

**RESOLUTION NO. 20-1382**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON, ENTERING A FINAL DECISION ON AN ADMINISTRATIVE APPEAL REQUESTING A REVISION TO THE NUMBER OF TRANSFERRABLE DEVELOPMENT RIGHTS AVAILABLE UNDER DRC NO. 09122017KOM01, FOR KING COUNTY PARCEL NO. 1121069051**

**WHEREAS**, on April 6, 2020, CCD Black Diamond Partners, LLC (“Oakpointe”) filed an administrative appeal to the City Council requesting a correction to the number of transferrable development rights available under Development Rights Certificate (“DRC”) No. 09122017KOM01, for King County Parcel No. 1121069051; and

**WHEREAS**, the City Council has jurisdiction under BDMC 19.24.070 to hear administrative appeals related to DRCs and to make a final decision whether to correct or revise the number of development rights available under a DRC for a specific parcel; and

**WHEREAS**, the City Council’s consideration of this appeal constitutes a Type 6 quasi-judicial decision under BDMC 18.08.090.A; and

**WHEREAS**, pursuant to BDMC 19.24.070.D, City staff have prepared and submitted a report with recommendations for disposition of Oakpointe’s DRC appeal; and

**WHEREAS**, the City Council held a closed-record appeal hearing on September 17, 2020, to consider the documents submitted by the appellant, the Staff Report and Recommendation to the City Council, and relevant authorities concerning whether the appeal should be granted; and

**WHEREAS**, being fully advised of the relevant facts and having fully considered the applicable legal standards, the City Council is ready to issue its decision on the pending appeal;

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

**Section 1.** The City Council hereby adopts the Staff Report and Recommendation presented during the closed-record appeal hearing and attached to Agenda Bill AB20-067 as the findings and conclusions of the Council. The Staff Report and all exhibits attached thereto and referenced therein are hereby made part of the record of decision and are incorporated into this Resolution as if fully set forth herein.

**Section 2.** The City Council concurs with the recommendations of the Staff Report and determines, for the reasons set forth in the Staff Report, that DRC No. 09122017KOM01 should be revised to increase the number of development rights available, from 36 to 45.

**Section 3.** The City shall issue a corrected DRC to appellant Oakpointe reflecting 45 transferrable development rights on King County Parcel No. 1121069051 as provided in this Resolution.

**Section 4.** Notice of this decision should be provided to appellant Oakpointe and to any other person who has previously requested to receive a copy of this decision.

**Section 4.** This Resolution reflects the final decision of the City and takes effect immediately upon passage, pursuant to BDMC 18.08.190. If appellant believes it has been aggrieved by the City Council's decision in this matter, further appeal rights to Superior Court are described in BDMC 18.08.200 and 18.08.230.

**PASSED BY THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 17<sup>th</sup> DAY OF SEPTEMBER, 2020.**

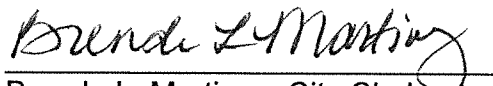
CITY OF BLACK DIAMOND:



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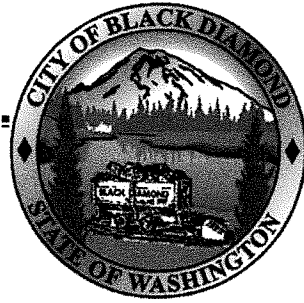
Carol Benson, Mayor

Attest:



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Brenda L. Martinez, City Clerk



# CITY OF BLACK DIAMOND

Physical Address: 24301 Roberts Drive  
Mailing Address: PO Box 599  
4501  
Black Diamond, WA 98010  
[www.ci.blackdiamond.wa.us](http://www.ci.blackdiamond.wa.us)

Phone: (360) 851-4500  
Fax: (360) 851-

In Re:  Development Rights Certificate Appeal for Parcel No. 1121069051	<b>STAFF REPORT AND RECOMMENDATION TO THE CITY COUNCIL</b>
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## A. Background

In 2017, the City issued a Development Rights Certificate (“DRC”) for 36 Transferrable Development Rights (“TDRs”) to William Kombol, et al. for Parcel 1121069051 (“Parcel”). This DRC was subsequently transferred to CCD Black Diamond Partners LLC (“Oakpointe”) pursuant to a private commercial transaction.

The original DRC was based on a survey indicating that the area of the Parcel is 3.00 acres; however, upon further review, Oakpointe believes the parcel is in fact larger, closer to 3.75 acres. Furthermore, the Parcel was zoned Community Commercial prior to January 1, 2004, which means, pursuant to BDMC 19.24.030.C, that it should have 12 TDRs per acre (“Parcels zoned community commercial prior to January 1, 2004, shall have three TDRs transferable for each one-fourth acre within the TDR sending area.”). Accordingly, Oakpointe has now requested that the City issue a revised DRC for this Parcel increasing the TDRs available from 36 to 45.

## B. Appeal Process

Per BDMC 19.24.070, parcel owners may dispute the number of development rights available for transfer through an administrative appeal process. Under this appeal process, the City Council must approve any revision to the number of TDRs associated with a DRC. The City Council’s decision is made following a closed-record hearing held by the Council, based on a report and recommendation from the city administrator or his/her designee.

This Staff Report constitutes the report described in BDMC 19.24.070.D. The City Council must make its determination based on the record materials submitted by the appellant. The Council may consider the recommendations in this Staff Report in making its determination whether to increase the number of TDRs available for transfer from the Parcel. If the Council approves the appellant’s request, it shall order the issuance of a revised DRC reflecting the correct number of TDRs.

### **C. Oakpointe's Appeal of the DRC for Parcel No. 1121069051**

On October 28, 2019, Oakpointe submitted a request to the Community Development Director to reissue a DRC for Parcel No. 1121069051 to correct the number of TDRs available for transfer based on a previous survey error. The Community Development Director rejected this request on March 18, 2020, because the Director determined that she lacked jurisdiction to alter the number of development rights stated on a DRC for a particular parcel. As the Director noted, such authority lies with the City Council pursuant to BDMC 19.24.070.A. The Director's decision constituted a final action by the City under the TDR program, thus triggering Oakpointe's right of appeal. Oakpointe timely appealed this decision in writing on April 6, 2020. *See* BDMC 19.24.070.B (appeal must be filed with City clerk within 21 calendar days of the final action being appealed).

In accordance with the requirements of BDMC 19.24.070.C, Oakpointe submitted the following documentation to support its appeal:

- Exhibit A – DRC Decision email from Barbara Kincaid, dated March 18, 2020
- Exhibit B – Development Right Certificate for 36 TDRs, dated September 21, 2017, issued to William Kombol, et al.;
- Exhibit C – Transfer of Development Right Certificate dated September 28, 2017, from William Kombol to CCD Black Diamond Partners, LLC;
- Exhibit D – “Exhibit A Legal Description” included with original City of Black Diamond Development Right Certificate Application, showing drawing of Parcel No. 1121069051;
- Exhibit E – Axis Survey of Parcel No. 1121069051, dated January 7, 2009, marked “PRELIMINARY” and showing parcel area size as plus/minus 3.75 acres;
- Exhibit F – City of Black Diamond Zoning Map, dated January 15, 1981, showing Parcel No. 1121069051 zoned Community Commercial;
- Exhibit G – City of Black Diamond Development Rights Certificate Application
- Exhibit H – Legal Description for Parcel No. 1121069051;
- Exhibit I – Copy of the Statutory Warranty Deed, dated November 21, 2018;
- Exhibit J – Title Report for Parcel No. 1121069051;
- Exhibit K – City of Black Diamond Final Letter of Notification for Parcel No. 1121069051;
- An appeal letter dated April 6, 2020, which included the name, address, and phone number of the property owner for the parcel(s) affected by the appeal, and which identified the decision being appealed, the alleged error in the appealed decision, the facts that are the basis for the appeal, the legal basis for the appeal, and the requested relief. The appeal was signed by the owners of record for the affected parcel, all as required by BDMC 19.24.070.C; and
- Appropriate appeal fee (\$487.00), per the City's fee resolution.

In addition to the foregoing documents submitted by the appellant, the following additional information was requested and reviewed by staff in preparing the recommendations in this report:

- Axis Survey of Parcel No. 1121069051, marked “FINAL” and stamped and signed by the licensed surveyor; and

- King County “iMap” online Parcel Viewer, visited on or about August 10, 2020 to confirm acreage of Parcel No. 1121069051 per King County Assessor records.

All of the exhibits and other documents and information identified above constitute the record for this administrative appeal. Copies of the exhibits listed above are attached to this Staff Report for the Council’s convenience.

**D. Recommended Findings and Conclusions**

It appears that the original DRC was issued in error based on an incorrect estimate of the area contained within the Parcel. Rather than 3.00 acres, the Axis Survey, which is signed and stamped by a licensed professional engineer, reveals that the true area of the Parcel is 3.75 acres, plus or minus. It has also been confirmed that the Parcel lies within the Community Commercial zone within a designated TDR sending area, and thus would be eligible to transfer three TDRs per one-quarter acre to an eligible receiving area parcel, assuming the other requirements of the TDR program are complied with. BDMC 19.24.030.

Upon review of the materials provided by appellant, specifically the final Axis Survey of the Parcel, and outside verification of the parcel size per King County Parcel Viewer (which lists the acreage as 3.71 acres), it is staff’s recommendation that the City grant the appeal and issue a revised Development Right Certificate to CCD Black Diamond Partners, LLC, to include 45 available TDRs (3.75 acres x 12 TDRs per acre = 45 TDRs).

Dated: September 9, 2020.



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Barbara Kincaid  
Community Development Director  
By designation of the Mayor/City Administrator

April 6, 2020

Brenda Martinez  
City Clerk  
City of Black Diamond  
24301 Roberts Drive  
PO Box 599  
Black Diamond, WA 98010

Barbara Kincaid  
Community Development Director  
City of Black Diamond  
24301 Roberts Drive  
PO Box 599  
Black Diamond, WA 98010

**RE: Administrative Appeal of Denial of CCD Black Diamond Partner LLC's Request for Development Right Certificate for King County Parcel No. 1121069051**

Dear Ms. Martinez and Ms. Kincaid,

On behalf of CCD Black Diamond Partners LLC ("Oakpointe") and pursuant to Black Diamond Municipal Code ("BDMC") Subsection 19.24, we are submitting this administrative appeal in response to Ms. Kincaid's email of March 18, 2020 denying our request for a new Development Right Certificate ("DRC") for King County Parcel No. 1121069051 for 45 Transferable Development Rights ("TDRs") (email attached as Exhibit A). As described below, Oakpointe believes that 45 TDRs are available on Parcel No. 1121069051 and renews its request for a DRC for 45 TDRs. Pursuant to BDMC 19.24.070.C, this appeal is timely because it is filed within twenty-one calendar days of receipt of Ms. Kincaid's email.

In 2017, the City issued a DRC for 36 TDRs to William Kombol et al. for King County Parcel No. 1121069051. (See Exhibit B: Development Right Certificate for 36 TDRs, dated September 21, 2017, issued to William Kombol et al., recorded under King County Recording No. 20171003000132.) On September 28, 2017, William Kombol et al., transferred ownership of the DRC to CCD Black Diamond Partners LLC. (See Exhibit C: Transfer of Development Right Certificate, dated September 28, 2017, from William Kombol et al., to CCD Black Diamond Partners LLC, recorded under King County Recording No 20170928001756.)

Oakpointe believes that the original DRC for 36 TDRs was issued based on a document that showed the parcel area as three acres. (See Exhibit D: "Exhibit A Legal Description" of Parcel No. 1121069051 attached to the DRC application William Kombol submitted in 2017, showing parcel area as three acres.) Oakpointe has determined that Parcel No. 1121069051 is, in fact, 3.75 acres.

(See Exhibit E: Axis Survey of Parcel No. 1121069051, dated January 7, 2009, showing parcel area as plus/minus 3.75 acres.)

Furthermore, Parcel No. 1121069051 was zoned Community Commercial prior to January 1, 2004. (See Exhibit F: City of Black Diamond Zoning Map, dated January 15, 1981, showing Parcel 1121069051 zoned Community Commercial.) BDMC 19.24.030.C states that parcels “zoned community commercial prior to January 1, 2004, shall have three TDRs transferable for each one-fourth acre within the TDR sending area.” Since Parcel No. 1121069051 was zoned Community Commercial prior to January 1, 2004 and is 3.75 acres, Oakpointe believes that the parcel is entitled to 45 TDRs (3.75 acres x 12 TDRs per acre = 45 TDRs).

In summary, Oakpointe renews its request that the City replace the existing DRC for 36 TDRs with a new DRC for 45 TDRs. In support of our request and pursuant to BDMC 19.24.060.D, Oakpointe provides the following documents to support our request for a new DRC:

Exhibit G: City of Black Diamond (TDR) Development Right Certificate Application. This document includes the following information required by code:

- i) Name and address of the parcel owner;
- ii) Acknowledgment of intent to grant to the City of Black Diamond a conservation easement in a form provided by the city permanently restricting development uses to those allowed by the remaining development rights attached to the parcel, if any, and preserving the parcel's environmental/resource value;
- iii) A description of any changes in the parcel (development, dredging, clearing, etc.) occurring since the final letter of notification was issued; and
- iv) Acknowledgement of intent to grant a fee simple deed to the parcel or a public trail easement, if bonus development rights are requested.

Exhibit H: Legal Description for Parcel No. 1121069051

Exhibit I: Copy of the Statutory Warranty Deed, dated November 21, 2018, 2018, recorded under King County Recording No. 20181129000522

Exhibit J: Title Report for Parcel No. 1121069051

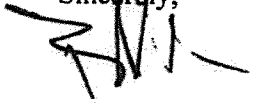
Exhibit K: City of Black Diamond Final Letter of Notification for Parcel No. 1121069051

In accordance with the requirements of BDMC 19.24.070.C, Oakpointe provides the following information:

Parcel Owner:	CCD Black Diamond Partners LLC
Parcel Owner Address:	3025 112 <sup>th</sup> Avenue NE Suite 100 Bellevue, WA 98004
Parcel Owner Telephone Number:	(425) 898-2100

Oakpointe has also appended a check to this letter in the amount of \$487.00 to cover the fee for an administrative appeal. Thank you for your assistance. If you have any questions regarding this appeal, please do not hesitate to give us a call at (425) 898-2100.

Sincerely,

A handwritten signature in black ink, appearing to read 'BRoss', with a horizontal line extending to the right.

Brian Ross  
CCD Black Diamond Partners LLC



**Exhibit A**

**Development Right Certificate Decision from Barb Kincaid, dated March 18, 2020**

**From:** [Barbara Kincaid](#)  
**To:** [Justin Wortman](#)  
**Cc:** [Megan Nelson](#)  
**Subject:** RE: DRC request Parcel Number 1121069051  
**Date:** Wednesday, March 18, 2020 11:55:14 AM

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Hello Justin,

I am writing in response to Oakepointe's request, dated October 28, 2019, for a new DRC assigning 45 TDRs for a parcel (1121069051) that was previously issued and transferred to CCD Black Diamond Partners, LLC for that same parcel for 36 TDRs. The letter explains with full documentation that the 36 TDRs were assigned in error because the survey used to calculate them was inaccurate.

After reviewing this request, I am unable to fulfill your request. Black Diamond Municipal Code (BDMC) 19.24.070 provides that when the number of development rights identified as available for transfer from a parcel is disputed, the path for review and resolution is to request an administrative appeal. Here is a link to the City's online code:

<http://www.ci.blackdiamond.wa.us/citycode/index.html>

If, after reading the steps laid out in City code, you have further questions about how to proceed – please do not hesitate to contact me for more information.


Sincerely,  
Barb Kincaid, Community Development Director  
City of Black Diamond  
(360) 851-4528

**Exhibit B**

**Development Right Certificate for 36 TDRs Issued to William Kombol et al.**

Instrument Number: 20171003000132 Document: CERT Rec: \$76.00 Page  
Record Date: 10/3/2017 9:19 AM  
King County, WA

Return Address:  
City of Black Diamond  
Community Development  
P.O. Box 599  
Black Diamond, WA 98010

  
**20171003000132**  
CERTIFICATE Rec: \$76.00  
10/3/2017 9:19 AM  
KING COUNTY, WA

Please print or type information WASHINGTON STATE RECORDER'S Cover Sheet (RCW 65.04)

<b>Document Title(s)</b> (or transactions contained therein): (all areas applicable to your document <u>must</u> be filled in) 1. <u>Development Right Certificate Recording Notice</u> 2. _____ 3. _____ 4. _____	
<b>Reference Number(s) of Documents assigned or released:</b> Additional reference #'s on page _____ of document	
<b>Grantor(s)</b> Exactly as name(s) appear on document 1. <u>City of Black Diamond</u> 2. _____ Additional names on page _____ of document.	
<b>Grantee(s)</b> Exactly as name(s) appear on document 1. <u>Bill Kombol Et. Al.</u> 2. _____ Additional names on page _____ of document.	
<b>Legal description</b> (abbreviated: i.e. lot, block, plat or section, township, range) <u>SE 1/4 OF SEC 11-21-6</u> Additional legal is on page <u>2</u> of document.	
<b>Assessor's Property Tax Parcel/Account Number</b> <u>1121069051</u>	<b>Assessor Tax # not yet assigned</b>
The Auditor/Recorder will rely on the information provided on this form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.	

"I am signing below and paying an additional \$50 recording fee (as provided in RCW 36.18.010 and referred to as an emergency nonstandard document), because this document does not meet margin and formatting requirements. Furthermore, I hereby understand that the recording process may cover up or otherwise obscure some part of the text of the original document as a result of this request."

\_\_\_\_\_  
Signature of  
Requesting Party  
Note to submitter: Do not sign above nor pay additional \$50 fee if the document meets margin/formatting requirements

**Instrument Number: 20171003000132 Document: CERT Rec: \$76.00 Page: 1**  
**Record Date: 10/3/2017 9:19 AM King County, WA**

**Development Rights Certificate Recording Notice**

**For Recording by the  
King County Recorders Office**  
Recording Number \_\_\_\_\_

City of Black Diamond  
Notice of Issuance of Certificate of Transferable Development Rights

Transfer of Development Rights Certificate Number: 09122017KOM01

The City of Black Diamond issued a Certificate of Development Rights to:

Bill Kombol Et. Al.  
30533 234<sup>th</sup> Ave SE  
Black Diamond WA 98010

on September 12, 2017.

This certificate was issued for this tax parcel as follows:

**Tax Parcel Number**  
1121069051

**Number of Development Rights**  
36

A legal description is included in Attachment A.

The City of Black Diamond requests that the King County Recorder record this notice with the deed(s) of all parcels identified above. If you have questions, please call Andy Williamson, Black Diamond Community Development Director, at (360) 886-5700.

Thank you for your service.

  
\_\_\_\_\_  
City of Black Diamond Authorized Signature

9/21/17  
\_\_\_\_\_  
Date

**Instrument Number: 20171003000132 Document: CERT Rec: \$76.00 Page: 3**  
**Record Date: 10/3/2017 9:19 AM King County, WA**

**Attachment A: Legal Description**

POR OF SE 1/4 LY ELY OF P S H # 5 & WLY OF BLACK DIAMOND-  
RAVENSDALE RD # 391 LESS N 795 FT THOF LESS C/M RGTS

**Unofficial Copy**

**Exhibit C**

**Transfer of Development Right Certificate from William Kombol et al. to CCD Black  
Diamond Partners LLC**

Instrument Number: 20170928001756 Document: TDR Rec: \$82.00 Page  
Record Date: 9/28/2017 4:08 PM  
King County, WA



**20170928001756**

TRANSFER OF DEVELOPMENT RIGHTS Rec: \$82.00  
9/28/2017 4:08 PM  
KING COUNTY, WA

**E2892003**

EXCISE TAX AFFIDAVITS  
9/28/2017 4:08 PM KING COUNTY, WA  
Selling Price: \$160,000.00  
Tax Amount: \$2,875.00

WHEN RECORDED RETURN TO:  
Aleana Harris  
Alston, Courtnage & Bassetti LLP  
1420 Fifth Avenue, Suite 3650  
Seattle, WA 98101-4011

DOCUMENT TITLE(S)  
Development of Right Certificate

GRANTOR(S):  
Joseph Zumek, a married individual  
Arthura E. Zumek, a married individual  
Kirk Luthi, a single individual  
Sharon Luthi, a single individual  
James Kuzaro  
Steven A. Beck, a married individual  
Debra Beck, a married individual  
William J. Kombol, a married individual  
Jennifer Kombol, a married individual

GRANTEE(S):  
CCD Black Diamond Partners LLC, a Delaware limited liability company

TRUSTEE(S):

ABBREVIATED LEGAL DESCRIPTION: PTN SE ¼ STR 11-21-06E TAX LOT 9051

TAX PARCEL NUMBER(S): 1121069051

Unofficial Copy

This document filed for record by  
Fidelity National Title Major Accounts as  
an accommodation only. It has not been  
examined as to its effect upon the title.

20374412 9/82





City of Black Diamond  
P.O. Box 599  
24301 Roberts Drive  
Black Diamond, Washington 98010  
(360) 886-2560 Fax (360) 886-2592

**DEVELOPMENT RIGHT CERTIFICATE**  
ISSUED PURSUANT TO CITY OF BLACK DIAMOND MUNICIPAL CODE CHAPTER 19.24

This Certificate represents the availability of 36 Transferable Development Rights (TDR's) that are available for transfer to a TDR Receiving Area Parcel from the following TDR Sending Area Parcel No. 1121069051.

The legal description for this parcel as identified by the King County Assessor is:

**POR OF SE 1/4 LY ELY OF P S H # 5 & WLY OF BLACK DIAMOND-RAVENSDALE RD # 391 LESS N 795 FT THOF LESS C/M RATS**

This Certificate authorizes the listed number of TDR's to be sold or transferred to an eligible TDR Receiving Area Parcel. No transfer of this Certificate shall be valid unless transferred in accordance with the provisions of the City of Black Diamond TDR Program.

Issued to the legal owners of the sending parcel:

Name William Kombol et al.

Issue Date 09/12/2017

Exp. Date 09/12/2022

Address 30533 234<sup>th</sup> Ave SE

Black Diamond WA 98010

**CITY OF BLACK DIAMOND**

By *Cassie Jensen* Date 9/27/2017  
City Administrator

FOR VALUE RECEIVED, Certificate Owner hereby sells and transfers 36 Transferable Development Rights unto CCD Black Diamond Partners LLC, said rights represented by this Development Right Certificate, and does hereby irrevocably appoint City of Black Diamond to enter said transfer information into the TDR Program Database.

Dated this 28 day of September, 20 17.

See attached Schedule I.

\_\_\_\_\_  
Certificate Owner

STATE OF WASHINGTON  
COUNTY OF \_\_\_\_\_

}  
} SS.  
}

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me, and said person acknowledged that he/she signed this instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in this instrument.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

NOTARY PUBLIC in and for the State of Washington.  
Appointment expires \_\_\_\_\_

**FOR TRANSFER OF LESS THAN THE TOTAL NUMBER OF DEVELOPMENT RIGHTS, THIS CERTIFICATE MUST BE SURRENDERED TO CITY OF BLACK DIAMOND AND NEW CERTIFICATES ISSUED.**

**FOR SALE OF ANY NUMBER OF DEVELOPMENT RIGHTS, THE BUYER AND SELLER MUST NOTIFY THE CITY IN WRITING OF THE DATE OF TRANSFER AND THE NAME AND ADDRESS OF THE NEW CERTIFICATE OWNER.**

**SCHEDULE I  
TO DEVELOPMENT RIGHT CERTIFICATE**

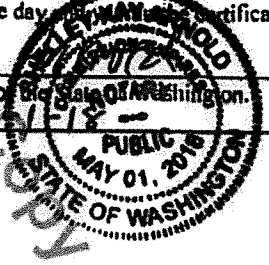
Joseph Zumek  
Joseph Zumek, a married individual

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING

I certify that I know or have satisfactory evidence that Joseph Zumek, a married individual, is the person who appeared before me, and said person acknowledgment that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in this instrument.

WITNESS my hand and official seal hereto affixed the day of SEPTEMBER 2017, at SEASIDE, Washington, Certificate above written.

Shelley Kay Arnold  
NOTARY PUBLIC in and for the State of Washington.  
Appointment expires 5-1-18



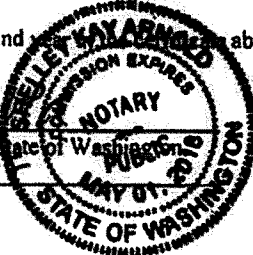
Arthura E. Zumek  
Arthura E. Zumek, a married individual

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING

I certify that I know or have satisfactory evidence that Arthura E. Zumek, a married individual, is the person who appeared before me, and said person acknowledgment that she signed this instrument and acknowledged it to be her free and voluntary act for the uses and purposes mentioned in this instrument.

WITNESS my hand and official seal hereto affixed the day and at SEASIDE, Washington, Certificate above written.

Shelley Kay Arnold  
NOTARY PUBLIC in and for the State of Washington.  
Appointment expires 5-1-18



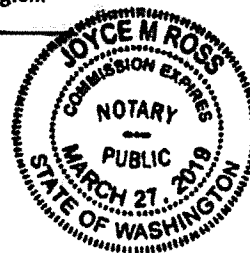
Kirk Luthi  
Kirk Luthi, a ~~married~~ individual  
~~single~~

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

I certify that I know or have satisfactory evidence that Kirk Luthi, a married individual, is the person who appeared before me, and said person acknowledgment that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in this instrument.

WITNESS my hand and official seal hereto affixed the day and year in the certificate above written.

Joyce M Ross  
NOTARY PUBLIC in and for the State of Washington.  
Appointment expires 3/27/19



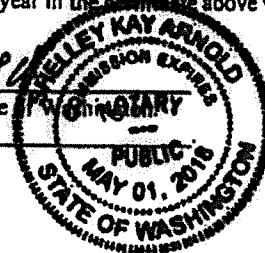
Sharon Luthi  
Sharon Luthi, a ~~married~~ individual  
~~single~~

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

I certify that I know or have satisfactory evidence that Sharon Luthi, a married individual, is the person who appeared before me, and said person acknowledgment that she signed this instrument and acknowledged it to be her free and voluntary act for the uses and purposes mentioned in this instrument.

WITNESS my hand and official seal hereto affixed the day and year in the certificate above written.

Shelley Kay Arnold  
NOTARY PUBLIC in and for the State of Washington  
Appointment expires 5-1-18



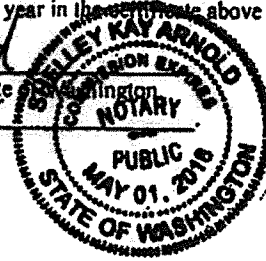
James Kuzaro  
James Kuzaro

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

I certify that I know or have satisfactory evidence that James Kuzaro, is the person who appeared before me, and said person acknowledgment that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in this instrument.

WITNESS my hand and official seal here to affixed the day and year in the certificate above written.

Shelley Kay Arnold  
NOTARY PUBLIC and for the State of Washington  
Appointment expires 5-1-18



COPY

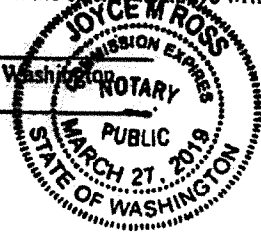
Steven A. Beck  
Steven A Beck, a married individual

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

I certify that I know or have satisfactory evidence that Steven A. Beck, is the person who appeared before me, and said person acknowledgment that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in this instrument.

WITNESS my hand and official seal hereto affixed the day and year in the certificate above written.

Joyce M. Ross  
NOTARY PUBLIC in and for the State of Washington  
Appointment expires 3/27/19



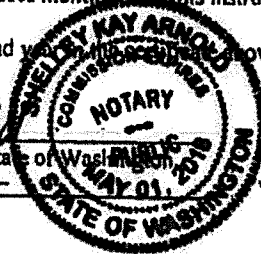
Debra Beck  
Debra Beck, a married individual

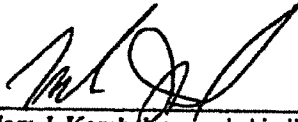
STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

I certify that I know or have satisfactory evidence that Debra Beck, a married individual, is the person who appeared before me, and said person acknowledgment that she signed this instrument and acknowledged it to be her free and voluntary act for the uses and purposes mentioned in this instrument.

WITNESS my hand and official seal hereto affixed the day and year in the certificate above written.

Shelley Kay Arnold  
NOTARY PUBLIC in and for the State of Washington  
Appointment expires 5-1-18






William J. Kombol, a married individual

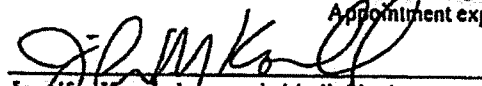
STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

I certify that I know or have satisfactory evidence that William J. Kombol, is the person who appeared before me, and said person acknowledgment that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in this instrument.

WITNESS my hand and official seal hereto affixed the day and year in the certificate above written.

  
NOTARY PUBLIC in and for the State of Washington  
Appointment expires 5-1-18



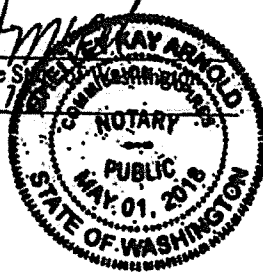
  
Jennifer Kombol, a married individual

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

I certify that I know or have satisfactory evidence that Jennifer Kombol, a married individual, is the person who appeared before me, and said person acknowledgment that she signed this instrument and acknowledged it to be her free and voluntary act for the uses and purposes mentioned in this instrument.

WITNESS my hand and official seal hereto affixed the day and year in the certificate above written.

  
NOTARY PUBLIC in and for the State of Washington  
Appointment expires 5-1-18



**EXHIBIT "A"**

THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION 11, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON, LYING BETWEEN PHS #5, RENTON TO ENUMCLAW BRANCH, AND BLACK DIAMOND-RAVENSDALE ROAD, COUNTY SURVEY NO. 391;

LESS THE NORTH 795.0 FEET THEREOF;

SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON.

*Unofficial Copy*



**Exhibit D**

**“Exhibit A Legal Description” Exhibit to William Kombol’s DRC Application Showing  
Area as 3 Acres**

# Legal Description: #112106-9051

## EXHIBIT A

### LEGAL DESCRIPTION

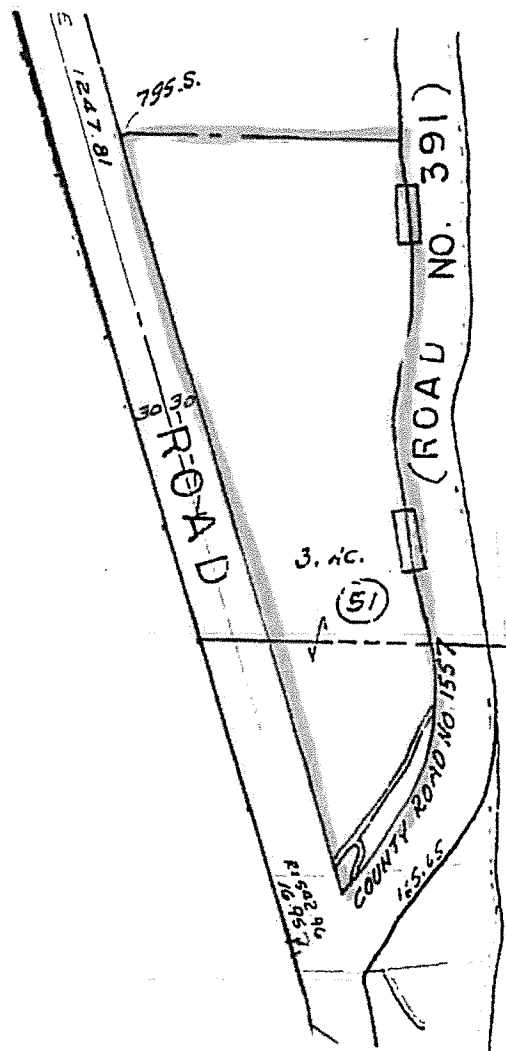
THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION 11, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON, LYING BETWEEN PHS #5, RENTON TO ENUMCLAW BRANCH, AND BLACK DIAMOND-RAVENSDALE ROAD, COUNTY SURVEY NO. 391;

LESS THE NORTH 795.0 FEET THEREOF;

SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON.

Tax Parcel # 112106-9051

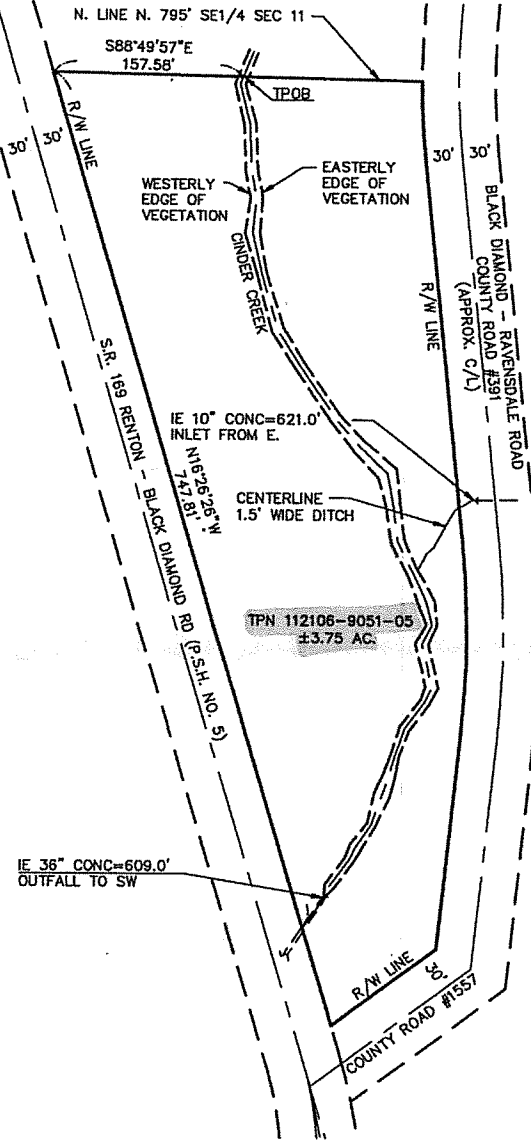
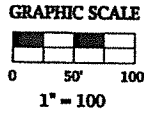
PARCEL MAP



**Exhibit E**

**Axis Survey of Parcel No. 1121069051 Showing Area as 3.75 Acres**

# ORDINARY HIGH WATER - EXHIBIT



PRELIMINARY

NW 1/4, SE 1/4, SEC. 11, TWP. 21N., RGE. 6E., W.M.  
COUNTY OF KING, STATE OF WASHINGTON

 <p><b>Axis</b> Survey &amp; Mapping</p> <p>13005 NE 126th PL KIRKLAND, WA 98034 TEL. 425.823-5700 FAX 425.823-6700</p>	www.axismap.com	
	JOB NO. 08-110	DATE 1/7/09
	DRAWN BY TJO	CHECKED BY MTSE
	SCALE 1"=100'	SHEET 1 OF 1

**Exhibit F**  
**City of Black Diamond Zoning Map**



**Exhibit G**

**City of Black Diamond (TDR) Development Right Certificate Application**

**CITY OF BLACK DIAMOND  
(TDR) DEVELOPMENT RIGHT CERTIFICATE APPLICATION**

Tax Parcel #: 1121069051

<b>Owner Name:</b> CCD Black Diamond Partners LLC	<b>Phone#:</b> (425) 898-2100
<b>Mailing Address:</b> 3025 112th Avenue NE, Suite 100	<b>City/St/Zip:</b> Bellevue, WA 98004
<b>Owner Name:</b>	<b>Phone#:</b>
<b>Mailing Address:</b>	<b>City/St/Zip:</b>
<b>Owner Name:</b>	<b>Phone#:</b>
<b>Mailing Address:</b>	<b>City/St/Zip:</b>

Number of Development Rights you wish to certify for possible transfer: 45

Describe any changes made or further study done to the property (dredging, clearing, development, wetland/stream study, etc) to the property since the Final Letter of Notification was issued:

No changes

---



---

Initial the following acknowledgements (A and D must be initialed or your application will not be processed):

A) I/we acknowledge my/our intent, at the time we sell or otherwise transfer the development rights for which a Development Right Certificate (DRC) is issued, to grant to the City of Black Diamond a conservation easement permanently restricting development uses on the above parcel to those allowed by the remaining development rights attached to the parcel, if any, and preserving the parcel's environmental/resource value;

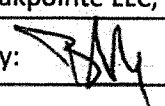
B) I/we request that the City consider issuing bonus density rights and/or expanding the base development right allocation on the above parcel.

C) If bonus development rights are requested, I/we intend to grant to the City a fee simple deed to the parcel for a public trail easement. (Initial's required to be considered for bonus density.)

D) I/we acknowledge that upon issuance of the DRC a notice will be recorded which indicates issuance of the DRC and sets forth the number of development rights that have been certified for transfer.

E) I/we acknowledge that all information in this application will become public record and will be accessible to the public for inspection and copying.

All owners of record or their representative(s) must sign below.

<u>CCD Black Diamond Partners LLC, a Delaware limited liability company</u>	
Name	Name
By: Oakpointe LLC, its Manager	
Title	Title
By: 	
Name	Name
Brian Ross, Manager	
Title	Title



**Exhibit H**

**Legal Description for Parcel No. 1121069051**

**Parcel No. 1121069051**

**Legal Description**

THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION 11, TOWNSHIP 21  
NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON, LYING BETWEEN  
PHS #5, RENTON TO ENUMCLAW BRANCH AND BLACK DIAMOND-RAVENSDALE  
ROAD, COUNTY SURVEY NO. 391;

LESS THE NORTH 795.0 FEET THEREOF;

SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON

**Exhibit I**  
**Copy of Statutory Warranty Deed**

Record Date: 11/29/2018 1:58 PM  
King County, WA



**20181129000522**

WARRANTY DEED Rec: \$108.00  
11/29/2018 1:58 PM  
KING COUNTY, WA

WHEN RECORDED RETURN TO:  
Alston, Courtnege & Bassetti LLP  
1420 Fifth Avenue, Suite 3650  
Seattle, Washington 98101-4011  
Attn: Aleana W. Harris

**E2963931**

EXCISE TAX AFFIDAVITS  
11/29/2018 1:58 PM KING COUNTY, WA  
Selling Price: \$165,000.00  
Tax Amount: \$2,942.00

Recorded at the request of  
FIDELITY NATIONAL TITLE  
MAJOR ACCOUNTS

Order # 20374412 12/108

Document Title: **STATUTORY WARRANTY DEED**

Grantor: Joseph Zumek, **ARTHURA E. ZUMEK**, Kirk Luthi, James Kuzaro, Steven A. Beck, Debra Beck, William J. Kombol, and Jennifer Kombol

Grantee: CCD Black Diamond Partners LLC

**Legal Description:**

**Abbreviated Legal Description:** Portion of Southeast Quarter of Section 11, Township 20 North, Range 6E Tax Lot 9051

**Full Legal Description:** See Exhibit A attached.

Assessor's Tax Parcel Nos.: 112106 9051

Reference Nos. of Documents Released or Assigned: Not applicable.

**STATUTORY WARRANTY DEED**

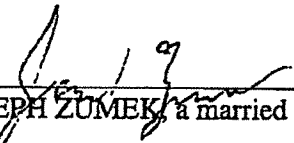
**JOSEPH ZUMEK** and **ARTHURA E. ZUMEK**, a married couple, as to an undivided 25% interest, **KIRK LUTHI**, a single person, as his separate estate, and **JAMES KUZARO**, a married person, who was a single person on October 31, 1991, the date of acquiring title, as his separate estate, as to an undivided 25% interest, **STEVEN A. BECK**, who acquired title as Steven J. Beck, and **DEBRA BECK**, a married couple, as to an undivided 25% interest and **WILLIAM J. KOMBOL** and **JENNIFER KOMBOL**, a married couple, as to an undivided 25% interest, all as tenants in common (collectively, the "Grantor") for and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration in hand paid, convey and warrant to **CCD BLACK DIAMOND PARTNERS LLC**, a Delaware limited liability company, the real estate situated in the County of King, State of Washington, legally described on attached Exhibit A.

Subject, however, to the exceptions to title more specifically set forth on Exhibit B attached hereto and incorporated herein by this reference.

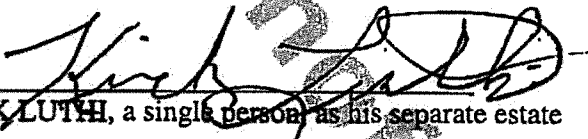
Unofficial  
Copy

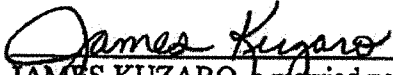
DATED: November 21, 2018.


**GRANTOR:**

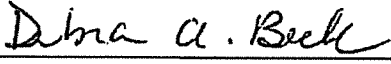
  
\_\_\_\_\_  
JOSEPH ZUMEK, a married person


  
\_\_\_\_\_  
ARTHURA E. ZUMEK, a married person

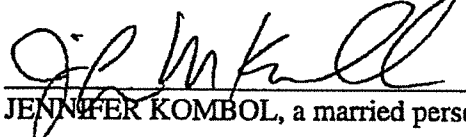
  
\_\_\_\_\_  
KIRK LUTH, a single person as his separate estate

  
\_\_\_\_\_  
JAMES KUZARO, a married person, who was  
a single person on October 31, 1991, the date of  
acquiring title, as his separate estate

  
\_\_\_\_\_  
STEVEN A. BECK, a married person

  
\_\_\_\_\_  
DEBRA BECK, a married person

  
\_\_\_\_\_  
WILLIAM J. KOMBOL, a married person

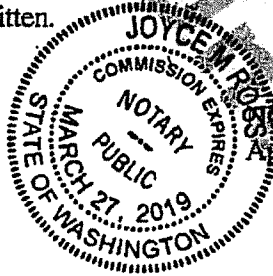
  
\_\_\_\_\_  
JENNIFER KOMBOL, a married person

ORIGINAL COPY

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

I certify that I know or have satisfactory evidence that **Joseph Zumek**, is the person who appeared before me, and said person acknowledgment that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in this instrument.

WITNESS my hand and official seal hereto affixed the day and year in the certificate above written.

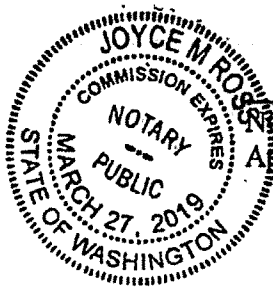


Joyce M Ross  
NOTARY PUBLIC in and for the State of Washington.  
Appointment expires 3/27/19

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

I certify that I know or have satisfactory evidence that **Arthura E. Zumek** is the person who appeared before me, and said person acknowledgment that she signed this instrument and acknowledged it to be her free and voluntary act for the uses and purposes mentioned in this instrument.

WITNESS my hand and official seal hereto affixed the day and year in the certificate above written.

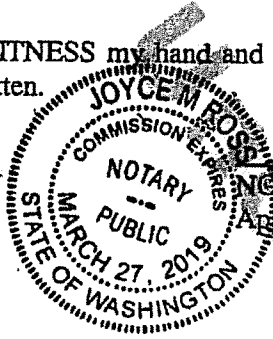


Joyce M Ross  
NOTARY PUBLIC in and for the State of Washington.  
Appointment expires 3/27/19

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF LING )

I certify that I know or have satisfactory evidence that **Kirk Luthi** is the person who appeared before me, and said person acknowledgment that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in this instrument.

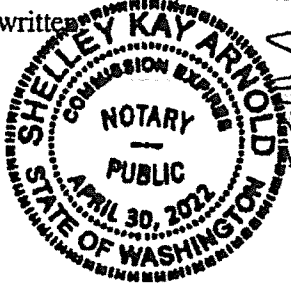
WITNESS my hand and official seal hereto affixed the day and year in the certificate above written.

  
Joyce M. Ross  
NOTARY PUBLIC in and for the State of Washington.  
Appointment expires 3/27/19

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

I certify that I know or have satisfactory evidence that **James Kuzaro** is the person who appeared before me, and said person acknowledgment that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in this instrument.

WITNESS my hand and official seal hereto affixed the day and year in the certificate above written.

  
Shelley Kay Arnold  
NOTARY PUBLIC in and for the State of Washington.  
Appointment expires 4/30/22



STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

I certify that I know or have satisfactory evidence that **Steven A. Beck** is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in this instrument.

WITNESS my hand and official seal hereto affixed the day and year in the certificate above written.



Joyce M. Ross  
NOTARY PUBLIC in and for the State of Washington.  
Appointment expires 3/27/19

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

I certify that I know or have satisfactory evidence that **Debra Beck** is the person who appeared before me, and said person acknowledged that she signed this instrument and acknowledged it to be her free and voluntary act for the uses and purposes mentioned in this instrument.

WITNESS my hand and official seal hereto affixed the day and year in the certificate above written.

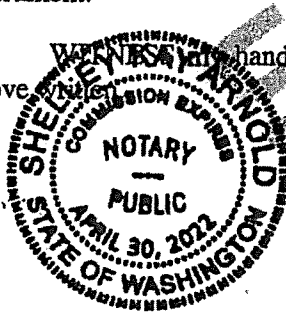


Joyce M. Ross  
NOTARY PUBLIC in and for the State of Washington.  
Appointment expires 3/27/19

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

I certify that I know or have satisfactory evidence that **William J. Kombol** is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in this instrument.

WITNESS my hand and official seal hereto affixed the day and year in the certificate above written.

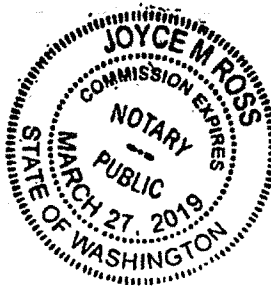


Shelley Arnold  
NOTARY PUBLIC in and for the State of Washington.  
Appointment expires 4/30/22

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

I certify that I know or have satisfactory evidence that **Jennifer Kombol** is the person who appeared before me, and said person acknowledged that she signed this instrument and acknowledged it to be her free and voluntary act for the uses and purposes mentioned in this instrument.

WITNESS my hand and official seal hereto affixed the day and year in the certificate above written.



Joyce M Ross  
NOTARY PUBLIC in and for the State of Washington.  
Appointment expires 3/27/19

EXHIBIT A

Legal Description

THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION 11, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M., IN KING COUNTY, WASHINGTON, LYING BETWEEN PHS #5, RENTON TO ENUMCLAW BRANCH, AND BLACK DIAMOND-RAVENSDALE ROAD, COUNTY SURVEY NO. 391;

LESS THE NORTH 795.0 FEET THEREOF;

SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON.

Official Copy

EXHIBIT B

Exceptions to Title

1. EASEMENT AND THE TERMS AND CONDITIONS THEREOF:

GRANTEE: PACIFIC TELEPHONE AND TELEGRAPH COMPANY  
PURPOSE: ELECTRIC TRANSMISSION AND DISTRIBUTION SYSTEM  
AREA AFFECTED: A PORTION OF SAID PREMISES  
RECORDED: APRIL 16, 1923  
RECORDING NO.: 1726627

2. RESERVATIONS BY THE NORTHERN PACIFIC RAILROAD COMPANY AS DISCLOSED BY DEED RECORDED MAY 4, 1890, UNDER RECORDING NO. 299084, AS FOLLOWS:

RESERVING AND EXCEPTING FROM SAID LANDS SO MUCH OR SUCH PORTIONS THEREOF AS ARE OR MAY BE MINERAL LANDS OR CONTAIN COAL OR IRON, AND ALSO THE USE AND THE RIGHT AND TITLE TO THE USE OF SUCH SURFACE GROUND AS MAY BE NECESSARY FOR MINING OPERATIONS, AND THE RIGHT OF ACCESS TO SUCH RESERVED AND EXCEPTED MINERAL LANDS, INCLUDING LANDS CONTAINING COAL OR IRON FOR THE PURPOSE OF EXPLORING, DEVELOPING AND WORKING THE SAME.

EFFECT OF QUIT CLAIM DEED RECORDED JULY 8, 1998 UNDER RECORDING NO. 9807080969.

EFFECT OF QUIT CLAIM DEED RECORDED DECEMBER 30, 1997 UNDER RECORDING NO. 9712301135.

EFFECT OF STATEMENT OF CLAIM OF MINERAL INTEREST RECORDED DECEMBER 24, 2011 UNDER RECORDING NO. 20011224001383.

3. DEVELOPMENT RIGHT CERTIFICATE AND THE TERMS AND CONDITIONS THEREOF:

RECORDED: SEPTEMBER 28, 2017  
RECORDING NO.: 20170928001756

4. DEVELOPMENT RIGHTS CERTIFICATE RECORDING NOTICE AND THE TERMS AND CONDITIONS THEREOF:

RECORDED: OCTOBER 3, 2017  
RECORDING NO.: 20171003000132

Unofficial Copy

**Exhibit J**

**Title Report for Parcel No. 1121069051**

# SUBDIVISION

Issued By:



**Fidelity National Title**  
Insurance Company

Guarantee/Certificate Number:

**20401629-SC**

**FIDELITY NATIONAL TITLE INSURANCE COMPANY**  
a corporation, herein called the Company

## GUARANTEES

Oakpoint

herein called the Assured, against actual loss not exceeding the liability amount stated in Schedule A which the Assured shall sustain by reason of any incorrectness in the assurances set forth in Schedule A.

### LIABILITY EXCLUSIONS AND LIMITATIONS

1. No guarantee is given nor liability assumed with respect to the identity of any party named or referred to in Schedule A or with respect to the validity, legal effect or priority of any matter shown therein.
2. The Company's liability hereunder shall be limited to the amount of actual loss sustained by the Assured because of reliance upon the assurance herein set forth, but in no event shall the Company's liability exceed the liability amount set forth in Schedule A.

Please note carefully the liability exclusions and limitations and the specific assurances afforded by this guarantee. If you wish additional liability, or assurances other than as contained herein, please contact the Company for further information as to the availability and cost.

Fidelity National Title Company of Washington, Inc.  
600 University Street, Suite 2424  
Seattle, WA 98101

Countersigned By:

Authorized Officer or Agent



Fidelity National Title Insurance Company

By:

President

Attest:

Secretary

ISSUING OFFICE:
Title Officer: Marc Wise Fidelity National Title Company of Washington, Inc. 600 University Street, Suite 2424 Seattle, WA 98101 Phone: 2062626291 Fax: 206-262-6292 Main Phone: (206)628-2822 Email: Marc.Wise@fnf.com

**SCHEDULE A**

Liability	Premium	Tax
\$1,000.00	\$350.00	\$35.35

Effective Date: October 4, 2019 at 12:00 AM

The assurances referred to on the face page are:

That, according to those public records which, under the recording laws, impart constructive notice of matter relative to the following described property:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

Title to said real property is vested in:

CCD Black Diamond Partners LLC, a Delaware limited liability company

subject to the matters shown below under Exceptions, which Exceptions are not necessarily shown in the order of their priority.

**END OF SCHEDULE A**



**EXHIBIT "A"**  
Legal Description

THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION 11, TOWNSHIP 21 NORTH, RANGE 6 EAST, W.M.,  
IN KING COUNTY, WASHINGTON, LYING BETWEEN PHS #5, RENTON TO ENUMCLAW BRANCH, AND BLACK  
DIAMOND-RAVENSDALE ROAD, COUNTY SURVEY NO. 391;

LESS THE NORTH 795.0 FEET THEREOF.

SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON

PARCEL MAP

## SCHEDULE B

## GENERAL EXCEPTIONS

H. Reservations and exceptions in United States Patents or in Acts authorizing the issuance thereof

## SPECIAL EXCEPTIONS

1. General and special taxes and charges, payable February 15, delinquent if first half unpaid on May 1, second half delinquent if unpaid on November 1 of the tax year (amounts do not include interest and penalties):

Year: 2019  
Tax Account No.: 112106 9051  
Levy Code: 0905  
Assessed Value-Land: \$228,600.00  
Assessed Value-Improvements: \$0.00

## General and Special Taxes:

Billed: \$2,174.11  
Paid: \$1,087.06  
Unpaid: \$1,087.05

2. Liability for Sewer Treatment Capacity Charges, if any, affecting certain areas of King, Pierce and Snohomish Counties. Said charges could apply to property connecting to the metropolitan sewerage facilities or reconnecting or changing its use and/or structure after February 1, 1990. Please contact the King County Wastewater Treatment Division, Capacity Charge Program, for further information at 206-296-1450 or Fax No. 206-263-6823 or email at [CapChargeEscrow@kingcounty.gov](mailto:CapChargeEscrow@kingcounty.gov).

\* A map showing sewer service area boundaries and incorporated areas can be found at: <http://www.kingcounty.gov/services/gis/Maps/vmc/Utilities.aspx>

Unrecorded Sewer Capacity Charges are not a lien on title to the Land.

NOTE: This exception will not appear in the policy to be issued.

3. Reservations and exceptions contained in the deed:

Grantor: Northern Pacific Railroad Company  
Recording No.: 299084

Reserving and excepting from said Lands so much or such portions thereof as are or may be mineral lands or contain coal or iron, and also the use and the right and title to the use of such surface ground as may be necessary for ground operations and the right of access to such reserved and excepted mineral lands, including lands containing coal or iron, for the purpose of exploring, developing and working the land.

Effect of Quit Claim Deed recorded December 30, 1997 under Recording No. 9712301135.

Effect of Quit Claim Deed recorded July 8, 1998 under Recording No. 9807080969.

Effect of Statement of Claim of Mineral Interest recorded December 24, 2011 under Recording No. 20011224001383.

The Company makes no representations about the present ownership of these reserved and excepted interests.

**SCHEDULE B**

(continued)

4. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: The Pacific Telephone and Telegraph Company  
Purpose: Telephone Poles  
Recording Date: April 16, 1923  
Recording No.: 1726627  
Affects: Portion of said premises and other property

5. Development Right Certificate and the terms and conditions thereof:

Recording Date: September 28, 2017  
Recording No.: 20170928001756 .

6. Development Right Certificate Recording Notice and the terms and conditions thereof:

Recording Date: October 3, 2017  
Recording No.: 20171003000132 .

7. The search did not disclose any open mortgages or deeds of trust of record, therefore the Company reserves the right to require further evidence to confirm that the property is unencumbered, and further reserves the right to make additional requirements or add additional items or exceptions upon receipt of the requested evidence.

8. Any unrecorded leaseholds, right of vendors and holders of security interests on personal property installed upon the Land and rights of tenants to remove trade fixtures at the expiration of the terms.

**END OF SCHEDULE B**

**Exhibit K**

**City of Black Diamond Final Letter of Notification for Parcel No. 1121069051**



# CITY OF BLACK DIAMOND

24301 Roberts Drive  
PO Box 599  
Black Diamond, WA 98010

Phone: (360) 886-2560  
Fax: (360) 886-2592  
www.ci.blackdiamond.wa.us

## FINAL LETTER OF NOTIFICATION

October 29, 2009

William Kombol  
For: Zumek, Luthi, Kuzaro, ET. Al. Tax Parcel # 112106-9051  
30533 - 234th Ave. S.E.  
Black Diamond, WA 98010

**Subject: Final Notice of Transferable Development Rights for Parcel #112106-9051**

Dear Mr. Kombol,

This letter is a final notice identifying the number of transferable development rights available to you pursuant to Chapter 19.24 of the Black Diamond Municipal Code.

The most current estimate indicates that there are 39 development rights, including any bonus, available from this parcel. This number may differ from prior estimates due to adjustments made since the preliminary estimate was prepared. **Please note that since this is an estimate, you are not vested to this number for real estate transactions or any other purpose.**

If you agree with this number and wish to sell or transfer some or all of your development rights, please contact the City Hall number above for an application for a Development Rights Certificate for these rights. This certificate authenticates the final number of development rights and authorizes their use in real estate transactions. Also, if you agree, your name and number of development rights will be placed on a city register available to developers who are seeking to obtain development rights for their projects. They may be in contact with you to purchase these rights.

If you do not agree with this number of development rights, you can appeal to the Black Diamond City Council in accordance with Section 19.24.070 of the Municipal Code. To appeal, you must complete and application (available at City Hall) and include a survey of the property in question that shows alleged dimension error(s) in relation to actual field conditions. The survey must be stamped by a licensed surveyor, authorized to practice in the state of Washington.

The City of Black Diamond welcomes your participation in the TDR Program and is committed to assist you throughout the process. However, since the sale of development rights is based on the confidential disclosure between buyer and seller in the private sector, the City is unable to help in negotiating the purchase, sale, or transfer of development rights. If you would like such assistance, we encourage you to involve a family member, real estate/financial advisor, or perhaps a neighbor who has sold their development rights.

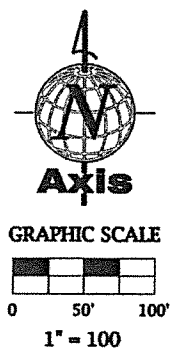
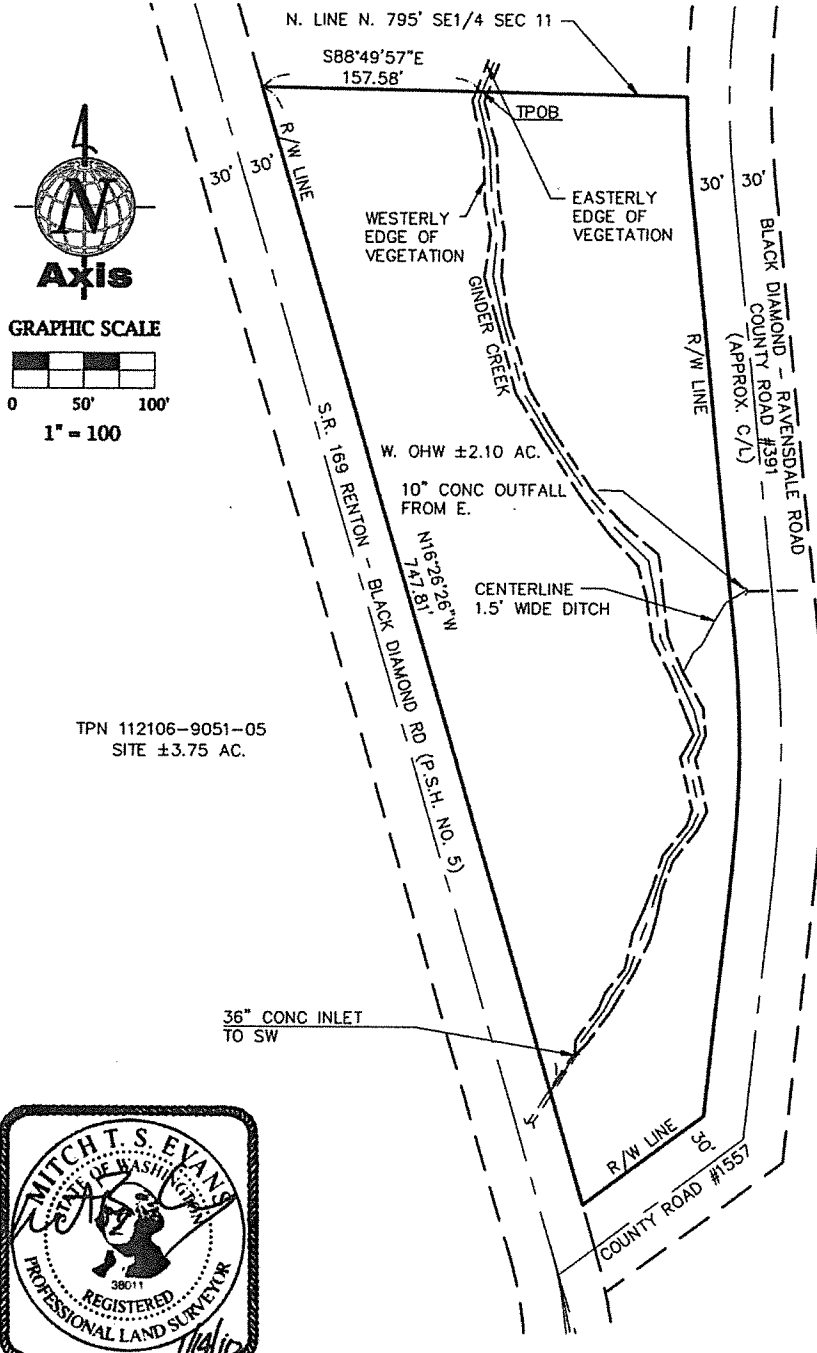
If you have questions or you would like assistance, please call City Hall at 360.886.2560 x220 and talk with Aaron Nix, the City's Natural Resources Director.

Sincerely,

A handwritten signature in black ink that reads "Leonard J. Smith". The signature is written in a cursive style with a large initial "L".

Leonard Smith,  
City Administrator  
City of Black Diamond

# ORDINARY HIGH WATER - EXHIBIT



TPN 112106-9051-05  
SITE ±3.75 AC.



NW 1/4, SE 1/4, SEC. 11, TWP. 21N., RGE. 6E., W.M.  
COUNTY OF KING, STATE OF WASHINGTON

 <p><b>Axis</b> Survey &amp; Mapping</p> <p>13005 NE 126th PL KIRKLAND, WA 98034 TEL. 425.823-5700 FAX 425.823-6700</p>	<a href="http://www.axismap.com">www.axismap.com</a>	
	JOB NO. <b>08-110</b>	DATE <b>1/14/10</b>
	DRAWN BY <b>TJO</b>	CHECKED BY <b>MISE</b>
	SCALE <b>1"=100'</b>	SHEET <b>1 OF 1</b>