



**CITY OF BLACK DIAMOND**  
**March 12, 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.

**7:00 P.M. – CALL TO ORDER, ROLL CALL**

- 1.) Master Planned Development Code Amendments and Design Guidelines – Mr. Pilcher
- 2.) Executive Session – Pending and Potential Litigation
- 3.) Adjournment

## Chapter 18.98 MASTER PLANNED DEVELOPMENT

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18.98.005 MPD ~~zoning~~ district created.

18.98.010 Master planned development (MPD) permit—Purpose.

18.98.020 MPD permit—Public benefit objectives.

18.98.030 MPD permit—Criteria for MPD eligibility.

18.98.040 MPD permit—Application requirements.

18.98.050 MPD permit—Required approvals.

18.98.060 MPD permit—Review process.

18.98.070 MPD permit—Environmental review (SEPA).

18.98.080 MPD permit—Conditions of approval.

18.98.090 MPD permit—Development agreement.

18.98.100 MPD permit—Amendments to an approved MPD permit.

18.98.110 MPD standards—Design review required.

18.98.120 MPD standards—Permitted uses and densities.

18.98.130 MPD standards—Development standards.

18.98.140 MPD standards—Open space requirements.

18.98.150 MPD standards—On-site recreation and trail requirements.

18.98.155 MPD standards – Sensitive Areas Requirements.

18.98.160 MPD standards—Transfer of development rights.

18.98.170 MPD standards—Street standards.

18.98.180 MPD standards—Stormwater management standards.

18.98.190 MPD standards—Water and sewer standards.

18.98.195 Vesting.

18.98.200 Revocation of MPD permit.

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18.98.005 MPD ~~zoning~~ district created.

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The master plan development (MPD) zoning district is created. No development activity may occur, or any application accepted for processing, on property subject to an MPD zoning designation, or for which the submittal of an MPD is required by a development agreement, unless it is done in accordance with the terms and conditions of a valid MPD permit or consistent with this chapter. Development activity shall include, but not be limited to, grading, clearing, filling, tree harvesting, platting, short platting, building or any other activity for which a city permit or other approval is required. (Ord. 796 § 1, 2005)

#### **18.98.010 Master planned development (MPD) permit - Purpose.**

The purposes of the master planned development (MPD) permit process and standards set out in this chapter are to:

- A. Establish a public review process for MPD applications;
- B. Establish a comprehensive review process for development projects occurring on parcels or combined parcels greater than eighty acres in size;
- C. Preserve passive open space and wildlife corridors in a coordinated manner while also preserving usable open space lands for the enjoyment of the city's residents;
- D. Allow alternative, innovative forms of development and encourage imaginative site and building design and development layout with the intent of retaining significant features of the natural environment;
- E. Allow flexibility in development standards and permitted uses;
- F. Identify significant environmental impacts, and ensure appropriate mitigation;
- G. Provide greater certainty about the character and timing of residential and commercial development and population growth within the city;
- H. Provide environmentally sustainable development;
- I. Provide needed services and facilities in an orderly, fiscally responsible manner;
- J. Promote economic development and job creation in the city;
- K. Create vibrant mixed-use neighborhoods, with a balance of housing, employment, civic and recreational opportunities;
- L. Promote and achieve the city's vision of incorporating and/or adapting the planning and design principles regarding mix of uses, compact form, coordinated open space, opportunities for casual socializing, accessible civic spaces, and sense of community; as well as such additional design principles as may be appropriate for a particular MPD, all as identified in the book Rural By Design by Randall Arendt and in the City's design standards;
- M. Implement the city's vision statement, comprehensive plan, and other applicable goals, policies and objectives set forth in the municipal code. (Ord. 779 § 2 Exh. 1 (part), 2005)

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#### **18.98.020 MPD permit - Public benefit objectives.**

A specific objective of the MPD permit process and standards is to provide public benefits not typically available through conventional development. These public benefits shall include but are not limited to:

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- A. Preservation and enhancement of the physical characteristics (topography, drainage, vegetation, environmentally sensitive areas, etc.) of the site;
- B. Protection of surface and groundwater quality both on-site and downstream, through the use of innovative, low-impact and regional stormwater management technologies;
- C. Conservation of water and other resources through innovative approaches to resource and energy management including measures such as wastewater reuse;
- D. Preservation and enhancement of open space and views of Mt. Rainier;
- E. Provision of employment uses to help meet the city's economic development objectives;
- F. Improvement of the city's fiscal performance;
- G. Timely provision of all necessary facilities, infrastructure and public services, equal to or exceeding the more stringent of either existing or adopted levels of service, as the MPD develops; and
- H. Development of a coordinated system of pedestrian oriented facilities including, but not limited to, trails and bike paths that provide accessibility throughout the MPD and provide opportunity for connectivity with the city as a whole. (Ord. 779 § 2 Exh. 1 (part), 2005)

#### **18.98.030 MPD permit - Criteria for MPD eligibility.**

A. Where Required. An MPD permit shall be required for any development where:

- 1. Any of the property within the development is subject to an MPD overlay designation on the Comprehensive Plan Future Land Use Map or an MPD zoning designation;
- 2. The parcel or combined parcels to be included in a development total at least eighty gross acres; or
- 3. Any of the property within the development is subject to a development agreement that requires an MPD permit to be obtained.

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4. Provided, however, the above provisions notwithstanding, any commercial area that is intended to be used to meet the economic objectives of an MPD and is geographically separated from the residential component of a proposed MPD may be approved through the site plan approval process of Chapter 18.16, subject to the following conditions:

- a. the commercial area is included in an MPD application that has been determined to be complete and is identified in the application as being intended to meet the economic objectives of the MPD application;
- b. The MPD design and development standards shall be applied, unless modified in accordance with the provisions of section 18.98.130(A);
- c. the approved conditions shall include the requirements of section 18.98.080(A);
- d. if the environmental review on the MPD permit application has not been completed, then, if determined appropriate, an environmental determination may be issued for the commercial area, provided the determination contains provisions that the commercial area shall still be considered for cumulative impact purposes, and appropriate additional mitigation requirements in the environmental review for the MPD application.
- e. the provisions of the subsequent MPD approval shall apply to the site plan approval, including vesting, but only to the extent that they do not adversely impact

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complete building applications that have been submitted, or on site infrastructure improvements that have already been permitted.

B. Eligibility. Where not required under subsection A of this section the city may accept an MPD permit application, and process a development proposal as an MPD, only for contiguous properties that

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are in a single ownership, or if in multiple ownerships, specific agreements satisfactory to the city shall be signed by each property owner that place the properties under unified control, and bind all owners to the MPD conditions of approval.

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2. All properties within its proposed MPD are within the city limits or within the PAA provided that, if a proposed MPD includes lands within the PAA, approval of the entire MPD will not be granted until such time annexation of unincorporated lands is completed. C. Contiguity. All properties to be included in an MPD must be contiguous, excepting those areas intended to be used for commercial purposes, other than neighborhood commercial. (Ord. 796 § 2, 2005; Ord. 779 § 2 Exh. 1 (part), 2005)

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Deleted: may be included in the application so long as the proposed uses for the property not located within the city, and the conditions of MPD approval for the property not located within the city comply with applicable county development regulations for that parcel, and, as a condition of approval, the property owners are required to file restrictive covenants upon the PAA property, in a form acceptable to the city, that restrict its uses to those approved in the MPD approval.

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#### 18.98.040 MPD permit - Application requirements.

A. Application Requirements. All applications for approval of an MPD permit shall, at a minimum, include all of the information and documents set forth in this section.

1. A set of master plan drawings, drawn at a scale as determined by the director, showing:

a. Proposed open space, parks, recreation areas, trail networks, wildlife corridors, and perimeter buffers, and the intended ownership and acreage for each area;

b. Existing environmentally sensitive areas and their buffers, together with the reports, surveys or delineations used to identify their locations and areas for which development within a wetland, bog, stream or its related buffer is proposed and for which mitigation or buffer averaging will be required;

c. Proposed locations and preliminary street sections of all streets having a function higher than neighborhood access, and all pedestrian connections including trails; if the local access street section is intended to vary from the adopted City standard;

d. Proposed sites for schools and other public facilities required to serve the development;

e. Conceptual public utility plans (sewer, water, stormwater);

f. Types, generalized locations, acreages, and densities of proposed residential and nonresidential development;

g. Proposed sites for public transit facilities;

h. Any existing easements located upon the property;

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i. Identify areas that will be protected from development by the requirements of Chapter 19.10 (Sensitive Areas Ordinance).

2. A map, drawn at a scale as determined by the director, showing property boundaries and existing topography (five-foot contour intervals), areas of vegetation by type, other natural features, and existing structures.

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3. A legal description of the MPD property, together with a title report no more than thirty days old, disclosing all lien holders and owners of record.

4. A projected phasing plan and development time schedule, regardless of intended ownership, for all development, including but not limited to, housing, stormwater

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systems, sanitary sewer facilities, public water facilities, roads, trails, commercial (including required neighborhood commercial) areas, recreational facilities, and open space, including any off-site improvements.

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5. A completed SEPA checklist, with various 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.

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6. A comprehensive fiscal analysis disclosing the short and long-term financial impacts of the proposed MPD upon the city both during development and following project completion, including an analysis of required balance of residential and commercial land uses needed to ensure a fiscal benefit to the city after project completion, and including an analysis of personnel demands and fiscal short-falls anticipated during the development phase of the MPD together with recommended mitigations to ensure that the MPD does not negatively impact the fiscal health of the city, nor the ability of the city to adequately serve existing residents, provided that if an EIS will be prepared, the fiscal analysis may be prepared concurrently.

7. A narrative description and illustrations of the MPD planning/design concept, demonstrating how the proposed MPD is consistent with the adopted MPD design standards, the comprehensive plan, all elements of sections 18.98.010 and 18.98.020, and other applicable policies and standards. If deviations from these standards are proposed, the narrative shall describe how the proposed deviations provide an equal or greater level of public benefit.

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8. Typical cross-sections of all proposed street and trail types, including landscaping, pedestrian facilities, and any other proposed improvements within the right-of-way or trail corridors.

9. 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 MPD. (When one or more of the MPD property owners own property adjacent to but not included within the MPD, the five hundred feet shall be measured from the exterior boundary of this adjacent property.). The applicant shall update the list prior to each proposed public meeting or required public mailing, as requested by the city, in order to assure a current list of all required notices.

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10. A narrative description and illustrations of how street alignments and land uses in the proposed MPD will coordinate and integrate with existing adjacent development, and adjacent undeveloped properties.

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11. A narrative description of proposed ownership and proposed maintenance program for all lands and facilities required to be shown on the master plan drawings by subsection (A)(1)(a) of this section.

12. A proposed water conservation plan for the MPD pursuant to Section 18.98.190.

13. If applicable, a description of any mineral (or other resource) extraction operations proposed within the MPD, the timing and phasing of the proposed operation and reclamation of the land for subsequent proposed uses.

14. Proof of proper notice for the public information meeting.

15. A narrative description, with reference to the drawings required by subsection (A)(1)(a) above, of how the proposal will comply with the Sensitive Areas Ordinance (Chapter 19.10);

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16. Proposed floor area ratios (FAR) for both residential and non-residential areas;

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17. A narrative description, with associated tables, showing the intended residential density, the number of development rights that are needed to meet the intended density, the number of development rights that are already associated with the property included within the proposed MPD boundaries, and the number of development rights that must be acquired to meet the intended density;

18. If Transfer of Development Rights are needed to attain proposed densities, a phase plan for the acquisition of ~~The originals of the development rights certificates shall be submitted, demonstrating that for each residential phase, no more than sixty percent (60%) of the proposed density is based upon the land area included in that phase. Prior to approval of implementing project actions (subdivision approval, site plan approval, etc.), the originals or documentation of the right to use development rights held in trust by the city pursuant to the terms of the Transfer of Development Rights Program (Chapter 19.24), shall be provided, showing that the development rights necessary to meet the intended density have been acquired or otherwise secured so that they will be available if the intended density is approved.~~

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B. The director shall have the authority to administratively establish additional detailed submittal requirements.

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C. The applicant shall pay all costs incurred by the city in processing the MPD permit application, including, but not limited to, the costs of planning and engineering staff and consultants, SEPA review, fiscal experts, legal services, and overall administration. A deposit in an amount equal to the staff's estimate of processing the MPD, as determined after the preapplication conference shall be required to be paid at the time of application, and shall be placed in a separate trust account. The city shall establish procedures for periodic billings to the applicant of MPD review costs as such costs are incurred, and may require the maintenance of a minimum fund balance through additional deposit requests. (Ord. 779 § 2 Exh. 1 (part), 2005)

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#### 18.98.050 MPD permit - Required approvals.

A. MPD Permit Required. An approved MPD permit and development agreement shall be required for every MPD.

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B. Consolidated Review. ~~An MPD permit will be allowed as~~ part of a consolidated permit action as authorized by RCW 36.70B. Consolidation shall not be allowed for comprehensive plan amendments. ~~At the city's discretion, an MPD permit may be processed concurrently with amendments to the development regulations or interlocal agreements, provided that the applicant acknowledges in writing that they assume the risk of the MPD permit application being denied or otherwise conditioned as a result of final action on any requested amendment.~~

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C. Implementing Development Applications. An MPD permit must be approved, and a development agreement as authorized by RCW 36.70B completed, signed and recorded, before the city will grant approval to an application for any implementing development approval. An application for an MPD permit may be processed with amendments to the comprehensive plan, zoning code, inter-local agreements and land development permits associated with the MPD permit, such as forest practice permits, clearing and grading permits, shorelines permits, and permits required by other public agencies. ~~The city shall not grant approvals to related permits before the granting of an MPD permit and~~

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recording of a development agreement except as provided in 18.98.030.A.4. (Ord. 779 § 2 Exh. 1 (part), 2005)

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#### 18.98.060 MPD permit - Review process.

A. MPD Permit - Preapplication Conference, Public Information Meeting and Planning Commission Informational Meeting Required.

1. A preapplication conference between the MPD applicant or representative and staff is required before the city will accept an MPD permit application.

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a. The purpose of this conference is for the applicant to familiarize the staff with the proposed MPD, and for the staff to review with the applicant the city's submittal requirements, anticipated staffing needs, and processing procedures for MPD permit approval. The goal is to identify the city's objectives and likely issues, and to eliminate potential problems that could arise during processing of the MPD permit application prior to formal processing on the MPD permit application.

b. The applicant or representative shall present the information required as part of the MPD application. The city's intent is that the conference occurs after site inventory and analysis has been substantially completed, but prior to the completion of detailed survey, architectural or engineering work on the proposal.

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c. A nonrefundable preapplication conference fee in an amount set forth in the adopted fee schedule resolution shall be paid before the preapplication conference will be scheduled.

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d. If, at the preapplication conference, the city determines that it does not have adequate staff, space, or equipment, to process the application, then the applicant shall deposit with the city an amount sufficient for the city to hire the additional staff and/or consultants, and acquire the space and/or equipment necessary to process the application. The deposit must be made no less than four months or more than five months before the application is submitted. The public information meeting may not be scheduled until the deposit has been made. The city council may waive or shorten the four-month period if it is determined the necessary arrangements for staffing, space and equipment can be made in less than four months.

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2. After the preapplication conference has been completed, a public information meeting shall be conducted by the applicant prior to acceptance of an MPD permit application.

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a. The applicant shall schedule and conduct a public information meeting regarding the proposed application. The public information meeting shall be conducted at City Hall, or at such other public location within the city that will accommodate the anticipated attendees. The applicant shall attend the meeting and provide information to the public regarding the proposed project, its timing, and consistency with the city's MPD code, the comprehensive plan, and other applicable city codes and regulations.

b. The public information meeting shall not be a public hearing, but shall allow for an informal exchange of comments between the applicant and the general public. Notice of this meeting shall be provided in the newspaper of record at least fourteen days in advance of the meeting and shall be mailed to the property owners identified in subsection (B)(7)(c) of this section.

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3. After the public information meeting has been completed, a planning commission informational meeting shall be conducted. The planning commission informational meeting is required before the city will accept an application for MPD permit approval.

a. The planning commission informational meeting will take place at a regular meeting of the commission. At this meeting, the applicant shall present the overall planning and design concept of the proposed MPD, and the commission shall provide preliminary feedback to the applicant regarding the consistency of this concept with the city's adopted standards, goals and policies. The planning commission may bring specific issues of interest or concern to the attention of the applicant.

b. While a public meeting, the purpose of the planning commission informational meeting is not intended for the receipt of comments from the public regarding the proposed MPD.

#### B. MPD Permit Public Review Process.

1. Completeness Check and SEPA. Staff shall review the MPD application for completeness and, once it is determined to be complete, provide the required notice of application. Staff will then initiate the SEPA process.

2. Optional EIS Scoping Meeting. If the responsible official makes a determination of environmental significance regarding an MPD application, staff may schedule and conduct an EIS scoping meeting. The applicant shall attend the meeting and provide information regarding the proposed project, scope, planning, timing, and the results of any relevant environmental studies performed by the applicant's consultants.

3. Staff Review. At the conclusion of the SEPA process, staff will conduct its detailed review of the proposal. This review may include requesting additional information, or proposal revisions, from the applicant.

4. Staff Report. The staff will prepare a written staff report to the hearing examiner. The completed staff report shall be sent to the hearing examiner and to the applicant at least ten calendar days prior to the public hearing.

5. Hearing Examiner Public Hearing. The city's hearing examiner shall hold a public hearing on the MPD permit application. At least fourteen calendar days prior to the public hearing, the city shall provide notice of the hearing as follows:

a. Publication in the city's newspaper of record;

b. Posting of the proposal site, in at least three locations visible from public streets or rights-of-way;

c. Mailing to owners of record of properties within five hundred feet of the perimeter of the proposed MPD per 18.98.040(A)(9); and

d. Any person(s) formally requesting notice.

6. MPD Permit Approval Criteria. The hearing examiner shall prepare recommended findings of fact, conclusions of law, and conditions of approval or a recommendation for denial for the city council's consideration, and shall transmit these to the city council within fourteen calendar days of the close of the public hearing. The examiner shall evaluate the MPD application and other evidence submitted into the record, to determine if the application, when appropriately conditioned, meets or exceeds the approval criteria set forth in section 18.98.080.

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b. There are no significant adverse environmental impacts.¶

c. The proposed project will have no adverse financial impact upon the city at each phase of development, as well as at full build-out. This shall include conditioning any approval so that the fiscal analysis is updated to show continued compliance with this criteria, in accordance with the following schedule.¶

i. 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, and¶

ii. Prior to commencing a new phase.¶

d. There is concurrency for all utilities and transportation system improvements prior to occupancy at each phase and at build-out.¶

e. The project, at all phases and at build-out, will not exceed the available city staffing or result in the lowering of city staffing levels of service established by the city, including those related to public safety.¶

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7. City Council. At its first regular meeting following the receipt of the hearing examiner's recommendations, the city council shall schedule a time for its consideration of the MPD. The council may:
- Accept the examiner's recommendation;
  - Remand the MPD application to the examiner with direction to open the hearing and provide supplementary findings and conclusions on specific issues; or
  - Modify the examiner's recommendation. If modifying the examiner's recommendation, the council shall enter its own modified findings and conclusions as needed.
8. Appeals. The council's decision with regard to an MPD permit shall be the city's final action for the purpose of any and all appeals. (Ord. 779 § 2 Exh. 1 (part), 2005)

**Deleted:** 1. If the MPD project is adjacent to property already developed, or being developed as an MPD, or adjacent to property which is within an MPD overlay zone, then the project is designed so that there is connectivity of trails, open spaces and transportation corridors, the designs of streetscape and public open space amenities are compatible and the project will result in the functional and visual appearance of one integrated project with the adjacent properties subject to MPD approvals.¶  
So long as to do so would not jeopardize the public health, safety, or welfare, the examiner may allow the applicant to voluntarily contribute money to the city in order to advance projects to meet the city's adopted concurrency or level of service standards, or to mitigate any identified adverse fiscal impact upon the city that is caused by the project.¶

#### 18.98.070 MPD permit - Environmental review (SEPA).

A. Pursuant to the requirements of the State Environmental Policy Act (SEPA) and local SEPA regulations, the city shall determine whether an environmental impact statement is required for the MPD proposal. An application for an MPD permit shall include, at a minimum, a completed environmental checklist. Prior to or concurrent with application submittal, the city and the applicant may agree to prepare an environmental impact statement for the proposal.

B. If desired by the applicant and deemed appropriate by the city, an MPD proposal may be designated by the city as a planned action pursuant to RCW 43.21C.031(2) and WAC 197-11-164 et seq.

C. Implementing city permits and approvals, such as preliminary plats, building permits, and design reviews, shall be subject to applicable SEPA requirements. (Ord. 779 § 2 Exh. 1 (part), 2005)

#### 18.98.080 MPD permit approval - Conditions of approval.

A. An MPD permit shall not be approved unless it is found to meet the intent of the following criteria or that appropriate conditions are imposed so that the objectives of the criteria are met:

1. The project complies with all applicable adopted policies, standards and regulations. In the event of a conflict between the policies, standards or regulations, the most stringent shall apply unless modifications are authorized in this chapter and all requirements of section 18.98.130 have been met. In the case of a conflict between a specific standard set forth in this chapter and other adopted policies, standards or regulations, then the specific requirement of this chapter shall be deemed the most stringent.
2. Significant adverse environmental impacts are appropriately mitigated.
3. The proposed project will have no adverse financial impact upon the city at each phase of development, as well as at full build-out. The fiscal analysis shall also include the operation and maintenance costs to the city for operating, maintaining and replacing public facilities required to be constructed as a condition of MPD approval or any implementing approvals related thereto. This shall include conditioning any approval so that the fiscal analysis is updated to show continued compliance with this criteria, in accordance with the following schedule:

**Deleted:** A. The MPD permit shall contain such conditions as are necessary to ensure that the approved MPD complies with all applicable policies, standards, and objectives of the city, including the provisions of this chapter and the criteria set forth in Section 18.98.060(B)(6) of this chapter. (Ord. 779 § 2 Exh. 1 (part), 2005)¶

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a. If any phase has not been completed within five years, a new fiscal analysis must be completed with regards to that phase before an extension can be granted; and

b. Prior to commencing a new phase.

4. A phasing plan and timeline for the construction of improvements and the setting aside of open space so that:

a. Prior to or concurrent with final plat approval or the occupancy of any residential or commercial structure, whichever occurs first, the improvements have been constructed and accepted and the lands dedicated that are necessary to have concurrency at full build out of that project for all utilities, parks, trails, recreational amenities, open space, stormwater and transportation improvements to serve the project, and to provide for connectivity of the roads, trails and other open space systems to other adjacent developed projects within the MPD and to the MPD boundaries; and

b. At full build out of the MPD, all required improvements and open space dedications have been completed, and adequate assurances have been provided for the maintenance of the same. The phasing plan shall assure that the required MPD objectives for employment, fiscal impacts, and connectivity of streets, trails, and open space corridors are met in each phase, even if the construction of improvements in subsequent phases is necessary to do so.

5. The project, at all phases and at build out, will not result in the lowering of established staffing levels of service including those related to public safety.

6. Throughout the project, a mix of housing types is provided that contributes to the affordable housing goals of the City.

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7. If the MPD proposal includes properties that are subject to the Black Diamond Urban Growth Area Agreement (December 1996), the proposal shall be consistent with the terms and conditions therein.

8. If the MPD proposal includes properties that were annexed into the city by Ordinances 515 and 517, then the proposal must be consistent with the terms and conditions therein.

9. The orientation of public building sites and parks preserves and enhances, where possible taking into consideration environmental concerns, views of Mt. Rainier and other views identified in the comprehensive plan. Major roads shall be designed to take advantage of the bearing lines for those views.

10. The proposed MPD meets or exceeds all of the public benefit objectives of 18.98.020 and the MPD purposes of 18.98.010, B through M.

11. If the MPD project is adjacent to property already developed, or being developed as an MPD, or adjacent to property which is within an MPD zone, then the project is designed so that there is connectivity of trails, open spaces and transportation corridors, the design of streetscape and public open space amenities are compatible and the project will result in the functional and visual appearance of one integrated project with the adjacent properties subject to an MPD permit or, if not yet permitted, within an MPD zone.

12. As part of the phasing plan, show open space acreages that, upon buildout, protect and conserve the open spaces necessary for the MPD as a whole. Subsequent implementing approvals shall be reviewed against this phasing plan to determine its consistency with open space requirements.

13. Lot dimensional and building standards shall be consistent with the MPD Design Guidelines.

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14. School sites shall be identified so that all school sites meet the walkable school standard set for in the comprehensive plan. The number and sizes of sites shall be designed to accommodate the total number of children that will reside in the MPD through full build out, using school sizes based upon the applicable school district's adopted standard. The requirements of this provision may be met by a separate agreement entered into between the applicant, the city and the applicable school district, which shall be incorporated into the MPD permit and development agreement by reference.

B. So long as to do so would not jeopardize the public health, safety, or welfare, the city may, as a condition of MPD permit approval, allow the applicant to voluntarily contribute money to the city in order to advance projects to meet the city's adopted concurrency or level of service standards, or to mitigate any identified adverse fiscal impact upon the city that is caused by the proposal.

#### 18.98.090 MPD permit - Development agreement.

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The MPD conditions of approval shall be incorporated into a development agreement as authorized by RCW 36.70B.170. This agreement shall be binding on all MPD property owners and their successors, and shall require that they develop the subject property only in accordance with the terms of the MPD approval. This agreement shall be signed by the mayor and all property owners and lien holders within the MPD boundaries, and recorded, before the city may approve any subsequent implementing permits or approvals (preliminary plat, design review, building permit, etc.) (Ord. 779 § 2 Exh. 1 (part), 2005)

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#### 18.98.100 MPD permit - Amendments to an approved MPD permit.

An applicant may request an amendment to any element or provision of an approved MPD. All applications for amendments shall be deemed either "minor" or "major." An amendment application shall be considered minor if it meets all of the following criteria:

A. Would not increase the total number of dwelling units in an MPD above the maximum number set forth in the approved MPD permit or reduce the number by more than ten percent;

B. Would not increase the total floor area of nonresidential uses by more than ten percent;

C. Would not decrease the minimum, or increase the maximum density for residential areas of the MPD beyond density ranges approved in the MPD permit;

D. Would not decrease the approved amount of open space or recreation space;

E. Would not increase any adverse environmental impact, provided that additional environmental review may be required to determine whether such change is likely to occur;

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F. Would not adversely impact the project's fiscal projections to the detriment of the city;

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G. Would not significantly impact the overall design of the approved MPD; and

H. Would not alter the size or location of any designated open space resulting in a lowered level of service and does not reduce the total amount of required open space.

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I. Minor amendments may be approved administratively in accordance with the procedure set forth in the MPD development agreement, where applicable. Any amendment application that is not "minor" shall be deemed to be major. The final determination regarding whether an amendment is "minor" or "major" shall rest with the

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director, subject to appeal to the hearing examiner. Applications for major modifications shall be reviewed by the same procedures applicable to new MPD permit requests. The city, through the development agreement for the approved MPD, may specify additional criteria for determining whether a proposed modification is "major" or "minor", but the criteria listed in this section cannot be modified or reduced in a development agreement. (Ord. 779 § 2 Exh. 1 (part), 2005)

#### 18.98.110 MPD standards - Design review required.

A. Design Standards. The MPD master plan and each subsequent implementing permit or approval request, including all proposed building permits, shall be consistent with the MPD design standards that are in effect at the time each application is determined to be complete.

B. Design Review Process.

1. MPD Permit. The hearing examiner shall evaluate the overall MPD master plan for compliance with the MPD design standards, as part of the examiner's recommendation to the city council on the overall MPD permit.

2. Implementing Permits or Approvals - Residential Subdivisions. Each residential subdivision that is part of an approved MPD shall be reviewed, at the time of preliminary plat review for compliance with the city's MPD design standards. This review shall include typical elevations, and exterior material samples for the single-family residences and other structures to be built on the subdivided lots. This review shall be merged with the hearing examiner's review of the preliminary plat.

3. Implementing Permits or Approvals - Short Subdivisions (Short Plats). Short subdivisions (short plats) within an approved MPD shall be reviewed by the director for compliance with the city's MPD design standards as required in (2) above.

4. Implementing Permits or Approvals - Residential Building Permits. Staff shall administratively review residential building permit applications in approved and recorded subdivisions and short subdivisions for consistency with the MPD design guidelines.

5. Implementing Permits or Approvals - Other Building Permits. All other structures shall be reviewed by the director for compliance with the MPD design standards. The director shall make a decision on the proposal's compliance with the MPD design standards and adopt findings, conclusions and, where applicable, conditions of approval. Building permit applications that are found to be not consistent with the approved design standards shall be rejected, subject to appeal to the hearing examiner.

6. Future Project Consistency. The decision-maker shall not approve a preliminary plat or short plat, or issue a building permit or site plan review approval for a parcel located within an MPD, unless the city has found that the proposal is consistent with applicable MPD design standards. (Ord. 779 § 2 Exh. 1 (part), 2005)

#### 18.98.120 MPD standards - Permitted uses and densities.

A. MPDs shall include a mix of residential and nonresidential use. Residential uses shall include a variety of housing types and densities.

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B. The MPD shall include those uses shown or referenced for the applicable parcels or areas in the comprehensive plan, and shall also provide neighborhood commercial uses, as defined in the comprehensive plan, sized and located to primarily serve the residential portion of the MPD.

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C. The MPD shall, within the MPD boundary, or elsewhere within the city, provide for sufficient properly zoned lands, and include sufficient incentives to encourage development as permit conditions, so that the employment targets set forth in the comprehensive plan for the number of proposed residential units within the MPD, will, with reasonable certainty, be met before full buildout of the residential portion of the MPD.

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E. Property that is subject to a preannexation agreement, development agreement or annexation ordinance conditions relating to residential density will have as its base density the minimum density designated in such agreement or ordinance. All other property will have as its base density the minimum density designated in the comprehensive plan. The council may authorize a residential density of up to 12 dwelling units per acre so long as all of the other criteria of this chapter are met and the additional density is acquired by participation in the TDR program. In any development area within an MPD, the effective density of development 12 dwelling units per acre, up to a maximum of 18 dwelling units per acre, so long as the total project cap density is not exceeded and the development, as situated and designed, is consistent with the provisions of 18.98.010 and 18.98.020.

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Deleted: The mix of uses required, and their exact locations, as is necessary to comply with MPD permit conditions, shall override any underlying zoning code use restrictions to the contrary. (Ord. 796 § 4, 2005; Ord. 779 § 2 Exh. 1 (part), 2005)

#### 18.98.130 MPD standards - Development standards.

A. Where a specific standard or requirement is specified in this chapter, then that standard or requirement shall apply. Where there is no specific standard or requirement and there is an applicable standard in another adopted city code, policy or regulation, then the MPD permit and related development agreement may allow development standards different from set forth in other chapters of the Black Diamond Municipal Code, if the proposed alternative standard:

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1. Is needed in order to provide flexibility to achieve a public benefit; and  
2. Furthers the purposes of this chapter and achieves the public benefits set forth in section 18.98.010; and

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3. Provides the functional equivalent and adequately achieves the purpose of the development standard from which it is intended to deviate.

B. Any approved development standards that differ from those in the otherwise applicable code shall not require any further zoning reclassification, variances, or other city approvals apart from the MPD permit approval.

Deleted: C. Building permit applications shall be subject to the building codes in effect at the time a building permit application is deemed complete by the city. (Ord. 779 § 2 Exh. 1 (part), 2005)¶

#### 18.98.140 MPD standards - Open space requirements.

A. An approved MPD shall contain at least fifty percent on-site open space, except as modified by prior agreements. Open space is defined as wildlife habitat areas, perimeter buffers, environmentally sensitive areas and their buffers, and trail corridors. It may also include developed recreation areas, such as golf courses, trail corridors, playfields, parks of one-quarter (1/4) acre or more in size, pocket parks that contain an active use element, those portions of school sites devoted to outdoor recreation, and stormwater

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detention/retention ponds that have been developed as a public amenity and incorporated into the public park system. An MPD application may proposed other areas to be considered as open space, subject to approval. It shall not include such space as vegetative strips in medians, isolated lands that are not integrated into a public trail or park system, landscape areas required by the landscape code, and any areas not open to the public, unless included within a sensitive area tract as required by the chapter 19.10.

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Deleted: Open space shall be calculated based on the gross acreage of the MPD; provided, this requirement shall not apply to property within the city's potential annexation areas as identified in the 1996 Black Diamond urban growth area agreement so long as the open space identified in that agreement that is located within the project boundaries remains permanently protected.

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B. Natural open space shall be located and designed to form a coordinated open space network resulting in continuous greenbelt areas and buffers to minimize the visual impacts of development within the MPD, and provide connections to existing or planned open space networks, wildlife corridors, and trail corridors on adjacent properties and throughout the MPD.

C. The open space shall be located and designed to minimize the adverse impacts on wildlife resources and achieve a high degree of compatibility with wildlife habitat areas where identified.

D. The approved MPD permit and development agreement shall establish specific uses for open space within the approved MPD.

E. The approved MPD permit and development agreement shall establish which open space shall be dedicated to the city, which shall be protected by conservation easements, and which shall be protected and maintained by other mechanisms. (Ord. 779 § 2 Exh. 1 (part), 2005)

#### 18.98.150 MPD standards - On-site recreation and trail requirements.

A. An MPD shall provide on-site recreation areas and facilities sufficient to meet the needs of MPD residents, exceeding or at a minimum consistent with levels of service adopted by the city where applicable. This shall include providing for a coordinated system of trails and pedestrian linkages both within, and connecting to existing or planned regional or local trail systems outside of the MPD.

B. The MPD permit and development agreement shall establish the sizes, locations, and types of recreation facilities and trails to be built and also shall establish methods of ownership and maintenance. (Ord. 779 § 2 Exh. 1 (part), 2005)

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#### 18.98.155 MPD standards – sensitive areas.

A. The requirements of the Sensitive Areas Ordinance (BDMC 19.10) shall be the minimum standards imposed for all sensitive areas.

B. All development, including road layout and construction, shall be designed, located and constructed to minimize impact of wildlife habitat and migration corridors. This shall include minimizing use of culverts in preference to open span crossings.

#### 18.98.160 MPD standards - Transfer of development rights.

A. All proposed transfers of development rights shall be consistent with the TDR program (Chapter 19.24). An MPD permit and development agreement shall establish the TDR requirements for a specific MPD. Maximum allowable MPD residential densities

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can only be achieved through participation in the city's TDR program as a receiving site. (Ord. 779 § 2 Exh. 1 (part), 2005)

B. Property that is subject to a preannexation agreement, development agreement or annexation ordinance conditions relating to residential density will have as its base density the density designated in such agreement or ordinance. All other property will have as its base density the minimum density designated in the comprehensive plan.

#### 18.98.170 MPD standards - Street standards.

A. Street standards shall be consistent with the MPD design guidelines, which, may deviate from city-wide street standards in order to incorporate "low impact development" concepts such as narrower pavement cross-sections, enhanced pedestrian features, low impact stormwater facilities, and increased connectivity or streets and trails. Any increased operation and maintenance costs to the city associated therewith shall be incorporated into the fiscal analysis.

B. The street layout shall be designed to preserve and enhance views of Mt. Rainier or other views identified in the city's comprehensive plan to the extent possible without adversely impacting sensitive areas and their buffers.

C. The approved street standards shall become part of the MPD permit approval, and shall apply to public and private streets in all subsequent implementing projects except when new or different standards are specifically determined by the city council to be necessary for public safety. (Ord. 779 § 2 Exh. 1 (part), 2005)

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B. The MPD application shall include s

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Deleted: The MPD applicant shall, at a minimum, abide by the adopted stormwater management regulations of the city at the time of a complete application. The city may consider the application of stormwater management standards that enhance those standards that apply generally within the city, in order to implement the design concepts in the MPD design standards, provided that it can be determined to the city's satisfaction that the functional requirements of the city-wide stormwater management standards are met.

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#### 18.98.180 MPD standards - Stormwater management standards.

A. The stormwater management system shall enhance the adopted standards that apply generally within the city, in order to implement the concepts in sections 18.98.010(C), (H), and (L), 18.98.020(B) and (C), and 18.98.180(C). The stormwater detention system shall be publicly owned. Provided, in non-residential areas, the use of private vaults and filters may be authorized where: 1) the transmission of the stormwater by gravity flow to a regional system is not possible and 2) there is imposed a maintenance/replacement condition that requires vault filters to be regularly inspected and maintained by the property owner.

B. The stormwater management system shall apply to public and private stormwater management systems in all subsequent implementing projects within the MPD, except when new or different standards are specifically determined by the city council to be necessary for public health or safety, or as modified as authorized in section 18.98.195(B).

C. Opportunities to infiltrate stormwater to the benefit of the aquifer, including opportunities for reuse, shall be implemented as part of the stormwater management plan for the MPD. (Ord. 779 § 2 Exh. 1 (part), 2005)

D. The use of small detention/retention ponds shall be discouraged in favor of the maximum use of regional ponds within the MPD, recognizing basin constraints. Ponds shall be designed with shallow slopes with native shrub and tree landscaping and integrated into the trail system or open space corridors whenever possible. Small ponds shall not be allowed unless designed as a public amenity and it is demonstrated that transmitting the stormwater to a regional pond within the MPD is not technically feasible.

#### 18.98.190 MPD standards - Water and sewer standards.

- A. An MPD shall be served with public water and sanitary sewer systems that:
1. Employ innovative water conservation measures including metering technologies, irrigation technologies, landscaping and soil amendment technologies, and reuse technologies to reduce and/or discourage the reliance upon potable water for nonpotable uses including outdoor watering.
  2. Are designed in such a way as to eliminate or at a minimum reduce to the greatest degree possible the reliance upon pumps, lift stations, and other mechanical devices and their associated costs to provide service to the MPD.

B. Each MPD shall develop and implement a water conservation plan to be approved as part of the development agreement that sets forth strategies for achieving water conservation at all phases of development and at full buildout, that results in water usage that is at least ten percent less the average water usage in the city for residential purposes at the time the MPD application is submitted. For example, if the average water usage is 200 gallons per equivalent residential unit per day, then the MPD shall implement a water conservation strategy that will result in water use that is 180 gallons per day or less per equivalent residential unit. (Ord. 779 § 2 Exh. 1 (part), 2005)

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#### 18.98.195 Vesting.

A. Except to the extent earlier terminated, modified by the provisions of this chapter, or as otherwise specified in the conditions of approval, the MPD permit approval vests the applicant for fifteen years to all conditions of approval and to the development regulations in effect on the date of approval.

B. Vesting as to stormwater regulations shall be on a phase by phase basis.

C. Vesting as to conditions necessary to meet the fiscal impacts analysis criteria required by Section 18.98.060(B)(6)(c) shall only be for such period of time as is justified by the required updated analysis. (Ord. 779 § 2 Exh. 1 (part), 2005)

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D. Building permit applications shall be subject to the building codes in effect at the time a building permit application is deemed complete.

E. The council may grant an extension of the 15 year vesting period for up to five years for any phase so long as the applicant demonstrates with clear and convincing evidence that all of the following are met:

1. The phase approval has not been revoked in accordance with the provisions of section 18.98.200;
2. The failure to obtain the implementing entitlement approval for the applicable phase is a result of factors beyond the applicant's control;
3. The granting of an extension will not adversely impact any of the purposes or public benefit provisions of this chapter; and
4. The city has not adopted ordinances of general application that impose a more stringent development standard than those in effect for the phase for which a time extension is requested or, in the alternative, the applicant agrees to comply with the more stringent standard.

Any request for an extension shall be considered as a major amendment to the MPD. The council may impose such additional conditions to the phases as it deems appropriate to

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further the purposes and public benefit objectives of the MPD code in light of the number of years that have passed since the original MPD permit approval and taking into consideration the effectiveness of the exiting permit conditions in meeting those purposes and public benefit objectives.

#### **18.98.200 Revocation of MPD permit.**

The city council may amend or revoke any or all conditions of MPD approval, after public hearing and notice under the following circumstances:

A. If the MPD permit allowed for phasing and the implementing action (i.e., final plat approval, site plan approval, etc.) for the development of the next phase, has not been approved within five years of the approval of the previous phase or , in the case of the first phase, from the original MPD approval and an extension of said phase has not been previously granted. An extension may be granted for up to an additional two years on such additional conditions as the council determines are necessary in order to assure that the extension does not adversely impact the intent and purpose of the initial MPD approval.

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B. A condition of the MPD approval has been violated and the violation has not been corrected after sixty days notice of the violation unless said violation can be corrected through the use of a duly posted performance or maintenance bond provided at the time of MPD approval.

C. A violation of an MPD condition of approval that cannot be corrected, such as the destruction of wetlands or removal of trees and vegetation that was specifically prohibited and cannot be restored to their original state within sixty days, unless otherwise determined by the Director.

D. The MPD permit has been approved for more than five years and the city council finds that further development will present a threat to the public health, safety and welfare unless the amendment or revocation is implemented; provided, however, the city shall first determine that the condition cannot be amended in order to eliminate the threat to the public health, safety or welfare before it revokes the permit approval.

The above provisions notwithstanding, the vacation and/or amendment of the MPD approval shall not affect previously approved building permits. (Ord. 779 § 2 Exh. 1 (part), 2005)

E. If the MPD permit is revoked for undeveloped phases, the parcels for which the permit is revoked cannot be developed without a new MPD permit being obtained, even if the revoked parcels are less than the minimum acreage required by section 18.98.030.

- a. The city's adopted policies and regulations, including, but not limited to, the municipal code, comprehensive plan, public works standards, critical areas regulations, MPD ordinance and MPD design standards. In event of a conflict between the policies, standards, objectives, or regulations the most stringent shall apply unless modifications are authorized in the MPD ordinance and design standards;
- b. There are no significant adverse environmental impacts;
- c. The proposed project will have no adverse financial impact upon the city at each phase of development, as well as at full build-out. This shall include conditioning any approval so that the fiscal analysis is updated to show continued compliance with this criteria, in accordance with the following schedule:
  - i. 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, and
  - ii. Prior to commencing a new phase;
- d. There is concurrency for all utilities and transportation system improvements prior to occupancy at each phase and at build-out;
- e. The project, at all phases and at build-out, will not exceed the available city staffing or result in the lowering of city staffing levels of service established by the city, including those related to public safety;
- f. The project, in each residential phase, provides a mix of housing types that allows the project to meet the percentage of affordable housing recommended under the county-wide planning policies;
- g. For those portions of a proposed MPD that have comprehensive plan land use designations, the ratio of residential to commercial land uses within the MPD shall be the same as designated on the comprehensive land use map unless the required fiscal study supports or requires a different ratio of residential to commercial land uses;
- h. If the MPD proposal includes properties that are subject to the Black Diamond urban growth area agreement (December 1996) then the proposal is consistent with the terms and conditions therein;
- i. If the MPD proposal includes properties that were annexed into the city by Ordinances 515 and 517 then the proposal must be consistent with the terms and conditions therein;
- j. The orientation of public building sites or parks shall preserve view corridors of Mt. Rainier or other view corridors identified in the city's comprehensive plan;
- k. The proposed MPD meets or exceeds all of the public benefit objectives of Section 18.98.020 of this chapter, and the MPD purposes set forth in Section 18.98.010(B) through (M) of this chapter;

, and shall take place at the same meeting at which the planning commission holds its public hearing on the plat. The city shall merge its public notice of the design review with the required public notice of the preliminary plat hearing, utilizing the notice requirements for that hearing, as set forth in divisions of land, Title 17 Black Diamond Municipal Code. The city's planning/design commission shall make a recommendation to the city council on the plat's compliance with the MPD design standards, including, but not limited to, the compliance of the proposed street layout and schematic design of the proposed residential structures. This recommendation shall be forwarded to the council in conjunction with the planning commission's recommendation on the preliminary plat.

The planning/design commission shall adopt findings, conclusions and, where applicable, recommended conditions of approval with respect to the proposed subdivision's compliance with the city's MPD design standards. Individual detached single-family residential structures on lots seven thousand two hundred square feet or greater in size are subject to administrative review for compliance with the city MPD design standards but are exempt from the planning/design commission schematic drawing review process set forth above.

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. This review shall include 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 regular public meeting of the commission. The city shall provide public notice of the design review at least fourteen business days prior to the scheduled commission meeting, 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 commission 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 schematic design of the proposed residential structures. The commission shall adopt findings, conclusions and, where applicable, conditions of approval. This decision shall be final unless appealed to the city council within fourteen days of the city's issuance of a notice of decision.

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in Approved Subdivisions or Short Subdivisions. Within an approved MPD, the city

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No public notification is required for this administrative design review. Applications for single-family residential structures that are found to be not consistent with the approved schematic drawings, or for which no schematic approval took place (other than individual detached single-family residential structures on lots seven thousand two hundred square feet or greater in size), shall be referred to the planning/design commission for its review.

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(including but not limited to commercial and multifamily buildings) within an approved MPD

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This review shall be made on schematic drawings (floor plans, elevations, and exterior material samples), site plans, and landscape plans for the proposed structure or structures. This review shall use the process, notice, and appeal provisions described in subsection (B)(3) of this section.

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, including, but not limited to, the compliance of the proposed site and landscape plans, and design of the proposed structure(s). The commission shall

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schematic drawings, or for which no schematic approval took place,

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shall be referred to the planning/design commission for its review.

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B. Each MPD shall contain sufficient affordable housing, in each residential phase, in order to provide the percentage of affordable housing recommended in the county-wide planning policies.

## STAFF COMMENTS TO YARROW BAY LETTER RE: MPD CODE

***Yarrow Bay provided staff an electronic copy of their letter submitted to Council on February 25<sup>th</sup>. The following is the text of their letter, with staff comments inserted following each issue raised. Staff comments are in italics.***

February 25, 2009

*Via: Hand Delivery*

To the Council and Mayor:

We'd like to take this opportunity to thank the Mayor, Council and staff for the hard work that has been put in so far on the elements necessary to remove the moratorium. Finalizing the MPD code is a big piece for Black Diamond. The MPDs, as you are aware, will achieve much of the new development in the City that has been envisioned for so long. The MPD code obviously regulates how that moves forward.

As part of the process of updating the MPD code, we have worked with the Planning Commission and staff on some previous comments. A majority of them were addressed and we thank the Planning Commission and staff for listening and working with us. There are still some fairly major pieces that we would like to continue discussing with the Council and staff as some of these relate to policy decisions. Globally, it boils down to this concept.

Certainty – A number of elements in the MPD code make it difficult for an applicant to have certainty that they can a) develop the entire proposal in a manner that is responsible and provides the greatest benefit for all involved, and b) have an economically successful project at buildout. To be more specific, vesting for the life of the project for all regulations is imperative for a successful projects of this size. Furthermore, vesting for a period of time that allows the highest and best uses to be placed in a responsible manner provides more surety that the project will achieve what was intended in the outset. We believe that vesting period should be at least 20 years. Otherwise an applicant may be unnecessarily rushed to perform certain things that do not achieve the vision as intended.

Please consider the following comments in the public hearing.



1. 18.98.030.C – *currently reads* “Contiguity. All properties to be included in an MPD must be contiguous, excepting those areas intended to be used for commercial purposes, other than neighborhood commercial.” It may be to the benefit of the City overall if non-contiguous open space is allowed to count towards the overall requirement. For example, if a piece of land that is adjacent to a significant amount of open space currently owned by the City can add to that open space, and even provide some regional park facility benefit (e.g. additional space, extension of regional trails, etc.), it should be counted. Additionally, any land that is expected to be set aside as required per the Black Diamond Area Open Space Protection Agreement, even if it not contiguous, it should be counted as satisfying that Open Space Agreement requirement.

*Recommended changes* – Add to the end “or open space that is an extension of open space adjacent to the proposed MPD, provides regionally significant park, trail, or other opportunities, or is open space subject to the Black Diamond Area Open Space Protection Agreement.” For instance, the In City Forest area is a significant piece of open space in the City. It is a 100’ wide strip of land immediately adjacent to and at the base of the In City Forest area, running the entire width. Commonly referred to as the Railroad Right of Way (RROW), this piece of land can help play an important role in achieving regional trail facilities connecting the City to County-wide trails. By adding this clause, it allows opportunities like this trail to become a reality with an MPD, while still providing additional significant open space within the City. In addition, this would appear to be consistent with the intent of 18.98.140.

**Staff comment:** *Under the current (and proposed) code standard, MPDs are required to provide 50% open space. In return, higher densities than allowed in conventional zoning may be authorized by Council, whether in terms of overall project density or in smaller lot sizes, greater multifamily density, etc. Similar to residential clustering provisions, these higher densities should be off-set by open space that is integrated into the MPD, not located in a non-contiguous location or on lands not part of the MPD itself. While there is obviously a public benefit to the potential development of a trail along the RROW noted above, it appears to simply be a matter of common ownership, not project contiguity, that is driving this request. **No change recommended.***

2. 18.98.040.C – This section pertains to requiring a deposit for staff, consultant, and administrative and time as it pertains to review of the MPD application.

*Recommended change* – Add a clause that states “Unless a funding agreement or other cost capture agreement is in place with the applicant at the time of

application, a separate deposit shall not be required. That agreement shall be amended, if necessary, to cover staff, consultant, and administrative time as it relates to the MPD review.” Specifically, YarrowBay currently has a funding agreement in place and it is very clear that the funding agreement is not intended to be duplicative. In other words, if staff time or administrative charges are already being covered by the funding agreement, then certain permit fees may not be necessary. This is not meant to insinuate that other additional charges could not be charged, rather they would be charged separately and not covered by the general permit fee. Other means can and should be pursued.

**Staff comment:** *Per the amendment to the Fee Schedule approved by Council at its February 26<sup>th</sup> meeting, staff’s position is that the costs for processing an MPD should be paid through application fees and deposits, as are all other land use applications the City processes. Staff paid 100% through the Funding Agreement will have any time spent on the MPD applications “credited” against the Agreement to avoid any “double-dipping.” This avoids creating an unintended opportunity for citizens to be surcharged for Yarrow Bay MPD processing costs in the future should state law change to allow that to occur. **No change recommended.***

3. 18.98.060.A.1.c – *currently reads* “A nonrefundable pre-application conference fee in an amount set forth in the adopted fee schedule resolution shall be paid before the preapplication [sic] conference will be scheduled.”

*Recommended change* – At the end, add “unless the applicant has an existing funding agreement pursuant to 18.98.040.C” Same as #2 above.

**Staff comment:** *Similar to above. However, since the pre-application meeting for the two MPDs has already occurred, this is no longer an issue. **No change recommended.***

4. 18.98.080.A.4.a – *currently reads* “Prior to final plat approval or the occupancy of any residential or commercial structure, whichever occurs first, the improvements have been constructed and accepted and the lands dedicated that are necessary to have concurrency at full build out of that project for all utilities, parks, trails, recreational amenities, open space, stormwater and transportation improvements to serve the phase, and to provide for connectivity of the roads, trails and other open space systems to other adjacent developed projects within the MPD and to the MPD boundaries.”

*Recommended change* – Allow bonding for the necessary improvements. The subdivision code currently allows bonding for final plat approvals or other implementing permits, and as such, MPDs should be allowed to utilize the same subdivision tools.

**Staff comment:** *The intent of this provision is to ensure the necessary facilities are provided at the time need is generated. While it is common practice in some jurisdictions to allowing bonding of improvements in order to grant final plat approval, it is not common for non-subdivision projects (i.e., multifamily, commercial projects). Staff is concerned of the potential postponement of needed improvements after residents begin occupying a particular project; if Council wishes to allow some flexibility in this regard, we suggest limiting it only to utility improvements associated with subdivisions, but not to other items noted in this code section (as utilities are necessary in order to occupy homes).*

5. 18.98.080.A.14 – *currently reads* “School sites shall be identified so that all school sites meet the walkable school standard set for in the comprehensive plan. The number and sizes of sites shall be designed to accommodate the total number of children that will reside in the MPD through full build out, using school sizes based upon the applicable school district’s adopted standard. The requirements of this provision may be met by a separate agreement entered into between the applicant, the city and the applicable school district, which shall be incorporated into the MPD permit and development agreement by reference.”

*Recommended change* – Strike this section. The SEPA and EIS process will mitigate for schools, just as it does for other public facilities. The mitigation, whatever is determined through SEPA, is required by law. This section is duplicative and unnecessary.

**Staff comment:** *While either the SEPA process or negotiations between the school district, Yarrow Bay and the City may address the school issue, it is important to have a standard that implements the stated Council intent to have walkable schools sited in Black Diamond in the code. Recall, there could be other MPD applications in the future. **No change recommended.***

6. 18.98.100.I – Simplify this section to read “The process and criteria in addition to those listed in this section for Major and Minor modifications shall be set forth in the Development Agreement.”

**Staff comment:** *Staff believes it is important to address this issue in code, rather than deferring to the Development Agreement negotiations. It also provides the public with greater certainty of what to expect over the long term of an MPD, as a Development Agreement will most likely not be as readily accessible to the public as the City's Code. **No change recommended.***

7. 18.98.110.B.2 – Implementing Permits or Approvals – This section currently requires the review of typical elevations and materials for single family residences at the planning commission level.

*Recommended change* – Strike from the sentence that starts “This review shall include...” to the end. Residential building permit review should be administrative, and the proposed residential buildings should adhere to the MPD design standards. Requiring this level of review at preliminary plat is burdensome for the master developer and builder, and the information may not even be available. Often during preliminary plat review, the builder or builders have not been chosen, and buildings or materials may not have been designed or approved. Additionally, there is already assurance that buildings proposed within the plat, at a later time, must adhere to the design guidelines appropriate to the neighborhood (see 18.98.110.B.4). Therefore, it is not necessary to check the building's consistency with the guidelines at this preliminary plat stage as it would be duplicative.

**Staff comment:** *First, the code language has been corrected to note that the Hearing Examiner, not the Planning Commission, will be reviewing typical building elevations and exterior materials at the time of subdivision approval. Given that there are likely to be small lot sizes throughout the MPD, architectural treatments become important considerations that are worthy of the public disclosure and consideration required at the subdivision approval stage. The Design Guidelines will provide guidance for incorporation of architectural features into homes, but only on an individual basis. Reviewing these at subdivision stage allow for an integrated, overall review. **No change recommended.***

8. 18.98.120.E – *currently reads* “Property that is subject to a preannexation agreement, development agreement or annexation ordinance conditions relating to residential density will have as its base density the minimum density designated in such agreement or ordinance. All other property will have as its base density the minimum density designated in the comprehensive plan. The council may authorize a residential density of up to 12 dwelling units per acre so long as all of the other criteria of this chapter are met and the additional density is acquired by participation in the TDR program. In any development area within an MPD, the

effective density of development 12 dwelling units per acre, up to a maximum of 18 dwelling units per acre, so long as the total project cap density is not exceeded and the development, as situated and designed, is consistent with the provisions of 18.98.010 and 18.98.020.”

*Recommended change* – Allow density to approach 30 dwelling units per acre on a case by case basis, provided the proposal is consistent with the MPD design guidelines. This change would allow very few discrete areas to have somewhat higher density where it makes sense. For example, within or immediately surrounding mixed-use areas, higher densities could be appropriate, and in one or two locations, that particular structure could exceed 18 dwelling units per acre. Limiting densities in this way will likely prevent the possibility of housing over retail or office.

**Staff comment:** *This revision appears contrary to the direction provided by Council during the Zoning Code discussions. However, staff would recommend if Council wishes to consider higher densities, it needs to require Yarrow Bay to provide some parameters for what will be considered “very few discrete areas.” Does this imply small development sites of less than ½ acre, where a maximum of 15 units would be built? Or could there be a 30-unit structure on a 1 acre site? How close could projects of this density be located to one another? Would this only occur in the Village Center portion of The Villages or perhaps in other locations? Staff is not opposed to a potential change, but direction is needed.*

9. 18.98.180.A – Strike the new language and revert back to original language. There is not an apparent legal nexus in requiring “enhanced” standards unless a deviation is being sought, and the enhanced standard is meant to offset the deviation proposed. Considering other stormwater management alternatives is an appropriate issue at the time of engineering, but globally requiring enhanced standards may not necessarily always be better or in the City’s interest. Enhanced standards, if any, should be determined either in the EIS, or during engineering review as necessary.

**Staff comment:** *The City has the authority to impose different standards in different zones. MPDs are large developments by definition. Approval of an MPD is a discretionary action by the Council and it is appropriate for the Council to require a higher standard than might be standard elsewhere within the city. **No change recommended.***

10. 18.98.190.B – *currently reads* “Each MPD shall develop and implement a water conservation plan to be approved as part of the development agreement that sets

forth strategies for achieving water conservation at all phases of development and at full buildout, that results in water usage that is at least ten percent less the average water usage in the city for residential purposes at the time the MPD application is submitted. For example, if the average water usage is 200 gallons per equivalent residential unit per day, then the MPD shall implement a water conservation strategy that will result in water use that is 180 gallons per day or less per equivalent residential unit.”

*Recommended change* – This should be revised to be stated as a goal of the water conservation plan to be proposed with the MPD. Water conservation is a good thing, but unless the utility intends to fund or facilitate conservation efforts, this requirement cannot be enforced as there is no legal nexus. Change the last sentence to read “For example, if the average water usage is 200 gallons per equivalent residential unit per day, then the MPD water conservation strategy should strive to produce a water use that is, on average, 180 gallons per day or less per equivalent residential unit.” [emphasis added] The intent of this section of code should simply focus on the requirement of the water conservation plan, and not the specifics or results at this time.

**Staff comment:** *The proposed language inserts a subtle difference of “striving for” versus attainment of an actual reduction. **No change recommended.***

11. 18.98.195.A – *currently reads* “Except to the extent earlier terminated, modified by the provisions of this chapter, or as otherwise specified in the conditions of approval, the MPD permit approval vests the applicant for fifteen years to all conditions of approval and to the development regulations in effect on the date of approval.”

*Recommended changes* – Add “unless otherwise extended by Council pursuant to the process adopted in the development agreement.” Also, the EIS for The Villages assumes a 2025 buildout, which makes a 15 year vesting period tough to make. For projects of this size, predictability is essential so that facilities that are planned and eventually built will meet the need of the project throughout buildout. Change the vesting period to 20 years to accommodate not only this need, but also to address likely market fluctuations that will impact the project over its life. Additionally, it is common for projects of this size to have vesting periods of at least 20 years.

**Staff comment:** *This revisions appears contrary to the intent of Council that adopted the original MPD Code, at which time staff understands that was significant deliberations on the vesting period issue. However, from an administrative standpoint, staff doesn’t object*

*to extending the vesting period if that vesting is limited in scope. For example, vesting could apply to a total unit count, general overall design, etc., but should not include all other standards (see below). For example, Council should consider the vast difference between the new Sensitive Areas Ordinance and the 2005 DOE Stormwater Manual and the prior regulations, changes that were necessary in less than a 15 year period.*

12. 18.98.195.B – currently reads “Vesting as to stormwater regulations shall be on a phase by phase basis.”

*Recommended change* – Strike this sentence. Vesting for stormwater regulations must apply to the lifetime of the project. It would be impossible to engineer, plan for and develop regional stormwater systems as contemplated in 18.98.180 and as desired by the City.

**Staff comment:** *See comments above. No change recommended.*

13. 18.98.195.E – Relates to extending the vesting period. Strike this section and replace it with, “A request to extend vesting beyond that which is approved with the Development Agreement shall be considered a Major Amendment. The process and criteria for this request shall be set forth in the Development Agreement.”

**Staff comment:** *Again, Yarrow Bay is suggesting deferring needed decisions to the Development Agreement phase. Staff advocates resolving these issues up front, rather than later. Doing so gives the applicant more certainty and provides clearer parameters for City staff. No change recommended.*

14. 18.98.200.A – Pertains to revoking an MPD permit due to phased development taking more than five years. Recommended change is to strike this provision. Presuming that any phase can be completed in a certain time frame assumes ideal market conditions that are out of the control of the developer. This could prove most disastrous for commercial properties, if they were proposed in one phase, as commercial properties can take more than five years to fully develop. The concept of “vesting” phase by phase (i.e. prompting potential revocation if five years goes by and that phase is not complete) appears to undermine the right to vest for the entire MPD. The only clock that should apply to the MPD is the vesting period. We understand that extensions may be granted, but the desire here is to create the



flexibility to attract the ideal commercial mixes and do so in uncertain economic times as they arise.

**Staff comment:** *The proposed code language speaks to the approval of phases, not their construction. That addresses the concern of a commercial property taking more than 5 years to develop. The intent of this section is that the MPD keep moving forward and allow the council to consider revocation if insufficient progress is being made. Note that the lead line is “the council **may** amend or revoke...,” but is not obligated to do so. **No change recommended.***

15. 18.98.200.D – *currently reads* “The MPD permit has been approved for more than five years and the city council finds that further development will present a threat to the public health, safety and welfare unless the amendment or revocation is implemented; provided, however, the city shall first determine that the condition cannot be amended in order to eliminate the threat to the public health, safety or welfare before it revokes the permit approval.

The above provisions notwithstanding, the vacation and/or amendment of the MPD approval shall not affect previously approved building permits. (Ord. 779 § 2 Exh. 1 (part), 2005)”

*Recommended changes* – Change the last sentence to read “The above provisions notwithstanding, the vacation and/or amendment of the MPD approval shall not affect previously approved building permits, or complete applications for pending implementing permits and their subsequent building permits.” In other words, if a preliminary plat, final plat, binding site plan, site development permit, or any other implementing permit has been deemed complete or approved prior to the vacation and/or amendment of the MPD, the subsequent permits under that implementing permit (e.g. preliminary plat approval, final plat, short plat, building permit, etc.) should not be affected. We disagree that this change provides “extraordinary protection” because it simply preserves the rights already in place for completed or approved implementing permits. Revoking the MPD should only apply to future or incomplete implementing permits. If revoking the MPD were to allow for the apparent rescission of valid permits (e.g. a final plat) is too far-reaching and does not allow for due process of those individual implementing permits.

**Staff comment:** *It would be a fairly liberal vesting provision to allow filed (but not yet approved) land use applications to continue to be valid in the event of the extreme circumstances outlined in this code section. This provision can only be exercised if the Council finds there is “a threat to the public health, safety and welfare.” If such conditions*

*do exist, it would be unwise to continue to allow development to continue in the manner advocated by Yarrow Bay. **No change recommended.***

We thank you again for the opportunity to work together as the MPD code is updated. We appreciate being able to continue to work with Council and staff as the MPD code moves forward in this update.

Best regards,

Colin Lund  
YarrowBay Communities  
Director of Development

# CITY OF BLACK DIAMOND

## MASTER PLANNED DEVELOPMENT FRAMEWORK DESIGN STANDARDS & GUIDELINES

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## ***INTRODUCTION***

The Master Planned Development (MPD) Framework Design Standards and Guidelines are intended to provide guiding principles for the overall design of MPD applications within the City. These guidelines are to be followed in consideration of an MPD at both the initial and subsequent phases of approval. It is anticipated they will be supplemented by additional guidelines and standards that are developed when more specific plans for phased development are proposed. Those guidelines may be initially drafted by the MPD developer for consideration by the City prior to eventual adoption as part of a development agreement. As such, these guidelines are not intended to address all potential aspects of future development, but to provide an overall framework upon which additional guidelines may be added to in the future.

The more specific guidelines that are included at this time reflect important issues to the community which need to be carried forth in future amendments.

The statements contained herein are intended to be standards and guidelines, rather than prescriptive rules, and thereby provide an amount of flexibility. Any decision regarding strict application of any guideline contained herein will be made by the City Council as part of its consideration of granting overall MPD approval.

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## GENERAL PRINCIPLES AND SITE PLANNING

### ENVIRONMENTALLY SUSTAINABLE DEVELOPMENT

#### INTENT

To provide resource-efficient site design which includes consideration for saving trees, constructing on-site stormwater retention/infiltration features, and building orientation to maximize passive solar heating and cooling.

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#### GUIDELINES

1. Implement a construction waste management plan to reduce construction waste. Consider life-cycle environmental impacts of building materials.

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2. Incorporate energy saving techniques into all aspects of building's design and operation.

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3. Maximize water conservation by maintaining or restoring pre-development hydrology with regard to temperature, rate, volume and duration of flow; use native species in landscaping; recycle water for on-site irrigation use.

4. Use measures that can mitigate the effects of potential indoor air quality contaminants through controlling the source, diluting the source, and capturing the source through filtration.

5. Reduce overall community impacts by providing connectivity from the project to the community; by incorporating best management practices for stormwater management; by creating useable public spaces such as plazas and parks; and by protecting important community-identified viewsheds and scenic areas.

6. Grading plans shall incorporate best management practices with phased grading to minimize surface disturbance and to maintain significant natural contours.

### USING OPEN SPACE AS AN ORGANIZING ELEMENT

Black Diamond has a specific history and setting that involves varied topography, an agricultural past, forested areas, mining, and a small town scale. Care should be taken to reflect these patterns in master planned developments. In addition, the MPD chapter of Black Diamond's Municipal Code requires that fifty percent (50%) of the total land area of an MPD be maintained as open space. Proper design and integration of this open space into a development is very important.

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## INTENT

To protect sensitive environmental features and use open space to emphasize community activity and maintain a traditional and compact small town setting.

## GUIDELINES

1. All master planned developments shall include a wide range of open spaces, including the following:

- Sensitive environmental features and their buffers
- Green belts
- Village greens
- Parks and school playgrounds
- Public squares
- Multipurpose trails

*These features should be deliberately planned to organize the pattern of development and serve as center pieces to development clusters, not merely as "leftover" spaces.*

2. Open spaces shall be linked into an overall nonmotorized network through sidewalks, trails and parkways. The overall network shall be delineated at initial MPD approval and implemented through subsequent plats and permits approvals.

### 3. Stands of Trees as an Element of Open Space

*Due to the propensity of severe wind events in the Black Diamond area, an MPD should incorporate the preservation of larger rather than smaller stands of native trees.*

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## INTEGRATING DEVELOPMENT WITH OPEN SPACE

## INTENT

To allow for an efficient use of land, lower the cost of infrastructure and construction, protect environmentally sensitive areas, and maintain a small town "village" character within an MPD. Development is to be integrated with networks of preserved natural features and developed open space for both passive and active recreational uses.

## GUIDELINES

1. Use of conventional, suburban-style subdivision design that provides little common open space shall be avoided.

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2. Groupings of primarily residential development of approximately 400-600 units should be contained generally within a quarter mile radius to support walking, bicycling and future transit service. Development clusters shall be surrounded by a network of open space with a variety of recreational uses (including trails) to provide connections between clusters.

### 3. Methodology for Planning Development in Clusters

- a. environmentally sensitive areas to be protected (including streams, wetlands, steep slopes, wildlife corridors, and their buffers) shall be identified, mapped and used as an organizing element for design.
- b. areas for development of housing and commercial development shall be indicated
- c. streets and public spaces (as well as sites for public facilities such as schools, fire stations and other civic structures) shall be identified
- d. lots and groups of lots with various ownerships (i.e. fee simple by occupant, condominium, single ownership apartments, etc) shall be integrated with one another throughout all phases of a project.
- e. views of Mt. Rainier and other desirable territorial views shall be identified and integrated into site planning to maximum viewing from public spaces (streets, trails, parks, plazas, etc.).

## ENSURING CONNECTIVITY

### INTENT

To promote ease of mobility and access within all portions of the development.

### GUIDELINES

#### 1. Pedestrian Connectivity

*Similar to a traditional small town, services and common spaces shall be easily accessible to residents on foot. Off-street pedestrian trails are to be provided as a network throughout the development. Pedestrian connections shall be provided where cul-de-sacs or other dead-end streets are used.*

#### 2. Street Connectivity

*The system of streets shall demonstrate a high degree of both vehicular and pedestrian connectivity, allowing residents and visitors multiple choices of movement. Isolated and dead-end pockets of development are not desired.*

*Cul-de-sacs shall be avoided unless there are no other alternatives.*

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## MIXING TYPES OF HOUSING

### INTENT

To encourage a diversity of population and households within Black Diamond through a range of choices in housing types and price.

### GUIDELINES

1. MPDs *shall include various types of housing, such as:*
  - *Single Family, detached, on various-sized lots.*
  - *Single Family, attached:*
    - duplexes*
    - townhouses (semi-attached)*
    - row houses (attached, common walls)*
    - courtyard houses*
  - *Cottage Housing*
  - *Apartments*
  - *Accessory Dwelling Units*
2. *Each cluster of development shall include a variety of unit types and densities.*
3. *For single family developments, alley access to garages is desired. Direct driveway access to streets should only occur if there are no other alternatives.*
4. *Large apartment complexes and other repetitive housing types are discouraged. Apartments should replicate features found in single family residential areas (i.e., garages associated with individual units, individual outdoor entries, internal driveway systems that resemble standard streets, etc.).*

## CREATING NEIGHBORHOOD CIVIC / COMMERCIAL CENTERS

### INTENT

To conveniently concentrate services and activities to serve multiple residential clusters.

### GUIDELINES

1. *Civic / Commercial Centers shall be located to serve groupings of clusters as well as pass-by traffic in order to support an array of shops and services.*

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2. Such centers shall be anchored by a public green space and, ideally, a public building such as a school or meeting hall.

3. Upper story housing above retail or commercial spaces is strongly encouraged within Civic / Commercial Centers.

## INTERFACE WITH ADJOINING DEVELOPMENT

### INTENT

To ensure a transition in development intensity at the perimeter of MPD projects.

### GUIDELINES

1. Where individual lot residential development is located along the boundary of an MPD, lot sizes shall be no less than 75% the size of the abutting residential zone or 7200 sq. ft., whatever is less.

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2. Multifamily and nonresidential land uses should include a minimum 25 ft. wide dense vegetative buffer when located along the boundary of an MPD.

3. When there is no intervening development proposed, a minimum 25 ft. wide dense vegetative buffer should be provided between main entrance or access routes s into an MPD and any adjoining residential development.

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## CIRCULATION

### STREETS

### INTENT

To establish a safe, efficient and attractive street network that supports multiple choices of circulation, including walking, biking, transit, and motor vehicles.

### GUIDELINES

#### 1. Connectivity

*The street layout shall create a network that promotes convenient and efficient traffic circulation and is well connected to other existing City streets*

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## 2. Design

- *The layout of streets should relate to a community-wide focal point.*
- *A consistent overall landscape theme should be utilized, with variations provided to indicate passage through areas of different use, densities, topography, etc.*
- *Limit the use of backyard fences or solid walls along arterial streets.*

## 3. Reduced Pavement Widths

*Pavement widths should be minimized to slow vehicular speeds and maintain an area friendly to pedestrians and nonmotorized users.*

## 4. Low-Impact Design

*Stormwater runoff should be reduced through “natural” techniques: flush curbs, biofiltration swales, use of drought-tolerant vegetation within medians and planting strips, etc.*

## 5. Traffic Calming Methods should include:

- *Roundabouts*
- *Traffic Circles*
- *Chicanes*
- *Corner bulbs*

## 6. Lanes and Alleys

*Access to rear residential garages and commercial loading and service areas shall be available through lanes and alleys*

## 7. Non-motorized Circulation

- *All streets shall include either sidewalks or trails on at least one side of the street.*
- *Design streets to be “bicycle friendly”.*

## 8. Street Landscaping

*All streets shall include native and/or drought-tolerant vegetation (trees, shrubs and groundcover) planted within a strip abutting the curb or edge of pavement. Native and/or drought-tolerant vegetation shall also be used within all medians.*

## 9. On-Street Parking

*Curbside parallel parking shall be included along residential streets. Parallel or angle parking should be included within non-residential areas.*

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## SIDEWALKS

### INTENT

To provide safe, continuous pedestrian linkages within the street right-of-way.

### GUIDELINES

#### 1. Width

*The minimum clear pathway shall generally be between 5 feet and 8 feet, depending upon adjacent land uses and anticipated activity levels.*

#### 2. Lighting

*All lighting shall be shielded from the sky and surrounding development and shall be of a consistent design throughout various clusters of the development.*

#### 3. Furnishings

*Street furnishings including seating, bike racks, and waste receptacles shall be located along main streets in Civic/Commercial areas.*

*Furnishings serving specific businesses (outdoor seating) will require a building setback and shall maintain a minimum passable width of the sidewalk.*

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*Mailbox stations shall be designed to be architecturally compatible with the development in which they are located.*

## WALKWAYS AND TRAILS

### INTENT

To provide safe, continuous pedestrian linkages throughout and sensitive to the project site, open to both the public and project residents.

### GUIDELINES

#### 1. Location

*Walkways and trails shall be integrated with the overall open space network as well as provide access from individual properties. Trail routes shall lead to major community activity centers such as schools, parks and shopping areas.*

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## 2. Width

*Not less than 8 feet wide to allow for multiple modes of use.*

## 3. Materials

*Walkways connecting buildings and hardscaped common spaces shall have a paved surface.*

*Trails throughout the development and connecting to larger landscaped common spaces shall be of at least a semi-permeable material.*

*Where trails are intended to provide for bicyclist accessibility in lieu of streets, hard surfacing shall be used.*

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## II. STANDARDS FOR PROJECTS

### ***SITE DESIGN***

#### CLUSTER DEVELOPMENT

##### **INTENT**

To ensure that development is compatible with the small town character currently found within Black Diamond.

##### **GUIDELINES**

1. *Larger groupings of development should be divided into smaller neighborhood clusters of approximately 50 dwelling units that are defined by open space.*

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2. Clustering

*Within projects, higher density residential development shall be designed to have a village-like configuration. This includes elements such as:*

- *Houses of varying sizes, styles, and form;*
- *The maximum number of attached units shall not be more than twelve within a single structure.*

#### NEIGHBORHOOD COMMON SPACE

##### **INTENT**

To provide a variety of usable and interesting open space(s) that supports an active community.

##### **GUIDELINES**

1. Amount

*In general, within higher density residential and commercial development, a minimum of 1% of the lot area plus 1% of the building area should be the amount of area set aside for common open space, exclusive of other required landscaping*

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2. Location

*Common open space shall be accessible and visible to users, as well as integrated into the overall project through connections and trails.*

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### 3. Landscaping / Hardscaping

*Commercial areas shall provide common space in the form of plazas, courtyards, and/or seating areas including some of the additional features noted below*

*Higher density residential areas shall have usable outdoor spaces that provide at least four of the following features to accommodate a variety of ages and activities:*

*Site furnishings (benches, tables)  
Picnic areas  
Patios or courtyards  
Gardens  
Open lawn with trees  
Play fields  
Special interest landscape  
Public art  
Water feature(s)  
Sports courts such as tennis, basketball, or volleyball*

### 4. Lighting

*Pedestrian scale, bollard, or other accent lighting may be incorporated into the design of open space.*

## LANDSCAPING & PLANTING DESIGN

### INTENT

To provide well-designed public parks and greens within the development.

### GUIDELINES

- 1. Incorporate native, drought-tolerant vegetation; avoid extensive use of lawn and plantings that demand significant irrigation and fertilization.*
- 2. A minimum of 75% of the landscaped area (not including recreational areas) should be planted with other than turf or lawn. Perennials and/annuals are encouraged to provide special interest and highlight pedestrian areas such as walkways and trails.*
- 3. Where landscape areas are located adjacent to a street right-of-way, the type of landscaping should provide a vertical buffer.*

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4. Rocks, pebbles, sand, and similar non-living materials shall not be used as groundcover substitutes, but may be used as accent features provided such features do not exceed a maximum 5% of the total landscape area.

## STORMWATER DETENTION / RETENTION PONDS

### INTENT

To integrate stormwater facilities as project amenities.

### GUIDELINES

#### 1. Location

*Use natural site topography plus low-impact development methods to determine appropriate locations, which is to be integrated into the overall project design*

#### 2. Landscaping

*Where possible, provide facilities that are site amenities, in order to reduce need for fencing. In general, public access to stormwater facilities should be included within design.*

#### 3. Fencing

*Chain link fencing shall not be allowed. Other forms of non-obscuring fencing may be permitted when ponds exceed a safe slope. However, it is generally expected that ponds will be gently integrated into the design of the site with slopes that are safe to traverse on foot (less than 7% grade).*

## RESIDENTIAL BUILDING DESIGN

### INTENT

To ensure that new development complements and strengthens the character of Black Diamond and to allow for maximum flexibility in location, size, and configuration of houses while ensuring that residential structures are in scale with lot sizes.

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### GUIDELINES

#### 1. Variety of styles.

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*Provide a variety of building solutions through the mixing of one and two-story building profiles. Limit the amount of replication of building styles within one block.*

## 2. Setbacks of Houses to Create a Sociable Environment

*The front facades of houses should be setback between 5 and 15 feet from the back of the sidewalk. Vary front and side yard setbacks from house to house to provide interest and variety.*

## 3. Setbacks of Garage to Reduce Visual Impact

*The preferred location for garages is at the rear of the lot, with vehicular access being provided from an alley. Garage doors should be within 10 ft of the alley. If alley access is not possible, then garages shall be setback at least 20 feet from back of the sidewalk. That distance can be reduced when garage doors do not face the street.*

## 4. Architectural Features

- *Housing shall include features such as:*
  - *Dormers*
  - *Brackets supporting roof overhangs*
  - *Corner boards*
  - *Wide trim around windows*
  - *Railings around balconies and porches*
  - *Low picket fencing*
- *Fronts of houses shall face the street and incorporate usable porches, stoops, and steps.*
- *Upper floors of houses shall be smaller than the floors below.*
- *Orientation of ridgelines of homes shall be varied.*

## 5. Materials

*Exterior finishes should incorporate traditional and natural building materials as historically used in Black Diamond.*

## GUIDELINES

### 6. Floor Area Ratio (FAR) (Building Size to Lot Size)

*FAR for detached residential development should not exceed 0.75;  
Attached forms of residential may be up to 1.0 FAR;*

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*To allow for maximum flexibility in location, size, and configuration of houses while ensuring that residential structures are in scale with lot sizes.¶*

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Within Commercial/Civic Centers, residential development FAR may be as high as 2.5.

7. Height

Minimum 1 story above grade  
Maximum 2 1/2 stories

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8. Massing

Horizontal facades longer than 30' shall be articulated into smaller units, using methods such as: distinctive roof forms, changes in materials and/or patterns, color differentiation, and recesses or offsets.

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9. Roof Pitch

May range from 6:12 to 12:12

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10. Architectural Features

Front Porches - at least 6' in depth (or deep enough to allow for seating)

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Street-facing Garage Location - the main house floor area shall extend at least 5' closer to the front lot line than any garage with street-facing doors. Design measures should be used for de-emphasizing garages, such as: porches, trellises, location of entry, break up massing/doors for double garages, overhanging second floor.

**NON-RESIDENTIAL BUILDINGS SHALL BE SUBJECT TO APPLICABLE  
CITY OF BLACK DIAMOND DESIGN GUIDELINES**

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## **STAFF COMMENTS ON YARROW BAY LETTER REGARDING MPD DESIGN GUIDELINES**

***Yarrow Bay provided staff an electronic copy of their letter submitted to Council on February 25<sup>th</sup>. The following is the text of their letter, with staff comments inserted following each issue raised. Staff comments are in italics.***

February 25, 2009

*Via: Hand Delivery*

Re: MPD Design Guidelines

To the Council and Mayor:

Thank you for the opportunity to comment on the Master Planned Development Framework Design Guidelines. These Design Guidelines will go a long way in helping us develop more detailed guidelines for the two communities that we are proposing. We greatly appreciate the ability to utilize flexibility within our own guidelines to achieve the vision that has been set out as well as respond to the changing market.

We do have some comments and suggestions that we believe will help the guidelines in a global manner as we recognize we may not be the only MPDs proposed within Black Diamond. Also, we would welcome additional discussion with staff and/or Council as it may be necessary to further understand the thinking we are trying to reflect here and to try and find a reasonable solution.

General Site Planning, Page 3, #3 – Although we completely agree with this statement in all aspects, we would suggest removing the first part of the statement. It is not necessary to address “pre-development” hydrology as a guideline as this issue will be handled through the SEPA process in the EIS. In addition, we would suggest softening the last part of the guideline related to “recycle water for on-site irrigation use.” Finding ways to creatively manage water resources and “redistributing” that resource to lessen demand for potable water for irrigation uses is a great goal. However, municipalities as well as developers must be cautious in how this is implemented so as to not get caught up in water rights restrictions.

**Staff comment:** *Staff does not object to changing the wording from “recycling” to “redistributing.” In terms of not needing to address these concepts here, since they will be addressed in a SEPA process, we remind Council that there may be other MPD applications in the future and this statement would provide guidance to those other applications.*

Using Open Space as an Organizing Element, Page 4, #4 – As part of our open space and trails planning, we are attempting to identify the necessary “mass” of trees that should be preserved to limit the amount of wind-throw in severe wind events, as the characteristics may change from species to species. Completely avoiding wind-throw is a difficult thing to do, even in mature forests, so we ask that it please be recognized that some wind-throw will occur. We will do our best to understand what it takes to limit that occurrence.

**Staff comments:** *The guideline in question does not conflict with this concern. **No change recommended.***

Integrating Development with Open Space, Page 5, #3.d – We fully support the variety of housing types within clusters created by open space, and intend to implement this as subsequent implementing approvals are considered. However, it is unclear if it is as necessary to determine this by “ownership” as it would be by lot/unit size. In addition, it could be difficult to regulate ownership as subsequent implementing approvals are brought forth. We would support modifying this language to say “lots and groups of lots with varying dimensions and sizes should be integrated with one another throughout all phases of a project.”

**Staff comments:** *The intent of this guideline is to assure a mix of housing types throughout a project, rather than, for example, having all multifamily housing being located in one particular area. Staff would not object to modifying the language to refer to housing type in lieu of ownership, in conjunction with including the lot variety concept proposed by Yarrow Bay.*

Mixing Types of Housing, Page 6, #3 – In many parts of our site plan we fully expect that alley access will be the predominate housing type with garage access. However, larger lot single family homes that typically enjoy a larger lot and back yard generally do not work with alley access, and in some cases topography may prove too challenging to incorporate alleys. In keeping with the concept that housing of all types should be provided within Black Diamond MPDs, we request that front loaded garages be given more flexibility to occur than just where “there are no other alternatives.” We would support modifying this language to say “For single family

developments, alley access to garages is desired. Where alley access is not anticipated and garages are expected to face the street, single family homes should be designed to be consistent with the “Residential Building Design” guidelines.” Guidelines are already contemplated to address the street facing garage, and we intend to incorporate these and augment them to the extent possible in our own guidelines.

**Staff comments:** *We understand Yarrow Bay’s concern that the opportunity for street-facing garages should also be a matter of choice, as opposed to unique conditions, as the current language implies. However, the proposed language is too general to provide good guidance of when/how much “front-loaded” lots should be allowed. We suggest the following alternative wording:*

*“For single family developments, alley access to garages is preferred and should be the predominant development pattern. Direct driveway access to streets may be appropriate in areas planned for larger lots or where topography or other factors make alley access unfeasible.”*

Interface with Adjoining Development, Page 7, #1 – Providing a transition zone from one land use intensity to another is good planning. We support this and would only request the following clarifications be made. Where the boundary of an MPD abuts the county, this guideline would not be necessary. It would create much larger lots (e.g. 3.75 ac) within the City that may not be consistent with the intent of the MPD. Additionally, the transition in lot size would only need to occur where the MPD boundary abuts *existing* residential development, but not undeveloped lots. It is not uncommon to have varying lot sizes occur within a community and especially right next to each other (in fact it is encouraged within the MPDs and currently happens within the City), but it would appear this guideline relates best to MPDs adjoining existing development.

**Staff comments:** *Good comments, except that staff believes it is important to maintain the transition in lot sizes when abutting adjacent residentially-zoned urban properties, whether developed or not at the time of MPD submittal. We suggest the following alternative wording:*

*“Where individual lot residential development is located along an MPD boundary abutting urban residential zoning, lot sizes should be no less than 75% the minimum lot size of the abutting residential zone.”*

Interface with Adjoining Development, Page 7, #2 – Similar to #1 above, this is just good planning. Again we ask that this would be clarified to occur where Multi-family or nonresidential land uses along an MPD boundary abut single family residential zones. Providing a buffer between two commercial properties, for example, is probably not necessary.

**Staff comments:** *Agree with the requested change. Suggested new wording:*

*"Multifamily and nonresidential land uses should include a minimum 25 ft. wide dense vegetative buffer when located along the boundary of an MPD abutting lesser intensity urban uses."*

Streets, Page 9, #7 – Non-motorized circulation is an important element in MPDs. Streets should be bicycle friendly, but it should be clarified that typically only your higher classified streets, or "primary" streets as they are sometimes referred to, need to have bicycle lanes included. Secondary streets, such as residential streets, typically have low enough speeds and traffic counts that dedicated bike lanes are not necessary. In addition, off-street bicycle amenities, such as multi-modal paths (e.g. 8' wide asphalt paved trail), can also achieve this intent. We would support clarifying this language to say "Design primary streets to be "bicycle friendly"."

**Staff comments:** *Initial wording for this guideline included the term "bicycle lanes." Staff purposely modified the language to the more generic "bicycle friendly," recognizing that in some instances, this could mean a separate bike lane, in other instances, simply a lane wide enough to accommodate both car and bicycle. We agree that for local residential streets, neither is typically necessary, due to the low traffic volumes. **No change recommended.***

Streets, Page 9, #8 – Using drought tolerant landscaping and native plant materials is a guiding principle in our MPDs. However, there may be occasions where it is necessary or practical to use grass or, potentially, ornamental plant materials in planter areas. For instance, where on street parking is provided along a well traveled street with more than typical turnover in parking (e.g. retail area) and a planter strip is proposed, grass may be a more practical approach from a maintenance or street and sidewalk cleanliness perspective. Alternatively, planting may be desired to be avoided all together, and it appears this guideline would not allow that. Another example may be where a street terminus ends in a "T" intersection and some signature landscaping is provided, it could be difficult to propose such planting which would enhance the street terminus. We would support modifying this language to state "All streets

should include native and/or drought-tolerant vegetation (trees, shrubs, and/or groundcover) where a planting strip is provided between the curb and sidewalk. Grass may be used in limited areas where on street parking is provided and turnover is frequent. Native and/or drought tolerant vegetation should also be used within medians. When medians or street edges are used for LID or bio-filtration or other stormwater purposes, those standards and/or guidelines should be used instead."

**Staff comments:** *Yarrow Bay raises some valid concerns about the need to allow for a greater variety of streetscapes within the development. The primary concept behind this guideline is to generally discourage high-maintenance landscaping such as lawn and ornamental trees in favor of more appropriate vegetation. Staff suggests the following revised language:*

*"Where streets are intended to incorporate a planting strip between the curb and sidewalk and/or median, incorporate the use of native and/or drought-tolerant vegetation except for unique conditions where lawn or other landscaping options may be more appropriate or when low impact development techniques are used."*

Sidewalks, Page 9, #2, Lighting – It may be appropriate to allow light poles/fixtures to slightly vary from area to area to not only conform to requirements, but also to signify a change in character. For instance, in retail and commercial areas, it may be appropriate to have a somewhat more ornate pole/fixture that also allows hanging flower baskets, but in residential areas, the pole/fixture may be less ornate, but of similar design. In all cases the light would be shielded from the sky. We request that flexibility be allowed in finalizing street light design.

**Staff comments:** *Agree with this concern and believe the language as drafted adequately addresses it. **No change recommended.***

Walkways and Trails, Page 10, #2, Width – We presume this would not require trails within buffers or sensitive areas to be 8' wide, and that those trails would want to be more narrow. Where trails are intended to be multi-modal (e.g. walking, running, biking), and 8' wide trail is appropriate. Please clarify this language if necessary.

**Staff comments:** *The concept is to generally require an 8 ft. wide trail to allow for multimodal (and two-way) use. As noted, it may be necessary to limit the width of a trail within a buffer area, as required by the SAO (4 ft. max. width is allowed within buffers).. The following change is recommended:*

*"2. Width. Not less than 8 feet wide to allow for multiple modes of uses, unless otherwise restricted by the Sensitive Areas Ordinance."*

Landscaping and Planting Design, Page 12, #2 – In most cases it is appropriate to limit turf use when it is not necessary for active parks. We request that this language be revised to allow turf to be a predominant feature where park areas with active uses require it.

**Staff comments:** *We believe the current exclusion for recreational areas already addresses this concern. **No change recommended.***

Landscape and Planting Design, Page 12, #3 – Landscaping that grows in a vertical nature could be more maintenance intensive. In addition, if on-street parking is proposed and a planter strip is in place, vertical landscaping would not make any sense. We would support modifying this language to read "Where landscape areas are located adjacent to a street right-of-way and on street parking is not provided, the type of landscaping may provide a vertical buffer."

**Staff comments:** *We do not view this guideline as being applicable to planting strip landscaping, as it is not located within the "streets" section, but instead an area discussing public parks and greens. **No change recommended.***

Stormwater Detention/Retention Ponds, Page 13, #3 – Rather than listing a specific grade for pond slopes, this should simply refer to Public Works standards that will cover this piece. Remove the "less than 7% grade" portion at the end of this section. This will streamline the process should the Public Works standards arrive at a different standard.

**Staff comments:** *The Public Works Director concurred with the concern regarding this slope; agree that the final phrase should be eliminated as suggested by Yarrow Bay.*

Architectural Form and Construction, Page 14, #4, Architectural Features – When this section describes features that should be provided in residential construction, it appears to require a porch, stoop, and step (all 3) on each house. It does not seem practical to want such a repetitive feature on each house, which would essentially



create “cookie cutter” houses on each street. It seems more appropriate to encourage at least one of those features. As such, we would support modifying the language to read “Fronts of houses shall face the street and incorporate at least one of the following; usable porches, stoops, or steps.”

**Staff comments:** *Clarification would be beneficial. Staff suggests that either a porch or a stoop should be provided and that the word “steps” could be eliminated, because: 1) all steps are “usable” and 2) you can’t have a porch or stoop without steps.*

Architectural Form and Construction, Page 14, #5, Materials – The use of traditional and natural building materials is a practical element to expect in new home construction. However, in retail or commercial applications, this would not be a practical goal try and achieve. In discussion with staff, it was determined that this was meant to apply only to residential design. We request that this clarification be made, either by moving this piece under the following “Residential Building Design” section, or making a clarification in the text itself.

**Staff comments:** *The final page of the Design Guidelines notes that all non-residential design is subject to the appropriate guidelines that apply to the remainder of the city. **No change recommended.***

Residential Building Design, Page 15, #1, Floor to Area Ratio – Floor to area ratio is not a common form of measurement for residential applications. Although we would not expect either detached residential or attached residential to continually exceed either of these numbers, we propose that these numbers be removed. The size of the structure will either be defined by the dimension standards that are proposed by the MPD, or through the existing code if none are proposed by the MPD.

**Staff comments:** *A F.A.R. typically is not required in single family residential zone districts, which rely on building setbacks and height limits to restrict the size of structures. However, the assumed smaller lot sizes likely to occur within a MPD indicate a need to provide more than standard setback and height limits in order to ensure a high quality residential environment. The initial draft of the MPD Guidelines included a maximum of 0.5 F.A.R., which was increased to 0.75 at the request of Yarrow Bay. The proposed 0.75 F.A.R. is certainly high enough to not adversely constrain future development (e.g., would allow a 3000 sq. ft. home on a 4000 sq. ft. lot). **No change recommended.***

Residential Building Design, Page 15, #2 – We are concerned with how the 2-1/2 story maximum might be imposed. For instance, we are not sure if the height would be measured as defined by the building code or if there was some other concept in mind. In addition, although this may make sense for structures that are facing the street, in some cases (such as Lawson Hills) where there is significant grade, a daylight basement may be proposed as part of the structure. This would, as a result, produce a 3-story back of the house. We propose removing the maximum height and rely on both the dimension standards (which dictate a maximum height) and the project specific design guidelines that will be provided by the Master Developer which will address how structures relate to the street.

**Staff comments:** *It appears that Yarrow Bay is advocating the use of a numerical height limit instead of the generic term “2-1/2 stories.” The draft Zoning Code includes a height limit of 32 ft. for single family zones and 35 ft. for multifamily zones. Per the Code definition, building height is measured to the highest point of the roof and would be measured based upon average grade around the foundation of a structure. Staff is unsure of what standard Yarrow Bay is advocating. Given that these are guidelines, **no change is recommended.***

Residential Building Design, Page 15, #4, Roof Pitch – A narrow range for roof pitch such as those proposed may result in similar looking roof styles throughout the MPDs. A more gracious range may be 4:12 to 12:12. In addition, it is unclear if this range is intended to apply only to primary portions of the roof or other portions that don’t serve as the primary portion of the roof. For example, the porch may have a separate roof structure over it, as might a dog shed dormer. Either of these features would be positive for the overall appearance of the house, but may not be able to conform to the roof pitch range. As a result, we propose modifying this language to provide a roof range from 4:12 to 12:12 and allowing certain portions of the roof to be outside this range.

**Staff comments:** *The roof pitch range is the same as required in the Historic Village Core Residential Guidelines, meaning the suggested range is consistent with the historic character of Black Diamond. Staff would interpret the required roof pitch ranges as applying to the major roof elements only, not also to dormers, etc. **No change recommended.***

We hope the comments provided are helpful in the discussion of the MPD Design Guidelines. We look forward to continuing to work with staff and the Council and Mayor to finalize this document along with others and being able to lift the moratorium.

Best regards,

Colin Lund  
YarrowBay Communities  
Director of Development