

Staff Report and Recommendations to the Planning Commission

2023 Comprehensive Plan Amendments Preliminary Docket

CITY OF BLACK DIAMOND

Mona Davis, Community Development Director
May 9, 2023



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Introduction

This report is prepared pursuant to Black Diamond Municipal Code (BDMC) 16.10.140(B). Each of the preliminary docket items that were timely received by the City, or suggested by the City staff or Council, are described below. For each of these preliminary docket items, this report includes a recommendation as to whether the item should, or should not, be included on the final docket, to be set by the City Council, for consideration during the 2023 Comprehensive Plan amendment cycle.

Overview of 2023 Docket Process

Under RCW 36.70A.130(2), cities may consider proposed amendments to their comprehensive plans no more frequently than once per year, with certain limited exceptions. So that proposed amendments can be considered in an orderly and holistic manner, the state Growth Management Act (GMA) directs cities to create an annual docket that lists all proposed amendments to be considered during this once-per-year review process. The docket comprises the proposed changes to the Comprehensive Plan and development regulations that the City has resolved to evaluate during the annual update cycle. By preparing an annual docket, the City ensures that all proposed amendments are considered concurrently so that their cumulative effect can be ascertained and evaluated.¹

Proposed amendments to the Comprehensive Plan and City development regulations may be suggested by private citizens or by members of the City staff and City Council.² Under BDMC 16.10.130(D), all privately initiated amendments to the Comprehensive Plan or development regulations must be submitted by March 1 of each year. City Councilmembers may suggest amendments be added to the docket at any time before the final docket is set. For 2023, there are 3 privately initiated amendments.

After the March 1 submission deadline has passed, a preliminary docket is prepared by the Community Development Director (Director). The preliminary docket consists of all timely suggestions for Comprehensive Plan and development regulation amendments received for the annual review cycle.³

The Director is charged with preparing a report summarizing the proposed docket items and making a recommendation to the Planning Commission about which, if any, of the proposed items should be included on the final docket to be approved by the City Council.⁴ The Director's recommendations to the Planning Commission are informed by the following factors, as laid out in BDMC 16.10.140(B):

- The need, urgency, and appropriateness of the suggested amendments;
- The availability of sufficient planning staff to substantively review the suggested amendments and to manage the public participation process; and
- The anticipated costs and budget impacts associated with processing the suggested amendments.

The Planning Commission is then required to hold a public hearing on the preliminary docket and to make a recommendation to the City Council as to which, if any, of the suggested amendments from the

¹ BDMC 16.10.130(c)

² BDMC 16.10.130(B)

³ BDMC 16.10.140(A)

⁴ BDMC 16.10.140(B)

preliminary docket should be included on the final docket.⁵ The City Council then considers the Planning Commission's recommendations before adopting a final docket by resolution.⁶ The City Council may adopt the docket as recommended, or add to, subtract from, or modify the recommendations from the Planning Commission.⁷ However, if the Council decides to add to, subtract from, or modify the suggested amendments, it may first be required to hold a public hearing under RCW 36.70A.035(2)(a) and BDMC 16.10.230(B).

The final docket—which consists of all suggested amendments that the City Council elects in its discretion to include on the docket, as well as any complete applications for site-specific amendments that were timely submitted by an applicant—serves as the road map for the City's consideration of amendments to the Comprehensive Plan and development regulations during the annual review cycle.

- Note: The fact that an item is included on the final docket does not mean that the item will result in any changes to the Comprehensive Plan or development regulations (BDMC 16.10.190). Rather, it is a commitment by the City to study the requested amendment during the annual review cycle.

Once the City Council has established the final docket, the items on the docket will be studied by City staff and the Planning Commission over a series of months, with meetings and public hearings convened to receive public testimony and deliberate on each of the docketed items.⁸ These deliberations include careful consideration of the impacts of the proposed amendments on long-term planning goals and potential environmental impacts.

When the Planning Commission has completed its review of the docketed items, it will transmit a report to the City Council with a list of recommended amendments to the Comprehensive Plan and/or development regulations for final adoption.⁹ The Director will also prepare a SEPA determination for the recommended amendments.¹⁰ The City Council will then deliberate on the Planning Commission's recommendations and vote in a public meeting to adopt, reject, or modify the proposed amendments, as required by BDMC 16.10.120(A) and 16.10.230.

A tentative schedule for finalizing the docket and considering the docketed items is set forth at the end of this report.

⁵ BDMC 16.10.160

⁶ BDMC 16.10.170, 16.10.230

⁷ BDMC 16.10.230

⁸ BDMC 16.10.120(A)

⁹ BDMC 16.10.210

¹⁰ BDMC 16.10.200

Proposed Amendments for the 2023 Docket

There were no formal comprehensive plan amendments submitted with an application fee. Staff received three e-mails with suggested items on the preliminary docket for the proposed 2023 amendments to the Black Diamond Comprehensive Plan, which are described below. For ease of reference, a Summary of all City staff recommendations begins on page 7 of this report.

ITEM #2023-01: SUGGESTED AMENDMENTS FROM KELLEY SAUSKOJUS
(E-MAIL DATED 2-27-2023)

Requestor

This item is requested by Kelley Sauskojus.

Description

The requestor has submitted nine suggested edits to the comprehensive plan pertaining to Schools, Zoning, Land Use, and Transportation (see Exhibit 1).

Recommendation

The zoning, land use, and transportation issues will require extensive analysis and opportunities for public participation before final recommendations can be reached. In addition, traffic modeling will need to be completed as part of the 2024 Comprehensive Plan periodic update. City staff recommend that these suggested edits be evaluated as part of the periodic update with traffic modeling and analysis to be completed in the next 3-6 months. **City staff recommend that Item #2023-01 not be included on the 2023 Docket and be considered as part of the 2024 Periodic Update.**

ITEM #2023-02: SUGGESTED AMENDMENTS FROM FRIENDS OF BLACK DIAMOND
(E-MAIL DATED 3-1-2023)

Requestor

This item is requested by Friends of Black Diamond (Kristen Bryant, William Bryant, Gary Davis, Angela Fetting).

Description

The requestor has submitted and endorsed the nine suggested edits to the comprehensive plan outlined in Item #2023-01 pertaining to Schools, Zoning, Land Use, and Transportation (see Exhibit 2). The requestor also makes a plea to complete the land use and zoning maps in 2023 and not put off this work until 2024.

Recommendation

The zoning, land use, and transportation issues will require extensive analysis and opportunities for public participation before final recommendations can be reached. In addition, traffic modeling and the transportation element will need to be completed as part of the 2024 Comprehensive Plan periodic update, and prior to the land use and zoning elements, to effectively update the FLUM and zoning maps. City staff recommend that these suggested edits be evaluated as part of the periodic update with traffic modeling and analysis to be completed in the next 3-6 months. **City staff recommend that Item #2023-02 not be included on the 2023 Docket and be considered as part of the 2024 Periodic Update.**

ITEM #2023-03: SUGGESTED AMENDMENTS FROM LISA WINTERS
(E-MAIL DATED 3-1-2023)

Requestor

This item is requested by Lisa Winters.

Description

The requestor asks that a new land use zoning designation of Residential Conservation or R-35,000 (1 unit/35,000 square feet) be added. She requested that her parcel be rezoned from MDR-8 (Medium Density Residential 8 units/acre) to a 35,000 square foot minimum lot size (see Exhibit 3).

The requestor offers the following rationale for the requested changes:

The land use designation of 1 house per acre will allow the city to fulfill its goals to better protect the environment and the waters and limit impervious surfaces next to sensitive areas, allowing space for trees and wildlife without further strain on public services or utilities.

Recommendation

The reclassification of a single parcel is tantamount to a “spot zone” and designations similar to those that are described by the petitioner are inconsistent with the urban densities that the City is required to accommodate under the Growth Management Act. Regulations pertaining to sensitive areas, tree preservation, and impervious surface limitations already exist within the Black Diamond Municipal Code (BDMC). Design standards and specifications are not appropriate to be put in the Comprehensive Plan, which is a guiding policy document. **City staff recommend that Item #2023-03 not be included on the 2023 Docket.**

Summary of Recommendations

Staff is recommending that the suggested items received as part of the 2023 docketing process be incorporated into the 2024 Comprehensive Plan, and the City not try and take a shorter amendment through this year with all the work that needs to be completed for the periodic update.

City staff have not lost sight of the 23 suggested amendments received in 2021 that went through numerous public hearings and meetings with the Planning Commission, yet never completed due to an appeal of the non-project SEPA threshold determination. Additionally, the City received 19 suggested amendments for the 2022 docket, that were recommended by Council to be postponed and analyzed in 2023 with the 2024 periodic update.

City staff recommends further public outreach this year, including public hearings and holding joint workshops with the Planning Commission and City Council to establish a Work Plan for completing the 2024 Periodic Update to the Comprehensive Plan, without taking on a formal Comprehensive Plan amendment in 2023.

Schedule for 2023 Docket Consideration (tentative)

May 9, 2023	Planning Commission meeting and public hearing to consider the 2023 preliminary docket and staff report
June 7, 2023	Planning Commission recommendations for 2023 Docket transmitted to City Council
June 15, 2023	City Council holds public meeting to consider and establish final 2023 Docket
June 2023 – June 2024	Planning Commission holds meeting(s) and public hearing(s) to deliberate on 2024 Docket items
July - October 2024	Planning Commission transmits recommended amendments to the Comprehensive Plan to City Council for adoption Staff provides draft comprehensive plan amendments transmitted to state agencies for comment SEPA Threshold Determination on proposed amendments issued
November – December 2024	City Council holds public hearing(s) to review and consider final adoption of 2024 amendments to the Comprehensive Plan Periodic Update
December 2024	Adopted amendments transmitted to Department of Commerce

Attachments

1. Exhibit 1 – E-mail from Kelley Sauskojus dated February 27, 2023
2. Exhibit 2 – E-mail from Friends of Black Diamond dated March 1, 2023
3. Exhibit 3 – E-mail from Lisa Winters dated March 1, 2023

Mona Davis

From: Kelley Sauskojus <kelleysauskojus@outlook.com>
Sent: Monday, February 27, 2023 9:31 PM
To: Mona Davis
Cc: Kristen Bryant; Friends BlackDiamond
Subject: suggestions for the 2023 Comp Plan
Attachments: 2023 Amendments for Comprehensive Plan.docx

Mrs. Davis,

Please find attached suggestions for the 2023 Comp Plan.

Please include them in the information provided to the Planning Commission and City Council.

If you have any questions, I would be happy to schedule time to discuss these suggestions.

Kelley Sauskojus
Planning Commissioner position 7
Black Diamond WA

Comprehensive Plan Amendment Submissions for 2023 Update To City of Black Diamond

The suggestions below provide explanatory text that and policies that can be incorporated into the comprehensive plan. All text is draft language that can be revised through the process.

1. Draft new text in section on Schools: The education of the community's children is a top priority. As we experience significant growth, there is a great increase in the need for new school capacity in a short period of time. Typical school impact fee formulas used elsewhere (such as King County's formula) do not take this into account. Black Diamond seeks to make growth pay for growth, and developers who work in the city must support the community's students.

Draft Public Service (PS) Policy: School districts serving Black Diamond are encouraged to include all likely development in capital plans. The City should adopt the maximum allowed and legally defensible developer school impact fees under state law. Additional agreements to account for longer-term school impacts should seek school funding using SEPA or other available mechanisms.

2. The following parcels' Land Use Designations are changed in an area-wide action as follows because the current comprehensive plan's analysis of public services and impacts assumes NO build-out or change from their current use¹. Additionally, these changes will result in a match of the current zoning designation for these parcels:
 - a. Parcels 1521069110, 1521069112, 1521069113, 1521069114, 1521069115, 1021069111 are designated as Light Industrial, or B/IP. (or "Mineral and Resource Extraction" if the city creates this as a designation).
 - b. Parcels 1121069020, 1121069112, 1121069113, 1121069114 are designated as Light Industrial, or B/IP. (or "Forestry" if the city creates this as a designation).
 - c. Parcel 1021069010 is designated "Low Density Residential" (LDR).
 - d. Parcels 1021069103 and 1021069105 are designated "Low Density Residential" (LDR).
3. New Land Use Policy: Land Use Designations for Commercial are strongly discouraged until the Master Planned Development Retail and Commercial land uses are built.

Commented [ab1]: Further, the developers of that land requested those designations indicating the likely near-term development instead of the previously unlikely development over the next 15 years. Further, the requests were made privately and never in public prior to the adoption of the changes. Owners must make the request and submit the required analysis.

The use of those parcels for the post-2019 land use did not follow any public process and the development of them is not contemplated in any of the comprehensive plan required analysis. Any item not previously done through public process must not remain in the land use map. Kombol/Butt stuff got in and the staff didn't tell anyone. There is still no analysis and the current comp plan must match the current analysis or we don't have a comp plan.

¹ Current use = what they are physically used for today, not what they could be built to at full intensity or within designated zoning/land use. Housing, transportation, utility analysis, etc. in the current Comprehensive Plan assume the listed parcels would not be further developed in the Plan's timeframe (to year 2035).

4. Draft new text in Land Use section: The city should not pay for or conduct analysis in the comprehensive plan for future land uses that increase the development intensity over current use. This does not mean those land use designations can't change; however, the taxpayers will not pay for the analysis. The landowners who benefit will pay so that growth pays for growth.

New Land Use (LU) Policy: If a parcel's Land Use is "undesigned" then it will remain undesigned until a change application is submitted pursuant to BDMC 16.10.050.

5. Draft new text in Land Use section: Black Diamond's location within the Urban Growth Area is not close to transit hubs and has unique constraints outside the city. Environmentally there are valuable conservation and wildlife areas within and adjacent to the city. Further, the Puget Sound Regional Council's 2020 recommendations said Black Diamond should avoid further exceeding its growth targets.

New Land Use (LU) Policy: The City seeks to avoid land use designations that make it more likely the city will significantly surpass growth targets in County-Wide Planning Policies.

6. New Transportation Policy: The City shall adopt transportation safety requirements aimed at encouraging pedestrian activity and enhancing small town and historic character.
7. New Land Use (LU) Policy: The city encourages land use and zoning that preserves our historic neighborhood character and historic buildings.
8. Draft new text in Land Use section: Land Use Designation of 1 residential unit per acre. This land use is for land adjacent to sensitive areas and conservation areas. This is consistent with Department of Ecology guidance on protecting wetlands and buffers.

9. Draft new text in Transportation Section: The Puget Sound Regional Council's 2020 review of Black Diamond's Comprehensive Plan recommended the city designate a "level of service" for active transportation.

New Transportation Policy: The City's level of service for sidewalks, trails, bikeways, and transit is [redacted]. New development shall be required to include a concurrency analysis for these modes of transportation, showing how the Level of Service will be met.

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Mona Davis

From: Friends BlackDiamond <friendsofblackdiamond@comcast.net>
Sent: Wednesday, March 1, 2023 12:35 PM
To: Mona Davis
Cc: Gary Davis; kristenbry@gmail.com; Kelley Sauskojus; r.mixdog4@comcast.net; Angela Rossman Fettig; Philip Acosta
Subject: Suggestions for 2023 Comprehensive Plan Amendments

To Community Development Director Mona Davis and the City of Black Diamond,

Friends of Black Diamond endorses the 2023 Comprehensive Plan suggestions sent by Planning Commissioner Sauskojus. We appreciate her efforts and submit the same suggestions for the preliminary docket per chapter 16.10 of the Municipal Code.

Director Davis, we also thank you and appreciate that you are keeping our previous years' suggestions in the list of items for consideration for the 2024 update.

Adopting this suggested shorter list of items for the 2023 amendments will result in an easier and less expensive 2024 update.

Even more importantly, the analysis and public input from the last several years shows that the land-use map as designated has urgent issues today. The current land-use designations can be exercised and will have unintended or unmitigated impacts that matter and affect people's lives. The changes we are requesting cannot be put off safely.

The land use issues that we brought up previously and bring up now for 2023 should be adopted as 2023 Comprehensive Plan Amendments. Waiting until 2024 leaves the city open to problems during the pendency of the 2024 Comprehensive Plan. In contrast, making this small list of amendments to the Comprehensive Plan in 2023 sets the city up to have a better and easier 2024 Comprehensive Plan update

We recognize the concerns that have been brought up about the 2024 major update being a large amount of work, and the difficulty of doing overlapping work for a 2023 amendment. We are interested in working with the city on the 2023 update so that we can remove this barrier and come to a solution that is less work and still addresses the potential problems the community faces because of the current comprehensive plan.

Thank you,
Friends of Black Diamond
and Kristen Bryant, William Bryant, Gary Davis, Angela Fettig

Comprehensive Plan Amendment Submissions for 2023 Update To City of Black Diamond

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New Transportation Policy: The City's level of service for sidewalks, trails, bikeways, and transit shall be set to a measurable value^[2]. New development shall be required to include a concurrency analysis for these modes of transportation, showing how the Level of Service will be met.

^[1] Current use = what they are physically used for today, not what they could be built to at full intensity or within designated zoning/land use. Housing, transportation, utility analysis, etc. in the current Comprehensive Plan assume the listed parcels would not be further developed in the Plan's timeframe (to year 2035).

^[2] This item is modified from the suggestion by Commissioner Sauskojus to fill in words regarding setting a level of service.

Mona Davis

From: Lisa Winters <ladygreyreiver@comcast.net>
Sent: Wednesday, March 1, 2023 4:46 PM
To: Mona Davis
Subject: More info

Mona,

This is a more official request for the comp plan.

This is a suggestion for the 2023 Comprehensive Plan Update using the process in Black Diamond City Code 16.10.130. Please keep me informed of the 2023 preliminary docket public hearing and any other steps in the process. Also, thank you for letting me know of the dense zoning for my property, which I don't think is environmentally appropriate.

The suggestion is:

The city adds to the Comprehensive Plan a new land use designation of "Residential Conservation Density" which allows housing at 1 unit per acre or at 1 unit per 35,000 square feet. This zoning would be most appropriate for land containing or bordering sensitive areas.

(Below I have provided an example of a similar designation from the city of Renton's comprehensive plan.)

I further request that my parcel, 24901 Roberts Drive (parcel 1421069005) be designated as Residential Conservation, or 1 unit per acre.

I understand that Black Diamond previously had a zone called "R-35,000" which allowed 1 house per 35,000 square feet, so this is not an unreasonable change for Black Diamond to consider.

Reasons to support this suggestion:

This land use designation of 1 house per acre will allow the city to fulfill its goals to better protect our environment and our waters. It is also consistent with Department of Ecology recommendations that impervious surfaces be limited next to sensitive areas.

This Residential Conservation Density will allow the city to choose to balance the significant growth we are experiencing with some lower density areas that provide space for trees and wildlife and do not place further strain on public services or utilities.

I do not believe the creation of this designation, nor the change to my one parcel, will result in any significant harmful environmental impacts. It should be adopted in 2023 because it would be a benefit to have this land use option available as we go into the major 2024 comprehensive plan cycle.

An example in the City of Renton's Comprehensive Plan, page 10, where they define the land use designation of "Residential-1":

"Policy L-14: Residential Low Density – Place lands constrained by sensitive areas, those intended to provide transition to the rural area, or those appropriate for larger lot housing within the Residential Low Density

(RLD) land use designation to allow for a range of lifestyles.

- Resource Conservation Zone – Zone lands with significant environmental constraints, which are not appropriate for urban development, lands suitable for environmental conservation or restoration, and lands used for agriculture or natural resource extraction for Resource Conservation (RC). RC zoning is allowed in the Residential Low Density and Employment Area land use designations.
- Residential-1 Zone – Lands with significant environmental constraints, which may have the potential for development at a level of intensity that is compatible with that environment, or lands that provide urban separators should be zoned for Residential-1 (R-1). R-1 zoning is allowed in the Residential Low Density land use designation.”

Thank you,
Lisa Winters