



PLANNING COMMISSION
REGULARLY SCHEDULED MEETING
THURSDAY, APRIL 12, 2018
7:00 – 9:00 PM
COUNCIL CHAMBER
280 MADISON AVE N
BAINBRIDGE ISLAND, WA 98110

AGENDA

- 7:00 PM CALL TO ORDER
 Call to Order, Agenda Review, Conflict Disclosure
- 7:05 PM REVIEW AND APPROVE MINUTES
 January 11, 2018
 January 25, 2018
 February 8, 2018
 February 22, 2018
 March 8, 2018
- 7:10 PM PUBLIC COMMENT
 Accept public comment on off agenda items.
- 7:15 PM PUBLIC HEARING ON ORDINANCE 2018-13
 Amending BIMC Title 18 as pertaining to Business/Industrial Zoning
 Senior City Planner Jennifer Sutton
- 8:00 PM SMP AMENDMENT
 Study Session
 Senior City Planner Christy Carr
- 8:55 PM NEW/OLD BUSINESS
- 9:00 PM ADJOURN

***** TIMES ARE ESTIMATES****

Public comment time at meeting may be limited to allow time for Commissioners to deliberate. To provide additional comment to the City outside of this meeting, e-mail us at pcd@bainbridgewa.gov or write us at Planning and Community Development, 280 Madison Avenue, Bainbridge Island, WA 98110

**For special accommodations, please contact Jane Rasely, Planning & Community
Development 206-780-3758 or at jrasely@bainbridgewa.gov**

CALL TO ORDER – Call to Order, Agenda Review, Conflict Disclosure
PUBLIC COMMENT – Accept public comment on off agenda items
ELECTION OF PLANNING COMMISSION CHAIRPERSON
SHORELINE MASTER PROGRAM AMENDMENT – Study Session
BUSINESS/INDUSTRIAL REGULATION REVIEW – 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 7:07 PM. Planning Commissioners in attendance were Jon Quitslund, William Chester, Michael Killion, Lisa Macchio, Kimberly McCormick Osmond and Don Doman. 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.

ELECTION OF PLANNING COMMISSION CHAIRPERSON

Motion: I move to let Mack continue and he can hand over to Bill when the SMP switches to other activities later this and then the two of them decide what's the right time.

Killion/Quitslund: Passed Unanimously

SHORELINE MASTER PROGRAM AMENDMENT – Study Session

Senior City Planner Christy Carr updated the Planning Commission on the Critical Areas Ordinance (public workshop on January 30, 2018). The Shoreline Master Program Draft Workplan was presented (see attached).

Commissioner Macchio asked Ms. Carr to direct a citizen who shared his property valuation decrease with them to the gentleman at the Kitsap County Assessor's Office who has information on the valuation process the County used.

Public Comment

Michael Zigich, Citizen – Thanked Ms. Carr for the information and asked why the City had the authority to tell an owner what they could do on their property.

M.C. Halvorson, Citizen – Asked for and received copies of the documents provided.

BUSINESS/INDUSTRIAL REGULATION REVIEW – Study Session

Senior City Planner Jennifer Sutton presented a summary of the conversation around Business/Industrial regulations over the past nine months.

Public Comment

Terry McGuire, Citizen – Appreciated all the outreach and community meetings and spoke in favor of allowing outdoor dog kennels in the Business/Industrial Zone.

Charles Schmid, Citizen – Had concerns about the planning for Day Road Industrial Park.

NEW/OLD BUSINESS

The six-month building moratorium, Hwy 305 pedestrian bridge, Island Center Subarea Plan Steering Committee and Council Advance were presented by Planning Director Gary Christensen.

ADJOURN

The meeting was adjourned at 9:28 PM.

Approved by:

J. Mack Pearl, Chair

Jane Rasely, Administrative Specialist

CALL TO ORDER – Call to Order, Agenda Review, Conflict Disclosure
PUBLIC COMMENT – Accept public comment on off agenda items
SHORELINE MASTER PROGRAM AMENDMENT – Study Session
WALLACE COTTAGES - Recommendation
NEW/OLD BUSINESS
ADJOURN

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

Chair J. Mack Pearl called the meeting to order at 7:02 PM. Planning Commissioners in attendance were Jon Quitslund, William Chester, Michael Killion, Lisa Macchio, Kimberly McCormick Osmond and Don Doman. City Staff present were Planning Director Gary Christensen, Development Engineer Peter Corelis, Senior City Planner Christy Carr, Associate City Planner Kelly Tayara 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.

SHORELINE MASTER PROGRAM AMENDMENT – Study Session

No changes had been made since the meeting on January 11, 2018.

Public Comment

Dick Haugan, Citizen – Had a handout (see attached) and stated he and his wife were there to help.

Michael Zigich, Citizen – Spoke about “no net loss” as a vague standard and specific baseline measurements.

M.C. Halvorson, Citizen – Spoke about “grandfathering” be part of the constitution and that existing buildings/land use cannot be deemed non-conforming due to a change in regulations.

WALLACE COTTAGES (PLN50589 SUB) - Recommendation

Associate City Planner Kelly Tayara introduced the Wallace Way Cottages HDDP project. Development Engineer Peter Corelis presented information on the low impact development and utilities portions of the project (see attached).

Public Comment

Stephen Crampton, Citizen – Felt the application was improperly approved because they are proposing to build on property that he owns and not the applicant.

David Smith, Applicant – Thought the facts Mr. Crampton presented were false and said he owned the easement Mr. Crampton claimed as his own.

Venera Barles, Citizen – Felt her neighborhood was something special and saw it beginning to go away.

Amos Staffler, Citizen – Asked for the thruway to go through to Madison Ave instead of Grow Ave.

Betty Wiese, Citizen – Thought there would be more to the public process and was worried about the cumulative impacts of the four projects occurring in the area.

Doug Hotchkiss, Citizen – Said even though he lived on Grow Ave, he used Nakata Ave to walk his dog and teach his kids and grandson to ride their bikes. He felt there were more people taking advantage of quiet loops like Nakata Ave than just the residents of Nakata Ave.

Jim Beug, Citizen – Talked about kids playing on Nakata Ave all the time and they would be impacted as well as the animals that utilize the open space.

David Smith, Applicant – Said the development would look like the Poulsbo Place development in Poulsbo with larger lots in response to the Commissioners desire to have seen housing designs.

Kelsey Laughlin, Engineer for Applicant – Responded to citizen comments regarding thruway to Madison instead of Grow Ave.

Ron Peltier, Council Member – Spoke about the public process coming up for a street right of way vacation on Duane Lane and encouraged the public to participate.

No recommendation was given.

NEW/OLD BUSINESS

None.

ADJOURN

The meeting was adjourned at 9:57 PM.

Approved by:

J. Mack Pearl, Chair

Jane Rasely, Administrative Specialist

CALL TO ORDER – Call to Order, Agenda Review, Conflict Disclosure
REVIEW OF MINUTES – November 9, 2017, November 16, 2017, November 30, 2017
PUBLIC COMMENT – Accept public comment on off agenda items
SHORELINE MASTER PROGRAM AMENDMENT
WALLACE COTTAGES SUBDIVISION - Recommendation
NEW/OLD BUSINESS
ADJOURN

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

Chair J. Mack Pearl called the meeting to order at 7:02 PM. Commissioners in attendance were Jon Quitslund, William Chester, Michael Killion, Lisa Macchio and Don Doman. Kimberly McCormick Osmond was absent and excused. City Staff present were Planning Director Gary Christensen, Senior City Planner Christy Carr, Development Engineer Peter Corelis, Associate City Planner Kelly Tayara and Administrative Specialist Jane Rasely who monitored recording and prepared minutes.

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

REVIEW OF MINUTES – November 9, 2017, November 16, 2017, November 30, 2017

Motion: I move approval of the minutes from meetings of November 9th, November 16th and November 30th, 2017, move that they be approved as distributed.
Quitslund/Chester – Passed Unanimously

PUBLIC COMMENT – Accept public comment on off agenda items

None.

SHORELINE MASTER PROGRAM AMENDMENT

Senior City Planner Christy Carr gave the Commissioners an update on the progress of the Critical Areas Ordinance with City Council and showed where the project pages for it and the Shoreline Management Program could be found on the City's website.

Study session focused on nonconforming existing structures.

Public Comment

MC Halvorsen, Citizen – Spoke about “grandfathered” in.

Ed Rymarz, Citizen – Spoke about considering environmental impacts, high tides and buffer areas (see submitted comments attached).

Dick Haugan, Citizen – Spoke about nonconforming uses and the perception of the public as to what that means (see attached).

Michael Zigich, Citizen – Spoke about nonconforming structures and provided a State document (see attached).

WALLACE COTTAGES SUBDIVISION - Recommendation

Planning Director Gary Christensen reminded the Planning Commission there would be a public hearing for this project at a later date.

Associate City Planner Kelly Tayara and Development Engineer Peter Corelis addressed the Planning Commissioners' questions from the previous meeting held January 25, 2018.

Hayes Gori, Attorney for Applicant – Advocated for moving the process along regardless of what their recommendation would be.

David Smith, Developer – Spoke about why the playground/open space was at the north end of the property.

Chris Van Dyk, Citizen - Spoke about the neighborhood's dissatisfaction was not with the developer but City Staff.

Stephen Crampton, Citizen – Spoke about an under easement versus a surface easement.

Steve Matthews, Citizen – Spoke about directing growth within Winslow and focusing on neighborhood safety.

Vanera Barles, Citizen - Spoke against the project access from Nakata.

Todd McKittrick, Developer for Madison Grove and Madison Landing – Spoke about Duane Lane vacation and developers working together to provide access to Madison Ave N.

Terri Starkman, Citizen – Asked everyone in the room to do the right thing.

NEW/OLD BUSINESS

Mr. Christensen asked if the Planning Commission would have a joint meeting with Design Review Board on February 22, 2018 along with Public Works and Planning staff to begin a dialogue to discuss roles and creating different design guidelines and standards. The tentative schedule was presented.

ADJOURN

The meeting was adjourned at 11:00 PM.

Approved by:

J. Mack Pearl, Chair

Jane Rasely, Administrative Specialist

CALL TO ORDER – Call to Order, Agenda Review, Conflict Disclosure
PUBLIC COMMENT – Accept public comment on off agenda items
WALLACE COTTAGES SUBDIVISION PLN50589 SUB
MORATORIUM WORK PLAN/NEXT STEPS – ORD. 2018-05
NEW/OLD BUSINESS
ADJOURN

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

Chair J. Mack Pearl called the meeting to order at 7:09 PM. Planning Commissioners in attendance were Jon Quitslund, William Chester, Michael Killion and Kimberly McCormick Osmond. Commissioners Lisa Macchio and Don Doman were absent. City Staff present were Planning Director Gary Christensen, Associate Planner Kelly Tayara and Permit Specialist Lara Lant 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

Brian Lindgren, Citizen - Mr. Lindgren owns a shy-acre lot on Shasta Lane in the R-1 zone. It has no critical areas but is covered in natural vegetation. Under the draft Critical Areas Ordinance (CAO), use of heavy equipment and removal of trees is prohibited. He requested the Planning Commissioners amend the draft. Chair Pearl noted the draft Critical Areas Ordinance was under review by City Council at this time.

WALLACE COTTAGES SUBDIVISION PLN50589 SUB

The project was summarized by Commissioner Quitslund and statements were read by Commissioners McCormick Osmond and Chester (see attached.) David Smith, representing Wallace Cottages, asked to address the Planning Commission. Chair Mack Pearl allowed Mr. Smith to speak and he gave a passionate response to the Commission's review of the project. Chair Pearl interrupted Mr. Smith's response and asked the Commission to table further project discussion because of the heated nature of Mr. Smith's response. Director Christensen recommended the Planning Commission conclude deliberations and form a recommendation to send to the Hearing Examiner.

Motion: I move to deny the Wallace Cottages project as a HDDP because it is not consistent with the Comprehensive Plan and does not meet the goals and purposes of the HDDP, including traffic impacts, public safety impacts on surrounding neighborhoods resulting from the proposed traffic access via Wallace Way to Grow Avenue, tree retention issues and feasibility of open space.

Chester/Killion: Passed Unanimously.

MORATORIUM WORK PLAN/NEXT STEPS – ORD. 2018-05

Director Christensen handed out copies of the updated February 15, 2018 Six-Month Temporary Building Moratorium to the Commissioners (attached). The Commissioners and Director Christensen discussed next steps to begin dialogue regarding issues addressed in the Moratorium, including design review standards. Director Christensen ended the conversation by giving the Commissioners a 2018 Planning Commission Project Schedule (attached).

NEW/OLD BUSINESS

None.

ADJOURN

The meeting was adjourned at 9:08 PM.

Approved by:

J. Mack Pearl, Chair

Lara Lant, Permit Specialist

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



DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

MEMORANDUM

Date: April 12, 2018
To: Planning Commission
From: Jennifer Sutton, AICP
Senior City Planner
Subject: Public Hearing on Ordinance 2018-13 Business/Industrial District Regulations

BACKGROUND

The Planning Commission discussed changes to the mix of uses in the Business/Industrial (B/I) zoning district at the March 8, 2018 Commission meeting. The changes requested by the Commission have been integrated into Ordinance 2018-13.

The changes shown in this packet do not reflect any changes to the definitions or use table related to “healthcare facilities” or “professional services”. In addition to discussing the revisions proposed, staff seeks guidance from the Planning Commission about the future of healthcare and professional services in the Business/Industrial zone.

Staff has reviewed the variety of performance standards in Title 18 Zoning that apply to the Business/Industrial zoning district.

- [18.06.050.B Performance Standards](#)
- [18.15.010 Landscaping, screening, etc.](#)
- [18.15.020 Parking and loading](#)
- [18.15.030 Mobility and access](#)
- [18.15.040 Outdoor lighting](#)
- [Chapter 15.08 Sign Code](#)

These standards are not lacking, per se, but their application has been inconsistent. Additional staff training is needed to ensure that the full suite of standard from Site Plan and Design Review permits to tenant improvement permits and business licenses.

Additionally, City staff is discussing future updates to all [design guidelines, BIMC Section 18.18.030](#), with the Design Review Board, including the [Business/Industrial design guidelines](#)

ORDINANCE NO. 2018-13

AN ORDINANCE of the City of Bainbridge Island, Washington, amending Chapter 18.09, and Sections 18.06.060 and 18.36.030 of the Bainbridge Island Municipal Code.

WHEREAS, the City adopted its most recent Comprehensive Plan in 2017; and

WHEREAS, the Comprehensive Plan and subsequent zoning regulations allow a mixed use of businesses and industrial uses in the Business/Industrial District; and

WHEREAS, the purpose of the Business/Industrial District is to facilitate development of a diverse economy on the island with business retention, growth, and innovation, and to provide opportunities for knowledge-based business and expansion of island businesses, diversity of jobs, and low-impact industrial activity that is compatible with adjoining residential neighborhoods; and

WHEREAS, during the recent Comprehensive Plan update process, the City Council and the Planning Commission expressed concerns about the types of non-industrial, non-light manufacturing development that has occurred at the in the Business/Industrial Zoning District, leading to the City Council enacting a six-month partial development moratorium (Ordinances 2016-31 and 2016-35) at the end of 2016; and

WHEREAS, in the aftermath of the development moratorium, the City held a series of community meetings (March 14, May 17 and September 20, 2017) with the business community in the Business/Industrial Zoning District to hear from them about the mix of business types that should be allowed in the zone; and

WHEREAS, the City Council allowed the moratorium to expire after six months, directing staff to work with the business community to revise the Business/Industrial zoning regulations; and

WHEREAS, notice was given on XXXX, 2018, to the Office of Community Development at the Washington State Department of Commerce in conformance with RCW 36.70A.106; and

WHEREAS, the Planning Commission discussed Ordinance No. 2018-13 on March 8, 2018 and held a public hearing on April 12, 2018 and after closing the public hearing, recommended approval of the ordinance to the City Council; and

WHEREAS, the City Council discussed Ordinance No. 2018-13 on XXXX, 2018;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF BAINBRIDGE ISLAND, WASHINGTON, DOES ORDAIN, AS FOLLOWS:

Section 1. Section 18.06.060 of the Bainbridge Island Municipal Code is hereby amended as follows.

18.06.060 Business/Industrial.

A. Purpose. The purpose of the business/industrial district is to facilitate development of a diverse economy on the island with business retention, growth, and innovation. The district is intended to provide opportunities for knowledge-based businesses and expansion of Island businesses, for diversity of jobs, and for low-impact industrial activity that is compatible with adjoining residential neighborhoods. The B/I district was formerly called the light manufacturing (LM) district and is intended to implement comprehensive plan provisions related to light manufacturing uses. The B/I district encourages proper site planning and design of developments in order to minimize traffic congestion, visual impacts, environmental impacts, and other impacts and use conflicts within and beyond the district's boundaries as enabled through development and performance standards.

B. Performance Standards. All uses allowed in the B/I district shall conform to the performance standards listed in BIMC 18.06.050.B.

~~C. Natural Resource Protection Standards. The following provisions are intended to supplement those natural resource protection standards and requirements contained in BIMC Titles 16 (Environment) and 17 (Subdivisions), and specifically to supplement those provisions in Chapters 16.12 (Shoreline Master Program) and 16.20 BIMC (Critical Areas), which remain the primary source of regulation in those areas. In the event of a conflict between the provisions of this section and the provisions of BIMC Title 15 (Buildings and Construction) or Chapter 16.12 or 16.20 BIMC, the provisions of BIMC Title 15 or 16 shall apply.~~

~~1. Drainage. Surface and stormwater shall be managed in accordance with Chapter 15.20 BIMC.~~

~~a. Open Space Conservation Easement. A conservation easement approved by the director shall be placed on the designated open space and shall be recorded with the Kitsap County auditor along with the open space management plan (OSMP) as required in subsection C.1.e of this section. Fence standards contained in BIMC 17.12.030.A.8 shall apply when applicable.~~

~~b. Uses Allowed within Designated Open Space. Within open space areas, uses must conform with the provisions of Chapter 16.20 BIMC.~~

~~c. Open Space Management Plan. An open space management plan (OSMP) shall be prepared by the applicant for review and approval by the city at the time of the application submittal. The OSMP shall include provisions that allow the periodic inspection of the open space by the city. The OSMP shall be recorded with the Kitsap County auditor. The OSMP shall include the following:~~

~~i. A list of all approved uses for the open space areas. If a property has a variety of critical areas, the specific locations of each set of permitted uses shall be depicted graphically.~~

~~ii. A management plan that clearly describes the frequency and scope of maintenance activities.~~

~~iii. Identification of the entity responsible for the maintenance of the open space areas.~~

~~2. Maintenance of Open Space Areas. Open space areas shall be maintained permanently by the property owner, the property owners' association, or the public agency for~~

~~publicly owned properties. In the event that open space is not maintained consistent with the open space management plan, the city shall have the right to provide the maintenance of the open space, and bill the owner for all costs incurred by the city for the maintenance. Such bill shall become delinquent 20 days after the date of mailing, and the amount due interest shall accrue on and after the date of delinquency at 12 percent per annum or the rate authorized by state statute, whichever is lower. Upon delinquency of 60 days, a lien shall be placed on the property.~~

Section 2. Section 18.09.005 of the Bainbridge Island Municipal Code is hereby amended as follows.

18.09.005 Permitted and conditional uses.

Permitted and conditional uses allowed in each zone district are shown in the use table. When a use is not specifically listed in this Chapter, it shall be understood that the use may be allowed if it is determined if it is determined by the Director that the use is similar to other uses listed. It is recognized that not every conceivable use can be identified, and that new uses will evolve over time. The Director has the authority to compare a proposed unlisted use and measure it against those listed in this Chapter for determining similarity.

Section 3. Table 18.09.020 *Use Table* of the Bainbridge Island Municipal Code is hereby amended as shown in Exhibit A.

Section 4. Section 18.09.030.A of the Bainbridge Island Municipal Code is hereby amended as follows.

4. Agricultural Processing. In the B/I district, agricultural processing is a permitted (“P”) use, unless the business will be primarily out-of-doors. If primarily out-of-doors, then agricultural processing is a conditional (“C”) use in the B/I district.

Section 5. Section 18.09.030.C of the Bainbridge Island Municipal Code is hereby amended as follows.

1. Educational Facilities.

~~a. In the B/I district, educational facilities, including vocational schools, preschools (including kindergarten classes), martial arts academies, and other facilities not classified as public or private schools offering primary and secondary education through the high school level are permitted (“P”) uses.~~

~~b. In the B/I district, educational facilities meeting the definition of common schools referred to in Article IX of the state constitution and established by law and maintained at public expense and private learning institutions established by law and maintained at private expense, offering primary and secondary education through the high school level, are conditional (“C”) uses.~~

c. In the WD-I district, educational facilities are a conditional (“C”) use. Conference centers with overnight accommodations are not permitted.

d. In the ferry terminal overlay district educational facilities are only allowed south of Winslow Way.

Section 6. Section 18.09.030.E of the Bainbridge Island Municipal Code is hereby amended as follows.

1. Auto Repair Services. In the B/I district, auto repair services is a permitted (“P”) use, unless the business will be primarily out-of-doors. If primarily out-of-doors, then auto repair services is a conditional (“C”) use in the B/I district.

- a. Auto repair services are subject to standards in BIMC 16.20.120.
- b. Any automobiles remaining on site for more than 72 hours are to be screened according to the outdoor storage development standards in BIMC 18.06.050.B.10.

Section 7. Section 18.09.030.H of the Bainbridge Island Municipal Code is hereby amended as follows.

2. Boat Building. In the WD-I district, boat building is a permitted (“P”) use for property located on the north shore of Eagle Harbor. For property south of Eagle Harbor, boat building is a conditional (“C”) use. In the B/I district, boat building is a permitted (“P”) use, unless the business will be primarily out-of-doors. If primarily out-of-doors, then boat building is a conditional (“C”) use in the B/I district.

3. Boat Repair Facilities. In the B/I district, boat repair facilities is a permitted (“P”) use, unless the business will be primarily out-of-doors. If primarily out-of-doors, then boat repair facilities is a conditional (“C”) use in the B/I district. Boat repair facilities are subject to standards in BIMC 16.12.040.C.

Section 8. Section 18.36.030 of the Bainbridge Island Municipal Code is hereby amended as follows.

29. “Artist’s studio” means the workshop of an artist, writer, craftsperson, or photographer, ~~but not a place where members of the public come to receive instruction on a more than incidental basis or to sit for portraits.~~ An artist’s studio does not include a residence or living unit.

NEW “Boat building and boat repair facility” means a business involving the fabricating, manufacturing or repair of boats.

NEW Craft Food and Beverage: means the production and sale of small-scale, locally-produced food and beverage products.

78. “Educational facilities” means a public or private school or educational or training institution that offers a program of college, professional, environmental, preparatory, high school, middle school, junior high school, elementary, ~~or kindergarten instruction, or preschool,~~ or any combination of those facilities, ~~or any other program of trade, technical or artistic instruction (excluding single day programs of instruction),~~ together with associated staff housing and/or conference facilities and other typical educational accessory uses.

132. "Kennel" means a place where three or more adult domestic animals are kept commercially, generally overnight. A commercial kennel ~~is considered a professional service under this title and~~ is maintained to board, breed or treat the animals for profit and shall exclude pet shops and agriculture. This use includes a boarding kennel/cattery, animal shelter, or animal foster home. An "outdoor kennel" is a kennel where the majority of the total area used for the business is out-of-doors, excluding parking areas.

207. Recreation Activities, Indoor. "Indoor recreation activities" means gymnasiums not accessory to an education institution, racket clubs, sports arenas, and similar uses. Martial arts, dance, yoga and other fitness classes are considered indoor recreation.

238. ~~"Solar panel" means a single panel or combination of panels or elements that does or will use direct sunlight as a source of energy for such purposes as heating or cooling of a structure, heating or pumping of water, and generating electricity. Solar panels include both photovoltaic and hot water devices.~~

NEW "Vocational/Trade Instruction Facilities" means a school, especially one on a secondary level, that offers instruction and practical introductory experience in skilled trades such as mechanics, carpentry, plumbing, and construction.

Section 9. This ordinance shall take effect and be in force on and after five days from its passage and publication as required by law.

PASSED BY THE CITY COUNCIL this ____ of _____, 2018.

APPROVED BY THE MAYOR this ____ of _____, 2018.

Kol Medina, Mayor

ATTEST/AUTHENTICATE:

Christine Brown, City Clerk

FILED WITH THE CITY CLERK: April XX, 2018

PASSED BY THE CITY COUNCIL: _____

PUBLISHED: _____

EFFECTIVE DATE: _____

ORDINANCE NUMBER: 2018-13

Table 18.09.020 Use Table

“P” = Permitted Use				“A” = Accessory Use							Additional use restrictions for Chapters 16.12 and 16.20 BIMC may apply to shoreline or critical area properties								
“C” = Conditional Use				“CA” = Conditional Accessory Use															
Blank = Prohibited Use				“T” = Temporary Use															
ZONING DISTRICT	R-0.4	R-1	R-2	R-2.9	R-3.5	R-4.3	R-5	R-6	R-8	R-14	Winslow Mixed Use Town Center				HSR I and II	NC	B/I	WD-I	Use-Specific Standards BIMC 18.09.030
USE CATEGORY/TYPE											CC	MA	EA	Gate [1]					
PRINCIPAL USES																			
AGRICULTURAL																			
Note: Agricultural uses may be subject to additional requirements in BIMC 16.12.040.E, Forest Practices.																			
All agricultural uses are subject to the critical area regulations in Chapter 16.20 BIMC.																			
Agricultural uses are not allowed within the shoreline jurisdiction pursuant to Chapter 16.12 BIMC.																			
Agriculture, Animal	P	P	P	C	C	C	C									P			A-1
Agriculture, Crop	P	P	P	P	P	P	P	P	P	P						P			A-2
Agriculture Research Facility	C	C	C																A-3
Agricultural Processing															P		P/C		A-4

“P” = Permitted Use				“A” = Accessory Use								Additional use restrictions for Chapters 16.12 and 16.20 BIMC may apply to shoreline or critical area properties									
“C” = Conditional Use				“CA” = Conditional Accessory Use																	
Blank = Prohibited Use				“T” = Temporary Use																	
ZONING DISTRICT	R-0.4	R-1	R-2	R-2.9	R-3.5	R-4.3	R-5	R-6	R-8	R-14	Winslow Mixed Use Town Center					HSR I and II	NC	B/I	WD-I	Use-Specific Standards BIMC 18.09.030	
USE CATEGORY/TYPE											CC	MA	EA	Gate	Ferry [1]						
RESIDENTIAL																					
Note: Residential uses may be subject to additional requirements in BIMC 16.12.040.I, Residential Development.																					
Household Living																					
Single-Family Dwelling	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		B-1		
Single-Family Dwelling existing on April 15, 1996											P	P	P						B-1		
Multifamily Dwellings	C	C	C	C	C	C	P	C	P	P	P	P	P	P	P	P	P		B-2		
Commercial/Residential Mixed Use Developments											P	P	P	P	P	P	P	P	B-3		
Group Living																					
Foster Home	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P					
Small Group Living Facility	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P					

“P” = Permitted Use				“A” = Accessory Use							Additional use restrictions for Chapters 16.12 and 16.20 BIMC may apply to shoreline or critical area properties									
“C” = Conditional Use				“CA” = Conditional Accessory Use																
Blank = Prohibited Use				“T” = Temporary Use																
ZONING DISTRICT	R-0.4	R-1	R-2	R-2.9	R-3.5	R-4.3	R-5	R-6	R-8	R-14	Winslow Mixed Use Town Center					HSR I and II	NC	B/I	WD-I	Use-Specific Standards BIMC 18.09.030
USE CATEGORY/TYPE											CC	MA	EA	Gate	Ferry [1]					
Group Care Facility	C	C	C	C	C	C	C	C	C	P	P	P	P	C	P	P	€	C		
PUBLIC AND INSTITUTIONAL																				
Community and Educational Facilities																				
Educational Facility	C	C	C	C	C	C	C	C	C	P	P	P	P	C	C	P	C	€	C	C-1
<u>New:Vocational/Trade Instruction Facilities</u>	C																	P		
Governmental Facility	C	C	C	C	C	C	C	C	C	P	P	P	P	C	C	P	C	€	C	C-2
Religious Facility	C	C	C	C	C	C	C	C	C	P	P	P	P	C	C	P	C	€	C	C-3
Parks and Park-Related																				
Note: Parks and park-related uses may be subject to additional requirements in BIMC 16.12.040.H, Recreational Development.																				
Community Garden	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P			C-4
Park, Active Recreation	P	P	P	C	C	C	C	C	C	C	P	P	P	P	P	P	P		P	

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“C” = Conditional Use						“CA” = Conditional Accessory Use															
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ZONING DISTRICT	R-0.4	R-1	R-2	R-2.9	R-3.5	R-4.3	R-5	R-6	R-8	R-14	Winslow Mixed Use Town Center					HSR I and II	NC	B/I	WD-I	Use-Specific Standards BIMC 18.09.030	
USE CATEGORY/TYPE											CC	MA	EA	Gate	Ferry [1]						
Park, Passive Recreation	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P			
Recreation Activity, Indoor	C	C	C	C	C	C	C	C	C	C	P	P	P	P	P	P	C	C P	P		
Recreation Activity, Outdoor	P	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	P		
Other Public and Institutional																					
Cemetery	C	C	C																		
Day Care Center	C	C	C	C	C	C	C	C	C	C	P	P	P	P	P	P	P	P		C-5	
Family Day Care Home	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P			C-6	
Health Care Facility	C	C	C	C	C	C	C	C	C	P	P	P	P	C	P	P	C			C-7	
CULTURAL AND ENTERTAINMENT																					
Artist Studio											P	P	P	P	P	P	P	P			
Club	C	C	C	C	C	C	C	C	C	C	P	P	P	P	P	P	P				

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ZONING DISTRICT	R-0.4	R-1	R-2	R-2.9	R-3.5	R-4.3	R-5	R-6	R-8	R-14	Winslow Mixed Use Town Center					HSR I and II	NC	B/I	WD-I	Use-Specific Standards BIMC 18.09.030
USE CATEGORY/TYPE											CC	MA	EA	Gate	Ferry [1]					
Commercial Amusement											P	P	P	P	P	P	C			
Cultural Facility	C	C	C	C	C	C	C	C	C	C	P	P	P	P	P	P	C	C	C	
Entertainment Facility											P					P	C			
COMMERCIAL SALES AND SERVICE																				
Note: Commercial Sales and Service uses may be subject to additional requirements in BIMC 16.12.040.D, Commercial Development.																				
Accommodation																				
Bed and Breakfast (3+ bedrooms)	C	C	C	C	C	C	C	C	C	C	P	P	P	P	P	P	P			
Inn											P	P	P	P	P	P	P			
Hotel											C			C	C	P				D-1
Animal Sales and Service																				
Equestrian Facility	C																	P		

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ZONING DISTRICT	R-0.4	R-1	R-2	R-2.9	R-3.5	R-4.3	R-5	R-6	R-8	R-14	Winslow Mixed Use Town Center				HSR I and II	NC	B/I	WD-I	Use-Specific Standards BIMC 18.09.030
USE CATEGORY/TYPE											CC	MA	EA	Gate					
Kennel, Indoor	C																P		
Kennel, Outdoor	C																C		
Veterinarian Clinic or Office	C	C	C	C	C	C	C	C	C	P	P	P	P	C	P	C	P		
Food and Beverage																			
Formula Take-Out Restaurant															P				D-2
Restaurant											P	P	P	P	P	P			
Food Service Establishment																	P		D-3
Mobile Retail Food Establishment											P	P	P	P	P	P	P	P	D-4
<u>New: Craft Food and Beverage</u>											<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>		
Offices and Services																			
Personal Service											P	P	P	P	P	P			D-5

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“C” = Conditional Use			“CA” = Conditional Accessory Use																
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ZONING DISTRICT	R-0.4	R-1	R-2	R-2.9	R-3.5	R-4.3	R-5	R-6	R-8	R-14	Winslow Mixed Use Town Center				HSR I and II	NC	B/I	WD-I	Use-Specific Standards BIMC 18.09.030
USE CATEGORY/TYPE											CC	MA	EA	Gate					
Professional Service												P	P	P	P	P	P		D-6
Retail																			
Commuter-Oriented Retail Sales														P					D-7
Open-Air Sales for Garden Supply	C	C	C													P			
Retail Sales												P	P	P	P		P	P	A
PRIVATE MOTOR VEHICLE-RELATED																			
Note: Private motor vehicle-related uses may be subject to additional requirements in BIMC 16.12.030.C.6, Transportation Facilities.																			
Auto Repair Services																C	C	P/C	E-1
Car Wash Facility, Manual or Automatic																C	C	C	
Commercial Parking Structure												C							
Commercial Parking, Surface												P		P					E-2

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ZONING DISTRICT	R-0.4	R-1	R-2	R-2.9	R-3.5	R-4.3	R-5	R-6	R-8	R-14	Winslow Mixed Use Town Center					HSR I and II	NC	B/I	WD-I	Use-Specific Standards BIMC 18.09.030
USE CATEGORY/TYPE											CC	MA	EA	Gate	Ferry [1]					
Ferry Commuter Parking											P			P	P					E-3
Gasoline Service Station																C	C			
Motor Vehicle Sales																C				E-4
Noncommuter Ferry Parking														C						E-5
Park and Ride Facility/Lot	C	C	C													C	C	€	C	E-6
Park and Ride Lot, Shared Use	C	C	C	C	C	C	C	C	C	C						C	C	€	C	E-7
Small Engine Repair																C	C	P		
Transport and Delivery Service																P	C	P		E-8
Motor Vehicle-Related Services, Not Including Retail and Not Otherwise Listed																C				
UTILITY AND TELECOMMUNICATIONS																				

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ZONING DISTRICT	R-0.4	R-1	R-2	R-2.9	R-3.5	R-4.3	R-5	R-6	R-8	R-14	Winslow Mixed Use Town Center					HSR I and II	NC	B/I	WD-I	Use-Specific Standards BIMC 18.09.030	
USE CATEGORY/TYPE											CC	MA	EA	Gate	Ferry [1]						
Note: Utility and telecommunications uses may be subject to additional requirements in BIMC 16.12.030.C.7.																					
Monopole or Lattice Tower	P																	P			
Small Wind Energy Generator	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	P/C	P/C	P/C	F-1	
Solar Panel This use not needed because it is either an accessory to another use or a primary utility	€	€	€	€	€	€	€	€	€	€	€	€	€	€	€	€	€	€	€		
Utility, Primary	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	P	C	F-2	
Public Communications Tower	P	P	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	P	A	F-3	
Wireless Communication Facilities, Facility I	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		
Wireless Communication Facilities, Facility II	P										P	P	P	P	P	P	P	P	P		
Wireless Communication Facilities, Facility III	P																	P	P		

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ZONING DISTRICT	R-0.4	R-1	R-2	R-2.9	R-3.5	R-4.3	R-5	R-6	R-8	R-14	Winslow Mixed Use Town Center				HSR I and II	NC	B/I	WD-I	Use-Specific Standards BIMC 18.09.030
USE CATEGORY/TYPE											CC	MA	EA	Gate [1]					
INDUSTRIAL USES																			
Note: Industrial uses may be subject to additional requirements in BIMC 16.12.040.F, Industrial Development.																			
Manufacturing and Production																			
Manufacturing, Small-Scale																C	P		
Manufacturing, Light																	P		
Manufacturing, General																	C		
Mining and Quarrying	C	C	C																G-1
Research and Development																	P		
Waste and Salvage																			
Recycling Center	C	C									C				C		C		G-2
Waste Transfer Facility	C																		G-3

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ZONING DISTRICT	R-0.4	R-1	R-2	R-2.9	R-3.5	R-4.3	R-5	R-6	R-8	R-14	Winslow Mixed Use Town Center				HSR I and II	NC	B/I	WD-I	Use-Specific Standards BIMC 18.09.030
USE CATEGORY/TYPE											CC	MA	EA	Gate [1]					
Warehouse and Freight Movement																			
Commercial Moving and Freight Terminal																	C		
Self-Service Storage Facility																C	P		G-4
Warehouse																	P		
Ferry- and Waterfront-Related																			
Note: Ferry- and waterfront-related uses may be subject to additional requirements in BIMC 16.12.040.C, Boating Facilities; and 16.12.050.C, Overwater Structures.																			
Barge Moorage and Off-Load Ships																		C	H-1
Boat Building																	P/C	C	H-2
Boat Repair Facility																	P/C	P	H-3
Cross Harbor Passenger-Only Ferry Terminal and Associated Parking																		C	

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ZONING DISTRICT	R-0.4	R-1	R-2	R-2.9	R-3.5	R-4.3	R-5	R-6	R-8	R-14	Winslow Mixed Use Town Center					HSR I and II	NC	B/I	WD-I	Use-Specific Standards BIMC 18.09.030
USE CATEGORY/TYPE											CC	MA	EA	Gate	Ferry [1]					
Dry Storage for Boats and Marine Equipment																		P		
Ferry Terminal and Associated Docks, Ramps, Walkways, Trails, Waiting Rooms, and Holding Areas														P						
Ferry Slips and Repair Facility																		P	H-4	
Marine Rental and Sales																		P		
Marine Way																		C		
Pleasure and Commercial Vessel Moorage																		P		
Small Boat Haul-Out Facility																		P		
Water-Related Supply and Retail Sale																		P		
ACCESSORY USES																				

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ZONING DISTRICT	R-0.4	R-1	R-2	R-2.9	R-3.5	R-4.3	R-5	R-6	R-8	R-14	Winslow Mixed Use Town Center					HSR I and II	NC	B/I	WD-I	Use-Specific Standards BIMC 18.09.030
USE CATEGORY/TYPE											CC	MA	EA	Gate	Ferry [1]					
Accessory Agricultural Education	A	A	A	A	A	A	A										A			I-1
Accessory Agricultural Retail, Minor	A	A	A	A	A	A	A										A			I-2
Accessory Agricultural Retail, Major	CA	CA	CA	CA	CA	CA	CA										CA			I-3
Accessory Agricultural Special Event	A	A	A	A	A	A	A										A			I-4
Accessory Agricultural Tourism	A	A	A	A	A	A	A										A			
Accessory Composting Bin	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Accessory Dwelling Unit (outside shoreline jurisdiction)	A	A	A	A	A	A	A		A	A	A	A	A	A	A	A	A			I-5
Accessory Dwelling Unit (within shoreline jurisdiction)	CA	CA	CA	CA	CA	CA	CA		CA	CA							CA			I-5
Accessory Agricultural Processing and Livestock and Poultry Slaughtering	A	A	A	A	A	A	A										A		A	I-6

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ZONING DISTRICT	R-0.4	R-1	R-2	R-2.9	R-3.5	R-4.3	R-5	R-6	R-8	R-14	Winslow Mixed Use Town Center					HSR I and II	NC	B/I	WD-I	Use-Specific Standards BIMC 18.09.030
USE CATEGORY/TYPE											CC	MA	EA	Gate	Ferry [1]					
Accessory On-Site Treatment and Storage Facilities for Hazardous Wastes																A	A	A	I-7	
Accessory Outdoor Storage																A	A	A	I-8	
Accessory Rain Garden/Swale	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		
Accessory Rainwater Harvesting Barrel	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	I-9	
Accessory Small Wind Energy Generator	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	I-10	
Accessory Solar Panel	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		
Accessory Uses to Agriculture (not otherwise listed)	A	A	A	A	A	A	A									A				
Accessory Utilities	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	I-11	
Bed and Breakfast (1 – 2 bedrooms)	A	A	A	A	A	A	A	A	A	A						A				
Minor Home Occupations	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A			I-12	

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ZONING DISTRICT	R-0.4	R-1	R-2	R-2.9	R-3.5	R-4.3	R-5	R-6	R-8	R-14	Winslow Mixed Use Town Center					HSR I and II	NC	B/I	WD-I	Use-Specific Standards BIMC 18.09.030
USE CATEGORY/TYPE											CC	MA	EA	Gate	Ferry [1]					
Major Home Occupations	CA	CA	CA	CA	CA	CA	CA	CA	CA	CA	CA	CA	CA	CA	CA	CA			I-13	
Nonagricultural Accessory Uses and Structures (not otherwise listed)	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	I-14	
TEMPORARY USES																				
Temporary Construction Building	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	J-1	
Temporary Container Storage	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	J-2	
Temporary Commercial Parking											T	T	T	T	T	T			J-3	
Temporary Public Events or Gatherings	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T		J-4	
Temporary Ferry Commuter Parking											T			T	T				J-5	
Temporary Noncommuter Parking														T					J-6	
Temporary Seasonal Sales	T	T	T								T				T	T	T		J-7	

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ZONING DISTRICT	R-0.4	R-1	R-2	R-2.9	R-3.5	R-4.3	R-5	R-6	R-8	R-14	Winslow Mixed Use Town Center					HSR I and II	NC	B/I	WD-I	Use-Specific Standards BIMC 18.09.030
USE CATEGORY/TYPE											CC	MA	EA	Gate	Ferry [1]					
Temporary Homeless Encampment	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	J-8	
MARIJUANA-RELATED USES																				
Marijuana Retailer																	P		K	
Marijuana Processor																	P		K	
Marijuana Producer																	P		K	
Collective Garden																				
[1] In the ferry terminal district, all development shall include at least 10 percent of landscaped or naturally vegetated open space. Parking may be located under the open space. Development south of Winslow Way shall include pedestrian walkways that connect to Winslow Way East and Olympic Drive Southeast, and/or that align with Cave Avenue and Ferncliff Avenue.																				

BIMC Section 18.06.050.B:**Existing Business/Industrial and Neighborhood Center Performance Standards**

18.06.050.B. Performance Standards. All uses allowed in the NC district shall conform to the performance standards of this section. It shall be the responsibility of the operator and/or the proprietor of any allowed use to provide such reasonable evidence and technical data as the director may require to demonstrate that the use or activity is or will be in compliance with the environmental performance standards. Failure of the director to require such information shall not be construed as relieving the operator and/or proprietor from compliance with all applicable environmental performance standards of this code.

1. Noise. All uses shall comply with the noise performance standards of BIMC 18.06.030.B.1 (see below).

Noise. No use shall exceed the maximum environmental noise level, established by Chapter [173-60](#) WAC, as adopted in Chapter [16.16](#) BIMC.

2. Glare and Heat. Any operation producing intense glare or heat shall be conducted within an enclosed building or with other effective screening in such a manner as to make such glare or heat completely imperceptible from any point along the property line.
3. Ground Vibrations. No ground vibration other than that caused by highway vehicles or construction activity shall be permitted that is discernible, without instruments, at or beyond the property line for the use concerned.
4. Waste Storage and Disposal, Including Hazardous Waste. The storage or disposal of industrial waste shall be in compliance with the regulations and requirements of the Kitsap County health district, the State Department of Ecology, and Chapter [70.105](#) RCW as amended, and the BIMC.
5. Air Quality Emissions. All uses shall comply with air quality emissions standards of BIMC 18.06.030.B.2.
6. Ground and Soil Contamination. Materials used or produced in any manufacturing process shall be handled in such a manner as to prevent ground or soil pollution that destroys or endangers the support of natural vegetation or that may contaminate underground aquifers, or other natural drainage systems.
7. Electrical Interference. Provisions must be made for necessary shielding or other preventive measures against interference caused by mechanical, electrical, or nuclear equipment uses or processes with electrical apparatus in nearby buildings or use areas.

8. Fire and Explosive Hazards. The manufacture, use, processing or storage of flammable liquids or materials, liquids or gases that produce flammable or explosive vapors or gases shall be permitted in accordance with the regulations of the adopted fire code and the building code. A hazardous materials impact analysis, conforming to the requirements of the Bainbridge Island fire district, shall be required to determine potential off-site impacts and mitigation precautions.
9. Lighting. Lighting standards set forth in BIMC [18.15.040](#) shall apply to the NC district.
10. Outdoor Storage and Trash Dumpsters.
 - a. Screening of Outdoor Storage. The screen height is determined by the height of the material or equipment being screened. Chain-link fencing with neutral colored slatting is permitted along with vegetative screening when vegetative screening alone is not sufficient to block the outdoor storage from public view and where the fencing is not visible from the street. Exterior storage should be confined to portions of the site least visible from public view.
 - b. Trash dumpsters or any outdoor equipment, whether on the roof or side of a structure or on the ground, shall be screened from view. Screening shall be architecturally consistent with the adjacent structure in terms of materials. Mechanical equipment should be located below the highest vertical element of the building.

4.2 General Use

4.2.1 Nonconforming Uses, Non-Conforming Lots, and Nonconforming Structures~~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. Nonconforming uses, lots and structures ~~Existing structures and uses that do not conform to this Program are not required to meet this Program's~~ ~~its~~ requirements, unless changes to a use, lot or structure ~~or use~~ that would require review under this Program are proposed.

4.2.1.2 Definitions

A. Nonconforming Use. A nonconforming use means an existing shoreline use that was lawfully established prior to the effective date of this Program (November 26, 1996) but which does not conform to present use regulations due to subsequent changes to the Program.

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B. Nonconforming Lot. A nonconforming lot means a lot that met dimensional requirements of the applicable SMP at the time of its establishment (November 26, 1996) but now contains less than the required width, depth or area due to subsequent changes in the Program.

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C. Nonconforming Structures. A nonconforming structure means an existing structure that was lawfully constructed prior to the effective date of this Program (November 26, 1996) but is no longer fully consistent with present regulations such as setbacks, buffers or yards; area; bulk; height or density standards due to subsequent changes to the Program.

4.2.1.2 Goal

It is the purpose of this ~~program~~ 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.

Commented [KM1]: I'm not sure of the value of this – what are we trying to say here?

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 nonconformity.~~
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. ~~Nonconforming Lawfully constructed residential structures may be replaced,~~ 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 and nonconforming commercial structures ~~located in the shoreline jurisdiction shall~~ should be restricted or phased out over time.
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. ~~Nonconforming Lawfully constructed~~ structures that are demolished or 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 ~~Nonconforming 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 a~~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, lots 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. Nonconforming uses and structures shall not be reconstructed, altered or expanded in any way that increases the nonconformity, except as allowed under specific provisions of this Program. The reconstruction shall not cause adverse impacts to shoreline ecological functions and processes.~~
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 nonconforming 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 nonconforming existing uses and structures, shall~~

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Commented [KM2]: What does this mean? What type of variance and when would one be needed?

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.~~

Commented [KM3]: Duplicative.

END OF REVISIONS FOR MARCH 8, 2018 MEETING

4.2.1.6 Regulations – ~~Nonconforming Structures~~Existing Development

4.2.1.6.1 General Provisions – Nonconforming Structures

1. ~~Nonconforming Existing~~ structures may be maintained, repaired, renovated, or remodeled ~~or rebuilt, subject to the following provided all the following is met:~~
 - a. ~~Changes to the structure that would alter or increase the nonconformity are not permitted.~~
 - i. ~~Any vertical or horizontal extension of a wall must meet the provisions of this program.~~

ii. ~~Adding to the footprint of an existing structure is permitted as long as the addition meets the requirements of this program.~~

b. ~~There is a~~No further encroachment into the buffers ~~is unless~~ allowed ~~unless permitted~~ by this ~~P~~program or through an approved variance;

c. ~~Renovations or remodels are entirely contained within the building;~~

dc. ~~Any relocation of the structure must~~ If moved, the structure shall be made to conform to regulations of this ~~P~~program.

2. If a ~~nonconforming n-existing~~ primary structure is damaged or destroyed by fire, explosion, earthquake, flooding or other casualty, ~~or destroyed in any other manner~~, it may be reconstructed to the bulk dimension existing immediately prior to the ~~demolition or~~ catastrophic event, provided the use is conforming or meets the provisions of Section 4.2.1.4, Regulations-General, and 4.2.1.5, Regulations – Nonconforming Uses, above.

a. This provision shall not apply to structures that are destroyed due to a criminal act initiated by the property owner, ~~and~~

b. The replacement structure shall not warrant new shoreline stabilization for the life of the new structure.

c. The replacement structure ~~must meet~~s geologically hazardous provision for existing development in Section 4.1.5, Regulations – Nonconforming Uses, and Appendix B.

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4.2.1.6.2 ~~Nonconforming Existing~~ Structures – Commercial and Industrial (Primary and Accessory)

1. ~~Nonconforming Existing~~ commercial structures shall not be altered or expanded in any way that increases the nonconformity ~~without first obtaining a variance.~~
2. Reconstruction of ~~nonconforming existing~~ commercial structures and buildings intentionally demolished or destroyed in any other manner than described in Section 4.2.1.6.1(2), shall be in conformance with all standards of the Program.

4.2.1.6.3 ~~Nonconforming Existing~~ Structures – Residential Single-Family: Primary Structures

1. If a ~~nonconforming n-existing~~ primary residential structure is damaged or destroyed as described in Section 4.2.1.6.1(2), the ~~nonconforming existing~~ primary residential structure configuration may be altered or expanded pursuant to subsections 4.2.1.6.3(2-4).
2. A ~~nonconforming n-existing~~ primary residential structure may be altered or expanded to the extent allowed by this Program, provided:

Commented [KM4]: Under what circumstances would this occur?

Commented [KM5]: I suggest we remove the specific items because leaving them in suggests this is a comprehensive list of all requirements that need to be met.

Commented [KM6]: Do we need to add the same requirement for the CAO? Is there a reason we specifically call out geologically hazardous here?

Commented [KM7]: Under what circumstances would this apply? Why would we allow an increase in nonconformity for commercial and industrial primary structures but not for residential structures, which are a preferred structure in the shoreline?

- a. 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:
 - i. The allowed building area for Point Monroe District, Section 5.9.6(2).
 - ii. The allowed building area for encumbered lots, Section 4.2.1.7.
 - iii. For structures not meeting i or ii; twenty five percent (25%) of the existing building footprint.
- b. Any vertical expansion must meet height requirements of this Program;
- c. Remnant foundation and/or impervious surfaces located within the Shoreline Buffer shall be removed;
- d. Mitigation of the shoreline buffer is provided in accordance with Section 4.1.2, Environmental Impacts;
- e. The remodel or expansion shall not cause adverse impacts to shoreline ecological functions and/or processes; and
- f. 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.

3. Permitted expansion of a ~~nonconforming n-existing~~ structure shall not substantially impact the existing views of the water from primary waterfront residences or public rights-of-way to any greater degree than a fully conforming structure.

4. Increases in structure footprint outside of the Shoreline Buffer shall be allowed, even if all or a portion of the existing footprint is within the Shoreline Buffer. In such case, the addition or enlargement shall be treated as a separate building or structure in determining conformity to all of the requirements of this Program.

Commented [KM8]: Is there a section of the SMP that we can add a reference to here, that addresses view regulations?

Commented [KM9]: This seems inconsistent with the requirement that any rebuilding of a nonconforming structure may not increase the nonconformity. Also how can you treat it as a separate structure if you are just increasing the size of the structure being rebuilt? Can we discuss?

4.2.1.6.4 ~~Nonconforming Existing~~ Structures – Multifamily Residential: Primary Structures

1. If a ~~nonconforming n-existing~~ primary multifamily residential 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, including building height and footprint of the structure.
 - a. This provision shall not apply to structures that are destroyed due to a criminal act involving the property owner, ~~and~~
 - b. The replacement structure shall not warrant new shoreline armoring for the life of the new structure, ~~and~~
 - c. ~~The reconstruction shall not cause adverse impacts to shoreline ecological functions and processes.~~

- d. The replacement structure meets geologically hazard provision for existing development in Section 4.1.5, Critical Areas, and Appendix B.
2. A ~~nonconforming~~ ~~n-existing~~ primary multifamily residential structure or portion thereof may be reconstructed, altered, or expanded, including the footprint and/or the height increased, to the extent allowed by this Program, if the following are met:
 - a. Public access is provided pursuant to Section 4.2.4.6, Regulations – Public Access Design and Location Standards; and
 - b. Mitigation of the shoreline buffer is provided to meet no net loss, as detailed in Section 4.1.2, Environmental Impacts, including revegetation standards in Section 4.1.2.5(3).

Commented [KM10]: Applicable only to nonconforming primary multifamily residential structures?

Commented [KM11]: Isn't this true of all activities associated with nonconforming lots, uses and structures? Move this to general regulations applicable to all nonconforming uses, lots, structures?

4.2.1.6.5 ~~Nonconforming~~~~Existing~~ Structures – Residential: Accessory Structures

1. If a ~~nonconforming~~ ~~n-existing~~ residential accessory structure is damaged, destroyed or intentionally demolished, the reconstruction shall be in conformance with all standards of the Program, except:
 - a. A ~~nonconforming~~ ~~n-existing~~ ~~essential~~ single family residential accessory structure may be reconstructed as follows:
 - b. Replacement structure is the same bulk dimension as the existing structure.
 - c. Replacement structure may be located within Zone 2 provided mitigation occurs in accordance with 4.1.2.5, Regulations – Revegetation Standards.
 - d. Attached decks essential to a single family residence may be replaced in the same location.
 - e.. 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.

Commented [KM12]: Need to define this. Or discuss removing the “essential” distinction. Why is it here?

Note to author: add, provided that shoreline modifications shall conform to Section 6.1, General Shoreline Modification Provisions, and Section 6.2, Shoreline Stabilization. And overwater residences

4.2.1.7 Regulations – ~~Encumbered and~~ Nonconforming Lots

1. Single-family development and redevelopment, except in the Point Monroe District, that is proposed on a ~~legal~~ nonconforming lot located in the shoreline jurisdiction or proposed for a shoreline property that is significantly encumbered by shoreline or critical area buffers, may be allowed without a shoreline variance when the following criteria are met:
 - a. A lot contains a building area of 2,500 square feet or more available for a single-family residence and normal appurtenances and unrestricted by buffers from shorelines or critical areas shall comply with the provisions of this Program. The building area means the entire area that will be disturbed to construct the home, normal appurtenances (except drainfields), and landscaping; or

- b. A lot that does not meet the requirement of subsection 1.a above, shall meet the following:
 - i. Landslide hazard provisions of Section 4.1.5, Critical Areas, and Appendix B and provide the maximum buffer dimension feasible for critical areas; and
 - ii. Provide a building area not to exceed 2,500 square feet with maximum lot coverage of 1,200 square feet. The building area shall be located on the portion of the lot providing the maximum Shoreline Buffer dimension with consideration given to view; and
 - iii. All single-family residential development approved under this section shall meet the shoreline structure view setback provisions in Section 4.1.3.11, Regulations – Shoreline Structure Setback View Requirement; and
- c. The area between the structure and the shoreline and/or critical area shall comply with revegetation standards in Section 4.1.2.5(3), the vegetation conservation standards of Section 4.1.3, Vegetation Management, and provisions of Section 4.1.5 Critical Areas, and Appendix B; and
- d. Development may not take place waterward of the ordinary high water mark; and
- e. Facilities such as a conventional drainfield system may be allowed outside of the building area specified above, and allowed within buffer areas, except wetlands buffers. Such facilities shall not be located closer than 75ft to OHWM; and shall be subject to regulations of Section 4.1.5, Critical Areas.

4.2.1.8 Regulations – Nonconforming Public Facilities & Transportation

1. Nonconforming public facilities shall be allowed to continue and to be repaired, maintained, or remodeled.
2. Redevelopment of nonconforming public rights-of-way and associated transportation structures are allowed for purposes of facilitating essential public access, development of public trails, and/or public shoreline access, provided that no other alternative is feasible and redevelopment shall be otherwise consistent with the provisions of this Program, including but not limited to the provisions for public access and no net loss of shoreline ecological functions and processes.

4.2.1.8 Regulations – ~~Nonconforming Existing~~ Residential and Commercial Structures: Aquatic Structures and Accessory Aquatic Structures

1. Existing docks floats, and buoys may be repaired and replaced in the same foot print and shall comply with this Program's requirements for materials and standards, to the extent practicable.
 - a. Except that as a conditional use, an existing dock may be modified, reoriented or altered within the same general location to be more consistent with the provisions of this Program.
2. Except for docks and floats, repair and replacement up to 50% of the footprint of any existing aquatic structures, including shoreline modifications, or buildings or portions

thereof within the Aquatic or Priority Aquatic designations, shall only be done once within any five year period. Such replacements shall comply with this Program's requirements for materials and standards to the extent practicable. If the structure is composed of several components, then the 50% shall be calculated independently for each component.

3. The replacement shall meet Section 4.1.2, Environmental Impacts, including the mitigation sequencing standards of Section 4.1.2.6, Regulations-Mitigation, to meet the standard of no net loss of shoreline ecological functions and/or processes. Shoreline stabilization shall also meet the alternative analysis provision of Section 6.2.8(1).