



PLANNING COMMISSION
SPECIAL MEETING
THURSDAY, JUNE 21, 2018
6:30 – 9:00 PM
COUNCIL CHAMBER
280 MADISON AVE N
BAINBRIDGE ISLAND, WA 98110

AGENDA

- 6:30 PM CALL TO ORDER
 Call to Order, Agenda Review, Conflict Disclosure
- 6:40 PM ORDINANCE 2018-20 SUBDIVISION DESIGN STANDARDS
 AND PROCESS
 Study Session/Recommendation
 Christy Carr, AICP, Senior City Planner
- 8:45 PM PUBLIC COMMENT
- 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**



DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

MEMORANDUM

Date: June 14, 2018
To: Planning Commission
From: Christy Carr, AICP Jennifer Sutton, AICP
Senior Planner Senior Planner
Subject: **Proposed Revisions to Subdivision Standards and Land Use Review Procedures**

I. PURPOSE OF AGENDA ITEM

The June 14, 2018 Planning Commission meeting will again review proposed revisions to subdivisions standards and related code and review procedures and decision-making authority for preliminary long subdivisions, site plan and design review, and major conditional use permits. **A public hearing is scheduled.** Davis Studio Architecture + Design and Wenzlau Architects will be available to answer questions from the Planning Commission related to proposed subdivision standards.

The purpose of the agenda item is to:

- Finalize proposed revisions to land use review procedures.
- Continue to gather input from the Planning Commission on subdivision design guidelines.
- Provide opportunity for public testimony on proposed revisions.

II. RECOMMENDED PLANNING COMMISSION ACTION

It is anticipated the Planning Commission will:

- **Finalize input** on proposed review procedures for preliminary long subdivisions, site plan and design review, and major conditional use permits and decide on role of the Planning Commission (BIMC 2.14 and 2.16).
- **Provide specific input** – e.g., requests for changes, policy direction – on proposed revisions on subdivision standards and design guidelines (BIMC Title 17 and Chapter 18.12).

Formal action recommended for tonight's meeting includes:

- Provide a recommendation to City Council on proposed subdivision standards and related code and review procedures and decision-making authority for preliminary long subdivisions, site plan and design review, and major conditional use permits.

III. BACKGROUND MATERIAL

This meeting is a continuation of discussion started at several previous Planning Commission meetings. Background material provided for your review includes:

- “Development Standards and Design Guidelines” -- This document, prepared by Davis Studio Architecture + Design and Wenzlau Architects, presents proposed design guidelines for subdivisions that will be incorporated into BIMC 17.12. The guidelines are included within the text of Exhibit A to show where they will be located, but **the attached document is the most recent version.**
- Proposed Subdivision Dimensional Standards – This is a replacement of the existing Table 18.12-020-1, and will be included in BIMC 17.12 to consolidate subdivision regulations in one place.
- BIMC Title 17, Subdivisions and Boundary Line Adjustments (**Existing code**) (Available online) -- <http://www.codepublishing.com/WA/Bainbridgesland/#!/Bainbridgesland17/Bainbridgesland17.html>
- “Roles of City Council, Planning Commission, Design Review Board, and Hearing Examiner in Land Use Permits” – Memorandum from James E. Haney, Attorney at Law.
- “Review Procedures for Preliminary Long Subdivisions, Site Plan and Design Reviews, and Major Conditional Use Permits” – A proposed review procedure for these three types of land use applications. **Decision-making authority for these types of land use reviews is a decision point for the Planning Commission tonight.**
- Draft Ordinance 2018-20 with exhibits, including
 - o Exhibit A – New BIMC Title 17 (all new language; yellow-highlighted text still to be finalized)
 - o Exhibit B – Revisions to BIMC 2.14
 - o Exhibit C – Revisions to BIMC 2.16
 - o Exhibit D – Revisions to BIMC 18.15

Note for Exhibit B, C, and D: Yellow-highlighted text is language that will be revised based on land use review and decision-making authority decision/direction from Planning Commission tonight. Red text is proposed revisions.

IV. TIMELINE AND NEXT STEPS

This work is being completed within the timeline of the existing moratorium of acceptance of certain land use applications, including all subdivisions. The current moratorium is set to expire on July 9, 2018. The City Council will consider next steps for the moratorium based on the work completed and presented at the June 19, 2018 City Council meeting.

- The City Council will consider Ordinance 2018-20 and next steps for the moratorium at their June 19 and 26, 2018 meetings, with potential action on June 26, 2018.

REVIEW PROCEDURES FOR PRELIMINARY LONG SUBDIVISIONS, SITE PLAN AND DESIGN REVIEW (SPR), AND MAJOR CONDITIONAL USE PERMITS (CUP)

	Title	Attendees	Objective/Submittal Requirements
	Conceptual Proposal Review	Proponent Staff DRB Subset of PC	Objective: The conceptual proposal meeting is an opportunity to ensure the proponent understands the objectives of the review process and related regulations. This early touch allows review bodies (DRB and PC) to dialogue in an informal manner with the applicant, review the design guidelines and comprehensive plan goals and policies applicable to the site, and explore design concepts and/or options. Submittal Requirements: The proponent is encouraged, but not required, to bring one or more development concepts or alternatives to indicate possible design options for the site. The materials required for the meeting should be limited in detail to allow flexibility for the proponent to respond to input received at the meeting, including: • Context map (natural and manmade features around site) • Site inventory (identifying key site features) • Conceptual site plan • A description of the proponent's objectives with regard to site development • Narrative/response to design guidelines

PRE-APPLICATION PHASE

Early Guidance Meeting (formally DRB pre-pre app)	Proponent Staff DRB Subset of PC	Objective: The DRB and PC will provide input and guidance on consistency with applicable design guidelines and comprehensive goals and policies, respectively, including how the project could be revised to achieve greater consistency. Submittal Requirements: Project materials are still conceptual in nature, but provide enough detail that DRB/PC can provide input. Materials will be same or similar to what is currently required for DRB pre-pre-application conference in the Administrative Manual, including a design guidelines checklist completed by the applicant. Submittal materials should also include an analysis of the features that define the developed context of the structures located in the vicinity of the project and the relationship of the proposed building/s to the existing developed context, including key architectural and structural elements.
Pre-application conference	Applicant Staff	Objective: The purpose of the preapplication conference is to assist the applicant by identifying the following: • Requirements for submittal, including types of permits necessary to complete the proposal and whether SEPA review is required. • Compliance with applicable city plans, goals, policies, codes or guidelines and possible revisions to the proposed project that will enhance the proposal with respect to these requirements. • Required plans, studies, reports, and/or other materials specific to the proposal that will provide necessary information for staff to review the project.

		Submittal Requirements: No changes to existing requirements in Administrative Manual anticipated.
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Public meeting	Applicant Staff Subset of DRB Subset of PC Public (Full DRB/PC attendance optional with noticing.)	Objective: To provide project information to the surrounding neighborhood and general public, allow for questions and input, identify concerns about the site and the proposed project, and determine neighborhood priorities among the design guidelines. Submittal Requirements: The applicant is responsible for providing sufficient information to provide the public with an understanding of the existing site and project proposal. Meeting materials should include: • An initial site analysis addressing site opportunities and constraints, the use of all adjacent buildings, and the zoning of the site and adjacent properties; and • A drawing of existing site conditions, indicating topography of the site and the location of structures and prominent landscape elements on or abutting the site (including but not limited to all trees 6 inches or greater in diameter, with species indicated); and • Photos showing the facades of adjacent development, trees on the site, general streetscape character and territorial or other views from the site, if any; and • A description of the proponent's objectives with regard to site development
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APPLICATION SUBMITTED

DRB recommendation meeting	Applicant Staff DRB	Objective: Project review and recommendation. A determination shall be made by the Design Review Board that the proposed design submitted by the project proponent does or does not comply with applicable design guidelines. The Design Review Board shall recommend to the Director whether to approve or conditionally approve the proposed project based on the design guidelines, and whether to approve, condition or deny any requested departures from development standards. DRB recommendation and completed design review checklist included in staff report transmitted to Planning Commission.
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PC recommendation meeting	Applicant Staff PC	Objective: • Project review and recommendation; or • Project review and public hearing (decision issued at or after meeting)
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OPEN RECORD HEARING AND DECISION

Site Plan and Design Review: Administrative Decision by Director

Major Conditional Use Permit: Quasi-judicial Decision by **Hearing Examiner, Planning Commission, or City Council**

Preliminary Long Subdivision: Quasi-judicial Decision by **Hearing Examiner, Planning Commission, or City Council**
(City Council can delegate approval of final subdivision to Planning Commission or Director)

NEW CODE LANGUAGE TO SUPPORT REVIEW PROCEDURES

BIMC 2.16.030, Administrative review procedures – general):

D. Decision Procedures.

1. Criteria for Decision. In making the decision, the department director shall consider the applicable decision criteria of this code, all other applicable law, and any necessary documents and approvals. When no other criteria are specified, the director shall apply the following criteria:

- a. The application must comply with all applicable requirements of the BIMC as well as state and federal law.
- b. The application is consistent with the adopted comprehensive plan, ~~and~~ specifically with the character or intended character of the area in which the property is located, as described in the comprehensive plan, and adopted design guidelines.

2. Environmental Review. For a land use application subject to Chapter 43.21C RCW and Chapter 16.04 BIMC, a SEPA threshold determination may be issued simultaneously with the final decision of the land use application.

3. Planning Commission Recommendation. When written public comments are received during the public comment period concerning the effect of the land use application on the comprehensive plan, shoreline master program or matters not addressed by specific provisions of this code, the director may request the planning commission to review an application and make a written recommendation prior to the director making a decision. The planning commission will consider the land use application at a public meeting. The planning commission shall recommend approval, approval with conditions or denial of an application. In making a recommendation, the planning commission shall consider the applicable decision criteria of this code, all other applicable law, and any necessary documents and approvals. If the applicable criteria are not met, the planning commission shall recommend the proposal be modified or denied. A planning commission recommendation is not a final decision and therefore there is no appeal of the recommendation. The planning commission's written recommendation and other documents upon which its decision is based shall be immediately transmitted to the director.

4. Design Review Board Recommendation. The Director's decision shall consider the recommendation of the Design Review Board. If a quorum of the Design Review Board is in agreement in their recommendation to the Director, the Director shall issue a decision that makes compliance with the recommendation of the Design Review Board a condition of permit approval, unless the Director concludes that the recommendation of the Design Review Board:

- a. Reflects inconsistent application of the design review guidelines; or
- b. Exceeds the authority of the Design Review Board; or
- c. Conflicts with SEPA conditions or other regulatory requirements applicable to the site;
- d. Conflicts with requirements of the Bainbridge Island Municipal Code, unless a departure or variance has been granted; or
- d. Conflicts with the requirements of state or federal law.

F. Department Director Decision. The department director may approve, approve with conditions, or deny the application based on the decision criteria, findings of fact, recommendations of the planning commission and design review board as applicable, and any necessary documents and approvals. **(This is existing language, provided for information.)**

CODE LANGUAGE IN PRELIMINARY LONG SUBDIVISIONS (BIMC 2.16.125), SITE PLAN AND DESIGN REVIEW (BIMC 2.16.040, AND MAJOR CONDITIONAL USE PERMITS (BIMC 2.16.110) WILL BE REVISED (SEE YELLOW HIGHLIGHTED TEXT IN ORDINANCE EXHIBIT B AND C) TO REFLECT NEW REVIEW PROCEDURES AND DECISION-MAKING AUTHORITY.

DESIGN GUIDELINES & DEVELOPMENT STANDARDS

June 7, 2018

Prepared by Davis Studio Architecture + Design and Wenzlau Architects

GENERAL DEVELOPMENT STANDARDS

The following standards shall apply to the creation of short and long subdivisions. These changes to the standards are recommended to implement Design Guidelines. The code update will include modifications to the Dimensional Standards Table 18.12.020 based upon the specifics of each zoning designation.

1. Natural Space is required
2. Community Space is required
3. Parking may be located outside of individual lots
4. Lots may be separated from public ROW or private access ways.
5. Use maximum Homesite Size, no minimum-maximum lot size unless set by Kitsap County Health
6. Use maximum Homesite Coverage, no maximum lot coverage
7. Zero lot line is allowed
7. Subdivision within MUTC is allowed

NATURAL SPACE STANDARDS

Consistent with the Critical Areas and preservation of island character, all site plans shall protect related sensitive areas and existing forest stands consistent with dimensional standards. Natural areas must be permanently protected with deed restrictions. Natural areas may be within proposed lots and shall be permanently designated for use by all community members with similar deed, covenants or easement. Natural areas are not required to be public, except for connector trails.

- 1) Natural Space requirement shall vary based upon zone.
- 2) Sites without Critical Areas, shall achieve minimum percentage natural areas through protection of forested areas.
- 3) Sites where Critical Areas and forested areas do not meet minimum natural area requirement, one or a combination of the following Natural Area Options is required:
 - a. Site Restoration
 - b. Creation or preservation of farmland
 - c. Creation or preservation of existing meadows or natural features
- 4) Natural Area Options (3 above) shall be limited to areas outside of Homesites.
- 5) Area associated with any Tree protection zone shall count towards minimum Natural Area requirement.
- 6) Natural Area minimum within the MUTC may be achieved by compliance with tree retention requirements.
- 7) Trail access, along with future off site trail access, which connects to adjacent neighborhoods or open spaces shall be permanently dedicated for public use.

COMMUNITY OPEN SPACES STANDARDS

General: To promote community interaction within neighborhoods, proposed site design shall include community spaces. Community spaces are intended to provide a centrally located area that can be developed and maintained so it is usable for active and passive recreation. Community spaces shall be permanently designated for use by all community members with deed, covenants or easement. Community spaces shall be outside of critical areas. Community spaces are not required to be public, except for connector trails. Community spaces shall be subject to the following requirements.

- 1) Community Open Space: requirement shall vary based upon zone.
 - a. Community space shall be located adjacent to homesites.
 - b. Community space may be located within individual lots, but must be outside of homesite area.
 - c. Community space shall not include portions of private yards. Site design shall consider a delineation between these uses with features such as a fence, pathway, hedges or other landscape elements.
 - d. Community space shall always have pathway access within it. Pathways shall link to each homesite, other community spaces and to access ways.
 - e. Community space may be within ARPA when used for passive recreation or other uses consistent with ARPA.
 - f. Allowable uses include community gardens, pea patches, commons buildings, small workshops, sheds or other uses to serve residents. Commons building may include 1 guest room.
 - g. Large Storage buildings are not allowed within community open space.
 - h. Properties within R 0.4 that are dividable to three lots or less in shall be exempt from providing community space.
- 2) Through Site Trail Access: shall be coordinated to connect with adjacent off-site trails or potential future connection points, and shall be permanently dedicated for public use.

HOMESITE, LOT AND RESIDENTIAL CLUSTER STANDARDS

General: Residential Clusters and Homesites shall be created to foster community connection and to protect the environment. In order to implement the creation of community space within residential communities, and to maximize the protection of natural areas, the area of construction disturbance for homes shall be contained within Homesites and Homesites shall be clustered.

- 1) Homesites: Homesites are an area within a Lot where the improvements typically associated with homes are located. Improvements include house footprint, driveway, patio, deck and other impervious surfaces.
 - a. Homesite shall be limited in size per zone (see Development Standards Table (DST))
 - b. Private gardens may be located within lot area, outside of homesites.
- 2) Residential Lots: Lots will include homesite, and also may include natural space and community space.
 - a. No private uses are allowed within portions of lot areas designated as natural space and community space.
 - b. Parking spaces may be located outside of lot area when in common parking areas.
 - c. Lots may be located separated from streets or access ways.
 - d. Lots may contain streets and access ways, within an access easement.

- 3) Lot Size: Lots shall have no minimum or maximum area or dimensional requirements. Homes served by septic shall comply with minimum lot size as set by Kitsap County Health Department. Septic may be located outside of the Homesite and the Lot with KCHD approval.
- 4) Residential Clusters: Homesites shall be clustered with a maximum homesite separation (per DST)
 - a. Buildings shall have a minimum separation (per DST). This may be modified by staff based upon merits of the design.
 - b. Properties that are dividable to three lots or less in shall be exempt from clustering requirement, though clustering is preferred.

DESIGN GUIDELINES

The following Guidelines shall be followed for the creation of all residential communities. The Guidelines include specific criteria to identify intent and set basis for compliance. The applicant will need to show familiarity with intent of Guidelines during Concept meeting and then compliance with Guidelines during Pre-App.

A) NATURAL ENVIRONMENT

1. Preserve Natural Areas

Intent: To preserve existing natural areas including forests and other significant natural features.

Guideline: Site design shall integrate preservation of forests, meadows, and natural features into the community design.

2. Farmlands

Intent: To preserve the rural character of fields and local food production

Guideline: Existing farmlands shall be recognized as natural areas.

3. Site Restoration

Intent: Restore ecological functions to disturbed areas.

Guideline: Sites where Natural Areas are less than minimum requirement may restore previously disturbed or non-native conditions with site restoration. Restoration Areas shall achieve predevelopment infiltration conditions with soil amendments and native planting.

Community spaces, where compacted during development, shall have soil amended to predevelopment conditions.

4. Recognize Special Trees

Intent: Protect trees which reinforce island history or character

Guideline: Special trees located outside of natural areas shall be protected. These may include trees of historic significance, unique species or character which may not otherwise be protected as significant or within protection zone.

5. Integrated Infiltration

Intent: Integrate infiltration (septic and stormwater)

Guideline: Emphasis shall be given to integration of surface infiltration strategies including dispersion systems, raingardens, pervious paving and natural ponds.

6. Wildlife Corridors

Intent: To preserve wildlife corridors

Guideline: Where wildlife corridors are mapped, Natural Areas shall be connected to adjacent off-site natural areas to allow for wildlife corridors.

B) SITE DESIGN

7. Community Space

Intent: Promote community interaction/connection with use of outdoor spaces

Guideline: Community space(s) shall be centrally located with adjacency to majority of the Homesites. Types of preferred spaces include central greens, pea patches, gardens, orchards, play fields etc. Community spaces may include buildings which serve residents including greenhouses, tool storage, social space or other shared indoor space.

8. Solar Access

Intent: Ensure daylight is allowed to Homesites for energy production and well-being.

Guideline: Homesites shall be oriented in relation to forested areas and open spaces to maximize solar access. Tree planting and building massing shall minimize shading to adjacent homes. Solar access shall be provided to a majority of the homes.

9. Cluster Homesites

Intent: To promote community interaction and reduce development impacts, Homesites shall be located into discrete groupings.

Guideline: Homesite shall be located with maximum separation from adjacent Homesite. The maximum separation will vary by zone.

10. Trail Connections

Intent: To provide safe walking routes within communities and to surrounding neighborhoods

Guideline: Projects shall provide a pedestrian connection through the site to adjacent established trails. Sites without adjacent trails shall provide public easement identifying potential future trail connections. Each project shall establish a network of walking paths which connect Homesites to Community and Natural Spaces and access ways.

11. Fence Design

Intent: To avoid solid fenced rear yards facing public ROW.

Guideline: For sites where yards face a public street (alleyways excluded) the fence height shall be of any construction and shall not exceed 3.5 feet in height. Where the fence which exceeds 3.5 feet, it shall be set back a minimum of 15' and planted with full screen buffer on the street side of the fence. Fences between homesite and community space shall not exceed 3'-6".

Fences between homesites can be a maximum of 5' for the length of the building only and 3'-6" elsewhere. Front yard fences shall be no more than 3'-6" tall.

12. Facing Public Ways

Intent: To reinforce neighborliness of homes facing the street

Guideline: Homes along public streets shall have their entry oriented to the street. Porches and outdoor spaces are encouraged. Homes on corner lots may face side yard to street.

13. Minimizing Driveways

Intent: Minimize driveway paving, garages shall be located close to access way.

Guideline: When garages are located within a Homesite, the garage should be located adjacent to the access way. Garages facing street shall be limited to two cars. If garages are located to side or rear of the home, they should use shared driveways.

14. Recognize Historic and Cultural Resources

Intent: Sites should identify and preserve historic and cultural resources

Guideline: Site plans with features (buildings, natural features or as identified by local experts) shall preserve or recognize resources with appropriate signage.

C) REDUCE SITE IMPACTS

15. Narrow Roadways

Intent: Reduce impervious surfaces by using minimum road length and width

Guideline: Site design shall utilize 12' paved road surface with pull outs unless a wider standard is required. Clustered parking is encouraged.

16. Clustered Parking

Intent: Reduce impervious surfaces by eliminating roadways serving individual Homesites.

Guideline: Parking may be located outside of Homesite along access way, in shared parking areas or shared garages. Covered parking, if provided, is limited to 5 spaces per building and shall be separated from adjacent covered parking with landscape islands. Garages, where remote from Homesite, shall be deed restricted to serve related homesite.

17. Limit Area of Disturbance

Intent: to reduce disturbance of natural areas

Guideline: Areas of construction activity shall be limited to Homesites and approved improvements within Community Spaces. During construction perimeter of all homesites and other development areas shall be fenced with 6' tall construction fencing. Activity within natural areas shall be consistent with ARPA and tree protection.

18. Natural Storm Ponds

Intent: Stormwater ponds shall appear as natural feature.

Guideline: Stormwater ponds shall be designed as "constructed wetlands" with shallow slopes and native vegetation to appear as natural feature. Fencing if used shall be visually open (split rail) and less than 3'6" tall. Constructed wetlands may be considered as Natural Space when located within existing clearing. Conventional storm water ponds are prohibited within Natural and Community Spaces.

19. Innovative Septic

Intent: Site designs shall consider opportunity for innovative approaches to reduce septic impacts on natural environment.

Guideline: Septic systems may be located within Homesites, Community Spaces or Natural Spaces. Septic systems, when not within Homesite, shall be designed and located to minimize impacts to natural environment. Community septic systems are encouraged, if permitted.

D) HOMESITES

20. Homesite Footprint

Intent: To integrate building footprint, useable outdoor spaces, and vehicle parking within limited Homesite area.

Guideline: Applicant shall identify how building footprint and outdoor spaces can be efficiently configured within homesite, and how homesite accommodates a range of home designs and sizes.

21. Varied Home Design

Intent: to provide a range of house designs to add visual interest

Guideline: The home designs shall be varied in floor plan, elevations and massing to achieve a minimum of 1 plan for each 3 homes. Homes shall be dispersed within the neighborhood. Home types are encouraged to have shared details to provide continuity within the overall design.

22. Housing Diversity

Intent: to provide a range of household sizes and affordability

Guideline: The house sizes shall be varied to provide a range of sizes. At least 20% of the homes must be 25% smaller than average home size and 20% may be 25% larger than average home size.

23. Useable Sideyards

Intent: To ensure useable spaces between buildings

Guideline: The average distance between homes shall be not less than 10' to ensure the spaces are usable and allow for solar access, except in zero lot line homes.

24. Sustainability

Intent: to ensure site planning supports strategies for sustainability

Guideline: All homes and community buildings should be designed to reduce their environmental footprint, reducing consumption of limited resources and be built to high levels of sustainability standards, supported by City-wide green building code.

Revision to Table 18.12.020 - Dimensional Standards for Residential Zone Districts

Zone	R 0.4	R 1	R 2	R 2.9	R 3.5	R 4.3	R 5	R 8	R 14
Base Zoning	1 house per 100,000 sf	1 house per 40,000 sf	1 house per 20,000 sf	1 house per 15,000 sf	1 house per 12,500 sf	1 house per 10,000 sf	1 house per 8,500 sf	1 house per 5,400 sf	1 house per 3,100 sf
Natural Space minimum - percent of site	25%	25%	25%	25%	25%	20%	15%	10%	5%
Community Space * minimum - percent of site	5%	7.5%	10%	15%	15%	15%	15%	15%	10%
Community Space Dimensions minimum	50 ft	50 ft	50 ft	35 ft	35 ft	25 ft	25 ft	15 ft	15 ft
Homesite maximum	15,000 sf	6,000 sf	4,000 sf	3,500 sf	3,250 sf	3,000 sf	2,750 sf	2,500 sf	2,250 sf
Home Site Coverage maximum	4,500 sf	3,000 sf	3,200	2,975 sf	2,925 sf	2,850 sf	2,750 sf	2,500 sf	2,250 sf
Home Site Separation maximum	25 ft	25 ft	25 ft	25 ft	25 ft	25 ft	25 ft	25 ft	25 ft
Building to building ** minimum	net bldg sf								
	1,600sf or less 1,600sf or more	0 ft, 10 ft 0 ft, 25 ft	0 ft, 10 ft 0 ft, 15 ft	0 ft, 10 ft 0 ft, 15 ft	0 ft 0 ft	0 ft 0 ft	0 ft 0 ft	0 ft 0 ft	0 ft 0 ft
Building to Street minumum	10 ft	10 ft	10 ft	10 ft	10 ft	5 ft	5 ft	5 ft	5 ft
Building to community space minimum	15 ft	10 ft	10 ft	5 ft	5 ft	0 ft	0 ft	0 ft	0 ft
Building to Exterior Plat Boundary Line minimum	25 ft	5 ft	5 ft	5 ft	5 ft	5 ft	5 ft	5 ft	5 ft
Building to SR 305 Right of Way minimum	75 ft	75 ft	75 ft	25 ft	25 ft	25 ft	25 ft	25 ft	25 ft
Building to other arterial and collector rights of way minimum	25 ft	10 ft	10 ft	10 ft	10 ft	10 ft	10 ft	10 ft	10 ft
Building to alley minimum	0 ft	0 ft	0 ft	0 ft	0 ft	0 ft	0 ft	0 ft	0 ft
Building to trail, etc minimum	5 ft	5 ft	5 ft	5 ft	5 ft	5 ft	5 ft	5 ft	5 ft
Shared Garage Separation minimun	7 ft	7 ft	7 ft	7 ft	7 ft	7 ft	7 ft	7 ft	7 ft
Joined Garages maximum	6	6	6	6	6	6	6	6	6

Building Height maximum	Height requirements for standard lots apply
* not required for 3 lots or less	
** may be modified by staff based on merits of design.	

ORDINANCE NO. 2018-20

AN ORDINANCE of the City of Bainbridge Island, Washington, relating to subdivision standards, land use review procedures, and dimensional standards, repealing Title 17, and adopting an updated Title 17, repealing Table 18.12.020-1, and revising Chapter 2.1.4, 2.16, 18.15, and 18.18 of the Bainbridge Island Municipal Code.

WHEREAS, the City Council of the City of Bainbridge Island ("City") updated the City's Comprehensive Plan in February of 2017; and

WHEREAS, the City Council has expressed significant concerns about development and growth in the City under current regulations in the context of the vision and goals of the City's Comprehensive Plan, and wishes to revise development regulations to best accommodate growth and development in both general and specific ways; and

WHEREAS, Ordinance No. 2018-02 imposed a temporary six-month moratorium on the acceptance of certain development, stating the City Council's concerns regarding likely adverse impacts related to growth and development under existing regulations including the following:

(1) The loss of trees, forests, native vegetation, and soils, along with the full range of important ecosystem services and values that they provide to the community, as expressed, for example, by the City Council in the City's Comprehensive Plan, as well as concerns expressed by the Planning Commission, Design Review Board, and the Ad Hoc Tree/LID Committee; and

(2) Compliance with design review standards, including as relates to, for example, Policy LU 6.8 of the City's Comprehensive Plan, regarding the role of the Design Review Board, Hearing Examiner, Planning Commission, and City Council in the land use development review and decision-making process, as well as related to meeting the goals of the Comprehensive Plan more generally, including its guiding principle to "Preserve the Island's special character," as well as other principles; and

(3) Serious challenges promoting affordable housing in a manner consistent with the City's Comprehensive Plan; and

WHEREAS, based on these and related concerns, the City Council required additional time to review the regulations and policies at issue to ensure that the vision and goals of the City's Comprehensive Plan are being met to the Council's satisfaction; and

WHEREAS, Ordinance No. 2018-05 amended and restated the temporary six-month moratorium to specifically apply to and prohibit all applications for new short subdivisions (BIMC 2.16.070), new preliminary long subdivisions (BIMC 2.16.125), and new large lot subdivisions (BIMC 2.16.080); and

WHEREAS, a number of priorities to address the items at issue in the moratorium were identified at a joint meeting of the City’s Design Review Board and Planning Commission on February 22, including the following:

- (1) Revise review procedures for preliminary subdivisions to include the Design Review Board and Planning Commission in process; and
- (2) Analyze alternatives to decision-making authority for the Design Review Board, Planning Commission, and Hearing Examiner for subdivisions, conditional use permits, and site plan and design review; and
- (3) Identify specific development standards to review/revise in Chapters 18.12 and 18.15 of the Bainbridge Island Municipal Code; and
- (4) Initiate rewrite of subdivision design standards in Chapter 17.12 of the Bainbridge Island Municipal Code; and

WHEREAS, at an April 3 City Council study session, the City’s Department of Planning and Community Development provided a briefing on the Design Review Board and Planning Commission joint meeting wherein the City Council authorized staff to proceed with a work plan addressing the priorities identified at the joint meeting; and

WHEREAS, on May 7 and 21 and on June 4 the City’s Design Review Board discussed alternatives for revisions to the City’s subdivision standards, dimensional standards, and land use review procedures; and

WHEREAS, on May 10 and 24 and on June 7 the City’s Planning Commission discussed alternatives for revisions to the City’s subdivision standards, dimensional standards, and land use review procedures; and

WHEREAS, each of the six Design Review Board and Planning Commission meetings included an opportunity for public comment on the alternatives for revisions to the City’s subdivision standards, dimensional standards, and land use review procedures; and

WHEREAS, the City provided legal background on the roles of land use bodies, presented in a memorandum from James E. Haney, “*Roles of City Council, Planning Commission, Design Review Board, and Hearing Examiner in Land Use Permits*” dated June 1, 2018; and

WHEREAS, the City issued a State Environmental Policy Act (“SEPA”) Determination of Non-Significance for this Ordinance No. 2018-20 on June 8, 2018; and

WHEREAS, the City notified the Department of Commerce on June 11, 2018, of its intent to revise its development regulations relating to subdivision standards, dimensional standards, and land use review procedures; and

WHEREAS, the Planning Commission conducted a public hearing on Ordinance No. 2018-20 on June 14, 2018; and

WHEREAS, the City Council reviewed and considered the alternatives for revisions to the City's subdivision standards, dimensional standards, and land use review procedures at regularly scheduled meetings on May 22 and on June 5, 19 and 26; and

WHEREAS, the City possesses land use jurisdiction and regulatory authority over the City's incorporated lands; and

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

Section 1. Title 17, *Subdivisions and Boundary Line Adjustments*, of the Bainbridge Island Municipal Code is hereby repealed in its entirety.

Section 2. A new Title 17, *Subdivisions and Boundary Line Adjustments*, of the Bainbridge Island Municipal Code is hereby adopted in its entirety as set forth on Exhibit A attached hereto and made a part hereof by this reference.

Section 3. Table 18.12.020-1, *Flexlot Subdivision Dimensional Standards for Residential Zone Districts*, of the Bainbridge Island Municipal Code is hereby repealed in its entirety.

Section 4. Section 18.12.010, *General Provisions*, of the Bainbridge Island Municipal Code, is amended to read as follows:

A. All development in the city of Bainbridge Island shall be subject to the dimensional standards in Tables ~~18.12.020-1~~, 18.12.020-2, and 18.12.020-3 and BIMC 18.12.030, unless those standards are explicitly varied by another provision of the Bainbridge Island Municipal Code.

B. Lots that have previously received final approval from the city, or that have previously received final approval from Kitsap County prior to inclusion within the city boundaries, and that do not comply with the adopted flexible lot design requirements shall be considered existing nonconforming lots, but any future resubdivision of any such lots shall comply with adopted flexible lot design requirements. Pre-existing PUDs may have their own standards that do not match those in Tables ~~18.12.020-1~~, 18.12.020-2, or 18.12.020-3.

C. In addition, the following sections of the BIMC may impose additional dimensional requirements or allow exceptions to dimensional requirements, and in the case of a conflict with the information in Tables ~~18.12.020-1~~, 18.12.020-2, or 18.12.020-3 the more specific provision or criteria shall apply:

1. BIMC 2.16.020.Q, Housing Design Demonstration Projects.
2. Chapter [16.12](#) BIMC, Shoreline Master Program.
3. Chapter [16.20](#) BIMC, Critical Areas.
4. BIMC 17.12.~~030.A050~~, ~~flexible lot subdivision open space development option.~~
Specific residential subdivision standards.
5. ~~BIMC 17.12.030.B, flexible lot subdivision cluster development option.~~
56. BIMC [18.09.030](#), Use-specific standards.
67. BIMC 18.12.030.F, Shoreline Structure Setbacks.
78. Chapter [18.27](#) BIMC, Transfer of Development Rights. (Ord. 2011-02 § 2 (Exh. A), 2011)

Section 5. Section 18.12.020, *Tables of Dimensional Standards*, of the Bainbridge Island Municipal Code, is amended to read as follows:

Tables ~~18.12.020-1~~, 18.12.020-2, and 18.12.020-3 set forth applicable dimensional standards. Where a property is located in more than one zone district, units permitted by density calculations within each zone district must be constructed on the portion of the property located within that zone district and required setbacks for each zone district must be met. Permitted densities are not “blended” across the zone district line.

Section 6. Chapter 2.14 of the Bainbridge Island Municipal Code is hereby amended as set forth in Exhibit B attached hereto and made a part hereof by this reference.

Section 7. Chapter 2.16 of the Bainbridge Island Municipal Code is hereby amended as set forth in Exhibit C attached hereto and made a part hereof by this reference.

Section 8. Chapter 18.15 of the Bainbridge Island Municipal Code is hereby amended as set forth in Exhibit D attached hereto and made a part hereof by this reference.

Section 9. Chapter 18.18, *Specific Design Regulations and Guidelines*, of the Bainbridge Island Municipal Code is hereby amended to read as follows:

~~A. Detached Single Family Residential Developed Using the R-8SF Urban Single Family Overlay District. Detached single family residential developed in accordance with the R-8SF urban single family overlay district transfer of development rights program shall comply with those regulations contained in “Design Guidelines for R-8SF Urban Single Family Overlay District” if they want to develop at overlay zone densities.~~

A. Ericksen Avenue Overlay District. New development within the Ericksen Avenue Overlay District shall comply with those regulations contained in “Ericksen Avenue Overlay District Design Standards and Guidelines.” In addition to these guidelines, new development in the Ericksen Avenue Overlay District must address the General Guidelines for All Overlay Districts in “Guidelines for Commercial and Mixed Use Projects – Including Guidelines for Lynwood Center, Island Center, and Rolling Bay.”

Section 10. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is declared invalid or unconstitutional for any reason, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 11. This ordinance shall take effect and be in force five (5) days after its passage, approval and publication as provided by law.

PASSED by the City Council this 26th day of June, 2018.

APPROVED by the Mayor this 26th day of June, 2018.

ATTEST/AUTHENTICATE:

Christine Brown, City Clerk
Kol Medina, Mayor

FILED WITH THE CITY CLERK
PASSED BY THE CITY
COUNCIL PUBLISHED:
EFFECTIVE
DATE:
ORDINANCE NO:

June , 2018
June, 2018
June, 2018

June, 2018
2018-20

ORDINANCE 2018-20 EXHIBIT A

Bainbridge Island Municipal Code Page 1/22
Title 17 SUBDIVISIONS AND BOUNDARY LINE
ADJUSTMENTS

Title 17

SUBDIVISIONS AND BOUNDARY LINE ADJUSTMENTS

****New name for subdivisions?****

Chapters:

- 17.04 Purpose and General Provisions**
- 17.08 Applicability**
- 17.12 Subdivision Design Standards**
- 17.16 Boundary Line Adjustments**
- 17.20 Dedications of Land**
- 17.24 Enforcement and Penalties**
- 17.28 Definitions**

Chapter 17.04

PURPOSE AND GENERAL PROVISIONS

Sections:

17.04.010 Purpose.

17.04.020 General provisions.

17.04.010 Purpose.

A. The purpose of this title is to regulate the division of land into short subdivisions, long subdivisions, and large lot subdivisions to promote the public health, safety and general welfare of the citizens of the city in accordance with state law and the city's comprehensive plan. To carry out this purpose and further the comprehensive plan policies addressing residential subdivision of land, this title establishes a flexible lot process for short and long subdivisions that promotes the preservation and consolidation of open space and clustering of development within residential subdivisions. This process facilitates the fair and predictable division of land, maintains the current character of the city, encourages efficient and cost-effective provisions for infrastructure, limits the development impact area, minimizes impervious surface area and provides for greater flexibility in the division and establishment of residential lots.

C. Through this title, the city will also allow for the subdivision of land for nonresidential, multifamily, and mixed use, and accomplish uniform monumenting of land divisions and conveyance by accurate legal description.

D. An additional purpose of this title is to provide criteria for summary administrative approval of boundary line adjustments that satisfy public concerns of health, safety and welfare, or where arranging or rectifying boundary lines is otherwise requested.

E. A final purpose of this title is to comply with the provisions of RCW Title 58 (Boundaries and Plats) or its successors, and other applicable law of Washington State, and no provision of this title shall be interpreted to authorize or require actions inconsistent with those laws. (Ord. 2011-02 § 2 (Exh. A), 2011)

17.04.020 General provisions.

A. Location of Substantive Standards. This title sets forth substantive standards for the layout and design of short, long, large lot, nonresidential, and multifamily subdivisions. All such divisions of land must also comply with substantive standards in BIMC Titles 15 (Buildings and Construction), 16 (Environment), and 18 (Zoning) unless the standards in those titles have been explicitly modified or waived.

B. Location of Review and Approval Procedures. The procedures for approval of short, long, large lot, nonresidential and multifamily subdivisions, as well as the vesting of rights related to those types of approvals, are set forth in BIMC Title 2 (Administration and Personnel). All such provisions require consistency with the requirements of RCW Title 58 (Boundaries and Plats) or its successors as applicable to the type of land division being proposed.

C. Compliance with RCW Title 58.

1. General.

a. Every long, large lot, nonresidential or multifamily subdivision shall comply with the provisions of RCW Title 58. Every short subdivision as defined in RCW Title 58 shall comply with the provisions of the Bainbridge Island subdivision regulations, which have been adopted pursuant to RCW 58.17.060. A proposed division of land, as defined in RCW 58.17.020, shall be considered under the subdivision or short subdivision ordinance, and zoning or other land use control ordinances, in effect on the land at the time a fully completed application for preliminary plat approval of the subdivision, or short plat approval of the short subdivision, has been submitted to the city.

b. For purposes of compliance with RCW Title 58 (Boundaries and Plats) or its successors, the Bainbridge Island subdivision regulations shall consist of this title, as well as applicable substantive standards in

BIMC Titles 15 (Buildings and Construction), 16 (Environment), and 18 (Zoning), applicable procedures set forth in BIMC Title 2 (Administration and Personnel), and related local regulations or ordinances adopted in accordance with state law. Large lot subdivisions and multifamily or nonresidential subdivisions are forms of subdivisions regulated pursuant to RCW 58.17.040(2) or its successors, and shall be subject to the requirements of RCW Title 58 applicable to subdivisions, as modified by any applicable provisions of the BIMC.

c. The limitations imposed by this section shall not restrict conditions imposed under Chapter 43.21C RCW.

2. Specific Provisions. Without limiting the generality of subsection C.1 of this section, the Bainbridge Island subdivision regulations and all applications for short, long, large lot, nonresidential and multifamily subdivisions pursuant to those regulations shall be consistent with the provisions of RCW 58.17.033, 58.17.060, and 58.17.140 regarding requirements for application, approval, and time limitation and extension.

D. Limitations on Dedications and Fees. Pursuant to RCW 58.17.110(2) or its successors, dedication of land, provision of public improvements to serve the subdivision, and/or impact fees imposed under RCW 82.02.050 through 82.02.090 or their successors may be required as a condition of subdivision approval. No dedication, provision of public improvements, or impact fees imposed under RCW 82.02.050 through 82.02.090 or their successors shall be allowed that constitutes an unconstitutional taking of private property. The legislative body shall not as a condition to the approval of any subdivision require a release from damages to be procured from other property owners.

E. Application Materials. Materials required to be submitted with an application for a short or long subdivision, subdivision, large lot subdivision, nonresidential or multifamily subdivision or boundary line adjustment are available in the Bainbridge Island Administrative Manual.

F. Interpretation. This title shall be liberally interpreted and construed to secure the public health, safety, morals, and welfare, to implement the Bainbridge Island comprehensive plan, and to comply with all applicable requirements of Washington State law, and the rule of strict construction shall have no application. (Ord. 2011-02 § 2 (Exh. A), 2011)

Chapter 17.08
APPLICABILITY
NO CHANGES PROPOSED

Sections:

- 17.08.010 Applicability.
- 17.08.020 Exclusions.

17.08.010 Applicability.

Unless excluded by BIMC 17.08.020, all short, long, large lot, nonresidential and multifamily subdivisions, as defined in Chapter 17.28 BIMC and Chapter 18.36 BIMC, shall comply with this title. (Ord. 2011-02 § 2 (Exh. A), 2011)

17.08.020 Exclusions.

This title shall not apply to:

- A. Cemeteries and other burial plots while used for that purpose.
- B. Divisions made by testamentary provisions, or the laws of descent, as defined in Chapter 17.28 BIMC.
- C. Divisions of land into lots or tracts classified for industrial or commercial use when the city has approved a binding site plan for the use of the land in accordance with city ordinance.
- D. A division for the purpose of lease when no residential structure other than mobile homes or travel trailers is permitted to be placed upon the land when the city has approved a binding site plan for the use of the land in accordance with city ordinance.
- E. Divisions of land into lots or tracts if:
 - 1. The improvements constructed or to be constructed on the lot or tract will be included in one or more condominiums or are owned by an association or other legal entity in which the owners of units or their owners' associations have a membership or other legal or beneficial interest; or
 - 2. The city has approved a binding site plan for all such land and the binding site plan contains the following statement:

All development of the land described in this site plan shall be in accordance with the binding site plan, as it may be amended. Upon completion, the improvements on the land shall be included in one or more condominiums or owned by an association or other legal entity in which the owners of units or their owners' association have a membership or other legal or beneficial interest.
- F. A division (1) caused by condemnation or by acquisition by a government entity in lieu of condemnation, or (2) otherwise resulting from a transfer of land to a government entity for open space, park, public vehicular access, public pedestrian access, utility, or right-of-way purposes, or to a private utility regulated by the State Utilities and Transportation Commission for utility improvement purposes.
- G. Any division of land that is exempted from the scope of RCW Title 58 or its successors.
- H. Short subdivisions shall not be used, either by a person alone or by persons acting together, at one time or over a period of time, as a means to circumvent compliance with the more stringent subdivision requirements that control the subdivision of land into five or more lots. When an application for a short subdivision is filed within five years after the approval of a short subdivision on a contiguous land parcel, a presumption of an attempt to circumvent short subdivision requirements may be invoked by the director as a basis for further investigation to assure compliance with the intent of this provision. (Ord. 2011-02 § 2 (Exh. A), 2011)

Chapter 17.12

SUBDIVISION DESIGN STANDARDS

Sections:

- 17.12.010 Applicability.
- 17.12.020 General requirements for single-family subdivisions.
- 17.12.030 Residential subdivision design guidelines.
- 17.12.040 General residential subdivision standards.
- 17.12.050 Specific residential subdivision standards.
- 17.12.060 Nonresidential subdivisions.
- 17.12.070 Special requirements for critical and shoreline areas and designated resource lands.

17.12.010 Applicability.

This section sets forth standards for (A) short subdivisions, (B) long subdivisions, (C) large lot subdivisions, (D) multifamily subdivisions, and (E) nonresidential subdivisions. Procedures for boundary line adjustments are set forth in BIMC Title 2.

17.12.020 General requirements for residential subdivisions.

A. Requirement. All subdivisions shall be designed in accordance with the standards and design guidelines of this chapter. If, due to site or design constraints, no homesite with supporting infrastructure can be located on a subject property, no division of land is permitted.

B. Pre-Existing Lots. Lots that have previously received final approval from the city, or that have previously received final approval from Kitsap County prior to inclusion within the city boundaries, and that do not comply with the development standards and design guidelines of this section shall be considered existing nonconforming lots, but any future resubdivision of any such lots shall comply with current requirements.

C. Large Lot Subdivisions. As authorized by RCW 58.17.040(2) or its successors, the city regulates the division of land into large lots. Large lot subdivisions shall comply with the requirements of BIMC 17.12.040 (General residential subdivision standards), the requirements of BIMC 17.12.060 (Special requirements for critical and shoreline areas and designated resource lands), if applicable, and the requirements of BIMC Title 18 for the zone district in which the property is located. (Ord. 2017-02 § 17, 2017: Ord. 2011-02 § 2 (Exh. A), 2011)

17.12.030 Residential subdivision design guidelines.

The purpose of these design guidelines is to define the qualities of subdivisions that meet the guiding principals, goals, and policies of the city's Comprehensive Plan and to serve as a tool for guiding individual projects to meet those expectations through the city's land use review procedures. The design guidelines offer a forum for the public to participate in discussions about new subdivisions in their neighborhood, and as a means of allowing flexibility in the application of development standards and zoning requirements. An applicant may be granted a departure from the development standards and zoning requirements by demonstrating that an alternative design better meets the intent of the design guidelines.

All residential subdivisions, except large lot subdivisions, shall comply with the residential subdivision design guidelines, and shall also comply with the standards of BIMC 17.12.040 (General residential subdivision standards) and with the standards of BIMC 17.12.060 (Special requirements for critical and shoreline areas and designated resource lands) as applicable.

****Numerical/dimensional standards will be relocated to BIMC 17.12.050, Specific residential subdivisions standards**

A) Natural Environment

1. Preserve Natural Areas

Intent: To preserve existing natural areas including forests and other significant natural features.

Guideline: Site design shall integrate preservation of forests, meadows, and natural features into the community design.

2. Farmlands

Intent: To preserve the rural character of fields and local food production

Guideline: Existing farmlands shall be recognized as natural areas.

3. Site Restoration

Intent: Restore ecological functions to disturbed areas.

Guideline: Sites where Natural Areas are less than minimum requirement may restore previously disturbed or non-native conditions with site restoration. Restoration Areas shall achieve predevelopment infiltration conditions with soil amendments and native planting. Community spaces, where compacted during development, shall have soil amended to predevelopment conditions.

4. Recognize Special Trees

Intent: Protect trees which reinforce island history or character

Guideline: Special trees located outside of natural areas shall be protected. These may include trees of historic significance, unique species or character which may not otherwise be protected as significant or within protection zone.

5. Integrated Infiltration

Intent: Integrate infiltration (septic and stormwater)

Guideline: Emphasis shall be given to integration of surface infiltration strategies including dispersion systems, raingardens, pervious paving and natural ponds.

6. Wildlife Corridors

Intent: To preserve wildlife corridors

Guideline: Where wildlife corridors are mapped, Natural Areas shall be connected to adjacent off-site natural areas to allow for wildlife corridors.

B. Site Design

7. Community Space

Intent: Promote community interaction/connection with use of outdoor spaces

Guideline: Community space(s) shall be centrally located with adjacency to majority of the Homesites.

Types of preferred spaces include central greens, pea patches, gardens, orchards, play fields etc.

Community spaces may include buildings which serve residents including greenhouses, tool storage, social space or other shared indoor space. Community building may include 1 guest room.

8. Solar Access

Intent: Ensure daylight is allowed to Homesites for energy production and well-being.

Guideline: Homesites shall be oriented in relation to forested areas and open spaces to maximize solar access. Tree planting and building massing shall minimize shading to adjacent homes. Solar access shall be provided to a majority of the homes.

9. Cluster Homesites

Intent: To promote community interaction and reduce development impacts, Homesites shall be located into discrete groupings.

Guideline: Homesite shall be located with maximum separation from adjacent Homesite. The maximum separation will vary by zone. Projects with more than 10 homes shall create separate Homesite Clusters each with its own Community Space.

10. Trail Connections

Intent: To provide safe walking routes within communities and to surrounding neighborhoods

Guideline: Projects shall provide a pedestrian connection through the site to adjacent established trails. Sites without adjacent trails shall provide public easement identifying potential future trail connections. Each project shall establish a network of walking paths which connect Homesites to Community and Natural Spaces.

11. Fence Design

Intent: To avoid solid fenced rear yards facing public ROW.

Guideline: For sites where yards face a public street (alleyways excluded) the fence height shall be of any construction and shall not exceed 3.5 feet in height. Where the fence which exceeds 3.5 feet, it shall be set back a minimum of 15' and planted with full screen buffer on the street side of the fence.

12. Facing Public Ways

Intent: To reinforce neighborliness of homes facing the street

Guideline: Homes along public streets shall have their entry oriented to the street. Porches and outdoor spaces are encouraged. Homes on corner lots may face side yard to street.

13. Minimizing Driveways

Intent: Minimize driveway paving, garages shall be located close to access way.

Guideline: When garages are located within a Homesite, the garage should be located adjacent to the access way. Garages facing street shall be limited to two cars. If garages are located to side or rear of the home, they should use shared driveways.

14. Recognize Historic and Cultural Resources

Intent: Sites should identify and preserve historic and cultural resources

Guideline: Site plans with features (buildings, natural features or as identified by local experts) shall preserve or recognize resources with appropriate signage.

C. Reduce Site Impacts

15. Narrow Roadways

Intent: Reduce impervious surfaces by using minimum road length and width

Guideline: Site design shall utilize 12' paved road surface with pull outs unless a wider standard is required. Clustered parking is encouraged.

16. Clustered Parking

Intent: Reduce impervious surfaces by eliminating roadways serving individual Homesites.

Guideline: Parking may be located outside of homesite along access way, in shared parking areas or shared garages. Covered parking, if provided, is limited to 5 spaces per building and shall be separated from adjacent covered parking with landscape islands. Garages, where remote from Homesite, shall be deed restricted to serve related homesite.

17. Limit Area of Disturbance

Intent: to reduce disturbance of natural areas

Guideline: Areas of construction activity shall be limited to Homesites and approved improvements within Community Spaces. During construction perimeter of all homesites and other development areas shall be fenced with 6' tall construction fencing. Activity within natural areas shall be consistent with ARPA and tree protection.

18. Natural Storm Ponds

Intent: Stormwater ponds shall appear as natural feature.

Guideline: Stormwater ponds shall be designed as “constructed wetlands” with shallow slopes and native vegetation to appear as natural feature. Fencing if used shall be visually open (split rail) and less than 3’6” tall. Constructed wetlands may be considered as Natural Space when located within existing clearing. Conventional storm water ponds are prohibited within Natural and Community Spaces.

19. Innovative Septic

Intent: Site designs shall consider opportunity for innovative approaches to reduce septic impacts on natural environment.

Guideline: Septic systems may be located within Homesites, Community Spaces or Natural Spaces. Septic systems, when not within Homesite, shall be designed and located to minimize impacts to natural environment. Community septic systems are encouraged, if permitted.

D. Homesites

20. Homesite Footprint

Intent: To integrate building footprint, useable outdoor spaces, and vehicle parking within limited Homesite area.

Guideline: Applicant shall identify how building footprint and outdoor spaces can be efficiently configured within homesite, and how homesite accommodates a range of home designs and sizes.

21. Varied Home Design

Intent: to provide a range of house designs to add visual interest

Guideline: The home designs shall be varied in floor plan, elevations and massing to achieve a minimum of 1 plan for each 3 homes. Homes shall be dispersed within the neighborhood. Home types are encouraged to have shared details to provide continuity within the overall design.

22. Housing Diversity

Intent: to provide a range of household sizes and affordability

Guideline: The house sizes shall be varied to provide a range of sizes. At least 20% of the homes must be 25% smaller than average home size and 20% may be 25% larger than average home size.

23. Useable Sideyards

Intent: To ensure useable spaces between buildings

Guideline: The average distance between homes shall be not less than 10’ to ensure the spaces are usable and allow for solar access, except in zero lot line homes.

24. Sustainability

Intent: to ensure site planning supports strategies for sustainability

Guideline: All homes and community buildings should be designed to reduce their environmental footprint, reducing consumption of limited resources and be built to high levels of sustainability standards, supported by City-wide green building code.

17.12.040 General residential subdivision standards.

All residential subdivisions shall comply with the following standards.

A. Compliance with BIMC Titles 16 and 18, including landscaping and parking requirements. In addition, each subdivision plat shall comply with all applicable provisions of RCW Title 58 (Boundaries and Plats) or its successors.

B. Water Supply Systems. Locations of individual or community water supply systems and associated wellhead protection areas required by the health district shall comply with all applicable standards established by the health district.

C. Septic Systems. Locations of individual or community drainfields and associated reserve drainfields shall comply with all applicable standards established by the health district.

D. Roads and Pedestrian Access.

1. Roads and access complying with the “City of Bainbridge Island Design and Construction Standards and Specifications,” and all applicable requirements of the BIMC, shall be provided to all proposed lots consistent with the standards contained within this subsection. **Revise to not require lots to be attached to road.**

2. A variation from the road requirements and standards contained within the “City of Bainbridge Island Design and Construction Standards and Specifications” may be approved by the city engineer through the minor variance process described in BIMC Title 2. **Revise to not require variance and say that deviations may be needed to achieve design guideline intent.**

3. Existing roadway character shall be maintained where practical. This may be accomplished through the reduction of roadway width consistent with subsection D.2 of this section, the minimization of curb cuts, and the preservation of roadside vegetation. To minimize impervious surfaces, public rights-of-way, access easements and roadways shall not be greater than the minimum required to meet standards unless the city engineer agrees that the additional size is justified.

4. Connections to existing off-site roads that abut the subject property shall be required where practicable, except through critical areas and/or their buffers.

5. Street names and traffic regulatory signs shall be provided, and their locations shall be indicated on the plat/plan. The location of mailboxes and traffic regulatory signs is only required to be indicated on the plat/plan when other public improvements are required.

6. Transit stops shall be provided as recommended by Kitsap Transit.

7. Pedestrian and bicycle circulation and access within a subdivision and onto the site shall be provided through walkways, paths, sidewalks, or trails and shall be consistent with the Island-Wide Transportation Plan. Pursuant to RCW 58.17.110(1) sidewalks shall be provided, where necessary, to assure safe walking conditions for students who walk to and from school. Special emphasis shall be placed on providing pedestrian access to proposed recreational and/or open space areas.

8. Can requirement be added for “leftover” space between edge of pavement and edge of ROW depending on CIP? Checking with PW to see if City standard exists or could be developed.

F. No City Maintenance of Streets in Short Subdivisions. Streets within a short subdivision shall not be maintained by the city unless such streets have been dedicated as a right-of-way, improved to current city standards, and accepted as part of the approved short subdivision. Therefore, unless accepted, the responsibility for maintenance shall lie with the owners of the lots.

G. Improvements.

1. Where the buildout of a subdivision is divided into phases, land dedications and infrastructure development will be required on a pro rata basis as each phase is developed unless the applicant negotiates an alternative phasing schedule with the city. This will be required to be documented on a plat note.

2. On any approved large lot, no further lot divisions shall be approved until the required improvements are installed by the applicant and approved by the city.

3. All large lot subdivisions shall have the following improvements developed and/or installed prior to recording:

- a. Streets shall be cleared, grubbed, and rocked or graveled to provide adequate year-round passage.

- b. Appropriate drainage, including erosion control, facilities shall be provided consistent with a plan approved by the city engineer prior to clearing and construction of any plat improvements. (Ord. 2017-02 § 20, 2017; Ord. 2011-02 § 2 (Exh. A), 2011)

17.12.050 Specific residential subdivision standards.

All residential subdivisions shall comply with the following standards:

Will vary by zone and type of subdivision (short, long, large, multifamily) per new table.

- A. Natural Area Requirement. All residential subdivisions shall comply with the standards of this subsection.

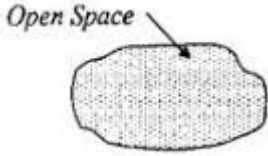
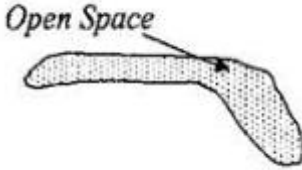
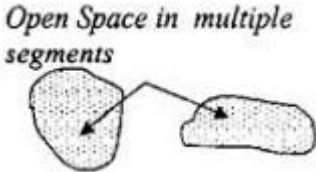
- 1. Natural Area Objectives. Natural areas shall accomplish one or more of the following objectives:

- a. Conservation and enhancement of natural or scenic resources, including wildlife habitat;
- b. Protection of streams and/or the water supply;
- c. Conservation of soils, wetlands, beaches or tidal marshes;
- d. Enhancement of the value to abutting or neighboring parks, forests, wild preserves, nature reservations or sanctuaries;
- e. Enhancement of community agricultural opportunities;
- f. Preservation of farmland and historic sites;
- g. Preservation of unique natural land or rock features;
- h. Preservation of visual qualities along highway, road and street corridors or scenic vistas.

- 2. Natural Area Configuration. The area designated for natural area preservation shall be configured in a manner that enhances and promotes the natural character of the island and open space characteristics of the property. Natural area configuration shall satisfy the following guidelines:

- a. Natural Area should be concentrated in large, consolidated, usable areas; and
- b. Natural Area should connect to adjacent off-site open space areas, designated greenways and/or critical areas; and
- c. Natural Area should be designed to preserve views from off site of the subject property; and
- d. Natural Area should enhance or retain Island character through the minimization of roadside disturbance of roadside vegetation; and
- e. The area of the natural area should be delineated with a low perimeter-to-area ratio as shown by the examples in **Table 17.12.030-1**.

Table 17.12.030-1 Configuration of Natural Area

Consolidated natural area with a low perimeter to area ratio	Natural area with a high perimeter to area ratio	Unconsolidated natural area
(PREFERRED)	(NOT ACCEPTABLE)	(ACCEPTABLE)
		

3. Prioritization of Valued Natural Area. The relative desirability of different types of natural areas is ranked in Table 17.12.030-2, and proposed subdivisions shall design natural areas to include areas with higher priority rankings if possible. If a subdivision site contains a particularly exceptional or rare natural area feature that is lower in priority, the applicant and/or city may choose to preserve that feature over those higher in the table. Where valued natural area features are present and some portion of those features is adjacent to the same or other listed valued features in Table 17.12.030-2, the protected natural area should be designed to include those areas contiguous to valued natural area features on adjacent properties.

Table 17.12.030-2: Valued Natural Area Features for Residential Subdivisions

Priority	Open Space Feature	Notes
1.	Critical Areas (as defined in Chapter 16.20 BIMC), Areas Contiguous with Critical Areas and Their Buffers	All critical areas and their associated buffers shall be preserved.
2.	Native Forests and Significant Trees	Area required to be designated as Aquifer Recharge Protection Area as defined in Chapter 16.20.090 BIMC shall be preserved. Significant trees identified consistent with the standards of the landscaping ordinance (BIMC 18.15.010) shall be preserved.
3.	Trails and Greenways	Trails and greenways should be preserved.
4.	Pastures, Meadows, Orchards, and Farmland	Pastures, farmland and land areas currently or traditionally used in agriculture should be preserved. Where possible, the size and configuration of pasture and farmland areas should permit commercially viable farming.
5.	Shoreline View Areas	Shoreline areas identified consistent with the provisions of the shoreline management plan (Chapter 16.12 BIMC) that are suitable for public access and habitat area should be considered.
6.	Mature Vegetation on Ridgelines	Mature vegetation found on ridgelines of community significance (as viewed from off site) should be preserved.
7.	Wildlife Corridors	Designated wildlife corridors as adopted by Resolution No. 2001-12, or as identified in a City-adopted wildlife corridor plan, should be preserved.

4. Amount of Natural Area Required.

- a. The area provided for natural area shall be based on and consistent with the existing valued open space features (listed in Table 17.12.030-2) on the subject property, in the amount specified in Table 17.12.040-x.
- b. All lands subject to critical area regulations by Chapter 16.20 BIMC shall remain subject to those regulations regardless of whether they are included in the required natural area.
- c. If a property being subdivided contains valued natural area features as described in Table 17.12.030-2 that exceed the percentage specified in Table 17.12.040-x, the maximum required area for natural area designation is still that percentage, unless the property includes protected critical areas or aquifer recharge protection areas as regulated by Chapter 16.20 BIMC.
- d. If the gross land area contains less valued natural area features than the percentage specified in Table 17.12.040-x, then the designated natural area is identified accordingly. Designated open space areas shall not be required to be dedicated to the public, and the owner shall not be required to permit public access to designated open space areas. Landscape buffers may be included in the open space calculation as specified in Tables 18.15.010-3 and 18.15.010-4.

5. Natural Area Ownership. Ownership of natural area shall be established consistent with one of the following forms of ownership:

- a. Private Ownership. Natural area may be held in private ownership if established by easements, restrictive covenants, open space management plan, or other similar legal means; or
- b. Common Ownership. Natural areas may be held in common by a home or property owners' association or other similar organization. For the purposes of this title, ownership of and/or conservation easement being held by a land trust, or other similar conservancy organization, shall be considered common ownership. If this ownership pattern is selected, covenant, conditions, and/or restrictions shall be required; or
- c. Public Ownership. Designated natural areas shall not be required to be dedicated to the city or other public agency, and the owner shall not be required to permit public access to designated natural areas. However, if the owner offers to dedicate, the city or other public agency may choose to accept ownership of natural areas. Consequently, upon approval and acceptance by the city council, natural areas shall be dedicated to the public.

7. Uses Allowed in Natural Areas. **To be reviewed.** The following uses are allowed in those designated natural areas that are not part of a required landscape buffer (unless zoning regulations of BIMC Title 18, provisions of the shoreline master program per Chapter 16.12 BIMC, or critical areas regulations of Chapter 16.20 BIMC restrict that use):

- a. Passive recreation, including pervious trails;
- b. Agricultural uses and fencing necessary for animal control, excepting those agricultural uses that require buildings;
- c. Potable water wells and well houses;
- d. Low impact fencing or signs marking the natural area boundary or critical area boundary;
- e. On-site sewage treatment system use approved by the director for all residential zones, if the applicant can demonstrate that (i) the proposed use will not adversely affect the function or characteristics of the specific natural area, (ii) the system is approved by the Kitsap County health district, and (iii) construction of the system will not require the removal of significant trees, native forests, vegetation

within a required buffer for designated critical areas subject to Chapter 16.20 BIMC, or vegetation within areas designated for protection under the shoreline master program pursuant to Chapter 16.12 BIMC;

f. Storm drainage system use approved by the director for all residential zones if the applicant can demonstrate that (i) enhanced vegetation will be provided so that the facility appears as a natural feature, (ii) the proposed use will not adversely affect the function or characteristics of the specific natural area, (iii) the system meets the design standards of Chapters 15.20 and 15.21 BIMC, including low impact development designs, and (iv) the system design must contribute to the function and characteristics of the natural feature by providing the following:

i. The design will include natural contours with slopes no greater than 2:1 for any above-ground storm detention facilities; and

ii. Enhanced vegetation will be provided in conjunction with the storm drainage facility in order to make it a more natural feature; and

iii. Pedestrian trails should be considered as part of the design; and

iv. While fencing of designated natural areas or critical areas may be required by the director pursuant to subsection A.8.a of this section, separate fencing of storm drainage facilities or areas shall only be installed if necessary to protect public safety. Where fencing is required, low impact fencing shall be used, and chain-link fences are prohibited unless superseded by state law.

g. Solar panels, small wind energy generators, composting bins, rainwater harvesting barrels, cisterns, and rain gardens/swales, as defined in Chapter 18.36 BIMC, may be allowed within a designated natural area, provided the proposed feature will not result in the damage or removal of significant trees.

8. Natural/Critical Area Fencing, Signage and Management Standards. **To be reviewed.** The following fencing and management standards apply to designated natural areas. In addition to the standards listed in this subsection, designated natural areas containing sensitive areas shall comply with any additional management standards required to protect those areas pursuant to BIMC 17.12.060 (Special requirements for sensitive areas), Chapter 16.12 BIMC (Shoreline Master Program) and Chapter 16.20 BIMC (Critical Areas) as applicable.

a. Either fences and/or signs delineating natural and critical area buffers are required. The director shall determine which option (fence or sign) is required, based on the likelihood of encroachment into designated natural areas.

i. If fencing is required:

(A) Low-impact fences are preferred and must be constructed in accordance with the definition in BIMC 17.28.020.30; and

(B) The director has the authority to raise the maximum height of fencing to ensure that the fence is adequate to exclude livestock while allowing passage for intended wildlife species.

ii. If signs are required:

(A) They shall be constructed in accordance with the definition in BIMC 17.28.020.37; and

(B) They shall be generally spaced at intervals of 50 feet, unless otherwise approved by the director due to reasons such as topography, configuration of natural areas, distance from other features, etc.

iii. If signage is required and encroachments into the designated natural areas occur, the director may require that the owner install fencing and/or additional signage to prevent future encroachments. Required fencing and signs must be maintained in good repair, with repair or replacement to occur within 60 days of notification from the city that repair or replacement is required.

b. Natural Area Management Plan Required. An applicant shall submit a draft natural area management plan (NAMP) as described in the Bainbridge Island administrative manual, for review as part of the preliminary plat application. Final approval of the NAMP will occur at the time of final plat approval. The natural area management plan shall include:

i. A list of all approved uses for the natural areas. Where uses in separate natural areas vary, the specific location of each use shall be depicted graphically.

ii. A maintenance plan for natural areas that clearly describes the frequency and scope of maintenance activities for natural areas and that meets all requirements set forth in the Bainbridge Island administrative manual.

c. The approved NAMP must be filed with the Kitsap County Auditor. In the event that the natural area is not maintained consistent with the natural area management plan, the city shall have the right to provide the maintenance of the natural area and bill the owner for the cost of maintenance.

B. Community Area Requirement. All residential subdivisions shall comply with the standards of this subsection.

1. Amount of Community Area Required. The area provided for community area shall be in the amount specified in Table 17.12.040-x.

2. Community Area Ownership. Ownership of community area shall be established consistent with the forms of ownership specified in 17.12.050 (same as open space).

3. Uses Allowed in Community Areas. To be reviewed.

C. Homesite Areas. All residential subdivisions shall comply with the standards of this subsection.

D. Roadside and Perimeter Buffers.

1. Required per Chapter 18.15.010

2. Only vegetation allowed (one entrance sign allowed)

E. Fencing.

1. See proposed dimensional standards in design guidelines (height, location, etc.)

F. Parking.

1. Standards for remote/shared parking

17.12.060 Nonresidential subdivisions.

Subdivisions established for nonresidential uses are not subject to subdivision design guidelines, and shall comply with each of the following:

A. All provisions of BIMC Title 18 (Zoning) applicable to the zone district where the property is located and the type of development anticipated. This requirement shall include, without limitation, compliance with lot areas, dimensions, and design, mobility and access, landscaping, screening, and vegetative buffers.

B. All provisions of BIMC Title 16 (Environment) applicable to the area where the property is located and the type of development anticipated.

C. All applicable provisions of RCW Title 58 (Boundaries and Plats) or its successors.

17.12.070 Special requirements for critical and shoreline areas and designated resource lands.

A. Critical Areas.

1. Any portion of a short or long subdivision, large lot subdivision, nonresidential or multifamily subdivision that contains a critical area as defined in Chapter 16.20 BIMC must conform to all applicable requirements of that chapter.

2. Any portion of a short or long subdivision, large lot subdivision, or a nonresidential or multifamily subdivision shall comply with the fencing and signage requirements of BIMC 16.20, as applicable.

B. Shoreline Master Program Areas. Any portion of a short or long subdivision, large lot subdivision, nonresidential or multifamily subdivision located within the jurisdiction of the shoreline master program, as defined in Chapter 16.12 BIMC, must conform to all requirements of that chapter. (Ord. 2011-02 § 2 (Exh. A), 2011)

C. Designated Resource Lands. When required by RCW 36.70A.060 or its successors, the final short or long subdivision, large lot subdivision, nonresidential or multifamily subdivision must contain a notice that the subject property is on or within 300 feet of lands designated agricultural lands, forest lands or mineral resource lands.

Chapter 17.16
BOUNDARY LINE ADJUSTMENTS
NO CHANGES PROPOSED

Sections:

17.16.010 Boundary line adjustments.

17.16.010 Boundary line adjustments.

Boundary line adjustments may be requested to consolidate existing lots or to formalize boundaries between platted or unplatted lots, or both. Boundary line adjustments shall be completed pursuant to the procedures and decision criteria set forth in BIMC Title 2 (Administration and Personnel). (Ord. 2011-02 § 2 (Exh. A), 2011)

Chapter 17.20
DEDICATIONS OF LAND
NO CHANGES PROPOSED

Sections:

17.20.010 General.

17.20.020 Land for park and recreational facilities.

17.20.010 General.

As authorized by RCW 58.17.110(2) or its successors, in order to meet the health, safety and welfare needs of the public and mitigate the impacts of the proposal, the director or city engineer may condition approval of the subdivision upon dedications for drainage ways, other public ways, water supplies, sanitary waste facilities, parks, playgrounds, sites for schools and school grounds, site protection of critical areas, and other needs of the public, as long as such dedication does not constitute an unconstitutional taking of private property. (See also Chapter 12.30 BIMC.) (Ord. 2011-02 § 2 (Exh. A), 2011)

17.20.020 Land for park and recreational facilities.

A. Policy. It is the policy of the city to require the dedication of land within a proposed development, where it is deemed necessary, for park and recreational purposes, as a condition of final approval of a short or long subdivision,

large lot subdivision, nonresidential subdivision, or approval of any permit issued under the International Building Code for the development of a multifamily residential development or approval of any application for development of multifamily uses; provided, that such dedication must be reasonably necessary as a direct result of the proposed development. This policy shall be implemented in a manner consistent with RCW 58.17.110(2) or its successors, which requires that any such dedication not involve an unconstitutional taking of private property.

B. Applicability. Dwelling units existing on November 24, 1979, shall not be included in any city determination of need for dedication of land.

C. Criteria for Requiring Dedication of Land. The responsible city agency or official shall determine whether dedication of land is appropriate. The responsible city agency's or official's decision shall be determined by consideration of the following factors:

1. Compatibility with the city's comprehensive plan, comprehensive park plan or future park plans; and
2. Topography, geology, access and location of land in the subdivision or residential development suitable for dedication; and
3. Size and shape of the subdivision, short plat or residential development and the location of land suitable for dedication; and
4. The feasibility of dedication; and
5. The proximity of the subdivision, short plat or residential development to previously acquired park property; and
6. The possibility of combining the land to be dedicated for park purposes with existing park or recreational facilities when the parcel to be dedicated does not exceed one acre in area; and
7. The existence of covenants for natural area as specified in subsections D, E, and G of this section.

D. Covenants – Approval by City. In determining the need for dedication of land, the director shall consider any proposed covenants for private parks or recreational facilities that are made as part of a development proposal. The city may approve covenants in addition to or as an alternative to requiring dedication of land, in order to mitigate the impacts of a proposed development on city parks and recreational facilities.

E. Amount of Land Dedication Required. The amount of land required to be dedicated shall be based on a study quantifying the per person, per household, per dwelling unit, or per commercial square impact of new development on existing dedicated infrastructure in the city, and the results of that study shall be adopted by the city council to be applied on a formula basis to new development or redevelopment prior to being applied to any specific short or long subdivision, large lot subdivision, or nonresidential or multifamily subdivision. If the city determines that the formula land dedication requirements based on the study will not offset the impacts of the proposed development on public lands in the city, the city may conduct an individualized determination providing written analysis of the actual impacts of the development on dedicated lands for natural areas, recreation, or other purposes, and may base its land dedication requirements on that individualized determination.

F. Credit for Dedication Requirement. Where private natural areas for park and recreational facilities is provided in a proposed short or long subdivision, large lot subdivision, or residential or nonresidential development or proposed development of multifamily residential use and such space is to be privately owned and maintained by the future residents of the subdivision or residential property, such areas may, in the sole discretion of the city, be credited against the amount of land that the city determines should be dedicated pursuant to subsection E of this section; provided, that the city finds it in the public interest to do so, and determines that the following standards are met:

1. The yards, court areas, setbacks and other open areas required by the zoning and building regulations are not included in the computation of such private natural areas; and

2. The private ownership and maintenance of the natural areas are adequately provided for by written agreement meeting the requirements of the natural area management plan described in BIMC 17.12.030.A.8; and
3. The proposed private natural area is reasonably adaptable for use for park and recreational purposes, taking into consideration such factors as size, shape, topography, geology, access and location of the land; and
4. Facilities proposed for the natural area are in general accord with the intent of the comprehensive plan and the Bainbridge Island metropolitan park district comprehensive plan; and
5. The natural area and/or facilities will provide for the park and recreational needs of the residents of the short or long subdivision or residential development in such manner as to reduce the impact on existing park or recreational facilities within the city or will reduce the need to provide new park or recreational facilities within the city.

G. Recording. In those instances where proposed covenants for private parks or recreational facilities are approved under the provisions of this title, they must be recorded with the Kitsap County auditor as follows:

1. All such natural area covenants relating to subdivision shall be recorded at the time of the recording of the final short plat or subdivision map; and
2. All other such natural area covenants shall be recorded with the Kitsap County auditor within 10 days of the date of approval by the appropriate agency of such natural area covenants for private parks or recreational activities; and
3. All recording costs shall be borne by the applicant; and
4. A recorded copy of the covenants shall be provided to the department of planning and community development. (Ord. 2011-02 § 2 (Exh. A), 2011)

Chapter 17.24
ENFORCEMENT AND PENALTIES
NO CHANGES PROPOSED

Sections:

- 17.24.010 Illegally divided land.
- 17.24.020 Penalties.
- 17.24.030 Enforcement.

17.24.010 Illegally divided land.

No building permit or development permit of any sort shall be issued for lots created in violation of this title or related provisions of BIMC Title 2 (Administration and Personnel), 16 (Environment), or 18 (Zoning) provided an innocent purchaser for value may obtain permits needed for development upon application to the department and decision by the hearing examiner pursuant to BIMC 2.16.100, after notice, if such purchaser shows the following:

- A. The lot was purchased at a market value not reflecting the illegal division; and
- B. The purchaser exercised reasonable diligence but did not know of the illegal division; and
- C. The public interest will not suffer. (Ord. 2011-02 § 2 (Exh. A), 2011)

17.24.020 Penalties.

A. Any person, firm or corporation violating any provision of the code, including any condition of an approved plat, related to the division of land shall be guilty of a gross misdemeanor and each such person, firm or corporation shall be deemed guilty of a separate offense for each and every day or portion of a day during which any such violation is committed, continued, or permitted. Upon conviction of any violation of any provision of the BIMC related to the

division of land, the person, firm or corporation shall be punished by a fine of not more than \$5,000 or imprisonment for not more than one year, or by both such fine and imprisonment.

B. The provisions of subsection A of this section shall not be applied in any manner inconsistent with the penalties provided for in RCW Title 58 (Boundaries and Plats) or its successors. In addition, the city may impose any additional penalties for violations authorized by RCW Title 58. (Ord. 2011-02 § 2 (Exh. A), 2011)

17.24.030 Enforcement.

A. Whenever any parcel of land is divided into lots, large lots, tracts, or parcels of land contrary to the provisions of the BIMC related to the division of land, and any person, firm or corporation or any agent of them sells or transfers, or offers or advertises for sale or transfer, any such lot, large lot, tract, or parcel without having an approved final plat of such subdivision filed for record, the city may commence action to restrain and enjoin further subdivisions or sales, transfers, or offers of sale or transfer and compel compliance with all provisions of the BIMC related to the division of land. The costs of such action shall be imposed on the person, firm, corporation or agent selling or transferring the property through any method authorized by law.

B. Whenever land within a short or long subdivision, large lot subdivision, nonresidential or multifamily subdivision that has been granted final approval is used in a manner or for a purpose that violates any provision of the BIMC related to the division of land or violates any condition attached to such final approval:

1. In addition to any penalties provided in BIMC 1.26.090 or 17.24.020, the city may commence action to restrain and enjoin such use and compel compliance with the provisions of the BIMC or with such terms and conditions. The costs of such action may be imposed against the violator through any method authorized by law.

2. The city may enforce compliance with this title through any methods described in Chapter 18.33 BIMC.

C. The provisions of subsections A and B of this section shall not be applied in any manner inconsistent with enforcement provisions authorized in RCW Title 58 (Boundaries and Plats) or its successors. In addition, the city may enforce the provisions of this title and cross-referenced provisions in other titles of the Bainbridge Island Municipal Code through any additional methods of enforcement authorized by RCW Title 58. (Ord. 2011-02 § 2 (Exh. A), 2011)

Chapter 17.28 DEFINITIONS

HIGHLIGHTED DEFINITIONS NEED REVISION

Sections:

- 17.28.010 Rules of construction.
- 17.28.020 Definitions.

17.28.010 Rules of construction.

Rules of construction shall be those listed in BIMC 18.36.010. (Ord. 2011-02 § 2 (Exh. A), 2011)

17.28.020 Definitions.

1. “Arterial” means a major thoroughfare used mainly for through traffic rather than access to nearby property. Arterials have greater traffic-carrying capacity than collector or local streets and are designed for continuously moving traffic.

2. “Block” means a group of lots, tracts or parcels within well-defined and fixed boundaries.

3. “Buffer” means as defined in Chapter 18.36 BIMC.

4. “Circle template” means as defined in Chapter 18.36 BIMC.

5. “Cluster development” means a group of adjoining homesite areas situated in a suitable area of a property, designed in such a manner that facilitates the efficient use of land by reducing disturbed areas, impervious surfaces, utility extensions and roadways, while providing for the protection of valued natural features.

6. “Cluster grouping” means a grouping of two or more homesite areas for short subdivisions and a grouping of four or more homesites for long subdivisions regulated by BIMC 17.12.030.B.

7. “Code” means the City of Bainbridge Island Municipal Code.

8. “Collector” means a collector road as defined in the city of Bainbridge Island comprehensive plan.

9. “Comprehensive plan” means as defined in Chapter 18.36 BIMC.

10. “Contiguous land” means land adjoining and touching other land regardless of whether or not portions of the parcels have separate tax numbers, or were purchased at different times, in different sections, are in different government lots or are separated from each other by public or private easement or right-of-way.

11. “Critical areas,” as used in this title, means critical areas and their protective buffers as described by Chapter 16.20 BIMC.

12. “Dedication” means the deliberate assignment of land by an owner for any general and public uses, reserving to the owner no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted. The intention to dedicate shall be evidenced by the owner by the presentment for filing of a final plat of a short or long subdivision, a large lot subdivision, or a nonresidential or multifamily subdivision showing the dedication. Acceptance of the filing shall be by approval of the final plat by the city.

13. “Department” means as defined in Chapter 18.36 BIMC.

14. “Director” means as defined in Chapter 18.36 BIMC.

15. “Division” means a portion of property within an approved preliminary subdivision that is authorized to be recorded separately by the specific terms and conditions of the preliminary and/or final subdivision approval.

16. “Easement” means a right of use granted by a property owner to specific persons or to the public for use of land for a specific purpose.

17. “Farms” and “farmland” mean land used for crop agriculture or livestock agriculture, as those terms are defined in Chapter 18.36 BIMC.

18. “Final subdivision” or “final plat” means the final drawing of the subdivision and dedication prepared for filing for record with the county auditor and containing all elements and requirements set forth in Chapter 58.17 RCW or its successors and the Bainbridge Island Municipal Code.

19. “Flexible lot design” is the design process the city uses that permits flexibility in lot development and encourages a more creative approach than traditional lot by lot subdivision. The flexible lot design process includes lot design standards for the placement of buildings, use of open spaces and circulation that best addresses site characteristics. This design process permits clustering of lots, with a variety of lot sizes, to provide open space, maintain Island character and protect the island’s natural systems.

20. “Footprint” means a building footprint as defined in BIMC 18.12.050.

21. “Greenway” means a system composed of land areas and connector links. The land areas include, but are not limited to: large open areas, public lands, farmlands, critical areas, forests, shoreline areas, and parks. The features of the connector links include trail systems, riparian areas, visual or scenic views of ridgelines, wildlife corridors or any combination of these.

22. “Health district” means the Kitsap County health district.

23. “Hearing examiner” means the official designated as the hearing examiner for the city pursuant to BIMC Title 2.

24. “Homesite area” means the area of a lot depicted on the face of a plat that is intended for development of the primary residential dwelling and accessory buildings and necessary infrastructure within a cluster subdivision.

25. “Island character” is the term used to describe the special character of the island – winding, narrow and vegetated roadways and forested areas, meadows, farms, areas that contain much of the island’s wetlands and streams, aquifer recharge areas and fish and wildlife habitat areas. For the purposes of this title, it does not refer to a level of service, or type of development, or measure of development intensity.

26. Large Lot Subdivision. A “large lot subdivision” means the division or redivision of land into two or more lots for the purpose of sale, lease or transfer of ownership where each lot is not smaller than five acres or 1/128th of a section (whichever is smaller); provided, that this shall not include division or redivision of land where all parcels are greater than 20 acres or 1/32nd of a section.

27. “Laws of descent” means the rules of inheritance law established by the state of Washington and the federal government that apply in cases where there is no will naming the persons to receive the possessions of a person who has died.

28. “Long subdivision” means the division or redivision of land into five or more lots, tracts (except tracts specifically reserved as natural), parcels, sites or divisions for the purpose of sale, lease or transfer of ownership, but shall not include a short subdivision.

29. “Lot” means a lot as defined in Chapter 18.36 BIMC.

30. “Low-impact fencing” means a fence designed to preserve views into an area and wildlife access to and from the area while providing a physical barrier to prevent livestock or humans from easily or inadvertently entering the area. Low-impact fencing includes without limitation two- or three-tier split-rail or horse-rail fencing not exceeding five feet in height, four-inch by four-inch wooden posts with two or three strands of cable in between, or other fencing with similar visual, barrier, and access characteristics as determined by the director.

31. “Mature vegetation on ridgelines” means as defined in Chapter 18.36 BIMC.

32. “Meadow” means an open, nonforested area formed by the land’s natural features and events of nature.

33. “Native forest” means established forest areas primarily consisting of native trees and plants.

34. “Native vegetation” means as defined in Chapter 18.36 BIMC.

35. “Off-site views” or “views from off-site” means as defined in Chapter 18.36 BIMC.

36. “Open space” means any area of land that is predominantly undeveloped and that provides physical and/or visual relief from the developed environment in perpetuity, that is generally unimproved and set aside, designated or reserved for public use or enjoyment, or used for the private use and enjoyment of property owners. Open space may consist of undeveloped areas, such as pastures and farmlands, woodlands, greenbelts, critical areas, pedestrian corridors and other natural areas that provide recreational opportunity and visual relief from developed areas. Open space excludes tidelands, areas occupied by buildings, and any other developed areas such as driveways, all rights-of-way and any other impervious surfaces not incidental to open space purposes.

37. “Open space sign” means a sign used to delineate the boundaries of designated open space, critical areas, and/or their buffers. Open space/critical areas signs shall be made of metal or similar durable material and shall be between 64 and 144 square inches in size.

38. “Orchard” means as defined in Chapter 18.36 BIMC.

39. “Pasture” means land used for grazing.

40. “Phasing” means the use of limits on construction, permitting or occupancy to reduce the immediacy or severity of impacts of the subdivision on the environment or to better achieve the requirements of state law for the concurrence of the facilities and services with the needs generated by development.

41. “Plat” is a map or representation of a subdivision, showing thereon the division of a tract or parcel of land into lots, blocks, streets and alleys, or other divisions and dedications.

42. “Planning commission” means the Bainbridge Island planning commission, as described in BIMC 2.14.020.

43. “Platted lot” means a fractional part of divided lands having fixed boundaries, being of sufficient area and dimension to meet minimum zoning requirements for width and area and the flexible lot development standards contained within this title. The term includes tracts or parcels.

44. “Preliminary plat” is a drawing of a proposed subdivision showing the general layout of streets and alleys, lots, blocks, and other elements of a subdivision consistent with the requirements of this title. The preliminary plat shall be the basis for the approval or disapproval of the layout of a subdivision.

45. “Public way” means a dedicated street, easement allowing public access, and other forms of access open to the public.

46. “Right-of-way” means land in which the state, county, city or other governmental entity owns the fee simple title or has an easement dedicated or required for a transportation or utility use. The right-of-way is the right to pass over the property of another. It refers to a strip of land legally established for the use of pedestrians, vehicles or utilities.

47. “Road” means as defined in Chapter 12.38 BIMC.

48. “Short plat” means the map or representation of a short subdivision.

49. “Short subdivision” is the division or redivision of land into four or fewer lots, tracts (except tracts specifically reserved as open space), parcels or sites, for the purpose of sale, lease or transfer of ownership, except that the division or redivision of two or more existing lots into up to nine lots consistent with the procedures and standards contained in BIMC 17.12.030.A shall constitute a short subdivision if an applicant dedicates additional open space area pursuant to BIMC 17.12.030.A.5.

50. “Significant tree” shall have the meaning defined in Chapter 18.36 BIMC.

51. “Stormwater” shall have the meaning defined in Chapter 15.20 BIMC.

52. “Street” shall have the meaning defined in Chapter 18.36 BIMC.

53. “Testamentary provisions” means provisions of a last will or testament of a person who has died concerning land or property owned or controlled by that person, which provisions are generally carried out by an executor appointed by a court or public official on behalf of the deceased.

54. “Wetland” shall have the meaning defined in Chapter 16.20 BIMC. (Ord. 2017-02 § 21, 2017; Ord. 2011-02 § 2 (Exh. A), 2011)

Definitions to add:

Natural space

Community space

Homesite

ORDINANCE 2018-20 EXHIBIT B

Bainbridge Island Municipal Code
Chapter 2.14 LAND USE APPROVAL BODIES

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Chapter 2.14

LAND USE APPROVAL BODIES

Sections:

- 2.14.010 City council.
- 2.14.020 Planning commission.
- 2.14.030 Hearing examiner.
- 2.14.040 Design review board.
- 2.14.060 Historic preservation commission.
- 2.14.070 Fort Ward historic review committee.

2.14.010 City council.

A. The city council of Bainbridge Island serves as the legislative body for the municipality and the decision-maker on some types of quasi-judicial land use decisions. More specifically, city council makes final decisions on:

1. Final long subdivisions; and

2. Site-specific rezones; and

3. Consolidated project reviews where any element requires city council approval.

B. In addition, city council exercises its legislative authority regarding land use by making final decisions on:

1. Adoption or amendment of development regulations in this BIMC; and

2. Adoption of comprehensive plan amendments; and

3. Adoption of special area plans; and

4. Area-wide rezones; and

5. Adoption of, amendments to, or revisions of the shoreline master program. To become effective, any amendments to the shoreline master program must be reviewed and approved by the Department of Ecology, pursuant to RCW 90.58.190 or its successor, and Chapter 173-26 WAC or its successor. (Ord. 2014-04 § 5 (Exh. 3 § 1), 2014: Ord. 2011-21 § 1, 2011: Ord. 2011-02 § 2 (Exh. A), 2011)

2.14.020 Planning commission.

A. Purpose and Role of the Planning Commission. The Bainbridge Island planning commission serves as an advisory body to the city council, and provides recommendations to the director of planning, the hearing examiner and/or the city council. The commission's role is to consider legislative, as well as quasi-judicial matters, depending upon the action before it. Pursuant to Chapter 35A.63 RCW, the commission has primary responsibility for preparing, reviewing and updating the comprehensive plan.

B. Duties and Responsibilities. Pursuant to the provisions of Chapter 35A.63 RCW, there is established within the city a planning commission that shall have the following duties and responsibilities:

1. Participate in the preparation and review of the comprehensive plan for the city; and

2. Review and make recommendations on all applications for amendments to the comprehensive plan, official zoning map and official zoning ordinance of the city pursuant to Table 2.16.010-1; and

3. Review and make recommendations on all housing design demonstration project applications pursuant to BIMC 2.16.020.Q, including those housing design demonstration project applications involving land subdivision, based on a comprehensive review of the project at a public meeting; and

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4. Review and make recommendations on all preliminary long subdivisions, major site plan and design reviews, and major conditional use permits, based on the recommendation from the Design Review Board and a comprehensive review of the project at a public meeting; and

54. Such other advisory duties as may be assigned to it by the city council, or as specified in the BIMC; and

65. The title “planning commission” is substituted for the title “planning agency” in all city ordinances and other documents approved prior to the effective date of the ordinance codified in this chapter; and

76. Create the planning commission agenda per the director’s recommendation; and

87. Report annually to the city council prior to the start of the budget process.

C. Composition – Appointments – Terms – Residency – Chairpersons.

1. The commission shall consist of seven members appointed by the mayor and confirmed by the city council. All seven members of the commission shall be residents of the city. The members shall not be employees or officers of the city or appointed to another city committee, board or commission, except for specialized committees or task forces of limited duration. The commission shall reflect the diverse perspectives, work experiences and backgrounds represented in the community. Each commissioner shall endeavor to understand and agree to uphold the city’s adopted comprehensive plan.

2. All members shall serve without compensation for three-year terms, which begin on July 1st and end on June 30th three years later. Members shall be appointed to a position number, and the terms are to be staggered, with no more than three positions expiring in any given year. Members may be reappointed to additional terms. No member shall serve more than three consecutive terms on the commission unless the city council determines that special expertise is required or there are no other qualified applicants.

3. The officers of the commission shall consist of a chairperson and a vice chairperson elected by the members of the commission for a one-year term. The election of officers shall take place at the first meeting of the year. In the event of the vacancy of the chair, the chairperson would be replaced by the vice chairperson, and the vice chairperson would be replaced by a vote of the members of the commission.

4. The chairperson shall preside over meetings of the commission and may exercise all the powers usually incident to the office. Duties of the chairperson shall include, but not be limited to, committees of the whole, handling meeting items and discussion, conflict of interest, suspension of meetings, timing or discussion of issues, and clarification of issues and questions. The chairperson shall sign all approved commission minutes, reports or other official documents.

5. In the absence of the chairperson, the vice chairperson shall perform all the duties incumbent upon the chairperson. The chairperson and the vice chairperson both being absent, the members present may elect for the meeting a temporary chairperson who shall have the full powers of the chairperson during the absence of the chairperson and the vice chairperson.

6. The chair shall have full power to create subcommittees that would include up to three commissioners. Standing or temporary committees may be charged with such duties, examinations, investigations and inquiries relative to one or more subjects of interest to the commission. No committee shall have the power to commit the commission to the endorsement of any plan or program without the approval of a quorum of the commission.

D. Forfeiture of Office.

1. A member appointed to the commission shall forfeit his or her office, creating a vacancy, if he or she ceases to have the qualifications prescribed for such office by law or ordinance, or if he or she is convicted of a gross misdemeanor or felony or a violation of the oath of office.

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2. In the event of a commission member being absent from three consecutive regular meetings, or being absent from 50 percent of all meetings (including committee) in any six-month period, the office shall become vacant and forfeited; provided, that the mayor, with city council approval, may grant an exception when warranted by individual circumstances.
3. For an extended absence, a commissioner may request a leave of absence, to be approved by the mayor, with city council approval.
4. Any unexpired term of a vacant or forfeited office shall be filled by a qualified person appointed by the mayor and confirmed by the city council in accordance with the city's appointment cycle.

E. Meetings.

1. The planning commission shall meet on the second and fourth Thursday of each month and may hold such special meetings as the planning commission may determine necessary. All regularly scheduled meetings shall begin at 7:00 p.m. and shall endeavor to adjourn by 9:00 p.m.; provided, that the hours of a regular meeting may be modified for exceptional purposes, as determined by the chairperson.
2. Planning commission meetings shall be held at the city of Bainbridge Island City Hall. Under special circumstances, regular and special meetings and retreats may be held in other locations as publicly noticed.
3. The planning commission shall give public notice of its meetings as provided by law. Notice for a public hearing shall be provided at least 10 days in advance of said hearing.
4. All meetings of the planning commission shall be open to the public and held in accordance with the Open Public Meetings Act (Chapter 42.30 RCW). In the event a regular meeting falls upon a legal holiday, the meeting shall be held on the following business day.
5. All meetings shall be conducted according to Robert's Rules of Order.
6. The planning commission shall review and approve rules of procedure and code of conduct annually.

F. Quorum and Voting.

1. A simple majority of the appointed members shall constitute a quorum for the transaction of business.
2. The chairperson shall be entitled to vote on a matter when it is necessary to break a tie or to make a quorum.
3. When a commissioner has stepped down because of a potential conflict of interest, he or she shall not be counted for purposes of establishing a quorum during considerations undertaken while he or she is not sitting with the commission.

G. Public Meetings and Hearings. The planning commission will consider the land use applications at a public meeting and shall recommend approval, approval with conditions, or denial of an application. For legislative decisions, the planning commission will hold a public hearing and shall recommend approval, approval with conditions, or denial of an application. In making a recommendation, the planning commission shall consider the applicable decision criteria of this code, the comprehensive plan, all other applicable law, any necessary documents and approvals, and any testimony presented verbally or in writing at the public meeting. If the applicable criteria are not met, the planning commission shall recommend the proposal be subject to conditions or denied. A planning commission recommendation is not a final decision and is not subject to appeal. The planning commission's written recommendation and other documents upon which its decision is based shall be immediately transmitted to the director and/or the hearing examiner, as applicable.

H. Public Records. Minutes of each meeting, including a record of attendance, shall be prepared by the secretary and approved and signed at a subsequent meeting. The minutes do not need to reflect the actual discussion, but only the formal actions taken by the planning commission. The meeting minutes shall be posted on the city's web site.

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I. Consultants. Upon approval of the city council, the planning commission may recommend the retention of a planning consultant who assists the planning commission in its deliberations. The consultant shall be hired by the city.

J. Conflict of Interest. Planning commission members shall sign a conflict of interest statement in accordance with the city's ethics program upon appointment and any reappointment. If a planning commission member has a financial interest in or is an applicant, or if a planning commission member is a paid or unpaid advocate, agent or representative for an applicant on a comprehensive plan amendment or land use application that will be reviewed or considered by the planning commission, the planning commission member shall not participate in a decision or recommendation on the application, and he or she will be asked to leave the meeting facility prior to commencement of discussion of that agenda item.

K. Support Staff. The planning staff shall perform the following roles in its work with the planning commission:

1. Provide the initial record that includes the standards of review, relevant municipal code and comprehensive plan provisions and provisions of other permitting agencies. The staff report shall include findings of fact and conclusions of law based on evidence in the record; and
2. Provide technical information and research, prepare documents and maintain records. This includes drafting transmittal memos, preparing alternative findings and conclusions when appropriate, and obtaining legal opinions from the city attorney; and
3. Respond to questions and discussion of procedures; and
4. Assist the commission in articulating their collective will; and
5. Provide upon request formal opinions or recommendations from the city attorney, city engineer, public works director or the director of planning and community development on any matter that is pending before the planning commission; and
6. Arrange for the provision of city email accounts to commission members and related training on the use of email accounts, including personal computer privacy expectations while serving on the commission. (Ord. 2014-18 § 1, 2014: Ord. 2013-25 § 1, 2013; Ord. 2011-02 § 2 (Exh. A), 2011)

2.14.030 Hearing examiner.

A. Policy. The conduct of public hearings in quasi-judicial matters generally involves disputed issues. It is in the best interest of the residents of the city to create officers designated in this chapter as "hearing examiners," whose duties shall be judicial in nature. Whenever any ordinance of the city requires a public hearing to be conducted by the hearing examiner, the hearing shall be conducted in accordance with the procedures established in Chapter 2.16 BIMC.

B. Qualifications – Appointment – Term – Removal. Each hearing examiner shall be appointed by the city manager, confirmed by the city council, and shall serve for a term of two years. As required by WAC 242-02-040, each appointed hearing examiner shall be someone who has a demonstrated knowledge of land use planning and law and shall meet any additional qualifications specified by city council resolution. The appointed hearing examiner shall be removed only (1) upon conviction of a gross misdemeanor or felony, (2) because of physical or mental disability rendering the hearing examiner incapable of performing the duties of the office, (3) upon conviction of a violation of subsection D of this section, or (4) upon conviction of a violation of Chapter 42.23 RCW, the violation of which shall constitute a misdemeanor under this code.

C. Hearing Examiner Responsibilities and Duties.¹

1. The hearing examiner is responsible for conducting hearings on and adjudicating quasi-judicial cases involving a variety of complex land use and regulatory compliance issues, and other issues which the city council may designate to the hearing examiner by ordinance or resolution. The hearing examiner shall issue decisions or recommendations based on relevant ordinances, regulations, policies, statutes, and other authorities.

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2. Duties. In addition to any other duty established by ordinance or resolution, the hearing examiner:

- a. Supervises and evaluates the work of employees as required;
- b. Develops procedural rules for the scheduling and conduct of hearings and related matters. Such rules shall be available from the office of the city clerk upon request;
- c. Reviews properties that are the subject of hearings to become familiar with the terrain and relationships to other properties;
- d. Receives and examines hearing related documents, and reviews case files, city codes and policies, environmental impact statements, plot plans and topographical maps;
- e. Evaluates testimony and evidence, prepares records, enters final written findings, and imposes conditions to conform projects to city ordinances and land use policies;
- f. Maintains knowledge of current relevant state and city land use laws, policies and related state and federal court decisions;
- g. Prepares reports and correspondence to the city manager, city council, and planning commission as requested;
- h. Prepares and submits annual written reports to the city manager and city council, including how many hearings have been conducted, the final outcome of hearings, the time required to issue decisions and the cost of hearings;
- i. Meets with the city manager, city council, planning commission and staff as requested, to identify conflicts in the code; and
- j. When necessary, recommends candidates for pro tem hearing examiner, for approval by the city manager.

D. Noninterference in Performance of Duties. No person shall attempt to influence the hearing examiner in the performance of duties. The hearing examiner shall not discuss the merits of any case considered by the hearing examiner until all city review and court appeals have been concluded and a final decision has been rendered. Any violation of this provision shall be deemed a misdemeanor and may be punished pursuant to Chapter 1.24 BIMC.

E. Legal Counsel for Hearing Examiner. General legal advice to the hearing examiner will be provided by the city attorney, except that in a contested case where the city will be represented by the city attorney, the mayor may appoint independent counsel to render legal advice to the hearing examiner, the cost of which shall be borne by the city.

F. Disqualification of Hearing Examiner.

1. The hearing examiner on his or her own initiative may enter an order of disqualification in the event of personal bias or prejudice or to preserve the appearance of fairness.
2. Prior to any hearing on a matter, a party may file an affidavit, which is a sworn statement in writing and under oath, stating that such party cannot have a fair and impartial hearing by reason of the hearing examiner's personal bias or prejudice. The hearing examiner shall rule on the affidavit prior to making other ruling and prior to the hearing. No party shall be permitted to file more than one such affidavit under this section in regard to any one proceeding. (Ord. 2011-23 § 1, 2011; Ord. 2011-02 § 2 (Exh. A), 2011)

2.14.040 Design review board.

A. Membership – Appointment – Term.

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1. There is created a design review board (board) for the city. The design review board shall consist of seven members who shall be appointed by the mayor and confirmed by the city council. Board membership shall include at least one representative with expertise in the following disciplines and/or groups: landscape architecture; urban design; public art committee or local artist; developers; at-large community member; and at least two architects. The members of the design review board shall not be officers or employees of the city or appointed to another city committee, board or commission, except for specialized committees or task forces of limited duration.

2. The members of the board shall serve without compensation. The terms for appointed members shall be three years, commencing on July 1st and ending on June 30th three years later. Members shall be appointed to a position number, and the terms are to be staggered, with no more than three positions expiring in any given year. A member may be reappointed, and shall hold office until his or her successor has been appointed and has qualified. No member shall serve more than three consecutive terms unless the city council determines that special expertise is required, or there are no other qualified applicants.

B. Vacancies – Removal. In the event of a vacancy, the mayor, subject to the confirmation of the city council, shall make an appointment to fill the unexpired portion of the term of the vacated position in accordance with the city's appointment cycle. Unexcused absence by any member from three consecutive meetings shall constitute grounds for removal. Members may be removed upon a majority vote of the city council.

C. Organization.

1. The board shall select one member to serve as chair for a one-year term at the first regular meeting of each year.
2. The board shall adopt such rules and regulations as are necessary to accomplish its duties and responsibilities. These rules and regulations shall be published on the city's web site.
3. The city shall provide necessary supplies and support staff to the board, consistent with available resources.
4. The city shall provide city email accounts to board members and related training on the use of email accounts, including personal computer privacy expectations while serving on the board.

D. Duties and Responsibilities. The board shall have the following duties and responsibilities:

1. Serve in an advisory capacity to the director, hearing examiner, and planning commission, as applicable, regarding **preliminary long subdivisions, and major** site plan and design reviews and conditional use permits pursuant to BIMC 2.16.040, **2.16.050, and 2.16.110, and 2.16.125** that are subject to city-adopted design guidelines. Applications related to single-family residences such as family day care homes, minor/major home occupations, and single-family residential height variations are exempt from design review board consideration. In addition, applications related to utility facilities and to outdoor recreation facilities are exempt from design review board consideration.
2. Review and make recommendations to the planning commission and the city council on changes, amendments and/or additions to the design guidelines.
3. Serve in an advisory and review capacity to housing design demonstration project applications pursuant to BIMC 2.16.020.Q, including those design demonstration project applications involving land subdivision.
4. Such other duties and responsibilities as may be provided by resolution or ordinance of the city council.
5. Report annually to the city council prior to the start of the budget process.

E. Open Meetings. All board meetings shall be open to the public and held in accordance with the Open Public Meetings Act (Chapter 42.30 RCW). The board, in its discretion, may allow interested citizens to speak and submit documents.

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F. Public Records. For meetings consisting of a majority of the then serving members, the board shall provide public notice of the meeting and shall keep a record of its meeting minutes. Minutes of each meeting, including a record of attendance, shall be prepared by the secretary and approved and signed at a subsequent meeting. The minutes do not need to reflect the actual discussion, but only the formal actions taken by the design review board. The approved meeting minutes shall be posted on the city's web site.

G. Quorum. A majority of the appointed members then serving on the board shall constitute a quorum.

H. Conflict of Interest. Design review board members shall sign a conflict of interest statement in accordance with the city's ethics program upon appointment and any reappointment. If a design review board member is an applicant for an application under review by the board, has a financial interest in a project, or is a paid or unpaid advocate, agent or representative for such applicant, the board member shall not participate in review of and recommendation on the application, and he or she will be asked to leave the meeting facility prior to commencement of discussion of that agenda item. (Ord. 2014-19 § 1, 2014; Ord. 2011-02 § 2 (Exh. A), 2011)

2.14.060 Historic preservation commission.

The creation, composition, terms, powers and duties, rules and standards of the historic preservation commission are described in BIMC 18.24.020. (Ord. 2011-02 § 2 (Exh. A), 2011)

2.14.070 Fort Ward historic review committee.

The creation, size, intent, composition, terms, powers and duties, and rules and procedures of the Fort Ward historic review committee are described in BIMC 18.24.110.E. (Ord. 2011-02 § 2 (Exh. A), 2011)

¹ Code reviser's note: Ord. 2011-23 amends Section 2.38.025. Since that section was repealed and replaced by Ord. 2011-02, the provisions of Ord. 2011-23 have been codified at Section 2.14.030(C).

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Chapter 2.16

LAND USE REVIEW PROCEDURES

Sections:

- 2.16.005 Purpose.
- 2.16.010 Land use procedures summary table.
- 2.16.020 General provisions.
- 2.16.030 Administrative review – In general.
- 2.16.040 Site plans and design review.
- 2.16.050 Minor conditional uses.
- 2.16.060 Minor variance.
- 2.16.070 Short subdivisions.
- 2.16.080 Large lot subdivisions.
- 2.16.090 Boundary line adjustment.
- 2.16.100 Quasi-judicial review by hearing examiner – In general.
- 2.16.110 Major conditional use permit.
- 2.16.120 Major variances.
- 2.16.125 Preliminary long subdivisions.
- 2.16.130 Quasi-judicial review by city council – In general.
- 2.16.140 Site-specific rezones.
- 2.16.160 Final long subdivisions.
- 2.16.165 Shoreline master program administration.
- 2.16.170 Consolidated project review.
- 2.16.180 Legislative review of regulations and area-wide rezones.
- 2.16.190 Legislative comprehensive plan amendments.
- 2.16.200 Shoreline master program amendments.
- 2.16.210 Subarea planning process.
- 2.16.220 Critical area permits – Minor or major.

2.16.005 Purpose.

The purpose of this chapter is to establish standard procedures for all land use applications processed by the city, to promote timely and informed public participation in those procedures, to eliminate redundancy in the application, permit review, and appeal procedures, to minimize delay and expense, and to result in development approvals that further city goals as set forth in the comprehensive plan. In addition, the purpose of this chapter is to establish the process for adopting and amending Growth Management Act (“GMA”) development regulations, to ensure early and continuous public participation in the creation and amendment of development regulations, which implement the city’s comprehensive plan. Additional specific purposes for some types of approval are included in BIMC 2.16.030 through 2.16.210. (Ord. 2011-02 § 2 (Exh. A), 2011)

2.16.010 Land use procedures summary table.

Table 2.16.010-1: Summary Table of Land Use Procedures

R = Review and Recommendation, (R) = Optional Review, D = Decision, A = Appeal, P = Public Hearing, (P) = Optional Public Hearing						
Planning Exam. Examiner						
Administrative Approvals						
Clearing Permit						
Conversion Option Harvest Plan Permit						
Minor Conditional Use						
Minor Variance						
Agricultural						

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R = Review and Recommendation, (R) = Optional Review, D = Decision, A = Appeal, P = Public Hearing, (P) = Optional Public Hearing						
	DRB	Planning Comm.	Director	Hearing Examiner	City Council	Courts
Conditional Use						
Large Lot Subdivisions (Prelim)			D	A		
(Final)			D			A
Minor Shoreline Variance [1]		(R)	D	A		A [2]
Minor Shoreline Conditional Use [1]		(R)	D	A		A [2]
Public Works Administrative Decisions			D			A
SEPA Determinations			D	A		
Shoreline Substantial Development Exemption [1]			D	A		
Shoreline Substantial Development [1]		(R)	D	A		A [2]
Short Subdivisions (Prelim)			D	A		
(Final)			D	A		A
Sign Permits			D			A
Minor Site Plan and Design Review	(R)	(R)	D	A		
Major Site Plan and Design Review (Any SPR in the B/I district must be processed through a major SPR)	R	R	D	A		
Critical Area Permit – Major and Minor			D	A		
All other administrative decisions: This includes agricultural retail plans, boundary line adjustments (See BIMC 2.16.090), building and other construction permits, building administrative decisions, clearing permits, BIMC interpretations, vegetation management permit , extension of construction noise hours (See BIMC 16.16.025), and any other administrative land use decision authorized by this code to be made by the director.						
			D	A		
Quasi-Judicial Decisions by the Hearing Examiner						
Conditional Use Permits	(R)	(R)	R	D/P		A
Variances		(R)	R	D/P		A
Reasonable Use Exception (See BIMC		(R)	R	D/P		A

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R = Review and Recommendation, (R) = Optional Review, D = Decision, A = Appeal, P = Public Hearing, (P) = Optional Public Hearing						
	DRB	Planning Comm.	Director	Hearing Examiner	City Council	Courts
16.20.080)						
Major Shoreline Variances [1]		(R)	R	D/P		A [2]
Major Shoreline Conditional Use Permits [1]			R	D/P		A [2]
Long Subdivisions (Prelim)			R	D		A
Quasi-Judicial Decisions by City Council						
Long Subdivisions (Final)			R		D	A
Site-Specific Rezones		(R)	R	R/P	D	A
Consolidated Project Review						
See BIMC 2.16.170						
Legislative Approvals						
Adoption or Amendment of Development Regulations		R/P	R		D (P)	A
Comprehensive Plan Amendments		R/P	R		D (P)	A
Legislative Area-Wide Rezones		R/P	R		D (P)	A
Special Area Plans		R/P	R		D (P)	A

[1] City decisions on shoreline variances, shoreline substantial development permits, and shoreline conditional use permits must be reviewed by the Washington Department of Ecology pursuant to WAC 173-27-130 and RCW 90.58.140(10). The Department of Ecology may approve, approve with conditions, or deny the application.

[2] The hearing examiner's decision is forwarded to the Department of Ecology (DOE) for decision. The DOE decision is then appealable to the Shoreline Hearings Board. (See BIMC 2.16.165.I.)

(Ord. 2018-08 § 1 (Exh. A), 2018: Ord. 2014-04 § 5 (Exh. 3 § 2), 2014: Ord. 2011-21 § 2, 2011: Ord. 2011-02 § 2 (Exh. A), 2011)

2.16.020 General provisions.

A. Jurisdiction. Jurisdiction of the department director or the hearing examiner is limited to those issues where ordinance or other appropriate authority grants the authority to issue a decision, recommendation, or issue an order.

B. State Environmental Policy Act May Apply. The State Environmental Policy Act (SEPA) and the Bainbridge Island SEPA ordinance (Chapter 16.04 BIMC) may also apply to applications processed under this section. For a consolidated land use application subject to Chapter 43.21C RCW and Chapter 16.04 BIMC, the SEPA threshold determination shall be issued and any required public comment period shall be completed prior to a public hearing.

C. Types of Land Use Applications. Land use applications are classified into four major categories based on the review process: (1) administrative, (2) quasi-judicial decisions by a hearing examiner, (3) quasi-judicial decisions by city council, and (4) legislative approvals. The specific types of applications in each category are shown in the table in BIMC 2.16.010.

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1. Administrative land use decisions are made by a department director pursuant to the process in BIMC 2.16.030, and pursuant to specific standards in BIMC 2.16.040 through 2.16.090 as applicable.
2. Quasi-judicial decisions by a hearing examiner are made pursuant to the process in BIMC 2.16.100, and pursuant to specific standards in BIMC 2.16.110 through 2.16.120 as applicable. ***2.16.125, preliminary long subdivisions missing***
3. Quasi-judicial decisions by city council are made pursuant to the process in BIMC 2.16.130, and pursuant to specific standards in BIMC 2.16.140 through 2.16.160 as applicable. This category includes consolidated project review, which is an option available for a land use proposal that requires more than one related land use permit, and in which decisions are made pursuant to BIMC 2.16.170. In some cases, consolidated project reviews may be quasi-judicial decisions by a hearing examiner.
4. Legislative approvals are non-site-specific decisions related to land use in the city but not related to a specific land use application filed by a property owner. These decisions are made pursuant to BIMC 2.16.180, and pursuant to specific standards in BIMC 2.16.180 through 2.16.210 as applicable.

D. Who Can Apply.

1. A property owner, a contract purchaser, or an agent of the owner with authorized written proof of agency may apply for any type of permit.
2. A resident who is not the owner of the dwelling may apply for permits and licenses pertaining to a home occupation.
3. Any person may request an interpretation of the zoning code, shoreline master program, or subdivision regulations. The director of planning and community development may issue interpretations of the zoning code, shoreline master program, or subdivision regulations as needed, and shall post issued interpretations on the city website.

E. Prohibited Ex Parte Communications.

1. Except as permitted under Chapter 42.36 RCW, a proponent or opponent, or his or her agent or representative, of a quasi-judicial matter that is pending before the hearing examiner or council, shall not communicate ex parte, directly or indirectly, with the examiner or a council member concerning the merits of the pending matter or a factually related quasi-judicial matter. This rule shall not prohibit ex parte communications concerning procedural matters.
2. Except as permitted under Chapter 42.36 RCW, the hearing examiner or a council member shall not communicate ex parte, directly or indirectly, with a proponent or opponent, or his or her agent or representative, of a quasi-judicial matter that is pending before the hearing examiner or council concerning the merits of the pending matter or a factually related quasi-judicial matter. This rule shall not prohibit ex parte communications concerning procedural matters.
3. If a prohibited ex parte communication is made to or by the hearing examiner or a council member, the examiner or council member shall comply with Chapter 42.36 RCW. Any violation of this subsection E shall be deemed a misdemeanor and may be punished pursuant to Chapter 1.24 BIMC.
4. Any person seeking to rely on the provisions of this section to disqualify the hearing examiner or a council member from participating in a decision must raise the challenge as soon as the basis for disqualification is made known to the person. Where the basis is known or reasonably should have been known prior to the issuance of the decision and is not raised until after the issuance of the decision, it may not be relied on to invalidate the decision.

F. Design Review Board Review.

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1. The design review board shall review and make recommendations on all land use applications as set forth in this section. This design process reflects a collaborative effort between an applicant, the design review board, and the community to better incorporate the vision of the city as outlined in the adopted comprehensive plan and regulations. (See Table 2.16.010-1.)
2. In order to identify potential design issues and opportunities, planning staff shall direct a prospective applicant to meet with the board during the conceptual stages of development formulation. This initial review is strongly recommended, and shall occur prior to the proposal's preapplication conference. The applicant shall submit conceptual drawings and diagrams as well as site information (topographic, existing development, surrounding development, and critical area information). Following this optional, initial review, an applicant may proceed with the design of the project, including development of the site plan and elevations that must be submitted as part of the preapplication materials.
3. Subsequent to submittal of preapplication materials, the board shall review a proposal for conformance with applicable design guidelines. The board's written recommendations shall be attached to the formal preapplication letter generated by planning staff.
4. Subsequent to submittal of the site plan and design review and/or conditional use permit application, the board shall review a proposal for incorporation of the board's previous comments into the project's design. For all housing design demonstration projects, including subdivisions, the board shall serve in an advisory and review capacity, in addition to analyzing any applicable design guidelines. At the conclusion of its consideration, the board shall submit to the director a recommendation of approval, approval with modifications, or denial of the application based on compliance with design guidelines. The director shall consider the board recommendation prior to making a decision on the application.
5. A board recommendation is not a decision and there is no city appeal of the recommendation.

G. Preapplication Procedure.

1. Subject to certain exemptions, all projects are subject to and must complete the site assessment review process set forth and in accordance with Chapter 15.19 BIMC, and projects requiring a preapplication conference have the option of proceeding with the two processes concurrently. Chapter 15.19 BIMC is designed to ensure that future development integrates low impact development practices to the maximum extent practicable, as required by Chapters 15.19 and 15.20 BIMC.
2. The preapplication conference is an informal discussion between a potential applicant, interested citizens, city staff, and the design review board (if applicable) regarding a proposed project. A preapplication conference shall not include extensive field inspection or correspondence. The purpose of the preapplication conference is to assist the applicant by identifying the following:
 - a. Requirements for submittal, including types of permits necessary to complete the proposal and whether SEPA review is required, pursuant to the State Environmental Policy Act (SEPA), Chapter 43.21C RCW.
 - b. Compliance with applicable city plans, goals, policies, codes or guidelines and possible revisions to the proposed project that will enhance the proposal with respect to these requirements.
 - c. Required plans, studies, reports, and/or other materials specific to the proposal that will provide necessary information for staff to review the project.
 - d. Whether or not the project will likely qualify as a housing design demonstration project, and/or feedback about how to qualify, if applicable. ***This is the purpose of the conceptual meeting required for HDDP***
3. A preapplication conference may be recommended by the department director for any type of land use application that the director believes may be complex or controversial, but is required prior to submitting an application for the following land use applications unless a waiver is obtained pursuant to this subsection G.3:

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- a. Minor or major conditional use;
- b. Minor or major variance;
- c. Minor or major site plan and design review approval;
- d. Preliminary long subdivision and short subdivision;
- e. Shoreline substantial development permit, shoreline variance, and shoreline conditional use permit;
- f. Shoreline substantial development exemption for new shoreline armoring (including bulkheads, revetments, and soft shore designs);
- g. Comprehensive plan amendment;
- h. Reasonable use exception;
- i. Consolidated project review; and
- j. Major critical area permit.

4. Except in the case of (a) preliminary short subdivisions and long subdivisions, (b) shoreline substantial development exemptions or permits for new shoreline armoring (including bulkheads, revetments, and soft shore designs), (c) where the HDDP process is being used, and (d) where DRB review is required, a preapplication conference may be waived in writing by the director if the director determines the following:

- a. The application is consistent with applicable codes and ordinances;
- b. The proposed use is clearly listed as a permitted use or a conditional use in the zoning district in which it is located; and
- c. The applicant demonstrates knowledge and understanding of the city's permit processing procedures.

5. In the case of applications where design review board review and a preliminary application conference are required, the land use application shall be reviewed using a two-step preapplication process. As the schedule allows, the applicant shall first meet with the design review board to discuss the design concept, and shall then meet with department staff as described in this section.

6. The review process for long subdivisions, major site plan and design review permits, and major conditional use permits shall include a public participation meeting following the procedures outlined in Resolution No. 2010-32. The meeting will be held after the design review board meeting, if one is required, during the preapplication conference phase of the project.

7. An applicant shall arrange for a preapplication conference by submitting forms and plans as required in the administrative manual.

8. The discussion at the preapplication conference shall not bind or prohibit the city's future application or enforcement of applicable codes and ordinances.

H. Application.

1. Application Submittal Requirements.

- a. An application for a specific type of land use decision shall be filed with the appropriate department on forms prescribed by that department and shall include fees as required by resolution of the city council. Each application has specific submittal requirements that are described in the administrative manual. Additional requirements may be requested on the application form.

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- b. The address indicated on the application shall be, for the purposes of this title, the mailing address of the applicant, and all correspondence relating to the application shall be directed to that address.
- c. The applicant or designated representative must be present at any public meeting that has been publicly advertised to hear the application or when the applicant has been personally notified of such a meeting.
- d. The director may waive specific submittal requirements determined to be unnecessary for review of an application.
- e. The director or city engineer may require additional material such as, but not limited to, maps, studies or models when the director determines such material is needed to accurately assess the proposed project.

2. Determination of Complete Application.

- a. A land use application shall be deemed complete when all submittal requirements and all required fees as set forth in the administrative manual or by resolution of the city council have been submitted to the appropriate department and staff has confirmed that the level of detail in submitted materials is sufficient to allow accurate review, even though additional information may be required or subsequent project modifications may occur (see subsection K.4 of this section for timelines).
- b. A determination of a complete application shall not preclude the department director from requesting additional information or studies, if new information is required to complete final review or if substantial changes in the application are proposed.
- c. If a land use application is determined to be incomplete, the city shall return the application for modification or correction with a request in writing for the missing information. The applicant shall respond to such a request within 60 days of the date of the request.

3. Voiding Application Due to Inactivity. A land use application for which a decision has not yet been made may be canceled for inactivity if the city returns the application for modification or correction (including a request for additional information for an incomplete or complete application) and the applicant fails to respond to the city's request within 60 days of the request. The planning director may extend the response period beyond 60 days if within that time period the applicant provides and subsequently adheres to an approved schedule with specific target dates for submitting the full revisions, corrections, or other information needed by the requesting department.

I. Fees.

- 1. Fees and charges payable to the city prior to issuance of a land use permit or approval, except impact fees, shall be paid in an amount established by ordinance or resolution as of the date on which the land use application is accepted, except as provided in subsections I.2 and I.3 of this section.
- 2. Fees and charges payable to the city prior to the issuance of a building permit, including utility participation and connection charges, but except impact fees and fees for which an hourly charge has been established, shall be paid in an amount established by ordinance or resolution as of the date of the permit application.
- 3. Fees and charges payable to the city in relation to the issuance of land use permits or approvals do not vest except as provided in this chapter. Hourly rate charges shall be imposed for all work done by the city on and after the effective date(s) of the hourly charges, at the rate in effect on the date that work is performed by the city. Hourly charges shall be in addition to any amounts previously collected relative to the permits, approvals, or actions for which hourly fees are either now or subsequently imposed except that amounts paid prior to the imposition of hourly charges shall be considered a nonrefundable deposit against future charges for the same permits or approvals.

J. Application Time Frames.

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1. Final decisions on land use applications should be issued within 120 days from the date the application is determined to be complete pursuant to subsection H.2 of this section, except in the case of subdivisions. A preliminary plat for a short subdivision, long subdivision or large lot subdivision must be approved, disapproved, or returned to the applicant for modification or correction within 90 days from the date of filing a complete application, unless the applicant consents to an extension. A final plat for a short subdivision, long subdivision, or large lot subdivision must be approved, disapproved, or returned to the applicant for modification or correction within 30 days from the date of filing a complete application, unless the applicant consents to an extension.
2. Where there is a conflict in time periods of state statutes, the state statute with the more restrictive time period shall govern. The time period for making a final decision as established by this section may be extended for any reasonable period of time mutually agreed upon by the applicant and the city.
3. For purposes of calculating time periods and counting days of permit processing, the time period shall begin on the first day following the date the application is determined to be complete. The following periods shall be excluded from the 120-day period:
 - a. Any period during which an application has been returned for correction or modification with a request for missing or additional information necessary for review, in accordance with subsection H.2 of this section;
 - b. Any period during which an environmental impact statement is being prepared following a determination of significance pursuant to Chapter 43.21C RCW;
 - c. Any period during which an appeal of a project permit is being reviewed; and
 - d. Any extension of time mutually agreed upon by the applicant and the city.
4. The time limits established by this section do not apply if a land use application includes one of the following:
 - a. An amendment to the comprehensive plan or an amendment to a land use development regulation; or
 - b. Siting of an essential public facility as provided in RCW 36.70A.200; or
 - c. An application substantially revised by the applicant, in which case the time period shall start from the date at which the revised project application is determined to be complete under subsection H.2 of this section; or
 - d. An application for a street or right-of-way vacation.
5. If the city is unable to issue its final decision on a land use application within the applicable time periods, the city shall provide written notice of this fact to the project applicant. The notice will include a statement of reasons why the time periods have not been met and an estimated date for issuance of the notice of final decision.

K. Notice Requirements.

1. Land Use Notice Summary Table.

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Table 2.16.020-1 Land Use Notice Summary Table

	Mail, Fax, E-mail, or Other to Applicant	Mail, Fax, or E-mail to Depts., Public, and Others	Publishing in Newspaper	Posting Notice at Official Locations	Posting Sign on the Property
Notice of Complete Application					
Notice of Application and Public Comment Period*					
Notice of Public Hearing					
Notice of Decision and Appeal Period					

* May be combined with SEPA notice.

** Notice only goes to parties that commented during public comment period; if the application includes SEPA, notice of decision goes to SEPA agencies also.

2. Types of Notifications for Land Use Decisions. All applications, except those exempted in subsection K.3 of this section, require the following notifications:

- a. Notice of complete application; and
- b. Notice of application and public comment period*; and
- c. Notice of public hearing, if a public hearing is required; and
- d. Notice of decision and appeal period.

* If the optional process is used pursuant to subsection K.8 of this section, this will include SEPA comment period.

3. Exemptions from Public Notice Requirements on Land Use Decisions. The following land use applications do not require a notice of application and public comment period or notice of decision:

- a. A building permit or other construction permit, unless a notice of intent to construct in geologically hazardous areas is required under BIMC 16.20.140.
- b. An administrative decision that is categorically exempt under SEPA (Chapter 43.21C RCW), unless the permit application procedures require a public comment period or public hearing. Flexible lot design short or long plats are not exempt from notice requirements.

4. Notice of Complete Land Use Decision Application.

- a. Within 28 days after receiving a land use permit application, the department director shall either mail, fax, or otherwise provide to the applicant a written determination, stating either that the application is complete or that the application is incomplete and what is necessary to make the application complete. If the application is determined to be incomplete, the department director will request additional information in writing.
- b. Within 14 days after an applicant has submitted all additional information identified by the department director as being necessary for a complete application, the department director shall notify the applicant whether the application is complete or what additional information is necessary.
- c. If the department director does not provide a written determination as to whether the application is complete within the 28 days, the application shall be deemed complete as of the twenty-eighth day.

5. Notice of Application and Public Comment Period.

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a. Time of Notice. Within 14 days of a notice of complete application, the department director shall issue a notice of application for any land use application except for those applications that are exempted pursuant to subsection K.3 of this section. The notice of application shall provide a minimum comment period of 21 days. However, for projects requiring review under the State Environmental Policy Act (SEPA), the notice of application shall provide a minimum comment period of 14 days; the SEPA threshold determination shall not be issued prior to the expiration of the notice of application comment period.

b. Method of Notice. The notice of application shall be provided to the public and other government agencies with jurisdiction over some aspect of the application by the following means:

i. Distributing written notice to property owners at addresses listed on the property tax records of Kitsap County within 500 feet of any boundary of the subject property and including any property within 500 feet of any contiguous property in the applicant's ownership;

ii. Posting notice in the official posting places of the city, including the city website;

iii. Publishing notice in the official newspaper of the city;

iv. Posting the subject property in a manner prescribed by the city; and

v. Distributing notices to government agencies.

c. Notice of Application Contents. The content of the notice shall comply with the requirements of state law and shall contain that information set forth in the administrative manual.

d. Transportation Notice. If the application is for a short subdivision or a large lot subdivision that is adjacent to the right-of-way of a state highway or within two miles of the boundary of a state or municipal airport, not later than 10 days after the short subdivision application is filed, the director shall provide a notice of the application, including a legal description and location map, to the State Secretary of Transportation. The Department of Transportation shall, within 15 days after receiving the notice, submit a statement to the director who furnished the notice, including any information that the Department of Transportation deems to be relevant about the effect of the proposed short subdivision or large lot subdivision upon the legal access to the state highway, the traffic carrying capacity of the state highway and the safety of the users of the state highway. If comments are not received within 15 days, the director may extend the comment period by an additional 15 days to allow for Department of Transportation comments.

6. Notice of Public Hearing. Notice for an application requiring a public hearing shall be provided in the following manner:

a. Time of Notice. The hearing examiner shall provide notice of the public hearing at least 15 days prior to the hearing or as otherwise provided by law.

b. Method of Notice. The hearing examiner shall provide notice of an appeal hearing as provided in this subsection K.6.b and shall provide public notice for any other public hearing by:

i. Posting notice in the official posting places of the city, including the city website; and

ii. Publishing notice in the official newspaper of the city at least 14 days prior to the hearing or as otherwise provided by law; and

iii. Distributing notice to the applicant and appellant, if applicable; and

iv. Distributing written notice to property owners at addresses listed on the property tax records of Kitsap County within 500 feet of any boundary of the subject property and including any property within 500 feet of any contiguous property in the applicant's ownership; and

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- v. Distributing notice to any person who has submitted a written request for notice of the hearing; and
 - vi. Posting the subject property in a manner prescribed by the city.
 - c. Public Hearing Notice Contents. The content of the notice shall comply with the requirements of state law and shall contain that information set forth in the administrative manual.
7. Notice of Land Use Decision and Appeal Period. A notice of decision shall be issued upon a final decision on a land use application. The decision-maker shall distribute the notice of decision to the applicant, the applicable department director and any persons requesting notice or submitting comments on the application prior to the decision. Notice of decision shall include:
- a. A statement indicating that the application is approved, approved with conditions, denied, or remanded; and
 - b. A statement of any conditions included as part of a decision for approval or approval with conditions; and
 - c. A statement of facts upon which the decision, including any conditions, is based and the conclusions of law derived from those facts; and
 - d. The SEPA threshold determination and mitigation conditions as specified in Chapter 16.04 BIMC, if applicable; and
 - e. Procedures for appeal under subsection P of this section if applicable.
8. Combining Public Notices on Land Use Applications. If a land use application is subject to environmental review under Chapter 16.04 BIMC (Chapter 43.21C RCW) and requires a SEPA threshold determination, the SEPA public notice and notice of SEPA public comment period, if any, shall be combined with other land use application notices when possible. A combined notice shall include a statement that a single comment letter may be submitted to the SEPA official, addressing impacts as well as other issues subject to review under the decision criteria for the land use application.
9. Notice Required for Legislative Review Procedures. Unless subsection K.10 or K.11 of this section requires otherwise, notice of the date, time and place of any scheduled hearing shall be provided to the public by the following means:
- a. Publishing notice in the official newspaper of the city at least 10 calendar days prior to the public hearing.
 - b. Posting notice in the official posting places of the city.
10. Notice Required for Adoption and Amendment of Land Use Regulations.
- a. The city shall give notice of the public hearing in a way that is reasonably calculated to provide notice to property owners and other affected and interested individuals, tribes, government agencies, businesses, and organizations. Examples of reasonable notice include:
 - i. Posting the property for site-specific proposals;
 - ii. Publishing notice in the official newspaper of the city;
 - iii. Notifying public or private groups who have notified the city of an interest in a certain proposal or in the type of proposal being considered.
 - b. Notice of the public hearing shall state when the public may submit written comments on the proposed development regulation; provided, that the public shall be given at least 10 days prior to the scheduled public hearing to submit written comments to the city.

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- c. Errors in exact compliance with this chapter shall not render the development regulation invalid if the spirit of the procedures established by this chapter is observed.

11. Notice Required for Special Area Plan Process. The interdepartmental staff team described in BIMC 2.16.210.D shall provide notice to the public of the initial public meeting by (a) mailing notice, by regular mail, at least 10 days prior to the date of the meeting, to all interested persons and groups identified by the interdepartmental staff team, and to all persons requesting such notice; and (b) publishing notice in the city's official newspaper at least 10 days prior to the date of the meeting.

L. Land Dedication. The following provisions apply to applications for short or long subdivisions, and to development permits for multifamily residential development.

1. The applicant shall submit with the application (a) a proposal for dedication of land for any public rights-of-way and parks, open spaces, or recreational lands required to serve the proposed development, and (b) any proposed open space covenants for private parks or recreational facilities for which the applicant seeks approval. Those proposals shall be incorporated in the underlying application.

2. Except in the case of short subdivisions, the city council shall then determine whether to require the dedication of land, and/or approve any proposed open space covenants for private parks or recreational activities. In the case of short subdivisions, staff shall determine whether to require dedication of land and/or approve any proposed open space covenants for private parks or recreational activities, but no required land dedication shall be final until accepted by city council.

3. In the instances where staff or the city council determines to require dedication of land, the dedication shall occur:

- a. In the case of a short or long subdivision, at the time of final plat approval;
- b. In the case of development permits for multifamily development, land dedications of public rights-of-way shall be required at the time of approval of the earliest application at which the number of dwelling units and related traffic generation from the property can be calculated. Land dedications for parks, open spaces, and recreational lands shall be due at the time of approval of the earliest application at which the number of dwelling units on the property can be calculated. All land dedications shall be completed prior to the issuance of any building permits.

M. Time Limits and Extensions.

1. A land use permit automatically expires and is void if the applicant fails to file for a building permit or other necessary development permit within three years of the effective date of the permit unless (a) the applicant has received an extension for the permit; or (b) the permit provides for an extended time period.

2. The director may grant one extension to the permit, in writing, for a period not to exceed one year if:

- a. Unforeseen circumstances or conditions necessitate the extension of the permit; and
- b. Termination of the permit would result in unreasonable hardship to the applicant, and the applicant is not responsible for the delay; and
- c. The extension of the permit will not cause substantial detriment to existing uses in the immediate vicinity of the subject property; and
- d. The extension request is received by the department no later than 30 days prior to the expiration of the permit.

N. Required Notices on Title. Where any provision of the Bainbridge Island Municipal Code requires the recording of a notice on title related to a land condition or land use approval condition, the applicant shall record those notices in the form shown in the Bainbridge Island Municipal Code or administrative manual. In the case of long, short, or

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large lot subdivisions, the notice shall be recorded prior to or at the recording of the final plat. In the case of other approvals, the notice shall be recorded before the issuance of any building permit related to the approval.

O. Approval Binding. No person, firm or corporation shall locate or expand a use for which any land use approval is required without first obtaining that land use approval. Once a land use application has been approved, no building or development of any sort shall occur contrary to the approved land use application unless this title includes a procedure for adjustments or modifications and the city has approved those adjustments or modifications.

P. Appeals.

1. Appeal of an Administrative Review Decision.

a. Applicability. All administrative decisions, departmental rulings and interpretations made in accordance with administrative review procedures of BIMC 2.16.030 and administrative decisions made under BIMC 1.26.070 may be appealed to a hearing examiner. Administrative decisions of the public works director and decisions on sign permits may not be appealed to the hearing examiner.

b. SEPA Appeals. Appeals of decisions made in accordance with Chapter 16.04 BIMC, the city's SEPA rules, shall be made according to the procedures in that chapter. Where the appeal concerns a substantive approval, denial, or conditional approval of a development application based on a SEPA determination (a "substantive SEPA appeal"), the appeal hearing shall be pursuant to subsection P.1.i of this section. Where the appeal concerns a threshold determination regarding the applicability of SEPA or the level of SEPA review required (a "procedural SEPA appeal"), the appeal shall also be pursuant to subsection P.1.i of this section, but, if heard on the same date, the procedural SEPA appeal shall be heard first and the record of the proceeding closed before the substantive appeals are heard.

c. Rules. Any rules of procedure for appeal hearings adopted by the hearing examiner shall be kept on file with the office of the city clerk and shall be provided to any person filing an appeal upon request.

d. Timing. An appeal of an administrative decision shall be filed with the city clerk within 14 days of the date of the decision. This provision applies when the application (i) is exempt from SEPA or (ii) is subject to SEPA and uses the "optional process." An appeal of an administrative decision shall be filed with the city clerk within 21 days of the date of decision when the project is subject to SEPA and requires a SEPA threshold determination public comment period pursuant to WAC 197-11-340.

e. Written Appeal Required. All appeals shall be filed in writing with the city clerk, shall identify the decision appealed and the date of the decision, and shall contain a summary of the grounds for the appeal.

f. Content of Appeal. Appeal hearings shall be limited to the issues specified in the written appeal.

g. Hearing Date. Following receipt of a notice of appeal and payment of the appropriate fee, a public hearing shall be set by the hearing examiner.

h. Related Documents. All written comments and related documents received prior to the appeal hearing shall be transmitted to the hearing examiner no later than the hearing date. In the case of complex or controversial appeals, the city may require that some or all materials be submitted two or more days in advance of the hearing date.

i. Appeal Hearing. As stated in RCW 43.21C.075, because a major purpose of SEPA is to combine environmental considerations with public decisions, any appeal brought under this section shall be linked to a specific governmental action. The State Environmental Policy Act provides a basis for challenging whether governmental action is in compliance with the substantive and procedural provisions of this chapter. The State Environmental Policy Act is not intended to create a cause of action unrelated to a specific governmental action. The appeal shall be heard in accordance with RCW 43.21C.075. The appeal shall be held at an open record public hearing. Participation in an appeal hearing is limited to the applicant, the applicant's representative, the appellant, the appellant's representative, appropriate city staff and consultants, any witnesses called by each and any nonparty who submitted written comments during

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the public comment period if the hearing examiner determines that the testimony will be relevant to the issue on appeal and nonrepetitive of the testimony of other witnesses.

- i. In a SEPA procedural appeal, the procedural determination by the city's SEPA official shall carry substantial weight.
 - ii. In an appeal of a substantive decision made by the city, the criteria shall be whether (A) the proceedings were materially affected by failure to comply with adopted procedures, or (B) the decision is inconsistent with the BIMC criteria for that type of approval, or (C) the evidence in the record was not adequate to support the decision.
 - iii. In an appeal on the substance of a SEPA determination, or substantive conditions attached to an approval through the SEPA review process, the determination by the city's SEPA official shall carry substantial weight.
- j. Continuation of Hearing. A hearing may be continued to a date certain without additional notice.
- k. Decision. Upon completion of the appeal hearing, the hearing examiner shall (i) affirm the decision, (ii) reverse the decision, (iii) affirm the decision with conditions, or (iv) remand the decision to the department director for further consideration of identified issues. The decision of the director shall be accorded substantial weight by the hearing examiner. The hearing examiner may include conditions as part of a decision granting or granting with conditions an appeal to ensure conformance with BIMC, the city's comprehensive plan and other applicable laws or regulations.
- l. Timing of Written Decision. The hearing examiner shall issue a written decision on the appeal within 20 working days after completion of the public hearing unless the appellant and the hearing examiner have consented to an extension of time. The written decision shall include (i) the decision of the hearing examiner granting or denying the appeal in whole or in part; (ii) any conditions included as part of the decision on the appeal; (iii) findings of facts upon which the decision, including any conditions, is based and the conclusions of law derived from those facts; and (iv) a statement of the right of a person with standing to appeal the decision of the hearing examiner in accordance with Chapter 36.70C RCW.
- m. Distribution. The hearing examiner or designee body shall provide a copy of the written decision to the applicant, the appellant, the applicable department director, and any person requesting the written decision or who submitted substantive comments on the application prior to the decision.

2. Appeal of a Decision of the Hearing Examiner. The decision of the hearing examiner shall be final unless, within 21 days after issuance of a decision, a person with standing appeals the decision in accordance with Chapter 36.70 RCW or its successor.

3. Appeal of a City Council Decision on a Quasi-Judicial Matter. The decision of the city council shall be final unless, within 21 days after issuance of a decision, a person with standing appeals the decision in accordance with Chapter 36.70C RCW or its successor.

4. Appeals of a City Council Decision on a Legislative Matter. Appeal of a city council decision on a development regulation, area-wide rezone and comprehensive plan amendment is governed by state law.

Q. Housing Design Demonstration Projects.

1. Purpose and Goals. The purpose of this subsection Q is to allow the development of housing design demonstration projects that increase the variety of housing choices available to residents across underserved portions of the socio-economic spectrum, and to promote compact, low-impact development where it is most appropriate. Further, its purpose is to encourage high quality and innovation in building design, site development, and "green" building practices.

The goals of this program are to increase the housing supply and the choice of housing styles available in the community; to promote socio-economic diversity by adding to the stock of income-qualified housing; to

encourage development of smaller homes, at reasonable prices, in neighborhoods attractive to a mix of income and age levels; and to demonstrate that innovative design and building techniques (conserving water and energy, using sustainably sourced materials, limiting environmental impacts) are compatible with market considerations.

2. Applicability. This subsection Q is applicable to all properties located within the Winslow sanitary sewer system service area. An application for a housing design demonstration project may be applied to single-family residential subdivisions, mixed-use/multifamily and multifamily developments. Since the purpose is to provide housing projects as demonstrations, the city will accept projects for consideration and approval prior to the sunset date of the ordinance codified in this chapter. The city will limit acceptance of Tier 3 and 4 projects outlined in this section to three projects in each tier.

3. Review and Approval Process. Housing design demonstration project applications shall be reviewed as specified in the same manner as other applications for the same type of underlying land use permit (see BIMC 2.16.030 through 2.16.210), with additional review steps done in the order below as outlined in this subsection.

a. Conceptual Proposal Review. Applicants proposing a demonstration project shall meet with city staff during the conceptual phase to discuss the goals and evaluation parameters of the proposed project. The conceptual proposal review is an informal discussion between the applicant and city staff regarding a proposed project. There are no required application materials for this stage. Applicants shall contact the planning department staff to request a meeting, and the meeting shall be scheduled by staff for no more than three weeks after the request date. The purpose of the conceptual proposal review is to determine if the proposal is eligible to be considered as an application for a housing design demonstration project and to assist the applicant by identifying (i) requirements for submittal, including types of supplemental materials for application; (ii) compliance with applicable city plans, goals, policies, codes, or guidelines and possible revisions to the project that will enhance the proposal with respect to these requirements; (iii) areas of BIMC Title 18, Zoning, and BIMC Title 17, subdivisions, where the applicant seeks flexibility; and (iv) required plans, studies, reports, and/or other materials specific to the proposal that will provide necessary information for staff and the design review board, and to review the project under the criteria outlined in subsection Q.4 of this section.

b. Public Participation Program. The applicant is required to participate in one or more community meetings, either through the city's (i) public participation program following the procedures outlined in Resolution Nos. 2010-32 and 2001-11, or (ii) an equivalent public meeting that includes participation by city staff, as approved by the director.

c. Preapplication Conference. The applicant shall apply for a preapplication conference pursuant to subsection G of this section. Housing design demonstration projects shall be reviewed by both staff and the design review board, pursuant to subsection F of this section. The applicant shall submit a HDDP proposal consistent with the requirements in the administrative manual. The applicant shall consider input received during the public meetings and conceptual review with city staff in crafting the proposal. The proposal will be evaluated pursuant to subsection Q.4 of this section by city staff with the design review board serving in an advisory role, in addition to their review of applicable design guidelines. The director shall prepare written findings of facts, and applicants will receive preliminary notification from the director whether the proposal will qualify as a housing design demonstration project, or feedback about how to improve the proposal to qualify. If the applicant changes the proposal in any significant manner other than a response to feedback from the public meeting, conceptual review, or the preapplication review, an additional preapplication conference may be required.

d. Application Submittal. An applicant may submit a land use permit application (subdivision, site plan and design review, or conditional use permit) for a housing design demonstration project after completion of a required conceptual and preapplication review and notification by the city that the proposal qualifies as a housing design demonstration project. Upon receipt of an application, the director shall provide notice to the applicant and public in accordance with subsection K of this section, and commence the application review process. Housing design demonstration projects that require more than one land use permit must utilize the consolidated project review process outlined in BIMC 2.16.170. All housing design

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demonstration project applications, including subdivisions, shall be reviewed by the design review board and the planning commission at public meetings. The design review board and the planning commission shall make recommendations on all housing design demonstration projects.

e. Permit Decision. The decision to approve or deny a housing design demonstration project shall be made as part of underlying land use permit approval. The decision shall be based upon the decision criteria of the underlying planning permit, and the decision criteria outlined in subsection Q.5 of this section. Housing design demonstration project approval conditions shall be included in the final permit approval and shall address any ongoing compliance requirements including compliance with approved design plans. The city may require that the applicant record covenants to ensure ongoing compliance or maintenance for required project components.

f. Building Permit. The applicant shall submit a building permit that is consistent with all conditions of the land use permit approval. The applicant shall also submit documentation that the project has applied for required certification by a green building rating system, such as Evergreen Sustainable Development, LEED, or BuiltGreen. Proof of ongoing certification shall be required during construction and project certification must be completed prior to final occupancy.

g. Living Building Challenge. For projects pursuing the Living Building Challenge standard of the International Living Building Institute, the applicant must show proof of pursuing ongoing certification during construction for all required elements. After construction and prior to issuance of the certificate of occupancy, the applicant must show proof of initial project compliance as to the Site, Materials, Indoor Quality and Beauty/Inspiration components of the Living Building Challenge and that the project is likely to achieve the elements of energy and water following 12 months of occupancy as required under Living Building Challenge certification. For those elements of energy and water that require occupancy of the building for 12 months for Living Building Challenge certification, the applicant must submit a report to the city following 12 months of occupancy, demonstrating its progress towards meeting these remaining elements of the Living Building Challenge standard. If certification of those elements has not been achieved, the applicant must provide quarterly reports of progress towards certification of these elements, including additional steps and timeline that will be taken to achieve certification.

4. Evaluation Method. Each project will be evaluated for innovation and achievement of the goals of subsection Q of this section using a number of factors. The evaluation factors are divided into three categories. Examples of sustainable development methods do not limit other mechanisms of meeting the evaluation factor. Projects that qualify as housing design demonstration projects are eligible to use the flexible development standard incentives outlined in subsections Q.6 and 7 of this section. Projects qualifying as a Tier 2, 3, or 4 project are eligible for the residential incentives outlined below and in subsection Q.8 of this section. Tables 2.16.020.Q-1, Q-2, and Q-3 show how projects are scored to qualify for different tiers in the housing design demonstration project program.

Table 2.16.020.Q-1: Housing Design Demonstration Project Scoring System		
Density Incentives	Requirements to Receive Incentives	
	Green Building and Innovative Site Development	Housing Diversity
Tier 4		
2.5 x Base Density OR Max. Bonus Mixed-Use FAR	• Living Building Challenge (ILFI) OR Passive House (Passive House Institute US/International)	• Home size not greater than 1,600 sq. ft.
	• 30 Points in Innovative Site Development Practices	• 10 pts/10% of units affordable housing

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Table 2.16.020.Q-1: Housing Design Demonstration Project Scoring System				
Density Incentives		Requirements to Receive Incentives		
		Green Building and Innovative Site Development		Housing Diversity
Tier 3				
2.5 x Base Density OR Max. Bonus Mixed-Use FAR		• LEED Silver, BuiltGreen 4, or Evergreen Sustainable Development • 25 Points in Innovative Site Development Practices	• 50% affordable housing • Home size not larger than 1,600 sq. ft.	
Tier 2				
• 1.5 x Base Density (R-8 and R-14); OR • 2.0 x Base Density not to exceed R-8 density (R-2, R-2.9, R-3.5, and R-4.3); OR • Max. Bonus Mixed-Use FAR	• LEED Silver, BuiltGreen 4, or Evergreen Sustainable Development • 25 Points in Innovative Site Development Practices	• Home size not greater than 1,600 sq. ft. • 10% of units affordable housing • Projects with ≥ 20 units must get 3 points in “Unit Type” category		
Tier 1				
No Density Bonus	• LEED Certification, BuiltGreen 4, or Evergreen Sustainable Development • 14 Points in Innovative Site Development Practices	• Home size not greater than 1,600 sq. ft. • 4 points (projects with < 20 units) in “Housing Diversity” category • 5 points (projects with ≥ 20 units) in “Housing Diversity” category • Projects with ≥ 20 units must get 2 points in “Unit Type” category		
NOTE: For Tiers 2 and 3 required affordable housing units:				
o Home ownership projects: 50% of required affordable house units should serve ≤ 80% AMI				
o Rental projects: 50% of required affordable house units should serve ≤ 60% AMI.				

Table 2.16.020.Q-2 Housing Diversity Scoring Method				
		Affordable Housing	Unit Size	Unit Type

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		Project includes a number of housing units that are designated affordable for a period of 50 years to the spectrum of income levels as defined by BIMC 18.36.030.16 and 18.21.020.A. Rental housing is encouraged by awarding more points for the creation of rental housing.			Project includes a variety of unit sizes, excluding garages, that provide for a broad mix of income levels and family size. In order to score a point in a unit size range, the project shall provide at least 10% of the total number of units in that range. For example, in a 40-unit development, at least 4 units sized between 1,001 and 1,200 ft ² would be needed to score points in that range.		Unit type: Project includes a variety of housing unit types (i.e., single-family style, townhouse, flat, age-in-place, ADUs, cottages) or innovative type of housing. In order to score points for different unit types, the project shall provide at least 10% of the total number units of that type. For example, in a 40-unit development of townhomes and duplexes, at least 4 units of townhomes would be needed to score points for having 2 different unit types.	
TIER	Total Housing Diversity Points Required	% Affordable Units	Ownership Value	Rental Value	Unit Size Range	Value	Number of Different Unit Types	Value
		10%	10	12	< 800 ft ²	1	2	2
		11 – 15%	12	14	801 – 1,000 ft ²	1	3	3
		16 – 20%	14	16	1,001 – 1,200 ft ²	1	4	4
		21 – 25%	16	18	1,201 – 1,400 ft ²	1	5	5
		More than 25%	20	22	1,401 – 1,600 ft ²	1		
		Minimum % Required			Size Requirement	Min. Pts. Required	Min. Pts. Required	
4	10 pts	10%			Max. home size 1,600 ft ²	NA	NA	
3	20 pts	50%			Max. home size 1,600 ft ²	NA	NA	
2	12 pts (projects < 20 units) 15 pts (projects ≥ 20 units)	10%			Max. home size 1,600 ft ²	NA	Projects ≥ 20 units must get 3 pts in “unit type”	
1	4 pts (projects < 20 units) 5 pts (projects ≥ 20 units)	NA			Max. home size 1,600 ft ²	NA	Projects ≥ 20 units must get 2 pts in “unit type”	

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Table 2.16.020.Q-3 Innovative Site Development Scoring Method								
TIER	Minimum Site Development Point Requirement	Water Quality and Conservation		Landscaping and Open Space			Transportation	
		Projects use methods to decrease water usage and improve stormwater runoff quality through an integrated approach to stormwater management such as greywater use, stormwater collection in cisterns, vegetated roofs and covered parking. All HDDP projects will follow the stormwater manual adopted in Chapter 15.20 BIMC.		Project provides well-designed common open space, with at least 5 percent of the gross land area set aside as open space and designed as an integrated part of the project rather than an isolated element. The common open space must be outside of critical areas and their buffers and required roadside buffers. Appropriate community amenities such as playgrounds, composting and neighborhood gardens promoting the production of locally grown food are encouraged. Resident neighborhood community gardens can be in common open space areas, and shall be appropriately located for solar exposure, and include water availability, soil amenities, and storage for garden tools. Required growing space for neighborhood gardens is 60 square feet per dwelling unit, not including any existing orchard area. Open space dedicated to the public pursuant to the standards of BIMC 17.12.030.A.1, A.2, A.3, A.6 and A.7 is encouraged.			Project design provides enhanced sensitivity to pedestrian and bicycle travel to promote the people getting around without a car, a reduced carbon footprint, improved health of humans, and lower pollution levels. Project internally preserves existing informal internal connection to external nonmotorized facilities, furthering the Island-wide Transportation Plan (IWTP) and using such solutions as woonerfs, green streets, and natural trails and paths. Project reduces reliance on automobiles and trip counts, and promotes alternative transportation, such as integrating parking and charging facilities for electric cars, or bus shelters.	
4	30	Requirement	Value	% of Open Space	Value	Value if Public	Transportation Components	Value
		Number of dwelling units that integrate greywater reuse components into building design:		5 – 10%	2	4	Project preserves, creates or integrates internal and external nonmotorized connections.	2
				11 – 15%	4	6	Provides public walkways, separated paths, or bike lanes. No points for facilities required by IWTP.	3
		10%	1					
		11 – 20%	2	16 – 20%	6	8	On-site car sharing program	1 per each car
3	25			21 – 25%	8	10	Electric vehicle charging stations for 3% of vehicle parking capacity	3
		21 – 30%	3					

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Table 2.16.020.Q-3 Innovative Site Development Scoring Method								
TIER	Minimum Site Development Point Requirement	Water Quality and Conservation		Landscaping and Open Space			Transportation	
		Projects use methods to decrease water usage and improve stormwater runoff quality through an integrated approach to stormwater management such as greywater use, stormwater collection in cisterns, vegetated roofs and covered parking. All HDDP projects will follow the stormwater manual adopted in Chapter 15.20 BIMC.		Project provides well-designed common open space, with at least 5 percent of the gross land area set aside as open space and designed as an integrated part of the project rather than an isolated element. The common open space must be outside of critical areas and their buffers and required roadside buffers. Appropriate community amenities such as playgrounds, composting and neighborhood gardens promoting the production of locally grown food are encouraged. Resident neighborhood community gardens can be in common open space areas, and shall be appropriately located for solar exposure, and include water availability, soil amenities, and storage for garden tools. Required growing space for neighborhood gardens is 60 square feet per dwelling unit, not including any existing orchard area. Open space dedicated to the public pursuant to the standards of BIMC 17.12.030.A.1, A.2, A.3, A.6 and A.7 is encouraged.			Project design provides enhanced sensitivity to pedestrian and bicycle travel to promote the people getting around without a car, a reduced carbon footprint, improved health of humans, and lower pollution levels. Project internally preserves existing informal internal connection to external nonmotorized facilities, furthering the Island-wide Transportation Plan (IWTP) and using such solutions as woonerfs, green streets, and natural trails and paths. Project reduces reliance on automobiles and trip counts, and promotes alternative transportation, such as integrating parking and charging facilities for electric cars, or bus shelters.	
		Over 31%	4	Greater than 25%	10	12	Covered consolidated bike parking for subdivisions	3
		Percentage of total roof area qualifying as “vegetated roofs”:	2	Incorporates neighborhood garden	2		Bus shelter	2
		15 – 30%		Preserves tree that qualifies as a “heritage tree” under city program. The tree is not otherwise required to be preserved.	2 per tree			
2	25	Over 31%	4	All private yard areas ≤ 20% turf	4			
		Project integrates cisterns: % of total roof area directed to cisterns:		Project landscaping integrates at least 60% native or drought tolerant	4			

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Table 2.16.020.Q-3 Innovative Site Development Scoring Method						
TIER	Minimum Site Development Point Requirement	Water Quality and Conservation		Landscaping and Open Space		Transportation
		Projects use methods to decrease water usage and improve stormwater runoff quality through an integrated approach to stormwater management such as greywater use, stormwater collection in cisterns, vegetated roofs and covered parking. All HDDP projects will follow the stormwater manual adopted in Chapter 15.20 BIMC.		Project provides well-designed common open space, with at least 5 percent of the gross land area set aside as open space and designed as an integrated part of the project rather than an isolated element. The common open space must be outside of critical areas and their buffers and required roadside buffers. Appropriate community amenities such as playgrounds, composting and neighborhood gardens promoting the production of locally grown food are encouraged. Resident neighborhood community gardens can be in common open space areas, and shall be appropriately located for solar exposure, and include water availability, soil amenities, and storage for garden tools. Required growing space for neighborhood gardens is 60 square feet per dwelling unit, not including any existing orchard area. Open space dedicated to the public pursuant to the standards of BIMC 17.12.030.A.1, A.2, A.3, A.6 and A.7 is encouraged.		Project design provides enhanced sensitivity to pedestrian and bicycle travel to promote the people getting around without a car, a reduced carbon footprint, improved health of humans, and lower pollution levels. Project internally preserves existing informal internal connection to external nonmotorized facilities, furthering the Island-wide Transportation Plan (IWTP) and using such solutions as woonerfs, green streets, and natural trails and paths. Project reduces reliance on automobiles and trip counts, and promotes alternative transportation, such as integrating parking and charging facilities for electric cars, or bus shelters.
1	14	Percentage of total parking spaces that are covered (i.e., parking garage, carport):	15 – 30%	2	plants	
			Over 31%	4		
			5 – 20%	1		
			21 – 40%	2		
			41 – 60%	3		
			61 – 80%	4		
			Over 81%	5		

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a. Housing Diversity. Evaluation will review:

- i. Unit Type. The project includes a variety of unit types, for example, single-family, townhomes, flats, duplex, cottages, age-in-place or accessory dwelling units;
- ii. Unit Size. The project includes a variety of housing unit sizes that provide for a broad mix of income levels and family size; and
- iii. Affordable Housing. The project includes housing units that are affordable to the spectrum of income levels as defined in Chapter 18.21 BIMC, Affordable Housing, except that affordable housing units required for a housing design demonstration project must use the Bremerton-Silverdale Average Median Income (AMI). Designated affordable housing shall remain affordable for 50 years from the time of final inspection on the affordable unit. The applicant shall record covenants that demonstrate how the unit will remain affordable and be managed for 50 years.

b. Innovative Site Development. Evaluation will review:

- i. Water Quality and Conservation. Projects use methods to decrease water usage and improve stormwater runoff quality through an integrated approach to stormwater management such as greywater use, stormwater collection in cisterns, vegetated roofs and covered parking. All HDDP projects will follow the Department of Ecology's 2012 Stormwater Management Manual for Western Washington, as amended in December 2014.
- ii. Landscaping. The project uses low maintenance landscaping that integrates a high proportion of native plants or drought-tolerant plants that are climate appropriate. The project limits the amount of "lawn" in private yards in favor of common open space. Projects are encouraged to use cisterns to collect rainwater for irrigation or garden use.
- iii. Common Open Space. The project provides connected common open space area set aside as active open space and designed and integrated into the project. The open space could include active elements such as a neighborhood garden/pea patch and composting facilities, or a playground. Critical areas and their buffers and required roadside buffers do not contribute to "common open space" under the housing design demonstration project program.
- iv. Transportation. The project (A) uses a design that provides enhanced sensitivity to pedestrian travel; (B) internally preserves existing informal, internal connection to external trail(s), or creates new connections where appropriate, to implement the Island-wide Transportation Plan (IWTP); (C) reduces reliance on automobiles and trip counts, and promotes alternative transportation and public transit; (D) minimizes the visual dominance of automobiles throughout the project; or (E) the project accommodates needs of alternative vehicles through techniques such as parking and charging facilities for electric cars, locating rechargeable electric vehicle (EV) parking in a conspicuous and preferred location close to a main building entrance, and integrating a parking space for a vehicle sharing program, such as Zipcar™.

c. Innovative Building Design. The project is constructed under a green building certification program that requires third-party verification such as the Evergreen Sustainable Development, Living Building Challenge standard of the International Living Building Institute, Passive House Institute US/International, LEED or the BuiltGreen Program of the Master Builders of King and Snohomish Counties.

5. Approval Criteria. In addition to decision criteria required by the underlying planning permit or approval, an application for a housing design demonstration project may be approved if the following criteria are met:

- a. The applicant clearly demonstrates evaluation factors listed in subsection Q.4 of this section as shown in the housing design demonstration project scoring system as evaluated by the planning department;

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- b. The applicant has demonstrated how relief from specific development standards, including setback reductions, lot coverage and/or design guidelines, is needed to achieve the desired innovative design and the goals of this chapter;
- c. The project does not adversely impact existing public service levels for surrounding properties;
- d. The project complies with all other portions of the BIMC, except as modified through this housing design demonstration project process;
- e. If a project will be phased, each phase of a proposed project must contain adequate infrastructure, open space, recreational facilities, landscaping and all other conditions of the project to stand alone if no other subsequent phases are developed; and
- f. The applicant is meeting required housing diversity standards.

6. Development Standard Incentives – Development Projects in the Mixed-Use Town Center. The applicant may request that development standards from BIMC Titles 17 and 18 be modified as part of a housing design demonstration project. The city will review the request to modify development standards through the project review process outlined in subsection Q.3 of this section. Requirements of BIMC Title 16 may not be modified. The following development standards may be modified:

- a. Minimum Lot Dimensions and Size. Reductions in lot size or dimensions are subject to approval by Kitsap County health district.
- b. Maximum Lot Coverage. Maximum lot coverage can be increased by five percent for Tier 1 projects, and 10 percent for Tier 2 projects. For example, for a Tier 1 project in the Madison overlay district, the 35 percent lot coverage limit may be increased to 40 percent. Tier 3 and 4 projects may increase lot coverage above zoning district requirements with no maximum.
- c. Open Space. For MUTC projects developed under BIMC Title 17, flexible lot subdivision, the prescriptive open space requirements in BIMC 17.12.030.A do not apply. Instead, the project shall integrate at least 50 square feet of open space per unit. The open space shall be located along a public or private street or driveway, or public walkway.
- d. Residential Parking. The parking requirements outlined in BIMC 18.15.020 may be modified to require one parking space for homes under 800 square feet and 1.5 parking spaces for homes between 800 and 1,200 square feet. This reduction may not be combined with any other reductions to result in less than one space per unit, and additional guest parking may be required pursuant to BIMC Table 18.15.020-1. A limited number of parking spaces may be designed to accommodate alternative fuel or sub-compact vehicles such as Smart™ cars, with parking stall dimensional standards reduced from the standards outlined in BIMC 18.15.020.J. The applicants are encouraged to work with neighboring property owners to ensure street parking is not overburdened. If the project is requesting a reduction in required parking through the housing design demonstration project program, then the development shall integrate at least one guest parking space for every five dwelling units.
- e. Setbacks. Unless required for public safety purposes, such as sight distance, setbacks required by BIMC Title 18 in any district other than the Mixed-Use Town Center or the High School Road zoning district may be reduced as described below. This section does not supersede lesser setback requirements in the MUTC/HS Road district zones, as outlined in Table 18.12.020-3.
 - i. Zoning Setback Reductions.
 - (A) Front setback within project: 10 feet.
 - (B) Rear setback within project: minimum of five feet.
 - (C) Side setback within project: minimum of five feet.

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(A) All interior subdivision setbacks: zero feet.

(B) Building to exterior subdivision boundary: five feet.

(C) Building to right-of-way or on-site private access: 10 feet.

f. Building Height. Buildings within the Mixed-Use Town Center or High School Road districts may achieve a maximum building height not to exceed the optional height outlined in Table 18.12.020-3.

7. Development Standard Incentives – Development Projects in Residential Zones. The applicant may request that development standards from BIMC Titles 17 and 18 be modified as part of a housing design demonstration project. The city will review the request to modify development standards through the project review process outlined in subsection Q.3 of this section. Requirements of BIMC Title 16 may not be modified. The following development standards may be modified:

a. Minimum Lot Dimensions and Size. Reductions in lot size or dimensions are subject to approval by Kitsap County health district.

b. Maximum Lot Coverage. Maximum lot coverage can be increased by five percent for Tier 1 projects, and 10 percent for Tier 2 projects. For example, for Tier 1 projects in the R-4.3 district, the 25 percent lot coverage limit may be increased to 30 percent. Tier 3 and 4 projects may increase lot coverage above zoning district requirements with no maximum.

c. Open Space. For residentially zoned projects developed under BIMC Title 17, flexible lot subdivision, the prescriptive open space requirements in BIMC 17.12.030.A do not apply. Instead, the project shall integrate at least 400 square feet of open space per unit. The open space shall be located along a public or private street or driveway, or public walkway. This common consolidated open space would be in addition to any protected critical areas or buffers.

d. Residential Parking. The parking requirements outlined in BIMC 18.15.020 may be modified to require one parking space for homes under 800 square feet and 1.5 parking spaces for homes between 800 and 1,200 square feet. This reduction may not be combined with any other reductions to result in less than one space per unit, and additional guest parking may be required pursuant to Table 18.15.020-1. A limited number of parking spaces may be designed to accommodate alternative fuel or sub-compact vehicles such as Smart™ cars, with parking stall dimensional standards reduced from the standards outlined in BIMC 18.15.020.J. The applicants are encouraged to work with neighboring property owners to ensure street parking is not overburdened. If the project is requesting a reduction in required parking through the housing design demonstration project, then the development shall integrate at least one guest parking space for every five dwelling units.

e. Setbacks. Unless required for public safety purposes, such as sight distance, zoning and subdivision setbacks required by BIMC Title 18 may be reduced as described below. Additional vegetative landscaping screen may be required by the director when reducing setbacks.

i. Zoning Setback Reductions.

(A) Front setback to on-site access: 10 feet.

ii. Subdivision Setback Reductions.

(A) All interior subdivision setbacks: zero feet.

(B) Building to on-site access: 10 feet.

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8. Density Bonus Incentives. An increase in residential base density may be permitted as outlined in Table 2.16.020.Q-4.

Table 2.16.020.Q-4: Housing Diversity Program Project Density Bonuses	
Tier 4	
•	2.5 x Base Density
•	Max. Bonus Mixed-Use FAR (all residential)
Tier 3	
•	2.5 x Base Density
•	OR Max. Bonus Mixed-Use FAR (all residential)
Tier 2	
•	1.5 x Base Density (R-8 and R-14)
•	2.0 x Base Density not to exceed R-8 density (R-2, R-2.9, R-3.5, and R-4.3)
•	Max. Bonus Mixed-Use FAR (all residential)
Tier 1	
•	No Density Bonus

9. Housing Project Visit. In order to learn from the innovative design practices used, all projects completed under this subsection Q shall allow city staff to conduct occasional site tours. City staff will make a request of the property owner prior to conducting a tour and will not access the properties for tours more than once every three months. The site tours will be limited to the exterior and common grounds of the property, and conducted during regular business hours. Visits will be coordinated through the staff and property owner, and the owner will receive written notice no less than two weeks in advance of each visit. Any additional access to private property or at alternative times shall be at the permission and cooperation of the individual homeowner only.

10. Demonstration Period. This subsection Q and related provisions of BIMC Titles 2, 17, and 18 shall expire on December 31, 2019. (Ord. 2018-08 §§ 2 – 6, 2018; Ord. 2017-03 § 1, 2017; Ord. 2016-28 §§ 2, 3 (Exh. A), 2016; Ord. 2016-27 §§ 1 – 5, 2016; Ord. 2013-25 §§ 2, 3, 2013; Ord. 2012-09 § 1, 2012; Ord. 2011-02 § 2 (Exh. A), 2011)

2.16.030 Administrative review – In general.

A. Purpose. The purpose of this section is to establish procedures for administrative decision-making on land use applications. These provisions apply when BIMC does not describe more detailed administrative procedures for a specific type of application, and also supplement those more specific administrative procedures where they exist. If there is an inconsistency between these general administrative provisions and more detailed administrative provisions for a specific type of application elsewhere in the BIMC, the more specific provisions shall govern.

B. Applicability. This section applies each time a provision of the BIMC authorizes administrative review of a land use application, except site plan and design review (which is covered under BIMC 2.16.040), including those administrative approvals described in Chapter 16.12 BIMC, with the exception of shoreline substantial development permit applications, shoreline conditional use permit applications, and shoreline variance applications, which must go to the Washington Department of Ecology pursuant to WAC 173-27-130 and RCW 90.58.140(10) for a 21-day appeal period. The specific types of applications subject to administrative review are listed in the table in BIMC

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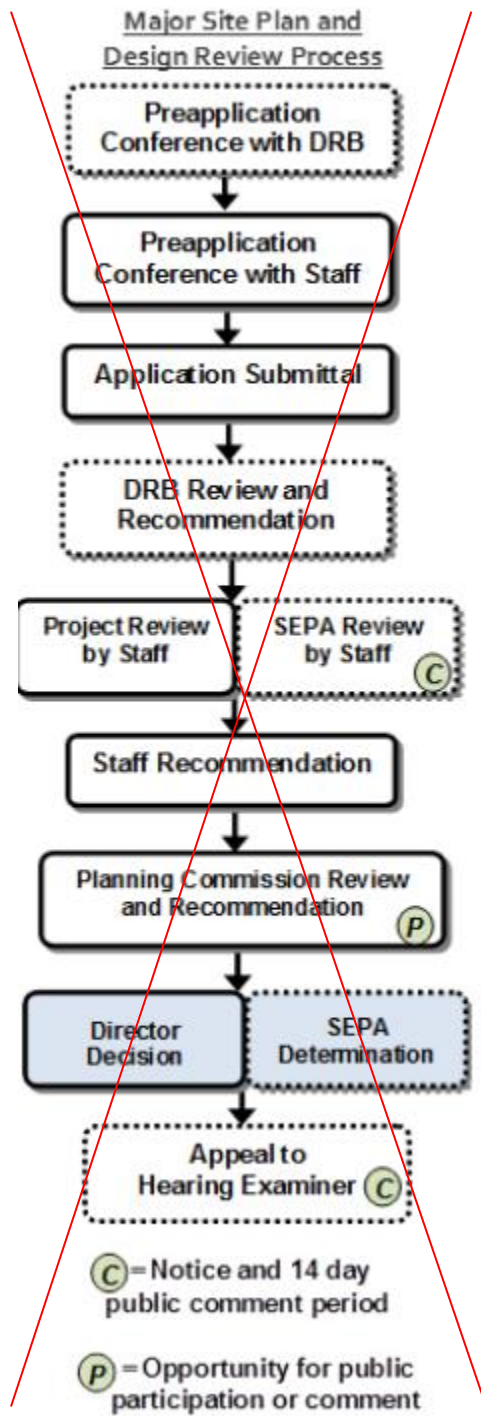
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2.16.010. When an application requires both an administrative approval under BIMC Title 17 or Title 18 and also a shoreline jurisdiction approval under Chapter 16.12 BIMC, those approvals may be processed simultaneously.

C. Public Comment. Any person may comment on a proposed application by submitting written comments prior to the end of the notice of application 21-day comment period (except for those applications for which no notice is required under BIMC 2.16.020.K).

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D. Decision Procedures.

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1. Criteria for Decision. In making the decision, the department director shall consider the applicable decision criteria of this code, all other applicable law, and any necessary documents and approvals. When no other criteria are specified, the director shall apply the following criteria:

- a. The application must comply with all applicable requirements of the BIMC as well as state and federal law.
- b. The application is consistent with the adopted comprehensive plan, and specifically with the character or intended character of the area in which the property is located, as described in the comprehensive plan.

2. Environmental Review. For a land use application subject to Chapter 43.21C RCW and Chapter 16.04 BIMC, a SEPA threshold determination may be issued simultaneously with the final decision of the land use application.

3. Planning Commission Recommendation. When written public comments are received during the public comment period concerning the effect of the land use application on the comprehensive plan, shoreline master program or matters not addressed by specific provisions of this code, the director may request the planning commission to review an application and make a written recommendation prior to the director making a decision. The planning commission will consider the land use application at a public meeting. The planning commission shall recommend approval, approval with conditions or denial of an application. In making a recommendation, the planning commission shall consider the applicable decision criteria of this code, all other applicable law, and any necessary documents and approvals. If the applicable criteria are not met, the planning commission shall recommend the proposal be modified or denied. A planning commission recommendation is not a final decision and therefore there is no appeal of the recommendation. The planning commission's written recommendation and other documents upon which its decision is based shall be immediately transmitted to the director.

E. Single Report.

1. The department director shall prepare a single consolidated report setting forth all the recommendations and decisions made on the application as of the date of the report.
2. The report shall state any mitigation required or proposed under the development regulations or as required through SEPA, Chapter 43.21C RCW. The report shall include the SEPA determination if a determination has not previously been issued.
3. If an administrative shoreline master program permit is required for the project pursuant to Chapter 16.12 BIMC, the report shall address the requirements of that chapter.

F. Department Director Decision. The department director may approve, approve with conditions, or deny the application based on the decision criteria, findings of fact, recommendations of the planning commission and design review board as applicable, and any necessary documents and approvals.

G. Corrections or Clarification. The department director may amend the decision at any time to correct clerical errors clearly identifiable from the public record. Such a correction does not affect any time limit provided for in this chapter. The department director may clarify a statement in the written decision at any time as long as the clarification does not materially alter the decision.

H. Effect of Decision. The decision of the department director is the final decision of the city, subject to the appeal provisions in BIMC 2.16.020.P.

I. Revocation of Administrative Approvals. An administrative approval may be revoked by the director upon the finding of any one or more of the following:

1. That the approval was obtained by deception, fraud or other intentional or misleading representation; or
2. That the use for which approval was granted has been changed; or

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3. In the case of minor conditional use permits, that the use has at any time been discontinued for a year or more; or
4. That the permit granted is being exercised contrary to the terms or conditions of such approval or in violation of the code; or
5. That the use for which the approval was granted was so exercised as to be detrimental to the public health or safety. (Ord. 2011-02 § 2 (Exh. A), 2011)

2.16.040 Site plans and design review.

A. Purpose. The purpose of this section is to establish a comprehensive site plan and design review process that ensures compliance with the adopted plans, policies, and ordinances of the city. The overall goal of this chapter is to minimize land alteration, provide greater site development flexibility and consequently provide more creative and imaginative design than generally is possible under conventional zoning regulations. It is further intended to provide for the review of development proposals with respect to overall site design and to provide a means for guiding development in a logical, safe, attractive, and expedient manner, while also allowing property to be developed in phases. An additional purpose is to promote those specific purposes for each zoning district stated in Chapter 18.06 BIMC.

B. Applicability.

1. Site plan and design review shall be required prior to the issuance of construction permits in any of the following circumstances:
 - a. The new construction of a nonresidential building or other structure; or
 - b. The expansion, remodel, or alteration of any building or other structure by more than five percent of its existing floor area, or overall size in cases where floor area is not applicable; or expansion that creates a new dwelling unit; or
 - c. ~~A~~ The expansion or change of use, where traffic, parking, noise or other impacts are greater than the impacts for the previously existing use, as determined by the director; or
 - d. The construction of new wireless communications support structures (but not the location of wireless facilities on existing buildings).
2. Exemptions. The following types of activities shall not require site plan and design review pursuant to this section. Properties within jurisdiction of the shoreline master program, as defined by Chapter 16.12 BIMC, or containing critical areas or critical area buffers, as defined by Chapter 16.20 BIMC, may require review pursuant to those chapters.
 - a. Permits authorizing residential construction for detached single-family residential use and accessory dwelling units.
 - b. Any activity that does not require a building permit or is not considered a change in use, as determined by the director.
 - c. Any activity on the exterior of a building that does not exceed 25 percent change in any existing facade or roof form.
 - d. Interior work that does not alter the exterior of the structure or affect parking standards as determined by the director.
 - e. Normal building maintenance and repair.
 - f. Maintenance or expansion of existing parks where the proposed activities are exempt from SEPA review in accordance with WAC 197-11-800.

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g. Construction of public communications towers.

3. The provisions of this section supplement those of BIMC 2.16.020 and 2.16.030 when the application is for site plan or design review. In the event of a conflict between the provisions of BIMC 2.16.020 or 2.16.030 and this section, the provisions of this section shall govern.

C. Procedures. This section provides two methods of site plan and design review: major and minor. Application materials for both major and minor site plan and design review can be found in the administrative manual.

1. Minor. Minor site plan and design review is required for minor projects that can clearly meet the decision criteria in subsection E of this section, as determined by the director. Examples of minor administrative projects include: (a) a fourplex multifamily development; (b) minor commercial remodel or the addition of a small room; and (c) a minor change in use, such as from a church to a preschool.

2. Major. Major site plan and design review requires planning commission review and recommendation, and is required for projects that: (a) are determined by the director to be more complicated than those in subsection C.1 of this section, due to site constraints or the complexity of the project; or (b) receive written public comment(s) during the public comment period concerning the effect on the land use application of the comprehensive plan, shoreline master program, or matters not addressed by specific provisions of this code; or (c) are located on property zoned business/industrial after November 22, 1999.

D. Design Process.

1. Site Assessment.

a. An applicant is required to conduct a site assessment identifying existing watercourses/wetlands, significant trees and vegetation, critical areas and other natural features, and open space in accordance with the design process, and development standards of Chapter 15.20 BIMC and BIMC 18.12.020 if applicable.

b. An applicant for a site plan and design review proposal is required to prepare maps, site plan(s) and studies (as specified in the submittal requirements) to show how the proposal promotes the purpose and meets the standards of the zoning district and chapter.

2. Two-Step Preapplication Conference.

a. Applicants for projects involving multifamily, mixed use, or commercial development subject to design guidelines shall first meet with the design review board to discuss the design concept for the development.

b. An applicant for a major site plan and design review permit is required to participate in a community meeting through the city's public participation program outlined in Resolution No. 2010-32. The meeting will be held after the design review board meeting during the preapplication conference phase of the project.

c. Following the design review board meeting, the applicant shall meet with appropriate staff and agencies at a required preapplication conference as described in BIMC 2.16.020.G.

d. The director may waive one or both steps of the preapplication conference in accordance with BIMC 2.16.020.G.3 if the director determines that the nature of the application makes them unnecessary.

e. Within 14 days of a preapplication conference, the department staff shall notify the applicant in writing whether the proposal will likely require planning commission review.

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3. Application. An applicant may submit an application for site plan and design review at any time after completion of a required preapplication conference or approval of a waiver in accordance with BIMC 2.16.020.G.3. The applicant shall submit a complete application with all required submittal requirements listed in the administrative manual.

4. Application Review.

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a. Upon receipt of the application and determination of completeness, the director shall transmit a copy of the application to the Kitsap County health district.

b. In the case of a minor site plan and design review application, the final decision on an application is made by the director based on (i) decision criteria in subsection E of this section, (ii) the DRB recommendation, and (iii) consideration of any public comments received.

c. In the case of a major site plan and design review application, the planning commission shall review the application prior to the final decision by the director. The director shall determine the major issues and specific aspects of the project that the planning commission should review, and shall forward this review directive to the planning commission. The planning commission shall review the application based on the director's review directive, the DRB recommendation, and the decision criteria, consider the application at a public meeting where public comments will be taken, and forward its recommendation to the director in accordance with BIMC 2.16.030.C through E. The director will make the final decision based on (i) the decision criteria in subsection E of this section, (ii) the recommendation of the planning commission, (iii) the design review board recommendation, and (iv) consideration of any public comments received.

5. Relationship to Other Land Development Applications – Consolidated Project Review.

a. If requested by the applicant, a site plan and design review application that is part of a proposal requiring multiple land use permits may be combined in a consolidated project review. Related applications requiring a public hearing shall be considered at one public hearing in accordance with BIMC 2.16.170.

b. If a site plan and design review application is part of a consolidated project, the director will review the site plan and design review application as prescribed under subsection D.4.a or D.4.b of this section, as appropriate, and forward the findings and decision to the appropriate hearing body for any required public hearing.

E. Decision Criteria. The director and planning commission shall base their respective recommendations or decisions on site plan and design review applications on the following criteria:

1. The site plan and design is in conformance with applicable code provisions and development standards of the applicable zoning district, unless a standard has been modified as a housing design demonstration project pursuant to BIMC 2.16.020.Q;
2. The locations of the buildings and structures, open spaces, landscaping, pedestrian, bicycle and vehicular circulation systems are adequate, safe, efficient and in conformance with the Island-Wide Transportation Plan;
3. The Kitsap County health district has determined that the site plan and design meets the following decision criteria:
 - a. The proposal conforms to current standards regarding domestic water supply and sewage disposal; or if the proposal is not to be served by public sewers, then the lot has sufficient area and soil, topographic and drainage characteristics to permit an on-site sewage disposal system.
 - b. If the health district recommends approval of the application with respect to those items in subsection E.3.a of this section, the health district shall so advise the director.
 - c. If the health district recommends disapproval of the application, it shall provide a written explanation to the director.
4. The city engineer has determined that the site plan and design meets the following decision criteria:
 - a. The site plan and design conforms to regulations concerning drainage in Chapters 15.20 and 15.21 BIMC; and

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- b. The site plan and design will not cause an undue burden on the drainage basin or water quality and will not unreasonably interfere with the use and enjoyment of properties downstream; and
- c. The streets and pedestrian ways as proposed align with and are otherwise coordinated with streets serving adjacent properties; and
- d. The streets and pedestrian ways as proposed are adequate to accommodate anticipated traffic; and
- e. If the site will rely on public water or sewer services, there is capacity in the water or sewer system (as applicable) to serve the site, and the applicable service(s) can be made available at the site; and
- f. The site plan and design conforms to the “City of Bainbridge Island Design and Construction Standards,” unless the city engineer has approved a variation to the road standards in that document based on his or her determination that the variation meets the purposes of BIMC Title 18.

5. The site plan and design is consistent with all applicable design guidelines in BIMC Title 18, unless strict adherence to a guideline has been modified as a housing design demonstration project pursuant to BIMC 2.16.020.Q;

6. No harmful or unhealthful conditions are likely to result from the proposed site plan;

7. The site plan and design is in conformance with the comprehensive plan and other applicable adopted community plans;

8. Any property subject to site plan and design review that contains a critical area or buffer, as defined in Chapter 16.20 BIMC, conforms to all requirements of that chapter;

9. Any property subject to site plan and design review that is within shoreline jurisdiction, as defined in Chapter 16.12 BIMC, conforms to all requirements of that chapter;

10. If the applicant is providing privately owned open space and is requesting credit against dedications for park and recreation facilities required by BIMC 17.20.020.C, the requirements of BIMC 17.20.020.D have been met;

11. The site plan and design has been prepared consistent with the purpose of the site design review process and open space goals.

F. Action of Director. The director may approve, approve with conditions, or disapprove the application for site plan and design review. Conditions may be imposed to enable the proposal to meet the standards of the decision criteria.

G. Adjustments to Approved Site Plan.

1. Minor adjustments to an approved site plan and design review may be made after review and approval by the director. Minor adjustments are those that include minor changes in dimensions or siting of structures or the location of public amenities, but do not include changes to the intensity or character of the use. Minor adjustments are processed through a written request from the applicant and a written response from department staff. The city response is placed in the project file and is effective to modify the approval as described in the response.

2. Adjustments other than minor adjustments to an approved site plan and design review require a new or amended application as determined by the director. Major adjustments are those that change the basic design, intensity, density, or character of the use. (Ord. 2017-14 § 1, 2017; Ord. 2017-02 § 2, 2017; Ord. 2016-28 §§ 4, 5, 2016; Ord. 2011-02 § 2 (Exh. A), 2011)

2.16.050 Minor conditional uses.

A. Purpose. A minor conditional use permit is a mechanism by which the city may require specific conditions on development or the use of land to ensure that designated uses or activities are compatible with other uses in the same

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zone and in the vicinity of the subject property. If imposition of conditions will not make a specific proposal compatible the proposal shall be denied.

B. Applicability.

1. As determined by the director, this procedure shall apply to (a) all conditional uses listed as agricultural uses in Table 18.09.020; (b) conditional uses listed in Table 18.09.020 other than an educational, cultural, governmental, religious, or health care facility, where the director determines that the anticipated impacts of those conditional uses will be minor or minimal; or (c) uses that are clearly consistent and compatible with other uses in the same zone or vicinity. Properties within jurisdiction of the shoreline master program, as defined by Chapter 16.12 BIMC, or containing critical areas or critical area buffers, as defined by Chapter 16.20 BIMC, may require review pursuant to those chapters.

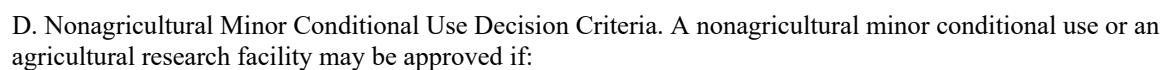
2. Exemptions. Although a site plan review may be required, the following types of activities are not required to obtain a minor conditional use permit.

- a. Any activity that does not require a building permit or is not considered a change of use as determined by the director;
- b. A one-time expansion of the square footage of an existing use up to 25 percent, regardless of ownership;
- c. Interior work that does not alter the exterior of the structure or affect parking standards as determined by the director;
- d. Normal building maintenance and/or repair;
- e. Maintenance or expansion of existing parks where the proposed activities are exempt from SEPA review in accordance with WAC 197-11-800.

3. The provisions of this section shall supplement those of BIMC 2.16.020 and 2.16.030 when the application is for minor conditional use. In the event of a conflict between the provisions of BIMC 2.16.020 or 2.16.030 and this section, the provisions of this section shall govern.

C. Procedures. Minor conditional uses shall be approved through the general administrative review procedures described in BIMC 2.16.030 except as described below. Application materials for minor conditional use can be found in the administrative manual.

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1. The conditional use is harmonious and compatible in design, character and appearance with the intended character and quality of development in the vicinity of the subject property and with the physical characteristics of the subject property; provided, that in the case of a housing design demonstration project any differences in

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design, character or appearance that are in furtherance of the purpose and decision criteria of BIMC 2.16.020.Q shall not result in denial of a conditional use permit for the project;

2. The conditional use will be served by adequate public facilities including roads, water, fire protection, sewage disposal facilities and storm drainage facilities;
3. The conditional use will not be materially detrimental to uses or property in the immediate vicinity of the subject property;
4. The conditional use is in accord with the comprehensive plan and other applicable adopted community plans, including the Island-Wide Transportation Plan;
5. The conditional use complies with all other provisions of the BIMC, unless a provision has been modified as a housing design demonstration project pursuant to BIMC 2.16.020.Q;
6. All necessary measures have been taken to eliminate or reduce to the greatest extent possible the impacts that the proposed use may have on the immediate vicinity of the subject property;
7. Noise levels shall be in compliance with BIMC 16.16.020 and 16.16.040.A;
8. The city engineer has determined that the conditional use meets the following decision criteria:
 - a. The conditional use conforms to regulations concerning drainage in Chapters 15.20 and 15.21 BIMC; and
 - b. The conditional use will not cause an undue burden on the drainage basin or water quality and will not unreasonably interfere with the use and enjoyment of properties downstream; and
 - c. The streets and pedestrian ways as proposed align with and are otherwise coordinated with streets serving adjacent properties; and
 - d. The streets and pedestrian ways as proposed are adequate to accommodate anticipated traffic; and
 - e. If the conditional use will rely on public water or sewer services, there is capacity in the water or sewer system (as applicable) to serve the conditional use, and the applicable service(s) can be made available at the site; and
 - f. The conditional use conforms to the "City of Bainbridge Island Engineering Design and Development Standards Manual," unless the city engineer has approved a variation to the road standards in that document based on his or her determination that the variation meets the purposes of BIMC Title 18.
9. If a minor conditional use is processed as a housing design demonstration project pursuant to BIMC 2.16.020.Q, the above criteria will be considered in conjunction with the purpose, goals, policies, and decision criteria of BIMC 2.16.020.Q.
10. A conditional use may be approved with conditions. If no reasonable conditions can be imposed that ensure the application meets the decision criteria of this chapter, then the application shall be denied.

E. Agricultural Conditional Use Decision Criteria.

1. As agriculture is a preferred use, conditional uses that are listed as agricultural uses in Table 18.09.020 (except for agricultural research facilities) may be approved if:
 - a. The conditional use will not be materially detrimental to uses or property in the immediate vicinity of the subject property; and
 - b. The conditional use is in accord with the comprehensive plan and other applicable adopted community plans, including the Island-Wide Transportation Plan; and

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- c. The conditional use will be served by adequate public facilities including roads, water, fire protection, sewage disposal facilities and storm drainage facilities; and
- d. The conditional use complies with all other provisions of the BIMC.

2. Animal agricultural conditional uses that are in compliance with an existing conditional use permit may expand any structure or area used in the operation of the conditional use on January 1, 2012 (effective date of adoption), by up to 25 percent without applying for a new conditional use permit.
3. Crop agriculture conditional uses that are in compliance with an existing conditional use permit may expand an unlimited amount without an additional conditional use permit, given they comply with the standards in BIMC Titles 16 and 18.

F. Exemption from Height Limit for Structures in Any Zone District. An exemption from the height limits for structures not including buildings in each zone district can be approved through the minor conditional use process if the director determines that: (1) view opportunities are not substantially reduced; (2) no structure is located in any required setback except as otherwise authorized by BIMC Title 18; and (3) each setback requirement shall be increased one-half foot for every foot above the maximum structure height.

G. Conversion to Major Conditional Use Permit. If a minor conditional use application has received written public comments during the notice of application comment period concerning the effect of the land use application on the comprehensive plan, shoreline master program or matters not addressed by specific provisions of the BIMC, the director may determine that the application be processed as a major conditional use permit.

H. Adjustments to Approved Minor Conditional Use Permit.

1. Minor adjustments to an approved minor conditional use permit may be made after review and approval by the director. Minor adjustments are those that entail small changes in dimensions or siting of structures or the location of public amenities, but do not entail changes to the intensity or character of the use.
2. Major adjustments to an approved minor conditional use permit require an amended application and shall be processed in the same manner as a new minor conditional use permit application. Major adjustments are those that change the basic design, intensity, density, and/or use.

I. Local Register of Historic Places Conditional Use Decision Criteria. A proposal to modify development standards (such as setbacks, open space, lot coverage, landscape buffers, and parking requirements) and/or to allow for a use otherwise permitted for a structure on the local register (including exclusive residential in the mixed use town center) shall meet the following criteria:

1. Subsections D.1 through 10 of this section, Nonagricultural Minor Conditional Use Decision Criteria, including a review and recommendation from the historic preservation commission as to whether the proposal is compatible with the historic nature of the building and/or site; and
2. The use shall be compatible with the existing design and/or construction of the structure without significant alteration. (Ord. 2017-02 §§ 3, 4, 2017; Ord. 2016-11 § 1, 2016¹; Ord. 2011-02 § 2 (Exh. A), 2011)

2.16.060 Minor variance.

A. Purpose. Variances are the mechanism by which the city may grant relief from the provisions of the zoning ordinance or the city of Bainbridge Island engineering and development standards where practical difficulty renders compliance with certain provisions of the code an unnecessary hardship, where the hardship is a result of the physical characteristics of the subject property and where the purpose of the comprehensive plan is fulfilled. A variance is authorized only for lot coverage, size of setbacks and/or technical engineering standards. Variances are not authorized for changes in density requirements, building or structure height requirements, open space requirements, or expanding a use otherwise prohibited.

B. Applicability.

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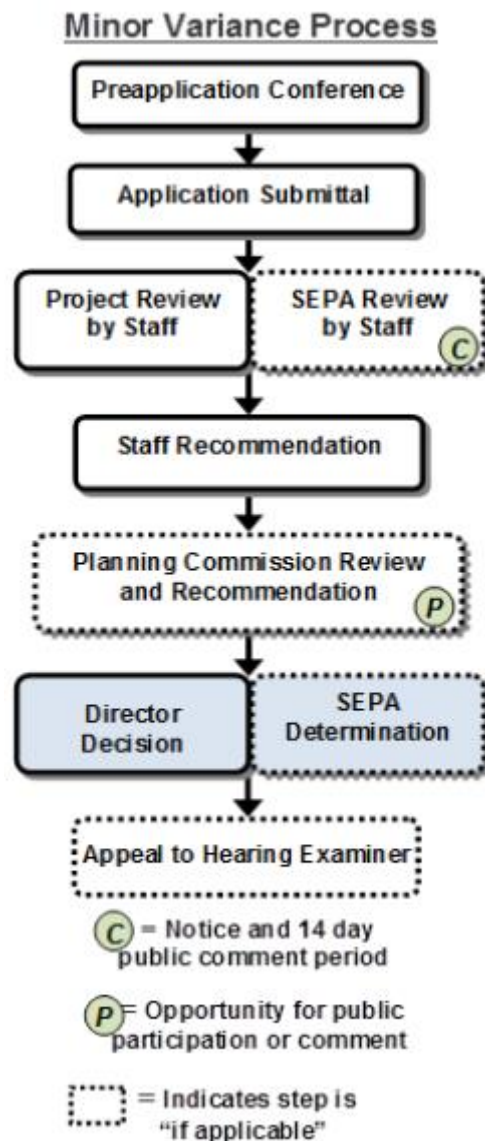
1. The minor variance process may be used for minor deviations from zoning standards in BIMC Title 18 as determined by the director. Minor projects should be limited to: (a) projects that are exempt from review under the State Environmental Policy Act (SEPA), or (b) proposals for less than a 25 percent encroachment in required yards, or (c) proposals of less than a 25 percent increase in lot coverage. All other variances shall be processed using the procedures set forth in BIMC 2.16.120.
2. This process may also be used for minor variation(s) from the engineering requirements of the adopted city of Bainbridge Island engineering and development standards if the requested variation will further the purposes of the BIMC and is approved by the department director, after recommendation by the city engineer and/or the fire marshal.
3. For projects participating in a housing design demonstration project pursuant to BIMC 2.16.020.Q, design guidelines may be varied if the applicant can demonstrate that deviation from the guidelines will facilitate meeting goals of the housing design demonstration program.
4. This procedure is not available to obtain variances from subdivision standards in BIMC Title 17 or to obtain variances from BIMC Title 18 zoning standards cross-referenced in BIMC Title 17 as part of a short subdivision, long subdivision, or large lot subdivision approval or amendment process, except for those engineering standards covered by subsection B.2 of this section.
5. This procedure is not available to allow the siting for an accessory dwelling unit where it would not otherwise be permitted.
6. A variance shall not be granted solely because of the presence of nonconformities in the vicinity of the subject site.
7. The provisions of this section shall supplement those of BIMC 2.16.020 and 2.16.030. In the event of a conflict between the provisions of BIMC 2.16.020 or 2.16.030 and this section, the provisions of this section shall govern.

C. Procedures. Minor variances shall be approved through the general administrative review procedures described in BIMC 2.16.030 except as described below. Application materials for minor variances can be found in the administrative manual.

D. Decision Criteria.

1. A minor variance may be approved or approved with conditions if:
 - a. The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the property is located; and
 - b. The variance is requested because of special circumstances related to the size, shape, topography, trees, groundcover, location or surroundings of the subject property, or factors necessary for the successful installation of a solar energy system such as a particular orientation of a building for the purposes of providing solar access; and
 - c. The need for a variance has not arisen from previous actions taken or proposed by the applicant; and
 - d. The variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity and zone, but that is denied to the property in question because of special circumstances on the property in question, and will not constitute a grant of special privilege inconsistent with the limitations upon uses of other properties in the vicinity in which the property is located; and

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e. The variance is consistent with all other provisions of this code, except those provisions that are subject to the variance, and is in accord with the comprehensive plan.

2. A variance may be approved with conditions. If no reasonable conditions can be imposed that ensure the application meets the decision criteria in subsection D.1 of this section, then the application shall be denied.

E. Conversion to Major Variance. If a minor variance application has received written public comments during the notice of application comment period concerning the effect on the land use application of the comprehensive plan, shoreline master program or matters not addressed by specific provisions of the BIMC, the director may determine that the application be processed as a major variance. (Ord. 2011-02 § 2 (Exh. A), 2011)

2.16.070 Short subdivisions.

A. Purpose. This section provides an administrative procedure for approving subdivision plats generally including four lots or less.

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B. Applicability. This procedure applies to all short subdivisions, as defined in Chapter 17.28 BIMC, and that definition shall prevail over the following summary. Short subdivisions generally involve the division or redivision of land (1) into four lots or less when those plats meet the criteria set forth in BIMC Title 17, or (2) into nine lots or less when those plats meet the criteria set forth in BIMC Title 17 and the applicant complies with the open space incentive provisions of BIMC 17.12.030.A.5.a.

C. Procedure.

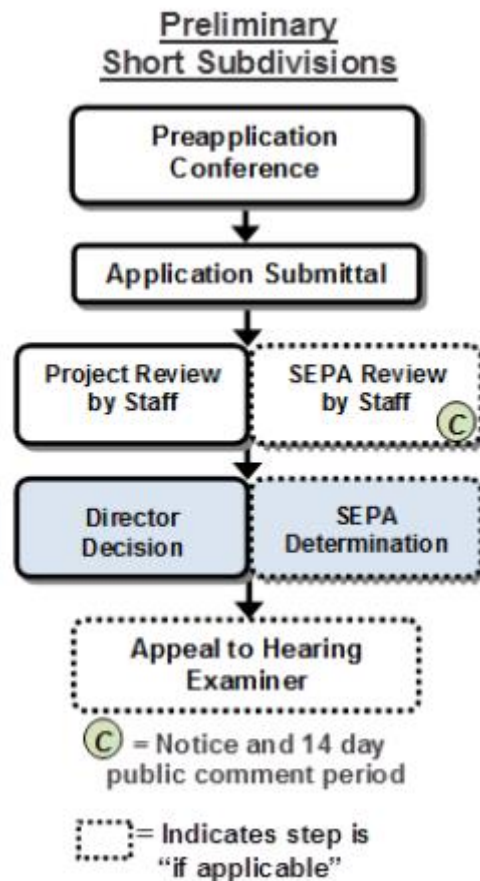
1. Short subdivisions shall be approved through the general administrative review procedures described in BIMC 2.16.030 except as described below. Application materials for short subdivisions can be found in the administrative manual.

2. Short subdivisions shall not be used, either by a person alone or by persons acting together, at one time or over a period of time, as a means to circumvent compliance with the more stringent subdivision requirements that control the subdivision of land into five or more lots. When an application for a short subdivision is filed within five years after the approval of a short subdivision on a contiguous land parcel, a presumption of an attempt to circumvent short subdivision requirements may be invoked by the director as a basis for further investigation to assure compliance with the intent of this provision.

3. The provisions of this section shall supplement those of BIMC 2.16.020 and 2.16.030 when the application is for a short subdivision. In the event of a conflict between the provisions of BIMC 2.16.020 or 2.16.030 and this section, the provisions of this section shall govern.

D. Vesting. A proposed short subdivision shall be reviewed under all applicable city ordinances and the State Environmental Policy Act in effect at the time of complete application, unless a different result is required by provisions of Chapter 58.17 RCW. A later request for additional information shall not change the date on which the application is considered vested.

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E. Preapplication Conference. The applicant shall provide copies of one or more proposed or "first draft" composite site plans prepared in accordance with flexible lot design standards of BIMC Title 17 and Chapter 18.12 BIMC for the preapplication conference.

F. Optional Additional Application Materials. In addition to the submittal requirements listed in the administrative manual, the applicant may submit any additional studies, analysis or other information regarding the city's open space area requirement contained in BIMC 17.12.030.A that the applicant desires the city to consider in connection with imposing the open space requirement on the applicant's proposed short subdivision. The studies, reports or other information shall indicate the basis on which they are made, and may include a demonstration that the open space designation required under BIMC 17.12.030.A is not reasonably necessary as a direct result of the proposed short subdivision, and that an alternative open space designation is in an amount that is reasonably necessary as a direct result of the proposed short subdivision. The city shall consider the applicant's open space studies, analysis or other information as a part of processing and reviewing the short subdivision application.

G. Review of Preliminary Short Subdivision Application.

1. Timeline of Review. The director has 90 calendar days from the filing of a complete application in which to approve, disapprove or return the application to the applicant for modification. This time period may be extended only with the approval of the applicant. If no action can be taken to approve or disapprove the application within the 90 calendar days, the director must notify the applicant and surveyor, if applicable, of the reasons for the delay and steps necessary to complete the application for preliminary short subdivision.

2. Review by the Kitsap County Health District.

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- a. Upon receipt of the application and determination of completeness, the director shall transmit a copy of the application to the health district.
- b. The health district shall review the application to ascertain whether (i) the proposal conforms to current standards regarding domestic water supply and sewage disposal; and (ii) if the proposal is not to be served by public sewers, if each lot has sufficient area and soil, topographic and drainage characteristics to permit an on-site sewage disposal system.
- c. The health district shall recommend approval, approval with conditions, or disapproval of an application in a timely manner sufficient to allow the city to comply with the review time requirements of BIMC 2.16.030. If at any time during the application process it appears that the review time cannot be met, it shall be the responsibility of the health district to advise the director of the reasons for the delay.
- d. If the health district recommends approval of the application with respect to those items in subsection G.2.b of this section, the health district shall so advise the director.
- e. If the health district recommends disapproval of the application, it shall provide a written explanation to the director.

3. Review by the City Engineer.

- a. Upon receipt of the application and determination of completeness, the director shall transmit a copy of the application to the city engineer.
- b. The city engineer shall provide a written recommendation of approval, approval with conditions, or disapproval of the preliminary short subdivision application based on the decision criteria in subsection G.5 of this section.

4. Review by the Director.

- a. The director shall prepare written findings of fact and conclusions of law in support of the decision made.
- b. If the director disapproves the application he or she shall provide a written explanation of the reasons for the disapproval to the applicant and surveyor, if applicable.

5. Decision Criteria. A proposed short subdivision shall not be approved unless written findings are made that the public use and interest will be served by the platting of such short subdivision. The director may approve or approve with conditions an application for a preliminary short subdivision if he or she determines that:

- a. The applicable development standards of BIMC 17.12.030 and 17.12.040, and BIMC Title 18, are satisfied;
- b. The preliminary residential short subdivision has been prepared consistent with the requirements of the flexible lot design process and applicable flexible lot design standards in BIMC Title 17;
- c. Any portion of a short subdivision that contains a critical area or buffer, as defined in Chapter 16.20 BIMC, conforms to all requirements of that chapter;
- d. Any portion of a short subdivision within the shoreline jurisdiction, as defined in Chapter 16.12 BIMC, conforms to all requirements of that chapter;
- e. The preliminary short subdivision makes appropriate provisions for the public health, safety and general welfare, and public use and interest, including those items listed in RCW 58.17.110;
- f. The proposal complies with all applicable provisions of this code, Chapters 36.70A and 58.17 RCW, and all other applicable provisions of state and federal laws and regulations;

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- g. The proposal is in accord with the city's comprehensive plan;
- h. The city engineer has determined that the preliminary subdivision meets the following decision criteria:
 - i. The short subdivision conforms to regulations concerning drainage in Chapters 15.20 and 15.21 BIMC; and
 - ii. The short subdivision will not cause an undue burden on the drainage basin or water quality and will not unreasonably interfere with the use and enjoyment of properties downstream; and
 - iii. The streets and pedestrian ways as proposed align with and are otherwise coordinated with streets serving adjacent properties; and
 - iv. The streets and pedestrian ways as proposed are adequate to accommodate anticipated traffic; and
 - v. If the short subdivision will rely on public water or sewer services, there is capacity in the water or sewer system (as applicable) to serve the short subdivision, and the applicable service(s) can be made available at the site; and
 - vi. The short subdivision conforms to the "City of Bainbridge Island Engineering Design and Development Standards Manual," unless the city engineer has approved a variation to the road standards in that document based on his or her determination that the variation meets the purposes of BIMC Title 17.

H. Civil Plan Review.

1. The applicant shall submit civil engineering plans and designs to the city for review by city staff and acceptance by the city engineer before submitting an application for final short subdivision approval.
2. No construction on or to the site may take place until civil engineering plans have been received and approved by the city.
3. After the preliminary short subdivision and civil engineering plans have been approved the subdivider is authorized to develop the subdivision's facilities and improvements in strict accordance with standards established by this title, related standards in BIMC Titles 17 and 18, and any conditions imposed.

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I. Review of Final Short Subdivision Application.

1. **Timeline for Review.** A final short subdivision shall be approved, disapproved or returned to the applicant within 30 working days from the date of a complete application, unless the applicant provides written consent to an extension of such time period.

2. Submittal of Final Plat.

- a. A final plat shall be submitted containing all of the submittal requirements listed in the administrative manual.
- b. Improvements shall be constructed and/or construction assurance documents pursuant to subsection N of this section must be filed for any unfulfilled conditions.
- c. Documentation that all conditions of approval from the preliminary plat have been met shall be provided.

3. **Duties of Surveyor.** All final short subdivisions shall be prepared by a land surveyor registered pursuant to Chapter 18.43 RCW, shall be surveyed in accordance with current state regulations, and shall contain the certificate shown in the administrative manual. The lot corners, perimeter, and right-of-way monuments (if applicable) shall be marked in a manner approved by the city surveyor. The material used to mark the corners, perimeter, and right-of way monuments (if applicable) shall be described upon the face of the short subdivision drawing.

4. Review, Recommendation, and Approval.

- a. The final plat must be consistent with the preliminary plat approval and all conditions of approval.
- b. The city engineer shall review the final short subdivision to determine compliance with the requirements of RCW 58.17.160, the "City of Bainbridge Island Engineering Design and Development Standards Manual" (except as varied by the city engineer during the preliminary short plat review process), and any conditions imposed on the approved preliminary subdivision plat, and forward written recommendations for approval or disapproval to the director.
- c. The health district when appropriate shall review the final short subdivision and forward recommendations for approval or disapproval to the department.

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d. After receiving the city engineer's recommendations pursuant to subsection I.4.b of this section, and the health district's recommendations pursuant to subsection I.4.c of this section as applicable, the director shall approve or disapprove an application for final short subdivision.

e. The short subdivision plat shall be approved if the director determines that:

i. The final short subdivision meets all standards established by state law, this title, and related standards in BIMC Titles 15 through 18.

ii. The final short subdivision is in conformance with all terms and conditions of the preliminary short subdivision.

iii. The final short subdivision bears the certificates and statements of approval required by the BIMC.

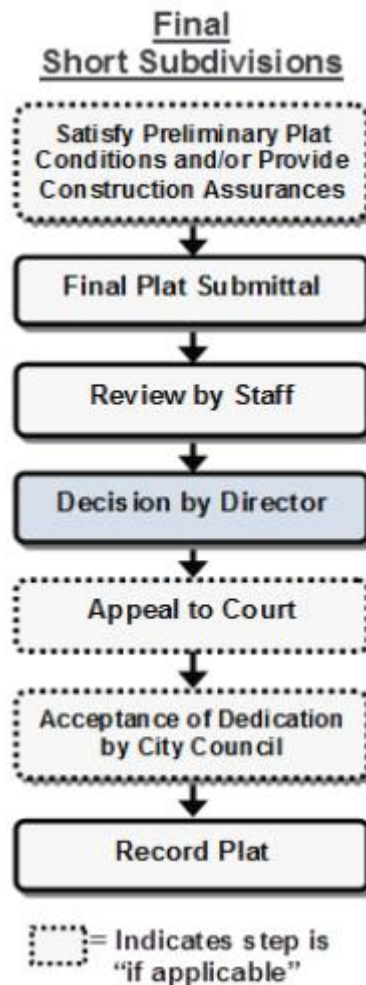
f. If the application conforms to the criteria in subsection I.4.e of this section, the director shall signify his or her approval by signing the approval line on the face of the short subdivision. If the director disapproves the application, a written explanation shall be provided to the applicant.

g. If an applicant voluntarily sets aside more than 25 percent of the site as designated open space, that fact will be noted on the plat.

5. Amendment of Disapproved Application. When an application is disapproved, an applicant shall have 180 working days following the decision in which to file an amended application to remedy the matters that led to the disapproval. Upon receipt of such an amended application, the application shall be reviewed as set forth in this subsection. If an applicant files no such amended application within the period allowed, the application shall be considered denied.

6. Certification by Treasurer. Upon request of the city or the applicant for a short subdivision, the county treasurer, if no property taxes are owing upon the real property, shall so certify by subscribing the certification line upon the face of the short subdivision.

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J. Modification of Preliminary or Final Short Subdivision before Filing.

1. An alteration to an approved preliminary short subdivision that does not change the general plat layout, increase off-site impacts of the subdivision, or modify a provision or condition that was a matter of dispute by any party during the preliminary approval process may be made by the director after notice and opportunity to comment are provided to the applicant and all parties of record. The director shall review and approve or disapprove the request for modification following the process set forth in BIMC 2.16.030.

2. Other modifications to an approved short subdivision must be reviewed in accordance with the process for a new short subdivision application, including payment of fees, and shall be approved consistent with the procedures and requirements of this section.

3. The following exemptions shall not constitute changes in the short subdivision approval and do not require further review as provided for under subsection J.1 or J.2 of this section:

- a. Engineering detail, unless the proposed detail modifies or eliminates features specifically required as an element of the preliminary short subdivision approval. For purposes of this section, "engineering detail" shall mean minor changes to proposed road or lot grading or drainage design that do not significantly affect the location of those facilities, and minor changes to locations of utility pipes, swales, or wires that do not significantly affect their visibility from adjacent roads or properties, and similar minor changes;

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b. Minor changes in lot lines or lot dimensions; or

c. Minor alterations regarding homesite location and/or open space usage.

K. Requirements for Filing Plat.

1. No short subdivision shall be presented to or accepted for filing with the county auditor unless the face of the short subdivision contains the approval of the director, and the certification of the treasurer that no tax, penalties, or delinquent assessments are owing on the subject property.

2. The applicant shall record the short subdivision with the county auditor within 90 days of approval, and shall provide a copy of the recorded subdivision to the department.

L. Further Subdivision. Land in a short subdivision may not be further divided through a short subdivision within a period of five years after the recording of the final short subdivision without the approval of a long subdivision pursuant to BIMC 2.16.125 and 2.16.160. Nothing in this section shall prevent the owner from filing an amendment within the five-year period to create up to a total of four lots within the original short subdivision boundaries.

M. Disclaimer as to Streets. Streets within a short subdivision shall not be maintained by the city unless such streets have been improved to current city standards and have been accepted as part of the approved short subdivision. Unless accepted, the responsibility for maintenance shall lie with the owners of the lots. In such case, the face of each short subdivision shall contain the following disclaimer:

Responsibility and expense for maintenance of streets serving lots within this short subdivision (unless such roads have been accepted by the city) shall rest with the lot owners.

N. Assurance of Improvements.

1. In lieu of completion of improvements with conditions of a preliminary short plat approval, the city engineer may accept an assurance device in an amount and in a form determined by the city council, but not to exceed 125 percent of the established costs of completing the infrastructure that secures and provides for the actual construction and installation of the improvements or the performance of the conditions within one year, or such additional time as the city engineer determines is appropriate after final plat approval.

2. The city engineer shall require an assurance device securing the successful performance of improvements for two years after the city's acceptance of the improvements. The city may require that the applicant provide assurances of improvement for all lots in an approved short subdivision before the city will approve final occupancy for more than 80 percent of the lots shown on the subdivision.

O. Amendment to Approved Short Subdivision. A short subdivision that has been approved and recorded may be amended upon application of the owners of all lots, access easements, open space, or other rights that are proposed to be amended. The contents and procedure for an amended application shall be that for an application in the first instance, except that minor alterations regarding home-site location and/or open space usage shall be approved administratively consistent with the procedures and requirements of BIMC 2.16.030. (Ord. 2017-02 § 5, 2017; Ord. 2011-21 § 3, 2011; Ord. 2011-02 § 2 (Exh. A), 2011)

2.16.080 Large lot subdivisions.

A. Purpose. This section provides an administrative procedure for approving subdivisions in which all of the created lots are generally larger than five acres.

B. Applicability.

1. This procedure applies to all large lot subdivisions, as that term is defined in Chapter 17.28 BIMC, and that definition shall prevail over the following summary. Large lot subdivisions generally include divisions or re-divisions of land so that each created lot contains at least five acres of land (or 1/128th of a section of land, whichever is less). Because of their size, these lots are not required to follow the flex-lot design process described in BIMC Title 17.

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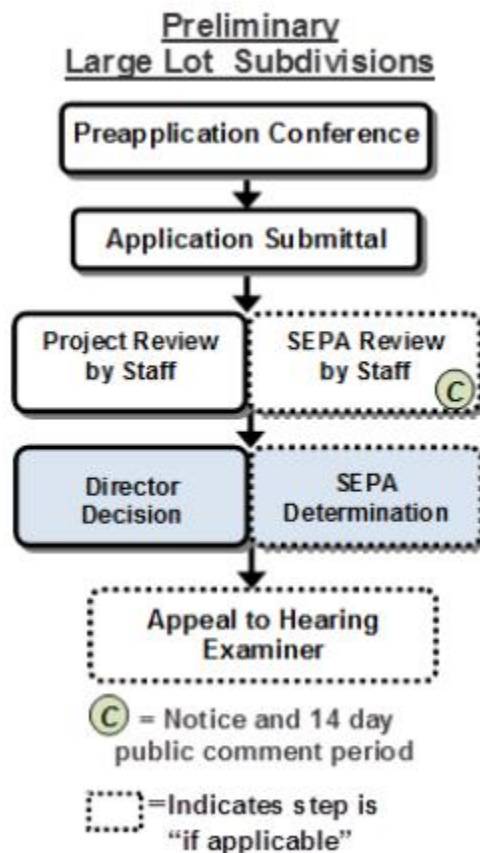
2. The provisions of this section shall supplement those of BIMC 2.16.020 and 2.16.030 when the application is for a large lot subdivision. In the event of a conflict between the provisions of BIMC 2.16.020 or 2.16.030 and this section, the provisions of this section shall govern.

C. Procedure. Large lot subdivisions shall be approved through the general administrative review procedures described in BIMC 2.16.030 except as described below.

D. Vesting. A proposed large lot subdivision shall be reviewed under all applicable city ordinances and the State Environmental Policy Act in effect at the time of a complete application, unless a different result is required by provisions of Chapter 58.17 RCW. A later request for additional information shall not change the date on which the application is considered vested.

E. Review of Preliminary Large Lot Subdivision Application.

1. Timeline of Review. The director has 90 calendar days from the filing of a complete application for which to approve, disapprove, or return the application to the applicant for modification. This time period may be extended only with the approval of the applicant. If no action can be taken to approve or disapprove the application within the 90 calendar days, the director must notify the applicant and surveyor, if applicable, of the reasons for the delay and steps necessary to complete the application for preliminary review.



2. Review by the Kitsap County Health District. Following the submission of a complete application for a preliminary large lot subdivision, the application shall be reviewed by the Kitsap County health district as described in BIMC 2.16.070.G.2.

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3. Review by the City Engineer.

- a. Upon receipt of the application and determination of completeness, the director shall transmit a copy of the application to the city engineer.
- b. The city engineer shall provide a written recommendation of approval, approval with conditions, or disapproval of the preliminary large lot subdivision application based on the decision criteria in subsection E.5 of this section.
- c. In making an analysis of whether the application conforms to the “City of Bainbridge Island Design and Construction Standards and Specifications,” the city engineer shall assume that each lot within the proposed large lot subdivision will be divided at some time in the future and the city engineer may take such contingency into account in recommending approval, approval with conditions, or disapproving an application.

4. Review by the Director. Each application for a large lot subdivision shall be reviewed by the director as described in BIMC 2.16.070.G.4. When the director approves the application, approves the application with conditions, or disapproves the application, a written statement of findings and conclusions shall be prepared that supports the director’s decision.

5. Decision Criteria. The director may approve or approve with modification an application for a preliminary large lot subdivision if he or she determines that:

a. The application conforms to all applicable provisions of the BIMC including without limitation (i) the zoning ordinance; (ii) the comprehensive plan; (iii) the shoreline management regulations; (iv) the critical areas ordinance; and (v) the applicable standards and requirements of this title.

b. The city engineer has determined that the preliminary subdivision meets the following decision criteria:

- i. The large lot subdivision conforms to regulations concerning drainage in Chapters 15.20 and 15.21 BIMC; and
- ii. The large lot subdivision will not cause an undue burden on the drainage basin or water quality and will not unreasonably interfere with the use and enjoyment of properties downstream; and
- iii. The streets and pedestrian ways as proposed align with and are otherwise coordinated with streets serving adjacent properties; and
- iv. The streets and pedestrian ways as proposed are adequate to accommodate anticipated traffic; and
- v. If the large lot subdivision will rely on public water or sewer services, there is capacity in the water or sewer system (as applicable) to serve the large lot subdivision, and the applicable service(s) can be made available at the site; and
- vi. The large lot subdivision conforms to the “City of Bainbridge Island Engineering Design and Development Standards Manual,” unless the city engineer has approved a variation to the road standards in that document based on his or her determination that the variation meets the purposes of BIMC Title 17.

c. The Kitsap County health district has recommended approval of the application, or approval with conditions.

F. Civil Plan Review.

1. The applicant shall submit civil engineering plans and designs to the city for review by city staff and acceptance by the city engineer before submitting an application for final large lot subdivision approval.

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2. No construction on or to the site may take place until civil engineering plans have been received and approved by the city.
3. After the preliminary large lot subdivision and civil engineering plans have been approved the subdivider is authorized to develop the subdivision's facilities and improvements in strict accordance with the standards established by this title, related standards in Titles 17 and 18, and any conditions imposed.

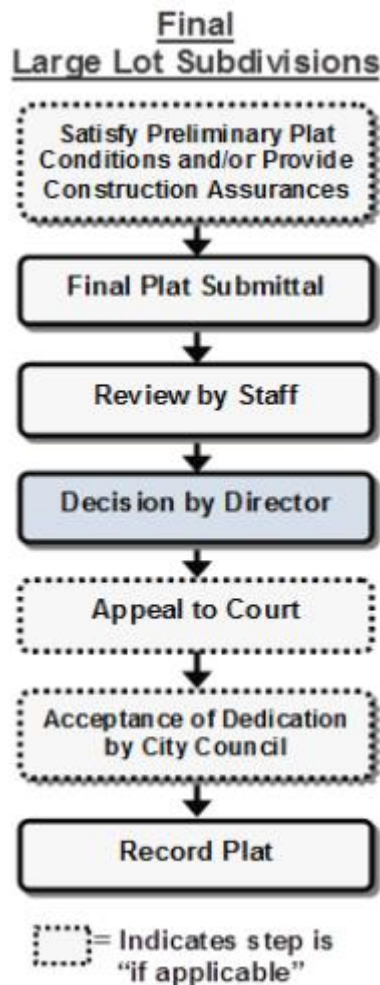


G. Review of Final Large Lot Subdivision Application.

1. Timeline for Review. Final large lot subdivisions shall be approved, approved with conditions, disapproved or returned to the applicant by the director within 30 working days from the date of filing of a complete application, unless the applicant consents to an extension of such time period.
2. Submittal of Final Plat. The submittal requirements shall be the same as those for short subdivisions as described in BIMC 2.16.070.I.2.
3. Duties of Surveyor. The duties of the surveyor shall be the same as those for a short subdivision as described in BIMC 2.16.070.I.3.
4. Review, Recommendation, and Approval.
 - a. The city engineer shall review the final large lot subdivision to determine the compliance with the requirements of RCW 58.17.160, the "City of Bainbridge Island Engineering Design and Development Standards Manual" (except as varied by the city engineer during the preliminary large lot review process), and any conditions imposed on the approved preliminary subdivision plat, and forward written recommendations for approval, approval with conditions, or disapproval to the director.
 - b. After receiving the city engineer's recommendation pursuant to subsection G.4.a of this section, the director shall approve, approve with conditions, or disapprove the final large lot subdivision.
 - c. The large lot subdivision shall be approved if the director determines that:
 - i. The final large lot plat meets all standards established by state law, this title and related standards in BIMC Titles 15 through 18; and
 - ii. The proposed final large lot plat bears the certificates and statements of approval required by the administrative manual; and

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- iii. The facilities and improvements required to be provided by the subdivider have been completed or assurances in accordance with BIMC 2.16.070.N have been provided.
- d. If the application conforms to the criteria in subsection G.4.c of this section, the director shall signify his or her approval by signing the approval line on the face of the large lot subdivision. If the director disapproves the application, he or she shall provide a written explanation to the applicant.



5. Amendment of Disapproved Application. When an application is disapproved, an applicant shall have the same rights to submit an amended application that apply to short subdivisions as described in BIMC 2.16.070.I.5, except that any amended application filed within the 180-day time frame shall be reviewed as set forth in this subsection G.

H. Improvements.

1. All large lot subdivisions shall have the following improvements developed and/or installed prior to recording the final plat:

- a. Streets shall be cleared and grubbed; and

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b. Streets shall be rocked or graveled to provide adequate year-round passage; and

c. Appropriate drainage, including erosion control, facilities consistent with Chapters 15.20 and 15.21 BIMC shall be provided on a plan approved by the city engineer prior to clearing and construction of any plat improvements.

2. All street rights-of-way within the large lot subdivision shall be dedicated to the city of Bainbridge Island unless the only access between the large lot subdivision and a developed, publicly owned road is a private road and there is no easement providing public access on that private road. That dedication shall not reduce the number of parcels allowable in a large lot subdivision if such parcels are based on a section subdivision and/or comprise 1/128th of a section or more.

3. On any approved large lot no further lot divisions shall be approved until the required improvements are installed and approved by the city.

I. Assurance of Improvements. Large lot subdivisions shall be subject to the same requirements for assurance of required improvements that apply to short subdivisions as described in BIMC 2.16.070.N.

J. Modification of Preliminary or Final Large Lot Subdivisions before Filing.

1. An alteration to an approved preliminary large lot subdivision that does not change the general plat layout, increase off-site impacts of the subdivision, or modify a provision or condition that was a matter of dispute by any party during the preliminary approval process may be made by the director after notice and opportunity to comment are provided to the applicant and all parties of record. The director shall review and approve or disapprove the request for modification following the process set forth in BIMC 2.16.030.

2. Other modifications to an approved large lot subdivision must be reviewed in accordance with the process for a new large lot subdivision application, including payment of fees, and shall be approved consistent with the procedures and requirements of this chapter.

3. The following exemptions shall not constitute changes in the preliminary large lot subdivision approval and do not require further review as provided for under subsections J.1 or J.2 of this section:

a. Engineering detail, unless the proposed detail modifies or eliminates features specifically required as an element of the preliminary large lot subdivision approval. For purposes of this section, "engineering detail" shall mean minor changes to proposed road or lot grading or drainage design that do not significantly affect the location of those facilities, and minor changes to locations of utility pipes, swales, or wires that do not significantly affect their visibility from adjacent roads or properties; and similar minor changes;

b. Minor changes in lot lines or lot dimensions; or

c. Minor alterations regarding homesite location and/or open space usage.

K. Disclaimer as to Streets. Streets within a large lot subdivision shall not be constructed or maintained by the city unless such streets have been improved to current standards and have been accepted into the city street system. Unless so improved and accepted, the responsibility for maintenance shall lie with the owners of the lots. In such cases the face of each large lot subdivision plat shall contain the following disclaimer:

Responsibility and expense for maintenance of roads leading to or serving lots within this Large Lot Subdivision (unless such roads have been accepted into city's road system) shall rest with the lot owners.

L. Further Division. No lot in an approved large lot subdivision may be divided further within five years of recording the approved final large lot subdivision plat without following the subdivision requirements in effect at the time of such application. Short or long subdivision procedures may apply, depending on the number of additional lots proposed to be created.

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M. Requirements for Filing Plat. In addition to the requirements of subsections J and K of this section, approved large lot subdivisions shall be subject to the same requirements for filing plats that apply to short subdivisions as described in BIMC 2.16.070.K.

N. Amendment to Approved Large Lot Subdivision. Proposals for amendment of a large lot subdivision shall follow the provisions of RCW 58.17.215. Alterations of a subdivision are also subject to the provisions of RCW 64.04.175. (Ord. 2011-02 § 2 (Exh. A), 2011)

2.16.090 Boundary line adjustment.

A. Purpose. The purpose of this section is to provide a method for administrative approval of boundary line adjustments that satisfy public concerns of health, safety and welfare, where contiguous lots are proposed to be consolidated into a single lot, or where altering boundary lines is otherwise requested.

B. Applicability.

1. Boundary line adjustments may be requested to alter boundaries between platted or unplatted lots or both that do not create any additional lot, tract, parcel, or division of land.
2. The provisions of this section shall supplement those of BIMC 2.16.020 and 2.16.030 when the application is for a boundary line adjustment. In the event of a conflict between the provisions of BIMC 2.16.020 or 2.16.030 and this section, the provisions of this section shall govern.

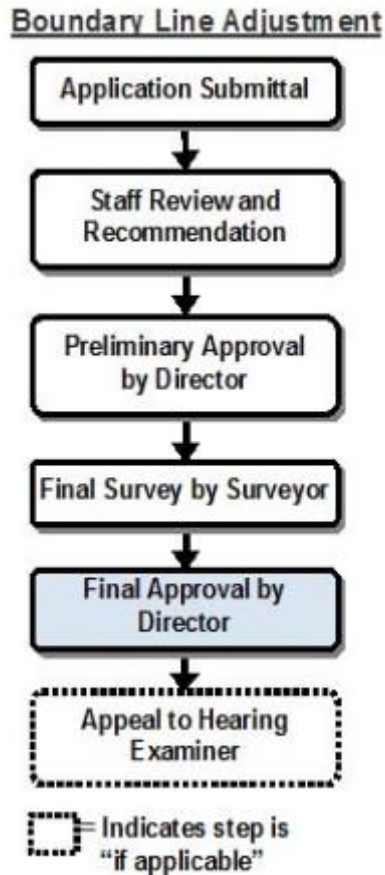
C. Procedure.

1. A preapplication conference is not required.
2. The applicant shall file application materials as described in the administrative manual.
3. If the director determines that the application and information submitted with the application comply with the requirements of this code and all other laws, the department shall request that the applicant provide a final boundary line adjustment survey.
4. Except in the case of aggregation of lots, where a final survey is not required, the final boundary line adjustment survey shall be prepared by a licensed surveyor and shall meet the requirements set forth in the administrative manual.

D. Decision Criteria.

1. An application for a boundary line adjustment may be approved or approved with conditions if no additional lot is created and no lot is created that contains insufficient area and dimensions to meet the minimum requirements for area, width and depth for a building site in the zone in which the property is located. If these criteria are not satisfied, then the criteria in subsection D.2 of this section must be met or the boundary line adjustment may not be approved.

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2. If the criteria in subsection D.1 of this section are not met, the application for boundary line adjustments may be approved or approved with conditions if:

- a. After the adjustment, each lot involved retains its status prior to the adjustment as a developed or undeveloped lot and as a conforming or nonconforming lot; or
- b. After the adjustment, a nonconforming lot that is permitted to be developed under BIMC 18.30.050 may become a conforming lot.

3. The director shall not approve an application for a boundary line adjustment if the director determines that the adjustment is being used, either individually or in combination with other adjustments, to achieve a result that would otherwise require a short or long subdivision approval.

4. A boundary line adjustment may be approved even if it results in a lot that contains a pre-existing accessory structure without a related primary structure.

E. Requirements for Filing Boundary Line Adjustment. Approved boundary line adjustments shall be subject to the same requirements for filing that apply to short subdivisions as described in BIMC 2.16.070.K.

F. State Procedure for Disputed or Missing Boundary Lines. Whenever a point or line determining the boundary between two or more parcels of real property cannot be identified from the existing public record, monuments, and landmarks, or is in dispute, the landowners affected by the determination of the point or line may resolve any dispute and fix the boundary point or line by one of the procedures identified in RCW 58.04.007. (Ord. 2011-02 § 2 (Exh. A), 2011)

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2.16.100 Quasi-judicial review by hearing examiner – In general.

A. Purpose. The purpose of this section is to describe those general procedures that apply whenever state law or the BIMC require a public hearing before a hearing examiner and a recommendation or decision by the hearing examiner.

B. Applicability. This section applies each time a provision of this code authorizes a recommendation or a final decision by the hearing examiner. The specific types of applications subject to review by the hearing examiner are listed in the table in BIMC 2.16.010. **The provisions of this section are supplemented by more detailed provisions in BIMC 2.16.110, 2.16.120, 2.16.160, 2.16.165, and/or 16.20.080.**

C. Procedures.

1. SEPA Environmental Review. For a land use application subject to Chapter 43.21C RCW and Chapter 16.04 BIMC, the SEPA threshold determination shall be issued and any required public comment period shall be completed prior to a public hearing.

2. Planning Commission Review and Recommendation. When written public comments are received during the public comment period concerning the effect of the land use application on the comprehensive plan, the shoreline master program, or matters not addressed by specific provisions of this code, the director or the hearing examiner may request planning commission review and recommendation pursuant to the procedures in BIMC 2.14.020.G prior to the final decision.

3. Single Report.

- a. The director shall prepare a single consolidated report setting forth all the recommendations and decisions made on the application as of the date of the report.
- b. The report shall state any mitigation required or proposed under the development regulations or as required by SEPA, Chapter 43.21C RCW, and shall include the SEPA determination if a determination has not previously been issued.
- c. If a shoreline master program permit is required for the project pursuant to Chapter 16.12 BIMC, the report shall address the requirements of that section.
- d. The director's report shall be presented to the hearing examiner at the public hearing.

4. Public Hearing. The hearing examiner shall hold a public hearing prior to issuing a decision. **The purpose of the public hearing is to review a proposed project for consistency with the BIMC, appropriate elements of the comprehensive plan and all other applicable law, and to provide an opportunity for the public to comment on the project and its compliance with the municipal code, the comprehensive plan and all other applicable law.**

The hearing examiner shall maintain a record of the exhibits presented and a recording of the testimony and arguments presented, which shall be kept by the city clerk. Any rules of procedure for hearings adopted by the hearing examiner shall be kept on file with the office of the city clerk. A hearing may be continued to a date certain without additional notice.

5. Participation in the Public Hearing. Any person may participate in the public hearing. The hearing examiner has discretion to limit testimony to relevant, nonrepetitive comments and to set time limits.

6. Hearing Examiner Action.

- a. The hearing examiner may approve, approve with conditions, deny or remand an application.
- b. In making a decision, the hearing examiner shall consider the applicable decision criteria of this code, all other applicable laws, recommendations of the planning commission and design review board, testimony presented at the hearing, and any necessary documents and approvals. In the case of decisions involving properties subject to the shoreline jurisdiction of Chapter 16.12 BIMC, the hearing examiner shall also consider consistency with the requirements of the shoreline master program.

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c. The hearing examiner shall issue a written decision in accordance with BIMC 2.16.020.K.7, within 10 working days of the public hearing, unless a longer period is agreed upon by the hearing examiner and the applicant or appellant. If the hearing examiner and the applicant or appellant agree on a longer period for issuance of the written decision, the examiner shall provide notice of the extension to the applicant or appellant, the city, and any person who testified at the hearing or submitted written testimony for consideration at the hearing.

d. The hearing examiner shall file the decision with the city clerk's office.

7. Motion for Reconsideration. A motion for reconsideration may be filed to correct substantive errors. Such motion shall be filed in writing 10 days from the date the hearing examiner's decision was filed. The motion shall be decided on the record unless, at the hearing examiner's discretion, further public hearing is necessary. If a timely and appropriate request for reconsideration is filed, the appeal period shall begin from the date the decision on the reconsideration is issued.

8. Corrections or Clarification. The hearing examiner at any time may amend the decision to correct clerical errors clearly identifiable from the public record. Such correction does not affect any time limit provided for in this chapter. The hearing examiner may clarify a statement in the written decision as long as the clarification does not materially alter the decision.

9. Effect of Decision.

a. On matters that do not involve shoreline conditional uses or shoreline variances, the decision of the hearing examiner is the final decision of the city, subject to the appeal provisions in BIMC 2.16.020.P.

Pursuant to RCW 90.58.140(10) and WAC 173-27-130, final decisions involving shoreline conditional use permits and shoreline variances are made by the Washington State Department of Ecology. For these types of applications, the hearing examiner's decision is a recommendation subject to approval, approval with conditions, or denial by that department.

10. Revocation of Quasi-judicial Approvals. An approval or permit granted by the hearing examiner may be revoked by the hearing examiner following the procedures in this section upon the finding of any one or more of the following:

- a. That the approval was obtained by deception, fraud or other intentional or misleading representation; or
- b. That the use for which approval was granted has been changed; or
- c. In the case of major conditional use permits, that the use has at any time been discontinued for a year or more; or
- d. That the permit granted is being exercised contrary to the terms or conditions of such approval or in violation of the BIMC; or
- e. That the use for which the approval was granted was so exercised as to be detrimental to the public health or safety. (Ord. 2011-21 § 4, 2011: Ord. 2011-02 § 2 (Exh. A), 2011)

2.16.110 Major conditional use permit.

A. Purpose. A major conditional use permit is a mechanism by which the city may require specific conditions on development or the use of land to ensure that designated uses or activities are compatible with other uses in the same zone and in the vicinity of the subject property. If imposition of conditions will not make a specific proposal compatible the proposal shall be denied.

B. Applicability.

- 1. As determined by the director, a major conditional use permit shall be secured from the city prior to establishing or expanding a use according to situations that include, but are not limited to: (a) the proposed use

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or expansion covers 50 percent or greater of the total lot area; (b) the proposed use is accessed by a local or private road; (c) the proposed use or expansion generates more than 36 total trips per day; (d) the proposed use or expansion contains four or more units in a multifamily dwelling; or (e) requests for additional nonresidential building height pursuant to Table 18.12.020-1, 18.12.020-2, or 18.12.020-3.

2. Any activity that is exempt from the request for a minor conditional use permit pursuant to BIMC 2.16.050.B.2 is also exempt from the request for a major conditional use permit.

3. The provisions of this section supplement those of BIMC 2.16.020 and 2.16.100 when the application is for a conditional use permit. In the event of a conflict between the provisions of BIMC 2.16.020 or 2.16.100 and this section, the provisions of this section shall govern.

4. Temporary uses and events may be exempt from some or all of the major conditional use permit requirements if the director determines that their impacts on the immediately surrounding area will be minimal.

C. Procedures.

1. Major conditional uses shall be approved through the general procedures applicable to quasi-judicial decisions by the hearing examiner in BIMC 2.16.100 except as described below.

2. An applicant for a major conditional use permit is required to participate in a community meeting through the city's public participation program outlined in Resolution No. 2010-32. The meeting will be held after the design review board meeting, if one is required, during the preapplication conference phase of the project.

D. Decision Criteria.

1. A conditional use may be approved or approved with conditions if:

a. The conditional use is harmonious and compatible in design, character and appearance with the intended character and quality of development in the vicinity of the subject property and with the physical characteristics of the subject property; provided, that in the case of a housing design demonstration project any differences in design, character or appearance that are in furtherance of the purpose and decision criteria of BIMC 2.16.020.Q shall not result in denial of a conditional use permit for the project; and

b. The conditional use will be served by adequate public facilities including roads, water, fire protection, sewage disposal facilities and storm drainage facilities; and

c. The conditional use will not be materially detrimental to uses or property in the vicinity of the subject property; and

d. The conditional use is in accord with the comprehensive plan and other applicable adopted community plans, including the Island-Wide Transportation Plan; and

e. The conditional use complies with all other provisions of the BIMC, unless a provision has been modified as a housing design demonstration project pursuant to BIMC 2.16.020.Q; and

f. All necessary measures have been taken to eliminate or reduce to the greatest extent possible the impacts that the proposed use may have on the immediate vicinity of the subject property; and

g. Noise levels shall be in compliance with BIMC 16.16.020 and 16.16.040.A; and

h. The vehicular, pedestrian, and bicycle circulation meets all applicable city standards, unless the city engineer has modified the requirements of BIMC 18.15.020.B.4 and B.5, allows alternate driveway and parking area surfaces, and confirmed that those surfaces meet city requirements for handling surface water and pollutants in accordance with Chapters 15.20 and 15.21 BIMC; and

i. The city engineer has determined that the conditional use meets the following decision criteria:

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- i. The conditional use conforms to regulations concerning drainage in Chapters 15.20 and 15.21 BIMC; and
 - ii. The conditional use will not cause an undue burden on the drainage basin or water quality and will not unreasonably interfere with the use and enjoyment of properties downstream; and
 - iii. The streets and pedestrian ways as proposed align with and are otherwise coordinated with streets serving adjacent properties; and
 - iv. The streets and pedestrian ways as proposed are adequate to accommodate anticipated traffic; and
 - v. If the conditional use will rely on public water or sewer services, there is capacity in the water or sewer system (as applicable) to serve the conditional use, and the applicable service(s) can be made available at the site; and
 - vi. The conditional use conforms to the “City of Bainbridge Island Engineering Design and Development Standards Manual,” unless the city engineer has approved a variation to the road standards in that document based on his or her determination that the variation meets the purposes of BIMC Title 17.
 - j. If a major conditional use is processed as a housing design demonstration project pursuant to BIMC 2.16.020.Q, the above criteria will be considered in conjunction with the purpose, goals, policies, and decision criteria of BIMC 2.16.020.Q.
2. If no reasonable conditions can be imposed that ensure the application meets the decision criteria of this chapter, then the application shall be denied.

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Major Conditional Use Permit



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E. Additional Decision Criteria for Institutions in Residential Zones. Applications to locate any of those uses categorized as educational facilities, governmental facilities, religious facilities, health care facilities, cultural facilities, or clubs in Table 18.09.020 in residential zones shall be processed as major conditional use permits and shall be required to meet the following criteria, in addition to those in subsection D of this section:

1. All sites must front on roads classified as residential suburban, collector, or arterial on the Bainbridge Island functional road classification map.
2. If the traffic study shows an impact on the level of service, those impacts have been mitigated as required by the city engineer.
3. If the application is located outside of Winslow study area, the project shall provide vegetated perimeter buffers in compliance with BIMC 18.15.010.
4. The proposal meets the requirements of the commercial/mixed use design guidelines in BIMC 18.18.030.C.
5. The scale of proposed construction including bulk and height and architectural design features is compatible with the immediately surrounding area.
6. If the facility will have attendees and employees numbering fewer than 50 or an assembly seating area of less than 50, the director may waive any or all the above requirements in this subsection E, but may not waive those required elsewhere in the BIMC.
7. Lot coverage does not exceed 50 percent of the allowable lot coverage in the zone in which the institution is located, except that public schools and governmental facilities, as defined in BIMC Title 18, that are located in the R-0.4 zoning district shall be allowed 150 percent of the lot coverage established in the R-0.4 zoning district, and such public schools and governmental facilities located in other zoning districts shall be allowed 100 percent of the lot coverage established in the underlying zoning district in which the facility is located, unless, regardless of which zoning district such a facility is located, conditions are required to limit the lot coverage to mitigate impacts of the use.

F. Approval of Additional Height in Nonresidential Districts.

1. In the NC zone district a maximum height of 45 feet for nonresidential uses can be approved through the major conditional use permit process if the director determines that: (a) view opportunities are not substantially reduced; (b) fire flow is adequate; and (c) solar access of neighboring lots is not substantially reduced.
2. In the B/I zone district a maximum height of 45 feet can be approved through the major conditional use process if the director determines that: (a) view opportunities are not substantially reduced; (b) fire flow is adequate; (c) solar access of neighboring lots is not reduced; and (d) the appearance of the neighborhood will not substantially change.
3. In the WDI zone district a maximum height of 45 feet can be approved through the major conditional use process if the director determines that (a) view opportunities are not substantially reduced; (b) fire flow is adequate; (c) solar access of neighboring lots is not reduced; and (d) each setback requirement shall be increased one foot for each additional foot of building height allowed. In portions of the WDI district located within the shoreline jurisdiction regulated by Chapter 16.12 BIMC, a shoreline variance may be needed before additional height can be approved.

G. Effect of Approval.

1. Once a conditional use permit is approved, no building, use or development shall occur contrary to that specified in the conditional use permit.
2. The owner shall record a declaration with the Kitsap County auditor showing the land to be bound by a conditional use permit. No building permit shall be issued for structures other than those specified in the conditional use approval.

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- a. The declaration shall reference the official files of the city through which the permit was granted; and
- b. The declaration shall be a covenant running with the land; and
- c. No building permit shall be issued unless such declaration is recorded.

H. Amendments to Approved Major Conditional Use Permit.

1. Minor adjustments to an approved major conditional use permit may be made after review and approval by the director. Minor adjustments are those that entail small changes in dimensions or siting of structures or the location of public amenities, but do not entail changes to the intensity or character of the use.
2. Major adjustments to an approved major conditional use permit require an amended application and shall be processed in the same manner as a new conditional use permit application. Major adjustments are those that change the basic design, intensity, density, and/or use. (Ord. 2017-02 §§ 1, 6, 2017; Ord. 2016-36 § 1, 2016; Ord. 2016-04 § 1, 2016; Ord. 2011-02 § 2 (Exh. A), 2011)

2.16.120 Major variances.

A. Purpose. Variances are the mechanism by which the city may grant relief from the provisions of the zoning ordinance where practical difficulty renders compliance with certain provisions of the code an unnecessary hardship, where the hardship is a result of the physical characteristics of the subject property and where the purpose of the comprehensive plan is fulfilled.

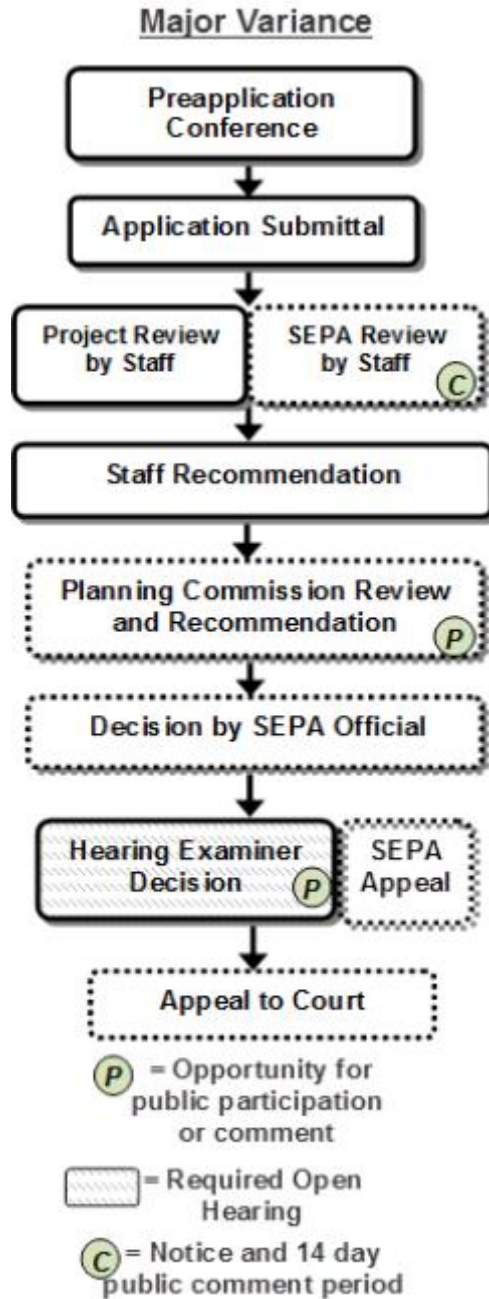
B. Applicability.

1. The major variance process may be used for deviations from zoning standards in BIMC Title 18 that the director determines exceed the threshold for minor variances under BIMC 2.16.060. A variance is authorized only for lot coverage, size of structure or size of setbacks. Variances are not authorized for changes in density requirements, building or structure height requirements, open space requirements, or expanding a use otherwise prohibited.
2. This procedure is not available to obtain variances from subdivision standards in BIMC Title 17 or to obtain variances from BIMC Title 18 zoning standards cross-referenced in BIMC Title 17 as part of a short subdivision, long subdivision, or large lot subdivision approval or amendment process.
3. This procedure is not available to allow the siting for an accessory dwelling unit where it would not otherwise be permitted.
4. A variance shall not be granted solely because of the presence of nonconformities in the vicinity of the subject site.
5. Variances from the city's noise regulations in Chapter 16.16 BIMC are available through the noise variance process in Chapter 16.16 BIMC and are not available through the major variance process in this section.
6. The provisions of this section supplement those of BIMC 2.16.020 and 2.16.100 when the application is for a major variance. In the event of a conflict between the provisions of BIMC 2.16.020 or 2.16.100 and this section, the provisions of this section shall govern.

C. Procedures. Major variances shall be approved through the general hearing examiner review procedures described in BIMC 2.16.100 except as described below.

D. Referral to the Planning Commission. Major variance applications shall be processed as set forth in BIMC 2.16.100 except that prior to a final decision the director or the hearing examiner may refer a project to the planning commission for review and recommendation.

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E. Decision Criteria.

1. A major variance may be approved or approved with conditions if:
 - a. The variance is consistent with all other provisions of this code, except those provisions that are subject to the variance, and is in accord with the comprehensive plan;
 - b. The need for a variance has not arisen from previous actions taken or proposed by the applicant;

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- c. The variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity and zone, but that is denied to the property in question because of special circumstances on the property in question, and will not constitute a grant of special privilege inconsistent with the limitations upon uses of other properties in the vicinity in which the property is located;
- d. The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the property is located; and
- e. The variance is requested because of special circumstances related to the size, shape, topography, trees, groundcover, location or surroundings of the subject property, or factors necessary for the successful installation of a solar energy system such as a particular orientation of a building for the purposes of providing solar access.

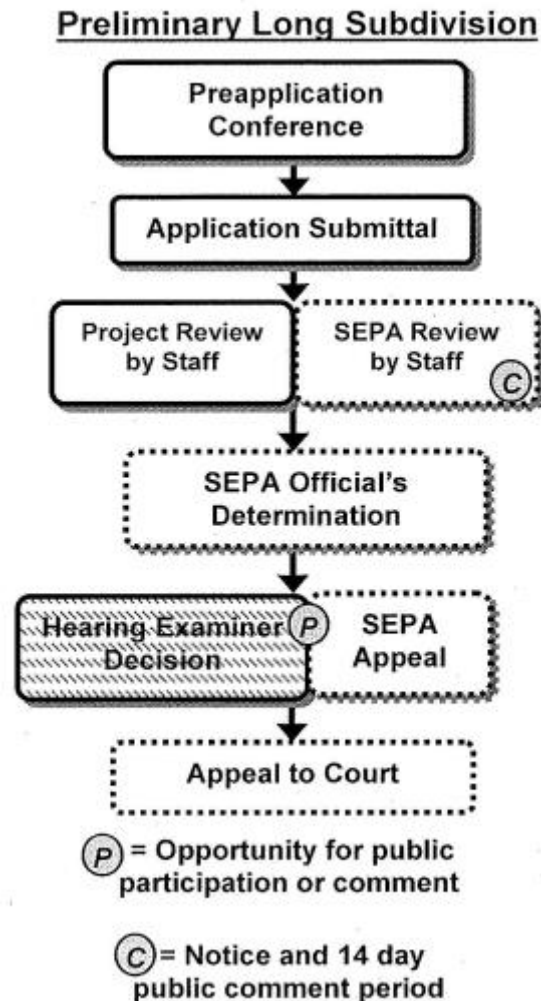
2. If no reasonable conditions can be imposed that ensure the application meets the decision criteria of the BIMC, then the application shall be denied. (Ord. 2011-02 § 2 (Exh. A), 2011)

2.16.125 Preliminary long subdivisions.

A. Purpose. This section provides a procedure for city council approval of preliminary long subdivision applications in compliance with the provisions of RCW Title 58, BIMC Title 17, and other applicable provisions of Washington State law.

B. Applicability. This procedure applies to all applications for preliminary long subdivisions, as that term is defined in Chapter 17.28 BIMC, and that definition shall prevail over the following summary. Long subdivisions generally involve the division or redivision of land into more than four lots, where some of the lots are smaller than five acres in size.

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C. Procedure.

1. Long subdivisions shall be approved through the quasi-judicial hearing examiner approval procedures described in BIMC 2.16.100 except as described below.

2. The provisions of this section shall supplement those of BIMC 2.16.020 and 2.16.030 when the application is for a long subdivision. In the event of a conflict between the provisions of BIMC 2.16.020 or 2.16.030 and this section, the provisions of this section shall govern.

D. Vesting. A proposed long subdivision shall be reviewed under all applicable city ordinances and the State Environmental Policy Act in effect at the time of complete application, unless a different result is required by provisions of Chapter 58.17 RCW. A later request for additional information shall not change the date on which the application is considered vested.

E. Preapplication Conference. The applicant shall provide copies of one or more proposed or "first draft" composite site plans prepared in accordance with flexible lot design standards of BIMC Title 17 and Chapter 18.12 BIMC for the preapplication conference. Applicants are required to participate in a community meeting through the city's public participation program outlined in Resolution No. 2010-32. The meeting will be held during the preapplication conference phase of the project.

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F. Optional Additional Application Materials. In addition to the submittal requirements listed in the administrative manual, the applicant may submit any additional studies, analysis or other information regarding the city's open space area requirement contained in BIMC 17.12.030.A that the applicant desires the city to consider in connection with imposing the open space requirement on the applicant's proposed long subdivision. The studies, reports or other information shall indicate the basis on which they are made, and may include a demonstration that the open space designation required under BIMC 17.12.030.A is not reasonably necessary as a direct result of the proposed long subdivision, and that an alternative open space designation is in an amount that is reasonably necessary as a direct result of the proposed long subdivision. The city shall consider the applicant's open space studies, analysis or other information as a part of processing and reviewing the long subdivision application.

G. Review of Preliminary Long Subdivision Application.

1. Timeline for Review. The city has 90 calendar days from the filing of a complete application in which to approve, disapprove, or return the application to the applicant for modification. This time period may be extended only with the approval of the applicant. If no action can be taken to approve or disapprove the application within the 90 calendar days, the director must notify the applicant and surveyor, if applicable, of the reasons for the delay and steps necessary to complete the application for preliminary long subdivision.

2. Review by the Kitsap County Health District.

a. Upon receipt of the application and determination of completeness, the director shall transmit a copy of the application to the health district.

b. The health district shall review the application to ascertain whether (i) the proposal conforms to current standards regarding domestic water supply and sewage disposal; and (ii) if the proposal is not to be served by public sewers, if each lot has sufficient area and soil, topographic and drainage characteristics to permit an on-site sewage disposal system.

c. The health district shall recommend approval, approval with conditions, or disapproval of an application based on those criteria in subsection G.2.b of this section in a timely manner sufficient to allow the city to comply with the review time requirements of subsection G.1 of this section. If at any time during the application process it appears that the review time cannot be met, it shall be the responsibility of the health district to advise the director of the reasons for the delay.

3. Review by the City Engineer.

a. Upon receipt of the application and determination of completeness, the director shall transmit a copy of the application to the city engineer.

b. The city engineer shall provide written recommendation of approval, approval with conditions, or disapproval of the preliminary long subdivision application based on the decision criteria in subsection H of this section.

4. Review by the Director. The director shall review the application materials and information provided by the health district and city engineer and shall prepare a report recommending approval, approval with conditions, or disapproval of the application.

5. Public Hearing with Hearing Examiner. The hearing examiner will consider the application materials and the director's recommendation regarding the proposed long subdivision application at a public hearing following the procedures of BIMC 2.16.100.C and applicable provisions of BIMC 2.16.020.

H. Decision Criteria for Preliminary Long Subdivisions. The hearing examiner's decision shall include findings of fact that the application meets all the requirements of the following subsections:

1. The preliminary long subdivision may be approved or approved with modification if:

a. The applicable subdivision development standards of BIMC Titles 17 and 18 are satisfied; and

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b. The preliminary long subdivision makes appropriate provisions for the public health, safety and general and public use and interest, including those items listed in RCW 58.17.110; and

c. The preliminary long subdivision has been prepared consistent with the requirements of the flexible lot design process, unless a flexible lot standard has been modified as part of a housing design demonstration project pursuant to BIMC 2.16.020.Q; and

d. Any portion of a long subdivision that contains a critical area, as defined in Chapter 16.20 BIMC, conforms to all requirements of that chapter; and

e. Any portion of a long subdivision within shoreline jurisdiction, as defined in Chapter 16.12 BIMC, conforms to all requirements of that chapter; and

f. The city engineer's recommendation contains determinations that the following decision criteria are met and such determinations are supported by substantial evidence within the record:

i. The long subdivision conforms to regulations concerning drainage in Chapters 15.20 and 15.21 BIMC; and

ii. The long subdivision will not cause an undue burden on the drainage basin or water quality and will not unreasonably interfere with the use and enjoyment of properties downstream; and

iii. The streets and pedestrian ways as proposed align with and are otherwise coordinated with streets serving adjacent properties; and

iv. The streets and pedestrian ways as proposed are adequate to accommodate anticipated traffic; and

v. If the long subdivision will rely on public water or sewer services, there is capacity in the water or sewer system (as applicable) to serve the long subdivision, and the applicable service(s) can be made available at the site; and

vi. The long subdivision conforms to the "City of Bainbridge Island Engineering Design and Development Standards Manual," unless the city engineer has approved a variation to the road standards in that document based on his or her determination that the variation meets the purposes of BIMC Title 17; and

g. The subdivision conforms to the requirements of this chapter and the standards in the "City of Bainbridge Island Design and Construction Standards and Specifications," unless the city engineer has approved a variation to the road standards in that document based on his or her determination that the variation meets the purposes of BIMC Title 17; and

h. The proposal complies with all applicable provisions of this code, unless the provisions have been modified as part of a housing design demonstration project pursuant to BIMC 2.16.020.Q; Chapters 36.70A and 58.17 RCW; and all other applicable provisions of state and federal laws and regulations; and

i. The proposal is in accord with the city's comprehensive plan.

2. A proposed subdivision shall not be approved unless written findings are made that the public use and interest will be served by the platting of such subdivision.

I. Civil Plan Review.

1. The applicant shall submit civil engineering plans and designs to the city for review by city staff and acceptance by the city engineers before submitting an application for final long subdivision approval.

2. No construction on or to the site may take place until civil engineering plans have been received and approved by the city.

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3. After the preliminary long subdivision and civil engineering plans have been approved, the subdivider is authorized to develop the subdivision's facilities and improvements in strict accordance with the standards established by this title, related standards in BIMC Titles 17 and 18, and any conditions imposed.



J. Phased Development of Long Subdivision.

1. Portions of an approved preliminary long subdivision may be processed separately for recording in phases; provided, that (a) the phases were identified in the preliminary long subdivision; and (b) recording of phases is consistent with the conditions of preliminary approval and will meet all the requirements for final approval if subsequent phases are not recorded.
2. Prior to the approval of a phase of a final subdivision, the city engineer or the director may require assurance devices submitted for construction of improvements in subsequent phases if such improvements are necessary for the phases being approved to meet requirements of the subdivision and other applicable ordinances.

K. Modification of Preliminary Long Subdivision.

1. An alteration of an approved preliminary long subdivision that does not change the general plat layout, increase off-site impacts of the subdivision, or modify a provision or condition that was a matter of dispute by any party during the preliminary approval process may be made by the director after notice and opportunity to comment are provided to the applicant and all parties of record. The director shall review and approve or disapprove the request for modification following the process set forth in BIMC 2.16.030.
2. Other modifications to an approved long subdivision must be reviewed in accordance with the process for a new subdivision application and shall be approved consistent with the procedures and requirements of this chapter.
3. The following exemptions shall not constitute changes in the preliminary long subdivision approval and do not require further review as provided for under subsection K.1 or K.2 of this section:
 - a. Engineering detail, unless the proposed detail modifies or eliminates features specifically required as an element of the preliminary long subdivision approval. For purposes of this section, "engineering detail" shall mean minor changes to proposed road or lot grading or drainage design that do not significantly affect the location of those facilities, and minor changes to locations of utility pipes, swales, or wires that do not significantly affect their visibility from adjacent roads or properties, and similar minor changes;

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b. Minor changes in lot lines or lot dimensions; or

c. Minor alterations regarding homesite location and/or open space usage. (Ord. 2017-02 § 7, 2017; Ord. 2011-21 § 5, 2011)

2.16.130 Quasi-judicial review by city council – In general.

A. Purpose. The purpose of this section is to describe those general procedures that apply whenever state law or the BIMC requires a quasi-judicial decision by city council on a land use matter.

B. Applicability. This section applies each time a provision of the BIMC authorizes a final decision by the city council for a land use application including without limitation site-specific rezoning or a long subdivision.

C. Procedures. A land use application requiring a city council decision shall be reviewed as follows:

1. Environmental Review. For a land use application subject to Chapter 43.21C RCW and Chapter 16.04 BIMC, the SEPA threshold determination shall be issued and comment period shall be completed prior to a public hearing.

2. Hearing Examiner Recommendation. A land use application requiring a city council decision also provides opportunity for the hearing examiner to make a recommendation to the city council prior to the final decision. The hearing examiner will consider the land use application at a public hearing following the procedures of BIMC 2.16.100.C and applicable provisions of BIMC 2.16.020.

3. Single Report. The hearing examiner shall prepare a single, consolidated report setting forth all the recommendations and decisions made on the application as of the date of the report. The report shall state any mitigation required or proposed under the development regulations or as required by SEPA, Chapter 43.21C RCW, and shall include the SEPA. The report and the documents on which a decision was made shall be presented to the city council.

D. City Council Public Meeting. The city council shall hold a public meeting to consider the land use application prior to issuing a decision. Notice of city council consideration of recommendations from the hearing examiner shall be posted in the official posting places of the city.

E. Elements to Be Considered. The city council shall consider the following in deciding upon an application:

1. The contents of the application; and
2. The minutes of any public hearing on the application and any written material submitted as part of the public hearing process; and
3. The recommendation of the applicable department director; and
4. The recommendation of the hearing examiner; and
5. Any testimony presented at the public hearing; and
6. The decision criteria listed in each section of this code under which the application was made.

F. City Council Action. The city council shall take one of the following actions:

1. Adopt an ordinance or resolution, including findings of fact and conclusions of law, approving the proposal; or
2. Adopt an ordinance or resolution, including findings of fact and conclusions of law, approving the proposal with conditions; or
3. Adopt an ordinance or resolution, including findings of fact and conclusions of law, denying the proposal; or

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4. Refer the proposal back to the hearing examiner for further proceedings. (Ord. 2011-02 § 2 (Exh. A), 2011)

2.16.140 Site-specific rezones.

A. Purpose. This chapter establishes the process and criteria for changing the zoning classification of specific property from one zoning designation to another, or to change conditions imposed in a development agreement. A property rezone may reflect changed circumstances or new land use needs and shall be consistent with the city's current comprehensive plan.

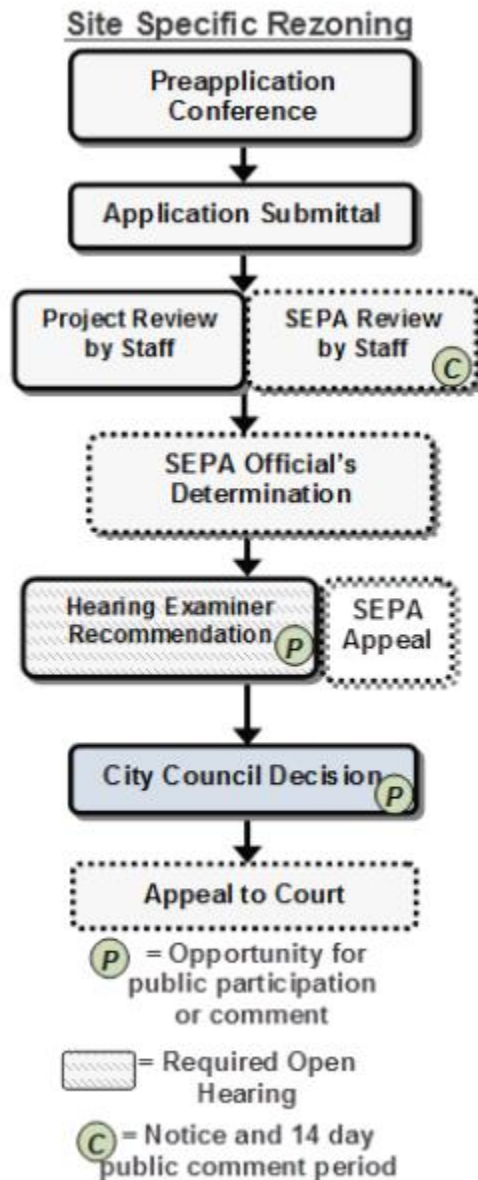
B. Applicability. This procedure shall apply whenever one or more private property owners or the city applies for an amendment of the official zoning map to redesignate one or more parcels of property from one zone district designation to another.

C. Procedure.

1. Site-specific rezones shall be approved through the general quasi-judicial city council review procedures described in BIMC 2.16.130 except as described below.

2. The provisions of this section supplement those of BIMC 2.16.020 and 2.16.130 when the application is for a site-specific rezone. In the event of a conflict between the provisions of BIMC 2.16.020 or 2.16.130 and this section, the provisions of this section shall govern.

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D. Who May Apply.

1. Any owner or authorized agent, or group of owners of contiguous property acting jointly and representing at least 75 percent of the assessed valuation of the subject property or properties, or their authorized agent(s), may apply for a site-specific rezone. In the case of a site-specific rezone initiated by a property owner(s), the applicant shall pay the fee for a rezone application set forth in the administrative manual.

2. The city may apply for a rezone of one or more properties as necessary to improve consistency between the official zoning map and the comprehensive plan. In order to maintain consistency between the zoning map and a successful city-initiated comprehensive plan amendment, the owner(s) of the property or properties involved in the rezone shall not be required to pay the rezoning fee.

E. Application. An application for a rezone may be filed only if the proposal is consistent with the Bainbridge Island comprehensive plan. If it is not consistent with the comprehensive plan, a comprehensive plan amendment shall be

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filed concurrently with the rezone. The applicant shall pay the fees for any rezone application and any comprehensive plan amendment required to maintain consistency with the rezone. The city may defer review of a rezone proposal if that area is scheduled for comprehensive plan review or review of the comprehensive plan is reasonably likely to occur within the following year.

F. Public Hearing Before Hearing Examiner. Within 30 days after receipt of a complete application for a site-specific rezone, the department shall forward its findings and recommendations to the hearing examiner, who shall conduct a public hearing in accordance with the hearings procedures set forth in BIMC 2.16.130.

G. Council Action.

1. Within 30 days after receipt of the recommendation of the hearing examiner on a site-specific rezone, the council, in accordance with the procedures set forth in BIMC 2.16.130, shall, in a public meeting, make a decision on the rezone or remand the application to the hearing examiner.
2. If the council approves a site-specific rezone, the council shall adopt an ordinance that makes the appropriate changes on the official zoning map as required in Chapter 18.03 BIMC.
3. The council may reverse an earlier approval of a site-specific rezone by approving a subsequent rezone of the property back to its former zone district as provided in this section and related provisions in BIMC 2.16.020. However, if the applicant has defaulted or failed to perform his or her duties under a development agreement as described in subsection I of this section, only subsections D through F of this section shall apply.

H. Decision Criteria. The following criteria shall be considered in any review for a site-specific rezone in order to establish a recommendation to approve, disapprove or approve with conditions:

1. The site-specific rezone will not be materially detrimental to the public welfare or injurious to the property or improvements in the immediate vicinity and zone in which the property is located; and
2. The site-specific rezone is warranted because of changed circumstances and the proposed designation is appropriate for reasonable development of the subject property, or because of a need for additional property in the proposed zone, and the proposed designation is appropriate for reasonable development of the subject property; and
3. The subject property is suitable for development in general conformance with zoning standards under the proposed zoning designation; and
4. The property will be served by adequate public facilities including roads, water, fire protection, sewage disposal facilities and storm drainage facilities for the intensity to which it is being rezoned; and
5. The site-specific rezone is in accord with the comprehensive plan; and
6. The site-specific rezone complies with all other applicable criteria and standards of the city; and
7. The site-specific rezone would not devalue surrounding or nearby property; and
8. The site-specific rezone will not result in an adverse environmental consequence.

I. Development Agreements.

1. Any applicant for a rezone of any property shall be subject to the signing of a development agreement as a condition to the council's granting the rezone when the council finds that such an agreement is necessary to protect the public health, safety or general community welfare. Whenever such an agreement is signed, it shall be recorded with the Kitsap County auditor and officially entered as a covenant upon the land. Any purchaser of such property is subject to the development agreement. The applicant may be required to pay the cost of the preparation of the development agreement.

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2. When the justification for a site-specific rezone includes an intended use or development of the property, a development agreement shall be used to require the applicant to proceed with specific development consistent with the rezone within a time period agreed upon by the city and the developer. In that case, upon the expiration of the agreed-upon time limit after the rezone approval, if construction is not underway, the director shall institute proceedings to rezone the property to its prior classification; provided, however, that if the landowner, within that agreed-upon time period, demonstrates to the satisfaction of the director that he or she has in good faith attempted to begin construction as contemplated by the rezone, the director may defer instituting the proceedings for up to one year. If the latest rezone classification is found to be the most appropriate for the property, the director may elect not to institute the rezone proceedings. The time period prescribed in this section shall not commence until the completion of any court challenges to the rezone. (Ord. 2011-02 § 2 (Exh. A), 2011)

2.16.160 Final long subdivisions.

A. Purpose. This section provides a procedure for city council approval of final long subdivision applications in compliance with the provisions of RCW Title 58, BIMC Title 17, and other applicable provisions of Washington State law.

B. Applicability. This procedure applies to all applications for final long subdivisions, as the term “long subdivisions” is defined in Chapter 17.28 BIMC, and that definition shall prevail over the following summary. Long subdivisions generally involve the division or redivision of land into more than four lots, where some of the lots are smaller than five acres in size.

C. Procedure.

1. Final long subdivisions shall be approved through the quasi-judicial city council approval procedures described in BIMC 2.16.130 except as described below.

2. The provisions of this section shall supplement those of BIMC 2.16.020 and 2.16.030 when the application is for a final long subdivision. In the event of a conflict between the provisions of BIMC 2.16.020 or 2.16.030 and this section, the provisions of this section shall govern.

D. Vesting. A proposed final long subdivision shall be reviewed under all applicable city ordinances and the State Environmental Policy Act in effect at the time of complete application, unless a different result is required by provisions of Chapter 58.17 RCW. A later request for additional information shall not change the date on which the application is considered vested.

E. Timeline for Review of Final Plat. A final long subdivision shall be approved, disapproved or returned to the applicant within 30 working days from the date of a complete application, unless the applicant provides written consent to an extension of such time period.

F. Submittal of Final Plat. A final plat shall be submitted containing all of the submittal requirements listed in the administrative manual.

G. Review of Final Long Subdivision.

1. The city engineer shall review the final subdivision to determine compliance with the requirements of RCW 58.17.160 and forward recommendations for approval or disapproval to the department.

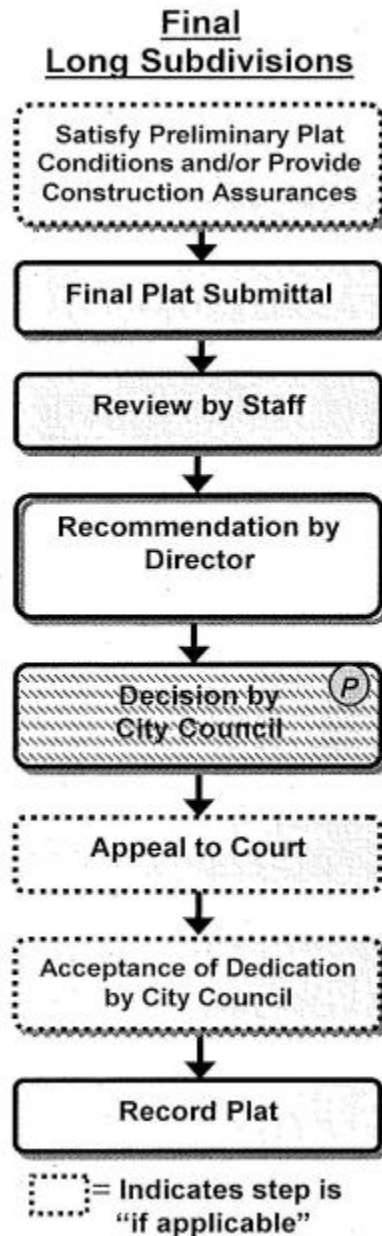
2. The health district, when appropriate, shall review the final subdivision and forward recommendations for approval or disapproval to the department.

3. The director shall forward his or her recommendation for approval or disapproval to the city council, evaluating compliance with any conditions imposed on the preliminary subdivision and other applicable ordinances.

4. In accordance with RCW 58.17.140, final subdivisions shall be approved, disapproved or returned to the applicant within 30 days from the date of filing of a complete application, unless the applicant consents to an

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extension of the time period. The director and the city engineer shall have authority to return the application for correction or modification with a request for additional information before city council review, and city council shall have authority to return the application for correction or modification with a request for additional information during its review.



H. City Council Review and Approval of Final Long Subdivision.

1. The city council shall approve the final long subdivision if it determines:

- a. That the conditions imposed through the preliminary subdivision have been met; and

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b. Bonds or other assurance devices, if any, by their essential terms assure completion of all plat improvements; and

c. The requirements of state law, the BIMC, the comprehensive plan, and any other applicable ordinances in effect at the time of preliminary plat approval have been satisfied by the subdivider.

2. The city council can approve the final subdivision with minor modifications recommended by the department and the applicant.

3. If the city council approves the final subdivision, the council chair shall sign the face of the final plat to indicate the council's approval; provided, that upon approval of the final plat the city council may direct and authorize the mayor or another council member to sign the face of the final plat to indicate the council's approval.

4. If an applicant voluntarily sets aside more than 25 percent of the site as designated open space, that fact will be noted on the plat.

5. The original mylar of the final subdivision shall be recorded with the county auditor, and one copy with the auditor's recording number shall be filed with the city.

I. Modification of Preliminary Long Subdivision Before Filing.

1. An alteration of an approved preliminary long subdivision that does not change the general plat layout, increase off-site impacts of the subdivision, or modify a provision or condition that was a matter of dispute by any party during the preliminary approval process may be made by the director after notice and opportunity to comment are provided to the applicant and all parties of record. The director shall review and approve or disapprove the request for modification following the process set forth in BIMC 2.16.030.

2. Other modifications to an approved long subdivision must be reviewed in accordance with the process for a new subdivision application and shall be approved consistent with the procedures and requirements of this chapter.

3. The following exemptions shall not constitute changes in the preliminary long subdivision approval and do not require further review as provided for under subsection I.1 or I.2 of this section:

a. Engineering detail, unless the proposed detail modifies or eliminates features specifically required as an element of the preliminary long subdivision approval. For purposes of this section, "engineering detail" shall mean minor changes to proposed road or lot grading or drainage design that do not significantly affect the location of those facilities, and minor changes to locations of utility pipes, swales, or wires that do not significantly affect their visibility from adjacent roads or properties, and similar minor changes;

b. Minor changes in lot lines or lot dimensions; or

c. Minor alterations regarding homesite location and/or open space usage.

J. Requirement for Filing Plat. Approved long subdivisions shall be subject to the same requirements for filing plats that apply to short subdivisions as described in BIMC 2.16.070.K.

K. Amendment of Disapproved Application. When an application for approval of a final long subdivision is disapproved, an applicant shall have 180 working days following the decision in which to file an amended application to remedy the matters that led to the disapproval. Upon receipt of such an amended application, the application shall be reviewed as set forth in this section. If an applicant files no such amended application within the period allowed, the application shall be considered denied.

L. Assurance of Improvements. Approved final long subdivisions shall be subject to the same provisions regarding assurance of improvements that are applicable to short subdivisions as described in BIMC 2.16.070.N.

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1. Proposals for alteration of a subdivision shall follow the provisions of RCW 58.17.215. Alterations of a subdivision are also subject to the provisions of RCW 64.04.175, except as described in subsection S.2 of this section.
2. The contents and procedures for minor alterations of open space and/or open space usage in an approved final long subdivision shall be administratively reviewed consistent with the procedures and requirements of BIMC 2.16.030.

N. Expiration of Final Long Subdivision. Any lot in a final long subdivision plat filed for record shall be a valid land use for a period of five years from the date of filing the final subdivision, notwithstanding any change in zoning laws. Any lot in a final plat shall be governed by the terms of approval of the final long subdivision at the time of vested application, unless a change in conditions creates a serious threat to the public health or safety. (Ord. 2011-21 § 6, 2011: Ord. 2011-02 § 2 (Exh. A), 2011)

2.16.165 Shoreline master program administration.

A. General Purpose. The shoreline master program administrative system is designed to assign responsibilities for implementation of the master program and shoreline permit review; to prescribe an orderly process by which to review proposals, exemptions and permit applications; and to ensure that all persons affected by the master program are treated in a fair and equitable manner.

B. Administrative Responsibilities.

1. The city of Bainbridge Island director of planning and community development or his/her designee, herein known as the administrator, is responsible for the administration of the Shoreline Management Act (SMA) (Chapter 90.58 RCW or its successor) and the shoreline master program (SMP) of the city and is vested with the following:
 - a. Overall administrative responsibility for the master program;
 - b. Authority to grant statements of exemption from shoreline permits;
 - c. Authority to approve, approve with conditions, or deny shoreline substantial development permits and permit revisions in accordance with the policies and regulations of the master program; provided, that the decision may be appealed in accordance with subsection I of this section);
 - d. Authority to decide whether a shoreline variance permit application is minor, qualifying it for administrative decision; if the shoreline variance is not minor, it will be processed following the procedures in subsection G of this section;
 - e. Authority to approve, approve with conditions, or deny shoreline variance permit applications determined to be minor; provided, that the decision may be appealed in accordance with subsection I of this section;
 - f. Authority to refer any application for a shoreline substantial development permit or a shoreline variance or conditional use to the planning commission for a recommendation; and
 - g. Authority to determine compliance with Chapter 43.21C RCW, State Environmental Policy Act, or its successor.
2. The duties and responsibilities of the administrator shall include:
 - a. Specifying the required application forms and submittal requirements including the type, details, and number of copies for exemptions, substantial development, conditional use, and shoreline variance permits. At a minimum, the application shall include the information required in WAC 173-14-110 or its successor.

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- b. Advising interested citizens and applicants of the goals, policies, regulations, and procedures of this program.
- c. Making administrative decisions and interpretations of the policies and regulations of this program and the Shoreline Management Act.
- d. Determining whether a shoreline exemption, shoreline substantial development permit, shoreline conditional use permit, or shoreline variance permit is required.
- e. Collecting applicable fees and determining that all applications and necessary related information are provided.
- f. Making field inspections.
- g. Conducting a thorough review and analysis of permit applications and related materials, and making written findings and conclusions.
- h. Making decisions pursuant to subsection B.1 of this section.
- i. Referring applications to the planning commission for recommendations when requested by the applicant or when the director deems appropriate.
- j. Submitting applications and all relevant information and materials along with written findings and recommendations to the hearing examiner pursuant to subsection B.1 of this section.
- k. Providing technical and administrative assistance to the council, as needed, for effective and equitable implementation of this program and the Act.
- l. Conducting ongoing monitoring of the master program's effectiveness, identifying problem areas, and recommending program improvements.
- m. Proposing amendments to this program as deemed necessary to more effectively and equitably achieve its goals and policies.
- n. Seeking remedies for alleged violations of this program, the provisions of the Act, or of conditions of any approved shoreline permit.
- o. Coordinating information with affected agencies.
- p. Forwarding shoreline permits to Ecology for filing or appropriate action.

C. Permit or Exemption Required Before Undertaking Development or Activity.

1. Permits Required.

- a. A development, use, or activity shall not be undertaken within the jurisdiction of the Shoreline Management Act (Chapter 90.58 RCW or its successor) and the shoreline master program unless it is consistent with the policy and procedures of the Shoreline Management Act, applicable state regulations and the shoreline master program.
- b. Any person wishing to undertake substantial development or exempt development on shorelines shall first make application to the administrator for an appropriate shoreline permit or a statement of exemption, and obtain all approvals, following the applicable procedures pursuant to this title.
- c. A substantial development shall not be undertaken within the jurisdiction of the Shoreline Management Act (Chapter 90.58 RCW or its successor) and the shoreline master program unless an appropriate shoreline permit has been obtained, the appeal period has been completed, any appeals have been

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resolved, and/or the applicant has been given permission by the proper authority to proceed pursuant to the procedures in this title.

d. If a development, use or activity is listed as a conditional use by the shoreline master program, such development, use, or activity shall not be undertaken within the jurisdiction of the Shoreline Management Act (Chapter 90.58 RCW or its successor) and the master program unless a shoreline conditional use permit has been obtained, the appeal period has been completed, any appeals have been resolved, and/or the applicant has been given permission to proceed by the proper authority pursuant to the procedures of this title.

e. If a development, use, or activity cannot comply with the regulations of the master program, a shoreline variance must be obtained before commencement of development or construction, or beginning the use or activity pursuant to the procedures of this title.

f. If a project includes uses or activities that include permitted and conditional uses, or a major shoreline variance is required, all shoreline permits shall be heard and decided by the hearing examiner using the procedures, requirements, and criteria for a conditional use and/or shoreline variance pursuant to the procedures of this title.

g. See WAC 173-14-050 or its successor for a description of how the permit requirements apply to developments undertaken prior to the passage of the Shoreline Management Act of 1971.

h. See WAC 173-14-062 or its successor for a description of how the permit requirements apply to federal agency projects.

2. Statement of Exemption. If it has been determined by the administrator that a proposed development or activity is exempt from shoreline permits pursuant to WAC 173-27-040, a statement of exemption shall be required following the procedures provided in this chapter. No exempt development, use or activity shall be undertaken within the jurisdiction of the Shoreline Management Act (Chapter 90.58 RCW or its successor) and the master program unless a statement of exemption has been obtained from the administrator and all conditions are met.

D. Applications. The administrator shall provide the necessary application forms for statements of exemption and for permits for shoreline substantial development, shoreline conditional use, and shoreline variance. The application shall provide, at a minimum, the information required by WAC 173-14-110 or its successor along with the information required on the permit application.

E. Statement of Exemption from Shoreline Substantial Development Permit.

1. Purpose and Applicability. Certain development activities identified in WAC 173-27-040 are exempt from the requirement to secure a shoreline substantial development permit; however, a shoreline variance or shoreline conditional use permit may still be required. State law requires that exemptions be construed narrowly. Exemption from substantial development permit procedures does not constitute exemption from compliance with the policies and use regulations of the SMA (Chapter 90.58 RCW), the provisions of the master program, or applicable city, state or federal permit requirements. Applicants shall have the burden to demonstrate that the proposal complies with the requirements for the exemptions sought as described under WAC 173-27-040 or its successor. If any part of a proposed development is not eligible for exemption, then a substantial development permit is required for the entire proposed development project, pursuant to WAC 173-27-040(d) or its successor.

2. Procedure.

a. In the case of an emergency, the administrator may waive this requirement and authorize the use or activity orally or in writing. If authorized orally, the applicant shall submit a required application as soon as possible.

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- b. The administrator shall decide requests for a statement of exemption based on WAC 173-27-040 or its successor and the provisions of the Shoreline Management Act and the master program.
- c. Before determining that a proposal is exempt, the administrator may conduct a site inspection to ensure that the proposal meets the exemption criteria.
- d. Exempt developments and activities shall comply with the Shoreline Management Act and the master program. The administrator shall condition statements of exemption to ensure the exempt development or activity complies with the Shoreline Management Act and the master program.
- e. In the case of development subject to the policies and regulations of the master program, but exempt from the substantial development permit process, shoreline management requirements may be made conditions of the building permits and/or other permits and approvals. For example, the approval of a building permit for a single-family residence can be conditioned with provisions from the master program.
- f. Whenever a development falls within the exemptions stated in WAC 173-27-040 or its successor, but is still subject to those permits listed in WAC 173-27-040 (as amended), a letter exempting the development from the substantial development permit requirements of Chapter 90.58 RCW or its successor shall be given to the applicant and Department of Ecology.

3. Decision Criteria.

- a. Exemptions shall be narrowly construed. When making the determination, the administrator shall grant a statement of exemption only when the development proposed is consistent with the following:
 - i. The applicable policies, guidelines, and regulations of the Shoreline Management Act of 1971; Chapter 90.58 RCW, as amended; and Chapters 173-26 and 173-27 WAC or their successors;
 - ii. The goals, policies, objectives and regulations of the city of Bainbridge Island shoreline master program;
 - iii. The city of Bainbridge Island comprehensive plan and municipal code; all other applicable law; and any related documents and approvals.

4. Action of Administrator. The administrator may grant, deny, or conditionally approve the shoreline exemption request. The approval or conditional approval will become conditions of approval for any related development permit, and no development permit will be issued unless it is consistent with the statement of exemption. A copy of the city's statement of exemption shall be filed with the Department of Ecology.

5. Application Time Frame. The approval for a shoreline exemption shall be the same as the expiration date of the development permit. All conditions of the approval for a shoreline exemption shall be included in the conditions of approval granted for the development permit.

6. Appeal. Any person aggrieved by the administrator's determination on a shoreline exemption request may be appealed, except as stated below, using the applicable appeal provision of subsection I of this section. If a proposed development activity also requires approval through other permit procedures, any appeal of a shoreline exemption requires will be heard as part of that other process.

F. Shoreline Substantial Development Permit.

1. Purpose and Applicability. Substantial development is any development of which the total cost or fair market value exceeds \$6,416 or any development which materially interferes with the normal public use of the waters or shorelines of the state, except those exempted developments set forth in subsection E of this section, consistent with WAC 173-27-040 or its successor.

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2. Procedure. Shoreline substantial development permits shall be approved through the general administrative review procedures described in BIMC 2.16.030 except as described below. Application materials for shoreline substantial development permits can be found in the Administrative Manual.

a. Public Comment. The city shall not make a decision on the permit until after the end of the comment period.

i. A 30-day public comment period shall be given for shoreline permits.

ii. The public comment period shall be 20 days for substantial development permits for a limited utility extension or for erosion control measures to protect a single-family residence and its appurtenant structures. (See shoreline master program definition of “limited utility extension,” Chapter 16.12 BIMC.)

iii. SEPA review shall be conducted as provided by Chapter 16.04 BIMC, Environmental Policy, or its successor. The required SEPA notices should be included with the shoreline notices when possible. The SEPA documents should be circulated with permit documents where possible.

3. Decision and Criteria. After the 30-day comment period has ended, the administrator shall issue a decision on the application.

a. The administrator may approve, approve with modifications, or deny any substantial development permit.

b. Decision Criteria.

i. In making the decision, the administrator shall grant a substantial development permit only when the development proposed is consistent with the following:

(A) The applicable policies, guidelines, and regulations of the Shoreline Management Act of 1971; Chapter 90.58 RCW, as amended; and Chapters 173-26 and 173-27 WAC or their successors;

(B) The goals, policies, objectives and regulations of the city of Bainbridge Island shoreline master program;

(C) The city of Bainbridge Island comprehensive plan and municipal code; all other applicable law; and any related documents and approvals.

ii. The administrator shall also consider whether the cumulative impact of additional past and future requests that reasonably may be made in accordance with the comprehensive plan, or similar planning document, for like actions in the area will result in substantial adverse effects on the shoreline environment and shoreline resources.

c. The applicant(s) shall have the burden of proving that a proposed development is consistent with the approval criteria and master program policies and regulations (WAC 90.58.140(7) or its successor).

d. The administrator may require additional information if necessary.

e. The administrator shall issue a written decision which contains the following:

i. A statement indicating the application is approved, approved with modifications, or denied;

ii. A statement of any conditions included as part of an approval or approval with modifications;

iii. A statement of facts upon which the decision, including any conditions, is based, and the conclusions derived from those facts; and

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- iv. A statement of the right of any person to appeal the decision of the administrator pursuant to subsection I of this section.
 - f. The administrator may refer the application to the planning commission for review and recommendations prior to deciding the application. The application shall also be referred to the planning commission for a recommendation at the request of the applicant. The planning commission makes its recommendation following its review of the proposal, the environmental checklist, and the tentative threshold determination.
 - g. The permit, whether approved or denied, shall be in the form required by WAC 173-27-120 or its successor.
- 4. Distribution/Notification of Administrative Decision.
 - a. The administrator shall mail the applicant the original of the completed permit form and the findings and conclusions.
 - b. All persons who submitted comments on the application during the comment period (see subsection F.2 of this section) and anyone else requesting notification in writing shall be notified in a timely manner of the decision and shall be mailed a copy of the decision.
- 5. Application Time Frame.
 - a. Substantial Progress.
 - i. Substantial progress towards completion of a permitted activity shall be undertaken within two years after approval of the permit (WAC 173-27-090 or its successor). See definition of “substantial progress” in BIMC 16.12.080.
 - ii. The administrator may, with prior notice to parties of record and to Ecology, grant one extension of the two-year time period for substantial progress for up to one year based on reasonable factors which would justify the extension, including the inability to expeditiously obtain other governmental permits which are required prior to the commencement of construction (WAC 173-27-090 or its successor). The request for the extension must be filed with the administrator before the end of the time limit.
 - b. Five Year Permit Authorization.
 - i. The authorization granted by an approved permit to construct any structure or conduct any use or activity shall terminate five years after the date the permit is approved by the city, except that the permit may be authorized for a lesser period of fixed duration.
 - ii. Where an approved permit authorizes construction, the use and maintenance of the structure or facility may continue after the five-year period, provided the structure was completed during the five-year time limit or any approved extension.
 - iii. Where an approved permit authorizes a use or activity which does not require a structure, such as mining or maintenance dredging, the use or activity shall cease at the end of the five-year limit or any extension as granted in subsection F.4.b.iv of this section.
 - iv. The administrator may, with prior notice to parties of record and to Ecology, grant one time extension of up to one year based on reasonable factors which would justify the extension. The request for the extension must be filed with the administrator before the end of the time limit.
 - c. The application time limits shall not include the time during which an activity was not actually pursued due to the pendency of reasonably related administrative appeals or litigation.

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d. When a permit is conditioned, the conditions shall be satisfied prior to occupancy or use of a structure, or prior to commencement of a nonstructural activity, provided an alternative compliance limit may be specified in the permit.

e. Revisions to permits may be authorized after the original permit has expired under subsection F.5.b of this section, provided this procedure shall not be used to extend the original permit time requirements (WAC 173-27-060 or its successor).

6. Adjustments to Approved Shoreline Substantial Development Permits.

a. Minor adjustments to an approved shoreline substantial development permit may be made after review by the administrator. The applicant must submit detailed plans and text describing the proposed changes. If the administrator determines that the revisions proposed are within the scope and intent of the original permit, consistent with WAC 173-27-100 or its successor, the administrator may approve the revision as a minor adjustment.

b. A minor adjustment entails a revision that is within the scope and intent of the original permit, which means all of the following:

i. No additional over-water construction is involved, except that pier, dock, or float construction may be increased by 500 square feet or 10 percent, whichever is less;

ii. Ground area coverage and height is not increased more than 10 percent;

iii. Additional structures located landward and not within required buffer or setback areas do not exceed a total of 250 square feet;

iv. The revision does not authorize development to exceed height, setback, lot coverage, or any other requirement of the city of Bainbridge Island shoreline master program;

v. Additional landscaping is consistent with conditions, if any, attached to the original permit and with the applicable master program provisions;

vi. The use authorized pursuant to the original permit is not changed; and

vii. No adverse, environmental impact will be caused by the project revision (WAC 173-27-064(2)(a) through (g) as amended).

c. If the sum of the proposed revision and any previously approved revisions do not meet the criteria above, the revision shall be reviewed through a major adjustment process. This shall be processed in the same manner as a new shoreline substantial development permit application. If the adjustment involves a conditional use or shoreline variance which was conditioned by the Department of Ecology, the adjustment also must be reviewed and approved by Ecology (WAC 173-27-064 or its successor).

d. A city or Ecology decision on a minor or major adjustment to the permit may be appealed within 21 days of such decision, in accordance with RCW 90.58.180 or its successor, and WAC 173-27-064 or its successor.

e. Construction allowed by the revised permit that is not authorized under the original permit is undertaken at the applicant's risk until the expiration of the appeals deadline.

7. Appeal. The decision of the administrator may be appealed to the hearing examiner following the procedures of subsection I of this section.

G. Shoreline Variance, Minor or Major. This subsection applies to all applications for shoreline variances.

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1. Purpose. The purposes of a shoreline variance permit is strictly limited to granting relief to specific bulk, dimensional, or performance standards set forth in the master program, where there are extraordinary or unique circumstances relating to the property such that the strict implementation of the master program would impose unnecessary hardships on the applicant or thwart the Shoreline Management Act policies as stated in RCW 90.58.020 or its successor.

2. Applicability.

a. The minor variance process may be used for minor deviations from zoning standards in BIMC Title 18 and Chapter 16.12 BIMC as determined by the director. Minor projects should be limited to: (i) projects that are exempt from review under the State Environmental Policy Act (SEPA), or (ii) proposals for less than a 25 percent encroachment in required yards, or (iii) proposals of less than a 25 percent increase in lot coverage. All other variances shall be considered a major variance and processed as described in subsection G.2.b of this section.

b. This process may also be used for minor variation(s) from the engineering requirements of the adopted city of Bainbridge Island engineering and development standards if the requested variation will further the purposes of the BIMC and is approved by the department director, after recommendation by the city engineer and/or the fire marshal.

c. This procedure is not available to obtain variances from subdivision standards in BIMC Title 17 or to obtain variances from BIMC Title 18 zoning standards cross-referenced in BIMC Title 17 as part of a short subdivision, long subdivision, or large lot subdivision approval or amendment process, except for those engineering standards covered by subsection B.2 of this section.

d. This procedure is not available to allow the siting for an accessory dwelling unit where it would not otherwise be permitted.

e. A variance shall not be granted solely because of the presence of nonconformities in the vicinity of the subject site.

f. The project involves only one project.

g. The project has not generated a significant public input.

3. Procedure.

a. Minor Shoreline Variance. The administrator shall review a minor shoreline variance application following procedures in subsection F.2 of this section.

b. Major Shoreline Variance. Applications for shoreline variances that are more intensive than the minor shoreline variance as determined by the administrator shall be decided by the hearing examiner following the procedures in BIMC 2.16.100, or its successor, supplemented by the following provisions:

i. The decision of the hearing examiner shall be the final city decision, and may be appealed in accordance with subsection I of this section.

d. Notice of Application and Comment Period. In addition to the notice of application content established in BIMC 2.16.020.K, notice of application for shoreline variance permits must also contain the information required under WAC 173-27-110.

e. Notice of Hearing. When a public hearing is required, the procedures of BIMC 2.16.020.K.6 shall apply.

f. The administrator shall mail the final city decision to the applicant, the State Department of Ecology, and the State Attorney General. The permit must be received by Ecology within eight days of the date of

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the decision. Within eight days of the date of the decision, the administrator shall also mail the decision to any person who requested notice of the decision.

g. The State Department of Ecology shall approve, approve with conditions, or deny all shoreline variances approved by the city. Ecology's decision must be made within 30 days of the date the permit and other information required by WAC 173-14-090 or its successor are received by Ecology and the Washington State Attorney General. Ecology will send a letter to the applicant and the city informing them of the decision. Upon receipt of the Ecology decision, the administrator shall notify those interested persons who requested notification.

4. Decision Criteria. Pursuant to WAC 173-27-170 and 173-27-210 or their successors, the criteria below constitute the minimum criteria for review and approval of a shoreline variance permit:

a. Shoreline variance permits for development and/or uses that will be located landward of the ordinary high water mark (OHWM), and/or landward of any wetland, as defined in Chapter 16.12 BIMC, may be authorized, provided the applicant can demonstrate all of the following:

- i. The strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes, or significantly interferes with, reasonable use of the property;
- ii. The hardship described in subsection G.4.a.i of this section is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the master program, and not, for example, from deed restrictions or the applicant's own actions;
- iii. The design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program and will not cause adverse impacts to the shoreline environment;
- iv. The variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;
- v. The variance requested is the minimum necessary to afford relief; and
- vi. The public interest will suffer no substantial detrimental effect.

b. Shoreline variance permits, where the development will be located either waterward of the ordinary high water mark (OHWM) or within or within any wetland, defined in Chapter 16.12 BIMC, may be approved or approved with conditions or modifications subject to approval by Ecology, if the decision maker finds the applicant has demonstrated compliance with all of the following criteria:

- i. The strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes all reasonable use of the property;
- ii. The proposal is consistent with the criteria established under subsections G.4.a.ii through vi of this section; and
- iii. The public rights of navigation and use of the shorelines will not be adversely affected.

c. In the granting of all shoreline variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if shoreline variances were granted to other developments in the area where similar circumstances exist, the total of the shoreline variances should also remain consistent with the policies of Chapter 90.58 RCW or its successor and should not produce substantial adverse effects to the shoreline environment.

5. Time Frame. Construction and activities authorized by a shoreline variance are subject to the time limitations in subsection F.5 of this section (WAC 173-27-090 or its successor).

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6. Adjustments to Approved Shoreline Variance.

- a. A permit revision is required whenever an applicant proposes substantive changes to the design, terms or conditions of a project from that approved as a shoreline variance. The applicant shall submit detailed plans and text describing the proposed changes in the permit and demonstrating compliance with the following minimum standards pursuant to Chapter 173-27 WAC.
- b. If the proposed changes are determined by the administrator to be within the scope and intent of the original permit, and are consistent with the Act (Chapter 90.58 RCW), the shoreline guidelines (Chapter 173-26 WAC), and the shoreline master program, the revisions may be approved as a minor adjustment.
- c. A minor adjustment entails a revision that is within the scope and intent of the original permit, which means all of the following:
 - i. No additional over-water construction is involved except that a pier, dock or floating structure may be increased by 10 percent or 500 square feet, whichever is less, over that approved under the original approval;
 - ii. Ground area coverage and/or height may be increased a maximum of 10 percent over that approved under the original approval; provided, that the revised approval does not authorize development to exceed the height, impervious surface, setback or any other requirements of this program except as authorized under a variance granted for the original development;
 - iii. Additional or revised landscaping is consistent with any conditions attached to the original approval and with this program;
 - iv. The use authorized pursuant to the original approval is not changed; and
 - v. The revision will not cause adverse environmental impacts.
- d. Revisions to shoreline permits and statements of exemption may be authorized after the original authorization has expired. Revisions made after the expiration of the original approval shall be limited to changes that are consistent with this program and that would not require a permit under this program. If the proposed change is a substantial development as defined by this program, then a new permit is required. The provisions of this subsection shall not be used to extend the time requirements or to authorize substantial development beyond the time limits or scope of the original approval.
- e. A new permit shall be required if the proposed revision and any previously approved revisions in combination would constitute development beyond the scope and intent of the original approval.
- f. Upon approval of a revision, the decision maker shall file a copy of the revised site plan and a detailed description of the authorized changes to the original permit with the Department of Ecology together with a final ruling and findings supporting the decision based on the requirements of this section. In addition, the decision maker shall notify parties of record of the action.
- g. If the proposed revision is to a development for which a shoreline variance was issued, the decision maker shall submit the revision to the Department of Ecology for approval with conditions or denial, and shall indicate that the revision is being submitted under the requirements of this subsection. Under the requirements of WAC 173-27-110(6), the Department shall render and transmit to the decision maker and the applicant/proponent its final decision within 15 days of the date of the Department's receipt of the submittal from the decision maker. The decision maker shall notify parties on record of the Department's final decision.

7. Appeal of Decision on Shoreline Variance. The decision of the hearing examiner may be appealed to the following the procedures of subsection I of this section.

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H. Shoreline Conditional Use Permits. Where a development includes several uses or activities and one or more uses or activities require a shoreline conditional use permit, all uses and activities shall be processed and decided following the shoreline conditional use procedures.

1. Purpose. The purpose of a shoreline conditional use permit is to allow greater flexibility in applying the use regulations of the master program in a manner consistent with the policies of RCW 90.58.020 or its successor; provided, that shoreline conditional use permits should also be granted in a circumstance where denial of the permit would result in a thwarting of state policy enumerated in RCW 90.58.020 or its successor. In authorizing a conditional use, special conditions may be attached to the permit by the city or the State Department of Ecology to prevent undesirable effects of the proposed use. Uses which are specifically prohibited by the master program may not be authorized with approval of a shoreline conditional use permit.

2. Applicability.

a. Minor Conditional Use. As determined by the director, this procedure shall apply to (i) all minor conditional uses identified in Chapter 16.12 BIMC; (ii) where the director determines that the anticipated impacts of those conditional uses will be minor or minimal; or (iii) uses that are clearly consistent and compatible with other uses in the same zone or vicinity.

b. Major Conditional Use. As determined by the administrator, a major conditional use permit shall be secured from the city prior to establishing or expanding a use according to situations that include, but are not limited to: (i) the proposed use or expansion covers 50 percent or greater of the total lot area; (ii) the proposed use is accessed by a local or private road; (iii) the proposed use or expansion generates more than 36 total trips per day; (iv) the proposed use or expansion contains four or more units in a multifamily dwelling; or (v) requests for additional nonresidential building height pursuant to Chapter 16.12 BIMC.

3. Procedure.

a. Application. An application for a shoreline conditional use permit shall be submitted on a form provided by the city. The application should be accompanied by maps, a completed environmental checklist, applicable fees, and any other information specified in the master program or requested by the administrator.

b. Minor Shoreline Conditional Use.

i. The administrator shall review a minor shoreline variance application following procedures in subsection F.2 of this section.

c. Minor Shoreline Conditional Use. Applications for shoreline variances that are more intensive than the minor shoreline variance as determined by the administrator shall be decided by the hearing examiner following the procedures in BIMC 2.16.100, or its successor, supplemented by the following provisions:

i. The decision of the hearing examiner shall be the final city decision, and may be appealed in accordance with subsection I of this section.

d. Notice of Application and Comment Period. In addition to the notice of application content established in BIMC 2.16.020.K, notice of application for shoreline conditional use permits must also contain the information required under WAC 173-27-110.

e. Notice of Hearing. When a public hearing is required, the procedures of BIMC 2.16.020.K.6 shall apply.

f. The administrator shall mail the final city decision to the applicant, the State Department of Ecology, and the State Attorney General. The permit must be received by Ecology within eight days of the date of the decision. Within eight days of the date of the decision, the administrator shall also mail the decision to any person who requested notice of the decision.

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g. The State Department of Ecology shall approve, approve with conditions, or deny all shoreline conditional use permits approved by the city. Ecology's decision must be made within 30 days of the date the permit and other information required by WAC 173-14-090 or its successor are received by Ecology and the Washington State Attorney General. Ecology will send a letter to the applicant and the city informing them of the decision. Upon receipt of the Ecology decision, the administrator shall notify those interested persons who requested notification.

4. Decision Criteria – Conditional Use Permit.

a. Uses classified as conditional uses may be authorized; provided, that pursuant to WAC 173-27-140 and 173-27-160 or their successors, the applicant can demonstrate all of the following:

i. The proposed use will be consistent with the policies of RCW 90.58.020 or its successor and the policies of the master program;

ii. The proposed use will not interfere with the normal public use of the public shorelines;

iii. That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program;

iv. The proposed use will cause no unreasonably adverse effects to the shoreline environment designation in which it is located;

v. The public interest suffers no substantial detrimental effect (WAC 173- 14-140(1) or its successor); and

vi. The proposed use is consistent with the provisions of the zoning ordinance (BIMC Title 18).

b. Other uses which are not listed in the master program as permitted or conditional uses and are also not prohibited may be authorized as conditional uses, provided the applicant can demonstrate, in addition to the criteria set forth in subsection H.4.a of this section, that (i) extraordinary circumstances preclude reasonable economic use of the property in a manner consistent with the policies of RCW 90.58.020, or its successor, and that (ii) the proposed use would not produce significant adverse effects on the shoreline environment.

c. In the granting of all shoreline conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area.

5. Time Frame. Construction and activities authorized by a shoreline conditional use permit are subject to the time limitations in subsection F.5 of this section (WAC 173-27-090 or its successor).

6. Adjustments to Approved Shoreline Conditional Use Permit.

a. A permit revision is required whenever an applicant proposes substantive changes to the design, terms or conditions of a project from that approved as a shoreline conditional use permit. When a revision of a shoreline conditional use permit is sought, the applicant shall submit detailed plans and text describing the proposed changes in the permit and demonstrating compliance with the following minimum standards pursuant to Chapter 173-27 WAC.

b. If the proposed changes are determined by the administrator to be within the scope and intent of the original permit, and are consistent with the SMA (Chapter 90.58 RCW), the shoreline guidelines (Chapter 173-26 WAC), and the shoreline master program, the revisions may be approved as a minor adjustment.

c. A minor adjustment entails a revision that is within the scope and intent of the original permit, which means all of the following:

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- i. No additional over-water construction is involved except that a pier, dock or floating structure may be increased by 10 percent or 500 square feet, whichever is less, over that approved under the original approval;
 - ii. Ground area coverage and/or height may be increased a maximum of 10 percent over that approved under the original approval; provided, that the revised approval does not authorize development to exceed the height, impervious surface, setback or any other requirements of this program except as authorized under a variance granted for the original development;
 - iii. Additional or revised landscaping is consistent with any conditions attached to the original approval and with this program;
 - iv. The use authorized pursuant to the original approval is not changed; and
 - v. The revision will not cause adverse environmental impacts.
- d. Revisions to shoreline permits and statements of exemption may be authorized after the original authorization has expired. Revisions made after the expiration of the original approval shall be limited to changes that are consistent with this program and that would not require a permit under this program. If the proposed change is a substantial development as defined by this program, then a new permit is required. The provisions of this subsection shall not be used to extend the time requirements or to authorize substantial development beyond the time limits or scope of the original approval.
- e. A new permit shall be required if the proposed revision and any previously approved revisions in combination would constitute development beyond the scope and intent of the original approval.
- f. Upon approval of a revision, the decision maker shall file a copy of the revised site plan and a detailed description of the authorized changes to the original permit with the Department of Ecology together with a final ruling and findings supporting the decision based on the requirements of this section. In addition, the decision maker shall notify parties of record of the action.
- g. If the proposed revision is to a development for which a shoreline conditional use or variance was issued, the decision maker shall submit the revision to the Department of Ecology for approval, approval with conditions, or denial, and shall indicate that the revision is being submitted under the requirements of this subsection. Under the requirements of WAC 173-27-110(6), the Department shall render and transmit to the decision maker and the applicant/proponent its final decision within 15 days of the date of the Department's receipt of the submittal from the decision maker. The decision maker shall notify parties on record of the Department's final decision.

7. Appeal of Decision on Conditional Use Permit. The decision of the hearing examiner may be appealed to the following the procedures of subsection I of this section.

I. Shoreline Application Appeals.

1. Appeal – Administrative.

- a. The decision of the administrator on shoreline exemptions or shoreline substantial development permits may be appealed to the hearing examiner within 21 calendar days following the issuance of a written decision by the administrator.
- b. Appeals shall be initiated by filing with the city clerk a notice of appeal setting forth the action being appealed and the principal points upon which the appeal is based together with a filing fee as prescribed by resolution of the council.
- c. If an appeal is filed, the case shall be reviewed as an open record hearing by the hearing examiner, who shall follow the procedures established in BIMC 2.16.130 or its successor.

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d. The hearing examiner shall consider the criteria in subsection I.1.c of this section and may refer the application to the planning commission for a recommendation. The decision of the hearing examiner shall be the final city action.

e. Within eight days of final action by the city, including completion of appeals or expiration of appeal periods, the administrator shall file copies of the action with the Department of Ecology and the Attorney General pursuant to RCW 90.58.140(6) or its successor.

2. Appeal – Shoreline Variance and Shoreline Conditional Use Permits.

a. If a shoreline variance or shoreline conditional use permit is denied by the city, the 21-day appeal period begins on the day the denied permit or shoreline variance and other information required by RCW 90.58.140(6) or its successor are received by Ecology and the Attorney General.

b. If a shoreline variance or shoreline conditional use permit is approved by the city, the 21-day appeal period begins on the day the shoreline variance or conditional use permit is approved or denied by Ecology.

c. During the appeal period, the city and/or Ecology decision on the permit may be appealed to the Washington State Shorelines Hearings Board as provided by RCW 90.58.180 or its successor. The applicant or any other party authorized to conduct activities or uses by the decision shall not begin construction, development, or any authorized use or activity until after the 21-day appeal period. Construction or use may occur during the time a court appeal is underway, provided (i) the permit was approved by the local government and the State Shorelines Hearings Board, and (ii) permission is granted for the construction, use or activity under RCW 90.58.140(5) or its successor.

3. Washington State Department of Ecology Appeal Period.

a. On the day the permit and other information required by WAC 173-27-090 or its successor are received by Ecology and the Attorney General, the 21-day appeal period begins. (Ecology generally sends a letter to the administrator and the applicant informing them of the date the application was received.)

b. During the 21-day appeal period, the city decision on the permit may be appealed to the Washington State Shorelines Hearings Board as provided by RCW 90.58.180 or its successor and Chapter 461-08 WAC or its successor.

c. Development pursuant to a shoreline permit shall not begin and is not authorized until 21 days from the date of filing, as defined in RCW 90.58.140(5)(b) and (c) or its successor and WAC 173-27-090 or its successor, or until all review proceedings initiated within 21 days from the date of such filing have been terminated, except as provided in RCW 90.58.140(b) or its successor. (Ord. 2014-04 § 5 (Exh. 3 § 3), 2014)

2.16.170 Consolidated project review.

A. Purpose. The purpose of this section is to offer a consolidated process for use at the applicant's option when a proposed development or use of land will require more than one of the approvals listed in BIMC 2.16.010. The intent is to provide a single process in which a single decision-maker will make all land use decisions on the application.

B. Applicability. This section is available to any applicant for a single project proposal requiring more than one land use application who chooses to follow the consolidated project review process. The procedures include consolidation of various land use applications, public notification of an application and opportunity for public comment prior to a final decision. Any combination of land use applications except for building and other construction permits may be processed under the consolidated project review process.

C. Procedures.

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1. A consolidated project permit application shall follow the application and notice procedure listed below that results in the most extensive review and decision process.

2. For purposes of consolidated project review, the ranking of review and approval procedures, in order from least to most extensive, is:

- a. Administrative review;
- b. Planning commission review;
- c. Hearing examiner review;
- d. City council review.

D. Planning Commission and/or Hearing Examiner Review. Any consolidated application containing a land use permit that requires planning commission recommendation shall be considered by the planning commission at a public meeting in accordance with BIMC 2.16.030.D.3. Any consolidated application containing a land use permit that requires hearing examiner recommendation shall be considered by the hearing examiner at a public hearing in accordance with BIMC 2.16.100.C.

E. Public Hearing. If a public hearing is required for any of the related land use applications of a consolidated project, the public hearing shall combine all the applicable permit application requests. Related applications requiring a public hearing shall be considered at only one public hearing. If the SEPA threshold determination is appealed for a proposal under the consolidated project review process, the SEPA appeal hearing shall be combined with the public hearing for the consolidated project application. (Ord. 2011-02 § 2 (Exh. A), 2011)

2.16.180 Legislative review of regulations and area-wide rezones.

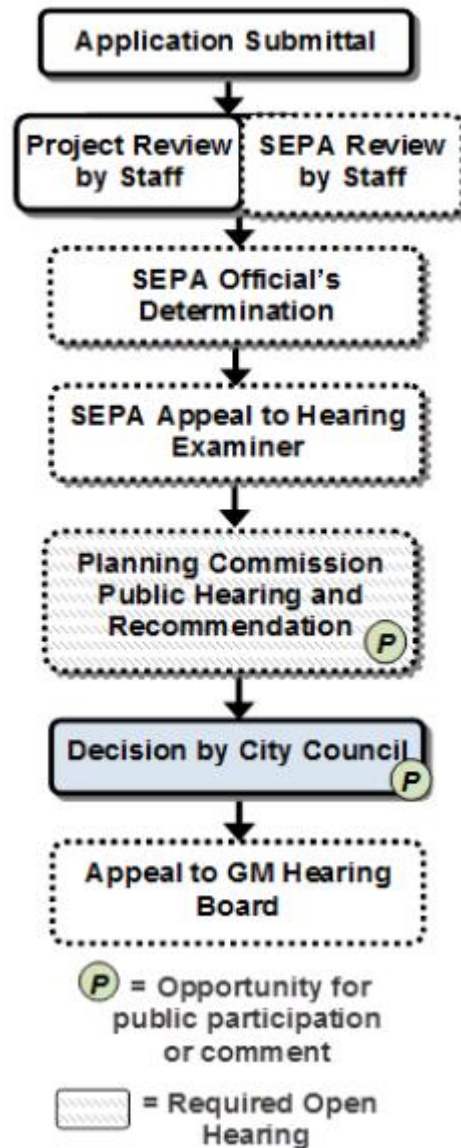
A. Purpose. The purpose of this section is to describe the procedures used when the city council makes legislative (not quasi-judicial, site-specific) decisions related to the BIMC.

B. Applicability. This section applies to adoption of or amendments to the BIMC, including area-wide rezones initiated by the city and area-wide rezones accompanying privately initiated amendments to the comprehensive plan.

C. Who Can Apply. Any person, entity, or the city may propose an amendment to the BIMC. The city may propose a rezoning on an area-wide basis, and private entities may request the city to consider an area-wide rezoning. If the proposed area-wide rezone is not consistent with the adopted comprehensive plan the applicant shall also submit an application for a comprehensive plan amendment with the rezone application. However, any owner or authorized agent, or group of owners of contiguous property acting jointly, must represent at least 75 percent of the assessed valuation of the subject properties.

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Legislative Review of Regulations & Area-Wide Rezones



D. Planning Commission Review and Recommendation.

1. Planning commission review and recommendation is only required for amendments to BIMC Title 18, area-wide rezones initiated by the city, or area-wide rezones associated with a privately initiated amendment to the comprehensive plan.

2. The planning commission shall hold a public hearing for all amendments to the official zoning map and zoning code of the city prior to issuing a recommendation to the city council.

3. Any person may participate in the public hearing. The planning commission has discretion to limit testimony to relevant, nonrepetitive comments and to set time limits.

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4. Any person may submit written comments, photographs or other exhibits on the proposed amendment to the planning commission prior to or at the public hearing.

5. The planning commission shall maintain a record of the exhibits presented and a tape recording of the testimony and arguments presented, which shall be kept by the city clerk.

E. Planning Commission Action and Written Recommendation.

1. In making a recommendation, the planning commission shall consider applicable decision criteria of this code, all applicable law, the comprehensive plan, public comment, and any necessary documents and approvals.

2. The planning commission shall issue a written recommendation that contains (a) a statement recommending that the proposed amendment be approved, approved with conditions or denied, and (b) a statement of facts upon which the recommendation is based and the conclusions derived from those facts.

3. The planning commission's written recommendation and other documents upon which its decision is based shall be immediately transmitted to the city council and department director.

F. City Council Review.

1. The city council shall hold a public hearing on the proposed amendment at the second reading of the proposed regulation. Any person may participate in the public hearing. The city council has discretion to limit testimony to relevant, nonrepetitive comments and to set time limits.

2. The agenda for second reading of the proposed development regulation shall reflect the full title of the development regulation being reviewed.

3. Any person may submit written comments, photographs or other exhibits on the proposed amendment to the city council prior to or at the public hearing.

4. The city council shall maintain a record of the exhibits presented and a tape recording of the testimony and arguments presented, which shall be kept by the city clerk.

G. City Council Action.

1. The city council shall either adopt an ordinance amending the BIMC, reject the proposal, or remand the proposed amendment to the applicable department, the city council committee, or the planning commission for further consideration.

2. The city council shall consider the following in deciding upon a proposed regulation:

- a. Testimony presented, or the minutes of any city council public hearing, on the proposed amendment; and
- b. Any written material submitted as part of the public hearing process; and
- c. The recommendation of the planning commission and applicable department director; and
- d. Any applicable decision criteria; and
- e. Any relevant RCW or WAC.

H. Transmittal to State. The department shall notify the appropriate Washington State Department of Commerce of its intent to adopt a development regulation at least 60 days prior to final passage and shall also transmit a copy of all adopted amendments within 10 days after passage by the city council. (Ord. 2011-02 § 2 (Exh. A), 2011)

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2.16.190 Legislative comprehensive plan amendments.

A. Purpose. The purpose of this section is to establish the process and criteria for changing the comprehensive plan and/or land use map. Amendments may include additions, deletions, corrections, updates, modifications or revisions to maps, goals and policies in the comprehensive plan. The comprehensive plan amendment process provides for simultaneous review of proposals to allow for cumulative impact analysis of all applications on a citywide basis in conjunction with budget decisions, and honors the community's long-term investment in the comprehensive plan, through public participation and neighborhood planning processes.

B. Applicability. Any owner or authorized agent, or group of owners of contiguous properties acting jointly and representing at least 75 percent of the assessed valuation of the subject properties, or their authorized agent, may apply for an amendment to the comprehensive plan. There are two types of amendments: policy adjustments or map changes. An amendment may include both of these types of amendment requests. If a private applicant is submitting an application for a comprehensive plan amendment in anticipation of a proposed development, the applicant must also submit an application for a rezoning and pay related application fees simultaneously with the comprehensive plan amendment application.

C. Policy Amendments. A policy amendment may be considered if the applicant can demonstrate that the request is consistent with the adopted comprehensive plan, and that policy amendments or map amendments are needed to further the vision, goals or policies of the plan. An amendment may also be considered if the applicant can demonstrate that community values, priorities, needs and trends have sufficiently changed to justify a fundamental shift in the comprehensive plan. The burden of proof rests entirely with the applicant to demonstrate or document the need to depart from the current version of the comprehensive plan.

Proposed policy amendments that are intended to be consistent with the comprehensive plan should be designed to provide correction or additional guidance so the community's original visions and values can better be achieved. The need for this type of amendment might be supported by findings related to monitoring and evaluating the implementation of the comprehensive plan. Examples of such findings could include:

1. Growth and development as envisioned in the plan is occurring faster, slower or is failing to materialize; or
2. The capacity to provide adequate services is diminished or increased; or
3. Land availability to meet demand is reduced; or
4. Population or employment growth is significantly different than the plan's assumptions; or
5. Plan objectives are not being met as specified; or
6. The effect of the plan on land values and affordable housing is contrary to plan goals; or
7. Transportation and/or other capital improvements are not being made as expected; or
8. A question of consistency exists between the comprehensive plan and its elements and Chapter 36.70A RCW, the Kitsap County-wide planning policies, or development regulations; or
9. Assumptions upon which the plan is based are found to be invalid; or
10. Substantial change or lack of change in circumstances dictates the need for such consideration or conditions have changed substantially citywide and/or in the area within which the subject property lies.

D. Map Amendments. Changes to the land use map may only be approved if the proponent has demonstrated that all of the following are true:

1. The designation is in conformance with the appropriate land use designation purpose statement identified in the comprehensive plan; and
2. The map amendment or site is suitable for the proposed designation; and

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3. The map amendment implements applicable comprehensive plan policies better than the current map designation.

E. Amendments Submitted by the City. Amendments submitted by the city will be processed every year or within the context of a comprehensive plan update, or more frequently than once per year under the circumstances authorized under RCW 36.70A.130(2)(a).

F. Frequency of Amendments.

1. Amendments. Except in the event of an emergency as determined by the city council or in the event of amendments related to updating the capital facilities plan, plan amendments will be considered together so that the cumulative effects of all proposed amendments can be analyzed for consistency and the overall effect on the comprehensive plan. As part of the city's periodic 2016 comprehensive plan update, the city will accept comprehensive plan amendment requests between May 1 and June 30, 2015, and those amendments will be considered through the update process. The next comprehensive plan amendment submission cycle will be in 2019, and thereafter no more often than every three calendar years, the planning commission may recommend and the city council may adopt amendments to the land use map, or the text of the comprehensive plan, upon finding that each proposal meets all of the applicable conditions and requirements of this chapter.

2. Emergency Amendments. The city council may determine, by resolution, that a proposed amendment be processed as an emergency amendment to the comprehensive plan.

G. Review Process. The city shall process comprehensive plan amendment applications in accordance with the following procedures:

1. Preapplication Conference. Prior to submittal of a comprehensive plan amendment application, the applicant or applicant's representative shall attend a preapplication conference in accordance with the procedures of BIMC 2.16.020.G. Interested citizens may attend the preapplication meeting.

2. Application. Proposed amendments shall be submitted between January 1st and the last day in February, starting in 2013 and subsequently every third year, except as described in subsection F.1 of this section in connection with the 2016 comprehensive plan update.

3. SEPA Review. The applicant is responsible for conducting any environmental analysis, including the preparation of an environmental impact statement, if necessary. Environmental review shall be completed prior to planning commission review.

4. Written Analysis. For each proposed amendment, staff will prepare a written analysis for the planning commission. The analysis will be accompanied by a recommendation that the proposed amendment be approved, denied, or approved with modification. Proposals may be grouped and evaluated by geographic sector and/or subject matter to be assessed for cumulative impact.

5. Planning Commission Review. Subsequent to completion of the analysis and SEPA review prepared by staff, the planning commission shall conduct one or more public hearings as defined in BIMC 2.14.020.G. The planning commission shall also solicit comments regarding the proposed amendment from the public or from government agencies in any other manner it determines necessary and appropriate to the nature of the proposed amendment and consistent with RCW 36.70A.140. The notice and public hearing for proposed comprehensive plan amendments may be combined with any notice or public hearing for proposed amendments to the land use code or for other actions of the planning commission; provided, that all appropriate noticing is conducted as required by law.

6. Planning Commission Recommendation. The planning commission shall base its recommendation on whether the application meets the required decision criteria contained in subsection H of this section and consider public input, conclusions from any required studies, the staff recommendation, and findings from the SEPA analysis. The planning commission may recommend to approve, approve with conditions, or deny the proposed amendment. The planning commission must make findings supporting their recommendation. If the planning commission recommends denial of a proposed amendment, the findings shall include that (a) the

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proposal does not comply with the decision criteria contained in subsection H of this section, or (b) a majority of the planning commission finds that the proposal would be more appropriately and effectively addressed through another aspect of the city's work program. The planning commission's findings and conclusions regarding its recommendation shall be forwarded to the city council within 30 days of their final hearing.

7. City Council Review and Decision.

- a. The city council considers whether the application meets the required decision criteria contained in subsection H of this section and also considers staff's recommendation and the planning commission's recommendations within the context of its budget discussions, and may act on the amendment proposals prior to or at the same time as it adopts the city budget.
- b. The council may decide to approve, deny, or approve with modification the proposed amendment.
- c. The council shall base its decision on consideration of the record and the required decision criteria contained in subsection H of this section and shall cite these in their findings and conclusions.

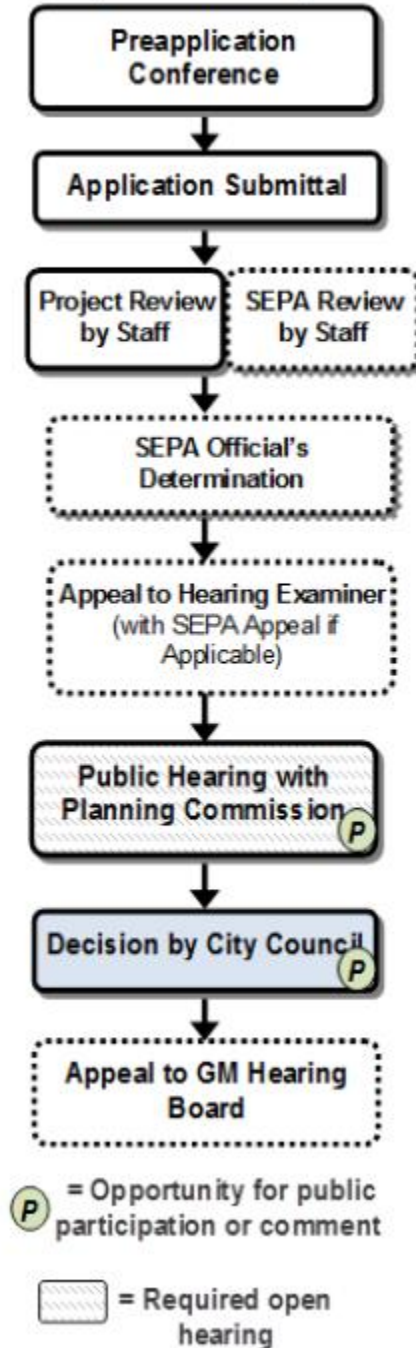
8. Denied Amendments. Denied amendments will not be accepted for the next comprehensive plan amendment cycle, unless the proposed amendment is substantially modified or circumstances related to the amendment request have significantly changed. The planning director shall make this determination.

H. Decision Criteria. The planning commission and city council shall base their respective recommendation or decision on a proposed comprehensive plan amendment on the following criteria:

1. Compliance with Law. Amendments to the comprehensive plan shall comply with the Growth Management Act and other state and federal laws.
2. Resources.
 - a. The city must have the resources, including staff and budget, necessary to implement the proposal.
 - b. The amendment will not result in development that has significant adverse effects on community resources, including but not limited to: water resources, utilities, transportation, parks or schools.
 - c. The amendment must not adversely affect the city's ability to provide the full range of public facilities and services at the planned level of service, or consume public resources otherwise needed to support comprehensive plan implementation strategies.
3. Internal Consistency. Amendments shall be consistent with the land uses and growth projections that are the basis of the comprehensive plan and with the overall intent of the comprehensive plan, including the community vision, overriding principles, and overall goals that guide the plan.

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Review of Comprehensive Plan Amendments



4. Cumulative Effect. All amendments must be considered concurrently in order to evaluate their cumulative effect on the comprehensive plan text and map, development regulations, capital facilities program, adopted environmental policies and other relevant implementation measures.

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5. Land Use Impacts. Amendments shall not adversely affect public health, safety or welfare. An amendment must be compatible with neighboring land uses and surrounding neighborhoods, if appropriate. In addition, applications should be reviewed for their cumulative land use impacts.

I. Public Involvement.

1. Standard Procedures. All complete applications for amendment to the comprehensive plan are considered and reviewed by the planning commission and city council. Depending on the content, scope or potential impact of a proposed modification, additional review by other citizen committees and opportunities for public comment may occur. Various public meetings, forums, presentations and outreach may be conducted in order to ensure:

- a. Broad dissemination of proposals and alternatives;
- b. Opportunity for written comments;
- c. Provision for open discussion;
- d. Information services; and
- e. Consideration of and response to public comments.

2. Neighborhood Meetings. Since all proposals are required to be compatible with neighboring land uses and surrounding neighborhoods, persons proposing site-specific amendments may address issues of compatibility by participating in a neighborhood meeting organized by the city, with notifications as specified by the city.

3. Emergencies. Amendments outside the regular annual amendment cycle, such as emergency amendments, still carry a requirement for appropriate public participation.

4. Revocation. A comprehensive plan amendment may be reversed by the city council outside the regular amendment period upon the finding of any of the following:

- a. The approval was obtained by fraud or other intentional or misleading representations; or
- b. The amendment is being implemented contrary to the intended purpose of the amendment or other provisions of the comprehensive plan and city ordinances; or
- c. The amendment is being implemented in a manner that is detrimental to the public health or safety.

J. Transmittal to State. The department shall notify the appropriate Washington State Department of Commerce of its intent to adopt a comprehensive plan amendment at least 60 days prior to final passage and shall also transmit a copy of all adopted amendments within 10 days after passage by the city council. (Ord. 2015-08 § 1, 2015; Ord. 2011-02 § 2 (Exh. A), 2011)

2.16.200 Shoreline master program amendments.

A. Purpose. The purpose of this section is to provide the process for amending the shoreline master program and/or designation map. Amendments may include additions, deletions, corrections, updates, modifications or revisions to maps, goals and policies or regulations of the city's adopted shoreline management program.

B. Shoreline Master Program Reviews. The shoreline master program shall be periodically reviewed by the administrator and the city council and adjustments made as necessary to reflect changing local circumstances, new information or improved data, and/or changes in state statutes and regulations. This review process shall be consistent with WAC 173-26-090 and 173-26-100 or their successor requirements and shall include a local citizen involvement effort and public hearing to obtain the views and comments of the public.

C. Amendments to the Shoreline Master Program. The provisions of the shoreline master program may be amended as provided for in RCW 90.58.120 and 90.58.200 or their successors and Chapter 173-26 WAC or its successor.

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1. Any person, including the city, may submit an application for an amendment to the administrator together with any required fee.
2. Any amendment to the shoreline master program must satisfy the requirements of the State Environmental Policy Act (Chapter 43.21C RCW or its successor) and Chapter 197-11 WAC or its successor.
3. The city council shall approve, modify, or deny an application for an amendment after conducting at least one public hearing to consider the proposal.
4. Prior to conducting the hearing, the city shall publish notice of the hearing in one or more newspapers of general circulation a minimum 10 days prior to the date of the hearing. The notice shall include:
 - a. Reference to the authority under which the action is proposed;
 - b. A statement or summary of the proposed changes to the master program;
 - c. The date, time, and location of the hearing, and the manner in which interested persons may present their views; and
 - d. Reference to the availability of the proposal for public inspection at the local government office, or upon request.
5. As provided by state law, amendments and revisions to the master program are not effective unless approved by the Washington State Department of Ecology.
6. Proponents for shoreline environment redesignations (i.e., amendments to the shoreline maps and descriptions) have the burden of demonstrating consistency with shoreline environment designation criteria of the master program and WAC 173-26-191 and 173-26-211 or their successors.
7. The administrator shall transmit a copy of any locally approved amendment and the information required by WAC 173-26-110 or its successor to Ecology within 14 days of the date of the city's decision.
8. The Department of Ecology shall review the amendment pursuant to WAC 173-26-120 or its successor.

D. Pursuant to RCW 90.58.190 and RCW 36.70A.280, a decision by the city of Bainbridge Island city council to amend the shoreline master program shall not constitute a final appealable decision until the Department of Ecology has made a decision to approve, reject, or modify the proposed amendment. Following the decision of the Department of Ecology regarding the proposed amendment, the decision may be appealed to the Western Washington Growth Management Hearings Board as provided in RCW 90.58.190. (Ord. 2014-04 § 5 (Exh. 3 § 4), 2014)

2.16.210 Subarea planning process.

A. Purpose. The purpose of this section is to provide a subarea planning process that enhances the livability of the city by recognizing the unique characteristics of the city's designated centers and neighborhoods and by providing opportunities to accomplish the goals of the city's comprehensive plan in a way unique to each designated center or neighborhood.

B. Applicability. This chapter applies to:

1. A designated center that has been identified in the adopted comprehensive plan; and
2. Discrete neighborhoods outside of designated centers.

C. Beginning the Process. The subarea planning process may be started in two different ways:

1. The city council may begin the process through the annual development of department work programs or biennial budget process; or

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Chapter 2.16 LAND USE REVIEW PROCEDURES

2. Upon the written request of at least one owner of property located within a designated center or neighborhood, the city council by resolution may approve the commencement of the subarea planning process. Neighborhoods outside of designated centers must demonstrate to the city council that subarea planning is generally desired by the neighborhood.

D. Interdepartmental Staff Team.

1. Upon the city council's approval to commence the subarea planning process, the director of planning and community development shall establish an interdepartmental staff team.

2. At the director of planning and community development's request, the director of each city department shall assign a representative to the interdepartmental staff team. The Bainbridge Island fire district, the Bainbridge Island school district, the Bainbridge Island metropolitan park and recreation district, and the Kitsap public health district shall each be invited to participate on the interdepartmental staff team.

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Subarea Planning Process



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3. The interdepartmental staff team shall:

- a. Compile the city's existing data and materials relating to the designated center or neighborhood (including comprehensive plan text and map); and
- b. Identify in writing issues raised by the public during the comprehensive planning process and issues identified by staff relating to the designated center or neighborhood; and
- c. Identify interested persons and groups, including all property owners within the designated center or neighborhood according to the Kitsap County auditor's records, and notify the interested persons and groups in writing by regular mail of the commencement of the subarea planning process; and
- d. Provide expertise and guidance to the subarea planning steering committee.

E. Subarea Planning Steering Committee.

1. Upon the city council's approval to commence the subarea planning process for a designated center or neighborhood, the mayor, with confirmation by the city council, shall appoint a subarea planning steering committee for that designated center or neighborhood. The steering committee shall be comprised of an odd number of members, totaling no more than nine, with the total number of members to be determined by the city council. The majority of the committee shall be comprised of representatives from categories in subsections E.2.a and E.2.b of this section. The term of the steering committee members shall be until the completion of the subarea planning process under this chapter.

2. The steering committee shall represent a wide spectrum of interests and expertise and shall include at least one representative from each of the following groups:

- a. Residents living within and/or owners of property or businesses within the designated center or neighborhood; and
- b. Residents and owners of property located adjacent to the designated center or neighborhood; and
- c. Residents of and/or business owners in the city, not residing within or adjacent to the designated center or neighborhood.

3. The steering committee shall:

- a. Establish a planning process consistent with this chapter for developing the subarea plan, which shall include a work plan, timeline, and budget, and which shall be submitted to the city council for approval;
- b. With the advice and assistance of the interdepartmental staff team, develop a subarea plan consisting of a report and a proposed comprehensive plan amendment, if appropriate, for the designated center or neighborhood;
- c. As a part of the work plan, establish a public participation process that includes public meetings in addition to the initial public meeting conducted under subsection F of this section, and work with city staff to ensure outreach to the community during the subarea planning process; and
- d. Ensure that the subarea planning process provides adequate opportunity for participation by property owners and residents who live in or near the designated center or neighborhood.

F. Initial Public Meeting.

1. After approval of the subarea planning process by the city council, the steering committee shall conduct an initial public meeting.

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2. At the initial public meeting, the following shall occur:

- a. The interdepartmental staff team shall provide an overview of the comprehensive plan and review citywide goals and policies that must be addressed in the subarea planning process.
- b. The steering committee, with input from the interdepartmental staff team, shall discuss the purpose of the subarea planning process for the designated center or neighborhood and the city's existing data and materials for the area.
- c. The steering committee shall provide opportunity for the public to comment on the vision and goals for the subarea plan, the boundaries of the designated center or neighborhood that may be included within a subarea plan, and issues relevant to the designated center or neighborhood, including mix and type of land uses, density of development, surface water, greenways, open space, fish and wildlife habitat, drinking water, sewage disposal, and nonmotorized transportation.

3. The interdepartmental staff team shall prepare a report setting forth the results of the meeting. Upon the steering committee's approval of the report, the interdepartmental staff team shall transmit the report to the planning commission for review and comment.

G. Plan Development. Upon receiving the planning commission's comments on the report prepared under subsection F.3 of this section, the steering committee shall develop the subarea plan in accordance with the steering committee's work plan. In developing the subarea plan, the steering committee shall:

1. Develop a profile of characteristics or attributes of the designated center or neighborhood (including boundaries) and of issues to be addressed during the subarea planning process; and
2. Develop goals for the subarea plan; and
3. Consider and utilize the following criteria, and any other criteria developed by the steering committee, in preparing and selecting alternatives for the designated center or neighborhood:
 - a. The citywide goals and policies of the city's comprehensive plan; and
 - b. The goals and policies for the subarea plan developed by the steering committee; and
 - c. Relevant criteria specified in the Washington State Environmental Policy Act, Chapter 43.21C RCW, and the applicable Washington Administrative Code, Chapter 197-11 WAC; and
4. Prepare a report setting forth the profiles, goals, and criteria developed by the steering committee pursuant to subsections G.3.a through c of this section, and transmit the report to the planning commission for review and comment; and
5. After receiving the planning commission's comments on the report prepared under subsection G.4 of this section, develop alternatives for the designated center or neighborhood that include policies, strategies and programs to implement the vision and goals for the subarea plan; and
6. Review the alternatives for the designated center or neighborhood against the criteria developed for the area, and select an alternative for the designated center or neighborhood to be incorporated into a subarea plan.

H. Incorporation of SEPA Review. An owner of property in a designated center or neighborhood may elect, at the owner's expense, to have a SEPA review sufficient in scope and depth of inquiry to be legally adequate for a specific project incorporated into the city's SEPA process for the subarea plan. The SEPA official for the city shall establish the scope, depth and method of the SEPA review pursuant to Chapter 16.04 BIMC.

I. Final Plan. The steering committee shall prepare a final report containing the subarea plan for the designated center or neighborhood. The subarea plan shall include the profile and characteristics of the designated center or neighborhood, the goals of the subarea plan, the policies, strategies, or programs recommended by the steering

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committee, and proposed comprehensive plan amendments or changes to the municipal code for the designated center or neighborhood, if appropriate. The steering committee shall forward its final report and proposed subarea plan to the planning commission for action. The planning commission will review the subarea plan and proposed comprehensive plan and municipal code amendments and make recommendations to the city council, as required by BIMC 2.16.180 and 2.16.190. (Ord. 2017-02 § 8 (Exh. A), 2017: Ord. 2011-02 § 2 (Exh. A), 2011)

2.16.220 Critical area permits – Minor or major.

A. Purpose. The purpose of this section is to provide an administrative review process for critical area permits to ensure compliance with the city's critical areas regulations, as defined by Chapter 16.20 BIMC, and to provide a mechanism for tracking and monitoring development, uses, and activities within critical areas.

B. Applicability.

1. Minor projects should be limited to the following unless otherwise determined by the director:
 - a. Tree and vegetation activities requiring a critical area permit pursuant to BIMC 16.20.090;
 - b. Designation of an aquifer recharge protection area pursuant to BIMC 16.20.100.E;
 - c. Proposals for development, uses, or activities within geologically hazardous areas and their setbacks; and
 - d. Development uses and activities specified in BIMC 16.20.110.G and 16.20.140.H that do not require submittal of a critical area report as determined by the director.
2. The major critical area permit process shall be used for all other development, uses, and activities within critical areas and their buffers; provided, that submittal of a reasonable use exception or buffer enhancement plan do not require a critical area permit.

C. Procedures. Application materials for critical area permits can be found in the administrative manual.

1. Minor Critical Area Permit. City review and director preapproval is required. Such authorization may occur over-the-counter and requires written approval. Minor critical area permits may be approved through the building or construction permit process if one is required for the proposal.
2. Major Critical Area Permit. Major critical area permits shall be reviewed through the general administrative review procedures described in BIMC 2.16.030.

D. Decision Criteria. Applications for critical area permits, unless otherwise provided for in this chapter, shall be reviewed and approved, approved with conditions, or denied based on the proposal's ability to comply with all of the criteria in BIMC 16.20.070.B. (Ord. 2018-08 § 7, 2018)

¹ Code reviser's note: Ord. 2016-11 adds BIMC 2.16.050.F. The subsection has been relettered to avoid duplication of lettering.

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Chapter 18.15

DEVELOPMENT STANDARDS AND GUIDELINES

Sections:

- 18.15.005 Compliance – Conflicts.
- 18.15.010 Landscaping, screening, and tree retention, protection and replacement.
- 18.15.020 Parking and loading.
- 18.15.030 Mobility and access.
- 18.15.040 Outdoor lighting.
- 18.15.050 Signs.

18.15.005 Compliance – Conflicts.

All development in the city of Bainbridge Island shall comply with the development standards in this chapter unless it is explicitly exempted or other applicable laws impose a more specific standard or criteria. The following sections of the BIMC may impose additional development standards, and in the case of conflict between any two or more development standards or criteria, the more specific shall apply, except that in the event of a conflict between any provision of this chapter and the provisions of Chapter 16.12 (Shoreline Master Program) or 16.20 BIMC (Critical Areas) on a topic where state law requires the standards or criteria of Chapter 16.12 or 16.20 BIMC to apply, those standards shall supersede this section.

A. BIMC 2.16.020.Q, Housing Design Demonstration Projects;

B. Chapters 15.20 and 15.21 BIMC, stormwater management;

C. Chapter 16.12 BIMC, Shoreline Master Program;

D. Chapter 16.20 BIMC, Critical Areas;

E. BIMC 16.26.040, Right to farm, buffers;

F. BIMC 16.28.040, Mining, regulations, buffers;

G. BIMC 17.12.030, flexible lot design open space/cluster standards; BIMC 17.20.020, dedication of land for parks and open space facilities;

H. BIMC 18.09.030, Use-Specific Standards. (Ord. 2011-02 § 2 (Exh. A), 2011)

18.15.010 Landscaping, screening, and tree retention, protection and replacement.

All development shall comply with the following regulations addressing landscaping and screening unless other applicable regulations require additional or different forms of landscaping or screening, in which case the more specific standard or criteria shall govern.

A. Purpose.

1. General. The purpose of this section is to preserve the landscape character of the community, link the Island's natural amenities with landscape greenbelts along roads, improve the aesthetic quality of the built environment, promote retention and protection of existing vegetation, reduce the impacts of development on wetlands, streams and the natural environment, enhance the value of current and future development and increase privacy for residential zones, and encourage preservation of significant and heritage trees by:

- a. Retaining existing vegetation, tree stands and significant trees by incorporating them into the site design.
- b. Incorporating native vegetation and drought resistant plant material into new landscape developments.

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- c. Providing vegetated screening between different intensities of residential uses, and between development and roads.
- d. Providing visual relief of parking areas in the neighborhood centers, the Winslow Mixed Use Town Center, and the light manufacturing, (water-dependent) industrial, High School Road and urban multifamily districts.
- e. Providing vegetated screening between residential and nonresidential areas.
- f. Preserving, protecting, and enhancing critical areas.
- g. Protecting the natural forested areas.

2. Specific Zone Districts. In addition to the regulations listed in subsection A.1 of this section:

- a. For single-family residential short plats and subdivisions in residential districts, the intent is to preserve the greenbelts along designated scenic roadway corridors.
- b. In the R-8 and R-14 multifamily residential districts, the intent is to screen urban multifamily projects from adjacent lower density residential properties and to soften the appearance of surface parking areas.
- c. For nonresidential uses outside the Winslow Mixed Use Town Center, High School Road I and II, NC, B/I, and WD-I districts, the intent is to retain the natural landscape qualities of the Island by retaining existing vegetated buffers to screen views of structures and parking areas and to buffer between areas of high and low intensity uses.
- d. In the Winslow Mixed Use Town Center central core and ferry terminal overlay districts, the intent is to provide an urban character by incorporating landscape standards; and to provide landscape development to screen uses from single-family residential properties; and to soften the appearance of surface parking areas.
- e. In the Winslow Mixed Use Town Center, Ericksen Avenue and Madison overlay districts, the intent is to retain the character of landscape front yards; and to provide landscape development to screen uses from single-family residential properties; and to soften the appearance of surface parking areas.
- f. In the Winslow Mixed Use Town Center gateway overlay district, the intent is to retain the greenbelt located adjacent to SR 305 consistent with the greenways plan and to provide landscape development to screen uses from single-family residential properties.
- g. In the High School Road I and II districts, the intent is to provide landscape development to screen uses from adjacent single-family residential properties and to soften the appearance of surface parking areas.
- h. In the NC district, the intent is to incorporate landscape standards that support pedestrian scale neighborhood uses compatible with the intensity of the surrounding residential neighborhood; to minimize the impact of lighting, noise and views of surface parking areas; and to provide a buffer between higher and lower intensity uses.
- i. In the B/I district, the intent is to provide a year-round vegetated screen and a noise and site lighting buffer of industrial development from adjacent nonindustrial properties and roadways.
- j. In the WD-I district, the intent is to provide landscape development that screens parking lots and large structures, but allows visual access to the shoreline and small scale active industrial facilities.

B. Applicability.

- 1. All new development, except single-family residential building permits, shall be subject to the requirements of this section, except as modified by subsections B.2 and B.3 of this section.

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2. Projects subject to the conditional use permit process may be required to exceed the requirements of this chapter.
3. Specific submittal requirements for landscaping plans (tree protection, retention and planting plans) are included in the city's administrative manual.
4. Specific landscape requirements applicable to development in each zone district are indicated with an "X" and summarized in the following Table 18.15.010-1.

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Table 18.15.010-1: Landscape Requirements by Zone District

Landscape Requirements for Land Uses and Districts		Significant Tree and Tree Stand Retention	Perimeter Landscape	Roadside Buffer	Parking Lot Landscaping	Total Site Tree Unit Requirements	Planting Requirements	Irrigation	Maintenance
Single-Family Residential Short Plats and Subdivisions <u>[3]</u>		X	X (Cluster Subdivisions Only)	X			X	X	X
R-8 and R-14 Multifamily Districts		X	X	X	X	X	X	X	X
Nonresidential Uses in Residential Districts		X	X	X	X	X	X	X	X
Winslow Mixed Use Town Center [1]	Central Core Overlay	X	X	X [2]	X	X	X	X	X
	Ericksen Ave. Overlay	X	X	X [2]	X	X	X	X	X
	Madison Ave. Overlay	X	X	X [2]	X	X	X	X	X
	Gateway Overlay	X	X	X [2]	X	X	X	X	X
	Ferry Terminal Overlay	X	X	X [2]	X	X	X	X	X
High School Road District		X	X	X [2]	X	X	X	X	X
NC District		X	X		X	X	X	X	X
B/I District		X	X	X	X		X	X	X
WD-I District		X	X	X	X		X	X	X

[1] Refer to Chapter 18.18 BIMC for additional landscape requirements specific to the Mixed Use Town Center districts.

[2] Roadside buffer requirement is adjacent to Highway 305 only.

[3] Refer to Chapter 17.12 BIMC for additional landscape requirements specific to subdivisions.

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C. Tree Retention, Protection and Replacement. Where Table 18.15.010-1 indicates that development must comply with the requirements of this subsection C, all development shall comply with the following requirements. These requirements are intended to supplement any regulations in Chapters 16.12 (Shoreline Master Program) and 16.20 (Critical Areas) BIMC, which remain the primary source of regulation for **environmentally sensitive critical and shoreline areas** in Bainbridge Island. In the event of any inconsistency between the requirements of this subsection C and the requirements of Chapters 16.12 and 16.20 BIMC, the requirements of Chapters 16.12 and 16.20 BIMC shall apply.

1. Retention. **Can it be made clearer that these regulations only apply to perimeter and roadside buffers?**

a. Intent. The intent of these regulations is to preserve the forested character of the Island by preserving existing vegetation, trees and tree stands, and incentivizing tree protection and replacement in certain districts through a tree unit system, thereby mitigating the development impacts of increased stormwater runoff, impervious surface, and loss of carbon dioxide absorption capacity **and Island special character**. This shall be accomplished in a manner consistent with the comprehensive plan and the requirements of Washington law and to discourage the removal of significant tree(s) and tree stands.

b. Perimeter Tree Retention Requirements. Trees and tree stands located in the perimeter areas required to be landscaped pursuant to subsections D and E of this section shall be retained and protected as described in subsection C.4 of this section, unless an applicant can demonstrate during the land use permit review process that the existing trees and vegetation will be compromised after the development is complete, and would likely become hazardous as described in subsection C.1.c of this section. If the applicant can demonstrate that hazard, then new trees and vegetation may be planted pursuant to the planting standards of subsection D.4 of this section. Perimeter landscape widths may be averaged to save significant trees, but shall not be reduced to less than the allowed minimum perimeter dimension.

c. Exceptions. Significant trees and tree stands may be removed if it is determined by a consulting arborist who is **certified registered** by the American Society of Consulting Arborists, or a ~~TRACE-certified an International Society of Arboriculture (ISA)-certified arborist with the tree risk assessment qualification (TRAQ), professional as established by the PNW Chapter of the International Society of Arboriculture,~~ and whose services are paid for by the applicant, that the vegetation is:

- i. A safety hazard due to potential root, trunk, or primary limb failure, or due to exposure of mature trees that have grown in a closed, forested situation; or
- ii. Damaged, diseased, or standing dead trees.

d. Protection of Tree Stands. Notwithstanding a determination under subsection C.1.c of this section, if trees have been removed from a closed, forested location, a buffer of smaller trees shall be retained or planted on the fringe of the closed, forested area. The buffer of smaller trees shall be adequate to protect the health of the remaining mature trees in the closed, forested area, as determined by a consulting arborist who is **certified registered** by the American Society of Consulting Arborists, and whose services are paid for by the applicant.

2. Replacement.

a. Intent. The intent of these regulations is to discourage the unauthorized removal of significant tree(s) and tree stands; and to establish a replacement or fine if such activity occurs. All replanting plans must be prepared or approved by a landscape architect licensed by the state of Washington, a Washington certified nursery professional or a Washington certified landscaper, **or** a consulting arborist who is certified by the American Society of Consulting Arborists, ~~or a TRACE-certified professional as established by the PNW Chapter of the International Society of Arboriculture.~~

b. Requirements for Unauthorized Removal. If trees required to be retained pursuant to subsection C.1 of this section are not retained or if protection measures described in subsection C.4 of this section are not fully implemented, they shall be replaced by at least one-and-one-half times (150 percent) of the number

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of tree units removed. The trees removed shall be replaced with trees of the same type, evergreen or deciduous. Native shrubs and ground cover shall also be replaced when replacing tree stands due to unauthorized removal. Shrubs shall be one-gallon size planted four feet on center spacing; ground cover shall be one-gallon size planted three feet on center spacing. The shrubs and ground cover shall be planted within the limits of the previous tree stand canopy.

c. Requirements for Permitted Removal. A property owner may request removal of trees required to be retained pursuant to this chapter by applying for a clearing permit (Chapter 16.18 BIMC). Trees will be approved for removal only if they meet the hazard tree requirements of subsection C.1.c of this section. The clearing permit application shall include a replanting plan. In designing the replanting plan, the landscape or tree professional must consider what landscape function the tree(s) to be removed are serving on the property (e.g., parking lot, street tree, perimeter screening), and what species and location(s) for replanting strives to replace that function. New planting areas may need to be created to achieve this goal.

3. Enforcement and Penalties. Failure to retain, replace or transplant trees will be enforced as follows; provided, that any fine shall be no less than three times the value of the trees, as determined by the current standards of the International Society of Arboriculture. If unauthorized tree(s) or vegetation removal occurs within the public right-of-way, all permits in force on the subject property shall be suspended and no new permits issued until the tree(s) or vegetation has been replaced or all penalties have been satisfied. The director is authorized to make site inspections and take such actions as are necessary to enforce this title in accordance with Chapters 1.16, 1.24, and 1.26 BIMC. The director may require an evaluation by a tree professional, a qualified engineer, landscape architect, soils engineer, testing lab, or other specialist at any time during the tree plan review process or tree removal inspection as necessary to ensure compliance with the provisions of this chapter and/or the terms of the clearing permit. Applicant shall be responsible for any associated costs.

a. Notice of Infraction. It is unlawful for any person to:

i. Initiate or maintain, or cause to be initiated or maintained, the use, construction, placement, removal, alteration, or demolition of any structure, land, vegetation or property within the city contrary to the provisions of this chapter.

ii. Misrepresent any material fact in any application, plans or other information submitted to obtain permits or authorizations under this title or not following the conditions of an approval.

iii. Remove or deface any sign, notice, complaint, or order required by or posted in accordance with this chapter.

iv. Fail to submit or implement a planting plan as required by this section.

b. Stop Work Orders. The city shall have the authority to issue a stop work order to cease all development work, and order restoration, rehabilitation, or replacement measures, including applicable sureties, at the owner's or other responsible party's expense to compensate for the use, construction, placement, removal, alteration, or demolition of any structure, land, vegetation or property within the city contrary to the provisions of this chapter.

c. Additional Remedies. In addition to any other remedy provided by this chapter or under the BIMC, the city may initiate injunction or abatement proceedings or any other appropriate action in courts against any person who violates or fails to comply with any provision of this chapter to prevent, enjoin, abate, and/or terminate violations of this title and/or to restore a condition which existed prior to the violation. In any such proceeding, the person violating and/or failing to comply with any provisions of this chapter shall be liable for the costs and reasonable attorneys' fees incurred by the city in bringing, maintaining and/or prosecuting such action.

d. Notice of Infraction. Except as provided in subsection C.3.f of this section, conduct made unlawful by the city under this chapter shall constitute a civil infraction and is subject to enforcement and fines as

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provided in BIMC 1.26.035, and additionally, is subject to fines as provided in Table 18.15.010-2. A civil infraction under this section shall be processed in the manner set forth in Chapter 1.26 BIMC.

e. Civil Penalty.

i. In addition to any civil infraction fine, criminal penalty, and/or other available sanction or remedial procedure, any person engaging in conduct made unlawful by this chapter shall be subject to a cumulative civil penalty in the amount of \$1,000 per day for each violation from the date set for compliance until the date of compliance. Any such civil penalty shall be collected in accordance with BIMC 1.26.090.

ii. A person who fails to comply with the requirements of this chapter or the terms of a permit issued hereunder, who undertakes an activity regulated by this chapter without obtaining a permit, or fails to comply with a cease and desist or stop work order issued under this chapter shall be subject to a civil penalty as set forth in Table 18.15.010-2. Each unlawfully removed or damaged tree shall constitute a separate violation.

iii. Any person who aids or abets in the violation shall be considered to have committed a violation for purposes of the civil penalty.

iv. In addition to the penalties addressed under subsection C.3.e.ii of this section, failure to retain, replace or transplant trees will be enforced as provided in this code; provided, that any financial penalty assessed will be the greater of the amount indicated in Table 18.15.010-2 or three times the value of the trees, as determined by the current standards of the International Society of Arboriculture, whichever is greater. The director may elect not to seek penalties if he or she determines that the circumstances do not warrant imposition of civil penalties in addition to restoration.

Exception to director's discretion statement above: Any tree identified on a development project's required landscaping plan as retained and given a monetary value per subsection G.3.a.iii of this section that is removed, or dies during the surety period due to improper protection during construction, shall be subject to an automatic fine of three times the tree's stated value. All of the project's active permits shall also be suspended until the fine is paid and all restoration work completed.

Table 18.15.010-2: Penalties

Types of Violations	Allowable Fines per Violation
1. Removal of tree(s) approved to be removed, but prior to final tree retention and planting plan approval or issuance of a city tree removal permit	\$100.00 per tree
2. Removal or damage of tree(s) that are or would be shown to be retained on an approved tree retention and planting plan or any other violation of approved tree protection plan	\$1,000 per tree
3. Removal of tree(s) without applying for or obtaining a required city land use permit	\$1,000 per tree
4. Removal of tree(s) without applying for or obtaining a required city clearing permit	\$1,000 per tree
The financial penalty will be the amount indicated in this table or three times the value of the trees, as determined by the current standards of the International Society of Arboriculture, whichever is greater, pursuant to subsection C.3.e.iv of this section.	

f. Repeat Offenders. Any person who again violates this chapter within 12 months after having been found by the Bainbridge Island municipal court to be in violation of this chapter commits a misdemeanor and any person who is convicted of that misdemeanor shall be punished as provided in BIMC 1.24.010.A.

4. Protection During Construction and Development.

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a. Intent. The intent of these regulations is to provide the best protection for existing vegetation, trees and tree stands, including protection for trees on adjacent properties, protection of LID BMPs during construction and development activities, and preservation of the ecological function of the landscaping area by protecting existing soil.

b. Requirements.

i. No cutting of trees shall be allowed on a site until the tree retention and planting plans have been approved by the director and a clearing, grading or building permit issued.

ii. In order to preserve future ecological function, the applicant shall identify areas of prohibited disturbance, generally corresponding to the dripline or critical root zone (as identified by a consulting arborist) of the existing vegetation, trees and/or tree canopy of tree stands to be retained, buffers, areas of existing vegetation to be maintained, future LID BMPs, and future planting areas larger than 400 square feet (i.e., landscape islands in parking lots). The prohibited disturbance areas shall be reviewed and approved by the director as part of the land use permit review process.

iii. A temporary five-foot-high chain link fence with tubular steel poles or “T” posts shall delineate the area of prohibited disturbance defined in subsection C.4.b.ii of this section, unless the director has approved the use of a four-foot-high plastic net fence as an alternative. The fence shall be erected and inspected by city staff before clearing, grading and/or construction permits are issued and shall remain in place until construction has been completed, and shall at all times have affixed to it a sign indicating the protected area.

iv. No impervious surfaces, fill, excavation, vehicle operations, compaction, removal of native soil or storage of construction materials shall be permitted within the area defined by the required construction fencing. If avoiding construction and compaction in future planting areas is unavoidable, the landscape plan for the project shall include methods for aerating and/or augmenting compacted soil to prepare for new planting, pursuant to subsection H.2 of this section.

v. A rock well shall be constructed if the grade level around the tree is to be raised more than one foot. The inside diameter of the well shall be equal to the diameter of the dripline or critical root zone (as identified by a consulting arborist) of the tree or tree canopy of tree stands.

vi. The grade level shall not be lowered within the larger of (A) the dripline or critical root zone (as identified by a consulting arborist) of the tree, or the tree canopy of tree stands, or (B) the area recommended by a consulting arborist.

vii. Alternative protection methods may be used if recommended by a consulting arborist and determined by the director to provide equal or greater tree protection.

viii. Wherever this subsection C.4 allows or requires the involvement of a consulting arborist, that individual shall be selected from the city’s list of current arborists certified by the American Society of Consulting Arborists and his or her services shall be paid for by the applicant.

ix. Protect LID BMPs during construction and development activities in accordance with Chapter 15.20 BIMC.

5. Modification of Requirements. If the significant tree and tree stand retention requirements of this section create an unnecessary hardship, the applicant may request a modification. The director may administratively approve a modification of the significant tree and tree stand requirements of this section if the director finds that the following standards have been met:

a. The modification is necessary because of special circumstances relating to the location of existing significant trees and tree stands that prevent compliance with this section; and

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- b. The special circumstances of the subject property make the strict enforcement of the provisions of this section an unnecessary hardship to the property owner; and
- c. The special circumstances of the subject property are not the result of the actions of the applicant; and
- d. The approving of the modification will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and land use district in which the subject property is located; and
- e. The modification is consistent with the purpose and intent of this chapter; and
- f. The site design incorporates the retention of other natural vegetation in consolidated locations that promotes the natural vegetated character of the site.

D. Perimeter Buffering and Screening.

1. Intent. The intent of this subsection D is to provide an effective vegetated screen over time between uses or land use districts, to screen parking areas and structures located adjacent to public rights-of-way, preserve the special character of the island, and to allow visual and physical access to pedestrian and other nonmotorized oriented uses, such as a multipurpose trail or bikeway if those trails could be accommodated without compromising significant vegetation or hazardous slopes. Additional buffers may be required per BIMC 16.20.1750, The Winslow Ravine – Special rules in Mixed Use Town Center.

2. Requirements by District. In addition to meeting the general requirements of subsection D.4 of this section, applicants shall meet the specific requirements of Table 18.15.010-3 applicable to the zone district or overlay district in which the property is located. In the case of a conflict between the requirements of this subsection D.2 and the requirements of subsection D.4 of this section, the requirements of this subsection D.2 shall apply. The tree retention, replacement, and protection standards of subsection C of this section apply to perimeter buffers. These perimeter landscape requirements are in addition to required roadside landscaping in subsection E of this section and parking lot landscape requirements in subsection F of this section. These requirements do not apply to projects involving only interior renovations of existing buildings.

Table 18.15.010-3: Perimeter Landscaping Requirements by Land Use and Zoning District

Abutting Zoning or Land Use District	Perimeter Landscape Type	Perimeter Width (ft.)	Minimum Perimeter Width (ft.)
Multifamily in R-2, R-1 and R-0.4 Districts			
Single-family residential	Full Screen	25	25
R-8 and R-14 Multifamily Districts			
R-4.3 (urban residential)	Partial Screen	20	15
Short Plats and Subdivisions in Residential Zoning Districts [1]			
Residential subdivision in the R-0.4, R-1, and R-2 districts (cluster-option-only)	Edge Planting Standard	25	25
Multifamily subdivision in the R-2, R-1, and R-0.4 zoning districts (cluster-option-only)	Full Screen	25	25
Park and conservation land buffer: applies to all single-family subdivisions (OSNA) [2]	Edge Planting Standard	25	25
Nonresidential Uses in Areas Outside Winslow Mixed Use, HSR, NC, B/I, WD-I Districts			

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Abutting Zoning or Land Use District	Perimeter Landscape Type	Perimeter Width (ft.)	Minimum Perimeter Width (ft.)
Residential including multifamily	Full Screen	25	25
Nonindustrial uses	Partial Screen	20	10
Winslow Town Center Mixed Use District [3]			
Single-family residential	Full Screen	20	15
HSR I and II Districts			
Single-family residential	Full Screen	20	15
NC Districts			
Residential including multifamily	Full Screen	20	15
B/I Districts			
Non-B/I	Full Screen [4]	50	35
WD-I Districts			
Residential including multifamily	Full Screen	40	30
Nonindustrial uses	Full Screen	25	15
[1] Properties with less than one acre being subdivided are not subject to perimeter buffer requirements. [2] (OSNA) indicates that the buffer may be calculated in the required open-space <u>natural</u> area for the subdivision. [3] For perimeter landscaping requirements in the ferry terminal district transition area, north of Winslow Way, reference BIMC 18.12.030.C. [4] This perimeter buffer applies even when a private access road separates a B/I property from non-B/I property.			

3. Perimeter Buffers in Residential ~~Cluster~~ Short Subdivisions, ~~Cluster~~ Long Subdivisions, and Multifamily Subdivisions in the R-2, R-1, and R-0.4 Zoning Districts.

a. When the cluster development option is selected pursuant to BIMC 17.12.030.B for property with a gross area of one acre or more and that is located in the R-0.4, R-1, R-2 and R-2.9 districts, a 25-foot-wide, edge planting standard landscape perimeter shall be required along the subdivision boundary.

b. When the cluster development option is selected pursuant to BIMC 17.12.030.B for property with a gross area of one acre or more and that is located in the R-3.5, R-4.3, R-5, R-6, R-8, and R-14 zone districts, a 10-foot-wide, edge planting standard landscape perimeter shall be required along the subdivision boundary.

c. In order to buffer the visual impact of the proposed subdivision and protect off-site views, additional landscaping shall be planted within landscape perimeter buffers where mature trees and shrubs cannot provide such screening, pursuant to subsection D.4 of this section.

d. Required landscape buffer width may be reduced through buffer averaging in accordance with the criteria in subsection D.5 of this section, perimeter landscape requirements. For example, buffers may be adjusted when such adjustments contribute to the neighborhood character by incorporating significant trees and native vegetation, incorporate a unique landscape feature, or accommodate a unique situation that allows continuation of an existing use, such as a utility or other easement providing continued use.

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e. Landscape buffers may be included in the required open space calculations for a subdivision as noted in Table 18.15.010-3. Table 18.15.010-3 depicts the landscape buffer requirements for subdivisions by zoning district and denotes when the buffer may be included in the open space calculations. These standards apply unless alternative buffers are required pursuant to critical area review, the requirements of the Shoreline Management Act, conditioned by SEPA review, or required for public health or safety reasons.

f. When a multifamily subdivision is created within the R-2, R-1, and R-0.4 zoning districts, a 25-foot-wide, full screen landscape perimeter shall be required along the subdivision boundary.

4. General Requirements.

a. Full Screen. The intent of this buffer is to provide an effective vegetated screen over time between uses, land use districts, or to screen parking areas and structures from the public rights-of-way. Where full screen perimeter landscaping is required, the applicant must provide:

- i. Minimum 70 percent evergreen trees ranging in height from four feet to six feet at the time of planting with at least 50 percent being six feet high; and
- ii. Deciduous trees with a caliper of at least two inches at the time of planting; and
- iii. At least 50 percent of the trees shall be native species or drought resistant; and
- iv. The number of trees is determined by calculating the area of the perimeter buffer and dividing by 250 square feet, or one tree for every 10 feet of buffer length, whichever is greater; and
- v. Minimum 70 percent evergreen shrubs at least 21 inches in height at the time of planting, to achieve minimum six feet height at maturity; and
- vi. The number of shrubs is determined by calculating the area of the perimeter buffer and dividing by 50 square feet or one shrub for every 20 feet of buffer length, whichever is greater; and
- vii. Living ground cover shall be planted and spaced to achieve total coverage within five years; and
- viii. Trees and shrubs shall be spaced to result in a full screen over time.

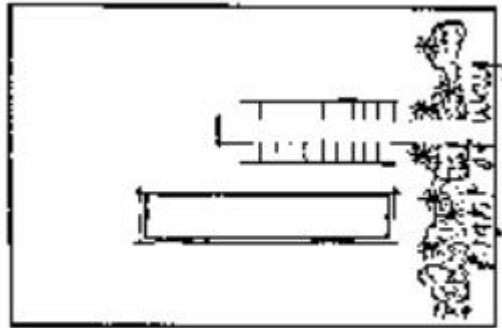
b. Partial Screen. Where partial screen perimeter landscaping is required, the applicant must provide:

- i. Minimum 50 percent evergreen trees ranging in height from four feet to six feet at the time of planting with at least 50 percent being six feet high; and
- ii. Deciduous trees with a caliper of at least two inches at the time of planting; and
- iii. At least 50 percent of the trees shall be native species or drought resistant; and
- iv. The number of trees is determined by calculating the area of the perimeter buffer and dividing by 400 square feet or one tree for every 20 feet of buffer length, whichever is greater; and
- v. At least 50 percent evergreen shrubs at least 21 inches in height at the time of planting, to achieve minimum six feet height at maturity; and
- vi. The number of shrubs is determined by calculating the area of the perimeter buffer and dividing by 100 square feet or one shrub for every five feet of buffer length, whichever is greater; and
- vii. Living ground cover shall be planted and spaced to achieve total coverage within five years; and
- viii. Plants should be clustered within the landscape perimeter to screen structures and parking areas.

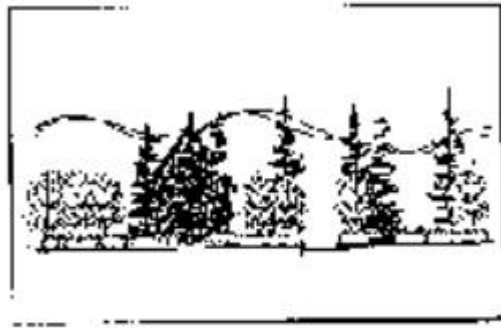
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Partial Screen Plan



Partial Screen Section

c. Edge Planting Standard. Where edge planting standard perimeter landscaping is required, the applicant must provide:

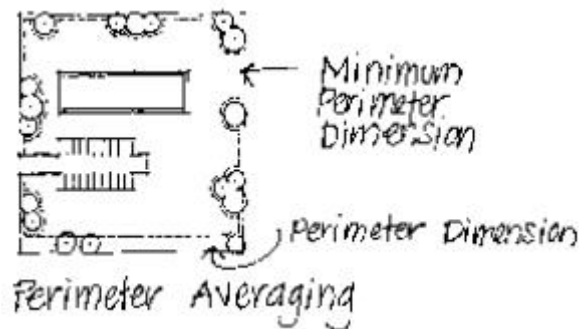
- i. One hundred percent deciduous trees two-inch caliper spaced no more than 30 feet on center; and
- ii. Evergreen shrubs minimum 21 inches in height at the time of planting spaced no more than three feet on center to provide a continuous hedge achieving a maximum height of six feet at maturity; and
- iii. Living ground cover shall be planted and spaced to achieve total coverage within five years.

5. Standards. The following standards apply to the full screen, landscape buffer and edge planting area perimeter landscape requirements contained in this section.

- a. Existing vegetation may be used in lieu of new plant material. Although existing vegetation may meet the minimum number of trees or shrubs for a required full screen, the director may require additional trees and/or shrubs to achieve an effective full screen.
- b. A full screen will be required to screen utilities located above ground from adjacent uses.
- c. Perimeter landscaping shall be clustered in areas to screen structures, utility structures, loading areas, parking lots, trash enclosures, storage areas and mechanical equipment.

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- d. The director may approve the averaging of perimeter landscape widths to provide adequate screening if it meets the criteria contained in this section.



- e. Earth berms in combination with shrubs and trees may be used to achieve the initial planting height requirement.

- f. Minimum landscape perimeter dimensions are allowed when perimeter averaging is applied. The landscape perimeter can be averaged only if the total required perimeter dimension square footage is achieved. The director may allow landscape perimeter averaging if the following criteria are met: (i) plant material is being clustered to more effectively screen parking areas and structures; (ii) the quality of the perimeter landscape is not diminished; and (iii) significant trees are being retained.

6. Park Buffers and Buffers for Dedicated Conservation Lands.

- a. Notwithstanding the provisions of subsections D.2, D.3, and D.4 of this section, a 25-foot-wide buffer shall be provided along a property line where the land immediately adjacent to the subdivision boundary is a park or a future park in a municipal plan, or dedicated conservation land area that has been set aside for open space, wildlife habitat or public conservation purposes by deed or conservation easement.
- b. In order to buffer the visual impact of the proposed subdivision and protect off-site views, edge planting standard landscaping, pursuant to subsection D.4 of this section, shall be required within park buffers and buffers for dedicated conservation lands buffers where mature trees and shrubs cannot provide such screening.

E. Street Frontage Landscaping.

1. Roadside Buffers for Commercial, Institutional and Multifamily Development. The following table indicates the type of landscaping required when the subject property directly abuts a right-of-way. Roadside buffers may be required for commercial, institutional, or multifamily development where a site plan review or conditional use permit is required. The buffers shall be pursuant to the screening standards set forth in subsection D.4 of this section. Required landscape buffer widths may be reduced to the minimum widths stated in Table 18.15.010-4 through buffer averaging in accordance with the criteria in subsection D.5 of this section. The tree retention, replacement, and protection standards of subsection C of this section apply to roadside buffers. These requirements do not apply to projects involving only interior renovations of existing buildings.

- a. A buffer is required along Highway 305, which is designated as a scenic highway. The 50-foot roadside buffer requirement can be reduced by the director, after consultation with an acceptable tree professional as identified in subsection C.1.c of this section, if it is determined that (i) a 50-foot buffer would cause the property to be undevelopable, and (ii) the reduced buffer will provide as much screening of site activities from Highway 305 as practicable in light of site topography and conditions.

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2. Roadside Buffers for Residential and Commercial Subdivisions. Roadside buffers are required for both residential and commercial subdivisions – see Table 18.15.010-4. The type and width of the required buffer varies by the type of roadway the subdivision is adjacent to, as well as the condition of the existing roadside vegetation. The buffers shall be pursuant to the standards set forth in subsection D.4 of this section and Table 18.15.010-4. The tree retention, replacement, and protection standards of subsection C of this section apply to roadside buffers. These requirements do not apply to projects involving only interior renovations of existing buildings.

Table 18.15.010-4: Roadside Buffer Requirements by District and Land Use [1]

Existing Zoning/Use	Adjacent Right-of-Way Type	
	Right-of-Way (not including Highway 305)	Highway 305
Mixed Use Town Center [2]	N/A	50' Full Screen [3]/35' Minimum
High School Road	N/A	50' Full Screen/35' Minimum
Multifamily Development	20' Partial Screen	50' Full Screen/35' Minimum
Nonresidential Uses within Residential Zone Districts	25' Partial Screen/15' Minimum	50' Full Screen/35' Minimum
Business/Industrial (B/I)	50' Full Screen/35' Minimum	50' Full Screen/35' Minimum
Water-Dependent Industrial	25' Full Screen/15' Minimum	N/A
Commercial and Multifamily Subdivisions [4]	N/A	50' Full Screen
Residential Subdivision in the R-0.4, R-1, R-2, and R-2.9 Districts [4]	25' Full Screen or maintain existing vegetation within 25' buffer (OS) [5][6]; Applies only to collectors and arterial roads	
Residential Subdivision in the R-3.5, R-4.3, R-5, R-6, R-8, and R-14 Districts [4]	No requirement unless necessary to reflect neighboring development patterns (OS) [5]; Applies only to collectors and arterial roads	
[1] All roadside buffers must be planted if not already existing. [2] For perimeter landscaping requirements in the ferry terminal district transition area, north of Winslow Way, reference BIMC 18.12.030.C. [3] Beginning 100' north of Winslow Way. [4] Properties being subdivided with less than one acre are not subject to roadside buffer requirements. [5] (OS) indicates that the buffer may be calculated in the required open space area for open space subdivision. [6] Existing vegetation must remain in the 25-foot buffer area. When existing vegetation does not constitute a full screen, the applicant will not be required to plant a full screen. If existing vegetation within the 25-foot buffer area does constitute a full screen, but dense vegetation is not part of the neighborhood character, then the applicant may choose between maintaining a 25-foot full screen roadside buffer, or averaging that buffer to retain trees and vegetation elsewhere on the property and eliminating the roadside buffer.		

a. Roadside Buffer General Requirements. All residential subdivisions and short subdivisions subject to landscape buffering requirements shall comply with the standards in this subsection, including those in Table 18.15.010-4.

b. Roadside Buffers in Residential Short Subdivisions.

i. Except for properties containing a gross area of less than one acre, on a property located adjacent to public roads that are designated as collector or arterial roads on the adopted road classification map, a 25-foot-wide vegetative buffer shall be maintained. However, in the R-3.5, R-4.3, R-5, R-6, R-8 and R-14 districts a roadside buffer is not required unless it is determined that a landscape buffer is

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necessary to maintain the character of the neighborhood or to reflect neighboring development patterns.

ii. Where there are no mature trees and shrubs that contribute to the existing forested character of these roads, the character of the neighborhood shall be maintained by establishing building setbacks equal to or greater than the existing building setbacks on the adjacent properties. At no point shall the building setback be less than requirements in this title.

iii. To accommodate an existing house that is located within 25 feet of the property line adjacent to a collector or arterial road, the roadside buffer area width shall be reduced to the width adjoining the existing home between the existing house and the property line adjacent to the collector or arterial road.

c. Roadside Buffers in Residential Long Subdivisions.

i. For subdivisions located in the R-0.4, R-1, R-2 and R-2.9 districts located adjacent to public roads that are designated as collector or arterial roads on the adopted road classification map, a 25-foot-wide vegetative buffer shall be maintained. In the R-3.5, R-4.3, R-5, R-6, R-8, and R-14 districts a roadside buffer is not required unless it is determined that a landscape buffer is necessary to maintain the character of the neighborhood or to reflect neighboring development patterns.

ii. For property with a gross area of one acre or more and that is located in districts R-0.4, R-1, R-2 and R-2.9, where there is no existing vegetation that contributes to the existing vegetation character of the roads, a 25-foot full screen landscape buffer shall be planted consistent with the requirements of subsection D.4.a of this section, except as noted below in this subsection.

iii. To accommodate an existing house that is located within 25 feet of the property line adjacent to a collector or arterial road (or within 25 feet of such a property line if subsection E.2.c.ii of this section applies), and to maintain the character of the neighborhood and reflect neighboring development patterns, the roadside buffer area width shall be reduced to the width adjoining the existing home between the existing house and the property line adjacent to the collector or arterial road. At no point shall the building setback be less than requirements in this title.

iv. For subdivisions designating open space that is intended for agricultural use and would be adversely impacted by the addition of screening landscaping, a 25-foot roadside buffer as prescribed in subsection E.2.c.ii of this section shall not be required.

d. Roadside Buffers in Multifamily and Commercial Subdivisions. A minimum 50-foot vegetative buffer shall be established adjacent to all **designated scenic roads**. The buffer shall be consistent with the requirements for a full screen buffer, pursuant to subsection D.4.a of this section.

e. Multiple Street Frontages. For properties subject to the roadside buffers requirement along two property boundaries, the roadside buffer abutting the street with the lower classification may be reduced to 25 feet in width. For properties that abut more than two streets requiring roadside buffers or in situations where both abutting streets are of the same road classification, one roadside buffer of the full required width shall be required and all other roadside buffers may be reduced to 25 feet; provided, that the full required width buffer is located where a greater number of significant trees can be incorporated into the buffer.

F. Parking Lot Landscaping. The requirements of this subsection F are in addition to required perimeter landscaping under subsection D of this section. When more than one building is placed on a lot or a building is placed in the center of the lot with parking all the way around it, the street perspective is used to determine which landscaping standards to follow for parking lot landscaping.

1. NC, B/I, and WD-I Districts and Nonresidential Uses Outside Winslow Mixed Use Town Center Overlay Districts and High School Road Mixed Use Districts. All applicants in these areas shall provide the following

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types and amounts of landscaping. Parking lots shall meet the requirements of BIMC 18.15.020. Applicants may refer to the standards contained in this section for optional planting locations within parking areas.

a. Intent. The intent of this section is to screen views of parking lots. To provide shade and visual relief within parking lots, to limit impacts of impervious surfaces and to reinforce safe pedestrian access to buildings.

b. Requirements for Parking Lots Located Adjacent to Public Rights-of-Way.

i. One tree for every four parking stalls; and

ii. Minimum 30 percent evergreen trees; and

iii. Deciduous trees minimum two-inch caliper, evergreen trees minimum six feet high at the time of planting; and

iv. Evergreen shrubs minimum 18-inch height at the time of planting spaced no more than three feet on center, to provide a continuous hedge achieving a maximum height of three feet at maturity located adjacent to the rights-of-way (this may be achieved with the perimeter landscape); and

v. Evergreen ground cover planted and spaced to achieve total coverage within two years; and

vi. A landscaped area at the end of parking aisles.

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Parking Adjacent to Right-of-Way



Safe Pedestrian Access

c. Requirements for Parking Lots Not Abutting Public Rights-of-Way.

- i. One tree for every eight parking stalls; and
- ii. One hundred percent of the trees may be deciduous; and
- iii. Deciduous trees minimum two-inch caliper, evergreen trees minimum four feet height at the time of planting; and
- iv. Evergreen ground cover and/or shrubs planted and spaced to achieve total coverage within two years; and
- v. A landscaped area at the end of parking aisles.

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d. Standards.

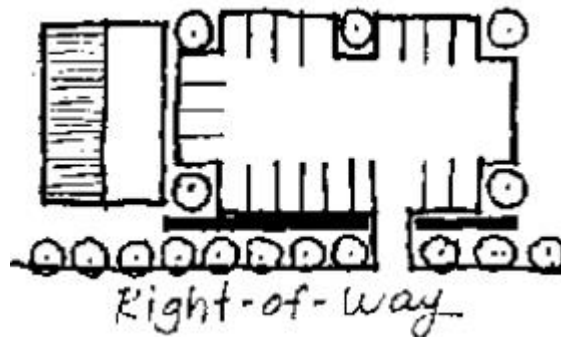
- i. Maintain shrubs at a maximum three feet height within parking lots so views between vehicles and pedestrians will not be blocked.
- ii. Landscape in planting islands or strips shall have an area of at least 100 square feet and with a narrow dimension of not less than five feet if wheel stops are provided to prevent vehicle overhang. A narrow dimension of not less than eight feet may be provided if the vehicle overhang area is included in the planting area.
- iii. Provide permanent curbs or wheel stops to protect the plantings.
- iv. Significant trees and tree stands may be used in lieu of new landscape requirements if they are in addition to the significant tree and tree stand retention requirements.
- v. Clustering of new plant material within parking lots may be approved or required by the director if the intent of this section is met.
- vi. Refer to the landscape materials matrix in the administrative manual for tree species appropriate for parking lots.

2. Winslow Mixed Use Town Center Overlay Districts, High School Road Districts, R-8 and R-14 Districts. All applicants in these areas shall provide the following types and amounts of landscaping. Parking lots shall meet the requirements of BIMC 18.15.020. Applicants may refer to the standards contained in this section for optional planting locations within parking areas.

- a. Intent. The intent of this section is to soften the appearance of surface parking lots. To provide more intensive landscaping when surface parking lots are exposed to public view.
- b. Parking Lots Located in the Front of Buildings and Adjacent to Public Rights-of-Way.
 - i. One tree for every two parking stalls; and
 - ii. One hundred percent of the trees may be deciduous; and
 - iii. Deciduous trees minimum two-inch caliper; and
 - iv. Evergreen shrubs planted to form a hedge, minimum 18-inch height at the time of planting, spaced no more than three feet on center, not to exceed a mature height of three feet located adjacent to the public rights-of-way (this may be achieved with the perimeter landscape); and

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- v. Deciduous trees minimum two-inch caliper spaced no more than 30 feet on center located along the public rights-of-way (this may be achieved with the perimeter landscape); and
 - vi. Evergreen ground cover and/or shrubs planted and spaced to achieve total coverage within two years; and
 - vii. A landscaped area at the end of parking aisles.
- c. Requirements for Parking Lots Located to the Side of Buildings and Adjacent to Public Rights-of-Way.
- i. One tree for every four parking stalls; and
 - ii. One hundred percent of the trees may be deciduous; and
 - iii. Deciduous trees minimum two-inch caliper; and
 - iv. Evergreen shrubs planted to form a hedge, minimum 18-inch height at the time of planting, spaced no more three feet on center, not to exceed a mature height of three feet located adjacent to the public rights-of-way (this may be achieved with the perimeter landscape); and
 - v. A landscaped area at the end of aisles; and
 - vi. Deciduous trees minimum two-inch caliper spaced no more than 30 feet on center located along the public rights-of-way (this may be achieved with the perimeter landscape); and
 - vii. Evergreen ground cover and/or shrubs planted and spaced to achieve total coverage within two years.



- d. Requirements for Parking Lots Located Behind Buildings and Not Adjacent to Public Rights-of-Way.
- i. One tree for every eight parking stalls; and
 - ii. One hundred percent of the trees may be deciduous; and
 - iii. Deciduous trees minimum two-inch caliper, evergreen trees minimum four feet height at the time of planting; and
 - iv. Evergreen ground cover and/or shrubs planted and spaced to achieve total coverage within two years; and
 - v. A landscaped area at the end of aisles.

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e. Standards.

- i. Maintain shrubs at a maximum three feet height within parking lots so views between vehicles and pedestrians will not be blocked.
- ii. Landscape in planting islands or strips shall have an area of at least 100 square feet and with a narrow dimension of not less than five feet if wheel stops are provided to prevent vehicle overhang. A narrow dimension of not less than eight feet may be provided if the vehicle overhang area is included in the planting area.
- iii. Provide permanent curbs or wheel stops to protect the plantings from vehicle overhang.
- iv. Significant trees and tree stands may be used in lieu of new landscape requirements if they are in addition to the significant tree and tree stand retention requirements.
- v. Clustering of new plant material within parking lots may be approved or required by the director if the intent of this section is met.
- vi. Refer to the suggested landscape materials matrix in the administrative manual for tree species appropriate for parking lots.

G. Total Site Tree Unit Requirements.

1. Intent. The overall purpose of this section is to preserve the landscape character of the community through development standards by encouraging the retention of existing vegetation and significant trees by incorporating them into site design. The intent of this subsection G is to ensure that, to the degree practicable, (a) each development approval in the MUTC, HSR I and II, R-8, R-14, and NC zone districts and (b) each development approval for nonresidential development in the R-5, R-4.3, R-3.5, R-2.9, R-2, R-1, and R-0.4 zone districts leaves the development parcel with at least a specified minimum amount of tree coverage, measured in tree units per acre, that reflects the degree of tree coverage prior to development or redevelopment and that discourages avoidable site disturbances that would require tree removal.
2. Applicability. The regulations of this subsection G apply to each development application involving (a) any modification to a development parcel located in the MUTC, HSR I and II, R-8, R-14, or NC districts or (b) a permitted nonresidential development in the R-5, R-4.3, R-3.5, R-2.9, R-2, R-1, and R-0.4 zone districts. If a significant portion of a significant tree trunk, dripline and/or critical root zone extends onto an adjacent property, both properties may use the tree units for retaining the trees to meet the requirements of subsection G.4 of this section, upon mutual agreement. These provisions shall not apply to projects involving only interior renovation of existing buildings.
3. Site Specific Evaluation of Total Impact on Tree Coverage.
 - a. In order to show how the tree unit requirements of subsection G.4 of this section are being met, the applicant shall submit the following information as part of the landscaping plan information for a land use permit application:
 - i. Identify and survey all existing trees to be retained as part of the proposed development;
 - ii. If opting to meet tree unit requirements pursuant to subsection G.4.a.iii of this section, the applicant shall identify the species and DBH of each tree to be removed;
 - iii. The applicant shall also submit valuation of all trees to be retained, using the valuation standards of the International Society of Arboriculture (see administrative manual for submittal requirements for landscaping plans).
4. Requirements.

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a. A development application covered by subsection G.2 of this section shall only be approved if it complies with the requirements of subsections C (Tree Retention, Protection, and Replacement), D (Perimeter Buffering and Screening), E (Street Frontage Landscaping), and F (Parking Lot Landscaping) of this section, and also complies with subsection G.4.a.i, ii or iii of this section.

i. In the MUTC central core and ferry terminal overlay districts, the development parcel shall have at least 30 tree units per acre following the proposed development or redevelopment.

ii. In the MUTC Ericksen Avenue, Madison Avenue, and gateway overlay districts, and each site in the R-8, R-14, HSR I and II, and NC districts, and for permitted nonresidential development in the R-5, R-4.3, R-3.5, R-2.9, R-2, R-1, and R-0.4 zone districts, the development parcel shall have at least 40 tree units per acre following the proposed development or redevelopment.

iii. As an alternative to subsections G.4.a.i and ii of this section, and at the applicant's option, the development parcel will contain at least the same number of tree units after the proposed development or redevelopment as it had before that development or redevelopment.

b. Existing and new trees in roadside, perimeter, and shoreline buffers and/or critical areas and their buffers do not count towards the tree unit requirements of this section. If an applicant is choosing to meet their tree unit requirements using subsection G.4.a.iii of this section, the existing trees in those protected areas and buffers will not count towards the "pre-development" amount of tree units.

5. Calculation of Tree Units.

a. Each tree preserved on a development parcel shall earn the number of tree units shown in Table 18.15.010-5, based on its diameter at breast height (DBH) as measured in inches. If the DBH measurement results in a fraction, the requirement shall be rounded to the nearest whole number (greater than or equal to 0.5 is rounded up; less than 0.5 is rounded down).

Table 18.15.010-5: Tree Unit Conversion Table for Preserved Trees [1]

DBH	Tree Units	DBH	Tree Units	DBH	Tree Units
3 – 5	1.0	24 – 26	6.2	39 – 40	10.8
6 – 10	1.2	27 – 28	7.0	41 – 42	11.4
11 – 12	1.4	29 – 30	7.8	43 – 44	12.0
13 – 15	2.0	30 – 31	8.4	45 – 46	12.6
16 – 18	3.2	32 – 33	9.0	47 – 48	13.2
19 – 20	3.8	34 – 36	9.6	49+	13.8
21 – 23	4.6	37 – 38	10.2		

[1] For multi-stemmed trees, measure the DBH of each trunk separately, multiply each of these measurements by itself, add up these amounts, and calculate the square root of that total to find the DBH for the tree as a whole.

b. Tree Retention Bonus.

i. If retained trees occur in a tree stand, they shall earn 1.2 times the tree unit value shown in Table 18.15.010-5.

ii. If the retained trees occur in a tree stand that is adjacent to a tree stand on an adjacent lot that is already protected as part of a land use permit or conservation easement, they shall earn one and

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- one-half times the tree unit value shown in Table 18.15.010-5 instead of the bonus described in subsection G.5.b.i of this section.
- iii. If the retained tree is one designated through the city's heritage tree program it shall earn two times the tree unit value shown in Table 18.15.010-5, and the tree shall not receive additional bonus in subsections G.5.b.i and ii of this section for location in a tree stand.
- iv. If the retained tree is located within a designated wildlife corridor network, it shall earn one and one-half times the tree unit value shown in Table 18.15.010-5.
- c. Each new or replacement tree planted shall earn one tree unit. New trees planted to meet the minimum parking lot landscaping requirements of subsection F of this section do not count towards meeting tree unit credits under this section. New trees planted in or around a parking lot that exceed the minimum requirements of subsection F of this section can be counted towards meeting required tree units.
- d. If, after complying with subsections C, D, E, and F of this section, additional trees need to be planted to meet the minimum tree unit requirements in subsection G.4 of this section:
 - i. In the MUTC central core and ferry terminal overlay districts, those trees may be planted either at ground level or above ground level (such as a patio, terrace, or rooftop); and
 - ii. In the MUTC Ericksen Avenue, Madison Avenue, and gateway overlay districts, R-8, R-14, HSR I and II, NC districts, as well as for nonresidential developments within residential districts, those trees shall be planted at ground level.

H. Planting Requirements.

1. Intent. The intent of this section is to encourage the use of native species and recommend planting conditions adaptive to Bainbridge Island.
2. Requirements. Landscape designs shall conform to the following provisions:
 - a. Areas not devoted to landscape required by this chapter, parking, structures and other site improvements are encouraged to be planted or remain in existing vegetation.
 - b. New plant materials shall include native species or nonnative species that have adapted to the climatic conditions of the coastal region of the Puget Sound region.
 - c. New plant materials shall consist of drought resistant species, except where site conditions within the required landscape areas assure adequate moisture for growth.
 - d. New tree plantings shall be a minimum of two inches in caliper if deciduous or six feet in height if evergreen. New shrubs planted in roadside or perimeter buffers shall be of a variety that achieves a minimum six feet height at maturity. Soil planting types and depth shall be sufficient for tree planting.
 - e. When the width of any landscape strip is 20 feet or greater, the required trees shall be staggered in two or more rows.
 - f. Existing vegetation may be used to augment new plantings to meet the standards of this chapter.
 - g. Grass may be used as a ground cover where existing or amended soil conditions assure adequate moisture for growth.
 - h. Ground cover areas shall contain at least two inches of composted organic mulch at finish grade to minimize evaporation. Mulch shall consist of materials such as composted yard waste, composted sawdust, and/or manure that are fully composted.

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- i. Amend existing and/or compacted soils in accordance with Chapter 15.20 BIMC.
- j. Specific submittal requirements for landscaping plans (tree protection, retention and planting plans) are included in the city's administrative manual.

3. Performance Assurance.

- a. Performance assurance is required to assure the city that the landscape required by this section is properly installed and will become established and be adequately maintained.
- b. The required landscape shall be installed prior to the issuance of a temporary certificate of occupancy for the project. The Washington landscape architect, Washington certified nursery professional or Washington certified landscaper shall submit a landscaping declaration to the director to verify installation in accordance with the approved plans.
- c. The time limit for compliance may be extended to allow installation of landscaping during the next appropriate planting season as approved if the director determines that a performance assurance device, for a period of not more than one year, will adequately protect the interests of the city. The performance assurance device shall be for 150 percent of the cost of the work or improvements covered by the assurance device. In no case may the property owner delay performance for more than one year.
- d. The form and type of the performance assurance device shall be determined by the director.

4. Maintenance Assurance.

- a. The property owner shall replace any unhealthy or dead plant materials in conformance with the approved planting plan.
- b. A maintenance assurance device shall be required for a period of five years after acceptance by the city of the new planting or transplanting of vegetation to ensure proper installation, establishment, and maintenance.
- c. The maintenance assurance device amount shall not be less than 20 percent of the cost of replacing materials covered by the assurance device.
- d. The form and type of the maintenance assurance device shall be determined by the director.

I. Irrigation.

1. Intent. The intent of this section is to provide temporary or permanent irrigation within new planting areas that do not have high soil moisture conditions. These regulations shall not apply where provisions of Chapter 16.12 or 16.20 BIMC or any state or federal law restricts irrigation, and in case of conflict with any provision of those laws, the provisions of those laws shall govern.

2. Requirements.

- a. Except for areas of undisturbed existing vegetation, all landscape areas that do not have high soil moisture conditions shall have temporary or permanent irrigation systems. Temporary systems may be removed after 24 months or two growing seasons, whichever occurs first; provided, that the plantings are established.
- b. Areas where existing site conditions assure adequate soil moisture for growth within the required landscape area shall have temporary irrigation systems only as required to sustain new plantings.
- c. Landscape areas consisting of drought resistant vegetation may require temporary irrigation systems. Permanent irrigation systems located within required landscape areas should include the following features:

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- i. Moisture or precipitation sensors; and
 - ii. Automatic timers set for operation to assure adequate moisture levels; and
 - iii. Head-to-head spacing, if sprinkler heads are proposed; and
 - iv. Pressure regulating devices; and
 - v. Backflow prevention devices; and
 - vi. Separate irrigation zones for grass and planting beds; and
 - vii. Other features required to comply with applicable state and city codes.
- d. Irrigation water shall be applied with goals of avoiding runoff, low head drainage, overspray, or other similar conditions where water flows onto adjacent property, nonirrigated areas and impervious surfaces by:
 - i. Considering soil type and infiltration rates; and
 - ii. Using proper irrigation equipment and schedules, including features such as repeat cycles, to closely match application rates with infiltration rates; and
 - iii. Considering special problems posed by irrigation on slopes and in median strips.
- e. Irrigation systems shall be subject to the following additional provisions:
 - i. Systems in landscape strips less than five feet in width shall be designed to ensure that overspray and/or runoff does not occur by use of system design options such as low volume emitters; and
 - ii. Sprinkler heads with consistent application rates shall be selected for proper area coverage, operating pressure, and adjustment capability; and
 - iii. Separate control valves shall be used to irrigate plants with differing water needs.

J. Maintenance.

1. Intent. All new landscape plantings and significant trees and tree stands to be retained shall be maintained to preserve the Island's forested character.
2. Requirements.
 - a. All landscaping, significant trees and tree stands shall be maintained in a healthy growing condition.
 - b. Landscape areas shall be kept free of trash.
 - c. All plant material shall be managed by pruning so that plant growth does not conflict with public utilities, restrict pedestrian or vehicular access, or create a traffic hazard.

K. Screening of Certain Facilities.

1. Outdoor Storage. In the NC and B/I districts, outdoor storage areas shall be screened. 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 a street. Exterior storage should be confined to portions of the site least visible from public view.

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2. Trash Dumpsters and Outdoor Equipment.

- a. In the NC and B/I districts, trash dumpsters or any outdoor equipment, whether on 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.
- b. In the B/I districts, trash and recycling containers shall be located to mitigate noise impacts to nearby residential properties.
- c. Small wind energy generators do not need to be screened.

3. Business/Industrial. In the B/I districts, light manufacturing uses shall visually screen the development year-round from adjacent, nonindustrial properties and from adjacent roadways. Landscape screening shall be provided in accordance with subsection D of this section. (Ord. 2017-02 §§ 1, 23 (Exh. C), 2017; Ord. 2016-28 §§ 13 – 16, 2016; Ord. 2016-01 § 1, 2016; Ord. 2015-04 §§ 2 – 8, 2015; Ord. 2012-11 § 2 (Exh. A), 2012)

18.15.020 Parking and loading.

All development shall comply with the following regulations addressing parking and loading unless other applicable regulations require additional or different treatment of parking and loading, in which case the more specific standard or criteria shall apply. The following sections of the BIMC may impose additional development standards, and in the case of conflict between any two or more development standards or criteria, the more specific shall apply:

BIMC 16.12.030.C.3, Shoreline Master Program, Parking.

Chapter 16.20 BIMC, Critical Areas.

BIMC 17.12, Subdivision Design Standards.

BIMC 18.15.010, Landscaping and screening.

A. Purpose. The purpose of this section is to provide for safe, efficient and well-designed access and parking while minimizing the environmental and visual impact of motor vehicle facilities.

B. General Requirements.

1. Driveways, parking, and walkways shall accommodate pedestrians, motor vehicles and bicycles used by occupants or visitors of a structure or use. Location is subject to review of the planning and engineering departments.
2. No building permit shall be issued until the applicant has submitted satisfactory plans demonstrating that required parking facilities will be provided and maintained.
3. Unless authorized by a conditional use permit or this title, the use of property in a residential zone for commercial parking is prohibited.
4. All driveways and other parking areas, except those serving single-family residences, shall be surfaced with permanent materials acceptable to the public works department, and shall be designed to manage stormwater runoff in accordance with Chapter 15.20 BIMC.
5. Residential parcels are encouraged to have two-track driveways (also known as Hollywood or wheel strip driveways).
6. Unless approved by the director, only a single access to public right-of-way is allowed for an individual lot. More than one access may be allowed by the director if the director determines, based on drawings or other information submitted by the applicant, that (a) the proposed site access includes measures that mitigate any identified negative impacts or effects that would result from the additional access point(s); and (b) the

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additional access point(s) will improve on-site or off-site traffic flow or is necessary for, or will help facilitate, compliance with other requirements of this chapter.

7. Joint use of required access ways with adjacent properties is encouraged. The director may approve joint access if the applicant demonstrates to the satisfaction of the director that the joint access (a) will promote the orderly development of the surrounding area; or (b) will help reduce or avoid cumulative adverse impacts that would result from each property accessing the right-of-way separately; and (c) will not create a safety hazard.

8. With the exception of single-family and duplex buildings on individual lots, access and parking spaces shall be designed so that no backing movement by a vehicle, except emergency and service and delivery vehicles, shall be allowed onto a public right-of-way; provided, that the director may waive this requirement where no reasonable design alternative exists.

9. No parking space may block access to other parking spaces unless tandem parking has been approved for a single residence or individual dwelling units of a multifamily structure.

10. On-street parking created or designated in conjunction with and adjacent to a project may be included in the parking space calculation upon approval of the director.

11. When a new commercial or mixed use development is required to provide parking for more than 25 cars, at least one parking space near the entrance must be reserved and signed for use by a shared-car program or electric vehicle charging station.

12. For all development except for single-family residential, the required parking for two or more complementary uses may be reduced up to 50 percent when provided by a common parking lot, but may not be reduced below the highest parking requirement. The reduction shall be authorized by the issuance of a conditional use permit.

C. Number of Automobile Spaces Required.

1. General Provisions. All development shall provide the number of parking spaces indicated in this subsection C and Tables 18.15.020-1 and 18.15.020-2. All parking lots shall comply with the minimum requirements for handicapped parking spaces, as required by Washington State regulations related to barrier-free facilities, with the exception of single-family residential and multifamily residential development on individual lots. Above-ground parking lots exceeding the number of spaces required by this section are not allowed unless approved by the planning commission; spaces provided in underground parking garages are exempt from parking maximums.

Table 18.15.020-1: Off-Street Parking Spaces Required for Residential, Neighborhood Center, Business/Industrial, and Water-Dependent Industrial Zone Districts

Land Use	Spaces Required
Residential dwelling unit in a single-family residential district [1]	2 spaces for each primary dwelling unit and 1 space for each accessory dwelling unit.
Residential dwelling unit in a multifamily residential, NC, or B/I district	1 space per primary dwelling unit that is a studio or 1 bedroom unit, and 2 spaces for all other primary dwelling units.
	Dwelling units situated directly above a commercial use or directly above parking serving a commercial use in the NC or B/I districts shall require 1 parking space. Dwelling units separate from the commercial use or its parking by one or more intervening floors shall not be considered to be located "directly above" that use, and therefore 2 parking spaces are required.
	The director may require guest parking in excess of the required parking spaces, whether or not the required parking is reduced pursuant to BIMC 18.15.020.B.12, up to a maximum additional 0.5 stall per dwelling unit, if there is inadequate guest parking on the subject property.

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[1] Residential parking requirements may be reduced by 50 percent for dwelling units located within a one-half-mile radius and 25 percent for dwelling units located within one-half mile and a one mile radius of the ferry terminal providing scheduled service to Seattle. This provision may not be used in conjunction with senior housing or other parking reduction arrangements, and the required number of parking spaces shall not be reduced below one space per parking unit. This provision does not preclude the authority of the director to require guest parking as described in this table.

Table 18.15.020-2: Off-Street Parking Spaces Required in Mixed Use Town Center Districts and High School Road Districts [1]

Land Use	Spaces Required					
	Central Core Overlay	Madison Avenue Overlay	Ericksen Avenue Overlay	Gateway Overlay	Ferry Terminal Overlay	High School Road I and II
Commuter-Oriented Retail	Not Permitted				1 space per peak shift employee	Not Permitted
Other Commercial and Nonresidential Uses						
Minimum spaces per 1,000 sq. ft. [2]	2, except 3 in the Parfitt-Waterfront area				1	4
Entertainment facilities	1 per 4 fixed seats	Not Permitted				1 per 4 fixed seats
Maximum above-ground spaces per 1,000 sq. ft.	5				3	5
Residential Uses						

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Land Use	Spaces Required					
	Central Core Overlay	Madison Avenue Overlay	Ericksen Avenue Overlay	Gateway Overlay	Ferry Terminal Overlay	High School Road I and II
Minimum spaces per unit [3]	1 space per primary dwelling unit that is a studio or 1 bedroom unit, and 2 spaces for all other primary dwelling units. Each dwelling unit situated directly above a commercial use or directly above parking serving a commercial use in the NC or B/I districts shall require 1 parking space. Dwelling units separate from the commercial use or its parking by one or more intervening floors shall not be considered to be located “directly above” that use. The director may require guest parking in excess of the required parking spaces, whether or not the required parking is reduced pursuant to BIMC 18.15.020.B.12, up to a maximum additional 0.5 stall per dwelling unit, if there is inadequate guest parking on the subject property.					
Maximum above-ground spaces per unit	2					
Special Cases						
Other uses and special cases	For special cases not covered by this table, parking requirements shall be established by the director. For determination by the director, the applicant shall supply (a) documentation regarding actual parking demand for the proposed use; or (b) technical studies prepared by a qualified professional relating to the parking need for the proposed use; or (c) required parking for the proposed use as determined by other comparable jurisdictions.					

[1] For properties along Winslow Way, there shall be no driveway from private property to the street except as approved as a conditional use. Driveways in existence prior to July 1, 1987, are excepted from this requirement.

[2] Applies to uses in the food and beverage, office and services, and retail categories in Table 18.09.020.

[3] Residential parking requirements may be reduced by 50 percent for dwelling units located within a one-half-mile radius and 25 percent for dwelling units located between one-half mile and a one-mile radius of the ferry terminal providing scheduled service to Seattle. This provision may not be used in conjunction with senior housing or other parking reduction arrangements, and the required number of parking spaces shall not be reduced below one space per parking unit. This provision does not preclude the authority of the director to require guest parking as described in this table.

2. Special Provisions for Mixed Use Town Center Districts.

a. Subject to approval as part of site plan review, the city and the developer may voluntarily enter into an agreement to allow the parking requirement to be met by contributing into a public or cooperative commercial effort to create new structured or surface parking in that zone. This option shall only be available upon initiation of a project to create new structured or surface parking in that zone. The amount of the contribution shall be equivalent to that necessary to provide the required number of parking spaces. Monies so contributed shall be held, expended, or refunded in accordance with RCW 82.02.020.

b. New parking spaces will not be required for additions to existing buildings that are less than 25 percent of the existing floor area and less than 1,000 square feet. This exception to the parking requirement may be utilized only once per property and does not apply to additions or remodeling for the purpose of adding residential units.

c. In the core, gateway, and ferry terminal districts, parcels smaller than 8,000 square feet may provide up to 100 percent of required parking off site; parcels between 8,000 and 12,000 square feet may provide up to 75 percent of required parking off site; and parcels larger than 12,000 square feet may provide up to 50 percent of required parking off site. For commercial and residential development, off-site parking must be located within a 1,000-foot radius of the edge of the development parcel. Any off-site spaces used to meet minimum parking requirements must be acquired either through the city’s fee-in-lieu program as provided in BIMC Title 2, through fee simple ownership by the developer, or through irrevocable easements/agreements.

d. In the central core overlay district, up to 75 percent of required parking for movie theaters may be met off site if located within a 400-foot walking distance of the edge of the development parcel.

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- e. In the central core overlay district, parcels smaller than 8,000 square feet shall receive a credit against required off-street parking of one parking space per 10 feet of public street frontage, up to a maximum credit of five off-street parking spaces.

D. Location of Spaces.

1. Parking in the Mixed Use Town Center and High School Road I and II zoning districts shall be located behind, to the side of or under buildings. Parking shall not be located between a building and the front lot line, unless an applicant can demonstrate that locating parking between a building and the front lot line is the only feasible location.
2. Parking outside of the Mixed Use Town Center and High School Road I and II zoning districts is encouraged to be located behind, under or to the side of buildings.
3. ~~Parking spaces serving dwelling units shall be located on the same lot with the building they serve.~~ In the central core, gateway, and ferry terminal districts, one parking space per unit must be located on site and any additional spaces may be located off site. All off-site spaces must be within a 1,000-foot radius of the edge of the development parcel and must be acquired through fee-in-lieu, fee simple ownership, or a leasehold permanently linked to the unit.
4. Parking spaces serving nonresidential uses may be consolidated in a remote location as permitted by this title.
5. All parking spaces and driving aisles serving adjacent parking spaces, except those serving single-family residences, shall not be located within required front, rear or side setbacks.
6. The city may waive the limits on contiguous stalls and may approve reductions of up to 50 percent of the parking lot setback requirements if significant trees are saved and incorporated in the design of circulation and parking.
7. Tandem parking (two parking spaces located end-to-end rather than side-to-side) may be approved by the planning director as part of the building permit; provided, that (1) the arrangement will not create traffic congestion due to additional entry and exit movements; (2) on-street parking is available; and (3) the arrangement will not adversely impact safety factors.
8. For on-street parking spaces, handicap parking shall be distributed throughout the street and shall be separated from other handicap parking spaces by at least 10 nonhandicap spaces, or as required by the building official.

E. Noncommuter Ferry Parking. Noncommuter ferry parking is permitted in the ferry terminal district as provided below.

1. Permanent Noncommuter Parking Spaces. Permanent noncommuter parking spaces may be developed in under-building or below grade parking in the ferry terminal overlay district, providing:
 - a. For each existing surface ferry parking space that is moved under-building or below grade, one noncommuter additional parking space may be developed under-building or below grade.
 - b. The total number of commuter additional parking spaces may not increase the total parking inventory of 1,121 spaces. Noncommuter parking spaces may not exceed 353 spaces. No property owner of an existing surface parking lot may increase the total number of spaces on that property by more than 225 spaces.
 - c. These noncommuter additional parking spaces are only for use by noncommuter ferry passengers.
 - d. No grade-level, under-building parking shall be adjacent to Winslow Way. Ingress and egress to the parking shall be allowed from Winslow Way.

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e. Any level of parking contained within or under the structure that is visible from a public street shall be fully screened. Means of screening can include another use, landscaping that provides a vertical screen, street trees or other vegetation.

f. In addition to the screening required in subsection E.1.e of this section, the street facade of the parking structure shall be enhanced by architectural detailing, artwork (such as a mosaic, mural, decorative masonry pattern, sculpture, or relief) or similar visual interest features.

g. A plan to mitigate the visual impact of the parking structure, including the proposed landscaping and street facade treatment, shall be required as a condition of development application approval.

h. As a condition of development application approval, the property owner shall include a plan for designating parking for only noncommuter use and shall demonstrate how restriction of spaces for noncommuter parking will be enforced. Failure to enforce shall subject the owner to the provisions of Chapter 1.26 BIMC.

2. Temporary Noncommuter Ferry Parking. Temporary noncommuter ferry parking spaces may be developed as surface parking in the ferry terminal overlay district under the following conditions:

a. The property owner shall submit an application for approval for the construction of permanent noncommuter ferry parking spaces under subsection E.1 of this section.

b. The property owner shall apply for and obtain a conditional use permit authorizing the use of the property for temporary noncommuter ferry parking. Such applications shall be processed as a minor conditional use under BIMC Title 2.

c. Temporary noncommuter parking lots shall comply with the design and construction requirements of this chapter, except that:

i. Temporary parking lots and associated driveways may be gravel; provided, that all drainage requirements are met;

ii. Temporary parking lots shall be exempt from the requirements of BIMC 18.15.030.A.2;

iii. Temporary parking lots shall be exempt from the requirements of BIMC 18.15.030.A.4. Internal walkways may be surfaced with gravel, except that walkways providing access to handicapped spaces shall meet accessibility requirements; and

iv. Temporary parking lots are exempt from the landscaping requirements of subsection J.3.a of this section and the screening requirements of BIMC 18.15.010.F.

d. Notwithstanding the provisions of BIMC Title 2 concerning conditional use permits, a conditional use permit authorizing temporary noncommuter ferry parking spaces shall automatically expire 180 days after the date that the permit is issued. The temporary noncommuter parking shall be removed within 10 days after the permit expires.

e. Notwithstanding the provisions of BIMC Title 2 concerning conditional use permits, the department may grant one extension of a conditional use permit authorizing temporary noncommuter ferry parking spaces for a period not to exceed 180 days if:

i. A request for an extension is received by the department no later than 30 days prior to the expiration of the permit;

ii. Termination of the permit would result in an unreasonable hardship to the applicant, and the applicant is not responsible for the delay in obtaining the approval of the permanent noncommuter ferry parking spaces;

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iii. An extension of the permit will not cause substantial detriment to existing uses in the immediate vicinity of the subject property; and

iv. The temporary noncommuter parking shall be removed within 10 days after the permit expires.

F. Temporary Ferry Commuter Parking. Temporary ferry commuter parking spaces may be developed as surface parking in the Winslow Mixed Use central core, gateway, or ferry terminal overlay districts under the following conditions:

1. An application has been submitted to redevelop a property on which existing ferry commuter parking is located, as shown on Figure 6.2 of the Winslow master plan, and this redevelopment will require the temporary displacement of existing ferry commuter parking spaces.
2. The property owner shall apply for and obtain a conditional use permit authorizing the use of the property for temporary ferry commuter parking. Such applications shall be processed as an administrative conditional use under BIMC Title 2.
3. The property owner shall comply with the requirements of subsection E.2.c of this section.
4. Notwithstanding the provisions of BIMC Title 2 concerning conditional use permits, a conditional use permit authorizing temporary ferry commuter parking spaces shall automatically expire one year from the date that the permit is issued. The temporary ferry parking shall be removed within 10 days after the permit expires.
5. Notwithstanding the provisions of BIMC Title 2 concerning conditional use permits, the department may grant one extension of a conditional use permit authorizing temporary ferry commuter parking spaces for a period to be determined by the director; provided, that: (a) a request for an extension is received by the department no later than 30 days prior to the expiration of the permit; (b) termination of the permit would result in an unreasonable hardship to the applicant; (c) an extension of the permit will not cause substantial detriment to existing uses in the immediate vicinity of the subject property; and (d) the temporary ferry commuter parking shall be removed within 10 days after the permit expires.

G. Commercial Parking or Commercial Parking Businesses, Other than Ferry Commuter Parking and Noncommuter Ferry Parking. Commercial parking may be developed for general public use at no fee, or as a commercial parking business. Commercial parking businesses must comply with provisions of Chapter 5.10 BIMC.

1. Surface Parking Lots. Surface parking lots for commercial parking only, developed by public or private concerns, or developed by a public or cooperative commercial effort shall be treated as special cases under Table 18.15.020-2 and are permitted in the core, gateway, and ferry terminal districts, providing:
 - a. Parking lots shall be sited on parcels within 200 feet of Winslow Way or lower Madison (south of Wyatt).
 - b. Parking lots shall not be sited adjacent to a parcel containing a parking lot or structure in which parking is the primary use.
 - c. Parking lots shall not exceed 30 spaces.
 - d. As a condition of development application approval, the property owner shall include a plan for designating parking for only noncommuter use and shall demonstrate how restriction of spaces for noncommuter parking will be enforced. Failure to enforce shall subject the owner to the provisions of Chapter 1.26 BIMC.
 - e. Integrate LID BMPs into surface parking lots in accordance with Chapter 15.20 BIMC.

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2. Structured Parking. Structured parking for commercial parking only, developed by public or private concerns, or developed by a public or cooperative commercial effort as provided for as a Special Case in Table 18.15.020-2 shall require a conditional use permit in the core district west of SR 305, providing:

- a. Structures shall not be sited adjacent to a parcel containing a parking lot or structure in which parking is the primary use.
- b. As a condition of development application approval, the property owner shall include a plan for designating parking for only noncommuter use and shall demonstrate how restriction of spaces for noncommuter parking will be enforced. Failure to enforce shall subject the owner to the provisions of Chapter 1.26 BIMC.
- c. Any level of parking contained within or under the structure that is visible from a public street shall be fully screened. Means of screening can include landscaping that provides a vertical screen; a facade that incorporates artwork (such as a mosaic, mural, decorative masonry pattern, sculpture, or relief) over a substantial portion of the facade; or trees and other vegetation.
- d. A plan to mitigate visual impact of the parking structure, including the proposed landscaping and/or artwork, shall be required as a condition of development application approval.

H. Additional Provisions for the B/I Districts. The following additional parking and loading provisions shall apply in the B/I districts.

1. On-street parking or staging of trucks on public streets is prohibited.
2. The primary vehicular access for business/industrial developments shall avoid a street or easement that primarily serves residential uses.
3. No new curb cuts shall be allowed onto public streets if it is possible for a development to share an access drive with an existing facility.
4. Entrances and exits to and from parking and loading facilities shall be clearly marked with appropriate directional signage where multiple access points are provided.
5. Internal circulation shall be designed for safety and efficiency by reducing conflicts between vehicular and pedestrian traffic, combining circulation and access areas where possible, providing adequate truck maneuvering, stacking, and loading areas and accommodating emergency vehicle access.
6. To reduce noise and visual conflicts with neighboring properties and public streets, loading facilities shall be located internal to the site or where conflict with neighboring properties will be reduced.
7. Loading docks and doors facing a public street shall be offset from the access drive and shall be screened from the street.
8. Where a residential unit for security is constructed in the B/I zone district, one parking space shall be provided.

I. Temporary Commercial Parking. This section does not apply to commuter or noncommuter ferry parking. Temporary commercial parking lots are permitted in the Mixed Use Town Center and High School Road districts under the following conditions:

1. A land use application for property located within the Mixed Use Town Center or High School Road Districts and anticipated construction activities related to the project will reduce availability of existing parking spaces for customers and employees and/or create a need for construction worker parking; or the parking needs of the commercial business have increased and, having outgrown its original parking accommodations, the commercial business is in the process of seeking a permanent solution.

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2. The application shall be exempt from site plan and design review pursuant to BIMC 2.16.040. The application shall be processed as an administrative approval under BIMC Title 2. Clearing or grading permits may be required if a new surface lot is being created or expanded. The city shall request assurances that all significant trees are retained and remain protected during any clearing or grading, pursuant to subsection I.6 of this section.
3. Temporary commercial business parking lots shall comply with the design and construction requirements of this chapter, except that:
 - a. Temporary commercial business parking lots shall be exempt from the landscaping requirements of subsection J.3.a of this section and BIMC 18.15.010 and 18.15.030;
 - b. Temporary commercial business parking lots may be surfaced with gravel; provided, that all drainage requirements are met; and
 - c. Temporary commercial business parking lots shall be exempt from the requirements of subsections C.2.c and D.5 of this section.
4. Approval of a temporary commercial parking lot shall expire upon completion of the specified project or within 18 months of the lot's building permit approval, whichever comes first. To prevent serial use of a property as a temporary commercial parking lot, a property shall not be utilized for such parking for more than three years within a 10-year period. The department may grant one extension of a permit authorizing temporary commercial business parking for a period not to exceed 180 days if:
 - a. A request for an extension is received by the department no later than 30 days prior to the expiration of the permit;
 - b. Termination of the permit would result in an unreasonable hardship to the applicant, and the applicant is not responsible for the delay in securing permanent parking spaces; and
 - c. An extension of the permit will not cause substantial detriment to existing uses in the immediate vicinity of the subject property.
5. A temporary commercial parking lot shall meet the requirements of Chapter 15.20 BIMC (Surface and Stormwater Management), except that any existing parking lot being used as a temporary commercial business parking lot shall not be required to be improved to meet current standards. Dust shall be controlled during construction of and use of a temporary commercial parking lot.
6. All temporary commercial parking lots shall be designed to retain all significant trees, as defined in Chapter 18.36 BIMC, except when removal of hazardous trees is permitted pursuant to BIMC 16.20.040 (Critical Areas) or 18.15.010.C.1 (Tree Retention, Protection and Replacement). For those significant trees impacted by construction activity within their driplines, the applicant shall submit a retention plan, meeting the requirements of BIMC 18.15.010.C.4, prepared by a certified arborist addressing the impact of construction activity to the trees and the likelihood for five-year survivability.
7. An application for a temporary commercial parking lot shall include a restoration plan addressing revegetation and removal of newly created parking surfaces. An assurance device, guaranteeing completion of restoration, shall be posted with the city prior to issuance of clearing and/or grading permits. Temporary commercial parking that was newly created through this permit shall be removed and site restoration complete within 30 days after the permit expires. This provision will not apply if another commercial business will begin to use the parking lot within 60 days.
8. An application for a temporary commercial parking lot shall include a plan for prohibiting parking for ferry commuter and noncommuter use and shall demonstrate how restriction of spaces for general public/customer and/or employee use will be enforced. Failure to enforce shall subject the owner to the provisions of Chapter 1.26 BIMC.

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9. A portion of a temporary commercial business parking lot developed to accommodate employees and/or the general public during construction activities may be utilized to store or park construction-related equipment, materials, and supplies if it does not create a safety hazard for pedestrians and vehicles utilizing the parking lot. Construction-related equipment, materials, and supplies shall be stored in appropriate containers or bins to the extent feasible or on the ground in well-stacked, neat piles. The temporary construction storage containers and bins shall be exempt from the requirements of BIMC 18.09.030.J.2. Large construction equipment may be parked in parking spaces. As a condition of application approval, the commercial business planning to use a portion of the parking lot to store or park construction-related equipment, materials, and supplies must include a plan to alert employees and the general public using the parking lot to the presence of such items.

10. All applicable provisions of Chapter 16.12 BIMC (Shoreline Master Program) and Chapter 16.20 BIMC (Critical Areas) must be met in the design and use of any temporary commercial parking lot.

11. The use of any temporary commercial parking lot shall comply with the air quality emissions performance standards of BIMC 18.06.030.B.2.

J. Design Standards.

1. Parking Space and Aisle Dimensions. Except as provided in subsection J.1.e of this section, parking lots shall be designed according to Table 18.15.020-3. Space depth shall be measured exclusive of access drives, aisles and other physical obstructions. Small car spaces may total no more than 30 percent of the required number.

a. Parking lots shall have direct access to a street or road easement and shall provide unobstructed access driveways exclusive of the required parking areas.

b. Multifamily and nonresidential developments shall use access standards as shown in Table 18.15.020-3.

c. Where possible, single-family residences shall share access drives.

d. Access drive widths for single-family residences shall meet the intent of applicable design guidelines pursuant to Chapter 17.12 BIMC (Subdivision Design Standards) and Chapter 18.18 (Design Guidelines) ~~be determined by~~ unless design guidelines are superceded by the city engineer or fire marshal.

e. For parking located in structures, columns or other structural elements may encroach into the parking space a maximum of six inches on a side; provided, that no wall, post, guardrail, or other element shall obstruct car door opening or the exit-way of persons from a parked vehicle.

Table 18.15.020-3: Parking Space and Lot Design and Dimensions [1]

A Parking Angle	B Stall Width (ft.)	C [2] Stall Depth (ft.)	D Aisle Width (paved surface ft.)	Direction of Travel
45°	7.5	15	11	1-way
	8.5	18	13	1-way
	7.5	15	18	2-way
	8.5	18	20	2-way
60°	7.5	15	14	1-way
	8.5	19.5	14.5	1-way

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A Parking Angle	B Stall Width (ft.)	C [2] Stall Depth (ft.)	D Aisle Width (paved surface ft.)	Direction of Travel
	7.5	15	20	2-way
	8.5	19.5	20	2-way
75°	7.5	15	17.5	1-way
	8.5	20	18.5	1-way
	7.5	15	20	2-way
	8.5	20	20	2-way
90°	7.5	15	20	2-way
	8.5	19	24	2-way
Parallel	20	8.5	12	1-way
	20	8.5	12	2-way

[1] The first line of each category (e.g., 45 degrees, one-way travel) indicates the dimensions for compact cars.

[2] Where wheel stops are required, they shall be placed 18 inches from the end of stall. Landscaping may be located between the wheel stop and the end of the stall. Landscaping so located shall be in addition to, and not part of, any landscaping required by this title.

2. Grades. Where parking spaces are designated, grades shall not exceed six percent. Driveways and driving lanes between separate groups of parking shall not exceed 14 percent. Parking areas on sloping lots shall be laid out so that parked cars lie perpendicular to the slope. Where existing grades on property proposed for a parking lot exceed 10 percent, the city may require a topographic survey to show existing and proposed grades.

3. Landscaping.

a. Parking lots shall be landscaped in accordance with BIMC 18.15.010.F.

b. Permeable pavement is preferred in both accessory and primary parking lots. The following types of permeable pavement have been found to perform well in the Puget Sound climate when properly designed: pervious concrete, porous asphalt, plastic grid systems, and interlocking permeable pavers. (Ord. 2017-02 § 1, 2017; Ord. 2016-28 §§ 17 – 19, 2016; Ord. 2014-14 § 3, 2014; Ord. 2011-17 § 2, 2011; Ord. 2011-02 § 2 (Exh. A), 2011)

18.15.030 Mobility and access.

The intent of this section is to improve mobility and access for pedestrians, bicyclists, and transit users in Bainbridge Island. All development shall comply with the development standards of RCW 58.17.110(1) and all long, short, and large lot subdivisions shall comply with the road and pedestrian access standards in BIMC 17.12.040. **ED**.

A. Circulation and Walkways. The following standards shall apply to multifamily and nonresidential development.

1. Parking lots and driveways shall provide well-defined, safe and efficient circulation for motor vehicles, bicycles and pedestrians.

2. Landscaped islands with raised curbs shall be used to define entrances from public rights-of-way, define pedestrian walkways from the public rights-of-way to all buildings, define ends of parking aisles and indicate the pattern of circulation. Curb cuts or grates can be incorporated to allow water to enter stormwater facilities and LID BMPs.

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3. Pedestrian walkways shall be provided around buildings to the extent necessary to assure safe access to the building from parking areas and the public right-of-way. Where appropriate, as determined by the approving body, pedestrian walkways may be required to assure safe access to adjacent properties.

4. Internal walkways shall be surfaced with nonskid hard surfaces, such as permeable pavement, meet accessibility requirements and be designed to provide a minimum of five feet of unobstructed width. Where walkways cross vehicular driving lanes, the walkways shall be constructed of contrasting materials or with maintained painted markings. Walkways shall be curbed and raised six inches above adjacent vehicular surface grade, except where the walkway crosses vehicular driving lanes or is required to meet accessibility standards and at inlets to stormwater facilities and LID BMPs.

5. To provide connectivity between adjacent trails/walkways, pedestrian walkways may be required.

B. Bicycle Facilities. The following requirements apply to multifamily and nonresidential developments.

1. Except as provided in subsection B.2 of this section, all parking facilities, except those serving single-family residences (including any use accessory thereto), shall contain bicycle parking facilities that allow secure locking of both the frame and wheels of a bicycle. One bicycle space shall be provided for every five parking spaces with a minimum of four spaces provided for each parking lot.

2. An applicant may request, and the director may approve, a reduction or waiver of the requirements of subsection B.1 of this section, based on the following considerations: (a) the population to be served by the proposed use and the likelihood of demand for the bicycle facilities by that population, (b) the provision of alternative on-site area available for bicycle storage or security, or (c) the operational characteristics of a proposed use and their effect on the likelihood or suitability of bicycle use.

3. In the central core, gateway, and ferry terminal districts, up to 40 percent of the required bicycle parking spaces may be met off site if the spaces are within 300 feet walking distance of the edge of the development parcel.

C. Transit Accommodation. In the B/I, Mixed Use Town Center, NC, High School Road, and residential zone districts, a proposed site plan shall accommodate bus stops along public rights-of-way in locations identified by relevant transit authorities. Any condition imposed shall be based on an individualized determination of the nature and extent of anticipated impacts of the proposed development. (Ord. 2017-02 § 1, 2017; Ord. 2016-28 § 20, 2016; Ord. 2011-02 § 2 (Exh. A), 2011)

18.15.040 Outdoor lighting.

A. Purpose. The purpose of this chapter is to provide regulations that preserve and enhance the view of the dark sky; promote health, safety, security, and productivity; and help protect natural resources. The provisions of this chapter are intended to control glare and light trespass. It is the intent of this chapter to provide standards for appropriate lighting practices and systems that will enable people to see essential detail in order that they may undertake their activities at night, facilitate safety and security of persons and property, and curtail the degradation of the nighttime visual environment.

B. Applicability.

1. All outdoor lighting fixtures installed on private and public property shall comply with this chapter. This chapter does not apply to interior lighting; provided, that if it is determined by the director that any interior lighting emitting light outside of the building or structure in which it is located creates a light trespass, the interior lighting shall be subject to the requirements of this chapter.

2. In the event of a conflict between the requirements of this chapter and any other requirement of the Bainbridge Island Municipal Code the more specific requirement shall apply.

C. Exemptions. The following are exempt from the provisions of this section:

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1. Traffic control signals and devices;
2. Street lights installed prior to August 15, 2002; provided, that when a street light fixture becomes inoperable, any replacement street light fixture shall be subject to the provisions of BIMC 18.15.040;
3. Temporary emergency lighting (i.e., fire, police, repair workers) or warning lights;
4. Moving vehicle lights;
5. Navigation lights (i.e., radio/television towers, docks, piers, buoys) or any other lights where state or federal statute or other provision of the Bainbridge Island Municipal Code requires lighting that cannot comply with this chapter. In such situations, lighting shall be shielded to the maximum extent possible, and lumens shall be minimized to the maximum extent possible, while still complying with state or federal statute;
6. Seasonal decorations do not have to be shielded; provided, that they do not have a brightness of more than 0.1 foot-candles at the property line on which they are installed;
7. Outdoor lighting approved by the director for temporary or periodic events (e.g., fairs, nighttime construction); and
8. Internally illuminated signs permitted under Chapter 15.08 BIMC.

D. General Standards. The following general standards shall apply to all nonexempt outdoor lighting fixtures and accent lighting:

1. All outdoor lighting fixtures and accent lighting shall be designed, installed, located and maintained such that there is no light trespass (see Figure 2 in subsection F of this section).
2. Outdoor lighting fixtures and accent lighting must be shielded and aimed downward. Examples of acceptable and unacceptable light pollution control shielding are shown in Figures 1 through 3 in subsection F of this section. The shield must mask the direct horizontal surface of the light source. The light must be aimed to ensure that the illumination is only pointing downward onto the ground surface, with no escaping direct light permitted to contribute to light pollution by shining upward into the sky.
3. Outdoor lighting fixtures and accent lighting shall not directly illuminate public waterways such as Puget Sound, even if the tidelands are privately owned, unless it is a navigational light subject to state or federal regulations or otherwise regulated by Chapter 16.12 BIMC.
4. Accent lighting shall be directed downward onto the illuminated object or area and not toward the sky or onto adjacent properties (see Figure 3 in subsection F of this section). Direct light emissions of such accent lighting shall not be visible above the roof line or beyond the building, structure, or object edge.
5. Spotlighting on landscaping and foliage shall be limited to 150 watts incandescent (2,220 lumens output) and comply with other standards in this chapter.

E. Prohibited.

1. The following fixtures (luminaires) are prohibited: (a) searchlights for any other purpose other than temporary emergency lighting, (b) laser lights or any similar high-intensity light for outdoor use or entertainment, (c) quartz lamps, and (d) mercury vapor lamps.
2. The city reserves the right to further restrict outdoor lighting including, but not limited to, pole height and level of illumination, when it is deemed to be in the best public interest consistent with the purpose of BIMC 18.15.040.

F. Figures of Acceptable Shielding and Direction of Outdoor Light Fixtures. The following figures illustrate acceptable and unacceptable outdoor lighting fixtures in the city:

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Figure 1: Freestanding Outdoor Lighting Fixtures

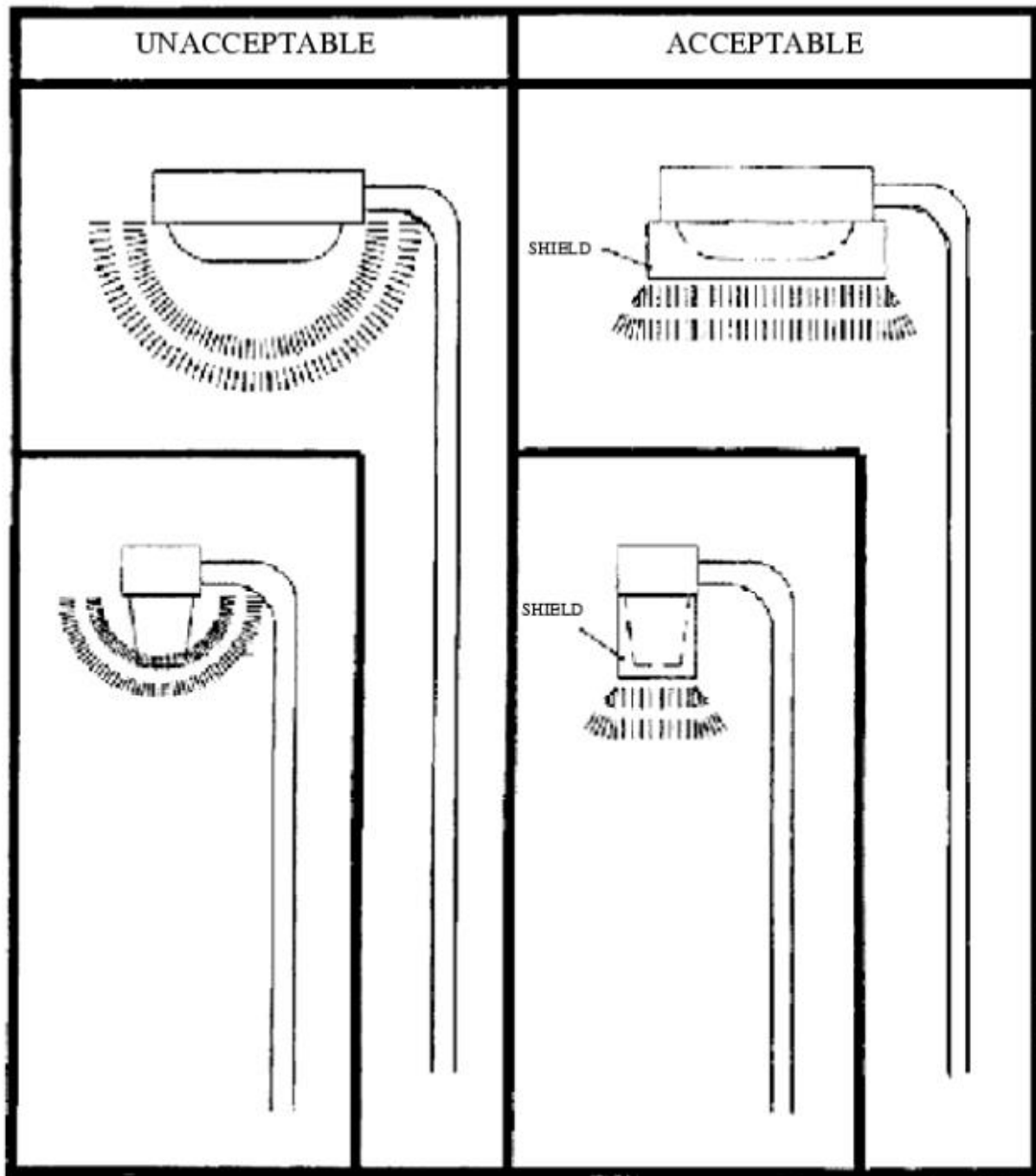
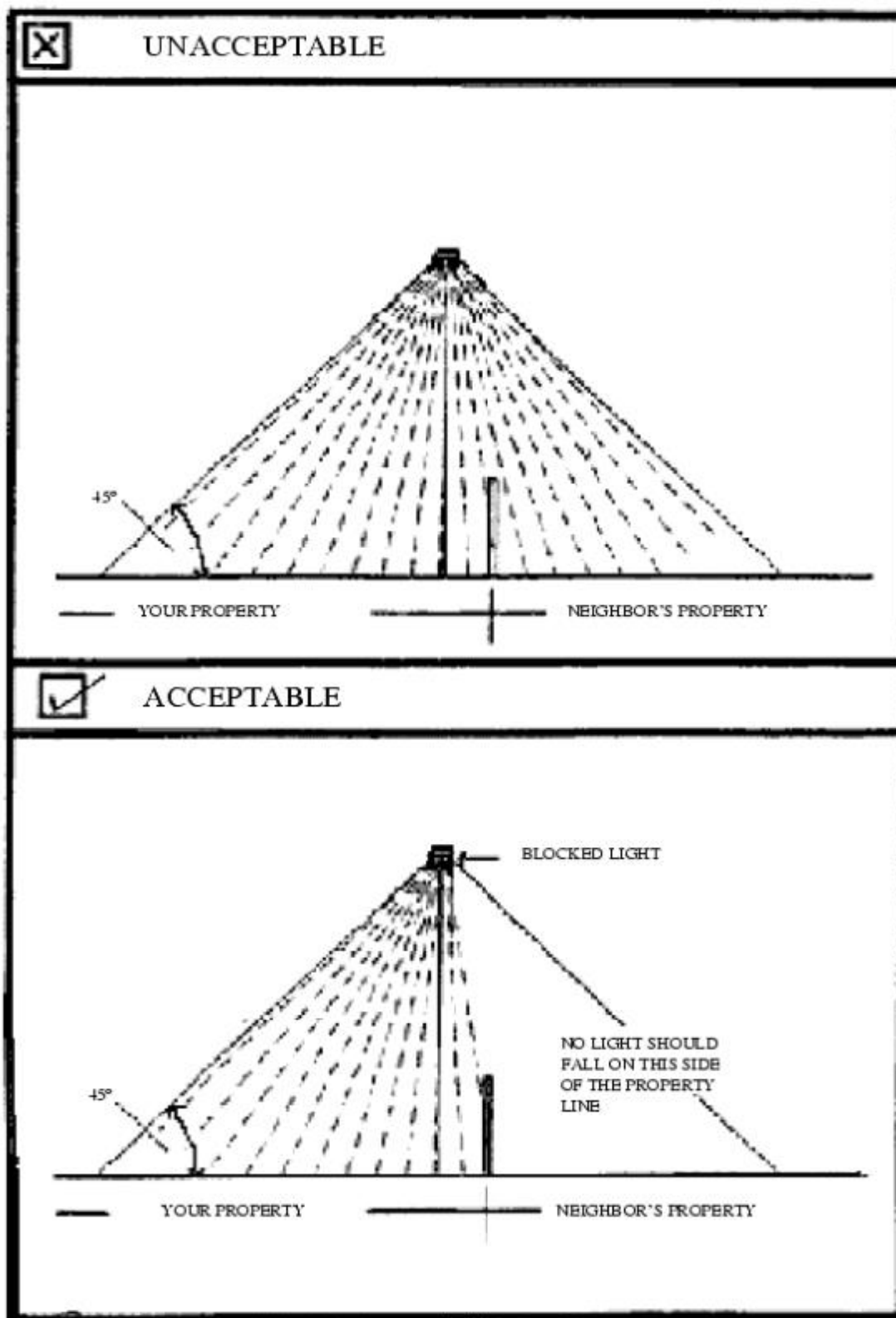


Figure 2: Outdoor Lighting Fixtures – Street and Lot Light Cut-off at Property Line

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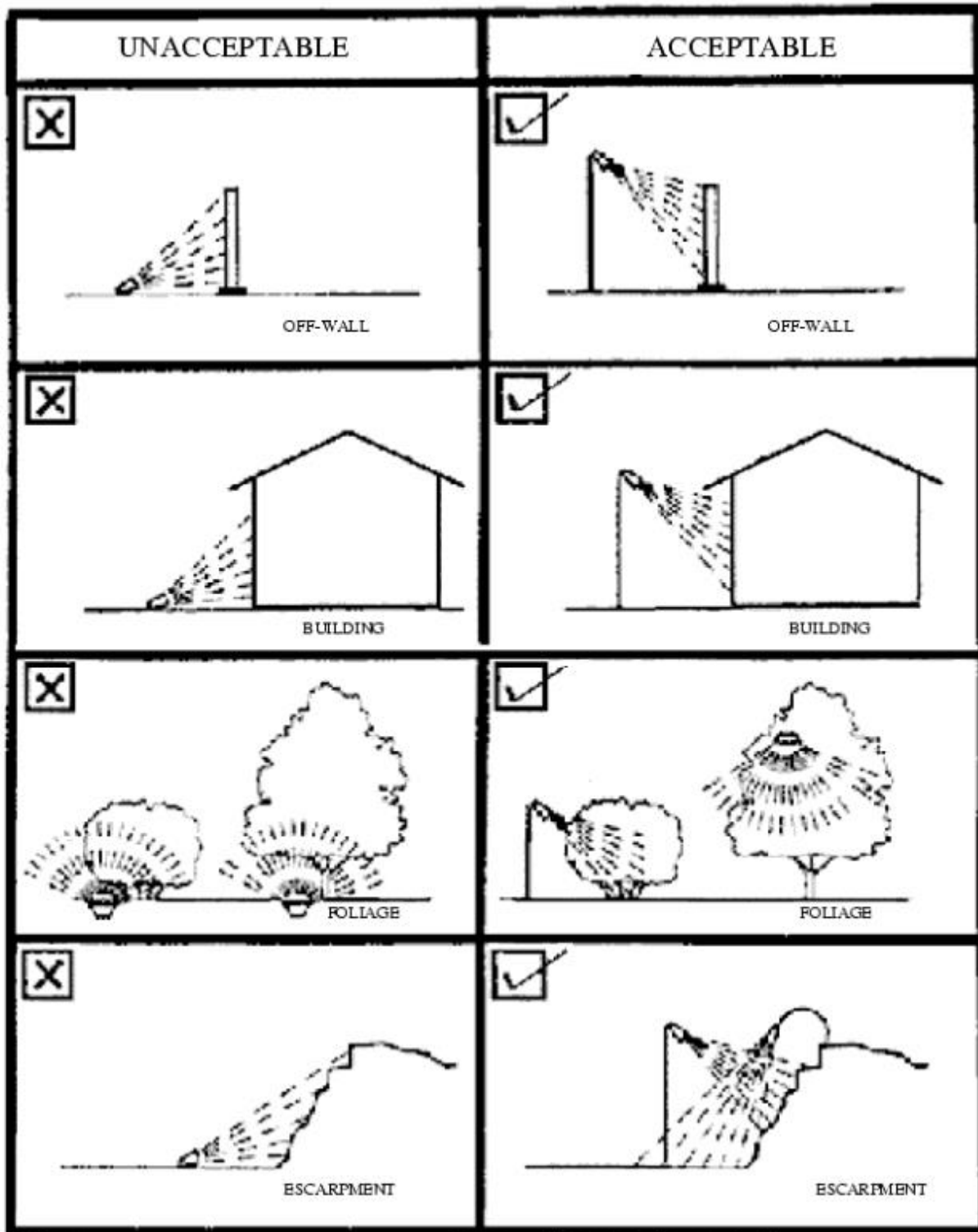


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Figure 3: Accent Lighting



(Ord. 2011-02 § 2 (Exh. A), 2011)

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18.15.050 Signs.

All development shall comply with those sign regulations contained in Chapter 15.08 BIMC. In addition, BIMC 16.20.130.C.13 contains additional signage regulations for critical area fish and wildlife conservation areas, and BIMC 16.20.160.D.9 contains additional signage regulations for critical area wetlands. (Ord. 2011-02 § 2 (Exh. A), 2011)

MEMORANDUM

TO: Mayor Medina and Bainbridge Island City Council
Douglas Schulze, City Manager
Joe Levan, City Attorney
Gary Christensen, Director of Planning and Community Development
City of Bainbridge Island Planning Commission
City of Bainbridge Island Design Review Board
City of Bainbridge Island Hearing Examiner

FROM: James E. Haney

DATE: June 1, 2018

RE: Roles of City Council, Planning Commission, Design Review Board, and Hearing Examiner in Land Use Permits

I. INTRODUCTION

I have been asked by the City Attorney to provide you with a memorandum outlining the ways in which the roles of the City Council, Planning Commission, Design Review Board, and Hearing Examiner could be altered in order to increase (and possibly decrease) those roles in the review of land use project permits. This memorandum incorporates significant input from the City Attorney.

As a preliminary matter, it is important to remember that Chapter 36.70B RCW (the Regulatory Reform Act) places some specific constraints on the land use permitting process, including a requirement that there be ***no more than one public hearing on any land use permit and no more than one closed record appeal***. The City has flexibility in determining which of its land use approval bodies holds any required public hearing and which, if any, of its land use approval bodies holds the closed record appeal, but the law constrains the City to have only one of each and that plays a significant role in how the various land use approval bodies must interact.

It's also important to consider as a threshold matter the sheer complexity of land use law and the requirement that every land use permitting decision for which a hearing is required must be supported by written findings and conclusions. Professional hearing examiners, for example, are more used to preparing such findings and conclusions than city councils and citizen advisory bodies and this can serve a city well for the sake of clarity and in situations in which a decision is challenged. City councils and advisory bodies can certainly learn to draft or enter quality

findings, but that task often falls to city planning staff and/or to the city attorney when there is no hearing examiner involved. As a general rule, hearing examiners are much more familiar with the rules that govern those who are acting in a quasi-judicial (i.e., administrative court-like) capacity than is the case for members of city councils and advisory bodies, and that familiarity can be significant in having a system that is legally fair and impartial, both in reality and as a matter of perception.

With such preliminary considerations in mind, the remainder of this memorandum lays out the role envisioned for each of the land use approval bodies in state law, the role laid out for these bodies in the Bainbridge Island Municipal Code (BIMC), and the ways in which those roles might be restructured to provide more or less involvement from each of the land use approval bodies.

II. BAINBRIDGE ISLAND CITY COUNCIL

State Law Role:

While the role of a city council in legislative matters such as the adoption and amendment of comprehensive plans and development regulations is clearly defined under state law, its role in land use permit approvals is more flexible and is generally governed by whatever land use permitting ordinances the city adopts. With respect to the adoption and amendment of comprehensive plans and development regulations, state law requires that the “planning agency” of the city (the planning commission) hold at least one public hearing on the adoption or amendments. The city council must then adopt or amend the comprehensive plan or development regulations and may, but is not obligated to, hold additional public hearings of its own prior to taking final action. Because the adoption or amendment is legislative and must be accomplished by ordinance, a city council cannot delegate this power and must be the final step in the process.

With respect to land use permits, however, this power is generally administrative, and the council may delegate it or keep it as it sees fit, unless state law specifically requires council involvement. Site specific rezones is the one activity where council involvement is required, because site specific rezones must be approved by ordinance and the council is the only body that has the authority to adopt ordinances.

BIMC Role:

Under the BIMC as it currently exists, the City Council has retained a role in three land use project permit decisions: (a) the approval of final long subdivisions; (b) the approval of site-specific rezones; and (c) the approval of permits considered under consolidated permit review whenever the council is the approval authority on any one of the consolidated permit applications.

Possible Changes to Increase Council Involvement:

If the City Council desires to increase its involvement in land use permit matters, there are multiple ways in which the City Council could do so. First, the hearing examiner system the City currently has is optional under state law. In other words, while the City has the authority to create a hearing examiner and to delegate authority to that examiner to hear and decide certain types of applications, like conditional use permits, preliminary plats, shoreline permits, etc., and to hear and decide appeals from SEPA and permitting decisions made by staff, the Council does not have to delegate that authority and could abolish the hearing examiner system and retain authority over any or all of the decisions that are currently delegated.

Pros of such an approach include:

- The Council would have decision-making authority in some or all of the matters now decided by the Hearing Examiner.

Cons of such an approach include:

- The workload currently shouldered by the Hearing Examiner would be transferred to the Council.
- The Council would also have new constraints on its ability to communicate with its constituents on land use permitting matters since the appearance of fairness statutes, which are intended to prohibit communications outside of the hearing process, would apply.

Second, state law provides that the City Council may, by ordinance, specify that a hearing examiner's decision has either (a) the effect of a recommendation to the Council, or (b) on every type of land use permit other than a site-specific rezone, the effect of a final decision. If the Council wants to retain the hearing examiner system but to gain more authority over the land use permits considered by the Hearing Examiner, the Council could change the effect of the Hearing Examiner's decisions from the current final decision to a recommendation. Again, one must keep in mind that land use permitting processes are limited to one open record hearing and one closed record appeal, so if the Hearing Examiner conducted the public hearing on a land use permit application before making a recommendation, the Council's review would be limited to the record created by the Examiner and the Council could not take additional evidence.

Pros of this approach include:

- The Council would have the final decision-making authority in some or all of the matters now decided by the Hearing Examiner, but without taking on all of the Hearing Examiner's workload.

Cons of this approach include:

- The additional workload that would get shifted from the Hearing Examiner to the Council;
- Appearance of fairness constraints;
- The limitation on taking additional evidence;
- Since no additional evidence can be taken, it may be difficult to support a decision that differs from the Hearing Examiner's recommendation.

Third, if the Council wants to retain the hearing examiner system and continue to have the Hearing Examiner make final decisions, the Council could insert itself as an appellate body above the Hearing Examiner and prior to court review. Under the Land Use Petition Act, Chapter 36.70C RCW, all final land use decisions of a city are appealable to superior court within 21 days after the decision is issued.

Currently, the City has provided in the BIMC for decisions by the Hearing Examiner to be appealable directly to the superior court. If the Council wanted to increase its involvement, it could amend the BIMC to make Hearing Examiner decisions appealable to the Council and only final Council decisions appealable to the courts. The Hearing Examiner would hold the hearing and make a decision and because of the "one open record hearing, one closed record appeal" limitation, the Council could not take new evidence but would decide the appeal based on the Hearing Examiner's record and appeal criteria that would have to be set forth in the City's regulations.

Pros of this approach include:

- The Council would have final authority on some or all of the matters currently determined by the Hearing Examiner, but because the authority would be limited to appeals, not all of the Hearing Examiner's workload would shift to the Council.

Cons of this approach include:

- Appearance of fairness limitations;
- The limitation on new evidence;
- The limitation on the ability to overturn the Hearing Examiner's decision without finding that the Hearing Examiner erred in some way.

Possible Changes to Decrease Council Involvement:

The above discussion indicates how the City Council could increase its involvement in land use permits, but it is possible to decrease the Council's role as well. Of the three roles the City Council has retained, two are mandated by state law. As noted above regarding the first role, state law requires that site-specific rezones be approved by ordinance (because they amend the zoning map, which is adopted by ordinance). Regarding the second role, the Regulatory Reform

Act mentioned above also requires the City to have a consolidated permit process whereby a developer seeking multiple permits that would ordinarily go to more than one land use approval body can have those permits consolidated for review by one body only, with that body being the highest city authority that would review any of the permits. In Bainbridge Island, that authority is the Council, and if the permits applied for are included a site-specific rezone, all consolidated permits could be elevated to the Council level.

However, regarding the third role over which the City Council has retained authority, final long subdivision approvals, such a role is not required for the Council by state law. In 2017, the state legislature amended the state subdivision law to allow city councils to delegate this authority to another land use approval authority, e.g., the hearing examiner, the planning director, or the planning commission. State law does not require the council to delegate the authority, so the Bainbridge Island City Council could remain the approval body for final long subdivisions, but it no longer has to. If the Council wants to decrease its involvement in land use permitting, this is a way it could do so.

Pros of such an approach include:

- As described below, some cities have, for example, delegated final long subdivision approval authority to the Hearing Examiner on the theory that the Examiner is in the best position to determine whether the conditions the Examiner imposed on the preliminary plat have been met.
- Other cities have delegated (or are considering delegating) final long subdivision approval authority to staff based on the theory that the decision is ministerial, and that staff is capable of making such a determination.
- Such a delegation would decrease the Council's workload to some extent, and allow the Council to remove itself from a quasi-judicial role in which it currently engages and which can be a difficult role for Councilmembers due to appearance of fairness considerations.

Cons of such an approach include:

- The Council would be delegating a decision its making currently to some other body or person (e.g., hearing examiner, planning director, planning commission) and would thereby reduce its decision-making authority.
- The workload of the Hearing Examiner, Director of Planning and Community Development, and/or Planning Commission would increase to some extent.

III. PLANNING COMMISSION

State Law Role:

As noted above, planning commissions have a clear role under state law in the legislative processes used in adopting and amending comprehensive plans and development regulations. As the "planning agency" of a city, the planning commission must hold at least one public hearing

on any proposed comprehensive plan or development regulation adoption or amendment and must make a recommendation on the same to the city's legislative body, i.e., the city council.

With respect to land use permitting actions, however, cities have the choice to decide what role to provide their planning commissions. The hearing examiner system is optional under state law and it is possible for a city to empower their planning commission to perform all of the functions that a hearing examiner can perform, e.g., hearing and deciding/making recommendations on project permits such as conditional use permits, preliminary plats, and shoreline permits, and hearing appeals from city staff decisions. The role of the planning commission is whatever the city decides it to be, within certain constraints, as described in more detail below.

BIMC Role:

Under the BIMC, the Bainbridge Island Planning Commission's role in land use permitting is limited to making recommendations on major site plan and design reviews and housing demonstration projects, and, when requested by the Director of Planning and Community Development or the Hearing Examiner, on other permits such as shoreline substantial development permits, major conditional use permits, and major variances. In order to avoid violating the "one open record hearing and one closed record appeal" requirement, the Planning Commission makes these recommendations after conducting a public meeting, not a public hearing.

Possible Changes to Increase Planning Commission Involvement:

If the City Council wishes to increase the Planning Commission's role in the permitting process, it has a couple of options. Because the hearing examiner system is an alternative to using the Planning Commission to conduct permit hearings, it would be possible to amend the BIMC to transfer all or any part of the Hearing Examiner's functions to the Planning Commission. The Planning Commission could replace the Hearing Examiner as the primary hearing authority on particular permit applications or on all permit applications.

Pros of such an approach include:

- To give the Planning Commission more input or control over those applications the Council decides to give the Planning Commission jurisdiction over.

Cons of such an approach include:

- Shifting some or all of the Hearing Examiner's workload to the Planning Commission and thereby detracting from the Commission's ability to complete its other work.
- Imposing the appearance of fairness limitations discussed above on the Planning Commission, and making it harder for the Commission to separate its legislative policy-making role from an adjudicatory permitting role.

- Most jurisdictions have gone to the hearing examiner system in order to avoid these negatives and the few jurisdictions that have continued to use a planning commission for such decisions are small enough that the commission's workload is not seen as an issue.

The other option to increase the Planning Commission's role is to work within the current construct and increase the Planning Commission's authority to make recommendations. As noted above, the Planning Commission is required to make recommendations on major site plan and design review projects and on housing demonstration projects, but the Commission makes a recommendation on other permits only if requested to do so. A way to increase the Planning Commission's role would be to expand the number of permit types on which the Planning Commission may weigh in or to make the receipt of a Planning Commission recommendation mandatory.

Pros of such an approach include:

- To give the Planning Commission a more formal and mandatory role in land use permitting.

Cons of such an approach include:

- The same cons as would be the case if the Planning Commission was substituted for the Hearing Examiner (although the workload shift would be less).
- Possible impacts on the timely processing of permits.
- Under the Regulatory Reform Act mentioned above, review of most permits is required to be completed within 120 days after a complete application is filed. Adding a mandatory Planning Commission recommendation into some permits could make this timeline difficult or impossible to meet and would, at the very least, lengthen the time by which such decisions are made.

Possible Changes to Decrease Planning Commission Involvement:

If the Council desires to decrease the Planning Commission's involvement in land use permitting, it could eliminate the Planning Commission's mandatory recommendation on major site plan and design review projects and housing demonstration projects, or on the ability of the Hearing Examiner or the Director of Planning and Community Development to request Planning Commission review in other matters. This would be done by amending the BIMC to change those roles. Because state law does not mandate Planning Commission involvement in any particular development application, the Council would be free to take any action to alter the Planning Commission's role that it sees fit.

Pros of such an approach include:

- The Planning Commission would have a decreased workload, which would require less of a commitment from its members.

- The Commission would have more time to focus on legislative matters, rather than matters involving specific projects.
- Less need for staff support in assisting the Planning Commission with its work.

Cons of such an approach include:

- Less of an opportunity to receive Planning Commission and public input on certain projects.
- Could increase the Council's workload in considering matters for which the Council currently receives input from the Planning Commission.

IV. DESIGN REVIEW BOARD

State Law Role:

There are no state law provisions governing the matters that can be assigned to design review boards. The creation, composition, and duties of such boards are entirely within the discretion of the jurisdiction creating them.

BIMC Role:

Under the BIMC, the City's Design Review Board (DRB) serves in an advisory capacity to the Director of Planning and Community Development, the Hearing Examiner, and the Planning Commission on site plan and design reviews, conditional use permits, and housing design demonstration project applications. Applications related to single-family residences such as family day care homes, minor/major home occupations, and single-family residential height variations are exempt from DRB consideration. In addition, applications related to utility facilities and to outdoor recreation facilities are exempt from DRB consideration. In order to avoid violation of the "one open record hearing and one closed record appeal" requirement, the DRB makes its recommendations after conducting a public meeting, not a public hearing.

Possible Changes to Increase DRB Involvement:

Because the DRB has no mandatory role in land use permitting under state law, the City Council is free to increase or decrease the DRB's role from that currently prescribed by the BIMC. There are two ways in which the DRB's role could be increased. First, the City could expand the number and type of permit types which the DRB reviews, i.e., remove the exceptions from DRB review that are set forth in the BIMC or extend the DRBs involvement beyond site plan and design review, conditional use permits, and review of housing design demonstration project applications. Second, the City Council could make the design standards used by the DRB even more robust than they are now. While either of these options is available, the ability to make them effective may be limited by the need to balance the roles of the land use approval bodies involved in the process and the desires of the community for more (or less) design regulation.

Pros of such an approach include:

- To give the DRB a more formal and mandatory role in land use permitting.
- To allow for enhanced adherence to design guidelines and standards.

Cons of such an approach include:

- Possible impacts on the timely processing of permits.
- As mentioned above, under the Regulatory Reform Act review of most permits is required to be completed within 120 days after a complete application is filed. Adding a mandatory DRB recommendation into some permits could make this timeline difficult or impossible to meet and would, at the very least, lengthen the time by which such decisions are made.

Possible Changes to Decrease DRB Involvement:

As far as decreasing the DRB's role, the City could do so in at least three ways: (a) decrease the number and type of permits for which design review is required; (b) make the City's design review standards less robust; or (c) assign design review to another body, e.g., the Planning Commission or Hearing Examiner. The City Council is free to expand or contract the DRB's authority as the Council believes is appropriate.

Pros of such an approach include:

- The DRB would have a decreased workload, which would require less of a commitment from its members.
- The DRB could focus more on legislative matters, rather than matters involving specific projects.
- Less need for staff support in assisting the DRB with its work.

Cons of such an approach include:

- Less of an opportunity to receive DRB and public input on certain projects.
- Could decrease adherence to design guidelines and standards.
- Could increase the Council's workload in considering matters for which the Council currently receives input from the DRB.

V. HEARING EXAMINER

State Law Role:

As mentioned a few times above, the hearing examiner system is optional under state law. Cities adopting the hearing examiner system have the option to decide which permit applications and

decisions will be assigned to the examiner. These may include, but are not limited to, applications for preliminary and final plat approval, conditional use permits, variances, and shoreline permits, appeals from administrative permit decisions, and appeals from SEPA threshold determinations and EIS adequacy decisions. Cities also have the option of: (a) giving the hearing examiner's decision the effect of a recommendation to the city council; or (b) giving the hearing examiner's decision the effect of a final decision subject to appeal to the city council within a specified time limit; or (c) except in the case of a site-specific rezone, giving the hearing examiner's decision the effect of a final decision appealable to the superior court (which is the current system for the City of Bainbridge Island).

BIMC Role:

Under the BIMC, the Hearing Examiner has been given the broadest authority that it is possible for the City to give a hearing examiner under state law, with one exception. The BIMC currently provides that the decision to approve or disapprove a final long subdivision lies solely with the City Council. While this was a requirement of state law prior to 2017, the state legislature amended the state subdivision law last year to allow a city council to delegate this function.

Possible Changes to Increase Hearing Examiner Involvement:

The only way to increase the Hearing Examiner's involvement in land use permitting in the City of Bainbridge Island would be to delegate the City Council's authority over the approval or disapproval of final long subdivisions to the Examiner.

Pros of such an approach include:

- Some cities have done this on the theory that the Hearing Examiner is in the best position to determine whether the conditions the Examiner imposed on the preliminary plat have been met.
- Other cities have delegated (or are considering delegating) final long subdivision approval authority to staff based on the theory that the decision is ministerial, and that staff is capable of making such a determination.
- Such a delegation from the Council to the Hearing Examiner would decrease the Council's workload to some extent, and allow the Council to remove itself from a quasi-judicial role in which it currently engages and which can be a difficult role for Councilmembers due to appearance of fairness considerations.

Cons of such an approach include:

- The City Council would lose some decision-making authority by delegating a decision its making currently to the Hearing Examiner.
- Such a delegation would increase the Hearing Examiner's workload to some extent.

Possible Changes to Decrease Hearing Examiner Involvement:

With respect to decreasing the Hearing Examiner's role in land use permitting, the options set forth above for increasing the Council's role, the Planning Commission's role, and the DRB's role virtually all involve a commensurate reduction in the role of the Hearing Examiner. Again, because the hearing examiner system is entirely optional and because there are various options for how to structure the authority of the hearing examiner within an adopted system, the Council has flexibility to determine what role best fits the City's needs.

Pros for this approach include:

- Would allow for an increase in the role of the Council, the Planning Commission, and/or the DRB in the land use permitting process.
- The City wouldn't have to pay to support the Office of the City's Hearing Examiner.

Cons for this approach include:

- A strong argument in favor of retaining the hearing examiner system and giving the Hearing Examiner a preeminent position in the City's land use permitting process is the complexity of land use law and the requirement that every land use permitting decision for which a hearing is required must be supported by written findings and conclusions.
- Professional hearing examiners are more used to crafting such findings and conclusions than city councils and citizen advisory bodies and this can serve a city well in terms of clarity and when a decision is challenged.
- Citizen advisory bodies can certainly learn to draft or enter quality findings, but that task often falls to the city planning staff and/or to the city attorney when there is no hearing examiner involved.
- If the City decides to decrease the role of the Hearing Examiner in land use permitting, it should consider how this function will be performed.

VI. CONCLUSION

The City of Bainbridge Island has many options for how it structures its land use permitting system. Currently, the City has given the Hearing Examiner the broadest possible powers that state law allows, with the exception of power over final long subdivision approvals. Washington law is very flexible, however, and provides few restraints on the way in which cities can structure the permitting process. The City Council can increase or decrease the role of any of its land use approval bodies in the process until it finds the right balance to meet the desires of those bodies and the community at large.