

*Recd 11/1/2012  
10:31 am.  
during hearing.*

**YarrowBay's Proposed Additional Preliminary Plat 1A Conditions**

November 1, 2012

1. All implementing projects and permits for Preliminary Plat 1A shall comply with the terms and conditions set forth in the Traffic Impact Study prepared by Transpo Group dated February 2011, updated on May 15, 2012, and approved by the City on August 30, 2012.
2. All implementing projects and permits for Preliminary Plat 1A shall comply with the terms and conditions set forth in the Detailed Implementation Schedule of Phase 1A Regional Infrastructure Improvements dated August 25, 2012 and approved by the City on August 27, 2012.
3. The Master Developer shall implement the following strategies to further reduce Preliminary Plat 1A's construction traffic: (1) Adjust Preliminary Plat 1A's site grading to achieve an approximate earthwork balance notwithstanding limited import of the following: (i) topsoil of approximately 7,000 CY; and (ii) import approximately 7,000 CY of material for rain garden materials (estimated at 52 rain gardens of average size 11.5' W x 75' L x 4.5'D); (2) Screen Preliminary Plat 1A strippings onsite to obtain topsoil for re-use onsite; (3) Rocks obtained through the screening of topsoil on Preliminary Plat 1A should be used as fill or crushed for use as base material onsite; (4) Sticks obtained through the screening of topsoil on Preliminary Plat 1A should be "chipped" and used for soft surface trails or erosion protection onsite; and (5) Limit deliveries via trucks larger than Single Unit (SU)-30 trucks to before 3:30 p.m. Monday – Friday.
4. All implementing projects and permits for Preliminary Plat 1A shall be reasonably consistent with the terms and conditions set forth in the Overall Grading Plan dated June 25, 2012 and the Triad memorandum dated September 28, 2012 re: The Villages Preliminary Plat 1A Construction Trips.
5. Prior to any clearing or grading activities within a division of Preliminary Plat 1A, clearing limits shall be marked in the field with continuous ribbon, silt fence or orange construction fence where appropriate to clearly indicate clearing limits. Trees within or near clearing limits to be saved shall be clearly marked. Orange construction fence shall be installed as a tree protection fence outside of drip lines of trees to be saved prior to the start of clearing and grading operations.
6. In order to ensure compliance with The Villages MPD Condition of Approval No. 156, the Master Developer's annual Total Funding Obligation for a given year shall be equal to or greater than the Net Annual General Fund Deficit for such year (as set forth in Table 2 of The Villages Phase 1A Fiscal Impact Analysis dated September 20, 2012), provided a deficit is shown in such table, until a new fiscal analysis is prepared and approved by the City's Designated Official pursuant to the terms of The Villages MPD Development Agreement Section 13.6, which shall be no later than the earlier of (1) five years; (2)

prior to the start of the next phase of The Villages and/or Lawson Hills MPDs; or (3) during Annual Review if the Master Developer elects to have a new targeted fiscal analysis prepared in its sole discretion for the next calendar year. At such time, the Master Developer's annual Total Funding Obligation to ensure compliance with Condition of Approval No. 156 shall be reevaluated. No implementing permits or building permits shall be issued by the City of Black Diamond for Phase 1A of The Villages MPD if the Master Developer fails to make an annual Total Funding Obligation payment as described herein according to a payment schedule mutually agreed to by the Master Developer and MDRT as part of the Annual Review. All capitalized terms not otherwise defined in this condition shall be as defined in the MPD Funding Agreement (Exhibit "N" of The Villages MPD Development Agreement).

7. Pursuant to Section 4.9 of The Villages MPD Development Agreement, no more than 60% of the proposed residential Density in Phase 1A may be based upon the land area included in that Phase. As soon as this 60% threshold is exceeded for Phase 1A, the City shall not issue additional utility permits for any road or stormwater improvements within a division of Preliminary Plat 1A until BD Village Partners, LP or its successor or assign has demonstrated ownership of any TDRs needed for that specific division.
8. The following mechanisms shall be utilized in Preliminary Plat 1A where feasible so as to integrate Low Impact Development techniques into The Villages MPD build-out: (1) reduced roadway widths, (2) infiltration wells, (3) rain gardens, (4) bioswales, (5) media filter strips, (6) reduced driveway lengths, (7) pervious asphalt and concrete in alleys, (8) pervious pavers, and (9) install pet waste stations in common areas.
9. Trails within a Division of Preliminary Plat 1A shall be constructed or bonded prior to issuance of a certificate of occupancy, final site plan approval or final plat approval (whichever occurs first) for that Division within Preliminary Plat 1A.
10. All Neighborhood Parks, trails and Community Parks in Preliminary Plat 1A will be owned and maintained by the applicable Owners' Association (OA) or Master Developer pursuant to the provisions of Subsection 5.5.7 of The Villages MPD Development Agreement, except for any owned by a school district.
11. Required open spaces identified with the Preliminary Plat 1A plat sheets will be conserved or conveyed to the City on a division-by-division basis during the final plat process.
12. The westerly boundary of Tract 953 shall be modified prior to final plat submittal and approval for Division 1L to include all portions of the 60-foot buffer of Wetland S as indicated on Preliminary Plat Sheet PP7. Such boundary modification shall be exempt from the plat alteration process set forth in BDMC §17.20.090(B) because it is required by a preliminary plat condition of approval.
13. Prior to final plat approval of the Division in which such lot is located and in order to ensure compliance with the first bullet under "Lot Sizes and Front Yard Setbacks (Single

Family Detached)” of Chapter 4 of the MPD Project Specific Design Standards and Guidelines (Exhibit “H” of The Villages MPD Development Agreement), which reads “Corner lots side yard setback on the street side shall be at least 5 feet wider than interior lots” (emphasis added), the Master Developer shall either: (i) amend the lot lines of Lots 25I and 25K, as shown on the Phase 1A Preliminary Plat sheets dated 8/23/2012, to accommodate 5 feet wider side yard setbacks; or (ii) require smaller residential building footprints such that 5 feet wider side yard setbacks can be accommodated on Lots 25I and 25K.

14. Prior to final plat submittal of any Division within Preliminary Plat 1A, the park types in Open Space Tract Table on Preliminary Plat Sheet CV5 shall be amended as follows: (i) Tract 910 is too small to be a Neighborhood Park; (ii) Tract 918 is too small to be a Neighborhood Park; and (iii) Tract 941 is too large to be a Pocket Park per the park type definitions in Section 14 of The Villages MPD Development Agreement.
15. Prior to final plat submittal of any Division within Preliminary Plat 1A, the Master Developer shall correct Preliminary Plat Sheet CV3 as follows: (i) Roberts Drive is incorrectly labeled as Richards Drive; and (ii) the Lot Summary table incorrectly gives unit values for Division 1A Lots 1A-10A, Division 1F Lots 1F-3F, Division 1L and Division 1M; these lots are intended for mixed use commercial development and a school site.
16. To the extent that the Phase 1A Preliminary Plat requires construction of off-site improvements to roads that currently drain to Lake Sawyer, the Applicant will be required to treat the runoff from the improvements and the right-of-way in the immediate vicinity of the improvements to the then current, applicable phosphorous treatment standard. This condition will be applied during the review and approval of any Utility Permits for design and/or construction of any such off-site road improvements.
17. Concurrent with submittal of Utility Permits for any Division of the Phase 1A Preliminary Plat, the Applicant shall submit a report with the exact number of significant trees to be removed in such Division and identify mitigation per BDMC 19.30.070 (e.g., planting of replacement trees or payment to the City tree mitigation fund). Trees proposed for replanting shall be native trees per The Villages MPD Condition of Approval 122.
18. Pursuant to MPD Condition of Approval No. 52, should new water distribution alternatives be desired by the Applicant that are not consistent with the City’s Water Comprehensive Plan in effect as of the date of The Villages MPD Permit Approval, the Applicant shall be responsible for the cost of updating the Plan, if needed.
19. The following underlined language shall be added to proposed City Staff plat condition #52: “Stormwater from the rooftops in the area labeled “adaptive management” shall be configured, through valves and piping, with the option of discharging into either the Zone 1A infiltration facilities or into the Zone 1C regional stormwater facility and designed and managed to meet the target recharge flow rates and volumes to Horseshoe Lake. The

applicant shall be responsible for monitoring and maintaining the water balance within the adaptive management zone until all stormwater facilities within the zone are complete and accepted by the City. The default position will set for Zone 1A. This condition will be enforced during Utility Permits.”

20. The City’s Staff Report dated October 12, 2012 recommended condition of plat approval no. 29 regarding the review and approval of Covenants, Conditions and Restrictions (CCRs) by the Designated Official. For clarification purposes, YarrowBay suggests the following additional changes to the City’s proposed condition: “Prior to final plat approval of any plat division, the applicant shall submit Covenants, Conditions and Restrictions (CCRs) for such division for review and approval by the Designated Official as defined in The Villages MPD Development Agreement. The Designated Official’s review and approval shall be limited to the CCRs compliance with the Conditions of Approval of The Villages MPD Permit (Black Diamond Ord. No. 10-946) and the provisions of The Villages MPD Development Agreement dated December 12, 2011 (Black Diamond Ord. No. 11-970). Provided, if CCRs have already been submitted and approved by the Designated Official that bind a certain plat division, this condition shall be deemed satisfied for purposes of such division.”
21. The City’s Staff Report dated October 12, 2012 recommended condition of plat approval no. 52. For clarification purposes, YarrowBay suggests the following additional changes to the City’s proposed condition: “Stormwater from the rooftops in the area labeled "adaptive management" shall be configured, through valves and piping, with the option of discharging into either the Zone 1A infiltration facilities or into the Zone 1C regional stormwater facility located south of Preliminary Plat 1A. The applicant shall be responsible for monitoring and maintaining the water balance within the adaptive management zone until all stormwater facilities within the zone are complete and accepted by the City. The default position will set for Zone 1A. This condition will be enforced during Utility Permits.”
22. The City’s Staff Report dated October 12, 2012 recommended condition of plat approval no. 53. For clarification purposes, YarrowBay suggests the following additional changes to the City’s proposed condition: “The regional stormwater facility located to the south of the Phase 1A Preliminary Plat and shown on plat sheets RS7 through RS9 dated 8/23/2012 shall be designed and built at this time to accommodate all future phases of The Villages MPD that may potentially drain to it. This condition will be applied during Utility Permit review and approval.”
23. The City’s Staff Report dated October 12, 2012 recommended condition of plat approval no. 54. For clarification purposes, YarrowBay suggests the following additional changes to the City’s proposed condition: “Prior to permitting for any future Villages MPD phase that may discharge to the regional stormwater facility shown on Phase 1A plat sheets RS7 through RS9 dated 8/23/2012, the applicant shall demonstrate, through on-site real-time monitoring, that the regional infiltration system located to the south of the Phase 1A Plat is operating as-designed and has sufficient capacity for those future phases.

This condition will be applied during preliminary plat, final plat and/or Utility Permit review for Villages MPD phases subsequent to Phase 1A.”

24. The City’s Staff Report dated October 12, 2012 recommended condition of plat approval no. 55. For clarification purposes, YarrowBay suggests the following additional changes to the City’s proposed condition: “Prior to approval for the first clearing or grading permit, the applicant shall provide written confirmation, from the Department of Ecology, that an NPDES permit is not required for any phase division of this Preliminary Plat, including utility installation and building construction. In the alternative, the applicant may obtain the applicable NPDES Permit, if required. This condition will be applied during grading and/or clearing permit review and approval.”