CITY OF BAINBRIDGE ISLAND

PLANNING COMMISSION PUBLIC PARTICIPATION
AND SPECIAL MEETING
THURSDAY, OCTOBER 10, 2019
6:00 – 9:00 PM
COUNCIL CHAMBER
280 MADISON AVE N
BAINBRIDGE ISLAND, WA 98110

AGENDA

6:00 PM	CALL TO ORDER Call to Order, Agenda Review, Conflict Disclosure
6:05 PM	PUBLIC PARTICIPATION MEETING Paine Short Subdivision (PLN51574 PRE)
6:35 PM	REVIEW AND APPROVE MINUTES September 26, 2019
6:40 PM	PUBLIC COMMENT Accept public comment on off agenda items.
6:50 PM	ORDINANCE 2019-24 SPR/CUP DECISION CRITERIA UPDATE Recommendation Long Range Senior Planner Jennifer Sutton
7:30 PM	HOUSEKEEPING CODE CHANGES Study Session Long Range Senior Planner Jennifer Sutton
8:50 PM	CITY COUNCIL UPDATE Interim Planning Director Heather Wright
8:55 PM	NEW/OLD BUSINESS
9:00 PM	ADJOURN

***TIMES ARE ESTIMATES**

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

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

CITY OF
BAINBRIDGE ISLAND

Planning Commission
Public Participation Meeting
and Special Meeting Minutes
Thursday September 26, 2019

PUBLIC PARTICIPATION MEETING – Thompson Short Plat (PLN51397 PRE/SPT)
CALL TO ORDER – Call to Order, Agenda Review, Conflict Disclosure
REVIEW AND APPROVE MINUTES – September 5 and 12, 2019
PUBLIC COMMENT ON OFF AGENDA ITEMS
OPEN GOVERNMENT MEETING TRAINING
SPR/CUP DECISION CRITERIA UPDATE – Recommendation
AVETERRA CODE REQUEST – Study Session
CITY COUNCIL UPDATE
NEW/OLD BUSINESS
ADJOURN

PUBLIC PARTICIPATION MEETING – Thompson Short Plat (PLN51397 PRE/SPT)
Chair William Chester opened the meeting at 5:59 PM. Senior Planner Kelly Tayara introduced applicant Jeffrey Thompson who presented the proposed short plat.

CITY COUNCIL UPDATE
Planning Director Heather Wright provided the City Council update after the public participation meeting which ended early.

CALL TO ORDER – Call to Order, Agenda Review, Conflict Disclosure
Chair William Chester called the meeting to order at 6:29 PM. Planning Commissioners in attendance were J. Mack Pearl, Jon Quitslund, Kimberly McCormick Osmond and Joe Paar. Lisa Macchio and Don Doman were absent. City Staff present were Deputy City Attorney Robbie Sepler, Planning Director Heather Wright, Interim Planning Manager David Greetham, Engineering Manager Mike Michael, Long Range Senior Planner Jennifer Sutton, Senior Planner Kelly Tayara, Planner Annie Hillier and Administrative Specialist Jane Rasely who monitored recording and prepared minutes.

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

PUBLIC COMMENT ON OFF AGENDA ITEMS
None.

REVIEW AND APPROVE MINUTES – September 5 and 12, 2019

> **Motion: I move approval of the minutes for the meeting of September 5, 2019 as distributed.**
> **Quitslund/Paar: Passed Unanimously**

DRAFT

Motion: approval of the minutes for the September 12 meeting, 2019, as distributed.
Quitslund/Pearl: Passed Unanimously

OPEN GOVERNMENT MEETING TRAINING
Deputy City Attorney Robbie Sepler led the training.

SPR/CUP DECISION CRITERIA UPDATE – Recommendation
Long Range Senior Planner Jennifer Sutton led the discussion. The Planning Commission asked for a clean copy at their next meeting before they made a recommendation.

AVETERRA CODE REQUEST – Study Session
Planner Annie Hillier facilitated discussion and introduced applicant Mollie Bogardus who provided additional information based upon the Commissioner's questions at the last meeting. (See attached presentation.) Caitlin Price Youngquist, PhD presented information regarding organic material, odor and leachate.

Public Comment
Nick Masla, Citizen – Asked questions about the public process for this proposed code change. Mr. Masla also asked why they could not use the capped landfill site at the Vincent Road transfer station.

Brian Ferrell, Citizen – Stated the continuous truck action at the site had been a burden and stated he was concerned about noise, water contamination and odor.

Danielle, Citizen - Spoke in favor of the project and asked why Bainbridge was not already doing this. She spoke about being an island that was self-sustaining.

Olaf Ribeiro, Citizen – Spoke in favor of the composting facility and asked questions of the applicant regarding lab analysis. He stated that if it was done correctly, there was a great opportunity in this project.

Sandy Charyn, Citizen - Spoke about the trucks and the noise. He also said it sounded like a good idea but wanted less activity rather than more activity. He asked for attention to be given to ingress and egress and worried about rodent activity.

Brian Ferrell, Citizen – Suggested a lot of the neighborhood concerns could be eliminated if they moved the compost facility to the transfer station site.

DRAFT

The Planning Commission decided to have a subcommittee comprised of Jon Quitslund, Joe Paar and J. Mack Pearl look further into the code.

NEW/OLD BUSINESS
None.

ADJOURN
The meeting was adjourned at 9:16 PM.

Approved by:

_____ _____

William Chester, Chair Jane Rasely, Administrative Specialist

DRAFT

CITY OF BAINBRIDGE ISLAND

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

MEMORANDUM

Date: October 10, 2019

To: Planning Commission

From: Jennifer Sutton, AICP, Senior Planner

Subject: **Development Moratorium Work Plan:**
Ordinance 2019-24
Site Plan and Design Review and Conditional Use Permit Decision Criteria

I. BACKGROUND

The City Council adopted a development moratorium in January 2018 on certain land use permits. Since then, City staff have been working to modifying the City Code to address the concerns identified in the development moratorium. On September 24, the City Council extended the development moratorium "As Is" for 2 additional months, until December 3, 2019. After that date, the moratorium will be narrowed to the Winslow Master Plan Study Area, with some exceptions. See the City's development moratorium project website for additional information.

Moratorium related work includes:

- Updated Land Use Review Procedures (Ordinance 2018-20) that were approved at the end of 2018. These changes expanded the role of the Planning Commission;
- The updated Subdivision Design Standards and Guidelines were approved by the City Council on September 24.
- The updated Design Guidelines *Design for Bainbridge* were approved by the City Council on September 24.
- The City Council continued to discuss how to address affordable housing, including inclusionary zoning, most recently at their September 17 meeting. This City Council discussion will continue on December 3, 2019.
- Consideration of revisions to site plan and design review (SPR) and conditional use permit (CUP) decision criteria is a moratorium work plan item. The intent of any potential revisions is to (a) minimize "wiggle room" and subjectivity for the decision maker and (b) ensure that decision criteria result in project outcomes reflective of the City's Comprehensive Plan. This work, together with the Land Use Review procedures changes approved with Ordinance 2018-20, implements Land Use Element Policies LU 6.5 and LU 6.8.

Existing decision criteria in the Bainbridge Island Municipal Code (BIMC)

- BIMC 2.16.040.F – Site Plan and Design Review
- BIMC 2.16.050.D – Minor Conditional Use Permit
- BIMC 2.16.110.F – Major Conditional Use Permit

II. Planning Commission Discussion of Decision Criteria

On September 26, the Planning Commission discussed again Ordinance 2019-24 and revisions to the decision criteria for the Site Plan and Design Review and Conditional Use Permits (Minor and Major). The Commission agreed upon additional amendments, which have been integrated into Ordinance 2019-24 Exhibit A, B and C. The Commission also requested a "clean copy" of Exhibit A, which is included in this meeting packet. This clean copy assumes that all of the strikeout/underline changes shown in that version of Exhibit A are adopted.

At the September 26, 2019 meeting, the Commission discussed current BIMC Section 2.16.110.G.7 which modifies lot coverage requirements for institutional uses in residential zones (see bottom of page 5 of Exhibit A (strikeout/underline version). The Commission recommended moving these code provisions, which can be described as development standards, out of the decision criteria section, and into Title 18 Zoning. As shown in Exhibits B and C, these lot coverage requirements are proposed to be added to the BIMC 18.09.030 *Use Specific Standards* for each of those institutional type uses. See definition of lot coverage below for reference:

> **BIMC 18.12.050.K. Lot Coverage. "**Lot coverage" means that portion of the total lot area covered by buildings, excluding up to 24 inches of eaves on each side of the building, any building or portion of building located below predevelopment and finished grade. Any portion of a slatted or solid deck located more than five feet above grade shall be counted towards lot coverage. Also excluded are ground-mounted accessory small wind energy generators, solar panels, composting bins, rain barrels/cisterns, and covers designed to shade ground-mounted heat pumps and air conditioners to increase their efficiency.

III. Next Steps

The Planning Commission should discuss the drafted code amendments in Ordinance 2019-24 and its Exhibits and agree on any additional modifications. The Planning Commission is scheduled to complete their review of Ordinance 2019-24 on October 10, making a recommendation to the City Council.

Note: Additional standards and sometimes, decision criteria, for specific uses can be found in BIMC Section 18.09.030 *Use Specific Standards*. These standards, like all other applicable development standards, must be met under the existing SPR and CUP decision criteria.

ORDINANCE NO. 2019-24

AN ORDINANCE of the City of Bainbridge Island, Washington, relating to Site Plan and Design Review and Conditional Use Permit Decision Criteria, revising Sections 2.16.040, 2.16.050, 2.16.110, 18.09.030 and 18.36.030, of the Bainbridge Island Municipal Code.

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

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

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

WHEREAS, the development moratorium has been extended several times while the City works to complete the moratorium work program to address the issues identified by the development moratorium; and

WHEREAS, Ordinance 2018-20 was approved at the end of 2018, and updated the review procedures for Short Plats, Subdivisions, Site Plan and Design Review, and Conditional Use Permits; and

WHEREAS, in addition to updating standards, guidelines and procedures, the City is updating decision criteria for Site Plan and Design Review and Conditional Use Permits to ensure that future development is rigorously analyzed; and

WHEREAS, the Planning Commission held a public hearing on Ordinance 2019-24 on August 22, 2019; and

WHEREAS, the Planning Commission continued to discuss Ordinance 2019-24 on September 26 and October 10, 2019, and recommended approval to the City Council after completing discussion at that meeting; and

WHEREAS, notice was given on September 3, 2019, to the Office of Community Development at the Washington State Department of Commerce in conformance with RCW 36.70A.106; and

WHEREAS, the City Council considered this ordinance at its meeting on November XX; and

WHEREAS, the City Council held a public hearing on Ordinance 2019-24 on November XX; and

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

Section 1. Sections 2.16.040.F, 2.16.050.D, 2.16.110.F, 2.16.110.G and 2.16.110.H of the Bainbridge Island Municipal Code is hereby amended as shown in Exhibit A.

Section 2. Table 18.09.020 *Use Table* of the Bainbridge Island Municipal Code is hereby amended as shown in Exhibit B:

Section 3. Sections 18.09.030.C of the Bainbridge Island Municipal Code is hereby amended as shown in Exhibit C.

Section 4. Section 18.36.030 of the Bainbridge Island Municipal Code is hereby amended as follows.

> **XX. Context Sensitive Design:** 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 that is compatible with the character, location and configuration of improvements and uses on adjacent properties.

Section 5. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared invalid or unconstitutional for any reason, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 6. This ordinance shall take effect and be in force five (5) days after its passage, approval, and publication as required by law.

PASSED by the City Council this ___ day of _____, 2019.

APPROVED by the Mayor this ___ day of _____, 2019.

_____
Kol Medina, Mayor

ATTEST/AUTHENTICATE:

_____
Christine Brown, City Clerk

FILED WITH THE CITY CLERK: , 2019

PASSED BY THE CITY COUNCIL:	_____, 2019
PUBLISHED:	_____, 2019
EFFECTIVE DATE:	_____, 2019
ORDINANCE NUMBER:	2019-24

2.16.040 – Site Plans and Design Review

F. 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~~ consistent with all applicable ~~code~~ provisions of the BIMC ~~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.S~~; and

2. The locations of the buildings and structures, open spaces, and landscaping~~, pedestrian, bicycle and vehicular circulation systems~~ result in a context sensitive design; and ~~are adequate, safe, efficient and in conformance with the Island-Wide Transportation Plan~~;

3. The Kitsap ~~County~~ Public H~~h~~ealth D~~d~~istrict 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~~.~~ ;and

   b. If the health district recommends approval of the application with respect to those items in subsection ~~E~~F.3.a of this section, the health district shall so advise the director~~.~~ ;and

   c. If the health district recommends disapproval of the application, it shall provide a written explanation to the director~~;~~.

4. The streets and nonmotorized facilities, as proposed, are adequate to accommodate anticipated traffic; and

5.~~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, nonmotorized facilities ~~and pedestrian ways~~ , locations of the buildings, structures, and vehicular circulation systems as proposed align with and are otherwise coordinated with streets and nonmotorized facilities serving adjacent properties and are adequate, safe, efficient and consistent with the Island-Wide Transportation Plan; and

   ~~d. The streets, and pedestrian ways as proposed are adequate to accommodate anticipated traffic; and~~
   MOVE OUT OF CITY ENGINEER SECTION SEE SECTION 4 ABOVE

   d. If a traffic study shows that the proposed development will have an adverse impact on traffic, including nonmotorized traffic, the impact shall be mitigated as required by the city engineer; 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~~ required service(s) can be made available at the site; and

   f. The site plan and design conforms to the "City of Bainbridge Island Engineering Design and Construction Standards and Specifications," unless the city engineer has approved a ~~variation~~ deviation from ~~to~~ the ~~road~~ standards ~~in that document based on his or her determination that the variation meets the purposes of BIMC Title 18~~; and

6.~~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.S~~; and

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

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

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

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

11 ~~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;

12. The Bainbridge Island Fire Department has reviewed the application and determined that the site plan has been properly designed to ensure fire protection; and

13 ~~11~~.The site plan and design has been prepared consistent with the purpose and review procedures of this chapter ~~the site design review process and open space goals~~.

2.16.050 – Minor conditional use permit

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 consistent with applicable design guidelines in BIMC Title 18. The conditional use is ~~harmonious and~~ compatible ~~in design, character and appearance~~ with the established and intended character of the neighborhood, considering factors that include but are not limited to, hours of operation, the type of activities generated by the use, and the predictable levels of any adverse impacts ~~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.S shall not result in denial of a conditional use permit for the project~~; and

~~2. The conditional use will be served by adequate public facilities including roads, water, fire protection, sewage disposal facilities and storm drainage facilities;~~ **NOTE: DUPLICATIVE WITH CITY ENGINEER/HEALTH DISTRICT SUBSECTIONS.**

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

3 ~~4~~. The conditional use is ~~in accord~~ consistent with the comprehensive plan and other applicable adopted community plans, including the Island-Wide Transportation Plan; and

4 ~~5~~. The conditional use complies with all other applicable provisions of the BIMC~~, unless a provision has been modified as a housing design demonstration project pursuant to BIMC 2.16.020.S~~; and

5 ~~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; and

6 ~~7~~. Noise levels shall be in compliance with BIMC 16.16.020 and 16.16.040.A; and

7. The streets and nonmotorized facilities as proposed are adequate to accommodate anticipated traffic; and

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 nonmotorized facilities ~~pedestrian ways~~ as proposed align with and are otherwise coordinated with streets and nonmotorized facilities serving adjacent properties and are adequate, safe, efficient and consistent with the Island-Wide Transportation Plan; and

~~d. The streets and pedestrian ways as proposed are adequate to accommodate anticipated traffic; and~~
MAKE SUBSECTION 7 ABOVE

d If a traffic study shows that the use will have an adverse impact on traffic, including nonmotorized traffic, the impact shall be mitigated as required by the city engineer; 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~~ required 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 and Specifications ~~Manual~~," unless the city engineer has approved a ~~variation~~ deviation from ~~to~~ the ~~road~~ standards ~~in that document based on his or her determination that the variation meets the purposes of BIMC Title 18.~~ ;and

9. The Kitsap Public Health District has determined that the conditional use 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; and

b. If the health district recommends approval or disapproval of the application the health district shall so advise the director.

10. The Bainbridge Island Fire Department has reviewed the application and determined that the conditional use will be properly designed to ensure fire protection; and

11. ~~9.~~ If a minor conditional use is processed as a housing design demonstration project pursuant to BIMC 2.16.020.S, the above criteria will be considered in conjunction with the purpose, goals, policies, and decision criteria of BIMC 2.16.020.S; and

12. ~~10.~~ A conditional use may be approved or approved with conditions. If no reasonable conditions can be imposed that ensure the application meets the decision criteria of this chapter, then the permit ~~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.

2.16.110 Major conditional use permit

F. Decision Criteria. A conditional use may be approved or approved with conditions if:

1. ~~A conditional use may be approved or approved with conditions if:~~
   ~~a.~~ The conditional use is consistent with applicable design guidelines in BIMC Title 18.The conditional use is ~~harmonious and~~ compatible ~~in design, character and appearance~~ with the established and intended character of the neighborhood, considering factors that include but are not limited to, hours of operation, the type of activities generated by the use, and the predictable levels of any adverse impacts ~~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~~ **NOTE: DUPLICATIVE WITH CITY ENGINEER SUBSECTIONS**
2. ~~c.~~ The conditional use will not be materially detrimental to uses or property in the vicinity of the subject property; and
3. ~~d.~~ The conditional use is ~~in accord~~ consistent with the comprehensive plan and other applicable adopted community plans, including the Island-Wide Transportation Plan; and
4. ~~e.~~ The conditional use complies with all other applicable provisions of the BIMC~~, unless a provision has been modified as a housing design demonstration project pursuant to BIMC 2.16.020.Q~~; and
5. ~~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
6. ~~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~~ **DUPLICATIVE WITH OTHER SUBSECTIONS**

7. The streets and nonmotorized facilities as proposed are adequate to accommodate anticipated traffic; and
8. ~~i.~~ The city engineer has determined that the conditional use meets the following decision criteria:
   a. ~~i.~~ The conditional use conforms to regulations concerning drainage in Chapters 15.20 and 15.21 BIMC; and
   b. ~~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
   c. ~~iii.~~ The streets, nonmotorized facilities, ~~and pedestrian ways~~ locations of the buildings, structures, and vehicular circulation systems as proposed align with and are otherwise coordinated with streets and nonmotorized facilities serving adjacent properties and are adequate, safe, efficient and consistent with the Island-Wide Transportation Plan; and
   ~~iv. The streets and pedestrian ways as proposed are adequate to accommodate anticipated traffic; and~~ **MOVE OUT OF 6, MAKE SUBSECTION 5.**
   d. If a traffic study shows that the use will have an adverse impact on traffic, including nonmotorized traffic, the impact shall be mitigated as required by the city engineer; and
   e. ~~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~~ required service(s) can be made available at the site; and

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

9. The Kitsap Public Health District has determined that the conditional use 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; and
   b. If the health district recommends approval or disaproval of the application the health district shall so advise the director.
10. The Bainbridge Island Fire Department has reviewed the application and determined that the conditional use will ~~be properly designed to~~ ensure fire protection.

11 ~~j~~. If a major conditional use is processed as a housing design demonstration project pursuant to BIMC 2.16.020.S, the above criteria will be considered in conjunction with the purpose, goals, policies, and decision criteria of BIMC 2.16.020.S.

12 ~~2~~.A conditional use may be approved, or recommended for approval, with conditions. If no reasonable conditions can be imposed that ensure the ~~application~~ permit meets the decision criteria of this chapter, then the ~~application~~ permit shall be denied.

G. 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 F ~~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.~~ **DUPLICATIVE- PERIMETER LANDSCAPING REQUIREMENTS IN 18.15.010**

~~4. The proposal meets the requirements of the commercial/mixed use design guidelines in BIMC 18.18.030.C.~~ **DUPLICATIVE TO DESIGN GUIDELINES CRITERIA ABOVE**

2 ~~5~~. The scale of proposed construction including bulk and height and architectural design features is compatible with the ~~immediately~~ surrounding area~~, as reviewed with the design guidelines~~.

3 ~~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 G ~~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.~~ **MOVED TO USE SPECIFIC STANDARDS SECTIONS, BIMC 18.19.030- SEE EXHIBIT C**

H. 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 all conditional use permit requirements are met and 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 all conditional use permit requirements are met and 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 all conditional use permit requirements are met and 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.

2.16.040 – Site Plans and Design Review

F. 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 consistent with all applicable provisions of the BIMC; and
2. The locations of the buildings and structures, open spaces, and landscaping result in a context sensitive design; and;
3. The Kitsap Public 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; and
    b. If the health district recommends approval of the application with respect to those items in subsection F.3.a of this section, the health district shall so advise the director; and
    c. If the health district recommends disapproval of the application, it shall provide a written explanation to the director.
4. The streets and nonmotorized facilities, as proposed, are adequate to accommodate anticipated traffic; and
5. 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 of properties downstream; and
    c. The streets, nonmotorized facilities, locations of the buildings, structures, and vehicular circulation systems as proposed align with and are otherwise coordinated with streets and nonmotorized facilities serving adjacent properties and are adequate, safe, efficient and consistent with the Island-Wide Transportation Plan; and
    d. If a traffic study shows that the proposed development will have an adverse impact on traffic, including nonmotorized traffic, the impact shall be mitigated as required by the city engineer; 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 required service(s) can be made available at the site; and
    f. The site plan and design conforms to the "City of Bainbridge Island Engineering Design and Construction Standards and Specifications," unless the city engineer has approved a deviation from the standards; and
6. The site plan and design is consistent with applicable design guidelines in BIMC Title 18; and
7. No harmful or unhealthful conditions are likely to result from the proposed site plan; and
8. The site plan and design is consistent with the comprehensive plan and other applicable adopted community plans; and
9. If the subject property contains a critical area or buffer, as defined in Chapter 16.20 BIMC, the site plan and design review permit conforms to all requirements of that chapter; and
10 If the subject property is within the shoreline jurisdiction, as defined in Chapter 16.12 BIMC, the site plan and design review permit conforms to all requirements of that chapter; and
11. 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;
12. The Bainbridge Island Fire Department has reviewed the application and determined that the site plan has been properly designed to ensure fire protection; and
13. The site plan and design has been prepared consistent with the purpose and review procedures of this chapter.

2.16.050 – Minor conditional use permit

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 consistent with applicable design guidelines in BIMC Title 18. The conditional use is compatible with the established and intended character of the neighborhood, considering factors that include but are not limited to, hours of operation, the type of activities generated by the use, and the predictable levels of any adverse impacts; and
2. The conditional use will not be materially detrimental to uses or property in the immediate vicinity of the subject property; and
3 The conditional use is consistent with the comprehensive plan and other applicable adopted community plans, including the Island-Wide Transportation Plan; and
4. The conditional use complies with all other applicable provisions of the BIMC; and
5. 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
6. Noise levels shall be in compliance with BIMC 16.16.020 and 16.16.040.A; and
7. The streets and nonmotorized facilities as proposed are adequate to accommodate anticipated traffic; and
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 of properties downstream; and
    c. The streets and nonmotorized facilities as proposed align with and are otherwise coordinated with streets and nonmotorized facilities serving adjacent properties and are adequate, safe, efficient and consistent with the Island-Wide Transportation Plan; and
    d If a traffic study shows that the use will have an adverse impact on traffic, including nonmotorized traffic, the impact shall be mitigated as required by the city engineer; 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 required service(s) can be made available at the site; and
    f. The conditional use conforms to the "City of Bainbridge Island Engineering Design and Standards and Specifications," unless the city engineer has approved a deviation from the standards; and
9. The Kitsap Public Health District has determined that the conditional use 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; and
    b. If the health district recommends approval or disapproval of the application the health district shall so advise the director.
10. The Bainbridge Island Fire Department has reviewed the application and determined that the conditional use will be properly designed to ensure fire protection; and
11. If a minor conditional use is processed as a housing design demonstration project pursuant to BIMC 2.16.020.S, the above criteria will be considered in conjunction with the purpose, goals, policies, and decision criteria of BIMC 2.16.020.S; and
12. A conditional use may be approved or approved with conditions. If no reasonable conditions can be imposed that ensure the application meets the decision criteria of this chapter, then the permit 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.

2.16.110 Major conditional use permit

F. Decision Criteria. A conditional use may be approved or approved with conditions if:
   1. The conditional use is consistent with applicable design guidelines in BIMC Title 18. The conditional use is compatible with the established and intended character of the neighborhood, considering factors that include but are not limited to, hours of operation, the type of activities generated by the use, and the predictable levels of any adverse impacts; and
   2. The conditional use will not be materially detrimental to uses or property in the vicinity of the subject property; and
   3. The conditional use is consistent with the comprehensive plan and other applicable adopted community plans, including the Island-Wide Transportation Plan; and
   4. The conditional use complies with all other applicable provisions of the BIMC; and
   5. 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 vicinity of the subject property; and
   6. Noise levels shall be in compliance with BIMC 16.16.020 and 16.16.040.A; and
   7. The streets and nonmotorized facilities as proposed are adequate to accommodate anticipated traffic; and
   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 of properties downstream; and
      c. The streets, nonmotorized facilities, locations of the buildings, structures, and vehicular circulation systems as proposed align with and are otherwise coordinated with streets and nonmotorized facilities serving adjacent properties and are adequate, safe, efficient and consistent with the Island-Wide Transportation Plan; and
      d. If a traffic study shows that the use will have an adverse impact on traffic, including nonmotorized traffic, the impact shall be mitigated as required by the city engineer; 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 required service(s) can be made available at the site; and

f. The conditional use conforms to the "City of Bainbridge Island Engineering Design and Construction Standards and Specifications" unless the city engineer has approved a deviation to the standards.

9. The Kitsap Public Health District has determined that the conditional use 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; and
   b. If the health district recommends approval or disapproval of the application the health district shall so advise the director.
10. The Bainbridge Island Fire Department has reviewed the application and determined that the conditional use will ensure fire protection.
11. If a major conditional use is processed as a housing design demonstration project pursuant to BIMC 2.16.020.S, the above criteria will be considered in conjunction with the purpose, goals, policies, and decision criteria of BIMC 2.16.020.S.
12. A conditional use may be approved, or recommended for approval, with conditions. If no reasonable conditions can be imposed that ensure the permit meets the decision criteria of this chapter, then the permit shall be denied.

G. 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 F ~~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. The scale of proposed construction including bulk and height and architectural design features is compatible with the surrounding area.
   3. 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 G, but may not waive those required elsewhere in the BIMC.

H. 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 all conditional use permit requirements are met and 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 all conditional use permit requirements are met and 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 all conditional use permit requirements are met and 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.

Table 18.09.020 Use Table (EXCERPT)

"P" = Permitted Use		"A" = Accessory Use									Additional use restrictions for Chapters 16.12 and 16.20 BIMC may apply to shoreline or critical area properties									
"C" = Conditional Use		"CA" = Conditional Accessory Use																		
Blank = Prohibited Use		"T" = Temporary Use																		
ZONING DISTRICT USE CATEGORY/TYPE	R- 0.4	R-1	R-2	R-2.9	R-3.5	R-4.3	R-5	R-6	R-8	R-14	Winslow Mixed Use Town Center					HSR I and II	NC	B/I	WD-I	Use-Specific Standards BIMC 18.09.030
											CC	MA	EA	Gate	Ferry [1]					
PRINCIPAL USES																				
CULTURAL AND ENTERTAINMENT																				
Artist Studio											P	P	P	P	P	P	P	P		
Club	C	C	C	C	C	C	C	C	C	C	P	P	P	P	P	P	P			
Commercial Amusement											P	P	P	P	P	P	C			
Cultural Facility	C	C	C	C	C	C	C	C	C	C	P	P	P	P	P	P	C		C	**C-8**
Entertainment Facility											P					P	C			

EXHIBIT B

Amendments Currently Codified in 2.16.110.G.7 *Additional Decision Criteria for Institutions in Res. Zones.* BIMC Section 18.09.030 *Use Specific Standards*:

C. Public and Institutional. Applications to locate 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 pursuant to BIMC 2.16.110.

1. **Educational Facilities.**
   a. *Repealed by Ord. 2018-13.*
   b. *Repealed by Ord. 2018-13.*
   c. In the WD-I district, educational facilities are a conditional ("C") use. Conference centers with overnight accommodations are not permitted.
   d. In the ferry terminal overlay district educational facilities are only allowed south of Winslow Way.
   e. Lot coverage for private educational facilities in residential zones is reduced by 50 percent of the allowable lot coverage in the zone where the private educational facility is located. See BIMC Table 18.12.020-2 for lot coverage standards in residential zones.
   f. Lot coverage for public educational facilities in the R-0.4 zoning district can be increased by 150 percent, from 10 percent to 15 percent. Public educational facilities in all other residential zoning districts shall be allowed 100 percent of the lot coverage established in the underlying zoning district where the public educational facility is located, unless, conditions are required to limit the lot coverage to mitigate impacts of the use. See BIMC Table 18.12.020-2 for lot coverage standards in residential zones.
2. **Governmental Facilities.**
   a. In the WD-I district, governmental facilities are a conditional ("C") use. Conference centers with overnight accommodations are not permitted.
   b. In the ferry terminal overlay district, governmental facilities are only allowed south of Winslow Way.
   c. Lot coverage for governmental facilities in the R-0.4 zoning district can be increased by 150 percent, from 10 percent to 15 percent. Governmental facilities in all other residential zoning districts shall be allowed 100 percent of the lot coverage established in the underlying zoning district where the public educational facility is located, unless, conditions are required to limit the lot coverage to mitigate impacts of the use. See BIMC Table 18.12.020-2 for lot coverage standards in residential zones.
3. **Religious Facilities.**
   a. In the WD-I district, religious facilities are a conditional ("C") use. Conference centers with overnight accommodations are not permitted.
   b. In the ferry terminal overlay district, religious facilities are only allowed south of Winslow Way.
   c. Lot coverage for religious facilities in residential zones is reduced by 50 percent of the allowable lot coverage in the zone where the religious facility is located. See BIMC Table 18.12.020-2 for lot coverage standards in residential zones.
7. **Health Care Facilities.**
   a. In the ferry overlay district, health care facilities are only allowed south of Winslow Way.
   b. Lot coverage for health care facilities in residential zones is reduced by 50 percent of the allowable lot coverage in the zone where the health care facility is located. See BIMC Table 18.12.020-2 for lot coverage standards in residential zones.

NEW USE SPECIFIC STANDARD

8. **Cultural Facilities.** Lot coverage for cultural facilities in residential zones is reduced by 50 percent of the allowable lot coverage in the zone where the cultural facility is located. See BIMC Table 18.12.020-2 for lot coverage standards in residential zones.

EXHIBIT C

CITY OF BAINBRIDGE ISLAND

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

MEMORANDUM

Date: October 10, 2019

To: Planning Commission

From: Jennifer Sutton, AICP
Senior Planner

Subject: Update to BIMC Title 2 *Administration,….and Land Use Procedures* and Title 18 *Zoning* Development Code "Housekeeping" Changes

I. BACKGROUND

The Department of Planning and Community Development staff have identified many areas of the development code (BIMC Chapters 2.14, 2.16 and 18) that could be clarified, updated or where there are errors in need of correction. The proposed updates were divided into three categories, that have been discussed by the Planning Commission at their March 28, April 25, May 23 and June 27, 2019 meetings:

1) General "Housekeeping"
2) Reconsidering Planning Commission role in approving *Noise Variances*
3) Updates to the BIMC Sections 2.16.040 (*Site Plan and Design Review*) and 2.16.050/110 (*Conditional Use Permits, CUP*)related to reviewing decision criteria.

The Site Plan and Design Review and CUP decision criteria work (#3 above) has been moved forward separately since it was a task on the City's Development Moratorium work program (see DRAFT Ordinance 2019-24 agenda item for October 10 Planning Commission meeting).

II. PLANNING COMMISSION REVIEW

On May 23, 2019 the Planning Commission discussed:

- The Planning Commission role in granting noise variances (see BIMC Chapter 16.16.030);
- Title 2 Housekeeping Changes.

At that meeting, the Commission came to consensus on leaving noise variance regulations unchanged. Previous draft changes to BIMC Chapter 16.16.030 have been removed from the Planning Commission strikeout/underline review materials. The Commission discussed other Title 2 changes, which are primarily recommended by the City Attorney's office and the City Surveyor. Additional code amendments requested by the Commission at that meeting have been integrated into the Title 2 Strikeout/Underline code changes.

On June 27, 2019 the Planning Commission discussed Title 18 *Zoning* Housekeeping Changes. Besides housekeeping changes, the Planning Commission discussed a proposed new use and use specific standards for *Temporary Construction Staging.* The draft Title 18 *Zoning* changes requested by the

Commission have been integrated into a revised Strikeout/Underline draft. The summary table provides an explanation for the proposed change. The attached strikeout/underline version shows the full sections where the changes may be informed by the entire section. However, in longer code sections, staff only included the sections where there were changes proposed, such as BIMC Tables 18.12.020-1, 2 and 3 (unchanged/unrelated rows are not shown). The entirety of BIMC Table 18.09.020 *Use Table* is included, although only one change is proposed: to add the new use "temporary construction staging".

All code changes are highlighted, to make them easier to identify in the long documents.

III. Meeting Purpose

The Planning Commission Study Session should discuss and if additional changes to Titles 2 or 18 are desired, come to consensus on additional or revised code language.

IV. Next Steps

The Planning Commission will hold a public hearing on **October 24** on these amendments to Titles 2 and 18. After completing the public hearing, the Commission eventually will make a final recommendation to the City Council on these Housekeeping Changes.

UPDATED Housekeeping & Clarification Title 2 Code Updates

Code Section	Suggested Edit, Correction
2.14.030	Pages 1-2**;** Requested by Legal: Subsection 2.14.030.C.2.b updated related to Hearing Examiner (HEX) *Rules of Procedure*
Table 2.16.010-1	Pages 3-5; Update Tree Removal Permit Title, delete repealed Vegetation Management Permit; amend double asterisk under Table 2.16.020-1 could be revised to omit the language about sending decisions to SEPA agencies – decisions go to "agencies with jurisdiction". Delete reference to Major SPR for B/I zone, see Section 2.16.040.
2.16.020.M	Pages 6-9 BIMC 2.16.020.M.2, General cleanup and clarification throughout noticing section.
2.16.020.Q	Page 10; City Surveyor fixing language related to changing short plats or subdivisions to be consistent with RCW 58.17.215 terminology. The terms "amendment" or "modification" updated to "alteration"
2.16.020.R	Page 10-12; Legal: Subsection 2.16.020.R.1.c updated related to Hearing Examiner *Rules of Procedure* and subsection R.2 is clarified
2.16.030	Pages 13-15 Administrative Review Applicability section updated to reflect that CAO and SMP permit procedures are now located in Chapter 2.16. Deleted outdated flowchart. Each permit section has its own flowchart.
2.16.060.B.1	Page 16-18; Check that minor variances are limited to these situations specifically. Consider if variances related to single-family residential development should always be considered minor.
2.16.070	Pages 19-28; Short Subdivision Chapter: City Surveyor fixing language related to changing short plats or subdivisions to be consistent with RCW 58.17.215 terminology. The terms "amendment" or "modification" updated to "alteration"
2.16.070.D	Page 20; Reconsider requiring a Public Participation Meeting (PPM) for short plats as part of the preapplication process, 2.16.070.D.3. This PPM at the Planning Commission is a new requirement for short plats that was adopted in December as part of the larger *Land Use Permit Review Procedures* ordinance. A PPM has long been required for Long Subdivisions, and Major SPRs and CUPs, although the requirement for these to take place at a Planning Commission meeting was new. The city processes many more short plats (absence the moratorium) than any other type of permit, and this requirement, if it remains, will add substantially to the Commissions work schedule.
2.16.080	Pages 28-32; Large Lot Subdivision Chapter: City Surveyor fixing language related to changing short plats or subdivisions to be consistent with RCW 58.17.215 terminology. The terms "amendment" or "modification" updated to "alteration"
2.16.100	Pages 33-35; Quasi-judicial review by Hearing Examiner Chapter: Legal: 2.16.100.C.4,C.6, C.7 & C.9 updated related to HEX *Rules of Procedure*

Code Section	Suggested Edit, Correction
2.16.120	Pages 35; Major Variance Chapter; City Surveyor fixing language related to changing short plats or subdivisions to be consistent with RCW 58.17.215 terminology. The terms “amendment” or “modification” updated to “alteration”. No substantive changes proposed to major variance chapter
2.16.125	Pages 36-43 (see p 42); Preliminary Log Subdivision Chapter: City Surveyor fixing language related to changing short plats or subdivisions to be consistent with RCW 58.17.215 terminology. The terms “amendment” or “modification” updated to “alteration”
2.16.160	Pages 43-46; Final Log Subdivision Chapter: City Surveyor fixing language related to changing short plats or subdivisions to be consistent with RCW 58.17.215 terminology. The terms “amendment” or “modification” updated to “alteration”
2.16.165.E.2.f	Page 47; Shoreline Exemption section References the same section of WAC twice- 2nd reference can be deleted
2.16.165.F.1	Page 48; Revise SSDP section “……fair market value exceeds $7,047 ~~$6,416~~ or any development…” to reflect State 2017 adjustment for inflation, which occurs on a five-year cycle.
2.16.165.F.4	Page 50; Needs to describe how SSDP decisions get filed with WA State Dept. of Ecology and State Attorney General
2.16.165.H.3	Pages 52; Typo: This is the Shoreline CUP section, but it references shoreline variances

2.14.030 Hearing examiner.

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

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

C. Hearing Examiner Responsibilities and Duties.[1]

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

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

a. Supervises and evaluates the work of employees as required;

b. Develops ~~procedural rules~~ rules of procedure for the scheduling and conduct of hearings and related matters, which shall be adopted by the city council by resolution. Such rules of procedure may be amended from time to time by resolution of the city council, ~~Such rules shall~~ and will be published on the City's website and available from the office of the city clerk upon request;

c. Reviews properties that are the subject of hearings to become familiar with the terrain and relationships to other properties;

d. Receives and examines hearing related documents, and reviews case files, city codes and policies, environmental impact statements, plot plans and topographical maps;

e. Evaluates testimony and evidence, prepares records, enters final written findings, and imposes conditions to conform projects to city ordinances and land use policies;

f. Maintains knowledge of current relevant state and city land use laws, policies and related state and federal court decisions;

g. Prepares reports and correspondence to the city manager, city council, and planning commission as requested;

h. Prepares and submits annual written reports to the city manager and city council, including how many hearings have been conducted, the final outcome of hearings, the time required to issue decisions and the cost of hearings;

i. Meets with the city manager, city council, planning commission and staff as requested, to identify conflicts in the code; and

j. When necessary, recommends candidates for pro tem hearing examiner, for approval by the city manager.

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

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

F. Disqualification of Hearing Examiner.

1. The hearing examiner on his or her own initiative may enter an order of disqualification in the event of personal bias or prejudice or to preserve the appearance of fairness.

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

2.16.010 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~~ Tree Removal/Vegetation Maintenance 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	R	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			D			A
SEPA Determinations			D	A		
Shoreline Substantial Development Exemption [1]			D	A		
Shoreline Substantial Development [1]		(R)	D	A		A [2]

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**
Short Subdivisions (Prelim)	(R)	(R)	D	A		
(Final)			D	A		A
Sign Permits			D			A
Minor Site Plan and Design Review	(R)	(R)	D	A		
Major Site Plan and Design Review	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.						
Quasi-Judicial Decisions by the Hearing Examiner						
Conditional Use Permits	R	R	R	D/P		A
Variances		(R)	R	D/P		A
Reasonable Use Exception (See BIMC 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	R	D/P		A [2]
Long Subdivisions (Prelim)	R	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

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**
Consolidated Project Review						
See BIMC 2.16.170						
Legislative Approvals						
Adoption or Amendment of Development Regulations		R/P	R		D (P)	A
Comprehensive Plan Amendments		R/P	R		D (P)	A
Legislative Area-Wide Rezones		R/P	R		D (P)	A
Special Area Plans		R/P	R		D (P)	A

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

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

2.16.020 General provisions.

2.16.020.M. Notice Requirements.

1. Land Use Notice Summary Table.

Table 2.16.020-1 Land Use Notice Summary Table [1]

	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	X				
Notice of Application and Public Comment Period*		X	X	X	X
Notice of Public Hearing	X	X	X	X	X
Notice of Decision and Appeal Period	X	X **			

[1] Additional noticing may be required by other Titles of the BIMC

* May be combined with SEPA notice.

** Notice only goes to parties that commented during public comment period and any agencies with jurisdiction~~; 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 M.2 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 M.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 M.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 M.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 R 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 M.10 or 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.

2.16.020.Q. 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~~ alterations and the city has approved those adjustments or ~~modifications~~ alterations.

2.16.020.R. 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 R.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 R.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. The rules of procedure adopted under BIMC 2.14.030.C.2.b shall address appeal hearings before the hearing examiner. ~~Any~~ Such rules of procedure for appeal hearings ~~adopted by the hearing examiner shall~~ will be ~~kept~~ published on the City's website and available from ~~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 36.70C 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.

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 generally each time a provision of the BIMC authorizes administrative review of a land use application. Permit specific review requirements are in relevant subsections. ~~, 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.M).

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.R.

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:

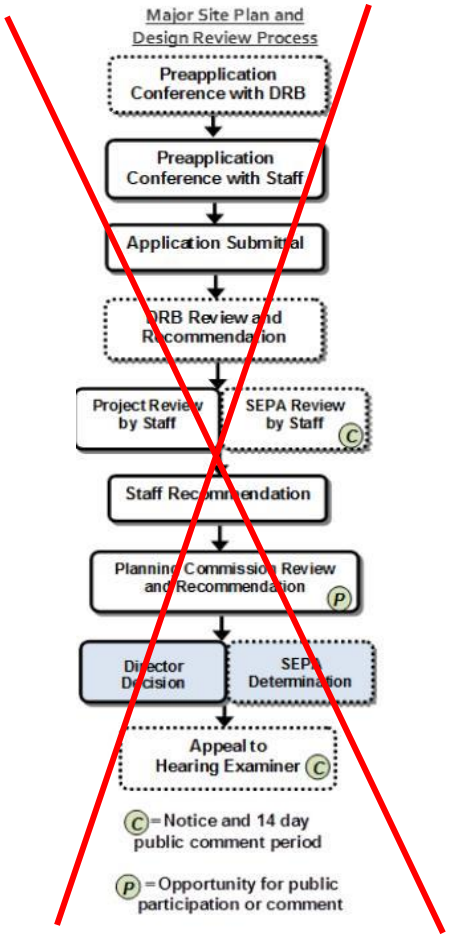
1. That the approval was obtained by deception, fraud or other intentional or misleading representation; or

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.


Major Site Plan and
Design Review Process
Preapplication Conference with DRB
Preapplication Conference with Staff
Application Submittal
DRB Review and Recommendation
Project Review by Staff
SEPA Review by Staff
C
Staff Recommendation
Planning Commission Review and Recommendation
P
Director Decision
SEPA Determination
Appeal to Hearing Examiner
C
C = Notice and 14 day public comment period
P = Opportunity for public participation or comment

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. 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 us otherwise prohibited.

~~1~~ 2.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~~ for less than a 25 percent increase in lot coverage, or (d) proposals related to single-family residences on an existing lot. All other variances shall be processed using the procedures set forth in BIMC 2.16.120.

~~2~~ 3. 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~~ 4. For projects participating in a housing design demonstration project pursuant to BIMC 2.16.020.S, 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~~ 5. 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~~ alterations process, except for those engineering standards covered by subsection B.2 of this section.

~~5~~ 6. This procedure is not available to allow the siting for an accessory dwelling unit where it would not otherwise be permitted.

~~6~~ 7. A variance shall not be granted solely because of the presence of nonconformities in the vicinity of the subject site.

~~7~~ 8. 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

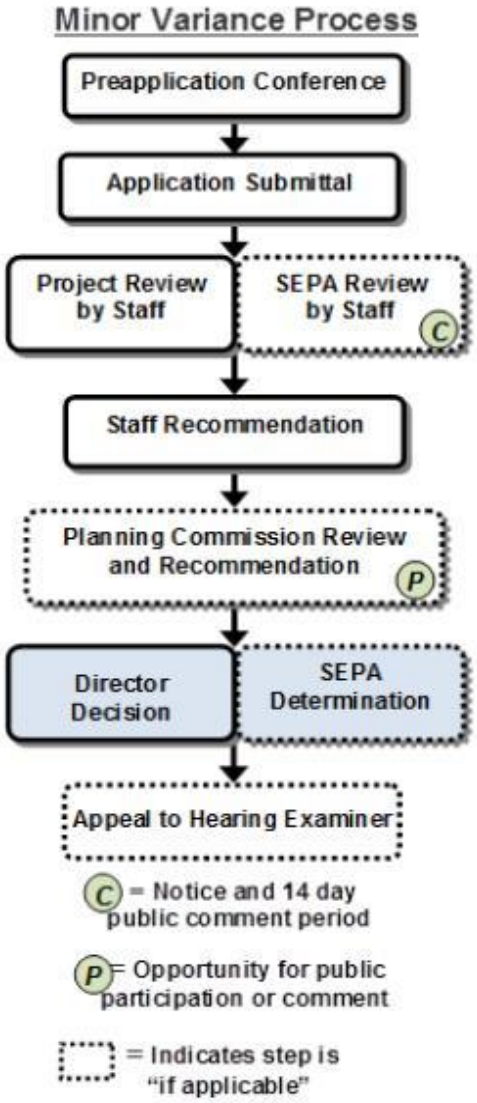
b. The variance is requested because of special circumstances related to the size, shape, topography, trees, groundcover, location or surroundings of the subject property, or factors necessary for the successful installation of a solar energy system such as a particular orientation of a building for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

B. Applicability. This procedure applies to all short subdivisions. Short subdivisions involve the division or redivision of land into four lots or less when those plats meet the criteria set forth in BIMC Title 17.

C. General Procedures.

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.

4. Vesting. A proposed short subdivision shall be considered under the subdivision ordinance, zoning or other land use control ordinances, and the State Environmental Policy Act in effect at the time a fully completed application for preliminary approval of the subdivision has been submitted to the city. The requirements for a fully completed application shall be defined by the administrative manual.

5. 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. The timeline for review can be extended beyond 90 calendar days if the city determines it has incomplete or insufficient application materials and/or if there are significant changes to application materials. If no action can be taken to approve or disapprove the application within the 90 calendar days, the director must notify the applicant of the reasons for the delay and steps necessary to complete the application.

D. Review Procedures – Proposal Stage. Review of short subdivision proposals shall include all of the following except that the division or redivision of land into two lots shall not be required to comply with subsections D.1 and D.2 of this section:

1. Conceptual Proposal Review Meeting. The conceptual proposal review meeting is a means of screening short subdivision proposals in their earliest stages of design before proponents are committed to a particular design. The conceptual proposal meeting is an opportunity to ensure that the proponent understands the objectives of the review process, design guidelines, and comprehensive plan goals and policies. This early touch allows review bodies 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. It is also a means for staff to acquaint the prospective applicant with the procedural steps for subdivision review. The conceptual proposal review meeting will be held at a meeting of the design review board. Submittal requirements are described in the administrative manual, and include a statement of intent, site analysis, and context map. An applicant may request a waiver from the conceptual proposal review meeting if the applicant demonstrates knowledge and understanding of the city's permit processing procedures.

2. Design Guidance Review Meeting. The design guidance review meeting is intended to provide input and guidance to an applicant on consistency with applicable design guidelines and comprehensive plan goals and policies, including recommendations for how the project could be revised to achieve greater consistency. The applicant should also make known the potential need and rationale for any departure from the design guidelines or the city of Bainbridge Island design and construction standards and specifications. The design guidance review meeting will be held at a meeting of the design review board. Submittal requirements are described in the administrative manual and include documentation of the four-step design process, schematic design, and completed subdivision design guidelines checklist. The four-step design process includes:

a. Delineate Natural Space. The applicant shall prioritize natural resources on the site in terms of their highest to least appropriateness for inclusion in the proposed natural area. On the basis of those priorities and practical considerations given to the site's configuration, its context in relation to natural areas on adjoining and neighboring properties, and the applicant's subdivision objectives, natural space shall be delineated in a manner clearly indicating boundaries as well as the types of resources. The amount of natural space required is provided in Chapter 17.12 BIMC.

b. Locate Homesites and Community Space. After delineating natural space, homesite areas and community space shall be identified (a "sketch" diagram is acceptable), using the site analysis and context maps produced for the conceptual proposal review meeting as a base map. The amount of community space required is provided in Chapter 17.12 BIMC.

c. Define Access. After locating the natural space, homesites, and community space, the access network shall be defined. The access network shall provide a safe, convenient, and efficient system for vehicular, pedestrian and bicycle circulation and minimize impacts on proposed natural space.

d. Draw Lot Lines. Upon completion of the preceding three steps, draw lot lines to delineate the boundaries of individual lots.

3. Preapplication Conference. The applicant shall participate in a preapplication conference in accordance with the provisions and requirements in BIMC 2.16.020.I. ~~As part of the preapplication phase, applicants are required to participate in a community meeting through the city's public participation program outlined in Resolution No. 2010-32, except that the community meeting shall be held at a planning commission meeting. The preapplication conference application shall be provided to the design review board and planning commission.~~

E. Review Procedures – Application Stage. Review of short subdivision applications shall include all of the following:

1. Application. An applicant may submit an application for a short subdivision at any time after completion of the required steps in subsection D of this section or approval of a waiver in accordance with BIMC 2.16.020.I.3 or I.4 or subsection D.1 of this section. The applicant shall submit a complete application with all required submittal requirements listed in the administrative manual.

2. Review by Kitsap Public 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 provide written recommendation of approval, approval with conditions, or disapproval of the preliminary short subdivision application pursuant to the decision criteria in subsection F of this section.

3. Review by 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 short subdivision application pursuant to the decision criteria in subsection F of this section.

4. Review and Recommendation by Design Review Board.

a. Review and recommendation by the design review board is optional. The director shall determine whether review is necessary based on the major issues and specific aspects of the project and any written public comments received during the public comment period.

b. The purpose of the design review board review and recommendation meeting is to review a proposed project for compliance with applicable design guidelines and to ensure that the project reflects any revisions recommended by the design review board at the design guidance review meeting. The design review board will also consider any requested departures from the design guidelines.

c. The design review board will forward written findings, their determination of the project's consistency with the design guidelines, the design guideline checklist, and their recommendation, including any conditions, to the staff planner. Any condition attached to a recommendation must be intended to achieve consistency with one or more specific design guidelines. The design review board's written findings, conclusions, and recommendation will be included in the staff report transmitted to the director or planning commission.

d. A design review board recommendation is not a final decision and therefore there is no appeal of the recommendation.

5. Review and Recommendation by Planning Commission.

a. Review and recommendation by the planning commission is optional. The director shall determine whether review is necessary based on the major issues and specific aspects of the

project, the design review board recommendation, and any written public comments received during the public comment period.

b. The purpose of the planning commission review and recommendation meeting is to review a proposed project for consistency with applicable design guidelines, BIMC Titles 17 and 18, and the comprehensive plan.

c. The planning commission shall consider the application at a public meeting where public comments will be taken. 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, all other applicable law, and the recommendation of the design review board. If the applicable criteria are not met, the planning commission shall recommend the proposal be modified or denied.

d. The design review board's recommendation shall hold substantial weight in the consideration of the application by the planning commission. Any deviation from the recommendation shall be documented in their written findings of facts and conclusions.

e. The planning commission will forward its written findings of facts and conclusions, their determination of the project's consistency with the comprehensive plan, and their recommendation, including any conditions attached by the planning commission and design review board, to the staff planner. The planning commission's written findings, conclusions and recommendation will be included in the staff report transmitted to the director.

f. A planning commission recommendation is not a final decision and therefore there is no appeal of the recommendation.

6. Review and Approval by Director.

a. The director shall review the application materials, information provided by the health district and city engineer, staff report, any public comments received, the recommendations of the design review board and the recommendations of the planning commission.

b. The director will make the final decision based on (i) the decision criteria in subsection F of this section, (ii) the recommendation of the planning commission, (iii) the recommendation of the design review board, and (iv) consideration of any public comments received. The design review board and planning commission's recommendation shall hold substantial weight in the consideration of the application by the director. Any deviation from that recommendation shall be documented in the director's report.

c. The director shall make compliance with the recommendations of the design review board and/or planning commission a condition of approval, unless the director concludes that the recommendations:

i. Reflect inconsistent application of design guidelines or any applicable provisions of this code;

ii. Exceed the authority of the design review board or planning commission;

iii. Conflict with SEPA conditions or other regulatory requirements applicable to the project; or

iv. Conflict with requirements of local, state, or federal law

d. The director shall prepare written findings of facts and conclusions in support of the decision made. If the director disapproves the application he or she shall provide a written explanation of the reasons for the disapproval to the applicant.

F. Decision Criteria for Short Subdivisions. The director's decision shall include written findings of fact addressing all the requirements of the following subsections. The short subdivision may be approved or approved with modification if:

1. The applicable subdivision design guidelines and development standards of BIMC Titles 17 and 18 are satisfied; and

2. The preliminary short 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

3. The short subdivision has been prepared consistent with the requirements of the four-step design process; and

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

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

6. 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:

a. The short subdivision meets the requirements of Chapter 17.12 BIMC related to streets and pedestrian access, and water, stormwater, and septic facilities; and

b. The short subdivision conforms to regulations concerning drainage in Chapters 15.19, 15.20 and 15.21 BIMC; and

c. 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

d. 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

7. 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; and

8. The proposal is consistent with the city's comprehensive plan; and

9. Appropriate provisions for maintenance in perpetuity of natural and/or community space have been made; and

10. The preliminary subdivision design is compatible with the physical characteristics of the proposed subdivision site.

G. *Repealed by Ord. 2018-20*.

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.

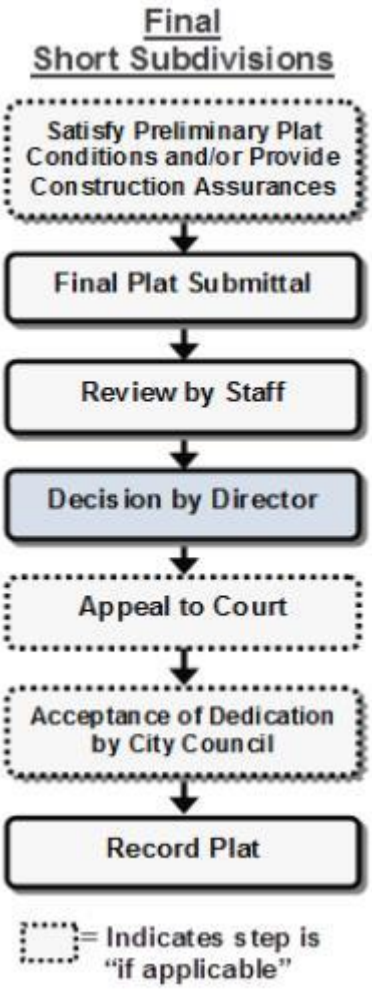
iii. The final short subdivision bears the certificates and statements of approval required by the BIMC.

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~~ Alteration 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~~ alteration following the process set forth in BIMC 2.16.030.

2. Other ~~modifications~~ alterations 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~~ Alteration 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. 2018-20 § 8 (Exh. C), 2018; 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. This procedure applies to all large lot subdivisions. Large lot subdivisions include divisions or redivisions 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).

C. General Procedures.

1. The provisions of this section shall supplement the general administrative review provisions 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.

2. Large lot subdivisions shall be reviewed and approved through the procedures described for short subdivisions in BIMC 2.16.070.D through F, with the exception that design review board and planning commission review and recommendation are required, not optional.

3. Vesting. A proposed large lot subdivision shall be considered under the subdivision ordinance, zoning or other land use control ordinances, and the State Environmental Policy Act in effect at the time a fully completed application for preliminary approval of the subdivision has been submitted to the city. The requirements for a fully completed application shall be defined by the administrative manual.

4. 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. The timeline for review can be extended beyond 90 calendar days if the city determines it has incomplete or insufficient application materials and/or if there are significant changes to application materials. If no action can be taken to approve or disapprove the application within the 90 calendar days, the director must notify the applicant of the reasons for the delay and steps necessary to complete the application.

D. *Repealed by Ord. 2018-20*.

E. *Repealed by Ord. 2018-20*.

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.

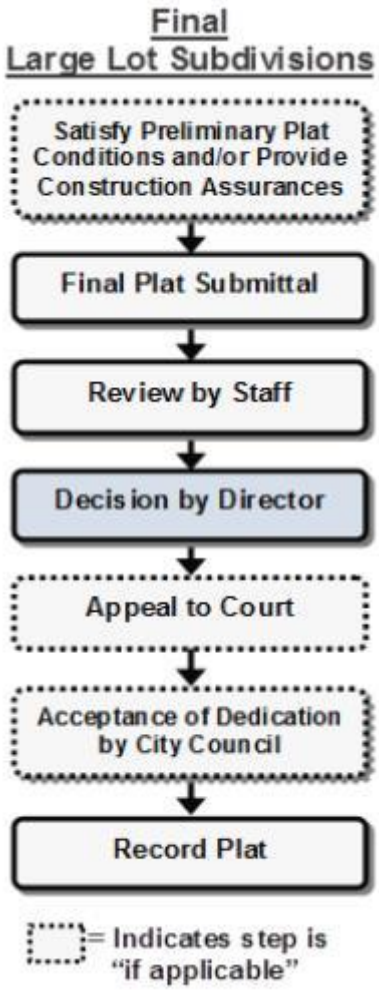
c. The large lot subdivision shall be approved if the director determines that:

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~~ Alteration 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~~ alter 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~~ alteration following the process set forth in BIMC 2.16.030.

2. Other ~~modifications~~ alterations 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 Alteration 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. 2018-20 § 9 (Exh. D), 2018; 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 City Council ~~hearing examiner shall~~ will be published on the City's website and available from ~~kept on file with~~ the office of the city clerk upon request. 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.M.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. The rules of procedure adopted under BIMC 2.14.030.C.2.b shall allow a party of record to file, within a reasonable period of time specified by such rules, a motion for reconsideration of a recommendation or decision issued by the hearing examiner. ~~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.R.2

b. 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)

2.16.120 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~~ alteration 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.

2.16.125 Preliminary long subdivisions.

A. Purpose. This section provides a procedure for review and 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 and this municipal code.

B. Applicability. This procedure applies to all applications for preliminary long subdivisions. Long subdivisions involve the division or redivision of land into more than four lots.

C. General Procedures.

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.

3. Vesting. A proposed long subdivision shall be considered under the subdivision ordinance, zoning or other land use control ordinances, and the State Environmental Policy Act in effect at the time a fully completed application for preliminary approval of the subdivision has been submitted to the city. The requirements for a fully completed application shall be defined by the administrative manual.

4. 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. The timeline for review can be extended beyond 90 calendar days if the city determines it has incomplete or insufficient application materials and/or if there are significant changes to application materials. If no action can be taken to approve or disapprove the application within the 90 calendar days, the director must notify the applicant of the reasons for the delay and steps necessary to complete the application.

D. Review Procedures – Proposal Stage. Review of long subdivision proposals shall include all of the following:

1. Conceptual Proposal Review Meeting. The conceptual proposal review meeting is a means of screening long subdivision proposals in their earliest stages of design before proponents are committed to a particular design. The conceptual proposal meeting is an opportunity to ensure that the proponent understands the objectives of the review process, design guidelines, and comprehensive plan goals and policies. This early touch allows review bodies 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. It is also a means for staff to acquaint the prospective applicant with the procedural steps for subdivision review. The conceptual proposal review meeting will be held at a meeting of the design review board. Submittal requirements are described in the administrative manual, and include a statement of intent, site analysis, and context map. An applicant may request a waiver from the conceptual proposal review meeting if the applicant demonstrates knowledge and understanding of the city's permit processing procedures.

2. Design Guidance Review Meeting. The design guidance review meeting is intended to provide input and guidance to an applicant on consistency with applicable design guidelines and

comprehensive plan goals and policies, including recommendations for how the project could be revised to achieve greater consistency. The applicant should also make known the potential need and rationale for any departure from the design guidelines or the city of Bainbridge Island design and construction standards and specifications. The design guidance review meeting will be held at a meeting of the design review board. Submittal requirements are described in the administrative manual and include documentation of the four-step design process, schematic design, and completed subdivision design guidelines checklist. The four-step design process includes:

a. Delineate Natural Space. The applicant shall prioritize natural resources on the site in terms of their highest to least appropriateness for inclusion in the proposed natural area. On the basis of those priorities and practical considerations given to the site's configuration, its context in relation to natural areas on adjoining and neighboring properties, and the applicant's subdivision objectives, natural space shall be delineated in a manner clearly indicating boundaries as well as the types of resources. The amount of natural space required is provided in Chapter 17.12 BIMC.

b. Locate Homesites and Community Space. After delineating natural space, homesite areas and community space shall be identified (a "sketch" diagram is acceptable), using the site analysis and context maps produced for the conceptual proposal review meeting as a base map. The amount of community space required is provided in Chapter 17.12 BIMC.

c. Define Access. After locating the natural space, homesites, and community space, the access network shall be defined. The access network shall provide a safe, convenient, and efficient system for vehicular, pedestrian and bicycle circulation and minimize impacts on proposed natural space.

d. Draw Lot Lines. Upon completion of the preceding three steps, draw lot lines to delineate the boundaries of individual lots.

3. Preapplication Conference. The applicant shall participate in a preapplication conference in accordance with the provisions and requirements in BIMC 2.16.020.I. As part of the preapplication phase, applicants are required to participate in a community meeting through the city's public participation program outlined in Resolution No. 2010-32, except that the community meeting shall be held at a planning commission meeting. The preapplication conference application shall be provided to the design review board and planning commission.

E. Review Procedures – Application Stage. Review of long subdivision applications shall include all of the following:

1. Application. An applicant may submit an application for a long subdivision at any time after completion of the required steps in subsection D of this section or approval of a waiver in accordance with BIMC 2.16.020.I.3 or I.4 or subsection D.1 of this section. The applicant shall submit a complete application with all required submittal requirements listed in the administrative manual.

2. Review by Kitsap Public 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 provide written recommendation of approval, approval with conditions, or disapproval of the preliminary long subdivision application pursuant to the decision criteria in subsection F of this section.

3. Review by 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 pursuant to the decision criteria in subsection F of this section.

4. Review and Recommendation by Design Review Board.

a. The purpose of the design review board review and recommendation meeting is to review a proposed project for compliance with applicable design guidelines and to ensure that the project reflects any revisions recommended by the design review board at the design guidance review meeting. The design review board will also consider any requested departures from the design guidelines.

b. The design review board will forward written findings, their determination of the project's consistency with the design guidelines, the design guideline checklist, and their recommendation, including any conditions, to the staff planner. Any condition attached to a recommendation must be intended to achieve consistency with one or more specific design guidelines. The design review board's written findings, conclusions, and recommendation will be included in the staff report transmitted to the director or planning commission.

c. A design review board recommendation is not a final decision and therefore there is no appeal of the recommendation.

5. Review and Recommendation by Planning Commission.

a. The purpose of the planning commission review and recommendation meeting is to review a proposed project for consistency with applicable design guidelines, BIMC Titles 17 and 18, and the comprehensive plan.

b. The planning commission shall consider the application at a public meeting where public comments will be taken. 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, all other applicable law, and the recommendation of the design review board. If the applicable criteria are not met, the planning commission shall recommend that the proposal be modified or denied.

c. The design review board's recommendation shall hold substantial weight in the consideration of the application by the planning commission. Any deviation from the recommendation shall be documented in their written findings of facts and conclusions.

d. The planning commission will forward its written findings of facts and conclusions, their determination of the project's consistency with the comprehensive plan, and their recommendation, including any conditions attached by the planning commission and design

review board, to the staff planner. The planning commission's written findings, conclusions, and recommendation will be included in the staff report transmitted to the director.

e. A planning commission recommendation is not a final decision and therefore there is no appeal of the recommendation.

6. Review by Director.

a. The director shall review the application materials, information provided by the health district and city engineer, staff report, and the recommendations of the planning commission and shall prepare a report to the hearing examiner recommending approval, approval with conditions, or disapproval of the application.

b. The planning commission's recommendation shall hold substantial weight in the consideration of the application by the director. Any deviation from that recommendation shall be documented in the director's report.

7. Review and Public Hearing with Hearing Examiner.

a. The hearing examiner shall consider the application materials and the director's recommendation at a public hearing following the procedures of BIMC 2.16.100.C and applicable provisions of BIMC 2.16.020.

b. The hearing examiner shall make compliance with the recommendations of the planning commission a condition of approval, unless the hearing examiner concludes that the recommendations:

i. Reflect inconsistent application of design guidelines or any applicable provisions of this code;

ii. Exceed the authority of the design review board or planning commission;

iii. Conflict with SEPA conditions or other regulatory requirements applicable to the project; or

iv. Conflict with requirements of local, state, or federal law.

F. Decision Criteria for Preliminary Long Subdivisions. The hearing examiner's decision shall include written findings of fact that the application meets all the requirements of the following subsections. The preliminary long subdivision may be approved or approved with modification if:

1. The applicable subdivision design guidelines and development standards of BIMC Titles 17 and 18 are satisfied; and

2. 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

3. The preliminary long subdivision has been prepared consistent with the requirements of the four-step design process; and

4. 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

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

6. 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:

a. The long subdivision meets the requirements of Chapter 17.12 BIMC related to streets and pedestrian access, and water, stormwater, and septic facilities; and

b. The long subdivision conforms to regulations concerning drainage in Chapters 15.19, 15.20 and 15.21 BIMC; and

c. 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

d. 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

7. 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; and

8. The proposal is consistent with the city's comprehensive plan; and

9. Appropriate provisions for maintenance in perpetuity of natural and/or community space have been made; and

10. The preliminary subdivision design is compatible with the physical characteristics of the proposed subdivision site.

G. *Repealed by Ord. 2018-20*.

H. *Repealed by Ord. 2018-20*.

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~~ Alteration 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~~ alter 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~~ alteration following the process set forth in BIMC 2.16.030.

2. Other ~~modifications~~ alterations 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~~ alters 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. 2018-20 § 11 (Exh. F), 2018; Ord. 2017-02 § 7, 2017; Ord. 2011-21 § 5, 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.

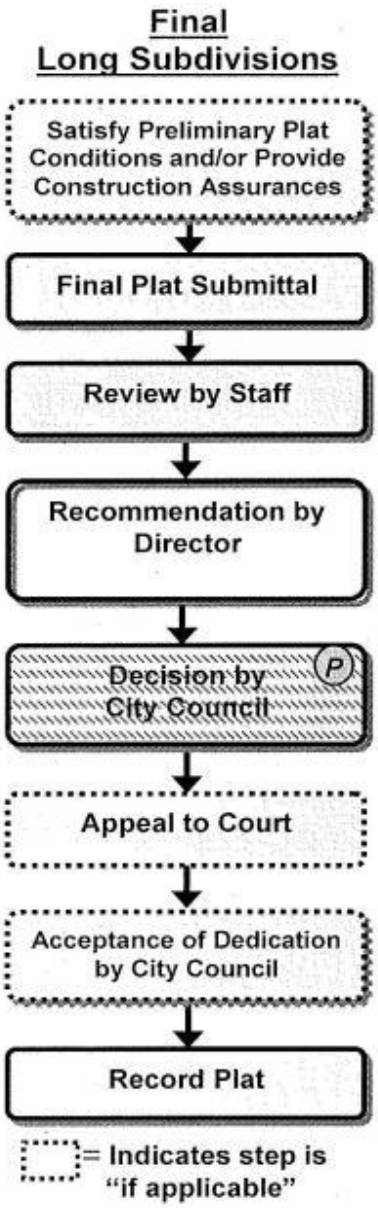
G. Review of Final Long Subdivision.

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~~ Alteration 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~~ alter 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~~ alteration following the process set forth in BIMC 2.16.030.

2. Other ~~modifications~~ alterations 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~~ alters 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~~ Alteration 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.

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~~ $7,047 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. The decision shall be filed with the Washington State Department of Ecology and the Washington State Office of the Attorney General.

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.

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~~ conditional use application following procedures in subsection F.2 of this section.

c. Minor Shoreline Conditional Use. Applications for shoreline ~~variances~~ conditional uses that are more intensive than the minor shoreline ~~variance~~ conditional use 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.M, 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.M.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.

UPDATED Title 18 *Zoning* Housekeeping & Clarification Code Updates

Code Section	Suggested Edit, Correction
18.09 & 18.36	Consider defining temporary construction staging and adding to the permitted use table, use specific standards and definitions. SEE PACKET MATERIALS
18.09.030.B	Page 1: 18.09.030.B 3. Commercial/Residential Mixed Use Development. **CHANGE:** Development should only have to meet standards that apply as described in Title 18, which includes performance standards and design guidelines.
18.09.030.D.7.c	Page 1: Should have been deleted during 2018 Business/Industrial ordinance when professional services definition modified, and professional services changes to Permitted (from Conditional) in the B/I zone.
18.12.020	Pages 2-5Tables 18.12.020—1-3 Header for Maximum Building <u>& Structure</u> Height
18.12.020	Page 5: Table 18.12.020—Tables 1-3 Reference to BIMC 18.12.030.F should be BIMC 16.12.040.I.h
18.12.020	Page 6: Table 18.12.020.-3 Footnote 6 re: how to earn optional 10 ft. & building height, and definition of building footprint. See note below on FAR
18.12.040	Page 8:Table 18.12.040 Exception should be for overhead and underground accessory utilities like power, water, telephone or sewer lines, not above ground utilities such as propane tanks.
18.12.040	Page 8: Table 18.12.040 Rockeries less than 4 ft in height allowed in setback <u>WALLS OVER 4 FT MAY BE PERMITTED</u> WITH Qualified geotechnical engineer determination and city concurrence, that it is necessary for slope stabilization
18.12.050.G	Page 9: 18.12.050 G. Floor Area Ratio (FAR). "Floor area ratio" is a figure that expresses the total floor area as a multiple of the lot area. This figure is determined by dividing the floor area of all buildings on a lot by the lot area prior to removal of lot area for dedication. Portions of parking located underneath a building ~~footprint~~ are not counted in floor area ratio calculations. See also definition/rules of measurement for building footprint. Change: either FAR or building footprint Similar discussion related to Optional 10 feet building height incentive related to put parking under building in MUTC Zones- see note on Table 18.12.020-3 Footnote 6 above
18.12.050.I	Page 9: At end of description of "Grade" update WAC reference: should read WAC 173-<u>27</u>-030(3), rather than 173-<u>14</u>-030.(
18.15.020	Page 10: Table 18.15.020-2 Minimum parking requirement missing for commercial and nonresidential in the Madison, Ericksen and Gateway districts
18.30.030.C	Page 10: 18.30.030.C Change "square footage" to "floor area"
18.36.030.5	Page 11: 18.36.030.5 Accessory Ag Retail, Minor (b) does not conduct more than 4 <u>non-agricultural</u> special events
18.36.030.6	Page 11:18.36.030.6 Accessory Ag Tourism. Make clear that overnight stays are not accessory agricultural tourism.

Code Section	Suggested Edit, Correction
18.36.030	Page 11: ADD need definition for “adjacent” not just “adjoining” and “abutting”. Suggest definition of “adjacent” from SMP, BIMC 16.12.080
18.36.030	Page 11: ADD definition for “Commercial/Residential Mixed Use”
18.36.030	Page 11: 69. Review definition of “day care”; need to clarify that before and after school care is different than a day care and has been treated as an educational use.
18.36.030	Page 12: 165. “Motor vehicle sales ~~lot~~” means any land or buildings used primarily for the sale of new or used motor vehicles fit for transportation.
18.36.030	Page 12: 188. “Parfitt-Waterfront area” is defined as that area south of the boundary created by the following parcels and streets; starting at the northern property line of 272502-4-1130-2000; proceeding eastward along ~~Blue~~ Bjune Drive to its western intersection with Brien Drive; proceeding eastward along Brien Drive to its intersection with Bjune and Shannon Drives; and proceeding southward along Shannon Drive to the south property line of 4114-005-001-0003; and proceeding eastward to Winslow Ravine
18.36.030	Page 12: 192/193. Consider adding “camping” to definition of Parks, passive or Parks, active or both

NEW PROPOSED DEFINITION & USE SPECIFIC STANDARDS

NOTE: Changes from the 6/27 Planning Commission meeting shown in Strikeout/Underline format

18.36.030.XX "Temporary Construction Staging" means an area on a property that is not under construction where construction related equipment, small temporary buildings, vehicles or materials are stored during a private or public construction project. Temporary Construction Staging is located outside of the City right-of-way on individual properties, and ~~is necessary~~ may be permitted when there isn't any available space on a construction site for staging.

18.09.030.J.2. Temporary Construction Staging.

a. A temporary construction staging permit must be issued by the Department of Planning and Community prior to staging activities commencing. Staging on publicly-owned property, such as property owned by the City or Bainbridge Island Metropolitan Park District, is exempt from the staging permit requirement.

b. For construction that requires a development permit, such as a grading or building permit, the temporary construction staging permit cannot be issued until any related development permits are issued. Temporary construction staging shall be exempt from site plan and design review pursuant to BIMC 2.16.040. The application shall be processed as an administrative approval under BIMC Title 2.16.020, including noticing requirements.

   NOTE: Commissioner Quitslund has suggested that this use should require a "Minor Conditional Use Permit", modifying subsection ***b*** above.

c. The staging area and the access to the temporary construction staging property must comply with any applicable regulations of the BIMC or the Design and Construction Standards Manual in order to minimize the inconvenience to neighboring properties, and protect public health, safety and the environment;

d. Any temporary structures must not be permanently affixed to the lot;

e. Temporary construction staging shall not interfere with public non-motorized pathways including sidewalks.

f. Temporary construction staging may not exceed 9-months. This time limitation does not apply to publicly-owned properties or public construction projects. To prevent serial use of a property as a temporary construction staging, a property shall not be utilized for temporary construction staging for more than eighteen-months within a 5-year period. The department may grant one extension of a permit authorizing temporary construction staging ~~parking~~ for a period not to exceed 180 days if:

   i. A request for an extension is received by the department no later than 30 days prior to the expiration of the permit;

   ii. Termination of the permit would result in an unreasonable hardship to the applicant; and

   iii. An extension of the permit will not cause substantial detriment to existing uses in the immediate vicinity of the subject property.

g. In mixed use and commercial zones, properties with parking lots that exceed the minimum number of parking spaces required for the use of the property, pursuant the BIMC 18.15.020, are not subject to the serial-use time limits of subsection BIMC 18.09.030.J.2.f, provided that the temporary construction staging does not block access to the number of parking spaces required.

h. Temporary construction staging related shall be removed and property restored to pre-construction conditions to the satisfaction of the City within 30 days after related construction is complete. The city may request that the applicant submit a restoration surety to ensure compliance;

i. The use of any temporary construction staging shall comply with the air quality emissions performance standards of BIMC 18.06.030.B.2.

Table 18.09.020 Use Table

"P" = Permitted Use	"A" = Accessory Use	Additional use restrictions for Chapters 16.12 and 16.20 BIMC may apply to shoreline or critical area properties
"C" = Conditional Use	"CA" = Conditional Accessory Use	
Blank = Prohibited Use	"T" = Temporary Use	

ZONING DISTRICT / USE CATEGORY/TYPE	R-0.4	R-1	R-2	R-2.9	R-3.5	R-4.3	R-5	R-6	R-8	R-14	Winslow Mixed Use Town Center					HSRI and II	NC	B/I	WD-I	Use-Specific Standards BIMC 18.09.030
											CC	MA	EA	Gate	Ferry [1]					
PRINCIPAL USES																				
AGRICULTURAL Note: Agricultural uses may be subject to additional requirements in BIMC 16.12.040.E, Forest Practices. All agricultural uses are subject to the critical area regulations in Chapter 16.20 BIMC. Agricultural uses are not allowed within the shoreline jurisdiction pursuant to Chapter 16.12 BIMC.																				
Agriculture, Animal	P	P	P	C	C	C	C										P			A-1
Agriculture, Crop	P	P	P	P	P	P	P	P	P	P							P			A-2
Agriculture Research Facility	C	C	C																	A-3
Agricultural Processing																P		P/C		A-4
RESIDENTIAL Note: Residential uses may be subject to additional requirements in BIMC 16.12.040.I, Residential Development.																				
Household Living																				
Single-Family Dwelling	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P			B-1
Single-Family Dwelling existing on April 15, 1996											P	P	P							B-1
Multifamily Dwellings	C	C	C	C	C	C	P	C	P	P	P	P	P	P	P	P	P			B-2

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ZONING DISTRICT USE CATEGORY/TYPE	R-0.4	R-1	R-2	R-2.9	R-3.5	R-4.3	R-5	R-6	R-8	R-14	Winslow Mixed Use Town Center					HSRI and II	NC	B/I	WD-I	Use-Specific Standards BIMC 18.09.030
											CC	MA	EA	Gate	Ferry [1]					
Commercial/Residential Mixed Use Developments									P	P	P	P	P	P	P	P	P			B-3
Live/Work Units																		P		B-4
Group Living																				
Foster Home	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P			
Small Group Living Facility	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P			
Group Care Facility	C	C	C	C	C	C	C	C	C	P	P	P	P	P	C	P	P		C	
PUBLIC AND INSTITUTIONAL																				
Community and Educational Facilities																				
Educational Facility	C	C	C	C	C	C	C	C	C	P	P	P	P	C	C	P	C		C	C-1
Vocational/Trade Instruction Facilities	C																	P		
Governmental Facility	C	C	C	C	C	C	C	C	C	P	P	P	P	C	C	P	C		C	C-2
Religious Facility	C	C	C	C	C	C	C	C	C	P	P	P	P	C	C	P	C		C	C-3
Parks and Park-Related Note: Parks and park-related uses may be subject to additional requirements in BIMC 16.12.040.H, Recreational Development.																				
Community Garden	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P			C-4

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

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ZONING DISTRICT / USE CATEGORY/TYPE	R-0.4	R-1	R-2	R-2.9	R-3.5	R-4.3	R-5	R-6	R-8	R-14	Winslow Mixed Use Town Center					HSRI and II	NC	B/I	WD-I	Use-Specific Standards BIMC 18.09.030
											CC	MA	EA	Gate	Ferry [1]					
Note: Commercial Sales and Service uses may be subject to additional requirements in BIMC 16.12.040.D, Commercial Development.																				
Accommodation																				
Bed and Breakfast (3+ bedrooms)	C	C	C	C	C	C	C	C	C	C	P	P	P	P	P	P	P			
Inn											P	P	P	P	P	P	P			
Hotel											C			C	C	P				D-1
Animal Sales and Service																				
Equestrian Facility	C																	P		
Kennel, Indoor	C										P	P	P	P	P	P	P	P		
Kennel, Outdoor	C																	C		
Veterinarian Clinic or Office	C	C	C	C	C	C	C	C	C	P	P	P	P	P	C	P	C	P		
Food and Beverage																				
Formula Take-Out Restaurant																P				D-2
Restaurant											P	P	P	P	P	P	P			
Food Service Establishment																		P		D-3
Mobile Retail Food Establishment											P	P	P	P	P	P	P	P	P	D-5
Craft Food and Beverage											P	P	P	P	P	P	P	P		D-4

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ZONING DISTRICT / USE CATEGORY/TYPE	R-0.4	R-1	R-2	R-2.9	R-3.5	R-4.3	R-5	R-6	R-8	R-14	Winslow Mixed Use Town Center					HSRI and II	NC	B/I	WD-I	Use-Specific Standards BIMC 18.09.030
											CC	MA	EA	Gate	Ferry [1]					
Offices and Services																				
Personal Service											P	P	P	P	P	P	P			D-6
Professional Service											P	P	P	P	P	P	P	P		D-7
Retail																				
Commuter-Oriented Retail Sales															P					D-8
Open-Air Sales for Garden Supply	C	C	C														P			
Retail Sales											P	P	P	P		P	P	A		D-9
PRIVATE MOTOR VEHICLE-RELATED Note: Private motor vehicle-related uses may be subject to additional requirements in BIMC 16.12.030.C.6, Transportation Facilities.																				
Auto Repair Services																C	C	P/C		E-1
Car Wash Facility, Manual or Automatic																C	C	C		
Commercial Parking Structure											C									
Commercial Parking, Surface											P			P						E-2
Ferry Commuter Parking											P			P	P					E-3
Gasoline Service Station																C	C			
Motor Vehicle Sales																C				E-4

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ZONING DISTRICT / USE CATEGORY/TYPE	R-0.4	R-1	R-2	R-2.9	R-3.5	R-4.3	R-5	R-6	R-8	R-14	Winslow Mixed Use Town Center					HSRI and II	NC	B/I	WD-I	Use-Specific Standards BIMC 18.09.030
											CC	MA	EA	Gate	Ferry [1]					
Noncommuter Ferry Parking														C						E-5
Park and Ride Facility/Lot	C	C	C													C	C		C	E-6
Park and Ride Lot, Shared Use	C	C	C	C	C	C	C	C	C	C						C	C		C	E-7
Small Engine Repair																C	C	P		
Transport and Delivery Service																P	C	P		E-8
Motor Vehicle-Related Services, Not Including Retail and Not Otherwise Listed																C				
UTILITY AND TELECOMMUNICATIONS Note: Utility and telecommunications uses may be subject to additional requirements in BIMC 16.12.030.C.7.																				
Monopole or Lattice Tower	P																	P		
Small Wind Energy Generator	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	P/C	P/C	P/C	F-1
Utility, Primary	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	P	C	F-2
Public Communications Tower	P	P	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	P	A	F-3
Wireless Communication Facilities, Facility I	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Wireless Communication Facilities, Facility II	P										P	P	P	P	P	P	P	P	P	
Wireless Communication Facilities, Facility III	P																	P	P	

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ZONING DISTRICT USE CATEGORY/TYPE	R-0.4	R-1	R-2	R-2.9	R-3.5	R-4.3	R-5	R-6	R-8	R-14	Winslow Mixed Use Town Center					HSR I and II	NC	B/I	WD-I	Use-Specific Standards BIMC 18.09.030
											CC	MA	EA	Gate	Ferry [1]					
INDUSTRIAL USES Note: Industrial uses may be subject to additional requirements in BIMC 16.12.040.F, Industrial Development.																				
Manufacturing and Production																				
Manufacturing, Small-Scale																	C	P		
Manufacturing, Light																		P		
Manufacturing, General																		C		
Mining and Quarrying	C	C	C																	G-1
Research and Development																	P	P		
Waste and Salvage																				
Recycling Center	C	C									C				C		C	C		G-2
Waste Transfer Facility	C																			G-3
Warehouse and Freight Movement																				
Commercial Moving and Freight Terminal																		C		
Self-Service Storage Facility																	C	P		G-4
Warehouse																		P		
Ferry- and Waterfront-Related																				

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ZONING DISTRICT / USE CATEGORY/TYPE	R-0.4	R-1	R-2	R-2.9	R-3.5	R-4.3	R-5	R-6	R-8	R-14	Winslow Mixed Use Town Center					HSRI and II	NC	B/I	WD-I	Use-Specific Standards BIMC 18.09.030
											CC	MA	EA	Gate	Ferry [1]					
Note: Ferry- and waterfront-related uses may be subject to additional requirements in BIMC 16.12.040.C, Boating Facilities; and 16.12.050.C, Overwater Structures.																				
Barge Moorage and Off-Load Ships																			C	H-1
Boat Building																		P/C	C	H-2
Boat Repair Facility																		P/C	P	H-3
Cross Harbor Passenger-Only Ferry Terminal and Associated Parking																			C	
Dry Storage for Boats and Marine Equipment																			P	
Ferry Terminal and Associated Docks, Ramps, Walkways, Trails, Waiting Rooms, and Holding Areas															P					
Ferry Slips and Repair Facility																			P	H-4
Marine Rental and Sales																			P	
Marine Way																			C	
Pleasure and Commercial Vessel Moorage																			P	
Small Boat Haul-Out Facility																			P	
Water-Related Supply and Retail Sale																			P	

Table 18.09.020 Use Table

"P" = Permitted Use	"A" = Accessory Use	Additional use restrictions for Chapters 16.12 and 16.20 BIMC may apply to shoreline or critical area properties
"C" = Conditional Use	"CA" = Conditional Accessory Use	
Blank = Prohibited Use	"T" = Temporary Use	

ZONING DISTRICT / USE CATEGORY/TYPE	R-0.4	R-1	R-2	R-2.9	R-3.5	R-4.3	R-5	R-6	R-8	R-14	Winslow Mixed Use Town Center					HSRI and II	NC	B/I	WD-I	Use-Specific Standards BIMC 18.09.030
											CC	MA	EA	Gate	Ferry [1]					
ACCESSORY USES																				
Accessory Agricultural Education	A	A	A	A	A	A	A										A			I-1
Accessory Agricultural Retail, Minor	A	A	A	A	A	A	A										A			I-2
Accessory Agricultural Retail, Major	CA	CA	CA	CA	CA	CA	CA										CA			I-3
Accessory Agricultural Special Event	A	A	A	A	A	A	A										A			I-4
Accessory Agricultural Tourism	A	A	A	A	A	A	A										A			
Accessory Composting Bin	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Accessory Dwelling Unit (outside shoreline jurisdiction)	A	A	A	A	A	A	A		A	A	A	A	A	A	A	A	A			I-5
Accessory Dwelling Unit (within shoreline jurisdiction)	CA	CA	CA	CA	CA	CA	CA		CA	CA							CA			I-5
Accessory Agricultural Processing and Livestock and Poultry Slaughtering	A	A	A	A	A	A	A										A		A	I-6
Accessory On-Site Treatment and Storage Facilities for Hazardous Wastes																	A	A	A	I-7
Accessory Outdoor Storage																	A	A	A	I-8
Accessory Rain Garden/Swale	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	

Table 18.09.020 Use Table

"P" = Permitted Use	"A" = Accessory Use	Additional use restrictions for Chapters 16.12 and 16.20 BIMC may apply to shoreline or critical area properties
"C" = Conditional Use	"CA" = Conditional Accessory Use	
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ZONING DISTRICT / USE CATEGORY/TYPE	R-0.4	R-1	R-2	R-2.9	R-3.5	R-4.3	R-5	R-6	R-8	R-14	Winslow Mixed Use Town Center					HSRI and II	NC	B/I	WD-I	Use-Specific Standards BIMC 18.09.030
											CC	MA	EA	Gate	Ferry [1]					
Accessory Rainwater Harvesting Barrel	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	I-9
Accessory Security Residence																		P		I-10
Accessory Small Wind Energy Generator	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	I-10
Accessory Solar Panel	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Accessory Uses to Agriculture (not otherwise listed)	A	A	A	A	A	A	A										A			
Accessory Utilities	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	I-11
Bed and Breakfast (1 – 2 bedrooms)	A	A	A	A	A	A	A	A	A	A							A			
Minor Home Occupations	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A			I-12
Major Home Occupations	CA	CA	CA	CA	CA	CA	CA	CA	CA	CA	CA	CA	CA	CA	CA	CA	CA			I-13
Nonagricultural Accessory Uses and Structures (not otherwise listed)	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	I-14
TEMPORARY USES																				
Temporary Construction Building	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	J-1
Temporary Construction Staging	**T**	**T**	**T**	**T**	**T**	**T**	**T**	**T**	**T**	**T**	**T**	**T**	**T**	**T**	**T**	**T**	**T**	**T**	**T**	**J-2**
Temporary Container Storage	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	J-~~2~~ 3
Temporary Commercial Parking											T	T	T	T	T	T				J-~~3~~ 4

Table 18.09.020 Use Table

"P" = Permitted Use	"A" = Accessory Use	Additional use restrictions for Chapters 16.12 and 16.20 BIMC may apply to shoreline or critical area properties
"C" = Conditional Use	"CA" = Conditional Accessory Use	
Blank = Prohibited Use	"T" = Temporary Use	

ZONING DISTRICT / USE CATEGORY/TYPE	R-0.4	R-1	R-2	R-2.9	R-3.5	R-4.3	R-5	R-6	R-8	R-14	Winslow Mixed Use Town Center					HSRI and II	NC	B/I	WD-I	Use-Specific Standards BIMC 18.09.030
											CC	MA	EA	Gate	Ferry [1]					
Temporary Public Events or Gatherings	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T		J-~~4~~ 5
Temporary Ferry Commuter Parking											T			T	T					J-~~5~~ 6
Temporary Noncommuter Parking															T					J-~~6~~ 7
Temporary Seasonal Sales	T	T	T								T				T	T	T	T		J-~~7~~ 8
Temporary Homeless Encampment	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	J-~~8~~ 9
MARIJUANA-RELATED USES																				
Marijuana Retailer																		P		K
Marijuana Processor																		P		K
Marijuana Producer																		P		K
Collective Garden																				

[1] In the ferry terminal district, all development shall include at least 10 percent of landscaped or naturally vegetated open space. Parking may be located under the open space. Development south of Winslow Way shall include pedestrian walkways that connect to Winslow Way East and Olympic Drive Southeast, and/or that align with Cave Avenue and Ferncliff Avenue.

18.09.030 Use-specific standards.

Regardless of whether a use is allowed as a permitted ("P") use or as a conditional ("C") use and regardless of the zoning district in which the use is located there may be additional standards that are applicable to the use, and the use must comply with such standards except as authorized by this code. The existence of these use specific standards is noted in the column headed "Use Specific Standards" in Table 18.09.020, which cross-references the section of the code that imposes the additional standard.

18.09.030.B. Residential.

3. Commercial/Residential Mixed Use Development. Principal and accessory uses shall comply with ~~the~~ all applicable development standards and performance standards of BIMC Title 18 ~~of the NC district as well as the other standards listed here~~.

   a. *Repealed by Ord. 2018-13.*

   b. In the NC district, residential units must be located above the ground floor if the building is located on a collector or secondary arterial or higher road classification; however, for mixed use projects, if the building fronts on a local or private street, residential units can be located on the ground floor. Density for mixed use projects in the NC district shall be calculated pursuant to BIMC 18.12.030.D.

18.09.030.D. Commercial Sales and Service.

7. Professional Services.

   a. In the ferry terminal overlay district, professional services may be located anywhere south of Winslow Way.

   b. In the ferry terminal overlay district, north of Winslow Way, professional services are permitted only along Winslow Way, within 100 feet north of Winslow Way. Buildings shall have customer entrances on Winslow Way.

   ~~c. In the B/I district, professional offices shall be limited to those that do not provide services directly to the general public or attract customers from the general public. For example, accountants', lawyers', and architects' offices are not permitted. Establishments that provide professional services to other businesses are permitted, such as civil, mechanical, or electrical engineers and research and development establishments.~~

18.12.020 Tables of dimensional standards.

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

Table 18.12.020-1 Flexlot Subdivision Dimensional Standards for Residential Zone Districts

[Numbers in brackets indicate additional requirements listed at the end of the table.]

ZONING DISTRICT DIMENSIONAL STANDARD	R-0.4	R-1	R-2	R-2.9	R-3.5	R-4.3	R-5	R-6	R-8	R-14
MINIMUM SETBACKS Note: Landscaped areas may serve as setbacks (i.e., setbacks are not in addition to landscaped areas), and some encroachments into setback areas are permitted pursuant to BIMC 18.12.040. Note: Additional setbacks may be required by: (a) Chapter 16.08 or 16.12 BIMC, or (b) Chapter 16.20 BIMC, Critical Areas, or (c) BIMC 16.28.040, mining regulations, or (d) BIMC 18.09.030, Use-specific standards, or (e) BIMC ~~18.12.030.F~~ 16.12.040.I.h, Shoreline Structure Setbacks, or (f) BIMC 18.15.010, landscaping and screening.										
Shoreline Jurisdiction	See Table 16.12.030-2, Dimensional Standards Table, and BIMC~~18.12.030.F~~ 16.12.040.I.h, Shoreline Structure Setbacks. For properties abutting the shoreline, the native vegetation zone required by BIMC 16.12.030 and Table 16.12.030-3 replaces the zoning setbacks along the water.									
MAXIMUM BUILDING AND STRUCTURE HEIGHT Note: Bonus may not be available in the shoreline jurisdiction										

Table 18.12.020-1 Flexlot Subdivision Dimensional Standards for Residential Zone Districts

[Numbers in brackets indicate additional requirements listed at the end of the table.]

ZONING DISTRICT DIMENSIONAL STANDARD	R-0.4	R-1	R-2	R-2.9	R-3.5	R-4.3	R-5	R-6	R-8	R-14
Short, Long, and Large Lot Subdivisions	Height requirements for standard lots apply (see ~~end of table~~ Table 18.12.020-2)									

Table 18.12.020-2 Standard Lot Dimensional Standards for Residential Zone Districts

[Numbers in brackets indicate additional requirements listed at the end of the table]

ZONING DISTRICT DIMENSIONAL STANDARD	R-0.4	R-1	R-2	R-2.9	R-3.5	R-4.3	R-5	R-6	R-8	R-14
MINIMUM SETBACKS Note: Landscaped areas may serve as setbacks (i.e., setbacks are not in addition to landscaped areas), and some encroachments into setback areas are permitted pursuant to BIMC 18.12.040. Note: Additional setbacks may be required by: (a) Chapter 16.08 or 16.12 BIMC, or (b) Chapter 16.20 BIMC, Critical Areas, or (c) BIMC 16.28.040, mining regulations, or (d) BIMC 18.09.030, Use Specific Standards, or (e) BIMC ~~18.12.030.F~~ 16.12.040.I.h, Shoreline Structure Setbacks, or (f) BIMC 18.15.010, Landscaping and Screening.										
Shoreline Jurisdiction	See Table 16.12.030-2, Dimensional Standards Table, and BIMC ~~18.12.030.F~~ 16.12.040.I.h, Shoreline Structure Setbacks.									
MAXIMUM BUILDING AND STRUCTURE HEIGHT [4]										

Table 18.12.020-2 Standard Lot Dimensional Standards for Residential Zone Districts

[Numbers in brackets indicate additional requirements listed at the end of the table]

ZONING DISTRICT DIMENSIONAL STANDARD	R-0.4	R-1	R-2	R-2.9	R-3.5	R-4.3	R-5	R-6	R-8	R-14
Note: Bonus may not be available in the shoreline jurisdiction										
Exemption	Alternative height limits may apply for nonresidential uses if additional conditional use permit provisions of BIMC Title 2 are met. Some encroachments through height limits are permitted under BIMC 18.12.040.									
Shoreline Jurisdiction	See Table 16.12.030-2, Dimensional Standards Table, and BIMC ~~18.12.030.F~~ 16.12.040.I.h, Shoreline Structure Setbacks.									

[4] For community and educational facilities (as listed in Table 18.09.020), spires, towers and other vertical features with horizontal cross-sections no more than five percent of the footprint of the primary structure may have a maximum height of 10 feet above the maximum base height, and shall be reviewed through a conditional use permit.

Table 18.12.020-3 Dimensional Standards for Mixed Use Town Center and "Other" Zone Districts

ZONING DISTRICT DIMENSIONAL STANDARD	Winslow Mixed Use Town Center					HSR I and II	NC	B/I	WD-I
	Central Core Overlay	Madison Avenue Overlay	Ericksen Avenue Overlay	Gateway Overlay	Ferry Terminal Overlay [See BIMC 18.12.030.C]				
SETBACKS (Minimum required unless otherwise noted) [4] Note: Landscaped areas may serve as setbacks and, in some cases, may exceed the setback requirements. Note: Additional setbacks may be required by: (a) Chapter 16.12 BIMC, Shoreline Master Program; or (b) Chapter 16.20 BIMC, Critical Areas; or (c) BIMC 16.28.040, mining regulations; or (d) BIMC 18.09.030, Use Specific Standards; or (e) BIMC~~18.12.030.F~~ 16.12.040.I.h, Shoreline Structure Setbacks.									
Shoreline Jurisdiction	See Table 16.12.030-2, Dimensional Standards Table, and BIMC~~18.12.030.F~~ 16.12.040.I.h, Shoreline Structure Setback Lines								
MAXIMUM BUILDING AND STRUCTURE HEIGHT [5] Note: Bonus may not be available in the shoreline jurisdiction									
Base	35 ft.; 25 ft. max. south of Parfitt	25 ft.; 35 ft. north of High School Road	25 ft.	35 ft.	BIMC 18.12.030.C standard height north of Winslow Way; 35 ft. south of Winslow Way	35 ft.	35 ft.	35 ft.	35 ft. except that Chapter 16.12 BIMC applies within shoreline jurisdiction
Bonus 1 if parking under building [6]	45 ft.; 35 ft. south of Parfitt	35 ft.; 45 ft. north of High School Road	35 ft.	45 ft.	BIMC 18.12.030.C optional height north of Winslow	45 ft.			

Table 18.12.020-3 Dimensional Standards for Mixed Use Town Center and "Other" Zone Districts

ZONING DISTRICT DIMENSIONAL STANDARD	Winslow Mixed Use Town Center					HSR I and II	NC	B/I	WD-I
	Central Core Overlay	Madison Avenue Overlay	Ericksen Avenue Overlay	Gateway Overlay	Ferry Terminal Overlay [See BIMC 18.12.030.C]				
					Way; 45 ft. south of Winslow Way				
Bonus 2 for Nonresidential Uses with Major Conditional Use Permit							45 ft.	45 ft.	45 ft.
Bonus 3 Structure Height	Alternative height limits may apply if the conditional use permit provisions of BIMC Title 2 are met. Some encroachments through height limits are permitted under BIMC 18.12.040.								

[4] When property adjoins a single-family residential zone, building setback shall be in accordance with the landscape ordinance perimeter landscaping requirements.

[5] When property adjoins a lower density residential zone, except in the ferry terminal district, north of Winslow Way, for the first 30 feet of the building from the property line of an adjoining lower density residential zone, the building height shall be the building height of the adjoining lower density residential zone. Optional building height allowed in the adjoining lower density residential district through a conditional use permit may be requested for projects within the Mixed Use Town Center and High School Road zones through the site plan review process. For building height requirements in the ferry terminal district, north of Winslow Way, reference BIMC 18.12.030.C.

[6] The bonus height provision applies to both parking underground and above ground, within the building footprint. The bonus height is only available for the entire building if parking is located under more than 50 percent of the building footprint. If parking is located under 50 percent or less of the building footprint, the bonus may only be used for a portion of the building footprint twice as large as the area with parking located beneath.

18.12.040 Modifications to required setbacks and heights.

A. Permitted Setback/Height Modifications. Minimum and maximum setbacks and maximum heights established in Tables 18.12.020-1, 18.12.020-2, and 18.12.020-3 and in BIMC 18.12.030 may be encroached as set forth in Table 18.12.040 and may also be modified by applicable provisions of adopted fire codes, the shoreline master program, and/or the building code:

Table 18.12.040: Permitted Setback/Height Modifications

Type of Encroachment	Encroachment Permitted	Conditions
Permitted Setback Modifications		
Fence or combined fence and berm up to 6 feet high	In any required setback subject to applicable regulations in BIMC Title 15	Except as provided in BIMC 18.12.040.B and Chapter 16.12 BIMC
Nonscreening fences or combined nonscreening fence and berm up to 8 feet high	In any required setback subject to applicable regulations in BIMC Title 15	Except as provided in Chapter 16.12 BIMC
Chimneys, flues, awnings, bay windows, and greenhouse windows	Up to 18 inches into any required setback	
Covered porches, bay windows and eaves within the Ericksen Avenue overlay district	Up to 5 feet into the front yard	Bay windows must be cantilevered outward from the wall, and may not result in any portion of the building floor area extending into the setback
Any structures, including but not limited to uncovered steps, porches, and decks less than or equal to 30 inches in height	Up to 2 feet into front and side setbacks. Up to 5 feet into required rear setbacks.	
Eaves	May extend up to 24 inches in any required setback except shoreline structure setback	
At or near grade structures such as uncovered patios, sidewalks, and driveways	In any required setback	May not exceed 4 inches in height
Signs	In any required setback	Must conform to Chapter 15.08 BIMC

Table 18.12.040: Permitted Setback/Height Modifications

Type of Encroachment	Encroachment Permitted	Conditions
Overhead or underground accessory utilities ~~accessory to a single-family residence~~	In any required setback	Must conform to Chapters 16.12 and 16.20 BIMC. Does not apply to above ground utilities such as propane tanks.
Composting bins	In side or rear setback areas	
Bioretention/rain gardens	In any required setback	In accordance with Chapter 15.20 BIMC
Rain barrels/cisterns	In any required setback	In accordance with Chapter 15.20 BIMC
Wall-mounted on-demand hot water heaters	Up to 18 inches into side or rear setbacks	Permitted if buffered or enclosed to prevent noise impacts to neighboring properties
Below-ground geothermal equipment	In any required setback	Permitted if any excavated areas are promptly relandscaped after installation is complete
Rockeries and retaining walls less than 4 feet in height	In any required setback	Rockeries and retaining walls greater than 4 feet in height may be permitted with ~~Q~~qualified geotechnical engineer determination, and city concurrence, that it is necessary for slope stabilization
Public communications tower	In any required setback subject to applicable regulations in BIMC Title 15	Must conform to Chapters 16.12 and 16.20 BIMC
Permitted Height Modifications		
Small wind energy generators	Up to 18 inches above the maximum building height in the district	
Solar panels	Up to 18 inches above the maximum building height in the district	
Noncommercial, nonparabolic antennas affixed to noncommercial communication towers	Up to 50 feet in height above grade	
One flagpole per parcel	Up to 45 feet in height above grade	
Public communications tower	Up to 120 feet in height above grade	A building permit is required for a public communications tower. A conditional use permit shall be required for a public communications tower to be constructed between 71 feet and

Table 18.12.040: Permitted Setback/Height Modifications

Type of Encroachment	Encroachment Permitted	Conditions
		120 feet above grade. A public communications tower shall not exceed 120 feet in height.
Distribution utility poles	Up to 55 feet in height above grade	Replacement poles over 55 feet in height, see BIMC 18.09.030.F.2.b. For new distribution utility facilities or corridors, see Table 18.09.020. Poles shall not be moved more than 20 feet from the original location unless permitted under BIMC 18.09.030.F.2.b.
Transmission utility poles	Up to a 25 percent increase above existing pole height above grade with a maximum height of 100 feet	Replacement poles over the 25 percent increase or 100 feet in height, see BIMC 18.09.030.F.2.b. For new transmission utility facilities or corridors, see Table 18.09.020. Poles shall not be moved more than 20 feet from the original location unless permitted under BIMC 18.09.030.F.2.b.
Utility structures existing on the effective date of the ordinance codified in this subsection	Existing height	May also be replaced or modified; provided, that the structure is not larger or taller than the original structure and is not moved more than 20 feet from its original location

18.12.050 Rules of measurement.

The following rules of measurement shall apply in determining compliance with the requirements of this title. When a required calculation results in a fraction greater than or equal to one-half, the requirement shall be rounded up to the next whole number.

G. Floor Area Ratio (FAR). "Floor area ratio" is a figure that expresses the total floor area as a multiple of the lot area. This figure is determined by dividing the floor area of all buildings on a lot by the lot area prior to removal of lot area for dedication. Portions of parking located underneath a building ~~footprint~~ or underground are not counted in floor area ratio calculations.

I. Grade. "Grade" (adjacent ground elevation) is the computed average of the lowest and the highest points of elevation of the original surface of the ground, or existing paving or sidewalk within the area between the building and the property line, or when the property line is more than five feet from the building, between the building and a line five feet from the building. On waterfront parcels as defined in the shoreline master program, the definition of grade from the shoreline master programs shall be used (WAC 173-27-~~14~~-030(3)).

18.15.020 Parking and loading.

Table 18.15.020-2: Off-Street Parking Spaces Required in Mixed Use Town Center Districts and High School Road Districts [1]

Land Use	Spaces Required					
	Central Core Overlay	Madison Avenue Overlay	Ericksen Avenue Overlay	Gateway Overlay	Ferry Terminal Overlay	High School Road I and II
Commuter-Oriented Retail	Not Permitted				1 space per peak shift employee	Not Permitted
Other Commercial and Nonresidential Uses						
Minimum spaces per 1,000 sq. ft. [2]	2, except 3 in the Parfitt-Waterfront area	4			1	4
Entertainment facilities	1 per 4 fixed seats	Not Permitted				1 per 4 fixed seats
Maximum above-ground spaces per 1,000 sq. ft.	5				3	5

18.30.030 Nonconforming structures and buildings.

A nonconforming structure may remain and be used; provided, that:

A. Changes to the structure that would alter or increase the nonconformity are not permitted.

1. Any vertical or horizontal extension of a nonconforming wall must meet the applicable standards.

2. Adding to the footprint of a nonconforming structure is permitted as long as the addition meets the requirements of BIMC Title 18;

B. If moved, the structure shall be made to conform to regulations of this code;

C. If a building is harmed or destroyed by more than 50 percent of its ~~square footage~~ floor area, the building must be reconstructed in compliance with the requirements for the zone in which it is located (this provision shall not apply to any dwelling unit constructed as an affordable housing unit under Chapter 18.21 BIMC); and

D. Any structure other than a building that is damaged or removed to an extent that exceeds 50 percent of its square footage may be replaced or reconstructed in substantially the same location and of substantially the same design as the pre-damaged or pre-removed structure, if a complete

application is submitted for any and all required construction permits within 180 days of the damage or removal.

18.36.030 Definitions.

For the purposes of this chapter and Chapters 2.14 and 2.16 BIMC, the following definitions shall apply unless the context clearly requires otherwise.

1. "Abutting" means bordering or touching, such as sharing a common lot line. Lots that are separated by a street or right-of-way are not abutting, they are adjoining.

5. "Accessory agricultural retail" includes community kitchens and stables, and also means the sale of (a) crops grown or livestock raised by a farmer, or (b) value-added products made from crops grown or livestock raised by the farmer, and (c) incidental associated agricultural products sold on site where agricultural crops or livestock are grown or raised that is subordinate to the actual agriculture on-site. Products sold shall be (a) primarily Island-grown crops, (b) value-added products if the defining ingredient was Island-grown, and (c) associated products that are incidental to the agricultural activity on the site.

a. "Accessory agricultural retail, minor" means agricultural retail that (1) generates less than 36 round trips per day on average, and (2) does not conduct more than four non-agricultural special events each year. This category includes farm stands and joint use of farm stands by multiple producers and the use of retail sites for pick-up of community-supported agricultural deliveries. See "Farm stand."

b. "Accessory agricultural retail, major" means agricultural retail that is more intensive than minor agricultural retail.

6. "Accessory agricultural tourism" means agriculturally related accessory uses that are subordinate to the growing of crops or the raising of livestock, designed to bring the public to the farm on a temporary or continuous basis, such as U-pick farm sales, farm mazes, pumpkin patches, farm animal viewing and petting, wagon rides, farmland and facility tours, horticulture nurseries and associated display gardens, cider pressing, classes or workshops, wine or cheese tasting, etc. Accessory agricultural tourism does not include overnight stays for guests such as a bed and breakfast or farm-stay type use.

XX. "Adjacent" means that which is near or close; for example, a property located across the road or highway shall be considered as adjacent. **NOTE: same definition in SMP BIMC 16.12.080**

14. "Adjoining" means immediately abutting or separated only by a street or right-of-way.

XX. "Commercial/Residential Mixed Use" means having commercial and residential uses on the same property.

69. "Day care center" means a building or structure in which an agency, person, or persons regularly provide care for 13 or more people in any 24-hour period and could include a public or private school. Businesses that offer care only before and after school are considered educational facilities. SEE BELOW

82. "Educational facilities" means a public or private school or educational or training institution that offers a program of college, professional, environmental, preparatory, high school, middle school, junior high school, elementary school, kindergarten instruction, or preschool, or any combination of those facilities, together with associated staff housing and/or conference facilities and other typical educational accessory uses.

168. “Motor vehicle sales ~~lot~~” means any land or buildings used primarily for the sale of new or used motor vehicles fit for transportation.

191. “Parfitt-Waterfront area” is defined as that area south of the boundary created by the following parcels and streets; starting at the northern property line of 272502-4-1130-2000; proceeding eastward along ~~Blue~~ Bjune Drive to its western intersection with Brien Drive; proceeding eastward along Brien Drive to its intersection with Bjune and Shannon Drives; and proceeding southward along Shannon Drive to the south property line of 4114-005-001-0003; and proceeding eastward to Winslow Ravine.

192. Park, Active Recreation. “Active recreation park” means a park where the primary uses are athletic fields, playgrounds, swimming facilities, sports courts, or other activities that require specialized fields or equipment.

193. Park, Passive Recreation. “Passive recreation park” means a park where the primary uses are hiking, bird watching, picnicking, camping and other low impact activities.