CITY OF
BAINBRIDGE ISLAND

Design Review Board
Special Scheduled Meeting
Monday, August 13, 2018
3:30 – 5:00 PM
Council Conference Room
280 Madison Ave N
Bainbridge Island, WA 98110

AGENDA

3:30 PM	Call to Order (Attendance, Agenda, Ethics)
3:35 PM	Approval of Minutes August 6, 2018
3:40 PM	**Design Standards and Subdivision Review Process** Review proposal of consultants & Planning Commission *(See attached materials)*
4:55 PM	New/Old Business
5:00 PM	Adjourn

For special accommodations, please contact Carla Lundgren, Planning & Community Development 206-780-3763 or at clundgren@bainbridgewa.gov

CITY OF
BAINBRIDGE ISLAND

Design Review Board
Regular Scheduled Meeting
Monday, August 6, 2018

Call to Order (Attendance, Agenda, Ethics)
Review & Approve Minutes
Green Building Incentive Program
Design Standards and Subdivision Review Process
New/Old Business
Adjourn

Call to Order (Attendance, Agenda, Ethics)

Acting Chair Joe Dunstan called the meeting to order at 2:01 pm. Design Review Board (DRB) members in attendance were Peter Perry, Jane Rein, Carl Yurdin and Jason Wilkensen. Alan Grainger and Jim McNett were absent and excused. City Council member Ron Peltier was present. City staff in attendance were James Weaver Building Official, Christy Carr Senior Planner, and Administrative Specialist Carla Lundgren who recorded the meeting and prepared minutes.

Review & Approve Minutes

> **Motion**: I move to approve the June 18, 2018 minutes.
> **Wilkensen/Perry:** Motion passed 5-0.

Discuss Green Building Incentive Program:

James Weaver, Building Official *(Discussion Only)*

Design Standards and Subdivision Review Process:

Christy Carr, Senior Planner *(Discussion Only – See presentation materials.)*

New/Old Business

The DRB members decided to schedule a special session meeting for Monday, August 13, 2018 from 3:30pm – 5pm to review the proposed Subdivision Guidelines presented by Christy Carr. Location at City Hall is "to be determined" based on room availability.

DRB members Jason Wilkensen and Jane Rien will draft a response to the Green Building Incentive Program presentation to be prepared within the next 30 days.

The September 3, 2018 meeting has been cancelled due to the Labor Day holiday. The meeting has been tentatively rescheduled to September 4, 2018 meeting from 2pm - 5pm.

> **Motion:** I move that the City formally recognize Charles Schmidt and Olaf Riberio for their contribution and efforts of preservation for the Bainbridge Island community.
> **Perry/Rien:** Motion passed 5-0

DRAFT

Adjourn
The meeting adjourned at 4:41pm.

Approved by:

_____	_____
Alan Grainger, Chair	Carla Lundgren, Administrative Specialist

DRAFT

CITY OF BAINBRIDGE ISLAND

Department of Planning and Community Development

Date: July 13, 2018

To: Gary Christensen, AICP, - Director

From: James Weaver, AICP. CBO, LEED AP - Building Official

Subject: Green Building Incentive Program - 2018

The adoption of the Bainbridge Island Comprehensive Plan Update in 2017 ("Comprehensive Plan Update") included goals and policies (see Attachment A) related to provision of green building within the City of Bainbridge Island. The Planning and Community Development Department began implementation of these Comprehensive Plan goals and policies in July 2016 through the adoption of the International Green Construction Code as an optional regulatory code for new structures. This initial step has proven successful.

This memorandum is intended to serve as an introduction and provide background information on initiating a *Green Building Incentive Program* to foster green building principles and sustainable building efforts. It also summarizes through research the lessons learned from similar green building communities in Puget Sound which have been successful in the implementation of green building incentives; including but not limited to: issues such as site sustainability, water use efficiency, energy use efficiency, indoor environmental quality, and the impact on the atmosphere, materials, and resources through building. In addition, the memorandum describes incentives that have worked in other communities and suggests for further consideration policy choices that may benefit the City of Bainbridge Island.

1. Evaluation of Existing Green Building Certification Programs

The push toward sustainable design increased in the 1990s with the creation of the first green building rating system in the U.K. In 2000, the U.S. Green Building Council developed and released criteria also aimed at improving the environmental performance of buildings through its Leadership in Energy and Environmental Design ("LEED") rating system for new construction. Others also responded to the growing interest and demand for sustainable design including the Green Building Initiative ("GBI"), which was created to assist the National Association of Homebuilders ("NAHB") in promoting its Green Building Guidelines and Built Green local program.

Additional rating systems have been developed that seek to go beyond the limits of current policy and building practices to address broader issues of sustainability or evolving concepts

such as net zero energy and living building concepts that improve the natural environment or model nature's processes.

Green product standards also began to appear in the marketplace in the 1980s and increased in the 1990s. The focus also expanded to include a broader range of environmental issues and the impacts of products during their manufacture, use, and reuse. There is now a proliferation of standards, rating, and certification programs in the marketplace to help guide, demonstrate, and document efforts to deliver sustainable, high-performance buildings. It is estimated that there are nearly 600 green product certifications in the world with nearly 100 in use in the U.S., and the numbers continue to grow.

There are also green building rating programs in use that vary in their approach with some outlining prerequisites and optional credits, while others take a prescriptive approach, and still others suggest performance-based requirements that can be met in different ways for different products and project types. As a result, it can be challenging and time consuming determining which standards, certifications, and rating programs are most credible and applicable to a particular project. For the purpose of a *Green Building Incentive Program* for Bainbridge Island, the most prevalent, commonly used, and widely adopted green building certification processes are discussed in this memorandum.

a) U.S. Green Building Council – LEED Green Building Certification

LEED (Leadership in Energy and Environmental Design) is the most widely used green building rating system in the world. Available for virtually all building, community, and home project types, LEED provides a framework to create healthy, highly efficient, and cost-saving green buildings. LEED certification is a globally recognized symbol of sustainability achievement. LEED has five main evaluation categories: Sustainable Sites, Water Efficiency, Energy and Atmosphere, Materials and Resources, and Indoor Environmental Quality. LEED buildings have the overall goal to save energy, water, and resources, to generate less waste, and to support human health. Over 92,000 projects in 165 countries and territories have used the U.S. Green Building Council LEED certification process. LEED has four certification levels for increasing levels of incorporation of green building: Certified, Silver, Gold, and Platinum.

LEED certification can be processed by third party vendors. LEED certification includes a flat registration fee and a certification fee to the organization, which is based on a project's size and the rating system the project was registered under. Registration fees are due at a project's registration; certification fees are due when an application is submitted for review.

The benefit of LEED certification is that it is a well-known and universal certification process and includes high priority standards that evaluate a given building throughout its lifecycle. The well-known and documented aspects of LEED certification make the process of construction, materials, and green development much more unified and commonplace, with minimal impacts to building construction timetables. Possible disadvantages include that LEED is time consuming, requires abundant documentation, and that LEED does not specifically include adequate community issues or contextual relationships outside the building or development footprint.

A *Green Building Incentive Program* for Bainbridge Island could incorporate, LEED Silver, or higher Gold, or highest Platinum certification levels as the threshold for incorporating U.S. Green Building Council LEED certified buildings as Bainbridge Island green buildings.

b) International Living Futures Institute - Living Building Challenge, Petals, & Zero Energy.

The International Living Future Institute's ("ILFI") Living Building Challenge is the world's most rigorous proven performance standard for buildings. People from around the world use the regenerative design framework to create spaces that, like a flower, give more than they take. The Living Building Challenge is organized into seven performance areas, known as "Petals": Place, Water, Energy, Health & Happiness, Materials, Equity, and Beauty. Each Petal is further subdivided into "Imperatives," which address specific issues through detailed requirements. The ILFI's Zero Energy Building Certification™ was created to allow projects to demonstrate zero energy performance, building an advanced cohort of projects with the integrity of third-party performance certification.

The Living Building Challenge emphasizes the efforts to create buildings that generate more energy than they use, capture and treat all water on site, and are made using healthy materials. The Living Building Challenge has two core rules: (1) all Imperatives assigned to a typology are mandatory; and (2) Living Building Challenge certification requires actual, rather than anticipated, performance demonstrated over twelve consecutive months. The Living Building Challenge recognizes the ideal scale for solutions is not always within a property boundary. Projects are encouraged to register as early in the development/occupancy process as possible.

Similar to LEED, the Living Building Challenge certification can be processed by third party vendors. Living Building Challenge, Petals, and Zero Energy certification includes both a registration fee and a certification fee to the organization. Certification fees are flat fees based upon building type. Documentation for Living Building Challenge certification is audited and is required far beyond the initial occupancy of the structure.

The benefit of the Living Building Challenge certification is a holistic approach to building that requires all project stakeholders to consider the real-life cycle impact of design, construction, and operation. Living Building Challenge certification benefits from the ongoing performance of the building and the context that it operates within as part of the evaluation. If all future buildings were constructed to meet the requirements of all Living Building Challenge Petals, growth in emissions from the building sector would cease, and efforts to improve existing stock could yield real reductions in global carbon emissions. Possible disadvantages include that the strict nature of the Living Building Challenge requires that there are no optional credits and little flexibility with changes that often occur on site, requiring the design team to carefully consider the impact of every design choice no matter how minor. Similar challenges are the time-consuming nature of the certification and documentation. Additionally, the requirement to manage the day-to-day activity and energy usage for the occupants and their use of the space is a component of the certification. This may create contractual challenges where current regulations do not enforce these measures and real estate leases and other ownership transactions may not have the tools to implement the long term Living Building Challenge requirements regarding the building occupants.

The *Green Building Incentive Program* for Bainbridge Island could incorporate any of the Zero Energy, Petals, or the Living Building Challenge certifications as a threshold for incorporating ILFI certified buildings as Bainbridge Island green buildings.

c) National Builders Association (King & Snohomish Counties) – Built Green Program

Built Green is an environmentally-friendly, residential building program of the Master Builders Association of King and Snohomish Counties, developed in partnership with the National Association of Home Builders. The Built Green program specifically optimizes regional requirements in coordination with jurisdictions and other agencies in Washington State, which sets standards of excellence that have a significant impact on housing, health, and the environment and are achievable today. Built Green provides builders and consumers with easy-to-understand rating systems, which quantify environmentally-friendly building practices for remodeling, new home construction, and community and multi-family development projects. Built Green has three major functions: (1) certification of green homes and communities with its tiered rating system and holistic checklist; (2) support of builders and associates through its member network; and (3) education of both the public and those in the building industry on the advantages of green homes and how to support sustainability in the building industry and in our communities.

Like the other green building certification programs, the Built Green certification can be processed by third party vendors. Built Green certification includes both a registration fee and a certification fee to the organization. The *Green Building Incentive Program* for Bainbridge Island could incorporate any of the Built Green three-star, four-star, five star, or Emerald star certification levels to serve as the threshold for incorporating Built Green certified buildings as Bainbridge Island green buildings.

d) Additional Green Building Certification Analysis (EPA Analysis and Evaluation)

In 2017, the U.S. Environmental Protection Agency released an independent analysis and evaluation of the most prevalent Green Building model codes and Green Building Certification systems including the LEED, Living Building Challenge, the National Association of Home Builders, and the International Green Construction Code. A summary of the evaluation is attached to this memorandum (see Attachment B).

2. Analysis of Other Programs Successfully Implemented Throughout Puget Sound

The U.S. Green Building Council ("USGBC") notes that buildings are responsible for almost 40% of annual CO2 emissions nationally, higher than both industrial and transportation contributions. Further, in the U.S., buildings consume approximately 14% of all potable water and contribute millions of tons of construction waste to landfills each year. Numerous cities in Puget Sound are undertaking their own pursuit of working toward sustainability and incorporating green building incentives into their communities. The following information includes programs from Seattle, Issaquah, Redmond, and Shoreline, which have been identified as some of the most progressive and successful programs from communities in Puget Sound

and those that served as source material for much of the proposed *Green Building Incentive Program* for Bainbridge Island.

a) City of Seattle

Seattle is a national leader in sustainable development and energy conservation and has set ambitious targets for reducing building energy use to become a carbon neutral city by 2050. Seattle is also the home to the *Bullitt Center*, constructed as the greenest commercial building in the world, which is celebrating its 5th anniversary this year. Recently, Seattle created the Office of Sustainability and Environment ("OSE"). OSE partners with the community to create strategies to help achieve shared environmental goals and coordinates among City departments, the Mayor's Office, and the City Council to ensure successful implementation of these strategies. OSE integrates equity by elevating opportunities to increase racial, social, and environmental justice throughout Seattle's environmental work.

In 2016—with a revision and clarification in 2017—the City of Seattle adopted a green building standard, a voluntary incentive for buildings that provides additional development capacity, such as extra floor area or height in exchange for meeting a green building standard. The green building standard is meant to improve energy and water conservation beyond the current code requirements, to use resources wisely, and to promote healthy environments, all in exchange for additional development capacity.

Seattle also incorporates a sustainable building policy, originally adopted in 2000 and significantly expanded in scope in 2011, which requires city-funded buildings to be built to green building certification standards. The Seattle policy is discussed further in this memorandum under city-funded buildings.

b) City of Issaquah

In 2017, the Issaquah City Council adopted a sustainable building action strategy. This strategy aims to position Issaquah as a leader in sustainable building through specific, actionable measures focusing on building and infrastructure design, construction, renovation, operation, education, and outreach.

Issaquah's strategy identifies five overarching themes that align with the city's priorities and sustainable building goals:

1. Walk the Talk and Lead the Way: A focus on municipal leadership through demonstrated city actions and commitments is crucial to promote and maintain a culture of sustainable building innovation in Issaquah.
2. Re-Think Car Habitat: Activities that support a reduced reliance on auto-based trips and a parking dominated landscape, and promote walking, biking, transit, transportation services, and other cleaner and more efficient forms of mobility.
3. Toward Carbon Neutral Buildings: In alignment with city goals and the King County-Cities Climate Collaboration commitments, Issaquah must implement large-scale strategies to enhance efficiency and reduce the use of fossil fuels.

4. Connect to the Outdoors: A consistent city goal is protection and promotion of the natural environment through responsible building, development, land use, and transportation practices and policies.
5. Foster Innovation: Innovation is an important driver for development of collaborative and leading solutions to community-wide challenges.

Issaquah has continued to advocate for sustainable building with the establishment of Issaquah's Sustainable Building and Infrastructure Resolution, which promotes environmental responsibility, including requirements for implementation of LEED and Built Green standards for city-owned buildings. More recently, Issaquah has been praised for established partnerships with its school district, seven homebuilders, Port Blakely Communities, Rowley Properties, Microsoft, and Life Care Services. Issaquah offers free expedited permit services for Built Green 5-Star, Built Green Emerald Star, or LEED Gold certified buildings. Over nineteen percent of all Issaquah homes have some form of Built Green certification. Amongst medium sized cities in King County, Issaquah can be considered above average in sustainability practices.

c) City of Redmond

The City of Redmond initiated its Green Building and Green Infrastructure Incentive Program in 2016. The Redmond Green Building and Green Infrastructure Incentive Program encourages developers and homebuilders to incorporate green building and green infrastructure techniques, including low impact development techniques, into new residential developments. Techniques include site planning to better take account of natural site features, achieving LEED or Built Green certification, retaining native vegetation, planting drought-resistant native landscaping, amending soils with compost, reducing impervious (hardscape) surface area, reusing rainwater from roofs, using pervious materials where appropriate, minimizing site disturbance during development, and installing green (vegetated) roofs. Implementing these techniques will result in increased natural resource conservation, lower home operating costs, and better stewardship of Redmond's drinking water aquifer.

The Redmond Green Building and Green Infrastructure Incentive Program gives applicants the option to incorporate elements of green building and green infrastructure into development projects. The program is entirely voluntary, incentive based, and projects may benefit from priority building permit processing, online & print recognition, a sustainable development award from the City, lot size reduction in certain zones for clustering, or alternative road standards.

d) City of Shoreline

In 2017, Shoreline City Council unanimously adopted its Deep Green Incentive Program ("DGIP") to encourage the construction of more sustainable buildings in the city. DGIP provides flexibility in the application of development standards, expedited permitting, and fee reductions to promote construction of green buildings that meet the most stringent levels of available certification programs. Shoreline's adopted green building program included the U.S. Green Building Council's LEED Platinum level; the International Living Future Institute's Living Building Challenge Petal Recognition and Net Zero Energy Building certifications; and the Master Builders Association's Built Green 5-Star and Emerald Star certification levels.

e) Other Puget Sound communities were reviewed for adopted Green Building programs

Additional jurisdictions throughout the Puget Sound Region incorporate the use of electronic permitting to facilitate green building processes and practices within their own building departments. Many jurisdictions were researched, but the most robust programs—those described above—are discussed in this memorandum.

3. Green Building Policy Choices

a) Mandatory Green Building Standards for all City-Owned Buildings

Various Puget Sound cities have required their projects to be built to green building standards. They have, through their own green building programs, become strong advocates for green building construction and have led the way.

The City of Seattle's Sustainable Building Policy calls for new city-funded projects and major renovations with over 5,000 square feet of occupied space to achieve a LEED Gold standard. In addition, such projects must meet additional energy efficiency, water, waste, and bicycle parking requirements. Minor renovation and tenant improvement projects that impact 5,000 square feet or more and involve changes to mechanical, electrical, and plumbing systems must also meet LEED Gold standards, as well as additional requirements for water and waste. Since 2013, 33 LEED certified City buildings have been completed under Seattle's Sustainable Building Policy.

The City of Issaquah's first goal in its Green Action Strategy is similar: "1. Walk the Talk and Lead the Way: A focus on municipal leadership through demonstrated City actions and commitments." Acknowledging the increased costs of city construction (often 30%-40% greater) to incorporate green building is a tradeoff that each City Council is required to undertake in these commitments.

Both the City of Redmond and the City of Shoreline incorporate policies regarding city-owned buildings within their prospective green building incentive programs. These commitments acted as an important tool for furthering implementation of advanced sustainability within the built environment to meet city-wide goals and positions those cities as regional and international leaders.

b) Reduce Plan Check and Building Permit Fees

Consider adding a new subsection to BIMC 15.04.050, authorizing a "Green Building Fee Incentive" in the form of a 25 % reduction on plan check and building permit issuance fees for any structure that is certified as LEED Silver, Evergreen Sustainable Development version 3.0, Built Green 4-Star, or Living Building Challenge Petal. Proof of ongoing certification shall be required during construction and project certification documentation must be completed prior to final occupancy.

c) Provide Expedited Permit Review

Consider adding a new subsection to BIMC 15.04.070, authorizing a "Green Building Priority Processing Incentive" in the form of expedited permit processing for any structure that is certified as LEED Platinum, Evergreen Sustainable Development version 3.0, Built Green Emerald Star, or Living Building Challenge Petal. Proof of ongoing certification shall be required during construction and project certification documentation must be completed prior to final occupancy.

d) Require Commercial Structures to Qualify for Green Building Certifications

Consider adding a new subsection to BIMC 15.04.020 requiring that all occupied commercial structures in excess of 1,000 square feet be certified as LEED silver, Evergreen Sustainable Development version 3.0, Built Green 3-Star, or Living Building Challenge Net Zero or Petal, or any higher certifications. This requirement would be mandatory for all new commercial structures on Bainbridge Island.

e) Create Green Building Program Recognition

Consider adding a new subsection to BIMC 15.04.070, authorizing "Green Building Incentive Program Recognition" to be given by the Director through publication, recognition, and/or issuance of sustainability certificates from the Planning and Community Development Department for any structure that is certified as any of the required green building certifications.

ATTACHMENT A

Policy LU 5.5
Implement a *green building* code.

LU Action #3 Amend the City's development code to implement green building codes. Utilize lessons learned from communities of comparable environmental and socio-economic characteristics to implement green building codes which address issues such as site sustainability, water use efficiency, energy use efficiency, indoor environmental quality, and the impact on the atmosphere, materials and resources by buildings.

Policy EC 3.1
Encourage the use of *green building* materials and techniques in all types of construction, as well as design approaches that are responsive to changing conditions.

Policy EC 10.2
Partner with Island architects, landscape architects, builders and related construction professionals to draft development standards and practices that incorporate *green building* practices and *context-sensitive design*.

Goal EN-4
Encourage sustainable development that maintains diversity of healthy, functioning ecosystems that are essential for maintaining our quality of life and economic viability into the future.

Policy EN 4.1
Employ conservation design methods and principles such as *low impact development* techniques for managing storm and waste water, *green building* materials, high-efficiency heating and lighting systems.

Policy HO 6.4
Create a new *conservation villages* permit process to apply outside of *designated centers* to increase housing choices including *affordable housing* and requiring *green building* practices while better conserving *open space*.

Policy U 14.2
Encourage the conservation of electrical energy, especially during periods of peak usage, and encourage energy saving building code strategies, local renewable energy, and other cost effective approaches to meeting the island's energy needs, including distributed energy systems.

ATTACHMENT B

EPA United States Environmental Protection Agency

Comparison of Green Building Standards

Standard	International Code Council's 2012 *International Green Construction Code* (IgCC), 2012 edition COBI Adopted July 2016	American Society of Heating, Refrigeration, and Air-Conditioning Engineers' ANSI/ASHRAE/USGBC/IES Standard 189.1-2011, *Standard for the Design of High-Performance Green Buildings Except Low-Rise Residential Buildings* (ASHRAE 189.1), 2011 edition	National Association of Home Builders' ICC 700 *National Green Building Standard* (NGBS), 2012 edition	Green Building Initiative's ANSI/GBI 01-2010: *Green Building Assessment Protocol for Commercial Buildings* (Green Globes), 2010 edition	U.S. Green Building Council's *Leadership in Energy and Environmental Design* (LEED®)	The International Living Future Institute's *Living Building Challenge*, version 2.1 (May 2012)
Description	A model code that contains minimum requirements for increasing the environmental and health performance of buildings' sites and structures. Generally, it applies to the design and construction of all types of buildings except single- and two-family residential structures, multifamily structures with three or fewer stories, and temporary structures. For more information, see the 2012 International Green Construction Code. EXIT	A model code that contains minimum requirements for increasing the environmental and health performance of buildings' sites and structures. Generally, it applies to the design and construction of all types of buildings except single-family homes, multifamily homes with three or fewer stories, and modular and mobile homes. For more information, see ASHRAE Standard 189.1. EXIT	A rating and certification system that aims to encourage increased environmental and health performance in residences and residential portions of buildings. Its criteria apply to the design and construction of homes and subdivisions. For more information, see the National Association of Home Builders' "Sustainability" EXIT webpage.	A series of rating and certification systems that encourage improved environmental and health performance for all types of buildings except residential structures. Green Globes is administered in the United States by the Green Building Initiative. For more information, see Green Globes Certification. EXIT	A series of rating systems aimed at increasing the environmental and health performance of buildings' sites and structures and of neighborhoods. LEED® covers the design, construction, and operations of all types of buildings. For more information, see the U.S. Green Building Council's LEED webpage. EXIT	A certification system that advocates for transformation in the design, construction, and operation of buildings. In addition to encouraging improved environmental and health performance, it supports the building of structures that are restorative, regenerative, and an integral component of the local ecology and culture. For more information, see the Living Building Challenge. EXIT
Standard Type[1]	• Model code	• Model code	• Rating and certification system	• Rating and certification system	• Rating and certification system	• Certification system

Standard	International Code Council's 2012 *International Green Construction Code* (IgCC), 2012 edition **COBI Adopted July 2016**	American Society of Heating, Refrigeration, and Air-Conditioning Engineers' ANSI/ASHRAE/USGBC/IES Standard 189.1-2011, *Standard for the Design of High-Performance Green Buildings Except Low-Rise Residential Buildings* (ASHRAE 189.1), 2011 edition	National Association of Home Builders' ICC 700 *National Green Building Standard* (NGBS), 2012 edition	Green Building Initiative's ANSI/GBI 01-2010: *Green Building Assessment Protocol for Commercial Buildings* (Green Globes), 2010 edition	U.S. Green Building Council's *Leadership in Energy and Environmental Design* (LEED®)	The International Living Future Institute's *Living Building Challenge*, version 2.1 (May 2012)
Mandatory/ Voluntary[2]	• Mandatory	• Mandatory	• Voluntary	• Voluntary	• Voluntary	• Voluntary
Building Type(s)	• Commercial: all • Industrial: all but manufacturing systems and equipment • Mixed use: all • Residential: multifamily with more than three stories	• Commercial: all • Industrial: all • Mixed use: all • Residential: multifamily with more than three stories	• Mixed use: residential space • Residential: all except institutional uses	• Commercial: all • Mixed use: all • Residential: multifamily	• Commercial: all • Industrial: all • Mixed use: all • Residential: all	• Commercial: all • Industrial: all • Mixed use: all • Residential: all
Project Type	• New construction • Additions • Alterations	• New construction • Additions	• New construction • Additions • Alterations	• New construction • Additions • Alterations • Existing buildings	• New construction • Existing buildings • Additions	• All
Subject Areas	• Sustainable sites • Energy efficiency • Water efficiency • Materials and resource use • Indoor environmental quality • Emissions • Operations and maintenance	• Sustainable sites • Energy efficiency • Water efficiency • Materials and resource use • Indoor environmental quality • Construction and operations plans	• Sustainable sites • Energy efficiency • Water efficiency • Materials and resource use • Indoor environmental quality • Operations and maintenance • Building owner education	• Sustainable sites • Energy efficiency • Water efficiency • Materials and resource use • Indoor environmental quality • Emissions • Project/enviromental management	• Sustainable sites • Energy efficiency • Water efficiency • Materials and resource use • Indoor environmental quality • Emissions • Operations and maintenance	• Sustainable sites • Energy efficiency • Water efficiency • Materials and resource use • Indoor environmental quality • Equity • Aesthetics

Standard	**International Code Council's 2012 *International Green Construction Code* (IgCC), 2012 edition** **COBI Adopted July 2016**	**American Society of Heating, Refrigeration, and Air-Conditioning Engineers' ANSI/ASHRAE/USGBC/IES Standard 189.1-2011, *Standard for the Design of High-Performance Green Buildings Except Low-Rise Residential Buildings* (ASHRAE 189.1), 2011 edition**	**National Association of Home Builders' ICC 700 *National Green Building Standard* (NGBS), 2012 edition**	**Green Building Initiative's ANSI/GBI 01-2010: *Green Building Assessment Protocol for Commercial Buildings* (Green Globes), 2010 edition**	**U.S. Green Building Council's *Leadership in Energy and Environmental Design* (LEED®)**	**The International Living Future Institute's *Living Building Challenge*, version 2.1 (May 2012)**
Community Adoption/Use	• Designed to be incorporated into a jurisdiction's codes and ordinances and function as an overlay to other International Code Council model codes. • Requires adoption by a governing jurisdiction before it becomes mandatory. • Jurisdictions that do not have other International Code Council codes in place might want to make a detailed review of local building ordinances to ensure that they adequately correlate with this code. • In addition to the mandatory requirements, IgCC offers jurisdictions a range of options for increasing the stringency of the code or encouraging improved levels of performance in areas of particular importance to the community.	• ASHRAE 189.1 is designed to be used and enforced with a jurisdiction's other building codes and ordinances. • Requires adoption by a governing jurisdiction before it becomes mandatory. • Jurisdictions might want to make a detailed review of local building ordinances to ensure that they adequately correlate with this standard.	• Communities could use this standard as the basis for a voluntary program to encourage construction of greener homes.	• Communities could use this protocol as the basis for a voluntary program that encourages construction of greener commercial buildings.	• Communities could use the rating systems to encourage greener construction of commercial buildings, homes, or neighborhoods.	• Communities could use this system as the basis for a green building program.

Standard	International Code Council's 2012 *International Green Construction Code* (IgCC), 2012 edition **COBI Adopted July 2016**	American Society of Heating, Refrigeration, and Air-Conditioning Engineers' ANSI/ASHRAE/USGBC/IES Standard 189.1-2011, *Standard for the Design of High-Performance Green Buildings Except Low-Rise Residential Buildings* (ASHRAE 189.1), 2011 edition	National Association of Home Builders' ICC 700 *National Green Building Standard* (NGBS), 2012 edition	Green Building Initiative's ANSI/GBI 01-2010: *Green Building Assessment Protocol for Commercial Buildings* (Green Globes), 2010 edition	U.S. Green Building Council's *Leadership in Energy and Environmental Design* (LEED®)	The International Living Future Institute's *Living Building Challenge*, version 2.1 (May 2012)
Certification/Compliance Process	• Designed to be incorporated into a jurisdiction's codes and ordinances and enforced by building officials and inspectors. • All provisions of the model code are designed to be mandatory, except those the jurisdiction indicates are not applicable or those designated as project electives. Project electives give jurisdictions the flexibility to encourage the consideration and implementation of beneficial practices without making those particular practices mandatory.	• Designed to be incorporated into a jurisdiction's codes and ordinances and enforced by building officials and inspectors. • Based on mandatory requirements with two compliance path options: Prescriptive Path (considered to be the simpler option with minimal choices and few calculations) and Performance Path (considered to be the more sophisticated option that provides flexibility and more options but also requires greater effort).	• There are four green certification levels for homes: Bronze, Silver, Gold, and Emerald. Land Developments can earn One, Two, Three, or Four Stars. • NGBS contains few minimum criteria but allows the builder or developer great flexibility in selecting green building practices. • Projects receive points in each subject area for reaching certain performance or construction goals. • Certification requires verification by third-party inspectors accredited by the National Association of Home Builders (NAHB) at the rough-in stage and on completion. Inspector verifies that every criterion cited by the builder in the NAHB's online scoring tool has been met.	• Certification to one of four levels (i.e., 1 to 4 globes) requires achieving minimum thresholds of 1,000 points. • Has no minimum criteria (i.e., does not require any specific practices), but instead rates buildings on the green building practices that the builder has chosen to include. • Does not require any ongoing documentation, but it might be required as proof of compliance during the third-party assessment. • Requires third-party review of building documentation and onsite walk-throughs.	• LEED® points are awarded on a 100-point scale, and credits are weighted to reflect their potential environmental impacts. Ten bonus credits are available, four of which address regionally specific environmental issues. A project must satisfy all prerequisites and earn a minimum number of points to be certified. Third-party certification is required. • Includes four levels of certification: Certified, Silver, Gold, or Platinum.	• Projects must meet up to 20 requirements to achieve full certification. However, partial recognition is attainable, including a Net Zero Energy Building Certification. • The certification process involves a review of written elements and a site visit by an independent auditor.

Standard	International Code Council's 2012 *International Green Construction Code* (IgCC), 2012 edition **COBI Adopted July 2016**	American Society of Heating, Refrigeration, and Air-Conditioning Engineers' ANSI/ASHRAE/USGBC/IES Standard 189.1-2011, *Standard for the Design of High-Performance Green Buildings Except Low-Rise Residential Buildings* (ASHRAE 189.1), 2011 edition	National Association of Home Builders' ICC 700 *National Green Building Standard* (NGBS), 2012 edition	Green Building Initiative's ANSI/GBI 01-2010: *Green Building Assessment Protocol for Commercial Buildings* (Green Globes), 2010 edition	U.S. Green Building Council's *Leadership in Energy and Environmental Design* (LEED®)	The International Living Future Institute's *Living Building Challenge*, version 2.1 (May 2012)
Relationship to Other Standards	• ANSI/ASHRAE/USGBC/IES Standard 189.1-2011, *Standard for the Design of High-Performance Green Buildings Except Low-Rise Residential Buildings* (ASHRAE 189.1) is an alternate compliance path to IgCC; i.e., in jurisdictions that adopt IgCC, a builder has the option to design and construct a building in accordance with the provisions of ASHRAE 189.1 rather than those of IgCC. • IgCC provides jurisdictions with options for mandating that residential structures comply with the National Association of Home Builders' *National Green Building Standard* (ICC-700). • IgCC is designed to coordinate and integrate with the family of International Code Council codes and complement voluntary green building rating systems. • Some provisions reference standards published by other organizations, e.g., ASTM International, National Science Foundation, and South Coast Air Quality Management District.	• It is an alternate compliance path for the *International Green Construction Code* (IgCC); i.e., in jurisdictions that adopt IgCC, a builder has the option to design and construct a building in accordance with the provisions of 189.1 rather than those of IgCC. • ASHRAE 189.1 is designed to complement voluntary green building rating systems. • Some provisions reference standards published by other organizations, e.g., ASTM International, National Science Foundation, and South Coast Air Quality Management District.	• Includes a separate green rating system for entire subdivisions, similar to the LEED for Neighborhood Development system. • Many of the mandatory measures found in the ICC 700 National Green Building Standard are consistent with the family of International Code Council's codes.	• Modeled after Building Research Establishment Environmental Assessment Method (BREEAM).	• Meeting or achieving ASHRAE standards is necessary for achieving several of the LEED® credits, including ASHRAE 90.1-2007 and 62.1-2007.	

[1] In the building community, there is no consistent use or definition of the terms "standard" or "code." EPA uses the term "standard" here in a broad sense to mean "something established by authority, custom, or general consent as a model or example: CRITERION" (Merriam-Webster). EPA uses it as an umbrella term to encompass model codes, rating systems, and other publications that provide criteria for the design, construction, and maintenance of buildings.

[2] Any standard can be adopted as a voluntary or mandatory program. We indicate here the intent of the authors.

CITY OF BAINBRIDGE ISLAND

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

MEMORANDUM

Date: August 9, 2018

To: Planning Commission

From: Christy Carr, AICP

Subject: **Subdivision Design Guidelines and Land Use Review Procedures**

I. PURPOSE OF AGENDA ITEM

The August 9, 2018 Planning Commission meeting will review proposed subdivision design guidelines and review procedures (process) for major projects (subdivisions, major conditional use permits, and site plan and design review).

The purpose of the agenda item is to:

- Finalize subdivision design guidelines
- Continue to gather input from the Planning Commission on land use review procedures (process)

II. RECOMMENDED PLANNING COMMISSION ACTION

No formal action is recommended. It is anticipated the Planning Commission will:

- **Finalize discussion** on subdivision design guidelines.
- **Provide specific input** on review procedures (process) for major projects. **Agree in concept on review procedures (process) for subdivisions.**

III. BACKGROUND MATERIAL

Background material provided for your review includes:

- 20180809 Subdivision Design Guidelines – Current version of subdivision design guidelines as proposed by subcommittee.
- Development Standards and Design Guidelines -- This is the final version of the original document prepared by Davis Studio Architecture + Design and Wenzlau Architects, subsequently revised by the Planning Commission.
- 20180809 Concept Drawings – Subdivisions – Drawings and photos illustrating concept of conservation villages/subdivisions.

- BIMC Title 17, Subdivisions and Boundary Line Adjustments (**Existing code**) (Available online) -- http://www.codepublishing.com/WA/BainbridgeIsland/#!/BainbridgeIsland17/BainbridgeIsland17.html
- Review Procedures for Preliminary (Type) Subdivisions, Site Plan and Design Reviews, and Major Conditional Use Permits – A proposed review procedure for these three types of land use applications.
- "Improving the Subdivision Review Process" – An article by Randall Arendt providing an overview for subdivision review.
- Draft Revisions to BIMC 2.16 -- 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, major conditional use permits, and site plan and design review. The current moratorium is set to expire on October 9, 2018. In order to the City Council to have sufficient time to review any recommendations from the Planning Commission, recommendations should be made by the end of August. Staff is suggesting a third, special Planning Commission meeting on August 30, 2018 in addition to the regular meeting on August 23, 2018.

Staff anticipates working with the Design Review Board to receive input on the subdivision design guidelines and their role in the land use review process.

Outstanding tasks and the anticipated timeline for their review is shown in the table below.

Task	**August 6 DRB**	**August 9 PC**	**August 20 DRB**	**August 23 PC**	**August 30 Special PC**
Subdivision design guidelines	X	X			X
Subdivision design standards					X
Overall revisions to Chapter 17.12				X	X
Review process (in concept)	X	X			
Revisions to 2.16 for subdivisions/CUP/SPR			X	X	X

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 by 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.

In a manner appropriate to the subject property's zoning classification, adjoining properties, and site-specific characteristics, Natural Area(s) and Community Space(s) shall be integral parts of the subdivision design, and assets to be cared for and enjoyed by residents.

A. Natural Areas

1. Preserve Existing Natural Areas

Intent: To protect a significant part of the property that is forested and/or contains other sensitive natural resources.

Guideline: Areas such as trees, forests, vegetated slopes, meadows, streams and wetlands shall be features of the subdivision design. Table XX prioritizes the list of natural area types and includes existing wildlife corridors, land currently used for pasture or crop production, and stormwater ponds that function as a natural feature or constructed wetland. Construction activities shall not impact Natural Areas and protected trees.

2. Recognize and Protect Significant Trees

Intent: Protect trees that are considered ecologically or aesthetically significant and embody pieces of the Island's history and distinctive identity.

Guideline: If located outside of a Natural Area, significant trees should still be protected when homesites are planned. Historical significance, rarity or scarcity, ecological function and aesthetic appeal are qualities worthy of preservation. [Wait on recommendations on landmark tree ordinance; revisions to 16.18; new definition of significant tree]. Staff note: will likely also be addressed in "landscaping, screening, and tree retention" section relocated (applicable parts) sections of BIMC 18.15.010. Will also need definition of "significant" tree.

B. Site Design

3. Provide Community Spaces

Intent: Promote community interactions.

Guideline: Community space(s) should be located adjacent to as many homesites as is feasible. Spaces and facilities may include but are not limited to: a central green, play structures, pea patches, a flower garden, an orchard, a greenhouse, a covered or enclosed social space. Natural areas will be given priority over covered or enclosed community spaces.

4. Design Homesites To Promote Community Interaction

Intent: To promote interactions within the community and to reduce infrastructure costs and the impacts of development, homesites should be located in clusters, with safe walking routes within the community and to adjacent neighborhoods.

Guideline: The separation of any homesite from another adjacent to it will vary with the zoning classification and the lay of the land. Projects with more than ten homes may create separate homesite clusters, each with its own Community Space. Projects shall provide pedestrian connections on pervious paths through the site and to adjacent trails if they exist. Sites without adjacent trails should, if feasible, provide public easement(s) to identified potential trail connections. Walking paths should connect homesites with the Community Space and Natural Area.

5. Promote Context Sensitive Design

Intent: To encourage site, landscaping, architectural, or engineering design that is compatible with a development's setting, the contours of the land and natural systems on-site and immediately off-site, and compatible with the character, location and configuration of improvements and uses on adjacent properties.

Guideline: Homes along public streets shall have their entry oriented to the street, with porches and outdoor spaces encouraged. Homes on corner lots may face a side yard to the street. Any garage or covered parking shall be adjacent to the access way. If facing the street, garages shall be limited to two cars; if located toward the rear of the home, they should use a shared driveway.

6. Use an Efficient Homesite Footprint

Intent: Integrate the footprint of impermeable surfaces, useable outdoor spaces, and any access and parking areas within a limited homesite area.

Guideline: Site layout shall include efficiently configured building footprints and outdoor spaces.

7. Provide Variation in Housing Design and Diversity

Intent: Add visual interest and individuality with a range of house designs and sizes.

Guideline: House designs shall be varied in floor plan, elevations and massing. House types may feature shared details to provide continuity and harmony.

8. Provide Useable Sideyards

Intent: Ensure that spaces between houses are useable.

Guideline: The distance between houses shall be at least 10 feet, to provide for various uses and allow for light and privacy, except in zero lot line circumstances.

9. Recognize Historical and Cultural Resources

Intent and Guideline: Identify and preserve any culturally significant artifacts associated with the site of development or redevelopment; consult with the Historic Preservation Commission before modifying or demolishing a historically significant structure.

C. Reduce Development Impacts

10. Promote Sustainability and Solar Access

Intent: Ensure that site planning and building design support strategies for sustainability and provide access to some direct daylight for each homesite for wellbeing and energy production.

Guideline: All homes and community buildings should be designed to minimize their environmental footprint, in accordance with the requirements of locally adopted codes. Orient homesites in relation to open space and forest canopy to maximize solar access for all homes if possible. Massing of buildings, tree retention and plantings should minimize the effects of shade on adjacent homes.

11. Reduce Impervious Surfaces.

Intent: Reduce impervious surfaces by limiting the width and length of roads within the subdivision and by eliminating roads serving individual homesites were feasible.

Guideline: Site design shall use a minimum paved road surface. Parking may be located outside of homesites along an access way, in shared parking areas, or garages.

~~12. Restore Disturbed Areas of the Site~~ Suggest deleting. BMP T5.13 required for subdivisions - Post-Construction Soil Quality and Depth (soil amendment required)

~~Intent: Restore areas disturbed and impacted by construction.~~

~~Guidelines: Restore disturbed areas affected by construction activities.~~

13. Incorporate Efficient Stormwater and Septic System Design

Intent: Integrate stormwater into site layout and design, avoiding isolated facilities where possible, and seek out the most appropriate technology for reducing stormwater and septic system impacts on the natural environment. Design for on-site infiltration of septic system outflow and stormwater.

Guideline: Limit impervious surfaces, design an efficient septic system, and disperse rainfall with such strategies as raingardens, pervious paving, natural vegetation and natural ponds. Encourage shared or community septic systems, if available. Where stormwater retention ponds are necessary, they shall function as a natural feature or a constructed wetland, with gentle slopes and native vegetation. Fencing around stormwater ponds, if used, shall be visually open (split rail, for instance) and less than 3' 6" in height unless otherwise required for public health and safety.

14. Encourage Water Conservation through Use of Native and Drought Tolerant Vegetation

Intent: Reduce water consumption.

Guideline: Whether installed by the developer or homeowner, installed vegetation should be native and drought tolerant species requiring minimal irrigation after establishment.

COMMUMITY DEVELOPMENT ORDINANCE

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.

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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.

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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 of less in shall be exempt from clustering requirement, though clustering is prefered.

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

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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 on 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.

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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

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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.

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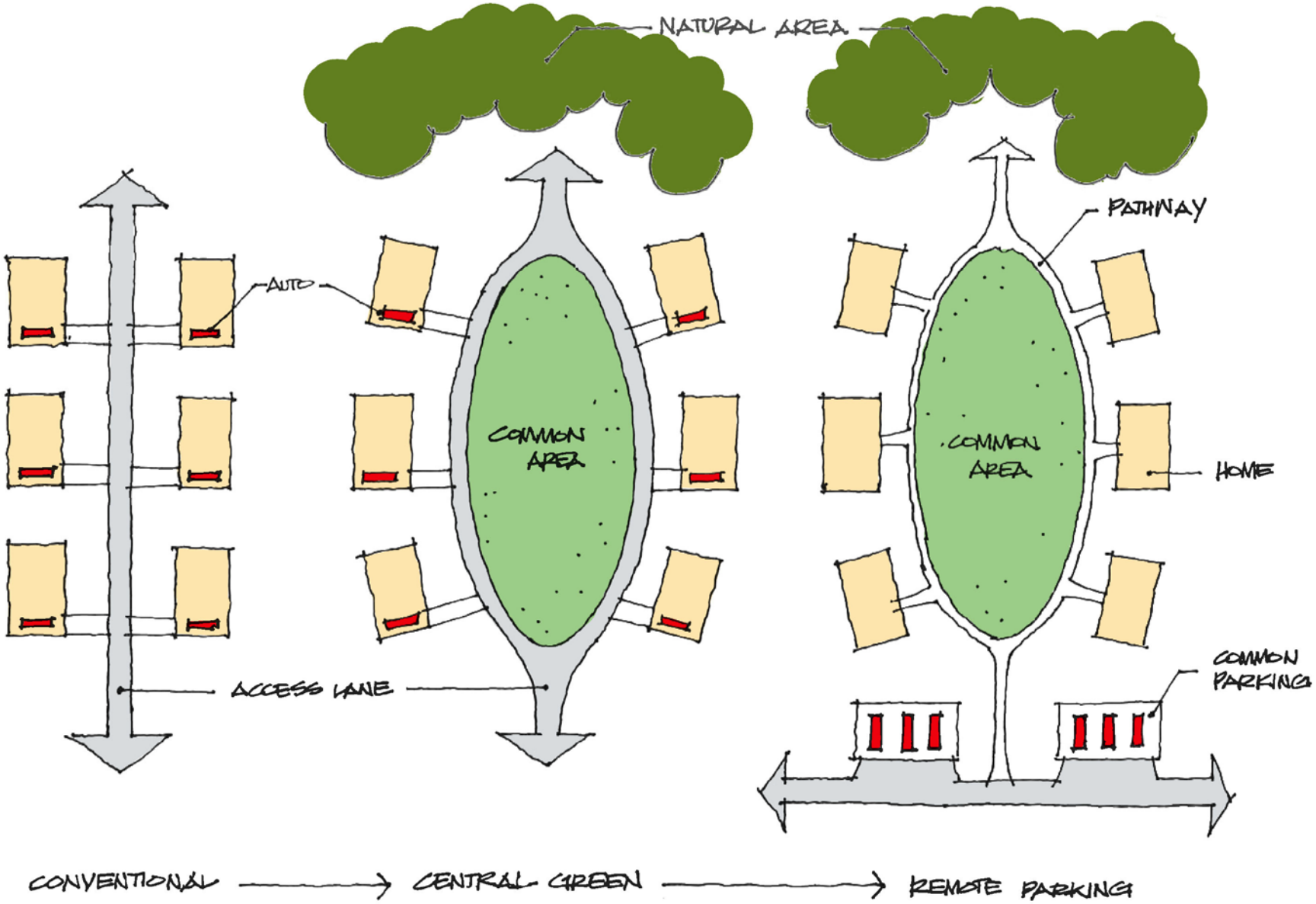
Conservation Village - a new approach

Cluster Development

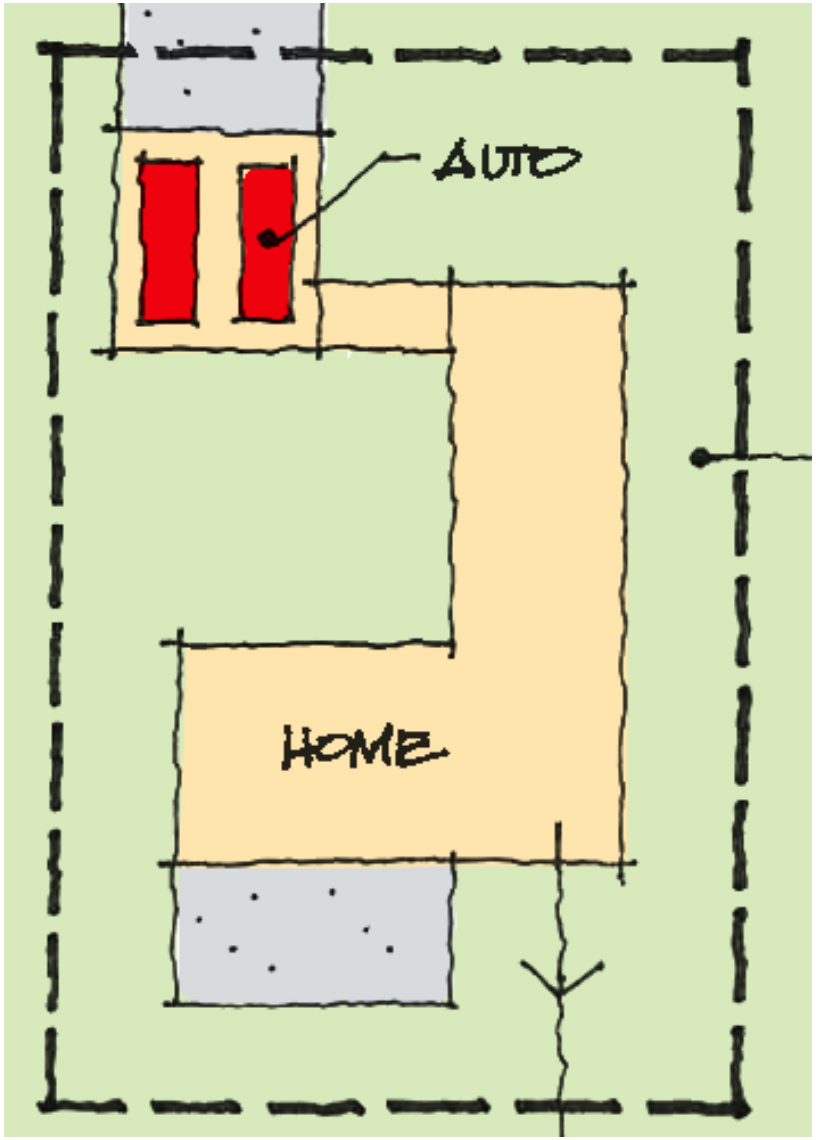
Clustered Development

Community Space

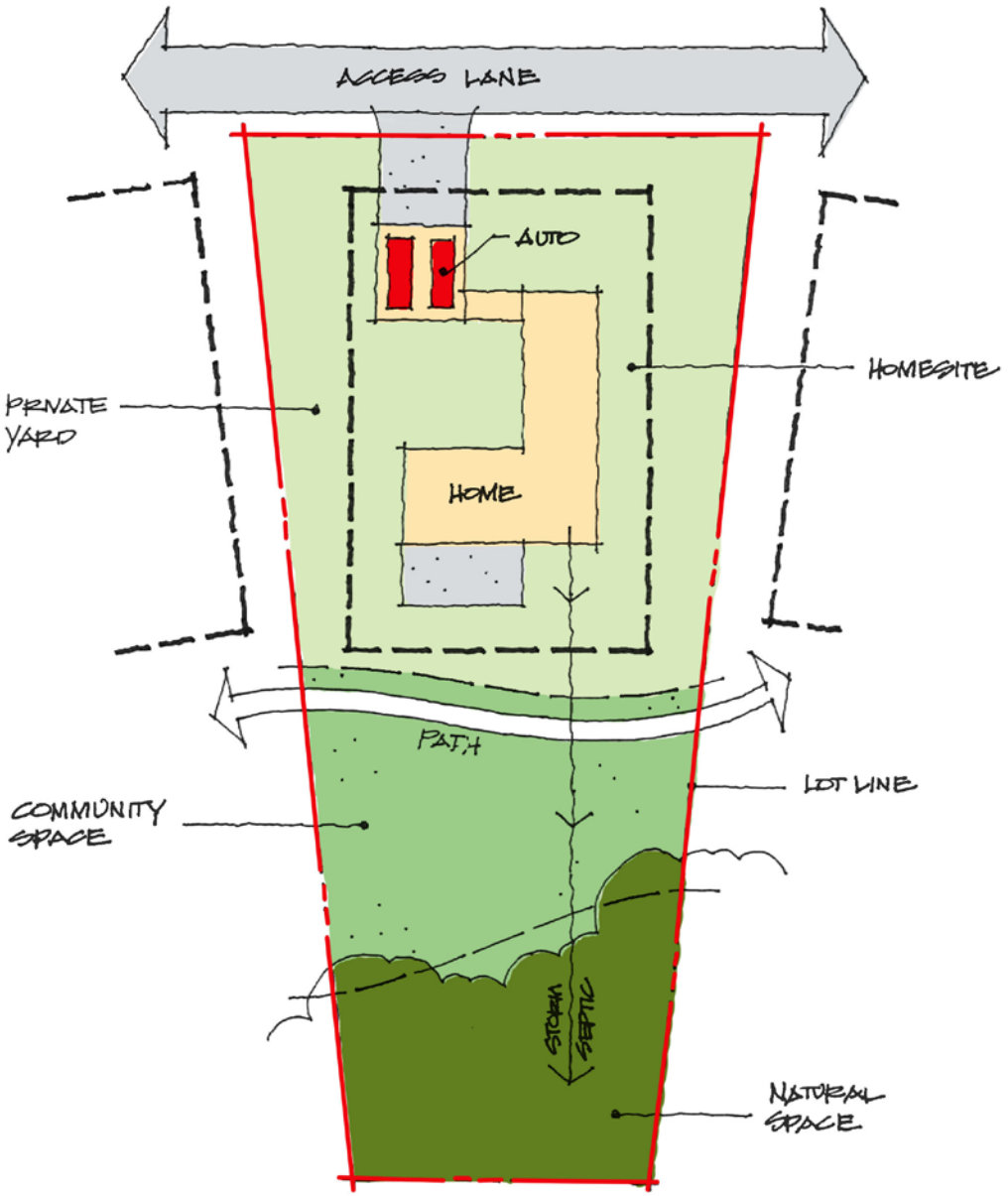
Livable Neighborhood



Site Design - patterns



Site Design - homesite



Site Design - lot

'HOMESITE WITHIN LOT'

Site Design - lot

PROPOSED REVIEW PROCEDURES FOR PRELIMINARY (TYPE) 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.

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

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.

PC recommendation meeting	Applicant Staff PC	**Objective:** • Project review and recommendation

DECISION**

Site Plan and Design Review and Short Subdivisions: Administrative Decision by Director

Major Conditional Use Permit: Quasi-judicial Decision by **City Council**

Preliminary Long/Large Lot Subdivision: Quasi-judicial Decision by **City Council**
Final Long/Large Lot Subdivision: Planning Director

**Pending City Council review on August 28, 2018

Improving the Subdivision Review Process

by Randall Arendt

Ever wonder why the vast majority of subdivisions look so much alike, despite the fact that they are built in such varied landscapes (forest, meadow, field) and on different terrain (flat, rolling, steep)? The simple answer is that most of them are designed generically, in "cookie-cutter" style, with very little regard to the special natural or cultural features that give many properties their distinctive character.

In most municipalities, subdivision design regulations have never evolved beyond the basic stage where code requirements focus on a few mundane but important points: soil suitability, wetlands, floodplains, street paving, stormwater management; and on a few mundane but rather unimportant points: street frontage, lot-line setbacks, lot area.

The sad reality is that most localities do not require subdivisions to consist of anything more than house lots, streets, and drains. As a result, subdivisions are approved as long as plans show house lots with the minimum required size and frontage, and avoid areas that are inherently unfit for building, such as wetlands and floodplains. When community standards are set so very low, developers often respond with the least imaginative subdivision designs.

As I will argue shortly, it does not have to be this way. In fact, with only a modest amount of additional effort, even smaller communities can implement a much more effective subdivision review process – a process which will result in better designed and sited residential developments. But first, let me briefly identify four common flaws in the typical subdivision review process.

> IT IS IMPOSSIBLE TO COMPLETELY UNDERSTAND A SITE ONLY BY EXAMINING A TWO-DIMENSIONAL PAPER DOCUMENT INSIDE A MEETING ROOM

Four Common Flaws in Subdivision Review

The first flaw is that most local ordinances fail to require that applicants submit detailed surveys or inventories of their site's features, beyond those few features which would render property unbuildable (i.e., wetlands, floodplains, steep slopes). Similarly, most ordinances do not require maps depicting the subject parcel's surrounding context.

Second, most municipalities do not require planning board members to walk the land. Yet a group site visit, which also invites abuttors and others interested in the development, is essential to an understanding of any property.

Third, many local subdivision regulations require highly detailed design drawings at the so-called *Preliminary Plan* stage. This means that developers may have spent tens of thousands of dollars in preparing their the very first submission. Understandably, developers are not inclined to discard such plans, even if better ways to design the development are pointed out to them by planning staff, planning board members, or others.[1]

Fourth, subdivision layouts are often prepared by people trained in recording site data and in street and drainage issues (surveyors and engineers), but who have little or no expertise in the field of landscape architecture or neighborhood design.

Developing a Better Subdivision Review Process

Three sequential steps can be taken that will dramatically improve the subdivision review process:

1. Require the applicant to prepare a *Context Map* of the immediate area and a detailed *Existing Resources and Site Analysis Map* of the property;
2. Conduct a site walk with the applicant, planning staff, planning board members, and abuttors very early in the process; and
3. Require the applicant to submit an inexpensive conceptual *Sketch Plan* as the first layout document, before preparing detailed layout and design drawings.

These straightforward and fairly simple steps can yield major benefits by allowing all parties to understand what is important about the property, and to engage in a process that is collaborative and consensual, instead of adversarial and combative.[2]

1. Mapping the Property.

Good maps are essential tools in many aspects of planning, but perhaps

1 One of the mysteries many planning commissioners encounter is the so-called "Preliminary Plan." In many communities, commissioners are surprised to discover that the preliminary subdivision plan is actually closer to a final document in its level of detail, and the time and cost that the applicant has expended on preparing it. As I have noted, this makes applicants more resistant to changes suggested by commissioners or others. A much greater emphasis needs to be placed on the preparation of an existing resources/site analysis map, site walks, and sketch plans. These should be required by local ordinance before the preliminary plan submission.

nowhere more so than in the review of residential subdivisions.

Context Map. While many subdivision regulations do call for a location map, such maps must have the scope and content that will enable staff, planning board members, and others to acquaint themselves with the resources and development patterns near the development site. This kind of understanding is critical to planning for improved buffers and open space connections, and lessening developmental impacts in the neighborhood.

A good Context Map can be based on data from already published sources such as aerial photographs, USGS topo sheets, FEMA floodplain maps, tax maps, and U.S. Fish & Wildlife Service wetlands maps. This will also minimize the developer's cost in preparing such a map. The Context Map should then be reproduced by the applicant's engineer to the same scale (1 inch = 400 feet), showing reviewing officials the location of natural features and development patterns on properties within one-half mile of the development site.

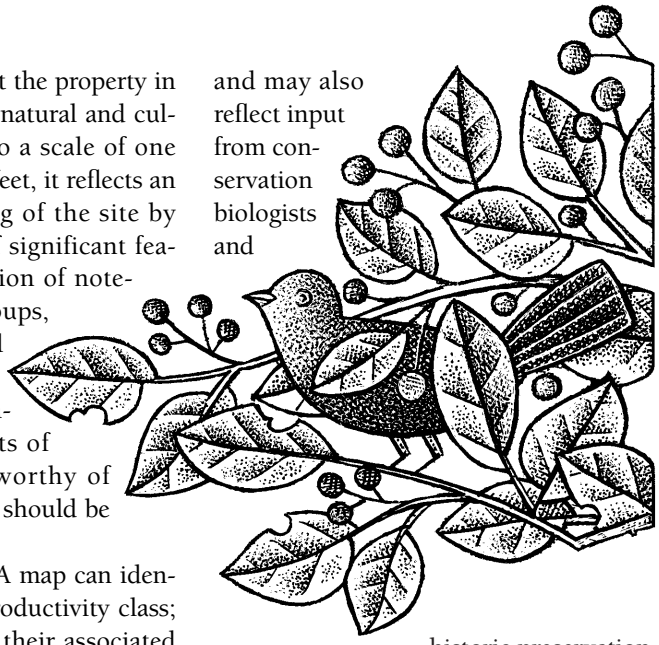
Existing Resources/Site Analysis ("ER/SA") Map. Just as it is critical to see the broader context of a proposed subdivision, it is necessary to have a clear understanding of the characteristics of the site itself. Again, good maps – prepared at the outset of the process – are essential. What we term an Existing Resources/Site Analysis Map provides a greater amount of essential information than is typically required in most subdivision regulations, and should document the location of a large variety of site features. In my experience, the ER/SA map is the single most important document in the subdivision design process, as it provides the factual foundation upon which all design decisions are based.

The ER/SA Map tells reviewers what they need to know about the property in terms of its noteworthy natural and cultural features. Drawn to a scale of one inch equals 100 or 200 feet, it reflects an in-depth understanding of the site by mapping out a range of significant features, such as the location of noteworthy trees or tree groups, and unusual geological formations. In this way reviewers can, for example, identify those parts of woods that are most worthy of conservation and which should be "designed around."

In addition, an ER/SA map can identify farmland soils by productivity class; locate vernal pools and their associated upland habitat areas (essential in the lifecycle of salamanders and other woodland amphibians); map out significant view corridors into the property from public roads or highways; and, in the absence of sewers, show soil suitability for septic sewage disposal.[3]

The use of GPS (Global Positioning Systems) technology has made the documentation of this type of information relatively easy and inexpensive. In fact, a growing number of communities already routinely require that plans, for example, show the location of every tree greater than a given diameter, and that these trees be identified by species on the drawing.[4] In this way, reviewers can identify those parts of woods that are more worthy of conservation and "designing around" (which trees to hug and which to let go). However, I would not require this information for trees growing in areas that would not be disturbed because of their location within proposed conservation areas.

An ER/SA Map is typically prepared by a landscape architect for the developer, and may also reflect input from conservation biologists and historic preservation specialists. Such information, provided early in the process, enables the site designer, the developer, and municipal officials to make better-informed decisions.[5]



If officials agree that these items are necessary and should be submitted at some point during the subdivision application process anyway, it doesn't increase the applicant's costs for them to be required up front where the important information they provide can be of the greatest use (helping to avoid wasting money on plans that do not take these features fully into account).

2. Site Walks.

Because it is impossible to completely understand a site only by examining a two-dimensional paper document inside a meeting room, it is essential that – with the ER/SA Map in hand – planning board members, conservation commission members, and staff walk the property with the applicant and any interested

continued on next page

2 Based on the work I have done at the Natural Lands Trust over the last decade in the Growing Greener program (supported by Pennsylvania's Dept. of Conservation & Natural Resources and Dept. of Commerce & Economic Development), the reforms which I recommend often begin with updating local subdivision regulations to include the above-mentioned items.

3 Septic systems need the deepest, best-drained soil that can be provided, and those areas must be "designed around" just as carefully — and from the very beginning — as any of the "Primary Conservation Areas," so they may be reserved for sewage treatment and effluent disposal and not be carelessly covered by foundations, driveways, or streets. To maximize the amount of open space, it is often best to locate septic drainfields (either shared or individual ones) off-lot, in easements under conservation meadows, neighborhood greens, and ballfields.

4 With respect to the diameter at which a tree becomes noteworthy, I recommend girths related to specific species, such as 4 inches for holly or flowering dogwood, 6 inches for a sassafras or water beech, 10 inches for a wild cherry, 14 inches for a red or white oak, 16 inches for a tulip poplar, 18 inches for a sycamore, etc.

5 For more details about the ER/SA map, as well as model ordinance language related to such a map, see Randall Arendt, *Growing Greener, Putting Conservation into Local Plans and Ordinances* (Island Press, 1999).

Sketch Plan Preparation

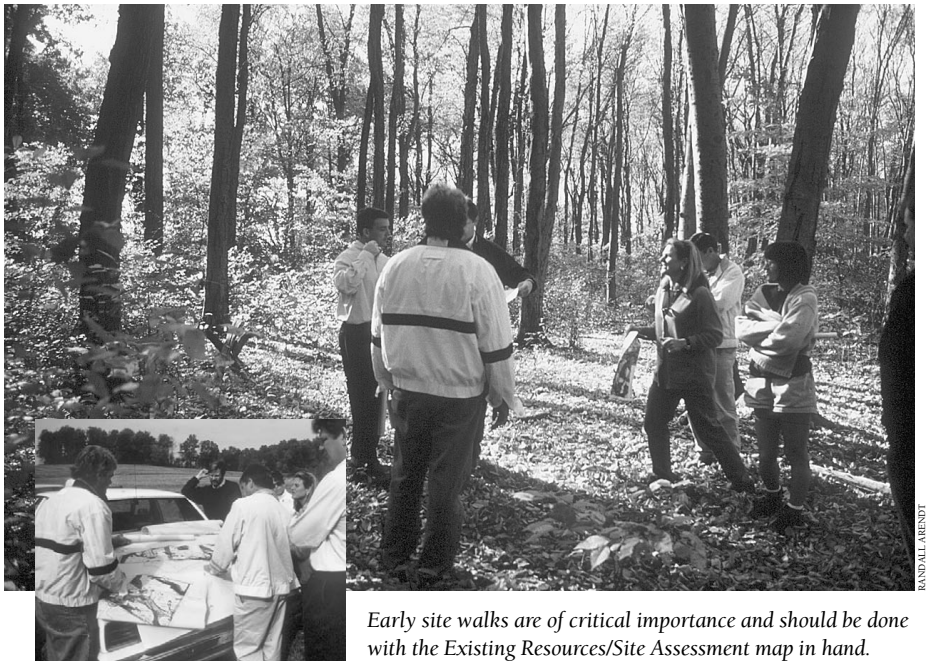
I recommend that local regulations require Sketch Plans be prepared by a landscape architect or physical planner working with a civil engineer. Under this approach, surveyors and engineers would continue to perform all of the usual surveying and engineering. However, the conceptual design and layout is best handled by a landscape architect or physical planner. Some municipalities further enhance this process by increasing the applicant's fee to hire the physical planner or landscape architect to walk the site, conduct the site analysis, and produce a Sketch Plan, thereby launching the developer in the right direction. Developers with whom I have worked are often skeptical of the value of this approach until they try it once.

Mapping Potential Conservation Lands

A community-wide map of potential conservation areas is a quite useful tool that planning departments should consider preparing. It identifies those parts of undeveloped properties where the municipality has preliminarily determined the importance of designing new development around certain land and water features in such a way that an interconnected network of conservation land can be protected. Such areas may include lands along stream valleys, blocks of mature woodland, as well as prime farming soil, and historic or cultural features important to the community.

Besides informing local officials of the nature and extent of particular kinds of resources on any property proposed for subdivision development, the map also supplies the contextual view so that all parties will be able to see and appreciate how designing around certain features can preserve an interconnected network of open space running across numerous parcels.

For more details on conservation mapping, see Randall Arendt, *Growing Greener: Putting Conservation into Local Plans and Ordinances* (Island Press, 1999).



RANDALL ARENDT

Early site walks are of critical importance and should be done with the Existing Resources/Site Assessment map in hand.

Improving the Subdivision Review Process...
continued from previous page

neighbors. This will allow everyone to take the full measure of the proposed development site, and help determine which site features are most worthy of "designing around." We have found that nearby property owners greatly appreciate being included, and are much less inclined to fight a process which has involved them from the outset.

Without the benefit of experiencing the property in a three-dimensional manner at a very early stage in the process, it is extremely difficult for staff and officials to offer informed suggestions as to the preferred locations of conservation areas and development areas, and to evaluate proposed layouts. Site walks should be "standard operating procedure," and part of the job description for all planning board members (except those with physical disabilities). Local officials who take their first site walk with a detailed site analysis map in hand, meeting the applicant, the applicant's site designer, and abuttors in a casual and informal way, tell me they wouldn't think of missing this critical part of the process ever again.

Regarding timing, I suggest conducting the site walk even before the applicant prepares a *Sketch Plan* (discussed shortly). I also usually end the site walk with an informal design session, where the significant natural and cultural features (from the *ER/SA Map*) are identified, and possible ways of designing around them discussed.

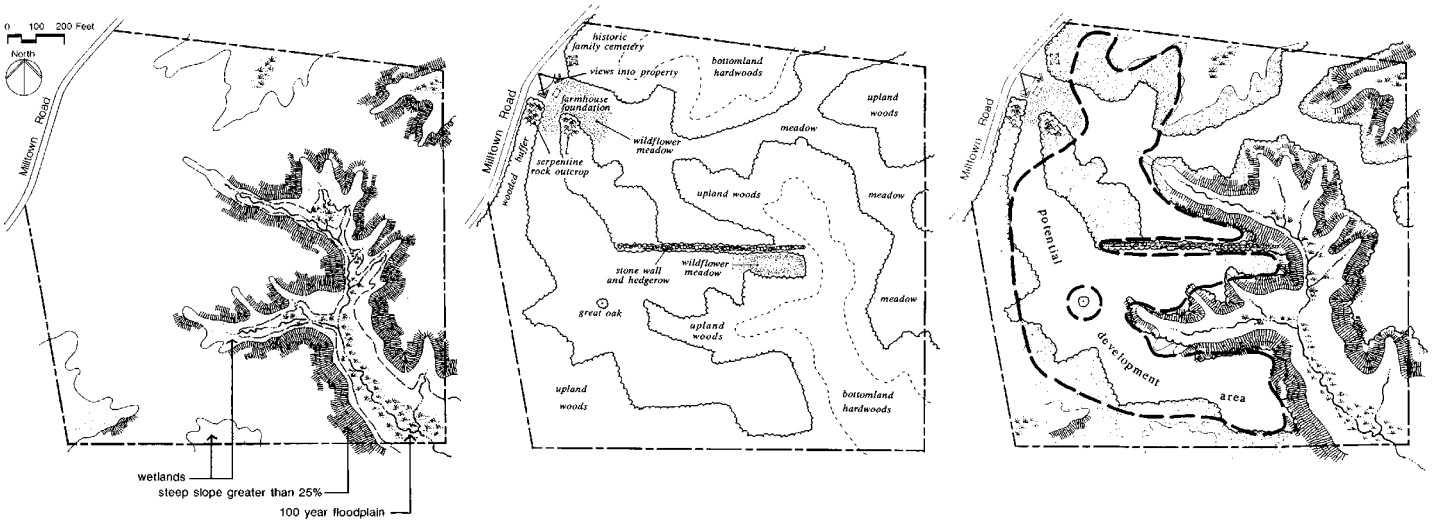
Of course, site walks must be advertised as public meetings, although they are essentially informal meetings during which no decisions will be reached. *Editor's Note: For more on the conduct of site visits, see Greg Dale's "Site Visits: Necessary But Tricky," in PCJ #39 (Summer 2000).*

3. The Sketch Plan.

The Sketch Plan is the next key document in the subdivision process, and second in importance only to the Existing Resources/Site Analysis Map. The Sketch Plan sets out the overall concept for the subdivision, showing areas of proposed development and areas of proposed conservation.

The Sketch Plan is most useful when drawn to scale on white tracing paper as an "overlay sheet" to be lain on top of the ER/SA Map so that everyone can clearly see how well – or how poorly – the proposed layout avoids areas of the site prioritized for conservation. Ideally the proposed development "footprint" on the Sketch Plan should dovetail with the protection of resources documented on the ER/SA Map.

Primary conservation areas *Secondary conservation areas* *Potential development areas*



Planning for subdivisions should start by identifying primary conservation areas (such as wetlands, steep slopes, and floodplains) and secondary conservation areas (including woodlands, meadows, and significant cultural features within the site). Once conservation areas are identified, the core areas for potential development can more easily be mapped out.

Sketch Plan review is an essential step, and should occur before the applicant spends the large sums typically required for the more detailed and engineer-prepared "Preliminary Plan" drawings. Only after agreement is reached at the Sketch Plan stage should the applicant move on to prepare the Preliminary Plan. This will give the applicant the full benefit of the site analysis, site visit, and sketch plan review – and a greater assurance of ultimate approval – before spending money on preparing the Preliminary Plan.

Four-Steps to Better Subdivision Design

The most effective method for producing subdivision layouts that are responsive to their site, and which preserve value-adding features, is to first focus on areas of the site to be conserved, not on areas to be developed. If this is done (and if local regulations also require that a significant proportion of subdivisions be designated as open space), it is nearly impossible to produce an environmentally unsound subdivision. This is particularly the case if that open space to be conserved is closely related to a "Community-Wide Map of Potential Conservation Lands" set out in the local Comprehensive Plan. *Mapping Potential Conservation Lands.*

After the open space areas to be preserved are located, the next step is to select house locations, with homes positioned to take maximum advantage of that protected land in neighborhood squares, commons, greens, playing fields, greenways, farmland, or forest preserves. The third step involves "connecting the dots," that is, aligning the streets and trails to serve the new homes. The fourth and final step, drawing in the lot lines, is actually the least significant part of the process.

One of the greatest weaknesses in the subdivision process in many communities is that open space conservation areas are identified last, not first. As a result, the open space is often a collection of whatever bits of land that have proven difficult to develop. The other common failing is the inclusion of deep perimeter buffers around proposed developments, as if they were gravel pits, junkyards, or leper colonies! This practice inadvertently leads to very poor layouts in which a substantial percentage of the total open space is consumed by this excessive separation.

Summing Up:

The combined influence of the expanded Context Map, the Existing Resources/Site Analysis Map, the Site Walk, the Sketch Plan overlay sheet, *and* the four-step design approach described above can make a significant difference in the way developers, planning boards, and abutters approach a site's development. The end result is not only better subdivisions, but projects developed in a more cooperative, less contentious, atmosphere. ◆

Randall Arendt is a conservation planner, site designer, author, and lecturer. He is one of the foremost proponents of compact development patterns as a tool for protecting natural and cultural landscapes. His practice, Greener Prospects, is located in Narragansett Pier, Rhode Island. Arendt has written two other articles for the Planning Commissioners Journal: "Growing Greener: Conservation Subdivision Design," in PCJ #33 (Winter 1999), and "Open Space Zoning: What It Is & Why It Works," in PCJ #5 (July/August 1992). He may be contacted via his website: < www.greenerprospects.com >.

Readers interested in learning more about Arendt's approach are referred to his books *Conservation Design for Subdivisions: A Practical Guide to Creating Open Space Networks* (Island Press, 1996) and its sequel *Growing Greener: Putting Conservation into Local Plans and Ordinances* (Island Press, 1999). They may also download an 18-page booklet describing this process, at: <www.natlands.org> (click on "Planning" and then on "Growing Greener").

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						
	DRB	**Planning Comm.**	**Director**	**Hearing Examiner**	**City Council**	**Courts**
Administrative Approvals						
Clearing Permit			D	A		
Conversion Option Harvest Plan Permit			D	A		
Minor Conditional Use	(R)	(R)	D	A		
Minor Variance		(R)	D	A		
Agricultural Conditional Use			D	A		

Large Lot Subdivisions (Prelim) (Final)		R preliminary and final	D D	A		 A
Minor Shoreline Variance [1]		(R)	D	A		A [2]
Minor Shoreline Conditional Use [1]		(R)	D	A		A [2]
Public Works Administrative Decisions		add city projects in 2.14	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) (Final)		R preliminary and final	D D	A 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) not optional	R	D/P		A
Variances		(R)	R	D/P		A
Reasonable Use Exception (See BIMC 16.20.080)		(R)	R	D/P		A
Major Shoreline Variances [1]		(R)	R	D/P		A [2]
Major Shoreline Conditional Use Permits [1]		(R)	R	D/P		A [2]
Long Subdivisions (Prelim)		R	~~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		R/P	R		D (P)	A

Development Regulations						
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.

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.

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:

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.

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.

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.

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.

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

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.

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 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 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 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) • 30 Points in Innovative Site Development Practices	• Home size not greater than 1,600 sq. ft. • 10 pts/10% of units affordable housing
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
		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"	

e 2.16.020.Q-3 Innovative Site Development Scoring Method

TIER	**Minimum Site Development Point Requirement**	**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 stormwater manual adopted in Chapter 15.20 BIMC.		**Landscaping and Open Space** 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.			**Transportation** Project design provides enhanced sensitivity to pedestrian and bicycl travel to promote the people gettin around without a car, a reduced ca footprint, improved health of huma and lower pollution levels. Project internally preserves existing inform internal connection to external nonmotorized facilities, furthering Island-wide Transportation Plan (IWTP) and using such solutions a woonerfs, green streets, and natura trails and paths. Project reduces reliance on automobiles and trip co and promotes alternative transporta such as integrating parking and charging facilities for electric cars, bus shelters.	
		Requirement	**Value**	**% of Open Space**	**Value**	**Value if Public**	**Transportation Components**	**Value**
4	**30**	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
		10%	1	11 – 15%	4	6	Provides public walkways, separated paths, or bike lanes. No points for facilities required by IWTP.	3
		11 – 20%	2	16 – 20%	6	8	On-site car sharing program	1 per each c

			21 – 30%	3	21 – 25%	8	10	Electric vehicle charging stations for 3% of vehicle parking capacity	3
			Over 31%	4	Greater than 25%	10	12	Covered consolidated bike parking for subdivisions	3
3	**25**	Percentage of total roof area qualifying as "vegetated roofs":			Incorporates neighborhood garden	2		Bus shelter	2
					Preserves tree that qualifies as a "heritage tree" under city program. The tree is not otherwise required to be preserved.	2 per tree			
			15 – 30%	2					
			Over 31%	4	All private yard areas ≤ 20% turf	4			
2	**25**	Project integrates cisterns: % of total roof area directed to cisterns:			Project landscaping integrates at least 60% native or drought tolerant plants	4			
			15 – 30%	2					
			Over 31%	4					
1	**14**	Percentage of total parking spaces that are covered (i.e., parking garage, carport):	5 – 20%	1					
			21 – 40%	2					
			41 – 60%	3					
			61 – 80%	4					
			Over 81%	5					

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;

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.

ii. Subdivision Setback Reductions.

(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.

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.

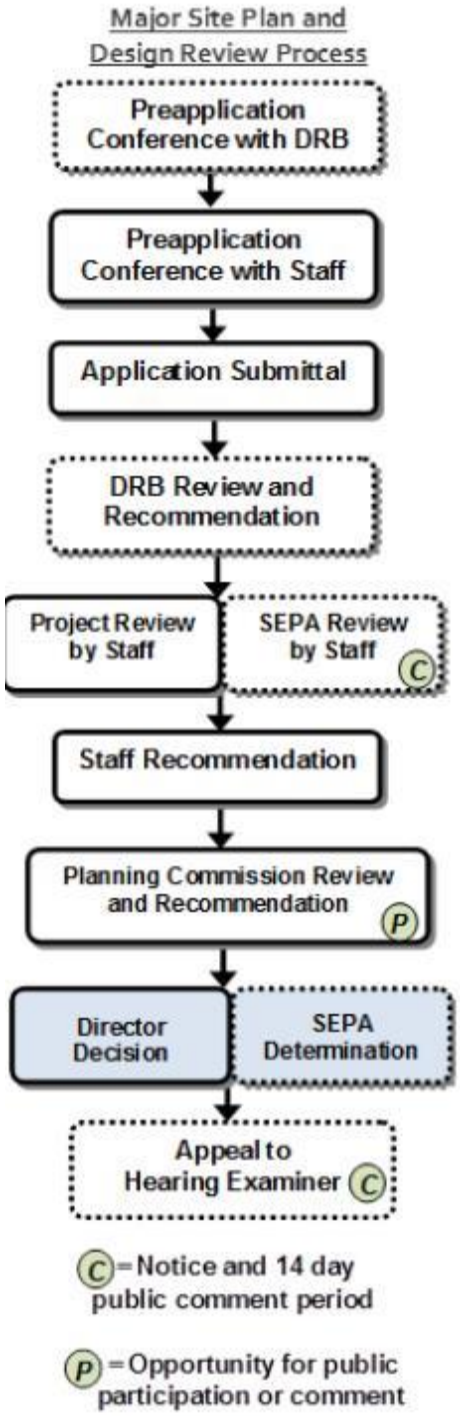
10. Demonstration Period. This subsection Q and related provisions of BIMC Titles 2, 17, and 18 shall expire on December 31, 2019. (Ord. 2018-08 §§ 2 – 6, 2018; Ord. 2017-03 § 1, 2017; Ord. 2016-28 §§ 2, 3 (Exh. A), 2016; Ord. 2016-27 §§ 1 – 5, 2016; Ord. 2013-25 §§ 2, 3, 2013; Ord. 2012-09 § 1, 2012;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



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.

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

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.

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.

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.

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

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

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.

D. Nonagricultural Minor Conditional Use Decision Criteria. A nonagricultural minor conditional use or an agricultural research facility may be approved if:

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

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

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, 2016[1]; 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.

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

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.

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.

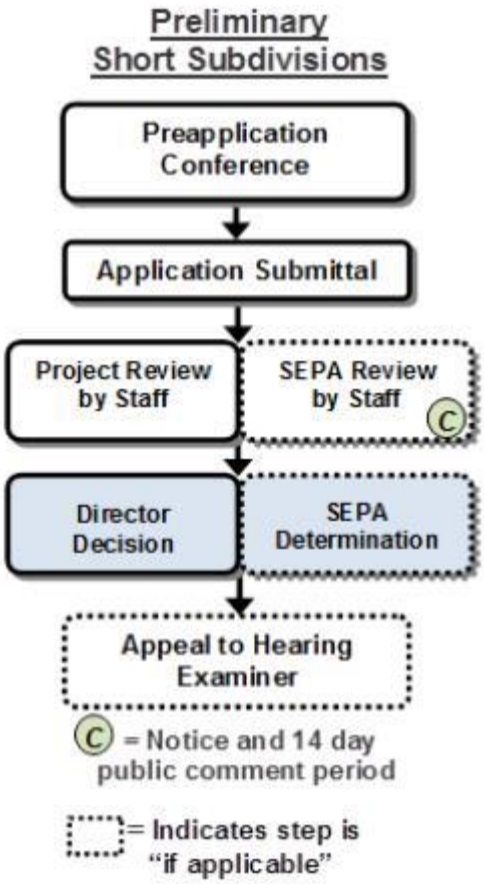
C. Procedure.

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.



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.

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;

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.

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.

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.

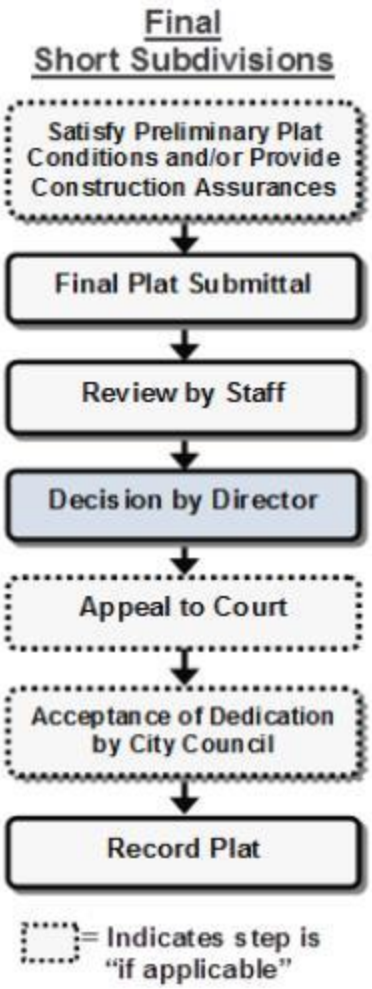
iii. The final short subdivision bears the certificates and statements of approval required by the BIMC.

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.



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;

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.

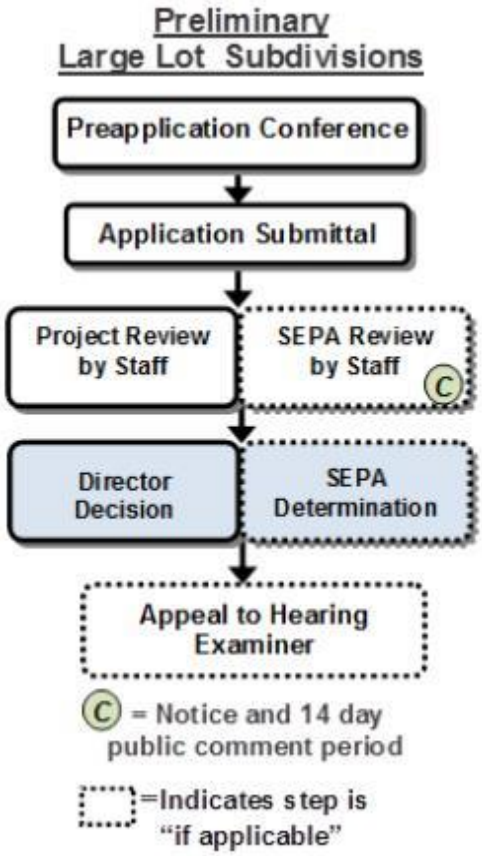
2. The provisions of this section shall supplement those of BIMC 2.16.020 and 2.16.030 when the application is for a large lot subdivision. In the event of a conflict between the provisions of BIMC 2.16.020 or 2.16.030 and this section, the provisions of this section shall govern.

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.

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.

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.

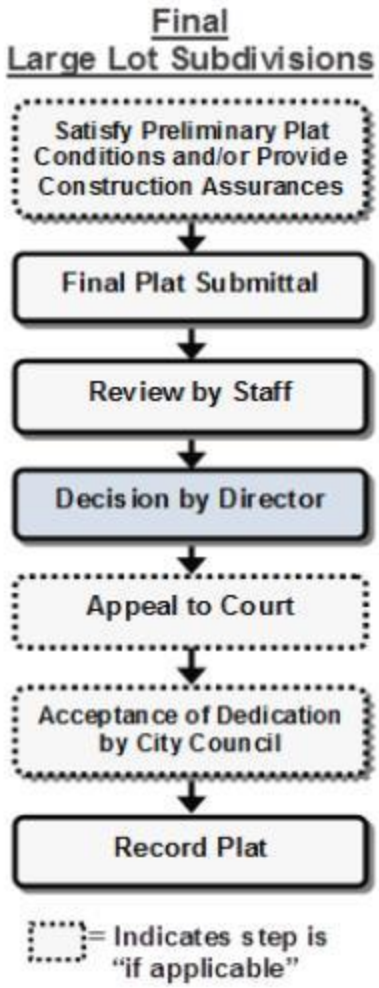
c. The large lot subdivision shall be approved if the director determines that:

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

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

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.

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.

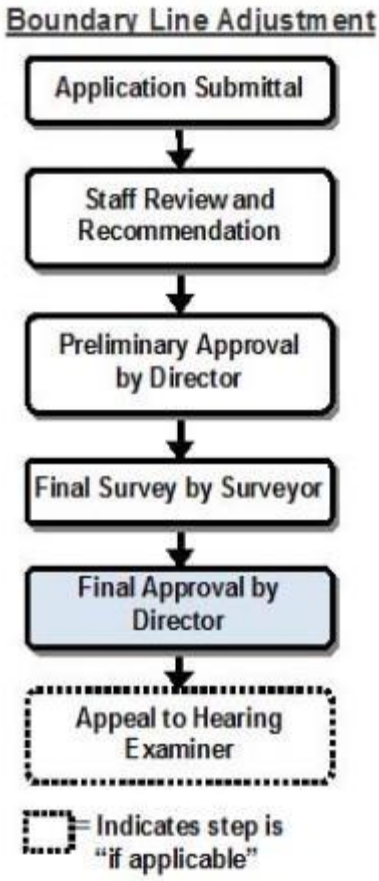
2. The applicant shall file application materials as described in the administrative manual.

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.



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)

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.

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 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:

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.

Major Conditional Use Permit

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.

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.

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;

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

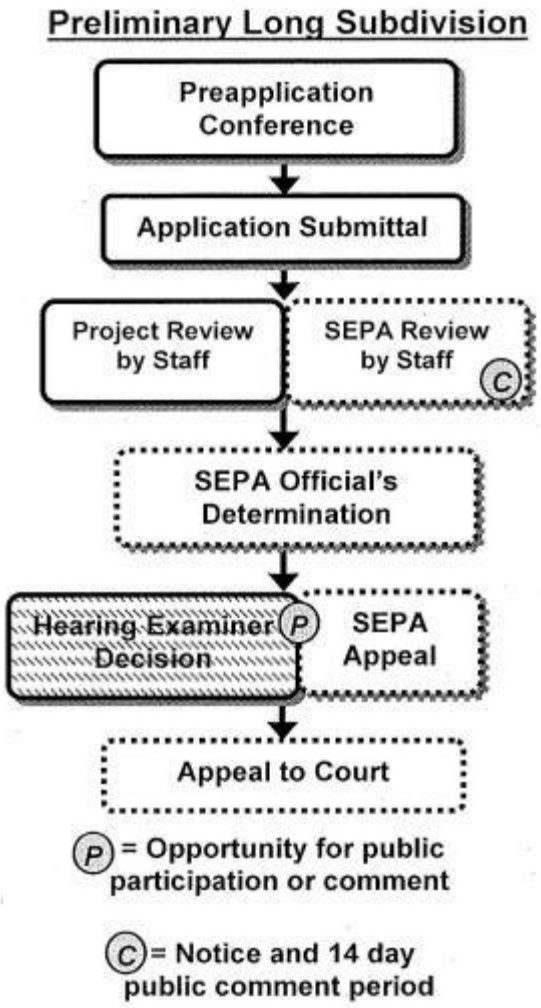
e. The variance is requested because of special circumstances related to the size, shape, topography, trees, groundcover, location or surroundings of the subject property, or factors necessary for the successful installation of a solar energy system such as a particular orientation of a building for 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.



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.

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

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.

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;

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

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

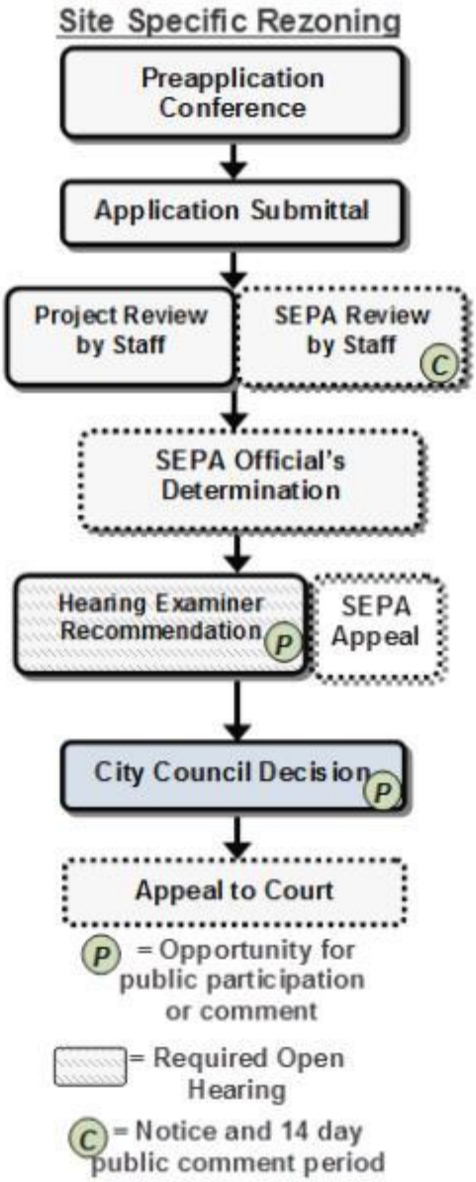
property rezone may reflect changed circumstances or new land use needs and shall be consistent with the city's current comprehensive plan.

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.



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 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.

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.

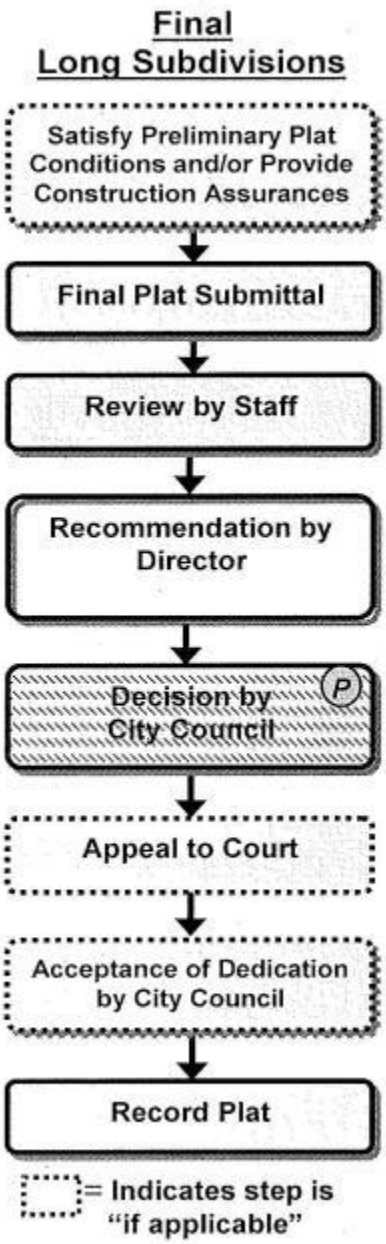
1. The city engineer shall review the final subdivision to determine compliance with the requirements of RCW 58.17.160 and forward recommendations for approval or disapproval to the department.

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 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

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.

M. Amendment to Approved Long Subdivision.

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.

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 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.

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.

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

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.

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.

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 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).

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.

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.

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:

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.

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.

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.

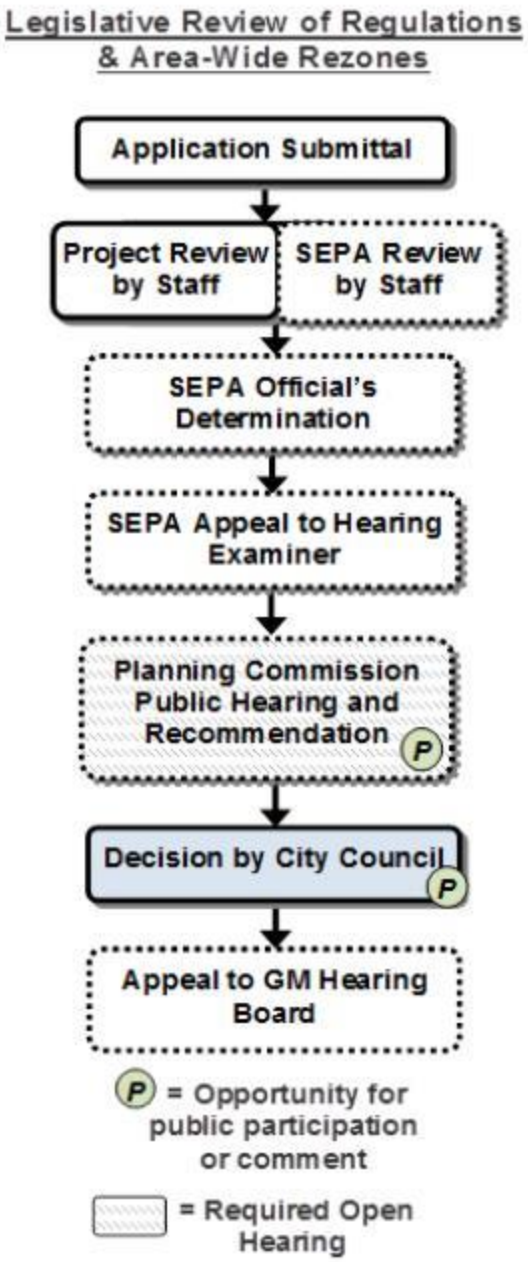
E. Public Hearing. If a public hearing is required for any of the related land use applications of a consolidated project, the public hearing shall combine all the applicable permit application requests. Related applications requiring a public hearing shall be considered at only one public hearing. If 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.



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.

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)

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

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

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.

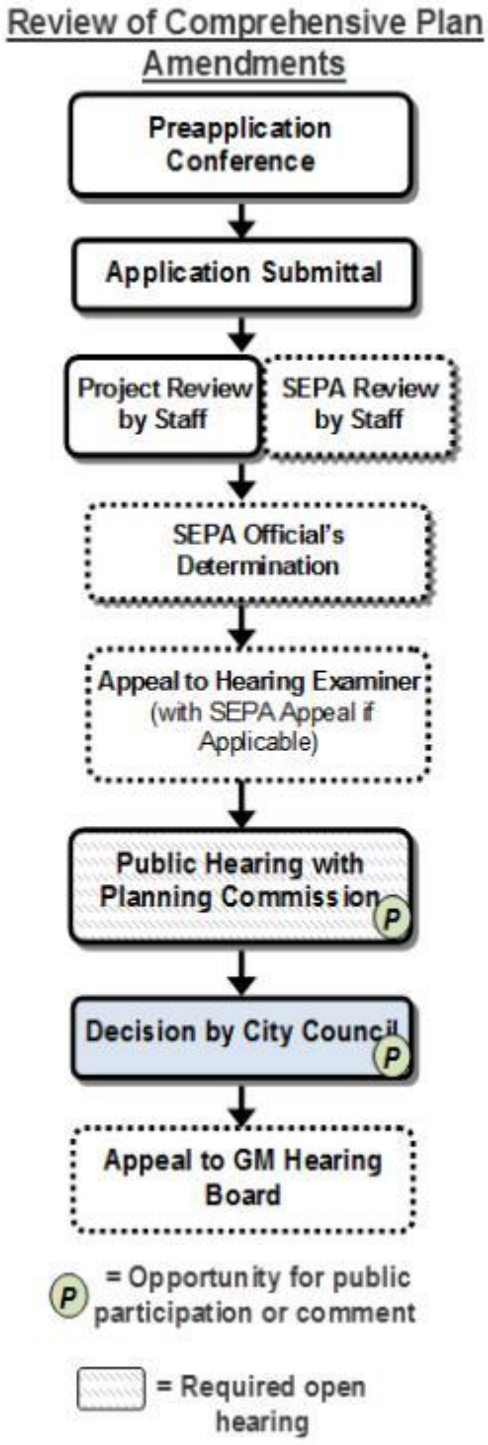
2. Resources.

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.



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.

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.

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

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.

Subarea Planning Process
City Council Resolution on Commencement
Staff Team Formed by Director
Steering Committee formed by City Council
Council Approval of Steering Committee Work Plan
Public Meeting with Planning Commission and Steering Committee
P
Public Report to Planning Commission
Subarea Plan by Steering Committee
SEPA Review & Director Determination
Final Report by Steering Committee
Recommendation by Planning Commission
P
Decision by City Council
P
Appeal to GM Hearing Board
P = Opportunity for public participation or comment

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.

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 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)

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[1] Code reviser's note: Ord. 2016-11 adds BIMC 2.16.050.F. The subsection has been relettered to avoid duplication of lettering.

COMMUMITY DEVELOPMENT ORDINANCE

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.

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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.

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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 of less in shall be exempt from clustering requirement, though clustering is prefered.

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

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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 on 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.

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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

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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.

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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 by 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.

In a manner appropriate to the subject property's zoning classification, adjoining properties, and site-specific characteristics, Natural Area(s) and Community Space(s) shall be integral parts of the subdivision design, and assets to be cared for and enjoyed by residents.

A. Natural Areas

1. Preserve Existing Natural Areas

Intent: To protect a significant part of the property that is forested and/or contains other sensitive natural resources.

Guideline: Areas such as trees, forests, vegetated slopes, meadows, streams and wetlands shall be features of the subdivision design. Table XX prioritizes the list of natural area types and includes existing wildlife corridors, land currently used for pasture or crop production, and stormwater ponds that function as a natural feature or constructed wetland. Construction activities shall not impact Natural Areas and protected trees.

2. Recognize and Protect Significant Trees

Intent: Protect trees that are considered ecologically or aesthetically significant and embody pieces of the Island's history and distinctive identity.

Guideline: If located outside of a Natural Area, significant trees should still be protected when homesites are planned. Historical significance, rarity or scarcity, ecological function and aesthetic appeal are qualities worthy of preservation. [Wait on recommendations on landmark tree ordinance; revisions to 16.18; new definition of significant tree]. Staff note: will likely also be addressed in "landscaping, screening, and tree retention" section relocated (applicable parts) sections of BIMC 18.15.010. Will also need definition of "significant" tree.

B. Site Design

3. Provide Community Spaces

Intent: Promote community interactions.

Guideline: Community space(s) should be located adjacent to as many homesites as is feasible. Spaces and facilities may include but are not limited to: a central green, play structures, pea patches, a flower garden, an orchard, a greenhouse, a covered or enclosed social space. Natural areas will be given priority over covered or enclosed community spaces.

4. Design Homesites To Promote Community Interaction

Intent: To promote interactions within the community and to reduce infrastructure costs and the impacts of development, homesites should be located in clusters, with safe walking routes within the community and to adjacent neighborhoods.

Guideline: The separation of any homesite from another adjacent to it will vary with the zoning classification and the lay of the land. Projects with more than ten homes may create separate homesite clusters, each with its own Community Space. Projects shall provide pedestrian connections on pervious paths through the site and to adjacent trails if they exist. Sites without adjacent trails should, if feasible, provide public easement(s) to identified potential trail connections. Walking paths should connect homesites with the Community Space and Natural Area.

5. Promote Context Sensitive Design

Intent: To encourage site, landscaping, architectural, or engineering design that is compatible with a development's setting, the contours of the land and natural systems on-site and immediately off-site, and compatible with the character, location and configuration of improvements and uses on adjacent properties.

Guideline: Homes along public streets shall have their entry oriented to the street, with porches and outdoor spaces encouraged. Homes on corner lots may face a side yard to the street. Any garage or covered parking shall be adjacent to the access way. If facing the street, garages shall be limited to two cars; if located toward the rear of the home, they should use a shared driveway.

6. Use an Efficient Homesite Footprint

Intent: Integrate the footprint of impermeable surfaces, useable outdoor spaces, and any access and parking areas within a limited homesite area.

Guideline: Site layout shall include efficiently configured building footprints and outdoor spaces.

7. Provide Variation in Housing Design and Diversity

Intent: Add visual interest and individuality with a range of house designs and sizes.

Guideline: House designs shall be varied in floor plan, elevations and massing. House types may feature shared details to provide continuity and harmony.

8. Provide Useable Sideyards

Intent: Ensure that spaces between houses are useable.

Guideline: The distance between houses shall be at least 10 feet, to provide for various uses and allow for light and privacy, except in zero lot line circumstances.

9. Recognize Historical and Cultural Resources

Intent and Guideline: Identify and preserve any culturally significant artifacts associated with the site of development or redevelopment; consult with the Historic Preservation Commission before modifying or demolishing a historically significant structure.

C. Reduce Development Impacts

10. Promote Sustainability and Solar Access

Intent: Ensure that site planning and building design support strategies for sustainability and provide access to some direct daylight for each homesite for wellbeing and energy production.

Guideline: All homes and community buildings should be designed to minimize their environmental footprint, in accordance with the requirements of locally adopted codes. Orient homesites in relation to open space and forest canopy to maximize solar access for all homes if possible. Massing of buildings, tree retention and plantings should minimize the effects of shade on adjacent homes.

11. Reduce Impervious Surfaces.

Intent: Reduce impervious surfaces by limiting the width and length of roads within the subdivision and by eliminating roads serving individual homesites were feasible.

Guideline: Site design shall use a minimum paved road surface. Parking may be located outside of homesites along an access way, in shared parking areas, or garages.

~~12. Restore Disturbed Areas of the Site~~ Suggest deleting. BMP T5.13 required for subdivisions - Post-Construction Soil Quality and Depth (soil amendment required)

~~Intent: Restore areas disturbed and impacted by construction.~~

~~Guidelines: Restore disturbed areas affected by construction activities.~~

13. Incorporate Efficient Stormwater and Septic System Design

Intent: Integrate stormwater into site layout and design, avoiding isolated facilities where possible, and seek out the most appropriate technology for reducing stormwater and septic system impacts on the natural environment. Design for on-site infiltration of septic system outflow and stormwater.

Guideline: Limit impervious surfaces, design an efficient septic system, and disperse rainfall with such strategies as raingardens, pervious paving, natural vegetation and natural ponds. Encourage shared or community septic systems, if available. Where stormwater retention ponds are necessary, they shall function as a natural feature or a constructed wetland, with gentle slopes and native vegetation. Fencing around stormwater ponds, if used, shall be visually open (split rail, for instance) and less than 3' 6" in height unless otherwise required for public health and safety.

14. Encourage Water Conservation through Use of Native and Drought Tolerant Vegetation

Intent: Reduce water consumption.

Guideline: Whether installed by the developer or homeowner, installed vegetation should be native and drought tolerant species requiring minimal irrigation after establishment.