



CITY OF BLACK DIAMOND
October 1, 2009 Meeting Agenda
25510 Lawson St., Black Diamond, Washington

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

PUBLIC COMMENTS: Persons wishing to address the City Council regarding items of new business are encouraged to do so at this time. When recognized by the Mayor, please come to the podium and clearly state your name and address. Please limit your comments to 3 minutes. If you desire a formal agenda placement, please contact the City Clerk at 253-631-0351. Thank you for attending this evening.

PUBLIC HEARINGS: None

APPOINTMENTS, PRESENTATIONS, ANNOUNCEMENTS:

Presentation - David Vines

UNFINISHED BUSINESS: None

NEW BUSINESS:

- | | |
|--|-------------|
| 1.) AB09-119 – Ordinance Amending Subdivision Code | Mr. Munson |
| 2.) AB09-120 – Resolution Confirming City Administrator and Executing an Employment Agreement | Mayor Botts |

DEPARTMENT REPORTS:

MAYOR'S REPORT:

COUNCIL REPORTS:

ATTORNEY REPORT:

PUBLIC COMMENTS:

CONSENT AGENDA:

- 3.) **Claim Checks** – October, 1, 2009 No. 34660 through No. 34693, Handwrites No. 34085 through No. 34092 in the amount of \$80,136.17

EXECUTIVE SESSION:

ADJOURNMENT:

CITY COUNCIL AGENDA BILL

City of Black Diamond
Post Office Box 599
Black Diamond, WA 98010

ITEM INFORMATION			
SUBJECT: Ordinance No. 09-924, amending Chapter 17 of the Black Diamond Municipal Code concerning divisions of land	Agenda Date: October 1, 2009		AB09-119
	Department/Committee/Individual	Created	Reviewed
	Mayor Howard Botts		
	City Administrator –Gwen Voelpel		
	City Attorney – Loren D. Combs		
	City Clerk – Brenda L. Martinez		
	Finance – May Miller		
	Public Works – Seth Boettcher		
	Economic Devel. – Andy Williamson		
	Police – Jamey Kiblinger		
Cost Impact: N/A	Court – Kaaren Woods		
Fund Source: N/A	Comm. Dev. – Steve Munson	x	
Timeline: N/A			
Attachments: Ordinance No. 09-924 final draft of proposed Divisions of Land Amendments			
Amending the existing Subdivision Ordinance (Divisions of Land), Chapter 17 is another step in the City’s continued update of its Development Regulations. The Planning Commission and staff began work in the late summer/early fall of 2008 and reviewed several drafts of proposed changes before they were presented to the Planning Commission in public hearing on April 21, 2009. At the public hearing the Commission voted 6-0 to pass on the proposed amendments {to include revised definitions of Short Subdivision and Subdivision; definition of Paper Plats; and elimination of Sec. 17.36.040 (3)} to the City Council for its review and consideration.			
Council reviewed with Community Development staff the Planning Commission recommended draft in a study session on August 6, 2009. Council requested that staff provide copies of the existing Subdivision Density Bonus (SDB) section (Chapter 17.14) and to include language about Tree Preservation in the text of the amendments to Chapter 17. On August 20, 2009 Council held a public hearing to take testimony and consider the draft changes incorporating these requests. The existing SDB section was included as an attachment to the public hearing Agenda Bill and the Tree Preservation provided for in Chapter 17.15.020 (A) (14). Also provided in the Definitions section {Chapter 17.08.010 (11)} was an explanation of the term “Paper Plats”.			
Per the Washington State Growth Management Act the draft amendments were sent to the Washington State Department of Community, Trade, and Economic Development (CTED) on June 9, 2009 for review and comment. SEPA compliance was addressed through issuance of a Declaration of Non-significance (DNS) issued May 29, 2009.			
COMMITTEE REVIEW AND RECOMMENDATION: Planning Commission approval			
RECOMMENDED ACTION: MOTION to adopt Ordinance No. 09-924, amending the existing Chapter 17 and replacing it with the new Chapter 17, attached hereto.			

RECORD OF COUNCIL ACTION		
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
August 20, 2009		

ORDINANCE NO.09-924

AN ORDINANCE OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON REGARDING THE DIVISION OF LAND AND AMENDING BLACK DIAMOND MUNICIPAL CODE SECTIONS 17.04.010, 17.04.020, 14.04.030, 17.08.010, 17.08.040, 17.12.010, 17.12.020, 17.12.030, 17.15.020, 17.15.030, 17.16.010, 17.16.020, 17.16.030, 17.20.010, 17.20.020, 17.20.030, 17.20.040, 17.20.050, 17.20.060, 17.20.070, 17.20.080, 17.32.010, 17.32.020, 17.32.030, 17.32.040, 17.32.050, 17.32.060, 17.32.070, 17.32.090, 17.32.100, 17.34.020(a), 17.34.060(a), 17.36.030, 17.36.040, 17.36.050, 17.36.060, 17.36.080, ADDING NEW SECTIONS 17.20.090 AND 17.32.055, AND REPEALING CHAPTER 17.14 AND SECTIONS 17.32.110 AND 17.36.070

WHEREAS, the City has reviewed its existing code provisions regarding divisions of land in Title 17 of the Black Diamond Municipal Code and determined that an update was appropriate; and

WHEREAS, the planning commission reviewed the proposed changes at a public hearing held on April 21, 2009 and recommended that the amendments be adopted; and

WHEREAS, the City Council held a public hearing on the proposed amendments on August 20, 2009;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Black Diamond Municipal Code Section 17.04.010 is hereby amended to read as follows:

17.04.010 Title supplementary to state provisions.

This title shall be known as the city land division code and shall supplement and implement the state regulations concerning plats, subdivisions and dedications found in Chapter 58.17 of the Revised Code of Washington. In the case of conflict between any two code or statute sections, ~~the sections should be interpreted in a way that allows them to be read as complimentary. If a complimentary reading cannot be made, then the provision that imposes the most restrictive land use condition shall control.~~ If a city code section cannot be construed to be harmonious with a state provision in a particular instance, then the state provision will control.

Section 2. Black Diamond Municipal Code Subsection 17.04.020 is hereby amended to read as follows:

17.04.020 Purpose.

The purpose of this chapter is to regulate the subdivision of land and to promote the public health, safety and general welfare in accordance with standards established by the state and the city to prevent the overcrowding of land; to lessen congestion in the streets and highways; to promote effective use of land; to promote safe and convenient travel by the public on streets and highways; to provide for adequate light and air; to facilitate adequate provision for water, sewerage, parks and recreation areas, sites for schools and school grounds and other public requirements; to provide for proper ingress and egress; to provide for the expeditious review and approval of proposed subdivisions which conform to zoning standards and local plans and policies; to adequately provide for the housing and commercial needs of the citizens of the city; ~~and~~ to require uniform monumenting of land subdivisions and conveyancing by accurate land description; to protect environmentally sensitive areas; and to protect and preserve the community urban forest for its aesthetic, environmental, and health benefits.

Section 3. Black Diamond Municipal Code Section 17.04.030 is hereby amended to read as follows:

17.04.030 Scope.

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

- A. Cemeteries and other burial plot while used for that purpose;
- B. Divisions of land made by testamentary provisions, or the laws of descent;
- C. Divisions of land into lots or tracts classified for industrial or commercial use pursuant to a binding site plan for the use of the land in accordance with local regulations; provided, that when a binding site plan authorizes a sale or other transfer of ownership of a lot, parcel, or tract, the binding site plan shall be filed in the county recorder's office on each lot, parcel or tract created pursuant to the binding site plan; provided further, that the binding site plan and all of its requirements shall be legally enforceable on the purchaser or other person acquiring ownership of the lot, parcel or tract; and provided further, that sale or transfer of such lot, parcel or tract in violation of the binding site plan, or without obtaining binding site plan approval, shall be considered a violation of this chapter and shall be restrained by injunctive action and be illegal as provided in this title;

D. A division for the purpose of lease when no residential structures other than mobile homes as defined by the city zoning ordinance are permitted to be placed upon the land and the city council has approved a binding site plan for the use of the land in accordance with city ordinances;

E. A division made for the purpose of adjusting boundary lines which does not create any additional lot, tract, parcel, site or division nor create any lot, parcel, site or division which contains insufficient area and dimension to meet minimum requirements for width and area for a building site;

F. A division which is made by subjecting a portion of a parcel or tract of land to Chapter 64.32 RCW, the Horizontal Property Regimes Act, under a binding site plan for the use of land in accordance with city ordinances;

~~G. Short subdivisions of land made pursuant to the city short subdivision ordinance;~~

GH. A division for the purpose of leasing land for facilities providing personal wireless services while used for that purpose. "Personal wireless services" means any federally licensed personal wireless service. "Facilities" means unstaffed facilities that are used for the transmission or reception, or both, of wireless communication services, including, but not necessarily limited to, antenna arrays, transmission cables, equipment shelters, and support structures;

HI. A division of land into lots or tracts of less than three acres that is recorded in accordance with Chapter 58.09 RCW and is used or to be used for the purpose of establishing a site for construction and operation of consumer-owned or investor-owned electric utility facilities. For purposes of this subsection, "electric utility facilities" means unstaffed facilities except for the presence of security personnel, that are used for or in connection with or to facilitate the transmission, distribution, sale, or furnishing of electricity, including, but not limited to, electric power substations. This subsection does not exempt a division of land from the zoning and permitting laws and regulations of cities, towns, counties, and municipal corporations. Furthermore, this subsection only applies to electric utility facilities that will be placed into service to meet the electrical needs of a utility's existing and new customers. New customers are defined as electric service locations not already in existence as of the date that electric utility facilities subject to the provisions of this subsection are planned and constructed.

Section 4. Black Diamond Municipal Code Section 17.08.010 is hereby amended to read as follows:

17.08.010 Definitions.

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

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

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

1. Identifies and shows the areas and locations of all streets, roads, improvements, utilities, open spaces, and any other matters specified by city code;
2. Contains inscriptions or attachments setting forth such appropriate limitations and conditions for the use of the land as are established by the ~~site plan review committee~~community development director; and
3. Contains provisions making any development to be in conformity with the site plan.

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

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

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

“Dedication” means the deliberate appropriation of land by an owner for any general and public uses, reserving to himself or herself no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted. The intention to dedicate shall be evidenced by the owner by the presentment for filing of a final plat or short plat showing the dedication thereon; and, the acceptance by the public shall be evidenced by the approval of the plat for filing by the appropriate governmental unit.

“Final plat” means the final drawing of the subdivision and dedication prepared for filing for record with the county recorder and containing all elements and requirements set forth in this ~~title~~chapter.

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

“Hearing Examiner” means the person appointed or authorized by the City to carry out the duties of hearing examiner pursuant to BDMC Chapter 2.30.

“Lot” means a fractional part of divided lands having fixed boundaries, being of sufficient area and dimensions to meet minimum zoning

requirements for width and area. The term shall include tracts and parcels.

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

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

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

“Paper plat” means a residential short subdivision with an existing single family residence, in which only one additional lot is created, and some or all of the required public improvements for the additional lot have been deferred until after final short subdivision approval and made a condition of building permit issuance on the additional lot.

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

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

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

“Tract” means a fractional part of subdivided lands having fixed boundaries, not meeting the requirements for a lot, or created for a special use, including public spaces, storm drainage facilities, or sensitive area protection, other than for a building lot.

“Vacation” means canceling an approved subdivision or short subdivision completely; “partial vacation” means removal of a portion of an approved subdivision or short subdivision.

“Vested” means a proposed division of land will be considered under the requirements of this chapter, and the zoning or other land use control ordinances, in effect on the land at the time a fully completed application

for preliminary plat approval of the subdivision, or short plat approval of the short subdivision, has been submitted to the city.

Section 5. Black Diamond Municipal Code Section 17.08.040 is hereby amended to read as follows:

17.08.040 Revocation or modification of conditions after approval.

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

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

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

Section 6. Black Diamond Municipal Code Section 17.12.010 is hereby amended to read as follows:

17.12.010 Application.

Any person desiring to subdivide land into ~~seven~~^{five} or more parcels within the city shall first submit an application for preliminary plat approval to the ~~city clerk-treasurer at City Hall~~community development department. The application shall be on forms provided by the city. To the extent that procedural requirements permit simultaneous proceedings, a subdivision application will be processed concurrently with applications for variances, planned unit developments, site plan approvals and similar approvals, unless the applicant expressly requests sequential processing. A preliminary plat application will not be accepted for property within an MPD ~~overlay district zone~~ unless there is a previously approved MPD permit and a recorded MPD development agreement. A preliminary plat application will not be accepted for property that is part of a master planned development (MPD) permit application unless the city, pursuant to Section 18.98.050(C) of this code, authorizes the simultaneous processing of the subdivision application. The application shall include:

- ~~A. Ten~~^{Five} Copies of the preliminary plat drawing and vicinity map containing items specified in Section 17.12.020 of this chapter;

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

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

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

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

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

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

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

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

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

IK. Certificates of sewer and water availability;

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

~~M. If the applicant is requesting a density bonus, a narrative and/or illustrative report identifying the level of bonus density sought and supporting documentation as necessary to support the request and demonstrate the incorporation of the density bonus elements as set forth in Section 17.14.050 of this title;~~

KN. The nonrefundable preliminary plat fee and review deposit in the amount specified in the city fee resolution;

LO. Any further information required by the terms of a previously

approved MPD permit that is required by the approval to be shown on the plat or required to be constructed as part of the subdivision approval process;

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

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

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

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

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

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

OV. Any other information that is necessary and appropriate in order to determine whether or not the application meets the preliminary plat approval criteria set forth in Chapter 17.15 of this title.

Section 7. Black Diamond Municipal Code Section 17.12.020 is hereby amended to read as follows:

17.12.020 Preliminary plat contents.

The preliminary plat shall be prepared by a registered professional land surveyor or engineer using acceptable drafting standards. The scale for the

preliminary plat drawing, the drainage utilities, and tree preservation plans shall be not less than one inch equals ~~one~~^{two} hundred feet and the horizontal and vertical scales for street and sewer plans ~~and profiles~~ shall be not less than one hundred feet and ten feet to the inch, respectively.

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

A. The proposed name of the proposed subdivision which shall not be the same as the name of any other subdivision or development in the city;

B. The legal description of land contained within the proposed subdivision;

C. The name, address and telephone number of the subdivision developer and the property owner;

D. The name, address and telephone number and seal of the registered land surveyor or engineer who prepared the preliminary plat documents;

E. The boundary lines of the proposed subdivision;

F. The boundaries and approximate dimensions, including square feet of lot area for all lots and parcels within the proposed subdivision, together with the numbers to be assigned to each block and lot;

G. The proposed location, ~~names~~ and width of all existing and proposed streets, alleys, roads and easements within the proposed subdivision and adjacent thereto;

H. The location and, where ascertainable, sizes of all permanent buildings, wells, watercourses, bodies of water (indicating the high water mark or top of the bank), all overhead and underground utilities, municipal boundaries, section lines, township lines and other important features existing upon, over or under the land proposed to be subdivided;

I. Contour lines of at least five-foot intervals or sufficient intervals to show the topography of the land to be subdivided referenced to the mean sea level datum of the National Ocean Survey (USC and GS), and extending at least one hundred feet in all directions from the property to be subdivided;

J. Generalized plans of proposed water distribution systems, storm sewers, sewerage systems and shoreline modifications, if any, indicating locations and sizing;

K. A layout of proposed streets and alleys, buffer zones, on no-build areas and parcels proposed to be dedicated or reserved for public or community school, park, playground, open space and trail networks, wildlife corridors, and perimeter buffers or other uses;

L. Owners of land adjacent to the subdivisions and the names of any adjacent subdivisions shall be identified on the preliminary plat map;

M. If the plat constitutes a replat, the lots, block, streets, etc., lines of the original plat shall be shown with dotted lines in their proper positions in relation to the new arrangement on the plat, the new plat being clearly

shown in solid lines;

N. If the proposed plat is part of an approved MPD, the proposed preliminary plat drawing shall show road, trail, utility, and other connections to adjacent MPD properties, as well as adjacent approved MPD land uses;

O. All environmentally ~~sensitive~~^{critical} areas, their buffers, and minimum building setbacks;

~~P. Minimum building setback lines for all proposed lots;~~

~~PQ.~~ If the subdivision is proposed to occur in two or more phases, the proposed phases shall be clearly shown and labeled;

~~QR.~~ A table listing the gross density, net density, density proposed through use of the city's transfer of development rights program, minimum lot size, maximum lot size and average lot size for the proposed subdivision.

Section 8. Black Diamond Municipal Code Section 17.12.030 is hereby amended to read as follows:

17.12.030 Additional information.

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

Section 9. Black Diamond Municipal Code Chapter 17.14 is hereby repealed in its entirety.

Section 10. Black Diamond Municipal Code Section 17.15.020 is hereby amended to read as follows:

17.15.020 Approval criteria.

A. The following are the criteria that must be met to approve any subdivision. The criteria may be met by conditions proposed by the

applicant, or imposed by the ~~hearing examiner~~city council as conditions of approval:

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

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

~~23. The proposed subdivision results in a net density that is equal to or less than the allowable maximum density established by the zoning regulations, including any density transfers or applicable density bonuses awarded by the planning commission, and is greater than or equal to any applicable minimum density requirement;~~

~~34. The public use and interest is served by the establishment of the subdivision and dedication. In considering this criteria, it shall be determined if appropriate provisions are made for all relevant matters, including, but not limited to, the public health, safety and general welfare, for open spaces, storm drainage ways, streets, alleys, other public ways, water supplies, sanitary wastes, parks, playgrounds, sites for schools and school grounds;~~

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

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

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

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

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

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

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

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

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

~~104. The use of cul-de-sacs and other dead end streets shall be minimized to the fullest extent possible;~~

~~115. Appropriate provision has been made for the dedication of land to any public body, and provision of public improvements has been made as necessary to serve the subdivision. This shall include appropriate provision for payment of any impact fees imposed in accordance with the provisions of RCW 82.02.050 through 82.02.090, and applicable city codes and regulations. Dedications shall clearly be shown on the final plat;~~

~~126. The streetscape and public open space amenities shall be compatible with any adjacent project that has been developed or approved for development as an MPD;~~

~~13. The proposed subdivision provides safe walking conditions for students who walk to and from school;~~

~~14 The proposed subdivision provides for tree preservation including a complete inventory of significant trees consistent with the provisions of chapter 19.30.~~

Section 11. Black Diamond Municipal Code Section 17.15.030 is hereby amended to read as follows:

17.15.030 Site inspection.

A site inspection may be made by the city council and/or the hearing examiner in order to assist them in their the hearing examiner deliberations in reviewing the proposed subdivision. When making a site inspection, the hearing examiner may not engage in communications with opponents or proponents with respect to the proposed subdivision, so long as said inspection occurs as part of a public meeting, with actual notice to the applicant and all persons of record at the open record public hearing, and no public input is allowed during the inspection.

Section 12. Black Diamond Municipal Code Section 17.16.010 is hereby amended to read as follows:

17.16.010 Staff review.

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

B. At the time of issuing the notice of application, the ~~eity planner~~community development director shall submit the proposed subdivision to all city department heads, including, but not limited to, the public works director~~eity engineer~~, the ~~city utilities superintendent~~, the city police chief, the city ~~SEPA responsible official~~natural resources director and the city fire ~~marshall~~chief for staff review. The following review criteria shall apply:

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

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

utility systems.

~~23. Mountain View Fire and Rescue (King County Fire District No. 44)~~

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

~~4. The city police chief shall review the proposed subdivision for the adequacy of access for police protection purposes.~~

~~35. The city SEPA responsible official-natural resources director shall review the proposed subdivision for environmental impacts.~~

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

Section 13. Black Diamond Municipal Code Section 17.16.020 is hereby amended to read as follows:

17.16.020 Planning commission-Hearing examiner public hearing
, review and
recommendation.

A. Public Hearing Required. Upon completion of staff review and the SEPA appeal period, the ~~city clerk-treasurer~~ community development department shall schedule the preliminary plat for public hearing before the hearing examiner, allowing for adequate public hearing notification and issue a notice of public hearing.

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

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

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

adjacently located parcels of property owned by the owner of the property proposed to be subdivided;

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

4. If the proposed subdivision is adjacent to the city-county boundary, notice shall be given to the city council and/or county council;

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

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

C. Public Hearing. At the public hearing, the hearing examiner shall consider all relevant evidence to determine that the preliminary plat be approved or disapproved ~~by the city council~~. Any hearing may be continued at the discretion of the hearing examiner in order to allow all relevant public input to be received. Records of the hearing examiner hearings on preliminary plats shall be kept by the city clerk and shall be open to public inspection.

Section 14. Black Diamond Municipal Code Section 17.16.030 is hereby amended to read as follows:

17.16.030 City council Hearing examiner review and decision.

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

mitigate all adverse impacts and to protect the public health, safety and meet all city standards, then the examiner shall deny the proposed preliminary plat.

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

C. Dedication and Improvements.

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

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

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

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

E. Expiration of Preliminary Plat Approval. The approval given to a preliminary plat shall expire five years following the approval date unless a proposed final plat meeting all the requirements of this chapter and the conditions of preliminary plat approval is submitted to the city. However, an applicant who files a written request with the ~~city council~~ community development department at least thirty days before the expiration of this five-year period may be granted a one-year extension upon a showing by the applicant and finding by the ~~city council~~ department that the applicant

has attempted in good faith to submit the final plat within the five-year period. Any extension may be conditioned upon further review by the ~~city council~~ department and may contain additional or altered conditions and requirements to comply with city standards current at the time of the extension. ~~Such changes shall be made at a public meeting of the city council.~~

Section 15. Black Diamond Municipal Code Section 17.20.010 is hereby amended to read as follows:

17.20.010 Contents of application.

The final plat application shall include the following:

- A. Final plat drawings in conformance with criteria set forth in this title and properly containing all information required by the conditions of preliminary plat approval;
- B. A title insurance report confirming that the title of the lands as described and shown on the plat is in the name of the owners signing the plat's certificate or instrument of dedication;
- C. ~~Three~~ Certified sets of "as-built" subdivision improvement drawings, or in the alternative, and at the city's sole discretion, a subdivision improvements completion bond as specified in this chapter;
- D. A maintenance and guarantee bond as described in this chapter;
- E. Survey information in conformance with criteria set forth in this chapter;
- F. A nonrefundable final plat fee in the amount specified by city ~~ordinance~~ fee schedule;
- G. Any other documentation which may be necessary to show compliance with conditions of preliminary plat approval;
- H. A title insurance policy in favor of the city in an amount as approved by the city attorney for all land within the subdivision to be dedicated to the city.

Section 16. Black Diamond Municipal Code Section 17.20.020 is hereby amended to read as follows:

17.20.020 Contents and standards for final plat drawings.

Every final plat shall consist of one or more pages, each eighteen inches by twenty-~~four~~two inches, clearly and legibly drawn on tracing cloth, stable-base mylar polyester film or equivalent approved material. All drawing or lettering shall be in permanent India ink. The perimeter of the subdivision shall be depicted in heavier lines than those that appear elsewhere on the plat. Each sheet of the final plat shall contain the subdivision name and sheet number, and each sheet containing a drawing shall also contain the scale and the north arrow showing the equation to true north where

applicable. All signatures shall be written in permanent India ink. Every final plat shall include an accurate map of the subdivided land based upon a complete survey thereof containing all elements described in and consistent with WAC chapter 332-130, which map shall include:

- A. All section, township, municipal and city lines lying within or adjacent to the subdivision;
- B. The location of all monuments or other evidence used as ties to establish the subdivision's boundaries;
- C. The location of all permanent control monuments found and established within the subdivision;
- D. The boundary of the subdivision with complete bearings and lineal dimensions;
- E. The length and the bearings of all straight lines; the radii, arc lengths, semitangents and delta angle of all road centering curves and radii; delta angle and arc length of right-of-way curves;
- F. The length of each lot line, together with the bearings and other data necessary for the location of any lot line in the field;
- G. The location, width, centerline and name or number of all streets within and adjoining the subdivision;
- H. The location shown with broken lines, the width and description of all easements;
- I. Numbers assigned to all lots and blocks within the subdivision;
- J. Names of any adjacent subdivision(s);
- ~~K. A copy of all restrictive covenants proposed to be imposed upon land within the subdivision;~~
- KL. Legal description of the land within the subdivision;
- LM. All dedications of streets or other areas to the public, an individual or individuals, religious society or societies or to any corporation, public or private. Roads not dedicated to the public must be clearly marked on the face of the plat. Any dedication, donation or grant as shown on the face of the plat shall be considered for all intents and purposes as a quitclaim deed to the donee or donees, grantee or grantees for his, her or their use for the purpose intended by the donors or grantors aforesaid;
- MN. The location of all sensitive area boundaries, including any required buffer and/or setback areas;
- NO. The lot area in square feet for each lot or tract within the subdivision;
- OP. Lot addresses of individual lots. ~~The minimum required yard setback areas for each lot or tract within the proposed subdivision.~~

Section 17. Black Diamond Municipal Code Section 17.20.030 is hereby amended to read as follows:

17.20.030 Surveys and monumentation.

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

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

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

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

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

C. The position and type of every monument shall be noted on all plats of the subdivision in accordance with the Survey Recording Act. ~~Permanent control monuments shall be set in concrete four inches by four inches at the top, six inches by six inches at the bottom, twenty-four inches with metal marker cast in the center. Permanent control monuments within the streets shall be set after the streets are graded, the surety deposited to secure grading shall be sufficient to pay the costs estimated by the city engineer of setting such monuments. Every lot corner shall be marked by a one-half inch or five-eighths inch galvanized iron pipe or approved equivalent, driven into the ground. If any land in a subdivision is contiguous to a meandered body of water, the meander line shall be re-established and shown on the plat. If the thread of the stream lies within a subdivision and forms the boundary of lots, such thread shall be defined by bearing and distances as it exists at the time of the survey.~~

Section 18. Black Diamond Municipal Code Section 17.20.040 is hereby amended to read as follows:

17.20.040 Required certificates.

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

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

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

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

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

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

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

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

~~F. Council Approval.~~ The resolution number and date of approval by the city council and the signature of the mayor signifying such approval.

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

~~G. Repealed by Ord. No. 857.~~

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

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

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

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

Section 19. Black Diamond Municipal Code Section 17.20.050 is hereby amended to read as follows:

17.20.050 Improvements.

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

B. Completion and Maintenance Bonds. In lieu of the completion of the actual construction of required public improvements prior to approval of a final plat, other than the exempted improvements referenced in subsection A of this section, the city may accept a bond, in a form approved by the city attorney, or other secure method, in an amount equal to one hundred fifty percent of the ~~city engineer’s public works director’s~~ estimate of the cost of public improvements guaranteeing the actual construction and installation of such public improvements within a period of time to be set by the city administrator, but in no event more than one year of final plat

approval. In addition, before final plat approval is granted, the applicant/property owner shall file a maintenance bond, or other secure method approved by the city, in an amount equal to twenty-five percent of the ~~city engineer's~~ public works director's estimate of the cost of improvements for a period lasting through the period two years after final acceptance of the improvements. The city shall withhold approval of the final plat until the completion bond (if accepted by the city) and maintenance bond are filed. The city may enforce such bonds according to their terms, pursuant to any and all legal and equitable remedies. In addition, any completion or maintenance bond filed pursuant to this subsection shall be subject to enforcement in the following manner:

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

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

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

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

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

2. Construction of improvements shall not be initiated without

authorization of the ~~city engineer~~public works director. The ~~city engineer~~public works director shall authorize the applicant/property owner to proceed with construction after approval of the construction drawings and specifications. The ~~city engineer~~public works director may grant approval on condition additions or changes are made in the drawings or specifications, or on the inclusion or implementation of mitigating measures necessary to minimize the impact of the subdivision or subdivision construction on the environment. Conditions required to minimize environmental impacts shall conform with the requirements of the city's current SEPA ordinance.

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

4. Construction of the subdivision improvements shall proceed as shown in the construction drawings and specifications. Construction shall proceed under the supervision of a registered civil engineer. The ~~city engineer~~public works director shall inspect construction progress on a daily basis to review compliance with construction plans and required standards. All costs of inspections by the ~~city engineer~~public works director shall be borne by the applicant/property owner.

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

Section 20. Black Diamond Municipal Code Section 17.20.060 is hereby amended to read as follows:

17.20.060 Final plat review and decision.

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

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

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

B. City Council Decision. The city council shall review the findings of the ~~city engineer-public works director~~ and review the proposed final plat to assure that there is conformance with all terms of the preliminary plat approval and, where applicable, MPD approval, the MPD development agreement, and MPD design standards. If the council determines that the final plat conforms with these requirements, and adequate bonds, if applicable, have been posted, then, by resolution, it shall enter written findings to that effect, and shall authorize the mayor to execute the city's written approval on the face of the plat.

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

Section 21. Black Diamond Municipal Code Section 17.20.070 is hereby amended to read as follows:

17.20.070 Filing.

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

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

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

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

Section 22. Black Diamond Municipal Code Section 17.20.080 is hereby amended to read as follows:

17.20.080 Violation--Permit not to be issued.

No building permit or other development permit shall be issued for any lot, tract or parcel of land divided in violation of this title unless the authority authorized to issue such permits finds that the public interest will not be adversely affected thereby. Provided, that building permits for up to four (4) model homes may be issued prior to final plat recording. The prohibition contained in this section shall not apply to an innocent purchaser for value without actual notice. All purchasers' or transferees' property shall comply with the provisions of this chapter and each purchaser or transferee may recover his or her damages from any person, firm, corporation or agent selling or transferring land in violation of this chapter or regulations adopted pursuant thereto, including any amount reasonably spent as a result of inability to obtain any development permit and spent to conform to the requirements of this chapter as well as cost of investigation, suit and reasonable attorney's fees occasioned thereby. Such purchaser or transferee may as an alternative to conforming his or her property to these requirements, rescind the sale or transfer and recover costs of investigation, suit, and reasonable attorney's fees occasioned thereby.

Section 23. A new Section 17.20.090 is hereby added to the Black Diamond Municipal Code to read as follows:

17.20.090 Vacation or Alteration of a Subdivision

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

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

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

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

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

part of the boundary of the subdivision, title to the vacated road or street shall vest with the owner or owners of property contained within the vacated subdivision.

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

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

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

If the alteration to a subdivision is requested prior to final plat approval, a minor alteration may be approved with the consent of the Community Development Director. A major alteration shall require approval of the Hearing Examiner after appropriate public notice and holding of a public hearing. The Community Development Department shall have the authority to determine whether the proposed alteration constitutes a minor or major alteration. If the alteration to a subdivision is requested after final plat approval, but prior to filing the final plat with King County, a plat alteration may be approved with consent of the City Council. Upon receipt of an application for alteration, the Community Development Department shall provide notice of the application to all owners of property within the subdivision, and as was required by the subdivision application. The notice shall establish a date for a public meeting.

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

subdivision application. The notice shall establish a date for the public meeting.

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

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

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

Section 24. Black Diamond Municipal Code Section 17.32.010 is hereby amended to read as follows:

17.32.010 Applicability.

A. Any short subdivision shall comply with the provisions of this chapter.

B. Exemptions. The provisions of this section are not applicable to the following:

1. Cemeteries and other burial lots which are used for that purpose;
2. Divisions made by testamentary provisions or the laws of descent;
- ~~3. Lots which are acquired by the same developer as part of the same development scheme but legal title is obtained at different times to the lots; provided, that such development is subject to a binding site plan pursuant to the zoning code;~~
34. A division for the purpose of leasing land for facilities providing personal wireless services while used for that purpose. "Personal wireless services" means any federally licensed personal wireless service. "Facilities" means unstaffed facilities that are used for the transmission or reception, or both, of wireless communication services, including, but not necessarily limited to, antenna arrays, transmission cables, equipment shelters, and support structures.

C. Further Divisions. Land within a short subdivision shall not be further divided in any manner for a period of five years from the date the approved short plat is recorded with the auditor without complying with

the subdivision requirements of the code, except that when a short subdivision contains fewer than six lots, nothing in this section shall prevent the owner from filing an alteration within the five-year period of creat up to a total of six lots within the original short subdivision boundaries. This requirement shall be stated on the face of the short plat.

D. Contiguous parcels that have one or more common owners, one or more persons who have an interest in the entity that owns or has an ownership interest in contiguous parcels, or a developer who intends to develop contiguous properties, must comply with the subdivision requirements of this title if the total number or resultant lots will exceed six~~four~~ in number. The short subdivision code may not be used as a mechanism to avoid the requirements of the subdivision code where there are adjacent parcels under common ownership, as described herein, that, but for the property boundaries, would be required to comply with the subdivision requirements.

Section 25. Black Diamond Municipal Code Section 17.32.020 is hereby amended to read as follows:

17.32.020 Filing procedure and fee.

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

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

underground telephone service lines;

10. If the proposed short ~~subdivision~~plat is part of an approved MPD, the proposed short plat drawing shall show road, trail, utility, and other connections to adjacent MPD properties, as well as adjacent approved MPD land uses;

11. All environmentally sensitive areas and their buffers.

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

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

~~C~~D. A nonrefundable short subdivisionplat fee in the amount specified by the city fee ~~schedul~~er~~esolution~~.

Section 26. Black Diamond Municipal Code Section 17.32.030 is hereby amended to read as follows:

17.32.030 Application of environmental analysis and impact statement.

~~A.~~All actions by the city in approving a short subdivisionplat shall be exempt from any SEPA environmental analysis or environmental impact statement as provided in WAC 197-11-800(6)(a) unless the city administrator determines that the short subdivision is located wholly or partially within an “environmentally sensitive area” as defined by Black Diamond Municipal Code Chapter 19.102.

~~B. If the short subdivision is located wholly or partially within an “environmentally sensitive area,” the environmental review procedures stated in this chapter shall be followed.~~

Section 27. Black Diamond Municipal Code Section 17.32.040 is hereby amended to read as follows:

17.32.040 Survey.

A. Surveys shall be required for all short ~~plats~~ and short subdivisions.

B. All surveys shall be accomplished as required by the Survey Recording Act (Chapter 50, Washington Laws of 1973), and shall be monumented as stated in this chapter.

Section 28. Black Diamond Municipal Code Section 17.32.050 is hereby amended to read as follows:

17.32.050 Review and summary approval.

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

B. At the time of issuing the notice of application, the city planner ~~or community development director~~ shall submit the proposed short ~~subdivision~~plat to all city department heads, including, but not limited to, the ~~public works director~~city engineer, the city utilities superintendent, the city police chief, the city SEPA responsible official and the city fire ~~marshall~~chief for staff review. The following review criteria shall apply:

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

a. Public streets, curbs, storm sewers, sidewalks (and other planning features that assure safe walking conditions for students who walk to and from school) and streetlights shall be designed and constructed in accordance with the standards of the city and to the approval of the city public works director~~engineer~~.

b. The water distribution system, including fire hydrants and service lines, shall be designed and constructed in accordance with the standards of the city and to the approval of the ~~public works director~~city engineer.

c. The sanitary sewer system shall be constructed in accordance with the standards of the city and to the approval of the ~~public works director~~city engineer.

d. Permanent survey monuments shall be erected and lot corners set according to the standards of the city and under the approval of the city engineer.

e. The ~~city engineer~~public works director shall also review the proposed short plat to ensure that all requirements as may be necessary to minimize

flood damage are met.

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

3. ~~The city fire chief~~ Mountain View Fire and Rescue (King County Fire District No. 44) shall review the proposed short subdivision plat for adequacy of water supply and access for fire protection purposes.

4. ~~The city police chief shall review the proposed short plat for the adequacy of access for police protection purposes.~~

~~45.~~ The city ~~SEPA responsible official~~ natural resources director shall review the proposed short subdivision plat for environmental impacts.

C. Department Review. Each department head shall, within fourteen days after receipt, complete his or her review of the proposed short subdivision and transmit written comments and recommendations to the city planner. The items noted in subsections (B)(1) through (B)(~~45~~) of this section shall be considered as criteria for which a short subdivision plat may be denied. City standards in place at the time of a complete application shall be applied during the review process.

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

~~DE. Summary Approval~~ Notice of Preliminary Decision by Community Development Director. The city planner community development director shall review comments from city staff and coordinate and transmit final determinations to the applicant. The city community development director shall complete its review and issue either preliminary approval or disapproval of the proposed short subdivision plat within one hundred

twenty days after the short subdivision~~plat~~ is determined to be complete by the city, unless an environmental impact statement is required. ~~Except for the fiscal analysis requirements, the approval~~~~decision~~ criteria set forth in Chapter 17.15 of this title shall apply to short subdivision~~plat~~ applications.

Section 29. A new section 17.32.055 is hereby added to the Black Diamond Municipal Code to read as follows:

17.32.055 Appeal Procedures

Within fourteen calendar days following the notice of decision issued for a proposed short subdivision issued pursuant to Section 17.32.050, the developer or applicant may appeal the decision to the city council. The appeal shall be accomplished by filing of a written request with the city clerk for a hearing. The notice of appeal shall briefly specify the issues of the appeal. Decisions not appealed are deemed final and conclusive.

Section 30. Black Diamond Municipal Code Section 17.32.060 is hereby amended to read as follows:

17.32.060 Expiration of short subdivision~~plat~~ approval.

The preliminary approval given to a short subdivision~~plat~~ shall expire within five years following approval, and no extensions shall be granted.

Section 31. Black Diamond Municipal Code Section 17.32.070 is hereby amended to read as follows:

17.32.070 Final approval and improvement construction.

A. The short subdivision~~plat~~ shall receive final approval within thirty working days after all required improvements have been constructed, as-built~~s~~ provided, and the construction approved by the ~~city engineer~~public works director, or at the applicant's request and at the city's sole discretion, the applicant may be permitted to financially guarantee installation of the same pursuant to subsection B of this section. Provided that any short subdivision approved by the community development director as a Paper Plat need not construct required improvements or provide financial guarantees prior to receiving final approval. The community development director may establish standards and procedures for approval of a Paper Plat.

B. Completion and Maintenance Bonds. In lieu of the completion of the actual construction of required public improvements prior to approval of a short subdivision~~plat~~, the city may accept a bond, in a form approved by the city attorney, or other secure method, in an amount equal to one hundred fifty percent of the public works director~~city engineer's~~ estimate

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

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

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

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

D. Improvement Construction. Construction of short subdivision improvements prior to final short subdivision~~plat~~ approval or subsequent

to final short subdivision plat approval as a condition to meeting bond requirements shall proceed as follows:

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

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

3. Any changes to the construction drawings or specifications involving the design of the short subdivision improvements shall first be reviewed and approved by the ~~city engineer~~ public works director.

4. Construction of the short subdivision plat improvements shall proceed as shown in the construction drawings and specifications. Construction shall proceed under the supervision of a registered civil engineer. The ~~city engineer~~ public works director shall inspect construction progress on a daily basis to review compliance with construction plans and required standards. All costs of inspections by the ~~city engineer~~ public works director shall be borne by the applicant/property owner.

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

E. Notice of Decision. Within ten days of final city action on the short subdivision plat, the city shall provide a mailed notice of decision to the applicant, to all parties of record, and to all parties requesting such notice in writing.

Section 32. Black Diamond Municipal Code Section 17.32.090 is hereby amended to read as follows:

17.32.090 Public utility service.

Ordinance No. 09-924

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No public utility service will be provided to any buildings or improvements constructed within a short ~~subdivision~~ plat until the construction of all required improvements has been completed and approved by the ~~public works director~~ city engineer. These public utility services shall include water supply, and sanitary sewer service.

Section 33. Black Diamond Municipal Code Section 17.32.100 is hereby amended to read as follows:

17.32.100 Filing~~Notice.~~

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

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

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

Section 34. Section 17.32.110 of the Black Diamond Municipal Code is hereby repealed.

Section 35. Black Diamond Municipal Code Subsection 17.34.020(a) is hereby amended to read as follows:

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

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

Section 36. Black Diamond Municipal Code Subsection 17.34.060(a) is hereby amended to read as follows:

Ordinance No. 09-924

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A. After a binding site plan application has received approval from the director, the applicant shall have ~~sixtyone hundred eighty~~ (6180) days to present to the city a final binding site plan in accordance with this section.

Section 37. Black Diamond Municipal Code Section 17.36.030 is hereby amended to read as follows:

17.36.030 Adjustment request contents.

The written request for lot line adjustment shall be accompanied by and shall contain the following:

A. Prints meeting the following requirements:~~The appropriate application fee pursuant to city resolution;~~

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

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

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

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

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

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

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

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

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

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

11. All environmentally sensitive areas and their buffers.

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

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

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

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

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

Section 38. Black Diamond Municipal Code Section 17.36.040 is hereby amended to read as follows:

17.36.040 Adjustment request review standard.

The ~~city administrator~~community development director or his or her designee, ~~the public works director, and the fire marshall~~ shall review the proposed lot line adjustment request in accordance with the following standards:

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

Section 39. Black Diamond Municipal Code Section 17.36.050 is hereby amended to read as follows:

17.36.050 Approval conditions.

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

- A. Payment of all fees owed to the city for its services;
- B. A survey and setting of the corners of the new lot(s) by a professionallicensed land surveyor;
- C. Execution of deeds and related documents by the affected landowners and lienholders, on forms provided by the applicanteity and recorded by the city with King County in order to effectuate the lot line adjustment;
- D. A determination of the identity of affected owners by a title report or other documentation satisfactory to the city-administratorcommunity development director; or
- E. Such other conditions as may be reasonably necessary to protect the public health, safety and welfare.

Section 40. Black Diamond Municipal Code Section 17.36.060 is hereby amended to read as follows:

17.36.060 Approval--Authority--Finalization.

- A. The city-administratorcommunity development director may approve the lot line adjustment request if it complies with the review criteria. ~~The city administrator may, in his or her discretion, defer to the city council the decision on the lot line adjustment request.~~
- B. After approval of any lot line adjustment by the city administratordirector, the applicant shall have a period of sixty days in which to present to the city the final lot line adjustment on the form required by this chapter, for signature by all appropriate city officials. After the city has returned the duly executed lot line adjustment to the applicant, the applicant shall record the lot line adjustment with the King County recorder's officeauditor within ~~thirtysixty~~ days. Failure to present the city with a formal lot line adjustment on the required form or to record the executed lot line adjustment with the county recorder's officeauditor within the time limits set forth herein shall render the lot line adjustment approval null and void. No lot line adjustment shall be deemed complete until such time as it is recorded with the King County recorder's officeauditor in accordance herewith.

Section 41. Black Diamond Municipal Code Section 17.36.070 is hereby repealed.

Section 42. Black Diamond Municipal Code Section 17.36.080 is hereby amended to read as follows:

17.36.080 Appeal to hearing examiner.

Within fourteen calendar days following the decision for a proposed lot line adjustment, the applicant may appeal the decision to the hearing examiner. The appeal shall be accomplished by filing of a written request

with the ~~city clerk~~ community development director for a hearing. The notice of appeal shall briefly specify the issues of the appeal. Decisions not timely appealed are deemed final and conclusive.

Section 43. Severability. Each and every provision of this Ordinance shall be deemed severable. In the event that any portion of this Ordinance is determined by final order of a court of competent jurisdiction to be void or unenforceable, such determination shall not affect the validity of the remaining provisions thereof, provided the intent of this Ordinance can still be furthered without the invalid provision.

Section 44. Effective date. This Ordinance shall be in full force and effect five (5) days after publication as required by law. A summary of this Ordinance may be published in lieu of the entire Ordinance, as authorized by State law.

Introduced on the ____ day of _____, 2009.

Passed by the City Council on the ____ day of _____, 2009.

Howard Botts, Mayor

ATTEST:

Brenda Martinez, City Clerk

APPROVED AS TO FORM:

Loren D. Combs, City Attorney

Published: _____

Effective Date: _____

CITY COUNCIL AGENDA BILL

City of Black Diamond
Post Office Box 599
Black Diamond, WA 98010

ITEM INFORMATION			
SUBJECT: Resolution No. 09-642, confirming the Mayor's appointment of Leonard Smith as City Administrator and authorizing the Mayor to execute an employment agreement	Agenda Date: October 1, 2009		AB09-120
	Department/Committee/Individual	Created	Reviewed
	Mayor Howard Botts		
	City Administrator –Gwen Voelpel		
	City Attorney – Loren D. Combs	X	
	City Clerk – Brenda L. Martinez		
	Finance – May Miller		
	Public Works – Seth Boettcher		
	Economic Devel. – Andy Williamson		
	Police – Jamey Kiblinger		
Cost Impact:	Court – Kaaren Woods		
Fund Source: Funding/Gen. Fund/Utilities	Comm. Dev. – Steve Pilcher		
Timeline: September 28, 2009			
Attachments: Resolution No. 09-642, Employment Agreement			
SUMMARY STATEMENT: <p>The Mayor appointed Mr. Smith to the position of City Administrator on September 28, 2009, pending Council confirmation.</p> <p>Mr. Smith has accepted and assumed the City Administrator position and began work on September 28, 2009.</p>			
COMMITTEE REVIEW AND RECOMMENDATION:			
RECOMMENDED ACTION: MOTION to adopt Resolution No. 09-642, confirming the Mayor's appointment of Leonard Smith as City Administrator and authorizing the Mayor to execute an employment agreement.			
RECORD OF COUNCIL ACTION			
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>	
October 1, 2009			

RESOLUTION NO. 09-642

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BLACK DIAMOND, KING COUNTY, WASHINGTON,
CONFIRMING THE MAYOR'S APPOINTMENT OF LEONARD
SMITH AS CITY ADMINISTRATOR AND AUTHORIZING THE
MAYOR TO EXECUTE AN EMPLOYMENT AGREEMENT

WHEREAS, the Mayor has appointed Leonard Smith to the position of City Administrator and seeks City Council confirmation of the appointment and authority to execute an employment agreement; and

WHEREAS, the Council supports the Mayor's selection of Mr. Smith and finds the proposed contract to be fair and reasonable; now, therefore

BE IT RESOLVED that the City Council hereby confirms the Mayor's appointment of Leonard Smith as City Administrator and authorizes the Mayor, on behalf of the City, to execute the attached Employment Agreement.

ADOPTED by the City Council on October 1, 2009 at an open public meeting.

Howard Botts, Mayor

Attest:

Brenda L. Martinez, City Clerk

**EMPLOYMENT AGREEMENT
BETWEEN
CITY OF BLACK DIAMOND AND LEONARD SMITH
REGARDING
CITY ADMINISTRATOR POSITION**

1. Date and Parties. This agreement ("Agreement"), for reference purposes only, is dated the ____ day of _____, 2009, and is entered into between the City of Black Diamond, a Washington municipal corporation ("City") and Leonard Smith, ("Mr. Smith") and shall be referred to as the "Agreement".

2. Purpose. The purpose of this Agreement is to define the terms and conditions of Mr. Smith's employment with the City of Black Diamond.

3. Appointment to City Administrator Position. Mr. Smith is hereby appointed, effective September 28, 2009, to the position of City Administrator and Mr. Smith hereby accepts that appointment.

4. Term. It is the desire of both parties that Mr. Smith shall continue to serve as the City's City Administrator for a long period of time. The parties acknowledge, however, that the City Administrator position is an "at will" employment position, and the City and Mr. Smith are at liberty to terminate his employment with the City at any time, subject only to the Agreement terms.

5. Duties. Mr. Smith shall perform all duties and obligations of the City Administrator as required by law, and such other duties as are set forth in the City Code, or as assigned from time to time by the Mayor. Mr. Smith recognizes that the City Council is the legislative and policy making body of the City. The City Administrator, under the direction and control of the Mayor, is the individual responsible for administration of City personnel, and for the administration and enforcement of the City's ordinances, resolutions, policies and directives of the City Council. Mr. Smith shall attend all special and regular meetings of the City Council, unless excused, and such other meetings as required by the Mayor.

6. Salary. Mr. Smith's starting salary shall be \$9,626.00 per month, plus any supplemental benefits that are set forth in the City's Personnel Manual, as amended from time to time. His salary shall be paid in accordance with the procedures for other employees of the City. Mr. Smith's salary shall be annually reviewed to determine whether or not an increase is appropriate, taking into account Mr. Smith's performance, the prevailing compensation for other City Administrators with similar responsibilities in the Puget Sound Region and such other factors as the Mayor and City Council deems appropriate. Thereafter, City agrees to increase said base salary and/or benefits of Mr. Smith in such amounts and to such extent as the Mayor and City Council may determine is desirable, on the basis of an annual performance evaluation and compensation review, or at such further times as circumstances warrant. In addition, the City Administrator shall receive any cost of living adjustments to his base salary in such amounts and at such times as are otherwise provided to all City department directors.

7. Benefits. All benefits applicable to City Department Director employees, as set forth in the City's Personnel Manual, as it now exists or may subsequently be amended, shall also be applicable to Mr. Smith, except where expressly modified herein.

a. Sick Leave. Mr. Smith shall immediately be credited with 5 days sick leave.

b. Vacation. Mr. Smith shall immediately be credited with 10 days vacation.

c. Retirement. The City shall pay into the Washington State Department of Retirement Systems (DRS) Public Employees Retirement System (PERS) plan, for the benefit of Mr. Smith, in accordance with applicable state regulations. The City agrees to execute all necessary agreements provided by ICMA Retirement Corporation (ICMA-RC) for Mr. Smith's participation in said ICMA-RC retirement plan. Actual financial participation will be borne by Mr. Smith.

d. Deferred Compensation. The City shall contribute to Mr. Smith's Washington State Retirement System Deferred Compensation Account with a 25% match each month up to \$25.00 per month total, with such payments coinciding with the schedule for salary payments for employees of the City.

e. Membership Dues. The City shall pay membership dues for Mr. Smith's membership in the International City Managers Association (ICMA) and the Washington City/County Managers Association (WCCMA). The City shall pay for Mr. Smith's attendance at such conferences and for such other memberships, subscriptions, or dues, desirable for Mr. Smith's continued professional growth, advancement for the good of the City, and as shall be contained in the City's adopted annual budget.

f. Professional Development. The City agrees to budget for and pay for travel and subsistence expenses of Mr. Smith for professional and office travel, meetings and occasions adequate to continue the professional development of Mr. Smith and to adequately pursue necessary official functions for City, including, but not limited to ICMA Annual Conference, the Association of Washington Cities, the Washington City/County Administrators Association and such other national, regional, state and local governmental groups and committees thereof which Mr. Smith serves as a member.

g. General Expenses. The City recognizes that certain expenses of a non-personal and generally job-affiliated nature are incurred by Mr. Smith, and agrees to reimburse or to pay said general expenses allowed by the laws of the State of Washington and the Finance Director is authorized to disburse such monies upon receipt of duly executed expense or petty cash vouchers, receipts, statements or personal affidavits as approved by the City.

h. Car Allowance. The City shall pay a monthly allowance of \$400.00 for automobile expenses incurred by Mr. Smith using his personal vehicle for City related business. Said allowance is in lieu of the City otherwise providing Mr. Smith with use of a City vehicle on a regular basis. This allowance shall be adjusted annually, commencing January 1, 2010, in an amount equal to the percentage increases to the Internal Revenue Service's motor vehicle mileage expense rate using 2009 as the base year. In addition to the foregoing, in the event that Mr. Smith, in the performance of his duties and obligations is required to use his automobile for travel outside the Puget Sound Region, Mr. Smith will be entitled to reimbursement for mileage incurred outside said Region at the City's adopted mileage reimbursement rate.

i. Civic Club Membership. The City recognizes the desirability of representation in local civic clubs and other organizations, and Mr. Smith is authorized to become a member of one (1) civic club for which the City shall pay dues and meeting expenses. Mr. Smith shall report to the City on membership he has taken at the City's expense.

8. Performance Review. Mr. Smith's performance shall be reviewed annually on or about the anniversary date of his commencement of employment. The Mayor, as a part of the performance review process, shall define the goals and performance objectives which he determines necessary for the proper operation of the City and to attain the City's policy objectives. The Mayor, in consultation with Mr. Smith, will establish a priority amongst the various goals and objectives and said objectives and priorities shall be reduced to writing. Mr. Smith's salary and other benefits may be adjusted by mutual agreement of the parties during the review process as specified in this Agreement. In recognition of accomplishments and excellent performance, a merit increase may be granted to Mr. Smith.

9. Termination.

a. By the City. The parties recognize and acknowledge that the provisions of the City Personnel Manual, and paragraph 8 above notwithstanding, Mr. Smith is an "at will" employee and the Mayor may terminate Mr. Smith with or without cause at any time and for any reason.

b. Termination Pay and Termination Benefits. In the event the City elects to terminate Mr. Smith for any reason other than "cause", Mr. Smith shall receive a cash payment equal to six (6) months of Mr. Smith's base rate and education incentives, plus a sum equal to the six (6) months premiums for the City medical, dental and visual plan for Mr. Smith and dependents ("Termination Pay"). Mr. Smith shall also receive payment for all accumulated vacation leave, administrative leave, and sick leave to the extent it is authorized by the City's Personnel Manual ("Termination Benefits"). Said sum shall be subject to applicable federal withholding taxes. In consideration of said payment, Mr. Smith agrees to execute a release of all claims against the City, its elected or appointed officers, employees or agents, for any claims arising out of Mr. Smith's employment or Mr. Smith's termination of employment with the City in a form to be approved by the City Attorney. Provided, if Mr. Smith is terminated for "cause", then Mr. Smith shall not be entitled to any Termination Pay, but will remain entitled to his Termination Benefits. For purposes of this Agreement, the term "cause" shall mean misfeasance, malfeasance, or nonfeasance in office.

c. Termination by Mr. Smith. In the event Mr. Smith elects to terminate his employment with the City, Mr. Smith agrees to provide the City with not less than sixty (60) days' notice prior to the effective date of said termination of employment. Notwithstanding the foregoing notice requirement, nothing shall prevent the Mayor, upon receiving Mr. Smith's notice of intent to terminate his employment, from compensating Mr. Smith at the rate of Mr. Smith's base salary plus education incentives for the unexpired portion of the sixty (60) days notice and releasing Mr. Smith prior to the expiration of said notice period. Mr. Smith shall not be entitled to Termination Pay, but shall receive Termination Benefits.

10. Indemnification. Mr. Smith shall be entitled to the benefits and subject to the responsibilities, set forth in Black Diamond Municipal Code Chapter 2.66.

11. Bonding. The City shall bear the full costs of any fidelity or other bonds required of Mr. Smith under any law or ordinance associated with performing the City Administrator duties.

12. Integration. This Agreement constitutes the entire agreement between the parties, and both parties acknowledge that there are no other agreements, oral or otherwise, that have not been fully set forth in the text of this Agreement.

13. Modification. The parties agree that this Agreement can be amended or modified only by written addendum to this Agreement, approved by the City Council, and signed by both parties.

14. Authorization. The Mayor's appointment of Mr. Smith to the position of City Administrator was confirmed by the City Council on the 1st day of October, 2009 and the Mayor was authorized by the City Council to execute this agreement by the adoption of Resolution number 09-642.

15. Review by Independent Legal Counsel. Mr. Smith represents and acknowledges that he has read this Agreement in its entirety and has had an opportunity to review the Agreement. He further represents and acknowledges that it is his understanding that this Agreement has been reviewed and approved by Loren D. Combs and VSI Law Group PLLC acting on behalf of the City of Black Diamond only, and not on behalf of Mr. Smith, that neither Loren D. Combs or anyone employed by VSI Law Group PLLC can give him legal advice regarding this Agreement, and that he will seek other legal counsel should he have any questions or concerns regarding this Agreement. By signing this Agreement he acknowledges that he has afforded himself of the opportunity to consult other legal counsel, or hereby expressly waives his right to have the Agreement reviewed by independent legal counsel, and agrees to the continued representation of the City by Loren D. Combs and VSI Law Group PLLC with regards to this Agreement and all matters related to Mr. Smith's employment with the City.

CITY OF BLACK DIAMOND

By: _____
Howard Botts, Mayor

Leonard Smith

ATTEST:

By: _____
Brenda L. Martinez,
City Clerk/Assistant City Administrator

Approved as to form:

By: _____
Loren D. Combs, City Attorney