse environmental impact. Removing the paved alleys

Will result in a reduction of impervious surface and a better balance between cut and fill materials which will decrease environmental impacts.

F. Would not adversely impact the project's fiscal projections to the detriment of the city;

The loss of one residential tract and minor alternations do not adversely impact the project's fiscal projections to the detriment of the city. The proposal does not change the area that will be dedicated to the City at final plat approval.

G. Would not significantly impact the overall design of the approved MPD; and

The removal of four alleys does not significantly impact internal circulation and access. The three local streets and "woonerfs" remain. Tracts have been adjusted and oriented differently so that the 58 alley loaded lots become front loaded and take access from the three local streets that are designed as a modified grid. As proposed, the three local streets, Roads A, B, and C with the woonerfs and modified trail configuration maintain safe mobility and connections throughout the project boundary. Off-site connections at Willow Ave in PP1A to the north and Tract 907 to the south remain. The trails and streets will still connect with the major road network in Phase 1A. Therefore, internal circulation or connectivity is not impaired. Plat 2C was designed to function as a single family residential subdivision with open space and recreational amenities as part of the Villages MPD. The amendment increases average lot size by 228 sq. ft. and overall net residential density from 6.49 to 6.44 units per acres. The amendment does not change the function of this plat as designed or deviate from approved standards and regulations.

H. Would not significantly alter the size or location of any designated open space resulting in a lowered level of service and does not reduce the total amount of required open space.

Section 9.2 of the DA says that the actual location and boundaries of Parks and Trails may vary (provided that the minimum Open Space requirement is met) and will be defined through Implementing Approvals and Projects. The amendment eliminates two open space tracts, 909 and 911, designated as Common Green. These two tracts total 38,936 sq. ft. Tract 906 is added and designated as Community Park. Tract 906 contains approximately 61,981 sq. ft. and is centrally located within the plat between roads A and B. Section 9.5.1 of the Villages DA requires that all dwelling units shall have access to and be located within ¼ mile walking distance of a park. Tract 906 meets this level of service and therefore, the amendment does not result in a lowered level of service. The Villages DA Section 9.1 requires about 75.58 acres of open space in parcel E which includes Plat 2C. As amended, the total open space area is 98.81 acres. The proposed amendment for Plat 2C does not reduce the total amount of required open space.

BDMC 18.14.040.A, Permit Processing Standards, Changes or additions to application during review period

An applicant many be granted a minor amendment to any of the conditions or requirements of a permit.

(1) Upon a showing of changed circumstances and a determination by the mayor, or her designee that (a) the requested amendments constitute a minor adjustment that can be sufficiently mitigated through new actions that may be required as part of the permit amendment approval, and (b) each of the proposed amended conditions is not otherwise prohibited under the municipal code and would not require additional environmental review under BDMC Title 19;

The MPD process recognizes the programmatic nature of the MPD permit approval. Alternations to Implementing Projects and Approvals are allowed so that changes may be made for refinement and/or to accommodate new or better information as it becomes known. The applicant describes that during site preparation, it became known that removing the alleys would maintain a better balance of cut to fill material. A more balanced site means fewer truck trips to haul material to and from the site, which decreases noise, pollution, and other impacts on the rest of the City. The community development director, acting as the mayor's designee, accepts that a developer may not fully know the best course of action for site preparation at the time of preliminary plat approval. Further, the requested amendment does not create new adverse impacts. Rather, the reduction of impervious surface from the alley removal, reduction in difference between cut to fill materials, and a new Community Park result in better environmental and social outcomes. The amendment complies with the municipal code, the MPD permit and DA. There are no new impacts associated with the proposed amendment that were not evaluated under the original SEPA Determination, PLN13-0028 issued on June 17, 2014. The proposed amendment does not increase any adverse environmental impact.

(2) The proposed amendments would not: (a) increase gross building area by more than ten percent, (b) increase the number of dwelling units, (c) increase the total impervious surface area, (d) change the number of ingress or egress points, or (e) increase the area of site disturbance by more than ten percent.

The proposed amendment reduces the gross building area from 39.57 acres to 39.32 acres. It decreases the number of dwelling units from 203 to 202. It decreases the total impervious surface area by 28,562 sq. ft. It does not change the number of ingress or egress points. Each tract will have an ingress and egress point from one of the three local roads. Off-site connections for ingress and egress points remain at Willow Ave in PP1A to the north and Tract 907 to the south remain. The area of site disturbance is unchanged.

17.20.090(B) Vacation or alteration of a subdivision, Alteration

If an applicant is interested in the alteration of any subdivision or any portion thereof, except as provided in RCW 58.17.040(6), that person shall submit an application to the community development department requesting the alteration. The application shall contain the signatures of all persons having an ownership interest in lots, tracts, parcels, sites, or divisions in the subject subdivision or portion to be altered.

If the alteration to a subdivision is requested prior to final plat approval, a minor alteration may be approved by the community development director. A major alteration requested prior to final plat approval shall require approval of the hearing examiner after appropriate public notice and holding of a public hearing. The community development department shall have the authority to determine whether the proposed alteration constitutes a minor or major alteration. For purposes of this section, a "major alteration" means the creation of additional lots, the elimination of open space, or changes to conditions of approval on an approved preliminary subdivision, and a "minor alteration" means (a) modifications to engineering design, unless the proposed design alters or eliminates features specifically required as a condition of preliminary subdivision approval, (b) a modification to lot dimensions, provided that such modified dimensions conform to city code, or (c) a reduction in the number of lots to be created, provided that the reduction otherwise conforms to the provisions of city code. If the alteration to a subdivision is requested after final plat approval, but prior to filing the final plat with King County, a plat alteration may be approved with consent of the city council. Upon receipt of an application for alteration, the community development department shall provide notice of the application to all owners of property within the subdivision, and as was required by the subdivision application. The notice shall establish a date for a public meeting.

The applicant submitted an application to the community development department on March 11, 2016 requesting alteration of Plat 2C consistent with 17.20.090(B) of the BDMC. The alteration is requested prior to final plat approval and therefore may be approved by the community development director. The community development director has determined that the proposed alteration constitutes a minor amendment based on the following:

> ***(b) The amendment modifies lot dimensions that conform to city code, the MPD permit and DA, and***
>
> ***(c) The amendment reduces the number of lots to be created and the reduction conforms to the provisions of city code, the MPD and DA.***

F. CONCLUSION

1. The proposed Plat Alteration satisfies the criteria of BDMC 18.98.100 for a Minor Amendment.

2. The proposed Plat Alteration satisfies the criteria of BDMC 18.14.040.A for a Minor Amendment.

3. The proposed Plat Alteration satisfies the criteria of BDMC 17.20.090(B) for a Minor Amendment.

4. The proposed Plat Alteration is exempt from environmental review.

5. The proposed Plat Alteration conforms to city code, the MPD permit and DA.

G. DECISION

As the mayor's designee and under the authority of BDMC 18.98.100, 18.14.040, and 17.20.090(B), the application for a Minor Amendment to alter the Villages MPD Preliminary Plat 2C, File NO. PLN16-0014 is **APPROVED.**

The final determination that this proposal constitutes a minor amendment and the administrative decision to approve it may be appealed to the hearing examiner. An appeal request must be submitted in writing to the city clerk at 24301 Roberts Drive, PO Box 599, Black Diamond, WA 98010 and must briefly describe the basis of the appeal. Such request for an appeal hearing must be postmarked or hand delivered no later than ten business days after the date of the decision being appealed.

Barbara Kincaid 6/30/16

Barbara Kincaid, Community Development Director Date: