

Public Comment

February 1, 2022

Members of the GMPB,

Good morning. With regards to this Thursday's February 3, 2022, GMPB Meeting *Agenda Item 6. Recommend Conditional Certification of Black Diamond Comprehensive Plan*, please accept the attached **Citizens' Technical Action Team (TAT) Comments** on PSRC Staff's *PLAN REVIEW REPORT & CERTIFICATION RECOMMENDATION* dated January 27, 2022.

Earlier we submitted to PSRC Staff the following contained in your meeting packet as *Attachments D and E*:

Attachment D: Whether the City of Black Diamond's Revised 8-Year Major Comprehensive Plan Update Meets PSRC Conditions of Certification, TAT Detailed Comments, dated December 20, 2021.

Attachment E: Comments—City of Black Diamond's Comprehensive Plan Certification Letter, TAT Comments, dated December 21, 2021.

In early 2020 we submitted to you for the February 6, 2020, GMPB Meeting the following in response to PSRC Staff's: *Recommend Conditional Certification of Black Diamond Comprehensive Plan dated January 30, 2020*:

Cover Letter, dated February 6, 2020.

Attachment 1: PSRC GMPB--2-6-20--BDGP Conditional Certification--TAT Comments, dated February 6, 2020.

Attachment 2: Proposed Amendments for the Black Diamond Comprehensive Plan 2019 Docket (Matrix), dated November 30, 2019.

As we stated then, we appreciate the work all of you do as part of the GMPB and your continued service—thank you. We request you give due consideration to our detailed research, findings, and recommendations regarding PSRC Staff's recommendation for "*conditional certification*" of the *Plan*. Thank you.

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"To know and not to do is not to know."-- Chinese proverb

cc: Paul Inghram, PSRC, Director of Growth Management Planning
Kelly McGourty, PSRC, Director of Transportation Planning
Laura Benjamin, PSRC, Senior Planner, Growth Management Planning
Ivan Miller, King County, Comprehensive Planning Manager

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**PSRC PLAN REVIEW REPORT & CERTIFICATION RECOMMENDATION
CITY OF BLACK DIAMOND COMPREHENSIVE PLAN**

BACKGROUND

PSRC conditionally certified the City of Black Diamond's 2019 periodic update of the city's comprehensive plan on February 27, 2020. PSRC staff reviewed the 2019 update and found the plan to be largely consistent with the multicounty planning policies and the regional transportation plan, and to conform to the majority of transportation planning requirements in the Growth Management Act. However, the plan as adopted did not meet requirements related to growth targets and consistency with the Regional Transportation Plan, and staff recommended certification with conditions. The [2019 Plan Review and Certification Recommendation](#) for the City of Black Diamond comprehensive plan update identified conditions to be addressed through comprehensive plan amendments and a council resolution to be completed by December 31, 2020.

The city received two deadline extensions to provide additional time to address delays related to the COVID-19 pandemic and to allow time for the resolution of related SEPA appeals. In February 2021, the city adopted a resolution and in December 2021 the city adopted amendments to the plan that address the conditions and resubmitted the plan for review and certification. While these amendments were adopted in 2021, they are part of the 2020 docket and thus are referred to as the 2020 comprehensive plan amendments.

PSRC staff reviewed the 2020 comprehensive plan amendments and coordinated with city staff in the development of this report and the city acknowledges and understands the conditions outlined on pages 2-3.

As we explained in our detailed Comments (*Attachment D - Technical Advisory Team Public Comments, dated 12/21/21*), the City is not trapped as implied by PSRC Staff in its January 27, 2022, Action Item Brief to the GMPB: "This inconsistency stems, in part, due to a history of land use decisions, including an agreement with King County and property owners that set the urban growth area in the mid-1990s, annexation in 2005, and issuance of the MPD permits in 2010." It cannot be over emphasized that the City is not constrained to simply accept full buildout of the MPDs. There are two major events where the City has "escape hatches."

- 1. The *first* event is the new Traffic-Demand Model (TDM) and subsequent traffic analyses that is required once 850 permits have been issued. The City manages this work that is paid for by the Master Developer per MPD Permit *Condition of Approval 17a*. This will be the first rigorous TDM (and analyses based on it) to be conducted—as explained elsewhere herein. If realistic assumptions are used, it could be expected that current and planned transportation infrastructure will to be unable to handle full buildout to 6,050 homes and 1.15M sq ft of commercial space.**
- 2. The *second* event is the expiration of the MPD Development Agreements in late 2026. At that timeframe negotiations will address any extension, etc. The City will have the flexibility to downsize the MPDs to what the current and planned transportation infrastructure will be able to handle.**

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CERTIFICATION RECOMMENDATION

Based on the review of the 2020 City of Black Diamond comprehensive plan amendments and council resolution, the following action is recommended to the PSRC Growth Management Policy Board, Transportation Policy Board, and Executive Board:

The Puget Sound Regional Council conditionally certifies that the transportation-related provisions in the City of Black Diamond 2020 comprehensive plan amendments conform to the Growth Management Act and are consistent with multicounty planning policies and the regional transportation plan. **The amendments do not conform to the GMA and are not consistent with VISION MPPs. In effect, such *conditional certification* gives the City a pass on its 2015 major update, which the City’s amendments were meant to complete.**

Conditional status is in place until the city amends the comprehensive plan to ensure consistency with the Regional Transportation Plan. **It should be noted that the amendments are not even consistent with the *existing* RTP (updated in 2018).**

These amendments shall be acted upon by the city on or before the next periodic update deadline as determined by the state. The current deadline is June 30, 2024. **Pushing things forward to the City’s 2023 major update, will simply allow the City to go through another cycle of planning that does not conform to the GMA and is not consistent with VISION MPPs. This would send the wrong message to all jurisdictions planning under the GMA and, we believe, set a clear precedent.**

Discussion of the conditional requirements and past conditional requirements that have been met are provided in Part 1, below. The [2019 Plan Review and Certification Recommendation](#) report provides additional recommendations for future work which may be considered during the next comprehensive plan update or during planning efforts and are not required to satisfy conditional certification. **Our extensive research and preparation of detailed Comments applied all the guidance presented in the *PSRC Plan Review Manual*—in fact, we quoted and applied its provisions often in our Comments, particularly in Section 5.0 PSRC GUIDANCE—COMPREHENSIVE PLANS.**

Part I: Conformity with Growth Management Act Transportation Planning Requirements

SCOPE OF REVIEW

The Growth Management Act (RCW 36.70A.070(6)) includes several requirements related to transportation elements in local comprehensive plans. These requirements are summarized as follows:

Land use assumptions and forecasts of travel demand that are internally consistent and consistent with growth targets. **Not met—see our detailed Comments.**

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Service and facility needs, including inventories of existing facilities, and level-of-service standards and concurrency provisions that address multiple modes of travel, planned land uses and densities, and state highways. **Not met—see our detailed Comments.**

Financing and investments, including a multiyear financing plan and reassessment strategy to address potential funding shortfalls. **Not met—see our detailed Comments.**

Intergovernmental coordination with neighboring cities, counties, and regional and state agencies. **Not met—see our detailed Comments.**

Demand management, including programs to implement the Commute Trip Reduction Act.

Pedestrian and bicycle planning, including project funding and capital investments, education, and safety. **Not met—see our detailed Comments.**

Land uses adjacent to airports, identifying relevant facilities, existing and planned uses, and policies that discourage incompatible uses.

Air quality is largely an interjurisdictional issue in which each jurisdiction's travel behaviors, measured through vehicle emissions, affect the regional airshed. The Washington Administrative Code (WAC) requires local transportation elements and plans to include "policies and provisions that promote the reduction of criteria pollutants" for mobile sources (WAC 173-420-080). When PSRC reviews plans, it also certifies that the comprehensive plans include air quality policies and provisions, including a commitment to meeting the requirements of applicable federal and state air quality legislation.

DISCUSSION: EXEMPLARY PLAN PROVISIONS

The City of Black Diamond's 2020 comprehensive plan update effectively addresses many of the transportation planning requirements of the Growth Management Act and includes adequate air quality policies and provisions. Highlights include:

The plan has been amended to reflect planning for State Route 169 consistent with the Regional Transportation Plan and plans from WSDOT and to delete references to a proposed widening of SR 169 through the city. The comprehensive plan now indicates that a WSDOT route development plan that includes widening in Black Diamond was not completed for SR 169 and that widening SR 169 within the Black Diamond city limits is not included in the Regional Transportation Plan. It is understood from discussions with the city that Table 0-6 represents the city's TIP and that a remaining reference to widening of SR 169 in Table 0-8 is not a recognized city transportation project and is listed only as a transportation concept to be considered for future exploration. **The City calls Table 0-8. Transportation Capacity Adding Projects (2022-2035) "future transportation recommendations." If those "recommendations" do not constitute the plan the GMA requires be clearly stated, then where is that plan? The City cannot have it both ways. Either present a plan or state it doesn't have a plan that meets GMA requirements and conforms with the existing RTP (2018 update) or VISION 2040. The BOTTOM LINE is that the City's revised Comprehensive Plan Update simply changed a few references to the widening of SR-169 WITHOUT changing a single Table, Figure, Project List, Funding Plan, or the underlying traffic modeling and analyses for same.**

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The plan now recognizes SR 169 as a designated highway of statewide significance and acknowledges WSDOT's role in establishing the level of service on this facility.

The plan has been amended to provide a more detailed explanation of contingency plans to address any funding shortfalls that may occur if the planned improvements through the Master Planned Developments are not fulfilled. (RCW 36.70A.070(6)(a)(iv)(C)) **The plan does not “provide a more detailed explanation of contingency plans to address any funding shortfalls.” Our Comments go into this in much detail, see: Subsection 3.3 CONDITION 3 — Contingency Planning.**

The City Council adopted Resolution 21-1407 on February 4, 2021, committing the city to continue working with regional, county, and local planning agencies during the 2021 target-setting process and in future years to begin narrowing the gap between anticipated growth and regional growth targets; to manage the impacts of the approved Master Planned Developments on neighboring communities and the regional transportation system; to avoid significant increases in development capacity beyond adopted targets; and to advance the integrity and mission of VISION 2040 and the Regional Growth Strategy through policies and implementation strategies adopted in the city's comprehensive plan and regulatory standards. **The City, in practice, has not followed its own Resolution. It lobbied for much higher Housing Growth Targets during the 2021 CPP Update. It continues to not work with King County on the massive impacts its planned growth will have on already congested and grossly underfunded traffic corridors through the County's Rural Area. It continues to ignore pleas from members of the Public. Finally, it has completely ignored our Comments since the April 2, 2014, Kickoff Meeting for its 2015 Comprehensive Plan Update. We were deeply insulted and professionally maligned that the City has dismissed every comment we have ever made to the City (including typos, which still persist in its Update), so much so that we finally decided to only work with PSRC Staff. Our efforts with PRSC Staff helped develop the *original* four Conditions placed on the City's Comprehensive Plan Update by the GMPB in February 2020.**

The plan includes expanded policy support in Policy T-24 for coordination among cities regarding transportation solutions to provide safer and more efficient travel in the SR 169 corridor. **Policy T-24 simply states: “Identifying solutions and developing an intergovernmental strategy to pursue state and/or joint grant funding, and equitably distribute developer-provided funds to all affected jurisdictions.” The City is happy to coordinate in finding grant monies, but not coordinate on what its massive growth plans will do to southeast King County cities and unincorporated areas. Once again, the City cannot have it both ways.**

DISCUSSION: CONDITIONS FOR CERTIFICATION

The following provides additional discussion regarding the conditional certification the city should address by June 30, 2024, through the major periodic plan update:

The plan's discussion of SR 169 was updated to be consistent with WSDOTT, including the 2007 Route Development Plan, and the Regional Transportation Plan. While it now acknowledges that

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a widening of SR 169 within Black Diamond city limits is inconsistent with the Regional Transportation Plan, the plan still includes references and analysis to widening SR 169, specifically Table 0-8 in the Transportation Appendix. From discussions with city staff, it was made clear that Table 0-8 is a list of informal transportation concepts. To improve clarity in the plan and prevent confusion, the plan should be amended to remove any references to widening SR 169, and transportation modeling for the plan update should be consistent with the Regional Transportation Plan and WSDOT plans for SR 169. **This is exactly what the City should be required to do on its 2015 Update now under consideration, not wait until its next Update in 2023. This essentially is providing the City a “Get Out of Jail Free” card.**

DISCUSSION: AREAS FOR FURTHER WORK

The city should consider the following comments as part of the 2024 major periodic update to the comprehensive plan:

The city’s anticipated growth due to the two approved Master Planned Developments significantly exceeds its adopted 2031 growth targets. Council Resolution 21-1407 and the plan acknowledge the inconsistency between the anticipated growth in Black Diamond, the adopted growth targets, and the Regional Growth Strategy and commits the city to work with PSRC, King County, and neighboring jurisdictions to manage growth and mitigate its impacts, including on surrounding communities, rural and resource lands, and the regional transportation system. While the language included in the plan and resolution is important, this does not resolve the inconsistency between anticipated growth and the adopted growth targets. As such the city should continue to work to implement Council Resolution 21- 407, specifically:

- o Coordinate with King County and other jurisdictions as part of the 2024 plan update process.
- o Avoid increases in development capacity that would significantly surpass adopted targets.
- o Plan for substantial consistency with the adopted countywide growth targets, continue to coordinate with other jurisdictions regarding unanticipated growth levels, and assess and mitigate traffic impacts from growth.

It would be nice, but the City only will give lip service to the above three work items. Our experience with the City goes back well over 12 years and its actions have not measured up to its words. Its 2015 Comprehensive Plan Update is an excellent example of the City’s extensive doublespeak.

The city’s Policy T-20 discusses the availability of federal transportation grants. Federal transportation grants are distributed through regional competitions managed by the Puget Sound Regional Council and through countywide competitions. The city is encouraged to review grant criteria to improve eligibility. Having a regionally certified or conditionally certified comprehensive plan, including demonstrated consistency with VISION 2050 and the Regional Transportation Plan, is the first requirement for grant eligibility. Grant applications are reviewed for consistency by considering a range of policy-based criteria. Aligning local and regional transportation plans and addressing regional transportation objectives is an important step for projects to be competitive for grants. **Given its lack of performance and sincerity on the Update under consideration, clearly, the City should not be eligible for any Grant monies.**

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Conclusion

Additional background can be found in the [City of Black Diamond 2019 Plan Review and Certification Report](#). PSRC staff thanks the city for working through the plan review and certification process. PSRC is available to provide assistance for future plan updates and the upcoming 2024 periodic update. Additional planning resources can also be found at <https://www.psrc.org/our-work/plan-review>. Questions should be directed to Laura Benjamin at 206-464-7134 or LBenjamin@psrc.org.

As presented in our detailed Comments, we urgently request the GMPB REJECT the City's revised Update as its plans and policies are inconsistent with the GMA, VISION 2050, the existing RTP (2018 update), specific requirements of state law, and guidance provide in the PSRC Plan Review Manual—all described in detail in our Comments.

In addition, as presented in our detailed Comments, see: Section 8.0 RECOMMENDATIONS, we urge the GMPB to provide the City with the following *prescriptive guidance* on what is expected in a satisfactory *Comprehensive Plan Update*:

- Fully state the land-use and transportation assumptions, and demonstrate how these assumptions are consistent with regional plans (e.g., VISION 2040 or VISION 2050).
- Identify the baseline improvements necessary to meet LOS standards.
- Identify public financing for those improvements (not a development cost).
- Coordinate with adjacent jurisdictions to establish the required improvements for *existing* conditions along those routes impacted by traffic to/from Black Diamond (which improvements must be found in the comprehensive plans of those jurisdictions and are not a responsibility of Black Diamond).
- Develop and employ a Traffic-Demand Model that is regionally integrated to forecast traffic flows between origins and destinations to and beyond I-90 in the north, to and beyond I-405 in the west, and to and beyond SR-410 in the south. For example, either the Covington or Maple Valley traffic models, or the PSRC regional model, could be adapted to this purpose by adding the internal details within Black Diamond itself, so that Black Diamond need not re-invent the modeling of external factors.
- Repeat the entire analysis assuming the VISION 2040 Growth Target of 1,900 new homes, to identify internal and external mitigation improvements necessary at that level. Demonstrate the mitigation needed at that level and account for who/how/when it will be provided, and whether the existing MPD agreements are sufficient for the purpose or additional other funding is required and why. Identify financial resources to accomplish all mitigation, in specific detail.

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- Repeat the entire analysis for full buildout of the MPDs at 6,050 new homes plus all other growth the City contemplates in its *Land-Use Map*, with mitigation improvements and financial resources sufficient for a balanced plan.
- Each analysis scenario must include Black Diamond growth traffic impacts on other jurisdictions, as far as I-90 to the north and I-405 to the west, and SR-410 to the south, but only those impacts that are linked to trips beginning or ending in Black Diamond.
- Each analysis scenario must identify specific mitigation improvements for each affected route to resolve the deficiencies associated with Black Diamond impacts, which shall be consistent with the adopted transportation plans of the adjacent jurisdictions and supported by letters confirming agreement from those jurisdictions.
- Each analysis scenario must include a *balanced* financial plan showing the amounts and sources of funds sufficient to provide the necessary mitigation improvements over the lifetime of the plan. The plan shall demonstrate the reasonableness of the funding sources assumed, and provide a detailed contingency plan in the event that any assumption fails to materialize, which shall include downsizing or postponement of development plans until sufficient funds are found.
- The City is encouraged to consider multi-modal demand management strategies to reduce or offset traditional automobile travel, but must demonstrate how such strategies will be funded and implemented consistent with regional transportation plans such as Sound Transit and King County Metro. A reduction of vehicular traffic may *not* be simply *assumed*, without confirming that the applicable transit operating agencies agree to provide the relevant services and how it will be paid for.
- If the plan's financial analyses lead to adopting a Transportation Impact Fee (TIF), it must be formulated specifically for each alternative scenario and include an accounting for provisions of the MPD Development Agreements and show when or how the MPDs would be required to participate in an impact fee over and above the current agreement, and how other non-MPD developments (called "*in-fill developments*" by the City in its *revised Update*) would be treated to mitigate their specific impacts, fairly and equitably alongside the MPDs.