

**ORDINANCE NO. 2011-21**

**AN ORDINANCE** of the City of Bainbridge Island, Washington, relating to processing of land use applications for long subdivisions to appoint the City's Hearing Examiner as the decision-maker on preliminary long subdivisions and amending BIMC Sections 2.14.010, 2.16.010, 2.16.100, 2.16.160, and adding BIMC Section 2.16.125.

**WHEREAS**, the City of Bainbridge Island has the authority to adopt subdivision provisions pursuant to RCW 36.70A.390; and

**WHEREAS**, review of preliminary long subdivisions includes consideration of complex land use and regulatory compliance issues related to road standards, utilities, drainage and other state and local requirements, and the City's Hearing Examiner has a great deal of expertise in these areas; and

**WHEREAS**, the City Council desires to have the Hearing Examiner serve as decision-maker on preliminary long subdivisions pursuant to RCW 35.63.130, RCW 35A.63.170 and RCW 58.17.330; and

**WHEREAS**, pursuant to RCW 36.70A.106, a 60-day notice was sent to the Washington State Department of Commerce on November 8, 2011; now therefore,

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

**Section 1.** BIMC Section 2.14.010 is hereby amended as follows:

**2.14.010 CITY COUNCIL**

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

- a. Preliminary and ~~final~~ final long subdivisions; and
- b. Site-specific rezones; and
- c. Consolidated project reviews where any element requires city council approval.

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

- a. Adoption or amendment of development regulations in this BIMC; and
- b. Adoption of comprehensive plan amendments; and
- c. Adoption of special area plans; and
- d. Area-wide rezones.

Section 2. BIMC Section 2.16.010 is hereby amended as follows:

## 2.16.010 LAND USE PROCEDURES SUMMARY TABLE

Table 2.16.010-1: Summary Table of Land Use Procedures						
R=Review & Recommendation, (R) = Optional Review, D=Decision, A=Appeal, P=Public Hearing, (P) = Optional Public Hearing						
	DRB	Planning Comm.	Director	Hearing Examiner	City Council	Courts
<b>Administrative Approvals</b>						
Clearing Permit			D	A		
Conversion Option Harvest Plan Permit			D	A		
Minor Conditional Use	(R)	(R)	D	A		
Minor Variance		(R)	D	A		
Agricultural Conditional Use			D	A		
Large Lot Subdivisions (Prelim)			D	A		
(Final)			D			A
Minor Shoreline Variance (See BIMC 16.12.360)[1]		(R)	D	A		A[2]
Public Works Administrative Decisions			D			A
SEPA Determinations			D	A		
Shoreline Substantial Development Exemption (See BIMC 16.12.360 and BIMC Table 16.12.150)			D	A		
Shoreline Substantial Development Permit (See BIMC 16.12.360) [1]		(R)	D	A		A[2]
Short Subdivisions (Prelim)			D	A		
(Final)			D	A		A
Sign Permits			D			A
Minor Site Plan & Design Review	(R)	(R)	D	A		
Major Site Plan & Design Review (any SPR in the B/I District must be processed through a Major SPR)	R	R	D	A		
All other administrative decisions: This includes agricultural retail plans, boundary line adjustments (See BIMC 2.16.090), building and other construction permits, building administrative decisions, clearing permits, BIMC interpretations, habitat management plans (See BIMC 16.20.060), wetlands special use review (See BIMC 16.20.160.G), buffer averaging (See BIMC 16.20.050.B), wetlands exemption (See BIMC 16.20.040.C), vegetation management permit (see BIMC 16.22.070), extension of construction noise hours (see BIMC 16.16.025), and any other administrative land use decision authorized by this code to be made by the director.						
			D	A		
<b>Quasi-Judicial Decisions by the Hearing Examiner</b>						
Conditional Use Permits	(R)	(R)	R	D/P		A

**Table 2.16.010-1: Summary Table of Land Use Procedures**

**R=Review & Recommendation, (R) = Optional Review, D=Decision, A=Appeal, P=Public Hearing, (P) = Optional Public Hearing**

	DRB	Planning Comm.	Director	Hearing Examiner	City Council	Courts
Variances		(R)	R	D/P		A
Reasonable Use Exception (See section 16.20.080)		(R)	R	D /P		A
Shoreline Variances (See BIMC 16.12) [1]		(R)	R	D /P		A[3]
Shoreline Conditional Use Permits [1]			R	D/P		A[3]
<u>Long Subdivisions</u> (Prelim)			<u>R</u>	<u>D</u>		<u>A</u>
<b>Quasi-Judicial Decisions by City Council</b>						
Long Subdivisions (Prelim)			R	R	D	A
----- (Final)			R		D	A
Site-specific Rezones		(R)	R	R/P	D	A
<b>Consolidated Project Review</b>						
See section 2.16.170						
<b>Legislative Approvals</b>						
Adoption or Amendment of Development Regulations		R/P	R		D (P)	A
Comprehensive Plan Amendments		R/P	R		D (P)	A
Legislative Area-wide Rezones		R/P	R		D (P)	A
Special Area Plans		R/P	R		D (P)	A
<p>[1] City decisions on Shoreline Variances, Shoreline Substantial Development Permits, and Shoreline Conditional Use Permits must be reviewed by the Washington Department of Ecology pursuant to WAC 173-27-130 and RCW 90.58.140(10). The Department of Ecology may approve, approve with conditions, or deny the application.</p> <p>[2] The Hearing Examiner's decision is forwarded to the Department of Ecology (DOE) for decision. The DOE decision is then appealable to the Shoreline Hearings Board. (See BIMC 16.12)</p> <p>[3] The Hearing Examiner's decision is forwarded to the Department of Ecology (DOE) for decision. The DOE decision is then appealable to the Shoreline Hearings Board. (See BIMC 16.12)</p>						

**Section 3.** BIMC Section 2.16.070.L is hereby amended as follows:

**L. FURTHER SUBDIVISION**

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

Section 4. BIMC Section 2.16.100 is hereby amended as follows:

## **2.16.100 QUASI-JUDICIAL REVIEW BY HEARING EXAMINER – IN GENERAL**

### **A. PURPOSE**

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

### **B. APPLICABILITY**

This section applies each time a provision of this code authorizes a recommendation or a final decision by the hearing examiner. The specific types of applications subject to review by the hearing examiner are listed in the Table in section 2.16.010. The provisions of this section are supplemented by more detailed provisions in BIMC 2.16.110, BIMC 2.16.120, BIMC 2.16.160, BIMC 16.12.380, and/or BIMC 16.20.080.

### **C. PROCEDURES**

#### **1. SEPA ENVIRONMENTAL REVIEW**

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

#### **2. PLANNING COMMISSION REVIEW AND RECOMMENDATION**

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

#### **3. SINGLE REPORT**

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

#### **4. PUBLIC HEARING**

The hearing examiner shall hold a public hearing prior to issuing a decision. The purpose of the public hearing is to review a proposed project for consistency with BIMC, appropriate elements of the comprehensive plan and all other applicable law, and to provide an opportunity for the public to comment on the project and its compliance with the municipal code, the comprehensive plan and all other applicable law. The hearing examiner shall maintain a record of the exhibits presented and a recording of the testimony and arguments presented, which shall be kept by the city clerk. Any rules of procedure for hearings adopted by the hearing examiner shall be kept on file with the office of the city clerk. A hearing may be continued to a date certain without additional notice.

#### **5. PARTICIPATION IN THE PUBLIC HEARING**

Any person may participate in the public hearing. The hearing examiner has discretion to limit testimony to relevant, non-repetitive comments and to set time limits.

#### **6. HEARING EXAMINER ACTION**

- a. The hearing examiner may approve, approve with conditions, deny or remand an application.
- b. In making a decision, the hearing examiner shall consider the applicable decision criteria of this code, all other applicable laws, recommendations of the planning commission and design review board, testimony presented at the hearing, and any necessary documents and approvals. In the case of decisions involving properties subject to the shoreline jurisdiction of BIMC 16.12 the hearing examiner shall also consider consistency with the requirements of the shoreline master program.
- c. The hearing examiner shall issue a written decision in accordance with BIMC 2.16.020.K.7, within ~~20~~ 10 working days of the public hearing, unless a longer period is agreed upon by the hearing examiner and the applicant or appellant. If the hearing examiner and the applicant or appellant agree on a longer period for issuance of the written decision, the examiner shall provide notice of the extension to the applicant or appellant, the city, and any person who testified at the hearing or submitted written testimony for consideration at the hearing.
- d. The hearing examiner shall file the decision with the city clerk's office.

#### **7. MOTION FOR RECONSIDERATION**

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

#### **8. CORRECTIONS OR CLARIFICATION**

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

## 9. EFFECT OF DECISION

- a. On matters that do not involve shoreline conditional uses or shoreline variances, the decision of the hearing examiner is the final decision of the city, subject to the appeal provisions in BIMC 2.16.020.P.
- b. Pursuant to RCW 90.58.140(10) and WAC 173-27-130, final decisions involving shoreline conditional use permits and shoreline variances are made by the Washington state department of ecology. For these types of applications, the hearing examiner's decision is a recommendation subject to approval, approval with conditions, or denial by that department.

## 10. REVOCATION OF QUASI-JUDICIAL APPROVALS

An approval or permit granted by the hearing examiner may be revoked by the hearing examiner following the procedures in this section 2.16.100 upon the finding of any one or more of the following:

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

Section 5. A new BIMC Section 2.16.125 is hereby added as follows:

### **2.16.125 PRELIMINARY LONG SUBDIVISIONS**

#### **A. PURPOSE**

This section provides a procedure for hearing examiner approval of preliminary long subdivision applications in compliance with the provisions of RCW Title 58, Chapter 17, and other applicable provisions of Washington state law.

#### **B. APPLICABILITY**

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

### C. PROCEDURE

1. Long subdivisions shall be approved through the quasi-judicial hearing examiner approval procedures described in Section 2.16.100 except as described below.
  - a. The provisions of this section 2.16.125 shall supplement those of sections 2.16.020 and 2.16.030 when the application is for a long subdivision. In the event of a conflict between the provisions of sections 2.16.020 or 2.16.030 and 2.16.125, the provisions of this section shall govern.

### D. VESTING

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

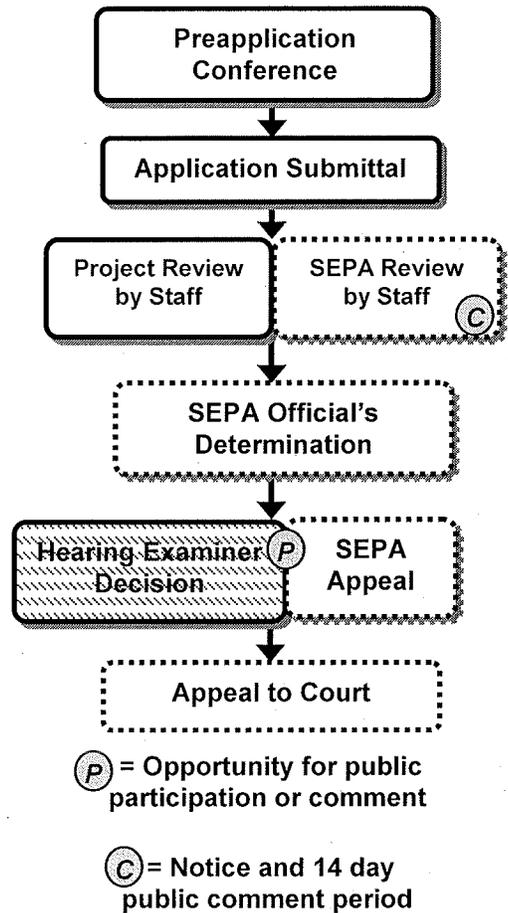
### E. PREAPPLICATION CONFERENCE

The applicant shall provide copies of one or more proposed or "first draft" composite site plans prepared in accordance with flexible lot design methodology as described in the Flexible Lot Design Handbook for the preapplication conference. Applicants are required to participate in a community meeting through the City's Public Participation Program outlined in Resolution No. 2010-32. The meeting will be held during the preapplication conference phase of the project.

### F. OPTIONAL ADDITIONAL APPLICATION MATERIALS

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

### Preliminary Long Subdivision



## **G. REVIEW OF PRELIMINARY LONG SUBDIVISION APPLICATION**

### **1. TIMELINE FOR REVIEW**

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

### **2. REVIEW BY THE KITSAP COUNTY HEALTH DISTRICT**

- a. Upon receipt of the application and determination of completeness, the director shall transmit a copy of the application to the health district.
- b. The health district shall review the application to ascertain whether (1) the proposal conforms to current standards regarding domestic water supply and sewage disposal; and (2) if the proposal is not to be served by public sewers, if each lot has sufficient area and soil, topographic and drainage characteristics to permit an on-site sewage disposal system.
- c. The health district shall recommend approval, approval with conditions, or disapproval of an application based on those criteria in subsection b in a timely manner sufficient to allow the city to comply with the review time requirements of BIMC 2.16.125.G.1. If at any time during the application process it appears that the review time cannot be met, it shall be the responsibility of the health district to advise the director of the reasons for the delay.

### **3. REVIEW BY THE CITY ENGINEER**

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

### **4. REVIEW BY THE DIRECTOR**

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

### **5. PUBLIC HEARING WITH HEARING EXAMINER**

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

## **H. DECISION CRITERIA FOR PRELIMINARY LONG SUBDIVISIONS**

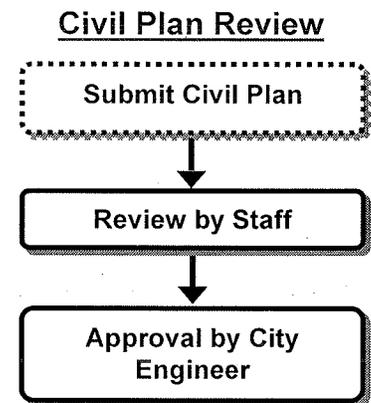
The hearing examiner's decision shall include findings of fact that the application meets all the requirements of the following subsections:

1. The preliminary long subdivision may be approved or approved with modification if:
  - a. The applicable subdivision development standards of BIMC Titles 17 and 18 are satisfied; and
  - b. The preliminary long subdivision makes appropriate provisions for the public health, safety and general and public use and interest, including those items listed in RCW 58.17.110; and
  - c. The preliminary long subdivision has been prepared consistent with the requirements of the flexible lot design process, unless a flexible lot standard has been modified as part of a housing design demonstration project pursuant to BIMC 2.16.020.Q; and
  - d. Any portion of a long subdivision that contains a critical area, as defined in BIMC 16.20 conforms to all requirements of that chapter; and
  - e. Any portion of a long subdivision within shoreline jurisdiction, as defined in BIMC 16.12 conforms to all requirements of that chapter; and
  - f. The city engineer's recommendation contains determinations that the following decision criteria are met and such determinations are supported by substantial evidence within the record.
    - i. The long subdivision conforms to regulations concerning drainage in BIMC 15.20 and 15.21; and
    - ii. The long subdivision will not cause an undue burden on the drainage basin or water quality and will not unreasonably interfere with the use and enjoyment of properties downstream; and
    - iii. The streets and pedestrian ways as proposed align with and are otherwise coordinated with streets serving adjacent properties; and
    - iv. The streets and pedestrian ways as proposed are adequate to accommodate anticipated traffic; and
    - v. If the long subdivision will rely on public water or sewer services, there is capacity in the water or sewer system (as applicable) to serve the long subdivision, and the applicable service(s) can be made available at the site; and
    - vi. The long subdivision conforms to the "City of Bainbridge Island Engineering Design and Development Standards Manual," unless the city engineer has approved a variation to the road standards in that document based on his or her determination that the variation meets the purposes of Title 17.
  - f. The subdivision conforms to the requirements of this chapter and the standards in the "City of Bainbridge Island Design and Construction Standards and Specifications," unless the city engineer has approved a variation to the road standards in that document based on his or her determination that the variation meets the purposes of Title 17; and
  - g. The proposal complies with all applicable provisions of this code, unless the provisions have been modified as part of a housing design demonstration project pursuant to 2.16.020.Q; Chapters 58.17 and 36.70A RCW, and all other applicable provisions of state and federal laws and regulations; and

- i. The proposal is in accord with the city's comprehensive plan.
2. A proposed subdivision shall not be approved unless written findings are made that the public use and interest will be served by the platting of such subdivision.

### **I. CIVIL PLAN REVIEW**

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



 = Indicates step is "if applicable"

### **J. PHASED DEVELOPMENT OF LONG SUBDIVISION**

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

### **K. MODIFICATION OF PRELIMINARY LONG SUBDIVISION**

1. An alteration of an approved preliminary long subdivision that does not change the general plat layout, increase off-site impacts of the subdivision, or modify a provision or condition that was a matter of dispute by any party during the preliminary approval process may be made by the director after notice and opportunity to comment is provided to the applicant and all parties of record. The director shall review and approve or disapprove the request for modification following the process set forth in BIMC 2.16.030.
2. Other modifications to an approved long subdivision must be reviewed in accordance with the process for a new subdivision application and shall be approved consistent with the procedures and requirements of this chapter.
3. The following exemptions shall not constitute changes in the preliminary long subdivision approval and do not require further review as provided for under subsections 1 or 2:

- a. Engineering detail, unless the proposed detail modifies or eliminates features specifically required as an element of the preliminary long subdivision approval. For purposes of this section, engineering detail shall mean minor changes to proposed road or lot grading or drainage design that does not significantly affect the location of those facilities, and minor changes to locates of utility pipes, swales, or wires that do not significantly affect their visibility from adjacent roads or properties; and similar minor changes.
- b. Minor changes in lot lines or lot dimensions; or
- c. Minor alterations regarding homesite location and/or open space usage.

Section 6. BIMC Section 2.16.160 is hereby amended as follows:

## **2.16.160 FINAL LONG SUBDIVISIONS**

### **A. PURPOSE**

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

### **B. APPLICABILITY**

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

### **C. PROCEDURE**

1. Final long subdivisions shall be approved through the quasi-judicial city council approval procedures described in Section 2.16.130 except as described below.
2. The provisions of this section 2.16.160 shall supplement those of sections 2.16.020 and 2.16.030 when the application is for a final long subdivision. In the event of a conflict between the provisions of sections 2.16.020 or 2.16.030 and 2.16.160, the provisions of this section shall govern.

### **D. VESTING**

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

### **~~E. PREAPPLICATION CONFERENCE~~**

~~The applicant shall provide copies of one or more proposed or “first draft” composite site plans prepared in accordance with flexible lot design methodology as described in the Flexible Lot Design Handbook for the preapplication conference. Applicants are required to participate in a community meeting through the City’s Public Participation Program outlined~~

in Resolution No. 2010-32. The meeting will be held during the preapplication conference phase of the project.

## **~~F. OPTIONAL ADDITIONAL APPLICATION MATERIALS~~**

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

## **~~G. REVIEW OF PRELIMINARY LONG SUBDIVISION APPLICATION~~**

### **~~1. TIMELINE FOR REVIEW~~**

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

### **~~2. REVIEW BY THE KITSAP COUNTY HEALTH DISTRICT~~**

- ~~a. Upon receipt of the application and determination of completeness, the director shall transmit a copy of the application to the health district.~~
- ~~b. The health district shall review the application to ascertain whether (1) the proposal conforms to current standards regarding domestic water supply and sewage disposal; and (2) if the proposal is not to be served by public sewers, if each lot has sufficient area and soil, topographic and drainage characteristics to permit an on-site sewage disposal system.~~
- ~~c. The health district shall recommend approval, approval with conditions, or disapproval of an application based on those criteria in subsection b in a timely manner sufficient to allow the city to comply with the review time requirements of BIMC 2.16.160.G.1. If at any time during the application process it appears that the review time cannot be met, it shall be the responsibility of the health district to advise the director of the reasons for the delay.~~

### **~~3. REVIEW BY THE CITY ENGINEER~~**

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

### **~~4. REVIEW BY THE DIRECTOR~~**

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

~~5. PUBLIC HEARING WITH HEARING EXAMINER~~

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

~~6. Review by City Council~~

- ~~a. The city council shall, at its first regular meeting following receipt of the hearing examiner's recommendation, set a date for a public meeting to consider the recommendation. This procedure shall be followed instead of the procedure set out in BIMC 2.16.130.D.~~
- ~~b. The city council shall review the preliminary subdivision application consistent with city council action set forth in BIMC 2.16.130.D, E, and F.~~
- ~~c. The city council shall not take additional testimony, exhibits, or other evidence into the record, but may view the property and surrounding area to better understand the evidence and argument.~~
- ~~d. The decision of the city council to approve, modify, or disapprove any subdivision shall be in writing and shall include findings of fact and conclusions consistent with BIMC 2.16.160.H to support the decision.~~

**~~H. DECISION CRITERIA FOR PRELIMINARY LONG SUBDIVISIONS~~**

~~The hearing examiner's recommendation and the city council decision shall include findings of fact that the application meets all the requirements of the following subsections:~~

- ~~1. The long subdivision may be approved or approved with modification if:~~
  - ~~a. The applicable subdivision development standards of BIMC Titles 17 and 18 are satisfied; and~~
  - ~~b. The preliminary long subdivision makes appropriate provisions for the public health, safety and general and public use and interest, including those items listed in RCW 58.17.110; and~~
  - ~~c. The preliminary long subdivision has been prepared consistent with the requirements of the flexible lot design process, unless a flexible lot standard has been modified as part of a housing design demonstration project pursuant to BIMC 2.16.020.Q; and~~
  - ~~d. Any portion of a long subdivision that contains a critical area, as defined in BIMC 16.20 conforms to all requirements of that chapter; and~~
  - ~~e. Any portion of a long subdivision within shoreline jurisdiction, as defined in BIMC 16.12 conforms to all requirements of that chapter; and~~
  - ~~f. The city engineer has determined that the preliminary subdivision meets the following decision criteria:~~
    - ~~i. The long subdivision conforms to regulations concerning drainage in BIMC 15.20 and 15.21; and~~

- ii. ~~The long subdivision will not cause an undue burden on the drainage basin or water quality and will not unreasonably interfere with the use and enjoyment of properties downstream; and~~
- iii. ~~The streets and pedestrian ways as proposed align with and are otherwise coordinated with streets serving adjacent properties; and~~
- iv. ~~The streets and pedestrian ways as proposed are adequate to accommodate anticipated traffic; and~~
- v. ~~If the long subdivision will rely on public water or sewer services, there is capacity in the water or sewer system (as applicable) to serve the long subdivision, and the applicable service(s) can be made available at the site; and~~
- vi. ~~The long subdivision conforms to the "City of Bainbridge Island Engineering Design and Development Standards Manual," unless the city engineer has approved a variation to the road standards in that document based on his or her determination that the variation meets the purposes of Title 17.~~
- g. ~~The subdivision conforms to the requirements of this chapter and the standards in the "City of Bainbridge Island Design and Construction Standards and Specifications," unless the city engineer has approved a variation to the road standards in that document based on his or her determination that the variation meets the purposes of Title 17; and~~
- h. ~~The proposal complies with all applicable provisions of this code, unless the provisions have been modified as part of a housing design demonstration project pursuant to 2.16.020.Q; Chapters 58.17 and 36.70A RCW, and all other applicable provisions of state and federal laws and regulations; and~~
- i. ~~The proposal is in accord with the city's comprehensive plan.~~

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

## **~~I. CIVIL PLAN REVIEW~~**

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

## **~~J. PHASED DEVELOPMENT OF LONG SUBDIVISION~~**

- 1. ~~Portions of an approved preliminary long subdivision may be processed separately for recording in phases; provided, that (a) the phases were identified in the preliminary long subdivision; and (b) recording of phases is consistent with the conditions of preliminary~~

approval and will meet all the requirements for final approval if subsequent phases are not recorded.

2. ~~Prior to the approval of a phase of a final subdivision, the city engineer or the director may require assurance devices submitted for construction of improvements in subsequent phases if such improvements are necessary for the phases being approved to meet requirements of the subdivision and other applicable ordinances.~~

**KE. TIMELINE FOR REVIEW OF FINAL PLAT**

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

**LF. SUBMITTAL OF FINAL PLAT**

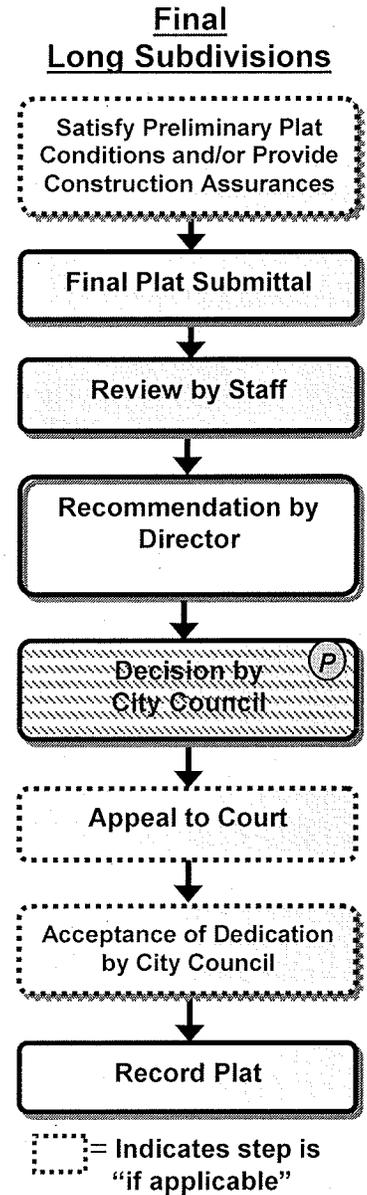
A final plat shall be submitted containing all of the submittal requirements listed in the Administrative Manual.

**MG. REVIEW OF FINAL LONG SUBDIVISION**

1. The city engineer shall review the final subdivision to determine compliance with the requirements of RCW 58.17.160 and forward recommendations for approval or disapproval to the department.
2. The health district, when appropriate, shall review the final subdivision and forward recommendations for approval or disapproval to the department.
3. The director shall forward its recommendation for approval or disapproval to the city council, evaluating compliance with any conditions imposed on the preliminary subdivision and other applicable ordinances.
4. In accordance with RCW 58.17.140, final subdivisions shall be approved, disapproved or returned to the applicant within 30 days from the date of filing of a complete application, unless the applicant consents to an extension of the time period. The director and the city engineer shall have authority to return the application for correction or modification with a request for additional information before city council review, and city council shall have authority to return the application for correction or modification with a request for additional information during its review.

**NH. CITY COUNCIL REVIEW AND APPROVAL OF FINAL LONG SUBDIVISION**

1. The city council shall approve the final long subdivision if it determines:
  - a. That the conditions imposed through the preliminary subdivision have been met; and



- b. Bonds or other assurance devices, if any, by their essential terms assure completion of all plat improvements; and
  - c. The requirements of state law, BIMC, the comprehensive plan, and any other applicable ordinances in effect at the time of preliminary plat approval have been satisfied by the subdivider.
2. The city council can approve the final subdivision with minor modifications recommended by the department and the applicant.
  3. If the city council approves the final subdivision, the council chair shall sign the face of the final plat to indicate the council's approval; provided, that upon approval of the final plat the city council may direct and authorize the mayor or another council member to sign the face of the final plat to indicate the council's approval.
  4. If an applicant voluntarily sets aside more than 25 percent of the site as designated open space, that fact will be noted on the plat.
  5. The original mylar of the final subdivision shall be recorded with the county auditor, and one copy with the auditor's recording number shall be filed with the city.

**QI. MODIFICATION OF PRELIMINARY LONG SUBDIVISION BEFORE FILING**

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

**PJ. REQUIREMENT FOR FILING PLAT**

Approved long subdivisions shall be subject to the same requirements for filing plats that apply to short subdivisions as described in 2.16.070.K.

**OK. AMENDMENT OF DISAPPROVED APPLICATION**

When an application for approval of a final long subdivision is disapproved, an applicant shall have 180 working days following the decision in which to file an amended application to remedy the matters that led to the disapproval. Upon receipt of such an amended application, the application shall be reviewed as set forth in this section 2.16.160. If an applicant files no such amended application within the period allowed, the application shall be considered denied.

**RL. ASSURANCE OF IMPROVEMENTS**

Approved final long subdivisions shall be subject to the same provisions regarding assurance of improvements that are applicable to short subdivisions as described in section 2.16.070.N.

**SM. AMENDMENT TO APPROVED LONG SUBDIVISION**

1. Proposals for alteration of a subdivision shall follow the provisions of RCW 58.17.215. Alterations of a subdivision are also subject to the provisions of RCW 64.04.175, except as described in subsection 2.
2. The contents and procedures for minor alterations of open space and/or open space usage in an approved final long subdivision shall be administratively reviewed consistent with the procedures and requirements of BIMC 2.16.030.

**TN. EXPIRATION OF FINAL LONG SUBDIVISION**

Any lot in a final long subdivision plat filed for record shall be a valid land use for a period of five years from the date of filing the final subdivision, notwithstanding any change in zoning laws. Any lot in a final plat shall be governed by the terms of approval of the final long subdivision at the time of vested application, unless a change in conditions creates a serious threat to the public health or safety.

**Section 7.** This ordinance shall take effect and be in force January 1, 2012 and after its passage, approval, and publication as required by law.

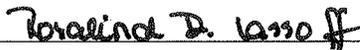
PASSED BY THE CITY COUNCIL this 14<sup>th</sup> day of December, 2011.

APPROVED BY THE MAYOR this 14<sup>th</sup> day of December, 2011.



Kirsten Hytopoulos, Mayor

ATTEST/AUTHENTICATE:



Rosalind D. Lassoff, City Clerk

FILED WITH THE CITY CLERK:	December 2, 2011
PASSED BY THE CITY COUNCIL:	December 14, 2011
PUBLISHED:	December 16, 2011
EFFECTIVE DATE:	January 1, 2012
ORDINANCE NUMBER:	2011-21