



**CITY OF BLACK DIAMOND**  
**August 6, 2009 Workstudy Agenda**  
25510 Lawson St., Black Diamond, Washington

Workstudies are meetings for Council to review upcoming and pertinent business of the City. Public testimony is only accepted at the discretion of the Council.

**6:00 P.M. – CALL TO ORDER, ROLL CALL**

- 1.) Proposed Subdivision Code Amendments – Mr. Munson
- 2.) Adjournment



CITY OF BLACK DIAMOND  
PLANNING COMMISSION  
25510 Lawson Street, Black Diamond, Washington

**M E M O R A N D U M**

Date: July 30, 2009

To: Mayor, Councilmembers

From: Steve Munson, City Planner

Re: Study Session on Subdivision Code Amendments August 6, 2009

***SUBDIVISION CODE AMENDMENTS***  
***--Chapter 17--***

- ▶ Overview of existing code and summary of identified issues together with key recommended changes
- ▶ Draft recommended Planning Commission amendments for review and discussion
- ▶ City Planner Steve Munson will provide the presentation
- ▶ Public Hearing before City Council scheduled for August 20, 2009
- ▶ Attached summary of background, policy issues, and major changes



CITY OF BLACK DIAMOND  
PLANNING COMMISSION  
25510 Lawson Street, Black Diamond, Washington

**M E M O R A N D U M**

Date: April 15, 2009  
To: Planning Commission  
From: Steve Munson, City Planner  
Re: Public Hearing on proposed amendments to BDMC 17.00, Subdivision Code

Background

In the late summer/early fall of 2008 Community Development Department staff began examination of Chapter 17—Divisions of Land (Subdivision Code) of the Black Diamond Municipal Code. The task was to review existing features and develop where necessary proposed amendments to update the standards and prepare the City for the anticipated increase in development activity likely to be generated by the Yarrow Bay Communities Master Planned Developments. Except for occasional amendments, it has been many years since this Chapter was comprehensively evaluated. As nearly as can be determined, the last major update occurred in 1980.

Staff has worked with other city departments, the Office of the City Attorney, researched numerous nearby jurisdictions (of both comparable and different size) and state law for code updates. Some related discussions have also taken place with private property owners.

The Planning Commission has reviewed the proposed amendments in a series (four) of Study Sessions since January of this year. As a result of these sessions, staff has prepared the attached draft of proposed amendments for consideration by the Commission in public hearing.

Policy Issues

As part of the Chapter 17 review staff identified six (6) policy issues for the Commission's review and consideration. They are as follows:

- 1) Potentially increasing the number of allowed lots in a short subdivision from 4-6
- 2) Allowing "paper plats" (making it easier for individuals who may be "land rich, but "cash poor" to create lots "on paper" and then sell them with the purchaser being responsible for the installation of utilities, roads, etc.)
- 3) Eliminating the Subdivision Density Bonus Options
- 4) Removing the requirement for a "comprehensive fiscal analysis" for any proposed subdivision
- 5) Establishing a time limitation for final subdivision and short subdivision filing for recording to ensure that once approved by the city, they are timely filed

- 6) Allowing some model homes to be constructed prior to final plat recording

### Major Changes

Review of the draft amendments indicates that numerous sections have been revised. As a result of staff research and Commission recommendations, some portions have been deleted, some added, and others mixed and matched or moved around. The intent has been to update all portions to reflect contemporary terminology and practice, reduce and eliminate duplication where found, provide some creative options for consideration, and to design the text in a fashion that facilitates easier reading and understanding. Despite all the markups, the proposed amendments are not that substantial.

The following are the significant changes being proposed:

1. Increase the number of lots permitted in a short subdivision from 4 to 6. (This would require amending the definitions of “short subdivision” and “subdivision” in Section 17.08.010).
2. Allow the “paper plats” option for one additional lot when there is an existing home, with the condition that notes be placed on the face of the plat noting the need for future improvements.
3. Eliminate the Subdivision Density Bonus Options contained in Section 17.14 in their entirety and ensure that these concepts are included in design guidelines.
4. Remove the requirement for a “comprehensive fiscal analysis” for any proposed subdivision of Section 17.12.010 (U).
5. Establish a time limitation of sixty (60) days for filing for recording final plats and short plats, once approved, as per Section 17.20.070 (D) and Section 17.32.100 respectively.
6. Prior to final plat recording, allow building permits to be issued for up to four (4) model homes as per Section 17.20.080.
7. In Section 17.12.010 and throughout the Chapter delete the word “overlay” from the term “MPD Overlay District”.
8. Throughout the Chapter replace the “critical” portion of critical areas with “sensitive”.
9. In Section 17.15.030 the site inspection procedures by the Hearing Examiner are further clarified.
10. In Section 17.20.040 add the signature and date of examination and approval by the Community Development Director to final plats.
11. In Section 17.020.060 increase from thirty (30) to sixty (60) days the amount of time provided between filing final plats for Council review and Council decision.
12. Add new terms in the definition Section 17.08.010 to include “Alteration”, “Hearing Examiner”, “Vacation”, and “Vested”.
13. Add new Section 17.20.090 describing Vacation or Alteration of a Subdivision.
14. In the review of Lot Line Adjustment applications of Section 17.36.040 add the Community Development Director and Fire Marshall to the review team.
15. Guidance and reference for clarification of the term “Vesting” is added in Section 17.12.030.

### Staff Recommendation

Staff recommends the Commission conduct the public hearing, consider public testimony, and direct staff to make any changes deemed necessary as part of its recommendation to the City Council.

## Title 17 DIVISIONS OF LAND

[Chapter 17.04 GENERAL PROVISIONS](#)

[Chapter 17.08 SUBDIVISION PLAT](#)

[Chapter 17.12 PRELIMINARY PLATS](#)

[Chapter 17.14 SUBDIVISION DENSITY BONUS](#)

[Chapter 17.15 PRELIMINARY PLAT APPROVAL CRITERIA](#)

[Chapter 17.16 REVIEW OF PRELIMINARY PLAT](#)

[Chapter 17.20 FINAL PLAT APPLICATION AND APPROVAL](#)

[Chapter 17.24 REVIEW OF DECISION](#)

[Chapter 17.28 VIOLATION AND PENALTY](#)

[Chapter 17.32 SHORT SUBDIVISIONS](#)

[Chapter 17.36 LOT LINE ADJUSTMENTS](#)

### Chapter 17.04 GENERAL PROVISIONS

#### **Chap17.04.010 Title supplementary to state provisions.**

This title shall be known as the city land division code and shall supplement and implement the state regulations concerning plats, subdivisions and dedications found in Chapter 58.17 of the Revised Code of Washington. In the case of conflict between any two code or statute sections, ~~If a complimentary reading cannot be made,~~ then the provision that imposes the most restrictive land use condition shall control. If a city code section cannot be construed to be harmonious with a state provision in a particular instance, then the state provision will control. (Ord. 780 § 2 Exh. 1 (part), 2005)

#### **17.04.020 Purpose.**

The purpose of this chapter is to regulate the subdivision of land and to promote the public health, safety and general welfare in accordance with standards established by the state and the City to ~~to prevent prevent~~ the overcrowding of land; to lessen congestion in the streets and highways; to promote effective use of land; to promote safe and convenient travel by the public on streets and highways; to provide for adequate light and air; to facilitate adequate provision for water, sewerage, parks and recreation areas, sites for schools and school grounds and other public requirements; to provide for proper ingress and egress; to provide for the expeditious review and approval of proposed subdivisions which conform to zoning

standards and local plans and policies; to adequately provide for the housing and commercial needs of the citizens of the city; ~~and~~ to require uniform monumenting of land subdivisions and conveyancing by accurate land description: to protect environmentally sensitive areas; and to protect and preserve the community urban forest for its aesthetic, environmental, and health benefits. (Ord. 780 § 2 Exh. 1 (part), 2005)

#### **17.04.030 Scope.**

This title shall apply to all divisions of land within the city for any purpose, regardless of the size of the resulting lots or tracts, except the following:

- A. Cemeteries and other burial plot while used for that purpose;
- B. Divisions of land made by testamentary provisions, or the laws of descent;
- C. Divisions of land into lots or tracts classified for industrial or commercial use pursuant to a binding site plan for the use of the land in accordance with local regulations; provided, that when a binding site plan authorizes a sale or other transfer of ownership of a lot, parcel, or tract, the binding site plan shall be filed in the county recorder's office on each lot, parcel or tract created pursuant to the binding site plan; provided further, that the binding site plan and all of its requirements shall be legally enforceable on the purchaser or other person acquiring ownership of the lot, parcel or tract; and provided further, that sale or transfer of such lot, parcel or tract in violation of the binding site plan, or without obtaining binding site plan approval, shall be considered a violation of this chapter and shall be restrained by injunctive action and be illegal as provided in this title;
- D. A division for the purpose of lease when no residential structures other than mobile homes as defined by the city zoning ordinance are permitted to be placed upon the land and the city council has approved a binding site plan for the use of the land in accordance with city ordinances;
- E. A division made for the purpose of adjusting boundary lines which does not create any additional lot, tract, parcel, site or division nor create any lot, parcel, site or division which contains insufficient area and dimension to meet minimum requirements for width and area for a building site;
- F. A division which is made by subjecting a portion of a parcel or tract of land to Chapter 64.32 RCW, the Horizontal Property Regimes Act, under a binding site plan for the use of land in accordance with city ordinances;
- ~~G. Short subdivisions of land made pursuant to the city short subdivision ordinance;~~
- GH. A division for the purpose of leasing land for facilities providing personal wireless services while used for that purpose. "Personal wireless services" means any federally licensed personal wireless service. "Facilities" means unstaffed facilities that are used for the transmission or reception, or both, of wireless communication services, including, but not necessarily limited to, antenna arrays, transmission cables, equipment shelters, and support structures;
- HI. A division of land into lots or tracts of less than three acres that is recorded in accordance with Chapter 58.09 RCW and is used or to be used for the purpose of establishing a site for construction and operation of consumer-owned or investor-owned electric utility facilities. For purposes of this subsection, "electric utility

facilities” means unstaffed facilities except for the presence of security personnel, that are used for or in connection with or to facilitate the transmission, distribution, sale, or furnishing of electricity, including, but not limited to, electric power substations. This subsection does not exempt a division of land from the zoning and permitting laws and regulations of cities, towns, counties, and municipal corporations. Furthermore, this subsection only applies to electric utility facilities that will be placed into service to meet the electrical needs of a utility’s existing and new customers. New customers are defined as electric service locations not already in existence as of the date that electric utility facilities subject to the provisions of this subsection are planned and constructed. (~~Ord. 858, 2005. Ord. 780 § 2 Exh. 1 (part), 2005~~)

## Chapter 17.08 SUBDIVISION PLAT

### 17.08.010 Definitions.

As used in this chapter, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the indicated meanings:

1) “Alteration” means the modification of a previously recorded subdivision, short subdivision, or binding site plan, or any portion thereof that results in modifications to conditions of approval, the addition of new lots or more land, or the deletion of existing lots or the removal of plat or lot restrictions or dedications that are shown on the recorded plat.

2) “Binding Site Plan” means a drawing to a scale specified by the city binding site plan code which:

a) 1. Identifies and shows the areas and locations of all streets, roads, improvements, utilities, open spaces, and any other matters specified by city code;

b) 2. Contains inscriptions or attachments setting forth such appropriate limitations and conditions for the use of the land as are established by the Community Development Director site plan review committee; and

c) 3. Contains provisions making any development to be in conformity with the site plan.

3) “Block” means a group of lots, tracts or parcels within well-defined and fixed boundaries.

~~“Bonus density” or “density bonus” means residential development density in addition to the base density granted by the zoning regulations or a development agreement, that is authorized by the city council for subdivisions that incorporate specific design elements determined and adopted by the city to be central to the realization of the city’s vision and comprehensive plan goals and objectives.~~

4) “City Engineer” means that person, firm or corporation appointed or authorized (including contractual authorization) by the mayor of the city to carry out the duties of the city engineer as prescribed by this chapter.

5) “Dedication” means the deliberate appropriation of land by an owner for any general and public uses, reserving to himself or herself no other rights than such as

are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted. The intention to dedicate shall be evidenced by the owner by the presentment for filing of a final plat or short plat showing the dedication thereon; and, the acceptance by the public shall be evidenced by the approval of the plat for filing by the appropriate governmental unit.

6)“Final Plat” means the final drawing of the subdivision or short subdivision and dedication prepared for filing for record with the county recorder and containing all elements and requirements set forth in this chapter.

~~“Gross density” means the number of residential units to be located on land proposed to be subdivided, divided by land’s size measured in acres.~~

7)“Hearing Examiner” means the person appointed by the Mayor and confirmed by the Council to conduct public hearings on applications outlined in BDMC, Title 2.30, which creates the Hearing Examiner, and who prepares a record, findings of fact, and conclusions on such applications.

8)“Lot” means a fractional part of divided lands having fixed boundaries, being of sufficient area and dimensions to meet minimum zoning requirements for width and area. The term shall include tracts and parcels.

9)“Monument” means a permanent concrete object four inches by four inches at the top, six inches by six inches at the bottom and twenty-four inches long with a metal marker cast in the center.

~~“Net density” means the number of residential units to be located on land proposed to be subdivided, divided by the remainder of the land’s size measured in acres, less the area of all public dedications, including roads, storm drainage facilities, parks, and less any permanently protected environmentally sensitive areas and their buffers.~~

10)“Plat” means a map or representation of a subdivision, showing thereon the division of a tract or parcel of lands into lots, blocks, streets and alleys or other divisions and dedications.

11)“Preliminary Plat” means a neat and approximate drawing of a proposed subdivision showing the general layout of streets and alleys, lots, blocks, and other elements of a subdivision consistent with the requirements of this chapter. The preliminary plat shall be the basis of the approval or disapproval of the general layout of the subdivision.

12) “Short Subdivision” means the division or redivision of land into six ~~four~~ or less lots, tracts, parcels, or sites for the purpose of sale, lease or transfer of ownership, except as provided in Section 17.04.030 of this title. The creation of tax parcels by the county shall not be deemed the division of land for purposes of creating a lot, tract, parcel or site that can be sold, leased or transferred.

13)“Subdivision” means the division or redivision of land into seven ~~five~~ or more lots, tracts, parcels, or sites for the purpose of sale, lease or transfer of ownership, except as provided in Section 17.04.030 of this title. The creation of tax parcels by the county shall not be deemed the division of land for purposes of creating a lot, tract, parcel or site that can be sold, leased or transferred.

14)“Tract” means a fractional part of subdivided lands having fixed boundaries, not meeting the requirements for a lot, or created for a special use, including public



spaces, storm drainage facilities, or sensitive area protection, other than for a building lot. (Ord. 780 § 2 Exh. 1 (part), 2005)

15) "Vacation" means canceling an approved subdivision or short subdivision plan completely and partial vacation means removing some portion of the approved subdivision from the plan.

16) "Vested" means a proposed division of land shall be considered under the requirements of this chapter and the zoning and other land use regulations in effect on the land at the time that a subdivision (short or major) preliminary plat application, as defined in this chapter, has been determined to be complete and has been accepted by the city of Black Diamond.

#### **17.08.030 Lots--Valid land use for five years.**

Lots created pursuant to the terms of this title shall be a valid land use, notwithstanding any change in the zoning laws, for a period of five years from the date the final plat is filed of record, unless a longer period is specified in an approved development agreement. (Ord. 780 § 2 Exh. 1 (part), 2005)

#### **17.08.040 Revocation or modification of conditions after approval.**

~~A.~~ A subdivision or ~~short subdivisions~~short subdivision shall be governed by the terms of approval of the final plat, and the statutes, codes and regulations in effect at the time of final plat approval, including certificates of availability for water and sewer capacity, and approvals granted after approval of the city engineer, unless the city council finds that a change in conditions creates a serious threat to the public health or safety in the subdivision.

~~B. The city council may modify the conditions of preliminary subdivision or short subdivision approval, or revoke the approval, if, after notice and opportunity to be heard by the owner of the land to be subdivided, if the city council finds:~~

- ~~1. The modification or revocation is necessary to protect the public health, safety or welfare; and~~
- ~~2. If the council intends to revoke the preliminary approval, that it is impossible to satisfy the condition of preliminary plat approval because of a knowing and deliberate violation of the condition. (Ord. 780 § 2 Exh. 1 (part), 2005)~~

### **Chapter 17.12 PRELIMINARY PLATS**

#### **17.12.010 Application.**

Any person desiring to subdivide land into five or more parcels within the city shall first submit an application for preliminary plat approval to the Community Development Department ~~city clerk treasurer at City Hall~~. The application shall be on forms provided by the city. To the extent that procedural requirements permit simultaneous proceedings, a subdivision application will be processed concurrently with applications for variances, planned unit developments, site plan approvals and

similar approvals, unless the applicant expressly requests sequential processing. A preliminary plat application will not be accepted for property within an MPD ~~overlay zone district~~ unless there is a previously approved MPD permit and a recorded MPD development agreement. A preliminary plat application will not be accepted for property that is part of a master planned development (MPD) permit application unless the city, pursuant to Section 18.98.050(C) of this code, authorizes the simultaneous processing of the subdivision application. The application shall include:

A. ~~Ten~~ Five copies of the preliminary plat drawing and vicinity map containing items specified in Section 17.12.020 of this chapter;

B. ~~Ten~~ Five copies of proposed street and utility plans showing proposed locations, sizing and alignment, and of plans showing areas of existing trees and natural vegetation to be retained, and those to be removed;

C. ~~Three~~ Five copies of a completed environmental checklist, together with applicable environmental studies and SEPA documents. If the city and the applicant have agreed that an environmental impact statement will be prepared for the proposal, a checklist shall not be required;

D. A preliminary outline and legal description of any areas within the subdivision to be dedicated or reserved for public or common use, with the purposes indicated thereon and in the dedication or restrictive covenant;

E. A title report disclosing vesting of title, all existing easements of record or other existing restrictions on the proposed platted land;

F. Storm drainage design analysis at a level of detail to allow for accurate sizing of storm drainage facilities and tracts;

G. A listing of all property owners of record within five hundred feet of the exterior boundaries of all parcels proposed to be included within the subdivision, ~~together with three sets of mailing labels for said property owners certified by King County as being no less than thirty days old.~~ (The five hundred feet shall be measured from the exterior boundary of adjacent property in the same ownership as the land to be subdivided.);

~~H. An aerial photo of the parcel area and parcels within one thousand feet of its boundaries that was taken since the time of the last development activity within the area to be subdivided or surrounding properties or one year from the application date, whichever is more recent, at a scale no smaller than one inch equals one thousand feet;~~

~~I. If the proposed subdivision is located in an approved MPD, typical schematic drawings (floor plans elevations, and exterior material samples) for the single-family residences and other structures to be built on the subdivided lots;~~

~~H~~ J. If the proposed subdivision is located in an approved MPD, a copy of the signed and recorded MPD development agreement;

~~I~~ K. Certificates of sewer and water availability;

~~J~~ L. If the property to be subdivided has been designated as a receiving area pursuant to the city's Transfer of Development Rights program, a copy of all development right certificates (DRCs) proposed for use in obtaining the proposed net density;

~~M. If the applicant is requesting a density bonus, a narrative and/or illustrative~~

~~report identifying the level of bonus density sought and supporting documentation as necessary to support the request and demonstrate the incorporation of the density bonus elements as set forth in Section 17.14.050 of this title;~~

~~K. N.~~ The nonrefundable preliminary plat fee and review deposit in the amount specified by city Resolution 08-523, in the city fee resolution;

L. O. Any further information required by the terms of a previously approved MPD permit that is required by the approval to be shown on the plat or required to be constructed as part of the subdivision approval process;

M. P. A tree survey showing all trees over fifteen inches in diameter measured three feet above the tree base. If a stand of trees containing trees of this dimension is proposed to be preserved, then a per tree survey is not required, but the area to be preserved shall be identified; (see BDMC, Sec. 19.30.060 for details);

N. Q. Any studies or reports necessary to show that the requirements of Section 17.16.020(D) of this title will be met if the application is approved;

~~R. Proposed covenants, conditions and restrictions (CCR) for any land or improvements to be owned and/or maintained in common by the lot owners or an association of lot owners;~~

~~S. Verification from the King County assessor that the property is not in a current use tax classification, except for those portions of the property that is subject to a permanent conservation easement to protect open space land, as defined in RCW 84.34.020;~~

OT. The names and addresses of all persons having an ownership interest in the property or in the applicant. If the property is owned by, or the applicant is a partnership, limited liability company, corporation or other legal entity, then the names and addresses of all persons having a financial interest in the legal entity or entities shall be provided;

~~U. A comprehensive fiscal analysis disclosing the short and long term financial impacts of the proposed subdivision upon the city, both during development and following project completion to ensure no adverse fiscal affects to the city after project completion and occupancy, and including an analysis of personnel demands and fiscal shortfalls anticipated during the development phase of the subdivision together with recommended mitigations to ensure that the subdivision and the resulting development on the property to be subdivided does not negatively impact the fiscal health of the city, nor the ability of the city to adequately serve existing residents. If an EIS will be prepared, the fiscal analysis may be prepared concurrently with the EIS;~~

V. Any other information that is necessary and appropriate in order to determine whether or not the application meets the preliminary plat approval criteria set forth in Chapter 17.15 of this title. (Ord. 780 § 2 Exh. 1 (part), 2005)

#### **17.12.020 Preliminary plat contents.**

The preliminary plat shall be prepared by a registered professional land surveyor or engineer using acceptable drafting standards. The scale for the preliminary plat drawing, the drainage utilities, and tree preservation plans shall be not less than one inch equals one two hundred feet and the horizontal ~~and vertical~~ scales for street and sewer plans ~~and profiles~~ shall be not less than one hundred feet ~~and ten feet~~ to

the inch, respectively. After initial review the Public Works Director may request more detail for proper infrastructure review including profiles. The documents shall be submitted in such form that when the maps and written data are considered together, they shall fully and clearly disclose the following information:

- A. The proposed name of the proposed subdivision which shall not be the same as the name of any other subdivision or development in the city;
- B. The legal description of land contained within the proposed subdivision;
- C. The name, address and telephone number of the subdivision developer and the property owner;
- D. The name, address and telephone number and seal of the registered land surveyor or engineer who prepared the preliminary plat documents;
- E. The boundary lines of the proposed subdivision;
- F. The boundaries and approximate dimensions, including square feet of lot area for all lots and parcels within the proposed subdivision, together with the numbers to be assigned to each block and lot;
- G. The proposed location, ~~names~~ and width of all existing and proposed streets, alleys, roads and easements within the proposed subdivision and adjacent thereto;
- H. The location and, where ascertainable, sizes of all permanent buildings, wells, watercourses, bodies of water (indicating the high water mark or top of the bank), all overhead and underground utilities, municipal boundaries, section lines, township lines and other important features existing upon, over or under the land proposed to be subdivided;
- I. Contour lines of at least five-foot intervals or sufficient intervals to show the topography of the land to be subdivided referenced to the mean sea level datum of the National Ocean Survey (USC and GS), and extending at least one hundred feet in all directions from the property to be subdivided;
- J. Generalized plans of proposed water distribution systems, storm sewers, sewerage systems and shoreline modifications, if any, indicating locations and sizing;
- K. A layout of proposed streets and alleys, buffer zones, on no-build areas and parcels proposed to be dedicated or reserved for public or community school, park, playground, open space and trail networks, wildlife corridors, and perimeter buffers or other uses;
- L. Owners of land adjacent to the subdivisions and the names of any adjacent subdivisions shall be identified on the preliminary plat map;
- M. If the plat constitutes a replat, the lots, block, streets, etc., lines of the original plat shall be shown with dotted lines in their proper positions in relation to the new arrangement on the plat, the new plat being clearly shown in solid lines;
- N. If the proposed plat is part of an approved MPD, the proposed preliminary plat drawing shall show road, trail, utility, and other connections to adjacent MPD properties, as well as adjacent approved MPD land uses;
- O. All environmentally sensitive critical areas, their buffers, and minimum building setbacks;
- ~~P. Minimum building setback lines for all proposed lots;~~
- PQ. If the subdivision is proposed to occur in two or more phases, the proposed phases shall be clearly shown and labeled;

~~RQ~~. A table listing the gross density, net density, density proposed through use of the city's Transfer of Development Rights program, minimum lot size, maximum lot size and average lot size for the proposed subdivision. (Ord. 780 § 2 Exh. 1 (part), 2005)

#### **17.12.030 Additional information.**

An application, for vesting purposes, shall be deemed complete if it contains all of the information required by Sections 17.12.010 and 17.12.020 of this chapter and is consistent with Chapter 18.14 and the City's vesting ordinance , Ord. 08-892.- However, the city may require submittal of additional information, including, but not limited to, soil and geological studies, wetland assessments, or traffic studies, prior to processing a preliminary subdivision application if city staff determines that such information is necessary for accurate environmental or technical review of such application. The city may also set reasonable deadlines for the supplemental submittal of such information if it is found to be necessary subsequent to the initial application submittal and determination of completeness. Failure to meet such deadlines shall cause the application to be deemed withdrawn, and plans or other data previously submitted for review may thereafter be returned to the applicant. In no case shall an application be processed until it is adequate in terms of the type or amount of information necessary for accurate environmental and technical review. (Ord. 780 § 2 Exh. 1 (part), 2005)

### **~~Chapter 17.14 SUBDIVISION DENSITY BONUS~~**

#### **~~17.14.010 Density bonus.~~**

~~In addition to the requirements of RCW 58.17 for which the planning commission and city council must make findings of adequate provision, each subdivision and short subdivision within the city that is not located within an approved master planned development shall be encouraged through a system of density incentives to incorporate features identified as being central to the implementation of the city's vision statement and comprehensive plan as they relate to the character of new development within the city. Developers seeking to obtain a net density greater than the base density for a parcel as established by the city's zoning regulations may propose the incorporation of specific elements as part of their subdivision proposal in return for a density bonus as set forth in this chapter. Density bonus may be granted where the property is not included in an MPD application, is not within an MPD overlay district, and is not in an area that was defined in the Black Diamond urban growth area agreement dated December 31, 1996 as a potential annexation area. (Ord. 780 § 2 Exh. 1 (part), 2005)~~

#### **~~17.14.020 Limitation upon density bonus.~~**

~~In no case shall the net density of a subdivision exceed the maximum or cap density allowed by the city's zoning regulations for a given zoning designation. For property designated as a receiving area in the city's TDR program and to which bonus density could apply, the bonus density allowed cannot exceed one-half of the number of density units intended to be applied to the property that are in excess of the base density. All remaining density must be acquired through the city TDR program. (Ord. 780 § 2 Exh. 1 (part), 2005)~~

#### **~~17.14.030 Review.~~**

~~A subdivision application seeking bonus density shall be reviewed by the hearing examiner as part of the hearing examiner's subdivision review process. Where approving bonus density is recommended by the hearing examiner, the specific elements found to satisfy the city's density bonus standards shall be set forth in the hearing examiner's findings and decision. (Ord. 857 § 16, 2008; Ord. 780 § 2 Exh. 1 (part), 2005)~~

#### **~~17.14.040 Density bonus award schedule.~~**

~~A. Where a density bonus is sought by an application for subdivision, the bonus density shall be awarded according to the following schedule:~~

- ~~1. An increase of one-half of a unit of density per acre above that granted through application of the base density shall be awarded to an application found to demonstrate incorporation of at least three of the following applicable elements as part of a subdivision application.~~
- ~~2. An increase of one unit of net density per acre above that granted through application of the base density shall be awarded to an application found to demonstrate incorporation of at least four of the following applicable elements as part of a subdivision application.~~
- ~~3. An increase of two units of net density per acre above that granted through application of the base density shall be awarded to an application found to demonstrate incorporation of at least seven of the following applicable elements as part of a subdivision application.~~
- ~~4. An increase of three units of net density per acre above that granted through application of the base density shall be awarded to an application found to demonstrate incorporation of at least ten of the following applicable elements as part of a subdivision application.~~
- ~~5. An increase of four units of net density per acre above that granted through application of the base density shall be awarded to an application found to demonstrate incorporation of at least fourteen of the following applicable elements as part of a subdivision application.~~

~~B. The bonus density authorized in each subsection of subsection A of this section is not pyramided on the previous subsection. (Ord. 780 § 2 Exh. 1 (part), 2005)~~

#### **~~17.14.050 Density bonus elements.~~**

The hearing examiner shall review each subdivision application to determine the number of density bonus elements that have been incorporated by the applicant. The following are the density bonus elements:

A. Trails. The subdivision includes the incorporation of a neighborhood trail system linking lots to each other and, where applicable, to an existing or proposed trail corridor as identified in the city's comprehensive plan. All proposed trails will be open to the public during daylight hours.

B. Parks. The subdivision includes public park space totaling at least one hundred fifty percent of the park space otherwise required by the city.

C. Residential Setbacks. The subdivision proposes development standards that provide for varied setbacks for the front facades of residential structures of between five and twenty feet, varying such that the setback of adjacent residential structures will vary by at least five feet.

D. View Protection. The subdivision is designed so that views of Mt. Rainier, lakes, or other scenic vistas are preserved and enhanced from public streets, parks, other public places, or existing off-site residential units.

E. Use of Alleys. The subdivision incorporates rear loaded garages and the use of alleys to provide for garage access to at least sixty five percent of the proposed lots within the subdivision.

F. Garage Design. The subdivision proposes design standards such that garages facing the street are set back at least twenty feet from the property line and the building floor area extends at least five feet closer to the front lot line than the garage and/or other specifically identified design measures for de-emphasizing garages, including porches, location of entry, breakup massing/doors for double garages.

G. Common Open Space. The subdivision incorporates one or more design features so that at least one half of all dwelling units have direct access to a significant common open space area.

H. Forest Retention. The subdivision of a forested development site is designed such that at least fifty percent of the trees greater than twelve inches in diameter at the time of subdivision are to be retained and protected through restrictive covenants.

I. Porch Features. The subdivision proposes such that at least fifty percent of all residential structures include a front porch feature having a functional depth and width of at least six feet to allow for outdoor seating.

J. Facades. The subdivision incorporates design standards such that horizontal facades longer than thirty feet are articulated into smaller units, using methods such as: distinctive roof forms, changes in materials, window patterns, color differentiation, and recesses, or offsets.

K. Low Impact Stormwater Design. The subdivision is designed utilizing low impact development technologies such that stormwater runoff after development is no greater than stormwater runoff in a forested, predevelopment condition.

L. Open Space Preservation. The subdivision provides for at least forty percent common open space through the use of clustering.

M. Public Access to Water. The subdivision is designed such that public access is provided to a lake, stream or wetland area for recreational or educational purposes



~~in an ecologically sensitive manner.~~

~~N. Habitat Restoration. The subdivision incorporates a fish or wildlife habitat restoration component that significantly improves the habitat value of a pre-existing environmental condition that is not the result of the action(s) of the applicant.~~

~~O. Water Conservation. The subdivision incorporates one or more technologies (including reuse, soil amendments, etc.) or landscape standards which seek to eliminate or significantly reduce the use of potable water for outdoor watering.~~

~~P. Screening. The subdivision utilizes a buffer of existing mature vegetation or proposes the installation of significant natural vegetation capable of screening the proposed subdivision from an adjacent roadway or more intensive adjacent land use.~~

~~Q. Discretionary Density Bonus Elements. In order to encourage and give applicants an incentive to incorporate elements of the city's vision statement and comprehensive plan goals and objectives as part of their subdivision proposals, the city council may recognize up to two additional density bonus elements that may be proposed by an applicant but not listed herein. Prior to recommending such discretionary elements, the planning commission shall make findings that these elements serve to further implement the city's vision statement and/or comprehensive plan. (Ord. 857 § 17, 2008; Ord. 780 § 2 Exh. 1 (part), 2005)~~

## Chapter 17.15 PRELIMINARY PLAT APPROVAL CRITERIA

### 17.15.010 Substantive standards.

The requirements set forth in this chapter are substantive standards that must be met in order for a preliminary plat to be approved. The Hearing Examiner, in making the its decision whether the plat should be approved, approved with conditions, or denied, shall make findings as to each of the approval criteria set forth in this chapter. The Hearing Examiner's decision shall be final action, unless an appeal is timely filed to the Ceity Ceouncil. (Ord. 857 § 18, 2008; Ord. 780 § 2 Exh. 1 (part), 2005)

### 17.15.020 Approval criteria.

A. The following are the criteria that must be met to approve any subdivision. The criteria may be met by conditions proposed by the applicant, or imposed by the Ceity Ceouncil as conditions of approval:

1. The proposed subdivision meets all city zoning regulations and is consistent with the city's comprehensive plan maps and policies, ~~including, but not limited to, Section 5.7.3, Residential Development Policies and Concept~~, and with the Black Diamond design standards and guidelines where applicable;

~~2. Any density bonus shall meet the requirements of Chapter 17.14 of this title;~~

~~23.~~ The proposed subdivision results in a net density that is equal to or less than the allowable maximum density established by the zoning regulations, including any density transfers ~~or applicable density bonuses~~ awarded by the Hearing Examiner



~~planning commission~~, and is greater than or equal to any applicable minimum density requirement;

~~34.~~ 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, for open spaces, storm drainage ways, streets, alleys, other public ways, water supplies, sanitary wastes, parks, playgrounds, sites for schools and school grounds;

~~45.~~ The physical characteristics of the proposed subdivision site, as conditioned, does not increase the risk of flood or inundation conditions on- or off-site;

~~56.~~ Applicable city development standards are met or exceeded;

~~67.~~ All ~~significant adverse~~ environmental impacts have been addressed ~~are mitigated in a manner that furthers consistent with~~ the public health, safety and welfare and city goals and policies;

~~8. The proposed project will have no adverse financial impact upon the city at each phase of development, if it is a phased project, as well as at the time of occupancy of any structures to be constructed on the property. If the project is phased, so that final plat approval for the entire project is not obtained at one time, then this requirement shall include conditioning any approval so that the fiscal analysis is updated to show continued compliance with this criteria. If any phase has not been completed within five years, a new fiscal analysis must be done with regards to that phase before an extension can be granted. The fiscal analysis must be updated prior to the commencement of each new phase to assure continued compliance with this criteria. This may be done as an administrative review. If the proposed subdivision is part of an approved MPD, then the MPD fiscal analysis may be adopted by reference for use in meeting this condition;~~

~~79.~~ There shall be concurrency for all utilities and transportation system improvements prior to occupancy of any structures;

~~10. The proposal, during construction and at occupancy, shall not cause the available city staffing capacity to be exceeded, or result in the lowering of city staffing levels of service established by the city, including those related to public safety;~~

~~11. For developments of more than fifty residential units, there shall be a mix of housing types so that at least ten percent of the structures, regardless of number of residential units in each structure, shall be duplexes, triplexes or fourplexes;~~

~~812.~~ If the proposal is in an approved MPD, the proposed subdivision shall be consistent with the approved MPD, the MPD conditions of approval, the MPD design standards, and the MPD development agreement;

~~913.~~ There shall be connectivity of motorized and nonmotorized transportation corridors, open spaces and wildlife corridors with existing or proposed corridors on adjacent properties;

~~1014.~~ The use of cul-de-sacs and other dead end streets shall be minimized to the fullest extent possible;

~~1115.~~ Appropriate provision has been made for the dedication of land to any public body, and provision of public improvements has been made as necessary to serve the subdivision. This shall include appropriate provision for payment of any impact

fees imposed in accordance with the provisions of RCW 82.02.050 through 82.02.090, and applicable city codes and regulations. Dedications shall clearly be shown on the final plat;

~~12+6.~~ The streetscape and public open space amenities shall be compatible with any adjacent project that has been developed or approved for development as an MPD. (Ord. 780 § 2 Exh. 1 (part), 2005)

13. Provide safe walking conditions for students who walk to and from school.

#### **17.15.030 Site inspection.**

A site inspection may be made by the ~~city council and/or the H~~hearing ~~E~~examiner in order to ~~assist~~assist the Examiner ~~them~~ in ~~their~~ deliberations so long as the Examiner asks for any objections and receives none and so long as the Examiner doesn't speak to anyone at the site. ~~S~~said inspection shall ~~occurs as part of a public meeting, with actual~~with notice to the applicant and ~~all-all parties~~ persons of record at the open record public hearing, and no public input is allowed during the inspection. (Ord. 857 § 19, 2008; Ord. 780 § 2 Exh. 1 (part), 2005)

### **Chapter 17.16 REVIEW OF PRELIMINARY PLAT**

#### **17.16.010 Staff review.**

A. Completeness Check and SEPA. Community Development Department ~~City~~ staff shall review the preliminary plat application for completeness within twenty-eight days of its receipt. If the application is determined to not be complete, ~~city~~ staff shall identify in its determination of completeness the items required to make the application complete. Once the application has been determined to be complete, Department,~~city~~ staff will issue a formal notice of application which shall allow at least fourteen days for public comment regarding the application~~-.~~ Notice of the filing of a preliminary plat of a proposed subdivision adjacent to or within one mile of the municipal boundaries of another city or town, or which contemplates the use of any city or town utilities shall be given to the appropriate city or town authorities. Any notice required by this title shall include the hour and location of the hearing and a description of the property to be platted. Notice of the filing of a preliminary plat of a proposed subdivision located in the city and adjoining the municipal boundaries of another city or town shall be given to the appropriate city officials. Notice of the filing of a preliminary plat of a proposed subdivision located adjacent to the right-of-way of a state highway (SR-169) or within two miles of the boundary of a state or municipal airport shall be given to the Secretary of Transportation. Following the public comment period, staff will then initiate the SEPA process, pursuant to Black Diamond Municipal Code Chapter 19.04.

B. At the time of issuing the ~~N~~notice of ~~A~~application, the Community Development Director ~~city planner~~ shall submit the proposed subdivision to all city department heads, including, but not limited to, the Public Works Director~~city engineer, the city utilities superintendent, the -city P~~police Cchief, the city SEPA

~~responsible official, the Natural Resources Director~~ and the city ~~Fire~~ Marshall chief for staff review. The following review criteria shall apply:

1. ~~The The Public Works Director city engineer~~ shall review the proposed subdivision for engineering adequacy of the proposed street system, sewage disposal system, storm drainage system and water supply system and shall review the same for compliance with all city standards, including, but not limited to, those set forth in the city's public works standards or standards approved as part of an MPD if applicable. ~~The The Public Works Director city engineer~~ shall also review the proposed subdivision to ensure that all requirements as may be necessary to minimize flood damage are met.

~~2. The city utilities superintendent shall review the proposed subdivision for adequacy of the proposed water, sanitary sewer, storm sewer, and utility systems.~~

~~23.~~ The city ~~Fire~~ Marshall chief shall review the proposed subdivision for adequacy of water supply and access for fire protection and medical aid purposes.

~~34.~~ The city ~~P~~ police ~~C~~ chief shall review the proposed subdivision for the adequacy of access for police protection purposes.

~~45.~~ The city Natural Resources Director ~~SEPA responsible official~~ shall review the proposed subdivision for environmental impacts.

C. SEPA Determination and Staff Report. Each department head and reviewing staff shall, ~~within twenty-one days after receipt,~~ complete his or her review of the proposed subdivision and transmit written comments and recommendations to the ~~C~~ city planner ~~Planner~~. At the conclusion of the SEPA process, staff will finish its detailed review of the proposal and ~~issue a~~ will make a formal SEPA threshold determination, which may include a public comment period. Community Development Staff will also prepare a written staff report to the ~~H~~ hearing ~~E~~ examiner. ~~This review may include requesting additional information, or proposal revisions, from the applicant, in which case any mandated review timelines shall be suspended.~~ (Ord. 857 § 20, 2008; Ord. 780 § 2 Exh. 1 (part), 2005)

#### **17.16.020 Hearing Examiner Planning commission public hearing, review and recommendation.**

A. Public Hearing Required. Upon completion of staff review and the SEPA appeal period, ~~the the city clerk treasurer~~ Community Development Department shall schedule the preliminary plat for public hearing before the ~~H~~ hearing ~~E~~ examiner, allowing for adequate public hearing notification and issue a notice of public hearing.

B. Notice of Public Hearing. Notice of the public hearing shall include the purpose, date, time and place of the public hearing and a description of the location of the property which shall be both a vicinity sketch and a narrative location description of the property to be platted. Notice shall be given in the following manner:

1. Publication of at least one notice not less than fourteen days prior to the hearing in a newspaper of general circulation within the city;

2. Posting as required by BDMC, Sec. 18.08.125 A ~~in at least three conspicuous places adjacent to the boundary of the proposed subdivision and visible from a public right of way, not less than fourteen days prior to the hearing. If the owner of the property which is proposed to be subdivided owns another parcel of the property~~

~~which lies adjacent to such property, notice under this section shall be placed adjacent to the boundaries of any such adjacently located parcels of property owned by the owner of the property proposed to be subdivided;~~

3. Mailing as required by BDMC, Sec. 18.08.125 ~~A notice to all owners of record of real property adjacent to or within five hundred feet of the proposed subdivision, according to the records of the county treasurer, not less than fourteen days prior to the hearing. If the applicant or owner of the property which is proposed to be subdivided owns, or has any legal interest in any entity that owns, other property adjacent to the property proposed to be subdivided, notice shall be mailed to the owners of all property adjacent to or within five hundred feet of said adjacent property in which the applicant or owner has an interest;~~

4. If the proposed subdivision is adjacent to the city-county boundary, notice shall be given to the Ceity ~~eoCouncil~~ and/or County Council;

5. If the proposed subdivision is located adjacent to the right-of-way of a state highway or within two miles of the boundary of a state or municipal airport, notice shall be given to the Secretary of Transportation; and

6. If the proposed subdivision is located in an approved MPD, the city shall merge its public notice of the required preliminary plat design review with the public notice of the preliminary plat hearing, utilizing the notice requirements for the preliminary plat hearing, as set forth above.

C. Public Hearing. At the public hearing, the Hhearing Eexaminer shall consider all relevant evidence to determine that the preliminary plat be approved or disapproved, ~~by the city council.~~ Any hearing may be continued at the discretion of the Hhearing Eexaminer in order to allow all relevant public input to be received. Records of the Hhearing Eexaminer hearings on preliminary plats shall be kept by the Ceity Celerk and shall be open to public inspection. (Ord. 857 § 21, 2008; Ord. 780 § 2 Exh. 1 (part), 2005)

#### **17.16.030 Hearing Examiner ~~City council~~ review and decision.**

A. If the Hhearing Eexaminer finds that the proposed plat makes appropriate provisions for the public health, safety and general welfare, for such open spaces, drainage ways, water supplies, sanitary wastes, parks, playgrounds, sites for schools and school grounds, and other provisions required by city code, regulations and other provisions required by city code, regulations and any applicable development agreement, and it finds that the public use and interest will be served by the platting of the subdivision, then it shall be approved. If the Hhearing Eexaminer finds that the proposed plat does not make such appropriate provisions or that the public use and interest will not be served, then the Hhearing Eexaminer shall impose additional conditions so that appropriate provisions will be made and the public use and interest is served, or if, additional conditions would not be adequate to mitigate all adverse impacts and to protect the public health, safety and meet all city standards, then the Eexaminer shall deny the proposed preliminary plat.

B. Not later than fourteen days following the close of the public hearing by the Hhearing ~~examiner~~ Examiner, the Hhearing Eexaminer shall issue the its decision.

C. Dedication and Improvements.

1. Conveyance of land to the city and/or construction of improvements within

and/or outside the boundary of the proposed subdivision may be required as a condition of subdivision approval. All streets, alleys and other access to the lots within the subdivision shall be conveyed to the city and shall become city property upon acceptance by the city; provided, the ~~Ceity Ce~~council may allow a private street if it finds that the private street is the best interest of the public, that adequate provision is made for street maintenance, repair and replacement through the CCR's, and that the street will be constructed to the same standard that would apply if the street were to be public street. The ~~hearings-examiner~~Hearing Examiner shall not, as a condition of the approval of any plat, require a release from damages to be procured from other property owners.

2. No plat shall be approved covering any land situated in a flood control zone as provided in RCW Chapter 86.16 without the prior written approval of the Department of Ecology of the state.

3. Every decision or recommendation made under this chapter shall be made in writing and shall include findings of fact and conclusions to support the decision or recommendation. A record of all public meetings and public hearings shall be kept by the city and shall be open to public inspection.

D. Applicant Notification. Preliminary plats or any proposed subdivision and dedication shall be approved, disapproved or returned to the applicant for modification or correction within ninety days from the date of the city staff determination of a complete application, unless the applicant consents to an extension of such time period; provided, that if additional information is requested from the applicant, or an environmental impact statement is required as provided in RCW 43.21C.030, the ninety-day period shall not include the time spent by the applicant in providing the requested information, or in preparing and circulating the environmental impact statement by the city.

E. Expiration of Preliminary Plat Approval. The approval given to a preliminary plat shall expire five years following the approval date unless a proposed final plat meeting all the requirements of this chapter and the conditions of preliminary plat approval is submitted to the city. However, an applicant who files a written request with the ~~city-council~~Community Development Department at least thirty days before the expiration of this five-year period may be granted a one-year extension upon a showing by the applicant and finding by the ~~city-council~~Department that the applicant has attempted in good faith to submit the final plat within the five-year period. ~~Any extension may be conditioned upon further review by the Departmentcity-council and may contain additional or altered conditions and requirements to comply with city standards current at the time of the extension. Such changes shall be made at a public meeting of the city council. (Ord. 857 § 22, 2008; Ord. 780 § 2 Exh. 1 (part), 2005)~~

#### **17.16.040 Appeal from ~~hearings~~Hearing Examiner decision.**

A. The ~~h~~Hearings ~~E~~examiner's decision on a preliminary plat application shall be final city action unless within fourteen days of the date of ~~the his or her~~ decision an appeal is filed with the ~~Ceity Ce~~clerk, appealing the decision to the ~~Ceity Ce~~council. The appeal shall not be deemed timely unless a complete application for appeal, on the city's appeal form, is filed with the clerk, and the appropriate filing fee paid, by

five p.m. on the fourteenth day after the ~~E~~examiner's decision. An appeal may be filed by the ~~C~~eity ~~ad~~Administrator, the applicant, or any ~~person-party~~ of record before the ~~H~~earings ~~E~~examiner.

B. The hearing before the ~~C~~eity ~~C~~eouncil shall be a closed record appeal. The ~~C~~eouncil shall not receive new evidence, but shall only receive legal argument, either orally or in writing, and shall allow the applicant and the appellant thirty minutes to present their oral argument. If the applicant is the appellant, then the city shall have thirty minutes to present its response to the appeal.

C. The decision of the ~~C~~eity ~~C~~eouncil may be appealed by a party with standing to the King County superior court pursuant to Chapter 36.70C RCW. A petition for a judicial appeal must be filed within twenty-one days of the issuance of a decision. (Ord. 857 § 23, 2008)

## Chapter 17.20 FINAL PLAT APPLICATION AND APPROVAL

### 17.20.010 Contents of application.

The final plat application shall include the following:

- A. ~~Final plat drawings in conformance with criteria set forth in this title and properly containing all information required by the conditions of preliminary plat approval; A nonrefundable final plat fee in the amount specified by city Resolution 08-523;~~
- B. ~~A title insurance report confirming that the title of the lands as described and shown on the plat is in the name of the owners signing the plat's certificate or instrument of dedication; Final plat drawings in conformance with criteria set forth in this title and properly containing all information required by the conditions of preliminary plat approval;~~
- C. ~~Three certified sets of "as-built" subdivision improvement drawings, or in the alternative, and at the city's sole discretion, a subdivision improvements completion bond as specified in this chapter; Survey information in conformance with criteria set forth in this chapter;~~
- D. ~~A maintenance and guarantee bond as described in this chapter; Certified sets of "as-built" subdivision improvement drawings, or in the alternative and at the city's sole discretion, a subdivision improvements completion bond as specified in this chapter;~~
- E. ~~Survey information in conformance with criteria set forth in this chapter; A title insurance report confirming that the title of the lands as described and shown on the plat is in the name of the owners signing the plat's certificate or instrument of dedication;~~
- F. ~~A nonrefundable final plat fee in the amount specified by city ordinance; A title insurance policy in favor of the city in an amount as approved by the City Attorney for all land within the subdivision to be dedicated to the city. (Ord. 780 § 2 Exh. 1 (part), 2005)~~



~~G. Any other documentation which may be necessary to show compliance with conditions of preliminary plat approval; A maintenance and guarantee bond as described in this chapter;~~

~~H. A title insurance policy in favor of the city in an amount as approved by the city attorney for all land within the subdivision to be dedicated to the city. (Ord. 780 § 2 Exh. 1 (part), 2005) Any other documentation which may be necessary to show compliance with conditions of preliminary plat approval.~~

#### **17.20.020 Contents and standards for final plat drawings.**

Every final plat shall consist of one or more pages, each eighteen inches by twenty-~~four~~<sup>two</sup> inches, clearly and legibly drawn on tracing cloth, stable-base mylar polyester film or equivalent approved material. All drawing or lettering shall be in permanent India ink. The perimeter of the subdivision shall be depicted in heavier lines than those that appear elsewhere on the plat. Each sheet of the final plat shall contain the subdivision name and sheet number, and each sheet containing a drawing shall also contain the scale and the north arrow showing the equation to true north where applicable. All signatures shall be written in permanent India ink. Every final plat shall include an accurate map of the subdivided land based upon a complete survey thereof~~;~~ containing all elements described within and consistent with the Washington Administrative Code (WAC 332-130) and which map shall include:

A. All section, township, and municipal ~~and city~~ lines lying within or adjacent to the subdivision;

B. The location of all monuments or other evidence used as ties to establish the subdivision's boundaries;

C. The location of all permanent control monuments found and established within the subdivision;

D. The boundary of the subdivision with complete bearings and lineal dimensions;

E. The length and the bearings of all straight lines; the radii, arc lengths, semitangents and delta angle of all road centering curves and radii; delta angle and arc length of right-of-way curves;

F. The length of each lot line, together with the bearings and other data necessary for the location of any lot line in the field;

G. The location, width, centerline and name or number of all streets within and adjoining the subdivision;

H. The location shown with broken lines, the width and description of all easements;

I. Numbers assigned to all lots and blocks within the subdivision;

J. Names of any adjacent subdivision(s);

~~K. A copy of all restrictive covenants proposed to be imposed upon land within the subdivision;~~

~~KL~~ L. Legal description of the land within the subdivision;

~~LM~~ M. All dedications of streets or other areas to the public, an individual or individuals, religious society or societies or to any corporation, public or private. Roads not dedicated to the public must be clearly marked on the face of the plat. Any dedication, donation or grant as shown on the face of the plat shall be

considered for all intents and purposes as a quitclaim deed to the donor or donees, grantee or grantees for his, her or their use for the purpose intended by the donors or grantors aforesaid;

~~MN.~~ The location of all sensitive area boundaries, including any required buffer and/or setback areas;

~~NO.~~ The lot area in square feet for each lot or tract within the subdivision;

~~O. Lot addresses of individual lots. P. The minimum required yard setback areas for each lot or tract within the proposed subdivision. (Ord. 780 § 2 Exh. 1 (part), 2005)~~

#### **17.20.030 Surveys and monumentation.**

Surveys shall be required for all proposed subdivisions. The survey of every proposed subdivision shall be made by or under the supervision of a ~~registered~~ professional land surveyor. All surveys shall conform to standard practices and principles for land surveying as set forth in the laws of the state. Subdivision control and staking traverses shall close within an error of one foot in five thousand feet. Primary survey control points shall be referenced to section corners and monuments.

A. Information to be ~~t~~Transmitted to the ~~Public Works Director-City Engineer~~. The surveyor shall furnish the ~~Public Works Director-city engineer~~ with a full set of survey notes, which shall clearly show:

1. The ties to each monument established for the plat;
2. All necessary controlling reference points or monuments;
3. Sufficient data to determine readily the bearing and length of each line which may be in the form of computer printout sheets or coordinate sheet;
4. The base meridian referred to showing its relation to true north based on Polaris observation or tie to National Ocean Survey (USC and GS) triangulation system, or other control acceptable to the ~~Public Works Director-city engineer~~;
5. Complete subdivision of the section or sections, or as much thereof as necessary to properly orient the plat within the same;
6. Corners of adjoining subdivisions or portions thereof, with ties;
7. Primary survey control points shall be referenced to section corners and monuments.

B. Permanent Control Monuments. Permanent control monuments shall be established at:

1. All controlling corners on the boundaries of the subdivision;
2. The intersections of centerlines of roads within the subdivision;
3. The beginnings and ends of curves on centerlines or points of intersections on tangents.

C. The position and type of every monument shall be noted on all plats of the subdivision per the standards of the Survey Recording Act. ~~Permanent control monuments shall be set in concrete four inches by four inches at the top, six inches by six inches at the bottom, twenty-four inches with metal marker cast in the center. Permanent control monuments within the streets shall be set after the streets are graded, the surety deposited to secure grading shall be sufficient to pay the costs estimated by the city engineer of setting such monuments. Every lot corner shall be~~



~~marked by a one half inch or five eighths inch galvanized iron pipe or approved equivalent, driven into the ground. If any land in a subdivision is contiguous to a meandered body of water, the meander line shall be re-established and shown on the plat. If the thread of the stream lies within a subdivision and forms the boundary of lots, such thread shall be defined by bearing and distances as it exists at the time of the survey. (Ord. 780 § 2 Exh. 1 (part), 2005)~~

#### **17.20.040 Required certificates.**

The following certificates shall be shown on the final plat. Items listed in subsections A through C of this section shall be signed before the final plat is submitted for review:

A. Surveyor. The surveyor shall place his or her seal and signature on the plat, along with:

1. A statement certifying that the plat was prepared by him or her, or under his or her supervision;
2. A statement certifying that the plat is a true and correct representation of the land surveyed and that the monuments shown thereon exist as located;
3. A full and correct legal description of the land to be divided.

B. Owner. The following statements or certifications shall be placed upon the final plat by the owner:

1. A statement that the subdivision has been made with the free consent and in accordance with the desires of the owner or owners. Owners of other interests shown on the title report shall certify that they have notice of the subdivision.
2. If the plat is subject to dedication, a certificate containing the dedication of all streets and other areas, together with a waiver of all claims for damages against any governmental authority which may be occasioned to the adjacent land from the required construction, drainage and maintenance of the areas. The certificates shall be signed and acknowledged before a notary public by all parties having any ownership interest in the lands subdivided.

C. Treasurer Certificate. A certification from the county treasurer that all taxes and delinquent assessments for which the property may be liable as of the date of certification have been duly paid, satisfied or discharged.

D. ~~Public Works Director City Engineer~~. A statement of approval from the Public Works Director ~~city engineer~~ approving the survey data, the layout of the streets, alleys and other rights-of-way, design of bridges, sewage and water system and other structures.

E Community Development Director. The date of examination and approval by the city Community Development Director and the signature signifying such approval.

~~FE~~. Council Approval. The resolution number and date of approval by the Ceity Ceouncil and the signature of the Mmayor signifying such approval.

~~GF~~. Fire Chief Approval. The date of examination and approval by the city Fire e Chief of District No. 44 and the signature ~~of the fire chief~~ signifying such approval.

~~G. Repealed by Ord. No. 857. (Delete)~~

H. Mine Workings Warning. A mine workings warning that reads as follows:

“WARNING. The City of Black Diamond overlies numerous mine shafts, tunnels and other workings, the exact location, depth and size of which are unknown. The land encompassed by this subdivision may or may not overlie such a workings. In approving this subdivision, the City of Black Diamond makes no representations and assumes no liability or responsibility with respect to the suitability of this site for the development contemplated or the suitability or integrity of the subsoil against subsidence or collapse.”

I. Plats in an Approved MPD. A statement that reads as follows:

“This plat is part of an approved Master Planned Development (MPD). All development and construction within this plat must be consistent with the applicable requirements of the MPD development agreement, MPD design standards, and mitigation requirements.”

(Ord. 857 § 48 (part), 2008; Ord. 780 § 2 Exh. 1 (part), 2005)

#### **17.20.050 Improvements.**

A. The applicant shall either complete the required improvements before the final plat is approved or, at the applicant’s request and at the city’s sole discretion, the applicant may be permitted to financially guarantee installation of the same pursuant to criteria established in subsection B of this section; provided, the Ceity Cecouncil has determined that the completion before final plat approval of all required water system, sanitary sewer system, and storm sewer system improvements, and all street improvements other than the final overlay, is necessary to protect the public health, safety and welfare and thus those improvements cannot be bonded in lieu of completion before final plat approval; provided, required off-site improvements that are imposed as a condition of environmental review, the need for which is not triggered until more than one-half of all resulting lots are occupied, may be bonded, if the council makes a written finding, at the time of final plat approval, that to do so will not jeopardize the public health, safety or welfare.

B. Completion and Maintenance Bonds. In lieu of the completion of the actual construction of required public improvements prior to approval of a final plat, other than the exempted improvements referenced in subsection A of this section, the city may accept a bond, in a form approved by the Ceity Attorney, or other secure method, in an amount equal to one hundred fifty percent of the Public Works Director’s -city-engineer’s estimate of the cost of public improvements guaranteeing the actual construction and installation of such public improvements within a period of time to be set by the Ceity Addministrator, but in no event more than one year of final plat approval. In addition, before final plat approval is granted, the applicant/property owner shall file a maintenance bond, or other secure method approved by the city, in an amount equal to twenty-five percent of the Public Works Director’s -city-engineer’s estimate of the cost of improvements for a period lasting through the period two years after final acceptance of the improvements. The city shall withhold approval of the final plat until the completion bond (if accepted by the city) and maintenance bond are filed. The city may enforce such bonds according to their terms, pursuant to any and all legal and equitable remedies. In addition, any completion or maintenance bond filed pursuant to this subsection shall

be subject to enforcement in the following manner:

1. In the event the bonded public improvements are not completed as required, or maintenance is not performed satisfactorily, the city shall notify the property owner and the bonding company in writing which shall set forth the specific defects which must be remedied or repaired and shall state a specific time by which such shall be completed.

2. In the event repairs or maintenance are not completed as specified in the notice referred to in subsection (B)(1) of this section by the specified time, the city may, but shall not be obligated to, proceed to repair the defect or perform the maintenance by either: (a) force account, using city forces, or (b) by private contractor. To the extent that additional funds remain from the performance bond proceeds after the city has completed the work, these funds shall not be returned to the applicant/property owner until all work has been completed and accepted by the city. In the event the city is required to bring suit to enforce maintenance or completion bonds, or to collect the cost of repairs or maintenance, the applicant/property owner and bonding company shall be responsible for any costs and attorney's fees incurred by the city as a result of the action.

C. No Permits to be Issued. In the event that the city allows the applicant to file the performance bond instead of completing some or all of the required improvements prior to final approval of the plat, no building permits shall be issued for development within the subdivision until all required improvements have been completed to city standards and accepted by the city.

D. Improvement Construction. Construction of subdivision improvements prior to final plat approval or subsequent to final plat approval as a condition to meeting bond requirements shall proceed as follows:

1. ~~Five~~ Sets of complete construction drawings and specifications shall be submitted to the Public Works Director ~~city engineer~~ for approval prior to the commencement of construction. The submitted drawings and specifications shall be designed and certified by a registered civil engineer. Construction drawings shall be in conformance with the conditions, if any, of preliminary plat approval and applicable city standards.

2. Construction of improvements shall not be initiated without authorization of the Public Works Director ~~city engineer~~. The Public Works Director ~~city engineer~~ shall authorize the applicant/property owner to proceed with construction after approval of the construction drawings and specifications. The Public Works Director ~~city engineer~~ may grant approval on condition additions or changes are made in the drawings or specifications, or on the inclusion or implementation of mitigating measures necessary to minimize the impact of the subdivision or subdivision construction on the environment. Conditions required to minimize environmental impacts shall conform with the requirements of the city's current SEPA ordinance.

3. Any changes to the construction drawings or specifications involving the design of the subdivision improvements shall first be reviewed and approved by the Public Works Director ~~city engineer~~.

4. Construction of the subdivision improvements shall proceed as shown in the construction drawings and specifications. Construction shall proceed under the supervision of a registered civil engineer. The Public Works Director ~~city engineer~~

shall inspect construction progress on a daily basis to review compliance with construction plans and required standards. All costs of ~~inspections~~inspections by the ~~Public Works city engineer shall~~Director shall be borne by the applicant/property owner.

5. After the completion of construction, ~~three~~ sets of “as-built” drawings showing the subdivision improvement as constructed shall be certified as true and complete by a registered civil engineer and one shall be reproducible mylar. The certified “as-built” drawings shall be submitted to the city prior to final plat approval and/or acceptance of the subdivision improvements by the city. (Ord. 780 § 2 Exh. 1 (part), 2005)

#### **17.20.060 Final plat review and decision.**

Final plats shall be approved, disapproved or returned to the applicant for modification or correction within ~~sixty~~thirty days from the date of filing thereof unless the applicant consents to an extension of such time period.

A. Staff Review. The ~~Public Works Director city engineer~~ or a licensed professional engineer acting on behalf of the city shall review the survey data layout of streets, alleys and other rights-of-way, design of bridges, sewage, storm sewage and water systems and other structures. No engineer who is connected in any way with the subdividing and platting of the land for which subdivision approval is sought shall examine and approve final plats on behalf of the city. The ~~Public Works Director city engineer~~ or other engineer acting on behalf of the city shall convey his or her findings to the ~~City~~Cecouncil. Prior to approval, the engineer shall satisfy himself or herself that:

1. The proposed final plat meets all standards established by state law, this title, the city’s zoning, the preliminary plat conditions of approval, and the city’s development standards ordinance relating to the final plat’s drawings and subdivision improvements;
2. For plats within an approved MPD, the proposed final plat complies with all conditions of MPD approval, the MPD development agreement, and MPD design standards;
3. The proposed final plat bears the certificates and statements of approval required by this chapter;
4. Current title insurance report furnished by the applicant/property owner confirms the title of the land in the proposed subdivision is vested in the name of the owners whose signatures appear on the plat’s certificate;
5. The facilities and improvements required to be provided by the applicant/property owner have been completed or, alternatively, that the applicant/property owner has provided a bond in an amount and with sureties commensurate with improvements remaining to be completed, securing to the city the construction and installation of the improvements and that all survey monument lot corners are in place and visible.

B. City Council Decision. The ~~City~~Cecouncil shall review the findings of the ~~Public Works Director city engineer~~ and review the proposed final plat to assure that there is conformance with all terms of the preliminary plat approval and, where applicable, MPD approval, the MPD development agreement, and MPD design

standards. If the Council determines that the final plat conforms with these requirements, and adequate bonds, if applicable, have been posted, then, by resolution, it shall enter written findings to that effect, and shall authorize the Mayor to execute the city's written approval on the face of the plat.

C. Notice of Final Decision. The city shall provide a notice of decision. ~~that also includes a statement of any SEPA threshold determination made and the procedures for administrative appeal, where applicable.~~ The notice shall be provided to the applicant and any person who, prior to the rendering of the decision, requested notice of decision or submitted substantive comments on the application. (Ord. 780 § 2 Exh. 1 (part), 2005)

#### **17.20.070 Filing.**

A. Required. No final plat shall be filed unless approved by the City Council. The original of an approved final plat shall be filed for record with the County Recorder. ~~One reproducible copy shall be furnished to the city engineer. One paper copy each shall be filed with the county assessor, the land surveyor representing the applicant/property owner, the city utilities department, the city planning department, and the city engineer.~~

B. Fees and Filing Procedure. ~~Prior to filing,~~ The applicant shall submit the original final plat drawings ~~to the city clerk-treasurer~~ together with the ~~filifiling fees ng fees for submissions by the city~~ to the County Recorder's office. ~~recorder.~~ After filing, the applicant shall provide ~~the number and type of~~ copies as specified in subsection A of this section to the city for distribution.

C. Period of Approval. Any lots in a final plat filed for record shall be a valid land use notwithstanding any change in zoning laws for a period of five years from the date of filing. A subdivision shall be governed by the terms of approval of the final plat, and the statutes, ordinances and regulations in effect at the time of approval by the ~~Public Works Director-city engineer~~ pursuant to subsection A of this section for a period of five years after final plat approval unless the City Council finds that a change in conditions creates a serious threat to the public health or safety in the subdivision; except that a subdivision in an approved MPD shall be governed by the terms of the MPD conditions of approval and the development agreement, until and unless the conditions and agreement are amended. (Ord. 780 § 2 Exh. 1 (part), 2005)

D. If a final plat has not been submitted for recording within sixty (60) days after approval by the City Council, the plat shall expire and be null and void. To reactivate the expired plat, the plat shall be resubmitted as a preliminary plat.

#### **17.20.080 Violation--Permit not to be issued.**

No building ~~permit or permit or~~ other development permit shall be issued for any lot, tract or parcel of land divided in violation of this title unless the authority authorized to issue such permits finds that the public interest will not be adversely affected thereby. Provided, however building permits for up to four (4) model homes may be issued prior to final plat recording. The prohibition contained in this

section shall not apply to an innocent purchaser for value without actual notice. All purchasers' or transferees' property shall comply with the provisions of this chapter and each purchaser or transferee may recover his or her damages from any person, firm, corporation or agent selling or transferring land in violation of this chapter or regulations adopted pursuant thereto, including any amount reasonably spent as a result of inability to obtain any development permit and spent to conform to the requirements of this chapter as well as cost of investigation, suit and reasonable attorney's fees occasioned thereby. Such purchaser or transferee may as an alternative to conforming his or her property to these requirements, rescind the sale or transfer and recover costs of investigation, suit, and reasonable attorney's fees occasioned thereby. (Ord. 780 § 2 Exh. 1 (part), 2005)

#### 17.20.090 Vacation or Alteration of a Subdivision

A. Vacation. Whenever an applicant wishes to vacate a subdivision or any portion thereof, that person shall file an application for vacation with the Community Development Department. The application shall set forth the reasons for vacation and shall contain signatures of all parties having an ownership interest in that portion of the subdivision subject to vacation.

If the subdivision is subject to restrictive covenants which were filed at the time of the approval of the subdivision, and the application for vacation would result in the violation of a covenant, the application shall contain an agreement signed by all parties subject to the covenants providing that the parties agree to terminate or alter the relevant covenants to accomplish the purpose of the vacation of the subdivision or portion thereof.

When the vacation application is specifically for a city street or road, the procedures for street vacation as per state law shall be utilized for the street vacation. When the application is for the vacation of the plat together with the streets or roads, the procedure for vacation in this section shall be used but vacations of streets may not be made that are prohibited under state law.

The Community Development Department shall give notice to all property owners within the subdivision and within three hundred (300) feet of subdivision boundaries and to all applicable agencies. The Hearing Examiner shall conduct a public hearing on the request for vacation. The application for vacation of the subdivision may be approved or denied after the City has determined the public use and interest to be served by the vacation of the subdivision. If any portion of the land contained in the subdivision was dedicated to the public for public use or benefit, such land, if not deeded to the City, shall be deeded to the City unless the City Council sets forth findings that the public use would not be served in retaining title to those lands.

Title to the vacated property shall vest with the rightful owners shown in the county records. If the vacated land is land that was dedicated to the public, for



public use other than a road or street, and the City Council has found that retaining title to the land is not in the public interest, title thereto shall vest with the person or persons owning the property on each side thereof, as determined by the City Council. When the road or street that is to be vacated was contained wholly within the subdivision and is part of the boundary of the subdivision, title to the vacated road or street shall vest with the owner or owners of property contained within the vacated subdivision.

This section shall not be construed as applying to the vacation of any plat of state-granted tide or shore lands.

- B. Alteration. If an applicant is interested in the alteration of any subdivision or any portion thereof, excepts as provided in RCW 58.17.040 (6) , that person shall submit an application to the Community Development Department requesting the alteration. The application shall contain the signatures of all persons having an ownership interest in lots, tracts, parcels, sites, or divisions in the subject subdivision or portion to be altered.

If the subdivision is subject to restrictive covenants which were filed at the time of the approval of the subdivision, and the application for alteration would result in the violation of a covenant, the application shall contain an agreement signed by all parties subject to the covenants providing that the parties agree to terminate or alter the relevant covenants to accomplish the purpose of the alteration of the subdivision or portion thereof.

If the alteration to a subdivision is requested prior to final plat approval, a minor alteration may be approved with the consent of the Community Development Director. A major alteration shall require approval of the Hearing Examiner after appropriate public notice and holding of a public hearing. The Community Development Department shall have the authority to determine whether the proposed alteration constitutes a minor or major alteration.

If the alteration to a subdivision is requested after final plat approval, but prior to filing the final plat with King County, a plat alteration may be approved with consent of the City Council. Upon receipt of an application for alteration, the Community Development Department shall provide notice of the application to all owners of property within the subdivision, and as was required by the subdivision application. The notice shall establish a date for a public meeting.

If the alteration to a subdivision is requested after filing the final plat with King County, a minor plat alteration may be approved with consent of the City Council. If the Community Development Department determines that the proposed alteration is a major alteration, then the Department may require replatting pursuant to this title. Upon receipt of an application for alteration, the Department shall provide notice of the application to all owners of property within the subdivision, and as was required by the subdivision application. The notice shall establish a date for the public meeting.

The City shall determine the public use and interest in the proposed alteration and may deny or approve the application for alteration. If any land within the alteration is part of an assessment district, any outstanding assessments shall be equitably divided and levies against the remaining lots, parcels, or tracts be levied equitably on the lots resulting from the alteration. If any land within the alteration contains a dedication to the general use of persons residing within the subdivision, such land may be altered and divided equitably between properties.

After approval of the alteration, the City shall order the applicant to produce a revised drawing of the approved alteration of the subdivision. The final plat shall accurately reflect the approved alteration and shall be filed with the County Auditor to become the lawful plat of the property, after receiving final plat approval.

This section shall not be construed as applying to the alteration or replatting of any plat of state-granted tide or shorelands.

## **Chapter 17.24 REVIEW OF DECISION**

### **17.24.010 Review.**

Any decision approving or disapproving any plat shall be reviewable pursuant to Chapter 36.70C RCW. (Ord. 780 § 2 Exh. 1 (part), 2005)

## **Chapter 17.28 VIOLATION AND PENALTY**

### **17.28.010 Violation--Penalty.**

Any person, firm, corporation or association or any agent of any person, firm, corporation or association who violates any provision of the ordinance codified in this title shall be guilty of a misdemeanor and punishable by imprisonment for not more than six months or a fine of not more than five hundred dollars or by both such fine and imprisonment. Each sale, offer for sale, lease or transfer of each separate lot in violation of this title shall be deemed a separate and distinct offense. In addition to these criminal sanctions, the city shall have the right to bring an



action to set aside, restrain and enjoin any subdivision sale or transfer, compel compliance with the provisions of this title and obtain other injunctive relief. The costs of such action shall be paid by the violator and shall include reasonable attorney's fees. (Ord. 780 § 2 Exh. 1 (part), 2005)

## Chapter 17.32 SHORT SUBDIVISIONS

### 17.32.010 Applicability.

- A. Any short subdivision shall comply with the provisions of this chapter.
- B. Exemptions. The provisions of this section are not applicable to the following:
1. Cemeteries and other burial lots which are used for that purpose;
  2. Divisions made by testamentary provisions or the laws of descent;
  - ~~3. Lots which are acquired by the same developer as part of the same development scheme but legal title is obtained at different times to the lots; provided, that such development is subject to a binding site plan pursuant to the zoning code;~~
  34. A division for the purpose of leasing land for facilities providing personal wireless services while used for that purpose. "Personal wireless services" means any federally licensed personal wireless service. "Facilities" means unstaffed facilities that are used for the transmission or reception, or both, of wireless communication services, including, but not necessarily limited to, antenna arrays, transmission cables, equipment shelters, and support structures.
- C. Further Divisions. Land within a short subdivision shall not be further divided in any manner for a period of five years without the filing of a final plat, except that when the short subdivision contains fewer than six parcels, nothing in this section shall prevent the owner who filed the short subdivision from filing an alteration within the five-year period to create up to a total of six lots within the original short subdivision boundaries: PROVIDED FURTHER, that such regulations are not required to contain a penalty clause as provided in RCW 36.32.120 and may provide for wholly injunctive relief from the date the approved short plat is recorded with the auditor without complying with the subdivision requirements of the code. This requirement shall be stated on the face of the short plat.
- D. Contiguous parcels that have one or more common owners, one or more persons who have an interest in the entity that owns or has an ownership interest in contiguous parcels, or a developer who intends to develop contiguous properties, must comply with the subdivision requirements of this title if the total number or resultant lots will exceed four in number. The short subdivision code may not be used as a mechanism to avoid the requirements of the subdivision code where there are adjacent parcels under common ownership, as described herein, that, but for the property boundaries, would be required to comply with the subdivision requirements. (Ord. 780 § 2 Exh. 1 (part), 2005)

### 17.32.020 Filing procedure and fee.

A. ~~One mylar original tracing and four~~ Prints of a proposed short subdivision plat shall be filed with the city. A short subdivision plat shall meet the following standards:

1. Drawn in ink to a scale of not smaller than one inch represents one hundred feet on mylar, sheet size ~~of eight and one-half inches by fourteen inches or~~ eighteen inches by twenty-four inches;
2. The short subdivision plat shall show the boundary and dimensions of the “original tract,” including its bearings and length of all boundary lines, assessor’s parcel number, section, township and range, and all adjoining public or private roads and identifying names of such;
3. A vicinity map drawn to a scale of four inches represents one mile of sufficient detail to orient the location of the original tract;
4. Name and address of the owner of record of the “original tract,” scale of the drawing, and north directional arrow;
5. The tract(s) of land proposed to be sold or leased, each tract of which is identified by numerical designation; dimensions and bearing of each lot boundary line;
6. Width and location of access to all short-subdivided platted lots proposed;
7. Space on a second mylar sheet shall be reserved for comments and appropriate signatures;
8. The form of the short subdivision plat shall be as required by the Survey Recording Act, Chapter 50, Washington Laws of 1973, or as amended;
9. Location of all public and/or private utility service lines, including underground telephone service lines;
10. If the proposed short subdivision plat is part of an approved MPD, the proposed short subdivision plat drawing shall show road, trail, utility, and other connections to adjacent MPD properties, as well as adjacent approved MPD land uses;
11. All environmentally sensitive areas and their buffers.

~~B. If the proposed short plat is located in an approved MPD, typical schematic drawings (floor plans, elevations, and exterior material samples) for the single-family residences and other structures to be built on the subdivided lots.~~

~~B~~ C. If the proposed short subdivision is located in an approved MPD, a copy of the signed and recorded MPD development agreement.

~~C~~ D. A nonrefundable short subdivision plat fee in the amount specified by ~~the~~ city fee Resolution 08-523. (Ord. 780 § 2 Exh. 1 (part), 2005)

#### **17.32.030 Application of environmental analysis and impact statement.**

~~A.~~ All actions by the city in approving a short subdivision plat shall be exempt from any environmental analysis or environmental impact statement as per WAC 197-11-800 (6) (c) unless the city administrator determines that the short subdivision is located wholly or partially within an “environmentally sensitive area” as defined by Black Diamond Municipal Code Chapter 19.12.

~~B. If the short subdivision is located wholly or partially within an “environmentally sensitive area,” the environmental review procedures stated in this chapter shall be followed. (Ord. 780 § 2 Exh. 1 (part), 2005)~~

#### **17.32.040 Survey.**

- A. Surveys shall be required for all ~~short-plats and~~ short subdivisions.
- B. All surveys shall be accomplished as required by the Survey Recording Act (Chapter 50, Washington Laws of 1973), and shall be monumented as stated in this chapter. (Ord. 780 § 2 Exh. 1 (part), 2005)

#### **17.32.050 Review and summary approval.**

A. Completeness Check ~~and SEPA~~. Community Development Department ~~City~~ staff shall review the short subdivision ~~-plat~~ application for completeness within twenty-eight days of its receipt. If the application is determined to not be complete, ~~city~~ staff shall identify in its decision the items required to make the application complete. Once the application has been determined to be complete, ~~city~~ staff will issue a formal ~~N~~notice of ~~A~~application which shall allow at least fourteen days for public comment regarding the application. Whenever the city receives an application for the approval of a short subdivision that is located adjacent to the right-of-way of a state highway (SR-169), the Community Development Director shall give written notice of the application, including a legal description of the short subdivision and a location map to the Washington State Department of Transportation. ~~Following the public comment period, staff will then initiate the SEPA process, if warranted, pursuant to Chapter 19.04 of the Black Diamond Municipal Code.~~

B. At the time of issuing the ~~N~~notice of ~~A~~application, the ~~C~~city ~~P~~planner ~~or~~ Community Development Director shall submit the proposed short subdivision ~~-plat~~ to all city department heads and other staff, including, but not limited to, the Public Works Director ~~city engineer~~, ~~the city utilities superintendent~~, ~~the city police chief~~, ~~the city SEPA responsible official~~ and the ~~city F~~ire Marshall~~chief~~ for staff review. The following review criteria shall apply:

1. The Public Works Director ~~city engineer~~ shall review the proposed short subdivision ~~-plat~~ for engineering adequacy of the proposed street system, sewage disposal system, storm drainage system and water supply system and shall review the same for compliance with all city standards, including, but not limited to, those set forth in the city's development standards ordinance. Minimum improvement standards shall include the following:

- a. Public streets, curbs, storm sewers, sidewalks (and other planning features that assure safe walking conditions for students who walk to and from school) and streetlights shall be designed and constructed in accordance with the standards of the city and to the approval of the Public Works Director ~~city engineer~~.
- b. The water distribution system, including fire hydrants and service lines, shall be designed and constructed in accordance with the standards of the city and to the approval of the Public Works Director ~~city engineer~~.
- c. The sanitary sewer system shall be constructed in accordance with the standards of the city and to the approval of the Public Works Director ~~city engineer~~.
- d. Permanent survey monuments shall be erected and lot corners set according to the standards of the city and under the approval of the Public Works Director ~~city engineer~~.
- e. The Public Works Director ~~city engineer~~ shall also review the proposed short subdivision ~~-plat~~ to ensure that all requirements as may be necessary to minimize

flood damage are met.

2. The city ~~U~~utilities ~~S~~superintendent shall review the proposed short subdivision plat for adequacy of the proposed water, sewer and utility system.

3. The city ~~F~~ire ~~M~~arshall ~~e~~chief shall review the proposed short subdivision plat for adequacy of water supply and access for fire protection purposes.

4. The city ~~P~~olice ~~C~~ehief shall review the proposed short subdivision plat for the adequacy of access for police protection purposes.

5. The city Natural Resources Director-SEPA-responsible-official shall review the proposed short subdivision plat for environmental impacts.

C. Department Review. Each department head shall, within fourteen days after receipt, complete his or her review of the proposed short subdivision and transmit written comments and recommendations to the ~~C~~city ~~P~~planner. The items noted in subsections (B)(1) through (B)(5) of this section shall be considered as criteria for which a short subdivision plat may be denied. City standards in place at the time of a complete application shall be applied during the review process.

~~D. Hearing Examiner Review. Short plats within an approved MPD shall be reviewed by the hearing examiner for compliance with the MPD design standards, Chapter 18.98 of the Black Diamond Municipal Code, and the approved development agreement for the MPD. This review shall include, but not be limited to, typical schematic drawings (floor plans, elevations, and exterior material samples) for the single family residences and other structures to be built on the subdivided lots. This review shall take place at a public hearing in accordance with Chapter 2.30 of the Black Diamond Municipal Code. The city shall provide public notice of the hearing at least fourteen calendar days prior to the scheduled hearing, by publishing a notice in the city's newspaper of record, and posting the site in at least three locations visible from an adjacent public street or right of way. Mailed notice to individual adjacent property owners is not required. The hearing examiner shall make a decision on the short plat's compliance with the MPD design standards, including, but not limited to, the compliance of the proposed lot layout and design of the proposed residential structures. The hearing examiner shall adopt findings, conclusions and, where applicable, conditions of approval. This decision shall be final unless appealed to the city council within twenty one days of the city's issuance of a notice of decision.~~

~~ED. Notice of Decision by Community Development Director Summary Approval.~~

The ~~C~~city ~~P~~planner shall review comments from city staff and coordinate and transmit final determinations to the applicant. The city shall complete its review and issue a Notice of Decision ~~either preliminary approval or disapproval~~ of the proposed short subdivision plat within one hundred twenty days after the short subdivision plat is determined to be complete by the city, unless an environmental impact statement is required. Except for the fiscal analysis requirements, the decision criteria set forth in Chapter 17.15 of this title shall apply to short subdivision plat applications. (Ord. 857 § 24, 2008; Ord. 780 § 2 Exh. 1 (part), 2005)

#### 17.32.060 Appeal Procedures

Within fourteen calendar days following the Notice of Decision for a proposed short subdivision, the developer or applicant may appeal the decision to the City Council. The appeal shall be accomplished by filing of a written request with the City Clerk for a hearing. The notice of appeal shall briefly specify the issues of the appeal. Decisions not appealed are deemed final and conclusive. (Ord. 780 § 2 Exh. 1 (part), 2005)

#### **17.32.0760 Expiration of short subdivision ~~plat~~ approval.**

The preliminary approval given to a short subdivision ~~plat~~ shall expire within five years following approval, and no extensions shall be granted. (Ord. 780 § 2 Exh. 1 (part), 2005)

#### **17.32.0870 Final approval and improvement construction.**

A. The short subdivision ~~plat~~ shall receive final approval within thirty working days after all required improvements have been constructed, as-builts provided, and the construction approved by the Public Works Director ~~city engineer~~, or at the applicant's request and at the city's sole discretion, the applicant may be permitted to financially guarantee installation of the same pursuant to subsection B of this section.

B. Completion and Maintenance Bonds. In lieu of the completion of the actual construction of required public improvements prior to approval of a short subdivision ~~plat~~, the city may accept a bond, in a form approved by the City Attorney, or other secure method, in an amount equal to one hundred fifty percent of the Public Works Director's ~~city engineer's~~ estimate of the cost of public improvements guaranteeing the actual construction and installation of such public improvements within one year of final short subdivision ~~plat~~ approval; provided, the City Council has determined that the completion of all required water system, sanitary sewer system, and storm sewer system improvements, and all street improvements other than the final overlay, is necessary to protect the public health, safety and welfare and thus those improvements cannot be bonded in lieu of completion before final approval. In addition, before final short subdivision ~~plat~~ approval is granted, the applicant/property owner shall file a maintenance bond, or other secure method approved by the city, in an amount equal to twenty-five percent of the Public Works Director's ~~city engineer's~~ estimate of the cost of improvements for a period lasting through the period two years after final acceptance of the improvements. The city shall withhold approval of the final short subdivision ~~plat~~ until the completion bond (if accepted by the city) and maintenance bond are filed. The city may enforce such bonds according to their terms, pursuant to any and all legal and equitable remedies. In addition, any completion or maintenance bond filed pursuant to this subsection shall be subject to enforcement in the following manner:

1. In the event the bonded public improvements are not completed as required, or maintenance is not performed satisfactorily, the city shall notify the property owner

and the bonding company in writing which shall set forth the specific defects which must be remedied or repaired and shall state a specific time by which such shall be completed.

2. In the event repairs or maintenance are not completed as specified in the notice referred to in subsection (B)(1) of this section by the specified time, the city may, but shall not be obligated to, proceed to repair the defect or perform the maintenance by either: (a) force account, using city forces, or (b) by private contractor. To the extent that additional funds remain from the performance bond proceeds after the city has completed the work, these funds shall not be returned to the applicant/property owner until all work has been completed and accepted by the city. In the event the city is required to bring suit to enforce maintenance or completion bonds, or to collect the cost of repairs or maintenance, the applicant/property owner and bonding company shall be responsible for any costs and attorney's fees incurred by the city as a result of the action.

C. No Permits to be Issued. In the event that the city allows the applicant to file the performance bond instead of completing some or all of the required improvements prior to final approval of the short subdivision -plat, no building permits shall be issued for development within the short subdivision until all required improvements have been completed to city standards and accepted by the city.

D. Improvement Construction. Construction of short subdivision improvements prior to final short subdivision -plat approval or subsequent to final short subdivision -plat approval as a condition to meeting bond requirements shall proceed as follows:

1. ~~Five Sets of -C~~Complete construction drawings and specifications shall be submitted to the Public Works Director -city engineer for approval prior to the commencement of construction. The submitted drawings and specifications shall be designed and certified by a registered civil engineer. Construction drawings shall be in conformance with the conditions, if any, of preliminary plat approval and applicable city standards.

2. Construction of improvements shall not be initiated without authorization of the Public Works Director -city engineer. The Public Works Director -city engineer shall authorize the applicant/property owner to proceed with construction after approval of the construction drawings and specifications. The Public Works Director -city engineer may grant approval on condition additions or changes are made in the drawings or specifications, or on the inclusion or implementation of mitigating measures necessary to minimize the impact of the short subdivision or short subdivision construction on the environment. Conditions required to minimize environmental impacts shall conform with the requirements of the city's current SEPA ordinance.

3. Any changes to the construction drawings or specifications involving the design of the short subdivision improvements shall first be reviewed and approved by the Public Works Director -city engineer.

4. Construction of the short subdivision -plat improvements shall proceed as shown in the construction drawings and specifications. Construction shall proceed under the supervision of a registered civil engineer. The Public Works Director -city engineer shall inspect construction progress on a daily basis to review compliance



with construction plans and required standards. All costs of inspections by the Public Works Director ~~city engineer~~ shall be borne by the applicant/property owner.

5. After the completion of construction, ~~three sets of~~ “as-built” drawings showing the short subdivision ~~plat~~ improvements as constructed shall be certified as true and complete by a registered civil engineer and one shall be a reproducible mylar. The certified “as-built” drawings shall be submitted to the city prior to final short subdivision ~~plat~~ approval and/or acceptance of the short subdivision ~~plat~~ improvements by the city.

E. Notice of Decision. Within ten days of final city action on the short subdivision ~~plat~~, the city shall provide a mailed ~~N~~notice of ~~D~~decision to the applicant, to all parties of record, and to all parties requesting such notice in writing. (Ord. 780 § 2 Exh. 1 (part), 2005)

### **17.32.090-090 Public utility service.**

No public utility service will be provided to any buildings or improvements constructed within a short subdivision ~~plat~~ until the construction of all required improvements has been completed and approved by the Public Works Director ~~city engineer~~. These public utility services shall include water supply, and sanitary sewer service. (Ord. 780 § 2 Exh. 1 (part), 2005)

### **17.32.100 Notice.**

~~Prior to the sale, lease or contract to sell of any lot, parcel or tract within a short subdivision, a copy of the approved short plat shall be given to the prospective purchaser or lessee by the owner, owner's agent, or any person, firm or corporation who closes or escrows the transaction. (Ord. 780 § 2 Exh. 1 (part), 2005)~~

### 17.32.100 Filing

Fees and Filing Procedure. No short subdivision shall be filed unless approved by the Community Development Director and the Public Works Director. The original drawings of the approved short subdivision along with the applicable fees shall be filed for record with the King County Recorder's Office and shall not be deemed approved until filed. One reproducible copy shall be furnished to the Public Works Director. One paper copy each shall be filed with the County Assessor, the city Community Development Department, and the city Public Works Department. No permits will be issued until these copies have been received.

If a short subdivision has not been submitted for recording within sixty (60) days after approval by the Community Development Director, the short subdivision shall expire and become null and void. To reactivate the expired short subdivision, the subdivision shall be resubmitted as a preliminary short subdivision. Upon written request of the subdivider, the Community Development Director may grant one (1) extension of not more than six (6)

months. Such request must be received by the Community Development Department no later than thirty (30) calendar days prior to the sixty (60) day deadline for recording submittal.

## Chapter 17.34

### BINDING SITE PLAN

#### Sections:

- 17.34.010 Purpose and Scope
- 17.34.020 Application Requirements
- 17.34.030 Determination of Completeness—time limitations
- 17.34.040 Review of Binding Site Plan
- 17.34.050 Approval
- 17.34.060 Final Binding Site Plan Approval and Recording
- 17.34.070 Amendments, Modifications, and Vacations
- 17.34.090 Appeal Procedures

#### **17.34.010 Purpose and Scope**

The purpose of this chapter is to clearly delineate the procedures and criteria used by the City of Black Diamond to review and approve Binding Site Plans. A Binding Site Plan is intended to provide an alternative means of dividing land for commercially or industrially zoned property. This chapter shall only apply to divisions of land for sale or lease of commercially or industrially zoned property and upon which no future residential structure will be placed except as an accessory use.

#### **17.34.020 Application Requirements**

An application for a Binding Site Plan shall be submitted to the Community Development Department on forms provided by the Departmentcommunity development director. Unless otherwise provided, the term “Director” in this chapter shall mean the Community Development Director. A complete application for a Binding Site Plan shall consist of:

A. At least one original 18 inch by 24 inch drawing, eight copies, and one eight-and-one-half-inch by 11-inch copy containing the following information:

1. The location and size of all proposed lots, tracts, and buildings;
2. Proposed and existing structures, including elevations and floor plans as known (plans which show building envelopes rather than



footprints must include postconstruction treatment of unoccupied areas of the building envelopes);

3. All proposed or existing uses;
4. The location of proposed or existing open space, including any required landscaped areas;
5. The location and identification of critical areas;
6. The layout of an internal vehicular and pedestrian circulation system, including proposed ingress and egress for vehicles;
7. The number and location of proposed or existing parking spaces on and off the site;
8. A drainage plan which will accommodate the maximum proposed square footage of impervious surface, including the maximum proposed square footage of impervious surface exposed to vehicular use, subject to the requirements of the city's storm water drainage design standards;
9. The location and size of utility trunk lines serving the site;
10. The location and size of water bodies and drainage features, both natural and manmade;
11. A grading plan showing proposed clearing and tree retention and the existing and proposed topography, detailed to two-foot contours, unless smaller contour intervals are otherwise required by the city code ~~or rules and regulations promulgated thereunder~~;
12. A layout of sewers and the proposed water distribution system;
13. Proposed easements and access;
14. Proposed signage;
15. If the proposed ~~B~~binding ~~S~~site ~~P~~plan is part of an approved Master Planned Development (MPD), the proposed ~~B~~binding ~~S~~site ~~P~~plan shall show road, trail, utility, and other connections to adjacent MPD properties, as well as adjacent approved MPD land uses; and
16. If the proposed ~~B~~binding ~~s~~Site ~~P~~plan is part of an approved MPD, a copy of the signed and recorded MPD development agreement.
17. Depiction of easements, deed restrictions and other encumbrances referred to in sections D and G below.

B. A completed environmental checklist, if required by the State Environmental Policy Act and implementing ordinances.

C. A downstream drainage analysis or any other requirement specified in the City's surface water design manual, site development regulations or surface water policy ordinance.

D. All covenants, easements, maintenance agreements or other documents regarding mutual use of common open space, parking and access.

E. Sanitary Sewer availability certificate from the public sanitary sewer service provider if other than the City for an area not served by or intended to be served by the City.

F. Water availability certificate from the water purveyor providing service to the property if other than the City for an area not served by or intended to be served by the City.

G. Copies of all easements, deed restrictions or other encumbrances restricting the use of the site.

H. A phasing plan and time schedule, if the site is intended to be developed in phases.

I. The payment of all applicable fees as prescribed in the City's fee schedule.

J. The ~~D~~irector may waive specific submittal requirements determined to be unnecessary for review of the application.

#### **17.34.030 Determination of completeness-time limitations**

A. Within twenty-eight days after receiving a ~~B~~inding ~~S~~ite ~~P~~lan application, the ~~D~~irector shall mail or provide in person a written determination to the applicant, stating either that the application is complete, or that the application is incomplete and what is necessary to make the application complete. An application is complete for purposes of this section when all applicable fees are paid, and the application meets the procedural submission requirements of BDMC 17.34.020 and is sufficient for continued processing even though additional information may be required or project modifications may be undertaken subsequently. The determination of completeness shall not preclude the City from requesting additional information or studies either at the time of the notice of completeness or subsequently if new information is required or substantial changes in the proposed action occur.

B. Within 14 days after an applicant has submitted the additional information identified by the ~~D~~irector as being necessary for a complete application, the ~~D~~irector shall notify the applicant whether the application is complete or whether additional information is necessary.

#### **17.34.040 Review of Binding Site Plan**

Upon receiving a complete application for ~~B~~inding ~~S~~ite ~~P~~lan approval, the ~~D~~irector shall transmit for review and comment a copy of the site plan, together with copies of any accompanying documents as the ~~D~~irector deems appropriate, to the following:

A. Public Works Director, who shall review the proposed ~~B~~binding ~~S~~site ~~P~~plan with regard to its conformance to the general purposes of adopted traffic and utility plans; adequate provisions for storm drainage, streets, alleys, other public ways, water and sanitary sewer; and conformance to any applicable improvement standards and specifications and compliance with Chapter 58.09 RCW and Chapter 332-130 WAC;

B. City ~~F~~fire ~~M~~marshal, who shall review the proposed ~~B~~binding ~~S~~site ~~P~~plan with regard to adequate provisions for emergency access;

C. Any other city department, utility provider, school district or other public or private entity as the ~~D~~irector deems appropriate.

D. If the proposed ~~B~~binding ~~S~~site ~~P~~plan is located adjacent to the right of way of a state highway (~~SR-169~~); the ~~D~~irector shall give written notice of the application, including a legal description of the ~~B~~binding ~~s~~Site ~~p~~Plan and a location map, to the State ~~D~~edepartment of ~~T~~ransportation.

#### **17.34.050 Approval.**

A. A proposed ~~B~~binding ~~S~~site ~~P~~plan shall be considered under the zoning and other land use control ordinances in effect at the time a fully completed application is filed with the City. The ~~D~~irector shall consider and base a decision to approve, approve with conditions, deny or return the application for modifications, based on the following criteria:

1. Appropriate provisions are made for, but not limited to, the public health, safety, and general welfare for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, and sanitary wastes;

2. The proposed ~~B~~binding ~~S~~site ~~P~~plan is in conformity with the underlying zoning district requirements, other land use controls, building requirements, and other applicable regulations which may exist at the time of a completed application;

3. All other relevant facts were considered, including sidewalks and other planning features that assure safe walking conditions for pedestrians;

4. The public interest is served by the ~~B~~binding ~~S~~site ~~P~~lanplan and any dedications;

5. If the proposal is in an approved MPD, the proposed ~~B~~binding ~~S~~itesite ~~P~~plan is consistent with the approved MPD, the MPD conditions of approval, the MPD design standards, and the MPD development agreement.

B. The ~~D~~irector's decision shall include written findings and conclusions supporting the decision. The ~~D~~irector may require, as a condition of ~~B~~binding ~~S~~site ~~P~~plan approval, that any required

improvements be guaranteed by the method described by BDMC 17.32.070 prior to ~~B~~binding ~~S~~site ~~P~~plan approval or issuance of building permits for any lot within the ~~B~~binding ~~S~~site ~~P~~plan.

C. The ~~D~~irector may authorize or recommend authorization of the sharing of open space, parking, access and other improvements among contiguous properties subject to the ~~B~~binding ~~S~~site ~~P~~plan. Conditions of use, maintenance and restrictions on redevelopment of shared open space, parking, access and other improvements shall be identified on the ~~B~~binding ~~S~~site ~~P~~plan and enforced by covenants, easements or other similar mechanisms.

D. The ~~D~~irector shall specify in the findings the use and intensity assumptions that were made regarding traffic volumes, parking requirements and other such conditions that are dependent upon the anticipated volume of traffic and types of uses.

E. As an alternative procedure, where the applicant is requesting a deviation from the development regulations, or a longer vesting period due to a requested phasing plan, the applicant may request that the City Council approve a ~~D~~evelopment ~~A~~greement, as authorized by RCW 36.70B.170, after public hearing and review and recommendation from the ~~D~~irector.

**17.34.060 ~~17.34.060~~ ~~Final Binding Site~~ ~~Final binding site~~ ~~Pplan~~ approval and recording.**

A. After a ~~B~~binding ~~S~~site ~~P~~plan application has received approval from the ~~D~~irector, the applicant shall have ~~sixty-one hundred eighty~~ (~~60180~~) days to present to the city a ~~F~~final ~~B~~binding ~~S~~site ~~P~~plan in accordance with this section.

B. The approved ~~B~~binding ~~S~~site ~~P~~plan shall be surveyed and a professional land surveyor, licensed in the state of Washington, shall prepare the ~~F~~final ~~B~~binding ~~S~~site ~~P~~plan for recording in accordance with Chapter 58.09 RCW and Chapter 332-130 WAC.

C. The ~~F~~final ~~B~~binding ~~S~~site ~~P~~plan shall be drawn on mylar (or similar material with prior approval of the ~~D~~irector) and include the following information in a format prescribed by the ~~D~~irector:

1. Lots designated by number on the ~~B~~binding ~~S~~site ~~P~~plan within the area of the principal lot. Tracts shall be similarly designated and each tract shall be clearly identified with the ownership and purpose;

2. Signature and stamp of the land surveyor who prepared the ~~B~~binding ~~S~~site ~~P~~plan;

3. Reference to the recording number of the completed survey as required by this section if the boundaries have been previously surveyed;

4. Reference to all agreements or covenants required as a condition of approval;

5. Notarized signatures of all persons having an ownership or security interest in the land being divided;

6. Certificate for approval of the ~~P~~ublic ~~W~~orks ~~D~~irector; and

7. Certificate for approval of the ~~D~~irector.

D. The ~~B~~inding ~~S~~ite ~~P~~lan shall contain applicable inscriptions or attachments setting forth limitations and conditions to which the plan is subject, including any applicable irrevocable dedications of property, and shall contain a provision requiring that any development of the site be in conformity with the approved site plan.

E. After the City has returned the duly executed ~~F~~inal ~~B~~inding ~~S~~ite ~~P~~lan to the applicant, the applicant shall record the approved ~~B~~inding ~~S~~ite ~~P~~lan with King County within thirty days. Failure to present the city with a ~~F~~inal ~~B~~inding ~~S~~ite ~~P~~lan or to record the executed ~~F~~inal ~~B~~inding ~~S~~ite ~~P~~lan within the time limits set forth herein shall render the ~~B~~inding ~~S~~ite ~~P~~lan approval null and void.

F. Lots, parcels, or tracts adjusted or created through the ~~B~~inding ~~S~~ite ~~P~~lan procedure shall be legal lots of record. The number of lots, tracts, parcels, sites, or divisions shall not exceed the number of lots allowed by other provisions of this chapter.

G. All provisions, conditions, and requirements of the ~~B~~inding ~~S~~ite ~~P~~lan shall be legally enforceable on the purchaser or any other person acquiring a lease or other ownership interest of any lot, parcel, or tract created pursuant to the ~~B~~inding ~~S~~ite ~~P~~lan.

H. Any sale, transfer, or lease of any lot, tract, or parcel created pursuant to the ~~B~~inding ~~S~~ite ~~P~~lan, that does not conform to the requirements of the ~~B~~inding ~~S~~ite ~~P~~lan shall be illegal and considered a violation of the ~~B~~inding ~~S~~ite ~~P~~lan approval conditions and grounds for terminating the ~~B~~inding ~~S~~ite ~~P~~lan approval.

I. The conditions of ~~B~~inding ~~S~~ite ~~P~~lan approval shall be vested for five (5) years from the date of approval. All subsequent development on the site will be subject to the development regulations in effect when a development application is submitted.

#### **17.34.070 Amendments, ~~M~~odifications and ~~V~~acations.**

Any amendment, modification or vacation of a ~~B~~inding ~~S~~ite ~~P~~lan shall be accomplished by following the same procedure and satisfying the same laws, rules and conditions as required for a new ~~B~~inding ~~S~~ite ~~P~~lan

application, as set forth in this chapter, except that amendments that adjust lot lines only, without creating any additional lots, shall be made in accordance with BDMC Chapter 17.36. If a portion of a ~~B~~inding ~~S~~ite ~~P~~lan is vacated, the property subject to the vacated portion shall constitute one lot unless an approved full subdivision or short subdivision subsequently divides the property. The ~~D~~irector may revoke a ~~B~~inding ~~S~~ite ~~P~~lan approval, after an opportunity for notice and hearing to the affected property owners of record, if he determines that there has been a violation of the conditions of approval and the violation has not been corrected after reasonable notice to the owner of record to correct the violation.

#### **17.34.080 Administrative rules.**

The ~~D~~irector may develop ~~promulgate~~ administrative rules and regulations consistent with this chapter to implement the provisions and requirements of this chapter.

#### **17.34.090 Appeal procedures.**

Within fourteen calendar days following the decision of the ~~D~~irector pursuant to BDMC 17.34.050, the applicant may appeal the decision to the ~~H~~earing ~~E~~xaminer. The appeal shall be accomplished by filing of a written request with the ~~C~~ity ~~C~~lerk for a hearing accompanied by the appeal fee. The notice of appeal shall briefly specify the issues of the appeal. Decisions not timely appealed are deemed final and conclusive. Provided, however, if a ~~D~~evelopment ~~A~~greement has been requested by the applicant, as authorized by section 17.34.050(E), then the City Council's action on the ~~D~~evelopment ~~A~~greement shall be deemed final city action, and any appeal shall be to the King County Superior Court.

### Chapter 17.36 LOT LINE ADJUSTMENTS

#### **17.36.010 Purpose.**

The purpose of this chapter is to provide a method for ~~summary~~ approval of ~~L~~ot ~~L~~ine ~~A~~ddj~~u~~stments which do not create any additional lot, tract, parcel, site or division, while ensuring that such ~~L~~ot ~~L~~ine ~~A~~ddj~~u~~stment satisfies public concerns of health, safety and welfare. (Ord. 780 § 2 Exh. 1 (part), 2005)

#### **17.36.020 Written request required.**

The lot lines between existing lots may be adjusted by the city upon the written request of the affected property owners. (Ord. 780 § 2 Exh. 1 (part), 2005)

### 17.36.030 Adjustment request contents.

A. The written request for a Lot Line Adjustment shall be accompanied by and shall contain prints meeting the following standards: the following:

1. Drawn in ink to a scale of not smaller than one inch represents one hundred feet on a sheet size of eighteen inches by twenty-four inches;

2. The proposed Lot Line Adjustment shall show the boundary and dimensions of the existing parcel including its bearings and length of all boundary lines, assessor's parcel number section, township and range, and all adjoining public or private roads and identifying names of such, existing structures, along with the proposed adjustment (s);

3. A vicinity map drawn to a scale of four inches represents one mile of sufficient detail to orient the location of the original parcel;

4. Name and address of the owner of record of the original parcel and same for all other proposed adjustment parcels, scale of the drawing, and north directional arrow;

5. The proposed Lot Line Adjustment shall identify each parcel of land proposed to be included by numerical designation; dimensions and bearing of each lot boundary line;

6. Width and location of access to all Lot Line Adjustment parcels proposed;

7. Space on a second sheet shall be reserved for comments and appropriate signatures;

8. The form of the Lot Line Adjustment shall be as required by the Survey Recording Act , Chapter 50, Washington Laws of 1973, or as amended;

9. Location of all public or private utility service lines , including underground telephone lines;

10. If the proposed Lot Line Adjustment is part of an approved MPD, the proposed lot line adjustment drawing shall show road, trail, utility, and other connections to adjacent MPD properties, as well as adjacent approved MPD land uses;

11. All environmentally sensitive areas and their buffers.

B. If the proposed Lot Line Adjustment is located in an approved MPD, a copy of the signed and recorded MPD Development Agreement.

C. A nonrefundable lot line adjustment fee in the amount specified by the City fee resolution.

D. A title report from a title company authorized to do business in the state of Washington, disclosing all encumbrances against the property and the names of the persons in whom title is vested . (Ord. 780, (part), 2005)

~~A. The appropriate application fee pursuant to city resolution;~~

~~B. A scale drawing of the affected lots, including the dimensions of the lot before and after the proposed lot line adjustment, and a plot plan as appropriate showing the location and dimensions of existing structures in relation to the proposed lot line adjustment upon a form provided by the city;~~

~~C. The names, addresses and signatures of all persons having any ownership interest in or lien upon the affected lots; and~~

~~D. A title report from a title company authorized to do business in the state of~~



~~Washington, disclosing all encumbrances against the property and the names of the persons in whom title is vested. (Ord. 780 § 2 Exh. 1 (part), 2005)~~

#### **17.36.040 Adjustment request review standard.**

The ~~Community Development Director~~ ~~city administrator~~ or his or her designee, ~~the Public Works Director, and the Fire Marshall~~ shall review the proposed ~~L~~lot ~~L~~line ~~A~~adjustment request in accordance with the following standards:

1. The resulting lots must have dimensions meeting the minimum lot size requirements in effect at the time the request is made for the zone in which each lot is located;
2. Setbacks in effect at the time the request is made must be met as to all structures upon the lots as they relate to the new lot line;
3. The shapes of the resulting lots must not be inconsistent with the general lot configuration for other lots in the area, and other existing city codes relating to lot shapes;
4. No lot shall be created which does not have adequate drainage, access to water supply and sanitary sewer disposal, and/or access for vehicles, utilities and fire protection;
5. The use of the provisions of this chapter are not being used as a mechanism to avoid the requirements intended to protect the public health, safety and welfare that would have otherwise been required if the property were required to comply with the subdivision or short subdivision requirement. (Ord. 780 § 2 Exh. 1 (part), 2005)

#### **17.36.050 Approval conditions.**

The following shall be required as conditions of approval of a ~~L~~lot ~~L~~line ~~A~~adjustment request:

- A. Payment of all fees owed to the city for its services;
- B. A survey and setting of the corners of the new lot(s) by a ~~licensed~~ professional land surveyor;
- C. Execution of deeds and related documents by the affected landowners and ~~lienholders~~ lienholders, on forms provided by the city and recorded by the applicant ~~city~~ with King County in order to effectuate the ~~L~~lot ~~L~~line ~~A~~adjustment;
- D. A determination of the identity of affected owners by a title report or other documentation satisfactory to the ~~Community Development Director~~ city administrator; or
- E. Such other conditions as may be reasonably necessary to protect the public health, safety and welfare. (Ord. 780 § 2 Exh. 1 (part), 2005)

#### **17.36.060 Approval--Authority--Finalization.**

- A. The ~~Community Development Director~~ ~~city administrator~~ may approve the ~~L~~lot ~~L~~line ~~A~~adjustment request if it complies with the review criteria. ~~The city~~

~~administrator (may, in his or her discretion, defer to the city council the decision on the lot line adjustment request.~~

B. After approval of any Lot Line Aadjustment by the ~~Director-city administrator~~, the applicant shall have a period of sixty days in which to present to the city the final Lot Line Aadjustment on the form required by this chapter, for signature by all appropriate city officials. After the City has returned the duly executed Lot Line Aadjustment to the applicant, the applicant shall record the Lot Line Aadjustment with the King County ~~Recorder's office-auditor~~ within ~~thirty sixty~~ days. Failure to present the City with a formal Lot Line Aadjustment on the required form or to record the executed Lot Line Aadjustment with the King County ~~Recorder's office-auditor-w~~ within the time limits set forth herein shall render the Lot Line Aadjustment approval null and void. No Lot Line Aadjustment shall be deemed complete until such time as it is recorded with the King County ~~Recorders' office-auditor~~ in accordance herewith. (Ord. 780 § 2 Exh. 1 (part), 2005)

#### ~~17.36.070 Subdivision of property after lot line adjustment.~~

~~If the lot line adjustment is approved, no tracts, parcels or lots that are a part of said lot line adjustment may be the subject of a short subdivision for a period of two years commencing on the date the lot line adjustment is properly recorded with the King County auditor as required in Section 17.36.060 of this chapter; provided, however, the owner of any property affected by this provision may petition the city council for a waiver of the two-year prohibition. The council may grant such a petition upon a showing that the grant would not frustrate or hinder the intent of the city's subdivision code. Factors to be considered are whether there were any previous subdivision requests and whether the affected parcels are under common ownership. (Ord. 780 § 2 Exh. 1 (part), 2005)~~

#### ~~17.36.0780~~ Appeal to Hearing Examiner.

Within fourteen calendar days following the decision for a proposed Lot Line Aadjustment, the applicant may appeal the decision to the Hearing Examiner. The appeal shall be accomplished by filing of a written request with the Community Development Department-city clerk for a hearing. The notice of appeal shall briefly specify the issues of the appeal. Decisions not timely appealed are deemed final and conclusive. (Ord. 857 § 26, 2008)