



**PLANNING COMMISSION REGULAR MEETING
THURSDAY, SEPTEMBER 26, 2024**

BAINBRIDGE ISLAND CITY HALL
COUNCIL CHAMBERS
280 MADISON AVENUE N.
BAINBRIDGE ISLAND, WASHINGTON

AND

ZOOM WEBINAR
[HTTPS://BAINBRIDGEWA.ZOOM.US/J/81285913438](https://bainbridgewa.zoom.us/j/81285913438)
OR TELEPHONE: US: +1 253 205 0468
WEBINAR ID: 812 8591 3438

AGENDA

1. CALL TO ORDER/LAND ACKNOWLEDGMENT/AGENDA REVIEW - 6:00 PM

We would like to begin by acknowledging that the land on which we gather is within the ancestral territory of the Suquamish, "People of Clear Salt Water." Expert fishermen, canoe builders and basket weavers, the Suquamish live in harmony with the lands and waterways along Washington's Central Salish Sea as they have for thousands of years. Here, the Suquamish live and protect the land and waters of their ancestors for future generations as promised by the Point Elliot Treaty of 1855.

2. PLANNING COMMISSION MEETING MINUTES - 6:05 PM

Review and approve meeting minutes.

- 2.a Minutes** 5 Minutes
[PC Meeting Minutes 09192024-Draft.pdf](#)

3. PUBLIC COMMENT - 6:10 PM

- 3.a Public Comment** 10 Minutes
[Instructions for Providing Public Comment at Hybrid Meetings 20240709.pdf](#)

4. UNFINISHED BUSINESS - 6:20 PM

- 4.a Discuss SB 5290 Code Amendments** 15 Minutes
[BIMC Chapter 2.16 Amendments 4895-2890-9011.6.docx](#)
[SB 5290 Power Point September 26 4886-4723-6582.1.pptx](#)

4.b Discussion of DEIS Topics, continued: Utilities and Housing 20 Minutes

5. NEW BUSINESS - 6:55 PM

5.a Madison Avenue Raised Crosswalk Noise Variance 15 Minutes

[Madison Avenue Bundled Raised Crosswalk Noise Variance Application.pdf](#)

[Madison Avenue Bundled Raised Crosswalk Noise Variance Site Plan.pdf](#)

6. PLANNING DIRECTOR'S REPORT - 7:10 PM

7. FOR THE GOOD OF THE ORDER - 7:15 PM

8. ADJOURNMENT - 7:20 PM

GUIDING PRINCIPLES

Guiding Principle #1 - Preserve the special character of the Island, which includes downtown Winslow's small town atmosphere and function, historic buildings, extensive forested areas, meadows, farms, marine views and access, and scenic and winding roads supporting all forms of transportation.

Guiding Principle #2 - Manage the water resources of the Island to protect, restore and maintain their ecological and hydrological functions and to ensure clean and sufficient groundwater for future generations.

Guiding Principle #3 - Foster diversity with a holistic approach to meeting the needs of the Island and the human needs of its residents consistent with the stewardship of our finite environmental resources.

Guiding Principle #4 - Consider the costs and benefits to Island residents and property owners in making land use decisions.

Guiding Principle #5 - The use of land on the Island should be based on the principle that the Island's environmental resources are finite and must be maintained at a sustainable level.

Guiding Principle #6 - Nurture Bainbridge Island as a sustainable community by meeting the needs of the present without compromising the ability of future generations to meet their own needs.

Guiding Principle #7 - Reduce greenhouse gas emissions and increase the Island's climate resilience.

Guiding Principle #8 - Support the Island's Guiding Principles and Policies through the City's organizational and operating budget decisions.



Planning Commission meetings are wheelchair accessible. Assisted listening devices are available in Council Chambers. If you require additional ADA accommodations, please contact the Planning & Community Development Department at (206) 780-3750 or pcd@bainbridgewa.gov by noon on the day preceding the meeting.

Public comment may be limited to allow time for the Commissioners to deliberate. To provide additional public comment, email your comment to pcd@bainbridgewa.gov or mail it to Planning and Community Development, 280 Madison Avenue North, Bainbridge Island, WA 98110.



CITY OF
BAINBRIDGE ISLAND

Planning Commission Regular Meeting Agenda Bill

MEETING DATE: September 26, 2024

ESTIMATED TIME: 5 Minutes

AGENDA ITEM: Minutes

AGENDA CATEGORY: Minutes

PROPOSED BY: Renee Argetsinger

**PREVIOUS PLANNING COMMISSION
REVIEW DATE(S):**

PREVIOUS COUCIL REVIEW DATE(S):

RECOMMENDED MOTION:

I move to approve the September 19, 2024, meeting minutes as presented.

SUMMARY:

BACKGROUND:

ATTACHMENTS:



Planning Commission Special Meeting September 19, 2024

Meeting Minutes

1) **CALL TO ORDER/LAND ACKNOWLEDGMENT/AGENDA REVIEW/CONFLICT DISCLOSURE**

Chair Birtley called the meeting to order at 6:02 PM and read the Land Acknowledgement. Planning Commissioners present in chambers were Ariel Birtley, Sarah Blossom, Peter Schaab, Alex Preudhomme, and Criss Garcia. Excused were Commissioners Ben Deines and Sean Sullivan. COBI staff present were Director Patty Charnas and Senior Planner Jennifer Sutton. Counsel-Liaison Ashley Mathews was present via the Zoom platform.

2) **PLANNING COMMISSION MEETING MINUTES**

[2.a Minutes](#)

[Cover Page](#)

[PC Minutes 09122024 - Draft.pdf](#)

MOTION: I move to approve the September 12, 2024, minutes, as presented.

Schaab/Garcia: The motion passed unanimously.

3) **PUBLIC COMMENT**

[3.a Public Comment](#)

[Cover Page](#)

[Instructions for Providing Public Comment at Hybrid Meetings 20240709.pdf](#)

1. Ms. Lisa Neal - offered observations on the Comp Plan/DEIS.

2. Mr. John Van Dyke - has questions regarding the Comp Plan as it relates to the Lynwood Neighborhood center.

3. Ms. Heidi Huber - advocating for Lynwood Center alternative #1 on the DEIS

4. Mr. Doug Hatfield - would like COBI to focus on doing more with less, in regard to the Comp Plan

5. Ms. Carol Ware - concerned that the proposed alternatives of the DEIS doesn't take into consideration impacts to wildlife, traffic, water & sewage systems.

4) **UNFINISHED BUSINESS**

4.a **Presentation on Missing Middle Housing and the Winslow Subarea Plan update**
Cover Page

Commissioner Alex Preudhomme presented housing options "Missing Middle Housing."
Presentation / Information Only.

4.b **Discuss comprehensive plan update, specific plan elements and Winslow Subarea Plan alternatives.**
Cover Page

Chair Ariel Birtley provided visuals on elements in the alternatives for the Winslow Subarea with additional details provided by Senior Planner Jennifer Sutton. Director Charnas to provide the Planning Commissioners with a memorandum addressing neighborhood centers and boundary adjustments.
Presentation/Information Only.

5) **PLANNING DIRECTOR'S REPORT**

Director Charnas provided a summary on the recent Comprehensive Plan / DEIS open house events.

6) **FOR THE GOOD OF THE ORDER**

Commissioner Preudhomme and Chair Birtley thanked staff for all their hard work on the Comprehensive Plan and DEIS.

7) **ADJOURNMENT**

Chair adjourned at 8:12 PM.



CITY OF
BAINBRIDGE ISLAND

Planning Commission Regular Meeting Agenda Bill

MEETING DATE: September 26, 2024

ESTIMATED TIME: 10 Minutes

AGENDA ITEM: Public Comment

AGENDA CATEGORY: Discussion

PROPOSED BY: Renee Argetsinger

**PREVIOUS PLANNING COMMISSION
REVIEW DATE(S):**

PREVIOUS COUCIL REVIEW DATE(S):

RECOMMENDED MOTION:
Instructions for Providing Public Comment.

SUMMARY:

BACKGROUND:

ATTACHMENTS:



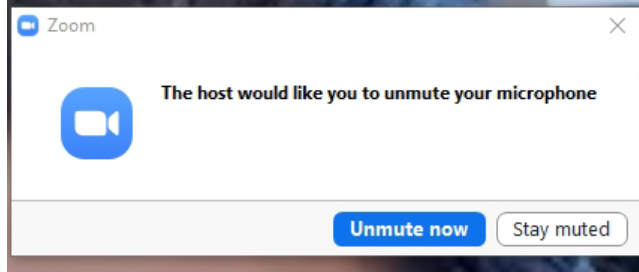
PLANNING AND COMMUNITY DEVELOPMENT

Members of the public are encouraged to submit written public comment to the Planning Commission at any time by emailing Commissioners directly or sending comments to pcd@bainbridgewa.gov and City staff will forward your comment directly to Planning Commissioners on your behalf. Members of the public who wish to provide public comment may attend the meeting in Council Chambers or may participate remotely by following the instructions outlined below. If you are attending in-person, please sign up to speak on the sign-in sheet by the Chamber doors. The Chair or Acting Chair will call the people signed up on the sign-in sheet in Council Chambers first, and speakers will have three minutes to speak from the podium. Following the in-person comment, people who have notified the City in advance will be called on next, provided that the remote commenter displays their true name and has their camera turned on to show their true uncovered face while delivering their comments. A timer on the screen will indicate when 3 minutes have elapsed. Guidelines for public comment are also attached.

Instructions for Providing Public Comment Remotely

1. Contact the City at cityadmin@bainbridgewa.gov no later than Noon of the day of the meeting. State which meeting you would like to make a public comment and provide your true name.
IMPORTANT: No remote public comments will be accepted without first registering at the email address above.
2. Join the Zoom webinar by following the link posted on the agenda and on the City calendar. Sign into Zoom. You will need to enter and display your true name on Zoom and your camera needs to be enabled to show your true uncovered face while delivering comments.
3. The Chair will indicate when it is time for public comment.
4. Attendee indicates desire to speak by clicking on “Raise Hand” option at the bottom of the screen.
If you are calling in by phone and would like to make a comment, *6 mute/unmute
*9 raise/lower hand to be called on to speak.

5. Attendee clicks button “Unmute now” after they are called to speak by the Chair.



6. Attendee will appear on screen with other panelists.

7. Attendee provides comment.

8. A timer on the screen will track your time.

9. Stop speaking when the timer reaches the 3-minute mark.

10. Attendee is returned to attendee group, and microphone is muted.

11. Public comment is simply received by the Planning Commission, with no response.

Guidelines for Public Comment

These guidelines were established for and approved by the City Council and apply to all advisory boards, committees and commissions of the City Council.

Excerpts from the Governance Manual regarding public comment:

5.6 Respect and Decorum

It is the duty of the Presiding Officer and Councilmembers to maintain dignity and respect for their offices, City staff, and the public. While the Council is in session, the Councilmembers shall preserve civility, order and decorum. No member of the public shall, by conversation or otherwise, delay, disrupt, or interrupt the proceedings of the Council, nor engage in any of the prohibited behavior described below. Councilmembers and the public shall obey the proper orders of the Presiding Officer of the meeting.

5.6.1 Orderly Behavior and Civility in Remarks

Any person disrupting the business of the Council, either while addressing the Council or attending the proceedings, shall be asked to leave, or be removed from the meeting. Continued disruptions may result in a point of order by the Presiding Officer or a Councilmember pursuant to the Council’s parliamentary rules, or a recess, forced removal, or adjournment as described elsewhere in this manual. Disruptive behavior includes, but is not limited to, the following:

- a) Speaking without being recognized by the Presiding Officer.

- b) Continuing to speak after the allotted time has expired.
- c) Speaking on an item at a time not designated for discussion by the public of that item, such as speaking on a quasi-judicial item at a time other than during a public hearing or closed record proceeding on the matter.
- d) Throwing objects.
- e) Speaking on an issue that is not a public topic, in violation of Section 9.12.2.
- f) Speaking in favor of or in opposition to a ballot proposition or a candidate for public office, provided, that public comment is allowed when the City Council is considering taking a collective position in favor of or in opposition to a ballot proposition as authorized in RCW 42.17A.555.
- g) Impersonating a City Councilmember or a member of the City staff.
- h) Shouting or otherwise engaging in loud or boisterous behavior.
- i) Continuing to make repetitive remarks after being requested not to do so by the Presiding Officer or a majority of the City Council.
- j) Attempting to engage the audience rather than the Council, e.g., asking audience members to stand, clap, boo or otherwise express collective support or opposition to any matter.
- k) Booing, hissing, or otherwise disrupting the comments of another speaker.
- l) Using racial slurs or other slurs directed at the color, creed, religion, ancestry, gender, sexual orientation, gender expression or identity, national origin, citizenship or immigration status, or mental, physical, or sensory disability of any individual or group, under circumstances where such words constitute “fighting words” under constitutional law.
- m) Refusing to modify conduct after being advised by the Presiding Officer that the conduct is disrupting the meeting or disobeying any other lawful order of the Presiding Officer or a majority of the City Council.

5.6.2 Permission Required to Address the Council

Persons other than Councilmembers and Administration shall be permitted to address the Council only upon recognition and introduction by the Presiding Officer of the meeting.

9.12.2 Subjects – Whether or Not on the Current Agenda

Public comments received during the public comment period may be on any public topic, whether or not on the agenda, but a comment on the subject that is covered by a public hearing at that meeting must be made during the period of the public hearing. All public comments shall be made consistent with Section 5.6.

9.12.3 Use of Microphones

Comments shall be made directly into the microphone, as it is necessary for the public record and for the audience to hear all proceedings. No comments shall be made from any other location.



CITY OF
BAINBRIDGE ISLAND

Planning Commission Regular Meeting Agenda Bill

MEETING DATE: September 26, 2024

ESTIMATED TIME: 15 Minutes

AGENDA ITEM: Discuss SB 5290 Code Amendments

AGENDA CATEGORY: Discussion

PROPOSED BY: HB Harper

PREVIOUS PLANNING COMMISSION

REVIEW DATE(S): July 25, 2024

PREVIOUS COUCIL REVIEW DATE(S):

RECOMMENDED MOTION:

I move to set a public hearing on the draft ordinance related to compliance with Senate Bill 5290 amending Title 2 of Bainbridge Island Municipal code, for the September 10th Planning Commission meeting or on the next available agenda.

SUMMARY:

Staff have been working with legal assistance to develop code changes in response to Senate Bill 5290, which changed permit review procedures including new permit review timelines. The draft ordinance created in response to these legal changes includes new permit review timelines, as is both directed and allowed by the new state law. Review and analysis of current codes and permit reviews led staff to create this ordinance with an emphasis on meeting local permitting challenges with reasonable timelines in accordance with the new law as well as with the practical and operational considerations of the department in mind. Staff have participated in conversations with staff from other jurisdictions grappling with the new law to compare notes and brainstorm ideas; many jurisdictions have concerns and intentions but have not yet adopted code related to SB 5290. Supporting work includes data collection, time tracking, process improvement, updates to forms, and other procedural changes.

BACKGROUND: Senate Bill 5290 (SB 5290) was enacted by the Washington State Legislature in 2023, amending Chapter 36.70B Revised Code of Washington, which establishes the required processes for reviewing land use permits. SB 5290 updates significant sections of the land use permit process, which means that the City needs to update its corresponding code provisions to remain compliant with state law. A draft ordinance of the code changes is available for Planning Commission review, and it is suggested that a public hearing be scheduled at an upcoming meeting to ensure time for adoption before the new timelines in the law come into effect on January 1, 2025.

ATTACHMENTS:

ORDINANCE NO. 2024-__

AN ORDINANCE of the City of Bainbridge Island, Washington, relating to the regulation of the administrative land use procedures, repealing and replacing Sections 2.16.020 and 2.16.040 of the Bainbridge Island Municipal Code; providing for severability; and establishing an effective date.

WHEREAS, the Washington State Legislature passed Senate Bill 5290 (“SB 5290”) requiring municipalities to report on their permit processing timelines for 2024, streamline the permit review process, and conform to new timelines, or adopt an ordinance establishing longer timelines; and

WHEREAS, the City Council has determined that to comply with SB 5290 revisions to Bainbridge Island Municipal Code Chapter 2.16 are necessary;

WHEREAS, City staff have prepared revisions, attached to this Ordinance as Exhibits A and B, to bring the Bainbridge Island Municipal Code Sections 2.16.020 and 2.16.040 into compliance with SB 5290 (“SB 5290 Code Amendments”); and

WHEREAS, the City of Bainbridge Island notified the Washington State Department of Commerce on _____, 2024 of the City’s intent to adopt development regulations for the purposes of Commerce’s review and no comments or objections were received; and

WHEREAS, the Bainbridge Island Planning Commission held a work session to study the SB 5290 Code Amendments on July 25, 2024 and recommended Council approval of the SB 5290 Code Amendments after a duly-noticed public hearing on September 26, 2024; and

WHEREAS, the Bainbridge Island City Council held a duly-noticed public hearing on _____, 2024 to accept and consider public testimony on the SB 5290 Code Amendments; and

WHEREAS, the Bainbridge Island City Council finds that this permit processing and procedures ordinance allows for the Community Development Department to fulfill the requirements of the Washington State Legislature while providing excellent customer service and predictable permitting timelines.

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

Section 1. The Bainbridge Island City Council adopts the above recitals, together with the content of Agenda Bill AB-_____ as legislative findings in support of this ordinance.

Section 2. Section 2.16.020 of the Bainbridge island Municipal Code is hereby repealed in its entirety and replaced as shown on Exhibit A, which is attached hereto and incorporated herein by this reference.

Section 3. Section 2.16.040 of the Bainbridge Island Municipal Code is hereby repealed in its entirety and replaced as shown on Exhibit B, which is attached hereto and incorporated herein by this reference.

Section 4. Should any section, paragraph, sentence, clause, or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 5. Upon approval of the City Attorney, the City Clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; references to other local, state, or federal laws, codes, rules or regulations; or ordinance numbering and section/subsection numbering.

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

PASSED by the City Council this ____ day of _____, 2024.

APPROVED by the Mayor this _____ day of _____, 2024.

Joe Deets, Mayor

ATTEST/AUTHENTICATE:

Christine Brown, CMC, City Clerk

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NUMBER:

Exhibit A

BIMC 2.16.020

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

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

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

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

D. Who Can Apply.

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

E. Prohibited Ex Parte Communications.

1. Except as permitted under Chapter 42.36 RCW, a proponent or opponent, or his or her agent or representative, of a quasi-judicial matter that is pending before the hearing examiner or council, shall not communicate ex parte, directly or indirectly, with the examiner or a council member concerning the merits of the pending matter or a factually related quasi-judicial matter. This rule shall not prohibit ex parte communications concerning procedural matters.
2. Except as permitted under Chapter 42.36 RCW, the hearing examiner or a council member shall not communicate ex parte, directly or indirectly, with a proponent or opponent, or his or her agent or representative, of a quasi-judicial matter that is pending before the hearing examiner or council concerning the

merits of the pending matter or a factually related quasi-judicial matter. This rule shall not prohibit ex parte communications concerning procedural matters.

3. If a prohibited ex parte communication is made to or by the hearing examiner or a council member, the examiner or council member shall comply with Chapter 42.36 RCW. Any violation of this subsection E shall be deemed a misdemeanor and may be punished pursuant to Chapter 1.24 BIMC.

4. Any person seeking to rely on the provisions of this section to disqualify the hearing examiner or a council member from participating in a decision must raise the challenge as soon as the basis for disqualification is made known to the person. Where the basis is known or reasonably should have been known prior to the issuance of the decision and is not raised until after the issuance of the decision, it may not be relied on to invalidate the decision.

F. Design Review Board Review.

1. The design review board shall review and make recommendations on all land use applications as set forth in this section. This design process reflects a collaborative effort between an applicant, the design review board, and the community to better incorporate the vision of the city as outlined in the adopted design standards and guidelines.

2. Subsequent to submittal of preapplication materials, the board shall review a proposal for conformance with applicable design standards and guidelines. The board's written recommendations shall be included in the staff report transmitted to the planning commission.

3. A board recommendation is not a decision and there is no city appeal of the recommendation.

G. Zoning Verification Letter. Applicants may request a zoning verification letter. A zoning verification letter is intended to provide to an applicant information related to the subject property, including related to legal land uses, zoning, zoning district standards, development history, and compliance.

H. Consultation. Applicants may request and participate in an informal 30-minute meeting prior to a formal preapplication meeting or application submittal. The purpose of the consultation is to discuss in general terms project permit application questions. Staff will not prepare for the consultation, nor will they produce any written or electronic documentation of the discussions. It is the applicant's responsibility to take notes. As no project permit application will have been submitted at the time of such a meeting, the city will not make any binding commitments.

I. Preapplication Procedure.

1. Subject to certain exemptions, all projects are subject to and must complete the site assessment review process set forth and in accordance with Chapter 15.19 BIMC, and projects requiring a preapplication conference have the option of proceeding with the two processes concurrently. Chapter 15.19 BIMC is designed to ensure that future development integrates low impact development practices to the maximum extent practicable, as required by Chapters 15.19 and 15.20 BIMC.

2. The preapplication conference is an informal discussion between a potential applicant and city staff. A preapplication conference shall not include extensive field inspection or correspondence. The purpose of the preapplication conference is to assist the applicant by identifying the following:

- a. Requirements for submittal, including types of permits necessary to complete the proposal and whether SEPA review is required, pursuant to the State Environmental Policy Act (SEPA), Chapter 43.21C RCW.
- b. Compliance with applicable city plans, goals, policies, codes or guidelines and possible revisions to the proposed project that will enhance the proposal with respect to these requirements.
- c. Required plans, studies, reports, and/or other materials specific to the proposal that will provide necessary information for staff to review the project.

d. Whether or not the project will likely qualify as a housing design demonstration project, and/or feedback about how to qualify, if applicable.

3. A preapplication conference may be recommended by the department director for any type of land use application that the director believes may be complex or controversial, but is required prior to submitting an application for the following land use applications unless a waiver is obtained pursuant to this subsection I.3:

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

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

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

As an additional basis for such a waiver, a preapplication conference may be waived in writing by the director if the director determines that the applicant has attended a consultation meeting within one year of their preapplication meeting, and the director determines that the applicant is in compliance with subsections I.4.a through c of this section.

5. Applications requiring design review board review shall be first reviewed at a department-facilitated preapplication conference and followed up by a summary letter that provides application submittal requirements, as described in this section. The applicant shall then meet with the design review board to discuss the design concept and proceed through the design review process.

The preapplication conference application shall be provided to the design review board and the planning commission. Up to two members of the design review board and the planning commission may attend the preapplication conference with the intent of listening and reporting the proposal to the full design review board and planning commission at a subsequent meeting.

6. The review process for long subdivisions, major site plan and design review permits, and major conditional use permits shall include a public participation meeting following the procedures outlined in Resolution No.

2021-07. The meeting will be held after the design review board concept review, during the project proposal phase.

7. An applicant shall arrange for a preapplication conference by submitting forms and plans as required in the administrative manual, and the Design for Bainbridge appendices where design review is required.

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

J. Application.

1. Application Submittal Requirements.

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

b. The address indicated on the application shall be, for the purposes of this title, the mailing address of the applicant, and all correspondence relating to the application shall be directed to that address.

c. The applicant or designated representative must be present at any public meeting that has been publicly advertised to hear the application or when the applicant has been personally notified of such a meeting.

d. The director may waive specific submittal requirements determined to be unnecessary for review of an application.

e. The director or city engineer may require additional material ~~such as, but not limited to, maps, studies or models when the director determines such material is needed to accurately assess the proposed project or~~ studies either at the time of notice of completeness or subsequently if new information is required to adequately assess the proposed project, or substantial changes in the proposed project occur, as determined by the director.

2. Determination of Complete Application.

a. A land use application shall be deemed procedurally complete when all submittal requirements and all required fees as set forth in the administrative manual or by resolution of the city council have been submitted to the appropriate department and staff has confirmed that the level of detail in submitted materials is sufficient to allow accurate review, even though additional information may be required or subsequent project modifications may occur.

b. The written determination shall be issued in accordance with (see subsection L.4 of this section and shall follow the procedures of subsection M.3 for timelines).

~~cb.~~ A determination of a complete application shall not preclude the ~~department~~ director from requesting additional information or studies, if new information is required to complete final review or if substantial changes in the application are proposed.

~~de.~~ If a land use application is determined to be incomplete, the city shall return the application for modification or correction with a request in writing for the missing information. The applicant shall respond to such a request within 60 days of the date of the request.

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

schedule with specific target dates for submitting the full revisions, corrections, or other information needed by the requesting department.

K. Fees.

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

L. Application Time Frames.

~~1. Final decisions on land use applications should be issued within 120 days from the date the application is determined to be complete pursuant to subsection J.2 of this section, except in the case of subdivisions. A preliminary plat for a short subdivision, long subdivision or large lot subdivision must be approved, disapproved, or returned to the applicant for modification or correction within 90 days from the date of filing a complete application, unless the applicant consents to an extension. A final plat for a short subdivision, long subdivision, or large lot subdivision must be approved, disapproved, or returned to the applicant for modification or correction within 30 days from the date of filing a complete application, unless the applicant consents to an extension.~~

1. Time Periods for Issuing Final Decisions.

a. Except as otherwise established herein, decisions for permits requiring Administrative Approvals (those permits listed under the "Administrative Approval column in BIMC Table 2.16.010-1) must be issued a final decision within 90 days of the determination of completeness pursuant to subsection J.2.

b. Except as otherwise established herein, decisions for permits requiring Quasi-Judicial Decisions by the Hearing Examiner (those permits listed under the Quasi-Judicial Decision by the Hearing Examiner column in BIMC Table 2.16.010-1) and decisions for long subdivision permits must be issued a final decision within 120 days of the determination of completeness pursuant to subsection J.2.

c. The time periods established in BIMC 2.16.020(L)(1)(b) and (c) above shall be extended as follows:

i. if the permit requires SEPA review, then the time period for issuing a final decision shall be extended an additional 45 days;

ii. if a permit requires review by the Planning Commission, then the time period for issuing a final decision shall be extended an additional 60 days;

iii if the permit requires shoreline review, the time period for issuing a final decision shall be extended an additional 90 days.

~~2. Where there is a conflict in time periods of state statutes, the state statute with the more restrictive time period shall govern.~~ The time period for making a final decision as established by this section may be extended for any reasonable period of time mutually agreed upon by the applicant and the city.

3. For purposes of calculating time periods and counting days of permit processing, the time period shall begin on the first day following the date the application is determined to be complete. The following periods shall be excluded from the time periods established in subsection L.1 of this section ~~day period~~:

a. Any period during which an application has been returned for correction or modification with a written request for missing or additional information necessary for review, in accordance with subsection J.2 of this section and including the day when responsive information is resubmitted by the applicant; or

b. Any period during which an environmental impact statement is being prepared following a determination of significance pursuant to Chapter 43.21C RCW; or

c. Any period during which the property owner is required to bring their property into code compliance following the issuance of a stop work order or a notice of violation for a violation that directly relates to actions permitted under the underlying permit or requires corrective action that impacts the underlying permit; or

d. Any period during which coordination, or review, or investigation by other governmental agencies is required; or

~~ee.~~ Any period during which an appeal of a project permit is being reviewed after an administrative appeal is filed until the administrative appeal is resolved and any additional time period provided by the administrative appeal has expired; ~~and/or~~

~~fd.~~ Any period after an applicant informs the City, in writing, that they would like to temporarily suspend review of the project permit application until the time that the applicant notifies the City, in writing, that they would like to resume the application. The City may set conditions for the temporary suspension of a permit application extension of time mutually agreed upon by the applicant and the city.

4. The time ~~limits~~ periods established by this section do not apply in the event of any of the following if a land-use application includes one of the following:

a. An amendment to the comprehensive plan or an amendment to a land use development regulation is proposed; or

b. A application requires approval of the ~~S~~siting of an essential public facility as provided in RCW 36.70A.200; or

~~c. An application substantially revised by the applicant, in which case the time period shall start from the date at which the revised project application is determined to be complete under subsection J.2 of this section. The time period to process a permit must start over if an applicant proposed a change in use that adds or removes commercial or residential elements from the original application that would make the application fail to meet the determination of procedural completeness for the new use~~; or

d. If, at any time, an applicant informs the City, in writing, that the applicant would like to temporarily suspend the review of their project for more than 60 days, or if an applicant is not responsive for more than 60 consecutive days after the city has notified the applicant, in writing, that additional information is required to further process their application, an additional 30 days may be added to the time periods for the City's action to issue a final decision for each type of project permit that is subject to this Chapter; or

e. An application for a street or right-of-way vacation.

5. If the city is unable to issue its final decision on a land use application within the applicable time periods, the city shall provide written notice of this fact to the project applicant. The notice will include a statement of reasons why the time periods have not been met and an estimated date for issuance of the notice of final decision.

6. The city may issue a decision after three requests for the same additional information have remained unaddressed by materials submitted by the applicant. To issue a decision under this subsection, the City must

attempt to schedule a meeting within 14 days of the second request for corrections. If the applicant fails to respond to the request for a meeting, or if the meeting cannot resolve the issues, the City shall proceed with a third request for additional information or corrections. Upon receiving the additional information, the City must approve or deny the application. The intent of this provision is to allow the City to issue a decision when the content of submittal materials demonstrates an inability or unwillingness to meet applicable code requirements after repeated requests by the city. It is not the intent of this section to limit good faith efforts to meet code requirements by submitting new information in pursuit of approval.

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

[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 the public comment period and any agencies with jurisdiction.

2. 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.
- 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.

3. Notice of Complete Land Use ~~Decision~~ Application.

a. Within 28 days after receiving a land use permit application, the department director shall 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.~~

i. the application is complete; or

ii. the application is incomplete and that the procedural submission requirements have not been met. The determination of incompleteness shall outline what steps are necessary to make the application procedurally complete. The determination of incompleteness will also state that if the applicant is not responsive, pursuant to RCW 36.70B.080, for more than 60 consecutive days after the City has notified the applicant that additional information is required to further process the application, an additional 30 days may be added to the time periods for the City's action to issue a final decision for each type of project permit applicable to the project permit application.

b. The determination of completeness may include or be combined with the following as optional information:

i. A preliminary determination of those development regulations that will be used for project mitigation;

ii. A preliminary determination of consistency, as provided under RCW 36.70B.040;

iii. Other information the director or their designee chooses to include; or

iv. The notice of application pursuant to the requirements in RCW 36.70B.110.

cb. 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.

de. 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-~~eight~~ ninth day.

4. 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.2 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.

5. 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 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.

6. 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.

7. 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.

8. Notice Required for Legislative Review Procedures. Unless subsection M.9 or 10 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.

9. 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.

10. 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.

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

- 1. The applicant shall submit with the application (a) a proposal for dedication of land for any public rights-of-way and parks, open spaces, or recreational lands required to serve the proposed development, and (b) any proposed open space covenants for private parks or recreational facilities for which the applicant seeks approval. Those proposals shall be incorporated in the underlying application.
- 2. Except in the case of short subdivisions, the city council shall then determine whether to require the dedication of land, and/or approve any proposed open space covenants for private parks or recreational activities. In the case of short subdivisions, staff shall determine whether to require dedication of land and/or approve any proposed open space covenants for private parks or recreational activities, but no required land dedication shall be final until accepted by city council.
- 3. In the instances where staff or the city council determines to require dedication of land, the dedication shall occur:
 - a. In the case of a short or long subdivision, at the time of final plat approval;
 - b. In the case of development permits for multifamily development, land dedications of public rights-of-way shall be required at the time of approval of the earliest application at which the number of dwelling units and related traffic generation from the property can be calculated. Land dedications for parks, open spaces, and recreational lands shall be due at the time of approval of the earliest application at which the number of dwelling units on the property can be calculated. All land dedications shall be completed prior to the issuance of any building permits.

O. Time Limits and Extensions.

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

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

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

P. Required Notices on Title. Where any provision of the Bainbridge Island Municipal Code requires the recording of a notice on title related to a land condition or land use approval condition, the applicant shall record those notices in the form shown in the Bainbridge Island Municipal Code or administrative manual. In the case of long, short, or large lot subdivisions, the notice shall be recorded prior to or at the recording of the final plat. In the case of other approvals, the notice shall be recorded before the issuance of any building permit related to the approval.

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 and the city has approved those adjustments or modifications.

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. Such rules of procedure for appeal hearings will be published on the city's website and available from the office of the city clerk 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.

S. Housing Design Demonstration Projects.

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

The goals of this program are to increase the housing supply and the choice of housing styles available in the community; to promote socioeconomic diversity by adding to the stock of income-qualified housing; to encourage development of smaller homes, at reasonable prices, in neighborhoods attractive to a mix of income and age levels; and to demonstrate that innovative design and building techniques (conserving water and energy, using sustainably sourced materials, limiting environmental impacts) are compatible with market considerations.

2. Applicability. This subsection S is applicable to all properties located within the Winslow sanitary sewer system service area or Winslow Subarea Plan study area, as those areas exist or are defined on the effective date of the ordinance codified in this chapter. An application for a housing design demonstration project may be applied to single-family residential subdivisions, mixed-use/multifamily and multifamily developments. Since the purpose is to provide housing projects as demonstrations, the city will accept projects for consideration and approval prior to the sunset date of the ordinance codified in this chapter. The city will limit acceptance of projects outlined in this section to two projects after the effective date of the ordinance codified in this chapter.

3. Review and Approval Process. Housing design demonstration project applications shall be reviewed as specified in the same manner as other applications for the same type of underlying land use permit (see BIMC 2.16.030 through 2.16.210), with additional review steps done in the order outlined in BIMC 2.16.040 (Site plans and design review), 2.16.070 (Short subdivisions), 2.16.110 (Major conditional use permit), 2.16.125 (Preliminary long subdivisions), and as outlined in this subsection.

a. Conceptual Proposal Review. Applicants proposing a demonstration project shall meet with city staff during the conceptual phase to discuss the goals and evaluation parameters of the proposed project. The conceptual proposal review is an informal discussion between the applicant and city staff regarding a proposed project. There are no required application materials for this stage. Applicants shall contact the planning department staff to request a meeting, and the meeting shall be scheduled by staff for no more than three weeks after the request date. The purpose of the conceptual proposal review is to determine if the proposal is eligible to be considered as an application for a housing design demonstration project and to assist the applicant by identifying (i) requirements for submittal, including types of supplemental materials for application; (ii) compliance with applicable city plans, goals, policies, codes, or guidelines and possible revisions to the project that will enhance the proposal with respect to these requirements; (iii)

areas of BIMC Titles 17, Subdivisions and Boundary Line Adjustments, and 18, Zoning, where the applicant seeks flexibility; and (iv) required plans, studies, reports, and/or other materials specific to the proposal that will provide necessary information for staff and the design review board, and to review the project under the criteria outlined in subsection S.4 of this section.

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

c. Application Submittal. An applicant may submit a land use permit application (subdivision, site plan and design review, or conditional use permit) for a housing design demonstration project after completion of a required conceptual and preapplication review and notification by the city that the proposal qualifies as a housing design demonstration project. Upon receipt of an application, the director shall provide notice to the applicant and public in accordance with subsection M of this section and commence the application review process. Housing design demonstration projects that require more than one land use permit must utilize the consolidated project review process outlined in BIMC 2.16.170. All housing design demonstration project applications, including subdivisions, shall be reviewed by the design review board and the planning commission at public meetings. The design review board and the planning commission shall make recommendations on all housing design demonstration projects.

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

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

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

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

Table 2.16.020.S-1: Housing Design Demonstration Project Scoring System		
Density Incentives	Requirements to Receive Incentives	
	Green Building and Innovative Site Development	Housing Diversity
2.5 x Base Density (for properties in residential zones) OR Max. Bonus Mixed-Use FAR (for properties in the MUTC and HS Road zoning districts)	- LEED Silver, BuiltGreen 4, or Evergreen Sustainable Development - Project meets innovative site development methods requirements of subsection S.4.b of this section	50% affordable housing - Home size not larger than 1,600 sq. ft.
NOTE: For required affordable housing units:		
- Required affordable housing units must serve low-income households with an income less than or equal to 80% AMI. (See BIMC 18.21.020.A and 18.36.030.) - Rental projects: 50% of required affordable house units must serve households with an income less than or equal to 60% AMI. - Accessory dwelling units (ADUs) are not counted towards meeting affordable housing requirements of the HDDP program.		

a. Housing Diversity. Evaluation will review:

- i. Unit Size. HDDP housing units cannot be larger than 1,600 square feet; and
 - ii. Affordable Housing. The project includes at least 50 percent of housing units that are affordable to households at or below low-income, as described in Chapter 18.21 BIMC, Affordable Housing, and BIMC 18.36.030. For rental projects: 50 percent of required affordable housing units must serve households with an income less than or equal to 60 percent AMI. Designated affordable housing shall remain affordable for 99 years from the time of final inspection on the affordable unit. The applicant shall record covenants that demonstrate how the unit will remain affordable and be managed for 99 years. Any ADUs constructed on lots where the primary unit is designated as required affordable housing must also be maintained as designated affordable housing.
- b. Innovative Site Development. All HDDP projects will follow the Washington State Department of Ecology's 2019 Stormwater Management Manual for Western Washington. The project must integrate at least two of the 14 sustainable site methods listed across the four sustainable site categories below (water quality and conservation, landscaping, open space, and transportation). For projects which designate at least 75 percent of units as affordable housing, compliance with the innovative site development requirements is optional, not required.

- i. Water Quality and Conservation. Projects use methods to decrease water usage and improve stormwater runoff quality through an integrated approach to stormwater management such as:

(A) Greywater. At least 30 percent of dwelling units integrate greywater use.

(B) Cisterns. At least 30 percent of total project roof area stormwater collection is directed to cisterns.

(C) Green Roofs. At least 30 percent of total project roof area qualifies as a “green” or vegetated roof.

(D) Covered Parking. At least 80 percent of total project parking spaces are covered (e.g., parking garage, carport).

ii. Landscaping. The project uses low maintenance landscaping and limits the amount of lawn in private yards in favor of common open space. Projects are encouraged to use cisterns to collect rainwater for irrigation or garden use.

(A) Native or Drought Tolerant Plants. Project landscaping integrates at least 60 percent native or drought tolerant plants.

(B) Private Yards. All private yard areas within the project designed to have less than or equal to 20 percent turf/grass.

(C) Heritage Trees. The project preserves one or more tree that has been approved as a “heritage tree” under the city’s program.

iii. Common Open Space. The project provides connected common open space area set aside as active open space and designed and integrated into the project. The open space could include active elements such as a neighborhood garden/pea patch and composting facilities, or a playground. Critical areas and their buffers and required roadside buffers do not contribute to “common open space” under the housing design demonstration project program.

(A) Open Space. The project integrates at least 25 percent of the lot area as common open space.

(B) Neighborhood Garden. The project incorporates a neighborhood garden or pea patch.

iv. Transportation. The project uses a design that provides enhanced sensitivity to pedestrian and bicycle travel and internally preserves existing informal, internal connection to external trail(s), or creates new connections where appropriate, to implement the Island-Wide Transportation Plan (IWTP). The project design strives to reduce reliance on automobiles and trip counts, and promotes alternative transportation and public transit.

(A) Electric Vehicle (EV) Charging. The project integrates EV charging facilities for at least 10 percent of vehicle parking capacity, locating rechargeable electric vehicle (EV) parking in a conspicuous and preferred location close to a main building entrance.

(B) Car Sharing. The project integrates a parking space for a vehicle sharing program, such as Zipcar™.

(C) Public Nonmotorized Facilities. The project provides public walkways, sidewalks, separated paths, or bike lanes not otherwise required by the IWTP. Facility location and design is subject to approval by the department of public works.

(D) Covered Bike Parking. The project provides covered, consolidated bike parking.

(E) Bus Shelter. The project provides a covered bus shelter(s) for Kitsap Transit and school bus riders. Shelter location and design must be consistent with any Kitsap Transit, city, or school district requirements.

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

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

- a. The applicant clearly demonstrates that the evaluation factors listed in subsection S.4 of this section will be met, as evaluated by the planning and public works departments;
- b. The applicant has demonstrated how relief from specific development standards, including setback reductions, lot coverage and/or design guidelines, is needed to achieve the desired innovative design and the goals of this chapter;
- c. The project does not adversely impact existing public service levels for surrounding properties;
- d. The project complies with all other portions of the BIMC, except as modified through this housing design demonstration project process;
- e. If a project will be phased, each phase of a proposed project must contain adequate infrastructure, open space, recreational facilities, landscaping and all other conditions of the project to stand alone if no other subsequent phases are developed; and
- f. The applicant is meeting required housing diversity standards. Management of long-term affordability for designated affordable housing will be monitored through the use of recorded covenants and/or other agreements.

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

- a. Minimum Lot Dimensions and Size. Reductions in lot size or dimensions are subject to approval by Kitsap County health district.
- b. Maximum Lot Coverage. Maximum lot coverage can be increased above zoning district requirements with no maximum.
- c. Natural Area. For MUTC projects developed under BIMC Title 17, the prescriptive natural area requirements in Table 17.12.070-1 do not apply. Instead, the project shall integrate at least 50 square feet of natural area per unit.
- d. Residential Parking. The parking requirements outlined in BIMC 18.15.020 may be modified to require one parking space for homes under 800 square feet and one and one-half parking spaces for homes between 800 and 1,200 square feet. This reduction may not be combined with any other reductions to result in less than one space per unit, and additional guest parking may be required pursuant to Table 18.15.020-1. A limited number of parking spaces may be designed to accommodate alternative fuel or subcompact vehicles such as Smart™ cars, with parking stall dimensional standards reduced from the standards outlined in BIMC 18.15.020.J. The applicants are encouraged to work with neighboring property owners to ensure street parking is not overburdened. If the project is requesting a reduction in required parking through the housing design demonstration project program, then the development shall integrate at least one guest parking space for every five dwelling units.

- i. For projects which designate 100 percent affordable housing and within one mile of the ferry terminal, for units less than 900 square feet in size, the parking requirement is reduced to one-half space per unit.
- e. Setbacks. Unless required for public safety purposes, such as sight distance, setbacks may be reduced as described below. This section does not supersede lesser setback requirements in the MUTC/HS Road district zones, as outlined in Tables 17.12.070-1 and 18.12.020-3, as applicable.

- i. Zoning Setback Reductions.

- (A) Front setback within project: 10 feet.
- (B) Rear setback within project: minimum of five feet.
- (C) Side setback within project: minimum of five feet.

- ii. Subdivision Setback Reductions.

- (A) All interior subdivision setbacks: zero feet.
- (B) Building to exterior subdivision boundary: five feet.
- (C) Building to right-of-way or on-site private access: 10 feet.

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

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

- a. Minimum Lot Dimensions and Size. Reductions in lot size or dimensions are subject to approval by Kitsap County health district.
- b. Maximum Lot Coverage. Maximum lot coverage can be increased above zoning district requirements with no maximum.
- c. Natural Area. For residentially zoned projects developed under BIMC Title 17, the prescriptive natural area requirements in Table 17.12.070-1 do not apply. Instead, the project shall integrate at least 400 square feet of natural area per unit.
- d. Residential Parking. The parking requirements outlined in BIMC 18.15.020 may be modified to require one parking space for homes under 800 square feet and one and one-half parking spaces for homes between 800 and 1,200 square feet. This reduction may not be combined with any other reductions to result in less than one space per unit, and additional guest parking may be required pursuant to Table 18.15.020-1. A limited number of parking spaces may be designed to accommodate alternative fuel or subcompact vehicles such as Smart™ cars, with parking stall dimensional standards reduced from the standards outlined in BIMC 18.15.020.J. The applicants are encouraged to work with neighboring property owners to ensure street parking is not overburdened. If the project is requesting a reduction in required parking through the housing design demonstration project, then the development shall integrate at least one guest parking space for every five dwelling units.

- i. For projects which designate 100 percent affordable housing and within one mile of the ferry terminal, for units less than 900 square feet in size, the parking requirement is reduced to one-half space per unit.
- e. Setbacks. Unless required for public safety purposes, such as sight distance, zoning and subdivision setbacks may be reduced as described below. This section does not supersede lesser setback requirements as outlined in Tables 17.12.070-1 and 18.12.020-2, as applicable. Additional vegetative landscaping screen may be required by the director when reducing setbacks.

- i. Zoning Setback Reductions.

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

- ii. Subdivision Setback Reductions.

- (A) All interior subdivision setbacks: zero feet.

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

8. Density Bonus Incentives. An increase in residential base density may be permitted as outlined in Table 2.16.020.S-1.

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

10. Demonstration Period. This subsection S and related provisions of BIMC Titles 2, 17, and 18 shall expire when an updated affordable housing program is adopted to replace code provisions of BIMC 18.12.030.D and .E and Chapter 18.21 BIMC.

T. Computing Time. Unless otherwise specified, all time frames in this BIMC Section 2.16 are indicated as calendar dates pursuant to RCW 36.70B.080(1)(g), as now exists and subsequently amended.

Exhibit B

BIMC 2.16.040

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

B. Applicability.

1. Site plan and design review shall be required prior to the issuance of construction permits in any of the following circumstances:

- a. The new construction of a nonresidential building or other structure; or
- b. The expansion, remodel, or alteration of any building ~~or other structure~~ by more than five percent of its existing floor area or facade, ~~or, in the case of structures with no floor area, the expansion, remodel, or alteration by more than five (5) percent of overall size in cases where floor area is not applicable;~~ or expansion that creates a new dwelling unit; or
- c. A change of use, where traffic, parking, noise or other impacts are greater than the impacts for the previously existing use, as determined by the director; or
- d. The construction of new wireless communication support structures (but not the location of wireless facilities on existing buildings).

2. Exemptions. The following types of activities shall not require site plan and design review pursuant to this section. Properties within jurisdiction of the shoreline master program, as defined by Chapter 16.12 BIMC, or containing critical areas or critical area buffers, as defined by Chapter 16.20 BIMC, may require review pursuant to those chapters.

- a. Permits authorizing residential construction for detached single-family residential use and accessory dwelling units.
- b. Any activity that does not require a building permit, or any activity is not considered a change in use, as determined by the director.
- c. Any activity on the exterior of a building that does not exceed 25 percent change in any existing facade or roof form.
- d. Interior work that does not alter the exterior of the structure or affect parking standards; provided that the application does not result in the following: as determined by the director.

i. additional sleeping quarters or bedrooms;

ii. nonconformity with federal emergency management agency substantial improvement thresholds; or

iii. increase the total square footage or valuation of the structure thereby requiring upgraded fire access or fire suppression systems.

e. Normal building maintenance and repair.

f. Maintenance or expansion of existing parks where the proposed activities are exempt from SEPA review in accordance with WAC 197-11-800.

g. Construction of public communications towers.

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

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

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

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

D. Review Procedures – Proposal Stage. Review of site plan and design review proposals shall include all of the following in the order listed:

1. Preapplication Conference. The applicant shall participate in a preapplication conference in accordance with the provisions and requirements in BIMC [2.16.020.I](#).

2. Conceptual Review. The conceptual review will be held at a meeting of the design review board. The applicant will present a short project description, zoning summary, and a thorough narrative of design context in accordance with the Design for Bainbridge manual and appendices. This meeting is a means of providing feedback on projects in their earliest stages before applicants are committed to a particular design. The conceptual review is an opportunity to ensure that the applicant understands the design review process, and the design standards and guidelines. This early touch allows the design review board and applicant to consider optional concepts for a project that may be better suited to the Island community, to dialogue in an informal manner with the applicant, and review the design standards and guidelines applicable to the project. Project design submittal requirements are described in the Design for Bainbridge appendices.

3. Public Participation Meeting. As part of the project proposal phase, applicants are required to participate in a community meeting through the city's public participation program at a planning commission meeting and as outlined in Resolution No. 2021-07. The public participation meeting is a meeting of public engagement, and the applicant's opportunity to respond to questions, comments, and assessments of the proposed project.

A second public participation meeting may be required if significant project changes occur after completion of the design guidance review.

4. Design Guidance Review. The design guidance review will be held at a meeting of the design review board. The design guidance review meeting is intended to provide input and guidance to an applicant that the proposed project is responding adequately to the Design for Bainbridge standards and guidelines, including recommendations for how the project could be revised to achieve greater consistency. The applicant shall also make known the potential need and rationale for any departure from the design standards and guidelines. The design submittal requirements are described in the Design for Bainbridge appendices. Additional design guidance review may be required if significant project changes occur after the initial design guidance review.

5. Final Design Review and Recommendation. The design review board reviews and makes a final determination of project consistency with Design for Bainbridge standards and guidelines. The design review board will forward written findings, their determination of the project's consistency with the standards and 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 standards or guidelines. The design review board's written findings will be included in the staff report transmitted to the director or planning commission. The design review board shall recommend approval, approval with conditions or departures, or denial. A design review board recommendation is not a final decision and therefore there is no appeal of the recommendation. The planning commission may determine that additional design review is required if significant project changes occur following the final design review and recommendation.

E. Review Procedures – Application Stage. Review of site plan and design review applications shall include all of the following:

1. Application. An applicant may submit an application for site plan and design review at any time after completion of the required steps in subsection D of this section or approval of a waiver in accordance with BMC [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 Planning Commission.

- a. In the case of a major site plan and design review application, the planning commission shall review the application prior to the review and final decision by the director.

- b. The purpose of the planning commission review and recommendation meeting is to review a proposed project for consistency with applicable design guidelines, BIMC Title [17](#), 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 will be included in the staff report transmitted to the director. The planning commission's recommendation shall be given substantial weight by the director in making a decision.
- f. A planning commission recommendation is not a final decision and therefore there is no appeal of the recommendation.

5. 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, in the case of major site plan and design review applications, the recommendations of the planning commission, and shall make a final decision based on:
 - i. In the case of a minor site plan and design review application, the final decision on an application is made by the director based on (A) decision criteria in subsection F of this section, (B) the DRB recommendation, and (C) consideration of any public comments received.
 - ii. In the case of a major site plan and design review application, the director will make the final decision based on (A) the decision criteria in subsection F of this section, (B) the recommendation of the planning commission, (C) the recommendation of the design review board, and (D) consideration of any public comments received. The design review board's and planning commission's recommendations shall hold substantial weight in the consideration of the application by the director. Any deviation from those recommendations shall be documented in the director's report.
- b. 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.
- c. The director shall adopt a planning commission recommendation of denial of an application unless the director concludes that the recommendation:

- i. Reflects inconsistent application of design guidelines, the comprehensive plan, or any applicable provisions of this code;
- ii. Exceeds the authority of the design review board or planning commission;
- iii. Conflicts with SEPA conditions or other regulatory requirements applicable to the project; or
- iv. Conflicts with requirements of local, state, or federal law.

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

- a. If requested by the applicant, a site plan and design review application that is part of a proposal requiring multiple land use permits may be combined in a consolidated project review. Related applications requiring a public hearing shall be considered at one public hearing in accordance with BIMC [2.16.170](#).
- b. If a site plan and design review application is part of a consolidated project, the director will review the site plan and design review application as prescribed under subsection E.6.a or E.6.b of this section, as appropriate, and forward the findings and decision to the appropriate hearing body for any required public hearing.

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, design guidelines, the comprehensive plan, and applicable subarea and master plans; 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; and
- 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. No harmful or unhealthful conditions are likely to result from the proposed site plan; and

7. 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

8. 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

9. 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; and

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

11. The site plan and design has been prepared consistent with the purpose and review procedures of this chapter.

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

H. Adjustments to Approved Site Plan.

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

2. Adjustments other than minor adjustments to an approved site plan and design review require a new or amended application as determined by the director. Major adjustments are those that change the basic design, intensity, density, or character of the use.

SB 5290 Code Amendments

City of Bainbridge Island Planning Commission
September 26, 2024

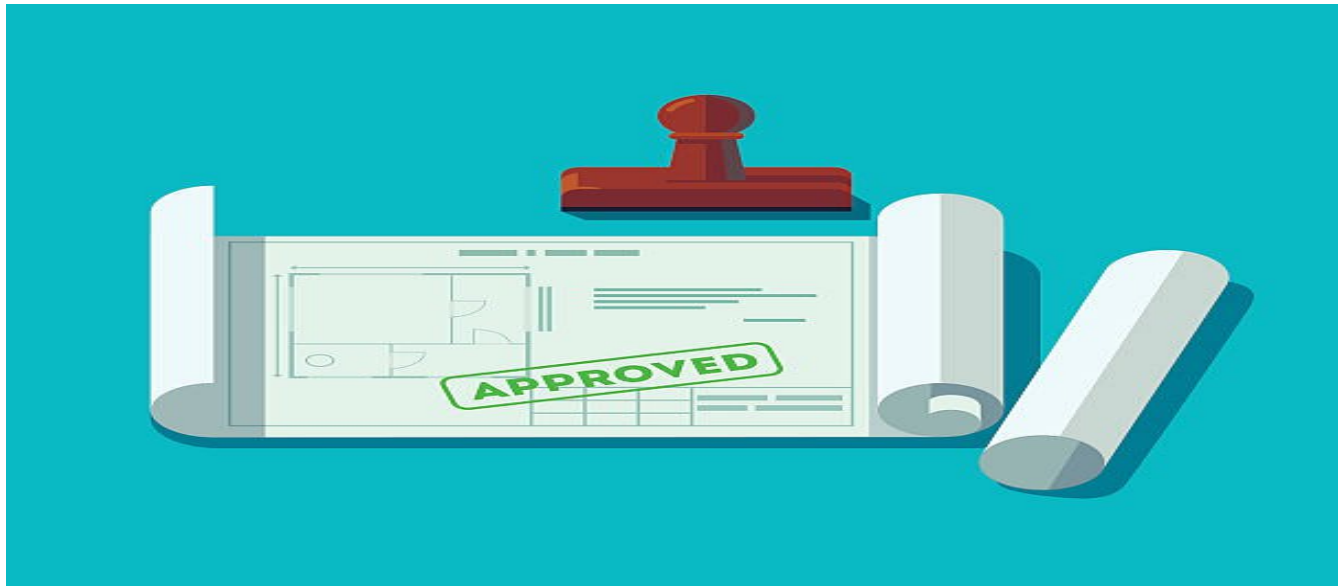
Emily Romanenko, City Attorney's Office



OGDEN
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WALLACE
ATTORNEYS

What is SB 5290?

- Senate Bill 5290 (SB 5290) was enacted by the Washington State Legislature in 2023.
- SB 5290 amends Chapter 36.70B RCW, which establishes the required processes for reviewing land use permits.
- SB 5290 changes the requirements for determinations of completeness for project permit applications.
- SB 5290 also changes maximum permit review timelines (shot clocks).
- Most section of SB 5290 went into effect July 23, 2023 but Section 7 (shot clocks) goes into effect January 1, 2025.

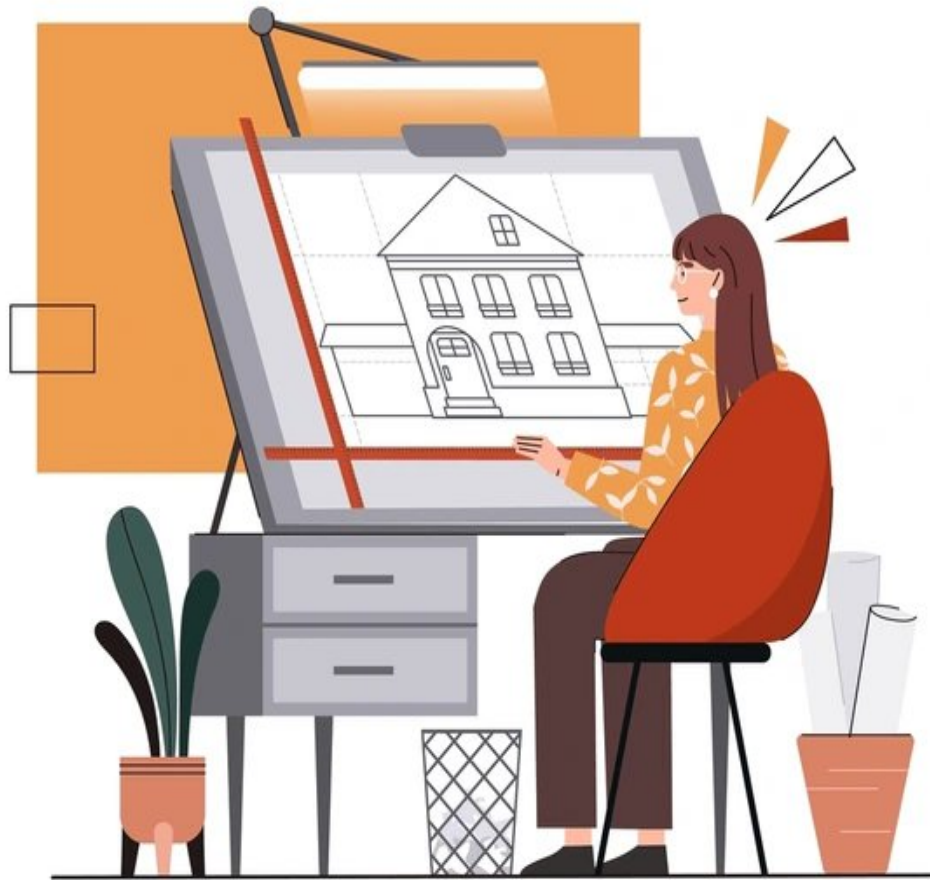


Recommended Code Changes

- BIMC 2.16.020(J) Application
 - Application Submittal Requirements
 - Determination of Complete Application
- BIMC 2.16.020(L) Application Time Frames
 - Time Periods for Issuing Final Decisions
 - Conflict Precedence
 - Time periods permit review shot clock is paused
 - Time periods excluded from permit review shot clock
- BIMC 2.16.020(M) Notice Requirements
 - Notice of Complete Land Use Application
- BIMC 2.16.020(T) Computing Time (new section)



Recommended Code Changes: 2.16.040



- BIMC 2.16.040(B):
Applicability
 - Site plan and design review required
 - Exemptions from site plan and design review

Next Steps 2024

September 26

- First Touch by PC
- Public Hearing

October 22

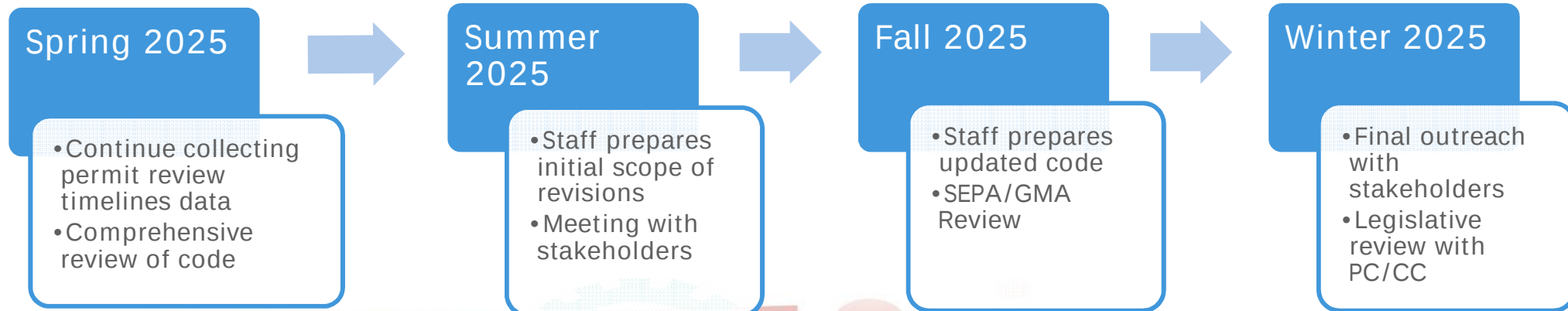
- First Touch by City Council
- Review of PC recommendations

November 12

- Second Touch by City Council
- Adoption



Next Steps 2025





Emily Romanenko
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CITY OF
BAINBRIDGE ISLAND

Planning Commission Regular Meeting Agenda Bill

MEETING DATE: September 26, 2024

ESTIMATED TIME: 20 Minutes

AGENDA ITEM: Discussion of DEIS Topics, continued: Utilities and Housing

AGENDA CATEGORY: Discussion

PROPOSED BY: Patricia Charnas

**PREVIOUS PLANNING COMMISSION
REVIEW DATE(S):**

PREVIOUS COUCIL REVIEW DATE(S):

RECOMMENDED MOTION:
Discussion

SUMMARY:

The Planning Commission is using the period during public review and comment to discuss major topics and areas of controversy related to the Draft Environmental Impact Statement (DEIS) analysis of alternatives for the updates to the Winslow Subarea Plan and the Comprehensive Plan. Tonight, the Planning Commission will discuss Utilities and Housing. The City Engineer will join the discussion. Illustrative slides were not available at the time of this publication but will be presented.

BACKGROUND: On July 26, 2024 the City published a Draft Environmental Impact Statement (DEIS) analyzing three alternatives to accommodate and manage growth in population and in housing for the next 20 years (2024-2044). The three alternatives were prepared using policy guidance from existing adopted plans and from Planning Commission and City Council work on alternatives for Winslow Town Center. During the 77-day public comment period, the Planning Commission is using its meeting times to discuss key topics and areas of controversy related to this large project. The Planning Commission discussed capacity, targets, gaps and housing at its last meeting. This meeting will discuss utilities and housing. Future meetings will discuss transportation and climate.

ATTACHMENTS:



CITY OF
BAINBRIDGE ISLAND

Planning Commission Regular Meeting Agenda Bill

MEETING DATE: September 26, 2024

ESTIMATED TIME: 15 Minutes

AGENDA ITEM: Madison Avenue Raised Crosswalk Noise Variance

AGENDA CATEGORY: Review and
Recommendation

PROPOSED BY: Patricia Charnas

**PREVIOUS PLANNING COMMISSION
REVIEW DATE(S):**

PREVIOUS COUCIL REVIEW DATE(S):

RECOMMENDED MOTION:

I move to approve the noise variance for the Madison Avenue raised crosswalk for the period September 27 to September 30, 2024.

SUMMARY:

A noise variance is requested for intermittent night work on the Madison Avenue Bundled Project to construct raised concrete crosswalks beginning the night of Friday, September 27, 2024 through the early morning of Monday, September 30, 2024.

BACKGROUND: A variance from the noise standards may be granted by the Planning Commission (BIMC 16.16.030). Maximum environmental noise levels are established pursuant to BIMC 16.16.020 wherein WAC 173-60-040 standards are adopted by reference. WAC 173-060-040 establishes maximum permissible environmental noise levels during both daytime and nighttime hours.

ATTACHMENTS:

Land Use Application

Supporting documents are required for project review.

See the [Administrative Manual for Planning Permits](#) and [Fee Schedule](#) for permit submittal requirements and fees.

Property Owner(s)	Site Address	Parcel Numbers
City of Bainbridge Island	8500 block of Madison Avenue N	right-of-way

Select Application Type: 

Select Application Type:

Consolidated Review Requested ([BIMC2.16.070](#)) Yes ☐ No ☐

Project Name and Description

Madison Avenue Bundled Project Raised Crosswalks Construction

The City's Madison Avenue Bundled Project will construct three (3) raised concrete crosswalks along Madison Avenue between Kimiko Lane and the Aquatic Center/Sakai Park entrance. The current contract restricts the City's contractor from working in the construction area during school pick-up and drop-off. To construct the concrete crosswalks forms must be installed and concrete poured and hardened over a duration of 3 days to accept traffic and cannot be performed in the limited time window between school pick-up and drop-off. The work will begin after on September 27th, Friday afternoon after school pickup and extend through the night. Form stripping and project work area opening will occur in the early AM hours before school resumes the following Monday, September 30.

The work area is within 100 feet of a residential zone. The nearest residences are located at Sakai Village at Komiko Lane.

City of Bainbridge Island
Department of Planning & Community Development
280 Madison Ave N
Bainbridge Island, WA 98110
PermittingSubmittal@bainbridgewa.gov

Project Contacts

Applications must be submitted by the property owner or the owner's designated agent.
Name of Authorized Agent section must be completed if application is submitted by a designated agent.

Property Owner	City of Bainbridge Island
Mailing Address:	280 Madison Avenue N.
	City of Bainbridge Island, WA 98110
Email:	pcorelis@bainbridgewa.gov
Phone:	(206) 780-3759
Name of Authorized Agent	Peter Corelis, City Engineer, Public Works Dept.
Mailing Address:	same as above
Email:	
Phone:	

Statement of Affirmation **REQUIRED**

I affirm, under penalty of perjury, that all answers, statements, and information submitted with this application are correct and accurate to the best of my knowledge. I also affirm that I am the owner or designated agent of the subject site. Further, I grant permission to any and all employees and representatives of the City of Bainbridge Island and other governmental agencies to enter upon and inspect said property as reasonably necessary to process this application.

Peter Corelis

Owner Name - Print

P.S. Corelis

Owner Name - Signature

9/19/20

Date

Owner Name - Print

Owner Name - Signature

Date

Agent Name and Business Name - Print

Agent Name - Signature

Date

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MADISON AVENUE BUNDLED PROJECT RAISED CROSSWALK - NOISE VARIANCE

