



# CITY OF BLACK DIAMOND

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November 25, 2014

## COMMUNITY DEVELOPMENT DEPARTMENT Staff Report for The Villages Preliminary Plat Phase 2 Plat C PLN13-0027

**Applicant/Owner:** BD Village Partners, LP  
10220 NE Points Drive, Suite 310  
Kirkland WA 98033

**Contact:** Colin Lund  
Yarrow Bay Holdings  
10220 NE Points Drive, Suite 120  
Kirkland, WA 98033

**Project Name:** The Villages MPD Phase 2 Preliminary Plat C (Plat 2C)  
**Location** South of Roberts Drive and southeast of The Villages MPD Phase 1A Preliminary Plat, generally within the SE ¼ and portions of the SW ¼ of Section 15, Township 21 North, Range 6 East and limited areas of the NW ¼ of Section 22, Willamette Meridian, WA. (Exhibit 1)

**Request:** Approval of Preliminary Plat application for Plat 2C

**Application Date:** November 8, 2013  
(deemed complete on December 3, 2013)

**Parcel Numbers:** 152106-9108, 152106-9096, and 2221069004 (Exhibit 1a)

**Zoning:** MPD, Master Planned Development

**Comprehensive Plan:** Low Density Residential and Master Planned Development Overlay

**RECOMMENDATION:** Approval with conditions

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## Exhibits

- 1) Vicinity Map for The Villages MPD Parcel V28 & 29
  - a) Tax assessor maps
  - b) Pre-Application Meeting Notes (PLN13-0017), September 16, 2013
- 2) The Villages MPD – Preliminary Plat Phase 2 Plat C plan set (Cover sheet, Sheets CV1-4, PP1-4, PP5, RS1-4, RD1, UA1, SSWA1-4) June 16, 2014. Previous versions available on request by submittal date: November 8, 2013; December 6, 2013; March 17, 2014; April 21, 2014; May 30, 2014.
- 3) Application and Submittal Package, November 8, 2013
  - a) Submittal cover letter, Colin Lund to Stacey Welsh, November 2013
  - b) Master Application Form
  - c) Sensitive Area Identification Form
  - d) Project Narrative
  - e) SEPA Checklist, November 8, 2013
  - f) Preliminary Plat Title Report and LLA Title Report
  - g) Preliminary Plat Phase 2 – Plat C, Preliminary Drainage Analysis, Triad Associates, November 8, 2013
  - h) List of property owners of record within 300 feet of the exterior boundaries of all parcels proposed to be included in the subdivision
  - i) Certificates of water and sewer availability: Sections 7.2.1 and 7.3.1 of The Villages Development Agreement
  - j) Transfer of development rights: Section 4.9 of The Villages Development Agreement
  - k) Preliminary Plat fee and review deposit
  - l) Design Review Committee (DRC) approval letter, dated November 5, 2013 from Colin Lund, Kevin Thomas, and Lauri Moffet-Fehlberg, all of BD Village Partners, LP. Representative Housing Images.
  - m) American Forest Management letter report on a significant tree inventory, October 28, 2013
  - n) External materials board
- 4) Letter from Colin Lund to Stacey Welsh, Request for Mitigated Determination of Non-significance, May 12, 2014 (PLN13-0027)
- 5) MDNS: A Mitigated Determination of Non-significance for Plat 2C and Adoption of Existing Environmental Document was issued by the City of Black Diamond on June 17, 2014.
- 6) Public Comment: Karen Walter, Muckleshoot Tribe Fisheries Division (email messages, June 17 and July 1, 2014)
- 7) Public Comment: Cynthia Wheeler (letter July 1, 2014)
- 8) Public Comment: Erika Morgan (email and attachment, July 1, 2014)
- 9) Public Comment: Cindy Proctor (email message with attachments a-k), July 1, 2014
  - a) Key Dates and Implementation Points of the Comprehensive School Mitigation Agreement

- b) Findings of Fact, Conclusions of Law and Decision Re: Villages Preliminary Plat 1A, PLN11-0001
- c) Comprehensive School Mitigation Agreement, King County Washington recorded document #20110624001156
- d) Black Diamond School Sites
- e) City of Black Diamond Resolution No. 12-788
- f) Final Report and Recommendations to the King County Executive, King County School Siting Task Force, March 31, 2012
- g) Verbatim Record of Proceedings Re: Transfer of Territory from Tahoma School District to Enumclaw School District, October 3, 2013
- h) K&L Gates, invoices for services
- i) Technical Memorandum [DRAFT], from David Sherrard, Parametrix to City of Black Diamond, April 17, 2009
- j) Public Notice of extension of public comment period from April 29, 2014 to May 13, 2014, for Environmental Assessment for Resumption of Coal Mining at Pacific Coast Coal Company's John Henry No. 1 Mine, Office of Surface Mining Reclamation and Enforcement
- k) Photocopy of letter from Pacific Coast Coal Company, April 2, 2014
- 10) Public Comment: Gil Bortleson (letter with attachment, July 2, 2014)
- 11) Public Comment: Brian A. Borgstadt, PE, Covington Water District, (letter, August 5, 2014)
- 12) The Villages Master Planned Development Final Environmental Impact Statement, December 2009, prepared for the City of Black Diamond by Parametrix
- 13) 2012-2013 Pre-Construction Stormwater Monitoring in Rock Creek to Establish the Baseline Phosphorus Load, Tetra Tech, November 2013; Revised January 2014
  - a) Letter to Colin from Robert Plotnikoff, January 30 noting changes to graphs in January 30 report versus January 10 report [Note: staff included copies of graphs from January 10 report for comparison to graphs in Exhibit 13, January 30 report. A full copy of the January 10, 2014 report is available on request.]
  - b) Status Update on Stormwater and Groundwater Monitoring Completed to Date in the Rock Creek Drainage, Tetra Tech, May 6, 2014
  - c) 2012-2013 Pre-Construction Stormwater Monitoring Report, Tetra Tech, November 2013
- 14) MPD Permit (Ordinance No. 10-946), with Exhibit B, Conclusions of Law and Conditions of Approval
- 15) The Villages MPD Development Agreement (Ord. 11-970 and amendments, available on request)
- 16) Lot line adjustment request, PLN13-0026, November 8, 2013 [excerpted maps showing existing and proposed lot lines]
  - a) City Reviews and Preliminary Approval Correspondence
  - b) Applicant's Revised Submittal Packet, March 18, 2014
- 17) Alternative Road Section Request [woonerf], April 21, 2014
  - a) Road Section Deviation Determination [woonerf], July 25, 2014
- 18) Notice of Complete Application, December 3, 2013
  - a) 18a. Public Notice of Application, December 6, 2013
- 19) Notice of Hearing, July 25, 2014
  - a) Public notice of August 25 hearing postponement, August 18, 2014
- 20) Preliminary Drainage Analysis for Preliminary Plat Phase 2 – Plat C, Triad Associates, November 8, 2013
  - a) Letter from Dan Ervin, RH2, regarding review of stormwater hydrology , May 12, 2014
  - b) Memorandum from Dan Ervin, RH2, regarding Stormwater Deviation Request, July 17, 2014
  - c) Plat 2C Stormwater Deviation Determination: Alternative Stormwater Zone Delineation, approved August 12, 2014
- 21) Road Section Deviation Request, letter from YarrowBay, January 27, 2014

- a) Road Section Deviation Determination Approval, Alternative Rain Garden Widths Configuration, July 25, 2014
- 22) Phase 2 Overall Grading Plan: Triad Associates memorandum to Andrew Williamson, November 21, 2013
  - a) Overall Grading Plan (reduced plan set), Triad Associates, November 21, 2013
  - b) Response to comments of March 18, 2014, Triad Associates, April 21, 2014
- 23) Phase 2 Plat C Geotechnical Report, Golder Associates, December 5, 2013
  - a) City Comments on Geotechnical Report, March 24, 2014 and Golder Associates responses, April 2014
- 24) Traffic Impact Study, Transpo Group, December 19, 2013
  - a) Technical Memorandum from John Perlic, Parametrix, regarding review of Traffic Impact Study and review of Traffic Monitoring Report, February 27, 2014
  - b) Traffic Impact Study - Response to Comments, Transpo Group, March 28, 2013
  - c) Technical Memorandum from John Perlic, Parametrix, regarding review of Transpo Group responses to Parametrix' comments, May 2, 2014
  - d) Technical Memorandum from John Perlic, Parametrix, comparison of Plat 2C proposal to MPD Permit Conditions of Approval, May 19, 2014
- 25) Traffic Monitoring Report, Transpo Group, December 2013
  - a) Traffic Monitoring Report - Response to Comments, Transpo Group, March 28, 2014
  - b) Technical Memorandum from John Perlic establishing sufficiency of traffic analysis, June 11, 2014
  - c) City Approval of Traffic Monitoring Plan, June 9, 2014
- 26) Short-term Construction Noise Mitigation Plan December 20, 2013, revised March 13, 2014
- 27) Wetland Buffer Vegetation Management Plan, Wetland Resources, Inc., December 19, 2013; Revised May 6, 2014
- 28) Sensitive Area Study, Buffering Averaging Plan & Wildlife Analysis, Wetland Resources, Inc., February 24, 2014, Revised May 6, 2014
  - a) Sensitive Area Study, Buffering Averaging Plan & Wildlife Analysis, Wetland Resources, Inc., February 24, 2014
  - b) Sensitive Area Study and Wildlife Analysis, Wetland Resources, Inc. December 24, 2013
  - c) The Villages MPD Phase 2 Plat C-Wetland Review, Perteet, March 31, 2014
  - d) Response to Perteet's Wetland Review, Wetland Resources, Inc. April 28, 2014
  - e) Follow-Up Review for The Villages MPD Phase 2 Plat C – Wetland Review, memorandum from Jason Walker (Perteet) to Stacey Welsh, May 19, 2014
  - f) Response to comments regarding wetland hydroperiod analysis, memorandum from Scott Stoneman and James Johnson, Golder Associates to Colin Lund, May 8, 2014
  - g) Response to Perteet's Wetland Review Memorandum dated May 19, 2014
- 29) Detailed Implementation Schedule of Regional Facilities, Triad Associates, Jan. 28, 2014
  - a) Approval of Regional Facilities Implementation Schedule for Phase 2, The Villages & Lawson Hills PMDs, June 13, 2014
- 30) Request for Mayoral Approval of Wetland Buffer Averaging Plan ,YarrowBay, May 14, 2014
  - a) Mayoral Approval of Buffer Averaging Request, June 5, 2014
  - b) Letter from YarrowBay to clarify condition #2, June 25, 2014
  - c) Wetland scientist response to YarrowBay letter, July 21, 2014
- 31) Technical Memorandum on Construction Traffic Impacts, Triad Associates, April 22, 2014
  - a) Technical Memorandum from John Perlic, Parametrix, regarding review of construction trip impacts, May 19, 2014
  - b) Letter response to comments by Parametrix, Triad Associates, May 22, 2014

- 32) Phase 2 Updated Fiscal Impact Analysis for the Villages and Lawson Hills Master Planned Developments, DPGF, April 28, 2014. (December 2013, first draft, is available on request.)
  - a) Documentation, Explanations, Clarifications, Revisions for Updated Fiscal Analysis, Henderson, Young & Company, March 16, 2014 (initial questions by HY&Co); April 28, 2014 (answers by DPGF to questions); and May 21, 2014 (HY&Co responses to DPGF answers)
  - b) "Independent Evaluation of Phase 2 Updated Fiscal Impact Analysis for The Villages and Lawson Hills Master Planned Development", Henderson, Young & Company, May 26, 2014
  - c) City approval, June 16, 2014
- 33) City of Black Diamond Permit Trax Summary, as of November 4, 2014
- 34) Email Correspondence between Carol Morris and Megan Nelson (YarrowBay) regarding Welsh Subpoena, August 5 through August 15, 2014
- 35) Public Works Report, "Water System Capacity to meet needs of pending subdivisions", August 9, 2014
- 36) Wildlife Corridor Connections Analysis for Wetlands S, T, D4 and E1, Wetland Resources Inc., August 12, 2013
  - a) Memorandum to file, Mark Hoppen, SEPA Responsible Official, September 18, 2013
- 37) Letter regarding regional sewer service request for a second point of connection, King County Wastewater Treatment Division, December 16, 2013
- 38) The Villages Preliminary Plat Phase 1 Plat A (PLN11-001) Conditions of Approval
- 39) Construction Waste Management Plan, Exhibit "J" of The Villages DA, August 2010
- 40) MDRT Matrix of Review Comments and Responses, 4th Response Version (most complete)
- 41) Triad Associates: Sanitary Sewer Capacity Memorandum, April 9, 2014
- 42) Affidavits of Public Notices
- 43) Supplemental application materials from YarrowBay, October 8, 2014: Draft Temporary Access and Utility Easement (Draft submitted to the City on October 9, 2014) and Draft Covenant Not to Sue
  - a) Plat 2C site plan with variety of typical building footprints
- 44) Temporary Access and Utility Easement, recorded October 31, 2014.
- 45) Consulting Engineer's Certification of Review of Utilities (water, sewer, stormwater) for compliance with City codes and standards, November 19, 2014
- 46) Applicant's Confirmation of Tract 906 as a Community Park, email message October 13, 2014
- 47) City Utility Letters (sanitary sewer, water supply and capacity), June 16, 2014
- 48) Revised Preliminary Plat plan set, November 21, 2014
- 49) Revised Cover Sheet CV1 with TDR Phase table. [EXPECTED TO BE SUBMITTED BY THE APPLICANT ON NOVEMBER 26, 2014]
- 50) Public Comment: Kristen Bryant, Email dated July 1, 2014 regarding SEPA Comments related to Plat 2C per June 16, 2014 Notice
- 51) Public Comment: Judith Carrier, SEPA Comments related to The Villages Plat 2C dated July 1, 2014
- 52) Public Comment: Erika Morgan, Email dated December 6, 2014 Related to the Public Hearing PLN13-0027 Posted November 25, 2014
- 53) Public Comment: Cindy Wheeler, Email dated December 10, 2014, Related to the Public Hearing PLN13-0027 Posted November 25, 2014
- 54) Public Comment: Gil Bortleson, Email dated December 11, 2014, Related to the Public Hearing PLN13-0027 Posted November 25, 2014
- 55) Public Comment: Kristen Bryant, Emails dated December 11, 2014 Related to the Public Hearing PLN13-0027 Posted November 25, 2014

- 56) Public Comment: Erika Morgan, Email dated December 11, 2014 Related to the Public Hearing  
PLN13-0027 Posted November 25, 2014
- 57) Public Comment: Robert Taeschner, Letter dated December 11, 2014
- 58) See Staff Report
- 59) Provided by YarrowBay, Curriculum Vitea for Alan D Fure
- 60) Provided by YarrowBay, Curriculum Vitea for Thomas P Matt
- 61) Provided by YarrowBay, Curriculum Vitea for James G Johnson
- 62) Provided by YarrowBay, Curriculum Vitea for Kevin L Jones
- 63) Provided by YarrowBay, Curriculum Vitea for Scott Brainard
- 64) Provided by YarrowBay, Curriculum Vitea for Scott Spooner
- 65) Provided by YarrowBay, Curriculum Vitea for Harry L Gibbons
- 66) Provided by YarrowBay, Curriculum Vitea for Robert W Plotnikoff
- 67) Provided by YarrowBay, Curriculum Vitea for Chris Austin
- 68) Provided by YarrowBay, Curriculum Vitea for Matt Johnson
- 69) Plat 2C Illustrative Exhibit
- 70) Guide to Plat 2C
- 71) YarrowBay response to Public Comments
- 72) Revisions to Conditions
- 73) Quarter Mile Exhibit
- 74) Covington Water District Disputed Area Exhibit
- 75) Plat 2C Fencing Locations Exhibit
- 76) Public Comment: Bob Edelman, turned in at Public Hearing
- 77) Public Comment: Gary Davis, turned in at Public Hearing
- 78) Public Comment: Cindy Proctor, turned in at Public Hearing with CD
- 79) Public Comment: Tracy Dummitt, turned in at Public Hearing
- 80) Public Comment: Jaqueline Taeschner, turned in at Public Hearing
- 81) Public Comment: Green Valley/Lake Holm Association, turned in at Public Hearing
- 82) Public Comment: William Lider, turned in at Public Hearing
- 83) Public Comment: William Lider, turned in at Public Hearing
- 84) Public Comment: Gwynllyn Vukich, turned in at Public Hearing
- 85) Public Comment: Carol Lynn Harp, turned in at Public Hearing
- 86) Public Comment: Brian Derdowski, Procedual turned in at Public Hearing
- 87) Public Comment: Brian Derdowski, Substantive turned in at Public Hearing
- 88) Public Comment: Brian Derdowski, WAC turned in at Public Hearing
- 89) Public Comment: Brian Derdowski, RWC turned in at Public Hearing
- 90) Public Comment: Brian Derdowski, Emailed December 12, 2014
- 91) Public Comment: Brian Derdowski, Introduction turned in at Public Hearing
- 92) Public Comment: Judith Carrier, turned in at Public Hearing
- 93) Public Comment: Doug Ostgard, turned in at Public Hearing
- 94) Public Comment: Kristen Bryant, Emailed December 11, 2014

95)

# I. INTRODUCTION

## Project Description

BD Village Partners, LP is requesting preliminary plat approval of the Preliminary Plat Phase 2 Plat C ([Plat 2C] to subdivide approximately 136 acres on parcels V28 and V29 of The Villages Master Planned Development (MPD). MPD Parcels V28 and V29 are southeast of the intersection of Lake Sawyer Road with Auburn-Black Diamond Road (Roberts Drive). (Exhibit 1)

The Villages MPD and Lawson Hills MPD are two planned developments on two sites in Black Diamond. The applicant received MPD permits for The Villages and Lawson Hills from the City in 2010. Development on the two sites is planned in four phases: Phase 1A, Phase 1B, Phase 2, and Phase 3. A preliminary plat for Phase 1A, north and west of Phase 2, was approved in 2012 (File No. PLN11-001). Phase 2 contains property in both Lawson Hills and The Villages. Plat 2C is within The Villages and is the first implementing project of Phase 2 of The Villages MPD.

City approval of Plat 2C would create a residential subdivision of approximately 40 acres and about 95 acres of land in protected tracts of open space, wetlands, and wetland buffers. (Exhibit 2) Plat 2C contains 203 single-family lots, five future development tracts for future residential subdivision, and 31 tracts for utilities (stormwater, sanitary sewer and water supply), access, landscaping, and sensitive areas and buffers. Three local streets, four alleys, and three 'woonerfs' will provide circulation. (Woonerfs are a type of street for shared access by pedestrians and motorized and non-motorized vehicles.) A major off-street trail would loop around and through the development. The applicant proposes that all public streets and the water, sanitary sewer, and stormwater facilities that are within public right-of-way will be constructed and then turned over to the City for ownership and maintenance. The applicant proposes to complete the streets and utilities either prior to the application for final plat approval or after, in which case a bond for completion of the utilities (in compliance with the Development Agreement, Section 7.1.4) would be obtained prior to the application for final plat approval.

Phase 1A is designed to provide utility and street connections between Plat 2C and the existing utility and road network in Roberts Drive. The applicant also proposes to record a Temporary Access and Utility Easement on Phase 1A that would allow construction of roads and utilities to connect Plat 2C directly to the City's existing road and utility networks in Roberts Drive.

Proposed activities associated with approval of the plat include subsequent site preparation, grading, and construction, although these activities would not begin until permits for them had been issued.

## Project History

The Villages Master Planned Development (MPD) is a phased, mixed-use development on 1,196 acres, allowing 4,800 residential units, 775,000 square feet of office, retail and light industrial uses, school sites and both passive and active open space. The Master Planned Development permit for The Villages was approved on September 20, 2010 by the Black Diamond City Council (ORD 10-946). A non-project Environmental Impact Statement (EIS) under the State Environmental Policy Act (SEPA) disclosed the potential impacts and recommended mitigation identified in the MPD permit (Exhibit 12). The Villages

Development Agreement (2011) (DA) was approved on December 12, 2011 (ORD 11-970). Several appeals of the decisions were filed between 2010 and 2012 but the original decisions have been upheld and the non-project EIS deemed adequate.

The Villages MPD permit (MPD) established 164 conditions of approval that apply to the implementing projects that will result in development within the boundaries of The Villages. Many of the MPD permit conditions were further developed and incorporated into the DA. The permit conditions and the DA together establish requirements for development within The Villages, or else reference applicable Black Diamond Municipal Code sections. The standards and regulations of the Black Diamond Municipal Code (BDMC) that apply to development in The Villages are those in the version adopted by the DA in Exhibit "E" (current through September 20, 2010), unless otherwise stated herein.

The first implementing project, a Preliminary Plat for Phase 1A, was approved in 2012 (File No. PLN11-001). Construction is currently underway, consisting of site preparation and installation of utilities. Construction on Phase 1A and Plat 2C is likely to occur concurrently.

## Description of Existing Conditions and Land Use

The site is described as undulating topography with alternating swaths of uplands and lowlands and generally trends toward an eastern aspect. Most of the site and surrounding land contains managed forest plantations in use for decades and last logged in the late 70's or early 80's. The forest management activities have created an even-aged stand of Douglas fir and a low-lying, native understory. Parts of a logging road system are still used by unauthorized off-road vehicle users, pedestrians, and pedestrians with pets. There are no existing structures. There are six wetlands on the Plat 2C property. Wetland E1 is a Category II wetland with a 100-foot buffer in its northern basin and a 225-foot buffer in its southern basin. Wetlands E7, E8, and E10 are Category III wetlands with 110-foot buffers. (WA Department of Ecology and City of Black Diamond classification categories.) Wetland TOS is part of the Core Wetland Complex identified within BDMC 19.10.230 and is therefore a Category I wetland with a designated 225-foot protective buffer. Wetland 213 is a Category IV wetland with a 40-foot designated buffer. Rock Creek is the only other sensitive area on the site. Trees within the boundaries of the proposed development on parcels V28 and V29 will be removed. The applicant will be required to obtain a tree removal permit prior to tree removal. No logging for revenue purposes is proposed under this application.

# Abbreviations and Terms Used

The following abbreviations and terms are used in this Staff Report.

BDEDCS	Black Diamond Engineering, Design and Construction Standards
BDCP	Black Diamond Comprehensive Plan
BDDG	Black Diamond Design Guidelines
BDMC	Black Diamond Municipal Code
CSMA	The Comprehensive School Mitigation Agreement for The Villages and Lawson Hills Master Planned Developments
DA	The Villages Development Agreement approved by the Black Diamond City Council in Ordinance No. 11-970
Designated Official	Per DA, the person appointed by the Mayor authorized to administer, interpret, process and approve plans as required. See DA, Section 14.0 for full description.
DRC	Design Review Committee for The Villages
FEIS	The Final Environmental Impact Statement for The Villages MPD Permit
IFC	International Fire Code
Lot	Means a fractional part of divided lands having fixed boundaries, being of sufficient area and dimensions to meet minimum zoning requirements for width and area. Term includes tracts and parcels.
Master Developer	The project applicant; as defined in Ch. 14 DA
MDNS	Mitigated Determination of Non-Significance
MDRT	Major Development Review Team
MPD	The Villages Master Planned Development Permit approved by the Black Diamond City Council in Ordinance No. 10-946
Plat 2C	The Villages MPD Preliminary Plat, Phase 2 Plat C
Preliminary plat	Defined as an “approximate drawing of a proposed subdivision showing the general layout of streets and alleys, lots, blocks, and other elements of a subdivision consistent with the requirements of this chapter. The preliminary plat shall be the basis of the approval or disapproval of the general layout of the subdivision.” (BDMC 17.08.010)
Project	Refers to The Villages MPD
Proposal	Refers to the Preliminary Plat for Phase 2 Plat C or “Plat 2C”
SAO	Sensitive Areas Ordinance (BDMC 19.12 [2009])
SEPA	State Environmental Policy Act
Subdivision	Means the division or redivision of land into seven or more lots, tracts, parcels, or sites for the purpose of sale, lease or transfer of ownership, except as

provided in Section 17.04.030 of this title. The creation of tax parcels by the county shall not be deemed the division of land for purposes of creating a lot, tract, parcel or site that can be sold, leased or transferred. (BDMC 17.08.010)

Subject property or subject site	Means the MPD parcels V28 and V29, for the purposes of this preliminary plat review for Plat 2C
TDR	Transfer of Development Rights
TESC	Temporary Erosion and Sediment Control plan
Tract	Means a fractional part of subdivided lands having fixed boundaries not meeting the requirements for a lot (BDMC 17.08.010)
WSFFA	Water Supply & Facility Funding Agreement

### III. CHRONOLOGY

1. A Pre-application Meeting for Plat 2C was held on September 16, 2013 (Exhibit 1b). BDMC 18.08.060 establishes that Preliminary Plat Approval is a quasi-judicial, Type 3 decision made by the hearing examiner requiring public notice as set forth in Section 18.08.120.
2. The preliminary plat application for Plat 2C was submitted on November 8, 2013(Exhibit 2 and 3)
3. A SEPA checklist was submitted by the applicant with the Master Application for Plat 2C on November 8, 2013. (Exhibit 3e)
4. On November 8, 2014 the applicant requested a deviation from stormwater management in The Villages Development Agreement to revise the stormwater zones in Plat 2C per the Preliminary Drainage Analysis report. (Exhibit 20)
5. On November 8, 2013, the applicant submitted an application for a lot line adjustment (LLA) (PLN13-0026) to establish the lot line boundaries for the proposed Plat 2C, two access lots and a fourth lot for future development in Phase 2 of The Villages. (Exhibit 16) BDMC 18.08.130.C.1 requires that the effective date of the decision on the LLA be no sooner than the date of final city action on the related Type 2 or higher application (in this case, the Plat 2C application). If the preliminary plat application is approved, the LLA application will be consolidated with the preliminary plat application because it will be consistent and can be approved after that point.
6. On November 25, 2013, the applicant submitted an Overall Grading Plan. (Exhibit 22)
7. A Notice of Complete Application was issued to the applicant on December 3, 2013. (Exhibit 18)
8. On December 6, 2013, the applicant submitted a new set of plans for Plat 2C.
9. On December 6, 2013, the City published a Notice of Application for Preliminary Plat Approval. (Exhibit 18a)
10. On December 6, 2013, the applicant submitted Phase 2 Plat C Geotechnical Report, Golder Associates, dated December 5, 2013.
11. On December 20, 2013, the applicant submitted a revised Short Term Construction Noise Mitigation Plan. (Exhibit 26)
12. On December 27, 2013, the applicant submitted a Traffic Impact Study dated December 19, 2013. (Exhibit 24)
13. On December 27, 2013, the applicant submitted a Traffic Monitoring Report dated December 2013. (Exhibit 25)
14. On January 3, 2014, the applicant submitted an Updated Fiscal Impact Analysis dated December 31, 2013.
15. On January 10, 2014, the applicant submitted a Wetland Buffer Vegetation Management Plan dated December 19, 2013. (Exhibit 27)
16. On January 10, 2014, the applicant submitted the 2012-2013 Pre-Construction Stormwater Monitoring report dated November 2013. (Exhibit 13c)
17. On January 27, 2014, the applicant submitted a Road Section Deviation Request dated January 27, 2014. (Exhibit 21)
18. On January 27, 2014, the applicant submitted a Sensitive Area Study and Wildlife Analysis dated December 24, 2013. (Exhibit 28b [excerpt])
19. On January 30, 2014, the applicant submitted Detailed Implementation Schedule of Regional Infrastructure Improvements dated January 28, 2014. (Exhibit 29)
20. On January 31, 2014, the applicant submitted a revised Phase 2 Plat C Geotechnical Report, Golder Associates, dated November 2013, revised January 2014. (Exhibit 23b)
21. On February 27, 2014, J. Perlic (Parametrix) emailed a letter to the City with his review of the applicant's traffic monitoring report and traffic impact study. (Exhibit 24a)

22. On February 28, 2014, the City issued Part "A" of its first review to the applicant in the form of a comment matrix to track revisions. (Exhibit 40)
23. On February 28, 2014, the City issued a letter to the applicant regarding applicant's letter of September 12, 2013 (which requested on consecutive review of 3 preliminary plats). The City requested the applicant's agreement to extend the 90-day review period for Plat 2C Preliminary Plat.
24. On March 3, 2014, the applicant submitted a Sensitive Area Study, Buffer Averaging Plan and Wildlife Analysis dated February 24, 2014. (Exhibit 28a)
25. On March 14, 2014, the City issued Part "A" of its first review with an addition to the comment matrix. (Exhibit 40)
26. On March 16, 2014, the City issued comments to the applicant on the Fiscal Impact Study. (Exhibit 32a)
27. On March 17, 2014, the applicant submitted a Revised Short-Term Construction Plan dated December 20 and March 13. (Exhibit 26)
28. On March 17, 2014, the applicant submitted a revised set of plans for Plat 2C and responses to the City's comments of February 28 regarding an extension.
29. On March 17, 2014, the City issued a letter with comments on the fiscal impacts analysis dated December 31, 2013.
30. On March 24, 2014, the City issued comments on the geotechnical report. (Exhibit 23a)
31. On March 24, 2014, the applicant submitted a letter consenting to an extension of the review deadline until June 30.
32. On March 26, 2014, the applicant submitted supplemental materials for the LLA request, dated March 18, 2014. (Exhibit 16b)
33. On March 31, 2014, the applicant submitted responses to Parametrix comments dated March 28, 2014 on the Traffic Impact Study. (Exhibit 24b)
34. On March 31, 2014, the applicant submitted responses to Parametrix comments dated March 28, 2014 on the Traffic Monitoring Report. (Exhibit 25a)
35. On March 31, the City's consulting wetland scientist, Perteet, issued their review of the applicant's Sensitive Areas Study. (Exhibit 28c)
36. On April 21, 2014, the applicant submitted a revised plan set for Plat 2C.
37. On April 21, 2014, the applicant submitted a memorandum from Triad Associates on sewer capacity, dated April 9, 2014. (Exhibit 41)
38. On April 21, 2014, the applicant submitted responses to the City's March 24 comments on the geotechnical report. (Exhibit 23a)
39. On April 21, 2014, the applicant submitted an Alternative Road Section Request, dated April 16, 2014. (Exhibit 17)
40. On April 22, 2014, the applicant submitted an evaluation of construction traffic impacts. (Exhibit 31)
41. On April 28, the applicant submitted a revised Updated Fiscal Analysis and responses to comments. (Exhibit 32 and 32a)
42. On April 28, the applicant submitted a technical memorandum dated April 22, 2014 regarding construction traffic impacts. (Exhibit 31)
43. On May 6, 2014, J. Perlic sent a technical memorandum with his review of the applicant's responses to his comments on the Traffic Monitoring Report for Phase 2 and the Traffic Impact Study for Plat 2C and declaring that comments are adequately addressed, dated May 2, 2014. (Exhibit 24c)
44. On May 9, 2014, the applicant submitted a revised SAS, Buffer Averaging Plan and Wildlife Analysis, a revised Wetland Buffer Vegetation Management Plan; and responses to comments by Perteet on the same. (Exhibit 27, 28, 28c)

45. On May 12, 2014, the applicant submitted a request to the City for a Mitigated Determination of Non-Significance. (Exhibit 4)
46. On May 13, 2014, the applicant submitted an update on stormwater and groundwater monitoring. (Exhibit 13b)
47. On May 15, 2014, the applicant submitted a request for Mayoral Approval of Wetland Buffer Averaging Plan, dated May 14, 2014. (Exhibit 30)
48. On May 19, 2014, Parametrix issued two technical memoranda evaluating compliance with MPD Permit conditions, and the other on construction impacts. (Exhibit 24d and 31b)
49. On May 20, 2014, the City issued a letter and additional responses to the comment matrix. (Exhibit 40)
50. On May 30, 2014, the applicant submitted a response to comments by Parametrix dated May 19 by Triad Associates, May 22, 2014. (Exhibit 31b)
51. On May 30, 2014, the applicant submitted new responses in the comment matrix. (Exhibit 40)
52. On June 4, 2014, the applicant submitted responses to City comments from May 20.
53. On June 5, 2014, the Mayor issued an approval letter for the Wetland Buffer Width Averaging request. (Exhibit 30a)
54. On June 9, 2014 the City approved the Phase 2 Traffic Monitoring Plan. (Exhibit 25c)
55. On June 13, the City approved the list of regional infrastructure projects for Phase 2. (Exhibit 29a)
56. On June 16, 2014, the City approved the Fiscal Analysis update for Phase 2. (Exhibit 32c)
57. On June 16, 2014, the applicant submitted a request for a revised road section, a response to Perteet comments, and revised plan sets.
58. On June 16, 2014, the City issued a letter providing the applicant with an entitlement of 203 ERU for water capacity for Plat 2C and establishing total issued to applicant to date of 1,124 ERU (Sec. 7.2.1). (Exhibit 47)
59. On June 16, 2014, the City issued a letter to the applicant allowing a sanitary sewer connection from Plat 2C to Phase 1A pipe (Sec. 7.3.3). (Exhibit 47)
60. On June 16, 2014, the City issued a certificate of water availability (Sec. 7.2.1) for 1,016 ERU. (Exhibit 47)
61. A Mitigated Determination of Non-significance for Plat 2C and Adoption of Existing Environmental Document [the MPD EIS] was issued by the City of Black Diamond on June 17, 2014. (Exhibit 5)
62. On June 17, 2014 comment was received from Karen Walter; for Muckleshoot Indian Tribe Fisheries Division Habitat Program, regarding proposed stormwater management plan and wetland delineation reports and proposed wetland buffer averaging and mitigation plans (Exhibit 6)
63. On June 27, 2014, the applicant submitted a letter regarding Condition #2 of the buffer averaging approval, letter dated June 25, 2014. (Exhibit 30b)
64. On July 1, The SEPA comment period closed. No appeals of the decision were filed.
65. On July 1, 2014, 2<sup>nd</sup> comment received from Karen Walter; for Muckleshoot Indian Tribe Fisheries Division Habitat Program (Exhibit 6)
66. On July 1, 2014, comment received from Cynthia Wheeler, regarding MDNS mitigation measure for archaeological probes near Rock Creek (Exhibit 7)
67. On July 1, 2014; comment received from Erika Morgan, regarding wildlife (Exhibit 8)
68. On July 1, 2014, comment received from Cindy Procter; regarding compliance with the Comprehensive School Mitigation Agreement (Exhibit 9)
69. On July 2, 2014, comment received from Gil Bortleson regarding MDNS and adoption of existing environmental document, tree inventory, preconstruction stormwater monitoring in Rock Creek, wetland buffer vegetation management plan, Golder response to Perteet's comment number 6, sensitive area study, and geotechnical report (Exhibit 10)

70. On July 21, 2014, the City's wetland scientist responded to the applicant's letter of June 25. (Exhibit 30c)
71. On July 25, 2014, the City approved the Road Section Deviation Determination for woonerfs. (Exhibit 17a)
72. On July 25, 2014, the City approved the alternative rain garden width configuration. (Exhibit 21a)
73. On July 29, 2014 legal notices of a Notice of Public Hearing were published in the Voice of the Valley for the August 25 hearing. (Exhibit 42)
74. Brian A. Borgstadt, August 5, 2014; for Covington Water District, regarding work related to water transmission lines needing approval by Department of Health prior to construction and unresolved issue of utility service to a portion of The Villages development.
75. On August 5, 2014, Legal notices of a Notice of Public Hearing were published in the Voice of the Valley for the August 25 hearing. (Exhibit 42)
76. On August 12, 2014, the City approved the applicant's request for alternative stormwater zone boundaries. (Exhibit 20c)
77. On August 18, 2014, the City arranged for the publication of a Legal Notice and mailed the same Legal Notice, to cancel the August 25 hearing. (Exhibit 42)
78. On August 21, 2014, the City sent a letter to the applicant expressing concerns about proposed phasing of improvements with respect to concurrency and requesting additional information.
79. On September 3, 2014, Gillian Zacharias sent a clarification letter to the applicant clarifying points in the letter of August 21.
80. On September 5, 2014, the applicant responded to the September 2 (mailed September 3) letter indicating that additional information would be forthcoming.
81. On October 9, 2014 the applicant submitted additional items to supplement the application. (Exhibit 43)
82. On Monday, October 27, Gillian Zacharias responded to acknowledge the supplemental materials submitted on October 9, 2014.
83. On November 19, 2014, the applicant submitted a copy of the recorded Temporary Access and Utility Easement. (Exhibit 44)
84. On November 21, 2014 the applicant submitted revised Preliminary Plat plan set. (Exhibit 48)
85. On November 25, 2014, the applicant submitted a revised TDR Phase table (see discussion in section 4.9).
86. On November 25, 2014, the City published the notice of hearing for December 11, 2014. Staff report was also issued.

## IV. ANALYSIS

### Applicable Codes and Standards

Part IV of this staff report evaluates the proposed Plat 2C project for consistency with applicable codes and standards. Those requirements are briefly described here, followed by staff evaluation of components of the applicant's proposal against the codes and standards.

#### City of Black Diamond Comprehensive Plan, 2009

The City of Black Diamond Comprehensive Plan (BDCP) establishes a vision for the future development of the city, evaluates existing conditions and sets goals and policies to align future development with the vision. Not all policies apply to Plat 2C. Only those most directly applicable to the preliminary plat approval are addressed. In addition to the BDCP, other adopted plans that govern future development are the Parks, Recreation and Open Space Plan (2008) and the Water System Comprehensive Plan (December 17, 2009).

#### The Villages MPD Permit Conditions of Approval (Ordinance No. 10-946)

Chapter 18.98.005 of the BDMC ("MPD zoning district created") states that no development activity may occur, or any application accepted for processing, on property subject to an MPD zoning designation, or for which the submittal of an MPD is required by a development agreement, unless it is done in accordance with the terms and conditions of a valid MPD permit. A Hearing Examiner decision approved the Master Plan permit for The Villages, which contained 164 conditions of approval. The Villages Development Agreement (DA) requires implementing projects of The Villages MPD to be consistent with the conditions of approval. In staff's review below, all conditions are addressed and those that do apply to the subject project are so indicated.

#### The Villages MPD Development Agreement (Ordinance No. 11-970)

Chapter 18.98.050, MPD permit—this section requires an approved MPD permit and development agreement for every MPD. Both MPD permit approval and a recorded development agreement are required before the city will grant approval to an application for any implementing development approval. The Development Agreement requires implementing projects of The Villages MPD to be consistent with the provisions of the Development Agreement. In staff's review below, only applicable sections are addressed.

#### Black Diamond Design Guidelines for Master Planned Development, Framework Design Standards & Guidelines (June 18, 2009)

BDMC 18.74.020 requires all development to comply with the design standards and guidelines applicable to the type of use and/or the district in which the proposed development is located. The standards and guidelines applicable to Plat 2C are the Black Diamond Design Guidelines for Master Planned Development, a chapter of the Framework Design Standards and Guidelines (FDS&G). Approval of the TV MPD required consistency with the design guidelines for MPD, and implementing projects of the master plan must be consistent with the TV MPD and the DA. Therefore, in general, any implementing project that is consistent with the MPD would be consistent with the design guidelines.

However, review of consistency of Plat 2C with the MPD design standards and guidelines is appropriate because some standards and guidelines apply to the preliminary plat stage of design more than master plan design. Some standards and guidelines apply to structures that will be reviewed at the building permit stage and are not part of this submittal. Therefore, the consistency analysis notes where

consistency was reviewed under the TV MPD or the DA, is not applicable to the proposal, or will be reviewed at a later design stage. Otherwise, the standards and guidelines are specifically addressed for Plat 2C.

## Black Diamond Municipal Code (BDMC) [As contained within Exhibit “E” of the DA]

The regulations that apply to the project are contained in these chapters or sections of chapters:

- BDMC, Chapter 17.15, Preliminary Plat Approval Criteria [2009]
- BDMC, Chapter 18, Zoning Code [2009]
- BDMC, Chapter 19.04, SEPA Ordinance [2009]
- BDMC Chapter 19.10, Sensitive Areas [2009]
- BDMC Chapter 19.30, Tree Preservation [2009]

Chapter 17.15 BDMC establishes the approval process and criteria for subdivisions. "Subdivision" means the division or redivision of land into seven or more lots, tracts, parcels, or sites for the purpose of sale, lease or transfer of ownership, except as provided in Section 17.04.030. The applicant's request is for subdivision of land into 203 lots. The Preliminary plat is to be the basis of the approval or disapproval of the general layout of the subdivision. A Final plat means the final drawing of the subdivision and dedication prepared for recording with the county recorder.

Chapter 18 establishes the zones within the City and the use and development standards that are allowed within each zone.

Chapter 19.04 is the City's SEPA ordinance, which implements state law under the State Environmental Policy Act, RCW 43.21C.120, and the SEPA codes in WAC 197-11. A non-project Environmental Impact Statement (EIS) under the State Environmental Policy Act (SEPA) was issued for The Villages (The Villages Master Planned Development, Final Environmental Impact Statement, December 2009). It disclosed the potential impacts and recommended mitigation identified in the MPD permit. The applicant submitted a SEPA checklist with the preliminary plat application for Plat 2C. The City issued a SEPA MDNS and Adoption of Existing Environmental Document (Exhibit 5) was issued by the City on June 17, 2014. The MDNS adopted by reference the Final Environmental Impact Statement (FEIS) for The Villages.

Chapter 19.10 is the City's Sensitive Areas Ordinance. It regulates development in wetlands, fish and wildlife conservation areas, geologically hazardous areas, critical aquifer recharge areas, and frequently flooded areas. This chapter establishes allowed uses, buffers to protect sensitive areas, and how those areas are established and protected through mitigation for project impacts.

Chapter 19.30 implements tree preservation measures. This chapter establishes the protections for significant trees, defined as any healthy tree that is at least six inches in caliper, except for the species listed (black locust, cottonwood, native alder, native willow, and Lombardy poplar). Mitigation through tree replacement is required except where at least 40 percent of a site is preserved as non-disturbed open space, critical areas or buffers or other conserved areas.

The components of the project were evaluated for compliance with The Villages adopted documents and city regulations as they apply to the project under the following topics:

- A. Stormwater
- B. Traffic and transportation
- C. Sensitive areas
- D. Noise
- E. Sanitary sewer
- F. Water distribution and supply
- G. Schools
- H. Parks and open space
- I. Tree preservation
- J. Land use and design
- K. Emergency services
- L. Process
- M. Construction
- N. Financial Impacts

## A. Stormwater Management and Water Quality

The DA anticipated certain projects and infrastructure to manage the stormwater from this area, as described in Section 7.4, Stormwater Management Standards and shown on Figure 7.4, Conceptual Stormwater Plan. New treatment ponds and detention ponds would be constructed in each stormwater management zone with the goal of maintaining base flows of clean water into nearby wetlands, creeks and the regional aquifer under the project site. The Plat 2C site is within Stormwater Management Zones 1C and 2 on Figure 7.4. Zone 1C drains to the southwest, cross-gradient to Horseshoe Lake. Zone 2 drains to Rock Creek and is within the Lake Sawyer basin. A discharge point within Plat 2C is shown on the Conceptual Stormwater Plan in the DA (Figure 7.4).

During plat planning, the applicant proposed a revision to the conceptual drainage plan and facilities to improve stormwater management and minimize the potential for phosphorus discharge to the creek and lake. Subsequently, the applicant submitted the Preliminary Drainage Analysis report (Triad Associates, November 8, 2013, Exhibit 20). The proposed drainage plan redirects flows from pollution-generating surfaces (roads and parking areas) within Zone 2 into Zone 1C (Zone 1C is less sensitive to phosphorus whereas Zone 2 is more sensitive to phosphorus). A similar volume of stormwater from non-pollution-generating (rooftop) surfaces in Zone 1C will be redirected into Zone 2. In this way the volume of runoff from each Zone will be maintained. But whereas in the original configuration some treatment would be required in Zone 2 to remove phosphorus from the stormwater, the revision directs only clean stormwater into Zone 2 (without the need to remove phosphorus). In other words, all of the stormwater in Zone 2 is from non-pollution generating surfaces and does not contain any phosphorus-laden stormwater from pollution-generating impervious surfaces (Exhibit 2, Sheets SSWA1-4)

Stormwater runoff from rooftops and pervious surfaces will be used to recharge the wetlands on the east side of the development, primarily wetland TOS. Flow will be attenuated by the use of flow dispersal trenches at regular intervals between the development and the wetlands. Runoff not needed for wetland recharge will be infiltrated through bioretention cells and roof top infiltration. Runoff from pollution-generating surfaces will be routed through a new storm drainage system to the stormwater

pond and infiltration facility in Phase 1A to the west. The Phase 1A facilities must be operational prior to the completion of impervious surfaces in Plat 2C that discharge to the Phase 1A regional stormwater pond . Staff recommends that the plat be conditioned to ensure that the facilities will be operational and that this will be enforced with utility permits.

The new configuration constitutes a revision to the plan contained in the DA. The revised configuration was analyzed and modeled in the Preliminary Drainage Report for Preliminary Plat 2C. A determination for an alternative stormwater zone delineation was originally requested by the applicant in connection with design of the Phase 1A regional stormwater pond. The deviation was reviewed by City staff and the City's consulting engineer. The Designated Official, the Public Works Director, and the City's consulting engineer approved the deviation on August 12, 2014 (Exhibit 20c). Conditions of approval on the stormwater deviation are included with this staff report as recommended condition of approval #8. The City's consulting engineer also reviewed the revised plan for compliance with the 2005 Stormwater Management Manual for Western Washington (SWMMWW), the Blacks Diamond Engineering Design and Construction Standards (BDEDCS), and generally accepted engineering practices and, determined that with conditions, the facilities shown on the preliminary plat comply with the applicable standards. (Exhibit 45)

In addition to the bioretention cells and small scale infiltration facilities (flow dispersal trenches), the applicant proposes two rain gardens as another low impact development (LID) measure next to Woonerf A, as shown on Sheet SSWA1 of the preliminary plat (Exhibit 2).

All stormwater facilities that accept run-off from the public right-of-way will be owned and maintained by the City. The other stormwater facilities (e.g., roof drains and flow dispersal trenches) that accept run-off exclusively from private property will be owned by the HOA and must be operated under a valid franchise. Recommended conditions of approval #9 and #10 provide that all privately owned stormwater pipelines that cross City right-of-way must be owned and maintained by the HOA or the Master Developer and be accompanied by a valid franchise for repair and replacement. These conditions will be enforced during utility permit review.

## Black Diamond Comprehensive Plan

*Policy NE-7: Require temporary erosion control measures to be installed before construction begins and maintenance of those control measures through the stabilization of the site following the completion of construction to control the quantity of sediment entering surface water.*

STAFF RESPONSE: The BDEDCS will require the applicant to submit a Temporary Erosion and Stormwater Control plan prior to issuance of the clearing and grading permit.

*Objective CF-3: Require new development to finance the facilities and services needed to support the development wherever a direct connection of benefit or impact can be demonstrated.*

STAFF RESPONSE: The applicant has submitted a Preliminary Drainage Analysis report (Triad Associates, November 8, 2013, Exhibit 20) and proposes to build a stormwater system that complies with the DA and the BDEDCS. More detail is provided in the staff responses below. Staff finds that the proposal for Plat 2C is consistent with objective CF-3.

*Policy CF-43: Ensure that the storm drainage facilities necessary to support construction activities and long-term development are adequate to serve the development at the time construction begins and when the development is available for occupancy and use.*

STAFF RESPONSE: The proposed stormwater drainage system was analyzed and modeled in the Preliminary Drainage Report for Plat 2C (Exhibit 20). The City's consulting engineer also reviewed the revised plan for compliance with the 2005 Stormwater Management Manual for western Washington (SWMMWW), BDEDCS, and generally accepted engineering practices (Exhibit 45) and, with conditions, the facilities shown at this preliminary design stage, and as modeled in the applicant's Preliminary Drainage Analysis report, comply with the applicable standards. Consequently, staff finds that the proposal meets this policy requirement.

*Policy CF-46: New development should minimize increases in total runoff quantity, should not increase peak stormwater runoff, and should prevent flooding and water quality degradation.*

STAFF RESPONSE: The drainage analysis performed by the applicant (Exhibit 20) demonstrated that the new development in Plat 2C is expected to manage stormwater impacts by recharging wetlands and groundwater with runoff from non-polluting sources. Runoff from streets will be treated before discharging to the groundwater. Management of flows in this way will not cause increases in total runoff quantity or peak stormwater runoff, and should prevent flooding and water quality degradation. More information is provided in the discussion on stormwater management in this staff report. At the utility permit stage, the applicant will be required to demonstrate compliance with BDMC 19.10.220 for stormwater utilities in wetland buffers. Staff finds that the application will meet this policy requirement.

## The Villages MPD Permit: Conditions of Approval

*60. 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. Homeowner associations should bear the cost of landscape maintenance associated with the low impact development techniques.*

STAFF RESPONSE: This MPD condition, the DA Sections 7.4.3(B) and 7.4.4(A), and BDMC 14.04.020 all require that the standards of the 2005 Stormwater Management Manual for Western Washington (SMMWW) be met. Staff have reviewed the Preliminary Drainage Analysis report for Plat 2C prepared by Triad Associates and its proposed plan for treating stormwater. The schematic of the proposed stormwater collection and disposal plan have been reviewed for compliance with the 2005 Stormwater Management Manual for western Washington (SWMMWW), BDEDCS, and generally accepted engineering practices and the facilities shown comply with the applicable standards.(Exhibit 45)

With conditions, the Plat 2C stormwater management plan and facilities comply with the stormwater requirements of the DA, BDMC and BDEDCS.

*61. Preserve the volume of stormwater for the groundwater area tributary to Black Diamond Lake and associated wetlands.*

STAFF RESPONSE: Black Diamond Lake is southeast of the Plat 2C site and in a different stormwater management zone. The proposed development would recharge wetlands on the Plat 2C site to match

pre-development hydrology for the receiving wetlands. The stormwater design was reviewed by the City's engineering consultant, who concluded that the proposed drainage system (as modeled by Triad Associates) will have no impact on wetland hydrology (Exhibit 20a).

*62. 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.*

STAFF RESPONSE: A technical report on geology, hazards, and groundwater, plus supplemental memoranda in Appendix D of the FEIS describe how runoff following development should be used to recharge the shallow aquifers and maintain hydrology in wetlands. The analysis was implemented in the DA in Chapter 7.4 by assigning specific strategies to each drainage basin or Zone. Plat 2C is in Zone 1C and Zone 2 (Figure 7.4 of the DA), while the drainage route to Horseshoe Lake is from Zones 1A and 1B. Zone 1C will receive some flows from Plat 2C but Zone 1C is cross-gradient to Horseshoe Lake. The applicant's Preliminary Drainage Analysis report, page 4, confirms that no subsurface flows from Plat 2C will go to Horseshoe Lake; this condition does not apply.

*63. Provide mitigation facilities within the project limits, expansion parcels or provide an agreement with King County for long term City ownership and/or maintenance of off-site facilities not within City limits.*

STAFF RESPONSE: All of the proposed facilities for Plat 2C will be within the boundaries of Plat 2C, except for the infiltration pond associated with Phase 1A. This condition does not apply.

*64. Native plants shall be primarily used as part of the planting palette within the MPD. Lawn planting shall be reduced wherever practical.*

STAFF RESPONSE: This condition will be enforced with utility or building permit applications.

*65. Where point discharges to streams must occur, design the outfall to minimize impacts to the stream channel and avoid areas of significant vegetation.*

STAFF RESPONSE: This condition is not applicable to Plat 2C, because no off-site point stormwater discharges to any streams is proposed.

*66. 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.*

STAFF RESPONSE: Contaminated stormwater from Plat 2C will be discharged off-site to a treatment and infiltration pond already constructed in Phase 1A. The design of the Phase 1A pond accommodates 162 acres of impervious surface drainage, of which 27.7 acres is projected to come from Phase 1A, and 17.1 acres is projected to come from. Phase.

No other treatment is needed in Plat 2C because the runoff from rooftops and pervious surfaces will be directed to on-site infiltration sites. This condition is satisfied.

*67. 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.*

STAFF RESPONSE: This condition applies to the overall design of the MPD and the DA. Narrow roads, two rain gardens on tracts 916 and 917 (designated for utilities, access and landscaping) and small scale infiltration facilities into the adjacent wetlands are the low impact development techniques proposed by the applicant in Plat 2C as proposed.

The DA, page 63 lists nine potential LID techniques to be used where feasible in The Villages. The application proposes to use four of the nine recommended measures: media filter strips, rain gardens, reduced roadway widths and small-scale infiltration facilities. The remaining five measures may not be feasible or necessary in Plat 2C, based on the current plans to recharge the large areas of wetlands surrounding the site and the ability to discharge other runoff to the treatment facility in Phase 1A. Pet waste stations should be installed at points along the trail. Condition of approval #43 requires the addition of pet waste stations along the trail between the development and the wetlands.

*68. 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. This condition does not constitute approval for direct discharge of roof drainage into wetlands, streams or their buffers; any such direct discharge is authorized only if approved by the Public Works Director as in compliance with Black Diamond Municipal Code Ch. 14.04 and the standards adopted therein. 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.*

STAFF RESPONSE: This condition is addressed in the Development Agreement Section 7.4.4.A.3, which restricts roofing materials and roofing maintenance procedures. Asphalt shingle material was submitted with the application on November 8, 2013 (Exhibit 3n). Compliance of the proposal with this condition will be ensured at the building permit stage. In addition, condition of approval #2 will require the applicant to submit covenants, conditions, and restrictions (CCRs) that include the above restrictions prior to final plat approval.

69. 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. Factors to be considered by the Directors in determining whether the facilities are designed as an amenity include, but shall not be limited to, whether the facilities are safe for general public access (i.e., do not have steeply sloped banks requiring fencing), are suitable for active recreational use during at least 3 months per year, are suitable for passive recreational use such as walking, hiking, or bird or other wildlife viewing, and/or provide wildlife habitat. If approved, future Homeowners Association(s) shall be required to provide landscape maintenance of these facilities, unless otherwise agreed upon by the City, and the Applicant or future Homeowners' Association(s).

STAFF RESPONSE: No stormwater facilities are proposed or needed to meet the open space requirements. Open space is 70 percent of the site area in Plat 2C. Table 9-1 of the DA establishes an open space requirement for Parcel E of 75.58 acres. In the sensitive areas and other tracts, 95 acres are provided. This condition does not apply.

*70. 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 fund necessary costs for training related to inspection services.*

STAFF RESPONSE: This condition applies to the creation of the DA (subsequently addressed in DA Section 7.4.4.A.1 and DA Section 7.4.4.A.2) and rights the City reserved for itself to enforce the NPDES conditions. It does not impose an NPDES requirement on implementing projects. It does bind the applicant to pay for training related to inspection services, which the applicant complied with by funding training of two City employees and as a result the City currently has two employees as well as a contract civil engineer who are Certified Erosion Control Lead Specialists. This condition has been met.

*71. 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.*

STAFF RESPONSE: This section of the DA is supplemented by similar standard requirements in the Black BDEGCS and a TESC plan will be required and enforced when the applicant applies for the clearing and grading permit.

*72. 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.*

STAFF RESPONSE: The City-owned Plat 2C stormwater facilities (pipes that drain run-off from streets) are anticipated to have typical operating costs. The remaining stormwater facilities (flow dispersal trenches, two rain gardens, and roof drains) will be privately owned and operated. The DA requires that any privately-owned pipelines be covered by a franchise in order to cross public rights of way. Maintaining the flow dispersal trench facilities and the connecting pipes would be the financial responsibility of the applicant/Master Developer, and/or an HOA. Therefore, the City will not bear any excessive maintenance costs and this condition is satisfied.

*73. 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.*

STAFF RESPONSE: DA Section 7.4.4, 2<sup>nd</sup> paragraph, implements this condition by requiring that the Master Developer maintain a running tally of stormwater discharges to ensure that the water balance requirements for each stormwater zone are met. The proposed drainage plan for Plat 2C meets the requirements for Zones 1C and 2 and are addressed below in responses to DA requirements. In addition, Tables 2, 3, and 4 of the Preliminary Drainage Analysis shows the applicant's calculation of the amount of impervious surface runoff that will be needed to recharge the wetlands TOS and E1 by approximately matching the annual average volume of runoff that is generated by the existing forested site condition (page 6 of 9 of Exhibit 20). The project is not expected to have any negative impacts on wetland hydrology based on review by the City's consulting engineer. (Exhibit 20a) This condition is satisfied.

*74. The stormwater plan shall include the ability to adaptively manage detention and discharge rates and redirect stormwater overflows when environmental advantages become apparent.*

STAFF RESPONSE: This condition applies to Phase 1A. Enforcement of condition of approval #52 for PLN11-0001 will implement this paragraph. Stormwater from plat 2C will discharge into the plat 1A stormwater system and will, therefore, become compliant with MPD Permit condition of approval No. 74.

*75. 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.*

STAFF RESPONSE: This condition does not apply to Plat 2C. The intent of this condition was to provide certainty to the applicant and city that "previously approved" plats and utility permits did not need to be modified in future land use actions in order to equalize design standards that are anticipated to change. In order to facilitate this vesting process, the design criteria must be archived and the basis for the design (primarily as it relates to detention volumes in regional stormwater ponds) must be identified and unambiguous. The applicant prepared and submitted a stormwater design report for Phase 1A that included capacity for Plat 2C and that report met this condition. Phase 1A regional stormwater pond is now complete and operational. The design of the Phase 1A pond accommodates 167.7 acres of impervious surface drainage, of which 27.7 is projected to come from Phase 1A and 17.1 from Plat 2C. This condition is met.

*76. In the event that new phosphorus treatment technology is discovered and is either certified by the State Department of Ecology as authorized for use in meeting requirements of the Stormwater Management Manual for Western Washington, or is in use such that it is considered by the stormwater engineering community as constituting part of the set of measures described as "All known available, and reasonable methods of prevention, control, and treatment" ("AKART") as defined in WAC 173-201A-020, then the Applicant shall incorporate that new phosphorus treatment technology in all new ponds and facilities applied for as part of an implementing project, such as a preliminary plat, even if the Applicant's ponds and facilities would otherwise be vested to a lower standard.*

STAFF RESPONSE: This condition would be applied through the authority of the Development Agreement, Section 7.4.4.A. The condition applies to, "all new ponds and facilities applied for as part of an implementing project..." and as such does not apply to this application since no new stormwater ponds or treatment facilities are being constructed with this project. Treatment for stormwater generated from this project is within the regional stormwater facility that has already been approved as a part of Phase 1A and is under construction; no new treatment facilities are proposed. In addition, the Department of Ecology has not approved any new treatment technologies that would apply under this condition at the time of the application.

*77. 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.*

STAFF RESPONSE: The applicant requested a stormwater deviation for an alternative zone delineation in order to better manage stormwater runoff and protect Lake Sawyer from additional phosphorus loads. The deviation was approved by the City on August 12, 2014 (Exhibit 20c). The deviation request included a technical analysis and a risk assessment, and demonstrated compliance with the BDEDCS

and City code, according to the City's consulting engineer. To ensure implementation of the conditions of approval of the stormwater deviation, those conditions are included with the staff report (#8).

*78. The applicant shall obtain all necessary permits from King County for both construction, including any necessary approval or agreement providing the City ability to perform maintenance of the large regional storm pond proposed to the west of the project. The Applicant shall submit engineering plans to the City for approval, which shall not be unreasonably withheld or delayed, prior to submitting such plans to the County.*

STAFF RESPONSE: This condition does not apply to Plat 2C because this application does not include the referenced stormwater pond.

*79. The City shall determine whether the Applicant's reasonable proportionate share participation in any watershed-wide implementation measures identified in Exhibit H-9 would be of significant benefit in protecting Lake Sawyer water quality. If so, those measures shall be incorporated into the Development Agreement. The Development Agreement shall also integrate the phosphorous monitoring plan proposed by the Applicant in Ex. NR-TV-7 as well as a temperature monitoring plan identical to the plan proposed for the Lawson Hills project in Exhibit NR-LH-5.*

STAFF RESPONSE: This condition applies to the DA and does not apply to Plat 2C.

*80. Runoff from basins tributary to Lake Sawyer shall provide water quality treatment in accordance with the phosphorous control menu in the 2005 Stormwater Management Manual for Western Washington.*

STAFF RESPONSE: To address this condition, the application proposed that runoff discharged in Zone 2 be from non-pollutant-generating sources—rooftops and pervious surfaces. The alternative stormwater zone delineation was analyzed and modeled in the Preliminary Drainage Report for Preliminary Plat Phase 2 Plat C and the deviation from the original DA zone delineations were approved because the new design will reduce phosphorus loads to Rock Creek. The City reviewed the proposal and has determined that it meets all of the requirements in the 2005 Stormwater Management Manual for western Washington (SWMMWW), BDEDCS, and generally accepted engineering practices and the facilities shown comply with the applicable standards. In addition, to the extent that minor revisions are necessary to accommodate design-level details, the application requires that the proposed facilities meet the BDEDCS. The proposal meets this condition.

*81. Prior to approval of the Development Agreement, the Applicant shall identify to the City the estimated maximum annual volume of total phosphorus (Tp) that will be discharged in runoff from the MPD site and that will comply with the TMDL established by the State Department of Ecology for Lake Sawyer. If monitoring conducted pursuant to the phosphorus monitoring plan proposed by the Applicant in Ex. NR-TV-7 and integrated into the Development Agreement pursuant to Condition No. 78 above indicates that the MPD site is discharging more than the identified annual maximum volume of Tp, the Master Developer shall modify existing practices or facilities, modify the design any proposed new stormwater treatment facilities, and/or implement a project within the Lake Sawyer basin that collectively provide an offsetting reduction in Tp so as to bring the discharge below the annual maximum identified pursuant to this Condition.*

STAFF RESPONSE: The required monitoring has been initiated by the applicant (Exhibit 13). The

applicant started monitoring phosphorus runoff in Zone 2, which contributes to Lake Sawyer via Rock Creek, in 2011. The Status Update on Stormwater and Groundwater Monitoring Completed to Date in the Rock Creek Drainage (Exhibit 13b) documents the monitoring that will be conducted to determine a base load level of phosphorus so that levels post-construction can be compared. The final results of the monitoring are not required prior to the end of calendar year 2014. To ensure compliance, condition #11 has been added to prohibit the submittal of applications for permits for construction of impervious surfaces until such time as the report is submitted and approved.

*82. Enhanced water quality treatment shall be provided as required by the 2005 Stormwater Management Manual for Western Washington.*

STAFF RESPONSE: Stormwater from pollution generating surfaces in the application will be discharged to the stormwater facility in Phase 1A. That facility is required to comply with the referenced standard as a condition of approval in the Preliminary Plat approval for Phase 1A. In addition, the application includes a schematic of the proposed stormwater collection and disposal plan and the facilities that will be needed to provide municipal service to each property in the application. These have been reviewed for compliance with the 2005 Stormwater Management Manual for western Washington (SWMMWW), BDEDCS, and generally accepted engineering practices and the facilities shown comply with the applicable standards. In addition, to the extent that minor revisions are necessary to accommodate design-level details, the application requires that the proposed facilities meet the BDEDCS.

*83. When the Applicant builds improvements to existing public road right-of-way inside the City of Black Diamond and which road right-of-way drains to Lake Sawyer, the Applicant is required to treat the stormwater from those improvements to the then current and applicable phosphorus treatment standard, and the Applicant shall also treat the existing stormwater that runs off the existing right-of-way in the immediate vicinity of the improvement.*

STAFF RESPONSE: Plat 2C does not propose to build improvements to any existing public road right-of-way. This condition does not apply.

*84. The Applicant agrees to work cooperatively with the City to identify opportunities where the City can reduce phosphorus sources or improve phosphorus treatment on existing City lands and for existing City owned or maintained stormwater facilities.*

STAFF RESPONSE: This condition does not apply specifically to implementing projects.

*85. A Water Quality Review committee shall be formed. The committee shall consist of two representatives of the Applicant, one representative of the City, and two representatives of the community. If additional community members desire to participate, they may do so, but only two members shall have a vote on the committee regarding the annual report. The Committee shall meet at least once a year, and no more than six times per year. The Water Quality Review committee shall review and evaluate compliance with the stormwater conditions imposed upon the Villages MPD. The Committee shall endeavor to reach mutual agreement (i.e., a 5-0 vote) on the contents of an annual report to be filed with the City Council. The Applicant shall be responsible, at its expense, for drafting the annual report. The annual report will summarize the Committee's findings regarding compliance, and shall include recommendations, if any, for improved performance. If the Committee is unable to reach mutual agreement, then the Applicant shall prepare the annual report summarizing the matters for which agreement is reached, as well as the*

*matters still under debate, and shall allow the other members of the community to provide comments on the report prior to submittal to the City Council. The City Council shall review the report and respond as appropriate under applicable City Codes, or the provisions of the Development Agreement.*

STAFF RESPONSE: The committee has been formed and is functioning as described. The committee consists of two representatives of YarrowBay, one of the City, and two of the Black Diamond community. Four meetings were held in 2012 and 2013. Topics discussed included the annual report on to be issued by the committee, and the water quality monitoring activities by Tetra Tech. The condition has been met.

## The Villages Development Agreement

### 7.0 WATER, SEWER AND STORMWATER UTILITY STANDARDS

#### 7.1 GENERAL REQUIREMENTS

STAFF RESPONSE: The majority of the general requirements section contains explanatory statements about performance bonding, inspection, ownership, deviation review criteria and capital facilities charges. Only sections relevant to the preliminary plat facilities are included in the analysis.

##### 7.1.1 Regional Facilities

*Regional Facilities are necessary for Development to occur on the Project Site. The Master Developer shall design and construct the Regional Facilities that are necessary to serve the Implementing Projects, consistent with the City's adopted level of service, or as otherwise specified by Prior Agreements.*

STAFF RESPONSE: The approval for Phase 1A included a regional stormwater facility that will serve development in Phase 1 as well as Phase 2. That regional stormwater pond was completed in November 2014. Stormwater from about 17.1 acres of Plat 2C will be discharged to the regional stormwater pond once connecting pipes have been constructed by Phase 1A and Plat 2C. Condition of approval #7 requires that the Phase 1A facilities must be operational prior to the permitting of impervious surfaces (likely roads) through utility permits for Plat 2C. The Detailed Implementation Schedule for Phase 2 Regional Infrastructure Improvements also includes stormwater facilities (Exhibit 29). With conditions, the proposal satisfies this requirement.

##### 7.1.2 Project-Level Facilities

*Project-Level Facilities are items such as on-site water mains, sewer and stormwater facilities. Project-Level Facilities will be constructed by the Master Developer as development progresses across the Project Site consistent with the Black Diamond Engineering Design and Construction Standards (Exhibit "E") as further detailed in this Section.*

STAFF RESPONSE: On-site facilities are needed for each implementing project, of which Phase 1A and Plat 2C are the first to be permitted as preliminary plats. The DA shows conceptual stormwater management to provide service to parcels V28 and V29 (Figure 7.4 of the DA). General Note 5 on Sheet CV4 of Exhibit 2 indicates that the applicant intends to construct the facilities in compliance with the BDEDCS and the DA (including Table 9.3 and Figure 9-4 of Exhibit "K"). Staff and its technical consultants reviewed the schematic drawings for preliminary compliance with BDEDCS and the DA. Stormwater

facilities are shown on Sheets RS1-4 and sewer and water supply plans are shown on Sheets SSWA1-4. The proposal complies with this section.

#### 7.1.3 Location and Type of Facilities Approximate

*The location and type of Regional Facilities shown on the Conceptual Water, Sewer, Stormwater and Phasing Plans (attached hereto as Exhibit "K") are approximate and may change during the design phase provided that the intent of the plans is met as reasonably determined by the Designated Official. Alternate means of achieving utility service to and within the Project Site on a temporary or permanent basis will be considered by the Designated Official through a Utility Permit application.*

STAFF RESPONSE: The Plat 2C Preliminary Plat shows schematics of the proposed stormwater facilities; these are noted as representative of the general location and configuration of the systems and are consistent with the conceptual utility plans in Exhibit "K" of the DA. The actual location, pipe sizes and the details of construction will be specified in subsequent utility permits and may differ from the schematic configuration shown in this application. The proposal is consistent with the requirement. (For a response to this section for water supply and sanitary facilities, refer to those sections of the staff report.)

#### 7.1.7 Ownership

*All water, sewer and stormwater facilities within public right-of-way or public easement will become part of the City's system upon acceptance by the City Council pursuant to the Black Diamond Engineering Design and Construction Standards (Exhibit "E"). Some facilities within the right-of-way may be privately owned and operated as long as the entity that owns and operates the facilities has a valid franchise agreement with the City.*

STAFF RESPONSE: Stormwater facilities that are in public rights-of-way or on public easements will be owned and maintained by the City except that stormwater facilities within public rights-of-way may be owned by individual lot owners or by the HOA or the Master Developer if they are operated under a valid franchise. Conditions of approval #2, #9, and #10 establish responsibilities for ownership and maintenance of stormwater facilities. With conditions, the proposal meets the requirement.

#### 7.1.8 Deviation Review Criteria

STAFF RESPONSE: A stormwater deviation for alternative stormwater management zone delineation was separately requested, reviewed, and approved (Exhibit 20c) as discussed previously in this document. No deviations were requested as part of this application; this section does not apply.

#### 7.1.9 Capital Facilities Charges

STAFF RESPONSE: Because the applicant is constructing capital facilities that will be adding to the City's network, no capital facilities charges are imposed, in accordance with the DA. This approach has been repeated in the section on water distribution (DA Section 7.2.3) and sewer (DA Section 7.3.3) and the same response applies to those sections.

### 7.4 STORMWATER MANAGEMENT STANDARDS

#### 7.4.1 Stormwater Facilities Availability

*Stormwater facilities must be provided consistent with the standards in the Black Diamond Engineering Design and Construction Standards (Exhibit "E") and further detailed in Section 7.4. When constructing an Implementing Project, the Master Developer (and successors-in-interest) must comply with both the*

*stormwater standards applicable to all zones for all Phases (see Section 7.4.4.A), as well as the specific stormwater standards applicable to the stormwater zone in which the Implementing Project is located.*

STAFF RESPONSE: The application includes schematics of the proposed stormwater collection and disposal system for development on Plat 2C (Sheets PP1-5) and within the stormwater management zones 1C and 2. Public works staff and the City's consulting engineer have reviewed the plans for compliance with the BDEDCS and generally accepted engineering practices and the facilities shown comply with the applicable standards. In addition, to the extent that minor revisions are necessary to accommodate design-level details, the utility permit applications require that the proposed facilities meet the BDEDCS. This will be enforced during utility permit review and all facilities must be declared acceptable by the City prior to the construction of any impervious surfaces..

*For each proposed Implementing Project, a storm drainage report providing for preliminary sizing of facilities must be provided that evaluates the proposal and specifies the facilities necessary to meet the standards in the Black Diamond Engineering Design and Construction Standards (Exhibit "E") and this Agreement. Construction of temporary or permanent water quality and/or detention ponds, infiltration facilities, storm drains, water quality facilities, wetland recharge or other stormwater facilities may be required by the Designated Official to ensure that the facilities necessary to serve an Implementing Project are in place or will be provided.*

STAFF RESPONSE: The applicant submitted a Preliminary Drainage Analysis (Preliminary Plat Phase 2 – Plat C, Triad Associates, November 8, 2013, Exhibit 20). The proposal complies with this section.

#### 7.4.2 Regional Stormwater Facilities

*The components of the stormwater management plan for the Project Site include infiltration of stormwater into the shallow aquifer (Qvr) through Low Impact Development facilities; infiltration into the deep aquifer (Qpog) through infiltration facilities; conventional ponds; wetland recharge; water quality treatment facilities and regional stormwater management facilities.*

*Facilities to serve the entire Villages MPD have been planned and approximate locations determined (see attached Conceptual Stormwater Plan, Figure 7.4). There will be two stormwater facilities which will infiltrate into the deeper aquifer (Qpog). One of the stormwater facilities will be used to treat the excess stormwater created by the need for water balance to Horseshoe Lake. The second will be an off-site Regional Facility to treat and infiltrate the excess stormwater created by the need for water balance to the shallow aquifer, Black Diamond Lake, and the wetlands on the southern portion of the Project Site.*

STAFF RESPONSE: Figure 7.4 of the DA (Exhibit 15) shows that land in Plat 2C lies within Stormwater Management Zone 1C and Zone 2. The boundaries of each Zone are shown on Sheet UA1 of Plat 2C (Exhibit 2). The regional stormwater facility proposed and approved for Phase 1A will receive runoff from some properties in Plat 2C because of low permeability and the need to prevent untreated polluted runoff from entering surface and groundwater that feeds into Rock Creek and Lake Sawyer. No regional facilities are needed or proposed for Plat 2C. The proposal meets the requirement.

#### 7.4.3 Stormwater Management

*The Master Developer shall comply with the stormwater management provisions provided*

*below. In the event of a conflict between these provisions and the Stormwater Management Design Standards set forth in Section 7.4.4 of this Agreement, the Stormwater Management Design Standards shall prevail.*

- A. Minimize impacts to water quality in Lake Sawyer by assuring no net increase in phosphorus to Lake Sawyer occurs associated with MPD development within basins that drain to Lake Sawyer. No net increase can be accomplished by on-site or off-site source or mechanical controls, control of phosphorus from off-site compensating projects, or other methods approved by the Designated Official.*
- B. Pursuant to BDMC 14.04.020 (Exhibit "E"), maintain surface water and groundwater quality and quantities consistent with the requirements of the Department of Ecology's 2005 Stormwater Manual ("2005 DOE Manual") for Western Washington.*
- C. Recharge groundwater with stormwater infiltrated using Low Impact Development techniques and infiltration facilities.*
- D. Utilize clean roof run-off to recharge wetlands, streams and groundwater to the greatest extent feasible.*
- E. Provide a menu of stormwater treatment options ranging from ponds to rain gardens.*
- F. Minimize impacts to Horseshoe Lake water levels by ensuring that the volume of stormwater infiltrated into the shallow outwash upgradient of Horseshoe Lake is approximately the same as that which infiltrates under predeveloped conditions.*
- G. Maintain hydrology for Black Diamond Lake and wetlands on the site by recharging them with approximately the same volume of stormwater as would occur under predeveloped conditions.*
- H. Maintain pH levels and water quality in Black Diamond Lake.*
- I. Avoid impacts to steep slopes by routing excess stormwater away from slopes to a stormwater management facility.*
- J. Pursuant to Condition of Approval No. 71 of the MPD Permit Approval, provide a proactive, responsive temporary erosion and sediment control plan to prevent erosion and sediment transport and protect receiving waters during the construction Phase.*
- K. Construct a stormwater system that does not burden the City with excessive maintenance costs.*
- L. Pursuant to Condition of Approval No. 74 of the MPD Permit Approval, maintain a stormwater system that allows for adaptive management of detention and discharge rates and allows for redirection of stormwater overflows when environmental advantages become apparent.*

STAFF RESPONSE: The stormwater provisions in paragraphs A – L reflect the requirements in the MPD Permit conditions of approval Nos. 60 – 85. Figure 7.4 shows that land in Plat 2C lies within Stormwater Management Zone 1C and Zone 2. Because of the topography, the boundary between the two zones follows the ridge and more or less bisects the site from northwest to southeast. The stormwater management requirements for Zone 1C provide that runoff from rooftops and pervious surfaces will be used to recharge wetlands and groundwater through LID flow dispersal trenches and infiltration facilities. All other runoff would be conveyed to the stormwater facility within Zone 1C that was permitted through the Preliminary Plat for Phase 1A. The other portion of Plat 2C lies within Stormwater Management Zone 2. Runoff in Zone 2 drains into Rock Creek and then into Lake Sawyer.

The application proposes that runoff from rooftops and pervious surfaces in Zone 2 be drained to wetland TOS to maintain its hydrology and excess infiltrated in the outwash soils that are appropriate for infiltration. Remaining stormwater runoff from roadways or other polluting sources will be routed to the stormwater pond approved for Phase 1A. Originally, the DA proposed a stormwater treatment pond in Zone 2 for contaminated runoff. However, that pond would still be a tributary to Lake Sawyer. Under

the stormwater deviation approval, no stormwater pond would be built in Zone 2 (shown near the northern property limits of Parcel E and the treatment pond in Phase 1A will be used instead. It will be designed to accommodate the flows from Plat 2C. All of the stormwater facilities will be privately owned and not a financial burden to the City. These standards are addressed again below.

*A. Minimize impacts to water quality in Lake Sawyer by assuring no net increase in phosphorus to Lake Sawyer occurs associated with MPD development within basins that drain to Lake Sawyer. No net increase can be accomplished by on-site or off-site source or mechanical controls, control of phosphorus from off-site compensating projects, or other methods approved by the Designated Official.*

STAFF RESPONSE: In general, Plat 2C would direct stormwater runoff from roofs (non-pollutant sources) to wetlands through dispersal trenches. Stormwater from pollution-generating sources will be discharged to the regional stormwater facility on Phase 1A for eventual infiltration. Therefore, only water from non-pollution-generating sources will drain to the system that supplies Lake Sawyer. The standard is satisfied by the proposed deviation from the DA. Monitoring for phosphorus to establish a baseline amount has been conducted (Exhibit 13 and 13b). Monitoring will continue to assess future potential impacts. This requirement is met. [NOTE: update with confirmation of monitoring requirements]

*B. Pursuant to BDMC 14.04.020 (Exhibit "E"), maintain surface water and groundwater quality and quantities consistent with the requirements of the Department of Ecology's 2005 Stormwater Manual ("2005 DOE Manual") for Western Washington.*

STAFF RESPONSE: MPD Permit condition No. 60, the DA Sections 7.4.3(B) and 7.4.4(A), and BDMC 14.04.020 all require that the standards of the 2005 Stormwater Management Manual for Western Washington (SMMWW) be met. Staff have reviewed the Preliminary Drainage Analysis report for Plat 2C (Triad Associates, November 8, 2013) and its proposed plan for treating stormwater.

In addition, the application includes a schematic of the proposed stormwater collection and disposal plan and the facilities that will be needed to provide municipal service to each property in the application. These have been reviewed for compliance with the 2005 Stormwater Management Manual for western Washington (SWMMWW), BDEDCS, and generally accepted engineering practices and the facilities shown comply with the applicable standards.

*C. Recharge groundwater with stormwater infiltrated using Low Impact Development techniques and infiltration facilities.*

STAFF RESPONSE: Nine LID techniques are listed below under Section 7.4.4 (6). The application proposes to use four of the nine recommended measures: media filter strips, rain gardens, reduced roadway widths of 34 feet which is as narrow as allowed with parking (Exhibit 40, public works engineering review comments) and small-scale infiltration facilities. The remaining five measures may not be feasible or necessary in Plat 2C, based on the current plans to recharge the large areas of wetlands surrounding the site and the ability to discharge other runoff to the treatment facility in Phase 1A. Pet waste stations should be installed at points along the trail. The plat is conditioned (#42) to add pet waste stations along the trail between the development and the wetlands. The proposal meets the standard as much as is

feasible. Condition of approval #77 will require implementation of LID techniques where feasible. The proposal complies with this standard.

*D. Utilize clean roof run-off to recharge wetlands, streams and groundwater to the greatest extent feasible.*

STAFF RESPONSE: See response to (A), above. The standard is met.

*E. Provide a menu of stormwater treatment options ranging from ponds to rain gardens.*

STAFF RESPONSE: Stormwater treatment options for Plat 2C include rain gardens and draining some runoff to the Phase 1A regional stormwater pond.

*F. Minimize impacts to Horseshoe Lake water levels by ensuring that the volume of stormwater infiltrated into the shallow outwash upgradient of Horseshoe Lake is approximately the same as that which infiltrates under predeveloped conditions.*

STAFF RESPONSE: The drainage route to Horseshoe Lake is from Zones 1A and 1B. Zone 1C will receive some flows from Plat 2C but Zone 1C is cross-gradient to Horseshoe Lake. To the extent that some flows from Plat 2C infiltrated at the pond in Zone 1C may contribute to subsurface flows to Horseshoe Lake, the project complies with this condition.

*G. Maintain hydrology for Black Diamond Lake and wetlands on the site by recharging them with approximately the same volume of stormwater as would occur under predeveloped conditions.*  
*H. Maintain pH levels and water quality in Black Diamond Lake.*

STAFF RESPONSE: Black Diamond Lake is southeast of the Plat 2C site and in a different stormwater management zone. The proposed development would recharge wetlands on the Plat 2C site to match pre-development hydrology for the receiving wetlands. The stormwater design was reviewed by the City's engineering consultant, who concluded that the proposed drainage system (as modeled by Triad Associates) will have no impact on wetland hydrology (Exhibit 20a).

*I. Avoid impacts to steep slopes by routing excess stormwater away from slopes to a stormwater management facility.*

STAFF RESPONSE: There are some slopes adjacent to the development. The applicant proposes that excess stormwater not required to recharge adjacent wetlands be directed to the treatment pond in Phase 1A. The standard is met.

*J. Pursuant to Condition of Approval No. 71 of the MPD Permit Approval, provide a proactive, responsive temporary erosion and sediment control plan to prevent erosion and sediment transport and protect receiving waters during the construction Phase.*

STAFF RESPONSE: This section of the DA will be required and enforced when the applicant applies for the clearing and grading permit.

*K. Construct a stormwater system that does not burden the City with excessive maintenance costs.*

STAFF RESPONSE: Maintaining the flow dispersal trenches and the connecting pipes on private property would be the financial responsibility of the applicant and/or an HOA. This condition will be satisfied by plat notes to that effect that are required by condition of approval #2, as well as condition of approval #10 concerning financial responsibility of the applicant.

*L. Pursuant to Condition of Approval No. 74 of the MPD Permit Approval, maintain a stormwater system that allows for adaptive management of detention and discharge rates and allows for redirection of stormwater overflows when environmental advantages become apparent.*

STAFF RESPONSE: This condition applies to Phase 1A. Enforcement of condition of approval #52 for Phase 1A (PLN11-0001) will implement this paragraph. Stormwater from Plat 2C will discharge into the Phase 1A stormwater system and will, therefore, become compliant with MPD Permit condition of approval No. 74.

#### 7.4.4 Stormwater Management Design Standards

*The Villages MPD has been divided into stormwater management zones shown on the Conceptual Stormwater Plan (Figure 7.4). Each stormwater management zone has a unique set of specific stormwater requirements. [...] Individual Implementing Projects shall meet the overall requirements set forth in Subsection 7.4.4(A), as well as the stormwater requirements unique to the stormwater zone in which each is located. Each Implementing Project shall provide calculations of the amount of stormwater discharged. The Master Developer shall maintain a running tally and will manage the water balance requirements for each stormwater zone to ensure that the water balance goals are met.*

STAFF RESPONSE: As noted in the introduction to this section, the proposed stormwater management system and the approved deviation (Exhibits 20, 20b, 20c) uses the approach in the Conceptual Stormwater Plan for stormwater drainage into identified zones. The Preliminary Drainage Report evaluates water balance on the subject site, including calculations of the amount of stormwater discharged pre- and post-construction. Condition of approval #8 requires the proposal to maintain the predevelopment hydrology for the adjacent receiving wetlands. The proposal is consistent with this section.

#### *A. Standards Applicable to All Stormwater Zones for All Phases:*

*1. Pursuant to BDMC 14.04.020 (Exhibit "E"), stormwater facilities shall be designed to meet the requirements of the Department of Ecology, 2005 DOE Stormwater Management Manual for Western Washington ("Manual"). Pursuant to Condition of Approval No. 76 of the MPD Permit Approval, in the event that new phosphorous treatment technology is discovered and is either certified by the Department of Ecology as authorized for use in meeting requirements of the Manual, or is in use such that it is considered by the stormwater engineering community as constituting part of the set of measures described as "All known, available, and reasonable methods of prevention, control, and treatment" (AKART) as defined in WAC 173-201A-020, then the Master Developer shall incorporate that new phosphorous treatment technology in all new ponds and facilities applied for as part of an Implementing Project.*

STAFF RESPONSE: Compliance with this standard is met with condition of approval #11 and will ensure that the proposed stormwater design complies at the utility permit stage and prior to final plat approval. No new stormwater treatment technologies for phosphorus treatment have been identified since the adoption of the Development Agreement because the standards for AKART have not been revised.

*2. Pursuant to Condition of Approval No. 70 of the MPD Permit Approval, all Implementing Projects in a given Phase shall comply with the conditions of the then current NPDES permits (issued to the City by the Washington State Department of Ecology) in effect at the time of submittal of the first Implementing Project application in that Phase.*

STAFF RESPONSE: Plat 2C is the first implementing project for Phase 2. Condition of approval #14 is included for approval of the preliminary plat.

*3. Pursuant to Condition of Approval No. 68 of the MPD Permit Approval, galvanized and copper and similar roof and gutter materials, as well as roof treatments such as chemical moss killers are prohibited for any rooftop draining directly to wetlands, streams, or their associated buffers without treatment. Stormwater from non-copper or non-galvanized rooftops do not require water quality treatment prior to infiltration or discharge unless combined with stormwater from pollution-generating surfaces.*

STAFF RESPONSE: Compliance of the proposal with this standard will be ensured at the building permit stage.

*4. Pursuant to BDMC 14.04.020 (Exhibit "E"), the Master Developer shall treat stormwater collected from pollution generating surfaces so that it complies with the water quality requirements of the 2005 DOE Manual, or any subsequent Manual adopted by the City of Black Diamond and in effect at the start of a Phase.*

STAFF RESPONSE: The application includes a schematic of the proposed stormwater collection and disposal plan and the facilities that will be needed to manage stormwater flows from all pollution generating surfaces in Plat 2C. These have been reviewed for compliance with the 2005 Stormwater Management Manual for western Washington (SWMMWW), BDEDCS, and generally accepted engineering practices and the facilities shown comply with the applicable standards. In addition, to the extent that minor revisions are necessary to accommodate design-level details, the application requires that the proposed facilities meet the BDEDCS. Condition of approval #6 ensures compliance with this standard.

*5. Pursuant to BDMC 14.04.020 (Exhibit "E"), all treatment options allowed under the 2005 DOE Manual or Manuals subsequently adopted by the City, such as ponds, vaults, media filter strips, bioretention and rain gardens, are allowed, except as otherwise provided in any Manual subsequently adopted by the City that may be in effect at the start of any Phase.*

STAFF RESPONSE: No response required.

*6. Pursuant to Condition of Approval No. 67 of the MPD Permit Approval, the following mechanisms shall be utilized where feasible in Implementing Project applications so as to integrate Low Impact Development techniques into The Villages MPD build-out:*

- i. Reduced roadway widths*
- ii. Infiltration wells*
- iii. Rain gardens*
- iv. Bioswales*
- v. Media filter strips*
- vi. Reduced driveway lengths*
- vii. Pervious asphalt and concrete in alleys*

viii. Pervious pavers

ix. Install pet waste stations in common areas

STAFF RESPONSE: See response to DA Section 7.4.3 (C), above. Condition of approval #77 requires implementation of LID techniques where feasible.

*7. Pursuant to Condition of Approval No. 70 of the MPD Permit Approval, the Master Developer shall fund any reasonable and necessary costs for the training of City staff or a contractor so that the City may provide inspection services for City actions related to any NPDES permits granted by Ecology for The Villages MPD Development.*

STAFF RESPONSE: The applicant funded erosion control inspection training and as a result the City currently has two employees as well as a contract civil engineer who are Certified Erosion Control Lead Specialists. The project has met this condition.

*8. Pursuant to Condition of Approval No. 79 of the MPD Permit Approval, the Master Developer shall pay 60% of all costs from the King County Lake Stewardship Program through the duration of construction for Phase 1A of The Villages MPD. Thereafter, all costs will be covered by stormwater utility fees collected by the City.*

STAFF RESPONSE: This condition applies to approval of Phase 1A only.

*B. Stormwater Management Zone 1*

*3. Stormwater Management Zone 1C Standards*

*i. Stormwater from rooftops and pervious surfaces shall be used to recharge wetlands where required. All other runoff will be conveyed to the regional stormwater facility within this drainage zone (Stormwater Management 1C, see Figure 7.4) unless the runoff is needed to meet the water balance needs to Horseshoe Lake.*

STAFF RESPONSE: As noted in the discussion of proposed stormwater facilities, above, the current plan for Plat 2C in the preliminary plat and in the drainage analysis complies with the standard for Zone 1. Stormwater from rooftops and pervious surfaces will be collected and dispersed to the wetlands and the remainder will be infiltrated. The standard is met.

*C. Stormwater Management Zone 2 Standards*

*Runoff from rooftops shall be used to recharge wetlands and maintain wetland hydrology. All other runoff will be conveyed to the regional detention/water quality pond in this drainage zone (Stormwater Management Zone 2).*

STAFF RESPONSE: As noted above, the current plan for Plat 2C in the preliminary plat and in the applicant's drainage analysis complies with the standard for Zone 2.

7.4.5 Stormwater Monitoring and Phosphorus Load Calculation

*The Master Developer shall monitor stormwater for the following parameters: Total Phosphorus (Tp), Temperature, pH, Turbidity, Conductivity, and Dissolved Oxygen (DO). Monitoring of a specific stormwater facility shall continue for five (5) years following the completion of development that discharges into that facility.*

STAFF RESPONSE: This section does not require monitoring of stormwater separate from the long-term monitoring that is required for The Villages to ensure compliance with the “no net increase” in phosphorus restrictions in Lake Sawyer. Those monitoring requirements (identified in the MPD Conditions of Approval No. 85) have begun to be implemented in the Rock Creek drainage basin with water quality samples taken beginning in 2011 for the monitoring years 2011/12, 2012/13, and 2013/14 by Tetra Tech, the applicant’s stormwater engineering consultant. The applicant submitted updated monitoring reports in January and May 2014. (Exhibit 13b) The monitoring will continue for 5 years following completion of all of The Villages development.

### 11.3 PHASING AND CONSTRUCTION OF ON-SITE REGIONAL FACILITIES

No on-site regional facilities are proposed inside the boundaries of Plat 2C, so this section does not apply.

### 11.4 PHASING AND CONSTRUCTION OF OFF-SITE REGIONAL INFRASTRUCTURE IMPROVEMENTS

#### *A. Phasing.*

*Prior to the approval of the first Implementing Project in a defined Phase, a detailed table of the Regional Facilities supporting that Phase, similar to Tables 11-4-1, 11-4-2, 11-5-1, and 11-5-2, which shall include a “construction threshold,” or as to transportation, documents that result of the Traffic Monitoring Plan (Exhibit “F”), shall be submitted to the Designated Official for approval. Occupancy of an Implementing Project that exceeds the construction threshold is allowed after the necessary Regional Facility has been permitted. This ensures that necessary off-site Regional Facilities are provided to serve Implementing Projects as they occur. Model Homes are exempt from this requirement.*

STAFF RESPONSE: The “Detailed Regional Implementation Schedule: Phase 2 Regional Infrastructure Improvements” provides a table of the thresholds tied to each improvement project. Most of the dwelling unit totals are greater than that provided by the combined build-out of Phases 1A and 2C, so they will be triggered by subsequent Implementing Projects. Compliance with road construction projects to serve Phase 2 is addressed in the Transportation section of this staff report.

### 11.7 PHASING OF DEVELOPMENT

*The sequencing of Implementing Projects, Implementing Approvals, construction completeness and City acceptance of facilities shall be confirmed by the Designated Official, who shall make a finding within each staff report for proposed preliminary plats or binding site plans within The Villages MPD whether required infrastructure and amenities have been scheduled to meet the demands of the future occupants of that specific plat or binding site plan.*

*Pursuant to Condition of Approval No. 153, the details of Open Space protection and dedication follow. Currently, portions of the Project Site are protected by recorded temporary conservation easements in favor of the City. Required Open Spaces shall be identified with each Implementing Project and conserved or conveyed to the City during the final plat process, site plan approval or engineering review. Once Open Space has been adequately conserved or dedicated for the Implementing Project, the City shall, within ten (10) business days, execute a partial release and reconveyance of the conservation easements created pursuant to the Open Space Agreement (as defined in Section 3 of this Agreement) as necessary for the remaining undeveloped lands of the Project Site.*

STAFF RESPONSE: A memorandum documenting the Designated Official's finding of compliance with the proposed phasing for The Villages and Lawson Hills Phase 2 was issued on June 13, 2014 (Exhibit 29a).

Required open space is listed in Table 9-1 of the DA for the original parcels that formed the site for the MPD permit application Parcel E requires 75.58 acres of open space. Plat 2C, which forms perhaps half of parcel E, provides 95 acres mapped as numbered tracts on Preliminary Plat Phase 2 Plat C, Sheet CV4 (Exhibit 2).

The open space tracts are also listed on Sheet CV4 in the Open Space Tract Table. The tracts are designated for specific uses, such as access, utilities, parks, and landscaping. As of the writing of this staff report, the applicant on Sheet CV4 indicates ownership will be by the HOA or the Master Developer and not the City. Tracts are not developable and they would conserve the designated parcels. With conditions, the requirements are satisfied.

## Black Diamond Design Guidelines for Master Planned Development

### GENERAL PRINCIPLES AND SITE PLANNING

#### A. Environmentally Sustainable

*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.*

STAFF RESPONSE: The drainage analysis for The Villages evaluated water balance to ensure that the hydrology of adjacent wetlands and Rock Creek would be maintained after development. (Exhibits 20, 28, and 20a) The stormwater management plan proposed would direct non-polluting runoff to wetlands and the remaining runoff will be treated and infiltrated. The proposal is consistent with this guideline.

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

STAFF RESPONSE: Sections 12.8.1.C and 13.2 of DA required project compliance with DMC Chapter 15.28 (Exhibit "E"). Therefore, compliance with Chapter 15.28 BDMC will be addressed subsequent to preliminary plat approval. The proposal will be required to comply during review for clearing and grading permits.

#### D. Stormwater Detention/Retention Ponds

##### *1. Location*

*a. Use natural site topography plus low-impact development methods to determine appropriate locations, which is to be integrated into the overall project design.*

STAFF RESPONSE: No stormwater detention or retention ponds within Plat 2C are proposed. LID features in Plat 2C are two small rain gardens and narrow roadway widths.

## 2. Landscaping

*a. Where possible, provide facilities that are site amenities, in order to reduce need for fencing. In general, public access to stormwater facilities should be included within design.*

STAFF RESPONSE: No stormwater facilities are proposed to be amenities in Plat 2C. This guideline does not apply.

## 3. Fencing

*a. Chain link fencing shall not be allowed. Other forms of non-obscuring fencing may be permitted when ponds exceed a safe slope. However, it is generally expected that ponds will be gently integrated into the design of the site with slopes that are safe to traverse on foot (less than 7% grade).*

STAFF RESPONSE: No stormwater ponds are proposed in Plat 2C. This guideline is not applicable.

# 17.15, Subdivision Code [2009]

## 17.15.020 - APPROVAL CRITERIA.[AS APPLICABLE TO STORMWATER FACILITIES]

*A. The following criteria must be met to approve any subdivision. The criteria may be met by conditions.*

*3. The public use and interest is served by the establishment of the subdivision and dedication. In considering this criteria, it shall be determined if appropriate provisions are made for all relevant matters, including, but not limited to, the public health, safety and general welfare, open spaces, storm drainage ways, streets, alleys, other public ways, water supplies, sanitary wastes, parks, playgrounds, sites for schools and school grounds;*

STAFF RESPONSE: Appropriate provisions have been made for storm drainage in Plat 2C that are consistent with the DA and the 2005 SWMMWW. Stormwater facilities are proposed to manage runoff from the impervious and pervious surfaces. The proposed facilities, as described in more detail in the introduction to this topic, will direct runoff from non-pollutant-loading facilities to small-scale infiltration sites or flow dispersal trenches that will recharge wetlands and groundwater. Stormwater from polluting sources such as streets will be treated and infiltrated in a stormwater facility that has been constructed as part of Phase 1A of The Villages. The proposed facilities have been reviewed for compliance with environmental standards through the standards in the DA, regulations in the BDMC and the standards in the BDEDCS. The proposed drainage system for stormwater has been reviewed by the City and its consulting engineers and found to be consistent with City standards and regulations. Therefore, the proposal meets this criterion.

*5. Applicable city development standards are met or exceeded;*

STAFF RESPONSE: The applicable city development standards for stormwater are contained in Title 14 of the BDMC. Title 14 adopts the stormwater management measures of the Stormwater Management Manual for Western Washington (SWMMWW) and all new development must comply with it, except that Appendix 1 of the NPDES Phase II Municipal Stormwater Permit, titled "Minimum Technical Requirements for New Development and Redevelopment" is adopted in lieu of Volume 1, Chapter 2 of the SWMMWW. Maintenance and source control in BDMC 14.04.130 require that, after the director has released bonds for the project pursuant to Section 14.04.360, all stormwater drainage, conveyance and

treatment facilities shall be maintained by the individual lot owners and/or the property owners' association. The City's consulting engineer certified that the proposal has met the City's standards. (Exhibit 45) The requirement is satisfied.

Additional standards are contained in the DA and have been addressed above. Therefore, with conditions the proposal meets this criterion.

*6. All environmental impacts have been addressed consistent with the public health, safety and welfare and city goals and policies;*

STAFF RESPONSE: Having sufficient stormwater conveyance and treatment capacity are the main long term environmental impacts associated with public health, safety, and welfare. Potential short-term environmental impacts would be from erosion during construction.

The applicant submitted a SEPA checklist with the application (Exhibit 3e). The checklist describes the proposed facilities for Plat 2C. A SEPA MDNS and Adoption of Existing Environmental Document (Exhibit 5) was issued by the City on June 17, 2014. This document adopted by reference the Final Environmental Impact Statement (FEIS) for The Villages. The FEIS notes on page 4-31 that there are two main potential concerns with managing stormwater: flow control and treatment for pollutants. Flow management should maintain the local hydrology of water features and prevent scouring in or flooding of surface waters. Maintaining or improving water quality means treating or preventing pollution from stormwater runoff. The polluting nutrients of most concern are phosphorus and nitrogen. Lake Sawyer currently has a 303(d) listing for phosphorus and both it and Jones Lake are potential candidates for eutrophication from runoff from activities associated with development. More detail is provided in the FEIS.

Mitigation identified in the FEIS as well as during the FEIS appeal and MPD Permit hearings was incorporated into the conditions of MPD Permit approval. Additional mitigation was incorporated into the DA. Among the mitigation measures is a requirement that The Villages provide enhanced water quality treatment as required by the 2005 SWMMWW.

Stormwater facilities consistent with the needs of Plat 2C have been schematically designed by the applicant as described at the beginning of this section. They have been reviewed by the City's consulting engineer and found to be consistent with the MPD Permit conditions of approval, the DA, and the BDEDCS (Exhibit 45) The details of design will be reviewed at the utility permit stage.

Construction impacts are typically due to excavation that can result in soil erosion. The applicant will be required to develop a TESC to obtain construction permit approval.

This criterion is met.

*7. Concurrency exists for all utilities and transportation system improvements prior to occupancy of any structures;*

STAFF RESPONSE: The City's interpretation of utility concurrency is as follows: "concurrency" means that adequate public facilities or services are available when the impacts of development occur and "available" means that the facilities or services are in place (or that a financial commitment is in place) to provide the facilities or services within a specified time. (For a discussion of transportation, water, and sanitary sewer concurrency, refer to those sections of this staff report.)

Three essential elements of concurrency are: 1) constructability, 2) supply and/or capacity, and 3) timing for impacts. Appropriate provisions must be made for stormwater management by ensuring the stormwater facilities are constructed by the time utility permits are approved.

With respect to constructability, the City's consulting civil and transportation engineers and the public works director reviewed the proposal's schematic plans and technical reports (Exhibits 20d and 40) and found no constraints that would prevent the proposed stormwater system from being designed to meet the City's standards in the BDEDCS and The Villages DA. Therefore, for the purposes of preliminary plat approval, those facilities are constructible.

With respect to capacity, the proposed stormwater facilities can be constructed on site to manage the amount of projected runoff from impervious and pervious surfaces as stated in the Preliminary Drainage Analysis report. Stormwater from pollutant surfaces will generally be directed to the stormwater pond constructed by Phase 1A and which is built to accommodate drainage from 167 acres of impervious surfaces. Phase 1A will generate runoff from 27.7 acres and Plat 2C will generate runoff from 17.1 acres (for a total of 44.8 acres). Because 44.8 acres is less than 167 acres, the proposed amount of drainage can be accommodated (which leaves capacity of 122.2 acres for future land use development).

The proposed stormwater system in Plat 2C discharges to a stormwater facility that has been completed on Phase 1A. The stormwater pond is already in place and functioning as a stormwater pond.

The other part of the stormwater system, the flow dispersal trenches and roof drains, is within Plat 2C and subject to final plat approval. With conditions, staff finds that concurrency exists for stormwater infrastructure to serve Plat 2C.

*11. Appropriate provision has been made for the dedication of land to any public body, and provision of public improvements has been made as necessary to serve the subdivision. This shall include appropriate provision for payment of any impact fees imposed in accordance with the provisions of RCW 82.02.050 through 82.02.090, and applicable city codes and regulations. Dedications shall clearly be shown on the final plat;*

The applicant proposes tracts for utilities as designated in the Tract Table on Sheet CV4 (Exhibit 2). Most stormwater facilities will be on private property, either on land owned by individuals, the Master Developer, or the HOA. Where the privately-owned pipes cross public rights-of-way, the applicant will need to be covered by a franchise with the City. Stormwater facilities in public right-of-way that the City admit as part of the City's stormwater system must be dedicated to the City for ownership and maintenance following the City's acceptance of the facilities as meeting the standards and prior to final plat approval. Conditions of approval #2, #4 and #10 will require all private easements as well as maintenance responsibility for stormwater facilities assigned to private property owners be shown on the preliminary plat for Plat 2C.

With respect to impact fees, Section 4.10 of DA provides:

*"As designed and with full implementation of all the mitigation measures, The Villages MPD build-out will fully and adequately mitigate the probable significant adverse environmental impacts of The Villages MPD and, that through such mitigation measures, provisions will be made for: (i) the facilities needed to serve new growth as a result of The Villages MPD within the City and (ii) the Master Developer to construct or pay a*

*proportionate share of the cost of completing certain system improvements. Unless otherwise provided elsewhere in this Agreement or in The Villages MPD Permit Approval, the mitigation measures listed this Agreement and in Exhibit "C" are in lieu of the payment of any impact fees that the City has the authority to impose pursuant to RCW 82.02.050 et seq., including any amendments thereto, such that no impact fees shall be imposed on any Implementing Project during the term of this Agreement except for those impact fees explicitly allowed in this Agreement."*

Therefore, no impact fees for stormwater will be assessed.

## 19.04, SEPA Ordinance [2009]

Environmental impacts and mitigation were addressed for The Villages MPD in the FEIS. The FEIS notes that impacts on stormwater come from addition of impervious surface to stormwater basins, which can cause changes in local hydrology, erosion, increased surface water temperatures, increased contaminants entering surface waters, and more concentrated flows infiltrating very permeable soils. The FEIS listed potential mitigation measures to preserve stormwater volumes in wetlands, require use of native plants and reduce lawn planting where practical, reduce pavement widths, treat stormwater in accordance with the 2005 SWMMWW and construct stormwater treatment and storage improvements as presented in the City Comprehensive Plan. The SEPA checklist for Plat 2C notes in part 3(a), surface water, that there are wetlands and Rock Creek on the site. All vegetation within the residential portion of the site would be removed. The applicant proposes to manage surface water runoff in compliance with the 2005 SMMWW.

On June 17, 2014, the City issued a Mitigated Determination of Non-significance (MDNS) and Adoption of Existing Environmental Document Notice (Exhibit 5). There was one mitigation measure for stormwater: During final engineering review of the plat, an update to the preliminary drainage analysis shall be conducted by the proponent and submitted to the City for review, to account for any subtle design changes from the preliminary plat design to the final engineering construction drawings. This is included as a condition of approval (#13) for the preliminary plat for Plat 2C.

## B. Traffic and Transportation

Three local streets, four alleys, and three 'woonerfs'<sup>1</sup> will provide internal circulation and access. A major off-street trail would loop around the development. The City will assume ownership of Roads A, B, and C after the project is constructed. The streets, alleys, and woonerfs have been designed to comply with Section 6 of the DA. They include 5-foot-wide sidewalks, a planting strip, 7 feet of pavement for on-street parking, and 10-foot-wide vehicle travel lanes. The total width of pavement (curb-to-curb) will be 34 feet. The width narrows at the intersections, as the sidewalks bulb out for safer, pedestrian-friendly crossings.

Two deviations from road standards were requested earlier in the year and approved by the City, one for the proposed woonerfs (Exhibit 17) and for rain garden widths (Exhibit 21).

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<sup>1</sup> Woonerfs are a type of street for shared access by pedestrians and motorized and non-motorized vehicles.

The applicant submitted a request on June 12, 2014 to eliminate sidewalks, planting strips, parking and curbs on Woonerf A, B, and C in Preliminary Plat 2C. The request was approved on July 25, 2014 with the following conditions:

- #17. The woonerfs must be privately owned and maintained.
- #20. The deviation is limited to Woonerfs A, B, and C on Preliminary Plat 2C.
- #21. Woonerfs A, B, and C must be designed using unique paving (asphalt is not allowed) and to be visually interesting with distinct patterns or textures integral with the paving system.
- #22. Houses adjacent to the woonerf, including lots 165 through 184, must address the woonerf with entrance doors and pathways that form a direct connection between the door and the woonerf. The houses on these lots must be designed so that the woonerf-side of the house does not appear to be the 'back' of the house and must be articulated and detailed in a manner similar to the front of the house.

The applicant submitted a request on January 27, 2014 to use an alternative width configuration for rain gardens when within or adjacent to the right-of-way. The request was approved on August 12, 2014 with the following conditions:

- #23. The width is used to complement or enhance adjacent features or uses,
- #24. The roadway section, as shown in the Villages Development Agreement, is not changed (except for the rain garden width),
- #17. The rain gardens are privately owned and maintained.

Traffic calming measures on Roads A, B, and C are proposed in the form of curb bulb-outs at intersections and mid-block locations and on-street parking on both sides. The application narrative states that parked cars and bulb-outs have the effect of narrowing the apparent width of streets, and thus tend to slow or 'calm' the traffic. Three sources for this assertion were provided. (Exhibit 24b)

The City's level of service (LOS) standard for all intersections except on SR 169 is LOS C or better. For SR 169, the standard is LOS D or better. Off-site transportation improvements will be needed to meet concurrency levels of service as development occurs. A list of mitigating projects was established in the DA (Section 11--Project Phasing). As each new phase of development is proposed, three documents are used to determine what off-site improvements will be needed to maintain concurrent levels of service. These are the Regional Facility Implementation Plan, the Traffic Monitoring Report, and a traffic study geared to the specific preliminary plat proposal. Improvements to support all of Phase 2 are determined by updating the original Traffic Monitoring Report. Whether those improvements would be needed to support only Plat 2C is determined through the Plat 2C-specific traffic study. Transpo Group prepared and submitted on behalf of the applicant the "Traffic Monitoring Report, The Villages & Lawson Hills Master Planned developments--Phase 2" (December 2013, Exhibit 25) and "Phase 2 Plat C Traffic Impact Study" (December 19, 2013, Exhibit 24). The applicant also submitted the Regional Facility Implementation Plan as required by the DA (Exhibit 29).

The primary measurement used to determine whether there are traffic impacts on level of service is weekday PM peak hour trips (also referred to as equivalent residential units [ERUs]). One ERU is based on the average number of trips generated by a detached single-family dwelling unit, which is approximately one (1.01) PM peak hour trip.<sup>2</sup> The Traffic Impact Study estimates that Plat 2C would generate 137 net new PM peak hour trips or ERUs.

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<sup>2</sup> *Trip Generation* (Institute of Transportation Engineers, 8<sup>th</sup> Edition, 2008). More information on trip generation methodology is found in the Traffic Monitoring Report, page 12.

The updated Traffic Monitoring Report evaluated what improvements will be necessary to ensure compliance with concurrency requirements, and identified when construction of the improvements will be needed for Phase 2. In all of Phase 2 there are proposed to be 1,157 dwelling units and one elementary school. Phase 2 at full build-out would result in unacceptable levels of service at six intersections, according to the analysis. Table 1 of the report (Exhibit 25) summarizes the intersection improvements and construction timing. The analysis found that the earliest need for improvements at three intersections would be when the 1,393<sup>rd</sup> dwelling unit is occupied or the 1,393<sup>rd</sup> ERU is created.

The approval of Phase 1A established trips equal to 1,190 ERU. Since Plat 2C is calculated to generate 137 trips or ERUs, the total, if Plat 2C is approved, would be 1,327 ERUs. Since that is less than the 1,393 ERUs that will trigger concurrency improvements, none of the six intersection improvements will be needed at the time of development of Phase 1A and Plat 2C combined.

The City's traffic consultant reviewed the Traffic Monitoring Report and the Traffic Impact Study for Plat 2C and determined that no road improvements will be required beyond what is required to serve the lots on Plat 2C. Plat 2C itself will not trigger any concurrency-related improvements.

The DA established a separate condition for design, alignment and right-of-way dedication for Pipeline Road prior to the construction of the 1200<sup>th</sup> dwelling unit in all of The Villages. This activity for planning Pipeline Road is not related to concurrency timing for Plat 2C. The combined dwelling unit total for both Phase 1A and Plat 2C would be 985 units, so this threshold will not be triggered.

To comply with Condition of Approval No. 32 of the MPD Permit Approval the applicant has agreed to provide (prior to issuing a certificate of occupancy for the 200<sup>th</sup> dwelling unit in all of The Villages) a connecting sidewalk and safe pedestrian connection from the frontage improvements along parcel V13 to the northeast corner of the Guidetti Parcel along Roberts Drive. This condition was applied to the approval of Phase 1A and is applied to Plat 2C as well (#26), since it is not known in which phase the construction of the 200<sup>th</sup> dwelling unit would occur.

The Traffic Impact Study reviewed collision data for the study intersections of the Traffic Monitoring Report and found that all study intersections had rates well below one collision per one million entering vehicles, indicating no safety issues and no additional analysis is required. The authors found that new traffic from Plat 2C would likely result in a proportionate increase in the probability of traffic accidents but the new traffic would be unlikely to create a safety hazard.

The applicant's traffic modeling work and conclusions were reviewed by the City's transportation consultant, Parametrix (Exhibit 24a, c, and 25b, c). The email memorandum from Parametrix on June 11, 2014 confirmed that the updated Traffic Monitoring Report and the Traffic Impact Study provided information sufficient for a concurrency determination and consistency with the DA and MPD conditions of approval.

In summary, the updated analysis of the traffic monitoring report indicated that Plat 2C would generate traffic representative of approximately 137 ERUs. Intersection improvements are not triggered until the 1,393<sup>rd</sup> occupancy permit within either Phase 1A or Phase 2. Since this ERU threshold cannot be reached with approval of Plat 2C, no intersection improvements are required.

## Black Diamond Comprehensive Plan

*Policy T-1 Roadway Design Policy: Ensure adequate and safe access to property via a system of primarily public and limited private roads.  
A range of design and construction standards for all facilities should be adopted by the City. [...]The City will also investigate allowing “low impact development” designs that minimize pavement width and emphasize the use of storm drainage techniques to increase natural treatment and infiltration.*

STAFF RESPONSE: Plat 2C shall have public streets (Roads A, B, and C). The alleys and woonerfs shall be private. The public roads provide most of the site’s access to individual lots, are wider than the alleys and woonerfs and allow parking. The narrower alleys and woonerfs will be private, and minimize the amount of pavement needed to provide access to the lots. Narrower street widths are an LID feature. The standards for minimum width for a local residential street is 22 feet to 32 feet, depending on presence of sidewalks and planting strips. There is no maximum standard. The public roads in Plat 2C will be approximately 34 feet wide, curb-to-curb, where parking is allowed on both sides of the street. Those roads will narrow at intersections and at mid-block pedestrian crossings to about 22 feet. As discussed in the Stormwater discussion, the proposed stormwater system will provide natural treatment and infiltration. The proposal is consistent with this policy.

*Policy T-2 Connectivity Policy: Provide an interconnected network of roads and trails for ease and variety of travel.*

STAFF RESPONSE: Plat 2C proposes a connected network of roads and trails, shown on Sheets RS1-RS4. The only non-connecting streets end at connection points to future development plats. The trail and streets will connect with the major road network on Phase 1A. The proposal is consistent with this policy.

*Policy T-3 Level of Service Standard Policy:  
Adopt levels of service that reflect the preference of the community. Ensure that new development does not degrade transportation facilities below adopted standards.*

STAFF RESPONSE: The City’s level of service (LOS) standard for all intersections except on SR 169 is LOS C or better. For SR 169, the standard is LOS D or better. The applicant updated the Traffic Monitoring Report for Phase 2 (Exhibit 25) and conducted a traffic study, documented in Exhibit 24. Both were submitted as part of the application package. The updated analysis for the Traffic Monitoring Report modeled the level of service at intersections after full build-out of Phase 2 in The Villages and Lawson Hills developments, using the land uses proposed in the MPDs. In all of Phase 2 there are proposed to be 1,157 dwelling units and one elementary school. Phase 2 at full build-out would result in unacceptable levels of service at six intersections, according to the analysis. Six projects are proposed to mitigate those impacts by the time that 1,392 ERUs would be generated from both Phase 1A and Phase 2. Since Phase 1A is planned to create 1,190 ERUs and Plat 2C would create 137 ERUs, the total ERUs at build-out would be 1,327, less than the 1,392 ERUs that would then trigger off-site improvements at those three of those intersections (Exhibit 25, page iii). Therefore, the 203 new dwelling units would create 137 ERUs, and not degrade the level of service at any intersections below the adopted LOS C. Plat 2C will not require any off-site improvements to maintain concurrency. The proposal is consistent with this policy.

*Policy T-6 Local Access Policy: Establish a standard to limit the number of dwelling units that may be served before a second point of access is required. Limit the length of dead end streets by either distance or number of lots served.*

STAFF RESPONSE: The number of dwelling units that may be served before a second point of access is required is 150. Plat 2C has 203 dwelling units and will provide two routes of ingress and egress when constructed, and a third route to future development on an adjacent plat to the south. The two initial access points will be between Willow Avenue SE on Phase 1A and Road A and between Willow Avenue SE and Woonerf A. The latter connection will be for emergency vehicles only. There are no dead-end streets.

*Policy T-10 "Small Town" Character Policy: Enhance the "small town" character that the City currently possesses.*

*This can be done by the following:*

- *Discourage widening of SR 169 to a four or five lane facility thus creating a "thoroughfare" that will tend to divide the City;*
- *Encourage landscaping, parkway trees, and compatible architecture in the design and construction of roadways, especially SR 169, and other facilities along selected corridors. Minimize obtrusive signs through provisions in the zoning code;*
- *Limit the number of traffic signals within the City of Black Diamond by considering the use of roundabouts as the first solution where appropriate; and*
- *Adopt new road standards and development guidelines to minimize paving widths; preserve desirable trees and vegetation through minimized right-of-way clearing; and allow creative designs.*
- *Adopt separate road standards for the older, historic portions of the City that are specific to individual street geometries, with the goal of not causing undue disruption to existing neighborhoods.*

STAFF RESPONSE: The DA contains road standards and landscaping requirements that implement this policy. Landscaping will be reviewed at the utility permit stage, and be governed by the minimum standards in the DA. Plat 2C will streets 34 feet wide (which is the standard set by the DA) with street trees, landscaped strips along streets, and trees and vegetation preserved in the sensitive areas. Plat 2C does not require widening of SR 169, or new traffic signals at intersections. The proposal is consistent with this policy.

*Policy T-12 Right-of-Way Policy: Retain all existing transportation system rights-of-way, and to identify, acquire, and protect rights-of-way for future roadway and bikeway facilities.*

STAFF RESPONSE: Under the DA, the Master Developer will build all roads in implementing projects to City standards and then dedicate those roads to the City once their construction is deemed acceptable by the City. Right-of-way for Roads A, B, and C is shown on the preliminary plat drawings. The proposal is consistent with this policy.

*Policy T-13 Concurrency Policy: Ensure that transportation improvements or strategies are constructed or financed concurrent with development. This also includes concurrency with plans of other transportation agencies.*

STAFF RESPONSE: Refer to response to Policy T-3. The Traffic Monitoring Plan (Exhibit “F” to the Villages DA) and Condition of Approval No. 10 of the MPD Permit require the Master Developer to construct certain roadway improvements to maintain the City’s adopted level of service standards and to meet the requirement for transportation concurrency. The applicant updated the Traffic Monitoring plan for all of Phase 2 and conducted a Traffic Impact Study for Plat 2C. The City and its transportation consultant reviewed and approved the reports in June 2014. Since Phase 1A is planned to create 1,190 ERUs and Plat 2C would create 137 ERUs, the total ERUs at build-out would be 1,327, less than the 1,392 ERUs that would then trigger off-site improvements at those three of those intersections (Exhibit 25, page iii). Therefore, the 203 new dwelling units would create 137 ERUs, and not degrade the level of service at any intersections below the adopted LOS C. Plat 2C will not require any off-site improvements to maintain concurrency. The proposal is consistent with this policy.

*Policy T-15 Financial Impact Mitigation Policy: Require developers to contribute their fair share towards the transportation improvements required to meet the LOS standards. Impact mitigation efforts may include:*

- *Requiring developers to assist in providing additional transportation facilities and services in proportion to the impacts and needs generated by development; and,*
- *Encouraging developers to design projects that generate less vehicular traffic.*

STAFF RESPONSE: See response to Policy T-3 and Policy T-13. The DA established a list of regional infrastructure projects that the applicant will be required to fund and/or build (Exhibit 29). The overall design of the MPDs encourages multiple uses and services that can be accessed by alternatives travel modes. Plat 2C will have a multi-use trail to provide an alternative to motor vehicles. No off-site improvements will be triggered by approval of the 203 units in Plat 2C. The proposal is consistent with this policy.

*Policy T-16 Traffic Impact Analysis Policy: Require that a Traffic Impact Analysis (TIA) be prepared for new developments.*

STAFF RESPONSE: The applicant conducted a traffic impact study for Plat 2C, and it is included as Exhibit 24. The City approved the study in June 2014. The proposal is consistent with this policy.

*Policy T-18 Multi-modal Coordination Policy: Coordinate planning and operation of efficient and varied means of transportation for the City of Black Diamond’s transportation system.*

STAFF RESPONSE: No transit service is expected on the streets in Plat 2C because it is a relatively small area. Transit service could be provided in the future on the major roads within the Phase 1A development. Plat 2C will be connected to, and within walking distance of the major road in Phase 1A, Willow Avenue SE. The proposal is consistent with this policy.

*Policy CF-3: Require new development to finance the facilities and services needed to support the development wherever a direct connection of benefit or impact can be demonstrated.*

STAFF RESPONSE: There are no existing city utilities or services on the area covered by Plat 2C. Sections 7 and 11 of The Villages DA requires that YarrowBay, as the current Master Developer, construct on-site and off-site water, sewer, and transportation improvements that will be needed to serve the lots in Plat 2C. Development of all of Phase 2 of The Villages will trigger the infrastructure improvements listed in

the Detailed Implementation Schedule for Phase 2 Regional Infrastructure Improvements (Exhibit 29). The City approved the list of improvements in June 2014. Since the number of units proposed for Plat 2C is relatively low even when added to units in Phase 1A, no thresholds that would trigger off-site transportation improvements will be met. Other infrastructure improvements will be triggered as units in both Phase 1A and Phase 2 are built out. The applicant is committed to funding those improvements through the DA. In addition, the MPD Funding Agreement (Exhibit "N" of The Villages MPD DA) requires the applicant to pay the costs for City staff to review and implement the projects in The Villages. Pursuant to Condition of Approval No. 98 of the MPD permit, school mitigation is accomplished through the Comprehensive School Mitigation Agreement between the City, the Enumclaw School District and the master developer. Fire mitigation will be provided in accordance with Section 13.4 of the DA, which will consist of fire impact fees and provision of a satellite fire station, once the number of units constructed warrant a new station. The applicant will also be paying a general government facilities mitigation fee and/or dedication of land and/or construction of general government facilities. This fee will be paid at the building permit stage. The proposal is consistent with this policy.

## The Villages MPD Permit Conditions of Approval (2010)

10. *Over the course of project build out, construct any new roadway alignment or intersection improvement that is: (a) depicted in the 2025 Transportation Element of the adopted 2009 City Comprehensive Plan and in the City's reasonable discretion is (i) necessary to maintain the City's then-applicable, adopted levels of service to the extent that project traffic would cause or contribute to any level of service deficiency as determined by the City's adopted level of service standard, or (ii) to provide access to or circulation within the project; (b) functionally equivalent to any said alignment or improvement; or (c) otherwise necessary to maintain the City's then-applicable, adopted levels of service to the extent that project traffic would cause or contribute to any level of service failure as determined by the City's adopted level of service standard, or to provide access to or circulation within the project, as determined by the City in its reasonable discretion based on the monitoring and modeling provided for in Conditions 25 and 20 below. The Development Agreement shall specify for which projects the applicant will be eligible for either credits or cost recovery and by what mechanisms this shall occur. Any "functionally equivalent" realignment that results in a connection of MPD roads to Green Valley Road shall be processed as a major amendment to the MPD.*

STAFF RESPONSE: According to the updated Traffic Monitoring Report, no improvements in Phase 2 would be required until certificates of occupancy are issued for the 1,393<sup>rd</sup> ERU. The improvements are listed in the Detailed Implementation Schedule for Phase 2 Regional Infrastructure Improvements. The report also determined that roadway capacity in Phase 2 will accommodate demand and available storage will accommodate queues at the study intersections. None of the regional or intersection improvements will be triggered by Plat 2C. The City's transportation engineering consultant, Parametrix, reviewed the Traffic Impact Study and Traffic Monitoring Report and requested additional information in February 2014. The reports were revised by Transpo Group and the revised reports again reviewed by Parametrix. Correspondence from the professional traffic engineer at Parametrix dated June 6, 2014 (Exhibit 25c) confirmed that the information provided to the City by Transpo Group is sufficient to demonstrate compliance with the City's transportation concurrency requirements, the DA, the MPD conditions of approval, and the City of Black Diamond Engineering Design and Construction Standards. Therefore, the proposal meets this condition.

11. *The City shall create, at the expense of the Applicant, a new transportation demand model for this project for use in validating the distribution of project traffic at the intervals specified in Condition No. 17. [... and conditions 12, 13, and 14]*

STAFF RESPONSE: Conditions of approval Nos. 11 through 14 do not apply to Plat 2C. They concern requirements of the City to create a new traffic demand model after 850 building permits have been issued for The Villages MPD. That threshold has not been met at the time this report was prepared.

15. *Intersection improvements outside the City limits may be mitigated through measures set forth in an agreement between the developer and the applicable agency. Where agreement is possible, the developer shall enter into traffic mitigation agreements with impacted agencies outside the city that have projects under their jurisdiction in the list below, and the agreement shall be incorporated as part of the Development Agreement, or as an addendum to an adopted Development Agreement. [...]*

STAFF RESPONSE: This condition of approval does not apply because an agreement for off-site transportation mitigation has been reached with the City of Covington and City of Maple Valley. Improvements in the jurisdiction of WSDOT, King County and the City of Black Diamond have been evaluated and proposed to meet MPD Permit condition of approval No. 11 above.

16. *If (a) the City of Maple Valley does not appeal or challenge the MPD Approval for the Villages MPD, (b) the City of Maple Valley does not appeal or challenge the MPD Approval for the Lawson Hills MPD*

STAFF RESPONSE: A separate agreement for off-site transportation mitigation has been reached with the City of Maple Valley so this condition no longer pertains to the project.(see Exhibit Q of the DA, on the City's website).

17. a. *At the point where building permits have been issued for 850 dwelling units at the Villages and Lawson Hills together, and again at such phase or interval determined by the City Council following completion of the review called for by this condition, the City shall validate and calibrate the new transportation demand model created pursuant to Condition 11 above for the then-existing traffic from the Villages and Lawson Hills together. [...]*

STAFF RESPONSE: This condition is not applicable to the preliminary plat review phase. The condition could be triggered by building permits in both Phase 1A and Plat 2C, which total a potential 985 units.

18. *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.*

STAFF RESPONSE: The Development Agreements for The Villages and Lawson Hills have been approved and this condition does not apply to Plat 2C.

19. *For each potential signal, first consider and present a conceptual design for a roundabout as the City's preferred method of intersection control.*

STAFF RESPONSE: Intersection improvements for signals were not identified as a need with the development of Plat 2C. The condition does not apply.

*20. A transportation monitoring plan shall be established as part of the Development Agreement using the projects identified in the list included in Condition 15 (and as that list is modified as a result of the periodic review process), and including trigger mechanisms acceptable to the City. [...]*

STAFF RESPONSE: A transportation monitoring plan was developed with the DA. This does not apply to Plat 2C, except as discussed above.

*21. Implementing projects shall be designed to foster the development of a street grid system throughout the project.*

STAFF RESPONSE: Roads A, B, and C provide the main NW to SW access while the alleys and woonerfs connect them in a modified grid. The internal roadways follow the topography of the site and conform to the natural resource constraints of the adjacent wetlands, Rock Creek, slopes and sensitive area buffers. The proposal meets this condition.

*22. In order to balance the impact of the added street maintenance and the proposed street standards with higher maintenance costs, all auto courts serving 20 units or less, and all alleys shall be private and maintained by the Applicant or future Homeowners' Association(s)[...]*

STAFF RESPONSE: The alleys and woonerfs of Plat 2C shall be private and maintained by the applicant or future Homeowner's Association (condition of approval #16). The proposal meets this condition.

*23. The applicant or future Homeowners' Association(s) shall be required to maintain all street side landscaping, unless otherwise agreed upon by the City, and the Applicant or future Homeowners' Association(s).[...]*

STAFF RESPONSE: The applicant or future Homeowners Association shall be required to maintain all street side landscaping. This condition will be enforced through plat notes and CC&Rs. (Conditions of approval #2 and #18)

*24. Traffic calming measures shall be explored with each implementing development action and implemented at the discretion of the Public Works Director.*

STAFF RESPONSE: The traffic impact study discusses traffic calming measures. Page 5 lists curb bulb-outs at 13 intersections, and two mid-block locations. According to the applicant, bulb-outs narrow the roadway width by providing a physical constraint requiring motorists to travel through intersections and along residential streets at slower speeds. All residential streets narrow at pedestrian crossings and have on-street parking to encourage slower vehicle speeds. The study states that on-street parking has a measurable effect on vehicle speeds because it presents the possibility of vehicles entering the travel lanes. The applicant provided three sources to substantiate this claim. The proposal meets this condition.

*25. The monitoring plan required by these conditions shall require the applicant to 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 City's adopted level of*

*service. The monitoring plan shall provide for the timing of commencement of construction of projects identified in Condition 15, as well as the amendments to the scope of said projects and/or additions to Condition 15's project list as determined by the City in its reasonable discretion as necessary to maintain the City's adopted levels of service in effect at the time of the modeling, to the extent that project traffic would cause or contribute to any level of service failure as determined by the City's adopted level of service standard.*

STAFF RESPONSE: A transportation monitoring plan was established in the DA and was updated for the Plat 2C submittal because it is the first implementing project of Phase 2. The applicant has met the condition.

*26. 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.*

STAFF RESPONSE: Since the new model described in MPD Permit condition of approval No. 14 is not required for the Plat 2C Traffic Impact Study, the mode split analysis to determine the number of park and ride spaces needed cannot be conducted. There are sites within Phase 1A large enough to accommodate a future park and ride lot, or the lot could be provided in a future development phase north of Auburn-Black Diamond Road. Plat 2C is consistent with this condition.

*27. No more than 150 residential units shall be permitted with a single point of access.*

STAFF RESPONSE: Plat 2C would build 203 residential units on several streets. There are two access points to the Plat 2C development via Road A and Woonerf A. Plat 2C is consistent with this condition.

*28. The Development Agreement shall define a development parcel(s) beyond which no further development will be allowed without complete construction of the South Connector*

STAFF RESPONSE: This condition is not applicable to Plat 2C. This is also addressed in Section 6.4.1 (On-Site Connections) of the DA.

*29. Prior to the first implementing project of any one phase being 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.*

STAFF RESPONSE: The Detailed Implementation Schedule of Regional Facilities (including for transportation) was submitted by the applicant and accepted by the Designated Official (Exhibits 29 and 29a). A schedule for implementing the transportation improvement projects has been established for Phase 2. The proposal meets this condition.

*30. The applicant shall apply road design speed control and traffic calming measures so that inappropriate speeds are avoided on neighborhood streets.*

STAFF RESPONSE: Curb bulbs and on-street parking will be used to promote slower vehicle speeds and shorten pedestrian crossing distances (Exhibit 2).

31. *The timing of the design and alignment of the Pipeline Road shall be included as part of the Development Agreement.*

STAFF RESPONSE: This condition is not applicable to Plat 2C but to the DA.

32. *Provided a study confirms engineering feasibility and reasonable and customary construction costs, a connecting sidewalk and safe pedestrian connection to the programmed sidewalk in the Morganville area shall be required along Roberts Drive. Construction timing should be specified in the Development Agreement. The City and applicant shall work in good faith to seek grants and other funding mechanisms to construct the improvement. The applicant shall otherwise be responsible for construction costs to the extent authorized by law.*

STAFF RESPONSE: This condition is satisfied by implementation of condition of approval #26.

33. *The City shall commission a study, at the Applicant's expense, on how to limit MPD traffic from using Green Valley Road,*

STAFF RESPONSE: The Green Valley Road study was completed in November 2010. This condition is not applicable.

34. *The Development Agreement shall address which traffic projects will be built by the developer, which projects will be built by the City and what projects will qualify for cost recovery.*

STAFF RESPONSE: Item (a) is addressed by Section 11.5 (Transportation Regional Facilities) of the DA. Item (b) is not applicable to Plat 2C.

## The Villages Development Agreement (2011)

### 6.0 INTERNAL STREET STANDARDS WITHIN THE VILLAGES MPD

#### 6.2 APPLICABILITY

*This Section is applicable to all streets, alleys, private drives and other vehicular accessways proposed within the MPD. This section is not applicable to intersections of MPD streets with other City of Black Diamond streets, which are governed by the City's Street Standards (Exhibit "E"). Specific land uses, site conditions, visibility limitations and sensitive areas may result in variations to the minimum street sections described in Subsection 6.3 of this Agreement and authorized by the Black Diamond Engineering Design and Construction Standards (Exhibit "E"). Such variations shall be reviewed and approved pursuant to the standards and processes set forth in Black Diamond Engineering Design and Construction Standards (Exhibit "E"). Standards not defined in this Section shall be governed by the City's Street Standards attached hereto and incorporated herein as Exhibit "E".*

*Adequate roadway capacity shall be provided by the Master Developer within the Project Site to provide reasonable access to all Development Parcels while also minimizing impervious surfaces and roadway impacts. Roadway capacity shall be determined as follows: Each travel lane is assumed to provide capacity for 600 vehicle trips in the am and pm peak hour. Each land use category is assumed to produce the following pm peak hour trips:*

- *Single Family residential: 1.01 trips/per Dwelling Unit (Single Family housing rate)*

STAFF RESPONSE: All streets in Plat 2C are internal to The Villages as currently proposed. The Overall Site Plan, Sheet PP5, shows a street system consisting of public Roads A, B, and C, and the private Alleys A, B, C, and D, and Woonerfs A, B, and C. The roads and alleys meet the street standards of this section for sidewalk placement and design and for roadway width (34 feet of pavement for two travel lanes and on-street parking pursuant to this section and the description of neighborhood streets in TV MPD Chapter 4). None of the standards for roads in the DA allow streets to be built without curbs and sidewalks. The applicant submitted A Request for Alternate Road Section Approval (Exhibit 17). Deviation from road section standards is allowed by this section. The deviation was approved by the Designated Official (Exhibit 17a). With approval of the woonerf deviation, the standards for streets are met.

This DA section requires adequate roadway capacity and property access while minimizing impervious surface and roadway impacts. The streets and alleys are the width specified in the TV DA. The capacity of the two-lane roadways in The Villages was established by the DA as 1200 trips per hour. The Traffic Impact Study estimates that Plat 2C would generate 137 net new PM peak hour trips. Since the subdivision's two-lane roadways can accommodate 1200 peak hour trips (600 trips per lane), they will accommodate the 137 peak trips estimated for Plat 2C. The standards are met.

## 6.4 STREET CONNECTIVITY

### 6.4.1 On-Site Connections

*A. The street layout for a proposed Implementing Project shall include connections to all street stub-outs provided by abutting Development as shown on Figure 6.3 within The Villages MPD*

STAFF RESPONSE: Figure 6.3 in Exhibit 15 shows a future connection (a dot) at the north end of the parcel. However, the land north of that dot is currently undeveloped (there is no existing street stub-out) and is not part of The Villages MPD. The Lot Line Adjustment provides a new tax lot configured to allow future access to be obtained and built there under fee ownership or on an easement in the future.

The applicant currently proposes three connections to adjacent development. Two will be to Willow Avenue SE in Phase 1A. Road A and Woonerf A will connect to Willow Avenue SE on Phase 1A. Woonerf A is an emergency vehicle access only, to be protected from general traffic by removable bollards. The other connection to future development is to the southwest in tract 907 as shown on Sheets PP3 and PP5, extending south from the intersection of Roads B and C adjacent to tract 907. Approval of the location and street configuration on tract 907 would require additional review under BDMC 19.10 when development on tract 907 is proposed. The proposed street connections comply with Figure 6.3 of the DA and the standards are met.

### 6.4.2 Off-Site Connections

*The Villages MPD shall stub streets to the boundaries of abutting off-site property as generally shown on the Bike Route and Future Connection Plan (Figure 6.3). The connection points on the Bike Route and Future Connection Plan are approximate. The actual design and location of connection points will be determined at the preliminary implementing plat or final engineering stage of Implementing Projects by the Master Developer and Designated Official using a collaborative process.*

STAFF RESPONSE: Figure 6.3 (of Exhibit 15) shows a potential future connection at the north end of parcel V29. However, that connection is not feasible at this time (see response to Section 6.4.1, above).

No off-site connections are proposed. After consultation with adjacent property owners and the proponent, City staff determined that three internal connections for Plat 2C will be sufficient for circulation. The standard is met.

## 6.5 OWNERSHIP AND MAINTENANCE

### A. Ownership and Maintenance.

*Pursuant to Condition of Approval No. 22 of the MPD Permit Approval, all street right-of-way will be dedicated to, owned and maintained by the City except for private streets which include alleys, autocourts serving less than 20 Dwelling Units and Main Street.*

STAFF RESPONSE: Roads A, B, and C will be dedicated to the City following their construction and acceptance by the City. This could occur before final plat approval or after, if the applicant bonds for completion of the roads. The alleys and woonerfs will be privately-owned and maintained. Conditions of approval #15 and #16 ensure compliance with (A).

### B. Maintenance of Private Street(s).

*Master Developer agrees to maintain all private streets, alleys and autocourts serving 20 units or less as constructed in accordance with each approved Implementing Project, for a period of three years from final plat recording or other Implementing Approval. Unless otherwise agreed upon by the City and the Master Developer (or applicable Homeowners' Association), the Master Developer's street maintenance obligation, as set forth herein, shall automatically renew for an additional two year period, and continue every two years thereafter.*

STAFF RESPONSE: Similar to the requirement for landscaping, the DA requires a plat note regarding maintenance of private rights-of-way. General note #16 on the preliminary plat for Plat 2C, Sheet CV4 (Exhibit 2) complies with the requirement and adds additional language regarding maintenance responsibilities. Preliminary plat approval is conditioned (#24 and #25) on the inclusion of these statements on the plat.

## 11.3 PHASING AND CONSTRUCTION OF ON-SITE REGIONAL FACILITIES

No on-site regional facilities are proposed inside the boundaries of Plat 2C, so this section does not apply.

## 11.4 PHASING AND CONSTRUCTION OF OFF-SITE REGIONAL INFRASTRUCTURE IMPROVEMENTS

### A. Phasing.

*Prior to the approval of the first Implementing Project in a defined Phase, a detailed table of the Regional Facilities supporting that Phase, similar to Tables 11-4-1, 11-4-2, 11-5-1, and 11-5-2, which shall include a "construction threshold," or as to transportation, documents that result of the Traffic Monitoring Plan (Exhibit "F"), shall be submitted to the Designated Official for approval. Occupancy of an Implementing Project that exceeds the construction threshold is allowed after the necessary Regional Facility has been permitted. This ensures that necessary off-site Regional Facilities are provided to serve Implementing Projects as they occur. Model Homes are exempt from this requirement.*

STAFF RESPONSE: Plat 2C is the first implementing project of Phase 2. The Regional Implementation Schedule: Phase 2 Regional Infrastructure Improvements was submitted by the applicant and provides a

table of the thresholds tied to each improvement project. (Exhibit 29) Most of the dwelling unit totals are greater than that provided by the combined build-out of Phases 1A and 2C, so they will be triggered by subsequent Implementing Projects. The proposal complies with this requirement.

#### 11.5 TRANSPORTATION REGIONAL FACILITIES

*A. Timing: Pursuant to Conditions of Approval Nos. 10, 18, and 34 of the MPD Permit Approval, the timing associated with the construction of the transportation improvements outlined in Tables 11-5-1 and 11-5-2 is subject to the Traffic Monitoring Plan set forth in Exhibit "F". While some of these transportation improvements are shown on the figures associated with Phases contained in Exhibit "K," the timing shown is only approximate. Pursuant to Condition of Approval No. 20 of the MPD Permit Approval, the actual timing of construction of the transportation improvements outlined in Tables 11-5-1 and 11-5-2 shall be governed by the Traffic Monitoring Plan.*

STAFF RESPONSE: Transpo Group, on behalf of the applicant, prepared a Traffic Monitoring Report—"The Villages and Lawson Hills Master Planned Developments—Phase 2" (Exhibit 25). The updated report was submitted on December 27, 2013 and was reviewed by the City's transportation engineering consultant. The monitoring report covers all of Phase 2, which is expected to be built out in phases over six years and result in construction of 923 dwelling units. For that reason, a traffic impact study for Plat 2C only was also conducted and submitted separately (Exhibit 24).

As noted previously in this section, the Traffic Monitoring Report cited six transportation projects needed to maintain concurrency at build-out of Phase 2. The first three projects would be triggered by an occupancy permit for the 1,393<sup>rd</sup> ERU. Plat 2C combined with Phase 1A represents 1,327 ERU, and therefore would not trigger any of those six transportation improvements. The City confirmed this analysis with its consulting transportation engineer. The proposal meets this standard.

#### 11.6 OFF-SITE PEDESTRIAN REGIONAL FACILITIES

*Pursuant to Condition of Approval No. 32 of the MPD Permit Approval, and provided an expert study, prepared by the City and paid for by the Master Developer, confirms engineering feasibility and that construction costs will be reasonable and customary, the Master Developer shall provide, prior to issuance of the Certificate of Occupancy for The Village MPD's 200<sup>th</sup> Dwelling Unit, a connecting sidewalk and safe pedestrian connection from the frontage improvements along parcel V13 to the northeast corner of the Guidetti Parcel along Roberts Drive.*

STAFF RESPONSE: Staff recommend a condition of approval (#26) ensuring this condition is implemented as soon as The Villages 200<sup>th</sup> dwelling unit is completed, regardless of phase. Preliminary plat Phase 1A also had this condition and since the two projects may be under construction concurrently, it is unknown within which phase the 200<sup>th</sup> occupancy permit would be issued. With the condition, this requirement is satisfied.

#### 11.7 PHASING OF DEVELOPMENT

*The sequencing of Implementing Projects, Implementing Approvals, construction completeness and City acceptance of facilities shall be confirmed by the Designated Official, who shall make a finding within each staff report for proposed preliminary plats or binding site plans within The Villages MPD whether required infrastructure and amenities have been scheduled to meet the demands of the future occupants of that specific plat or binding site plan.*

*Pursuant to Condition of Approval No. 153, the details of Open Space protection and dedication follow. Currently, portions of the Project Site are protected by recorded temporary conservation easements in favor of the City. Required Open Spaces shall be identified with each Implementing Project and conserved or conveyed to the City during the final plat process, site plan approval or engineering review. Once Open Space has been adequately conserved or dedicated for the Implementing Project, the City shall, within ten (10) business days, execute a partial release and reconveyance of the conservation easements created pursuant to the Open Space Agreement (as defined in Section 3 of this Agreement) as necessary for the remaining undeveloped lands of the Project Site.*

STAFF RESPONSE: A memorandum documenting the Designated Official's finding of compliance with the proposed phasing for The Villages and Lawson Hills Phase 2 was issued on June 13, 2014 (Exhibit 29a). Provisions for conserving open spaces are addressed in the sensitive areas and open space discussions in the staff report. With this condition of approval #34, the requirement is satisfied.

## 12.10 MAPLE VALLEY TRANSPORTATION MITIGATION AGREEMENT

### 12.10.3 Notation on Plats and Binding Site Plans

*The City of Black Diamond shall require that the Master Developer place a note on all preliminary plats, final plats, and binding site plans that references the obligations under the Maple Valley Transportation Mitigation Agreement by BD Village Partners, LP and BD Lawson Partners, LP and their respective successors and assigns.*

STAFF RESPONSE: The applicant has placed a note on Sheet CV1 of the preliminary plat that references the obligations under the Maple Valley Transportation Mitigation Agreement by BD Village Partners, LP and BD Lawson partner, LP. This requirement is further enforced through conditions of approval #27 and 28 to comply with the transportation agreements with Maple Valley and Covington contained in the DA Exhibits "Q" and "R".

## 13.8 GREEN VALLEY ROAD

*Pursuant to Condition of Approval No. 33(a) of the MPD Permit Approval, an expert study entitled "SE Green Valley Road – Traffic Calming Strategies" dated November 29, 2010, examined opportunities to limit MPD traffic using SE Green Valley Road, including an assessment of potential traffic calming devices that could be used within the existing improved right-of-way. Exhibit "P" includes the measures identified in that study, and describes the process and timing required for the Master Developer to seek permits from King County should King County allow installation of the improvements, including the proviso that none of the measures need to be implemented if not agreed to by the Green Valley Road Review Committee established per Condition of Approval No. 33(b) of the MPD Permit Approval.*

STAFF RESPONSE: Exhibit "P" imposes conditions related to potential impacts from Phase 1A. This section does not apply to Plat 2C.

## 13.10 NEW TRANSPORTATION DEMAND MODEL

MPD Permit Condition of Approval No. 11 requires the creation of a new transportation demand model.

STAFF RESPONSE: Conditions 11 through 14 do not apply to Plat 2C until after 850 building permits have been issued for The Villages MPD. That threshold has not been met at the time this staff report was written.

## Design Guidelines for Master Planned Development

### GENERAL PRINCIPLES AND SITE PLANNING

#### A. Environmentally Sustainable

*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.*

STAFF RESPONSE: This guideline intends to address a master plan's interface with adjacent development outside of the MPD. Parcels V28 and V29 have only connections internal to the MPD. Therefore, consistency with this guideline was addressed in the TV MPD permit approval and is not applicable to Plat 2C.

#### D. Ensuring Connectivity

##### *1. Pedestrian Connectivity*

*a. Similar to a traditional small town, services and common spaces shall be easily accessible to residents on foot. Off-street pedestrian trails are to be provided as a network throughout the development. Pedestrian connections shall be provided where cul-de-sacs or other dead-end streets are used.*

STAFF RESPONSE: This guideline applies to the TV MPD and implementing projects, and therefore applies to Plat 2C. Pedestrian access is identified as one of the primary uses for Tracts 902, 904, 909, 911, 913, 914, 921, 923, 924, and 925 on Sheet CV4 (Exhibit 2) in the plat drawing and in the Open Space Tract table. A soft-surface trail that is intended to implement DA Figure 9.2—Park and Trail Plan—is also depicted on Sheet CV4. The soft surface trail, pedestrian access tract and sidewalks will ensure that the open spaces that surround the residential development will be connected. No cul-de-sacs are proposed. Therefore, the proposal meets this guideline.

##### *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.*

STAFF RESPONSE: The street and pedestrian system—discussed in previous responses and shown on Sheet CV4 and PP5—has a high degree of connectivity. Because of site constraints of adjacent Rock Creek and the sensitive wetlands areas east, west and south of the proposed residences, constrains direct vehicular or pedestrian connectivity to adjacent development. Therefore, this guideline is met.

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

STAFF RESPONSE: No cul-de-sacs are proposed. Therefore, the proposal meets this guideline.

## CIRCULATION

### A. Streets

#### *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.*

STAFF RESPONSE: The options for street layout on Plat 2C are limited because of the site constraints of wetlands, Rock Creek, and their buffers. The street layout as shown on Sheet RD1 (Exhibit 2) creates a network that promotes convenient and efficient traffic circulation based on a modified grid that follows the topography. All areas of the Preliminary plat are accessible without the use of cul-de-sacs and many blocks feature pedestrian walkways located mid-block providing no more than a 400' distance between pedestrian connection nodes. There is a public connection to Willow Avenue SE, and a second point of connection for emergency access. In the future, a second point of public access will be provided to the southwest of the plat when future phases are completed. In accordance with the Development Agreement this meets the access requirements.

The street network generally consists of a main, or spine, road shown in the plat drawings as Road A (transitioning into Road B). Road A traverses the property from its connection to the Phase 1A Plat (Willow Ave SE) to a point of natural future extension into future phases at Tract 907. A branched network of neighborhood-scale streets connects to Road A and provides gridded access to the residential properties. Where possible (generally where the width of the parcels permit.) residential lots are served by alleys. Bike Lanes are not included on these roads as bikes are expected to blend with traffic on residential roads. This is compliant with the DA.

This guideline is met.

#### *2. Design*

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

STAFF RESPONSE: Phase 1A contains the community-wide focal point and Plat 2C connects to the planned Willow Avenue SE, a major route to the focal point of The Villages. Therefore, the proposal meets this guideline.

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

STAFF RESPONSE: The landscape guideline is not applicable to preliminary plats of single family residences only (DA 5.5.1, Applicability). DA 5.5.4, Landscape Design, establishes standards for street trees and plantings in planter strips and medians but these will be addressed and evaluated in the application for a utility permit, which is subsequent to preliminary plat approvals.

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

STAFF RESPONSE: Plat 2C does not contain or propose any arterial streets. This guideline does not apply.

### *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.*

STAFF RESPONSE: Internal street standards are established by DA in Chapter 6, specifically 6.3, Street Design. Pavement widths have been reduced to the minimum at 10 feet. The streets within this plat generally provide for on-street parking on both sides, which acts both as a traffic calming measure and also provides a greater buffer between vehicular traffic and the sidewalk. Woonerf A within the Plat 2C Plat is proposed to be used for secondary Fire Department access and therefore needs to be a minimum width of 20 feet. This guideline is met.

### *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.*

STAFF RESPONSE: The DA requires the use of low impact development (LID) options where feasible for stormwater treatment in 7.4.4 (A)(6). That section is discussed in Part IV.A of this staff report. In general, the MPD requires stormwater flows to recharge wetlands as a priority. The applicant submitted a preliminary drainage memorandum (Triad, November 8, 2013) discussing the stormwater runoff drainage patterns and recommended treatment. The Plat 2C Preliminary Plat provides space in two locations for bio-filtration swales (“rain gardens”). In these areas flush curbs, drought-tolerant vegetation and other low impact design elements will be required at the utility permit stage. The remainder of Plat 2C will discharge/infiltrate stormwater in compliance with the DA and the Stormwater management Plan to maintain predevelopment hydrology in the adjacent wetlands and critical areas.

*5. Traffic calming methods should include: Roundabouts, Traffic Circles, Chicanes, Corner bulbs.*

STAFF RESPONSE: The size and narrow configuration of this Plat is determined by the surrounding wetlands and buffers. The site is not conducive to roundabouts or traffic circles and the low expected traffic volume does not warrant them. The narrow plat and the naturally articulated roads, however, will function like an elongated traffic circle. The roads within the Plat utilize narrow vehicle lanes, curbside parking, curb bulbs at the intersections, and an interconnected street grid. These features provide traffic calming. Therefore, this guideline is met.

### *6. Lanes and Alleys*

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

STAFF RESPONSE: MPD Permit Condition of Approval No. 142 and Exhibit “H” of the DA address this guideline. Plat Sheet CV3 (Exhibit 2) contains a “Lot Summary” table with detail regarding whether garages will have driveway access from the front (“front loaded”) or from an alley (“alley loaded”). Front loaded lots are proposed on lots 1 through 83, 122 through 164 and 185 through 283. These lots are located along the perimeter of the plat, adjacent to critical area open space, where it is not practical to have alley loaded lots. With this proposed condition this guideline is met.

No commercial loading areas are proposed.

## 7. Non-motorized Circulation

*a. All streets shall include either sidewalks or trails on at least one side of the street. Design streets to be "bicycle" friendly.*

STAFF RESPONSE: Proposed Roads A, B, and C include sidewalks and off-street pedestrian access routes are provided across and around the development. Plat 2C is not identified on the DA Figure 6.3, Bike Route and Future Connection Plan as a bike route. Therefore, no striped bike lanes are required. Traffic calming from on-street parking on relatively narrow streets with pedestrian bulb-outs are expected to slow traffic and result in bicycle friendly streets. In addition, the surrounding trail provides an alternate cycling and pedestrian route. The woonerfs will be bicycle friendly because they are designed to give priority right-of-way for pedestrians and cyclists and secondary right-of way for motor vehicles. Therefore, this guideline is met.

## 8. Street Landscaping

*a. All streets shall include native and/or drought-tolerant vegetation (trees, shrubs and groundcover) planted within a strip abutting the curb or edge of pavement. Native and/or drought-tolerant vegetation shall also be used within all medians.*

STAFF RESPONSE: The applicant has shown the space required for bio-filtration swales ("rain gardens") on tracts 916 and 917 on Sheet RS1 of the preliminary plat for Plat 2C. Flush curbs, drought-tolerant vegetation and other low impact design elements will be reviewed at the utility permit stage for use of native and drought-resistant vegetation.

## 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.*

STAFF RESPONSE: Curbside parallel parking is included along Roads A, B, and C. This guideline is met.

## B. Sidewalks

### 1. Width

*a. The minimum clear pathway shall generally be between 5 ft and 8 ft, depending upon adjacent land uses and anticipated activity levels.*

STAFF RESPONSE: Section 6.3 of the DA establishes the standard street section that includes a 5-foot-wide sidewalk. Plat 2C meets this guideline as shown on Sheets PP1-5 of the plan set.

## C. Walkways and Trails

### 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 RESPONSE: Because of topographic and sensitive area constraints, no trail routes lead to the major community center in Phase 1A. A private trail is integrated into the buffer areas that surround the

development, as well as through it, as shown on Sheet CV3 and PP5, thus providing access from individual properties. This guideline is met.

## 2. Width

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

STAFF RESPONSE: A soft-surface trail that is intended to implement DA Figure 9.2—Park and Trail Plan—is depicted on Sheet CV4. Section 9.7 of DA addresses trail standard width, which vary from 4 to 12 feet, depending on the intended type and intensity of use. This requirement will be reviewed at the utility permit phase for Plat 2C.

## 3. Materials

a. *Walkways connecting buildings and hardscaped common spaces shall have a paved surface.*

b. *Trails throughout the development and connecting to larger landscaped common spaces shall be of at least a semi-permeable material.*

STAFF RESPONSE: Walkways on public access tracts, trails, and sidewalks are shown on Sheets PP1 – 5. Trails are proposed to be soft-surface and compliance with trail standards in the DA 9.7.1(A) and (C) will be reviewed at the utility permit stage.

# 17.15, Subdivision Code [2009]

## 17.15.020 - APPROVAL CRITERIA. [AS APPLICABLE TO TRANSPORTATION FACILITIES]

A. *The following criteria must be met to approve any subdivision. The criteria may be met by conditions.*

3. *The public use and interest is served by the establishment of the subdivision and dedication. In considering this criteria, it shall be determined if appropriate provisions are made for all relevant matters, including, but not limited to, the public health, safety and general welfare, open spaces, storm drainage ways, streets, alleys, other public ways, water supplies, sanitary wastes, parks, playgrounds, sites for schools and school grounds;*

STAFF RESPONSE: Appropriate provisions are made for transportation in Plat 2C. Roads, alleys, and woonerfs will provide access to all of the proposed residential lots from Willow Avenue SE in Phase 1A. Condition of approval #15 will ensure that Willow Avenue SE must be in operation before final plat approval of Plat 2C will be granted, or provide a bond for completion in lieu of construction. The applicant provided sufficient information for the City to determine that the proposed roads meet the standards approved in the DA and other applicable city standards. Pedestrian ways are provided on sidewalks on both sides of the street and on separate access tracts, as well as on a recreational trail. On-street guest parking is provided. The Fire Marshall has reviewed the streets for emergency vehicle access and with conditions, the criterion is met.

5. *Applicable city development standards are met or exceeded;*

The applicable city development standards for roads in subdivisions consist primarily of the road section in the DA and the City's engineering standards in the BDEDCS. Chapter 6 of the DA, Internal Street Standards within The Villages MPD, sets standards for design, connectivity, and ownership and

maintenance. Standards not defined in Chapter 6 are governed by the City's Street Standards in the Black Diamond Engineering Design and Construction Standards (Exhibit "E" of the MPD permit). Road capacity is set in Section 6.2 of the DA by multiplying the number of trips for a use by the appropriate number of units to determine the number of lanes that must be provided to serve the project site. For Plat 2C, 203 single family units are expected to generate 137 net new trips in the PM peak hour. Each travel lane can serve 600 peak hour trips. Therefore, the two-lane roadways shown in the preliminary plat for Plat 2C have capacity. The typical section is for two 10-foot vehicles lanes, 7-foot parking areas, 4.5-foot planting strips and 5-foot sidewalks, which meets the DA standards. The proposed plat, Sheets SSWA41-4, shows road right-of-way that scales to approximately 63 feet, which would allow the typical section to be built. A plat note states that all road sections to be per The Villages MPD Development Agreement. On-street guest parking is provided, and planting strips and sidewalks are shown. The criterion is met.

*7. Concurrency exists for all utilities and transportation system improvements prior to occupancy of any structures;*

STAFF RESPONSE: The City's interpretation of state concurrency regulations is as follows: "concurrency" means that adequate public facilities or services are available when the impacts of development occur and "available public facilities" means that the facilities or services are in place (or that a financial commitment is in place) to provide the facilities or services within 6 years of the time of development for transportation facilities (RCW 36.70A.070(6)(b))

Three essential elements of concurrency are: 1) constructability, 2) supply and/or capacity, and 3) timing for impacts. Appropriate provisions must be made for transportation facilities. To make a determination of concurrency, the City is responsible for confirming:

- the constructability of transportation improvements
- the availability of sufficient off-site capacity in the road network to support demand to be generated by the project
- that the connecting road in Phase 1A and the Plat 2C roads will be in place and operational at the time that building permits are submitted for the lots in Plat 2C

With respect to constructability, the City's consulting civil and transportation engineers and the public works director reviewed the proposal's schematic plans and technical reports and found no topographic or engineering constraints that would prevent the proposed transportation system from being designed to meet the City's standards in the BDEDCS and The Villages DA. Therefore, for the purposes of preliminary plat approval, those facilities are constructible.

The Traffic Monitoring Report evaluated concurrency of transportation for Phase 2. Table 1 of the report summarizes the thresholds for off-site intersection improvements and construction timing. No improvements in Phase 2 would be required until certificates of occupancy are issued for the 1,393<sup>rd</sup> ERU. Since Plat 2C build-out would be less than that, no improvements are triggered. The report also determined that roadway capacity will accommodate demand, available storage will accommodate queues at the study intersections. The traffic study estimates that 137 net new PM peak hour trips and 1,700 gross daily trips would be generated by Plat 2C. The traffic monitoring study estimates 735 weekday PM peak hour vehicles trips. The capacity of the two-lane roadways in The Villages was established by the DA as 1200 trips per hour. Phase 1A was approved for 3 two-lane roads and with the 3 two-lane roads in Plat 2C, the capacity will be 3,600 vehicles per hour. Therefore, the 735 trips in

Phase 2 when added to the 1,470 trips of Phase 1A, would be 2,205 weekday PM peak hour gross vehicle trips, fewer than the capacity of 3,600 trips.

The timing of the provision of transportation facilities is dependent on completion of the facilities in Phase 1A. Willow Avenue SE in Phase 1A is intended to connect Road A and Woonerf A and the lots in the Plat 2C subdivision to the existing Roberts Drive. Although there is no condition on the Phase 1A preliminary plat with respect to timing, the phasing plan in Exhibit "K" of the DA recognizes that development is tiered on previous, approved phases. Following that assumption, the applicant intends that the road network in Phase 1A will be in place for Plat 2C. The applicant has put a general note on Sheet CV4 of the Plat 2C preliminary plat that the public systems necessary to serve the plat must be completed or bonded to be completed prior to final plat approval. Condition of approval #15 will ensure compliance.

Staff foresees that timely provision of transportation facilities for Plat 2C could occur under one of two scenarios. The first scenario is where the planned and approved road network currently under construction in Phase 1A will be completed and in use prior to final plat approval of Plat 2C. The second scenario would occur if Phase 1A facilities are not completed before Plat 2C plat is completed. In that case, prior to approval of the building permits for Plat 2C, the applicant is required to make a connection between Road A in Plat 2C and Roberts Drive, within the temporary access and utility easement on Phase 1A (Exhibit 44).

Although Willow Avenue SE is not yet constructed, there is evidence that the facilities to connect Plat 2C to the existing network can and will be provided by the final plat approval stage, as follows:

- The applicant has provided a narrative and schematic plans showing an adequate network of transportation facilities to serve the proposed subdivision.
- Adequate capacity is provided by the two-lane roads and alleys based on trips per single-family lot and standard lane capacity.
- The road network approved for Phase 1A was sized to accommodate traffic flows from Plat 2C (as well as from other future development).
- Construction permits for the Phase 1A road system have been issued.
- Construction of the road network in Phase 1A has begun.
- The City's consulting engineer has reviewed the schematic plans and found no topographic or engineering constraints that would prevent the proposed roads from being designed to meet the City's standards.
- The applicant could elect to alter the road network to provide direct access between Plat 2C and Roberts Drive using the recorded temporary access and utility easement across Phase 1A (Exhibit 44).

With conditions, the City finds that concurrency for roadways exists for Plat 2C.

*11. Appropriate provision has been made for the dedication of land to any public body, and provision of public improvements has been made as necessary to serve the subdivision. This shall include appropriate provision for payment of any impact fees imposed in accordance with the provisions of RCW 82.02.050 through 82.02.090, and applicable city codes and regulations. Dedications shall clearly be shown on the final plat;*

The applicant proposes tracts for utilities as designated in the Tract Table on Sheet CV4 (Exhibit 2). Public streets must be dedicated to the City for ownership and maintenance following the City's acceptance of the facilities as meeting the standards and prior to final plat approval. Per Section 6.5 of DA, all street right-of-way will be dedicated to, owned and maintained by the City except for private streets which include the alleys and woonerfs of Plat 2C. (Conditions of approval #5, #9, #12) The privately-owned tracts are: 926, 915 (Woonerfs A, B, C), 922, 912 (Alleys A and B), 910 (Alley C), 908 (Alley D).

Condition of approval #2 will require all private easements as well as maintenance responsibility for stormwater facilities assigned to private property owners be shown on the preliminary plat for Plat 2C.

With respect to impact fees, Section 4.10 of DA provides:

“As designed and with full implementation of all the mitigation measures, The Villages MPD build-out will fully and adequately mitigate the probable significant adverse environmental impacts of The Villages MPD and, that through such mitigation measures, provisions will be made for: (i) the facilities needed to serve new growth as a result of The Villages MPD within the City and (ii) the Master Developer to construct or pay a proportionate share of the cost of completing certain system improvements. Unless otherwise provided elsewhere in this Agreement or in The Villages MPD Permit Approval, the mitigation measures listed this Agreement and in Exhibit “C” are in lieu of the payment of any impact fees that the City has the authority to impose pursuant to RCW 82.02.050 *et seq.*, including any amendments thereto, such that no impact fees shall be imposed on any Implementing Project during the term of this Agreement except for those impact fees explicitly allowed in this Agreement.”

Therefore, no impact fees for traffic impacts will be assessed.

#### 19.04, SEPA Ordinance [2009]

The FEIS analyzed impacts of alternatives on the level of service of the roadway network that is projected in the City's Transportation Element of the Comprehensive Plan. Unacceptable levels of service at intersections was projected under all alternatives. Consequently, mitigation measures generally consist of channelization improvements, such as left- and right-turn pockets, acceleration lanes in the median, signal phasing and timing updates, and adding through lanes.

On June 17, 2014, the City issued a Mitigated Determination of Non-significance (MDNS) and Adoption of Existing Environmental Document Notice (Exhibit 5). There was one mitigation measure for transportation improvements: Compliance with the Detailed Implementation Schedule Phase 2 Regional Infrastructure Improvements construction thresholds and improvement details, dated January 28, 2014 and approved on June 13, 2014, is required. Those thresholds and requirements have been discussed under Phasing and Regional Improvements, above, Sections 11.4 and 11.6 of the DA, respectively.

### C. Sensitive Areas

The report describes the existing conditions within Plat 2C as having undulating topography with alternating swaths of uplands and lowlands. There is a logging road system used by unauthorized off-road vehicles, pedestrians and pets. Most of the site and surrounding land has been managed for forestry plantations for decades and was logged as recently as the late 1970s to early 1980s. As a result, the forest is characterized by an even-aged stand of Douglas-fir and a low lying native understory.

Part of Rock Creek and six wetlands are on the subject site. The boundaries of the wetlands TOS, E1, E7, E8, E10, and 213 were determined during development of the DA and are fixed by that document. The applicant has designed all proposed development to avoid substantial modification of wetland buffers and avoid all direct impacts to wetlands in Plat 2C. Some minor temporary exceptions for installation of trails and utilities occur in the outer edges of some buffers and buffer averaging is proposed in several small areas for development, as follows: the buffer is reduced 182 square feet for Lots 156 and 157; at 373 square feet for Lots 147 and 140; 1,366 square feet for Lots 134-141; and 196 square feet for Lots 129-131. The total buffer reduction at these locations is understood to be 2,117 square feet from the provided information. The total buffer area added in compensation is understood to be 26,222 square feet.

The applicant submitted a Sensitive Areas Study, Buffer Averaging Plan and Wildlife Analysis for Plat 2C (SAS) (WRI, December 24, 2013 and revised versions February 24 and May 6, 2014. (Exhibits 28, 28a, 28b). The SAS documents further work to classify the wetlands and evaluate wetland recharge/water balance. The applicant's wetland scientist, Wetland Resources, Inc. [WRI] and Perteet, the City's consulting scientist, established the wetland buffer depths based on each wetland's classification. The Cowardin and the Washington Department of Ecology (adopted by Black Diamond) classification systems were used. Wetlands TOS and E1 have the highest ratings for hydrologic function and habitat value. Wetland TOS is part of the Core Wetland Complex identified by BDMC 19.10.230 and is a Category I wetland with a designated 225-foot protective buffer. Wetland E1 is a Category II wetland with a 110-foot buffer in the northern portion and a 225-foot buffer in the southern basin. Wetlands E7, E8 and E10 are Category III wetlands with 100-foot designated buffers. Wetland 213 is a Category IV wetland with a 40-foot designated buffer. The table below lists the wetlands, their City classification and buffer widths and the tract number on the plat associated with the wetlands and their buffers. The tracts will be owned and maintained by the Master Developer. The second table below shows how a wetland function rating score translates to buffer widths.

	<b>Category</b>	<b>Buffer width</b>	<b>Tract # on Sheets PP1-5</b>	<b>Total Functional Score<sup>3</sup></b>
Wetland TOS	Category I	225 feet	903	91
Wetland E1	Category II	110 feet (north part) 225 feet (south part)	925 & 930 Part of 903	57
Wetland E7	Category III	110 feet	927 & a portion of 928	44
Wetland E8	Category III	110 feet	929 and a portion of 928	41
Wetland E10	Category III	110 feet	Within tract 903	41
Wetland 213	Category IV	40 feet	Within tract 925	28

<sup>3</sup> The Black Diamond Sensitive Areas Ordinance (BDMC 19.10) categorizes wetlands based on the scores that a scientist assesses for how well the wetlands are functioning using a number of different types of functions. Examples are habitat, water retention, infiltration, etc. The higher the number, the better the wetland functions across all measures.

Buffer Dimensions for Other Wetlands (Moderate Intensity) [BDMC]		
Wetland Category	Wetland Characteristics	Minimum Buffer Width
Category IV	All	40 feet
Category III	Moderate level of function for habitat (score for habitat 20—28 points)	110 feet
	Not meeting above characteristic	60 feet
Category II	High level of function for habitat (score for habitat 29—36 points)	225 feet
	Moderate level of function for habitat (score for habitat 20—28 points)	110 feet
	High level of function for water quality improvement and low for habitat (score for water quality 24—32 points; habitat less than 20)	75 feet
	All others	75 feet
Category I	National Heritage Wetlands	190 feet
	Bogs	190 feet
	Forested	Based on score for habitat or water quality
	High level of function for habitat (score for habitat 29—36 points)	225 feet
	Moderate level of function for habitat 20—28 points)	110 feet
	High level of function for water quality improvement (24—32 points) and low for habitat (less than 20 points)	75 feet
	All others	75 feet

A wildlife habitat assessment was submitted to the city with the SAS. The purpose of the assessment was to identify any Wildlife Habitat Conservation Areas or Wildlife Habitat Networks designated by the City's Sensitive Areas Ordinance (19.10). Three general habitats were found: a ponded wetland in the northeastern corner of the property, an area dominated by Douglas fir and western hemlock, and a linear open wetland with ponded water. The Washington Department of Fish and Wildlife maintains a list of Priority Habitat types that are considered priorities for conservation and management. Five Priority Habitat types are located among the regulated sensitive areas and would be protected by the governing regulations on BDMC 19.10. No indication of active breeding sites or evidence of breeding or nesting use by any federal state special-status wildlife species were found within the subject property during the assessment.

In May 2014, the applicant requested approval of an averaged buffer for Plat 2C (Exhibit 30). WRI's SAS presented information to meet the criteria for approval of buffer averaging. Perteet, the City's consulting wetland scientist, reviewed the buffer averaging request and found that the request was acceptable and exceeded the standards of BDMC 19.10 by adding additional wetland buffer area of 24,105 feet. BDMC 19.10.230(H) considers buffer averaging a modification to the standard buffer, and averaging requires the applicant to demonstrate that no functions or values of wetlands are reduced. The City approved the wetland buffer width averaging plan for The Villages MPD Phase 2 Plat C

Preliminary Plat as shown on plat set sheets PP1-PP4 (letter dated June 5, 2014 to BD Villages Partners, LP, Exhibit 30a). Three conditions were recommended and have been added to the condition of approval #39:

1. Trail alignments within wetland buffers shall be field located by the applicant and observed by a representative of the City, to avoid clearing of significant trees. Downed woody debris that is removed for the trail must be placed in naturalistic locations, similar to what exists on the site for ground contact, instead of making slash piles, and culverts must be provided when the trail bisects surface or groundwater drainages.
2. Trail alignments within wetland buffers shall be combined with the infiltration trenches, wherever feasible, subject to final design work to be reviewed by the City.
3. The portion of the proposed soft surface trail shown on the plans bisecting Wetland E1 shall be eliminated.

In addition, the Plat 2C preliminary plat conditions of approval contain the mitigation measures from the Plat 2C MDNS:

4. Prior to issuance of a clearing/grading permit for any portion of the plat, the tree plan required by Chapter 19.30 BDMC shall delineate root protection zones for all significant trees retained, relocated, or planted for the division under the plan (condition of approval #38).
5. Pursuant to BDMC 19.10.220.D, wetland buffer boundaries adjacent to land within this plat shall be permanently delineated by split-rail fencing and identification signs, as approved by the City (condition of approval #44)..
6. Wetlands and all required wetland buffers shall be defined as separate tracts in the final plat (BDMC 19.10.150.B) (condition of approval #35)
7. To ensure compliance with BDMC Ch. 19.10, subsequent review of development activities in future development tracts adjacent to Wetlands E7, E8 and E10 is required (condition of approval #47).
8. Pursuant to the City of Black Diamond Engineering Design & Construction Standards, Section 1.17, a construction management plan shall be developed by the applicant for review and approval by the City (condition of approval #40).

## Black Diamond Comprehensive Plan

*Policy NE-7: Require temporary erosion control measures to be installed before construction begins and maintenance of those control measures through the stabilization of the site following the completion of construction to control the quantity of sediment entering surface water.*

STAFF RESPONSE: This policy will be implemented through the clearing and grading permit.

*Policy NE-9: Protect sensitive areas of inappropriate land uses, activities, or development through continued application of and periodic updates to the CAO and development regulations.*

STAFF RESPONSE: The CAO review process applies to the proposal. In general, Plat 2C avoids any changes to land uses, activities, or development in the critical areas on Plat 2C, except for temporary disturbance in the buffers to install stormwater facilities and a trail, both allowed uses in buffers. The proposal is consistent with this policy.

*Policy NE-12: Establish an open space network, linking critical habitat areas to enhance their ecological value.*

STAFF RESPONSE: Plat 2C would preserve a large critical habitat area and its linkages to the Core wetland and Rock Creek areas. The proposal is consistent with this policy.

## The Villages MPD Permit Conditions of Approval (2010)

*104. Major earth moving and grading may be limited to the “dry season,” between April and September, to avoid water quality impacts from erosion due to wet soils. Construction during the “wet season” may occur as allowed by the Engineering Design and Construction Standards Section 2.2.05.*

STAFF RESPONSE: The applicant will be required to comply with this condition through the City’s clearing and grading, and utility permits.

*105. 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.*

STAFF RESPONSE: No stream banks will be affected. This condition is not applicable.

*106. 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.*

STAFF RESPONSE: No bridges are proposed in Plat 2C. This condition is not applicable.

*107. Design stormwater facilities to avoid discharging concentrated stormwater flows on moderate and steep slopes in order to avoid severe land erosion.*

STAFF RESPONSE: To avoid potential erosion downslope towards Rock Creek during construction, the applicant will be required to supply a temporary erosion control plan with the application for a clearing and grading permit. After construction, the stormwater flows would be attenuated by the flow dispersal trenches along the lot boundaries. (See Sheet RS1 through RS4 of Exhibit 2) The design of the flow dispersal trenches will be reviewed for compliance with the BDEDCS standards during review of the utility permit application. This condition is met.

*108. Utilize stormwater detention facilities that avoid increases in peak stream flows.*

STAFF RESPONSE: No detention for discharge in Rock Creek is needed. The stormwater system for Plat 2C is designed so that the flows are the same pre- and post-construction. The dispersal trenches will discharge to the wetlands associated with Rock Creek, which will limit the potential for increases in peak stream flows. Some stormwater flows will be directed to the stormwater pond to be constructed by Phase 1A, but it will infiltrate to groundwater, rather than to a stream. This condition is met.

*109. The Applicant shall submit a Temporary Erosion and Sedimentation Control (TESC) plan meeting City standards that will mitigate the potential for construction run-off from the site prior to grading or land clearing activities. The best management practices in the TESC plan shall include standby storage of emergency erosion and sediment control materials; a 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.*

STAFF RESPONSE: This condition applies to the clearing and grading permit stage, per BDEDCS Chapter 2.

*110. 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%.*

STAFF RESPONSE: Plat 2C is the first implementing plat for Phase 2. The applicant submitted Phase 2 Overall Grading Plan, Sheets CO1-8 (Exhibit 22), which estimates grading needs for all of Phase 2, not just Plat 2C. A Triad Associates memorandum to Andrew Williamson, November 21, 2013 demonstrated compliance with the requirement to balance cut and fill to within 20%. (Exhibit 22a) The total proposed cut volume is 444,053 cubic yards compared to a fill volume of 383,689 cubic yards, which are within approximately 16% of each other, meeting the condition.

*111. 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.*

STAFF RESPONSE: According to the Geotechnical Report (Exhibit 23) the Plat 2C project site does not contain any historic landslides and does not meet any of the criteria for landslide hazards in the Sensitive Areas Ordinance (BDMC Chapter 19.10). This condition does not apply.

*112. 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.*

STAFF RESPONSE: Stormwater will be managed in accordance with the BDEDCS and the DA requirements. There is little risk of water-induced landslides. This condition does not apply.

*113. 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.*

STAFF RESPONSE: The area of the Plat 2C plat does not contain any geologically hazardous areas according to the constraint maps of Exhibit G of the DA (Sheet No. 2 of 4). In addition, no geologically hazardous areas were identified in the geotechnical report specifically prepared for Plat 2C (Geotechnical Report, Golder Associates, December 5, 2013, Exhibit 23). This condition does not apply.

*114. Development within the moderate mine hazard area may require additional mitigation measures, which shall be evaluated with future implementing development proposals.*

*115. All proposed development within mine hazard areas shall occur in conformance with BDMC 19.10.*

*116. 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.*

STAFF RESPONSE: None of the Plat 2C project site is underlain by abandoned coal mines. The closest underground mine workings lie offsite to the east of Plat 2C and consist of deep workings on the No. 11 mine. The mine workings at No. 11 are nearly 1800 feet below ground and pose no risk of subsidence or collapse to Plat 2C (Exhibit 23). These conditions do not apply.

*117. Structural measures such as silt fences and temporary sediment ponds shall be used to avoid discharging sediment into wetlands and other critical areas.*

STAFF RESPONSE: Conformance with these guidelines will be enforced during utility permit review.

*118. Implementing projects shall provide "on the ground" protection measures such as wetland buffers or root protection zones for significant trees.*

STAFF RESPONSE: This condition is met by the design of Plat 2C. Buffers ranging from 225 feet to 40 feet are shown on Sheets PP1 through PP5 of the plat plan (Exhibit 2) and meet the standards for the wetland classifications in BDMC [2009] 19.10.230. The applicant's Wetland Buffer Vegetation Management Plan for The Villages Phase 2 Plat C (WRI, December 19, 2013 and revised May 6, 2014) establishes a baseline of vegetation density and contains methods for monitoring and enhancing disturbed areas to protect the wetlands and their functions (Exhibit 27). The MDNS mitigation measures for Plat 2C require placement of the buffers in separate tracts, trail alignments to be field located by the applicant and observed by a representative of the City and root protection zones mapped to protect significant trees on clearing and grading plans, per the tree removal permit requirements of BDMC 19.30.030 and 060. In addition, the condition of approval #44 requires split-rail fencing be employed at the wetland buffer boundaries. With conditions of approval #35 to #47, this condition is met.

*119. 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.*

STAFF RESPONSE: Stormwater from rooftops and other non-polluting surfaces will flow through dispersal trenches and will dissipate in the surrounding wetlands. Runoff from polluting sources will be directed to a treatment pond in Phase 1A to facilitate infiltration. No direct outfalls that could create damage through scouring or high velocities would occur. The condition is met.

*120. A tree inventory shall be required prior to the development of implementing projects so that other opportunities to preserve trees may be realized.*

STAFF RESPONSE: A tree inventory was conducted by American Forestry and submitted with the application. (Exhibit 2m) This condition is met.

*121. 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.*

STAFF RESPONSE: This is a requirement of the DA and not applicable to Plat 2C, which does not propose logging.

*122. The use of native vegetation in street landscaping and in parks shall be required.*

STAFF RESPONSE: Vegetation in the common areas of Plat 2C will be proposed with the landscaping plans that are required to be submitted with construction permits. They must follow the guidelines of the DA, Chapter 5, Additional Bulk, Landscape, and Sign Standards, Section 5.5.2, and pursuant to BDMC 18.72. Section 5.5.2 requires a landscaping plan be submitted as a construction permit. Recommended condition of approval # 45 ensures inclusion of native vegetation in and adjacent to wetlands and buffers.

*123. Wildlife forage preferences shall be of primary consideration in plant species selection for enhancement areas.*

STAFF RESPONSE: No enhancement is proposed with this application so this condition does not apply. However, the response to #124 includes this provision.

*124. Mast-producing species (such as hazelnut) and such other native, preferred vegetation as may be specified by the Development Agreement 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. The Development Agreement shall specify a process by which such landscape plans are to be reviewed and approved by the Director of Natural Resources and Parks for compliance with the mitigation requirement herein.*

STAFF RESPONSE: Plat 2C proposes development adjacent to wetland buffers; therefore this condition applies. Vegetation in the common areas of Plat 2C will be proposed with the landscaping plans that are required to be submitted as a construction permit. They must follow the guidelines of the DA, Chapter 5, Additional Bulk, Landscape, and Sign Standards, Section 5.5.2, and pursuant to BDMC 18.72. The Design Review Committee will first review the plans for consistency, followed by the City SEPA official's review. Condition of approval #45 implements this MPD Permit condition and it will be enforced at the construction permit stage.

*125. 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.*

STAFF RESPONSE: This condition primarily applies to Phase 1A. Plat 2C is not near the City's western boundary and does not include land to west of wetland E1. However, condition of approval #89 for Phase 1A required the applicant to have an expert analyze whether any wildlife corridor connections between wetlands S, T, D4 and E1 have a significant environmental benefit and to identify any measures to connect those wetlands that are reasonably feasible (Exhibit 36). The applicant submitted a letter to the City regarding the analysis on June 19, 2013. The City's consulting scientist, at Perteet, determined that creating a significant habitat linkage between the wetlands would be impractical, given that no significant existing linkage was documented (Exhibit 36a). Therefore, this condition has been addressed.

*126. Building design guidelines shall allow the use of solar, wind, and other renewable sources.*

STAFF RESPONSE: Building design standards and guidelines have been incorporated into the DA, Exhibit H (MPD Project Specific Design Standards and Guidelines). None of the design standards for single family detached prohibit the use of solar, wind and other renewable sources. Condition of approval #2

requires the CCRs to include this provision. This condition is implemented at the construction permit stage.

*127. 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.*

STAFF RESPONSE: This condition does not apply because no commercial areas are proposed in Plat 2C.

*149. 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.*

STAFF RESPONSE: The proposal's compliance with the standards of BDMC 19.10 is addressed below.

*150. 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. Modifications to these areas may be approved by the City in its reasonable discretion, on a case-by-case basis, only if necessary for construction of required infrastructure such as roads, trails or stormwater facilities. Any areas disturbed pursuant to such approval shall be replanted with native plants. Nothing in this condition shall allow grading or modifications in the sensitive areas and buffers, except as provided in the Sensitive Areas Ordinance.*

STAFF RESPONSE: On Plat 2C, the wetland buffers are the natural open space. No alteration to these areas is proposed other than to install utilities and construct the multi-use trail. A revegetation plan is required to restore or enhance these disturbed areas following construction and Exhibit 27 is the Wetland Buffer Vegetation Management Plan submitted by the applicant and approved by the City. Implementation would be addressed during review of the applications for clearing and grading and/or utility permits and following construction, in accordance with the plan.

*151. 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.*

STAFF RESPONSE: This condition applies to the DA.

*152. 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.*

STAFF RESPONSE: This condition applies to the DA.

*153. 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.*

STAFF RESPONSE: This condition applies to the DA.

*154. 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.*

STAFF RESPONSE: This condition does not apply; it applies to the DA. Section 9.2, Park and Open Space Plan contains parks requirements. Refer to the Parks and Open Space section of this staff report for a discussion of compliance.

*155. 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.*

STAFF RESPONSE: This condition applies to the DA.

## The Villages Development Agreement (2011)

### 8.1 SENSITIVE AREAS ORDINANCE APPLICABILITY

*All Development within The Villages MPD shall be subject to the standards, requirements and processes of the Sensitive Area Ordinance. The sensitive areas boundary determinations have been completed and verified for the Project Site and are depicted on the Constraint Maps attached hereto as Exhibit "G". Buffers for the sensitive areas, as well as categories for the wetlands and classification of fish and wildlife habitat conservation areas, mapped on Exhibit "G" will be determined and approved by the City on an Implementing Project by Implementing Project basis consistent with the regulations set forth in the City's SAO (Exhibit "E").*

STAFF RESPONSE: To show compliance with the DA Chapter 8 and BDMC Chapter 19.10, the applicant submitted the SAS and the Wetland Buffer Vegetation Management Plan .

The second constraint map of Exhibit "G" of the DA shows Parcel E of the MPD. Wetlands associated with the area comprising Plat 2C are the wetlands TOS, E1, E7, E8, E10, and 213. In accordance with the DA, the boundaries of the wetlands are fixed. The applicant's biologist, WRI, studied the wetland habitats and categorized the wetlands. The buffers are established by the wetland categories. Perteet, the City's consulting scientist, reviewed the report and requested additional clarification from WRI. Perteet's scientist accepted WRI's analysis in a memorandum dated May 19, 2014 (Exhibit 28e).

The preliminary plat drawings PP1 through PP5 for Plat 2C show the wetland boundaries established by the DA and the buffers approved by the City. The proposal meets the requirements of this section. Compliance with the Sensitive Areas Ordinance, BDMC 19.10 is addressed below, under the BDMC section.

## 8.2 SENSITIVE AREAS DETERMINATIONS

### 8.2.1 Wetland Boundary Delineations Final

The preliminary plat drawings PP1 through PP5 for Plat 2C show the wetland boundaries established by the DA Exhibit "G" . The proposal meets the requirements of this section.

### 8.2.2 Fish and Wildlife Habitat Conservation Areas Final

Similar to the wetland boundary delineations, classifications are to be determined for each implementing project. Refer to the wildlife discussion under BDMC 19.10.300, below. The stream buffer for Rock Creek is the only fish and wildlife conservation area within the limits of Plat 2C.

### 8.2.3, Mine Hazard Areas, 8.2.4, Seismic Hazard Areas, 8.2.5, Steep Slopes

No mine hazard areas or seismic hazard areas were identified for the subject site in the EIS for The Villages. No steep slopes (>40%) are shown on the constraints maps for the subject site.

### 8.2.6, Wildlife Corridor

A mitigation measure recommending a 300-foot wildlife corridor is found on page 6-11 of The Villages FEIS: "Provide a 300-foot-wide wildlife corridor from the western edge of the Core Complex to the City's western boundary." This mitigation measure was included as condition of approval #89 for the preliminary plat approval for Phase 1A. This condition primarily applies to Phase 1A. Plat 2C is not near the City's western boundary and does not include land west of wetland E1. However, condition of approval #89 for Phase 1A (Exhibit 38) also required the applicant to have an expert analyze whether any wildlife corridor connections between wetlands S, T, D4 and E1 have a significant environmental benefit and to identify any measures to connect those wetlands that are reasonably feasible. The applicant commissioned the analysis and submitted a letter to the City regarding the analysis on June 19, 2013 (Exhibit 36). The City's consulting wetland scientist, at Perteet, determined that creating a significant habitat linkage between the wetlands would be impractical, given that no significant existing linkage was documented (Exhibit 36a).

## 8.3 ALTERATION OF GEOLOGICALLY HAZARDOUS AND LANDSLIDE HAZARD AREAS

No geologically hazardous or landslide areas are within Plat 2C. This section does not apply.

## 8.4 HAZARDOUS TREE REMOVAL

No hazardous tree removal is proposed as part of the preliminary plat approval. This section of Chapter 8 does not apply to the proposal.

## 13.5 MINE HAZARD RELEASE

*All houses sold in classified or declassified coal mine hazard areas require a liability release from the homeowner to the City consistent with BDMC 17.20.040.H (Exhibit "E") and pursuant to Condition of Approval No. 116 of the MPD Permit Approval. A copy of the release form is included in Exhibit "M".*

STAFF RESPONSE: This requirement does not apply to Plat 2C because no mine hazard areas exist within the boundaries of the plat.

# Design Guidelines for Master Planned Development

## GENERAL PRINCIPLES AND SITE PLANNING

### B. Using Open Space as an Organizing Element

*1. All master planned developments shall include a wide range of open spaces, including the following: a. Sensitive environmental features and their buffers, b. Greenbelts, c. Village greens, d. Parks and school playgrounds, e. Public squares, f. Multi-purpose trails. These features should be deliberately planned to organize the pattern of development and serve as center pieces to development cluster, not merely as “leftover” spaces.*

STAFF RESPONSE: This guideline applies specifically to the overall design of The Villages, which was approved in the MPD permit as the Conceptual Site Plan as illustrated in Exhibit “U” of the DA, (adopted by the Third Minor Amendment to the DA, December 19, 2013. Plat 2C is consistent with the conceptual design for this area with single family lots arranged between the major wetlands and boundaries that bound much of the V28 and V29 parcels.

### C. Integrating Development with Open Spaces

*3. Methodology for Planning Development in clusters.*

*a. environmentally sensitive areas to be protected (including streams, wetlands, steep slopes, wildlife corridors, and their buffers) shall be identified, mapped and used as an organizing element for design;*

STAFF RESPONSE: Sheet CV4 shows that Plat 2C has sensitive areas surrounding single family development, meeting the guideline in (a). Plat 2C is planned in the MPD and the DA (as amended) to be single family residential only, and the lots are indicated, meeting the guideline in (b). Streets and public spaces are illustrated on Sheet PP5, Overall Site Plan, meeting the guideline in (c). No multi-family housing is proposed. Guideline (d) would apply to the building permit phase of this project, not to the preliminary plat stage, because the applicant has not yet prepared any dwelling units drawings. It is likely that ownership will be principally fee simple. There are no views of Mt. Rainier available from parcels V28 and V29, so guideline (e) is not applicable. The proposal meets this guideline.

## 17.15, Subdivision Code [2009]

### 17.15.020 - APPROVAL CRITERIA. [AS APPLICABLE TO SENSITIVE AREAS]

*A. The following criteria must be met to approve any subdivision. The criteria may be met by conditions.*

*3. The public use and interest is served by the establishment of the subdivision and dedication. In considering this criteria, it shall be determined if appropriate provisions are made for all relevant matters, including, but not limited to, the public health, safety and general welfare, open spaces, storm drainage ways, streets, alleys, other public ways, water supplies, sanitary wastes, parks, playgrounds, sites for schools and school grounds;*

STAFF RESPONSE: The public use and interest will be served by the subdivision because it will preserve sensitive resource areas in undevelopable tracts and will not incur maintenance costs to the City (because the city will not own or maintain the wetlands). The resources provide valuable functions of absorbing stormwater runoff into the wetlands system and supporting wildlife. The criterion is met.

4. *The physical characteristics of the proposed subdivision site, as conditioned, do not increase the risk of flood or inundation conditions on- or off-site;*

STAFF RESPONSE: Plat 2C will preserve 95 acres of the plat area as open space, wetlands, and buffers in separate tracts. As a result, those areas will maintain the rainwater absorption function of the wetlands and reduce the chance of future flooding. The criterion is met.

5. *Applicable city development standards are met or exceeded;*

STAFF RESPONSE: The proposed subdivision has met or exceeded the applicable standards of the BDMC for sensitive areas, 19.10, below, as well as the MPD permit conditions of approval and the provisions and standards of the Development Agreement. The criterion is met.

## 19.00, Environment

### 19.04, SEPA ORDINANCE [2009]

The FEIS for The Villages discusses the wetlands and wildlife on the entire site in Chapter 4. Because no direct impacts are proposed, indirect impacts were highlighted, such as pollutant runoff, hydrologic impacts and human use impacts. The first two impacts are dealt with above. Mitigation for human incursions consist of signage and fencing. The applicant proposes to install split-rail fencing to reduce unauthorized uses in the buffers and wetlands.

The checklist notes that no known threatened or endangered species on or near the preliminary plat site. No project-specific impacts are noted and the only suggested mitigation measure is fulfillment of the MPD Permit condition of approval No. 124 of the Villages MPD permit to use mast-producing vegetation in the design of landscape plan when adjacent to wetlands or sensitive areas. Condition of approval #45 implements that requirement.

### 19.10, SENSITIVE AREAS

#### 19.10.020 Applicability and jurisdiction.

*A. This chapter shall apply to all uses, activities, and developments undertaken within or adjacent to one or more sensitive areas and their ecosystems, including buffers as designated herein. Sensitive areas designated and regulated by this chapter include:*

1. *Wetlands.*
2. *Fish and wildlife conservation areas.*

STAFF RESPONSE: The provisions of 19.10 apply to the proposal because wetlands and fish and wildlife conservation areas are found within the limits of the preliminary plat for Plat 2C. Although no development activity will affect those areas, the construction of minor stormwater features and the walking trail will affect the edges of some buffers.

#### 19.10.050 Mitigation.

*A. Project action. Any project action taken pursuant to this chapter shall be mitigated and result in equivalent or greater functions and values of the sensitive areas associated with the proposed action.*

STAFF RESPONSE: No mitigation will be required because no permanent impacts to any sensitive areas will occur. The wetlands and fish and wildlife conservation area of Rock Creek will be protected from impacts by buffers, as shown on Sheets PP1-5. All residential development will occur outside the buffers. There will be minor temporary disturbance when the master developer installs stormwater infiltration facilities and the public access trail that will cross the wetland buffers at a few locations (to be determined at the utility permit stage). Condition of approval #39a requires that a representative of the City monitor all clearing and grading within the buffers. This standard is met.

#### 19.10.060 Allowed activities.

*The following activities are allowed under this chapter: The level of review shall be determined by the mayor or his/her designee and shall include (1) existing and compatible activities, (2) emergency actions, (3) activities requiring notification or (4) a full permit review through existing permits or the sensitive area review permit or the exception process. The allowed activities under each review process include:*

STAFF RESPONSE: The long term use of the wetland buffers will include walking on the trail, which will cross portions of some of the buffers. Hiking is a compatible recreation use that does not require a permit. Construction and maintenance of the trail and the stormwater flow dispersal trenches by the master developer are activities that may require review for minor utility projects (trenches) and/or sensitive areas review (trail).

#### 19.10.130 Sensitive area reports.

*A. Preparation by qualified professional. Sensitive area reports shall be prepared by a qualified professional(s) having expertise in the specific sensitive area category(s) that are the subject of the report.*

STAFF RESPONSE: The sensitive areas report for the proposed project is included as Exhibits 28, 28a, and 28b of this staff report. The author of the report, Wetland Resources, Inc. (WRI), the developer's consultant, did not provide evidence of their expertise in evaluating wetlands. However, the report was evaluated for compliance with the City's SAO code requirements and professional standards by the City's wetland consultant, Jason Walker (ALSA, PWS), an Environmental Manager at Perteet Inc. The proposal's report meets this standard.

#### 19.10.140 Mitigation plans.

*A. Requirements. When mitigation is required, the applicant shall submit for approval by the city, a mitigation plan as part of the sensitive area report. The mitigation plan shall include:*

STAFF RESPONSE: No mitigation is required because developable area of the preliminary plat site avoids direct wetland impacts. No mitigation is required and none has been suggested by the applicant.

#### 19.10.160 Building setbacks.

*A. Buildings and other structures shall be set back a sufficient distance to assure that disturbance to sensitive area vegetation and soils is avoided during construction, maintenance and use.*

*B. Buildings and other structures shall be set back a distance of ten feet from the edges of all sensitive area buffers or from the edges of all sensitive areas if no buffers are required, provided that the mayor or his/her designee may modify the building setback based on specific development plans that document that construction techniques, maintenance needs and use will not disturb sensitive areas or buffer.*

STAFF RESPONSE: The preliminary plat shows a 10-foot setback from the edges of wetland buffers (Sheets PP1-4) which will ensure that no structures are placed closer than 10 feet. This would be enforced at the building permit stage. The proposal meets the standard.

*C. If slopes adjacent to the buffer for wetlands or water bodies exceed fifteen percent, including slopes created by grading, a swale installed on the outside edge of the buffer or other engineered solution shall be installed sufficient to intercept surface water movement.*

STAFF RESPONSE: The applicant did not provide a slope analysis. Staff reviewed the slopes adjacent to the buffer and determined that there are no adjacent slopes over 15 percent. Surface water movement will be managed by flow dispersal trenches at the edge of the development, where the lots meet the wetland buffers. The proposal meets the standard.

*D. The following facilities and uses are allowed in the building setback:*

STAFF RESPONSE: The use is single family residential. Other uses may be proposed by the builder or home owner after the subdivision is constructed but a change of use would be subject to the review requirements of a master plan amendment process (DA Section 12.7)..

#### 19.10.210 Designation, rating and mapping wetlands.

*Wetlands in Black Diamond are designated and classified in accordance with the following provisions:*

- A. Designating wetlands. Wetlands are those areas designated in accordance with the requirements of RCW 36.70A.175 and 90.58.380 and the Washington State Wetland Identification and Delineation Manual (1997). All areas meeting the criteria in manual regardless of mapping or other identification are designated sensitive areas and are subject to the provisions of this chapter.*
- B. Wetlands shall be rated based on categories that reflect the functions and values of each wetland.
  - 1. Core wetland and stream complex. The wetland complex associated with Rock Creek, Jones Lake, Jones Creek, Black Diamond Lake, Black Diamond Creek, and Ravensdale Creek are designated as the core stream and wetland complex. The general boundaries of the area affected are designated within the Best Available Science Document, Technical Appendix B, provided that the dimensions of the area shall be defined by the field verified wetland boundaries and the buffers defined in Section 19.10.230**

STAFF RESPONSE: The dimensions of the core wetland and stream complex were established and mapped prior to the adoption of the DA. The DA set the boundaries of the wetlands for the duration of the DA. The applicant surveyed the boundaries in the field and they are shown on the preliminary plat drawings. The proposal complies with the requirement.

- 2. Headwaters wetlands.*
- 3. Other wetlands. All other wetlands are rated according the following categories based on the criteria provided in the Washington State Wetland Rating System for Western Washington, revised August 2004 (Ecology Publication #04-06-025). These categories are generally defined as follows:
  - a. Category I wetlands. Category I wetlands are those wetlands of exceptional value in terms of protecting water quality, storing flood and storm water, and/or providing habitat for wildlife as indicated by a rating system score of seventy points or more. These are wetland communities of infrequent occurrence that often provide documented habitat for sensitive, threatened or endangered species, and/or have other attributes that are very difficult or impossible to replace if altered.**

*b. Category II wetlands. Category II wetlands have significant value based on their function as indicated by a rating system score of between fifty-one and sixty-nine points. They do not meet the criteria for category I rating but occur infrequently and have qualities that are difficult to replace if altered.*

*c. Category III wetlands. Category III wetlands have important resource value as indicated by a rating system score of between thirty and fifty points.*

*d. Category IV wetlands. Category IV wetlands are wetlands of limited resource value as indicated by a rating system score of less than thirty points. They typically have vegetation of similar age and class, lack special habitat features, and/or are isolated or disconnected from other aquatic systems or high quality upland habitats.*

STAFF RESPONSE: There are no headwater wetlands. The wetlands outside the core complex are E1, E7, E8, E10 and 213. The categories are shown in a table at the introduction to this Sensitive Areas section of the staff report and in the SAS. The categories of wetlands range from I to IV.

#### 19.10.220 Uses and activities allowed in wetlands and adjacent lands.

*The activities listed below are allowed in wetlands in addition to those activities listed in, and consistent with, the provisions and activities established in Section 19.10.060, and [Section] 19.10.120, sensitive area permit review.*

*B. Actions that can be planned and programmed in advance requiring notification and review in accordance with Section 19.10.060(B)(2):*

*3. Trails may be permitted within a category II, III, or IV wetlands or their buffers and may be permitted only within the buffer of a category I wetland, the buffer of a wetland in the core complex or the buffer of a headwaters wetland if the following criteria are met:*

STAFF RESPONSE: The applicant has provided the general location for the trail that it will construct on the drawings. As loosely outlined on the preliminary plat, the trail around the residential development in Plat 2C would affect some wetland buffers but no wetlands. As shown, the trail crosses portions of the outside edge of TOS, E1, and E7 wetland buffers. E1 and E7 are category II and III wetlands so the trail is an allowed use but the trail would only affect the buffer. Wetland TOS is a category I wetland and the trail is allowed only in the buffer. Trails in wetlands and buffers are subject to the criteria in paragraphs a through e.

*a. Trails are limited to buffer areas except for limited area of pile supported trail sections or viewing areas may be placed within category II, III and IV wetlands for interpretive purposes.*

STAFF RESPONSE: All trail sections in the buffers are proposed to be constructed by the master developer in the outer edges of the buffers. The City's wetland consultant, Perteet, reviewed the applicant's SAS, the request for buffer averaging, and the vegetation management plan. Subsequent materials that were submitted by the applicant in response to Perteet's comments were also reviewed. The follow-up memorandum from Perteet (Exhibit 28e) confirmed that the location of the trail will be within the outer 50% of all wetland buffers, except for wetland TOS, where the buffer will be in the outer 25%. The proposal complies with this requirement.

*b. Trails shall not exceed four feet in width and shall be surfaced with wood chips, gravel or other pervious material, including boardwalks.*

STAFF RESPONSE: The applicant proposes to construct a soft-surface trail but provides no other details. The trail typical section and specific location will be required to be submitted with the application for clearing and grading permits and shall be reviewed for compliance with the trail standards in the DA. The City will not issue permits for any work within the buffers without prior review and approval of the location, size, trail surface, and proposed mitigation, if any is required, pursuant to BDMC 19.10. (Condition of approval #67 addresses timing of the construction of the trail.)

*c. The trail or facility is located in the outer fifty percent of the category II, III and IV buffer and the outer twenty-five percent of the buffer of a category I wetland, the buffer of a wetland in the core complex or the buffer of a headwaters wetland, except for limited placement closer to the wetland edge or within a category II, III and IV wetland for interpretive purposes as provided above.*

STAFF RESPONSE: All trail sections in the buffers are proposed for the outer edges of the buffers. The City's wetland consultant, Perteet, reviewed the applicant's SAS, the request for buffer averaging, and the vegetation management plan. Subsequent materials that were submitted by the applicant in response to Perteet's comments were also reviewed. The follow-up memorandum from Perteet (Exhibit 28e) confirmed that the location of the trail will be within the outer 50% of all wetland buffers, except for wetland TOS, where the buffer will be in the outer 25%. The proposal complies with this requirement.

*d. The trail or facility is constructed and maintained in a manner that minimizes disturbance of the wetland or buffer. Trails or facilities within wetlands should be placed on an elevated structure as an alternative to fill.*

STAFF RESPONSE: No impacts to wetlands are proposed. The preliminary plat shows a curving trail that will be within buffers only where there is insufficient land between property lines and the adjacent buffer limits. This occurs primarily in two locations. The trail is shown in the buffer of wetland E1 along all of the rear lot lines of proposed lots on Woonerf A and Road C. The trail also is in the buffer of wetland TOS along the rear lot lines of lots on Road B. The staff recommends that the preliminary plat is conditioned on having a City representative monitor the placement of the trail to avoid the need to remove any significant trees and in general to minimize impacts on the buffer. Specific mitigation measures should be imposed in the clearing and grading permit approval to minimize construction impacts on the buffer. Mitigation measures to minimize impacts from maintenance consist of conditions of approval #35, #37, #38, #39, #40, #42, #43, #44, #45, #46 and #47. With conditions, this criterion can be met.

*e. Any adverse impacts on wetland functions and values are mitigated in accordance with Section 19.10.240*

STAFF RESPONSE: Prior to receiving a clearing and grade permit, the applicant must submit a site plan for the construction of portions of the multi-use trail that will cross wetland buffers, identifying the location, typical section, construction methods, trail surface, and grade. The City will, in the course of its review of the materials, determine whether mitigation for unavoidable adverse impacts to the buffer (i.e., sensitive area per BDMC 19.10.240) is required.

*5. Storm water detention/retention ponds are not permitted in a wetland buffer. However, storm water conveyance or discharge facilities such as dispersion trenches, level spreaders, and outfalls may be permitted within a wetland buffer, but only if the following criteria are met:*

- a. Due to topographic or other physical constraints, there are no feasible locations for these facilities to discharge to surface water through existing systems or outside the buffer.*
- b. Locations and designs that infiltrate water shall be preferred for category I, II, III, or IV wetland buffer over a design that provides for pipelines or surface discharge across the buffer or into the wetland. Only infiltration facilities are allowed within the buffer of a wetland in the core complex, or the buffer of a headwaters wetland and only when no trees of greater than four inches in diameter are disturbed.*
- c. A hydroperiod analysis is conducted and no impact is demonstrated by the study.*
- d. The discharge into a category I, II, III, or IV wetland is located as far from the wetland edge as possible and in a manner that minimizes disturbance of soils and vegetation and avoids long-term rill or channel erosion. Surface water discharge into a wetland in the core complex or a headwaters wetland is prohibited unless analysis demonstrates that infiltration is not feasible because of inherent features such as soil type.*

STAFF RESPONSE: No ponds are proposed. Approximately 14 flow dispersal trenches for stormwater runoff will be constructed in the outer edge of wetland buffers (Exhibit 2, Sheets RS1 – 4). There are no other feasible locations for the flow dispersal trenches because the configuration of lots and streets is constrained by the sensitive areas. The trenches are appropriate in the buffers because they will help to infiltrate water from pervious surfaces and rooftops to recharge the wetland. Triad Associates, Inc. the applicant's consultant, conducted a hydroperiod analysis as part of their drainage analysis. Golder Associates, the applicant's geotechnical consultant, reviewed the hydroperiod analysis and determined that it met the SWMMWW standards in a memorandum to the applicant (May 8, 2014, from Scott Stoneman and James G. Johnson to Colin Lund, Exhibit 28f). The memorandum recommended a condition of approval that during final engineering review of Plat 2C, an update to the preliminary drainage analysis be conducted by Triad to account for any subtle design changes from the preliminary plat design to the final engineering construction drawings (#13). The trenches are not expected to result in any erosion as long as they are correctly designed to infiltrate and disperse flows without causing erosion or sedimentation. The design will be reviewed and confirmed at the utility permit stage.

*D. Development of adjacent land shall minimize adverse effects on the wetland, and shall include the following standards:*

- 1. Fencing and appropriate sensitive area signage as dictated by the most recent version of the City of Black Diamond's design standards shall be provided at the perimeter of any development or land use activity.*

STAFF RESPONSE: A split-rail fence will be required at the edge of the buffers with condition of approval #44. With condition #44, the standard is met.

- 2. Activities that generate noise shall be located as far from the wetland and buffer as feasible. Roads, driveways, and parking lots for other than park and recreation facilities, as well as loading areas, mechanical or ventilating equipment shall be located on sides of buildings away from the wetland.*

STAFF RESPONSE: The adjacent uses will be single family residential, which is not typically a major noise source. Roads have been placed away from the edge of the buffers. Development on the future development tracts will be subject to additional review under the DA, per condition of approval #47. The requirement is met.

*3. Light penetration into buffer areas and wetlands shall be limited. All exterior lighting shall be designed, placed, shielded and/or directed so that no light directly shines or intrudes into the wetland, stream or any sensitive.*

STAFF RESPONSE: The only exterior lighting will be street lights, which will be designed at the utility permit stage. Since the residential lots are between the streets and the buffers' edges, there should be no light penetration. Condition of approval #2 will ensure that the CCRs contain restrictions designed to limit light penetration from lots that back directly at the edge of the sensitive area buffers.

*4. Management of surface runoff from adjacent land shall minimize adverse effects on wetland ecological functions and shall include:*

*a. Control of surface water peak flow and duration of flow should be maintained at rates typical of native forest cover;*

STAFF RESPONSE: The applicant submitted a drainage analysis report by Triad Associates and a Sensitive Area Study, Buffer Averaging Plan and Wildlife Analysis by WRI with the application. The drainage report was reviewed by City staff and the City's consulting wetland scientist (Perreet) for any potential impacts to the wetlands. The drainage analysis modeled the water budget in each stormwater management sub-basin in order to design roof drain infiltration trenches which will contribute water to wetland areas post-construction (see pages 4-6 of the WRI report where the information is repeated in the context of the wetland recharge). Subsequently, Golder Associates, the applicant's consulting geotechnical engineer, reviewed the hydrologic methodology for hydroperiod analysis by Triad and confirmed that it met the 2005 SWMMWW standards. The model maintained the average annual recharge volume to the wetlands from pre-developed conditions to developed conditions. This requirement is met.

*b. Low impact development measures shall be incorporated to the maximum extent feasible, including but not limited to:*

*(i) Site design to maximize preservation of existing patterns of overland water flow and of groundwater interflow;*

*(ii) Vehicle and pedestrian circulation systems that minimize alteration of topography and natural hydrologic features and processes through following the natural contours of the land;*

*(iii) Road location and circulation patterns shall reduce or eliminate stream crossings and encroachment on sensitive areas and their buffers;*

*(iv) Utilities consolidated within roadway and driveway corridors to avoid additional clearing for multiple corridors;*

*(v) Layout of lots and or structures to minimize alteration of existing topography, disturbance to soils and native vegetation;*

*(vi) Runoff should be routed to infiltration systems, to the maximum extent feasible, to provide groundwater interflow recharge to wetlands and/or water bodies and to limit overland flow and erosion:*

*(1) Use of permeable pavement;*

*(2) Dispersion of runoff into areas that permit infiltration;*

*(3) Engineered facilities designed for bioretention and infiltration ranging from swales to ponds to tree wells to engineered wetlands.*

STAFF RESPONSE: Several of the listed low impact development measures were incorporated into the design of Plat 2C. The site design and street layout generally follows a natural ridge so that the

topography will be minimally altered. No streams will be crossed. Utilities are combined with the roads except for the stormwater facilities as already discussed. Non-polluting runoff will be infiltrated in the flow dispersal trenches. The standards are met.

*c. Surface or piped stormwater should be routed to existing conveyances or to other areas, wherever hydraulic gradients allow. Where stormwater is routed to wetlands, system design shall assure that erosion and sedimentation will be avoided to the maximum extent feasible;*

STAFF RESPONSE: The details of the stormwater management approach have been discussed above in the staff report. Roadway runoff will be primarily routed to a stormwater pond and treatment site to be built with Phase 1A. Runoff from rooftops and pervious surfaces will generally be infiltrated. The requirement is met.

*d. To prevent channelized flow from lawns and other landscaped areas from entering the buffer, and to prevent washing of fertilizers, herbicides and pesticides into the buffer, if slopes adjacent to the buffer exceed fifteen percent, a ten-foot wide swale to intercept runoff shall be provided at the edge of the buffer or other effective surface water interception design approved by the mayor or his/her designee;*

STAFF RESPONSE: The flow dispersal trenches will receive runoff from landscaped areas per the drainage analysis and preliminary plat, Sheets SSW1-4. The design of the trenches will be reviewed at the utility permit stage.

*e. Adopt and implement an integrated pest management system including limiting use of fertilizers, herbicides and pesticides within twenty-five feet of the buffer of category III, or IV wetland, within fifty feet of the buffer of a category I, II, or headwaters wetland, and within one hundred feet of the buffer of a wetland in the core complex.*

STAFF RESPONSE: Condition of approval #2 will be creation of CCRs, to be approved as to form by the City Attorney prior to final plat approval, that include the above restriction.

#### 19.10.230 Wetland buffers.

- A. Wetland buffers. Buffer requirements contained in this section shall apply to all wetlands designated in this chapter and all proposed mitigation sites. Except as otherwise provided for in this chapter, all wetland buffers shall be maintained in an undisturbed or enhanced condition.*
- B. [Core wetland complex buffers.] Core wetland complex buffers shall be a minimum of two hundred twenty-five feet for all wetlands within the core area, except for the north side of the Rock Creek complex between Roberts Drive and State Route 169 where the buffer shall be a minimum of one hundred eighty-five feet, provided that:*

STAFF RESPONSE: Wetland TOS ? is in the core complex and buffers are established on the preliminary plat as 225 feet. The requirement is met.

- 1. The buffer may be extended further:
  - a. If land within and adjacent to the buffer has a slope in excess of thirty percent the buffer shall extend at least twenty-five feet beyond the top of the thirty percent slope, and**

- b. If land within and adjacent to the buffer is designated a landslide hazard, the buffer shall extend at least to the extent of the buffer designated in Section 19.10.410(B).*
- 2. If a category III or IV wetland is located within the outer fifty percent of the buffer of a wetland designated as part of the core wetland complex, and does not have a surface hydrologic connection to the core complex, the buffers for that wetland shall be the standard wetland buffer in subsection (D), below.*
- C. [Headwaters wetland buffers.] Headwaters wetland buffers shall be a minimum of two hundred twenty-five feet for all wetlands.*

STAFF RESPONSE: None of the above conditions apply to Plat 2C.

*D. Other wetlands—Standard buffer widths. The standard buffer widths presume the existence of a relatively intact mature native vegetation community (relative density of twenty or greater) in the buffer zone adequate to protect the wetland functions and values at the time of the proposed activity. If the vegetation is inadequate, then the buffer width shall be increased or the buffer shall be planted to maintain the standard width. The minimum buffer requirements assume that adjacent land use meets the conditions outlined in section 19.10.220(D), in accordance with the Department of Ecology's Guidance on Wetlands in Washington State (2005), Volume 2 - Protecting and Managing Wetlands, Appendix 8C (Moderate Intensity Land Use). Required standard wetland buffers based on wetland category are as follows:*

STAFF RESPONSE: The existing conditions on the subject site provide relatively intact vegetation in the buffer zones so the standard buffers were applied to each wetland based on its classification (see table at beginning of this section of the staff report).

*E. Measurement of wetland buffers. All buffers shall be measured from the wetland boundary as surveyed in the field. The width of the wetland buffer shall be determined according to the wetland category. The required buffer should be extended to include any adjacent regulated wildlife habitat area, landslide hazard areas and/or erosion hazard areas and required buffers. Buffers shall not be extended across existing human features that functionally and effectively separate the potential buffer from ecological functions of the resource, and shall include hardened surfaces including improved roads or other lawfully established structures or surfaces, or the developed portions of lots, under separate ownership, lying between the habitat area and the subject property, unless restoration of buffer functions on such property is or may reasonably be expected to be the subject of a permit condition or an adopted public plan. The buffer for a wetland created, restored, or enhanced as compensation for approved wetland alterations shall be the same as the buffer required for the category of the created, restored, or enhanced wetland. Only fully vegetated buffers will be considered. Lawns, walkways, driveways and other mowed or paved areas will not be considered buffers.*

STAFF RESPONSE: Wetland buffers were measured from the edge of the boundaries of the wetlands that were established in the DA and applicability to BDMC 19.10.230(E) was evaluated by the City's consulting wetland scientist. Standard wetland buffer widths were derived from the wetland classifications based upon wetland ratings (see table at beginning of this section of the staff report). The requirement is satisfied.

*F. Vegetation management. In order to maintain effective buffer conditions and functions, a vegetation management plan shall be required for all buffer areas, to include:*

1. *Maintaining adequate cover of native vegetation including trees and understory; if existing tree cover is less than a relative density of twenty, planting shall be required consisting of a density of three hundred seedlings per acre or the equivalent;*
2. *Provide a dense screen of native evergreen trees at the perimeter of the buffer. Clearing of existing second growth forest generally results in trees with little canopy at or near the ground level:*
  - a. *Core wetland and stream complex buffers generally will require interplanting among existing trees within an area of thirty to fifty feet to provide for regeneration of native species and prevent the establishment of invasive species.*
  - b. *Other wetland buffers will require plantings if existing vegetation is not sufficient to prevent viewing adjacent development from within the buffer or penetration of light and glare into the buffer or to prevent establishment of invasive species.*
  - c. *Planting specifications generally shall consist of as many rows of the following units as required to accomplish the management objectives:*
    - (i) *Two rows of three-foot high stock of native evergreens at a triangular spacing of fifteen feet, or*
    - (ii) *Three rows of gallon containers at a triangular spacing of eight feet.*
3. *Fencing may be required in order to separate sensitive areas from developed areas;*
4. *Provide a plan for control of invasive weeds, and remove existing invasive species;*
5. *Provide for a monitoring and maintenance plan for a period of at least five years, except this provision may be waived for single family residential lots;*

STAFF RESPONSE: The applicant submitted a Wetland Buffer Vegetation Management Plan for The Villages Phase 2 Plat C (Exhibit 27). A significant tree inventory (Exhibit 2m) based on sample plots was submitted with the application. The samples showed that the relative density of significant trees was close to 15, more dense than the minimum requirement of 20 trees. The relative density of 15 did not count trees defined as non-significant tree species by the Tree Preservation Ordinance (BDMC 19.20.030) of 2009 such as black cottonwood and red alder. Because of the density of trees, no additional plantings are required. Even if there is some downing of trees from windthrow during development of adjacent areas, the density is likely to be higher than the minimum requirement (page 3 of the Vegetation Management report). Fencing will be required under condition of approval #44. The vegetation management plan provides a plan for monitoring, maintenance, and reporting on the conditions in the buffers adjacent to development for 5 years. The application meets the requirements of this section.

6. *Vegetation management plans for all wetlands may provide for preservation of view corridors from existing single family residences by the placement of new vegetation in a manner that frames views, provided that the same density is maintained and key functions such as shading for temperature attenuation and habitat functions are maintained.*

STAFF RESPONSE: No views are accessible from the subject site; this paragraph does not apply.

*G. Increased wetland buffer widths.*

STAFF RESPONSE: No increased wetland buffers widths are needed or requested.

- H. Wetland buffer width averaging. The mayor or his/her designee may allow modification of the standard wetland buffer width in accordance with an approved sensitive area report and the best*

*available science on a case-by-case basis by averaging buffer widths. Averaging of buffer widths may only be allowed where a qualified professional wetland scientist demonstrates that:*

STAFF RESPONSE: On May 14, 2014, the applicant submitted a request to the mayor for approval of buffer averaging for Plat 2C for the purpose of improving buffer protection for wetland E1. The proposal was to reduce the buffer widths by 2,117 square feet on the back of lots 129-131, 134-141, 147-150, and 158-157. The buffer widths would be widened on the backs of lots 122, 123-129, 131-134, 141-147, 150-152, 157, 159-196, 197-202 and Tracts 920 and 921. The total addition to the buffer would be 26,222 square feet, for a net increase of 24,105 square feet. A letter approving the buffer averaging was issued by the Mayor of Black Diamond on June 5, 2014 (Exhibit 30a).

*1. Averaging to improve wetland protection may be permitted when all of the following conditions are met:*

- a. The wetland contains variations in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation, and the wetland would benefit from a wider buffer in places and would not be adversely impacted by a narrower buffer in other places;*
- b. Buffer averaging will not reduce wetland functions or functional performance;*
- c. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and all increases in buffer dimension for averaging are generally parallel to the wetland edge;*
- d. The buffer width at its narrowest point is not reduced to less than fifty percent of the standard width and in no case less than thirty-five feet.*

STAFF RESPONSE: Yarrow Bay's letter of May 14, 2014 applies for approval of the buffer averaging for the reason under paragraph 1. The plans show the location of the wider buffers and where the buffer would be narrowed. The averaging also allows for more regular rear lot lines along the buffer boundary for wetland E1. The letter incorporates information from the SAS report (pages 3 – 4) and are briefly summarized here.

In response to a), wetland E1 and the buffer contain variations due to years of logging and to the presence of a still-used gravel road on the northern portion (shown on Sheet PP1). The width of the areas proposed to be added in that location would provide additional protection to the E1 buffer.

In response to b), the reduction of the buffer widths at the proposed locations would not reduce the functions or functional performance of wetland E1 because those areas are densely vegetated and maximum width of the reduction is approximately 8 feet out of a required buffer depth of 110 feet. The denser vegetation provides better protection (WRI response to Perteet comments on the SAS, Exhibit 28d). Also, the used gravel road in those areas will be decommissioned to reduce human intrusion into the buffer and allow the vegetation to grow back.

In response to c), the averaging needs to result in at least the area of the original buffer (1:1). As stated above, with the proposed ratio of there would be a net gain of 24,105 square feet for a ratio of 12:1. Increases in the buffer as shown are generally parallel to the edge (Sheet PP1, Exhibit 2).

In response to d), the averaging reduces the width of a 110-foot buffer by 8 feet, or by 7 percent, well within the maximum allowed of 50 percent. The requirements of paragraphs a-d are met.

2. *Averaging to allow reasonable use of a parcel may be permitted when all of the following criteria are met:*

STAFF RESPONSE: The request for averaging was not for reasonable use of a parcel.

3. *The width reduction may not be located within another sensitive area or associated buffer unless criteria for averaging said buffer are also addressed and approved.*

4. *Buffer averaging may not be approved when buffer transfer is approved in accordance with subsection (H), above.*

STAFF RESPONSE: The E1 buffer where averaged did not overlap with another sensitive area, and no buffer transfer was approved. The criteria are met.

#### 19.10.240 Mitigation requirements

STAFF RESPONSE: This section applies to mitigation required when wetlands are proposed to be altered. No wetland will be altered by approval of the preliminary plat. This section does not apply.

#### 19.10.300 Fish and wildlife conservation areas.

*Sections 19.10.300 through 19.10.340 pertain to fish and wildlife conservation areas.*

#### 19.10.310 Designation and mapping.

*Fish and wildlife conservation areas in Black Diamond are designated and classified in accordance with the following provisions:*

A. *Core stream and wetland complex. The streams, lakes, ponds and wetland complex associated with Rock Creek, Jones Lake, Jones Creek, Black Diamond Lake, Black Diamond Creek, and Ravensdale Creek are designated as the core stream and wetland complex. The general boundaries of the area affected are designated on Attachment A, provided that the dimensions of the area shall be defined by the field verified stream boundaries and the buffers defined in Section 19.10.325*

STAFF RESPONSE: To show compliance with the DA Chapter 8 and BDMC Chapter 19.10, the applicant submitted a Sensitive Area Study, Buffer Averaging Plan, and Wildlife Analysis for Plat 2C (Wetland Resources, Inc. [WRI], versions February 24, 2014 and May 6, 2014 Exhibit 28a and 28b) and a Wetland Buffer Vegetation Management Plan for The Villages Phase 2 Plat C.

BDMC 19.10.300 establishes a fish and wildlife conservation area associated with the city's Core stream and wetland complex, which includes Rock Creek on the subject site. BDMC 19.10.325 requires a 225-foot-wide buffer extending landward from the top-of-bank to protect the integrity, functions and values of the Rock Creek habitat. The applicant has approximately located the centerline of the stream and provided a 225-foot buffer for Rock Creek on Sheets PP2 and PP5.

#### 10.325 Fish and wildlife habitat conservation areas—Water bodies—Buffers.

*The mayor or his/her designee shall have the authority to require buffers from the edges of all streams in accordance with the following:*

C. *[Core stream and wetland complex buffers.] Core stream and wetland complex buffers shall be a minimum of two hundred twenty-five feet for all streams within the core area, except for the north side of the Rock Creek complex between Roberts Drive and State Route 169 where the buffer shall be a minimum of one hundred eighty-five feet, provided that the buffer may be extended further if:*

1. Land within and adjacent to the buffer has a slope in excess of thirty percent the buffer shall extend at least twenty-five feet beyond the top of the thirty percent slope; and
2. Land within and adjacent to the buffer is designated a landslide hazard, the buffer shall extend at least to the extent of the buffer.

STAFF RESPONSE: A 225-foot buffer is established for Rock Creek as a fish and wildlife habitat conservation area associated with the Core stream and wetland complex. The limits are shown on the preliminary plat, Sheets PP2 and PP5. The FEIS for The Villages Master Planned Development notes that the average width of the creek is 10 feet. Although the applicant did not survey the west side top-of-bank for Rock Creek, Rock Creek is within the larger Core wetland complex with the result that the TOS wetland buffer on the preliminary plat will provide sufficient protection for native vegetation along Rock Creek. The distance from the approximate centerline of Rock Creek to the edge of the TOS wetland buffer will be a minimum of 450 feet. Therefore, the proposal meets this standard.

#### 19.10.330 Activities allowed in water bodies and habitat buffers.

*The activities listed below are allowed in water bodies and habitat buffers in addition to those activities listed in, and consistent with, the provisions and activities established in Section 19.10.060, in accordance with the review provisions below:*

STAFF RESPONSE: No activities are proposed for Rock Creek or its buffer. This section does not apply.

#### 19.10.337 Fish and wildlife habitat conservation areas—Review and reporting requirements.

*The following provisions shall apply in addition to the sensitive area report requirements of 19.10.130:*

- A. *When city sensitive area maps or Washington Department of Fish and Wildlife Priority Species and Habitat information, or other sources of credible information indicate that a site proposed for development or alteration is more likely than not to contain fish and wildlife habitat conservation areas or is within the buffer of a fish and wildlife habitat conservation area, the mayor or his/her designee shall require a site evaluation (field investigation) by a qualified professional or other measures to determine whether or not the species or habitat is present and if so, its relative location in relation to the proposed project area or site.*

STAFF RESPONSE: No development is proposed within the fish and wildlife habitat conservation area; this section does not apply.

#### 19.10.340 Mitigation requirements.

STAFF RESPONSE: No mitigation is required because no impacts are proposed.

## D. Noise

### Black Diamond Comprehensive Plan

There are no specifically noise-related plan policies.

### The Villages MPD Permit Conditions of Approval (2010)

35. *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 silencers, engine enclosures, and turning off equipment when not in use.*

STAFF RESPONSE: The applicant submitted a short term construction noise mitigation plan that contains best practices for reducing noise (Exhibit 26). The condition is met with condition of approval #48 to ensure that the short term construction noise mitigation plan for the Plat 2C plat is implemented during construction.

- 36. 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.*
- 37. 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.*
- 38. Require operators to lift, rather than drag materials wherever feasible.*
- 39. Substitute hydraulic or electric models for impact tools such as jackhammers, rock drills and pavement breakers, wherever feasible.*
- 40. Electric pumps shall be specified whenever pumps are required.*
- 41. The developer shall establish a noise control "hotline" to allow neighbors affected by noise to contact the City and the construction contractor to ask questions or to complain about violations of the noise reduction program. The noise reduction program is established by conditions 35 through 40 and 42-43. Whether the noise reduction program has been violated shall be determined by the City in its reasonable discretion. Failure to comply with the noise reduction program shall result first in a warning and one or more continuing failures may result in cessation of construction activities until the developer provides an acceptable solution to the City that will reasonably achieve the intent of the noise reduction program and allow construction to continue. Nothing in this condition shall be construed as limiting or altering the City's authority to enforce its noise regulations.*
- 42. 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.*

STAFF RESPONSE: All of the measures in these conditions have been included in the Short-term Construction Noise Mitigation Plan for Plat 2C and compliance with the plan is required in conditions of approval #48, #49, and #51. The proposal meets the conditions.

- 43. Work hours of operation shall be established and made part of the Development Agreement*

STAFF RESPONSE: Work hours are established in the DA as 7:00 am through 7:00 pm, Monday through Friday and 9:00 am through 5:00 pm on Saturday, subject to emergency construction and repair needs as set forth in BDMC 8.12.040.C (Exhibit "E" of the DA). The work hours are also stipulated in the Short-Term Construction Noise Mitigation Plan. The noise control hotline was set up in August 2013. Condition of approval #49 will ensure the hotline remains open until further notice from the City.

- 44. To provide construction noise attenuation for existing residents adjoining the Villages development, the following condition shall apply to Villages development parcels V1, V2, V10, V13, V15, V20, V49, V57, V60, and V71. For each of the designated parcels, the Applicant shall:*

STAFF RESPONSE: This condition does not apply to parcel V28 or parcel V29.

45. *A Noise Review committee shall be formed. [...]*

STAFF RESPONSE: A Noise Review Committee was required to be formed as a condition of approval for Phase 1A. The same Noise Review Committee will continue through Plat 2C under condition of approval #51.

## The Villages Development Agreement (2011)

### 13.7 NOISE ATTENUATION

*Pursuant to Condition of Approval No. 44 of the MPD Permit Approval, to provide construction noise attenuation for existing residents adjoining The Villages MPD, the following shall apply to Villages Development Parcels V1, V2, V10, V13, V15, V20, V49, V57, V60, and V71.*

STAFF RESPONSE: The proposal does not include any of the parcels cited in Section 13.7; therefore this section does not apply.

## Design Guidelines for Master Planned Development

None of the design guidelines pertain to noise.

## 17.15, Subdivision Code [2009]

### 17.15.020 – APPROVAL CRITERIA [AS APPLICABLE TO NOISE]

*A. 6. All environmental impacts have been addressed consistent with the public health, safety and welfare and city goals and policies;*

STAFF RESPONSE: The potential noise impacts from The Villages were disclosed in the EIS. From Plat 2C in the SEPA checklist noise is noted as coming from increased traffic (permanent impacts) and construction (temporary impacts). The mitigation measures that the applicant proposes to implement for short-term construction impacts will help to reduce noise impacts (Exhibit 26). Traffic on public roadways is exempt from state maximum allowable noise regulations. The environmental impacts have been addressed consistent with this requirement.

## 19.04, SEPA Ordinance [2009]

The potential noise impacts from The Villages were disclosed in the EIS and from Plat 2C in the SEPA checklist. The implementation of The Villages MPD Phase 2 Preliminary Plat C PLN13-0027 Short –Term Construction Noise Mitigation Plan” dated March 13, 2014 and approved on May 21, 2014, is required during construction and addresses the construction impacts disclosed under SEPA.

## E. Sanitary Sewer

Sheets SSWA1-4 of Plat 2C show schematic locations of the proposed sewer gravity mains. The eight-inch sewer lines are proposed to be installed in Roads A, B, and C, and Woonerf A. The schematics are considered only representative of the general location and configuration of the sanitary sewer collection system. The construction drawings are expected to provide the final location, pipe sizes and the details of construction during review at utility permit stage. While the final construction drawings sometimes differ from the schematic configuration shown in this application, all 203 lots would be served by sewer lines that will connect to the existing Black Diamond sewer system. The pipeline and treatment capacities for the proposed lots are described in the following paragraphs and in the staff responses to applicable review criteria, below. Once constructed and accepted by the City for ownership, all sewer lines would be maintained by the City.

Development in The Villages is to be served by the city's wastewater system, which comprises primarily gravity mains and three lift stations. All wastewater is directed to the existing Black Diamond Pump Station, which belongs to King County Wastewater Treatment Division (KCWTD). From there, flows are directed through the County's system to the treatment plant in Renton. Sewer service to Plat 2C will be available via connections to the sewer mains that have been approved for Preliminary Plat Phase 1 Plat A (Phase 1A), which will connect to existing City sewer lines in Roberts Road. In addition, a temporary lift station is required to be constructed by Phase 1A Preliminary Plat conditions of approval. Construction permits have been issued for Phase 1A and the infrastructure will need to be in place prior to the approval of the final plat for Plat 2C. Prior to the approval of the first Building Permit in any phase of The Villages, the off-site sewer system in Phase 1A must be completed and operational and accepted by the City.

After completion of the sewer system improvements in Phase 1A there will be sufficient capacity in the local and regional sewer systems for sewage flow up to 208 additional gallons per minute, which is the amount allowed by King County (Exhibit 37).

Applications that cause the 208 gpm threshold to be exceeded will be permitted after regional sewer capacity improvements are completed and KCWTD acknowledges that sufficient capacity exists in the regional system for additional flows.

### Black Diamond Comprehensive Plan

*Policy CF-3: Require new development to finance the facilities and services needed to support the development wherever a direct connection of benefit or impact can be demonstrated.*

STAFF RESPONSE: There are no existing city utilities or services in the area covered by Plat 2C. Sections 7 and 11 of The Villages DA requires that YarrowBay, as the master developer, construct on-site and off-site water, sewer, and transportation improvements that will be needed to serve the lots in Plat 2C. The document entitled Detailed Regional Infrastructure Improvements is a list of how the developer will mitigate for the development impacts that building The Villages will cause. The City approved the list of improvements in June 2014. The applicant is committed to funding those improvements through the DA. In addition, the MPD Funding Agreement (Exhibit "N" of The Villages MPD DA) requires the applicant to pay the costs for City staff to review and implement the projects in The Villages. The applicant will also be paying a general government facilities mitigation fee and/or dedication of land

and/or construction of general government facilities. The fee will be paid at the building permit stage. The proposal is consistent with this policy.

*Objective CF-10: Require public sewer connections for all new subdivisions and commercial /industrial developments. Require public sewer connections for all new residential construction and redevelopment on existing lots of record where sewer is available within 300 feet.*

STAFF RESPONSE: The City is requiring the applicant to provide public sewer connections for Plat 2C. This is proposed to be accomplished in one of two ways: either through connection to sewer lines being built for Phase 1A, or on the temporary access and utility easement over Phase 1A (Exhibit 44) to connect to an existing line in Roberts Drive.

*Policy CF-18: The City shall take reasonable action to ensure development is within 1.5 miles travel distance of a fire station upon built roads.*

STAFF RESPONSE: The nearest fire station to Plat 2C is Fire Station 99, at 25313 Baker Street, within 1.5 miles. The proposal is consistent with this policy.

*Policy CF-27: Prior to approving development, ensure that the sanitary sewer system necessary to support development meets City requirements and is adequate to serve the development at the time the development is available for occupancy and use.*

STAFF RESPONSE: King County Wastewater Treatment Division (WTD) has confirmed an existing trunk line and pump station capacity of 1,150 ERUS (Exhibit 37). Table 11-4-1 of the DA correspondingly shows that wastewater storage facilities are not required prior to issuance of the certificate of occupancy for the dwelling unit that uses the 1,150<sup>th</sup> ERU. The approval of Phase 1A included assigned 921 ERUs leaving 229 available ERUs. Plat 2C will take 203 ERUs (one per single family lot), leaving 26 ERUs. The proposal is consistent with this policy.

*Policy CF-37: New development will be required to pay its fair share of expansion of the sewer system through capital facility charges, built, and dedicated facilities.*

STAFF RESPONSE: The applicant agrees to pay its fair share of the expansion of the sewer system by constructing an interim wastewater pumping station and a sewer force main as required by Section 11 of the DA, as well as all local lines. The proposal is consistent with this policy.

## The Villages MPD Permit Conditions of Approval (2010)

*55. King County will be constructing a sewer flow equalization storage reservoir in a location to serve the needs of the City.*

STAFF RESPONSE: This condition is not applicable to Plat 2C because this off-site regional facility requirement is triggered by the construction of the 1,150<sup>th</sup> ERU within the City of Black Diamond's sewer district. Preliminary Plat Phase 1A is authorized to develop 921 ERU. Plat 2C would represent 203 ERU. Combined with maximum build-out (Phase 1A and Plat 2C together), they would create 1,124 ERUs, less than the threshold of 1,150 ERUs. However, permits are issued on a first-come, first-served basis. If

other developments outside the MPDs receive wastewater permits that result in the 1,150<sup>th</sup> ERU being in either Phase 1A or Plat 2C, then the threshold will be triggered.

*56. Construct trunk lines Nos. 1 and 4.*

STAFF RESPONSE: The referenced trunk lines are those necessary to provide service to Phase 1A and will be completed with that project, or Plat 2C will construct a direct connection across the temporary access easement to Roberts Drive (Exhibit 44). Conditions of approval #1 and #5 for Plat 2C require completion of those facilities and this condition is satisfied.

*57. Construct pump station 1 and force main 1 to equalization tank.*

STAFF RESPONSE: Pump station 1 and force main to equalization tank are facilities that will be constructed by the master developer as part of Phase 1A prior to final plat approval. Recommended conditions of approval #1 and #5 will ensure compliance with this requirement.

*58. Collection of sewage shall occur 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 in the future if determined appropriate by City staff and consistent with King County's sewage storage site selection process.*

STAFF RESPONSE: All improvements shown in the application are consistent with the Comprehensive Sewer Plan in that they meet the BDEDCS and do not trigger improvements in the King County sewage collection system (including the need to construct sewer storage). Future projects may need to take advantage of the flexibility offered by this condition on facilities provided in this application but the condition is not applicable for Plat 2C.

*59. 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.*

STAFF RESPONSE: This condition applied to approval of Phase 1A pursuant to Project I1-7 (Table 9.1 of the MPD) and Section 7.3.3 and Table 11-3-1 of the DA, and in the responses to BDMC. The timing of the pump station is included in Section 11 and the specific design details are bound to a technical memorandum (which requires that an interim lift station be built to permanent station standards). Refer to Phase 1A Hearing Examiner condition of approval #49 and #79 (Exhibit 38). The planned implementation schedule within the DA accounts for the City's ultimate plan for routing sewage. The applicant is not requesting a capital facility charge credit. This condition is met.

# The Villages Development Agreement (2011)

## 7.0 WATER, SEWER AND STORMWATER UTILITY STANDARDS

### 7.1 GENERAL REQUIREMENTS

STAFF RESPONSE: The majority of the general requirements section contains explanatory statements about performance bonding, inspection, ownership, deviation review criteria and capital facilities charges. Only sections relevant to the preliminary plat facilities are included in the analysis.

#### 7.1.1 Regional Facilities

*Regional Facilities are necessary for Development to occur on the Project Site. The Master Developer shall design and construct the Regional Facilities that are necessary to serve the Implementing Projects, consistent with the City's adopted level of service, or as otherwise specified by Prior Agreements.*

STAFF RESPONSE: The City approved the Detailed Implementation Schedule for Phase 2. Prior to the issuance of the first building permit for any structure that may discharge wastewater into the utility system, the temporary sanitary sewer lift station needs to be complete and operational. Condition of approval #5 will require this. Staff finds that the applicant is designing and will construct (or cause to be constructed) necessary regional facilities for sewer. Off-site wastewater regional facilities (described in the Preliminary Plat for Phase 1A) are necessary to connect the Plat 2C wastewater utilities with the city's collection system and the KCWTD regional connection. This will be implemented through conditions of approval #1, #5, #52, and #53 of this staff report. With conditions, the proposal satisfies this requirement.

#### 7.1.2 Project-Level Facilities

*Project-Level Facilities are items such as on-site water mains, sewer and stormwater facilities. Project-Level Facilities will be Constructed by the Master Developer as Development progresses across the Project Site consistent with the Black Diamond Engineering Design and Construction Standards (Exhibit "E") as further detailed in this Section.*

STAFF RESPONSE: On-site facilities are needed for each implementing project, of which Phase 1A and Plat 2C are the first to be permitted as preliminary plats. The DA shows conceptual sanitary sewer, water supply, and stormwater facilities to provide municipal service to parcels V28 and V29. General Note 5 on Sheet CV4 indicates that the applicant intends to construct the facilities in compliance with the BDEDCS and the DA (including Table 9.3 and Figure 9-4 of Exhibit "K"). Staff and the team technical consultants reviewed the schematic drawings for preliminary compliance BDEDCS and the DA and found that they comply with standards at this preliminary plat stage. Stormwater facilities are shown on Sheets RS1-4 and sewer and water supply plans are shown on Sheets SSWA1-4. Further detailed review will occur in the application for utility permits.

The proposal complies with this section.

#### 7.1.3 Location and Type of Facilities Approximate

*The location and type of Regional Facilities shown on the Conceptual Water, Sewer, Stormwater and Phasing Plans (attached hereto as Exhibit "K") are approximate and may change during the design phase provided that the intent of the plans is met as reasonably determined by the Designated Official.*

*Alternate means of achieving utility service to and within the Project Site on a temporary or permanent basis will be considered by the Designated Official through a Utility Permit application.*

STAFF RESPONSE: The Plat 2C Preliminary Plat shows schematics of the proposed sewer, water and stormwater facilities; these are noted as representative of the general location and configuration of the systems. The actual location, pipe sizes and the details of construction will be specified in subsequent utility permits and may differ from the schematic configuration shown in this application, and shall conform to the BDEDCS. The proposal meets the requirement for this stage of project implementation.

#### 7.1.7 Ownership

*All water, sewer and stormwater facilities within public right-of-way or public easement will become part of the City's system upon acceptance by the City Council pursuant to the Black Diamond Engineering Design and Construction Standards (Exhibit "E"). Some facilities within the right-of-way may be privately owned and operated as long as the entity that owns and operates the facilities has a valid franchise agreement with the City.*

STAFF RESPONSE: All sewer facilities in public right-of-way or in public easements are proposed to be owned and maintained by the City. Sanitary sewer facilities will be conveyed to the City following inspection and acceptance by the City.

#### 7.1.8 Deviation Review Criteria

STAFF RESPONSE: No deviations to the requirements were requested; this section does not apply.

#### 7.1.9 Capital Facilities Charges

STAFF RESPONSE: Because the applicant is constructing capital facilities that will be adding to the City's network, no capital facilities charges are imposed, in accordance with the DA. This approach has been repeated in the section on water distribution (7.2.3) and sewer (7.3.3) and the same response applies to those sections.

### 7.3 SANITARY SEWER DESIGN STANDARDS

#### 7.3.1 Sewer Availability

*This Agreement provides sewer availability to service 4,800 Dwelling Units on The Villages MPD (3,600 Single Family and 1,200 Multi-family) as well as 775,000 square feet of commercial/office/retail/light industrial uses, plus additional Public Uses and schools as defined in part by the School Agreement. Any Implementing Project application process that calls for a certificate of sewer availability shall be satisfied by reference to this Agreement.*

STAFF RESPONSE: The proposal would add wastewater flows from 203 units. When added to the 921 ERUs approved for Phase 1A, the demand would be 1,124 ERUs. After completion of the sewer system improvements approved in Preliminary Plat 1A there is sufficient capacity in the local and regional sewer systems for sewage flow up to 1,150 ERUs (which excludes flows from existing customers). Building permits within Black Diamond will be issued on a "first-come-first-served" basis up to the available additional 1,150 ERU-capacity in the local and regional sewage systems. As a result, until regional improvements are completed by KCWTD, applications that would result in exceeding the 1150 ERU

threshold will not be permitted. KCWTD will need to acknowledge that the capacity exists in the expanded regional system for additional flows in excess of 1150 ERU or alternative sewerage disposal methods have been approved. The City will acknowledge that the capacity limit of 1,150 has been removed via letter to the Master Developer.

#### 7.3.2 Sewer Design and Construction Standards

*All sewer system facilities (on and off-site, except those existing or proposed facilities owned or maintained by King County) required to provide service to The Villages MPD shall be designed and Constructed by the Master Developer in accordance with the Black Diamond Engineering Design and Construction Standards (Exhibit "E") and will become part of the City's system upon acceptance by the City.*

STAFF RESPONSE: The application includes a schematic of the proposed sewer collection and disposal plan and the facilities that will be needed to provide municipal service to each property in the application. These have been reviewed for compliance with the EDCS and generally accepted engineering practices and the facilities shown comply with the applicable standards for this preliminary level of design. In addition, to the extent that minor revisions are necessary to accommodate design-level details, the application requires that the proposed facilities meet the EDCS. This will be enforced during utility permit Review and all facilities must comply with these standards in order to be accepted by the City prior to approval of the final plat.

#### 7.3.4 Regional Sewer Facilities

*The Villages MPD Conceptual Sewer Plan (Figure 7.3) shows the general location of the proposed sewer collection system, force mains and up to four (4) new pump stations that will pump wastewater to a City designated discharge location. Approximate facility locations are shown on attached Figure 7.3, final locations are subject to City review and approval.*

STAFF RESPONSE: Figure 7.3 shows a gravity drain sewer extending from the interior of parcel V29 into the system in Willow Avenue SE (Phase 1A). No force mains or pump stations are required to serve Plat 2C and none are proposed. Approximate locations are shown on Sheets SSWA1-4 of the preliminary plat. The proposal complies with this section.

### 11.3 PHASING AND CONSTRUCTION OF ON-SITE REGIONAL FACILITIES

STAFF RESPONSE: No on-site regional facilities are proposed inside the boundaries of Plat 2C, so this section does not apply.

### 11.4 PHASING AND CONSTRUCTION OF OFF-SITE REGIONAL INFRASTRUCTURE IMPROVEMENTS

#### A. Phasing.

*Prior to the approval of the first Implementing Project in a defined Phase, a detailed table of the Regional Facilities supporting that Phase, similar to Tables 11-4-1, 11-4-2, 11-5-1, and 11-5-2, which shall include a "construction threshold," or as to transportation, documents that result of the Traffic Monitoring Plan (Exhibit "F"), shall be submitted to the Designated Official for approval. Occupancy of an Implementing Project that exceeds the construction threshold is allowed after the necessary Regional Facility has been permitted. This ensures that necessary off-site Regional Facilities are provided to serve Implementing Projects as they occur. Model Homes are exempt from this requirement.*

STAFF RESPONSE: The Regional Implementation Schedule: Phase 2 Regional Infrastructure Improvements provides a table of the thresholds tied to each improvement project. Most of the dwelling unit totals are greater than that provided by the combined build-out of Phases 1A and 2C, so they will be triggered by subsequent Implementing Projects.

#### 11.7 PHASING OF DEVELOPMENT

*The sequencing of Implementing Projects, Implementing Approvals, construction completeness and City acceptance of facilities shall be confirmed by the Designated Official, who shall make a finding within each staff report for proposed preliminary plats or binding site plans within The Villages MPD whether required infrastructure and amenities have been scheduled to meet the demands of the future occupants of that specific plat or binding site plan.*

*Pursuant to Condition of Approval No. 153, the details of Open Space protection and dedication follow. Currently, portions of the Project Site are protected by recorded temporary conservation easements in favor of the City. Required Open Spaces shall be identified with each Implementing Project and conserved or conveyed to the City during the final plat process, site plan approval or engineering review. Once Open Space has been adequately conserved or dedicated for the Implementing Project, the City shall, within ten (10) business days, execute a partial release and reconveyance of the conservation easements created pursuant to the Open Space Agreement (as defined in Section 3 of this Agreement) as necessary for the remaining undeveloped lands of the Project Site.*

STAFF RESPONSE: A memorandum documenting the Designated Official's finding of compliance with the proposed phasing for The Villages and Lawson Hills Phase 2 was issued on June 13, 2014 (Exhibit 29a). Response to the second paragraph of 11.7 is provided below under the discussion of parks and open space. This condition is met.

### Design Guidelines for Master Planned Development

There are no applicable design guidelines for wastewater.

#### 17.15, Subdivision Code [2009]

##### 17.15.020 - APPROVAL CRITERIA. [AS APPLICABLE TO WASTEWATER SERVICE]

- A. The following criteria must be met to approve any subdivision. The criteria may be met by conditions.*
- 3. The public use and interest is served by the establishment of the subdivision and dedication. In considering this criteria, it shall be determined if appropriate provisions are made for all relevant matters, including, but not limited to, the public health, safety and general welfare, open spaces, storm drainage ways, streets, alleys, other public ways, water supplies, sanitary wastes, parks, playgrounds, sites for schools and school grounds;*

STAFF RESPONSE: Appropriate provisions are made for sewer services as demonstrated in the previous staff responses. The preliminary plat shows that proposed lots can be served by sewer lines that connect to Phase 1A. The City's public works department personnel and consultant engineer have reviewed the schematic designs and found that they are constructible and meet the City's public works standards as

much as is appropriate for the preliminary plat stage. According to King County, there is or will be sufficient capacity, with conditions to construct a lift station (#52) and connections to Roberts Drive (#53). This criterion is satisfied.

*5. Applicable city development standards are met or exceeded;*

STAFF RESPONSE: Because this application is for preliminary plat approval, only schematic plans for sewer lines were submitted and reviewed. The City's public works department staff and its consulting engineer have reviewed the schematic plans and found no topographic or engineering constraints that would prevent the proposed system from being designed to meet the City's standards. (Exhibit 40 and 45). Conditions of approval #51 through #56) will ensure implementation of specific requirements in the utilities plans that will be reviewed following preliminary plat approval. This criterion is met.

*6. All environmental impacts have been addressed consistent with the public health, safety and welfare and city goals and policies;*

STAFF RESPONSE: Having sufficient sewage conveyance and treatment capacity are the main long term environmental impacts associated with public health, safety, and welfare. Potential short-term environmental impacts would be from construction.

The applicant submitted a SEPA checklist with the application. The checklist under #16 (a) notes that there are no utilities currently on the subject site. Under #16 (b), the applicant states that "sewer services will be installed to City of Black Diamond standards. Connection to the regional main that flows out of Black Diamond toward the regional treatment center will require a permit for connection from [KCWTD]. Pursuant to Table 11-4-1 [of the DA], the Wastewater Storage Facility is not required to be under construction until prior to the issuance of Certificate of Occupancy of the 1,150th ERU."

The development of sewer lines to The Villages was reviewed by the FEIS (Exhibit 12) for The Villages MPD, the SEPA checklist (Exhibit 3e), and A Mitigated Determination of Non-significance for Plat 2C and Adoption of Existing Environmental Document (Exhibit 5).

The MDNS adopted by reference the Final Environmental Impact Statement (FEIS) for The Villages. The FEIS noted on page 3-49 that the existing and planned capacity of the City's Main Metro Pump Station is 8,500 ERUs. Therefore, sufficient pumping capacity exists. Disposal capacity therefore remains limited to the 1,150 ERUs. Four FEIS mitigation measures were incorporated into the conditions of approval for the MPD permit (see Exhibit 14, conditions of approval Nos. 55 through 58).

Mitigation identified in the FEIS as well as during the FEIS appeal and MPD Permit hearings was incorporated as conditions of MPD Permit approval. Additional mitigation was incorporated into the DA. In addition, DA Section 4.10 provides:

*"As designed and with full implementation of all the mitigation measures, The Villages MPD build-out will fully and adequately mitigate the probable significant adverse environmental impacts of The Villages MPD and, that through such mitigation measures, provisions will be made for: (i) the facilities needed to serve new growth as a result of The Villages MPD within the City and (ii) the Master Developer to construct or pay a proportionate share of the cost of completing certain system improvements."*

Construction impacts are typically due to excavation that can result in soil erosion. The applicant will be required to develop a TESC to obtain construction permit approval.

*7. Concurrency exists for all utilities and transportation system improvements prior to occupancy of any structures;*

STAFF RESPONSE: The City's interpretation of state concurrency regulations is as follows: "concurrency" means that adequate public facilities or services are available when the impacts of development occur and "available public facilities" means that the facilities or services are in place (or that a financial commitment is in place) to provide the facilities or services within a specified time.

Three essential elements of concurrency are: 1) constructability, 2) supply and/or capacity, and 3) timing for impacts. Appropriate provisions must be made for sanitary sewer service. To make a determination of concurrency, the City is responsible for confirming:

- the constructability of the sanitary sewer lines;
- the available capacity of downstream (i.e., King County) sewage treatment facilities;
- the timing of the construction of sanitary sewer lines to serve Phase 1A and the lines to serve Plat 2C

With respect to constructability, the City's consulting civil and transportation engineers and the public works director reviewed the proposal's schematic plans and technical reports. They found no topographic or engineering constraints that would prevent the proposed sanitary sewer lines from being designed to meet the City's standards in the BDEDCS and The Villages DA. Therefore, for the purposes of preliminary plat approval, those facilities are constructible. The additional sewer capacity would be built by King County WTD.

Sanitary sewer capacity as of the writing of this staff report is 1,150 ERUs. Phase 1A and 2C will generate a demand equal to 1,124 ERUs. Barring the issuance of building permits for more than 26 ERUs for development outside of The Villages, the City reasonably expects that sanitary sewer capacity exists for Plat 2C. In the event that the existing capacity of 1,150 ERU is exceeded before building permits for all of the proposed development in Phase 1A and Plat 2C, then the City will deny requests for subsequent and additional building permits until KCMTD constructs additional regional capacity. There will be sufficient capacity in the existing City sewer pipelines, with the addition of Phase 1A infrastructure, for the expected demand from Plat 2C.

Offsite sanitary sewer improvements are necessary in order to provide service to this plat. Some of the improvements have been designed and approved for construction, but not yet completed, in conjunction with Phase 1A utility permitting on property owned by the Phase 1A developer. Some of the improvements have not been designed and have not been completed but will be designed and completed in conjunction with Phase 1A utility permitting (or with Plat 2C utility permitting) on public right of way. The applicant has recorded an easement (Exhibit 44) that will allow the Plat 2C applicant to complete that work if those improvements are not completed by the Phase 1A Developer. Conditions of approval #1 and #5 require that those facilities be complete (or bonded for completion) before final plat.

With the information provided by the applicant and the conditions noted herein, there is an adequate provision of sanitary sewer service to ensure that facilities will be in-place to serve this application prior to Final Plat.

Notwithstanding the phasing plan of The Villages MPD, for each application for preliminary plat approval, the City must determine and make a finding that the facilities necessary to serve the lots in Plat 2C will be available at the time the building permit applications are submitted for homes in Plat 2C. The City maintains that there is substantial evidence in the record to show that there will be sufficient sanitary sewer facilities at the final plat stage, as follows:

- The applicant has provided a narrative and schematic plans showing how sewer lines can serve the proposed subdivision and residential lots within it.
- King County Wastewater Treatment Division has allowed for sewer flows to its facilities up to 1,150 ERU. The combined ERUS for Phase 1A and Plat 2C are 1,124.
- The sewer system approved for Phase 1A was sized to accommodate discharge flows from Plat 2C (as well as from other future development).
- Condition of Approval #79 of the Preliminary Plat approval for Phase 1A (Exhibit 38) required the applicant to confirm that “there are no root intrusions, blockage, breakage or other deficiency that would render the City’s existing sewer system downstream of the proposed point of connection insufficient to convey the sanitary sewer flows anticipated from Phase 1A, prior to approval of the first utility permit for Phase 1A. As of the writing of this staff report, the applicant has investigated and remedied any obstructing conditions per condition #79.
- Construction permits for the Phase 1A sewer system have been issued and the road in which the Phase 1A sewer mains will be constructed has been laid out.

Condition of approval #53 requires the completion of a connection to Roberts Drive either through connecting to the Phase 1A facilities or in a Plat 2C sewer connection in the temporary access and utility easement across Phase 1A (Exhibit 44). The City finds that there is evidence to support a finding of concurrency for sanitary sewer facilities for Plat 2C.

*11. Appropriate provision has been made for the dedication of land to any public body, and provision of public improvements has been made as necessary to serve the subdivision. This shall include appropriate provision for payment of any impact fees imposed in accordance with the provisions of RCW 82.02.050 through 82.02.090, and applicable city codes and regulations. Dedications shall clearly be shown on the final plat;*

The applicant proposes tracts for utilities as designated in the Tract Table on Sheet CV4 (Exhibit 2). All sewer facilities will be publicly owned in either rights-of-way or easements. Sewer facilities in public right-of-way that the City admit as part of the City’s sanitary sewer system must be dedicated to the City for ownership and maintenance following the City’s acceptance of the facilities as meeting the standards and prior to final plat approval.

With respect to impact fees, Section 4.10 of DA provides:

“As designed and with full implementation of all the mitigation measures, The Villages MPD build-out will fully and adequately mitigate the probable significant adverse environmental impacts of The Villages MPD and, that through such mitigation measures, provisions will be made for: (i) the facilities needed to serve new growth as a result of The Villages MPD within the City and (ii) the Master Developer to construct or pay a proportionate share of the cost of completing certain system improvements. Unless otherwise provided elsewhere in this Agreement or in The Villages MPD Permit Approval, the mitigation measures listed this Agreement and in Exhibit “C” are in lieu of

the payment of any impact fees that the City has the authority to impose pursuant to RCW 82.02.050 *et seq.*, including any amendments thereto, such that no impact fees shall be imposed on any Implementing Project during the term of this Agreement except for those impact fees explicitly allowed in this Agreement.”

Therefore, no impact fees for stormwater will be assessed.

#### 19.04, SEPA Ordinance [2009]

The applicant submitted a SEPA checklist with the application (Exhibit 3e). The checklist under #16 (a) notes that there are no utilities currently on the subject site. Under #16 (b), the applicant states that “sewer services will be installed to City of Black Diamond standards. Connection to the regional main that flows out of Black Diamond toward the regional treatment center will require a permit for connection from [KCWTD]. Pursuant to Table 11-4-1 [of the DA], the Wastewater Storage Facility is not required to be under construction until prior to the issuance of Certificate of Occupancy of the 1,150th ERU.”

A SEPA MDNS and Adoption of Existing Environmental Document (Exhibit 5) was issued by the City on June 17, 2014. This document adopted by reference the Final Environmental Impact Statement (FEIS) for The Villages. The FEIS noted on page 3-49 that the existing and planned capacity of the City’s Main Metro Pump Station is 8,500 ERUs. Therefore, sufficient pumping capacity exists. Disposal capacity therefore remains limited to the 1,150 ERUs.

## F. Water Distribution and Supply

The existing City water system is supplied by springs near the Green River (Spring Field, approximately two miles southeast of the city.)<sup>4</sup> There are two reservoirs to which water is pumped from Spring Field, and the distribution system operates with three pressure zones, 965 , 850 , and 750. Equalizing, fire flow, and standby storage are provided by the 850-zone reservoir and delivered to the 750 zone through existing pressure reducing stations. According to the City’s Public Works Director, there is overall water system capacity for full build-out of all of The Villages and Lawson Hill’s MPDs, including Plat 2C, with improvements (Exhibit 35). While there is sufficient capacity in the 850 reservoir and in the city-wide supply water distribution system to support the 203 residences proposed in this application (203 ERU), the existing chlorine disinfection system at the Springs will need to be upgraded prior to issuance of the first building permit at The Villages. The City, or the City with the applicant, or the applicant alone, plans to upgrade the chlorine system in 2015 (also listed as a 2014-2017 project on Figure 9.1a of the Water System Comprehensive Plan). After that upgrade, the next limitation on the system is peak day supply or pumping capacity.

The City’s existing spring source and pumping system has capacity for an additional 561 new water supply connections (using supply criteria in the Comp Water Plan). The City intends to make improvements in the Spring source within the next three years that will increase the capacity to an additional 1,100 ERU. The City will supply the additional water demands for this application from either the Spring source (if it available) or from the Tacoma intertie which has sufficient capacity for full build-out of the Villages development.

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<sup>4</sup> City of Black Diamond Water System Comprehensive Plan, no date.

With the information provided by the applicant and the conditions of approval #1, and #57 through #64, there is an adequate provision of potable water service to ensure that facilities will be in-place to serve this application prior to Final Plat. The applicant has provided schematic plans for providing potable water to and within the Plat. The preliminary plat application is located within the 750-pressure zone confirmed by Figure 7.2A of the DA, Conceptual Water System Plan. The on-site water distribution system is generally composed of loops of 12-inch diameter pipe proposed to be located within the completed rights-of-way. The pipes are looped for redundancy and reliability and are equipped with strategically located valves and inter-connections so that short-term failures can be isolated and repaired with a minimum of service disruptions. Because the City expects that future phases will need service from higher pressure pipelines (the 850 zone), the City requested an additional 850 water main. Therefore, both a low pressure and high pressure pipeline may be constructed side-by-side in Road A right-of-way. This is a common practice and consistent with the City's Comprehensive Water System Plan. Where possible, future 850 zone mains should be interconnected to the 750 zone to improve service to the Plat 2C customers and to prevent stagnation of water in unused pipelines. These mains may be isolated from the 750 zone in the future when buildings are constructed in the 850 zone.

The remaining Roads B and C and Woonerf A that serve the residential lots will have one 12-inch 750 pressure water main. Connections to water supply in Phase 1A will occur in two places, one at Road A and SW Willow Avenue and the other at Woonerf A. Pressures at the water meters (for properties within the 750 pressure zone) will range from 75 to 90 psi.

Water service will be available from off-site water mains that will be completed in conjunction with the Phase 1A Preliminary Plat which will connect to the existing city-owned water mains that are off-site. The Phase 1A mains have been approved for construction but have not yet been completed; the off-site Phase 1A mains have not been designed or approved for construction. The applicant must either wait until the on-site and off-site mains are in-service and operational (completed by others) or must complete those mains as approved. All existing water mains must remain in-service during construction.

The water conveyance system as designed is consistent with City standards and requirements. All elevations within the project can be served, including the highest anticipated finished floor elevations within future structures, without booster pump stations. Water mains are sized to provide the required flow rates during maximum fire flow conditions, while meeting the minimum pressure criteria. All water mains are public and are to be located in public rights of way or within utility easements that provide a minimum of 15' of unobstructed space for access and maintenance.

Required fire flows are estimated to be 1,500 gpm, although Tracts 905, 906 and 907 could be developed with higher fire flow requirements (multi-family or commercial/retail). The mains have been sized and configured to allow 3,500 gpm fireflow rates in these future development areas. Fire hydrants will be provided in rights-of-way. Additional hydrants may be required around some buildings as determined by Fire Department review and approval of building permits. Sprinklers will be provided in buildings according to the requirements of the International Fire Code.

All water meters will be located within the rights-of-way or in public utility easements. The meter locations must be compatible with the design standards contained within Exhibits "H" of TV DA. All water meters must be located such that they can be accessed with the City's drive-by meter reading system.

The Villages MPD Permit Condition No. 58 and TV DA Section 7.2.5 established water conservation and monitoring requirements. The water conservation plan requirements applicable to water fixtures will be

applied during future building permit review and approval; the monitoring requirements will be implemented by the Designated Official, per Section 7.2.5 of TV DA.

It should be noted that previous planning efforts anticipated that off-site improvements would be provided as a cooperative effort between several off-site property stakeholders in accordance with a document titled Water Supply and Facility Funding Agreement (WSFFA). The WSFFA allows the City to maximize and optimize supply from the spring source before using water supply from Tacoma. Springs upgrades are necessary for this application.

The application shows a schematic of the pipelines and in some cases details about connections and pipe routing. These are considered schematic and representative of the general location and configuration of potable water mains. The actual location, pipe sizes, interconnections, valves, meters and the details of construction will be identified in subsequent utility permits and will likely differ from the schematic configuration shown in this application.

## Black Diamond Comprehensive Plan

*Policy CF-3: Require new development to finance the facilities and services needed to support the development wherever a direct connection of benefit or impact can be demonstrated.*

STAFF RESPONSE: There are no existing city utilities or services on the area covered by Plat 2C. Sections 7 and 11 of The Villages DA requires that YarrowBay, as the master developer, construct on-site and off-site water, sewer, and transportation improvements that will be needed to serve the lots in Plat 2C. The Detailed Regional Infrastructure Improvements is a list of how the developer will mitigate for the development impacts that building The Villages will cause. The City approved the list of improvements in June 2014. The applicant is committed to funding those improvements through the DA. In addition, the MPD Funding Agreement (Exhibit "N" of The Villages MPD DA) requires the applicant to pay the costs for City staff to review and implement the projects in The Villages. The applicant will also be paying a general government facilities mitigation fee and/or dedication of land and/or construction of general government facilities. The proposal is consistent with this policy.

## The Villages MPD Permit Conditions of Approval (2010)

*46. Comply with the terms of the Water Services Future Funding Agreement (WSFFA).*

STAFF RESPONSE: The DA allows the off-site water improvements to be constructed as either a sole-source effort or a WSFFA-enabled project. The applicant has chosen to build the off-site improvements as a sole-source project; therefore, the terms of the WSFFA do not apply.

*47. Utilize the Tacoma Intertie, in addition to the Spring Supply per the WSFFA.*

STAFF RESPONSE: The water system facilities shown in the application can be operated independently from the source of supply and they are not dependent on the actual source used. Therefore, the City has complete operational flexibility in using either the Spring Source or the Tacoma Intertie and this condition is satisfied.

*48. 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.*

STAFF RESPONSE: Previous engineering studies for the WSFFA (August 11, 2003 and July 22, 2004) have identified that the existing 850 Zone Reservoir and the pipeline loops shown in this application are appropriately sized and no further improvements are necessary. The condition is met.

49. *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.*

STAFF RESPONSE: This condition is not applicable to Plat 2C.

50. *Construct a 750 Zone loop back to the existing system, or propose a functionally equivalent alternative as allowed in the MPD code.*

STAFF RESPONSE: This application includes 750 Zone water system stubs that are intended to be extended and looped with future land use permits. Extension is not required now because the 750 Zone pipes shown in the application meet the BDEDCS and the Comprehensive Water System Plan for looping and redundancy. This condition is not applicable to Plat 2C.

51. *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 by City staff within the MPD.*

STAFF RESPONSE: Plat 2C does not trigger any additions to the water storage system. Nor does it require any capacity improvements to the water supply pipe network. However, the existing chlorine disinfection system at the North Bank Pump Station needs to be upgraded. The Comprehensive Water System Plan contains this as project improvement #49 (Chapter 9, Sheet 1, Proposed Water System Improvements). This condition is satisfied with the existing system upgrade.

52. *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.*

STAFF RESPONSE: This condition is addressed by the DA 7.2.1, which specifically references this MPD permit approval condition and cross references the Water Comprehensive Plan, the City's Design Standards and the WSFFA. The applicant is not proposing a functionally equivalent water distribution facility that does not comply with or that would require an update to the City's Water System Plan.

53. *The Water Conservation Plan included in the Chapter 8 of the MPD Application is approved. The Development Agreement shall include details about the responsibility for water conservation, the basis and methods for measuring conservation savings, and the impacts if the required savings targets of 10% less than the average water use in the City by residential uses at the time the MPD was submitted are not achieved.*

STAFF RESPONSE: The condition applies to the DA.

54. *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.*

STAFF RESPONSE: This condition will be triggered when the 500<sup>th</sup> unit is constructed, irrespective of the phase in which it is built. It is enforced at the building permit phase, not the preliminary plat review phase. Condition of approval #59 will ensure implementation of this requirement.

## The Villages Development Agreement (2011)

### 7.0 WATER, SEWER AND STORMWATER UTILITY STANDARDS

#### 7.1 GENERAL REQUIREMENTS

The majority of the general requirements section contains explanatory statements about performance bonding, inspection, ownership, deviation review criteria and capital facilities charges. Only sections relevant to the preliminary plat facilities are included in the analysis.

##### 7.1.1 Regional Facilities

*Regional Facilities are necessary for Development to occur on the Project Site. The Master Developer shall design and construct the Regional Facilities that are necessary to serve the Implementing Projects, consistent with the City's adopted level of service, or as otherwise specified by Prior Agreements.*

STAFF RESPONSE: Preliminary Plat approval for Phase 1A was conditioned (#41) with the requirement for off-site improvements of the chlorine disinfection system. The introduction to this section notes that the applicant may make those improvements alone as a sole-source project or within the terms of the WSFFA. The improvements to the chlorine disinfection system and the interim lift station are required prior to issuance of the first building permits either for Phase 1A or Plat 2C (#52 and #58). Staff finds that the applicant is designing and will construct (or cause to be constructed) necessary regional facilities for water supply.

##### 7.1.2 Project-Level Facilities

*Project-Level Facilities are items such as on-site water mains, sewer and stormwater facilities. Project-Level Facilities will be Constructed by the Master Developer as Development progresses across the Project Site consistent with the Black Diamond Engineering Design and Construction Standards (Exhibit "E") as further detailed in this Section.*

STAFF RESPONSE: On-site water mains are needed for each implementing project in The Villages, of which Plat 2C is the second. The DA, Figure 7.2A, shows conceptual water supply lines to provide water service to parcels V28 and V29. The Plat 2C drawings, Sheets SSWA1-4 are the initial phase of design for the water facilities. General Note 5 on Sheet CV4 indicates that the applicant intends to construct the water mains in compliance with the BDEDCS and the DA (including Table 9.3 and Figure 9-4 of Exhibit "K"). Staff and technical consultants reviewed the schematic drawings for preliminary compliance BDEDCS and the DA. Further along in the design process, the applicant will be required to submit construction level drawings for water lines in order to obtain construction permits for the water utilities. The proposal complies with this section.

##### 7.1.3 Location and Type of Facilities Approximate

*The location and type of Regional Facilities shown on the Conceptual Water, Sewer, Stormwater and Phasing Plans (attached hereto as Exhibit "K") are approximate and may change during the design phase*

*provided that the intent of the plans is met as reasonably determined by the Designated Official. Alternate means of achieving utility service to and within the Project Site on a temporary or permanent basis will be considered by the Designated Official through a utility permit application.*

STAFF RESPONSE: The Plat 2C Preliminary Plat shows schematics of the proposed sewer, water and stormwater facilities; these are noted as representative of the general location and configuration of the systems. The actual location, pipe sizes and the details of construction will be specified in subsequent utility permits and may differ from the schematic configuration shown in this application. The proposal meets the requirement.

#### 7.1.7 Ownership

*All water, sewer and stormwater facilities within public right-of-way or public easement will become part of the City's system upon acceptance by the City Council pursuant to the Black Diamond Engineering Design and Construction Standards (Exhibit "E"). Some facilities within the right-of-way may be privately owned and operated as long as the entity that owns and operates the facilities has a valid franchise agreement with the City.*

STAFF RESPONSE: All water system facilities will be publically owned and operated.

#### 7.1.8 Deviation Review Criteria

STAFF RESPONSE: No deviation to the water system or standards was requested; this section does not apply.

#### 7.1.9 Capital Facilities Charges

STAFF RESPONSE: Because the applicant is constructing capital facilities that will be adding to the City's network, no capital facilities charges are imposed, in accordance with the DA. This approach has been repeated in the section on water distribution (7.2.3) and sewer (7.3.3) and the same response applies to those sections.

### 7.2 WATER SYSTEM STANDARDS

*This agreement shall not apply within the Covington Water District to the extent that this section unlawfully conflicts with the authority of the Covington Water District.*

#### 7.2.1 Water Availability

*The Master Developer controls property with the rights to approximately 1,080,310 gallons of water per day ("GPD"). This is determined through the "Three Party Agreement" between Plum Creek Land Company, Black Diamond Associates, Ltd., and Palmer Coking Coal Company dated August 8, 2003. Any Implementing Project application process that calls for a certificate of water availability shall be satisfied by reference to this Agreement. Improvements necessary to provide water service to each Implementing Project must be provided by the Master Developer consistent with this Agreement, and the MPD Conditions of Approval. [...] If there are insufficient facilities or capacity to serve some or all of a proposed Implementing Project, then the Designated Official may require the Master Developer to obtain such additional water supply capacity and/or design and construct new water mains, upgrades to existing mains, a reservoir, pressure reducing valves or such other facilities necessary to serve the Implementing Project.*

STAFF RESPONSE: As a result of the WSFFA (initially referred to as the “Three Party Agreement”) for water rights for all of The Villages, no water availability certificate is required. However, the City issued a Water Availability Certification for Plat 2C (dated August 9, 2014, Exhibit 35). The applicant has proposed a water system for Plat 2C. The existing city water system is supplied by springs near the Green River. Equalizing, fire flow, and standby storage are provided by the off-site 850-zone reservoir and delivered to the 750-zone through existing pressure reducing stations. There is sufficient capacity in the 850 reservoir and in the city-wide water distribution system to support the uses shown in this application; namely 203 ERU. Improvements are necessary in the existing chlorine disinfection system at the Springs and those improvements must be completed prior to issuance of the first building permit.

#### 7.2.2 Water System Design and Construction

*A. Except as specified in the WSFFA, all water system facilities (on and off-site) required for service to The Villages MPD shall be designed and Constructed by the Master Developer, in accordance with The Villages Conceptual Water Plan (Figure 7.2A), and the Black Diamond Engineering Design and Construction Standards (Exhibit “E”) and will become part of the City’s system upon acceptance by the Designated Official.*

*B. Fire flows, hydrant locations and distribution must comply with the then applicable City building code.*

*C. Pursuant to Section 6.1.05.4 of the Black Diamond Engineering Design and Construction Standards (Exhibit “E”), sufficient quantity and duration of fire flows shall be available prior to the start of any combustible construction. Such requirements apply to the areas actually under construction; areas under construction but without structures are not required to have fire flows until combustible construction begins.*

STAFF RESPONSE: Figure 7.2A shows a 750 water line through Phase 2/2C. Plat 2C plat drawings SSWA1-4 show both an 850 and 750 line in Road A which matches a portion of the planned system on Figure 7.2A with the City’s current requirement for the double system. The applicant proposes to construct the water lines that will be needed to provide municipal service to each property in the application. The applicant proposes to loop the water lines for redundancy and reliability. The dual water mains in Road A will be able to provide service from higher pressure pipelines (the 850 zone) to future phases of The Villages. Both a low pressure and high pressure pipeline are expected to be constructed side-by-side. This is a common practice and consistent with the City’s Comprehensive Water System Plan (2008). The looped system will also help ensure adequate fire flows. The 2008 water system plan identified many hydrants with deficient fire flows. The City’s public works director and fire marshal reviewed the application (Exhibits 33 and 40) and made recommendations that have been incorporated as conditions of approval #33. Water mains are sized to provide the required flow rates during maximum fire flow conditions, while meeting the minimum pressure criteria.

The City’s consulting engineer reviewed the application and all elevations within the project can be served, including the highest anticipated finished floor elevations within future structures, without booster pump stations. Condition of approval #61 will require a minimum of 15 feet of unobstructed space for access and maintenance to all water mains in public rights of way or within utility easements. Pressures at the water meters (for properties within the 750 pressure zone) will range from 75 to 90 psi, which meets City standards.

The schematic details have been reviewed for compliance with the EDCS and generally accepted engineering practices and the facilities shown comply with the applicable standards to the extent that details are known.

The proposal meets the requirements of this section.

### 7.2.3 Water Connection Charges Not Applicable

*Pursuant to Section 7.1.9 above and in recognition: (i) that The Villages MPD's water system and the improvements to the City's water system necessary for Development have been or will be installed at the Master Developer's cost; and (ii) of the substantial investment in water infrastructure resulting from the WSFFA; and (iii) that the Master Developer shall not seek credit or reimbursement from the City under the Water Supply and Facilities Funding Agreement, Implementing Projects within The Villages MPD shall not be required to pay the City's general facilities charges, connection charges, or system development charges, including any amendments thereto except as provided for in Section 7.2.1.*

STAFF RESPONSE: The City will not assess water system development charges.

### 7.2.4 Remaining Water Capacity

STAFF RESPONSE: This section applies after the final implementing land use approval in the Villages project and therefore does not apply to Plat 2C.

### 7.2.5 Water Conservation and Monitoring Plan

*The Villages MPD's Water Conservation Plan at Chapter 8 of the MPD Permit Application was approved in the MPD Permit Approval. Pursuant to Condition of Approval No. 53 of the MPD Permit Approval, this Section restates the Water Conservation Plan approved in the MPD Permit Approval Conditions for The Villages. The intent of this plan is to create a 10% reduction in water consumption compared to the current existing average use per ERU use standard of 187 gallons per day (GPD). If the 10% savings target is not achieved, then resulting constraints on water supply allocated to The Villages MPD may limit ultimate build-out of the MPD.*

STAFF RESPONSE: The Villages MPD Permit Condition #58 and the DA Section 7.2.5 set forth water conservation and monitoring requirements. The water conservation plan requirements applicable to water fixtures will be applied during future building permit review and approval; the monitoring requirements will be implemented by the Designated Official, per Section 7.2.5 of the DA. The proposal can meet the standard.

### 7.2.6 Regional Water Facilities

*The Villages MPD Conceptual Water Plan (Figure 7.2A) provides one alternative for the general location of on and off-site water mains, pressure reducing valves and reservoirs to be Constructed by the Master Developer. The Villages MPD Main Property is located primarily within the 750 pressure zone. Water from existing City facilities will be delivered to the Project Site using pressure reducing valves to reduce the water to the appropriate pressure zone. The Master Developer may seek alternate means of achieving water service to and within The Villages MPD through the Utility Permit application and approval process set forth in the BDMC (Exhibit "E") and Black Diamond Engineering Design and Construction Standards (Exhibit "E").*

STAFF RESPONSE: This project will use water lines constructed as a part of Phase 1A to connect proposed facilities in Plat 2C to existing City water lines. If Phase 1A infrastructure is not constructed by the time connection to Plat 2C is needed, the applicant will construct the needed connection to Roberts

Drive across the temporary access and utility easement on Phase 1A (Exhibit 44). Condition of approval #1 requires one of those two options to be in-service prior to final plat approval.

### 11.3 PHASING AND CONSTRUCTION OF ON-SITE REGIONAL FACILITIES

STAFF RESPONSE: No on-site regional facilities are proposed inside the boundaries of Plat 2C, so this section does not apply.

### 11.7 PHASING OF DEVELOPMENT

*The sequencing of Implementing Projects, Implementing Approvals, construction completeness and City acceptance of facilities shall be confirmed by the Designated Official, who shall make a finding within each staff report for proposed preliminary plats or binding site plans within The Villages MPD whether required infrastructure and amenities have been scheduled to meet the demands of the future occupants of that specific plat or binding site plan.*

*Pursuant to Condition of Approval No. 153, the details of Open State [sic] protection and dedication follow. Currently, portions of the Project Site are protected by recorded temporary conservation easements in favor of the City. Required Open Spaces shall be identified with each Implementing Project and conserved or conveyed to the City during the final plat process, site plan approval or engineering review. Once Open Space has been adequately conserved or dedicated for the Implementing Project, the City shall, within ten (10) business days, execute a partial release and reconveyance of the conservation easements created pursuant to the Open Space Agreement (as defined in Section 3 of this Agreement) as necessary for the remaining undeveloped lands of the Project Site.*

STAFF RESPONSE: A memorandum documenting the Designated Official's finding of compliance with the proposed phasing for The Villages and Lawson Hills Phase 2 was issued on June 13, 2014. See the discussion on required open spaces for a response to paragraph 2. The proposal complies with this section.

## Design Guidelines for Master Planned Development

### GENERAL PRINCIPLES AND SITE PLANNING

#### A. Environmentally Sustainable

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.*

STAFF RESPONSE: The Villages Water Conservation Plan was approved in the MPD and Condition of Approval No. 53 required it to be part of the DA. The plan has the goal of reducing water consumption by 23 gallons per day or 10 percent of the existing City use standard of 187 gallons per person, per day. Monitoring of water use is required on completion of each implementing project, and if the reduction is not achieved, a new mitigation plan would be drafted. The Villages Water Conservation Plan applies to Plat 2C as an implementing project. Since the methods to achieve the reduction would consist largely of water-saving fixtures, consistency will be met during review of the utility or building permits.

## 17.15, Subdivision Code [2009]

### 17.15.020 - APPROVAL CRITERIA. [AS APPLICABLE TO WATER SERVICE]

*A. The following criteria must be met to approve any subdivision. The criteria may be met by conditions.*

*3. The public use and interest is served by the establishment of the subdivision and dedication. In considering this criteria, it shall be determined if appropriate provisions are made for all relevant matters, including, but not limited to, the public health, safety and general welfare, open spaces, storm drainage ways, streets, alleys, other public ways, water supplies, sanitary wastes, parks, playgrounds, sites for schools and school grounds;*

STAFF RESPONSE: Appropriate provisions have been made for water supplies, including 750 and 850 lines in a looped system (detailed in the discussion in the introduction to this section). The City Public Works Director has confirmed that the City has adequate water supply for all of The Villages MPD. (Exhibit 35) The water distribution system in Plat 2C will be built by the applicant generally in accordance with the schematic plans on SSWA1-4 of the preliminary plat drawings (Exhibit 2). Preliminary city engineering and fire marshal review indicates that the proposed looped system, with dual water mains, will provide adequate residential and fire flow pressures and is capable of being constructed. The proposal meets this criterion for water supply.

*5. Applicable city development standards are met or exceeded;*

STAFF RESPONSE: The proposed subdivision has been reviewed for consistency with applicable water system standards by City Public Works and Fire Department staff and by the City's consulting engineer. It meets the Water System Comprehensive plan requirements for a looped system and for fire flow pressures. Title 17, Divisions of Land, criteria are addressed for each section, including in this section for water supplies under 17.15.020 (3), (5), (6), and (7). Title 18, Zoning (for Master Planned Development) requirements under 18.98.190, MPD standards—Water and sewer standards—are addressed subsequent to this review under Title 17. The Villages MPD Permit conditions of approval and the DA requirements were also addressed herein, above.

The proposal meets this criterion for compliance with applicable city development standards for water supply.

*6. All environmental impacts have been addressed consistent with the public health, safety and welfare and city goals and policies;*

STAFF RESPONSE: The SEPA MDNS and Adoption of Existing Environmental Document (Exhibit 5) was issued by the City on June 17, 2014. This document adopted by reference the FEIS for The Villages. The potential impacts to the City's water supply were disclosed in the FEIS for The Villages. They consisted mainly of assessing the impacts of future development on the ability of the existing and planned system to supply adequate water. The impacts of the alternatives was assessed against the completion of all planned improvements in the City's 2025 comprehensive plan and as indicated in agreements with the City of Tacoma. The FEIS stated that facilities built in accordance with the standards in Chapter 4 of the 2008 Comprehensive Water System Plan will ensure that development under the alternatives would be in compliance with applicable drinking water regulations and requirements. The Low Impact Development measures proposed by this applicant during the building permit review will help to

maintain potential groundwater sources. (page 3-40 of the FEIS) FEIS mitigation measures were to upgrade the Spring Supply source per the WSFFA, use the Tacoma Intertie, construct an 850 zone loop or storage facility, and construct supply and storage improvements in accordance with the City's Comprehensive Plan.

Mitigation identified in the FEIS as well as during the FEIS appeal and MPD Permit hearings was incorporated in the conditions of MPD Permit approval. Additional mitigation was incorporated into the DA. The applicable mitigation requirements incorporated as Villages MPD Permit conditions of approval and within DA have been met by the Plat 2C Preliminary Plat, or are incorporated as required mitigation in the MDNS.

In addition, the Plat 2C complies with applicable provisions in BDMC 19.10 and 19.30, which are addressed in Sections A, C, H, and I.

*7. Concurrency exists for all utilities and transportation system improvements prior to occupancy of any structures;*

STAFF RESPONSE: The City's interpretation of state concurrency regulations is as follows: "concurrency" means that adequate public facilities or services are available when the impacts of development occur and "available public facilities" means that the facilities or services are in place (or that a financial commitment is in place) to provide the facilities or services within a specified time.

Three essential elements of concurrency are: 1) constructability, 2) supply and/or capacity, and 3) timing for impacts. Appropriate provisions must be made for water supply. To make a determination of concurrency, the City is responsible for confirming:

- the constructability of water lines and other necessary infrastructure or improvements;
- the availability of sufficient water supply from the sources, storage capacity and fireflows;
- the available capacity of water treatment facilities; and
- that the water lines will be in place and operational when the first building permit applications for homes in the subdivision are submitted to the City for approval.

The preliminary plat for Plat 2C shows schematic design of a looped system that is required by the City's water standards. It also provides water lines in the streets necessary to serve all of the lots with lateral connections. Improvements will be needed to the chlorine treatment facility prior to any building permits being issued and a temporary lift station will also be needed after 561 units have received permits. With respect to constructability, the City's consulting civil and transportation engineers and the public works director reviewed the proposal's schematic plans and technical reports and found no topographic or engineering constraints that would prevent the proposed water system from being designed to meet the City's standards in the BDEDCS and The Villages DA. Therefore, for the purposes of preliminary plat approval, those facilities are constructible.

With respect to adequate capacity, the City of Black Diamond currently provides Water Investigation Certificates to developers who inquire about water availability. A specific provision of the GMA regarding water availability was codified in RCW 19.27.097(1) of the state Building Code Act. Each applicant for a building permit of a building necessitating potable water shall provide evidence of an adequate water supply for the intended use of the building. Evidence may be in the form of a water right permit, a letter from an approved water purveyor, or another form sufficient to verify the existence of an adequate water supply. The City uses the Certificate format that supports a

documentation and tracking program on capacity and current water usage. The Water System Comprehensive Plan determined that storage, pumping and treatment capacity is sufficient to provide flow requirements by use (Table 4.18) of 1,000 to 3,500 gpm for low density use and school/industrial uses, respectively. Peak hour demands met the Department of Health system-wide standard in 2007.

The City provided evidence in a memorandum (Exhibit 35) that, with conditions, there is sufficient source supply from the Spring Field and from the Tacoma Intertie for total build-out of the MPD and flows in the area of Plat 2C would be able to meet the demand and standards for fireflow pressure and volume. Improvements will be needed to the chlorine treatment facility prior to any building permits being issued and a temporary lift station will also be needed after 561 units have received permits. Those improvements will be conditions of approval prior to final plat approval (#58), whether constructed by the City or the applicant, or jointly by both.

Timing has been a topic of discussion with the applicant because the preliminary plat shows connections to utilities and roads in Phase 1A but there is no condition on the Phase 1A preliminary plat with respect to timing. The applicant has put a general note on the Preliminary Plat (Sheet No. CV4) that the water, sewer, and stormwater systems necessary to serve the plat must be completed or bonded to be completed prior to final plat approval. The phasing plan in Exhibit "K" of the DA recognizes that development is tiered on previous, approved phases. Notwithstanding the phasing plan of The Villages MPD, the applicant must demonstrate that the facilities necessary to serve the lots in Plat 2C will be available at the time the building permit applications are submitted for homes in Plat 2C.

Consequently, staff foresees that timely provision of water supply for Plat 2C could occur under one of two scenarios. The first scenario depends on the completion and operation of utilities in Phase 1A to connect lines in Plat 2C to the City's existing water system. Phase 1A water mains in the future Willow Avenue SE are shown on the Phase 1A preliminary plat as stubbed to Road A of Plat 2C to provide a connection to the existing lines in Roberts Drive. The second scenario would occur if Phase 1A facilities are not in place to allow a connection with Plat 2C development at the final plat stage. The applicant has recorded a temporary access and utility easement (Exhibit 44) over Phase 1A and in that case, the Master Developer would construct utilities for water, sewer and roads between Plat 2C, across Phase 1A, to existing City utilities and Roberts Drive. The City recommends condition of approval #1 and #58 requiring the future public water distribution facilities in Willow Avenue SE to Plat 2C be constructed and operational, or else bonded for completion, prior to final plat approval.

The City maintains that there must be substantial evidence in the record to show that there will be sufficient water facilities at the final plat stage. There is evidence that the facilities to connect Plat 2C to the existing network can and will be provided by the final plat approval stage, as follows:

- The applicant has provided a narrative and schematic plans showing how water facilities serve the proposed subdivision and residential lots within it.
- Adequate capacity is provided by the connecting water lines in Phase 1A and in existing City infrastructure.
- Construction permits for Phase 1A have been issued.
- The City's consulting engineer has reviewed the schematic plans and found no topographic or engineering constraints that would prevent the proposed water lines from being designed to meet the City's standards.
- The temporary access and utility easement recorded on October 31, 2014 (Exhibit 44) will allow for construction of utility connections between existing City facilities at Roberts Drive and Plat 2C.

- Recommended plat condition of approval requiring completion of water supply to Plat 2C, or be bonded for completion, at final plat. (Condition of approval #1)

Staff finds that concurrency exists for the needed water supply and distribution.

*11. Appropriate provision has been made for the dedication of land to any public body, and provision of public improvements has been made as necessary to serve the subdivision. This shall include appropriate provision for payment of any impact fees imposed in accordance with the provisions of RCW 82.02.050 through 82.02.090, and applicable city codes and regulations. Dedications shall clearly be shown on the final plat;*

The applicant has made appropriate provision for the dedication of rights-of-way and conservation tracts to the City that will contain public facilities and utilities, including water lines. The DA and BDEDCS require that public improvements are constructed to the City's standards before they can and will be accepted by the City through dedication. The City's consulting engineer has reviewed the schematic plans and found no topographic or engineering constraints that would prevent the proposed system from being designed to meet the City's standards (Exhibit 45).

No water capital facility charges will be imposed by the city on the Master Developer, in accordance with provisions in the DA, Section 4.10, Developer Improvements. Section 4.10 asserts that The Villages MPD design and mitigation measures described in the Agreement, the MPD Permit Approval and its conditions of approval mitigate any probable significant adverse environmental impacts directly identified as a consequence of the MPD Permit approval and the agreement. In addition:

"[...] some elements of the MPD Permit Approval and mitigation measures include provisions relating to system improvements identified in the City's Comprehensive Plan (Exhibit "E"), for which the City might adopt impact fees under RCW 82.02.050 *et seq.* As designed and with full implementation of all the mitigation measures, The Villages MPD build-out will fully and adequately mitigate the probable significant adverse environmental impacts of The Villages MPD and, that through such mitigation measures, provisions will be made for: (i) the facilities needed to serve new growth as a result of The Villages MPD within the City and (ii) the Master Developer to construct or pay a proportionate share of the cost of completing certain system improvements. Unless otherwise provided elsewhere in this Agreement or in the MPD Permit Approval, the mitigation measures listed this Agreement and in Exhibit "C" are in lieu of the payment of any impact fees that the City has the authority to impose pursuant to RCW 82.02.050 *et seq.*, including any amendments thereto, such that no impact fees shall be imposed on any Implementing Project during the term of this Agreement except for those impact fees explicitly allowed in this Agreement." (page 21)

The application meets this criterion.

#### 19.04, SEPA Ordinance [2009]

The FEIS for The Villages notes that with planned upgrades in the City's 2008 Comprehensive Water System Plan that sufficient capacity will exist to provide potable water to future proposed development. The mitigation measures include upgrading the Springs supply source, using Tacoma Intertie, construction of the 850 zone loop or storage, 750 zone loop, and improvements in the City's Comprehensive Plan.

The applicant's SEPA checklist cites Section 7.2 of the DA as evidence of water availability. No impacts are expected and no mitigation needed.

Comment: The Covington Water District wrote on August 5, 2014 (Exhibit 11 that any work related to water transmission lines must be approved by Department of Health prior to construction and that utility service to a portion of the Villages development have not been resolved.

## G. Schools

### Black Diamond Comprehensive Plan

*CF-11: Work with the school districts serving the City to identify new school sites within City limits and encourage school districts to acquire those sites at the earliest possible time.*

STAFF RESPONSE: The applicant coordinated with the school district in development of the Comprehensive School Mitigation Agreement. No schools are planned for Plat 2C because appropriate school sites were identified for Phase 1A. The proposal is consistent with this policy.

### The Villages MPD Permit Conditions of Approval (2010)

#### PUBLIC SERVICES – SCHOOLS

*98. The Applicant shall enter into a separate school mitigation agreement, with substantially the same key terms as the agreement in the record as Exhibit 6, so long as such agreement is approved by the City and the Enumclaw School District which approval provides adequate mitigation of impacts to school facilities. If approved, such agreement shall be incorporated into the Development Agreement by reference. Alternatively, school mitigation may be addressed in the Development Agreement, using terms similar to those contained in Exhibit 6, or through a combination of (1) school impact fees under a City-wide school impact fee program for new development or a voluntary mitigation fees agreement and (2) the dedication of land for school facilities (subject to credit under State impact fee laws). The agreed number of school sites and associated minimum acreage, both as set forth in Exhibit 6, shall be used to guide any school mitigation alternative. To the extent reasonable and practical, elementary schools shall be located within a half-mile walk of residential areas. All school sites shall be located either within the MPDs or within one mile of the MPDs.*

*99. 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.*

STAFF RESPONSE: No school-related facilities are proposed as part of Plat 2C. These conditions do not apply at the preliminary plat stage.

### The Villages Development Agreement (2011)

#### 13.3 SCHOOLS

*Pursuant to Condition of Approval No. 98 of the MPD Permit Approval, school mitigation is accomplished through the Comprehensive School Mitigation Agreement, dated January 24, 2011, between the City of Black Diamond, the Enumclaw School District and the Master Developer, and approved by Black Diamond Resolution No. 11-727 ("School Agreement"). [...]*

STAFF RESPONSE: No schools are proposed for Plat 2C. This condition does not apply.

## Design Guidelines for Master Planned Development

### GENERAL PRINCIPLES AND SITE PLANNING

3. *Methodology for Planning Development in clusters.*
- c. *streets and public spaces (as well as sites for public facilities such as schools, fire stations and other civic structures) shall be identified;*

STAFF RESPONSE: Plat 2C plans a cluster of residences surrounded by conserved wetlands and buffers (although no TDRs are proposed to be used for this subphase of Phase 2). Streets, parks and open spaces are illustrated on Sheet PP5, Overall Site Plan, meeting the guideline in (c). No other public facilities are proposed in Plat 2C. Sites for schools were identified in Phase 1A to support future growth in The Villages. The proposal meets this guideline.

### 17.15, Subdivision Code [2009]

#### 17.15.020 - APPROVAL CRITERIA. [AS APPLICABLE TO SCHOOLS]

- A. *The following criteria must be met to approve any subdivision. The criteria may be met by conditions.*
3. *The public use and interest is served by the establishment of the subdivision and dedication. In considering this criteria, it shall be determined if appropriate provisions are made for all relevant matters, including, but not limited to, the public health, safety and general welfare, open spaces, storm drainage ways, streets, alleys, other public ways, water supplies, sanitary wastes, parks, playgrounds, sites for schools and school grounds;*

STAFF RESPONSE: Development of a school site on Plat 2C is not proposed or appropriate for the site. The preliminary plat for Plat 2C represents only 4.3% of the total number of allowed dwelling units in The Villages. The Comprehensive School Mitigation Agreement directs the City and the Master Developer to provide a specific number of school sites based on number of students of each type of school, per dwelling unit. The minimum site size for a school is 10 acres for elementary schools. If a 10-acre site were dedicated for an elementary school for 450 students, there would be only approximately 47 students within Plat 2C with 39 acres of developable land (assuming .401 students per dwelling). Since Plat 2C is somewhat isolated from the rest of the more intensive and imminent residential development for the time being, it would make more sense for students to attend schools at the sites identified in Phase 1A. The criterion is met.

### 19.04, SEPA Ordinance [2009]

The checklist submitted with the application addresses schools in part 15b. It cites the elementary school site provided in Phase 1A to the west as the mitigation required for impacts to the demand for schools likely created by the project.

## The Comprehensive School Mitigation Agreement

Comments on schools were submitted following publication of the Hearing Notice. The major point of the commenter's submittal (Exhibit 5a – 5k) appears to be the timing of conveyance or legal

establishment of a separate lot for the first elementary school. Staff notes that the approval of the preliminary plat for Phase 1A includes a future school site on Division 1L. Plat 2C does not propose a school site nor is one needed in this plat.

## H. Parks, Recreation, and Open Space

The applicant proposes just over 98 acres of open space on 20 separate tracts (Sheet CV4 of the Preliminary Plat Plan Set, Exhibit 2). The DA requires that Parcel 'E' provide 75.58 acres of open space (page 75).

All of the open space tracts will be privately owned and maintained, either by the Master Developer or a future Homeowners' Association as shown on Sheet CV4. The tracts are designated on the plat for a number of different, combined uses, including utilities, landscaping, park, public access and sensitive area. Three tracts totaling 2 acres are to be designated as a pocket park (tract 921) and two "common greens" (tracts 909 and 911). The remaining 6 tracts are proposed primarily as part of the pedestrian access and trail system. In addition to the two acres of parks, a trail is proposed around the residential area and at the outside western edge of the E1 wetland buffer. The applicant is not required to provide any details about how or when the parks and trail will be developed. The parks and open space are expected to be implemented in accordance with the DA, which requires that:

*Parks within each Phase of The Villages MPD shall be constructed or bonded prior to occupancy, final site plan or final plat approval of any portion of the Phase, whichever occurs first, to the extent necessary to meet park level of service standards for the Implementing Approval or Project...Parks must be completed when Certificates of Occupancy or final inspection has been issued for 60% of the Dwellings Units located within ¼ mile of a given Park in any Phase. (DA, Section 9.2, page 77).*

The City's Parks, Recreation and Open Space Plan (December 23, 2008) contains park level of service (LOS) standards on page 9. There is no City level of service for pocket parks. "Common greens" are not defined in the City's Parks and Recreation Plan, but tract 909 (.54 acres) could fit the size parameter for a neighborhood park, which is one acre or less. Tracts 911 and 921 are less than a half-acre each, so they fit the size parameter for a pocket park. Section 9.5.1 of the DA requires that all dwelling units have access to and be no further than ¼ mile from a park. The applicant did not provide any distance information consistent with this standard. The DA also allows another method of demonstrating that an implementing project meets the standard, which is based on square feet of park per dwelling unit. The DA requires that if not all proposed dwelling units are within ¼ mile of an existing or planned park, then the implementing project (the preliminary plat) must include a new park at a rate of 100 square feet per dwelling unit. With 203 units proposed, 20,300 square feet of park must be provided. Parks must be greater than 1,500 square feet. Tracts 909, 911 and 921 total 57,338 square feet and are each larger than 1,500 square feet. Therefore, the minimum total amount of park land and minimum individual size standards are met.

The preliminary plat, Sheet CV4 proposes ownership and maintenance of all open space tracts including the buffers and wetlands by the HOA, except that maintenance on tract 916 (with a stormwater feature) is proposed to be the responsibility of the Master Developer

Figure 9.2, Park and Trail Plan, of the DA indicates a park near the south end of parcels V28 and V29. A trail is shown looping around the subdivision, between the open space and residential lots and connecting the park. The Park and Trail Plan corresponds to the parks areas on the MPD Site Plan, both the version in the MPD and "Exhibit U" of the DA.

The November 2013 version of Plat 2C does not provide a park consistent with the location and size indicated on Figure 9.2, Park and Trail Plan. Sheet CV4 of the Plat 2C preliminary plat shows tract 906 at approximately the location of the MPD Site Plan's park. The Open Space Tract Table on Sheet CV4 lists proposed uses for the Plat 2C tracts. The applicant designated tract 906 for future development and utilities (FD/UT, not for a park, June 2014 preliminary plat, Exhibit 2). Subsequently, on October 9, 2014, the applicant submitted a revised schematic drawing showing tract 906 as a park (Exhibit 2a and 43) and confirmed in an email message on October 13, 2014 that the intent is to develop tract 906 into a park (Exhibit 46). On November 21, 2014, the applicant submitted revised plat drawings. Sheet CV4 shows tract 906 as a Community Park designated UT/PA/AC/PK/LA.

The designation of the community park addresses a deficit of community parks in Black Diamond overall, based on the City's Parks, Recreation and Open Space Plan dated December 18, 2008. Community Parks in the City's parks plan must be 1 to 5 acres. Tract 906 is 1.35 acres (58,645 square feet). Tract 906 would meet the standard for a Community Park. This revision to the preliminary plat creates consistency with The Villages Site Plan (Exhibit "U" of the DA), and provides a location for some of the active recreation features that will be required. C

## Black Diamond Comprehensive Plan

*Policy CF-7: Repairing deficiencies and maintaining the existing park and recreation facilities should be a top priority.*

STAFF RESPONSE: The applicant proposes park and recreation facilities with Plat 2C, as described in the Parks and Recreation section.. Similar to infrastructure improvements, there is a threshold-based schedule for the applicant to construct active recreation facilities. Plat 2C exceeds the DA's minimum standards for overall open space (Section 9.1) and for parks within implementing projects (Section 9.5.1). However, pursuant to the Parks, Recreation and Open Space Plan, there is a deficiency of community parks within all of The Villages implementing projects to date, which was not addressed specifically in the DA. There was a "community park" identified in the MPD Permit Application in the area of tract 906 on the Plat 2C plat. The applicant's submittal did not show tract 906 as a designated community park, but the applicant's revised schematic design submitted on October 9, 2014 showed a park on tract 906. In addition, the applicant agreed in an email message of October 13, 2014, to designate park use on tract 906. The deficit and change in the use of tract 906 is discussed in more detail under Sections 9.2 and 9.5, below. (Exhibit 46)

## The Villages MPD Permit Conditions of Approval (2010)

### PUBLIC SERVICES – PARKS AND RECREATION

*88. 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.*

STAFF RESPONSE: No school sites are part of Plat 2C. This condition does not apply.

*89. The details of the park and recreation facilities to serve the new demand from the MPD shall be set in the required Development Agreement, including whether such facilities may be constructed on- or off-site.*

*90. The cost of such facilities, including a proportionate share of facilities not fully warranted by the MPD build out, could be provided by payment of fees.*

STAFF RESPONSE: These conditions apply to the DA and are implemented in Sections 9.5.2, and 9.5.5. No further action is required by the applicant with respect to Plat 2C.

*91. 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*

STAFF RESPONSE: This condition is addressed in Section 9.5.3 (Recreation and Useable Open Space Standards) of the DA; no further action is required as part of the Plat 2C preliminary plat.

*92. The details regarding the timing of construction and optional off-site construction or payment of fee in lieu of construction included in Table 5.2 of the MPD application (Recreation Facilities) shall be specified in the Development Agreement.*

STAFF RESPONSE: This condition applies to the DA and is implemented in Section 9.2. No further action is required by the applicant with respect to the Plat 2C preliminary plat.

*93. Dependent 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.*

STAFF RESPONSE: This condition is addressed in Section 9.5.3 but does not apply at the preliminary plat stage of approval.

*94. The Development Agreement shall include language authorizing public access to parks and trails facilities.*

STAFF RESPONSE: This condition applies to the DA and not to Plat 2C.

95. *As proposed in the Master Plan Application, on-site trails (i.e. on the site of the implementing project) shall be constructed or bonded prior to occupancy, final site plan or final plat approval, whichever occurs first. Off-site trail connections shall meet the same standard to the extent authorized by law.*

STAFF RESPONSE: Plat 2C condition of approval #67 will ensure compliance with this condition.

96. *Parks within each phase of development shall be constructed or bonded prior to occupancy, final site plan or final plat approval of any portion of the phase, whichever occurs first, to the extent necessary to meet park level of service standards for the implementing project.*

STAFF RESPONSE: The drawings for Plat 2C submitted in November 2013 (Exhibit 2) showed three tracts for parks: 909, 911, and 921. The revised Plat 2C (Exhibit 2a) added tract 906 for a total of four tracts for park use as follows:

<u>Tract #</u>	<u>Proposed Uses</u>	<u>Type</u>	<u>Size</u>	<u>Legend:</u>
Tract 906	UT/PA/PK	Community Park	1.35 acres	LA = landscaping
Tract 909	UT/PA/PK/LA	Common Green	0.54 acres	UT = utilities
Tract 911	UT/PA/PK/LA	Common Green	0.35 acres	PA = public access
Tract 921	UT/PA/PK	Pocket Park	0.41 acres	PK = park

Section 9.5.1 of the DA requires that all dwelling units have access to and be no further than ¼ mile from an existing or planned park. An alternative method for establishing compliance with the level of service required by Section 9.5.1 is to provide parks equal to 100 square feet per proposed dwelling unit, with no parks less than 1500 square feet to qualify for meeting the standards.

All lots within Plat 2C appear to be within ¼ mile of although no measurements have been provided. However, the four parks tracts 906, 909, 911 and 921 total 115,983 square feet and all are larger than 1,500 square feet. With 203 units proposed, 20,300 square feet of park must be provided. Therefore, Plat 2C meets the level of service standard in the DA. Plat 2C condition of approval #65 will ensure compliance with the timing requirement.

97. *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.*

STAFF RESPONSE: This condition applies to the DA and not to Plat 2C. It is implemented in Section 9.10 of the DA.

# The Villages Development Agreement (2011)

## 9.0 PARKS, OPEN SPACE AND TRAIL STANDARDS

### 9.1 OVERALL OPEN SPACE REQUIREMENT

*Pursuant to BDMC 18.98.140 (Exhibit "E") and the MPD Permit Approval, The Villages MPD is required to provide at least 481.4 acres of Open Space. The Black Diamond Urban Growth Area Agreement between King County, the City, Palmer Coking Coal Company, and Plum Creek Timber Company dated December 31, 1996 ("BDUGAA") requires 145 acres of Open Space on those Development Parcels subject to the BDUGAA. The Master Developer shall provide the additional, approximate 336.4 acres for those properties not subject to the BDUGAA within the Project Site. Open Space meeting these requirements is shown on the MPD Site Plan (Exhibit "U") and in the following table.*

STAFF RESPONSE: Table 9-1 contains the open space requirements for The Villages overall, taking into account prior agreements for the Black Diamond urban growth area (UGA). It shows that Parcel E, (which larger than, but includes, Plat 2C) requires 75.58 acres of open space. The preliminary plat for Plat 2C proposes approximately 95 acres of open space. The standard is met.

### 9.2 PARK AND OPEN SPACE PLAN

*The approximate location and type of Parks to be provided by the Master Developer are shown on the Park and Trail Plan (Figure 9.2) above. The Master Developer shall design and construct the Parks shown on the Parks and Trail Plan (Figure 9.2). The actual location and boundaries of Parks may vary (provided that the minimum Open Space requirement is met) and will be defined through Implementing Approvals and Projects (for example, adjacent subdivision or site plan). Parks within each Phase of The Villages MPD shall be constructed or bonded prior to occupancy, final site plan or final plat approval of any portion of the Phase, whichever occurs first, to the extent necessary to meet park level of service standards for the Implementing Approval or Project. [...] Parks must be completed when Certificates of Occupancy or final inspection has been issued for 60% of the Dwellings Units located within ¼ mile of a given Park in any Phase. Recreation facilities shall be constructed as required by Table 9-5. The Master Developer may elect to build Parks in advance of the triggers set forth in this subsection. To assure that the Parks are properly assigned for purposes of ownership and maintenance, any Implementing Project that includes within its boundaries or abuts at least 25% of the border of a Park shall include that entire Park within its boundaries, so that ownership and maintenance will be determined by the Designated Official as part of the Implementing Approval*

STAFF RESPONSE: Plat 2C in Exhibit 2 exceeds the minimum "overall open space requirement" of DA Section 9.1 in Table 9-1 by about 20 acres. Table 9-1 requires 75 acres on Parcel 'E', of which the area covered by Plat 2C is just a portion. Plat 2C provides about 98 acres of open space.

Figure 9.2, Park and Trail Plan, of the DA indicates a park near the south end of parcels V28 and V29. A trail is shown looping around the subdivision, between the open space and residential lots and connecting the park. The Park and Trail Plan corresponds to the parks areas on the MPD Site Plan, both the version in the MPD and "Exhibit U" of the DA. The revised plat plan in Exhibit 48 shows tract 906 as a community park, which is consistent with Figure 9.2.

To ensure that the parks are bonded or constructed at the required time, the City will impose a condition on the plat approval to that effect. (#65 and #66)

With conditions, the proposed Plat 2C would meet the provisions of Section 9.2.

## 9.5 RECREATION AND USEABLE OPEN SPACE STANDARDS

*All Implementing Projects must comply with the City's Parks, Recreation and Open Space Plan dated December 18, 2008 (Exhibit "E") as well as the standards and guidelines imposed in this Agreement.*

STAFF RESPONSE: The applicant has not provided any data demonstrating consistency with the City's Parks, Recreation and Open Space Plan dated December 18, 2008 (Exhibit "E"). The 2008 Parks, Recreation and Open Space Plan contains goals, policies and objectives that can be summarized as calling for a variety of recreation uses, financially sustainable parks, and balancing recreation with lower impacts on the natural environment. Staff finds that the proposed park tracts combined with the proposed soft-surface trail and ownership and maintenance responsibilities by the Master Developer or homeowners' association meet those goals and objectives.

For background, Chapter 14 of the MPD defines park types and open space. The MPD also defines facilities but slightly differently. Both sets of definitions are provided below where applicable.

Common Green – In the MPD, this means a shared front lawn for the surrounding homes on the block, although its intended features and uses may vary.

Open Space – In the City parks plan, these are undeveloped areas or areas with limited development intended to preserve natural areas within the City for environmental, health, and/or aesthetic reasons. In the MPD, Open Space means all areas shown as sensitive areas, Open Space, Trails or Parks on the MPD Site Plan, Exhibit "U", and any land subsequently designated as Park, Open Space, or aesthetic stormwater pond through an Implementing Approval.

Community Park– In the City parks plan, community parks are 1 to 5 acres and provide active recreation facilities for the broader community. In the MPD, they are 1 acre or greater in size and are recreational destinations that serve community-wide needs. Both documents cite recreational uses such as basketball, volleyball, tennis, playgrounds and informal play fields.

Neighborhood Park- In the City parks plan, these parks are small pedestrian-oriented parks, one acre or smaller, that serve residents of the immediate, usually residential area. They include play areas, basketball courts, community gardens and/or open areas.

Pocket Park– In the City parks plan, these parks are small pedestrian-oriented parks, one-half acre or smaller, that provide greenery and open space in higher-density developed areas. They include play equipment, community gardens, historical/information markers, landscaping, seating and public art. In the MPD they are one-half acre (0.5) or less in size and serve the informal needs of the immediately adjacent residents. They provide very small intimate gathering places and include tot-lots, seating areas or simply small gathering places for children to play. Pocket parks are located and sized to fit the unique characteristics of the neighborhood design.

The relevant LOS standards (page 9 of the City's 2008 plan) are as follows:

- 90% of population within 1.5 miles of a community park
- 75% of population within 0.5 miles of a neighborhood park
- 75% of population within 0.5 miles of a trail

The level of service for community parks requires that 90% of the population be within 1.5 miles of one. In 2008, according to the parks plan, only 52% of the population was within 1.5 miles of a community park.

Two community parks were proposed in The Villages MPD Site Plan, one of which is referenced as the Black Diamond Community Park in the general location of tract 906. Exhibit "U" shows a park in the same location but does not identify types of parks. Contrary to the statement in the DA that Figure 9.2 shows the types of parks, the park shown on Figure 9.2 in the area of tract 906 is not categorized. It is shown only as a park.

Staff concludes that the preliminary plat submitted with the application proposes a park in Plat 2C that helps to redress the deficit of Community Park level of service in the 2009 Parks, Recreation and Open Space Plan. With conditions, staff finds that the proposal meets the standards and requirements of this section.

#### 9.5.1

*All Dwelling Units shall have access to and be located within ¼ mile walking distance of a Park. If an existing or planned Park is not accessible and is not located within ¼ mile (walking distance) of a proposed Implementing Project, then the Implementing Project shall include a new Park at a rate of 100 square feet per Dwelling Unit to be served by the Park. Parks must be at least 1,500 square feet in size to be counted against The Villages MPD's Park requirements.*

STAFF RESPONSE: As noted in the response to Section 9.2, tracts 906, 909, 911, and 921 are shown on the preliminary plat for Plat 2C as park use and are over 1,500 square feet. The submitted plat meets the standard for providing parks at a level of service of 100 square feet per dwelling unit (20,300 square feet needed) and parks that are at least 1,500 square feet in size (906=58,645,sf 909=23,522 sf; 911=15,246 sf; and 921=17,860 sf).

#### 9.5.2

*Unless otherwise noted on Table 9-5, Recreational Facilities constructed by the Master Developer, may be located: (1) within The Villages MPD in Community Parks, community center or Neighborhood Parks; (2) on joint use school sites (if agreed to by the City and School District as provided in the School Agreement); (3) within off-site Regional Parks (subject to City agreement); or (4) on a mutually acceptable off-site location. The Recreational Facilities may be provided in combination with one another and other informal space or each facility may be provided as a standalone amenity. Pursuant to Condition of Approval No. 88 of the MPD Permit Approval, if a joint use facility is proposed on a school site or on an alternative site consistent with the School Agreement, the Master Developer shall provide for one or more youth/adult softball fields, soccer fields, tennis courts or basketball courts in such joint use facility.*

STAFF RESPONSE: Table 9-5 requires that a number of active recreation facilities be built as certain thresholds for residential construction occur. The first trigger for development is 800 dwelling units. The approval of Preliminary Plat for Phase 1A did not trigger any requirements for recreation facilities in

Table 9-5 because the 782 dwelling units did not meet the 800<sup>th</sup> Dwelling Unit threshold for provision of a basketball court, soccer field, tennis court, and baseball or softball field. If approved, the 203 units in Plat 2C, combined with lots in Phase 1A (985 units in total) could potentially result in construction of the 800th dwelling unit that will meet the first threshold for constructing the recreation facilities. Therefore, condition of approval #67 for Plat 2C will be that no certificate of occupancy for the 800th dwelling unit on any Phase will be issued until the required recreation facilities in Table 9-5 are constructed.

### 9.5.3

*The Master Developer shall have the option to request that the Designated Official accept a lump sum payment in lieu of constructing any of the individual Recreational Facilities in Table 9-5. The request shall be made prior to triggering the need for the next Recreation Facility. Pursuant to Condition of Approval No. 93 of the MPD Permit Approval, the Designated Official retains sole discretion to determine when and if a lump sum payment will be accepted in lieu of the Master Developer constructing a Recreational Facility. The Designated Official's determination shall be based on the following three criteria: (i) availability of land; (ii) adequacy of funds to construct City-approved recreational facilities; and (iii) City's ability to maintain recreational facilities. Pursuant to Condition of Approval No. 91 of the MPD Permit Approval, the amount of the payment that may be provided in lieu of construction shall be set through the following process:*

STAFF RESPONSE: The applicant has not requested that the City accept a lump sum payment in lieu of providing parks.

## 9.3 SENSITIVE AREAS AND BUFFERS

*All sensitive areas and buffers will be protected consistent with the Sensitive Areas Ordinance and as further described in this Agreement. Trails, crossings and encroachments may be allowed within sensitive areas and buffers, if such placement is consistent with the Sensitive Areas Ordinance and appropriate mitigation identified therein.*

STAFF RESPONSE: The applicant has proposed that wetlands and buffers be protected with fencing and signage. The trail would cross some parts of the outer edge of the buffers. Compliance of the proposal with the Sensitive Areas Ordinance (BDMC 19.10) is addressed in a subsequent section of this staff report, below.

## 9.6 TRAIL PLAN

*The approximate location and type of trails are shown on the Park and Trail Plan (Figure 9.2). The Master Developer is responsible for the design and construction of the trails shown on the Park and Trail Plan (Figure 9.2). The actual location of trails may vary and will be defined through Implementing Approvals and Projects (for example, adjacent subdivision or site plan). The trail system should be designed to minimize trail locations within sensitive area buffers. Any construction within sensitive areas shall be mitigated in accordance with the City's Sensitive Areas Ordinance. Where feasible, trail design and trail construction should avoid dead ends and incomplete segments.*

*Pursuant to Condition of Approval No. 95 of the MPD Permit Approval, any trail construction necessary to complete the Park and Trail Plan (Figure 9.2) shall be done on an Implementing Project by Implementing Project basis. If any Implementing Project contains a trail segment shown on the Park and Trail Plan (Figure 9.2), then such trail segment shall be designed and constructed up to the boundaries of*

*such Implementing Project. Thus, trails on the Project Site 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 the Implementing Project within which the particular trail segment is to be built. The construction of trails located outside of the Project Site that are necessary to achieve connectivity may be required by the City prior to the issuance of a certificate of occupancy, final plat approval, or final site plan approval for an Implementing Project to the extent authorized by law. The Master Developer may elect to build trails in advance of the triggers described herein.*

STAFF RESPONSE: A trail is proposed around the subdivision, generally between the rear boundary of the single family lots and the outer edge of the wetland buffers. It is shown as constructed up to the boundaries of Plat 2C. This trail is consistent with the trail connection shown on the Park and Trail Plan, Figure 9.2. A number of internal connections are proposed by the applicant as well. The applicant will be designing the details of the trail section and its specific location in the clearing and grading as well as utility permits. Condition of approval #66 would require the trail to be constructed in accordance with the timing required by this section of the DA. The standards of this section will be met.

## 9.7 TRAIL STANDARDS

*The following criteria shall apply to the construction of trails set forth in this Agreement in addition to, and consistent with, the trail standards set forth in BDMC and Black Diamond Engineering Design and Construction Standards (Exhibit "E"):*

### 9.7.1 Trails shall be built to the standards set forth below.

#### *A. Hiking trail standards*

##### *i. Clearing height – 8 feet*

##### *ii. Clearing width – 4-6 feet (light use); 8-12 feet (heavy, two-way use)*

##### *iii. Surface – 2-3' wide natural surface with gravel or wood chips in wet areas (light use); 4-8' wide natural surface if possible, otherwise woodchips, gravel, or other suitable material (heavy use)*

### 9.7.2 Trails shall be designed to minimize construction impacts to wetlands, streams and their associated buffers.

### 9.7.3 The following amenities may be included within trail corridors subject to mutual agreement between the Master Developer and the Designated Official: rest stops, sculpture and other art, pedestrian lighting, exercise stations, picnic tables, barbeque grills, interpretive areas, Pocket Parks/tot lots, drinking fountains, restrooms, and covered sheds, and other similar amenities.

STAFF RESPONSE: Only schematic locations for the trails have been provided with the drawings for Plat 2C. The applicant will be designing the details of the trail section and its specific location in the utility permit stage. Condition of approval #68 will ensure that the designs meet the standards.

## 9.9 OWNERSHIP AND MAINTENANCE

### 9.9.1 Environmentally Sensitive Areas and Buffers

*Pursuant to Condition of Approval No. 153 of the MPD Permit Approval, ownership and maintenance of sensitive areas and buffers shall be consistent with the requirements of the Sensitive Area Ordinance, which allows sensitive area tracts to be held in undivided ownership by all lots within The Villages MPD,*

*dedicated to the City or other governmental entity, protected with conservation easements or conveyed to a non-profit land trust. If the Master Developer elects not to dedicate an Open Space to the City, a permanent public access easement or other means of access shall be provided to the Open Space as part of the Implementing Project. To assure that the sensitive areas and buffers are properly assigned for purposes of ownership and maintenance, any Implementing Project that includes within its boundaries or abuts at least 25% of the border of a sensitive area buffer shall include that entire sensitive area and buffer within its boundaries, so that ownership and maintenance will be determined by the Designated Official as part of the Implementing Approval.*

STAFF RESPONSE: The preliminary plat, Sheet CV4 proposes ownership and maintenance of all open space tracts including the buffers and wetlands by the HOA, except that maintenance on tract 916 (with a stormwater feature) is proposed to be the responsibility of the Master Developer. The applicant has submitted a Lot Line Adjustment ([LLA] PLN13-0026, Exhibit 16). The LLA request would revise parcel boundaries within Parcel E, the existing parcel that covers a major portion of Phase 2. The limits of the subdivision in Plat 2C borders more than 25% of wetlands E1, E7, E8, E10, TOS and 213, and approval of the LLA would draw the boundary of the new parcel to reflect the limits of wetland buffers that surround the residential lots in Preliminary Plat Phase 2 Plat C. This condition is met.

#### 9.9.2 Non-Sensitive Area Open Space

*All Neighborhood Parks, trails and Community Parks will be owned and maintained by the homeowners' association (HOA) or Master Developer pursuant to the provisions of Subsection 5.5.7 of this Agreement, except for any owned by the school district. Regional Parks may be dedicated to the City at the time of an Implementing Project.*

STAFF RESPONSE: To ensure implementation of this section, the plat will be conditioned (#2) to stipulate the responsibility for ownership and maintenance by either a homeowners' association or the Master Developer. With conditions, this standard is met.

#### 9.9.3 Public Access

*Pursuant to Condition of Approval No. 94 of the MPD Permit Approval, public access is authorized to all Parks and trails (whether public or private) unless otherwise determined by the Designated Official for reasons of public safety, welfare and convenience, or for maintenance reasons.*

STAFF RESPONSE: No restrictions of public access to all parks and trails in The Villages MPD is proposed. Preliminary Plat note #17 states that, "PERMANENT PUBLIC ACCESS EASEMENTS CONSISTENT WITH SECTION 9.9.3 OF THE VILLAGES MPD DEVELOPMENT AGREEMENT SHALL BE PROVIDED FOR ALL PARKS AND TRAILS ON THE FINAL PLAT." Recommended condition of approval #70 requires the face of the plat to contain provisions for public access on the privately-owned open space and park tracts. The condition is met.

## 11.7 PHASING OF DEVELOPMENT

*The sequencing of Implementing Projects, Implementing Approvals, construction completeness and City acceptance of facilities shall be confirmed by the Designated Official, who shall make a finding within each staff report for proposed preliminary plats or binding site plans within The Villages MPD whether required infrastructure and amenities have been scheduled to meet the demands of the future occupants of that specific plat or binding site plan.*

*Pursuant to Condition of Approval No. 153, the details of Open Space protection and dedication follow. Currently, portions of the Project Site are protected by recorded temporary conservation easements in favor of the City. Required Open Spaces shall be identified with each Implementing Project and conserved or conveyed to the City during the final plat process, site plan approval or engineering review. Once Open Space has been adequately conserved or dedicated for the Implementing Project, the City shall, within ten (10) business days, execute a partial release and reconveyance of the conservation easements created pursuant to the Open Space Agreement (as defined in Section 3 of this Agreement) as necessary for the remaining undeveloped lands of the Project Site.*

STAFF RESPONSE: A response to the first paragraph in 11.7 is addressed under the sections on stormwater, wastewater, water supply, and transportation sections. Required open spaces are addressed elsewhere.

## Design Guidelines for Master Planned Development

### GENERAL PRINCIPLES AND SITE PLANNING

#### B. Using Open Space as an Organizing Element

2. *Open spaces shall be linked into an overall non-motorized network through sidewalks, trails and parkways. The overall network shall be delineated at initial MPD approval and implanted through subsequent plats and permit approvals.*

This guideline applies to the TV MPD and implementing projects, and therefore applies to Plat 2C. Pedestrian access is identified as one of the primary uses for Tracts 902, 904, 909, 911, 913, 914, 921, 923, 924, and 925 on Sheet CV4 (Exhibit 2) in the plat drawing and in the Open Space Tract table. A soft-surface trail that is intended to implement the DA Figure 9.2—Park and Trail Plan—is also depicted on Sheet CV4. The soft surface trail, pedestrian access tract and sidewalks will ensure that the open spaces that surround the residential development will be connected. The proposal meets this guideline.

## 17.15, Subdivision Code [2009]

### 17.15.020 - APPROVAL CRITERIA.[AS APPLICABLE TO PARKS, RECREATION AND OPEN SPACE]

- A. *The following criteria must be met to approve any subdivision. The criteria may be met by conditions.*
3. *The public use and interest is served by the establishment of the subdivision and dedication. In considering this criteria, it shall be determined if appropriate provisions are made for all relevant matters, including, but not limited to, the public health, safety and general welfare, open spaces, storm drainage ways, streets, alleys, other public ways, water supplies, sanitary wastes, parks, playgrounds, sites for schools and school grounds;*

STAFF RESPONSE: Appropriate provisions have been made for open spaces. The preliminary plat for Plat 2C meets the minimum requirement of 75 acres of open space by providing 98 acres. The open space is shown as separate tracts on Sheet CV4. The preliminary plat of November 2013 was revised in November 2014 to show a park on tract 906. As a result, parks have been provided consistent with the requirements of the DA, Sections 9.1, 9.2, and 9.5 and with Figure 9.2 of the DA. The applicant proposes

on the preliminary plat that either the Master Developer or an HOA will own and maintain the open spaces, including parks. With conditions, this criterion is met.

*5. Applicable city development standards are met or exceeded;*

STAFF RESPONSE: The main development standards for parks and open space are in the DA, Chapter 9, and BDMC 19.10. The standards have been addressed in this section, above, and with conditions, the proposal meets the criterion.

*6. All environmental impacts have been addressed consistent with the public health, safety and welfare and city goals and policies;*

STAFF RESPONSE: Environmental impacts were addressed for The Villages MPD in the FEIS. Site specific environmental issues were addressed in the SEPA checklist for the project in Plat 2C.

#### 19.04, SEPA Ordinance [2009]

Environmental impacts were addressed for The Villages MPD in the FEIS. The FEIS notes that existing facilities do not meet the minimum level of service standards. Because of the necessity to have more specific site plan information, the FEIS states that decisions regarding park and recreation mitigation must be made at the time more specific information about the proposed development is available. The SEPA checklist for Plat 2C discloses in part 12, Recreation, (b) and (c), that a benefit of the development will be the displacement of unauthorized recreation, such all-terrain vehicle use and illegal discharging of firearms and hunting and the creation of new small parks and 95 acres of open space, though recreation will be limited in the wetland buffers.

## I. Tree Removal

The applicant's tree inventory (Exhibit 3m) estimates that the density of significant trees on the Plat 2C proposed developable area is 192 trees per acre. This does not include "non-significant species" as defined by BDMC. (Note: The Summary Table of the tree inventory shows the total as 193. It should be 192.)

### The Villages MPD Permit Conditions of Approval (2010)

*86. The Development Agreement shall include a narrative of the process and basis for selectively removing hazard trees within sensitive areas. The intent of this section will be to leave the majority of the sensitive areas as designated passive open space but to have it appear and function as native forest.*

STAFF RESPONSE: The applicant is not proposing removal of any hazardous trees as part of the application for preliminary plat approval. This condition does not apply.

*87. 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.*

STAFF RESPONSE: The applicant will remove trees as part of the site development process but is not proposing logging of trees for timber revenue as part of the application for preliminary plat approval. This condition does not apply.

## The Villages Development Agreement (2011)

### 13.2 FOREST PRACTICES

*Pursuant to Conditions of Approval Nos. 87 and 121 of the MPD Permit Approval, clearing and tree removal will be necessary and may only be proposed after an application for an Implementing Project is proposed, and preferably after Implementing Approval is issued, for a Development Parcel, or when grading is proposed on another Development Parcel in the vicinity of an Implementing Project to assure a balance of cut and fill for the proposed Implementing Project (as is required by Condition of Approval No. 110 in the MPD Permit Approval). [...] All tree removal shall be done in accordance with BDMC 19.30 (Exhibit "E"). In some cases, tree removal necessitated by an Implementing Project or the need to balance cut and fill may have result in enough timber value to result in timber revenue, and in those cases a separate Forest Practices Act approval will be required.*

STAFF RESPONSE: Tree removal will be necessary to implement Plat 2C. A tree permit and a clearing and grading permit will be needed prior to any tree removal and compliance with BDMC 19.30 will be assessed after the application for such permit is submitted by the applicant.

## Design Guidelines for Master Planned Development

### GENERAL PRINCIPLES AND SITE PLANNING

#### B. Using Open Space as an Organizing Element

- 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.*

STAFF RESPONSE: Plat 2C Preliminary Plat will primarily preserve trees within the wetlands and wetland buffers, because of the clustered pattern of development on parcels V28 and V29. Given the size of proposed lots and site grading requirements, it is not feasible to retain large stands of trees within the area proposed for construction. An estimated inventory of significant trees was conducted by American Forest Management, Inc. (Exhibit 3m). Parcels V28 and V29 were surveyed using sample plots to estimate the number of significant trees. Approximately 191 Douglas-fir trees and one Western Hemlock are expected to be found on the proposed disturbance area. The utility plans will be required to show which significant trees will be protected at the edges of the buffers and on the trail footprint where clearing will be adjacent. Condition of approval #39a requires a City representative to monitor the process of locating the alignment of the trail within the buffers to protect significant trees from removal. Consistency with the guideline can be maintained with implementation of the conditions of approval.

## 17.15, Subdivision Code [2009]

### 17.15.020 APPROVAL CRITERIA [AS IT PERTAINS TO TREE PRESERVATION]

*5. Applicable city development standards are met or exceeded;*

STAFF RESPONSE: The City's applicable development standards are in the Sensitive Area Ordinance and Tree Removal regulations in BDMC 19.10 and 19.30, respectively. The project's compliance with those standards have been evaluated in those sections for trees (below) and sensitive areas (above). With conditions, the proposal complies with this criterion.

*6. All environmental impacts have been addressed consistent with the public health, safety and welfare and city goals and policies;*

STAFF RESPONSE: Environmental impacts were evaluated in both the FEIS for The Villages and in the SEPA checklist. The FEIS section on vegetation and wildlife noted that removal of trees and other vegetation could potentially impact wetland hydrology and habitats (including use of area by elk) on the site, but that clustering of development to avoid wetlands and vegetated buffers would have the least impact. The proposal is consistent with this strategy. Mitigation for vegetation removal suggested replanting with species that provide forage for wildlife, with native species to supplement those in the buffers, and using BMPs for weed and disease control. The applicant's SEPA checklist states that the following mitigation measures will be used: root protection are shown on future clearing and grading plans, planting with trees and other shrubs and groundcovers. Preservation of the Core Complex of wetlands will continue to provide a corridor for wildlife. Staff recommend conditions of approval #35 to #47 for sensitive areas protection and #71 and #72 for tree preservation. With conditions, this criterion is satisfied.

*14. The proposed subdivision provides for tree preservation consistent with the provisions of chapter 19.30.*

STAFF RESPONSE: The provisions of BDMC 19.30.060 require a tree removal permit prior to the removal of significant trees. The applicant provided a preliminary inventory of tree density in Plat 2C, but did not identify individual trees to be removed. The applicant also provided the following general note on the preliminary plat, Sheet CV4:

*AREAS OUTSIDE OF SENSITIVE AREAS AND THEIR BUFFERS ARE ANTICIPATED TO BE CLEARED AND PROVISIONS MADE FOR COMPLIANCE WITH THE TREE ORDINANCE AS SPECIFIED IN EXHIBIT E OF THE VILLAGES MPD DEVELOPMENT AGREEMENT.*

The applicant is not applying for a tree removal permit with this preliminary plat application. The applicant will be required to obtain a tree removal permit prior to any clearing. BDMC 19.30.070 (E) exempts proposals from the tree replacement requirement if at least forty percent of the total site area is preserved as nondisturbed open space, critical areas and their associated buffers, or other areas subject to a conservation easement. The applicant has agreed to condition of approval #72 that, concurrent with submittal of utility permits for Plat 2C, they will submit a report with the exact number of significant trees to be removed, and identify mitigation per BDMC 19.30.070 (e.g., planting of replacement trees or payment to the City tree mitigation fund). The proposal meets the criterion.

## 19.04, SEPA Ordinance [2009]

Environmental impacts were addressed for The Villages MPD in the FEIS, as noted in the response to 17.15.6, above. The FEIS section on vegetation and wildlife noted that removal of trees and other vegetation could potentially impact wetland hydrology and habitats (including use of area by elk). Mitigation for vegetation removal suggested replanting with species that provide forage for wildlife, with native species to supplement those in the buffers, and using BMPs for weed and disease control.

The SEPA checklist for Plat 2C notes in part 4(b), Plants, that all vegetation within the residential portion of the site would be removed. To preserve or enhance vegetation, the applicant proposes to comply with the City's Tree Ordinance, install landscaping in open spaces (except wetlands and buffers) and street trees. The City issued an MDNS, determining that no significant environmental impacts are likely to occur as long as mitigation measures are implemented.

Comments: Mr. Gil Bortleson wrote that the sample-based tree inventory was insufficient and an actual survey of the entire 136 acres should be required.

## 19.30, Tree Preservation [2009]

### 19.30.040 Retention of significant trees

*No person, corporation, agency or other entity shall remove any significant or heritage tree, as defined in this chapter, without first obtaining a tree removal permit pursuant to this chapter. Provided, a permit shall not be required for situations specifically exempted by this chapter.*

### 19.30.060 Tree removal permits.

*A. A permit is required for the removal of trees that are subject to this chapter. A tree plan, meeting the following requirements and standards, shall be submitted as part of a permit application for tree removal.*

*C. A Level II tree plan is required for new development, including residential, commercial, industrial or institutional developments that involve land disturbance [...]*

STAFF RESPONSE: A tree plan is not required at the preliminary plat stage. The applicant intends to apply for a tree removal permit concurrent with the application for utility permits.

### 19.30.070 Tree replacement

*E. When at least forty percent of the total site area is preserved as nondisturbed open space, critical areas and their associated buffers, or other areas subject to a conservation easement, the tree replacement requirement shall not apply.*

STAFF RESPONSE: Approximately 70% of the total site area is proposed to be preserved as nondisturbed open space, critical areas and buffers. Therefore, no tree replacement is required.

## J. Land use and Design

### Black Diamond Comprehensive Plan

*Policy LU-16: Encourage a variety of housing types, providing housing for all income levels and all family sizes.*

STAFF RESPONSE: Plat 2C will implement The Villages master-planned development by providing single-family detached development. Plat 2C is just one part of The Villages, which is zoned for a wide variety of housing types, such as townhomes, condominiums, apartment units, cottages and live/work units. The smaller, slightly irregular, and narrower lots within Plat 2C should encourage variety of housing sizes and, as a result, styles, because the same style would not fit on every lot. The different types of access, either from the local public street or private alleys and woonerfs will also tend to vary the housing style. The proposal is consistent with this policy.

*Policy LU-17: New housing should be compatible with the existing development pattern and the small-town atmosphere—a mix of small and large lots, size and scale.*

STAFF RESPONSE: Black Diamond is contains a wide range of lot and home sizes, a variety that is reflected in the overall master plan for The Villages. Plat 2C provides single-family lots within a range of about 3,100 square feet to 8,547 square feet (although only one lot is that large). The proposal is consistent with this policy.

*Policy LU-18: Require residential development patterns to allow for efficient provision of public services and utilities.*

STAFF RESPONSE: Plat 2C occupies approximately 136 acres but development is proposed on approximately 40 acres, clustering smaller lots in order to preserve the surrounding wetlands and buffers. Clustering lots creates a more efficient network of utilities. The proposal is consistent with this policy.

*Policy LU-19: Encourage clustering within new developments to create compact new communities surrounded by open space.*

STAFF RESPONSE: Plat 2C occupies approximately 136 acres but development is proposed on approximately 40 acres, clustering smaller lots in order to preserve the surrounding wetlands and buffers. The proposal is consistent with this policy.

*Policy LU-46: Retain a sense of place by protecting the community's important natural features.*

STAFF RESPONSE: One of Black Diamond's most valuable creek and wetland complexes occupies the eastern portion of the area covered by Plat 2C. Significant wetlands also occupy land on the west side of Plat 2C. The applicant's proposal will preserve the wetlands and their buffers, except for minor temporary disturbances to install utilities and a trail. Approximately 96 acres will be protected. The proposal is consistent with this policy.

*Policy LU-53: New developments should be designed to incorporate features to encourage alternative travel modes, such as biking, walking, and transit.*

STAFF RESPONSE: Plat 2C proposes features to encourage alternative modes. They include sidewalks, off-street trails, mid-block pedestrian connections, and woonerfs, in which cyclists and pedestrians will have priority over motor vehicles. The proposal is consistent with this policy.

## The Villages MPD Permit Conditions of Approval (2010)

- 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.*

STAFF RESPONSE: This condition of approval relates to the MPD approval and is not applicable to Phase 2C.

- 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. Any requirements deferred to the Development Agreement in this decision shall be integrated into the Agreement prior to any approval of subsequent implementing permits or approvals.*

STAFF RESPONSE: This condition of approval relates to the MPD approval and is not applicable to Plat 2C.

- 3. The Phasing Plan of Chapter 9 of the MPD application is approved, with the exception of the bonding proposal at p. 9-3 and the proposal for off-site trails at p. 9-2 (to the extent not already considered a regional facility) and parks at p. 9-10, and except as otherwise noted in these condition of approval.*

STAFF RESPONSE: This condition of approval relates to the MPD approval and is not applicable to Plat 2C.

- 4. 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.*

STAFF RESPONSE: This condition of approval is addressed in Section 11 (Project Phasing) of the DA and in the Regional Facilities Implementation Schedule for Phase 2 submitted by the applicant and accepted by the Designated Official.

- 5. 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).*

STAFF RESPONSE: This condition of approval is addressed below in Sections 9 (Parks, Open Space and Trail Standards), 11 (Project Phasing) and 12 (Development Review Process) of the DA.

- 6. 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.*

STAFF RESPONSE: This condition of approval relates to the MPD approval and is not applicable to Plat 2C.

*7. 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.*

STAFF RESPONSE: This condition of approval is not applicable to Plat 2C.

*8. The applicant shall submit a construction waste management plan for inclusion in the Development Agreement.*

STAFF RESPONSE: A construction waste management plan has been submitted and accepted for Plat 2C (Exhibit 39). The condition is met.

*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. In addition, the CCRs shall include provisions, to be enforced by the HOA, prohibiting washing of cars in driveways or other paved surfaces, except for commercial car washes, and limiting the use of phosphorous fertilizers in common areas, so as to limit phosphorous loading in stormwater.*

STAFF RESPONSE: The applicant did not submit CCRs for review by staff so a finding of consistency cannot be made. Condition of approval #2 requires certain items such as use of green technologies to be included in the CCRs for City review and approval . With conditions, this condition can be met.

*128. Approval of the design concept and land use plan (Chapter 3) shall be limited to the Land Use plan map (Figure 3-1, as updated July 8, 2010); description of categories (beginning on page 3-18); a maximum of 4,800 total residential units and 775,000 square feet of commercial space; and target densities (Table 3.2), except as modified herein. Corner store-style neighborhood commercial uses within residential land use categories shall be defined in the Development Agreement and shall only be allowed through minor amendment of the MPD. All other specifics shall be resolved through the Development Agreement process.*

STAFF RESPONSE: This condition applies to adoption of the MPD and DA, not to implementing projects, except for corner stores. No corner stores are proposed in Plat 2C and this condition does not apply.

*129. The project shall provide a mix of housing types in conformance with the MPD Design Guidelines. The Development agreement shall set targets for various types of housing for each phase of development.*

STAFF RESPONSE: Plat 2C is part of Phase 2, which has a target dwelling unit count of 1,155 single family units and 165 multi-family units. In the original MPD, parcel V28 was zoned MPD-M. The applicant requested an amendment to the MPD site plan to change the zoning from MPD-M to MPD-L. The amendment was approved by the City (Exhibit "U" of the DA). Approval of Plat 2C will provide 203 of the 1,155 units targeted for Phase 2, and has a range of lot sizes to encourage a variety of housing types.

In addition, variety in the housing would be enhanced the Design Review Committee (DRC) review of building plans for conformance with Exhibit "H" in the DA. Exhibit "H" contains the Design Guidelines document for The Villages, implementing both standards and guidelines. The DRC and the City are responsible for ensuring compliance. Two design standards pertain to lot layout for single-family detached developments: lot width and setbacks. The preliminary plat meets the lot width requirements (see discussion under Exhibit "H") but the requirement that 20% of lots have varying setbacks won't be evaluated until site plan or building permits are submitted. The MPD Permit conditions of approval and the DA do not require the applicant to submit documentation of how the DRC reviewed the preliminary plat design for consistency with the standards.

The remaining standards will be enforced through design review by the DRC and site plan review by the City at the building permit stage.

*130. 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.*

STAFF RESPONSE: This condition does not apply to Plat 2C. Only single-family lots are proposed on the MPD site plan as amended by the Third Amendment to the MPD Site Plan.

*131. A minimum density of 4 du/per net acre for residential development shall be required for implementing projects, and shall be calculated for each development parcel using the boundaries of that parcel (or the portion thereof to be developed) as shown on the Land Use plan map (Figure 3-1, as updated July 8, 2010).*

STAFF RESPONSE: As noted earlier, the net density proposed by the preliminary plat for Plat 2C is 6.49 units per acre. The condition is met.

*132. 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. Residential land use categories can otherwise be adjusted one category up or down through an administrative approval process provided they also otherwise meet the requirements for minor amendments outlined in BDMC 18.98.100.*

STAFF RESPONSE: The applicant does not propose to increase a residential category; this condition does not apply.

*133. The Development Agreement shall limit the frequency of proposed reclassification of development parcels to no more frequently than once per calendar year.*

STAFF RESPONSE: The applicant does not propose to increase a residential category; this condition does not apply.

*134 The Expansion Area process shall be clarified in the Development Agreement.*

STAFF RESPONSE: This condition does not apply.

*135. 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. All MPD construction shall comply with the Master Planned Development Framework Design Standards and Guidelines, whether or not required by the Development Agreement.*

STAFF RESPONSE: Project specific design standards are incorporated into the DA in Section 5 (Additional Bulk, Landscape and Sign Standards), Exhibit "H" (MPD Project Specific Design Standards and Guidelines) and Exhibit "I" (High Density Residential Supplemental Design Standards and Guidelines) of the DA. Only Exhibit "H" applies to the project and is discussed below. This condition is met.

*136. A unit split (percentages of single family and multifamily) and commercial use split (commercial, office and industrial) shall be incorporated into the Development Agreement.*

STAFF RESPONSE: This condition does not apply; it applies to the DA.

*137. 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 future amendment to the MPD.*

STAFF RESPONSE: No commercially designated land is proposed with Plat 2C and none is shown on the MPD Conceptual Site Plan. No commercial uses are proposed. Therefore, the condition is met.

*138. The project shall include a mix of housing types that contribute to the affordable housing goals of the City. The Development Agreement shall provide for a phase-by-phase analysis of affordable housing Citywide to ensure that housing is being provided at affordable prices. Specifications for affordable housing needs within the project shall be determined as a result of the phase-by-phase analysis.*

STAFF RESPONSE: "The project" in the condition refers to The Villages MPD and not to Plat 2C specifically. The City is responsible for preparing the affordable housing analysis after the completion of Phase 1A. The condition is not applicable at this time.

*139. Exact specifications for the housing described in paragraph 122 shall be included within the Development Agreement.*

STAFF RESPONSE: This condition does not apply; it applies to the DA.

*140. 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.*

STAFF RESPONSE: This condition does not apply; it applies to the DA.

*141. The high density residential (18-30 du/ac) supplemental design standards and guidelines (MPD application Appendix E) shall become part of the Development Agreement.*

STAFF RESPONSE: This condition does not apply; it applies to the DA.

*142. Detached single family dwelling units shall be alley loaded, except where site conditions prevent alley loading or cause alleys to be impractical as determined by the City, in its reasonable discretion.*

STAFF RESPONSE: Plat Sheet CV3 (Exhibit 2) contains a Lot Summary table with detail regarding whether garages will be front or alley loaded. Sheet CV3 shows that 57 lots (lots 64 to 121) have both street and alley access. The width of the subject site is constrained by the buffers of wetlands and Rock Creek. While alley access may be desirable from an aesthetic and land use planning perspective, providing alleys for all lots, especially those along the western and eastern boundaries of the plat, would reduce the amount of usable open space, and place more pollution-generating impervious surface immediately adjacent to those buffers. Therefore, the proposal meets the guideline as much as is practical and desirable given site constraints.

*143. 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.*

STAFF RESPONSE: The applicant has not submitted CCRs for staff to review. CCRs must include this provision. Condition of approval #2 will require that the CCRs be submitted for review by the Designated Official condition prior to final plat approval. They must include a provision that the use of green technologies shall not be precluded (condition of approval #2e).

*144. Front yard setbacks and other specific lot standards shall be determined as part of the Development Agreement.*

STAFF RESPONSE: This condition does not apply; it applies to the DA.

*145. A FAR standard shall be established through the Development Agreement process.*

STAFF RESPONSE: This condition does not apply; it applies to the DA.

*146. No more than two floors of residential uses above ground floor commercial/office uses shall be allowed.*

STAFF RESPONSE: No commercial uses are proposed; this condition does not apply.

*147. The orientation of public building sites and parks shall preserve and enhance views of Mt. Rainier and other views identified in the comprehensive plan. There are tailing piles located on property near Parcel B. The Applicant is not responsible for removal of those tailing piles, but future site and building design for Parcel B should consider the nature of the views to Mt. Rainier that may be possible if those piles are later removed.*

STAFF RESPONSE: There are no identified views of Mt. Rainier from Plat 2C. This condition does not apply.

148. *The Applicant's requests for reduced parking standards in the Mixed Use Town Center as identified at p. 13-4 of the MPD application is granted. All other requests for deviation in the Chapter 13 of the MPD application are denied except for those deviations, mostly utility and street standards, that are identified in the recommendation as amenable to further review in the development agreement process. Any MPD deviations to the Sensitive Areas Ordinance are denied, because BDMC 18.98.155(A) provides that the Sensitive Areas Ordinance shall be the minimum standards for protection of sensitive areas within MPDs.*

STAFF RESPONSE: No deviations to the Sensitive Areas Ordinance is requested. Deviations from road standards and stormwater utility standards were requested by the applicant in January and June 2014 and reviewed and approved by City staff (Exhibits 17, 20c, 21). This condition is met.

## The Villages Development Agreement (2011)

### 2.1 PROJECT ENVELOPE

*The Development Agreement governs and vests the development, use, and mitigation for The Villages Master Planned Development (the MPD). Land within the boundaries of The Villages MPD shown on Exhibit "U" of the MPD can be developed only in accordance with the terms and conditions of the TVDA.*

STAFF RESPONSE: Exhibit "U" of The Villages MPD contains the Conceptual Site Plan for The Villages. In 2013, the applicant sought a minor amendment to change the range of densities for parcel V28 of The Villages from 229-305 units to 25 -203 units (revising Table 4-1). The reduction in density resulted in a change to the zoning from MPD-M (moderate density) to MPD-L (low density). The development of 203 single family lots on parcels V28 and V29 is consistent with the land use designation of MPD-L, the density ranges in amended Table 4-1 (41-330) and the location shown on Exhibit "U", with the exception of the park at the south end of parcels V28 and V29 (refer to the discussion on parks).

### 4.1 MPD SITE PLAN

*Pursuant to Condition of Approval No. 128 of the MPD Permit Approval, further specificity is provided in Table 4-1 below which shows the Dwelling Unit range, range of commercial/office/retail/light industrial square footage, and anticipated additional possible uses of each Development Parcel in The Villages MPD. The data included within this Table 4-1 may only be modified pursuant to the MPD Site Plan amendment processes outlined in Section 4.4 below.*

STAFF RESPONSE: Through a minor amendment, the range of densities for parcel V28 of The Villages (Table 4-1) was changed in 2013. The range reflected a change in the zoning from MPD-M (moderate density) to MPD-L (low density), from a range of 229 to 305 units to a range of 25 to 203 units. The amendment was approved by the Designated Official on December 19, 2013.

### 4.2 TOTAL NUMBER OF DWELLING UNITS

*As approved by Condition of Approval No. 128 of the MPD Permit Approval, the total number of Dwelling Units allowed on the Project Site is 4,800 Dwelling Units. The predominant housing type will be Single Family residential. Except as may be modified by Section 10.4.2 and pursuant to Condition of Approval*

*No. 136 of the MPD Permit Approval, the Dwelling Unit mix is 3,600 Single Family units (MPD-L and MPD-M) consisting of Single Family detached, courtyard homes, Single Family attached buildings containing four (4) or fewer units, and Cottages; and 1,200 Multi-Family Units (MPD-M and MPD-H) consisting of townhomes and stacked flats. Live/Work Unit locations are identified on the MPD Site Plan. The Project Site consists of 1,196 acres, of which at least 481.4 acres of Open Space shall be provided.*

STAFF RESPONSE: The total number of dwelling units authorized by the MPD is 4,800. Phase 1A obtained approval for 782 dwelling units. Approval of Plat 2C would add 203 units for a total of 985. The proposal would not cause the development to exceed the authorized number of units. The proposal complies with this section.

#### 4.3 TOTAL NUMBER OF NON-RESIDENTIAL UNITS

STAFF RESPONSE: This section does not apply to Plat 2C, which is solely residential.

#### 4.4 MPD SITE PLAN AMENDMENTS

*Pursuant to Condition of Approval No. 133 of the MPD Permit Approval, the frequency of MPD Site Plan amendments is limited to once per calendar year [...]*

STAFF RESPONSE: The 2013 Site Plan Amendment changed the densities on parcel V28. The applicant is not requesting a site plan amendment with this application.

##### 4.4.8

*Although the Design Concept and Land Use Plan shown in Exhibit "L" was not a specifically surveyed map, approximate acreages were assigned to each Development Parcel to aid in understanding the Design Concept and Land Use Plan. The stated acreage of any Development Parcel may be increased or decreased up to five percent (5%) concurrent with the City's processing of an Implementing Project application without an amendment to the MPD Permit Approval or this Agreement. The stated acreage of any Development Parcel may be increased or decreased five-to-ten percent (5-10%) concurrent with the City's processing of an Implementing Project application with a Minor Amendment to the MPD Permit Approval. Typical reasons for altering the acreage of a Development Parcel include but are not limited to accommodating on the ground surveying, accommodating detailed engineering designs for necessary infrastructure, improving the location and/or access to a Park or active Open Space area, enhancing protections for a sensitive Open Space area, and providing better clustering, buffers, or trail connections between neighborhoods. The acreage of a Development Parcel may not be increased or decreased without a Major Amendment to the MPD Permit Approval if doing so alters the maximum total residential units and square footage of commercial space, or target densities for the Project Site as a whole, as were approved in Condition of Approval No. 128.*

STAFF RESPONSE: No amendment is proposed.

#### 4.9 TRANSFER OF DEVELOPMENT RIGHTS

*To achieve the proposed densities on the Project Site, the Master Developer shall purchase TDRs and transfer them to the Project Site. The phasing of the purchase and transfer of TDRs to the Project Site must be consistent with the process and requirements found in the City's TDR and MPD Ordinances*

*(Exhibit "E"). Pursuant to the MPD Ordinance, BDMC 18.98.040.A.18 (Exhibit "E"), The Villages MPD phasing plan for the acquisition of TDRs must demonstrate that for each Phase, no more than 60% of the proposed residential Density is based upon the land area included in that Phase. Pursuant to Conclusion of Law No. 62 of the MPD Permit Approval, The Village MPD's TDR phasing plan is set forth in Table 4-9 and demonstrates that the Master Developer's proposed phasing of the purchase and transfer of TDRs meets the requirements of BDMC 18.98.040.A.18 (Exhibit "E"), since the ratio of base Density to planned Density for the land within each Phase is less than or equal to 60%. The Master Developer will update the TDR phasing plan, Table 4-9, as necessary and submit it to the City with subsequent Implementing Project applications. If the proposed Density for an Implementing Project does not result in the utilization of more than 60% of the land area for the particular Phase in which the Implementing Project is proposed, TDRs are not required to be purchased. [underline added]*

*The Master Developer and Designated Official shall work cooperatively to create an efficient process for TDR transactions consistent with BDMC Ch. 19.24 (Exhibit "E"). The Master Developer shall identify to the City a primary contact for TDR acquisitions. This TDR acquisition process shall be reviewed annually as part of the Annual Review as identified in Funding Agreement (Exhibit "N").*

*The Master Developer shall include a summary of "Base Density Used" and "TDRs Needed" with each Preliminary Plat application or Site Plan application submitted to the City, and these values shall be shown on such application's cover sheet. The City may process and approve a Preliminary Plat or Site Plan subject to a condition requiring the Master Developer to demonstrate ownership of all TDRs required for the Preliminary Plat or Site Plan, but the City will not issue Utility Permits for any road or stormwater improvements for any division of a Preliminary Plat or Site Plan until the Master Developer has demonstrated ownership of any TDRs needed for that division of the Preliminary Plat or Site Plan. Any division of a Final Plat requiring TDRs will not be processed or approved until the Master Developer has acquired title to the needed TDRs and they have been assigned by the Master Developer to the applicable division of the Final Plat.*

**Table 4-9. TDR Phasing Plan**

<b>Phase</b>	<b>Planned Density</b>	<b>Base Density used</b>	<b>TDRs needed</b>	<b>Percent of proposed Density based upon land area within that Phase</b>
<b>Phase 1A</b>	770	452	318	59%
<b>Phase 1B</b>	315	189	126	60%
<b>Phase 2</b>	1,320	295	1,025	22%
<b>Phase 3</b>	2,395	993	1,407	42%

STAFF RESPONSE: Table 4-9 shows that Phase 2 is planned for 1,320 dwelling units, of which 295 units are the base density units and 1,025 TDRs will be needed to fulfill the planned density<sup>5</sup>. The 203 units in Plat 2C are less than the 295 base dwelling units in Table 4-9. Pursuant to the first paragraph of Section 4.9, no TDRs need to be purchased because 203 units is 22% of 1,320, which is less than 60% of the planned density for the land area.

<sup>5</sup> Divisions or plats within phases do not have assigned base or planned densities in Table 4-9. The planned density in Plat 2C is determined by the DA's range of residential units in Table 4-1 for parcels V28 and V29, with which Plat 2C complies. See discussion above under Section 4.1 and 4.2.

Pursuant to the third paragraph of this section, the applicant supplied the following table on November 25, 2014:

**Transfer of Development Rights Table**

Phase	Planned Unit Count for Phase	Plat Unit Count	Cumulative Unit Count in Phase	% of Planned Phase Unit Count	>60% Threshold	TDRs Required	TDRs Applied
2	1320	203	203	15.3	No	No	0
<b>Total</b>	1320		203	15.3	No	No	0

The table is intended to be placed on the cover sheet of Plat 2C to update Table 4-9 and keep a running tally of planned densities and needed TDRs for Phase 2. The applicant has agreed to submit a revised cover sheet CV1 on November 26, 2014, that includes the table as shown. The revised cover sheet will become Exhibit 49. Also, condition of approval #73 requires that this table be shown on the cover sheet of Plat 2C. In future preliminary plat applications for Phase 2, Staff will require the table to be updated for each plat. The proposal complies with the requirements of this section.

#### 4.10 DEVELOPER IMPROVEMENTS

[...]

*The Villages MPD design and mitigation measures described in this Agreement, including the MPD Permit Approval and its Conditions of Approval in Exhibit "C", mitigate any probable significant adverse environmental impact directly identified as a consequence of MPD Permit Approval and this Agreement. Additionally, some elements of the MPD Permit Approval and mitigation measures include provisions relating to system improvements identified in the City's Comprehensive Plan (Exhibit "E"), for which the City might adopt impact fees under RCW 82.02.050 et seq. As designed and with full implementation of all the mitigation measures, The Villages MPD build-out will fully and adequately mitigate the probable significant adverse environmental impacts of The Villages MPD and, that through such mitigation measures, provisions will be made for: (i) the facilities needed to serve new growth as a result of The Villages MPD within the City and (ii) the Master Developer to construct or pay a proportionate share of the cost of completing certain system improvements. Unless otherwise provided elsewhere in this Agreement or in the MPD Permit Approval, the mitigation measures listed this Agreement and in Exhibit "C" are in lieu of the payment of any impact fees that the City has the authority to impose pursuant to RCW 82.02.050 et seq., including any amendments thereto, such that no impact fees shall be imposed on any Implementing Project during the term of this Agreement except for those impact fees explicitly allowed in this Agreement.*

STAFF RESPONSE: Staff is not requesting the payment of any impact fees.

## 5.1 DRC REVIEW REQUIRED FOR DESIGN GUIDELINES AND STANDARDS

*The DRC shall review and approve each Implementing Project application, except for Utility Permits and permits for Schools as set forth in the School Agreement, for compliance with the MPD Project Specific Design Standards and Guidelines prior to submittal to the City for review and approval. The DRC's approval shall be noted in each such application, which shall be submitted to the City for review and processing. In the event that the City determines that an Implementing Project application does not comply with Exhibits "H" and "I" or the MPD Framework Design Standards and Guidelines, or that the DRC has failed to provide approval, the Designated Official may require changes to or deny the application.*

STAFF RESPONSE: Exhibit 3I contains the DRC's approval letter dated November 5, 2013. Staff finds that the requirement for DRC approval of the implementing project and its compliance with the Project Specific Design Standards of this section is satisfied. The DA does not require the DRC to provide evidence of how it reviewed the application and the specifics of how the application complies.

## 5.2 DIMENSIONAL STANDARDS

### 5.2.1 Lot Size and Lot Width

*A. The MPD Ordinance does not impose a minimum lot size. The minimum lot size for Detached Single Family is 2,200 sq. ft.*

*B. The minimum width of a flag lot is 14 feet for the portion of the lot that serves as access. One "flag" driveway may access up to two (2) lots.*

STAFF RESPONSE: All lots proposed for Plat 2C are between 3,150 and 8,547 square feet. The average lot size is 4,574 square feet. Therefore, standard 'A' is met. No flag lots are proposed.

### 5.2.2 Residential Setbacks and Maximum Height

The DA shows the setbacks and height restrictions that apply to MPD-L zones in Table 5-2-1.

Table 5-2-1

Density Range	Required Setbacks and Maximum Height <sup>6,8,9</sup>					Maximum Building Height <sup>5,7</sup>
	Front Yard @Street <sup>1</sup> / Garage	Front Yard @Common Green <sup>1</sup>	Side Yard <sup>2,3</sup>	Side Yard @ Corner Lot <sup>4</sup>	Rear Yard	
MPD – L	10'/20'	10'	5'	10'	5'	45'

**Notes:**

1. Measured to property line.
2. Note that side yard Setback does not apply to common wall on townhome, duplex, other similar attached Dwelling Units or alternative lot configurations as provided in Subsection 5.2.7.
3. Use easements may be utilized for provision of private yards. Use easements shall not be used for building code fire separation distance.
4. Setbacks at corner lots with buildings with wrap around porches may be reduced to 5'.
5. Maximum building height may be exceeded by 10' for tower rooms less than 300 sq. ft., and distinctive architectural elements such as towers, cupolas and spires.
6. Table 5-2-1 does not apply to flag lots, see Section 5.2.5(F).
7. On at least one side of the building there shall be a 32' or lower accessible eave.
8. Access to escape and rescue windows shall be provided for in building design as required by the applicable City building code.

9. Buildings over 35' in height shall provide a minimum 7' by 12' permanent, useable staging area on at least one side of the building for fire access to the roof. The staging area shall be located adjacent to the accessible eave.

STAFF RESPONSE: The application did not provide information on setbacks because no structures for the lots are proposed with this application. The DA does not specify when the provisions of section 5.2 and Exhibit "H" must be established. At the City's request, the applicant submitted a diagrammatic representation of how different homes could be situated on all of the proposed lots and meet the setbacks (Exhibit 43) but compliance will be determined at the building permit stage.

#### 5.2.3 Allowed Encroachments into Setbacks

#### 5.2.4 Measurement of Setbacks

#### 5.2.5 Determining Residential Setbacks on Irregular Lots

#### 5.2.6 Alternative Lot Configurations

STAFF RESPONSE: The applicant did not provide information for staff to review regarding the above dimensional standards in 5.2.3 through 5.2.6. and intends to comply with the standards at the building permit stage.

### 5.3 PARKING STANDARDS

#### 5.3.1 Minimum Parking Requirements

*Parking shall comply with BDMC Chapter 18.80 (Exhibit "E"), and the additional standards provided below.*

##### *A. Residential Uses within the MPD-L, MPD-M and MPD-H Categories*

*Residential uses within the MPD-L, MPD-M and MPD-H density ranges shall provide off-street parking spaces pursuant to the chart found at BDMC 18.80.030(E) (Exhibit "E"). In addition, attached Dwelling Units less than or equal to four (4) Dwelling Units shall provide two spaces per unit. These requirements are restated here:*

*Dwelling unit, detached or attached less than or equal to 4 dwelling units: 2 spaces per unit*

STAFF RESPONSE: BDMC 18.80.050 (C)(1) states that single family dwellings will have required parking (2 spaces) on the same lot as the building it is to serve. The preliminary plat does not show parking areas because no buildings are proposed. The site and/or building plans will need to accommodate the two spaces per lot.

### 5.4 SIGNAGE STANDARDS

#### 5.4.1 Sign Standards Applicability

*All Implementing Projects within The Villages MPD shall be subject to the definitions, standards, requirements and processes found within BDMC Chapter 18.82 (Exhibit "E") as well as the additional standards further detailed herein.*

STAFF RESPONSE: The standards can be addressed at building permit stage. No signs are proposed with the preliminary plat.

## 5.5 LANDSCAPE STANDARDS

### 5.5.1 Applicability

*The provisions of this Section establish the landscape standards for The Villages MPD, and shall apply to all Implementing Projects within The Villages MPD except for detached Single Family Residences.*

STAFF RESPONSE: This section does not apply to single family detached development. Section 5.5.5 applies to right-of-way and associated landscape tracts. A landscaping plan for restoration of disturbed areas, trees and groundcover will be required of the applicant for the clearing and grading and/or utility permit approvals.

### 5.5.7 MAINTENANCE

#### 5.5.7 (D)

*In the event that the Owners' Association / Homeowners' Association fails to perform any maintenance of private alley, auto court or public streetside landscaping feature as required by Section 5.5.7 of this Agreement and, as a result, the City of Black Diamond performs said maintenance, the lot owners of the [plat/binding site plan] acknowledge and agree on behalf of themselves and all successors and assigns that, if not paid within thirty (30) days of invoicing by the City, the City's total cost arising from the City's performance of said required landscaping maintenance plus any penalties and interest thereon as provided by The Villages MPD Development Agreement recorded under recording No. \_\_\_\_\_ shall be a lien against all property, including individual lots, within the [plat/binding site plan], and said lien may be foreclosed in the same manner provided for the foreclosure of liens for unpaid sewer rates and charges set forth in RCW 35.67.220 – .280, as amended.*

STAFF RESPONSE: Paragraphs A., B., C., and D., specify responsibilities for maintenance of landscaping and assign the maintenance of side streets to the Master Developer or Homeowners' Association. The preliminary plat's Note #12 contains the language in the condition. In addition, the provisions of this section have been included as a required item of the CCRs, in condition of approval #2 and #26. The requirement is met.

## 6.0 INTERNAL STREET STANDARDS WITHIN THE VILLAGES MPD

### 6.2 APPLICABILITY

*This Section is applicable to all streets, alleys, private drives and other vehicular accessways. proposed within the MPD. This section is not applicable to intersections of MPD streets with other City of Black Diamond streets, which are governed by the City's Street Standards (Exhibit "E"). Specific land uses, site conditions, visibility limitations and sensitive areas may result in variations to the minimum street sections described in Subsection 6.3 of this Agreement and authorized by the Black Diamond Engineering Design and Construction Standards (Exhibit "E"). Such variations shall be reviewed and approved pursuant to the standards and processes set forth in Black Diamond Engineering Design and Construction Standards (Exhibit "E"). Standards not defined in this Section shall be governed by the City's Street Standards attached hereto and incorporated herein as Exhibit "E".*

*Adequate roadway capacity shall be provided by the Master Developer within the Project Site to provide reasonable access to all Development Parcels while also minimizing impervious surfaces and roadway*

*impacts. Roadway capacity shall be determined as follows: Each travel lane is assumed to provide capacity for 600 vehicle trips in the am and pm peak hour. Each land use category is assumed to produce the following pm peak hour trips:*

- *Single Family residential: 1.01 trips/per Dwelling Unit (Single Family housing rate)*

STAFF RESPONSE: The Overall Site Plan, Sheet PP5, shows a street system consisting of Roads A, B, and C, Alleys A, B, C, and D, and Woonerfs A, B, and C. Roads A, B, and C will be publically owned. The alleys and woonerfs will be owned by the Master Developer or the HOA. The roads and alleys meet the street standards of this section for sidewalk placement and design and for roadway width (37 feet of pavement for two travel lanes and on-street parking pursuant to this section and the description of neighborhood streets in the MPD Chapter 4). The woonerfs require a deviation to the street standard because the City does not currently have any standards that allow streets without curbs and sidewalks. Deviations to road section standards is allowed by this section. A Request for Alternate Road Section Approval for the three woonerfs was submitted by the applicant and was approved by the Designated Official (Exhibit 17).

This DA section requires adequate roadway capacity and property access while minimizing impervious surface and roadway impacts. The streets and alleys are the minimum specified in the DA. With approval of the woonerf deviation, the standards for streets are met.

As noted in Section 6.2, capacity of roadways in The Villages was established as 600 trips per peak hour per travel lane. Plat 2C will be served internally by two-lane roadways, thereby accommodating 1200 trips (600 x 2 lanes).per hour. The Traffic Impact Study estimates that Plat 2C would generate 160 new PM peak hour trips, less than the 1,200 trips per peak hour. Therefore, the roadway capacity will be sufficient. Phase 1A was approved for two-lane roads as well and also provides sufficient capacity to serve traffic using the Phase 1A road network. The proposal complies with the requirements.

## 6.4 STREET CONNECTIVITY

### 6.4.1 On-Site Connections

*A. The street layout for a proposed Implementing Project shall include connections to all street stub-outs provided by abutting Development as shown on Figure 6.3 within The Villages MPD. [I*

STAFF RESPONSE: The applicant currently proposes three connections to adjacent development. Two will be to the previously approved Phase 1A and the other to future development on Phase 2 to the southwest. Road A and Woonerf A connect to Willow Avenue SE on Phase 1A. Woonerf A is an emergency vehicle access only, to be protected from general traffic by removable bollards. The future connection is in tract 907 as shown on Sheets PP3 and PP5, extending south from the intersection of Roads B and C adjacent to tract 907. Such road extension appears to cross the established wetland boundary at the narrowest point and appears to be an appropriate location for a potential connection. Final approval of the location and street configuration on tract 907 would require additional review under BDMC 19.10 when development on tract 907 is proposed. The proposed street connections comply with Figure 6.3 of the MPD and the standards are met.

#### 6.4.2 Off-Site Connections

*The Villages MPD shall stub streets to the boundaries of abutting off-site property as generally shown on the Bike Route and Future Connection Plan (Figure 6.3). The connection points on the Bike Route and Future Connection Plan are approximate. The actual design and location of connection points will be determined at the preliminary implementing plat or final engineering stage of Implementing Projects by the Master Developer and Designated Official using a collaborative process.*

STAFF RESPONSE: Figure 6.3 shows a potential future connection at the north end of parcel V29. The application for Plat 2C does not propose a connection to that off-site area because the land is under separate ownership and the parcels are currently undeveloped. Plat 2C has Road A and future-developable tract 901 in that location that could allow a future connection when appropriate. In addition, the LLA provides for two narrow tracts that could be used to provide future access points.

Staff recommends that approval of the Final Plat be conditioned on providing a means to connect with development to the north at a future date, consistent with Figure 6.3, at a point between Tract 901 and Tract 902 on Road A, or to demonstrate why that connection is not feasible (condition of approval #78). The standard is met.

#### 6.5 OWNERSHIP AND MAINTENANCE

##### *A. Ownership and Maintenance.*

*Pursuant to Condition of Approval No. 22 of the MPD Permit Approval, all street right-of-way will be dedicated to, owned and maintained by the City except for private streets which include alleys, autocourts serving less than 20 Dwelling Units and Main Street.*

STAFF RESPONSE: Once constructed and accepted by the City, Roads A, B, and C will be dedicated to the City. The alleys and woonerfs will be privately-owned and maintained. See discussion under the Traffic and Transportation section, above. This standard is met.

##### *B. Maintenance of Private Street(s).*

*Master Developer agrees to maintain all private streets, alleys and autocourts serving 20 units or less as constructed in accordance with each approved Implementing Project, for a period of three years from final plat recording or other Implementing Approval. Unless otherwise agreed upon by the City and the Master Developer (or applicable Homeowners' Association), the Master Developer's street maintenance obligation, as set forth herein, shall automatically renew for an additional two year period, and continue every two years thereafter.*

STAFF RESPONSE: Similar to the maintenance requirement for landscaping, the DA requires a plat note regarding responsibilities for maintenance of private rights-of-way. General note #16 on the preliminary plat for Plat 2C, Sheet CV4 (Exhibit 2) complies with the requirement. Condition of approval #2, on CCRs, requires that this language be incorporated into the CCRs. The requirement for a plat condition for street maintenance is met.

#### EXHIBIT "H" OF THE VILLAGES DEVELOPMENT AGREEMENT, DESIGN STANDARDS AND GUIDELINES (MAY 24, 2011)

*These Design Standards shall apply to all residential buildings within the villages and Lawson Hills.*

Lot Sizes and Front Yard Setbacks (Single Family Detached)

*In order to avoid the monotony of streets lined with single family detached homes of similar width, height, and setback, the following criteria shall be applied. However on a limited basis, specific locations within neighborhoods may vary from this requirement.*

*Corner lots side yard setback on the street side shall be at least 5 feet wider than interior lots.*

STAFF RESPONSE: Side yard setbacks on corner lots are set at 10 feet in Chapter 5 of the DA, Table 5-2-1, which is 5 feet wider than interior side yards. Corner lots on the preliminary plat Sheets PP1-56 for Plat 2C are shown (from left to right on PP5) as 203, 184, 176, 175, 165, 164, 12, 45, 63, 31, 64, 75, 76, 68, 122, 109, 96, 95, 90, 83, 89, 82. All of the corner lots have wider street frontages than the interior lots between corners. Therefore, the standard can be accommodated on the corner lots. The standard will be enforced at the building permit stage.

*Excluding oversized corner lots within a block, any row of lots over 400 feet long shall have at least one lot of different width per every six houses. The differing lot may be wider or narrower, but shall vary in width by at least 5 feet.*

STAFF RESPONSE: The street network for Plat 2C is curvilinear so some variety will be supplied by variations in lot widths at the streets to account for the curves. Many of the blocks created by the intersections of the roads, alleys and woonerfs are over 400 feet long based on a sum of the lot widths. Below is a table showing how the proposed lot designs in the application meet this standard.

Street	Predominant lot width	Lot number and width of qualifying lot	Amount of variation from dominant lot width
Road A	48	#5, 53 feet	5 feet
	45	#47, 52 feet	7 feet
	45	#57, 50 feet	5 feet
	45	#181, 40 feet	5 feet
	47	#166, 69 feet	22 feet
Road A & Alley A	45	#114, 50 feet	5 feet
Road B	50	#24 (also lot 25), 55 feet	5 feet
	50	#38 (also lot 37), 45 feet	5 feet
Road C	45	#142, 40 feet	5 feet
	45	#149, 38 feet	7 feet

Staff finds that this requirement is met.

- Varied front yard setbacks shall be applied to 20% of homes on each side of the street on each block. Offsets shall be an increase of no less than 33% of the standard front yard setback.

STAFF RESPONSE: The preliminary plat drawings do not show how the standard will be met. On October 9, the applicant submitted a diagrammatic drawing, "Conceptual Demonstration of How Residential Design Guidelines May Be Met." (Exhibit 43). The diagram is scaled and building footprints are color-keyed to show how a 25-foot-wide house, for example, could fit onto a 35-foot wide lot and consequently meet the setback standards. There appears to be sufficient room within the blocks to vary the setbacks to meet this requirement. The DA does not establish how this requirement will be tracked and reviewed by either the City or the DRC. Before the first building permits are reviewed, the City will establish a method for tracking all of the design compliance requirements established by the DA.

### Adjacency of Same Plans or Elevations with Similar Attributes

*The same combination of elevation style and floor plan for dwelling units or buildings shall not be placed beside each other. Dwelling units or buildings that make use of the same floor plan and are sited directly across the street from one another shall incorporate a different elevation whenever possible and shall use a different exterior color/material palette. On a limited basis, specific locations within neighborhoods may vary from this requirement.*

STAFF RESPONSE: Condition of approval #82 requires the final plat to contain a note specifying the above requirement.

## 1.0 PROJECT PHASING

### 11.2 PHASING OF IMPROVEMENTS

*Pursuant to Conditions of Approval Nos. 29 and 164, before the first Implementing Project of any Phase is approved by the City, a more detailed implementation schedule of the Regional Facilities supporting that Phase shall be submitted to the City for approval. The timing of construction of the Regional Facilities shall be tied to the number of Dwelling Units and/or square feet of commercial in Implementing Projects.*

STAFF RESPONSE: The "Detailed Implementation Schedule for the Phase 2 Regional Infrastructure Improvements" (January 28, 2014) was submitted on January 31, 2014 to support the application (Exhibit 29). It includes projects for both Lawson Hills and The Villages MPDs. City staff reviewed the schedule against the projects in Chapter 11's Table 11-3-3 (Lawson Hills and The Villages MPDs Phase 2 On-site Regional Facilities) of the DA. The Designated Official issued an approval on June 13, 2014. (Exhibit 29a) The "Regional Implementation Schedule: Phase 2 Regional Infrastructure Improvements" contains improvements that will be triggered by higher numbers of units than that proposed by Plat 2C or than would be triggered by the combined number of units in Phase 1A and Plat 2C, but that will likely be met by subsequent developments in Phase 2. The improvement list consists of extensions of interior roads on Phase 1A to serve the rest of Phase 2, off-site intersection improvements, and the regional stormwater pond on Phase 1A that is already built. The Villages' triggering thresholds for the intersection improvements are before certificates of occupancy are issued for the 1,393<sup>rd</sup>, 1,462<sup>nd</sup>, 1,687<sup>th</sup>, and 1,857<sup>th</sup> ERU. Plat 2C would add 203 ERU to Phase 1A's 782 ERU for a total of 985 ERUs. With approval condition #5 about following the implementation schedule as approved on June 13, 2014 (Exhibit 29), the requirement is met.

## Design Guidelines for Master Planned Development

### GENERAL PRINCIPLES AND SITE PLANNING

#### A. Environmentally Sustainable

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

STAFF RESPONSE: This guideline is not applicable at the stage of preliminary plat approval.

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.*

STAFF RESPONSE: This guideline is not applicable to the proposal at the subdivision phase.

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.*

STAFF RESPONSE: This guideline intends to address a master plan's interface with adjacent development outside of the MPD. Parcels V28 and V29 have connections that are only internal to the MPD because the surrounding wetlands constrain connections to adjacent parcels. Best management practices will be implemented by following the 2005 SWMMWW, as required in the DA. In addition, the applicant has improved upon the DA requirements for stormwater management by obtaining approval of a variance from the stormwater zone to discharge only water from rooftops and pervious surfaces to the wetlands around Rock Creek. The design of Plat 2C will provide three parks plus pedestrian accessways. There are no viewsheds to protect because of surrounding vegetation. The proposal meets the guideline.

#### B. Using Open Space as an Organizing Element

1. *All master planned developments shall include a wide range of open spaces, including the following: a. Sensitive environmental features and their buffers, b. Greenbelts, c. Village greens, d. Parks and school playgrounds, e. Public squares, f. Multi-purpose trails. These features should be deliberately planned to organize the pattern of development and serve as center pieces to development cluster, not merely as "leftover" spaces.*

STAFF RESPONSE: This guideline applies specifically to the overall design of The Villages, which was approved in the MPD permit as the Conceptual Site Plan (as illustrated in the Third Minor Amendment to the DA, December 19, 2013). Plat 2C is consistent with the conceptual design for this area with single family lots arranged between the major wetlands and boundaries that bound much of the V28 and V29 parcels.

2. *Open spaces shall be linked into an overall non-motorized network through sidewalks, trails and parkways. The overall network shall be delineated at initial MPD approval and implanted through subsequent plats and permit approvals.*

STAFF RESPONSE: This guideline applies to the MPD and implementing projects, and therefore applies to Plat 2C. Pedestrian access is identified as one of the primary uses for Tracts 902, 904, 909, 911, 913, 914, 921, 923, 924, and 925 on Sheet CV4 (Exhibit 2) in the plat drawing and in the Open Space Tract table. A soft-surface trail that is intended to implement the DA Figure 9.2—Park and Trail Plan—is also depicted on Sheet CV4. The soft surface trail, pedestrian access tract and sidewalks will ensure that the open spaces that surround the residential development will be connected. Therefore, the proposal meets this guideline.

#### C. Integrating Development with Open Spaces

1. *Use of conventional, suburban-style subdivision design that provides little common open space shall be avoided.*

STAFF RESPONSE: Conceptual design of The Villages was approved in the MPD. Plat 2C is consistent with the conceptual design for parcels V28 and V29 of The Villages (as amended) in how it clusters

developable lots and protects adjacent open space and wetland buffers. Therefore, the proposed plat meets this guideline.

2. *Groupings of primarily residential development of approximately 400-600 units should be contained generally within a quarter mile radius to support walking, bicycling and future transit service. Development clusters shall be surrounded by a network of open space with a variety of recreational uses (including trails) to provide connections between clusters.*

STAFF RESPONSE: The natural environmental constraints on the two parcels, combined with the single family designation, make the 203 proposed lots appropriate. The cluster of lots is approximately a half-mile by 800 feet and therefore meets the standard of development within a 1,320 radius. Open space connected by a trail surrounds the cluster of development. Therefore, the proposal meets this guideline.

3. *Methodology for Planning Development in clusters.*
  - a. *environmentally sensitive areas to be protected (including streams, wetlands, steep slopes, wildlife corridors, and their buffers) shall be identified, mapped and used as an organizing element for design;*
  - b. *areas for development of housing and commercial development shall be indicated;*
  - c. *streets and public spaces (as well as sites for public facilities such as schools, fire stations and other civic structures) shall be identified;*
  - d. *lots and groups of lots with various ownerships (i.e. fee simple by occupant, condominium, single ownership apartments, etc.) shall be integrated with one another throughout all phases of a project;*
  - e. *views of Mt. Rainier and other desirable territorial views shall be identified and integrated into site planning to maximize viewing from public spaces (streets, trails, parks, plazas, etc.).*

STAFF RESPONSE: Sheet CV4 shows that Plat 2C has sensitive areas surrounding single family development, meeting the guideline in (a). Plat 2C is planned in the MPD and the DA (as amended) to be single family residential only, and the lots are indicated, meeting the guideline in (b). Streets and public spaces are illustrated on Sheet PP5, Overall Site Plan, meeting the guideline in (c). No multi-family housing is proposed. Guideline (d) would apply to the building permit phase of this project, not to the preliminary plat stage, because the applicant has not yet prepared any dwelling units drawings. There are no views of Mt. Rainier available from parcels V28 and V29, so guideline (e) is not applicable. The proposal meets this guideline.

#### D. Ensuring Connectivity

1. *Pedestrian Connectivity*
  - a. *Similar to a traditional small town, services and common spaces shall be easily accessible to residents on foot. Off-street pedestrian trails are to be provided as a network throughout the development. Pedestrian connections shall be provided where cul-de-sacs or other dead-end streets are used.*

STAFF RESPONSE: This guideline applies to the MPD and implementing projects, and therefore applies to Plat 2C. Pedestrian access is identified as one of the primary uses for Tracts 902, 904, 909, 911, 913, 914, 921, 923, 924, and 925 on Sheet CV4 (Exhibit 2) in the plat drawing and in the Open Space Tract table. A soft-surface trail that is intended to implement DA Figure 9.2—Park and Trail Plan—is also depicted on Sheet CV4. The soft surface trail, pedestrian access tract and sidewalks will ensure that the open spaces that surround the residential development will be connected. No cul-de-sacs are proposed. Therefore, the proposal meets this guideline.

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.*

STAFF RESPONSE: The street and pedestrian system—discussed in previous responses and shown on Sheet CV4 and PP5—has a high degree of connectivity. Because of site constraints of adjacent Rock Creek and the sensitive wetlands areas west and south of the proposed residences, no direct vehicular or pedestrian connectivity is appropriate. Therefore, this guideline is met.

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

STAFF RESPONSE: No cul-de-sacs are proposed. Therefore, the proposal meets this guideline.

E. Mixing of Housing

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

*a. Single Family, detached, on various sized lots*

*b. Single Family, attached: duplexes, townhouses (semi-attached), row houses (attached, common walls), courtyard houses*

*c. Cottage housing*

*d. Apartments*

*e. Accessory Dwelling Units*

STAFF RESPONSE: This guideline applies specifically to MPDs and is not applicable to Plat 2C which represents only a small portion of the overall MPD. Plat 2C proposes single-family lots of varying sizes, which will be part of the larger MPD with more varied types of housing. For example, Phase 1A of The Villages was approved with provisions for different types of housing. Therefore, the proposal meets this guideline.

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

STAFF RESPONSE: The single family development is consistent with the Conceptual Site Plan, Exhibit "U" of the DA. While all lots are intended for single family development, the range of lot sizes will allow and encourage different sizes and configurations of single family dwelling units. Therefore, the proposal meets the guideline.

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.*

STAFF RESPONSE: Sheet CV3 shows that 57 lots (lots 64 to 121) have both street and alley access. The width of the subject site is constrained by the buffers of wetlands and Rock Creek. While alley access may be desirable from an aesthetic and land use planning perspective, providing alleys for all lots, especially those along the western and eastern boundaries of the plat, would reduce the amount of usable open space, and place more pollution-generating impervious surface immediately adjacent to those buffers. Therefore, the proposal meets the guideline as much as is practical and desirable given site constraints.

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.).*

STAFF RESPONSE: No apartment complexes are proposed. This guideline is not applicable.

#### F. Creating Neighborhood Civic/Commercial Centers

1. *Civic/Commercial Centers shall be located to serve groupings of clusters as well as pass-by traffic in order to support an array of shops and services.*
2. *Such centers shall be anchored by a public green space and, ideally, a public building such as a school or meeting hall.*
3. *Upper story housing above retail or commercial space is strongly encouraged within Civic/Commercial Centers.*

STAFF RESPONSE: No neighborhood civic or commercial centers are proposed. This guideline is not applicable.

#### G. Interface with Adjoining Development

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.*

STAFF RESPONSE: Plat 2C does not create lots directly abutting residential development at The Villages property limits. This guideline is not applicable.

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.*

STAFF RESPONSE: Plat 2C does not propose multi-family or non-residential land uses. This guideline is not applicable.

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.*

STAFF RESPONSE: Plat 2C does not propose any main entrances or access routes into The Villages. This guideline is not applicable.

## CIRCULATION

### A. Streets

#### 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.*

STAFF RESPONSE: The options for street layout on Plat 2C are somewhat limited because of the site constraints of wetlands, Rock Creek, and their buffers. The street layout as shown on Sheet RD1 (Exhibit

2) creates a network that promotes convenient and efficient traffic circulation. All areas of the Preliminary plat are accessible without the use of cul-de-sacs and many blocks feature pedestrian walkways located mid-block providing no more than a 400' distance between pedestrian connection nodes. There is a single point of public connection to Willow Avenue SE, and a second point of connection for emergency access. In the future, a third point of access (second point of public access) will be provided to the southwest of the plat when future phases are completed. In accordance with the Development Agreement this meets the access requirements.

Unless specifically noted otherwise, details of the street design comply with adopted City street standards and the standards in DA.

The street network generally consists of a main, or spine, road shown in the Application as Road A (transitioning into Road B). Road A traverses the property from its connection to the Phase 1A Plat (Willow Ave SE) to a point of natural future extension into future phases at Tract 907. A branched network of neighborhood-scale streets connects to Road A and provides gridded access to the residential properties. Where possible, generally where the width of the parcels permit, residential lots are served by alleys. Staff review comments noted that the road width meets International Fire Code requirements with following conditions: three 20-foot alleys (B, C, D) will require NO PARKING signage and enforcement because they need to meet the requirements of a fire department access road (Exhibit 40 and condition of approval #30 and #31). Homes that take alley access without fronting on a main access road will need to have the address provided on both the front and back of the structures (condition of approval #21). Roads that are 20 to 26 feet wide will also require NO PARKING signage on both sides.

Extensions from Road A/Road B to the south are anticipated with future phases of development in The Villages.

On-street parking is provided on Roads A, B, C in accordance with the applicable street standard.

Bike Lanes are not included on these roads as bikes are expected to blend with traffic on residential roads. This is compliant with the DA.

This guideline is met.

## 2. Design

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

STAFF RESPONSE: Because the layout of Plat 2C responds to the site constraints of wetlands and Rock Creek, the options for street layout on Plat 2C are limited. Phase 1A contains the community-wide focal point and Plat 2C connects to the planned Willow Avenue SE, a major route to the focal point of The Villages. Therefore, the proposal meets this guideline.

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

STAFF RESPONSE: The landscape guideline is not applicable to preliminary plats of single family residences only (DA 5.5.1, Applicability). DA 5.5.4, Landscape Design, establishes standards for street trees and plantings in planter strips and medians but these will be addressed and evaluated in the application for a utility permit, which is subsequent to preliminary plat approvals.

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

STAFF RESPONSE: Plat 2C does not contain or propose any arterial streets. This guideline does not apply.

*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.*

STAFF RESPONSE: Internal street standards are established by DA in Chapter 6, specifically 6.3, Street Design. Pavement widths have been reduced to the minimum allowed by International Fire Code by establishing the standard lane width as 10 feet, parking lane width of 7 feet for a total pavement width of 34 feet. The streets within this plat generally provide for on-street parking on both sides, which acts both as a traffic calming measure and also provides a greater buffer between vehicular traffic and the sidewalk.

Woonerf A within the Plat 2C Plat is proposed to be used for secondary Fire Department access and therefore needs to be a minimum of 20 feet in width.

This guideline is met.

*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.*

STAFF RESPONSE: The DA requires the use of low impact development (LID) options where feasible for stormwater treatment in 7.4.4 (A)(6). In general, the DA requires stormwater flows to recharge wetlands as a priority. The Master Developer submitted a preliminary drainage memorandum (Triad, November 8, 2013) discussing the stormwater runoff drainage patterns and recommended treatment. The Plat 2C Preliminary Plat provides space in two locations for bio-filtration swales (“rain gardens”). In these areas, the utility plan designs will require flush curbs, drought-tolerant vegetation and other low impact design element. The remainder of Plat 2C will discharge/infiltrate stormwater in compliance with the DA and the Stormwater management Plan to maintain predevelopment hydrology in the adjacent wetlands and critical areas.

*5. Traffic calming methods should include: Roundabouts, Traffic Circles, Chicanes, Corner bulbs.*

STAFF RESPONSE: The narrow configuration of this Plat is determined by the surrounding wetlands and buffers and is not conducive to roundabouts or traffic circles. The roads within the Plat use narrow vehicle lanes, curbside parking, curb bulbs at the intersections, minimized block lengths and an interconnected street grid. These features provide traffic calming effects (see Transpo Group response to comment #4, in Exhibit 24b.). Therefore, this guideline is met.

*6. Lanes and Alleys*

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

STAFF RESPONSE: MPD Permit Condition of Approval No. 142 addresses this guideline. Plat Sheet CV3 (Exhibit 2) contains a “Lot Summary” table with detail regarding whether garages will be front or alley loaded. Front loaded lots are proposed on lots 1 through 83, 122 through 164 and 185 through 283.

These lots are located along the perimeter of the plat, adjacent to critical area open space, where it is not practical to have alley loaded lots. This guideline is met.

No commercial loading areas are proposed.

*7. Non-motorized Circulation*

*a. All streets shall include either sidewalks or trails on at least one side of the street. Design streets to be "bicycle" friendly.*

STAFF RESPONSE: Proposed Roads A, B, and C include sidewalks and off-street pedestrian access routes are provided across and around the development. Plat 2C is not identified on the DA Figure 6.3, Bike Route and Future Connection Plan as a bike route. Therefore, no striped bike lanes are required. Traffic calming from on-street parking on relatively narrow streets with pedestrian bulb-outs are expected to slow traffic and result in bicycle friendly streets. In addition, the surrounding trail provides an alternate cycling and pedestrian route. The woonerfs will be bicycle friendly because they are designed to give priority right-of-way for pedestrians and cyclists and secondary right-of way for motor vehicles. Therefore, this guideline is met.

*8. Street Landscaping*

*a. All streets shall include native and/or drought-tolerant vegetation (trees, shrubs and groundcover) planted within a strip abutting the curb or edge of pavement. Native and/or drought-tolerant vegetation shall also be used within all medians.*

STAFF RESPONSE: The applicant has shown locations for bio-filtration swales ("rain gardens") on tracts 916 and 917 on Sheet RS1 of the preliminary plat for Plat 2C. Flush curbs, drought-tolerant vegetation and other low impact design elements will be reviewed at the utility permit stage, at which point the guideline will be met.

*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.*

STAFF RESPONSE: Curbside parallel parking is included along Roads A, B, and C. This guideline is met.

*B. Sidewalks*

*1. Width*

*a. The minimum clear pathway shall generally be between 5 ft and 8 ft, depending upon adjacent land uses and anticipated activity levels.*

STAFF RESPONSE: Section 6.3 of the DA establishes the standard street section that includes a 5-foot-wide sidewalk. Plat 2C meets this guideline as shown on Sheets PP1-5 of the plan set.

*2. Lighting*

*a. All lighting shall be shielded from the sky and surrounding development and shall be of a consistent design throughout various clusters of the development.*

STAFF RESPONSE: Street lighting is required on all streets. Although not shown on the plat drawings, street lights will be required to be provided consistent with City standards, including spacing, pole

height, and fixture type, as part of future utility permit review. This is compliant with the DA. Compliance with this standard will be required at final plat for Plat 2C.

### 3. *Furnishings*

STAFF RESPONSE: No street furnishings are proposed in Plat 2C with this application. These guidelines are not applicable.

*c. Mailbox stations shall be designed to be architecturally compatible with the development in which they are located.*

STAFF RESPONSE: Mailbox stations, if proposed, would be reviewed during the building permit stage. These guidelines are not applicable.

## C. Walkways and Trails

### 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 RESPONSE: Because of topographic and sensitive area constraints, no trail routes lead to the major community center in Phase 1A. A trail is integrated into the buffer areas that surround the development, as shown on Sheet CV3 and PP5, thus providing access from individual properties. This guideline is met.

### 2. *Width*

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

STAFF RESPONSE: A soft-surface trail that is intended to implement DA Figure 9.2—Park and Trail Plan—is depicted on Sheet CV4. Section 9.7 of DA addresses trail standard width, which vary from 4 to 12 feet, depending on the intended type and intensity of use. Where the trail crosses buffers, it is required to be no wider than four feet. This requirement will be reviewed at the grading and utility permit phase for Plat 2C.

### 3. *Materials*

*a. Walkways connecting buildings and hardscaped common spaces shall have a paved surface.*  
*b. Trails throughout the development and connecting to larger landscaped common spaces shall be of at least a semi-permeable material.*

STAFF RESPONSE: Walkways on public access tracts, trails, and sidewalks are shown on Sheets PP1 – 5. Trails are proposed to be soft-surface and compliance with trail standards in the DA 9.7.1(A) and (C) will be reviewed at the building permit stage.

## SITE DESIGN

### A. Cluster Development

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

STAFF RESPONSE: The Plat 2C preliminary plat layout groups more than 50 dwelling units defined by the surrounding open space associated with the wetlands and Rock Creek buffers. However, Plat 2C will constitute a smaller neighborhood cluster in the context of the overall development of The Villages. The proposal meets the guideline.

2. *Clustering*

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

- a. *Houses of varying sizes, styles, and form;*
- b. *The maximum number of attached units shall not be more than twelve within a single structure.*

STAFF RESPONSE: Section 5 and Exhibits "H" and "I" of the DA address design standards for development similar to the above guidelines. It is expected that the varying lot sizes within Plat 2C will result in a variety of single family housing types. Review of Plat 2C for compliance with the requirements and guidelines will occur at the building permit stage. No attached units are expected to be proposed. The proposal complies with the guideline.

### B. Neighborhood Common Space

1. *Amount*

*In general, within higher density residential and commercial development, a minimum of 1% of the lot area plus 1% of the building area should be the amount of area set aside for common space, exclusive of other required landscaping.*

STAFF RESPONSE: Plat 2C proposes a low density residential development. This guideline does not apply.

2. *Location*

*Common open space shall be accessible and visible to users, as well as integrated into the overall project through connections and trails.*

STAFF RESPONSE: Sheet CV4 and Sheets PP1 through PP5 (Exhibit 2) illustrate the open space and list the tracts that are identified as common open space in the subdivision. Tracts will provide access to the trail and will be visible from the street network. The proposal meets this guideline.

3. *Landscaping/Hardscaping*

*Commercial areas shall provide common space in the form of plazas, courtyards, and/or seating areas including some of the additional features noted below.*

*Higher density residential areas shall have usable outdoor spaces that provide at least four of the following features to accommodate a variety of ages and activities:*

*Site furnishings (benches, tables), Picnic areas, Patios or courtyards, Gardens, Open lawn with trees, Playfields, Special interest landscape, Public art, Water features, Sports courts (tennis, basketball, volleyball)*

STAFF RESPONSE: Plat 2C does not propose any commercial areas or higher density development. Therefore, these guidelines do not apply.

#### 4. Lighting

*a. Pedestrian scale, bollard, or other accent lighting may be incorporated into the design of open space.*

STAFF RESPONSE: No lighting is proposed for the open space areas because they primarily consist of sensitive areas. The BDMC restricts light impacts in sensitive areas.

#### C. Landscaping & Planting Design

*Incorporate native, drought-tolerant vegetation, avoid extensive use of lawn and plantings that demand significant irrigation and fertilization.*

*A minimum of 75% of the landscaped area (not including recreational areas) should be planted with other than turf or lawn. Perennials and annuals are encouraged to provide special interest and highlight pedestrian areas such as walkways and trails.*

*Where landscape areas are located adjacent to a street right-of-way, the type of landscaping should provide a vertical buffer.*

*Rocks, pebbles, sand, and similar non-living materials shall not be used as groundcover substitutes, but may be used as accent features provided such features do not exceed a maximum 5% of the total landscape area.*

STAFF RESPONSE: This guideline does not apply to the preliminary plat approval stage. Street trees and planting strip vegetation will be required and reviewed during final plat.

## BUILDING DESIGN

Most of the guidelines under this section apply to review of the building or site plans by the DRC and the City at the building permit stage. BDMC Chapter 18.98.110 requires an applicant to submit typical elevations with an application for a master planned development. The DA also contains requirements pertaining to building design. Where information is available or the requirements are already addressed by the DA, a staff response is provided.

#### A. Residential Building Design

##### 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.*

STAFF RESPONSE: Plat 2C will contain only single-family buildings. The varied lot sizes and the requirement for 20% of lots on a block to have different setbacks are expected to result in different styles of houses. The DA, Exhibit "H", limits the use of identical building plans for lots that face each other. The applicant's submittal materials for BDMC 17.12.010 (K) contains photographs and illustrations of the different types of houses expected to be built on Plat 2C. They are primarily two-story, cottage or traditionally-styled buildings. The submittal is not inconsistent with the guideline at this stage. This guideline would be reviewed at the building permit review stage.

##### 2. Setbacks of Houses to Create a Sociable Environment

*a. The front facades of houses should be set back 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 RESPONSE: The DA established residential setbacks at 10 feet for the zone MPD-L. The DA also requires 20% of lots on a block to have different setbacks. The diagrammatic layout (Exhibit 43) shows different styles of houses and differing setbacks on some lots. The proposal is consistent with 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 feet of the alley.*

STAFF RESPONSE: Alleys and woonerfs are part of the plan for Plat 2C. Garages are likely to be accessed from alleys where there is front access as well. Some lots will take access only from an alley so those houses will need to have garages close to the alley. The DA's development standards requires garages to be set back from the main façade of the house to reduce visual impact. The submittal is not inconsistent with the guideline at this stage. This guideline would be reviewed at the building permit review stage.

*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.*

STAFF RESPONSE: Some houses would not have alley access. The DA requires garages to be set back at least 20 feet from the street in the MPD-L zone. The diagrammatic layout (Exhibit 43) shows different styles of houses and differing setbacks on some lots, it is not clear where the garages would be and if they would meet the setbacks. When house plans are submitted for building permit review, they will be evaluated for compliance with this guideline.

### *4. Architectural Features*

*a. Housing shall include features such as:*

- *dormers*
- *brackets supporting roof overhangs*
- *corner boards*
- *wide trim around windows*
- *railings around balconies and porches*
- *low picket fencing*

STAFF RESPONSE: All of these features are shown on the housing styles in Exhibit 3I. The submittal is not inconsistent with the guideline at this stage. When house plans are submitted for building permit review, they will be evaluated for compliance with this guideline.

*b. Fronts of houses shall face the street and incorporate usable porches, stoops and steps.*

STAFF RESPONSE: The fronts of houses are shown facing the street on the diagrammatic drawing (Exhibit 43). Stoops and steps are shown on the houses proposed as example styles in Exhibit 3I. The submittal is not inconsistent with the guideline at this stage. When house plans are submitted for building permit review, they will be evaluated for compliance with this guideline.

c. *Upper floors of houses shall be smaller than the floors below.*

STAFF RESPONSE: The houses proposed as example styles in Exhibit 3I have upper floors smaller than lower floors. When house plans are submitted for building permit review, they will be evaluated for compliance with this guideline.

d. *Orientation of ridgelines of homes shall be varied.*

STAFF RESPONSE: When house plans are submitted for building permit review, they will be evaluated for compliance with this guideline. The diagrammatic drawing (Exhibit 43) demonstrates that the size of the lots will likely constrain orientations to being perpendicular and parallel to the lot lines, rather than situated at an oblique angle. The curvature of the streets will likely achieve a similar effect to varying the orientation of ridgelines. The proposal is consistent with this guideline.

## 5. *Materials*

a. *Exterior finishes should incorporate traditional and natural building materials as historically used in Black Diamond.*

STAFF RESPONSE: The applicant submitted a board with exterior building materials, similar or identical to those submitted and approved for Phase 1A. (Exhibit 3n) The materials consist of traditional wood trim and knotty pine soffits. Cementitious wood-grained siding is proposed for exterior walls and typical asphalt shingles for roofs. The proposal is consistent with this guideline.

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

a. *FAR for detached residential development should not exceed 0.75;*

STAFF RESPONSE: The DA established FARs for non-residential development only. This guideline does not apply.

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*

STAFF RESPONSE: No attached residential or residential development within Centers is proposed; this guideline does not apply.

## 7. *Height*

a. *Minimum 1 story above grade*

b. *Maximum 2 1/2 stories*

STAFF RESPONSE: The DA establishes a maximum height in the MPD-L zone of 45 feet. The height of the buildings has not been proposed but could exceed the guideline while meeting the standards of the DA, which governs. When house plans are submitted for building permit review, they will be evaluated for compliance with this guideline.

8. *Massing*

- a. *Horizontal facades longer than 30' shall be articulated into smaller units, using methods such as:*
- *distinctive roof forms*
  - *changes in materials and/or patterns*
  - *color differentiation*
  - *recesses or offsets.*

STAFF RESPONSE: Articulation in the housing facades are evident in the sample home styles in Exhibit 3I. The submittal is not inconsistent with the guideline at this stage. When house plans are submitted for building permit review, they will be evaluated for compliance with this guideline for massing.

9. *Roof Pitch*

- a. *May range from 6:12 to 12:12*

STAFF RESPONSE: A variety of roof pitches are shown on the sample styles of houses in Exhibit 3I. The submittal is not inconsistent with the guideline at this stage. When house plans are submitted for building permit review, they will be evaluated for compliance with the roof pitch requirements.

10. *Architectural Features*

- a. *Front Porches—at least 6 ft in depth (or deep enough to allow for seating)*

STAFF RESPONSE: A variety of porches are shown on sample house styles in Exhibit 3I. The submittal is not inconsistent with the guideline at this stage. When house plans are submitted for building permit review, they will be evaluated for compliance with this architectural feature.

- b. *Street-Facing Garage Location—the main house floor area shall extend at least 5 ft closer to the front lot line than any garage with street-facing doors. Design measures should be used for de-emphasizing garages, such as:*

- *porches*
- *trellises*
- *location of entry*
- *break up massing/doors for double garages*
- *overhanging second floor*

STAFF RESPONSE: When house plans are submitted for building permit review, they will be evaluated for compliance with this architectural feature.

## 17.15, Subdivision Code [2009]

### 17.15.020 - APPROVAL CRITERIA. [AS APPLICABLE TO LAND USE]

- A. *The following criteria must be met to approve any subdivision. The criteria may be met by conditions imposed by the hearing examiner as conditions of approval:*
1. *The proposed subdivision meets all city zoning regulations and is consistent with the city's comprehensive plan maps and policies, and with the Black Diamond design standards and guidelines where applicable;*

STAFF RESPONSE:

Zoning Code Compliance

The subject site is zoned MPD, Master Planned Development.

Development on the parcels consistent with the zoning code is principally governed by the conditions of approval in The Villages MPD Permit and the provisions of the DA. City staff and the consultant reviewers (MDRT) have reviewed the proposal against all of the provisions of The Villages MPD Conditions of Approval and DA. Where the MPD conditions and the DA refer to sections of the BDMC, the proposal was also reviewed for compliance with the BDMC. This staff report presents the results of review of each topic that is relevant to the standards of the BDMC, the MPD, and the DA. Staff finds that the proposal, with the exceptions noted under each topic area and in Conclusions, meets the standards.

Consistency with the Black Diamond Comprehensive Plan

The City of Black Diamond Comprehensive Land Use map designates the land contained within parcels V28 and V29 as Low Density Residential with a Master Plan Development Overlay. Plat 2C proposes a net density of 6.49 units per acre, which meets the definition of low density.

The Black Diamond Comprehensive Plan states that areas with an MPD overlay designation are intended to develop only after an MPD permit has been issued. The Villages MPD permit was approved on September 20, 2010 (Ordinance 10-946). In Conclusion of Law #16, the ordinance states that *“The proposed project is generally consistent with the vision statement and the City’s development regulations and policies. Further, Page 5-13 of the Comprehensive Plan (Land Use element) discusses the MPD Overlay plan designation. The Villages MPD is also consistent with that section of the Comprehensive Plan.”* Plat 2C Preliminary Plat is an implementing project of the approved The Villages MPD. Because staff finds that the proposal is consistent with MPD and DA, it is consistent with the “Master Planned Development Overlay” requirements for that designation.

In addition, the proposal has been evaluated and found to be consistent with the specific policies relating to each topic area addressed in this staff report. Staff finds that the proposal is consistent with the comprehensive plan.

Design Guidelines for Master Planned Development

The City of Black Diamond Design Guidelines (BDDG) apply to development within all zones. The applicable set of guidelines for Plat 2C is the MPD Framework Design Standards & Guidelines. These standards and guidelines are primarily intended for, and apply to, overall MPD design, but some apply to projects that implement an MPD at later permitting stages, such as preliminary plat design, utility design, and building construction.

The introduction to the MPD Framework Design Standards and Guidelines notes that the standards and guidelines are not intended to prescriptive rules and are intended to provide an amount of flexibility. Decisions regarding strict application of any guideline contained will be made by the City Council as part of its consideration for granting overall MPD approval.

Consistency with the BDDG is discussed above.

2. *The proposed subdivision results in a net density that is equal to or less than the allowable maximum density established by the zoning regulations, and is greater than or equal to any applicable minimum density requirement;*

STAFF RESPONSE: Density within the proposed subdivision has been established through the City's approval of The Villages MPD under BDMC 18.98.120 [2009], and subsequently through the standards established by the DA. BDMC 18.98.120(F) allows a density of 18 units per gross acre.

Condition of Approval No. 128 of The Villages MPD Permit permits the zone categories and densities corresponding to the Site Plan map and Table 4-1 (as amended). Table 4-1 of the DA establishes the residential density range for parcels V28 (25-203) and V29 (54-127). The notes to Table 4-1 establish the category of MPD-L (low density residential) with a density range of from 4 to 8 units per acre. Condition of Approval No. 131 of The Villages MPD establishes a minimum density requirement of 4 units per net acre for residential development.

The Land Use Capacity Table on Sheet CV3 of the preliminary plat (Exhibit 2) shows calculations for gross and net density for V28 and V29 and proposed number of units within the context of the authorized number of units and commercial development for The Villages as a whole.

Parcel V28 has a net development area of 18.63 acres and 140 lots are proposed. Table 4-1 authorizes 25 to 203 units. Net density would be 7.51, meeting the minimum standard of 4 units per acre. Parcel V29 has a net development area of 12.63 acres and 63 lots are proposed. Table 4-1 authorizes 16 to 127 lots. Net density proposed is 4.99 units per acre. Therefore, the proposal is consistent with Table 4-1 and the net density requirements.

Both parcels combined would have a net density of 5.13 units per acre, and a gross density of 6.49 units per acre. Both net and gross densities for Plat 2C are less than the maximum allowed by BDMC 18.98 and within the range allowed by the DA.

Therefore, staff finds that the proposed density is greater than the applicable minimum and less than the maximum density requirements.

5. *Applicable city development standards are met or exceeded;*

STAFF RESPONSE: The Villages MPD permit was approved on September 20, 2010 (Ordinance 10-946). In Conclusion of Law #16, the ordinance states that "*The proposed project is generally consistent with the vision statement and the City's development regulations and policies. Further, Page 5-13 of the Comprehensive Plan (Land Use element) discusses the MPD Overlay plan designation. The Villages MPD is also consistent with that section of the Comprehensive Plan.*" Plat 2C Preliminary Plat is an implementing project of the approved The Villages MPD and its consistency with the MPD permit and DA (which also requires consistency with specific parts of the BDMC), implies some consistency with applicable city development standards. The SEPA checklist for Plat 2C notes the same in part 9 on land use: that the City's approval of the MPD permit and the DA determined consistency with the City's development regulations and therefore with the City's goals and objectives.

The relevant land use standards are primarily in the DA, Chapter 4, Land Use and Project Elements, and Chapter 5, Additional Bulk, Landscape & Sign Standards. Those chapters are addressed in the staff report. As noted above, the proposal is consistent with the MPD Site Plan (land use) Map in Exhibit "U" of the DA, the zoning and the maximum number of residential units and target densities in chapter 4. Most of chapter 5's standards are also met. However, exceptions have been noted above and if addressed, staff could determine complete consistency with the standards.

Other development standards are in the BDMC and are addressed in the sections primarily pertaining to sensitive areas, land division, tree preservation, and zoning, which are addressed in those sections.

6. *All environmental impacts have been addressed consistent with the public health, safety and welfare and city goals and policies;*

STAFF RESPONSE: Environmental impacts were addressed for The Villages MPD in the FEIS. The land use mitigation section noted that no mitigation was identified since all alternatives could be accommodated by the Black Diamond Comprehensive Plan. Compatibility issues between residential densities and between uses consisted of existing development standards in the BDMC (or the functionally equivalent standards that was expected to be proposed in the DA and approved by the City).

The SEPA checklist for Plat 2C discloses in part 9 on land use, that the MPD permit approval and the DA approval determined consistency with the City's development regulations and therefore with the City's goals and objectives. Non-land use related environmental impacts are addressed elsewhere in this staff report.

8. *If the proposal is in an approved MPD, the proposed subdivision shall be consistent with the approved MPD, the MPD conditions of approval, the MPD design standards, and the MPD development agreement;*

STAFF RESPONSE: The proposal is in The Villages MPD, which was approved in 2010 (Ordinance 10-946). The proposed preliminary plat for Plat 2C has been evaluated against all of the MPD Permit conditions of approval, the MPD design standards and the MPD development agreement in Part IV of this staff report for each topic area. Staff has concluded that where information has been provided by the applicant, and with conditions, the proposal meets the standards.

9. *There shall be connectivity of motorized and nonmotorized transportation routes, open spaces and wildlife corridors with existing or proposed routes or corridors on adjacent properties;*

STAFF RESPONSE: The preliminary plat shows that the transportation routes connect to the adjacent Phase 1A. Tract 907 is designated as FD/UT for future development and utilities. The applicant has stated that tract 907 will provide a connection to future development to the south which would impact buffers and wetlands and require further review. By leaving large areas of wetlands and buffers intact, the applicant has ensured that open spaces and wildlife corridors are able to stay connected to similar features off-site. This criterion is met.

10. *The use of cul-de-sacs and other dead-end streets shall be minimized to the fullest extent possible;*

STAFF RESPONSE: Access has been provided without the use of cul-de-sacs; the criterion is met.

11. *Appropriate provision has been made for the dedication of land to any public body, and provision of public improvements has been made as necessary to serve the subdivision. This shall include appropriate provision for payment of any impact fees imposed in accordance with the provisions of RCW 82.02.050 through 82.02.090, and applicable city codes and regulations. Dedications shall clearly be shown on the final plat;*

STAFF RESPONSE: Provision for dedication is required by the DA, Section 7.1.7. has been demonstrated in the sections pertaining to stormwater, transportation, sanitary sewer, parks, and water supply.

Several conditions of approval of the preliminary plat require the dedication of land and utilities to the City following the City's acceptance of the roads, water, sewer and any stormwater facilities not required to be private. Final plat approval requires all easements as well as maintenance responsibility assigned to private property owners to be shown on the plat for Plat 2C (conditions of approval #2 and #4). These conditions will be reviewed at the final plat stage.

No capital facility charges will be imposed by the city on the Master Developer, in accordance with provisions in the DA, Section 4.10, Developer Improvements. Section 4.10 asserts that The Village MPD design and mitigation measures described in the Agreement, the MPD Permit Approval and its conditions of approval mitigate any probable significant adverse environmental impacts directly identified as a consequence of the MPD Permit approval and the agreement. In addition:

"Unless otherwise provided elsewhere in this Agreement or in the MPD Permit Approval, the mitigation measures listed this Agreement and in Exhibit "C" are in lieu of the payment of any impact fees that the City has the authority to impose pursuant to RCW 82.02.050 et seq., including any amendments thereto, such that no impact fees shall be imposed on any Implementing Project during the term of this Agreement except for those impact fees explicitly allowed in this Agreement." (page 21)

The application meets this criterion.

12. *The streetscape and public open space amenities shall be compatible with any adjacent project that has been developed or approved for development as an MPD;*

STAFF RESPONSE: No adjacent project has been developed or approved for development as an MPD. This criterion does not apply.

13. *The proposed subdivision provides safe walking conditions for students who walk to and from school; and*

STAFF RESPONSE: The preliminary plat for Plat 2C provides sidewalks on all streets, which will connect with streets in Phase 1A, where the schools will be developed. The criterion is met.

## 18.98, Master Planned Development

### 18.98.110 MPD STANDARDS—DESIGN REVIEW REQUIRED

*B. Design review process.*

1. *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.*

STAFF RESPONSE: This review process requirement does not apply to implementing projects.

2. *Implementing permits or approvals—Residential subdivisions. Each residential subdivision that is part of an approved MPD shall be reviewed at the time of preliminary plat review for compliance with the city's MPD design standards. This review shall include typical elevations, and exterior*

*material samples for the single-family residences and other structures to be built on the subdivided lots. This review shall be merged with the hearing examiner's review of the preliminary plat.*

STAFF RESPONSE: The review process applies to Plat 2C because it is an implementing project of an approved MPD. The applicant provided exterior materials (Exhibit 3n) and elevations for the single family homes. (Exhibit 3l) The typical elevations Consistency with the BDDG is addressed for the individual project components in Part IV of this staff report.

- 3. Implementing permits or approvals—Short subdivisions (short plats). Short subdivisions (short plats) within an approved MPD shall be reviewed by the director for compliance with the city's MPD design standards as required in [subsection] (2) above.*

STAFF RESPONSE: The proposal is not a short plat; this criterion does not apply.

- 4. Implementing permits or approvals—Residential building permits. Staff shall administratively review residential building permit applications in approved and recorded subdivisions and short subdivisions for consistency with the MPD design guidelines.*

STAFF RESPONSE: The proposal is for a preliminary plat approval; this criterion does not apply.

- 5. Implementing permits or approvals—Other building permits. All other structures shall be reviewed by the director for compliance with the MPD design standards. The director shall make a decision on the proposal's compliance with the MPD design standards and adopt findings, conclusions and, where applicable, conditions of approval. Building permit applications that are found to be not consistent with the approved design standards shall be rejected, subject to appeal to the hearing examiner.*

STAFF RESPONSE: The proposal is for a preliminary plat approval; this criterion does not apply.

- 6. Future project consistency. The decision-maker shall not approve a preliminary plat or short plat, or issue a building permit or site plan review approval for a parcel located within an MPD, unless the city has found that the proposal is consistent with applicable MPD design standards.*

STAFF RESPONSE: Staff reviewed the proposal's consistency with MPD design standards and found it to be consistent with applicable MPD design standards.

## 19.04, SEPA Ordinance [2009]

Environmental impacts were addressed for The Villages MPD in the FEIS. The land use mitigation section noted that no mitigation was identified since all alternatives could be accommodated by the Black Diamond Comprehensive Plan. Compatibility issues between residential densities and between uses consisted of existing development standards in the BDMC (or the functionally equivalent standards that was expected to be proposed in the DA and approved by the City).

The SEPA checklist for Plat 2C discloses in part 9 on land use, that the MPD permit approval and the DA approval determined consistency with the City's development regulations and therefore with the City's goals and objectives. Non-land use related environmental impacts are addressed elsewhere in this staff report.

## K. Emergency Services

### The Villages MPD Permit Conditions of Approval (2010)

*100. The Development Agreement shall include specific provisions for providing fire mitigation to ensure protection concurrent with project build out. Fire mitigation may include fire impact fees under a City-wide fire impact fee program for new development, a voluntary fire mitigation agreement, and/or the dedication of land for fire facilities (subject to credit under State impact fee laws).*

STAFF RESPONSE: The FEIS disclosed that any of the alternatives will result in growth that would increase the demand for emergency services. As a result, the DA Section 13.4, Fire Mitigation, implemented this condition of approval establishing the requirements for concurrency of fire protection services to serve future development. Section 13.4 is addressed below.

*101. All Fire Department access roads must meet International Fire Code, specifically Section 503 Fire Department Access Roads and Appendix D Fire Department Access Roads, -except to the extent modifications or exceptions are approved by the designated official as authorized by applicable regulations*

STAFF RESPONSE: Fire Department staff reviewed the access roads proposed for Plat 2C and found that the roads can meet International Fire Code (IFC) requirements (Exhibit 40), with conditions of approval #30 and #31 to prohibit parking on all 20-foot alleys and any main access roads that are 20 to 26 feet wide, such as Woonerfs A and B. This MPD Permit condition of approval is met, with conditions.

*102. Auto courts shall meet the requirements of the International Fire Code 2006 ed. Per IFC Section 503, specifically 503.2.1, except to the extent modifications or exceptions are approved by the designated official as authorized by applicable regulations.*

STAFF RESPONSE: See response to MPD Permit condition of approval No. 101. This condition is met.

*103. 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.*

STAFF RESPONSE: The Fire Department did not make any Plat 2C-specific wildland fire comments. Given that vegetation surrounding the development is wetland vegetation, this condition may not be applicable. If this becomes a concern, conditions can be imposed during review of the landscaping proposed at the utility and building permit stage.

### The Villages Development Agreement (2011)

#### 13.4 FIRE MITIGATION

*The City commissioned the "Impact Fees for Fire Protection Facilities" study dated January 13, 2011 (Exhibit "T") (the "Fire Impact Fee Study"), to establish the rates for impact fees for fire protection*

*facilities in the City of Black Diamond. Pursuant to Condition of Approval No. 100 of the MPD Permit Approval, impacts to fire services throughout the MPD shall be mitigated as follows:*

- A. Mitigation Fees. Payment of fire mitigation fees at the rate described in Table 4 of the Fire Impact Fee Study (\$1,783.13 per Dwelling Unit, and \$2.29/square foot of nonresidential construction) until the City adopts a City-wide fire impact fee program.*
- B. Impact Fees. When the City adopts a City-wide fire impact fee program that complies with RCW Chapter 82.02, payment of fire impact fees shall be at the rate adopted by the City fire impact fee.*

STAFF RESPONSE: The DA Section 13.4, Fire Mitigation, establishes the requirements for concurrency of fire protection services to serve future development. Mitigation will be provided through coordination between the City and the applicant, and may consist of different measures such as impact fees, design and construction (in full or in part) of the satellite fire station, provision of fire equipment. A fire impact fee ordinance was adopted by the City in 2012—Ordinance No. 12-980. The Fire Protection Facility Impact Fee formula is \$1783.13 per dwelling unit. The fees for 203 units with Plat 2C would be \$351,975.39. All fire impact fees are collected at the time of building permit application. The applicant will be subject to the fire impact fees.

*D. Satellite Fire Station. The Master Developer shall provide one (1) satellite fire station for the City pursuant to the terms, conditions, and provisions below:*

- i. Design. The design of the satellite fire station described in this subsection D shall be selected, completed, and mutually agreed to by the City and Master Developer no later than the time of issuance of a Certificate of Occupancy for the 250th Dwelling Unit pursuant to the following conditions:*

STAFF RESPONSE: This section requires a site and design for the satellite fire station to be completed no later than the time of issuance of a Certificate of Occupancy for the 250<sup>th</sup> dwelling unit. Phase 1A Preliminary Plat was conditioned to make provisions for the satellite fire station in accordance with Section 13.4, Fire Mitigation, of the DA. Since construction of the 250<sup>th</sup> dwelling unit could occur on either Phase 1A or 2C, condition of approval for Plat 2C (#82) will ensure that the appropriate mitigation is provided prior to issuance of the 250<sup>th</sup> occupancy permit.

## 19.04, SEPA Ordinance [2009]

The FEIS disclosed that any of the alternatives will result in growth that would increase the demand for emergency services. The applicant's SEPA checklist notes that the public service analysis contained in the FEIS would result in a need for additional parks, schools, police and fire services, consisting of additional staff as well as upgraded facilities. Impact fees and land for facilities are two forms of suggested mitigation. The DA subsequently established how the applicant is to mitigate the impacts of land development on transportation, public services, parks, and schools. The proposal's consistency and compliance with the DA are addressed in those respective sections of this staff report.

# L. Process

## The Villages Development Agreement (2011)

### 12.0 DEVELOPMENT REVIEW PROCESS

#### 12.3 DESIGN REVIEW COMMITTEE

*...The DRC shall ensure that Implementing Projects within The Villages MPD are consistent with the MPD Project Specific Design Standards and Guidelines (Exhibit "H") and the High Density Residential Supplemental Design Standards and Guidelines (Exhibit "I") as applicable, and shall have sole responsibility for ensuring compliance with the DRC Design Guidelines. Except for Utility Permits and permits for Schools as set forth in the School Agreement, all Implementing Project applications, including any formal modifications to Implementing Approvals and ADU applications, must be reviewed by the DRC before the application or formal modification is submitted to the City. In the event of a conflict, City review requirements supersede those of the DRC. An Implementing Project application submitted without written documentation of DRC approval is not complete and may be rejected by the City.*

STAFF RESPONSE: The DRC reviewed the preliminary plat for Plat 2C and approved it. A letter from the DRC approving the application was submitted with the application on November 8, 2013 (Exhibit 3I). The application complies with this section.

#### 12.5 APPLICATION REVIEW PROCEDURES

##### 12.5.1 Procedures Applicable to All Implementing Projects

###### *A. Informal Feasibility Consultation*

*Potential Implementing Project applicants are required to hold a project feasibility meeting with the Master Developer and City staff prior to detailed work by an engineer, architect, landscape architect or planner.*

STAFF RESPONSE: Several project feasibility meetings were held between the City and the applicant. The requirement is met as documented in Part III, Chronology, of the staff report.

###### *B. Pre-Application Meeting*

*A pre-application conference is recommended for all Implementing Permit applications, and is required for all Land Use Applications, Site Plan Review, Commercial Development and residential Development consisting of more than four (4) Dwelling Units per structure.*

STAFF RESPONSE: A pre-application meeting was held on September 16, 2013. (Exhibit 1b)

###### *C. Submittal Requirements*

*Submittal requirements for each permit type are contained in the BDMC (Exhibit "E"). For ease of reference, the applicable submittal requirements are shown in Exhibit "E", including type, detail, and number of copies for an application to be determined to be complete.*

STAFF RESPONSE: The application was submitted on November 8, 2013. The application was determined to be "complete" for processing on December 3, 2013. The Applicant submitted supplemental information and additional supporting materials in 2013 on November 25, December 6, 20, and 27, and in 2014 on January 3, 10, 27, 30 and 31, on March 3, 10, 17, 24, and 31; on April 21 and 28; on May 9,

13, 20, 22, 30; on June 4, 16, 27; and on August 29, September 5, and October 9. The requirements were met.

## 12.6 NOTICE REQUIREMENTS

### 12.6.1 Notice

*Notice shall be provided pursuant to the provisions set forth in BDMC 18.08.120-.180 (Exhibit "E").*

STAFF RESPONSE: Notice was published and posted in accordance with BDMC 18.08.125, as indicated by affidavits. (Exhibit 42)

## 12.8 APPLICABILITY, DECISION CRITERIA AND APPROVAL SPECIFIC REQUIREMENTS

### 12.8.2 Lot Line Adjustments, Short Subdivisions, Subdivisions, Plat Alterations / Vacations

*All lot line adjustments, short subdivisions, subdivisions, and plat alterations/vacations shall be consistent with requirements of BDMC Title 17 (Exhibit "E").*

STAFF RESPONSE: Consistency of the applicant's proposal with BDMC Title 17 has been addressed throughout this staff report for each of the topic areas.

### 12.8.3 MPD Site Plan Amendments

#### 12.8.14 Amendments to MPD Permit Approval

STAFF RESPONSE: No amendments to the MPD site plan or permit approval were requested with the preliminary plat application for Plat 2C. These sections do not apply.

## M. Construction

### The Villages MPD Permit Conditions of Approval (2010)

8. *The applicant shall submit a construction waste management plan for inclusion in the Development Agreement.*

STAFF RESPONSE: The City has approved the Construction Waste Management Plan submitted by the applicant. (Exhibit 39) This condition is met.

### The Villages Development Agreement (2011)

#### 13.1 CONSTRUCTION WASTE MANAGEMENT PLAN

*Pursuant to Condition of Approval No. 8 of the MPD Permit Approval, the Master Developer shall comply with the Construction Waste Management Plan attached hereto as Exhibit "J".*

STAFF RESPONSE: The City has approved the Construction Waste Management Plan submitted by the applicant. (Exhibit 39) This condition is met.

### Design Guidelines for Master Planned Development

## GENERAL PRINCIPLES AND SITE PLANNING

### A. Environmentally Sustainable

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

STAFF RESPONSE: The DA includes a Construction Waste Management Plan (Exhibit “J” of the DA) that applies to all construction in The Villages. Therefore, the proposal is consistent with this guideline.

## N. Financial Impacts

### The Villages MPD Permit Conditions of Approval (2010)

*156. 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 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 ensure that revenues from the project are sufficient to maintain the project’s proportionate share of adopted City staffing levels of service. 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.*

STAFF RESPONSE: This condition does not apply to Plat 2C because five years have not elapsed since the MPD permit was approved on September 20, 2010.

- b. *Prior to commencing a new phase, including the first phase of construction.*

*The exact terms and process for performing the fiscal analysis and evaluating fiscal impacts shall be outlined in the Development Agreement, and shall include a specific “MPD Funding Agreement,” which shall replace the existing City of Black Diamond Staff and Facilities Funding Agreement. The applicant shall be responsible for addressing any projected city fiscal shortfall that is identified in the fiscal projections required by this condition. 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; provided, however, that in the event that the fiscal projection prepared prior to the commencement of Phase III indicates a likelihood of significant ongoing deficits in the city’s general fund associated with operations or maintenance for properties within the MPD, the applicant must address the projected shortfalls by means other than interim funding..*

STAFF RESPONSE: Because Plat 2C represents the start of a new phase, the applicant submitted a fiscal impact analysis for the potential cumulative impacts of Phase 2 to meet this requirement (Phase 2 Updated Fiscal Impact Analysis for The Villages and Lawson Hills Master Planned Development, DPGF, April 28, 2014, Exhibit 32). The purpose of the analysis was to estimate the short and long term revenue surpluses and deficits that could be caused by development of Phase 2. Assumptions and methodology for the analysis are presented in the report. Figure 1 shows the annual surplus or deficit for the City’s general fund from 2013 to 2023. Table 2 of the report shows that Phases 1A and 2 are fiscally positive

with a General Fund surplus for the City of Black Diamond of approximately \$23,000 annually in 2023 following build-out of Phases 1A and 2. During that period, Phases 1A and 2 will generate approximately \$29.4 million (including \$6.9 million from the Funding Agreement) in revenue and incur \$25.8 million in costs for the City's General Fund, thereby generating a net fiscal surplus for the city. The fiscal analysis was independently reviewed for the City by a consultant, who found that, after certain clarification and revisions were made (Exhibit 32a), the fiscal analysis was sound ("Independent Evaluation of Phase 2 Updated Fiscal Impact Analysis for The Villages and Lawson Hills Master Planned Development", Henderson, Young & Company, Mary 26, 2014, Exhibit 32b)

Therefore, according to the reviewer and the fiscal analysis itself, Plat 2C and Phase 1A would not have adverse financial impacts upon the city, and requirements of MPD Permit condition of approval No. 156 are met. To further ensure implementation of the MPD condition, the applicant suggested the following condition of plat approval:

"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 Plat 2C Fiscal Impact Analysis dated April 28, 2014 and approved June 16, 2014), 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 re-evaluated. No implementing permits or building permits shall be issued by the City of Black Diamond for Plat 2C 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)."

Condition of approval #3 incorporates this language. The requirement is met.

*157. The Applicant and other property owners may petition for the formation of a Community Facilities District to provide a mechanism for funding the costs of "facilities" as defined in Section 501 of SSB 6241. The City Council will review the petition as provided in SSB 6241 and, as set forth in Section 205, determine in its sole discretion whether the petitioners will benefit from the proposed district and whether the formation of a district will be in the best interest of the City and comply with the requirements of the Growth Management Act, Ch. 36.70A RCW. 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.*

STAFF RESPONSE: The applicant has not proposed a Community Facilities District for funding the costs of facilities so this condition does not apply to Plat 2C.

*158. The Development Agreement shall document a collaborative design/review/permitting process that allows City staff to participate in the conceptual stage of project planning in order to provide input on designs and choices that benefit the City as well as the applicant.*

STAFF RESPONSE: This condition applies to the DA and was implemented. Staff have reviewed several concepts for Plat 2C and worked with the applicant to modify it to better meet the City's requirements and standards where feasible and warranted (Exhibit 40). MPD Permit condition of approval No. 158 is satisfied.

*159. 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.*

STAFF RESPONSE: This condition applies to the DA.

*160. Reclassification of development parcels shall occur no more frequently than once per calendar year.*

STAFF RESPONSE: Plat 2C does not request any reclassification of development parcels. The reclassification of parcel V28 from MPD-M to MPD-L occurred in 2013.

*161. Proposed reclassification of development parcels located at the project perimeter to a higher density shall only occur through a Major Amendment to the MPD.*

STAFF RESPONSE: Plat 2C does not propose any reclassification of development parcels and this condition does not apply.

*162. A process for including lands identified as "Expansion Areas" in the application shall be defined in the Development Agreement.*

STAFF RESPONSE: This condition applies to the DA.

*163. 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.*

STAFF RESPONSE: This condition applies to the DA and was implemented. The subject request is for preliminary plat approval, the first step of the implementing project for Plat 2C. See Section 11 (Project Phasing) and Exhibit "K" (MPD Phasing Plan) of the DA. The phasing plan for Phase 2 has been approved by the City (Exhibit 29a). This condition is met.

*164. 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.*

STAFF RESPONSE: The applicant submitted a detailed implementation schedule for regional projects. City staff approved the implementation schedule. (Exhibits 29 and 29a).

## The Villages Development Agreement (2011)

### 13.6 FISCAL IMPACTS ANALYSIS

*The terms and process for performing the fiscal analysis and evaluating fiscal impacts outlined in the MPD and this Agreement are as follows:*

*Concurrent with submittal of the first Implementing Project within a Phase, the Master Developer shall submit for the Designated Official's review and approval a fiscal analysis for the entire Phase. The Designated Official shall, with the assistance of such professional fiscal analysis consultant(s) selected by the Designated Official in his/her sole reasonable discretion pursuant to Exhibit "N", review and approve each fiscal analysis submitted by the Master Developer for consistency with the following methodologies and assumptions.*

STAFF RESPONSE: Plat 2C is the first implementing project of Phase 2. A fiscal analysis was first prepared to support the application for The Villages MPD permit (Development Planning & Financing Group [DPFG], December 2009). DPFG updated the fiscal impact analysis for Phase 1A and Phase 2, "Phase 2 Updated Fiscal Impact Analysis for The Villages and Lawson Hills Master Planned Developments" (December 31, 2013 and revised April 28, 2014. Exhibit 32). The City's consulting financial analyst, Randall Young of Henderson Young & Co. (HY&C), reviewed the December 2013 report and prepared a series of enquiries regarding assumptions and calculations. DPFG addressed these and subsequent requests in a log of requests for additional information. Mr. Young issued his "Independent Evaluation of Phase 2 Updated Fiscal Impact analysis for The villages and Lawson Hills Master Planned Developments" (May 26, 2014, Exhibit 32b). In his evaluation, he states that based on his expert opinion, the City should accept the revised fiscal impact analysis report of April 2014 and that it fulfills the requirements of Section 13.6. On June 16, 2014, the Designated Official approved the Fiscal Impact Analysis prepared for The Villages & Lawson Hills MPDs Phase 2 (Exhibit 32c). The requirement is met.

### 13.9 GENERAL GOVERNMENT FACILITIES MITIGATION

*A. The City shall commission a study regarding general governmental facilities based, at a minimum, on the Black Diamond Comprehensive Plan that are necessary for the City to conduct its municipal business ("General Government Facilities Plan") in order to establish mitigation fee rates for such improvements. The General Government Facilities Plan shall be commissioned by the City following execution of this Agreement and shall be completed within twelve (12) months of commissioning the study. The scope of the General Government Facilities Plan shall be limited to the following improvements/facilities: City Hall, Municipal Court, Public Works (corporate yard including vehicle storage, material storage, and vehicle maintenance), Police Station, and associated equipment for each listed improvement/facility. The study shall be funded through the MPD Funding Agreement (Exhibit "N").*

*i. Payment of general government facilities mitigation fees at the following rate: \$1,750 per Single Family Dwelling Unit; \$900 per Multi-family Dwelling Unit; and \$1.50/square foot of non-residential construction until the City adopts a Citywide general government facilities mitigation fee schedule. Such mitigation fees shall be due at time of building permit issuance for each single-family and multifamily Dwelling Unit. Mitigation fees for non-residential construction shall be due at Binding Site Plan or at building permit, whichever occurs first, and shall be determined based on Floor Area. Provided, however, the general government facilities mitigation fees paid by the applicant must be expended by the City on the needed facilities outlined in the General Government Facilities Plan. To confirm such expenditures,*

*the City shall prepare an annual report of collections and expenditures and provide said report to the Master Developer during the Annual Review as defined in Exhibit "N". Provided, further, the general government facilities mitigation fees paid by the applicant must be expended or encumbered for such permissible use within nine years of the City's receipt or thereafter returned to the applicant.*

*ii. When the City adopts a City-wide general government mitigation fee schedule pursuant to the General Government Facilities Plan, future payment of general government mitigation fees shall be at the rate adopted by the City general government mitigation schedule.*

*iii. If the City has not adopted a City-wide general government facilities mitigation fee within three (3) years from the execution of this Agreement pursuant to subsection (ii) above, then the Master Developer's obligation to pay the mitigation fees set forth in subsection (i) above shall be void and of no further effect.*

STAFF RESPONSE: The City commissioned a study of general government facilities and proposed impact fees to mitigate for the effects of future development on those facilities. The DA was adopted on December 12, 2011. A City-wide general government mitigation fee is expected to be completed by November 12, 2015. A minor amendment (No. 4) to The Villages Development Agreement extended the deadline by eleven months from 3 years.

## V. CONCLUSIONS AND RECOMMENDATION

### Conclusions

1. Public comments were submitted following publication of the MDNS and Notice of Hearing for the August 25, 2014 hearing [subsequently postponed]. None of the comments raised issues that cannot be, or have not already been, addressed by staff or the applicant.
2. Approval criteria. BDMC establishes preliminary plat approval criteria in 17.15.020 1 through 14.
  1. *The proposed subdivision meets all city zoning regulations and is consistent with the city's comprehensive plan maps and policies, and with the Black Diamond design standards and guidelines where applicable;*

The City of Black Diamond Comprehensive Land Use map designates the land contained within parcels V28 and V29 as Low Density Residential with a Master Plan Development Overlay. Plat 2C proposes a net density of 6.49 units per acre, which meets the definition of low density.

The Black Diamond Comprehensive Plan states that areas with an MPD overlay designation are intended to develop only after an MPD permit has been issued. The Villages MPD permit was approved on September 20, 2010 (Ordinance 10-946).

Development on the parcels is principally governed by the conditions of approval for The Villages MPD permit and the provisions of the DA, except where text defers to the BDMC, primarily for sensitive areas and tree removal, and to the engineering standards. The applicant's proposed subdivision has been evaluated in this staff report for consistency with the MPD permit conditions, the DA, and the City's MPD design guidelines with respect to land use and design, utilities

(stormwater, sanitary sewer, water), transportation, sensitive areas, and parks/recreation/open space. -Staff finds that the proposal meets the standards.

The MPD Framework Design Standards & Guidelines apply to Plat 2C. Consistency with the BDDG was evaluated for the project components, including stormwater, roads, pedestrian ways, sensitive areas, open space, water conservation, tree preservation, and land use. Staff finds the proposal is consistent.

*2. The proposed subdivision results in a net density that is equal to or less than the allowable maximum density established by the zoning regulations, and is greater than or equal to any applicable minimum density requirement;*

Density within the proposed subdivision has been established through the Villages MPD Permit condition of approval No. 131 which requires a minimum density of 4 units per acre and a maximum density of 18 units per acre (overall). On parcels V28 and V29 zone MPD-L, the range of density is from 1 to 8 units per acre. The net density proposed is 7.51 and 4.99 on parcels V28 and V29, respectively. Gross density is 5.81 and 4.07, respectively. Combining the density on both parcels results in a net density of 6.49 units per acre and a gross density of 5.13 units. Staff finds that the proposal meets this criterion.

*3. The public use and interest is served by the establishment of the subdivision and dedication. In considering this criteria, it shall be determined if appropriate provisions are made for all relevant matters, including, but not limited to, the public health, safety and general welfare, open spaces, storm drainage ways, streets, alleys, other public ways, water supplies, sanitary wastes, parks, playgrounds, sites for schools and school grounds;*

- The public use and interest will be served by the subdivision because it will preserve sensitive resource areas in undevelopable tracts without maintenance costs to the City; provide for accommodating future growth in a predictable pattern consistent with the City's land use plans; and provide utility services to support the proposed development (see also concurrency requirement, below).
- The proposal makes appropriate provisions for stormwater management consistent with the DA and the 2005 SWMMWW. The applicant provided sufficient information for the City to determine that the proposed flow and treatment facilities can meet the standards approved in the DA and other applicable city standards. With recommended conditions of approval, the public use and interest is served.
- The proposal makes appropriate provisions for transportation consistent with the DA and City engineering standards. Roads, alleys, and woonerfs will provide access to all of the proposed residential lots from a road that will be built in Phase 1A, or on the temporary access and utility easement (Exhibit 44) for Plat 2C. The applicant provided sufficient information for the City to determine that, with conditions of approval, the proposed roads can meet the standards approved in the DA and other applicable city standards.
- The proposal makes appropriate provisions for sewer services. The preliminary plat shows that proposed lots can be served by sewer lines that connect to Phase 1A. There is sewer capacity for up to 1,150 ERUs. Future Phase 1A demand of 921 ERUs combined with the Plat 2C future demand of 203 ERUs will be 1,124 ERUs, less than the maximum capacity. The City's consultant engineer has reviewed the schematic designs and found that they are

adequate for the preliminary plat phase. With conditions of approval, the public interest and use is served.

- The proposal makes appropriate provisions for water supplies. The City Public Works Director has confirmed that, with conditions to upgrade the chlorine disinfection system and build a future temporary pump station, the City has adequate water supply for Plat 2C. The applicant's proposed design for the water supply system meets the City's standards for the preliminary plat phase and the planned system in the DA.
- The proposal makes appropriate provisions for open spaces. Plat 2C meets the minimum requirement of 75 acres of open space (DA Table 9-1, Parcel E) by providing 98 acres. The open space is shown as separate tracts on Sheet CV4. Parks in Plat 2C on tracts 906, 909, 911, and 921 will exceed the minimum standards for park size and level of service in the DA. The proposal will meet the level of service for community parks by providing a community park on tract 906, and will improve the level of service for community parks in Black Diamond based on standards in the Parks, Recreation and Open Space Plan (page 9). With conditions, the public use and interest is served.

Staff finds that the public use and interest will be served by the subdivision.

*4. The physical characteristics of the proposed subdivision site, as conditioned, do not increase the risk of flood or inundation conditions on- or off-site;*

No development in the floodplain associated with Rock Creek is proposed and the residential subdivision is well outside the floodplain. The wetlands and full stream and wetland buffer tracts will protect the Core wetlands. As a result, those areas will maintain the rainwater absorption function of the wetlands and reduce the chance of future flooding. The criterion is met.

*5. Applicable city development standards are met or exceeded;*

The development standards for The Villages are primarily in the DA, and Chapters 18 and 19 of the BDMC. The components of the proposal—zoning, roads, utilities, design, open space, tree preservation, and sensitive areas—were reviewed for conformance with those standards. With conditions of approval, ownership and maintenance responsibilities of stormwater facilities and open space tracts will be ensured; stormwater, transportation facilities, sanitary sewer, and water distribution lines will be constructed consistent with the development standards in the BDEDCS. The water system meets the Water System Comprehensive plan requirements for a looped system and for fire flow pressures. The schematic designs have an appropriate level of detail for the preliminary plat review, and the City's consulting engineer and public works officials found them to be consistent with the governing documents for The Villages, the MPD conditions of approval, the DA, and the City's standards

Staff finds that the proposal meets this criterion.

*6. All environmental impacts have been addressed consistent with the public health, safety and welfare and city goals and policies;*

Potential environmental impacts and potential mitigation were disclosed at a non-project level in The Villages Master Planned Development FEIS (2009). Mitigation identified in the FEIS as well as

during the FEIS appeal and MPD Permit hearings was incorporated as conditions of MPD Permit approval. Additional mitigation was incorporated into the DA.

The applicant submitted a SEPA checklist and the City issued A Mitigated Determination of Non-significance for Plat 2C and Adoption of Existing Environmental Document on June 17, 2014. The comment period closed on July 1, 2014. There were no appeals. Mitigation measures from the MDNS are included in the conditions of approval for Plat 2C.

The MPD conditions of approval and the DA requirements for development within The Villages MPD were considered for their applicability to the potential environmental impacts of the proposal, and were adjusted and/or applied to the project where needed to ensure compliance with the MPD permit and DA.

With conditions, this criterion is met.

*7. Concurrency exists for all utilities and transportation system improvements prior to occupancy of any structures;*

The City's interpretation of state concurrency regulations is as follows: "concurrency" means that adequate public facilities or services are available when the impacts of development occur and "available public facilities" means that the facilities or services are in place (or that a financial commitment is in place) to provide the facilities or services within a specified time.

Capacity for the planned systems were determined as follows:

- Stormwater: the proposed stormwater facilities can be constructed on site to manage the amount of projected runoff from impervious and pervious surfaces as stated in the Preliminary Drainage Analysis report and as reviewed by staff and the consulting engineer. Stormwater flows from 17.1 acres of pollution-generating impervious surfaces in Plat 2C will be directed to the existing Phase 1A regional stormwater pond which has capacity to accept flows from 167 acres of impervious surfaces. Phase 1A is expected to drain from 27.7 acres of impervious surfaces. Therefore, there is a finding of concurrency for stormwater systems for Plat 2C.
- Water supply: The City provided evidence in a memorandum that there is sufficient source supply from the Spring Field and from the Tacoma Intertie for total build-out of the MPD and flows in the area of Plat 2C would be able to meet the demand. Improvements will be needed to the chlorine treatment facility prior to any building permits being issued and a temporary lift station will also be needed after 561 units have received permits. With conditions of approval to implement these requirements, there will be adequate capacity at the time of development.
- Sanitary sewer: capacity as of the writing of this staff report is 1,150 ERUs. Phase 1A and 2C will generate a demand equal to 1,124 ERUs. Barring the issuance of building permits for more than 26 ERUs for development outside of The Villages, the City reasonably expects that sanitary sewer capacity exists for Plat 2C. In the event that the existing capacity of 1,150 ERU is exceeded before building permits for all of the proposed development in Phase 1A and Plat 2C, then the City will not accept building permit applications until KCMTD constructs additional regional capacity. There will be sufficient capacity in the existing City sewer pipelines, with the addition of Phase 1A infrastructure, for the expected demand from Plat 2C.

- Transportation: The Traffic Monitoring Report (Exhibit 25) evaluated concurrency of the off-site transportation system for Phase 2. Table 1 of the report summarizes the intersection improvements and construction timing needed to meet demand. No improvements would be required to be constructed by any implementing project of Phase 2 until certificates of occupancy are issued for the 1,393rd ERU. Since Plat 2C build-out would be 137 ERUs, and Phase 1A is 1,190 ERUs, no improvements will be triggered by the 1,327 ERUs for the combined plats. The road capacity for the on-site road network meets the standards of the DA, which is one lane per 600 peak hour strips, once it connects to the existing road network through construction of roads in Phase 1A. There will be sufficient transportation capacity for Plat 2C at that point.

The water, sanitary sewer, and transportation facilities for Plat 2C are dependent on construction of facilities in Phase 1A (PLN11-0001, approved). While these systems are planned to connect to facilities not yet built in Phase 1A, construction of those facilities has begun. The dependency is as follows:

- Pipes to drain stormwater from Plat 2C to the regional pond in Phase 1A will need to be constructed.
- Phase 1A water mains in the future Willow Avenue SE need to be built to Road A of Plat 2C to provide a connection to the existing lines in Roberts Drive.
- Phase 1A sanitary sewer lines in the future Willow Avenue SE need to be built to proposed gravity lines in Road A of Plat 2C.
- Willow Avenue SE in Phase 1A needs to be constructed to connect Road A and Woonerf A and the lots in the Plat 2C subdivision to the existing Roberts Drive.

The applicant has indicated the intent to provide the facilities in Phase 1A to serve Plat 2C. A general note on the Preliminary Plat (Sheet No. CV4) states that the water, sewer, and stormwater systems necessary to serve the plat must be completed or bonded to be completed prior to final plat approval. The phasing plan in Exhibit “K” of the DA recognizes that development is tiered on previous, approved phases as follows:

*In general, the infrastructure necessary for each phase for each MPD is dependent on the infrastructure built in preceding phases for that MPD. For example, in order to build The Villages Phase 1B, the infrastructure projects listed for The Villages Phase 1A would also be needed. These two phases could be built simultaneously or The Villages Phase 1A could be built first. (page 9-1 of The Villages Master Plan Development application)*

*Timing of Project-Level Facilities. [...]Final design and construction plans must be approved and on-site improvements constructed prior to final subdivision, final Binding Site Plan approval or occupancy, whichever comes first. (page 9-3 of The Villages Master Plan Development application)*

Notwithstanding the phasing plan of The Villages MPD, the applicant must demonstrate that the facilities necessary to serve the lots in Plat 2C will be available at the time the building permit applications are submitted for homes in Plat 2C.

To provide additional assurance of concurrency, the applicant recorded a temporary access and utility easement over Phase 1A (Exhibit 44) that is sufficient to provide a connection for all essential facilities between Plat 2C and existing city facilities in Roberts Drive. Therefore, should the Phase 1A facilities be unavailable by the time of final plat approval for Plat 2C, the applicant will have the requirement to construct and connect those facilities. For these reasons, staff find there is concurrency for public facilities.

*8. If the proposal is in an approved MPD, the proposed subdivision shall be consistent with the approved MPD, the MPD conditions of approval, the MPD design standards, and the MPD development agreement;*

The proposal is in The Villages MPD, which was approved in 2010 (Ordinance 10-946). The proposed preliminary plat for Plat 2C has been evaluated against all of the MPD conditions of approval, the MPD design standards and the MPD development agreement in Part IV of this staff report for each topic area. Staff has concluded that where information has been provided by the applicant, and with conditions, the proposal meets the standards.

*9. There shall be connectivity of motorized and nonmotorized transportation routes, open spaces and wildlife corridors with existing or proposed routes or corridors on adjacent properties;*

Preliminary plat sheets RS1-4 shows that the roads and pedestrian accessways or trails connect around and through the plat. Housing lots are linked to the surrounding open space. The preliminary plat shows that the transportation routes connect to the adjacent Phase 1A. Tract 907 is designated as FD/UT for future development and utilities. The applicant has stated that tract 907 will provide a connection to future development to the south but the MPD Site Plan does not show a road at that location. Preservation of the wetlands and buffers might make that connection difficult to permit so it is reasonable to make that area subject to future review. By leaving large areas of wetlands and buffers intact, the applicant has ensured that open spaces and wildlife corridors are able to stay connected to similar features off-site. This criterion is met.

*10. The use of cul-de-sacs and other dead-end streets shall be minimized to the fullest extent possible;*

Access has been provided without the use of cul-de-sacs; the criterion is met.

*11. Appropriate provision has been made for the dedication of land to any public body, and provision of public improvements has been made as necessary to serve the subdivision. This shall include appropriate provision for payment of any impact fees imposed in accordance with the provisions of RCW 82.02.050 through 82.02.090, and applicable city codes and regulations. Dedications shall clearly be shown on the final plat;*

The applicant proposes tracts for utilities as designated in the Tract Table on Sheet CV4. Some stormwater facilities will be on private property, either on land owned by individuals, the Master Developer, or the HOA. Since the stormwater facilities are proposed to be privately owned and operated, where privately-owned pipelines cross public rights of way, the applicant will need to have or be covered by a franchise with the City. Per Section 6.5 of DA, all street right-of-way will be dedicated to, owned and maintained by the City except for private streets which include the alleys and woonerfs of Plat 2C. A condition of approval requires all easements as well as maintenance responsibility assigned to private property owners be shown on the plat for Plat 2C.

With respect to impact fees, Section 4.10 of DA provides:

*As designed and with full implementation of all the mitigation measures, The Villages MPD build-out will fully and adequately mitigate the probable significant adverse environmental impacts of The Villages MPD and, that through such mitigation measures, provisions will be made for: (i) the facilities needed to serve new growth as a result of The Villages MPD within the City and (ii) the Master Developer to construct or pay a proportionate share of the cost of completing certain system*

*improvements. Unless otherwise provided elsewhere in this Agreement or in The Villages MPD Permit Approval, the mitigation measures listed this Agreement and in Exhibit "C" are in lieu of the payment of any impact fees that the City has the authority to impose pursuant to RCW 82.02.050 et seq., including any amendments thereto, such that no impact fees shall be imposed on any Implementing Project during the term of this Agreement except for those impact fees explicitly allowed in this Agreement.*

Development of a school site on Plat 2C is not proposed or appropriate for the site. The Comprehensive School Mitigation Agreement directs the City and the Master Developer to provide a specific number of school sites based on number of students of each type of school, per dwelling unit.

The applicant has made provision for dedication that is appropriate for the preliminary plat review stage. Dedication cannot be completed because such dedication will require construction of streets and utilities to City standards and that the City has inspected and accepted them as meeting the standards. The applicant proposes tracts for utilities as designated in the Tract Table on Sheet CV4 (Exhibit 2). The stormwater facilities are proposed to be privately owned and operated. Per Section 6.5 of DA, all street right-of-way will be dedicated to, owned and maintained by the City except for private streets which include the alleys and woonerfs of Plat 2C. The DA requires the dedication of land to the City for right-of-way following the City's acceptance of the roads, water, sewer and any stormwater facilities not proposed as private. Conditions of approval will require all easements as well as maintenance responsibility assigned to private property owners to be shown on the plat for Plat 2C. These conditions will be reviewed at the final plat stage.

*12. The streetscape and public open space amenities shall be compatible with any adjacent project that has been developed or approved for development as an MPD;*

No adjacent project has been developed or approved for development as an MPD. This criterion does not apply.

*13. The proposed subdivision provides safe walking conditions for students who walk to and from school; and*

The preliminary plat for Plat 2C provides sidewalks on all streets, which will connect with streets in Phase 1A, where the schools will be developed. In addition, development of Plat 2C could trigger the requirement for constructing pedestrian facilities along Roberts Drive per MPD permit condition #32 and the requirement is included as a condition of approval for the Plat 2C preliminary plat. The criterion is met.

*14. The proposed subdivision provides for tree preservation consistent with the provisions of chapter 19.30.*

MPD Permit condition #120 requires tree inventories to be completed for implementing projects. The applicant commissioned a tree inventory based on 42 plots sampled over 41 acres covering the area proposed to be cleared for the residential subdivision. Although not every tree was counted, the inventory revealed that the tree density likely meets the minimum standards for health of the adjacent buffers. The applicant has not provided information on tree preservation consistent with chapter 19.30 but this is not required to be submitted until the applicant requests a clearing and grading permit. The applicant has stated in the plat notes that areas outside of sensitive areas and buffers are expected to

be cleared and that provisions will be made for compliance with the tree ordinance in Exhibit "E" of The Villages MPD.

The applicant has agreed to a condition of approval that, concurrent with submittal of utility permits for Plat 2C, they will submit a report with the exact number of significant trees to be removed, 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 condition of approval #45. Staff finds that the proposal complies with this criterion.

## Recommendation: Approval with conditions

### VI. RECOMMENDED CONDITIONS OF APPROVAL

**Boldface** indicates the item is a general requirement of The Villages Development Agreement.

#### GENERAL

1. All public utilities (water, sewer, and stormwater pipes and facilities) and streets necessary to serve Plat 2C must be completed or bonded prior to final plat approval. Maintenance responsibility assigned to private property owners are to be indicated on the plat for Plat 2C. These conditions will be reviewed at the final plat stage.
2. Prior to final plat approval, the applicant shall submit Covenants, Conditions, and Restrictions (CCRs) for Plat 2C for review and approval by City Attorney as to form. The CCRs shall contain:
  - A covenant stating the property owners' or HOA's specific responsibilities for stormwater facility maintenance (including rain gardens) and which will be included on the face of the plat and recorded against each lot in the subdivision.
  - A covenant stating the property owners' or HOA's specific responsibilities for maintaining and ensuring public access to the public trail and parks tracts within Plat 2C. Covenant to include maintenance of pet waste stations.
  - A covenant stating the property owners' or HOA's specific responsibilities for maintaining and protecting the sensitive areas within tracts 903, 927, 928, 929, and 930.
  - A statement that all alleys and woonerfs in Phase 2C shall be privately owned and maintained by the applicant and/or the owners of property in the plat.
  - **A statement that the applicant or future Homeowners Association shall be required to maintain all street side landscaping, (pursuant to MPD Permit condition of approval No. 23).**
  - A statement of the property owners' or HOA's specific responsibilities, if any, for maintaining signage prohibiting parking on private streets and any enforcement responsibilities.
  - An integrated pest management system to limit the use of fertilizers, herbicides and pesticides within twenty-five feet of the buffer of wetlands E7, E8, and E10, within fifty feet of the buffer of wetland E1 and within one hundred feet of the buffer of wetland TOS.

- **Restrictions on roof types (no galvanized, copper, etc.) and roof treatments (no chemical moss killers, etc.) that are known to adversely impact water quality of runoff.**
  - **A prohibition on exterior light intrusion into, or direct lighting of, the buffer areas.**
  - **A provision allowing the use of green technologies such as solar panels.**
  - **The following two paragraphs related to street maintenance:**
    - **Master Developer agrees to maintain all private streets, alleys and autocourts serving 20 units or less as constructed in accordance with each approved implementing project, for a period of three years from final plat recording or other implementing approval, unless otherwise agreed upon by the City and the Master Developer (or applicable Homeowners' Association), the Master Developer's street maintenance obligation, as set forth herein, shall automatically renew for an additional two year period, and continue every two years thereafter. The Master Developer, in its sole discretion, may elect to transfer the private street maintenance obligation to a homeowners' association or other acceptable entity following its initial three year obligation. The Master Developer's failure to adequately maintain private streets in accordance with this agreement will result in result in written notice from the City to the Master Developer requiring compliance. If a private street is not maintained in a manner adequate to maintain safe passage, in the reasonable determination of the Designated Official within ten (10) days of delivery of the written notice the City may perform the required maintenance with the reasonable costs associated therewith charged to the Master Developer. In the event of an emergency, the applicable notice period shall be reduced to twenty-four (24) hours and the City may provide notice via a phone call to the Master Developer's designated representative.**
    - **Pursuant to Condition of Approval No. 22 of the MPD Permit Approval, if the Master Developer fails to perform such maintenance as required herein and, as a result, the City performs such required maintenance, the City's total costs arising from its performance of the maintenance shall be paid by the Master Developer or Homeowners' Association, as applicable within thirty (30) days of the date of invoicing by the City. Any costs not paid within thirty (30) days of invoicing by the City shall be delinquent, shall have added to them a penalty of ten (10) percent plus interest accruing at the rate of twelve (12) percent per annum from the date of delinquency until paid. Delinquent costs, penalties added thereto and the interest on such costs and penalties shall be a lien against all property within the Implementing Project in which the private street, alley or autocourt is located, and said lien may be foreclosed in the same manner provided for the foreclosure of liens for unpaid sewer rates and charges set forth in RCW 35.67.220 – 280, as amended.**
3. 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 Plat 2C Fiscal Impact Analysis dated April 28, 2014 and approved June 16, 2014), 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) December 6, 2016; (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 re-evaluated. No implementing permits or building permits shall be issued by the City of Black Diamond for Plat 2C 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).

4. All easements assigned to private property owners shall be shown on the face of the plat.
5. **Compliance with the terms and conditions of the Detailed Implementation Schedule for Phase 2 Regional Infrastructure Improvements (Exhibit 29, dated January 28, 2014 and approved on June 13, 2014) is required. This condition will be enforced during utility permit approval. [Note: MDNS Mitigation Measure]**

#### STORMWATER

6. **All stormwater management for quality and quantity shall comply with the 2005 Stormwater Management Manual for Western Washington (SWMMWW).**
7. Prior to approval of the first utility Permit for Plat 2C which enables impervious surface construction all off-site utilities and improvements necessary to convey, treat and detain stormwater (as shown for Plat 2C on Sheets RS1 through RS4 and as described in the Preliminary Drainage Report for Plat 2C and Phase 1A [Exhibit 20]) shall be in place and operational. The applicant shall provide certification from the Master Developer that all off-site utilities and improvements necessary to meet this condition are complete and in compliance with the conditions of approval for Phase 1 Plat A. This condition will be enforced with utility permits.
8. **The stormwater design for the Plat 2C plat must not modify the predevelopment hydrology for the adjacent receiving wetlands.** The approved stormwater deviation triggers the applicable requirements for development within the Lake Sawyer drainage basin and the phosphorus monitoring requirements in Exhibit "O" of the Development Agreement. [Note: this is a condition of approval of the Stormwater Deviation Determination and required by DA Section 7.4.3.]
9. **The HOA or Master Developer must obtain a franchise for private stormwater systems that are in rights-of-way. This condition will be enforced during utility permit review.**
10. **Maintaining the private stormwater drainage system in Plat 2C will be the financial responsibility of the applicant, and/or an HOA.**
11. **As a condition of the City's approval of the first utility permit, the applicant shall provide sufficient information for the City to ensure that MPD permit conditions of approval Nos. 67, 68, 70, 73, 75, 77, 79, 81, 82, and 85 (Exhibit 14) have been satisfied. Prior to the approval of the first utility permit that allows construction of impervious surfaces, the applicant shall comply with MPD Condition Nos. 81 and 85 including: establishing a pre-construction baseline phosphorus load from the project; identifying any AKART opportunities related to phosphorus reduction, including monitoring capabilities in the stormwater utility system; and approval of an end-of-year comparison of actual and base-load phosphorus discharge. (These items may not be deferred through surety.) This condition must be satisfied before the City will issue the first utility permit that allows impervious surface construction.**
12. **The applicant shall submit for review and approval the phosphorus monitoring plan referenced in the Development Agreement, of which the most recent update is Exhibit 13c. The City shall not approve any permits allowing construction of any impervious surfaces until the monitoring report is submitted and approved. This condition will be enforced with utility permits.**

13. The Preliminary Drainage Analysis (Exhibit 20) must be updated during final engineering review of Plat 2C to account for any subtle design changes from the preliminary plat design to the final engineering construction drawings. [Note: MDNS Mitigation Measure]
- 14. As the first subdivision in Phase 2, Plat 2C must comply with the conditions of the current NPDES permits (issued to the City by the Washington State Department of Ecology) in effect on November 8, 2013.**

#### TRAFFIC AND TRANSPORTATION

- 15. Prior to the approval of the final plat for Plat 2C, all off-site transportation improvements required in Preliminary Plat 1A necessary to provide service to Plat 2C (including Roberts Road frontage improvements, Willow Drive and Villages Parkway, and the applicable off-site Phase 2 Implementation Projects), must be completed and accepted by the City or bonded with an appropriate surety.**
16. The transportation facilities in Plat 2C shall comply with the terms and conditions set forth in the Traffic Impact Study prepared by Transpo Group dated December 19, 2013. (Exhibit 24) The terms and conditions include, but are not limited to, provision of three, two-lane public roadways with on-street parking, curb bulb-outs at 13 intersections and at two mid-block locations (page 5 of the Traffic Impact Study), four private alleys and three woonerfs. Roads A, B, and C shall be dedicated to the City following their acceptance by the City.
- 17. All alleys and woonerfs in Plat 2C will be private and maintained by the applicant or future Homeowners' Association.**
- 18. The applicant or future Homeowners' Association shall be required to maintain all street side landscaping and this shall be a condition on the face of the plat**
19. The deviation from road standards for woonerfs is limited to Woonerf A, B, and C on Plat 2C.
20. Woonerfs A, B and C shall be designed to have unique paving (asphalt is not allowed) and to have distinct patterns or textures integral with the paving system. [Note: this is a condition of approval of the deviation of road standards for woonerfs.]
21. Houses adjacent to a woonerf, including lots 165 through 184, must address the woonerf with entrance doors and pathways that form a direct connection between the door and the woonerf. The houses on these lots must be designed so that the woonerf-side of the house does not appear to be the 'back' of the house and must be articulated and detailed in a manner similar to the front of the house. [Note: this is a condition of approval of the deviation of road standards for woonerfs.]
22. The alternative width configuration for rain gardens (Exhibit 21) within or adjacent to the right-of-way must comply with the Alternative Road Section Deviation approval.
23. Changes to the width of the rain gardens must not change other components of the roadway section. [Note: this is a condition of approval of the alternative width configuration for rain gardens.]
24. The rain gardens in Plat 2C must be privately owned and maintained by the HOA. [Note: this is a condition of approval of the alternative width configuration for rain gardens.]
- 25. Master Developer agrees to maintain all private streets, alleys and autocourts serving 20 units or less as constructed in accordance with each approved implementing project, for a period of three years from final plat recording or other implementing approval, unless otherwise agreed upon by the City and the Master Developer (or applicable Homeowners' Association), the Master Developer's street maintenance obligation, as set forth herein, shall automatically renew for an**

additional two year period, and continue every two years thereafter. The Master Developer, in its sole discretion, may elect to transfer the private street maintenance obligation to a homeowners' association or other acceptable entity following its initial three year obligation. The Master Developer's failure to adequately maintain private streets in accordance with this agreement will result in written notice from the City to the Master Developer requiring compliance. If a private street is not maintained in a manner adequate to maintain safe passage, in the reasonable determination of the Designated Official within ten (10) days of delivery of the written notice the City may perform the required maintenance with the reasonable costs associated therewith charged to the Master Developer. In the event of an emergency, the applicable notice period shall be reduced to twenty-four (24) hours and the City may provide notice via a phone call to the Master Developer's designated representative.

26. Pursuant to Condition of Approval No. 22 of the MPD Permit Approval, if the Master Developer fails to perform such maintenance as required herein and, as a result, the City performs such required maintenance, the City's total costs arising from its performance of the maintenance shall be paid by the Master Developer or Homeowners' Association, as applicable within thirty (30) days of the date of invoicing by the City. Any costs not paid within thirty (30) days of invoicing by the City shall be delinquent, shall have added to them a penalty of ten (10) percent plus interest accruing at the rate of twelve (12) percent per annum from the date of delinquency until paid. Delinquent costs, penalties added thereto and the interest on such costs and penalties shall be a lien against all property within the Implementing Project in which the private street, alley or autocourt is located, and said lien may be foreclosed in the same manner provided for the foreclosure of liens for unpaid sewer rates and charges set forth in RCW 35.67.220 – 280, as amended. The following note language shall be added to the face of each recorded plat or binding site plan:
  - a. Agreement recorded under recording No. and, as a result, the City of Black Diamond performs said required maintenance, the lot owners of the [plat/binding site plan] acknowledge and agree on behalf of themselves and all successors and assigns that, if not paid within thirty (30) days of invoicing by the City, the City's total cost arising from the City's performance of said required private street maintenance plus any penalties and interest thereon as provided by The Villages MPD Development Agreement shall be a lien against all property, including individual lots, within this [plat/binding site plan], and said lien may be foreclosed in the same manner provided for the foreclosure of liens for unpaid sewer rates and charges set forth in RCW 35.67.220 – 280, as amended.
27. Pursuant to MPD Permit Condition #32, prior to issuance of the Certificate of Occupancy for The Village MPD's 200th dwelling unit, the applicant shall comply with the Roberts Drive sidewalk and pedestrian connection requirement under Section 11.6 of The Villages Development Agreement, as updated by the Black Diamond Hearing Examiner's decision for Preliminary Plat 1A, PLN11-0001, dated December 10, 2012. This will be to provide a connecting sidewalk and safe pedestrian connection from the frontage improvements along parcel V13 to the northeast corner of the Guidetti Parcel along Roberts Drive.
28. The Master Developer shall comply with Exhibit "Q" of The Villages MPD Development Agreement.
29. The Master Developer shall comply with Exhibit "R" of The Villages MPD Development Agreement.

30. All alleys shall be posted "No Parking" in accordance with the International Fire Code (IFC); and provisions for enforcement of these no parking zones shall be defined and accepted by the Designated Official prior to final plat approval.
31. All roads shall maintain a minimum 20 foot unobstructed driving surface per the IFC.
32. The fire hydrant and water supply system shall meet IFC requirements, and shall be installed prior to the beginning of combustible construction materials being placed on site. Construction materials refers to the lumber (framing) packages and not to a job shack.
33. At the time of building permit application, structures will be required to either have fire flow available or to have a fire sprinkler system installed to allow for a reduction in required fire flow.
34. The City will not issue final plat approval for the Preliminary Plat for Phase 2 Plat C until one of the following conditions has occurred:
  - a. Phase 1A connecting road (currently named Willow Avenue SE) is constructed by the applicant and accepted by the City; or
  - b. A road connecting Roberts Drive to Road A of Plat 2C and meeting the standards and requirements of the BDEDCS and The Villages Development Agreement has been:
    - i. built within the Temporary Access and Utility Easement in Phase 1A (Exhibit 44) and accepted by the City; or
    - ii. bonded for construction.

#### SENSITIVE AREAS

35. **The applicant will conserve the identified open space tracts (Sheet CV4, Exhibit 2) on Preliminary Plat Phase 2 Plat C prior to final plat approval and ensure that all sensitive areas and buffers are in separate protection tracts pursuant to BDMC 19.10.150(B). [Note: MDNS Mitigation Measure]**
36. The area quantifications and locations describing the buffer averaging proposal identified in the plat drawings and May 14, 2014 letter (Exhibit 30) shall supersede any conflicting information contained in the Sensitive Area Study and Wildlife Analysis (Exhibit 28).
37. Clearing and grading activities are prohibited in the buffer areas, inclusive of areas added for the averaging approval, EXCEPT for temporary disturbances that are required to install utilities and construct the soft-surface trail.
38. Prior to issuance of a clearing/grading permit for any portion of the plat, the applicant must submit a tree plan pursuant to Chapter 19.30 BDMC that delineates root protection zones for all significant trees retained, relocated, or planted for the division under the plan. The applicant must also submit concurrently a site plan for the portions of the multi-use trail that will cross wetland buffers, identifying the location, typical section, construction methods, trail surface, and grade. [Note: MDNS Mitigation Measure] The City will, in the course of its review of the materials, determine whether mitigation for unavoidable adverse impacts to the buffer (i.e., sensitive area per BDMC 19.10.240) is required.
39. Pursuant to BDMC 19.10.220(B)(3) [and MDNS Mitigation Measures]:
  - a. Trail alignments within wetland buffers shall be field located by the applicant and observed by a representative of the City, to avoid clearing of significant trees. Downed woody debris that is removed for the trail must be placed in naturalistic locations, similar to what exists on

the site for ground contact, instead of making slash piles, and culverts must be provided when the trail bisects surface or groundwater drainages.

- b. Trail alignments within wetland buffers shall be combined with the infiltration trenches, wherever feasible, subject to final design work to be reviewed by the City.
  - c. The portion of the proposed soft surface trail shown on the plans bisecting Wetland E1 shall be eliminated.
40. Pursuant to the City of Black Diamond Engineering Design & Construction Standards, Section 1.17, a construction management plan shall be developed by the applicant for review and approval by the City before the clearing and grading permit is issued. Location of construction fencing to protect wetland buffers at the limits of disturbance shall be shown on all applications for construction permits and installed prior to any work on the site. [Note: MDNS Mitigation Measure]
41. The plat will show that pet waste stations will be provided along the trail between the development and the wetlands and maintained by the Master Developer or HOA.
42. The applicant shall comply with the Wetland Buffer Vegetation Management Plan for The Villages Phase 2 Plat C (Exhibit 27) including: when clearing adjacent to a wetland buffer, the developer shall conduct monitoring which includes: (i) initial compliance/as-built report of post-development tree density in the wetland and adjacent buffer; (ii) Annual site inspections in the autumn to document that the minimum tree density (20) and weedy/invasive plant coverages are maintained in the wetland and its buffer; (iii) annual reports on the monitoring results to document the tree and invasive species density and general conditions of the wetland and buffer observed.
43. All trails proposed to affect wetland buffers shall be confined to the outer edges of buffers consistent with BDMC 19.10.220(B)(3c).
44. Pursuant to BDMC 19.10.220(D), wetland buffer boundaries adjacent to land within this plat shall be permanently delineated by split-rail fencing and identification signs, as approved by the City. Fencing shall be installed prior to final plat. [Note: MDNS Mitigation Measure]
- 45. Pursuant to MPD Permit condition of approval No. 124, mast-producing and other native vegetation will be incorporated into the landscaping in areas next to wetlands and buffers.**
46. A revegetation plan will be required in the clearing and grading permit application, to restore or enhance disturbed areas following construction. Restoration of disturbed areas in the wetland buffers shall implement the requirements of the Wetland Buffer Revegetation Plan.
47. To ensure compliance with BDMC Chapter 19.10, subsequent review of development activities in future development tracts adjacent to Wetlands E7, E8 and E10 is required. [Note: MDNS Mitigation Measure]

#### NOISE

48. During construction, the measures stipulated in “The Villages MPD Phase 2 Preliminary Plat C PLN13-0027 Short –Term Construction Noise Mitigation Plan” dated March 13, 2014 (Exhibit 26) and approved on May 21, 2014, will be implemented. [Note: MDNS Mitigation Measure]
49. The noise hotline shall remain open until further notice from the City. [Note: MDNS Mitigation Measure]
50. The applicant will continue to convene the Phase 1A Noise Review Committee through construction of Plat 2C. [Note: MDNS Mitigation Measure]

#### SANITARY SEWER

51. All existing sewer mains shall remain in service during utility construction.
52. Prior to the issuance of the first building permit for any structure that might discharge wastewater into the utility system, the Master Developer will build the interim sanitary sewer lift station and it shall be complete, operational and accepted by the City. The condition will be applied during building permit review and approval.
53. Prior to the approval of the final plat for Plat 2C, the off-site sewer system in Preliminary Plat 1A must be both completed and accepted by the City or bonded with an appropriate surety approved by the Designated Official.
54. Sanitary sewer flows shall be discharged to the existing City collection system, unless King County approves direct discharge into the regional King County collection system.
55. Any sewerage pipelines (whether gravity or force-main) that are designed with excess capacity shall include provisions to minimize potential operational impacts due to the oversizing. This condition will be applied during utility permit review and approval.
- 56. The applicant and/or DRC shall identify, on the face of each plan set for utility and building permit applications, the following sewage flow information, as applicable: the total building square footage included in that application, the number of fixture units, the Average Dry Weather Flow (ADWF), and the Peak Wet Weather Flow (PWWF) associated with the improvements in that application. The information must be in tabular form.**

#### WATER DISTRIBUTION AND SUPPLY

57. All existing water mains shall remain in service during utility construction.
58. Prior to the approval of the final plat for Plat 2C, all off-site water supply and distribution improvements required in Preliminary Plat 1A necessary to provide service to Plat 2C (including regional mains in Pipeline Road (or Roberts Drive), pipelines in Willows Drive and Villages Parkway, and upgrades to the chlorine disinfection system), must be completed and accepted by the City or bonded with an appropriate surety.
- 59. Prior to approval of the 500th ERU [combined Phase 1A and Plat 2C], the applicant shall complete a Water Conservation Check-up to identify if the water conservation strategies are compliant with the Development Agreement. This condition will be enforced with building permits.**
60. On Road A, between Road B and Road C, the water lines must be separated to the maximum extent feasible to maintain redundancy. This condition will be enforced with utility permits.
61. All water mains must be located within public rights of way or on dedicated utility easements that provide a minimum of 15 feet of unobstructed width for access and maintenance. The easements will be shown on construction drawings and submitted to the City for approval prior to issuance of utility permits.
- 62. The water meters shall be in public rights-of-way or easements and be compatible with the design standards within Exhibit "H" of the DA. Water meters must be accessible to the City's drive-by meter-reading system.**
- 63. Where possible, 850 zone mains for service to future areas of the project shall be interconnected to the 750 zone to improve service to the Plat 2C customers and to prevent stagnation of water in unused pipelines. These mains may be isolated from the 750 zone in the future when buildings are constructed in the 850 zone. This condition will be applied during utility permit review and approval.**

**64. Pursuant to MPD condition of approval #52, should the applicant desire new water distribution alternatives 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 submit an application for an amendment to the City's Plan and be responsible for the cost of updating the plan, if needed.**

#### PARKS, RECREATION AND OPEN SPACE

**65. The parks on tracts 906, 909, 911, and 921 shall be constructed or bonded prior to occupancy or issuance of final inspections for 60% of the dwelling units located within ¼ mile of the tracts in Plat 2C.**

66. The trails shown on Plat 2C shall be constructed by the Master Developer and maintained by the HOA. The trail segment of the trail on Plat 2C that corresponds to the trail shown on Figure 9.2 of the DA must extend to the boundary of Plat 2C at the future Willow Avenue SE and through tract 902. All trails will be constructed or bonded prior to final plat approval.

**67. The City will not issue a certificate of occupancy for the 800th dwelling unit on any Phase until the required recreation facilities in Table 9-5 are constructed.**

**68. The design of the trail shall meet the standards Section 9.7.1 of the DA and be shown as part of the clearing and grading, utility, or other engineering plans.**

69. The pocket parks, common greens, and trails in Preliminary Plat 2C will be owned and maintained by the homeowners' association (HOA) or Master Developer pursuant to the provisions of Subsection 5.5.7 of the DA.

**70. Pursuant to MPD Permit condition of approval No. 94, public access is authorized to all parks and trails in Plat 2C. The face of the plat shall contain a note to guarantee public access to the parks tracts and tracts containing trails.**

#### TREE PRESERVATION

71. The applicant will submit a report with the exact number of significant trees to be removed, 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 MPD Permit Condition No. 122.

72. Prior to any clearing or grading activities within Preliminary Plat 2C, clearing limits shall be marked in the field with continuous ribbon, silt fence, or orange construction fences where appropriate to clearly indicate clearing limits. Trees within or near clearing limits to be saved shall be clearly marked. Orange construction fencing shall be installed as a tree protection measure outside of drip lines of trees to be saved, prior to the start of clearing and grading operations.

#### LAND USE

73. Sheet CV1, the cover sheet of the Preliminary Plat for Plat 2C, shall have a table that shows the ratio of base density to planned density for Phase 2, and how Plat 2C units affect the totals for base and planned densities and the TDRs required (if any) for each plat or division within Phase 2.

74. Pursuant to the requirements of Exhibit "H" of The Villages Development Agreement, a note on the final plat shall state: THE SAME COMBINATION OF ELEVATION STYLE AND FLOOR PLAN FOR DWELLING UNITS OR BUILDINGS SHALL NOT BE PLACED BESIDE EACH OTHER. DWELLING UNITS OR BUILDINGS THAT MAKE USE OF THE SAME FLOOR PLAN AND ARE SITED DIRECTLY ACROSS THE STREET FROM ONE ANOTHER SHALL INCORPORATE A DIFFERENT ELEVATION WHENEVER POSSIBLE

AND SHALL USE A DIFFERENT EXTERIOR COLOR/MATERIAL PALETTE. ON A LIMITED BASIS, SPECIFIC LOCATIONS WITHIN NEIGHBORHOODS MAY VARY FROM THIS REQUIREMENT

75. The on-street parking locations shown in the application shall be considered the minimum acceptable number of parking spaces. To the extent that additional stormwater facilities are required (namely rain gardens) these facilities shall be located outside the right-of-way and shall not displace or eliminate any on-street parking spaces. This condition will be applied during utility permit review and approval for rain garden and/or street construction.
76. Required street trees will be counted on a block-by-block basis for compliance, whether spaced on-centers or placed in groves. This condition will be reviewed during utility permit application.
- 77. The following mechanisms shall be used in Plat 2C, where feasible, to integrate Low Impact Development (LID) techniques: reduced roadway widths, infiltration wells, rain gardens, bioswales, media filter strips, reduced driveway lengths, pervious asphalt and concrete, pervious pavers, and installation of pet waste stations in common areas.**
- 78. Pursuant to Figure 6.3 of the DA, Bike Route and Future Connection Plan, the applicant shall identify a location on the plat at a point between Tract 901 and Tract 902 on Road A where a future connection to the north of the boundary of parcels V28 and V29 shall be constructed as development occurs there in the future.**

#### EMERGENCY SERVICES

- 79. Pursuant to Section 13.4, Fire Mitigation, of the DA, the siting and design of the satellite fire station shall be provided by the applicant and agreed to by the City no later than the time of issuance of a Certificate of Occupancy for the 250th dwelling unit within The Villages (i.e., combined dwelling units on Phase 1A and Plat 2C).**
80. Parking on private alleys and wonerfs is prohibited so as to ensure unobstructed access for emergency vehicles.

#### CONSTRUCTION

81. Prior to submittal of the first clearing/grading permit for any portion of Plat C, the proponent shall place additional archaeological shovel probes on lands near Rock Creek (Parcel E) and provide a report to the City prepared by a qualified professional summarizing the results and any recommended actions. [Note: MDNS Mitigation Measure]