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Request for Mayoral Approval of Wetland Buffer  
Averaging Plan ,YarrowBay

May 14, 2014

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COMMUNITY DEVELOP.

Honorable Dave Gordon  
Mayor  
City of Black Diamond  
PO Box 599  
Black Diamond, WA 98010

MAY 15 2014

RECEIVED

**RE: Mayoral Approval of Proposed Wetland Buffer Averaging Plan for The Villages MPD Phase 2 Preliminary Plat C**

Dear Mayor Gordon:

Pursuant to The Villages MPD Development Agreement ("The Villages DA") and the Black Diamond Municipal Code ("BDMC"), BD Village Partners, LP ("YarrowBay") respectfully requests that the City of Black Diamond ("City") approve the wetland buffer width averaging plan that YarrowBay has proposed for The Villages MPD Phase 2 Preliminary Plat C, as described in the *Sensitive Area Study, Buffer Averaging Plan and Wildlife Analysis for The Villages MPD Phase 2 Plat C*, by Wetland Resources Inc., dated February 24, 2014 and revised May 6, 2014 ("SAS"), attached.

The Villages DA §8.2.1 states that "[b]uffers and categories for the wetlands 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 [Sensitive Area Ordinance ("SAO")]. Preliminary Plat 2C is an implementing project within The Villages MPD, which means its buffers must be determined and approved as part of the plat review.

The City's SAO states that 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." See BDMC §19.10.230(H). YarrowBay has proposed to buffer average adjacent to Wetland E1. Specifically, YarrowBay proposes to reduce the buffer width by a total of 2,117 square feet on the back of lots 129-131, 134-141, 147-150, and 156-157. See The Villages MPD Phase 2 Plat C Plan Set, revised April 21, 2014 ("Plan Set"), Sheets PP1-PP4, attached. In exchange, YarrowBay proposes to add a total of 26,222 square feet on the back of lots 122, 123-129, 131-134, 141-147, 150-152, 157, 190-196, 197-202, and Tracts 920 and 921. See Plan Set Sheets PP1-PP4. This proposed buffer averaging will result in a net increase of 24,105 square feet to the buffer area. In support of this plan, YarrowBay has provided the City with a sensitive area study, a wildlife habitat assessment, a wetland buffer vegetation management plan, and a wetland buffer averaging plan, all of which are based on the best available science. For the reasons outlined below, YarrowBay requests that the Mayor or his

designee allow for the modification of the standard wetland buffer width for Wetland E1 by approving the proposed buffer averaging plan.

### **1. Averaging to Improve Wetland Protection**

The City's SAO permits buffer averaging when either i) doing so will allow reasonable use of a parcel of land, or ii) averaging will improve wetland protection. *See* BDMC §19.10.230(H)(1) and (2). In this case, YarrowBay's buffer averaging plan will improve the buffer protection provided for Wetland E1. The SAO permits buffer averaging under these circumstances when the following four requirements have been met. *See* BDMC §19.10.230(H)(1).

#### ***a. Wetland Would Benefit***

The first requirement for approval of buffer averaging plans is that "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." *See* BDMC §19.10.230(H)(1)(a). In this case, Wetland E1 and its buffer contain clear variations in sensitivity due to past logging activities on the site. *See* SAS at 3. A variation in sensitivity occurs, for example, where the gravel road and the unmaintained logging roads cross the wetland. *See* SAS at 3. These intrusions into Wetland E1 create a slightly higher sensitivity than the dense, naturally vegetated buffer areas adjacent to other portions of Wetland E1. *See* SAS at 3. YarrowBay has proposed to provide additional buffer in areas where the buffer has been significantly reduced by the gravel road. By providing additional buffer in these areas, Wetland E1 will be better protected and the potential impacts associated with the gravel road will be ameliorated. *See* SAS at 3. Moreover, as described more fully below, in the locations where YarrowBay has proposed to reduce the buffer, the natural vegetation is thick and the proposed buffer reduction area is minimal, which will result in no adverse impact to Wetland E1. *See* SAS at 3.

#### ***b. No Reduction in Functions or Functional Performance***

The second requirement for approval of buffer averaging plans is that "[b]uffer averaging will not reduce wetland functions or functional performance." *See* BDMC §19.10.230(H)(1)(b). YarrowBay's proposed buffer averaging plan will not reduce the functions or functional performance of Wetland E1, and overall will actually increase the protection afforded the wetland by providing an additional half-acre of wetland buffer area, as discussed below.

In the few locations where YarrowBay has proposed to reduce the buffer for Wetland E1, the reduction areas are a maximum of eight feet in width and are located in densely vegetated buffers. *See* SAS at 3. Densely vegetated buffers are known to provide the maximum protection to their critical areas, specifically with regard to water quality, hydrologic functions, and wildlife habitat. *See* Water Resources Inc.'s Response to Perteet's Wetlands Review ("WRI Response") at 4, attached. Impacts to these functions from the small proposed intrusions in the densely vegetated buffers will be *de minimis*. *See* WRI Response at 4. Moreover, as described above, portions of the buffer area to be added are located adjacent to the existing, frequently used gravel road. These

portions of the road will be decommissioned, allowing the buffer to function naturally. *See* SAS at 3, WRI Response at 4. By limiting the width of the reduction areas and only proposing buffer reduction in densely vegetated buffers, YarrowBay has ensured that there will be no reduction in functions or functional performance for Wetland E1. Furthermore, by decommissioning existing gravel roads that are currently impeding on the buffer, YarrowBay has actually provided additional protection for the wetland. *See* SAS at 3, WRI Response at 4.

***c. Total Area No Less Than Standard BufferArea***

The third requirement for approval of buffer averaging plans is that 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.” *See* BDMC §19.10.230(H)(1)(c). Written another way, the SAO allows applicants to propose a 1 to 1 ratio of addition to reduction in wetland areas: for every 1 square foot of reduced buffer, applicants must provide 1 square foot of buffer somewhere else. YarrowBay’s proposal significantly exceeds this requirement, proposing **12** additional square feet of buffer area for every 1 square foot of buffer reduction, or a 12:1 ratio of buffer addition to reduction. In real numbers, YarrowBay is proposing to reduce the buffer area in four locations, for a total of 2,117 square feet. In exchange, YarrowBay is proposing to add to the buffer in eight locations, for a total of 26,222 square feet, a net increase of 24,105 square feet to the standard buffer area. *See* Table 1 below.

Table 1

Buffer Averaging Area	Buffer Addition (sf)	Buffer Reduction (sf)	Net Buffer Area (sf)
1	4,695		
2	92		
3	8,737		
4		182	
5	1,770		
6		373	
7	2,725		
8		1,366	
9	360		
10		196	
11	7,621		
12	222		
<b>Totals</b>	<b>26,222</b>	<b>2,117</b>	<b>24,105</b>

The City’s SAO also requires that “all increases in buffer dimension for averaging are generally parallel to the wetland edge.” *See* BDMC §19.10.230(H)(1)(c). As shown on the attached plan sets, all of the buffer areas that YarrowBay proposes to add are generally parallel to the wetland edge, helping ensure a consistent line for the buffer as it meets the proposed development. *See* Plan Set Sheets PP1-PP4.

*d. Narrowest Point Not Less Than Fifty Percent of Standard Width*

The final requirement for approval of buffer averaging plans is that 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.” See BDMC §19.10.230(H)(1)(d). In other words, the City’s SAO allows applicants to propose reducing buffer areas by up to 50%, equivalent to 55 feet for the buffers around Wetland E1. In contrast to the significant area permitted to be reduced under the ordinance, YarrowBay’s buffer averaging plan proposes to reduce the wetland buffer area by a maximum of only eight feet, leaving a minimum of 102 feet of buffer remaining. See SAS at 4. This amounts to—at its maximum—a seven percent reduction in the width of the buffer area in a single location, far less than the 50% reduction the SAO permits. See SAS at 4.

**2. Reduction Not Located in a Sensitive Area, Averaging Not Used with Transfer**

In addition to the four requirements outlined above, the City’s SAO also states that buffer “width reduction may not be located within another sensitive area or associated buffer unless criteria for averaging said buffer are also addressed and approved.” See BDMC §19.10.230(H)(3). In this case, none of the areas that YarrowBay has proposed to reduce in the wetland buffer for Wetland E1 are located in other sensitive areas or other buffers, so YarrowBay’s proposed averaging plan meets this criterion. The SAO further notes that buffer averaging may not be approved when buffer transfer is also approved. See BDMC §19.10.230(H)(4). YarrowBay has not requested that the City approve any buffer transfers, so YarrowBay’s proposed averaging plan fulfills this criterion.

For the reasons discussed above, YarrowBay respectfully requests that the Mayor or his designee approve the wetland buffer width averaging plan that YarrowBay has proposed for The Villages MPD Phase 2 Preliminary Plat C, as described in the *Sensitive Area Study, Buffer Averaging Plan and Wildlife Analysis for The Villages MPD Phase 2 Plat C*, by Wetland Resources Inc., dated February 24, 2014 and revised May 6, 2014.

Please let us know if you have any questions regarding this request or need additional information.

Sincerely,



Colin Lund  
Chief Entitlement Officer  
YarrowBay