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Public Comment: Brian Derdowski, Substantive turned in
at Public Hearing

Black Diamond Villages Plat 2C Comments – Substantive

Submitted by Save Black Diamond, Kristen Bryant, and David and Anne Hurd.

Comment format:

Red, Underlined items are in the city document referenced. Where not mentioned, the city document is the Plat 2C staff report

Blue bold items are comments.

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 (roof-top) 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)** **The assumption that there are non-polluting surfaces is wrong. For example, roofs collect phosphorus from the air. Moreover, if the facilities that are constructed to manage**

these so called “non-polluting” surfaces fail (for example, stormwater from the streets overflows into yards), large amounts of phosphorus laden mud could flow into water bodies.

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 (SWMWWV), 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.

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 November 25, 2014 22

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).** Neither Golder nor Triad utilized a qualified wetlands scientist to review potential impacts to the wetlands on site caused by their drainage plans. Golder acknowledged 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. 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. There is no evidence in the record that Wetland Resources or Petteet reviewed Golder's memorandum.

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, 2nd 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. **This policy was intended to provide verification that the stormwater calculations were accurate and to require corrective action if after construction it is determined that the calculations and/or the facilities are deviating from the predicted flows. Plat should have specific conditions to monitor and correct excess deviations. Developer doesn't want to do this because they know that the vested methodology does not predict real-world outcomes.**

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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. No, this condition flows through to the implementing project directly as well as through the DA. 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. **Infiltration is included in this proposal and these are considered treatment facilities. These facilities reduce phosphorus, but if poorly designed they can overflow and cause phosphorus laden mud flows.** 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. **Staff report does not address whether there are facilities that meet the second test, ie AKART?**

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 (SWMWW), 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. **"Enhanced water quality treatment" in the context of the 2005 Drainage Manual has a specific meaning. Staff hasn't addressed this.**

The Master Developer shall comply with the stormwater management provisions provided November 25, 2014 31 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. **This ridge was not correctly characterized, even though it is the basis for a major basin diversion and a down-classification of a major wetland. The Examiner should require additional information as to how the test pits were located and designed.** 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 November 25, 2014 32

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.

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. **No mention of using “natural site topography”.**

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. **Staff response to this fundamental code requirement is obviously inadequate.**

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. Not true. This section is inadequate. Wildlife, open space, noise, light etc are all included in this issue. Even though SEPA has been concluded, the subdivision code requires a finding on these topics. The EIS is the principal source of impact analysis, but not exclusively. 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. **Maintaining beneficial flows to wetlands, streams and lakes are also concerns.** 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. **Other pollutants are also important and should be considered (chemicals, heavy metals, etc.)** 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 SWMMMWV.

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.

B. Traffic and Transportation

Three local streets, four alleys, and three 'woonerfs'¹ 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 onstreet 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). **Road deviations should be reviewed at the time of plat review.** ¹ Woonerfs are a type of street for shared access by pedestrians and motorized and non-motorized vehicles. November 25, 2014 43

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: **All of these conditions have been negotiated without any public input and thus have evaded the plat review process.**

#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.² The Traffic Impact Study estimates that Plat 2C would generate 137 net new PM peak hour trips or ERUs.

² *Trip Generation* (Institute of Transportation Engineers, 8th Edition, 2008). More information on trip generation methodology is found in the Traffic Monitoring Report, page 12. November 25, 2014 44

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 1,393rd dwelling unit is occupied or the 1,393rd 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. The DA established a separate condition for design, alignment and right-of-way dedication for Pipeline Road prior to the construction of the 1200th 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 200th 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 200th 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 issue of traffic safety is not adequately addressed by simply looking at existing accident rates. Accidents do not rise in a perfect one to one relationship with trips. The analysis should have looked at existing substandard design issues such as sight lines, stopping distances, walkways, etc.**

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 1,393rd 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.
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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. **A road limited to emergency vehicles does not meet the two access requirement.**

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. **Would the building permits for this plat be affected by a finding of deficiency noted in a new traffic demand model? This is a critical issue since if they would not be affected, then the concurrency protection contemplated by the 850 threshold condition would be rendered worthless.**

. 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. **The policy also addresses public spaces view sheds and scenic areas that are not addressed by staff.**

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. **The absence of Plat 2C from the DA bike route does not relieve the Plat from compliance with this policy. Street parking and pedestrian bulbs are not bicycle friendly. The surrounding trail is not proposed to be designed for both pedestrian and bicycle uses, and, besides, the policy specifically speaks to streets not trails.**

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 of concurrency. Appropriate provisions must be made for transportation facilities. To make a determination of concurrency, the City is responsible for confirming:

- o the constructability of transportation improvements
- o the availability of sufficient off-site capacity in the road network to support demand to be generated by the project
- o 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 1,393rd 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 November 25, 2014 63

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. **Using the temporary access easement as the primary access will not meet the concurrency test. If it is used as primary access, then it should be fully evaluated and conditioned now as a primary access. Concurrency tests must be based on findings of actual funding to construct the facilities within six years. The narrative in the staff report regarding Willow Ave and the Access Road do not meet this test.**

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 offroad 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.

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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 functions and values of the reduced buffer width have not been specifically compared to the compensatory buffer area.**

Area size alone is not a sufficient indicator.

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 Perfeet, 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. **Specific conditions should be included in the plat for protection of buffer areas during construction and after, including flagging, temporary and permanent fencing.**

...

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. **The assessment was inadequate and conducted at times that would lead to missing the presence of some wildlife species. Plat conditions should include provisions for ongoing monitoring and the establishment of protective measures if species are found during the project phase. MPD approval included wildlife protection requirements that exceeded 19.10, and these have not been included.**

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. Per teet, 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. **Code requires a benefit, not just no-reduction.**

The City approved the wetland buffer width averaging plan for The Villages MPD Phase 2 Plat C November 25, 2014 67

Preliminary Plat as shown on plat set sheets PP1-PP4 (letter dated June 5, 2014 to BD Villages Partners, LP, Exhibit 30a). **This approval should have been informed by and subject to review during the hearing. Moreover, the plat map incorrectly shows buffer areas.** 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. **Condition should be added to ensure that the Trail alignment will not negatively impact the hydrology of the wetland.**
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).

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. **Are there steep slopes that are planned to accept stormwater flows? If so, then this would violate this policy.**

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. **The balance requirement applies to Plat 2C, not just Phase 2. The data submitted was for Phase 2, what is the data for Plat 2C?**

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. **Dispersal trenches are known to fail depending on design and site characteristics. Design criteria for these trenches should include soil studies, water volume analysis, and risk to sloped areas.**

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. **The tree inventory was a survey, not an inventory. It used statistical analysis, not specific identification.**

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 Perfeet, determined that creating a significant habitat linkage between the wetlands would be impractical, given that no significant existing linkage was documented (Exhibit 36a). **This is illogical. The condition calls for a corridor, whether there is an existing one or not. Just because a linkage wasn't "documented" doesn't mean that it doesn't exist. Moreover, the wildlife habitat study itself acknowledged that it was limited in scope.** Therefore, this condition has been addressed.

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. **The Sensitive Areas Ordinance sets forth criteria that must be met in order to use a buffer area for utilities or trails. This criteria has not been applied by staff.**

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: **Include what? Where is the language?***

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. **Hiking is not compatible with buffers. Trails aren't either, but if the code allows them (something we need to verify) then they should have signage to stay on the trail and be located as far from the wetland as possible.** 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. We agree. Examiner should remand for additional**

information to be entered into the record regarding these 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: **where is the language?***

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. **This doesn't make sense. What are "direct" wetland impacts? So are there are "indirect" impacts. Don't these require mitigation? Buffers are mitigations.**

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. We agree. Examiner should remand for additional information on this subject to be entered into the record. The City should not be making determinations about site conditions without input from Applicant. The responsibility for mis-characterizations that could lead to landslides and erosion should be the Applicant's 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.

2. *Headwaters wetlands.*

3. *Other wetlands.* All other wetlands are rated according to 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.

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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. All wetlands that are flow into streams through groundwater and sheet flows are headwater wetlands. The wetlands on site clearly and obviously flow in this manner to Rock Creek. 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.

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. **Locating trails within the outer 50% of the buffer is bad because this splits the buffer area's ground water flows. Trails can act like "French-drains" interrupting shallow surface water flows and re-directing them along the trail.**

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

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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.) **The 4 foot requirement means that there will be no multi-use trails through the plat in contradiction to other policies. For example, the applicant proposes that bike mobility may be transferred away from streets onto trails, but if all the trails are within wetland buffers, all those trails will be limited (appropriately) to four feet. Other policy language talks about trails ranging up to 10 feet at the City's discretion, a width that would be impossible within buffer areas. The applicant needs to provide multi-use trail access for this urban development outside of the wetland buffer areas.**

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:*

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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. **This is not a valid argument of feasibility. The trenches should be outside the buffers.** 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 SWMMWV 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.

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 (Pettee) for any potential impacts to the wetlands. The drainage analysis modeled the water budget in each stormwater management subbasin 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 SWMMWV 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 November 25, 2014 83

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. **Clearly, there are many low-impact methods that are not being applied. For example, utility corridors are proposed with wetland buffers instead of along roadways as called for i.v. There are no conditions to minimize re-grading as called for in v.**

This section of the BDMC creates a performance standard that may or may not be met by simply applying the 2005 Drainage Manual. Despite vesting, this standard must be considered.

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. **The wetlands for Plat 2C could be considered headwater wetlands for Rock Creek.**

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). **Some wetlands have been degraded, with one buffer bisected by an existing gravel road. The wetland analysis submitted by the applicant did not document the extent of degraded buffer areas.**

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. **Portions of wetlands are adjacent to wildlife habitat and should have extended buffers per this requirement.**

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:

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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. Staff Report ignores this requirement.** 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. Staff report ignores this requirement.**
 - 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. Not sufficient addressed. Needs to be monitored and applied during and after construction.**
 - 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; Staff report ignores this requirement.**
 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. This doesn't make sense. Isn't 15 less than 20? 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.

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

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may only be allowed where a qualified professional wetland scientist demonstrates that: **where is language?**

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). **There is no evidence that a professional wetland scientist made the required findings?**

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. **The additional buffer areas include an existing road within the required buffer. Under BDMC this area would already be designated as buffer area and subject to restoration. The requirements for buffer averaging require a net benefit for the resource. The additional buffer area should be an area that is not currently degraded or within an existing buffer area.**

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. **Usually buffers are measured from the ordinary high water mark, not the center of the stream or top of bank.***

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:

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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 **buffer is to be measured from the ordinary high water level, on both sides of the stream.** This survey is required. The 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.

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^h 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. **What is the background demand for the existing trunk line? What basis is there to determine that all of the 1150 ERUS capacity is available for this development?**

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. **This doesn't make sense. Development Agreement requires construction or bonding at final plat and this cannot be accomplished without a preliminary design and cost estimate. Parks and trails require permits to construct. Design criteria for parks are appropriate for inclusion in preliminary plat approval.**

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. 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
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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/PA/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

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, barbecue 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. **These trail standards conflict with other code provisions that condition trails in wetland buffer areas. The more restrictive wetland standards should apply, or, preferably, the trails should be located outside of buffer areas.**

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. **There is no showing of lack of feasibility, just the assertion. There is no locational information for larger stands of trees that could have informed the lot configurations.** 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. **An “estimated inventory” and “survey” is not compliant with the requirement to inventory trees on site.** 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. **The intent of the policy was to reduce windfall, a common problem with urban/greenbelt interfaces. There are many strategies that can address this problem, but they were not addressed. Construction practices not so long ago resulted in the preservation of many trees on site, but current practice of moonscape mass grading has eliminated this viable option to protect trees.**

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. This general note is unclear. It should read: "Areas outside of sensitive areas and their buffers may be cleared if a tree removal permit is obtained that is consistent with the Black Diamond Municipal Code and other conditions that may require selective tree retention."

The applicant is not applying for a tree removal permit with this preliminary plat application. **The issue of tree retention should be considered during preliminary plat review when the alteration of lot lines can be utilized to maximize tree retention.** 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 tree inventory requirement applies to the plat, not utility permits. There is no public process or SEPA review of utility permits.** The proposal meets the criterion.

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. **A Level II tree plan should be prepared as part of the preliminary plat review so that plat configurations can be properly informed. There is no basis in code for using utility permits to apply this condition.**

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. **The staff report does not address all of the Master Planned Development Framework Design Standards and Guidelines as required by this condition.**

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. **There is no documentation to show that the internal road capacity assumptions (1200 trips) are correct. The plat review must comply with road standards even if those standards are more strict than the DA.**

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. Varied lot sizes and setbacks will not satisfy the condition. 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. **If they are submitted at this stage, they should reviewed at this stage.** They are primarily two-story, cottage or traditionally-styled buildings. The submittal is not inconsistent with the guideline at this

stage. **What does "not inconsistent" mean? This guideline needs to be reviewed by the DRC at this stage.** This guideline would be reviewed at the building permit review stage.

2. Setbacks of Houses to Create a Sociable Environment November 25, 2014 158

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. **This layout has no force and effect without an applicable condition.** 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 facade 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 31. 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. **The DRC is not set up to review individual building permit applications, nor are standards properly conditioned to allow them to be applied to individual building permits.**

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 31. 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. November 25, 2014 159

c. Upper floors of houses shall be smaller than the floors below.

STAFF RESPONSE: The houses proposed as example styles in Exhibit 31 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 ridgetines. 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

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. **No, the code governs if it is more strict.** When house plans are submitted for building permit review, they will be evaluated for

compliance with this guideline.

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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 3l.

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 31. 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 31. 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.

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. **This connection should be evaluated at this stage in order to identify and preserve other options that would have fewer impacts.** By leaving large areas of wetlands and buffers intact, the applicant has ensured that open spaces and wildlife corridors are able to be stay connected to similar features off-site. This criterion is met.

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. **What if the schools on Phase 1A are not constructed by the time students arrive at Plat 2C? Has the District certified that school walkways are adequate?**

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 250th 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 250th 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 250th occupancy permit. **Condition reads that a station is required, not just a site and design. This should be resolved at plat review.**

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. **The Plat should be conditioned to allow for denial of building permits if future fiscal analysis determines non-compliance with fiscal requirements.**

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, DPF, April 28, 2014, Exhibit 32). **The condition required a fiscal analysis at the start of Phase 1A. Was this done? Staff report seems to suggest that Phase 1A and 2 are fiscally positive together, but are they positive independently? Since Phase 2C and Phase 1A could proceed independently, they should be reviewed independently.** 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 November 25, 2014 171

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. **This is no evidence in the record that this payment has been made.** 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.

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, November 25, 2014 174*

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. **The Plat should be conditioned to require payment of the interim fee.**

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 MPPD 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. Given the problematic nature of the southern connection, an alternative should have been proposed and analyzed to serve Plat 2C. The environmental review of extending the southern connection should have been part of the Plat 2C review. In the absence of this analysis, no connection to the south should be shown and Plat 2C should be reviewed with the assumption that there will be no southern connection. Approving Plat 2C with an unanalyzed southern connection will provide momentum to build a southern connection and preclude the opportunity for environmental mitigations and other options. By leaving large areas of wetlands and buffers intact, the applicant has ensured that open spaces and wildlife corridors are able to be stay connected to similar features off-site. This criterion is met.

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. **Who shall review the CCRs as to content?!** The CCRs shall contain: **The use of CCRs to accomplish all of these functions is unusual, but acceptable as long as the specific conditions are detailed enough and subject to public review. The staff report and plat hearing is the only process open to public comment. All of these covenants should have been reviewed and conditioned in more detail.**

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. **Stormwater facilities need to be monitored. Dispersal trenches become saturated and soil compacted. Convenience pipes become clogged. Sediment needs to be disposed of properly. These detailed requirements should be subject to substantive plat review and public comment.**

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. **Will access be limited in any way? How will security be managed? What signage will be used?**

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. **What monitoring will be done? How will garbage be removed?**

How will hazardous trees be identified and managed? How will restoration, if required, be accomplished? How will signage and protective barriers be maintained? These are substantive decisions that should not wait for a ministerial "as to form" final plat CCR.

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. **Which products will be prohibited? Will they be "limited" or prohibited? If additional materials are deemed hazardous in the future how will these be controlled?**

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. **Who determines if they have known impacts? What level of impact is acceptable?**

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.

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.~~ **No clearing and grading, utility, or building permit will be issued unless the City determines that compliance has been achieved.** [Note: MDNS Mitigation Measure]

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 **and clearing and grading permits.**

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 **clearing and grading permit** or permits allowing construction of any impervious surfaces until the monitoring report is submitted and approved. This condition will be enforced with utility permits and clearing and grading permits. (The phosphorus monitoring plan should have been submitted prior to preliminary plat approval.)

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. **It should apply to logging and clearing debris as well.**

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. **A condition should also state that no building permit will be issued without completion of the access road, not just bonded.**

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). **The plat map incorrectly shows certain buffer areas.**

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. **The standard for alignment shall be either the trail or infiltration whichever is more protective of the wetland buffer.**

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 November 25, 2014 187
- 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. **The standard for alignment shall be either the trail or infiltration whichever is more protective of the wetland buffer.**

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. **What condition applies if monitoring identifies a problem?**

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. **Add: "to ensure completion of the necessary facilities prior to the issuance of building permits."**

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. **Add: "Capacity of collection system shall be ensured at time of building permit application".**

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. **Add: "Water availability certificates will be required for each building permit".**

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. **All of Plat 2C should be within the 850 zone service area.**

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. This condition requires actual construction at 60%, not bonded.

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. The specific nature of the public access should be determined as to hours, days etc.

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. Construction fencing should also be installed to protect buffer areas.