
CALL TO ORDER – Call to Order, Agenda Review, Conflict Disclosure
PUBLIC COMMENT – Accept public comment on off agenda items
WYATT APARTMENTS SPR – Conceptual Project Presentation
SMP AMENDMENT – Non-Conforming/Existing Structures
BUSINESS/INDUSTRIAL REGULATIONS – Study Session
NEW/OLD BUSINESS
ADJOURN

CALL TO ORDER – Call to Order, Agenda Review, Conflict Disclosure

Chair J. Mack Pearl called the meeting to order at 7:04 PM. Planning Commissioners in attendance were Jon Quitslund, William Chester, Michael Killion, Lisa Macchio and Kimberly McCormick Osmond. Don Doman was absent and excused. City Staff present were Planning Director Gary Christensen, Senior City Planners Jennifer Sutton and Christy Carr and Administrative Specialist Jane Rasely who monitored recording and prepared minutes.

The agenda was reviewed. There were not any conflicts disclosed.

PUBLIC COMMENT – Accept public comment on off agenda items

None.

WYATT APARTMENTS SPR – Conceptual Project Presentation

James Cutler, Cutler Anderson Architects, gave a brief introduction to this project.

SMP AMENDMENT – Non-Conforming/Existing Structures

Discussion facilitated by Senior City Planner Christy Carr.

BUSINESS/INDUSTRIAL REGULATIONS – Study Session

Discussion facilitated by Senior City Planner Jennifer Sutton.

Terry McGuire, Citizen – Spoke about not changing zoning at all until performance based standards were in effect (quoted former mayor Val Tollefson).

NEW/OLD BUSINESS

Upcoming Planning Commission Schedule.

Joint meeting with Design Review Board March 22, 2018.

ADJOURN

The meeting was adjourned at 9:55 PM.

Approved by:


J. Mack Pearl, Chair


Jane Rasely, Administrative Specialist



March 8, 2018 7:00 – 9:00 PM

[illegible]

City of Bainbridge Island -- SMP Amendment
Existing Development Comparison

Existing Shoreline Master Program

Action	Regulations for Single-Family (Primary) Structures
Repair	Changes to the structure that would alter or increase the nonconformity are not permitted
Replacement (Intentionally Demolished)	- Existing structures may be maintained, repaired, renovated, or remodeled (note: does not say "replaced") - If moved, the structure shall be made to conform to regulations of this program
Replacement (Destroyed by Natural Cause)	- If an existing primary structure is damaged or destroyed by fire, explosion, earthquake, flooding or other casualty, it may be reconstructed to the bulk dimension existing immediately prior to the catastrophic event, provided: - The replacement structure shall not warrant new shoreline stabilization for the life of the new structure - The replacement structure meets geologically hazard provision for existing development in Section 4.1.5, Regulations – Nonconforming Uses, and Appendix B - If an existing primary residential structure is damaged or destroyed as described by natural causes, the existing primary residential structure configuration may be altered or expanded (per regulations below)
Expansion	General requirements (applies to all structures): - Any vertical or horizontal extension of a wall must meet current requirements - Adding to the footprint of an existing structure is permitted as long as the addition meets current requirements - No further encroachment into buffers permitted unless allowed in SMP or through an approved variance Primary structures: - Enlargement or expansion of the building configuration, including any new impervious surfaces located within the Shoreline Buffer shall be located landward of the existing or original building footprint, only one such expansion may occur within the lifetime of the development, and the expansion shall not exceed: - The allowed building area for Point Monroe District - The allowed building area for encumbered lots - For structures not meeting above; twenty five percent (25%) of the existing building footprint.
Expansion on/in steep slope	Redevelopment of existing structures: - If an existing structure is damaged or is intentionally demolished the new structure must meet all the provisions of a new structure. - Structural alteration to an existing legally constructed structure that does not increase the structural footprint and are determined by the City Engineer as having a minimal potential for increasing landslide hazard and meets the minimum buffer dimensions in B-9(E)(3)(i).
Residential accessory structures	If an existing residential accessory structure is damaged, destroyed or intentionally demolished, the reconstruction shall be in conformance with all standards of the Program (note: accessory structures are often intentionally demolished to replace in whole or part as "repair," e.g., rotten deck or stairs) An existing essential single family residential accessory structure may be reconstructed as follows: - Replacement structure is the same bulk dimension as the existing structure. - Replacement structure may be located within Zone 2 provided mitigation occurs in accordance with 4.1.2.5 – Revegetation Standards. - Attached decks essential to a single-family residence may be replaced in the same location. - All other applicable standards and provisions are met, including regulations of this Program, the Bainbridge Island Municipal Code, the septic system requirements of the Kitsap Health District, and any state and federal laws.

Existing Critical Areas Ordinance

Action	Regulations
General provisions – buildings	Structures and related improvements that were legally built or vested prior to the effective date of Ordinance No. 2005-03 that do not meet the setback or buffer requirements of this chapter may continue to exist in their present form, and may be altered, including remodeled, reconstructed, or expanded, if such alteration complies with the provisions of this section. Existing structures, not located in a geologically hazardous area, that were legally built or vested prior to the effective date of Ordinance No. 2005-03 may be altered if: • There is no change in the footprint of the building; • The remodel is entirely inside the existing building; • There is no further encroachment into the buffers required pursuant to this chapter unless a variance is first approved; or • Any expansion of the building footprint is exclusively on the sides that do not touch the buffers.
General provisions – structures other than buildings	Any structure other than a building that is damaged or removed to an extent that exceeds 50 percent of its square footage may be replaced or reconstructed in substantially the same location and of substantially the same design as the pre-damaged or pre-removed structure, if a complete application is submitted for any and all required construction permits within 180 days of the damage or removal. Existing property improvements other than structures, including driveways, parking areas, yards, play areas, storage areas, and similar improvements that were legally established or vested prior to the effective date of Ordinance No. 2005-03 may be altered if: • There is no change in the location of the improvement; • Any alteration of the improvement is entirely inside of the existing boundaries of the improvement; • There is no further encroachment into the buffers unless a variance is first approved; or • Any increase in the area of the improvement is exclusively on the sides that do not touch the buffers. • Alterations permitted by this section shall not be exempt from applicable city review or permit requirements or other applicable city codes.
Expansion on/in steep slope	Included in exemptions: Structural alteration to an existing legally constructed structure that does not increase the structural footprint and is determined by the city engineer as having a minimal potential for increasing landslide hazard

Action	Regulations
General provisions – buildings	Structures and related improvements that were legally built or vested prior to the effective date of Ordinance No. 2018-01 that do not meet the requirements of this chapter may continue to exist in their present form, and may be altered, including remodeled, reconstructed, or expanded, if such alteration complies with the provisions of this Section and all other applicable sections of this Chapter. Existing buildings that were legally built or vested prior to the effective date of Ordinance No. 2018-01 may be altered only one time within the lifetime of the structure and: • The expansion of the footprint is outside a landslide hazard area or landslide hazard area setback unless required for safety or seismic upgrades; • Any expansion of the footprint is located only within a critical area buffer. No expansion of the footprint is allowed within a wetland or fish and wildlife habitat conservation area; • Any expansion of the footprint within a critical aquifer recharge area is located outside the Native Vegetation Protection Area pursuant to BIMC 16.20.090.E. • Cantilevers over critical areas are not allowed; • The expansion of the footprint at ground level does not exceed 500 square feet; • Any expansion of the footprint is used only as indoor living space or to accommodate accessibility; • Any expansion of the footprint is no closer to the critical area than the existing footprint; and • If a building is harmed or destroyed by more than 50 percent of its square footage, the building must be reconstructed in compliance with the requirements of this Chapter.
General provisions – structures other than buildings	Existing property improvements other than buildings, including driveways, parking areas, yards and landscaped areas, play areas, storage areas, decks less than 5 feet in height, patios, and similar improvements that were legally established or vested prior to the effective date of Ordinance No. 2018-01 may be altered if: • Any alteration is in substantially the same location as the original property improvement; • Any expansion of the footprint is located only within the required buffer. No expansion of the footprint is allowed within the critical area itself and cantilevers over critical areas are not allowed; • Any expansion of the footprint is no closer to the critical area than the existing footprint; and • Any expansion of the footprint within a critical aquifer recharge area is located outside the Native Vegetation Protection Area pursuant to BIMC 16.20.090.E.

Existing Zoning Ordinance

Action	Regulations
General provisions – buildings	A nonconforming structure may remain and be used; provided, that: • Changes to the structure that would alter or increase the nonconformity are not permitted. • Any vertical or horizontal extension of a nonconforming wall must meet the applicable standards. • Adding to the footprint of a nonconforming structure is permitted as long as the addition meets the requirements of BIMC Title 18 (Zoning) • If moved, the structure shall be made to conform to regulations of this code • If a building is harmed or destroyed by more than 50 percent of its square footage, the building must be reconstructed in compliance with the requirements for the zone in which it is located
General provisions – structures other than buildings	Any structure other than a building that is damaged or removed to an extent that exceeds 50 percent of its square footage may be replaced or reconstructed in substantially the same location and of substantially the same design as the pre-damaged or pre-removed structure, if a complete application is submitted for any and all required construction permits within 180 days of the damage or removal.

4.2 General Use

4.2.1 Nonconforming Uses, Non-Conforming Lots, and Existing Development

4.2.1.1 Applicability

This section applies to shoreline uses, lots, and/or structures that were lawfully established or constructed prior to the effective date of the initial adoption of the ~~Master~~ this Program (November 26, 1996) or ~~its amendments thereto, but~~ and which do not conform to ~~present~~ current regulations or standards of the ~~Master~~ this Program. Existing structures and uses that do not conform to this Program are not required to meet its requirements, unless changes to a structure or use that would require review under this Program are proposed.

4.2.1.2 Goal

It is the purpose of this ~~program section~~ section to recognize legally established uses, lots, and structures ~~primary residential structures~~, and to allow them to be maintained, repaired, remodeled, replaced, and in some cases expanded, in conformance with ~~these rules~~ current regulations and standards of this Program with due regard to unique site conditions and property rights. ~~Residential structures that do not conform to this program should, over time, as the owner proposes changes to the structure, conform as completely as possible to this program, with due regard to unique site conditions and property rights.~~

~~It is further the purpose of this program~~ A further goal is to ultimately, over time, have uses and commercial structures conform to the provisions current regulations and standards of this pProgram. Over time, uses and commercial structures that do not conform to the current regulations and standards of this pProgram should be phased out as uses cease or redevelopment of structures occurs.

~~Note: Existing structures and uses that do not conform to this Program are not required to meet its requirements, unless the owner proposes changes to a structure or use that would require review under this Program.~~

4.2.1.3 Policies

- ~~1. Lawfully constructed commercial and industrial structures shall be allowed to be repaired, maintained, and remodeled provided that the alteration does not increase the noneonformity.~~
- ~~2. Lawfully constructed structures, established uses, public facilities, transportation structures, and/or lots of record located within the shoreline jurisdiction prior to the effective date of the Master Program but which do not conform to the present policies, regulations or standards, shall be allowed to continue and be repaired and maintained.~~
- ~~3. Lawfully constructed residential structures may be repaired, maintained and remodeled, and in some cases expanded, provided the alteration meets the goals and provisions of this program~~ current regulations and standards of this Program.

4. ~~Lawfully constructed residential structures may be expanded in some circumstances, provided the expansion will not result in adverse impacts to shoreline ecological functions and processes, and mitigation is provided.~~
5. Once discontinued, reestablishment of nonconforming uses ~~located in the shoreline jurisdiction shall~~ should be restricted.
6. Lawfully constructed commercial structures that do not conform to the standards and regulations of this Program ~~are located in the shoreline jurisdiction~~ are to be phased out over time. ~~Depending on the extent and intensity of the nonconformity, a primary residential structure and primary appurtenance, may be allowed certain alteration or expansion, provided that adverse impacts to shoreline ecological functions and shoreline processes are mitigated or restored.~~
7. Lawfully constructed structures that are destroyed by fire, explosion, flood, or other casualty may be ~~restored or replaced without increasing or expanding the nonconformity, and are encouraged to decrease nonconformity~~ reconstructed to configurations existing immediately prior to the time the structure was damaged or destroyed. Decreases in nonconformity should be encouraged. ~~Legally established overwater structures that are destroyed may be reconstructed to the same size, but the configuration may be altered to reduce the impact to the shoreline environment provided the size of the nonconformity is not increased. Such redevelopments may be permitted provided that impacts to shoreline functions and processes are mitigated or restored, and the reconstruction application is submitted within two years of the date of destruction.~~
8. ~~Legally established~~ Lawfully constructed and located overwater structures that are destroyed may be reconstructed to the same size, ~~but the configuration may be and modified, reoriented or altered within the same general location to be more consistent with the provisions of this Program.~~ altered to reduce the impact to the shoreline environment provided the size of the nonconformity is not increased.
8. ~~Provisions for reconstruction of a lawfully constructed residential house shall allow certain expansions of the existing structure when it can be demonstrated that the expansion will not result in adverse impacts to shoreline ecological functions and shoreline processes are mitigated or restored.~~
9. Legally created nonconforming lots of record may be developed consistent with the standards and regulations of this Program. ~~provided that adverse impacts to shoreline ecological functions and shoreline processes are mitigated or restored.~~
10. Redevelopment of nonconforming public rights-of-way and associated existing transportation structures may be permitted for purposes of facilitating essential public access, development of public trails and/or public shoreline access.

4.2.1.4 Regulations – General

1. Nonconforming uses and ~~developments and/or existing buildings~~ and structures that were lawfully constructed or ~~existed~~ established prior to the effective date of ~~initial adoption~~ of this Program (November 26, 1996), or its amendments thereto, ~~but and~~ which do not meet the ~~specific~~ current regulations and standards of this Program, may be continued subject to the provisions of this section.

2. A complete application for any reconstruction under this section must be submitted within two (2) years of the date of damage or removal, and upon approval of the application, redevelopment must be completed within one (1) year of the commencement of reconstruction. A one (1) year extension may be granted, provided that a written request is submitted no later than twenty-one (21) days prior to either deadline and provided that the owner is not responsible for the delay.
3. ~~An existing use designated by the adoption of an applicable amendment hereto as a conditional use that lawfully existed prior to the adoption of the Program or the adoption of an applicable amendment hereto and which has not obtained a conditional use permit, shall be considered a legal nonconforming use and may be continued subject to the provisions of this section without obtaining a conditional use permit.~~
4. A structure for which a variance has been issued but which does not comply with applicable requirements of this Program ~~as amended or amendments hereto~~ shall be considered a legal existing structure and the requirements of this section shall apply.
5. ~~Any permitted remodel or expansion shall not cause adverse impacts to shoreline ecological functions and/or processes. Any alterations to existing uses or structures shall~~ meet the no net loss standard pursuant to Section 4.1.2.4. The current condition of the shoreline, including existing uses and structures, shall be the starting point or baseline for determining compliance with the no net loss standard.

4.2.1.5 Regulations - Nonconforming Uses

1. Nonconforming uses shall not be altered or expanded in any way that increases the nonconformity.
2. If a nonconforming use is discontinued for twelve (12) consecutive months, any subsequent use shall be conforming; except that if a nonconforming use is operated within a nonconforming structure that is accidentally damaged or destroyed and reconstruction is proposed under Section 4.2.1.6.1(3), then the use may be re-established within the same time period as the reconstruction for the nonconforming structure pursuant to Section 4.2.1.4(2)
3. A nonconforming use cannot be changed to another nonconforming use.
4. Change of ownership, tenancy, or management of a nonconforming use shall not affect its nonconforming status, provided that all provisions are met.
5. ~~An existing use designated by the adoption of an applicable amendment hereto as a conditional use that lawfully existed prior to the adoption of the Program or the adoption of an applicable amendment hereto and which has not obtained a conditional use permit,~~ A use listed in Table 4-1 as a conditional use that lawfully existed prior to the adoption of this Program or amendments hereto shall be considered a legal nonconforming use and may be continued subject to the provisions of this section without obtaining a conditional use permit.

END OF REVISIONS FOR MARCH 8, 2018 MEETING

Recommendations for Revisions to SMP Section 4.2.1 Nonconforming Uses, Nonconforming Lots, and Existing Development

Retain existing nomenclature related to nonconforming uses, nonconforming lots, and existing development.

Categorizing uses and structures that are not consistent with newly established regulations as “nonconforming development” is an established concept, dating from the introduction of zoning regulations in the early 20th century. Nonconforming development includes uses, lots and structures. The City Council opted to use “existing development” instead of “nonconforming structures” to a) respond to shoreline property owners opposed to the nonconforming label and b) provide greater consistency between the SMP and CAO. While the term “existing development” is not problematic on its own, the current regulations are problematic due to a) confusion as to what applies to uses vs. structures, b) some existing development (i.e., structures) is truly nonconforming (i.e., overwater residences, some bulkheads) and c) they lack clarity. While keeping the existing nomenclature is recommended, several revisions to the policy and regulatory language can be made to improve clarity, including:

1. Clarify applicability section
2. Clarify goal section
3. Revise policies for clarity and consistency (e.g., use “current regulations and standards of this Program” throughout, include only one structure or use in each policy, delete policies that read like regulations when already included in regulations section
4. Revise general regulations section to be only general – do not include regulations specific to structures or uses
5. Include general regulation related to no net loss standard and current condition, including existing uses and structures, as starting point for determining compliance with standard

Proposed language addressing 1-5, above is attached.

Replacement of primary structure: Clarify that reconstruction is allowed within the same footprint/bulk dimensions if primary structure destroyed (or partially destroyed) by natural causes, but not if intentionally demolished. Create consistency with critical areas ordinance update and zoning code, using “if a building is harmed or destroyed by more than 50 percent of its square footage, the building must be reconstructed in compliance with the requirements of this section.” [Note: Monetary value could be used instead of square footage as threshold.]

It is not clear if property owners are allowed to “tear down” and rebuild (vs. the structure being unintentionally destroyed and rebuilt). Nonconforming structures in the shoreline are essentially structures that could not be built in the same location today, because the regulations have changed. It makes sense that someone should be able to rebuild in the same footprint if the building is destroyed by natural causes, but if someone chooses to tear down the building, the new building should conform to current regulations and standards. An important reason to make the clarification is so the Assessor knows that the house holds its value in the event of a natural casualty (i.e., the regulations won’t prohibit it from being replaced). It also needs to be made clear that primary structures cannot be rebuilt within geologically hazardous areas or their setbacks (without a shoreline variance) or require new/replaced shoreline stabilization (bulkhead).

Replacement of accessory structures: Clarify that replacement of accessory structures need to conform to the current regulations and standards; maintain allowance for essential single family residential structures to be replaced in the same location. The SMP currently requires reconstruction of accessory structures damaged, destroyed or intentionally demolished to be in conformance with current standards and regulations. “Essential single family residential accessory structures” (a garage or carport, one septic system (including one tank and one on-site septic drainfield), one well house and associated well head, and existing decks attached to the primary structure) may be reconstructed in the same location.

“Damaged, destroyed or intentionally demolished” is difficult to interpret. For example, what if someone is replacing just the slats on a 900 sf deck in Zone 1 (the maximum allowed is 300 sf)? Replacing a set of stairs to the beach that total 1000 sf (the maximum is 300 sf)? Or switching from cracked/broken concrete to sand-set pavers for a 700 sf patio in Zone 2 (the maximum is 400 sf)? Staff currently uses the “up to 50%” rule, and allows replacement of no more than 50% of any accessory structure in a 5-year period (most likely, the applicant will come back in 5 years to do the other half). In rare cases, the applicant decided to conform to the program (e.g. replacing a 900 sf deck with a 300 sf deck).

Retaining the requirement to have replacement of accessory structures conform to the current regulations and standards but allow replacement of essential accessory structures in the same location is consistent with fostering preferred uses (i.e., single family residential development) in the shoreline. The primary structure and those structures “connected to a single-family residence and considered essential to the principal residential use” are allowed to be replaced, whereas “nonessential” structures can only be replaced if they conform to current regulations and standards.

Expansion of primary structure: Provide clarity and create greater consistency with critical areas ordinance. Several revisions to the regulatory language can be made to improve clarity, including:

1. No expansion allowed waterward of existing building footprint (clarify; use “building foundation” instead)
2. Additional height (whether additional story or roofline modification) allowed if it does not affect view of adjacent properties
3. No expansion allowed on a steep slope
4. No expansion allowed within steep slope setback. Applicant required to have setback established (reduced) by geotechnical report if existing house within standard setback.
5. Expansion not allowed if new or replacement (>50%) shoreline stabilization needed.
6. Only one expansion allowed in lifetime of structure (define; use 75-100 years; “one expansion” could mean total of all expansions not to exceed maximum allowed at one time)
7. Expansion may be used only for indoor living space or to accommodate accessibility
8. Options for allowed expansion (still under consideration)
 - a. Limited to 500 sf footprint at ground level within shoreline buffer; no canteliever
 - b. Expansion can encroach into up to 1/3 of Zone 2 if needed to maximize view due to shoreline structure view setback; remainder of Zone 2 and all of Zone 1 must be replanted (or however this existing provision for new development is revised)
 - c. No removal of significant trees allowed, unless certain criteria (to be developed) are met
 - d. Differentiate between expansion replacing vegetation vs. existing impervious surface

4.2 General Use

4.2.1 Nonconforming Uses, Nonconforming Lots, and Existing Development

4.2.1.1 Applicability

This section applies to shoreline uses, lots, and/or structures that were lawfully established or constructed prior to the effective date of the initial adoption of this Program (November 26, 1996) or amendments thereto, and which do not conform to current regulations or standards of this Program. Existing structures and uses that do not conform to this Program are not required to meet its requirements, unless changes to a structure or use that would require review under this Program are proposed.

4.2.1.2 Goal

It is the purpose of this section to recognize legally established uses, lots, and structures, and to allow them to be maintained, repaired, remodeled, replaced, and in some cases expanded, in conformance with current regulations and standards of this Program with due regard to unique site conditions and property rights.

A further goal is to ultimately, over time, have uses and commercial structures conform to the current regulations and standards of this Program. Over time, uses and commercial structures that do not conform to the current regulations and standards of this Program should be phased out as uses cease or redevelopment of structures occurs.

4.2.1.3 Policies

1. Lawfully constructed structures may be repaired, maintained remodeled, and in some cases expanded, provided the alteration meets the current regulations and standards of this Program.
2. Once discontinued, reestablishment of nonconforming uses should be restricted.
3. Lawfully constructed commercial structures that do not conform to the standards and regulations of this Program are to be phased out over time.
4. Lawfully constructed structures that are destroyed by fire, explosion, flood, or other casualty may be reconstructed to configurations existing immediately prior to the time the structure was damaged or destroyed. Decreases in nonconformity should be encouraged.
5. Lawfully constructed and located overwater structures may be reconstructed to the same size and modified, reoriented or altered within the same general location to be more consistent with the provisions of this Program.
6. Legally created nonconforming lots of record may be developed consistent with the standards and regulations of this Program.
7. Redevelopment of nonconforming public rights-of-way and associated existing transportation structures may be permitted for purposes of facilitating essential public access, development of public trails and/or public shoreline access.

4.2.1.4 Regulations – General

1. Nonconforming uses and structures that were lawfully constructed or established prior to the effective date of this Program (November 26, 1996), or amendments thereto, and which do not meet the current regulations and standards of this Program, may continue subject to the provisions of this section.
2. A complete application for any reconstruction under this section must be submitted within two (2) years of the date of damage or removal, and upon approval of the application, redevelopment must be completed within one (1) year of the commencement of reconstruction. A one (1) year extension may be granted, provided that a written request is submitted no later than twenty-one (21) days prior to either deadline and provided that the owner is not responsible for the delay.
3. A structure for which a variance has been issued but which does not comply with applicable requirements of this Program or amendments hereto shall be considered a legal existing structure and the requirements of this section shall apply.
4. Any alterations to existing uses or structures shall meet the no net loss standard pursuant to Section 4.1.2.4. The current condition of the shoreline, including existing uses and structures, shall be the starting point or baseline for determining compliance with the no net loss standard.

4.2.1.5 Regulations - Nonconforming Uses

1. Nonconforming uses shall not be altered or expanded in any way that increases the nonconformity.
2. If a nonconforming use is discontinued for twelve (12) consecutive months, any subsequent use shall be conforming; except that if a nonconforming use is operated within a nonconforming structure that is accidentally damaged or destroyed and reconstruction is proposed under Section 4.2.1.6.1(3), then the use may be re-established within the same time period as the reconstruction for the nonconforming structure pursuant to Section 4.2.1.4(2)
3. A nonconforming use cannot be changed to another nonconforming use.
4. Change of ownership, tenancy, or management of a nonconforming use shall not affect its nonconforming status, provided that all provisions are met.
5. A use listed in Table 4-1 as a conditional use that lawfully existed prior to the adoption of this Program or amendments hereto shall be considered a legal nonconforming use and may be continued subject to the provisions of this section without obtaining a conditional use permit.