

CITY COUNCIL AGENDA BILL

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

ITEM INFORMATION		
SUBJECT: Resolution establishing the City's 2023 Docket of proposed Comprehensive Plan Amendments	Agenda Date: August 3 , 2023 AB23-027A	
	Mayor Carol Benson	
	City Administrator	
	City Attorney David Linehan	
	City Clerk – Brenda L. Martinez	
	Com Dev – Mona Davis	X
	Finance – May Miller	
	MDRT/Ec Dev – Andy Williamson	
	Police – Chief Kiblinger	
Cost Impact (see also Fiscal Note):	Public Works – Scott Hanis	
Fund Source:	Court – Tawnya Parks	
Timeline: 2021, 2022, 2023, 2024		
Agenda Placement: <input checked="" type="checkbox"/> Mayor <input type="checkbox"/> Two Councilmembers <input type="checkbox"/> Committee Chair <input type="checkbox"/> City Administrator		
Attachments: Resolution; 2023 Preliminary Docket - Staff Report and Recommendations; Letter from Chairman Olson ; Department of Commerce Letter		
<p>SUMMARY STATEMENT:</p> <p>This Resolution establishes the list of proposed amendments to the Comprehensive Plan that will be considered and analyzed by the City during the 2023 update cycle.</p> <p>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. Proposed amendments must be considered in an orderly and holistic manner. To that end, 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 effects can be ascertained and evaluated. It is ultimately the Council’s responsibility to decide what items will be included on the annual docket.</p> <p>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. All privately initiated amendments to the Comprehensive Plan or development regulations must be submitted by March 1 of each year for consideration in that year’s docket cycle. City Councilmembers may suggest amendments to be added to the docket at any time before the final docket is set. For 2023, the city received three suggested amendments by private citizens and a Planning Commissioner.</p> <p>As required by the BDMC, Community Development Director Mona Davis compiled these suggestions into a preliminary docket staff report and recommending to the Planning Commission which of the proposed items should, in her judgment, be included on the final docket for consideration in 2023. A copy of Ms. Davis’s Staff Report and Recommendations is attached as Exhibit 3.</p>		

On May 9, 2023, the Planning Commission held a public hearing on the preliminary docket to receive public input, consider Ms. Davis's analysis, and formulate a recommendation to the City Council. Planning Commission Chair John Olson has provided the City Council with the recommendations of the Planning Commission in a letter dated May 22, 2023. That letter is attached as **Exhibit 4**.

Having now received the Planning Commission's recommendations on the preliminary docket, the City Council must establish the final docket by resolution. The City Council may adopt the Planning Commission's recommendations as-is. Alternatively, the Council may add to, subtract from, or modify the recommendations of the Planning Commission. However, if the Council decides to add to, subtract from, or modify the suggested amendments, it will need to schedule and hold an additional public hearing under RCW 36.70A.035(2)(a) and BDMC 16.10.230(B) before approving the final docket.

The final docket—which consists of all suggested amendments that the City Council chooses 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 roadmap for the City's consideration of amendments to the Comprehensive Plan and development regulations during the annual review cycle.

As noted in the attached staff report, it is the recommendation of Director Mona Davis that the City Council follow its previous directions, as given in Ordinance 22-1172, that work on annual docket amendments be suspended and that all long-term planning resources be directed exclusively toward work on the 2024 Periodic Update to the Comprehensive Plan. The suggested plan amendments received in 2023 can be carried over for consideration and evaluation as part of the 2024 Periodic Update.

FISCAL NOTE (Finance Department): N/A

COUNCIL COMMITTEE REVIEW AND RECOMMENDATION: Review 2023 docket as part of 2024 periodic update

RECOMMENDED ACTION: **MOTION to adopt Resolution No. 23-XXXX establishing the City's 2023 Docket of proposed Comprehensive Plan amendments to be carried into the 2024 Periodic Update.**

RECORD OF COUNCIL ACTION

<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
June 15, 2023	Vote Rescinded and scheduled for Public Hearing on August 3	
August 3, 2023		

RESOLUTION NO. 23-XXXX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON, ESTABLISHING THE CITY'S 2023 DOCKET OF PROPOSED COMPREHENSIVE PLAN AMENDMENTS

WHEREAS, the most recent major periodic update to the City of Black Diamond's Comprehensive Plan was adopted by the City Council in May 2019; and

WHEREAS, the Growth Management Act ("GMA"), Chapter 36.70A RCW, authorizes the City to amend the Comprehensive Plan on an annual basis; and

WHEREAS, Black Diamond Municipal Code ("BDMC") Chapter 16.10 provides a process for Comprehensive Plan amendments to be initiated and considered through an annual docketing process so that all proposed amendments to the Plan and their potential impacts may be evaluated together, as required by the GMA; and

WHEREAS, BDMC 16.10.170 requires that the final Docket of proposed amendments to the Comprehensive Plan be established by a Resolution of the City Council; and

WHEREAS, BDMC 16.10.180 requires that the final Docket include all timely submitted applications for site-specific amendments, in addition to any suggested amendments that the City Council chooses in its discretion to consider during the annual amendment process; and

WHEREAS, on March 17, 2022, the City Council passed Ordinance 22-1172 (see Exhibit 1 attached hereto) suspending further work on future proposed annual amendments and directed planning resources toward the 2024 major periodic update to the Comprehensive Plan (see Exhibit 2 attached hereto); and

WHEREAS, for the 2023 docket cycle, the City received a total of three (3) proposals for suggested amendments to the Comprehensive Plan by private citizens and a member of the Planning Commission, which did not include the required documentation and application fee pursuant to BDMC 16.10.130(A) and 16.10.050; and

WHEREAS, pursuant to BDMC 16.10.140(A), the Community Development Director compiled a preliminary docket consisting of all suggestions for Comprehensive Plan amendments received by the March 1st deadline from members of the public, as well as amendments suggested by a Planning Commissioner; and

WHEREAS, pursuant to BDMC 16.10.140(B), the Community Development Director prepared and submitted a Staff Report and Recommendations to the Planning Commission, dated May 9, 2023, which set forth the Director's views concerning each of

the items on the preliminary docket of suggested 2023 Comprehensive Plan amendments (see Exhibit 3 attached hereto); and

WHEREAS, the Planning Commission held a public hearing on May 9, 2023 to receive public testimony and comments on the three (3) preliminary docket items and to determine which of these preliminary items should be recommended to the City Council for inclusion on the final 2023 Docket; and

WHEREAS, by letter dated May 22, 2023, the Chair of the Planning Commission forwarded the Commission's recommendations to the City Council as to which of the proposed Comprehensive Plan amendments listed on the preliminary docket should be included on the final 2023 Docket (see Exhibit 4 attached hereto); and

WHEREAS, the Community Development Director recommends that the City Council deny the recommendations of the Planning Commission for the final 2023 Docket;

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

Section 1. Establishing 2023 Docket. Pursuant to BDMC 16.10.170 and 16.10.180, and consistent with the City Council's prior instructions given in Ordinance 22-1172 to suspend work on annual docket items and direct all long-range planning resources exclusively toward the 2024 Periodic Update to the Comprehensive Plan, the City Council hereby rejects the recommendations of the Planning Commission, as shown in the letter from Chairman John Olson, dated May 22, 2023, attached hereto as Exhibit 4.

Section 2. Initiating Planning Commission Review and Analysis. The City Council hereby requests that the Planning Commission, in cooperation with City staff, carry over each of the recommended items on the 2023 Docket to the 2024 periodic update.

PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS XX DAY OF XXXX 2023.

CITY OF BLACK DIAMOND:

Carol Benson, Mayor

Attest:

Brenda L. Martinez, City Clerk



CITY OF BLACK DIAMOND

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Meeting Date: June 15, 2023
Staff Report Date: June 7, 2023
To: City Council
From: Mona Davis, Community Development Director
Andrew Love, Contract Planner (AHBL)
Subject: 2023 Comprehensive Plan Amendments

Background

The purpose of this brief is to summarize the process of the City's most recent 2015 Periodic Update of the Comprehensive Plan (adopted in 2019) and subsequent comprehensive plan amendments. This includes this year's comprehensive plan amendments and Ordinance No. 22-1172 (Attachment 1), which repealed the 2020 Annual Amendments, suspended further work on the proposed 2021 Annual Amendments, and directed all further long range planning resources toward completion of the 2024 major periodic update. Long range planning typically involves updates to development regulations and plans, including comprehensive plan annual amendments.

2015 Periodic Update Adopted in 2019 (Current Comprehensive Plan)

The City's previous periodic update was due by June 30, 2015 and was adopted on May 2, 2019 following a six-year process that included dozens of meetings and extensive comments. This decision was appealed to the Washington State Growth Management Hearings Board (GMHB) on July 10, 2019 by the Black Diamond Trees, Roads, Environment, Engagement Team (BDTREE), comprised of Kristen Bryant, William Bryant, Gary Davis, Angela Fettig, Michael Fettig, Carol Harp, Renee Mix, and Allison Ostrer. The case was dismissed on January 6, 2020, as the GMHB found that, "The Petitioner has failed to prove that the adoption of Ordinance No. 19-1121 violated any provision of the Growth Management Act."

2020 Comprehensive Plan Amendments

The Puget Sound Regional Council (PSRC) partially certified the City's Comprehensive Plan in January 2020, specifying four conditions necessary to obtain full certification. Certification from PSRC enables the City to annually apply for federal transportation funding. City staff worked with PSRC senior staff to develop additional Comprehensive Plan amendments to satisfy those conditions for full certification.

The Planning Commission and City Council held numerous joint work sessions on the proposed 2020 amendments, and the Planning Commission then voted in favor of recommendation to the City Council on December 8, 2020. The proposed 2020 Annual Amendments were sent to the Washington State Department of Commerce and other agencies for a 60-day review as required by RCW 36.70A.106. No written comments were received.

A SEPA Determination of Non-Significance (DNS) was issued on May 26, 2021 and upheld on the appeal filed June 9, 2021 to the City's Hearing Examiner in a decision dated November 4, 2021. The appellants included Kristen Bryant, William Bryant, Gary Davis, Angela Fettig, Alan Gangl, Melody Mann, Renee Mix, and Kelley Sauskojus, all as individuals and as Friends of Black Diamond (many of whom previously appealed the 2015 periodic update under BDTREE).

City Council adopted the 2020 Comprehensive Plan Amendments during a duly noticed public hearing on December 2, 2021, with one additional change recommended by City staff. While the City prevailed in the SEPA appeal, it significantly delayed the 2020 Comprehensive Plan Amendment process. Further, the 2020 Annual Amendments and the related SEPA DNS were subsequently appealed to the GMHB on February 4, 2022 by Kristen Bryant, William Bryant, Gary Davis, Angela Fettig, Alan Gangl, Henry Knies, Melody Mann, Renee Mix, and Kelley Sauskojus, all as individuals and as Friends of Black Diamond. Depending on the outcome, the GMHB's decision would have potentially been subject to further appeals to Superior Court, the Court of Appeals, and the state Supreme Court.

2021 Comprehensive Plan Amendments

Meanwhile on June 3, 2021, the City Council passed Resolution No. 21-1424, which established the final 2021 Docket of potential Comprehensive Plan Amendments, to be studied by the Planning Commission with recommendations to follow. On November 11, 2021, after months of public hearings and analysis, including extensive public participation and public comment that was incorporated into its recommendations, the Planning Commission forwarded a recommended set of 2021 Annual Amendments to the City Council for review and adoption, which attempted to resolve inconsistencies between the City's Future Land Use Map (FLUM) and the Zoning Map. The City's SEPA Official issued a DNS for the proposed 2021 Annual Amendments on October 6, 2021, which was then appealed to the City's Hearing Examiner on October 20, 2021, by the Friends of Black Diamond.

Even if the City were to have succeeded in the 2021 SEPA appeal to the Hearing Examiner, there was a strong likelihood any Council action on the 2021 Annual Amendments would likewise be appealed to the GMHB. This would have led to yet more confusion around the City's long-range planning because the proposed 2021 Annual Amendments would have been seeking to amend a plan that was still uncertain as a result of the ongoing appeals of the 2020 Annual Amendments. For those reasons, the DNS for the 2021 Annual Amendments was withdrawn on February 23, 2022, rendering the SEPA appeal moot.

On March 17, 2022, Ordinance 22-1172 passed which repealed the 2020 Comprehensive Plan Amendments, suspended further work on the 2021 Amendments, and directed all further long-range planning resources toward the 2024 major periodic update. This was passed with all in favor (7-0). Finance noted this decision eliminated substantial City expenditures for legal fees and expert consulting fees associated with ongoing appeals.

2022 Comprehensive Plan Amendments

In the May 10, 2022 staff report to the Planning Commission, staff recommended holding joint workshops with the Planning Commission and City Council to establish a work plan for completing the 2024 Period Update to the Comprehensive Plan in the second half of 2022 and all of 2023 without taking on additional suggested amendments that are not formally submitted and paid for (like those submitted in 2020 and 2021). Staff recommended that we table the 2022 docket items to be reviewed with the previous docket items from 2020-21. The Planning Commission rejected the staff recommendation and recommended to move the 2022 docket forward.

On August 4, 2022, Community Development Director Davis and Planning Commission Chair Olson shared the Planning Commission recommendation with City Council and discussed next steps. City Council voted 6-1 (O'Donnell) to postpone the 2022 Docket and move forward with the 2024 update.

2023 Comprehensive Plan Amendments

On May 9, 2023, Director Davis took to the Planning Commission three separate 2023 Comprehensive Plan Amendment suggestions made by various citizens and recommended denial of all three (see staff report in Attachment 3). These were suggested amendments under Section 16.10.130(B) of the Black Diamond Municipal Code (BDMC) that reads:

Generally, suggested amendments should be limited to proposals that broadly apply to the goals, policies and implementation strategies of the comprehensive plan rather than amendments designed to address site-specific issues of limited applicability. If an application is not submitted for the suggested amendment by the interested person, the planning director shall include the suggested amendment on a docket that is maintained each year for this purpose. The process described in Sections 16.10.160 through 16.10.170 of this chapter shall resolve the question whether such suggested amendments will be considered during the annual review process.

Section 16.10.160 BDMC outlines the process of the Planning Commission hearing on the preliminary docket. Section 16.10.170 BDMC outlines the City Council decision to adopt a final docket, if applicable:

The city council shall review and consider the planning commission's report and recommended final docket at a regularly scheduled council meeting. The city council may adopt the planning commission's recommended final docket without a public hearing; however, in the event that a majority of the city council decides to add or subtract suggested amendments, it shall first hold a public hearing, noticed as set forth in Section 16.10.070.

Every separate suggestion (two of which were not recommended by Planning Commission) include site-specific issues which should have required a complete application for comprehensive plan amendments listed in Section 16.10.050 BDMC.

The site-specific suggestions did not meet the requirements listed in code, in particular proof of the property owner's consent, a completed SEPA non-project checklist, and/or an application fee of \$2,734 for each amendment.

Even if the applicants had followed the proper procedures, Ordinance 22-1172 directed City staff and consultants to focus all long-range planning efforts toward the completion of the 2024 periodic update

to the Comprehensive Plan. It also outlines the challenge the City faced while simultaneously defending 2020 amendments while working on 2021 and 2022 amendments. The City would similarly struggle to concurrently work on a 2023 Docket while navigating the requirements in the 2024 major periodic update. It would also create additional chances for parties to submit appeals to stall the 2024 update. Further, appellants in the past argued that the Comprehensive Plan is flawed and that the 2020 and 2021 annual amendments cannot be approved unless, and until, the City updates the transportation modeling. This is exactly what staff are currently doing as a part of the 2024 update. Additionally, there is no guarantee the transportation modeling would be updated before the deadline for the 2023 amendments.

Conclusion

Since the 2019 adoption of the 2015 periodic update of the City's Comprehensive Plan, there has only been one round of successful amendments from 2020, adopted by Ordinance No. 21-1169, only to be repealed with Attachment 1.

History shows that any decision related to the comprehensive plan will likely be appealed. Ordinance 22-1172 acknowledges the enormous drain on limited City staff time and resources to continually defend changes to the Comprehensive Plan. In addition, this ordinance clearly directs City staff and consultants to focus all long-range planning efforts toward the completion of the 2024 periodic update to the Comprehensive Plan. This Ordinance prohibits moving forward with any 2023 comprehensive plan amendments recommended by the Planning Commission.

Given that we are considering suggested amendments addressed in previous comprehensive plan dockets from years 2020, 2021, and 2022 as a part of the 2024 periodic update, it does not make sense to entertain 2023 comprehensive plan amendments in a separate process, especially when a previously passed Ordinance directed staff otherwise.

Again, City staff and consultants have not lost sight of the previously suggested Comprehensive Plan Amendments, including the 2020 proposed amendments that were repealed and the 2021 and 2022 suggested amendments which were recommended to either move forward to City Council or be included in the 2024 update process. Attachment 2 shows an outline of these prior amendments, which will be considered as a part of the periodic update without guarantee of actual inclusion.

Staff respectfully request that you pass a motion tonight to postpone the 2023 docket and deny the Planning Commission's recommendation (see Attachment 4) to proceed with a 2023 Comprehensive Plan amendment with the understanding that staff will add these suggested amendments to be considered as part of the 2024 Periodic Update to the Comprehensive Plan. All of the previously suggested and deferred amendments can be analyzed holistically with other needed amendments and with more care in light of the new transportation modeling, Housing Action Plan, PROS Plan, and other work being done in the lead up to adoption of the 2024 Periodic Update.

Attachments

1. Ordinance No. 22-1172
2. Outline of 2020-2023 Comprehensive Plan Amendments
3. 2023 Preliminary Docket Staff Report to Planning Commission
4. Planning Commission Recommendation Memo to Council

ORDINANCE NO. 22-1172

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON, REPEALING THE 2020 ANNUAL AMENDMENTS TO THE COMPREHENSIVE PLAN (ORDINANCE NO. 21-1169); SUSPENDING FURTHER WORK ON THE PROPOSED 2021 ANNUAL AMENDMENTS; DIRECTING PLANNING RESOURCES TOWARD THE 2024 MAJOR PERIODIC UPDATE TO THE COMPREHENSIVE PLAN; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, in August 1996, the City of Black Diamond adopted a Comprehensive Plan in conformance with the Washington State Growth Management Act; and

WHEREAS, the 1996 Comprehensive Plan was repealed and replaced in 2009; and

WHEREAS, RCW 36.70A.130 requires jurisdictions to periodically review and update their comprehensive plans; and

WHEREAS, the City Council adopted its 2015 periodic update to the Comprehensive Plan in May 2019 via Ordinance No. 19-1121; and

WHEREAS, the Puget Sound Regional Council (PSRC) partially certified the City's Comprehensive Plan in January 2020, specifying four conditions necessary to obtain full certification; and

WHEREAS, City staff worked with PSRC senior staff to develop additional Comprehensive Plan amendments to satisfy the PSRC's conditions for full certification; and

WHEREAS, the City Planning Commission and City Council conducted numerous joint work sessions to review staff's proposed revisions to the Comprehensive Plan for the 2020 update cycle; and

WHEREAS, the City Planning Commission held meetings and conducted a public hearing on the proposed 2020 Annual Amendments to the Comprehensive Plan on December 1, 2020, and then voted on December 8, 2020 to recommend adoption by the City Council; and

WHEREAS, the proposed 2020 Comprehensive Plan Update was sent to the Washington State Department of Commerce and other agencies for 60-day review as required by the GMA pursuant to RCW 36.70A.106, and no written comments were received; and

WHEREAS, on May 26, 2021, a SEPA Determination of Nonsignificance (DNS) for the proposed 2020 Annual Amendments to the Comprehensive Plan was issued in compliance with WAC 197-11-340, and that SEPA DNS was upheld on appeal to the City's hearing examiner in a decision dated November 4, 2021, and further affirmed on December 1, 2021, when the Hearing Examiner denied the appellant's motion for reconsideration; and

WHEREAS, on December 2, 2021, the City Council conducted a duly noticed public hearing, received and considered public comments, and then passed Ordinance No. 21-1169 to adopt the 2020 Annual Amendments to the Comprehensive Plan with one additional change recommended by City Staff ("2020 Annual Amendments"); and

WHEREAS, although the City prevailed in the SEPA appeal, it nonetheless had the effect of delaying the Council's ability to adopt the 2020 Annual Amendments until December 2, 2021, when the SEPA appeal was resolved; and

WHEREAS, the 2020 Annual Amendments and the related SEPA DNS have now been further appealed to the state Growth Management Hearings Board (GMHB), and it is unlikely that the GMHB will issue a ruling on this appeal until August 2022, and depending on the outcome, that decision will be subject to still further potential appeals to Superior Court, the Court of Appeals, and potentially the state Supreme Court; and

WHEREAS, the ongoing appeals of the 2020 Annual Amendments and related SEPA DNS have left the City's planning efforts in a state of flux, precluding the City from making further progress on long-range planning efforts with any certainty while the Comprehensive Plan remains under appeal; and

WHEREAS, on June 3, 2021, the City Council passed Resolution No. 21-1424, which established the final 2021 Docket of potential Comprehensive Plan amendments, to be studied by the Planning Commission with recommendations to follow; and

WHEREAS, the main focus of the 2021 Docket was to analyze discrepancies between the land use designations in the Future Land Use Map (FLUM) in the Comprehensive Plan and the Zoning Map in the Black Diamond Municipal Code; and

WHEREAS, a key objective of the 2021 Docket process was to harmonize the FLUM and the Zoning map in a way that better reflects public input, public preferences, and the City's anticipated needs, and that helps to bridge the gap between previously approved growth and the City's regional growth targets; and

WHEREAS, on November 11, 2021, after months of public hearings and analysis, including extensive public participation and public comment that was incorporated into its recommendations, the Planning Commission forwarded a recommended set of 2021 annual amendments to the City Council for review and adoption ("2021 Annual Amendments"), which resolved the inconsistencies between the FLUM and the Zoning map; and

WHEREAS, as part of this process, the City's SEPA Official issued a DNS for the proposed 2021 Annual Amendments, which was then immediately appealed to the City's Hearing Examiner, with the appellant raising many of the same or similar concerns that it raised in the appeal of the 2020 Annual Amendments, particularly with respect to alleged inaccuracies or deficiencies in the transportation modeling used by the City's consultants when updating the Comprehensive Plan in 2015 (which was later finalized in 2019); and

WHEREAS, the appellant has argued that the Comprehensive Plan is flawed and that the 2020 and 2021 Annual Amendments cannot be approved unless and until the City updates the transportation modeling, and City Staff is concerned that even if the City were (once again) to prevail in the 2021 SEPA appeal to the Hearing Examiner, any Council action on the 2021 Annual Amendments would likewise be appealed to the GMHB and possibly beyond; and

WHEREAS, with these concerns in mind, on February 18, 2022, the City advised the Hearing Examiner that the SEPA DNS for the 2021 Annual Amendments was being withdrawn, rendering the SEPA appeal moot, and Director Davis issued the formal notice of withdrawal of the DNS on February 23, 2022; and

WHEREAS, as Director Davis explained, the City does not believe it is a productive use of limited staffing and financial resources to continue pursuing the 2021 Annual Amendments (and related appeals) while the previous year's Comprehensive Plan update remains in flux; and indeed, no final action on the recommended 2021 Annual Amendments could even be taken until there is clarity on the status of the 2020 Annual Amendments, including resolution of all related appeals, which could continue for unknown duration; and

WHEREAS, continuing work on the proposed 2021 Annual Amendments and the related appeals seems unwise and impractical because, depending on the outcome of the 2020 appeal to the GMHB (and beyond), additional revisions may be required to the Comprehensive Plan, which could trigger further changes to the proposed 2021 Annual Amendments, which may then require further SEPA review and a revised threshold determination; and

WHEREAS, the GMA requires the City to undertake and complete its major periodic review of the Comprehensive Plan by June 2024, which will be an enormous undertaking for the City, and which may entail extensive revisions to many of the various elements of the Plan; and

WHEREAS, work on the 2024 periodic update cannot be completed with any certainty or confidence so long as the Comprehensive Plan remains under continuous appeal; and

WHEREAS, given the scope of the efforts that will be required for the 2024 major periodic update, City Staff have advised, and the City Council finds, that it would be in the

City's best interest to repeal the 2020 Annual Amendments, suspend further work on the proposed 2021 Annual Amendments, and direct all further long-term planning resources toward completion of the 2024 major periodic update; and

WHEREAS, by repealing the 2020 Annual Amendments and suspending further work on the proposed 2021 Annual Amendments, the City will be able to proceed with the 2024 periodic update based on the stable and certain 2019 Comprehensive Plan, which has already been upheld as valid by the GMHB during a previously completed appeal; and

WHEREAS, by repealing the 2020 Annual Amendments and suspending further work on the proposed 2021 Annual Amendments, the City will not be faced with the continual distraction and drain of resources caused by defending multiple appeals from the 2020 and 2021 update cycles; and

WHEREAS, the voluminous work of City Staff and the Planning Commission on the 2020 and 2021 updates will not be lost or rendered futile by the proposed repeal of Ordinance 21-1169; rather, their work will simply be rolled into the larger task of the 2024 major periodic update and can be considered on a holistic basis with other revisions that will necessarily be required to other elements of the Comprehensive Plan (including an update to the transportation modeling, as the appellants have so strongly urged); and

WHEREAS, a duly noticed public hearing was held on March 17, 2022, for the Council to receive and consider public comment on the proposed actions described in this Ordinance;

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

Section 1. City of Black Diamond Ordinance No. 21-1169, which adopted the 2020 Annual Amendments to the Comprehensive Plan, is hereby repealed in its entirety.

Section 2. All further work on the proposed 2021 Annual Amendments to the Comprehensive Plan, as authorized by Resolution 21-1424 for study and recommendation by the Planning Commission, is hereby suspended.

Section 3. The Mayor is requested to direct City Staff and consultants to focus all further long-range planning efforts and resources toward the work necessary for completion of the 2024 major periodic update to the Comprehensive Plan, which must be accomplished by June 30, 2024, as provided in RCW 36.70A.130.

Section 4. The foregoing recitals are hereby adopted as legislative findings of the City Council in support of the actions taken in this Ordinance.

Section 5. 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.

Section 6. If any portion of this Ordinance, or its application to any person or circumstance, is determined by final order of a court of competent jurisdiction to be invalid, pre-empted, or otherwise unenforceable for any reason, such determination shall not affect the validity or enforceability of the remaining provisions hereof or its application to other persons or circumstances.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND AT A REGULAR MEETING THEREOF ON THE 17TH DAY OF MARCH, 2022.



Mayor Carol Benson

ATTEST:



Brenda L. Martinez, City Clerk

APPROVED AS TO FORM:

David Linehan, City Attorney

Filed with the City Clerk: 3/18/22
Date of Publication: 3/23/22
Effective Date: 3/28/22

2020 CPAs

3.2 Planning Framework

Americans with Disabilities Act (ADA)

The ADA was signed into law in 1990 and it is an important piece of legislation that ensures physical accessibility for people with disabilities. The City of Black Diamond is committed to providing equal access under Title II of the ADA for its parks, recreational and trails system.

Commented [AL1]: 2020 Amendment: Barb added ADA language that was inadvertently deleted during formatting.

4.7 Critical Aquifer Recharge Areas (CARA) Goals and Policies

Under NE Goal 5:

- **Policy NE-21: Use LID (Low Impact Development) techniques to manage stormwater runoff pursuant to Title 14 of the Black Diamond Municipal Code and Stormwater Management Manual for Western Washington (SMMWW).**

Commented [AL2]: 2020 Amendment: Barb said this policy was inadvertently deleted during final formatting of the adopted plan. ALL SUBSEQUENT NE POLICY NUMBER WERE ALSO UPDATED.

5.7 Master Planned Development (MPD) Overlay

[after first two paragraphs]

There are two Master Planned Developments (MPDs) currently under construction in the City of Black Diamond. The build-out of these MPDs will result in housing units that exceed the Countywide adopted growth targets and the regional growth strategy, as discussed in Chapter 2 of this Plan. In order to align the City's future growth with countywide and regional growth projections, the allowance for any new MPD's must be carefully considered.

MPD Designation Criteria

- The designation of any new MPD should be discouraged until full buildout of the two currently under construction and until such time as the City's growth projections are within the range of adopted growth targets consistent with the King County CWPPs and the PSRC regional growth strategy, Vision 2050.
- Existing or planned public facilities are adequate to support the planned development density.
- The area is not predominated by environmentally sensitive areas, and/or the development plan contains standards that will allow development while providing appropriate protection to the environmentally sensitive areas. The level of protection must be equal or better than that provided by the City's environmentally sensitive area policies and regulations.
- There is either a need for or benefits that will clearly derive from providing flexibility in zoning that cannot be provided by other mechanisms.
- The parcels are at least 80 contiguous acres in area and in single or unified ownership ~~or is subject to a pre-annexation agreement that requires an MPD for the parcel.~~
- The development plan requires flexibility to meet the requirements of an MPD.
- The MPD will provide public benefits, in the form of preservation or enhancement of physical characteristics, conservation of resources, provision of employment, improvement of the City's fiscal performance, provision of adequate facilities, and other public benefits identified by the City.

5.10 Urban Reserve Goals and Policies

- **LU Goal 6:** Future annexation of the Potential Annexation Areas (PAAs) will not occur until the City's growth is aligned with countywide growth targets and the regional growth strategy.

Commented [AL3]: Subsequent LU Goals got updated numbering.

5.13 Commercial Goals and Policies

[after CC description]

- **LU Goal 10:** Encourage the concept of mixed-use development in the Town Center and commercial zoning designations to create diverse and self-sufficient neighborhoods.
 - **Policy LU-50:** Discourage the conversion of Community Commercial designated areas to uses that do not create jobs or ongoing sales tax revenue for the city.

Commented [AL4]: Did they mean neighborhood commercial and community commercial?

7.2 Planning Framework and Consistency Statements

- **Determine Existing Transportation Deficiencies.** An inventory of the transportation system identifies the existing needs of the Black Diamond community. Some existing transportation deficiencies, including several on State Route (SR) 169, can be attributed to growth in other jurisdictions. These deficiencies could be addressed in a variety of ways, including improved interjurisdictional coordination and through the implementation of plans and programs that reduce reliance on single occupancy vehicle travel.
- **Qualify for Funding.** State and Federal agencies require local governments to have a comprehensive transportation plan that demonstrates the community's vision of its future. The City's population has been steadily growing since 1996 and is anticipated to exceed 5,000 by 2021, which will provide expanded opportunities to pursue additional grant funds.

7.4 Transportation Policies

Funding, Concurrency, and Impact Mitigation

[after first paragraph]

As described in Appendix 7, SR 169 serves as the primary north-south roadway connecting communities in southeast King County and northeast Pierce County to each other as well as the larger transportation network. SR 169 experiences high traffic volumes during peak periods as drivers from Bonney Lake, Buckley, and Enumclaw pass through Black Diamond in the morning to access major job centers to the north and return southbound in the evening. These volumes contribute to existing transportation deficiencies at intersections on SR 169 in Black Diamond, for which the City is legally obligated to address, however no mechanisms are in place to secure funding for improvements.

- **Policy T-19 Concurrency Policy:** Ensure that transportation improvements or strategies are constructed or financed concurrent with development, including roadway, pedestrian, bicycle, and transit facilities. This also includes coordinating the City's concurrency program with plans of other transportation agencies. While the City has the authority to adopted LOS standards for local roadways, the LOS for SR 169 is established by WSDOT. The City cannot accept a lower LOS for SR 169 as a mechanism to address concurrency. The most significant adopted policy of meeting concurrency standards is accomplished by the two major MPD Development Agreements that require the developer to implement any and all of the capacity adding projects

in the City's comprehensive plan to maintain the City's level of service standards. To monitor these commitments, the City's Concurrency Management System includes the following:

- Assessing and determining compliance with the adopted level of service standards;
- Identifying facility deficiencies (e.g., sidewalk, bike lanes, multi-use paths and transit); and,
- Making appropriate revisions to the Six-Year TIP, including prioritization of improvements on SR 169, as the City cannot modify the adopted LOS for that facility.

In addition, the City could explore other means to improve LOS, such as the implementation of plans and programs that reduce reliance on single occupancy vehicle travel (e.g. transportation demand management).

- **Policy T-20 Funding Sources Policy:** Secure adequate long-term funding sources for transportation through all feasible and available methods. These methods may include:
 - Adopting a Transportation Impact Fee (TIF) to fund capacity improvements that maintain adopted LOS standards for roadways;
 - Taking advantage of state funds, such as the Transportation Improvement Account (TIA), and the Public Works Trust Fund (PWTF);
 - Encouraging Washington State Department of Transportation (WSDOT) improvements on the state highway system;
 - Encouraging the use of LIDs by property owners to upgrade roads to meet City road standards;
 - Requiring impact mitigation and/or SEPA mitigation fees for projects as guided by this Plan. Impact mitigation payments and/or seeking voluntary contributions from developers may also be pursued;
 - Promoting the use of Transportation Benefit Districts and Capital Facility Districts;
 - Exploring the potential of assessing user fees to support maintenance and preservation of the transportation system; and
 - Seeking funding from federal agencies and all other available grant sources. Once Black Diamond's population exceeds 5,000 (anticipated by 2021; to be confirmed by the 2020 United States Census), the City will be eligible to pursue grant funding available only to cities of that size. The grant programs available to large cities are generally bigger in overall size and the typical awards for funded projects are greater than those for small cities. This expands the City's opportunities to secure significant funding for large infrastructure projects.
- **Policy T-22 Financial Impact Mitigation Policy:** Require developers to contribute their fair share towards the transportation improvements required to meet the LOS standards. Impact mitigation efforts may include:
 - Requiring developers who are subject to an approved development agreement with the City to continue fulfilling all mitigation requirements imposed therein;
 - Requiring developers who are not subject to an approved development agreement or for whom an approved development agreement has expired, to assist in providing

additional funding through an adopted program, such as a TIF, transportation facilities, and/or services in proportion to the impacts and needs generated by development;

- o Encouraging developers to design projects that generate less vehicular traffic; and
- o Requiring developers at the beginning and mid-point of each phase of the MPD project to monitor traffic generation and distribution to determine if traffic impacts of MPD development are occurring as projected.

- **Policy T-24 Intergovernmental Agency Coordination Policy:** Coordinate planning, construction, and operations of transportation facilities and projects with other governmental agencies. This policy supports and complements the transportation functions of Washington State, King County, neighboring cities, PSRC, Metro Transit, and other entities responsible for transportation facilities and services within the city. Explore establishment of a coalition of cities with the purpose of developing transportation solutions and their associated funding mechanisms to provide for safer and more efficient travel along the SR 169 corridor. Efforts of the coalition could include studying forecast anticipated deficiencies resulting from growth in all affected jurisdictions, identifying solutions, and developing an intergovernmental strategy to pursue state and/or joint grant funding and equitably distribute developer-provided funds to all affected jurisdictions.

Appendix 7

Level of Service Standards

These LOS standards are higher than other cities in the area. For example, the Cities of Maple Valley and Covington have adopted a standard of LOS D. The higher LOS standards adopted within Black Diamond for non-HSS facilities indicate the City's desire to minimize congestion and the willingness to identify and fund future transportation improvements. The higher LOS standards adopted within Black Diamond for non-HSS facilities also will increase the size of intersections and may become an unaffordable standard to maintain. Should the City encounter challenges associated with funding transportation improvements, adoption of lower LOS standards for non-HSS facilities is a permissible option for remaining in compliance with concurrency requirements.

Existing Transportation System

The city is bisected by SR 169, a north-south highway of statewide significance, providing both regional access from Renton to Enumclaw and cities in northeast Pierce County, and local access. With the limited arterial network in the surrounding area, SR 169 serves as the primary conduit connecting communities to the larger state roadway network, including major facilities such as SR 18 and I-405. As a result, SR 169 is the main roadway for drivers from cities to the south, including Bonney Lake, Buckley, and Enumclaw, to access major job centers to the north, experiencing high traffic volumes during the morning and evening peak periods. These volumes contribute to existing transportation deficiencies at SR 169 intersections in Black Diamond. The City is legally obligated to address these deficiencies in order to maintain the adopted LOS standard for the roadway, however no permanent mechanisms are in place to secure funding from private developments outside the City. This route SR 169 is also known as 3rd Avenue within Black Diamond.

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WSDOT & SR169

SR-169 is a designated Highway of Statewide Significance (HSS) which functions as major rural and suburban route for the metropolitan area.

WSDOT has jurisdiction over SR 169 through the city and establishes the LOS standard for the roadway. Concern over congestion and safety issues along the corridor have spurred several studies, one of which was a route development plan that considered widening the highway. However WSDOT did not complete this plan and therefore transportation demand modeling and the state's WSDOT has jurisdiction over SR 169 through the city and establishes the LOS standard for the roadway. Within the city, WSDOT has proposed minor widening to allow for a two-way left turn lane north of the historic core of the city and a truck climbing lane south of Green Valley Road. For purposes of this plan, the City is assuming a 3-lane section for SR 169 through the old town area and through the north commercial area, with potential widening at intersections to accommodate turn lanes. The City is also planning long term for further widening (4 or 5 lanes north of Roberts Drive to the City's future north connector and is seeking additional right of way through dedication upon major development or redevelopment where the right-of-way width is less than 100 feet. Regional Transportation Plan (RTP) do not assume widening of SR 169. Even so, the City is taking a proactive approach by seeking additional right of way through dedication upon major development or redevelopment where right of way width along SR-169 is less than 100 feet. The City is also working on access management along SR-169 to plan for necessary transportation improvements that would be funded by new development along the corridor to alleviate congestion and safety issues.

The City has recognized the potential impacts to SR 169 associated with forecast growth and has entered into agreements with major developers to ensure these impacts, as well as some existing deficiencies, are properly mitigated to maintain consistency with concurrency requirements.

City of Black Diamond

The City maintains a Six-year Transportation Improvement Program (TIP). The Six-year program proposes improvements to existing substandard roads and includes repairing and overlaying existing roadways, paving gravel roadways, constructing sidewalks, and widening roadways. At the time that the Six-year Transportation Improvement Program was adopted only the capacity adding projects that the City was going to be participating in were included. So in addition to the projects identified in the 6-year TIP there are capacity adding projects that are planned for the Master Planned Developer to construct as identified in Table 0-9. If needed, the projects included in the TIP could be reprioritized to address those on SR 169 first, as the City cannot modify the adopted LOS standard as a mechanism to maintain concurrency.

Updated Table 0-7 to be 6-Year Transportation Improvement Plan (TIP) 2021-2026

Future Land Use and Transportation Concepts

Regional traffic growth on SR 169 will likely continue as long as vehicular capacity is available on that route. Similar conditions would be expected on other arterials that facilitate regional traffic. The need for planned transportation improvements will depend on the location, density and timing of the area where development occurs but could also be influenced by development outside the City that adds volume to SR 169. The construction of the needed and planned capacity adding transportation

improvement projects will occur as required by the City's Development Agreement with the Master Planned Developer and periodic traffic monitoring and modeling dictates. Black Diamond may also explore options to coordinate with other SR 169 cities to identify corridor-wide solutions and the implementation of plans and programs that reduce reliance on single occupancy vehicle travel.

Funding Sources

A number of financial strategies are available to the City to finance the transportation improvements identified in the comprehensive transportation plan. Table 0-11 lists these strategies, their availability, and recommendations for the City to consider when implementing the improvement program. Historically, the City has relied on Real Estate Excise tax, grants and contributions from land developers to construct roadway improvements. In addition to those previously pursued, Black Diamond will be eligible to seek funds from larger grant sources once the population exceeds 5,000, as there are sources available only to cities of that size. The grant programs available to large cities are generally greater in overall size and the typical awards for funded projects are bigger than those for small cities. This expands the City's opportunities to secure significant funding for large infrastructure projects. This is anticipated by 2021 and will be confirmed by the 2020 United States Census.

Strategies

We would recommend that the City explore a mechanism for a set mitigation/impact fee per PM peak hour trip for infill development, such as a Transportation Impact Fee (TIF). A pay and go proportionate share program for infill development would reduce the administrative burden, reduce the high cost of individual studies, and provide more efficiency and certainty to the development community. Should the MPD agreements not be extended once they are scheduled to expire, the TIF would be applied to remaining projects in those developments.

Legislative Requirement

Other strategies that could be used in order to maintain compliance with concurrency include:

- Increasing roadway capacity or adopting transportation system management (TSM) strategies to accommodate the increase in demand use to development; and
- Adopting TDM strategies, such as increased transit access and rideshare programs, to offset the increase in demand.
- Often it is a combination of improvements and strategies that create the most effective CMS.
- Reduce the LOS standard for the non-HSS system or portions of the system to give the City more time to fund the needed transportation improvements.

Transportation Facilities and LOS Standards Coordination

The City's existing intergovernmental coordination efforts could be further expanded through the establishment of a coalition of cities in both King and Pierce counties focused on developing corridor-wide transportation solutions for SR 169. This group could work in partnership with WSDOT to identify forecast safety and operational deficiencies as well as possible solutions. The products of these efforts could be used to formulate an intergovernmental strategy to pursue joint state and/or grant funding and equitable distribution of developer-provided funds to all affected jurisdictions.

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2021 Docket

ITEM #2021-01: REVERSION TO THE 2009 FUTURE LAND USE MAP (FLUM)

Requestors:

This amendment is requested by Duane Garcia, Mike England, William Bryant, Gary Davis, Philip Acosta, Angela Fettig, and Kelley Sauskojus.

Description:

The requestors of this amendment ask that the FLUM in the 2019 Comprehensive Plan be replaced with the FLUM from the 2009 Comprehensive Plan. The requestors contend that the 2019 FLUM is not consistent with the text of the Comprehensive Plan and creates "significant excess development capacity." Requestors express concern that the growth potential reflected in the 2019 FLUM goes beyond regional growth targets and/or what the City's infrastructure, public services, and natural environment can support. Requestors believe the 2009 version of the FLUM is better aligned with City capacity for transportation and provision of services and is more in keeping with their objectives for preserving wildlife habitat and a small-town feel.

Staff Recommendation:

The 2019 update to the Comprehensive Plan included revisions to the land use designations of eight areas on the FLUM. One or more of these 2019 revisions to the FLUM have been a source of significant concern for a number of residents. The 2019 revisions also created several inconsistencies with the City's current zoning code inconsistencies which have yet to be resolved. Consistency between the Comprehensive Plan text, maps, and zoning code is a requirement of the GMA.

City staff believe it is imperative to revisit the changes to the FLUM that were adopted in 2019 and to reconsider whether and how the FLUM can be revised to better harmonize with the zoning code. There are numerous potential outcomes that could result from the Planning Commission and City Council's reconsideration of the 2019 FLUM. The FLUM could be reverted to the form in which it existed in 2009, as the requestors desire. It is also possible that work on the Housing Action Plan and Housing Element could suggest other potential revisions to the FLUM that might better meet the City's housing objectives and desired growth patterns than either the 2009 or 2019 FLUM. The zoning code should also be carefully reviewed and possibly updated for consistency with any changes to the FLUM. (See Item #2021-03, below.)

Regardless of what form any changes to the FLUM and/ or zoning regulations might take, these issues will require extensive analysis and opportunities for public participation before final recommendations can be reached. Although this item is certain to consume a substantial amount of resources and time for City staff and the Planning Commission, staff believe the efforts are urgently needed to ensure that the City has a solid foundation for future land use planning and growth management consistent with the GMA.

City staff recommend that Item #2021-01 be included on the final 2021 Docket, but with the description broadened as follows: "Reconsideration of the 2019 FLUM, including possible reversion to the 2009 FLUM, and corresponding updates to the zoning code."

Planning Commission Recommendation:

The Planning Commission recommends that Item #2021-01 be included on the final 2021 Docket, but with the description broadened as follows: **"Reconsideration of the 2019 FLUM, including possible reversion to the 2009 FLUM, and corresponding updates to the zoning code."**

**ITEM #2021-02: AMENDMENTS TO COMPREHENSIVE PLAN APPENDIX 7
(TRANSPORTATION) TO REFLECT AN ALTERNATIVE SE LOOP CONNECTOR ROUTE**

Requester:

This item is requested by CCD Black Diamond Partners LLC ("Oakpointe").

Description:

Oakpointe requests text and map amendments to the Comprehensive Plan to include an alternative route alignment to the Southeast Loop Connector road currently depicted in the Transportation element. The proposed alternative route would connect the Lawson Hills MPD to Lawson Street rather than connecting the Lawson Hills MPD to SR-169. The proposed amendments would modify text in the Transportation Appendix specifically, pages 10, 19, and 25 of Appendix 7, as well as a map (2035 Roadway Network Concept) shown on page 47 in Figure 7-4.

Oakpointe makes this request to create additional options for road alignment and construction, given the potential environmental impacts, steep hillside topography, and extensive acquisitions of third-party parcels associated with the SE Loop Connector routing presently depicted in the Comprehensive Plan. The amendment is proposed because the alternative alignment likely involves fewer impacts, less cost, and reduced right-of-way acquisition requirements. It does not preclude development of the existing SE Loop Connector but provides an option for a secondary access route to the Lawson Hills MPD. A final decision as to which option to construct would not be made until the SE Loop Connector road is needed.

For further explanation of Oakpointe's proposed alternative route and how it might reduce impacts as compared to the route presently shown in Appendix 7, please refer to the attachments to this Staff Report. The attachments also detail Oakpointe's view of how the proposed amendments would be consistent with other relevant portions of the Comprehensive Plan.

Staff Recommendation:

This is a privately initiated request by a property owner for a Comprehensive Plan amendment related to a site-specific development proposal. In support of its application, Oakpointe has submitted all of the materials required by BDMC 16.10.050.11

The current Comprehensive Plan identifies the SE Loop Connector as a future transportation improvement. This road is depicted as extending from the Lawson Hills MPD to SR-169. The language in Appendix 7 makes it clear that the routing depicted therein is not settled and that "alternative road alignments may be considered." The intent behind including a preliminary alignment concept in Appendix 7 was "to show a basic route," while expressly mentioning that "exact locations will be determined after engineering and environmental review." Staff believe that any proposed alternative that would minimize environmental impacts, reduce the need to modify the natural topography, and create fewer third-party disturbances is worth careful consideration, even if the requested amendment

is not ultimately approved. City staff recommend that Item #2021-02 be included on the final 2021 Docket.

Planning Commission Recommendation:

The Planning Commission recommends that Item #2021-02 be included on the final 2021 Docket.

ITEM #2021-03: HARMONIZING THE FLUM AND CITY ZONING REGULATIONS

Requestor:

This item was suggested by Community Development Director Mona Davis following numerous discussions with residents about the 2019 FLUM.

Description:

As noted in connection with Item #2021-01, the City's zoning regulations are not fully consistent with the FLUM in the 2019 Comprehensive Plan. The GMA requires that comprehensive plans and their implementing development regulations be consistent. The City needs to carefully review its zoning and consider potential updates to the FLUM and development regulations in a holistic manner to achieve consistency and to promote sound land use planning practices.

Staff Recommendation:

City staff believe it is important that concerns raised by some residents about the 2019 FLUM be carefully reconsidered. It is possible that the 2019 FLUM does not represent ideal patterns for residential and commercial development-either by providing more capacity than is necessary, or by locating that capacity in the wrong areas. The City is also mindful of the need to bring City planning policies and regulations into closer alignment with the PSRC's regional planning goals, growth targets, and VISION 2040. Adjustments to the FLUM may be needed to encourage long-term alignment between the City's expected growth and regional planning policies.

It's also possible that portions of the FLUM and Land Use chapter need to be revisited to ensure that there is adequate capacity for development of a balanced mix of housing that will be affordable to residents and potential residents across the socio-economic spectrum. The FLUM and zoning code should reflect the City Council's strong policy of ensuring that Black Diamond is, and remains, a welcome and inclusive community for all, not just for those in higher income brackets.

City staff recommend that Item #2021-03 be included on the final 2021 Docket but combined with Item #2021-01. Together, they should be docketed with the description broadened as follows: "Reconsideration of the 2019 FLUM, including possible reversion to the 2009 FLUM, and corresponding updates to the zoning code."

Planning Commission Recommendation:

The Planning Commission recommends that Item #2021-03 be included on the final 2021 Docket but combined with Item #2021-01. Together, they should be docketed with the description broadened as follows: "Reconsideration of the 2019 FLUM, including possible reversion to the 2009 FLUM, and corresponding updates to the zoning code."

ITEM #2021-04: UPDATE THE HOUSING CHAPTER OF THE COMPREHENSIVE PLAN TO INCORPORATE RELEVANT COMPONENTS OF THE 2021 HOUSING ACTION PLAN

Requestor:

This item was suggested by Community Development Director Mona Davis.

Description:

The City is currently working with its consultant, Blueline, to finalize the 2021 Housing Action Plan. This Plan started with data collected from a citywide housing needs assessment survey conducted by Blueline. Blueline's work incorporates this survey data into an overall plan that reflects realistic residential growth targets and provides insights into how the City can provide for the mix of housing that is likely to meet the needs of current and future populations. The Housing Action Plan creates three strategic objectives for meeting future housing needs in the City: (1) monitoring housing needs and demographic shifts as the City continues to grow; (2) increasing housing diversity while preventing displacement of current residents and preserving small-town feel; and (3) creating opportunity for investment in more housing for lower income brackets.

The Housing Action Plan is scheduled to be completed and ready for City Council consideration in June 2021. The Housing Action plan should then inform the Planning Commission and City Council's consideration of potential changes to the Housing element of the Comprehensive Plan.

Staff Recommendation:

The objectives and proposed action items from the Housing Action Plan should be harmonized with the Housing element of the Comprehensive Plan. City staff recommend that Item #2021-04 be included on the final 2021 Docket.

Planning Commission Recommendation:

The Planning Commission recommends that Item #2021-04 be included on the final 2021 Docket.

ITEM #2021-05: UPDATE THE PARKS CHAPTER OF THE COMPREHENSIVE PLAN TO INCORPORATE RELEVANT COMPONENTS OF THE PROS PLAN

Requestor:

This item was suggested by Community Development Director Mona Davis.

Description:

The City is currently working to complete the Parks, Recreation, & Open Space Plan (PROS Plan) by year end. This work includes a survey that will be sent out to seek input from residents. The PROS Plan is intended to assess the City's current inventory of parks and recreation property and facilities and will provide an evaluation of how those facilities may need to be expanded and improved to meet the needs and preferences of current and future residents of the City. The Parks element of the Comprehensive

Plan should be updated to reflect the key findings and action items from the PROS Plan once it is completed.

Staff Recommendation:

The objectives and proposed action items from the PROS Plan should be incorporated into the Parks element of the Comprehensive Plan. City staff recommend that Item #2021-05 be included on the final 2021 Docket.

Planning Commission Recommendation:

The Planning Commission recommends that Item #2021-05 be included on the final 2021 Docket.

ITEM #2021-06: REPEAL CITY PROHIBITIONS ON MARIJUANA BUSINESSES AND UPDATE THE LAND USE CHAPTER AS NEEDED TO FACILITATE APPROPRIATE SITING

Requestors:

Studying these amendments to the City's development regulations and Comprehensive Plan was requested by multiple members of the City Council.

Description:

The BDMC currently prohibits the siting and operation of marijuana businesses in the City. BDMC 20.08 and 20.04. In looking for ways to expand the City's revenue streams, several members of the City Council have suggested looking at repealing the prohibition on marijuana businesses so that the City may collect local sales tax and a share of the state excise tax on the revenues of marijuana-based businesses. This change could potentially diversify City revenue sources beyond its current, heavy reliance on property tax and development-related sales tax and REET -the latter of which may not be sustainable over the long run.

In addition to possibly repealing BDMC Chapters 20.04 (which is now functionally obsolete due to changes in state laws) and 20.08 (which prohibits siting and operation of marijuana businesses), the City would need to undertake an analysis of where such businesses realistically could be sited under state statutes establishing buffers around certain types of establishments such as schools, parks, and churches. Changes to the Land Use element and City zoning regulations could be required in order to facilitate the siting of viable marijuana businesses within the City.

Staff Recommendation:

Diversifying the City's tax revenues with reliable new income streams has been declared a high priority by the City Council and the Mayor. Other cities in the region have received significant tax revenue flowing from marijuana business-revenue that the City is currently unable to collect due to the prohibitions in BDMC Chapters 20.08 and 20.04. Receiving public comment on the desirability of allowing marijuana businesses to be operated in the City, and careful consideration of where such businesses should be located if the prohibitions were repealed, would be a valuable exercise, as would the simultaneous review of potential land use changes that would be necessary to facilitate the siting of viable marijuana businesses in the City. The policy analysis and public engagement process required for

this docket item would require substantial staffing resources to manage, but City staff understands that the Council considers this to be a priority item. Accordingly, City staff recommend that Item #2021-06 be included on the final 2021 Docket.

Planning Commission Recommendation:

The Planning Commission recommends that Item #2021-06 be included on the final 2021 Docket.

ITEM #2021-07: REVIEW ADU AND SHORT-TERM RENTAL REGULATIONS WITH POTENTIAL CHANGES TO THE HOUSING CHAPTER OF THE COMPREHENSIVE PLAN

Requestor:

This item was requested by the Planning Commission.

Description:

Housing affordability and accommodation of multi-generational households continues to be a pressing issue for the City. Accessory dwelling units (ADUs) are viewed as one means of increasing the stock of affordable housing options and an important way to allow multiple generations to live together on the same property without being under one roof. The Planning Commission has requested to review development regulations governing ADUs for possible updates.

Short-term rental properties, as exemplified by AirBnB, present other challenges. The Planning Commission has suggested that the City consider options for regulating the use of residential properties for short-term rentals (under 30 days) so as to minimize the problems that can arise from such activities.

Staff Recommendation:

City staff recommends that this item be the subject of further discussion by the Planning Commission at its public hearing on the preliminary docket on May 11, 2021, to better define the nature of proposed amendments. City staff further recommends that if the Planning Commission decides to recommend inclusion of Item #2021-07 on the final 2021 Docket, it should be combined with consideration of Item #2021-04, which also addresses changes to the Housing chapter.

Planning Commission Recommendation:

The Planning Commission recommends that Item #2021-07 be combined with consideration of Item #2021-04, which also addresses changes to the Housing element of the Comprehensive Plan to be included on the final 2021 Docket.

ITEM #2021-08: CONDUCT AN ECOLOGICAL INVENTORY AND PROPOSE CHANGES TO LAND USES AND REGULATIONS TO PRESERVE NATURAL AREAS

Requestor:

This item was requested by Bob Stuart.

Description:

The requestor asks to add a new policy to the Natural Environment chapter of the Comprehensive Plan:

New Policy NE-41: Conduct an ecological inventory of natural areas within the City and propose changes to land uses and regulations to preserve the functions and values of these natural areas. The inventory and proposed actions shall be presented to the Planning Commission for review and action by the City Council in 2022.

The requestor supports his request with the following rationale:

Black Diamond faces an incredible challenge in balancing its future between small town in a natural surrounding and potential development capacity. If not managed more carefully, it will simply be another case of, "you don't know what you've got 'til it's gone." People have already noticed significant change in the type and location of wildlife, and the amount and vegetation of natural space. The City should study remaining undeveloped land and its: ecosystem value; restoration potential; and open space potential. The study should also include: an evaluation of different ways new development could add conservation and open space, and whether existing zoning should be changed to encourage conservation of remaining open space.

Staff Recommendation:

This request does not propose a policy change for the Comprehensive Plan, but rather would require staff to undertake a one-time action—namely the completion of an "ecological inventory" and presentation of that inventory to the Planning Commission and City Council in 2022. The Comprehensive Plan is a planning document that is supposed to guide the City's implementation of more detailed development regulations to manage growth. While completion of an inventory of the City's natural areas and ecological assets (such as lakes, wetlands, and wildlife habitat) could be a valuable exercise, a directive to conduct such an inventory and present it to the Council the following year is not appropriate for inclusion in the Comprehensive Plan.

It should be noted, however, that the City is currently completing its Parks, Recreation & Open Space Plan (PROS Plan), which will, in part, analyze the City's existing open space, including natural areas. See Item #2021-05, above. This PROS Plan will be used to evaluate any long-term policy changes that should be made to the Comprehensive Plan so that it can serve as a long-term guide for preserving City open space for the benefit of current and future residents. It is also important to note that the City Council has just approved changes to the City's critical areas ordinance (BDMC 19.10) to improve environmental protection standards and incorporate recent revisions to state and federal law.

In light of budgetary and staffing limitations for overseeing the creation of a separate "ecological inventory," and in light of other efforts already underway to review the City's open space assets, City staff do not recommend that Item #2021-08 be included in the final 2021 Docket. However, if the requestor believes that the PROS Plan does not fulfill the objectives of this preliminary docket item, he is encouraged to propose that the City Council allocate funds in the 2022 budget for conducting an ecological inventory that could form the basis for further review and consideration of Comprehensive Plan amendments in 2022 or a subsequent year if approved for that year's docket.

Planning Commission Recommendation:

The Planning Commission recommends amending Item #2021-08 to conduct a feasibility study, including costs and scope of operations, on conducting an ecological inventory to be included in the final 2021 docket.

ITEM #2021-17: DELETE POLICY ED-4.5 FROM THE ECONOMIC DEVELOPMENT CHAPTER OR MOVE IT TO THE TRANSPORTATION CHAPTER

Requestor:

This item is requested by Kelley Sauskojus, as compiled from previous suggestions for Comprehensive Plan Amendments.

Description:

The requestor asks that the Economic Development chapter of the Comprehensive Plan be amended to remove Policy ED-4.5, which concerns the Highway 169 corridor. Alternatively, requester suggests that policy ED-4.5 be moved to the Transportation Chapter. Requestor's rationale is that Policy ED 4.5 is more focused on transportation than economic development. Policy ED-4.5 currently states as follows:

~~Policy ED 4.5: Coordinate with the Washington State Department of Transportation (WSDOT). King County, and adjacent cities to plan for access improvements, intersection improvements, and infrastructure maintenance in the SR 169 corridor.~~

Policy T-XX: Coordinate with the Washington State Department of Transportation (WSDOT). King County, and adjacent cities to plan for access improvements, intersection improvements, and infrastructure maintenance in the SR 169 corridor.

Staff Recommendation:

This Item would not require expenditure of budgeted Community Development funding nor require extensive staffing resources to study or implement. Additionally, the requested amendment would not represent a substantive change in policy if the text simply moved from the Economic Development chapter to the Transportation chapter. Although Policy ED-4.5 is supportive of the City's economic development goals by emphasizing improved accessibility to the key commercial corridor in the City, staff agree that the quoted policy is more properly included in the Transportation element of the Comprehensive Plan. Accordingly, City staff recommend that Item #2021-17 be included in the final 2021 Docket.

Planning Commission Recommendation:

The Planning Commission recommends that Item #2021-17 be included on the final 2021 Docket.

ITEM #2021-22: AMEND LAND USE POLICY LU-21 CONCERNING GROWTH TARGETS AND PRESENT RECOMMENDATIONS TO THE PLANNING COMMISSION AND CITY COUNCIL IN 2022

Requestor:

This item is requested by Bob Stuart.

Description:

The requester asks that Policy LU-21 be amended as follows (shown in underlined text):

Policy LU-21: Monitor growth in conjunction with adopted King County population projections and cooperative planning with the county to anticipate future urban growth area needs. Identify areas within the city that should be rezoned in order to bring the City's growth capacity into closer conformity with regionally adopted growth targets and the Puget Sound Regional Vision, and present recommendations for Planning Commission and City Council action in 2022.

The requester offers the following rationale in support of his request:

The ongoing tension between regional plans and Black Diamond's available undeveloped land has resulted in delays in updating the Comprehensive Plan. This has been unproductive, costly, and could result in difficulties in coordination with neighboring jurisdictions. Residents are concerned about insufficient or expensive infrastructure, public services, and loss of natural space. A zoning review can look at these issues with a goal of resolving future delays and managing the conflicts based on data and best practices.

Staff Recommendation:

This request touches on important considerations regarding bringing the City's current zoning regulations in line with the Comprehensive Plan and FLUM, as discussed in connection with preliminary docket Items #2021-01 and #2021-03, above.

Although staff do not support the portion of the request that would amend Land Uses Policy LU-21 to include language mandating presentation of recommendations to the Planning Commission and City Council for action in 2022, City staff recommend that Item #2021-22 be included on the final 2021 Docket, but in combined form with Items #2021-01 and #2021-03. Together, they should be docketed with the description broadened as follows: "Reconsideration of the 2019 FLUM, including possible reversion to the 2009 FLUM, and corresponding updates to the zoning code for consistency with the Comprehensive Plan and the FLUM, and to begin narrowing discrepancies with PSRC's VISION 2040 and 2050 (as applicable) and Regional Growth Strategy."

Planning Commission Recommendation:

The Planning Commission recommends that Item #2021- 22 be included on the final 2021 Docket, but in combined form with Items #2021-01 and #2021-03. Together, they should be docketed with the description broadened as follows:

"Reconsideration of the 2019 FLUM, including possible reversion to the 2009 FLUM, and corresponding updates to the zoning code for consistency with the Comprehensive Plan and the FLUM, and to begin narrowing discrepancies with PSRC's VISION 2040 and 2050 (as applicable) and Regional Growth Strategy."

2022 Docket

ITEM #2022-01: AMEND THE TRANSPORTATION CHAPTER TO ADD A NEW POLICY RELATING TO TRANSPORTATION DEMAND MODELING

Requestors:

This item is requested by Angela Fettig, Gary Davis, Kelley Sauskojus, Kristen Bryant, Philip Acosta, and William Bryant.

Description:

The requestors ask that the Transportation chapter be amended to add a new policy:

Add statement or Transportation Policy T-##: The public has an interest in understanding and managing the impacts of a two-lane State Highway 169 on land use and the road future network. Therefore, the City's future transportation demand modelling will include: travel times on city through-roads for the peak hour; safety hazards for all modes of travel; intersections outside the City limits in the close vicinity of the City; and an updated Transportation project list. This model will be based on likely or proposed development and will use a future SR-169 corridor based only on known transportation projects with identified funding sources.

Similar language about the same topic was also provided by Kelley Sauskojus as follows:

The public and WSDOT are not funding a widening of SR-169 and therefore such widening is not assumed in the Comprehensive Plan. The public has an interest in understanding and managing the impacts of a two-lane SR-169 on land use and the road future network. Therefore, for the 2022 Comprehensive Plan Update, the City will create an updated transportation demand model that includes travel times, safety hazards, intersections outside the City limits in the close vicinity of the City, and an updated Transportation project list. This model will be based on updated traffic counts, updated development projects, and will use a future SR-169 corridor based only on known projects with identified funding sources.

The requestors offer the following rationale for the requested changes:

Black Diamond is undergoing unprecedented growth and wishes to maintain small-town character, maintain quality of life, and understand road needs and costs. Road funds at the state, county, and local level are limited. The safety of Black Diamond residents is the most important consideration and should be called out. The city recognizes that according to the city's growth targets, MPD fiscal projections, and the experience of other similar cities, the majority of employed residents will continue to commute to work outside the city and therefore roads in and out of town are an important consideration in the Black Diamond Comprehensive Plan. State and County roads leading to Renton, Issaquah, Auburn, and Enumclaw have land slide risks, areas with site distance limitations, pedestrian, and bicycle safety problems.

Staff Recommendation:

The transportation issues will require extensive analysis and opportunities for public participation before final recommendations can be reached. In addition, evaluation and traffic modeling will need to be completed as part of the 2024 Comprehensive Plan periodic update. City staff recommend that Item

#2022-01 be evaluated as part of the periodic update with traffic modeling and studies to be completed in the next 12-24 months. City staff recommend that Item #2022-01 not be included on the 2022 Docket.

Planning Commission Recommendation:

The Planning Commission recommends that Item #2022-01 be included on the final 2022 Docket.

ITEM #2022-02: AMEND THE TRANSPORTATION CHAPTER TO ADD A NEW POLICY RELATING TO FUTURE ROAD NETWORK DESIGN

Requestors:

This item is requested by Angela Fettig, Gary Davis, Kelley Sauskojus, Kristen Bryant, Philip Acosta, and William Bryant.

Description:

The requestors ask that the Transportation chapter be amended to add a new policy:

Transportation Policy T-##: Consistent with prior agreements for future development, new roads in the future road network shall be designed to accommodate as much of the traffic from new development as possible. Neighborhood character and safety are priorities for existing roads.

The requestors offer the following rationale for the requested changes:

The city's existing roads are lined with housing and are not appropriate for dramatic increases in traffic from new development. Affordable housing and safety of the existing community can and should be maintained.

Staff Recommendation:

This policy recommendation is already in practice. Traffic concurrency is required in the City. New roads in the City are designed to accommodate existing and projected traffic based on traffic impact analyses/ reports and developers are required to contribute their fair share. See Policy T-19 Concurrency Policy, and Policy T-22 Financial Impact Mitigation Policy. City staff recommend that Item #2022-02 not be included on the 2022 Docket.

Planning Commission Recommendation:

The Planning Commission recommends that Item #2022-02 be included on the final 2022 Docket.

ITEM #2022-03: AMEND THE TRANSPORTATION CHAPTER TO ADD A NEW POLICY RELATING TO DESIGN STANDARDS

Requestors:

This item is requested by Angela Fettig, Gary Davis, Kelley Sauskojus, Kristen Bryant, Philip Acosta, and William Bryant.

Description:

The requestors ask that the Transportation chapter be amended to add a new policy:

Transportation Policy T-##: The City will improve, create, and enforce design standards that improve safety, enhance neighborhoods and walkability, and that apply to all modes of transportation.

The requestors offer the following rationale for the requested changes:

Black Diamond wishes to maintain existing affordable housing and maintain and enhance neighborhood walkability. Developments like Ten Trails do not contain homes with 4-lane roads through people's front yards. Without design and planning for the rest of Black Diamond, we will become a two-tiered community. Black Diamond's roads were built to old rural standards and need to be made safer for cars and for pedestrians as the city grows and traffic increases.

Staff Recommendation:

The City understands and agrees with the intent behind this policy. However, policy language is already in place regarding design standards for safety, neighborhoods, and walkability, and adding this policy would be redundant. The existing related policy language includes:

- Policy T-3 Connectivity Policy: Improve local roadway features, and patterns in a manner that enhances walking, bicycling, and transit use through improved connectivity.
- Policy T-10 Pedestrians, Bicycles, and Transit Policy (*last bullet point*): Explore options to upgrade the physical environment of older existing neighborhoods to improve safety for pedestrians and bicyclists through reduced vehicular speed, warning signage, sidewalk widening at intersections, adding shoulders, improved paving, vegetation trimming to improve visibility and walkability to provide a safe and appealing walking environment.
- Policy T-14 Character of the City Policy (*bullet point four*): Implementing separate road standards for the older, historic areas within the city that are specific to individual street geometries, with the goal of not causing undue disruption to existing neighborhoods.

Regulations specifically regarding street design already exist and are within the City of Black Diamond Engineering Design and Construction Standards. 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 #2022-03 not be included on the 2022 Docket.*

Planning Commission Recommendation:

The Planning Commission recommends that Item #2022-03 be included on the final 2022 Docket.

ITEM #2022-04: AMEND THE TRANSPORTATION CHAPTER TO ADD A NEW POLICY REGARDING LEVEL OF SERVICE FOR ALTERNATIVE TRANSPORTATION MODES

Requestors:

This item is requested by Angela Fettig, Gary Davis, Kelley Sauskojus, Kristen Bryant, Philip Acosta, and William Bryant.

Description:

The requestors ask that the Transportation chapter be amended to add a new policy:

Transportation Policy T-##: The City shall update its level of service to a measurable unit for sidewalks, trails, bikeways, and transit. New development shall be required to include a concurrency analysis for these modes of transportation, showing how the Level of Service will be met. Traffic Impact Fees will include funding to meet these levels of service.

The requestors offer the following rationale for the requested changes:

Adding level of service for non-vehicle travel modes is consistent with the Puget Sound Regional Council's recommendations and Black Diamond's evolving improvements to its transportation network.

Staff Recommendation:

Having a level of service standard for alternative modes of transportation is a great way to ensure the City's sidewalks, trails, bikeways, and transit are being monitored and serve the current and future needs of the community. This is on the City's radar, as a policy (Policy T-4) exists in the adopted comprehensive plan to assess LOS standards for potential inclusion of alternative modes of transportation. City staff recommend that Item #2022-04 not be included on the 2022 Docket but be considered as part of the 2024 Periodic Comprehensive Plan Update.

Planning Commission Recommendation:

The Planning Commission recommends that Item #2022-04 be included on the final 2022 Docket.

ITEM #2022-07: AMEND THE LAND USE CHAPTER TO ADD A NEW POLICY RELATING TO TREE RETENTION**Requestors:**

This item is requested by Angela Fettig, Gary Davis, Kelley Sauskojus, Kristen Bryant, Philip Acosta, and William Bryant.

Description:

The requestors ask that the Land Use chapter be amended to add a new policy:

Land Use Policy LU-##: Retention of existing trees shall be prioritized over removal and replacement. Tree protection during construction shall use best management practices.

The requestors offer the following rationale for the requested changes:

Trees are beneficial to the feel of the community, wildlife, water, and air. Trees take a long time to grow. Past development reveals the city's existing tree protections are not sufficient to realize benefits or meet many community members' expectations.

Staff Recommendation:

Both the City's adopted Comprehensive Plan and Municipal Code address this topic. The comprehensive plan has the following goals and policies regarding tree preservation:

- NE Goal 10: Preserve trees and native vegetation to protect habitat and ecological functions.
- Policy NE-34: Require protection of significant trees and limit unnecessary disturbance of vegetation during all phases of development and require mitigation as needed, including replacement for trees removed during development.
- Policy NE 40: Monitor compliance with the City's Tree Preservation Ordinance as a means to maintain rural character.

The BDMC specifically addresses tree removal, retention, and replanting in Chapter 19.30 and the portion of the request regarding tree protection during construction in Chapter 19.30.080.A: *"During land alteration and construction, in order to provide for the protection and health of retained significant trees, the applicant shall utilize the best management practices for tree protection."*

Staff understands the requestors desire is to see retention of trees prioritized over removal and agrees that tree preservation is important. However, for landowners to enjoy their substantial property rights under the law, the preservation of all trees on site is typically not possible. While all trees are encouraged to be preserved, only significant trees and trees in the shoreline jurisdiction are required to be preserved and/or replaced. The adoption of this proposed policy is not necessary because it's already consistent with the tree preservation code. **City staff recommend that Item #2022-07 not be included on the 2022 Docket.**

Planning Commission Recommendation:

The Planning Commission recommends that Item #2022-07 be included on the final 2022 Docket.

ITEM #2022-10: AMEND THE LAND USE CHAPTER TO ADD A NEW POLICY RELATING TO OPEN SPACE IN MULTI-FAMILY DEVELOPMENTS

Requestors:

This item is requested by Angela Fettig, Gary Davis, Kelley Sauskojus, Kristen Bryant, Philip Acosta, and William Bryant.

Description:

The requestors ask that the Land Use chapter be amended to add a new policy:

Land Use Policy LU-##: Commercial Zones used for multi-family development are allowed a maximum of 16 units per acre. All multi-family development shall include outdoor space for residents such as picnic area, play area, natural space with appropriate access. A buffer of trees or natural area shall separate residential buildings from other commercial uses. Design standards shall be reviewed regularly for opportunities to improve safety and comfort of residents neighboring commercial development or in mixed use development.

The requestors offer the following rationale for the requested changes:

Existing commercial zoning in Black Diamond allows any number of apartment units, making it difficult to plan. Limiting units and requiring open space for residents maintains small town character. Apartments or connected units are fundamentally housing, and need the same quality of life protections as other housing types. In the case of open space, more incentive for natural space retention is needed than in single family zoning.

Staff Recommendation:

The Land Use Element of the Comprehensive Plan contains substantive policies for how land is to be used and developed within the City. These policies then inform the creation of more specific development regulations and standards in the municipal code. The language proposed by the requestor does not describe a substantive land use policy to guide future development. Rather than proposing policy language, it proposes specific density and landscaping requirements. Furthermore, Black Diamond Design Guidelines specifically address Multi-Family Development around site design, building design, and landscaping. It therefore appears to be inappropriate for inclusion in the 2022 Docket. It is also noted that the proposed minimum outdoor-space and unit number requirements, while possibly promoting some existing policies to preserve natural habitat and rural character, may also be inconsistent with other City objectives of increasing the availability of affordable housing across the socio-economic spectrum. The net effect of the proposed amendments may be to disincentivize the construction of affordable, multi-family dwelling units if not balanced with other incentives. Understanding how these requested Comprehensive Plan amendments would affect the balance of these competing policy goals and impacts to affordable housing would require extensive use of City staff and consulting resources to conduct necessary investigation and analysis. In light of the procedural nature of the requested amendment, **City staff have no basis to recommend this item for this year's docket, but would recommend revisiting this issue and our Design Standards as part of the 2024 Periodic Update.** City staff recommend that Item #2022-10 not be included on the 2022 Docket.

Planning Commission Recommendation:

The Planning Commission recommends that Item #2022-10 not be included on the final 2022 Docket.

ITEM #2022-12: AMEND THE LAND USE MAP TO REMOVE CHANGES MADE IN 2019

Requestors:

This item is requested by Angela Fettig, Gary Davis, Kelley Sauskojus, Kristen Bryant, Philip Acosta, and William Bryant.

Description:

The requestors ask that the Future Land Use Map changes made in 2019 be removed and the Land Uses be the Land Use designation that most closely match the current use of the parcels, including the new designations created by the above docket item. Further, it is requested the prior in-city forest (2021 inconsistency #6), be designated as Forestry and that old rail right-of-way remain undesignated until the landowner formally applies for land use designation using the process in BDMC 16.10, or designate it mineral extraction/forestry, and requests the city encourage maintaining the rail right-of-way for public access, rail, or trail use.

The requestors offer the following rationale for the requested changes:

Address inconsistencies between anticipated growth, growth targets, and the PSRC regional Growth strategies and develop goals or policies that would help to better align them.

Transportation analysis has shown that potential development far exceeds road capacity. Future road projects designed to meet the concurrency needs of the MPDs are at risk of being allocated to other developments. According to the MPD's legal obligations and the MPD EIS Transportation Technical Report, the MPDs only need to meet transportation concurrency minimum levels of service. Additional vehicle capacity to serve other development is not included in the Comprehensive Plan's list of future road projects, and the impacts of other development in the City have not been analyzed.

Redesignating land use to "current use" decreases the workload of analyzing the impacts because SEPA only requires analysis and mitigation of adverse impacts. There are not adverse impacts to "current use" because those impacts are already absorbed.

The ongoing tension between regional plans and Black Diamond's available undeveloped land has resulted in delays in updating the Comprehensive Plan. This has been unproductive, costly, and could result in difficulties coordinating with neighboring jurisdictions. Residents are concerned about insufficient or expensive infrastructure, public services, and loss of natural space. A land use review can look at these issues with a goal of resolving future delays, place the cost as appropriate on land developers, and managing the conflicts based on data and best practices.

The passage of time since the 2019 Future Land Use map updates has not improved the problem. The issues and impacts still need to be made clear to public and decision makers. For example, in the 2019 Comprehensive Plan update, Future Land Use Map changes allowed a significant increase in Medium Density Residential housing (8 to 12 per acre) and Commercial development in future zoning. However, the Comprehensive Plan does not contain descriptions of these Map changes or analyze their impacts.

Staff Recommendation:

These topics were addressed during the 2021 Comprehensive Plan Amendment cycle. Substantial public input and several public hearings and meetings where the inconsistencies between the 2009 Future Land Use Map (FLUM), 2019 adopted FLUM, and the current adopted zoning map were analyzed and discussed. Regarding the In-City Forest, the landowner maintains that the agreement for the City to possibly buy that land has expired. The parcel cannot be designated as Forestry, as such a designation does not exist. Furthermore, the land is privately owned and doing so would greatly diminish or potentially remove all development abilities from the land, which may be considered a taking and could be illegal without payment of just compensation.

Analysis and a recommendation for this request was completed with the 2021 Comprehensive Plan amendment by Planning Commission for the City Council. However, the 2020 Comprehensive Plan Amendments were going through an extensive appeal process and subsequently those amendments were appealed to the Growth Management Hearings Board (GMHB). The City Council repealed the 2020 Comprehensive Plan amendments, which essentially nullified the 2021 comprehensive plan amendments.

Analysis of the FLUM and Zoning map will occur as part of the 2024 periodic comprehensive plan update which will include new analysis for various topics, such as traffic/transportation. Due to the forthcoming Periodic Update, and the clear direction from the City Council to focus long-range planning efforts on the 2024 Periodic Update, City staff recommend that Item #2022-12 not be included on the 2022 Docket.

Planning Commission Recommendation:

The Planning Commission recommends that Item #2022-12 not be included on the final 2022 Docket.

ITEM #2022-15: AMEND THE LAND USE CHAPTER TO REMOVE POLICY LU-42

Requestors:

This item is requested by Angela Fettig, Gary Davis, Kelley Sauskojus, Kristen Bryant, Philip Acosta, and William Bryant.

Description:

The requestors ask that the Land Use chapter be amended to remove the following policy:

~~Land Use Policy LU-42: Retain and enhance the existing commercial areas while providing sites large enough to accommodate significant commercial uses.~~

The requestors offer the following rationale for the requested changes:

There are sufficient commercial spaces already developed in Black Diamond or permitted through the MPD's. Additionally, the Institute for Traffic Engineers recognizes that commercial and mixed-use development generate significant new traffic. Growth in neighboring cities shows that despite retail and commercial development, the vast majority of new residents commute outside the city. The City wishes to further mitigate transportation impacts from growth and to encourage commercial development in the master planned locations.

Staff Recommendation:

The request is contradictory. The requestors ask to remove a policy regarding retaining and enhancing existing commercial sites, and in the rationale state they would like to encourage commercial development in master planned locations – which are existing commercially designated areas.

Furthermore, this could be addressed in the next periodic update when the Land Use element is open for public comment. In light of the contradictory nature of the request, and in light of repeated Council statements prioritizing the attraction of new commercial enterprises and related revenue streams for the City, staff recommends that item #2022-15 not be included on the 2022 Docket.

Planning Commission Recommendation:

The Planning Commission recommends that Item #2022-15 not be included on the final 2022 Docket.

ITEM #2022-16: AMEND THE LAND USE CHAPTER TO AMEND POLICY 18 RELATING TO HISTORIC SITES

Requestors:

This item is requested by Angela Fettig, Gary Davis, Kelley Sauskojus, Kristen Bryant, Philip Acosta, and William Bryant.

Description:

The requestors ask that the Land Use chapter be amended to amend the following policy:

Land Use Policy LU-18: "Partner with county, state and tribal agencies to ensure preservation of archaeologically and historically significant sites."

The requestors offer the following rationale for the requested changes:

Black Diamond's historic heritage is visible in its layout and housing, but much of this is taken for granted. The city's historic homes are affordable but are at risk of redevelopment into bigger and more expensive houses. The city's historic streets, buildings, & natural areas should be evaluated to identify how they contribute to the city's small-town character and livability so that the beneficial aspects for residents and visitors are maintained. Existing code and policies are insufficient to ensure historic protection.

Staff Recommendation:

This item was requested as part of the 2021 Docket (Docket Item #2021-20). To remind the Commissioners and Council, the City already has a chapter in its Municipal code dedicated to preservation of historic landmarks (BDMC 15.38). The process for designating properties for landmark status is governed by Chapter 15.38, which in turn incorporates King County Code Chapter 20.62. See KCC 20.62.050. Amending the text of the Comprehensive Plan to include "historically significant" sites in addition to "archaeologically significant" sites for preservation efforts would be consistent with current City codes, as implemented through the City's partnership with the King County Landmarks Commission. However, **City staff recommend that Item #2022-16 not be included on the 2022 docket and instead recommend this item be reviewed as part of the 2024 periodic update to amend Land Use Policy LU-18.**

Planning Commission Recommendation:

The Planning Commission recommends that Item #2022-16 not be included on the final 2022 Docket.

ITEM #2022-18: UPDATE THE HOUSING CHAPTER OF THE COMPREHENSIVE PLAN TO INCORPORATE RELEVANT COMPONENTS OF THE 2021 HOUSING ACTION PLAN

Requestor:

This item was suggested by Community Development Director Mona Davis.

Description:

In 2021 the City worked with a consultant, Blueline, to finalize the 2021 Housing Action Plan. This Plan started with data collected from a citywide housing needs assessment survey conducted by Blueline. Blueline's work incorporated this survey data into an overall plan that reflects realistic residential growth targets and provides insights into how the City can provide for the mix of housing that is likely to meet the needs of current and future populations. The Housing Action Plan creates three strategic objectives for meeting future housing needs in the City: (1) monitoring housing needs and demographic shifts as the City continues to grow; (2) increasing housing diversity while preventing displacement of current residents and preserving small-town feel; and (3) creating opportunity for investment in more housing for lower income brackets. The Housing Action plan should inform the Planning Commission and City Council's consideration of potential changes to the Housing element of the Comprehensive Plan.

Staff Recommendation:

The objectives and proposed action items from the Housing Action Plan should be harmonized with the Housing element of the Comprehensive Plan. This item was on the 2021 Docket and was not completed because the zoning and FLUM maps needed to be consistent before staff could further analyze the housing needs and locations. These inconsistencies are planned to be analyzed as part of the 2024 periodic update.

City staff recommend that Item #2022-18 not be included on the 2022 docket and instead recommend this item be reviewed as part of the 2024 periodic update.

Planning Commission Recommendation:

The Planning Commission recommends that Item #2022-10 not be included on the final 2022 Docket and instead recommend this item to be revisited during the 2024 periodic update.

ITEM #2022-19: UPDATE THE PARKS CHAPTER OF THE COMPREHENSIVE PLAN TO INCORPORATE RELEVANT COMPONENTS OF THE PROS PLAN

Requestor:

This item was suggested by Community Development Director Mona Davis.

Description:

The City is currently working to adopt the Parks, Recreation, & Open Space Plan (PROS Plan) in the next few months. This work included a survey that was sent out to seek input from residents and various public meetings to gather input. The PROS Plan assesses the City's current inventory of parks and recreation property and facilities and provides an evaluation of how those facilities may need to be expanded and improved to meet the needs and preferences of current and future residents of the City. The Parks element of the Comprehensive Plan should be updated to reflect the key findings and action items from the PROS Plan once it is adopted.

Staff Recommendation:

The objectives and proposed action items from the PROS Plan should be incorporated into the Parks element of the Comprehensive Plan. This item was on the 2021 Docket and was not completed because the PROS Plan needed to be completed and adopted first. Staff anticipates the PROS Plan going to Council in June 2022. City staff recommend that Item #2022-19 be included on the 2022 Docket.

Planning Commission Recommendation:

The Planning Commission recommends that Item #2022-10 be included on the final 2022 Docket.

2023 Docket

The 2023 Docket included three applications for amendments. The Planning Commission moved to only recommend the first item (an entire application) but it was not broken down into multiple items. Andrew has since broken down item #2023-01 into 16 separate parts.

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

Requestor:

This item is requested by Kelley Sauskojus. Each “sub-item” is verbatim per the application.

Description:

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

ITEM #2023-01-01

ITEM #2023-01-01-A

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.

ITEM #2023-01-01-B

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.

ITEM #2023-01-02

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.

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.

Commented [AL7]: Since Planning Commission recommended them as a set, I'm not sure they can be broken down.

Commented [AL8]: "Generally, suggested amendments should be limited to proposals that broadly apply to the goals, policies and implementation strategies of the comprehensive plan rather than amendments designed to address site-specific issues of limited applicability."

These needed a complete application meeting the requirements of BDMC 16.10.050, including but not limited to **proof of the property owner's consent, non-project SEPA checklist, and application fees.**

¹ The applicant defines current use as, "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)."

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.

ITEM #2023-01-02-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).

Commented [AL9]: AKA Proposed Rezone #2

Commented [AL10]: Proposed Rezone #3

ITEM #2023-01-02-B

Parcels 1121069020, 1121069112, 1121069113, 1121069114 are designated as Light Industrial or B/IP (or "Forestry" if the city creates this as a designation).

Commented [AL11]: Properties owned by Palmer and north of the planned SE Loop Connector.

ITEM #2023-01-02-C

Parcel 1021069010 is designated "Low Density Residential" (LDR).

Commented [AL12]: Proposed Rezone #1

ITEM #2023-01-02-D

Parcels 1021069103 and 1021069105 are designated "Low Density Residential" (LDR).

Commented [AL13]: Two Palmer properties adjacent to Lake Sawyer Regional Park.

ITEM #2023-01-03

New Land Use Policy: Land Use Designations for Commercial are strongly discouraged until the Master Planned Development Retail and Commercial land uses are built.

ITEM #2023-01-04

ITEM #2023-01-04-A

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.

ITEM #2023-01-04-B

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.

ITEM #2023-01-05

ITEM #2023-01-05-A

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 growth targets.

ITEM #2023-01-05-B

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.

ITEM #2023-01-06

New Transportation Policy: The City shall adopt transportation safety requirements aimed at encouraging pedestrian activity and enhancing small town and historic character.

ITEM #2023-01-07

New Land Use (LU) Policy: The city encourages land use and zoning that preserves our historic neighborhood character and historic building.

ITEM #2023-01-08

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.

ITEM #2023-01-09

ITEM #2023-01-09-A

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.

ITEM #2023-01-09-B

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

Staff 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.**

Planning Commission Recommendation:

The Planning Commission recommends that Item #2023-01 be included on the final 2023 Docket.

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 2023 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 2023 amendments to the Comprehensive Plan-Periodic Update
December 2024	Adopted amendments transmitted to Department of Commerce

Commented [AL14]: Prior dockets suggest this should say Jul-Sep 2023

Commented [AL15]: Prior dockets suggest this should say Oct 2023

Commented [AL16]: Prior dockets suggest this should say Nov-Dec 2023

Code requires, "The council's final action on the docket must be taken by the second regular council meeting in December of each year."

Commented [AL17]: Needs to be December 2023

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 Fettig).

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.

Commented [ab2]: Need to find an example from other city.

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

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Commented [ab2]: Need to find an example from other city.

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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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 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



City of Black Diamond **PLANNING COMMISSION**

May 22, 2023

Mayor Carol Benson,
Councilmember Tamie Deady,
Councilmember Brad Douglass,
Councilmember Therron Smith,
Councilmember Leih Mulvihill,
Councilmember Kristina de Leon,
Councilmember Nathan Jones,
Councilmember Debbie Page

RE: The City of Black Diamond 2023 Comprehensive Plan Amendments

Dear Mayor and Council,

On behalf of the Black Diamond Planning Commission, I am submitting our recommendations for the 2023 Comprehensive Plan Preliminary Docket. As required, the Planning Commission held a Public Hearing on May 9, 2023, to hear testimony and gather public input on the items that were submitted. This meeting was attended by six of the seven members of the Planning Commission.

Mona Davis, Community Development Director, presented a brief overview and presented a staff report and recommendations. Public testimony and written comments were submitted by several members of the public. After the public hearing, the Planning Commission deliberated on items #2023-01 through #2023-03. Following a lengthy discussion, the Planning Commission recommends the following:

Item #2023-01 – Suggested Amendments from Kelly Sauskojus

Planning Commission Recommendation:

*The Planning Commission **recommends** Item #2023-01 be included in the preliminary docket.*

COMMISSIONERS

John Olson	Chair
Carol Morgan	V. Chair
Kelley Sauskojus	POSN 1
Steve Jensen	POSN 2
Knut Syverson	POSN 3
Pam McCain	POSN 4



City of Black Diamond
PLANNING COMMISSION

Item #2023-02 – Suggested Amendments from Friends of Black Diamond (Kristen Bryant, Williams Bryant, Gary Davis, Angela Fettig)

Planning Commission Recommendation:

The planning commission recommends Items #2023-02, NOT be included in the preliminary docket.

Item #2023-03 – Suggested Amendments from Lisa Winters

Planning Commission Recommendation:

The planning commission recommends Item #2023-03 NOT be included in the preliminary docket.

Based on the presentation and information provided by City staff, public comments, and the Commissions deliberations, the Planning Commission officially recommends and transmits the adoption of this 2023 Comprehensive Plan Preliminary Docket.

Sincerely,

A handwritten signature in black ink, appearing to be "JOHN OLSON", written in a cursive style.

John Olson
Chair
Black Diamond Planning Commission



STATE OF WASHINGTON

DEPARTMENT OF COMMERCE

1011 Plum Street SE • PO Box 42525 • Olympia, Washington 98504-2525 • (360) 725-4000
www.commerce.wa.gov

July 17, 2023

Mona Davis
Community Development Director
City of Black Diamond
24301 Roberts Drive
Post Office Box 599
Black Diamond, Washington 98010

Sent Via Electronic Mail

RE: 2023 Comprehensive Plan Amendments

Dear Ms. Davis:

Thank you for sending Growth Management Services the City Council memo concerning the proposed comprehensive plan amendments and background information on previous amendments. We appreciate the City's continued coordination with our agency as you work to achieve the community's vision consistent with the goals and requirements of the Growth Management Act (GMA). Additionally, we appreciate the opportunity to provide comment on this complex situation and process.

While it is understood the city has received applications for amendment to the comprehensive plan in 2023, the Department of Commerce agrees with the city staff recommendation to postpone the 2023 docket and consider these proposals concurrently with the required 2024 periodic update of the comprehensive plan. The City of Black Diamond is one of many jurisdictions in the northwest region of the state required to complete this periodic update process by December 31, 2024, which is outlined in detail in **WAC 365-196-610**. The periodic update is a comprehensive review of city and county growth management needs, including a review of the comprehensive plan and development regulations and the adoption of any amendments necessary to bring the comprehensive plan and development regulations into compliance with the requirements of the act. All amendments should be reviewed concurrently so that the cumulative effects may be ascertained, including updated countywide and local population projections, land capacity analysis, transportation analysis and capital facility planning (RCW 36.70A.040). Because the update requires complex technical review, compliance with state laws, and tremendous staff resources, the legislature has allocated specific funding for jurisdictions to complete this work as part of the periodic update cycle. Black Diamond has a December 31, 2024, deadline to complete the update of the comprehensive plan, development regulations, and critical area ordinance. Failure to complete the update by required deadlines puts the city's eligibility for certain grants at risk, including the following:

- Public Works Trust Fund (Public Works Board)
- Centennial Clean Water Fund (Department of Ecology)

- Drinking Water State Revolving Fund (Department of Health)
- Recreation and Conservation Office Funds
- Transportation Improvement Board Funding
- Pre-disaster Mitigation Grants (Emergency Management division, Washington Military Dept)
- Water Pollution Control Facilities Grants

Due to the time-consuming nature of the comprehensive plan update process many jurisdictions suspend their annual docket application cycle to allow staff resources to focus on the mandatory periodic update. Additionally, the City Council has made a commitment regarding the schedule of the periodic update with the adoption of their public participation plan. Tabling the 2023 annual docket would better allow the city to adhere to the schedule and meet expectations for the broader community and public interest.

Again, we aren't suggesting the submitted 2023 docket applications be rejected. Rather we are concurring with the city staff recommendation that they be considered with the upcoming periodic update process. This allows for a more holistic review of the proposed amendments in relation to other amendments as well as the overall comprehensive plan update.

We extend our continued support to the City of Black Diamond in achieving the goals of the Growth Management Act and the vision of your community. Thank you again for the opportunity to comment. If you have questions or would like technical assistance on any land use issues, please feel free to contact Ted Vanegas, ted.vanegas@commerce.wa.gov or call 360.280.0320.

Sincerely,



Valerie Smith, AICP
Deputy Managing Director
Growth Management Services

cc: David Andersen, AICP, Managing Director, Growth Management Services
Benjamin Serr, AICP, Eastern Region Manager, Growth Management Services
Ted Vanegas, Senior Planner, Growth Management Services