



CITY OF BLACK DIAMOND
October 30, 2008 Workstudy Agenda
25510 Lawson St., Black Diamond, Washington

1. 7:00 P.M. Call to Order, Roll Call
2. Draft Sensitive Areas Ordinance – Mr. Nix
3. Comprehensive Plan Chapter 1-6, Zoning Code and Map – Mr. Pilcher
4. Adjournment



CITY OF BLACK DIAMOND

Interoffice Memorandum

TO: MAYOR AND COUNCIL MEMBERS
FROM: AARON NIX, NATURAL RESOURCES DIRECTOR
SUBJECT: UPDATED SENSITIVE AREA ORDINANCE DISCUSSION
DATE: 10/27/2008

Honorable Mayor and Council Members,

We've just about made it and should be ready for the public hearing very soon. I've attached a spreadsheet that lists all of the comments we received to date with the author information, the comment, staff's recommendation and the direction we've been given council to adjust within the Sensitive Areas Ordinance. There are a couple comments that we still need feedback from you on and direction. I've highlighted these in yellow so that they are easy to find. With this work complete, we should be ready to get this thing to a public hearing. Thanks again to all of you for your work on this tough issue. Ultimately, I strongly believe that its adoption will help the City meet the goals and objectives that you all have set for the City and the future of Black Diamond.

Aaron C. Nix
Natural Resources Director
X220

City of Black Diamond Sensitive Areas Ordinance

*Best Available Science Review and
Recommendations for Code Update*

Summary and Recommendations

Prepared for

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- Recreational uses such as fishing, hunting, bird watching and interpretation of natural features.
- Continued use and maintenance of existing features such as dams, water diversions; and existing or ongoing uses such as forestry or agriculture.
- Docks and boat launch ramps on water bodies that provide access for public recreation use;

It also should be recognized that water bodies, especially navigable waters, provide a variety of opportunities for commerce that are integral to our economic system. The state Shoreline Management Act passed in 1971 includes several key goals (RCW 90.58.020 and WAC 173-26-176(3)):

- (a) The utilization of shorelines for economically productive uses that are particularly dependent on shoreline location or use.
- (b) The utilization of shorelines and the waters they encompass for public access and recreation.
- (c) Protection and restoration of the ecological functions of shoreline natural resources.

Generally, critical area codes must allow for use of shorelines of the state for:

- Water dependent uses: Those uses that “cannot exist in any other location and are dependent on the water by intrinsic nature of its operation”.
- Water-related uses: Those uses that are not intrinsically dependent on a waterfront location but whose operation cannot occur economically without a shoreline location.
- Water enjoyment uses provide the opportunity for a significant number of people to enjoy the shoreline.

6.1.2 Buffers

Buffers are often thought of as areas that are outside of sensitive areas such as wetlands and water bodies that separate environmentally sensitive areas for areas of human activity and reduce the adverse impacts of human disturbance. (Norman 1996) This narrow definition however reflects a narrow classification-based view of such features and not an ecosystem perspective. The continued use of the term buffer is somewhat unfortunate, but likely will continue as a familiar concept.

It is important to note that the Growth Management Act requires the protection of “areas *and ecosystems*” (emphasis added) relating to wetlands, fish and wildlife habitat conservation areas and frequently flooded areas. The protection of an ecosystem must go beyond the areas that can be identified by discreet criteria, such as a wetland, or a specific stream reach to include ecosystem processes that occur outside those features.

6.1.3 Buffer Ecological Functions

A variety of functions occur in wetland and aquatic habitats that have essential links with upland areas, including:

- Providing for continued hydrological processes, that provide surface and ground water critical to maintaining wetland aquatic resources;

- Maintaining natural functions related to water quality, including removing sediment generated by natural processes and removing nutrients such as phosphorous and nitrogen;
- Maintaining the microclimate in upland areas, that influence the functions of wetlands and aquatic habitats, as well as the vegetation complexity of upland habitat;
- Maintaining adjacent habitat and wetland functions that are essential to certain stages of populations (such as the need for amphibians to spend part of their lifecycle in water);
- Maintaining an area sufficient for populations to be maintained in all their lifestages;

A scientific literature review indicates that the buffer width necessary to protect a given habitat function or group of functions depends upon numerous site-specific factors. These factors include the plant community (i.e., type of plant species present, density of plants, and age of vegetation community), aspect, slope, and soil type, as well as adjacent land use. The body of science indicates that the appropriate buffer width for a given ecological function is specific to the environmental setting and functions to be achieved by that buffer (Castelle and Johnson 2000).

A summary of specific functions provided in buffer areas for aquatic and wetland ecological functions are provided in the tables below

Table 6-1. Generalized Comparison of Functions of Riparian Buffer Widths Aquatic Ecological Functions

Stream Function	Buffer Width				
	15 Feet ¹	50 Feet	150 Feet	300 Feet	600 Feet
Microclimate	X	X	N	P	F
Wildlife Habitat	X	N	P	P	F
LWD Recruitment	X	N	P	F	F
Pollutant Removal	N	N	P	P	F
Sediment Filtration	X	N	P	F	F
Water Temperature	X	N	F	F	F
Organic Litter	X	P	F	F	F
Bank Stability	X	F	F	F	F

KEY

- F = Buffer width fully supports/maintains stream function
- P = Buffer width partially supports/maintains stream function
- N = Buffer width nominally supports/maintains stream function
- X = Buffer does not adequately support/maintain stream function

Table 6-2. Generalization of Various Wetland Buffer Widths on Functions Provided

Buffer Functions Provided	Range of Buffer Widths					
	25-50 ft.	50-100 ft.	100-150 ft.	150-200 ft.	200-250 ft.	250-300 ft.
Habitat:	L	L/M	M	M/H	M/H	H
Habitat connectivity						
Amphibians:						

Table 6-2. Generalization of Various Wetland Buffer Widths on Functions Provided (Continued)

Buffer Functions Provided	Range of Buffer Widths					
	25-50 ft.	50-100 ft.	100-150 ft.	150-200 ft.	200-250 ft.	250-300 ft.
Sensitive	L	L	L	L	L	L
Urban	L/M	L/M	M	M	M/H	H
Birds:						
waterfowl	L	L	M	M/H	M/H	M/H
urban adapted	H	H	M/H	M/L	L	L
edge spp.	M/H	M/H	M/H	M/H	M/H	M
interior ²	L	L	L	L	L	L
Mammals:						
Small	L	L/M	M	M	M/H	M/H
Large	L	L	L	L	L/M	M
Removing Sediment						
Grassy slope less than 5%	M/H	H	H	H	H	H
60-90% removal grassy	L/M	H	H	H	H	H
Steep slope	L	L	L/M	M/H	H	H
Particle Size:						
Sands	H	H	H	H	H	H
Silts	M	M/H	H	H	H	H
Clay	L	L	L	L	L	L
Removing excess nutrients						
60% removal	H	H	H	H	H	H
80% removal	L/M	H	H	H	H	H
Bacterial	L	L/M	H	H	H	H

6.1.4 Buffer from Human Activities

Human activities can produce a variety of changes to ecological processes and proximity impacts can affect wetlands, aquatic and terrestrial wildlife habitat and other ecological processes.

There are basically two types of impacts that occur from human activities:

- Changes in inputs to ecological processes that affect the hydrologic cycle or other elements of the ecosystem. Buffers are generally not effective for these impacts, unless large enough to provide sufficient area for the processes to remain. Even in

Data already compiled and described above appear sufficient to support determination of aquifer susceptibility and vulnerability in the City of Black Diamond. Aquifer recharge areas may be identified largely by surficial soils and categorized for sensitivity based on "DRASTIC - A Standardized System for Evaluated Groundwater Pollution Potential Using Hydrogeologic Settings" (Aller et al. June 1987, US Environmental Protection Agency, Publication Number 600287035).

Wellhead protection areas (WHPAs) designated by water purveyors (as required by WAC 246-290-145) and mapped by Ecology (2006) should be added to the City's aquifer recharge area map, showing the 10-year ground-water travel-time area to each well or well field. Superposition of all designated WHPAs illustrates where aquifers are currently used for water supply. The mapping should be updated periodically to allow for additions and deletions of specific water wells. These data should be checked with State of Washington Department of Health and King County Health Department records.

7. SUMMARY

7.1 FINDINGS

The following findings summarize the discussion above and in the more detailed analysis in the Technical Appendixes on individual resources:

1. The majority of Black Diamond and its Urban Growth Area (UGA) are located in the Lake Sawyer subwatershed. Lake Sawyer is an extremely sensitive resource due to its large water area and small tributary watershed. It is especially sensitive to eutrophication from additional nutrients.
2. The streams and lakes in the area provide important habitat for anadromous fish, resident fish, other aquatic species and a range of terrestrial species.
3. Due to the largely undeveloped status of the UGA, many of these resources have relatively intact riparian areas, extensive wetlands, and relatively good water quality and instream habitat. Additionally, many of these areas provide numerous process-intensive functions that contribute to the overall productivity of the subwatershed. The maintenance of these functions throughout the UGA will be essential to maintaining ecological functions and values within Lake Sawyer. The lake has a relatively small watershed and will be extremely sensitive to changes brought on by urbanization.
4. The processes that occur within the City and its UGA have a relatively smaller impact on the larger Green River/Soos Creek/Covington Creek watershed simply because it is a small contributing area.
5. The processes that occur in the portion of the UGA in the Middle Green River/Crisp Creek watershed primarily are related to groundwater recharge. The City and its Urban Growth Area provide fewer process-intensive functions contributing to the overall productivity of that subwatershed, but may be important to processes that occur in the nearby Horseshoe Lake and possibly Keevie Lake.
6. The Rock Creek/Jones Lake/Jones Creek corridor has the largest concentration of sensitive features that affect landscape function, including a large complex of wetlands that provides flood desynchronization, water storage, and a variety of nutrient control functions essential to the health of the watershed and provide the most important aquatic and terrestrial habitat areas. This area has the potential to provide the greatest

beneficial effects on Lake Sawyer water quality, in addition to control of nutrients at the source.

7. Black Diamond Lake and the associated stream has a large and important concentration of similar features, including a large wetland complex, but is currently somewhat less important currently due to the smaller tributary watershed. As the area urbanizes, it will be increasingly important in providing water storage, and a variety of nutrient control functions essential to the health of the Lake Sawyer watershed.
8. Large wetland complexes that provide the headwaters of many streams are important in water storage and maintaining year round stream flows and temperature moderation. Such wetland complexes are present in the headwaters of Ginder Creek, Lawson Creek, Jones Creek, and Mud Creek as well as the Rock Creek tributary to the Cedar River.
9. Tributary streams in the area have a variety of gradients and flow conditions as well as varying degrees of human alteration. Generally they are less important in providing aquatic and wildlife habitat, but they are important in providing inputs of high quality low temperature water to the systems with the greater concentrations of landscape functions.
10. Terrestrial habitat in the Black Diamond UGA is extensive due to the largely undeveloped character of the area. Preservation of wildlife habitat and corridors can be accomplished in concert with preservation of the Rock Creek/Jones Lake/Jones Creek and Black Diamond Lake/Stream areas with extension of the corridors to the north to Ravensdale Creek and to the east and west UGA boundaries. Wildlife corridors will be enhanced by providing passage under major roads by enhancing crossings of water bodies to provide bridges with additional height and width for animal movement.
11. Frequently flooded areas in the Black Diamond UGA are contained within the recommended stream and wetland buffer areas of the core Rock Creek/Jones Lake/Jones Creek corridor and do not warrant separate regulation.
12. Geologic hazards of landslides, erosion hazards and seismic hazards are relatively limited in scope and can be addressed on a case-by-case basis.
13. Geologic hazards related to abandoned coal mines are of concern in Black Diamond due to its history of coal mining. Coal mine hazards relate primarily to depth of workings and the presence of openings. Generally deeper workings have the least hazard with shallow workings posing the greatest risk. Coal mine hazards can generally be addressed by site specific studies and mitigating measures.
14. Critical aquifer recharge areas are generally in the moderate risk range based on analysis of soil and geologic conditions and can be addressed by regulation of activities most likely to discharge hazardous materials and through protection of wellhead areas.

7.2 RECOMMENDATIONS

Regulatory implications of these findings leads to a recommendation that the City of Black Diamond take an approach that provides the highest level of protection for the most important areas of the city that contribute the most to current ecological functions. This would be accompanied by a lower level of protection for those specific sensitive area resources in specific contexts where they contribute less to key functions. By this focused approach, the city is likely to be successful in preserving key ecological functions while accommodating growth goals.

Key elements of this approach include:

1. The Rock Creek/Jones Lake/Jones Creek corridor and the Black Diamond Lake/Stream corridors and the associated wetland complexes should be recognized as a core area that provides a variety of water supply, water quality, and habitat functions. These functions are essential to the preservation of water quality in Lake Sawyer, and to continue to provide the rich ecological functions of these systems. To function as wildlife corridors, they should extend to Ravensdale Creek to the north and the UGA boundaries to the east and west. They should be preserved with a minimum buffer width of 225 feet and requirements for adjacent uses to incorporate measures to reduce proximity impacts from noise, light and glare, stormwater and predation from pets. These corridors also should extend to the boundaries of adjacent steep slopes and may be widened where possible through a transfer of a portion of the buffer area from lower priority stream complexes.
2. Large wetland complexes at the headwaters of Ginder Creek Lawson Creek, Mud Creek and the Rock Creek tributary to the Cedar River that provide important inputs of water to the core through surface and groundwater should be preserved with buffers of 225 feet.
3. Wetlands outside of the core wetland complexes and the headwaters of Ginder Creek and Lawson Creek provide important hydrologic functions. Their ability to provide productive wildlife habitat for a variety of species will be limited by future urbanization. It is appropriate for the city to recognize tradeoffs between Urban Growth area goals of providing for housing and economic development by lower standards of protection. In recognition of their lower productivity, opportunities for transfer of buffer area to the core wetland system also are appropriate to provide the greatest variety of functions in that central location.

Recommended buffers are found in Table 7-1:

Table 7-1. Recommended Wetland Buffers

Wetland Category	CORE and Headland	Standard Buffer	Minimum Buffer with Transfer to Core Wetland Complex
Category IV	225 feet	50 feet	30 feet
Category III	225 feet	80 feet	50 feet
Category II	225 feet	150 feet	100 feet
Category I	225 feet	180 feet	125 feet

These buffer reductions, however, should be considered only when adjacent lands and adjacent development have appropriate natural and built features to protect wetland functions. These should include:

- (a) The buffer must have topographic and vegetation characteristics that ensure adequate function, including intact soils, limited topographic slope and dense native vegetation, including understory.
- (b) Adjacent land use should not include high intensity uses such as commercial, industrial or high intensity multi-family and also should avoid high intensity recreational uses such as sports fields that have considerable loadings of fertilizers

and other chemicals and also bring large groups of people into close proximity to the resource.

- (c) Adjacent development should control impacts on the resource that will not be addressed by buffer width, including:
- Runoff control generally should not include discharge to or across the buffer. Infiltration or other low impact development mechanisms should be employed.
 - Setbacks of buildings, parking areas, road and driveways from the buffer should be employed to provide additional areas for distance attenuation of proximity impacts that may be devoted to low intensity uses such as yards.
 - Noise and light and glare should be limited by building placement and design, including avoidance of windows facing the buffer, avoidance of outdoor and security lighting, placement of mechanical and ventilating equipment away from the buffer and planting a dense vegetative screen at the margins of the buffer.
 - The buffer should be fenced to limit intrusion of domestic animals and disturbance from informal human use and to also to attenuate noise and light and glare intrusion.
4. Small isolated wetlands often provide few functions when surrounded by urban development. Such wetland should be considered for displacement, if mitigation includes improving functions of wetlands and buffers in the core wetland/stream corridor.
5. Streams outside the core complex should be protected to continue to provide high quality water and fish habitat, where available.

Recommended buffers for streams and lakes outside the core complex are shown in Table 7-2:

Table 7-2. Recommended Stream and Lake Buffers

Type	Standard Buffer	Minimum Buffer with Transfer to Core Wetland Complex
Type S- all waters, as inventoried as "shorelines of the state" under the jurisdiction of the Shoreline Management Act, except associated wetlands,	200 feet	150 feet
Type F - segments of natural waters other than Type S Waters, which are greater than 10 feet in width	150 feet	100 feet
Type Np - segments of natural waters that are perennial non-fish habitat streams. - 75 feet	100 feet	50 feet
Type Ns - segments of natural waters within defined channels that are seasonal, non-fish habitat streams	50 feet	30 feet

Buffer reductions, however, should be considered only when adjacent lands and adjacent development have appropriate natural and built features to protect wetland functions. The elements outlined above for buffer reduction for wetlands should also be implemented for these buffer reductions.

7. Geological hazards should be recognized and addressed on a case by case basis. Where feasible, slopes adjacent to wetlands and streams should be incorporated into buffers to provide a more effective overall buffer system.
8. Coal mine hazards should be recognized. High risk areas should be left undeveloped, unless mitigation can assure the reduction of risk to acceptable levels. Public facilities generally should avoid high risk areas. Lower risk areas should be assessed to assure that risks are mitigated, including risks to buildings from settlement.
9. Critical aquifer recharge areas are generally in the moderate risk range and can be effectively addressed by regulation of activities most likely to discharge hazardous materials and through protection of wellhead areas.
10. To recognize existing lots that cannot comply with the recommended buffers. Provisions are made for:
 - Allocation of a certain amount of disturbance as a “reasonable use” for existing residential lots
 - A broader “reasonable use” provision reviewed on a case-by-case basis for other uses
 - A sliding scale based on lot depth for buffers
 - Provision for enhancement of setbacks and buffers to reduce impacts to adjacent resources. As properties are re-developed, provisions should be included to enhance buffers.

8. REFERENCES

References are found in the accompanying Technical Appendixes to this summary.

Utilizing Best Available Science in Black Diamond's Sensitive Areas Regulations

What are the goals of this study?

The goal of this study is to identify and assess the importance of the City's natural systems, including wetlands, streams, wildlife habitat and other sensitive areas. Based on the location and function of those systems, the study presents actions for preserving the City's unique ecological systems, while accommodating growth and development in the Black Diamond Urban Growth Area.

How will this information be used?

The City will create a "Sensitive Areas Ordinance" based upon the findings and recommendations of the Best Available Science (BAS) report. This ordinance will identify protection measures for the City's wetlands, streams, wildlife habitat, and other ecological systems. Development must adhere to these protection and mitigation guidelines.

What are the recommendations?

The City of Black Diamond's approach to Sensitive Areas is to provide the highest level of protection for the natural systems that contribute the highest ecological functions. This is accompanied by a lower level of protection for resources that provide less critical function. This method is unique to the specific environmental characteristics of the City, and allows for a balance of natural systems protection and urban and economic development. Specific elements are:

1. ***The Rock Creek/Jones Lake/Jones Creek and the Black Diamond Lake/Stream corridors*** and the associated wetland complexes should be recognized as a core area that provides a variety of water supply, water quality, and habitat functions. These functions are critical to the preservation of water quality in Lake Sawyer, and to continue to provide the rich ecological functions of these systems.

What is "Best Available Science?"

Best Available Science is "current scientific information derived from research, monitoring, inventory, survey, modeling, assessment, synthesis, and expert opinion" that is:

- Logical and reasonable
 - Based on quantitative analysis
 - Peer reviewed
 - Used in the appropriate context
 - Based on accepted methods
 - Well referenced
-

Highest Function Areas: **The Core**

The Rock Creek/Jones Lake/Jones Creek and the Black Diamond Lake/Stream corridors and their associated wetlands and wildlife habitat are critical to the health and function of Lake Sawyer.

These areas represent the highest level of ecological function, and warrant the greatest level of protection. In order to protect the integrity of the core, these areas are proposed for a 225-foot buffer.



2. To function as *wildlife corridors*, they should extend to Ravensdale Creek to the north and the UGA boundaries to the east and west. These corridors also should extend to the boundaries of adjacent steep slopes and may be widened where possible through a transfer of a portion of the buffer area from lower priority stream complexes.
3. **Wetlands** outside of the core wetland complex and the headwaters of Ginder Creek and Lawson Creek provide important hydrologic functions; their ability to provide productive wildlife habitat will be limited by future urbanization. In recognition of their lower productivity, opportunities for transfer of buffer area to the core wetland system are appropriate.
4. **Streams** outside the core complex should be protected to continue to provide high quality water and fish habitat, where available.
5. **Geological hazards** should be addressed on a case by case basis. Where feasible, slopes adjacent to wetlands and streams should be incorporated into buffers to provide a more effective overall buffer system.
6. **Coal mine hazards** should be assessed and mitigated based on specific levels of risk. High risk areas should be left undeveloped, unless mitigation can assure the reduction of risk to acceptable levels. Lower risk areas should be assessed to assure that risks are mitigated, including risks to buildings from settlement.
7. **Aquifer recharge areas** are generally in the moderate risk range and can be effectively addressed by regulation of activities most likely to discharge hazardous materials and through wellhead protection.
8. **Frequently flooded areas** in the Black Diamond UGA are contained within the recommended stream and wetland buffer areas of the core Rock Creek/Jones Lake/Jones Creek corridor; therefore separate regulations for flood plain hazards are not needed.

Wetland Buffers outside the Core

Wetlands not associated with the highest level of function in the City still need protection.

For these “non core” areas, the recommended buffers vary between 50 and 180 feet with provisions for adjustment to 30 to 125 feet.

Streams outside the Core

For streams and lakes outside of the Lake Sawyer basin, it is important to continue to ensure productive fish habitat and healthy water quality.

Buffers for these waters varies from 50 and 200 feet, with provisions for adjustment to 30 to 150 feet

What about existing lots that cannot meet the recommended buffers?

In areas that are already developed, provisions are made for:

- allocation of a certain amount of disturbance as a “reasonable use” for existing residential lots
- sliding scale based on lot depth
- enhancement of setbacks and buffers to reduce impacts to adjacent resources.

As properties are re-developed, provisions should be included to enhance buffers.



1. Why is the City doing this?

The state required the City to update its sensitive areas regulations. All cities and counties in Washington are required to adopt sensitive areas regulations by the Growth Management Act (RCW 36.70A.060). The GMA was amended in 1995 to require counties and cities to include the best available science (see explanation of how best available science has been integrated into the City of Black Diamond's update of its sensitive areas regulations) in developing policies and development regulations to protect the functions and values of sensitive areas (RCW 36.70A.172). All jurisdictions are required to review, evaluate, and, if necessary, revise their sensitive areas ordinances in order to remain in compliance with the Growth Management Act. The City's previous regulations did not incorporate best available science so an update was required.

2. What triggers the ordinance? If I am just continuing what I've always done on my property and don't build anything new, do I have to do anything?

No. The regulations apply to new applications or activities as they are brought forward to the City. City staff is hopeful that good stewardship practices continue near these areas as they are vitally important to the health and beauty of the land we have here in this great place we call Black Diamond.

3. How do I know if this applies to my land?

You can get an initial sense of whether your property might be affected by looking at the maps the City has created. The City initiated and completed a study in which historical as well as current information was collected and displayed in a map that shows the City of Black Diamond's current inventory of sensitive areas within its borders. The map can be reproduced for anyone that would like one for a small copying fee and can be picked up at the Community Development office at 24301 Roberts Dr during normal business hours.

4. How much buildable area am I allowed under a reasonable use exception? What does that include?

- I. Private property reasonable use exception:
 - a. The application of this chapter would deny all reasonable economic use of the property;
 - b. No other reasonable economic use of the property has less impact on the sensitive area;
 - c. The proposed impact to the sensitive area is the minimum necessary to allow for reasonable economic use of the

property;

- d. The inability of the applicant to derive reasonable economic use of the property is not the result of actions by the applicant after the effective date of this chapter, or its predecessor;
- e. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;
- f. The proposal will result in no net loss of sensitive area functions and values; and
- g. The proposal is consistent with other applicable regulations and standards.

II. Reasonable Use Exception for Non-Conforming Single Family Lots

- a. A reasonable use exception may be approved administratively by the city administrator and/or his/her designee for non-conforming single family residential lots within a subdivision filed within five years previous to the adoption of provisions of this code that render them non-conforming in compliance with RCW 58.17.17, or other lots or parcels under contiguous ownership and less than 20,000 square feet in size that are not subject to landslide hazard areas and associated buffers, shall be subject to the following standards, in conformance with the provisions for a reasonable use exception in subsection (D)(2)(c) through (g) and in accordance with the following criteria:
- b. Non-conforming lots with an area of 2,000 square feet or more available for a building area unrestricted by sensitive areas or buffers shall comply with the standards of this chapter. The building area means the entire area that will be disturbed to construct a structure containing an allowed use and normal appurtenances, including parking and landscaping.
- c. Non-conforming lots that do not meet the requirement of subsection (b) above shall provide the maximum setback and buffer dimension feasible while providing for a building envelope of at least 2,000 square feet on the lot. The building area shall generally be located on the portion of the lot farthest from the required sensitive area or buffer and/or the least sensitive portion of the lot.
- d. The area between the structure and the sensitive area shall be maintained or planted in native trees and understory vegetation.
- e. The city administrator and/or his/her designee shall approve, approve with conditions, or deny the request based on the proposal's ability to comply with all of the applicable exception criteria in Subsection (D)(2)(c) through (g).

5. What do I need to do if I don't think there are sensitive areas on my property?

19.10.110 Sensitive Area Pre-Application Meeting

Any person preparing to submit an application for development or use of land that may be regulated by the provisions of this chapter is encouraged to conduct a consultation meeting with the city administrator and/or his/her designee prior to submitting an application for development or other approval. At this meeting, the administrator shall discuss the requirements of this chapter; provide sensitive area maps, scientific information, and other source materials maintained by the city; outline the review process; and work with the applicant to identify any potential concerns that might arise during the review process, as well as discussing the need for other permit approvals and their procedures.

You will also have the opportunity to provide alternative information to the City as you pursue development on your property. Applicants will provide updated information on wetlands, streams and other areas through the work of consultants you will procure to provide information to accompany your application. It is expected that some changes might occur, since staff was limited to the extent of environmental work associated with the field component of the City sensitive areas ordinance update. The City will utilize the map for planning purposes only. As development proposals and more detailed information is acquired by the City, information regarding sensitive areas and their associated buffers will be updated to meet the conditions identified in the field.

6. Who are “qualified personnel” for sensitive area reports under this ordinance? When is the report required?

19.10.130 Sensitive Area Reports

A. **Preparation by qualified professional.** Sensitive area reports shall be prepared by a qualified professional(s) having expertise in the specific sensitive area category(s) that are the subject of the report.

19.10.646 *Qualified professional* – A person with experience and training in the pertinent scientific discipline, and who is a qualified scientific expert with expertise appropriate for the relevant sensitive area subject in accordance with WAC 365-195-905(4). A qualified professional must have obtained a B.S. or B.A. or equivalent degree in the relevant field, and two years of related work experience.

- a. A qualified professional for terrestrial or aquatic habitats must have a degree in biology and professional experience related to the subject species.
- b. A qualified professional for wetlands must have a degree in biology and professional experience related to wetlands and has passed a certification course.
- c. A qualified professional for a geological hazard must be a professional engineer or geologist, licensed in the state of Washington.
- d. A qualified professional for sensitive aquifer recharge areas means a hydrogeologist, geologist, engineer, or other scientist with experience in preparing hydrogeologic assessments.

7. What is mitigation banking? Does that apply around Lake Sawyer and the “core complex”? What types of mitigation can I do to reduce the buffers on my land?

Mitigation Banking. The City may approve mitigation banking as a form of compensatory mitigation for wetlands and fish and wildlife habitat conservation area impacts when the provisions of this chapter require mitigation and when it is clearly demonstrated that the use of a mitigation bank will provide equivalent or greater replacement of sensitive area functions and values when compared to conventional on-site mitigation, provided that all of the following criteria are met:

- a. Mitigation banks shall only be used when they provide significant ecological benefits including long-term conservation of sensitive areas, important species, habitats and/or habitat linkages, and when they are consistent with the City’s Comprehensive Plan and create a viable alternative to the piecemeal mitigation for individual project impacts to achieve ecosystem-based conservation goals.
- b. The mitigation bank shall be established in accordance with the Washington State Draft Mitigation Banking Rule WAC 173-700 or as revised, and RCW 90.84 and the federal mitigation banking guidelines as outlined in the Federal Register Volume 60. No 228, November 28, 1995. These guidelines establish the procedural and technical criteria that banks must meet to obtain state and federal certification.
- c. Preference shall be given to mitigation banks that implement restoration actions that have been identified in an adopted Shoreline Restoration Plan, watershed planning document prepared and adopted pursuant to RCW 90.82, a Salmonid Recovery Plan or project that has been identified on the

Salmon Recovery Board Habitat Project List or by the Washington Department of Fish and Wildlife as essential for fish and wildlife habitat enhancement.

- d. Mitigation banks shall not be used for mitigation of impacts to wetlands and wildlife habitat areas within the Lake Sawyer watershed except in cases where the city administrator and/or his/her designee determine that mitigation is not feasible within the Lake Sawyer watershed.

Wetland buffer width averaging. The city administrator and/or his/her designee may allow modification of the standard wetland buffer width in accordance with an approved sensitive area report and the best available science on a case-by-case basis by averaging buffer widths. Averaging of buffer widths may only be allowed where a qualified professional wetland scientist demonstrates that:

- I. Averaging to improve wetland protection may be permitted when all of the following conditions are met:
 - a. The wetland contains variations in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation, and the wetland would benefit from a wider buffer in places and would not be adversely impacted by a narrower buffer in other places;
 - b. Buffer averaging will not reduce wetland functions or functional performance;
 - c. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and all increases in buffer dimension for averaging are generally parallel to the wetland edge;
 - d. The buffer width at its narrowest point is not reduced to less than 75 percent (75%) of the standard width and in no case less than thirty-five (35) feet.
- II. Averaging to allow reasonable use of a parcel may be permitted when all of the following criteria are met:
 - a. There are no feasible alternatives to the site design that could be accomplished without buffer averaging;
 - b. The buffer averaging does not reduce the functions or values wetland, or the buffer averaging, in conjunction with vegetation enhancement or other measures increases the wetland function;
 - c. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer and all increases in buffer dimension for averaging are generally parallel to the wetland edge;
 - d. The buffer at its narrowest point is never less than 3/4 of the

required width except where the city administrator and/or his/her designee finds that there is an existing feature such as a roadway that limits buffer dimension, or an essential element of a proposed development such as access that must be accommodated for reasonable use and requires a smaller buffer.

III. The width reduction may not be located within another sensitive area or associated buffer unless criteria for averaging said buffer are also addressed and approved.

IV. Buffer averaging may not be approved when buffer transfer is approved in accordance with subsection I, above.

8. Why do you need an additional building setback if you already have a buffer? What's allowed in the building setback?

The additional 10' setback is intended to reduce high level impacts to the buffer and its sensitive area. Keep in mind that the buffer plays as an important function as the sensitive area and is very important to transitional species such as amphibians and animal migration.

- I. The following facilities and uses are allowed in the building setback:
 - a. Landscaping, including rockeries not over 42 inches high provided construction does not alter the buffer or sensitive area;
 - b. Uncovered decks, platforms, porches and similar projections not over 42 inches high;
 - c. Building eaves, cornices, chimneys and similar projections;
 - d. Impervious surfaces such as driveways, parking lots, roads, and patios provided that such surfaces conform to applicable water quality standards and that construction equipment does not enter the buffer or sensitive area;
 - e. Clearing and grading consisting of not over 42 inches of cut or fill.
 - f. Fences, in accordance with local conventions and other design standards.
 - g. Minor utilities

9. What's the difference between a 150 foot and a 225 foot buffer? Why not go smaller?

A key component to this update of the Sensitive Areas Ordinance is the integration of a Best Available Science standard in the development of buffers and protection our natural resources. Differences in buffer dimensions are

dictated by the quality of the sensitive area that is being protected and its functional value. Larger buffers are meant to protect these higher quality systems and the functions and values that they provide in nature (Please see the attachments for further information on BAS as well as the section out of the study that shows how the buffer sizes were reached).

10. What if I want to renovate? How much of my house can I renovate without triggering the ordinance?

It depends whether or not your house is located within a sensitive area and/or its buffer.

Assuming that your house is located within these areas, these criteria apply:

Alterations defined

Alteration of existing structures or facilities may require modification to sensitive areas or buffers, in accordance with this section and other provisions of this code.

- I. Minor alteration or renovation shall be defined as alteration or renovation of any structure, or associated improvements within a sensitive area or buffer that results in an expansion of floor area of less than 500 square feet, or 10 percent, whichever is less, or the expansion of impervious surface by less than 1,000 square feet, or 10 percent, whichever is less; or remodeling or renovation that is less than 50 percent of the value of the structure or improvements, excluding plumbing, electrical and mechanical systems. Minor alteration may require compliance with specific performance standards of this code.
- II. Moderate alteration or renovation shall be defined as the alteration or renovation of any structure, or associated improvements within a sensitive area that results in an expansion of floor area of 500 square feet or more, or more than 10 percent and less than 50 percent, whichever is greater; or the expansion of impervious surface by more than 1,000 square feet, or of more than 10 percent and less than 50 percent, whichever is greater; or remodeling or renovation that is greater than 50 percent and less than 100 percent of the value of the structures or improvements excluding plumbing, electrical and mechanical systems.. Moderate alteration may require compliance with specific performance standards of this code.
- III. Substantial reconstruction shall be defined as the alteration or renovation that results in an expansion of floor area of more than 50 percent, or the expansion of impervious surface by more than 50 percent, or remodeling or renovation that exceeds 100 percent of the value of the structures or other improvements, excluding

plumbing and mechanical systems. Such substantial reconstruction shall be considered the same as new construction and shall fully comply with the provisions of this code.

Alteration requirements

Buffer enhancement for changes to existing uses. As provided in Sections 19.10.170 and 19.10.350.C, buffer dimensions and enhancement of vegetation communities may be enhanced at the time of redevelopment of improvements on non-conforming lots as provided below:

- I. Minor alteration or renovation of existing development
 - a. Vegetate buffer enhancement, either 50% of buffer standard or 50% of existing structure setback from wetland
 - b. Fence and sign buffer area
- II. Moderate alteration or renovation of existing development
 - a. Vegetate buffer enhancement, either 70% of buffer standard or 60% of existing structure setback from wetland
 - b. Fence and sign buffer area
- III. Substantial redevelopment
 - a. Buffer dimension, 100 percent of standard
 - b. Vegetation enhancement, 100% of standard
 - c. Fence and sign buffer area

11. What if my property is so encumbered by sensitive areas and buffers that it would be difficult to build a house on it?

Again, the updated code has flexibility built into it so that property owners have options when it comes time to build on their investment. Depending on the depth of your particular lot, a percentage of the property can be utilized. If the applicant can still not meet these requirements, the City has included a “reasonable use” provision that would allow conditioned, building-type activities, approved by the hearing examiner.

12. What other ways can I get around this thing? (buffer adjustments based on existing lot depth)

Buffer adjustment based on existing lot depth. The city administrator and/or his/her designee may vary buffer dimensions on existing non-conforming lots under contiguous ownership may take into consideration the existing depth of lots, measured perpendicular from the boundary of the wetland or stream or other sensitive area. Buffers on such lots may be adjusted up to the following, provided

that this shall not apply to a geological hazard area unless all applicable design and other standards are met.

- I. Lot depth less than 100 feet – buffers may be adjusted to utilize no more than 40% of lot depth, or as necessary to provide a buildable area outside the buffer no less than 40 feet deep, provided that a minimum buffer is not less than 25 feet or 50% of the distance between an existing primary building and the edge of the wetland or stream or other sensitive area.
- II. Lot depth 100 feet to 150 feet – buffers may be adjusted to utilize no more than 50% of lot depth or 50% of the distance between an existing primary building and the edge of the wetland or stream or other sensitive area.
- III. Lot depth 150 to 200 feet – buffers may be adjusted to utilize no more than 70% of lot depth or 70% of the distance between an existing primary building and the edge of the wetland or stream or other sensitive area.
- IV. Lot depth 200 feet to 250 feet – buffers may be adjusted to no more than 75% of lot depth or 75% of the distance between an existing primary building and the edge of the wetland or stream or other sensitive area.
- V. Lot depth 250 feet to 300 feet – buffers may be adjusted to utilize no more than 75% of lot depth or 75% of the distance between an existing primary building and the edge of the wetland or stream or other sensitive area.
- VI. All other provisions for design and management of buffer areas and adjacent land shall apply, provided that allowed uses in buffer areas may be restricted to reduce impacts on ecological functions and values.

13. Am I allowed to do anything in a sensitive area buffer?

Although significant activities within sensitive areas buffers will be limited, there has been flexibility put into the code for activities that have minimal or little impact on the functions of buffers in relation to the sensitive area being protected. That includes recreation uses such as trails and community gardening and siting of utilities in some instances. The City also offers a reduction in buffer size program for sensitive areas outside of the “core” area and a Transfer of Development Right program for participating property owners. More information can be obtained by contacting City Staff or on the City’s website at www.ci.blackdiamond.wa.us.

14.What’s in the core wetland and stream complex?

The Core wetland and stream complex have been identified as an areas of high complexity, crucial to the health of Lake Sawyer and animal movement through the City of Black Diamond. Hence, a 225’ buffer in order to protect this vital area.

15.What’s in the headwaters complex?

The headwaters complex are two areas within the City that help maintain the quality and quantity of water flow into the Core Complex. These areas have been identified as crucial to maintaining the quality of the water that finds its way through the core complex and aides in maintaining hydrology (Keeping these systems wet). Because of their importance in these functions, the headwater areas receive a 225’ protection as well.

16.How do I take advantage of buffer transfers? Is that for all wetlands, including the core and headwaters complexes?

Wetland buffer width transfer.

1. The city administrator and/or his/her designee may allow decreased widths with transfer of an equal area of buffer from wetlands not within the Core Wetland Complex and not Headwater Wetlands to the buffers of the Core Wetland Complex in accordance with the table below provided the specific measures in (2) below are incorporated into the buffers and adjacent development.,

Wetland Category	Buffer Width (feet) Minimum after Transfer
Category IV	30
Category III	50
Category II	100
Category I	125

2. The following specific mitigation measures shall be incorporated into adjacent development in order to utilize the buffer dimensions specified in (1) above shall be as follows, provided that the city administrator and/or his/her designee may approve alternatives measures that are demonstrated by the applicant to have equivalent effectiveness in reducing impacts on wetland functions:
 - a. A buffer area transferred may not be less than 200 linear feet, except for existing non-conforming lots. Buffer area transfer

is preferred within new development as part of an integrated program for management of sensitive areas.

- b. The slope within the buffer to be reduced and adjacent lands shall not exceed 15%.
- c. All standards for adjacent development in Subsection 19.10.220.D. shall be complied with, and in addition:
 - i. No mechanical or ventilating equipment shall be located on sides of buildings adjacent to the wetland and buffer.
 - ii. No discharge of surface water from adjacent development may take place into the resource or buffer. If topography is such that runoff is naturally directed toward the resource or buffer, low impact development features shall be incorporated with a design incorporating infiltration that demonstrates that no surface runoff will be produced. If soils or other conditions are not suitable to meet this standard, the buffer transfer may not be approved.
- d. All standards for vegetation management in Subsection 19.10.230.F. shall be complied with, and in addition:
 - i. The buffer area being transferred to must have a relative density of at least 20 and/or enhancement vegetation must be installed, or plans approved and a performance assurance provided in accordance with Subsection 19.10.140.F.
 - ii. The buffer area being transferred from must be interplanted to provide a more effective buffer or plans approved and a performance assurance provided in accordance with Subsection 19.10.140.F. Planting must be installed prior to construction upon the adjacent parcel.
- e. A notice on title or plat or short plat restriction shall be filed in accordance with Section 19.10.150 that shall include a survey of the wetland boundary, the buffer boundary and building setback lines and all conditions of approval.

Water body buffer width transfer.

1. The city administrator and/or his/her designee may allow decreased widths with transfer of an equal area of buffer from water bodies not within the Core Stream and Wetland Complex to the buffers of the Core Stream and Wetland Complex in accordance with the table below provided the specific measures in (2) below are incorporated into the buffers and adjacent development,

Type	Buffer Width (feet) after Transfer
Type S	150 feet
Type F	100 feet
Type Np	50 feet
Type Ns	30 feet

- The specific mitigation measures in Subsection 19.10.2300.F.2 shall be incorporated into adjacent development in order to utilize the buffer dimensions specified in (1) above.

Transfer width of buffers only applies to the transfer of wetland and stream buffers outside the core and headwater areas back to these areas. For example, 20' of a type Ns buffer can be transferred to add to the 225' minimum required on the core and headwater areas.

17. How are buffers on wetlands and streams measured? From the middle or the outside?

Wetlands

Measurement of wetland buffers. All buffers shall be measured from the wetland boundary as surveyed in the field. The width of the wetland buffer shall be determined according to the wetland category. The required buffer shall be extended to include any adjacent regulated wildlife habitat area, landslide hazard areas and/or erosion hazard areas and required buffers. Buffers shall not be extended across existing human features that functionally and effectively separate the potential buffer from ecological functions of the resource, and shall include hardened surfaces including improved roads or other lawfully established structures or surfaces, or the developed portions of lots, under separate ownership, lying between the habitat area and the subject property, unless restoration of buffer functions on such property is or may reasonably be expected to be the subject of a permit condition or an adopted public plan. The buffer for a wetland created, restored, or enhanced as compensation for approved wetland alterations shall be the same as the buffer required for the category of the created, restored, or enhanced wetland. Only fully vegetated buffers will be considered. Lawns, walkways, driveways and other mowed or paved areas will not be considered buffers.

Streams

Buffer measurement. The buffer shall be measured landward horizontally on both sides of the water body from the ordinary high water mark as identified in the field perpendicular to the alignment of the stream or lake/pond bank. The

required buffer shall be extended to include any adjacent regulated wetland(s), landslide hazard areas and/or erosion hazard areas and required buffers. Buffers shall not be extended across existing human features that functionally and effectively separate the potential buffer from ecological functions of the resource, and shall include hardened surfaces, including improved roads or other lawfully established structures or surfaces, or the developed portions of lots, under separate ownership, lying between the habitat area and the subject property, unless restoration of buffer functions on such property is or may reasonably be expected to be the subject of a permit condition or an adopted public plan.

These measurement mechanisms are industry standards and have integrated Best Available Science into each method.

18. What type of stream classification is a fish-bearing stream? Non-fish bearing stream?

Type	Buffer Width
Type S- all waters, as inventoried as "shorelines of the state" under the jurisdiction of the Shoreline Management Act, except associated wetlands, which shall be regulated in accordance with this chapter	200 feet
Type F - segments of natural waters other than Type S Waters	150 feet
Type Np - segments of natural waters that are perennial non-fish habitat streams.	100 feet
Type Ns - segments of natural waters within defined channels that are seasonal, non-fish habitat streams	50 feet

19. So how do I get any value for my land as I feel I’m being too limited on what I can or can’t do there?

In addition to the lot depth buffer adjustment and the reasonable use exception, the City has initiated a Transfer of Development Rights (TDR) program that will allow some property owners the ability to sell of development right to parts of the City, better adjusted to handle significant growth. When the transaction occurs, a conservation easement is placed on the sending property so that future development is limited. In essence, protections are placed on these sensitive areas, while the owner of the land receives a financial incentive to keep these areas in open space.

SENSITIVE AREAS ORDINANCE UPDATE COMMENTS TABLE

Comment #	Date	Comment	Comment Offered By	Staff Response	Council Action
1	10/09/08	<p>Section 19.10.050 D “Restoration and compensation of adverse impacts...”</p> <p>Recommend deletion of this section. It requires that an applicant first demonstrate their inability to avoid or reduce impacts before restoration and compensation of adverse impacts will be allowed. It is always possible to avoid or reduce the impacts by not proceeding with the proposed development; therefore, an impossible test if development were to occur. The preceding Section “C” does a good job outlining the mitigation sequencing, which should be sufficient.</p>	Colin (Yarrow Bay)	Agree that section is redundant. Delete as suggested.	
2	10/09/08	<p>Section 19.10.120.C “Sensitive Areas Jurisdiction Decision”</p> <p>The City requires a “Sensitive Areas Jurisdiction Decision” before permit processing occurs. We recommend allowing an applicant to request review of and the Director’s decision regarding delineation and categorization of critical areas (a “Sensitive Areas Determination”). Such decision should be a final decision that the applicant can appeal to the City Council. This process would allow the applicant to move forward with the planning/application process with greater certainty and would reduce the risk of critical area related appeals later in the process.</p> <p>Recommend amendment to add a new subsection:</p> <p><i>“The Sensitive Areas Determination shall be a Type <u>1</u> final decision of the City Administrator or his/her designee, subject to appeal under <u>18.08.040</u>.”</i></p>	Colin (Yarrow Bay)	Added sentence that adds similar language, but left the door open for the City to re-evaluate if new information is made available.	
3	10/09/08	<p>Section 19.10.140.C “Mitigation Plan”</p> <p>The level of detail required may not be available to the applicant at the time this report is required (i.e. final grade elevations). Can this section be amended to allow the applicant to prepare a preliminary mitigation plan followed by a final plan when construction drawings are complete?</p>	Colin (Yarrow Bay)	Level of detail is appropriate. Staff can work through these issues with the applicant.	
4	10/09/08	<p>Section 19.10.150.A.3 “Notice on Title”</p>	Colin (Yarrow Bay)	Loren, please offer your thoughts	

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		This section requires a notice on title that gives a “right of the public, and specifically the City of Black Diamond, to enforce the terms of the restriction through civil infraction and other legal address.” Recommend amending it to read “right of the public exercised through the City of Black Diamond.”			
5	10/09/08	Section 19.10.160 C “If slopes adjacent to the buffer for wetlands or water bodies exceed 15 percent...a swale...shall be installed outside the edge of the buffer.” Recommend adding “if deemed necessary by the responsible official through the evaluation of final engineering plans.” This swale may need to be a tightline conveyance system or, in some cases, it may interfere with the necessary process if introducing water back into the wetlands. It may also be difficult in some areas where roadways and other public facilities are close to the buffers, and the road surface water is already being picked up and routed to appropriate stormwater facilities.	Colin (Yarrow Bay)	Agree. Changed to include other engineered systems that might serve the purpose better.	
6	10/09/08	Section 19.10.160 D “The following facilities and uses are allowed in the building setback.” Recommend adding utilities, fencing and walls to those uses permitted in the building setback area.	Colin (Yarrow Bay)	Agree with comment. Added language to include these items.	
7	10/09/08	Section 19.10.210 B(1) “Core wetland and stream complex” This section defines the location of the Core Complex. Specific to the Village property, it noted Black Diamond Lake and Black Diamond Creek. However, the referenced Attachment “A” extends the Core Complex area beyond Black Diamond Creek to the southwest. This might be OK if, in fact, the last part of the paragraph states that the actual boundaries will be field verified. There is some concern regarding this, however, because the consultant had field-verified information when developing Attachment “A.”	Colin (Yarrow Bay)	The level of detail associated with Parametrix’s review was broad. As stated in the code, the sensitive area inventory maps are for reference only. More detailed study is needed at the project level.	
8	10/09/08	Section 19.10.220 A (3.) “The harvesting of wild crops...” Recommend adding community gardens, which will implement organic farming techniques.	Colin (Yarrow Bay)	Removed wild to include crops.	
9	10/09/08	Section 19.10.220 B (3.) “Trails may be permitted within a Category II, III, or IV wetlands or in their buffers and may be permitted only within the buffer of a Category I wetland, the buffer of a wetland in the Core Complex or the buffer of a headwaters Wetland...”	Colin (Yarrow Bay)	Agree that a connection needs to be made, but experience has shown that any crossing will likely have impacts. Added language, “Trails may be	

		Recommend allowing trails to also cross both Category I and Core Complex wetlands on a case-by-case basis where it can be demonstrated through a critical area study that the trail will not have a significant adverse impact on the wetland. Without this provision, it would be virtually impossible to connect The Villages to downtown via a trail network.		permitted within a Category II, III, or IV wetlands or their buffers and may be permitted only within the buffer of a Category I wetland, the buffer of a wetland in the Core Complex or the buffer of a Headwaters Wetland, except where it can be demonstrated through a sensitive area study with hydraulic analysis that shows no adverse impact to the system and if the following criteria are met:"	
10	10/09/08	Section 19.10.220 C (should be # 4 but indicate #2) "Public and private roadways and railroad facilities..." Recommend adding trails to this section as permitted in wetlands and wetland buffers. Trails seem less intrusive than roads and railways.	Colin (Yarrow Bay)	Trails are covered in the previous section. Numbering corrected.	
11	10/09/08	Section 19.10.220 C (should be #5 but indicates #3) "Stormwater conveyance or discharge facilities..." Recommend adding a provision to permit constructed "stormwater wetland" that appear and function like a natural wetland feature.	Colin (Yarrow Bay)	Numbering corrected. Need guidance from City Council.	
12	10/09/08	Section 19.10.220 D (1) "Lots in subdivisions shall be oriented whenever feasible to provide a rear yard of at least 20 feet between buffer area and buildings. Recommend changing 20 feet to 10 feet to match the 10-foot setback off of buffer requirement as described in 19.10.160 "Building Setbacks."	Colin (Yarrow Bay)	Distance eliminated in order to be consistent with 10-ft setback.	
13	10/09/08	Section 19.10.220 D (2) "Fencing shall be provided at the perimeter of residential development to limit domestic animal entry into wetlands and buffer areas." Fencing to protect against animal intrusion implies a solid facility, likely 6 feet in height. Fencing becomes a significant maintenance issue for individual property owners and typically provides a convenient location for residents to toss landscape trimmings, grass cuttings and animal waste on the other side. The typical fencing requirement for sensitive area tracts is a two-rail fence. This will not prevent domestic animals from entering the sensitive area tracts, but will allow wildlife to pass back and forth and will reduce the "out-of-site/out-of-mind" mentality for trash and yard debris. In addition, a 6-foot high solid board fence will do little with regard to the primary introduced predator of native wildlife species, domestic cats.	Colin (Yarrow Bay)	Signage and appropriate fencing should be required for any type of development. Referred, in code, to design standards currently under development.	

		<p>Further, CTED advocates for corridors to provide recreational opportunities and linkages in urban areas and, whenever possible, urban parks and open spaces to be linked to form functional corridors that can be joined to outlying habitat patches (CTED Critical Areas Assistance Handbook, Nov. 2003). Fences would prohibit such connectivity.</p> <p>Recommend a requirement for wetland buffer signage and permit fencing, but not as a requirement.</p>			
14	10/09/08	<p>Section 19.10.220 D (3) “Activities that generate noise shall be located as far from the wetland and buffer as feasible...or separated by noise attenuating walls...”</p> <p>This would require a significant portion of the roadways within The Villages and portions of Lawson Hills to be lined with noise attenuating walls. These walls would not be in character with the vision of Black Diamond’s natural beauty.</p> <p>Further, habitat fragmentation caused by development is generally the primary impact associated with an increased human presence. Increasing the level of fragmentation by establishing non-passable wildlife barrier/noise attenuation walls seems defeatist at best. While not ideal, macro fauna such as Elk will utilize the wetlands, buffers, and adjacent development areas for movement corridors. These barriers will confine the elk to smaller island habitats and possibly disrupt use of their travel corridors. In addition, the buffers established under “Best Available Science” take into consideration impacts from changes in land use; therefore, by meeting the buffer recommendations, necessary protection is provided without requiring additional protective measures.</p>	Colin (Yarrow Bay)	Noise walls not necessary, but developer should try to limit noise into these areas. New code reflects this thought process	
15	10/09/08	<p>Section 19.10.220 D (4) “Light penetrating into buffer areas and wetlands shall be limited by locating areas requiring exterior lighting away from the wetland boundary...”</p> <p>Again, the buffers established under “Best Available Science” (BAS) take into consideration impacts from changes in land use. Therefore, by meeting the buffer recommendations, the necessary protection is provided without requiring additional protective measures. Washington State Department of Ecology Publication #05-06-008, Appendix 8 C-8, provides specific guidance on when the BAS established buffer can be reduced (for wetlands with habitat scores of less than 20). Their example for lighting is to direct the lights away from the wetland. Nowhere within their guidance document do they discuss providing an additional buffer for lighting beyond the</p>	Colin (Yarrow Bay)	In general, agree with these concerns. Code changed to be consistent with language offered by the City Attorney, which states, “Light penetration into buffer areas and wetlands shall be limited. All exterior lighting shall be designed, placed, shielded and/or directed so that no light directly shines or intrudes into the wetland, stream or any sensitive.”	

		<p>required buffer. This is in effect providing a buffer to a buffer.</p> <p>Further, this entire section severely limits development. It would disallow virtually all development on Parcels A and B (the commercial property where parking lots must be lit and buildings must have at least limited security lighting at night). This would preclude any street lights in the city being constructed within 100 feet of a wetland buffer. This would also significantly limit all other development adjacent to the Core Complex by requiring a 100-foot setback from the wetland buffer if the structure has a window facing the wetland which emits light in the evening hours. Recommend elimination of this entire section.</p>			
16	10/09/08	<p>Section 19.10.220 D (5e) “To prevent channelized flow from lawns and other landscaped areas...”</p> <p>This section is similar to Section 19.10.160 C referenced on the previous page. Recommend adding “if deemed necessary by the responsible official through the evaluation of final engineering plans.” This swale may need to be a tightline conveyance system or, in some cases, it may interfere with the necessary process if introducing water back into the wetlands. It may also be difficult in some areas where roadways and other public facilities are close to the buffers, and the road surface water is already being picked up and routed to appropriate stormwater facilities.</p>	Colin (Yarrow Bay)	Concur, language amended to allow appropriate drainage design.	
17	10/09/08	<p>Section 19.10.230 C “Other wetlands, standard buffer widths”</p> <p>In the table, under the heading “Buffer Width (feet)”, the words “after transfer” should be eliminated.</p> <p>Recommend modifying the buffer widths to 150 feet for a Category I wetland; 100 feet for a Category II wetland; 50 feet for a Category III wetland; and 35 feet for a Category IV wetland. This recommendation is based on excerpts from the City of Black Diamond Best Available Science Review and Recommendations and DOE guidance.</p> <p>Buffers serve two primary functions: (i) water quality; and (ii) wildlife habitat. The Core Complex provides sufficient wildlife habitat in the Villages area. Therefore, the primary purpose of the wetland buffers throughout the remaining portion of the city is to protect water quality. Recommended buffers are consistent with DOE’s guidance regarding water quality functions.</p> <p><i>DOE best available science guidance tells us that buffer distances necessary for the removal of dissolved nutrients</i></p>	Colin (Yarrow Bay)	50’ minimum was established in order to protect water quality as this is the primary concern for these areas. The code does provide flexibility with the buffer transfer exchange to reduce buffers. Current code appears appropriate.	

		<p><i>(eg phosphorus) are variable ranging from 16 to 131 feet (DOE 2005). Studies have shown that removal of nearly 90% of sediment occurs in buffers under 50 feet in size (Desbonnet et al 1994).</i></p> <p>The additional buffer width suggested in the City’s draft SAO is beyond the range suggested in the DOE Guidance and is not necessary for a water quality function. Again, the Core Complex will provide substantial habitat and buffer for wildlife, therefore, a reduction in the buffer widths as proposed above are appropriate.</p>			
18	10/09/08	<p>Section 19.10.230 D (1.) “Maintaining adequate cover of native vegetation including trees and understory...”</p> <p>This section requires an existing tree cover relative density of at least 20, but does not define what 20 means. It also requires plantings of seedlings of 300 stems per acre if the 20 density is not met. This is requiring planting even if the wetland or its buffer is not disturbed. This is very untypical and lacks necessary nexus to the development action and seems to broaden the duty of local government to “protect” critical areas. Protection requires preservation of functions and values by preventing adverse impacts or, at the very minimum, mitigation of adverse impacts. This section 19.10.230D (1) would impose the duty to not only protect but to improve. Recommend deletion of this section.</p>	Colin (Yarrow Bay)	<p>“Relative density” is defined in the definitions section. This mechanism is put in place in order to assure properly functioning buffer due to clearing activity. If buffer is not properly functioning, the buffer dimension may not be appropriate and should be bigger. This mechanism is in place to assure the buffer is functioning appropriately.</p>	
19	10/09/08	<p>Section 19.10.230 D (2.) “Provide a dense screen of native evergreens at the perimeter of the buffer. Clearing of existing second growth forest generally results in trees with little canopy at or near the ground level.</p> <p>This appears to be a requirement even if the buffer is not being disturbed. How far away from the buffer is necessary for this to not apply? If the buffer is not being disturbed, why change the complexity of the natural buffer system? Once again, this seems to broaden the duty of local government to “protect” critical areas. Protection requires preservation of functions and values by preventing adverse impacts or, at the very minimum, mitigation of adverse impacts. Section 19.10.230D (1) would impose the duty to not only protect but to improve. Recommend deletion of this section.</p>	Colin (Yarrow Bay)	<p>As stated in the code, clearing of second growth forests leads to large gaps at the interface of the clear cut and the forest edge. Replanting is a mitigation measure in order to assure no impacts are experienced from the new development. Lighting and noise requirements have been lessened in order to give development more flexibility, so this requirement will mitigate for these impacts.</p>	
20	10/09/08	<p>Section 19.10.230 D (2a,b,c)</p> <p>These sections discuss the necessary plantings of wetland buffers. Again, if the buffers are not being disturbed, how is there appropriate nexus to require plantings? The reference also assumes the wetlands are fully</p>	Colin (Yarrow Bay)	<p>Concur that it is inappropriate to require work on property not owned by the developer. Work should be limited to the area under ownership of the developer and only done if</p>	

		contained on one parcel. Most wetlands extend off site and it is generally very difficult to obtain permission to work on neighboring landowner property, yet the requirement is to plant the “perimeter of the buffer.” This is just not possible in most cases throughout the city. Recommend a requirement for a Vegetation Management Plan where areas of a wetland buffer are disturbed as a result of development activity.		environmental consultant determines that buffer does not meet the standard established by code.	
21	10/09/08	Section 19.10.230 E “Increased wetland buffer widths” Recommend renaming this section to “Modifications to wetland buffer widths” and discuss how increases and decreases to wetland buffers may be necessary and/or permitted through the evaluation of a critical area study.	Colin (Yarrow Bay)	The code is very specific to instances where buffer reduction or increase is appropriate. BAS supports current code language.	
22	10/09/08	Section 19.10.230 F(2c) “No transfer of buffer area may take place of adjacent land use is commercial, industrial, multi-family in excess of 6 dwelling units per acre, and/or a height of 30 feet...” This would preclude most of the MPD’s from implementing any buffer transfer. Recommend deleting Section “c.”	Colin (Yarrow Bay)	Concur with statement. Adjacent land use limitations have been removed.	
23	10/09/08	Section 19.10.230 F (2ci) “Solid wood or masonry fencing at least six feet in height shall be provided at the perimeter of the buffer to limit noise and light...” This section would require solid fencing if buffer transfer were implemented. This not in character with the city of Black Diamond nor the vision for the MPD’s and it would preclude connectivity that allows wildlife travel. This provision appears to be based on the notion that the buffer is not serving its intended functions (which includes protecting from noise and light). This should not be a uniform requirement; it should not be required unless it is proven that the buffer is inadequate.	Colin (Yarrow Bay)	Concur with statement. Requirement has been removed.	
24	10/09/08	Section 19.10.230 F(2ciii) “No impervious surfaces, parking areas of vehicle access facilities may be located within 40 feet of the buffer” This is a very onerous requirement for an additional 40-foot setback. It actually results in a larger buffer than if transfer of buffer was not used.	Colin (Yarrow Bay)	Concur with statement. Requirement has been removed.	
25	10/09/08	Section 19.10.230 F (2civ) “No discharge of surface water from adjacent development may take place into the resource buffer...” To maintain wetland hydrology, it is often necessary to maintain surface water discharge to a wetland from a development area. Clean water from	Colin (Yarrow Bay)	Concur with statement. Code has been revised to allow more flexibility, but still providing protection for the sensitive area.	

		roof tops and other non polluted areas are frequently used to recharge wetlands. If surface water is not available, wetland hydrology may need to be maintained using domestic water supply, which is contrary to water conservation.			
26	10/09/08	Section 19.10.230 F(2d) “All standards for vegetation management in Section 19.10.230D shall be complied with in addition:” Sections i and ii following, requires additional planting in a wetland buffer that is not being disturbed. Similar to comments earlier in this analysis, it does not define what a plant density of 20 is and the requirement seems to lack nexus.	Colin (Yarrow Bay)	Code has been changed to be more clearer	
27	10/09/08	Section 19.10.230 F(2e) “The building setback between the buffer of a Category I, II or III wetland and any structure...shall be no less than 40 feet from the edge of the wetland buffer...” The requirement of an additional 40-foot and/or 30-foot buffer discourages the implementation of buffer transfer, as it imposes a net larger setback than prior to the transfer.	Colin (Yarrow Bay)	Concur. 40-foot setback has been removed.	
28	10/09/08	Section 19.10.230 G (4) “Buffer averaging may not be approved when buffer transfer is approved in accordance with subsection” This is written vaguely. Does this requirement pertain to individual wetland buffers or complete sites? Recommend adding text implying that “if buffer transfer is applied to a wetland buffer, further buffer averaging is not allowed on that individual buffer.	Colin (Yarrow Bay)	Buffer averaging cannot occur within a buffer transfer area. This will assure that no buffers will be under 30’.	
29	10/09/08	Section 19.10.235 B “Wetland and associated buffers of less than one thousand (1,000) square feet...” Given the proposed buffers, it is impossible to have a wetland and associated buffer of less than 1,000 square feet. A one-square-foot wetland would have a minimum wetland and buffer of 5,041 square feet (71’ X 71’). Is the intent to just indicate wetlands of less than 1,000 square feet?	Colin (Yarrow Bay)	All wetlands, regardless of size, should be evaluated.	
30	10/09/08	Section 19.10.235 D (3) “Wetlands that achieve a score of at least 20 points in the habitat Functions criteria of the Wetland Rating Form...” This section appears to require small isolated wetlands to be connected to each other with a wildlife buffer sufficient to allow movement of terrestrial wildlife to and from the wetland complex without interruption by roads, paved areas and buildings within 50 feet. This is an impossible standard to	Colin (Yarrow Bay)	All wetlands will be evaluated.	

		meet if any development were to occur in the city. If each isolated wetland within the city's undeveloped properties needed to be connected, there would be such a broad range of open space corridors that could not be crossed with roads, paved areas or buildings that nothing could be constructed. Recommend eliminating this standard in recognition of the Core Complex that provides for substantial habitat movement through significant portions of the city.			
31	10/09/08	Section 19.10.240 B(2) "Where feasible, restored or created wetlands shall be a higher category than altered wetlands" Recommend changing the wording to "where feasible, restored or created wetlands shall have a higher <i>function and value</i> than altered wetlands." Otherwise, the proposed standard would require larger buffers on the restored or created wetland areas than those areas altered by requiring the new wetland to be a higher category.	Colin (Yarrow Bay)	Partially agree with this statement. The City should establish a policy that all restored and created wetlands shall have a higher function and value than the altered wetlands. Code has been changed to meet this requirement.	
32	10/09/08	19.10.325 D (Should be G) "Vegetation Management" This section again references the vegetation management that appears to be required even for those buffers that are not being altered by the proposed development. Recommend only applying this section to altered buffers.	Colin (Yarrow Bay)	Again, this applies to buffers that are not functioning to their capacity. Vegetation management will assure that these buffers are doing that.	
33	10/09/08	19.10.325 G 4 (Should be J4) Habitat Buffer Averaging "Buffer averaging may not be approved when buffer transfer is approved in accordance with subsection F...." This is written vaguely. Does this requirement pertain to individual stream buffers or complete sites? Recommend adding text implying that "if buffer transfer is applied to a stream buffer, further buffer averaging is not allowed on that individual buffer.	Colin (Yarrow Bay)	Buffer averaging cannot occur within a buffer transfer area. This will assure that no buffers will be under 30'.	
34	10/09/08	Section 19.10.330 A (2) "The harvesting of wild crops..." Recommend adding community gardens, which will implement organic farming techniques.	Colin (Yarrow Bay)	Removed wild to include all crops.	
35	10/09/08	Section 19.10.330 C(2b – Should be 4b) "The crossing minimizes interruption of the natural processes ..." This section suggests bridges are preferred and required to cross the Core Complex. Recommend adding a provision to allow arched culvert if shown to provide less or similar impact to the natural process.	Colin (Yarrow Bay)	Code currently allows this flexibility. No change needed.	

36	10/09/08	<p>Section 19.10.330 C (3 – should be 5) “Storm water conveyance or discharge facilities such as infiltration systems...”</p> <p>Recommend adding a provision to permit constructed “stormwater wetlands” that appear and function like a natural wetland feature.</p>	Colin (Yarrow Bay)	<p>Large stormwater ponds impact the functions of buffers, especially in the Core complex, where animal movement and habitat is crucial. Need guidance from the City Council on how we’d like to address this.</p>	
37	10/09/08	<p>Section 19.10.335 C “Wildlife Corridors.”</p> <p>Within the table, under the Black Diamond Lake/Black Diamond Creek to the Southeast, the first bullet point suggests a 450-foot buffer extension to the southeast boundary of the UGA. It is likely that this intended to indicate the southwest boundary. Also, the field data does not suggest the Core Complex would extend all the way to the southwest and, therefore, the 450-foot wide buffer should only apply to the Core Complex.</p>	Colin (Yarrow Bay)	<p>Changed to southwest. The level of detail associated with Parametrix’s review was broad. As stated in the code, the sensitive area inventory maps are for reference only. More detailed study is needed at the project level.</p>	
38	10/09/08	<p>19.10.405 A (2f) “Any area with a slope of forty percent (40%) or steeper and with vertical relief of ten (10) or more feet...”</p> <p>Recommend vertical relief of 20 feet. A 10- foot rise area is very difficult to identify and quantify. Most jurisdictions have recognized this and apply a 20-foot relief.</p> <p>Somewhere in this section there should be a provision permitting the elimination of the hazard through earthwork or building practices. If you are able to grade out a slope or place a structure against the slope to eliminate the potential safety hazard, it should be permitted.</p>	Colin (Yarrow Bay)	<p>Statement from Parametrix Consultants, “I administered a code with a 10 vertical standard from 1989 to 2001. It isn't a problem. I can give you some public information sheets if that would be useful. The CDED model code and most I'm familiar with use 10'. You could use the 20', but I wouldn't recommend it, just based on providing a factor of safety.</p> <p>The code does allow building if a Geotech study confirms that factor of safety and other criteria are met except if the slope is adjacent to a stream or wetland, in which case the combined buffer can't be built on.”</p> <p>Code appears to provide this flexibility.</p>	
39	10/10/08	<p>19.10.60. F.2.d. - 1 inch at dbh is a tall and relatively expensive deciduous tree, use of a minimum height would be more appropriate.</p>	Jeff Jones (J.S. Jones and Associates, Inc.)	<p>Concur with statement. Code changed.</p>	
40	10/10/08	<p>19.10.70 – Ongoing Agricultural activities should be specifically exempt from the Sensitive Areas Ordinance. We understand that RCW 36.70A.060 (2) does not allow counties or cities to amend or adopt SAO’s as they apply to agricultural activities, until after July 1, 2010.</p>	Jeff Jones (J.S. Jones and Associates)	<p>Code is appropriate at this time.</p>	
41	10/10/08	<p>19.10.080. A – Reasonable economic use (RUE) is difficult to determine for private projects. Reasonable use should be more clearly defined for</p>	Jeff Jones (J.S. Jones and Associates)	<p>Comment noted.</p>	

		commercial properties, not just residential. The reasonable use process could be different for projects with buffer impacts. Some jurisdictions have an administrative review for unavoidable buffer impacts, instead of a full reasonable use exception process.			
42	10/10/08	19.10.080.D2. - How will RUE apply to different uses and what are the size threshold criteria? For example, every wetland could grow blueberries as a commercial business but is that a reasonable economic use for a non-farmer, single-family or nonagricultural zonings?	Jeff Jones (J.S. Jones and Associates)	Comment noted.	
43	10/10/08	19.10.080.D.3.c - Should be maximum of 2,000 sf including a 10-foot BSBL	Jeff Jones (J.S. Jones and Associates)	Concur with statement. Change made to code	
44	10/10/08	19.10.080.D.3.d - Should quantify vegetation or refer to mitigation chapter	Jeff Jones (J.S. Jones and Associates)	Changed shall to should to allow individual lot discretion. NR Department will provide educational opportunities on this issue.	
45	10/10/08	19.10.130.D.2.c – 2-ft contours are not available on GIS and surveying may place an unreasonable financial burden, particularly on single-family applicants	Jeff Jones (J.S. Jones and Associates)	Information is crucial for staff to determine the feasibility of project.	
46	10/10/08	19.10.130.D.6 - reference section of report should suffice	Jeff Jones (J.S. Jones and Associates)	Statement is appropriate in order to assure that BAS is being utilized. No changes suggested.	
47	10/10/08	19.10.130.E - Phrase “minimum information” is vague	Jeff Jones (J.S. Jones and Associates)	Each case if often unique. Code is written with flexibility in order to provide staff will basic information in order to make informed decisions about our sensitive areas.	
48	10/10/08	19.10.140. B - many jurisdictions have dropped the goals and objectives statement. The last sentence stating “whether or not the requirements of this chapter have been met” is unnecessary.	Jeff Jones (J.S. Jones and Associates)	No change recommended.	
49	10/10/08	19.10.140. D – There should be an option for early release of the bond if the project meets final year performance standards.	Jeff Jones (J.S. Jones and Associates)	Code, as written provides this flexibility. Staff will work on options for applicants at the project level.	
50	10/10/08	19.10.140.F.2 - Section should be titled “Maintenance and Monitoring Surety	Jeff Jones (J.S. Jones and Associates)	Concur with statement. Change made.	
51	10/10/08	19.10.140.G - Not economically viable for single-family homes	Jeff Jones (J.S. Jones and Associates)	Good point. Code allows mitigation banking as an option to anyone that wants to pursue it.	
52	10/10/08	19.10.150.B - City should make sure that any mitigation has been completed by developer before accepting dedicated property	Jeff Jones (J.S. Jones and Associates)	Noted.	
53	10/10/08	19.10.160. C - Why is a swale necessary if other BMP’s are adequate?	Jeff Jones (J.S. Jones and Associates)	Agreed. Code has been revised.	
54	10/10/08	19.10.170. D – Every applicant with a lot depth of 300 feet or less will want this reduction. Are they any situations where the reduction will not be granted?	Jeff Jones (J.S. Jones and Associates)	The intent of the code language was to provide flexibility.	

55	10/10/08	19.10.210. A - Is the COE Regional Interim Supplement for Western Coast and Valleys to be used? It may result in a different determination.	Jeff Jones (J.S. Jones and Associates)	The City will utilize Ecology's method.	
56	10/10/08	19.10.230.C (in the 1st C) - Typo in table, states "after transfer"	Jeff Jones (J.S. Jones and Associates)	Agreed. Change made.	
57	10/10/08	19.10.230. C (in the 2nd C) - What is the affect in Black Diamond of combining buffers, i.e. "the required buffer shall be extended to include any adjacent regulated wildlife habitat, ...?"	Jeff Jones (J.S. Jones and Associates)	Could not locate quote.	
58	10/10/08	19.10.230.D.5 - 3 years stated in prior section	Jeff Jones (J.S. Jones and Associates)	Corrected.	
59	10/10/08	19.10.230.D.6 - category III not category II (typo)	Jeff Jones (J.S. Jones and Associates)	Corrected.	
60	10/10/08	19.10.230.F - Transfers are unlikely to occur	Jeff Jones (J.S. Jones and Associates)	Previous comment noted this. 40' setback criteria has been removed from previous section.	
61	10/10/08	19.10.230.G.1.d – Where did 75% come from? Why not 50%? 35 feet is not much distance for a property with 1,000 of feet of buffer, why even have a limit, since the area has to be replaced. Can averaging be done in conjunction with other reductions?	Jeff Jones (J.S. Jones and Associates)	Concur that reduction to 50% may be appropriate. 30' should be the smallest buffer in accordance with table identified as buffers in other areas (section 19.10.230H.1).	
62	10/10/08	19.10.230.H.1.a and 2.a. - should state "whichever is less"	Jeff Jones (J.S. Jones and Associates)	Agreed. Has been changed.	
63	10/10/08	19.10.230.H.3.a. – Why isn't there a reduction for buffer enhancement on substantial redevelopment? When buffers benefit from enhancement, why not encourage it?	Jeff Jones (J.S. Jones and Associates)	Section removed.	
64	10/10/08	19.10.235.A & B square footage usually pertains to wetlands alone, not wetland and buffer combined.	Jeff Jones (J.S. Jones and Associates)	Section removed	
65	10/10/08	19.10.235.B.2: define mosaic or is this according to the WA State rating methodology	Jeff Jones (J.S. Jones and Associates)	Section removed.	
66	10/10/08	Wetland buffer enhancement should be encouraged by granting significant buffer reductions, when the buffer would benefit from enhancement. Many jurisdictions currently allow buffer reductions for enhancement. Other codes also allow enhancement for wetland impacts, but at a much higher ratio. Enhancement for impact should be allowed.	Jeff Jones (J.S. Jones and Associates)	Comment noted	
67	10/21/08	19.10.010.F. - We oppose the use of CORE and Headwater categories for wetlands. These categories are not required by the DOE and are not necessary for the protection of wetlands in Black Diamond. The DOE wetland categorization system already has special consideration for unique and irreplaceable wetlands.	Jeff Jones (J.S. Jones and Associates)	Comment noted.	
68	10/21/08	19.10.030.B – Easements, covenants, and deed restrictions apply regardless of sensitive area regulations. Sensitive area regulations cannot be used to prevent access in legally established easements, or negate covenants and deed restrictions. They stand independent of sensitive area regulations.	Jeff Jones (J.S. Jones and Associates)	Second sentence has been removed as it is redundant to the first statement.	
69	10/21/08	19.10.060.C.1. – 5 cy of material is not enough for septic and geotechnical	Jeff Jones (J.S. Jones	10 Cubic yards is more appropriate.	

		test pits. 20 cy per pit would be adequate for most investigations.	and Associates		
70	10/21/08	19.10.060.C.2. – Minor utility projects should include all utility installations in, above and through sensitive areas and their buffers.	Jeff Jones (J.S. Jones and Associates)	Limiting the scope appears appropriate. No changes made.	
71	10/21/08	19.10.060.C.2.c. – 75 sq. ft. is too small of an area for almost any project. The size should be limited to 0.1 acres, which the lower size of U.S. Army Corps of Engineers (USACOE) permitting.	Jeff Jones (J.S. Jones and Associates)	The intent of this part of the chapter is to limit the activities that do not have to go through a permit process and can be done administratively. Staff feels comfortable with this size limit.	
72	10/21/08	19.10.060.C.3. – The requirement to re-establish trees should include replacement of all existing street landscape trees regardless of diameter. The only replanting would occur in unfilled right-of-way that is sensitive area or sensitive area buffer. Replanting should be to the standards of other mitigation.	Jeff Jones (J.S. Jones and Associates)	This part of code is referring to work within right of way, where trees may be present. 4” diameter restoration is appropriate.	
73	10/21/08	19.10.060.4.B – Trees within 10 feet of a structure, the required BSBL, should not be required to be replaced. Remove the requirement of 1 inch diameter dbh and require a 4 to 6-foot tall tree deciduous trees and 6 to 12-foot tree for coniferous trees.	Jeff Jones (J.S. Jones and Associates)	Agree with height requirement. Change made.	
74	10/21/08	19.10.060.6 – Removal of vegetation around structures for fire protection should be an exception to the code, provided it is done according to fire protection guidelines for Western Washington. In the case of fire protection, vegetation should not have to be replanted.	Jeff Jones (J.S. Jones and Associates)	Concur. Public works/Building standards will dictate in protecting fire protection.	
75	10/21/08	19.10.080 – Reasonable Use Exceptions should either not be in this section of the code or should have a capital lettered subsection. The information on RUE’s completely ignores commercial and industrial uses. Standards for these uses should be provided.	Jeff Jones (J.S. Jones and Associates)	Comment noted.	
76	10/21/08	19.10.080.2.f. - Reasonable Use Exceptions are for impacts that do not comply with code and rarely can meet the standard of “no net loss”. Even the USACOE does not require “no net loss” of functions and values for RUE’s.	Jeff Jones (J.S. Jones and Associates)	Comment noted.	
77	10/21/08	19.10.080.D.3.d – The 10-foot BSBL should not be planted. It is the minimum use area around a structure. We have been given a number of reasons for BSBL’s, including to setup ladders for fire fighting, for eaves, for building maintenance, and for construction backfill around foundations. In no case has there ever been a requirement to restore them to a native plant community.	Jeff Jones (J.S. Jones and Associates)	Code language is suggestive to using native plantings if these areas are planted.	
78	10/21/08	19.10.120.B.3 – All sensitive areas permits, determinations, delineations and should be valid for 5 years from approval. Most local and federal jurisdictions have gone to 5 years to allow time for planning, design, engineering and permitting. The time period sensitive area determinations are valid could be place in section 19.10.120.C.	Jeff Jones (J.S. Jones and Associates)	Noted from previous comment. Adjustment to code language made.	
79	10/21/08	19.10.130.D.2.c. – 2-foot contours are not available on GIS and are not necessary unless the site grades are nearly level. 5-foot contours are adequate in most cases for sensitive area submittals and reduce the cost	Jeff Jones (J.S. Jones and Associates)	Information is crucial for staff to determine the feasibility of project.	

		thousands of dollars to applicants.			
80	10/21/08	19.10.130.D.4 – If roads break wetlands and buffers, than why require off-site investigation to 300 feet if the 300 feet extends beyond a road. It is very unlikely that permission from adjoining property owners will be granted. In 19 years of business we have never only two or three adjoining property owner grant permission.	Jeff Jones (J.S. Jones and Associates)	Comment noted.	
81	10/21/08	19.10.130.D.6. – A statement documenting sources of best available science is unnecessary. Ratings and determinations are based on the Washington State Wetland Rating System and Washington State Wetland Identification and Delineation Manual, not on the best available science document.	Jeff Jones (J.S. Jones and Associates)	Statement is intended to provide adaptive management principles in order to protect the resource with latest engineering, scientific methods.	
82	10/21/08	19.10.130.D.7. – Mitigation may not be proposed in a wetland assessment report because the wetland boundary and rating have to be approved before mitigation is proposed. Section D.7, 8, 9 and 10 should be placed in Section 19.10.140 not 19.10.130.	Jeff Jones (J.S. Jones and Associates)	Comment noted.	
83	10/21/08	19.10.130.E. – Information regarding the sensitive area category is not additional and should be required in the report.	Jeff Jones (J.S. Jones and Associates)	Comment noted.	
84	10/21/08	19.10.130.F. – Disagreements regarding the content of the report can be made by city staff. Disagreements regarding the determination, boundary, and category may require a third party review.	Jeff Jones (J.S. Jones and Associates)	Comment noted.	
85	10/21/08	19.10.140.A.1. – Objectives are rarely used anymore in mitigation plans. Even further in this proposed code, only a goals statement is required for mitigation plans. There has been a lot of confusion about what the objectives statement should be. The mitigation plan itself provides the details for implementation, performance standards, maintenance and monitoring.	Jeff Jones (J.S. Jones and Associates)	Comment noted.	
86	10/21/08	19.10.140.A.2. – BAS is not relevant. The Washington State DOE mitigation manual would be more appropriate.	Jeff Jones (J.S. Jones and Associates)	Statement is intended to provide adaptive management principles in order to protect the resource with latest engineering, scientific methods.	
87	10/21/08	19.10.140.A.3. - An analysis of the likelihood of success is not a requirement in most local codes. Consultants should not propose mitigation that does not have a high probability of success. Usually the creation of wetland is adjacent to existing nearly level wetland and the existing wetland provides hydrology to the mitigation area.	Jeff Jones (J.S. Jones and Associates)	Concur. Statement removed.	
88	10/21/08	19.10.140.F.3. – The only recourse the city has is the collection of the bond or funds, which are suppose to be adequate for the project. Further obligation by the applicant is an undue burden.	Jeff Jones (J.S. Jones and Associates)	Disagree.	
89	10/21/08	19.10.140.F.4. – Why would the city need to post any bond?	Jeff Jones (J.S. Jones and Associates)	Comment noted.	
90	10/21/08	19.10.140.G. – The city does not have a mitigation bank and may never have one. This section should be deleted. Mitigation banks must be approved by an interagency committee at the state level, not the city. Mitigation banking is allowed in the WAC.	Jeff Jones (J.S. Jones and Associates)	Disagree.	

91	10/21/08	19.10.150.A.3. – The public should not have any right to enforce city code other than by reporting violation or law suit against the city if it fails to require compliance with code.	Jeff Jones (J.S. Jones and Associates)	Question for Attorney Combs.	
92	10/21/08	19.10.160.C. – There is usually not a need for a swale. For example, if there is a building 10 feet from the buffer with footing and downspout drainage systems than a swale would not be necessary. A civil engineer should make the determination if there is a need for a swale.	Jeff Jones (J.S. Jones and Associates)	Agreed and code changed.	
93	10/21/08	19.10.170.C.1 & 2. – In this section, I cannot tell what standards of the code have to be complied with for minor and moderate alterations. Will these alterations cause loss of existing use area, such as backyards?	Jeff Jones (J.S. Jones and Associates)	Depends on where the expansion takes place. Yard may have to be utilized in order to meet requirement.	
94	10/21/08	19.10.210.A. - This section should provide for subsequent manuals, revisions, or addendums, so that the code doesn't have to be revised when manuals change.	Jeff Jones (J.S. Jones and Associates)	Code will be updated as dictated by state law.	
95	10/21/08	19.10.210.B. - We do not see the need for creating CORE and Headwater waters, but would rather see the city adopt the Washington State Rating System four tier system.	Jeff Jones (J.S. Jones and Associates)	This is not consistent with work or data acquired by Parametrix. Current system is appears to be most appropriate based on the resources.	
96	10/21/08	19.10.220.A.4 – What native herbs? Virtually all of the grass seed is commercially produced and not native.	Jeff Jones (J.S. Jones and Associates)	Noted and changed herbs to native grasses.	
97	10/21/08	19.10.220.C.5. – Dispersion trenches, level spreaders, and outfalls should be at the wetland boundary not in the buffer. The additional water in the buffer usually alters the plant community and may cause erosion. The 25% rule is not based on best available science, because there is no science on this issue.	Jeff Jones (J.S. Jones and Associates)	Application at wetland boundary has potential for more sensitive area impact than placement in the buffer. Bioengineering and other low impact methods should be utilized.	
98	10/21/08	19.10.220.C.6. – Same as comment for 19.10.220.C.5.	Jeff Jones (J.S. Jones and Associates)	Same as noted above.	
99	10/21/08	19.10.220.D.3. – The wording should simply state that lighting should be directed away from the buffer edge. A 4-foot height and 100-foot distance is not practical.	Jeff Jones (J.S. Jones and Associates)	Agreed. Code has been changed.	
100	10/21/08	19.10.220.D.4.d.. – The civil engineer should determine if there is a need for a swale and size it based on flow rate, not a blanket 10-foot wide swale for all projects with a 15% slope anywhere in the buffer.	Jeff Jones (J.S. Jones and Associates)	Agreed. Code has been changed.	
101	10/21/08	19.10.230.B.1.a. – The proposed buffers are large enough to account for erosion protection due to slope. An additional 25 feet will not significantly improve erosion control for a 225-foot buffer. The slope distance is greater than the horizontal distance, so the additional surface sheet flow distance increases with slope. If erosion is occurring in the buffer, site specific measures should be required to prevent erosion.	Jeff Jones (J.S. Jones and Associates)	Comment noted.	
102	10/21/08	19.10.230.B., C., D., and F. - Eliminate the CORE and Headwater categories. The buffers in section D should be the only wetland buffer widths in the code. The standard buffer widths should assume that the buffer does not have intact mature native vegetation. Buffer enhancement should not be required unless impacts outside of those allowed by code are	Jeff Jones (J.S. Jones and Associates)	This is not consistent with work or data acquired by Parametrix. Current system is appears to be most appropriate based on the resources	

		proposed. No other local jurisdiction in Western Washington requires enhancement of the buffer when no impact is proposed. Vegetative enhancement may easily make many projects financially unfeasible, particularly applications for minor and moderate alterations.			
103	10/21/08	19.10.230.E. – The public probably does not understand that minor application will result in loss of existing use areas and a requirement for vegetative enhancement.	Jeff Jones (J.S. Jones and Associates)	Noted.	
104	10/21/08	19.10.230.G. – Another repetitive section. This issue is addressed in another section. It should be eliminated from the other section, not repeated in the code.	Jeff Jones (J.S. Jones and Associates)	Keeps flexibility within the code.	
105	10/21/08	19.10.230.G.2. – Why would the buffers increase on slopes that are not considered steep in the code? The increase in buffer should only apply, if at all, to slopes defined as steep, 40% or greater.	Jeff Jones (J.S. Jones and Associates)	Noted	
106	10/21/08	19.10.230.I.1.d. – A buffer reduction to 75% of the original buffer is not much, particularly for a point of wetland. Why not 50%? The buffer area still has to be replaced and usually somewhere between 75% and 50% there is an effective balance that provides for good site use and retention of buffer. Averaging still has to result in maintaining overall wetland functions and values.	Jeff Jones (J.S. Jones and Associates)	Concur that reduction to 50% may be appropriate. 30' should be the smallest buffer in accordance with table identified as buffers in other areas (section 19.10.230H.1). Discuss with City Council.	
107	10/21/08	19.10.230.I.2. – Averaging is not used in RUE exceptions, because RUE by definition can not comply with the code and averaging is allowed in code. RUE section should be in one section of the code.	Jeff Jones (J.S. Jones and Associates)	Current code provides more flexibility.	
108	10/21/08	19.10.230.J. – Vegetative buffer enhancement, maintenance, monitoring and bonding are too costly for most minor and many moderate alterations. The result is property owners are unable to proceed with improvements.	Jeff Jones (J.S. Jones and Associates)	Concur. Code allows flexibility of the Administrator to remove this requirement on a case by case basis.	
109	10/21/08	19.10.235. – The minimum size for regulation should be 1,000 square feet for isolated wetlands. A minimum size of 1,000 sf. has been used by other jurisdictions and was a reasonable lower limit, particularly for artificially created wetlands. The USACOE no longer has jurisdiction over isolated wetlands and requires notification only for impacts greater than 0.1 acres.	Jeff Jones (J.S. Jones and Associates)	All wetlands will be regulated. Section has been removed.	
110	10/21/08	19.10.240.D. – In our opinion, most wetland mitigation creation has resulted in the hydrologic conditions necessary for wetlands. Follow-through by local jurisdictions has allowed many developers to get away without installing mitigation and all too frequently the local jurisdictions have released bonds earlier. Performance standards have been unrealistic in some cases. These problems are not reasons to believe that mitigation does not succeed. The majority of fully implemented mitigation succeeds and significantly meets performance standards. Mitigation ratios are inflated to account primarily for the failure of local jurisdictions, who have allowed developers to not implement, maintain and monitor mitigation. Therefore, mitigation ratios could be reduced to 1.25:1 Cat IV, 1.5:1 Cat III, 2:1 Cat II and 3:1 Cat I, creation and reestablishment, provided the city does its part to ensure compliance.	Jeff Jones (J.S. Jones and Associates)	Each case is very unique. The ratios in code ensure that adequate compensation is obtained.	

111	10/21/08	I am concerned about the increase in the buffer zone to 225'. I believe this should remain at the current buffer of 75'.	Gary Hanson 32915 Merino Street gehanson@wbbb.com	The 225' buffer within the core and headwater areas are consistent with Best Available Science and the vision for the City.	
112	10/21/08	I feel very sorry for ever buying property in this area. I am not opposed to growth. I am opposed to current tax pay citizens being walked all over at the benefit of the City. We are dealing with King County as a direct request from the City regarding the upgrade on the sewage treatment system. Then we have to deal with the rezoning of our property from R9600 to "Urban Reserve". Now the wetland additional to our already restricted wetland. Why? This was to be our home to raise our family that was an investment. A place we could grow not deal with fighting the County and City ever other day.	Jessica Cavanaugh 32823 Merino Street Jjcav97@comcast.net	Comment noted.	
113	10/21/08	I am in the process of purchasing parcel #1421069068, closing Oct. 31, 2008. This parcel is in my backyard and is completely encompassed in the 225 ft buffer. This is far too much in my opinion. I am closing, I can not back out. I will own a piece of property I can never touch. I can, however, pay property taxes on it. My thoughts are that those of us who live next to these wetlands will be better stewards than the state. We will protect and preserve these streams, wetlands, and wildlife regardless of unnecessary zoning restrictions. Please reconsider my property, and that of my neighbors. Please reconsider parcel #1421069068 to remain at 75 foot or at least be equal to the same quality property across Morgan Street which is zoned differently.	Christy Robinson 32719 Commission Ave PO Box 691 Black Diamond armadilloequip@aol.com	The 225' buffer within the core and headwater areas are consistent with Best Available Science and the vision for the City.	
114	10/21/08	Property to north/northwest of Yarrow Bay office contains a stream that is not shown on the maps. "Property owner captures much of the (stream) flow in big yellow cisterns that can be seen from Botts Drive."	Unknown	Comment noted.	
115	10/24/08	19.10.010.F - The CORE and Headwater categories are far too onerous for an urban area committed to the requirements necessary for urban development. The City of Black Diamond can certainly protect wetlands and streams without resorting to the draconian requirements presented in the Draft and SAO, which appears to be based upon some fairly radical concepts presented by Parametrix in the "BAS Science Review & Recommendations for Code Update: Summary and Recommendations".	Palmer Coking Coal Co 31407 Hwy 169 PO Box 10 Black Diamond	The 225' buffer requirement within the Core and Headwater areas provide a moderate level of protection to high class system that provides significant habitat for animals and other wildlife within the area. Please refer to the BAS document.	
116	10/24/08	19.10.050.A - This section would prevent mitigation from being accomplished in a different sensitive area. In order to make this section compatible with 19.10.050.C, it should be changed to read: A project action taken pursuant to this chapter shall be mitigated and result in equivalent or greater functions and values of the sensitive areas associated with the proposed action, or compensatory mitigation or replacement of sensitive areas in an off-site area.	PCCC	Section of code gives a course of action as it pertains to mitigation on a sensitive area. Mitigation is an option under this sequence.	
117	10/24/08	19.10.060.C.1 - The reference to 5 cubic yards of material allowed to be moved does not allow for adequate environmental investigation into soils or ground conditions. 25 cubic yards is a more reasonable standard.	PCCC	Code has been changed to allow for more flexibility.	

118	10/24/08	19.10.060.C.2 - Utility projects should be exempt. Utilities are typically a low-impact, one time disturbance that when reclaimed typically provide easily recognized environmental benefits.	PCCC	Under this section of the code, notification is only required of the applicant. Code language is appropriate.	
119	10/24/08	19.10.060.C2.C - The reference to 75 square feet of disturbed area should be changed to 4,000 square feet.	PCCC	Comment noted.	
120	10/24/08	19.10.080.D Exceptions – There are two standards for Exception Review Criteria. One set of criteria is for public agencies and public utilities. A second set of standards apply to private property. Under the theory of “what’s good for the goose is good for the gander”, we suggest using the same set of standards for both classes of owners. Having the same set of standards would make those in the public sector more cognizant of the costs being borne by those in the private sector. Having the same set of standards also addresses a basic fairness issue.	PCCC	Public and Private sector offer unique circumstances. Code appears to be consistent for both sectors.	
121	10/24/08	19.10.140.G Mitigation Banking – The reason that most mitigation banks never work is that the requirements are too onerous. This results in good projects and good mitigation that could go forward being abandoned, for a “let’s just do it with what we have” kind of attitude. The requirements and conditions in this chapter of the code will result in no mitigation banking and thus the loss of potentially better opportunities. This section should be re-worked if the City truly believes in mitigation banking, or simply deleted if the City does not believe in mitigation banking.	PCCC	Several mitigation banks currently exist with the State of Washington. Criteria is consistent and approach is being honed in as successes occur.	
122	10/24/08	19.10.150.A.3 – Only the City should have the right to enforce City code. Anything more is a prescription for neighbor-to-neighbor extortion or the settling of grudges. The City is in the position of knowing its code and standards, and only the City should enforce said code. Citizens are free to bring alleged violations to the attention of City officials. Citizens should not be allowed to become adjunct City Prosecuting Attorneys. If this provision is adopted, most non-profit land trusts (as contemplated in 19.10.150.B.1.c below) will be unwilling to take title to property suitable for long-term preservation and enhancement by such a land trust, due to the concerns about citizen suits.	PCCC	Question for City Attorney Loren Combs.	
123	10/24/08	19.10.160.C – This section needs to be re-worked. Often grading activities will create vertical slopes in the form of retaining walls. These land preserving activities will be prohibited by this code section.	PCCC	Agreed. Other engineering options are made available.	
124	10/24/08	19.10.160.D – The 42” (3 ft 6 in) requirement is insufficient. Change to 96” (8 ft).	PCCC	42” is an appropriate height as anything larger has the potential for significant impact.	
125	10/24/08	19.10.210 Designation, rating and mapping standards – The concept of the three classes of wetlands (CORE, Headwaters, and Other Wetlands) is a reasonable starting point, but then Other Wetlands includes Category I, II, and III wetlands which in their definitions all seem to have significant value. This system will lead to a situation where every wetland will be too important to achieve Parametrix Recommendation 7.2. If every wetland is	PCCC	These other wetlands do have value, hence different protections based on class.	

		extremely important and of significant value, how will the second half of Recommendation 7.2 be implemented?			
126	10/24/08	19.10.220.B.2 – It was our understanding that City policy (or code) does not allow new overhead utility lines. Is this section of the code coordinated with City policy on overhead utility lines?	PCCC	There are instances when flexibility is needed. Will confirm with PW and revise if needed.	
127	10/24/08	19.10.230.A., B., C., and D Wetland and Stream Buffers – Recommend eliminating different buffer widths for CORE and Headwater categories. The buffer widths should be modified as follows for all wetlands, both CORE, Headwater, and Other Wetlands: Category I – 125 feet Category II – 100 feet Category III – 75 feet Category IV – 50 feet The City should adopt buffers that are reasonable yet effective. The proposed buffers in the Draft SAO are onerous and counter-productive to the development of urban areas throughout the City. Wetlands and streams can be protected with the buffer widths recommended above. 50 feet to 125 feet of dense vegetation (as grows in almost all buffer areas due to hydrological conditions) is sufficient yet protective.	PCCC	These protections are well below what has been prescribed in the Best Available Science document offered by Parametrix. 225’ within the core and headwater areas offers a moderate level of protection	
128	10/24/08	19.10.230.E – Wetland buffer should not be extended to wildlife hazard areas, landslide hazard areas, and/or erosion hazard areas. The wetland buffers are already sufficient without “piggy-backing” other buffers on top of them.	PCCC	Agreed. Code has been changed to encourage, rather than require.	
129	10/24/08	19.10.230.G – This section should be eliminated	PCCC	Code allows flexibility as each circumstance is unique.	
130	10/24/08	19.10.230.H – There should be more flexibility in buffer averaging. We suggest that the minimum buffer be one half (50% reduction) of the Category I, II, III, and IV buffers that are suggested above. To be effective, buffer averaging must have flexibility. Having increased buffers in one area to compensate for reduced buffers in another area, can provide overall great protections.	PCCC	Concur that reduction to 50% may be appropriate. 30’ should be the smallest buffer in accordance with table identified as buffers in other areas (section 19.10.230H.1).	
131	10/24/08	19.10.230.I – Please see the above comments regarding 19.10.230.H	PCCC	Comment noted.	
132	10/24/08	19.10.230.J – This buffer enhancement section should specifically exempt buffer enhancement projects involving the removal of non-native species (such as blackberries, etc.) and their replacement with native trees.	PCCC	It is as identified in section 19.10.060 Allowed activities.	
133	10/24/08	19.10.235.A – This section should be changed to state that only isolated wetlands greater than 1,000 square feet shall be regulated. With no size requirement (as previously provided), “wet areas” as small as 1 square foot could be regulated. Then, there will be the mandatory buffers which will be thousands of times the size of the so-called “wetland”. A requirement to regulate all wetlands regardless of size is not a common sense approach to	PCCC	Approach is consistent with other jurisdictions throughout the Puget Sound Basin. Wetlands provide essential functions as is documented.	

		reasonable wetlands regulations.			
134	10/24/08	19.10.240.D – The compensatory wetland mitigation ratios are far too onerous to be realistic. Mitigation ratios should be along the lines of the following: Category I – 2.5:1 Category II – 2:1 Category III – 1.5:1 Category IV – 1.25:1	PCCC	Each case is very unique. The ratios in code ensure that adequate compensation is obtained. Code ratios are consistent with DOE requirements.	
135	10/24/08	19.10.325.D – Stream buffering should follow wetland buffering as it is often difficult to know where the stream ends and where the associated wetland begins. The buffer areas for both streams and wetlands should be compatible as follows: Type S – 125 feet Type F – 100 feet Type Np – 75 feet Type Ns – 50 feet Consistent buffering of streams and wetlands will provide more certainty to both landowners and the City during the review process.	PCCC	As provided for in the code, the separation of streams vs. wetlands can be scientifically deduced. Stream buffers are consistent recommendations offered within the BAS document.	
136	10/24/08	19.10.325.I – The buffer width transfer ratios for streams should follow the same buffer width transfer ratios for wetlands, as it is often difficult to know where the stream ends and the associated wetlands begins. The buffer width transfer areas for both streams and wetlands should allow a 50% reduction in one area for increased protection of another area.	PCCC	Only difference is stream/wetland buffer transfers pertains to class I wetlands and Type S streams. 25' additional for streams is more consistent with buffers associated with shorelines of the state.	
137	10/24/08	19.10.500 Sensitive Aquifer Recharge Areas – This section needs to be re-worked. Table 19.10.500.A definitions of Soil Textures and Drastic Ratings for Soil Texture are far too drastic. Over 50% of Black Diamond would fit into the thin, gravel, or sand classifications called Category I – Severe. Table 19.10.500.B Soil Unit ratings suggest that over 98% of Black Diamond will be a Category II Moderate classification. Essentially, Sensitive Aquifer Recharge Area classification will result in potentially Category I Severe classification for over 50% of the land in Black Diamond and 98% of the land in Black Diamond will get the Category II Moderate classification. The only areas in Black Diamond that will not get one of these two classifications are areas with Seattle Muck soils. And, the only areas in Black Diamond with Seattle Muck soils are deep within the CORE wetland areas, where no Recharge Area protection is necessary as these areas are already protected as wetlands.	PCCC	There are no areas of the city classified as severe. Also look at the soils map A-2-3. The list refers to specific uses associated with hazardous materials. There is no prohibition on commercial use in any of the categories. There is nothing in "C" that suggests that only residential use is allowed. This just says that infiltration is required in residential developments. This is what the code says about uses in Categories II and III 19.10.500 Sensitive Aquifer Recharge Areas B. Prohibited Uses and Criteria 2. Except as otherwise	

				<p>provided in subsection C. of this section, the following new development proposals and alterations are not allowed on a site located in a category II sensitive aquifer recharge area: items (a) through (i) in subsection (B)(1) above.</p> <p>3. Except as otherwise provided in subsection C. of this section, the following new development proposals and alterations are not allowed on a site located in a category III sensitive aquifer recharge area: items (a) through (h) in subsection (B)(1) above.</p> <p>In short - Palmer is misinterpreting the code, and you do have authority to base the classification on 'the criteria by which Sensitive Areas are defined'</p> <p>HOWEVER - I do see a glitch. The reference to the table in 19.10.500 Sensitive Aquifer Recharge Areas A. Classification. should be changed. Instead of referring to Table 1, it should be changed to refer to Table 19.10.500.B – Aquifer Sensitivity Ratings for Soil Units.</p> <p>Change made in code.</p>	
138	10/24/08	19.10.500.B.n Prohibited Uses and Criteria – Sand and gravel mining would be prohibited in the only areas that sand and gravel resources are defined to exist, namely areas with gravel or sand resources as defined in Table 19.10.500.A. This is non-sense. How can sand and gravel mining be prohibited in the only areas where sand and gravel resources exist?	PCCC	See previous staff comment	
139	10/24/08	19.10.500.C2 – This section suggest that only development proposals for	PCCC	See previous staff comment.	

		<p>new residential development will be allowed in sensitive aquifer recharge areas. What about commercial, business park and light industrial, mixed use, industrial, schools, public facilities, etc? With over 50% of the property in Black Diamond defined as probable Category I Severe areas (due to their sand or gravel soil texture ratings) vast areas of the most developable areas in Black Diamond will be off-limits to most commercial, business park and light industrial, mixed use, industrial, schools, and public facilities development. Bear in mind that most all of the sand and gravel soil texture areas are those very areas with the fewest number of wetlands. This is due to the fact that sand and gravel soils tend to drain well. The Sensitive Area Recharge Area regulations could end up sterilizing vast swaths of perfectly developable properties throughout the west half of Black Diamond. Sensitive Area Recharge Area regulations should only apply to Sole Source Aquifers. They should not apply city-wide to over 98% of the property in Black Diamond and 100% of all developable property in Black Diamond.</p>			

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CITY OF BLACK DIAMOND
COMMUNITY DEVELOPMENT DEPT.
24301 Roberts Dr., Black Diamond, Washington 98010

MEMORANDUM

Date: October 23, 2008
To: City Council
From: Steve Pilcher, Community Development Director
Re: Draft Comprehensive Plan, Zoning Code & Zoning Map

On October 9, City Council conducted a public hearing on Chapters 1-6 of the Comprehensive Plan; the draft Zoning Code (Title 18); and the draft Zoning Map. At the conclusion of public testimony, the Mayor closed the public hearing to oral testimony, but kept the record open through the close of business on October 31st for any written comments. At the time of writing this memorandum, no written comments have been received.

As you know, Council action on these items is not requested at this time. However, staff is seeking your direction on what changes you may wish to see to the documents before a final version is brought forward for formal adoption in the future.

In terms of the Land Use and Zoning Maps, the following appear to be issues, based upon public testimony:

1. Consider changing the Urban Reserve land use designation and zoning for the area located west of Railroad Avenue to Low Density Residential/R4.

Staff comment: This would maintain the equivalent zoning of what currently exists in this area (R9600).

2. Consider changing the Urban Reserve land use designation and zoning for the area located along 5th St./Pacific St./etc. to Low Density Residential/R4.

Staff comment: This would maintain the equivalent zoning of what currently exists in this area (R9600).

3. Consider changing the land use designation of properties on the east side of SR-169 near the northern city limits from Low Density Residential to Community Commercial, and the zoning from R4 to Community Commercial.

Staff comment: At the end of last year, staff mailed notice to all property owners within the city limits, advising them of the opportunity to formally request a change to the

Comprehensive Plan map. An application and a small fee was required. The filing period closed on January 4, 2008. A request to redesignate these properties was not received. In order to maintain an equitable process, these individuals could be directed to submit a plan amendment request next year.

4. Numerous changes requested by Bill Kombol (letter previously provided).

Staff comment: Same comment as #3, above. Alternatively, given the size of the Kombol landholdings, Council could direct staff to conduct a more comprehensive study and analysis of these areas as part of next year's annual amendment process.

Other issues:

1. Make a technical adjustment to the Comprehensive Plan map to recognize the boundaries of the east annexation area, which currently are generalized.

Staff comment: As part of this year's amendment process, King County formally adjusted the Urban Growth Area boundary to coincide with Yarrow Bay's ownership. Adjusting our map will provide consistency between the two.

2. Potential Annexation Area in Reserve at Covington Creek area. Given the decision of King County to approve the inclusion of this area within the Urban Growth boundary and their conditions that the property owner negotiate an agreement with the City, plus the presence of other, adjacent urban lands, the Council could consider formally placing this area within the City's Potential Annexation Area (PAA). Currently, this area is not included within the Comprehensive Plan Map.

Staff comment: This area represents a small pocket of urban-designated lands that is not "claimed" by any adjacent incorporated city. Given its location, it would be most appropriately contained as part of Black Diamond's PAA, rather than Covington's or Maple Valley's. If so, an appropriate land use designation would be Low Density Residential, with a Public designation for Kentlake High School and the associated ball fields.

In terms of the text of either the Plan or Zoning Code, it would be appropriate for Council to provide any direction to staff at this time. There was no testimony requesting any changes to the current drafts.