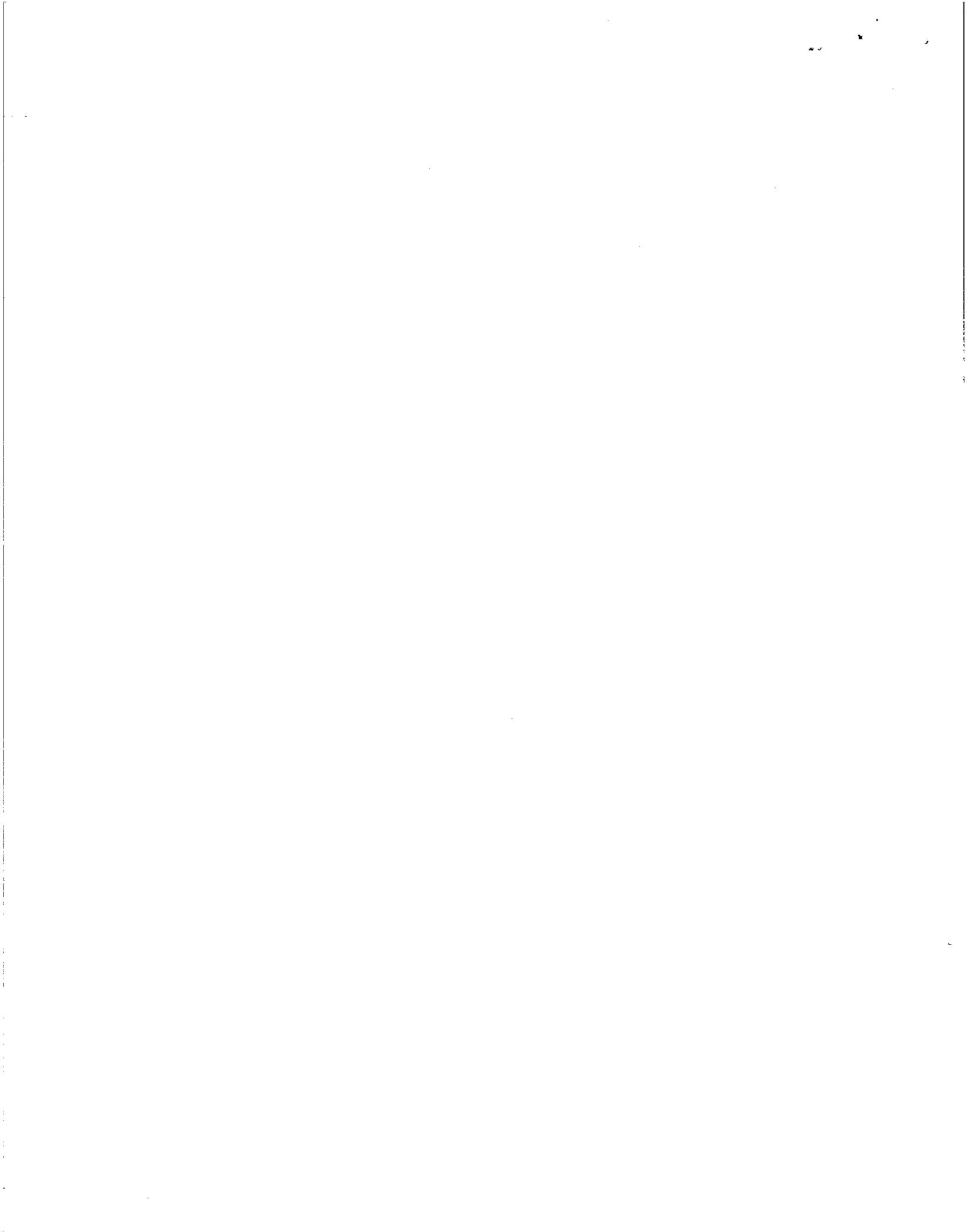


76.

Public Comment: Bob Edelman, turned in at Public
Hearing



Before the Hearing Examiner for the City of Black Diamond
The Villages Preliminary Plat Application 2C
Regarding Adequacy of Wastewater Provisions

The Staff Report for PP2C has multiple references to availability of 1,150 ERUs of sewer capacity. The report incorrectly allocates future draws on that capacity to only preliminary plat applications for The Villages MPDs.

The source of the capacity evaluation was a letter from Mark Buscher of King County Wastewater Treatment Division (KCWTD) to Andy Williamson dated 2/17/2011 (Exhibit A). The letter provided information regarding existing and future capacity of the Black Diamond Pump Station and Black Diamond Trunk. It stated: "Approximately 1,150 ERUs can be added to the existing B[]ack Diamond Pump Station before reaching a 5 year level of service at which time the total ERUs served is 2,250 and storage at the pump station is needed." It further stated: "Once a 750,000 gallon storage facility is in place the Black Diamond Pump Station could provide capacity for an additional 6,000 ERUs for a total of 8,250 ERUs at which time regional conveyance capacity in the area would return to a 5 year level of service and additional regional wastewater infrastructure will be needed."

Mr. Buscher stated that the information source for his responses was the June 16, 2008 document titled "Basis for 0.75 MG Black Diamond Storage" which he attached to the letter. Therefore the basis for the 1,150 ERUs additional service capacity was current service at the time that the analysis was performed.

The Staff Report references Exhibit 37 as authority for the statement that "King County Wastewater Treatment Division (WTD) has confirmed an existing trunk line and pump station capacity of 1,150 ERUs". (Staff Report p 92) This is incorrect. The referenced communication from the Director of the Waste Treatment Division and is dated 12/16/2013, almost three years after the Buscher letter. It appears to place the threshold at 1,000 ERUs. It states that "WTD will need to make investments in the regional wastewater conveyance system in order to accommodate greater than 1,000 additional Equivalent Residential Units in Black Diamond". The letter also points out that: "Because WTD does not have a detailed schedule for the proposed Master Planned Developments (MPDs) in Black Diamond, a capital project to increase regional wastewater capacity is not included in the current WTD 6-year Capital Improvement Plan (CIP)". To my knowledge, this remains true – the storage facility is still not in King County's 6-year CIP.

The City has made commitments through permitting action that have reduced the amount of available future capacity. The only one reflected in the Staff Report is the approval of Preliminary Plat 1A which committed 921 ERUs. (Staff Report pp 92, 95, and 175) Approval of Preliminary Plat 2C would commit an additional 203 ERUs. The Staff Report states that 26 ERUs of service capacity would remain. This is incorrect since it ignores any additional service connections and commitments made since the 1,150 limit was established.

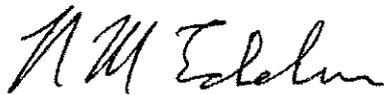
Exhibits B and C are evidence that more capacity has been committed. These two subdivisions of land add up to 14 ERUs which would leave only 12 ERUs of remaining capacity. But this probably does not reflect the total draw-down of available capacity. The City does not have a system that accounts for the total of commitments and new connections relative to King County's 1,150 ERU limit. There have likely been more connections to the sewer system and may have been more commitments of capacity since the analyses were performed.

In addition, new developments are in the pipeline that would exceed remaining capacity. For example, the proposed development called the "Arboretum" would add about 39 ERUs. (Exhibit D)

In the absence of an accounting of the draw-down of sewer capacity it is possible that there has been or will be an over-commitment to developers. The Staff Report includes the following statement regarding permitting in excess of capacity: "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". (Staff Report, pp 95-96) This implies that there might be an over commitment of sewer capacity but that the problem will be handled by limiting building permits. Over commitment of sewer capacity would be a violation of the concurrency requirements of State law. It could result in builders buying plats and then finding out that they could not get construction permits.

It is recommended that the City prepare an accounting of the total draw against the 1,150 ERU capacity (or 1,000 ERU capacity if that is now the threshold). The accounting should include both permit commitments and new connections. PP2C should not be approved until the City verifies through a review of permitting actions that there is adequate capacity. If there is insufficient capacity then the City should obtain a commitment from King County and Yarrow Bay that the 750,000 gallon storage facility will be built and operational by a date certain so that the City will know when the threshold restriction will be lifted. Yarrow Bay would be a party to such a commitment since Section 11.4.1 of the MPD Development Agreement places construction responsibility with either the Master Developer or King County while funding responsibility is that of the Master Developer. See Exhibit E.

Respectfully submitted,



Robert M. Edelman
29871 232nd Ave SE
Black Diamond, WA 98010

Exhibits: 5



King County

Department of Natural Resources and Parks
Wastewater Treatment Division
King Street Center, KSC-NR-0500
201 South Jackson Street
Seattle, WA 98104-3855

February 17, 2011

Andy Williamson
Executive Director of Engineering Services
City of Black Diamond
PO Box 599
Black Diamond, WA 98010

Seth Boettcher
Public Works Director
City of Black Diamond
PO Box 599
Black Diamond, WA 98010

Dear Mr. Williamson and Mr. Boettcher:

Thank you for your letters of February 11, 2011 and January 24, 2011 regarding the design of a regional wastewater storage facility in the City of Black Diamond.

I appreciate the updated information contained in the February 11, 2011 letter regarding expected growth in Black Diamond over the next 17 years. While this information is helpful I want to reiterate previous requests that King County needs a permitting and development schedule from the City that details when permits will be issued, and when construction of homes or businesses will begin in order to begin the process to re-incorporate the Black Diamond Storage Facility into the Wastewater Treatment Division's capital budget.

Your January 24, 2011 letter noted that information King County previously provided regarding existing and future capacity in the regional wastewater system did not meet the City's needs. The following information confirms in ERUs the number of additional connections that can be made to the existing Black Diamond Pump Station and Black Diamond Trunk prior to the need for the new storage facility to be in service; and how many more connections can be made after the storage is on-line. The information source for the responses is the June 16, 2008 document titled "Basis for 0.75 MG Black Diamond Storage". I have attached another copy for your files.

- The Black Diamond Pump Station and Black Diamond Trunk are currently serving approximately 1,100 ERUs. The current level of service is 10 to 15 years depending on I/I degradation.
- Approximately 1,150 ERUs can be added to the existing Black Diamond Pump Station before reaching a 5 year level of service at which time the total ERUs served is 2,250 and storage at the pump station is needed.
- Once a 750,000 gallon storage facility is in place the Black Diamond Pump Station could provide capacity for an additional 6,000 ERUs for a total of 8,250 ERUs at which time regional conveyance capacity in the area would return to a 5 year level of service and additional regional wastewater infrastructure will be needed.

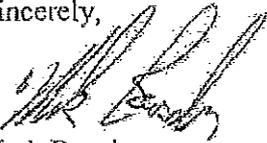
Seth Boettcher
Andy Williamson
February 17, 2011
Page 2

- Note that the responses above assume 2.5 persons per ERU.

Previous information provided by the City of Black Diamond was used to prepare a Population and Wastewater Flow Projections Technical Memorandum. I have enclosed a copy of the memorandum. When comparing the updated growth projection in your February 11, 2011 to the previous information we noted an increase in the total number of ERUs expected and the most intense development is anticipated between 2020 and 2030. While these changes are minimal and do not impact the size of the planned storage facility, I would appreciate confirmation of the changes to the number of ERUs expected and timing of development. We will then use these revised projections for future planning.

Thank you for continuing to work with the Wastewater Treatment Division to plan for expanded regional wastewater infrastructure to accommodate growth in Black Diamond.

Sincerely,



Mark Buscher
Acting Supervisor
Comprehensive Planning & Asset Management Program Development

cc Sharman Herrin, King County Wastewater Treatment Division

Basis for 0.75 MG Black Diamond Storage

Prepared by: Bob Swamer

June 16, 2008

1. Introduction

Recent plans by Yarrow Bay Communities (YBC) to rapidly develop a portion of the Black Diamond service area had prompted King County to investigate options for maintaining adequate regional conveyance capacity to serve Black Diamond. Now, there are 20,000 people expected to reside in Black Diamond by 2020, compared with 2,053 in the previous analysis. The addition of many more people, with a corresponding much faster increase in sewerage area than was previously projected, has resulted in an upward adjustment of flows expected by 2020 than was anticipated three years ago. This planned rapid growth also affects the storage that will be required to accommodate the peak flows through 2020, the target date for delaying the need for additional conveyance facilities to manage flows from the Soos Creek/Black Diamond service area.

2. Population and Development Forecasts

Various population forecasts were presented in the "Population and Wastewater Flow Projections – Black Diamond", July 2007 Technical Memorandum. Table 9 in that memorandum contains the population assumptions associated with the "Moderate Growth Rate" in that memorandum. These forecasts are replicated in Table 1 below. This forecast assumes that the planned Yarrow Bay Community development begins in 2009 and is fully developed by 2020. This population forecast is the basis for evaluating the storage option in this technical memorandum.

	2000	2010	2020	2030	2040	2050
Residential	2,050	3,500	20,000	20,700	21,800	23,100
Commercial	450	800	1,200	1,700	2,300	3,000
Industrial	20	30	42	61	88	114
Sewered Area (ac)	395	550	1,800	2,300	2,300	2,300

*Source: Population and Wastewater Flow Projections – Black Diamond", July 2007 Technical Memorandum, Table 9.

3. Assumptions for Infiltration and Inflow

The sizes of the required storage are dependent on population forecasts, on assumptions of I/I rates from new construction, and on assumed degradation rates (increases in I/I) in existing and new sewers. The assumptions for these items for King County's I/I Program Benefit/Cost analysis were as follows:

- New Construction I/I: 1500 gpad (gallons per acre per day peak hourly rate)
- Degradation rate: 7% per decade

These assumptions were discussed and approved by the MWPAAC Engineering & Planning Committee for the I/I Program. The assumptions were intended to be reasonable, yet conservative, so that conveyance facilities would not be undersized. These assumptions were then carried forward and are being used in King County's Conveyance System Improvement Plan Update.

A review of the data collected during the comprehensive flow monitoring program of 2000 – 2002 in King County's separated system indicated that for those mini-basins that were constructed in the 1990s, the 20-year peak I/I averaged 754 gpad. Three mini-basins had peak I/I ranging from 509 to 542 gpad. Since new construction I/I does have a significant impact on the size of storage required in Black Diamond, this analysis takes a look at the storage requirements if new construction I/I is 750 gpad.

Only 16% of the sewerable area in Black Diamond basin was sewerred in 2000, and not much new area has been sewerred in this decade. This means that most of the projected peak I/I will be coming from areas that were unsewerred in 2000. Focused effort to inspect and test new sewers as they are constructed would increase the likelihood that relatively low peak I/I values are achieved.

For this analysis, a 7% per decade degradation rate was used in order to be consistent with MWPAAC approved assumptions. Note that this assumed degradation rate has not been substantiated yet. Actual increase in I/I from existing sewers may be higher or lower than 7% per decade. Furthermore, new construction I/I rates may also degrade faster or slower than 7% per decade.

Additional effort to inspect and/or smoke-test existing sewers in leaky basins and fix suspected problems may result in a lowering of the I/I rate instead of an increase in I/I over time.

4. 5-year vs. 20-year Capacity

The King County council adopted a 20-year standard for conveying wastewater through King County pipelines during the adoption of the RWSP in 1999. Currently, there are several locations within the regional wastewater service area that do not provide this level of service. Some conveyance facilities currently have less than a 5-year level of service. There is a phased program in place to provide the 20-year level of service in all locations,

but that won't be fully achieved until after 2040, under current flow projections and budget expenditure plans¹.

For the Black Diamond area, a 5-year level of service is targeted through 2020, at which time additional conveyance and/or treatment facilities are planned to provide the 20-year level of service. What this might mean is that the likelihood of an overflow may increase from 5% per year (a 20-year level of service) to 20% per year (a 5-year level of service) as we approach the year 2020. The 5-year level of service storage requirements have been included in the tables to provide a comparison of size and cost to the 20-year storage sizes.

5. Storage Requirements in Black Diamond

Table 2 presents the flow projections and storage sizes using these assumptions for the Black Diamond basin. A storage facility about 0.75 million gallons in size would provide a 5-year level of service to the Black Diamond flows through 2020 under the current assumptions of new I/I and degradation factors. This option is dependent on the assumption that Soos Creek WSD could continue to wheel wastewater flow from Black Diamond to the Kent-Cascade Interceptor until then. Efforts to ensure that new sewer construction in Black Diamond is tight are essential in order to maximize the benefits of storage and to delay the need for additional conveyance and or treatment facilities until 2020.

Section 6 contains a description of the methodology used to determine the required storage

6. Method for Determining Required Storage Volumes

The size of a storage facility depends not only on the estimated 20-year peak flow volumes, but also on the capacity of the downstream conveyance facility and on the modeled shape, length, and timing of storm hydrographs for the area. Therefore, an estimate of the 20-year peak flow alone is not sufficient for sizing a storage facility.

Table 2 Black Diamond Flow Projections with Medium I/I Assumptions New I/I Rate: 750 gpad; Degradation Rate: 7%					
	2000	2010	2020	2030	2050
Base Flow (mgd)	.15	0.24	1.01	1.06	1.21
1.35*BF (mgd)	0.20	0.32	1.36	1.43	1.63
20-Year Peak I/I (mgd)	1.63	1.86	2.92	3.48	3.91
20-year Peak Flow (mgd)	1.83	2.18	4.28	4.91	5.55
20-Year Storage (MG)			1.2		
5-Year Peak Flow (mgd)	1.42	1.61	2.48	2.95	3.38
5-Year Storage (MG)			0.75		

¹ <http://dnr.metrokc.gov/wtd/csi/csi-docs/ProgramUpdate/index.htm#contents>

There are serious drawbacks when sizing storage using a design storm, due to the variable antecedent soil moisture and magnitudes, durations, and timing of storm flows. Therefore, King County uses long-term simulations of its calibrated hydrologic models to derive 60-year hydrographs at pertinent parts of the conveyance system. An example output schematic hydrograph from part of a 60 year simulation is presented in Figure 1.

A 60-year hydrograph was generated by simulating 60 years of rainfall through the Black Diamond calibrated model for year 2000 conditions. The resulting hydrograph was factored to reflect various future years and conditions. Then the factored hydrograph was considered a long-term record of the flows that would be expected under conditions for a specific year (e.g., 2010, 2020, 2030, ...).

Each hydrograph was then processed such that all flows significantly above the diurnal peak daily flow were evaluated for potential storage requirements. Any flow that was above the downstream pipe capacity was considered captured and stored during the event and released when the event was over. The result of the analysis was the derivation of storage-capacity curves that were used to properly size storage facilities to satisfy the 5-year or 20-year return period conveyance criteria. The size of required storage increases as the downstream capacity decreases because there is more volume to store for an event.

Given the downstream conveyance capacity, the hydrograph volumes above this capacity were computed and ranked by volume. Figure 2 shows a plot of return period for various event volumes for Black Diamond in the year 2020 with an assumed downstream pipe capacity of 1.7 MGD (the capacity of the Black Diamond Trunk).

The third ranked peak volume in the 60-year simulation represents the storage required to satisfy the 20-year peak flow design criterion. This volume is highlighted in Figure . This storage-capacity curve applies to this location and the specified downstream capacity only. If another downstream capacity was an option, then a new storage-capacity curve would be required for that option. The storage required to provide a 5-year level of service in 2020 is approximately 0.7 million gallons on the curve. A storage of 0.75 MG was selected to provide this 5-year level of service through 2020.

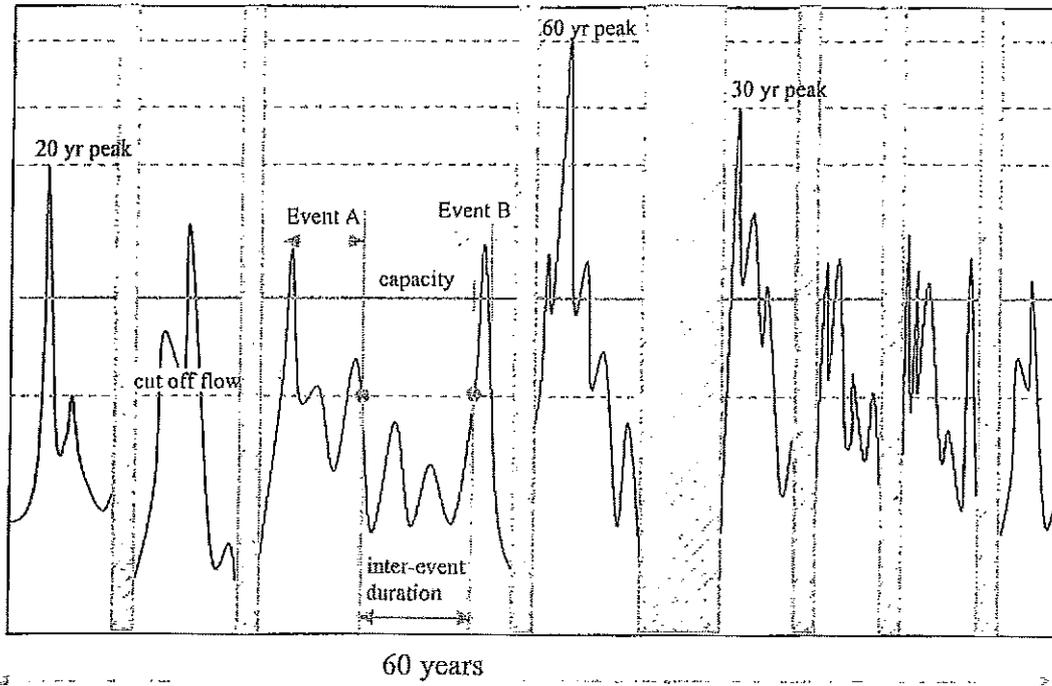


Figure 1. Schematic of a 60 year hydrograph

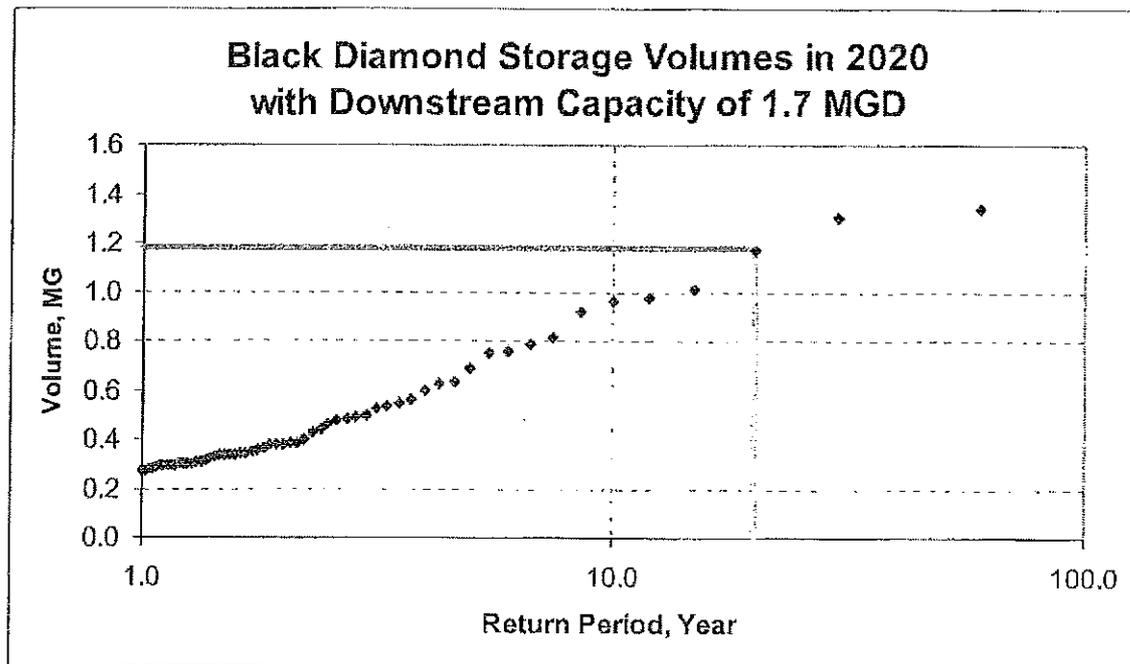
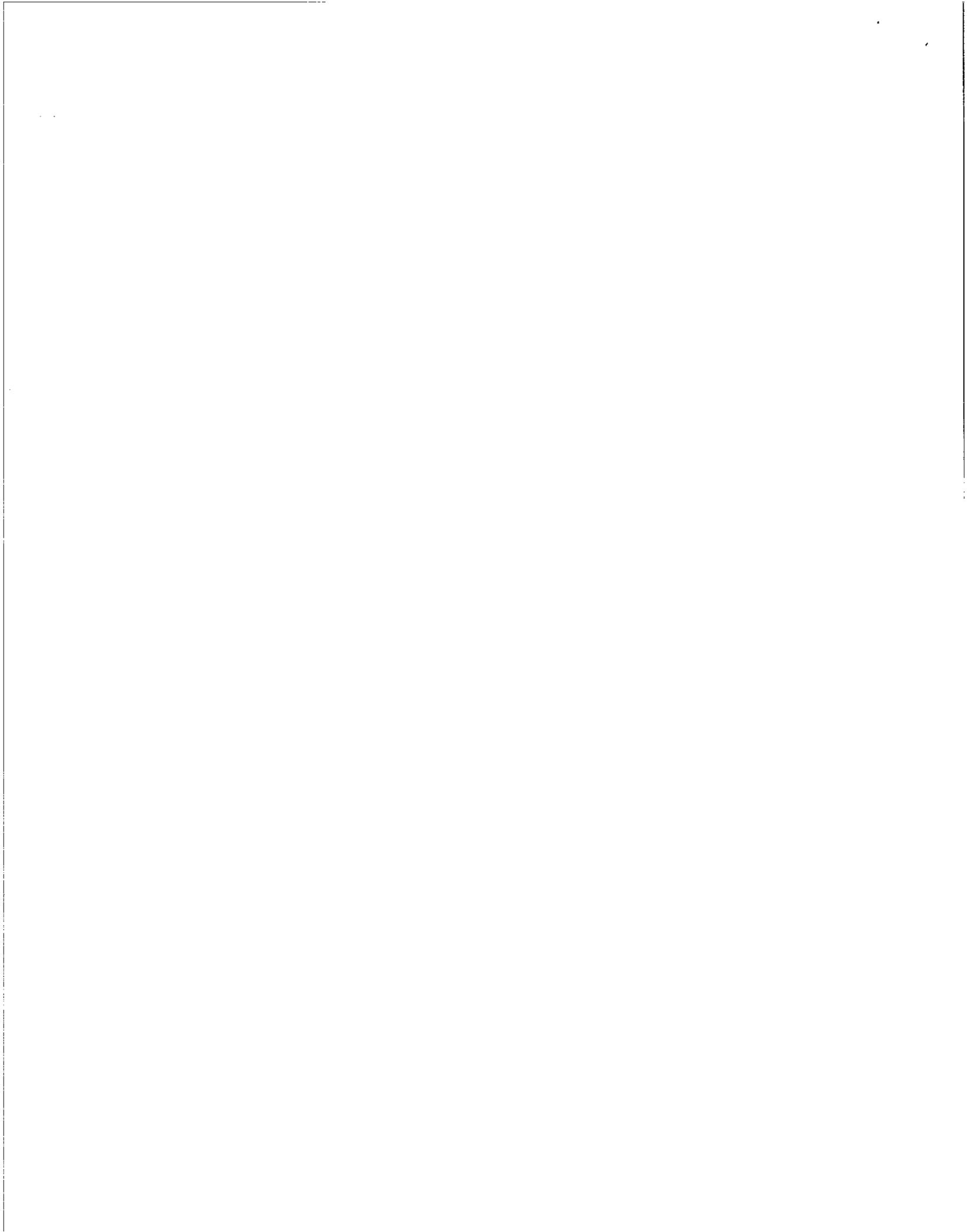


Figure 2. Storage Volume vs. Return Period Curve (Year 2020)



DEC 05 2011

RECEIVED

BEFORE THE HEARING EXAMINER FOR THE CITY OF BLACK DIAMOND

Phil Olbrechts, Hearing Examiner

RE: Diamond Ridge Preliminary Plat PLN11-0003	FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATION
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INTRODUCTION

The Applicant requests approval of a preliminary plat to subdivide 2.85 acres into 10 single family lots. The preliminary plat is approved subject to conditions.

ORAL TESTIMONY

Stacey Borland, associate planner for the City of Black Diamond, summarized the proposal. In response to questions from the Examiner, she clarified that only one of the proposed lots is already developed and that the home depicted along 5th Avenue is not part of the plat. She noted that all conditions recommended by the fire department other than mitigation fees had been incorporated into the staff recommended conditions of approval and that the fire department had found that as conditioned the proposal adequately addresses fire safety issues.

Steve Boettcher, Public Works Director, testified that 5th Avenue is currently fifteen feet wide and that the Applicant will widen 5th Avenue all the way to Baker Street.

Kelly Kahne, applicant, testified that he enjoyed working with Black Diamond staff, that he has worked with staff in other jurisdictions and that Black Diamond staff was the best.

Karen Watling, neighbor to the south, testified that she thought it was a great project but she had concerns about Baker Street. She noted that Baker Street goes past 5th on to St. Barbara's church, that Baker is also narrow as it goes to the church and that it needs to be widened there as well. She feels that Baker Street east of the project should be widened all the way to Lawson.

Steve Boettcher noted that the section of Baker referred to by Ms. Watling is south and east of the project. The primary access route would be to get to SR 169 and south on 5th. There would only be a small amount of traffic going to or coming from the road section mentioned by Ms. Watling. He didn't find any improvements necessary for such a small amount of traffic.

Mr. Kahne noted that any traffic on the road section identified by Ms. Watling would come from the church, not his project.

Ms. Watling noted that the intersection of SR 169 and Baker is very narrow and treacherous (overgrown trees) and cars cut the corner to access Baker from SR 169. Depending on the time of day, some residents go all the way down 5th avenue, turn right on Lawson and then turn on SR 169. The intersection isn't always used.

EXHIBITS

All exhibits identified at page 10 of the November 4, 2011 staff report were admitted into the record during the hearing. The following additional exhibits were also admitted during the hearing:

- Ex. 16: Aerial photograph of project site.
 Ex. 17: November 8, 2011 letter from Janice Ranton

FINDINGS OF FACT

Procedural:

1. Applicant. Kahne Holdings, Inc.
2. Hearing. The Hearing Examiner conducted a hearing on the application at 5:30 p.m. at the Black Diamond City Council Meeting Chambers on November 14, 2011. The record was left open for staff to provide its position on conflicting City regulations governing appeal of the Examiner's decision. Staff responded by email on November 23, 2011 and the record was closed on that date.

Substantive:

3. Site/Proposal Description. The Applicant proposes to subdivide a 2.85 acres into ten lots, in the R4 Single Family Residential zone district. Proposed single family lots range from 9,605-20,666 square feet in size. Two tracts are proposed: 1) stormwater; and 2) access and utilities. Access is proposed to be provided off of 5th Ave and internal access will be constructed as a private road (identified as Tract X on the preliminary plat map, Ex. 1). The project includes off-site street and utility improvements in order to serve the plat and associated site preparation and grading. An existing single family residence and shop will remain on site.
4. Characteristics of the Area. The area is developed with single family housing at a density similar to that proposed.
5. Adverse Impacts. No significant adverse impacts are associated with the proposal. The project has undergone SEPA review and was issued a mitigated determination of nonsignificance. There are no critical areas on site except for potentially a mine hazard area. A geotechnical report submitted by the Applicant conducted a detailed investigation of coal mine maps and concluded that "*no mining took place beneath or immediately adjacent to the site. We did not identify any subsurface mine workings that would impact the development of the site.*" Ex. 9, 11/23/09 letter from Terra Associates, Inc. The removal of trees is mitigated under the

City's tree preservation regulations, Chapter 19.30 BCMC, which regulates tree removal at both the preliminary plat and the building permit stages of development. Infrastructure impacts are addressed separately in Finding of Fact No. 6 below. In regards to infrastructure impacts, a couple neighbors expressed concerns about existing deficiencies in roads and drainage. It is important to note that the City cannot legally require the Applicant to fix existing infrastructure deficiencies. The City can only make the Applicant fix problems that it creates. As discussed below, the project as proposed and conditioned mitigates all impacts generated by the project.

6. Adequacy of Infrastructure and Public Services. The staff report states that all utilities have the capacity to serve the proposal and there is no evidence presented to the contrary. As mitigated by staff, adequate infrastructure will serve development as follows:

- Drainage: In a couple letters, Janice Ranton expressed concern about stormwater impacts, questioning whether existing stormwater lines along 5th Avenue could handle increased flows and asserting that water running off the property causes chuckholes, apparently on 5th Avenue and Baker Street. *See* Ex. 5 and 17. As discussed below, the project as conditioned in conjunction with the City's stormwater regulations will ensure that the proposal will not increase off-site flows onto adjoining properties and that off-site drainage facilities are adequate to handle any increased flows caused by the project.

As previously noted, the City is tasked with ensuring that the project doesn't exacerbate stormwater impacts. The City cannot require that the Applicant correct existing deficiencies. The City's regulations will ensure that the project will not create any increase in off-site flows to adjoining properties, including City streets. BDMC 14.04.020(A) adopts the 2005 Edition of the Department of Ecology's Stormwater Management Manual for Western Washington. The conditions of approval for this proposal require the Applicant to complete or bond all stormwater improvements required by the Manual prior to final plat approval. The Manual requires both no net increase in off-site stormwater run-off and also requires the preservation of off-site natural drainage systems. The technical report, Ex. 9, contains a preliminary analysis of stormwater generated by the introduction of impervious surfaces. The technical report proposes an on-site detention system and piping. Staff concluded in the staff report that the proposed drainage tract is large enough to accommodate the detention facilities necessary to comply with the Manual's stormwater requirements. In sum, the Manual mandates a stormwater system that will not increase adverse off-site drainage impacts.

As to the adequacy of off-site stormwater facilities, the technical report states that the City's conveyance system will be extended up 5th Avenue to connect to the subdivisions stormwater system. The technical report concludes that the proposal "will not create a significant impact to the downstream system". The technical report does not provide any information as to how this conclusion was reached by the Applicant's consultant. Staff has probably already done so, but to be certain the conditions of approval will require that staff verify with the Applicant that the basis for this conclusion is sound and that the Applicant correct any deficiencies.

As to drainage issues in general, the staff report notes that the Public Works Director found that the proposed subdivision with properly designed storm water facilities should be able to adequately mitigate the risks of flood or inundation conditions on or off-site. The expertise of the Public Works Director prevails on this issue and it is found that the proposal as conditioned that stormwater facilities required of the project will adequately mitigate the risks of flood or inundation conditions on or off the site.

- Transportation: Transportation was a concern cited by both Ms. Ranton and Ms. Watling. There is no question that 5th Avenue has existing deficiencies. As asserted by Ms. Ranton in her letters, it is too narrow and not wide enough for two cars to pass each other. This was confirmed by the Examiner's site visit as he disclosed during the hearing. Mr. Boettcher testified that 5th Avenue is only fifteen feet wide. The conditions of approval, as recommended by staff, include a requirement that the Applicant widen 5th Avenue to 22 feet from the project access point to Baker Street. Mr. Boettcher testified that this would be sufficiently wide to accommodate vehicles passing in opposite directions. As determined by Mr. Boettcher in his deviation approval, Ex. 8, the 22 foot width is sufficient to accommodate the traffic generated by the project and provide for safe fire access. As noted in Ex. 8, fire access standards only require a minimum of 20 feet and the City has adopted roadway standards less than 20 feet for some parts of the City. No evidence was presented that the 22 feet width would be insufficient to handle traffic generated by the proposal and no public concerns were raised by the sufficiency of this mitigation. Given these circumstances and the expertise of Mr. Boettcher as a public works director, the road widening of 5th Avenue required from the proposal to Baker Street is found adequate to mitigate the increased traffic generated by the project.

Ms. Watling testified that Baker Street from Fifth Avenue to Lawson Street was also too narrow and that "depending on the time of day" residents of the project area travel this route to SR 169 to avoid the intersection of SR 169 and Baker when it is subject to a large number of turning movements. Mr. Boettcher testified that the traffic generated by the project along the route identified by Ms. Watling was too insignificant to justify any road improvements in that area because almost all traffic would access SR 169 through the intersection of Baker Street and SR 169. The government has the burden of proof in establishing both that a project creates a need for mitigation and that the required mitigation is proportional to that need. *See Burton v. Clark County*, 91 Wn. App. 505, 516-17 (1998) (government has the burden of proof in establishing nexus/proportionality for development exactions). In this case there is no traffic study or any expert opinion that supports a finding that the proposal necessitates the widening of the street section identified by Ms. Watling. In fact, Mr. Boettcher's expert opinion concludes the opposite, that no widening is needed. Mr. Boettcher's opinion prevails under these circumstances and it is determined that the no widening is necessary to provide adequate access.

Ms. Ranton may also have raised issues with the adequacy of Baker between 5th and SR 169 and/or Lawson Street. In Ex. 17, Ms. Ranton notes that "[p]eople will

enter 5th Ave off of Lawson St. and Baker St. These roads are not wide enough for two cars to pass now.” From this statement is unclear what roads Ms. Ranton finds too narrow. It probably isn’t all the streets she mentions, since Lawson Street, as seen from the Examiner’s site visit, is divided into two lanes of traffic and easily accommodates traffic in both directions. Ms. Ranton’s comment is the only evidence in the record suggesting that there may be a problem with Baker Street between SR 169 and 5th Avenue. The Examiner’s site visit confirms that Fifth Avenue is not wide enough for two way traffic between Baker Street and Lawson Street. However, Mr. Boettcher concluded that most project traffic would exit the project to SR 169 through its intersection with Baker Street and he also concluded that no widening of Baker Street should be required of the Applicant for Baker Street. Given Mr. Boettcher’s expertise and the burden on the City to establish the need for any improvements, it is found that the improvements required for the project provide for adequate access based upon the premise that most project traffic will access SR 169 through its intersection with Baker Street.

- Parks and Open Space: The project provides for adequate parks and open space to the extent that can reasonably be required for a project of this scale. No park mitigation is directly required by City regulations and no open space has been required for the project beyond the stormwater Tract Y. As with road improvements, the City can only require parks and open space if it can prove by a preponderance of evidence that the open space is necessitated by the project. *See, Isla Verde Intern. Holdings, Inc. v. Camas*, 99 Wn. App. 127 (1999). The adequacy of parks and open space will be assessed with this standard of proof in mind.

The Black Diamond Comprehensive Plan provides some of the evidentiary foundation required by cases such as *Isla Verde* to assess and mitigate park needs. The Comprehensive Plan adopts level of service standards for parks and open space and Section 8.5.4 of the Plan notes that the City does not meet those standards. Section 8.5.4 specifically identifies a deficiency in neighborhood parks in the vicinity of SR 169. The Comprehensive Plan acknowledges that its capital facilities plan will not remedy the deficiency in neighborhood parks and that “[t]he City will need to ensure neighborhood parks and trails are developed concurrently as new residential development occurs to meet the established LOS standards.” This Plan puts the City in a good position to require park mitigation from the Applicant, but the staff report only notes that no park mitigation is required for the project. However, from a practical standpoint the project is too small for the City to require any meaningful mitigation for a neighborhood park. As noted in the *Burton* case, any mitigation required by the City would have to be proportional to the impacts of the development. Under this limitation, the City could not require the Applicant to provide for an entire neighborhood park. The City could also probably not require any mitigation fees, because those fees would have to be expended within five years of collection under RCW 82.02.020 and it is unlikely that there will be enough other development in the vicinity to collect enough fees to purchase and/or improve a neighborhood park to serve the development. Given that due process constraints limit a review of adequacy to what can reasonably be required

of the Applicant, it must be found that the proposal makes adequate provision for parks.

As to open space, Table 8-3 of the Comprehensive Plan adopts a level of service standard of 10% of the City's land area. The comprehensive plan concludes in Section 8.5.4 that this standard will be satisfied, apparently through the development of the Lawson Hills and Villages master plan developments, *see* Comprehensive Plan, p. 8-17. Evidently, the Comprehensive Plan assesses open space needs on a City-wide basis and no City policies or regulations assign any need for or require any open space of any specific subdivision proposal. Given these circumstances, the proposal is found to adequately address open space.

- Water: Water infrastructure is adequate. The Public Works Director found that the general plan and layout for the water system connection and extension will provide adequate pressure, looping, fire flow and proper extension of service across the developed property and meets City standards. With the connections and water main layout proposed, more than 1000 gallons per minute (gpm) will be provided to the fire hydrants in the plat.

- Sewer: The proposal adequately addresses sewer infrastructure/service. The Public Works Director found that the proposed general plan and layout for sewer service to the proposed subdivision is adequate.

- Schools: The proposal adequately addresses the additional demand it places upon schools. As noted in the staff report, the Enumclaw School District (which presumably serves the project site) was provided notice of the SEPA MDNS for the proposal and did not submit any comment or appeal. The Comprehensive Plan notes that elementary school facilities are over capacity and that there is no room for expansion. However, there is nothing in the record to support the imposition of mitigation fees or off-site exactions for reasons similar to those identified in the parks analysis above. With these constraints it must be found that there are adequate school facilities to serve the proposal.

- Sidewalks to and from School. The proposal adequately provides for safe walking conditions to and from school. The staff report does not indicate if students actually would walk to and from school from the project site, but it's analysis implies that is the case. The proposed subdivision will contain a 22' wide private access road with turnaround. The width is enough to accommodate vehicles and pedestrians safely. The applicant will also be improving the existing substandard 5th Ave to mitigate the impact of the additional use and traffic on 5th Ave. Although sidewalks are not proposed for either roadway, these measures will improve walking conditions for students who walk to and from school. Both 5th Avenue and Baker Street are very low traffic and low speed streets providing reasonable safe walking for pedestrians. Once a pedestrian reaches 3rd Ave (SR-169), sidewalks are available and there are marked crosswalks which provide safe crossing to the school.

• **Fire Protection:** The proposal adequately provides for fire protection. King County Fire District 44 serves the project site. The Fire District has reviewed the proposal and recommended several conditions, all of which have been incorporated into the project approval except for fire mitigation fees. In Ex. 11 the Fire District requests voluntary mitigation fees amounting to \$1,783.13 per dwelling unit. There is no documentation or other evidence in the record to support these fees. As correctly noted by the Fire District, they are requesting “voluntary” mitigation fees, a reference to fees authorized by RCW 82.02.020. However, RCW 82.02.020 requires that these “voluntary” mitigation fees “are reasonably necessary as a direct result of the proposed development”. The burden to prove that a condition (including mitigation fees) is reasonably necessary as a direct result of a proposed development is on the governmental entity imposing the requirement. *Citizens’ Alliance for Property Rights v. Sims*, 145 Wash. App. 649, 656 (2008). The Fire District has only provided the amount of mitigation fee it is requesting without any documentation showing what the fee will be used for or how it was formulated. The Fire District has provided no information as to how this fee is reasonably necessary to mitigate the impacts of the development. The District has not met its burden of proof in justifying the fee and it cannot be imposed as a condition of approval.

CONCLUSIONS OF LAW

Procedural:

1. **Authority of Hearing Examiner:** BDMC 18.08.030 provides that preliminary plat applications are classified as Type 3 applications. BDMC 18.08.060 provides that the Hearing Examiner shall make final decisions on preliminary plat applications after holding an open record hearing.

Substantive:

2. **Zoning Designation:** R4, Single Family Residential

3. **Review Criteria and Application.** BDMC 17.15.020 governs the criteria for preliminary plat approval. Those criteria are quoted in italics below and applied to the application under corresponding Conclusions of Law.

BDMC 17.15.020(A)(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;*

4. The zoning designation of the properties is R4 Single Family Residential which allows single family detached structures on individual lots per Black Diamond Municipal Code (BDMC) 18.30.020.A.1. The minimum lot area required is 9600 square feet per BDMC 18.30.040.A.1.a.

The maximum density is 4 dwelling units per acre per BDMC 18.30.040.A.2.a. The minimum lot width is 60 feet and depth is 80 feet per BDMC 18.30.040.A.3 & 4. The proposed subdivision satisfies all the aforementioned zoning criteria.

The Comprehensive Plan designation of the properties is Low Density Residential. Section 5.6.3 of the Black Diamond Comprehensive Plan (June 2009) contains the following residential policies:

Policy LU-16: Encourage a variety of housing types, providing housing for all income levels and all family sizes.

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.

Policy LU-18: Require residential development patterns to allow for efficient provision of public services and utilities.

The development proposal contains a range of lot sizes (9,605-20,666 square feet) which are compatible with the existing development pattern. The proposal involves development of a site which already contains a single family dwelling and is surrounded by developed properties, which allows for the efficient provision of public services and utilities.

The City of Black Diamond Design Guidelines apply to the following areas: MPD Framework Design Standards & Guidelines, Residential Uses in the Historic Village Core, Multi-Family Development, Business Park / Industrial Areas, Commercial Zones, and The Historic Town Center. There are no design standards and guidelines that apply to this proposed subdivision.

BDMC 17.15.020(A)(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;

5. Sheet 1 of the preliminary plat (Exhibit 1a) contains a section entitled "Gross and Net Density Calculations" which denotes a gross density of 3.51 dwelling units per acre (du/ac) and a net density of 4.31 du/ac for the project. The maximum density is 4 dwelling units per acre per BDMC 18.30.040.A.2.a. There is no minimum density requirement in BDMC 18.30.040. The Zoning Code does not indicate whether density is to be measured by gross or net acres. However, the Comprehensive Plan establishes the maximum density for Low Density Residential areas based upon dwelling units per gross acre, not net acre (page 5-14). Therefore, the plat density is less than the allowable maximum density for the R4 zone.

BDMC 17.15.020(A)(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;

6. As determined in Finding of Fact No. 6, the subdivision provides for adequate infrastructure as contemplated in the standard quoted above. As is evident in Finding of Fact No. 6, there is somewhat of a conflict between judicial and statutory requirements that place the burden of proof on the City to support conditions of approval, while placing the burden on the Applicant to establish that adequate infrastructure supports the proposal. There are instances, such as for schools, where it can be argued that facilities are not adequate but at the same time the record does not support any mitigation that is legally defensible. Denial of an application under these circumstances would appear to be the correct response, but if projects are routinely denied for failing to mitigate impacts that they cannot be reasonably required to mitigate, the City would be faced with a potential takings challenge for creating a permanent de facto development moratorium. *Tahoe-Sierra Pres. Council v. Tahoe Reg'l Planning Agency*, 535 US 302 (2002). Due process and takings considerations dictate that adequacy be evaluated in a flexible manner when assessing adequacy in this context.

In this case there are legitimate issues over the adequacy of schools and parks and to a more limited extent roads and fire facilities. However, the project is of a very modest scale and only adds to infrastructure demand at a minor, incremental level. Further, beyond the master plan developments currently under consideration by the City there is no plethora of development that would lead to any immediate concerns over cumulative impacts. With these factors in mind it is appropriate to conclude that the proposal provides for adequate infrastructure as required by the criterion quoted above. Further, since the Findings of Fact also determine that there are no adverse impacts associated with the proposal, it is concluded that the public use and interest is served by the establishment of the subdivision that appropriate provisions are made for all relevant matters, including, but not limited to, the public health, safety and general welfare.

BDMC 17.15.020(A)(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;*

7. As determined in Finding of Fact No. 6, the physical characteristics of the proposed subdivision site, as conditioned, do not increase the risk of flood or inundation conditions on- or off-site.

BDMC 17.15.020(A)(5): *Applicable city development standards are met or exceeded;*

8. The proposed subdivision has been reviewed by staff for consistency with applicable portions of Title 17 (Divisions of Land), Title 18 (Zoning), and Title 19 (Environment). With the exception of the deviation described below, all other development standards are met or exceeded.

The Applicant submitted a construction deviation request for a road variance from the city standard of 24 feet of asphalt with thickened edge to 20 feet of asphalt with thickened edge on both 5th Ave and the internal access road for the plat. The Public Works Director approved the construction deviation (Exhibit 8) on August 30, 2011, for a 22' roadway on 5th Ave and the access road for the plat (Tract X).

BDMC 17.15.020(A)(6): *All environmental impacts have been addressed consistent with the public health, safety and welfare and city goals and policies;*

EXHIBIT 76

9. A SEPA Mitigated Determination of Non-significance (Exhibit 6) was issued by the City on April 15, 2011 and all SEPA mitigation measures have been incorporated into the conditions of approval. Further, as found in Findings of Fact No. 5 and No. 6, there are no significant adverse impacts associated with the proposal.

BDMC 17.15.020(A)(7): *Concurrency exists for all utilities and transportation system improvements prior to occupancy of any structures;*

10. The Applicant is required to construct utilities and access and connect to the City's systems prior to occupancy of any structures. All of the City's utilities have sufficient capacity to serve this subdivision and are in good standing with state regulatory agencies.

BDMC 17.15.020(A)(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;*

11. The proposal is not in an approved Master Planned Development.

BDMC 17.15.020(A)(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;*

12. The proposal is surrounded by single family residential development and a church. Given the developed nature of surrounding properties, there is not an opportunity to connect to open space and there are no designated wildlife corridors in the area. The proposed subdivision will connect to the City's street system via a private road. There are no nonmotorized transportation routes in the immediate area available for connection.

BDMC 17.15.020(A)(10): *The use of cul-de-sacs and other dead-end streets shall be minimized to the fullest extent possible;*

13. Surrounding development did not leave adequate public access connection rights of ways to allow for road or trail looping to the subject property. A cul-de-sac is appropriate for the local surrounding conditions. The proposed streetscape will fit with the existing neighborhood and improve it without stark differences to the surroundings.

BDMC 17.15.020(A)(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;*

14. Two tracts are proposed, one for stormwater (Tract Y) and the other for access and utilities (Tract X). As proposed, both of these tracts will be kept private and there is no need to make them public (which would trigger maintenance responsibility for the City). Proposed water easements are shown on the proposed plat drawing in Lots 5, 9 and 10. All easements will be required to be shown on the final plat. The City has not adopted impact fees at this time.

BDMC 17.15.020(A)(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;*

15. No adjacent properties have been developed or are approved for development as an MPD.

BDMC 17.15.020(A)(13): *The proposed subdivision provides safe walking conditions for students who walk to and from school; and*

16. As determined in Finding of Fact No. 6, the proposal provides for safe walking conditions to and from school.

BDMC 17.15.020(A)(14): *The proposed subdivision provides for tree preservation consistent with the provisions of chapter 19.30.*

17. The conditions of approval require compliance with Chapter 19.30 BDMC.

DECISION

The proposed subdivision is approved with the conditions identified below. Revisions to the conditions recommended by staff are identified in underline/strikeout for ease of reference:

1. The applicant shall follow the recommendations of the Geotechnical Report prepared by Terra Associates (dated November 23, 2009) as deemed appropriate by the Public Works Director pursuant to the City's Engineering Design & Construction Standards.
2. The applicant shall reconstruct and widen 5th Ave to a City asphalt design structure section of 24 feet to meet the City standard for 5th Ave from the project site to the intersection with Baker Street. Pursuant to Finding of Ex. 8, 22' rather than 24' shall be required.
3. Both the stormwater (Tract Y) and private road/utilities (Tract X) tracts shall be private.
4. Prior to final plat approval, the applicant shall submit Covenants, Conditions and Restrictions (CCRs) for staff review and approval. These CCRs shall provide for establishment of a Homeowners' Association to ensure adequate funding for maintenance and eventual replacement of the private street and maintenance of the stormwater facility.
5. Complete civil drawings of the on and off-site roadway and utility improvements, including all improvements required by the City's stormwater regulations, shall be submitted for review and approval prior to issuance of construction permit for required plat improvements. All of the supporting infrastructure must be constructed, functional, substantially complete, and guarantee bonds provided before application can be made for final plat. Prior to final plat approval City staff shall also have the Applicant demonstrate to its satisfaction, if not already done so, that the City stormwater facilities to which the Applicant's stormwater system will connect is adequate to handle any increased flows generated by the proposal. The City shall require the Applicant to mitigate any deficiencies.

6. A correct characterization of the existing drainage discharge to 32328 5th Ave shall be shown on future drawings related to this project.
7. All easements shall be shown on the final plat.
8. The private road turnaround shall be marked as a fire lane with signage as required in Appendix D of the 2009 ed. IFC
9. Grade of the private road shall not exceed 15%.
10. At the time of building permit, homes shall have required fire flow available or shall have a fire sprinkler system installed to allow for a reduction in required fire flow.
11. During the civil design phase, the applicant shall submit a professionally prepared planting plan for review and approval by the City, including location, species, and size of 15 new trees to be planted. Per BDMC 19.30.070.C, replacement trees shall meet the following criteria: 2. New trees shall meet or exceed current American Nursery and Landscape Association or equivalent organization's standards for nursery stock; 3. New trees shall be planted in locations appropriate to the species' growth habit and horticultural requirements; 4. New trees must be located away from areas where damage is likely; 5. Deciduous replacement trees shall be a minimum of three inches in caliper (dbh), evergreen trees must be a minimum of twelve feet in height; and 6. Trees shall be watered as necessary to ensure survival and growth during their first two growing seasons after planting.
12. Tree removal associated with home construction on individual lots within the plat shall be reviewed at the time of building permit application and subject to the tree preservation code in effect at that time.
13. A Lot Line Adjustment (LLA) application shall be submitted to the City for review and approval for property to be deeded from tax parcel no. 1421069167 to tax parcel no. 1421069053. The LLA must be approved and recorded prior to final plat application.

Dated this 1st day of December, 2011.

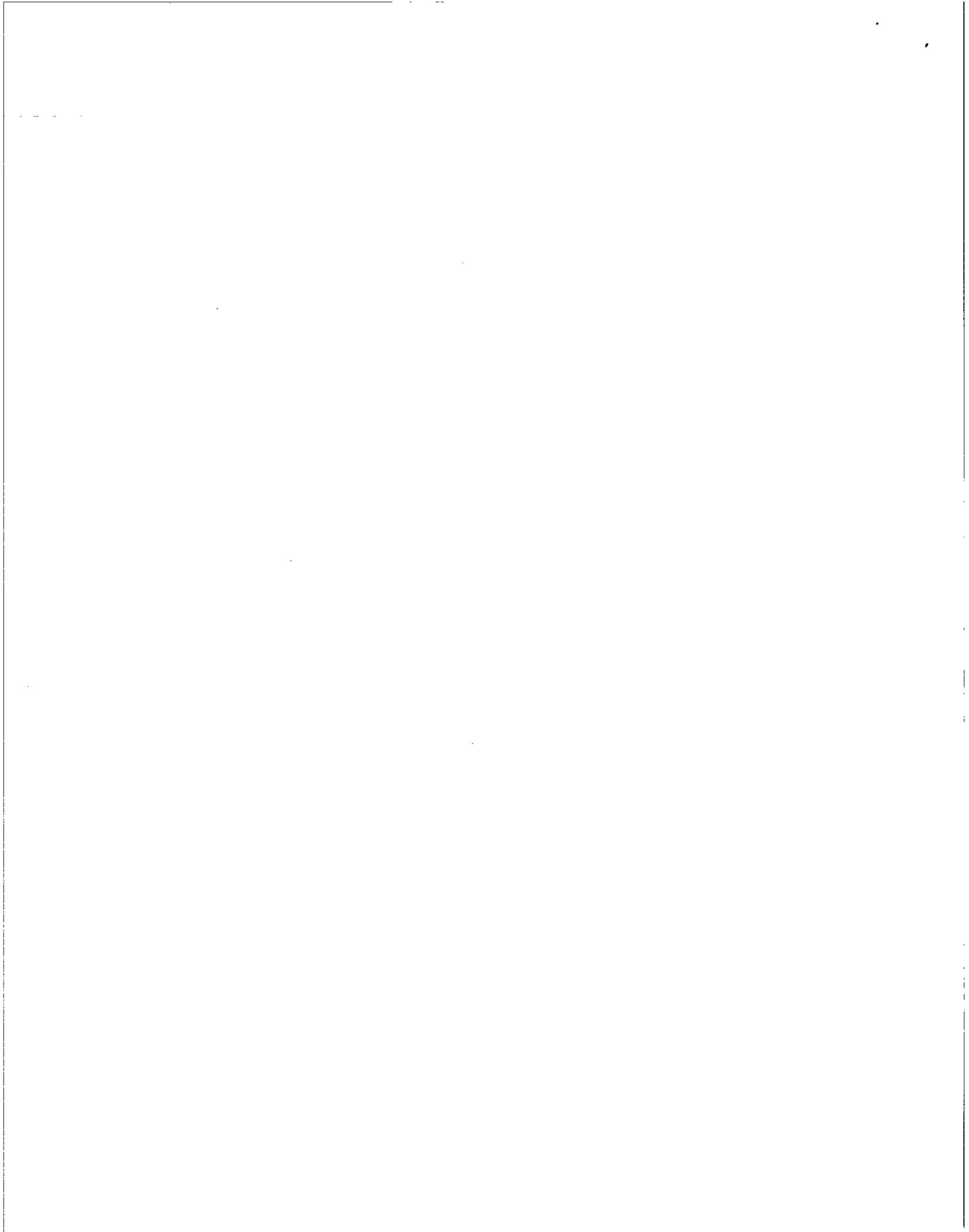


Phil Olbrechts
Hearing Examiner
City of Black Diamond

Appeal Right and Valuation Notices

This land use decision is final and subject to appeal to superior court as governed by Chapter 36.70C RCW. Appeal deadlines are short and procedures strictly construed. Anyone wishing to file a judicial appeal of this decision should consult with an attorney to ensure that all procedural requirements are satisfied.

Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.





CITY OF BLACK DIAMOND

CITY OF BLACK DIAMOND COMMUNITY DEVELOPMENT DIRECTOR DECISION FINAL SHORT PLAT FILE NO.: PLN13-0012

I. APPLICATION INFORMATION

Applicant: Laura Petkov
PO Box 1512
Maple Valley WA 98038

Property Owner: Russell Cahill
23313 208th Ave SE
Maple Valley WA 98038

Project Name: Cahill Final Short Plat

Location: Off of Abrams Ave, portion of the NW ¼, Section 14,
Township 21 North, Range 6 East, W.M.

Parcel Numbers: 1421069021

Zoning: R4, Single Family Residential

Comprehensive Plan: Low Density Residential

II. FINDINGS & ANALYSIS

1. The applicant, Laura Petkov, and the owner, Russell Cahill are proposing to finalize a 4 lot Short Plat.
2. The property was granted preliminary Short Plat approval with conditions on August 6, 2008 under city file no. SP08-0020.
3. The Final Short Plat application was submitted on June 10, 2013. Subsequent review of the application necessitated two resubmittals for review by staff in July and August 2013.
4. City staff has reviewed the conditions of preliminary Short Plat approval, along with the Final Short Plat application materials and site visits, and has determined that all conditions of approval have been satisfied.
5. A Final Short Plat is a Type 1-Ministerial type decision per BDMC 18.08.030; these decisions are made by the Community Development Director.

III. APPLICABLE PLANS, CODES AND STANDARDS

1. Black Diamond Municipal Code (BDMC) Chapter 17.32, Short Subdivisions
2. BDMC Title 18, Zoning

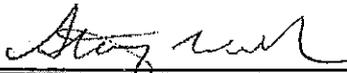
IV. CONCLUSIONS

1. City staff has reviewed the conditions of preliminary Short Plat approval, along with the Final Short Plat application materials and site visits, and has determined that all conditions of approval have been satisfied.
2. The proposed Final Short Plat conforms to Title 18 (Zoning) of the Black Diamond Municipal Code (BDMC).
3. The proposed Final Short Plat meets the criteria of BDMC Section 17.32.070.

V. DECISION

This Cahill Final Short Plat (PLN13-0012) is approved.

Approved this 6th day of August, 2013



Stacey Welsh
Community Development Director

VI. APPEAL

As per Black Diamond Municipal Code, Section 18.08.210, within fourteen calendar days following the decision for a Final Short Plat, any aggrieved party of record may appeal the decision to the Hearing Examiner. The appeal shall be accomplished by filing of a written request with the Community Development Director for a hearing, together with payment of applicable fees. The notice of appeal shall briefly specify the issues of the appeal.

Reminder:

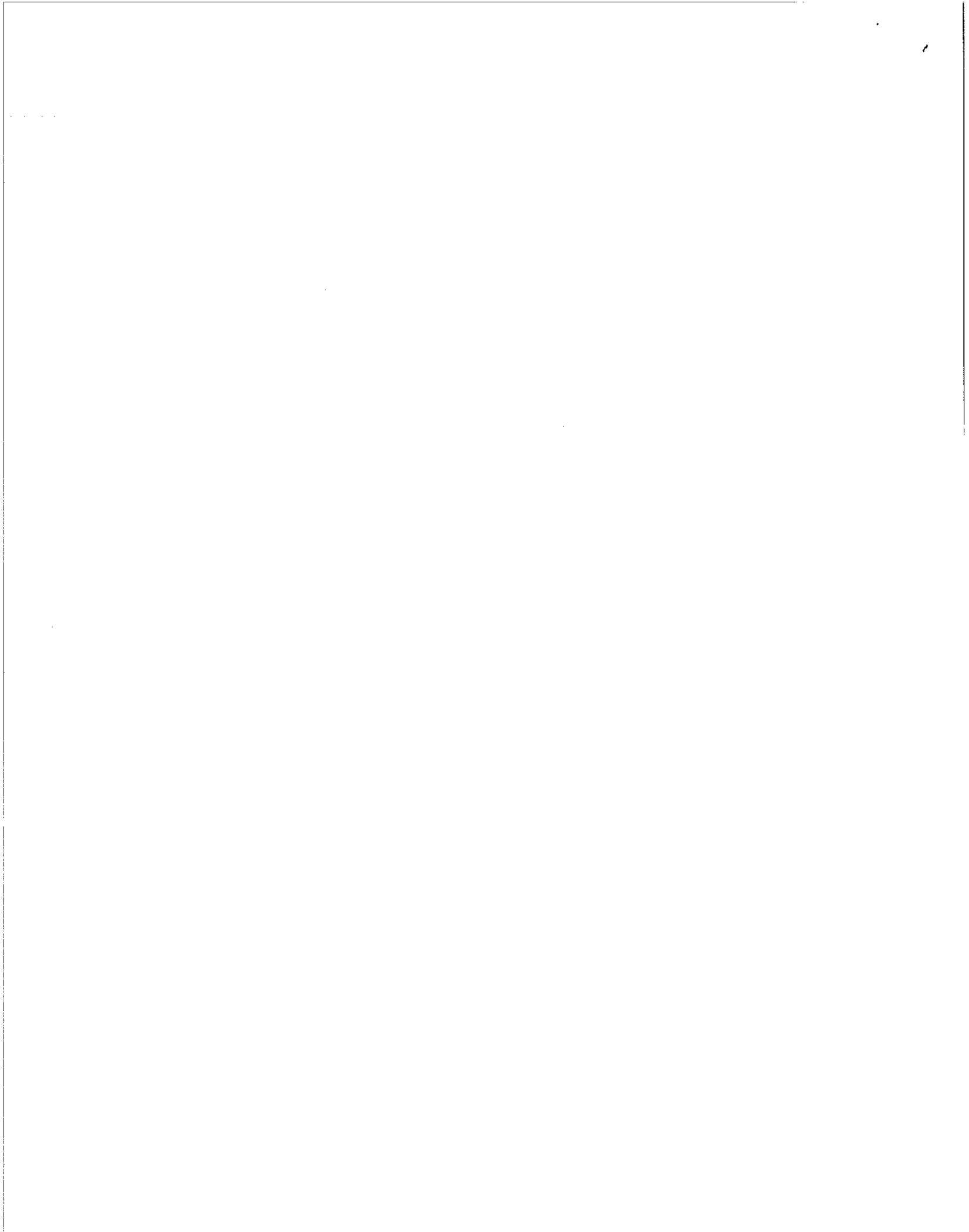
1. The applicant shall return to the City a signed Short Plat for signature by the Community Development Director & Public Works Director.
2. After the City has returned the signed Short Plat to the applicant, the applicant shall record the Short Plat with the King County Recorder's office.
3. The applicant shall provide a copy of the recorded Short Plat to the Community Development Department and Public Works Department.

Black Diamond Municipal Code:

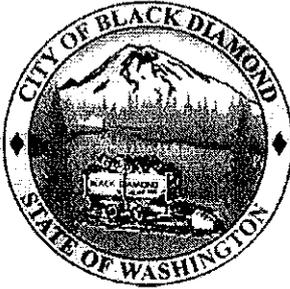
Section 17.32.100 (Filing)

- A. Fees and Filing Procedure. No short subdivision shall be filed for recording unless approved by the community development director and the public works director. The original drawings of the approved short subdivision along with the applicable fees shall be filed for record with the King County recorder's office and shall not be deemed approved until filed. One reproducible copy shall be furnished to the public works director. One paper copy each shall be filed with the county assessor, the community development department, and the public works department. No permits shall be issued until these copies have been received.

If a short subdivision has not been submitted for recording within sixty days after approval by the community development director, the short subdivision shall expire and become null and void. To reactivate the expired short subdivision, the short subdivision shall be resubmitted as a preliminary short subdivision application and processed accordingly. Upon written request of the subdivider, the community development director may grant one (1) extension of not more than six (6) months. Such request must be received by the community development department no later than thirty (30) calendar days prior to the sixty (60) day deadline for recording submittal.



Fairwood Group
 30533 234th Ave SE
 B.O., WA 98010



**CITY OF BLACK DIAMOND
 PRE-APPLICATION FORM**

COMMUNITY DEVELOP.
 OCT 15 2014
 RECEIVED

The purpose of the Pre-Application Meeting is to exchange information between the City and potential developer that will ultimately provide for a smoother, more efficient review of a proposed project. Contact the Permit Center at 360-886-2560 for more information.

Name of Project (if applicable): Arboretum		Permit #: PLN14-0036
Project Site Address: 24619 Morgan St, B.D., WA, 98010		Parcel #: 1421069071
Owner Name: Fairwood Group LLC	Phone: 425-444-0461	Email: Stevebeck@JohnLScott.com
Contact Name: ✓	Phone: ✓	Email: ✓
Brief Description of Proposed Project: Develop a single family subdivision		

Specific questions and/or issues you would like us to address:

Planning/Zoning/Environmental Questions (Community Development): Wetland Setback
Street/Right-of-Way/Traffic Questions (Public Works): Design/Connection/Windth
Storm, Water, Sewer Utilities (Public Works): Connection Points
Emergency Access/Life Safety Questions (KCFD #44): ⓪
Building Code/Structural Questions (Community Development): ⓪
Other: Density, Minimum Lot Size, Windth & Depth

Meeting Date: _____ Time: _____

Helpful Phone Numbers:

King County Fire District #44 (253) 732-0284
 Soos Creek Water District (253) 630-9900

King County Health Dept (206) 296-4932
 Covington Water District (253) 631-0565

ARBORETUM

The Arboretum project is located at 24619 Morgan Street, Black Diamond on about a 10 acre property consisting of two tax parcels, with primary development occurring on tax parcel 142106-9071 together with open space, road connections, and some lots on 142106-9007. The Arboretum is a single family residential development which would connect Morgan Street to Mason Street and provide improved traffic circulation in this area of the city. The project site is primarily comprised of well-drained sandy soils, typical of this area near Morganville. A dilapidated single-family home on site will be torn down and properly disposed of.

Surrounding uses include the Black Diamond Cemetery, a 10-lot development known as Diamond Terrace, a 28-lot development known as the Ridge at Black Diamond, assorted large lot single family homes, and a large wetland complex known as the Rock Creek wetland near Abrams Avenue. The primary critical area near the development is the aforementioned wetland which will be protected with buffers. One of the ideas for this development is to do buffer-averaging and density transfers to take advantage of the dry, sandy, and developable portions of the property with buffer protections provided for the forested and wetland portions of the property. Additional buffering will be provided along the south side of the Black Diamond Cemetery which lacks the currently required buffer widths from a wetland complex. Abandoned coal mine workings are at a great depth below the surface, approximately 1,000-1,200 feet deep. A detailed coal mine hazard report will be prepared to address the fact that the property has been de-classified for coal mine hazards.

Utilities such as water, sewer, power, telephone, natural gas, and cable service can be provide to the north from Morgan Street and to the east from Mason Street. The Arboretum plans to connect water lines from Morgan Street to Mason Street in order to improve city water flows and availability. Sewer flow directions will be determined during engineering. Stormwater retention / detention facilities will be provided on-site.

The property is Comprehensively Planned for medium density residential and zoned Residential (R-4) with an indicated density of 4 homes per acre. An active / passive park known as Morgan Street Park was identified in the Parks Capital Improvement Program, but no known planning or funding has yet been undertaken. The Park Capital Improvement Program (Page 8-8) of the Comprehensive Plan anticipated a 4 acre park with a recreational building, play areas, play fields and trails with a 1996 budget of \$300,000.

A sketch of the proposed road layout and lot pattern is attached.

Thanks

Steven A. Beck
Fairwood Group LLC
19244 39th Ave South
Seatac, WA. 98188
425-444-0461

IMAP 24619 Morgan St.



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Date: 9/25/2014 Source: King County IMAP - Property Information (<http://www.metrokc.gov/GIS/IMAP>)

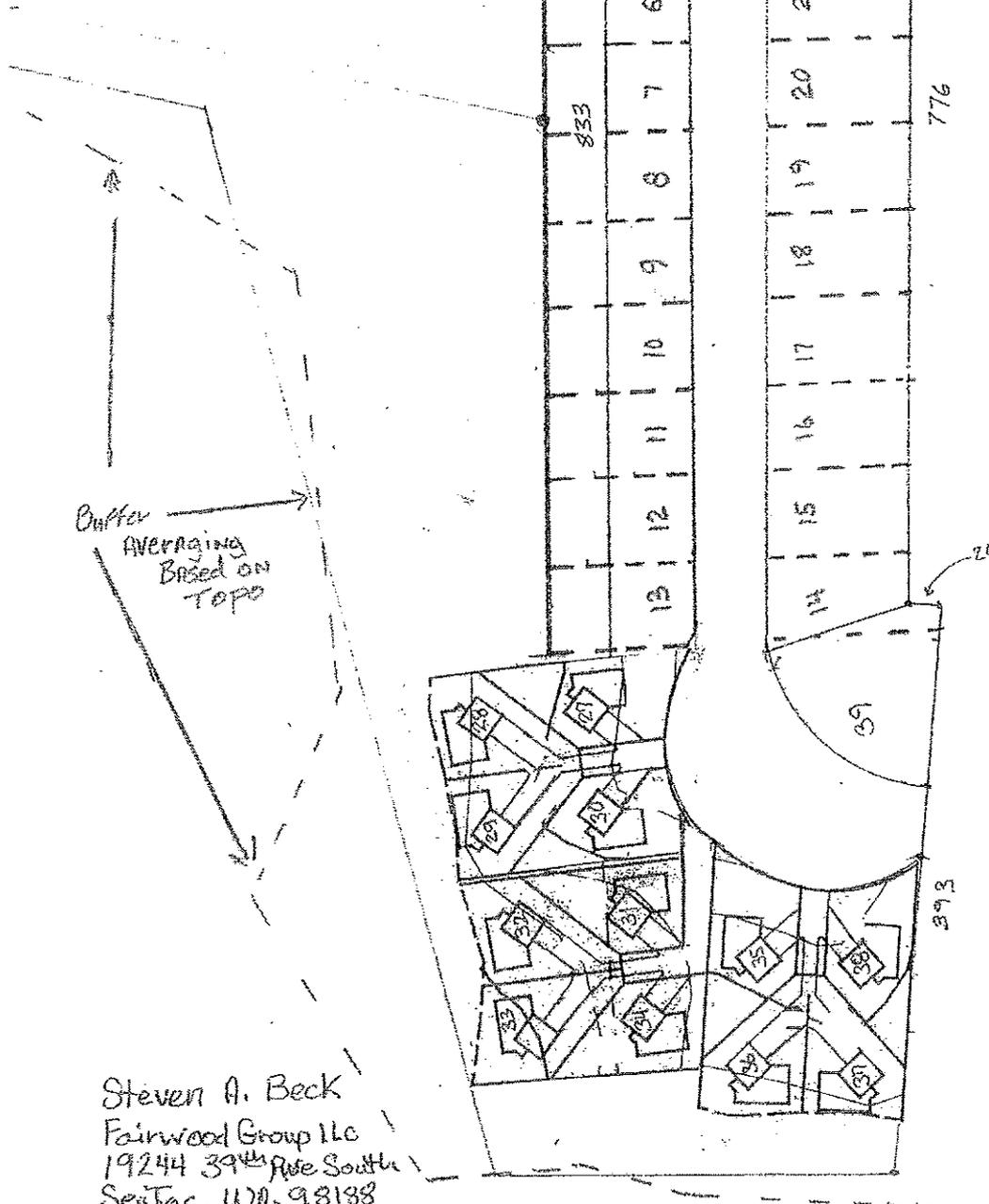
Fairwood Group LLC 425-444-0461



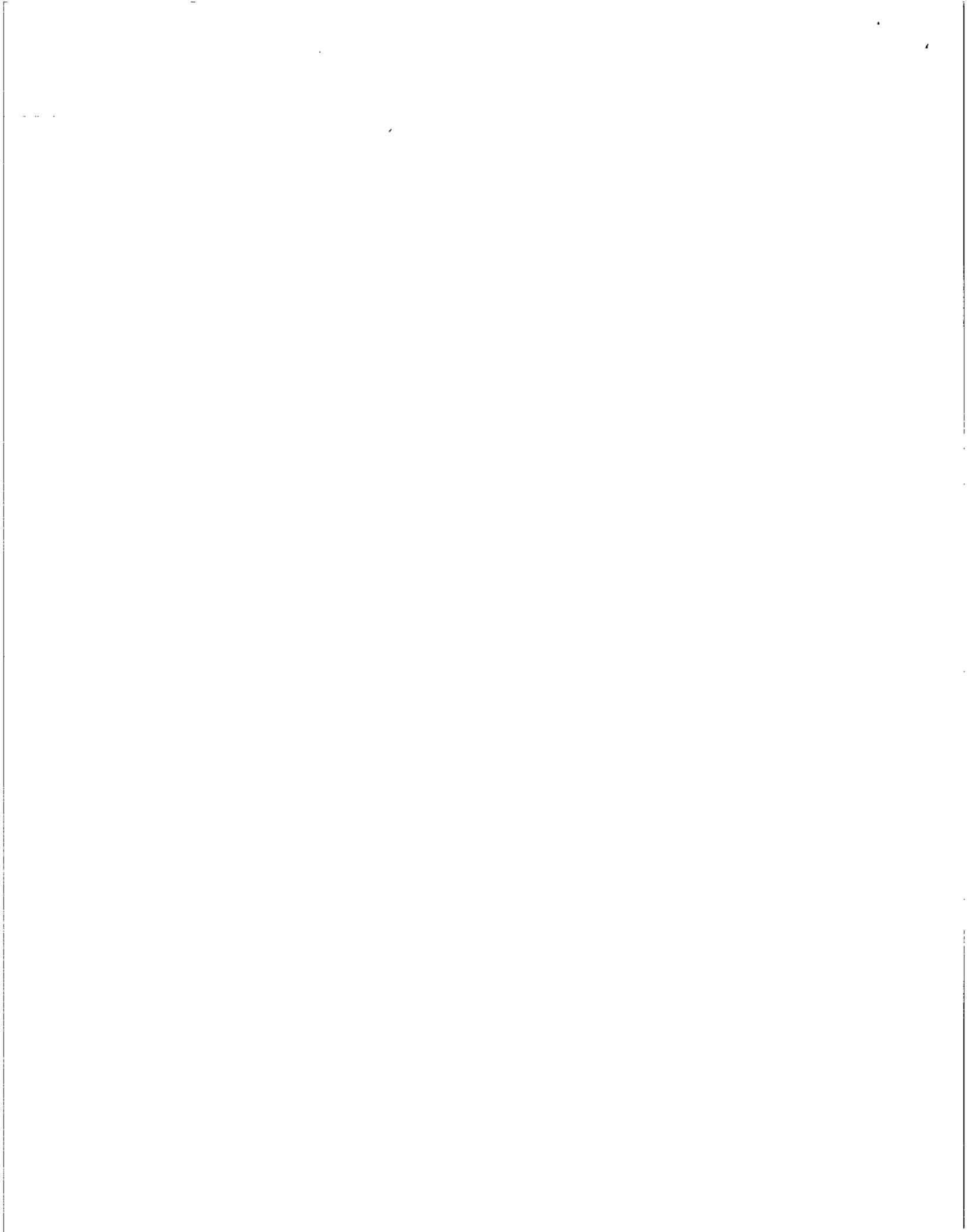
Approx 1" = 100' Scale

Arboretum

Tax Lot 1421069071 3.99 AC
 Taxlot 1421069007 Lot 3 Portion 5.58 AC
 Total 9.57 AC -
 X 4 = 38.28



Steven A. Beck
 Fairwood Group LLC
 19244 39th Ave South
 Seattle, WA 98138
 425-444-0461



**The Villages Master Planned Development
Development Agreement**

development charges consistent with City Code, but shall not be charged their proportionate share of costs for off-site Regional Facilities Constructed by the Master Developer.

If and only if the benefit area cannot be unambiguously assigned (e.g., an intersection project that provides service to the entire City), the Master Developer’s reimbursement for off-site Regional Facility construction costs in excess of its proportionate share shall be calculated based on the assumption that 10,500 ERUs are benefitted. For example, a 10-lot residential subdivision that was required to pay its proportionate share costs to the Master Developer for a given on-site Regional Facility would pay 0.000952 times the Master Developer’s cost for the applicable infrastructure facility (10/10,500).

Notwithstanding anything to the contrary above, the City shall work in good faith and use reasonable best efforts to: (i) apply for grants and use funds awarded under such grants; and (ii) seek mitigation payments for impacts associated with growth occurring outside the City boundaries pursuant to the State Environmental Policy Act (“SEPA”), to reimburse the Master Developer for the off-site Regional Facilities construction costs it incurs in excess of its proportionate share.

11.4.1 Off-Site Sewer Regional Facilities

Table 11-4-1

Phase	Description (see Exhibit “K” MPD Phasing Plans)	Construction Threshold	Funding Responsibility	Construction Responsibility***
1A	Wastewater storage facility sufficient to serve proposal (facility may be phased)	Prior to issuance of the Certificate of Occupancy for the Dwelling Unit that uses the 1150 th ERU	Master Developer	Master Developer or King County Wastewater Treatment Division

