

10.

Public Comment: Gil Bortleson (email message with attachment)

July 2, 2014

**Tracey Redd**

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**From:** Tracey Redd  
**Sent:** Wednesday, August 06, 2014 10:51 AM  
**To:** Gillian Zacharias  
**Subject:** FW: Comments on SEPA Review and MPD Phase2 Plat C  
**Attachments:** Comments on Plat and SEPA Review of Villages MPD Phase 2 Plat C GBortleson.docx

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**From:** MDRT User  
**Sent:** Monday, August 04, 2014 2:02 PM  
**To:** Brenda Martinez  
**Subject:** FW: Comments on SEPA Review and MPD Phase2 Plat C

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**From:** Brenda Martinez  
**Sent:** Wednesday, July 02, 2014 9:27 AM  
**To:** Aaron Nix; Andy Williamson; Dave Gordon  
**Subject:** Fwd: Comments on SEPA Review and MPD Phase2 Plat C

Not sure if you got these or not so I'm forwarding on to be on the safe side.

*Sent from my Verizon Wireless 4G LTE DROID*

----- Original Message -----

**Subject:** Comments on SEPA Review and MPD Phase2 Plat C  
**From:** G Bort <[gbortles@gmail.com](mailto:gbortles@gmail.com)>  
**To:** Brenda Martinez <[BMartinez@ci.blackdiamond.wa.us](mailto:BMartinez@ci.blackdiamond.wa.us)>  
**CC:**

Ms Martinez,

Please find attached comments on above subject. This e-mail content is identical to earlier mail at 4:59 pm with subject identified in this e-mail for your convenience. Respectfully submitted. Gil Bortleson

## Tracey Redd

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**From:** Tracey Redd  
**Sent:** Wednesday, August 06, 2014 10:51 AM  
**To:** Gillian Zacharias  
**Subject:** FW:  
**Attachments:** Comments on Plat and SEPA Review of Villages MPD Phase 2 Plat C GBortleson.docx

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**From:** MDRT User  
**Sent:** Monday, August 04, 2014 2:02 PM  
**To:** Brenda Martinez  
**Subject:** FW:

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**From:** Brenda Martinez  
**Sent:** Wednesday, July 02, 2014 9:31 AM  
**To:** Dave Gordon; Andy Williamson; Aaron Nix  
**Subject:** Fwd:

Here is another one gil sent. Could be the same as the one I just sent you....hard yo tell on my phone.

*Sent from my Verizon Wireless 4G LTE DROID*

----- Original Message -----

**Subject:**  
**From:** G Bort <[gbortles@gmail.com](mailto:gbortles@gmail.com)>  
**To:** Brenda Martinez <[BMartinez@ci.blackdiamond.wa.us](mailto:BMartinez@ci.blackdiamond.wa.us)>  
**CC:**

Ms Martinez,

Please find attached comments. Respectively submitted Gil Bortleson

### **Comments on MDNS and Adoption of Existing Environment Document:**

1. The Environmental Checklist makes specific statements about conditions that will be met but these conditions are not listed on the Plat or its approval document.
2. There is insufficient documentation in the record that describes the details of the “independent” review.
3. The City relied on the previous programmatic non-project environmental review and did not conduct a project level environmental review.
4. The City did not analyze the impacts of vaguely defined “additional tracts” and did not provide specific land uses and development activities in these areas.
5. The mitigation conditions proposed only deal with a very narrow range of issues. Even though various technical submittals recommend many conditions, and even though the applicant has stated his intent to comply with some of these conditions, none of them have been incorporated into the conditions of approval prepared by the City for the plat.
6. The condition regarding archaeological resources requires a report but does not require protection.
7. The condition regarding an update to the preliminary drainage analysis only addresses “subtle” design changes and does not provide for any meaningful review of SEPA impacts relating to stormwater management.
8. The condition requiring infiltration trenches to be combined with trail alignments is inconsistent with provisions of 19.10.120 since the conditions for trail alignments are more lenient than the conditions for infiltration trenches. This should be clarified to make sure that the more stringent condition applies.
9. The condition that requires a construction management plan in the future is inadequate because the plan should be determined at the preliminary plat stage. In fact, the preliminary plat approval documents include discussion and specific determinations about the construction management plan but do so in a piecemeal manner.

### **Comments on Tree Inventory Report:**

1. The report was based on a sampling study with a large margin of error. At this stage in plat review, the applicant should have been required to do an actual survey instead of a sample study.
2. The study area only covered 41.14 acres of the total 136 acre plat. Even though the unstudied areas are not proposed for development, the applicant was still required to conduct a tree inventory of the entire site. Moreover, potential utility and trail corridors were not studied.

### **Comments on Status Update on Stormwater and Groundwater Monitoring, dated May 6, 2014:**

1. The Applicant has failed to comply with conditions of approval requiring monitoring and the establishment of a baseline phosphorus load. The consultant's report identifies ongoing work and is a work in progress. The report should be concluded and reviewed by the City before the project SEPA review and plat conditions are approved.

**Comments on Preconstruction Stormwater Monitoring in Rock Creek dated November 2013 and updated January 2014:**

1. The report states that the Ginder Creek site has been chosen by the City as a compensating site in accordance with MPD condition of approval number 84. However, there is no information in the record that substantiates this decision, and it was not subject to any SEPA review. No alternatives to this site were considered.

**Comments on Wetland Buffer Vegetation Management Plan prepared by Wetland Resources on December 19, 2013:**

2. The report recommends specific conditions that are not included in the conditions of approval, even though the Applicant has asserted their intent to abide by those conditions.
3. The Perteet recommendations are not incorporated into the conditions of approval, and should be.
4. The additional conditions proposed by Wetland Resources in response to the Perteet comments should be included as specific conditions of approval.
5. The report notes that the City's significant tree ordinance exempts trees that are "non-significant" while pointing out that those trees have equivalent ecological significance. This constitutes a negative environmental impact that cannot be mitigated by simple application of the City's code.
6. The report makes no provision for effective barriers to ensure that clearing and grading does not intrude into the wetland buffers.
7. Comments on the Response to Perteet Wetlands Comments submitted by Wetland Resources:
8. The response by Wetland Resources excuses an acknowledged omission by stating that the Development Agreement's delineations are "final and complete". This is in violation of the City's code and other legal requirements. State law requires the City to apply applicable law, and also requires Development Agreements to comply with applicable law. Moreover, the Development Agreement itself includes language that contradicts its own "final and complete" language and suggests that more accurate delineations at the preliminary plat stage are appropriate. The omission identified by Perteet should be corrected.

9. The drainage divide that was the basis for the downgrading of wetland E1 is not sufficiently documented and should be re-evaluated based on extensive local knowledge and information.
10. The plan to “decommission” logging roads should be revised to require restoring them.
11. There is no evidence in the record that Perteet reviewed Wetland Resources April 28, 2014 memorandum.

**Comments on Golder response to Perteet’s comment number 6:**

1. Golder’s response is wholly inadequate. Golder based its review on Triad’s drainage analysis which was not intended to determine wetland impacts. Golder acknowledges the inadequacy of Triad’s drainage analysis and recommends that an additional drainage review should be conducted later to account for any “subtle” changes. However, such a later analysis would not be subject to SEPA or plat hearing review, and should certainly not be limited to “subtle” changes.
2. Golder acknowledges that the City does not use the best available science for doing hydroperiod analysis of wetlands, but offers no suggestion for how to address this deficiency.
3. Golder’s conclusion about “annual average recharge volume” ignores the issue of seasonal variations, changes in hydrologic regime cycles, changes during storm events and changes during the dry season.
4. Neither Golder nor Triad utilized a qualified wetlands scientist to review potential impacts to the wetlands on site caused by their drainage plans.
5. There is no evidence in the record that Wetland Resources or Perteet reviewed Golder’s memorandum.

**Comments on Sensitive Area Study, Buffer Averaging Plan, and Wildlife Analysis by Wetland Resources dated February 24, 2014 and revised May 6, 2014:**

1. The report’s average annual runoff tables are inconsistent with best available science. The runoff estimates for till forests, for example, are grossly overstated. This, in turn, minimizes the impact of clearing and grading those forests on wetlands and downstream drainage features.
2. The report accepts the Triad water recharge/balance data without verification or any evidence of independent analysis.
3. The report merely “assumes” that the City’s 2008 Best Available Science Review is adequate without any independent or more current review.
4. The Sensitive Areas Study assumes that the Development Agreement’s delineations are “final and complete” and does not even address the wetland delineations. This is in violation of the City’s code and other legal requirements. State law requires the City to

apply applicable law, and also requires Development Agreements to comply with applicable law. Moreover, the Development Agreement itself includes language that contradicts its own “final and complete” language and suggests that more accurate delineations at the preliminary plat stage are appropriate.

5. The Sensitive Areas Study also assumes the adequacy of soil sampling without review.
6. The report presents no new analysis or survey data regarding wildlife habitat. The report dismisses the presence of significant, threatened and endangered species despite extensive local knowledge of the presence of such species and the obvious suitability of the site’s habitat areas to accommodate them.

**Comments on Geotechnical Report:**

1. The groundwater analysis was done during the driest time of the year, early September.
2. The soil tests were shallow and didn’t cover most of the site.
3. There is no basis offered for the selection of pit locations.