

ORDINANCE NO. 2019-24

AN ORDINANCE of the City of Bainbridge Island, Washington, relating to Site Plan and Design Review and Conditional Use Permit Decision Criteria and public participation meetings for short plats, revising Sections 2.16.040, 2.16.050, 2.16.070, 2.16.110, 18.09.020, 18.09.030, and 18.36.030, of the Bainbridge Island Municipal Code.

WHEREAS, the City Council of the City of Bainbridge Island (“City”) updated the City’s Comprehensive Plan in February of 2017; and

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

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

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

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

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

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

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

WHEREAS, concurrent with their review of this ordinance, in the summer and fall of 2018, the Planning Commission also reviewed Ordinance 2019-33, which proposes a number of “housekeeping” or clarifying changes to BIMC Title 2 and Title 18; and

WHEREAS, the Planning Commission held a public hearing on Ordinance 2019-33 on October 24, 2018; and

WHEREAS, in addition to the clarifying changes, Ordinance 2019-33 proposes to remove the portion of the new short plat process (BIMC 2.16.070) that was added in December 2018 with the approval of Ordinance 2018-20 to require a public participation meeting at the preapplication phase of a project; and

WHEREAS, since the public participation meetings are time-sensitive and are scheduled concurrent with a preapplication conference, scheduling these public participation meetings means that other Planning Commission agenda items are postponed or have abbreviated discussions; and

WHEREAS, since this requirement was approved, the City has taken eight short plat proposals to the Planning Commission for a public participation meeting, and even though these small projects, subdividing into four or fewer lots, do not usually generate much interest or controversy, this requirement takes up City resources for noticing and critical agenda time at Planning Commission meetings; and

WHEREAS, the Planning Commission agreed that public participation meetings were more appropriate for larger projects, and through their work on Ordinance 2019-33, recommended on October 24, 2019 that this new requirement should be repealed in order to ensure Planning Commission agenda time for review of larger development projects and legislative work; and

WHEREAS, Ordinance 2019-24 is being reviewed by the City Council prior to Ordinance 2019-33, and the Planning Commission's recommendation is to promptly remove the requirement that short plats hold a public participation meeting to ensure that the Planning Commission is able to discuss higher priority items on their agenda, and therefore has combined this code amendment to BIMC 2.16.070 into Ordinance 2019-24; and

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

WHEREAS, the City Council discussed Ordinance 2019-24 on November 26 and again on December 10.

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

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

Section 2. Section 2.16.070.D. of the Bainbridge Island Municipal Code is hereby amended as follows:

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

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

Section 4. Sections 18.09.030.C., *Use Specific Standards*, of the Bainbridge Island Municipal Code is hereby amended as shown in Exhibit C.

Section 5. Section 18.36.030, *Definitions*, of the Bainbridge Island Municipal Code is hereby amended as follows:

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

Section 6. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared invalid or unconstitutional for any reason, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 7. This ordinance shall take effect and be in force five (5) days after its passage, approval, and publication as required by law.

PASSED by the City Council this 10th day of December, 2019.

APPROVED by the Mayor this 10th day of December, 2019.


Kol Medina, Mayor

ATTEST/AUTHENTICATE:


Christine Brown, CMC, City Clerk

FILED WITH THE CITY CLERK:	November 21, 2019
PASSED BY THE CITY COUNCIL:	December 10, 2019
PUBLISHED:	December 13, 2019
EFFECTIVE DATE:	December 18, 2019
ORDINANCE NUMBER:	2019-24

ATTACHMENTS: Exhibits A – C

EXHIBIT A “CLEAN COPY”

2.16.040 – Site Plans and Design Review

- F. Decision Criteria. The director and planning commission shall base their respective recommendations or decisions on site plan and design review applications on the following criteria:
1. The site plan and design is consistent with all applicable provisions of the BIMC; and
 2. The locations of the buildings and structures, open spaces, and landscaping result in a context sensitive design; and;
 3. The Kitsap Public Health District has determined that the site plan and design meets the following decision criteria:
 - a. The proposal conforms to current standards regarding domestic water supply and sewage disposal; or if the proposal is not to be served by public sewers, then the lot has sufficient area and soil, topographic and drainage characteristics to permit an on-site sewage disposal system; and
 - b. If the health district recommends approval of the application with respect to those items in subsection F.3.a of this section, the health district shall so advise the director; and
 - c. If the health district recommends disapproval of the application, it shall provide a written explanation to the director.
 4. The streets and nonmotorized facilities, as proposed, are adequate to accommodate anticipated traffic; and
 5. The city engineer has determined that the site plan and design meets the following decision criteria:
 - a. The site plan and design conforms to regulations concerning drainage in Chapters 15.20 and 15.21 BIMC; and
 - b. The site plan and design will not cause an undue burden on the drainage basin or water quality and will not unreasonably interfere with the use of properties downstream; and
 - c. The streets, nonmotorized facilities, locations of the buildings, structures, and vehicular circulation systems as proposed align with and are otherwise coordinated with streets and nonmotorized facilities serving adjacent properties and are adequate, safe, efficient and consistent with the Island-Wide Transportation Plan; and
 - d. If a traffic study shows that the proposed development will have an adverse impact on traffic, including nonmotorized traffic, the impact shall be mitigated as required by the city engineer; and
 - e. If the site will rely on public water or sewer services, there is capacity in the water or sewer system (as applicable) to serve the site, and the required service(s) can be made available at the site; and
 - f. The site plan and design conforms to the “City of Bainbridge Island Engineering Design and Construction Standards and Specifications,” unless the city engineer has approved a deviation from the standards; and
 6. The site plan and design is consistent with applicable design guidelines in BIMC Title 18; and
 7. No harmful or unhealthful conditions are likely to result from the proposed site plan; and
 8. The site plan and design is consistent with the comprehensive plan and other applicable adopted community plans; and
 9. If the subject property contains a critical area or buffer, as defined in Chapter 16.20 BIMC, the site plan and design review permit conforms to all requirements of that chapter; and
 10. If the subject property is within the shoreline jurisdiction, as defined in Chapter 16.12 BIMC, the site plan and design review permit conforms to all requirements of that chapter; and
 11. If the applicant is providing privately owned open space and is requesting credit against dedications for park and recreation facilities required by BIMC 17.20.020.C, the requirements of BIMC 17.20.020.D have been met;
 12. The Bainbridge Island Fire Department has reviewed the application and determined that the site plan has been properly designed to ensure fire protection; and
 13. The site plan and design has been prepared consistent with the purpose and review procedures of this chapter.

EXHIBIT A "CLEAN COPY"

2.16.050 – Minor conditional use permit

- D. Nonagricultural Minor Conditional Use Decision Criteria. A nonagricultural minor conditional use or an agricultural research facility may be approved if:
1. The conditional use is consistent with applicable design guidelines in BIMC Title 18. The conditional use is compatible with the established and intended character of the neighborhood, considering factors that include but are not limited to, hours of operation, the type of activities generated by the use, and the predictable levels of any adverse impacts; and
 2. The conditional use will not be materially detrimental to uses or property in the immediate vicinity of the subject property; and
 3. The conditional use is consistent with the comprehensive plan and other applicable adopted community plans, including the Island-Wide Transportation Plan; and
 4. The conditional use complies with all other applicable provisions of the BIMC; and
 5. All necessary measures have been taken to eliminate or reduce to the greatest extent possible the impacts that the proposed use may have on the immediate vicinity of the subject property; and
 6. Noise levels shall be in compliance with BIMC 16.16.020 and 16.16.040.A; and
 7. The streets and nonmotorized facilities as proposed are adequate to accommodate anticipated traffic; and
 8. The city engineer has determined that the conditional use meets the following decision criteria:
 - a. The conditional use conforms to regulations concerning drainage in Chapters 15.20 and 15.21 BIMC; and
 - b. The conditional use will not cause an undue burden on the drainage basin or water quality and will not unreasonably interfere with the use of properties downstream; and
 - c. The streets and nonmotorized facilities as proposed align with and are otherwise coordinated with streets and nonmotorized facilities serving adjacent properties and are adequate, safe, efficient and consistent with the Island-Wide Transportation Plan; and
 - d. If a traffic study shows that the use will have an adverse impact on traffic, including nonmotorized traffic, the impact shall be mitigated as required by the city engineer; and
 - e. If the conditional use will rely on public water or sewer services, there is capacity in the water or sewer system (as applicable) to serve the conditional use, and the required service(s) can be made available at the site; and
 - f. The conditional use conforms to the "City of Bainbridge Island Engineering Design and Construction Standards and Specifications," unless the city engineer has approved a deviation from the standards; and
 9. The Kitsap Public Health District has determined that the conditional use meets the following decision criteria:
 - a. The proposal conforms to current standards regarding domestic water supply and sewage disposal; or if the proposal is not to be served by public sewers, then the lot has sufficient area and soil, topographic and drainage characteristics to permit an on-site sewage disposal system; and
 - b. If the health district recommends approval or disapproval of the application the health district shall so advise the director.
 10. The Bainbridge Island Fire Department has reviewed the application and determined that the conditional use will be properly designed to ensure fire protection; and
 11. If a minor conditional use is processed as a housing design demonstration project pursuant to BIMC 2.16.020.S, the above criteria will be considered in conjunction with the purpose, goals, policies, and decision criteria of BIMC 2.16.020.S; and
 12. A conditional use may be approved or approved with conditions. If no reasonable conditions can be imposed that ensure the application meets the decision criteria of this chapter, then the permit shall be denied.

EXHIBIT A "CLEAN COPY"

E. Agricultural Conditional Use Decision Criteria.

1. As agriculture is a preferred use, conditional uses that are listed as agricultural uses in Table 18.09.020 (except for agricultural research facilities) may be approved if:
 - a. The conditional use will not be materially detrimental to uses or property in the immediate vicinity of the subject property; and
 - b. The conditional use is in accord with the comprehensive plan and other applicable adopted community plans, including the Island-Wide Transportation Plan; and
 - c. The conditional use will be served by adequate public facilities including roads, water, fire protection, sewage disposal facilities and storm drainage facilities; and
 - d. The conditional use complies with all other provisions of the BIMC.
2. Animal agricultural conditional uses that are in compliance with an existing conditional use permit may expand any structure or area used in the operation of the conditional use on January 1, 2012 (effective date of adoption), by up to 25 percent without applying for a new conditional use permit.

2.16.110 Major conditional use permit

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

1. The conditional use is consistent with applicable design guidelines in BIMC Title 18. The conditional use is compatible with the established and intended character of the neighborhood, considering factors that include but are not limited to, hours of operation, the type of activities generated by the use, and the predictable levels of any adverse impacts; and
2. The conditional use will not be materially detrimental to uses or property in the vicinity of the subject property; and
3. The conditional use is consistent with the comprehensive plan and other applicable adopted community plans, including the Island-Wide Transportation Plan; and
4. The conditional use complies with all other applicable provisions of the BIMC; and
5. All necessary measures have been taken to eliminate or reduce to the greatest extent possible the impacts that the proposed use may have on the vicinity of the subject property; and
6. Noise levels shall be in compliance with BIMC 16.16.020 and 16.16.040.A; and
7. The streets and nonmotorized facilities as proposed are adequate to accommodate anticipated traffic; and
8. The city engineer has determined that the conditional use meets the following decision criteria:
 - a. The conditional use conforms to regulations concerning drainage in Chapters 15.20 and 15.21 BIMC; and
 - b. The conditional use will not cause an undue burden on the drainage basin or water quality and will not unreasonably interfere with the use of properties downstream; and
 - c. The streets, nonmotorized facilities, locations of the buildings, structures, and vehicular circulation systems as proposed align with and are otherwise coordinated with streets and nonmotorized facilities serving adjacent properties and are adequate, safe, efficient and consistent with the Island-Wide Transportation Plan; and
 - d. If a traffic study shows that the use will have an adverse impact on traffic, including nonmotorized traffic, the impact shall be mitigated as required by the city engineer; and
 - e. If the conditional use will rely on public water or sewer services, there is capacity in the water or sewer system (as applicable) to serve the conditional use, and the required service(s) can be made available at the site; and
 - f. The conditional use conforms to the "City of Bainbridge Island Engineering Design and Construction Standards and Specifications" unless the city engineer has approved a deviation to the standards.

EXHIBIT A "CLEAN COPY"

9. The Kitsap Public Health District has determined that the conditional use meets the following decision criteria:
 - a. The proposal conforms to current standards regarding domestic water supply and sewage disposal; or if the proposal is not to be served by public sewers, then the lot has sufficient area and soil, topographic and drainage characteristics to permit an on-site sewage disposal system; and
 - b. If the health district recommends approval or disapproval of the application the health district shall so advise the director.
 10. The Bainbridge Island Fire Department has reviewed the application and determined that the conditional use will ensure fire protection.
 11. If a major conditional use is processed as a housing design demonstration project pursuant to BIMC 2.16.020.S, the above criteria will be considered in conjunction with the purpose, goals, policies, and decision criteria of BIMC 2.16.020.S.
 12. A conditional use may be approved, or recommended for approval, with conditions. If no reasonable conditions can be imposed that ensure the permit meets the decision criteria of this chapter, then the permit shall be denied.
- G. Additional Decision Criteria for Institutions in Residential Zones. Applications to locate any of those uses categorized as educational facilities, governmental facilities, religious facilities, health care facilities, cultural facilities, or clubs in Table 18.09.020 in residential zones shall be processed as major conditional use permits and shall be required to meet the following criteria, in addition to those in subsection F D of this section:
1. All sites must front on roads classified as residential suburban, collector, or arterial on the Bainbridge Island functional road classification map.
 2. The scale of proposed construction including bulk and height and architectural design features is compatible with the surrounding area.
 3. If the facility will have attendees and employees numbering fewer than 50 or an assembly seating area of less than 50, the director may waive any or all the above requirements in this subsection G, but may not waive those required elsewhere in the BIMC.
- H. Approval of Additional Height.
1. In the NC zone district a maximum height of 45 feet can be approved through the major conditional use permit process if the director determines that all conditional use permit requirements are met and that: (a) view opportunities are not substantially reduced; (b) fire flow is adequate; and (c) solar access of neighboring lots is not substantially reduced.
 2. In the B/I zone district a maximum height of 45 feet can be approved through the major conditional use process if the director determines that all conditional use permit requirements are met and that: (a) view opportunities are not substantially reduced; (b) fire flow is adequate; (c) solar access of neighboring lots is not reduced; and (d) the appearance of the neighborhood will not substantially change.
 3. In the WD-I zone district a maximum height of 45 feet can be approved through the major conditional use process if the director determines that all conditional use permit requirements are met and that: (a) view opportunities are not substantially reduced; (b) fire flow is adequate; (c) solar access of neighboring lots is not reduced; and (d) each setback requirement shall be increased one foot for each additional foot of building height allowed. In portions of the WD-I district located within the shoreline jurisdiction regulated by Chapter 16.12 BIMC, a shoreline variance may be needed before additional height can be approved.

EXHIBIT B

Table 18.09.020 Use Table (EXCERPT)

"P" = Permitted Use		"A" = Accessory Use									Additional use restrictions for Chapters 16.12 and 16.20 BIMC may apply to shoreline or critical area properties									
"C" = Conditional Use		"CA" = Conditional Accessory Use																		
Blank = Prohibited Use		"T" = Temporary Use																		
ZONING DISTRICT	R-0.4	R-1	R-2	R-2.9	R-3.5	R-4.3	R-5	R-6	R-8	R-14	Winslow Mixed Use Town Center					HSR I and II	NC	B/I	WD-I	Use-Specific Standards BIMC 18.09.030
USE CATEGORY/TYPE											CC	MA	EA	Gate	Ferry [1]					
PRINCIPAL USES																				
CULTURAL AND ENTERTAINMENT																				
Artist Studio											P	P	P	P	P	P	P	P		
Club	C	C	C	C	C	C	C	C	C	C	P	P	P	P	P	P	P		<u>C-8</u>	
Commercial Amusement											P	P	P	P	P	P	C			
Cultural Facility	C	C	C	C	C	C	C	C	C	C	P	P	P	P	P	P	C		<u>C-9</u>	
Entertainment Facility											P					P	C			

REVISED EXHIBIT C: Amendments Currently Codified in 2.16.110.G.7

BIMC Section 18.09.030.C Use Specific Standards: Public and Institutional. Applications to locate uses categorized as educational facilities, governmental facilities, religious facilities, health care facilities, cultural facilities, or clubs in Table 18.09.020 in residential zones shall be processed as major conditional use permits pursuant to BIMC 2.16.110.

1. Educational Facilities.

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

2. Governmental Facilities.

- a. In the WD-I district, governmental facilities are a conditional (“C”) use. Conference centers with overnight accommodations are not permitted.
- b. In the ferry terminal overlay district, governmental facilities are only allowed south of Winslow Way.
- c. Lot coverage for governmental facilities in the R-0.4 zoning district can be increased from 10 percent up to 15 percent. Governmental facilities in all other residential zoning districts shall be allowed 100 percent of the lot coverage established in the underlying zoning district where the ~~public educational~~ governmental facility is located, unless, conditions are required to limit the lot coverage to mitigate impacts of the use. See BIMC Table 18.12.020-2 for lot coverage standards in residential zones.

3. Religious Facilities.

- a. In the WD-I district, religious facilities are a conditional (“C”) use. Conference centers with overnight accommodations are not permitted.
- b. In the ferry terminal overlay district, religious facilities are only allowed south of Winslow Way.
- c. Lot coverage for religious facilities in residential zones is reduced by 50 percent of the allowable lot coverage in the zone where the religious facility is located. See BIMC Table 18.12.020-2 for lot coverage standards in residential zones.

7. Health Care Facilities.

- a. In the ferry overlay district, health care facilities are only allowed south of Winslow Way.
- b. Lot coverage for health care facilities in residential zones is reduced by 50 percent of the allowable lot coverage in the zone where the health care facility is located. See BIMC Table 18.12.020-2 for lot coverage standards in residential zones.

8. **Clubs.** Lot coverage for clubs in residential zones is reduced by 50 percent of the allowable lot coverage in the zone where the club is located. See BIMC Table 18.12.020-2 for lot coverage standards in residential zones.

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